

**Metropolitan Transportation Commission
Administration Committee**

December 9, 2020

Agenda Item 2g - 20-1239

MTC Resolution No. 4436 – Establishment of an Internal Revenue Code (IRC) Section 115 Post-Employment Benefits Trust with Public Agency Retirement Services (PARS); and Authorization of Related Contract(s) with PARS

Subject: A request that the Committee (1) authorize referral of MTC Resolution No. 4436 to the Commission for the establishment of a second Post-Employment Benefits Trust Account with Public Agency Retirement Services (PARS) and (2) authorize related contract(s) with PARS.

Background: The Commission approved MTC Resolution 3912 in October 2009, which authorized MTC to execute an agreement with PARS to establish and administer an Internal Revenue Code (IRC) Section 115 Other Post-Employment Benefits (OPEB) Retirement Health Care Plan Trust. Resolution 4436 will expand the authority to create an additional pre-funding account for retirement benefits. The new resolution is required by the IRS to maintain the tax-exempt status on earnings in both pre-funded retirement accounts. No changes are being made to the resolution or trust account services other than adding U.S. Bank as the trustee.

MTC opened the original OPEB Health Care Plan Trust Account at PARS in October 2009. The Committee awarded the administration of the OPEB Trust account to PARS as part of a formal RFQ process. PARS was one of five firms responding to the solicitation.

PARS is the exclusive administrator of the Section 115 Post-Employment Benefits Trust and can only be changed by moving to another Section 115 program. As such, PARS will continue as the trust administrator on a sole source evergreen basis, for as long as the funds remain in the PARS trust fund.

Under the combined Post-Employment Benefits Trust, MTC will have separate accounts for OPEB and pension prefunding. By maintaining both accounts under the same administrative trust, MTC will be able to potentially move the surplus in one account to the other post-employment account. For example, MTC has a slight surplus in the OPEB account which we can utilize to provide seed funding for the pension account. When funded, MTC can use the pension account to backstop changes to PERS charges without further impact on operational MTC budgets.

Administrative and trustee fees are derived from earnings on the trust and will vary based on the account balance. Annual fees structure is as follows (schedules attached):

<u>Plan Assets</u>	<u>Combined Rate</u>	<u>Total Fees</u>
First \$5 million	.60%	\$30,000
Next \$5 million	.50%	\$25,000
Next \$5 million	.40%	\$20,000
Next \$35 million	.30%	\$105,000
Next \$50 million	.20%	\$100,000

The current balance is approximately \$50 million with an annual fee of \$180,000 (.36%). Generally, the maximum fee for administrative and trustee purposes is capped at .60% for each \$5,000,000 under administration.

There is an existing administrative contract with PARS covering Trust responsibilities. The only substantive change to that contract will be to update U.S. Bank as the trustee.

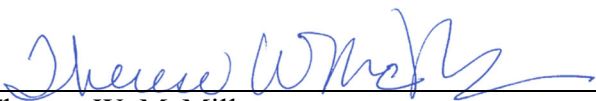
PARS arranges for an independent audit of the Post-Employment Benefits Trust annually and provides disclosure information in compliance with GASB 68 (Pension) and 75 (OPEB) financial reporting requirements.

PARS was awarded the Administrator role based on their experience and substantial government practice. PARS is headquartered in California. PARS has nearly 35 years of experience in benefits trust administration and uses Highmark Capital as the investment manager. PARS has IRS approval for the PARS Post-Employment Benefit Trust and complies with California Government Code Sections 53620-53622. PARS has specialized exclusively in governmental plan consulting since 1983 and administers trust accounts for over a thousand public agencies.

Issues: No Issues Identified

Recommendation: Staff recommends that the Administration Committee (1) authorize referral of MTC Resolution No. 4436 to the Commission for the establishment of a second Post-Employment Benefits Trust Account with Public Agency Retirement Services (PARS) and (2) authorize related contract(s) with PARS on a sole source basis.

Attachments: Request for Committee Approval Sheet,
MTC Resolution No. 4436, and
Fee Schedules


Therese W. McMillan

REQUEST FOR COMMITTEE APPROVAL

Summary of Proposed Contracts

Work Item No.: 1152

Consultant: Public Agency Retirement Services (PARS),
Newport Beach, CA

Work Project Title: Advisory/Administration Services for the MTC Internal Revenue Code (IRC) Section 115 Post-Employment Benefits Trust

Purpose of Project: To expand advisory/administration services on the current MTC IRC Section 115 Trust to allow individual accounts for both prefunding Other Post-Employment Benefits (OPEB) and Pension Obligations

Brief Scope of Work: To perform advisory and administration services for a Post-Employment Benefits Trust (OPEB/Pension Obligations)

Project Cost Not to Exceed: Fees are derived from earnings on the Trust and capped at various levels depending on asset balances. The maximum fee is .60% per \$5,000,000 invested and declines with each additional \$5,000,000 in the Trust. There are no direct payments from MTC.

