

| Agenda Item No. | Board Meeting Date | Open/Closed Session | Information/Action Item | Issue Date |
|-----------------|--------------------|---------------------|-------------------------|------------|
| 11              | 06/22/15           | Open                | Action                  | 06/10/15   |

Subject: Authorize Inter-Fund Borrowing Due to Delay in Receipt of Federal Operating Funds

## ISSUE

Whether or not to Authorize Temporary Inter-Fund Borrowing from the Developer Fee Trust Account, the District's Operating Reserve Fund, and the Designated Self-Insurance Reserve Fund, to Cover Cash Flow Needs as a Result of the Continued PEPRA Litigation, Which is Delaying the Receipt of RT's Federal Operating Funds, Section 5307 and 5337.

## RECOMMENDED ACTION

- A. Adopt Resolution 15-06\_\_\_\_, Authorizing Temporary Interfund Borrowing from RT's Developer Fee Trust Account to Meet RT's Cash Flow Deficiencies Caused by the Indefinite Delay in Receipt of 5307 and 5337 Federal Grant Funds Related to RT's 13(c)/PEPRA Litigation with the United States Department of Labor; and/or
- B. Adopt Resolution 15-06-\_\_\_\_, Authorizing Temporary Interfund Borrowing from RT's Operating Reserves to Meet RT's Cash Flow Deficiencies Caused by the Indefinite Delay in Receipt of 5307 and 5337 Federal Grant Funds Related to RT's 13(c)/PEPRA Litigation with the United States Department of Labor (Requires a 2/3rds vote); and/or
- C. Adopt Resolution 15-06-\_\_\_\_, Authorizing Temporary Interfund Borrowing from RT's Self-Insurance Reserve Fund to Meet RT's Cash Flow Deficiencies Caused by the Indefinite Delay in Receipt of 5307 and 5337 Federal Grant Funds related to RT's 13(c)/PEPRA Litigation with the United States Department of Labor.

## FISCAL IMPACT

This action will enable staff to temporarily borrow \$9,600,000 of Developer Fee Trust Account Funds, \$4,500,000 from RT's operating reserve fund, and \$3,000,000 from RT's Self-Insurance reserve fund account to cover a portion of the cash shortfall as a result of not receiving the full FY 2015 budgeted \$29M of Federal Operating Funds, section (5307 & 5337). The interest cost associated with the borrowing is anticipated to be approximately \$17,100. This amount is included in the FY 2016 budget.

The repayment of all principal borrowed would be completed upon receipt of the Federal Funds. Interest will accrue at the FY 2014 annual CalTRUST rate for Developer Fees only. Interest that would have been earned on the Operating Reserves and Claims Liability Reserves are not externally restricted and therefore RT is not required to repay the borrowing plus interest.

Approved:

Presented:

Final 06/17/15

General Manager/CEO

Chief Financial Officer, Acting

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## DISCUSSION

On December 30, 2014 the United States District Court for the Eastern District of California issued its ruling in the case titled *State of California, et al., v. United States Department of Labor, et al., (Cal. V. DOL)*. In Cal v. DOL, RT and the State of California argued that the United States Department of Labor (USDOL) had abused its discretion in withholding RT’s labor compliance certification because the USDOL believed that RT’s implementation of the Public Employees’ Pension Reform Act of 2013 (PEPRA) violated RT’s obligations under its 13(c) agreements with its labor unions to protect collective bargaining rights over pensions. The US District Court agreed with RT and the State of California and found that the USDOL had abused its discretion and remanded the case to the USDOL for reconsideration pursuant to the court ruling. The immediate effect of the US District Court ruling was that the legislative exemption from PEPRA for public transit agencies like RT expired and RT, along with all other affected California transit agencies, immediately became subject to PEPRA. The USDOL has not yet issued a decision following the court-ordered reconsideration of the matter. The USDOL has not yet officially notified RT that it will withhold its Federal operating dollars under Section 5307 and 5337, other transits in California that have already applied for their federal grant funds have had their funds withheld to date. Late last month, the Federal Transit Administration (FTA) advised RT and other transit agencies in California that they should submit two applications for grant funds for each fiscal year. One application should cover the period beginning July 1, 2014 through December 31, 2014 and the second application should cover the period beginning January 1, 2015 through June 30, 2015. The USDOL has advised the FTA that they will certify 13(c) compliance for that time period before the Court ruling, but not for the period after the ruling was issued. RT intends to submit two applications, and anticipates only receiving 50% of the amount allocated to RT for FY14-15. That will leave a budget deficit for RT of approximately \$15 million.

