

**Board Report**

File #: 2022-0509, **File Type:** Budget**Agenda Number:** 22.

**CONSTRUCTION COMMITTEE
APRIL 20, 2023****SUBJECT: CRENSHAW/LAX CLOSE OUT PROJECT****ACTION: APPROVE RECOMMENDATION****RECOMMENDATION**

AMEND the Life-of-Project (LOP) Budget by \$10,000,000 for the Crenshaw/LAX Close Out Project (Project), increasing it from \$47,000,000 to \$57,000,000.

ISSUE

The Crenshaw/LAX Close-Out Project LOP budget requires an increase of \$10,000,000 to fund higher than anticipated costs for Catch-All Contract No. 2, newly identified scope of work for Catch-All Contract No. 2, additional legal and claim support due to the five (5) month hearing delay, and additional professional service contracts to support claim preparation and continue management and oversight of the Project necessary for project completion.

BACKGROUND

The Crenshaw/LAX (C/LAX) Transit Project is a north/south light rail line that serves the cities of Los Angeles, Inglewood, Hawthorne and El Segundo as well as portions of unincorporated Los Angeles County. The alignment extends 8.5 miles, from the Metro E (Expo) Line at Crenshaw and Exposition Boulevards to a connection with the Metro C (Green) Line south of the Aviation/Century Station. The project provides major connections with the Los Angeles International Airport (LAX), as well as links to the C Line, E Line, and countywide bus network.

The alignment is comprised of a double-tracked rail line consisting of at-grade in-street, at-grade within railroad right-of-way, aerial, and below-grade guideway sections, eight new stations, park and ride facilities, utilities, landscaping, roadway improvements required by the project, and a maintenance & storage facility (Division 16 - Southwestern Yard).

As the project neared completion, staff requested a Close Out Project to provide funding for work that could commence after substantial completion of the C/LAX Design-Build Project. Funding and timing for the Close Out Project are separate from the C/LAX Design-Build Project, allowing staff flexibility to close out the Design-Build Project and related administrative elements. The scope of the Close Out

Project includes additional work required for the Crenshaw/LAX Project that, due to timing constraints, was not recommended to be issued to the Design-Builder (DB).

The Metro Board approved on May 28, 2020, a LOP budget of \$30,000,000 for the C/LAX Close Out Project. The approved LOP funding level was based on Substantial Completion forecasted for December 2020, and Revenue Service commencing in 2021. Since the approval of the LOP budget in 2020, the C/LAX Design-Build Project has experienced additional schedule delays, the Design-Builder has submitted its claim, and legal costs to analyze and defend the claim has accrued at a higher rate than anticipated. Furthermore, the bid received for Segments A and B Contract No. 1 Close Out work far exceeded the planned budget.

The Metro Board approved in June 2022, a LOP budget amendment of \$17,000,000 to provide funding for Segment C additional Punch Out construction work at the underground stations, increased legal services required to defend against the design-builder claim, extended Metro staff and professional services required to support completion of the Project through Revenue Service in Fall 2022, and replenishment of project contingency.

DISCUSSION

Since the June 2022 approval of the LOP budget amendment to \$47M, the Design-Builder experienced additional schedule delays, the bid received for the Segments A and B Close Out work far exceeded the planned budget, legal costs to analyze and defend the claim accrued at a higher rate than anticipated, and the claims hearing was postponed by five (5) months.

To address impacts on the Catch-All Contract No. 2, staff recommends a total LOP budget increase of \$10 million. See below for detailed explanation.

- Staff anticipates bids for “Catch-All Contract No. 2” will exceed the current budget amount. Additional funds are required to cover items previously removed from Catch-All Contract No. 1, newly identified scope items, and increasing and continuing inflation costs.
- Due to the volume of material exchanged by the two parties as part of the DB claim, the parties mutually agreed to postpone the hearing by 5 months to allow each party sufficient time to prepare. Additional funds will cover a higher than anticipated burn rate on legal services required to defend against the design-builder claim, plus an additional five (5) months for legal services due to the five (5) month hearing delay.
- Additional professional services and Metro staff time were required during the five (5) month hearing delay to support claim preparation.

DETERMINATION OF SAFETY IMPACT

This Board action will not have an impact on established safety standards for Metro’s construction projects.

FINANCIAL IMPACT

Upon Board approval of the recommendation, the LOP budget will increase by \$10,000,000 from \$47,000,000 to \$57,000,000. Funds required in Fiscal Year 2023 are included as part of the FY23 budget adoption. The additional LOP funding will be programmed through FY24 and FY25 in Cost Center 8510, Construction Contracts/ Procurement, under Project 869512.

