

**Board Report**

File #: 2020-0805, **File Type:** Budget**Agenda Number:** 34.

**EXECUTIVE MANAGEMENT COMMITTEE
JANUARY 21, 2021****SUBJECT: REGIONAL CONNECTOR EARLY COMPLETION INCENTIVE AGREEMENT****ACTION: APPROVE RECOMMENDATION****RECOMMENDATION**

CONSIDER:

- A. INCREASING the Life of Project (LOP) Budget for the Regional Connector Concurrent Non-FFGA Project Activities, capital project number 861228, by the amount of \$12,948,000 from \$46,441,168 to \$59,389,168 consistent with the provisions of the Board-adopted Measure R and Measure M Unified Cost Management Policy, for the purposes of providing an incentive for Regional Connector Constructors (RCC) to complete transit facilities ten weeks early thereby permitting an earlier Revenue Service Date and mitigating impacts to the community.

ISSUE

Construction of the Regional Connector Transit Project (Project) necessitated the demolition of the Little Tokyo/Arts District Station, which was taken out of rail service on October 24, 2020. This began a twenty-two-month bus bridge between Union Station and the Pico/Aliso L Line (Gold) Station while new underground facilities are constructed and the system commissioned. Based on the construction progress to date, there is an opportunity to complete and begin testing the guideway early, while challenges at the Historic Broadway Street Station are resolved. An early completion of the overall project will provide multiple benefits to the community and to Metro. The design-build construction contract does not contain an incentive provision to encourage the contractor to complete construction early or to resolve issues without delay. The cost of this proposed early completion incentive agreement is not included in the Project budget, necessitating an increase in the LOP Budget.

BACKGROUND

The demolition of the Little Tokyo/Arts District Station started on October 24, 2020 and began a twenty-two-month bus bridge for passengers traveling between Union Station, Little Tokyo/Arts

District and the Pico/Aliso L Line (Gold) stations while new underground facilities are constructed and commissioned. Based on the construction progress to date, there is an opportunity to complete the guideway work early.

Completing early will reduce construction impacts to Little Tokyo, Arts District and downtown neighborhoods and the business communities by restoring revenue service for transit passengers approximately ten weeks earlier than currently planned. The Little Tokyo, Arts District and Boyle Heights communities have been especially impacted by the multiple L Line (Gold) service interruptions, yet they have remained very supportive of the Project during the past five years. The Board-approved operational plan for the Regional Connector creates ease of access across Los Angeles County, attracting people to visit downtown Los Angeles. Once completed, the Regional Connector Project is likely to encourage economic recovery by providing increased access to downtown businesses. Reopening transit service ahead of schedule is consistent with Metro's commitment to reduce impacts to the communities to the extent possible.

Furthermore, an early project completion avoids substantial future costs. The incentive agreement also achieves an expedited completion of the Historic Broadway Station which has been impacted by the addition of structural elements needed to support a future hi-rise commercial building that will be constructed over the station. Incorporating a portion of the overbuild facility's foundation into our station plaza structure was a condition of securing the right-of-way for the station plaza.

DISCUSSION

The Regional Connector design-build contract establishes completion milestones with liquidated damages for failure to complete work on time. The contract does not contain a financial incentive to increase performance to finish construction early or to resolve issues without delay. Based on the progress to date, there is an opportunity to complete and begin testing the guideway facilities early while the challenges at the Historic Broadway Station are resolved. The proposed agreement incentivizes the contractor to complete the guideway facilities ten weeks early thereby permitting pre-revenue operations to begin ahead of schedule. Furthermore, with an earlier start of the pre-revenue service period, the duration of the service interruption on the L Line (Gold), is reduced thereby providing Metro Operations with an estimated \$2M savings in bus operating costs.

The complexity of integrating three operational lines presents significant challenges to the Agency. The extensive testing and operator training needed during the five-month pre-revenue operation period is dependent on having a firm handover date on which to plan their activities. Completing construction and turning over the guideway facilities to Metro Operations independent of the Historic Broadway Street Station eliminates schedule uncertainty and provides the Operations team with a specific pre-revenue operations readiness date necessary for a timely commissioning.

This incentive agreement also achieves an expedited completion of the Historic Broadway Station plaza which has been impacted by the construction of additional structural elements needed to support a future hi-rise commercial building that will be constructed over the station. These requirements arose as the developer refined their structural concepts into a detailed overbuild design. The incentive agreement devotes additional resources to complete the construction of the station plaza during pre-revenue operations of the guideway, yet consistent with achieving the overall

early revenue service date.

