



July 9, 2018

To: Members of the Board of Directors
From: Darrell E. Johnson, Chief Executive Officer
Subject: OC Streetcar Project Revised Funding Plan

Overview

Since the approval of the OC Streetcar project funding plan in May 2017, the OC Streetcar project has experienced schedule delays that, along with construction bid prices, have impacted the OC Streetcar project's cost estimate. In support of the OC Streetcar project's pursuit of a Full Funding Grant Agreement with the Federal Transit Administration, staff is seeking Board of Directors' approval of a revised OC Streetcar project funding plan.

Recommendations

- A. Approve the revised OC Streetcar project funding plan.
- B. Authorize the use of up to \$108.41 million in additional Measure M2 Transit Extensions to Metrolink (Project S) program funding, contingent on construction contract award.
- C. Authorize staff to make all necessary amendments to the Federal Transportation Improvement Program, submit revised project readiness documents to the Federal Transit Administration as required, and execute any required agreements or amendments to facilitate the recommendation above.

Background

On May 17, 2017, the Orange County Transportation Authority (OCTA) Board of Directors (Board) approved a funding plan for the OC Streetcar project (Project) for purposes of pursuing a Full Funding Grant Agreement (FFGA) with the Federal Transit Administration (FTA) as follows:

Funding Sources May 2017	Amount (millions)	Percent (%) of Project Funding
Federal 5309 New Starts	\$148.96	
Federal Congestion Mitigation and Air Quality Improvement (CMAQ)	\$54.46	
Federal FTA 5307	\$13.26	
Subtotal Federal	\$216.68	72%
State Cap-and-Trade	\$25.52	9%
Measure M2 (M2) - Project S	\$57.15	19%
TOTAL	\$299.34	100%

Slight variance due to rounding

The CMAQ, 5307, and state cap-and-trade funds have all been committed, and the existing M2 Project S funds have been approved by the Board. The remaining funding source to be secured is the Federal 5309 New Starts, which is pending execution of the FFGA with the FTA.

Discussion

Since Board approval of the Project's funding plan in May 2017, several circumstances have occurred that have impacted the Project's cost estimate. A description of each of these factors is described below, as well as a recommended revised funding plan to accommodate the revised Project cost.

Factors Effecting Schedule

In May 2017, the Board authorized the Chief Executive Officer to request and enter into an FFGA with the FTA to secure a federal Capital Investment Grant (CIG) New Starts Program contribution of \$148.96 million. At that time, the date in the Project schedule for FFGA execution was November 2017. Key project activities and procurement schedules were based upon the federal funding commitment being secured by the end of 2017. This assumption was reasonable at the time given the program and Project history, and was made in concurrence with FTA staff and leadership. The Project has met every technical readiness requirement needed to secure the FFGA.

On March 23, 2018, the President signed the Federal Fiscal Year 2018 appropriations bill, which provided \$1.5 billion for New Starts projects within the CIG Program, and additional reporting language directing the Administration to continue to administer the CIG program in accordance with statute. Since the signing of the appropriations bill, OCTA has coordinated with FTA and Congress to address any remaining questions prior to the processing of the FFGA. Within

this time, the Project schedule has changed. The lack of an FFGA created uncertainty in the date of the required possession of the two parcels being acquired for the maintenance and storage facility (MSF), which impacted business relocation negotiations.

While the FTA allows for construction bid opening and awarding a contract prior to the executed FFGA, OCTA cannot execute the construction contract or incur construction contract expenses prior to FFGA execution in order to remain eligible for federal construction reimbursement. Bid prices expire 180 days from bid opening, and the bid opening was delayed twice principally because the FFGA was not progressing as originally planned. With the construction bid opening on June 19, 2018, OCTA is required to award and execute the construction contract before expiration of bids on December 16, 2018. OCTA is anticipating an executed FFGA by October 2018. This is an approximate 11-month delay from when the FFGA was originally anticipated.

In addition to extending the bid opening from March 5, 2018 to June 19, 2018 to accommodate the delay in FFGA execution, it was also extended based upon feedback from the construction industry for additional time to prepare responsive bids given both the complexity of the Project, as well as limited availability of contractor estimating and bidding resources to respond to the invitation for bids (IFB). The construction duration milestones were also slightly extended to accommodate the industry's request for additional time to complete a section of track for vehicle testing, the MSF, and the limitations on the number of on-street segments that can be under construction at one time.

