

Memorandum

To: CHAIR AND COMMISSIONERS

CTC Meeting: December 10-11, 2008

Reference No.: 2.5e.
Action Item

From: CINDY McKIM
Chief Financial Officer

Prepared by: Rachel Falsetti
Division Chief
Transportation Programming

Subject: **ALLOCATION FOR SUPPLEMENTAL FUNDS FOR PREVIOUSLY VOTED PROJECTS
RESOLUTION FA-08-07**

RECOMMENDATION:

The Department of Transportation (Department) recommends that the California Transportation Commission (Commission) approve an additional \$16,248,000 for the two projects identified below jointly funded from the State Transportation Improvement Program (STIP) and State Highway Operation and Protection Program (SHOPP).

ISSUE:

Additional funds are needed for two previously approved projects in order to close out the construction contracts.

RESOLUTION:

Resolved, that \$16,248,000 be allocated from the Budget Act of 2008, Budget Act Items 2660-301-0042, 2660-301-0890, 2660-302-0042 and 2660-302-0890 to provide additional funds for the projects 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	08-SBd-15	\$82,170,000	\$82,760,000	\$87,260,000	\$4,912,000	\$92,172,000	5.6%
2	08-Riv-60	\$31,577,000	\$29,480,000	\$34,128,000	\$11,336,000	\$45,464,000	33.2%

PROJECT DESCRIPTION:

The project is located on Route 15 in San Bernardino County, in the cities of Victorville and Barstow. The project added mix flow lanes and auxiliary lanes, and rehabilitated the roadway.

FUNDING STATUS:

This combined STIP and SHOPP project was voted in December 2001 for \$82,170,000 and was awarded for \$82,760,000 in March 2002. An additional \$4,500,000 was allocated under G-12 authority. The current allocation is \$87,260,000. An additional \$4,912,000 in supplemental funds is needed to resolve all remaining claims and close out the construction contract. This request for supplemental funds results in an overall increase of 5.6 percent over the current allocation.

REASONS FOR COST INCREASE:

In order to comply with an arbitration settlement agreement, additional funds are required for this project. The arbitration settlement was a result of the contractor's claim for added extra work, substantial delays, and cumulative impacts. Prior to the hearing, mediation was held between the Department and the contractor to resolve the claims. Through mediation, a full settlement was reached, and the Department concurred with the settlement. This request for \$4,912,000 in supplemental funds will be used to pay for this settlement and close out the construction contract.

FUNDING OPTIONS:

OPTION A: Approve this request for supplemental funds, as presented above, for \$4,912,000 to pay the arbitration settlement and close out the construction contract.

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

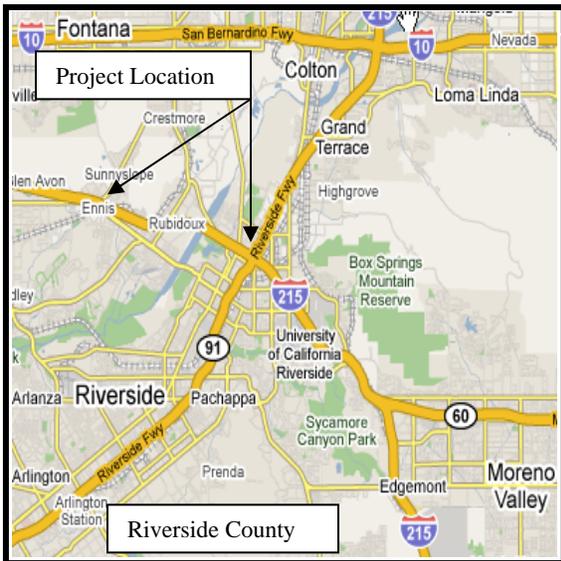
RECOMMENDED OPTION:

The Department recommends that this request of \$4,912,000, as presented in Option A above, be approved to allow the current construction contract to be closed out.

Project # Allocation Amount Recipient County Dist-Co-Rte Postmile	Location Project Description Reason for Supplemental Funds	EA PPNO Budget Year Item # Fund Type Program Codes Program	Current Amount by Fund Type	Additional Amount by Fund Type	Revised Amount by Fund Type
2.5e. Supplemental Funds for Previously Voted Projects			Resolution FA-08-07		
2 \$11,336,000 Department of Transportation Riverside 08S-Riv-60 7.4/12.2	In and near Riverside on Route 60 from 0.3 mile west of Valley Way Undercrossing to Route 215 Interchange and on Route 215 from Route 60 Interchange to University Avenue Undercrossing. Widen and rehabilitate soundwalls and retaining walls. Supplemental funds are needed to closeout the contract.	4632V4 0038A 2008-09 301-0042 SHA 301-0890 FTF 20.20.075.400 RIP 2008-09 302-0042 SHA 302-0890 FTF 20.20.201.120 SHOPP	\$3,180,800 \$24,545,200 \$735,600 \$5,666,400 \$34,128,000	\$1,056,000 \$8,149,000 \$244,000 \$1,887,000 \$11,336,000	\$4,236,800 \$32,694,200 \$979,600 \$7,553,400 \$45,464,000

RECOMMENDATION:

The Department recommends that this request for \$11,336,000 be approved to allow the Department to close out the construction contract.



PROJECT DESCRIPTION:

The project is located in and near the city of Riverside on Route 60 approximately 0.3 mile west of the Valley Way undercrossing to the Route 215 interchange, and on Route 215 from the Route 60 interchange to the University Avenue undercrossing. The work involved highway widening, pavement rehabilitation, soundwalls, and retaining walls.

FUNDING STATUS:

This combined STIP and SHOPP project was voted in July 1997 for \$31,577,000 and awarded for \$29,480,000 in December 1997. To fund Contract Change Orders, an additional \$3,148,000 was allocated under G-12 authority. Additional supplemental funds in the amount of \$1,500,000 were allocated in June 2002. The project was completed on July 3, 2002. The current contract allocation is \$34,128,000. An additional \$11,336,000 in supplemental funds is needed to resolve all remaining claims and close out the construction contract. This request for supplemental funds results in an overall increase of 33.2 percent over the current allocation.

REASONS FOR COST INCREASE:

In order to comply with an arbitration judgment, additional funds are required to close out the contract. The Department disputed the arbitration ruling and as a result the contractor filed a claim with the Riverside Superior Court. The Riverside Superior Court confirmed the original arbitration ruling in favor of the contractor against the Department. The arbitration ruling was a result of the contractor's claim that involved damages for delay due to conflicting bridge seismic retrofit work and added extra work. This request for \$11,336,000 in supplemental funds will be used to pay for this judgment and close out the construction contract.

FUNDING OPTIONS:

OPTION A: Approve this request for supplemental funds, as presented above, for \$11,336,000 to pay the arbitration award judgment as confirmed by the Riverside Superior Court and close out the construction contract.

OPTION B: Deny this request and allow the petitioner to file a writ of mandate with the Court, seeking an order for the Department to pay or be found in contempt of the court order.

RECOMMENDED OPTION:

The Department recommends that this request of \$11,336,000, as presented in Option A above, be approved to allow the current construction contract to be closed out.