



BRIEFING: APRIL 17, 2018 BOARD MEETING AGENDA ITEM #2

TO: Chairman Richard and Board Members

FROM: Joe Hedges, Chief Operating Officer

DATE: April 17, 2018

RE: Consider Increasing the Construction Package 1 Design-Build Contract Provisional Sums for Excluded Third Party Utilities

Summary of Recommended Action

Staff requests authorization by the Board to add additional funds to the Excluded Third-Party provisional sums included in the Construction Package 1 (CP 1) Design-Build Contract (Contract) with Tutor Perini/Zachry/Parsons, a Joint Venture (TPZP). The request seeks to increase the current amount by a total of \$40 million, which will fund utility relocation work through July 1, 2018.

Background

The CP 1 contract was executed in August of 2013, and at that time, assumed the Authority would contract directly with AT&T and PG&E for the utilities to self-perform all necessary utility relocations within the CP 1 limits. On September 10, 2013, the Authority Board approved a budget of \$69 million to contract directly with AT&T and PG&E to complete the Excluded Third-Party Utility Relocations.

After the CP 1 contract was awarded and upon identification of the work required, AT&T and PG&E determined they would not be able to complete the work within the schedule identified by the Design-Build Contractor (Contractor). At that time the Authority, through Directive Letters and ultimately Contract Change Order 00048, transferred responsibility for design, procurement of design and construction proposals, construction and contractor management of the subcontract works for the relocations of the Excluded Third-Parties (PG&E and AT&T) facilities to TPZP.

The initial estimate of \$69 million was based on conflicts with utilities that were identified by the Regional Consultants during the preparation of the CP 1 Preliminary Engineering for Procurement phase. TPZP initiated their utility investigation efforts and identified additional conflicts that were not identified prior to procurement and shared this information with the Authority.

In February 2017, the Board authorized the addition of Provisional Sums in the amount of \$159 million to allow the previously excluded PG&E and AT&T Third-Party utility relocation work into the Contract. (Resolution #HSRA 17-04). It was agreed that individual Provisional Sum Task Orders prepared by TPZP in accordance with the Contract would describe in detail the scope, amount, schedule and method of payment for each Task Order.

The CP 1 Estimate at Completion (EAC) for Excluded Third-Party provisional sums, as shown in the baseline, is estimated to be \$396 million, which is inclusive of this request. This EAC includes all AT&T and PG&E known risks. The number one factor resulting in this cost increase are increases in the total linear footage of relocation required. As design has progressed to Ready for Construction (RFC) plans, the PCM identified that the linear footage quantities were underestimated and would increase the Estimate at Complete (EAC). This revised EAC is reflected in the costs presented in the 2018 Business Plan. Other cost drivers include the following: higher average cost per linear foot than previously estimated, additional unknown utilities at the time of the initial estimate, AT&T direct costs associated with fiber/cable splicing and cutovers, other Authority directed changes and relocations associated with the Herndon area design refinements.

Currently, the project's Excluded Third-Party provisional sums balance is expected to be fully committed to Task Orders in April 2018. It is projected that CP 1 will need an additional \$40 million to execute the necessary additional Excluded Third-Party provisional sums Task Orders through July 1, 2018. Without additional funding, CP 1 will be unable to execute Task Orders, which result in delaying critical path utility relocation work.

Prior Board Action

In September 2013, the Board approved the following Resolutions:

- HSRA #13-22, Approval for Relocation of Utility Facilities with AT&T for a total amount not to exceed \$18,412,133
- HSRA #13-23, Approval for Relocation of Utility Facilities with PG&E for a total amount not to exceed \$50,433,506.

In January 2017, the Board approved Resolution #HSRA 17-02 approval for a contract amendment in the amount of \$11,587,867 with AT&T for a total not to exceed of \$30.0 million.

In February 2017, the Board approved Resolution #HSRA 17-04, Approval to amend the CP 1 Design-Build Contract to include previously Excluded PG&E and AT&T Utility Relocation Provisional Sums in the amount of \$159 million. This resolution also deducted \$23,433,506 from PG&E contract (HSRA #13-23) and added it to the TPZP contract HSR 13-06 to pay for the \$159 million increase.