Due to the ongoing PEPRA litigation, RT has been left with an operating cash flow deficit as the entire \$29M of FY 2015 Federal operating funds is not anticipated to be released by the USDOL until the court case is resolved. RT relies heavily on the receipt of operating Federal funds, section 5307 and 5337. This operating revenue was included in the FY 2015 budget and therefore, the associated expenses related to the receipt of these funds have been incurred. Without receiving reimbursement from the Federal Government or the ability to temporarily borrow the three sources discussed above, RT would be in a negative cash position that could require RT to make severe cuts in its operating budget. RT staff has prepared two cash flow projections to illustrate the need for temporary borrowing of these funds, see Attachments #1 and #2.

To help RT bridge the funding gap, staff proposes that the Board authorize the General Manager to borrow/use RT’s reserve funds in the following order:

1. Developer Fees - \$9,600,000
2. Operating Reserves - \$4,500,000
3. Self-Insurance Reserves - \$3,000,000

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In 2013, when federal funds were held as the result of the initial PEPRA issue, the Board authorized short-term borrowings of the Operating Reserves and Developer Fees via Resolution 13-08-0018 and 13-11-0163, respectively.

### Developer Fees:

The developer fees were collected pursuant to Sacramento County Ordinance No. 0742 (August 31, 1988), as amended, which established transit impact fees for new development. RT was named as the trustee of the funds and is authorized to expend the funds for specified transit purposes.

Table 2 provides a summary of RT developer fees on deposit. Those already designated for specific projects are noted and are unavailable for inter-fund borrowing. The balance remaining for which projects are not imminent is approximately \$9.6 Million.

Table 2  
**Regional Transit Developer Impact Fees**

| <u>Description</u>                 | <u>Amount</u>              | <u>Descriptions</u>                        |
|------------------------------------|----------------------------|--|
| District 1                         | \$ 2,838,970               | <sup>1</sup> Roseville road area           |
| District 2                         | 1,074,630                  | <sup>1</sup> Watt avenue                   |
| District 3                         | 505,757                    | <sup>1</sup> Sunrise and Folsom area       |
| District 4                         | 2,403,602                  | <sup>1</sup> Elk Grove related ( bus etc.) |
| District 5                         | 64,593                     |  |
| District 7                         | 108,826                    |  |
| Elk Grove West Vineyard            | 412,380                    |  |
| Rancho Cordova                     | 803,729                    |  |
| Vineyard                           | 803,557                    |  |
| North Vineyard                     | 836,545                    |  |
| Subtotal                           | <u>\$ 9,852,590</u>        |  |
| Less:                              |                            |  |
| North Vineyard – BMF2              | <u>(238,232)</u>           |  |
| <b>Maximum potential available</b> | <b><u>\$ 9,614,358</u></b> |  |

<sup>1</sup>Based on review of the improvement plans for the above districts, except as noted these districts have no capital expenditures planned for the next year.

Because the Developer Fees are restricted funds without a specific use at this time, borrowing the Developer Fees first would have less of an impact on the District's operating activities. Inter-fund borrowing, if structured appropriately, has no net impact on the lending fund. It provides an alternative investment for the idle funds with the same return on the investment that would have been earned otherwise. The Government Accounting Standards Board (GASB) provides clear guidance on accounting for inter-fund loan transactions. RT will comply with the GASB for the

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loaned funds.