Funding Source: Earnings from Trust

Fiscal Impact: No impact on MTC agency budget

Motion by Committee: Subject to the Commission's approval of MTC Resolution 4436, that the Executive Director or designee is authorized to negotiate and enter into contract(s) with PARS for the purposes described above and in the Administration Committee Summary Sheet dated December 9, 2020.

Administration Committee:

Scott Haggerty, Chair

Approved: Date: December 16, 2020

Date: December 16, 2020
W.I.: 1152
Referred by: Administration

ABSTRACT

Resolution No. 4436

The Resolution authorizes the Executive Director or her designated representative to open a Post-Employment Benefits Trust with Public Agency Retirement Services (PARS) to prefund Other Post-Employment Benefits (OPEB) and CalPERS Pension Obligations. MTC desires to participate in the Prefunding Plan per the terms and conditions set by PARS. MTC may participate in the plan upon the filing of the PARS Trust Agreement.

Further discussion of this action is contained in the Administration Committee Summary Sheet dated December 9, 2020.

Date: December 16, 2020
W.I.: 1152
Referred by: Administration

RE: Adoption and execution of Agreement and Election to Prefund Other Post-Employment Benefits and CalPERS Pension Obligations through Public Agency Retirement Services (PARS) Public Agencies Post-Employment Benefits Trust

METROPOLITAN TRANSPORTATION COMMISSION
RESOLUTION NO. 4436

WHEREAS, the Metropolitan Transportation Commission (MTC) is the regional transportation planning agency for the San Francisco Bay Area pursuant to Government Code Section 66500 et seq.; and

WHEREAS, the Metropolitan Transportation Commission (“MTC”) is currently participating in the Public Agencies Retirement Health Care Plan Trust for the prefunding of its retiree health benefits and other post-employment benefits other than pension benefits (“OPEB”); and

WHEREAS, MTC desires to set aside funds for the purpose of prefunding its CalPERS pension obligation that will be held in trust for the exclusive purpose of making future contributions of MTC’s required pension contributions and any employer contributions in excess of such required contributions at the discretion of MTC; and

WHEREAS, PARS has made available the Public Agencies Post-Employment Benefits Trust (the “Program”) for the purpose of prefunding both pension obligations and/or OPEB obligations as specified in MTC’s plans, policies and/or applicable collective bargaining agreements; and

WHEREAS, MTC is eligible to participate in the Program, a tax-exempt trust performing an essential governmental function within the meaning of Section 115 of the Internal Revenue Code, as amended, and the Regulations issued thereunder, and is a tax-exempt trust under the relevant statutory provisions of the State of California; and

WHEREAS, MTC can manage the prefunding of its pension and OPEB obligations in a single trust under this Program, thereby gaining administrative and cost efficiencies; and

WHEREAS, MTC’s adoption and operation of the Program has no effect on any current or former employee’s entitlement to post-employment benefits; and

WHEREAS, the terms and conditions of post-employment benefit entitlement, if any, are governed by contracts separate from and independent of the Program; and

WHEREAS, MTC's funding of the Program does not, and is not intended to, create any new vested right to any benefit nor strengthen any existing vested right; and

WHEREAS, MTC reserves the right to make contributions, if any, to the Program.

WHEREAS, upon the Commission's approval to establish and administer an Internal Revenue Code (IRC) Section 115 Post-Employment Benefits Trust for MTC's Other Post-Employment Benefits (OPEB) and CalPERS Pension Obligations, MTC staff will file an executed Agreement for Administrative Services and election to open an irrevocable trust for post-employment benefits, now, therefore, be it

RESOLVED, that the Commission adopt the PARS Public Agencies Post-Employment Benefits Trust effective December 16, 2020 and be it further

RESOLVED, the Executive Director or Chief Financial Officer is authorized to file the executed Agreements with PARS to prefund both pension obligations and/or OPEB obligations;

RESOLVED, that the Commission hereby appoints the Chief Financial Officer or designee as the MTC Plan Administrator for the Program;

RESOLVED, that MTC's Plan Administrator is hereby authorized to execute an Agreement for Administrative Services on behalf of the MTC and to take whatever additional actions are necessary to maintain MTC's participation in the Program and to maintain compliance with any relevant regulation issued or as may be issued; and

RESOLVED, that the Agreement will remain in effect as long as funds remain in the PARS trust fund;

RESOLVED, that the Commission, in accordance with Section 3.3 of the Public Agencies Post-Retirement Health Care Plan Trust adopted effective November 1, 2009, hereby authorizes the withdrawal from said trust and authorizes transfer of assets held in said trust to the Pension Account established in the name of MTC under the Public Agencies Post-Employment Benefits Trust, adopted herewith.

