

November 16, 2021

**TO:** Board Chairman and Directors  
Orange County Sanitation District

**FROM:** Kelly A. Lore  
Clerk of the Board

**RE: LATE COMMUNICATION**

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The Clerk of the Board received communication from General Manager Jim Herberg after the publication of the agenda regarding Item No. 17 presented to the Board of Directors. *A revised Agenda report which included information of a fee reduction; and an amended Resolution have been attached with redlined recommended changes.*

**17. SECTION 115 TRUST PENSION ACCOUNT CONTRACT AWARD      2021-1993**  
**RECOMMENDATION:**

- A. Approve a Professional Services Agreement to Public Agency Retirement Services to establish and oversee Orange County Sanitation District's Internal Revenue Service (IRS) Code Section 115 pension trust administration and investment management services;
- B. Adopt Resolution No. OC SAN 21-17 entitled: "A Resolution of the Board of Directors of Orange County Sanitation District Adopting a Post-Employment Benefit Trust Agreement with Public Agency Retirement Services; and Authorizing Officers to Execute Documents and Agreements" *as amended*; and
- C. Authorize staff to make an initial investment of up to \$15 million into the Section 115 pension trust.



# ADMINISTRATION COMMITTEE

Administration Building  
10844 Ellis Avenue  
Fountain Valley, CA 92708  
(714) 593-7433

## Agenda Report

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**File #:** 2021-1993

**Agenda Date:** 11/17/2021

**Agenda Item No:** 17.

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**FROM:** James D. Herberg, General Manager  
Originator: Lorenzo Tyner, Assistant General Manager

**SUBJECT:**

### SECTION 115 TRUST PENSION ACCOUNT CONTRACT AWARD

#### GENERAL MANAGER'S RECOMMENDATION

##### RECOMMENDATION:

- A. Approve a Professional Services Agreement to Public Agency Retirement Services to establish and oversee Orange County Sanitation District's Internal Revenue Service (IRS) Code Section 115 pension trust administration and investment management services;
- B. Adopt Resolution No. OC SAN 21-17 entitled: "A Resolution of the Board of Directors of Orange County Sanitation District Adopting a Post-Employment Benefit Trust Agreement with Public Agency Retirement Services; and Authorizing Officers to Execute Documents and Agreements" **as amended**; and
- C. Authorize staff to make an initial investment of up to \$15 million into the Section 115 pension trust.

#### BACKGROUND

The Orange County Sanitation District (OC San) provides pension benefits to its employees through the Orange County Employee Retirement System (OCERS) at an annual cost of approximately \$15 million. Staff continually examines strategies to support and minimize these costs. After an initial presentation, the Administration Committee directed staff to provide additional information and analysis of options to address funding these benefits ranging from advance payments to implementing an Internal Revenue Service Code Section 115 Trust Pension Account (115 Trust).

Staff researched and presented different options for Board consideration. All options involve moving funds from OC San's investment portfolio to a different investment vehicle with an opportunity to obtain higher yields. Once contributed into one of these strategies, fund use is limited to pension costs. The Board directed OC San staff to move forward with implementing a Section 115 Trust.

At its November 10, 2021, meeting, the Administration Committee approved a motion to recommend to the Board of Directors the selection of Public Agency Retirement Services to implement a Section 115 Trust based on the firm's qualifications and experience implementing Section 115 Trusts.

The Administration Committee also directed staff to request revised Best and Final terms from PARS. PARS submitted a fee reduction of \$5,000 (6.7%) from \$75,000 to \$70,000, assuming a \$15 million investment by OC SAN.

## RELEVANT STANDARDS

- Ensure the public's money is wisely spent
- Ensure that investment proposals and decisions are based on clearly defined standards

## PROBLEM

OC San has normal annual pension costs of approximately \$15 million per year. Unfunded pension liabilities can also accrue resulting from lower than expected OCERS investment returns or other actuarial assumptions, significantly increasing OC San's pension costs.

## PROPOSED SOLUTION

Award a contract to establish a Section 115 Trust for OC San and make an initial investment of up to \$15 million.

## TIMING CONCERNS

A delay in the establishment and funding of the Section 115 Trust can result in missed investment earnings opportunities.

## RAMIFICATIONS OF NOT TAKING ACTION

OC San will not have the opportunity to diversify investments and potentially gain higher returns than the current investment portfolio.

## PRIOR COMMITTEE/BOARD ACTIONS

November 2021 - Administration Committee approved a motion to recommend to the Board of Directors the selection of Public Agency Retirement Services to implement a Section 115 Trust based on the firm's qualifications and experience implementing Section 115 Trusts.

September 2020 - Board directed staff to advertise a Request for Proposals to select a multiple-employer Internal Revenue Service Code Section 115 Trust Pension Account.

June 2020 - Information Item provided to the Administration Committee.

## ADDITIONAL INFORMATION

A Request for Proposal was advertised on February 4, 2021. OC San received four responsive proposals valid for 180 calendar days from the opening. Proposals were received on March 9, 2021

from California Public Employees' Retirement System; Chandler Asset Management, Inc.; PFM Asset Management, Inc.; and Public Agency Retirement Services. A Staff Evaluation Committee consisting of four representatives from the Financial Management Division reviewed and ranked each of the proposals in accordance with the evaluation process set in OC San's Purchasing Ordinance. A representative from the Purchasing and Contracts Administration Division participated in the evaluation process as a non-voting member. The proposals were evaluated according to work plan, understanding and approach, related experience, and team and staff qualifications.

