

Memorandum

To: CHAIR AND COMMISSIONERS

CTC Meeting: May 19-20, 2010

Reference No.: 2.5e.
Action Item

From: NORMA ORTEGA
Chief Financial Officer

Prepared by: Rachel Falsetti
Division Chief
Transportation Programming

Subject: **ALLOCATION FOR SUPPLEMENTAL FUNDS FOR PREVIOUSLY VOTED PROJECT
RESOLUTION FA-09-12**

RECOMMENDATION:

The California Department of Transportation (Department) recommends that the California Transportation Commission (Commission) allocate an additional \$13,500,000 for the State Highway Operation and Protection Program (SHOPP) project identified below.

ISSUE:

Additional funds are needed for one previously approved project in order to close out the contract.

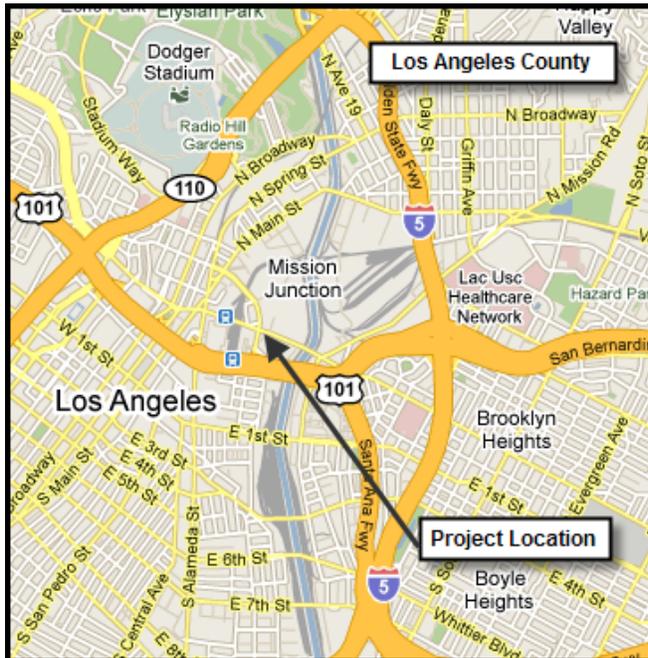
RESOLUTION:

Resolved, that \$13,500,000 be allocated from the Budget Act of 2008, Budget Act Item 2660-303-0042, to provide additional funds for the project identified below.

<u>Project</u>	<u>Dist-Co-Rte</u>	<u>Original Allocated Amount</u>	<u>Original Award Amount</u>	<u>Current Allocation</u>	<u>Allocation Adjustment</u>	<u>Revised Allocation</u>	<u>% Increase Above Current Allocation</u>
1	07-LA-5530	\$38,430,000	\$38,430,000	\$40,518,360	\$13,500,000	\$54,018,360	33%

RECOMMENDATION:

The Department recommends that this request for \$13,500,000 be approved to allow the Department to close out the contract.

**PROJECT DESCRIPTION:**

The project is located in Los Angeles County at Cesar Chavez Avenue and Vignes Street. The scope of work is to design and construct the Los Angeles Regional Transportation Management Center (LARTMC) Building and communication tower.

FUNDING STATUS:

This SHOPP project was voted in June 2000 for \$38,430,000. This facility project was administered by the Department of General Services (DGS) for the Department. During construction, an additional \$2,088,360 was allocated under G-12 authority. The current allocation is \$40,518,360. An additional \$13,500,000 in supplemental funds is needed to resolve all issues in arbitration and close out the contract. This request for supplemental funds results in an increase of 33 percent over the current allocation.

REASONS FOR COST INCREASE:

The state-of-the art LARTMC facility and communication tower are designed to comply with the Essential Services Act, which requires the facility to remain operational in the event of a maximum credible earthquake. The uniqueness and complexity of this facility, discrepancies between architectural and structural plans, process involved with obtaining the permits to comply with the Essential Services Act, and complex coordination efforts among a large number of stakeholders caused delays and cost increases on the project, which led to claims by the contractor. Based on the claims, the State, designer

and contractor have entered into arbitration and have reached an agreement to settle for \$14,500,000, which consists of \$13,500,000 from the Department and \$1,000,000 from the designer of the project.

In order to comply with the arbitration settlement, additional funds are required for this project. This request for \$13,500,000 in supplemental funds will be used to pay the contractor and resolve the claim. Although DGS and the Department do not see merit in all the claimed issues, significant exposure exists with several of the issues if the matter were to proceed through legal channels. The negotiated agreement settles all outstanding disputed issues and claims and potential claims resulting from this contract. Due to significant exposure to the State, the settlement offer presents a reasonable and appropriate means to resolve the outstanding issues.

FUNDING OPTIONS:

OPTION A: Approve this request for supplemental funds, as presented above, for \$13,500,000 to close out the contract.

OPTION B: Deny this request and allow the contractor to pursue the contract claim through legal action.

RECOMMENDED OPTION:

The Department recommends that this request of \$13,500,000, as presented in Option A above, be approved to allow the contract to close out.