

Memorandum

To: CHAIR AND COMMISSIONERS

Meeting Date: May 19-20, 2010

From: BIMLA G. RHINEHART
Executive Director

File: Reference No. 2.1d.(2)
ACTION

**Ref.: PROPOSITION 116 RAIL PROGRAM APPLICATION AMENDMENT
RESOLUTION PA-10-04, amending RESOLUTION PA-09-07**

ISSUE

Should the Commission remove \$17.5 million in Proposition 116 funds from the Metrolink Service Expansion and Grade Crossing Improvements (MSEP) project and transfer the funds to the Positive Train Control (PTC) project?

Should applicant status be transferred for the PTC project from the Orange County Transportation Authority (OCTA) to the Southern California Regional Rail Authority (SCRRA)?

And should applicant status be transferred for the Sand Canyon Grade Separation project from the City of Irvine to the OCTA?

RECOMMENDATION

Staff recommends that the Commission approve the attached resolution to:

- remove \$17,500,000 in Proposition 116 funds from the MSEP project;
- transfer the \$17,500,000 to the PTC project;
- transfer applicant status for the PTC project from the OCTA to the SCRRA;
- and transfer applicant status for the Sand Canyon Grade Separation project from the City of Irvine to the OCTA.

Approval of the amendment revises the Proposition 116 Orange County Commuter/Intercity Rail Program as follows: (1) Metrolink Service Track Expansion and Grade Crossing Improvements - \$30,669,000; (2) Fullerton Transportation Parking Structure - \$15,360,000; (3) Tustin Rail Station Parking Expansion - \$8,250,000; (4) Sand Canyon Grade Separation - \$22,004,000; (5) Metrolink Fiber Optics Installation - \$12,300,000; and (6) Positive Train Control - \$32,715,778.

BACKGROUND

In February 2009, the Commission adopted Resolution PA-09-01, approving an application from the Orange County Transportation Authority (OCTA) for the remaining \$121,298,778 in Proposition 116 Rail Bond funds out of the \$125,000,000 authorized under PUC Section 99645.

The OCTA application programmed the funds to five projects included in the Orange County Commuter/Intercity Rail Program: (1) Metrolink Service Track Expansion and Crossing Improvements, (2) Fullerton Transportation Center Parking Structure, (3) Tustin Rail Station Parking Expansion, (4) Sand Canyon Grade Separation, and (5) Anaheim Regional Intermodal Transportation Center (ARTIC).

In July 2009, the Commission approved Resolution PA-09-04, amending two of the projects, the Fullerton Transportation Center Parking Structure and the ARTIC project, as follows:

- transfer applicant status from the OCTA to the City of Fullerton for the Fullerton Transportation Center Parking Structure project;
- transfer applicant status from the OCTA to the City of Anaheim for the ARTIC project; and,
- transfer \$1,575,000 of Proposition 116 funds from the Fullerton Transportation Center Parking Structure project to the ARTIC project.

In December 2009, the Commission approved Resolution PA-09-07, removing the \$58,840,778 in Proposition 116 funds from the ARTIC project; deleting the ARTIC project from Proposition 116 programming; and transferring the \$58,840,778 in Proposition 116 funds as follows:

- \$29,000,000 to the signal component of the MSEP project;
- \$2,325,000 to the Fullerton Transportation Center Parking Structure project;
- \$12,300,000 to the Orange County Metrolink Fiber Optics Installation project; and,
- \$15,215,778 to the Positive Train Control project.

The resolution revised programming of the \$121,298,778 in Proposition 116 funds as follows: (1) MSEP - \$48,169,000; (2) Fullerton Transportation Parking Structure - \$15,360,000; (3) Tustin Rail Station Parking Expansion - \$8,250,000; (4) Sand Canyon Grade Separation - \$22,004,000; (5) Metrolink Fiber Optics Installation - \$12,300,000; and (6) Positive Train Control - \$15,215,778.

In April 2010, the Commission received an amended application requesting additional changes to the Proposition 116 Orange County Commuter/Intercity Rail Program including:

- to remove \$17,500,000 in Proposition 116 funds from the MSEP project; and to transfer the \$17,500,000 to the PTC project;
- to transfer applicant status for the PTC project from the OCTA to the SCRRA; and,
- to transfer applicant status for the Sand Canyon Grade Separation project from the City of Irvine to the OCTA.

