

MEMORANDUM

TAB 93

To: CHAIR AND COMMISSIONERS
CALIFORNIA TRANSPORTATION COMMISSION

CTC Meeting: June 23-24, 2021

From: STEVEN KECK, Chief Financial Officer

Reference Number: 2.5e.(9), Action Item – **YELLOW RELACEMENT ITEM**

Prepared By: Tony Tavares,
District 07 – Director

Subject: **SUPPLEMENTAL FUNDS ALLOCATION FOR PREVIOUSLY VOTED PROJECT (PPNO 3985/EA 1218W – LOS ANGELES COUNTY – INTERSTATE 5) RESOLUTION FA-20-61**

ACTION UPDATE: *This book item corrects the dollar amount and clarifies the details of the Funding Agreement on page 3 and replaces the previous book item.*

ISSUE:

Should the California Transportation Commission (Commission) approve the California Department of Transportation's (Department) request for an additional \$46,413,000 in construction capital and \$8,000,000 in construction support for the State-Administered Multi-Funded State Transportation Improvement Program (STIP)/Proposition 1B Corridor Mobility Improvement Account (CMIA)/State-Local Partnership Program (SLPP) High Occupancy Vehicle/Empire Avenue and Burbank Boulevard Interchange (North HOV Corridor) project (PPNO 3985) on Interstate 5 (I-5) in Los Angeles County, to pay for claims and complete the construction contract?

RECOMMENDATION:

The Department recommends that the Commission approve the requested supplemental funds allocation for this State-Administered Multi-Funded STIP/ Proposition 1B CMIA/SLPP I-5 North HOV Corridor project to pay for claims and complete the construction contract.

PROJECT DESCRIPTION:

The I-5 North HOV Corridor project consists of four segments (Segments 1 thru 4). The total cost for the corridor is approximately \$910 million. The Department has completed the construction of three segments (Segments 1, 2, and 4). This project, the North HOV Corridor project on I-5 (Segment 3) is the last segment of the corridor to complete construction. The project would widen the freeway to add an HOV lane in each direction, construct railroad grade

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separations at two locations, reconfigure the Empire Avenue interchange, and reconstruct the Burbank Boulevard bridge and interchange. This project will extend the life of the pavement, reduce maintenance cost and improve operation, safety, traffic flows, air quality, and mobility for commuters and freight. Soundwalls, retaining walls, and Traffic Operations System elements were also constructed or installed as part of this project.

FUNDING AND CONTRACT STATUS:

The project was allocated for \$224,198,000 in May 2012 for construction capital. The contract was awarded to the lowest bidder in November 2012 for \$195,787,000, of which \$146,405,000 is the State’s share. The project is funded with the following funds: Proposition 1B CMIA, Regional Improvement Program (RIP), Interregional Improvement Program (IIP), Proposition 1B SLPP, and Local Measure funds. Our local partner, Los Angeles County Metropolitan Transportation Authority (LACMTA), provided an additional \$32,848,000 in local funds for Segment 3 construction capital during construction. The total project construction capital budget was \$228,635,000, of which \$195,293,321 has been expended to date. The remaining balance of \$33,341,679 will be used for the outstanding items of work in the contract and some Contract Change Orders (CCOs).

This Supplemental Request of \$54,413,000 would provide the necessary funds to pay for claims per the settlement agreement and other CCOs, address increased support costs, replenish contingency funds, and complete construction. The project is expected to be completed by July 2023.

Below is a table that shows the current split of the overall corridor for the State and LACMTA funding for each of the four segments in the corridor.

I-5 North Corridor Funding Plan			
Project	State Contribution	LACMTA Contribution	Total
Segment 1	\$151,211,505	\$77,864,829	\$229,076,334
Segment 2	\$28,013,029	\$85,088,836	\$113,101,865
Segment 3	\$245,354,160	\$211,193,294	\$456,547,454
Segment 4	\$17,645,010	\$149,274,830	\$166,919,840
Total	\$442,223,704	\$523,421,789	\$965,645,493

Funding for this set of corridor projects is complicated by the fact that many different State fund types were used, and funding from the local side, which were shifted between segments and phases as necessary to address gaps and surpluses on each segment, and since construction began on this phase nearly a decade ago, some of the State funding (such as Proposition 1B CMIA and American Recovery and Reinvestment Act of 2009 [ARRA]) are no longer available

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for proportional increases. Consequently, these cost increases are proposed to be funded through the STIP, with the Interregional Improvement Program (IIP) used to cover the State's share, and Regional Improvement Program (RIP) used for the local's share. The Funding Agreement between the Department and LACMTA did not obligate either party to solely fund the cost increase for this corridor project.

The LACMTA and State relative contributions were calculated based on the proportions agreed to for the entire corridor at the time of award of Segment 3 project (55.51% LACMTA/44.49% State), which was the last of the four segments to be awarded. Using this split, the proportional shares would have been \$30,207,000 for LACMTA and \$24,206,000 for the State. However, the corridor has had a total cost increase of \$93,874,000 and LACMTA contributed an additional \$39,461,000 after the project was awarded. The current request of \$54,413,000 is the difference between the total cost increase of the corridor and the additional already contributed by LACMTA.

