



December 23, 2022

Mr. Michael Beer, PE
Interim Assistant Commissioner
Minnesota Department of Transportation
Engineering Services Division
395 John Ireland Blvd., MS 120
St. Paul, MN 55155

Re: SWLRT MnDOT Peer Review Report

Dear Mr. Beer,

Thank you for the opportunity to review and comment on the Minnesota Department of Transportation (MnDOT) Peer Review of the Southwest Light Rail Transit (SWLRT) Project. The Council would like to acknowledge MnDOT's considerable experience in delivering complex transportation projects, including construction oversight, contractor management, and managing contract change orders. The MnDOT staff overseeing the Peer Review each have decades of experience in construction management and oversight making them well suited for performing an analysis of the SWLRT Project.

We appreciate the professionalism of the MnDOT personnel throughout the Peer Review process and recognize this effort which is outside their typical duties but well within their capabilities. Overall, we agree with MnDOT's recommendations and intend to review and modify project processes and standard contract language on future projects as appropriate and offer the following observations.

Schedule Review

The Peer Review recommends the Council condition notice to proceed (NTP) on receipt and approval of a preliminary schedule from the contractor. The Council acknowledges the delay to contract award made it challenging for the Council to accept the Contractor's schedule submittals as outlined in the contract specifications. The Council agrees it is desirable to have a fully developed and agreed-upon schedule in place before issuance of an NTP.

The Council monitored the progress of the work through look ahead schedules and later a baseline schedule. The parties re-baselined the schedule to address project changes. The parties established the re-baselined schedule through the Settlement Agreement.

The Council agrees that the schedule specification should be reviewed for future construction contracts to link schedule development and NTP.

Procurement Processes and Standard Contract Documents

The Peer Review provides recommendations related to the Council's procurement processes and standard contract documents. Specifically, MnDOT recommends establishing a maximum duration from invitations for bids (IFB) to contract award, which the Council agrees with and will make efforts on future projects to shorten the duration and consider alternative procurement methods for construction that are within the Council's authority.

Other recommendations related to the Council's procurement processes and standard contract documents are to include bid alternatives to mitigate downstream impacts resulting from scope changes, establish unit prices for certain changes to the contract, and establish a bid requirement whereby contractors submit cost breakdowns held in escrow. It is agreed that in the future, procurement processes and contract documents should be reviewed and modified as appropriate on a project-by-project basis. It is also noted that the Council implemented a unit price contract approach for many scope elements for the METRO Gold Line Project.

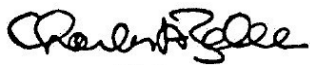
Independent Cost Estimates

The Peer Review highlights a variety of reasons the SWLRT Project independent cost estimates (ICE) have been historically deficient. As noted, deficiencies in the construction cost estimating process may have included overreliance by the consultant's estimators on computer estimating software and/or under reliance on field conditions.

For the SWLRT Project, both design and preparation of construction cost estimates are currently performed under the same contract. Due to the expiration of the consultant's contract, the Council is in the process of procuring cost estimating services separately from the design services contract. The Peer Review strongly recommends that the Council hire separate consultants for the engineering services and construction cost estimating services. The Council will also consider this approach on future projects.

Thank you again for the opportunity to review and respond to the Peer Review. We appreciate MnDOT's recognition of the complexity of the SWLRT Project. The recommendations outlined in the Peer Review will be considered carefully to improve our processes.

Sincerely,



Charles A. Zelle
Chair, Metropolitan Council