

Preliminary – For Discussion Purposes Only
Revised Draft ~~June 15~~ August 13, 2008

**Request for Proposals for
An Operator of Rail Freight Service on the Santa Cruz Subdivision
of the Union Pacific Railroad Company**

I. Introduction

The Santa Cruz County Regional Transportation Commission (SCCRTC) is the designated Regional Transportation Planning Agency (RTPA) for Santa Cruz County. The agency consists of twelve members, representing the County of Santa Cruz, the Cities of Capitola, Santa Cruz, Scotts Valley and Watsonville, and the Santa Cruz Metropolitan Transit District. Caltrans serves as an ex-officio member. SCCRTC has established itself as the Rail/Trail Authority for Santa Cruz County to develop and oversee projects on public rail line rights-of-way in Santa Cruz County.

SCCRTC is negotiating the acquisition of the Santa Cruz Branch Rail Line from Watsonville to Davenport, which line is officially known as the Union Pacific Railroad Company's (UPRR) "Santa Cruz Subdivision." In addition, SCCRTC is negotiating to acquire, and assume responsibility for, the freight rail service currently operated by UPRR on the Santa Cruz Subdivision. SCCRTC may, in the future, consider establishing a bicycle and pedestrian path along the Santa Cruz Subdivision (Coastal Rail/Trail), as well as implementing recreational passenger rail service over the Subdivision.

SCCRTC has reached an agreement in principle to purchase the Santa Cruz Subdivision, which includes approximately 31 route miles of right-of-way and standard gage railroad line between Watsonville Junction and Davenport, California. SCCRTC and UPRR have signed an agreement setting forth the terms under which SCCRTC will purchase UPRR's right-of-way and improvements thereon, and the parties are now

negotiating to close the transaction. Under the terms of the agreement, the SCCRTC will assume responsibility for the existing freight operations on the Line and any passenger service that might be created in the future. The SCCRTC anticipates that the UPRR's property will be acquired on or about December 1, 2005 and that responsibility for freight operations may be transferred to SCCRTC at that time, or within eight months thereafter.

The purpose of this Request for Proposals (RFP) is to solicit proposals from operationally and financially qualified firms which will be evaluated by SCCRTC to select an Operator of Rail Service for the Santa Cruz Subdivision. The proposer selected by SCCRTC will be a common carrier subject to the jurisdiction of the Surface Transportation Board ("STB"). SCCRTC will provide the right-of-way, trackage, bridges, trestles and culverts, signage and grade crossing warning systems to the Operator, in their current condition. The contract between the two parties will be a lease with terms and conditions to be negotiated, provided that the standard terms and conditions set forth in **Attachment G** will be part of the lease between the parties.

The Operator will be responsible for providing and maintaining the required locomotives and railcars, dispatching and communications, internal controls, computers and communications, reports, information and data required by shippers, UPRR, and the Association of American Railroads (AAR). The Operator will be responsible for maintaining and inspecting all trackage, including all main tracks, sidings, spur tracks, tracks in grade crossings, walkways and city streets, at-grade crossings, automatic crossing warning signals, drainage ditches, channels, bridges, trestles and culverts in accordance with applicable Federal Railroad Administration (FRA) and California Public Utilities Commission (CPUC) regulations. In addition, SCCRTC anticipates that the lease will require the Operator to (i) comply with SCCRTC regulations with respect to trash, graffiti control or eradication, weed abatement, and similar matters, and (ii) use materials that are in good condition and of at least equal quality when performing any

repairs or replacements of trackage. Standards for new improvements will be prescribed by SCCRTC.

The Operator will operate the Santa Cruz Subdivision under the General Code of Operating Rules (GCOR) for Western Railroads, will be a common carrier, and will operate the property in accordance with all applicable regulations of the FRA, CPUC, and STB. The Operator will furnish qualified employees for train and engine crews, and maintenance employees as well as supervisory employees and support personnel. In addition, the Operator will be required to furnish property and liability insurance, an environmental protection program designed to prevent and control environmental accidents, a safety program, an employee certification program, and a substance abuse program. The Operator will be required to cooperate with other SCCRTC-approved projects on the Santa Cruz Subdivision, including the Coastal Rail/Trail and possible future passenger service.

