

**AGENDA:** February 17, 2005

**TO:** Regional Transportation Commission/Rail Trail Authority  
**FROM:** Luis Pavel Mendez, Acting Deputy Director  
**RE:** Santa Cruz Branch Rail Line Acquisition Project – Phase II Environmental Site Assessment and Structures Assessment

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**RECOMMENDATIONS**

Staff recommends that the Regional Transportation Commission:

1. Approve the attached right of entry agreement (Attachment 3) and confidentiality agreement with Union Pacific for the Phase II Environmental Site Assessment of the Santa Cruz Branch Rail Line;
  2. Adopt the attached resolution (Attachment 2) authorizing the Executive Director to
    - a. Take \$30,000 from the Miller, Owen and Trost Contract resulting from unanticipated cost savings for the title review work;
    - b. Transfer \$30,000 from 2.a. above to the contract with Geomatrix Consultants for a Phase II Environmental Site Assessment to add systematic soil sampling and analysis for a more thorough Phase II Environmental Site Assessment (ESA) of the Santa Cruz Branch Rail Line;
    - c. Transfer \$10,000 from the funds allocated to the historical site investigation to the Geomatrix Consultants contract for the Phase II Environmental Site Assessment for a total contract amount of \$160,000;
    - d. Transfer \$65,000 within the Miller, Owen and Trost contract from the title review work to the structures assessment work of the Santa Cruz Branch Rail Line for a total amount of \$80,000 for a structures assessment;
    - e. Make the necessary amendments to the fiscal year 04-05 SCCRTC budget for the actions listed above.
  3. Accept an oral report on new information for other aspects of the Santa Cruz Branch Rail Line Acquisition Project.
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**BACKGROUND**

The Commission has been working on the acquisition of the Santa Cruz Branch Rail Line for four years. At its December 2, 2004 meeting, the Commission approved entering into a non-

binding Letter of Intent with Union Pacific to purchase the Santa Cruz Branch Rail Line for \$19 million and close escrow by September 23, 2005. At its January 06, 2005 meeting, the Commission approved a timeline to meet the closing date (Attachment 1, snclosed separately).

At its January 20, 2005 Transportation Policy Workshop (TPW), the Commission designated an ad hoc recreational rail service options committee to discuss various passenger rail service options that could be available to the RTC to qualify for the Proposition 116 funds. The ad hoc committee and staff met with California Transportation Commission (CTC) staff to discuss the possibility of qualifying for the Proposition 116 funds using existing recreational rail service provided by Santa Cruz Big Trees and Pacific Railroad.

## **DISCUSSION**

The Letter of Intent to purchase the Santa Cruz Branch Rail Line and the projected timeline list a number of reports and steps that must be completed before the Commission can make a final decision on acquisition of the Santa Cruz Branch Rail Line. These include a Phase II Environmental Site Assessment (ESA) and a Structures Assessment. All aspects of the Rail Line Acquisition Project are currently on schedule.

### **Structures Assessment**

In March 2004, the Commission authorized adding \$15,000 to the Miller, Owen and Trost contract to produce a structures assessment of all the structures along the Santa Cruz Branch Rail Line right-of-way (ROW). Miller, Owen and Trost has been soliciting bids for the structures assessment work and all of the bids are significantly higher. Commissioners have also expressed concern that a structures assessment costing \$15,000 would not be sufficiently comprehensive to adequately assess the condition of the rail line structures. The expected cost for the structures assessment is now \$80,000. Therefore, an additional \$65,000 is required to cover the estimated cost.

Unanticipated savings for the title review work can provide the additional funds for the structures assessment. In January 2005, the Commission allocated \$142,000 for the title review. The final bid from First American Title Company for the title review work was for \$47,000. This leaves \$95,000 from the original estimate of \$142,000 available for other expenses. The draft financial plan (Attachment 2, enclosed separately) has been updated based on the recommendations in this staff report.

**Staff recommends that the Commission adopt the attached resolution (Attachment 3) authorizing the Executive Director to amend the contract with Miller, Owen and Trost to transfer \$65,000 in funds from the title review work to the structures assessment work and reduce the Miller, Owen and Trost contract by \$30,000 to account for the full extent of unanticipated cost savings for the title review work.**

### **Phase II Environmental Site Assessment**

## Right of Entry Agreement

The Letter of Intent states that Union Pacific will provide a right of entry agreement to do the work necessary to produce a Phase II Environmental Site Assessment (ESA). Attachment 4 is a preliminary draft right of entry agreement negotiated by the Commission's lead negotiator, Kirk Trost of Miller, Owen and Trost. The attached right of entry agreement is a preliminary draft, and may have some changes between the writing of this staff report and the February 17, 2005 Transportation Policy Workshop meeting. Kirk Trost will provide the final draft at the meeting.

