

**SACRAMENTO-PLACERVILLE TRANSPORTATION CORRIDOR
JOINT POWERS AUTHORITY**

A G E N D A

**BOARD MEETING
9:00 A.M., MONDAY, January 7, 2008
CITY OF FOLSOM, COUNCIL CHAMBERS
50 NATOMA STREET, FOLSOM, CALIFORNIA**

ROLL CALL Chair Jack Sweeney and Directors Don Nottoli, David Sander, Linda Budge, and Kerri Howell

Respective Alternates: Helen Baumann, Roberta Mac Glashan and Don Nottoli

PLEDGE OF ALLEGIANCE

APPROVAL OF MINUTES

1. Motion: Special Board Meeting of December 3, 2007

CONSENT

None

NEW BUSINESS

2. Motion: Authorizing JPA Staff to release Request for Proposals (RFP) for Excursion Rail Services.

CITIZENS ADDRESS BOARD ON MATTERS NOT ON THE AGENDA*

NEXT MEETING

Regular Board Meeting – February 4, 2008

*** NOTE TO CITIZEN PARTICIPANTS**

It is the policy of the Board of Directors of the Sacramento-Placerville Transportation Corridor Joint Power Authority to encourage citizen participation in the meetings of the Board of Directors. At each open meeting members of the public shall be provided with an opportunity to directly address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board of Directors. However, in order that the business scheduled for consideration at such meetings may be disposed of in an orderly matter, citizens wishing to address the Board on matters not on the agenda, whose presentations may be lengthy or in the nature of request for action of some kind on the part of the Board, are requested to first discuss such matters with the Chair or his/her designee. If after such consultation an appearance before the Board is desired, the subject matter may be calendared as an agenda item for a date and time convenient to the parties concerned.

STAFF REPORT

Board Meeting Date: January 7, 2008

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**MOTION: Authorizing JPA Staff to Release
RFP for Excursion Rail Services**

**AGENDA ITEM
NO. 2**

INFORMATION

DISCUSSION:

At the May 14, 2007 JPA Board Meeting, staff was directed to develop a set of parameters to be used in a Request for Proposal (RFP) for Excursion Rail Services (ERS), and for the staff members to seek direction on the parameters from their respective Boards/Council. Such Boards/Council meetings were held as follows:

- July 17, 2007 – El Dorado Board of Supervisors
- October 9, 2007 – Folsom City Council
- November 6, 2007 – Sacramento County Board of Supervisors

Feedback from the above Board and Council meetings was discussed at the November 5th JPA Board Meeting, particularly that received from El Dorado County and the City of Folsom. As some of the input presented at the meeting seemed to conflict with the interests and/or understanding of the Board members attending the meeting, staff was asked to schedule a Special Board Meeting on December 3, 2007.

At the December 3rd Special Board Meeting, all the JPA Board Members had the opportunity to review an updated draft of the parameters and to consider the comments from the other Member Agencies. This input has now been developed into a final set of parameters and a scope of services for the ERS RFP.

It was also noted at the November 5th Meeting that staff would be seeking approval to release the Excursion Rail Services RFP at the February 4, 2008 JPA Regular Board Meeting, pending completion of a Corridor Inventory Report. However, at the December 3rd meeting, the Board expressed interest in advancing the issuance of the ERS RFP, and directed staff to schedule a Special Board Meeting on January 7, 2008 for the purpose of authorizing release of the RFP for ERS. As the Corridor Inventory Report will not be concluded in time to include it with an early release of the RFP, it was determined that it would be added by addendum to the RFP during the solicitation of proposals.

MOTION: Authorizing JPA Staff to Release RFP for Excursion Rail Services

**AGENDA ITEM
NO. 2**

EXCURSION RAIL REQUEST FOR PROPOSALS/COPE OF SERVICES:

Please see Attachment 1 to this Staff Report for the request for proposals/scope of services, including an updated version of the RFP Parameters which incorporates the Boards' comments from the November 5th Regular Board Meeting and the December 3rd Special Board Meeting

To select a well-qualified contractor, staff intends to evaluate the proposals in accordance with the following selection criteria:

- 30% - Work Plan and project understanding
- 40% - Financial Plan
- 30% - Staffing Plan and experience

Staff's timeline for the RFP selection process, is as follows:

- January 2008 – JPA staff to release RFP
- March 2008 – Receive Proposals for ERS
- March & April 2008 – Evaluate proposals, oral interviews, and formulate staff recommendation
- May 12, 2008 – Initial staff recommendation to JPA Board for award of contract for ERS, pending review and action by Member Agencies impacted by the proposed services.