RT originally met with County of Sacramento staff and determined the requirements for establishing an inter-fund borrowing plan when the need arose to use these funds for Downtown-Natomas-Airport Minimal Operating Segment 1 (DNA MOS 1). At that time, County planning and legal staff verbally indicated that they did not see any obstacles to such borrowing under the Fee Ordinance (and in fact provided an example of a past inter-fund loan from a similar County developer fee account), but deferred to RT, as trustee of the funds, to make a final decision regarding the propriety of the borrowing and to develop a plan for the repayment terms. Staff is proposing to borrow the funds again pursuant to the same model used for the original DNA MOS 1 inter-fund borrowing.

Currently these funds are in a CalTrust Account yielding .38%. Therefore, a reasonable lending interest rate would be an amount equivalent to the foregone interest earnings. Staff would recommend a borrowing interest rate of .38%, which is consistent with expected returns.

**Operating Reserves:**

The operating reserve amount as of June 30, 2014 was \$4,561,880. These funds are internally restricted and may only be used in accordance with RT’s Comprehensive Reserve Policy, adopted September 27, 2010, and do not have externally imposed requirements with which to comply. This is a low cost financing source for the District to use during turbulent economic issues that are not within the District’s control. Currently these funds are in a CalTrust Account earning .38% in interest. However, because these funds do not have externally imposed requirements, repayment with interest is not required and therefore staff would not recommend assessing interest on the borrowing.

**Self-Insurance Reserves:**

On January 23, 2006, the Board adopted Resolution No. 06-01-0018, adopting a Self-Insurance Reserve Policy. This policy established a comprehensive level of District self-insurance reserves in order to ensure that the District can withstand insurance losses specifically from workers’ compensation and general liability claims.

The self-insurance reserve also serves as a cost reduction to the total liability/expense that must be recorded annually based on the actuarial study completed. Because the District holds a reserve the unfunded liability is discounted by 2%. If the reserves were to be eliminated the annual self-insurance cost would increase by approximately \$150,000. This is a non-cash expense; however, it does affect the operating results of the District. As of April 30, 2015 the self-insurance reserve held a balance of \$3,140,084. RT’s Comprehensive Reserve Policy expressly states that funds in the Self-Insurance Reserve fund may only be used to pay out General Liability and Worker’s Compensation claims and must never be used to pay for operating or capital reserve expenses. Thus, in order for the Board to authorize staff to borrow funds in the Self-Insurance reserve fund, the Board will have to waive application of the Comprehensive Reserve

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Policy and authorize the use of Self-Insurance reserve fund to temporarily cover a gap in the receipt of Federal operating funds.

Staff hereby requests that the Board authorize the General Manager/CEO to borrow reserve funds to cover the gap in Federal operating funds resulting from the USDOL's delay in issuing a labor compliance certificate in support of RT's grant fund applications for RT's 5307 and 5337 funds. Staff recommends that the Board authorize temporary borrowing of internal funds in the following order: Developer Fees, Operating Reserves and Self-Insurance Reserves.

