



Board Report

File #: 2018-0489, File Type: Contract

Agenda Number: 26.

OPERATIONS, SAFETY AND CUSTOMER EXPERIENCE COMMITTEE SEPTEMBER 20, 2018

SUBJECT: P3010, LIGHT RAIL VEHICLE PROCUREMENT CONTRACT

ACTION: APPROVE RECOMMENDATION

RECOMMENDATION

APPROVE Modification No. 36 to Contract No. P3010 with Kinkisharyo International LLC to reduce the existing 100% performance bond requirements for Contract deliverables to realize a project savings of \$4,386,957, decreasing the total Contract value from \$926,142,679 to \$921,755,722. The Contract decrease does not affect the Life of Project Budget.

ISSUE

As of July 31, 2018, Kinkisharyo International (KI) has successfully delivered 140 out of the 235 P3010 LRVs under Contract, and has satisfied the delivery requirements for the Base Contract and its first two exercised Contract Options. KI's rate of vehicle delivery puts them in position to deliver all Contract LRVs in advance of the Contract completion date of December 2020. The P3010 LRV project is currently meeting its program goals and project schedule.

Maintaining a 100% performance bond is excessive in light of KI's proven performance and is not commensurate with the value of the open obligations remaining on the P3010 Contract. Replacing the existing 100% performance bond with a \$50 million Irrevocable Letter of Credit (LOC), in combination with existing contractual warranties and securities, provide Metro with an adequate level of financial security to meet the open obligations remaining on the P3010 Contract. This approach will offer a savings to Metro by decreasing the total Contract value by \$4,386,957. This savings will be applied as a LOP contingency to cover future contract changes for vehicle enhancements.

BACKGROUND

In October 2010, the Metro Board approved a new solicitation for 235 LRVs to meet Metro's projected Transit Rail Line requirements. In order to ensure on-time performance of the new LRV program to meet vehicle requirements for new rail lines in construction, the Board's solicitation approval included a 100% performance bonding requirement.

DISCUSSION

While a 100% performance bonding security was commensurate with the level of risk Metro faced at

that time of the procurement and award in 2012, such a high level of contract performance security is excessive in light of KI's proven performance. Thus far KI has performed adequately to meet Metro's rail car needs and was instrumental in ensuring that Metro had the vehicle resources to open two new transit lines; the Foothill and Expo Extensions.

Therefore, staff recommends reducing the contractual performance bonding requirement of 100% of the value of the P3010 Light Rail Vehicle (LRV) Contract. The reduction in performance bonding can be accomplished without negatively impacting the financial security and program incentives that Metro holds to ensure project completion of the P3010 LRV program, and this action will save \$4.38 million in the cost to the project. There will be no change to the LOP. The savings will be applied as a LOP contingency to cover future changes to enhance vehicle safety and performance, and passenger comfort. Specifically, staff recommends replacing the existing 100% performance bond with a \$50 million Irrevocable Letter of Credit (LOC). This supplements other financial security measures:

- Metro holds a 5% Contract retention through the completion of the project. Metro currently holds \$48 million; that cash retention will grow to \$69 million by the end of the project, and
- There is an existing LOC equal to 6% of the Contract value for warranty services through 2023.

The recommended changes to the Contract's requirements provide Metro with an adequate level of financial security to meet the open obligations remaining on the P3010 Contract.

DETERMINATION OF SAFETY IMPACT

This board action will not have an impact to safety, vehicle performance or passenger experience.

FINANCIAL IMPACT

Adoption of the recommendation to approve the Contract Modification will provide a savings to Metro by decreasing the contract price by \$4,386,957; from \$926,142,679 to \$921,755,722. This amount does not affect the P3010 project LOP of \$972,000,000. Funding for this project are included in the FY19 budget in Cost Center 3043 - Strategic Vehicle and Infrastructure Delivery, Account 53105 - Acquisition of Revenue Vehicle, Project 206035 - P3010 LRV Project including options.