Since this is a multi-year project, the Project Manager, Cost Center Manager, and Chief, Program Management Officer will be responsible for budgeting the costs in future fiscal years.

Impact to Budget

Eligible local funds available at the time of expenditure will be utilized to fund this project. These may include operating eligible funding sources.

Multiyear Impact

The sources of funds for the Project are capital funds identified in the recommended Funding/Expenditure Plan as shown in Attachment A. With respect to the \$10,000,000 increase, Attachment C shows the Measure R and Measure M Unified Cost Management Policy (Policy) analysis and funding strategy.

To comply with the Policy of the Metro Board of Directors, Metro staff has evaluated potential offsetting cost reductions, including reductions to other Metro projects in the corridor and subregion, and has determined these are not feasible, and that additional local funding resources (i.e., funding specific to the affected corridor or subregion), which are to be considered prior to Metro's countywide funding, are not available. The Policy analysis identifies available and eligible local funds at the time of expenditure (Countywide Other Funds) as the funding that can address the \$10,000,000 cost increase. Metro staff attempted to identify local funding specific to the Project corridor and affected Central City Area and South Bay subregions, but was not able to identify such funding due to restrictions on the use of those funds.

EQUITY PLATFORM

The Crenshaw/LAX Close Out Project supports the C/LAX Transit Project, which serves the cities of Los Angeles, Inglewood, Hawthorne and El Segundo as well as portions of unincorporated Los Angeles County. All eight stations (100%) are within or adjacent to Equity Focus Communities. Project equity benefits and impacts include:

1. Providing better transit connectivity and increasing light rail transportation service from the Metro Expo Line to the Metro Green Line.

2. Increasing transportation and service frequency, reliability, and access for communities along the 8.5-mile alignment that use the Metro transit system along the Century/Aviation, Westchester/Veteran, Downtown Inglewood, Fairview Heights, Hyde Park, Leimert Park, Martin Luther King and Exposition stations for housing, jobs, educational, medical and entertainment needs.

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 improving 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 to not move forward with amending the LOP Budget. This is not recommended as this choice may limit Metro's flexibility and ability to manage and complete the required scope of work for the C/LAX project in the most timely and cost-effective manner and could jeopardize Metro's ability to provide its best defense against claims submitted by the Design-Builder.

NEXT STEPS

Upon approval by the Board, the LOP Budget will be amended in accordance with the Recommendation.

ATTACHMENTS

Attachment A - Funding/Expenditure Plan

Attachment B - Projected Breakdown of Cost Allocation

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

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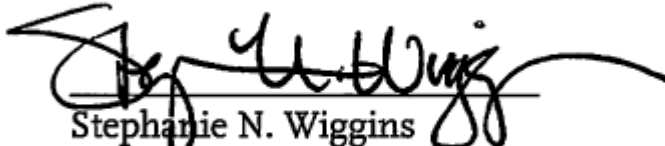
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ATTACHMENT A
(2022-0509)
Crenshaw/LAX Closeout Project
Funding / Expenditure Plan*
(Dollars in Millions)

Capital Project CP869512	FY21	FY22	FY23	FY24	FY25	TOTAL	% Of Total
	Actual	Actual	Forecast	Forecast	Forecast		
Uses of Funds							
Construction	-	-	5.35	8.12	6.90	20.37	35.7%
Prof Services	0.01	13.74	15.26	3.78	1.85	34.63	60.8%
Project Contingency	-	-	1.00	0.50	0.50	2.00	3.5%
Subtotal	0.01	13.74	21.61	12.40	9.25	57.00	100.0%
Total Project Costs:	0.01	13.74	21.61	12.40	9.25	57.00	100%
Sources of Funds							
Local Funding Sources							
Proposition C 25%	0.01	13.74	21.61	11.65	-	47.00	82%
Countywide Other Funds				0.75	9.25	10.00	18%
TOTAL:	0.01	13.74	21.61	12.40	9.25	57.00	100%

*Sources of funds are subject to change. Assumes claims hearing is on schedule for May 2023 and Catch-All Contract #2 Substantial Completion December 2024.

