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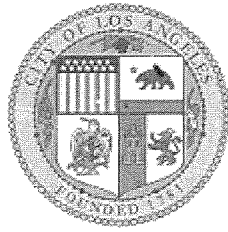
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September 1, 2021

BPW-2021-0614

The Honorable City Council
Room No. 395
City Hall

The Honorable Mayor Garcetti
City Hall – Room 320
Los Angeles, CA 90012
Attn: Heleen Ramirez

REVISED CONSTRUCTION AND MAINTENANCE AGREEMENTS AND BUDGET INCREASE - NATIONAL RAILROAD PASSENGER CORPORATION, BNSF RAILWAY COMPANY, LOS ANGELES COUNTY METROPOLITAN TRANSPORTATION AUTHORITY, SOUTHERN CALIFORNIA REGIONAL RAIL AUTHORITY/ METROLINK, AND UNION PACIFIC RAILROAD - SIXTH STREET VIADUCT REPLACEMENT PROJECT

As recommended in the accompanying report from the City Engineer, which this Board has adopted the Board of Public Works (Board) recommends that the Mayor and City Council:

1. APPROVE and AUTHORIZE the City Engineer to execute a Third Supplemental Agreement between the City and the BNSF to extend the Temporary Construction License date to August 14, 2022;
2. APPROVE and AUTHORIZE the City Engineer to execute a Second Supplemental Agreement between the City and the SCRRA to acknowledge an increase in the SCRRA cost estimate from \$7,302,042 to \$12,226,717;
3. APPROVE and AUTHORIZE the City Engineer to execute a Third Supplemental Agreement between the City and the UPRR to grant additional days of temporary construction rights and extend the effective date of the agreement to August 8, 2022; and



6th Street Viaduct Replacement Project

4. AUTHORIZE the City Engineer to make any technical corrections necessary to effectuate the amendments.

(W.O. E700224L, E700227F, C-126878, C-126876, C-126879, C-126880, C-126877)

Fiscal Impact:

Funding for this increase has been provided by Municipal Improvement Corporation of Los Angeles (MICLA) funds authorized for the Project per City Council File No. 20-0516 in the amount of \$3,300,000.

Sincerely,

A handwritten signature in black ink, appearing to read "F. Campos", written over a circular stamp or seal.

DR. FERNANDO CAMPOS,
Executive Officer, Board of Public Works

FC:lc

Department of Public Works

Bureau of Engineering
Report No. 1

September 1, 2021
CD No. 14

ADOPTED BY THE BOARD
PUBLIC WORKS OF THE CITY
of Los Angeles California
AND REFERRED TO THE MAYOR
SEP 01 2021
AND REFERRED TO THE CITY COUNCIL
[Signature]
Executive Officer
Board of Public Works

REVISE BUDGET FOR CONSTRUCTION AND MAINTENANCE AGREEMENTS WITH NATIONAL RAILROAD PASSENGER CORPORATION (C-126878), BNSF RAILWAY COMPANY (C-126876), LOS ANGELES COUNTY METROPOLITAN TRANSPORTATION AUTHORITY (C-126879), SOUTHERN CALIFORNIA REGIONAL RAIL AUTHORITY/METROLINK (C-126880), AND UNION PACIFIC RAILROAD (C-126877) FOR THE SIXTH STREET VIADUCT REPLACEMENT PROJECT (WORK ORDER NOS. E700224L AND E700227F)

RECOMMENDING THE BOARD OF PUBLIC WORKS (BOARD):

1. APPROVE an increase to the City Engineer's not-to-exceed cost ceiling from \$21,300,000 to \$24,600,000 to amend Construction and Maintenance (C&M) Agreements and Rights-of-Entry between the City of Los Angeles (City) and the railroad agencies, including Contract No. C-126878 with the National Railroad Passenger Corporation (Amtrak), Contract No. C-126876 with the BNSF Railway Company (BNSF), Contract No. C-126879 with the Los Angeles County Metropolitan Transportation Authority (Metro), Contract No. C-126880 with the Southern California Regional Rail Authority/Metrolink (SCRRA), and Contract No. C-126877 with the Union Pacific Railroad (UPRR) for the Sixth Street Viaduct Replacement Project (Project).
2. FORWARD this report with transmittals to the City Council and Mayor requesting the following:
 - a. Approve and authorize the City Engineer to execute a Third Supplemental Agreement between the City and the BNSF (C-126876) to extend the Temporary Construction License date to August 14, 2022.
 - b. Approve and authorize the City Engineer to execute a Second Supplemental Agreement between the City and the SCRRA (C-126880) to acknowledge an increase in the SCRRA cost estimate from \$7,302,042 to \$12,226,717.
 - c. Approve and authorize the City Engineer to execute a Third Supplemental Agreement between the City and the UPRR (C-126877) to grant additional days of temporary construction rights and extend the effective date of the agreement to August 8, 2022.
 - d. Authorize the City Engineer to make any technical corrections necessary to effectuate the amendments.

FISCAL IMPACT STATEMENT

Funding for this increase has been provided by Municipal Improvement Corporation of Los Angeles (MICLA) funds authorized for the Project per City Council File No. 20-0516 in the amount of \$3,300,000.

TRANSMITTALS

1. Copy of the Bureau of Engineering (BOE) Report No. 1, adopted on February 2, 2021, authorizing the City Engineer to increase the not-to-exceed cost ceiling to amend Construction and Maintenance Agreements and Rights-of-Entry between the City and the railroad agencies including Amtrak, BNSF, Metro, SCRRA, and UPRR from \$16,370,295 to \$21,300,000.
2. Copy of the BOE Report No. 2, adopted on April 16, 2021, authorizing the City Engineer to issue Change Order Nos. 127 and 128 to Skanska-Stacy and Witbeck, a Joint Venture, for the Task Order Package 5 - New Viaduct for the Project (Work Order No. E700224F, Contract No. C-123545).
3. Copy of the draft Third Supplemental Agreement to Contract No. C-126876 between the City and the BNSF.
4. Copy of the draft Second Amendment to Contract No. C-126880 between the City and the SCRRA.
5. Copy of the draft Third Supplemental Agreement to Contract No. C-126877 between the City and the UPRR.

DISCUSSION

Background

On November 24, 2014, the Board authorized the City Engineer to enter into Design Services Agreements, C&M Agreements, and Rights-of-Entry related to working on the property of the five railroad agencies up to a not-to-exceed amount of \$6,500,000. On December 2, 2015, January 27, 2017, and July 26, 2019, the Board authorized the City Engineer to increase the not-to-exceed cost ceiling to \$10,500,000, \$10,690,000, and \$16,370,295, respectively.

The Board also forwarded the July 26, 2019 report to the Mayor and City Council, requesting authority to act under the railroad agreements through December 31, 2023. City Council approval was required because the revised duration of the railroad agreements exceeded five years. This recommendation was adopted by City Council on September 20, 2019, per City Council File No. 19-0958.

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Most recently, on February 2, 2021, the Board authorized the City Engineer to further increase the not-to-exceed cost ceiling to enter into railroad agreements from \$16,370,295 to \$21,300,000 (Transmittal No. 1). This increase was to cover railroad expenditures through Fiscal Year 2020-2021 (FY20-21). In the report, the BOE advised that it would return to the Board to request authority for the remaining railroad support costs through the end of the Project, for a projected total of \$24,889,830.

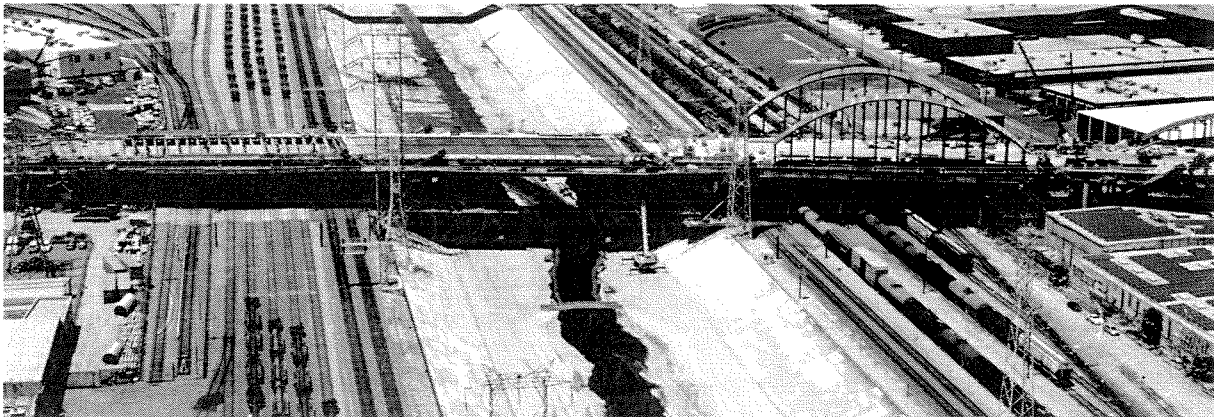


Figure No. 1 - Construction Activities within Railroad Rights-of-Way (Photo by Gary Leonard, July 2021)

Not-to-Exceed Cost Ceiling

In accordance with the terms and conditions of the C&M Agreements, the City reimburses each railroad agency for the actual expenses incurred to support the project. Based upon the expenditures through FY20-21 and the expected remaining costs, it is anticipated that the total cost will not exceed the \$24,899,830 amount previously presented to the Board. The estimated costs for each railroad agency through the completion of the Project under this authority are listed in the table below, totaling \$24,600,000, including contingency. The remaining \$299,830 projected for the Metro flagging will be issued as a change order to the contractor, as authorized by the Board on April 16, 2021 (Transmittal No. 2).

