

**AGENDA:** August 7, 2003

**TO:** Regional Transportation Commission  
**FROM:** Linda Wilshusen, Executive Director  
**RE:** Santa Cruz Branch Rail Line Acquisition – Proposition 116 Application for Pre-Acquisition Activities

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## **RECOMMENDATION**

Staff recommends that the Regional Transportation Commission;

1. Approve the attached resolution (Attachment 1) authorizing the Executive Director to submit a Proposition 116 application for pre-acquisition activities connected with the Santa Cruz Branch Rail Line Acquisition Project and making the required statements to submit the application.
  2. Review and approve for submittal the attached draft Uniform Transit Application for Proposition 116 funds for pre-acquisition activities for the Santa Cruz Branch Rail Line Acquisition Project.
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## **BACKGROUND**

The Clean Air and Transportation Improvement Act, Proposition 116, approved by California voters in 1990, allocated \$11 million to the Santa Cruz County Regional Transportation Commission (RTC) for passenger rail service projects in Santa Cruz County. At a May 1, 2003 evening public hearing, the RTC approved developing a Uniform Transit Application for Proposition 116 funds, an operating plan, and issuance of a request for proposals for an environmental impact report (EIR) to study recreational passenger rail service between Capitola and Seascapes.

At its June 19, 2003 Transportation Policy Workshop meeting, the RTC discussed a draft timeline for the Santa Cruz Branch Rail Line Acquisition project and the requirement for new appraisals of the rail line. The RTC was also informed that in light of the new appraisal requirement and other unanticipated tasks, some of which have already been completed (e.g. the Recreational Rail Financial Analysis), the rail line acquisition negotiations budget was being analyzed and that budget revisions would be proposed.

## **DISCUSSION**

### **Appraisals and Other Unfunded Pre-Acquisition Costs**

In 1996, net liquidation value, trackage valuation, and going concern value appraisals for the Santa Cruz Branch Rail Line were completed. The net liquidation value appraisal determines the value of the real property if it is cleared and sold for uses corresponding to adjacent real estate. The trackage valuation appraisal determines the value of the track, signals, crossings, etc. The going concern value appraisal determines the value of the on-going freight business on the rail line.

Because these appraisals are over seven years old, staff was recently informed that the Caltrans Right-of-Way Division requires new appraisals. In addition, Caltrans also requires a “review appraisal” which analyzes the other three appraisals. The cost of the new appraisals is expected to be about \$125,000. The Transportation Agency for Monterey County (TAMC) paid nearly \$100,000 for its appraisals of a line that is about 16 miles long and does not have any rail service operation.

Title review of the Santa Cruz Branch Rail Line will also be required along with title insurance. The Title review and insurance are estimated to cost about \$150,000. Completing the business plan for the branch line is estimated to cost an additional \$50,000. This means that the RTC currently needs an additional \$325,000 to continue the pre-acquisition activities for this project. There will be other costs prior to acquisition such as costs for a historic site investigation, if needed, legal fees, and filings with the Surface Transportation Board. Staff is currently analyzing revenue options for these additional activities.

### **Proposition 116 Application for Pre-Acquisition Activities**

Currently the Commission has \$120,000 available for a Phase II Environmental Site Assessment (allocated STIP funds), \$85,000 for developing an environmental impact report for recreational rail service between Capitola and Seascape(allocated STIP funds) and about \$95,000 remaining in the acquisition negotiations contract.

As activities connected with the acquisition of the Santa Cruz Branch Rail Line, the appraisals, title search, title insurance, business plan and other pre-acquisition activities qualify to be funded from the \$10 million in State Transportation Improvement Program (STIP) funds programmed to this project or from the \$11 million in Proposition 116 funds. Due to the State’s budget crisis, STIP funds are not currently available. Proposition 116 funds are available and require a dollar-for-dollar match. With the funds that the Regional Transportation Commission has available for environmental reviews and acquisition negotiations, the Commission can match up to \$300,000 in Proposition 116 funds.

