

REGIONAL TRANSIT ISSUE PAPER

Agenda Item No.	Board Meeting Date	Open/Closed Session	Information/Action Item	Issue Date
9	06/24/13	Open	Action	06/13/13

Subject: Approving Third Amendment to Possession and Use Agreement for Northeast Corridor Project

ISSUE

Whether or not to Approve the Third Amendment to Possession and Use Agreement with Welch & Ryce for Northeast Corridor Project.

RECOMMENDED ACTION

Adopt Resolution No. 13-06_____, Approving the Third Amendment to Possession and Use Agreement with Welch & Ryce for Northeast Corridor Project

FISCAL IMPACT

Budgeted:	Yes	This FY:	\$	400
Budget Source:	Capital	Next FY:	\$	0
Funding Source:	Measure A	Annualized:	\$	N/A
Cost Cntr/GL Acct(s) or	230.05.06.04	Total Amount:	\$	400
Capital Project #:				
Total Budget:	\$ 400			

DISCUSSION

A study was completed to evaluate improvements needed to reduce travel times and increase passenger capacity along the Northeast Corridor (extending from downtown Sacramento to the terminus at Watt/I-80) and improve connections between bus and light rail service. The RT Board adopted a project scope that included Roseville Road to Watt/I-80 double tracking; double tracking and straightening of the Lumberjack curve; expansion of shop space for light rail vehicles, and expansion of Swanston Station for enhanced bus/light rail connections.

On May 12, 2008, the Board authorized the solicitation of bids for the Northeast Corridor Project: Lumberjack Realignment (Project). The Invitation to Bid was issued on May 19, 2008. On September 8, 2008, the Board awarded the contract to Granite Construction and the work was substantially complete in February 2010.

Right of way acquisitions from three property owners are necessary for the Project. Although only three property owners are involved in the acquisitions for the Project, the completion of the transactions is complicated by RT's desire to reduce the "out of pocket" costs for the project by exchanging property rights between the three owners and RT. Typically, right of way transactions are completed prior to the issuance of construction documents for bid. However, in this case, work proceeded with the consent of affected property owners given through possession and use

Approved:

Presented:

Final 06/19/13
General Manager/CEO

Director, Project Management

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agreements.

On January 24, 2011, the Board approved the exchange contract between the State of California and RT. The terms of the contract cannot be fully satisfied until RT completes the transactions with the other two property owners, Welch and Ryce, and RJB Company, respectively. The RJB Company exchange required Federal Transit Administration (FTA) concurrence, as it involves the exchange of right of way originally purchased for the Starter Line system that was funded, in part, by federal funds. FTA approval was received on April 22, 2013.

RT completed negotiations with RJB Company in July 2011. Staff concluded negotiations with Welch & Ryce and, at the request of counsel for Welch & Ryce, the property exchange will be completed through an amendment to the existing Possession and Use Agreement, rather than through a standalone Exchange Agreement. The Board authorized the First Amendment to the Possession and Use Agreement with Welch & Ryce for Northeast Corridor Project on February 27, 2012, set the deadline to close escrow on the exchange transaction as June 30, 2012. The Board authorized the Second Amendment to the Agreement on August 13, 2012, which extended the date to close escrow through December 31, 2012. However, because RT did not receive FTA approval to dispose of one of the exchange properties until April 2013, none of the exchange transactions were completed by the deadline.

On March 25, 2013, the Board approved a “tolling agreement” with Welch & Ryce, under which the parties mutually agreed to extend the statute of limitations for a claim to March 2014. The tolling agreement was initiated to address concerns by Welch & Ryce that the 5-year statute of limitations to file an inverse condemnation claim was set to expire in May 2013 and they did not want to forfeit the right to sue if that deadline passed before the parties completed the exchange transaction.

Now that RT has received FTA approval to dispose of one of the exchange properties, escrow accounts have been established and the exchange transactions are nearing completion. On May 8, 2013, staff received a request from the counsel for Welch & Ryce that RT pay the costs associated with procuring an owner’s title insurance policy. The cost is expected to be \$400. Section 8D of the First Amendment states that the party acquiring title to a parcel will bear the cost for title insurance. However, given that this property exchange has taken several years to execute and the fact that Welch & Ryce has incurred costs related to this exchange, staff believes that paying title insurance costs for Welch & Ryce is in the best interest of RT to complete this property exchange.

Staff recommends the Board approve the Third Amendment to the Possession and Use Agreement with Welch & Ryce for the Northeast Corridor Project to allow for RT to pay for title insurance for Welch & Ryce.

RESOLUTION NO. 13-06-_____

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

June 24, 2013

**APPROVING THE THIRD AMENDMENT TO THE POSSESSION AND USE
AGREEMENT WITH WELCH & RYCE FOR NORTHEAST CORRIDOR PROJECT**

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

THAT, the Third Amendment to the Possession and Use Agreement for the
Northeast Corridor Project between Sacramento Regional Transit District, therein referred
to as "RT," and Welch and Ryce, therein referred to as "Owner," whereby the parties agree
that RT will pay the cost for Owner's title insurance, is hereby approved.

THAT, the Chair and General Manager/CEO are hereby authorized and directed to
execute said Third Amendment.

PATRICK HUME, Chair

A T T E S T:

MICHAEL R. WILEY, Secretary

By: _____
Cindy Brooks, Assistant Secretary