



Sacramento Public Library Authority

January 28, 2010 Agenda Item 10.0: Investment Services Agreement:
City of Sacramento City Treasurer

TO: Sacramento Public Library Authority Board Members

FROM: Rick Teichert, Deputy Director - Support Services/Treasurer

RE: Investment Services Agreement: City of Sacramento City Treasurer

RECOMMENDED ACTION:

1. **Approve** a Memorandum of Understanding with the City of Sacramento Regarding Investment Services for the Sacramento Public Library Authority (Exhibit A); and
2. **Authorize** the Library Director to finalize and sign all documents related to this contract within the approved terms.

REASON FOR RECOMMENDATION

Since the inception of the Sacramento Public Library Authority, the City of Sacramento Treasurer and City accounting staff have had the legal duty to provide treasury and accounting services for the Authority, including providing investment services. The City provided those services under contract pursuant to Memorandum of Understanding Agreement 2005-0055. In July 2007, the Authority's Joint Powers Agreement was amended to assign the treasurer and accounting duties to Authority staff.

The purpose of this recommendation is to update the contractual arrangement for the Sacramento City Treasurer to continue to provide investment services. The proposed Memorandum of Understanding would supersede and replace Agreement 2005-0055 and has been updated to exclude accounting services and some treasurer duties and exclusively provides the investment services.

FISCAL IMPACT

The annual cost to the Authority for provision of investment services by the City of Sacramento is set as a percentage of average Authority assets managed by the City of Sacramento. At this time, the annual fee for FY 2009/10 is estimated to be \$37,000 and is included in the Authority's approved FY 2009/10 Budget. The fee is paid quarterly to the City of Sacramento. Staff does not anticipate significant variance in the annual fee as a result of this agreement; however, staff will inform the Authority Board of any fee increase at the time of notification and make appropriate budget adjustments as necessary.

ATTACHMENTS

Exhibit A: Memorandum of Understanding with the City of Sacramento Regarding Investment Services for the Sacramento Public Library Authority

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**MEMORANDUM OF UNDERSTANDING
REGARDING INVESTMENT SERVICES FOR THE
SACRAMENTO PUBLIC LIBRARY AUTHORITY**

THIS MEMORANDUM OF UNDERSTANDING (“MOU”) is made and entered into this _____ day of _____, 2010 (“Effective Date”), by and between the CITY OF SACRAMENTO (“CITY”) and the SACRAMENTO PUBLIC LIBRARY AUTHORITY (“AUTHORITY”). The CITY and AUTHORITY may be referred to collectively as “Agencies” or in the singular as “Agency,” as the context requires.

A. Pursuant to Section 6500 et seq., of the Government Code, AUTHORITY is authorized to contract with any other public entity to implement its programs.

B. Historically, CITY, acting through the Sacramento City Treasurer and the City of Sacramento Auditor/Controller (currently referred to as the Finance Director), had served as the Treasurer and Auditor of the AUTHORITY.

C. AUTHORITY amended its Joint Exercise of Powers Agreement In July 2007 to provide that the AUTHORITY Treasurer and Auditor shall be appointed from among the employees of the AUTHORITY.

D. AUTHORITY’s Joint Exercise of Powers Agreement, as amended July 2007, provides that the AUTHORITY Treasurer shall be the depositor and the custodian of all the money of the AUTHORITY and shall to the fullest extent permitted by law invest any surplus of trust fund for the benefit of AUTHORITY.

E. The Joint Exercise of Powers Agreement, as amended July 2007, also provides that any Party to that Agreement may provide system-wide or other services to AUTHORITY pursuant to contract which shall provide for payment for services rendered. CITY is a Party to that Agreement.

F. AUTHORITY desires to contract with CITY to have the Sacramento City Treasurer provide investment services for AUTHORITY with respect to certain assets described in **Exhibit A**, attached hereto and incorporated herein by this reference, which assets are hereinafter referred to as “the Account”.

G. AUTHORITY wishes to invest the Account exclusively in CITY’s Pool A, more specifically described in **Exhibit B** attached hereto and incorporated herein by this reference.

