

**SOUND TRANSIT
STAFF REPORT**

RESOLUTION NO. R2010-05

Regarding the Administration of the Sound Transit 401(a) and 457(b) Retirement Plans

Meeting:	Date:	Type of Action:	Staff Contact:	Phone:
Executive Committee	3/4/10	Discussion/Possible Action to Recommend Approval Action	Brian McCartan ED, FIT	(206) 398-5100
Board	3/11/10			

Contract/Agreement Type:	✓	Requested Action:	✓
Competitive Procurement		Execute New Contract/Agreement	
Sole Source		Amend Existing Contract/Agreement	
Agreement with Other Jurisdiction(s)		Budget Amendment	
Real Estate		Property Acquisition	

PROJECT NAME

Retirement Plans: 401(a) Money Purchase Plan and 457(b) Deferred Compensation Plan

PROPOSED ACTION

This resolution amends Resolution 32 which adopted the agency's 401(a) and 457(b) employee retirement plans, creates a retirement plans committee, delegates oversight and management responsibilities for the employee retirement plans to the chief executive officer and the retirement plans committee, indemnifies the Sound Transit Board, officers and employees to the extent they are making decisions or acting as fiduciaries of the retirement plans, and authorizes the purchase of fiduciary insurance.

KEY FEATURES of PROPOSED ACTION

This action amends Resolution No. 32 which established the agency's employee retirement plans. Significant changes include:

- Creates a retirement plans committee and authorizes the chief executive officer to appoint the members.
- Authorizes the chief executive officer and the retirement plans committee to perform oversight and management functions with respect to the retirement plans.
- Authorizes the chief executive officer and the retirement plans committee to select, monitor, and replace third-party plan administrators as such actions may be in the employees' best interest.

BUDGET IMPACT SUMMARY

There is no action outside of the Board-adopted budget; there are no contingency funds required, no subarea impacts, or funding required from other parties other than what is already assumed in the financial plan. This action does not change the amount of contributions to the agency's retirement plans and has no budgetary impact.

BUDGET TABLE

This action has no budget impact. However, the agency has added fiduciary coverage to its agency insurance program effective for 2010, with a net cost of approximately \$15,000 annually.

PROJECT DESCRIPTION and BACKGROUND for PROPOSED ACTION

In 1994, the Board adopted Resolution 32 which adopted the 401(a) qualified retirement plan and the 457(b) deferred compensation plan, established a trust for the plan assets, adopted an agreement with Sound Transit's current retirement plans third-party administrator, ICMA Retirement Corporation (ICMA), and appointed the chief executive officer the coordinator of the 401(a) and 457(b) plans.

This resolution creates a retirement plans committee appointed by the chief executive officer that will include employees who are representative of the agency's workforce age demographic and members who are conversant in subjects relevant to oversight of the retirement plans. The committee must include representatives from the finance, human resources, and legal departments. The general counsel will designate legal counsel to advise the committee.

Since Sound Transit adopted Resolution 32, the regulatory and business environment for retirement plan management has changed significantly. In 2009, the chief executive officer initiated a review of the agency's retirement plan management to insure the agency was utilizing best practices in oversight of its plans. As a result the agency has undertaken the following steps to update its plan management:

- Competitively selected a retirement plan financial advisor to assist the agency in evaluation of the plans' current third-party administrator and the retirement program and review of existing regulatory requirements and best practices for administration of 401 (a) and 457 (b) plans;
- Drafted internal retirement plan policies;
- Implemented training of current retirement committee on fiduciary responsibilities and retirement fund management;
- Evaluated administration fees, fund lineups and provision of fund administrative services by the plans' current third-party administrator.

The chief executive officer or designee, and the retirement plans committee are authorized to perform oversight and management functions with respect to the retirement plans including the following:

- Provide management oversight and perform the day to day administration and coordination of the 401(a) and 457(b) retirement plans;
- Adopt an investment policy and periodically review the performance of the investments in the plans;
- Select, monitor, remove and replace the current and future administrative and investment services provider(s) for the 401(a) and 457(b) plans;
- Adopt amendments to the plan documents that are required by changes in the law or regulations;
- Reallocate forfeited (unvested) employer contributions in the 401(a) plan to offset future employer contributions, restore forfeited account balances for rehired participants, and pay reasonable 401(a) plan expenses as appropriate.

This resolution also:

- Indemnifies the Board members, officers, legal counsel and employees of Sound Transit who make fiduciary decisions or perform fiduciary functions related to the retirement plans;
- Provides for the purchase of fiduciary liability insurance for the indemnity obligations; and
- Ratifies all prior decisions of the chief executive officer and her designees consistent with this resolution.

Prior Board/Committee Actions

Motion/Resolution Number and Date	Summary of Action
Resolution No. 32 August 12, 1994	Adopting a retirement program, including independent retirement plans in lieu of Public Employees' Retirement System (PERS) coverage and in lieu of Social Security coverage for participating employees of the Regional Transit Authority.

CONSEQUENCES of DELAY

Sound Transit is reviewing the management and oversight of the agency's retirement plans to ensure that the agency complies with its fiduciary obligations with regard to the retirement plans. The review should be completed in the next several months. If the resolution is not in force at the time the review is completed, the chief executive officer may lack the authority to take the actions required to meet the agency's fiduciary obligations.

ENVIRONMENTAL COMPLIANCE

Not applicable for this action.