Additional benefits of an early completion include eliminating the need to remobilize the Contractor and Metro offices and equipment yards needed for project closeout activities when the lease agreement on the Mangrove Yard expires in June 2022. This represents an estimated \$2.5M cost avoidance. Furthermore, with a two-phased early completion, Metro and consultant Project oversight staff may begin demobilizing early thereby realizing additional savings. Finally, under the incentive agreement, RCC waives all potential claims for additional time or costs arising from events through October 2020 (excluding Covid-19 related direct costs). Accepting incentive payments, as outlined in the agreement, also commits RCC to Liquidated Damages if the early completion dates are not met. In aggregate, an estimated \$19M of additional future costs are avoided.

DETERMINATION OF SAFETY IMPACT

The approval of this LOP Budget increase will allow Metro to achieve an earlier completion of the Regional Connector Project without compromise to safety or reliability.

FINANCIAL IMPACT

Adoption of Recommendation will increase the LOP Budget for Project Number 861228 by \$12,948,000. Expenditures of the incentive payments are distributed monthly over the remaining duration of the Project per the following schedule. Subject to Board approval, of this recommendation the fiscal year 2021 portion will be accommodated within the approved FY21 overall budget for the project, which is under consideration by the Board through a separate report at the same board meeting.

FY21/Q3	FY 21 Q4	FY22 Q1	FY22 Q2
\$6,269,000	\$3,237,000	\$1,721,000	\$1,721,000

Impact to Budget

The source of funds for the LOP increase to Capital Project no. 861228 - Regional Connector Concurrent Non-FFGA Project Activities is a combination of one or more of the following eligible sources: Measure R 2% Rail Capital, State Repayment Fund 3562, Transportation Development Act Article 4, and Lease Revenues. Other eligible and available funding sources which are not eligible for operations use may be considered. The funding plan for the proposed LOP budget is included as Attachment A.

IMPLEMENTATION OF STRATEGIC PLAN GOALS

Recommendation supports strategic plan goal #1) to provide high-quality mobility options that enable people to spend less time traveling, and #5) to provide responsive, accountable and trustworthy governance within the Metro organization.

ALTERNATIVES CONSIDERED

To not approve the LOP Budget increase would result in not providing the Contractor an incentive to complete the Project early and would lead to a minimum of \$19M in increased Project costs. If the recommendation is not approved, Metro will not receive the waiver of potential claims for activities prior to October 2020.

NEXT STEPS

Upon approval by the Board of the recommended action to increase the Project LOP, Staff will execute bilateral Contract Modification No 00187 which establishes new Project completion milestones and provides the agreed-to incentive payments to the contractor in accordance with a prescribed payment schedule.

ATTACHMENTS

Attachment A - Funding Plan

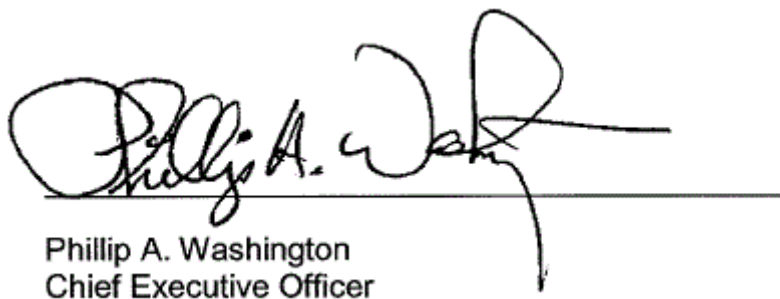
Attachment B - Measure R and Measure M Unified Cost Management Policy Analysis

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ATTACHMENT A

**REGIONAL CONNECTOR NON-CONCURRENT FFGA ACTIVITIES
FUNDING/EXPENDITURE PLAN
(Dollars in Millions)**

Capital Project 861228	Prior	FY21	FY22	FY23	Total	% of Total
Uses of Funds						
Construction	0.13	12.51	6.00	0.77	19.40	32.7%
Right-of-Way	37.47				37.47	63.1%
Vehicles						0.0%
Prof. Services	0.41	0.36	0.38	0.25	1.40	2.4%
Project Contingency			1.11		1.11	1.9%
Project Revenue						0.0%
Total Project Cost	38.01	12.87	7.49	1.02	59.39	100.0%
Sources of Funds						
Measure R - Rail Capital General Improvements (2%)	8.40		1.49	0.25	10.14	17.1%
Lease Revenues	6.61				6.61	11.1%
Repayment of Capital Project Loans (Fund 3562)	22.84				22.84	38.5%
Measure M -Metro State of Good Repair (2%)	0.13	3.00	2.56	0.77	6.45	10.9%
General Fund - Metro	0.04	0.36			0.40	0.7%
Other Local Funds		9.51	3.44		12.95	21.8%
Total Sources	38.01	12.87	7.49	1.02	59.39	100.0%