Impact to Budget

The current source of funds for this action is Measure R, Federal STIP, and Proposition A 35%. These funding sources maximize allowable project fund allocation given approved funding provisions and guidelines.

IMPLEMENTATION OF STRATEGIC PLAN GOALS

Approval of this recommendation supports the following Metro Strategic Plan Goal: Provide high quality mobility options that enable people to spend less time travelling. This project will improve safety, service, and reliability, in an effort to provide a world-class transportation system that enhances quality of life for all who live, work, and play within LA County.

ALTERNATIVES CONSIDERED

Should the Board choose not to approve staff's recommendation for the Contract Modification recommended above, Metro would not realize a project savings of \$4.38 million. This alternative is not recommended because a 100% performance bond on the existing mature project will not provide any additional financial security that is not already available through existing Contract retention, Final Acceptance Milestones payments held and a Letter of Credit that would secure and incentivize project completion.

NEXT STEPS

Upon Board approval, staff will execute Contract Modification No. 34, proceed with implementation of the changes outlined above, and continue delivery of the P3010 option order vehicles.

ATTACHMENTS

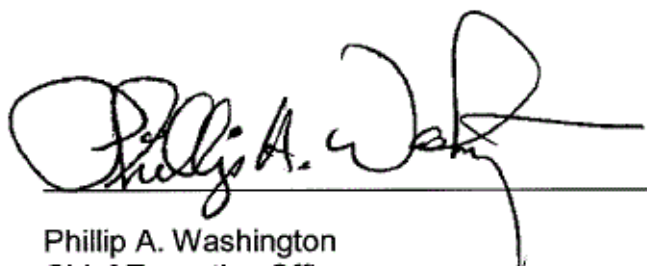
Attachment A - Procurement Summary

Attachment B - Contract Modification Authority (CMA) Summary

Attachment C - DEOD Summary

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Phillip A. Washington
Chief Executive Officer

PROCUREMENT SUMMARY

P3010 LIGHT RAIL VEHICLE PERFORMANCE BONDING/CONTRACT P3010

1.	Contract Number: P3010		
2.	Contractor: Kinkisharyo International LLC		
3.	Mod. Work Description: The Contractor shall eliminate the existing 100% performance bond and replace it with a \$50 million Irrevocable Letter of Credit.		
4.	Contract Work Description: New Light Rail Vehicles		
5.	The following data is current as of: 8/7/18		
6.	Contract Completion Status		Financial Status
	Contract Awarded:	4/20/2012	Contract Award Amount: \$890,142,275, inclusive of Options 1 through 4.
	Notice to Proceed (NTP):	8/2012	Total of Modifications Approved: 35
	Original Complete Date:	2/2017 (Base only)	Pending Modifications (including this action): 1
	Current Est. Complete Date:	01/2021 (including Options)	Current Contract Value (with this action): \$921,755,722
7.	Contract Administrator: Wayne Okubo		Telephone Number: (213) 922-7466
8.	Project Manager: Jason Yaw		Telephone Number: (213) 922-3325

A. Procurement Background

This Board Action is to approve Contract Modification No. 36 to Contract No. P3010 for the elimination of the 100% performance bond requirement defined in the P3010 Contract. The 100% performance bond would be replaced by a \$50,000,000 Irrevocable Letter of Credit (LOC).

This Contract Modification will be processed in accordance with Metro's Acquisition Policy and the contract type is a firm fixed price.

In April 2012, Contract No. P3010 was awarded to Kinkisharyo International LLC (KI) in the firm fixed price amount of \$299,061,827 for the manufacturing and delivery of 78 light rail vehicles (LRV) for the base contract buy. The Board also authorized the CEO to negotiate and award up to four Contract Options totaling \$591,080,448 for up to 157 additional LRVs. These four options were executed on August 14, 2013 (Option 1 and 4) and July 31, 2015 (Option 2 and 3).

