# FINANCIAL GUIDELINES

FOR LOCAL AGENCY REIMBURSEMENT

Flexible Congestion Relief program

Traffic System Management program

Transit Capital Improvement program

Environmental Enhancement & Mitigation program

State rail bond programs (Proposition 108 & 116)

As Adopted by the

California Transportation Commission

on June 20, 1991

# FINANCIAL GUIDELINES

Page

I. STATUTORY AUTHORITY AND PURPOSE

A. AUTHORITY ..... 1
B. PURPOSE AND INTENT ..... 1
C. PROGRAM COVERAGE ..... 2
D. ACTIVITY COVERAGE ..... 3
E. COOPERATIVE EFFORT ..... 3

II. ELIGIBILITY

A. ELIGIBLE AGENCIES ..... 4
B. ELIGIBLE PROJECTS AND FUNDING SOURCES ..... 4
C. ELIGIBLE COSTS ..... 5

III. STEPS FOR STATE APPROVAL

A. COMMISSION APPROVAL OF PROJECT AND FUNDING ..... 6
B. CALTRANS APPROVALS FOR PROJECT ADMINISTRATION ..... 8

IV. PROJECT REQUIREMENTS

A. GENERAL REQUIREMENTS FOR ALL PROJECTS ..... 9
B. SEQUENCE OF WORK AND FUNDING ACTIONS ..... 9
C. SPECIFIC REQUIREMENTS FOR TRANSIT PROJECTS ONLY ..... 11
D. SPECIFIC REQUIREMENTS FOR HIGHWAY PROJECTS ONLY ..... 12
E. OTHER SPECIFIC REQUIREMENTS FOR CERTAIN TYPES OF PROJECTS 12

V. PROJECT SUBMITTAL, APPROVAL, AND REIMBURSEMENT PROCESS

A. LOCAL AGENCY PROJECT SUBMITTAL ..... 13
B. STATE APPROVAL PROCESS ..... 14
C. ENCUMBRANCE AND TRANSFER OF FUNDS ..... 15
D. PROJECT COMPLETION AND AUDIT ..... 15

VI. PROGRESS REPORTS AND PROJECT CHANGES

A. PROGRESS REPORTS ..... 16
B. PROJECT COST CHANGES ..... 17
C. CHANGES IN SCHEDULE ..... 18

VII. POLICY ON ADVANCING FUNDS

VIII. PROJECT CANCELLATION

# FINANCIAL GUIDELINES
# For Local Agency Reimbursement

## I. STATUTORY AUTHORITY AND PURPOSE

### A. AUTHORITY

These Financial Guidelines are called for in Section 164.4 of the Streets and Highways Code, which requires the guidelines be prepared by the Department of Transportation (Caltrans) in consultation with local transportation officials, and adopted by the California Transportation Commission (Commission). These financial guidelines take effect as of July 1, 1991, and their requirements apply to project approval, funding allocation, and reimbursement activities from that date onward, superseding interim guidelines under which Caltrans operated before that date.

The Commission may revise the financial guidelines as necessary, as changes may be made in financial policy, in consultation with local transportation officials and Caltrans.

### B. PURPOSE AND INTENT

The statutory purpose of the Financial Guidelines is to establish financial policies that will be applied to local agency projects in the State transportation program. The Legislative intent in requiring the establishment of Financial Guidelines is to insure that, before candidate projects reach the funding stage, all local agencies understand the financial policies that will be applied to fund requests. Section 164.4 of the Streets and Highways Code also expresses the Legislature's intent that:

(1) The costs of administering the programs are minimized through simplification of processes.

(2) State funds are not used to pay local costs associated with administering the programs.

(3) Local funds are not used to pay State administrative costs.

(4) Appropriate controls are in place to ensure accountability for fund and project management.

In line with legislative intent, the Commission intends that these guidelines be set out as a practical handbook for agencies that have not previously sought State funding. The financial guidelines describe a State reimbursement process, because the State generally does not provide local agency grants in the form of up-front funding.

## C. PROGRAM COVERAGE

These guidelines apply to all projects to be built by local agencies using partial or full State funding from the following State programs:

- Traffic System Management (TSM) program
- Flexible Congestion Relief (FCR) program
- Transit Capital Improvement (TCI) program
- Environmental Enhancement & Mitigation (EEM) program

These guidelines apply in general terms to all projects to be built by local agencies using State bond funding, which to date include the following State programs:

- Commuter & Urban Rail Transit program in the STIP from Proposition 108 of 1990 and future bond acts of 1992 and 1994,
- Clean Air & Transportation Improvement Act projects from Proposition 116 of 1990,

with the understanding that all projects using State bond funding must also comply with additional specific guidelines from Caltrans and the State Treasurer's Office, with extra steps and requirements necessary for the State bond process.

These guidelines do not apply to projects for which the only Federal or State funding comes under the following programs:

- State/Local Partnership program,
- direct Federal local assistance programs, such as UMTA capital grants, FAU and FAS, and
- projects in any program to be built by Caltrans with local funding participation.

The statute requires financial guidelines only for the Flexible Congestion Relief (FCR) and Traffic System Management (TSM) programs, but the Commission approves local agency grants for the Transit Capital Improvement (TCI) program, Environmental Enhancement & Mitigation (EEM) program, and State rail bond projects as well. The Commission intends that these financial guidelines apply to local agency grants from all of these programs (although additional steps beyond these guidelines are necessary for rail bond projects), so that the process of getting State reimbursement can be as uniform and straightforward as possible.

## D. ACTIVITY COVERAGE

These guidelines apply only after projects have already gotten into a State program. They cover activities relating to State financial reimbursement during or after project implementation:

- submittal of the project for approval that it fulfills the intent of State programming;
- request for allocation of funding to the project from within the State program;
- progress reporting and project inspection;
- billing for reimbursement of project expenditures with State funds; and
- project completion and audit.

Earlier activities relating to programming, including application to get into the State program, State review and priority setting, and State programming, are covered elsewhere in STIP/RTIP guidelines and a series of guidelines for each of the State programs.

To meet Legislative and Commission intent, these guidelines in large measure compile existing financial policies from various State, Federally and locally funded programs. Therefore, rather than establishing new financial policies, these guidelines bring together, restate, and simplify existing key financial policies and procedures.

## E. COOPERATIVE EFFORT

Close working relationships must be maintained at the State and local level from the preliminary planning stages through project completion. Projects rarely can be moved from programming through construction without changes that affect cost or schedule. The process of getting a project into the State program, building it, and getting State reimbursement has many steps where the State and local agencies must interact. It is through these partnerships that general types of problems as well as specific problems can be identified and avoided or solved.

Both the Commission and Caltrans are partners with the local agency on a project. Caltrans will handle business with the Commission on a routine basis for all but the largest and most involved projects. Caltrans' District will be the local agency's normal State contact point.

The close working relationship with Caltrans is particularly important for projects using Federal funds, because of Federal procedural requirements, and rail bond projects, with extra steps in the State process and critical timing issues.

Caltrans district also provides technical assistance and advice for any of the steps in the State process or documents needed for State approvals.

# II. ELIGIBILITY

## A. ELIGIBLE AGENCIES

These financial guidelines apply to any local agency seeking State funding as reimbursement for a project in the State Transportation Improvement Program (STIP), Traffic System Management (TSM) program, Transit Capital Improvement (TCI) program, Environmental Enhancement & Mitigation (EEM) program or State rail bond programs. The agency to be reimbursed should be the government agency responsible for the financial and construction management of the project. This could include cities, counties, transit operators, county sales tax authorities, regional transportation planning agencies, and other special districts, except in the EEM program quasi-public, non-profit, and private agencies are also eligible to finance and build projects.

## B. ELIGIBLE PROJECTS AND FUNDING SOURCES

These financial guidelines govern local agency reimbursement for projects in the programs listed above in Section I-C, from the following funding sources:

- State Highway Account, with State and in some cases Federal funds for the FCR and TSM programs,
- Transportation Planning & Development Account, with State funds for the TCI program,
- Environmental Enhancement & Mitigation Fund, with State funds for the EEM program (which are State highway revenues so EEM projects must be regarded as highway projects within these financial guidelines),
- Passenger Rail and Clean Air Bond Fund, with State bond funds from Proposition 108 of 1990 and future bond acts scheduled for 1992 and 1994, and
- Clean Air & Transportation Improvement Fund, with State bond funds from Proposition 116 of 1990.

Funding from any of these accounts and funds is subject to annual appropriation by the Legislature in the State Budget, including the bond programs for which the Legislature must appropriate debt service payments which control the level of bonds that can be issued.

As a general policy, the State will use Federal funds only on State highway system projects. Projects off the State highway system should be proposed under the assumption that they will be funded with State and local funds only. This will simplify the process for local agencies. This policy is subject to change if State revenues decline, or new Federal programs or funding policies are set up in the FAST Act of 2015. Exceptions to this general policy will primarily apply to large projects where Federal funds could conserve a significant amount of State resources. The State will attempt to identify such exceptions at the time of program adoption, because current Federal procedures will have to be followed throughout the project process.

## C. ELIGIBLE COSTS

As a general rule, all costs attributable to a transportation project are eligible for funding. These include direct costs for engineering, right-of-way, and construction, and indirect agency overhead costs related to the project. Agency costs for program administration are not eligible. State reimbursement for certain kinds of costs is limited, as laid out below in Chapter IV.

All direct costs are generally eligible:

- Project Development: Eligible costs include all preliminary work up to contract award related to the project, including but not limited to environmental studies, preliminary surveys and reports, laboratory work, soil investigations, preparation of plans, designs, specification, advertising for bids and awarding contract as well as Project Development Oversight, Project Development Contract Administration and Right of Way staff support costs;
- Right of Way: Costs associated with real property acquisition including relocation assistance payments, property demolition and clearance, certification, utility relocation costs and right of way staff support, are eligible for reimbursement. Any costs associated with acquisition and disposal of excess land and any right of way acquired prior to environmental clearance or prior to the project's adoption into the State program are not reimbursable;
- Construction Engineering: Eligible costs include actual inspection and supervision of construction work, construction staking, laboratory and field testing, preparation and processing of field reports and records, estimates, final reports, and allowable expenses of employees/consultants engaged in such activities; and
- Construction: Eligible costs include all work performed through construction contracts and contract change orders, as well as State or local agency furnished materials and equipment.

