



**Board Report**

**File #:** 2019-0490, **File Type:** Contract

**Agenda Number:** 15.

**PLANNING AND PROGRAMMING COMMITTEE**

**JULY 17, 2019**

**CONSTRUCTION COMMITTEE**

**JULY 18, 2019**

**SUBJECT: SEPULVEDA TRANSIT CORRIDOR PROJECT**

**ACTION: APPROVE CONTRACTING DELIVERY APPROACH**

**RECOMMENDATION**

CONSIDER:

A. FINDING that use of a Pre-Development Agreement (PDA) approach pursuant to Public Utilities Code Section 130242 will achieve certain private sector efficiencies in the integration of the planning, design, and construction of the Sepulveda Transit Corridor Project (Project); and

(REQUIRES TWO-THIRDS VOTE OF THE BOARD)

B. APPROVING the solicitation of PDA contract(s) with up to two responsible proposer(s), pursuant to Public Utilities Code Section 130242(e), with the proposer(s) chosen by utilizing a competitive process that employs objective selection criteria (in addition to price).

**ISSUE**

Metro is authorized to enter into a PDA pursuant to Public Utilities Code Section 130242(a) and Section 130242(e). Benefits of the PDA process include the optimization of project performance, risk, constructability, affordability, and delivery schedule through early design solutions, innovation, and private sector rigor and resources.

**BACKGROUND**

Metro is planning for the construction of the Sepulveda Transit Corridor, a fixed-guideway transit service running between the San Fernando Valley and Los Angeles International Airport (LAX), through the Westside of Los Angeles. Metro is currently conducting a Transit Feasibility Study (TFS)-the Alternatives Analysis phase of the planning process. This TFS will identify and evaluate a range of high-capacity fixed guideway transit alternatives for the Project such as, evaluating various transit modes, alignments generally following the I-405 corridor, and potential station locations. The

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alignments include potential connections to existing and planned Metro bus and rail lines, the LOSSAN corridor regional rail services, and several major activity centers. The Project is included on the Twenty-Eight by '28 list of projects scheduled to be completed in time for the 2028 Olympic and Paralympic Games.

## **DISCUSSION**

In 2016, Metro received three Unsolicited Proposals (UPs) for delivery of the Sepulveda Transit Corridor (Valley to Westside segment), each of which offered different approaches to achieve innovative, accelerated delivery of the project. Two of the three also proposed the use of a PDA to advance preliminary definition and design of the project, followed by project delivery through a potential public-private partnership, which would include the design, construction, finance, and potentially project operations and/or maintenance. The Metro Board previously directed Metro staff to "...proceed with all actions necessary to assist in the preparation of a Pre Development Agreement (PDA) to develop the [Sepulveda Transit Project]" in a motion made by Directors Richard Katz and Mel Wilson, approved at the December 13, 2012 Board meeting.

A PDA is a form of early contractor involvement where a private project developer participates in early project definition and design, in partnership with the project owner. Teams of firms that are awarded a PDA contract (PDA Contractor) would continue to provide technical work products including cost estimates, constructability reviews, technical analyses, etc. that support the ongoing development of the project as it progresses through environmental review and approval processes. When the project scope and design are sufficiently developed, a PDA Contractor will have the right to submit an offer to Metro for a firm fixed price for delivery. Metro would develop its own independent cost estimate and then, at its sole discretion, enter into negotiations with the PDA Contractor. If negotiations are successful, staff would bring a recommended contract action to the Board. If negotiations are not successful, Metro would use any relevant work products produced by the PDA Contractor and move forward with a competitive procurement for the work. Based on review of the UPs, Metro determined that a PDA could offer significant value as it works to balance the project's performance, construction costs, operations, maintenance and state-of-good-repair costs, and key project risks, particularly an accelerated schedule.

