State of California
DEPARTMENT OF TRANSPORTATION

Business, Transportation and Housing Agency

Memorandum

To: CHAIR AND COMMISSIONERS

Meeting Date: January 21-22, 2004

Reference No.: 2.5e.
Action Item

PASSED BY
CTC
JAN 22 2004
CALIFORNIA
TRANSPORTATION COMMISSION

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-03-05**

RECOMMENDATION:

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

FINANCIAL RESOLUTION:

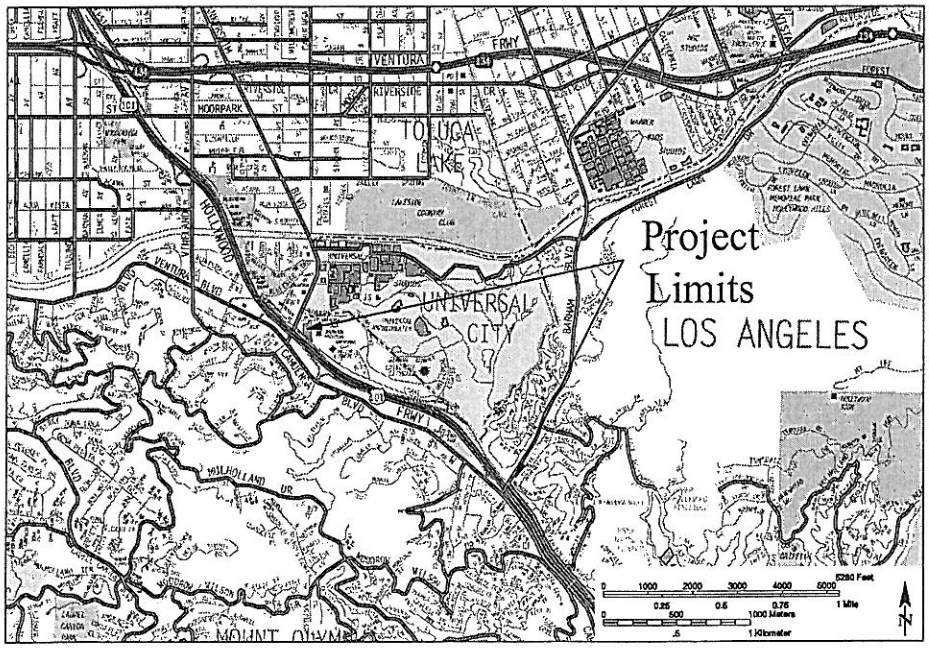
Resolved that $8,086,000 be allocated from the Budget Act of 2003, from Budget Act Items 2660-302-0042 and 2660-302-0890 to provide additional funds for the projects listed below.

SUMMARY AND CONCLUSIONS:

This resolution allocates $8,086,000 of additional State and Federal funds for three (3) previously approved projects listed:

Project	Dist-Co-Rte	Original Vote/G11 Amount	Award Amount	Current Budget Amount	Current Allocation Revision	Revised Budget Amount	Total Increase Vote/Award
1	07-LA-101	$3,900,000	N/A	$3,900,000	$1,580,000	$5,480,000	41% V
2	07-LA-110	$300,000	$330,000	$440,000	$405,000	$845,000	182% V
3	11-Imp-7	$23,420,000	N/A	$23,420,000	$6,101,000	$29,521,000	26% 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-03-05**
1 $1,580,000 Department of Transportation Los Angeles 07S-LA-101 9.4/10.4	In Los Angeles - Barham Boulevard to Ventura Blvd. - upgrade median barrier. Supplemental funds are needed to award the project.	148001 0590M 2002/03 302-0042 302-0890 20.20.201.020 SHOPP	$448,000 $3,452,000		$448,000 $3,452,000
		2003/04 302-0042 302-0890 20.20.201.020 SHOPP	$3,900,000	$182,000 $1,398,000 $1,580,000	$182,000 $1,398,000 $5,480,000



PROJECT DESCRIPTION

This project is located in Los Angeles County in Los Angeles on Route 101 from 1.1 km west of Barham Blvd. Overcrossing to 0.1 km east of Ventura Blvd Off-ramp Overcrossing. The project will upgrade the existing metal beam barrier to safety shaped concrete barrier in the median. Due to the differential elevations between the northbound and southbound roadways, the concrete median barrier will be constructed on top of retaining walls with heights varying from 9 to 14 feet.

