



Board Report

File #: 2023-0159, File Type: Budget

Agenda Number: 23.

CONSTRUCTION COMMITTEE APRIL 20, 2023

SUBJECT: SOUNDWALL PACKAGE 11 HIGHWAY PROJECT

ACTION: APPROVE RECOMMENDATIONS

RECOMMENDATION

CONSIDER:

- A. AMENDING the Life of Project Budget (LOP) Budget for Project No. 460324 Soundwall Package 11 Highway Project by an amount of \$8,525,000, increasing the LOP budget from \$102,485,000 to \$111,010,000, consistent with the provisions of the Board-adopted Measure R and Measure M Unified Cost Management Policy (Attachment B); and
- B. AUTHORIZING the Chief Executive Officer to execute individual Contract Modifications within the Board approved Life of Project budget.

ISSUE

Staff have been working diligently to complete the project within the approved LOP budget; however, the LOP, as established in January 2021, must be increased given certain complexities on the project that were unknown at the time of that action. Staff is seeking the Board's approval to Amend the LOP to close out the project in an amount of \$8,525,000 for a new LOP of \$111,010,000. Construction costs have escalated due to vandalism and the need to clear chronic unhoused encampments in the project areas, as well as design errors and omissions. The project is at 98% completion, and this request will provide enough funding to complete the Project and close out all associated contracts.

BACKGROUND

The Project is a Design/Bid/Build contract that is administered by Metro on behalf of Caltrans. The Project is located entirely within Caltrans right of way and consists of the construction of soundwalls on Route 170 from Route 101/Route 170 interchange to the Sherman Way Overcrossing and on Route 405 from north of Saticoy Street Undercrossing to Roscoe Boulevard Undercrossing. Construction of the soundwalls requires modification and widening of eight existing bridges. In May 2015, the Board approved the initial LOP in the amount of \$89,183,000. In January 2021, an LOP increase was approved in the amount of \$13,303,000 to resolve compensable time impacts and

construction costs related to design errors and third-party design review comments.

The Project has been adversely affected by a large influx of unhoused people and associated encampments and vandalism within the project limits. According to the Greater Los Angeles Homeless Count, approximately 69,144 people in LA County and 1,364 people in Council District 2 (prime project location) are experiencing homelessness, and 1,128 of 1,364 are without shelter. Due to the lack of available shelter space and 24-hour operating shelters County-wide, un-housed individuals have heavily populated many areas within the project limits with encampments. Individuals residing in these encampments have been documented causing vandalism to electrical and landscaping elements throughout the entire project limits, and the vandalism is ongoing. The project endured and is continuing to endure many unanticipated costs due to the frequent repairs required as a result of vandalism and encampments. Additional costs have been incurred for encampment biohazard cleanup and relocation assistance and when necessary, transporting individuals to appropriate resources for those experiencing homelessness. In addition to direct costs associated with this issue, the Project has experienced significant costs related to schedule delays directly attributable to the vandalism.

Metro has previously reported to the Board that staff are also pursuing damages for several design changes as an Errors and Omissions claim with the prime design consultant. The numerous design errors and omissions have caused significant cost and time impacts which are accounted for in this LOP amendment request.

DISCUSSION

Metro and Caltrans have jointly developed a reasonable plan to modify the scope of the contract in order to complete the project and deliver a product that Caltrans will be able to maintain in the future. The scope changes will increase the cost of the work, however, it will also provide a clear path to the completion of the project while also providing a system to Caltrans that will be more resistant to vandalism. After the scope to complete the project is amended into the contract, Metro will analyze the delays to determine if the contractor is entitled to compensation for the delay. The Critical Path Method (CPM) schedule and Time Impact Analysis (TIA) will be utilized to determine the amount of the appropriate compensation. The time-related overhead cost for this project is \$4,000 per day.