**SACRAMENTO REGIONAL TRANSIT DISTRICT**  
**Estimated Cash Flow Schedule**  
**May 1, 2015 through June 30, 2016**

Scenario #1: Shows cash flow with NO INTERNAL BORROWINGS

|                           | <b>May-15</b>     | <b>Jun-15</b>     | <b>Jul-15</b>     | <b>Aug-15</b>     | <b>Sep-15</b>    | <b>Oct-15</b>     | <b>Nov-15</b>     |
|---------------------------|-------------------|-------------------|-------------------|-------------------|------------------|-------------------|-------------------|
| Beginning Cash            | \$ 10,577,117     | \$ 2,928,895      | \$ 2,897,351      | \$ 1,982,684      | \$ 1,909,736     | \$ 2,054,050      | \$ 2,024,646      |
| Revenue                   | 19,063,391        | 22,183,659        | 14,682,748        | 34,991,467        | 21,208,729       | 16,435,011        | 13,991,467        |
| Expense                   | (23,511,613)      | (23,215,203)      | (22,197,415)      | (24,064,415)      | (20,064,415)     | (18,064,415)      | (18,064,415)      |
| LOC Draws                 | (3,200,000)       | 1,000,000         | 6,600,000         | (11,000,000)      | (1,000,000)      | 1,600,000         | 4,000,000         |
| Internal Borrowings       | -                 | -                 | -                 | -                 | -                | -                 | -                 |
| Ending Cash               | <u>2,928,895</u>  | <u>2,897,351</u>  | <u>1,982,684</u>  | <u>1,909,736</u>  | <u>2,054,050</u> | <u>2,024,646</u>  | <u>1,951,698</u>  |
| <b>Borrowing Sources:</b> |                   |                   |                   |                   |                  |                   |                   |
| LOC Balance               | 14,100,000        | 15,100,000        | 21,700,000        | 10,700,000        | 9,700,000        | 11,300,000        | 15,300,000        |
| Developer Fees            | -                 | -                 | -                 | -                 | -                | -                 | -                 |
| Operating Reserves        | -                 | -                 | -                 | -                 | -                | -                 | -                 |
| Self-Insurance Reserve    | -                 | -                 | -                 | -                 | -                | -                 | -                 |
| Total Borrowing           | <u>14,100,000</u> | <u>15,100,000</u> | <u>21,700,000</u> | <u>10,700,000</u> | <u>9,700,000</u> | <u>11,300,000</u> | <u>15,300,000</u> |

**Note:** Without internal borrowings, RT would not have the ability to pay down the LOC during the 15 month time period, as required by Secion 53854 of the Government Code.

Additionally, the LOC contract terms with US Bank has a 15 day cooling off period covenant. Under scenario #1 above, RT would be in breach of the covenant.

**SACRAMENTO REGIONAL TRANSIT DISTRICT**  
**Estimated Cash Flow Schedule**  
**May 1, 2015 through June 30, 2016**

Scenario #1: Shows cash flow with NO INTERNAL BORROWINGS

|                           | <b>Dec-15</b>     | <b>Jan-16</b>     | <b>Feb-16</b>     | <b>Mar-16</b>     | <b>Apr-16</b>     | <b>May-16</b>      | <b>Jun-16</b>      |
|---------------------------|-------------------|-------------------|-------------------|-------------------|-------------------|--------------------|--------------------|
| Beginning Cash            | \$ 1,951,698      | \$ 2,078,750      | \$ 2,214,345      | \$ 2,141,397      | \$ 2,068,130      | \$ 1,938,406       | \$(2,134,861)      |
| Revenue                   | 13,991,467        | 18,200,010        | 13,991,467        | 13,991,467        | 16,435,010        | 13,991,467         | 16,291,467         |
| Expense                   | (18,064,415)      | (18,064,415)      | (18,064,415)      | (18,064,734)      | (18,064,734)      | (18,064,734)       | (17,891,734)       |
| LOC Draws                 | 4,200,000         | -                 | 4,000,000         | 4,000,000         | 1,500,000         | -                  | -                  |
| Internal Borrowings       | -                 | -                 | -                 | -                 | -                 | -                  | -                  |
| Ending Cash               | <u>2,078,750</u>  | <u>2,214,345</u>  | <u>2,141,397</u>  | <u>2,068,130</u>  | <u>1,938,406</u>  | <u>(2,134,861)</u> | <u>(3,735,128)</u> |
| <b>Borrowing Sources:</b> |                   |                   |                   |                   |                   |                    |                    |
| LOC Balance               | 19,500,000        | 19,500,000        | 23,500,000        | 27,500,000        | 29,000,000        | 29,000,000         | 29,000,000         |
| Developer Fees            | -                 | -                 | -                 | -                 | -                 | -                  | -                  |
| Operating Reserves        | -                 | -                 | -                 | -                 | -                 | -                  | -                  |
| Self-Insurance Reserve    | -                 | -                 | -                 | -                 | -                 | -                  | -                  |
| Total Borrowing           | <u>19,500,000</u> | <u>19,500,000</u> | <u>23,500,000</u> | <u>27,500,000</u> | <u>29,000,000</u> | <u>29,000,000</u>  | <u>29,000,000</u>  |

