

Committee Report

Transportation Committee



Committee Meeting Date: November 27, 2023

For the Metropolitan Council: December 13, 2023

Business Item: 2023-281

METRO Green Line Extension Aldridge Parsons Joint Venture Part One Claims Resolution Change Order, Cumulative Change Order Authority Increase, Project 61001, Contract 17P000

Proposed Action

That the Metropolitan Council:

- Authorize the Regional Administrator, as part of the Systems schedule cost claims resolution process, to negotiate and execute a Part 1 change order for Contract 17P000 with Aldridge – Parsons, a Joint Venture (APJV) in an amount not to exceed \$5,232,043; and
- Authorize an additional 2.69% (\$5,232,043.00) to the current 27.97% (\$54,372,326.70) cumulative change authority for Contract 17P000 with APJV, resulting in 30.66% (\$59,604,369.70) total cumulative change order authority.

Summary of Transportation Committee Discussion/Questions

Metro Transit Green Line Extension Project Director Jim Alexander presented this item. Chamblis asked if we can forecast the increases and how much flexibility we have for authorization percentages so we can avoid arbitration. Alexander stated we've been able to resolve issues at the business table so far and we remain below the contractor's cap. This item is a pretty big piece of the overall claim with the cost of the larger subcontractors remaining to be negotiated. Carter, Tyrone expressed appreciation for the contractor exceeding the DBE goal.

Motion by Chamblis, seconded by Carter, Tyrone. Motion carried.

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District(s), Member(s):	District 3 (Carter), District 6 (Lilligren), District 8 (Cameron)
Policy/Legal Reference:	Minnesota Statutes section 473.3999, FM 14-1 Procurement Policy, FM 14-2 Expenditures for the Procurement of Goods, Services, and Real Estate Policy
Staff Prepared/Presented:	Lesley Kandaras, General Manager, 612-349-7513 Nick Thompson, Interim Executive Director, 612-349-7507 Jim Alexander, Project Director, 612-373-3880 Joan Hollick, Deputy Project Director, 612-373-3820 Nic Dial, Construction Director, 612-373-3974
Division/Department:	Metro Transit / Green Line Extension Project Office

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Background

APJV is the Systems construction contractor for the METRO Green Line Extension Project. APJV submitted the low, responsive, responsible bid to the Council on June 6, 2019. On September 18, 2019, the Council awarded the Systems construction contract to APJV in the amount of \$194,411,000. APJV is responsible for the manufacture, delivery, installation, and testing of the Green Line Extension light rail system components.

On March 1, 2023, the Council approved the 00810 Supplemental Conditions for Re-Baselined Systems Schedule Cost Claims Resolution (Business Item 2023-44) (“Claims Resolution Agreement”) to extend the contract time and address claims for costs related to the delay to the systems construction through an alternative dispute resolution (ADR) process. The ADR process ensures that additional costs associated with the delay are reasonable and supported by data while avoiding the potential for litigation. The types of cost claims being resolved through the ADR process relate to the revised schedule including labor and equipment costs for the additional time to

perform the work, labor and material escalation, associated subcontractor costs, and impacts to the productivity of the work. The payment mechanism for claims resolved in the ADR process is a change order.

The ADR process includes:

- Step negotiations where the parties resolve disputes directly.
- Evaluative mediation for disputes not resolved in step negotiations. The evaluative mediator works with the parties to resolve the differences. If no resolution is reached, the evaluative mediator will issue an opinion.
- Any issues not resolved in evaluative mediation will go to binding arbitration. The arbitrator will issue a binding award on these disputes.

In August of 2023, the Council approved an initial Part 1 change order for payment in the amount of \$20,388,680 for the claims (BI 2023-176).

With the support of legal counsel and construction claims and accounting experts, staff is seeking approval to execute a second Part 1 change order in the amount of \$5,232,043 for payment for the claims.

Council policy FM 14-1 authorizes contract amendments greater than 10% be supported by a sole source approval and FM 14-2 authorizes the Regional Administrator to amend contracts and increase contract prices as delegated by the Metropolitan Council. Council Procurement Procedure 14-1a Section 2.1.2.23 provides 10% cumulative change order authority on construction contracts without further authorization by the Council.

Under the authority in FM 14-1 and FM 14-2, staff is requesting that the Council authorize additional cumulative change order authority for the APJV Contract as follows:

Description	Amount	Change Order Authorization
Original contract value (Contract 17P000)	\$194,411,000.00	--
Current total authorized cumulative change order authority	\$54,372,326.70	27.97%
Additional change order authority requested with BI 2023-281	\$5,232,043.00	2.69%
Total authorized cumulative change order authority with BI 2023-281	\$59,604,369.70	30.66%
Balance of total cumulative change order authority <u>after</u> execution of the second Part 1 change order.	\$14,969,390.61	7.70%

Rationale

Change orders exceeding \$2.5 million require Council approval. Cumulative change order authority exceeding 10% of the original contract value requires Council approval.

Thrive Lens Analysis

Successful completion of the METRO Green Line Extension will advance the following Thrive MSP 2040 outcomes:

Stewardship: Transit investment provides an opportunity to reinvest and grow the capacity of our communities, with more inclusive development and intentional investment. It encourages businesses to invest in communities, which means access to resources, community amenities, jobs, and other community assets.

Equity: Connections to other METRO lines and countless local bus routes will bring people to jobs, education, resources and connect diverse and vibrant communities across the region.

Livability: The METRO Green Line Extension will add 14.5 miles to the existing Line, which connects downtown Minneapolis, downtown Saint Paul, and places in-between. This segment connects Eden Prairie, Minnetonka, Hopkins, and St. Louis Park to both downtown Minneapolis and Saint Paul, and major destinations at the University of Minnesota and the State Capitol.

Prosperity: The METRO Green Line Extension reflects strategic investment in regional infrastructure that will promote economic competitiveness and create prosperity for the region. Despite being under construction, the METRO Green Line Extension has already seen more than \$2 billion of existing and planned development investment within a half-mile of the line.

Sustainability: As many as 700,000 more people will be living, working, and moving around the Twin Cities region by 2040. As a result, a robust transportation system is needed to provide the region with choices and more mobility.

Funding

The work for this change order is a METRO Green Line Extension Project (No. 61001) eligible cost. Funds are available in the Project (No. 61001) budget and included in the Council's authorized capital budget. **The Council's approval is contingent on approval by the Executive Change Control Board which is expected to vote on this action on December 8, 2023.**

Small Business Inclusion

The DBE goal established for this Contract is 12%. As of September 30, 2023, APJV is achieving 16.93% DBE participation. The Office of Equity and Equal Opportunity will continue monitoring the contract's progress and communicate with APJV to meet or exceed the 12% DBE participation for the overall contract.