During construction, there were several unanticipated costs that occurred for the encampment and vandalism issues described above, in addition to the unforeseen design related reasons. The changes are summarized below:

Unhoused Encampments and Vandalism (\$6.3M)

- The project has encountered numerous delays because of encampments and vandalism within the project limits. The types of delays include 1) repair and rework of areas already constructed and then vandalized, 2) not able to mobilize construction crews to areas with encampments until after coordinating with several agencies to clear the areas, 3) inability of the contractor to schedule work due to the uncertainty when areas will be available, 4) ordering and procuring materials to replace those vandalized, and 5) scheduling coordination with third party agencies to reinspect areas that were vandalized and reworked

- The project has incurred the hard costs of repairing and replacing equipment and materials that were vandalized after installation. Also, the cost of encampment biohazard cleanup after clearing areas was not anticipated prior to the contract award.
- The project has been impacted more by the soft costs of the delays caused by vandalism than by the hard construction costs. The delay impacts have increased the cost of third parties (see below), construction management staff, and the contractor by extending the completion date of the project. These costs are not yet fully realized because the impacts are ongoing.
- Metro is currently working to execute the changes to the landscaping scope of work as agreed with Caltrans to minimize the impacts of vandalism. This will cause an increase in project cost.
- Numerous change orders due to vandalism and encampment biohazard cleanup are pending execution.
- Third Party reimbursable costs have increased due to the additional inspections required after vandalism has occurred on the project, and the work is repaired.
- Soffit lighting within the existing bridge structures and the City Streets was vandalized, and the cost of rebuilding and reconditioning the location was not anticipated by the project. These facilities will be maintained by the City of LA Bureau of Street Lighting.
- Department of Water and Power (DWP), Bureau of Street Lighting (BSL), and Department of Transportation (DOT) final inspection is pending once the vandalized components are repaired. The city will review and approve the as-builts once all the vandalized repairs are completed. The existing work orders have exceeded the initial negotiated values.

Staff have met with Caltrans to develop a path towards project completion and have reached an amenable solution for all parties. The path forward is technical in nature and includes acceptance of the project in stages and incorporates acceptance of work performed regardless of the fact that the work has endured vandalism. The additional costs to move the project to completion are encapsulated within this board action.

Design Changes (pursued as an E&O Claim) (\$2.2M) in addition to the previous LOP Increase

- Due to the delays on the project caused by design errors, K-rails were placed for an extended period of time, and additional traffic control was required. The contractor is pursuing rental costs for the K-rails and traffic control for the additional time it was required to complete the construction work.
- Construction delays and increased costs related to permeation grouting delays; Riverside/Tujunga Bridge Retrofit design discrepancy, BSL work design errors, and several civil, electrical, and irrigation design errors.
- Inefficiencies and escalations as a direct result of the delay.
- The design drawings incorrectly numbered and identified demolition items within the Project limits.

As has been previously reported to the Board, the Design changes listed in this section are being treated as Errors and Omissions, and the Engineer of Record and Metro staff have been evaluating and assessing the path forward to resolve this issue.

DETERMINATION OF SAFETY IMPACT

There is no impact to public safety by approving this recommendation.

FINANCIAL IMPACT

The current LOP budget for the Project is \$102,485,000M, funded by Measure R Highway 20% and Prop C 25%. Upon Board approval, the LOP budget will be increased by \$8,525,000.

This is a multi-year project, therefore, the cost center manager and the Executive Officer, Program Management would be responsible for budgeting project costs in future fiscal years.

IMPACT TO BUDGET

Consistent with the provisions of the Board adopted Measure R and Measure M Unified Cost Management Policy, the source of funds for this recommendation is Measure R (20%) Highway Funds, which are not eligible for bus or rail operations (Attachment B). No other funds were considered.

EQUITY PLATFORM

The project is designed to reduce freeway noise affecting communities that were adversely impacted by the construction of the freeway. The Soundwall program is a response to the noise complaints by residents. Soundwall 11 Project on Route 170 from Route 101/Route 170 interchange to the Sherman Way Overcrossing, and on Route 405 from north of Saticoy Street Undercrossing to Roscoe Boulevard Undercrossing. The Soundwall 11 project is 25% within or adjacent to Equity Focus Communities.

