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**DATE:** October 25, 2021  
**TO:** Sacramento Regional Transit Board of Directors  
**FROM:** Brent Bernegger, VP, Finance/CFO  
**SUBJ:** AN ORDINANCE APPROVING THE AMENDED AND RESTATED  
TITLE V OF THE ADMINISTRATIVE CODE PROVIDING A  
SPECIAL CLAIMS PROCEDURE

### RECOMMENDATION

Motion: Waive the First Reading of Ordinance 21-12-01, Amending and Restating Title V, "Providing A Special Claims Procedure" of Sacramento Regional Transit District's (SacRT) Administrative Code.

### RESULT OF RECOMMENDED ACTION

Would provide for the revised Ordinance to be considered for adoption at the December 13, 2021 Board meeting.

### FISCAL IMPACT

Some minimal cost savings, as a result of not having to prepare or incur additional documentation, support and administrative expenses associated with bringing settlements items to closed session and an increase in operational efficiency by allowing settlement offers to be processed more quickly.

### DISCUSSION

Government Code Section 935.4 and 949 provides that a public entity by Ordinance or Resolution, may authorize an employee of the public entity to allow, compromise, or settle claims on behalf of the Board, if the amount to be paid pursuant to the allowance, compromise or settlement exceeds fifty thousand dollars (\$50,000).

In December 1998, the Board authorized the General Manager/CEO to reject or settle claims up to the amount of \$50,000. In 1998, average costs incurred to settle claims were significantly lower and with less variation of liability exposure than fiscal outcomes of the current legal liability climate. For the past 20 years, social and inflationary costs associated with claims have increased in the forms of legal costs, attorney fees, vehicle repair costs, medical costs, working wage losses, and court verdicts.

In 2006, the Board adopted Title V to the SacRT Administrative Code delegating authority to the General Manager/CEO to settle claims up to \$100,000. On March 8,

2021, the Board granted the General Manager/CEO, through the adoption of Resolution No. 21-03-0015, the authority to reject most offers to settle a claim presented to SacRT by a claimant or plaintiff, even if the amount to settle exceeds the General Manager/CEO's settlement authority. The exception to the General Manager/CEO's authority to reject an offer to settle under Resolution No. 21-03-0015, is in the case of §998 Offers to Compromise, which by statute must be presented to the Board if they exceed the General Manager/CEO's settlement authority. As a result of increased cost impositions on defending and settling general liability claims, it is staff's recommendation that the Board amend and restate Title V to increase the General Manager/CEO's authority to accept, reject, compromise, or settle general liability claims of any type for an amount up to \$150,000. All claims in excess of \$150,000 will be presented to the Board for approval or settlement. Staff further recommends that the authority granted to the General Manager/CEO under Resolution No. 21-03-0015 to reject most offers to settle, regardless of the amount, be added to Title V so that all settlement authority is contained in Title V of the Administrative Code. As required by statute, all §998 Offers to Compromise that exceed the General Manager/CEO's settlement authority will continue to come to the Board for acceptance or rejection. If the Board votes to waive the first reading, staff will return at the next Board meeting to ask the Board to adopt the Amended and Restated Title V and will ask the Board to rescind Resolution Nos. 21-03-0015, 98-12-3249, and 06-02-01, the terms of which either conflict with or will now be incorporated into Title V.

## ATTACHMENT 1

### ORDINANCE NO. 21-12-01

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

October 25, 2021

### AN ORDINANCE APPROVING THE AMENDED AND RESTATED TITLE V OF THE ADMINISTRATIVE CODE PROVIDING A SPECIAL CLAIMS PROCEDURE

THE BOARD OF DIRECTORS OF THE SACRAMENTO REGIONAL TRANSIT DISTRICT DO ORDAIN AS FOLLOWS:

#### **SECTION 1:**

Title V of the Administrative Code is hereby amended and restated. Title V of the Administrative Code of Sacramento Regional Transit District shall read as follows:

### **TITLE V - CLAIMS PROCEDURE**

#### **Article I Claims**

#### **§5.101 Authority**

This Title is enacted pursuant to Section 935 of the California Government Code.

