



DISCUSSION

City of San Bernardino Request for Council Action

Date: September 6, 2023

To: Honorable Mayor and City Council Members

From: Charles E. McNeely, Interim City Manager;
Daniel Hernandez, Agency Director of Public Works,
Operations and Maintenance

Department: Public Works

Subject: **Mount Vernon Avenue Viaduct - Amendment No. 3 to
Cooperative Agreement No. 16-1001477 (Ward 1)**

Recommendation:

It is recommended that the Mayor and City Council of the City of San Bernardino, California, adopt Resolution No. 2023-145 authorizing the City Manager to execute Amendment No. 3 to Cooperative Agreement No. 16-1001477 with the San Bernardino County Transportation Authority (SBCTA) for the Environmental Clearance, Preliminary Design, Right-of-Way, and Design-Build Phases for the Mount Vernon Avenue Viaduct Project (Project), to increase the funding by an estimated amount of \$13,331,534, to address the project extension and costs escalation during the Design-Build phase for a total Project cost of \$244,811,419.

Executive Summary:

Approval of Amendment No. 3 will allow execution of the design-build contract to proceed with the completion of the project. Utility, right-of-way, and railroad facility relocation issues have delayed the Project by approximately 13 months. The cost associated with these delays is significantly higher than contingency available, creating a funding shortfall. The total budget shortfall is estimated to be \$13,331,534 (Resolution No. 2023-146 - Attachment 1). This amount includes the funding needed for construction and project management.

Background

The Mt. Vernon Bridge is 1,016 feet long and spans over 20 train tracks. Three of the tracks are owned by Metrolink and carry 60 passenger trains per day. Two of the tracks are used by AMTRAK which run two trains per day under the bridge. The remainder of the tracks are owned by the Burlington Northern Santa Fe Railroad (BNSF). BNSF operates three transcontinental tracks which carry 80 transcontinental trains per day. BNSF has six intermodal strip tracks that operate 24 hours a day, seven days a week, and carry an average of 12 trains per day. A total of 154 trains operate underneath the bridge every day.

Replacement of the Mt. Vernon Bridge, which was built in 1934, has been a high priority for the City for more than 18 years. In 1997, the California Department of Transportation (Caltrans) inspectors determined that the bridge had a sufficiency rating less than 50 out of a possible 100. Bridges rated less than 50 are considered to be structurally deficient and functionally obsolete. In 2015, Federal funding in the amount of \$92 million for replacement of the bridge was approved by Caltrans.

Although this is a City project, San Bernardino County Transportation Authority (SBCTA) took over management of the Mount Vernon Avenue Viaduct Project (Project) in 2016. This Project includes demolishing the existing bridge over the BNSF Railway main tracks and intermodal yard and replacing it with a new bridge which meets current design and safety standards. Cooperative Agreement No. 16-1001477 with the City, which addresses the Environmental Clearance, Preliminary Design and Right-of-Way (ROW) phases, provided for SBCTA to become the lead agency on the project and for project funding through Federal Highway Bridge Program (HBP) funds, Public Share funding through Measure I Arterial Sub-program funds, and the City's local share to be funded through Developer Impact Fees (DIF).

Measure I funding is the City's formula share of the Arterial Sub-program of the county-wide half-cent sales tax measure approved by the voters to provide funding for congestion relief and safety improvements to major streets. It is a reimbursement program for projects in the City of San Bernardino identified in the SBCTA Nexus Study for Arterials.

On May 16, 2016, the Mayor and City Council adopted a Resolution approving a Memorandum of Understanding with the SBCTA designating SBCTA as Lead Agency for environmental clearance, design, ROW acquisition and construction of the Mt. Vernon Avenue grade separation over the BNSF Railroad.

On June 16, 2016, Cooperative Agreement No. 16-1001477 was approved specifically authorizing SBCTA to proceed with the environmental clearance, design, and ROW phases of the project. SBCTA has obtained re-certification of the original environmental document and was proceeding with a supplemental environmental document to address the additional project area being acquired north of 4th Street, which was needed for relocated buildings and trailer parking. After the environmental clearance was completed, final design and ROW acquisition could move ahead (Attachment 3).

On September 9, 2018, Amendment No. 1 to the Cooperative Agreement was approved to address the project becoming a design-build project and to clarify roles and responsibilities for the ROW and design build phases. Amendment No. 1 also increased the project cost and funding, increasing the public and City share costs after project buy downs to around \$15.8 million, including a \$29.5 million contribution from BNSF (Attachment 3).

