

## **MEMORANDUM**

**To:** CHAIR AND COMMISSIONERS  
CALIFORNIA TRANSPORTATION COMMISSION

**CTC Meeting:** October 17-18, 2024

**From:** STEVEN KECK, Chief Financial Officer

**Reference Number:** 2.5e.(3), Action Item

**Prepared By:** Sergio Aceves  
District 03 – Director (Acting)

**Subject:** **SUPPLEMENTAL FUNDS FOR CONSTRUCTION COMPLETION PHASE  
PPNO 6254/EA 0H08U – SACRAMENTO COUNTY –  
UNITED STATES HIGHWAY 50  
RESOLUTION FA-24-24**

### **ISSUE:**

Should the California Transportation Commission (Commission) approve the California Department of Transportation's (Department) request for an additional \$18,200,000 in Construction Capital and \$3,500,000 in Construction Support for the State Highway and Operation and Protection Program (SHOPP) Multimodal Corridor Enhancement and Rehabilitation project on United States Highway 50 (US 50), in Sacramento County, to complete the construction contract?

### **RECOMMENDATION:**

The Department recommends that the Commission approve the requested supplemental funds allocation for this SHOPP project.

### **PROJECT DESCRIPTION:**

The Multimodal Corridor Enhancement and Rehabilitation project is located on US 50, in and near the City of Sacramento (City), from Interstate 5 to east of Watt Avenue, in Sacramento County. This project will rehabilitate the roadway, construct 14 lane miles of high-occupancy vehicle (HOV) (bus/carpool) lanes, widen 12 bridge structures, construct sound walls from Stockton Boulevard to 65th Street, incorporate intelligent transportation system elements into the HOV system, and replace and/or upgrade ancillary facilities including drainage systems, overhead signs, lighting, approach slabs, guard rail, and safety barriers. This is a Design-Build (DB) project.

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serves all people and respects the environment."*

**FUNDING AND PROGRAMMING STATUS:**

This project is a combination of two projects (PPNO 6177/EA 0H080 and PPNO 3301/EA 3F360), that were programmed separately. In August 2017, the SHOPP Roadway Rehabilitation project (Rehab) (PPNO 6177/EA 0H080) was programmed for \$216,000,000 in Construction Capital in the SHOPP for allocation in Fiscal Year 2018-19. In October 2018, the project was amended to increase the programmed amount for Construction Capital to \$286,900,000 due to the change in the delivery process to DB. In March 2019, the project was allocated for \$286,900,000 in Construction Capital.

In May 2018, the US 50 Multimodal Corridor Enhancement project (HOV) (PPNO 3301/EA 3F360) was programmed for \$80,000,000 in Construction Capital in the Senate Bill 1 Solutions for Congested Corridors Program (SCCP) for allocation in 2018-19. In March 2019, the project was allocated for \$80,000,000 in Construction Capital.

In October 2018, the two projects were combined to be delivered as a single project under the DB project delivery method. In March 2019, the combined project was allocated for a total of \$368,900,000 in Construction Capital (which includes \$2,000,000 from Local Funds for HOV). In October 2019, the combined project received a 7-month award time extension for the Construction phase. In April 2020, the bids were opened and awarded to the best value bidder. After negotiations with the contractor, the contract was awarded for a total of \$397,790,000 in Construction Capital (\$315,790,000 for Rehab and \$82,000,000 for HOV).

In July 2020, construction began with 925 working days. In December 2023, the project received supplemental funds in the amount of \$12,394,000 for Construction Capital. The remaining funds are currently at \$47,725,000 in Construction Capital and \$2,794,000 in Construction Support. The project is 85 percent complete with 220 working days remaining. The Construction Contract Acceptance was scheduled for December 2024 as noted in the approved Baseline Agreement and is currently anticipated to be December 2025.

**REASON FOR COST INCREASE:**

This supplemental funds request addresses cost increases due to unanticipated delay in acquiring Construction and Maintenance (C&M) agreements from the Union Pacific Railroad (UPRR).

**Capital Cost Increase:**

The project required C&M Agreements for the Camelia City Viaduct, and Brighton Overhead (OH), as work on these bridges was going to be in UPRR right of way. The Department received approval from UPRR on preliminary plans in 2018 and 2019 for the Camelia City Viaduct and Brighton OH, respectively. It was expected that the delivery of the C&M agreement would then go to the UPRR Real Estate division, and an executed C&M agreement would be received by June 2020. As such, the Department placed language in the DB contract that the C&M Agreements would be executed by December 2020.

After the DB contract was awarded in April 2020, the DB consultant revised the Camelia Viaduct plans to avoid a utility. There was no indication from UPRR that the change would delay execution of the C&M agreement. That was not the case as the C&M Agreement for Camellia City Viaduct was executed nearly a year later in December 2021. The Brighton OH C&M Agreement was delayed due to the unexpected inclusion of a City project, Ramona Avenue, under Brighton OH. It was discovered in July 2020 that a portion of that project conflicted with the plans for Brighton OH. The addition of this new C&M agreement delayed the execution of the Brighton OH C&M Agreement. The C&M agreement for Brighton OH was executed in June 2022, and the C&M Agreement for Ramona Avenue was executed in January 2023. The delay in the execution of the C&M agreements is a result of longer than anticipated review periods by the UPRR Real Estate and Legal divisions.

