

REGIONAL TRANSIT ISSUE PAPER

Agenda Item No.	Board Meeting Date	Open/Closed Session	Information/Action Item	Issue Date
3	09/11/17	Open	Action	09/01/17

Subject: Amending and Restating the Retirement Plan Documents for the Retirement Plan Between IBEW and Sacramento Regional Transit District, the Retirement Plan For Regional Transit Employees Who are Members of ATU Local 256 and Sacramento Regional Transit District Retirement Plan for AFSCME, AEA, and Non-Represented Employees.

ISSUE

Whether to adopt Amended and Restated Plan Documents for the Retirement Plan between IBEW and Sacramento Regional Transit District, the Retirement Plan for Regional Transit Employees Who are Members of ATU Local 256 and Sacramento Regional Transit District Retirement Plan for AFSCME, AEA, and Non-Represented Employees.

RECOMMENDED ACTION

- A. Adopt Resolution No. 17-09-____, Adopting the Amended and Restated Plan Document for the Retirement Plan for Regional Transit Employees Who Are Members of Amalgamated Transit Union (ATU) Local 256; and
- B. Adopt Resolution No. 17-09-____, Adopting the Amended and Restated Plan Document for the Retirement Plan Between International Brotherhood of Electrical Workers Local Union (IBEW) 1245, AFL-CIO and Sacramento Regional Transit District; and
- C. Adopt Resolution No. 17-09-____, Adopting the Amended and Restated Plan Document for Sacramento Regional Transit District Retirement Plan for American Federation of State, County and Municipal Employees (AFSCME), Administrative Employees Association (AEA), and Non-Represented Employees.

FISCAL IMPACT

There is no fiscal impact as a result of approving these plan documents.

DISCUSSION

On February 1, 2016, SacRT submitted applications for each of its retirement plans to the Internal Revenue Service (IRS) for a determination that the plan remains tax-qualified. IRS rules for requesting determination letters required SacRT to include a restated plan document for each plan with each application. The required plan restatements must either be signed or submitted in proposed form. If submitted in proposed form, the plan restatements must generally be adopted by the 91st day after the IRS issues the determination letter.

SacRT chose to submit each of the restatements to the IRS in proposed form rather than try and get them approved and finalized before the February 1, 2016 determination letter application

Approved:

Presented:

Final 09/06/17

General Manager/CEO

Deputy Chief Counsel

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deadline. Since the IRS issued favorable determination letters for each of the retirement plans on June 21, 2017, this means that SacRT must generally adopt the restatements by September 20, 2017; 91 days after the IRS issued the determination letters.

If SacRT fails to adopt the restatements by the IRS deadline, the plans may not be able to rely on the favorable IRS determination letters that the retirement plans remain tax-qualified. Each determination letter states that it applies to the plan and related documents that SacRT submitted with the determination letter application, including the proposed restatement and the statement that the restatements will be adopted upon IRS approval. Additionally, IRS guidance regarding the Employee Plans Compliance Resolution System suggests that a failure to adopt an amendment upon which a favorable determination letter is conditioned by the applicable deadline may be a qualification failure. In that case, if the plans are subsequently disqualified in the event of an IRS audit, among other consequences, members could be subject to immediate taxation on their benefits.

Generally, with one very minor housekeeping amendment explained below, the restatements do not change any plan terms. Rather, each merely incorporates the amendment previously approved by the unions/employee groups and adopted by SacRT since the last plan restatement (or in the case of the Salaried Plan, the as yet to be approved and adopted IRS-required amendment to the plan’s definition of spouse to comply with the United States Supreme Court’s ruling in *United States v. Windsor, 133 S.Ct. 2675 (2013)*), as described below for each redlined draft restatement.

Salaried Plan

1. Introduction – The Restatement effective date and corresponding dates are updated.
2. Introduction – The second paragraph is updated to reflect that the new restatement incorporates amendments since the last restatement.
3. Section 2.26 – The definition of “spouse” is updated to incorporate the changes made to the definition by the as yet to be approved and adopted IRS-required First Amendment.
4. Section 3.2 – The date is updated to conform to the Restatement effective date.
5. Section 14.1 – Housekeeping amendment required to conform this section to the corresponding section of the Declaration of Trust previously approved by the Retirement Boards.
6. Article 18 – The execution date is updated to reflect that the Restatement will be executed in 2017.
7. Appendix E, Section E.6.1 – Technical correction required by the IRS and approved by amendment for the other two plans.