Indirect support costs that are spread among and attributable to more than one cost activity or functional unit are eligible for State reimbursement, according to Section 8752.1 of the State Administrative Manual. Eligible indirect costs include:

- Agency management: Personal services costs, for unit, bureau, division, and departmental administrative, supervisory and executive staff;
- Support units: Personal services costs, including clerical support, housekeeping, etc.; and
- Operating expenses and equipment costs for work on the project which has not been included as part of direct costs.

Ineligible Costs: A local agency may not bill the State for reimbursement for four types of costs:

- General program administration costs of the agency, such as the effort involved in preparing and reviewing project and program proposals, preparation and processing of funding requests, inter-agency coordination and agreement preparation costs, and general costs associated with program implementation and management;
- Any kind of work done before a project is adopted into the State program or any costs incurred in excess of a project approval;
- Financial costs of local agency borrowing that may be used to cover expenditures during project implementation (State policy on advancing funds in local agency hardship situations is laid out in Chapter VII below);
- Final audit of the project.

These costs will be funded by the agency incurring the costs.

# III. STEPS FOR STATE APPROVAL

## A. COMMISSION APPROVALS OF PROJECT AND FUNDING

The Commission takes two actions for a project with a local agency grant. The Commission must approve that a project has met the intent of what is in the State program, and allocate funding to the project from within the program and State Budget. The Commission's two steps are called project approval and funding allocation, and are described in more detail in Commission Resolutions #G-91-9 and G-91-10.

Project approval is the Commission's contract with the local agency for State funding participation in the project, as shown in the appropriate State program, for future funding allocation subject to annual legislative appropriation. In making a project approval, the Commission approves the project concept, the amount of State participation in project funding, and a proposed reimbursement schedule for the State funding share, and verifies that any other funding needed to complete the project is committed. A project approval reserves the State funding within the program, and allows work to be undertaken to complete the project for later State reimbursement.

The Commission may make a project approval covering all aspects of a project, or a series of partial project approvals for certain component stages, or a provisional project approval. Local agencies commonly will apply for a partial project approval for preliminary engineering and environmental work, and later seek project approval covering final engineering, right-of-way, and construction. The Commission may also give provisional project approval with stated conditions that must be fulfilled subsequently, for example where the financial plan for later stages of a large project is uncertain or incomplete.

The Commission requires a description of scope, work schedule, cost, and reimbursement schedule when making a partial project approval covering project development (non-capital) work only. A local agency may apply for a partial project approval for project development any time after a project has been adopted into the State program.

For a project approval covering construction, however, the Commission requires:

- A completed environmental document including project description and cost;
- A project schedule including agency responsibilities and major cost components through project construction;
- A project financial plan showing all funding sources and the stages of the project to which each will be applied; and
- A cash expenditure and reimbursement plan showing a schedule of both project cash expenditures by the local agency and expected State reimbursements.
- Compliance with any applicable Commission policies and program guidelines.

The Commission expects the amount and detail of information about a project to correspond to the size and complexity of the project and State funding participation. A financial plan and cash reimbursement plan can be one-line statements for smaller projects that expect State reimbursement in a single lump sum after project completion. However, the funding request must identify the State fiscal year in which reimbursement will be requested.

Funding allocation assigns State funding to projects within a given fiscal year from the legislative appropriation in the State Budget, for reimbursement of expenditures on the project, following the cash expenditure plan for the project and progress in completing work. Funding allocation is a ministerial action unless the Legislature does not appropriate enough funds for all projects during a fiscal year, or progress toward completing the project fails to occur. The Commission only makes funding allocations cumulatively to a project up to the total State funding share shown for the project in the State program.

The Commission may make project approval and funding allocations simultaneously for project development stages, or for small projects where all State reimbursement is to be done within one fiscal year. A project approval may extend across several fiscal years, but a funding allocation is tied to a specific fiscal year budget, and covers activities that can only extend out for three years.

If a local agency needs approval to begin expending local funds for use as future local match for State reimbursement, or if a local agency needs State funding in advance to manage project cash flow, an additional step is required at the front end of this process. The Commission must approve advance expenditure for use later as local match, or State funding in advance. The Commission has adopted guidelines for approval of advance expenditure for future local match, dated May 1991, per Chapter 993 of 1990 Statutes (SB 2800). The subject of advancing State funds is discussed below in Section VII.

## B. CALTRANS APPROVALS FOR PROJECT ADMINISTRATION

Caltrans takes three actions on a project in its role as administrator of a local agency grant. Caltrans must approve the agency's capability to do the project, the project components and expected repayment schedule, and the completed work for final payment. Caltrans' three steps are called master agreement, project agreement, and project completion. Caltrans uses existing legal documents to complete its approval steps, but the documents are different for highway or transit projects.

Master agreement is Caltrans' review and approval of a local agency's financial and project management process. For highway projects, this first step is called a master agreement; for transit guideway projects the first step is called SB 580 review. A local agency is encouraged to get a master agreement or SB 580 review done early, soon after it gets a project in the State program, especially if its project is a large and complex one, or its later approvals may be slowed down. A separate master agreement is not needed for every project if a local agency has a recent master agreement covering work of similar complexity.

Project agreement is Caltrans' contract with the local agency for the project concept and completion of work, and the State reimbursement for progress of work. The project agreement is called a program supplement for highway projects, and for transit projects it is called the Fund Transfer Agreement. It covers specific project details, activities, and schedules, for future monitoring and audit. Commission project approval usually comes before Caltrans' project agreement, but Caltrans must complete its project agreement before or immediately following Commission funding allocation.

Specific guidance and sample documents explaining these steps in more detail are available, for highway projects from Caltrans District Local Street & Road branch or Caltrans Headquarters Office of Local Streets and Roads, and for transit projects from Caltrans District Public Transit branch or Caltrans Headquarters Division of Rail. Examples of these documents are attached (see Appendices A-1 through A-4).

Project completion is Caltrans' approval that all work identified in the Program Supplement or Fund Transfer Agreement and amendments has been completed and final costs are known. Caltrans may inspect the completed project in whatever detail it finds necessary, depending on how closely it has followed project construction. With project completion Caltrans releases final reimbursement payment to the local agency.

# IV. PROJECT REQUIREMENTS

## A. GENERAL REQUIREMENTS FOR ALL PROJECTS

The Commission allocates funding to specified projects, not to an agency or its overall program. Funds may only be expended for the project for which they were allocated.

The Commission has a policy that State funds shall be used on a project with a mix of several funding sources spread proportionally throughout the project, unless the Commission has agreed to a different distribution beforehand. In general, this means that if State funds are 40% of a project's total cost, State funds will be 40% of each component or individual contract within the project, or will be 40% of the cost of several components or individual contracts going simultaneously.

The Commission also expects local agencies to make timely use of State funds which are allocated to projects, so that funds do not sit encumbered but unused in State accounts when they could otherwise be made available for other projects elsewhere. This provision is particularly important for transit projects using State rail bonds, because of State arbitrage requirements on tax exempt bonds and State bond interest carrying costs for allocated funds. These requirements are spelled out in more detail in Commission Resolution #G-89-13, the Commuter & Urban Rail Transit program guidelines, and State bond program guidelines from Caltrans and the State Treasurer's Office.

## B. SEQUENCE OF WORK AND FUNDING ACTIONS

Local agencies must be specific about the kinds of expenditures and fiscal year timing when requesting reimbursement. The State Budget authorization for expenditure of State funds for local reimbursement is tied to fiscal year limits, and the Commission must allocate funds from the program to specific projects and project activities before any reimbursements can be made. State Budget requirements are different for highway and transit projects, by statute.

All State expenditures to reimburse local agencies covered in these financial guidelines fall under the Local Assistance category in the State Budget, which has specific requirements. The following is a general guide for project timing under the Local Assistance category, with several exceptions and clarifications described elsewhere throughout this Chapter IV:

- local agency may start reimbursable project development work any time after the date a project is adopted into a State program;
- local agency cannot undertake reimbursable capital outlay work before both project approval by the Commission and project agreement with Caltrans;
- local agency cannot actually get reimbursement for any work being done until after funding allocation by the Commission;
- local agency is expected to start project development work no later than three months after Commission funding allocation for that purpose, and is expected to award a construction contract within six months of Commission funding allocation for project construction;
- local agency must complete both the work to be reimbursed and the actual reimbursement payment within two years following the fiscal year in which the Commission makes a funding allocation.

The following exceptions and clarifications should be noted:

- State reimbursement for non-capital expenditures is limited by statute and Commission policy, as described below in Sections IV-C and IV-D.
- Project development work done after adoption of the program, but prior to a Commission funding allocation, may be reimbursed, but is done by the local agency at risk that the State Budget may not have enough funding for full reimbursement in the current year.
- Local agencies may request and the Commission may approve a funding allocation during the fiscal year in which work is to be started, or up to three months beforehand. A funding allocation made during the last three months of a fiscal year may include simultaneous approval of further funding allocation for the next fiscal year. Actual reimbursement can take place only after the State Budget has been enacted and signed.
- For the TSM and EEM programs, the Commission must make the funding allocation(s) to a project during the fiscal year in which the project is in the program, because program authority expires at the end of each fiscal year (although budget authorization for expenditures and reimbursements does not), as described below in Section IV-E.
- For the TCI program, the Commission by statute has three fiscal years to make the funding allocation(s) to a project, starting at the fiscal year in which the project is in the program (with two additional years to complete work and reimbursement after the year of allocation).
- For the FCR and rail bond programs, the Commission makes he funding allocation(s) to projects when work is ready for reimbursement or construction is to begin, in competition among other projects seeking the funding available from that fiscal year's State Budget.
- A local agency should consider how long it will take to complete work and get reimbursement when deciding the amount and timing of funding allocation request(s) to the Commission. This is especially critical for projects funded with State bonds. Commission funding allocation for construction (and construction engineering) typically covers the entire cost of the project, or the stage being approved, unless construction is expected to extend beyond three years. Caltrans will need about 60 days for project completion approval and payment of final reimbursement.
- Commission policy calls for work to begin in a timely way after a funding allocation. If work has not been started within the time allowed, the local agency must explain to the Commission the reason for the delay and when progress will commence. The Commission may choose to withdraw the allocation and consider other allocation requests to ensure timely use of funds.
- Commission policy calls for timely billing for reimbursement as well. The Commission expects the local agency to bill for reimbursement within 120 days of making expenditures. The Commission may hold up further funding allocations to local agencies that fail to do so.
- State reimbursement cannot exceed the project's funding allocation. If work proceeds faster than expected, some reimbursement may have to be delayed until another funding allocation can be made.

