



Board Report

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Agenda Number: 27.

CONSTRUCTION COMMITTEE AUGUST 18, 2022

SUBJECT: METRO I-105 EXPRESSLANES - CONSTRUCTION MANAGER/GENERAL CONTRACTOR CONTRACT

ACTION: AWARD CONTRACT AND ESTABLISH PRECONSTRUCTION BUDGET

RECOMMENDATION

AUTHORIZE the Chief Executive Officer to:

- A. AWARD a firm-fixed-price contract, Contract No. PS84667000 to Flatiron-Myers, Joint Venture, for I-105 ExpressLanes Project Construction Manager/General Contractor (CM/GC) Phase 1 in the amount of \$7,997,461, for Preconstruction Services for a period of performance of 30 months, subject to the resolution of protest(s), if any;
- B. ESTABLISH a Preconstruction Phase-of-Project Budget (Preconstruction Budget) for the I-105 ExpressLanes Project (Project) in an amount of \$119,391,538; and
- C. NEGOTIATE and EXECUTE all project-related agreements and modifications to existing contracts within the authorized Preconstruction Phase-of-Project Budget (Preconstruction Budget).

ISSUE

Staff is seeking the Board's approval for two items: (1) to award a CM/GC firm fixed price Contract No. PS84667000 to Flatiron-Myers Joint Venture in the amount of \$7,997,461; and (2) to establish a Preconstruction Budget in the amount of \$119,391,538. The Preconstruction Budget is inclusive of all previously awarded contracts, incurred expenses to date of \$13,938,500, and anticipated additional preconstruction activities performed under the contracts discussed herein for the Project, all as summarized in the expenditure and funding plan for the Preconstruction Budget included in Attachment A.

BACKGROUND

In January 2017, the ExpressLanes Strategic Plan was presented to the Board. The Strategic Plan analyzed all existing, in construction, and planned High Occupancy Vehicle (HOV) lanes in the county for potential conversion to ExpressLanes and identified three tiers of corridors, with Tier 1 being the highest. Tier 1 projects include I-105, I-405, I-605, and an extension of the existing I-10

ExpressLanes. At its January 2017 Board meeting, the Board directed staff to initiate planning studies for Tier 1 projects.

The I-105 Expresslanes Project (I-105 Project) will convert the existing HOV lane to ExpressLanes and add a second Express Lane in each direction on the I-105 between I-405 and Studebaker Road in the City of Norwalk. The Project Approval/Environmental Document (PA/ED) phase for the I-105 Project began in March 2018 and was completed in May 2021. The I-105 Project is currently in the Plans, Specifications, and Estimates (PS&E) phase. PS&E for segment 1 between I-405 and Central Avenue is scheduled to be completed in Spring 2023 and PS&E for segment 2 between Central Avenue and Studebaker Road is scheduled to be completed in Fall 2024. The I-105 Project is a Measure M project and has also received a \$150 million State Solutions for Congested Corridors (SCCP) grant.

The I-105 Project will provide multi-modal travel options and mobility benefits to all users in the corridor. Metro transit, vanpool, and high-occupancy vehicle users are eligible to continue to use the lanes without a toll. Revenues from ExpressLanes can support Metro rail and Metro and municipal bus operators through direct subsidies to transit programs on the ExpressLanes. Local cities and agencies benefit from the ExpressLanes Net Toll Revenue Grant program which supports transit and active transportation programs and adds a tool to help close the first/ last mile gap. Local streets and arterials will have fewer cars congesting their intersections which will offset the vehicle miles travelled figures while improving air quality in the neighborhoods. Moreover, Metro's Low Income Assistance Plan and Transit Rewards programs will help lower the financial burden of opening and maintaining an ExpressLanes account while providing reliability benefits to all users. These programs, along with dynamic pricing for solo drivers using the ExpressLanes, will help ensure the facility operates efficiently while maintaining reliable and equitable travel for all.

Metro will deliver the Project under two separate contract components: 1) heavy civil construction of the highway and 2) tolling system design and installation. The Roadside Toll Collection System (RTCS) will be a Design/Build/Operate/Maintain contract. The Project's heavy civil construction will be delivered utilizing the CM/GC delivery method. In May 2021 and April 2022, the Board approved the two PS&E contracts for the final design.