To address safety and project concerns, Caltrans has conducted outreach and relocation services for people experiencing homelessness in the Project Areas, in accordance with Caltrans CPD#21 (Construction Procedures Directives - Attachment C), and with support from the California Highway Patrol. Metro coordinated cleaning of trash and debris from encampment sites in collaboration with these Caltrans services.

IMPLEMENTATION OF STRATEGIC PLAN GOALS

The Project is consistent with the following Metro Vision 2028 Goals and Objectives:

Goal 1: Providing high-quality mobility options and improve transit efficiency;

Goals 4 and 5: Transforming LA County through regional collaboration with Caltrans and the Corridor Cities by contributing funds and providing resources to assist Caltrans in management and delivery of these projects]

ALTERNATIVES CONSIDERED

The Board may choose not to approve this staff recommendation. This alternative is not recommended as Metro would be unable to provide funding to complete the Project according to the current schedule and close out the contracts.

NEXT STEPS

Upon Board approval, the LOP budget will be amended accordingly per the Recommendation, and staff will execute necessary Contract C39033C1101-2 modifications, process DWP bills and issue work orders to the City of Los Angeles for FY23. Anticipated Substantial Completion is Summer 2023 with an anticipated Final Acceptance in Winter 2023.

ATTACHMENTS

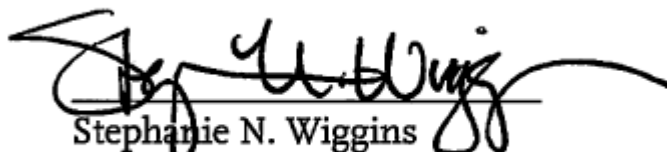
- Attachment A - Funding/Expenditure Plan
- Attachment B - Unified Cost Management Policy Analysis
- Attachment C - Caltrans Construction Procedures Directives

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Chief Executive Officer

EXPENDITURE and FUNDING PLAN
Soundwall 11 Project 460324

Use of Funds	Inception– FY23	Remaining FY23	FY24	FY25	Total Capital Costs
Design					
Design Costs and Technical Reviews	3,211,000	-	-	-	3,211,000
Design	3,211,000	-	-	-	3,211,000
Construction					
Construction Contracts	76,838,000	5,605,000	1,750,000	-	84,193,000
Special Conditions (3rd Party Agreements)	3,507,000	981,000	482,000	-	4,970,000
Design Support During Construction/CMSS/PMSS	9,283,000	459,000	395,000	-	10,137,000
Other Professional Services (Env/DEOD)	241,000	-	23,000	-	264,000
Legal Fees	-	-	750,000	-	750,000
Agency Costs: Project Control, Procurement Support, Safety, Communications, etc.	6,448,000	357,000	180,000	-	6,985,000
Unallocated Project Contingency	-	-	-	500,000	500,000
Construction Phase Total	96,317,000	7,402,000	3,580,000	500,000	107,799,000
Total Project Cost	99,528,000	7,402,000	3,580,000	500,000	111,010,000
Source of Funds					
	Inception– FY23	Remaining FY23	FY24	FY25	Totals
Measure R 20% / Prop C 25%	99,528,000	7,402,000	3,580,000	500,000	111,010,000
	-	-	-	-	-
Total Project Funding	99,528,000	7,402,000	3,580,000	500,000	111,010,000

ATTACHMENT B

SOUNDWALL PACKAGE 11 HIGHWAY PROJECT

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 July 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 cost increases to Measure R- and Measure M-funded projects and the strategies available to close a funding gap. The Soundwall Package 11 Highway Project (the Project) is subject to this policy analysis.

The life of project (LOP) budget for the Project as approved by the Board is \$102,486,000. The Project is subject to the Policy analysis now due to a proposed \$8,525,000 increase to the LOP budget. Funding for the cost increase is needed through FY 2024. This analysis recommends trade-offs required by the Policy to identify cost reductions or 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 cost 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 budget. 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 subregion; and finally,
- 6) Countywide transit or highway cost reductions or other funds will be sought using pre-established priorities.

