



City of Carpinteria

COUNCIL AGENDA STAFF REPORT MAY 14, 2018

ITEM FOR COUNCIL CONSIDERATION

Approval of participation in a Pension Stabilization Trust for California Municipalities, related Participation and Member Agreements, and funds appropriation.

STAFF RECOMMENDATION

Action Item ; Non-Action Item

1. Adopt Resolution No. 5813, approving participation in the Pension Stabilization Trust and appointing the Administrative Services Director as the City's Plan Administrator.
2. Approve Participation and Member Agreements related to the operation of the Trust.
3. Appropriate \$1,000,000 from the General Fund Available Fund Balance for the initial funding of the Trust.

Sample Motion:

1. I move that the City Council approve and adopt Resolution No. 5813, as read by title only.
2. I move to authorize the City Manager to sign the Participation and Member Agreements on behalf of the City.
3. I move that the City Council appropriate \$1,000,000, from the General Fund Available Fund Balance for the initial contribution to the Trust.

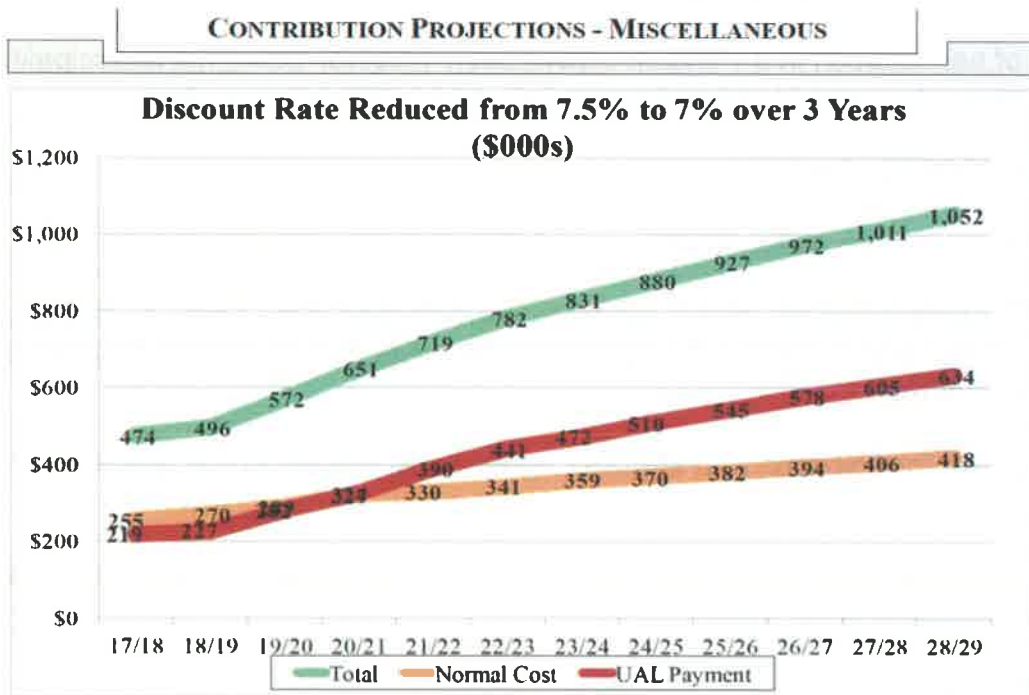
This motion requires a roll call vote

BACKGROUND

In 2012, the Government Accounting Standards Board (GASB) issued Statement No. 68, *Accounting and Financial Reporting for Pensions*. GASB 68 requires that governmental

employers that sponsor Defined Benefit plans (i.e., CalPERS) must recognize a net pension liability (unfunded accrued liability or UAL) on their balance sheet. This is the difference between the City's total pension liability (actuarial accrued liability) and actual plan assets. GASB 68 became effective for the 2014-15 fiscal year.

In FY 2016-17 CalPERS began invoicing member agencies for required employer contributions related to UAL. Also, changes in several actuarial assumptions are affecting member rates. The City's annual pension contribution expense is expected to increase substantially over the next decade for its Miscellaneous and Public Safety Pension Plans.



To address the net pension liability figure, the City's only prior option was to commit additional funds to CalPERS (in excess of its annual required contributions) to reduce its unfunded liability. However, a private letter ruling by the IRS established that Cities could create a separate trust to "pre-fund" its unfunded pension liability. This provides the City with an alternative to sending funds to CalPERS that will allow for greater local control over assets, investment by a professional fund management team selected and monitored by the City, with future excess contributions transferred to CalPERS at the City's discretion.