The project received proposals for the design-build contract and the costs from the lowest responsible, responsive proposer were significantly higher than the engineer's estimate, creating a funding shortfall. SBCTA and City staff worked with Caltrans to obtain additional project funding and ways to address this shortfall of over \$90 million. Through Caltrans delivering additional HBP funds, Highway Infrastructure Program (HIP) funds, and eliminating deferred reimbursement, the project funding shortfall was just over \$10 million. This remaining \$10 million was proposed to be funded through an increase in the public and local share contributions. The public share is funded by the City's formula share of Measure I Arterial Sub-program funds and the City share is funded through DIF funds. Amendment No. 2 revised the funding table in Attachment 5 to reflect the increased project cost and the increased funding contributions from the various parties.

On April 8, 2020, the Mayor and the City Council approved to receive an advance of up to five years of the City's projected allocations of Measure I Arterial Sub-program funds of \$11.8 million in order to assist with completion of the 5-year projects, including an increase in the local funding required to complete the Mount Vernon Bridge Replacement Project.

On May 6, 2020, the Mayor and City Council adopted a Resolution approving Amendment No. 2 to Cooperative Agreement No. 16-1001477 (Attachment 5).

Discussion

The Project proceeded as planned with completion of the demolition of the existing bridge in June 2021. Per the approved schedule, the design-build contractor should have been able to mobilize for bridge construction in December 2022; however, the Project has experienced delays since demolition. The aggregate effect of third-party utility delays, ROW issues, and railroad intermodal yard facility relocation issues has delayed the project by approximately 13 months. The cost associated with these delays is significantly higher than contingency available, creating a funding shortfall.

Staff regularly attended the project meetings and were informed of the schedule delay and potential project cost increase. An estimated cost increase of approximately \$12 million was discussed with the City during a meeting in June 2023 as well as the need to expedite approval of the Amendment in July to reduce further delay costs. However, the final cost proposal from the design-builder was not received by SBCTA until July 28, 2023.

On August 1, 2023, staff met with SBCTA to discuss the cost increase, which is based on a Notice-to-Proceed or construction start date of September 11, 2023. SBCTA scheduled SBCTA Board approval of the Amendment on September 6, 2023. To carry out the planned start date, City Council will need to approve the Amendment at the City Council meeting date of September 6, 2023. The cost is subject to the final start date and will increase if construction is not started on September 11, 2023.

The project cost increase is primarily due to the cost escalation for material supplies and skilled labors. The California Department of General Services reported that new construction costs in California went up 15.22% from June 2021 to June 2022. As a

point of reference, the Bureau of Engineering of City of Los Angeles used construction inflation rate of 15% for FY2022-23. The construction phase of the design-build cost was budgeted at \$124.6 million prior to the 13-month delay.

A project shortfall of \$14.2 million was presented at the August SBCTA Metro Valley Study Session but was later negotiated down to a lower cost. Because HBP funds are capped for the project, all cost increases must be funded by the City. Staff has been working with SBCTA to examine various funding options to address this shortfall that is now estimated at \$13,331,534 through an increase in the Public Share (City's Measure I Arterial Funds) and City Share (DIF) contributions. Additionally, the Project required short-term financing for delays in reimbursement of HBP funds in the amount of \$1,734,894, which will be fully reimbursable by HBP funds.

The funding plan requires the City to take advantage of the previously approved five-year advance of the City's projected allocations of Measure I Arterial Sub-Program funds through 2034. However, this advance can fund both the Public Share and the City Share (through a separate term loan agreement) while allowing the other major street projects to be completed by 2029. The loan for the City Share will be paid back to the Arterial Sub-program fund as uncommitted DIF funds are collected. Although the funding plan will commit all of the Measure I Arterial Sub-program funds the City is projected to receive through 2034, it will provide funding to complete the four major street projects in the program in the next five years, as shown in Table 1. City staff will return to City Council at a later date for approval of the term loan agreement.

Table 1 - San Bernardino Arterial Program Projection

Project	Measure I Prior	Measure I FY 23/24	Measure I FY 24/25	Measure I FY 25/26	Measure I FY 26/27	Measure I FY 27/28	Measure I Total
Reconstruct Mt Vernon Bridge to 4 lanes (before cost increase)	1,015,013	1,745,686	5,466,952	1,100,892	0	0	9,328,543
Widen "H" St from Kendall Dr to 40th St from 2 to 4 lanes	1,025,980	0	0	0	797,680	2,704,000	4,527,660
Widen State Street from 16th St to Baseline St from 0 to 4 lanes	6,038,062	0	0	0	0	0	6,038,062
Widen 40th St from Acre Ln to Electric Ave from 2 to 4 lanes	1,645,675	0	0	0	866,560	3,380,000	5,892,235
	9,724,730	1,745,686	5,466,952	1,100,892	1,664,240	6,084,000	25,786,500

There will be no impact to existing arterial projects through 2029, but it does limit the City's ability to fund new projects with Measure I Arterial funds through 2034. It's important to note, for new major street projects, City staff may perform the planning and design of new projects and start the construction when additional Measure I Arterial Sub-program funds become available. This is expected in 2035 based on the funding projections, but this date could be earlier if the City pays the loans using DIF funds. The City may also identify additional projects in the term loan agreement that would take priority over the repayment of Measure I funds, but those funds would not be available until 2035 if any additional projects are prioritized.

