



7

OFFICE OF THE
CITY TREASURER

THOMAS P. FRIERY
TREASURER

DONALD E. SPERLING
ASSISTANT TREASURER

CITY OF SACRAMENTO
CALIFORNIA

800 TENTH STREET
SUITE ONE
SACRAMENTO, CA
95814-2688

916-449-5318
OPERATIONS

916-449-5168
INVESTMENTS &
ADMINISTRATION

916-448-3139
DEX TRANSCEIVER

February 26, 1988

88025(12B)TPFdakhshlease

Budget and Finance Committee
Sacramento, California

SUBJECT: Resolution Authorizing City Manager and City Clerk to Execute
a Trust Agreement and First Amendment to Reimbursement
Agreement with Sacramento Regional Transit District in
Connection with Tax Benefit Transfer (Safe Harbor Lease)

Honorable Members in Session:


SUMMARY

Transmitted herewith is a report to the full Council recommending that the
Council authorize the City Manager and City Clerk to execute a trust
agreement and an amended reimbursement agreement between the City and
Sacramento Regional Transit District (RT) in connection with the second
Safe Harbor Lease between RT and Zayre Corporation.

RECOMMENDATION

It is recommended that after hearing the attached report, the Budget and
Finance Committee recommend to the full Council approval of the attached
resolution authorizing the City Manager and City Clerk to execute an
amended Reimbursement Agreement and a Trust Agreement between RT and the
City.

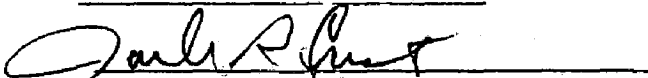
Respectfully Submitted,


THOMAS P. FRIERY
City Treasurer

Attachment

RECOMMENDATION APPROVED:

March 15, 1988
All Districts





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Sacramento City Council
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SUBJECT: Resolution Authorizing City Manager and City Clerk to Execute
a Trust Agreement and First Amendment to Reimbursement
Agreement With Sacramento Regional Transit District in
Connection With Tax Benefit Transfer (Safe Harbor Lease)

Honorable Members in Session:

SUMMARY

This report recommends that the Council authorize the City Manager and City Clerk to execute an amended reimbursement agreement between the City and Sacramento Regional Transit District (RT) in connection with the final sale of Safe Harbor Benefits to Zayre Corporation. This report further recommends that the Council approve an agreement between the City and RT for the segregation of \$125,946 in Safe Harbor proceeds in a separate reserve fund to be held by the City.

BACKGROUND

The Budget and Finance Committee and the City Council approved in January, 1987 the sale of Tax Benefits (a transfer of depreciation benefits from RT to a taxable entity) on twenty-six light rail vehicles. Council approval was necessary because the transaction included a guaranty by the City of certain indemnification obligations undertaken by RT toward the purchaser of the tax benefits, Zayre Corporation. At that time, two transactions were envisioned. The first took place on January 31, 1987 and produced net benefits of \$1,494,428.91 after all expenses. The City's indemnification for this transaction is for a maximum of \$2,086,634. The second transaction closed on January 29, 1988 and produced gross benefits before expenses of \$676,067.98. Expenses are estimated to be \$57,360 which, when applied to gross proceeds, will produce net benefits of \$618,708. The City's maximum indemnification for the second Safe Harbor lease is \$1,047,905 and occurs March 1990, twenty-six months from the time of sale.

Regional Transit has taken title to a total of 26 Light Rail Vehicles (LRV), all of which are eligible for sale of Safe Harbor benefits. Twelve of the LRV's are 100% locally owned while 14 are 15% locally owned, having been 85% funded by UMTA. The first Safe Harbor sale-leaseback entered into with Zayre Corp in January 1987 was for 12 of the 26 LRV's. Although these twelve LRV's are 100% locally owned, only 90% of their value ("basis") was transferred by the Safe Harbor sale. Ten percent of the LRV's value was withheld as a retention pending final acceptance of the LRV's by RT from the manufacturer, Siemens Allis.

