

Metropolitan Council/Hennepin County

Special Meeting of the SWLRT Executive Change Control Board

March 16, 2023

Members Present: Chair Charlie Zelle Chris LaTondresse Jeff Lunde (Alternate)  
Deb Barber Debbie Goettel

**1. CALL TO ORDER**

Chair Zelle called the March 16, 2023 special meeting of the Executive Change Control Board to order at 8:35 a.m.

**2. MINUTES FROM FEBRUARY 17, 2023**

Commissioner LaTondresse made a motion to approve the draft minutes of February 17, 2023. Council Member Barber seconded the motion. Following a vote, the minutes were approved.

**3. RESOLUTION 2023-007**

Jim Alexander, Project Director, explained the resolution, which is to seek extensions on two insurance policies that we are required to carry. One is Builder's Risk and the other is Railroad Protective. These are both required per agreements with the railroads, BNSF and TC&W and also in our contracts with the construction contractors. The Builder's Risk will extend through September 2025. This is the current schedule for completion of the Civil construction, although we still have to account for the secant delays. This policy will need to be extended beyond 2025. The Builder's Risk covers floods, tornadoes, weather events that impact constructed elements.

Commissioner Goettel asked if there have there been any claims? Jim responded there have been no claims. Commissioner Goettel asked if the rates have gone up? Jim responded that yes, the Builder's Risk rates have increased. The amount of this policy is just over \$3.6 million.

Jim stated once property is transferred to the Council, the Council's property policy will cover the built assets. Commissioner Goettel asked if this transfer of insurance is done as a whole or in phases. Jim responded this will be done in phases. As we begin transferring assets from the contractor to the Council, that is when the insurance will switch over.

Jim stated that the other policy is the Railroad Protective, and the premium is about \$500,000 and will take us through 2027. This is needed in case a railroad asset is damaged during construction. We are asking to use \$4.172M in contingency for these two policies.

Commission Goettel made a motion to approve Resolution 2023-07. Council Member Barber seconded the motion. Following a vote, Resolution 2023-07 was approved.

**4. 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 15 new change orders to the Civil construction contract and two for the Systems contract. All 17 change orders on this list had dollar amounts below the ECCB approval level.

Nic highlighted the new changes for Civil and Systems work.

Commissioner Goettel asked about Change Orders 458 and 459, which are for reinforcement materials for drilled shaft work. Was this because we couldn't get the materials or because of a change in design?

Nic responded that the part one of these change orders was issued to keep the work moving forward on the shaft work and that the changes are due to a change in the design. We are now receiving the billings for the final cost of this work, which these change order amounts reflect. The area adjacent Minneapolis' Curry building is where we switched from piling to drilled shafts to protect the building due to concerns with potential impacts to the building from driving piles. We have been coordinating with Minneapolis on this work around and adjacent to this building.

Commissioner Goettel asked about Change Order 737, which was for a work stoppage. Was this when the impediment was discovered? Nic stated that this change order is for the work stoppage on the secant pile wall that occurred last year when we had to stop work due to issues at the Cedar Isles Condominium Association building. The costs related to the work stoppage for the impediment will be addressed separately of Change Order 737.

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

#### Systems Update.

Commissioner Goettel asked for an update on the Systems rebaseline schedule. Jim provided an update. Change Order 065, which was approved at the February ECCB (23-ECCB-006), adds supplemental conditions which includes an alternative dispute resolution process and adds 28 months to the Systems contract. The dispute resolution process is similar to what is being used on the Civil construction contract. Jim noted that this does not include the secant delays experienced in 2022 and earlier this year, which we are looking into. Change Order 065 does not add any costs but does identify a cap of \$64 million, which was established by APJV. There will be a subsequent change order to address the cost for the time extension and staff will bring this to the ECCB for approval. Work is underway by our outside legal team who are working with APJV to obtain data which will be used to determine the cost of the time extension. Our consultants are meeting with APJV regularly to better understand their claimed costs. One item excluded from the change order is the level of final testing that will be conducted as there are too many unknowns at this time for the contractor to quantify a cost.

Commissioner Goettel asked if there are any incentives or penalties for finishing early or late? Jim responded that this is a negotiated schedule with no incentives. Liquidated damages would still apply.

#### Audit Update

Commissioner Goettel thanked Chair Zelle for sitting in on the recent Legislative Audit Commission Hearing covering the recent report from the Office of Legislative Auditor. She asked if they had recommendations for moving forward so they would feel there is more transparency? Chair Zelle said there are recommendations made in the report, but they are broad. One recommendation is aligning funding with responsibility. Their opinion is the Council has limited funds in the Project, so they claim the Council has no incentive to be prudent and accountable for spending other agency's funds. We do not agree with this statement.

It is expected that there will be additional hearings and more reports. There will be other opportunities for the Council and others to provide a voice. Commissioner Goettel stated that Jim and his staff had to do a lot of work to provide what was needed. Jim stated that he and his team felt they were being fully transparent with the OLA. We shared over 7,800 files and over 79,000 pages of documents. We also provided OLA access to the Project's e-Builder system, which includes Project documentation and Project staff offered to give OLA training in this. Jim and Joan meet with OLA staff monthly and other Project staff are also meeting with OLA as requested. We feel we have been fully responsive and have provided

what they have requested. We will continue to be cooperative. Jim noted that this has taken up time from staff working on the Project.

**5. ADJOURN**

The meeting adjourned at 9:10 a.m.

Respectfully Submitted,

Dawn Hoffner, Recording Secretary