

**METRO GREEN LINE EXTENSION - SOUTHWEST LIGHT RAIL TRANSIT PROJECT
EXECUTIVE CHANGE CONTROL BOARD**

Proposed Board Action

23-ECCB-015

Item Description:

Approval of increasing the not to exceed value of the Settlement Agreement with the Lunda McCrossan Joint Venture (LMJV) in the amount of \$75 million for a new total not to exceed amount of \$285 million resulting in a contract cost increase and use of project contingency funds in the amount of \$75 million.

Resolution:

BE IT RESOLVED that an increase to the not to exceed value established in the Settlement Agreement, resulting in the use of \$75 million of project contingency is APPROVED.

Background:

On November 15, 2018, the Metropolitan Council awarded Civil Construction Contract to LMJV, in the amount of \$799,514,338.22.

In March 2022, the ECCB approved (22-ECCB-006) the Settlement Agreement with LMJV to resolve cost disputes related to an additional 34½ months required to perform civil construction and the use of up to \$210 million of project contingency funds.

With the support of legal counsel and construction claims and accounting experts, the Council has resolved costs totaling approximately \$209.9 million with LMJV. The cost categories resolved to date include direct costs for 194 change orders, additional overhead costs, productivity impact costs, and subcontractor costs.

An increase to the not to exceed value in the amount of \$75 million is required to resolve the remaining cost categories outlined in the Settlement Agreement and to resolve additional matters related to civil construction which the parties have agreed to resolve under the Alternative Dispute Resolution (ADR) process in the Settlement Agreement including:

- Delays to the construction of the Kenilworth LRT Tunnel and time impact analysis to determine the overall impact to the schedule; and
- Change orders associated with West Lake Street Station construction and monitoring activities associated with the TH 212 ramp at Prairie Center Drive.

These disputes will be resolved through the ADR process in the Settlement Agreement, which 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.

The Southwest Project Office is requesting the use of \$75 million in contingency.

For the Special ECCB Meeting August 16, 2023