

**Board Report**

File #: 2021-0121, **File Type:** Informational Report**Agenda Number:** 38.

**CONSTRUCTION COMMITTEE
APRIL 15, 2021****SUBJECT: OFFICE OF THE INSPECTOR GENERAL CONSTRUCTION CHANGE ORDER 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, 2020 to February 28, 2021.

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 \$500,000. The four change orders in this report were selected from the April 2021 Program Management Major Project Status Report (Legistar file # 2021-0118) covering December 1, 2020 to February 28, 2021. 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 project office.

We found that all four of the change orders in this report were negotiated and executed more expeditiously than would have occurred pursuant to the former Board approval process, and all four were approved faster with the new delegation of authority. In addition, three of the four change orders were negotiated at lower cost than the contractors’ proposed price. For the remaining change order, the final award amount is being negotiated. This quarter’s Spot Checks of change orders found the delegation of authority has resulted in:

- A negotiated amount that was less than the Contractors’ proposed price for the work to be done,
- Contractor immediately ordering parts and materials, reducing delay,

- Contractor continuing working without stoppages related to these change orders, and
- Zero construction delay costs incurred for these changes.

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, and
- Recommendations, if any.

Metro's Program Control department will provide responses to the recommendations in this report of OIG Spot Checks within 30 days after this Board report. Included with this report is a separate spreadsheet of recommendations and the status of responses concerning former OIG Spot Check recommendations.

DISCUSSION

Spot Checks Performed in this Quarter

Spot Check #1 - Crenshaw/LAX Transit Corridor Project

This OIG Spot Check report concerns the Crenshaw/LAX Transit Corridor Project (Contract C0988 CO 253.3) Landscape Changes - Park Mesa.

Change Order Detail

See Attachment A Spot Check #1 chart.

Summary #1

Scope of Work -Destination Crenshaw is a community-inspired and funded project along Crenshaw Blvd, which will include outdoor public art, streetscape, and landscaping in the medians on both sides of Crenshaw Blvd, within the Crenshaw Rail Project limits.

Metro and the City of Los Angeles have agreed to coordinate efforts and utilize some of the design plans by Destination Crenshaw instead of only Metro's original landscape design since the landscaping proposed for Destination Crenshaw is in the same area as the Crenshaw/LAX Rail Project. That coordination will prevent duplication and conflicting work plans. This change order is a combination of deleted and added work plans which include procurement of trees, shrubs and ground cover, planting, two years of maintenance, an irrigation system, and bike racks.

Metro and the Contractor have not come to an agreement on the entire scope of work and costs. Ongoing negotiations are occurring to determine what changes were included in the contract and what are new additional costs. The project team used a "not to exceed" amount method to authorize commencement of work to avoid a schedule impact while those discussions continue. The Contractor receiving the funds are the Metro prime and its subcontractors, not Destination Crenshaw.

Budget - The Not to Exceed amount for this change order is \$2,000,000. The Contractor's proposal was \$5,711,786 and final negotiations are not complete. The Independent Cost Estimate (ICE) just

for the subcontractor performing the landscape work is \$1,726,733 and the Rough Order of Magnitude (ROM) amount for the entire change is \$2,000,000. Metro will complete the estimate for the change prior to final negotiations. Because the final award amount is not negotiated, the dollar amount and percentage saved cannot be calculated. Staff stated that the change will result as a net increase to the contract for Walsh Shea.

Schedule - The new CEO Delegation of Authority method was utilized for this modification. The scope of work is not agreed upon and this change order was issued to authorize work to avoid a schedule impact. If this change order had gone to Board for approval, it would have been the upcoming May 2021 Board which would have been 55 work-days later causing a schedule impact to the Contractor.

Recommendation - The OIG recommends that we identify quickly the differences in cost between the new scope of work from the contract and finalize plans and the cost with the prime Contractor.

Spot Check #2 - Regional Connector - Transit Corridor Project

This OIG Spot Check report concerns the Regional Connector - Transit Corridor Project (Contract C0980 MOD-00188) 2nd/Hope Pedestrian Bridge - Construction.

Change Order Detail

See Attachment A Spot Check #2 chart.

Summary #2

Scope of Work - The Broad originally asked Metro to make design changes to the 2nd and Hope Street Station Pedestrian Bridge to allow direct access from the station to the Broad museum and parking structure. This change order covers the differential between the construction costs for the previous design of the Pedestrian Bridge and the new design. Changes for the Pedestrian Bridge at 2nd and Hope Street Station include: changes to the rebar, formwork, concrete piles, columns, decking, plumbing, and electrical, as well as aesthetic and environment changes with landscaping, planters, handrail and guardrails modifications.

Budget - This modification was negotiated, and the award amount is \$3,051,100. The Contractor's proposal was \$3,142,506 and the ICE was \$2,998,353. The award amount was \$91,406 (2.9%) under the Contractor's proposal. The negotiated amount was \$52,747 (1.8%) 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 agreed upon scope of work occurred on November 10, 2020. The modification was awarded on December 22, 2020 and was completed in 30 workdays. Under the prior Board approval method for change orders, assuming a January Board meeting date, it would have taken an additional 52 workdays to complete the work.

Recommendation - The OIG has no recommendation concerning this change order.

