

ALAMEDA-CONTRA COSTA TRANSIT DISTRICT



STAFF REPORT

MEETING DATE: 6/10/2020

Staff Report No. 15-210e

TO: AC Transit Board of Directors
FROM: Michael A. Hursh, General Manager
SUBJECT: BRT Program Budget and Change Orders to Contract 2016-1354

ACTION ITEM

RECOMMENDED ACTION(S):

Consider receiving an informational report on the BRT Program budget, O.C. Jones Sons, Inc. contract change orders, and authorizing the General Manager to amend the O.C. Jones and Sons, Inc. contract as-needed up to 30% of the Board-approved contract value for the East Bay Bus Rapid Transit (BRT) Project Infrastructure and Station Platforms.

STRATEGIC IMPORTANCE:

Goal - Safe and Secure Operations
Initiative - Infrastructure Modernization

Continued budgetary spending authority is critical to the completion of the Bus Rapid Transit project.

BUDGETARY/FISCAL IMPACT:

The original contract value for the BRT Infrastructure and Station Platforms (IFB 2016-1534) was \$108,112,200. In September 2019, the Board approved an 18% increase to the original contract value bringing the new contract value to \$127,572,396.

BACKGROUND/RATIONALE:

The BRT program (Program) was divided into three construction Packages and an array of supporting professional services. The first two construction packages have been completed; Bid Package 1 - Advanced Utility Relocation, was completed in January 2016; and Bid Package 2 - Parking Lots and Street Improvements, was completed December 2016. Bid Package 3 (BP3) - Infrastructure and Station Platforms (contract 2016-1354), was awarded to O.C. Jones and Sons, Inc (OCJ) on March 9, 2016 (SR 15-210a) and was signed by both parties on March 31, 2016. A Notice to Proceed was issued on August 1, 2016. The baseline program budget for construction and professional services per the Small Starts Grant Agreement (SSGA) was \$174,167,885 with November 2017 as revenue service date.

Staff has re-evaluated the Program schedule and costs and with the Board approval revised the Program budget to \$232,267,750. The revised Program budget has \$57,879,393 in combined allocated and unallocated contingency, which was established to account for risks and finance charges expected to be incurred in order

to achieve project completion. To date the combined contingency has been drawn down 63% or \$37,433,719 and has been used to address two broad reasons of increased program costs. One reason is delays to the construction project which extended the project completion date and thus the cost of professional services support.

The second is the increased cost to construct the project due to working around unknown utilities at shallow depths, delays in utility relocation, adjustments and energization work, subsurface voids, abandoned and undocumented drainage channels/culverts, conflicts with uncoordinated redevelopment projects, police protection for construction crews, excessive hazardous waste, vandalism and theft, Caltrans and City permitted non-BRT work conflicts, EBMUD non-BRT watermain work which delayed construction in a 12-block segment for more than 2 years, restricted access to project work sites, undocumented substandard roadway base courses, and multiple agency approvals for design modifications resulting from unforeseen field conditions and multiple other reasons. As a result, sixty (60) contract change orders (CCO) have been generated in this project to address these delays and construction as shown in the table below.

BP3 Construction Contract

BP3 Original Contract Value (O.C. Jones & Sons)	\$108,112,200
Executed Change Orders (37 to date)	\$11,126,065
Contract Amount Based on Change Orders (Authorized)	\$119,238,265
Percentage over original contract amount (Authorized)	10.29%
Pending Change Orders (23 awaiting approval)	\$13,527,032
Contract Amount Based on Change Orders (Executed & In Process)	\$132,765,297
Percentage Over Original Contract Value	23%
Change Orders under review	\$8,500,000
Percentage over Original Contract Value	30%

Staff requests the Board to authorize the General Manager to approve change orders and amend the O.C. Jones and Sons, Inc. contract as-needed up to 30% of the Board-approved contract value to complete the construction.

As of January 2020, the Program has incurred a total cost expenditure of \$205,309,638 (88%) including CNPAs (see explanation below) which has paid for extended professional services and increased construction costs. The projected program costs for end of August 2020 project completion is shown in the tables below.

