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CALIFORNIA TRANSPORTATION COMMISSION

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CALIFORNIA TRANSPORTATION COMMISSION

Adoption of the Grant Anticipation Revenue Vehicle (GARVEE) Guidelines

Resolution G-00-30

1.1 WHEREAS, the United States Congress recently authorized states under the federal National Highway System Designation Act of 1995 and the federal Transportation Equity Act for the 21st Century to issue GARVEE bonds which are tax-exempt anticipation notes backed by annual federal appropriations for federal aid transportation projects, and

1.2 WHEREAS, Sections 14550 and 14552-14555 were added by Chapter 783 of the statutes of 1999 (SB 928 Burton), hereinafter referred to as "the act", and

1.3 WHEREAS, by enactment of the act, the Legislature declared that it is in the best interest of the state to develop new and innovative methods for funding and accelerating critical transportation infrastructure projects, and

1.4 WHEREAS, the California Transportation Commission (Commission) developed draft guidelines in cooperation with the Department, regional transportation planning agencies and the State Treasurer's Office, and

1.5 WHEREAS, the Commission conducted a public hearing on the draft guidelines on September 29, 2000, and

1.6 WHEREAS, the proposed guidelines were drafted in consideration of received comments regarding the draft guidelines.

2.1 NOW THEREFORE BE IT RESOLVED the Commission does hereby adopt the Grant Anticipation Revenue Vehicle (GARVEE) guidelines, and

2.2 BE IT FURTHER RESOLVED the Commission requests the Department, in cooperation with the commission staff, to distribute copies of the adopted GARVEE guidelines to local and regional agencies.

Resolution G-00-30

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CALIFORNIA TRANSPORTATION COMMISSION
GRANT ANTICIPATION REVENUE VEHICLE (GARVEE) GUIDELINES

Adopted by the
California Transportation Commission
on November 2, 2000

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CALIFORNIA TRANSPORTATION COMMISSION
GRANT ANTICIPATION REVENUE VEHICLE (GARVEE) GUIDELINES

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GRANT ANTICIPATION REVENUE VEHICLE (GARVEE) GUIDELINES

1 AUTHORITY AND PURPOSE

Chapter 862 of the Statutes of 1999 (SB 928) added Chapter 4 (commencing with Section 14550) to Title 2, Division 3, Part 5.3 of the Government Code, authorizing the State Treasurer to issue Federal Highway Grant Anticipation Revenue Vehicles (GARVEE bonds) and authorizing the California Transportation Commission (the Commission) to select and designate projects to be funded for accelerated construction from bond proceeds. The intent of the Legislature in authorizing the use of GARVEE financing in California is to accelerate the funding and construction of critical transportation infrastructure projects in order to provide congestion relief benefits to the public significantly sooner than traditional funding mechanisms. GARVEE financing of a project is appropriate when the additional public benefits resulting from early construction exceed financing costs.

SB 928 specifies that:

- these bonds shall not constitute a debt or liability of the state and bond repayments are to be made only from federal transportation funds;
- all GARVEE bond proceeds allocated to a project, including cost overruns and financing costs, shall be counted against the state transportation improvement program (STIP) county share for the county in which the project is located;
- state transportation funds that are subject to the constraints of Section 1 or 2 of Article XIX of the California Constitution may be programmed in the State Transportation Improvement Program (STIP) as the state or local principal matching share for any project that is funded pursuant to this program.

GARVEE bonds are tax-exempt anticipation notes backed by annual Federal appropriations for Federal aid transportation projects. They were authorized in Federal law by Section 311 of the National Highway System Designation Act of 1995, which amended Section 122 of Title 23 the United States Code (the Federal Aid Highway Act) to expand the eligibility of bond and other debt instrument financing costs for Federal aid reimbursement. The definition of construction was revised in Title 23, Section 101, to include a reference to bond related costs eligible for reimbursement, including principal and interest payments, issuance costs, insurance, and other costs incidental to financing.