BOARD ACTION:

Staff recommends the Board approve a Motion to authorize JPA Staff to release an RFP for Excursion Rail Services.

Attachment 1 to 1/07/08 Staff report

**SACRAMENTO-PLACERVILLE TRANSPORTATION CORRIDOR
JOINT POWERS AUTHORITY**

**Request for Proposals
Excursion Rail Services**

January [■], 2008

The Sacramento-Placerville Transportation Corridor Joint Powers Authority (**JPA**) hereby issues this Request for Proposal (“**RFP**”) to solicit proposals from firms and individuals with the experience, knowledge, and qualifications necessary to perform the scope of work set forth below. If you are interested in providing these services, a Letter of Response conforming to the criteria within this RFP must be received by the JPA (c/o John Segerdell, PGH Wong Engineering, 1321 Howe Avenue, Suite 110, Sacramento, CA 95825) by **2:00 p.m. on March 14, 2008**.

I. JPA BACKGROUND

1. The Sacramento-Placerville Transportation Corridor Joint Powers Authority (“**JPA**”) is a public entity formed in 1991 for the purpose of purchasing 53 miles of the Placerville Branch railroad right-of-way (the "**Rail Corridor**") from Sacramento to Placerville, California. The JPA has four member agencies: The County of El Dorado, the City of Folsom, the County of Sacramento, and the Sacramento Regional Transit District. The JPA is funded by each member agency contributing equal shares towards an annual Operating Budget approved by the JPA Board. The JPA Board usually meets four times a year and consists of five directors, four of whom are current Board/Council members of the above-mentioned agencies. A fifth director at large is selected by the four regular directors. The current director at large is a councilmember from the City of Rancho Cordova.
2. The JPA purchased the Rail Corridor in 1996 and continues to own it for the purpose of preserving it for transportation uses, and coordinating usage and maintenance by the member agencies. A map depicting the Rail Corridor is attached to this RFP as **Attachment 1**. Upon acquiring the Rail Corridor, the JPA and its member agencies entered into a Reciprocal Use and Funding Agreement (“**RUFA**”) to establish the joint rights and responsibilities for the four member agencies with respect to the

ownership and use of the Rail Corridor. The RUFA allocates segments of the Rail Corridor among the JPA member agencies; each member agency has primary usage rights and maintenance responsibility for its allocated portion of the Rail Corridor.

3. This RFP covers a 26-mile portion of the Rail Corridor situated between the "Folsom Wye" (approximately Milepost 111) and the Shingle Springs station (approximately Milepost 137) (the "**Subject Corridor**"). The JPA has railbanked this portion of the Rail Corridor under the Rails to Trails Act and it remains subject to the jurisdiction of the federal Surface Transportation Board.

II. Project Description

The purpose of this RFP is to solicit proposals from operationally and financially qualified firms which will be evaluated by the JPA to select an operator or operators of excursion rail services on the Subject Corridor or portions thereof. The JPA will provide the right-of-way, trackage, bridges, trestles and culverts in their current condition. The contract between the JPA and the operator will be a lease with terms and conditions to be negotiated.

The operator will be responsible for providing and maintaining the required locomotives and railcars, dispatching and communications, and all other equipment and/or rail improvements necessary to operate the excursion rail service. The operator will be responsible for maintaining and inspecting all trackage, at-grade crossings, automatic crossing warning signals, drainage ditches, channels, bridges, trestles and culverts in accordance with applicable governmental regulations. In addition, the lease will require the operator to (i) comply with JPA regulations with respect to trash, weed abatement, and similar matters, and (ii) use materials that are in good condition and of at least equal quality when performing any repairs or replacements of trackage. Standards for new improvements may be prescribed by the JPA.

The operator will operate its excursion rail service in accordance with all applicable governmental regulations. The operator will furnish qualified employees for train and engine crews, maintenance crews and any other necessary support personnel. The operator will be required to cooperate with other JPA-approved projects on or adjacent to the Rail Corridor, including pedestrian, bicycle and equestrian trails.

