

Memorandum

TAB 71

To: CHAIR AND COMMISSIONERS
CALIFORNIA TRANSPORTATION COMMISSION

CTC Meeting: October 8, 2014

Reference No.: 2.8b.(4)
Action Item

From: NORMA ORTEGA
Chief Financial Officer

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Subject: **POST FACT REQUEST TO EXTEND THE PERIOD OF CONTRACT AWARD FOR
LOCALLY- ADMINISTERED STIP PROJECT, PER RESOLUTION G-06-08
WAIVER 14-44**

RECOMMENDATION:

The California Department of Transportation (Department) requests that the California Transportation Commission (Commission) consider the time extension request by the City of Long Beach to extend the period of contract award for the City of Long Beach Phase II Bike Share Program project (PPNO 07-4541) for 12 months, from June 30, 2014 to June 30, 2015.

ISSUE:

On December 11, 2013, the Commission approved Resolution FP-13-32, allocating \$2,262,000 for construction of the City of Long Beach Phase II Bike Share Program project. The City of Long Beach was unable to award the contract prior to the award deadline of June 30, 2014, due to an unforeseen delay.

BACKGROUND:

When the City of Long Beach first requested and received the allocation of \$2,262,000 on December 11, 2013, the Commission also approved an award time extension request of 18 months to the City of Santa Monica for their bike share project because of delays due to the expansion efforts for a regionally coordinated bike share program. The Commission staff asked the City of Long Beach (City) if their allocation request would also be affected by this regional coordination. The City indicated that they were independent of this regional coordination, and that they would have no issues delivering the project timely if the Commission approved the allocation in December 2013. With the City's assurance, the Commission approved \$2,262,000 for construction of the City of Long Beach Phase II Bike Share Program (Phase II) project.

On April 22, 2014, the City submitted a 20-month award time extension request to the Department to be included as an Agenda Item for the June 2014 Commission Meeting for the Phase II project. The explanation given as the reason for delay and the justification for the 20 months was due to the coordination efforts needed for the Phase II project to be included in a regional bike share program. The Los Angeles County Metropolitan Transportation Authority (LACMTA) was developing a regional bike share program as directed by the Metro Board. This multi-agency coordination and direction was not anticipated at the time of allocation in December 2013.

At its June 2014 meeting, the Commission denied the City's extension request based on the Commission staff recommendation that this delay was not unforeseen. The City was not present at the meeting to provide further clarification on its request. Although not required by Commission and Department policies or guidelines, it has become a customary courtesy that the project sponsors are given a forewarning to alert them when a negative recommendation is made for a time extension request. This typically consists of verbal communication from Department staff to the project sponsor as well as the posting of Commission staff recommendation to the Commission on their website shortly before the meeting. In this case, the absence of City staff to defend its request at the June meeting indicates that there appears to have been a breakdown in the communication of the negative recommendation. Due to the lack of a positive confirmation of the verbal communication, it is difficult to determine where the breakdown happened.

Ongoing discussions between LACMTA, Commission staff and the Department continued after the June meeting to determine if there could be a mechanism to get the City on a future agenda. At the August 20, 2014 Commission meeting, LACMTA gave advanced notice that the City would be submitting additional information for the time extension request and present it at the October meeting. On September 8, 2014, the City submitted information to clarify the background and events that had occurred since December 2013.

Part of the additional information the City provided was that from January 2014 to April 2014, while the City was dealing with the delay to award, LACMTA approached the City and suggested that they request the maximum 20-month time extension so that they could join the multi-agency bike share coordination effort. The City agreed, and submitted the time extension to award with the reason for delay being these coordination efforts. This contradicted the City's assertion back in December 2013 that they were ready to allocate and were not affected by regional coordination.

The City was indeed ready to allocate funds in December 2013. The funds were to be used to pursue a phased approach. Phase I was focused on a public private partnership launch of the system in Downtown Long Beach. Phase II was to expand the system to additional neighborhoods with the funding provided by the allocated State Transportation Improvement Program (STIP) funds. In the months immediately following the December 2013 allocation, Phase I was significantly delayed by unforeseen changes in the bike share market. In January 2014, Bixi, the largest North American manufacturer and software provider of bike share systems went bankrupt. This led to the collapse of the market for advertising and sponsorships planned to privately fund the operation of the new bike share system. Over the ensuing months, Long Beach's private bike share provider, Bike Nation, notes that their conversations with potential advertisers and sponsors changed dramatically. While still interested in the bike share program, potential partners were much less interested in funding startup costs; they wanted to see a system up and running before committing funds. Bike Nation subsequently sought additional investor help for their startup costs. This was the reason for the project not meeting the award deadline of six months.

This detailed reason for delay of the award was not submitted as part of the justification for the time extension request for the June 2014 meeting. As such, this request is a post fact award time extension. The City is committed to the delivery of the STIP funded bike share system and has

offered to shorten their original extension period to June of 2015, consistent with the extension term granted by the Commission to the City of Santa Monica. Therefore, the City is requesting a 12-month extension to June 2015.

Current STIP Guidelines, Resolution G-13-07, stipulate that the agency implementing a project request a time extension if the project will not be awarded within six months of the allocation. The Commission may approve waivers to the timely use of funds deadline one time only for up to 20 months in accordance with Government Code Section 14529.8.