Estimated Cost Through the End of the Project*					
UPRR	BNSF	Amtrak	SCRRA	Metro	Total
\$5,944,084	\$3,845,928	\$1,088,452	\$12,891,717	\$608,997	\$24,379,178
					Contingency \$ 220,822
Total Revised Ceiling					\$24,600,000

* NOTE: These are estimates only. Payment to each railroad will be based on actual expenses incurred.
Total payments will not exceed the Board approved ceiling.

These cost-to-complete estimates are based on costs incurred to date plus the remaining real estate costs, mitigation costs, project management/coordination expenses, and flagging costs projected by the Project team. The total projected cost has decreased by over \$200K since last presented to the Board, which is now designated as contingency in the table above. Details regarding updates to the cost-to-complete estimate for each railroad agency is provided below.

UPRR (East Bank) and SCRRA (East and West Bank)

UPRR and SCRRA expenses were consistent with the projected costs for FY20-21, with the exception of moderate unanticipated UPRR specialized inspection costs. Additional short-term increases to UPRR specialized inspection costs have been projected by UPRR for upcoming major activities including arch construction and falsework removal. For FY21-22, continuous UPRR and SCRRA east bank flagging previously projected through March 2022, is now being projected through the end of June 2022 in line with the contractor's updated schedule for work over east bank railroads. Projected costs for UPRR and SCRRA for FY21-22 have increased by approximately \$400K and \$665K, respectively.

Amtrak and BNSF (West Bank)

Amtrak and BNSF expenses were less than the projected costs for FY20-21, with the exception of a moderate increase in BNSF Project Management and Oversight costs. The reduction in flagging costs was the result of later than expected activities in this span, combined with BNSF/Amtrak intermittent flagging accommodation for some construction activities. For FY21-22, continuous Span 4 construction, previously projected through March 2022, is now being projected through the end of June 2022 in line with the contractor's updated schedule for work over the west bank railroads. Despite this extension, BNSF expenditures are expected to remain below the original projection by about \$11K. Continued Amtrak intermittent flagging accommodations are expected to result in a projected cost decrease of approximately \$785K. Should Amtrak modify their flagging requirements, it has the potential to result in significant costs.

Metro (West Bank)

Metro expenses were significantly less than the projected costs for FY20-21. The reduction in flagging costs were the result of later than expected activities in this span, along with significant Metro track-level access limitations. In addition, the contractor has been performing flagging services in lieu of Metro, in accordance with the change order authorized by the Board on April 16, 2021, as previously mentioned. It is now projected that only \$299,830 of this authority will be necessary through the end of the Project. For FY 21-22, continuous Span 4 construction, previously projected through March 2022, is now being projected through the end of June 2022 in line with the contractor's updated schedule for work over the west bank railroads. Despite this extension, further anticipated

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Metro track-level access limitations, along with less projected flagging costs, have decreased the cost-to-complete estimate by approximately \$410K.

Supplemental Agreements

Contract amendments with BNSF, SCRRA, and UPRR are necessary to extend temporary construction access and/or their support of the Project through the current projected completion date of July 30, 2022.

The current Temporary Construction License from BNSF expires on September 14, 2021. The proposed Third Supplemental Agreement to the Overpass Agreement between the City and BNSF (Transmittal No. 3) will extend the Temporary Construction License date to August 14, 2022, at approximately the same monthly rate applied under the current contract and amendments.

Exhibit D-2 of the C&M Agreement with SCRRA contains an estimate for railroad work to be performed by SCRRA, at the City's sole cost and expense. The proposed Second Supplemental Agreement to the C&M Agreement between the City and SCRRA (Transmittal No. 4) includes a revision to this estimate, as approved by the SCRRA Board of Directors on February 26, 2021. The City has included additional funding for SCRRA expenses in the amount of \$665,000, based on our flagging projections, and final payment to SCRRA will be based on actual expenses incurred.

The current temporary construction rights granted to the project by UPRR expire on November 18, 2021. The proposed Third Supplemental Agreement to the Public Highway Overpass Crossing Agreement between the City and UPRR (Transmittal No. 5) will grant additional days of temporary construction rights and extend the effective date of the agreement to August 8, 2022, at approximately the same rate applied under the current contract and amendments.

Cost Control Measures

The City continues to work diligently to ensure railroad flagging and associated project management/coordination resources are used as efficiently as possible. These measures include:

- Coordination with the railroads on changes to their implementation of railroad policy and safety guidelines, that will reduce flagging cost without compromising safety.

- Review of the contractor's flagging requests to ensure they align with the contractor's planned work schedule.
- Collaboration with the contractor to ensure alternate means and methods are considered, when possible, to reduce the need for flagging.
- Performance of a detailed review of all railroad billings to ensure flagging being charged was requested by the City and performed by the railroad agencies.

City Attorney Review

The Supplemental Agreements between the City and the SCRRA and between the City and the UPRR have been reviewed and approved as-to-form by the City Attorney's Office.

STATUS OF FUNDING

Funding of \$3,300,000 is provided by MICLA funds authorized for the Project per City Council File No. 20-0516.

The following table provides a description of funding available for these agreements:

Funding Summary	
Fund/Account	Total (\$) Amount
Right-of-Way Funding (Work Order No. E700224L)	
Sixth Street Viaduct Improvement Fund No. 54W, Department No. 50, Appropriation Unit No. 50JRRS* (MICLA Cash Flow for 100 percent Highway Bridge Program [HBP] Grant reimbursement)	\$14,630,856
MICLA Sixth Street Viaduct Funding - Fund No. 298, Department No. 50, Appropriation Unit No. 50TSSV	\$ 6,569,144
Subtotal Right-of-Way Funding	\$21,200,000
Construction - Supplemental Work (Work Order No. E700227F)	
Sixth Street Viaduct Improvement Fund No. 54W, Department No. 50, Appropriation Unit No. 50JRRS (MICLA Cash Flow for 88.53 percent Federal HBP Grant Reimbursement)	\$ 3,010,020
Sixth Street Viaduct Improvement Fund No. 54W, Department No. 50, Appropriation Unit No. 50JRRS (MICLA Cash Flow for 11.47 percent State Proposition 1B Grant Reimbursement)	\$ 389,980
Construction Sub-Total	\$ 3,400,000
Total Funding	\$24,600,000

The City's liability under this contract shall only be to the extent of the present City appropriation to fund the contract. However, if the City shall appropriate funds for any succeeding years, the City's liability shall be extended to the extent of such appropriation, subject to the terms and conditions of the contract.

