

EXECUTIVE SUMMARY

Direct Negotiation Agreement FY20-137 –Trustee Account for School Board Assets and Investments

Introduction

Responsible: Procurement & Warehousing Services (PWS)

This request is to approve the agreement for FY20-137 – Trustee Account for School Board Assets with U.S. Bank National Association for a period from November 7, 2019, until the account is terminated per Sections 11.1 and 11.2 of the agreement. This Direct Negotiation provides a trust agreement for Other Postemployment Benefits (OPEB) and will meet the requirements of the Governmental Accounting Standard Board Statement No. (GASB 75). The estimated financial impact to the District will be \$200,000.

Goods/Services Description

Responsible: Treasurers' Office

The District administers a single-employer defined benefit plan in accordance with the Governmental Accounting Standard Board Statement No. 45 (GASB 45), "Accounting & Financial Reporting by Employers for OPEB other than Pensions," for certain Other Post-Employment Benefits (OPEB) including continued coverage for the retirees and dependents in the Medical/Prescription Plans as well as participation in the Employer-sponsored Dental Group Plan. Also, retirees are eligible to continue the Employer-sponsored Term Life Insurance Policy, provided by the District. GASB 45's basic concept is to recognize the cost of an employee's OPEB during the period of service. As defined in GASB 45, a significant expense recognizing the past and future costs of providing OPEB is required to be recorded annually. Currently, the District pays OPEB from General Funds on a pay-as-you-go basis.

In June 2015, GASB issued Statement No. 75 (GASB 75), "Accounting & Financial Reporting for Postemployment Benefits Other Than Pensions," which was adopted by the District for the year ended June 30, 2018, and replaced GASB 45.

GASB 75 significantly alters the measurement and reporting standards that were previously required for OPEB plans under GASB 45. One (1) of the primary benefits of GASB 75 is the amount of liability differs and, in the District's case, would be lower if the OPEB benefits are funded through a trust or equivalent. The net beginning position of the District was decreased by \$93.8 million due to the implementation of GASB 75.

Coupling GASB 75 with Section 115 of the Internal Revenue Code of 1986 allows income derived by a trust to be used to fund a governmental entity's OPEB and be exempt from federal income tax.

OPEB Fund Investment Policy 3112 provides investment parameters, as well as the option to select an investment advisor or manager to facilitate the effective management of the OPEB Fund assets.

The approval of the U.S. Bank Trust Agreement is the last piece needed to ensure compliance with GASB 75 by establishing a trust for the District's OPEB Funds.

The U.S. Bank Trust Account: The School Board of Broward County, Florida (SBBC), has obtained IRS approval, or an opinion from a lawyer licensed in the State, which approval or opinion states as follows: "The Account satisfies all the requirements of Code Section 115 and is exempt from federal, state, and local income tax." The Account's trustee is not required to file or furnish to any taxing authority or any taxpayer any federal, state, or local taxes, tax returns, or information returns concerning the Plan or Account. No contribution to, or benefit distribution from, the Account is includible in the gross income of any Participant or Beneficiary under Code Section 61, state law, or local law or is wages for Federal Insurance Contributions Act (FICA), Federal Unemployment Tax Act (FUTA), or income-tax withholding purposes.

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The Plan is a “governmental plan” as defined in Section 414(d) of the Internal Revenue Code of 1986, as amended; is a “Section 401(a)(24) governmental plan” as defined in Revenue Ruling 2011-1 and is not subject to federal income taxation. The Plan’s governing document expressly provides that it is impossible for any part of the corpus or income of the Plan to be used for, or diverted to, purposes other than for the exclusive benefit of the Plan participants and their beneficiaries. The Plan is prohibited from assigning any part of its equity or interest in the trust.

The following are important points about the Plan.

- Contributions/funding to the OPEB Trust are irrevocable and used solely to fund OPEBs.
- Once obligations have been satisfied, any excess could be reverted to the District.
- The OPEB Trust is exempt from creditor claims of both the District and employees that will receive OPEBs.
- OPEB Funds are managed similar to pension funds, which can be invested in equities and fixed-income securities.
- While past performance is not indicative of future results, the market has recently seen the growth of thirty (30) to forty (40) percent.
- Investing OPEB funds under the proposed structure will enable the District to meet its obligation sooner than using a pay-as-you-go strategy.

The Financial Advisory Committee has reviewed the trust agreement and recommends the approval of this Agreement.

Procurement Method
Responsible: PWS

The procurement method chosen is through Direct Negotiation for professional services. Pursuant to the Department of Education, Rule 6A-1.012, 11(a), Florida Administrative Code as authorized by Section 1010.04(4)(a), Florida Statutes, and Purchasing Policy 3320, Section II, G, the requirement for requesting competitive solicitation for commodities or contractual services from three (3) or more sources is hereby waived as for SBBC’s purchase of professional services.

Financial Impact
Responsible: Treasurers’ Office

This Agreement is a first-time purchase; a blank financial analysis has been provided for this item. The estimated financial impact to the District will be \$200,000. The funding will come from the Treasurers’ Office operating budget. The financial impact amount represents an estimated contract value; however, the amount authorized will not exceed the estimated contract award amount.

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The breakdown of Account Level Fees is stated below and are billed monthly:

- The administration fee is calculated in tiers based on the investment value of account assets.
 The rates are as follows:
2.5 bps on the first 100M
1.5 bps on the balance of assets
- Trustee fee (for a U.S. Bank National Association (USBNA Account) \$1,000 Annual Fee
- Securities-transfer fees: Depository Trust Company (DTC)-eligible securities (including Exchange-Traded Funds (ETFs), Fed book-entry securities, or domestic open-end mutual funds:
 Free receipts (per security) Included
 Free deliveries (per security) Included
- Trade-processing fees (for a directed account): Process purchase, sales or other transactions with respect to Account assets. The rates are as follows:

DTC-eligible securities, including ETFs	\$6.00 (per transaction)
Fed book-entry securities	\$6.00 (per transaction)
Domestic open-end mutual funds	\$7.50 (per transaction)
Physical trades	\$7.50 (per transaction)
- Distribution fees: Distribute Account assets, such as benefit distributions or distributions in payment of plan expense:

Benefit distributions	
In kind	\$5.00 (per distribution)
Lump sum	\$15.00 (per ACH payment or check)
Periodic ACH payment with advice	\$2.50 (per ACH payment)
Periodic payment	\$2.50 (per check)
Other distributions	
ACH payment to non-USBNA Demand Deposit Account	\$2.50 (per ACH payment)
Wire to domestic location	\$2.50 (per check)
Wire to international location	\$7.50 (per wire)
Wire to international location	\$7.50 (per wire)
Lump Sum Payment	\$15.00
- Corporate-actions fee: \$6.00
- Other fees: Annual Relationship Minimum Fee \$15,000
 Annual Account Fee \$200.00
 Legal Fee for modification to the Standard trust agreement \$1,500