California Transportation Commission (CTC) staff have confirmed that Proposition 116 funds may be used for pre-acquisition activities and that the funds currently available for environmental reviews and negotiations qualify as matching funds. CTC staff have also indicated that the following conditions will likely be included with approval of the Proposition 116 application:

1. An operations plan will be required before an allocation of funds for construction is made by the California Transportation Commission.
2. There will be a limit of ten years between the purchase of the rail line right-of-way and the start of operations on the right-of-way. Otherwise, the state must be reimbursed for the acquisition funds.

The first condition is a regular requirement for Proposition 116 funds and it is intended that the business plan will further define the operations plan. The second condition is consistent with conditions imposed on other agencies, including the Transportation Agency for Monterey County (TAMC). The California Transportation Commission also requires that an agency who applies for Proposition 116 funds approve a resolution making assertions about the agency's authority to head the project, the agency's ability to provide the matching funds and the agency's intentions to abide by CTC policies and guidelines. The attached resolution includes the required statements. Therefore, **staff recommends that the Regional Transportation Commission approve the attached resolution authorizing the Executive Director to submit a Proposition 116 application for \$300,000 to help pay for the pre-acquisition activities discussed above.**

Staff has been working with California Transportation Commission staff to develop the draft Uniform Transit Application for pre-acquisition activities for the Santa Cruz Branch Rail Line Acquisition Project. The draft application is included as Attachment 2. Although the application is only for pre-acquisition activities (Phase 1), it must include information about the Regional Transportation Commission's plans for passenger rail service. The acquisition of the rail line right-of-way is included as the second phase of the project and recreational rail service is included as the third phase. **Staff recommends that the Regional Transportation Commission review the attached draft application and approve it for submittal to the California Transportation Commission.**

In light of the pre-acquisition costs identified above, the draft financial plan for the Santa Cruz Branch Rail Line Acquisition Project has been revised and is included as Attachment 3.

## **SUMMARY**

The Caltrans Right-of-Way Division recently informed staff that the Santa Cruz Branch Rail Line Acquisition Project requires new appraisals. A title search and title insurance will also be required. Staff recommends that the Regional Transportation Commission

approve the attached resolution authorizing the Executive Director to submit a Proposition 116 application for \$300,000 to help cover these and other pre-acquisition activities. Staff also recommends that the Commission review the attached draft Proposition 116 application and approve it for submittal.

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Attachments:

- Attachment 1: Resolution Authorizing the Executive Director to Submit an Application for Proposition 116 Funds for Pre-Acquisition Activities
- Attachment 2: Draft Uniform Transit Application for Proposition 116 Funds
- Attachment 3: Revised Draft Financial Plan

cc: Rail Line Acquisition Staff Advisory Group

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Prepared by: Luis Pavel Mendez and Heath Maddox

to be included in the November 2004 ballot measure and that there had been three peer review evaluations of the Preliminary Financial Plan.

Commissioners asked how the modified design-build process as described in AB 692 differed from the design-sequencing process and if working with Caltrans would achieve the goals of expediting the project and reducing costs.

Mr. Albright said that although similar to design-sequencing in that there is the benefit of bringing a construction contractor on board early in the project, the JPA and not Caltrans would administer the project. Mr. Albright said if this option were chosen, Caltrans would commit to a target delivery plan, be willing to assign a full-time on-site staff person to interface with the JPA and would pursue non-traditional reporting methodology. He said he would come back to the Commission with an evaluation of Caltrans' ability to implement the plan.

Commissioner Almquist said that there was strong opposition from PECG and the Building Trades Council who see pure design-build as a threat to unions and smaller contractors. Commissioner Almquist also noted that a small, relatively unsophisticated organization like the proposed JPA risked being "taken to the cleaners" by a large-scale engineering and construction firm and that working with Caltrans reduced that risk.

