State of California
DEPARTMENT OF TRANSPORTATION

Business, Transportation and Housing Agency

Memorandum

TAB 79

To: CHAIR AND COMMISSIONERS
CALIFORNIA TRANSPORTATION COMMISSION

CTC Meeting: September 15, 2011

Reference No.: 2.5e.(4)
Action Item

PASSED BY CTC
SEP 15 2011
CALIFORNIA
TRANSPORTATION COMMISSION

From: NORMA ORTEGA
Chief Financial Officer

Prepared by: Rachel Falsetti
Division Chief
Transportation Programming

Subject: **ALLOCATION FOR SUPPLEMENTAL FUNDS FOR PROJECT PREVIOUSLY VOTED RESOLUTION FA-11-04**

RECOMMENDATION:

The California Department of Transportation (Department) recommends that the California Transportation Commission (Commission) allocate an additional $360,000 for one State Highway Operation and Protection Program (SHOPP) project identified below.

ISSUE:

Additional funds are needed for one previously approved project in order to close out the construction contract.

RESOLUTION:

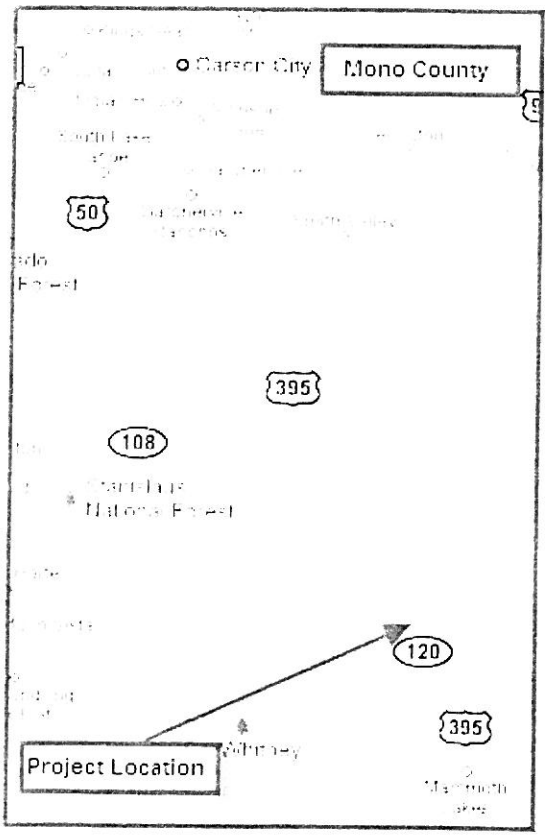
Resolved, that $360,000 be allocated from the Budget Act of 2011, Budget Act Item 2660-302-0890 to provide additional funds for the project identified below.

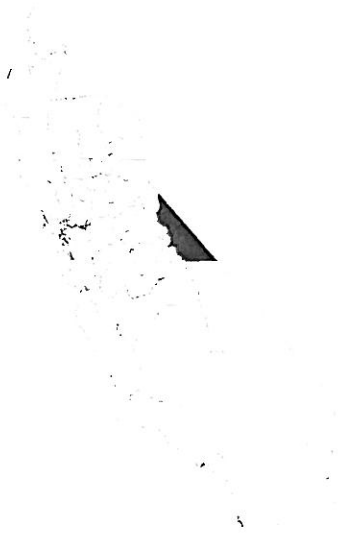
Project	Dist-Co-Rte	Original Allocated Amount	Current Allocation	Allocation Adjustment	Revised Allocation	% Increase Above Current Allocation
1	09-Mno-395	$994,000	$994,000	$360,000	$1,354,000	36.2%

Project # Allocation Amount Recipient County Dist-Co-Rte Postmile	Location Project Description Reason for Supplemental Funds	PPNO Program Budget Year Item # Fund Type Program Codes Project ID Adv Phase EA	State Federal Current Amount by Fund Type	State Federal Additional Amount by Fund Type	State Federal Revised by Amount by Fund Type
2.5e.(4) Supplemental Funds for Previously Voted Projects					**Resolution FA-11-04**
1 $360,000 Department of Transportation Mono 09-Mno-395 52.2/53.1	Near Lee Vining, 0.2 mile north of National Forest Visitor Center Road to 0.1 mile north of Picnic Grounds Road. Outcome/Output: Install snow avalanche control system. Supplemental funds needed to close out the contract. Total Revised Amount: $1,354,000	09-0496 SHOPP 2006-07 302-0042 SHA 20.20.201.150 0900000059 4 313804 09-0496 SHOPP 2011-12 302-0042 SHA 20.20.201.150	$994,000	$360,000	$994,000 $360,000

RECOMMENDATION:

The Department recommends that this request for $360,000 be approved to allow the close out of this project.





PROJECT DESCRIPTION:

This project is located on Route 395 in Mono County, near Lee Vining, 0.2 mile north of National Forest Visitor Center Road to 0.1 mile north of Picnic Grounds Road. This project is necessary to install nine snow avalanche control cannons, known as Gazex®. The project involves the installation of these fixed propane cannons on concrete pads on top of avalanche start zones. Remote firings of the system allow the snow to move and stabilize in controlled manner and prevent or minimize roadway closures at this location.

FUNDING STATUS:

The project was programmed in the 2006 State Highway Operations Protection Program (SHOPP) for $994,000 and was voted for $994,000 on June 7, 2007. The contract was awarded in June 2007 for $994,000 as a Force Account. The Force Account contracting method was used to acquire the cannons and have them installed prior to the onset of the winter season. The contractor is the sole North American distributor of the system. The installation of the nine avalanche control cannons was completed on August 27, 2008.

REASON FOR THE COST INCREASE:

The cost of this project was estimated by the Department, in agreement with the Contractor, at $994,000. The nine Gasex® systems were installed as specified, and after the work was completed, the Contractor billed the Department for the work in excess of the amount allocated for the project. The dispute is over whether to pay the full amount requested by the Contractor ($1,454,000) or limit the amount to the maximum allowed by the contract ($994,000). After an audit of the Contractor's records, depositions taken of the Contractor's principals, and a series of meetings and discussions with the Contractor's Legal Counsel, a tentative settlement in the amount of $340,000 was reached. The requested amount of $360,000 covers the tentative settlement amount of $340,000, plus additional $20,000 for any unforeseen costs in state furnished material.

FUNDING OPTIONS:

OPTION A: Approve this request for supplemental funds, as presented above for $360,000 to complete arbitration and closeout the contract.

OPTION B: Deny this request and the Department may have to pay the original cost requested by the contractor ($1,454,000) plus any additional legal fees.

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

RECOMMENDED OPTION:

The Department recommends that this request for $360,000, as presented in Option A, above, be approved to allow the closing out of this contract.