

Memorandum

To: CHAIR AND COMMISSIONERS

Meeting Date: October 29-30, 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-03-03

RECOMMENDATION:

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

FINANCIAL RESOLUTION:

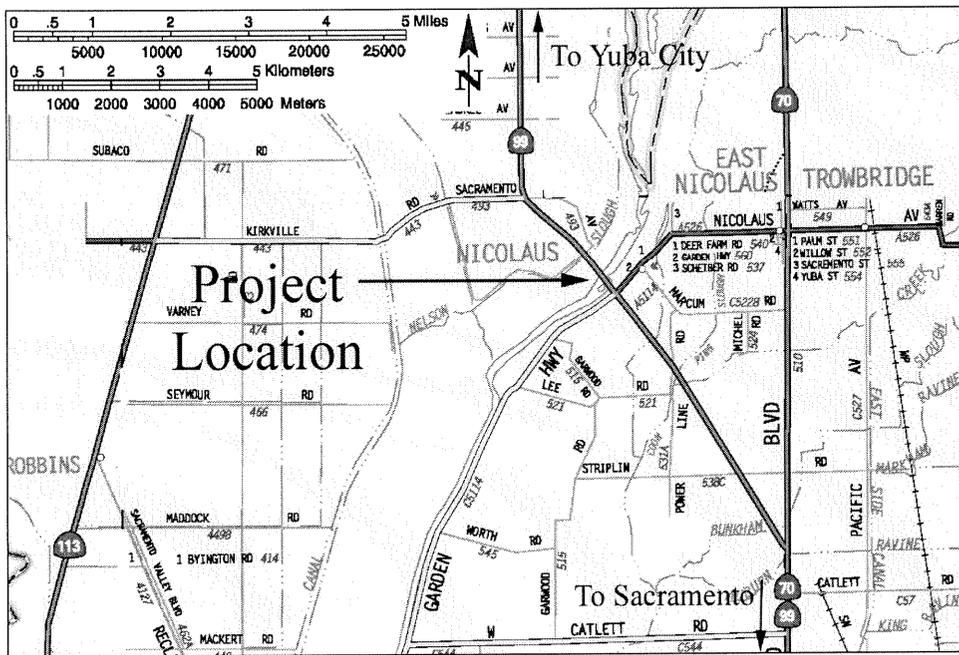
Resolved that \$2,301,000 be allocated from the Budget Act of 2003, from Budget Act Items 2660-302-0042 and 2660-302-0890 to provide additional funds for the projects listed below.

SUMMARY AND CONCLUSIONS:

This resolution allocates \$2,301,000 of additional State and Federal funds for two (2) previously approved project listed below:

<u>Project</u>	<u>Dist-Co-Rte</u>	<u>Original Vote/G11 Amount</u>	<u>Award Amount</u>	<u>Current Budget Amount</u>	<u>Current Allocation Revision</u>	<u>Revised Budget Amount</u>	<u>Total Increase Vote/Award</u>
1	03-Sut-99	\$10,710,000	\$11,560,000	\$11,980,000	\$852,000	\$12,832,000	20% V
2	06-Fre-99	\$16,563,000	\$22,850,000	\$22,850,000	\$1,449,000	\$24,299,000	47% 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
2.5e Supplemental Funds for Previously Voted Projects			Resolution: FA-03-03		
1 \$852,000 Department of Transportation Sutter 03N-Sut-99 11.7/12.8	Near Nicolaus from 0.1 mile south to Nicolaus Avenue to 0.1 mile north of the Feather River Bridge. Widen roadway. Supplemental funds are needed to close out project.	362401 0292F 1994-95 301-0042 301-0890 20.20.205.221 SHOPP 2003-04 302-0042 302-0890 20.20.201.114 SHOPP	\$1,032,303 \$10,601,826 \$11,328 \$334,543 \$11,980,000	- - \$98,000 \$754,000 \$852,000	\$1,032,303 \$10,601,826 \$109,328 \$1,088,543 \$12,832,000



PROJECT DESCRIPTION

The project is located on State Route 99 in Sutter County near Nicolaus. The work included widening the existing highway and two bridges, the Garden Highway Undercrossing, and the Feather River Bridge. Additionally, the bridges were retrofitted to current seismic standards.

FUNDING STATUS

The project was programmed in the 1994 SHOPP (State Highway Operations Protection Program) and was allocated for \$10,710,000 for construction in FY 1995/96. On October 30, 1996, the project was awarded to Kiewit Construction for \$11,560,000. During the construction of the project, all remaining G-12 funds of \$420,000 were approved to pay for supplemental work to remove debris around the bridge piers. This request for \$852,000 in supplemental funds results in an overall cost increase of 20% over the allocated amount of the project.

REASON FOR INCREASE

The construction work on this contract was completed and accepted on November 1, 1999. On January 28, 2000, the contractor submitted claims to the proposed final estimate and requested an additional \$3,349,705 in compensation. The majority of Kiewit's claim involved additional costs for extensive removal of old construction debris from around the bridge piers and the impact this additional work had on the contract item work. The debris included steel sheet piling and concrete used in the original construction of the bridge as well as abandoned cars and other rubbish.

While the Department paid for the direct costs involved with the removal of the old construction debris through supplemental work, the indirect impact cost to the contract item work was not addressed. These impacts were related to damages to the cofferdam sheet piling and the associated increase in dewatering costs caused by the old construction debris.

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. On March 3, 2002, Kiewit filed for arbitration. The arbitration hearing was scheduled for July 8, 2003, however, prior to the arbitration, both parties agreed to resolve the claim through mediation. As the result, the Department and the contractor agreed to resolve all claims including interests for \$852,000.