If the local agency gets a project ready to begin construction earlier than the year shown in the State program, it may inform the Commission and Caltrans that it intends to undertake construction immediately for later reimbursement. It also may ask for allocation of State funding during the current fiscal year (and any subsequent years before the fiscal year in which the project is programmed), but the Commission may deny that request if sufficient State Budget authority is not available programwide.

Some projects, especially in the FCR and rail bond programs, will require more than one fiscal year to complete. Depending on the dollar amount and length of time required to complete, Caltrans may choose to fund the project from more than one State Budget. When this occurs, the local agency will determine the amount of funds required in each fiscal year for the project in the cash expenditure and reimbursement plan, and Caltrans and the Commission will distribute the funding allocation across State Budget appropriations.

While prudent management of State resources may dictate funding project construction in more than one fiscal year, this will not require that local agencies request separate funding allocations for each year. Caltrans is responsible for tracking commitments across fiscal years and ensuring that these commitments have budget funding priority. This funding technique will not require additional action by the Commission.

## C. SPECIFIC REQUIREMENTS FOR TRANSIT PROJECTS ONLY

The Commission has adopted policies on proportional use of State funding, timely use of funds, hazardous materials cleanup, cost savings incentives, minimum farebox revenue shares, and start of passenger service which apply to local agency transit projects. These guidelines are not intended to supersede existing Commission policies for transit projects, including policies and procedures for the guideway encumbrance and liquidation process.

In addition to the Commission and Caltrans approvals required by these guidelines, projects using State bond funding require two additional approvals. Caltrans must distribute funds approved by the Commission among component contracts within the project, and Caltrans (or the Commission for Proposition 116 bonds) must certify project progress before the Treasurer can sell State bonds to provide the funds for reimbursement. These additional steps are explained in detail in separate guidelines from Caltrans and the State Treasurer's Office for State bond programs.

Unlike for the highway program, the STIP Fund Estimate does not set aside funds for capital support for transit projects. Any reimbursement a local agency needs or expects for transit project development costs must be included in the amount shown as the State funding share in the State program.

The main purpose of State transit programs is capital construction for transit services. The Commission intends that for transit projects reimbursement for non-capital expenditures not exceed 25% of the State funding share for projects, unless specified otherwise in the project description in the State program or the Commission's project approval.

State Highway Account funds currently cannot be used for transit rolling stock, per State Constitution Article XIX. The Commission may make a funding allocation for rolling stock purchase or rehabilitation only from other funding sources.

## D. SPECIFIC REQUIREMENTS FOR HIGHWAY PROJECTS ONLY

The amount of State and Federal funds available for projects in the STIP each year is constrained by the State Budget. In years when more projects are delivered ready for funding than there is funding available, projects must be put "on the shelf" for funding from a later fiscal year. If the State is putting its FCR projects on the shelf, local agency FCR projects will go on the shelf too, and be funded in turn according to current State policy for managing shelf projects.

State statute for the highway program limits the cost of preliminary engineering, environmental clearance, and design engineering to 20% of capital outlay costs programwide, and the State holds construction engineering costs to 15% of capital construction costs programwide. In practice, in a program where grants are made to a large number of local agencies, the State must limit engineering reimbursement to these totals on a project-by-project basis. This funding policy applies to the total support, direct and indirect costs as described above, associated with the project.

For the highway program, the STIP Fund Estimate automatically sets aside funds for capital support equal to 35% of the capital program amount. Any local agency with a project in the program may get reimbursed for its capital support work, but it must ask for the reimbursement in its project approval since reimbursement is not automatic.

In essence, local agencies can apply for reimbursement for 135% of the amount in the State program for highway projects, for all engineering and capital costs cumulatively. Savings in an early stage of a project may be used to cover cost increases in a later stage, as described in Section VI-B. Any cost beyond this amount, or any capital support costs beyond the 35% cap, must be covered by the local agency.

The 35% for support cost is not a funding guarantee. Should the Legislature appropriate less than 35% for programwide support cost, the amount available for reimbursement of local support cost will be similarly reduced.

In situations where unexpected events or particularly unique project requirements indicate that capital support costs may exceed these guidelines, the local agency should consult in advance with Caltrans to resolve such issues in an equitable manner prior to incurring the additional cost.

## E. OTHER SPECIFIC REQUIREMENTS FOR CERTAIN TYPES OF PROJECTS

Annual program projects: The TSM, TCI, and EEM programs are annual programs. Projects that cannot be made ready during the program year will be dropped from the program, with funding assigned to projects further down the priority list or elsewhere in the program. A project dropped from the program may recompete for the program two or three years following, in competition with other projects nominated that year, or the next year if it drops out early enough to make application deadlines.

A project in an annual program must be ready so that submittal, project approval, and funding allocation can be done by the Commission before the end of the fiscal year and project construction award can be done no later than six months afterward. Substitute projects from lower on the priority list must meet the same timing deadlines. If sufficient substitute projects ready to go cannot be found, or if programwide costs end up below the program level after all projects for the year have been finished, funds not used will be carried over to be appropriated for a future program year. The Commission may withdraw project approval and funding allocation if the local agency fails to award a construction contract within six months. The local

agency may ask the Commission in writing for an extension, which the Commission may grant if the circumstances warrant it.

Projects with right-of-way earnings: For some projects, excess right of way may be acquired and later sold, or right-of-way properties may be leased or rented while awaiting construction. The State must get its proportional share of net income.

The State will provide reimbursement only for the purchase of right of way that is required for the project. When a local agency acquires right of way that includes excess land, the cost of the excess portion must be excluded from the reimbursement request submitted to Caltrans. In situations where land initially acquired as part of the project and reimbursed with State funds is declared excess at a later date, the local agency must reimburse the State for either the fair market value, assessed at the time disposal or retention is decided, or a pro rata share, whichever is greater, of the excess property no later than 120 days after project completion.

Local agencies are required to share with the State proceeds from income generating property in proportion to the State's participation in the acquisition of the property, through the time of project completion. Certain costs and expenses directly related to the rental property may be paid from the rental proceeds. The State allows the same costs and expenses to be deducted from gross income as are allowed under Federal-aid program guidelines and regulations. The Commission in its project approval or Caltrans in the Program Supplement or Fund Transfer Agreement may lay out further or different specific agreements concerning rental income and expenses, in accord with specific Commission policy.

The documentation provided to the Department will identify the gross rental income, eligible costs paid from the rental proceeds, and the net income from the property for purposes of calculating the State and local shares of the net proceeds. The State's share of any net rental income may be paid to the State on a monthly or quarterly basis or reflected as an offset against reimbursement requests. The State will not participate in losses incurred as a result of rental property activities.

# V. PROJECT SUBMITTAL, APPROVAL, AND REIMBURSEMENT PROCESS

## A. LOCAL AGENCY PROJECT SUBMITTAL

When an agency is ready to implement a project or project element (i.e., environmental studies, design engineering, right-of-way, construction) already in the State program, the agency should ask for project approval by letter to Caltrans District Director of Transportation. This letter or submittal package has no specified format, but detail of information should be appropriate to the complexity of the project, as specified above in Section III-A.

The first submittal for a project must serve the Commission for project approval, and Caltrans for a master agreement and program supplement (or SB 580 review and Fund Transfer Agreement) as well, for either a whole project or project components; it may also include a funding allocation from the Commission for the current fiscal year. Later requests on a given project may cover later project components or funding allocations for subsequent components or fiscal years.

The project submittal for construction funding should include the following information unless the information has previously been submitted:

- Environmental clearance documentation, including project description and cost;
- Any changes in description, scope, schedule or project cost which deviate from information previously provided to Caltrans or the Commission;
- Separate identification of any non-capital expenditure reimbursements, from capital outlay;
- A total expenditure plan which includes a schedule of all work phases and estimated completion dates (see Appendix A-5 for example);
- A quarterly cash expenditure and reimbursement plan which identifies estimated cash reimbursements by quarter for the duration of the project or project element (see Appendix A-5 for example);
- Any specified Commission information needs or policy commitments, such as timely or proportional use of funds, that apply to the project; and
- The amount of any requested funding allocation, describing type of expenditure.

## B. STATE APPROVAL PROCESS

Appendix A-6 illustrates the processing of project submittals and funding requests by Caltrans. Separate charts are included for transit projects as their processing steps are different than highway projects. Appendix A-7 shows a checklist of documents needed for each step. Requests for supplemental funding allocations will be processed in the same manner as original requests.

The Commission intends to deal with submittals for project approval and requests for funding allocation in a timely fashion. Project submittals and funding requests are forwarded through Caltrans' Headquarters Division of Budgets to the Commission. The Commission meets once a month, and typically will take up a submittal or request at its next meeting if it is known in time for the agenda cutoff date and information appears to be complete. The local agency should allow for 60 days from submittal to Caltrans District until Commission approval.

The Commission receives comments or recommendations from Caltrans along with a project approval submittal or funding allocation request from the local agency. Caltrans' recommendation on a funding allocations request will include:

- status of program appropriations for the fiscal year,
- availability of State cash to support the proposed reimbursement schedule, and
- a status report on existing allocations made to the local agency for programs covered under these guidelines and the amount of expenditures incurred against those allocations to date.

This will provide the Commission with some assessment of the local agency's ability to use funds on a timely basis. The Commission will allow a local agency to present its case if it finds that funds are not being used in a timely way. Caltrans, after first consulting with the local agency, also may recommend adjustments to the proposed expenditure plan based on:

- availability of State funds, consistent with programwide policy for dealing with shortage of State funds, or
- changes in schedule that may have occurred since the expenditure plan was prepared.

The Commission will allocate funds only when funds are available and when it is satisfied the funds will be used in a timely way according to the expenditure plan and progress on project activities within the local agency's control. The Commission expects Caltrans to tell the Commission immediately whenever funding for a program is no longer available, and further funding allocation requests are being held.