LEGAL REVIEW

BN 2-26-10

SOUND TRANSIT

RESOLUTION NO. R2010-05

A RESOLUTION of the Board of the Central Puget Sound Regional Transit Authority regarding the administration of the 401(a) and 457(b) employee retirement plans, amending Resolution 32, creating a retirement plans committee, delegating oversight and management responsibilities for the employee retirement plans, indemnifying the Sound Transit Board, officers and employees to the extent they are making decisions or acting as fiduciaries of the retirement plans, and authorizing the purchase of fiduciary insurance.

WHEREAS, the Regional Transit Authority ("Sound Transit") has been established to develop and implement a high capacity transportation system for the Central Puget Sound Region pursuant to Chapters 81.104 and 81.112 RCW; and

WHEREAS, Sound Transit has established a tax qualified retirement plan under Section 401(a) of the Internal Revenue Code of 1986, as amended (the "Code"), and an eligible deferred compensation plan under Section 457(b) of the Code for its employees; and

WHEREAS, the assets of the 401(a) and the 457(b) retirement plans are currently held in trust for the exclusive benefit of the plan participants; and

WHEREAS, by Resolution No. 32, the Sound Transit Board selected ICMA Retirement Corporation, an affiliate of International City Management Association ("ICMA"), to provide prototype plan documents, investment funds, investment advice, and administrative services with respect to the 401(a) and the 457(b) plans and delegated administrative responsibilities for the plans to the chief executive officer or designee; and

WHEREAS, the Sound Transit Board believes it is in the best interests of Sound Transit and its employees to (1) amend Resolution 32 regarding the administration of the 401(a) and the 457(b) retirement plans, (2) create a retirement plans committee with members to be appointed by the chief executive officer, (3) indemnify the Sound Transit Boardmembers, officers, legal counsel, and employees who act as fiduciaries for the retirement plans, and (4) authorize the chief executive officer and the retirement plans committee to provide oversight and perform other, including the adoption of an investment policy, the selection and possible replacement of the retirement plans' third party administrator, the allocation of unvested employer contributions that are forfeited under the 401(a) plan, the purchase of fiduciary liability insurance for the fiduciaries of the retirement plans, and other actions as provided in this resolution.

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

Section 1. The chief executive officer or designee is authorized to oversee and manage the day to day administration of the 401(a) money purchase pension plan and the 457(b) eligible deferred compensation plan, arranging for the enrollment of plan participants and providing information to participants, providing directions to the administrative services provider and making other decisions regarding the assets of the plans in accordance with the plan documents and applicable law and regulations.

Section 2. A retirement plans committee is established to provide oversight and perform other duties related to the 401(a) and 457(b) retirement plans for the benefit of the plan participants. The chief executive officer will appoint and remove members of the committee at her or his discretion to ensure that the committee is composed of members who are representative of the agency's workforce age demographic, and members who are conversant in subjects relevant to oversight of the retirement plans. The chief executive officer will determine the number of committee members, but the committee must have a least one representative from the finance department, the human resources department, and the legal department. All of the retirement plans committee members shall be retirement plan participants. The retirement plans committee shall be advised by legal counsel designated by the general counsel.

Section 3. The retirement plans committee shall establish an investment policy, review such investment policy on a regular basis, and make changes as appropriate in the best interests of the plan participants. The committee shall (1) receive regular performance and investment information provided by the administrative service provider, (2) engage investment managers, investment fund providers and investment advisors, (3) make recommendations to the chief executive officer regarding the prudent management of the retirement plans for the benefit of the plan participants, the hiring and replacement of third party plan administrators, and the adoption of amendments to the plan documents, and (4) perform other duties as assigned to the committee by the chief executive officer.

Section 4. The chief executive officer or designees with the advice and assistance of the retirement plans committee may select, monitor, and remove and replace, as they deem necessary and prudent, the administrative services provider and the investment funds to be offered to participants as investment options and default investments under the 401(a) and 457(b) plans, procure and utilize advisory services, adopt amendments to the plan documents that are required or advisable as a result of changes in

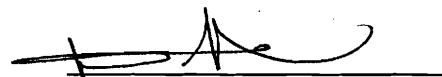
applicable law or regulations and perform other actions to administer the plans for the benefit of the plan participants. Board approval is required to make amendments to the plan documents which are not required as a result of changes in the law or regulations.

Section 5 The chief executive officer or her designee is authorized, as applicable, to reallocate unvested, forfeited employer contributions in the 401(a) plan and such reallocated employer contributions may be used to restore forfeited account balances for rehired participants who are entitled to such restoration, offset future employer contributions, or pay reasonable plan expenses pursuant to the 401(a) plan document.

Section 6. Sound Transit will indemnify, defend and hold harmless the Sound Transit Board members, the chief executive officer, members of the retirement plans committee, in-house legal counsel and its officers and employees who perform fiduciary functions from all claims, expenses, or liabilities arising from the performance of their duties related to the Sound Transit retirement plans, their advice to, or their service on or to the retirement plans committee or their exercise of fiduciary responsibilities in the administration of the retirement plans, except to the extent of any willful misconduct by an officer, member, counsel or employee acting in a fiduciary capacity. Sound Transit will provide adequate insurance coverage for these indemnification obligations.

Section 7. All prior actions of the chief executive officer and designees consistent with this resolution are hereby ratified.

ADOPTED by the Board of the Central Puget Sound Regional Transit Authority at a regular meeting thereof held on March 25, 2010.



Fred Butler
Board Vice Chair

ATTEST:



Marcia Walker
Board Administrator