FUNDING OPTIONS

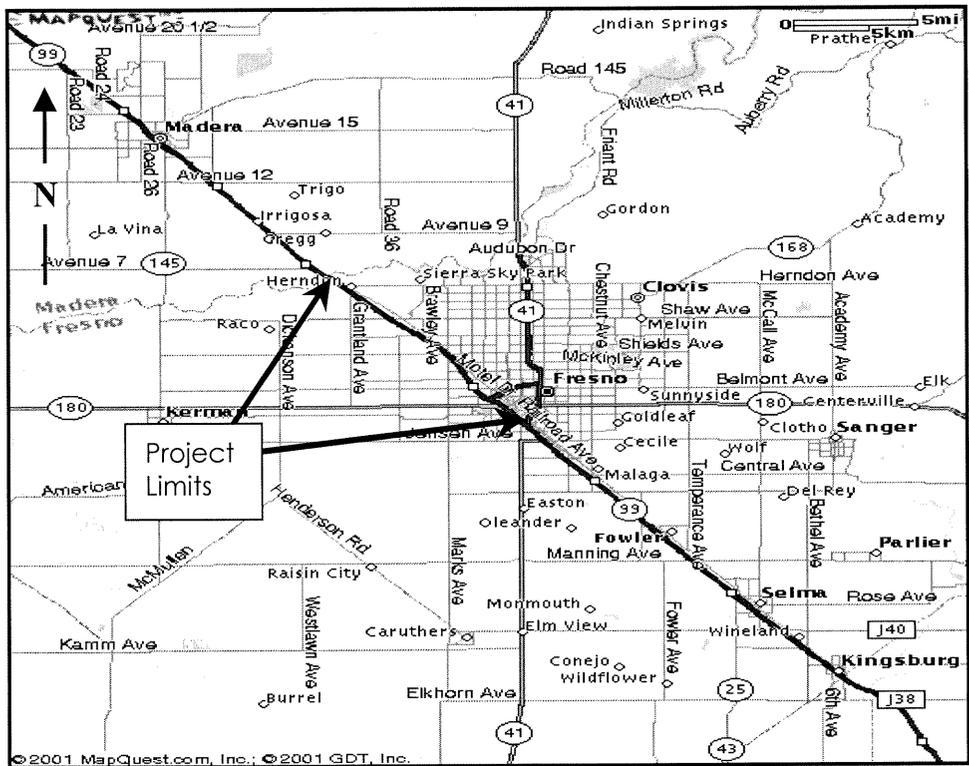
OPTION A: Approve this request as presented above for \$852,000 to allow the close-out of the construction contract of this project.

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 \$852,000 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 Budget Amount	State Federal Additional Allocation	State Federal Revised Total Amount
2.5e Supplemental Funds for Previously Voted Projects			Resolution: FA-03-03		
2 \$1,449,000 Department of Transportation Fresno 06N-Fre-99 20.2/31.6	In Fresno from Ventura Street to Madera County line. Rehabilitate roadway. Supplemental funds are needed to complete the construction contract.	393301 1641 2000-01 301-0042 301-0890 20.20.201.120 SHOPP 2003-04 302-0042 302-0890 20.20.201.120 SHOPP	\$2,622,000 \$20,228,000 \$22,850,000	- - \$167,000 \$1,282,000	\$2,622,000 \$20,228,000 \$167,000 \$1,282,000 \$24,299,000



PROJECT DESCRIPTION

The project is located in Fresno County on Route 99, in and near the City of Fresno, from the Ventura Street Overcrossing to the Madera County Line. The project will crack, seat, and overlay existing pavement, widen inside shoulders, overlay ramps, clean up gore areas, construct barriers and traffic monitoring stations, and install communication conduit.

FUNDING STATUS

The project was programmed in the 2000 SHOPP for construction in FY 2000/01. The project was allocated in March 2000 for \$16,563,000. A supplemental funds request of \$6,287,000 was also approved by the Commission in July 2001 for the award of the contract. This request for \$1,449,000 in supplemental funds results in an increase of 47% over the allocated amount.

REASON FOR INCREASE

The contractor on this project, Cone Engineering Contractors, filed bankruptcy on October 29, 2002, when the project was partially complete. In order to maintain a safe operating condition until contract work resumed, the Department expended a portion of the remaining contract funds, through an emergency contract, to make repairs to the roadway, maintain Storm Water Pollution Prevention measures, delineate the roadway, and grind the road profile.

On August 6, 2003, a bankruptcy settlement agreement was executed involving all construction contracts for this contractor and its bonding company. As part of this settlement, the construction contract for this project was accepted and the bonding company was released from obligation even though the project was incomplete. The settlement was based on the State's determination of the most cost-effective solution for resolving the bankruptcy litigation and completing the project this construction season.

Subsequent to the settlement, a portion of the most critical work was advertised and awarded to W. Jaxon-Baker Incorporated with the remaining unexpended contract funds. However, due in part to the prior interim unanticipated expenditures to maintain the safe operating condition of the highway, the project will require additional funding in order to complete all of the remaining critical work. The Department is requesting approval for an additional \$1,449,000 in order to complete the remaining critical construction work.

FUNDING OPTIONS

OPTION A: Approve this request as presented above for \$1,449,000 to allow the completion of the construction on this project.

OPTION B: Deny this request and direct the Department to deliver the project within the allocated funds. The Department has considered this option. Since all non-essential elements of the construction contract have been eliminated in order to reduce costs, all the remaining work is critical for the project to be completed. The Department will have to program a future project to complete the unfinished work, and the future costs to complete this work would most likely be higher than the current request.

RECOMMENDED OPTION

The Department recommends OPTION A, as presented above for \$1,449,000, to allow the completion of this project.