

AGENDA: November 17, 2005

TO: Regional Transportation Commission/Rail Trail Authority – Transportation Policy Workshop

FROM: Luis Pavel Mendez, Acting Deputy Director

RE: Santa Cruz Branch Rail Line Acquisition Project – Additional Structural Assessment Analysis

RECOMMENDATIONS

The Rail Acquisition Task Force (RATF) and staff recommend that the Regional Transportation Commission:

1. Approve amending the right of entry agreement with Union Pacific (UP) to cover the recommended additional structural analyses;
2. Approve hiring HNTB Corporation for production of the recommended additional structural analyses;
3. Approve the revised financial plan (Attachment 4) for the Santa Cruz Branch Rail Line Acquisition project to include the necessary funding for the additional structural analyses and peer review; and
4. Accept the planning maps of the Santa Cruz Branch Rail Line Right of Way (ROW) produced by the Santa Cruz County GIS Department (to be distributed at the meeting).

In addition, staff recommends that the RTC:

5. Approve contracting directly with HNTB Corporation for the additional structural assessment analyses; and
 6. Approve the attached resolution (Attachment 5) amending the contract with Miller, Owen and Trost to increase some of the hourly rates.
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BACKGROUND

The Regional Transportation Commission has been working on acquisition of the Santa Cruz Branch Rail Line for over four years. In December 2004, the RTC approved entering into a non-binding Letter of Intent with Union Pacific to purchase the Santa Cruz Branch Rail Line for \$19 million. A number of reports and steps must be completed before the RTC can make a final decision on acquisition of the Branch Line and to obtain the necessary approvals from the relevant funding and regulatory agencies.

A draft Structural Assessment report was prepared by Biggs Cardosa Associates and Systra

Consulting and presented to the RTC at its August 4, 2005 meeting. The report recommends additional structural analysis for some structures. At its August 18, 2005 Transportation Policy Workshop (TPW), the RTC approved a revised financial plan and budget to produce the additional analyses recommended in the structural assessment reports. The RTC also directed staff and consultants to conduct the necessary negotiations with Union Pacific to produce the additional analyses and to solicit proposals.

DISCUSSION

Recommended Additional Structural Analyses

The Santa Cruz Branch Rail Line Structural Assessment produced by Biggs Cardosa Associates and Systra Consulting recommends additional analysis of six bridges and trestles, and three retaining walls, to fully determine their condition. The recommendation includes a service load analysis of all of the bridges and trestles, and a seismic analysis for one structure. The structures recommended for additional analysis are:

- MP 1.06 – the bridge over the Pajaro River
- MP 9.09 – the La Selva Beach Trestle
- MP 10.45 - Timber trestle in Seascape near Sumner Avenue and Dolphin Drive
- MP 15.89 - the Capitola trestle.
- MP 19.43 - Steel trestle over the San Lorenzo River (seismic analysis)
- MP 23.54 - 16 foot long timber bridge over Meder Creek in Wilder Ranch State Park.

Retaining walls were not part of the original scope of work for the structures assessment; however, the structural engineers observed significant retaining wall structures and concluded that three retaining wall structures should be analyzed.

Negotiations with Union Pacific

As directed by the RTC, consultants and staff have been discussing with Union Pacific (UP), the need for additional structural analyses and various details on the production of the additional analyses including:

- Cost sharing
- Information required from UP
- Amendments to the right of entry agreement
- Firm to be used for the additional analyses

Union Pacific has agreed to share the cost of the additional structural analysis for the La Selva Beach Trestle up to \$30,000 and to permit the results of the additional structural analysis to be published, provided that:

1. Any information on the bridges provided by Union Pacific under the terms of the Confidentiality Agreement will remain subject to its terms, and will not be made public

(and any references to such information in the consultant's reports on the additional analyses must be redacted from the reports and not made public; HNTB has indicated that it can comply with these conditions in preparing its analyses and reports,

2. Before the reports may be finalized and publicized, Union Pacific will have the opportunity to review the draft reports, to provide comments and requested changes to SCCRTC and the consultant and to discuss such comments and requested changes with SCCRTC and the consultant,
3. To the extent the consultant declines to accept Union Pacific's changes or comments, the Union Pacific changes and comments will be included in the reports as attributed to Union Pacific but not accepted by the consultant (a minority report).
4. That HNTB be the engineering firm hired to conduct the additional structural analyses and that Union Pacific have input on the final scope of work.

