

REGIONAL TRANSIT ISSUE PAPER

Agenda Item No.	Board Meeting Date	Open/Closed Session	Information/Action Item	Issue Date
10	04/13/09	Open	Action	03/26/09

Subject: Authorizing the General Manager/CEO to execute documents necessary to amend the terms of the transaction documents for the 2005, 2006, and 2007 Lease Financing of Rail Equipment transactions

ISSUE

Whether or not to delegate authority to the General Manager/CEO to execute documents necessary to amend or terminate the transaction documents for the RT-2005-FT Lease Financing of Rail Equipment, RT-2006-FT Lease Financing of Rail Equipment, and RT-2007-FT Lease Financing of Rail Equipment and to take all actions necessary to achieve such amendment or termination

RECOMMENDED ACTION

Adopt Resolution No. 09-04-_____ Delegating Authority to the General Manager/CEO or to Execute Documents Necessary to Amend or Terminate the Transaction Documents for the RT-2005-FT Lease Financing of Rail Equipment, the RT-2006-FT Lease Financing of Rail Equipment, and the RT-2007-FT Lease Financing of Rail Equipment and to Take all Actions Necessary to Achieve Such Compliance or Amendments.

FISCAL IMPACT

The fiscal impact related to a potential amendment or termination of the Lease Financing Transaction documents is currently unknown.

BACKGROUND

In 2005, 2006, and 2007, RT entered into 3 Lease Financing transactions ("Lease Transactions"), in each case relating to certain light rail vehicles. These transactions are also known as lease-to-service transactions and are also referred to as "SILOS".

American International Group, Inc. ("AIG") and various AIG subsidiaries and affiliates (together with AIG, the "AIG Parties"), and Ambac Assurance Corporation ("Ambac") (each, a "Provider", and, collectively, the "Providers") provide credit support and defeasance arrangements for the Lease Transactions.

At the time these lease transactions closed, these Providers were rated "Aaa" by Moody's and "AAA" by S&P. The transaction documents, specifically the Participation Agreements, for the Lease Transactions include certain threshold ratings levels for the Providers. If a Provider's long-term credit ratings are downgraded below the applicable threshold levels, RT is required to replace such Provider within a specified time frame. Replacement options include a pledge of U.S. Treasuries (or other securities backed by the full faith and credit of the U.S. government) or an alternative payment arrangement or credit support provided by highly-rated (at least AA/Aa2) financial institutions.

Approved:


General Manager/CEO

Presented:


Chief Financial Officer

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A general description of the affected transaction documents and agreements are:

A payment undertaking agreement (a "PUA") is an arrangement under which certain funds generated by the SILO are paid to a Provider or Providers, who, in turn, agree(s) to make periodic payments that fund RT's obligations and options to the lessor during the lease term. These agreements serve to economically defease RT's scheduled lease payments and, if RT elects to exercise its purchase option, the purchase option price under the leases. For each of RT's lease transactions, there were three PUAs – one pertaining to the equity and two pertaining to debt.

A credit support agreement is an arrangement under which a portion of the funds generated by the lease transaction is paid to a financial institution, insurance company, or other entity (a "Strip Provider") that guarantees certain of RT's obligations to the lessor(s) in the event of a full or partial early termination of the transaction due to an event of default by RT or the total loss of one or more light rail vehicles. Pursuant to the arrangements between RT and the Strip Provider, RT is obligated to reimburse the Strip Provider if a credit support payment is made.

DISCUSSION

On September 15, 2008, AIG's credit rating was downgraded to "A-" by S&P and to "A2" by Moody's. On November 5, 2008, Moody's downgraded Ambac to Baa1 from Aa3. With these downgrades, the ratings assigned to the AIG Parties and Ambac fell below the required thresholds for all three of RT's transactions. As a result, RT has an obligation to replace the equity PUA and the Credit Support Agreements. The same equity investor is involved in all three leveraged lease transactions and the lease transaction documents are virtually identical. Thus far, the equity investor has provided forbearance of the requirements to replace the AIG Parties and Ambac. RT most recently has received an extension of forbearance until April 30, 2009.