On November 24, 1987, City Council approved a resolution authorizing the second tax benefit sale-leaseback financing for the remaining LRV's and further authorized a City guaranty (indemnification) of the transaction. At that time it was anticipated that the second safe harbor lease in January 1988 would be for a total of 12 LRV's, two of which are 100% locally owned and ten of which are 15% locally owned. Further, the 10% retention withheld from the first Safe Harbor transaction of January 1987 was to be included in the January 1988 transaction. It was anticipated that two LRV's would be withheld from the second Safe Harbor lease so that, in the event damage to any of the leased cars were to occur, these two cars could serve as replacement vehicles. The two LRV's withheld were to be a 100% locally owned vehicle and a 15% locally owned vehicle.

Subsequent to the November 24, 1987 Council action, discussions between bond counsel as well as RT and City staff revealed that it would be beneficial to include all 14 LRV's in the final Safe Harbor lease. Selling the two reserve LRV's allows the City to receive proceeds for the two LRV's which will compound as interest accumulates on the original proceeds. It was decided that instead of substituting a reserve LRV for a damaged LRV, it would be better to pay an indemnification loss from the Safe Harbor proceeds of the two LRV's. Further, since the first level of indemnification will come from the proceeds and accumulated interest of the reserve LRV's, it was felt that benefits related to the two LRV's should be placed in a separate reserve within the City's Pool A. The purpose of the separate reserve being the indemnification of future losses incurred should a LRV be taken out of service.

City and RT staff entered into a trust Agreement in connection with the two reserve LRV's, subject to review and approval by the City Council and RT Board. A copy of the Agreement is attached to this report as Exhibit A. Briefly, both City and RT staff agreed that the proceeds of the two LRV's should be placed in a separate fund within Pool A while proceeds for the other 12 LRV's would be placed in the RACS account. Further, reserve monies remaining (along with any interest earnings) at the conclusion of the lease after any indemnification payments are made would be split equally between RT and the City.

On June 2, 1987, the City and RT entered into a Reimbursement Agreement which imposes reasonable obligations on RT for maintenance of the vehicles during the Safe Harbor lease. The intent of the Agreement is to reduce the risk of an event which would require Zayre to call in the City's guaranty. The Agreement included the reservation of up to two cars for substitution in the event of casualty. The sale of Safe Harbor benefits for the two reserve LRV's requires an amendment to the Agreement.

FINANCIAL

Total basis for the 14 LRV's plus the 10% retention of the 12 LRV's sold in January 1987 totalled \$4,857,542.75 as follows:

12 LRV's	10% Retention	\$ 906,753.60
3 LRV's	100% Locally Owned	2,546,249.45
11 LRV's	15% Locally Owned	<u>1,404,539.70</u>
		\$4,857,542.75
		=====

Total Tax Benefits received on January 29, 1988 from the sale were \$676,067.98. PaineWebber's Financial Advisor's fee is estimated to be \$30,360 while bond counsel expense incurred by Orrick, Herrington & Sutcliffe is estimated to be \$27,000. Net proceeds after expenses is estimated to be \$618,708. Of the net proceeds, \$492,762 will be set aside in the City's RACS account while \$125,946 will be set aside in a separate reserve fund within Pool A of which 50% will be distributed to RT and 50% will be distributed to the City at the conclusion of the lease in 26 years.

Maximum indemnification exposure is estimated to be \$1,047,905 which is 155% of the cost basis and occurs twenty-six months from sale in March 1990. Thereafter, the indemnification exposure of the City is reduced monthly.

