



Board Report

File #: 2015-1327, File Type: Contract

Agenda Number: 40.

CONSTRUCTION COMMITTEE
OCTOBER 15, 2015

SUBJECT: I-5 NORTH CAPACITY ENHANCEMENTS FROM SR-134 TO SR-118 (FUNDING AGREEMENT NO. MOU.P0008355/8501 A/A5)

ACTION: AUTHORIZE CONTRACT MODIFICATIONS

RECOMMENDATION

CONSTRUCTION COMMITTEE RECOMMENDED (3-0) authorizing the Chief Executive Officer to execute the list of Change Orders by Caltrans in Segment 2 construction contract of the **I-5 North Capacity Enhancements from SR-134 to SR-118** under the Funding Agreement No. MOU.P0008355/8501 A/A5, in the amount of \$2,969,831 without an increase in the project budget or contract value. The contract value of this project remains \$119,688,319

ISSUE

Metro assists in the programming and provides partial funding for the I-5 North Capacity Enhancements from SR-134 to SR-118 through a MOU with the State of California, Department of Transportation (Caltrans). The I-5 North Capacity Enhancements were designed by Caltrans, and construction management is administrated by Caltrans. Contract modifications exceeding \$500,000 require Board authorization per the Staff Delegations of Contract Action Approval and Award Authority Memo, dated February 23, 2010.

The anticipated construction contract completion date of this project is on December 1, 2015. In order to accept the construction contract, the merit of all the "Deferred Time" issues and the increased cost associated with the Contract Change Orders and all submitted Notice of Potential Claims (NOPCs) must be evaluated to determine entitlement. All of the following Contract Change Orders (CCOs) have been determined by Caltrans to be an entitlement to the contractor before the contract acceptance. All CCOs have been combined to be a single package in the Board Report for transparency and approval. The contract value of this project remains \$119,688,319.

DISCUSSION

The I-5 North Capacity Enhancements project is divided into five segments:

Segment 1A :	Widen I-5 for HOV lane from SR-118-SR-170. Reconstruct I-5/SR-170 mixed flow connector. Construct soundwall.
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Segment 1B :	Install Changeable Message Sign (CMS) along I-5 at Los Feliz Blvd.
Segment 2 :	Widen I-5 for HOV lane from SR-170 to Buena Vista Street
Segment 3 :	Widen I-5 for HOV lane from Buena Vista to Magnolia. Reconstruct Burbank and Empire Blvd. interchanges
Segment 4 :	Widen I-5 for HOV lane from Magnolia-SR134

This board report involves only Segment 2 of I-5 North Projects.

Findings

Segment 2 includes the widening of I-5 for the construction of HOV lanes from SR-170 to Buena Vista Street. This construction contract for Segment 2 is scheduled to be completed and accepted in December 1, 2015. The contract start date of Segment 2 was on December 20, 2010 with a total of 850 working days.

1). During construction, Contract Change Orders were executed with a clause of “time deferment” which means the impacts of delay to the overall project would be analyzed at a later date. The analysis and determination of delay is performed to determine if a contractor is entitled to compensation for the delay. The Critical Path Method (CPM) and Time Impact Analysis (TIA) are utilized to determine the amount of the appropriate compensation. The Time Related Overhead (TRO) of the Segment 2 contract is \$2500 per day. The following contract modification (CCO#137) is determined by Caltrans to be the entitlement for the contractor due to all “time deferment” in the contract.

CCO #137 TRO 299 Days (Delay Days) (\$747,500.00): There were delays on the project due to Bent Cap modifications, girder fabrication at the Sun Valley OH Bridge, Soundwall modifications at SW 537, SW 565, SW 569, SW 566 and SW 568 and landscape and irrigation modifications at the soundwalls. Per Caltrans, an analysis was performed and 299 working days of delay was calculated. This CCO will be issued to compensate the contractor for the TRO of 299 working days.

2). In addition to the TRO for the delay, Caltrans has also analyzed the associated cost with each delay by the Force Account payment method which only compensates the direct and real cost of the labor, materials and equipment used in the performance of the work. The following contract modifications are determined by Caltrans to be the entitlement for the contractor due to the impact to their work. Some of contract modifications are also for the entitlement of the submitted NOPCs in the contract.

CCO #138 Required Changes during Cohasset Girder Erection (\$92,780.00):

During the Cohasset Street Undercrossing girder erection, the Contractor encountered additional work which resulted in delay and additional shift for the girder erection. The additional work included placing steel plates to protect the MWD water line and bending the previously placed rebar to allow the placement of the girders. The Contractor filed a Notice of Potential Claims (NOPC) #8, requiring changes during the Cohasset Girder Erection, which was presented to the Dispute Resolution Board (DRB) and ruled in favor of the contractor. This CCO is for the full resolution of NOPC No. 8, which compensates the Contractor for the additional costs incurred for delays at Cohasset Street Undercrossing girder erection.

CCO #139 RW 513 Design Conflicts (\$16,259.00):

This CCO compensates the contractor for additional costs incurred to work on the slope between RW513 and Caltrans right of way fence due to lack of access. The Contractor protested that the project plans contain a conflict at the I-5 between Cohasset Street and Ontario Street, that the existing right of way fence is located significantly different than where it was indicated in the project plans, which affected the construction of a retaining wall and the proposed 2:1 slope. This contract change order compensates the Contractor for additional costs incurred due to the steeper grade and limited work area. The DRB ruled in favor of the Contractor and recommended to compensate the Contractor for additional cost incurred as a result of misleading information and conflict in the Plans. This CCO is for the full resolution of NOPC No. 14, which compensates the Contractor for the additional cost incurred.