Revenues to the Rail Freight Service Operator will be from amounts paid by the UPRR and/or rail customers for the movement of freight on the Santa Cruz Subdivision, which amounts will be negotiated by the Operator. Compensation to the Rail Freight Service Operator arising out of the future institution of rail passenger service, if any, on the Santa Cruz Subdivision, will be subject to negotiation.

II. Proposal Contents, Process and Requirements

A. Proposal Submissions

A Pre-Proposal Conference for prospective bidders will be held at 10:00 A.M., on July 11, 2005 at SCCRTC's offices at 1523 Pacific Avenue, Santa Cruz, California. Please call the Commission offices at (831) 460-3200 by July 5, 2005 to indicate your attendance and the number of participants at the Pre-Proposal Conference. Notes on the

Pre-Proposal Conference, written responses to all questions received from proposers, and any subsequent amendments to the RFP will be distributed to the proposers attending the Pre-Proposal Conference.

All questions in regard to this RFP must be submitted in writing and addressed to Patricia M. Dellin, Acting Executive Director of SCCRTC, on or before July 1, 2005. A written response to all questions received by July 1, 2005 will be made to prospective RFP proposers at the Pre-Proposal Conference. SCCRTC reserves the right to issue a revised RFP or addenda as a result of comments and questions from prospective bidders.

The original and nine (9) copies of a proposal submitted pursuant to this RFP must be received by SCCRTC no later than 5:00 P.M. on August 1, 2005 at the following address:

George Dondero
Executive Director
Santa Cruz County Regional Transportation Commission
1523 Pacific Avenue
Santa Cruz, CA 95060-3911

SCCRTC is not responsible for delays due to the U.S. Postal Service, courier services or any other mail delivery service. Proposals received after the 5:00 P.M. deadline on August 1, 2005 will not be considered.

All Proposals submitted in response to this request will be screened by SCCRTC staff and other SCCRTC-designated representatives. The screening will determine which proposers will be invited to interview, and any selected proposer must make the key personnel identified in its Proposal available to the SCCRTC interview committee. SCCRTC reserves the right to make a final selection without an interview, or to choose not to negotiate or execute a contract with any proposer.

B. Proposal Requirements

Submitted proposals must be clearly labeled as “**Proposal for Operator of Rail Freight Service,**” and must include the following:

1. A Transmittal Letter, which must include the following information:
 - The name and signature of the person authorized to obligate the company or joint venture. Location of the principal office. If activities are to be shared among companies and offices at different locations, indicate where each office is located and what activities are to be performed in each office.
 - A summary description of the work to be performed by each subcontracting company proposed for the project, if any.
 - An e-mail address for the company representative to which correspondence can be sent. If e-mail is not available, so indicate in the transmittal letter. Also provide telephone and fax numbers or so indicate if they are not available.
2. An Organization Chart including all participants in the Proposal, showing the proposed relationships between the key personnel and support staff, showing which work function each company will be responsible for performing.
3. A Mobilization Plan and a schedule for the start-up of rail service upon issuance of a Notice To Proceed by SCCRTC to the Operator.

4. A Service Plan that:

- includes detailed information concerning the rolling stock and other equipment to be used on the Santa Cruz Subdivision,
- includes detailed proposal for the handling of ancillary charges, including demurrage charges, between the Operator and the shippers,
- is sensitive to the needs of the communities traversed and avoids nighttime operations, if possible,
- provides optimal service to all freight customers and to UPRR, and addresses the Operator's ability to ensure consistency of freight rail service, meet peak shipment requirements, and return freight service to the Santa Cruz Subdivision after unplanned outages such as derailments,
- complies with the provisions of UPRR's Trackage Rights Agreement with the Santa Cruz, Big Trees & Pacific Railway Co., and
- describes the Operator's ability, if any, to operate passenger train service, when and if requested to do so by SCCRTC and confirms the Operator's willingness to (i) cooperate with any other operator of passenger train service that may be selected by SCCRTC, and (ii) cooperate with the construction and operation of a Rail/Trail.

