

Memorandum

To: CHAIR AND COMMISSIONERS

CTC Meeting: September 24-25, 2008

Reference No.: 2.1a.(2) - **REVISED**
Action Item

From: CINDY McKIM
Chief Financial Officer

Prepared by: Rachel Falsetti
Division Chief
Transportation Programming

Subject: **TCRP PROJECT AMENDMENT AND LONP**
RESOLUTION TAA-08-02, AMENDING RESOLUTIONS TA-02-07 and TAA-07-01
RESOLUTION TL-08-01

CTC ACTION UPDATE: The California Transportation Commission approved the Amendment. However, based on Commission action on Traffic Congestion Relief Program Allocation Plan for future allocations, the Letter of No Prejudice is not necessary, therefore, no action taken.

RECOMMENDATION:

The California Department of Transportation (Department) recommends the California Transportation Commission (Commission) approve an amendment to Traffic Congestion Relief Program (TCRP) Project #1.2 and Project #2, as described below. The Department also recommends the Commission approve an AB 1335 Letter of No Prejudice (LONP) for \$239,039,000 for the Santa Clara Valley Transportation Authority (VTA).

ISSUE:

The VTA is requesting to amend TCRP Project #1.2 – BART to San Jose; extend BART from Fremont to Downtown San Jose in Santa Clara and Alameda Counties and TCRP Project #2 - Alternative Project to:

- Redistribute \$35,000,000 in TCRP funds, currently programmed to Project #2 to acquire right of way for Project #1.2, from Right of Way (R/W) to Design (PS&E), and revise the project schedule and funding plan previously approved under Resolution TA-02-07.
- Redistribute \$94,098,000 in TCRP funds from R/W to PS&E for Project #1.2.
- Update the project schedule and funding plan for Project #1.2, previously approved under Resolution TAA-07-01.

In addition, the VTA is requesting an approval of a LONP for \$239,039,000 for PS&E for Project #1.2.

BACKGROUND:Project #2

The original project scope was to acquire rail line and start commuter rail service between Fremont and San Jose. However, on May 9, 2002, the Commission approved VTA's application for an Alternative Project, making all of the \$35,000,000 TCRP funds programmed for this project available for acquiring the necessary right of way for Project #1.2.

This Alternative Project application was approved with the following conditions under Resolution TA-02-07:

- Prior to an allocation of funds for right of way capital, Department Right of Way staff must review real estate appraisals for methodology of valuation, and report findings to the Commission prior to Commission allocation.
- In the event that any portion of the right of way acquired under this project approval is not used for transit purposes and is later resold, the Department shall be entitled to a refund or credit, at the Department's option, of the then fair market value, unless VTA requests, and receives approval from the Department, that the proceeds from the resale of right of way be reinvested in the BART Extension from Fremont to Downtown San Jose project.
- In the event that the BART or Commuter rail service is not established by 2012, the VTA shall return to the State the \$35 million from this application, as well as \$45 million from TCRP Project #1.2, plus interest based upon the rate received by the Pooled Money Investment Account (PMIA), or shall update the Commission on progress to establish the service and seek Commission approval to defer this repayment provision.
- Prior to an allocation of capital funds for TCRP Sub-Project #1.2, the VTA shall update the project application to reflect the revised funding plan and to reflect the condition of repayment as stated above.

The VTA asserts that since the Fremont South Bay Corridor right of way was acquired entirely with VTA local funds, and no TCRP funds were used in the purchase, none of the conditions listed above ever became operational. As the VTA decided not to use TCRP funding for the right of way purchase, there was no need for the Department's staff to review the real estate appraisals and report findings to the Commission. Furthermore, the VTA maintains that as there was no approved allocation of TCRP funds, no possible "refund or credit" can occur. The Department agrees since funding will be used for PS&E and not for right of way; therefore, these conditions are no longer applicable.

Since local funds were used for the acquisition of the right of way in question, the VTA is requesting to transfer the TCRP funds currently programmed for R/W to cover a cost increase in PS&E budget for Project #1.2.

Project #1.2

The project will extend the Bay Area Rapid Transit (BART) system 17 miles from Warm Springs (Fremont) in Alameda County to downtown San Jose in Santa Clara County. This element of the overall project includes the acquisition of approximately 17.3 miles of existing Union Pacific Rail

Road (UPRR) freight tracks, eight new stations, four to five new park-and-ride lots, a new BART maintenance and storage facility at the UPRR Newhall Site in San Jose/Santa Clara, and acquisition of rail cars. The alignment will be at-grade or above ground, with tunneling through downtown San Jose locations.