FUNDING STATUS

The project was programmed in the 2002 SHOPP for $3,900,000 for construction in FY 2003-04. In June 2003, funds were voted for the programmed amount. Bid results were opened in November 2003. An additional $1,580,000 is needed to award this contract to the low bidder. This request for $1,580,000 in supplemental funds results in an overall increase of 41% over the original vote amount for this project.

BACKGROUND

Route 101, within the project limits, is a north-south split-grade freeway with four to six lanes in each direction. The existing median within the project limits varies from 4.27m to 10.06m in width and is divided by metal-beam barriers. Safety-shaped concrete barriers were constructed on the southerly and northerly ends of the project limits. This project will fill in the safety-shape concrete barrier gap in this highway segment by replacing the metal beam barrier railings with safety shape concrete barriers. This barrier-type will improve roadway safety and reduce future maintenance in this area.

REASON FOR INCREASE

The contract bids were opened on November 6, 2003, and the lowest bid was significantly higher than the Engineer's Estimate. Most of the increases in item costs are related to traffic control, material-handling costs attributed to constrained workspace within the median area, and limited work windows in this high traffic volume portion of Route 101. Although allowances were included in the Engineer's Estimate for consideration of these factors, the contractor's bid contained costs significantly higher than anticipated. An additional $1,580,000 in supplemental funds is needed in order to award this project.

FUNDING OPTIONS

OPTION A: Approve this request as presented above for $1,580,000 to allow this project to be awarded.

OPTION B: Deny this request and direct the Department to deliver the project within the current allocation. The Department considered this option and determined that reducing the scope of work of this project, and executing another project to complete the deleted work later would result in greater costs and more disruption to the traveling public.

RECOMMENDED OPTION

The Department recommends that this request for $1,580,000, as presented in Option A above, be approved to allow this project to be awarded.

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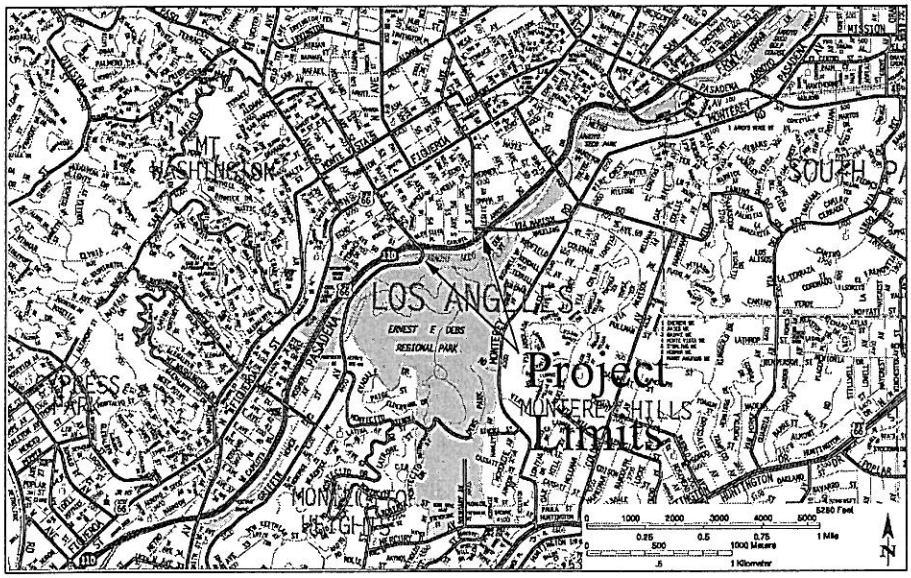
2.5e	**Supplemental Funds for Previously Voted Projects**				**Resolution: FA-03-05**
2 $405,000 Department of Transportation Los Angeles 07S-LA-110 28.1/28.3	In Los Angeles from Avenue 52 Overcrossing to south of Via Mirasol Overcrossing – construct soundwall. Supplemental funds are needed to close-out project following arbitration settlement.	404101 Minor A 1995/96 325-0042 301-0890 20.20.103.511 SHOPP	$350,000 -		$350,000 -
		1998/99 301-0042 301-0890 20.20.050.812 SHOPP	$90,000		$90,000 -
		2003/04 302-0042 302-0890 20.20.103.511 SHOPP	$440,000	$405,000 - $405,000	$405,000 - $845,000



PROJECT DESCRIPTION

This project is located in Los Angeles County in Los Angeles on Route 110. The project constructed a soundwall on the southbound Route 110 Freeway from Avenue 52 Overcrossing to 0.1 mile south of the Via Marisol Overcrossing.