Department of Public Works
Bureau of Engineering
Report No. 1

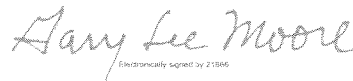
September 1, 2021
Page 7

(JAA RMK JKS)

Report reviewed by:

Respectfully submitted,

BOE (ADM)


Electronically signed by 21866


Report prepared by:

Gary Lee Moore, PE, ENV SP
City Engineer

Sixth Street Viaduct Division

Julie A. Allen, PE
Division Engineer
Phone No.: (909) 241-7036

Statement as to funds approved by:


for Miguel De La Peña, Director
Office of Accounting
Fund Ref. 298/50/50TSSV/\$3,300,000
Date: 8/19/2021

JAA/JSdIV/08-2021-0110_SIX.gva

Questions regarding this
report may be referred to:
Julia Moye Sanchez de la Vega, PE, ENV SP, Senior Civil Engineer
Phone No.: (213) 694-4273
E-mail: julia.moye@lacity.org

AS AMENDED*

ADOPTED BY THE BOARD
PUBLIC WORKS OF THE CITY
of Los Angeles California

Department of Public Works

Bureau of Engineering
Report No. 1

FEB 02 2021

February 2, 2021
CD No. 14

AND REFERRED TO THE MAYOR


Executive Officer
Board of Public Works

REVISE BUDGET FOR CONSTRUCTION AND MAINTENANCE AGREEMENTS WITH NATIONAL RAILROAD PASSENGER CORPORATION (C-126878), BNSF RAILWAY COMPANY (C-126876), LOS ANGELES COUNTY METROPOLITAN TRANSPORTATION AUTHORITY (C-126879), SOUTHERN CALIFORNIA REGIONAL RAIL AUTHORITY/METROLINK (C-126880), AND UNION PACIFIC RAILROAD (C-126877) FOR THE SIXTH STREET VIADUCT REPLACEMENT PROJECT (WORK ORDER Nos. E700224L AND E700227F)

RECOMMENDING THE BOARD OF PUBLIC WORKS (BOARD):

APPROVE an increase to the City Engineer's not-to-exceed cost ceiling from \$16,370,295 to \$21,300,000 to amend Construction and Maintenance (C&M) Agreements and Rights-of-Entry between the City of Los Angeles (City) and the railroad agencies, including Contract No. C-126878 with the National Railroad Passenger Corporation (Amtrak), Contract No. C-126876 with BNSF Railway Company (BNSF), Contract No. C-126879 with Los Angeles County Metropolitan Transportation Authority (Metro), Contract No. C-126880 with Southern California Regional Rail Authority/Metrolink (SCRRA), and Contract No. C-126877 with Union Pacific Railroad (UPRR) for the Sixth Street Viaduct Replacement Project (Project).

FISCAL IMPACT STATEMENT

Funding for railroad expenditures has been provided by Municipal Improvement Corporation of Los Angeles (MICLA) cash flow that is reimbursed by the Highway Bridge Program (HBP) and Proposition 1B (Prop 1B). Funding for this increase in authorization includes \$1,300,561 from the MICLA cash flow account and \$3,269,144 from MICLA funds authorized for the Project per City Council File No. 20-0516.

TRANSMITTAL

Copy of the Bureau of Engineering (BOE) Report No. 3, adopted on July 26, 2019, authorizing the City Engineer to increase the not-to-exceed cost ceiling to enter into Design Services Agreements, C&M Agreements, Rights-of Entry, and to process and deliver all payments related to working on the property of each of the following five railroad agencies, Amtrak, BNSF, Metro, SCRRA, and UPRR from \$10,690,000 to \$16,370,295.

DISCUSSION

Background

On November 24, 2014, the Board authorized the City Engineer to enter into Design Services Agreements, C&M Agreements, and Rights-of-Entry related to working on the property of the five railroad agencies up to a not-to-exceed amount of \$6,500,000. On December 2, 2015 and January 27, 2017, the Board authorized the City Engineer to increase the not-to-exceed cost ceiling to \$10,500,000 and \$10,690,000, respectively.

TRANSMITTAL NO. 1

Most recently, on July 26, 2019, the Board authorized the City Engineer to further increase the not-to-exceed cost ceiling to enter into railroad agreements from \$10,690,000 to \$16,370,295 (Transmittal). The Board then forwarded the report to the Mayor and City Council, requesting authority to act under the railroad agreements through December 31, 2023. City Council approval was required because the revised duration of the railroad agreements exceeded five years. This recommendation was adopted by City Council on September 20, 2019, per City Council File No. 19-0958.

The most recently authorized not-to-exceed cost ceiling request was based on railroad and project team estimates of railroad design, real estate, mitigation, and flagging costs for a projected Project completion date of March 15, 2022. Due to Project schedule uncertainty and funding considerations at the time, contingency funding was held in the Project budget to accommodate future increases. Associated projected completion dates for work activities within the railroad Rights-of-Way was July 2, 2021, for the railroads on the East Bank of the Los Angeles River (SCRRA and UPRR) and September 13, 2021, for those on the West Bank (Amtrak, BNSF, Metro, and SCRRA).

The current construction completion date is July 30, 2022. Based upon the contractor's monthly schedule update, the completion dates for work activities within the railroad Rights-of-Way are now expected to be March 3, 2022, for the East Bank and March 4, 2022, for the West Bank.

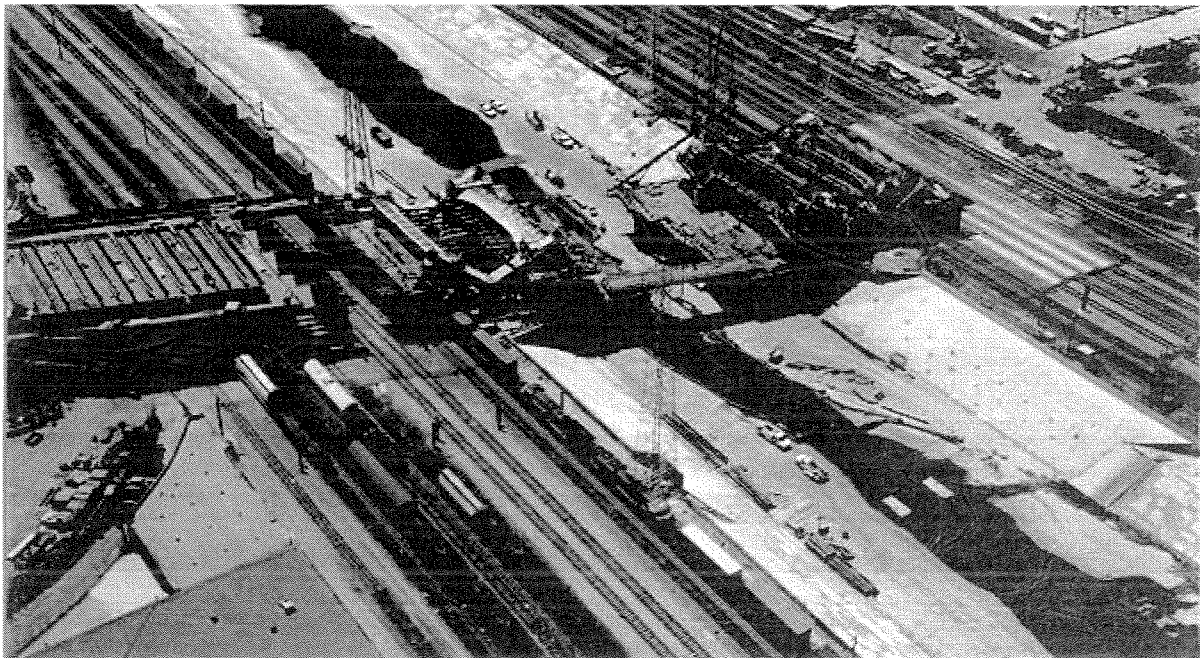


Figure No. 1 Construction Activities within the Railroad Rights-of-Way

Not-to-Exceed Cost Ceiling

In accordance with the terms and conditions of the C&M Agreements, the City reimburses each railroad agency for the actual expenses incurred to support the project.

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Based upon the expenditures to date and the expected remaining costs, including those associated with the extension of the construction schedule, it is anticipated that the total cost will surpass the \$16,370,295 Board approved cost ceiling. The estimated costs for each railroad agency through the completion of the Project are listed in the table below, totaling \$24,889,830. These estimates are based on costs incurred to date plus the remaining real estate costs, mitigation costs, project management/coordination expenses, and flagging costs projected by the Project team. This board report seeks additional authority for the anticipated expenditures through the current fiscal year, in the amount of \$4,929,705, including contingency. The BOE will return to the Board to request additional authority for the remaining railroad support costs for the Project once the final cost-to-complete amount can be more accurately assessed and additional future fiscal year funding is provided in accordance with City Council File No. 20-0516.

Total Estimated Cost Through the End of the Project*						
	UPRR	BNSF	Amtrak	SCRRA	Metro	Total
Real Estate/ Design/ Mitigation	\$ 447,421	\$1,968,354	\$ 6,650	\$ 3,458,781	\$ 206,524	\$ 6,087,730
Flagging	\$5,097,172	\$1,888,871	\$1,868,332	\$ 8,767,936	\$1,189,789	\$18,812,100
Total	\$5,544,593	\$3,857,225	\$1,874,982	\$12,226,717	\$1,396,313	\$24,899,830

Total Amount to be Authorized Through Fiscal Year 2020/21					
Previously Authorized					\$16,370,295
Estimated Additional Cost through Fiscal Year 2020/21*					
UPRR	BNSF	Amtrak	SCRRA	Metro	
\$891,529	\$620,213	\$301,483	\$1,965,964	\$224,516	\$ 4,003,705
Contingency					\$ 926,000
Additional Amount Authorized per this Board Report					\$ 4,929,705
Total Authorization per this Board Report					\$21,300,000

* NOTE: These are estimates only. Payment to each railroad will be based on actual expenses incurred. Total payments will not exceed the Board approved ceiling.