Once Caltrans has been notified of both Commission approval and completion of the agreement(s) with the local agency, it will set up a process to release funding for reimbursement for project expenditures, no more often than on a monthly basis as agreed in the contract. Local agencies then submit billing vouchers to their Caltrans District for reimbursement.

## C. ENCUMBRANCE AND TRANSFER OF FUNDS

Commission allocation of funds and execution of the Program Supplement or Fund Transfer Agreement by the local agency and Caltrans constitutes an encumbrance of the funding allocation. This will also apply to supplemental allocations and transfer of allocations from one project element to another project element. Since encumbrances can only be made after a fiscal year budget has been enacted, Caltrans may have to hold up execution of the Program Supplement or Fund Transfer Agreement near the beginning of a fiscal year pending signing of the State Budget.

The local agency must submit billings to Caltrans District to get reimbursed. Billings can be submitted to the Caltrans District as agreed in the contract, but no more frequently than monthly to minimize the administrative costs to the State and local agency.

Caltrans District Local Street & Road branch or Public Transit branch must confirm progress of work and approve progress billings. Caltrans may inspect progress of work. Local agencies should expect Caltrans to approve project completion before paying on a billing for final State reimbursement.

Once the State has transferred to a local agency a reimbursement payment for an eligible expenditure, the funds belong to the local agency.

## D. PROJECT COMPLETION AND AUDIT

Upon completion of a project, the local agency is responsible for preparing a Final Project Expenditure Report. The report should identify the resources allocated to the project, expenditures incurred, sources of funds used on the project, and the amount of State resources allocated to the project which were not used and can revert to the appropriate State fund. The Final Project Expenditure Report must be completed within 120 days of project completion, and sent to Caltrans District Office.

The Final Audit, to be accomplished at the local agency's expense, may be done on an individual project basis, or may be performed at the same time as the agency's annual Single Audit. The final audit options available to a local agency are specified in the master agreement or SB 580 review.

If an individual project audit is done, the auditor must prepare a Final Audit Report. If the agency chooses the Single Audit option, a Management Letter will be required for State funding on TSM and FCR projects. In either case, the audit will include compliance tests required by the Single Audit Act and its implementing directive, OMB Circular A-128. The compliance testing should ensure controls are in place to assure that:

1. Reimbursement claims submitted to the State for the project are supported by payment vouchers and canceled checks.
2. Charges for the various categories of eligible costs incurred by the local agency are fully supported.
3. Ineligible costs were not claimed reimbursable on the project.

The Final Audit Report must be completed within one year of project completion.

Project completion is defined as when all work identified in the Program Supplement or Fund Transfer Agreement and amendments has been completed and final costs are known. The report documents (Final Project Expenditure Report or Final Audit Report and Management Letter) will be sent to the appropriate Caltrans District office. Failure to comply with these reporting requirements may result in withholding of future allocations by the Commission.

# VI. PROGRESS REPORTS AND PROJECT CHANGES

## A. PROGRESS REPORTS

Caltrans will provide limited project review and oversight as needed to approve reimbursement payments and project completion. It does not intend to manage project work, project plans, or project construction unless Federal funds are being used on the project. For projects using Federal funding, existing procedures for Federal projects must be followed. A local agency already certified to construct projects to approved FAU or FAS standards may be self-certified to build a project.

The Commission is concerned that projects proceed as scheduled and that funds are expended on a timely basis. Therefore, local agencies should prepare progress reports quarterly for transit projects and annually for highway projects, unless otherwise specified in the project agreement, and submit these reports to the Caltrans District. Caltrans will prepare a summary report for the Commission to keep the Commission informed on progress. The reports submitted by the local agency should:

- Identify progress to date versus planned progress;
- Identify any significant deviations from the original plans and explain how these deviations will impact project completion; and
- Indicate if funds are being expended in a timely fashion consistent with the plans submitted for the project.

These progress reports will reflect current costs, schedules, and expenditure projections, but they do not absolve the local agency of responsibility to notify the State whenever changes in costs, schedules, or expenditure projections are necessary. These issues must be addressed promptly when known, as specified below in this Chapter VI.

## B. PROJECT COST CHANGES

Local agency grants are for a fixed amount as described in the State program. In general, cost increases must be covered with local funds (which can include Federal funds allocated directly to local agencies).

Project cost changes can be expected, from environmental or design decisions, from contractor's bidding, or during construction. Caltrans and the local agency should work together to identify potential cost increases early, and mutually identify and settle on funding options.

When the cost of the project and project elements will exceed the amount identified in the State program, the local agency has at least the following options:

- Fund the additional cost with available local resources;
- Change the scope of the project to fit within the funding in the State program;
- Fund the additional cost in one project element with identified savings from another project element, as described below;
- Re-advertise a project for new contractor bids;
- Request additional funding from the Commission; and
- Drop the project as no longer cost effective.

Caltrans must approve a change in project scope or shift of funding between project elements. The Commission must approve any additional State funding or substantive change in project scope. A local agency should inform Caltrans if it is putting in additional local funding or readvertising if bids come in too high.

If a local agency does not need the full 20% of project capital cost for preliminary engineering, environmental clearance, and design engineering, or the full 15% of construction cost for construction engineering, any savings may be applied to cover cost increases in the capital construction of the project, subject to the approval process outlined below.

The Commission encourages cost savings on projects, to conserve funding so that more future projects can be funded in the program. The Commission has a cost savings incentive policy for the TCI program, whereby a local agency may apply project cost savings to another project in the same corridor in a future year of the program. The Commission will retain cost savings on any project within the same program for future programming, and a county may become entitled to more programming if project cost savings result in State expenditures below the statutory county minimums.

The Commission can consider additional State funds for cost increases, but must be able to identify a source of State funding that could be used to cover a cost increase. The Commission has no unprogrammed contingency reserves. Final project costs are not known until after completion of construction and final billing, so cost savings from other projects generally are not known and available in a timely way.

The Commission thus has the following options:

- Disapprove State funding for the cost increase;
- Delay or reduce the State funding for another project within the same program, and generally with the same local agency grant recipient, thereby creating available funds for the cost increase;

- Approve additional funding from a future program in a subsequent fiscal year; and
- Withdraw State funding from the project if a cost effective project that satisfies the State program can no longer be built.

The Commission generally will not cover cost increases for reasons of overextended local program, inflation in right-of-way or construction costs, changes in the economic climate in the construction industry, unforeseen environmental costs, or changes in scope proposed locally.

### C. CHANGES IN SCHEDULE

If a local agency must significantly amend its financial or cash expenditure and reimbursement plan for a project, it will be responsible for notifying Caltrans promptly of the changes and submitting new plans. This is especially critical when delays change the amount of funds required in a fiscal year, or affect requirements for local match of State funds. Failure to advise Caltrans of such changes could jeopardize the State funds available for the project.

## VII. POLICY ON ADVANCING FUNDS

Local agency projects in the State program will normally be funded on a reimbursement basis, and State bond-funded projects must be. However, one-time advance of funds, in an amount deemed necessary by Caltrans and the local agency, and approved by the Commission, will be considered from funding sources other than State bonds if the local agency can demonstrate that such an advance is necessary to ensure timely completion of the project. Such advances will be considered on a project by project basis and will be tailored to the individual cash flow requirements of the particular project. This advance will be deducted from the final payment(s) for the project unless earlier repayment is agreed upon by the State and the local agency.

## VIII. PROJECT CANCELLATION

Project cancellation can occur only through mutual agreement among the State, Commission and the local agency. The Commission or Caltrans may propose project cancellation at the point of project approval, project agreement, or funding allocation, or if the local agency fails to make suitable progress on the project; the local agency may propose to drop the project at any point when it is unable or unwilling to continue. Specific terms of the project cancellation will be executed in a separate agreement between the State and local agency, and approved by the Commission.

The agreement that results in project cancellation shall revert any outstanding allocations to the original funding source. The State will participate in the proceeds from the disposition of any tangible property acquired with State funds on the project. The local agency will reimburse the State for its share of fair market value of property sold.

# STATE-LOCAL ENTITY MASTER AGREEMENT NO. _____

## TRAFFIC SYSTEMS MANAGEMENT/FLEXIBLE CONGESTION RELIEF PROGRAMS
**(Pursuant to S&H Code Section 164 et seq)**

DISTRICT LOCAL ENTITY

THIS AGREEMENT, made in duplicate this __day of _____20____ , by and between _____ , a city, county, or LOCAL ENTITY, as defined in streets and Highways code Section 164, hereinafter referred to as "LOCAL ENTITY", and the State of California, acting by and through the department of Transportation, herein referred to as "STATE".

WITNESSTH

WHEREAS, as provided by Sections 164.1, 164.2 and 164.4 et seq. of the streets and Highways Code, LOCAL ENTITY, has applied for State funds to be used for an "Eligible Project" as defined in the Traffic Systems Management and Flexible Congestion Relief Guidelines.

WHEREAS, STATE is required to enter into an agreement with LOCAL ENTITY to delineate certain responsibilities relative to prosecution of the said PROJECT.

NOW, THEREFORE, the parties agree as follows:

ARTICLE I - Project Funding

1. The policies for project funding relative to cost eligibilities, allocations, cost increases, encumbrances and liquidations etc. will be governed by the Financial Guidelines for TSM/FCR Projects as approved and modified by the California Transportation Commission.

## ARTICLE II - CONTRACT ADMINISTRATION

1. Projects shall be constructed as provided in the Traffic Systems Management (TSM) and Flexible Congestion Relief (FCR) Program Guidelines, the TSM/FCR Financial Guidelines and in this agreement.

2. Unless otherwise provided in the Program Supplement, attached hereto as Exhibit A, the LOCAL ENTITY shall advertise, award and administer the contract.

3. Guideway projects are subject to the requirements stated in Article 6 of the Government Code, Section 14080 and following.

4. The estimated cost and scope of PROJECT will be as shown in the Program Supplement and limited to the amounts approved in the STIP or TSM plan by the California Transportation Commission (CTC). A contract for an amount in excess of said estimate may be awarded and expenditures may exceed said estimate provided LOCAL ENTITY will provide the additional funding or a supplemental allocation is requested and approved by the CTC.