H. CITY is willing to provide the services of its City Treasurer’s Office to AUTHORITY to provide day-to-day investment management services for AUTHORITY with respect to the assets of the Account on the terms and conditions contained herein.

NOW, THEREFORE, THE AGENCIES AGREE AS FOLLOWS:

1. Incorporation of Recitals
The foregoing recitals are hereby incorporated herein by reference.
2. Purpose
The purpose of this MOU is to allow AUTHORITY to invest the Account exclusively in the CITY'S Pool A. The Agencies seek to effectuate this purpose by jointly exercising their respective authority to invest in financial investments pursuant to California Government Code section 53601.
3. Appointment of CITY
AUTHORITY hereby appoints CITY as an investment manager with respect to the assets in the Account.
4. Investment Standards
The CITY's Investment Policy, attached hereto as **Exhibit C** and incorporated herein by reference, contains the Investment Standards and goals adopted by the City Council. These Investment Standards, as they may change from time to time, are binding upon AUTHORITY and CITY in managing and investing the Account.
5. Reports to be submitted to AUTHORITY by CITY
 - (a) Reporting Intervals
The reports required by subsection 5(b) below shall be submitted monthly by CITY to AUTHORITY, within thirty (30) calendar days of the end of the reported month.
 - (b) Reports Required
The following reports shall be required at the intervals specified in Section 5(a) above:
 - (i) Appraisal of the assets in the Account for the applicable periods, including but not limited to cost, market value, and yield which will be included in the City's Monthly Investment Committee Report. The analysis and appraisal shall be conducted in accordance with recognized professional standards and methods customarily employed in the investment services profession.
 - (c) Filing of Reports
Within the time specified in Section 5(a) above, one (1) copy of the required reports shall be mailed to AUTHORITY via electronic mail.

6. Records, Audit
CITY shall maintain such cost and related records as may from time to time be required by AUTHORITY.

7. Liability
CITY shall be responsible for management of the Account in accordance with the Investment Standards, and such other instructions as AUTHORITY may provide to CITY in writing from time to time, subject to CITY's right to refuse to implement any subsequent instruction which in CITY's reasonable judgment is contrary to the Investment Standards. AUTHORITY acknowledges that Pool A consists of the assets of the City of Sacramento and other funds managed by the CITY and that CITY shall not be required to implement any investment instruction given by AUTHORITY that is contrary to the manner in which CITY is required to or desires to invest the assets in Pool A. CITY shall have no responsibility whatsoever for the management of AUTHORITY's assets not in the Account. CITY shall not be responsible or liable for AUTHORITY's decisions on whether or not to withdraw or deposit funds from the Account. CITY shall not be subject to liability for any act, omission or mistake of judgment in the course of, or connected with, the performance of its responsibilities hereunder, except for its own intentional willful misconduct, lack of good faith, gross negligence or failure to follow the Investment Standards. Without limiting the generality of the foregoing, CITY's selection of particular securities or other short or long term investments or investment vehicles in Pool A, of which AUTHORITY's asset will participate in, shall not subject CITY to liability of the case of market or other fluctuations or factors which cause diminution of the value of the Account, save to the extent that CITY fails to comply with its obligations under California Government Code section 53600.3.

8. Fiduciary Relationship
CITY shall maintain strict confidence in regard to the financial affairs of AUTHORITY, to the extent permitted by law, taking into account CITY's status as a public agency under the California Public Records Act.

9. Time, Manner of Payment, and Amount of Fees
The amount and method of calculation of the fees to be paid to CITY as full compensation for the services rendered under this MOU are set forth in **Exhibit D**, attached hereto and incorporated herein by this reference.

The fees shall be due quarterly at the end of each three (3) month period and shall be paid within fifteen (15) days after AUTHORITY's receipt of a bill from CITY. All fees shall be based upon the average daily investment fund balance during the quarter.

