Memorandum

To: CHAIR and COMMISSIONERS **Date:** April 7-8, 2010

From: BIMLA G. RHINEHART **File No: 4.15**
Executive Director **Action**

Ref: **Addendum to 2010 STIP Guidelines:**
Local Alternative Transportation Improvement Programs for State Routes 84 and 238
Resolution G-10-__

ISSUE:

On October 11, 2009, the Governor signed Assembly Bill 1386 (Chapter 291 of the Statutes of 2009), which authorizes advancement of projects in a local alternative transportation improvement program (TIP) with local funds, to be repaid when revenues from excess property sales become available. AB 1386 also authorizes the California Transportation Commission (Commission) to incorporate into the state transportation improvement program guidelines additional guidelines specific to the local alternative TIP, and to establish a process to approve advancing a project in the local alternative TIP.

The proposed 2010 STIP Guidelines addendum was initially distributed for review on February 4, 2010 and was presented at the February 2010 meeting for discussion.

RECOMMENDATION:

Staff recommends the Commission adopt this addendum to the 2010 STIP Guidelines for Local Alternative Transportation Improvement Programs for Routes 84 and 238.

BACKGROUND:

Existing law authorizes a city or county in which a planned transportation facility was to be located on State Highway Route 238 in Alameda County or on State Highway Route 84 in the Cities of Fremont and Union City, to develop and file with the Commission a local alternative transportation improvement program. This local alternative TIP addresses transportation problems that were to be addressed by the planned state transportation facility and provides for the use of revenues from the sales of excess properties acquired for the planned facility in order to fund the local alternative TIP.

AB 1386 requires revenues from excess property sales for Routes 238 and 84 to be deposited into separate accounts in the Special Deposit Fund, a continuously appropriated fund, to be available for expenditure for purposes of an approved local alternative TIP. AB 1386 also authorizes local agencies to advance projects in the local alternative TIP with local funds, to be repaid when revenues from excess property sales become available. The Commission is required to develop and adopt guidelines to implement procedures to approve project advancement.

Attachment

April 7-8, 2010
Item 4.15

ADDENDUM to 2010 STIP GUIDELINES
Local Alternative Transportation Improvement Programs
State Routes 84 and 238

Resolution G-10-__
Addendum to Resolution G-09-11

Authority and Scope: Government Code Section 14528.56, added by Chapter 291 (AB 1386) of the Statutes of 2009, authorizes the California Transportation Commission (Commission) to incorporate into the state transportation improvement program guidelines additional guidelines specific to the local alternative transportation improvement program, and to adopt guidelines to establish a process to approve advancing a project, if the project is included in the local alternative transportation improvement program approved pursuant to Section 14528.5 or 14528.55 of the Government Code.

The Commission may amend these guidelines at any time after first giving notice of the proposed amendments.

Development of the Local Alternative Transportation Improvement Program: Sections 14528.5 and 14528.55 of the Government Code authorize the development of a local alternative transportation improvement program (TIP) to address transportation problems which were to be addressed by the planned state transportation facilities on State Highway Route 238 in the City of Hayward and Alameda County, and on State Highway Route 84 in the Cities of Fremont and Union City. The City and/or County will act jointly with the transportation planning agency to develop and file the local alternative TIP. Priorities for funding in the local alternative TIPs shall go to projects in the local voter-approved transportation sales tax measure.

The local alternative TIP must be submitted to the Commission prior to July 1, 2010.

All proceeds from the sale of the excess properties, less any reimbursements due to the federal government and all costs incurred in the sale of those excess properties (properties acquired to construct a new alignment for a freeway or expressway bypass to State Highway Route 238 in the City of Hayward and in the County of Alameda, and State Highway Route 84 in the Cities of Fremont and Union City) shall be allocated by the Commission to fund the approved local alternative TIP.

Administration of the Local Alternative TIP: Project funds programmed in the local alternative TIP shall be allocated and expended in the same manner as state funds made available for capital improvement projects in the state transportation improvement program (STIP) adopted by the Commission pursuant to Section 14529 of the Government Code. These funds shall not be subject to the formula distributions specified in Sections 164, 188 and 188.8 of the Streets and Highways Code.

Advancement of a Project in the Local Alternative TIP: A local agency may, with the concurrence of the appropriate transportation planning agency, the Commission, and the Department of Transportation (Department), advance a project included in the local alternative TIP prior to the availability of sufficient funds from the sale of respective excess properties, through the use of its own funds.

Advancement of a project or projects shall not change the priority for funding and delivery of all projects within each respective approved local alternative TIP.

A local agency may enter into an agreement with the appropriate transportation planning agency, the Department, and the Commission to use its own funds to develop, purchase right-of-way for, and construct a transportation project within its jurisdiction that is included in the respective local alternative TIP.

If the local agency uses local voter-approved sales and use tax revenues to advance a project, any reimbursement made shall be used for the same purposes for which the imposition of the sales and use tax is authorized.

Submittal of Advancement Request: Requests shall be submitted to the Department by the applicant in accordance with established timeframes for project amendments to be placed on the agenda for timely consideration by the Commission.

In order to be considered by the Commission, an advancement request shall:

- Be signed by a duly authorized agent(s) of the applicant agency and implementing agency if different.
- Include all relevant information as described below.
- Indicate that the implementing agency is ready to start work on the project or project component.
- Have a full and committed funding plan for the component covered by the advancement request.
- Indicate anticipated schedule for expenditures and completion of the component.

Content and Format of Advancement Request: The Commission expects a complete request to include, at a minimum, the following information as applicable:

- A letter requesting advancement approval. The request shall include a summary of any concurrent actions needed from the Commission and a discussion of the source(s), amount and commitment of funding to be used to advance the project.
- Alternate local funding source(s) that will be substituted for the local alternative TIP funds and a demonstration of commitment of those funds (e.g., resolution, minute order) from its policy board.

- An expenditure schedule for the component covered by the advancement request.
- If jointly funded with STIP or Proposition 1B funds, a STIP or Proposition 1B allocation request, an AB 3090 request, or a Proposition 1B LONP request must be included.
- Requests to advance right-of-way purchase or construction must include documentation for Commission review of the final environmental document, as appropriate, and approval for consideration of future funding.

Review and Approval of Advancement Requests: The Department will review advancement requests for consistency with these guidelines and place the request on the Commission meeting agenda.

Advancement will only be granted for work consistent with the approved project's scope, schedule and funding.

Upon approval of the advancement, the Department will execute a cooperative agreement or Master Agreement/Program Supplement with the local agency before it can provide reimbursement for eligible project expenditures.

Initiation of Work: The project requested to be advanced should be ready to proceed upon approval. The local agency shall report to the Department/Commission within four months following advancement approval on progress in executing agreements and third-party contracts needed to execute the work.

Allocations: Funds for the advanced project will be allocated by the Commission when scheduled in the local alternative TIP, contingent on sufficient funds being available in the appropriate Special Deposit Fund. Pursuant to the agreement with the local agency, the Department shall reimburse the local agency for the actual cost of developing and constructing the project, including the acquisition of right-of-way. Reimbursement of project development costs shall not exceed 20 percent of estimated construction costs, or any lesser amount mutually agreed to by the Department, Commission, and local agency. Interest and other debt service costs are not reimbursable.

In no case will an allocation be made that exceeds the amount of funds available in the respective account established in the Special Deposit Fund from the sale of excess properties from Route 84 or Route 238. The agency advancing the project accepts the risk that sufficient funds to fully reimburse all project costs may not be realized from the sale of the excess properties.