Approximately \$1.7 million was set aside in the Project Right-of-Way contingency to cover expected railroad impact costs above the not-to-exceed ceiling authorized by the Board in July of 2019. In addition, the City Council approved a budget increase of \$2.2 million, per City Council File No. 20-0516, for Right-of-Way expenses associated with the schedule extension. This funding was determined to be adequate for the railroad related cost increases that were expected at that time. Additional funding has been identified within funds authorized for the Project to fully cover recent unanticipated and unforeseen railroad costs discussed in this report.

The cost increases are primarily due to increased flagging expenditures. On the Project, a flagman is an employee or consultant of each railroad who is assigned to protect railroad facilities, as well as equipment and personnel, whenever construction work comes within 25 feet of their tracks. They communicate with train operators and ensure safe movement of the trains through the Project site. They further provide safety briefings to all Project personnel entering railroad Right-of-Way. More detailed explanations for the anticipated increase in costs for each railroad agency are provided below.

UPRR - East Bank Railroad

In May 2019, the Project team estimated that 834 8-hour shifts of flagging from UPRR would support the Project through its completion. At that time, discrete construction activities within Span 6, over the East Bank tracks, were selected that would require flagging support, and the collective duration of these activities was used to develop the flagging estimate. Funding for nine full-access weekend curfews to accommodate concrete pours and falsework stripping over UPRR tracks was also budgeted. This data was used to develop the UPRR budget for the Board authority approved in July 2019. As of September 2020, the Project had fully expended the budgets designated for flagging and weekend access, through the use of approximately 634 flagging shifts, 13 weekend curfews, and due to unanticipated costs discussed below.

On August 11, 2020, through the Span 6 arch rib floor beam and edge girder submittal review process, UPRR determined that hot work, which includes work such as welding, cutting, and soldering steel that uses spark-producing tools, along with the use of any construction equipment with potential to foul any of its tracks, would only be permitted when the asphalt below is clear and the tracks are protected. UPRR further directed that construction activities shall cease any time UPRR needs to switch train cars in the yard. This determination has had a significant impact on the duration of work activities over and adjacent to UPRR tracks. The construction contractor's crews have been required to hand carry and place materials piece-by-piece over and within 25 feet of UPRR tracks. Furthermore, any activities requiring crane support, including the placement of materials that are too heavy to be carried, require the tracks to be clear or the work has to be deferred to a scheduled weekend access curfew. Due to the volume of trains stored at UPRR's yard, there are few opportunities where the tracks can be cleared outside of weekend access curfews. Furthermore, the act of clearing all personnel from the track area during train movements and bringing them back afterwards negatively impacts productivity. To date, train movements have reduced the contractor's access to 50 percent of each day shift and 75 percent of each night shift, which ultimately results in additional work shifts that require flagging support.

Another source of unexpected expenditures is a change in the salary rate for the flagging services. More than three years after execution of the UPRR C&M Agreement and ongoing processing of flagging costs, UPRR began submitting invoices for prevailing wage adjustment costs. There was no back-up or detail included with these invoices. Through coordination with UPRR, on September 9, 2020, UPRR provided back-up documentation to show that the wages for its flaggers had been adjusted to the laborer

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prevailing wage rate, an additional \$23 per hour. This correction applied for all past work performed on the Project and will apply to current and future work. Approximately \$400,000 in invoices for prevailing wage adjustments have been submitted for the work through August 2020, with an additional \$400,000 anticipated through completion of the Project. The BOE is working with the Bureau of Contract Administration to confirm the appropriateness and scope of the submitted invoices before issuing payment.

Finally, based on UPRR's recent input, and through experience and observation working over and around UPRR tracks, the team has refined its original estimating assumptions in preparing the revised flagging projections:

- Work with equipment entirely within City Right-of-Way at Bent 7 and at the helical ramp requires a flagger to be present, due to the adjacency to the UPRR tracks.
- Flagging for near continuous auxiliary access for construction support activities in-between major construction activities such as survey, assessment and repair of installed work, inspection, site housekeeping, etc. is anticipated.
- Potential unutilized flagging shifts due to railroad access restrictions and/or last-minute schedule changes have been considered.

The Project team now foresees that flagging support will not only be necessary when discrete Span 6 construction activities are occurring over UPRR tracks, but rather continuous flagging support will be necessary to ensure the work can continue through the near constant presence of trains within the Project easement area. The team further foresees the need for at least one weekend curfew per month, not only for concrete pours and falsework stripping, but for any activity requiring crane support or hot work. The Project team currently estimates that 779 10.5-hour flagging shifts and 17 weekend curfews will be necessary to support the Project through the current completion date of July 2022. This estimate accounts for near continuous UPRR flagging for six days per week and two shifts per day through March 2022, when the Span 6 falsework and East Bank asphalt protection is removed. This is an increase of approximately \$2.4 million for UPRR railroad support costs for the remainder of the Project.

SCRRA/Metrolink - West and East Bank Railroad

In May 2019, the Project team estimated that 1,294 8-hour shifts of flagging from SCRRA would support the Project through its completion. This included 460 West Bank shifts and 834 East Bank shifts. At that time, discrete Span 4 construction activities over the West Bank tracks and Span 6 activities were selected that would need flagging support, and the collective duration of these activities was used to develop the flagging estimate. Funding for bi-annual SCRRA training classes for Project team members needing

access to SCRRA Right-of-Way was also budgeted. As of the end of October 2020, the Project had fully expended the budgets designated for flagging and safety training.

Starting in June 2020, SCRRA implemented a new policy, defined in the Metrolink Safety Bulletin No. 2, dated September 16, 2019, which has significantly increased the on-going and future flagging support costs for the Project. Specifically, if a foreman of the job is acting as the Roadway Worker in Charge (RWIC) and the crew has more than 10 workers, a Watchman must be added. SCRRA has applied this to the Project by limiting the number of workers that can be overseen by the RWIC to 10 persons, including City staff, even if all work is occurring on the elevated bridge structure. If the City anticipates more than 10 persons will perform work on the bridge deck during the shift, the City must request a second person to perform the Watchman responsibilities. Since work is occurring on both sides of the Los Angeles River, this results in the City utilizing four full time flagging personnel for each shift, all within the same general vicinity. The total estimated financial impact of this revised policy is about \$3.5 million from June 2020 through July 2022.

Project team members have repeatedly met with SCRRA staff to discuss any flexibility to allow variances to the new policy. Through coordination between the City Engineer and the Chief Executive Officer of Metrolink, the project team has recently identified opportunities to provide safe flagging support without the additional Watchman when no work is occurring on the track level. It is expected that this will reduce the added cost of flagging under the revised policy from \$3.5 million to \$1.7 million, which has been incorporated in the expected flagging cost total. However, if these measures are determined to be infeasible, the expected cost would increase by \$1.8 million.

In July 2020, during the installation of falsework over the East Bank of the Los Angeles River, it became apparent to the Project team that SCRRA would require a flagger at one or both banks during Span 5 construction within the Los Angeles River. The Project team had not previously accounted for a flagger to be present when cranes were working exclusively within the Los Angeles River on Span 5 or when project team members were solely crossing over SCRRA Right-of-Way to access the Span 5 construction area. The projected budget increase for this flagging cost is approximately \$750,000.

Starting in March 2020, the COVID-19 pandemic has had a significant impact on the cost of Project safety trainings. SCRRA trainings are held in person. Prior to March, class sizes of 30-plus students were accommodated by SCRRA. Due to COVID-19 restrictions and precautions for indoor gatherings, trainings are now limited to nine students each. This has resulted in an over 200 percent increase in the ongoing and projected cost of SCRRA safety training. The total estimated financial impact of this revised policy is about \$85,000 from March 2020 to July 2022.

In addition to the cost impacts noted above, additional factors have increased SCRRA flagging use and estimates. Based on input from SCRRA and through experience and

February 2, 2021
Page 7

observation working over and around SCRRA tracks, the team has refined its original estimating assumptions in preparing the revised flagging projections:

- SCRRA flagging projections account for UPRR access issues and modified means and methods required for work within the adjacent UPRR Right-of-Way, that has a potential to foul SCRRA tracks.
- Flagging along both banks of the Los Angeles River whenever cranes are in use for the construction of Span 5 has been incorporated.
- Flagging for near continuous auxiliary access for construction support activities in-between major construction activities such as survey, assessment and repair of installed work, inspection, site housekeeping, etc. is anticipated.
- Potential unutilized flagging shifts due to railroad access restrictions and/or last-minute schedule changes have been considered.

