



**October 9, 2017**

**To:** Members of the Board of Directors

**From:** Darrell Johnson, Chief Executive Officer

**Subject:** Contract Change Order for Removal and Disposal of Contaminated Materials for the Metrolink Parking Structure at the Orange Transportation Center Project

**Overview**

On June 12, 2017, the Orange County Transportation Authority Board of Directors approved Agreement No. C-7-1737 with Bomel Construction Company, Inc., for construction of the Metrolink parking structure at the Orange Transportation Center. A contract change order is required for the removal and disposal of contaminated materials encountered during excavation for construction.

**Recommendations**

- A. Authorize the Chief Executive Officer to negotiate and execute Contract Change Order No.1.1 to Agreement No. C-7-1737 with Bomel Construction Company, Inc., in an amount of \$863,000, and to add 40 calendar days to the contract duration for the removal and disposal of contaminated materials at the Metrolink parking structure at the Orange Transportation Center.
- B. Amend the Orange County Transportation Authority Fiscal Year 2017-18 Budget by \$1,930,000, to accommodate Agreement No.C-7-1737, for remediation of contaminated material and other unforeseen expenditures at the Metrolink parking structure at the Orange Transportation Center to appropriately account for the required project contingency.

**Discussion**

On June 12, 2017, the Orange County Transportation Authority (OCTA) Board of Directors (Board) awarded Agreement No. C-7-1737 for construction of the Metrolink parking structure at the Orange Transportation Center project (Project) to Bomel Construction Company, Inc. (Bomel). A notice to proceed with

construction was issued to Bomel on July 17, 2017, and construction is currently underway.

On August 25, 2017, contaminated materials, which were not identified in the construction contract documents, were discovered during the Project excavation effort. Bomel was directed to stop work so that testing could be done to determine the profile of the contaminants and develop a remediation plan. The Project schedule has been impacted due to the discovery of these contaminated materials and necessary remediation efforts as all work was required to stop while the testing was done. As a result, an additional 40 days has been added to the contract duration.

Test results on the soil and excavation area have been completed and a remediation plan is in place. It has been determined that the top four feet of soil will need to be removed from the areas indicated on Attachment A. The source of the contamination is most likely from the previous railroad uses of the site. The contractor has provided an estimate for the remediation of the soil, and the construction management team has prepared an independent cost estimate to verify the reasonableness of the contractor's proposed price. The remediation work, which includes removal of the top four feet of soil and re-testing the bottom of the removal area, will determine if any further removal will be needed and will be done on a time and material basis estimated to be \$1,063,000.

To avoid further contract delays and increases to time-related contract costs, it was necessary to give Bomel immediate direction to proceed with the removal of contaminated materials. Contract change order (CCO) No. 1, in an amount not-to-exceed \$200,000, was issued to Bomel on October 2, 2017, for extra work. The initial CCO amount is within the delegated authority allowed under OCTA's Board-approved procurement policies and procedures.

On September 29, 2017, a memorandum was sent to the Board from the Chief Executive Officer informing that preliminary cost estimates for the remediation plan were approximately \$700,000. On October 3, 2017, staff received a final estimate for the remediation plan in the amount of \$1,063,000. The increase in cost can be attributed to two primary factors. First, the contractor's original estimate for the trucking and disposal of the contaminated soil did not include labor and equipment costs in the amount of \$183,000. Secondly, the construction management firm performed testing and determined that the appropriate conversion from cubic yards to tonnage for this material should be approximately 1.6 instead of the 1.35 used in the contractor's original estimate (The tonnage, which is used to calculate trucking costs, can vary depending on soil types). Based on a conversion rate of 1.6, the cost estimate

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increased by \$180,000. Supplemental CCO No.1.1, to augment CCO No.1 by \$863,000, requires Board approval.

The original budget for the Project included an estimate of ten percent construction contingency, in the amount of \$1,930,000, based on the engineer's estimate of construction. This contingency amount was not included in the OCTA Board-approved Fiscal Year (FY) Budget. OCTA staff is requesting that the OCTA FY 2017-18 Budget be amended to include the required construction contingency for construction of the Project.

***Procurement Approach***

The initial procurement was handled in accordance with OCTA's 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 June 12, 2017, the Board authorized Agreement No. C-7-1737 with Bomel, in the amount of \$18,414,300, for construction of the Project.

Attachment B shows the approved and pending CCOs to date. Proposed CCO No. 1.1, in an amount of \$863,000, will increase the cumulative value of CCO No. 1 to \$1,063,000. Attachment C is the current Project financial summary. Board approval is required for the CCO No. 1.1 pursuant to the State of California Public Contracting Code Section 20142.

**Fiscal Impact**

The required construction contingency was not included in the OCTA FY 2017-18 Budget, Capital Programs Division, Account 0018-9084-T5422-P3F. A budget amendment, in the amount of \$1,930,000, is recommended to accommodate Agreement No. C-7-1737. The amendment will increase Expense Account 0018-9084-T5422-P3F and Revenue Account 0018-6021-T5422-XHS from \$18,414,300 to a Project total of \$20,344,300.

The project contingency will be used for the CCO and will be funded with federal Congestion Mitigation Air Quality funds and the City of Orange's fair share of participation.

***Summary***

Staff recommends authorization for the Chief Executive Officer to negotiate and execute Contract Change Order No.1.1 to Agreement No. C-7-1737 with

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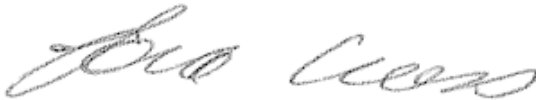
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Bomel Construction Company, Inc., in the amount of \$863,000, and to add 40 calendar days to the contract duration for the removal and disposal of contaminated materials at the Metrolink parking structure at the Orange Transportation Center project. Staff also recommends increasing the project budget for the impact of the change and possible additional contract changes.

***Attachments***

- A. Contaminated Soil and Sample Locations
- B. Bomel Construction Company, Inc., Agreement No. C-7-1737, Contract Change Order Log
- C. Orange Station Parking Expansion, Contract Financial Summary as of September 26, 2017

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