The total project cost is estimated to be \$244,811,419. The City's share to date is \$39,245,048 (including the \$13.33 million), which is 16% of the total project Cost. A

total of \$205,566,371 has been contributed to the project through a combination of Federal, State, and BNSF funding.

Tables 2 and 3 include the costs associate with Amendment No. 3 and the total cost of the project including all previously approved Amendments.

Table 2 - Cost Increase for Delay and Escalation Cost

	TOTAL	FEDERAL HBP	FEDERAL HIP	STATE PROP 1B	BNSF	PUBLIC SHARE (MEASURE I)	CITY SHARE (DIF)
Project Cost	\$12,831,534	(\$23,258,651)	\$23,495,394			\$8,514,079	\$4,080,712
Project Management	\$500,000						\$500,000
Financing Cost	\$1,734,894	\$1,498,151				\$160,038	\$76,705
Subtotal Amendment 3	\$15,066,428	(\$21,760,500)	\$23,495,394	\$0	\$0	\$8,674,117	\$4,657,417
Grand Total thru Amendment 3	\$244,811,419	\$149,118,307	\$23,495,394	\$3,452,670	\$29,500,000	\$24,839,652	\$14,405,396

Table 3 - Cost Estimate Detail Thru Amendment 3

	TOTAL	FEDERAL HBP	FEDERAL HIP	STATE PROP 1B	BNSF	PUBLIC SHARE (MEASURE I)	CITY SHARE (DIF)
Project Cost	\$240,576,525	\$147,620,156	\$23,495,394	\$3,452,670	\$29,500,000	\$24,679,614	\$11,828,691
Project Management	\$2,500,000		\$0	\$0	\$0	\$0	\$2,500,000
Financing Cost	\$1,734,894	\$1,498,151	\$0	\$0	\$0	\$160,038	\$76,705
Total	\$244,811,419	\$149,118,307	\$23,495,394	\$3,452,670	\$29,500,000	\$24,839,652	\$14,405,396

2021-2025 Strategic Targets and Goals

Authorization of this amendment aligns with Key Target No. 1e: Improved Operational & Financial Capacity – Minimize risk and litigation exposure. This project will construct public infrastructure in the City that will minimize the risk and litigation exposure upon completion of the bridge improvements.

Fiscal Impact

The Public Share is funded by the City's equitable share of Measure I Arterial Sub-program funds and the City share is funded through DIF funds. Amendment No. 3 revises the funding table in Attachment A to the Cooperative Agreement to reflect the increased project costs and the increased funding contributions from the various parties. This plan requires advancement of the City's projected allocations of Measure I Arterial Sub-program funds and a term loan agreement to loan Measure I Arterial Sub-program funds to the DIF fund to be repaid with future uncommitted DIF.

Conclusion

It is recommended that the Mayor and City Council of the City of San Bernardino, California, adopt Resolution No.2023-145 authorizing the City Manager to execute Amendment No. 3 to Cooperative Agreement No. 16-1001477 with the San Bernardino County Transportation Authority (SBCTA) for the Environmental Clearance, Preliminary Design, Right-of-Way, and Design-Build Phases for the Mount Vernon Avenue Viaduct Project (Project), to increase the funding by an estimated amount of \$13,331,534, to address the project extension and costs escalation during the Design-Build phase for a total Project cost of \$244,811,419.

Attachments

Attachment 1	Resolution No. 2023-145
Attachment 2	Amendment No. 3 to Cooperative Agreement No. 16-1001477
Attachment 3	Cooperative Agreement 16-1001477

Attachment 4	Amendment No. 1 to Cooperative Agreement No. 16-1001477
Attachment 5	Amendment No. 2 to Cooperative Agreement No. 16-1001477

Ward:
First Ward

Synopsis of Previous Council Actions:

May 16, 2016	Resolution No. 2016-109 approving a MOU with SBCTA, designating SBCTA as Lead Agency.
June 16, 2016	Mayor and City Council approved Cooperative Agreement No. 16-1001477 between City of San Bernardino and SBCTA to proceed with environmental clearance, design, and right-of-way phases of the Project.
September 9, 2018	Resolution No. 2018-257 approving Amendment No. 1 to Cooperative Agreement No. 16-1001477.
April 8, 2020	Mayor and City Council approved to borrow up to five years of the City share of Measure I funds to assist with completion of the project.
May 6, 2020	Resolution No. 2020-78 approving Amendment No. 2 to Cooperative Agreement No. 16-1001477.