



CITY OF SACRAMENTO

DEPARTMENT OF PUBLIC WORKS

OFFICE OF THE DIRECTOR

Budget and Finance Committee
Sacramento, California

Melvin H. Johnson
Director
Leslie M. Frink
Deputy Director
Reginald Young
Deputy Director

Honorable Members In Session:

SUBJECT: Budget Amendment for Legal and Professional Service
Fees Associated with Water Rights Issues

SUMMARY:

This report recommends the transfer of \$100,000 from the Water Fund Contingency/Reserve to the Water and Sewer Administration Budget to cover the expense of using contract legal and professional services with specialties in water rights issues.

BACKGROUND

Prior to the final adoption of the Water User Fees for fiscal year 1985-86, consideration was given to the potential for incurring expenses in conjunction with water rights issues over the course of the year. While the actual amount required remained unspecified, a two-percent adjustment was made to the water rates to generate sufficient funds to allow the use of outside legal counsel and/or other consultants as the issues became more clearly defined.

Subsequently, the City Council authorized retention of the legal firm of Kronick, Moskovitz, Tiedemann & Girard as counsel to the City in water rights matters. On October 8, 1985 Council authorized the City Manager to enter into an agreement with Bill Dendy and Associates to perform consulting services relative to water supplies and water rights. The Dendy contract was written not to exceed \$25,000 and the City Attorney's office estimates that the contract legal fees could total \$75,000 in the current fiscal year. Although water rates were adjusted and contract services approved, there has yet to be a budget adjustment to accommodate the increased expenses.

FINANCIAL DATA

The two-percent adjustment made to the water rates for expenses associated with water rights issues was estimated to generate approximately \$332,000 over the 1985-86 fiscal year. The expenses discussed in this report total \$100,000 and are to be applied to this additional revenue.

Since at the time of budget adoption the exact requirements for contract services were unknown, no appropriations were included in the Water and Sewer operating budget for this purpose. This report recommends the transfer of \$100,000 from the Water Fund Contingency/Reserve to the operating budget as specified here:

<u>Water & Sewer Administration (4-13-3151)</u>		
Legal Services (4251)		\$75,000
Other Professional Services (4258)		\$25,000

The Water Fund Contingency/Reserve includes more than adequate appropriations for this transfer due in part to the additional revenue generated from the two-percent rate adjustment.

RECOMMENDATION

It is recommended that the Budget and Finance Committee forward the attached Resolution to the City Council with a recommendation for approval.

Respectfully submitted,



Melvin H. Johnson
Director of Public Works

Recommendation Approved:

Solon Wisham, Jr.
Assistant City Manager

November 12, 1985

RESOLUTION NO.

ADOPTED BY THE SACRAMENTO CITY COUNCIL ON DATE OF

RESOLUTION TRANSFERRING FUNDS FROM THE WATER FUND CONTINGENCY/RESERVE TO THE WATER AND SEWER ADMINISTRATION OPERATING BUDGET

WHEREAS, the City of Sacramento intends to use legal and professional consultants to advise and represent the City in highly technical and specialized water rights issues; and

WHEREAS, the Water User Fees for 1985-86 incorporated a two-percent rate adjustment for the above-specified purpose; and

WHEREAS, the revenues anticipated from the two-percent rate adjustment were budgeted in the Water Fund Contingency/Reserve.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SACRAMENTO THAT:

1. The amount of \$75,000 be transferred from the Water Fund Contingency/Reserve (4-13-7012-0000-4599) to the Water and Sewer Administration budget, legal services account (4-13-3151-0000-4251); and
2. The amount of \$25,000 be transferred from the Water Fund Contingency/Reserve (4-13-7012-0000-4599) to the Water and Sewer Administration budget, other professional services account (4-13-3151-0000-4258).

ATTEST:

MAYOR

CITY CLERK

RESOLUTION NO.

