



BRIEFING: JANUARY 2016 BOARD MEETING AGENDA ITEM #3

TO: Chairman Richard and Board Members

FROM: Scott Jarvis, Chief Engineer

DATE: January 12, 2016

RE: Consider Awarding the Design-Build Services Contract for Construction Package 4 to the Apparent Best Value Winner and Delegating Authority to the CEO to Negotiate the Final Terms and Execute the Contract

Background

The First Construction Segment (FCS) of the California High-Speed Rail System identified in the 2012 and 2014 Business Plans runs through the Central Valley and includes the counties of Madera, Fresno, Tulare, Kings and Kern. The FCS consists of Construction Packages 1-5, which will ultimately serve as the backbone of the statewide system.

The Authority awarded a contract for design and construction of Construction Package 1 (CP 1), the first 29 miles of the FCS of the California High-Speed Rail System, in June 2013. The Authority then awarded a contract for design and construction of Construction Package 2-3 (CP 2-3), the next 65 miles of the FCS, in January 2015. To date, the progress made to date with CP 1 and CP 2-3 represents significant and meaningful steps towards the goal of successful completion of the Central Valley segment and delivery of the overall program.

Pursuant to Board Resolution HSRA #15-09, approved on May 12, 2015, the Authority issued a Request for Proposals (RFP) for Design-Build Services for Construction Package 4 (CP 4), which extends approximately 22 miles in length through the counties of Tulare and Kern. CP 4 is presently bounded by a location approximately one mile north of the Tulare/Kern County Line to the north and Poplar Avenue to the south and will include at-grade and aerial structures including viaducts, and bridges, as well as underpass and overpass structures.

As detailed below, the CP 4 procurement process is now complete and Authority staff is prepared to complete the necessary steps to award the contract, pending Board approval. Staff recommends that the Board confirm the finding of the Evaluation Selection Committee and the recommendation of the Chief Executive Officer (CEO) that California Rail Builders, comprised of Ferrovial Agroman US Corp., is the Apparent Best Value Proposer for the CP 4 Design-Build Contract. The Board is further requested to authorize the CEO to take all steps necessary to negotiate and enter into a contract with California Rail Builders, including execution on behalf of the Authority.

Prior to contract execution, which is the final step in the approval process, Authority staff will also seek requisite contract approval from the Federal Railroad Administration and the Department of Finance.

Discussion

The Authority is granted in statute the power to enter into contracts, which include the option for design-build contracts in Public Utilities Code, section 185036. Design-build procurements seek to obtain the best overall value for the project owner, and for CP 4 both price and technical merit were considered. The approach for selecting and awarding the CP 4 design-build contract is similar to that used for CP 1 and CP 2-3, specifically, a two-phase process designed to obtain the best value for the Authority.

In the first phase of the CP 4 selection process, the Request for Qualifications was issued and the submitting teams were evaluated for their qualifications to perform the work. (See Status Report Regarding the Request for Qualifications for the Design-Build Contract for CP 4 and CP 1, CP 2-3 Progress informational item for the November 18, 2014 Board meeting.) In the second phase, the RFP was issued to each of the five qualified design-build teams with Proposals due on November 25, 2015.

RFP Process

After all required approvals were obtained, the RFP was issued on May 27, 2015, and was managed directly by Authority staff consistent with the RFP procurement process and in accordance with the Authority's administrative regulations, policies, and procedures. All five Proposers submitted timely Proposals: (1) California Rail Builders: Ferrovial Agroman US Corp.; (2) Central Valley Connection Builders: FCC Construcción S.A. and Corsan-Corviam Construcción S.A.; (3) Dragados/Flatiron Joint Venture: Dragados USA, Inc. and Flatiron West Inc.; (4) Salini Impregilo/Security Paving Joint Venture: Salini Impregilo S.p.A. and Security Paving Company, Inc.; and (5) Tutor Perini/Zachry/Parsons a Joint Venture: Tutor Perini Corporation, Zachry Construction Corporation and Parsons Transportation Group Inc.

