

Memorandum

To: CHAIR AND COMMISSIONERS

CTC Meeting: May 19-20, 2010

Reference No.: 2.6b
Action Item

From: NORMA ORTEGA
Chief Financial Officer

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Division Chief
Budgets

Subject: **FINANCIAL ALLOCATION FOR LOCAL PROPOSITION 116 TRANSIT PROGRAM PROJECTS**
RESOLUTION BFP-09-06

RECOMMENDATION:

The Department of Transportation (Department) recommends the California Transportation Commission (Commission) allocate \$83,354,066 in Proposition 116 bond funds, per Public Utilities Codes (PUC's) 99639(a), 99641, 99645 and 99646, and in accordance with the attached vote list.

ISSUE:

The attached vote list describes five locally-administered Proposition 116 Transit Program projects for \$83,354,066. The Recipients are ready to proceed with these projects and are 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, authorizing the sale of general obligation rail bonds for rail transit purposes; and
- 1.2 WHEREAS, the Projects, further detailed on the attached vote list, as component phases or in their entirety, appears on the necessary State capital projects funding list and is entitled to participate in this allocation; and
- 1.3 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 \$83,354,066 in PROPOSITION 116 CLEAN AIR AND TRANSPORTATION IMPROVEMENT BOND

proceeds be allocated to the Recipients for the Projects, as detailed on the attached vote list; and

- 2.2 BE IT FURTHER RESOLVED, that the transfer of funds for the Projects shall be governed by a program supplement, and subsequent amendments to the same if required; and
- 2.3 BE IT FURTHER RESOLVED, that the Recipients 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 Projects 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 Recipients for the Projects identified on attached vote list;
 - B. To reimburse the Recipients 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 Projects; and
- 2.5 BE IT FURTHER RESOLVED, that in any instance of rail bond financing, an allocation for the Projects are 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 Projects, Recipients have exercised all due diligence in the discovery of hazardous wastes; that Recipients 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 Projects, 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 Recipients 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 Projects 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; and
- 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 projects construction in the event that Recipients, or successor public entities, fail or cease to utilize the Projects for the intended public passenger rail purposes or sells or transfers title to the Projects. The credit for future purchases or condemnation of all or portions of the Projects 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 Recipients. That ratio will be applied to the then fair market value of the Projects property; and
- 2.7 BE IT FURTHER RESOLVED, that if the Recipients receive 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 Recipients agree that such revenues or profits shall be used exclusively for the public transportation services for which the projects were initially approved, either for capital improvements or maintenance and operational costs. If the Recipients do 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 Projects.
- 2.8 BE IT FURTHER RESOLVED, that an allocation for the Projects are 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 recipients must complete the work to be reimbursed and the actual reimbursement by May 31, 2014, 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	Project Title Project Description	EA Dist-PPNO Program / Year PA # PUC Code	Prgm'd Amount	Fund	Allocation Amount
2.6b. Proposition 116 – Locally-Administered Transit Projects					Resolution BFP-09-06
1 \$496,331 City of Vallejo MTC 04-Solano	Vallejo Baylink Ferry Fueling Facility Construct facility for fuel storage for ferry operations. <u>Outcome/Output:</u> Facility will provide storage of up to 48,000 gallons of fuel to be used during normal and emergency operations.	T2516A 04-2261 P116 / 09-10 PA-09-02 99646	\$496,331	P116	\$496,331
2 \$137,957 Santa Clara Valley Transit Authority MTC 04-Santa Clara	Rail Replacement & Rehabilitation Perform rail and tie rehabilitation at various locations of light rail system. (Concurrent Project Application Approval.) <u>Outcome/Output:</u> Replacement of ties and track will improve safety and allow for continued service.	R2526A 04-9035K P116 / 09-10 PA-10-06 99641	\$137,957	P116	\$137,957
3 \$28,000,000 Sonoma-Marin Rail Transit District MTC 04-Sonoma-Marin	Sonoma-Marin Area Rail Transit Implementation of passenger rail service along 70 miles of the corridor, including 14 rail stations. <u>Outcome/Output:</u> Acquire right-of-way for maintenance facility site and four stations. Complete design work of bridges, pavement, stations and storage facility.	R2536A 04-TO300 P116 / 09-10 PA-09-03 99639(a)	\$28,000,000	P116	\$28,000,000
4 \$32,715,778 Southern California Regional Rail Authority OCTA 12-Orange	Metrolink Positive Train Control Installation of predictive collision avoidance technology along the Metrolink system and Pacific Surfliner Intercity Rail Corridor. <u>Outcome/Output:</u> New control system will help prevent train-to-train collisions, prevent speeding and overspreading derailments, and help prevent train incursions in work zones.	R2476A 12-9524 P116 / 09-10 PA-09-07 99645	\$32,715,778	P116	\$32,715,778
5 \$22,004,000 Orange County Transportation Authority OCTA 12-Orange	Sand Canyon Avenue Grade Separation Lowering of Sand Canyon Avenue under the BSNF railway to provide a grade separation crossing. <u>Outcome/Output:</u> Grade separation will eliminate the potential for train versus vehicle accidents, reduce vehicle and train crossing delays, and increase rail service efficiency.	R2486A 12-9651 P116 / 09-10 PA-09-07 99645	\$22,004,000	P116	\$22,004,000