At its May 8, 2017 meeting the City Council approved a Five-Year Financial Plan that included a number of recommended actions to improve the City's financial condition, including establishment of a pension stabilization trust. In November 2017, the City Council directed that staff move forward with establishing the trust. In March of this year the City Council directed staff to work with the Finance Committee to create the Pension Stabilization Trust funding plan. On April 9, 2018, the City Council approved the

transfer of \$1,160,000 from the Lighting District Fund to General Fund. The Council discussed using \$800,000 from these District funds and another \$200,000 from the General Fund Available Fund Balance for the initial funding of the trust.

DISCUSSION

The purpose of the Pension Trust is to accumulate, hold, and distribute pension plan assets for the exclusive benefit of retiree pensions within the meaning of IRS Code Section 115. Plan assets are irrevocable and may not be used for any purpose other than the purpose of the Trust. Withdrawal of plan assets is not permitted except to transfer to another trust or to reimburse the City for pension costs paid.

Plan contributions transfer assets to the Trust, and accordingly, plan assets are not carried on the City's books and are not subject to the City's investments policy. Discretionary Trustee BTC, with the advice of Morgan Stanley Wealth Management Consulting Group, will actively manage plan assets consistent with the Investment Policy Statement. The City's individual trust account is part of a larger Multiple Employer Trust administered by Keenan and BTC, referred to as the California Public Entity Pension Stabilization Trust. BTC will also provide the City with monthly and annual statements-of-activity of the City's account. Keenan will provide the trust with a variety of ongoing services. The Pension Stabilization Trust utilizes a Board of Authority that provides management and oversight of the Trust with participation by one individual per public agency. The fees are asset-based, paid monthly, deducted directly from the Trust account, and total 30 bps¹ annually. This is competitive with other comparable plans.

The Finance Committee reviewed and discussed the selection of the model portfolio. There are six different types of model portfolios offered; Fixed Income, Conservative, Moderate, Moderate Growth, Growth, Aggressive Growth. The Finance Committee discussed these options and determined that the Moderate Portfolio (based on the net results) have demonstrated the potential to achieve the desired rate of return of 5% with the lowest risk. The scenarios discussed by Bartel Associates at the March 26, 2018 council meeting, projected an estimated rate of return of 5%.

Staff is recommending several related actions to establish and fund the Pension Trust. The first is to adopt a resolution that approves the proposed Pension Trust pursuant Section 115 of federal tax code. Second, staff is requesting Council authorize City Manager to sign the Participation Agreement, which is a contract with Benefit Trust Company (BTC) for the management and administration of the Trust. Third, a Member Agreement has been prepared that designates Administrative Services Director Licette Maldonado as the City's representative to the Board of Authority of the Trust. Finally, it's recommended that the Council act on the recommendation of the Finance Committee for the appropriation of \$1 million dollars to fund the trust: \$600,000 and \$400,000 for the Miscellaneous and Public Safety Plans, respectively.

¹ Basis points pertain to interest rates. One basis point is equal to one one-hundredth of one percentage point (0.01%). Therefore, 100 basis points would be equivalent to 1%.

POLICY CONSISTENCY

This matter concerns actions aimed at improving the City's long-term financial position and is consistent with the City's fiduciary responsibilities and goal to deliver services that meet community needs in an efficient and effective manner.

FINANCIAL CONSIDERATIONS

The subject actions are a part of the City's implementation of the Five-Year Financial Plan and will help improve the City's long-term financial position. After the approved transfer from the Lighting District, the revised General Fund Available Fund Balance is \$2,102,766. An approval of the appropriation of \$1,000,000 will allow for the initial funding of the Trust from the General Fund Available Fund Balance. The City will strive to continue contributions that will be presented for discussion to the City Council during the annual budget process.

LEGAL AND RISK MANAGEMENT CONSIDERATIONS

The establishment of the Pension Stabilization Trust Fund is being developed consistent with Section 115 of the Internal Revenue Code. Establishment of the Irrevocable Pension Stabilization Trust Fund mitigates financial risk associated with expected increases in the CalPERS pension rates over the next decade.

