

Memorandum

To: Chairman and Commissioners

Date: February 2, 2009

From: John Barna

**File No:
Book Item 2.1e
Action**

Ref: PROPOSITION 116 RAIL PROGRAM APPLICATION, PA-09-01

RECOMMENDATION

Staff recommends that the Commission approve the attached resolution to:

- transfer applicant status from the City of Irvine to the Orange County Transportation Authority (OCTA) for the Proposition 116 funds available from PUC Section 99645;
- program \$121,298,778 in Proposition 116 funds available from PUC Section 99645 to OCTA for the five projects in the Orange County Commuter/Intercity Rail Program; and,
- defer the proportional expenditure of the Proposition 116 funds, allow disproportional expenditure in compliance with the conditions of Commission Resolution G-92-14, and in accordance with the approved financial plan.

ISSUE

Should the Commission approve the transfer of applicant status from Irvine to OCTA for the Proposition 116 funds available under PUC Section 99645, program the remaining \$121,298,778 in Bond funds to OCTA, and allow the disproportional expenditure of those State funds?

BACKGROUND:

PUC Section 99645 authorizes \$125,000,000 in the Proposition 116 Rail Bond Program for the City of Irvine to construct a fixed guideway demonstration project.

The City has expended \$3,701,222 for preliminary engineering for the guideway alignment but the City has determined that it will not move forward with the fixed guideway demonstration project and has requested that the Commission approve reallocation of the remaining \$121,298,778 in Proposition 116 Rail Bond funds to OCTA, pursuant to PUC section 99653.

The OCTA has indicated that it will accept the transfer of applicant status, with its attendant rights and obligations, in accordance with the Commission's Proposition 116 Rail Program Guidelines.

The Orange County Commuter/Intercity Rail Program (total project value of \$424,330,000) includes five projects, (1) Metrolink Service Track Expansion and Grade Crossing Improvements, (2) Fullerton Transportation Center Parking Structure, (3) Tustin Rail Station, (4) Sand Canyon Grade Separation, and (5) Anaheim Regional Intermodal Transportation Center.

Proposition 116 Rail Bond funds under PUC Section 99645 require a dollar for dollar match but deferral of the proportional expenditure of the State funds, and Commission allocation of \$19.169 million in Proposition 116 funds at the March 2009 Commission meeting, will allow OCTA to begin construction of the Metrolink Service Track Expansion and Grade Crossing Improvements.

Contract award for the Metrolink Service Track Expansion and Grade Crossing Improvements has been delayed, to maintain eligibility for the Proposition 116 funds, but the project is ready to start.

The Project Financial Plan was developed in consideration of the State budget shortfall and recent actions by the Pooled Money Investment Board freezing the sale of bonds. OCTA has structured this allocation with disproportional spending to use OCTA Measure M funds at the start of the project and will not require expenditure of the Proposition 116 allocation until October 2009.

In compliance with the conditions of Commission Resolution G-92-14, the final expenditures of the project will be proportional for all funds in the approved project budget, and any savings will also be on a proportional basis across all funds.

Commission staff has reviewed the Proposition 116 application as well as subsequent clarifications that appear to meet all basic requirements specified in the Proposition 116 Rail Bond Program, as well as the Commission's policies and guidelines, and staff recommends approval.

Attachment

CALIFORNIA TRANSPORTATION COMMISSION

Commission Project Application Approval
Orange County Transportation Authority
Proposition 116 Application for the
Orange County Commuter/Intercity Rail Program

Resolution PA-09-01

- 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 should the project exceed the cost approved by the Commission, the increased cost shall be covered by funds other than Proposition 116; 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 99645) authorizes \$125,000,000 to the City of Irvine for construction of a fixed guideway demonstration project; and
- 1.9 WHEREAS, PUC Section 99665(a) requires applicants for grants pursuant to PUC Section 99645, 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, in May 1998, the Commission approved an application (PA-98-09) from the City of Irvine and the Orange County Transportation Authority (OCTA) requesting approval of \$2,000,000 in Proposition 116 funds for Phase I of the detailed conceptual engineering and environmental certification leading to the design and implementation of the Irvine Urban Rail Guideway Demonstration Project; and
 - 1.11 WHEREAS, in March 1999, the Commission approved a supplemental application (PA-99-06) from the City of Irvine and OCTA for an additional \$2,400,000 in Proposition 116 funds for Phase II of the detailed conceptual engineering and environmental certification leading to the design and implementation of the Irvine Urban Rail Guideway Demonstration Project; and
 - 1.12 WHEREAS, in August 2002, the Commission approved an application amendment (PA-02-11) from the City of Irvine and OCTA with revised financial plans indicating that it had completed Phase II of the detailed conceptual engineering and environmental certification for the Irvine Rail Guideway Demonstration Project at a cost savings of \$1,701,222, leaving \$698,778 to be reprogrammed at a later date; and
 - 1.13 WHEREAS, the City of Irvine has determined that it will not move forward with the guideway demonstration project and has requested that the Commission approve reallocation of the remaining \$121,298,778 in Proposition 116 funds to OCTA, pursuant to PUC section 99653, including the transfer of applicant status from the City to OCTA for the Proposition 116 funds available under PUC Section 99645; and
 - 1.14 WHEREAS, in accordance with the Commission's Proposition 116 Rail Program Guidelines, OCTA accepts transfer of applicant status, with its attendant rights and obligations; and
 - 1.15 WHEREAS, in January 2009, the Commission received an application from OCTA requesting approval of \$121,298,778 in Proposition 116 funds for the Orange County Commuter/Intercity Rail Program projects: (1) Metrolink Service Track Expansion and Crossing Improvements, (2) Fullerton Transportation Center Parking Structure, (3) Tustin Rail Station, (4) Sand Canyon Grade Separation, and (5) Anaheim Regional Intermodal Transportation Center; and
 - 1.16 WHEREAS, the application from OCTA, 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.
- 2.1 NOW, THEREFORE BE IT RESOLVED, that the Commission hereby approves the application from the Orange County Transportation Authority to program \$121,298,778 in Proposition 116 funds for five projects in the Orange County Commuter/Intercity Rail Program; and
 - 2.2 BE IT FURTHER RESOLVED, that Resolution PA-09-01 is hereby adopted.