FUNDING STATUS

The project was voted as a Minor A project for $300,000 for construction in FY 1996-97. The contract allotment was adjusted at award to $315,300 due to the higher costs to perform the work at night and for lane closure restrictions. The project was awarded to Lehigh Construction Company in February 1996. In September 1997, additional G-12 funds of $34,700 were approved to pay for additional costs associated with stabilizing the cut slope areas on the project.

After the completion of the project, an additional $90,000 from the remaining G-12 was approved to resolve known claims. The contractor then filed for arbitration and the arbitrator's Decision on the Merits in May 2003 found in favor of a portion of Lehigh's claim in the amount of $405,000 including interest. This request for $405,000 in supplemental funds to close out this project results in an increase of 182% over the allocated amount.

REASON FOR INCREASE

Construction on the soundwall started March 18, 1996. Part of the work included the drilling for placement of cast-in-drilled-hole (CIDH) piles for support of the wall. The contractor claimed existing cobbles and boulders represented a differing site condition and refused to proceed with the work citing that he cannot complete the drilling in accordance with the Department's specifications. Upon repeated requests by the Department, the contractor remobilized on July 31, 1997 and proceeded with the drilling. However, the contractor was unable to perform as required by the specifications of the contract and refused to continue work. The Department terminated the contract for failure by the contractor to prosecute work. The contractor's surety elected not to take control of the project as it disagreed with the Department's decision and protested the termination of control of its contractor. The Department then took control of the project, completed the work, and intended to send the billings to the contractor and his surety for repayment on the project.

Following its termination, Lehigh Construction (Lehigh), filed a claim against the State alleging that its control had been terminated without justification. The Department disagreed with the claims. Lehigh then filed for arbitration, requesting additional compensation for an alleged differing site condition, extended home office overhead, tort damages for wrongful termination, and lost profits.

The arbitrator found in favor of Lehigh on its claim for a differing site condition and extended home office overhead, but denied Lehigh's claim that it was entitled to tort damages for wrongful termination and additional compensation for lost profits. In May 2003, the arbitrator issued the Final Award to Lehigh Construction the sum of $405,000 including interests calculated through January 2004. The arbitrator determined that extra work amounting to a 40% increase in the contract price constituted a material breach of contract that excused further performance by Lehigh, thereby exonerating Lehigh and its surety from any further obligation under the contract, including the payment of extra re-procurement costs. Since all available project funding has been expended, an additional $405,000 in supplemental funds is needed in order to close out this project.

FUNDING OPTIONS

OPTION A: Approve this request as presented above for $405,000 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 $405,000 to close out this construction contract.

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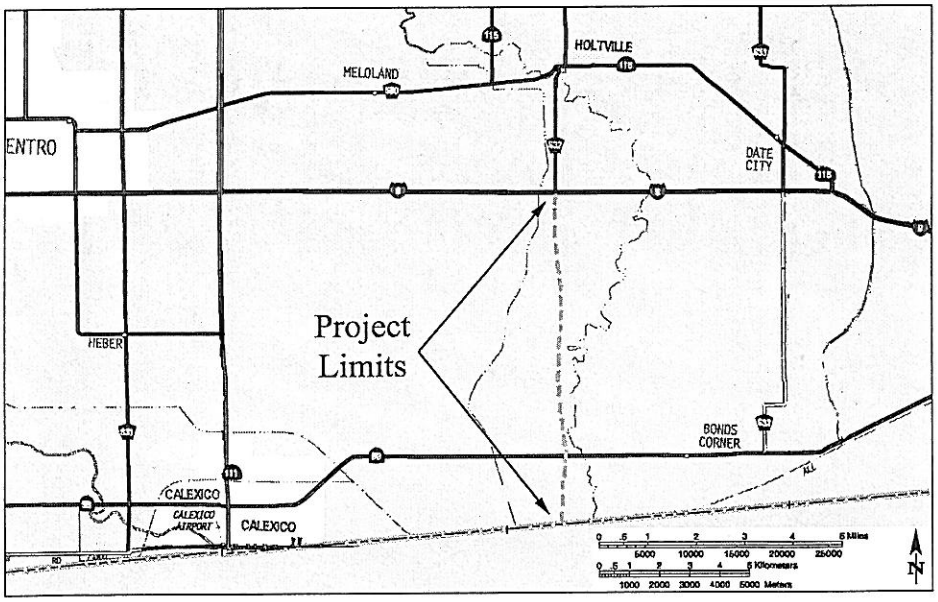
2.5e **Supplemental Funds for Previously Voted Projects**					**Resolution: FA-03-05**
3 $6,101,000 Department of Transportation Imperial 11S-Imp-7 1.1/7.0	Near Calexico - Route 98 at Rood Road to Route 8 - construct 4-lane expressway (NAFTA). (Contributions from other sources $5,500,000) Supplemental funds are needed to award the project.	068001 0051G 2002/03 301-0042 301-0890 20.20.025.700 IIP	$403,000 $3,110,000		$403,000 $3,110,000
		2002/03 301-0042 301-0890 20.20.075.600 RIP	$3,659,000 $16,248,000		$3,659,000 $16,248,000
		2003/04 301-0042 301-0890 20.20.025.700 IIP		$30,000 $226,000	$30,000 $226,000
		2003/04 302-0042 302-0890 20.20.075.600 RIP		$1,075,000 $4,770,000	$1,075,000 $4,770,000
			$23,420,000	$6,101,000	$29,521,000



