



## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

Docket No. FRA-2012-0033

### Notice of Intent to Grant a Buy America Waiver to the City of Sacramento, California, Department of Public Works, to Use Marmoleum Flooring

**AGENCY:** Federal Railroad Administration (FRA), United States Department of Transportation (DOT).

**ACTION:** Notice of intent to grant Buy America waiver.

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**SUMMARY:** FRA is issuing this notice to advise the public it intends to grant the City of Sacramento, California, Department of Public Works (Sacramento), a waiver from FRA's Buy America requirement to use Walton Cirrus Original Brown #3665 (Brown Marmoleum), in the Sacramento Valley Station Phase II intermodal project.

**DATES:** Written comments on FRA's determination to grant Sacramento's Buy America waiver request should be provided to the FRA on or before [INSERT DATE 7 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** Please submit your comments by one of the following means, identifying your submissions by docket number FRA-2012-0033. All electronic submissions must be made to the U.S. Government electronic site at <http://www.regulations.gov>.

Commenters should follow the instructions below for mailed and hand-delivered comments:

(1) Web Site: <http://www.regulations.gov>. Follow the instructions for submitting comments on the U.S. Government electronic docket site;

(2) Fax: (202) 493-2251;

(3) Mail: U.S. Department of Transportation, 1200 New Jersey Avenue, SE, Docket Operations, M-30, Room W12-140, Washington, DC, 20590-0001; or

(4) Hand Delivery: Room W12-140 on the first floor of the West Building, 1200 New Jersey Avenue, SE, Washington, DC, 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Instructions: All submissions must reference the “Federal Railroad Administration” and include docket number FRA-2012-0033. Due to security procedures in effect since October 2001, mail received through the U.S. Postal Service may be subject to delays. Parties submitting responses to this notice should consider using an express mail firm to ensure the prompt filing of any submissions not filed electronically or by hand. Note that all submissions received, including any personal information therein, will be posted without change or alteration to <http://www.regulations.gov>. For more information, you may review DOT’s complete Privacy Act Statement in the Federal Register published on April 11, 2000 (65 FR 19477), or visit <http://www.regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:** Mr. John Johnson, Attorney-Advisor, FRA Office of Chief Counsel, 1200 New Jersey Avenue, SE, Mail Stop 10, Washington, DC 20590, (202) 493-0078, [John.Johnson@dot.gov](mailto:John.Johnson@dot.gov).

**SUPPLEMENTARY INFORMATION:**

FRA provides information on its reasons for granting this waiver in a letter to

Sacramento, quoted below:

Mr. Gregory Taylor  
AIA, Supervising Architect / Project Manager  
City of Sacramento, Department of Public Works  
915 I Street  
Room 2000  
Sacramento, CA 95814-2604

Re: Request for Waiver of Buy America Requirement

Dear Mr. Taylor:

As you are aware, on November 24, 2014, the City of Sacramento, California, Department of Public Works (Sacramento) requested a waiver from the Federal Railroad Administration's (FRA) Buy America requirement (49 U.S.C. § 24405(a)) to purchase "Marmoleum," specifically the color Walton Cirrus Original Brown #3665 (Brown Marmoleum), a natural linoleum flooring product made by Forbo Flooring Systems in the Netherlands, for use in the Sacramento Valley Station (SVS) Phase II intermodal project.<sup>1</sup> The Brown Marmoleum will cover 1,480 sq. ft and costs approximately \$4,690.

The SVS Phase II intermodal project is the rehabilitation of the historic 68,000 square foot train station in downtown Sacramento, California. The \$30 million project is partially funded with a \$15 million 2012 Transportation Infrastructure Generating Economic Recovery (TIGER) grant. The U.S. Department of Transportation (DOT) selected each project for 2012 TIGER Grant funding based on whether it would, among other things, promote a more environmentally sustainable transportation system. 77 Fed. Reg. 4863, 4867 (January 31, 2012). After rehabilitation, the SVS will include an Amtrak station, commercial retail and office space.

To support its waiver request, Sacramento contends that Brown Marmoleum natural linoleum is the only flooring that meets the standards in the Secretary of Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, and Reconstructing Historic Buildings. Specifically, Sacramento asserts that Brown Marmoleum is the only flooring product that sufficiently matches the design, color, and texture of the original historic flooring used in SVS. Forbo does not manufacture Brown Marmoleum in the United States. After comparing flooring samples to the original flooring, California's State Historic Preservation Office and FRA determined Brown Marmoleum is the only product best matching the original linoleum's design, color, and texture.

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<sup>1</sup> Sacramento also requested a waiver for Sacramento requested a non-availability Buy America waiver for a variable refrigerant flow (VRF) heating, ventilation, and air conditioning (HVAC) system to be installed into SVS. However, FRA chose to bifurcate the waiver requests since the VRF waiver was more advanced in terms of processing and was pivotal to Sacramento. FRA granted a waiver for the VRF system on June 4, 2015. <https://www.fra.dot.gov/eLib/Details/L16619>.

Therefore, FRA is granting Sacramento's waiver request. FRA concludes a waiver is appropriate under 49 U.S.C. § 24405(a)(2)(B) for Brown Marmoleum because domestically-produced flooring meeting the specific needs of Sacramento for this application (i.e., historic preservation) is not currently "produced in sufficient and reasonably available amount or...[is] not of a satisfactory quality." 49 U.S.C. § 24405(a)(2)(B).

Pursuant to 49 U.S.C. § 24405(a)(4), FRA will publish this letter granting Sacramento's request in the *Federal Register* and provide notice of such finding and an opportunity for public comment after which this waiver will become effective.

Questions about this letter can be directed to, John Johnson, Attorney-Advisor, at John.Johnson@dot.gov or (202) 493-0078.

Sincerely,

Sarah E. Feinberg  
Administrator

Issued in Washington, DC on June 15, 2016.

Amitabha Bose,  
Chief Counsel.

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