Additional information concerning the parameters of the lease is set forth in the document entitled "Excursion Rail Parameters" attached as **Attachment 2**.

III. Pre-Proposal Conference

A Pre-Proposal Conference for prospective proposers will be held at [REDACTED] A.M., on **February 7, 2008**, at [REDACTED], Folsom, California. Please call the JPA's Chief Executive Officer, John Segerdell, (916) 924-8800 by **January 31, 2008**, to indicate your attendance and the number of participants at the Pre-Proposal Conference.

IV. Proposal Requirements

Proposers shall submit the following products for evaluation. Such products shall be consistent with the Project Description and the Excursion Rail Parameters attached as **Attachment 2**.

1. Transmittal Letter

The proposal must include a Transmittal Letter, which provides the following information:

- The name and signature of the person authorized to obligate the company or joint venture. Location of the principal office. If activities are to be shared among companies and offices at different locations, indicate where each office is located and what activities are to be performed in each office.
- A summary description of the work to be performed by each subcontracting company proposed for the project, if any.
- An e-mail address for the company representative to which correspondence can be sent. If e-mail is not available, so indicate in the transmittal letter. Also provide telephone and fax numbers or so indicate if they are not available.

2. Work Plan

The proposal must include a Work Plan that describes the concept of operation, and includes at a minimum, the following information:

- The proposed term of the lease. The JPA anticipates that the initial term of the lease will be at least five (5) years.
- The proposed width of the leased area. The JPA anticipates that the leased area will extend 10 feet on either side of the centerline of the tracks. If the proposer desires a greater width for its operations, the proposal should include a description of how additional uses of the remaining width of the right-of-way may still be accommodated.
- The proposed start and end points of the segment of operation.
- The proposed operating days and hours.
- The number of trains, vehicle(s) per train and type of vehicles and other equipment to be used.
- The number and location of passenger stations.

- The proposer's plans to use the existing track structure, improvements to be made to the track and road crossings, and means to comply with regulatory requirements.
- A maintenance plan to maintain the trackage at not less than FRA Class 1 standards, and to maintain the operator's rolling stock. The maintenance plan should include the location of the operator's maintenance facility, as well as storage facilities for the operator's rolling stock.
- Security and safety measures the proposer will employ in its operations. The proposed safety measures should take into account the possibility of additional adjacent uses of the rail corridor (e.g., hiking/biking trail).
- The proposer's estimate of ridership, estimated fares and fare collection method.
- A mobilization plan and a schedule for the start-up of excursion rail service.

3. Financial Plan

The proposal must include a projected five-year Financial Plan that includes all of the following:

- The proposer's financial statements for the past three years demonstrating the proposer's financial capability and the availability of the financial resources that would be used to provide the services proposed. No financial support will be provided by the JPA or its member agencies.
- Projected capital expenditures, and operating revenues and expenses, including the proposer's insurance plan, with limits of liability, and deductibles consistent with minimum requirements in **Attachment 2**.
- A proposal for lease payments to be paid to the JPA annually, including an estimate of likely lease payments and the proposed method of calculation.

4. Staffing Plan

The proposal must include a Staffing Plan that addresses all of the following:

- Organization chart(s) fully describing how the excursion rail operations will be managed and operated.
- Resumes of key personnel demonstrating the proposer's experience in performing similar services and the ability to perform these services.
- The proposer's demonstrated ability, including its safety compliance record, to comply with the requirements of the CPUC and all other

regulatory agencies that would govern the operator's excursion rail service.

- References for similar rail operations experience should be provided by the proposer. The JPA prefers to receive at least three such references, but proposers submitting fewer than three references will not be disqualified from consideration. Each reference should include the contact's name, title, address and phone numbers, and include an explanation of the services provided, in addition to the years in which they were provided.

5. Alternative Proposals

Proposers may submit proposals that include alternative schedules of rail operations and/or alternative areas of operation. In such case, proposers shall submit the above proposal information reflecting the base condition, and shall separately indicate the alternative days/hours, and/or areas of operation, and the impacts and benefits to the base condition created by the alternative proposal(s).

V. **Selection Criteria and Award of Contract**

Proposals will be evaluated by JPA staff members using the following selection criteria. Proposals will be scored as indicated below.