This Contract Modification is to enable KI to remove their responsibility to maintain a 100% performance bond with a responsible surety. In lieu of a performance bond, staff recommends the acceptance of a LOC from a financially responsible institution in the amount of \$50 million. In addition to the LOC, Metro currently holds cash retention of \$48 million and by the end of the Contract period of performance the retention would equal \$69 million in cash holdings. Metro staff recommends that the combination of LOC and cash retention is adequate to incentivize and protect the timely and full completion of the P3010 project.

B. Cost/Price Analysis

The recommended price has been determined to be fair and reasonable based upon cost analysis and financial risk assessment.

Proposal Amount	Metro ICE	Negotiated Amount
(\$4,386,957)	(\$3,500,000)	(\$4,386,957)

ATTACHMENT B

CONTRACT MODIFICATION AUTHORITY (CMA) SUMMARY

P3010 LIGHT RAIL VEHICLE PERFORMANCE BONDING/CONTRACT P3010

Contract Modification No.	Description	Status	Estimated Cost
N/A	Award Base Contract	Approved	\$ 299,061,827.00
1	Modify SP-27 US Employment Plan, Section B – New FTE Positions	Executed	\$ 0.00
2	Exercise Contract Option No. 1 for \$104,428,419 and Option No. 4 for \$261,893,225 and Period of Performance	Executed	\$ 366,321,644.00
3	Revise Period of Performance to include 30 days retooling period after delivery of last car on prior order	Executed	\$ 0.00
4	Modify applicable commercial Specs and Technical Specs for Request for Change No. 9 LED on Recording Cameras. Increase Contract Amount for the Base Buy by \$120,362.19	Executed	\$ 120,362.19
5	Modify Applicable Commercial Specs and Technical Specs for Request for Change No.10 - Door Close Operator Alert. Increase Contract Amount for the Base Buy by \$74,763.06	Executed	\$ 74,763.06
6	Modify Applicable Commercial Specs and Technical Specs for Request for Change No.11 Train Operator Log In. Increase Contract Amount for the Base Buy by \$253,955.52	Executed	\$ 253,955.52
7	Modify Applicable Commercial and Technical specs for RFC No. 14 for revising car number to four digits	Executed	\$ 0.00
8	Modify Applicable Commercial and Technical specs for RFC No. 1 for the addition of a backup train operator display	Executed	\$ 861,695.00
9	Modify Applicable Commercial and Technical specs for RFC No. 8 Location for Emergency Tool Enclosures	Executed	\$ 0.00
10	Deleted	Not Executed	\$ 0.00
11	Exterior Rear View Mirrors	Executed	\$ 677,317.00
12	Sandbox Location	Executed	\$ 548,242.00
13	RFC No. 13 - Adding Graphic Display	Executed	\$ 355,848.00
14	Revised Invoice Procedures	Executed	\$ 0.00
15	RFC No. 2 - Exterior route signs with color ID	Executed	\$ 1,206,791.85

16	RFC No. 6 - Interior Route Information Signs	Executed	\$ 1,274,944.00
17	Escalation Increase in accordance with CP-09 entitled "Option Prices and Adjustment" for Option 1 and Option 4	Executed	\$ 6,534,165.00
18	Exercise of Contract Options 2 and 3	Executed	\$ 224,758,804.00
19	Addition of Interior Route Information Signs – Design Change	Executed	\$ 169,146.38
20	Cab Console – Door Control	Executed	\$ 194,439.00
21	Vehicle Scale Model	Executed	\$ (75,000.00)
22	Escalation Increase in accordance with CP-09 entitled "Option Prices and Adjustment" for Option 2 and Option 3	Executed	\$ 11,651,376.00
23	Transport of three LRVs (No. 1003, 1014, and 1016)	Executed	\$ 30,647.00
24	Windshield wipers and brake cut out skirt openings	Executed	\$ 248,892.00
25	Revision of SP-04 entitled "Approved Subcontractors and Suppliers" list	Executed	\$ 0.00
26	Extension of Time Base Contract from 53 to 56 months	Executed	\$ 0.00
27	Transport of 19 railcars from Monrovia to Green Line	Executed	\$ 205,571.00
28	Modification of CP-02. Modification changes the percentage for the Conditional Acceptance and Final Acceptance Milestones	Executed	\$ 0.00
29	Crenshaw Line Tie-In Support	Executed	\$ 191,747.16
30	RFC #19 Reflective Labels for 78 Base LRV's	Executed	\$ 609,974.61
31	Award RFC No. 1 for Addition of Train Operator, RFC No. 2 for Color Route ID, RFC No. 3 for Addition of exterior rear view mirrors, and RFC No. 6 for Interior route information signs on 157 LRVs, Options 1-4	Executed	\$ 5,687,691.00
32	Award RFC #7 for Sandbox Relocation and RFC# 19 Reflective Labels, on 157 LRVs, Options 1-4	Executed	\$ 3,675,427.00
33	Award RFC #11 for Train Operator Log-In and RFC# 13 for Graphic Design at ADA and Priority Seats on 157 LRVs, Options 1-4	Executed	\$ 913,473.00
34	Award RFC #23 for Car Paint on 78 Base Order LRV's and RFC #24 for Brake Cut-Out Skirt Opening on 157	Executed	\$ 355,656.00

