

Memorandum

To: CHAIR AND COMMISSIONERS

CTC Meeting: October 24, 2012

Reference No.: 4.14
Action

From: BIMLA G. RHINEHART
Executive Director

Subject: **DISPOSITION OF PROCEEDS FROM THE SALE OF
PROPOSITION 116-FUNDED GENERATION-2 RAIL CARS
RESOLUTION G-12-14, AMENDING RESOLUTION BFA-95-07 AND FTA 75T200**

ISSUE

The Southern California Regional Rail Authority (SCRRA) plans to sell some of the Generation-2 Bombardier rail cars that were acquired in 1995 with State Proposition 116 Bond funds.

The California Transportation Commission (Commission), as an investor in the acquisition of the Generation-2 rail cars, is entitled to share in the profits received from the sale of the rail cars.

SCRRA proposes that the Commission allow SCRRA to retain the State's share (100% of the proceeds) from the sale of the rail cars to help fund SCRRA's Proposition 1A Connectivity Program High Speed Rail Readiness - Refurbish Passenger Rail Cars project.

SCRRA's proposal presents the Commission with two choices:

- Allow SCRRA to retain the State's share of the proceeds from the sale of the rail cars and require that the proceeds be used to fund the HSR Readiness - Refurbish Passenger Rail Cars project; or
- Require that the State's share of the proceeds from the sale of the rail cars be returned for reallocation by the Commission.

RECOMMENDATION

Staff recommends that the Commission select the first option above and allow SCRRA to retain the State's share of the proceeds generated from the sale of the rail cars as long as the proceeds are used to fund SCRRA's Proposition 1A Connectivity Program High Speed Rail Readiness - Refurbish Passenger Rail Cars project. This recommendation is based on:

- The findings by the State Treasurer's Office (STO) that the tax-exempt status of the Proposition 116 Bonds will not be endangered as proceeds generated from the sale of the rail cars will not be returned to the State.
- Assurance by SCRRA that sale of the rail cars will not impact the passenger rail service now provided by the Southern California Regional Rail Authority (or "Metrolink") connecting areas within the member counties (Los Angeles, Orange, Riverside, San Bernardino and Ventura).
- Agreement by SCRRA to set up a separate account to allow it to: 1) track the proceeds from the rail cars sale; 2) track expenditures; and 3) comply with anticipated state audits.

- Acceptance by SCRRA that all other terms and conditions of Resolution BFA-95-07 and the Fund Transfer Agreement (FTA) 75T200 continue to apply to the proceeds from rail cars sale.
- Assurance by SCRRA that since the Commission allocated Proposition 116 Bond funds to acquire rail rolling stock (a capital expenditure) the State's share of the proceeds from the sale of the rail cars shall be dedicated to fund passenger rail capital projects and not for operating and planning expenditures.

BACKGROUND

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.

Proposition 116 designates the Commission to oversee the five grant programs of the Proposition.

In December 1990 the Commission adopted policy and application guidelines (Resolution #G-90-23) for the Proposition 116 Rail Program.

Pursuant to PUC Section 99649(a), and contingent upon approval by the Commission of PA-95-18, an application for funding, \$100,000,000 was programmed for rolling stock acquisition as follows:

(a) Amerail	Purchase Intercity/Commuter Rail Cars	\$23,557,476
(b) BoozAllen	Amerail Oversight	\$ 2,116,402
(c) BoozAllen	Project Management & Inspection	\$ 3,700,000
(d) CalTrans(Travel)	Out-of-State Travel	\$ 400,000
(e) PCJPB	Purchase 20 Rail Cars for Caltrain	\$31,676,842
(f) SCRRA	Purchase 24 Rail Cars for Metrolink	\$38,549,280

On November 28, 1995, the Commission adopted Resolution BFA-95-07, allocating \$100,000,000 to the six distinct projects, including the \$38,549,280 to the SCRRA for the purchase of the 24 Bombardier Generation-2 rail cars for the Metrolink system.

The Proposition 116 Bond funds allocated to SCRRA were administered through Fund Transfer Agreement 75T200 (a copy of FTA 75T200 is attached and it incorporates Resolution BFA-95-07).

On October 10, 2012, the SCRRA submitted a letter (attached) notifying the Commission of its intent to sell some of the Bombardier Generation-2 rail cars purchased in 1995. With the letter, SCRRA also requested Commission approval to retain the State's share of the sale proceeds to help fund SCRRA's Proposition 1A Connectivity Program High Speed Rail Readiness - Refurbish Passenger Rail Cars project.

By reinvesting the sale revenues in the refurbishment of Metrolink passenger rail cars, SCRRA is extending the useful life of the State's investment in SCRRA rolling stock beyond the lifecycle for the Bombardier Generation-2 rail cars purchased in 1995.

ATTACHMENTS:

Resolution G-12-14

October 10, 2012 Notification of Intent to Sell Rail Cars and Retain Proceeds (SCRRA letter)

Copy of Fund Transfer Agreement 75T200 (includes Resolution BFA-95-07).

CALIFORNIA TRANSPORTATION COMMISSION

Approval to Retain Proceeds from
Sale of Generation-2 Bombardier Rail Cars
Southern California Regional Rail Authority

Resolution G-12-14, Amending Resolution BFA-95-07 and FTA 75T200

- 1.1 WHEREAS, the electorate enacted Proposition 116, the Clean Air and Transportation Improvement Act of 1990, in the June 1990 election authorizing the sale of general obligation rail bonds for rail and mass transportation purposes; and
- 1.2 WHEREAS, on November 28, 1995, the California Transportation Commission (Commission) adopted Resolution BFA-95-07, allocating \$100,000,000 in Proposition 116 Bond funds, including \$38,549,280 to the Southern California Regional Rail Authority (SCRRA), for the purchase of 24 Bombardier Generation-2 rail cars for the purpose of providing passenger rail service on the Metrolink system connecting areas within the member counties (Los Angeles, Orange, Riverside, San Bernardino and Ventura); and
- 1.3 WHEREAS, on October 10, 2012, SCRRA notified the Commission of its intent to sell 23 of the Bombardier Generation-2 rail cars purchased in 1995; and
- 1.4 WHEREAS, SCRRA has requested Commission approval to retain the State's share of the sale proceeds to upgrade existing cars for anticipated growth, including the portion driven by Proposition 1A Connectivity Program High Speed Rail Readiness project, authorized for \$88.7 million in Proposition 1A Connectivity funding on August 22, 2012.
- 2.1 NOW THEREFORE BE IT RESOLVED, that the California Transportation Commission hereby approves SCRRA's request to retain the State's share of proceeds from the rail cars sale and dedicate the proceeds to fund the upgrade of existing passenger cars; and
- 2.2 BE IT FURTHER RESOLVED, that SCRRA shall not use the State's share of the sale proceeds for any operating and planning expenditures; and
- 2.3 BE IT FURTHER RESOLVED, that the Commission, as an investor in the acquisition of the Generation-2 rail cars, requires SCRRA to track the rail cars sale proceeds under a separate account to: ensure eligible uses of such proceeds to fund the upgrade of existing passenger cars; track expenditures; and comply with anticipated state audits; and
- 2.4 BE IT FURTHER RESOLVED, that SCRRA accepts that all terms, conditions and provisions of Resolution BFA-95-07 and those in FTA 75T200 not amended by this action continue to apply to the proceeds from the sale of the rail cars; and
- 2.5 THEREFORE, BE IT THEN RESOLVED, that Resolution BFA-95-07 and FTA 75T200 are hereby amended, are incorporated into and made a part of this resolution; and thus, be it also resolved that Resolution G-12-14 is hereby adopted.