The Project team currently estimates that 2,823 10.5-hour SCRRA shifts of flagging will be necessary to support the Project through the current completion date of July 2022. This estimate accounts for continuous flagging for six days per week and two shifts per day from October 2020 through March 2022, when the asphalt protection is removed from the SCRRA east and west bank Project easement areas. This is an increase of approximately \$4.9 million for SCRRA railroad support for the remainder of the Project.

Amtrak, BNSF, Metro - West Bank Railroads

In May 2019, the Project Team estimated that 460 8-hour shifts of flagging each from Amtrak, BNSF, and Metro would support the Project through its completion. At that time, discrete Span 4 construction activities over the West Bank tracks were selected that would need flagging, and the collective duration of these activities was used to develop the flagging estimate. As of October 2020, approximately 60 of the 460 estimated Amtrak 8-hour flagging shifts have been utilized since May 2019, along with 100 of the BNSF shifts and 66 of the Metro shifts. Due to BNSFs proximity to Bent 5 construction activities and its flagging surcharges for short-term off-hour flagging requests, it has provided more flagging support than Metro and Amtrak.

In addition, through experience and observation of construction over the West Bank of the Los Angeles River, the team has refined its original estimating assumptions in preparing the revised flagging projections:

- Flagging for near continuous auxiliary access for construction support activities in-between major construction activities such as survey, assessment and repair of installed work, inspection, site housekeeping, etc. is anticipated.

- Flagging shifts that would support crossings only - bringing manpower, equipment, and materials over Amtrak, BNSF, and Metro tracks to work activities happening outside of these Rights-of-Way have been included.
- Potential unutilized flagging shifts due to railroad access restrictions and/or last-minute schedule changes have been considered.
- Metro flagging estimate anticipates limited flagging of only one shift per day for at-grade access over Metro's electrified third rail. To date, Metro has not indicated that elevated work above their tracks will require a flagger to be present.

The Project team now foresees that flagging will not only be necessary when construction occurs directly over Amtrak, BNSF, and Metro tracks, but continuous flagging support will be necessary to ensure the uninterrupted flow of manpower, equipment, and materials over West Bank railroad Rights-of-Way during the simultaneous construction of Span 4 over West Bank tracks and Span 5 to the east over the Los Angeles River.

The Project team currently estimates that 689 10.5-hour flagging shifts for Amtrak and BNSF will be necessary to support the Project through the current completion date of July 2022. This estimate accounts for near continuous Amtrak and BNSF flagging, for six days per week and two shifts per day, from the start of Span 4 edge girder construction in January 2021 through March 2022, when the West Bank asphalt protection is removed. This is an increase of approximately \$650,000 for Amtrak and \$490,000 for BNSF. The Project team further estimates that 351 10.5-hour Metro shifts of flagging will be necessary to provide near continuous Metro flagging for six days per week and one shift per day. This is an increase of approximately \$70,000 for Metro.

Cost Control Measures

The City continues to work diligently to ensure railroad flagging and associated project management/coordination resources are used as efficiently as possible. These measures include:

- Coordination with the railroads on changes to their implementation of railroad policy and safety guidelines, that will reduce flagging cost without compromising safety.
- Review of the contractor's flagging requests to ensure they align with the contractor's planned work schedule.
- Verification that flagging cancelations due to construction schedule changes, severe weather forecasts, etc. are submitted with sufficient notice, whenever possible.
- Collaboration with the contractor to ensure alternate means and methods are considered, when possible, to reduce the need for flagging.

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Page 9

- Performance of a detailed review of all railroad billings to ensure flagging being charged was requested by the City and performed by the railroad agencies.

City Attorney Review

Any future agreements or amendments within the Board approved not-to-exceed contract ceiling and City Council approved not-to-exceed contract durations will be reviewed and approved as-to-form by the City Attorney's Office prior to execution.

STATUS OF FUNDING

As authorized by City Council File No. 10-1409, up to \$98.5 million in MICLA financing will be issued to cash flow HBP and Prop 1B reimbursable Project expenses, on an as-needed basis, as determined by cash flow demand deliverables. Additional funding of \$3,269,144 is provided by MICLA funds authorized for the Project per City Council File No. 20-0516.

The following table provides a description of funding available for these agreements:

Funding Summary	
Fund/Account	Total (\$) Amount
Right-of-Way Funding (Work Order No. E700224L)	
Sixth Street Viaduct Improvement Fund No. 54W, Department No. 50, Appropriation Unit No. 50JRRS* (MICLA Cash Flow for 100 percent HBP Grant reimbursement)	\$14,630,856
MICLA Sixth Street Viaduct Funding - Fund No. 298, Department No. 50, Appropriation Unit No. 50TSSV	\$ 3,269,144
Subtotal Right-of-Way Funding	\$17,900,000
Construction - Supplemental Work (Work Order No. E700227F)	
Sixth Street Viaduct Improvement Fund No. 54W, Department No. 50, Appropriation Unit No. 50JRRS (MICLA Cash Flow for 88.53 percent Federal HBP Grant Reimbursement)	\$ 3,010,020
Sixth Street Viaduct Improvement Fund No. 54W, Department No. 50, Appropriation Unit No. 50JRRS (MICLA Cash Flow for 11.47 percent State Proposition 1B Grant Reimbursement)	\$ 389,980
Construction Sub-Total	\$ 3,400,000
Total Funding	\$21,300,000

The City's liability under this contract shall only be to the extent of the present City appropriation to fund the contract. However, if the City shall appropriate funds for any succeeding years, the City's liability shall be extended to the extent of such appropriation, subject to the terms and conditions of the contract.

Report No. 1

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(JAA RMK JKS)

Report reviewed by:

Respectfully submitted,

BOE (ADM)

 Electronically Signed by Deborah Wendt
on 01/15/2021 3:26:17 PM

Report prepared by:

Gary Lee Moore, PE, ENV SP
City Engineer

Sixth Street Viaduct Division

Julie A. Allen, PE
Division Engineer
Phone No. (909) 241-7036

Statement as to funds approved by:



Miguel De La Peña, Director
Office of Accounting
Fund Ref.298/50/50TSSV/\$3,269,144
Date: 1/19/2021

JAA/JMS/12-2020-0160_SIX.gva

Questions regarding this
report may be referred to:
Julia Moye Sanchez de la Vega, PE, ENV SP, Senior Civil Engineer
Phone No. (213) 694-4273
E-mail: julia.moye@lacity.org

Department of Public Works

ADOPTED BY THE BOARD
PUBLIC WORKS OF THE CITY
of Los Angeles California

Bureau of Engineering
Report No. 2

APR 16 2021

April 16, 2021
CD No. 14


Executive Officer
Board of Public Works

ISSUE CHANGE ORDER NOS. 127 AND 128 TO SKANSKA-STACY AND WITBECK, A JOINT VENTURE, FOR THE TASK ORDER PACKAGE 5 - NEW VIADUCT FOR THE SIXTH STREET VIADUCT REPLACEMENT PROJECT (WORK ORDER NO. E700224F, CONTRACT NO. C-123545)

RECOMMENDING THE BOARD OF PUBLIC WORKS (BOARD):

1. AUTHORIZE the City Engineer to issue Change Order No. 127 to Skanska-Stacy and Witbeck, a Joint Venture (SSW) for a not-to-exceed amount of \$350,000 for the Task Order Package 5 - New Viaduct for the Sixth Street Viaduct Replacement Project (Project) to provide Roadway Worker in Charge flagging structures for the Southern California Regional Rail Authority (SCRRA).
2. AUTHORIZE the City Engineer to issue Change Order No. 128 for a not-to-exceed amount of \$737,100 for the Project to provide flag persons for the Los Angeles County Metropolitan Transportation Authority (Metro) Track Allocations.

TRANSMITTALS

1. Copy of the Bureau of Engineering (BOE) and the Bureau of Contract Administration Joint Report No.1, adopted January 6, 2017, awarding the contract for the Project.
2. Copy of Council File No. 20-0516, adopted June 23, 2020, providing authority to increase the Project budget.
3. Copy of Emergency Change Order (ECO) No. 127, dated January 22, 2021.
4. Copy of ECO No. 128, dated January 4, 2021.

