

## **Interest Rate Exchange Agreement Policy**

This policy governs the use by Fuller Road Management Corporation (“FRMC”) of Interest Rate Exchange Agreements. “Interest Rate Exchange Agreement” (“IREA”), “swap” or “derivative” shall mean a written contract between FRMC and a counterparty, entered into in connection with the issuance of FRMC debt or in connection with FRMC debt already outstanding, to provide for an exchange of payments based upon fixed and/or variable interest rates. The failure by FRMC to comply with any provision of this policy will not invalidate or impair any Interest Rate Exchange Agreement.

This policy shall be administered, monitored and reviewed as necessary by the Board of FRMC. Additionally, any proposed Interest Rate Exchange Agreements shall be subject to approval by the Board.

### **Conditions Under Which FRMC May Enter into Interest Rate Exchange Agreements**

#### *Purposes*

Interest Rate Exchange Agreements may be used for the following purposes only:

1. To achieve significant savings as compared to a product available in the bond market. Significant savings shall be calculated after adjusting for (a) applicable fees, including takedown, remarketing fees and credit enhancement fees and (b) call options that may be available on the bonds. Examples may include synthetic fixed rate debt and synthetic variable rate debt.
2. To prudently hedge risk in the context of a particular financing (including cases where a hedge is required as part of the financing) or the overall asset/liability management of FRMC. Examples may include entering into fixed payer swaps (spot or forward-starting; with or without a call option) and buying interest rate caps.
3. To incur variable rate exposure within prudent guidelines, such as selling interest rate caps or entering into a swap in which FRMC’s net payment obligation is floating rate.
4. To achieve more flexibility and diversification in meeting overall financial objectives than available in conventional markets. An example may include a swaption with an upfront payment.
5. To protect FRMC from counterparty credit risk. Examples may include offsetting swaps or assignments.

#### *No Speculation*

Interest Rate Exchange Agreements shall not be used for purposes outside of those enumerated above and shall only entail risks that are appropriate for FRMC to take.

## **Methods by Which Such Contracts Shall be Solicited and Procured**

FRMC may procure Interest Rate Exchange Agreements either through a competitive bidding process or through negotiation with one or more potential counterparties, taking into consideration market conditions, transaction specifics, and other business considerations. FRMC recognizes that Interest Rate Exchange Agreements may be required as part of loan financings, which would limit the selection of counterparties to the lending group and therefore necessitate the use of a negotiated process.

## **Use and Selection of Swap Advisor**

FRMC may use a swap advisor (“Swap Advisor”) to assist with the evaluation and execution of FRMC swap transactions. The Swap Advisor must meet all the necessary registration, qualification and other requirements as set by the appropriate rules and regulations of the swap markets and swap market participants. In addition, the Swap Advisor must be consistent with all necessary FRMC representations related to the Swap Advisor under the International Swaps and Derivatives Association, Inc. documentation for a particular FRMC swap transaction.

### *Swap Advisor Regulatory Related Requirements*

#### 1. Minimum Qualifications:

- a) The principals and/or senior staff of the Swap Advisor providing services to FRMC must have a demonstrated specialized derivatives expertise allowing them to evaluate derivative transactions and related risks.
  - i. Ideally, principals and/or senior staff will have at least 10 years of prior derivatives experience
- b) The Swap Advisor must have all required industry and regulatory registrations/licenses and will not be subject to any statutory disqualification related to such registrations.
  - i. No Securities Exchange Commission (“SEC”) Wells notices, Department of Justice target letters, or any regulatory issues

#### 2. Role and Responsibilities/Duties:

- a) The Swap Advisor must have models and access to historic and live market data necessary to price derivative transactions in real-time, perform historic and prospective risk analyses, and provide portfolio reporting and monitoring, independently of dealers and counterparties.
- b) The Swap Advisor must be independent of any swap dealer or a major swap participant that may be acting as a derivatives counterparty in a transaction with FRMC. As such:
  - i. The Swap Advisor’s employee(s) representing FRMC must not be, and will not have been within one year of representing FRMC, associated with

- the swap dealer or major swap participant in a capacity that involved solicitation or acceptance of IREAs or supervision of person(s) involved in such activities.
- ii. There must be no principal relationship between the Swap Advisor and the swap dealer or a major swap participant.
  - iii. The Swap Advisor must disclose, in a timely manner, any conflicts of interest that could reasonably affect its judgment or decision making with respect to its obligations to FRMC. The Swap Advisor must have policies and procedures designed to manage and mitigate any conflict of interests.
  - iv. The Swap Advisor must not be affiliated with, not directly or indirectly be controlled by, in control of, or under common control with the swap dealer or major swap participant.
  - v. The Swap Advisor must not be referred, recommended, or introduced to FRMC by the swap dealer or major swap participant within one year of the Swap Advisor's representation of FRMC in connection with a swap.
- c) The Swap Advisor must agree to undertake a duty of care to FRMC.
  - d) For each transaction, the Swap Advisor must provide to FRMC management a detailed memo analyzing and outlining the benefits and risks of the transaction and evaluating appropriateness and fair pricing of the transaction in accordance with guidelines provided by FRMC. The memo from the Swap Advisor for each swap transaction shall be forwarded to the FRMC Board of Directors in advance of each swap transaction for review by the FRMC Board of Directors in connection with any FRMC Board of Director action necessary for the swap transaction.
  - e) The Swap Advisor must be subject to restrictions on certain political contributions imposed by the Commodity Futures Trading Commission ("CFTC"), the SEC, and any self-regulatory organization subject to the jurisdiction of the CFTC.
  - f) The Swap Advisor must meet all Qualified Independent Representative ("QIR") requirements as set forth in the CFTC's Business Conduct Rules and the applicable representations in 17 C.F.R. § 23.450(d)(ii), including that it has policies and procedures reasonably designed to ensure it meets the applicable requirements for a QIR, meets the independence test, and is legally obligated to comply with the applicable requirements for a QIR.