PRINCIPAL PARTIES EXPECTED AT MEETING

Cary Allison, Senior Vice President – Morgan Stanley

ATTACHMENTS


- A. Resolution No. 5813
- B. Participation Agreement
- C. Member Agreement

Staff contact: Licette Maldonado
(805) 755-4448, LicetteM@ci.carpinteria.ca.us



Signature

Reviewed by: Dave Durlinger, City Manager
(805) 755-4400, daved@ci.carpinteria.ca.us



Signature

ATTACHMENT A

RESOLUTION NO. 5813

RESOLUTION NO. 5813

**A RESOLUTION OF THE
CITY COUNCIL OF THE CITY OF CARPINTERIA
APPROVING THE ADOPTION OF THE
PENSION STABILIZATION TRUST**

WHEREAS, the City Council (the "Council") of City of Carpinteria ("Employer") desires to invest funds irrevocably designated for the payment of its future employee pension obligations through a trust in compliance with Section 115 of the Internal Revenue Code and Governmental Accounting Standards Council Statement No. 68;

WHEREAS, Keenan & Associates ("Keenan") and Benefit Trust Company ("BTC") have presented the "Pension Stabilization Trust for California Municipalities" ("PST") as an alternative for accomplishing the above objectives and the Council desires to engage Keenan and other necessary parties to assist in the process of investing funds in a trust (the "Trust") for these approved objectives;

WHEREAS, the Council has the authority and desire to appoint a representative to participate in the PST Board of Authority for the Trust (the "Board of Authority"), which shall be appointed, terminated or replaced by the Employer at any time to serve at the pleasure of the Council;

NOW, THEREFORE, BE IT RESOLVED as follows:

SECTION 1. The City Council hereby approve the Pension Stabilization Trust for California Municipalities; and

SECTION 2. The City Council hereby appoints the Administrative Services Director, or his/her successor or his/her designee as the City's Plan Administrator for the PST; and

SECTION 3. The City's Plan Administrator is hereby authorized to execute the Keenan legal and administrative documents on behalf of the City and take whatever additional actions are necessary to maintain the City's participation in the PST and to maintain compliance of any relevant regulation issued or as may be issued; therefore, authorizing him/her to take whatever additional actions are required to administer the City's PST.

PASSED, APPROVED AND ADOPTED on May 14, 2018 by the following vote:

AYES: COUNCILMEMBER(S):

NOES: COUNCILMEMBER(S):

ABSENT: COUNCILMEMBER(S):

ABSTAIN: COUNCILMEMBER(S):

Mayor, City of Carpinteria

ATTEST:

City Clerk, City of Carpinteria

I hereby certify that the foregoing resolution was adopted at a regular meeting of the City Council of the City of Carpinteria held on May 14, 2018.

City Clerk, City of Carpinteria

APPROVED AS TO FORM:

Peter Brown, on behalf of Brownstein
Hyatt Farber Schreck, LLP acting as
City Attorney of the City of Carpinteria

ATTACHMENT B

PARTICIPATION AGREEMENT

PENSION STABILIZATION TRUST FOR CALIFORNIA MUNICIPALITIES

PARTICIPATION AGREEMENT

THIS PARTICIPATION AGREEMENT is entered into by the undersigned California public entity (the "Adopting Entity") and Benefit Trust Company, a Kansas corporation, as Trustee (the "Trustee") of the Pension Stabilization Trust for California Municipalities (the "Trust"), effective as of the date specified on the signature page (the "Effective Date"), with reference to the following:

A. The Board of Authority (the "Board") of the Trust has established the Trust to help California Municipalities stabilize the funding of their pension benefit liabilities by creating a secure vehicle to hold assets pending their contribution to a pension plan in satisfaction of a public entity's funding obligation. The Trust is intended to qualify as a trust arrangement that is tax exempt under applicable guidance and procedures under Section 115 of the Internal Revenue Code.

B. The Adopting Entity has adopted a pension plan for its eligible employees (the "Plan") to which the Adopting Entity is required to make regular contributions. To the extent the Adopting Entity may from time to time have excess funds, a portion of which can be used to pre-fund contributions to the Plan, the Adopting Entity desires to have a secure trust to which it may contribute such funds and to have the trust hold such pre-funding contributions.

C. In order to participate in the Trust, the Adopting Entity must be a public entity in the State of California and must enter into this Participation Agreement (the "Agreement").

NOW, THEREFORE, the Adopting Entity and the Trustee agree as follows:

1. **Participation.** The undersigned Adopting Entity agrees to all of the provisions, terms and conditions of the Trust and agrees to participate in the Trust in accordance with the terms of this Agreement. The Adopting Entity agrees to cooperate in providing any information reasonably required by the Trustee or the Board to administer the Trust properly.