Proposals

Union Pacific expressed a desire to have input on the firm hired to produce the additional structural assessment analysis of the La Selva Beach Trestle and provided HDR, Modjeski and Masters, and HNTB as potential firms. All three consultants do work for Union Pacific. Of these three firms, staff believes that HNTB has the least potential conflicts of interest by reason of its work with Union Pacific. HNTB is currently a subconsultant with Nolte on the RTC's contract for preliminary engineering and environmental documentation for the Highway 1 Widening HOV Lane project. In addition, HNTB's work with Union Pacific is a small percentage of its overall business. (Please see HNTB's response to staff's inquiry regarding the potential for conflicts of interest, attached as Attachment 3.)

Proposals for the additional structural analyses were received from HNTB Corporation (Attachment 1) and Biggs Cardosa Associates (Attachment 2). Biggs Cardosa produced the scope of work for the additional structural assessment analysis recommended for the La Selva Beach Trestle and could not propose on that part of the work but submitted a proposal for the remainder of the work. HNTB's proposed cost is \$61,401 for the La Selva Beach Trestle work and \$139,709 for the remainder of the work. Biggs Cardosa proposed a cost of \$129,975 excluding the work on the La Selva Beach Trestle. Biggs Cardosa also provided an estimate for peer review of all of the additional structural assessment analyses of \$38,000. It is expected that 2.5 to 3 months will be required to complete the work once it is initiated.

Contracting for the Additional Structural Analyses

At its August 18, 2005 meeting, the RTC approved contracting for the additional structural analyses through the contract with Miller, Owen and Trost with the engineering firm as a subconsultant to that contract. However, due to the fact that these are engineering services, it has raised some insurance and liability issues for Miller, Owen and Trost that would require them to add a mark up to the cost of the additional structural analyses and amend the liability language in the contract.

In order to contract for services directly with a firm, the RTC is generally required to issue a request for proposals (RFP) for those services unless special circumstances are involved. Due to the fact that, in order to move this project forward, the RTC has been required to negotiate with Union Pacific several issues including the firm who would be hired to produce the work and a cost sharing agreement, it has not and it is not possible for the RTC to use the standard RFP process. Based on staff’s review of both the Santa Cruz County purchasing procedures and the Caltrans Local Assistance Procedures Manual would allow flexibility in this case and permit the RTC to contract with an engineering firm directly as long as the RTC ensures that an adequate scope is produced that the cost is fair and reasonable. In addition, the Santa Cruz County purchasing procedures state:

“Except as otherwise directed by law, or as directed by the Board of Supervisors (*or the Regional Transportation Commission*), competitive bidding is not required for the following:

- (a) Expert and professional services which involve extended analysis; the exercise of discretion and independent judgment in their performance; and an advanced, specialized type of knowledge, expertise, or training customarily acquired either by a prolonged course of study or equivalent experience such as accountants, physicians, social service consultants, labor negotiators, investigators, attorneys, architects, landscape architects, surveyors, engineers, construction management services, and environmental services (Govt. Code §4526).”

Staff did not have the time to verify this with Caltrans prior to writing this report. Staff will due any additional necessary investigations and verification, report the results at the meeting and provide revised recommendations if necessary.

