



Board Report

File #: 2022-0145, File Type: Informational Report

Agenda Number: 38.

CONSTRUCTION COMMITTEE APRIL 21, 2022

SUBJECT: OFFICE OF THE INSPECTOR GENERAL CHANGE ORDER CONSTRUCTION SPOT CHECKS

ACTION: RECEIVE AND FILE

RECOMMENDATION

RECEIVE AND FILE Office of the Inspector General Change Order Construction Spot Check Report for the period December 1, 2021, to February 28, 2022.

ISSUE

On January 25, 2018, the Metro Board directed the Office of the Inspector General (“OIG”) to conduct random spot checks on change orders for the projects listed in the quarterly program management report to ensure that the CEO Delegation of Authority to approve Construction Change Orders Policy is performing in the manner desired by the Board of Directors.

BACKGROUND

The OIG’s Construction Change Order Spot Check Program (“Spot Checks”) focuses on approved change orders and modifications that exceed \$1,000,000. The four change orders in this report were selected from the Program Management Major Project Status Report (Legistar file # 2022-0159) covering December 1, 2021, to February 28, 2022. The information for the Spot Checks was collected from the Program Management Information System (PMIS) which is the department’s database system. Also, TEAM meetings and telephonic interviews were conducted with Metro Program Management, Project Control, and Procurement staff from each involved project office.

We found that all four change orders in this report were:

- Negotiated and executed more expeditiously than would have occurred according to the former Board approval process,
- Approved faster with the new delegation of authority, and
- Negotiated at a lower cost than the contractors’ proposed price.

Each Spot Check summarizes the following areas:

- Description of the change order,
- Change order detail,
- Scope of Work,
- Budget,
- Schedule: Time to execute the change order,

- Safety, and
- Recommendations, if any.

Metro's Program Control department has provided informal responses to this report before its issuance and will provide written responses to the recommendations in this OIG Spot Checks Report within 30 days after this Report is issued. Included with this Report is a spreadsheet on the status of responses concerning former OIG Spot Check Report recommendations.

DISCUSSION

Spot Checks Performed in this Quarter

Spot Check #1 - Crenshaw/LAX Transit Project

This OIG Spot Check report concerns the Crenshaw/LAX Transit Corridor Project (Contract C0988 MOD-00551), Landscape Changes, Park Mesa.

Change Order Detail

See Attachment A Spot Check #1 chart.

Summary #1

Scope of Work - This change order involves added work for the curb and gutter in the median along Crenshaw Blvd from 60th street to Vernon Avenue in the Park Mesa area. Additionally, the medians will be landscaped with shrub and ground cover and irrigation will be added for watering purposes from 60th street to 48th street. The work in the median is out of the original scope of work because of new requirements set by the City of Los Angeles requires Metro to create a landscape median adjacent to the trackway.

Budget - These modifications were negotiated, and the award amount is \$3,636,214. The Contractor's proposal was \$5,711,786 and the ICE was \$3,674,989. The award amount was \$2,075,572 (36%) under the contractor's proposal. The negotiated amount was \$-38,775 (-1.1%) under the ICE. Staff stated that funds for this change are within the approved Life-of-Project budget.

Schedule - The new delegation process was utilized for this modification. The Contractor and Metro agreed on the scope of work on February 2, 2022. The modification including the price, was awarded on March 4, 2022, and was completed in 23 workdays. Under the prior Board approval method for change orders, assuming a May Board meeting date, it would have taken a total of 37 workdays to complete the work.

Safety - The Crenshaw Project has 11,340,642.50 project hours through January 2022 with a Recordable Injury Rate of 1.8 (per the Bureau of Labor Statistics the National Average is 2.4) and a Days Away Rate (DART) of 0.14 (per the Bureau of Labor Statistics National Average is 1.5).

Recommendation - none

Spot Check #2 - Regional Connector - Transit Corridor Project

This OIG Spot Check report concerns the Regional Connector - Transit Corridor Project (Contract C0980 MOD-00230): Alameda Emergency Stair Exit (ES2)

Change Order Detail

See Attachment A Spot Check #2 chart.