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ATU Plan

1. Introduction – The Restatement effective date and corresponding dates are updated.
2. Introduction – The second paragraph is updated to reflect that the new restatement incorporates amendments since the last restatement.
3. Section 2.15 – Incorporates changes made by the previously approved and adopted First Amendment dealing with the definition of “Employee”.
4. Section 2.24 – Incorporates changes made by the previously approved and adopted Second Amendment addressing the definition of “Spouse”.
5. Section 3.2 – The date is updated to conform to the Restatement effective date.
6. Section 12.2 – Incorporates changes made by the previously approved and adopted Second Amendment addressing employer contributions to the Plan.
7. Section 12.7 – Incorporates changes made by the previously approved and adopted Second Amendment adding a provision addressing “Member Contributions”.
8. Section 14.1 – Housekeeping amendment required to conform this section to the corresponding section of the Declaration of Trust previously approved by the Retirement Board.
9. Article 18 – The execution date is updated to reflect that the Restatement will be executed in 2017.
10. Appendix D, Section D.6.1 – Incorporates a technical IRS-required change made by the previously approved and adopted First Amendment.
11. Appendix D, Section D.6.4 – Incorporates a technical IRS-required change made by the previously approved and adopted First Amendment.

IBEW Plan

1. Introduction – The first paragraph is updated to accurately reflect the plan name.
2. Introduction – The Restatement effective date and corresponding dates are updated.
3. Introduction – The second paragraph is updated to reflect that the new restatement incorporates amendments since the last restatement.
4. Section 2.5(a)(4) – Incorporates changes made by the previously approved and adopted Second Amendment addressing the treatment of “cash-in-lieu of medical” when calculating an employee’s compensation for pension purposes.
5. Section 2.19 – Incorporates changes made by the previously approved and adopted Second Amendment modifying the definition of “normal retirement age” under the Plan.
6. Section 2.24 – Incorporates changes made by the previously approved and adopted Second Amendment addressing the definition of “Spouse”.
7. Section 3.2 – The date is updated to conform to the Restatement effective date.
8. Article 5 – Incorporates changes made by the previously approved and adopted Second Amendment regarding Vesting under the Plan.

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9. Section 7.1(a)(1) – Incorporates changes made by the previously approved and adopted Second Amendment dealing with minimum service requirements to vest.
10. Section 7.2 – Incorporates changes made by the previously approved and adopted Second Amendment affecting how an employee’s benefit amount is calculated.
11. Section 7.4(b) – Incorporates changes made by previously approved and adopted First Amendment that makes a minor modification to the “Time of Payment” provision of the Plan.
12. Section 8.1(b) – Incorporates changes made by the previously approved and adopted Second Amendment which changes the number of years of service required to vest for employees hired on or after January 1, 2015 who retire for disability.
13. Section 8.3(b) – Incorporates changes made by the previously approved and adopted First Amendment which makes a modification affecting the form of payment to employees going out on a disability retirement under the Plan.
14. Section 9.1 – Incorporates changes made by the previously approved and adopted Second Amendment makes a minor modification under the Survivor Benefit provision of the Plan related to eligibility for employees hired on or after January 1, 2015.
15. Section 12.2 – Incorporates changes made by the previously approved and adopted First Amendment and Second Amendment dealing with employer contributions to the Plan for employees.
16. Section 12.7 – Incorporates this new section added by the previously approved and adopted Second Amendment dealing with employee contributions to the Plan.
17. Section 14. 1 – Housekeeping amendment required to conform this section to the corresponding section of the Declaration of Trust previously approved by the Retirement Board.
18. Article 18 – The execution date is updated to reflect the Restatement will be executed in 2017.

