



DATE: October 20, 2020

TO: Mayor and City Council

FROM: Director of Finance

SUBJECT: Adopt a Resolution Authorizing the City Manager to Enter into an Agreement with CalPERS via the California Employers' Pension Prefunding Trust (CEPPT), a Section 115 Irrevocable Trust, and Delegating Authority to Request Disbursements

RECOMMENDATION

That Council adopts a resolution (Attachment II) authorizing the City Manager to enter into an agreement with CalPERS to establish an Section 115 Irrevocable Trust through its California Employers' Pension Prefunding Trust (CEPPT) and delegating authority to the City Manager and Director of Finance for the request of disbursement from the CEPPT.

SUMMARY

As part of the City's most recent Strategic Roadmap, Council directed staff to investigate funding tools and strategies to reduce the City's pension and other post-employment benefits (OPEB) liabilities. A Section 115 Irrevocable Trust allows cities to invest assets to fund future pension and OPEB contributions over shorter time horizons than the pension fund and with potentially better yields than other short term instruments such as the Local Agency Investment Fund (LAIF).

CalPERS' Section 115 Irrevocable Trust Program, CEPPT, does not have a minimum initial contribution or required annual contribution amount. The City will have the ability to make deposits into the CEPPT as funds become available. The attached resolution (Attachment II) authorizes the City Manager to enter into an agreement to establish a Section 115 Trust through CalPERS, and authorizes the City Manager and Director of Finance to withdraw funds from the CEPPT to make payments toward pension liabilities.

BACKGROUND

The City of Hayward, like all cities and municipal agencies, manages unfunded benefit liabilities as part of its financial planning efforts. Unfunded liabilities are defined as identifiable obligations of an organization for which the organization does not have 100 percent of the funding (cash or other assets) set aside to cover the cost should all obligations become immediately and simultaneously due. The City of Hayward's two largest benefit liabilities are for its defined benefit pension plan and its retiree medical

benefit, also known as Other Post-Employment Benefits (OPEB). The City previously established a separate trust fund for its OPEB liability and has been routinely making significant contributions to the trust in recent fiscal years.

As part of its Annual City Benefit and Fund Plan Review on May 15, 2019¹, the Council Budget and Finance Committee was presented with the option of establishing a Section 115 Irrevocable Trust as a strategy for reducing the cost of annual required contributions (ARCs) to its pension and OPEB liabilities. The Committee requested that the option be advanced to Council for consideration. The Council designated the establishment of a Section 115 Irrevocable Trust as a high priority project in the City's Strategic Roadmap for Fiscal Years 2021/22 to 2023/24, adopted on January 28, 2020².

Throughout the spring of 2020, staff identified and evaluated three primary administrators of Section 115 Irrevocable Trusts: 1) the California Public Employees Retirement System (CalPERS); 2) Public Agency Retirement Services (PARS); and 3) Public Financial Management Services (PFM). Prospective administrators were evaluated based on number of member agencies, assets under management, fee schedule, and annualized returns. Staff recommends the California Employers' Pension Prefunding Trust (CEPPT) program administered by CalPERS, based on CEPPT providing the lowest total participation cost and CalPERS' expertise as the defined benefit administrator for California public agencies.

DISCUSSION

A Section 115 Irrevocable Trust will allow the City to establish a pension trust fund to accumulate, hold, and distribute pension plan assets for the exclusive benefit of retiree pensions within the meaning of the IRS Code Section 115. Withdrawals of plan assets are not permitted for any other use than for pension related costs paid by the City to retirees.

Use of a Section 115 Irrevocable Trust, such as the CEPPT, offers the City a means of accruing investment income from General Fund balances intended for payment of future ARCs, thereby reducing the overall amount of the General Fund paid toward pension obligations annually. CEPPT disbursements may be used to pay for both normal cost payments as well as unfunded accrued liabilities (UAL).

The CEPPT does not require a minimum starting contribution or required annual contributions. This allows to the City to adjust pension pre-funding contributions based on fiscal conditions, rather than locking into fixed contributions that could strain budgets in economic downturns or fail to fully take advantage of economic upswings.

The participation fee rate for the CEPPT includes management fees, administrative costs, and custodial services. As of 2020, the fee is 0.25% of assets under management. For example, for a daily average asset balance of \$1M, CalPERS would charge \$2,500 over the course of a year. These rates are subject to change but have remained stable since the

¹Council Budget and Finance Committee Meeting on May 15, 2019 - <https://hayward.legistar.com/LegislationDetail.aspx?ID=3945229&GUID=B967BB71-8673-4924-983E-3EA9C9C3FA9C&Options=&Search=>

²City Council Meeting on January 28, 2020 - <https://hayward.legistar.com/LegislationDetail.aspx?ID=4315589&GUID=1F328D58-C3FC-41E5-8BF7-A17E4E09DDCB&Options=&Search=>

CEPPT program introduction. Participation fees are accrued daily and will vary based on daily balance. CEPPT participants are not charged unless contributions have been made to the account, or the account balance is positive.

STRATEGIC ROADMAP

This agenda item supports the Strategic Priority of Improve Organizational Health. Specifically, this item relates to the implementation of the following project(s):

Project 1, Part 1.b: Continue to identify funding tools and cost reduction strategies for PERS, other post-employment benefits (OPEB) liability, and other health care costs.

FISCAL IMPACT

There is no impact to the General Fund with this action, as the CEPPT does not require an initial contribution to be established. Funding of CEPPT contributions will require additional direction from Council and approval of a corresponding budget appropriation.

NEXT STEPS

If Council adopts the Resolution, staff will enter into an agreement with CalPERS to establish a CEPPT (115 Irrevocable Trust). Staff will seek direction from Council on any future appropriation of funds to contribute to the CEPPT.

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Recommended by: Dustin Claussen, Director of Finance

Approved by:



Kelly McAdoo, City Manager