5. Subsequent to the CTC allocating the State funds and the LOCAL ENTITY has entered into: a State Local Entity Master Agreement; and a project specific Program Supplement, the LOCAL ENTITY may request and receive payment for eligible work as follows:

(a) STATE will pay the eligible participating costs upon LOCAL ENTITY submittal of acceptable monthly progress pay estimates for expenditures. *

(b) If PROJECT is a cooperative project and includes work on a STATE highway, PROJECT shall be the subject of a separate cooperative agreement between the STATE and LOCAL ENTITY.

* Except as provided in the TSM/FCR Financial Guidelines, Section V, Policy on Advancing Funds, projects requiring $250,000 or less may be funded on an advance basis if requested by the LOCAL ENTITY.

6. The legislature of the State of California and the Governor of the State of California, each within their respective jurisdiction, have prescribed certain employment practices with respect to contract and other work financed with State funds. LOCAL ENTITY shall ensure that work performed under this agreement is done in conformance with the rules and regulations embodying such requirements where they are applicable.

7. After completion of all work under this agreement and after all costs are known, LOCAL ENTITY shall contract for a financial audit of the project costs. The Final Audit, to be accomplished at the LOCAL ENTITY'S expense, may be done on an individual project basis, or may be included in the LOCAL ENTITY'S annual Single Audit. If an individual project audit is done, the auditor must prepare a Final Audit Report. If the LOCAL ENTITY chooses the Single Audit option, a Management Letter be required for the State Share funding. In either case, the audit will include compliance tests required by the Single Audit Act and its implementing directive, OMB Circular A-128. The compliance testing should ensure controls are in place to assure that:

(a) Reimbursement claims submitted to the State for the project are supported by payment vouchers and canceled checks.

(b) Charges for the various categories of eligible costs incurred by the LOCAL ENTITY are fully supported.

(c) Ineligible costs were not claimed as reimbursable on the project.

(d) Preliminary and construction Engineering and do not exceed the prescribed limits.

8. The Final Project Expenditure Report must be completed within 120 days of project completion and should be in the format described in Volume I, Section 19, Exhibit 19-la of the Local Programs Manual. The Final Audit must be completed by December 30th following the fiscal year of project completion. Project completion is defined as when all work identified in the approved Project Application and Program Supplement Agreement has been completed and final costs are known. The report documents (Final Project Expenditure Report and Final Audit Report) will be sent to the appropriate STATE District office. Failure to comply with these reporting requirements may result in withholding of future allocations.

9. The State reserves the right to conduct technical and financial audits if it is determined necessary. After the financial audit, LOCAL ENTITY shall refund any excess State funds reimbursed.

10. Should LOCAL ENTITY fail to pay STATE claims within 30 days of demand, the STATE, acting through STATE Controller, may withhold an equal amount from future apportionments due the LOCAL ENTITY from the Highway Users Tax Fund. The STATE may, at its option, apply any monies due the LOCAL ENTITY by the STATE to pay these claims.

11. When THE PROJECT includes work to be performed by a railroad, the contract for such work shall be entered into by LOCAL ENTITY. LOCAL ENTITY shall enter into agreement with the railroad providing for maintenance of the protective devices or other facilities installed under the service contract.

## ARTICLE III - ENGINEERING

1. "Project Development Costs" includes all preliminary work up to contract award related to the project, including but not limited to environmental studies, preliminary surveys and reports, laboratory work, soil investigation, preparation of plans, specifications and estimates, advertising for bids, awarding contract as well as Project Development Contract Administration and right of Way staff support costs.

STATE FUNDS for Project Development Costs are limited to 20% of the value of the project including construction and right of-way acquisition cost.

2. "Construction Engineering" eligible costs include actual inspection and supervision of construction work, construction staking, laboratory and field testing, preparation and processing of filed reports, and records, estimates, final reports, and allowable expenses of employees/consultants engaged in such activities.

STATE FUNDS for Construction Engineering (CE) are limited to 15% of the construction cost of the project.

3. Unless the parties shall otherwise agree in writing, LOCAL ENTITY'S employees or engineering consultant shall be responsible for all engineering work. When construction engineering is performed by STATE, charges therefore shall include an assessment on direct labor costs in accordance with Section 8755.1 of the State Administrative Manual. The portion of such charges not financed at State cost shall be paid from funds of LOCAL ENTITY.

## ARTICLE IV - RIGHT-of-WAY

1. All related rights-of-way as are necessary for the construction Project shall be acquired by LOCAL ENTITY, and no contract for construction of PROJECT or any portion thereof shall be advertised until the necessary rights-of-way have been secured.

2. The furnishing of rights-of-way as provided for herein includes but may not be limited to:

   (a) all real property required for THE PROJECT free and clear of obstructions and encumbrances.

   (b) the payment of damages to real property not actually taken but injuriously affected by the proposed improvement.

   (c) the cost of relocating owners and occupants pursuant to Government Code Sections 7260-7277.

   (d) the cost of demolition and sales of all improvements on the right of way.

   (e) the cost of all utility relocation, protection or removal.

   (f) the cost of all hazardous materials and wastes clean up.

   (g) the costs which arise out of delays to the contractor because utility facilities have not been removed or relocated, or because rights-of-way have not been made available to the contractor for the orderly prosecution of the work.

3. Should LOCAL ENTITY, in acquiring right-of-way for PROJECT, displace an individual, family, business, farm services shall be provided as required by California Government Code, Sections 7260-7277.

## ARTICLE V - MISCELLANEOUS PROVISIONS

1. The cost of maintenance performed by LOCAL ENTITY forces during any temporary suspension of the work or at any other time may not be charged to the PROJECT.

2. Neither STATE nor any officer or employee thereof shall be responsible for any damage or liability occurring by reason of anything done or omitted to be done by LOCAL ENTITY under or in connection with any work, authority, or jurisdiction delegated to LOCAL ENTITY under this agreement. It is also understood and agreed that, pursuant to Government Code Section 895.4, LOCAL ENTITY shall fully indemnify and hold STATE harmless from any liability imposed for injury (as defined be Government Code Section 810.8) occurring by reason of anything done or omitted to be done by LOCAL ENTITY under or in connection with any work, authority, or jurisdiction delegated to LOCAL ENTITY under this agreement.

3. Neither LOCAL ENTITY nor any officer or employee thereof, shall be responsible for any damage or liability occurring by reasons of anything done or omitted to be done by STATE under or in connection with any work, authority, or jurisdiction delegated to STATE under this agreement. It is also understood and agreed that pursuant to Government Code Section 895.4, STATE shall fully indemnify and hold LOCAL ENTITY harmless from any liability imposed for injury (as defined be Government Code Section 810.8) occurring by reason of anything done or omitted to be done by LOCAL ENTITY under or in connection with any work, authority, or jurisdiction delegated to LOCAL ENTITY under this agreement.

4. Auditors of STATE shall be given access to LOCAL ENTITY'S books and records for the purpose of verifying costs and pro rata share to be paid. All project documents will be available for inspection by authorized State personnel at any time during project development and for a three-year period from date of final payment under the contract or one year after the audit is completed or waived by the STATE, whichever is longer. If a STATE audit is conducted, the source of local match funds will be checked to determine if the source complies with the program requirements.

## ARTICLE VI - ACCOMMODATION OF UTILITIES

1. Utility facilities may be accommodated on the right-of-way provided such use and occupancy of the right-of-way does not interfere with the free and safe flow of traffic or otherwise impair the roadway or its scenic appearance; and provided a Use and Occupancy Agreement, setting forth the terms under which the utility facility is to cross or otherwise occupy the right-of-way must include the provisions set forth in volume I, Section 12 of the LOCAL PROGRAMS MANUAL published by the STATE, unless otherwise approved by the STATE.

2. If any protection, relocation or removal of utilities is required within STATE'S right-of-way, such work shall be performed in accordance with STATE policy and procedure. LOCAL ENTITY shall require any utility company performing relocation work in the STATE'S right-of-way to obtain a State Encroachment Permit prior to the performance of said relocation work. Any relocated utilities shall be correctly located and identified on the as-built plans.

## ARTICLE VII - CONDITION OF ACCEPTANCE

As a condition of acceptance of the State Funds provided for this project, LOCAL ENTITY will abide by the State policies, procedures and guidelines pertaining to the TSM/FCR Programs.

IN WITNESS WHEREOF, the parties have executed this agreement by their duly authorized officers.

STATE OF CALIFORNIA
Department of Transportation

By _____
District Director of Transportation

Date _____

LOCAL ENTITY

By _____

Date _____

# SB 580 REVIEW POLICIES, PROCEDURES

# AND

# PERFORMANCE STANDARDS

- **management control**
- **public hearings**
- **location studies**
- **preliminary engineering investigations**
- **environmental impact studies**
- **plans, specifications and estimates**
- **property acquisition**
- **relocation assistance**
- **contract provisions for bidding, change orders, payments and audits, and contractor claims**

# EXHIBIT A

**District** **LOCAL ENTITY**

**Agreement No.**

## STATE-LOCAL ENTITY PROGRAM SUPPLEMENTAL AGREEMENT

**1. Description of Work Proposed:**

**2. Proposed Project Funding:**

| | Total Cost | State Funds | Local Funds |
|---|---|---|---|
| Prelim Engr | $ | $ | $ |
| Right of Way | $ | $ | $ |
| Constr. Engr. | $ | $ | $ |
| Construction | $_____ | $_____ | $_____ |
| Totals | $ | $ | $ |

**3. Special Covenants related to WORK:**

**FUND TRANSFER AGREEMENT**

COVERING GUIDEWAY ALLOCATIONS OF

Agreement No. _____
Sheet 1 of 2

**FUND TRANSFER AGREEMENT**

COVERING GUIDEWAY ALLOCATIONS OF
STATE HIGHWAY ACCOUNT (ARTICLE XIX) FUNDS
and
TRANSPORTATION PLANNING AND DEVELOPMENT ACCOUNT FUNDS

This Agreement, entered into on _____, is between _____, a public entity, hereinafter referred to as RECIPIENT, and

STATE OF CALIFORNIA, acting by and through its Business, Transportation and Housing Agency, Department of Transportation, hereinafter referred to as STATE.