October 10, 2012

Ms. Bimla Rhinehart
Executive Director
California Transportation Commission
1120 N Street
Room 2221 (MS-52)
Sacramento, CA 95814

Re: Authorization to Sell Passenger Cars, Resolution G-12-14 Ref # 4.14, October 24, 2012 CTC Meeting

Dear Ms. Rhinehart:

The Southern California Regional Rail Authority (SCRRA), operator of Metrolink commuter rail service, is requesting authorization to sell passenger cars that were purchased with state bond funds that still have useful life and use the proceeds to refurbish and upgrade existing cars in our fleet. The refurbished cars will have an extended useful life of at least 15 years.

If the commission votes to support this request at its October 24, 2012 meeting as recommended by CTC staff, we will be able to include these proceeds in a funding plan that involves upgrading approximately 57 passenger cars, depending on the results of our upcoming solicitation. This represents refurbishment of about 50% of the older portion of our fleet, once the 23 passenger cars referenced above are sold.

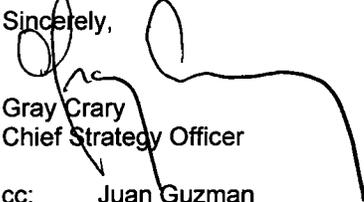
We are keen to sell some of our fleet so that we generate revenue to upgrade existing cars for our anticipated growth, including that portion driven by high speed rail as addressed in our Metrolink High Speed Rail Readiness Program (MHSRRP). The heart of this program involves establishing a fleet of upgraded passenger cars that will be needed for our projected growth, which includes the Palmdale to Anaheim route. The increase in ridership on this route is directly attributable to California High Speed Rail (CHSR) and the approximately 4,000 new daily riders that will transfer on to Metrolink for connecting service.

The refurbishment will include replace and upgrade the mechanical system, including the HVAC system, the communication system, including the intercom and public announcement components, the electrical system, including all wiring for the mechanical and communication systems, as well as installing new carpet, frangible tables, seat cushions and covers and repainting the exterior and interior. Luggage racks are intended to be added on some of the cars and these will be particularly useful to long-distance riders transferring between CHSR and Metrolink.

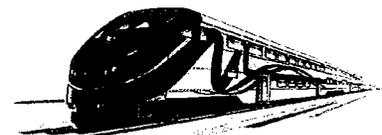
We are appreciative of the Commission's support of Metrolink, including its recent authorization of \$88.7M in Prop 1A connectivity funding on June 27, 2012, a portion of which is programmed for this passenger car refurbishment program. To help ensure the success of the program, we respectfully request the Commission to authorize the sale of the above referenced passenger cars at its October 24, 2012 meeting.

If you have any questions, please contact Anne Louise Rice, Strategic Programming and Development Manager at ricea@scrra.net or 213-452-0211.

Sincerely,


Gray Crary
Chief Strategy Officer

cc: Juan Guzman
Linda Wright



STANDARD PROVISIONS OF GRANT

**STATE OF CALIFORNIA
DEPARTMENT OF TRANSPORTATION
FUND TRANSFER AGREEMENT**

**COVERING ALLOCATIONS OF STATE BOND FUNDS
(PROPOSITION 108 OR 116) AND
TRANSIT CAPITAL IMPROVEMENT FUNDS**

RECIPIENT has agreed to accept the applicable provisions contained herein, including all Attachments and Addenda (these "Provisions"), as a condition of its acceptance of a grant from these sources. The State of California, acting through the Department of Transportation, referred to herein as **STATE**, shall have the administrative responsibilities described in these Provisions.

ARTICLE I. PROJECT DESCRIPTION

SECTION 1. **RECIPIENT** agrees to complete the Project, or the identified Project Phase thereof, as described in the attached Project Description and Scope of Work for the identified Project or Project Phase. Reference hereinafter to the Project shall also mean the Project Phase if appropriate.

SECTION 2. **RECIPIENT** agrees that if **STATE** funds prove insufficient to complete the described Project and open it to revenue operation, that payment of any additional amounts required shall be the sole responsibility of **RECIPIENT**. **RECIPIENT** further agrees that it will secure and provide, without further **STATE** assistance under this Fund Transfer Agreement process, such additional resources as are necessary to pay these additional amounts and expeditiously complete the Project.

ARTICLE II. SCOPE OF WORK

SECTION 1. **RECIPIENT** shall be responsible for complete performance of the work described in the approved Scope of Work document for the Project corresponding to that commitment of future State funds. All work shall be accomplished in accordance with the applicable provisions of the Public Utilities Code and the Streets and Highways Code.

SECTION 2. **RECIPIENT** acknowledges and agrees that **RECIPIENT** is the sole control and manager of the proposed Project and its subsequent

employment for the benefit of the public. **RECIPIENT** shall be solely responsible for complying with the funding and use restrictions established by the statutes from which the funds are derived, the CTC, the State Treasurer, the Internal Revenue Service, and the terms of this Agreement. **RECIPIENT** shall indemnify, defend and hold harmless the **STATE**, the CTC and the State Treasurer relative to any misuse by **RECIPIENT** of State funds, Project property or Project generated income or other fiscal acts or omissions of **RECIPIENT**.

SECTION 3. A Schedule of Tasks and a drawdown schedule of Estimated Progress Payments are included in the Scope of Work document. **STATE** need not pay **RECIPIENT** a cumulative amount greater than the cumulative amount identified in the Schedule for any time period, or any earlier, than the dates authorized in the drawdown schedule of payments or the Quarterly Cash Expenditure document, where applicable.

SECTION 4. The Scope of Work includes an estimated completion date or dates for each of the Project Phases or items of work identified therein and **RECIPIENT** shall conform to those completion dates.

ARTICLE III. PAYMENT

SECTION 1. **RECIPIENT** agrees to contribute at least the statutorily required local contribution (other than state or federal funds) toward the actual cost of the Project, or the amount specified in the SB2800 (Streets and Highways Code Section 164.53) commitment of future State funds, whichever is greater, from funds available to it. **RECIPIENT** shall contribute its required amount of the cost of the Project in accordance with a schedule of payments as shown in a Quarterly Cash Expenditure Plan prepared by **RECIPIENT** as part of the Scope of Work document.

SECTION 2. Project Related transportation and subsistence costs of **RECIPIENT** and its subcontractors shall not exceed rates authorized to be paid State employees under current State Department of Personnel Administration rules.

