



August 8, 2019

To: Transit Committee

From: Darrell E. Johnson, Chief Executive Officer

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Subject: Contract Change Order for Removal and Disposal of Contaminated Materials Within the Orange County Transit District-Owned Pacific Electric Right-of-Way for the OC Streetcar Project

Overview

On September 24, 2018, the Orange County Transportation Authority Board of Directors authorized Agreement No. C-7-1904 with Walsh Construction Company II, LLC, for construction of the OC Streetcar project. A contract change order is required for the removal and disposal of contaminated materials within the Orange County Transit District-Owned Pacific Electric Right-of-Way.

Recommendation

Authorize the Chief Executive Officer to negotiate and execute Contract Change Order No. 3 to Agreement No. C-7-1904 with Walsh Construction Company II, LLC, in the amount of \$1,600,000, for the removal and disposal of contaminated materials within the Orange County Transit District-Owned Pacific Electric Right-of-Way for the construction of the OC Streetcar project.

Discussion

On September 24, 2018, the Orange County Transportation Authority (OCTA) awarded the contract for construction of the OC Streetcar project (Project) to Walsh Construction Company II, LLC (Walsh). The Notice to Proceed with construction was issued to Walsh on March 4, 2019.

Construction activities are underway, with the focus on construction of the Maintenance and Storage Facility, storm drain, sewer, and water system relocations within City of Santa Ana streets. Installation of foundations for the new 350-foot long bridge across the Santa Ana River and the bridge over Westminster Avenue is also underway.

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The southerly portion of the Pacific Electric Right-of-Way (PEROW) stretching from Raitt Street in the City of Santa Ana northwest to the City of Stanton was purchased in 1983 by the Orange County Transit District (OCTD), as-is for \$15 million in OCTD funding. In 1991, OCTA acquired the northerly section of the PEROW extending from the City of Stanton to the Los Angeles County Line, as-is for \$13.1 million in Measure M funds. In 1996 the Board of Directors (Board) approved OCTD and OCTA to maintain ownership and to preserve and protect the PEROW for future transit use.

The Project utilizes approximately two miles of the southerly PEROW segment between Raitt Street in the City of Santa Ana, northwest to Harbor Boulevard in the City of Garden Grove where grading and site preparation work is proceeding (Attachment A).

During the design phase of the Project, environmental assessment reports were prepared for the PEROW to determine if there are potential areas of excavation that could require special handling of the soils as regulated waste either under federal or state rule. Historically, rail operations have been known to use weed control substances and experience spills and leaks that could cause environmental impacts. The Phase II Environmental Site Assessment performed field investigation and laboratory analysis of soil samples. The assessment found elevated levels of arsenic in approximately one half of the 23 soil samples tested based on environmental screening limits; the levels, however, were all below regulatory limits. All other chemical contaminants of concern were either not detected or were found to be below environmental screening and regulatory limits.

The contract requires Walsh to remove the top one foot of soil in the PEROW, generally within the limits of the new track bed, stockpile the materials, and test the soil against environmental regulatory levels. An allowance of \$100,000 was included in the construction contract for the excavating, stockpiling, and testing of materials, and the removal and disposal of materials determined to be contaminated.

In June and July 2019, Walsh excavated the top one foot of soil from five segments on the PEROW. The excavated material was stockpiled and then analyzed for the following: Total Petroleum Hydrocarbons, Volatile Organic Compounds, Polynuclear Aromatic Hydrocarbons and Metals, including arsenic. The results were tracked by corridor segment.

The results of the soil analysis completed in June and July 2019 determined that some soil exceeds the California hazardous waste criteria for arsenic, and some soil was contaminated non-hazardous. Excavated soils meeting these profiles must be transported off-site to an approved disposal facility. This level of

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contamination and subsequent requirements for removal was unanticipated based on the results of the 2017 Environmental Site Assessment. Other soil was determined to be not contaminated and can be re-used on the Project or transported to a local landfill.

Some of the soil in two of the five PEROW segments is awaiting final testing results. Because of the findings in the other segments, it is assumed that some soil in these two segments will be classified as exceeding the California hazardous waste criteria for arsenic. The disposition of the soil will be based upon testing and profile results.

Staff is recommending that a contract change order (CCO) be processed for removal and handling of the contaminated soil in order to avoid contractor delays and an increase in time-related contract costs. This is in advance of the completion of the soil profiling on the final two segments of the PEROW. This would allow the soil stockpiles to be removed and regular work on the PEROW to proceed, including storm drain relocations and excavations for wall footings and duct banks.

The cost of the work would be paid on a time-and-materials basis since the soil testing and profiling activities are not completed and the quantities may vary. Before payment is made to the contractor, quantities will be confirmed through surveys and disposal facility records, and the soil classification and disposition checked against the final testing results.

An independent cost estimate, which provides an order of magnitude cost to complete the work, has been prepared by the construction management team. The cost estimate includes provisions for handling soil in the two segments that have not completed excavation, stockpiling, and soil tests.

Proposed CCO No. 3 will supplement the \$100,000 allowance in the contract by \$1,600,000. The estimate includes excavation, stockpiling, sampling, testing, and profiling, as well as loading and transporting certain contaminated and classified hazardous materials to approved disposal facilities.

The cost of the work will be funded from the Project contingency because the extent of contaminated soil that requires removal was not discovered nor evident when the Project cost estimate was prepared. It will not increase the Project cost of \$407.7 million, as defined in the Full Funding Grant Agreement.

Procurement Approach

The initial procurement was handled in accordance with OCTA's Board of Directors (Board)-approved procedures for public works projects. These procedures, which conform to both federal and state requirements, require that contracts are awarded to the lowest responsive, responsible bidder after a sealed bidding process. On September 24, 2018, the Board authorized Agreement No. C-7-1904 with Walsh, in the amount of \$220,638,549, for construction of the Project.

Proposed CCO No. 3, in the amount of \$1,600,000, will increase the cumulative value of the contract to \$222,812,282, as shown in Attachment B. Board approval is required for CCO No.3, pursuant to the State of California Public Contracting Code Section 20142.

Fiscal Impact

The additional work described in CCO No. 3 is included in OCTA's Fiscal Year 2019-20 Budget, Capital Programs Division, Account 0051-9017-TS010-Z40, and is funded with Federal 5309 New Starts and local Measure M2 funds.

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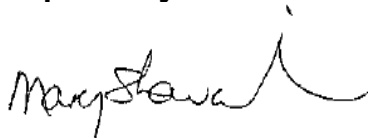
Summary

Staff recommends Board of Directors' authorization for the Chief Executive Officer to negotiate and execute Contract Change Order No. 3 to Agreement No. C-7-1904 with Walsh, in the amount of \$1,600,000, for removal and disposal of contaminated materials on the PEROW for the Project.

Attachments

- A. Map of Pacific Electric Right-of-Way Soil Excavation Locations
- B. Walsh Construction Company II, LLC, Agreement No. C-7-1904, Contract Change Order Log

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