DISCUSSION

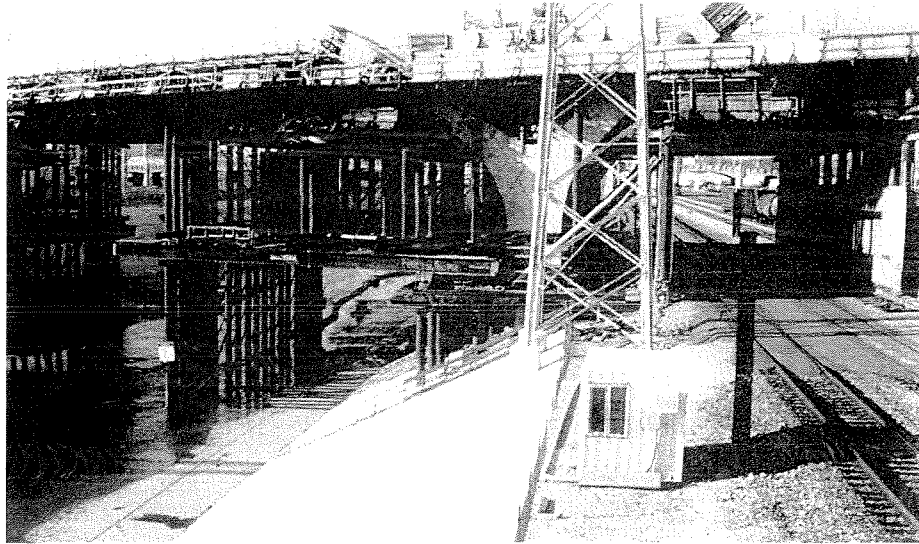
Background

On January 6, 2017, the Board awarded a Task Order to SSW in the amount of \$190,950,000, with a contingency amount of \$14,718,480, for a total approved construction budget of \$205,668,480 to construct the Project (Transmittal No. 1).

This Task Order is part of the Construction Manager/General Contractor Contract approved by the Board on November 15, 2013, for the Project, which includes the construction of the new 3,500-foot-long viaduct and pedestrian ramps.

TRANSMITTAL NO. 2

On April 21, 2020, the Board recommended approval of an extension to Contract C-123545 with SSW to December 31, 2022, with a revised contract ceiling of \$365,000,000. The recommended actions also included increasing the Project contingency amount to \$94,718,480, for a total approved construction budget of \$285,668,480. On June 23, 2020, the City Council approved these actions under Council File No. 20-0516 (Transmittal No. 2).



The SCRRA flagging structure on the east bank of the Los Angeles River.

Change Order No. 127

Due to the SCRRA's new policy, Metrolink Safety Bulletin No. 2, dated September 16, 2019, the flagging support costs are expected to significantly increase, as was discussed under the report adopted by the Board on February 2, 2021 (BPW-2021-0080). One of the opportunities identified by the Project team and the SCRRA to reduce these costs was to provide a flagging structure at the track level on each side of the Los Angeles River for a SCRRA Watchman to help facilitate flagging protection for the tracks while decreasing the need for additional watchmen required by the SCRRA's policy. It was urgent that these structures be installed as quickly as possible to minimize the SCRRA flagging costs. ECO No. 127 was issued on January 22, 2021 (Transmittal No. 3) to allow for the procurement and furnishing of the east and west bank flagging structures, with a not-to-exceed amount of \$125,000. Additional costs are expected to be incurred for this change order including utility and maintenance costs for the structures through the end of the Project, necessary adjustments to accommodate construction phasing and the SCRRA needs, and removal of the structures at the end of the Project. Therefore, the BOE requests authority to issue Change Order No. 127 for an amount not-to-exceed \$350,000. By providing these structures, the City of Los Angeles (City) will save about \$1.8 million in additional flagging costs.

April 16, 2021
Page 3

Change Order No. 128

In December 2020, the Metro representatives advised the Project team that the railroad agency did not have flag persons available to support Project access requests due to COVID-19 impacts and demands from other projects on its system. The Metro advised that if the Project team could provide individuals to serve in this role, the Metro would train them, in lieu of providing its own Metro flag persons and billing these costs to the City. ECO No. 128 was issued on January 4, 2021 (Transmittal No. 4), with a not-to-exceed amount of \$130,000, in order to identify and train SSW craft workers that could serve as the Metro's flag persons. This work was urgent to support construction activities at Span 4 that were scheduled to start the second week of January and continue through the end of March 2021. Flagging support for the Metro track allocations will be required for subsequent construction phases, so the work under this change order may continue through the end of the Project if the Metro is unable to provide their own flag persons. Therefore, the BOE requests authority to issue Change Order No. 128 for an amount not-to-exceed \$737,100. These expenditures would be in lieu of the authorization previously provided by the Board to pay the Metro directly for the flag person services.

Status of Change Orders

A summary of the current change order status is presented below:

Summary of Change Orders as of March 2021			
Category	Total No. of Change Orders	Dollar (\$) Amount	Percent (%) Contract Amount
Fully Executed Change Orders	85	\$65,239,024	34.17%
Unilateral Change Orders	28	\$ 3,235,314	1.69%
Emergency/Preliminary Change Orders	8	\$ 120,000	0.06%
Canceled Change Orders	9	\$ 0	0.00%
Change Orders per this Board Report	2	\$ 1,087,100	0.57%
Total	132	\$69,681,438	36.49%

Seismic Governance Committee (SGC)

Funding for these change orders is included in the current construction budget and does not require action from the SGC. However, the SGC will be briefed on ECO Nos. 127 and 128 at its next scheduled meeting.

STATUS OF FUNDING

The total not-to-exceed cost of ECO Nos. 127 and 128 is \$1,087,100. Funding in the amount of \$1,087,100 is currently available in the Task Order Package 5 authorized

construction contingency in the Sixth Street Viaduct Project Fund No. 298, Department No. 50, Appropriation Unit No. 50R703. The table below provides the breakdown of the funding sources for Task Order Package 5. There is no change to the Task Order 5 Funding Summary based on this report.

Task Order 5 Funding Summary			
Fund/Account	Amount	Contingency	Total Amount
Funding Eligible for Highway Bridge Program (HBP) Reimbursement			
Sixth Street Viaduct Improvement Fund No. 54W, Department No. 50, Appropriation Unit No. 50MRC5 (MICLA* cash flow for 88.53 percent HBP grant reimbursement)	\$161,059,561	\$ 9,498,563	\$170,558,124
Sixth Street Viaduct Improvement Fund No. 54W, Department No. 50, Appropriation Unit No. 50MRC5 (MICLA cash flow for 11.47 percent Proposition 1B grant reimbursement)	\$ 20,866,974	\$ 1,230,639	\$ 22,097,613
HBP Total Funding	\$181,926,535	\$10,729,202	\$192,655,737
Funding Not Eligible for HBP Reimbursement			
MICLA 2016-B – Sixth Street Viaduct Project Elements Fund No. 298, Department No. 50, Appropriation Unit No. 50MCON	\$ 5,475,763	\$ 339,278	\$ 5,815,041
MICLA (Fiscal Year 2019/20) – Sixth Street Viaduct Project Fund No. 298, Department No. 50, Appropriation Unit No. 50RRV3 (Council File No. 18-0829-S2)	\$ 3,547,702	\$ 0	\$ 3,547,702
MICLA (CIEP** Fiscal Year 2019/20) – Sixth Street Viaduct Traffic Control Fund No. 298, Department No. 50, Appropriation Unit No. 50NTC5	\$ 0	\$ 150,000	\$ 150,000
MICLA (Fiscal Year 2019/20) – Sixth Street Viaduct Project Fund No. 298, Department No. 50, Appropriation Unit No. 50R703 (formerly Prop G)	\$ 0	\$ 3,500,000	\$ 3,500,000
MICLA (Fiscal Year 2020/21) - Sixth Street Viaduct Funding - Fund No. 298, Department No. 50, Appropriation Unit No. 50TSSV	\$ 0	\$50,000,000	\$ 50,000,000
MICLA (Fiscal Year 2021/22 and Fiscal Year 2022/23) – TBD	\$ 0	\$30,000,000	\$ 30,000,000
Non-HBP Funding Sub-Total	\$ 9,023,465	\$83,989,278	\$ 93,012,743
Total Funding	\$190,950,000	\$94,718,480	\$285,668,480

*Municipal Improvement Corporation of Los Angeles (MICLA)

** Capital Improvement Expenditure Program

Department of Public Works
Bureau of Engineering
Report No.2

April 16, 2021
Page 5

The City's liability under this contract shall only be to the extent of the present City appropriation to fund the contract. However, if the City shall appropriate funds for any succeeding years, the City's liability shall be extended to the extent of such appropriation, subject to the terms and conditions of the contract.

