

# Memorandum

To: CHAIR AND COMMISSIONERS

Meeting Date: September 24-25, 2003

Reference No.: 2.5e.  
Action Item

From: ROBERT L. GARCIA  
Chief Financial Officer

Prepared by: Jim Nicholas  
Division Chief  
Transportation Programming

Ref: **ALLOCATION FOR SUPPLEMENTAL FUNDS FOR PREVIOUSLY VOTED PROJECTS  
RESOLUTION FA-03-**

## **RECOMMENDATION:**

The California Department of Transportation (Department) recommends that the California Transportation Commission (Commission) approve the following Resolution.

## **FINANCIAL RESOLUTION:**

Resolved that \$746,000 be allocated from the Budget Act of 2003, from Budget Act Items 2660-302-0042 and 2660-302-0890 to provide additional funds for the projects listed below.

## **SUMMARY AND CONCLUSIONS:**

This resolution allocates \$746,000 of additional State and Federal funds for two (2) previously approved project listed below:

Project	Dist-Co-Rte	Original Vote/G11 <u>Amount</u>	Award <u>Amount</u>	Current Budget <u>Amount</u>	Current Allocation Revision <u>Amount</u>	Revised Budget <u>Amount</u>	Total Increase <u>Vote/Award</u>
1	11-SD-905	\$6,100,000	\$5,751,000	\$6,526,100	\$621,000	\$7,147,100	24% A
2	11-SD-008	\$2,258,000	\$2,525,500	\$2,645,500	\$125,000	\$2,770,500	23% V

Project # Allocation Amount Recipient County Dist-Co-Rte Postmile	Location Project Description Reason for Supplemental Funds	EA PPNO Budget Year Item # Prgm Codes Program	State Federal Current Budget Amount	State Federal Additional Allocation	State Federal Revised Total Amount
<b>2.5e Supplemental Funds for Previously Voted Projects</b>			<b>Resolution: FA-03-</b>		
1 \$621,000 Department of Transportation San Diego 11S-SD-905 12.0	In San Diego County in and near San Diego at the Mexican Border Crossing  Construct commercial vehicle bypass.  Supplemental funds are needed to close out project.	022141 0375L 1997/98 301-0042 301-0890 20.20.205.320 SHOPP	\$698,000 \$5,386,000	- -	\$698,000 \$5,386,000
		2003/04 302-0042 302-0890 20.20.201.321 SHOPP	\$50,700 \$391,400 \$6,526,100	\$72,000 \$549,000 \$621,000	\$122,700 \$940,400 \$7,147,100



**PROJECT DESCRIPTION**

The project is located in San Diego County at the United States/Mexico Border Crossing. North American Free Trade Agreement (NAFTA)-related legislation changes allowed Mexican commercial vehicles to enter the United States in order to travel beyond the existing border limit zone. This project will construct a commercial vehicle bypass and the Route 905 commercial vehicle enforcement facility.

### FUNDING STATUS

The project was programmed in the 1996 SHOPP (State Highway Operations Protection Program) for \$5,472,000 for construction in the FY 1996-97. Due to higher costs in roadway excavation, retaining walls, and structures items, the project's allocation was increased \$6,100,000. The project was awarded to Weir Construction Corporation in March 1998 for \$5,751,000.

During the construction of this project, all available G-12 supplemental funds were utilized to pay for cost increases due to overrun on contract items, additional security measures, and to replenish the project contingency funds. Example of overrun items requiring additional funds included, among others, the upgrade of the irrigation system from using potable water to recycled water, additional traffic handling, and the relocation of utility lines. Currently, the total arbitration award against the project is \$1,151,000. After applying all remaining project funding, another \$621,000 will be needed to close out the construction contract. This request for \$621,000 in supplemental funds results in an overall cost increase of 24% over the award amount of the project.

### REASON FOR INCREASE

The construction of this project was completed and accepted on January 5, 2001. On April 24, 2001, the contractor submitted claims totaling \$3,530,844 in Exceptions to the Proposed Final Estimate. Some of the claims included home office overhead and interest, lost productivity and labor inefficiencies, and underpayment of quantities. The Department followed the Claims Resolution process as described in Section 9-1.07B, "Final Payment and Claims" of the Standard Specifications. The Board of Review was not able to resolve the contractor's claims and the contractor then filed for arbitration. Prior to the arbitration, the Department and the contractor did attempt mediation, however, the claims remained unresolved.

On August 6, 2003, the arbitrator issued the Final Award giving Weir Construction Corporation the sum of \$1,091,625 plus interests and \$16,957 in costs totaling \$1,151,000, including interests calculated through October 2003. Although this amount was reduced through the remaining project funds, additional funds are still needed in order to close out this project.