CCO #140 Sun Valley Bridge Delays (\$68,590.00):

This CCO compensates the Sub-Contractor for additional costs incurred due to the delays at Sun Valley Bridge. The Contractor submitted NOPC #26 for costs associated girder fabrication escalation incurred due to the bent cap delays. This CCO is for the full resolution of NOPC No. 26, which compensates the Fabricator for the labor and material escalation for the Sun Valley OH girders.

CCO #141 Difference Site Condition (DSC) in Median Excavation (\$950,000.00):

The contract plans show an existing median section with 3 inches of AC. While excavating, the contractor encountered variable thickness of AC, buried footings, metal posts, cable railings and footings for the median concrete barrier. The contractor claimed that there was a change in character of work due to the above issues and requested to evaluate the additional costs. *Caltrans analyzed the work performed by the contractor for the median excavation and had determined there were different site conditions and the Contractor is entitled for an additional \$950,000.00.*

CCO #142 Sun Valley Additional Slope Paving (\$21,217.00):

At the Sun Valley Bridge, the concrete slope paving work performed for Abutment 1 and Abutment 6 was considerably larger than the calculated amount. The area of the slope paving was larger than what was shown on the contract plans. Caltrans agreed with the additional slope paving area and the cost.

CCO #143 Extended K-rail Rentals (\$16,485.00):

Due to the delays on the projects, the K-rails were placed for an extended period of time. The contractor is claiming rental costs for the K-rails for the additional time it was placed on the median Stage 2 construction work. Caltrans analyzed the delay and estimated the rental costs for K-rail for the extended period associated with Stage 2 Phase 1 and Phase 2 work. This CCO will compensate the contractor for the additional rental costs of K-rail.

CCO #144 Labor, Equipment and Material Escalation (\$57,000.00):

Caltrans has estimated a 3% increase for the bid item work associated with the delay of 299 days for the escalation in labor, material and equipment on the project, performed beyond the original contract completion date.

CCO #145 Bid Item Adjustments (\$1,000,000.00):

This CCO is being assigned to compensate the Contractor for the items adjustments to be performed for the Bid Items with "Increases of More Than 25 Percent" and "Decreases of More Than 25 Percent" in accordance with Section 4-1.03B (1) and Section 4-1.03B (2) of the Standard Specifications. Caltrans is still waiting for the Contractor to submit item adjustment calculations. The preliminary estimate is approximately \$1M and it will be analyzed based on Contractors' submittal and Caltrans' evaluation.

The Total amount of these listed Contract Modifications is \$2,969,831.

Considerations

Project Budget Assessment

Due to delay impacts of the project, the Contractor submitted Caltrans an NOPC of \$12,167,393 through April 20, 2014. Caltrans has determined that the Contractor is only entitled to \$2,969,831 for the delay impacts through the end of the contract, including all submitted NOPCs. This proposed entitlement of \$2,969,831 is \$9,197,562 less than the Contractor's claim of \$12,167,393. The Contractor could pursue the remaining claim of \$9,197,562 or more by filing the exceptions in the proposed final estimate. Then Metro staff and Caltrans will need to re-evaluate all supporting document including the new submittals from the Contractor after the contract acceptance. After the re

-evaluation process is done, a new entitlement will be proposed to the Contractor. If the Contractor is not satisfied with the new entitlement for the submitted claims, the Contractor could choose to proceed with the arbitration process or pursue legal action for all unresolved claims. The above proposed CCOs are within the project budget at this time, and efforts are being made, to continue to remain within the project budget.

The Highway Program has been working with Caltrans to assess the various risks, and has requested Caltrans to evaluate and continuously monitor the financial status of each segment in the corridor.

DETERMINATION OF SAFETY IMPACT

There is no impact to safety by approving this action.

FINANCIAL IMPACT

The funding of \$18,000,000 Measure R Highway Capital (20%) Funds for FY16 for the I-5 North Capacity Enhancements project is included in Account 54001 - Subsidies to Others, in cost center 0442, under project number 460332, Task 01. The changes identified herein will not increase the project budget for the current fiscal year because the local funding is only a portion of the total project programmed funding. Since this is a multi-year contract/project, the Managing Executive Officer will be accountable for budgeting the cost in future years for LACMTA's share within the existing project budget.

Impact to Budget

The source of funds for this project is Measure R 20% Highway, which is not eligible for bus or rail operations.

ALTERNATIVES CONSIDERED

If the Board does not authorize these contract modifications, the construction cost and project budget will likely further increase due to the accrued interest of the contractor's entitlement amount and the legal dispute process will be prolonged.

NEXT STEPS

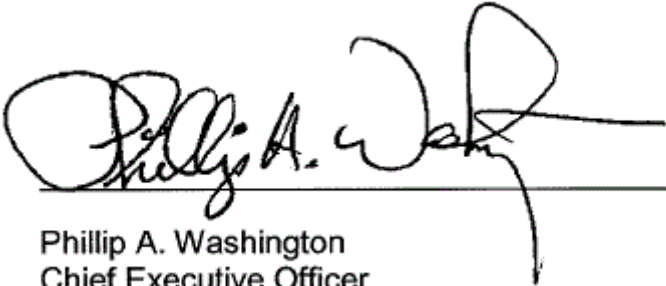
Immediate action is desired for this Board Report. As stated, the contract is currently in the final stage of construction and delays to concurrence of these modifications could cause additional costs to the contract.

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