

RESOLUTION NO. R2014-29

Establishment and Administration of a Trust under Section 115 of the Internal Revenue Code for the Payment of Employee Health and Welfare Benefit Costs and Authorizing the Deposit of Funds into the Trust and Use of Trust Funds to Pay Benefit Costs Budgeted for 2015

MEETING:	DATE:	TYPE OF ACTION:	STAFF CONTACT:
Operations and Administration Board	11/06/2014	Recommendation to Board	Valentina Zackrone, Chief Human Resources Officer
	11/20/2014	Final Action	Kitty Wold, Total Rewards Manager

PROPOSED ACTION

(1) Authorizes the chief executive officer to establish a trust (the “Trust”) under Section 115 of the Internal Revenue Code of 1986, as amended (the “Code”) to be used solely for the payment of health and welfare benefit costs incurred by Sound Transit as authorized by Board-adopted budgets, and (2) authorizes the chief executive officer to appoint a third party trustee/custodian to hold Trust assets and a third party plan administrator to administer the Trust, and (3) authorizes the chief executive officer to deposit into the Trust an amount equal to the savings achieved by the agency’s health reimbursement account (the “HRA”) and use the Trust funds to pay future benefit costs, and (4) authorizes the chief executive officer to deposit into the Trust all or a portion of any budgeted HRA funds that have not been expended in fiscal years.

KEY FEATURES SUMMARY

- Authorizes the chief executive officer to establish an irrevocable trust under Code Section 115 for the sole purpose of paying the employee health care and welfare benefit expenses incurred by Sound Transit, including health insurance premiums and other related employee health and welfare benefit costs, as authorized by Board-adopted budgets.
- The chief executive officer is authorized to execute a Trust agreement and other Trust documents, appoint a third party trustee/custodian to hold Trust assets and a third party plan administrator to administer the Trust, arrange for advisory services, make deposits into the Trust for Trust purposes, take other necessary actions for the administration of the Trust consistent with the Trust purposes and state and federal law.
- Authorizes the chief executive officer to deposit into the Trust an amount equal to the savings achieved in 2014 by the HRA and to use the Trust funds to pay the agency’s health and welfare benefit costs for 2015. In addition, the chief executive officer is authorized to deposit any future HRA savings after the year ending in 2014 into the Trust and to use Trust funds, as may be authorized by Board-adopted budgets, for future health and welfare benefit costs.
- Allows the agency to mitigate an expected increase in health care premiums in 2015 by using the Trust to carry over the unexpended HRA funds to provide a similar level of benefits to employees in 2015 as was provided in 2014.
- The agency will indemnify the chief executive officer, and its officers and employees, to the extent that they are acting as fiduciaries of the Trust.
- It is anticipated that this action will help the agency continue to provide competitive and financially sustainable benefit package to its employees in the future years as well.

BACKGROUND

In 2012 Sound Transit introduced a HRA component into the health insurance plan design. Incorporating the HRA component into the agency's health insurance program has enabled Sound Transit to achieve significant healthcare cost containment. The agency was able to reduce the cost of health care insurance in 2014.

Trust assets of approximately \$1.5 million will be used to mitigate the effect of future increases in health and welfare benefit costs on the agency. The Trust will provide a framework to prefund and manage the agency's overall benefit costs over the long term, provide better monitoring of health care costs, and allow the agency to make better decisions on the provision of health care benefits to employees. The Trust will enable the agency to reduce or stabilize the cost of future health care benefit increases provided to Sound Transit employees by paying health and welfare costs out of the prefunded assets of the Trust.

A Trust formed under Section 115 of the Code is considered a "governmental integral part" trust. Section 115 trusts have been used by other governmental entities for the prefunding of health and welfare benefits. Under Code Section 115, Trust assets are exempt from federal income taxation and Trust earnings accumulate on a tax-exempt basis. The Trust's assets will be deposited into a public depository approved by the Washington State Public Deposit Protection Commission and the Trust investments will be compliant with Washington state law governing investments of assets of municipal corporations. The Trust documents prepared or reviewed by legal counsel will be intended to satisfy the applicable Internal Revenue Code requirements.