#### **§ 5.102 Claims Required**

All claims against the Sacramento Regional Transit District ("SacRT") for money or damages which are excepted by Section 905 of the Government Code from the provisions of Division 3.6 of the Government Code (Sec. 810 et seq.), and which are not governed by any other statutes or regulations expressly relating thereto, shall be governed by the procedure prescribed in this Article.

Unless otherwise provided in this Title, the manner and timing of the presentation and consideration of claims filed pursuant to this Title shall be as provided in Part 3 of Division 3.6 of Title I of the Government Code (Sec. 900 et seq.) as those provisions now exist or may hereafter be amended.

Pursuant to Chapter 5 of Part 3 of Division 3.6 of Title 1 of the Government Code (Sec. 930 et seq. ), written agreements entered into by or on behalf of SacRT may provide that all claims arising out of or related to the agreement must be presented not later than six months after the accrual of the cause of action, and such claims shall be governed by the provisions of this section.

### **§ 5.103 Form of Claim**

All Claims shall be made in writing and verified by the claimant or by his or her guardian, conservator, executor or administrator. No claim may be filed on behalf of a class of persons unless verified by every member of that class. In addition, all claims shall contain the information required by California Government Code Section 910.

### **§ 5.104 Claim Prerequisite to Suit**

In accordance with California Government Code Sections 935(b) and 945.6, all claims shall be presented as provided in this section and acted upon by SacRT prior to the filing of any action on such claim; and no such action may be maintained by a person who has not complied with the requirements of this Title.

### **§ 5.105 Late Filing**

The late filing of claims governed by this Title will be subject to the procedures set forth in those provisions of the Government Code referred to in subsection (e) of Government Code Section 935.

### **§ 5.106 General Manager/CEO Settlement Authority**

The General Manager/CEO is delegated authority to finally settle any claim or lawsuit brought against SacRT for monetary damages where present value of the settlement does not exceed \$150,000. The General Manager/CEO may further delegate all or portion of such authority to other SacRT officers or employees, but any such delegation must be made in writing. The form of any such settlement must be approved as to legal form by the General Counsel of SacRT or their designee. The General Manager/CEO is delegated authority to reject any offer to settle a claim by a claimant or plaintiff in any amount, even if the offer to settle exceeds the General Manager/CEO's settlement authority. Notwithstanding the foregoing, any Offers to Compromise served on SacRT pursuant to Cal. Code Civ. Pro. §998 for an amount that exceeds the General Manager/CEO settlement authority, may only be rejected by the Board of Directors.

### **§ 5.107 Suit**

Any action brought against SacRT upon any claim or demand shall conform to the requirements of Sections 940-949 of the California Government Code. Any action brought against any employee of SacRT shall conform to the requirements of Sections 950-951.

## **Article II**

### **Effective Date**

### **§ 5.201 No Reinstatement or Revival**

Nothing in this section revives or reinstates any cause of action which, on the effective date of the ordinance codified in this section, is barred by either: (1) failure to comply with an applicable statute, regulation or ordinance requiring the presentation of a claim; or (2)

failure to commence an action thereon within the period prescribed by an applicable statute of limitations.

**§ 5.202 Effective Date; Retroactivity**

This Title shall be effective upon adoption. Subject to Section 5.201 of this Article, as of the effective date of this Title, the provisions of this Title shall be applicable to any claim described in this Title which is not otherwise time-barred. If the application of the time periods established by this Article would extinguish an existing claim which is not otherwise time-barred, then the date by which that claim must be presented to SacRT shall be the sooner of:

- (i) the date any applicable claims period would have expired; or
- (ii) six months after the effective date of this Title for claims described in the first sentence of Government Code Section 911.2 or one (1) year after the effective date of this Title for claims described in the second sentence of that Section. Nothing in this Title shall be construed to extend the time for the presentation of any claim which time was established by statute, ordinance, or other law in effect prior to the adoption of this Title

**SECTION 2:**

This Ordinance shall become effective immediately upon its enactment.

**SECTION 3:**

Within fifteen (15) calendar days after adoption, the RT Secretary is hereby directed to publish this Ordinance, in full, in a newspaper of general circulation published within SacRT's activated boundaries or on SacRT's Internet Website as authorized under California Public Utilities Code Sec. 102107.

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STEVE MILLER, Chair

A T T E S T:

HENRY LI, Secretary

By: \_\_\_\_\_  
Tabetha Smith, Assistant Secretary