PROJECT DESCRIPTION

This project is located in Imperial County near Calexico on Route 7 at various locations. The project will extend State Route 7 (SR-7) as a four-lane expressway with limited access between State Route 98 (SR-98) and Interstate 8 (I-8), a distance of approximately 9 km in Imperial County, California.

FUNDING STATUS

The project was programmed in the 2002 STIP for $3,513,000 in Interregional Improvement Program (IIP) funds, $19,907,000 in Regional Improvement Program (RIP) funds, and $5,500,000 in Federal Demonstration funds for construction in FY 2003-04. In June 2003, the project was allocated a total of $28,920,000. The project was advertised in September 2003 with bids opened in November 2003. An additional $6,101,000 is needed in order to award this contract to the low bidder. This request for supplemental funds results in an overall increase of 26% over the voted amount for this project.

BACKGROUND

Approximately 45% of traffic passing through the Calexico East Port-Of-Entry (POE), including all commercial cross-border traffic, is expected to utilize Interstate 8 (I-8). I-8 is the primary interregional commercial route in Imperial County connecting to other routes both northerly and westerly. Currently to reach I-8 from the POE, traffic must take an indirect route using secondary state highways traveling through urbanized areas. The longer travel times add to congestion in the City of Calexico and delays to goods movement in the border region.

The construction of the SR-7 connection to I-8 will improve the operating efficiency and safety on the local roads, enhance international goods movement in Imperial County and Southern California, relieve congestion on existing local roads in the City of Calexico, and accommodate and support the growth in cross-border trade and development of the Gateways of the Americas Specific Plan Area (SPA), a phased development of approximately 1775 acres.

REASON FOR INCREASE

The contract bids were opened on November 20, 2003, and the lowest bid was significantly higher than the Engineer's Estimate. The Department reviewed the low bidder contract bids and conducted interviews with the contractor regarding some high cost items. According to the low bidder, material costs have increased significantly especially in concrete aggregates. Other contributing factors for the increase in costs included the remote location of the job site, the local area labor pool, as well as the long haul distances for materials. Although some allowances were included in the Engineer's Estimate for consideration of these factors, the contractor's bid contained costs significantly higher than anticipated. An additional $6,101,000 in supplemental funds is needed in order to award this project.

FUNDING OPTIONS

OPTION A: Approve this request as presented above for $6,101,000 to allow this project to be awarded.

FUNDING OPTIONS (Con't)

OPTION B: Deny this request and direct the Department to deliver the project within the current allocation. The Department considered this option and determined that reducing the scope of work of this project, and executing another project to complete the deleted work later would result in greater costs and more disruption to the traveling public. Additionally, since the project's purpose is to construct a new highway connection in Imperial County and to reroute the North American Free Trade Agreement (NAFTA)-related truck traffic, reducing the scope would not meet the independent utility of the project.

RECOMMENDED OPTION

The Department recommends that this request for $6,101,000, as presented in Option A above, be approved to allow this project to be awarded.