Scope Reductions or Value Engineering

The Project has an awarded Design/Bid/Build contract with a FY 2024 estimated completion. Any scope reduction or value engineering would require negotiation and agreement with the contractor that could delay the schedule. Because of this, we recommend moving to the next step.

New Local Agency Funding Resources

Local funding resources (i.e., specific to the affected corridor or subregion) are considered in the next step as opposed to countywide or regional sources so as not to

impact the funding of other Metro Board-approved projects and programs or subregions in the County.

The Project is a component of the broader Metro soundwall program, which consists of the construction of soundwalls throughout the county that meet state eligibility criteria. The program is prioritized into a Phase I (required to be constructed as part of High Occupancy Vehicle Lanes projects but were deferred) and Phase II (all others). Within Phase I, there are three priority lists. Priority 1 projects are completed. Priority 2 projects, which include the Soundwall Package 11 Highway Project, have funding programmed in the Long-Range Transportation Plan (LRTP) financial forecast. All the Priority 2 projects have funded LOP budgets approved by the Board, with the exception of three remaining Package 12, 13, and 14 projects, which are in the project initiation/approval stage. The Priority 3 projects are currently programmed in the LRTP beginning in FY 2035.

The Project is eligible for Measure R funding and is allocated a portion of the \$250,000,000 of funding in the Measure R sales tax ordinance Expenditure Plan from the highway project entitled "Countywide Soundwall Construction." The Measure R funds have been programmed to the Priority 1 and Priority 2 projects, including Package 12, 13, and 14.

As the Package 12, 13, and 14 projects do not have a LOP budget and are still in the project development phase, a portion of the Measure R funding equal to \$8,525,000 can be reprogrammed and allocated to the LOP increase on the Project. This will reduce funding for the Package 12, 13, and 14 projects and may result in a need to seek additional, future State and or federal grant funding, or local funding.

Other Cost Reductions within the Same Transit or Highway Corridor, or within the Same Sub-region

The Project is in the same subregion as the I-5 North Capacity Enhancements project. Construction on this project is almost complete and this project has an estimated surplus of Measure R 20% of \$30,000,000 and unused Proposition C 25% "replacement project credits" (that replaced Measure R surplus) of \$223,500,000; however, this surplus may be needed to fund the East San Fernando Valley Light Rail Transit project, which is seeking a federal Expedited Project Delivery grant and the success in getting the grant will depend on the availability of these non-federal funds for the project.

Countywide Cost Reductions and/or Other Funds

If new local agency resources are not allocated to the Project cost increase, regional or countywide funding could be considered. These funds are programmed for other uses in Metro's financial forecast, during the timeframe when funds are needed for the Project cost increase, and additional debt financing of the countywide funds would be needed to provide sufficient cash flow for the Project cost increase. The primary eligible source of countywide funding is Proposition C 25%.

State and Federal Funding (Formula)

Metro receives quasi-formula funding from the State through the Regional Improvement Program (RIP) and Local Partnership Program (LPP). This is considered regional funding as it can be applied countywide to both transit and highway spending. There is currently no capacity in the RIP or LPP through FY 2027. The RIP has been allocated to projects submitted in Metro's 2022 RTIP.

Recommendation

Metro staff recommends the use of \$8,525,000 of Measure R 20% highway funds that are currently programmed to the Priority 2, Package 12, 13, and 14 projects to address the Project LOP budget increase. Funding for the Package 12, 13, and 14 projects will be identified at the time the scope and cost are determined. The amount of Measure R 20% available for the Metro soundwall program increased by \$26,966,306 in September 2021 when Metro was awarded \$48,649,000 of Highway Infrastructure Program grant funding, of which \$21,682,694 was programmed to a Package 10 cost increase.