Given the delays associated with the FFGA execution, construction bid opening, and extended construction duration milestones, the revenue service date was extended from December 2020 to the end of August 2021. This eight-month schedule delay also has significant cost implications that impact the professional services supporting the Project, the vehicle pricing, and the construction pricing.

Professional Services

The delay has also resulted in a required increase in professional services that support the Project. This includes OCTA staff resources, as well as the consultant contracts related to project management, design, construction management, and quality.

Design costs have increased to account for support over a longer bidding period, as well as additional work not anticipated in the original scope of the Project. This includes redesigning the Orange County Sanitation District (OCSD) sewer protections, additional design of City of Santa Ana (City) traffic signals needed to accommodate the Project, additional safety enhancement systems required

by the California Public Utilities Commission (CPUC), and ongoing third-party utility relocation support. Board approval of the modifications to the design consultant contract will be presented pending completion of negotiations with the designer. The estimated overall increase in all professional services costs is approximately \$6.01 million.

Vehicles

At the time of the vehicle contract award, the vehicle cost was within the planned budget based upon availability of Project contingency. Given the Project delays and related cost increases, contingency has been globally reassessed and is being applied to other Project budget line items, resulting in a required re-budgeting of the vehicle contract value. Any savings anticipated to be achieved from negotiations with the vehicle manufacturer were not realized as the manufacturer requested additional costs due to a seven-month delay in vehicle delivery. There was also a new high-rail tow vehicle added based upon a re-examination of operational needs. The estimated increase in vehicle costs is approximately \$2.43 million.

Construction Bid

Construction costs have been impacted by the schedule delays, design changes made by addendum, and external market conditions as reflected in the pricing of construction bids received on June 19, 2018.

A significant level of uncertainty in the construction market due to shortages in skilled labor and materials, and rapidly increasing material costs for steel, aggregate, lumber products, and diesel fuel have significantly impacted bid prices. These market factors were evident in all bids received, and particularly in the bid items for mobilization and the MSF. OCTA is not alone in experiencing higher bid prices over engineers' estimates. The Los Angeles County Metropolitan Transportation Authority conducted a construction market analysis focused on Southern California (May 2018) and concluded that construction costs are rising as a result of labor shortage, low unemployment, concurrent large infrastructure projects in the area, and inflation. The report mentions that, "A perfect storm of conditions is occurring in the construction industry with a construction labor shortage, low unemployment, and large amount of ongoing and planned work in the region." This is coupled with rising material pricing with subcontractors and suppliers not guaranteeing pricing beyond a few months resulting in contractors including large contingencies to cover material price risk.

Design changes that were made during the bid process via addendum and reflected in the construction bid include additional safety signal systems to meet requirements of the CPUC, addition of revised OCSD sewer protection and

relocation work, revisions to traction power substation site design in response to requirements from the City and Southern California Edison (SCE), addition of civil and traffic elements to coordinate the Project with the County of Orange Block 16 development, and civil modifications and landscape additions to improve compatibility within Sasscer Park.

Construction bids are currently being analyzed for responsiveness to the IFB requirements. The apparent responsive low construction bid is approximately \$78.89 million higher than the original construction estimate. A bid protest from one bidder was received on June 27, 2018, and is currently under review. The funding plan update is assuming the apparent responsive low bid in the revised cost estimate for the revised funding plan needs.

The results of the bid analysis and the Project construction award recommendation is planned for Board action in August 2018. This may be impacted by the final processing and execution timeline for the FFGA.

Utility Costs

Utility costs in the Project estimate reflect an increase due primarily to recent direction from the FTA to include the full cost for the relocation of SCE and Southern California Gas (SCG) utilities in the Project cost estimate. OCTA has advanced \$12.44 million to keep SCE and SCG relocation work progressing, and OCTA intends on fully recovering these costs at a later date. Previously, only a small portion of these costs were being recognized as part of the Project contingency because the full cost can be recovered based upon franchise rights in place between the City and the utility companies. The FTA is now requiring that the full relocation costs for both SCE and SCG be accounted for in the base Project cost. These funds would be credited to the M2 program (Project S) when costs are recovered.

