

Staff Report

TO: Board of Directors

FROM: Sandra Dunlap, Director of Finance
Paul Minasian, Trustee

DATE: January 8, 2025

SUBJECT: Bank of America Retirement Trust Termination

FINANCE

RECOMMENDATION:

Adopt a resolution to terminate the Bank of America Retirement Trust and Authorize the General Manager and Trustee to execute any documentation to close the Bank of America Checking account.

BACKGROUND:

In 1983, Nevada Irrigation District (“NID” or “District”) entered into a settlement agreement with Aetna Life Insurance Company. The District had established a retirement program in which Aetna administered and purchased annuities to the extent of the vested retirement benefits. Employees (and their spouses if a joint benefit was chosen) would then receive taxable benefits for the lives of the longest survivor of the couple. Aetna was to pay investment earnings on the deposits made to the plan by the District.

1.1 The District wished to subscribe to the PERS retirement program after 1983. The Aetna plan provided assurance that the District would pay a Cost-of-Living Adjustment to the retiree upon the vested benefit then being paid annuity amounts in the amount of the national CPI but not in excess of 3% per year. Upon termination of the Aetna contract, Aetna agreed to purchase the annuities for those employees who were vested but the liability for the CPI amounts was incalculable. Aetna was willing to turn over the excess deposits not necessary to purchase annuities for retired employees, the District would purchase past service credit from PERS for employees with vested benefits who were still employed, but the unfunded Consumer Price Index liability could only be known over time. The approximate \$1,952,000 remitted to the District for past service purchases from PERS was estimated to not be sufficient for all costs over time, including the CPI amount.

1.2 To secure the interest of the retired employees and satisfy the Aetna NID contract obligations, a Trust was established with three District employees and officers as Trustees. This vehicle provided the employees with protection in regard to the excess funds remitted after PERS purchases, but also provided a vehicle to enforce the CPI payment obligation if, as was estimated, the funds remitted by Aetna would be insufficient. The Trustees were the District Manager (Fred Bandy), the Treasurer (Tess Andrews), and one of the District's attorneys (Paul Minasian). The Trust provided for replacements of Trustees as death or resignation occurred. Mr. Minasian remains the sole Trustee and has reviewed the questions of disposition of the remaining funds and joins in this report.

2.0 After establishment of the Trust in 1983, the CPI payments to retired employees or their spouses were made from a Bank of America checking account and purchase of past service PERS benefits for still employed persons. Remember that this is before payroll computerization was widely used.

3.0 The last retired beneficiary of the Aetna contract appears to have died in 2022. The last appropriation by NID that was placed in this Bank of America checking account for the Trust occurred in December 2015 and the amount deposited appears to have been \$121,000. It is unknown why the amount of the deposit was so large.

4.0 Although the Trust terms provide for investment of the Trust amounts and earnings to be accumulated in the Trust, probably because the Past Service Benefits purchase from PERS quickly dissipated the Trust balance received from Aetna, it does not appear that any Trust earnings were ever accounted for. If any such earnings existed at termination, they would be returned to the District and the retired employees would not be the beneficiary of these earnings. The earnings, if any, would instead reduce the liability of NID for benefits, including the CPI increases, if any were owed.

5.0 It appears that the amount of the CPI benefit owed has been paid for the employee (and one surviving spouse) for the periods 2020 through the period of the last death in 2022, through overpayment in earlier periods. After review, no supportable claims to additional CPI payments exists on the part of any beneficiary or their successors.

6.1 The Trust Agreement provides for termination of the Trust by Agreement between the surviving Trustee and NID.

6.2 The attached resolution approves termination and Mr. Minasian has signed consenting on the basis that the evidence confirms that all obligations of the Trust have been satisfied to the best of his knowledge and that of the District.

6.3 Upon termination, the Trust instrument obviously did not anticipate the large deposit made by the District in approximately 2015. The Trust instrument obviously intended that small additions of funds would be made from time to time as the District obligations were satisfied by checks written for the CPI obligation.