### FUNDING OPTIONS

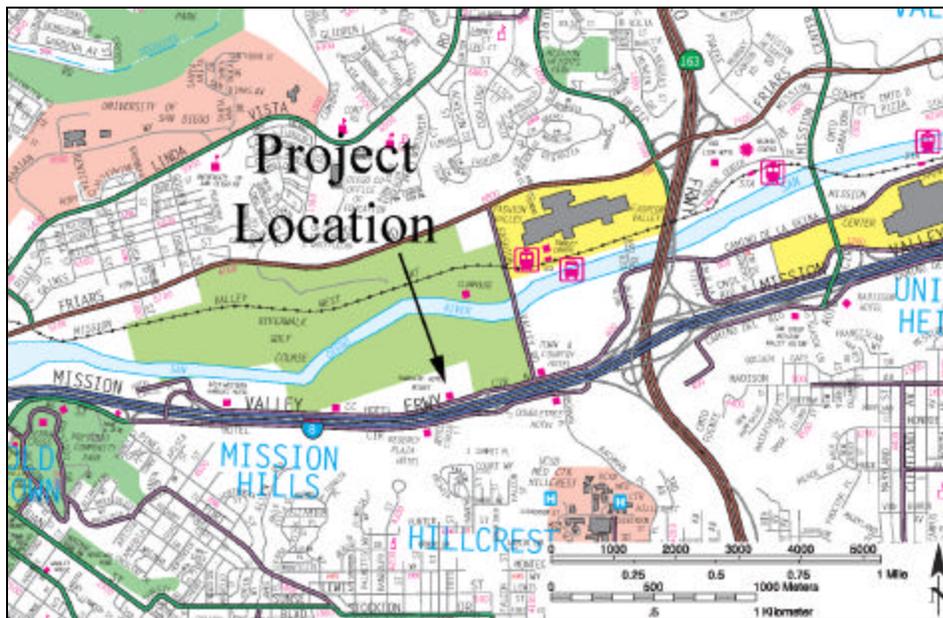
OPTION A: Approve this request as presented above for \$621,000 to allow the close-out of the construction contract of this project.

OPTION B: Since all work has been completed and contract is accepted, denial of this request would most likely result in the contractor pursuing further legal actions to recuperate the cost. The future costs to resolve these issues would most likely be greater than the current request.

### RECOMMENDED OPTION

The Department recommends OPTION A as presented above for \$621,000 to close out this construction contract.

Project # Allocation Amount Recipient County Dist-Co-Rte Postmile	Location Project Description Reason for Supplemental Funds	EA PPNO Budget Year Item # Prgm Codes Program	State Federal Current Budget Amount	State Federal Additional Allocation	State Federal Revised Total Amount
<b>2.5e Supplemental Funds for Previously Voted Projects</b>			<b>Resolution: FA-03-</b>		
2 \$125,000 Department of Transportation San Diego 11S-SD-8 1.9	In San Diego County in San Diego at various locations.  Construct fiber-optic communication and closed circuit television system.  Supplemental funds are needed to close out project.	060101 0123A 1996/97 301-0042 301-0890 20.20.300.620 TSM HB4N  2003/04 302-0042 302-0890 20.20.201.315 SHOPP	\$2,645,500  -  -  -  -  \$2,645,500	-  -  \$125,000  -	\$2,645,500  -  \$125,000  -  \$2,770,500



**PROJECT DESCRIPTION**

The project is located on State Highway Routes 8, 163, and 805 in San Diego County at various locations. The scope of work is to install a Closed-Circuit Television System (CCTV) and the fiber-optic conduits at the Route 8/163 Interchange to identify and report incidences to the Transportation Management Center (TMC).

FUNDING STATUS

The project was programmed in the 1996 SHOPP for \$1,961,000 for construction in the FY 1996-97. Due to increases in the costs of fiber-optic communications systems and network and communication equipment, the allocation for this project was increased to \$2,258,000. The project was awarded to MBE Electric Inc. in September 1997 for \$2,525,500.

A G-12 supplemental funds request for \$120,000 was approved on April 9, 1998 to install signal interconnect cable for camera control and to construct the enclosure to house sensitive electronic equipment. This request of \$125,000 in supplemental funds for payment of the arbitration award, combined with other G-12 requests, results in an overall cost increase of 23% over the vote amount of the project.

REASON FOR INCREASE

The construction of this project was completed and accepted on April 30, 1999. On July 13, 1999, the contractor submitted claims totaling \$717,055 in Exceptions to the Proposed Final Estimate. Some of the claims included extra costs associated with conduit installation, unabsorbed home office expense, and differing site conditions. The Department followed the Claims Resolution process as described in Section 9-1.07B, "Final Payment and Claims" of the Standard Specifications. The Board of Review was not able to resolve the contractor's claims and the contractor then filed for arbitration.

On April 22, 2003, the arbitrator issued the Final Award giving MBE Electric Inc. the sum of \$435,958 plus interests and \$21,975 in costs totaling \$616,884 including interests calculated through October 2003. Although this amount was reduced through the remaining project funds, additional funds are still needed in order to close out this project.

FUNDING OPTIONS

**OPTION A:** Approve this request as presented above for \$125,000 to allow the close-out of the construction contract of this project.

**OPTION B:** Since all work has been completed and contract is accepted, denial of this request would most likely results in the contractor pursuing further legal actions to recuperate the cost. The future costs to resolve these issues would most likely be greater than the current request.

RECOMMENDED OPTION

The Department recommends **OPTION A** as presented above for \$125,000 to close out this construction contract.