Metro anticipates selecting up to two PDA Contractors to identify and develop project concepts, likely involving distinct transit mode types. Selection of the PDA Contractor(s) will be based on technical, managerial and financial qualification factors that will be included in the solicitation. The selection of the Contractor(s) is subject to Board approval. Work products supporting development of the project will be reviewed and assessed by Metro staff to determine the extent to which they support Metro's project goals. The review and assessment will include performance (travel time, passenger throughput, etc.), feasibility/constructability, and other factors, as part of the environmental clearance process for the project. The environmental clearance process will be supported by a separate consulting contract.

The PDA project development period will include clear phases and milestones, each of which will allow Metro the opportunity to decline to continue its relationship with a PDA Contractor.

This process will occur in parallel to the process of developing a combined Environmental Impact

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Statement/Environmental Impact Report (EIS/EIR) to satisfy the requirements of NEPA and CEQA. The PDA Contractors will be expected to closely coordinate their ongoing efforts to advance the Project's design with Metro staff and Metro's environmental consultants to ensure robust public participation and strict adherence to all environmental permitting requirements. Staff has determined that the use of a PDA is not likely to negatively affect any of the major EIS/EIR process milestones that Metro projects typically must satisfy, including an initial scoping period, community meetings and comment periods, establishment by the Metro Board of a Locally Preferred Alternative (LPA), and certification of the Final EIR by the Metro Board and issuance of a Record of Decision for the project by the Federal Transit Administration. Additionally, provisions will be included in the Statement of Work to ensure that the EIS Consultant and each PDA Team maintain schedule coordination and will not be unduly delayed. The statements of work for both the PDA Contractors and EIS/EIR consultant will include defined mechanisms to ensure sufficient and thoughtful coordination of schedule and technical deliverables.

### **DETERMINATION OF SAFETY IMPACT**

This Board action will not have an impact on established safety standards for Metro's capital projects.

### **FINANCIAL IMPACT**

Recommendations A and B do not have a fiscal year budget impact at this time as the actions are requesting permission for project delivery approach. The Board would consider proposals from qualified proposers prior to award of any contract for a PDA. Measure M and Measure R expenditure plans allocate approximately \$10.8 billion (2015 \$) to the Project from 2024 through 2057 for new fixed-guideway transit service and express lanes between the San Fernando Valley and the Westside. The Sepulveda Transit Corridor project (460305) is allocated \$3.7 million in the FY20 budget. This project is currently funded on a Fiscal Year to Fiscal Year basis until such time that a Life of Project Budget (LOP) is adopted.

### **IMPLEMENTATION OF STRATEGIC PLAN GOALS**

Delivering this important Measure M projects as efficiently and effectively as possible is consistent with the following Vision 2028 goals:

- Goal 1 - Provide high-quality mobility options that enable people to spend less time traveling.
- Goal 2 - Deliver outstanding trip experiences for all users of the transportation system
- Goal 3 - Enhance communicates and lives through mobility and access to opportunity
- Goal 5 - Provide responsive, accountable, and trustworthy governance within the Metro organization

### **ALTERNATIVES CONSIDERED**

The Board may reject the recommendations to use a PDA to support the project's development and delivery. However, certain private sector efficiencies in the integration of project design with long-term operational performance and cost of ownership may not be achieved. Also, the opportunity to

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potentially identify strategies to improve performance, reduce costs, and accelerate project delivery utilizing this recommended method will not be available.

Metro staff explored delivering the Project utilizing Design/Bid/Build and Design/Build contracting, as well as a traditional hard-bid P3 (without early contractor involvement); however, these approaches would not benefit from contractor insights into project definition and design that could support more efficient achievement of Metro's project goals. Therefore, it is not recommended that either option be utilized.

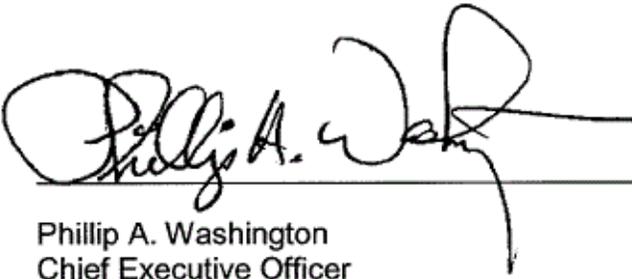
### **NEXT STEPS**

In order to support an efficient project development schedule that aligns with Metro's environmental clearance, engineering, and construction schedule, Metro will issue a solicitation in 2019 for the PDA contract.