Adopted by The Sacramento City Council on date of

RESOLUTION INDEMNIFYING SACRAMENTO REGIONAL TRANSIT DISTRICT SAFE HARBOR LEASING BENEFITS

WHEREAS the Sacramento Regional Transit District desires to obtain Safe Harbor Leasing Benefits for 50 existing buses; and

WHEREAS the adjusted basis for these benefits is approximately \$1,365,000 which will yield net benefits of between \$110,000 to \$145,000; and

WHEREAS in order to qualify for these benefits it will be necessary to obtain an indemnification from the City of Sacramento to guarantee benefits to the lessor or purchaser of the benefits;

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

1. That the City of Sacramento does hereby agree to indemnify the purchaser of Safe Harbor Leasing Benefits for losses in tax benefits as the result of the sale of approximately \$1,365,000 for existing SRTD buses. Proceeds from the Safe Harbor Leasing sale will be placed in the City LRT/RACS account and the interest income earned on said proceeds shall be retained as a reserve for the City's indemnification. The City Manager may impose such other restrictions or requirements upon SRTD as he deems appropriate to reduce the risks associated with the granting of this indemnification.

MAYOR

ATTEST:

CITY CLERK

47	16.1277	209,725	47,451	0.52%	6.37%	4,194	0	0	0
48	16.1492	209,944	47,670	0.54%	6.46%	4,196	0	0	0
49	15.7688	205,244	42,970	0.48%	5.77%	4,105	0	0	0
50	15.4937	200,538	38,234	0.42%	5.07%	4,010	0	0	0
51	15.2133	197,773	35,489	0.37%	4.46%	0	0	0	0
52	15.2942	198,025	36,551	0.37%	4.70%	0	0	0	0
53	14.9207	193,989	31,685	0.35%	4.05%	0	0	0	0
54	15.0054	195,071	32,797	0.34%	4.10%	0	0	0	0
55	14.6372	190,245	27,991	0.29%	3.40%	0	0	0	0
56	14.2322	185,422	23,188	0.24%	2.64%	0	0	0	0
57	14.3402	186,536	24,242	0.25%	2.94%	0	0	0	0
58	13.9432	181,744	19,470	0.20%	2.31%	1,572	3.21%	3.32%	.00%
59	13.6488	176,914	14,640	0.15%	1.70%				
60	13.6952	178,049	15,760	0.15%	1.80%				
61	13.3272	173,245	10,939	0.11%	1.27%				
62	12.9552	168,441	6,173	0.05%	0.72%				
63	12.7811	164,244	3,074	0.01%	0.40%				
64	12.8707	167,319	5,000	0.05%	0.57%				
65	12.5842	162,535	729	.00%	0.04%				
66	12.5920	163,707	1,432	0.01%	0.10%				
67	12.2337	159,034	(3,240)	-0.02%	-0.34%				
68	11.8711	154,324	(7,949)	-0.07%	-0.67%				