1. Work Plan. JPA Staff will evaluate the thoroughness of the Work Plan and its demonstration of the proposer's understanding of the purpose of the project and ability to provide excursion rail services most benefiting the JPA's interests. The Work Plan will be given a score up to a maximum of 30 points.
2. Financial Plan. JPA Staff will evaluate the proposer's financial ability to develop the Subject Corridor for excursion rail service, including the funding of all design, construction and oversight of required improvements, and to provide excursion rail service that is financially self-sustaining. The Financial Plan will be given a score up to a maximum of 40 points.
3. Staffing Plan. JPA Staff will evaluate the experience and qualifications of the proposer's key staff members, as well as the proposed level of staffing. Staffing & Experience will be given a score up to a maximum of 30 points.

The JPA may, in its sole discretion, conduct interviews as part of the proposal evaluation process. At the conclusion of the proposal evaluation process, the JPA's Chief Executive Officer may negotiate lease terms with the highest ranked

firm. If agreement cannot be reached with the highest-ranked firm, the JPA's Chief Executive Officer may terminate negotiations with that firm and commence negotiations with the next highest-ranked firm. If necessary, the JPA's Chief Executive Officer may repeat this process until a final lease has been negotiated.

More than one proposal may be selected for lease negotiation if the proposed services are in different segments of the Subject Corridor and the operation of one operator does not conflict with the operation of the other(s).

The JPA reserves the right to reject any or all proposals or to negotiate separately with any proposer in any manner necessary to serve the best interests of the JPA without cost or detriment to the JPA.

Upon negotiating a lease, the JPA's Chief Executive Officer will present his recommendation for award to the JPA Board, the Folsom City Council, and the Boards of Supervisors for both Sacramento and El Dorado County.

VI. RFP Timeline

Proposals shall be prepared, submitted and will be evaluated in accordance with the following schedule (subject to change):

Release RFP – January 22, 2008

Pre-proposal conference/site tour – February 7, 2008

Proposals due – March 14, 2008

Oral interviews (if any) – April, 2008

Staff recommendation of lease award to JPA Board – May 12, 2008

VII. MISCELLANEOUS

- The JPA reserves the right to reject any proposals that do not contain all required elements for the Letter of Response, do not include the required number of copies, do not have correct labeling, are submitted after the deadline, or are submitted to the wrong location. Unauthorized conditions, limitations, or provisions attached to a proposal, may cause its rejection. No oral, telegraphic, telephonic, or facsimile proposals or modifications will be considered.
- Any proposal received prior to the date and time specified above for receipt may be withdrawn or modified by written request of the proposer. To be considered, however, the modified proposal must be received by the time and date specified above.
- Any proposal received within the prescribed deadline becomes the property of the JPA and all rights to the contents thereof become those of the JPA.

- Before award of the contract, all proposals will be designated confidential to the extent permitted by the California Public Records Act. After award of the contract (or if not awarded, after rejection of all proposals), all proposals will be regarded as public records and will be subject to review by the public. Except as expressly provided below, any language purporting to render all or portions of the proposals confidential will be regarded as non-effective and will be disregarded. If any proposal is based on (i) information constituting a trade secret, as that term is defined in Evidence Code section 1060, or (ii) information that is subject to a confidentiality agreement, the proposer may submit such information separately from the proposal, clearly marked as confidential. The proposer shall state in writing whether any such confidential information is a trade secret or is subject to a confidentiality agreement. Such information will be designated confidential to the extent permitted by the California Public Records Act.
- The JPA reserves the right to amend this RFP by written addenda issued before the final proposal submittal dates. No prior, current, or post-award verbal conversations or agreement(s) with any officer, agent, or employee of the JPA shall affect or modify any terms or obligations of this RFP, or any contract resulting from this RFP.
- This Request for Proposals does not commit the JPA to award a lease, to pay any costs incurred in the preparation of a proposal in connection with this RFP, or to procure or contract for any services.
- The JPA will contract with a consultant to perform a general inspection of the subgrade, tracks, ties, crossings and structures along the Subject Corridor and perform an inventory of any rail equipment held by the JPA. The JPA will make the results of that evaluation available to all proposers upon completion. **However, the JPA makes no representations or warranties concerning the completeness or correctness of the evaluation and proposers may not rely on it in preparing their proposals. The JPA strongly encourages all proposers to perform their own due diligence inspections of the Subject Corridor to determine its condition and suitability for excursion rail operations. Proposers must contact the JPA's CEO, John Segerdell, to obtain a right of entry prior to performing any such due diligence inspection.**