Metro staff will also seek Board approval for the Program Management Support Services (PMSS) and RTCS contracts in August 2022. The CM/GC, PMSS, and RTCS contractors are required to design, construct, and operate the Project.

In June 2021 the Board approved the use of CM/GC as the delivery method for this Project. In order to move the Project through the Preconstruction Phase of the CM/GC process, the Project will utilize the CM/GC contract that is the subject of this action, the PMSS contract (separate item), and will continue to utilize support from previously awarded and existing contracts, agreements, and Metro labor, as listed below and further explained in Attachment A (Preconstruction Budget):

- PMSS Contract Expenses (August 2022 Board), \$7,100,000
- PS&E Engineering Expenses (Contracts approved by Board May 2021 and April 2022), \$55,313,574
- Caltrans PS&E Oversight, \$6,200,000

- Metro Labor, \$7,300,000,
- Right of Way Acquisitions, \$3,000,000
- Third Party costs and local utilities, \$6,000,000
- Integrated Project Management Office expenses, \$1,100,000; and
- Professional Services/Legal Support, \$4,400,000.

DISCUSSION

Staff recommends using CM/GC for the Project's Phase 1 as it enables Metro to engage a General Contractor to act as the "Construction Manager" consultant and collaborate with Metro and the PS&E and RTCS contractors. The CM/GC process provides the ability to effectively integrate benefits from the early engagement of construction experts that will enable Metro to make informed decisions during the design process and provide substantive benefits to the project. Further, the CM/GC delivery method for this project will also improve construction quality, provide higher certainty on the final construction cost and delivery schedule, and minimize risks related to construction change orders, disputes, and third-party delays during construction.

The CM/GC will deliver the Project in two distinct contract phases. The Preconstruction Budget establishes Phase 1, the Preconstruction Phase (Design), which allows the contractor to work with the PS&E contractor and Metro to identify risks, provide cost estimates, and refine the project schedule. During Phase 1, Metro will work with the CM/GC Contractor to explore opportunities to accelerate the delivery schedule, as well as leverage their expertise to drive the completed design in a direction that remains within approved project budgets. As the design approaches completion, the CM/GC contractor and Metro negotiate the contract price for Phase 2, the Construction Phase. If both the CM/GC and Metro reach an agreement on the Construction Phase costs, then the second contract phase (Construction Phase) will begin, and Metro will execute a Contract Supplement and issue a Notice to Proceed (NTP) for Phase 2.

At any stage during the Preconstruction design period, Metro can exercise an "off-ramp" and seek another contractor by competitively bidding on the Project's final design, while still benefitting from the previous work performed by the CM/GC Contractor. The CM/GC Phases are described in more detail below:

- Phase 1 Preconstruction Services expressly sets out the work that the Contractor will perform, such as design review and Early Works Packages.
- Upon issuance of NTP for Phase 1, the Contractor, PS&E design contractor, RTCS, and Metro will work side by side to review constructability, undertake value engineering, conduct site investigations, assess market conditions, and provide current contractor price estimates, risk assessments, and construction schedules at each successive prescribed design interval to finalize the design.
- Throughout Phase 1, the Contractor will provide Metro with Opinions of Probable Construction Cost (OPCC), which are detailed cost estimates that will enable staff to evaluate the projected Project costs against the Project budget and make necessary adjustments to the scope or schedule.

- If both parties agree to a final OPCC, staff will seek Board approval to award Phase 2 construction to the Contractor. If not, Metro will have the option to terminate the contract with the Contractor and package the design documents into a separate bid package. This off-ramp will be available for Metro throughout Phase 1 as staff evaluates each OPCC.
- Throughout Phase 1 negotiations, Metro will maintain the following parameters to mitigate discrepancies and to increase the likelihood of project success:
 - the Contractor's fee and margin initially proposed will be retained in all OPCCs;
 - the Phase 1 specification sets out the form and frequency of OPCCs to provide for multiple checkpoints for Metro;
 - the CM/GC contract sets out the conditions of the price proposal for Phase 2 and the information that the Contractor is required to submit;
 - the CM/GC contract sets out a clear governance structure for managing Phase 1, including the establishment of working groups that include members from Metro, the contractor team, and any relevant third parties; and
 - the process for establishing all OPCCs will employ transparent open-book methods and the use of independent cost estimates to validate pricing.