Evaluation Process

The Proposals were analyzed and evaluated by a team of public employees, including Authority staff and a representative of the City of Wasco, supported by the Authority's legal, financial, technical and Rail Delivery Partner consultants. This review was conducted in accordance with the terms of the RFP and applicable criteria with the goal of awarding the contract to the responsive Proposer who complied with all of the requirements of the RFP, has demonstrated that it is technically qualified, and has the Apparent Best Value Proposal.

Review of the Proposals occurred in three stages as follows:

1. **Pass/Fail and Responsiveness Evaluation** – to ensure that all administrative requirements for the Proposals were met and to ensure that there had been no material changes in the financial position of the teams since they submitted their Statements of Qualifications which would negatively affect their ability to deliver CP 4;

2. **Technical Proposal Evaluation by the Technical Advisory Committee** – regarding analysis of the Technical Proposals according to the stated evaluation criteria; and
3. **Final Evaluation of the Technical Proposal by the Evaluation Selection Committee** – who had ultimate responsibility for all aspects of the evaluation process. This committee was vetted and approved by the Chief Financial Officer in accordance with the Authority’s applicable policies and procedures.

Pass/Fail and Responsiveness Evaluation

The Pass/Fail review for responsiveness, administrative compliance, and financial capability was conducted by two committees, each chaired by a senior member of the Authority’s staff supported by consultants. The Pass/Fail committee reviewing the financial capabilities of the five Proposers found that none had material changes in their financial status which would affect their financial capability to design and construct CP 4.

The Pass/Fail committee reviewing the five Proposals for responsiveness and administrative compliance requested various clarifications from all teams. The Pass/Fail committee found that four of the Proposals were responsive and met all of the administrative and other requirements in the Instructions to Proposers, Forms and Certifications (ITP).

One Proposer, Central Valley Connection Builders (CVCB), was unable to obtain and provide the required Surety Letter requested in the Pass/Fail clarification letters. Additionally, the Proposer advised us that the Proposal Bond was also not yet secured, which was required with the Price Proposal. Therefore, it was the recommendation of the Evaluation Selection Committee (ESC) that the requirements of the RFP, including but not limited to Sections 8.3.1, 8.3.4 and 9.3 of the ITP, were not met and that CVCB’s Proposal was found to be non-responsive. Therefore, pursuant to Section 9.2 of the ITP, the Authority determined that CVCB was excluded from further consideration in the RFP evaluation process.

Technical Proposal Evaluation

As outlined above, the Technical Advisory Committee was chaired by a senior member of the Authority staff. Using the criteria given to the Proposers in the ITP, the Technical Advisory Committee reviewed the Technical Proposals provided by each of the four remaining teams in detail. Each Technical Proposal was analyzed against the pre-established, pre-announced criteria. The evaluation of the Technical Advisory Committee and its chair was then transmitted to the chair and members of the ESC. This analysis was provided in a supporting capacity only to the ESC.

The ESC consisted of five members, all public employees, chaired by a senior member of Authority staff. The other members were senior Authority staff and senior staff at other public agencies with relevant expertise. Pursuant to the established procedures, the ESC received and considered the evaluation of the Technical Advisory Committee and its chair. As the entity with ultimate responsibility to evaluate and score the Technical Proposals, the ESC also conducted its own independent review of each of the Proposals and developed the final consensus scores.

Technical Proposals of the teams were evaluated against the technical criteria and sub-criteria described in RFP Section 9.5 to develop the Technical Proposal Score, which comprises 30 percent of the Total Proposal Score. After extensive review of the Proposals, the ESC scored the four Proposals pursuant to the following criteria from the RFP:

<u>Technical Proposal Evaluation Criteria</u>	<u>Maximum Point Value</u>
Project Management	25 points
Design and Design Oversight	30 points
Construction and Construction Oversight	30 points
Small Business Participation	15 points
Raw Score for Technical Proposal	100 points possible

Based upon these established criteria, the raw score for the Technical Proposal with 100 points allocated was used to calculate the Technical Proposal Score as described in RFP Section 9.7 “Best Value Selection”. The Technical Proposal Score, with 30 maximum points available, was calculated using the following formula: Raw Score for Technical Proposal x 30%. The resulting calculations were as follows: (1) California Rail Builders – 25.98; (2) Dragados/Flatiron Joint Venture – 25.95; (3) Salini Impregilo/Security Paving JV – 25.89; (4) Tutor Perini/Zachry/Parsons, a Joint Venture – 25.59; and (5) Central Valley Connection Builders – Not Scored.

