

Memorandum

TAB 80

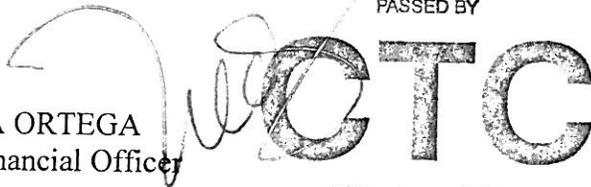
To: CHAIR AND COMMISSIONERS
CALIFORNIA TRANSPORTATION COMMISSION

CTC Meeting: September 15, 2011

From: NORMA ORTEGA
Chief Financial Officer

Reference No.: 2.5e.(5)
Action Item

Prepared by: Rachel Falsetti
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Transportation Programming



SEP 15 2011
CALIFORNIA
TRANSPORTATION COMMISSION

Subject: ALLOCATION FOR SUPPLEMENTAL FUNDS FOR PREVIOUSLY VOTED PROJECTS
RESOLUTION FA-11-05

RECOMMENDATION:

The Department of Transportation (Department) recommends that the California Transportation Commission (Commission) allocate an additional \$691,000 for the I-215 Construct Auxiliary Lanes (Inland Center Drive to Second Street) project (PPNO 0247C) in San Bernardino County.

ISSUE:

Additional funds are needed for one previously voted State Transportation Improvement Program (STIP) project in order to close out the construction contract.

RESOLUTION:

Resolved, that \$691,000 be allocated from the Budget Act Items 2660-301-0042 and 2660-301-0890 to provide additional funds for the project identified below.

Project	Dist-Co-Rte	Current Budget (RIP)	Budget Adjustment (RIP)	Revised Budget (RIP)	% Increase Above Current Budget
1	08-SBd-215	\$7,649,000	\$691,000	\$8,340,000	9.0%

REASONS FOR COST INCREASE:

After construction was completed, the Department issued the Proposed Final Estimate in May 2001. The contractor claimed in the "Exceptions to the Proposed Final Estimate" the damages caused by an asbestos deposit on the job-site. During the dispute review process, the Department contended that the contractor's license had expired and, therefore, refused to conclude the review process. For the next several years, this issue was extensively litigated. Due to these delays, the arbitration did not commence until 2010. The arbitration process was concluded in March 2011, when the Arbitrator issued the final award to the contractor in the amount of \$1,123,000 (including interest).

The Department has already made a partial payment of \$432,200 towards this claim. That payment was made using all the remaining funds that have been previously allocated to the project. An additional \$691,000 in RIP funds are needed to pay-off the entire claim.

FUNDING OPTIONS:

OPTION A: Approve this request for supplemental funds, as presented above, for \$691,000 to close-out construction contract.

OPTION B: Deny this request. The Department does not believe that it would be in the best interest of the public to appeal the final award as it will result in further litigation and the Department liability will increase.

RECOMMENDED OPTION:

The Department recommends that this request of \$691,000, as presented in Option A above, be approved to close-out construction contract for the I-215 Construct Auxiliary Lanes (Inland Center Drive to Second Street) project.