

Memorandum

To: CHAIR AND COMMISSIONERS

Meeting Date: September 22-23, 2010

From: BIMLA G. RHINEHART
Executive Director

File: Reference No. 4.14
ACTION

Ref.: UPDATE ON CONDITIONS OF APPROVAL -- RESOLUTION PA-10-06
ACQUISITION OF THE SANTA CRUZ BRANCH LINE PROJECT

ISSUE

The Commission, at its June 30-July 1, 2010 meeting, granted conditional approval for an amended Proposition 116 application from the Santa Cruz County Regional Transportation Commission (SCCRTC) to program \$10,200,000 for acquisition of the Santa Cruz Branch Line.

The Commission's approval was subject to the SCCRTC meeting the five conditions listed below by the August 11-12, 2010 Commission meeting. At the August 2010 meeting, the Commission granted the SCCRTC additional time, until the upcoming November 3-4, 2010 meeting, to provide updates or additional information to satisfy the two remaining conditions, Conditions 1 and 2.

This item is on the agenda as a contingency in the event the SCCRTC is able to meet the remaining conditions at this meeting but at the time this report was prepared (September 7, 2010), staff had not received updates or additional information on the two remaining conditions. The five conditions are:

- 1) SCCRTC will provide the Commission a copy of the executed Administration, Coordination and License Agreement between SCCRTC and the operator (Sierra Northern Railway);
- 2) SCCRTC will explain the use of Net Liquidation Value (NLV) as the methodology for the appraisal valuation to support the request for \$10,200,000 in Proposition 116 funds plus \$4,000,000 in STIP funds to acquire the rail right-of-way;
- 3) SCCRTC commits, via a board resolution, to be responsible for initiating recreational passenger rail service, in accordance with PUC Section 99640;
- 4) SCCRTC commits, via a board resolution, to be responsible for continuing freight rail service for as long as would be required by the Surface Transportation Board, as provided in 49 USC sections 10901, 10910 and 11347; and
- 5) SCCRTC commits, via a board resolution, to be responsible for hazardous waste clean-up and not seek State transportation funds for any clean-up costs and to indemnify the State from both present and future hazardous waste clean-up liabilities.

RECOMMENDATION

Staff recommends that the Commission defer action on this item until the November meeting unless the SCCRTC meets the two remaining conditions stipulated in Resolution PA-10-06.

BACKGROUND

PUC Section 99640 authorizes \$11,000,000 in Proposition 116 Bond funds to the SCCRTC for (a) intercity passenger rail projects connecting the City of Santa Cruz with the Watsonville Junction, or (b) other rail projects within Santa Cruz County which facilitate recreational, commuter, intercity and intercounty travel.

The SCCRTC is pursuing the acquisition of the Santa Cruz Branch Line which extends 31.8 miles from Pajaro in Monterey County to Davenport in north Santa Cruz County for the purpose of preserving the rail corridor for future multi-modal uses. The purchase includes the rights-of-way, track, signal system, yard facilities, structures (including bridges), and all appurtenant facilities.

In August 2003, the Commission approved an application (PA-03-05) from the SCCRTC for the Santa Cruz Branch Line Acquisition programming \$300,000 for pre-acquisition activities.

In May 2008, the Commission approved an amended application (PA-08-01) for another \$500,000 in Proposition 116 funds for additional pre-acquisition activities to complete the negotiations with Union Pacific, appraisals, title review, inspection of the property, assessment of hazardous materials, and other pre-acquisition activities as may be necessary to complete the purchase of the right-of-way.

In April 2010, the Commission received an amended application to program \$10,200,000, the Proposition 116 funds remaining under PUC Section 99640, for acquisition of the Branch Line.

The SCCRTC amended application also requested a waiver of the Proposition 116 rail program policy and application guidelines (Resolution # G-90-23) to allow the Proposition 116 funds to be matched with other State funds.

In June 2010, the Commission granted conditional approval, as stipulated in Resolution PA-10-06.

The total estimated project cost of \$23,568,628 for pre-construction costs, right-of-way acquisition and improvements includes \$11,000,000 Proposition 116; \$10,000,000 STIP; \$1,490,250 in a Federal FY 2002-03 earmark; \$971,300 Transportation Development Act; \$77,460 previously allocated STIP (1998); and \$29,618 from Union Pacific.

Attachment

CALIFORNIA TRANSPORTATION COMMISSION

Project Application Amendment Approval
Proposition 116 Rail Program Application for the
Santa Cruz County Regional Transportation Commission
Santa Cruz Branch Line Acquisition