**SACRAMENTO REGIONAL TRANSIT DISTRICT**  
**Estimated Cash Flow Schedule**  
**May 1, 2015 through June 30, 2016**

Scenario #2: Shows cash flow with internal borrowings

|                           | <b>May-15</b>     | <b>Jun-15</b>     | <b>Jul-15</b>     | <b>Aug-15</b>     | <b>Sep-15</b>     | <b>Oct-15</b>     | <b>Nov-15</b>     |
|---------------------------|-------------------|-------------------|-------------------|-------------------|-------------------|-------------------|-------------------|
| Beginning Cash            | \$ 10,577,117     | \$ 2,928,895      | \$ 2,897,351      | \$ 1,982,684      | \$ 1,909,736      | \$ 3,054,050      | \$ 2,124,646      |
| Revenue                   | 19,063,391        | 22,183,659        | 14,682,748        | 34,991,467        | 21,208,729        | 16,435,011        | 13,991,467        |
| Expense                   | (23,511,613)      | (23,215,203)      | (22,197,415)      | (24,064,415)      | (20,064,415)      | (18,064,415)      | (18,064,415)      |
| LOC Draws                 | (3,200,000)       | 1,000,000         | 6,600,000         | (11,000,000)      | (10,700,000)      | 11,400,000        | 4,000,000         |
| Internal Borrowings       | -                 | -                 | -                 | -                 | 10,700,000        | (10,700,000)      | -                 |
| Ending Cash               | <u>2,928,895</u>  | <u>2,897,351</u>  | <u>1,982,684</u>  | <u>1,909,736</u>  | <u>3,054,050</u>  | <u>2,124,646</u>  | <u>2,051,698</u>  |
| <b>Borrowing Sources:</b> |                   |                   |                   |                   |                   |                   |                   |
| LOC Balance               | 14,100,000        | 15,100,000        | 21,700,000        | 10,700,000        | -                 | 11,400,000        | 15,400,000        |
| Developer Fees            | -                 | -                 | -                 | -                 | 9,600,000         | -                 | -                 |
| Operating Reserves        | -                 | -                 | -                 | -                 | 1,100,000         | -                 | -                 |
| Self-Insurance Reserve    | -                 | -                 | -                 | -                 | -                 | -                 | -                 |
| Total Borrowing           | <u>14,100,000</u> | <u>15,100,000</u> | <u>21,700,000</u> | <u>10,700,000</u> | <u>10,700,000</u> | <u>11,400,000</u> | <u>15,400,000</u> |