SECTION 3. Not more frequently than once a month, but at least quarterly, **RECIPIENT** will prepare and submit to **STATE** (directed to the attention of the appropriate **STATE** District accounting office responsible for administration of the Project for **STATE**) Progress Payment Vouchers for actual costs incurred consistent with the Scope of Work document. Each such voucher will report the total expenditures from all sources and will specify the percent of state reimbursement requested and the fund source. The voucher should also summarize **STATE** money requested by category (right of way, construction and

rolling stock) and be accompanied by a report describing the overall work status and progress on tasks for the applicable Project. If applicable, the first voucher shall also be accompanied by a report describing any tasks specified in the Scope of Work document which were accomplished prior to the Effective date of this Agreement, for which costs are to be credited toward the required local contribution described in Article III, Section 1 of these Provisions pursuant to an executed Agreement for Local Match Fund Credit between **RECIPIENT** and **STATE**. The method of payment for this agreement will be based upon reimbursement at actual cost.

SECTION 4. Should **RECIPIENT** have a valid Memorandum of Understanding (MOU) for "Expedited Payment" on file with **STATE** Department of Transportation, Headquarters Accounting Office, **RECIPIENT** will, not more frequently than as authorized by that MOU, prepare and submit to **STATE** an Expedited Payment Invoice for rail bond reimbursements consistent with that MOU and the Scope of Work document. The original invoice copy for rail bond reimbursements shall be mailed or faxed to: Department of Transportation, Division of Accounting, Attention: Bond Fiscal Management Section, P.O. Box 942874, Sacramento, CA 94274-0001, [FAX #916-227-8787].

For expedited Transit Capital Improvement (TCI) fund reimbursements, **RECIPIENT** shall, not more frequently than as authorized by the MOU, prepare and submit to **STATE** an Expedited Payment Invoice consistent with the MOU and the Scope of Work document. The original invoice copy for TCI fund reimbursements shall be mailed or faxed to: Department of Transportation, Division of Accounting, Attention: Special Program Management Section, P.O. Box 942874, Sacramento, CA 94274-0001, [FAX #916-227-8787].

As set forth in the MOU, all appropriate supporting documentation and remaining invoice copies are to be contemporaneously submitted to the appropriate Departmental Project Administrator. A warrant for each invoice will be issued by the State Controller's Office within 10 calendar days from receipt of an acceptable invoice. Invoices will be approved for this expedited payment, provided they are not one-time payments or final payments. One-time payments and final payments, eligible for expedited pay, will have 10% of the invoice amount withheld pending approval from the **STATE**'s Project Administrator of all required documents submitted by **RECIPIENT**.

SECTION 5. Final payment vouchers must be submitted not later than one month after the Last Expenditure Date noted on the face sheet of the Fund Transfer Agreement. Reimbursement will be made only for work performed after the Effective date of this agreement and prior to the Last Expenditure Date. As used in this agreement, "Last Expenditure Date" refers to the last date for

RECIPIENT to expend any funds from any of the state funding sources referenced on the face sheet of the Fund Transfer Agreement.

SECTION 6. Delivery by **STATE** of any funds provided pursuant to this Agreement is contingent upon prior budget action by the legislature, fund allocation by CTC, submittal by **RECIPIENT** and approval by **STATE** of all documentation required by Government Code Section 14085 and, if bonds are the fund source, subject to the sale of bonds by the State Treasurer. In the event bond sales are delayed, canceled, or downsized or TCI grant funds are restricted, limited or otherwise conditioned by acts of Congress, the CTC, the Legislature, the Internal Revenue Service or the Federal Transit Authority, **STATE** shall not be held liable for any resulting damage or penalty. In the event of any such imposition of additional conditions, delay, cancellation or reduction in **STATE** funding, **RECIPIENT** shall be excused from meeting the time and expenditure schedule to the extent of such delay, cancellation or reduction and this Agreement will be amended to reflect the necessary changes in scope or scheduling of the Project.

SECTION 7. **STATE** reserves the right to terminate its funding for any Project upon written notice to **RECIPIENT** in the event that **RECIPIENT** fails to proceed with the work in accordance with the Scope of Work document, the bonding requirements if applicable, or otherwise violates the conditions of these Provisions or the allocation such that substantial performance is significantly endangered. In the event of such termination, **RECIPIENT** shall be reimbursed its authorized costs up to the **STATE's** share of allowable Project costs incurred prior to the date of termination, provided that all other terms and conditions of this Agreement have been met. Any such termination shall be accomplished by delivery to **RECIPIENT** of a Notice of Termination, which notice shall become effective not less than 30 days after receipt, specifying the reason for the termination, the extent to which funding of work under these provisions is terminated and the date upon which such termination becomes effective, if beyond 30 days after receipt. During the period before the effective termination date, **RECIPIENT** and **STATE** shall meet to attempt to resolve any dispute.

ARTICLE IV. REPORTS AND RECORDS

SECTION 1. **RECIPIENT** and its contractors shall establish and maintain an accounting system and records that properly accumulate and segregate incurred costs by line item for the Project. **RECIPIENT** and contractor accounting systems shall conform to generally accepted accounting principles (GAAP), enable the determination of incurred costs at interim points of completion, and provide support for reimbursement payment vouchers or invoices. All accounting records and other supporting papers of **RECIPIENT**

and its contractors connected with performance under this Agreement shall be maintained for a minimum of three years from the date of final payment to **RECIPIENT** under these provisions and shall be held open to inspection and audit by representatives of **STATE** and the Auditor General of the State and copies thereof will be furnished upon request. In conducting an audit of the costs claimed under these provisions, **STATE** will rely to the maximum extent possible on any prior audit of **RECIPIENT** pursuant to the provisions of federal and state laws. In the absence of such an audit, any acceptable audit work performed by **RECIPIENTS'** external and internal auditors and/or federal auditors will be relied upon and used by **STATE** when planning and conducting additional audits.

SECTION 2. **RECIPIENT** and its contractors agree to comply with the following:

- a. The cost principles in Office of Management and Budget Circular A-87, Cost Principles for State and Local Governments.
- b. 49 CFR, Part 18, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments.

Any costs for which **RECIPIENT** has received payment that are determined by subsequent audit to be unallowable under Office of Management and Budget Circular A-87, are to be repaid to **STATE** by **RECIPIENT**. Should **RECIPIENT** fail to reimburse moneys due **STATE** within 30 days of demand, or within such other period as may be agreed between the parties hereto, **STATE** is authorized to withhold future payments due **RECIPIENT** from any source, including but not limited to, the State Treasurer, The State Controller and the CTC.

