



**January 4, 2021**

**To:** Regional Planning and Highways Committee

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

**Subject:** Supplemental Contract Change Order for the Interstate 405 Improvement Project from State Route 73 to Interstate 605 – Archaeological Treatment Plan

### **Overview**

On November 14, 2016, the Orange County Transportation Authority Board of Directors approved Agreement No. C-5-3843 with OC 405 Partners, a joint venture, for the design and construction of the Interstate 405 Improvement Project from State Route 73 to Interstate 605. A supplemental contract change order is needed to implement and maintain an archaeological treatment plan and continue archaeological monitoring.

### **Recommendation**

Authorize the Chief Executive Officer to negotiate and execute supplemental Contract Change Order No. 57.2 to Agreement No. C-5-3843 between the Orange County Transportation Authority and OC 405 Partners, a joint venture, in the amount of \$2,500,000, to implement and maintain an archaeological treatment plan and continue archaeological monitoring for the Interstate 405 Improvement Project from State Route 73 to Interstate 605.

### **Discussion**

The Orange County Transportation Authority (OCTA), in cooperation with the California Department of Transportation (Caltrans), is implementing the Interstate 405 (I-405) Improvement Project between State Route 73 (SR-73) and Interstate 605 (I-605) (Project). The Project will add one general purpose lane from Euclid Street to I-605, consistent with Measure M2 (M2) Project K, and will add an additional lane in each direction that would combine with the existing high-occupancy vehicle lane to provide dual express lanes in each direction on I-405 from SR-73 to I-605, otherwise known as the 405 Express Lanes.

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On November 14, 2016, the OCTA Board of Directors (Board) approved Agreement No. C-5-3843 with OC 405 Partners (OC405), a joint venture, for the design and construction of the Project. The contract was executed and Notice to Proceed (NTP) No. 1 was issued to OC405 on January 31, 2017. NTP No. 2, for the full design and construction of the Project, was issued to OC405 on July 27, 2017.

On September 25, 2019, an archaeological discovery was encountered within the Project site. OCTA has been following established state and federal procedures for this type of discovery and is working with the responsible parties to ensure appropriate and respectful procedures are followed. In accordance with Section 106 of the National Historic Preservation Act, an archaeological treatment plan (ATP) is required to guide cultural resource discoveries, including the identification, evaluation, and treatment of archaeological resources within the Project site.

Contract Change Order (CCO) No. 57, in the amount of \$200,000, was previously issued to OC405 to initiate archaeological monitoring, prepare and obtain approval of the ATP, and provide site security and erosion control measures to protect the discovery site. Subsequently, CCO No. 57.1, in an additional amount of \$1,300,000, was approved by the Board on April 13, 2020, and issued to OC405 to implement, maintain, and comply with the requirements of the approved ATP. Since then, costs to implement and comply with the ATP have exceeded original estimates.

OCTA worked extensively and collaboratively with Caltrans, the State Historic Preservation Office (SHPO), and the Native American Tribe (Tribe) during field implementation of the ATP. As part of this effort, OCTA performed additional geo-archaeological borings and completed archaeological data collection excavation test units at various locations to characterize the extent of the archaeological formation beyond the original discovery. This effort also required additional archaeological monitoring beyond the original estimate. The discovery occurred at an overcrossing currently under construction in two stages. A preliminary field work summary report for the first stage of bridge construction that is nearing completion and a work plan for the upcoming second stage of bridge construction were prepared for the purpose of communicating progress and planned work to Caltrans, SHPO, and the Tribe. This additional effort was also not anticipated in the original estimate.

The results of the additional archaeological work provided a better understanding of the extent of the formation for other potential discoveries and allowed the construction crews to be better prepared for any potential

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archaeological discoveries in the work areas. This also allowed construction to proceed efficiently by mitigating the risk for work starting, then stopping, due to another unanticipated archaeological discovery. In addition, these efforts provided assurance to Caltrans, SHPO, and the Tribe that OCTA is meeting the requirements of the ATP and all other regulatory requirements.

OCTA staff developed an independent cost estimate for the anticipated additional archaeological work to support the second stage of bridge construction based on previous levels of effort. Staff is requesting Board approval of supplemental CCO No. 57.2, in the amount of \$2,500,000, to continue implementation of the ATP, which includes activities such as preparation of the final field work and data recovery report and associated laboratory work, monitoring, site security, excavation equipment support, erosion control, site maintenance, and final reburial of discovered remains. This brings the total amount for CCO No. 57 to \$4,000,000.

***Procurement Approach***

The procurement was handled in accordance with the best-value selection process authorized by AB 401 (Chapter 586, Statutes of 2013) for design-build projects, and with Board-approved procedures for public works projects, which conform to both federal and state requirements. On November 14, 2016, the Board approved Agreement No. C-5-3843 with OC405 for the design and construction of the Project through a design-build contract.

Proposed supplemental CCO No. 57.2, in the amount of \$2,500,000, in addition to the previous CCO No. 57, in the amount of \$200,000, approved by OCTA's Contracts Administration and Materials Management Department, and CCO No. 57.1, in the amount of \$1,300,000, approved by the Board on April 13, 2020, will provide staff the ability to timely direct the implementation, maintenance, and compliance of the ATP, as well as continue archaeological monitoring. CCO No. 57.2 brings the total authorized amount of CCO No. 57 to \$4,000,000.

Attachment A lists the CCOs that have been executed to date, and the CCOs that are pending execution with OC405.

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**Fiscal Impact**

Funding for this work was approved in OCTA's Fiscal Year 2020-21 Budget, Capital Programs Division, accounts 0017-9084-FK101-OGM and 0037-9017-A9510-OGM, and is funded with a combination of federal, state, and local funds. M2 funds will be used for improvements specific to M2 Project K, and non-M2 funds will be used for improvements specific to the 405 Express Lanes. The cost for the development, implementation, and maintenance of the ATP and archaeological monitoring described in CCO No. 57.2 is funded from the Project contingency and is not anticipated to increase the total Project estimate of \$2,080,234,000.

**Summary**

Staff recommends Board authorization for the Chief Executive Officer to negotiate and execute CCO No. 57.2 to Agreement No. C-5-3843 with OC405, in the amount of \$2,500,000, to implement and maintain an ATP and continue archaeological monitoring for the Project.

**Attachment**

- A. OC405 Partners, Agreement No. C-5-3843, Contract Change Order Log

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