#### *Periodic Evaluation of Swap Advisor and Policy*

FRMC will periodically evaluate the performance and services of its Swap Advisor and will periodically update this Policy to reflect any changes and additions to such rules and regulations affecting the requirements related to swap advisors.

#### **Form and Content of Interest Rate Exchange Agreements**

To the extent possible, the over-the-counter Interest Rate Exchange Agreements entered into by FRMC shall contain the terms and conditions set forth in the International Swap and Derivatives Association, Inc. ("ISDA") Master Agreement, including any

Schedules, Credit Support Annexes and Confirmations as deemed appropriate. The documentation should be modified to reflect specific legal requirements and business terms desired by FRMC or specific considerations in connection with a particular financing.

FRMC shall consider including provisions that permit it to assign its rights and obligations under the Interest Rate Exchange Agreement and to optionally terminate the agreement at its market value at any time. In general, whenever possible, the counterparty's right to assign or optionally terminate an agreement shall be limited.

FRMC will monitor market conditions and regulatory developments to ensure that new or modified IREA documents reflect then-current requirements and best practices, as appropriate.

### **Aspects of Risk Exposure Associated with IREA Contracts**

Before entering into an Interest Rate Exchange Agreement, FRMC shall evaluate, with the assistance of its Swap Advisor, all the risks inherent in the transaction. These risks to be evaluated will include (but are not limited to) counterparty risk, termination risk, rollover risk, basis risk, mismatched amortization risk, and tax event risk.

FRMC shall consider its exposure to counterparties. To that end, before entering into a transaction, it should consider its exposure to the relevant counterparty or counterparties and determine how the proposed transaction would affect the exposure. The exposure should not be measured solely in terms of notional amount, but rather how changes in interest rates would affect FRMC's exposure through the use of sensitivity analyses showing reasonable worst case scenarios. The analyses should be based on all outstanding IREA transactions of FRMC. FRMC may also take in to account investment, credit, liquidity and other exposures to potential counterparties in evaluating risks. FRMC recognizes that in certain cases, for IREAs that may be required in connection with a particular financing, selection of counterparties may be limited.

### **Standards and Procedures of Counterparty Selection**

For discretionary Interest Rate Exchange Agreements, FRMC shall use its best efforts to enter into Interest Rate Exchange Agreements with counterparties having a credit rating from at least one nationally recognized statistical rating agency that is within the three highest investment grade categories. FRMC will also take into account the particular circumstances surrounding a potential IREA counterparty; for instance, its role as a lender to FRMC, in which case a counterparty may not be rated.

To the extent possible, FRMC will use its best efforts to incorporate provisions that will protect against the significant deterioration of a counterparty's credit rating. Such provisions may include the right to terminate an Interest Rate Exchange Agreement upon a downgrade of a counterparty below certain specified rating levels, or the requirement for a counterparty to post collateral over certain specified thresholds. The

inclusion of such provisions will be determined by FRMC in connection with its Swap Advisor and based on the circumstances surrounding a particular transaction or financing.

### **Long-Term Implications**

In evaluating a particular transaction involving the use of Interest Rate Exchange Agreements, FRMC shall review the long-term implications associated with entering into Interest Rate Exchange Agreements, including costs of borrowing, historical interest rate trends, variable rate capacity, credit enhancement capacity, opportunities to refund related debt obligations, the relationship between swap and bond amortizations and other similar considerations.

### **Methods to be Used to Reflect Such Contracts in the FRMC's Financial Statements**

FRMC shall reflect the use of Interest Rate Exchange Agreements on its financial statements in accordance with Generally Accepted Accounting Principles.

### **Monitoring and Reporting**

FRMC shall periodically report on its portfolio of Interest Rate Exchange Agreements including, but not be limited to, the following information for each such Agreement, to the extent applicable:

- (a) a description of the contract, including a summary of its terms and conditions, the notional amount, rates, maturity, counterparty and counterparty ratings;
- (b) mark-to-markets, sensitivities to swap rates, index ratios (such as SIFMA/LIBOR) and volatility (per transaction and per counterparty);
- (c) cash flow exposures such as basis risk, contingent floating rate and yield curve;
- (d) monitoring of underlying debt rollover risk and exposure; and
- (e) any credit terms included within the IREA documentation, such as ratings-based triggers for termination events and collateral posting terms and requirements.