(JAA RMK GLM)

Report reviewed by:

Respectfully submitted,

BOE (ADM)



Report prepared by:

Gary Lee Moore, PE, ENV SP
City Engineer

Sixth Street Viaduct Division

Julie A. Allen, PE
Division Engineer
Phone No. (213) 694-4270

Statement as to Funds Approved by:



Miguel De La Peña, Director
Office of Accounting
Fund Ref.: 298/50/50R703/\$1,087,100
Date: 3/18/2021

JAA/JS/03-2021-0031.SIX.gva

Questions regarding this report
may be referred to:
Julia Sanchez de la Vega, PE, Senior Civil Engineer
Phone No. (213) 694-4273
E-mail: julia.moye@lacity.org



BNSF File No. BF10008075
 City Contract No. C-126876
 Amendment 3
 Sixth Street Overpass
 U.S. D.O.T. No. 027624U
 LS 7600
 MP 141.74
 San Bernardino Subdivision

AMENDMENT 3 TO OVERPASS AGREEMENT

This Amendment 3 to Overpass Agreement (this “**Amendment**”) is executed to be effective as of this ____ day of _____, 2021 (the “**Effective Date**”), by and between BNSF RAILWAY COMPANY, a Delaware corporation (“**BNSF**”), and The City of Los Angeles, a political subdivision of the State of California (“**Agency**”).

RECITALS:

Parties hereto entered into an Overpass Agreement, dated November 2, 2015, identified in BNSF’s records as BNSF File No. BF-10008075, (the “**Agreement**”) setting forth the terms and conditions to reconstruct the Sixth Street Overpass (the “**Structure**”) in the City of Los Angeles, County of Los Angeles, California.

The purpose of this Amendment is to further extend the Agency payments due to BNSF for the Temporary Construction License and permanent Easements necessary to construct the Structure.

IT IS THEREFORE MUTUALLY AGREED:

- 1) **AMENDMENT 1:** Section 1 of the Agreement is extended in its entirety and replaced with the following:

Upon CITY’s payment to BNSF of an administrative fee in the sum of Two Thousand Five Hundred and No/100 Dollars (\$2,500), together with the Temporary Construction License Fee in



BNSF File No. BF10008075
City Contract No. C-126876
Amendment 3
Sixth Street Overpass
U.S. D.O.T. No. 027624U
LS 7600
MP 141.74
San Bernardino Subdivision

the sum of Sixty Thousand five Hundred and No/100 Dollars (\$60,500.00), BNSF hereby grants to CITY, its successors and assigns, upon and subject to the terms and conditions set forth in this Agreement, a temporary non-exclusive license (hereinafter called, "Temporary Construction License") to construct the Structure across or upon the portion of BNSF's right-of-way described further on Exhibit A & Exhibit B, excepting and reserving BNSF's rights, and the rights of any others who have obtained, or may obtain, permission or authority from BNSF, to do the following:

- (a) Operate, maintain, renew and/or relocate any and all existing railroad track or tracks, wires, pipelines and other facilities of like character upon, over or under the surface of said right-of-way; and
- (b) Construct, operate, maintain, renew and/or relocate upon said right-of-way, without limitation, such facilities as the BNSF may from time to time deem appropriate, provided such facilities do not materially interfere with the CITY's use of the Structure; and
- (c) Otherwise use or operate the right-of-way as BNSF may from time to time deem appropriate, provided such use or operations does not materially interfere with the CITY's use of the Structure; and
- (d) Require the CITY or its contractor to execute a Temporary Construction Crossing Agreement, for any temporary crossing requested to aid in the construction of this Project.

The term of the Temporary Construction License shall be extended as set forth in Amendment 2 and ends on the earlier of (i) completion of the Structure, or (ii) eleven (11) months following the end of the additional twenty-one (21) months as set in "Amendment 2". The Temporary Construction License and related rights given by BNSF to CITY in this provision are



BNSF File No. BF10008075
City Contract No. C-126876
Amendment 3
Sixth Street Overpass
U.S. D.O.T. No. 027624U
LS 7600
MP 141.74
San Bernardino Subdivision

without warranty of title of any kind, express or implied, and no covenant of warranty of title will be implied from the use of any word or words herein contained. The Temporary Construction License is for construction of the Project only and shall not be used by CITY for any other purpose. CITY acknowledges and agrees that CITY shall not have the right, under the Temporary Construction License, to use the Structure for any other purpose than construction. In the event CITY is evicted by anyone owning, or claiming title to or any interest in said right-of-way, BNSF will not be liable to CITY for any damages, losses or any expenses of any nature whatsoever. The granting of similar rights to others, subsequent to the date of this Agreement, will not impair or interfere with the rights granted to CITY herein.

- 2) The parties may execute multiple counterparts of this Amendment, each of which will be deemed an original and all of which together will constitute one and the same instrument. The parties may exchange counterpart signatures by facsimile or electronic transmission (including PDF and TIF formats) and the same shall constitute delivery of this Amendment with respect to the delivering party.
- 3) Except as amended herein, the terms and conditions of the Agreement remain in effect. Capitalized terms not defined herein have the same meaning as set forth in the Agreement.

(Signature page follows)



BNSF File No. BF10008075
City Contract No. C-126876
Amendment 3
Sixth Street Overpass
U.S. D.O.T. No. 027624U
LS 7600
MP 141.74
San Bernardino Subdivision

BNSF and Provider have caused this Amendment to be entered into on the date stated in the introductory clause.

City of Los Angeles,

BNSF RAILWAY COMPANY

(Signature)

(Signature)

(Name Printed)

(Name Printed)

(Title)

(Title)

Approved as to Form:

(Signature)

(Name Printed)

(Title)

DRAFT

SCRRA Folder No.: S0000641

SCRRA Project No.: 860823

AMENDMENT NO. 2

CONSTRUCTION AND MAINTENANCE AGREEMENT

FOR

6th STREET VIADUCT REPLACEMENT

SCRRA; MP 141.70 – RIVER SUBDIVISION (WEST BANK LINE)

DOT NO.: 027624U; CPUC NO.: 101RI-141.70-A

And

SCRRA; MP 483.70; RIVER SUBDIVISION (EAST BANK LINE)

DOT NO.: 811256T; CPUC NO.: 101RI – 483.70-A

LOS ANGELES, CALIFORNIA

This “AMENDMENT No. 2” to the Construction and Maintenance Agreement for 6th Street Viaduct Replacement effective December 7, 2015, hereinafter referred to as “AMENDMENT No. 2 ” is made and entered into on this ____ day of _____, 2021 between the **SOUTHERN CALIFORNIA REGIONAL RAIL AUTHORITY**, a joint powers authority existing under the laws of the State of California (hereinafter referred to as "SCRRA"), to be addressed at 900 Wilshire Blvd. Suite 1500, Los Angeles, CA 90017 and the **CITY OF LOS ANGELES**, a charter city and a municipal corporation organized and existing under the laws of the State of California and its Charter (hereinafter referred to as “CITY”), to be addressed at the CITY Department of Public Works, Bureau of Engineering 585 S. Santa Fe Avenue, Los Angeles, CA 90013. Herein CITY and SCRRA are sometimes individually referred to as “PARTY”, and collectively referred to as “PARTIES”.

RECITALS

WHEREAS, the CITY and SCRRA entered into an AGREEMENT effective December 7, 2015 and AMENDMENT No. 1 effective date October 29, 2019 to outline the funding, construction and maintenance responsibilities for the 6th Street Viaduct Replacement Project (hereinafter referred to as “PROJECT”) located on the River Subdivision East

1

TRANSMITTAL NO. 4

Bank Line MP 483.70 and identified as CPUC No. 101RI – 483.70, DOT No. 811256T and West Bank Line MP 141.70 and identified as CPUC No. 101RI – 141.70, DOT No. 027624U in the City of Los Angeles , State of California.

WHEREAS, the City requested and SCRRA agreed to utilize unobligated funds and Project Reserve funds from the original Construction and Maintenance Agreement and AMENDMENT No. 1 to supplement the funding authorization for Railroad Flagging and Safety Training necessary to allow construction activities on the project to continue without interruption pending approval of this Amendment No. 2.

WHEREAS, the CITY has extended the PROJECT schedule for completion of construction activities on that part of the PROJECT over and adjacent to SCRRA tracks on the both the East Bank Line and West Bank Line of the River Subdivision to March 3, 2022 and March 4, 2022, respectively.

WHEREAS, the CITY has estimated the additional Railroad Flagging and Safety Training budget requirements for SCRRA support services to accommodate the revised PROJECT schedule.

WHEREAS, the CITY and SCRRA now desire to enter into AMENDMENT No. 2 to the existing Construction and Maintenance Agreement to replace the unobligated funds and the Project Reserve funds used to supplement the funding authorization for Railroad Flagging and Safety Training necessary to allow construction activities on the project to continue without interruption pending approval of this Amendment No. 2 and to increase the funding for RAILROAD WORK, including Railroad Flagging and Safety Training, to accommodate the new PROJECT construction completion date currently estimated to be July 30, 2022.