Upon approval by the Board, staff will issue a competitive solicitation for a PDA contract(s). The proposal(s) will be selected by utilizing objective selection criteria, in addition to price. The process of evaluation, negotiations (if any), and decision to recommend award of the PDA contract(s) is anticipated to last into 2020. This procurement process will be conducted in parallel with an effort to procure a consulting team to support the environmental clearance of the project. Metro staff currently anticipates selection of up to two contractors by summer 2020, allowing for evaluation of their project concepts and selection of an LPA by 2023.

Prepared by: Colin Peppard, Senior Director, Special Projects (213) 418-3434

Reviewed by: Joshua Schank, Chief Innovation Officer, (213) 418-3345



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Phillip A. Washington  
Chief Executive Officer



# Sepulveda Transit Corridor Project



Planning & Programming Committee  
Agenda Item: 2019-0490

# Preliminary Development Agreement Summary

A PDA is a form of Early Contractor Involvement (ECI) in which a private developer participates in early project design

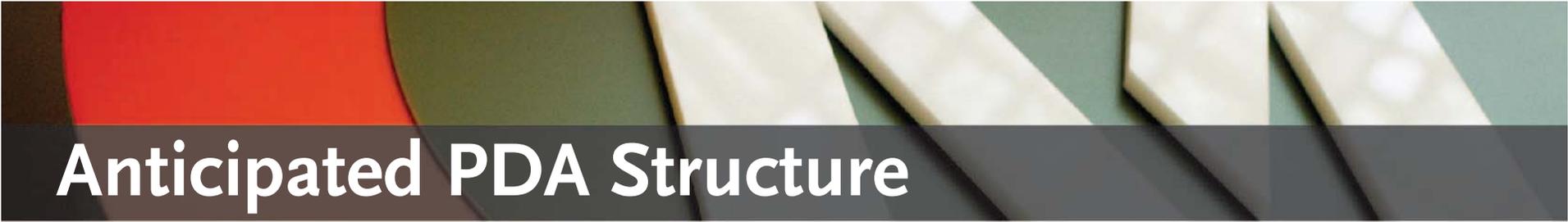
- > PDA teams compete for the right develop project design in collaboration with Metro and stakeholders
- > Limited right to submit an offer for firm fixed price delivery; competitive hard bid procurement if offer is not satisfactory

**Value proposition:** Contractor insights on critical early design decisions with incentive to optimize feasibility, improve performance, manage cost, accelerate delivery



## Why PDA for Sepulveda?

- > Once-in-a-generation opportunity to redefine mobility in one of America's most challenging travel corridors.
- > Balancing mobility and performance with risk, cost, and constructability is an extraordinary challenge.
- > A PDA allows Metro to tap into the best minds in the field to deliver the most for available project funding.



# Anticipated PDA Structure

Sepulveda PDA has been designed with a unique structure, involving two potential PDA Teams

- > Teams to support Transportation Solution Concept for subsequent development
- > Each team to refine concept to optimize feasibility
- > PDA Contractor work structured in five phases according to Metro's existing Project Development Process
- > Metro discretion to proceed after each phase of work

# Compensation and Risk Sharing

The goal of this PDA is to incentivize attainment of feasibility, not to offload project development costs

- > Objective: Incentive for the best teams to come to the table early, while limiting opportunities for “gaming”
- > Compensation priced by phase through PDA proposals
- > Deferred compensation: opportunity for PDA Team profit increases as project nears feasibility
- > Monthly subcontractor payment certification
- > Metro ownership of final technical work products to utilize as it sees fit

# Key Information

**No change to process of conducting public and stakeholder outreach**

- > All outreach to public and key project stakeholders will be conducted through Metro staff

