



December 14, 2023

To: Transit Committee

From: Darrell E. Johnson, Chief Executive Officer

A handwritten signature in blue ink, appearing to read "Darrell Johnson", is written over the "From:" line of the memo.

Subject: Contract Change Orders for 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 work to address pavement modifications and restoration along embedded tracks and grade crossings, Fourth Street extended work hours additional funding, buried overhead contact system pole grounding, schedule impacts associated with time impact evaluation 12, shore power at the maintenance and storage facility, and intumescent fireproof coating on structural steel at the maintenance and storage facility.

Recommendations

- A. Authorize the Chief Executive Officer to negotiate and execute Contract Change Order No. 77.3 to Agreement No. C-7-1904 with Walsh Construction Company II, LLC, in the amount of \$1,300,000, for pavement modifications and restoration along embedded tracks and grade crossings.
- B. Authorize the Chief Executive Officer to negotiate and execute Contract Change Order No. 150.2 to Agreement No. C-7-1904 with Walsh Construction Company II, LLC, in the amount of \$250,000, for Fourth Street extended work hours additional funding.
- C. Authorize the Chief Executive Officer to negotiate and execute Contract Change Order No. 173.1 to Agreement No. C-7-1904 with Walsh Construction Company II, LLC, in the amount of \$123,643, for buried overhead contact system pole grounding.

- D. Authorize the Chief Executive Officer to negotiate and execute Contract Change Order No. 195.3 to Agreement No. C-7-1904 with Walsh Construction Company II, LLC, in the amount of \$535,000, for schedule impacts associated with time impact evaluation 12.
- E. Authorize the Chief Executive Officer to negotiate and execute Contract Change Order No. 196 to Agreement No. C-7-1904 with Walsh Construction Company II, LLC, in the amount of \$600,000, for shore power at the maintenance and storage facility.
- F. Authorize the Chief Executive Officer to negotiate and execute Contract Change Order No. 201.1 to Agreement No. C-7-1904 with Walsh Construction Company II, LLC, in the amount of \$123,039, for intumescent fireproof coating on structural steel at the maintenance and storage facility.

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 in all segments, as shown in Attachment A.

Construction is approximately 80 percent complete. Construction milestones include the substantial completion of the Santa Ana River and Westminster Avenue bridges with the placement of concrete plinths and rails. Fairview Street and Fifth Street at-grade crossings are completed with train warning and gate systems installed but not activated. In the Pacific Electric Right-of-Way portion of the alignment, fence installation is ongoing. At the maintenance and storage facility, key activities near completion include installation of exterior walls, conduit and piping, roofing material, girder painting, heating, ventilation, air conditioning, and yard tracks.

A project milestone was achieved in October 2023 when the last of the overhead contact system (OCS) poles were installed. Another project milestone was achieved in September 2023 when the remaining embedded tracks were installed at the Santa Ana Boulevard and Santiago Street intersection. This represents 100 percent of embedded tracks installed in Segments 2, 3, 4, and 5.

Other ongoing construction activities include placement of new traffic signal poles at various street intersections, installation of OCS hardware, service connections for the four traction power substations, sidewalk restoration, and station platform improvements.

For the benefit of the Project and to mitigate potential damages from delays, staff is requesting Board authorization of the following contract change orders (CCO).

Pavement Modifications and Restoration Along Embedded Tracks and Grade Crossings

Grade differentials were encountered between the existing street pavement and the embedded tracks along Santa Ana Boulevard, including at street intersections and grade crossings at Fairview Street and Fifth Street. This required substantial pavement grinding adjacent to the embedded tracks and grade crossings, and repaving to provide a smooth transition and accommodate surface drainage. To advance the Project without further delay, CCO No. 77, in the amount of \$208,000, was issued. Supplemental CCOs No. 77.1 and 77.2, in the amounts of \$400,000 and \$480,000, respectively, were previously approved by the Board and issued to Walsh to continue implementing pavement modifications along embedded tracks and grade crossings. The effort to transition into the existing pavement has been more challenging than anticipated due to the pavement elevation differential. This differential was caused by pavement settlement over time and asphalt overlay by the City of Santa Ana maintenance. The current authorized amount is anticipated to be expended by the end of the year. For efforts in Segments 3 and 5, the remaining work includes reconstruction of the full roadway pavement section since grinding would not work due to the large elevation differential. At several locations in Segments 2, 3, 4, and 5, the existing pavement surface deteriorated due to traffic detours and placement of construction equipment. These locations require restoration with pavement grinding in asphalt overlay. To complete the remaining roadway pavement work, supplemental CCO No. 77.3, in the amount of \$1,300,000, is required.

Fourth Street Extended Work Hours Additional Funding

On February 1, 2022, construction for embedded track began on Fourth Street and immediately after the start of construction, businesses along Fourth Street expressed concerns related to detour signage, safety, pedestrian accessibility, and construction dust and debris. The concerns were shared by various businesses at OCTA Board and Santa Ana City Council meetings. To minimize disruption to local businesses, staff directed Walsh to extend work hours and work on weekends to construct and reopen Fourth Street earlier than planned.

CCO No. 150 and supplemental CCO No. 150.1, in the amounts of \$500,000 and \$800,000 respectively, were previously approved by the Board and issued to Walsh to expedite the work on Fourth Street. The effort was successful and the seven blocks of roadway work was completed and fully opened to the public on November 18, 2022, and before Thanksgiving. Due to late billings by Walsh and their subcontractors, an accounting of the total cost was performed, and it was determined the cost of the extended work hours on Fourth Street exceeded the current change order amount. Supplemental CCO No. 150.2, in the amount of \$250,000, is needed to resolve the cost for the Fourth Street work.