2. **Representations of Adopting Entity.** The Adopting Entity makes the following representations and warranties, and acknowledges that the Trustee is relying on these representations in entering into this Agreement:

(a) The Adopting Entity is a public entity within the State of California under the California Constitution and applicable sections of the Government Code.

(b) By executing this Agreement, the Adopting Entity acknowledges that it has determined that the Trust is appropriate for the pre-funding of a portion of its pension liabilities under the Plan.

(c) The Plan has been adopted by all necessary action of the governing body of the Adopting Entity and remains in full force and effect, in compliance with all applicable legal requirements.

(d) The adoption of this Agreement has been approved by all necessary action of the Adopting Entity's governing body and the person signing this Agreement on its behalf is authorized to do so.

(e) Neither the execution and delivery of this Agreement by the Adopting Entity, nor compliance by the Adopting Entity with any of the provisions hereof, nor the consummation of the transactions contemplated hereby, will result in a default, or give rise to any right of termination, cancellation or acceleration, under any term, condition or provision of any agreement or other instrument or obligation to which the Adopting Entity is a party or by which it or any of its properties or assets may be bound.

(f) The Adopting Entity has received a copy of the Pension Stabilization Trust Agreement (the "Trust Agreement"), is aware of the terms and conditions thereof and agrees that in the event of any conflict between the terms of the Trust and this Agreement, the terms of the Trust will control.

(g) The Adopting Entity has not received any legal, accounting or investment advice from the Trustee, the Board or their representatives. The Adopting Entity acknowledges that it has had the opportunity to consult with independent legal counsel regarding this Agreement and the Trust.

3. **Administration Fees.** The Trustee will allocate, in its sole discretion, reasonable administration expenses to each Adopting Entity's account in the Trust. If the amount in the Adopting Entity's account is insufficient to pay its portion of the administration expenses, the Trustee shall invoice the Adopting Entity, and the Adopting Entity agrees to pay its portion of administration expenses within 30 days.

4. **Responsibility for Legal Compliance.** The Adopting Entity acknowledges that the Trustee will not be responsible for compliance with any obligations or to enforce any obligations the Adopting Entity may have under the Plan. All such compliance shall be the responsibility of the Adopting Entity.

5. **Indemnification.** The Adopting Entity agrees to indemnify and hold harmless the Trust, the Trustee and the Board from any and all liabilities and losses, including attorneys' fees, arising out of the claim by any person for damages caused

by or resulting from the failure of the Adopting Entity to comply with the provisions of the Plan, the Trust or applicable requirements of federal or state law.

6. Amendment and Termination.

(a) This Agreement and the Declaration of Trust constitute the entire agreement of the parties concerning the Adopting Entity's participation in the Trust. This Agreement may be amended only through a written document executed by the Trustee and the Adopting Entity.

(b) The Agreement may be terminated by the Adopting Entity by providing 90 days written notification of its intent to terminate its participation in the Trust; provided that upon such a termination, none of the assets held in the Trust for contribution to the Plan shall be returned or otherwise made available to the Adopting Entity for any purpose.

(c) The Trust may be terminated in accordance with the provisions of the Trust Agreement.

(d) The Adopting Entity's rights and obligations under this Agreement cannot be assigned without the written consent of the Trustee.

7. Right to Rely.

(a) The Adopting Entity acknowledges that the Trustee will rely upon any representations that it or any of its authorized representatives make to the Board.

(b) The Adopting Entity hereby designates the persons identified on the signature page of this Agreement as the persons authorized to represent the Adopting Entity in connection with matters regarding the Adopting Entity's participation in the Trust and the disbursement of funds from the Trust (the "Authorized Representative"), and agrees that the Board and the Trustee may rely upon the representations of the Authorized Representative until and unless notified in writing that this person is no longer authorized to represent the Adopting Entity in this manner. Any such notice must identify a new person who will serve as the Adopting Entity's Authorized Representative.

8. General Provisions.

(a) Any notice required under this Agreement shall be in writing and shall be furnished to the recipient at the addresses provided separately by the parties, unless the recipient has provided the sender with notice of a change of address.

(b) This Agreement shall be governed by the laws of the State of California.

(c) The failure of the Trustee to seek redress for violation of or to insist upon the strict performance of any provision of the Agreement shall not be deemed a waiver and will not prevent a subsequent act, which would have originally constituted a violation, from having the effect of an original violation. The rights and remedies provided in this Agreement are cumulative and the use of any right or remedy does not limit the Trustee's right to use any or all other remedies. All rights and remedies in this Agreement are in addition to any other legal or equitable rights that the Trustee may have.