REVIEW OF LIGHT RAIL FINANCING PLAN

At the time that it became necessary to develop a local financing plan to provide the sufficient money to fund the Light Rail Project, it was determined that RT had neither the revenue stream nor the credit rating in the financial markets to secure sufficient debt financing for Light Rail. Accordingly, it was necessary for the City and SHRA to help develop and support a debt financing program to fund the Light Rail system. Such funding was accomplished through contributions by SHRA and the City as well as issuance of Certificates of Participation using the credit of the City of Sacramento and supported by a SHRA reimbursement agreement that is subordinate to all debt of the Agency. The current Safe Harbor transaction represents the concluding phase of the total City/SHRA backed financing plan. In the final analysis, it is emphasized that the LRT COP issue is a City financing obligation that is

intended to be repaid by SHRA through a Repayment Agreement. If SHRA is unable to repay the City for the LRT COP debt service, the financial obligation of the LRT COP falls upon the City.

1985 LRT Certificates of Participation

In June 1985, the City issued \$29.365 million Certificates of Participation which purchased 15 Light Rail Vehicles, two electric substations and a segment of the rail lines. As part of the financing structure, a repayment agreement between SHRA and the City was entered into which provides for the reimbursement to the City by SHRA for \$2.93 million annual debt service on the COPs that the City must pay through the year 2012. Total construction proceeds required from the COP were \$21,500,551. However, through the City Treasurer's investment management of the construction, reserve and capitalized interest proceeds, an additional \$561,000 of interest income above the original anticipated levels was earned and made available to RT for construction and debt-related expenses. To date, RT has withdrawn a total of \$22,008,078 for Light Rail construction purposes from the 1985 LRT COP construction fund, which represents \$507 thousand more than was originally envisioned.

LRT RACS Account

Another part of the City/SHRA financing plan for the Light Rail Project was the establishment of a special account within the City. This account was to act as a "safety net" for project cost overruns, provide one year of debt service reserve, and to indemnify Safe Harbor leases. The account formed was the Redevelopment Agency City of Sacramento Fund (RACS). A summary of deposits and withdrawals to this fund through 1/31/88 follows.

LRT/RACS Account Activity
 June 1985 - January 31, 1988

DEPOSITS		
SHRA (6/85 - 6/87)	\$7,250,000	
Net Safe Harbor Proceeds	2,212,776	
Interest Income	<u>943,290</u>	
Total Deposits		10,406,066
WITHDRAWALS		
Cost Overruns Paid To RT	<3,942,000>	
Additional City Contribution to LRT Const Fund (6/85)	< 355,736>	
Safe Harbor Indemnity Pay't For Damaged Bus (11/87)	< <u>4,856</u> >	
Total Withdrawals		<4,302,592>
Estimated Balance at 1/31/88		\$6,103,474
		=====

SHRA agreed to pay into the RACS account a total of \$7,250,000 incremental property tax from the Downtown Redevelopment area during the 2.5 years of LRT project construction from June 1985 through December 1987. Since debt service on the COP during construction was paid from borrowed proceeds that were set aside for that purpose, the \$7.2 million SHRA payment was to be a safety net for project cost overruns and to provide an additional one year of debt service reserve. At the time of bond closing in August 1985, \$355,736 from the first SHRA deposit to the LRT RACS account was transferred to the LRT construction fund. The remaining payments from SHRA were placed in the RACS account.

It was also agreed that, after completion of the LRT project, SHRA would reimburse the City for the \$2.93 million annual debt service on the LRT/COP issue, the first payment of which begins in June 1988. Subsequent to the original financing plan, the City amended the LRT repayment agreement with SHRA in October 1987. The amended agreement provides for the City to pay \$1 million annually toward the LRT COP debt service which will allow SHRA to pay \$1 million toward debt service on their recent 1987 Tax Allocation Bond, the proceeds of which will be used to build a new central City Library.

Cash Flow Shortage

When the Light Rail construction shortfall became apparent in September 1984, it was discovered that the City of Sacramento had been absorbing the LRT cash flow shortage. At the time of this discovery, the City had already advanced nearly \$10 million in payments to contractors while awaiting reimbursement of these advances from UMTA and Cal Trans. Further, during FY 84/85, approximately \$3.9 million on average per day was advanced by the City to vendors and contractors of the LRT project while the City waited from 60 to 90 days to be reimbursed from UMTA and Cal Trans. During FY 84/85, an 11.73% return was being earned on General Fund investments. Therefore, the City also assisted the Light Rail project through their covering of the cash flow shortage experienced by the LRT project during fiscal year 1984-85. It is estimated that the opportunity cost to the City of lost income earnings during RT's negative cash flow period was approximately \$457 thousand. The \$457 thousand opportunity cost is considered an additional investment in the LRT project by the City which has not been repaid.

