Atascadero City Council
Staff Report – Public Works Department

Proposition 1B Transit
Approve Certifications and Assurances and Designation of Authorized Agents

RECOMMENDATIONS:

Council:

1. Adopt the Draft Resolution, approving Certifications and Assurances; and,
2. Designate the City Manager and Director of Administrative Services as Authorized Agents.

DISCUSSION:

Beginning in January 2011 new State guidelines require each Proposition 1B “Transit,” i.e. Public Transportation Modernization, Improvement, and Service Enhancement Account (PTMISEA) Program, Project Sponsor to sign a Certification and Assurances document prior to receiving an allocation of Fiscal Year 10/11 funds, or later. Each agency only needs to sign and submit the document once for the duration of the Proposition 1B “Transit” program. The City Council is required to formally adopt a Governing Body Resolution approving the Certifications and Assurances document and Authorized Agent Forms. This is primarily a technical matter of documentation.

The Certification and Assurances document contains general conditions of the Proposition 1B “Transit” (i.e. PTMISEA) program, as well as some additional Cost Principles and Record Retention requirements that are standard for other State funded projects.

Proposition 1B funds are awarded through the San Luis Obispo Council of Governments (SLOCOG). As of FY 2007/08 the SLOCOG Board has awarded almost $6 million of the $13 to 14 million in Proposition 1B funds expected to be received over
the next five to ten years. Based on State Controller Office estimates, SLOCOG has approximately $8,158,483 remaining in Proposition 1B funds available for programming throughout the life of the bond.

FISCAL IMPACT:

Potential receipt of $900,000 of Proposition 1B funding.

The proposed Transit Center has been programmed to receive $900,000 in Proposition 1B funding, subject to the State’s ability to sell bonds. By adopting the Resolution approving the PTMISEA Certifications and Assurances document and appointing Authorized Agents, the City of Atascadero will be authorized to apply for and receive these, and future, Proposition 1B funds.

ATTACHMENTS:

A - Draft Resolution
B - Authorized Agent Form
C - Certifications and Assurances
DRAFT RESOLUTION

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ATASCADERO, CALIFORNIA
AUTHORIZING THE EXECUTION OF THE CERTIFICATIONS AND ASSURANCES FOR THE PUBLIC TRANSPORTATION MODERNIZATION, IMPROVEMENT, AND SERVICE ENHANCEMENT ACCOUNT BOND PROGRAM

WHEREAS, the City of Atascadero is an eligible project recipient and may receive state funding from the Public Transportation Modernization, Improvement, and Service Enhancement Account (PTMISEA) now or sometime in the future for transit projects; and,

WHEREAS, the statutes related to state-funded transit projects require local implementing agencies to abide by various regulations; and,

WHEREAS, Senate Bill 88 (2007) named the Department of Transportation (Department) as the administrative agency for the PTMISEA; and,

WHEREAS, the Department has developed guidelines for the purpose of administering and distributing PTMISEA funds to eligible project sponsors and local agencies; and,

WHEREAS, the Council of the City of Atascadero wishes to delegate authorization to execute these documents and any amendments thereto to the City Manager and the Director of Administrative Services.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Atascadero that the fund recipient agrees to comply with all conditions and requirements set forth in the Certification and Assurances document and applicable statutes, regulations and guidelines for all PTMISEA funded transit projects.

NOW THEREFORE, BE IT FURTHER RESOLVED that the City Manager and the Director of Administrative Services be authorized to execute all required documents of the PTMISEA program and any Amendments thereto with the California Department of Transportation.
On motion by Council Member ________________ and seconded by Council Member ________________, the foregoing Resolution is hereby adopted in its entirety on the following roll call vote:

AYES:

NOES:

ABSENT:

ADOPTED:

CITY OF ATASCADERO

______________________________  
Tom O’Malley, Mayor

ATTEST:

______________________________
Marcia McClure Torgerson, C.M.C., City Clerk

APPROVED AS TO FORM:

______________________________
Brian A. Pierik, City Attorney
CITY OF ATASCADERO

Public Transportation Modernization, Improvement, and Service Enhancement Account City of Atascadero Authorized Agents

AS THE ______ Mayor ______

OF THE ______ City of Atascadero ______

I hereby authorize the following individual(s) to execute for and on behalf of the City of Atascadero, any actions necessary for the purpose of obtaining Public Transportation Modernization, Improvement, and Service Enhancement Account (PTMISEA) funds provided by the California Department of Transportation, Division of Mass Transportation. This form shall remain valid for one year from date signed.

Wade G. McKinney, City Manager

or

Rachelle Rickard, Director of Administrative Services

CITY OF ATASCADERO

______________________________
Tom O’Malley, Mayor

Date: ______________________
CITY OF ATASCADERO

Public Transportation Modernization, Improvement, and Service Enhancement Account (PTMISEA) Bond Program

Certifications and Assurances

Project Sponsor: City of Atascadero

Effective Date of this Document: May 24, 2011

The California Department of Transportation (Department) has adopted the following certifications and assurances for the Public Transportation Modernization, Improvement, and Service Enhancement Account (PTMISEA) bond program. As a condition of the receipt of PTMISEA bond funds, project sponsors must comply with these terms and conditions.

A. General

(1) The project sponsor agrees to abide by the current PTMISEA Guidelines

(2) The project sponsor must submit to the Department a PTMISEA Program Expenditure Plan, listing all projects to be funded for the life of the bond, including the amount for each project and the year in which the funds will be requested.

(3) The project sponsor must submit to the Department a signed Authorized Agent form designating the representative who can submit documents on behalf of the project sponsor and a copy of the board resolution appointing the Authorized Agent.