1. RECIPIENT has applied to the California Transportation Commission for funds for the purpose of _____ (name of project).

2. California Transportation Commission has allocated funds for (one phase of) said project in Resolution _____, attached, as part of the Standard Provisions of Grant and made a part of this agreement.

3. STATE has prepared "Standard Provisions of Grant," attached and made a part of this Agreement, which sets forth the general terms and conditions under which said funds are to be expended.

4. STATE and RECIPIENT have negotiated and RECIPIENT has submitted "Project Description," attached, as part of the Standard Provisions of Grant and made a part of this Agreement, which describes the entire project to be implemented by RECIPIENT.

5. STATE and RECIPIENT have negotiated and RECIPIENT has submitted "Scope of Work," attached as part of the Standard Provisions of Grant and made a part of this Agreement, which sets forth the tasks and the estimated amounts of progress payments to be made from funds payable under this Agreement. State funding limits established in each original or amended "Scope of Work" shall not be exceeded without a subsequent amendment and encumbrance.

Agreement No. _____
Sheet 2 of 2

6. The STATE fund certification and approval of Scope of Work document is attached as part of the Standard Provisions of Grant and made a part of this Agreement.

7. This Agreement will terminate on _____ unless earlier terminated upon written notice from STATE to RECIPIENT.

8. This Agreement may be modified, altered, or revised with the written consent of RECIPIENT and STATE.

IN WITNESS WHEREOF, the parties have executed this Agreement by their duly authorized officers.

STATE OF CALIFORNIA
DEPARTMENT OF TRANSPORTATION

BY_____
DICK MEADOWS
Departmental Contract Officer

_____
RECIPIENT

BY_____

# STANDARD PROVISIONS OF GRANT

Covering Allocations of
State Highway Account (Article XIX) Funds
and
Transportation Planning and Development Account Funds

The recipient of State Highway Account (Article XIX) or Transportation Planning and Development Account funds, referred to herein as RECIPIENT, has agreed to accept the provisions contained herein as a condition of its acceptance of a grant from either of these sources. The State of California, acting through the Department of Transportation, referred to herein as STATE, shall have the administrative responsibilities described in these provisions.

## I. RECITALS

1. The RECIPIENT proposes to implement a project described in the attached Project Description. The Project Description has been prepared by RECIPIENT and approved by STATE.

2. The RECIPIENT has received an allocation of guideway funds to complete all or a portion of the project, as set forth in the attached allocation resolution, and in accordance with applicable provisions of the Public Utilities Code or the Streets and Highways Code.

3. The RECIPIENT has submitted a Scope of Work document to STATE, describing tasks to be accomplished with its fund allocation, and the document has been approved by STATE.

## II. PROJECT DESCRIPTION

1. The RECIPIENT shall submit to STATE, for approval, a Project Description. This document shall describe the entire project, including all work necessary to complete the undertaking.

2. For projects being partially funded by the Federal Urban Mass Transportation Administration (UMTA), and for which a Federal Full Funding Agreement has been signed, the Project Description shall consist of the "Description of Local Activities," the "Local Activities Budget," the "Description of UMTA Project," and the "UMTA Project Budget" shown in the Full Funding Agreement.

3. The Project Description shall also include a project financial plan showing major activities by fiscal year and fund source. The financial plan shall be of the same format as that submitted in RECIPIENT's State application for funds.

4. For projects with no Federal Full Funding Agreement, the Project Description shall include a narrative description of the activities necessary to complete the undertaking. This Project Description shall also include a financial plan as described in Paragraph 3 above.

## III. SCOPE OF WORK

1. The RECIPIENT shall be responsible for performance of the work described in the approved Scope of Work document for the particular phase of the project corresponding to its allocation of State guideway funds. The work description contained in the document is referred to herein as "the Project Phase."

2. A Schedule of Tasks and Estimated Progress Payments is included in the Scope of Work document. STATE need not reimburse RECIPIENT in a cumulative amount greater than the cumulative amount shown in the Schedule for any time period.

## IV. PAYMENT

1. Funds allocated for use on the Project Phase shall be payable to RECIPIENT on a reimbursable basis.

2. The RECIPIENT agrees to contribute at least the statutorily required amount of the cost of the Project Phase, or the amount specified in the allocation, whichever is greater, from funds available to it. The RECIPIENT shall contribute its required amount of the cost of the Project Phase in accordance with a schedule of payment prepared by RECIPIENT and attached to the Scope of Work document.

3. Not more frequently than once a month, RECIPIENT will prepare and submit in triplicate to STATE, Progress Payment Vouchers consistent with the Scope of Work document, in the format that is attached to the Standard Provisions of Grant. Each such voucher will be accompanied by a report describing the overall work status and progress on tasks. If applicable, the first voucher shall also be accompanied by a report describing any tasks specified in the Scope of Work document which were accomplished prior to the date of allocation and for which costs are to be credited toward the required local contribution described in Section IV, Paragraph 2, of these Provisions. Final payment vouchers shall be submitted not less than three months prior to the last date on which a payment can be made from the allocated funds, as specified in the Scope of Work document. Reimbursement will be made only for work performed after the date of this agreement and prior to the submittal date of the final voucher.

4. STATE reserves the right to terminate its share of funding for the Project Phase upon written notice to RECIPIENT in the event that RECIPIENT fails to proceed with the work in accordance with the Scope of Work document or otherwise violates the conditions of these Provisions or the allocation such that substantial performance of the Project Phase is significantly endangered. In the event of such termination, RECIPIENT shall be reimbursed STATE's share of allowable project costs incurred prior to the date of termination. Any such termination shall be effected by delivery, to RECIPIENT, of a Notice of Termination, which shall become effective not less than 30 days after receipt, specifying the reason for the termination; the extent to which performance of work under these provisions is terminated; and the date upon which such termination becomes effective. During the period before the effective termination date, RECIPIENT and STATE shall meet to attempt to resolve the dispute without proceeding to termination of the Agreement.

## V. REPORTS AND RECORDS

1. In carrying out work on the Project Phase, RECIPIENT may enter into contracts with other public agencies or private firms, in accordance with Federal and State third-party agreement provisions.

2. The RECIPIENT and its contractors shall establish and *maintain* records pertaining to the fiscal activities of the Project Phase. RECIPIENT and contractor accounting systems shall conform to generally accepted accounting principles and all records shall provide a breakdown of total costs charged to the Project Phase, including properly executed payrolls, time records, invoices and vouchers. All fiscal and accounting records and other supporting papers of RECIPIENT and its contractors connected with the performance of the contract shall be maintained for a minimum of three years from the date of final payment under these provisions and shall be held open to inspection and audit by representatives of STATE and the Auditor General of the State of California. In conducting an audit of the costs claimed under these Provisions, STATE will rely to the maximum extent possible on any audit arranged by RECIPIENT pursuant to the provisions of Federal and State laws. In the absence of such an audit, any audit work performed by RECIPIENT's external auditors and/or the Federal Government will be considered.

3. The RECIPIENT and its contractors agree that the contract cost principles, CFR 48, "Federal Acquisition Regulations System," Chapter 1, Part 31, shall be used to determine the allowability of individual items of cost.

   The RECIPIENT and its contractors also agree to comply with Federal procedures in accordance with 49 CFR, Part 18, "Uniform Administrative Requirements for Grants-in-Aid to State and Local Governments."

4. Project equipment, capital outlay and materials and other procured services, purchased by RECIPIENT under these Provisions shall be procured according to the governing law and procedures of RECIPIENT, and in accordance with administrative requirements.

5. The RECIPIENT will insert clauses to the effect of Paragraphs 2, 3, and 4, above, in all its contracts funded by STATE under these Provisions.

6. (a) RECIPIENT and STATE agree to conduct, on a quarterly basis, on-site reviews of all aspects of the progress of the project.

(b) RECIPIENT agrees, in each quarterly progress review, to inform STATE regarding (1) whether the Project is proceeding on schedule and within budget, (2) any requested changes to the Project Management Plan, (3) major construction accomplishments during the quarter, (4) any problems or anticipated problems which could lead to delays in schedule, increased costs, or other difficulties, (5) the status of the Project Budget and, (6) the status of critical elements of the Project.

(c) The quarterly reviews will include consideration of whether activities are within the scope of the Project and in compliance with State laws, regulations, administrative requirements, and implementation of the Project as STATE considers appropriate.

(d) If at any time during the performance of the Project, RECIPIENT and STATE determine that the Project Budget may be exceeded, RECIPIENT shall take the following steps:

(1) Notify the designated STATE representative of the nature and projected extent of the overrun and, within a reasonable period thereafter, identify and quantify potential cost savings or other measures which will bring the budget into balance, and

(2) Schedule the projected overrun for discussion at the next subsequent Quarterly Review meeting.

## VI. GENERAL PROVISIONS

1. In the performance of work under these provisions, RECIPIENT and its contractor(s) will not discriminate against any employee or applicant for employment because of race, color, religion, ancestry, sex*, age*, national origin, or physical handicap*. The RECIPIENT and its contractor(s) will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, ancestry, sex*, age*, national origin, or physical handicaps*. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The RECIPIENT and its contractor(s) shall post in conspicuous places, available to employees and applicants for employment, notices to be provided by STATE setting forth the provisions of this Fair Employment Practices Section.

2. The RECIPIENT and its contractor(s) will permit access to his/her records of employment, employment advertisements, application forms, and other pertinent data and records by the State Fair Employment Practices and Housing Commission, or any other agency of the State of California designated by the awarding authority, for the

purpose of investigation to ascertain compliance with this Fair Employment Practices Section.

3. Minority Business Enterprise: In connection with performance of the Project Phase for which this allocation is made, RECIPIENT will strive to meet its commitments and goals with regard to the maximum utilization of minority business enterprises and will use its best efforts to ensure that minority business enterprises shall have the maximum practicable opportunity to compete for work under these Provisions.

4. The grant administrators for the parties shall be: for STATE, the District Director of Transportation for the district in which the Project is located, and for RECIPIENT, its General Manager or designee.

5. These Standard Provisions of Grant, the Allocation Resolution, the Project Description and the Scope of Work document approved by STATE constitute the entire terms of the grant between the parties for the work to be performed pursuant to this grant. The Project Description and/or the Scope of Work document may be modified, altered, or revised with the written consent of RECIPIENT and STATE.