Price Proposal Opening

Once the technical review was concluded, evaluation of the price component of the Proposals was held in accordance with Section 9.6 of the ITP. On January 5, 2016 the chair of the ESC and Authority staff, supported by legal counsel and Department of Finance representatives, retrieved the sealed Price Proposal envelopes from their locked and secured location. The envelopes of the four teams were opened, the contents reviewed, and the results were documented. Related documents containing pricing information, such as the Proposer’s Proposal Bond, were also reviewed at this time.

Each Proposer’s Price Proposal Score is based upon the Total Proposal Price it submitted. The Total Proposal Price consists of both a Fixed Bid Price and a Variable Bid Price. The Fixed Bid Price will be included in the Contract Price as a lump sum payment for the design and construction work. The Variable Bid Price will be used to establish unit pricing for any hazardous waste remediation activities that are added by change order during the term of the Contract.

Apparent Best Value Proposer

Based upon the established procedures, each Proposal was opened and given a numeric Price Proposal Score with the lowest bidder assigned the full 70 points commensurate with the 70% weight given the price element in the evaluation process. Each other Proposer received a proportionately lower score for the price component, calculated as follows: 70 points x Lowest Proposer’s Total Proposal Price / Proposer’s Total Proposal Price = Price Proposal Score.

The determination of Apparent Best Value based on a 70-30 point scale was subsequently calculated. The Total Proposal Score can be a maximum of 100 points using the formulas provided in the RFP ITP Section 9.7, which is as follows: Price Proposal Score (maximum of 70 points) + Technical Proposal Score (maximum of 30 points). The results of the teams were as follows:

Proposer	Technical Proposal Score (maximum 30 points)	Total Proposal Price	Price Proposal Score (maximum 70 points)	Total Proposal Score (maximum 100 points)	Rank
California Rail Builders	25.98	347,557,000.00	70.00	95.98	1
Salini Impregilo/Security Paving JV	25.89	377,142,737.00	64.51	90.40	2
Dragados/Flatiron Joint Venture	25.95	461,954,000.00	52.67	78.62	3
Tutor Perini/Zachry/Parsons, a Joint Venture	25.59	581,877,000.00	41.81	67.40	4
* Central Valley Connection Builders	*Not Scored				

Contract Negotiation Process and the Team

After confirmation by the Board, limited negotiations as described in RFP ITP Section 9.12 will commence with the Apparent Best Value Proposer, California Rail Builders. Authority staff is pleased to note that the highly qualified team of California Rail Builders had the highest Technical Proposal Score and the lowest Total Proposal Price. The bid was below the engineer’s estimate of \$400 – \$500 million for CP 4, and utilizes savings through Alternative Technical Concepts. Accordingly, this contract is consistent with the cost projections contained in the 2012 and 2014 Business Plan.

The California Rail Builders/Ferrovia Team

CRB, comprised of Ferrovia Agroman US Corp. (Ferrovia), has been active in the North American transportation industry since 1999, and Ferrovia’s experience includes some of the largest, most complex transportation projects in the United States. Over the past eight years, Ferrovia has been awarded seven major design-build contracts in North America totaling \$8 billion, including North Tarrant Express Segment 3A and 3C in Texas and Berth 142-143 Backland Automated Terminal in California. Internationally, Ferrovia has designed and constructed more than 65 high-speed rail projects totaling more than 1,200 miles, including the

Ankara-Istanbul High-Speed Train Project in Turkey, the Hassi Mefsoukh-Mostaganem Rail Line in Algeria, and the Bogota Integrated Public Transport System in Colombia. Ferrovial has also laid more than 4,600 km of high-speed railway in Spain since 1952, including sections of the Northwest High-Speed Rail Corridor.