SECTION 3. For the purpose of determining compliance with Public Contract Code Section 10115, et seq. and Title 21, California Code of Regulations, Section 2500 et seq., when applicable, and other matters connected with the performance of **RECIPIENT's** contracts with third parties pursuant to Government Code Section 8546.7, **RECIPIENT**, **RECIPIENT's** Contractor, subcontractors and **STATE** shall maintain all books, documents, papers, accounting records, and other evidence pertaining to the performance of such contracts, including but not limited to, the costs of administering the various contracts. All of the above-referenced parties shall make such materials available at their respective offices at all reasonable times during the contract period and for three years from the date of final payment under such contract. **STATE**, the State Auditor General, the Federal Highway Administration, or any duly authorized representative of the Federal Government shall have access to any

books, records, and documents that are pertinent to the Agreement for audits, examinations, excerpts, and transactions and copies thereof shall be furnished if requested.

RECIPIENT agrees to include this project in the schedule of projects examined under any single audit that is prepared in accordance with Office of Management and Budget Circular A-128.

SECTION 4. RECIPIENT will insert clauses to the effect of Sections 1, 2 and 3 above of this Article IV in all of its contracts funded by STATE under these Provisions.

SECTION 5. RECIPIENT and STATE agree to conduct, on a quarterly basis, on-site reviews of all aspects of the progress of the Project. The first quarterly review meeting shall take place within 90 days following execution of this Agreement. RECIPIENT agrees, during each quarterly progress review, to inform STATE regarding (1) whether the Project is proceeding on schedule and within budget, (2) any requested changes to the Project Management Plan, (3) major construction accomplishments during the quarter, (4) any actual or anticipated problems which could lead to delays in schedule, increased costs or other difficulties, (5) the status of the Project Budget and, (6) the status of critical elements of the Project.

Section 6. It will be permissible for RECIPIENT to expend funds as needed and to move funds between expenditure categories and line items with maximum flexibility in accordance with revised budgets furnished prior to the actual expenditures. However, RECIPIENT shall notify and obtain approval from STATE of any proposed changes in excess of 10 percent in any expenditure category prior to actual expenditure. For proposed changes in excess of 20 percent in any expenditure category or for a reduction in proposed work or service levels, STATE approval shall be obtained and STATE will determine whether the proposed change is significant enough to warrant CTC review. Should the proposed change require any increase in State funds, the CTC and STATE must approve that change in advance of funds being expended..

SECTION 7. The quarterly reviews will include consideration of whether activities are within the scope of the Project and in compliance with State laws, regulations, administrative requirements, and implementation of the Project under this Agreement.

SECTION 8. If RECIPIENT and STATE determine at any time during the performance of the Project, that the Project budget may be exceeded, RECIPIENT shall take the following steps:

- (1) Notify the designated **STATE** representative of the nature and projected extent of the overrun and, within a reasonable period thereafter, identify and quantify potential costs savings or other measures which will bring the budget into balance,
- (2) Schedule the projected overrun for discussion at the next subsequent Quarterly Review meeting, and
- (3) Identify the source of additional **RECIPIENT** funds which can be made available to complete Project.
- (4) If an increase in State funding is potentially necessary because the initial budget may be exceeded, then, after obtaining **STATE** preapproval, **RECIPIENT** shall prepare a request to the CTC for an additional allocation of State funds.

ARTICLE V. GENERAL PROVISIONS

SECTION 1. In the performance of work under these provisions, **RECIPIENT**, its contractor(s) and all subcontractors will not discriminate against any employee or applicant for employment because of race, religious creed, medical condition, color, marital status, ancestry, gender, age, national origin, or physical handicap, and actual or perceived sexual orientation (Government Code Section 12940 *et seq.*). **RECIPIENT**, its contractor(s) and all subcontractors will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, religious creed, medical condition, color, marital status, ancestry, gender, age, national origin, or physical handicap, and actual or perceived sexual orientation. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. **RECIPIENT**, its contractor(s) and all subcontractors shall post in conspicuous places, available to employees and applicants for employment, notice to be provided by **STATE** setting forth the provisions of this section.

SECTION 2. **RECIPIENT**, its contractor(s) and subcontractors will permit access to all records of employment, employment advertisements, application forms, and other pertinent data and records by the State Fair Employment Practices and Housing Commission, or any other agency of the State of California designated by **STATE**, for the purpose of investigation to ascertain compliance with Section 1 of this Article V.

SECTION 3. **RECIPIENT** agrees to insert, in appropriate contracts, clauses to the effect of Sections 1 and 2 of this Article V and the California Labor Code requirements that all workers employed on public works will be paid not less than the general prevailing wage rates predetermined by the Department of Industrial Relations.

SECTION 4. Should Public Contract Code Sections 10115 et seq. be applicable to **RECIPIENT**, **RECIPIENT** will meet, or make good faith efforts to meet, the following Minority Business Enterprises/Women Business Enterprises/Disabled Veterans Business Enterprises goals or **RECIPIENT's** applicable goals in the award of every contract for work to be performed under these Provisions:

Minority Business Enterprises - 15%
Women Business Enterprises - 5%
Disabled Veterans Business Enterprises - 3%

RECIPIENT shall have the sole duty and authority under this Agreement to determine whether good faith efforts were sufficient as outlined in Public Contract Code Sections 10115 et seq.

SECTION 5. To the extent that **RECIPIENT** is subject to the provisions of Government Code Section 4450 et seq., **RECIPIENT** shall submit plans and specifications for buildings, structures, sidewalks, curbs and related facilities to the State Department of General Services for approval prior to Construction.

SECTION 6. Neither **STATE** nor any officer or employee thereof shall be responsible for any damage or liability occurring by reason of anything done or omitted to be done by **RECIPIENT**, its agents and contractors, under, or in connection with any work, authority, or jurisdiction delegated to **RECIPIENT** under this Agreement or as respects environmental clean up obligations or duties of **RECIPIENT** relative to a Project. It is also understood and agreed that, pursuant to Government Code Section 895.4, **RECIPIENT** shall fully indemnify and hold **STATE** harmless from any liability imposed for injury (as defined by Government Code Section 810.8) or environmental obligations or duties arising or created by reason of anything done or imposed by operation of law or assumed by, or omitted to be done by **RECIPIENT** under or in connection with any work, authority, or jurisdiction delegated to **RECIPIENT** under this Agreement.

SECTION 7. **RECIPIENT** is obligated, in perpetuity, to continue operation of the Project dedicated to the public transportation purposes for

which the Project was initially approved. The Project right of way, the Project facilities constructed or reconstructed on the Project site and/or Project property purchased (excluding construction easements and excess property whose proportionate resale proceeds are distributed pursuant to this Agreement) shall remain dedicated to public transit use in the same proportion and scope and to the same extent as described in this Agreement and related Bond Fund Certification documents if applicable. Equipment acquired as part of the Project, including rail passenger equipment and ferry vessels shall be dedicated to that passenger use for their full economic life cycle, including any extensions of that life cycle achieved by reconstruction, rehabilitation or enhancements. Subsequent fund allocations for this Project, if any, will be identified by phase and will be described in detail in an Amendment to this document.

SECTION 8. To the extent that **RECIPIENT** operates and maintains Intermodal Transfer Stations, **RECIPIENT** shall: maintain the station and its appurtenances, including, but not limited to, restroom facilities, in good condition and repair, and in accordance with high standards of cleanliness; upon request of the **STATE**, authorize state-funded bus service to use the station without any charge to the department in the placement of signs and informational material designed to alert the public to the availability of the state-funded bus service. (For the purpose of this section, "state-funded bus service" means any bus service funded pursuant to Public Utilities Code, Section 99316.)

