



Date: April 7, 2006
 Committee Meeting Date: April 20, 2006
 Board Meeting Date: May 4, 2006
 ACTION X DISCUSSION INFO

BOARD MEMORANDUM

TO: Administration and Finance Committee
 Santa Clara Valley Transportation Authority
 Board of Directors

THROUGH: Michael T. Burns
 General Manager

FROM: Jack J. Collins
 Chief Construction Officer

SUBJECT: 1996 Measure B Transportation Improvement Program (MBTIP) – Increase
 Route 237/880 Interchange Stage C, Phase II Construction Contract Amount

RECOMMENDATION:

Authorize the General Manager to execute the final and balancing contract change order with RGW Construction for construction of the Route 237/880 Interchange Stage C, Phase II project for a final contract amount of \$27,550,030.79, an increase of \$50,031 over the current Board of Directors authorized contract amount.

BACKGROUND:

The 1996 MBTIP included the Route 237/880 Interchange Stage C, Phase II project, which provided High Occupancy Vehicle (HOV) direct connector ramps from southbound I-880 to westbound SR-237 and eastbound SR-237 to northbound I-880. Also, a braided ramp was constructed between SR 237 and Tasman Drive Interchange to separate traffic on the eastbound SR 237 to southbound I-880 freeway-to-freeway connector from traffic traveling on southbound I-880 and exiting at the off-ramp to Tasman Drive.

On October 10, 2002, the VTA Board of Directors authorized the General Manager to execute a contract in the amount of \$23,493,121 with RGW Construction for construction of the Route 237/880 Interchange Stage C, Phase II Project. The HOV Connector was opened in April 2005, and all punchlist and change order work was completed in August 2005. At their February 2005 meeting, the VTA Board of Directors approved increasing the contract amount to \$27,500,000, which was the estimated amount to compensate the contractor for existing and potential contract change orders, including those change orders that were requested by third parties with corresponding compensation provided by those third parties.

DISCUSSION:

VTA staff has negotiated a final contract cost with RGW Construction for the Route 237/880 Interchange Stage C, Phase II contract, contingent upon VTA Board of Directors approval as the final cost exceeds the authorized amount by \$50,031. In December 2005, VTA informed RGW Construction that the estimated final cost for the contract was \$27,151,605. RGW Construction responded with an objection to that final cost estimate, citing their actual final price as \$27,939,092 and provided additional documentation, particularly related to extra work billings for change orders not previously provided and justifications for item price adjustments allowable per the terms of the contract. VTA staff's analysis of the new documentation confirmed additional compensation was warranted and after several negotiation meetings reached agreement with RGW Construction on a proposed final contract amount in early April 2006.

As previously documented to the VTA Board of Directors for their February 2005 action increasing the contract amount, a significant component of the estimated increased contract amount at that time was due to anticipated requests for change orders by a third party, with compensation also provided by that third party. Change orders were issued at the request of Caltrans and VTA's Owner Controlled Insurance Program (OCIP). The summary of costs for third party requests is provided below along with the final proposed cost for all other changes.

<u>Third Party Requested Change</u>	<u>Amount</u>	<u>Percent of Original Contract Amount</u>
Changes funded by Caltrans	\$1,098,000.00	4.7%
Insurance claim payment from OCIP	\$ 280,125.00	1.2%
Subtotal changes funded by others	\$1,378,125.00	5.9%
Estimate of remaining change orders	<u>\$2,678,784.79</u>	<u>11.4%</u>
Total Changes	\$4,056,909.79	17.3%

On average VTA has been managing highway construction contract changes to within 12% above the contract award amount. This contract would have been completed with changes totaling 11.4% over the award amount had VTA not issued the additional work requested and funded by others. The national average for heavy civil highway construction contracts ranges from 10-20%.

ALTERNATIVES:

The Board of Directors could choose to not approve the proposed final contract amount negotiated by VTA staff. In that event, it is anticipated the contractor would submit a formal claim resulting in additional project labor costs for VTA staff to continue to resolve the differences.

FISCAL IMPACT:

Sufficient funds are available in the 1996 MBTIP project budget for this increased contract amount. VTA staff has also received the concurrence of the County's Measure B Program Administrator for the recommended action.

DISADVANTAGED BUSINESS ENTERPRISE (DBE) PARTICIPATION:

The DBE goal for the current contract is 2.6%, and the contractor achieved a 3.35% utilization of DBE subcontractors, based on the final negotiated contract amount. Future disbursements to DBE subcontractors from the final payment will increase the DBE utilization. A final DBE utilization report will be submitted by RGW Construction following final payment.