5. A Maintenance Plan for the Santa Cruz Subdivision rail properties, at not less than FRA Class 1 standards, and for the Operator's rolling stock, both of which must include an environmental protection program. The Maintenance Plan shall include the location of the Operator's maintenance facility, as well as storage facilities for the Operator's rolling stock.

6. A projected five-year Financial Plan and Proposer's most recent financial statements demonstrating the proposer's financial capability and the availability of the financial resources that would be used to provide the services proposed. The Financial Plan must include projected capital expenditures as well as revenues and expenses, including the proposer's insurance plan, limits of liability, and deductible consistent with minimum requirements in **Attachment G**.

7. A proposal for lease payments to be returned to SCCRTC annually, including an estimate of likely lease payments and the proposed method of calculation.

8. Proposer's demonstrated ability, including its safety compliance record, to comply with the requirements of CPUC, FRA, and all other regulatory agencies that would govern the Rail Service Operator's business of operating the Santa Cruz Subdivision.

9. References for similar rail operations experience should be provided by the proposer; SCCRTC prefers to receive at least three such references, but proposers submitting fewer than three references will not be disqualified from consideration. Each reference should include the contact's name, title, address and phone numbers, and include an explanation of the services provided, in addition to the years in which they were provided.

SCCRTC reserves the right to reject any proposals that do not contain all nine (9) sections listed above, do not contain the required number of copies, do not have correct labeling, are submitted after the deadline or are submitted to the wrong location.

C. Proposal Process Schedule

The schedule for the proposal process is:

RFP's Available and Mailed	June 30 <u>Sep 19, 2008</u> 6
Pre-Proposal Conference	July 21 <u>Sep 29, 2008</u> 6
Proposal Submission	August 11 <u>Oct 3, 2008</u> 6
Short-List Selection	August 25 <u>Oct 10, 2008</u> 6
Notification of Short Listed Firms	August 25 <u>Oct 10, 2008</u> 6
Interview Short List Firms	Week of September 11 <u>Oct 13, 2008</u> 6
RTC Selection of Firm	October 5 <u>Nov 6, 2008</u> 6
Complete Negotiations with Selected Firm	October 25 <u>Nov 20, 2006</u>
RTC Approves Contract with Firm	November 2 <u>Dec 4, 2008</u> 6
Commence Operations	December <u>Jan 1, 2009</u> 6

SCCRTC reserves the right to alter the foregoing schedule for any reason.

D. Modification or Withdrawal of Submittals

Any Proposal received prior to the date and time specified above for receipt may be withdrawn or modified by written request of the proposer. To be considered, however, the modified Proposal must be received by the time and date specified above.

E. Property Rights

Any Proposal received within the prescribed deadline becomes the property of the SCCRTC and all rights to the contents therein become those of SCCRTC.

F. Confidentiality

After the deadline to submit Proposals has passed, all Proposals will be regarded as public records and will be subject to review by the public. Except as expressly provided below, any language purporting to render all or portions of the Proposals confidential will be regarded as non-effective and will be disregarded. If any Proposal is based on (i) information constituting a trade secret, as that term is defined in Evidence Code section 1060, or (ii) information that is subject to a confidentiality agreement, the proposer may submit such information separately from the Proposal, clearly marked as confidential. The proposer shall state in writing whether any such confidential information is a trade secret or is subject to a confidentiality agreement. Such information will be designated confidential, but only to the extent permitted by the California Public Records Act. In the event of a legal challenge to the confidentiality of any such information submitted by a proposer, SCCRTC will give the proposer notice of such legal challenge and the opportunity to defend the confidentiality of such information, but such defense will not be the responsibility of SCCRTC.

G. Amendments to Request for Proposals

SCCRTC reserves the right to amend the Request for Proposals by addenda before the final proposal submittal dates.

H. Non-Commitment of SCCRTC

This Request for Proposals does not commit the SCCRTC to award a contract, to pay any costs incurred in the preparation of a proposal for this request, or to procure or contract for any services. All products used or developed in the execution of any contract resulting from this Request for Proposals will remain in the public domain at the completion of the contract.

