

Metropolitan Council/Hennepin County

Meeting of the SWLRT Executive Change Control Board

Friday, October 13, 2023

Members Present: Deb Barber Debbie Goettel
 Robert Lilligren Marion Greene

1. CALL TO ORDER

Council Member Barber called the October 13, 2023 meeting of the Executive Change Control Board to order at 11:10 AM.

2. MINUTES FROM AUGUST 16, 2023

Commissioner Goettel made a motion to approve the draft minutes of August 16, 2023. Council Member Lilligren seconded the motion. Following a vote, the minutes were approved.

3. RESOLUTION 2023-017

Nic Dial, Director of Construction, explained the resolution, which is for change order 882 to the Civil contract for an increase of \$1.2M for allowance to use for unforeseen conditions. Examples of what these allowances are used for include moving or adjusting noise and vibration monitors, adjusting maintenance of traffic plans, trail detour routes, and unidentified utility conflicts. This increase for unforeseen conditions of \$1.2M for use in 2024 would bring us from \$5.3M to \$6.5M.

Commissioner Greene asked if the demand is dropping. Mr. Dial responded that even though much of the Civil work is being completed in the west end of the Project, we do still have a lot of work to do on the east end, including the Kenilworth tunnel work. We will also be using these funds for some ancillary roadway and trail projects on the west end. Overall, the need is tapering down.

Commissioner Greene asked if this was included in the re-baseline of the budget. Mr. Dial responded yes.

Commissioner Goettel asked what was originally budgeted for this item? Mr. Dial responded there was a \$2M allowance in 2018.

Commissioner Goettel asked how far in the civil work are we? Mr. Dial reported we are about 75% complete for the total project. There is still work needed on trails, roadway and ancillary projects outside of the guideway, which requires work below the ground.

Commissioner Greene made a motion to accept 2023-017, Commissioner Goettel seconded the motion. Following a vote, Resolution 2023-017 was approved.

4. RESOLUTION 2023-018

Nic Dial explained the resolution, which is for change order 883 on the Civil construction for an increase of \$1.141M. This is for maintenance of freight rail track and signals. We have obligations with TC&W to maintain this track to required standards. We originally budgeted \$1M for this work. With this increase, we would be at \$6.4M for this work. This coming year we will see some additional inspections required associated with our work in the Kenilworth corridor, adjacent to CICA, as we are starting excavations here. This change order includes freight rail track inspections, rail tie replacement, and maintenance for new and existing freight rail signals.

Commissioner Goettel asked if this was a missed calculation? Dan Soler said the amount of time is mainly for maintenance. The time they worked in the Kenilworth Corridor ended up being longer than scheduled. Mr. Dial agreed, stating additional costs are related to extension of time of construction. Even when we are in operations, these items will still be paid, but not by Project money.

Commissioner Goettel asked how much longer these will come out of project funds? Mr. Dial responded the Project is responsible for maintenance cost until revenue service in 2027.

Mr. Alexander reported that the Kenilworth tunnel is expected to be completed by the end of 2025, which will relieve a lot of these charges.

Commissioner Goettel made a motion to accept 2023-018, Council Member Lilligren seconded the motion. Following a vote, Resolution 2023-018 was approved.

5. RESOLUTION 2023-019

Nic Dial explained the resolution, which is for change order 884 to Civil construction. This is for use of contingency in an amount of \$2.1M for use in costs for contaminated soil disposal for daily cover and direct cell. The reason for this is mainly due to increased trucking costs. Prices have increased with trucking/handling materials for landfill from \$22.57 to \$27.43 per ton. For direct cell the increase is from \$24.83 to \$31.78 per ton. An adjustment was also made to our quantities. These changes should get us through 2025. If funds remain after that, they will be deducted from the project total. Mr. Alexander added that the bulk of this work goes to DBE firms that provide the trucking.

Commissioner Goettel asked if this is also something that was a missed estimate in the original plan for the amount of contaminated soils. Mr. Dial said contaminated soil is hard to predict, as you are estimating what you will see underground before you start digging. We completed a lot of the areas in the guideway, but there will still be some ancillary areas to address.

Council Member Lilligren made a motion to accept 2023-019, Commissioner Greene seconded the motion. Following a vote, Resolution 2023-019 was approved.

6. RESOLUTION 2023-020

Jim Alexander, Project Director, explained the resolution, which is for an amendment to the Venable contract, using project contingency funds in the amount of \$8.5M. Venable has been leading the settlement agreement negotiations on the Civil contract and the negotiations for the extension of time on the Systems contract. Venable also has a construction accounting consultant Wipfli assisting with the settlement agreement and extension of time, and Socotec who is providing engineering consultation on the Kenilworth tunnel excavation and CICA. Approximately 60% of the cost is from the subconsultants and 40% from Venable. Since the bulk of the Kenilworth tunnel should be completed in 2025, we anticipate that the need for the Socotec team will lessen. Also, it is anticipated that most of the settlement agreements issues should be resolved in 2024. We estimate that this amended amount should carry us through 2025. This item was approved at the Met Council's Management meeting and is going to Met Council for approval on 10/25.

Commissioner Goettel made a motion to accept 2023-020, Council Member Lilligren seconded the motion. Following a vote, Resolution 2023-20 was approved.

7. MONTHLY REPORT ON CHANGE ORDERS

Nic Dial reviewed the report on new change orders under \$350,000. Since the last ECCB meeting, there were 31 new change orders to the Civil construction contract and 2 for the Systems contract. All 33 change orders on the list have dollar amounts below the ECCB approval level. Nic highlighted a few of the change orders. Nic also reported there are some deducts as well noted this time.

Commissioner Goettel asked about Change Order 731 – elevator equipment. Is this technology on the modification going to be better with our weather conditions than the original equipment? She stated it is very important for these elevators to work and not go down, especially for the ADA community. Mr. Dial responded that the technology is getting better, but at the time it was originally specified, it was the best technology available.

Commissioner Goettel asked on the status of the settlement agreements. Mr. Alexander responded we continue to meet with APJV, and also need to go through the validation with their subcontractors, which there are more than 20 on the list. An initial part one change order for \$20M is being executed for the extension of time for the Systems work. Mr. Alexander stated validating data can take time, but he feels comfortable that our exposure is within the budget amount. We anticipate additional part one change orders as components to the extension of time claim are resolved. The Systems contractor continues to keep the work moving in the field. Nic Dial said some of the delay with the subcontractor data is that there are non-disclosure agreements required.

Council Member Barber asked if there are lessons learned from this non-disclosure piece. Joan Hollick, Deputy Project Director, responded that the lesson learned that we can apply is to include the claims resolution articles in construction contracts for future projects.

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

8. ADJOURN

The meeting was adjourned at 11:40 AM. It was noted the November meeting will be adjusted due to Veterans Day Holiday.

Respectfully Submitted,

Dawn Hoffner, Recording Secretary