10. Term of MOU: Termination

- (a) This MOU shall become effective on the Effective Date and shall remain in effect through December 31, 2010. This MOU shall automatically renew itself for successive one-year periods commencing January 1, 2011, unless notice is given pursuant to Section 10(b) below.
- (b) This MOU may be terminated by either party at any time, for any reason, by serving a written "notice of termination" upon the other party at least sixty (60) days prior to the date of termination specified in such notice. Any "notice of termination" by AUTHORITY pursuant to this paragraph shall be served by AUTHORITY personally or by registered mail from the Library Director and served upon the City Treasurer Investment and Operations Manager at CITY. Any "notice of termination" by CITY pursuant to this paragraph, shall be served by CITY personally or by registered mail from CITY and served upon AUTHORITY's Treasurer. In the event of termination of this MOU at a time other than at the end of a quarterly billing period, CITY shall be entitled to receive the proportionate fee that the number of completed days of actual service bears to the number of days in a quarter.

11. General Provisions

The general provisions set forth below are part of this MOU. In the event of any inconsistency between said general provisions and any other term or condition of this MOU, the other term or condition shall control insofar as it is inconsistent with the general provisions.

- (a) Independent Contractor
It is herein understood and agreed that CITY is an independent contractor and that no relationship of employer-employee exists between the parties. As an independent contractor, CITY hereby holds AUTHORITY harmless from any and all claims that may be made against AUTHORITY based upon any contention by any third party that an employer-employee relationship exists by reason of this MOU.
- (b) Licenses; Permits, etc.
CITY represents and warrants that it has all licenses, permits, qualifications and approvals of whatsoever nature, which are legally required for CITY to perform investment services. CITY represents and warrants that it shall, at its sole cost and expense, keep in effect at all times during the term of this MOU any license, permits and approvals which are legally required for it to perform investment services.

(c) Time
CITY shall devote such time to the performance of services pursuant to this MOU as may be reasonably necessary for satisfactory performance of its obligations hereunder.

(d) Notice
Except as otherwise provided herein, all notices, requests, demands, or other communications required or permitted under this MOU shall be in writing and shall be deemed to have been duly given and received on (i) the date of service if served personally or served by facsimile transmission on the Agency to whom notice is to be given at the address(es) provided below, (ii) on the first business day after mailing, if mailed by Federal Express, U.S. Express Mail, or other similar overnight courier service, postage prepaid, and addressed as provided below, or (iii) on the third day after mailing if mailed to the Agency to whom notice is to be given by first-class mail, registered or certified, postage prepaid, addressed as follows:

To AUTHORITY:

Rick Teichert
Deputy Director of Administrative Services/Treasurer
Sacramento Public Library Authority
828 I Street
Sacramento, CA 95814

To CITY:

Lydia Abreu
Investment and Operations Manager
Sacramento City Treasurer
915 I Street
Sacramento, CA 95814

(e) Insurance
(i) Public Liability. During the term of this MOU, CITY shall maintain in full force and effect a policy of comprehensive all-risk public liability insurance with minimum coverage as follows: \$5,000,000 single limit per occurrence. Pursuant to the terms of this MOU, AUTHORITY accepts the CITY's self-insurance program in satisfaction of this requirement for insurance of Account. CITY shall document such insurance coverage to the reasonable satisfaction of AUTHORITY within thirty (30) days of the effective date of this MOU.

- (ii) Workers' Compensation. CITY's self-insurance program for workers' compensation liability shall satisfy any requirement for provision of workers' compensation coverage for purposes of this MOU.

- (iii) Errors and Omissions; Malpractice. In the event that AUTHORITY requests CITY to carry errors and omissions insurance or malpractice insurance, CITY shall take out and keep in full force and effect during the term of this MOU a policy in form and content reasonably satisfactory to AUTHORITY which shall indemnify AUTHORITY against errors and omissions or malpractice by CITY. Said policy or policies shall provide liability coverage in an amount specified by AUTHORITY in its request. In the event that AUTHORITY requests such coverage, the fee and cost schedule shall be amended without the need for further action by either party to include the full cost of such coverage. As of the date of this MOU, AUTHORITY has not made a request for such insurance coverage.