VIII. SUBMITTAL DEADLINE

Ten (10) copies of the proposal are due to the JPA (c/o John Segerdell, PGH Wong Engineering, 1321 Howe Avenue, Suite 110, Sacramento, CA 95825) by **2:00 p.m. on March 14, 2008**. The JPA is not responsible for delays due to the

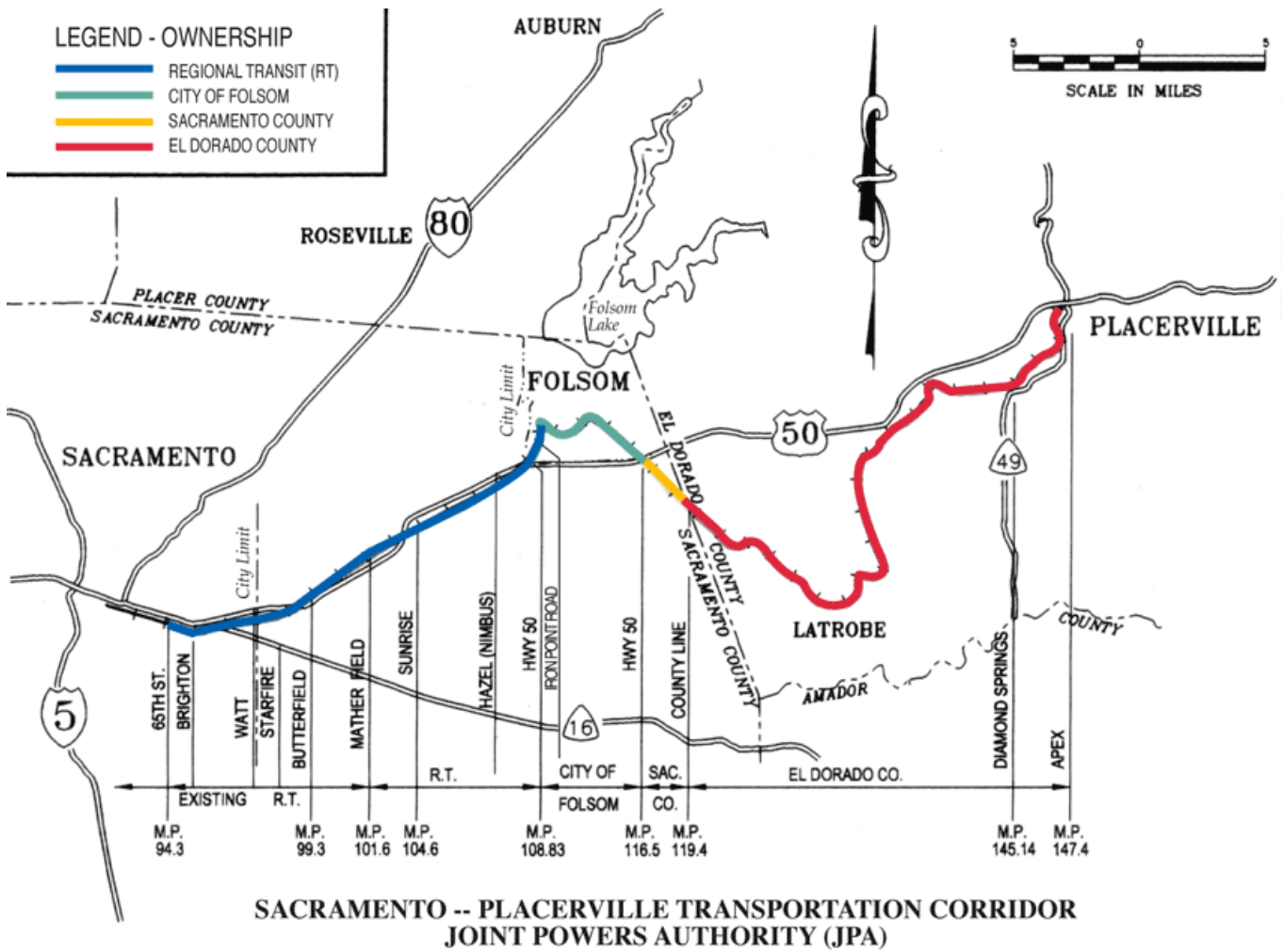
U.S. Postal Service, courier services or any other mail delivery service.
Proposals received after the foregoing deadline will not be considered.