If the Trust is established, Wells Fargo Institutional Retirement and Trust will be the Trustee and Custodian, and Wells Fargo will be directed by the administrator of the Trust to invest Trust funds in compliance with applicable Washington state law governing the investment of excess assets of municipal corporations.

FISCAL INFORMATION

Creation of the trust will utilize funds contained within the 2014 adopted budget. The establishment of the Trust allows the agency to apply the unutilized amount of the 2014 HRA contributions into a Trust to be held by a third party trustee/custodian and administered by a qualified third party plan administrator. Budget for the HRA contributions are contained within the Benefits line item within the agency's Departmental and Service Delivery budgets.

Any future use of Trust funds to pay for qualifying health and welfare benefit costs will be included within the salary and benefits amounts in future years' budgets. Future budgets will also authorize any unutilized HRA amounts to be deposited into the Trust to preserve the HRA savings in those budget years.

The Trust assets will be in a public funds deposit account ensuring that the money is fully collateralized in compliance with applicable Washington state law. Interest earned on these funds will remain in the Trust.

SMALL BUSINESS/DBE PARTICIPATION

Not applicable to this action.

TIME CONSTRAINTS

Board authorization to establish the trust must be provided before December 31, 2014 in order to preserve the full health benefit cost savings from 2014.

PRIOR BOARD/COMMITTEE ACTIONS

None.

ENVIRONMENTAL REVIEW

JI 10/20/2014

LEGAL REVIEW

BN 11/3/14

RESOLUTION NO. R2014-29

A RESOLUTION of the Board of the Central Puget Sound Regional Transit Authority authorizing the establishment and administration of a trust under section 115 of the internal revenue code for the payment of employee health and welfare benefit costs and authorizing the deposit of funds into the trust.

WHEREAS, the Central Puget Sound Regional Transit Authority, commonly known as Sound Transit, was formed under RCW Chapters 81.104 and 81.112 for the Pierce, King, and Snohomish Counties region by action of their respective county councils pursuant to RCW 81.112.030; and

WHEREAS, this resolution will authorize the chief executive officer to establish an irrevocable trust under Section 115 of the Internal Revenue Code solely for the purpose of paying employee health care and welfare benefit expenses incurred by Sound Transit, including health insurance premiums and other related employee health and welfare benefit costs, authorize the deposit into the trust of an amount equal to the savings achieved in 2013-14 through the health reimbursement account, and as well as future amounts budgeted by the Board for health care benefit costs.

WHEREAS, this trust will allow Sound Transit to prefund health and welfare benefits and hold the funds in a secure, exclusive benefit trust to pay future employee health care benefit costs.

NOW, THEREFORE, BE IT RESOLVED by the Board of the Central Puget Sound Regional Transit Authority that

1. The chief executive officer is authorized to establish a health and welfare benefits trust under Section 115 of the Internal Revenue Code and to make deposits into the trust to be invested in accordance with state law requirements for the investment of municipal funds. The sole purpose of the trust will be to fund the cost of health care and welfare benefits provided to Sound Transit employees, including payment of insurance premiums and other related healthcare costs, as authorized by Board-adopted budgets.

2. The chief executive officer is authorized to perform actions related to the establishment and administration of the trust, including executing the trust documents and appointing a third party trust administrator and a plan administrator to administer the trust in accordance with the trust purposes, internal revenue code and other legal requirements.
3. The chief executive officer is authorized to deposit into the trust an amount equal to the savings achieved in 2013 and 2014 by the established health reimbursement account (approximately \$1.9 million), to deposit into the trust any future health reimbursement account savings after the year ending in 2014, and to deposit into the trust any other amounts authorized by future Board-adopted budgets for the payment of the agency's health and welfare benefit costs.
4. The agency will indemnify the chief executive officer, and its officers and employees, to the extent that they are acting as fiduciaries of the trust.

ADOPTED by the Board of the Central Puget Sound Regional Transit Authority at a regular meeting thereof held on November 20, 2014.



Dow Constantine
Board Chair

ATTEST:



Marcia Walker
Board Administrator