



May 13, 2021

To: Transit Committee

From: Darrell E. Johnson, Chief Executive Officer

Subject: Contract Change Orders for Over-Excavation of Unsuitable Soils and Utility Conflicts for the Construction of the OC Streetcar Project

Overview

On September 24, 2018, the Orange County Transportation Authority Board of Directors approved Agreement No. C-7-1904 with Walsh Construction Company II, LLC, for construction of the OC Streetcar project. Contract change orders are required for work to address over-excavation of unsuitable soils and utility conflicts.

Recommendations

- A. Authorize the Chief Executive Officer to negotiate and execute Contract Change Order No. 52.1 to Agreement No. C-7-1904 with Walsh Construction Company II, LLC, in the amount of \$540,000, for over-excavation of unsuitable soils for the construction of the OC Streetcar project.
- B. Authorize the Chief Executive Officer to negotiate and execute Contract Change Order No. 4.3 to Agreement No. C-7-1904 with Walsh Construction Company II, LLC, in the amount of \$2,000,000, for work to address utility conflicts for the construction of the OC Streetcar project.

Discussion

On September 24, 2018, the Orange County Transportation Authority (OCTA) Board of Directors (Board) awarded the 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. Since then, the Project has progressed with several construction activities continuing to advance. A summary of recent construction milestones includes the substantial completion of the Santa Ana River and Westminster bridges, and installation of embedded track on westbound Santa Ana Boulevard from Bristol Street to

Raitt Street. Construction and installation was also completed for the maintenance and storage facility (MSF) building floor slabs, the first platform station at Fairview Street, and most of the overhead contact system (OCS) poles.

Over-Excavation of Unsuitable Soils

During the excavation for the embedded track and upon exploratory investigations, much of the embedded track alignment was deemed to have unsuitable subgrade soils. Unsuitable soil occurs when there is too much clay and it is not able to support expected traffic loads. The significant amount of this condition was unanticipated because the unsuitable soils are located several feet below the existing pavement surface and were not identified in several subsurface bores during the design phase. Removal of unsuitable soil includes over excavation, loading, disposal, and backfill with imported material, along with associated dust, erosion, and sediment control.

The original bid item allowance of \$200,000, has already been exhausted on approved time and expense (T&E) work and paid through the pay application process.

To advance the Project without further delay, it was prudent to proceed with interim Contract Change Order (CCO) No. 52, in the amount of \$210,000, to continue removal of unsuitable soils for current operations. For the remainder of the work, an independent cost estimate has been determined by the construction management (CM) team to be \$540,000. Proposed supplemental CCO No. 52.1 will augment CCO No. 52 by \$540,000, for the remaining work to address over-excavation of unsuitable soils and requires Board approval. This CCO will be paid on a T&E basis to the contractor after labor and equipment quantities are confirmed through daily extra work reports prepared by Walsh and approved by the CM team.

Utility Conflicts

During the waterline, sewer, and storm drain improvements work, Walsh encountered many unknown utilities that were neither shown on the contract plans or on City of Santa Ana and private utility record maps. Additionally, Walsh continues to encounter underground utilities that are not in the locations reflected on utility records and contract plans. When unidentified utilities are encountered, or when utilities are at a different location, Walsh notifies the CM team and requests direction to resolve the conflict. Additional potholing is necessary to confirm the utility type and location prior to determining if the utility requires relocation or removal, or if the design requires modifications.

On April 15, 2019, CCO No. 4 was issued to Walsh, in the amount of \$200,000, for work to address unknown utilities. As the work began on Fourth Street between Bush Street and Mortimer Street for an approximate distance of three city blocks, unknown and mislocated utilities were encountered. This required additional effort by Walsh to address the utility conflicts through T&E work.

On November 25, 2019, Supplemental CCO No. 4.1 was approved by the Board, in the amount of \$833,000, and issued to Walsh to address additional utility conflicts so that waterline, sewer, and storm drain work could continue without further delay. As the work on Fourth Street continued for an approximate distance of half a mile, utility conflicts encountered by Walsh were more complex than anticipated, requiring extensive redesign work and additional construction effort to eliminate the conflicts.

Supplemental CCO No. 4.2, in the amount of \$2,426,000, was approved by the Board on April 13, 2020, and issued to Walsh for continued work to address utility conflicts. As Walsh progressed waterline, sewer, and storm drain work on Santa Ana Boulevard for an approximate distance of 1.2 miles and continued work on Fourth Street, utility conflicts encountered were more complex than anticipated, requiring significant redesign work and additional construction effort to eliminate the conflicts.

Upon completion of sewer, waterline, and storm drain work, Walsh submitted all T&E documentations. Since the effort to address numerous utility conflicts was extensive and involved Walsh and its subcontractors, it was difficult to track and document T&E work timely. After all documentations were reviewed and validated by the CM team, it was determined that Walsh's expenditure may exceed the total CCO amount by up to \$2,000,000. Proposed supplemental CCO No. 4.3, which will augment CCO Nos. 4, 4.1, 4.2 by \$2,000,000, to address unknown utility conflicts, requires Board approval. This CCO will be paid on a T&E basis to the contractor after labor and equipment quantities are confirmed through daily extra work reports prepared by Walsh and approved by the CM team.

Walsh has also requested a time extension to be determined at a later date since the Project schedule may be impacted by CCO No. 4.3. It was agreed that the request would be deferred until the required time impact evaluation is provided and reviewed by OCTA to determine if the Project critical path schedule was impacted. Staff will return to the Board for approval of any required supplemental costs related to the change when the final impacts have been agreed to by both OCTA and Walsh.

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The cost of the work associated with CCO Nos. 52.1 and 4.3 will be funded from the Project supplemental contingency as approved by the Board on March 22, 2021.

The CM team is currently completing deductive CCO No. 60, in the amount of \$1,842,680, related to work not required as a result of waterline and storm drain redesign to avoid utility conflicts. This amount will be placed in the Project supplemental contingency.

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. 52.1, in the amount of \$540,000, and CCO No. 4.3, in the amount of \$2,000,000, will increase the cumulative value of the contract by \$2,540,000, to \$243,075,825, as shown in Attachment A.

Board approval is required for CCO Nos. 52.1 and 4.3, 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, accounts 0051-9017-TS010-Z42 and 0051-9017-TS010-Z43 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. 52.1, in the amount of \$540,000, for over-excavation of unsuitable soils, and CCO No. 4.3, in the amount of \$2,000,000, for utility conflicts for the Project 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

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