



Board Report

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Agenda Number: 19.

CONSTRUCTION COMMITTEE FEBRUARY 16, 2023

SUBJECT: EAST SAN FERNANDO VALLEY LIGHT RAIL TRANSIT LINE PROJECT

ACTION: APPROVE RECOMMENDATIONS

RECOMMENDATION

AUTHORIZE the Chief Executive Officer to:

- A. AWARD a firm fixed price Contract No. PS89616000 to San Fernando Transit Constructors (SFTC), a Joint Venture (JV) of Skanska USA Civil West California District, Inc. (Skanska) and Stacy and Witbeck, Inc., for Phase 1 Preconstruction Services of the Progressive Design-Build contract for the East San Fernando Valley Light Rail Transit Line Project (Project) in the amount of \$30,979,750, subject to the resolution of protest(s) if any;
- B. ESTABLISH a Preconstruction Phase-of-Project Budget (Preconstruction Budget) for the Project in the amount of \$496,856,000; and
- C. NEGOTIATE and EXECUTE all project-related agreements and modifications to existing contracts within the authorized Preconstruction Budget.

ISSUE

Staff is seeking the Board's approval for two items: (1) to award a Progressive Design-Build firm fixed price Contract No. PS89616000 to San Fernando Transit Constructors (SFTC), a Joint Venture (JV) of Skanska USA Civil West California District, Inc. (Skanska) and Stacy and Witbeck, Inc. in the amount of \$30,979,750; and (2) to establish a Preconstruction Budget of \$496,856,000. The Preconstruction Budget is inclusive of all previously awarded contracts, incurred expenses to date of \$92,218,000, and anticipated additional preconstruction activities performed by the Progressive Design/Build Contractor and existing professional services contracts for the Project, all as summarized in the expenditure and funding plan for the Preconstruction Budget as shown in Attachment A.

BACKGROUND

The Project extends north from the Van Nuys Metro G-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, and the Project achieved a Record of Decision on January 29, 2021. Included in the environmental document was the initial operating segment (IOS), defined as the southern 6.7 miles of the Project alignment. The IOS, or more recently identified as the southern segment, is street running in the middle of Van Nuys Boulevard and includes 11 at-grade stations along with the maintenance facility. This southern segment of the Project is the subject of this board action. The remaining northern 2.5-mile environmentally cleared segment, more recently identified as the northern segment, is going through additional analysis as directed by the Board in December 2020 and is not included in this board action.

The Project is currently in the final stages of preliminary engineering (PE) design for the southern segment. Staff is finalizing internal and third-party comments, resolving outstanding internal and third-party issues, and completing underground field investigations. Final design for select Department of Water and Power (DWP) utility relocations is also being advanced. The PE design consists of street improvements and guideway design advanced to 60 percent and all other design elements (stations, maintenance facility, utilities, landscaping, and systems) to 30 percent.

To move into the phase of preconstruction services, the Project will utilize the board approved Progressive Design-Build contract method and will continue to utilize support from Metro labor and previously awarded and existing contracts and agreements, as listed below and further explained in Attachment A:

- Program Management Support Services provided by KKCS/Triunity JV (KTJV) on call support contract (Contract No. AE35279);
- Engineering consultants Gannett Fleming, Inc (general engineering) and SECOTrans (systems engineering) (Contract No AE58083 and Contract No AE47810E0128);
- Environmental support services provided by ICF's on call support contract (Contract No. PS20111);
- Construction Management Support Services from AMM, JV (Contract No. AE82218000); and,
- Project Controls Support Services from KTJV (Contract No. PS89856000).

DISCUSSION

The preconstruction budget consists of costs incurred to date and a forecast of Phase 1 and Phase 2 early works costs through fiscal year 2024. Perhaps the most critical component of the Phase 1 scope is reducing the cost of the Project to a value that is affordable within current and projected funding sources. Contained within the preconstruction budget is the scope of work and funding that provides for Metro, the Contractor, and third parties (such as DWP, the City of Los Angeles, and the County of Los Angeles) to collaborate on innovative solutions that achieve the objective of cost reduction. These solutions include but are not limited to reduced scope required by third parties, more efficient staging and/or phasing proposed by the Contractor and approved by Metro and third parties, value engineering within the parameters of performance requirements, and technology evaluation.

The main elements of the forecasted costs, which are provided in detail within Attachment A, are typical agency costs for a mega-project and include right of way acquisitions (\$114.575M), anticipated early works packages (\$109.060M), third-party, oversight, engineering, and other professional services costs (\$70.885M) and 15% contingency (\$52.695). The Federal Transit Administration's oversight procedure 40c recommends a minimum level of contingency of 15% for the design phase of a project.

The agency's commitment to the Contractor at this time is \$30,979,750, and the allocation of these funds to the Contractor does not jeopardize the agency's ability to mitigate the cost or schedule of the project, nor does it jeopardize the agency's ability to off-ramp the Contractor.

