

# REGIONAL TRANSIT ISSUE PAPER

Agenda Item No.	Board Meeting Date	Open/Closed Session	Information/Action Item	Issue Date
8	05/23/16	Open	Action	05/17/16

Subject: Approving the Third Amendment for Legal Services with Thompson Coburn, LLP

## ISSUE

Whether to approve the Third Amendment to the Contract with Thompson Coburn, LLP (Thompson) for Legal Services.

## RECOMMENDED ACTION

Adopt Resolution No. 16-05-\_\_\_\_, Approve the Third Amendment to the Contract with Thompson Coburn, LLP for Legal Services.

## FISCAL IMPACT

Budgeted:	Yes	This FY:	\$	15,000
Budget Source:	Operating	Next FY:	\$	
Funding Source:		Annualized:	\$	
Cost Cntr/GL Acct(s) or Capital Project #:	61/63009	Total Amount:	\$	240,000
Total Budget:	\$ 240,000			

## DISCUSSION

On September 24, 2013, RT entered into a Contract with Thompson Coburn, LLP (Thompson) to provide legal services including preparation of pleadings and taking all necessary actions in connection with the Federal court litigation regarding Section 13(c)/PEPRA issues arising from the Department of Labor's denial of certification of certain transit grants in Federal court.

The lawsuit is ongoing and the total consideration allowable under the Principal Agreement will be exceeded because of the complexity of the case. Consequently, RT staff is requesting that the total contract consideration be increased by \$15,000, taking the total contract consideration to \$240,000.

As permitted under Section 1.405.B.3. of RT's Procurement Ordinance, RT's Chief Counsel selected Thompson Coburn to assist with this matter after performing an informal solicitation and seeking out bids from three different law firms specializing in Labor litigation. Thompson Coburn's proposal was deemed by the Chief Counsel to be the most advantageous and responsive to RT's needs. RT's Board of Directors awarded a contract to Thompson Coburn for an amount not to exceed \$150,000. The cost of the litigation is being shared by RT and the State of California.

Approved:

Presented:

Final 05/18/16

General Manager/CEO

Chief Counsel

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Subsequently, the parties entered into a First Amendment to the Contract that increased the total consideration to \$200,000. Due to the statewide significance of the litigation, the California Transit Association (“CTA”) provided RT with \$75,000 that was used to offset litigation costs.

Thereafter, the parties entered into a Second Amendment to the Contract that increased the total consideration to \$225,000. The CTA has continued to provide RT with financial support.

The total consideration will be exceeded and RT has a continuing need for Thompson’s services. Because of the nature of the services being provided, the Board has the authority under RT’s Procurement Ordinance (Section 1.405.B.3 of Title I of RT’s Administrative Code) to approve an amendment to a contract awarded to a law firm pursuant to an informal solicitation without a sole source justification finding. Section 1.405.B.3. permits a sole source solicitation for services related to litigation against or by RT, including but not limited to expert witnesses and outside counsel, when the Chief Counsel or his designee determines that it is in the best interest of RT to solicit only one consultant or to amend an existing service Contract without compliance with the competitive solicitation procedures set forth in Article III.

RT Staff recommends that the Board approve the Third Amendment to the Contract with Thompson Coburn increasing the total consideration by \$15,000 from \$225,000 to \$240,000.

RESOLUTION NO. 16-05-\_\_\_\_\_

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

May 23, 2016

**APPROVE THE THIRD AMENDMENT TO THE CONTRACT WITH THOMPSON  
COBURN, LLP FOR LEGAL SERVICES**

WHEREAS, pursuant to Section 1.405.B.3. of RT's Administrative Code, RT's Chief Counsel has determined that it is in RT's best interest to amend its contract with Thompson Coburn, LLP (Thompson) for legal services without compliance with RT's competitive solicitation procedures set out in Article III of Title I of RT's Administrative Code.

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

THAT, the Third Amendment to the Principal Agreement between RT and Thompson to provide legal services as specified, whereby the total contract consideration is increased by \$15,000 to \$240,000, is hereby approved; and

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

\_\_\_\_\_  
JAY SCHENIRER, Chair

A T T E S T:

MICHAEL R. WILEY, Secretary

By: \_\_\_\_\_  
Cindy Brooks, Assistant Secretary