ATTACHMENT B

Regional Connector Concurrent Non-FFGA Activities

Measure R and Measure M Unified Cost Management Policy Analysis

Introduction

The Measure R and Measure M Unified Cost Management Policy (the Policy) was adopted by the Metro Board of Directors in June 2018. The precursor Measure R cost management policy was adopted in March 2011. The intent of the Policy is to inform the Metro Board of Directors regarding potential cost increases to Measure R-funded projects and the strategies available to close any funding gaps. The Regional Connector Concurrent Non-FFGA Activities Project (the Project) is subject to this policy analysis.

The Regional Connector Concurrent Non-FFGA Activities Project was created in April 2014 at the time the design-build contract was awarded and initial Life-of-Project (LOP) budget set for the Regional Connector Project. The Project is a component of the Regional Connector Project and was created due to constraints on costs that are not eligible under the New Starts full funding grant agreement that has been awarded to the Regional Connector Project.

The LOP requires an increase of \$12,948,000, from \$46,441,168 to \$59,389,168. This analysis recommends trade-offs required by the Policy to identify the funds necessary to meet the cost increase.

Measure R and Measure M Unified Cost Management Policy Summary

The adopted Policy stipulates the following:

If a project increase occurs, the Metro Board of Directors must approve a plan of action to address the issue prior to taking any action necessary to permit the project to move to the next milestone. Increases will be measured against subsequent actions on cost estimates taken by the Metro Board of Directors, including the determination of the LOP. Shortfalls will first be addressed at the project level prior to evaluation for any additional resources using these methods in this order as appropriate:

- 1) Scope reductions;
- 2) New local agency funding resources;
- 3) Value Engineering;
- 4) Other cost reductions within the same transit or highway corridor;
- 5) Other cost reductions within the same sub-region; and finally,
- 6) Countywide transit or highway cost reductions or other funds will be sought using pre-established priorities.

The Policy analysis considers options for the Project as well as the related Regional Connector Project.

Scope Reductions or Value Engineering

The Project is proceeding under a design-build contract with an April 2022 completion date. Any scope reduction or value engineering would require negotiation and agreement with the Contractor that could delay the schedule. Given the current action involves the payment of an incentive to the Contractor to complete construction 10 weeks faster, we recommend moving to the next step.

New Local Agency Funding Resources

The Project is located in the City of Los Angeles and the Central City Area subregion (as defined in Measure M). These entities have local return, Multi-Year Subregional Program, and other transportation funding that is eligible for the Project. However, given the name of the Project is intended to benefit the regional Metro rail network, the local agency funding is not being considered for the cost increase.

Other Cost Reductions within the Same Transit Corridor

The corridor of the Project includes Exposition Light Rail Transit, Gold Line Foothill Extension, and the Gold Line Eastside Extension. The Exposition Light Rail Transit Phase II (Expo II) and Gold Line Foothill Extension have been completed and have no savings or surplus which could be transferred to the Project. The Expo II project did realize Measure R savings, but the Board directed those savings to the Westside Subway Section 2 project (Board report #2016-0379), then subsequently to the Westside Subway Section 1 project (Board report #2020-0351). The Foothill Extension II, now ending in Pomona, does not have available funding, as it has been shortened due to cost increases from the initial terminus in Claremont, and has required the use of subregional and State grant funding. While the Gold Line Eastside Transit Corridor Extension Phase II is in the same corridor, the funding for this project is outside of the timeframe needed for the Project.

Other Cost Reductions within the Same Sub-region

The Regional Connector Project is located within the Central, or Central City Area Subregion. Given that the project will create continuous corridors between several subregions (Central, Gateway, San Gabriel Valley, and Westside), we are recommending that any remaining funding shortfall for the Project be dealt with at the Countywide level.

Countywide Cost Reductions and/or Other Funds

The Project is eligible for Measure R 35% Transit funds listed in the ordinance Expenditure Plan, but these have all been allocated to the Regional Connector Project. The Project is not eligible for Proposition A and Proposition C as much of the Project is deemed "new subway" and not allowed under the Act of 1998. The Project is eligible for Measure R Rail Capital General Improvements 2%, Metro Lease Revenues, Measure M State of Good Repair 2% (for certain components of the Project only), State Repayment Fund 3562, and Transportation Development Act Article 4 funds. A combination of the funds is recommended to address the increase in the Project LOP.