Progressive Design-Build works best on projects with sequence and schedule sensitivities and where the design is complex, difficult to define, and/or subject to change. Those criteria exist on the subject Project due to the interfaces with other transit projects that are currently in the planning, design, and/or construction stages (and therefore are subject to design and schedule changes), the potential for implementing innovative emerging technology elements, and necessary interfaces with third-party stakeholders. Additionally, this Project faces an unprecedented level of coordination and planning with major third-party stakeholders such as DWP, the City of Los Angeles, and the County of Los Angeles. Utilizing the Progressive Design-Build delivery method will provide for the efficient management of risks, allow for appropriate collaboration with the selected qualified contractor to deliver a complex project, and encourage the optimization of interface management between internal Metro departments, other projects, and third-party stakeholders. Progressive Design-Build is one of the strategies Program Management Department applies to address project risks and current cost escalation trends in the construction industry.

The Progressive Design-Build contract for the Project will be delivered in two phases, as described in more detail below:

Phase 1 is preconstruction services. The scope of work for this phase consists of a thorough evaluation of the current PE designs, a constructability, value engineering, and innovation analysis, a bottoms-up cost and schedule analysis, and early works packages. Phase 1 also establishes the scope of work and price for Phase 2, which includes final design, construction, testing, and commissioning for the entirety of the Project. All Phase 1 work will be performed within the Board approved Preconstruction Budget.

Upon issuance of Notice to Proceed (NTP) for Phase 1, the Progressive Design-Build Contractor (Contractor) and Metro will work side by side to review constructability, undertake value engineering and innovation tasks, assess market conditions, provide schedule and cost estimates, perform risk assessments, and develop a design and construction schedule for the Project. Throughout Phase 1, the Contractor will provide Metro with Opinions of Probable Cost (OPC) which are open book detailed cost estimates that will enable Metro to evaluate the overall projected Project schedule and costs against the Project budget and make necessary adjustments to scope and/or schedule that protect the affordability of the Project.

To optimize the Project schedule, early work packages for discrete scopes of work included in Phase 2 may be defined, and Metro and the Contractor may agree to firm pricing, after which Metro may issue an early works package NTP prior to issuance of the full Phase 2 NTP. Examples of these early

works packages may include field investigations, demolition of buildings within Metro acquired properties, construction of utility adjustments/relocations, and final design. A line item for early works packages is included in Attachment A.

If a final negotiated OPC is reached, staff will seek Board approval to award all of Phase 2 to the Contractor. If a final OPC cannot be reached, 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 to Metro throughout the course of Phase 1 and will be evaluated at each OPC.

Throughout Phase 1 negotiations, the following parameters will be maintained to mitigate discrepancies and lead to a positive outcome:

- the Contractor's Phase 2 Management Lump Sum Fee (expressed as lump sum dollar amount per month) and Phase 2 Margin Percentage that was included in the Contractor's original proposal will be retained in all OPCs;
- if Metro and the Contractor cannot reach an agreement on the Phase 2 pricing and terms, Metro may exercise its right to off-ramp as described above, ensuring accountability for the Contractor to effectively work with Metro through all phases;
- the Phase 1 Contract sets out the form and frequency of OPCs to provide for multiple checkpoints for Metro;
- the Contract sets out the form of the price proposal for Phase 2 and the information that the Contractor is required to submit;
- the 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 OPCs will employ transparent open-book methods and the use of independent cost and schedule estimates to enable validation of pricing.

Phase 2 work begins upon successful cost and schedule negotiations for all work associated with the Project and includes the final design and construction of all work not included in Phase 1 or early works packages. When the Project is ready to proceed into Phase 2, staff will return to the Board to seek authority to enter into Phase 2 and to set the Life of Project budget (LOP). The LOP will be inclusive of all previous costs, including the Preconstruction Budget and the negotiated final price for all Phase 2 work. Board approval of the LOP and a successfully negotiated final design and construction contract with Metro allows the Contractor to proceed into Phase 2.

As an essential element of the preconstruction phase, staff recommends the award of a firm fixed price contract for the Project for the Phase 1 Preconstruction Services as further explained in the Procurement Summary in Attachment B and DEOD Summary in Attachment C.

DETERMINATION OF SAFETY IMPACT

The recommended Board action will have no detrimental safety impact.

FINANCIAL IMPACT

The funds required in FY23 for the Phase 1 Preconstruction Services are included in the adopted budget under Cost Center 8510 Project number 865521, East San Fernando Valley Light Rail Transit Corridor, under various accounts, including professional and technical services. Annual budgeting within the approved preconstruction budget for the future fiscal years (FY24, FY25, FY26) will be the responsibility of the Project Manager, Cost Center Manager, and the Chief Program Management Officer.

The Preconstruction Budget is for Phase 1 Preconstruction Services only, and additional funding will be needed to complete the southern segment. However, the amount of the Preconstruction Budget is consistent with the comparable services identified in the current cost estimate for the total southern segment. Metro has developed a preliminary cost estimate for the southern segment in coordination with the Federal Transit Administration as part of the Expedited Project Delivery (EPD) grant process, which Metro is currently pursuing.

Impact to Budget

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

The planned Federal EPD Grant, a supplemental TIRCP State Grant (relating to AB 180), and a portion of the Measure R 35% funds are yet to be secured. These funds are needed to complete Phase 2 and the total southern segment. In the event these funds are not obtained, there is sufficient funding that is currently secured to fund the Phase 1 Preconstruction Services budget.

