



**September 10, 2020**

**To:** Transit Committee

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

**Subject:** Contract Change Order for Vapor Barrier Installation for the Construction of 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 to install a vapor barrier under the foundation of the maintenance and storage facility.

### **Recommendation**

Authorize the Chief Executive Officer to negotiate and execute Contract Change Order No. 9 to Agreement No. C-7-1904 with Walsh Construction Company II, LLC, in the amount of \$395,717, for installation of a vapor barrier under the maintenance and storage facility.

### **Discussion**

On September 24, 2018, the Orange County Transportation Authority (OCTA) Board of Directors (Board) awarded a contract to construct 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. One of the parcels acquired for the maintenance and storage facility (MSF) previously housed a metal recycling and auto dismantling facility that had been operational since the 1950s. Prior to selling the parcel to OCTA, the previous property owner undertook activities under the oversight of the California Regional Water Quality Control Board (RWQCB) to remediate contamination in the soil in accordance with the terms of the settlement agreement. One of the requirements to close out the investigation of the soil contamination and obtain a Letter of No Further Action (LNFA) from the RWQCB was installation of a vapor barrier under the foundation of the MSF. The purpose of the vapor barrier is to minimize future MSF occupants' risk of exposure to potential hazardous chemicals from the soil.

Not receiving the LNFA from the RWQCG could result in ongoing regulatory challenges as well as restricted operations at the MSF.

The vapor barrier is a thick membrane that is installed under the foundation of the MSF to prevent soil vapors, including vapors associated with potentially hazardous chemicals, from entering and accumulating in the building interior. Specialized installation and testing efforts are required to ensure there are minimal tears as well as tight seals at joints and other building penetrations, including ductwork.

An independent cost estimate, which provides an order of magnitude cost for the installation of a vapor barrier at the MSF, has been prepared by the construction management team. The cost of the additional work is estimated at \$395,717, and includes materials, equipment and labor for installation, and testing of the vapor barrier. Walsh has not agreed with the proposed contract change order (CCO) amount and may pursue additional costs at a later date.

Walsh has also requested time-related overhead be paid as part of the CCO because the project schedule may be impacted. The request will 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 costs related to the change when the final impacts have been confirmed.

The cost of the work will be funded from the project contingency because the work was unknown and not 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. Staff may seek reimbursement of the costs of the vapor barrier from the former property owner if technical and legal analysis 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 \$220,538,549, for construction of the Project.

Proposed CCO No. 9, in the amount of \$395,717, will increase the cumulative value of the contract to \$235,998,461, as shown in Attachment A. Board approval is required for CCO No. 9 pursuant to the State of California Public Contracting Code Section 20142.

**Fiscal Impact**

The additional work for this Project is included in the Orange County Transportation Authority Fiscal Year 2020-2021 Budget, Capital Programs Division, Account 0051-9017-TS010-Z32, and is funded with Federal Transit Administration Section 5309 New Starts and local Measure M2 funds.

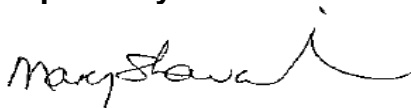
**Summary**

Staff recommends Board of Directors' authorization for the Chief Executive Officer to negotiate and execute Contract Change Order No. 9 to Agreement No. C-7-1904 with Walsh Construction Company II, LLC, in the amount of \$395,717, for vapor barrier installation at the maintenance and storage facility for the construction of the OC Streetcar project.

**Attachment**

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

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