



Board Report

File #: 2021-0543, File Type: Contract

Agenda Number: 28.

**CONSTRUCTION COMMITTEE
OCTOBER 21, 2021**

SUBJECT: EAST SAN FERNANDO VALLEY LIGHT RAIL TRANSIT PROJECT

ACTION: APPROVE RECOMMENDATIONS

RECOMMENDATION

CONSIDER:

- A. FINDING that authorization of the use of alternative delivery methods, including Progressive Design-Build (PDB), will achieve integration of design, project works, and other components in an efficient manner the East San Fernando Valley (ESFV) Light Rail Transit Project (Project) pursuant to Public Utilities Code Section 130242; and
- B. APPROVING a competitive solicitation of a PDB contract to achieve the proposed design approach, specific project features and functions, and other project criteria in addition to price, pursuant to Public Utilities Code 130242 (e).

(REQUIRES 2/3 VOTE OF THE FULL BOARD)

ISSUE

Pursuant to Public Utilities Code Section 130242, staff is requesting Board approval to use an alternative project delivery method utilizing a competitive procurement process that employs criteria in addition to price for the selection of a PDB Contractor for the Project. Upon determination of the qualified firm, staff will return to the Board with a recommended selection for approval.

BACKGROUND

The Project is a light rail system that will extend north from the Van Nuys Metro G-Line, previously known as the Metro Orange Line, station to the Sylmar/San Fernando Metrolink Station, a total of 9.2 miles with 14 at-grade stations. The Metro Board certified the Final Environmental Impact Report on December 3, 2020. The Project achieved Record of Decision on January 29, 2021. The Project is currently finalizing the preliminary engineering design, with street improvements and guideway

design advanced to 60 percent and all other design elements (stations, maintenance facility and systems) to 30 percent. Final design for select advanced utility relocations is also being advanced.

Included in the Project environmental document was the initial operating segment (IOS) defined as the southern 6.7 miles of the Project alignment. The IOS is street running in the middle of Van Nuys Boulevard and includes 11 at-grade stations along with the maintenance facility. The remaining northern 2.5-mile environmentally cleared segment is going through additional analysis as directed by the Board in December 2020 and is not included in the IOS.

As the IOS was cleared and the design has advanced, the IOS portion of the Project is proceeding into the next phase of final design and construction to keep to the Measure M completion schedule. The IOS procurement process for a Contractor is anticipated to begin in late 2021 followed by groundbreaking in 2022. Substantial completion will be achieved in 2028 in accordance with the Measure M schedule.

DISCUSSION

The Metro Chief Executive Officer has implemented a reorganization structure which includes a section that identifies and focuses on alternative project delivery. The reorganization will position senior management to produce oversight, evaluate and apply alternative delivery methods that will help to balance risk, cost, schedule and other benefits for Metro. Metro leadership and management of the ESFV Project, including the Progressive Design Build component, will be in accordance with the Metro reorganization structure.

Staff used the Metro Project Delivery Selection Procedure as guidance to consider Project-specific risk, schedule, complexity, cost certainty, agency readiness for project delivery method and market conditions. In addition, staff prioritized the following goals while considering the different project delivery methods and how they compare to the PDB method:

- Maximizes competition for selecting a qualified contractor for the design and construction scope;
- Provides for expedited contract award to support the Project completion in time for the Olympics;
- Establishes a collaborative relationship between Metro, third parties and the contractor that will deliver quality final design and construction that meets the Project's objectives while reducing the potential for changes and betterments;
- Optimizes interfaces with the third parties and other Metro projects;
- Allows appropriate and efficient risk allocation;
- Reduces contractor risk premiums and facilitates mitigation and management of risks that are retained by Metro;

- Minimizes risk of claims over the life of the Project.

Recommendation. Based upon Metro's Project Delivery scoring process, identified priorities and feedback from various prime contractors during Industry Review discussions, Staff recommends Progressive Design-Build (PDB) contracting approach.

About PDB. The PDB delivery method brings the contractor and their designer into the project early, to take the design from approximately 30-60 percent to approximately 85 percent, and then perform construction. Therefore, the contractor contributes to problem-solving during design and becomes knowledgeable about project details, its risk and risk mitigation strategies. The contractor will provide cost estimates at each major milestone of the project.

Why PDB for this Project? The advantages of PDB for this Project include collaboration and risk mitigation between Metro, the designer and the contractor, a shorter procurement cycle, and accelerated construction start through task orders for discrete activities. Final construction price is based on final design, which avoids the inclusion of bid or risk contingency due to lack of complete design and undefined risks.

PDB Selection Process. The contractor (and their designer) are selected in a best value process that accounts for various technical qualifications and pricing of components such as overhead and mark-ups. Near the end of the design stage, the contractor will provide Metro with a detailed cost estimate that will be compared with the Metro's independent cost estimate and become the basis for negotiations between Metro and the contractor. A contract modification will be issued (subject to Board approval) if the final negotiated price is acceptable to Metro. If not, Metro will have the option to package the design documents into a separate bid package and solicit competitive bids for construction. These off-ramps will be available to Metro through the course of the design process.

