



**Board Report**

**File #:** 2021-0014, **File Type:** Agreement

**Agenda Number:** 33.

**EXECUTIVE MANAGEMENT COMMITTEE  
MARCH 18, 2021**

**SUBJECT: AMEND TAYLOR YARD BRIDGE CONSTRUCTION FUNDING AGREEMENT**

**ACTION: APPROVE RECOMMENDATIONS**

**RECOMMENDATION**

AUTHORIZE the Chief Executive Officer (CEO) to negotiate and execute an amendment to a Memorandum of Understanding (MOU) dated March 7, 2018 with the City of Los Angeles for the Taylor Yard Bridge with a not-to-exceed amount of \$25,450,000, an increase of \$3,750,000 over the previously authorized amount of \$21,700,000.

**ISSUE**

In a 1992 settlement agreement pertaining to the development of the Taylor Yard Commuter Rail Facility (1992 Settlement), the former Los Angeles County Transportation Commission (LACTC), a predecessor agency to Metro, agreed to design, finance, and construct a pedestrian access system linking the communities to the east and west of Taylor Yard over the Los Angeles River.

In January 2012, the Metro Board approved the award of funds to the City of Los Angeles (City) for the design of the Taylor Yard Bicycle/Pedestrian Bridge over Los Angeles River (Bridge). The 2012 Board Report is included as Attachment A. Accordingly, Metro provided the funds for the design of the Bridge.

In July 2017, the Metro Board authorized the Chief Executive Officer (CEO) to negotiate and execute a Construction Funding Agreement with the City of Los Angeles for Taylor Yard Bridge with a not-to-exceed amount of \$21,700,000. The Board Report stated that execution of the Construction Funding Agreement and completion of the Bridge by the City would fulfill Metro's commitment as part of the 1992 Settlement. Metro proceeded to execute a Memorandum of Understanding dated March 7, 2018 with the City of Los Angeles for the construction of the Taylor Yard Bikeway/Pedestrian Bridge Over Los Angeles River.

The City is forecasting it will exceed its \$21,700,000 budget and has asked for an amendment to the funding authorization in the MOU so that the not-to-exceed amount is increased by \$3,750,000 to \$25,450,000. The terms of the MOU will not change, only the budget.

## **BACKGROUND**

In July 2017, the Metro Board authorized the Chief Executive Officer to negotiate and execute a Construction Funding Agreement with the City for the Taylor Yard Bridge. In the Board Action, the responsibility of administering the MOU was transferred from Countywide Planning and Programming to Program Management. Nine months after the Board Action, Metro executed a Memorandum of Understanding (MOU) dated March 7, 2018 with the City for the construction of the bridge in which Metro would program up to \$21,700,000 starting in FY19. As per the MOU, funds are advanced every six months based on expected expenditures and recalculated every six months based on actual expenditures reflected in quarterly progress reports.

In early June 2018, the City notified Metro that award of the construction contract would be higher than anticipated and therefore immediately sought to increase the value of the MOU by \$3,750,000. In August 2018, Metro staff sent the City a letter acknowledging receipt of the request for additional budget. In the letter, citing the fact construction had not yet started, Metro suggested that the request be revisited at a later time. Through December 2020, the City has made four disbursement requests. Based on the four disbursement requests, Metro has paid the City \$21,498,740 of the \$21,700,000 allowance and has approximately \$200,000 remaining to draw down. In November 2020, the City revisited its request to increase the value of the MOU, hence this proposed action.

## **DISCUSSION**

### Findings

The original \$21,700,000 budget allocated \$16,000,000 for the construction contract and contained \$3,200,000 in construction contingency for a total construction budget of \$19,320,000. However, the value of the construction contract the City awarded to Ortiz Enterprises, Inc. for construction of the Bridge was \$18,725,375, which immediately accounted for \$2,725,000 of the \$3,200,000 in contingency. Since construction began in 2018, the City has executed \$1,331,000 in change orders/contract modifications to the construction contract and has pending or potential change orders totaling \$870,000 for a current construction forecast of \$20,925,000. The City has also indicated that soft costs including staff costs and consultant contracts to support the construction are almost \$1 million higher than previously forecast. Through the end of December 2020, the City spent \$1,775,000 on City Staff Costs, \$787,000 on consultants, and \$663,000 on fees. All figures are summarized in Table 1.

