



March 12, 2018

Regional Transit Board of Directors  
Henry Li, General Manager/CEO  
1400 29th Street  
Sacramento, CA 95816

**Re: Item 5 - Temporary Employment  
Contract with Robin Haswell**

Dear Board of Directors and Mr. Li:

The Sacramento Transit Riders Union (Sac TRU) is writing to oppose the extension of the ‘Temporary Employment’ contract with Robin Haswell, and to express our concerns about the practice of extending temporary employment contracts over multiple years. We believe riders will be best served by well trained, fairly compensated employees subject to the oversight and protections of an employee.

Temporary employee contracts are supposed to be for those who do short-term work, not 5 years of work overseeing essential programs that include transit system safety, security, and disaster response projects. SacTRU thinks that the economic realities of this work and the relationship transform this role from a contractor to that of an employee, exposing SacRT to liability. The Supreme Court has indicated that there is no single rule or test for determining whether an individual is an employee or independent contractor for purposes of FLSA, but rather the totality of the working relationship is determinative, meaning that all facts relevant to the relationship between the worker and the employer must be considered. Such factors include the permanency of the worker’s relationship with the employer; the extent to which the work performed is an integral part of the employer’s business; and the nature and degree of control by the employer. There are certain factors which are immaterial in determining the existence of an employment relationship. For example, the fact that the worker has signed an agreement stating that he or she is an independent contractor is not controlling because the reality of the working relationship – and not the label given to the relationship in an agreement – is determinative. We think the ongoing length of this contract, the essential nature of the work, the regular annual increases, and the growing relationship between Ms. Haswell and SacRT transform this temporary employment contract into an employee relationship and expose SacRT to certain liabilities.

The Board Item does not contain any details about Ms. Haswell’s qualifications for this role, the consulting company that she works for, how many hours she works on each project, the specific scope of her duties and expectations of work on each project. This amendment would increase this 5 year contract to a total of \$418,000:

- First Amendment: On March 10, 2014, increased by \$70,000, to \$120,000, increased the hourly rate by \$7/hour, from \$28/hour to \$35/hour, and extended the term of the Contract to March 31, 2015.
- Second Amendment: On March 23, 2015, increased by \$70,000, from \$120,000 to \$190,000, and the term of the Contract to March 31, 2016.
- Third Amendment: On March 14, 2016, the increased by \$74,000, from \$190,000 to \$264,000, and the term of the Contract to March 31, 2017.

- Fourth Amendment: On March 13, 2017, increased by \$77,000, to \$264,000, increased the hourly rate by \$1/hour, from \$37/hour to \$38/hour, and extended the term of the Contract to March 31, 2018.
- Fifth Amendment: Staff recommends increasing Ms. Haswell's the total Contract by \$77,000, from \$341,000 to \$418,000, and extends the term of the Contract to March 31, 2019.

SacTRU understands that occasionally SacRT may have a need for technical support and require help to supplement staff resources. However, we believe that it is disingenuous and potentially exposes SacRT to liability to hire contractors as limited term or temporary for multiple years of work while denying them access to benefits available to other employees. Cost savings does not justify denying workers the rights and protections required under the law. Additionally, we believe that investing in limited term employees and contingent employment undermines the value of SacRT's role as a government agency and public service employer. Section 13(c) of the Urban Mass Transportation Act requires state and local governments to make "fair and equitable" arrangements to preserve transit workers exercising collective-bargaining rights as a condition of receiving federal assistance.

We believe that riders will be best served by well-trained employees that receive fair wages and benefits under a reasonably negotiated contract. We find it worrying that this woman is being denied the opportunity for employment, training, and promotion within SacRT by being labeled an independent contractor. Full-time employment opportunities improve the RT's ability to recruit and retain qualified employees. The retention of experienced employees means better service to the public.

**SacTRU opposes creating a workforce of limited term employees at Regional Transit and finds serious problems in extending the temporary employment contract for Ms. Haswell.** Please include this letter in the public record.

Sincerely,  
Sac TRU