If you have any questions on the requirements of this Request for Proposal, please contact the JPA's CEO, John Segerdell, at (916) 924-8800 or by e-mail at jsegerdell@pghwong.com. The JPA reserves the right to issue a revised RFP or addenda as a result of comments and questions from prospective proposers.

Attachments: Attachment 1: Rail Corridor Map
 Attachment 2: Excursion Rail Parameters
 Attachment 3: Bid/Proposal Protest Procedures

ATTACHMENT 1

Corridor Map



ATTACHMENT 2

PARAMETERS FOR EXCURSION RAIL SERVICE

1. Geographic Limits: Proposals may include any combination of the following starting/ending point alternatives for the geographic limits of the proposed excursion rail service. The JPA reserves the right to choose the alternative(s) it deems most beneficial and to award contracts to multiple operators for separate segments of the corridor.

Starting and Ending Point Alternatives:

- a. Folsom Wye
 - b. Highway 50 crossing
 - c. Sacramento/El Dorado County line
 - d. Latrobe
 - e. Shingle Springs
2. Schedule of Rail Operations:
 - a. Proposers should assume that operating hours will be limited to weekends and holidays only. In addition, within El Dorado County, excursion rail service will be limited to daylight hours, subject to seasonal variation, but not earlier than 8:00 a.m., or later than 8:00 p.m., with a maximum of two round trips per day. Special events may be scheduled, but will be subject to the prior written approval of the City of Folsom, the County of Sacramento, and/or the County of El Dorado, as applicable.
 - b. Notwithstanding the foregoing schedule limitations, the JPA will consider proposals that include alternative schedules of rail operations.

3. Joint Use of Corridor and Tracks:
 - a. The JPA will reserve the right to permit third-party usage of the tracks at any time outside of the excursion operator's normal operating hours. In addition, should the JPA so request from time to time, the excursion operator will cooperate reasonably with third parties to permit other uses of the tracks during the excursion operator's normal operating hours, subject to reasonable safety precautions.
 - b. The JPA and its member agencies intend to preserve the excess width of the corridor for other potential uses, including natural trails, bicycle trails and equestrian trails. All proposals must evidence compatibility of the excursion rail service with such other uses of the corridor and provide for reasonable safety precautions. In addition, all proposals shall state whether or not they will provide financial support for other potential uses of the corridor.
4. Financial Issues: The proposal must include the following:
 - a. Financial Proposal for Capital Expenses: The proposer is responsible for assessing the condition of the corridor and trackage, and determining the capital improvements necessary to operate the proposed excursion rail service. The JPA will obtain a corridor inventory report from an engineering consultant and include such report in the RFP; however, the JPA strongly recommends that each proposer perform its own due diligence investigation, since proposers may not rely upon the JPA's report. The JPA and its member agencies may assist the operator in obtaining state or federal grants, but will not provide any local funding for capital expenses.
 - b. Financial Proposal for Operating Expenses and Revenues: The proposal must include a financial plan setting forth the estimated operating expenses and revenues. The proposal must also include the amount of rent fees for the proposer's use of the JPA's corridor. Neither the JPA, nor its member agencies, will subsidize operating expenses.
 - c. Statement of Qualifications and Financial Statement: The proposal must include a statement of the proposer's qualifications to operate excursion rail service and a financial statement evidencing the proposer's financial capacity to perform such operations.

5. Liability and Insurance:

- a. Insurance: The operator will be required to carry general liability insurance with limits of at least [\$] per occurrence and [\$] in the aggregate. The deductible or self-insured retention may not exceed [\$]. The JPA and its member agencies will be named as additional insureds.
- b. Allocation of Liability: The excursion operator will defend and indemnify the JPA against all liabilities arising out of its usage of the corridor, except for liabilities arising out of the active negligence of the JPA or its member agencies.

6. Lease Subject to Existing Rights:

- a. Railbanking Rights: When the JPA acquired the corridor in 1996, Southern Pacific Railroad reserved rights to re-acquire the corridor, should it (or its successors) decide to reactivate freight rail service. Although it is unlikely that this will occur, the lease will be subject to the potential reinstatement of freight rail service on the corridor. The JPA will reserve the right to modify, or terminate, the lease for excursion rail service in the event freight rail service is reinstated.
- b. Rights under Reciprocal Use and Funding Agreement: The Reciprocal Use and Funding Agreement among the JPA and its member agencies sets forth certain reciprocal rights to use each member agency's allocated portion of the corridor. To date, these reciprocal usage rights have not been invoked by any member agency.