Spot Check #3 - Purple Line Extension Section 2 Transit Project

This OIG Spot Check report concerns the Purple Line Extension Section 2 Transit Project (Contract C1120 MOD-0095), Station and Bicycle Parking, Architectural Features Design and Construction Changes at Wilshire/Rodeo and Century City Constellation Stations.

Change Order Detail

See Attachment A Spot Check #3 chart.

Summary #3

Scope of Work - The changes in this modification pertains to both the design drawings and construction as requested by Metro Planning department. There have been multiple architectural updates to the Metro Rail Design Criteria (MRDC) and the Metro bike hub system that were finalized after the issuance of the construction contract. Some of those updates have been incorporated into Section 1 of the Purple Line Extension. These changes will allow uniformity of design on the Purple Line in Section 1 and 2 as well improve the customer experience.

This change order adds: stainless steel accoutrements for reduced equipment failure due to outside conditions for ticket vending machine areas, canopies over the entrance plaza, elevators, emergency exit doors, paneling under stairs and escalators, as well as color change to the floor pavers, and modified bicycle racks. These and other modifications result from the architectural updates to the MRDC to improve equipment performance and the customer experience.

Budget - This modification was negotiated, and the award amount is \$1,540,404. The Contractor's proposal was \$4,616,725 and the ICE was \$513,374. The award amount was \$3,076,321 (66.6%) under the Contractor's proposal. The negotiated amount was \$1,027,030 (200.1%) over the ICE. A technical analysis, factfinding and further refinement of required work activities took place to narrow in Metro's favor the initial large cost disparity between the ICE and the Contractor's proposal to arrive at a fair and reasonable forward price. 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 agreed upon scope of work occurred on November 6, 2020. The modification was awarded on January 7, 2021 and was completed in 42 workdays. Under the prior Board approval method for change orders, assuming a January Board meeting date, it would have taken an additional 53 workdays to complete the work.

Recommendation - The OIG recommends that Purple Line, Section 3, be immediately evaluated to determine if the MRDC architectural updates and the Metro bike hub system changes have been incorporated into the Purple Line Extension Section 3 Transit project. This will ensure consistency, compliance with the MRDC, and cost assessments to be determined and negotiated at the earliest possible time.

Spot Check #4 - Purple Line Extension Section 2 Transit Project

This OIG Spot Check report concerns the Purple Line Extension Section 2 Transit Project (Contract C1120 MOD-0100), Century City Constellation Main Entrance - Construction.

Change Order Detail

See Attachment A Spot Check #4 chart.

Summary #4

Scope of Work - The NE corner of Constellation Blvd. and Avenue of the Stars in Century City is the JMB property where the new Century City Constellation Station will be located. Metro has been awaiting JMB's proposed plans for its contiguous property while Metro has been in negotiation with JMB for a corner of their property for the new Station to be built there. JMB has finalized their plans in coordination with Metro. Metro Real Estate Department has completed negotiations with JMB property owners for the related easement on JMB's property. This acquisition was a planned event that was not completed until this time.

The project team and Metro Real Estate Department has found that by rotating the entry way plan 90 degrees, it will utilize a smaller footprint and the real estate acquisition was significantly reduced, thereby reducing an anticipated change order by \$10 million. Rotation of the new station also avoided unnecessary delays to the Contractor, provides for a more efficient main entrance plaza and an enhanced bike hub.

This modification covers construction of the revised entrance from the plaza, down to the ticketing area and includes all elevators, escalators, stairways, artwork decoration, electrical, security, ventilation, fixtures, and related work costs. The design cost was covered in a previous change order.

Budget -This modification was negotiated, and the award amount is \$25,500,000. The Contractor's proposal was \$32,776,271 and the ICE was \$21,121,000. The award amount was \$7,276,271 (22.2%) under the contractor's proposal. 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 agreed upon scope of work occurred on October 8, 2020. However, the modification took a long time to negotiate because of the cost disparity between the amount Metro was willing to offer and final amount acceptable to the Contractor. The modification was executed on February 4, 2021 and was completed in 81 workdays. Under the prior Board approval method for change orders, assuming an April Board meeting date, it would have taken 138 workdays to complete the work.

Recommendation - The large cost disparities between the ICE and a Contactor's proposal on high dollar transactions should continue to prompt further technical and commercial evaluation in order to arrive at a fair and reasonable price. The OIG recommends that the ICE be evaluated by the Estimating department to further evaluate the significant differences between the Contractor's proposal and their independent estimate utilizing both technical and commercial evaluation.

FINANCIAL IMPACT

This report will have no Financial Impact to 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.

- Spot Check #1) \$2,000,000 Crenshaw/LAX Transit Corridor Project

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- Spot Check #2) \$3,051,100 Regional Connector Transit Corridor Project
 - Spot Check #3) \$1,540,404 Purple Line Extension Section 2
 - Spot Check #4) \$25,500,000 Purple Line Extension Section 2

IMPLEMENTATION OF STRATEGIC PLAN GOALS

The recommendations that the Office of Inspector General has put forward 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 program, 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.

Our goal is to provide rational, trustworthy information to the Board and support the efforts of Metro management to constantly improve and refine its efforts for the benefit of the public. The Office of the Inspector General will continue reporting to the Board the results of Construction Change Order Spot Checks selected from the Program Management Major Project Status Quarterly Report.

NEXT STEPS

The OIG shall provide every quarter, an on-going spread sheet 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

Attachment C - Power Point for April 2021 Construction Spot Checks

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