	LRVs, Options 1-4		
35	Award RFC #9 for LED's on Recording Camera's, RFC #10 for Door Close Operator, and RFC #22 for Windshield Wiper, on 157 LRV's, Options 1-4	Executed	\$ 233,280.24
36	Replace existing 100% Performance Bond with a \$50 million Irrevocable Letter of Credit	Recommended for Approval	\$ (4,386,957.00)
	Subtotal – Negotiated and In Process Changes		\$ 921,755,722.01
	Subtotal – Negotiated and Recommended for Approval		\$ 0
	Subtotal – Negotiated but Not Executed, Recommended Approval for CEO to negotiate and execute (Pending)		\$ (4,386,957.00)
	Total Estimated Modifications Including Pending Changes		\$ 622,693,895.01
	Prior CMA Authorized by the Board (CMA 10% of aggregate amount of original award plus Options 1-4)		\$ 89,014,227.10
	Increased CMA requested		\$ 0.00
	Total CMA including this action		\$ 13,427,906.01
	Remaining CMA for Future Changes		\$ 75,586,321.09

DEOD SUMMARY

P3010 LIGHT RAIL VEHICLES PERFORMANCE BONDING/CONTRACT P3010**A. Small Business Participation**

Kinkisharyo International, LLC. is a Transit Vehicle Manufacturer (TVM) and is on the Federal Transit Administration's (FTA) list of eligible TVMs. Kinkisharyo reported that it submitted its overall Disadvantaged Business Enterprise (DBE) goal of 2.30% to FTA for FY18, in compliance with 49 Code of Federal Regulations (CFR) Section 26.49(a)(1). TVMs submit overall DBE goals and report participation directly to FTA annually.

Living Wage and Service Contract Worker Retention Policy Applicability

The Living Wage and Service Contract Worker Retention Policy is not applicable to this contract. Rolling stock solicitations are not one of the covered contract types in Metro's Living Wage and Service Contract Worker Retention Policy.

B. Prevailing Wage Applicability

Prevailing wage is not applicable to the manufacturing of light rail vehicles.

C. Project Labor Agreement/Construction Careers Policy

Project Labor Agreement/Construction Careers Policy (PLA/CCP) is not applicable to this Contract. PLA/CCP is applicable only to construction contracts that have a construction related value in excess of \$2.5 million.

D. United States Employment Plan Program (USEP)

United States Employment Plan Program is applicable on this contract. Staff has been monitoring progress on all USEP commitments, including the contractual commitment in creating employment opportunities in the U.S. The Contractor Kinkisharyo has currently created over 600 new jobs nationwide to support this project, totaling \$101,822,155 in new wages and benefits.

To date, Kinkisharyo has exceeded its USEP commitment in new wages and benefits.

USEP Commitment for Base + All Options	\$97,889,293.00
USEP Actuals to Date	\$101,822,155.49
Balance of USEP to be Attained	\$0.00