6.4 Paragraph 11.5 of the Trust instrument contains a provision that “[n]o portion of the assets in the Trust shall revert to or become the property of the Company [NID]...” Despite this provision, it is believed by District staff and the surviving Trustee, Paul Minasian, that this provision applies only to monies paid into the Trust from Aetna and that the remaining amounts of the deposit of \$121,000 made in approximately 2015 and deposited in the Bank of America checking account should be considered “as within the Trust” and should be reimbursed to the District as an “over deposit.”

6.5 For the Board’s information, the District was authorized to pay for the costs of administration of the Trust and costs in making the payments to the District retirees but does not appear to have billed the Trust or paid those expenses from the Aetna funding of the Trust. The amounts in the Trust checking account with Bank of America since 2015 do not appear to have earned interest.

BUDGETARY IMPACT:

No budgetary impact.

If adopted, the attached resolution provides for (i) the dissolution and termination of the Trust; (ii) the transfer of all remaining funds in Bank of America checking account to the District’s General Fund as a reimbursement of amounts constituting an over deposit by the District; and (iii) the indemnification and defense obligations of the District in regard to the Trust administration is affirmed by the proposed resolution to remain in effect after the Trust termination.

Attachments: (1)

- Resolution No. 2025-02 - Approving the Termination of the Bank of America Retirement Trust



RESOLUTION NO. 2025-02
OF THE BOARD OF DIRECTORS OF THE NEVADA IRRIGATION DISTRICT

TERMINATION OF 1983 RETIREMENT TRUST / DIRECTION REGARDING TRUST FUNDS AND OBLIGATIONS

WHEREAS, pursuant to that certain Retirement Trust Agreement entered into on or about the 31st day of May, 1983, there was established the Trust Agreement for funding of Retirement Plan for employees of Nevada irrigation District pursuant to a plan to terminate the annuity purchase plan agreement with the Aetna Life Insurance Company and the District and provide for security that the remaining terms of that contract would be performed through a Trust Agreement; and

WHEREAS, the last of the retired employees and their spouses who received benefits under the Trust terms died on or about 2022 and, therefore, the need for and use of the Trust ended on or about that date. There remains approximately \$82,000 in the Trust on the books and records of the Trust and the District; and

WHEREAS, examination of the records demonstrates that the amounts owed for CPI payments provided under the Aetna retirement contract with the District have been paid in full and no further financial obligations of the Trust exist; and

WHEREAS, the Trust terms provide for the Trust's termination upon distribution of all assets of the Trust. The District and Surviving Trustee are informed that the Trust assets received from Aetna Life Insurance Company have all been distributed and that the only sums of monies remaining in the Trust are the remaining sums of an over deposit and contribution to the Trust of approximately \$121,000 made by the District in or about December 2015; and

NOW THEREFORE, BE IT RESOLVED by the Board of Directors of the Nevada Irrigation District, with agreement of the Surviving Trustee, Paul R. Minasian, that:

1. The Trust established on or about May 31, 1983 for funding of the Retirement Plan for Employees of Nevada irrigation District is hereby terminated and of no further force or effect.

2. The full amount remaining in the Trust according to the books and records of the District is the sum of approximately \$82,000, which amount is directed to be moved from the Bank of America checking account of the Trust to the main checking account of the District at Wells Fargo Bank. The checking account of the Trust shall be terminated.
3. The District waives any and all charges and costs incurred in the administration of the Trust prior to the date of this resolution.
4. The indemnification provision of paragraph 11.9 of the Trust in regard to the deceased Trustees and Surviving Trustee shall remain in full force and effect despite the termination of the Trust.

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PASSED AND ADOPTED by the Board of Directors of the Nevada Irrigation District at a regular meeting held on the 8th day of January 2025, by the following vote:

AYES: Directors:
NOES: Directors:
ABSENT: Directors:
ABSTAINS: Directors:

President of the Board of Directors

Attest:

Secretary to the Board of Directors