

Memorandum

To: CHAIR AND COMMISSIONERS
CALIFORNIA TRANSPORTATION COMMISSION

CTC Meeting: August 22, 2012

Reference No.: 2.5e.(5)
Action Item

From: NORMA ORTEGA
Chief Financial Officer

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Division Chief
Transportation Programming

Subject: **ALLOCATION FOR SUPPLEMENTAL FUNDS FOR PREVIOUSLY VOTED PROJECTS
RESOLUTION FA-12-07**

RECOMMENDATION:

The Department of Transportation (Department) recommends that the California Transportation Commission (Commission) allocate an additional \$9,000,000 for the Route 405 High Occupancy Vehicle (HOV) – Route 90 to Route 10 project (PPNO 0837A/C) in Los Angeles County.

ISSUE:

Additional funds are needed for one previously voted State Transportation Improvement Program (STIP) project in order to close out the construction contract.

RESOLUTION:

Resolved, that \$9,000,000 be allocated from the Budget Act of 2011, Budget Act Items 2660-301-0042 and 2660-301-0890, to provide additional funds for the project identified below.

Dist-Co- Rte	Funds	Original Allocated Amount	Current Allocation ⁽¹⁾	Allocation Adjustment	Revised Allocation	% Increase Above Current Allocation
07-LA-405	STIP	\$86,270,000	\$114,097,000	\$9,000,000	\$123,097,000	7.9%
	Total	\$107,118,000	\$148,945,000	\$9,000,000	\$157,945,000	6.0%

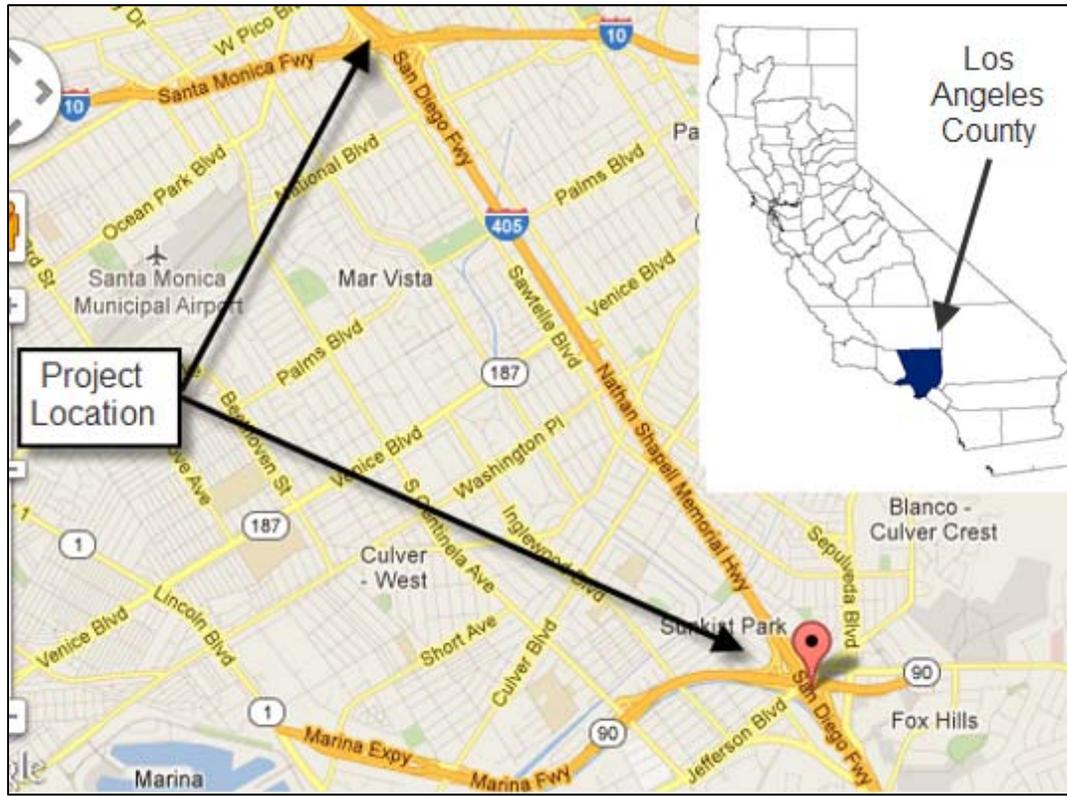
Note for STIP funds:

(1) Includes original allocation, G 12 adjustments, and supplemental allocation in August 2010.

RECOMMENDATION:

The Department recommends that this request for \$9,000,000 be approved to allow the Department to close out the construction contract.

PROJECT LOCATION:



PROJECT DESCRIPTION:

The project is in Los Angeles County on Route 405 from Route 90 to Route 10. The project constructed HOV lanes, retaining walls, soundwalls and widened existing bridge structures along Route 405 in both directions between Route 90 and Route 10.

FUNDING STATUS:

The Commission allocated \$86,270,000 of STIP - Regional Improvement Program (RIP) funded for this project in June 2003. The project was awarded in September 2004 for \$113,211,982. The total project allotment was \$124,880,000 (\$94,032,000 RIP, \$30,085,000 Los Angeles County Metropolitan Transportation Authority (LACMTA) and \$763,000 City of Los Angeles).

In August 2010, the Commission approved the Department's request for an additional \$23,000,000 (\$19,000,000 RIP and \$4,000,000 LACMTA funds) to resolve outstanding disputes related to delays on the project. At that time, the Department advised the Commission of the possibility that a follow up request for supplemental funding would be needed to cover unresolved claims.

An additional \$9,000,000 is now needed as a result of a settlement between the Department and the contractor.

REASONS FOR INCREASE:

The project itself is located on one of the most congested sections of Route 405 near the Los Angeles International airport. Maintaining mobility for the public was a difficult but mandatory on-going effort. The project's budget and schedule were significantly impacted by major delays due to complications with the extensive utility relocations and coordination with numerous utility companies.

The Department faced significant challenges in getting this complex project built. Unfortunately, this ultimately resulted in over 200 individual claims being submitted by the contractor totaling over \$46 million, not including potential legal fees, arbitration expenses, and additional interest accrual. Consequently, the Department retained professional claims experts to assist in analyzing the submitted claims.

Numerous negotiation sessions were held with the contractor in an attempt to resolve the outstanding claims within the \$23,000,000 supplement to the project. However, no agreement was reached and in December 2011, the contractor filed for arbitration. With outstanding claims continuing to increase due to contractual and statutory interest provisions, the Department engaged in formal mediation with the contractor. In June 2012, all claims were successfully resolved, resulting in a settlement amount of \$27,500,000. The Department believes that it reached a prudent and well-reasoned settlement at the mediation, thereby avoiding protracted, costly and risky litigation.

To date, approximately \$4,500,000 of the \$23,000,000 approved in August 2010 has been expended, with \$18,500,000 remaining to close out the contract. To settle the \$27,500,000 claim amount, an additional \$9,000,000 is needed. LACMTA concurs with this request.

FUNDING OPTIONS:

OPTION A: Approve this request for supplemental funds, as presented above, for \$9,000,000 to close out the construction contract.

OPTION B: Deny this request and proceed to arbitration on the original claim of \$46 million.

RECOMMENDED OPTION:

The Department recommends that this request of \$9,000,000, as presented in Option A above, be approved to close out the construction contract.