

Memorandum

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To: CHAIR AND COMMISSIONERS

CTC Meeting: June 28-29, 2017

Reference No.: 4.26
Action

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From: SUSAN BRANSEN
Executive Director

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Subject: **ATP PROGRAM AMENDMENT TO REVISE THE SCHEDULE FOR THE LA JOLLA ACTIVE TRANSPORTATION PROJECT (RESOLUTION G-17-20)**

ISSUE:

Should the California Transportation Commission (Commission) approve the schedule revision for the La Jolla Active Transportation Project as recommended by staff?

RECOMMENDATION:

Commission staff recommends that the Commission approve the schedule revision for the La Jolla Active Transportation Project in accordance with the attached resolution and the staff recommendation as described below.

BACKGROUND:

The La Jolla Active Transportation Project was programmed for \$4,855,000 in Cycle 1 of the Active Transportation Program (ATP) at the August 2014 Commission meeting. Implementing agencies are required to enter into a Local Administering Agency-State Master Agreement (Master Agreement) with the California Department of Transportation (Caltrans). In addition to other requirements, California law mandates that Master Agreements provide for a limited waiver of sovereign immunity by the Tribal Government. In light of the Tribal Governments' reluctance to concede to such limited waiver, and as an alternative to the Master Agreement, Caltrans and Tribal Governments have developed the option of entering into an Intergovernmental Fund Transfer Agreement (Fund Transfer Agreement) with Caltrans and the Bureau of Indian Affairs (BIA) for the transfer of such funds to the Tribal Governments. The negotiation of a three-party Fund Transfer Agreement has proven to be a time-consuming and complicated endeavor; and one which has significantly delayed the La Jolla Band of Luiseño Indians' ATP Project.

At the March 2016 Commission meeting, the Commission allocated \$350,000 for the environmental phase to the La Jolla Band. However, the La Jolla Band could not begin their environmental work until they received their environmental phase funds from the BIA. The BIA provided the La Jolla Band funds for the project's environmental phase in March 2017. As a

result of this delay, all subsequent phases of the Project will be delayed to later years. For the La Jolla Band to meet their project delivery commitments, the La Jolla Active Transportation Project's design phase funds require reprogramming from FY 14-15 to FY 19-20 and the right of way phase and construction phase funds require reprogramming from FY 15-16 to FY 20-21.

There are unique complexities involved in allocating funds to Native American Tribes that have led to the need for this schedule revision. To address this unique issue, Commission staff will continue to work with Tribal Governments and Caltrans for purposes of identifying and implementing solutions to prevent unnecessary delays to the delivery of Tribal Government ATP projects. Solutions requiring legislative approval for implementation will be brought forward for the Commission's approval.

Attachments:

- Resolution G-17-20

CALIFORNIA TRANSPORTATION COMMISSION

Active Transportation Program Amendment to Revise the Schedule for the La Jolla Active Transportation Project (PPNO 1161A and 1161B)

Resolution No. G-17-20

- 1.1 **WHEREAS**, Streets and Highways Code Section 2384 requires the California Transportation Commission (Commission) to adopt a program of projects to receive allocations under the Active Transportation Program (ATP), and
- 1.2 **WHEREAS**, on August 20, 2014 the Commission programmed the La Jolla Band of Luiseño Indians (La Jolla Band) La Jolla Active Transportation Project in the 2014 ATP, and
- 1.3 **WHEREAS**, as an alternative to the Master Agreement, Caltrans and Tribal Governments have developed the option of entering into an Intergovernmental Fund Transfer Agreement (Fund Transfer Agreement) with Caltrans and the Bureau of Indian Affairs (BIA) for the transfer of such funds to the Tribal Governments, and
- 1.4 **WHEREAS**, the negotiation of a three-party Fund Transfer Agreement has proven to be a time-consuming and complicated endeavor; and one which has significantly delayed the La Jolla Band ATP project, and
- 1.5 **WHEREAS**, for the La Jolla Band to meet their project delivery commitments, the La Jolla Active Transportation Project's design phase funds should be reprogrammed from Fiscal Year 14-15 to Fiscal Year 19-20 and the right of way phase and construction phase funds should be reprogrammed from Fiscal Year 15-16 to Fiscal Year 20-21.
- 2.1 **NOW THEREFORE BE IT RESOLVED**, that the Commission hereby reprograms La Jolla Active Transportation Project's design phase funds from Fiscal Year 14-15 to Fiscal Year 19-20 and the right of way phase and construction phase funds from Fiscal Year 15-16 to Fiscal Year 20-21.