

**MOTION NO. M2010-66**  
**Sale of Lehman Brothers Bankruptcy Claim**

MEETING:	DATE:	TYPE OF ACTION:	STAFF CONTACT:	PHONE:
Board	07/22/10	Final Action	Brian McCartan, CFO Tracy Butler, Treasurer	206-398-5100 206-398-5146

**PROPOSED ACTION**

Authorizes the chief executive officer to sell Sound Transit's bankruptcy claim against Lehman Brothers Special Financing, Inc. if selling the claim is determined the best option for claim recovery.

**KEY FEATURES**

- Sound Transit has a \$6.26 million dollar bankruptcy claim against bankrupt investment firm Lehman Brothers Special Financing, Inc. The claim reflects the lost interest Sound Transit would have earned under the Subordinate Reserve Fund Agreement between Sound Transit and Lehman Brothers Special Financing, Inc. had Lehman not filed for bankruptcy.
- This motion would authorize Sound Transit to sell the claim to a third party if the offer price and terms are more favorable than remaining a creditor in the bankruptcy proceeding or than settling the claim directly with the bankruptcy estate.
- This motion would potentially allow Sound Transit to avoid the uncertain and lengthy claim recovery process.
- Staff will report to the Board on the outcome of this action.

**PROJECT DESCRIPTION**

Not applicable to this action.

**FISCAL INFORMATION**

Not applicable to this action.

**SMALL BUSINESS PARTICIPATION**

Not applicable to this action.

**EQUAL EMPLOYMENT WORKFORCE PROFILE**

Not applicable to this action.

**BACKGROUND**

In February 2005, the Board approved a \$500 million bond sale to finance the regional transit system plan. The bond contract required Sound Transit to deposit cash in a debt service reserve fund to pay interest to bond holders. In March 2007, Sound Transit and Lehman Brothers Special Financing, Inc. entered into a Subordinate Reserve Fund Agreement in which Lehman Brothers Special Financing, Inc. agreed both to provide a 5.184% fixed interest rate on the funds deposited in the reserve fund and to deliver government securities to Sound Transit in exchange for Sound Transit's cash deposits.

Lehman Brothers Special Financing, Inc's contractual obligation to pay Sound Transit interest on the reserve fund is guaranteed by Lehman Brothers Holdings, Inc. In September 2008, Lehman Brothers Holding, Inc. filed for Chapter 11 bankruptcy. After the bankruptcy filing, Sound Transit exercised its contractual right to terminate its agreement with Lehman Brothers Special Financing, Inc. Lehman Brothers Special Financing,

Inc. owes Sound Transit \$6,255,592.98 as a liquidated termination payment. Sound Transit has filed a claim with the bankruptcy court seeking payment of the liquidated termination amount.

In the bankruptcy claims market, creditors with claims against bankrupt companies can trade their interests to investors before the bankruptcy case is resolved. Investors are actively trading bankruptcy claims against Lehman Brothers. Some 237 claims with a face value of almost \$3 billion changed hands through May 2010. Investors have purchased these claims at steep discounts as low as 8% of the face value of the claim, however, within the past two months, claims have traded at as high as 43% of their face value.

With recent trades of similar claims ranging from 35% to 43% of the claim value, Sound Transit expects that the sale price of Sound Transit's claim could potentially exceed \$2 million. Rapidly changing and uncertain market conditions make it infeasible to obtain prior Board approval of sale of the bankruptcy claim to a specific party at a specific price and under specific terms.

This motion requires that Sound Transit publicize and solicit offers for the claim from financial institutions and investors active in the trade of bankruptcy claims before the sale in order to ensure that Sound Transit receives fair market value for the claim. Sound Transit will publicize the sale by placing an announcement on its website and by sending a letter soliciting offers for the claim to investors and institutions active in the bankruptcy claim trading market.

This motion authorizes the chief executive officer to sell the claim to the purchaser whose offer provides the best value and terms for Sound Transit. The claim will only be sold if the purchase price and terms are determined to be more favorable than remaining a creditor in the bankruptcy proceeding or than settling the claim directly with the bankruptcy estate. The final sale action would be recommended by the chief financial officer and approved by the chief executive officer with the assistance of Sound Transit's bankruptcy lawyer and financial consultant. The claim will not be sold unless all offering terms are acceptable to Sound Transit, and the price is above the average trading price of similar claims within 60 days prior to the sale.