Therefore, this request for \$54,413,000 is still based on a proportional split and takes into account this additional funding already contributed by LACMTA. This Supplemental Funds Request for Segment 3 of \$54,413,000 will be split as \$12,653,000 in RIP from LACMTA and \$41,760,000 in IIP from the State. The Department has shared this funding percentage split with LACMTA.

REASON FOR COST INCREASE:

There were many outstanding claims on the project. The Department and the Contractor have agreed to settle all the claims that were submitted up to December 2020 for \$34,200,000 (including interests up to June 30, 2021). The majority of claims are related to delays which includes escalation costs (e.g., labor, equipment, and material).

Construction Capital Cost Increase:

The Contractor submitted a global claim in the amount of \$43,700,000 in May 2020. The Contractor and the Department reached a settlement agreement in December 2020 for \$33,750,000.

The settlement agreement of \$33,750,000 is comprised of the following:

- Delays due to utility relocation and railroad work - 82%
- Differing site conditions related to hazardous waste, subsurface condition - 3%
- Contract Change Orders due to design revisions - 15%

The request for supplemental funds of \$54,413,000 is broken down as follows:

- | | |
|---|--------------|
| • Claims settlement | \$33,750,000 |
| • Interest on the claims (up to June 30, 2021) | \$ 450,000 |
| • Contingencies | \$ 4,313,000 |
| • Repair streets damaged by construction activities | \$ 7,900,000 |
| • Construction support cost | \$ 8,000,000 |

Construction Support Cost Increase:

Shortly after the contract was awarded, it became apparent the utility relocation would not occur without assistance from the Contractor. The Department considered design modifications, but it was not feasible. Therefore, the Department met with the utility companies frequently and regularly to develop an Action Plan to mitigate delays by issuing CCO to the contractor to perform some utility relocation work.

The original number of working days was 900 days; however, due to the utility relocation delays and other issues, it was increased to 1,830 days. As of May 2021, 930 working days were added to the project due to claims. With these delays, the bid prices provided by the Contractor in 2012 are no longer feasible for the work to be done at today's cost. The additional construction support cost is needed to pay for the additional working days.

CONSEQUENCES:

If this Supplemental Funds Request is not approved, the Department will not meet its legal obligation to compensate the contractor per the agreed-upon claim settlement and interest on the settlement agreement will continue to accrue until it is paid. If the negotiated settlement is not paid by June 30, 2021, the contractor has the right to void the settlement agreement, and it will cost the Department and taxpayers more to complete the project.

FINANCIAL RESOLUTION:

Resolved, that \$46,413,000 be allocated from the Budget Act of 2021, Budget Act Items 2660-301-0042 and 2660-301-0890 for construction capital and \$8,000,000 for construction engineering, to provide funds to complete the construction of this project.

Attachment

2.5 Highway Financial Matters

Project #	Allocation Amount	Recipient	Project Title	PPNO Program	Funding Year	Item #	Fund Type	State Federal	State Federal	State Federal
<u>RTPA/CTC</u>		County	Location	Program Codes	State Federal	Project ID	Adv Phase	Current Amount	Additional Amount by	Revised Amount by
Dist-Co-Rte		Postmile	Project Description	EA	by Fund Type			by Fund Type	Fund Type	Fund Type
Postmile			Project Support Expenditures							
2.5e.(9)			Supplemental Funds for Previously Voted Project							Resolution FA-20-61
\$54,413,000			I-5 HOV/Empire Ave & Burbank Blvd (Segments 3).	07-3985						
Department of Transportation			In Los Angeles County, on Route 5, from south of Magnolia Boulevard to just north of Buena Vista.	001-0042				\$301,000		\$301,000
<u>LACMTA</u>			Construct one HOV lane in each direction and Empire Avenue Interchange.	SHA						
Los Angeles				001-0890				\$3,258,000		\$3,258,000
07-LA-5				FTF						
30.0/31.6			Supplemental funds are needed to Complete Construction.	20.10.025.700						
				IIP/2021-22						
				301-0042				\$3,221,000		\$3,221,000
				SHA						
			Total revised amount \$54,413,000	301-0890				\$34,980,000		\$34,980,000
				FTF						
				20.20.025.700						
			<u>ALLOCATION IS CONTINGENT UPON THE PASSAGE OF THE 2021 BUDGET ACT</u>	001-0042				\$375,000		\$375,000
				SHA						
				001-0890				\$4,066,000		\$4,066,000
				FTF						
				20.10.075.600						
				RIP/2021-22						
				301-0042				\$693,000		\$693,000
				SHA						
				301-0890				\$7,519,000		\$7,519,000
				FTF						
				20.20.075.600						
				0700021119						
				3, 4						
				1218W						