

Memorandum

To: CHAIR AND COMMISSIONERS
CALIFORNIA TRANSPORTATION COMMISSION

CTC Meeting: January 19-20, 2011

Reference No.: 2.6d. - **REVISED**
Action Item

From: NORMA ORTEGA
Chief Financial Officer

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Budgets

Subject: **FINANCIAL ALLOCATION FOR LOCAL PROPOSITION 116 MASS TRANSPORTATION PROGRAM AND STATE TRANSPORTATION IMPROVEMENT PROGRAM PROJECT RESOLUTION MFP-10-14 RESOLUTION BFP-10-01**

CTC ACTION UPDATE: The California Transportation Commission approved \$14.2 million for Right of Way; \$10,200,000 in Proposition 116 and \$4,000,000 in Public Transportation Account (PTA) funding. Closing Costs and Plans, Specifications & Estimates (PS&E) are to be covered by the joint contributions from Union Pacific Railroad and the Santa Cruz County Regional Transportation Commission (Recipient). Right of Way and PS&E not allocated will be returned to county shares.

RECOMMENDATION:

The Regional Transportation Commission for Santa Cruz County (Recipient) has requested the California Transportation Commission (Commission) allocate \$14,500,000 in Proposition 116 bond and Public Transportation Account (PTA) funds for the Santa Cruz Branch Line Right of Way Acquisition. In addition, the Recipient is requesting an allocation of \$350,000 in PTA funds for Plans, Specifications and Estimates.

The California Department of Transportation (Department) recommends \$14,500,000, as supported by the appraisal information provided by the Recipient of \$12,275,000 and a negotiated settlement between the Union Pacific Railroad and the Recipient. The Department did not participate, nor was privy to, any negotiations on the ultimate price.

FINANCIAL RESOLUTIONS:

Resolved, that \$4,000,000 be allocated from the Budget Act of 2009, Budget Act Item 2660-101-0046 for the locally administered multi-program transit project described on the attached vote list.

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 its 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 Recipient 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 \$10,200,000 in PROPOSITION 116 CLEAN AIR AND TRANSPORTATION IMPROVEMENT BOND proceeds be allocated to the recipient for the one project 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 a 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 a 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;**
- 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; 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 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 this 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. Closing costs & PS&E will be covered by joint contributions from Union Pacific Railroad and the Santa Cruz County Regional Transportation Commission;**
- C. PS&E and Right of Way not allocated will be returned to County shares.**
- D. For project development and right of way phases, the grant recipient must complete the work to be reimbursed and the actual reimbursement by December 31, 2013, unless the Commission authorizes a waiver that extends, if permitted by statute, the period of availability of the funds.**

Attachment

