



## BRIEFING: AUGUST 2018 BOARD MEETING AGENDA ITEM #2

**TO:** Chairman Richard and Board Members

**FROM:** Joe Hedges, Chief Operating Officer  
Terry Ogle, Director of Design and Construction

**DATE:** August 16, 2018

**RE:** Consider Providing Additional Funding to the Construction Package 1 Design-Build Contract for Known Change Orders

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### Summary of Recommended Action

Staff recommends that the Board approve additional funding for the Construction Package (CP) 1 Design-Build contract in the total amount of \$30,300,000 for the change orders required to implement necessary work under the City of Fresno Utility Agreement and the American Avenue change order. This amount is included in the 2018 Baseline accepted by the Board in June 2018. With this increase, the amended total Construction Package (CP) 1 contract value will be approximately \$1,544,441,366.91.

### Background

In August 2013, the California High-Speed Rail Authority (Authority) awarded Agreement No. HSR 13-06 for the design and construction of CP 1 to the design-build joint venture team consisting of Tutor Perini/Zachry/Parsons (TPZP).

In August 2013, the Board approved Resolution #HSRA 13-20, which established the Board's Design-Build risk-based management policy and approach. In September 2013, the Board approved Resolution HSRA # 13-21, which approved the Contingency Fund for CP 1 at a value of \$160M.

In September 2017, the Board increased the contingency fund for CP 1 by \$35M from previously allocated provisional sums, addressing known additional change order work necessary for construction to progress (Resolution #HSRA 17-16). At that time, it was noted that additional funds would be necessary as additional change orders were expected.

In March 2018, the Board augmented the contingency fund for CP1 with funds to administer critical contract change orders (Resolution #HSRA 18-02). These funds were to specifically address the Herndon area change necessary for construction to progress. It was noted at that time that future risk-based analysis would be necessary and would be presented to the Board in a future meeting.

### **Prior Board Action**

In June 2013, the Board approved Resolution #HSRA 13-12 to Award the Contract for Design-Build Services for CP 1 to TPZP.

In August 2013, the Board approved Resolution #HSRA 13-20, which establishes the Board's Design-Build risk-based management policy and approach.

In September 2013, the Board approved Resolution #HSRA 13-21, for Approval of the Contingency Fund for CP 1, #HSRA 13-22, Approval for Relocation of Utility Facilities with AT&T, and #HSRA 13-23, Approval for Relocation of Utility Facilities with PG&E.

In March 2016, the Board approved Resolution #HSRA 16-09 for Approval to Negotiate and Execute a Northern Extension of the Design-Build Contract for CP 1.

In January 2017, the Board approved Resolution #HSRA 17-02 for Approval of a Contract Amendment with AT&T.

In February 2017, the Board approved Resolution #HSRA 17-04 for a CP 1 Contract Amendment.

In September 2017, the Board approved Resolution #HSRA 17-16 for Approval to Augment the Contingency Fund for Construction Package 1 from Utility and Construction contract work Provisional Sum balances.

In March 2018, the Board approved Resolution #HSRA 18-02 for Approval to Augment the Contingency Fund by \$20,000,000.00 for Construction Package 1 to administer known contract change orders. The change specifically was associated with the Herndon Area change.

### **Discussion**

The current total CP 1 contract amount is approximately \$1,514,141,366.91, with a total contingency of \$207,000,000. The current contingency balance is \$41,066,477.09, which has been allocated for the Herndon change order under Resolution #HSRA 18-02 as noted above. In June 2018, the Authority Board accepted the 2018 Program Baseline, which incorporated updated costs for completion of the project. The 2018 Program Baseline included the base contract amounts and executed change order amounts (committed costs); estimated amounts for completion of the provisional sums work, third-party, railroad, and environmental related risks; pending change orders and projected potential delays (future scope elements and risks); and, remaining Board approved contingency as of March 31, 2018.

This request is to authorize \$30,300,000.00 of additional funds to execute two change orders within CP 1 required to satisfy obligations of third-parties including utilities, railroads, and the City of Fresno. These pending change orders include requirements to meet revised railroad (UPRR and BNSF) design standards, City of Fresno utility agreements and additional work at American Avenue. This request is to fund these two changes identified in the Program Baseline for critical construction to continue in CP 1. The remainder of the Estimate at Completion funds identified in the Baseline will be requested once a more detailed risk analysis is completed as part of the Program Baseline revision 1.

