

Memorandum

To: CHAIR AND COMMISSIONERS

CTC Meeting: September 19-20, 2007

Reference No.: 5.2
Information Item

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Chief Financial Officer

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Subject: **STATE ROUTE 238 HAYWARD BYPASS - PROJECT HISTORY, PROJECT STATUS, LEGISLATIVE REQUIREMENTS FOR LOCAL ALTERNATIVE TRANSPORTATION IMPROVEMENT PROGRAM PROJECTS AND UPCOMING DECISION POINTS**

SUMMARY:

At its November 2007 meeting, the California Transportation Commission (Commission) will be asked to consider two agenda items relating to the Hayward Bypass Project. The California Department of Transportation (Department) will present a Route Inventory Report (RIR) for Commission information and a Notice of Intention to Consider Rescinding Resolution (NICR) for Commission action, 60 days hence. The Alameda County Congestion Management Agency (ACCMA) in conjunction with the City of Hayward, Alameda County, the City of San Leandro, and the Alameda County Transportation Authority (ACTA) will submit a Financially Unconstrained Local Alternative Transportation Improvement Program (LATIP) proposal developed pursuant to Senate Bill (SB) 509 (2004) for Commission information. A final, financially constrained LATIP will be presented at the March 2008 meeting for Commission action. If adopted, the Commission will also be asked at the March 2008 meeting to formally rescind the freeway adoption for this segment of State Route (SR) 238.

BACKGROUND:

The SR 238 Hayward Bypass project concept was adopted in 1961 as part of a plan to construct a freeway along the Hayward foothills from Interstate (I)-580 in Castro Valley to I-680 in Mission San Jose. This controlled-access corridor was included in the California Freeway and Expressway System with the functional classification of Principal Arterial - Other Freeways and Expressways. The existing SR 238 facility is an urban conventional State Highway System (SHS) segment serving local traffic, through traffic destined for the San Mateo-Hayward Bridge (SR 92), and commuter and other traffic seeking to avoid congestion on the paralleling I-880 freeway. The SR 238 Bypass would have provided regional congestion relief for Central Alameda County.

The Department acquired approximately two-thirds of the required rights of way during the late 1960's and early 1970's. However, the bypass project had opposition almost from the date of adoption. A class action lawsuit was filed in June 1971 seeking to halt land acquisition, relocation activities and other preparations for the project. This was followed by a preliminary injunction in

November 1971 and a consent decree in January 1990. The consent decree and the initial legal action are still pending.

Development of the LATIP

The freeway alignment segment from Industrial Parkway in Hayward to I-680 in Mission San Jose was rescinded in 1981. In 1982, the Legislature passed Assembly Bill (AB) 3179 which created a process to allow local public agencies to develop an alternative transportation project or projects (LATIP) to address congestion on existing SR 238 and to provide flexibility to local decision makers by ensuring that the investment of funds on the adopted freeway alignment would not preclude consideration of other options. Various alternatives were considered over the intervening years, and in 1987, the Commission approved the City of Hayward's Route 238 LATIP proposal for a six-lane freeway alternative.

In 2004, the Legislature passed SB 509 (Government Code section 14528.5) to extend the provisions of the LATIP process to July 2010. The ACCMA, working with a committee consisting of members from the City of Hayward, Alameda County, the City of San Leandro, the Alameda County Transportation Authority and the Department, is charged with the responsibility of developing the LATIP. The LATIP will be a prioritized list of projects that will address problems and opportunities in the Central Alameda County area that were to be addressed by the planned bypass facility and that can be implemented in the next ten years. Pursuant to SB 509, proceeds from the sale of the properties purchased for the bypass project will be used to fund approved alternative projects identified in the LATIP. Subsequent legislation (AB 1462, Chaptered in 2005) clarified that the projects must be on the SHS.

Land Use Study

In preparation for disposal of the right-of-way and concurrently, the City of Hayward is undertaking a land use study funded in part by a \$250,000 grant from the Department's transportation planning program. The study will develop a re-use strategy to determine the best use for land in the study area, which includes properties within the bypass alignment. The study will likely result in amendments to the city's general plan and land use zoning regulations for at least some of the study area properties.

Right-of-way Disposal

The Department is developing a strategy for disposal of excess property in this corridor. There are requirements in existing statute, as well as the consent decree, that need to be evaluated.

Future Actions

Once the LATIP is adopted, the freeway adoption rescinded, and the federal court action dismissed, the Department may begin to dispose of parcels acquired for the bypass project, which are not within the footprint of the city's land use study area. Disposal of the parcels, which are within the footprint of the land use study area, may be delayed until the study is completed, if it is determined that the study will recommend changes in the city's general plan and/or zoning that would apply to specific Department-owned property. The inventory of potential future excess property totals approximately 460 parcels with an estimated current fair market value of \$260 million. This estimated value is based on the anticipated highest and best use of the properties and assumes that all properties can be developed pursuant to the existing general plan for the specific area and that parcels will be grouped

and marketed, over a reasonable period of time, in a process designed to minimize disruptions to the private real estate market in the impacted area and maximize the return to the Department.

DECISION POINTS:

- The Commission will be presented with the NICR and the unconstrained LATIP at its November 2007 meeting. This will begin a 60-day public comment period on the freeway adoption rescission issue.
- The Commission will be asked to approve the constrained LATIP and rescind the freeway adoption at its March 2008 meeting.
- Concurrently, the City of Hayward's land use study will continue with an anticipated completion date of February 2009.
- Concurrently, the Department will initiate the process to have the consent decree set aside and the federal court action resolved. It cannot be determined at this time exactly how long this will take.