6. Additional funding for subsequent phases of the project may be granted through amendment to this agreement by the attachment of a new allocation resolution, and submission by RECIPIENT of a revised Scope of Work document. When necessary, the Project Description shall also be revised with the amendment.

STATE OF CALIFORNIA
DEPARTMENT OF TRANSPORTATION
DIVISION OF MASS TRANSPORTATION
DMT-007 (8/86)

**PROJECT PROGRESS PAYMENT VOUCHER (BILL)**
GUIDEWAY/TRANSIT CAPITAL IMPROVEMENTS

PROGRESS PAY FINAL
CONTRACT # _____
E.A. # _____
PAYMENT PERIOD _____ to _____

PROJECT TITLE _____

SUBMITTED BY _____ DISTRICT _____
(Name of Recipient)
_____
(Address)
_____

ALLOCATION Resolution No. _____ Date Allocated _____

Amount Allocated $ _____ % of Local Match _____

Source of Allocation TP & DA ☐ SHA ☐ Fiscal Year of Allocation _____

1. Balance of allocation beginning of this billing period (Line 5. pervious bill) $ _____

2. Total project Disbursements subject to reimbursement (Attach supporting documents) $ _____

3. Maximum reimbursement requested by this voucher

$$\left( \frac{\text{Amount of Line 2}}{\text{1+\% as decimal of local match}} = \text{MAXIMUM ( STATE REIMBURSEMENT/THIS PERIOD} \right)$$ $ _____

TO BE FILLED OUT BY STATE REPRESENTATIVE

4. Funds to be reimbursed this billing period $ _____

5. Balance of allocation (Line 1 less Line 4) $ _____

CERTIFICATION

I certify the charges for work billed are proper and that the project progress is commensurate with cash disbursements being claimed on Line 2 above.

Signed _____ Date _____
(Representative of Recipient and Title)

I have reviewed the disbursement and the progress of work on the project specified above and recommended payment in the amount shown on line 4 (If Line 4 is less than Line 3 the reduction will be documented by letter).

Signed _____ Date _____
(Department of Transportation District Representative)

I certify that funds have been allocated for this project and that there is sufficient balance in this allocation to cover the reimbursement in line 4.

Signed _____ Date _____
(Department of Transportation District Accounting Officer

White * CT District Accounting
Blue * Transit Agency Final
Green * District Representative
Yellow * DMT/PD&E
Pink * DFOC * Special Budgets
Gold * Transit Agency Suspense

Name of Recipient:
Name of Project:
Resolution No.:
Date of Resolution:
Amount of Resolution:
Fund Source:
Expiration Date of Funds:

SCOPE OF WORK
SCHEDULE OF TASKS AND ESTIMATED
PROGRESS PAYMENTS

| QUARTER | TASKS ** | ESTIMATED FUNDS NEEDED EACH QUARTER | | | |
|---|---|---|---|---|---|
| | | Current State Allocation | Other State Allocation | Federal | Local |
| First Fiscal Year *: | | | | | |
| July-Sept. | | $ | $ | $ | $ |
| Oct.-Dec. | | $ | $ | $ | $ |
| Jan.-March | | $ | $ | $ | $ |
| April-June | | $ | $ | $ | $ |
| Second Fiscal Year | | | | | |
| July-Sept. | | $ | $ | $ | $ |
| Oct.-Dec. | | $ | $ | $ | $ |
| Jan.-March | | $ | $ | $ | $ |
| April-June | | $ | $ | $ | $ |

* Commencing with the fiscal year during which the current State allocation was made
** Indicate by an asterisk the tasks completed in the quarter
*** Continue for succeeding fiscal years, if necessary

**AGREEMENT NO.** _____

# PROJECT DESCRIPTION

(PLEASE REPLACE THIS PAGE WITH YOUR PROJECT DESCRIPTION)

**AGREEMENT NO. _____**
**ATTACHMENT III**

Name of Recipient:
Name of Product:
Resolution Number:
Date of Resolution:
Amount of Allocation:
Fund Source:
Expiration Date of Funds:

## SCOPE OF WORK APPROVAL

The Department of Transportation hereby certifies that the attached "Scope of Work" documents have been submitted by the recipient named above and that its description of tasks to be accomplished with the allocated funds is complete and in conformance with the allocating resolution specified above.

_____ _____

Deputy District Director for Planning and Public Transportation Date: _____

| Source | | Charge | | Exp Auth | Special Designation | | Agency Object | Amount | Fiscal Year | Encumbrance Document Number |
|---|---|---|---|---|---|---|---|---|---|---|
| Dist | Unit | Dist | Unit | | Sub Job No | Bridge No | | | | |
| | | | | | | | | | | |
| | | | | | | | | | | |
| | | | | | | | | | | |
| | | | | | | | | | | |
| I hereby Certify upon my own personal knowledge that budgeted funds are available for the period and purposes of the expenditure stated above. | | | | | | | SIGNATURE OF ACCOUNTING OFFICER | | | DATE |
| ITEM | | CHAPTER | | STATUTES | | FISCAL YEAR | | | | |

**AGREEMENT NO. _____**
**ATTACHMENT IV**

# CTC RESOLUTION

**AGREEMENT NO._____**
**ATTACHMENT V**

# LOCAL AGENCY RESOLUTION

(PLEASE REPLACE THIS PAGE WITH YOUR RESOLUTION)

# SAMPLE EXPENDITURE PLAN

Project I.D. No. _____
Planning Program No. _____
District _____ Co _____ Rte _____ PM _____

File No. _____
Fiscal Year _____
(for CTC use only)

☐ Environmental Clearance attached (If not previously submitted)

☐ Other _____

| PROJECT ELEMENT | Year 1 | Year 2 | Year 3 | Year 4 | Year 5 |
|---|---|---|---|---|---|
| Project Development<br>***Completion Date*** | **$15,000** | **$35,000** | **$20,000** | **--** | **--** |
| Right of Way<br>***Completion Date*** | **--** | **$25,000** | **$25,000** | **--** | **--** |
| Construction Engineering<br>***Completion Date*** | **--** | **--** | **$10,000** | **$15,000** | **$5,000** |
| Construction<br>***Completion Date*** | **--** | **--** | **$40,000** | **$100,000** | **$60,000** |

# SAMPLE QUARTERLY CASH DISBURSEMENT PLAN

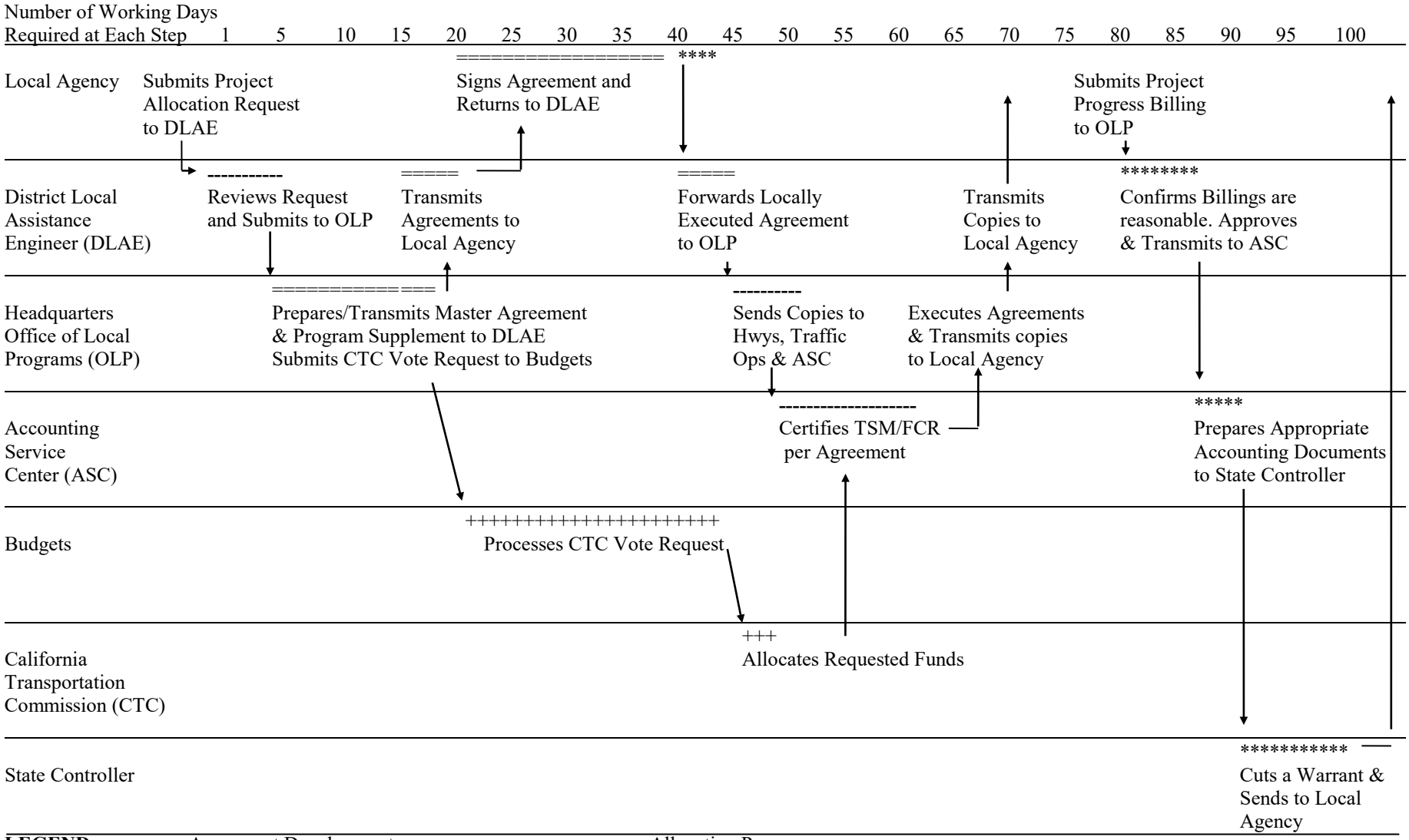
Project I.D. No. _____
Planning Program No. _____
District _____ Co _____ Rte _____ PM _____