EQUITY PLATFORM

The Project will serve 11 new stations along Van Nuys Blvd, and will improve connections and access to key destinations. Equity Focus Communities (EFC) are within walking and biking distances to the proposed stations. Accordingly, the Project will improve access for East San Fernando Valley transit riders in EFCs along the existing route to additional destinations.

To date, Metro Community Relations (CR) staff, who include bilingual speaking staff, have met with the local neighborhood councils and representatives from the local council district offices on upcoming construction, mitigation plans/efforts, and outreach efforts to the local community. CR staff have also been visiting the small businesses along the alignment and have been providing bilingual project information along with business resources available through Metro. Also, the Project will have a Community Leadership Council (CLC) an advisory body to the Project and implement a CBO partnership that aligns with Metro's CBO Partnering Strategy.

The solicitation was available for download from Metro's Vendor Portal, was advertised in five newspapers (Asia Week, La Opinion, Los Angeles Sentinel, Los Angeles Daily News, and the Los Angeles Times), the periodical Mass Transit, and notifications were sent to small businesses based on applicable North American Industry Classification System (NAICS) codes.

As part of the procurement process, each Proposer had to demonstrate through its Proposal a well-defined approach to ensure that Cultural Competency is considered and executed for all Phases of the Work, a first of its kind requirement by Metro for a mega project. Cultural Competency requires awareness of self, reflection on one's own cultural position and potential biases, awareness of others' positions and assumptions, and the ability to interact genuinely and respectfully with others across cultural and linguistic differences ("Cultural Competency"). Each Proposer was to reference in their Proposal:

- policies and practices at the organizational level as well as values and behaviors at the individual level that enable cross cultural interaction, dialogue, and shared power;
- tools to respond effectively to diverse environments to remediate systematic denial of resources and opportunities caused by institutional prejudicial practices and policies;
- a strategy to establish reciprocal relationships that support trustworthy communication among the Project team and the community; and,
- demonstrate understanding of the communities' lived experiences such that they are able to clearly articulate how those lived experiences will inform the Work, their communications and proposed mitigations.

The recommended firm, SFTC, scored the highest in Cultural Competency. Their proposal encompassed consideration of race, ethnicity, gender, immigration status, languages spoken, socioeconomics, public transportation dependency, and where and how information is received. The recommended firm proposed many culturally competent strategies and activities as part of their approach. Several examples include:

- Researching disaggregated demographic data in the Project Area and aligning strategies for specific marginalized groups, such as minimizing bus service disruption through station hosts and temporary stops and amenities for transit-reliant community members;
- Identifying project area small businesses for project vendor services such as temporary storage, janitorial services, and catering/food services;
- Commitment to community-specific language translation and interpretation needs for project and construction information;
- Mandatory subconsultant diversity and inclusion training that aligns with Metro's D&I purpose initiatives;
- Preliminary research into local events to engage, such as City of San Fernando Day of the Dead Festival and Annual César E. Chávez Day Celebration and March for Justice; and
- Identifying 20 community and faith-based organizations to develop compensated partnerships within the Project Area

The selected firm made a DBE commitment of 19.33% which exceeds the DEOD goal of 18% DBE.

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 choose not to move forward with award of the contract and establishment of the Preconstruction Budget. This is not recommended as Metro will incur undesirable schedule delays and cost increases if the Project does not move forward. Furthermore, delay to the Project will have detrimental effects on the available Federal and State Grant funding dollars.

NEXT STEPS

After Board approval, staff will execute Contract No. PS89616000 with San Fernando Transit Constructors (SFTC), a Joint Venture (JV) of Skanska USA Civil West California District, Inc. (Skanska) and Stacy and Witbeck, Inc. to begin Phase 1 work. As the evaluation nears completion level and assuming successful OPC negotiations for Phase 2 work, staff will return to the Board for approval of an LOP budget and seek further authority for the Chief Executive Officer to execute project agreements and contract modifications within the LOP budget.

ATTACHMENTS

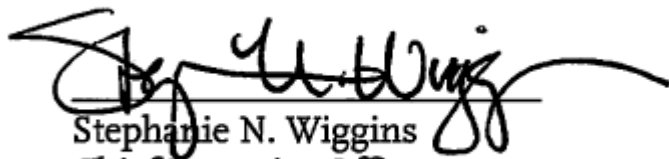
Attachment A - Expenditure and Funding Plan

Attachment B - Procurement Summary

Attachment C - DEOD Summary

Prepared by:

Reviewed by: Monica Born, Deputy Executive Officer, Program Management (562) 524-0597
Brad Owen, Executive Officer, Program Management (213) 418-3143
Tim Lindholm, Deputy Chief Program Management Officer (213) 922-2797
Debra Avila, Deputy Chief Vendor/Contract Management Officer (213) 418-3051
Sameh Ghaly, Interim Chief Program Management Officer, (213) 418-3369
Sharon Gookin, Deputy Chief Executive Officer, (213) 418-3101



Stephanie N. Wiggins
Chief Executive Officer