

STAFF REPORT

Board Meeting Date: August 6, 2012

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RESOLUTION: Approval of License Agreement with P&SVRR for Excursion Rail Services.

**AGENDA ITEM
NO. 2**

DISCUSSION

At the May 2, 2011 Special JPA Board Meeting, the Board adopted a Resolution directing the CEO to forward the License Agreement for Excursion Rail Services to the City of Folsom and the Counties of Sacramento and El Dorado for approval, and upon receipt of such approval, to execute and deliver the License Agreement, together with any changes requested by the foregoing affected JPA member agencies.

The License Agreement was presented to the affected JPA member agencies as follows:

- Sacramento County Board of Supervisors. On July 26, 2011, the item was on consent and was ratified unanimously.
- City of Folsom Council. On July 26, 2011, the item was on consent and was ratified unanimously.
- El Dorado County (EDC) Board of Supervisors. On January 24, 2012, the Board approved a counter-proposal to the license agreement so that the excursion trains can only operate between Shingle Springs to Missouri Flat Road in El Dorado County.

At the February 13, 2102 Board Meeting, the JPA Board approved submittal of a Compromise Proposal to EDC that would, in addition to the Shingle Springs segment, request approval to include the segment from the Sacramento/El Dorado County line to, but not crossing, Latrobe Road (MP126) on the western end of EDC's corridor. At the May 14, 2012 Board Meeting, the JPA Board ratified the Compromise Proposal prepared by JPA Staff, which significantly enhanced the terms of the License to address to the issues and concerns expressed by El Dorado County officials, trail advocates and residents.

The Compromise Proposal for the License Agreement was presented to the El Dorado County Board of Supervisors by JPA Staff on May 15, 2012. The Compromise Proposal was disapproved by the EDC Board, by a vote of 3 to 2.

In light of the actions taken by the El Dorado County Board, Staff is now recommending approval of the License Agreement as approved by each member agency, which will include the limited access for operations between Shingle Springs to Missouri Flat Road

in El Dorado County. A copy of the revised License Agreement with the proposed red-line changes is included as Attachment 1.

Note that there are several differences from the last draft agreement presented to the JPA Board: First, P&SVRR has requested a reduction in the required insurance amounts due to the more limited and less profitable operating area. The original agreement provided for insurance limits of \$5 million per occurrence and in the aggregate. P&SVRR has requested that this be reduced to \$1 million per occurrence and \$2 million in the aggregate. Since this request substantially reduces the level of liability protection for the JPA and its member agencies, we will seek approval from the legal counsel and risk department of each member agency following the JPA Board's approval of this agreement. It is noted that the Rights of Entry issued to P&SVRR and the FEDS for events and interim excursion rail operations have a \$1,000,000 insurance limit.

Secondly, the enhancements added to the Compromise Proposal for EDC have been removed.

Finally, both the original draft agreement and this agreement contemplated use of the White Rock Road crossing by the P&SVRR, notwithstanding the realignment and other improvement projects intended for that crossing. P&SVRR's operations will, of course, result in some additional expense to the road improvement project in the form of proper signals and gates, or even grade separation. The member agencies deemed this to be a worthwhile expense to accommodate an excursion operation going all the way to Latrobe. However, the operation now is much more modest in its scope. Staff has inserted a provision permitting termination of the agreement if the cost of constructing additional signalization and other necessary crossing improvements proves to be undesirable for a member agency, given the limited scope of the operation.