MAINTENANCE POLICY DIRECTIVE

MTCE-03 (REV 3/2015)

MAINTENANCE POLICY DIRECTIVE	NUMBER MPD 20-02R7	PAGE 1 OF 1
	DATE ISSUED 01/26/2021	EFFECTIVE DATE 01/01/2021

DAVID AMBUEHL, Acting Chief Division of Maintenance	SIGNATURE <i>David Ambuehl</i>
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DISTRIBUTION	
<input checked="" type="checkbox"/> All District Directors	<input checked="" type="checkbox"/> Chief, Division of Engineering Services
<input checked="" type="checkbox"/> All Deputy District Directors - Maintenance	<input checked="" type="checkbox"/> Chief Counsel, Legal Division
<input checked="" type="checkbox"/> All Deputy District Directors - Traffic Ops.	<input type="checkbox"/> Publications (California Supplement Website)
<input checked="" type="checkbox"/> All Deputy District Directors - Construction	<input checked="" type="checkbox"/> All Division of Maintenance Office Chiefs
<input checked="" type="checkbox"/> All Deputy District Directors - Design	<input checked="" type="checkbox"/> All SM&I Office Chiefs
<input checked="" type="checkbox"/> All Deputy District Directors - Trans. Planning	<input checked="" type="checkbox"/> Headquarters Division Chiefs for: Construction

SUBJECT

Direction on Encampments due to the COVID-19 Pandemic. This policy will be revisited and modified as conditions change, no later than December 31, 2021.

DOES THIS DIRECTIVE AFFECT OR SUPERSEDE ANOTHER DOCUMENT? YES NO

IF YES, DESCRIBE

In accordance with Caltrans' Interim Guidance on Encampments and in addition to MPD 10-01 Encampment Removal Policy & Guidelines, the process for removing an encampment.

WILL THIS DIRECTIVE BE INCORPORATED IN THE MAINTENANCE MANUAL? YES NO

IF YES, DESCRIBE

DIRECTIVE

Caltrans' priority is the safety of all people during the COVID-19 pandemic or otherwise. In effect, encampments on Caltrans right of way may only be posted and cleared in coordination with local experts on homelessness and the California Highway Patrol, if approved by Caltrans District Directors for priority level 1 encampments or Caltrans Headquarters for priority level 2 encampments as outlined in Caltrans' Interim Guidance on Encampments.

On December 11, 2020, Caltrans released Interim Guidance on Encampments, developed in partnership with state and local public safety and homeless services partners. This guidance outlines the methodology for prioritizing and addressing encampments on Caltrans right of way. This guidance is to be used in determining priority levels of encampments on State right of way and in seeking approval to remove level 1 or level 2 encampments that pose a potential safety concern to the public. Level 3 and 4 encampments should be monitored and mitigated where possible, as outlined in the guidance, but will not be considered for removal at this time consistent with the [Centers for Disease Control \(CDC\) Interim Guidance on People Experiencing Unsheltered Homelessness and the Coronavirus Disease.](#)

MAINTENANCE POLICY DIRECTIVE

MTCE-03 (REV 3/2015)

Caltrans staff should refer to the Interim Guidance on Encampments for all information needed to assess and address encampments during the COVID-19 Pandemic. Each district has been assigned a task force lead on homelessness. District staff should work with their assigned district task force lead regarding any questions on encampments or this guidance.

Caltrans' role in encampment removals is to: collaborate with partners to help connect people living along California's freeways with critical services and shelter, coordinate cleaning of trash and debris from encampment sites, respond to emergencies at encampments to inspect for potential damage to Caltrans infrastructure, and to restore and protect the right of way after people have been relocated by local governments. While Caltrans is not capable on its own to relocate people into shelters or provide social services, Caltrans is a committed partner in assisting local partners in their efforts to assist people living on state property. The California Highway Patrol (CHP) is the enforcement agency responsible for addressing allegations of criminal activity on state property. Encampment removals without a coordinated relocation effort across state and local agencies will likely result in people returning to the same location, moving to adjacent city or county property, or being dispersed into the community, without resolving the core issues.

In extreme circumstances where encampments pose imminent threats to safety or critical infrastructure and must be immediately resolved upon discovery, such as situations where people are found living in confined spaces of bridge cells or man-made tunnels (priority level 1), authorization has been delegated to Caltrans District Directors. An After Action Report must be submitted to Caltrans Headquarters within 24 hours of the completion of a priority level 1 removal. Headquarters approval is required prior to posting a 72-hour notice at a priority level 2 encampment. The process for addressing and mitigating encampments is outlined in the Interim Guidance on Encampments.

