

# Memorandum

To: CHAIR AND COMMISSIONERS

CTC Meeting: June 30-July 1, 2010

Reference No.: 4.5  
Action Item

From: NORMA ORTEGA  
Chief Financial Officer

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Subject: **LOCAL ALTERNATIVE TRANSPORTATION IMPROVEMENT PROGRAM ADVANCE FUNDING REQUEST FOR THE CITY OF HAYWARD ROUTE 238 CORRIDOR IMPROVEMENT PROJECT (ASSEMBLY BILL 1386) RESOLUTION LATIP-0910-01A**

## **RECOMMENDATION:**

The California Department of Transportation (Department) recommends the California Transportation Commission (Commission) approve one advance funding request authorized by Assembly Bill (AB) 1386 for the Route 238 Corridor Improvement Project in the city of Hayward.

## **ISSUE:**

The City of Hayward has requested that the Commission approve an advanced funding request for the Route 238 Corridor Improvement Project. The project is included as a top funding priority in the Local Alternative Transportation Improvement Program (LATIP) approved by the Commission at the May 2010 Commission meeting. Projects included in the Local Alternative Transportation Improvement Program (LATIP) will be funded from the proceeds of the sale of the properties purchased for the construction of the Hayward Bypass Project. The City of Hayward recognizes that it will take additional time for the Commission to rescind the Route 238 Bypass and for the Department to dispose of surplus properties to generate sufficient revenue for the LATIP projects. In order to take advantage of the excellent bidding climate, the City of Hayward advertised the Route 238 Corridor Improvement Project on April 20, 2010. Award has been postponed until after the Commission's consideration of this request. The Commission accepted the environmental document for the project for future consideration under resolution E-10-41.

AB 1386 authorizes local agencies to advance projects in the LATIP with local funds, to be repaid when revenues from excess property sales become available. The City of Hayward has estimated that Alameda County Transportation Authority Measure B funds and other local funds will be available to pay for project expenses through early 2012. If LATIP funding is not available at that time, the City of Hayward will use other funds to temporarily replace the LATIP funds programmed for the project.

The project includes a downtown one-way loop street system, added peak hour travel lanes, improvements at major intersections along the route, pedestrian and bicycle improvements and landscaping. The project will reduce traffic congestion in downtown Hayward and on Foothill

Boulevard/Mission Boulevard, improve traffic operations, improve access to the California State University, Hayward, provide for bicycle access, and improve pedestrian access in the downtown area. The project is estimated to cost \$98,000,000 and is anticipated to be funded with \$89,900,000 in local funds, and \$8,100,000 in LATIP funds. The City of Hayward's request also noted that due to approval of a scope revision, this LATIP project will be accomplished in two or possibly more contract phases. Future phases will not be advertised until LATIP funds are available. An additional environmental document will be processed at the appropriate time as well as additional allocation requests for future phases.

## **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 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 prohibited 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 the 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.

**RESOLUTION LATIP-0910-01A:**

Resolved, with all conditions stipulated still in effect, that the California Transportation Commission hereby approves an advance funding request for one project programmed in, or otherwise funded from, the Local Alternative Transportation Improvement Program (LATIP); and

Be it Further Resolved, that the agency understands that they proceed its own risk, as reimbursement is dependent on future availability of the LATIP funding; and

Be it Further Resolved, that the project component covered by an approved advance should be ready to proceed to contract award (or equivalent) once the advanced funding is approved; and

Be it Further Resolved, that the agency shall report to the Department within four months following the approval on progress in executing agreements and third-party contracts needed to execute the work.