Discussion

As of March 15, 2018, the CP 1 project has executed Task Orders in the amount of \$132,600,000 against the \$158,820,000 Excluded Third Party budget. Currently, the provisional sums balance is expected to be fully committed to Task Orders in April 2018. The Excluded Third-Party utility log identifies a negative balance of \$7.5 million based on expected Task Orders currently being negotiated but not yet authorized. The Authority has also identified the need to execute an additional four Task Orders in May 2018, in the total estimated amount of \$30 million. This request also includes a contingency of \$2.5 million for unforeseen issues. The summary of actual and expected expenditures as of April 1, 2018 is as follows:

Expenditure Items	Expenditures	Balance
		\$ 3,114,000
Excluded 3 rd party in Staff Review	\$9,231,922	(\$6,117,922)
Excluded 3 rd party in Progress (Out to Bid)	\$1,347,331	(\$7,465,253)
Four expected excluded 3 rd Party packages	\$30,000,000	(\$37,465,253)
Excluded 3 rd Party packages (April-June) contingency	\$2,500,000	(\$39,965,253)
	Requested	\$40,000,000

The four expected Excluded Third-Party provisional sums packages are as follows:

1. Package Y PG&E Gas - \$5,000,000
2. Package ZA PG&E Electrical - \$10,000,000
3. Package ZB PG&E Electrical - \$10,000,000
4. Package AA PG&E - \$5,000,000

Additionally, staff recommends an Excluded Third-Party contingency (April–June) in the amount of \$2,500,000 be added to the provisional sums. The contingency allocation anticipates smaller PG&E and AT&T packages that are being planned by the Design-Builder.

Without additional funding, the Authority will be unable to execute necessary Task Orders which would result in delays to critical path work. The delays could put the Authority at risk for costs in the amount of \$6 million a month.

The Authority has implemented quality control measures, which include preparation of an engineer estimate for each Task Order package that is put out to bid. This estimate is prepared using a utilities data base which reflects all Excluded Third-Party provisional sums contracts awarded. Trends, actual unit costs and degree of difficulty are used to prepare the estimate. The Authority also had an independent verification of costs to complete which supported the EAC.

The September 2017 EAC exercise identified a risk amount of \$396 million for Excluded Third-Party provisional sums. The requested \$40 million is accounted for within this estimate. Additional action to increase the contract to fully fund this effort will be included in future contract amendment actions pending the Board's adoption of the 2018 Business Plan.

Doing Business Differently

In order to effect more accurate monitoring in the future, the Authority has created an Excluded Third-Party data base that identifies the description of work, actual cost, and linear footage of quantities. This data base will allow staff to utilize recent historical data on actual relocation projects in order to create more accurate estimates for this work. Additionally, all Task Orders are required to have an estimate prepared by the Authority to verify that the cost is reasonable. Best management practices and utilizing the data base will allow the Authority to better estimate future projects.

Additionally, the assumption that utilities will perform relocations will not be repeated. Earlier completion of third-party requirements in the future will reduce construction contract unknowns. In addition, the whole-life cost impact of Alternative Technical Concepts will be considered and contractors held responsible for the cost implication of those changes.

Staff is monitoring scope changes resulting from design changes and coordination. These risks are being included in cost forecasts going forward.

Legal Approval

The Chief Counsel and legal staff have confirmed that augmenting the Excluded Third-Party Provisional Sums fund by \$40 million, as proposed in this memorandum, complies with all applicable Board policies and Authority regulations, and state and federal law.

Budget and Fiscal Impact

This request has two impacts, one to the current year funding allocation and one to the Total Program Budget. This item proposes to shift \$40 million from the fiscal year 2017-18 funding allocation for CP 1 Design-Build Contract Work (\$430,224,718) to the Excluded Third-Party Provisional Sums funding.