The Department and DB consultant disagree on the methodology of time impact analysis (TIA) that is utilized to determine project delays related to the C&M Agreements. The dispute went through the Dispute Resolution process and in February 2024, the Dispute Resolution Board (DRB) heard the case and unanimously recommended that the Department and DB consultant utilize the “Association for the Advancement of Cost Engineering International Recommended Practice” to calculate TIA.

Prior to this, while negotiations between the Department and DB consultant were still underway, the Department issued a unilateral change order for a 122-working day (WD) delay based on the original TIA. The unilateral change order mentioned above was issued and compensated the DB consultant with \$3,700,000 for the 122 WD delay and time-related overhead only.

Following the DRB recommendation, the Department's revised TIA resulted in an overall 242 WD delay (an additional 120 WD delay). Accordingly, the Department recognizes that out of the total 242 WDs delay, only 189 WDs are compensable. Although the DB consultant still disagrees with the Department's determination, the Department has accepted that there are direct costs owed to the DB consultant for resequencing and restaging of work to mitigate the C&M delays. The estimated total compensation due to the DB consultant for delays and related impacts is \$40,100,000. After deducting previously granted compensation of \$3,700,000, the additional compensation due to the DB consultant is \$36,400,000 (\$18,200,000 from SHOPP and \$18,200,000 from Sacramento Transportation Authority (STA)/Sacramento Area Council of Governments (SACOG)).

The Department will continue to negotiate with the DB consultant and expects that there may be a possible return to the Commission and local partners for additional funds after the Department's Legal and Financial Audit team further investigates the DB consultant's claims of delay.

#### **Support Cost Increase:**

The increase to the support cost is driven by the delay mentioned above. This has extended the project completion date significantly resulting in need of additional Construction Support in the amount of \$7,000,000. As the C&M agreement relates to both HOV and Rehab, the cost is shared equally (\$3,500,000 from SHOPP and \$3,500,000 from STA/SACOG).

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**CONSEQUENCES:**

If this request for supplemental funds is not approved, the Department will be responsible for the liability delay cost requested with a 10 percent interest penalty. Additionally, the project will be delayed beyond the anticipated substantial completion date of December 2025 resulting in additional disruption to traffic.

**FINANCIAL RESOLUTION:**

Resolved, that \$18,200,000 be allocated from the Budget Act of 2023, Budget Act Item 2660-302-0890 and Non-Budget Act Item 2660-802-3290 for Construction Capital, and \$3,500,000 in Construction Support, to provide funds to complete the Construction phase for this SHOPP project.

Attachment

## 2.5 Highway Financial Matters

Project #	Project Title	PPNO				
Allocation Amount	Location	Program	Funding Year			
Recipient		Item #				
<u>RTPA/CTC</u>	Project Description	Fund Type	State	State	State	State
County	Project Support Expenditures	Program Codes	Federal	Federal	Federal	Federal
Dist-Co-Rte		Project ID	Current Amount	Additional	Revised	Revised
Postmile		Adv Phase	by Fund Type	Amount by	Amount by	Amount by
		EA		Fund Type	Fund Type	Fund Type

2.5e.(3)

## Supplemental Funds for Previously Voted Project

Resolution FA-24-24

1	In the city of Sacramento, from Route 5 to Watt Avenue.	03-6254				
\$21,700,000	Rehabilitate pavement with continuously reinforced concrete pavement, increase vertical clearances at overcrossings, widen onramps to add ramp metered lanes, upgrade curb ramps, and replace concrete barrier, structure approach slabs, lighting, signs, Intelligent Transportation System elements, and guardrail. Also, construct 14 lane miles of HOV (or bus/carpool) lanes, widen 12 bridge structures, construct sound walls from Stockton Boulevard to 65th Street, incorporate Intelligent Transportation System elements into the HOV system, replace and/or upgrade ancillary facilities including drainage systems and overhead signs.	SHOPP				
Department of Transportation		CON ENG				
<u>SACOG</u>		505-3290 RMRA	\$21,800,000	\$401,000	\$22,201,000	
Sacramento		001-0890 FTF	\$4,000,000	\$3,099,000	\$7,099,000	
03-Sac-50		20.10.201.120				
L0.2/R6.1		SHOPP/2017-18				
		CONST				
		802-3290 RMRA	\$267,212,000	\$2,088,000	\$269,300,000	
		20.20.201.120				
		SHOPP/2019-20				
		CONST				
	Outcome/Outputs:	302-0890 FTF	\$50,000,000		\$50,000,000	
	This project will improve safety, ride quality, and traffic operations.	20.20.201.120				
	Total revised amount \$375,684,000.	SHOPP/2022-23				
		CONST				
	Supplemental funds are needed to complete construction.	302-0890 FTF	\$10,972,000		\$10,972,000	
		20.20.201.120				
	EA 0H080/PPNO 03-6177 combined with	SHOPP/2023-24				
	EA 3F360/PPNO 03-3301 for construction under	CONST				
	EA 0H08U/PPNO 03-6254 to utilize the	302-0890 FTF		\$16,112,000	\$16,112,000	
	Design-Build delivery method.	20.20.201.120				
	<u>EA 0H080/PPNO 03-6177:</u>	0319000029				
	CEQA - CE, 8/13/2018	3,4				
	NEPA - CE, 8/13/2018	0H08U				
	<u>EA 3F360/PPNO 03-3301:</u>					
	CEQA - MND, 5/31/2017					
	NEPA - FONSI, 5/31/2017					
	Future consideration of funding approved under					
	Resolution E-17-49; August 2017.					