Buried OCS Pole Grounding

Due to the many elements within the Project that generate electrical currents, additional grounding is needed to ensure public safety. Copper electrical grounding wires are used to carry excess electrical energy away from an electrical circuit and into the ground to safely discharge. The Project has encountered theft of copper wires at several OCS poles where the copper wire exits the pole base and enters the ground. To prevent the ongoing theft, it was determined that a metal plate will be welded at 100 pole bases to conceal the copper grounding wires. CCO No. 173, in the amount of \$209,500, was initiated to immediately implement this deterrent. Supplemental CCO No. 173.1, in the amount of \$123,643, is required to complete the work.

Schedule Impacts Associated with Time Impact Evaluation (TIE) 12

On September 16, 2020, Native American remains were unearthed during project construction at the maintenance and storage facility (MSF). CCO No. 195 was executed to extend the contract completion by 54 days due to delays related to the Native American remains at the MSF. On April 24, 2023, the Board approved a not-to-exceed CCO of \$2 million to be used for the Native American burial memorial and for various bid items that are associated with the delays in TIE 12, including progress schedule, time-related overhead, administration, storage, quality control program, storm water pollution prevention plan implementation and maintenance, automated time lapse camera, and traffic control system. Following negotiations with Walsh, supplemental CCO nos. 195.1 and 195.2, in the amounts of \$1,249,403.38 and \$245,501, respectively, were issued to Walsh for the bid item costs and burial memorial work. The remaining balance from the \$2 million is \$505,095.62. Recently, staff completed another evaluation of TIE 12 and determined that there is an additional 47 days due to delays related to the Native American remains. CCO No. 195.3 is needed to extend the contract completion by 47 days with merited compensation related to various bid items. Utilizing the remaining balance of \$505,095.62, CCO No. 195.3 is in the amount of \$535,000.

Shore Power at the MSF

Shore power is an alternative way of providing power for the essential functions during vehicle maintenance without the need to power the OCS. When maintenance crews are inspecting the top of the vehicle or performing other electronic testing/inspections, the electrification to the OCS wires are required to be deactivated for safety. Therefore, shore power is required to provide an alternative energy source for the vehicle. During construction, it was determined that the MSF did not incorporate shore power for the streetcar vehicles. The plug-in shore power requires a long lead time for the various equipment, and CCO No. 196, in the amount of \$600,000, is required to procure the needed equipment and avoid further delays to the construction.

Intumescent Fireproof Coating on Structural Steel at the MSF

For fire protection, intumescent fireproof coating is a material used to help retain the structural integrity of steel members by maintaining an effective thermal barrier . At the MSF, the Project contract documents require that structural steel members within critical electrical rooms have fireproof coating. Prior to the placement of the coating, it was determined that structural steel members extend beyond the electrical rooms. Therefore, the required area of coating increased. CCO No. 201, in the amount of \$450,000, was approved by the Board and issued to Walsh to provide additional intumescent fireproof coating. Within the MSF main building, numerous utility hangers are connected to steel members to support utility and communication lines, and heating and air condition ducts. Placing and inspecting the fireproof coating at the connections for the utility hangers required more effort than anticipated. To advance the Project without further delay, supplemental CCO No. 201.1, in the amount of \$123,039, is required.

The CCOs will be paid as a combination of a lump sum and time-and-expense basis to the contractor after labor and equipment quantities are confirmed through daily extra work reports prepared by Walsh and approved by the construction management team. The cost of the work associated with these CCOs will be funded from the project budget as previously approved by the Board on April 24, 2023.

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 nos. 77.3, 150.2, 173.1, 195.3, 196, and 201.1, in the cumulative amount of \$2,931,682, will increase the cumulative value of the contract to \$293,786,253, as shown in Attachment B. Board approval is required for CCO nos. 77.3, 150.2, 173.1, 195.3, 196, and 201.1 pursuant to the State of California Public Contracting Code Section 20142. These CCOs will be issued with a reservation of rights to advance the Project pending resolution of disputes between OCTA and Walsh. The statements in this report are made in the context of, and subject to, OCTA's reservation of rights.

Fiscal Impact

The additional work for this Project is included in OCTA's Fiscal Year 2023-24 Budget, Capital Programs Division, account nos. 0051-TS010-9017-Z32, 0051-TS010-9017-Z47, 0051-TS010-9017-Z48, and 0051-TS010-9017-Z54, and is funded with Federal Transit Administration Section 5309 New Starts grant funds and local Measure M2 funds.

Summary

Staff recommends the Board of Directors authorize the Chief Executive Officer to negotiate and execute CCO No. 77.3, in the amount of \$1,300,000, for pavement modifications and restoration along embedded tracks and grade crossings, CCO No. 150.2, in the amount of \$250,000, for Fourth Street work additional funding, CCO No. 173.1, in the amount of \$123,643, for buried OCS pole grounding, CCO No. 195.3, in the amount of \$535,000, for schedule impacts associated with TIE 12, CCO No. 196, in the amount of \$600,000, for shore power at the MSF, and CCO No. 201.1, in the amount of \$123,039, for intumescent fireproof coating on structural steel at the MSF to Agreement No. C-7-1904 between the Orange County Transportation Authority and Walsh Construction Company II, LLC for the construction of the Project.

Attachments

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

Prepared by:



Ross Lew, P.E.
Sr. Program Manager
(714) 560-5775

Approved by:



James G. Beil, P.E.
Executive Director, Capital Programs
(714) 560-5646



Pia Veesapen
Director, Contracts Administration and
Materials Management
(714) 560-5619