Staff has been working with its financial advisor and legal counsel to develop an acceptable solution to the problem of RT's requirement to replace the Providers following AIG and Ambac's non-compliance with the rating requirements. Implementation of a solution may require amendment of the transaction documents and/or execution of additional documents and agreements as necessary to satisfy the equity investor.

If the solution involves purchasing Agencies or Treasuries as replacement collateral, due to fluctuations in the financial market, the flexibility to act quickly to achieve the maximum market advantage is critical.

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A summary of the potential actions that may be required to resolve the issue include the following:

- 1) Termination of Equity Payment Undertaking Agreements (“EPUAs”) and Supplemental Payment Agreements with AIG and purchase of securities which mirror existing payments – this approach would involve the execution of a termination agreement with AIG (and related entities) with respect to the EPUAs and Supplemental Payment Agreements and the execution of custody agreements, security and pledge agreements and related documentation with respect to the new arrangements. In addition, there will likely be a need to amend the Participation Agreements to reflect this new collateral pledge.
- 2) Pledge of additional Collateral to supplement AIG EPUAs and/or existing agreements with Ambac – this approach would likely involve the execution of custody agreements, security and pledge agreements and related documentation. In addition, there will likely be a need to amend the Participation Agreements to reflect this supplemental collateral pledge.
- 3) Federal Solution – this approach may involve the execution of loan or line of credit documentation and/or Federal guaranty documentation with the applicable Federal Agency (e.g., Department of Transportation, Department of Treasury, Federal Reserve Bank or other agency) to fund the purchase of replacement securities to the AIG EPUAs, modify the Ambac surety arrangement and/or to backstop RT’s obligations under the Lease Financing Transactions.
- 4) Execution of new Equity Payment Undertaking Agreements and surety documentation with highly rated financial institutions (Aa/AA or higher) to replace or supplement existing arrangements.
- 5) Termination of Lease Financing Transactions – this approach would involve the execution of an “omnibus termination agreement” with all parties to the Lease Financing Transactions.

Staff is recommending that the Board delegate authority to the General Manager/CEO to take action for a period of one year as necessary to either amend or terminate the transaction documents, provided that the fiscal impact of any actions taken does not exceed the benefits remaining from the transaction. This delegation of authority would expire on April 13, 2010. Staff will return to the Board regularly with an update on the status of this situation and may seek a further extension of the delegation if action will be required beyond April 13, 2010.

RESOLUTION NO. 09-04-_____

Adopted by the Board of Directors of the Sacramento Regional Transit District on this date:

April 13, 2009

DELEGATING AUTHORITY TO THE GENERAL MANAGER/CEO OR TO EXECUTE DOCUMENTS NECESSARY TO AMEND OR TERMINATE THE TRANSACTION DOCUMENTS FOR THE RT-2005-FT LEASE FINANCING OF RAIL EQUIPMENT, THE RT-2006-FT LEASE FINANCING OF RAIL EQUIPMENT, AND THE RT-2007-FT LEASE FINANCING OF RAIL EQUIPMENT AND TO TAKE ALL ACTIONS NECESSARY TO ACHIEVE SUCH COMPLIANCE OR AMENDMENTS.

WHEREAS, the Sacramento Regional Transit District (the "District") entered into three lease financing transactions (hereinafter collectively referred to as the "Lease Transactions");

WHEREAS, American International Group, Inc. ("AIG") and various AIG subsidiaries and affiliates (together with AIG, the "AIG Parties"), and Ambac Assurance Corporation (each, a "Provider" and, collectively, the "Providers") provide credit support and collateral arrangements for all of these Lease Transactions; and

WHEREAS, at the time the District entered into the Lease Transactions, each of the Providers had a long-term rating of "Aaa" by Moody's Investors Service and "AAA" by Standard & Poor's; and

WHEREAS, the Lease Transaction documents include threshold financial ratings levels for the Providers and require that the District take certain actions in the event that the long-term ratings assigned to a Provider are downgraded below the applicable threshold levels; and