2017-18 Fiscal Year Budget (Per April 2018 Capital Outlay and CP1 Monthly Status Reports)

Contract Name	Contract/Activity Number	Current FY Contract/Activity Budget	Budget Change	Funding Source
TPZP	HSR13-06/DB Contract Work	\$430,224,718	(\$40,000,000)	State Funding
TPZP	HSR13-06/Excluded Third-Party Provisional Sums	\$28,998,183	\$40,000,000	State Funding

In addition, in order to balance out the Total Program Budget this item proposes to reduce the CP 5 Design-Build Contract Work budget by \$40 million. The result of this action will reduce the CP 5 Design-Build Contract Work budget to \$229,396,000 (\$269,396,000¹ - \$40,000,000) and increase the CP 1 Design-Build contract to \$1,492,336,175 (\$1,452,336,175 + \$40,000,000), resulting in a net-zero overall Total Program Budget change.

In September 2013, the Authority approved a budget of \$69 million to contract directly with AT&T (\$18.4M) and PG&E (\$50.4M) to accommodate the Excluded Third Party Relocations. In January 2017, the Authority approved an \$11.6 million augmentation to the AT&T contract. In February 2017, the Authority approved a \$159 million augmentation to the CP 1 Design-Builder, TPZP contract, to now include Excluded Third Party Relocation activities. As design on CP 1 progressed, revised estimates reflected increased funding needs due to multiple factors (explained above in the Background section). This request will increase the Excluded Third Party Provisional Sums budget by \$40 million. This budget reallocation is a short-term solution needed to continue FY 17/18 CP 1 activities. The CP 1 Estimate-at-Completion for CP 1 Excluded Third Party Provisional Sums, as shown in the updated baseline, is estimated to be \$396 million.

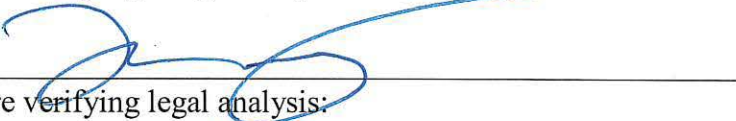
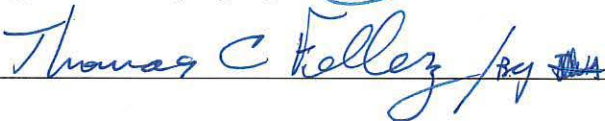
¹ Reflects \$77.7M adjustment to CP5 Program Budget shown in April 2018 Capital Outlay Report (\$347.1M - \$77.7M = 269.4M)

The CP 5 budget and the CP 1 Excluded Third Party Provisional Sums balance will be reassessed pending adoption of the 2018 Business Plan and alignment of the EAC with existing contracts and total program funding needs. CP 5 is the anticipated contract to build the track and systems associated with CP's 1-4.

Authority staff will monitor the increased costs of the pending contract change with this revised budget through the end of fiscal year 2017-18 with no additional augmentation of the CP 1 budget, unless a Board action occurs.

Total Program Budget Impact (Per April 2018 Capital Outlay and CP1 Monthly Status Reports)

Contract Name	Contract/Activity Number	Current Total Program Contract/Activity Budget	Budget Change	Funding Source
TPZP	HSR13-06/CP 1 DB Contract	\$1,452,336,175	\$40,000,000	State Funding
N/A	CP 5 Design-Build Contract	\$269,396,000	(\$40,000,000)	State/Federal Funding

REVIEWER INFORMATION	
Reviewer Name and Title: Russell Fong Chief Financial Officer	Signature verifying budget analysis: 
Reviewer Name and Title: Thomas C. Fellenz Chief Counsel	Signature verifying legal analysis: 

Recommendations

Staff requests authorization to increase the CP 1 Excluded Third-Party provisional sums by a total of \$40 million, which is a total not to exceed amount of \$199 million to fund the expected Provisional Sum Task Orders through July 1, 2018. Staff will come back to the Board to request additional funds for Excluded Third-Party provisional sums as identified in the 2018 Business Plan.

Attachments

- Draft Resolution #HSRA 18-06
- Resolution #HSRA 17-04
- Resolution #HSRA 17-02
- Resolution #HSRA 13-23
- Resolution #HSRA 13-22