

Memorandum

To: Chairman and Commissioners

Date: May 19-20, 2010

From: BIMLA G. RHINEHART
Executive Director

File No: 4.15
Action

Ref: Approval of State Route 238 Local Alternative Transportation Improvement Program in the City of Hayward and Alameda County

ISSUE:

The Cities of Hayward and San Leandro, and Alameda County (Board of Supervisors, Transportation Authority and Congestion Management Agency) have submitted the State Route 238 Local Alternative Transportation Improvement Program, including a prioritized list of projects (attached), for approval by the California Transportation Commission (Commission).

RECOMMENDATION:

Staff recommends that the Commission approve the proposed program of transportation related projects in the State Route 238 Local Alternative Transportation Improvement Program (LATIP), providing no appeals of the final settlement agreement approved by the State Superior Court are filed prior to June 22, 2010, the end of the 60-day appeal period. This approval will make the projects eligible for funding from the sale of excess state-owned properties originally purchased for a freeway or expressway bypass to State Route 238 in the City of Hayward and in the County of Alameda. The sale of excess state-owned properties will commence later this year after the route rescission, which was noticed in December 2009, is approved by the Commission.

BACKGROUND:

The existing State Route 238 (Mission Boulevard) serves local traffic, traffic destined for the San Mateo – Hayward Bridge (Route 92) and those seeking to avoid congestion on the paralleling Route 880 freeway. The route for the Route 238 Hayward Bypass, which would have taken Route 238 off of Mission Boulevard, was adopted in 1961. This freeway would have connected Route 580 in Castro Valley to Route 680 in Fremont, near Mission San Jose, providing congestion relief within central Alameda County. Opposition to the bypass led to a class action lawsuit filed in June 1971 seeking to halt land acquisition, relocation activities and other project preparations. This was followed by a preliminary injunction in November 1971 and a consent decree in January 1990. The consent decree included commitments from the Department of Transportation (Department) and the City of Hayward for providing relocation benefits to the residents of the adopted Route 238 corridor, replenishment housing, and replacement parks along with other corridor enhancements. However, in 1997, another lawsuit was filed against the proposed Route 238 Hayward Bypass, which disallowed the use of Alameda County's Measure B funds and, along with subsequent court findings, made construction of the adopted Hayward Bypass infeasible.

In November 2002, Measure U was passed by the City of Hayward supporting improvements along Mission Boulevard (existing Route 238) in lieu of the Hayward Bypass. The bypass will not be constructed as it is not acceptable to local stakeholders, no longer conforms with the most recent local and regional plans, and local Measure B funding has been withdrawn. In September 2004, Senate Bill 509 was signed into law allowing for the development of a LATIP for the State Highway Route 238 corridor to replace the Hayward Bypass. Funding for the LATIP will be from proceeds of the sale of excess land purchased for the bypass in the 1960's and 70's. The LATIP must be submitted to the Commission for approval no later than July 1, 2010.

The City of Hayward completed a land use study in June 2009 to guide the redevelopment of properties within the freeway corridor. In September 2009, the Department, the City of Hayward and the Public Interest Law Project, held a meeting with the Department's residential tenants residing in the adopted Route 238 corridor. Provisions from the Draft Settlement Agreement were presented to tenants. Following the tenant meeting, the City of Hayward approved the Settlement Agreement in October 2009. The Final Settlement Agreement was signed on December 17, 2009. State Superior Court approval of the final agreement was issued on March 23, 2010, and the notice of entry of judgment was completed on April 23, 2010. There is a 60-day period for the filing of appeals by class members who objected to the settlement agreement that expires on June 22, 2010. If no appeals are filed, the LATIP is final, and identified projects can be delivered.

LEGISLATIVE HISTORY

Legislation passed in 1982 (AB 3179, Holmdahl) created a process to allow local public agencies to develop a LATIP to address congestion on existing Route 238 and to provide flexibility to local decision makers by ensuring that investment of funds on the adopted freeway alignment would not preclude consideration of other options.

In 2004, the Legislature passed SB 509 (Government Code 14528.5) to extend the provisions of the LATIP to July 2010. AB 1386 (Hayashi), signed by the Governor in October 2009, amended Government Code Sections 14528.5 and 14528.6 to broaden the use of revenues from the sale of excess properties to include any highway purpose, created a special account in which to deposit revenues from the sale of excess property, authorized local agencies to advance projects in the approved LATIP, and enacted provisions for a settlement agreement related to the disposition of excess properties among the City of Hayward, the Department and representatives of a specified class of residents in the corridor.

The Commission has adopted LATIP guidelines as part of the State Transportation Improvement Program Guidelines (addendum adopted April 2010), outlining the process for advancing a project programmed in the LATIP using local funds, with later reimbursement coming from the sale of excess properties.

Attachments