28. Santa Cruz Branch Rail Line Acquisition - Draft Proposition 116 Application for Pre-Acquisition Activities

Senior Planner Luis Mendez gave the staff report saying that staff was recently informed that the Caltrans Right-of-Way Division requires new net liquidation value, trackage valuation and ongoing concern value appraisals and in addition requires a "review appraisal" which analyzes the other three appraisals. The four appraisals are expected to cost about \$125,000. Title review of the Santa Cruz Branch Rail Line and title insurance are also required with an estimated cost of \$150,000. With the cost of completing the business plan anticipated to be about \$50,000, the Regional Transportation Commission will need an additional \$325,000 to continue pre-acquisition activities.

Mr. Mendez said that California Transportation Commission (CTC) staff confirmed that Proposition 116 funds may be used for pre-acquisition activities but must be matched by the Commission on a dollar-for-dollar basis. The funds currently available for environmental reviews and

negotiations qualify as matching funds. In addition the following conditions would likely be included with the approval of the Proposition 116 application:

1. An operations plan will be required before an allocation of funds for construction is made by the California Transportation Commission.
2. There will be a limit of ten years between the purchase of the rail line right-of-way and the start of operations on the right-of-way. Otherwise, the state must be reimbursed for the acquisition funds.

Commissioner Reilly asked if the Commission would be obligated to repay the Proposition 116 funds if, after purchasing the right-of-way and beginning service, the project fails.

Kirk Trost, counsel for the rail line acquisition negotiations, said it was his understanding that the California Transportation Commission's only condition was to initiate operations of the rail line within 10 years of the purchase and did not specify conditions regarding the success or failure of the operation.

Commissioner Keogh asked who was responsible for any environmental cleanup in the event that Union Pacific went bankrupt or if the Commission decided not to purchase the right-of-way.

Director Wilshusen replied that even in the unlikely event that Union Pacific went bankrupt, they would still have obligations to fulfill.

Mr. Trost added that when applying for Proposition 116 funds there is standard language indemnifying the state of responsibility for hazardous waste clean-up, and that when the final agreement comes before the Commission there will be language that clearly describes how remediation will occur and that funding will be available.

Mr. Trost also said that if the Commission never acquires the right-of-way it would not incur liability.

Commission Alternate Reetz asked if the Commission was obligated to run rail service between Santa Cruz and Watsonville as stated in the draft application and said, in reference to the proposed resolution, that Commissioner Beautz does not recollect that the Commission would backfill additional costs that exceeded available state funding.

Director Wilshusen said that the reference to Santa Cruz - Watsonville is a quote of the Proposition 116 statutes pertaining to intercity service, which is not what we are proposing.

Mr. Trost said that the language regarding backfill is consistent with the State's position that the Commission has 10 years to implement the project or to return the funds and cannot ask for additional funding if costs exceed expectations.

Commissioners asked when the ten-year limit would begin and for further clarification about requirements to reimburse the state for acquisition funds.

Mr. Trost said that the ten-year timeframe began when the funds were allocated and Ms. Wilshusen clarified that reimbursement conditions only applied to acquisition funds and not pre-acquisition funds.

Commissioner Almquist moved to accept the staff recommendations to:

1. Approve a resolution authorizing the Executive Director to submit a Proposition 116 application for pre-acquisition activities connected with the Santa Cruz Branch Rail Line Acquisition Project and making the required statements to submit the application.
2. Review and approve for submittal the attached draft Uniform Transit Application for Proposition 116 funds for pre-acquisition activities for the Santa Cruz Branch Rail Line Acquisition Project.

Commissioner Fitzmaurice seconded and the motion passed with Commissioner Keogh voting "no". (Resolution 02-04)

29. Review of Highway 17 Incident Protocol

Senior Planner Luis Mendez gave the staff report summarizing the truck and 18 automobile fatal collision, which occurred on southbound Highway 17 on July 11, 2003, and possible future actions the Commission could take in providing traffic information and coordinating with Caltrans and the California Highway Patrol (CHP) on highway improvements and safety enforcement. Mr. Mendez mentioned that the Commission considered joining the Bay Area 511 system in the past but that cost was a factor in its decision to not be a