




October 10, 2019

To: Transit Committee

From: Darrell E. Johnson, Chief Executive Officer 

Subject: Contract Change Order for Additional Railroad Flagging Allowance for the Laguna Niguel to San Juan Capistrano Passing Siding Project

Overview

On January 14, 2019, the Orange County Transportation Authority Board of Directors authorized Agreement No. C-7-2018 with Reyes Construction, Inc., for construction of the Laguna Niguel to San Juan Capistrano Passing Siding Project. A contract change order is required to provide additional allowance for railroad flagging protection for the construction workers within the railroad right-of-way.

Recommendations

- A. Authorize the Chief Executive Officer to negotiate and execute Contract Change Order No. 2 to Agreement No. C-7-2018 with Reyes Construction, Inc., in the amount of \$2,300,000, to increase the allowance budget for railroad flagging for the Laguna Niguel to San Juan Capistrano Passing Siding Project.
- B. Authorize the use of \$2,300,000 in federal Congestion Mitigation and Air Quality Improvement Program funds.
- C. Authorize staff to process all necessary amendments to the Federal Transportation Improvement Program and execute any necessary agreements and/or amendments to facilitate associated programming actions.

Discussion

On January 14, 2019, the Orange County Transportation Authority (OCTA) awarded the contract for construction of the Laguna Niguel to San Juan Capistrano Passing Siding Project (Project) to Reyes Construction, Inc. (Reyes).

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The Notice to Proceed with construction was issued to Reyes on March 12, 2019.

Various concurrent construction activities are underway within the railroad corridor. These activities include construction of retaining walls, pre-building a track turnout adjacent to existing track, installation of signal and communication conduits, preparation work for a bridge replacement, and installation of two temporary construction crossings. This section of the Los Angeles – San Diego – San Luis Obispo rail corridor serves Metrolink commuter trains, Amtrak intercity trains, and BNSF Railway freight trains, and is identified as the second most heavily traveled intercity passenger rail corridor in the nation. Over 40 weekday trains pass through the Project work area. OCTA owns the railroad right-of-way (ROW), and the Southern California Regional Rail Authority (SCRRA), serving as the railroad operator on OCTA railroad ROW, operates and maintains the rail infrastructure and issues right-of-entry permits to allow contractors to work within the ROW. Within the jurisdiction of the railroad operator, SCRRA provides railroad safety training and railroad flagging protection to permitted contractors. The Project location and limits are shown on Attachment A.

On September 17, 2019, SCRRA issued a safety bulletin to update the requirements of training and railroad job briefing; and responsibilities of roadway worker, roadway worker in charge (RWIC), and watchman. The safety bulletin is shown on Attachment B. The safety bulletin restricts the RWIC from providing individual protection of a group or location and clarified the duties of an RWIC. Since the start of the Project, SCRRA provided an average of two railroad flaggers (one RWIC and one watchman) to protect the construction crews and to provide access control of a temporary construction crossing.

Due to the new restrictions, various concurrent construction activities located in a narrow railroad corridor with limited sight distance, and need to control access at temporary construction crossings, increased flagging protection is required to an average of five railroad flaggers (one RWIC and four watchmen). Each crew would have an assigned watchman responsible for the lives of fellow workers. If the work locations are too spread out, additional watchmen would be assigned as needed. The RWIC would communicate and coordinate with each watchman and each train crew approaching the work limits.

The construction contract bid item for railroad flagging provides an allowance budget of \$725,000. Reyes utilizes this bid item to pay SCRRA for the required flagging protection. An additional \$35,000 was apportioned for flagging to complete the extra work required under Contract Change Order (CCO) No. 1, which was valued at \$96,536.

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It is anticipated that the additional flagging resulting from new SCRRRA safety requirement policies and site constraints will substantially increase the budget amount for flagging by \$2,300,000. Proposed CCO No. 2 will supplement the allowance in the contract by \$2,300,000. As a result, the new allowance budget for railroad flagging will be \$3,060,000.

The Project budget included a ten percent construction contingency which will be maintained to complete the Project. The increase in flagging allowance budget will increase the construction budget to \$28,634,000, and preserve the remaining construction contingency amount at \$1,599,000.

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 January 14, 2019, the Board authorized Agreement No. C-7-2018 with Reyes, in the amount of \$16,952,426, for construction of the Project.

Attachment C shows the approved and pending CCOs to date. Proposed CCO No. 2, in the amount of \$2,300,000, will increase the cumulative value of the contract to \$19,348,962. Board approval is required for CCO No. 2, pursuant to the State of California Public Contracting Code Section 20142.

Fiscal Impact

The Project contingency was included in OCTA's Fiscal Year 2019-20 Budget, Capital Programs Division, Account 0018-9084-C5051-TZ2, and is funded with federal, state, and local funds.

Upon award of the Project construction contract, the Project estimated cost was \$34,060,000 (includes preconstruction costs). This CCO will increase the Project budget to \$36,360,000. Staff is proposing to use Congestion Mitigation and Air Quality Improvement Program funds for the additional funding, and the use of these funds for the Project is consistent with the Board-approved Capital Programming Policies.

A Capital Funding Program Report detailing the changes to projects is provided as Attachment D.

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Summary

Staff recommends Board of Directors' authorization for the Chief Executive Officer to negotiate and execute Contract Change Order No. 2 to Agreement No. C-7-2018 with Reyes Construction, Inc., in the amount of \$2,300,000, for additional railroad flagging allowance for the Laguna Niguel to San Juan Capistrano Passing Siding Project, and approve the use of federal Congestion Mitigation and Air Quality Improvement Program funds to fully fund the Project.

Attachments

- A. Project Location Map
- B. Southern California Regional Rail Authority Safety Bulletin, Alert: SB-3-2019, Issued: September 17, 2019
- C. Reyes Construction, Inc., Agreement No. C-7-2018, Contract Change Order (CCO) Log
- D. Capital Funding Program Report

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