Approval of the amendment revises the Proposition 116 Orange County Commuter/Intercity Rail Program as follows: (1) Metrolink Service Track Expansion and Grade Crossing Improvements - \$30,669,000; (2) Fullerton Transportation Parking Structure - \$15,360,000; (3) Tustin Rail Station Parking Expansion - \$8,250,000; (4) Sand Canyon Grade Separation - \$22,004,000; (5) Metrolink Fiber Optics Installation - \$12,300,000; and (6) Positive Train Control - \$32,715,778.

Commission staff has reviewed the Proposition 116 application as well as subsequent clarifications, and they meet the requirements specified in the Proposition 116 Rail Bond Program, as well as the Commission's policies and guidelines, and staff recommends approval.

CALIFORNIA TRANSPORTATION COMMISSION

Proposition 116 Project Approval
Orange County Transportation Authority (OCTA)
Application Amendment for the
Orange County Commuter/Intercity Rail Program

Resolution PA-10-04, amending Resolution PA-09-07

- 1.1 WHEREAS, in June 1990 the voters approved the Clean Air and Transportation Improvement Act, Proposition 116, for \$1.99 billion for rail and mass transportation purposes; and
- 1.2 WHEREAS, the California Transportation Commission is designated in Proposition 116 to oversee the five grant programs over the 20-year term of the Proposition; and
- 1.3 WHEREAS, Proposition 116 calls for the Commission to establish an application process and to develop and adopt guidelines to implement those programs; and
- 1.4 WHEREAS, Proposition 116 establishes as a purpose of the application process that it "facilitate implementation of improved cost-effective transit service to the maximum number of Californians and to prevent the funds provided for by this part from being spent on needlessly costly features"; and
- 1.5 WHEREAS, Proposition 116 requires applications to specify full and complete capital plans, financial plans, and operating plans, including schedules and funding sources, and should the project exceed the cost approved by the Commission, the increased cost shall be covered by funds other than Proposition 116; and
- 1.6 WHEREAS, in December 1990 the Commission adopted policy and application guidelines (#G-90-23) for the Proposition 116 rail program; and
- 1.7 WHEREAS, the Commission has established a Hazardous Waste Identification and Clean-up Policy (#G-91-2) that requires the local agency to have performed full due diligence in identifying the hazardous waste in the right-of-way and easements and properties as well as clean-up, and that the state has been indemnified from clean-up liability of damages, both present and future; and
- 1.8 WHEREAS, Proposition 116 (PUC Section 99645) authorizes \$125,000,000 to the City of Irvine for construction of a fixed guideway demonstration project; and
- 1.9 WHEREAS, PUC Section 99665(a) requires applicants for grants pursuant to PUC Section 99645, to match on a dollar-for-dollar basis, the amount of the grant from other public or private sources, and to demonstrate to the satisfaction of the Commission, the availability of those other funds; and

