

**Board Report**

File #: 2015-0214, **File Type:** Budget**Agenda Number:** 36.

**CONSTRUCTION COMMITTEE
SEPTEMBER 17, 2015****SUBJECT: I-405 SEPULVEDA PASS IMPROVEMENTS PROJECT****ACTION: AUTHORIZATION FOR INTERIM LIFE-OF-PROJECT (LOP) BUDGET INCREASE****RECOMMENDATION**

APPROVING an interim increase to the Life-of-Project (LOP) budget by \$64 million, increasing the LOP budget from \$1,141.4 million to \$1,205.4 million, subject to availability of \$64 million of **federal Regional Surface Transportation Program funds**.

ISSUE

On April 23, 2009, the Board established an original LOP budget of \$1,034 million for the I-405 Project. The 2006 California State Senate Bill 1026 authorized Metro to conduct a demonstration program to enter into a design-build contract for the construction of the northbound high-occupancy vehicle (HOV) lane and related improvements on Interstate 405 freeway through the Sepulveda Pass that would complete the final link in one hundred miles of HOV lanes stretching from Orange County to North Los Angeles County. The strategy to proceed with a design-build contract arrangement was undertaken as a means to facilitate acceleration of the project, reducing the duration of impact to adjacent communities and returning the corridor to full utility a number of years earlier, including significant improved safety with interchange improvements, wider shoulders, ramps and bridges.

The I-405 corridor is noted as the second most congested in the nation and considered one of both regional and national significance. The design-build strategy also ensured a construction schedule that could incorporate \$130 million of federal funding available under the American Recovery and Reinvestment Act (ARRA). In addition to being a major interstate highway link, the Sepulveda Pass has served as a critical utility corridor between the San Fernando Valley and the Westside of Los Angeles for more than 60 years. Had the work proceeded under the standard California Department of Transportation (Caltrans) design-bid-build contracting method, potholing operations to attempt to locate all utilities would have been conducted in advance of compiling the documents for contractor

bids. Instead, under the accelerated design-build method, previously unidentified major utilities became known as the contract progressed. These utility relocations would have been part of the project irrespective of the contracting methodology, but the significant scope and number of utility related issues that have emerged as the work proceeded with the current design-build contract will cumulatively exceed the nominal contingency of 3.7% (\$38.3 million) included in the project's original budget. This is substantially lower than the 10-15% contingency typical for projects the size and complexity of the I-405 Project.

The Board was informed of the potential LOP budget action over a year ago in May 2014 via a Board Briefing presentation by Metro Project Management. To date, the Board has approved three (3) increases to the LOP budget: 1) \$2.6 million to fund overlapping areas of the City of LA's Reversible Lane Project; 2) \$26.1 million to fund lane standardization and access improvements from the State of California Proposition 1B Corridor Mobility Improvement Account (CMIA), and 3) \$78.7 million for the funding gap identified in the Project Forecast dated April 2013. As a result of these increases, the current LOP Budget is \$1,141.4 million. Metro staff has prepared a cost estimate of current Project commitments, and has identified an additional funding increase of \$64 million.

DISCUSSION

Substantial Completion of the Project has been delayed by two years from October 27, 2013 to mid-September 2015. Issues that have contributed to the delay are a number of Non-conformance Reports (NCRs) for non-standard and sub-standard work (Design and Construction) and other construction issues. Project Close-out and Acceptance has not been administered by the contractor in a timely manner. The contractor continues to submit Provisional Sum Requests, Request for Changes, and Claims for work completed as far back as three years ago. As a result of the delay, staffing requirements have increased and are discussed in detail below.

Professional Services

Professional Services account for \$34.94 million of the requested funding increase. Professional Services include Metro staff, Caltrans staff, and consultant staff required to administer the project. Caltrans staffing costs have increased due to added staff required for design and field oversight. Other professional services have increased with the addition of several staff members to prepare estimates, negotiate costs, review Time and Material documentation for Provisional Sum Work and Change Order Work, and assist Metro and the Legal Team with disputes and claims.

Provisional Sum and Change Order Work

Provisional Sum work is forecast to cost an additional \$4.35 million. Provisional Sums are used to pay for unknown but anticipated items of work that could not be accurately addressed in the preliminary engineering documents. Based on limited information, Metro assigned values to Provisional Sum Items and included those amounts in the contract. The actual scope of such work is finalized during the design-build process, and funds are expended upon written authorization by

Metro's Contracting Officer or designee.

3rd Party/MCA and Others

Included in the forecast are 3rd Party/Master Cooperative Agreement and other items making up a total of \$14.75 million. These items include project costs to be incurred for City of Los Angeles, County of Los Angeles, Utility Agencies, J.Paul Getty Trust and the Salvation Army.

Legal, Technical Expert and Project Support Staff

\$9.96 million is for current legal and technical expert costs for claims defense at the Dispute Review Board (DRB) prior to arbitration, and includes expert witness testimony and reports, technical reviews, assistance with position papers, rebuttal papers and DRB presentations.