SECTION 9. **RECIPIENT** shall, for the purposes of any State bond funded right of way acquisition which will become a permanent part of the Project (such acquisitions exclude construction easements, property allocated to matching funds, and excess property purchased with State funds whose resale proceeds are returned or credited to **STATE**), maintain ownership of such Project property for a minimum of twenty years or until the bonds have matured, whichever occurs first, before transferring or selling such property, subject to the credits due **STATE** as provided in Article V, Section 10 herein below.

SECTION 10. Except as otherwise set forth in this Section 10, **STATE**, or any assignee public body acting on behalf of the CTC, shall be entitled to a refund or credit, at **STATE**'s sole option, equivalent to the proportionate funding participation by **STATE** and other **NON-RECIPIENT** generated public funds towards Project acquisition or construction in the event that **RECIPIENT** ceases to utilize the Project for the intended public transportation purposes or sells or transfers title to or control over the Project. Such refund or credit to **STATE** shall not be required, subject to **STATE** approval of that intended use, if **RECIPIENT** dedicates the proceeds of such sale or transfer exclusively to **STATE** approved public transportation purposes which are also subject to this credit due **STATE** if subsequently sold or transferred or, in the case of proceeds attributable to **NON-**

STATE, NON-RECIPIENT funding, such proceeds are returned to the funding entity or otherwise expended according to the funding agreement with such entity. STATE shall also be granted an acquisition credit for future purchases or condemnation of all or portions of the Project by STATE. The refund or credit due STATE will be measured by the ratio applied to the then fair market value of the Project property acquired.

SECTION 11. RECIPIENT should be on notice that the Federal Transit Administration ("FTA", previously "UMTA") does not share in any revenue stream from projects which it has participated in. However, FTA does require that it specifically approve private and incidental uses of its funded projects to assure that they do not adversely impact transit use. In FTA funded projects, revenues that are derived from these private and incidental uses must be documented, are subject to audit and are required to be applied to transit purposes. FTA circular 5010.1A provides program management guidelines.

SECTION 12. The Fund Transfer Agreement, these Provisions, the CTC Resolutions, the Project Description and the Scope of Work document approved by STATE constitute the entire terms of the grant Fund Transfer Agreement between the parties for the work to be performed pursuant to this grant and all subsequent grants awarded to this Project. The Project Description and/or the Scope of Work document may be modified, altered or revised only by a written Amendment between RECIPIENT and STATE.

SECTION 13. Additional funding for subsequent Project Phases may be granted through amendments to this Agreement. A new CTC allocation resolution will also be required following the submission by RECIPIENT of an acceptable supplementary Scope of Work document and, when necessary, a revised Project Description.

ARTICLE VI. BOND PROVISIONS

SECTION 1. If Project funding is being provided in whole or in part pursuant to the Clean Air and Transportation Improvement Act of 1990 (Prop. 116), the following additional provisions apply to RECIPIENT:

(a) Where RECIPIENT's Project includes a commuter rail project within the meaning of Prop. 116, RECIPIENT shall coordinate and share with other public transit operators any rail rights-of-way, common maintenance services and station facilities used for intercity and commuter rail. Intercity and commuter rail services shall be coordinated with each other, with other providers and with freight traffic to provide integrated rail passenger and freight services with minimal conflict.

(b) **RECIPIENT** agrees that all passenger rail and water borne ferry equipment and all facilities acquired or constructed pursuant to this Agreement shall be accessible to persons with physical disabilities, including wheelchair users. All passenger vehicles and vessels acquired pursuant to this Agreement shall be accessible to wheelchair users at all stops, stations and terminals, whether or not staffed.

(c) **RECIPIENT** (other than the transit operator identified in Sections 99633 and 99634 of the Public Utilities Code) shall require that all intercity and commuter rail cars purchased conform to the California Rail car specifications developed by **STATE** as specified in the Clean Air and Transportation Improvement Act.

Section 2. **RECIPIENT** shall not loan any portion of bond proceeds represented by this grant to any private (including nonprofit) person or business. For this purpose a "loan" includes any arrangement which is the economic equivalent of a loan, regardless of how it is named.

Section 3. Except as provided in this Article VI, **STATE** and **RECIPIENT** agree that any costs of the Project acquired or constructed by **RECIPIENT** allocable to portions of the Project which are subject to any property interests held by a nongovernmental person(s) in connection with business activities, such as easements, leases, or fee interests not generally enjoyed by the public, (hereafter referred to as Nongovernmentally Used Property or "NUP") shall, for accounting and bookkeeping purposes, be allocated to funding sources other than the State bond funds. For purposes of making such allocations, the costs attributable to NUP involving a sale, easement, lease or similar arrangement shall be determined on the basis of a fair allocation of value, which may include determinations based upon square or cubic footage/acreage of the area encumbered by the lease or easement relative to the total area acquired or constructed if all such area is of approximately equal value.

NUP will include, but is not limited to, property which is sold (including sales of air and subsurface rights) and property subject to easements, leases or similar rights. A rail right of way will not be treated as NUP solely as a result of a Freight Use Easement retained by the seller of the right of way to **RECIPIENT**, provided that the sales agreement appropriately excludes the Freight Use Easement from the property or rights being acquired. Further, notwithstanding anything in this Article VI to the contrary, **RECIPIENT** may allocate grant funds to the cost of any NUP if (i) neither **RECIPIENT** nor any other governmental entity will receive, directly or indirectly, any payments from or on behalf of the nongovernmental user of the NUP, or (ii) the payment from such user does not

exceed the operation and maintenance costs fairly attributable or allocable to the nongovernmental use of the NUP.

Section 4. **RECIPIENT** shall request, in writing, **STATE's** advance approval if grant funds are to be allocated to any NUP, except "incidental use" property described below. If property, the costs of which have previously been allocated to grant funds, is to become NUP before the State bond funds are fully paid or redeemed, then **RECIPIENT** may allocate the costs of such property to another funding source as provided in Section 3 of this Article VI, or obtain **STATE's** approval that the allocation of the costs of such property to the grant funds may remain. It is anticipated that **STATE** approval will be granted if, taking into account the existing and expected uses of the proceeds of the State bonds, the **STATE** determines that the continued tax-exempt status of the State bonds will not be adversely affected and that the use of the property is consistent with the Project and its described purpose.

For purposes of these Articles VI Section 3 fund source allocations, **RECIPIENT** does not have to take into account as NUP those "incidental uses" of the Project (such as, for example, advertising billboards, vending machines, telephones, etc.) which meet requirements of federal tax regulations (IRS Notice 87-69 or any successor thereto). In general such Notice requires that the incidental use not be physically separated from the rest of the Project and not comprise in the aggregate more than 2-1/2% of the costs of the Project.

