

# Memorandum

To: CHAIR AND COMMISSIONERS

CTC Meeting: July 19-20, 2006

Reference No.: 2.5e.(1)  
Action Item

From: CINDY McKIM  
Chief Financial Officer

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Transportation Programming

Subject: **ALLOCATION FOR SUPPLEMENTAL FUNDS FOR PREVIOUSLY VOTED PROJECTS**  
**RESOLUTION FA-06-01**

## **RECOMMENDATION:**

The Department of Transportation (Department) recommends that the California Transportation Commission (Commission) approve Resolution FA-06-01, allocating an additional \$1,140,000 for the projects listed below.

## **ISSUE:**

Additional funds are needed for two previously approved projects to settle construction claims.

## **RESOLUTION:**

Resolved, that \$640,000 be allocated from the Budget Act of 2005, Budget Act Item 2660-302-0042, and \$500,000 be allocated from the Budget Act of 2006, Budget Act Items 2660-301-0042 and 2660-301-0890, to provide additional funds for the projects listed below.

Project	Dist-Co-Rte	Original Vote/G11 Amount	Original Award Amount	Current Budget Amount	Current Allocation Revision	Revised Budget Amount	Total Increase Vote/Award
1	07-LA-1	\$8,020,000	\$11,698,000	\$15,448,000	\$640,000	\$16,088,000	5.5% A
2	07-LA-1	\$4,400,000	\$4,763,000	\$6,940,000	\$500,000	\$7,440,000	10.5% A
<b>Total</b>		<b>\$12,420,000</b>	<b>\$16,461,000</b>	<b>\$22,388,000</b>	<b>\$1,140,000</b>	<b>\$23,528,000</b>	<b>6.9% A</b>



**FUNDING STATUS**

The project received an allocation under the Department's delegated authority for \$8,020,000 on December 7, 1994. The project was awarded on February 15, 1995 for \$11,698,000, including \$753,500 under Resolution G-12. Due to additional damage caused by mudslides from that year's winter storms, shortly after award, the Department allocated \$2,924,500 under Resolution G-11. An additional \$3,750,000 in supplemental funds was voted on May 3, 1995, due to increases in the storm damage work. Construction was completed in October 1995 and was accepted in March 1996. The Contractor has filed claims with interest against the State in the amount of \$2,166,811 and commenced arbitration proceedings. An additional \$640,000 in supplemental funds is needed to facilitate the settlement of the arbitration and to close out the contract.

**REASONS FOR COST INCREASE**

The Contractor has sought compensation for the delay in the approval of the water pollution control plan, improper deduction for permit violations, and conflicts in the bridge deck drain design.

The unresolved claims of this contract were handled through the arbitration process. The Department's Legal representatives have reached a settlement with the Contractor.

**FUNDING OPTIONS**

OPTION A: Approve this request, as presented above, for \$640,000 to settle construction claims and close out the contract.

OPTION B: Deny this request and let the claims be settled through legal action.