- 1.10 WHEREAS, in May 1998, the Commission approved an application (PA-98-09) from the City of Irvine and the Orange County Transportation Authority (OCTA) for \$2,000,000 in Proposition 116 funds for Phase I of the detailed conceptual engineering and environmental certification for the Irvine Urban Rail Guideway Demonstration Project; and
- 1.11 WHEREAS, in March 1999, the Commission approved a supplemental application (PA-99-06) from the City of Irvine and the OCTA for an additional \$2,400,000 in Proposition 116 funds for Phase II of the detailed conceptual engineering and environmental certification leading to the design and implementation of the Irvine Urban Rail Guideway Demonstration Project; and
- 1.12 WHEREAS, in August 2002, the Commission approved an application amendment (PA-02-11) from the City of Irvine and the OCTA to deprogram \$698,778 in cost savings from Phase II of the detailed conceptual engineering and environmental certification for the Irvine Urban Rail Guideway Demonstration Project which had been completed at a cost of \$1,701,222; and
- 1.13 WHEREAS, the City of Irvine decided to not move forward with the guideway demonstration project and requested that the Commission reallocate the remaining \$121,298,778 to the OCTA, pursuant to PUC section 99653, including the transfer of applicant status from Irvine to the OCTA for the Proposition 116 funds available under PUC Section 99645; and
- 1.14 WHEREAS, in accordance with the Commission's Proposition 116 Rail Program Guidelines, the OCTA accepted transfer of applicant status, with its attendant rights and obligations; and
- 1.15 WHEREAS, in February 2009, the Commission adopted Resolution PA-09-01, approving an OCTA application () for \$121,298,778 in Proposition 116 funds for five Orange County Commuter/Intercity Rail Program projects: (1) Metrolink Service Track Expansion and Crossing Improvements, (2) Fullerton Transportation Center Parking Structure, (3) Tustin Rail Station, (4) Sand Canyon Grade Separation, and (5) Anaheim Regional Intermodal Transportation Center (ARTIC); and
- 1.16 WHEREAS, in July 2009, the Commission approved Resolution PA-09-04, making changes to the Fullerton Transportation Center Parking Structure and the ARTIC, including:
 - to transfer applicant status from the OCTA to the City of Fullerton for the Fullerton Transportation Center Parking Structure project;
 - to transfer applicant status from OCTA to the City of Anaheim for the ARTIC project;
 - and to transfer \$1,575,000 of Proposition 116 funds from the Fullerton Transportation Center Parking Structure project to the ARTIC project; and
- 1.17 WHEREAS, in accordance with the Commission's Proposition 116 Rail Program Guidelines, the cities of Fullerton and Anaheim both accepted the transfer of applicant status, with its attendant rights and obligations; and
- 1.18 WHEREAS, in December 2009, the Commission approved Resolution PA-09-07, removing the \$58,840,778 from ARTIC; deleting the project; and transferring the \$58,840,778 as follows:
 - \$29,000,000 to the signal component of the Metrolink Service Expansion and Grade Crossing Improvements project;
 - \$2,325,000 to the Fullerton Transportation Center Parking Structure project;
 - \$12,300,000 to the Orange County Metrolink Fiber Optics Installation project; and,
 - \$15,215,778 to the Positive Train Control project; and

- 1.19 WHEREAS, in April 2010, the Commission received an amended application from OCTA requesting additional changes to the Proposition 116 Orange County Commuter/Intercity Rail Program including:
- to remove \$17,500,000 in Proposition 116 funds from the MSEP project;
 - to transfer the \$17,500,000 to the PTC project;
 - to transfer applicant status for the PTC project from the OCTA to the Southern California Regional Rail Authority (SCRRA); and,
 - to transfer applicant status for the Sand Canyon Grade Separation project from the City of Irvine to the OCTA; and
- 1.20 WHEREAS, in accordance with the Commission's Proposition 116 Rail Program Guidelines, the SCRRA and the OCTA both accepted the transfer of applicant status, with its attendant rights and obligations; and
- 1.21 WHEREAS, the amended application from the OCTA, including all supplemental information, has been reviewed by Commission staff, and appears to meet all the basic requirements as specified in Proposition 116 and the Commission's policies and guidelines.
- 2.1 NOW, THEREFORE BE IT RESOLVED, that the Commission hereby approves the amended application from the OCTA removing \$17,500,000 in Proposition 116 funds from the MSEP project; transferring the \$17,500,000 to the PTC project; and transferring applicant status for the PTC project from the OCTA to the SCRRA; and transferring applicant status for the Sand Canyon Grade Separation project from the City of Irvine to the OCTA; and
- 2.2 BE IT FURTHER RESOLVED, that \$121,298,778 in Proposition 116 funds available under PUC Section 99645 for the Orange County Commuter/Intercity Rail Program will be programmed as follows: (1) Metrolink Service Track Expansion and Grade Crossing Improvements - \$30,669,000; (2) Fullerton Transportation Parking Structure - \$15,360,000; (3) Tustin Rail Station Parking Expansion - \$8,250,000; (4) Sand Canyon Grade Separation - \$22,004,000; (5) Metrolink Fiber Optics Installation - \$12,300,000; and (6) Positive Train Control - \$32,715,778; and
- 2.3 BE IT FURTHER RESOLVED, that Resolution PA-09-07 is hereby amended.