CITY OF SACRAMENTO
 - TBT TERMINATION RISK ANALYSTS -

Asset Cost: 1,300,000
 TBT Proceeds: 162,274
 Number of buses: 50

2,9045

Month	Termination Amount (%)	Termination Amount (\$)	Imputed Interest	Imputed Interest Rate	Annual Imputed Interest Rate	One Bus per Month	Two Buses per Month	Three Buses per Month	Buses per Month Months 1-12
0	12.472%	162,274	0	0.00%	0.00%	(162,274)	(162,274)	(162,274)	(162,274)
1	13.447%	177,421	15,147	9.53%	112.01%	3,540	7,097	10,645	10,440
2	14.924%	194,033	31,014	9.53%	112.37%	3,802	7,764	11,645	11,430
3	16.3405%	212,424	50,153	9.53%	112.71%	4,249	8,497	12,746	12,510
4	16.5905%	214,000	52,554	7.27%	87.26%	4,297	8,595	12,892	12,654
5	17.5937%	228,717	65,444	7.11%	85.26%	4,574	9,149	13,723	13,469
6	17.5297%	227,000	65,012	5.82%	69.87%	4,558	9,115	13,673	13,420
7	18.3176%	239,129	75,055	5.63%	67.50%	4,763	9,525	14,288	14,023
8	19.1045%	249,399	87,125	5.52%	66.23%	4,988	9,976	14,964	14,687
9	18.9025%	245,732	85,458	4.72%	56.62%	4,915	9,829	14,744	14,471
10	19.4504%	252,054	90,532	4.54%	54.42%	5,057	10,114	15,171	14,891
11	20.0534%	260,694	98,420	4.40%	52.05%	5,214	10,428	15,642	15,352
12	19.4807%	253,258	90,976	3.70%	45.34%	5,065	10,130	15,195	14,914
13	19.7090%	256,218	93,944	3.56%	42.91%	5,124	10,249	15,373	0
14	19.9022%	259,493	97,209	3.41%	40.92%	5,190	10,379	15,569	0
15	19.6873%	255,935	95,661	3.03%	37.01%	5,119	10,237	15,356	0
16	19.7251%	257,427	96,153	2.90%	34.81%	5,129	10,257	0	0
17	19.7046%	256,168	93,036	2.72%	32.66%	5,123	10,246	0	0
18	19.6407%	255,329	93,055	2.55%	30.60%	5,107	10,213	0	0
19	19.5925%	254,703	92,429	2.40%	28.01%	5,094	10,188	0	0
20	19.5440%	254,071	91,798	2.27%	27.20%	5,081	10,163	0	0
21	19.4517%	252,072	90,598	2.13%	25.62%	5,057	10,115	0	0
22	19.3751%	251,876	89,602	2.02%	24.22%	5,038	10,075	0	0
23	19.2978%	250,872	88,598	1.91%	22.95%	5,017	10,035	0	0
24	19.1767%	249,297	87,023	1.81%	21.66%	4,986	9,972	0	0
25	19.0709%	247,921	85,647	1.71%	20.52%	4,958	9,917	0	0
26	18.9643%	246,535	84,261	1.62%	19.46%	4,931	0	0	0
27	18.8576%	244,898	82,614	1.54%	18.43%	4,898	0	0	0
28	18.9107%	245,040	83,566	1.49%	17.94%	4,917	0	0	0
29	18.7645%	243,938	81,664	1.42%	16.95%	4,879	0	0	0
30	18.8106%	244,538	82,264	1.38%	16.52%	4,891	0	0	0
31	18.6372%	242,285	80,009	1.30%	15.62%	4,846	0	0	0
32	18.4623%	240,010	77,736	1.23%	14.77%	4,800	0	0	0
33	18.4790%	240,237	77,963	1.20%	14.35%	4,805	0	0	0
34	18.2773%	237,605	75,531	1.13%	13.53%	4,752	0	0	0
35	18.0733%	234,952	72,678	1.06%	12.76%	4,699	0	0	0
36	18.0613%	234,741	72,523	1.03%	12.38%	4,696	0	0	0
37	17.8291%	231,379	69,505	0.97%	11.62%	4,636	0	0	0
38	17.5932%	226,738	66,464	0.91%	10.89%	4,575	0	0	0
39	17.4456%	224,797	64,518	0.86%	10.34%	4,536	0	0	0
40	17.5493%	226,147	65,874	0.86%	10.26%	4,563	0	0	0
41	17.2763%	224,591	62,317	0.80%	9.55%	4,492	0	0	0
42	17.3534%	225,595	63,321	0.79%	9.45%	4,512	0	0	0
43	17.0526%	221,644	59,410	0.73%	8.74%	4,434	0	0	0
44	16.7495%	217,344	55,470	0.67%	8.05%	4,355	0	0	0
45	16.7497%	218,340	55,046	0.66%	7.94%	4,367	0	0	0
46	16.4661%	214,059	51,785	0.60%	7.25%	4,281	0	0	0

Sacramento City Council

November 5, 1985

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As additional information, the financing committee previously assigned to study safe harbor benefits and the risks associated, reviewed the possibility of acquiring insurance to offset the risk. No insurance carrier issued, nor transit district we reviewed who previously sold safe harbor benefits had such insurance. The districts advised no such insurance was available and they underwrote the risk as a part of their business to receive the cash.

RECOMMENDATION

It is recommended that the Sacramento City Council adopt the attached resolution which:


- Indemnifies the approximate \$1.365 million safe harbor benefit sale of existing SRTD buses.