**SACRAMENTO REGIONAL TRANSIT DISTRICT**  
**Estimated Cash Flow Schedule**  
**May 1, 2015 through June 30, 2016**

Scenario #2: Shows cash flow with internal borrowings

|                           | <b>Dec-15</b>     | <b>Jan-16</b>     | <b>Feb-16</b>     | <b>Mar-16</b>     | <b>Apr-16</b>     | <b>May-16</b>     | <b>Jun-16</b>     |
|---------------------------|-------------------|-------------------|-------------------|-------------------|-------------------|-------------------|-------------------|
| Beginning Cash            | \$ 2,051,698      | \$ 1,978,750      | \$ 2,114,345      | \$ 2,041,397      | \$ 1,968,130      | \$ 1,938,406      | \$ 1,965,139      |
| Revenue                   | 13,991,467        | 18,200,010        | 13,991,467        | 13,991,467        | 16,435,010        | 13,991,467        | 16,291,467        |
| Expense                   | (18,064,415)      | (18,064,415)      | (18,064,415)      | (18,064,734)      | (18,064,734)      | (18,064,734)      | (17,891,734)      |
| LOC Draws                 | 4,000,000         | -                 | 4,000,000         | 4,000,000         | 1,600,000         | -                 | -                 |
| Internal Borrowings       | -                 | -                 | -                 | -                 | -                 | 4,100,000         | 1,700,000         |
| Ending Cash               | <u>1,978,750</u>  | <u>2,114,345</u>  | <u>2,041,397</u>  | <u>1,968,130</u>  | <u>1,938,406</u>  | <u>1,965,139</u>  | <u>2,064,872</u>  |
| <b>Borrowing Sources:</b> |                   |                   |                   |                   |                   |                   |                   |
| LOC Balance               | 19,400,000        | 19,400,000        | 23,400,000        | 27,400,000        | 29,000,000        | 29,000,000        | 29,000,000        |
| Developer Fees            | -                 | -                 | -                 | -                 | -                 | 4,100,000         | 5,500,000         |
| Operating Reserves        | -                 | -                 | -                 | -                 | -                 | -                 | -                 |
| Self-Insurance Reserve    | -                 | -                 | -                 | -                 | -                 | -                 | -                 |
| Total Borrowing           | <u>19,400,000</u> | <u>19,400,000</u> | <u>23,400,000</u> | <u>27,400,000</u> | <u>29,000,000</u> | <u>33,100,000</u> | <u>34,500,000</u> |

RESOLUTION NO. 15-06-\_\_\_\_\_

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

June 22, 2015

**AUTHORIZING TEMPORARY INTERFUND BORROWING FROM RT'S DEVELOPER FEE TRUST ACCOUNT TO MEET RT'S CASH FLOW DEFICIENCIES CAUSED BY THE INDEFINITE DELAY IN RECEIPT OF 5307 AND 5337 FEDERAL GRANT FUNDS RELATED TO RT'S 13(C)/PEPRA LITIGATION WITH THE UNITED STATES DEPARTMENT OF LABOR**

WHEREAS, pursuant to Sacramento County Ordinance No. 0742, the Sacramento Regional Transit District (RT) is the trustee of transit development fees assessed against new development in the unincorporated areas of Sacramento County; and

WHEREAS, approximately \$9.6 million of such funds are not needed for transit projects in the next 5 years; and

WHEREAS, Sacramento Regional Transit District (RT) receives Federal funds annually that are designated as operating funds; and

WHEREAS, to receive such funds from the Federal government, the US Department of Labor (US DOL) must certify RT's compliance with its obligations under 49 U.S.C. 5333(b)(2)(B) of the Federal Transit Act, commonly referred to as Section 13(c)(2); and

WHEREAS, the State of California enacted the Public Employees' Pension Reform Act of 2013 (PEPRA) which modified public pensions in California; and

WHEREAS, in 2013, prompted by an objection by the Amalgamated Transit Union (ATU), the US DOL took the position that imposition by California transit agencies of PEPRA to its employees was a violation of the transit agencies' collective bargaining obligations under 13(c)(2) and withheld all labor certifications; and

WHEREAS, the State of California agreed to temporarily exempt all public transit agencies from PEPRA while the issue of whether PEPRA violated 13(c)(2) was litigated; and

WHEREAS, the United States District Court for the Eastern District of California issued its ruling on December 30, 2014 finding that the US DOL had abused its discretion in withholding issuance of labor certifications

WHEREAS, in the interim, RT desires to borrow up to \$9.6 million in uncommitted developer fees to help temporarily bridge the funding gap created by the delay in receipt of RT's Federal Operating Funds, section 5307 and 5337.

