

REGIONAL TRANSIT ISSUE PAPER

Agenda Item No.	Board Meeting Date	Open/Closed Session	Information/Action Item	Issue Date
6	08/12/13	Open	Action	07/26/13

Subject: Rescinding Resolution No. 12-04-0044 and Authorizing the General Manager/CEO to Enter Into Nondisclosure Agreements Related to Confidential Information and Authorizing the General Manager/CEO to Enter Into Nondisclosure Agreements Related to the Smart Card Project

ISSUE

Whether or not to rescind Resolution No. 12-04-004 and authorizing the General Manager/CEO to execute Nondisclosure Agreements related to confidential information and authorizing the General Manager/CEO to enter into Nondisclosure Agreements related to the Smart Card Project in order to share data with vendors and other agencies that are part of the Smart Card Project.

RECOMMENDED ACTION

Adopt Resolution No. 13-08-____, Rescinding Resolution No. 12-04-0044 and Authorizing the General Manager/CEO to Enter into Nondisclosure Agreements Related to Confidential Information.

Adopt Resolution No. 13-08-____, Approving a Nondisclosure Agreement With INIT Innovations In Transportation, Inc., and Delegating Authority to the General Manager/CEO to Enter Into Nondisclosure Agreements With Third Parties Related to the Smart Card Program.

FISCAL IMPACT

This action does not involve the expenditure of funds.

DISCUSSION

On April 9, 2012, the Board granted the General Manager/CEO authority to enter into Nondisclosure Agreements related to the transfer of confidential information from vendors, contractors or other third parties, to RT. Resolution No. 12-04-0044 only authorizes the General Manager/CEO to enter into Nondisclosure Agreements in those instances where RT is *receiving* confidential data. The authority granted to the General Manager/CEO in Resolution No. 12-04-0044, does not extend to those instances where RT is transferring confidential data to a third party. Recently, RT staff negotiated a Nondisclosure Agreement with INIT Innovations In Transportation Inc., (“INIT”) a vendor that will be providing RT with a data system that will process passenger credit card information. As part of the scope of work for the project, RT must provide INIT with confidential data, which RT expects INIT to protect from disclosure. The Nondisclosure Agreement that RT and INIT negotiated requires INIT to protect the confidential data it will receive from RT and indemnify RT if the data is compromised while it is in INIT’s possession and control. After finalizing the terms of the Nondisclosure Agreement, RT staff determined that the authority granted to the General Manager/CEO in Resolution No. 12-04-0044 did not provide the General Manager/CEO the authority he needs to execute the INIT Nondisclosure Agreement. Additionally,

Approved:

Presented:

General Manager/CEO

Chief of Facilities and Business Support Services

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RT will be managing and operating the Smart Card System on behalf of the 7 other transit operators in the region who are part of the Smart Card consortium. As a consequence, RT and INIT will be granted access to customer and employee data for 7 transit operators. After the system is fully operational, RT staff will assume the responsibility for managing the servers and system data managed by INIT and containing the confidential data. As RT assumes responsibility to manage other transit operator's confidential data, there will be a need to execute Nondisclosure Agreements with the other transit operators, similar to the one RT staff and INIT negotiated. To ensure that the data is timely transferred and fully protected, staff recommends that the Board approve the Nondisclosure Agreement between RT and INIT and that the Board delegate authority to the General Manager/CEO to execute Nondisclosure Agreements with third parties related to the disclosure of data or information related to the Smart Card Program, subject to prior review and approval by the Chief Counsel.

In addition, because Resolution No. 12-04-0044 limits the General Manager/CEO's authority to enter into Nondisclosure Agreements to only that instance when RT is receiving confidential data, RT staff recommends that the Board rescind said resolution. However, because request for Nondisclosure Agreements arise periodically, staff believes that the authority granted in Resolution No. 12-04-0044 is still necessary, but that it needs to be expanded. Therefore, staff recommends that the Board delegate authority to the General Manager/CEO to enter into and execute Nondisclosure Agreements, subject to prior review and approval by the Chief Counsel, related to the transfer of confidential data either to RT or from RT with bidders, contractors and third parties with which RT has an on-going contractual relationship. Conditioning the General Manager/CEO's authority, on receiving the approval of the Chief Counsel provides the opportunity to draft any such agreements as narrowly as possible and ensure such agreements are consistent with federal and state law, including the California Public Records Act.

