



July 11, 2019

To: Transit Committee

From: Darrell E. Johnson, Chief Executive Officer

Subject: Contract Change Order for Removal and Disposal of Contaminated Materials at the Maintenance and Storage Facility Property 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 at the maintenance and storage facility property.

Recommendation

Authorize the Chief Executive Officer to negotiate and execute Contract Change Order No. 2.1 to Agreement No. C-7-1904 with Walsh Construction Company II, LLC, in the amount of \$160,000, for the removal and disposal of contaminated materials at the maintenance and storage facility property for 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. Early critical path construction activities include beginning work on the maintenance and storage facility (MSF) which is located on Fifth Street near Raitt Street in the City of Santa Ana.

On March 4, 2019, OCTA took possession of the second of two properties required for the MSF. The prior owner had left behind a substantial quantity of concrete and asphalt slabs and subsurface foundations.

On February 12, 2019, a change directive, in the amount of \$199,749, was issued to Walsh for the initial demolition and removal of the concrete and asphalt slabs, as well as fences, above ground utilities and scale remnants, and coordination with utility companies. On June 20, 2019, Contract Change Order (CCO) No. 1 was executed for the work. Supplemental CCO No.1.1, to augment CCO No. 1 by \$113,884 for the remaining scope of work (SOW), was approved by the Board of Directors (Board) on April 22, 2019, and executed on June 25, 2019. The work includes underground utility identification by use of ground penetrating radar and potholing, capping and removal of underground utilities, traffic control, and storm water protection plan measures.

After the concrete and asphalt slabs were removed, Walsh visually observed an area of discoloration in the soil which was presumed to be diesel contamination. In addition, Walsh encountered railroad ties associated with an historic rail spur on the southeast corner of the property, which is a likely source of contamination.

It was determined that testing of the soil and remediation of any contamination would be performed by Walsh. To help mitigate contract delays and increases to time-related overhead contract costs, it was necessary to give Walsh immediate direction to proceed with the work. A change directive in the amount of \$200,000, was issued to Walsh on April 15, 2019, and CCO No. 2 was executed on June 25, 2019, for the work on a time and materials basis. The work includes sampling and testing, as well as excavation of the impacted materials.

A work plan for sampling and testing was prepared and reviewed by OCTA. After testing, it was determined that one area had concentrations of petroleum hydrocarbons and a second area, the rail line spur, had concentrations of lead. An environmental consultant retained by OCTA coordinated with the Santa Ana Regional Water Quality Control Board on the details of the sampling plan and the testing results.

The excavation of the contaminated materials started on May 21, 2019, and was completed on May 24, 2019. Approximately 2,000 cubic yards of waste materials were excavated from two sites on the property (Attachment A). The materials were stockpiled and profiled for transporting to an approved facility.

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 of the work is \$360,000 and would be paid on a time-and-materials basis as the SOW could not be confirmed until the soil stockpile testing and profiling activities were performed.

Supplemental CCO No. 2.1, to augment CCO No. 2 by \$160,000 for the remaining SOW, requires Board approval. The work includes additional soil excavation, follow up testing and profiling, and transportation to an approved facility.

Walsh has also requested time-related overhead be paid as part of the CCO because the Project schedule will be impacted. It was agreed that the request would be deferred until the required time impact evaluation is provided and reviewed by OCTA. Staff will return to the Board for approval of any required supplemental cost related to the change when the final impacts have been agreed to with Walsh.

The cost of the work will be funded from the Project contingency as the work was not known when the cost estimate was prepared. It will not increase the total Project cost of \$407.7 million, as defined in the Full Funding Grant Agreement. Staff may seek reimbursement of these costs from the former property owner, S&A Recycling, if technical and legal analysis under the terms of the acquisition settlement agreement supports pursuing such a recovery.

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 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. 2.1, in the amount of \$160,000, will increase the cumulative value of CCO No. 2 to \$360,000, as shown in Attachment B. Board approval is required for CCO No. 2.1, pursuant to the State of California Public Contracting Code Section 20142.

Fiscal Impact

The additional work described in CCO No. 2.1 is included in OCTA's Fiscal Year 2019-20 Budget, Capital Programs Division, Account 0051-9017-TS010-Z10 and is funded with local Measure M2 funds.

Contract Change Order for Removal and Disposal of Contaminated Materials at the Maintenance and Storage Facility Property for the OC Streetcar Project **Page 4**

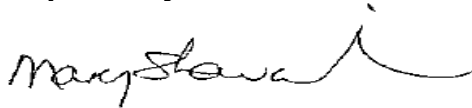
Summary

Staff recommends Board of Directors' authorization for the Chief Executive Officer to negotiate and execute Contract Change Order No. 2.1 to Agreement No. C-7-1904 with Walsh Construction Company II, LLC, in the amount of \$160,000, for removal and disposal of contaminated materials at the maintenance and storage facility property for the OC Streetcar project.

Attachments

- A. Contaminated Soil Excavation Locations
- B. Walsh Construction Company II, LLC, Agreement No. C-7-1904, Contract Change Order (CCO) Log

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