Safe Harbor Leasing

Regional Transit's contribution to the City/SHRA overall financing plan was determined to be through the sale of Safe Harbor benefits (Tax Benefit Transfer Lease) for 50 existing Gillig buses and the 26 LRV's.

To date, net benefits after expenses from three Safe Harbor transactions have produced a total of \$2,212,776 that have been deposited in the RACS account. Maximum indemnification exposure to the City for the 3 transactions is \$3,407,539.

Safe Harbor Deposits to RACS
Jan. 1986 - Jan. 1988

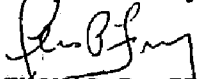
Safe Harbor Lease	Net Proceeds	Max. City Indemnification
50 Gillig Buses	\$ 99,639	\$ 273,000
12 Light Rail Vehicles	1,494,429	2,086,634
14 Light Rail Vehicles	<u>618,708</u>	<u>1,047,905</u>
	\$2,212,776	\$3,407,539
	=====	=====

The final Safe Harbor sale included proceeds for the two reserve LRV's. Accordingly, \$125,946 of the final Safe Harbor lease will be placed in a separate reserve account within City Pool A. It is pointed out that establishing a separate account for the sharing by RT and the City of proceeds (if any) related to the two reserve LRVs after the Safe Harbor exposure period is a departure from the original financing plan previously approved by City Council. However, the Treasurer recommends the separate account be accomplished rather than not realize Safe Harbor benefits on the two reserve vehicles.

RECOMMENDATION

It is recommended that, as part of the final phase of the LRT financing plan, City Council adopt the resolution authorizing the amendment to the reimbursement agreement between the City and RT to allow for the sale of two reserve LRV's, the proceeds of which will act as a reserve instead of the vehicles themselves. It is further recommended that Council authorize the execution of a trust Agreement between RT and the City for the use of the proceeds obtained from the sale of the two reserve vehicles. The purpose of the trust Agreement being the equal division of proceeds of and the interest accrued on the unexpended proceeds of the two LRV's after any indemnification payments have been made.

Respectfully Submitted,


THOMAS P. FRIERY
City Treasurer

Attachment

RECOMMENDATION APPROVED:

Walter J. Slipe, City Manager

March 22, 1988
All Districts

RESOLUTION NO.

Adopted by The Sacramento City Council on date of

**RESOLUTION AUTHORIZING CITY MANAGER AND
CITY CLERK TO EXECUTE TRUST AGREEMENT
AND FIRST AMENDMENT TO REIMBURSEMENT
AGREEMENT WITH SACRAMENTO REGIONAL
TRANSIT DISTRICT IN CONNECTION WITH TAX
BENEFIT TRANSFER (SAFE HARBOR LEASE)**

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

1. The City Manager and City Clerk are authorized to execute a trust agreement with the Sacramento Regional Transit District concerning disposition of safe harbor proceeds derived from two of the light rail vehicles included in the January 29, 1988 safe harbor lease.

2. The City Manager and City Clerk are authorized to execute the First Amendment to the Reimbursement Agreement dated June 3, 1987.

