

Los Angeles – San Diego – San Luis Obispo (LOSSAN) Rail Corridor Agency
JOINT POWERS BOARD

August 23, 2013

AGENDA ITEM NO.: **8**

Action Requested: APPROVE

PROPOSED APPROACH TO NEGOTIATIONS ON THE
ADMINISTRATIVE SUPPORT AGREEMENT
WITH THE LOSSAN MANAGING AGENCY

File Number 3400600

INTRODUCTION

Pending the action of the Board of Directors on Agenda Item #7, staff has developed a proposed approach to negotiations on the Administrative Support Agreement (ASA) with the future Managing Agency. This includes a small negotiating team to work closely with the future Managing Agency over the next eight weeks. An initial outline of this agreement also has been developed. Both have been reviewed by the Member Agency Chief Executive Officers (CEOs).

Staff, with the Chair's concurrence, proposes a committee to handle these negotiations on behalf of LOSSAN to be made up of the following individuals. Board Member Chris Orlando and SANDAG Executive Director Gary Gallegos served on the Request for Proposals (RFP) Screening Committee and are familiar with the proposals submitted. Each has agreed to continue to assist if requested. The majority of the staff work will continue to be initiated by LOSSAN staff, consultant, and legal counsel. Chair Strong has requested to serve as an advisory member.

An initial outline of the ASA is included as Attachment 1. This is built upon the ASA between Bay Area Rapid Transit (BART) and the Capitol Corridor Joint Powers Authority (CCJPA) for the day-to-day management of the Capitol Corridor, but has been tailored to the LOSSAN effort. For example, discussion of a Start-Up Period, which is focused on negotiations of an Interagency Transit Agreement (ITA) with the state and pending the outcome, and discussion of the Initial Three-Year Period of operations oversight are included in the outline. Funds for the Start-Up Period are planned to be provided by the LOSSAN Member Agencies, while funding for the Initial Period are planned to be state funded. Furthermore, the Board of Directors is asked to discuss additional options that have been developed that could be included in the ASA (Attachment 2).

RECOMMENDATION

The Board of Directors is asked to consider both the proposed approach and initial agreement outline (Attachment 1) and provide direction to staff in terms of initiating these negotiations. In addition, the Board of Directors is asked to review a list of optional priority items for inclusion in these negotiations (Attachment 2).

DISCUSSION

Negotiations Schedule

Staff proposes the following schedule for negotiations (those dates which were shown in the Managing Agency RFP are in **bold**):

August 23, 2013: Board of Directors Approval of Recommendation of Managing Agency with intent to enter into an ASA

September 5, 2013: Progress Update to Technical Advisory Committee (TAC)

September 20, 2013: Progress Update to Member Agency CEOs

September 25, 2013: Progress Update to Board of Directors

September 27, 2013: Initial Draft ASA

October 3, 2013: TAC Review of Initial Draft ASA

October 11, 2013: Draft ASA

October 17, 2013: Board of Directors Review of Draft ASA

October 18, 2013 –
November 19, 2013: Managing Agency Approval of ASA

November 20, 2013: Board of Directors Approval of ASA

January 6, 2014: Interim Workplan Due to Board (30 days from ASA approval)

April 2014: Proposed FY15 LOSSAN Budget

June 2014 –

July 2015: ITA

By June 2014: Intercity Corridor Performance Standards per Senate Bill 1225 (Padilla, 2012) (SB 1225)

Funding

There are two time periods for the Managing Agency. The first is a Start-Up Period, that period of time when the Managing Agency will be negotiating the ITA and providing administrative support to LOSSAN, and an Initial Period, the three-year period outlined in SB 1225 for the day-to-day management of the Pacific Surfliner service. State funds are expected for the Initial Period and will be negotiated as part of the ITA. However, as was the case with the CCJPA, only a small amount of Start-Up Period costs is expected to be reimbursed by the state. In this case, a majority of the CEOs have decided to share the costs of this Start-Up Period.

As was presented to the Board of Directors at their April 17, 2013, meeting, the CEOs discussed several formulas in terms of start-up funding and reached a consensus on a formula based 75 percent on the county's share of corridor ridership and 25 percent on the number of votes on the LOSSAN Board of Directors. Table 1 shows the proposed regional shares based on this formula applied to a 12-, 18-, and 24-month budget estimate. How the member agencies within each region decide to share in the regional costs is up for them to decide. Furthermore, given the timing of the ASA, it is anticipated that 18 months of funding will be needed.

| Table 1 PROPOSED REVENUE SHARING BETWEEN REGIONS FOR LOSSAN START-UP COSTS | | | |
|--|-----------------------------------|-------------------------------------|-------------------------------------|
| Region | Share of \$687,258 (12 months) | Share of \$1,030,888 (18 months) | Share of \$1,374,517 (24 months) |
| South | \$188,996 | \$283,494 | \$377,992 |
| South Central | \$221,641 | \$332,461 | \$443,282 |
| Central | \$173,533 | \$260,299 | \$347,065 |
| North | \$103,089 | \$154,633 | \$206,178 |

Draft Outline

The Member Agency CEOs reviewed an initial agreement outline at their August 20, 2013, meeting. Based on staff work and CEO comments, Attachment 1 is the draft outline for Board of Director consideration.

Optional Priority Items

A number of potential options were also reviewed with the CEOs group (Attachment 2). These focus on the potential need for additional advice and assistance during the ITA negotiations, meeting locations, and additional provisions to be included in the Interim Workplan.