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

THAT, up to \$9,600,000 currently held in the Developer Fee Trust account(s) may be borrowed to fund the gap in Federal Operating Funds, section 5307 and 5337 resulting from the delay in the issuance by the United States Department of Labor of a Labor Compliance certificate certifying RT's compliance with its 13(c) collective bargaining obligations, on the terms set forth in Exhibit A to this Resolution, provided that the loan and its proceeds are accounted for in accordance with the standards established by the Governing Accounting Standards Board (GASB).

\_\_\_\_\_  
JAY SCHENIRER, Chair

A T T E S T:

MICHAEL R. WILEY, Secretary

By: \_\_\_\_\_  
Cindy Brooks, Assistant Secretary

Inter-fund Loan from County Developer Fees on Deposit to RT for Operating Cash Deficiencies Caused by the Indefinite Delay in Receipt of 5307 and 5337 Federal Grant Funds Related to RT's 13(c)/PEPRA Litigation

Loan Amount: \$9,600,000

Pledge: The Loan shall be secured by a pledge of Measer A funds.

Issuance Fees: No issuance fees

Term: 12 months

Interest Rate: 0.38% per annum, or the actual rate earned on RT's investments in CalTRUST, whichever is greater.

Effective Date of Interest: Interest will begin accruing at the time of the first borrowing of funds.

Repayment Schedule: The loan is to be repaid within one year of the first borrowing.

Prepayment: The loan may be prepaid at any time.

Other Terms: None

RESOLUTION NO. 15-06-\_\_\_\_\_

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

June 22, 2015

**AUTHORIZING TEMPORARY INTERFUND BORROWING FROM RT'S OPERATING RESERVES TO MEET RT'S CASH FLOW DEFICIENCIES CAUSED BY INDEFINITE DELAY IN RECEIPT OF 5307 AND 5337 FEDERAL GRANT FUNDS RELATED TO RT'S 13(C)/PEPRA LITIGATION WITH THE UNITED STATES DEPARTMENT OF LABOR**

WHEREAS, Sacramento Regional Transit District (RT) receives Federal funds annually that are designated as operating funds; and

WHEREAS, to receive such funds from the Federal government, the US Department of Labor (US DOL) must certify RT's compliance with its obligations under 49 U.S.C. 5333(b)(2)(B) of the Federal Transit Act, commonly referred to as Section 13(c)(2); and

WHEREAS, the State of California enacted the Public Employees' Pension Reform Act of 2013 (PEPRA) which modified public pensions in California; and

WHEREAS, in 2013, prompted by an objection by the Amalgamated Transit Union (ATU), the US DOL took the position that imposition by California transit agencies of PEPRA to its employees was a violation of the transit agencies' collective bargaining obligations under 13(c)(2) and withheld all labor certifications; and

WHEREAS, the State of California agreed to temporarily exempt all public transit agencies from PEPRA while the issue of whether PEPRA violated 13(c)(2) was litigated; and

WHEREAS, the United States District Court for the Eastern District of California issued its ruling on December 30, 2014 finding that the US DOL had abused its discretion in withholding issuance of labor certifications; and

WHEREAS, pursuant to its Comprehensive Reserve Policy, RT has an Operating Reserve Fund that requires a 2/3 vote by the Board before staff can access the funds.

WHEREAS, in the interim, RT desires to borrow up to \$4.5 million in Operating Reserve Account funds to help temporarily bridge the funding gap created by the delay in receipt of RT's Federal Operating Funds, section 5307 and 5337.

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

THAT, the Board hereby authorizes the General Manager/CEO or his designee to use funds designated as Operating Reserve Funds, up to the full reserve balance of approximately \$4,500,000, to meet RT's cash flow deficiencies caused by the indefinite delay in receiving 5307 and 5337 Federal grant funds, until such time as RT receives such funds from the FTA.