TPF/lv

Attachment

cc: Brian Richter, County Executive
William H. Edgar, Exec. Dir., SHRA
David Boggs, General Manager, SRTD
Greg Miller, SRTD

Respectfully,


THOMAS P. FRIERY
City Treasurer

RECOMMENDATION APPROVED:


WALTER J. SLIPER City Manager

November 12, 1985
All Districts

FINANCIAL

The following table reflects the buses to be pledged by SRTD for the Safe Harbor transactions:

Equipment (a)	40' Diesel 4700 Buses	40' Diesel 4700 Buses	Total
In-Service Date	December 1982	December 1985	N/A
Number of Vehicles	23	27	50
Adjusted Basis (b)	\$576,426	\$788,643	\$1,365,069
Lease Term	13.5 yrs.	13.5 yrs.	13.5 yrs.

Footnotes: (a) All buses manufactured by Gillig Corporation, Hayward, CA.
(b) Numbers are subject to adjustment for phantom depreciation and may also vary slightly depending on delivery schedule.

From the equipment table, it can be determined that the depreciation value being sold would be approximately \$1.365 million dollars. A domestic corporation, with an indemnification of the City might be expected to pay 12% to 14% of this basis in the form of Safe Harbor benefits or approximately \$164 to \$190 thousand in gross benefits for a 13.5 year lease period. After deducting expenses of the transaction for legal, etc., approximately \$110 to \$145 thousand of net benefits would be received and deposited in the City LRT/RACS account.

At an assumed earning rate of 10%, this deposit would earn annual investment income of \$11 to \$15 thousand while in the City LRT/RACS account. On the assumption that these monies would not be needed by SRTD for 24 months for construction purposes, an additional \$22 to \$30 thousand will be earned by the City LRT/RACS account.

Regarding the indemnification, the largest exposure occurs 11 months from sale date (see Attachment 1) when 20.0534% of the buses sold (\$1,365,069) or \$273,427 would be payable. For this entire amount to be payable under the indemnification, all 50 buses would have to be out of service and no longer functionable. Given the current age and estimated life of the buses compared to the lease period, this is not perceived to be a probable event.

Of all the risks that could void or cause the buses not to produce the benefits sold, the greatest risk would be changes to the current tax laws, specifically regarding flat tax. Should the President's Tax proposal be implemented in its present form, the financial advisor has estimated that the loss of safe harbor benefits payable under the indemnification would approximate \$24 to \$30 thousand. Since the investment income earned on the deposit could nearly offset this risk, it is my opinion that indemnification would be a prudent business practice.

It is recommended that the City Council approve indemnification of the Safe Harbor benefits being sold on the certain SRTD existing buses.

BACKGROUND

One part of the light rail financing plan previously presented to and approved by the local governing bodies was implementation of a safe harbor leasing benefit program for existing SRTD buses and the LRT vehicles. Very briefly, the sale of safe harbor leasing benefits refers to sale of depreciation benefits to a private corporation which needs such benefits for income tax purposes by a municipality which owns certain transportation vehicles that have depreciation benefits but are not usable for income tax purposes by the municipality. The sale of these benefits produces equity to the municipality and income tax benefits to the private corporation.

To perfect such a sale of benefits, it is necessary for a municipality to demonstrate that 5% of the original cost of the eligible transportation vehicles being safe harbor leased were acquired with a municipal financing vehicle for at least a six month period.

Since SRTD had previously purchased the buses with internal funds and grants, it will be necessary to establish a financing instrument for the SRTD vehicles equal to 5% of the original cost for a six month period. Bond Counsel has advised such 5% required for the SRTD buses is equivalent to \$385,000 dollars. To permit minimum financing expense to SRTD the City Treasurer will purchase the note with City investment funds. The note will provide for an escrow agreement whereby the proceeds will be invested in a 6 month U. S. Treasury Bill and all interest and principal will be paid to the City in approximately 180 days.

Further, upon sale of such benefits it is necessary for the municipality to indemnify the purchaser of such benefits that the benefits sold will be received or the municipality must refund the benefits plus a penalty (loss of income) from the time period the monies were paid until it was discovered such benefits could not be realized.

The purchaser of such benefits (lessor) requires a financially solid entity with a long term municipal credit rating to assure repayment plus the indemnification penalty should the lessee (SRTD) default under the lease. At the present time SRTD does not have a long term credit rating and we have been advised by the financial consultant that the safe harbor benefits could not be sold by SRTD without the indemnification by the City.

While explained in greater detail in the financial section of this paper, it is my opinion that the LRT/RACS account of the City could be used to perfect indemnification repayment, should the City indemnify and should the indemnification payment be required.