

OHLONE COMMUNITY COLLEGE DISTRICT

MEMORANDUM

TO: Board of Trustees

FROM: Douglas Treadway

DATE: February 9, 2005

SUBJECT: Approval of Fiduciary Liability Agreement with TruSource to Manage and Operate the 403b Elite Choice Retirement Program

The Employee Retirement Information and Security Act (ERISA) provides liability protections for employers, which provide employees with 403b Tax Shelter Annuity Plans. California Government Code provides that the District, when offering a 403b plan, act in the best interests of the employee participants and that the plan sponsor (District) may mitigate its fiduciary liability by using a registered investment manager.

TruSource is a registered investment manager. TruSource would be an agent of the District and provide the District with employee participant account recordkeeping, comprehensive participant reports, allocate contributions to individual participant accounts, transfer of funds between investment accounts, documentation for participant loans, tax returns, determination of vested interest, and other plan fiduciary responsibilities.

The proposed agreement between the District and TruSource would be effective until terminated with 60 days notice by either party. The District agrees to indemnify TruSource for the District's failure to provide timely and accurate information to TruSource. In the event of negligence or willful misconduct of TruSource, TruSource shall be liable for its errors and required to make the Plan whole.

TruSource has agreed to provide investment management services to the District at no cost to the District. The plan would be effective April 1, 2005.

This agreement document has been reviewed by District legal counsel.

RECOMMENDATION:

The President/Superintendent recommends approval of the agreement between TruSource, a registered investment manager, and the Ohlone Community College District to provide banking services for the District 403b Tax Shelter Annuity Plan at no cost to the District, effective April 1, 2005.

DT:LKE/di/TruSource 403b Agreement Cover 02-09-05

Attachment