WHEREAS, such alternative arrangements include replacing the existing credit support and collateral arrangements with either a pledge of U.S. Treasuries or Agencies (or other securities backed by the full faith and credit of the U.S. government) or with alternative credit support or payment arrangements provided by a qualifying financial institution meeting the ratings requirements specified in the applicable document; and

WHEREAS, the long term ratings assigned to the AIG Parties and Ambac have been downgraded and now fall below the required threshold levels with respect to all three of the Lease Transactions; and

WHEREAS, the equity investor for each of the three Lease Transactions has granted the District a forbearance until April 30, 2009, to take action to comply with the requirements of the Lease Transaction documents; and

WHEREAS, it may be necessary for the District to take action to amend or terminate the Lease Transaction Documents to satisfy the equity investor.

NOW THEREFORE, BE IT HEREBY RESOLVED BY THE BOARD OF DIRECTORS OF THE SACRAMENTO REGIONAL TRANSIT DISTRICT AS FOLLOWS:

THAT, subject to the prior review and approval of the District's Chief Legal Counsel and Chief Financial Officer, the General Manager/CEO or any officer designated by him in writing (the "Officer") is hereby authorized to bind the District to documents necessary to implement one or more of the solutions described in Exhibit A, attached hereto and incorporated herein, including amending or terminating the transaction documents for the RT-2005-FT Lease Financing of Rail Equipment, RT-2006-FT Lease Financing of Rail Equipment, and RT-2007-FT Lease Financing of Rail Equipment and to take all actions necessary to implement one of the solutions described in Exhibit A, provided that the aggregate fiscal impact of such documents and actions does not exceed the remaining benefit from the transactions.

THAT, the officers, agents or employees of the District are hereby authorized, on behalf of the District, to do all things, execute such additional documents, and take all actions that the Officer may deem necessary or advisable to carry out the authority granted to the Officer by this resolution.

THAT, notwithstanding anything to the contrary in Title VI of the District's Administrative Code (Resolution 09-02-0031), the General Manager/CEO is authorized to allocate and expend funds, from the District's Operating Budget as necessary to exercise the authority granted by this resolution.

THAT, the Chief Legal Counsel of the District is authorized to provide such opinions, on behalf of the District, as are required for the General Manager/CEO to exercise the authority granted by this Resolution.

THAT, the delegation of authority set forth above shall terminate on April 13, 2010.

STEVE COHN, Chair

A T T E S T:

MICHAEL R. WILEY, Secretary

By: _____
Cindy Brooks, Assistant Secretary

**POTENTIAL SOLUTIONS WITH RESPECT TO RT'S
LEASE FINANCING TRANSACTIONS**

- 1) Termination of Equity Payment Undertaking Agreements (“EPUAs”) and Supplemental Payment Agreements with AIG and purchase securities which mirror existing payments – this approach would involve the execution of a termination agreement with AIG (and related entities) with respect to the EPUAs and Supplemental Payment Agreements and the execution of custody agreements, security and pledge agreements and related documentation with respect to the new arrangements. In addition, there will likely be need to amend the Participation Agreements to reflect this new collateral pledge.
- 2) Pledge of additional Collateral to supplement AIG EPUAs and/or existing agreements with Ambac – this approach would likely involve the execution of custody agreements, security and pledge agreements and related documentation. In addition, there will likely be need to amend the Participation Agreements to reflect this supplemental collateral pledge.
- 3) Federal Solution – this approach may involve the execution of loan or line of credit documentation and/or Federal guaranty documentation with the applicable Federal Agency (e.g., Department of Transportation, Department of Treasury, Federal Reserve Bank or other agency) to fund the purchase of replacement securities to the AIG EPUAs, modify the Ambac surety arrangement and/or to backstop RT’s obligations under the Lease Financing Transactions.
- 4) Execution of new Equity Payment Undertaking Agreements and surety documentation with highly rated financial institutions (Aa/AA or higher) to ~~replace~~ supplement existing arrangements.
- 5) Termination of Lease Financing Transactions – this approach would involve the execution of an “omnibus termination agreement” with all parties to the Lease Financing Transactions.