

Memorandum

To: CHAIR AND COMMISSIONERS
CALIFORNIA TRANSPORTATION COMMISSION

CTC Meeting: August 6, 2013

Reference No.: 2.6b.
Action Item

From: STEVEN KECK
Acting Chief Financial Officer

Prepared by: Jane Perez
Division Chief
Mass Transportation

Subject: **FINANCIAL ALLOCATION AMENDMENT FOR LOCAL PROPOSITION 116
PROGRAM PROJECTS
RESOLUTION BFA-13-01, AMENDING RESOLUTION BFP-09-03**

RECOMMENDATION:

The Department of Transportation (Department) recommends the California Transportation Commission (Commission) approve an amendment to the original allocation of \$6,247,813 in Proposition 116 Bond funds under Resolution BFP-09-03, originally approved April 7, 2010, for the Rail Extension to Monterey County project, as described on the attached vote list and consistent with the concurrent Proposition 116 project amendment.

ISSUE:

The attached vote list describes a regional rail project funded from Proposition 116 bond proceeds authorized under Public Utilities Code (PUC) Section 99638(a). The implementing agency, Transportation Agency for Monterey County (TAMC), was unable to expend the total amount allocated within the Commission's timely use of funds time frame due to additional work required under the preliminary phases. TAMC is requesting a reduction to the original allocation of \$6,247,813 by \$4,917,837 to \$1,329,976 and reallocation of \$300,000 for Project Approval and Environmental Document (PA&ED), \$300,000 for Plans, Specifications and Estimates (PS&E), and \$729,976 for Right of Way. (A concurrent Programming Amendment is also on this month's Commission agenda for approval.)

FINANCIAL RESOLUTION:

Resolved That:

- 1.1 WHEREAS, in April 7, 2010, the California Transportation Commission (Commission) passed Resolution BFP-09-03, which approved \$6,247,813 in Proposition 116 Bond funds from PUC 99638(a), for the Rail Extension to Monterey County project; and
- 1.2 WHEREAS, the Transportation Agency for Monterey County was unable to expend the total amount allocated for right of way work for the Rail Extension to Monterey County project in accordance with the Commission's timely use of funds policy due to additional work required under the preliminary phases; and

- 1.3 WHEREAS, a balance of \$6,017,837 in Proposition 116 Rail Bond funds allocated under Resolution BFP-09-03 remain unexpended and should be de-allocated and made available for re-allocation.
- 2.1 NOW THEREFORE BE IT RESOLVED, that the California Transportation Commission hereby adjusts the approved funding amount allocated under Resolution BFP-09-03 for the Rail Extension to Monterey County project from \$6,247,813 for Right of Way to \$300,000 for PA&ED; \$300,000 for PS&E and \$729,976 for Right of Way, and de-allocating \$4,917,837 for future Construction allocation.
- 2.2 BE IT FURTHER RESOLVED, that Resolution BFA-13-01 is hereby approved amending Resolution BFP-09-03.

FINANCIAL RESOLUTION:

- 1.1 WHEREAS, the California Transportation Commission (Commission) has adopted an annual program for mass transportation capital purposes, and the electorate enacted both Proposition 108, Passenger Rail and Clean Air Bond Act of 1990 and Proposition 116, Clean Air and Transportation Improvement Bond Act of 1990; authorizing the sale of general obligation rail bonds for rail transit purposes; and
- 1.2 WHEREAS, the Project further detailed on the attached vote list, as component phases or in its entirety, appears on the necessary State capital projects funding list and is entitled to participate in this allocation; and
- 1.3 WHEREAS, the Commission has established a “Hazardous Waste identification and Clean-up Policy” (Resolution G-91-2) which requires the Recipient to perform, with diligence, the process of identification and remediation of any hazardous waste in the Right of Way, easements and properties.
- 2.1 NOW THEREFORE BE IT RESOLVED, that \$1,329,976 in Proposition 116 Clean Air and Transportation Improvement Bond proceeds be allocated to the recipient for the project detailed on the attached vote list; and
- 2.2 BE IT FURTHER RESOLVED, that the transfer of funds for each project shall be governed by the program supplement, and subsequent amendments to the same if required; and
- 2.3 BE IT FURTHER RESOLVED, that each recipient shall provide the Department’s Division of Mass Transportation with an updated expenditure plan on a quarterly basis by category including any proposed changes for the balance of all funded Project allocations commencing with the first quarter; and
- 2.4 BE IT FURTHER RESOLVED, that in any instance of rail bond financing of a project, the Commission, acting on behalf of the State, by this Resolution intends:
 - A. To cause and approve the issuance of taxable or tax-exempt State general obligation bonds under Proposition 116, as appropriate, to reimburse the Recipient for the Project identified on attached vote list;

- B. To reimburse the Recipient for expenditures that shall not have been paid from the proceeds of any other tax-exempt indebtedness unless such prior indebtedness is retired with the proceeds of such State monies;
- C. That this Resolution be a declaration of official intent of the State within the meaning of U.S. Treasury Regulations Section 1.103-17© with respect to the Project; and