File No. _____
Fiscal Year _____
(for CTC use only)

| FISCAL YEAR | July/Sept. | Oct./Dec. | Jan./Mar. | Apr./June |
|---|---|---|---|---|
| **1991/92** | **--** | **$5,000** | **$5,000** | **$5,000** |
| **1992/93** | **$10,000** | **$15,000** | **$17,000** | **$18,000** |
| **1993/94** | **$22,000** | **$22,000** | **$26,000** | **$25,000** |
| **1994/95** | **$28,000** | **$29,000** | **$29,000** | **$29,000** |
| **1995/96** | **$25,000** | **$25,000** | **$15,000** | **--** |

# PROJECT ALLOCATION & ROUTINE BILLING PROCEDURES

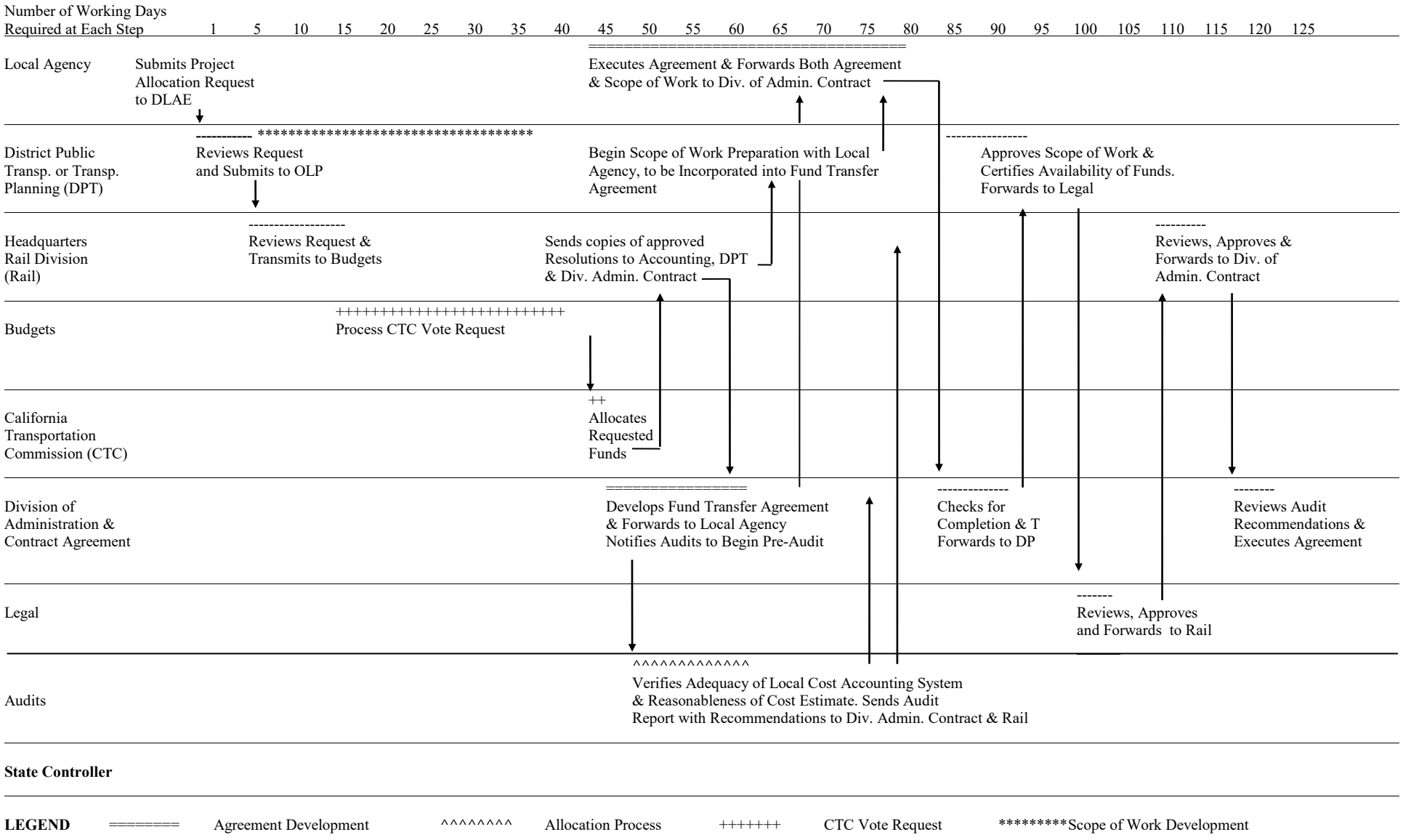
FOR NON-TRANSIT FCR/TSM PROJECTS




**LEGEND**
====== Agreement Development
++++++ CTC Vote Request Process
---------- Allocation Process
******* Routing of Billing Procedures

# PROJECT ALLOCATION & ROUTINE BILLING PROCEDURES

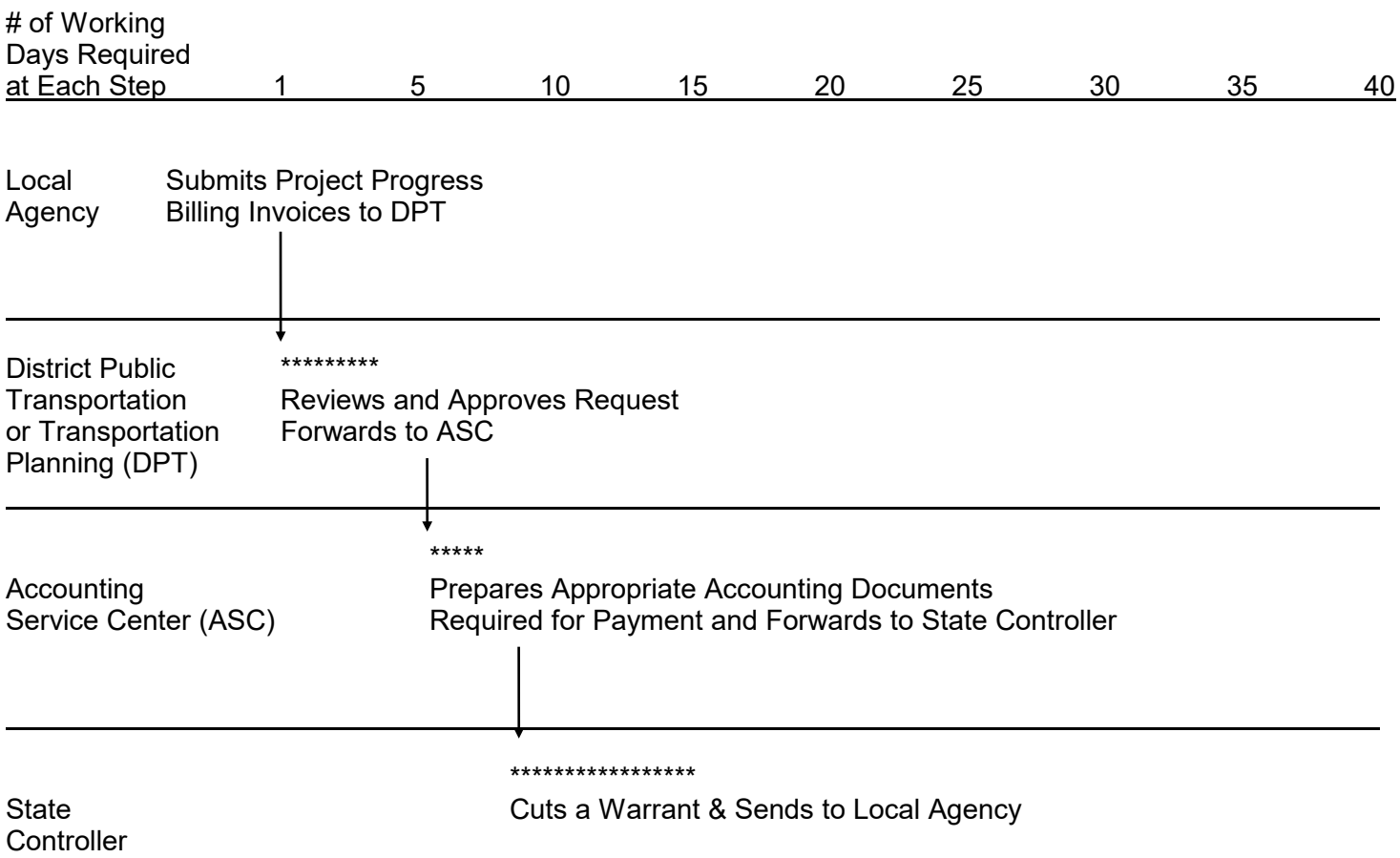
## FOR TRANSIT FCR & TSM PROJECTS



# PROJECT BILLING PROCEDURES

for

TRANSIT FCR & TSM PROJECTS



# HIGHWAY & TRANSIT DOCUMENTATION CHECKLIST

| Highways | Both | Transit |
|---|---|---|
| | • project must be included in an adopted STIP, approved TSM Plan or approved 116 application | |
| **PROJECT APPROVAL SUBMITTAL** | | |
| | • project approval letter<br>- completed environmental documents including project description and cost<br>- project schedule, including agency responsibilities & major cost components through project construction<br>- project financial plan showing all funding sources and stages where each will be applied<br>- a quarterly cash expenditure & reimbursement plan<br>- any Commission Policy commitments | |
| **FUNDING ALLOCATION REQUEST** | | |
| • Master Agreement | • funding allocation request letter<br>- any changes in description, scope, schedule or project costs which differ from previously submitted information<br>- progress compared against cash expenditure and reimbursement plan<br>- amount of requested allocation | • 580 Review (for policies, procedures & performance standards, see A-9) |
| • Supplemental Agreement | | • Fund Transfer Agreement |
| **REIMBURSEMENT BILLING** | | |
| • annual progress reports submitted to the appropriate Caltrans' District Office<br>• progress billings submitted to the appropriate Caltrans Local Assistance Branch | | • Quarterly Progress review as indicated in the Fund Transfer Agreement<br>• progress billings submitted to the Caltrans' District Public Transit Branch |
| **PROJECT COMPLETION** | | |
| | • final project expenditure report<br>• final audit | |