7. Other Issues:

- a. The proposal must show compliance with the Americans with Disabilities Act and other applicable laws, rules and regulations.
- b. The proposal must include a plan for storing and maintaining rail vehicles when not in use.
- c. The proposal must include a plan for appropriate station facilities.
- d. The operator will be responsible for ensuring compliance with regulatory requirements for all operations of excursion rail service and uses of the track, including crossings of the corridor. Regulatory agencies may include but are not limited to, the

California Public Utilities Commission (CPUC) and the Federal Railroad Administration (FRA).

- e. The operator will be responsible for maintaining the leased area of the corridor, including the surface of each crossing, to the extent of the envelope of the leased area within the crossing. If unsafe conditions or disrepair are noted in any public at-grade road crossings, the JPA and its member agencies reserve the right to perform any maintenance or repair they deem necessary within the envelope of the leased area within each public crossing, and to charge the operator for the cost thereof.
- f. The operator will not permit passengers to disembark its trains, except at stops approved by the JPA in writing, or in the case of emergency.

ATTACHMENT 3

Bid/Proposal Protest Procedures

Article VIII Bid/Proposal Protests

§1.801 **Scope of Protest Procedure**

This Article specifies procedures for the protest to the Board by bidders or proposers of the following the Authority staff actions:

- A. A written notice by the Authority denying a bidder's or proposer's request for a change in specification requirements;
- B. A written, recommendation to the Board to disqualify a bidder, subcontractor or proposer;
- C. A written recommendation to the Board to award a contract to a particular bidder or proposer.

§1.802 **Effect of Protest on Contract Award or Bid Opening**

When a protest has been properly filed prior to contract award, the Board shall not award the contract prior to deciding the protest. When a protest has been properly filed before the opening of bids, bids shall not be opened prior to the Board's decision on the protest.

§1.803 **Release of Protest Information**

Materials submitted as a part of the protest resolution process will be available to the public, except to the extent that:

- A. The withholding of information is permitted or required by law or regulation; and
- B. The information is designated proprietary by the person submitting the information to the Authority. If the person submitting material to the Authority indicates that the material contains proprietary material which should be withheld, a statement advising of this fact shall be affixed to the front page of the material submitted and the alleged proprietary information must be specifically identified in the body of the materials wherever it appears.

§1.804 Maintenance of Protest Records

A written record of each step taken in every bid or proposal protest will be maintained by the Chief Executive Officer or Authority county. The record shall list dates of each event and photocopies of all correspondence sent and/or received by the Authority pertaining to the protest. These records shall be retained for at least three (3) years from the date each protest is resolved.

§1.805 Inclusion of Protest Procedures in Solicitations

A copy of this Bid/Proposal Procedure shall either be included in every Invitation to Bid or Request for Proposal issued by the Authority, or be referenced in every Invitation to Bid or Request for Proposal issued by the Authority with a statement that a copy of this Bid/Proposal Protest Procedure shall be provided immediately to all persons upon request.

§1.806 Who May File a Protest

Protests may be filed only by interested parties. Interested parties are defined as actual or prospective bidders or proposers for an Authority contract and subcontractors or suppliers at any tier whose direct economic interest would be affected by an award or failure to amend a contract, a provision of the specifications, or a bid or proposal submitted to the Authority by a prime contractor, or in the interpretation of the provisions of such documents.

§1.807 Time For Filing a Protest

Protest to a specification requirement must be received by the Authority at least ten (10) working days prior to bid opening or the date of submittal of proposals.

Protests to the staff recommendations to the Board must be received by the Authority within ten (10) working days from the date on the letter providing notice of the staff recommendation.

