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**August 6, 2018**

**TO:** BOARD OF DIRECTORS

**THROUGH:** PHILIP WASHINGTON *PAW*  
CHIEF EXECUTIVE OFFICER

**FROM:** RICHARD CLARKE *RFC*  
CHIEF PROGRAM MANAGEMENT OFFICER

**SUBJECT:** PATSAOURAS BUS PLAZA STATION ARCHAEOLOGICAL AND  
NATIVE AMERICAN ISSUES

### ISSUE

This report is to update the Metro Board of Directors on the status of the Patsaouras Bus Plaza Station (PBPS) project. As previously reported to the Board, the project has discovered numerous archaeological features and Native American remains within the project site. It is becoming clear during daily conference calls with Federal Transit Administration (FTA) and the consultants that the current Section 106 process will take additional time delaying construction beyond what was originally anticipated by the project team. As of August 6<sup>th</sup>, project construction has ceased for 104 calendar days due to these issues, subjecting Metro to overhead costs of \$4,000 per calendar day, at a minimum. The PBPS project is approximately 60% complete as of this writing.

### DISCUSSION

Metro performed extensive initial Section 106 consultation in the planning stages with the consulting parties and was commended by the State Office of Historic Preservation (SHPO) in 2012 in their concurrence of the *Cultural Resources Mitigation and Discovery Plan* (CRMDP). However, recent unexpected archaeological and Native American remains discoveries caused the consulting parties to question the adequacy of the CRMDP due to:

- 1) The number of archaeological features and human remains encountered;

- 2) The consulting parties, primarily SHPO and the American Council for Historic Preservation (ACHP), raised concerns about the potential discovery of a historic site and recommended work stop;
- 3) The consulting parties felt that the CRMDP was insufficient to guide the evaluation and treatment of the potential site in accordance with Section 106.

As background, the PBPS project site has been extensively disturbed in the past by the Southern California Gas Company's Manufactured Gas Plant, Caltrans 101 freeway, El Monte Busway Bridge, the Metro Red Line, and Patsaouras Plaza, among others. The previous construction activities mentioned have disturbed or removed intact sediments and the probability of cultural resources being preserved was considered low. The historical disturbance was not only extensive, but intensive within the PBPS site and made discovery of any cultural resources likely to be from previously disturbed contexts and to consist of single isolated items.

It was determined that Metro would discover cultural resources known to occur in the area immediately adjacent to the project, including Native American and both Prehistoric and Historic Period resources. Any impact from this project would be confined to the project foundation locations. Metro included mitigation that any discovery would be protected and the find reported to the FTA. So far, Metro has discovered 13 archaeological features, human remains and Native American remains. Several key actions from other agencies have now severely impacted the project:

- On April 24, the Native American monitor stopped work on micropiles for the pedestrian overcrossing due to the vicinity of Native American remains.
- On May 11, Caltrans taped a major portion of the site off as an "Environmental Sensitive Area" due to concerns expressed by the Native American monitor.
- On May 16, the SHPO and ACHP requested to the FTA that all ground level work be halted until the consulting parties were reengaged and Section 106 (Protection of Historic Properties) process was completed.
- On May 22, the contractor demobilized all field workers from the project site as no more construction work was possible.
- On June 5, the consulting parties recommended entering into a Programmatic Agreement (PA), amending the 2012 CRMDP and preparing an *Archaeological Identification, Evaluation and Treatment Plan* (AIETP) in order to restart construction.
- On July 25, FTA opined that the nature of the PBPS site was unique and considered it one of the most archaeological resource rich sites in Los Angeles County requiring oversight by specialized government agencies and Native American tribes.
- As of August 1, the PA, CRMDP and AIETP are still in draft form and being reviewed by the consulting parties.

Currently, Metro halted construction to consult with parties and formulate new plans and agreements to fulfill the requirements of Section 106 in order to move the project forward. These agreements, consultations, plans, and studies are currently in process,

and it is expected that after investigations, approvals, and reports are complete, construction can re-start in approximately January 2019. In order to avoid further delays and incur further price increases, Metro staff prepared a Technical Memorandum to continue *Construction Activities in Areas of Low Sensitivity for Historic Resources and Activities Not Requiring Excavation*. Based on this, SHPO and ACHP approved Metro proceeding with very limited construction work within non-sensitive areas. This work is not on the critical path for the project, but was started July 16<sup>th</sup> and expected to be completed by August 31<sup>st</sup>. After that, there is no possibility of construction proceeding until the plans and investigations referenced above are complete and approved.

The PBPS project LOP budget will be impacted to pay for the archaeological and Native American issues described above and will require an increase. At this time, the additional fee Metro will incur due to this work stoppage is unclear as the length of the delay is unknown. Discussions with the contractor are ongoing. Currently, increased costs are being absorbed by the remaining contingency budget.

### **NEXT STEPS**

Metro suspended the PBPS contractor on August 3<sup>rd</sup> with a construction resumption date of January 7, 2019. Metro staff will, however, make every reasonable effort to resume construction as soon as possible. Upon completion of the requirements laid out in the Programmatic Agreement, Revised CRMDP and AIETP, Metro staff will tabulate all of the additional direct and indirect costs related to all of the archaeological and Native American issues, including claims related to such by the contractor, to determine the full impact to the PBPS LOP budget. Once the delay to the project is determined, costs for this issue will be negotiated and quantified.

Once we have determined the full extent of these impacts to the schedule and budget, currently expected be on or before December 2018, staff will present to the Board a request for additional LOP budget to cover costs for these issues.