



July 1, 2022

To: Regional Planning and Highways Committee

From: Darrell E. Johnson, Chief Executive Officer

Subject: Contract Change Order for the Interstate 405 Improvement Project from State Route 73 to Interstate 605

Overview

On November 14, 2016, the Orange County Transportation Authority Board of Directors approved Agreement No. C-5-3843 with OC 405 Partners, a joint venture, for the design and construction of the Interstate 405 Improvement Project from State Route 73 to Interstate 605. A contract change order is needed at this time to compensate OC 405 Partners for additional maintenance activities required for the project.

Recommendation

Authorize the Chief Executive Officer to negotiate and execute Contract Change Order No. 3.3 to Agreement No. C-5-3843 between the Orange County Transportation Authority and OC 405 Partners, a joint venture, in the amount of \$3,000,000, to provide additional extra maintenance work.

Discussion

The Orange County Transportation Authority (OCTA), in cooperation with the California Department of Transportation (Caltrans), is implementing the Interstate 405 (I-405) Improvement Project from State Route 73 (SR-73) to Interstate 605 (I-605) (Project). The Project will add one general purpose lane from Euclid Street to I-605, consistent with Measure M2 (M2) Project K, and will add an additional lane in each direction that would combine with the existing high-occupancy vehicle lane to provide dual express lanes in each direction on I-405 from SR-73 to I-605, otherwise known as the 405 Express Lanes.

On November 14, 2016, the OCTA Board of Directors (Board) approved Agreement No. C-5-3843 with OC 405 Partners (OC405), a joint venture, for the design and construction of the Project. The contract was executed and Notice to Proceed (NTP) No. 1 was issued to OC405 on January 31, 2017.

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On July 27, 2017, NTP No. 2 was issued to OC405 for the full design and construction of the Project.

The recommended contract change order (CCO) is described in more detail below.

Extra Maintenance Work

Under the Project's cooperative agreement between OCTA and Caltrans, OCTA is responsible for maintenance of the freeway facilities within the Project limits while OCTA is administering the Project. In accordance with the contract documents and in compliance with the encroachment permit issued by Caltrans, OC405 is required to perform extra maintenance work as directed by OCTA. The contract provides that OC405 is responsible for all freeway maintenance from NTP No. 2 until final Project acceptance. The contract distinguishes between routine maintenance work that is covered by the lump sum contract, and extra maintenance work beyond the control of OC405 that is paid by OCTA through a CCO.

Routine maintenance work that is covered by the lump sum contract includes sweeping, weed abatement, trash/litter removal, maintaining existing pavement markings, right-of-way fencing, lighting, signals, landscaping, and irrigation systems. The extra maintenance work that is required to be paid by OCTA includes repairs and replacements due to damage from crashes and other actions caused by the traveling public and/or third parties. Examples of extra maintenance work include: maintaining existing pavement and structures, repairing shoulder drop-offs, replacing and repairing existing asphalt shoulders, repairing and replacing existing overhead and roadside signs, replacing damaged guardrails and barriers, repairing and replacing impact attenuators and crash cushions, removing graffiti, repairing crash damage to permanent structures, repairing crash damage to lighting and lighting standards, performing extraordinary and emergency maintenance, and repairing damage due to force majeure events such as earthquakes.

CCO nos. 3, 3.1, and 3.2, in the amounts of \$200,000, \$1,300,000, and \$2,200,000 respectively, were previously issued for the extra maintenance work. Since then, costs for extra maintenance work have exceeded the original estimates.

Graffiti removal activities have increased beyond original estimates as more permanent improvements are constructed, providing more areas for graffiti. Traffic safety devices continue to be damaged from crashes by the traveling public, which is out of the control of the contractor. Costs to repair the safety devices have exceeded original estimates. In addition, as more permanent

improvements such as guardrails and crash arrays are constructed, these are no longer protected behind temporary barriers and require immediate replacement for public safety. The costs for repairs have increased beyond original estimates. In response to public complaints, extra work was performed to remove overgrown landscaping and debris in the areas of the Katella interchange and College Park West in the City of Seal Beach. Additional work was also performed to clean the Springdale drainage channel in the City of Westminster. These were unanticipated costs not included in the original estimate. Finally, the current estimate provides maintenance to the revised construction substantial completion date of late 2023.

OCTA staff developed an independent cost estimate for the anticipated extra maintenance work, in the amount of \$3,000,000, based on the level of extra maintenance required over the last 24 months.

Therefore, staff is now requesting Board approval of supplemental CCO No. 3.3, in the amount of \$3,000,000, which brings the total for CCO No. 3 to \$6,700,000. Costs and expenses for extra maintenance will be tracked, reviewed, and paid on a time-and-materials basis.

Procurement Approach

The procurement was handled in accordance with the best-value selection process authorized by AB 401 (Chapter 586, Statutes of 2013) for design-build (DB) projects and with OCTA's Board-approved procedures for public works projects, which conform to both federal and state requirements. On November 14, 2016, the Board authorized Agreement No. C-5-3843 with OC405, in the amount of \$1,217,065,000, for the design and construction of the Project through a DB contract.

Proposed CCO No. 3.3, in the amount of \$3,000,000, will provide compensation to OC405 for additional maintenance activities required for the Project and give OCTA staff the ability to timely direct extra maintenance work on an as-needed basis without impacting the Project schedule. The CCO will increase the cumulative value of the contract by \$3,000,000.

Attachment A lists the CCOs that have been executed to date, and the CCOs that are pending execution with OC405.

Fiscal Impact

Funding for this work is proposed in OCTA's proposed Fiscal Year 2022-23 Budget, Capital Programs Division, account nos. 0017-9084-FK101-OGM and 0037-9017-A9510-OGM, and is funded with a combination of federal, state,

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and local funds. M2 funds will be used for improvements specific to M2 Project K, and non-M2 funds will be used for improvements specific to the 405 Express Lanes. The costs of CCO 3.3 are funded from the Project contingency and are not anticipated to increase the total Project estimate of \$2.08 billion.

Summary

Staff recommends the Board authorize the Chief Executive Officer to negotiate and execute CCO No. 3.3 to Agreement No. C-5-3843 with OC405, in the amount of \$3,000,000, to provide additional maintenance work.

Attachment

- A. OC 405 Partners, Agreement No. C-5-3843, Contract Change Order Log

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