METROPOLITAN TRANSPORTATION COMMISSION

Scott Haggerty, Chair

The above resolution was entered into by the Metropolitan Transportation Commission at a regular meeting of the Commission held in San Francisco, California, and at other remote locations, on December 16, 2020.

EXHIBIT 1A
SERVICES

PARS will provide the following services for the [Agency Name] Public Agencies Post-Employment Benefits Trust:

1. Plan Installation Services:

- (A) Meeting with appropriate Agency personnel to discuss plan provisions, implementation timelines, actuarial valuation process, funding strategies, benefit communication strategies, data reporting, and submission requirements for contributions/reimbursements/distributions;
- (B) Providing the necessary analysis and advisory services to finalize these elements of the Plan;
- (C) Providing the documentation needed to establish the Plan to be reviewed and approved by Agency legal counsel. Resulting final Plan documentation must be approved by the Agency prior to the commencement of PARS Plan Administration Services outlined in Exhibit 1A, paragraph 2 below.

2. Plan Administration Services:

- (A) Monitoring the receipt of Plan contributions made by the Agency to the trustee of the PARS Public Agencies Post-Employment Benefits Trust (“Trustee”), based upon information received from the Agency and the Trustee;
- (B) Performing periodic accounting of Plan assets, reimbursements/distributions, and investment activity, based upon information received from the Agency and/or Trustee;
- (C) Coordinating the processing of distribution payments pursuant to authorized direction by the Agency, and the provisions of the Plan, and, to the extent possible, based upon Agency-provided Data;
- (D) Coordinating actions with the Trustee as directed by the Plan Administrator within the scope of this Agreement;
- (E) Preparing and submitting a monthly report of Plan activity to the Agency, unless directed by the Agency otherwise;
- (F) Preparing and submitting an annual report of Plan activity to the Agency;
- (G) Facilitating actuarial valuation updates and funding modifications for compliance with GASB 45/75, if prefunding OPEB obligations;
- (H) Coordinating periodic audits of the Trust;
- (I) Monitoring Plan and Trust compliance with federal and state laws.

3. PARS is not licensed to provide and does not offer tax, accounting, legal, investment or actuarial advice.

EXHIBIT 1B
FEEES FOR SERVICES

PARS will be compensated for performance of Services, as described in Exhibit 1A based upon the following schedule:

An annual asset fee shall be paid from Plan assets based on the following schedule:

<u>For Plan Assets from:</u>			<u>Annual Rate:</u>
\$1	to	\$10,000,000	0.25%
\$10,000,001	to	\$15,000,000	0.20%
\$15,000,001	to	\$50,000,000	0.15%
\$50,000,001	and	above	0.10%

Annual rates are prorated and paid monthly. The annual asset fee shall be calculated by the following formula [Annual rate divided by 12 (months of the year) multiplied by the Plan asset balance at the end of the month]. Trustee and Investment Management Fees are not included.

Discretionary Trustee Fee Schedule

PARS Pension / OPEB Trust Program

This document is entered into by client and U.S. Bank National Association ("U.S. Bank"), as trustee.

Discretionary Trustee Fees

Discretionary Trustee Fees are based on the Investment Strategy you select. Following is a list of the Discretionary Trustee Fees applicable to each Investment Strategy:

- **Liquidity – First American U.S. Treasury Money Market** – Fund level fees only (see prospectus)
- **Liquidity – First American Prime Obligation Fund Class Z** – Fund level fees only (see prospectus)
- **Diversified Portfolios (Conservative, Moderately Conservative, Moderate, Balanced, Capital Appreciation, Custom)**

Per Annum Charges*

.35% on the first	\$5,000,000
.25% on the next	\$5,000,000
.20% on the next	\$5,000,000
.15% on the next	\$35,000,000
.10% on all over	\$50,000,000

*Waived for plan assets invested in First American Funds.

Other Fees

First American Funds (see prospectus)

Payment of Fees

- Market values used for fee calculations on fee invoices may differ slightly from market values on client statements due to posting of accruals, late pricing of securities and/or other timing issues.
- Fees are calculated and charged to the account monthly. If account cannot be charged after 30 days, fees not paid will be subject to a late charge of 1% per month on the unpaid balance.
- Changes to this Fee Schedule may be made at any time by U.S. Bank upon a sixty (60) days notice.

Acknowledged and Approved

Public Agencies Post-Employment Benefits Trust

Name of Plan/Trust

Name of Employer

Print Name of Authorized Signer for Employer

Title of Authorized Signer for Employer

Signature of Authorized Signer for Employer

Date

U.S. Bank and its representatives do not provide tax or legal advice. Each client's tax and financial situation is unique. Clients should consult their tax and/or legal advisor for advice and information concerning their particular situation.