

Memorandum

To: Chair and Commissioners

Date: May 9, 2008

From: JOHN F. BARNA, JR.
Executive Director

File No: Agenda Item 2.1a.(3)
Action

Ref: **APPLICATION AMENDMENT FOR THE SANTA CRUZ COUNTY REGIONAL TRANSPORTATION COMMISSION BRANCH LINE ACQUISITION PROJECT**

Recommendation: Staff recommends that the Commission approve the SCCRTC application to waive the Commission's policy that limits Proposition 116 funds for pre-acquisition work to 5% and to program \$500,000 in Proposition 116 funds for additional pre-acquisition activities.

Issue: Should the California Transportation Commission (Commission) approve the Santa Cruz County Regional Transportation Commission (SCCRTC) Proposition 116 application amendment to waive the 5% limitation on the use of Proposition 116 funds for pre-acquisition work and to program \$500,000 for additional pre-acquisition work on the Santa Cruz Branch Line Acquisition project?

Background: PUC Section 99640 of the Proposition 116 Rail Bond Program authorizes \$11,000,000 to be allocated 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.

The total estimated project cost of \$22,914,628 includes \$ 317,300 Transportation Development Act; \$29,618 from Union Pacific; \$ 1,490,250 in a Federal earmark (FY 03); \$ 77,460 previously allocated STIP (1998); \$10,000,000 programmed STIP (2009-10); and \$11,000,000 Proposition 116.

In April 2008, Commission staff received an application from the SCCRTC requesting \$500,000 in Proposition 116 funds to be used 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.

To date, the SCCRTC has received \$300,000 in Proposition 116 funds for the Santa Cruz Branch Line Acquisition project. This request for an additional \$500,000 for pre-acquisition activities will leave an unprogrammed balance of \$10,200,000. The SCCRTC has indicated that the remaining funds will be used for acquisition of the Santa Cruz Branch Line in the near future.

Agenda Item 2.1a.(4)
May 9, 2008

PUC Section 99665(a) states that for the SCCRTC to be eligible for a grant for this rail project, the agency shall match on a dollar-for-dollar basis, the amount of the grant from other public or private sources and shall demonstrate, to the satisfaction of the Commission, the availability of those other funds. The SCCRTC proposes to match the Proposition 116 funds with other public funds, specifically with \$500,000 of federal New Starts funds.

The SCCRTC has also requested a waiver of the Commission's policy placing a 5% limit on the use of Proposition 116 funds for pre-acquisition activities. The SCCRTC has been using its own funds, a federal earmark funds, and \$300,000 in previously approved Proposition 116 funds to do this work but due to complicated and lengthy negotiations, additional funds are needed to complete the right-of-way and due diligence work. As the pre-acquisition costs have increased significantly, staff deems the SCCRTC request to use 7.3% of the \$11 million Proposition 116 funds for pre-acquisition costs to be reasonable.

Commission staff has reviewed the Proposition 116 application, as well as subsequent clarifications, that appear to meet all basic requirements specified in Proposition 116, as well as the Commission's policies and guidelines. Approval of the attached resolution will program \$500,000 for the Santa Cruz Branch Line and waive the 5% limitation on pre-acquisition activities.

Attachment

CALIFORNIA TRANSPORTATION COMMISSION

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

Resolution PA-08-01
Amending PA-03-05

- 1.1 WHEREAS, in June 1990 the voters approved Proposition 116, the Clean Air and Transportation Improvement Act, 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, 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
- 1.10 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
- 1.11 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
- 1.12 WHEREAS, in May 2008, the SCCRTC submitted an amended application requesting 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
- 1.13 WHEREAS, the amended application also requested a waiver of the Commission's policy placing a 5% limit on the use of Proposition 116 funds for pre-acquisition activities; and
- 1.14 WHEREAS, the amended application, including all supplemental information, has been reviewed by Commission staff, and appears to meet all the basic requirements as specified in Proposition 116 and the Commission's policies and guidelines; and
- 2.1 NOW, THEREFORE BE IT RESOLVED, that the Commission hereby approves the May 2008 Proposition 116 amended application from the SCCRTC for additional pre-acquisition activities totaling \$500,000 in Proposition 116 funds (PUC Section 99640[b]); and
- 2.2 BE IT FURTHER RESOLVED, that the Commission hereby waives its policy of the 5% limitation of Proposition 116 funds for pre-acquisition activities thereby allowing the SCCRTC to expend 7.3% of Proposition 116 funds on pre-acquisition work; and
- 2.3 BE IT FURTHER RESOLVED, that Resolution PA-03-05 is hereby amended.