Table 1: Original Budget vs Actuals and Current Forecast

Item	Original Budget (in MOU)	Actual Expenditures (in thousands) Through Dec 2020	Forecast (in thousands)	Increase from Original Budget
Construction Contract Award	16,000,000	14,334,000	18,725,000	2,725,000
Contingency	3,200,000	-	-	-
Changes to Construction Contract*	-	-	2,200,000	2,200,000
Total for Construction Contract	19,200,000	14,334,000	20,925,000	4,925,000

City Staff Costs for Project Management / Construction Management and Inspection	2,100,000	1,775,000	1,865,000	(235,000)
Consultants/Monitoring	370,000	787,000	800,000	530,000
Direct Costs/Fee	30,000	663,000	700,000	670,000
Total for Soft Costs	2,500,000	3,225,000	3,365,000	965,000
Total Construction and Soft Costs	21,700,000	17,559,000	24,290,000	5,890,000

\*Forecast includes 1,331,000 in executed change orders and 869,000 in pending/potential changes

Considerations

In a letter dated November 20, 2020, the City forecast it will need an additional \$2,690,000 to complete the Bridge. However, staff feels it is appropriate to authorize amending the funding of the MOU by up to \$3,750,000 because the MOU has a provision for Audit Requirements/Payment Adjustments. Metro retains five percent (5%) of every City disbursement request. That retention will not be paid to the City until a final audit by Metro. The provision also dictates that the City shall reimburse Metro for any expenditure not in compliance with the MOU.

**DETERMINATION OF SAFETY IMPACT**

This board action will not impact Metro safety standards. Construction of the Bridge is overseen by the City, not Metro.

**FINANCIAL IMPACT**

The proposed action will have an impact of up to \$3,750,000 spread over FY21 and FY22. If Board authorization is given to amend the MOU, the City will request a disbursement of up \$2,690,000 in FY21. Since this is a multi-year project, the Project Manager, Cost Center Manager, and Chief Program Management Officer will be responsible for budgeting the cost in future fiscal years.

Impact to Budget

The proposed action will not have an impact to the FY21 Annual Budget. The FY21 Annual Budget has \$2,860,000 in Cost Center 8510, Construction Contracts/Procurement, for Project 410088, Taylor Yard Bridge. Funding for this project is Proposition C 25% sales tax revenues which are not eligible for transit operations.

**IMPLEMENTATION OF STRATEGIC PLAN GOALS**

This action directly supports the Project which is consistent with Metro’s Strategic Plan Goals to enhance communities and lives through mobility and access to opportunity. By constructing the Metro

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Training and Innovation Center, the Project seeks to better connect residents to workforce development opportunities, a wider range of regional employment, travel, and cultural opportunities.

**ALTERNATIVES CONSIDERED**

The Board could choose not to authorize negotiation and execution of the Construction Funding Agreement. This is not recommended because it does not support Metro's legal commitment made in the 1992 Settlement.

**NEXT STEPS**

Upon Board approval, negotiations to amend the MOU will be finalized and the Construction Funding Agreement executed. The MOU will only be amended to increase the funding authorization and no other terms.

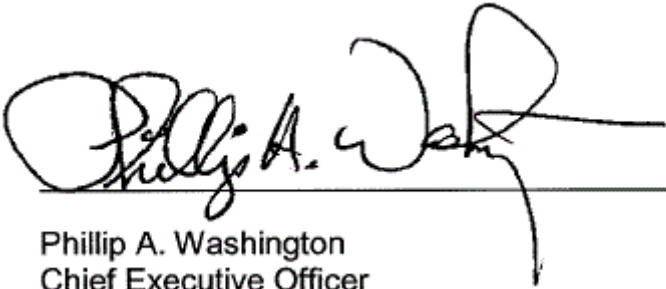
**ATTACHMENTS**

Attachment A - Memorandum of Understanding for the Construction of Taylor Yard Bikeway/Pedestrian Bridge Over Los Angeles River dated March 7, 2018.

Attachment B - Letter from City of Los Angeles Request for Additional Funding Beyond Authority of MOU dated November 20, 2020.

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