B. Project Administration

(1) The project sponsor certifies that required environmental documentation is complete before requesting an allocation of PTMISEA funds. The project sponsor assures that projects approved for PTMISEA funding comply with Public Resources Code § 21100 and § 21150.

(2) The project sponsor certifies that PTMISEA funds will be used only for the transit capital project and that the project will be completed and remains in operation for its useful life.

(3) The project sponsor certifies that it has the legal, financial, and technical capacity to carry out the project, including the safety and security aspects of that project.
(4) The project sponsor certifies that they will notify the Department of pending litigation, dispute, or negative audit findings related to the project, before receiving an allocation of funds.

(5) The project sponsor must maintain satisfactory continuing control over the use of project equipment and facilities and will adequately maintain project equipment and facilities for the useful life of the project.

(6) Any interest the project sponsor earns on PTMISEA funds must be used only on approved PTMISEA projects.

(7) The project sponsor must notify the Department of any changes to the approved project with a Corrective Action Plan (CAP).

(8) Under extraordinary circumstances, a project sponsor may terminate a project prior to completion. In the event the Project Sponsor terminates a project prior to completion, the Project Sponsor must (1) contact the Department in writing and follow up with a phone call verifying receipt of such notice; (2) pursuant to verification, submit a final report indicating the reason for the termination and demonstrating the expended funds were used on the intended purpose; (3) submit a request to reassign the funds to a new project within 180 days of termination.

(9) Funds must be encumbered and liquidated within the time allowed in the applicable budget act.

C. Reporting

(1) Per Government Code § 8879.55, the project sponsor must submit the following PTMISEA reports:

   a. Semi-Annual Progress Reports by February 15th and August 15th each year.

   b. A Final Report within six months of project completion.

   c. The annual audit required under the Transportation Development Act (TDA), to verify receipt and appropriate expenditure of PTMISEA bond funds. A copy of the audit report must be submitted to the Department within six months of the close of the year (December 31) each year in which PTMISEA funds have been received or expended.

D. Cost Principles

(2) The project sponsor agrees, and will assure that its contractors and subcontractors will be obligated to agree, that (a) Contract Cost Principles and Procedures, 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31, et seq., shall be used to determine the allowability of individual project cost items and (b) those parties shall comply with Federal administrative procedures in accordance with 49 CFR, Part 18, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments. Every sub-recipient receiving PTMISEA funds as a contractor or sub-contractor shall comply with Federal administrative procedures in accordance with 49 CFR, Part 18, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments.

(3) Any project cost for which the project sponsor has received payment that are determined by subsequent audit to be unallowable under 2 CFR 225, 48 CFR, Chapter 1, Part 31 or 49 CFR, Part 18, are subject to repayment by the project sponsor to the State of California (State). Should the project sponsor fail to reimburse moneys due to the State within thirty (30) days of demand, or within such other period as may be agreed in writing between the Parties hereto, the State is authorized to intercept and withhold future payments due the project sponsor from the State or any third-party source, including but not limited to, the State Treasurer and the State Controller.

E. Record Retention

(1) The project sponsor agrees, and will assure that its contractors and subcontractors shall establish and maintain an accounting system and records that properly accumulate and segregate incurred project costs and matching funds by line item for the project. The accounting system of the project sponsor, its contractors and all subcontractors 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 the project sponsor, its contractors and subcontractors connected with PTMISEA funding shall be maintained for a minimum of three (3) years from the date of final payment and shall be held open to inspection, copying, and audit by representatives of the State and the California State Auditor. Copies thereof will be furnished by the project sponsor, its contractors, and subcontractors upon receipt of any request made by the State or its agents. In conducting an audit of the costs claimed, the State will rely to the maximum extent possible on any prior audit of the Project Sponsor pursuant to the provisions of federal and State law. In the absence of such an audit, any acceptable audit work performed by the project sponsor’s external and internal auditors may be relied upon and used by the State when planning and conducting additional audits.

(2) For the purpose of determining compliance with Title 21, California Code of Regulations, Section 2500 et seq., when applicable, and other matters connected with the performance of the project sponsor’s contracts with third parties pursuant to Government Code § 8546.7, the project sponsor, its contractors and subcontractors and the State shall each maintain and make available for inspection 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 those various contracts. All of the above referenced parties shall make such materials available at their respective offices at all reasonable times during the entire project period and for three (3) years
from the date of final payment. The State, the California State Auditor, or any duly authorized representative of the State, shall each have access to any books, records, and documents that are pertinent to a project for audits, examinations, excerpts, and transactions, and the project sponsor shall furnish copies thereof if requested.

(3) The project sponsor, its contractors and subcontractors will permit access to all records of employment, employment advertisements, employment 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 the State, for the purpose of any investigation to ascertain compliance with this document.

F. Special Situations

(1) A project sponsor may lend its unused funds from one year to another project sponsor for an eligible project, for maximum fund use each fiscal year (July 1 – June 30). The project sponsor shall collect no interest on this loan.

(2) Once funds have been appropriated in the budget act, a project sponsor may begin a project with its own funds before receiving an allocation of bond funds, but does so at its own risk.

(3) The Department may perform an audit and/or request detailed project information of the project sponsor’s PTMISEA funded projects at the Department’s discretion at any time prior to the completion of the PTMISEA program.

I certify all of these conditions will be met.

CITY OF ATASCADERO

BY: ________________________________
    Wade G. McKinney, City Manager

DATED: ________________________________

BY: ________________________________
    Rachelle Rickard, Director of Administrative Services

DATED: ________________________________