THAT, upon receipt of the Federal grant funds, the General Manager/CEO or his designee must set aside sufficient 5307 and 5337 Federal grant funds to replace any Operating Reserve funds expended by RT pursuant to the authorization set forth herein, until such time as the Operating Reserve Funds balance is restored to its current level.

The foregoing Resolution was introduced at a regular meeting of the Board of Directors of the Sacramento Regional Transit District held on June 22, 2015 by Director \_\_\_\_\_, who moved its adoption. The motion was seconded by Director \_\_\_\_\_, and a poll was taken and recorded as follows:

AYES:

NOES:

ABSTAIN:

ABSENT:

The motion having passed by at least a two-thirds majority of votes, the Resolution was declared to have been adopted and it was so ordered.

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JAY SCHENIRER, Chair

A T T E S T:

MICHAEL R. WILEY, Secretary

By: \_\_\_\_\_  
Cindy Brooks, Assistant Secretary

RESOLUTION NO. 15-06-\_\_\_\_\_

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

June 22, 2015

**AUTHORIZING TEMPORARY INTERFUND BORROWING FROM RT'S SELF-INSURANCE RESERVE FUND TO MEET RT'S CASH FLOW DEFICIENCIES CAUSED BY THE INDEFINITE DELAY IN RECEIPT OF 5307 AND 5337 FEDERAL GRANT FUNDS RELATED TO RT'S 13(C)/PEPRA LITIGATION WITH THE UNITED STATES DEPARTMENT OF LABOR**

WHEREAS, Sacramento Regional Transit District (RT) receives Federal funds annually that are designated as operating funds; and

WHEREAS, to receive such funds from the Federal government, the US Department of Labor (US DOL) must certify RT's compliance with its obligations under 49 U.S.C. 5333(b)(2)(B) of the Federal Transit Act, commonly referred to as Section 13(c)(2); and

WHEREAS, the State of California enacted the Public Employees' Pension Reform Act of 2013 (PEPRA) which modified public pensions in California; and

WHEREAS, in 2013, prompted by an objection by the Amalgamated Transit Union (ATU), the US DOL took the position that imposition by California transit agencies of PEPRA to its employees was a violation of the transit agencies' collective bargaining obligations under 13(c)(2) and withheld all labor certifications; and

WHEREAS, the State of California agreed to temporarily exempt all public transit agencies from PEPRA while the issue of whether PEPRA violated 13(c)(2) was litigated; and

WHEREAS, the United States District Court for the Eastern District of California issued its ruling on December 30, 2014 finding that the US DOL had abused its discretion in withholding issuance of labor certifications; and

WHEREAS, RT's Comprehensive Reserve Policy states that the Self-Insurance Reserve funds must only be used for Worker's Compensation claims incurred, whether reported or not and for General Liability claims incurred whether reported or not and must not be used for any other purpose; and

WHEREAS, in the interim, RT desires to borrow up to \$3,000,000 in Self-Insurance Reserve Funds to help temporarily bridge the funding gap created by the delay in receipt of RT's Federal Operating Funds, section 5307 and 5337.

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

THAT, the Board hereby waives the requirement contained in its Comprehensive Reserve Policy adopted by Board Resolution No. 10-09-0125 requiring that RT's Self-Insured Retention only be used to fund Worker's Compensation Claims and General Liability Claims and the Board hereby authorizes RT's General Manager/CEO to borrow the funds as described below; and

THAT, the General Manager/CEO may borrow up to \$3,000,000 in Self-Insured Retention funds may be borrowed to fund the gap in Federal Operating Funds, section 5307 and 5337 resulting from the delay in the issuance by the United States Department of Labor of a Labor Compliance certificate certifying RT's compliance with its 13(c) collective bargaining obligations.

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JAY SCHENIRER, Chair

A T T E S T:

MICHAEL R. WILEY, Secretary

By: \_\_\_\_\_  
Cindy Brooks, Assistant Secretary