Los Angeles County
Metropolitan Transportation
Authority
One Gateway Plaza
3rd Floor Board Room
Los Angeles, CA

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

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

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

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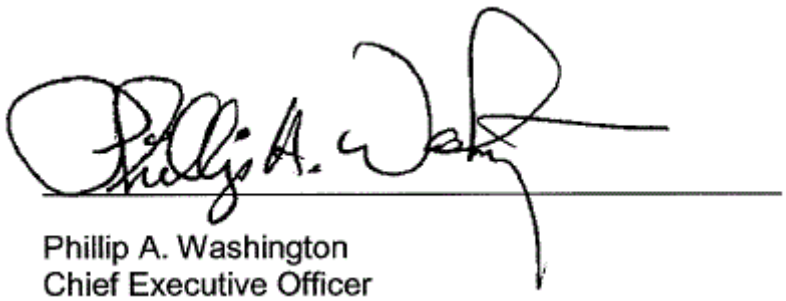

Phillip A. Washington
Chief Executive Officer

Items of Work in the Settlement:

1. All of Security Paving's outstanding claims and other issues arising out of the performance of the Contract.
2. Security Paving represents and warrants that it will resolve all outstanding subcontractor claims and other issues arising under the Contract with no payment required by Caltrans, other than the agreed settlement payment.
3. All costs and time adjustment for the CCOs listed below will be compensated under CCO No. 288. The list is as follows:
    a. CCO 105: Pavement section under HMA dike on the mainline and widening sidewalk on Empire Ave. & capping of the existing inlet.
    b. CCO 112: Stage Construction and Handling Plans for Stages 3, 4 & 5 and Overhead (OH) Sign 8B
    c. CCO 130: Install New Overhead Sign 1A
    d. CCO 132: Electrical Rebar bonding and communications conduit at Burbank Blvd. O/C
    e. CCO 176: Traffic Signal at Old Empire & Victory Place per City of Burbank's Special Request Based on City Council's Ruling
    f. CCO 191: Price (Cost) Adjustment due to Increase in Contract (Bid) Item #312 for Concrete Barrier
    g. CCO 225: Lighting Conduit & Electrolier - NB Rte.-5 between Stations 1650+00 to 1653+50
    h. CCO 236: Furnish and Install Type AL Joint Seal
    i. CCO 265: Buena Vista Street Updated final configuration signing, Striping and Traffic Signal Plans
    j. CCO 268: RFI #508 & #507 Soft Stop MBGR
    k. CCO 285: Modify sheets E-70 and PD-10 at Buena Vista between Winona and NB BV onramp per City standards
    l. CCO 290: Installation of BWP High Voltage Electrical Conduit on Cradle System at Burbank Bridge and conduit system outside of the bridge as shown on proposed plans and specifications.
    m. CCO 299: Additional wall mounted LED fixtures at Empire Av.
    n. CCO 304: Extended Paving for Olive Off-Ramp
    o. CCO 319: Removal of approach slab at old Burbank Bridge
    p. CCO 103: Agreed final quantity and payment in Contract Bid Item 79 "ROADWAY EXCAVATION (VOLATILE ORGANIC COMPOUNDS, PETROLEUM HYDROCARBONS AND METALS)"

4. All the delays projected for all unresolved past and known future extra work.
5. All outstanding and/or unpaid and/or short paid extra work bills (“EWB”) in dispute, from the beginning of the Project until the date of the settlement.
6. Additional costs (if any) related to all changed quantity Contract (Bid) Item price adjustment, including Contract (Bid) Item No. 24, "Time Related Overhead," are included.
7. No contract time adjustment in CCO 219 (Implementation of 6 Inch Traffic Lines and Discontinued use of Nonreflective pavement markers CPD 17-3).
8. Security Paving hereby fully and finally releases and discharges Caltrans, and Caltrans' past, present and future officials, employees, representatives, agents, attorneys, predecessors, successors and assigns, from all claims, demands, actions, causes of action, rights, remedies, penalties, liens, obligations, costs, expenses, damages, attorneys' fees, losses and liabilities, any kind or nature, whenever or however derived, foreseen or unforeseen, suspected or unsuspected, past, present or future, in any way arising out of or relating to the claims.