Schedule to Complete

The original Contract Substantial Completion date for the project was October 27, 2013. At this time, the contractor has not substantiated any excusable delays to the project; however, the contractor and the Metro have agreed on Substantial Completion by end of September 2015. This date could change based on two issues that have not been accepted by Caltrans. These issues are significant enough that one, if not both, could push the Substantial completion date out beyond September 2015. However, both Metro staff and the contractor have committed to work together to meet the September 2015 substantial completion date.

DETERMINATION OF SAFETY IMPACT

The changes identified in this board report will have no impact on safety of the overall I-405 Project at completion.

FINANCIAL IMPACT

The proposed funding strategy is to use \$64 million of Metro's share of Regional Surface Transportation Program (RSTP) funds from the statewide pool of such funds managed by Caltrans as approved by the Board in July 2015. Toll credits, also available from Caltrans, will be used to obtain a waiver of any matching funds that would otherwise be required for federal RSTP funds. By drawing from the statewide pool and toll credits, the funding advance will come from other possible commitments Caltrans could have made to other projects across the entire State. Over time, Metro will seek to roll the advance of its share forward each year by continuing to over-deliver projects into

the statewide pool. If we are successful, each year Caltrans redistributes (in August) similar advances that it receives from a nationwide pool of federal funds. These “August Redistribution” funds from the national pool are ultimate target funding source for the \$64 million federal portion of the increase to the project budget.

If we are not successful in rolling the RSTP share advance forward into the statewide pool each year, other projects in Los Angeles County may experience funding delays from this source ranging from several months to as much as a year. We recommend this strategy here anyway only because the risk of failure is clearly worth taking: these expenses are not avoidable and Metro’s own cash resources are the only other alternative. If we are not successful in securing RSTP funds, we will return to the Board with alternative approaches. Finally, Caltrans is cooperating with us in this effort because they recognize the partnership role they play in this project’s unique delivery strategy where Metro is the project sponsor.

The RSTP funds approved as part of the recommended action will be added to the budget in cost center number 8510, Construction Contracts/Procurement under Project 405523, I-405 Sepulveda Pass Widening Projects, account 53101, Acquisition of Buildings and Structures.

Impact to Budget

The sources of funding for this work are local and federal RSTP funds. The RSTP funds are broadly eligible for any transportation capital improvement purpose. They can also be used to fund transit preventive maintenance and paratransit services required by the Americans with Disability Act. Because the funds are part of a Caltrans supported advance funding strategy to access national “August Redistribution” funds for the I-405 project, we are not recommending these alternative uses. However, if RSTP funds are not available, we will return to the Board with alternative strategies.

Response to Planning and Programming Committee Inquiry

In approving a similar report for an Interstate 10 project, the Planning and Programming Committee requested that we explain the consequences of failing to advance funding by over-delivering Regional Surface Transportation Program (RSTP) funds each year. To perform this analysis, we assume that the failure to accomplish the over-delivery carry forward occurs in the first year of Metro's capital and operating program, FY 2016. Such a failure would require the acceleration of other funds, most likely by accelerating our various planned borrowing programs. After such an acceleration of borrowing, subsequent borrowing will have to be deferred to re-balance capital program. We believe a capital program deficit already exists in the amount of \$900 million through the end of the SRTP in FY24. In dollars terms the shortfall may seem large, but remains manageable at 1.6% of the total Metro controlled funds of over \$54 billion through FY 2024 embedded within the SRTP. While projects already under construction are not yet put at risk by the 1.6% shortfall, any project not yet awarded for construction could be deferred to help resolve the forecasted shortfall in

the future. At this juncture, the Board has not set specific priorities that would enable Metro to defer any projects. If the shortfall becomes unmanageable, we will return to the Board with specific recommendations on how to proceed.

ALTERNATIVES CONSIDERED

Efforts to mitigate the funding increase will continue, however, the cumulative value of Provisional Sum work, Change Orders and Professional Services will exceed the previously increased LOP budget.

NEXT STEPS

With the approval of the recommendations, staff will work with Caltrans to identify and reprogram additional funds for the I-405 Project and make other necessary funding exchanges, budget actions, and funding agreements to fund the project.

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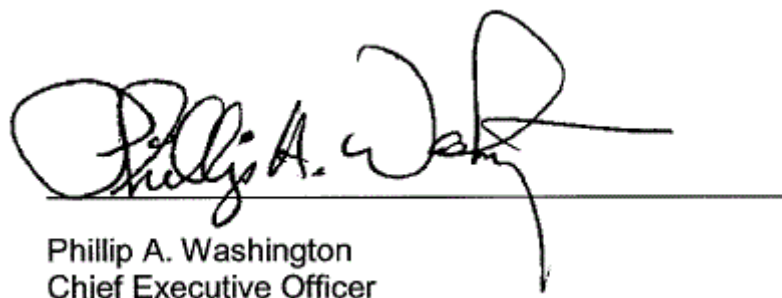
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