Equity Platform

The Project procurement process for this contract will be an open solicitation and will be posted on Metro's vendor Portal and advertised. A pre-proposal conference will be held, and information will be posted on Metro's Vendor Portal to ensure outreach and networking opportunities. There are no significant or anticipated changes to engagement opportunities or mitigation strategies as a result of implementing a PDB as opposed to a traditional design-build approach. Staff will work with DEOD to establish the SBE/DBE/DVBE goals for the contract commitments.

DETERMINATION OF SAFETY IMPACT

This Board action will not have an adverse impact on safety standards for Metro.

FINANCIAL IMPACT

This Project is funded on a fiscal year basis under Project number 865521 East San Fernando Valley Transit Corridor, cost center 8510, under various accounts including Professional/Technical Services and \$251,167,442 is included in the FY22 Adopted Budget. This is a multi-year project requiring expenditure authorizations in fiscal year increments until a Board Authorized Life of Project Budget is adopted. It is the responsibility of the Cost Center Manager, Project Manager and Chief Program Management Officer to budget for this project in the future fiscal years and within the cumulative budget limit for the affected fiscal year.

Impact to Budget

Sources of funds for the recommended actions are Measure M 35% and State Grants. There is no impact to Operations eligible funding. No other funds were considered.

IMPLEMENTATION OF STRATEGIC PLAN GOALS

The Project supports the following strategic goals:

Strategic Goal 1: Provide high-quality mobility options that enable people to spend less time traveling.

The purpose of the Project is to provide high-capacity transit service in the San Fernando Valley.

Strategic Goal 2: Deliver outstanding trip experiences for all users of the transportation system.

The at-grade light rail system will attract bus ridership and improve the trip experience for users of the transportation system.

Strategic Goal 3: Enhance communities and lives through mobility and access to opportunity.

With 11 stations, including connections to Metro G-Line and Metrolink, the ESFV enhances mobility to the community

Strategic Goal 4: Transform LA County through regional collaboration and national leadership.

Collaboration with the elected officials, citizens, and Metro patrons of San Fernando Valley continues to positively impact the Project.

ALTERNATIVES CONSIDERED

The Board may direct staff to pursue another method of Project delivery, such as Design-Build, Construction Manager General Contractor (CMGC) or Design-Bid-Build. This is not recommended, as the advantages of the PDB contracting method for the Project will most likely improve design quality, support efficiency and adherence to scheduled deliverables.

NEXT STEPS

After approval of the staff recommendations, staff will continue the process of developing a PDB contract package and competitively procuring a PDB contractor. A Request for Proposals (RFP) will be developed using the methods outlined below, and staff will return to the Board with a recommendation to award a contract to a qualified proposer.

Evaluation criteria employing objective selection criteria, including price, will be included in the RFP. The evaluation criteria will be structured to help ensure selection of a qualified proposer with experience in design and construction of street-running rail, experienced technical and management personnel (including systems), demonstrated experience with third-party permitting and approvals, and proven strategies for implementing a collaborative approach.

Proposals submitted in response to the RFP will address two phases of the work, and would include (i) the fees associated with the phase one/ preconstruction services (stated as a lump sum dollar amount or schedule of rates with a GMP); and (ii) the design-builder's fee associated with the construction work, including the full amount of direct and indirect costs (including all labor and non-labor expenses) and the margin to be earned (not stated in the proposals as a lump sum dollar amount or GMP).

Phase one will expressly set out the work that the contractor will perform for preconstruction services such as design and early works construction packages. Phase one will also establish the performance and outcome-based specifications for phase two. The PDB contract will set out a clear governance structure for managing the process during phase one, including establishment of working groups including members from Metro, the contractor team and relevant third parties.

Phase two will develop the lump sum price or a GMP for all remaining construction work. To mitigate the disadvantage of awarding without full competition on the overall design-build contract price:

- o The design-builder's fee and margin originally proposed will be retained in the phase two costing;
- o If Metro and the contractor cannot reach agreement on the phase two pricing and terms, Metro may exercise its right to "off-ramp" as described below, providing some

leverage in negotiations;

- o The phase one specification will set out the form and frequency of cost estimating to provide for multiple checkpoints for Metro;
- o The PDB contract will set out the form of the price proposal for phase two and the information that the contractor is required to submit;
- o The process for establishing the phase two price will employ transparent open-book methods and the use of independent cost estimates to validate pricing.

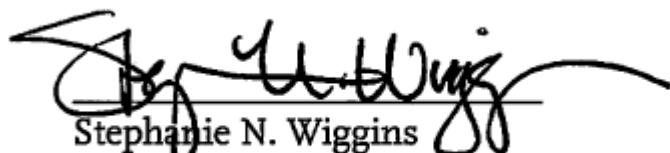
If a lump sum price or GMP for the phase two work is not agreed to between the parties, Metro may exercise its option to use the contract off-ramp. Metro will have the right to use all designs prepared during phase one in subsequent procurements and may move to another procurement method for phase two work of the design package.

To optimize the schedule, early work packages for discrete scopes of work under phase two (such as utility relocations) may be defined and, provided that Metro and the contractor agree to pricing, Metro may issue a notice to proceed prior to issuance of the full phase two notice.

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