Similar to the SCE and SCG relocation costs, the Project cost estimate now includes the full cost of the OCSD relocation and protection work, which is reflected in the construction bid cost. OCSD labor costs for design review and construction inspection have also been added to the Project cost.

ROW

ROW acquisition and relocation costs have increased to accommodate the terms of the proposed settlement agreements with the MSF property owners based upon updated property appraisals and relocation cost. The estimated increase in these right-of-way (ROW) costs is approximately \$1.08 million. The FTA does not recognize nor participate in ROW goodwill costs as a Project cost.

Final goodwill costs are still being negotiated and will be handled separately from the official FTA approved Project cost.

Revised Cost Estimate

Based upon these increases, the Project cost estimate increased by approximately 36.22 percent from the May 2017 estimate submitted as part of the FFGA application to \$407.76 million. A 10.19 percent (\$37.84 million) contingency is included in the cost estimate. This contingency level is recommended by the FTA at construction award and is supported by an updated analysis of Project risks.

Attachment A reflects the revised Project cost estimate in the FTA Standard Cost Categories (SCC) format. The cost increases discussed above are distributed amongst the cost categories as required by the FTA. As identified in the SCC workbook, the Project continues to meet the FTA cost effectiveness thresholds for New Starts funding.

Revised Funding Plan

The FTA sets the maximum amount of Section 5309 funding when the Project is approved for entry into the New Starts Engineering phase. For the Project, this amount is the \$148.96 million included in the funding plan approved by the Board in May 2017.

To remain successful in OCTA's pursuit of an FFGA with the FTA, staff is seeking Board approval for the use of an additional \$108.41 million of M2 Transit Extensions to Metrolink (Project S) program funds to accommodate the funding plan increase. This amount of funds is available within the M2 Transit Extensions to Metrolink program and, based upon discussions with the FTA, OCTA believes that using local funds to cover the Project cost increases is a more favorable approach to the FTA. This is supported by the June 29, 2018, letter from the FTA (Attachment B). FTA states that strong local financial commitment and stable, reliable, and dependable non-federal funding sources are necessary for projects to do well in the CIG program. FTA will not sign the agreement committing CIG funding until after the project sponsor has demonstrated that its project is ready, including assurance that the project's development and design have progressed to the point where its scope, costs, benefits, and impacts are considered firm and final; the project sponsor has obtained all non-CIG funding commitments; and the project sponsor has completed all critical third-party agreements. The Project has satisfied these requirements upon Board approval of the financial commitment and revised funding plan.

The funding sources would remain unchanged. Only the total amount of Measure M2 Project S funding will increase. The following table reflects the May 2017 FFGA funding plan and the proposed revised funding plan.

Funding Sources (millions)	May 22, 2017 Plan	July 9, 2018 Plan	Difference	% of Project Funding
Federal 5309 New Starts	\$148.96	\$148.96		
Federal CMAQ	\$54.46	\$54.46		
Federal FTA 5307	\$13.26	\$13.26		
Subtotal Federal	\$216.68	\$216.68		53%
State Cap-and-Trade	\$25.52	\$25.52		6%
M2 - Project S	\$57.15	\$165.56	\$108.41	41%
TOTAL	\$299.34	\$407.76	\$108.41	100%

Slight variance due to rounding

To continue to support the processing of the FFGA with OCTA, the FTA is requesting a commitment from OCTA on the use of the additional M2 Transit Extensions to Metrolink program funds for the revised funding plan.

Next Steps

Upon Board approval, staff will submit the revised funding plan to the FTA for inclusion in the FFGA documentation. Based upon ongoing and consistent communication with the FTA on the status of the FFGA, OCTA anticipates executing the FFGA in October 2018.

Staff will also be returning to the Board in August 2018 for approval of the construction contract award. Construction NTP is anticipated in October 2018, with revenue service starting in September 2021. The specific timing of the construction contract award and NTP may be impacted by the FFGA execution timeline.

Summary

Staff is seeking Board approval of a revised OC Streetcar funding plan.

Attachments

- A. OC Streetcar Project – Main Worksheet – Build Alternative
- B. Letter from K. Jane Williams, Acting Administrator, U.S. Department of Transportation, to Colleague, Orange County Transportation Authority, Dated June 29, 2018

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