2.5 BE IT FURTHER RESOLVED, that in any instance of rail bond financing, an allocation for a project is subject to the following conditions and assurance:

- A. Completed bond sales authorized by the Office of State Treasurer;
- B. Receive bond certification from the Department, preferably prior to the Commission's allocation action but, certification must be obtained prior to execution of the fund transfer agreement;
- C. The Recipient's certification that will not adopt new increased current development taxes, fees, exactions or permit fees for the purpose of providing local matching funds; and the certification of this delivered to this Commission, preferably by the time of Commission allocation action but not later than prior to execution of a fund transfer agreement;
- D. A formal resolution by the Recipient's Board stating that when utilizing State funding for acquisition of property or for capital improvements on the Project, Recipient has exercised all due diligence in the discovery of hazardous wastes; that Recipient will enter into enforceable agreement(s) with any and all owners of to-be acquired properties for clean-up of hazardous wastes pursuant to the requirements of Resolution G-91-2 regarding Hazardous Waste Identification and Clean-up for Right of Way;
- E. A formal resolution by the Recipient's Board stating that when utilizing state-provided and other-than-state funding for acquisition of property or for capital improvements on the Project, that no additional State funds will be requested for clean-up, damages, or liability associated with hazardous wastes on or below the acquired property, delivered to this Commission;
- F. That in any instance of rail bond financing with Proposition 116 funds, eligible costs may be incurred for project development after the project application approval, and all reimbursements of eligible costs are subject to an executed fund transfer agreement;
- G. The Recipient shall provide the Commission with an "Evaluation of Property report" by the time of the Commission allocation action, in compliance with Commission Policy G-95-09, Rail Right of Way Policy, to be verified by the Department or its Agent;
- H. The Recipient shall post on the Project construction site at least one sign, visible to the public, stating that the Project is partially funded with Proposition 116 Clean Air and Transportation Improvement Bond Act of 1990 proceeds; and

- 2.6 BE IT FURTHER RESOLVED, that this Commission shall be entitle to a then present value refund, or credit, at State's option, equivalent to the proportionate funding participation by the State towards, property acquisition and project construction in the event that Recipient, or successor public entitles, fail or cease to utilize the Project for the intended public passenger rail purposes or sells or transfers title to the Project. The credit for future purchases or condemnation of all or portions of the Project by the State, and the refund or credit due the Commission in each instance, will be measured by the ratio of State and other market value of the Project property; and
- 2.7 BE IT FURTHER RESOLVED, that if the Recipient receives any revenues or profits from any non-governmental use of property allowed pursuant to bond certification (whether approved at this time or hereafter approved by the State), the Recipient agrees that such revenues or profits shall be used exclusively for the public transportation services for which the project was initially approved, either for capital improvements or maintenance and operational costs. If the Recipient does not so dedicate the revenues or profits, a proportionate shall (unless disapproved by the State's Bond Council) be paid to the State equivalent to the State's percentage participation in the Project.
- 2.8 BE IT FURTHER RESOLVED, that an allocation for the project is subject to the following conditions and assurances:
- A. Reimbursements of eligible costs are subject to the terms and conditions of the executed Program Supplement;
 - B. The grant recipient must complete the work to be reimbursed and the actual reimbursement by December 31, 2016, unless the Commission authorizes a waiver that extends, if permitted by statute, the period of availability of the funds.

Attachment

2.6 Mass Transportation Financial Matters

Project #	Allocation Amount	Recipient	Project Title	Location	Project Description	Dist-PPNO Program/YearP A#	PUC Code	Prgm'd Amount	Project ID	Budget Year	Fund Type	Program Code	Allocation Amount
2.6b. Allocation Amendment - Proposition 116 - Locally Administered Rail Projects													Resolution BFA-13-01, Amending Resolution BFP-09-03
1	\$6,247,813		Rail Extension to Monterey County.			05-1155				2013-14			\$6,247,813
	\$1,329,976	Transportation Agency for Monterey County TAMC 05-Monterey	Extend Capital Corridor passenger rail service from San Jose to Salinas and make improvements at three stations.		(Future Consideration of Funding – Resolution E-06-28; August 2006.)	P116/13-14			PA-13-01	P116		30.10.070.625	\$1,329,976
			(Concurrent Programming Amendment under Resolution PA-13-01; August 2013.)			PUC 99638(a)			PA&ED				
									\$300,000				
									PS&E				
									\$300,000				
									R/W				
									\$6,247,813				
									\$729,976				
			<u>Outcome/Output:</u> Complete environmental document, final engineering and property acquisition.			0014000001							
						R1316C							
						S							
			<u>Amend Resolution BFP-09-03 to reallocate \$300,000 to PA&ED; \$300,000 to PS&E, leave \$729,976 for R/W and de-allocate \$4,917,837 for future Proposition 116 CONST allocation.</u>						P116/15-16				
									CON				
									\$4,917,837				