The selection procedures stated in the ITP allow the Authority to review the Proposal of the Apparent Best Value Proposer and to conduct limited negotiations with them. During these limited negotiations, elements of the Proposal can be clarified and minor elements of work can be added or deleted from the contract. A copy of the Updated Term Sheet with key contract elements from the RFP is attached for the Board's review.

Calculation of CP 4 Contract Value

The total Contract Price calculated below constitutes full compensation for the work to be completed. The Contract Price, Provisional Sums, and hazardous materials unit prices are all included in the design-build contract. The Contract Price is subject to equitable adjustment as set forth in the Contract Documents, such as limited circumstances where the contractor may be entitled to a change order for a cost adjustment as specifically set forth in the contract.

The contract issued for design-build services for CP 4 will also include the 30 percent Small and Disadvantaged Business (SBE) participation goal adopted by the Authority Board of Directors. Specifically, CRB commits to, "achieving the goal of 30 percent participation by SBs, with at least 10 percent to DBE and 3 percent to DVBE," in its Proposal. It will also, "provide flexible bonding and retainage requirements to encourage and facilitate SB participation." The following SB/DBE/DVBE/MB subconsultants/subcontractors are listed in the CRB Proposal: (1) Bond and Kennedy, Inc.; (2) JMA Civil, Inc.; (3) MARRS Services Inc.; (4) G&C Equipment Corporation; (5) Katch Environmental Inc.; (6) Unico Engineering, Inc.; and (7) USC Supply.

The total contract allotment for the CP 4 Design-Build Contract will be comprised of various components. Specifically, the total contract value includes:

1. Proposer's Fixed Bid Price;
2. Provisional Sums;
3. Hazardous waste materials unit prices in the Variable Bid Price; and
4. Contingency.

These components of the total contract allotment are described in detail below, including a comparison of the Total Proposal Price, which includes a Variable Bid Price item not included in the contract value. The key components to the bid and contract are as follows:

Fixed Bid Price Amount: The lump sum contract Fixed Bid Price of the Apparent Best Value Proposer California Rail Builders is \$337,247,000.00.

Variable Bid Price for Hazardous Waste: The Variable Bid Price will be used to establish unit pricing for any hazardous waste remediation activities that are added by change order during the term of the contract. California Rail Builders bid \$94.00 price per ton for Class I Hazardous Waste and \$64.00 price per ton for Class II Hazardous Waste. The Total Variable

Bid Price of California Rail Builders was \$10,310,000.00. The accompanying Board Resolution includes an additional amount up to \$10,310,000.00 for the Variable Bid Price for hazardous waste remediation activities that will be added by change order when necessary during the term of the contract.

Total Proposal Price: Each Proposer's Price Proposal score was evaluated based on its Total Proposal Price. The Total Proposal Price is the sum of the Proposer's Fixed Bid Price and Total Variable Bid Price. The Fixed Bid Price noted above is the lump sum price for the CP 4 Design-Build Contract and will be included in the Contract Price. The Total Variable Bid Price is used solely to evaluate the Proposers' unit prices for any required hazardous waste remediation. The Total Variable Bid Price is determined by multiplying the Proposer's Hazardous Waste unit prices by the Authority's assumed quantities for bidding purposes (45,000/95,000 noted below).

For CP 4, the Fixed Bid Price, Variable Bid Price for hazardous waste and the Total Proposal Price of \$347,557,000.00 were as follows:

Fixed Bid Price: \$337,247,000.00

Class I Hazardous Waste: \$4,230,000.00 (45,000 tons x \$94.00/ton)

Class II Hazardous Waste: \$6,080,000.00 (95,000 tons x \$64.00/ton)

Total Variable Bid Price: \$10,310,000.00

Fixed Bid Price: \$337,247,000.00

Total Variable Bid Price: \$10,310,000.00

Total Proposal Price: \$347,557,000.00

Provisional Sums: Provisional sums are frequently included in major infrastructure projects to provide an allocation for items of work that must be performed but cannot be quantified in advance. The Authority has utilized limited provisional sums in CP 1 and CP 2-3.