With the PS&E for Project #1.2 now about 65 percent complete, the project component cost estimates have been recently updated. The cost estimate for PS&E has been revised from \$476,437,000 to \$614,386,000, a cost increase of \$137,949,000. The cost estimate for R/W on the other hand has been lowered from \$693,539,000 (including \$35,000,000 currently programmed to Project #2) to \$555,590,000, a cost decrease of \$137,949,000. The factors affecting the R/W estimate include the number and size of takes, updated relocation costs, and currently anticipated real estate market conditions.

The VTA is proposing to cover the cost increase for PS&E by transferring \$35,000,000 (from Project #2) from R/W to PS&E and \$94,098,000 (from Project #1.2) from R/W to PS&E. The remaining shortfall of \$8,851,000 will be covered by Federal New Starts funds. There is no change in the overall project cost. Furthermore, the project schedule has been updated to reflect the revised schedule milestones.

Government Code Section 14556.33 allows an applicant agency, which is either a regional or local entity, to seek approval of a LONP. If approved by the Commission, the LONP allows the applicant agency to expend its own funds for any component of the transportation project, and seek allocation and reimbursement from the Traffic Congestion Relief Fund in future years.

Due to limited TCRP funds authorized in the Fiscal Year (FY) 2008-09 State budget, the VTA is requesting AB 1335 authority to substitute \$239,039,000 in TCRP funds with Measure A funds for PS&E in order to keep the project on schedule. The VTA is requesting reimbursement based upon the following schedule:

(x\$1,000s)

FY 2009-10	FY 2010-11	FY 2011-12	FY 2012-13	FY 2013-14	FY 2014-15
\$40,000	\$40,000	\$40,000	\$40,000	\$40,000	\$39,039

RESOLUTION:

Resolved, with conditions under Resolution TA-02-07 no longer in effect and all other conditions stipulated still in effect, the California Transportation Commission hereby revises TCRP Project #1.2 and Project #2 to reflect the changes proposed in the attached project programming request. ~~and~~

~~Be it further resolved that, with conditions under Resolution TA-02-07 no longer in effect and all other conditions stipulated still in effect, the California Transportation Commission hereby approves one AB-1335 Letters of No-Prejudice (LONP) for \$239,039,000 to the Santa Clara Valley Transportation Authority, with the understanding that the agency proceeds at its own risk, as reimbursement is dependent on availability of TCRP funding.~~

Attachment

PROJECT PROGRAMMING REQUEST

DTP-0001 (REV. 3/08)

General Instructions

<input type="checkbox"/> New Project		<input checked="" type="checkbox"/> Amendment (Existing Project)		Date:	08/21/08
Caltrans District	EA	PPNO	MPO ID	TCRP No.	
4					
County	Route/Corridor	Project Sponsor/Lead Agency		MPO	Element
SCL		Santa Clara Valley Transportation Author		MTC	MT
Project Title					
BART to San Jose; extend BART from Fremont to - Downtown San Jose					
PM Bk	PM Ahd	Project Mgr/Contact	Phone	E-mail Address	
		Pedro Guzman	(408)321-5772		
Location, Project Limits, Description, Scope of Work, Legislative Description					
The overall project involve extending BART from the existing Fremont Station in Alameda County to downtown San Jose in Santa Clara County.					
Component	Implementing Agency	AB 3090	Letter of No Prejudice		
PA&ED		<input type="checkbox"/>	<input type="checkbox"/>		
PS&E		<input type="checkbox"/>	<input type="checkbox"/>		
Right of Way		<input type="checkbox"/>	<input type="checkbox"/>		
Construction		<input type="checkbox"/>	<input type="checkbox"/>		
Legislative Districts					
Assembly:		Senate:			
Congressional:					
Purpose and Need					
Project Benefits					
Project Milestone				Existing	Proposed
Project Study Report Approved					
Begin Environmental (PA&ED) Phase				//	
Circulate Draft Environmental Document		Document Type		//	
Draft Project Report				//	
End Environmental Phase (PA&ED Milestone)				//	
Begin Design (PS&E) Phase				//	
End Design Phase (Ready to List for Advertisement Milestone)				//	
Begin Right of Way Phase				//	
End Right of Way Phase (Right of Way Certification Milestone)				//	
Begin Construction Phase (Contract Award Milestone)				//	
End Construction Phase (Construction Contract Acceptance Milestone)				//	
Begin Closeout Phase				//	
End Closeout Phase (Closeout Report)				//	

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PROJECT PROGRAMMING REQUEST

DTP-0001 (REV. 3/08)

Date: 08/21/08

County	CT District	PPNO	TCRP Project No.	EA
SCL	4			
Project Title: BART to San Jose; extend BART from Fremont to - Downtown San Jose				

Existing Total Project Cost									Implementing Agency
Component	Prior	08/09	09/10	10/11	11/12	12/13	13/14+	Total	
E&P (PA&ED)	45,246							45,246	
PS&E	476,437							476,437	
R/W SUP (CT)									
CON SUP (CT)									
R/W	693,539							693,539	
CON			4,917,591					4,917,591	
TOTAL	1,215,222		4,917,591					6,132,813	

