



# City of Detroit General Retiree Healthcare Trust

## SUMMARY OF FOIA POLICY AND PROCEDURES

The City of Detroit General Retiree Health Care Trust (the “RHC Trust”) was established under the Plan for the Adjustment of Debts of the City of Detroit (the “Plan of Adjustment”) to provide health benefits to eligible former City of Detroit employees who retired from employment as of December 31, 2014. The RHC Trust is managed and administered by a seven (7) member Board of Trustees (the “Board”) which is responsible for: (i) managing the property held by, and administration of the RHC Trust; and (ii) designing, adopting, maintaining and administering the “Health Care Plan for General Retirees of the City of Detroit” (the “Plan”), through which all health care benefits to the RHC Trust’s beneficiaries shall be provided. Pursuant to Section 4a(6) of Public Act 149 of 1999, as amended (MCL 38.1214a), “a writing prepared, owned, used, in the possession of, or retained by the [Board] in the performance of an official function is subject to the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246” (the “FOIA”).

In accordance with the amendments to the FOIA under Public Act 563 of 2014, the following written public summary of the RHC Trust’s FOIA Policy and Procedures is provided.

### 1. Submitting a FOIA Request

- Requests to inspect or obtain copies of public records prepared, owned, used, possessed or retained by the RHC Trust must be submitted in writing.
- No specific form to submit a written FOIA request is required; however, a FOIA Request Form is available for your convenience on the RHC Trust’s webpage available at <https://www.ourbenefitoffice.com/mydetroitretireebenefits/Benefits/>.
- A FOIA request must sufficiently describe a public record so as to enable the RHC Trust to find it.
- Written requests may be made by mail addressed to the Board of Trustees of the City of Detroit General Retiree Health Care Trust, P.O. Box 4955, Troy, Michigan 48099-4955.

*Note: If you are serving a sentence of imprisonment in a local, state or federal correctional facility you are not entitled to submit a request for public records under the FOIA.*

### 2. Responding to Requests

- Within 5 business days of receipt of a FOIA request the RHC Trust will issue a response. If a request is submitted by e-mail the request is deemed to have been received on the following business day. E-mail requests delivered to the FOIA Coordinator’s spam or junk-mail folder shall be deemed received one (1) day after the FOIA Coordinator becomes aware of the e-mail request, and such dates shall be noted in any response provided.
- The RHC Trust will respond to your request in one of the following ways:
  - Grant the request;
  - Deny the request, in writing;
  - Grant the request in part and issue a written notice denying the request in part;

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- Issue a notice indicating that due to the nature of the request the RHC Trust requires an additional 10 business days to respond; or
  - Issue a written notice indicating that the public record requested is available at no charge on the RHC Trust's webpage.
- If a request is granted, or granted in part, the RHC Trust will ask that payment be made for any permissible fees associated with responding to the request before the public record is made available. If the costs of processing and responding to the request are expected to exceed \$50.00, the RHC Trust will require a good faith deposit prior to processing the request. Under certain circumstances, the RHC Trust may require payment of any and all fees in advance prior to processing the request.

### **3. Fee Deposit Requirements**

- If the RHC Trust has made a good faith calculation that the total fee for processing a FOIA request will exceed \$50.00, the RHC Trust will require that you provide a deposit in the amount of 50% of the total estimated fee, a detailed itemization of which shall be provided upon requesting the deposit. The RHC Trust's request for a deposit will also include a non-binding best efforts estimate of how long it will take to process the request upon receipt of the required deposit.
- If the RHC Trust receives a FOIA request from an individual or entity who has not paid the RHC Trust for fees charged in connection with a previously granted FOIA request, the RHC Trust will require a deposit of 100% of the estimated fee prior to processing the request when all of the following conditions exist:
  - the final fee for the prior FOIA request was not more than 105% of the estimated fee;
  - the public records made available contained the information sought in the prior written request and remain in the RHC Trust's possession;
  - the public records were made available, subject to payment, within the time frame estimated by the RHC Trust to provide the records;
  - 90 days have passed since the RHC Trust notified the individual in writing that the records were available for pickup or mailing;
  - the individual is unable to show proof of prior payment to the RHC Trust; and
  - the RHC Trust has provided a detailed and itemized estimate that is the basis for the current request's increased deposit.
- The RHC Trust will not require the estimated 100% deposit if any of the following apply:
  - the requesting party is able to show proof of prior payment in full to the RHC Trust;
  - the RHC Trust is subsequently paid in full for all applicable prior FOIA requests; or
  - 365 days have passed since the request was made for which full payment was not remitted to the RHC Trust.