### *Description of Scope*

Staff has determined that the two changes contemplated in this recommendation will require \$30,300,000 of additional funds within CP1 required to satisfy obligations of third-parties including utilities, railroads, and the City of Fresno. These pending change orders include requirements to meet revised railroad (UPRR and BNSF) design standards, City of Fresno utility agreements and additional work at American Avenue. This request seeks to allocate sufficient funds to allow execution of these change orders and continue construction progress in these locations to avoid potential contractor delays and claims.

The final cost for the American Avenue change order is \$9,500,000. The 2018 Program Baseline identified \$10,500,000 for the American Avenue change. The primary drivers for change at American Avenue are mitigation for future railroad related issues and the updated UPRR/BNSF guidelines and an additional span to accommodate a future spur identified in the Final Fresno to Bakersfield EIR/EIS at American Avenue.

The Authority will issue four to five different change orders to implement necessary work required under the City of Fresno Utility Relocation Agreement. The first change order is estimated at approximately \$5,000,000. The 2018 Program Baseline identified \$20,800,000 for all of the required work under the City of Fresno Utility Relocation Agreement. The primary cost driver for the City of Fresno Utility Relocation Agreement work is the fact that the Utility Relocation Cooperative Agreement with the City of Fresno was executed after the CP 1 contract was awarded. Major changes include redundant casings, new construction method requirements, utility upsizing and accommodation of a regional transmission water main under construction.

This request proposes to utilize the funds identified in the 2018 Program Baseline identified as future work for these changes. Staff have negotiated these costs with the CP 1 design- builder, Tutor Perini Zachry Parson (TPZP) and final costs are below the estimates included in the Baseline. These funds will be sufficient to cover current anticipated change orders until the detailed risk analysis is complete and an updated contingency analysis is presented to the Board.

A risk-informed analysis as described in Board policy (#HSRA 13-20) is currently underway. Future CP 1 contingency requests are being vetted through the risk-based Monte Carlo process and will be presented to the Board as part of future contingency augmentation approval request. Once completed and approved by the Board, the contingency reserve account will be appropriately adjusted to an amount necessary to complete the CP 1 contract work. This request for additional funds does not require a risk-based analysis since the certainty (probability) of the necessity of the contract changes and value are at 100%.

### **Legal Approval**

The Chief Counsel and legal staff have confirmed that augmenting the contract by \$30,300,000 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 will bring forward funding for the two listed change orders above because the current year budget did not initially account for these change orders. However, this request does not increase the FY2018-19 budget as a portion of the \$420 million in contract work for HSR13-06 (TPZP) will be pushed out to a future year offsetting the additional scope in the current year.

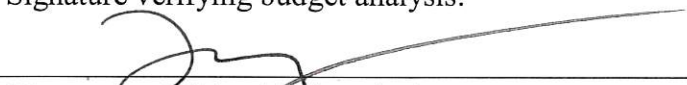
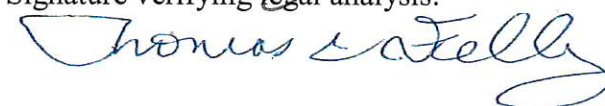
*2018-19 Fiscal Year Budget Impact*

Contract Name	Contract Number	Current FY Contract Budget	Budget Change	Funding Source
Tutor Perini/Zachary/Parsons (TPZP)	HSR13-06	\$420,000,000	\$0	State Funding

This request has an offsetting impact to the Total Program Budget as the request presented in this item is included in the 2018 Program Baseline.

*Total Program Budget Impact*

Contract Name	Contract Number/Budget Allocation	Current Total Program Contract Budget	Budget Change	Funding Source
Tutor Perini/Zachary/Parsons (TPZP) and CP1 DB Future Scope	HSR13-06/FUT18-004-2	\$1,941,145,310	\$0	State/Federal Funding

REVIEWER INFORMATION	
Reviewer Name and Title: <b>Russell Fong, CFO</b>	Signature verifying budget analysis: 
Reviewer Name and Title: <b>Tom Fellenz, Chief Counsel</b>	Signature verifying legal analysis: 

**Recommendations**

Staff recommends that the Board approve an increase of \$30,300,000.00 to the CP 1 contract HSR 13-06 for the pending change orders required to implement necessary work under the City of Fresno Utility Agreement and the American Avenue change order. These change orders are included in the 2018 Program Baseline accepted by the Board in June 2018.

**Attachments**

– Draft Resolution #HSRA 18-13

- Resolution #HSRA 18-02
- Resolution #HSRA 17-16
- Resolution #HSRA 17-04
- Resolution #HSRA 17-02
- Resolution #HSRA 16-09
- Resolution #HSRA 13-23
- Resolution #HSRA 13-22
- Resolution #HSRA 13-21
- Resolution #HSRA 13-20
- Resolution #HSRA 13-12