RESOLUTION NO. 13-08-_____

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

August 12, 2013

**RESCINDING RESOLUTION NO. 12-04-0044 AND AUTHORIZING THE GENERAL
MANAGER TO ENTER INTO NONDISCLOSURE AGREEMENTS RELATED TO
CONFIDENTIAL INFORMATION**

WHEREAS, the Sacramento Regional Transit District periodically has the need to enter into nondisclosure agreements related to information submitted to RT in the course of business, including such agreements with bidders, contractors, and third-parties with which RT has an on-going agreement; and

WHEREAS, on April 9, 2012, the Board adopted Resolution No. 12-04-0044, granting the General Manager/CEO the authority to enter into nondisclosure agreements in those instances in which RT is to receive confidential information from a bidder, contractor or other third-party with which it has an on-going contractual relationship; and

WHEREAS, the authority granted in Resolution No. 12-04-0044 does not extend the General Manager/CEO's authority to enter into nondisclosure agreements in those instances in which RT is providing confidential information to a third party with which it has an on-going contractual relationship.

BE IT HEREBY RESOLVED BY THE BOARD OF DIRECTORS OF THE SACRAMENTO REGIONAL TRANSIT DISTRICT AS FOLLOWS:

THAT, the Board hereby delegates authority to the General Manager/CEO to enter into Nondisclosure Agreements with parties contracting with RT if RT is providing data or information that RT has identified as confidential to a bidder, contractor or other third-party with which RT has an on-going contractual relationship; or if written or electronic material is identified by the party as confidential and where such party contends disclosure would violate a trade secret, disclose proprietary information, or violate state or federal law; and

THAT, prior to execution, such Nondisclosure Agreement must be reviewed and approved by the Chief Counsel to ensure consistency with state law, including the California Public Records Act.

PATRICK HUME, Chair

A T T E S T:

MICHAEL R. WILEY, Secretary

By: _____
Cindy Brooks, Assistant Secretary

RESOLUTION NO. 13-08-_____

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

August 12, 2013

APPROVING A NONDISCLOSURE AGREEMENT WITH INIT INNOVATIONS IN TRANSPORTATION INC., AND DELEGATING AUTHORITY TO THE GENERAL MANAGER/CEO TO ENTER INTO NONDISCLOSURE AGREEMENTS WITH THIRD PARTIES RELATED TO THE SMART CARD PROGRAM

BE IT HEREBY RESOLVED BY THE BOARD OF DIRECTORS OF THE SACRAMENTO REGIONAL TRANSIT DISTRICT AS FOLLOWS:

THAT, the Nondisclosure Agreement between Sacramento Regional Transit District, therein referred to as "RT" and INIT Innovations in Transportation, Inc., therein referred to as "INIT" wherein RT agrees to transfer confidential employee and customer data to INIT and INIT agrees to protect the data from disclosure and agrees to indemnify RT, is hereby approved; and

THAT, the Board hereby authorizes the General Manager/CEO to execute such Nondisclosure Agreement; and

THAT, the Board hereby delegates authority to the General Manager/CEO to enter into Nondisclosure Agreements with any other transit operator, public agency or third party contractor related to the disclosure of confidential data or information related to the Smart Card Program; and

THAT, prior to execution, such Nondisclosure Agreement must be reviewed and approved by the Chief Counsel to ensure consistency with state law, including the California Public Records Act.

PATRICK HUME, Chair

A T T E S T:

MICHAEL R. WILEY, Secretary

By: _____
Cindy Brooks, Assistant Secretary