



January 10, 2019

To: Transit Committee

From: Darrell E. Johnson, Chief Executive Officer

Subject: Construction of the Laguna Niguel to San Juan Capistrano Passing Siding Project

Overview

On August 27, 2018, the Orange County Transportation Authority Board of Directors authorized the issuance of an invitation for bids for construction of the Laguna Niguel to San Juan Capistrano Passing Siding project. Bids were received in accordance with the Orange County Transportation Authority's public works procurement procedures. Board of Directors' approval is requested to execute the agreement.

Recommendations

- A. Authorize the Chief Executive Officer to negotiate and execute Agreement No. C-7-2018 between the Orange County Transportation Authority and Reyes Construction, Inc., the lowest responsive, responsible bidder, in the amount of \$16,952,426, for construction of the Laguna Niguel to San Juan Capistrano Passing Siding project.
- B. Authorize the use of \$6,230,000 in state and federal funds made available from project savings at closeout for the Laguna Niguel to San Juan Capistrano Passing Siding project as follows:
 - a. \$2,806,000 in Proposition 116 savings from the Sand Canyon Avenue Railroad Grade Separation and the fiber optics projects;
 - b. \$2,000,000 in Proposition 1B Intercity Rail Improvement funds to replace Transit and Intercity Rail Capital Program funds previously programmed to the project;
 - c. Formula Federal Transit Administration Section 5309 savings from the Control Point 4th Street Project, currently estimated to be \$1,015,000; and

- d. Congestion Mitigation and Air Quality Improvement Program funds for any remaining funding needs, currently estimated to be \$409,000.
- C. Authorize staff to process all necessary amendments to the Federal Transportation Improvement Program and execute any necessary amendments and/or agreements to facilitate associated programming actions.

Discussion

The Orange County Transportation Authority (OCTA), in coordination with the Southern California Regional Rail Authority (SCRRA) and the cities of Laguna Niguel (LN) and San Juan Capistrano, proposes the addition of approximately 1.8 miles of new passing siding railroad track adjacent to the existing main track between milepost (MP) 193.9 and MP 195.7 (Project). The preliminary engineering was completed in January 2013, and the environmental documents were prepared and approved in compliance with the California Environmental Quality Act and the National Environmental Policy Act in February 2014 and March 2014, respectively. The Project design was completed in August 2018.

The Los Angeles – San Diego – San Luis Obispo (LOSSAN) rail corridor serves Metrolink commuter trains, Amtrak intercity trains, BNSF Railway and Union Pacific freight trains, and is identified as the second most heavily traveled intercity passenger rail corridor in the nation. OCTA owns the rail right-of-way (ROW) between the San Diego County Line and Fullerton Junction. Metrolink, serving as the railroad operator on OCTA railroad ROW, approves and maintains the track, signal, and communications infrastructure. The segment of the LOSSAN rail corridor north of the Project between LN and Los Angeles is a double-track or triple-track main-line. A transition to single-track occurs just south of the LN/Mission Viejo (LN/MV) Metrolink Station, and the single-track continues for most of the remaining distance to the San Diego County Line. The Project would reduce existing train congestion at the LN/MV Metrolink Station, thereby providing more reliable LOSSAN rail corridor operations. The Project would not affect the number or frequency of trains operating along the LOSSAN rail corridor. The Project location and limits are shown on Attachment A.

In partnership with SCRRA, OCTA will lead the construction of track, structures, and other civil improvements, and SCRRA will lead the construction of the signals, communications, and wayside positive train control facilities in support of the Project under Cooperative Agreement No. C-6-1615.

Procurement Approach

This procurement was handled in accordance with Board of Directors' (Board)-approved procedures for public works projects. These procedures, which conform to federal and state requirements, require that after a public opening of a sealed bid process, the contract be awarded to the lowest responsive, responsible bidder.

The Invitation for Bids (IFB) 7-2018, as previously approved by the Board, was released on August 27, 2018, through OCTA's CAMM NET system. The Project was advertised on August 27 and September 3, 2018, in a newspaper of general circulation. A pre-bid conference was held on September 6, 2018, and was attended by 19 firms. Eight addenda were issued to provide pre-bid conference information, respond to questions, and handle administrative issues related to the IFB. On October 23, 2018, seven bids were received and publicly opened.