If this motion is adopted, the Board will be informed of any action taken in response to this Motion. If Sound Transit cannot sell the claim at a satisfactory price and/or terms, Sound Transit will remain a creditor in the bankruptcy proceeding or work towards settling the claim directly with the bankruptcy estate.

## **ENVIRONMENTAL COMPLIANCE**

JI 7/12/2010

## **PRIOR BOARD/COMMITTEE ACTIONS**

Resolution No. R2005-02 – Authorizing the issuance of sales tax bonds of the authority in the principal amount of not to exceed \$500,000,000 to finance a portion of the authority's regional transit system plan; fixing certain provision and covenants of the bonds, including provisions safeguarding the payment of the principal thereof and interest thereof; and authorizing and directing the sale of such bonds.

Resolution No. R2005-07 – Providing for the sale and issuance of the Central Puget Sound Regional Transit Authority sales tax bonds, series 2005A; specifying the amount, maturities, interest rates and other terms of the 2005A bonds; providing for bond insurance; and ratifying, confirming and approving the purchase contract for the 2005A bonds and actions of the chief financial officer relating to the sale of the 2005A bonds.

## **TIME CONSTRAINTS**

Ongoing developments in the bankruptcy proceedings and investor speculation have created uncertain market conditions for the trade of bankruptcy claims. It is important to be advantageous and to be in position to sell and settle the claim as soon as possible.

## **PUBLIC INVOLVEMENT**

Not applicable to this action.

**LEGAL REVIEW**

DLB 6/28/2010

**MOTION NO. M2010-66**

A motion of the Board of the Central Puget Sound Regional Transit Authority authorizing the chief executive officer to sell Sound Transit's bankruptcy claim against Lehman Brothers Special Financing, Inc. if selling the claim is determined the best option for claim recovery.

**BACKGROUND:**

In February 2005, the Board approved a \$500 million bond sale to finance the regional transit system plan. The bond contract required Sound Transit to deposit cash in a debt service reserve fund to pay interest to bond holders. In March 2007, Sound Transit and Lehman Brothers Special Financing, Inc. entered into a Subordinate Reserve Fund Agreement in which Lehman Brothers Special Financing, Inc. agreed both to provide a 5.184% fixed interest rate on the funds deposited in the reserve fund and to deliver government securities to Sound Transit in exchange for Sound Transit's cash deposits.

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In the bankruptcy claims market, creditors with claims against bankrupt companies can trade their interests to investors before the bankruptcy case is resolved. Investors are actively trading bankruptcy claims against Lehman Brothers. Some 237 claims with a face value of almost \$3 billion changed hands through May 2010. Investors have purchased these claims at steep discounts as low as 8% of the face value of the claim, however, within the past two months, claims have traded at as high as 43% of their face value.

With recent trades of similar claims ranging from 35% to 43% of the claim value, Sound Transit expects that the sale price of Sound Transit's claim could potentially exceed \$2 million. Rapidly changing and uncertain market conditions make it infeasible to obtain prior Board approval of sale of the bankruptcy claim to a specific party at a specific price and under specific terms.

This motion requires that Sound Transit publicize and solicit offers for the claim from financial institutions and investors active in the trade of bankruptcy claims before the sale in order to ensure that Sound Transit receives fair market value for the claim. Sound Transit will publicize the sale by placing an announcement on its website and by sending a letter soliciting offers for the claim to investors and institutions active in the bankruptcy claim trading market.

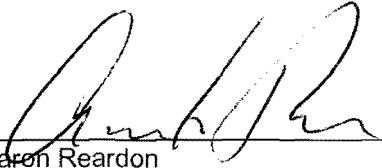
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If this motion is adopted, the Board will be informed of any action taken in response to this Motion. If Sound Transit cannot sell the claim at a satisfactory price and/or terms, Sound Transit will remain a creditor in the bankruptcy proceeding or work towards settling the claim directly with the bankruptcy estate.

**MOTION:**

It is hereby moved by the Board of the Central Puget Sound Regional Transit Authority that the chief executive officer is authorized to sell Sound Transit's bankruptcy claim against Lehman Brothers Special Financing, Inc. if selling the claim is determined the best option for claim recovery.

APPROVED by the Board of the Central Puget Sound Regional Transit Authority at a regular meeting thereof held on July 22, 2010.

  
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Aaron Reardon  
Board Chair

ATTEST:

  
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Marcia Walker  
Board Administrator