

Memorandum

To: CHAIR AND COMMISSIONERS

CTC Meeting: May 28-29, 2008

Reference No.: 2.6b.
Action Item

From: CINDY McKIM
Chief Financial Officer

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Division Chief
Budgets

Subject: **FINANCIAL ALLOCATION FOR STATE PROPOSITION 116 PROGRAM PROJECTS
RESOLUTION BFP-07-03**

RECOMMENDATION:

The Department of Transportation (Department) recommends the California Transportation Commission (Commission) approve the following resolution allocating \$500,000 to the Santa Cruz County Regional Transportation Commission for one locally-administered rail project described below and funded with Proposition 116 Rail Bond funds, per PUC 99640(b), and in accordance with the attached vote.

- \$500,000 from Proposition 116 Rail Bond funds for the Santa Cruz Branch Rail Line Acquisition.

ISSUE:

The attached vote list describes one locally-administered Proposition 116 project for \$500,000, plus \$1,752,000 from other sources. The local agency is ready to proceed with this project and is requesting an allocation at this time.

FINANCIAL RESOLUTION

Resolved That:

- 1.1 WHEREAS, the California Transportation Commission (Commission) has adopted an annual program for mass transportation capital purposes, and the electorate enacted both Proposition 108, the Passenger Rail and Clean Air Bond Act of 1990, and Proposition 116, the Clean Air and Transportation Improvement Bond Act of 1990 in the June, 1990, election authorizing the sale of general obligation rail bonds for rail transit purposes; and
- 1.2 WHEREAS, the Project, further detailed on the attached vote list, as component phases or in its entirety, appears on the necessary State capital projects funding list and is entitled to participate in this allocation; and
- 1.3 WHEREAS, the Santa Cruz County Regional Transportation Commission is required to provide a one-to-one matching share pursuant to Public Utilities Code Section 99665; and

- 1.4 WHEREAS, the Commission has established a "Hazardous Waste Identification and Clean-up Policy" (#G-91-2) which requires the Recipients to perform, with diligence, the process of identification and remediation of any hazardous waste in the right-of-way, easements and properties.
- 2.1 NOW THEREFORE BE IT RESOLVED, that an allocation of \$500,000 in PROPOSITION 116 CLEAN AIR AND TRANSPORTATION IMPROVEMENT BOND proceeds be allocated to the Recipient for the Project, as detailed on the attached vote list; and
- 2.2 BE IT FURTHER RESOLVED, that the transfer of funds for the Project shall be governed by a program supplement, and subsequent amendments to the same if required; and
- 2.3 BE IT FURTHER RESOLVED, that the Recipient shall provide the Department's Division of Mass Transportation with an updated expenditure plan on a quarterly basis by category including any proposed changes for the balance of all funded Project allocations commencing with the first quarter; and
- 2.4 BE IT FURTHER RESOLVED, that in any instance of rail bond financing of the project, the Commission, acting on behalf of the State, by this Resolution intends:
 - A. To cause and approve the issuance of taxable or tax-exempt State general obligation bonds under Proposition 116, as appropriate: to reimburse the Recipient for the Project identified on attached vote list;
 - B. To reimburse the Recipient for expenditures that shall not have been paid from the proceeds of any other tax-exempt indebtedness unless such prior indebtedness is retired with the proceeds of such State monies;
 - C. That this Resolution be a declaration of official intent of the State within the meaning of U.S. Treasury Regulations Section 1.103-17(c) with respect to the Project; and
- 2.5 BE IT FURTHER RESOLVED, that in any instance of rail bond financing, an allocation for the Project is subject to the following conditions and assurances:
 - A. Completed bond sales authorized by the Office of the State Treasurer;
 - B. Receive bond certification from the Department, preferably prior to the Commission's allocation action but, certification must be obtained prior to execution of the fund transfer agreement,
 - C. The Recipient's certification that it will not adopt new or increased current development taxes, fees, exactions or permit fees for the purpose of providing local matching funds; and the certification of this delivered to this Commission, preferably by the time of Commission allocation action but not later than prior to execution of a fund transfer agreement,