**FY23-FY25 is projected.

ATTACHMENT B

(2022-0509)

C/LAX Close Out Activities Project (CP869512)

Projected Breakdown of Cost Allocation for \$10 million

Amount	Descriptions
\$4,000,000	Construction <ul style="list-style-type: none">o Segment C "Punch-List" Contract (includes testing)
\$3,500,000	Legal Services <ul style="list-style-type: none">o Procured legal services to assist project management with preparing documentation and analysis in support of Metro's defense against claims submitted by the contractor.
\$2,001,763	Professional Services & Misc <ul style="list-style-type: none">o Metro Staff at Gateway and at multiple field offices who perform oversight in various disciplines.o CMSS - STANTEC: Claim preparation support (records reviewing and comments). Construction management support services procured to support Metro staff in oversight of specific areas of project construction disciplines such as field inspectors, resident engineers and other construction support.o Arcadis Inc.: claims support consultant to assist with preparing documentation and analysis in support of Metro's defense against claims submitted by the contractor.o Mott McDonald: Claim preparation support to assist with preparing documentation and analysis in support of Metro's defense against claims submitted by the contractor.o Miscellaneous professional Services support .
\$498,237	Unallocated Contingency <ul style="list-style-type: none">o Amount not yet allocated to a specific line item but is required for anticipated unknown cost increases.
\$10,000,000	Total Increase

Crenshaw/LAX Close Out 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 Crenshaw/LAX Close Out Project (the Project) is subject to this policy analysis.

The life-of-project (LOP) budget for the Project was last approved by the Board in June 2022 at \$47,000,000. The Project is subject to the Policy analysis now due to a proposed \$10,000,000 increase to the LOP budget. Funding for the cost increase is needed through FY 2025. This analysis recommends trade-offs required by the Policy to identify the funds necessary to meet the cost increase.

The LOP budget requires an increase of \$10,000,000 to pay for additional schedule delays, the bid for the Close Out work exceeding the planned budget, and legal costs to analyze and defend the claim.

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 sub-region; and finally,
- 6) Countywide transit or highway cost reductions or other funds will be sought using pre-established priorities.

Scope Reductions

The Project cost increase is attributable to schedule delays, higher expected cost for the Close Out, and legal costs due to a five-month hearing delay. Any attempt to identify and negotiate agreeable reductions to the scope may result in further delays and potential additional costs. 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 eligible for Measure R funding but this is entirely allocated to the Crenshaw/LAX Transit project, or subsequently transferred to another project.

The Project is located in the South Bay and Central City Area subregions (as defined in the Policy, as amended), with station locations in the cities of Los Angeles and Inglewood. Local funding resources from both the subregions and cities could be considered for the cost increase.

Subregional Programs and Local Agency Contributions

Measure R, as amended, includes funding for a "South Bay Transit Investments" program and the South Bay subregion (represented by its Council of Governments) could allocate a portion of the funding for the Project. Metro staff will contact the subregion to determine if it would allocate any funding. However, due to the time constraints of this Board item, this funding is not considered available for the Project cost increase.

Measure M includes funding for a transit-eligible multi-year subregional program (MSP) for the South Bay and Central City Area subregions. The MSP is eligible beginning FY 2018 and entitled the Subregional Equity Program (SEP). However, Motion #2021-0435 amends the Policy to "eliminate the Subregional Equity Program from consideration to address project funding shortfalls during construction" and is not considered available for the Project cost increase.

Local Agency Contributions

The cities with Project stations have agreed to contribute funding to the Project as part of the 3% local agency funding assumption included in the Measure R ordinance. Metro is front-funding the Los Angeles share of \$89.7 million with the city making payments to Metro through FY 2023. Inglewood has agreed to pay \$12 million, with \$6 million in-kind for future first-last-mile improvements, and \$6 million in payments made over 40 years (with no payments or interest accrued for ten years). The cities are generally not responsible for cost increases to the projects and this restriction is included in the local agency contribution agreements between Metro and the cities.

Measure M, as well as Measure R and Propositions A and C, provide "local return" funding to Los Angeles and Inglewood. The cities will receive an estimated \$3.9 billion of local return (Los Angeles \$3.8 billion, Inglewood \$100 million) over the ten-year period FY 2023 to FY 2032 that is eligible for transit use and could contribute a portion to the Project. However, prior Board actions relating to the Twenty-Eight by '28 Initiative and funding for the cost increase to Foothill Extension to Pomona, Crenshaw/LAX Transit, Westside Subway Section 1, and Eastside Access did not support use of local

return, and it is presumed these funds would not be available for the cost increase to the Project.

State and Federal Funding (Discretionary)

The State has previously granted the Crenshaw/LAX Transit project \$129.1 million through Prop 1B grants and the USDOT has provided funding through a \$13.9 million TIGER grant and \$545.9 million TIFIA loan. Additional State or federal discretionary funding (where Metro would compete for the funding) is not probable, given the Crenshaw/LAX Transit project and Crenshaw Close Out Project have experienced multiple cost increases and the project is in operation.

Value Engineering

The Project cost increase is attributable to schedule delays, higher expected cost for the Close Out, and legal costs due to a five-month hearing delay. Any attempt to identify and negotiate agreeable value engineering may result in further delays and potential additional costs. As a result, we recommend moving to the next step.

