

Committee Report

Transportation Committee



Committee Meeting Date: May 13, 2024

For the Metropolitan Council: May 22, 2024

Business Item: 2024-105

METRO Green Line Extension Aldridge Parsons Joint Venture Extension of Time Change Order to Contract 17P000

Proposed Action

That the Metropolitan Council:

1. Authorize the Regional Administrator, as part of the Systems schedule cost claims resolution process, to negotiate and execute a Part 2 change order for Contract 17P000 with Aldridge – Parsons, a Joint Venture (APJV) in an amount not to exceed \$43,315,177 for claims resolution costs associated with an extension of time to the contract; and
2. Authorize an additional 14.6% (\$28.5 million) to the current 28% (\$54.4 million) cumulative change authority for Contract 17P000 with APJV, resulting in a cumulative change order authority of 42.6% (\$82.8 million) and a balance of total cumulative change order authority after the execution of the Part 2 change order of 10% (\$19.4 million).

Summary of Transportation Committee Discussion/Questions

Metro Transit Green Line Extension Project Director Jim Alexander presented this item. There were no questions or comments from Council Members.

It was moved by Morales, seconded by Carter, Tyronne. **Motion carried.**

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District(s), Member(s):	District 3 (Carter), District 6 (Lilligren), District 8 (Cameron)
Policy/Legal Reference:	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, Deputy General Manager, 612-349-7507 Jim Alexander, Project Director, 612-373-3880 Nic Dial, Construction Director, 612-373-3974
Division/Department:	Metro Transit / METRO Green Line Extension

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 2 change order for Contract 17P000 with Aldridge – Parsons, a Joint Venture (APJV) in an amount not to exceed \$43,315,177 for claims resolution costs associated with an extension of time to the contract; and
- Authorize an additional 14.6% (\$28.5 million) to the current 28% (\$54.4 million) cumulative change authority for Contract 17P000 with APJV, resulting in a cumulative change order authority of 42.6% (\$82.8 million) and a balance of total cumulative change order authority after the execution of the Part 2 change order of 10% (\$19.4 million).

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 METRO Green Line Extension light rail system components.

Systems construction, which follows Civil construction, was delayed due to an approximately 34½ month delay to the Civil construction as of December 31, 2021. APJV capped the extension of contract time costs due to this delay at \$64,084,378.51.

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 which 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 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. On August 23, 2023, the Council approved an initial Part 1 change order for the extension of contract time in an amount not to exceed \$20,388,680 (2023-176).

On December 13, 2023, the Council approved a second Part 1 change order for the extension of contract time in an amount not to exceed \$5,232,043 (2023-281).

With the support of outside legal counsel and construction claims and accounting consultant experts, staff seeks approval to execute a Part 2 change order in an amount not to exceed \$43,315,177 for the claims, which includes the Part 1 costs described above plus \$17,694,454 in costs to resolve subcontractor claims and warranty extensions.

Approval of this Part 2 change order closes cost claims by the contractor due to Civil construction delays through 2021. Costs associated with the extension of contract time due to delays to the Civil construction after December 31, 2021, will be addressed in a subsequent change order once those costs are properly vetted by the Council’s consultants.

Staff also seeks to increase the cumulative change order authority on Systems Construction Contract 17P000 with APJV.

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 an additional cumulative change order authority for Contract 17P000 as follows:

Description	Amount	Change Order Authorization
Original contract value (Contract 17P000)	\$194,411,000.00	--
Current authorized cumulative change order authority	\$54,372,326.70	28.0%
Value of change orders executed as of April 10, 2024	\$45,694,862.41	23.5%
Current balance of remaining cumulative change order authority	\$8,677,464.29	4.5%
Additional change order authority requested with BI 2024-105	\$28,458,089.71	14.6%
Total authorized cumulative change order authority with BI 2024-105	\$82,830,416.41	42.6%
Amount of Part 2 change order minus the two Part 1 change orders previously approved	\$17,694,454.00	9.1%
Balance of total cumulative change order authority <u>after</u> execution of the Part 2 change order.	\$19,441,100.00	10.0%

Rationale

Authorization to execute the Part 2 change order and to increase the cumulative change order authority is necessary to complete systems construction and expeditiously resolve the remaining disputes related to the additional time required to perform the work.

The ADR process ensures that costs are reasonable, supported by data and properly vetted while reducing the potential for litigation.

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 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.

Small Business Inclusion

The DBE goal established for this Contract is 12%. As of March 31, 2024, APJV is achieving 15.6% 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.