- D. A formal resolution by the Recipient's Board stating that when utilizing State funding for acquisition of property or for capital improvements on the Project, Recipient has exercised all due diligence in the discovery of hazardous wastes; that Recipient will enter into enforceable agreement(s) with any and all owners of to-be-acquired properties for clean-up of hazardous wastes pursuant to the requirements of Resolution G-91-2 regarding Hazardous Waste Identification and Clean-up for Rail Right-of-Way; delivered to this Commission,
 - E. A formal resolution by the Recipient's Board, stating that when utilizing state-provided and other-than-state funding for acquisition of property or for capital improvements on the Project, that no additional State funds will be requested for clean-up, damages, or liability associated with hazardous wastes on or below the acquired property, delivered to this Commission;
 - F. That in any instance of rail bond financing with Proposition 116 funds, eligible costs may be incurred for project development after the project application approval, and all reimbursements of eligible costs are subject to an executed fund transfer agreement;
 - G. The Recipient shall provide the Commission with an "Evaluation of Property Report" by the time of the Commission allocation action, in compliance with Commission Policy G-95-09, Rail Right-of-Way Review Policy, to be verified by the Department or its Agent;
 - H. The Recipient shall post on the Project construction site at least one sign, visible to the public, stating that the Project is partially funded with Proposition 116 Clean Air and Transportation Improvement Bond Act of 1990 proceeds;
- 2.6 BE IT FURTHER RESOLVED, that this Commission shall be entitled to a then present value refund, or credit, at State's option, equivalent to the proportionate funding participation by the State towards property acquisition and project construction in the event that Recipient, or successor public entities, fail or cease to utilize the Project for the intended public passenger rail purposes or sells or transfers title to the Project. The credit for future purchases or condemnation of all or portions of the Project by the State, and the refund or credit due the Commission in each instance, will be measured by the ratio of State and other public funding to that provided from Recipient. That ratio will be applied to the then fair market value of the Project property; and
- 2.7 BE IT FURTHER RESOLVED, that if the Recipient receives any revenues or profits from any non-governmental use of property allowed pursuant to bond certification (whether approved at this time or hereafter approved by the State), the Recipient agrees that such revenues or profits shall be used exclusively for the public transportation services for which the project was initially approved, either for capital improvements or maintenance and operational costs. If the Recipient does not so dedicate the revenues or profits, a proportionate share shall (unless disapproved by State's Bond Counsel) be paid to the State equivalent to the State's percentage participation in the Project.

- 2.8 BE IT FURTHER RESOLVED, that an allocation for the Project is subject to the following conditions and assurances:
- A. Reimbursements of eligible costs are subject to the terms and conditions of the executed fund transfer agreement;
 - B. The grant recipient must complete the work to be reimbursed and the actual reimbursement by June 30, 2010, unless the Commission authorizes a waiver that extends, if permitted by statute, the period of availability of the funds.

Attachment

2.6 Mass Transportation Financial Matters

Project # Allocation Amount Recipient RTPA/CTC District-County Legislative Districts	Project Title Location Project Description Project Funding	EA PPNO Program / Year PA # PUC Code Prog. Amount	Fund Program Code	Allocation Amount Total Amount
2.6b. Proposition 116 – Local Rail Projects		Resolution BFP-07-03		
1 \$500,000 Santa Cruz County Regional Transportation Commission <u>Santa Cruz LTC</u> 05-Santa Cruz Senate: 11, 15 Assembly: 27, 28	Santa Cruz Branch Rail Line Acquisition Santa Cruz Branch Line from Santa Cruz to Watsonville Junction. Acquire rail right of way for future transportation purposes, including continuation of existing freight and recreational rail service, and for future potential passenger rail service, and a bicycle/pedestrian path. This request is for additional funds for pre-acquisition of right of way beyond \$300,000 already allocated to provide for project improvements and corridor preservation (31 miles from Pajaro in Monterey County to Davenport in Santa Cruz County). <u>Outcome/Output:</u> Funds will be used for requisite pre-acquisition right of way work which includes; negotiations, agreements, legal advice, regulatory approvals, environmental site assessment, appraisals, lease investigation and title review, development of business and management plan, track and property inspections, and execution of a short line freight service agreement. (Contributions from other sources: \$1,752,000.) (Concurrent application amendment under 2.1e.)	R1276B 05-0932 P116R/ 07-08 PA-08-01 99640(b) \$500,000	P116 30.10.070.000	\$500,000 \$500,000