In addition, Chief Deputy County Counsel Rahn Garcia reviews all of the Commission's agreements before they are signed by the Commission's Executive Director. Staff has asked him to review the preliminary draft right of entry agreement and he will also review the final version before the Executive Director signs it.

The right of entry agreement includes a confidentiality agreement required by Union Pacific (UP) to govern the disclosure of information gathered during the Phase II ESA work. UP's standard practice is to not allow the disclosure of Phase II ESA information until the sale of the property has been completed. The Commission has always stated a desire to make the Phase II ESA information available to the public prior to the completion of this purchase. Kirk Trost negotiated the possibility of releasing the information prior to completion of the acquisition, if the Commission Executive Director determines that she will recommend approval of the acquisition.

**Staff and the Commission consultant recommend that the Commission authorize the Executive Director to enter into the right of entry agreement and the included confidentiality agreement with UP to initiate the Phase II ESA field work, with changes as appropriate.**

## Work Plan

The Commission entered into a contract with Geomatrix Consultants to produce the Phase II Environmental Site Assessment (ESA). The current work plan (Attachment 5) for the Phase II ESA is a targeted sampling strategy based on the results of the Phase I Preliminary Site Assessment completed in 1997. Four soil samples for creosote analysis were added in response to comments made on the initial study for the Capitola to Seascape Recreational Rail Service environmental impact report (EIR). However, further sampling may be necessary to ensure a thorough hazardous materials investigation of the Santa Cruz Branch Rail Line right-of-way (ROW).

Geomatrix Consultants was asked to produce a proposal (Attachment 6) for additional sampling that would ensure a more thorough investigation. The proposed additional sampling would divide the Santa Cruz Branch Rail Line into 4 categories based on adjacent land uses and take random soil samples within segments of each of the 4 categories. The estimated cost ranges from \$29,800 to \$47,300. The cost range is large because the final cost is dependent on how many of the soil samples are analyzed. It is expected that not all of the soil samples will require

analysis and staff estimates that \$40,000 will be sufficient to cover the cost of the additional Phase II ESA work.

**Staff recommends that the Commission adopt the attached (Attachment 3) resolution authorizing the Executive Director to amend the contract with Geomatrix Consultants to add the systematic sampling to the scope of work and add \$40,000 for the additional work.**

The \$30,000 in title review work cost savings which is recommended above to be taken from the Miller, Owen and Trost contract can be used to cover most of the cost of the additional Phase II ESA work. The additional, \$10,000 can be obtained from the funds allocated for the historical site investigation. The current estimate for the historical site investigation is \$15,000 as long as follow up studies to the historical site investigation are not required and at this point, it is not expected that the follow up studies will be required.

**The FY 04-05 SCCRTC budget will also need to be amended for the actions listed above.**

### **Status of Other Santa Cruz Branch Rail Line Acquisition Tasks**

Oral reports on the status of other aspects of the rail line acquisition project will be presented at the meeting. Topics to be covered include: title review work, lease investigation, Project Development Team meeting, Big Trees Service Option for the Proposition 116 application and demonstration train.

### **SUMMARY**

The Regional Transportation Commission (RTC) entered into a non-binding Letter of Intent with Union Pacific (UP) to purchase the Santa Cruz Branch Rail Line. Several reports will be completed before the Commission can make a final decision on the purchase. A right of entry agreement with UP and shifting of funds and contract amendments for two of those reports are presented for Commission approval.

- Attachment 1: Santa Cruz Branch Rail Line Acquisition Project Timeline (enclosed separately)
- Attachment 2: Revised Draft Financial Plan (enclosed separately)
- Attachment 3: Resolution Authorizing Amendments for the Structures Assessment Work and the Phase II ESA Work
- Attachment 4: Preliminary Draft Right of Entry Agreement with Union Pacific
- Attachment 5: Phase II ESA Work Plan
- Attachment 6: Proposal for Additional Systematic Sampling for the Phase II ESA