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

The cities and subregions have existing funding programs that have funding amounts yet to be spent. The potential use of the MSP and SEP are discussed above in section "New Local Agency Funding Resources."

The cities also receive funding through the Call-For-Projects, the competitive grant program that is funded and managed by Metro for the benefit of LA County cities, transit operators, and State highway projects that was last held in 2015. At times the funding for certain projects in the Call-For-Projects is "de-obligated" if not spent within a reasonable timeframe and this can be a funding source for other uses. Currently there is not a meaningful amount of de-obligated funds available, and all other projects are moving through their respective development process.

The Project is within the same corridor as the Airport Metro Connector, which is currently in construction with an LOP budget of \$898,581, approved by the Board in April 2021. This project is not yet completed and does not have cost reductions that could be used 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. A reallocation of the funds to the cost increase would divert the funding from other Board-approved uses and or require additional debt financing. Eligible sources of countywide funding include Proposition C 25% (Transit-Related Streets and Highways), Proposition C 40% (Discretionary), and Proposition A 35% (Rail Development).

Through FY 2025, the Proposition C 25% funds are currently planned, from highest to lowest, for debt service on Metro bonds, Call For Projects, Microtransit, Freeway Service Patrol, and the Crenshaw/LAX Locally Funded Activities Project. The Proposition C 40% is planned for Metro bus operations, ADA-paratransit operations, rail operations, the municipal and non-Metro operators, and debt service. The Proposition A 35% is planned for Heavy Rail Vehicles, rail operations, debt service on Metro bonds, vehicle midlife, and Light Rail Vehicles.

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 and the next cycle of the LPP is planned to be used on the Division 20 project and NextGen.

The Crenshaw/LAX Transit project has previously received federal Surface Transportation Block Grant Program (STBG) and Congestion Mitigation & Air Quality Program (CMAQ) funding and these may be eligible for use on the Project to address the cost increase. However, the funding is currently programmed for other uses in the Long Range Transportation Plan Financial Forecast including Crenshaw/LAX Transit and other Metro rail operating expenses, Metro heavy rail projects, and Call For Projects, and any allocation to the Project would reduce the availability for competing uses.

Recommendation

We recommend that the \$10,000,000 cost increase for the Project is funded with available and eligible local funds at time of expenditure (Countywide Other Funds) as the funding (including debt financing). The Policy analysis has looked at potential cost reductions and these are not feasible given the status of the Project and timing of the funding need. The Policy analysis has also considered local funding from the subregions, including Measure R South Bay Transit Investments, local return, and the defunding of projects in the Call For Project and or cost savings from other projects and has determined that this funding is not available. State and federal formula funding were also evaluated but these are not available as they are programmed for other uses in Metro's financial forecast.

Board Report File #2022-0509

Subject: Crenshaw/LAX Closeout Project

Amend LOP Budget by \$10M from \$47M to \$57M



Board Report File #2022-0509

Subject: Crenshaw/LAX Closeout Project

Amend LOP Budget by \$10M from \$47M to \$57M

- **ACTION: AUTHORIZE LIFE-OF-PROJECT BUDGET INCREASE**
- **Scope**
 - Higher than the anticipated cost for Segment C “Catch-All Contract #2” to be solicited to handle the remaining miscellaneous items previously removed from Contract #1 and newly identified scope items.
 - Additional Legal and claim support services support to defend against claims by the design-builder due to a five (5) month hearing delay.
 - Additional professional services to support claim preparation.

Board Report File #2022-0509

Amend LOP Budget by \$10M from \$47M to \$57M

(2022-0509)

Crenshaw/LAX Closeout Project Funding / Expenditure Plan* (Dollars in Millions)

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Metro

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Subject: Crenshaw/LAX Closeout Project

Amend LOP Budget by \$10M from \$47M to \$57M

C/LAX Closeout Project	\$47M LOP Jun-22	Committed thru Dec-22	Expended thru Dec-22	\$47M LOP Budget Remaining to Commit Dec-22	\$10M LOP Increase REQUESTED	\$57M Revised LOP REQUESTED
June 2022 LOP Increase						
Construction	15,745,251	10,386,735	2,983,860	5,358,516	4,000,000	19,745,251
-Catch All	12,500,000	6,806,695	-			
-Union Equity	3,245,251	3,580,040	2,983,860			
Prof Services (Claim, Admin, CMSS, PMSS, Misc)	12,554,749	6,045,491	3,776,118	6,509,258	2,000,000	14,554,749
Legal Services	16,200,000	15,824,042	15,294,158	1,375,958	3,500,000	19,700,000
Project Contingency	2,500,000			1,000,000	500,000	3,000,000
TOTAL:	47,000,000	32,256,268	22,054,136	14,243,732	10,000,000	57,000,000