

**Board Report**

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**File #:** 2021-0036, **File Type:** Informational Report**Agenda Number:** 46.

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**CONSTRUCTION COMMITTEE  
FEBRUARY 18, 2021****SUBJECT: I-5 NORTH CAPACITY ENHANCEMENTS FROM SR-134 TO SR-118  
SEGMENT 3****ACTION: APPROVE RECOMMENDATION****RECOMMENDATION**

AUTHORIZE Contract Modification No. 288 (CCO 288) for payment to the California Department of Transportation (Caltrans) for the construction contract of Segment 3 of the I-5 North Capacity Enhancements Project from SR-134 to SR-118 (Project) in the amount of \$33.75 million contingent upon the Board's approval of the Board Report 2020-0874 and the increase of the Life of Project budget for this Project.

**ISSUE**

The construction contract for Segment 3 (Empire) between West Magnolia Boulevard Overcrossing and 0.3 miles north of Buena Vista Street/Winona Avenue Undercrossing was awarded on November 29, 2012 with the original completion date of September 27, 2017. The project encountered a number of problems including relocation of conflicting unidentified utilities, hazardous materials needing clean up, implementation of Positive Train Control System for Metrolink, additional right-of-way acquisitions, differing site conditions, third-party delays, addressing community concerns resulting in additional out of scope work, and other issues. The total outstanding and potential claims as of July 10, 2020 were \$40.242 million. This segment is expected to open to traffic by December 2021. The plant establishment period for this segment will be completed by December 2022. Caltrans designed and is managing construction of the Project. Metro is funding partner.

Caltrans and the contractor have agreed to a \$33.75 million settlement as full payment of all claims, disputes, the submitted extra work bills, and the costs for the known additional work listed in the settlement agreement. Items of work in this settlement are listed in Attachment A.

Contract modifications exceeding \$500,000 require Board authorization.

**BACKGROUND**

The Project includes widening/upgrading of I-5 and inclusion of High Occupancy Vehicle (HOV) lanes between SR-134 and SR-118. The Project was comprised of four segments. Segments 1 and 2 are

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completed. Segment 4 substantially completed in Oct 2020 is in the 6-month plant establishment period. Segment 3, the subject of this report, is still in construction and about 87% complete. Substantial work outside the original scope of the project have been performed due to additional necessary and corrective work not included in the original scope. The estimated total cost of Segment 3 including this settlement payment will be \$301,334,000. The original accepted bid was \$162,521,323.25.

## **DISCUSSION**

As the construction of Segment 3 is coming to an end, timely settlement of contractor's claims related to additional work performed and accepted is critical to avoid further claims/costs. Contractor submitted claims on May 21, 2020 and amended those claims on July 10, 2020 for all out of scope work done by the prime and subcontractors, loss of demolition subcontractor due to delays in work schedule, additional labor and material, labor cost escalation, increase in cost of material, work disruptions and time delay impacts outside the control of the contractor, etc.

### **Findings**

Caltrans, upon receipt and evaluation of claims and disputes submitted by the contractor, entered into negotiations with the contractor. The parties ultimately agreed to a settlement amount of \$33.75 million for all claims.

## **DETERMINATION OF SAFETY IMPACT**

There is no impact to public safety by approving this action.

## **FINANCIAL IMPACT**

The overall corridor LOP budget of I-5 North Capacity Enhancements per the January 2021 Board authorization (FUNDING AGREEMENT NO. MOU.P0008355/8501 A/A10) to advance funds to settle the contractor's claims is \$954,103,000 and includes \$195,995,000 in Federal Funds (ARRA RSTP, SAFETEA-LU and CMAQ), \$358,355,000 in State Funds (TCRP, RIP, CMIA, IPP and SLPP), and \$399,753,000 in local Measure R Highway 20% and Prop C 25% Funds. Metro's contribution to this project is limited to the \$399,753,000 of Measure R Highway 20% and Prop C 25% funds.

Of the total LOP budget, \$820,986,411 is spent to date; of this amount \$258,428,119 was funded with Measure R (20%) and Prop C (25%) funds.

Current Metro funding of \$14 million is included in the FY21 budget in Cost Center 0442 (Highway Subsidies), I-5 North Corridor Projects 460332 and 460334, Account 54001 (Subsidies to Others). Upon approval of this recommendation, staff will reassess the budgetary needs for FY22 for the corridor and proceed with the payment of the settlement amount.

### Impact to Budget

The source of funds for this recommendation is a loan/advance of Measure R (20%) and Prop C (25%) Highway Funds, which are not eligible for bus or rail operations. No other funds were considered. Funds advanced will be reimbursed by Caltrans per agreement with Metro.

### **IMPLEMENTATION OF STRATEGIC PLAN GOALS**

The Project is consistent with the following Metro Vision 2028 Goals and Objectives:

Goal 1: Providing high-quality mobility options that enable people to spend less time traveling by widening the freeway; providing additional capacity, and including HOV lanes to encourage carpooling and improve transit efficiency;

Goals 4 and 5: Transforming LA County through regional collaboration with Caltrans and the Corridor Cities by contributing funds and providing resources to assist Caltrans in management and delivery of these projects.

Approval of staff recommendation will enable Caltrans to pay the contractor, close all outstanding disputes in Segment 3, and avoid additional costs.

### **ALTERNATIVES CONSIDERED**

The Board, at its January 2021 meeting, after reviewing all reasonable and probable alternatives, introduced a motion outlining clear and concise procedures and actions to ensure proper structuring of the loan/advance, timely repayment of the obligation to Metro, and containment of funds in the San Fernando Valley where the Project resides, and directed staff to return to the Board in February with an updated report and recommendation for a LOP budget increase. The Board, upon receipt of the staff report in February, approved the LOP budget increase and a loan/advance payment to Caltrans to pay the contractor and avoid additional costs. Requirements for reimbursement of all funds paid by Metro over and beyond Metro's original commitments were stated in the February 2021 Board report and the Term Sheet to be executed by and between Metro and Caltrans. No other alternatives need to be considered.

### **NEXT STEPS**

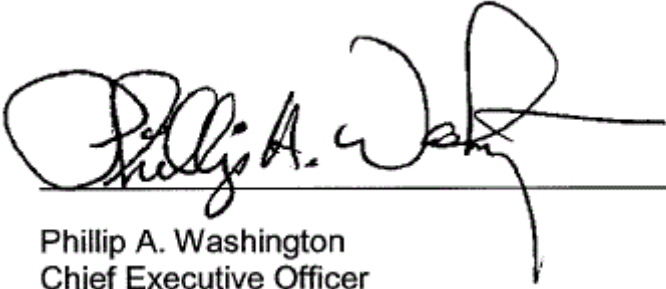
Upon Board's approval of the recommended action, Metro staff will provide the funds to Caltrans and execute the necessary agreements.

### **ATTACHMENT**

Attachment A - Items of Work in the Settlement

Prepared by: Victor Gau, Director of Engineering, Highway Program (213) 922-3031  
Abdollah Ansari, Senior Executive Officer, Highway Program (213) 922-4781  
Bryan Pennington, Deputy Chief Program Management Officer (213) 922-7449

Reviewed by: Richard F. Clarke, Chief Program Management Officer (213) 922-7557



Phillip A. Washington  
Chief Executive Officer