

**Board Report**

File #: 2018-0282, **File Type:** Agreement**Agenda Number:** 23.

**PLANNING AND PROGRAMMING COMMITTEE
JUNE 20, 2018****SUBJECT: FEDERAL FUNDING EXCHANGE WITH COUNTY OF
LOS ANGELES ON STATE ROUTE 126/COMMERCE
CENTER DRIVE INTERCHANGE PROJECT****ACTION: APPROVE RECOMMENDATION****RECOMMENDATION**

APPROVE the amendment of the repayment schedule of federal Surface Transportation Program-Local (STP-L) funds with non-federal funds of the Exchange Agreement between the County of Los Angeles (County) and the Los Angeles County Metropolitan Transportation Authority (Metro) for the State Route 126/Commerce Center Drive Interchange Project, as shown in Attachment A.

ISSUE

The County is requesting to amend the repayment schedule for the balance remaining from the exchange of federal STP-L funds with non-federal funds for the State Route 126/Commerce Center Drive Interchange Project. Board approval is required in order to amend the existing agreement repayment schedule; otherwise the County would become in default with the terms of the Exchange Agreement.

DISCUSSION

On October 27, 2011, the Board approved the Exchange Agreement between the County and Metro for the exchange of federal STP-L funds administered by Metro with non-federal County funds. The 2011 agreement (Attachment B) allowed the County to use up to \$41 million of STP-L funds that would otherwise be distributed by formula to other local agencies for the construction of the State Route 126/Commerce Center Drive Interchange Project. This in turn allowed Metro to negotiate agreements to exchange the non-federal funds as they become available with participating local agencies. The Exchange Agreement was developed to benefit smaller local agencies that can more efficiently and expeditiously utilize more flexible non-federal transportation funding and to ensure that the County is able to draw down as much of the available STP-L funding as possible. The County agreed to repay \$13 million on July 1, 2014 and up to \$28 million on July 1, 2016.

On June 18, 2014, due to a project delay resulting from bird nesting season, the Board approved the County's request to amend the repayment schedule for the \$13 million from July 1, 2014 to June 30,

2015 and up to \$28 million from July 1, 2016 to June 30, 2017. Due to subsequent delays encountered during the construction phase, the County did not incur all costs by June 30, 2017. A revised repayment schedule of \$16 million by July 1, 2017 and up to \$12 million due by July 1, 2018 was requested and approved by the Metro on May 25, 2017.

Construction began in August 2013 was completed in October 2017. Since then the County has been working to close out the project. To date the County has remitted \$29 million to Metro and carries a balance of up to \$12 million, which is currently due on July 1, 2018. The County is requesting to split the final payment of up to \$12 million into two payments: \$5 million by July 1, 2018, and up to \$7 million by July 1, 2019 (Attachment C).

This amended repayment request is a result of a combination of stop notices and additional construction engineering expenditures. Approximately \$1.1 million has been withheld from payment to the contractor due to stop notices filed by multiple sub-contractors and suppliers for unpaid balance of services they completed. These services included paving, construction of concrete barriers, placement of soil cement, and labor. The prime contractor and the County are in the process of resolving stop notice claims by the end of the calendar year.

DETERMINATION OF SAFETY IMPACT

Amending the repayment schedule of the Exchange Agreement will not have any adverse safety impacts on Metro's employees or patrons.

FINANCIAL IMPACT

Federal STP-L funds are suballocated funds based on population and are administered through Caltrans. The funds are not part of the Metro budget nor are they available for Metro capital or operating uses. As federal funds, STP-L dollars are subject to strict programming and administrative requirements from the Federal Highway Administration and Caltrans.

Funds received from the County are placed in an interest-bearing account for Project 500014 for pass-through allocations to local agencies participating in the STP-L Exchange Program, with a two percent (2%) administrative fee assessed by Metro. If no funds are received, no exchanges are made. Accordingly, slower repayment by the County will simply defer Metro's ability to offer pass-through allocations to participating local agencies. No other impacts are expected.

Impact to Budget

Amending the Agreement will have no impact to the current Metro budget or for Fiscal Year (FY) 2019. The 2% administrative fee for staff allocation requested in the FY 2019 budget will draw down existing administrative fees accrued from past STP-L exchanges.

ALTERNATIVES CONSIDERED

The Board may choose not to approve amending the repayment schedule of the Exchange

Agreement. Staff does not recommend this alternative because that would bring the County into default with outstanding payments subject to withholding by Metro from the County's: i) Proposition A local return funds; ii) then from Proposition C local return funds; iii) then from Measure R local return funds; iv) and then from any unobligated STP-L balance funds. We also do not recommend this alternative because local agencies would not be able to expedite their transportation projects and may run the risk of having their STP-L funds lapse.

NEXT STEPS

With Board approval, staff will amend the repayment schedule with the County for the balance of STP-L funds. As the County funds are repaid, staff will also continue to negotiate and execute exchange agreements with eligible participating local agencies and ensure that the funds being made available are properly administered and used on STP-L eligible projects in a timely fashion.

ATTACHMENTS

Attachment A - Proposed 2018 Amendment to Exchange Agreement

Attachment B - 2011 Exchange Agreement for the SR-126/
Commerce Center Drive Interchange Project

Attachment C - Repayment Schedule

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