MOUNTAINS RECREATION & CONSERVATION AUTHORITY
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MEMORANDUM

TO: The Governing Board

FROM: Joseph T. Edmiston, FAICP, Hon. ASLA, Executive Officer

DATE: February 3, 2021

SUBJECT: **Agenda Item XV: Consideration of resolution authorizing purchase of particular, specific pension obligation trust fund investments administered by Public Agency Retirement Services, pursuant to Internal Revenue Code Section 115.**

Staff Recommendation: That the Governing Board adopt the attached resolution authorizing purchase of particular, specific pension obligation trust fund investments administered by Public Agency Retirement Services, pursuant to Internal Revenue Code Section 115 and allocation of funds for that purpose.

Background: Over the last several years, government entities have had new focus on addressing unfunded retiree liabilities. The Mountains Recreation and Conservation Authority (MRCA) has contracted with CalPERS to provide a defined benefit retirement for employee. In addition, the MRCA has contracted with ICMA-RC to provide a defined contribution retirement plan (457b) in lieu of Social Security. As of June 30, 2019 (the most recent information available) the MRCA has a CalPERS pension liability totaling $23.6 million, of which $4.5 million is unfunded (80% funded). Also, the required CalPERS contributions are now over $1 million annually and increasing every year.

In addition, new legislation regarding pension liability for Joint Powers Authorities (JPAs) has been enacted. As of 2019, any public agency that is a member of a JPA which contracts with a public retirement system will be liable for a portion of any outstanding retirement pension obligations when that JPA dissolves, as required by AB 1912 (enacted in 2018).

If the MRCA were to dissolve, the Santa Monica Mountains Conservancy, Conejo Recreation and Park District, and Rancho Simi Recreation and Park District would be forced to apportion the MRCA's full retirement obligations among themselves. If the member agencies are unable to mutually agree to the apportionment it may be settled through the arbitration process.

In light of the impact to the JPA members and the current financial position of the MRCA, staff recommends setting aside $5 million at this time to ensure pension stabilization for employees in the future. MRCA has several options regarding management of these stabilization funds.

The first option would be to keep the funds in the State (LAIF) and County investment pools. While this provides much-needed flexibility, these funds do not provide the desired return on investment of other options discussed below.

The MRCA could also submit discretionary payments to CalPERS above and beyond the required contributions (required contributions include funding for current employees as well as unfunded liabilities for past service). However, those funds, once on deposit, are subject to the same market risk and volatility as the existing funds invested with CalPERS, which have not been satisfactory in recent history.

A third option is that the MRCA could transfer the funds to a Section 115 trust and invest the funds in instruments that have the potential to earn greater returns than can be achieved under the MRCA's existing investment policies and State law. Advantages include:

- The MRCA maintains oversight of investment management and control over the risk tolerance level of the portfolio.

- Funds deposited into the trust may reduce the MRCA's Net Pension Liability which is now reported on the MRCA's balance sheet in accordance with Government Accounting Standards Board (GASB) Statement No. 68.

- Funds in a trust for future liabilities are viewed positively by credit rating agencies such as Moody's and Standard and Poor.

- The pension stabilization funds may reduce reliance on on-going resources through increased earnings potential above that level achievable with the MRCA's general investments.

A disadvantage is that the funds are irrevocably deposited in the trust. However, the MRCA can access the funds at any time provided the funds are used to pay for pension obligations and the MRCA can choose the amount of funds to deposit and the timing thereof. The funds can be accessed to offset rate increases to stabilize rates, can be used as a rainy -day fund when revenues are impaired and can be used to make additional payments.

Also, while depositing funds into the trust has the potential to reduce net pension costs, actual earnings on the funds will likely be less than the carrying cost of the unfunded liabilities at CalPERS (unless riskier investments are selected in an attempt to achieve high returns). The discount rate has the effect of being the interest rate charged by CalPERS on any unfunded liabilities. As a result, the MRCA is, in essence, currently paying 7.0% interest on the unfunded liabilities.

Staff is recommending a hybrid of first and third options above, leave $500,000 in the MRCA's current investment portfolio assigned to the Pension Stabilization Reserve, and transfer $4.5 million to a Section 115 trust.