I. Conflict of Interest

The prospective Operator shall disclose any financial interest, or any business or other relationship, that may have an impact upon the proposal or any services rendered to SCCRTC. The prospective Operator shall also list current clients who may have a financial interest in the outcome of this contract. A prospective Operator has a "financial interest" if it is reasonably foreseeable that the prospective Operator may gain a material financial advantage as a result of prospective Operator's relationship with any person or entity connected with, or directly affected by, the services provided or work performed under the contract. As used throughout this Section, the term "prospective Operator" includes every owner and employee of the prospective Operator, including their immediate families. If requested by SCCRTC, the prospective Operator, its owners and employees will be required to file a completed "Fair Political Practices Commission (FPPC) Form 700, Statement of Economic Interests" with SCCRTC in accordance with SCCRTC's Conflict of Interest Code.

J. Nondiscrimination

The contract awarded as a result of this Request for Proposals (RFP) will be awarded without discrimination based on race, color, religion, age, sex, sexual preference, or national origin.

K. Inquiries and Requests for Additional Copies

Inquiries concerning this Request for Proposals and requests for additional copies this document should be directed to Patricia M. Dellin, Acting Executive Director of SCCRTC.

III. Operator Selection and Contract Negotiations

The selection of the prospective Operator of Rail Service shall be made by SCCRTC in accordance with the Selection Criteria that are contained in **Attachment A**, and in accordance with the time schedule detailed above.

At the conclusion of the proposal ranking process, SCCRTC may offer a contract to the highest-ranked firm and negotiate final contract terms with that firm. If agreement cannot be reached with the highest-ranked firm, SCCRTC may terminate negotiations with that firm and commence negotiations with the next most qualified firm. If necessary, SCCRTC may repeat this process until a final contract has been negotiated.

IV. Description of the Santa Cruz Subdivision

Attachment B is a map showing the location of the Santa Cruz Subdivision and **Attachment C** is a copy of UPRR's timetable and special instructions as they pertain to the Subdivision. The SCCRTC ownership of right-of-way and improvements begins near Salinas Road at about MP 0.4 at Watsonville Junction and extends to a turnout at about MP 31.4 at Davenport, California. The interchange with UPRR will be made on a track to be designated by UPRR in UPRR's Watsonville Yard.

The yard track at Davenport has been leased to CEMEX Davenport (The Cement Plant) for receiving inbound cars and for staging outbound cars. These tracks are for the sole and exclusive use of CEMEX and will not be available to the Operator for storing, switching, or holding cars for other customers on the Santa Cruz Subdivision. Interchange is not made to CEMEX. The cars remain in the account of the Operator and are spotted at the industry. The Operator may deliver some cars into the yard tracks at Davenport, but may also spot cars for unloading at the coal facility inside the plant or may spot cars for loading on the cement tracks as may be necessary. Outbound cars from

CEMEX may be placed in the yard tracks, but the Operator will also from time to time pull outbound cars out of the cement loading tracks and out of the coal unloading tracks. The Operator will be required to coordinate with plant operations for the use of tracks inside the cement facility and will be responsible for compliance with all plant rules and regulations when switching inside the cement plant.

The Santa Cruz, Big Trees and Pacific Railway's (SCBT&P) ownership begins at about MP 20.5, on the tail of the Wye Track near Maple Street in Santa Cruz., The SCBT&P interchanges freight cars on the Santa Cruz Wye Track and has operating rights to move excursion passenger trains to the Santa Cruz Boardwalk (i.e., Casino) along the beach in downtown Santa Cruz. Note that for this purpose, UPRR maintains the track between MP 19.3 and MP 20.8, as FRA Class 1, as shown in **Attachment C**. See the Roaring Camp website at www.roaringcamp.com for the excursion passenger train schedules which must be respected by the selected Operator's Service Plan.

As indicated in **Attachment C**, the UPRR operates the Santa Cruz Subdivision as "Excepted Track" with a maximum authorized train speed of 10 mph. There are no train control signals on the Subdivision and the GCOR rules concerning Track Warrant Control (TWC) and Yard Limits (YL) are in place. Six (6) axle locomotives are prohibited. UPRR "SI-12, Tonnage Restrictions-None," indicates that a maximum load of 268,000 lb. per 4-axle rail car is permitted.