Individual scoring was the chosen method of evaluation for this procurement. Members of the team performed an independent review of the proposals and later met as a group with the Buyer to discuss their preliminary scores and discuss any questions/concerns they had. Proposals were evaluated based on the following criteria:

Criterion	Weight
Qualifications & Experience of Firm	25%
Proposed Staffing & Project Organization	20%
Work Plan	10%
Portfolio Performance	15%
Presentation/Interview	10%
Cost	20%

The evaluation team first reviewed and scored the proposals based upon the first four criteria listed above.

Rank	Proposer	Criterion 1 (Max 25%)	Criterion 2 (Max 20%)	Criterion 3 (Max 10%)	Criterion 4 (Max 15%)	Subtotal Score (Max 70%)
1	Public Agency Retirement Services	23%	18%	9%	13%	<b>63%</b>
2	PFM Asset Management, Inc.	22%	18%	8%	13%	<b>61%</b>
3	Chandler Asset Management, Inc.	21%	17%	8%	12%	<b>58%</b>
4	California Public Employees' Retirement System	18%	15%	7%	10%	<b>50%</b>

Based on the evaluation results, there was a natural break between the top three proposers and the remaining proposer. Therefore, the evaluation team deemed it not necessary to move forward with California Public Employee's Retirement System. The evaluation team also determined that, based on the proposals received, interviews were not necessary. All proposals were accompanied by a sealed cost proposal and the cost proposals were opened and scored for the remaining three proposers.

Rank	Proposer	Subtotal Score (Max 70%)	Cost (Max 20%)	Total Weighted Score (Max 90%)
1	Chandler Asset Management, Inc.	58%	20%	78%
2	Public Agency Retirement Services	63%	11%	74%
3	PFM Asset Management, Inc.	61%	11%	72%

**CEQA**

N/A

**FINANCIAL CONSIDERATIONS**

This request complies with authority levels of OC San's Purchasing Ordinance.

**ATTACHMENT**

*The following attachment(s) may be viewed on-line at the OC San website ([www.ocsan.gov](http://www.ocsan.gov)) with the complete agenda package:*

- Service Agreement
- Resolution No. OC SAN 21-17

RESOLUTION NO. OC SAN 21-17

A RESOLUTION OF THE BOARD OF DIRECTORS OF ORANGE COUNTY SANITATION DISTRICT ADOPTING A POST-EMPLOYMENT BENEFIT TRUST AGREEMENT WITH PUBLIC AGENCY RETIREMENT SERVICES; AND AUTHORIZING OFFICERS TO EXECUTE DOCUMENTS AND AGREEMENTS

WHEREAS, it is the desire of the Orange County Sanitation District Board of Directors to adopt a Post-Employment Benefits Trust Agreement.

WHEREAS, Phase II Systems, doing business as Public Agency Retirement Services ("PARS") has offered a Post-Employment Benefits Trust Agreement acceptable to the Orange County Sanitation District.

WHEREAS, PARS is qualified and capable of performing Trust Administration services.

~~WHEREAS, PARS will present a Trustee acceptable to the District.~~

NOW THEREFORE, the Board of Directors of the Orange County Sanitation District DOES HEREBY RESOLVE, DETERMINE AND ORDER:

Section 1:

- A. Adopt the **PARS Public Agencies** Post-Employment Benefits Trust Agreement with PARS as Trust Administrator **and U.S. Bank, N.A. as Trustee**; and
- B. **The Board of Directors appoints the General Manager, or his/her successor or his/her/ designee as OC San's Plan Administrator for the Program Authorize the General Manager or his delegate to execute the necessary documents and agreements necessary to select a Trustee as presented by PARS;** and
- C. Authorize the General Manager or his delegate to execute the necessary documents and agreements to signify its adoption including, but not limited to, an Adoption Agreement and Trust Administrative Services Agreement; and
- D. Approve, ratify, and confirm the appointment of PARS as Trust Administrator as of the effective date of the Adoption Agreement.

Section 2: This Resolution shall become effective immediately.

PASSED AND ADOPTED at a regular meeting of the Board of Directors held November 17, 2021.

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John B. Withers  
Board Chairman

ATTEST:

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Kelly A. Lore, MMC  
Clerk of the Board

APPROVED AS TO FORM:

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Bradley R. Hogin  
General Counsel

STATE OF CALIFORNIA )  
 )            ss  
COUNTY OF ORANGE )

I, Kelly A. Lore, Clerk of the Board of Directors of the Orange County Sanitation District, do hereby certify that the foregoing Resolution No. OC SAN 21-17 was passed and adopted at a regular meeting of said Board on the 17th day of November 2021, by the following vote, to wit:

**AYES:**  
**NOES:**  
**ABSTENTIONS:**  
**ABSENT:**

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of Orange County Sanitation District this 17th day of November 2021.

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Kelly A. Lore, MMC  
Clerk of the Board of Directors  
Orange County Sanitation District