



**January 14, 2021**

**To:** Transit Committee

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

**Subject:** Contract Change Orders 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. Contract change orders are required for acquisition of updated communication equipment, removal of thicker asphalt concrete pavement due to differing site conditions in City of Santa Ana streets, and continued hand digging of pole foundations.

### **Recommendations**

- A. Authorize the Chief Executive Officer to negotiate and execute Contract Change Order No. 43 to Agreement No. C-7-1904 with Walsh Construction Company II, LLC, in the amount of \$372,136, for the acquisition of updated communications equipment.
- B. Authorize the Chief Executive Officer to negotiate and execute Contract Change Order No. 48 to Agreement No. C-7-1904 with Walsh Construction Company II, LLC, in the amount of \$1,177,362, for removal of thicker asphalt concrete pavement from City of Santa Ana streets.
- C. Authorize the Chief Executive Officer to negotiate and execute Contract Change Order No. 16.2 to Agreement No. C-7-1904 with Walsh Construction Company II, LLC, in the amount of \$1,400,000, for additional hand digging of overhead contact system, traffic signal, and streetlight pole foundations.

***Discussion***

On September 24, 2018, the Orange County Transportation Authority (OCTA) Board of Directors (Board) awarded a contract to Walsh Construction Company II, LLC, (Walsh) to construct the OC Streetcar project (Project). The Notice to Proceed with construction was issued to Walsh on March 4, 2019.

**Replacement of Communications Equipment**

Since the construction bid was advertised in December 2017, several equipment components associated with the communications system have been phased out by manufacturers and replaced with newer models. The electronic and microprocessor-based components continue to evolve with newer models which have improved capabilities, including enhanced reliability and security provisions. The older models are either no longer available or are not supported by the manufacturers through technical support, updates for hardware and software, or warranties.

The specific equipment included in the contract that has been replaced by newer models include:

- Passenger information system server
- Public address system audio controller, audio amplifier, and ambient noise sensor
- Variable message signs
- Video cameras
- Digital video recorder
- Communications wireless network regulator

The additional cost of the newer equipment has been determined by the construction management (CM) team to be \$372,136. This cost is the difference between the contract values and the newer models. Walsh does not agree with the contract change order (CCO) amount and may pursue additional costs at a later time; however, it is prudent to proceed with this CCO to lock in current equipment pricing.

**Thicker Asphalt Concrete Pavement**

Since the start of the utilities work within the City of Santa Ana (City) streets, the contractor has encountered thicker asphalt concrete (AC) pavement sections than indicated in the contract drawings. The pavement thicknesses that have been encountered are upward of 24 inches compared to the pavement thickness

of ten to 13 inches shown on the contract drawings, which were based upon the City street as-built plans. As-built plans do not always reflect the actual site conditions for depth of AC or other pavements.

There is approximately 8,900 cubic yards of AC pavement that needs to be removed from the City streets in addition to what was originally estimated in the contract. The work associated with removal of the thicker pavement involves additional costs for pavement saw cutting and excavation, as well as transportation and disposal.

The cost of the work has been determined by the CM team to be \$1,177,362. Walsh does not agree with the CCO amount and may pursue additional costs at a later time; however, it is prudent to proceed with this CCO to allow the Project to advance without further delay.

#### **Hand Digging of Overhead Contact System, Traffic Signal, and Streetlight Pole Foundations**

For nearly a year, the contractor has been installing pole foundations that will support the overhead contact system (OCS), traffic signal, and streetlight poles.

The contract with Walsh requires OCS pole foundations that were identified as being within the vicinity of known utilities to be hand dug to prevent damage to utility lines, with the remaining foundations installed by drilling. As Walsh proceeded with drilling foundation holes not in the vicinity of the known utilities, an extensive number of undocumented underground utilities were encountered, including small conduits for irrigation, streetlights, traffic signals, and residential service laterals. These are primarily residential connections into the City's water and gas lines that are not mapped by the City and are not identified by Dig Alert, the legally required utility identification for the Project.

It was determined that hand digging all pole foundations was the best approach for minimizing risks associated with damaging an undocumented utility. To keep work on the pole foundations proceeding, initial CCO No. 16, in the amount of amount of \$198,808, was issued to Walsh for hand digging of pole foundations at approximately 53 locations. Supplemental CCO No. 16.1, in the amount of \$1,400,000, was subsequently approved by the Board on June 22, 2020, and issued to Walsh for continued work associated with hand digging of OCS, traffic signal, and streetlight pole foundations. The cost of the supplemental CCO was based on an assumption on the number of pole foundations that would require hand digging given the excavations experienced to date.

Hand digging of utilities in the Pacific Electric Right-of-Way (PEROW) was not assumed in CCO No. 16.1, as utility conflicts in that segment of the Project were not anticipated. However, when pole foundations were being installed in the PEROW, numerous unknown utilities were encountered. To minimize risks associated with damaging the utility lines, hand digging of the pole foundations in the PEROW was undertaken. Additionally, most of the pole foundations installed in City streets required several iterations of surveying, layout, and potholing to identify a location for the foundation that was clear of utilities. The level of effort associated with the hand digging of pole foundations in the PEROW, as well as in the City streets, was significantly more than anticipated. As a result, the funds in CCO No. 16.1 have nearly been depleted and additional funding is required to enable hand digging to be performed on the remaining pole foundations that need to be installed.

An independent cost estimate, which provides an order of magnitude cost for the continued work to hand dig pole foundations, has been prepared by the CM team. The cost of the additional work is estimated at \$1,400,000, and includes an assumption that a percentage of the pole foundations will require several iterations of surveying, layout, and potholing to avoid utility conflicts.

The cost of the work associated with the three CCOs will be funded from the Project contingency because the work was not included in the Project cost estimate. It will not increase the Project cost of \$407,700,000, as defined in the Full Funding Grant Agreement.

### ***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 \$220,538,649, for construction of the Project.

Proposed CCO No. 43 in the amount of \$372,136, CCO No. 48 in the amount of \$1,177,362, and CCO No. 16.2 in the amount of \$1,400,000, will increase the cumulative value of the contract by \$ 2,949,498, to \$241,174,189, as shown in Attachment A. Board approval is required for CCO nos. 43, 48, and 16.2, pursuant to the State of California Public Contracting Code Section 20142.

**Fiscal Impact**

The additional work for this Project is included in OCTA's Fiscal Year 2020-21 Budget, Capital Programs Division, Account 0051-9017-TS010-Z55, and is funded with Federal Transit Administration Section 5309 New Starts and local Measure M2 funds.

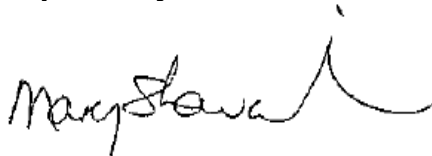
***Summary***

Staff recommends Board authorization for the Chief Executive Officer to negotiate and execute CCO No. 43, in the amount of \$372,136, for the acquisition of updated communications equipment; CCO No. 48, in the amount of \$1,177,362, for removal of thicker asphalt concrete pavement from City streets; and CCO No. 16.2, in the amount of \$1,400,000, for additional hand digging of overhead contact system, traffic signal, and streetlight pole foundations, to Agreement No. C-7-1904 with Walsh.

***Attachment***

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

**Prepared by:**

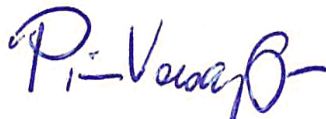


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