- Attachments
1. Draft Outline for LOSSAN Administrative Support Agreement
 2. Optional Priority Items for Inclusion in ASA

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Draft Outline for LOSSAN Administrative Support Agreement

AGREEMENT BETWEEN
 LOS ANGELES – SAN DIEGO – SAN LUIS OBISPO JOINT POWERS AUTHORITY
 AND
 SUCCESSFUL PROPOSER
 FOR
 ADMINISTRATIVE SUPPORT

RECITALS – Core recitals from LOSSAN Joint Powers Agreement (JPA).

DEFINITIONS – Taken from the JPA as applicable, also include a definition of Start-Up and Initial Periods

MAJOR PROVISIONS:

1. MANAGING AGENCY DUTIES – As outlined in the LOSSAN JPA.
2. SOLICITATION OF GRANTS – This provision authorizes the Managing Agency to seek grants for funding the LOSSAN service improvements.
3. ANNUAL BUDGET – The Managing Agency must present an annual budget for approval in April of each year, per the LOSSAN JPA.
4. INTERIM WORKPLAN – the Managing Agency must develop and present an interim workplan within 30 days of the start date of its duties.

Required Workplan Components:

- Detailed scope of work, budget, and schedule.
- Monthly Progress Reports on the ITA negotiations during the Start-Up Period.

This section could include additional optional provisions as identified by the Board of Directors (Attachment 2).

5. STAFF OF MANAGING AGENCY/LOSSAN JPA
 - a. Start-Up Period. The focus of this period is on (1) negotiation of the ITA, and (2) administrative staff of the LOSSAN Board of Directors and TAC. Funding for this period is based on the Managing Agency proposal, but is constrained by the agreed-upon compensation from Member Agencies.
 - b. Initial Period. The focus of this three-year period based upon successful negotiation of the ITA is on the day-to-day management of intercity service, as well as continued administrative staffing responsibilities.

Note: the agreement will likely need to be amended based on the final terms of the ITA. Furthermore, there may need to be provisions for Member Agency budget approvals of each of their respective formula shares of Start-Up Period funding in both FY 14 and FY 15 as noted in 7a below.

6. CUSTODIAN OF PROPERTY – This provision also includes the Managing Agency Treasurer, Auditor, and Controller duties.
7. BUDGET OF MANAGING AGENCY
 - a. For the Start-Up Period of performance of approximately 18 months, the MA budget will be funded from the voting membership of the LOSSAN JPA based on a cost-sharing formula adopted by the LOSSAN Board. Member agencies would then include their formula share in their respective budgets each year. The LOSSAN CEOs have reviewed a draft cost-sharing formula and will present to the LOSSAN Board for approval prior to the approval of the Administrative Support Agreement (ASA).
 - b. Unless expressly supplemented by the LOSSAN JPA, the Managing Agency's sole funding for its duties and responsibilities for the Initial Period shall be that portion of the budget allocated to the LOSSAN JPA by the State of California which is applicable to the Managing Agency's services.

Note: the agreement will likely need to be amended based on the final terms of the ITA. Furthermore, there may need to be provisions for Member Agency budget approvals of each of their respective formula shares of Start-Up Period funding in both FY 14 and FY 15 as noted in 7a above.

8. FACILITIES AND MEETING LOCATION(S) – This provision will specify the staff facilities and meeting location(s) for the LOSSAN Board of Directors and TAC.
- 9.–18. BOILERPLATE LANGUAGE FOR STANDARD CONTRACTUAL AND LEGAL STATUTES – These provisions include Audit, Allocated Losses, Term, Amendments, Successor Statutes, Construction of the Managing Agency, Agreement Complete, Counterparts and Effective Date and Others as appropriate.
19. SIGNATURE BLOCK

Optional Priority Items for Inclusion in ASA

1. Assistance during the Start-Up Period for ITA negotiations

Should the Managing Agency bring in additional resources for assistance during ITA negotiations with the state?

- 1a. Creation of a *Strategic Advisory Committee* to advise the core Negotiations Team.
- 1b. Expansion of the core Negotiation Team to include key selected LOSSAN Member Agency CEOs.

2. Facilities and Meeting Location(s)

Should LOSSAN Board of Directors and TAC meetings be located at the Managing Agency's home office, central to the corridor in Los Angeles, and/or continue on a rotating basis?

3. Interim Workplan

Should additional provisions be required for inclusion in the Interim Workplan?

- 3a. Identify the key Service Priorities for the Pacific Surfliner both during the Start-Up Period working in conjunction with Amtrak and Caltrans and during the Initial Period.
- 3b. Include the identified strategic service improvement priorities identified by the Successful Proposer in the ASA.
- 3c. Include ideas or other service priorities identified from other Managing Agency proposals.
- 3d. Coordination with the Capitol Corridor Joint Powers Authority (CCJPA), San Joaquin Joint Powers Authority (SJJPA), and Coast Rail Coordinating Council in terms of overall joint advocacy at state and national levels.
- 3e. Coordination with SJJPA, with assistance from the CCJPA, in terms of working jointly with the state on the ITAs for LOSSAN and the San Joaquin.
- 3f. Include a schedule and level of effort for transitioning from the old LOSSAN to the "new LOSSAN" (e.g., Website, Logos, Name/Brand, Fact Sheets/Collateral Materials, and Marketing Plan/Key Marketing Initiatives for Initial Period).
- 3g. Coordination with the Technical Advisory Committee (TAC) to review, on behalf of the governing board, technical issues associated with the improvements in passenger rail service and related facilities in the LOSSAN Corridor. Include discussion on the working relationship between the Managing Agency staff, TAC, and Board of Directors.