Government Code Section 14533.2 specifies that the Commission, in cooperation with Caltrans and regional agencies, "shall establish guidelines for eligibility for funding allocations under this chapter. The guidelines shall be nondiscriminatory and shall be designed to allow as many counties as possible to establish eligibility for funding allocations under this chapter, regardless of the population or geographic location of the county."

The Commission intends to review these guidelines and criteria for approving GARVEE financing at such time as one half of the statutorily allowable federal apportionment (15%) has been allocated to annual GARVEE debt service, or in twenty-four months, whichever occurs first.

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2 PROJECT ELIGIBILITY

The Commission will allocate GARVEE bond funding only for highway or other transportation projects that are eligible under State law for the STIP, eligible under Federal law for Federal transportation funds apportioned to the state, have environmental clearance, have completed project design, and have been approved for GARVEE funding by the Federal Highway Administration (FHWA). Project's preliminary engineering, right of way and construction activities, must meet all federal requirements, including compliance with the National Environmental Protection Act (NEPA).

3 STIP PROGRAMMING OF GARVEE FINANCING

The Commission's designation of projects for accelerated construction with GARVEE bond funding will be through programming in the STIP. Except as otherwise provided in these guidelines, the Commission will program and allocate GARVEE bond funding in accordance with the Commission's STIP Guidelines. Regional agencies and Caltrans may propose projects for GARVEE bond funding through the regional transportation improvement programs (RTIPs), the interregional transportation improvement program (ITIP), or STIP amendments. Specific GARVEE bond project allocations will be made as they are made for other projects programmed in the STIP. GARVEE bond funding is Federal funding, subject to Federal match requirements (generally 88½% Federal to 11½% match). Project proposals for GARVEE bond funding will specify the source of match, which may be from current STIP programming (subject to limitations on State-only funding) or from non-STIP, non-Federal sources.

There is no restriction on the portion of the statewide bonding capacity that may be used in any county or for any project. However, all programmed GARVEE bond debt service is subject to the limitations of county or interregional shares. The Commission will not approve county share advances to cover GARVEE bond debt service.

The Commission ordinarily approves or disapproves a region's RTIP in its entirety for inclusion in the STIP. However, if the Commission does not approve a GARVEE bond proposal that is part of an RTIP, the Commission will reserve any portion of the county share that is thereby left unprogrammed until the next county share period. This action will not require the rejection of the entire RTIP.

The Commission's approval of projects for accelerated construction with GARVEE bond funding is subject to the statewide GARVEE bonding capacity limit and the appropriateness of bonding. The RTIP, ITIP, or STIP amendment should include an explanation of the benefits derived from GARVEE financing compared to the use of other possible funding that may be available to complete the construction of the project and to meet the timetable presented in the application for accelerated funding.

Statewide GARVEE Bonding Capacity - Government Code Sections 14533(b) and 14533.4, require the Commission and the State Treasurer annually to determine the statewide GARVEE bonding capacity limit (generally, annual bond repayments may not exceed 30% of annual Federal transportation fund deposits in the State Highway Account). The Commission will not program or allocate GARVEE bond funding in excess of this limit, and the Treasurer is not permitted to issue notes if this limit would be exceeded. Whenever the Commission determines that the sum of all GARVEE bond

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proposals received or likely to be received will exceed the bonding capacity limit, the Commission will set priorities for the use of bonding capacity and may decline to approve any or all programming proposals or allocation requests for GARVEE bond funding. The Commission may also, with the concurrence of the applicant and regional agency, reduce the amount of bonding or lengthen the term of bond repayment to be approved for a project.

Appropriateness of Bonding - Before approving the programming or allocation of GARVEE bond funding, the Commission, in cooperation with Caltrans and the regional agency, will consider and determine the appropriateness of GARVEE bonding for the project in comparison to other funding mechanisms including, but not limited to, using a STIP advance, the State Highway Account loan program, or non-STIP funds. This consideration and determination will include, but not be limited to, (1) the availability of various funding mechanisms, (2) the anticipated economic, safety, and other benefits of the project and its early construction, and (3) the anticipated useful life of the project.