Project Category	Committed Costs
Advanced Utility Relocation (BP1)	\$5.98M
Streets and Parking Lots Improvement (BP2)	\$4.45M
Stations Platform & Infrastructure Improvements (BP3)	\$119.24M
Right of Way	\$0.98M
Vehicles	\$1.73M
Soft Costs (Design, Construction Management, Community Outreach)	\$74.45M
	\$206.83M

Program Projected Costs

Pending OCJ Contract Change Orders (CCO) awaiting signature	\$14.00
OCJ CCO under review	\$8.50M
Professional Services	\$3.40M
	\$25.90M

Total Projected Program Cost	\$232.26M
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Concurrent Non-Project Activities (CNPA)

CNPAs are construction activities performed by the contractor but funded with non-BRT Program dollars by the District, right-of-way entities, and utility companies. The BRT Program expects re-imbursements for costs incurred performing these activities. Some of the examples of CNPA activities are San Leandro Transit Center improvements, installing communication conduits for MTC, adjustments performed on behalf of PG&E, relocations performed on behalf of EBMUD, crosswalk striping changes and abandoned driveway closures performed on behalf of City of Oakland, etc.

Item	Budget	Expensed	% Spent
San Leandro Transit Center	\$4,571,706	\$2,079,258	45%
MTC I-880 ICM Conduit	\$308,160	\$308,160	100%
City of San Leandro Art Enhancement	\$49,500	\$49,500	100%
EBMUD Segment A	\$1,567,522	\$1,567,522	100%
EBMUD Segment B	\$1,023,064	\$1,023,064	100%
PG&E - adjustments	\$357,935	\$357,935	100%
Caltrans/City of Oakland-Signal Power Separation	\$500,000	\$71,678	14%
City of Oakland Crosswalk	\$633,658	\$633,658	100%
Storm Inlet Filters	\$50,000	\$50,000	100%
Driveway Removal	\$82,000	\$82,000	100%
	\$9,143,545	\$6,222,775	68%

Contract Administration and Construction Management

The BRT Program and within it, the construction project, operates under the strict oversight of the Federal Transit Administration (FTA) and its Project Management Oversight Consultant (PMOC). District staff submit a comprehensive Monthly Progress Report (MPR) to FTA/PMOC and meets with them bi-weekly to discuss and resolve cost and schedule issues. The BP3 change order log (Attachment 2) and the BP3 contract time extension summary (Attachment 3) is included in this report. In addition, FTA/PMOC review all change orders over \$100,000 (Attachment 4). Although the PMOC has generally found the change order documentation to be in order, staff has implemented several control measures to the change order process based on the PMOC's feedback. The first implementation was a "BRT Change Order Checklist" (Attachment 5) to guarantee all the elements of a change order are in place before it is signed by the BRT Director and the Executive Director. Additionally, the Procurement Department reviews and summarizes each change order with a Memo with

explanations for the merit for the change, scope of the change, and evidence of fair/reasonable cost negotiations.

ADVANTAGES/DISADVANTAGES:

This action will allow the District to fund the cost of construction by O.C. Jones through completion of Milestone 6, the final phase of construction. We cannot complete construction without the additional funding. There is no disadvantage to approving this action.

ALTERNATIVES ANALYSIS:

The primary alternative is not to approve the requested contract cost increase. This is not recommended as it would prevent staff from paying contractor invoices beyond the 18% increase level previously approved. While there can be debate over the parameters and amounts of various change orders, the contractor has performed a significant amount of work to bring the project to completion. Non-payment of invoices can also cost the District interest charges after a certain point.

PRIOR RELEVANT BOARD ACTION/POLICIES:

15-210a - Request to Increase the General Manager's Authority for BRT Contract Amendment

17-132 - Project Completion Plan

15-210d - Request to Increase the General Manager's Authority for BRT Contract Amendment

ATTACHMENTS:

1. BRT Change Order Process Overview
2. Change Order Log
3. Contract Time Extension Summary
4. List of FTA/PMOC Reviewed Change Orders
5. Change Order Checklist Template

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