



MEMO

To: GRTA Board of Directors

From: Interim Executive Director Gear

Date: September 14, 2022

Subject: **Agenda Item E.1- Delegation of Authority to Execute Permits to Enter**

In its former iteration, the North Coast Railroad Authority, the Board of Directors adopted policies and procedures relating to encroachments upon the right of way, and a method of approval for issuing permissions for same at the staff level, following certain procedural formalities including completion of an application and payment of a fee.

Although the former NCRA's policies are still in place, they do not address issues regarding entry upon the right of way for minor use and access that would not rise to the level of a full encroachment. As an example, local governmental agencies have asked for permission to temporarily place barriers on or near the GRTA line during construction activities on adjacent parcels, neighboring property owners have requested permission to enter upon GRTA property for the purposes of weed abatement, and other similar minor requests have been made that do not impact or restrict any future rail or non-rail use of the GRTA line and cause no expenses to GRTA other than the administrative time of response.

In order to formalize the ability of staff to respond to such requests in situations that do not fit into the category of necessitating a full encroachment permit, staff is recommending the Board of Directors adopt a resolution authorizing the Executive Director to issue rights of entry upon the request of third parties when each of the following conditions are met:

1. The nature of access requested is temporary in nature, defined as not exceeding a period of 30 days;

2. The nature of access requested will cause no permanent alteration to real property or installation or placement of any permanent improvements thereto;
3. The access requested will not impede any authorized existing use or access permission upon the real property; and
4. The access requested will not require the commitment of resources by GRTA in order to effectuate such request, other than such administrative time as may be reasonably necessary to review and approve any related access agreement.

If your board accepts the staff recommendation to adopt the proposed resolution, the Executive Director would be authorized to allow such access to be formalized outside the context of the collection of a permitting fee for encroachment and full review of encroachment application. The terms of the proposed delegation include that such rights of access must include (1) a requirement to furnish either evidence of insurance from parties requesting access and/or agreeing to indemnify GRTA for any harms caused by the entrant pursuant to the grant of access; (2) a clause expressly stating no holdover beyond the stated duration of the agreement shall be permitted; and (3) a clause that grantee shall be required to pay attorney's fees related to any action arising out of their use of the property or failure to vacate. No leases, long-term agreements, construction on GRTA property, or other extended uses upon GRTA property would result from such a delegation. However, GRTA would be better positioned to work with its community and local government neighbors and partners to allow formalized access on terms agreeable to GRTA, preventing ambiguities in responsibility which may arise if other entities access GRTA property for minor reasons without formal written approval.

Staff Recommendation:

Staff recommends the Board of Directors adopt resolution No. 2022-08 authorizing the Executive Director to issue temporary rights of entry upon such terms are as set forth therein.