Proposed Total Project Cost									Implementing Agency
Component	Prior	08/09	09/10	10/11	11/12	12/13	13/14+	Total	
E&P (PA&ED)	45,246							45,246	
PS&E	614,386							614,386	
R/W SUP (CT)									
CON SUP (CT)									
R/W	555,590							555,590	
CON			4,917,591					4,917,591	
TOTAL	1,215,222		4,917,591					6,132,813	

Fund No. 1:	TCRP (Committed) - Traffic Congestion Relief Fund (TCRF)								Program Code
Existing Funding									30.10.710.010
Component	Prior	08/09	09/10	10/11	11/12	12/13	13/14+	Total	Funding Agency
E&P (PA&ED)	45,000							45,000	Santa Clara Valley Transportation /
PS&E	474,469							474,469	Programmed under TCRP #1.2
R/W SUP (CT)									
CON SUP (CT)									
R/W	94,098							94,098	
CON									
TOTAL	613,567							613,567	
Proposed Funding									Notes
E&P (PA&ED)	45,000							45,000	Programmed under TCRP #1.2
PS&E	568,567							568,567	
R/W SUP (CT)									
CON SUP (CT)									
R/W									
CON									
TOTAL	613,567							613,567	

Fund No. 2:	Loc Funds - Measure A (MEAA)								Program Code
Existing Funding									LOCAL FUNDS
Component	Prior	08/09	09/10	10/11	11/12	12/13	13/14+	Total	Funding Agency
E&P (PA&ED)									Santa Clara Valley Transportation /
PS&E									Programmed under TCRP #1.2
R/W SUP (CT)									
CON SUP (CT)									
R/W	564,441							564,441	
CON			4,169,805					4,169,805	
TOTAL	564,441		4,169,805					4,734,246	
Proposed Funding									Notes
E&P (PA&ED)									Programmed under TCRP #1.2
PS&E									
R/W SUP (CT)									
CON SUP (CT)									
R/W	555,590							555,590	
CON			4,178,656					4,178,656	
TOTAL	555,590		4,178,656					4,734,246	

PROJECT PROGRAMMING REQUEST

DTP-0001 (REV. 3/08)

Date: 08/21/08

County	CT District	PPNO	TCRP Project No.	EA
SCL	4			
Project Title: BART to San Jose; extend BART from Fremont to - Downtown San Jose				

Fund No. 3:	Federal New Starts Committed								Program Code
Existing Funding									
Component	Prior	08/09	09/10	10/11	11/12	12/13	13/14+	Total	Funding Agency
E&P (PA&ED)	246							246	Santa Clara Valley Transportation Programmed under TCRP #1.2
PS&E	1,968							1,968	
R/W SUP (CT)									
CON SUP (CT)									
R/W									
CON									
TOTAL	2,214							2,214	
Proposed Funding									
Component	Prior	08/09	09/10	10/11	11/12	12/13	13/14+	Total	Notes
E&P (PA&ED)	246							246	Programmed under TCRP #1.2
PS&E	10,819							10,819	
R/W SUP (CT)									
CON SUP (CT)									
R/W									
CON									
TOTAL	11,065							11,065	

Fund No. 4:	Future Needs								Program Code
Existing Funding									
Component	Prior	08/09	09/10	10/11	11/12	12/13	13/14+	Total	Funding Agency
E&P (PA&ED)									Programmed under TCRP #1.2
PS&E									
R/W SUP (CT)									
CON SUP (CT)									
R/W									
CON			747,786					747,786	
TOTAL			747,786					747,786	
Proposed Funding									
Component	Prior	08/09	09/10	10/11	11/12	12/13	13/14+	Total	Notes
E&P (PA&ED)									Programmed under TCRP #1.2
PS&E									
R/W SUP (CT)									
CON SUP (CT)									
R/W									
CON			738,935					738,935	
TOTAL			738,935					738,935	

Fund No. 5:	TCRP (Committed) - Traffic Congestion Relief Fund (TCRF)								Program Code
Existing Funding									30.10.710.010
Component	Prior	08/09	09/10	10/11	11/12	12/13	13/14+	Total	Funding Agency
E&P (PA&ED)									Programmed under TCRP #2 (Alternative Project)
PS&E									
R/W SUP (CT)									
CON SUP (CT)									
R/W	35,000							35,000	
CON									
TOTAL	35,000							35,000	
Proposed Funding									
Component	Prior	08/09	09/10	10/11	11/12	12/13	13/14+	Total	Notes
E&P (PA&ED)									Programmed under TCRP #2 (Alternative Project)
PS&E	35,000							35,000	
R/W SUP (CT)									
CON SUP (CT)									
R/W									
CON									
TOTAL	35,000							35,000	