

Metropolitan Council/Hennepin County

Meeting of the SWLRT Executive Change Control Board

March 17, 2022

Members Present: Chair Zelle Debbie Goettel Chris LaTondresse
 Deb Barber Marion Greene

1. CALL TO ORDER

Chair Charlie Zelle called the March 17, 2022 meeting of the Executive Change Control Board to order at 3:00 p.m. via a conference line. After a quorum was reached, the meeting started.

2. MINUTES FROM JANUARY 28, 2022 MEETING

Commissioner LaTondresse made a motion to approve the draft minutes of January 28, 2022. Commissioner Goettel seconded the motion. Following a roll call vote, the minutes were approved.

3. RESOLUTION 22-ECCB-06

Jim Alexander, Project Director, explained the resolution, which is for the approval of the settlement agreement with LMJV and use of project contingency funds in an amount up to \$210M. The details of the settlement agreement were discussed at the January ECCB meeting in which the ECCB approved resolution 22-ECCB-003. This agreement resolves known disputes through December 31, 2021 and closes out 194 change orders. The agreement includes a resolution process whereby if the parties are unable to resolve their disputes they will engage in evaluative mediation; if there are issues for which the parties cannot reach agreement, the parties will resolve them through binding arbitration. The agreement will include a revised civil construction schedule with a final completion date of September 18, 2025. The agreement stipulates that the Council is responsible for 30 months of the extended time with the remainder subject to evaluative mediation or arbitration. The Council will pay two \$20M payments within 60 days of agreement execution, with follow on payments per an agreed to schedule. The agreement includes liquidated damages if milestones are not met.

Commissioner Greene made a motion to approve Resolution 22-ECCB-006. Council Member Barber seconded motion. It was then opened up for comments and questions.

Commissioner Greene thanked Hennepin County and Met Council staff for the hard work that went into this agreement. She feels confident on taking action on this and feels the document has been fully vetted before this vote happens. This agreement sets a clear course ahead with a schedule for completing the Project. The remaining funding gap is what now needs a solution. It is not reasonable for Hennepin County taxpayers to pay entire costs, as Hennepin County has already paid 90% of the Minnesota share. Hennepin County cannot fund this alone, and we will continue working with partners to figure out the funding.

Commissioner Goettel appreciates the transparency that is being held. The magnitude of this project is so impressive, which led to some of the difficult conditions we came across. When we face problems, we use them as lessons learned and will keep this project moving forward. Lessons learned will help in what we do differently to keep construction on track and what we do to decrease future risks.

Commissioner LaTondresse appreciates what the settlement agreement does but raised concerns that it does not resolve all issues. It gives us a schedule and incentives to hold the contractor accountable. The Project still has a long way to go with challenges and timing impacts but agrees the Project must move forward and approval of the agreement is the right thing to do.

Chair Zelle thanked everyone for this work. This Agreement is a result of a lot of work, with over a year of negotiating a revised schedule. The process has been transparent, honest and achievable. There is a lot of work left to do, and we will have the help with our outside consultants, Hennepin County staff and MnDOT oversight review to help.

Following a roll call vote, Resolution 22-ECCB-006 was approved.

8. MONTHLY REPORT ON CHANGE ORDERS

Nic Dial, Director of Construction, reviewed the report on new change orders under \$350,000. Since the last ECCB meeting, there were 13 new change orders to the Civil Construction contract, eight for the Franklin O&M Facility Modifications contract, and six for the Systems Construction contract. All 27 had dollar amounts below the ECCB approval level. Nic highlighted some of the change orders on the list.

Commissioner Greene made a motion to receive the monthly report on change orders. Council Member Barber seconded the motion. Following a roll call vote, the report was received.

9. ADJOURN

The meeting adjourned at 3:35 PM

Respectfully Submitted

Dawn Hoffner, Recording Secretary

Greene: As officials, we keep moving towards the vision for residents, region and state. Agreement is important for this. ding Secretary