MAYOR

ATTEST:

CITY CLERK



OFFICE OF THE
CITY ATTORNEY

JAMES P. JACKSON
CITY ATTORNEY

THEODORE H. KOBAY, JR.
ASSISTANT CITY ATTORNEY

CITY OF SACRAMENTO
CALIFORNIA

January 29, 1988

812 TENTH STREET
SACRAMENTO, CA
95811-2694

916-449-5346

DEPUTY CITY
ATTORNEYS:
SAMUEL L. JACKSON
WILLIAM P. CARNAZZO
LAWRENCE M. LUNARDINI
GARLAND E. BURRELL, JR.
DIANE B. BALTER
RICHARD E. ANTOINE
TAMARA MILLIGAN-HARMON
RICHARD E. ARCHIBALD
LINDA M. GONZALEZ

Mark W. Gilbert
Assistant General Counsel
Sacramento Regional Transit District
P.O. Box 2110
Sacramento, CA 95812-2110

Re: Reserve of Safe Harbor Proceeds

Dear Mark:

City staff members propose the following terms relating to reserve of safe harbor proceeds from the January 29, 1988 transaction. A detailed agreement is to be drafted and submitted to your Board and our Council by the end of February.

1. The net proceeds attributable to the 100%-locally-owned LRV with the highest basis and to the 15%-locally-owned LRV with the highest basis will be reserved and set aside in a special account or fund ("Safe Harbor Reserve Account") to be maintained by the City Treasurer as set forth in this Agreement. All other proceeds to City's LRT/RACS account.

2. The reserved proceeds shall be invested by the City Treasurer in City's Pool A, or as otherwise approved by both City and RT. City shall credit earnings to the "Safe Harbor Reserve Account" quarterly, and provide to RT quarterly reports of account earnings and balance.

3. The reserved proceeds and earnings thereon shall be used only to make indemnification payments, if any, which may be payable pursuant to Tax Benefit Transfer leases between RT and Zayre Corporation dated January 31, 1987 and January 29, 1988.

4. RT shall be entitled to draw on the "Safe Harbor Reserve Account" to make any indemnification payments which become payable to Zayre Corporation.

Mark W. Gilbert
Re: Reserve of Safe Harbor Proceeds
January 29, 1988
Page Two

ATTACHMENT 1a

5. If City makes any payment to Zayre pursuant to the guaranty issued by City in connection with the two Tax Benefit Transfer leases, City shall be entitled to draw reimbursement therefor from the Safe Harbor Reserve Account; provided, however, that City shall not be entitled to reimbursement for any payment which City makes to Zayre because the LRV basis was reduced due to the good faith determination of RT, pursuant to the provisions of the LRV Procurement Contract, to withhold all or a portion of the final LRV retention payment.

6. Nothing contained herein shall release RT from any obligation under the Reimbursement Agreements entered into by RT and City in connection with the TBT leases.

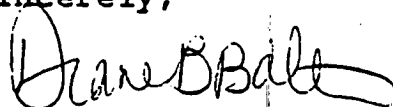
7. Reserve not used to make indemnification payments or reimburse City shall be distributed as follows:

50% to RT
50% to City

No distribution of unused reserves shall be made which reduces the amount of accumulated reserves below the maximum future aggregate indemnification exposure pursuant to the two Tax Benefit Transfer leases.

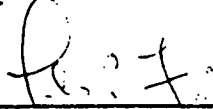
Again, it should be noted that this staff recommendation is subject to review and approval by your Board and our Council.

Sincerely,



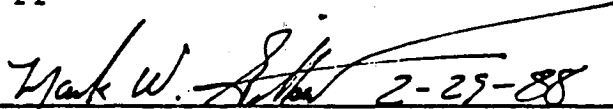
DIANE B. BALTER
Deputy City Attorney

Approved:



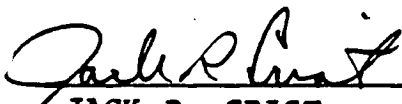
THOMAS P. FRIERY
City Treasurer

Approved:



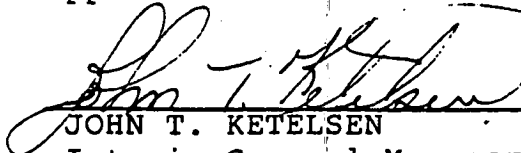
MARK W. GILBERT
Assistant General Counsel
Sacramento Regional
Transit District

Approved:



JACK R. CRIST
Deputy City Manager
City of Sacramento

Approved:



JOHN T. KETELSEN
Interim General Manager
Sacramento Regional
Transit District