**No change to Metro Board's role in project decisions**

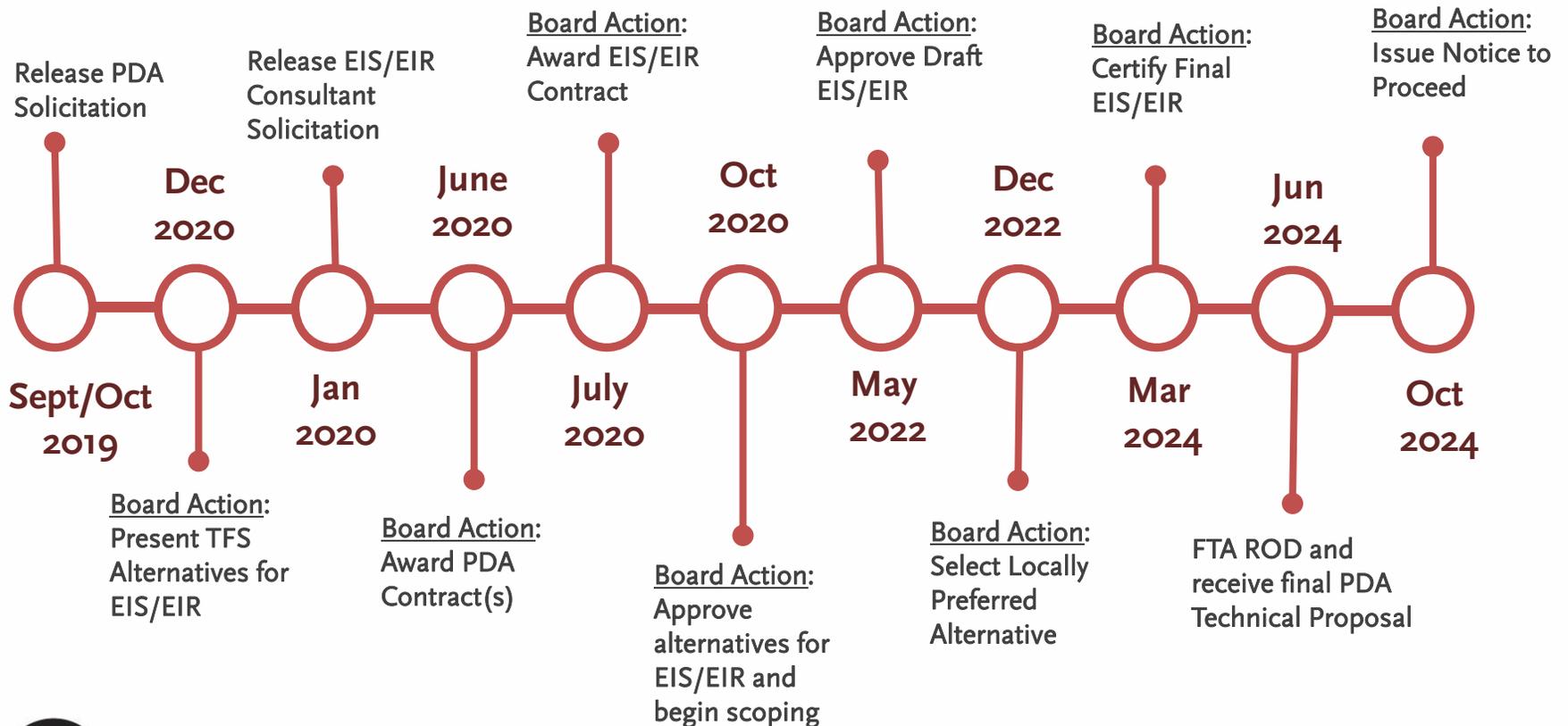
- > Approve PDA; Approve scoping; Select LPA; Approve delivery model ( $\frac{2}{3}$  vote), Authorize project delivery contract; Set life-of-project budget

**Small and Disadvantaged Business participation will be incorporated as with any project**

- > Metro DEOD will set SBE/DBE goals for each PDA phase



# Tentative Project Timeline



**Metro**

*\*Timeline assumes PDA Team continues supporting project development through final price proposal, with no external delays (e.g. litigation, etc.)*