WHEREAS, the CITY and SCRRA are entering into this AMENDMENT No. 2 to

document the following changes and/or revisions.

AGREEMENT

AMENDMENT NO. 2

NOW, THEREFORE, it is mutually agreed by and between the parties hereto as follows:

ARTICLE 6- WORK AND ESTIMATE BY SCRRA of the AGREEMENT is hereby amended as follows:

- Modify Article 6.1 only, add the following paragraph after the second paragraph added by AMENDMENT No 1 as follows:

Amendment No. 2 increases the estimate of RAILROAD WORK to be performed by SCRRA, at CITY's sole cost and expense as stated in the original AGREEMENT, dated December 7, 2015, and AMENDMENT No. 1 effective date October 29, 2019 by \$4,924,675.00, four million nine hundred twenty four thousand six hundred seventy five dollars and zero cents, from \$7,302,042.00, seven million three hundred two thousand forty two dollars and zero cents to \$12,226,717.00, twelve million two hundred twenty six thousand seven hundred seventeen dollars and zero cents.

ARTICLE 11- PAYMENT FOR SCRRA WORK of the AGREEMENT is hereby amended as follows:

- Modify Article 11.2 only, add the following paragraph after the second paragraph added by AMENDMENT No. 1 as follows:

Upon execution of this AMENDMENT No 2, the CITY shall deposit thirty five percent (35%), \$1,723,636, of the increase of the estimated cost for Railroad Flagging and Safety Training of \$4,924,675 as provided for in this AMENDMENT No. 2 with SCRRA,

less any previously made advance deposits. When the actual cost and expenses incurred, including the estimated Railroad Flagging and Safety Training, reach fifty percent (50%) of the first deposit of \$1,723,636, SCRRA shall notify the CITY in writing and shall provide back-up for expenses to-date against the deposit and the CITY shall make a second deposit of thirty five percent (35%), \$1,723,636. When the actual cost and expenses incurred, including the estimated Railroad Flagging and Safety Training reach one hundred percent (100%) of the first deposit and fifty percent (50%) of the second deposit of \$1,723,636, SCRRA shall notify the CITY in writing and shall provide back-up for expenses to-date against the deposit. The City and SCRRA will then analyze costs to date and projected costs to close out the PROJECT to confirm the appropriate amount of the last deposit, The CITY shall then deposit the remaining balance of the estimated amount Railroad Flagging and Safety Training, \$1,477,403 or other mutually agreeable amount

EXHIBIT D-2 - SCRRA SCOPE OF WORK AND ESTIMATE (RAILROAD WORK) of the AGREEMENT is hereby amended as attached

IN WITNESS WHEREOF, the parties have caused this AGREEMENT to be duly executed in by their duly qualified and authorized officials.

**SOUTHERN CALIFORNIA REGIONAL
RAIL AUTHORITY**

CITY OF LOS ANGELES

By: _____

STEPHANIE N. WIGGINS
Chief Executive Officer

By: _____

GARY LEE MOORE
City Engineer

Date: _____

Date: _____

APPROVED AS TO FORM:

APPROVED AS TO FORM:

By: _____

Don Del Rio
General Counsel

By: _____

Michael N. Feuer
City Attorney

Date: _____

Date: _____

EXHIBIT D-2

To Construction and Maintenance AGREEMENT

For

6th STREET VIADUCT REPLACEMENT

Cover Sheet for the

SCRRA Scope of Work and Estimate

EXHIBIT D-2 RAILROAD WORK

SCRRRA		Original Agreement, Exhibit D-2	Amendment No. 1, Exhibit D-2	Amendment No. 2, Exhibit D-2, City Proposal
Design/ Mitigation	1. Design Civil	\$ -	\$ -	\$ -
	2. Design Signal	\$ 150,000	\$ 35,000	\$ 34,696
	3. Design Support - Civil	\$ 250,000	\$ -	\$ -
	4. Design Support - Signal	\$ 250,000	\$ -	\$ -
	5. Material Procurement - Track	\$ -	\$ 11,000	\$ 10,849
	6. Material Procurement - Structures	\$ -	\$ -	\$ -
	7. Material Procurement - Signal	\$ 50,000	\$ 13,000	\$ 12,665
	8. Maintenance Support - Trk/Struc	\$ 200,000	\$ 154,709	\$ 154,757
	9. Maint. Support - Signal	\$ 100,000	\$ 2,000	\$ 2,000
	10. Construction - Civil	\$ 100,000	\$ -	\$ -
	11. Construction - Signal	\$ 350,000	\$ 954,000	\$ 949,700
	12. Construction Mgmt - Inspection	\$ 640,800	\$ 630,000	\$ 629,536
	14. Proj. Mgmt	\$ 469,920	\$ 1,173,000	\$ 1,173,000
	15. Other Prof. Services	\$ 25,000	\$ 52,000	\$ 152,000
	16. RR Work Orders	\$ -	\$ -	\$ -
	17. Other (Permits, Fees, Etc)	\$ -	\$ -	\$ -
	18. Agency	\$ 427,200	\$ 377,000	\$ 504,000
	Project Contingency 10%	\$ 461,436	\$ 194,000	\$ 294,000
SUB-TOTAL		\$ 3,474,356	\$ 3,597,209	\$ 3,917,203
Flagging	13. Flagging	\$ 1,602,000	\$ 3,706,333	\$ 8,309,514
TOTAL		\$ 5,076,356	\$ 7,302,042	\$ 12,226,717

Real Estate Department
UNION PACIFIC RAILROAD COMPANY
1400 Douglas Street, Mail Stop 1690, Omaha, Nebraska 68179-1690





UPRR Folder No.: 522-68

UPRR Audit No.: LAC7846

THIRD SUPPLEMENTAL AGREEMENT

THIS SUPPLEMENTAL AGREEMENT (the "Supplement") is made as of the _____ day of _____, 2021, by and between **UNION PACIFIC RAILROAD COMPANY**, a Delaware corporation ("Railroad") and the **CITY OF LOS ANGELES**, a California municipal corporation or political subdivision with a mailing address at 1149 S. Broadway, Los Angeles, CA 90015 ("Public Body").

RECITALS:

By instrument dated January 31, 1930, Atchison, Topeka and Santa Fe Railway Company and Los Angeles & Salt Lake Railroad Company, successors in interest to Union Pacific Railroad Company; the County of Los Angeles; and the Public Body entered into an Agreement identified under the Railroad's Folder No. 522-68, UPRR Audit No. LAC7846 (the "Original Agreement") covering the construction, maintenance and operation of the 6th St. viaduct grade-separated public road crossing (DOT No. 811256T) located at Mile Post 483.68 on its River East Bank Subdivision (SCAX) in or near Los Angeles, Los Angeles County, California (the "Roadway"). The Union Pacific Railroad Company entered in a New Agreement dated November 9, 2015, with the City under the Railroad's Folder 522-68, Audit LAC7846 for the reconstruction of the 6th St. viaduct grade-separated public road crossing (DOT No. 811256T), which was Supplemented February 3, 2017, to amend the operating curfews, and November 12, 2019.

The Public Body has requested a Third Supplemental Agreement to the Original Agreement to include provide 9 months to the Temporary Use Parcel granted under the New Agreement and to extend the expiration of the same.

AGREEMENT:

NOW, THEREFORE, IT IS MUTUALLY AGREED BY AND BETWEEN THE PARTIES HERETO AS FOLLOWS:

SECTION 1 - AMENDMENT OF THE ORIGINAL AGREEMENT

Effective as of _____, 2021, upon completion of this Third Supplemental Agreement and Railroad's receipt of **Twenty Five Thousand Fifty Dollars (\$25,000.00)**, Railroad amends the Original Agreement Article 2 B to hereby grant to the Public Body an additional 25 days of temporary construction rights to use the portion of the Railroad's property shown and described on the Exhibit A-4 in the Original Agreement over a nine month period of time. The additional Nine Months of temporary rights granted herein shall commence as of the effective date of this Second Supplement and continue until August 8, 2022.

SECTION 2 - AGREEMENT SUPPLEMENTAL

This agreement is Third Supplemental to the Original Agreement dated November 9, 2015,

as herein amended, and nothing herein contained shall be construed as amending or modifying the same except as herein specifically provided.

IN WITNESS WHEREOF, the parties hereto have caused this Supplement to be executed in duplicate as of the date first herein written.

UNION PACIFIC RAILROAD COMPANY
(Federal Tax ID No. 94-6001323)

By _____
DAVID C. LAPLANTE
Sr. Mgr. Real Estate

CITY OF LOS ANGELES

By _____
Printed Name: _____
Title: _____