

Memorandum

To: CHAIR AND COMMISSIONERS

CTC Meeting: January 21-22, 2004

Reference No.: 2.1c.(4)

Action Item

From: ROBERT L. GARCIA
Chief Financial Officer

Prepared by: Ross Chittenden
Acting Program Manager
Traffic Congestion Relief Program

Ref: **TRAFFIC CONGESTION RELIEF (TCR) PROGRAM LETTER OF NO PREJUDICE APPROVALS, RESOLUTION TL-04-01**

RECOMMENDATION:

Attached is Resolution TL-04-01 for six AB 1335 Letter of No Prejudice (Letter) requests totaling \$568,735,000, which have been reviewed by the California Department of Transportation (Department) and conform to the Guidelines for Letter of No Prejudice, Traffic Congestion Relief Program (Guidelines) adopted by the California Transportation Commission (Commission) under Resolution G-03-12.

However, the Mid Year Spending Reduction Proposals for FY 2003-04 seek to rescind previously approved Letter requests. Pending resolution of future funding for Traffic Congestion Relief (TCR) projects, the Department recommends that the Commission defer approval of Resolution TL-04-01 at this time and add these projects to the list of Letter requests submitted by applicant agencies that are pending further action by the Commission.

BACKGROUND:

Government Code Section 14556.33, established by Chapter 908 (AB1335) of the Statutes of 2001, allows an applicant agency, that is either a regional or local entity, to seek approval of an AB 1335 Letter. If approved by the Commission, the Letter allows the applicant agency to expend its own funds for any component of the transportation project, and seek allocation and reimbursement from the TCR Fund in future years. On August 14, 2003, the Commission approved Resolution G-03-12 adopting the Guidelines for Letter requests. As of October 30, 2003, the Commission has approved a total of \$269,158,000 for ten Letter requests.

The adopted Fiscal Year (FY) 2003-04 budget provided \$189,000,000 in new revenue to be added with existing funds for projects identified in the TCR Program. Due to the uncertainty of TCR funding for FY 2004-05 as reported at the special meeting of the Commission on November 24, 2003, the Department recommended that the Commission refrain from making new allocations of TCR funds. As a result, applicant agencies have continued to submit Letter requests for approval.

On November 24, 2003, Governor Schwarzenegger identified a number of current year budget reductions to be considered by the California legislature. On December 2, 2003, the Mid Year Spending Reduction Proposals for FY 2003-04 was released. The Proposals include the transfer of \$189,000,000 from the TCR Fund to the General Fund, the elimination of TCR project definitions from statutes, and the rescission of all allocations and approvals for Letters. Subsequently, two of the six Letter requests presented here were originally withdrawn prior to action at the December 2002 Commission meeting.

To date, the Legislature has not taken action to approve this proposal. However, the deficit in the State's General Fund continues to impact the TCR Program. The Governor will release his proposed budget for FY 2004-05 in early January 2004. The budget proposal will address funding of TCR projects for FY 2004-05 and provide additional information to assess future funding for the TCR Program.

Attachment

CALIFORNIA TRANSPORTATION COMMISSION
Approval of Traffic Congestion Relief Program
Letters of No Prejudice

RESOLUTION TL-04-01

- 1.1 WHEREAS the Traffic Congestion Relief Act of 2000 (herein after referred to as “statute”), which was established by Chapters 91 (AB 2928) and 656 (SB 1662) of the Statutes of 2000, establishes the Traffic Congestion Relief Program, providing \$5.39 billion for projects throughout the State of California to reduce traffic congestion, provide for safe and efficient movement of goods, and provide system connectivity; and
- 1.2 WHEREAS in accordance with Government Code Section 14556.11 the California Transportation Commission (Commission) has adopted guidelines, in consultation with the Department of Transportation (Department) and regional agencies, to implement the Traffic Congestion Relief Program (TCRP); and
- 1.3 WHEREAS Government Code Section 14556.33, established by Chapter 908 (AB1335) of the Statutes of 2001 allows the Commission to establish guidelines regarding AB 1335 Letter of No Prejudice (Letter) approval for lead applicant agencies allowing the regional or local entity to expend its own funds for any component of said agency’s TCR project; and
- 1.4 WHEREAS on August 14, 2003, the Commission adopted the Guidelines for Letter of No Prejudice, Traffic Congestion Relief Program (Guidelines), allowing applicant agencies to seek alternate sources of funding under Resolution G-03-12; and
- 1.5 WHEREAS within the Letter request, the applicant agencies identify the alternate local funds that will be substituted for TCR funds and provide a demonstration that the stated alternate funds are available; and
- 1.6 WHEREAS those Letter requests for construction or procurement phase of a project that expands or extends transit service (rail, bus, or ferry), are accompanied by demonstration by applicant agency of financial capability to operate the expanded service once the project has been completed; and
- 1.7 WHEREAS those Letter requests for capital phases (right of way and/or construction) are accompanied by documentation of Commission review of the Final Environmental Document, as appropriate, and approval for consideration of future funding; and
- 1.8 WHEREAS the Commission, with assistance from the Department, has reviewed submitted TCR project Letter requests, and subsequent clarifications and revisions, and determined they comply with the statute and guidelines; and
- 1.9 WHEREAS the Commission, in accordance with Administration’s Proposals for current year budget reductions, reserves the right to defer approval of any additional TCR project applications and allocations due to the continuing economic challenges faced by the State.
- 2.1 NOW THEREFORE BE IT RESOLVED the Commission does hereby defer approval at this time for the following six Traffic Congestion Relief Program Letter requests as submitted, with subsequent clarifications and revisions:

- Project #1.1 – \$10,000,000 for Phase 3, for BART to San Jose; extend BART from Fremont to Downtown San Jose in Santa Clara and Alameda Counties – Extension from Fremont to Warm Springs.
Applicant Agency: Santa Clara Valley Transportation Authority (VTA)
Alternate fund source: Local Measure B Transportation Sales Tax
- Project #1.2 – \$214,409,000 for Phases 2 and 3, for BART to San Jose; extend BART from Fremont to Downtown San Jose in Santa Clara and Alameda Counties – Extension from Warm Springs to downtown San Jose.
Applicant Agency: VTA
Alternate fund source: Bonds Payable from 2000 Measure A Sales Tax
- Project #2 – \$35,000,000 for Phase 3, for Fremont-South Bay Commuter Rail; acquire rail line and start commuter rail service between Fremont and San Jose in Santa Clara/Alameda Counties.
Applicant Agency: VTA
Alternate fund source: Bonds Payable from 2000 Measure A Sales Tax
- Project #36 – \$182,900,000 for Phase 4, for Los Angeles Eastside Transit Extension; build new light rail line in East Los Angeles, from Union Station to Atlantic via 1st Street to Lorena in Los Angeles County.
Applicant Agency: Los Angeles County Metropolitan Transportation Authority
Alternate fund source: Local Prop A, Prop C, Lease & General Revenues, CMAQ, 5309 Fixed Guideway
- Project #44 – \$2,726,000 for Phase 4, Route 47 (Terminal Island Freeway); construct interchange at Ocean Boulevard Overpass in the City of Long Beach in Los Angeles County.
Applicant Agency: Port of Long Beach
Alternate fund source: Port funds
- Project #70.2 – \$123,700,000 for Phases 2 and 4, for Route 22; add HOV lanes on Garden Grove Freeway, Route I-405 to Route 55 in Orange County.
Applicant Agency: Orange County Transportation Authority
Alternate fund source: Measure M;

and

2.2 BE IT FURTHER RESOLVED that in approving an AB 1335 Letter of No Prejudice (Letter) in conjunction with a previously approved STIP AB 3090 amendment 02S-52, for TCRP Project #36 – Los Angeles Eastside Transit Extension, that prior to an allocation of funds the LACMTA must submit an application amendment to:

- Adjust approved Letter funds to reduce the approved amount proportionate to STIP funding to be allocated; or
- Adjust approved AB3090 STIP funds to reduce the approved amount proportionate to TCR funding to be allocated;

and

- 2.3 BE IT FURTHER RESOLVED that these requests be added to the list of Letter requests submitted by applicant agencies that have been deferred and are pending further action by the Commission, and
- 2.4 BE IT FURTHER RESOLVED that all conditions stipulated at time of application and/or application amendment approval are still in effect; and
- 2.5 BE IT FURTHER RESOLVED that agencies proceed at their own risk and that reimbursement is dependent on availability of TCR funding; and
- 2.6 BE IT FURTHER RESOLVED that within 6 months following this date, the agency shall report to the Department on progress in executing agreements and third-party contracts needed to execute the work on the phase(s) covered by the approved Letter; and
- 2.7 BE IT FURTHER RESOLVED that all applicant agencies shall provide the Commission and the Department with a progress report on April 1st and October 1st of each year on actual expenditures and status of work, until the projects have been completed; and
- 2.8 BE IT FURTHER RESOLVED that upon completion of the phase(s) of a Letter approved by the Commission, the lead applicant agency may request to have its Letter liquidated with an allocation by the Commission, or at the Commission's direction by the Department, and
- 2.9 BE IT FURTHER RESOLVED that reimbursement of eligible costs is subject to the policies, restrictions and assurances as set forth in the Commission's policy for allocating, monitoring, and auditing TCR projects, and is governed by the terms and conditions of the Fund Transfer Agreement, Program Supplement or Cooperative Agreement, and subsequent amendments to the same if required, as executed between the Implementing Agency and the Department; and
- 2.10 BE IT FURTHER RESOLVED that it is the responsibility of the lead applicant agency to disperse funds to all contributors of the alternate local funds.