All bids were reviewed by staff from both Contracts Administration and Materials Management and the Rail Programs departments to ensure compliance with the contract terms, conditions, and technical specifications. The list of bidders and bid amounts are listed below:

<u>Firm and Location</u>	<u>Bid Amount</u>
Reyes Construction, Inc. Pomona, California	\$16,952,426
Rockforce Construction, LLC Lake Forest, California	\$17,522,233
OHL USA, Inc. Irvine, California	\$18,311,249
Ortiz Enterprises, Inc. Irvine, California	\$18,916,938
Herzog Contracting Corp. Saint Joseph, Missouri	\$19,576,792
Michels Corporation Brownsville, Wisconsin	\$19,721,386
Balfour Beatty Infrastructure, Inc. Fairfield, California	\$21,626,519

The engineer's estimate for the Project was \$14,040,000. The bid submitted by Reyes Construction, Inc., (Reyes) the lowest responsive, responsible bidder, is 20.7 percent higher than the engineer's estimate. In reviewing the differences between the engineer's estimate and the bid prices, various factors were evaluated. In analyzing the lowest bid, most of the higher bid prices were attributed to track and structures construction items. The track items, such as the rail, rail switches, and ballasts represented more than two-thirds of the cost variance with the remaining one-third of the cost variance associated with structural items. The increased construction costs have likely been impacted by current market conditions, such as shortages in availability of skilled labor and increasing material costs for steel and concrete. Additionally, the scope of work requires work to be performed within the existing railroad ROW adjacent to an active track with limited access to the working area. Safety considerations also require workers to intermittently stop work when trains pass through the working zone. Requirements to reduce rail service disruption to accommodate the various planned events also will limit the contractor's ability to phase the work.

Reyes has met the federal and state requirements. Therefore, after completing a cost analysis of the bid components, current market conditions, restrained work conditions on active rail track, and the increased scheduling and coordination requirements, staff considers the bid to be fair and reasonable.

State law requires award to the lowest responsive, responsible bidder. Staff recommends award to Reyes, as the lowest responsive, responsible bidder, in the amount of \$16,952,426.

Fiscal Impact

The Project was approved in OCTA's Fiscal Year 2018-19 Budget, Capital Programs Division, Account 0018-9084-C5051-TZ2, and is funded with federal, state, and local funds.

The original Project estimated cost was \$30,830,000 (includes preconstruction costs). To award the construction of the Project to the lowest responsive, and responsible bidder, the total Project costs will increase by \$3,230,000, to a total of \$34,060,000, due to the increase in construction and construction contingency costs. In addition, \$3,000,000 in Transit and Intercity Rail Capital Program (TIRCP) funds previously programmed to the Project are no longer available due to a miscommunication from the state regarding TIRCP projects programmed to the LOSSAN Rail Corridor Agency. As a result, the state made \$2,000,000 in Proposition 1B Intercity Rail Improvement funds available to the Project. Staff is proposing to use a combination of additional state Proposition 116 funds, Formula Federal Transit Administration (FTA) Section 5309 funds, and Congestion Mitigation and Air Quality Improvement

Program (CMAQ) funds for the remaining funding need, which are available due to savings on completed projects. Use of the additional state and federal funding is contingent on state and federal agency approvals. Also, the specific amount of available FTA 5309 funding is an estimate, and the final funding amount is still in progress. Any funding not provided through FTA 5309 can be made up with CMAQ savings from other projects.

The use of these funds for the Project is consistent with the Board-approved Capital Programming Policies, which directs the use of Proposition 116 cost savings for commuter or intercity rail capital improvement projects, the use of Formula FTA 5309 funds for commuter rail maintenance, rehabilitation, and capital projects, and the use of CMAQ for rail and bus transit capital projects.

A Capital Funding Program Report detailing the changes to projects is provided as Attachment B.

Summary

Based on the information provided, staff recommends the Board of Directors to authorize the Chief Executive Officer to negotiate and execute Agreement No. C-7-2018 with Reyes Construction, Inc., as the lowest responsive, responsible bidder, in the amount of \$16,952,426, for the Laguna Niguel to San Juan Capistrano Passing Siding project, and approve the use of Proposition 116, Federal Transit Administration Section 5309, and Congestion Mitigation and Air Quality Improvement Program savings from other intercity and commuter rail projects to fully fund the Project.

Attachments

- A. Project Location Map
- B. Capital Funding Program Report

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