Miller, Owen and Trost Hourly Rates

Miller, Owen and Trost has been under contract with the RTC since March 2001 for services in connection with acquisition of the Santa Cruz Branch Rail Line. During that time the hourly rates for Miller, Owen and Trost staff have only increased only once (September 2004) by an amount of \$10. Miller, Owen and Trost requests that the hourly rates for Kirk Trost, Paul Chrisman and their associates be increased by \$15. Kirk Trost currently charges \$230 to \$250 per hour for the type of work included in the contract with the RTC and the proposed rate increase would ensure that Mr. Trost continues to provide his services to the RTC at a discounted rate. The following table shows the rate history and the proposed rate:

Hourly Rates for the Miller, Owen and Trost Contract

	Initial Rate	Current Rate	Proposed Rate
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Kirk Trost	\$175	\$185	\$200
Nancy C. Miller	\$175	\$185	\$185
Phillip L. Isenberg	\$200	\$210	\$210
Paul J. Chrisman	\$160	\$170	\$185
Associates	\$110 to \$160	\$120 to \$170	\$135 to \$185
Law Clerks	\$100	\$110	\$110
Paralegals	\$65	\$75	\$75

Based on past contracts for legal services, staff considers the proposed rate increase reasonable. By comparison, the attorneys for the Highway 1 Widening Project, Nossaman, Guthner, Knox and Elliott, charged approximately \$400/hour on a contract that ended in June 2004.

Funding

The Federal Earmark funds available for the rail acquisition project may be used for the additional structural assessment work. The revised financial plan for the Rail Acquisition Project (Attachment 4) shows the necessary to ensure that there are sufficient available for the additional structural assessment analysis. The necessary budget amendments for the recommendations in this staff report are included in a separate agenda item. This includes adding the funds to be provided by Union Pacific.

Maps of Railroad Right-of-Way (ROW)

The RTC approved spending \$13,000 to hire the Santa Cruz County Geographic Information Services (GIS) Department to produce maps of the Santa Cruz Branch Rail Line ROW using a variety of sources. A draft set of the maps was presented to the RTC at its August 18, 2005 Transportation Policy Workshop (TPW) meeting. The Santa Cruz County GIS Department is finalizing the maps and sets will be distributed at the meeting. The map sets include a disclaimer due to the inconsistencies in the various sources of information and an information sheet that explains that describes the sources of information used and provides direction for reading the maps. The maps will be posted on either the RTC website or the County GIS Department website.

Rail Acquisition Task Force and Staff Recommendations

The Rail Acquisition Task Force (RATF) discussed Union Pacific's conditions, the two proposals submitted for the additional structural assessment analysis, HNTB's response to the potential for conflict of interest and the financial plan for the Santa Cruz Branch Rail Line Acquisition project. The RATF considered the desire for peer review of the recommended additional structural analyses.

The RATF and staff consider Union Pacific's request to be reasonable and recommend that the Regional Transportation Commission:

- 1. Approve amending the right of entry agreement with Union Pacific (UP) to cover the**

- recommended additional structural analyses;
2. Approve hiring HNTB for production of the recommended additional structural analyses and Biggs Cardosa for peer review of the work;
 3. Approve the revised financial plan (Attachment 4) for the Santa Cruz Branch Rail Line Acquisition project to include the necessary funding for the additional structural analyses and peer review; and
 4. Accept the planning maps of the Santa Cruz Branch Rail Line Right of Way (ROW) produced by the Santa Cruz County GIS Department (to be distributed at the meeting).

In addition, staff recommends that the RTC:

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6. Approve the attached resolution (Attachment 5) amending the contract with Miller, Owen and Trost to increase some of the hourly rates.

Timeline

RTC staff has begun working on a revised timeline and expects to present it to the RTC at its next meeting.

SUMMARY

As directed by the RTC, consultants and staff have been negotiating with Union Pacific regarding recommended additional structural analyses for the Santa Cruz Branch Rail Line. Union Pacific has agreed to share the cost of the additional analysis of the La Selva Beach Trestle with some conditions. The Rail Acquisition Task Force (RATF) and staff recommend that the RTC approve amending the necessary agreements with UP, hiring HNTB and making the necessary financial plan and contract amendments to produced the recommended additional structural analyses.

Attachment 1: HNTB Proposal for Structural Analyses

Attachment 2: Biggs Cardosa Proposal for Structural Analyses

Attachment 3: HNTB Response to Potential Conflict of Interest

Attachment 4: Draft Revised Financial Plan for the Santa Cruz Branch Line Acquisition Project (enclosed separately)

Attachment 5: Resolution Amending the Contract with Miller, Owen and Trost to Increase some of the Hourly Rates