In December 2020 the Project received \$150,000,000 as part of the Solutions for Congested Corridor Program (SCCP) with specific requirements:

- Metro requested funding for the 2022-2023 fiscal year
- Award is valid for six months from allocation
- Metro must request the California Transportation Commission by June 2023, and a construction contract be awarded by December 2023
- Metro has until December 2026 to complete the Contract

Metro anticipates issuing an Early Works Package as Part of Phase I to satisfy these requirements that would meet the construction cost threshold of \$150,000,000 and the allotted project delivery schedule to begin construction by 2023. The Early Works Package will be to construct Segment 1 of the Project between I-405 to Central Avenue, generally located between the I-405 and I-110 at the western limit of the Project. When the Project team completes the Segment 1 Design, Metro and the CM/GC will negotiate the Early Works Package Construction Budget, and staff will return to the Board for Segment 1 Budget approval. At the same time, the Project team will continue working on completing the Project's final design from Central Avenue to Studebaker Road. Metro will then negotiate the Construction Fee with the CM/GC for the remaining segments and return to the Board to request approval for the Life of Project (LOP) Budget, including all preconstruction costs, early works, and the negotiated final price for all Phase 2 work, or Guaranteed Maximum Price (GMP). Upon Board approval of the LOP, Metro will issue an NTP for the CM/GC to construct the remaining Project segments within the GMP as defined by the Project's design documents. The GMP includes the total of all subcontracts, the CM/GC General Conditions, the CM/GC fee, and the CM/GC construction contingency.

The Federal Highway Administration (FHWA) is currently reviewing staff's request to use Metro's Project Labor Agreement (PLA) to construct the Project. If approved by FHWA, Metro will incorporate

the PLA into Phase 2.

As an essential element of the Phase I Preconstruction Work, staff recommends the award of a CM/GC firm fixed price contract for the Project as further explained in the Procurement Summary in Attachment B and DEOD summary in Attachment C.

DETERMINATION OF SAFETY IMPACT

The Project is being planned and designed per Caltrans Standard Specifications and Caltrans Standard Plans. Approval of the Preconstruction Budget for the Project will have no impact on safety.

FINANCIAL IMPACT

This Preconstruction Budget will span from FY23 to FY25. Budgeting for the future fiscal years will be the responsibility of the Chief Program Management Officer and the Deputy Chief Operations Officer, Shared Mobility.

The Project is a “Tier 1 Project” within the 2017 LACMTA Countywide ExpressLanes Strategic Plan (ELSP). The cost estimate to construct dual ExpressLanes on the I-105, including hard and soft costs, is \$779,000,000. Since this project is at a very early stage of PS&E, this initial cost estimate is subject to change due to design refinement during the PS&E phase, input from the CM/GC during preconstruction services, and market conditions, including escalation and supply chain. Measure M funds this contract award.

The Project currently has \$175,000,000 in Measure M and \$150,000,000 from the SCCP to fund the proposed contract award and establish the Preconstruction Budget (see Attachment A). Toll-backed obligations, including a TIFIA loan and potential federal grants to fund the Project’s remaining budget in future fiscal years, will fill the funding gap of approximately \$454,000,000. For example, in Spring 2022, Metro applied and requested \$45,000,000 from the Rebuilding American Infrastructure with Sustainability and Equity (RAISE) and \$45,000,000 from the Multimodal Project Discretionary Grant (MPDG). This action only commits Metro to the costs of the Preconstruction Budget of \$119,391,538 without further contractual obligation by Metro.

Impact to Budget

The FY23 funding for the award and execution of Phase 1 Preconstruction Services and all support costs is included in FY23 Adopted Budget in cost center 2220, project 475004. This is funded with Measure M 17% Highway and is not eligible for Metro bus and rail operations. The funding and expenditure plan for this project from inception to Preconstruction is included in Attachment A.