It was determined for CP 4 that provisional sums in the total amount of \$107,000,000.00 be included in the contract for the cost of the design, construction, labor and materials portion of third party facility work related to PG&E, AT&T and LEVEL 3. The total provisional sum was estimated by the Rail Delivery Partner consultants to pay for utility relocations, and protection of existing utilities, among other work.

It should be noted that during the RFP procurement all of the Proposer teams indicated that there was insufficient information from approximately eleven known utility-related third parties in CP 4, including PG&E, AT&T and LEVEL 3, to accurately estimate the price of the work. In order to avoid having the Proposers include significant contingencies in their bids, the Authority staff elected to pay for utility relocation/protection work using a provisional sum solely as to the three companies.

Given that the Authority will be responsible for the actual cost, payments may be higher or lower than the \$107,000,000.00 provisional sums allocated for PG&E, AT&T and LEVEL 3.

By retaining this work in the CP 4 Design-Build Contract and not separately contracting with the three companies, the CP 4 Design-Build Contractor remains responsible for management and coordination. To be eligible for payment from the provisional sums under the contract, each item of the work must first be approved by the Authority in a provisional sum task order stating the scope, costs, and schedule for the work to be performed.

Contingency: Contingencies are typically included in large contracts of this nature but are not included in the Contract Price. A contingency analysis for risks related to this contract will be presented to the Board at a subsequent meeting.

To summarize the items above for contract purposes, the total Contract Price includes the Fixed Bid Price and the provisional sum. The Total Variable Bid Price and Contingency is not included in the contract. Thus, the CP 4 design-build total Contract Price is \$444,247,000.00 as follows:

Fixed Bid Price:	\$337,247,000.00
Provisional Sums:	\$107,000,000.00

Contract Price:	\$444,247,000.00

In accordance with the provisions of the RFP, on January 5, 2015, Authority staff gave its Notice of Intent to Award (Notice) to the five design-build teams and posted the Notice on its public website and office. Issuance of this Notice commenced a five-day period in which unsuccessful design-build teams could protest the Apparent Best Value award to California Rail Builders

Authority staff now seeks the Board's approval to award the CP 4 Design-Build Services Contract to California Rail Builders. Once approved by the Board, the CEO or his authorized designee, on behalf of the Authority, would then enter into negotiations with California Rail Builders to finalize a contract. As noted herein, during this period Authority staff will also seek contract approval from the Federal Railroad Administration and the Department of Finance.

Pursuant to the terms of the RFP, if for any reason the Authority is unable to negotiate a contract with the Apparent Best Value Proposer, the Authority will terminate those negotiations in writing. The Authority may then enter into limited negotiations with the Proposer that received the next highest Total Proposal Score, until a contract is awarded or all of the Proposers are rejected. In this event, staff would return to the Board at their next meeting to update them on the process and solicit approval to move forward.

Recommendation

It is the recommendation of Authority staff that the Board confirms the finding of the ESC and the recommendation of the CEO that California Rail Builders is the Apparent Best Value Proposer for the CP 4 Design-Build Contract. The Board is further requested to authorize the CEO to take all steps necessary to negotiate and enter into a contract with California Rail Builders, including the execution thereof on behalf of the Authority in the total contract price in the amount of \$444,247,000.00 for a term of approximately three years, or until CP 4 project completion.

If negotiations are not successful with California Rail Builders, as the Apparent Best Value Proposer for the CP 4 Design-Build Contract, Authority staff will terminate discussions. The Authority will then come back to the Board as to the next actions required and provided by the RFP provisions.

Attachments

- Draft Resolution #HSRA 16-01
- CP 4 Updated Term Sheet
- Board Resolution HSRA #15-09, approved on May 12, 2015 authorizing issuance of the RFP for Design-Build Services for CP 4
- Status Report Regarding the Request for Qualifications for the Design-Build Contract for CP 4 and CP 1, CP 2-3 Progress informational item for the November 18, 2014 Board meeting