


Exposition Metro Line Construction Authority

TO: BOARD OF DIRECTORS

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**SUBJECT: EXPOSITION LIGHT RAIL PROJECT
PROPOSED CONTRACTING APPROACH –
NEGOTIATED DESIGN-BUILD**

RECOMMENDATION

Receive and file a report on the proposed Negotiated Design-Build contracting approach for the Exposition Light Rail Project.

SUMMARY

An alternative contracting approach involving a negotiated Design-Build contract package is under consideration for the Exposition LRT Project. This proposed project delivery process will involve a Design-Build contractor early in project development enabling the production of cost-efficient engineering designs and reducing the need for a significant contingency in the lump sum price for construction work.

DISCUSSION

After considerable analysis and review, the Los Angeles County Metropolitan Transportation Authority (Metro) is developing a Design-Build Contract that will augment traditional design-build contracting. In conventional "design-build" contracting methodology, an owner enters into a contract with a single firm (which may be a joint venture) that will be responsible for carrying out both final design and construction of the Project.

The Negotiated Design-Build project delivery system permits the owner and Design-Builder to work in a non-confrontational environment (team approach) to develop various design alternatives and associated costs early, thereby enabling greater control over scope and overall cost of the project prior to authorizing construction to proceed. Staff believes this approach will avoid the use of bid contingencies, reduce contract changes for design errors and omissions and enable the Contractor to optimize the interface of design and construction performance resulting in schedule savings. In addition, greater flexibility in design input will ensure that the expectations of community, stakeholders and owner

requirements are adequately addressed. Leverage resulting from the fact that the contractor is not guaranteed the construction work is expected to result in an accurate and competitive price.

Key Terms and Conditions

Design, Professional Services & Construction Cost Allowances - A key unique feature integral to this approach is the use of allowances. A design budget, a professional services budget and a construction budget will be established, and will be set as the initial allowances for the work to be performed. The Design Allowance will be established in the Contract and costs for design services will be reimbursable up to this amount. An incentive for completing the design at a cost less than this cost cap will be provided and no reimbursement will be provided for design costs that exceed this amount. The Professional Services Allowance will be established in the Contract and costs for professional services (Project Management and Construction Management) will be reimbursable up to this amount. An incentive for completing the professional services at a cost less than this cost cap will be provided and no reimbursement will be provided for professional services costs that exceed this amount.

The Construction Cost Allowance established in the contract will be used as a target during the development of the design. The Contractor will prepare estimates and review with the owner scope and costs at each design phase to compare costs to the target Construction Cost Allowance. At design completion, the owner and the Contractor will negotiate a Lump Sum Fixed Price ("LSFP") for the construction work. The price will include all direct construction costs for labor, material, and equipment excluding the proposed construction overhead and fee. All pricing information will be provided in an "open book" approach to allow an objective evaluation and good faith negotiations over the final direct construction price. In the event negotiations are unsuccessful, the owner has the option to procure the work in a traditional low bid procurement process.

In the event the Design-Build contractor delivers all work below the Construction Cost Allowance, they would be entitled to an Incentive Bonus. The Incentive Bonus would be based on how much below the Construction Cost Allowance the Design-Build team delivers the project. This provides an incentive to the contractor throughout the project design and construction to develop the most cost effective approach possible.

Contractor Proposed Design Fee, Professional Services Fee and Construction Fee – Each proposer shall submit its overhead and fee for the design, professional services and construction phases of the contract based on the scope and the "allowances" established in the Request For Proposal (RFP).

If the owner and the Contractor successfully conclude negotiations on the direct construction price, then the construction overhead and fee as proposed in the initial bid will be added and the resulting sum shall constitute a LSFP for all construction work. Upon agreement, the owner shall authorize the Contractor to proceed with construction.

Best Value Selection Process - The RFP will stipulate the selection process including the evaluation factors and the methodology for scoring of proposals. Qualified proposers will be invited to submit (1) technical proposals/qualifications statements, containing information on matters such as management structure, design and construction experience, approach to performing the work, draft Contracting Plan, etc.; and (2) price proposals for the indirect costs of design, professional services and construction work, consisting of design overhead and fee, professional services overhead and fee and construction overhead and fee. The price proposals will not include a proposed price for actual design, professional services and construction work, only the indirect costs (overhead and fees).

The owner will evaluate and score proposals on the basis of the evaluation criteria and scoring methodology set forth in the RFP with price a significant factor in the evaluation. California State statute authorizes transit operators to use "Best Value" procurements and to enter into design-build contracts and sets forth certain minimum factors that must be considered in the proposal evaluation process, as well as establishing other required elements of the design-build RFP process.

Contract Award - will be made to the top ranked Design-Build team whose proposal offers the *best value* to the owner, on the basis of technical expertise, indirect costs and the other specific evaluation factors set forth in the RFP. The award will not consider evaluation factors other than those clearly stipulated in the RFP.