



December 2, 2019

To: Regional Planning and Highways Committee

From: Darrell E. Johnson, Chief Executive Officer

Subject: Amendment to Cooperative Agreement with the California Department of Transportation for the Interstate 5 High-Occupancy Vehicle Improvement Project Between Pacific Coast Highway and San Juan Creek Road

Overview

On March 11, 2013, the Orange County Transportation Authority Board of Directors approved a cooperative agreement between the Orange County Transportation Authority and the California Department of Transportation to implement the construction phase of the Interstate 5 high-occupancy vehicle improvement project between Pacific Coast Highway and San Juan Creek Road. An amendment to the cooperative agreement is required to modify and increase construction capital funding to complete and close out the construction phase of the project.

Recommendations

- A. Authorize the Chief Executive Officer to negotiate and execute Amendment No. 4 to Cooperative Agreement No. C-3-1504 between the Orange County Transportation Authority and the California Department of Transportation to increase construction capital funding, in the amount of \$900,000, for construction of the Interstate 5 high-occupancy vehicle improvement project between Pacific Coast Highway and San Juan Creek Road. This will increase the maximum obligation of the construction phase of the agreement to a total contract value of \$63,954,500.
- B. Authorize the use of up to \$900,000 Measure M2 funds for construction capital funding for the Interstate 5 high-occupancy vehicle improvement project between Pacific Coast Highway and San Juan Creek Road.

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- C. Authorize staff to process all necessary amendments to the Federal Transportation Improvement Program and execute any necessary amendments and/or agreements to facilitate associated programming actions.

Discussion

The Interstate 5 (I-5) high-occupancy vehicle (HOV) improvement project (Project) added HOV lanes in both directions of the I-5 between Pacific Coast Highway and San Juan Creek Road. Construction of the Project commenced on March 2, 2014, and was completed on July 2, 2018.

On May 13, 2016, Shimmick Construction Company Inc. (Shimmick) submitted a claim for time-related delay costs associated with construction of retaining wall 349 with differing site conditions and bird nesting delay for construction of soundwall 340, in the amount of \$7,375,529. California Department of Transportation (Caltrans) staff, in coordination with Orange County Transportation Authority (OCTA) staff, has reviewed all of the documents provided by Shimmick and determined that there was some merit from the documentation. As a result, three contract change orders (CCO) totaling \$1,710,148 were issued; however, Shimmick disputed the amount and asserted it was entitled to additional compensation for costs incurred. Over the past year, Caltrans and OCTA staff have coordinated with Shimmick to close out the Project. However, the disputed claim has hindered the closeout. On June 6, 2019, Shimmick submitted a proposed final estimate of \$8,420,016, which included the balance of the unpaid time-related delay costs and bid item adjustments.

In October 2019, Caltrans and Shimmick mutually decided to negotiate a final settlement, in the amount of \$2,122,686, to close out the Project, resolve current costs, and eliminate future legal costs. Caltrans staff has initiated the final CCO for the settled amount. After the current remaining funds in the construction contract allotment are used, the supplemental construction capital funding needed is \$900,000 to pay for the final CCO and close out the project. Use of these funds is consistent with the Measure M2 (M2) program and the OCTA Board of Directors' Capital Programming Policies. This action will increase the available funding in the cooperative agreement from \$63,054,500 to \$63,954,500 (Attachment A).

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Fiscal Impact

The Project is included in OCTA's Fiscal Year 2019-20 Budget, Capital Programs Division, Account 0017-9084-FC104-073, and is funded with M2 funds.

The changes that are requested in this report have been added to the overall Capital Funding Program for highways as shown in Attachment B.

Summary

Staff requests Board of Directors' approval for the Chief Executive Officer to negotiate and execute Amendment No. 4 to Cooperative Agreement No. C-3-1504 between the Orange County Transportation Authority and the California Department of Transportation to increase construction capital funding, in the amount of \$900,000, to close out the construction phase of the Interstate 5 high-occupancy vehicle improvement project between Pacific Coast Highway and San Juan Creek Road. This will increase the maximum obligation of the construction phase of the agreement to a total contract value of \$63,954,500.

Attachments

- A. California Department of Transportation, Cooperative Agreement No. C-3-1504 Fact Sheet
- B. Capital Funding Program Report

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