Summary #2

Scope of Work - This Change Order is to install an additional Emergency Exit Stairway (ES2) on Alameda Street to access the underground rail and guideway between 1st Street and Temple Street. With the addition of the Alameda fan plant, Metro Engineering and Metro Safety determined it was necessary to add a second egress for emergency situations for compliance with the Metro Rail Design Criteria and applicable building fire codes. The distance between the emergency stairs at the new fan plant and the subsequent station was too far a distance which necessitated another emergency exit stairwell.

Budget - These modifications were negotiated, and the award amount is \$2,199,000. The Contractor's proposal was \$2,818,207 and the ICE was \$2,147,299. The award amount was \$619,207 (22%) under the contractor's proposal. The negotiated amount was \$51,701 (2.4%) over the ICE. Staff stated that funds for this change are within the approved Life-of-Project budget.

Schedule - The new delegation process was utilized for this modification. The Contractor and Metro agreed on the scope of work on December 23, 2021. The modification including the price, was awarded on February 17, 2022, and was completed in 37 workdays. Under the prior Board approval method for change orders, assuming a March Board meeting date, it would have taken a total of 61 workdays to complete the work.

Safety - Regional Connector Project has 6,970,583 project hours through January 2022 with a Recordable Injury Rate of 0.72 (per the Bureau of Labor Statistics the National Average is 2.4) and a Days Away Rate (DART) of 0.0 (per the Bureau of Labor Statistics National Average is 1.5).

Recommendation - The OIG recommends in-house plan review be as fully completed as possible before Metro groups sign off on the design plans.

Spot Check #3 - Purple Line Extension Section 1 Transit Project

This OIG Spot Check report concerns the Purple Line Extension Section 1 Transit Project (Contract C1045 MOD-00144), Construction La Cienega Station During Mining.

Change Order Detail

See Attachment A Spot Check #3 chart.

Summary #3

Scope of Work - This change order covered the re-sequencing of the construction processes of the La Cienega station. The construction of the station would have been on hold until the tunnel boring machines (TBMs) finished mining the tunnels into the station as planned in the contract. At the time an unknown metal structure (anomaly) was detected below the surface at the intersection of Wilshire and San Vicente. The contractor chose to fortify the underground pipes and surrounding soil by potholing and chemically grouting to strengthen the area for the TBMs to proceed. Both TBMs were idle for some months awaiting a decision about the anomaly. By delaying the TBMs the project was estimated to be behind schedule more than a full year. With re-sequencing the construction, a

temporary floor 22 feet higher than the original invert elevation was erected so the stations upper walls, upper concourse, and ceiling was allowed to advance to completion. The TBMs, after clearing the anomaly, successfully made it into the La Cienega station under the 22-foot-high upper floors to complete their journey.

Budget - These modifications were negotiated, and the award amount is \$15,879,565. The Contractor's proposal was \$22,704,930 and the ICE was \$14,059,279. The award amount was \$6,825,365 (30%) under the contractor's proposal. The negotiated amount was \$1,820,286 (13%) over the ICE. Staff stated that funds for this change are within the approved Life-of-Project budget.

Schedule - The new delegation process was utilized for this modification. The Contractor and Metro agreed on the scope of work on October 15, 2021. The modification including the price, was awarded on December 22, 2021, and was completed in 47 workdays. Under the prior Board approval method for change orders, assuming a January Board meeting date, it would have taken a total of 70 workdays to complete the work.

Safety - Purple Line Ext. 1 Project has 6,740,817.47 project hours through January 2022 with a Recordable Injury Rate of 1.18 (the Bureau of Labor Statistics reports the National Average is 2.4) and DART of 0.089 (the Bureau of Labor Statistics reports the National Average is 1.5).

Recommendation - none.

Spot Check #4 - Purple Line Extension Section 1 Transit Project

This OIG Spot Check report concerns the Purple Line Extension Section 1 Transit Project (Contract C1045 MOD-00147), Vapor Extraction Street Restoration.

Change Order Detail

See Attachment A Spot Check #4 chart.

Summary #4

Scope of Work - This change order is to perform street rehabilitation with asphalt replacement, median restoration, and restriping of the travel lanes along Wilshire Blvd and Crescent Heights area. Vapor extraction was to remove the methane and hydrogen sulfide gasses prior to the TBMs tunneling through the high gas level zone for safety. The installation of numerous vapor extraction wells were drilled into Wilshire Boulevard for safer release of the gasses. Now that the TBMs have completed their journey, the capped wells will remain in place, the well holes will be covered, and the street will be restored to city standards.