(d) Every provision of the Agreement is intended to be severable. If any term or provision hereof is invalid for any reason whatsoever, its invalidity will not affect the validity of the remainder of the Agreement.

(e) This Agreement may be executed in any number of counterparts with the same effect as if all parties hereto had all signed the same document. All counterparts shall be construed together and shall constitute one agreement.

(f) Unless the context requires otherwise, the use of a feminine pronoun includes the masculine and the neuter, and vice versa, and the use of the singular includes the plural, and vice versa.

(g) The headings used in this Agreement are provided for convenience and are not intended to be a part of this Agreement or to influence the interpretation of the terms of this Agreement. This Agreement shall not be construed on the basis of which party drafted the Agreement or a particular provision thereof.

9. Selection of Model Portfolio. The Adopting Entity has reviewed its tolerance for risk and its requirements for the investment of the Account, and has also reviewed the model portfolios offered by the Trustee. Solely and by virtue of this review, the Adopting Entity hereby directs the Trustee to invest the assets of the Account in accordance with the following model portfolio with its commensurate approximate target asset allocation, understanding that the target asset allocation will vary from time to time based upon market fluctuations, and that with the exception of Fixed Income, model portfolio asset allocations may be adjusted +/- 5% from time to time at the discretion of the Trustee:

CHECK ONE:

- Fixed Income (100% fixed income securities)
- Conservative (16% equity securities, 84% fixed income securities)
- Moderate (33% equity securities, 67% fixed income securities)
- Moderate Growth (45% equity securities, 55% fixed income securities)
- Growth (61% equity securities, 39% fixed income securities)
- Aggressive Growth (76% equity securities, 24% fixed income securities)

The Adopting Entity understands and agrees that the Trustee shall be under no duty to question the prudence of the model portfolio the Adopting Entity directs, and shall have no liability for any loss of any kind which may result by reason of the inherent volatility of the asset allocation directed. Once the Adopting Entity has directed the Account to be invested pursuant to a model portfolio as listed above the Trustee will assume discretionary authority and responsibility for its management.

The Adopting Entity may change the designation of the model portfolio to be utilized by executing an amendment to this section 9 of the Participation Agreement. Said amendment will go into effect upon the acknowledgement of receipt by the Trustee.

10. List two Individuals appointed as Authorized Representatives:

Dave Durlinger, City Manager

Licette Maldonado, Administrative Services Director

IN WITNESS WHEREOF, the parties have executed this Agreement as of May 14, 2018.

Adopting Entity: City of Carpinteria

Signature:

Name:

Title:

**BENEFIT TRUST COMPANY, TRUSTEE
FOR THE PENSION STABILIZATION
TRUST FOR CALIFORNIA
MUNICIPALITIES**

By:

Scott W. Rankin, Senior Vice President

ATTACHMENT C

MEMBER AGREEMENT

PENSION STABILIZATION TRUST FOR CALIFORNIA MUNICIPALITIES

BOARD OF AUTHORITY MEMBER AGREEMENT

WHEREAS, the Board of Authority of the Pension Stabilization Trust for California Municipalities (the "PST") adopted the Trust; and

WHEREAS, the PST allows up to one Member of the Board of Authority to be appointed by each Adopting Entity; and

WHEREAS, the Member must sign a written acceptance and agree to administer the PST; and

WHEREAS, the Member's written acceptance must be in a form satisfactory to the Board of Authority;

NOW, THEREFORE, the Adopting Entity, the Member and the Board of Authority agree as follows:

Section 1:

Appointment as Member: The Board hereby confirms the appointment by _____ of _____, as Member, pursuant and subject to the terms and conditions of the PST.

Section 2:

Acceptance as Member: Licette Maldonado, Administrative Services Director hereby accepts his or her appointment as Member pursuant and subject to the terms and conditions of the PST and agrees to administer the PST.

IN WITNESS WHEREOF, the duly authorized parties hereto have executed this Agreement as of _____, 2018.

Adopting Entity:

City of Carpinteria

Signature:

Name: _____

Title: _____

**CHAIRMAN OF THE BOARD OF THE PENSION
STABILIZATION TRUST FOR CALIFORNIA
MUNICIPALITIES**

Signature:

Name: _____

Title: _____

ACCEPTANCE AS MEMBER

Signature: _____

Name: _____