#### 4. Calculation of Fees

- A fee will not be charged for the cost of search, examination, review, and the deletion and separation of exempt from non-exempt information unless failure to charge a fee would result in unreasonably high costs to the RHC Trust because of the nature of the request in the particular instance, and the RHC Trust identifies the nature of the unreasonably high costs.
- In accordance with the FOIA, the RHC Trust may charge for the following six fee components when processing a FOIA request:
  - Labor costs associated with searching for, locating and examining a requested public record;
  - Labor costs associated with a review of a record to separate and delete exempt information from non-exempt information which is disclosed;
  - The costs of computer discs, computer tapes or other digital or similar media when the request asks for records in non-paper physical media;
  - The cost of duplication or publication, not including labor, of paper copies of public records;
  - Labor costs associated with duplication or publication, which includes making paper copies, making digital copies, or transferring digital public records to non-paper physical media or through the Internet; and
  - The actual cost of mailing or sending responsive public records to a requester.
- Labor Costs
  - All labor costs will be estimated and charged in 15 minute increments with all partial time increments rounded down.
  - Labor costs will be charged at the hourly wage of the lowest-paid employee capable of doing the work in the specific fee category, regardless of who actually performs the work.
  - If the RHC Trust does not employ a person capable of separating and deleting exempt from non-exempt information, contracted labor costs will be charged at an hourly rate not exceeding an amount equal to 6 times the state established minimum hourly wage rate.
  - Labor costs will also include a charge to cover or partially cover the cost of fringe benefits.
- Non-paper Physical Media
  - The cost for records provided on non-paper physical media, such as computer discs, computer tapes or other digital or similar media will be at the actual and most reasonably economical cost for the non-paper media.
  - This cost will only be assessed if the RHC Trust has the technological capability necessary to provide the public record in the requested non-paper physical media format.

- Paper Copies
  - Paper copies of public records made on standard letter (8 1/2 x 11) or legal (8 1/2 x 14) sized paper will not exceed \$0.10 per sheet of paper. Copies for non-standard sized sheets will reflect the actual cost of reproduction.
  - The RHC Trust may provide records using double-sided printing, if cost-saving and available.
- Mailing Costs
  - Mailing of records will use a reasonably economical and justified means.
  - The RHC Trust may charge for the least expensive form of postal delivery confirmation.
  - No cost will be made for expedited shipping or insurance unless requested.

## 5. Fee Reduction

- The RHC Trust will waive the first \$20.00 of the processing fee for responding to a FOIA request if an affidavit is provided stating:
  - that the requester is indigent and receiving specific public assistance; or
  - if not receiving public assistance, stating specific facts demonstrating an inability to pay because of indigency.
- A requester is not eligible to receive a \$20.00 waiver if:
  - the requester has previously received discounted copies of public records from the RHC Trust twice during the calendar year; or
  - the requester is requesting information on behalf of other persons who are offering or providing payment to the individual to make the request.
- The RHC Trust will waive the fee for a nonprofit organization requesting public records which meets all of the following conditions:
  - the organization is designated by the State under federal law to carry out activities under the Developmental Disabilities Assistance and Bill of Rights Act of 2000, Public Law 106-402, and the Protection and Advocacy for Mentally Ill Individuals Act of 1986, Public Law 99-319, or their successors;
  - the request is made directly on behalf of the organization or its clients;
  - the request is made for a reason wholly consistent with the provisions of federal law under Section 931 of the Mental Health Code, 1974 PA 258 [MCL § 330.1931]; and
  - the request is accompanied by documentation of the organization's designation by the State.

## 6. Appeals

- Denials of all or a portion of a FOIA request may be appealed to the Board of Trustees of the RHC Trust. The appeal must be filed in writing, specifically state the word “appeal”, and identify the reason or reasons that the denial is believed to be improper.

- Within 10 business days of receiving the appeal the Board of Trustees shall do one of the following:
  - Reverse the disclosure denial;
  - Uphold the disclosure denial and provide a written notice of the same; or
  - Reverse the disclosure denial in part and uphold the disclosure denial in part, and provide written notice of the same.
- Regardless of whether an appeal of a denial is submitted to the Board of Trustees, a civil action may be commenced in Wayne County Circuit Court within 180 days of the RHC Trust's final determination to deny the FOIA request.
- If you believe that the fee charged by the RHC Trust to process your FOIA request exceeds the amount permitted by state law, you must first submit a written appeal of the fee charged to the Board of Trustees. The appeal must be in writing, specifically state the word "appeal", and identify the basis for contesting the fee charged.
- Within 10 business days after receiving the appeal, the Board of Trustees will respond in writing in one of the following ways:
  - Waive the fee;
  - Reduce the fee along with a written determination of the basis supporting the remaining fee;
  - Uphold the fee with a written determination indicating the basis for upholding the fee; or
  - Issue a notice extending the time to respond by not more than 10 business days.
- Within 45 days of receipt of the Board's determination on the appeal of the fee charged you may commence a civil action in the Wayne County Circuit Court for a fee reduction.
- Appeals received by the Board of Trustees are not considered received until the first regularly scheduled meeting of the Board following submission of a written appeal.

The foregoing is only a summary of the City of Detroit General Retiree Health Care Trust's FOIA Policy and Procedures, and is provided for informational purposes only. A copy of the RHC Trust's FOIA Policy and Procedures is available at the RHC Trust's webpage accessible through the RHC Trust's website at: <https://www.ourbenefitoffice.com/mydetroitretireebenefits/Benefits/>.