Budget - These modifications were negotiated, and the award amount is \$1,087,452. The Contractor's proposal was \$1,253,078 and the ICE was \$823,462. The award amount was \$165,626 (13%) under the contractor's proposal. The negotiated amount was \$263,990 (32%) over the ICE. Staff stated that funds for this change are within the approved Life-of-Project budget.

Schedule - The new delegation process was utilized for this modification. The Contractor and Metro agreed on the scope of work on December 7, 2021. The modification including the price, was awarded on February 1, 2022, and was completed in 38 workdays. Under the prior Board approval method for change orders, assuming a May Board meeting date, it would have taken a total of 75

workdays to complete the work.

Safety - Purple Line Ext. 1 Project has 6,740,817.47 project hours through January 2022 with a Recordable Injury Rate of 1.18 (the Bureau of Labor Statistics reports the National Average is 2.4) and DART of 0.089 (the Bureau of Labor Statistics reports the National Average is 1.5).

Recommendation - none.

FINANCIAL IMPACT

This report will have no financial impact on the agency.

Impact to Budget

- For all of the construction change orders reviewed, Metro states the funds are within the approved budget and will utilize the contingency funds to cover the costs from the LOP budget.
- Spot Check #1) \$3,636,214 Crenshaw/LAX Transit Corridor Project
- Spot Check #2) \$2,199,000 Regional Connector Transit Corridor Project
- Spot Check #3) \$15,879,565 Purple Line Extension Section 1 Project
- Spot Check #4) \$1,087,452 Purple Line Extension Section 1 Project

EQUITY PLATFORM

In the opinion of the OIG, we considered whether these change orders presented any equity related issues on their face. Three of the locations: Alameda and 1st Street, Crenshaw Blvd. and Wilshire Blvd., are within or adjacent to Equity Focus Communities (EFC's). Regional Connector and Purple Line Ext. 1 construction projects is required to install tall (over 20-ft high) sound walls around the construction worksites to protect residential communities and office suites from the nuisance of construction noise. The exterior public side of the temporary construction site walls also serves as community advertisement space for local businesses and keeps the public safe as a barrier from the construction activities.

The OIG did not receive any data concerning other community impacts. Each of the contractors are striving to have work performed by Disadvantage Business Enterprises (DBE) typically at 12-15% implementation, for these change orders at these EFC sites. The OIG observed no obvious disparate impacts created by these change orders on small businesses, low-income persons, or by the performance of the work in a manner that impacted a disadvantaged community beyond what is typical and usual when conducting any construction.

IMPLEMENTATION OF STRATEGIC PLAN GOALS

The Office of Inspector General reviews large change orders over the quarter and makes recommendations as appropriate to support Metro's Strategic Plan Goal #5: Provide responsive, accountable, and trustworthy governance within the Metro organization and CEO goals to exercise fiscal discipline to ensure financial stability. The OIG mission includes reviewing expenditures for fraud, waste, and abuse in Metro programs, operations, and resources. For each selected change order reviewed, the OIG evaluates whether there are red flags of fraud, waste, or abuse taking place.

We report the details of the significant change orders and make recommendations consistent with the OIG's Construction Best Practices report dated February 29, 2016, more particularly focusing on lessons learned, improving efficiencies, and prudent spending.

NEXT STEPS

The OIG shall provide every quarter, an ongoing spreadsheet of recommendations to Program Control. Program Control and Program Management agrees to respond to the recommendations of the OIG within 30 days. The OIG continues to meet periodically to discuss reports, recommendations, and the status of implementation of the recommendations with Project Management, and receive updates. The list of OIG recommendations and Metro management responses is an attachment to this OIG report (Attachment B).

ATTACHMENTS

Attachment A - Change Order Details for Spot Checks

Attachment B - Tracking Sheet of OIG Recommendations and Responses to last quarter

Attachment C - PowerPoint for April 2022 Construction Spot Checks

Prepared by: Prepared by: Suzanna Sterling, Construction Specialist Investigator, (213) 244-7368

Reviewed by: Karen Gorman, Inspector General, (213) 244-7337


Karen Gorman
Inspector General