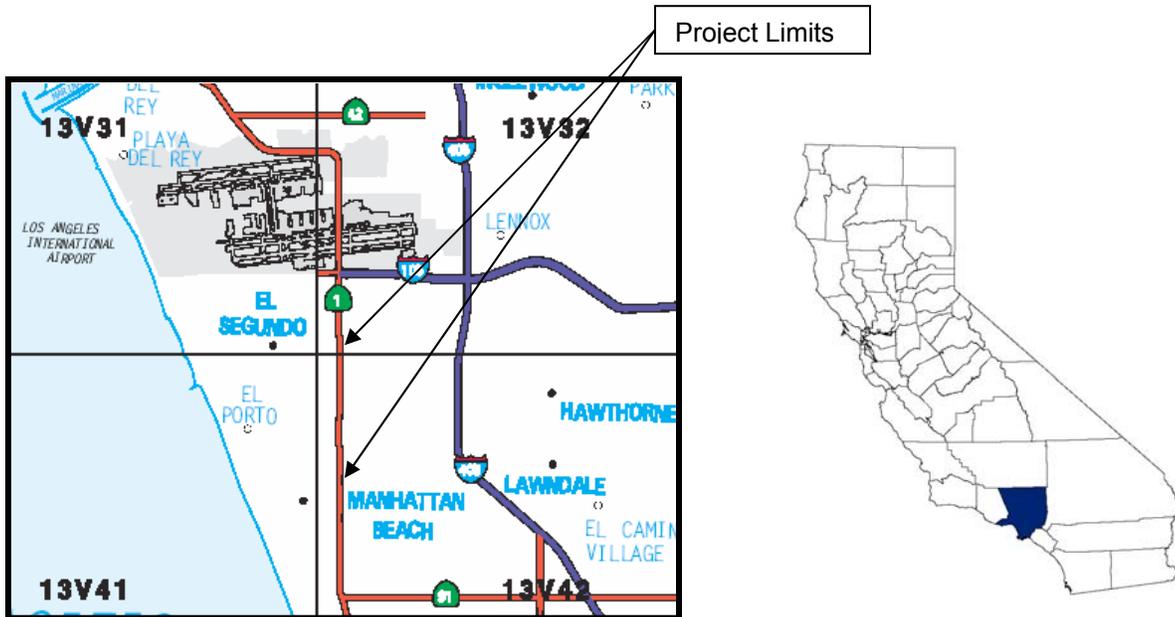
**RECOMMENDED OPTION**

The Department recommends that this request of \$640,000, as presented in Option A above, be approved to settle construction claims and close out the contract.

Project # Allocation Amount Recipient County Dist-Co-Rte Postmile	Location Project Description Reason for Supplemental Funds	EA PPNO Budget Year Prgm Codes Program	State Federal Current Budget Amount	State Federal Additional Allocation	State Federal Revised Total Amount
<b>2.5e.(1) Supplemental Funds for Previously Voted Projects</b>			<b>Resolution FA-06-01</b>		
2 \$500,000 Department of Transportation Los Angeles 07S-LA-1 23.4/25.2	In Manhattan Beach and El Segundo, from 0.1 mile south of Marine Avenue to 0.3 mile north of El Segundo Boulevard. Widen and restripe roadway.  Supplemental funds are needed to settle construction claims and close out contract.  G-12 funds have been exhausted.  <b>Contingent upon passage of the FY 2006-07 Budget Act</b>	102914 0023G 1997-98 301-0042 301-0890 20.20.101.913 GF RIP  1998-99 301-0042 301-0890 20.20.075.413 GF RIP  2006-07 301-0042 301-0890 20.20.075.400 GF RIP	\$741,384 \$6,040,206  \$54,616 \$103,794  \$6,940,000	\$43,000 \$457,000  \$500,000	\$741,384 \$6,040,206  \$54,616 \$103,794  \$7,440,000

**RECOMMENDATION**

The Department recommends that this request for \$500,000 be approved to settle construction claims and close out the contract.



**PROJECT DESCRIPTION**

The project was located in Los Angeles County in the cities of El Segundo and Manhattan Beach. The project was to resurface and widen Pacific Coast Highway Route 1, from 0.1 mile south of Marine Avenue to 0.3 mile north of El Segundo Boulevard.

**FUNDING STATUS**

The project was programmed in the 1996 State Transportation Improvement Program (STIP) and was voted for \$4,400,000 at the June 1998 Commission meeting. The city of El Segundo contributed \$816,000 to the project while the city of Manhattan Beach contributed \$177,000. The project was awarded on June 1999 for \$5,756,000, including \$363,000 under Resolution G-12. Construction began on June 1999 and finished on September 12, 2001. The remaining \$277,000 in G-12 funding was used during construction to pay for construction change orders. An additional \$1,900,000 in supplemental funds was voted in the summer of 2000 to complete the project after encountering significant change order work. Since the project was completed, the Contractor filed claims against the State in the amount of \$1,256,225 and commenced arbitration proceedings. An additional \$500,000 in supplemental funds is needed to facilitate the settlement of the arbitration and to close out the contract. Once the settlement is made to the Contractor, the Department will follow up with an agreement with the cities of El Segundo and Manhattan Beach to negotiate the appropriate share of the cost of the \$650,000 claim by each party.

**REASONS FOR COST INCREASE**

Due to an oversight in design, some city utility and drainage lines were not shown on the plans. This prompted a revision of the plans after the project had been awarded. To correct the oversight in the design, the city of El Segundo needed to relocate utility lines and the project start was delayed by 38 working days. Further redesign of the city's water supply line was done by contract change order work, which delayed the project an additional 64 days for the design and another 10 days to complete the additional drainage work. After this work was completed, the city of El Segundo requested that it be moved due to the new development of a shopping center. The next redesign and construction of the water line added an additional 151 working days to the project. There were 225 working days in the original contract and the total time extension to the project was 306 working days, which constitutes an unreasonable delay under Public Contract Code 7102. The Contractor has claimed overhead and associated costs for this delay period.

The unresolved claims of this contract were handled through arbitration process that followed the completion of the contract work from September 2001 to June 8, 2006. After almost 5 years, the Department's Legal representatives reached a settlement with the Contractor.

**FUNDING OPTIONS**

OPTION A: Approve this request, as presented above, for \$500,000 to settle construction claims and close out the contract.

OPTION B: Deny this request and let the claims be settled through legal action.

**RECOMMENDED OPTION**

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