Resolution PA-10-06, Amending Resolution PA-08-01

- 1.1 WHEREAS, in June 1990 the voters approved the Clean Air and Transportation Improvement Act, Proposition 116, for \$1.99 billion for rail and mass transportation purposes; and
- 1.2 WHEREAS, the California Transportation Commission is designated in Proposition 116 to oversee the five grant programs over the 20-year term of the Proposition; and
- 1.3 WHEREAS, Proposition 116 calls for the Commission to establish an application process and to develop and adopt guidelines to implement those programs; and
- 1.4 WHEREAS, Proposition 116 establishes as a purpose of the application process that it "facilitate implementation of improved cost-effective transit service to the maximum number of Californians and to prevent the funds provided for by this part from being spent on needlessly costly features"; and
- 1.5 WHEREAS, Proposition 116 requires applications to specify full and complete capital plans, financial plans, and operating plans, including schedules and funding sources; and
- 1.6 WHEREAS, in December 1990 the Commission adopted policy and application guidelines (#G-90-23) for the Proposition 116 rail program; and
- 1.7 WHEREAS, the Commission has established a Hazardous Waste Identification and Clean-up Policy (#G-91-2) that requires the local agency to have performed full due diligence in identifying the hazardous waste in the right-of-way and easements and properties as well as clean-up, and that the state has been indemnified from clean-up liability of damages, both present and future; and
- 1.8 WHEREAS, Proposition 116 (PUC Section 99640) authorizes \$11,000,000 to the Santa Cruz County Regional Transportation Commission (SCCRTC), for the following:
 - (a) intercity passenger rail projects connecting the City of Santa Cruz with the Watsonville Junction; or
 - (b) other rail projects within Santa Cruz County which facilitate recreational, commuter, intercity and intercounty travel; and

- 1.9 WHEREAS, Proposition 116 specifies that local agencies shall not adopt new or increased development taxes, fees, or exactions or permit fees to pay the local match or for operating costs of new service established with funds provided pursuant to PUC Section 99640; and
 - 1.10 WHEREAS, in August 2003, the Commission approved PA-03-05 for the SCCRTC for the Santa Cruz Branch Line Acquisition project totaling \$300,000 in Proposition 116 Rail Program funds for pre-acquisition activities leading to the purchase of the right of way; and
 - 1.11 WHEREAS, in May 2008, the Commission approved an amended application (PA-08-01) for an additional \$500,000 for new pre-acquisition activities to complete the negotiations with Union Pacific, appraisals, title review, inspection of the property, assessment of hazardous materials, and other pre-acquisition activities as may be necessary to complete the purchase of the right-of-way; and
 - 1.12 WHEREAS, Resolution PA-08-01 also approved a waiver of the Commission's policy to limit use of Proposition 116 to 5% for pre-acquisition activities. The waiver allowed SCCRTC to use 7.3% of the \$11,000,000 of Proposition 116 funds for pre-acquisition costs; and
 - 1.13 WHEREAS, in April 2010, the Commission received an amended application to program the remaining \$10,200,000 of Proposition 116 funds under PUC Section 99640 for acquisition of the Santa Cruz Branch Line; and
 - 1.14 WHEREAS, PUC Section 99665(a) requires applicants for grants pursuant to PUC Section 99640 subdivision (b), to match on a dollar-for-dollar basis, the amount of the grant from other public or private sources, and to demonstrate to the satisfaction of the Commission, the availability of those other funds; and
 - 1.15 WHEREAS, the SCCRTC proposes to match the \$10,200,000 of Proposition 116 funds mostly with \$10,000,000 STIP. Thus, the April 2010 amended application also requested a waiver of Policy # 9 of the Proposition 116 rail program policy and application guidelines (#G-90-23) to allow the Proposition 116 funds to be matched with other State funds; and
 - 1.16 WHEREAS, the amended application, including all supplemental information, has been reviewed by Commission staff, and appears to meet all the requirements as specified in Proposition 116 and the Commission's policies and guidelines.
- 2.1 NOW, THEREFORE BE IT RESOLVED, that the Commission hereby approves the April 2010 Proposition 116 amended application from the SCCRTC to program \$10,200,000 available for acquisition of the Santa Cruz Branch Line with the following conditions:
- 1) SCCRTC will provide the Commission a copy of the executed Administration, Coordination and License Agreement between SCCRTC and the operator (Sierra Northern Railway);
 - 2) SCCRTC will explain the use of Net Liquidation Value (NLV) as the methodology for the appraisal valuation to support the request for \$10,200,000 in Proposition 116 funds plus \$4,000,000 in STIP funds to acquire the rail right-of-way;
 - 3) SCCRTC commits, via a board resolution, to be responsible for initiating recreational passenger rail service, in accordance with PUC Section 99640;

- 4) SCCRTC commits, via a board resolution, to be responsible for continuing freight rail service for as long as would be required by the Surface Transportation Board, as provided in 49 USC sections 10901, 10910 and 11347; and
 - 5) SCCRTC commits, via a board resolution, to be responsible for hazardous waste clean-up and not seek State transportation funds for any clean-up costs and to indemnify the State from both present and future hazardous waste clean-up liabilities.
- 2.2 BE IT FURTHER RESOLVED, that in the case where SCCRTC ceases to utilize the Branch Line for the original purpose as approved by the Commission, SCCRTC commits, via a board resolution, to reimburse the State, the greater of either the amount allocated or the then present fair market value as determined by STATE; and
 - 2.3 BE IT FURTHER RESOLVED, that the Commission may not allocate the \$10,200,000 of Proposition 116 funds or the \$4,000,000 of STIP funds until the conditions under paragraphs 2.1 and 2.2 are documented and provided to the Commission at least 45 days prior to a request for Commission allocation of funds; and
 - 2.4 BE IT FURTHER RESOLVED, that the Commission hereby waives its policy and application guidelines (#G-90-23) to allow the Proposition 116 funds to be matched with other State funds; and
 - 2.5 BE IT FURTHER RESOLVED, that Resolution PA-08-01 is hereby amended.