- (f) CITY Not Agent
Except in carrying out its investment duties under this MOU, CITY shall have no authority, express or implied, to act on behalf of AUTHORITY in any capacity whatsoever as agent.

- (g) Standard of Performance
Subject to the provisions of section 4 of this MOU, CITY shall perform all services required pursuant to this MOU in the manner and according to the standards observed by a competent practitioner of the investment counseling services profession. All products of whatsoever nature which CITY delivers to the Account pursuant to this MOU shall be prepared in a substantial, first-class and workmanlike manner and conform to the standards of quality normally observed by a person practicing in the investment services profession.

- (h) Privileges and immunities; exemptions; benefits
All privileges and immunities that apply to the activity of officers, agents or employees of the Agencies under state law shall apply to such officers, agents or employees to the same degree and extent while they are engaged in the performance of functions and duties pursuant to this MOU.

12. Entire Agreement
This MOU contains all of the terms and conditions as agreed upon by the Agencies, and supersedes any and all oral or written communications by and between the Agencies. No waiver, alteration, or modification of this MOU shall be valid unless made in writing and signed by both Agencies. In the event of a conflict between this MOU and any other agreement or understanding executed by the Agencies subsequent to the commencement of this MOU, the terms of this MOU shall prevail and be controlling unless such other agreement expressly provides to the contrary.
13. Governing Law
The interpretation and enforcement of this MOU shall be governed by the law of the State of California, the state in which this MOU was signed.
14. Assignment
CITY may assign its obligation under this MOU as necessary if the City Council declines to delegate investment authority to the City Treasurer at any time while this MOU is in effect.
15. Severability
If any term, covenant, or condition of this MOU is held to be invalid by a court of competent jurisdiction, the remainder of this MOU shall remain in full force and effect.
16. Captions
The headings or captions contained in this MOU are for identification purposes only and shall have no effect upon the construction or interpretation of this MOU.
17. Ambiguities
The Agencies have each carefully reviewed this MOU and have agreed to each term of this MOU. No ambiguity shall be presumed to be construed against either Agency.
18. Signing Authority
The persons executing this MOU have the capacity and are authorized to execute this MOU as the representatives of their respective Agency, and to bind their respective Agency to the terms of this MOU.

SIGNATURE PAGE FOLLOWS

CITY OF SACRAMENTO

SACRAMENTO PUBLIC LIBRARY
AUTHORITY

By: _____
City Treasurer

By: _____
Library Director

Attest:

City Clerk

Approved as to form:

Approved as to form:

City Attorney

Authority Counsel

EXHIBIT A

Account Assets

1. The current asset in the Account is \$_____ in cash. The principal cash will be invested promptly in CITY's Pool A.
2. AUTHORITY may increase or decrease the amount of the assets in the Account from time to time as it so desires.
3. CITY shall maintain an accounting of funds added to or withdrawn from the Account by AUTHORITY.
4. CITY shall also maintain an accounting of funds CITY adds to the Account for investment earnings and other deposits and any amounts CITY withdraws from the Account for investment purposes.

EXHIBIT B

Pool A

CITY's investment Pool A is a short-term investment vehicle for the cash balances of all operating funds of the City of Sacramento. Investments purchased for CITY's Pool A are invested according to the investment guidelines of Government Code Sections 53601 and 53635, and may be expanded to include investments deemed prudent by the City Treasurer and approved by the City Council.

EXHIBIT C

City of Sacramento Investment Policy

EXHIBIT D

Management Fee Schedule

1. CITY's annual management fee is currently 22 basis points of the portfolio and is payable in quarterly installments, plus transaction fees (i.e. wiring fees). The annual management fee of 22 basis points shall be calculated based upon the average daily investment fund balance during the quarter.
2. CITY reserves the right to change the management fee from time to time as the market trend for management fees changes. This will assure a legal basis exists for the fee charged under this MOU.
3. Prior to implementing a change in the management fee charged under this MOU, CITY shall provide thirty (30) days written notice to AUTHORITY regarding the amount of increase or decrease that will be made to the management fee and when such fee increase or decrease will take effect.