§1.808 Form For Filing a Protest

Protests must be addressed to the Sacramento—Placerville Transportation Corridor Authority, Chief Executive Officer, c/o PGH Wong Engineering, 1321 Howe Avenue, Suite 110, Sacramento, CA 95825. Protests must be in writing and contain a statement of the ground(s) for protest. At least ten (10) copies of the protest must be submitted by the protestor in the time and manner specified in this Article. The Chief Executive Officer or his/her designee shall provide notice, by telephone or by letter, to all bidders or proposers known to the Authority for the contract which is the subject of the protest. Such notice shall

state that a protest has been filed with the Authority and identify the name of the protestor. The notice shall be given not more than five (5) working days after receipt of a properly filed protest. The notice shall state that bidders or proposers will receive further information relative to the protest only if they submit a written request to the Chief Executive Officer.

§1.809 The Authority’s Preliminary Response to a Protest

All bid protest recommendations and decisions shall be issued in writing. The Chief Executive Officer shall designate an Authority staff person who, not more than ten (10) working days after receipt of a properly file protest, shall prepare and mail to the protestor and all bidders or proposers requesting such information the following:

- A. A preliminary staff decision on the protest, including a brief explanation of the reasons why the protested staff action is justified; and
- B. The time, date and place of the meeting with the Authority staff person who prepared the response to the protest to discuss and attempt to resolve the protest.

Within five (5) working days after the meeting, the protestor shall give the Chief Executive Officer written notice that either the protest is withdrawn or, alternatively, that the protestor request further consideration of the protest. In the event that the protestor fails to deliver this notice at the office of the Chief Executive Officer within five (5) working days after the meeting, the protest shall be deemed withdrawn.

§1.810 Further Investigation of Protest

If a protest is not withdrawn pursuant to Section 1.809, the Chief Executive Officer or his/her designee shall further investigate the protest. The Chief Executive Officer may contract for third—party consulting services when necessary to investigate a protest. The Chief Executive Officer may negotiate with the protestor and other interested parties to share the cost of such consulting services. As part of the investigation, the Chief Executive Officer or his/her designee shall establish reasonable times in which the Authority, the protestor, and other interested parties shall exchange all documents and arguments relevant to the protest.

§1.811 Chief Executive Officer’s Recommendation

Following investigation, the Chief Executive Officer shall distribute to the protestor and all bidders or proposers requesting such information a written recommendation that the Chief Executive Officer will submit to the Board to

resolve the protest and the date that the protestor and other persons must submit written comments with respect to the recommendation; and the date, time and place of the Board's hearing at which the protest will be considered. The date for submittal of comments shall allow a reasonable period for rebuttal and shall vary according to the complexity of the particular protest.

Within five (5) working days of the receipt of the recommendation, the protestor must notify the Authority Chief Executive Officer in writing either that the protest is withdrawn or that the protestor requests the protest continue to the next step. Failure of the protestor to submit such a notice shall deem the protest withdrawn, and all proceedings will cease.

The agenda package sent to Board members prior to a protest hearing shall be sent to the protestor and sent or made available to any interested person at least five (5) working days before the hearing and shall include the Chief Executive Officer's recommendation and all written comments received within the submittal period. If the Chief Executive Officer has revised his/her recommendation since its distribution, a written description of the new intended decision and the reason(s) for revision shall be sent to the protestor and sent or otherwise made available to any interested person(s).

§1.812 Board of Directors' Decision

At the hearing, the Authority staff and any interested person may present evidence relating to the protest. At the beginning of the hearing, the Board Chair may announce time limits on testimony and any other procedural rules which, in the opinion of the Chair, are reasonably necessary to preclude repetitious or irrelevant testimony. The protestor may use a court reporter to transcribe the hearing. The Authority shall share the cost of transcribing the hearing if the Authority requests a copy of the transcript.

The Board may elect to defer its decision and direct staff to further investigate the protest or hire an impartial hearing officer to conduct a hearing and prepare a written recommended decision, including findings of fact.

In rendering its decision on the protest, the Board may adopt the intended decision recommended by the Chief Executive Officer, adopt the written recommendation and findings of fact prepared by a hearing officer, or adopt a separate decision. The protestor and all interested parties shall be notified in writing of the final decision of the Board within thirty (30) calendar days from the date of the Board meeting.

§1.813 Withholding of Contract Award

When a protest has been timely filed with the Authority prior to the scheduled bid

award, the Authority shall not make a contract award any earlier than five (5) working days after resolution of the protest, unless the Board determines that:

- A. The items to be procured are urgently required; or
- B. Delivery or performance will be unduly delayed by failure to make the award promptly; or
- C. Failure to make prompt award will otherwise cause undue harm to the Authority.