Section 5. If **RECIPIENT** enters into a management contract with a private party (including AMTRAK) for operation of rail, ferry or other transportation services in connection with the Project, it will either (a) obtain approval from Bond Counsel acceptable to **STATE** that the terms of the management contract meet the requirements of Internal Revenue Service Revenue Procedure 82-14 (as supplemented or amended) or any successor thereto (dealing generally with guidelines for when management contracts may be deemed not to create a "private use" of bond-financed property) or are otherwise acceptable; or (b) be prepared to certify upon request of **STATE** that the revenues which **RECIPIENT** (or its manager) will receive directly from the operation of transportation services in connection with the Project (but not including any subsidy of the transportation operation from taxes or other outside fund sources) are for any fiscal year less than the ordinary and necessary expenses directly attributable to the operation and maintenance of the transportation system (excluding any overhead or administrative costs of **RECIPIENT**). In any year for which option (b) will not be true, **RECIPIENT** shall consult Bond Counsel acceptable to the State Treasurer's Office to obtain approval of the management contract or an opinion that the circumstances present will not adversely affect the tax-exempt status of the bonds.

Section 6. If **RECIPIENT** receives any revenues or profits from any NUP allowed pursuant to this Article VI (whether approved at this time or hereafter approved by **STATE**), **RECIPIENT** agrees that such revenues or profits shall be used exclusively for the public transportation services for which the Project was initially approved, either for capital improvements or operating costs. If **RECIPIENT** does not so dedicate the revenues or profits, a proportionate share shall (unless disapproved by Bond Counsel) be paid to **STATE** equivalent to **STATE's** percentage participation in the Project.

SOUTHERN CALIFORNIA REGIONAL RAIL AUTHORITY (SCRRA)
 PAYMENT SCHEDULE TO BOMBARDIER FOR SCRRA 26-CAR CONTRACT

20 Nov 95
 Cashed WK4

Delivery Schedule	Milestones					Acceptance of Cars							Total	
	Dec 95	Jan 96	Feb 96	Mar 96	Apr 96	May 96	Jun 96	Jul 96	Aug 97	Sep 97	Oct 97	Nov 97		Dec 97
Contract Execution (NTP)	\$13,012,801													
Place Wheels/Asie Assembly PO				\$14,871,773										
Release Production Shop Orders							\$7,435,888							
Final Acceptance									\$71,499	\$142,998	\$285,996	\$357,495	\$285,996	\$71,499
Total	\$13,012,801	\$0	\$0	\$14,871,773	\$0	\$0	\$7,435,888	\$0	\$71,499	\$142,998	\$285,996	\$357,495	\$285,996	\$71,499

Name of Recipient: Los Angeles County Metropolitan Transportation Authority
 Name of Project: Los Angeles (LAUPT)/Fullerton Commuter/Intercity Rail Project
 Resolution Number: BFA-95-05
 Date of Resolution: October 18, 1995
 Amount of Allocation: \$ 37,409,280
 Fund Source: Prop. 116 Bond
 Expiration Date of Funds: June 30, 1998

SCOPE OF WORK APPROVAL:

The Department of Transportation hereby certifies that the attached "Scope of Work" document has been submitted by the recipient named above and that its description of tasks to be accomplished with the allocated funds is complete and in conformance with the allocating resolution specified above.

Cindy McKim
 Cindy McKim, Deputy Director
 Rail Transit & Aeronautics

12/12/95
 Date

PROPOSITION 116

SOURCE		RANGE		EX AUTH		SPECIAL DESIGNATION		OBJECT	AMOUNT	DB CR	FISCAL YEAR	ENCUMBRANCE DOCUMENT NUMBER
DIST	UNIT	DIST	UNIT	GEN ACCT	SUB ACCT	SUP OR NO	TR/W PARCEL NO					
				WORK ORDER NO.		LOCATION						
017	3140	916	0017	910	11116	31L	0017	70419	37,409,280-		911	CIAT3140017
I hereby certify upon my own personal knowledge that budgeted funds are available for the period and purpose of the expenditure stated above.												
SIGNATURE OF ACCOUNTING OFFICER <i>[Signature]</i>								DATE 12/12/95				
ITEM 2600-627-703		CHAPTER		STATUTES 1990		FISCAL YEAR 90/91						



**Resolution BFA #95-05
Amending Resolution BFP #91-13
as Amended by Resolution BFA #91-05**

- 1.1 **WHEREAS, Section 99649 of the Public Utilities Code, as added by the Clean Air and Transportation Improvement Act of 1990 (Proposition 116) provided \$100 million to the Department of Transportation (Department) for the acquisition of both intercity and commuter passenger rail cars; and**
- 1.2 **WHEREAS, Section 99649 called on the Department to establish a delivery schedule which met the needs of the operators of rail services; and**
- 1.3 **WHEREAS, Section 99603 of the Public Utilities Code required the Department to establish a Rolling Stock Advisory Committee to assist the Department in developing specifications for a standard state-of-the-art rail car for use in both intercity and commuter operations in the State; and**
- 1.4 **WHEREAS, the California Transportation Commission (Commission) adopted Resolution BFP #91-13, as amended by Resolution BFA #91-05, which allocated the \$100 million authorized in Section 99649, \$18,400,000 authorized in Section 99622(c) of the Public Utilities Code, and \$31,495,000 in Proposition 108 funds; and**
- 1.5 **WHEREAS, the Southern California Regional Rail Authority (SCRRA) and the Peninsula Corridor Joint Powers Board (PCJPB), because of their immediate needs for equipment, were designated to receive equipment from the funds made available in Section 99649; and**
- 1.6 **WHEREAS, the Department, following a competitive negotiated process required by law, entered into a contract with the Morrison Knudsen Corporation, the only bidder to submit a specification compliant bid, for the design and manufacture of 88 intercity and commuter cars consistent with the specifications developed by the Rolling Stock Advisory Committee; and**
- 1.7 **WHEREAS, the Morrison Knudsen Corporation has experienced financial difficulties and cannot deliver the commuter car portion of the contract in time to meet the operating needs of the commuter agencies; and**
- 1.8 **WHEREAS, the SCRRA and PCJPB were to be recipients of the California Commuter Cars upon delivery from Morrison Knudsen; and**