On August 10, 2017, SACRT staff from the Labor Division and Office of the Chief Counsel held a general information session for all of SACRT’s bargaining units to explain the need to incorporate the changes noted above into each of the retirement plan documents and the need to do so by September 20, 2017. Representatives from the AEA, AFSCME, ATU and IBEW attended the meeting and were given the opportunity to ask questions and express any concerns regarding the changes. SacRT’s outside pension counsel, Edward Bernard from the firm Hanson Bridgett LLP was present at the meeting and explained the changes to the unions/employee groups. At the time of this writing, SacRT’s Labor Division was advised by AFSCME, AEA and ATU that each group does not have any concerns with the changes made to the Plans document. While IBEW has advised SacRT that it is in the process of reviewing the changes, it has not advised SacRT that it is comfortable with the changes.

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Because maintaining the tax qualified status for SacRT's retirement plans is vital to maintaining the tax exempt status of plan earnings, it is vital that the Amended and Restated Plan documents be adopted by SacRT's Board no later than September 20, 2017. SacRT Staff recommends that the Board adopt each of the three Restated Plan Documents and direct the General Manager/CEO to execute the Plan Documents.

RESOLUTION NO. 17-09-_____

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

September 11, 2017

**ADOPTING THE AMENDED AND RESTATED PLAN DOCUMENT FOR THE
RETIREMENT PLAN FOR REGIONAL TRANSIT EMPLOYEES WHO ARE MEMBERS
OF AMALGAMATED TRANSIT UNION (ATU) LOCAL 256**

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

THAT, the Amended and Restated Plan Document for the Retirement Plan for Regional Transit Employees Who Are Members of ATU Local 256, which incorporates all necessary plan amendments to ensure compliance with Internal Revenue Service (IRS) requirements to obtain an IRS determination letter certifying the Plan's tax-qualified status, is hereby approved and adopted.

THAT, the General Manager/CEO is hereby authorized and directed to execute the Amended and Restated Retirement Plan document restated effective July 1, 2015.

ANDREW J. MORIN, Chair

A T T E S T:

HENRY LI, Secretary

By: _____
Cindy Brooks, Assistant Secretary

RESOLUTION NO. 17-09-_____

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

September 11, 2017

**ADOPTING THE AMENDED AND RESTATED PLAN DOCUMENT FOR THE
RETIREMENT PLAN BETWEEN INTERNATIONAL BROTHERHOOD OF
ELECTRICAL WORKERS LOCAL UNION (IBEW) 1245, AFL-CIO AND
SACRAMENTO REGIONAL TRANSIT DISTRICT**

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

THAT, the Amended and Restated Plan Document for the Retirement Plan Between International Brotherhood of Electrical Workers Local Union 1245, AFL-CIO, which incorporates all necessary plan amendments to ensure compliance with Internal Revenue Service (IRS) requirements to obtain an IRS determination letter certifying the Plan's tax-qualified status, is hereby approved and adopted.

THAT, the General Manager/CEO is hereby authorized and directed to execute the Amended and Restated Retirement Plan document restated effective July 1, 2015.

ANDREW J. MORIN, Chair

A T T E S T:

HENRY LI, Secretary

By: _____
Cindy Brooks, Assistant Secretary

RESOLUTION NO. 17-09-_____

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

September 11, 2017

**ADOPTING THE AMENDED AND RESTATED PLAN DOCUMENT FOR
SACRAMENTO REGIONAL TRANSIT DISTRICT RETIREMENT PLAN FOR
AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES
(AFSCME), ADMINISTRATIVE EMPLOYEES ASSOCIATION (AEA), AND NON-
REPRESENTED EMPLOYEES**

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

THAT, the Amended and Restated Plan Document for Sacramento Regional Transit District Retirement Plan for AFSCME, AEA and Non-Represented Employees, which incorporates all necessary plan amendments to ensure compliance with Internal Revenue Service (IRS) requirements to obtain an IRS determination letter certifying the Plan's tax-qualified status, is hereby approved and adopted.

THAT, the General Manager/CEO is hereby authorized and directed to execute the Amended and Restated Retirement Plan document effective July 1, 2015.

ANDREW J. MORIN, Chair

A T T E S T:

HENRY LI, Secretary

By: _____
Cindy Brooks, Assistant Secretary