Currently UPRR operates a round trip, tri-weekly local freight service between Watsonville Junction and Davenport, consisting for the most part of inbound coal and empty cement cars for CEMEX Davenport and loaded cars of cement and empty coal cars on the return trip. An average of 30 to 40 cars per train are handled in the tri-weekly service. Notwithstanding the foregoing, the Operator's service plan may propose a different schedule and number of cars per train, although nighttime operations should be avoided. **Attachment C** shows "remote control area limits between MP 0.0 and MP

15.0.” Local industries in Watsonville located on the Santa Cruz Subdivision could be switched either by remote control or by through trains.

The right-of-way maps for the Santa Cruz Subdivision are not attached to this RFP but can be viewed at the pre-proposal meeting. The right-of-way width is generally 50 ft. to 80 ft. wide between Watsonville and Santa Cruz and generally 100 ft. to 350 ft. wide between Santa Cruz and Davenport.

The UPRR Track Chart in **Attachment D** shows the gradient, curvature, mileposts, sidings, spur tracks, yard limits, drainage structures, highway grade separations, at-grade crossings and type of rail in track by weight of rail, jointed or continuous welded rail (CWR), and the year that the rail was laid. **Attachment E** is a copy of the UPRR most current bridge inspection report and **Attachment F** is a copy of the UPRR’s most current public at-grade crossings report showing the names of crossings, milepost locations, types of crossings, and types of grade crossing warning systems. There are approximately 47 private at-grade crossings, mostly farm type. Some main track runs longitudinally in city streets, including about 0.5 track miles (TM) in Watsonville and about 0.5 TM at “Casino,” the Boardwalk, at Santa Cruz Beach. There are approximately 16 turnouts on the Santa Cruz Subdivision and about 31.0 TM of Main Track along with about 1.4 TM of spur tracks and runaround tracks or sidings.

For the most part, highway overpasses are maintained by the State Highway Department. However, historical records suggest that two highway overpasses (sometimes known as overheads) may have resulted from deed conditions which require railroad maintenance. One such overpass is West Cliff Drive in Santa Cruz for which SCCRTC has been advised that the City of Santa Cruz has assumed the maintenance responsibility. The other structure is at MP 12.03, Rio Del Mar highway overpass for which SCCRTC has been advised that the Santa Cruz County Public Works Department has assumed the maintenance responsibility.

SCCRTC is aware of the following maintenance problems that UPRR has encountered on the Santa Cruz Subdivision:

1. Agricultural irrigation water running on the roadbed in the vicinity of MP 9.6 and generally between Natural Bridges (MP 22.10) and Davenport (MP 31.9);
2. Soft subgrade, side hill slides and drainage problems in the vicinity of MP 5.0.; and
3. Storm damage from large trees falling on the right-of-way and on adjacent property, generally in the territory from MP 10 to MP 16.

In 2003, the UPRR reportedly rehabilitated the Santa Cruz Subdivision by installing approximately 37,000 new treated timber crossties and surfaced and lined the Subdivision with a reported 550 carloads of crushed rock ballast. In the same period, several at-grade crossings were improved by the installation of concrete panels.

Information concerning freight traffic on the Santa Cruz Subdivision, including inbound and outbound carload information for each shipper, will be provided only after the proposer signs a confidentiality agreement obligating the proposer to maintain the confidentiality of all such information.

V. Attachments To The Request For Proposals

- A. Criteria for Selection of the Operator of the Santa Cruz Subdivision.
- B. Map of the Santa Cruz Subdivision.

- C. Current Union Pacific Railroad Company Timetable.
- D. Current Union Pacific Track Chart showing profile, degrees of curvature and weight of rail.
- E. Current Union Pacific Bridge Inspection Report.
- F. Current Union Pacific At-Grade Public Crossing Report showing names, mileposts, and existing grade crossing warning systems. ***[Note: We are awaiting receipt of this information from UPRR.]***
- G. Standard Terms and Conditions for Lease.

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