Resolution BFA-95-05
October 1, 1995
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- 1.9 WHEREAS, any further delay in delivery of commuter cars for the SCRRA and the PCJPB will cause those agencies to incur additional expenses, operating problems, inconvenience to the traveling public, could adversely impact ridership and reduce revenues; and
- 1.10 WHEREAS, the Morrison Knudsen Corporation has requested to be released from its contractual commitment to manufacture commuter cars in exchange for valuable consideration; and
- 1.11 WHEREAS, the Agreement between the Department and the Morrison Knudsen Corporation releasing Morrison Knudsen from its contractual obligation to produce the commuter car portion of the California Car Contract provided for Settlement Costs of \$5.4 million; and
- 1.12 WHEREAS, the \$5.4 million in Settlement Costs are to be recovered by the Department through a discount of the per car price to be paid by the Department to Morrison Knudsen for delivery of the remaining 47 cars of the 66 car Intercity Car order; and
- 1.13 WHEREAS, a new, separate procurement for a new design of standard commuter rail cars undertaken by the Department at this time would not meet the operating needs of the Commuter Agencies; and
- 1.14 WHEREAS, the Rolling Stock Advisory Committee has subsequently found that a single rail car design and procurement for both intercity and commuter services as described in Section 99603 of the Public Utilities Code is not economically feasible or practicable at this time; and
- 1.15 WHEREAS, the Rolling Stock Advisory Committee has further found that the rolling stock acquired by the PCJPB, the SCRRA substantially meets the Performance Specifications developed pursuant to Section 99603 of the Public Utilities Code and that the use of Proposition 116 funds to acquire similar equipment is consistent with the intent of Proposition 116; and
- 1.16 WHEREAS, the Rolling Stock Advisory Committee recommended that the funds made available to the Department pursuant to Section 99649(a) of the Public Utilities Commission and allocated by the Commission in Resolution BFP-91-13 as amended by BFA #91-05 which were encumbered for the Commuter Car portion of the Morrison Knudsen Contract be instead used by the Commuter Agencies to acquire rolling stock, to the extent possible, consistent with the existing passenger rail fleets operated by the SCRRA and PCJPB for commuter services; and

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October 1, 1995

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- 1.17 WHEREAS, the Department has determined, consistent with the findings and recommendation of the Rolling Stock Advisory Committee, that a reallocation of the funds authorized pursuant to Section 99649(a) of the Public Utilities Code to the SCRRA and the PCJPB for separate commuter rail car acquisitions in accordance with the amended application is consistent with the intent of Proposition 116; and
- 2.1 NOW THEREFORE BE IT RESOLVED that the Department is authorized to enter into the appropriate contractual arrangements to reimburse the SCRRA and the PCJPB for eligible costs incurred by those agencies in procuring commuter rail cars in lieu of the commuter cars that were to be procured by the Department through its contract with the Morrison Knudsen Corporation; and
- 2.2 NOW THEREFORE BE IT FURTHER RESOLVED that reimbursement of the costs of the commuter car procurements by the SCRRA and the PCJPB shall be from the funds allocated to the Department pursuant to Section 99649 of the Public Utilities Code in Resolution #BFP-91-13 as amended by Resolution #BFA-91-05; and
- 2.3 NOW THEREFORE BE IT FURTHER RESOLVED that reimbursement to the SCRRA for the actual acquisition of commuter rail cars shall be \$37,409,280 and reimbursement for the actual acquisition of commuter rail cars to the PCJPB shall be \$30,876,842; and
- 2.4 NOW THEREFORE BE IT FURTHER RESOLVED that the \$5,400,000 provided in the Settlement Agreement between the Department and the Morrison Knudsen Corporation for the termination of the Commuter Car portion of the order shall be subject to subsequent, separate allocation by the Commission; and
- 2.5 NOW THEREFORE BE IT FURTHER RESOLVED that the Department shall ensure that the equipment acquired by the SCRRA and the PCJPB shall be compliant with the amended Performance Specifications adopted by the Rolling Stock Advisory Committee and the intent of Proposition 116; and
- 2.6 NOW THEREFORE BE IT FURTHER RESOLVED that the PCJPB shall, prior to award of any procurement contract by the PCJPB for the manufacture of any Caltrain commuter cars, report to Commission on the outcome of the vendor selection process.

ATTACHMENT A
 October 1, 1995
 Agenda Item 2.6d

RESOLUTION BPA -95-05
 ALLOCATIONS FOR NEW RAIL BOND AND TRANSIT CAPITAL IMPROVEMENT PROJECTS

FUNDINGS:		BOND FUNDS		NON-STATE FUNDS		SUMMARY	
SEA TOTAL:	TFD TOTAL:	108 TOTAL:	116 TOTAL:	31,495,000	FED TOTAL:	0	STATE TOTAL:
0	0	118,400,000	LOC TOTAL:	0	0	0	149,895,000
0	0	116,400,000	LOC TOTAL:	0	0	0	149,895,000

RECIPIENT: Department of Transportation
 Project Title: Acquisition of Passenger Rail Cars (Intercity & Commuter throughout CA)

Fund	Amount	St. & Hwy (108) PUC Code (116)	EA Number PA No	Plan Yr Appr Yr	ALM Resoln ALM Amount	Project Type	Egt. Act & Chpt. Budget Item No	Program Cd Expend Cat.
116	100,000,000		99649 3003 92-04	1992-93 CONTIN	0	116 NON-URBAN	1992 CHAPTER 587	30.20.010 LOCAL ASSIST.

This allocation is a FULL allocation of the pgm/app amount District: 75 County: STATEWIDE Environ Stat: SE

RECIPIENT: Department of Transportation
 Project Title: Acquisition of Passenger Rail Cars (Intercity-Capitol Corridor)

Fund	Amount	St. & Hwy (108) PUC Code (116)	EA Number PA No	Plan Yr Appr Yr	ALM Resoln ALM Amount	Project Type	Egt. Act & Chpt. Budget Item No	Program Cd Expend Cat.
116	18,400,000		99622(c) 9051A 9:-03	1992-93 CONTIN	0	116 NON-URBAN	1992 CHAPTER 587	30.20.010 LOCAL ASSIST.

This allocation is a FULL allocation of the pgm/app amount District: 3,4,10 County: Yuba, SF, San Joaquin Environ Stat: SE

RECIPIENT: Department of Transportation
 Project Title: Acquisition of Passenger Rail Cars (Intercity throughout CA)

Fund	Amount	St. & Hwy (108) PUC Code (116)	EA Number PA No	Plan Yr Appr Yr	ALM Resoln ALM Amount	Project Type	Egt. Act & Chpt. Budget Item No	Program Cd Expend Cat.
108	31,495,000		2701.07 9014	1990-91	0	108	1990 CHAPTER 467 1991 CHAPTER 118	30.20.010 LOCAL ASSIST.