EQUITY PLATFORM

The Diversity and Economic Opportunity Department (DEOD) established a 12% Disadvantaged

Business Enterprise (DBE) goal for Phase 1 and a 19% DBE goal for Phase 2 of this solicitation. The proposed contractor team exceeded Metro's goal by making a 12.61% commitment for Phase 1 and will be required to meet or exceed the DBE goal for Phase 2 Work at the time of submission of its Phase 2 Work Proposal. Before the release of the solicitation for this contract, Metro conducted two virtual Metro Connect Industry Forums on June 3, 2021, and July 23, 2021. The June 3rd event was attended by 138 individuals, and the July 23rd event was attended by 88 individuals. The events were held to inform the DBE community of the upcoming I-105 contracting opportunities and to increase small business participation.

In 2019, Equity Focus Communities (EFCs) comprised approximately six miles of the Project's sixteen-mile-long corridor. In the one-mile area around the I-105, about 94% of the total population of 536,000 is non-white. Of the 142,000 households in this area, 26% earned less than \$25,000 annually. On the I-10 corridor, EFCs are in the cities of Pomona, Baldwin Park, Covina, West Covina, El Monte, and South El Monte. On the I-405 corridor, EFCs are in the vicinity of the 10/405 interchange, by UCLA, and in Van Nuys just north of US-101. The analysis will incorporate the updated (2022) EFC maps in future updates to the Board.

Metro has established its Low-Income Assistance Plan (LIAP) program to ensure low-income households' equitable access to the ExpressLanes. Metro ExpressLanes also reinvests a substantial portion of its toll revenues back into the respective corridors in the form of incremental transit service funding and net toll revenue reinvestment grants.

Additional strategies cited in the I-105 Project EIR/EA to help mitigate negative Project impacts on EFCs include sound walls, best management practices, and a traffic management plan (TMP) to reduce construction-related impacts. Mitigation measures, if required, for the I-10 and I-405 Projects will be identified as part of the PA/ED phase. Metro anticipates that CM/GC delivery method will improve public outreach on the Project's design and implementation by having the CM/GC on board during design development feedback.

IMPLEMENTATION OF STRATEGIC PLAN GOALS

The Project supports Strategic Goal 1, providing high-quality mobility options that enable people to spend less time traveling by increasing regional highway capacity and offering travelers on the corridor a new, faster, more reliable, and convenient travel mode alternative.

The Project supports Strategic Goal 2, delivering outstanding trip experiences for all users of the transportation system, by improving trip times and travel speeds for both the ExpressLanes and the general-purpose lanes.

The Project supports Strategic Goal 4, transforming LA County through regional collaboration and national leadership, by strengthening Metro's relationships with Caltrans, the Federal Highway Administration, Los Angeles County, local cities/jurisdictions, and several other agencies.

ALTERNATIVES CONSIDERED

The Board may elect not to award Phase 1 of the CM/GC Contract for the Project. Staff does not

recommend this alternative because the project benefits of using CM/GC Preconstruction Services for the Project would not be realized, including improved design quality, enhanced efficiencies, a guaranteed maximum budget principal, and lower risk for future construction change orders. Furthermore, this may impact grant funding agreements and jeopardize the \$150,000,000 State SCCP funds awarded to the Project.

NEXT STEPS

Upon Board approval, staff will execute Contract No. PS84667000 with Flatiron-Myers, Joint Venture. Metro staff will engage the CM/GC contractor to initiate Phase 1 Preconstruction Services with the PS&E contractor and RTCS contractor to complete the final design. Staff will return to the Board to seek approval of the Segment 1 Early Works Package Construction Budget in FY24 and the Phase 2 Construction Project Budget in FY25. Staff will also keep the Board apprised of our progress in securing additional funds as the Project moves forward.

ATTACHMENTS

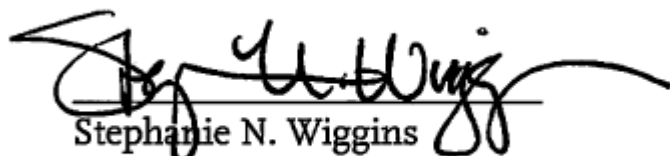
Attachment A - I-105 ExpressLanes Funding and Expenditure Plan

Attachment B - Procurement Summary

Attachment C - DEOD Summary

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