All local partners and constituents must work with Caltrans regarding any challenges related to encampments and shall not clear any people from Caltrans property without Caltrans participation and approval. Where an encampment poses a safety concern necessitating the removal of the encampment, Districts shall coordinate with [County Continuums of Care](#)* or other lead local entity on homelessness and other relevant local partners, focusing on relocation solutions first before requesting approval to post and clear an encampment. If *all people* at an encampment are successfully and *willingly* relocated by local governments into a shelter or housing, Caltrans may clear any remaining trash or debris from the former encampment site without approval from Caltrans Headquarters, so long as no people remain onsite and no people were forced to leave the property.

Social services engagement and connections are always encouraged when possible but should not impede emergency response functions. Approval from Caltrans Headquarters is not required for trash or debris pickup at or near encampments so long as it does not result in the displacement of people. Caltrans districts are encouraged to conduct trash cleanup activities via a hazmat contract where safe and possible near encampments. Further information is available in the Interim Guidance on Encampments.

If the situation at an encampment rises to level of an extreme emergency, consistent with Caltrans emergency management response functions, the District Director should report the issue immediately by calling the Deputy Director of Operations and Maintenance, Cory Binns, at 858-688-1460.

All Caltrans staff conducting encampment site assessments or performing any work near or within an encampment site must wear Personal Protective Equipment and exercise extreme caution, abandoning the work immediately if safety is compromised. Assistance from the CHP is always available to Caltrans staff.

MAINTENANCE POLICY DIRECTIVE

MTCE-03 (REV 3/2015)

Additional safety protocol information and information on the collection of trash near encampments is outlined in the Interim Guidance on Encampments.

This directive shall be revisited to meet changing conditions during the COVID-19 Pandemic, no later than December 31, 2021. Caltrans districts will continue to receive updated guidance and direction as external conditions change and should continue to communicate with Headquarters any unique challenges or circumstances. This directive was written during the COVID-19 pandemic and is subject to modification at any time. Comments or questions should be sent to: HQEncampments@dot.ca.gov.

***County Continuum of Care (CoC):**

The Continuum of Care (CoC) Program, which falls under individual County jurisdiction throughout California, is designed to promote communitywide commitment to the goal of ending homelessness; provide funding for efforts by nonprofit providers, and State and local governments to quickly rehouse homeless individuals and families while minimizing the trauma and dislocation caused to homeless individuals, families, and communities by homelessness; promote access to and effect utilization of mainstream programs by homeless individuals and families; and optimize self-sufficiency among individuals and families experiencing homelessness.

County Continuum of Care Contacts: <https://www.hud.gov/states/california/homeless/continuumcare>
County Public Health Department Contacts: <https://www.cdph.ca.gov/Pages/LocalHealthServicesAndOffices.aspx>

Attachment(s):



MAINTENANCE POLICY DIRECTIVE

MTCE-03 (REV 3/2015)

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DEFINITIONS

When used in this Maintenance Policy Directive, the text shall be defined as follows:

- 1) **Standard** - a statement of required, mandatory, or specifically prohibited practice. All standards text appears in **bold** type. The verb **shall** is typically used. Standards are sometimes modified by Options.
- 2) Guidance - a statement of recommended, but not mandatory, practice in typical situations, with deviations allowed if engineering judgement or engineering study indicates the deviation to be appropriate. All Guidance statements text appears in underlined type. The verb should is typically used. Guidance statements are sometimes modified by Options.
- 3) Option - a statement of practice that is a permissive condition and carries no requirement or recommendation. Options may contain allowable modifications to a Standard or Guidance. All Option statements text appears in normal type. The verb may is typically used.
- 4) Support - an informational statement that does not convey any degree of mandate, recommendation, authorization, prohibition, or enforceable condition. Support statements text appears in normal type. The verbs shall, should and may are not used in Support statements.