

AGENDA: March 3, 2005

TO: Regional Transportation Commission/Rail Trail Authority
FROM: Luis Mendez, Acting Deputy Director
RE: Santa Cruz Branch Rail Line Acquisition Project - Railroad Protective Liability Insurance

RECOMMENDATIONS

Staff recommends that the Regional Transportation Commission adopt the attached resolution (Attachment 1) to purchase, from Union Pacific, railroad protective liability insurance as required by the right of entry agreement to produce the Phase II Environmental Site Assessment and other due diligence reports.

DISCUSSION

At its February 17, 2005 Transportation Policy Workshop (TPW), the RTC approved entering into a right of entry agreement with Union Pacific with the understanding some minor changes to the agreement were still being negotiated. One of those items still under negotiation was Union Pacific's insurance requirements for a right of entry agreement. The RTC's and the contractor's existing insurance policies meet most of Union Pacific's insurance requirements with the exception of railroad protective liability insurance. This requirement was waived in 2001 when the RTC entered into a right of entry agreement with Union Pacific to produce the environmental review for the Santa Cruz Branch Rail Acquisition. The insurance requirement waiver was granted because the 2001 environmental review was a non-invasive analysis. The Phase II Environmental Site Assessment is an invasive analysis so Union Pacific will not grant the waiver in this case.

The required Railroad Protective Liability Insurance may be purchased from Union Pacific for \$2,600. Other potential providers are likely to charge significantly more. In 2001 as the Transportation Agency for Monterey County (TAMC) was preparing to begin a Phase II Environmental Site Assessment on the Monterey Branch Rail Line, they purchased railroad protective liability insurance through their insurance broker, Driver Alliant, for \$3,090. This was the least expensive policy not provided by Union Pacific that TAMC could find. Driver Alliant is the same broker used by the Santa Cruz County and the RTC.

SUMMARY

Staff recommends adopting the attached resolution (Attachment 1) to purchase, from Union Pacific, the railroad protective liability insurance required by the right of entry agreement for the work necessary to produce the Phase II Environmental Site Assessment and other due diligence reports and inspections.

Attachment 1: Resolution to Purchase Railroad Protective Liability Insurance

Attachment 1

RESOLUTION NO.

Adopted by the Santa Cruz County Regional Transportation Commission
on the date of March 3, 2005
on the motion of Commissioner
duly seconded by Commissioner

A RESOLUTION TO EXPEND FUNDS FOR RAILROAD PROTECTIVE LIABILITY
INSURANCE AS REQUIRED BY THE RIGHT OF ENTRY AGREEMENT

WHEREAS, the Santa Cruz County Regional Transportation
Commission has been working since 2001 to purchase to Santa Cruz
Branch Rail Line from Union Pacific;

WHEREAS in December 2004, the Santa Cruz County Regional
Transportation Commission entered into a Letter of Intent with
Union Pacific to purchase the Santa Cruz Branch Rail Line;

WHEREAS in February 2005, the Santa Cruz County Regional
Transportation Commission approved entering into a Right of Entry
agreement with Union Pacific to do the work necessary to Produce
a Phase II Environmental Site Assessment and other due diligence
reports and inspections;

WHEREAS Union Pacific requires Railroad Protective Liability
Insurance for the Right of Entry Agreement and the insurance can
be purchased from Union Pacific; and

WHEREAS there are adequate funds in the Rail/Trail Authority
Contingency line item of the Commission's fiscal year 04/05
budget to cover this expenditure;

BE IT RESOLVED BY THE SANTA CRUZ COUNTY REGIONAL TRANSPORTATION
COMMISSION:

The Executive Director is hereby authorized to expend up to
\$2,600 to purchase Railroad Protective Liability Insurance
from Union Pacific for the Right of Entry Agreement.

AYES: COMMISSIONERS

NOES: COMMISSIONERS

ABSTAIN: COMMISSIONERS

ABSENT: COMMISSIONERS

Ellen Pirie, Chair

ATTEST:

Pat Dellin, Secretary

Distribution: Auditor-Controller
SCCRTC Fiscal
Contractors

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