

RESOLUTION NO. 2010-728

Adopted by the Sacramento City Council

December 14, 2010

FIRST AMENDMENT TO SUPPLEMENTAL AGREEMENT TO THE SACRAMENTO LIGHT RAIL SYSTEM OPERATIONS AGREEMENT (CITY AGREEMENT NO. 1984-0165-1) WITH SACRAMENTO REGIONAL TRANSIT DISTRICT

BACKGROUND

- A. The Richards Boulevard and 12th and 16th Streets Intersection Project (T15998301) constructed a new signalized, at-grade intersection to improve access to the Downtown and Richards Boulevard area. The project included improvements required for light rail system operations. The project was completed in March 2008.
- B. On April 3, 1985, the Sacramento Regional Transit District (RT) and the City entered into the Sacramento Light Rail System Operations Agreement No. 84165 (Operations Agreement). The Agreement provides the terms under which RT operates and maintains a light rail system within the city limits. It includes a provision requiring that whenever the City undertakes new project construction in the vicinity of the light rail system, RT is obligated to pay that portion of the design and construction costs that are directly attributable to the existence of the light rail system.
- C. On August 16, 2005, the City and RT entered into a Supplemental Agreement to the Operations Agreement (City Agreement No. 1984-0165-1) concerning RT's obligation to reimburse the City for certain construction costs incurred for the Richards Boulevard and 12th and 16th Streets Intersection Improvement project (T15998301).
- D. The total remaining amount due by RT in reimbursement for the project is \$1,294,405.
- E. RT proposes to repay the City \$647,203 in FY2011/12 and \$647,202 in FY2012/13, and to pay two percent (2%) interest annually on the unpaid balance in the event that payment is not made.

BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE CITY COUNCIL RESOLVES AS FOLLOWS:

- Section 1. The City Manager is authorized and directed to execute the First Amendment to the Supplemental Agreement to the Sacramento Light Rail System Operations Agreement (City Agreement No. 1984-0165-1).

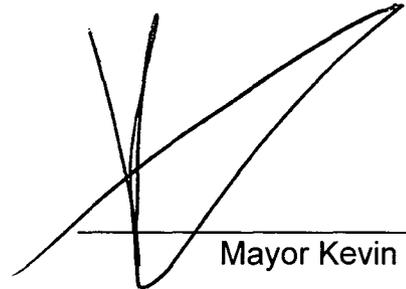
Adopted by the City of Sacramento City Council on December 14, 2010 by the following vote:

Ayes: Councilmembers Ashby, Cohn, D Fong, R Fong, McCarty, Pannell, Schenirer, Sheedy, and Mayor Johnson.

Noes: None.

Abstain: None.

Absent: None.



Mayor Kevin Johnson

Attest:



Shirley Concolino, City Clerk

**FIRST AMENDMENT TO SUPPLEMENTAL AGREEMENT
RICHARDS BOULEVARD AND 12TH AND 16TH STREETS INTERSECTION
PROJECT**

This First Amendment to Supplemental Agreement – Richards Boulevard and 12th and 16th Streets Intersection Project (City Agreement No. 1984-0165-1) is entered into by and between the CITY OF SACRAMENTO, a California charter city and municipal corporation (the “City”), and the SACRAMENTO REGIONAL TRANSIT DISTRICT, a public corporation (“RT”), effective November __, 2010, (“Effective Date”) with respect to the following:

RECITALS

A. On August 16, 2005, the City and RT entered into a supplemental agreement concerning RT’s obligation to reimburse the City for certain construction costs incurred for the Richards Boulevard and 12th and 16th Streets Intersection Project (“the Supplemental Agreement”).

B. On April 6, 2006, RT sent a letter to the City confirming that a balance of \$1,263,790 is owed to the City for reimbursement of costs under the Supplemental Agreement (“the reimbursement costs”), and promised to pay said balance over a period not to exceed five years, commencing with the FY08 capital budget.

C. On March 12, 2007, RT sent a letter to the City confirming that an additional amount of \$30,615 should be included in the reimbursement costs, for a new total balance of \$1,294,405.

D. On July 8, 2009, the City sent an invoice to RT for \$1,294, 405. Under the terms of the Supplemental Agreement, that invoice was due to be paid within 30 days.

E. To date, RT has not made any payment toward the \$1,294,405 owed to City.

F. On September 24, 2010, RT proposed to repay the City \$647,203 in Fiscal Year 2012 and \$647,202 in Fiscal Year 2013.

G. The City is willing to accept RT’s proposal subject to the condition that, in the event RT fails to pay \$647,203 in Fiscal Year 2012 and/or \$647,202 in Fiscal Year 2013, interest on the unpaid balance shall immediately accrue at a rate of two percent (2%) per year on the unpaid balance, commencing as of July 8, 2009 and continuing until paid in full.

NOW THEREFORE, the City and RT, in consideration of the mutual promises and/or covenants contained herein, do hereby agree as follows:

1. Paragraph 2. C. of the Supplemental Agreement – Richards Boulevard and 12th and 16th Streets Intersection Project, is amended to read as follows:

RT acknowledges that it owes City the amount of One Million Two Hundred Ninety-Four Thousand Four Hundred and Five Dollars (\$1,294,405) and that no portion of this amount has been paid to City. RT shall pay to the City \$647,203 in Fiscal Year 2012 (July 1, 2011 to June 30, 2012) and \$647,202 in Fiscal Year 2013 (July 1, 2012 to June 30, 2013). In the event that the amount due is not paid in full by the close of business on the last day of the fiscal year for the payment then due, interest shall immediately accrue on the unpaid balance at a rate of two percent (2%) per year commencing as of July 9, 2009 and continuing until paid in full.

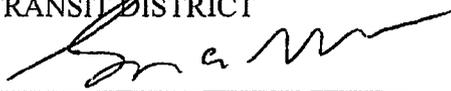
2. Paragraphs 2.D., 2.E. and 20 of the Supplemental Agreement – Richards Boulevard and 12th and 16th Streets Project, are hereby deleted.

3. Except as otherwise amended, all provisions of the Supplemental Agreement – Richards Boulevard and 12th and 16th Streets project remain in full force and effect.

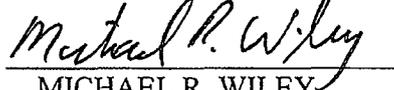
Executed as of the day first above stated.

SACRAMENTO REGIONAL
TRANSIT DISTRICT

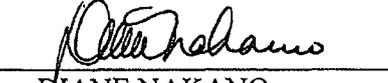
CITY OF SACRAMENTO

By: 
STEVE MILLER, Chair

By: _____
GUS VINA
Interim City Manager

By: 
MICHAEL R. WILEY
General Manager/CEO

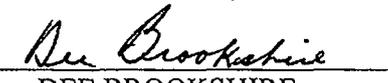
Approved as to Content:

By: 
DIANE NAKANO
AGM of Engineering and
Construction

Attest:

By: _____
City Clerk

Approved as to Funding:

By: 
DEE BROOKSHIRE
Chief Financial Officer

Approved as to Form:

By: 
BRUCE A. BEHRENS
Chief Legal Counsel

Approved as to Form:

By: _____
Deputy City Attorney