4 DEBT SERVICE SUBJECT TO COUNTY AND INTERREGIONAL SHARES

All GARVEE bond project allocations will be charged against county or interregional shares in the same manner as for other STIP projects, except that the charge will be for the debt service by fiscal year rather than for the allocation of bond proceeds. The charge will thus be spread over the period of debt service, normally well beyond the current STIP period. Debt service includes all costs and expenses incurred by the State (including the State Treasurer) for interest payments, the retirement of principal, the cost of issuing bonds, the cost of insurance for bonds, and any other cost incidental to the sale of the bonds.

Each STIP proposal and approval for GARVEE bond funding will include the term and amount of annual debt service as well as the amount of bond proceeds to be allocated. For future STIPs, the amount needed to meet the project's debt service in each fiscal year will be treated as programmed and deducted from the county or interregional share available for other programming until repayment is complete. For the purpose of county and interregional shares, initial estimates of debt service approved by the Commission will be replaced by later estimates and reports of actual debt service payment from the Treasurer.

5 ALLOCATION OF FUNDS

The Commission will consider allocating funds for a STIP project designated for GARVEE bond funding when it receives an allocation request and recommendation from Caltrans, consistent with Section 65 of the STIP Guidelines. For GARVEE bond funding, the allocation will approve a specific amount of bond proceeds to be applied to the project and the term over which bonds are to be repaid. The allocation will also include an estimate of the annual debt service.

The Commission's allocation of GARVEE bond funding for a project will include (1) a request to the State Treasurer that bonds be sold to fund the project and (2) a resolution dedicating and pledging any future receipts of federal transportation funds received by

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the state to the payment of principal of, and interest and premium on the notes, for as long as any notes remain outstanding, pursuant to Government Code Section 14553.7.

The Commission will allocate GARVEE bond funding for a project only for right-of-way and construction (as those terms are defined in the STIP guidelines) and only when the STIP includes the debt service funding for the project, the project has Federal approval for GARVEE financing and environmental clearance, and project design is complete.

6 ISSUANCE OF GARVEE BONDS BY THE TREASURER

The State Treasurer will issue GARVEE bonds in accordance with the provisions of Division 3, Part 5.3, Chapter 5, Article 4 (commencing with Section 14554) of the Government Code. Proceeds from the sale of bonds are deposited in the Transportation Financing Subaccount, a special trust fund in the State Highway Account. They are available for use as directed by the Commission and administered by Caltrans.

7 PROJECT REIMBURSEMENTS

Caltrans will transmit funds on a reimbursement basis directly to the applicant after the bond proceeds are deposited in the Transportation Financing Subaccount and the applicant submits an invoice for an initial advance payment or an invoice that demonstrates payment has been made to a project contractor.

8 TIMELY USE OF FUNDS

A STIP project designated for future GARVEE bond funding is subject to the same timely use of funds deadlines that apply to all other STIP projects, including time extensions (STIP Guidelines Section 65). For this purpose, the project is eligible for allocation, including Commission approval of GARVEE bond funding, until the end of the first fiscal year that is identified in the STIP for project debt service. If GARVEE bond funding is not allocated and approved before this deadline, the project programming will be deleted from the STIP. The Commission will not make the project amount programmed for debt service in the first fiscal year immediately available to the county share or interregional share for reprogramming. The Commission will, however, adjust the share balance to restore the programming capacity in the following county share period.

Project allocations that are approved for GARVEE bond funding are subject to the same deadlines for encumbrance and expenditure that apply to all other STIP allocations (Section 65), including time extensions. Whenever allocated funds are not encumbered or expended within those deadlines, the allocation of the unencumbered or unexpended funds will be rescinded. In that case, any state expense for debt service will be counted against the county or interregional share. At a minimum, the full amount scheduled for the first year of debt service will be counted, even if the bond sale is reduced or cancelled and the scheduled amount is not actually required for debt service.

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GRANT ANTICIPATION REVENUE VEHICLE (GARVEE) GUIDELINES

Adopted by the
California Transportation Commission
on November 2, 2000

CALIFORNIA TRANSPORTATION COMMISSION
GRANT ANTICIPATION REVENUE VEHICLE (GARVEE)
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