This allocation is a FULL allocation of the pgm/app amount District: 75 County: STATEWIDE Environ Stat: SE

RESOLUTION AUTHORIZING CHIEF EXECUTIVE OFFICER TO EXECUTE AND FILE STATE GRANT DOCUMENTS FOR APPROVED TRANSPORTATION PROJECTS AND ACTIVITIES, AND COMMITTING TO ACTIONS RELATED TO HAZARDOUS WASTES ON STATE-FUNDED RIGHT-OF-WAY ACQUISITIONS

WHEREAS, the State of California ("the State") programs, allocates, and approves state financial assistance for planning, capital, training, demonstration, and operating activities associated with transportation projects, through the California Transportation Commission ("CTC"), the California Department of Transportation ("Caltrans"), and other state grantor agencies; and

WHEREAS, all agreements or contracts for financial assistance from the State will impose certain obligations upon the Los Angeles County Metropolitan Transportation Authority ("MTA"), including the provision by each agreement or contract, if specifically required, of local match for projects; and

WHEREAS, to invoice against state funds made available by the CTC, Caltrans, or other state grantor agencies for approved transportation projects and activities, the MTA is required to apply for such funding, seek related approvals, and execute funding agreements or contracts with the CTC, Caltrans, or other state grantor agencies; and

WHEREAS, State of California law, Statutes of 1992, Chapter 60 (AB 152) created the MTA as of February 1, 1993 and established the MTA as the single successor agency to all of the powers, duties, rights, obligations, liabilities, indebtedness, bonded and otherwise, immunities, and exemptions of the Los Angeles County Transportation Commission ("LACTC") and the Southern California Rapid Transit District; and

WHEREAS, in July 1991 the LACTC executed an agreement known as the *Joint Exercise of Powers Agreement to Establish the Southern California Regional Rail Authority* with the Orange County Transportation Authority, Riverside County Transportation Commission, San Bernardino Associated Governments, and the Ventura County Transportation Commission to plan, design, construct, and administer the operation of regional passenger rail lines ("Metrolink") serving the member counties of Los Angeles, Orange, Riverside, San Bernardino, and Ventura; and

WHEREAS, said agreement allowed the LACTC, and now the MTA as the successor agency, to act for the Southern California Regional Rail Authority ("SCRRA") in securing state financial assistance for their Commuter Rail Right-of-Way Acquisitions Program and Commuter Rail Capital Improvement Program; and

WHEREAS, the Cities of Baldwin Park, Burbank, Claremont, Commerce, Covina, El Monte, Glendale, Los Angeles, Moorpark, Norwalk, Pomona, Santa Clarita, Simi Valley, and other commuter rail station cities (all hereinafter referred to as the "Commuter Rail Station Cities") within the SCRRA member counties have applied individually to the CTC for state

funds from the Transit Capital Improvements ("TCI") Program to acquire rights-of-way and/or construct capital improvements for their individual stations; and

WHEREAS, the MTA is acting as the SB 530 Review agency for the Commuter Rail Station Cities within the SCRRA member counties in securing said state funds from the TCI Program for the Cities' individual stations; and,

WHEREAS, the MTA itself has acquired and intends to continue to acquire railroad rights-of-way to be used for urban rail projects; and

WHEREAS, on behalf of the SCRRA, the Commuter Rail Station Cities within the SCRRA member counties and itself, the MTA has applied to and requested allocations from the CTC for state funds (including, but not limited to, Proposition 108 State Rail Bond funds, Proposition 116 State Rail Bond Funds, and TCI funds) to assist in financing MTA-approved transportation projects and activities, including acquisitions of railroad rights-of-way (including property rights, trackage rights, fee title, and easement rights from the Southern Pacific, Union Pacific, and others) for commuter/urban rail projects, and to assist in financing the SCRRA Commuter Rail Right-of-Way Acquisitions Program and the SCRRA Commuter Rail Capital Improvement Program; and

WHEREAS, on behalf of the SCRRA, the Commuter Rail Station Cities within the SCRRA member counties and itself, the MTA will continue to seek the balance of state funding needed through applications and allocation requests from the CTC to assist in financing MTA-approved transportation projects and activities, including acquisitions of railroad rights-of-way for commuter/urban rail projects, and to assist in financing the SCRRA Commuter Rail Right-of-Way Acquisitions Program and the SCRRA Commuter Rail Capital Improvement Program; and

WHEREAS, the CTC adopted Resolution No. G-91-2 dated February 21, 1991 as a policy for Hazardous Waste Identification and Clean-Up for Rail Right-of-Way; and

WHEREAS, that Resolution requires that grant applicants for state funds certify that all reasonable steps will have been completed to assure full due diligence in the discovery of hazardous waste is achieved during acquisitions of rail rights-of-way (including fee title and easements) and that the State is held harmless from clean-up, liability, or damages associated with hazardous wastes on or below acquired property's surface, both present and future; and

WHEREAS, that Resolution also requires that the MTA commit not to seek further state funding for clean-up, damages, or liability costs associated with hazardous wastes on or below the surface of acquired property (including fee title or easements).

NOW, THEREFORE, BE IT RESOLVED by the Los Angeles County Metropolitan Transportation Authority:

- (1) That the Chief Executive Officer or his designee is authorized to execute and file applications, Fund Transfer Agreements, assurances, certifications, and all other necessary documents

and agreements/contracts on behalf of the SCRRRA, the Commuter Rail Cities, and the MTA with the CTC, Caltrans, and other state grantor agencies to secure state financial assistance for MTA-approved transportation projects and activities, including acquisitions of railroad rights-of-way for commuter/urban rail projects, and to secure state financial assistance for the SCRRRA Commuter Rail Right-of-Way Acquisitions Program and the SCRRRA Commuter Rail Capital Improvement Program.

- (2) That the Chief Executive Officer or his designee is authorized to furnish such additional information as may be required to the CTC, Caltrans, and other state grantor agencies so as to receive state financial assistance for MTA-approved transportation projects and activities, including acquisitions of railroad rights-of-way for commuter/urban rail projects, and to receive state financial assistance for the SCRRRA Commuter Rail Right-of-Way Acquisitions Program and the SCRRRA Commuter Rail Capital Improvement Program.

BE IT FURTHER RESOLVED, that the MTA certifies to the CTC that all reasonable steps will have been completed to assure that full due diligence in the discovery of hazardous waste has been achieved in acquiring property (including fee title and easements) for commuter/urban rail projects and that the State will be held harmless from clean-up liability or damages, both present and future on the state-funded property acquisitions for commuter/urban rail projects.

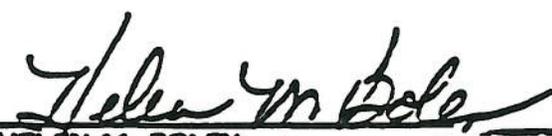
BE IT FURTHER RESOLVED, that the MTA will not seek further state funding for clean-up, damages, or liability costs associated with hazardous wastes on or below the surface of property acquired with state funds for commuter/urban rail projects.

BE IT FURTHER RESOLVED, that in conformance with the CTC's investment policy on acquisitions of railroad rights-of-way, the MTA certifies to the following:

- (1) That use of revenues received from the sale, lease, rental, or other investment use of such acquisitions for commuter/urban rail projects shall be limited to passenger rail services.
- (2) That revenues received from any sale, lease, rental, or other investment use of such acquisitions for commuter/urban rail projects not exclusively used for passenger rail services shall be collected and a proportionate share of said revenues shall be delivered to the State in amounts equivalent to the State's percentage participation in the acquisitions.

CERTIFICATION

The undersigned, duly qualified and acting as Secretary of the Los Angeles County Metropolitan Transportation Authority, certifies that the foregoing is a true and correct representation of the Resolution adopted at a legally convened meeting of the Board of Directors of the Los Angeles County Metropolitan Transportation Authority held on July 28, 1993.



HELEN M. BOLEN
MTA Secretary

DATED: July 29, 1993

(SEAL)

(STATES)