



Board Report

File #: 2018-0542, File Type: Contract

Agenda Number: 36.

CONSTRUCTION COMMITTEE SEPTEMBER 20, 2018

SUBJECT: THE BLOC/METRO CONNECTION JOINT DEVELOPMENT

ACTION: APPROVE RECOMMENDATIONS

RECOMMENDATION

AUTHORIZE the Chief Executive Officer (CEO) to:

- A. AUTHORIZE staff to execute the Settlement Agreement;
- B. INCREASE the Life of Project Budget for The Bloc/Metro Connection Joint Development by \$270,000, increasing the Life of Project from \$4,650,000 to \$4,920,000; and
- C. AMEND the FY19 annual budget by \$270,000.

ISSUE

This action is necessary to execute a global settlement agreement with NREA-TRC 700 LLC (the Developer), ("Settlement Agreement"). This Settlement Agreement represents staff's negotiations to settle various unforeseen construction changes encountered during construction that impacted the scope of the project, and represents the final agreement to close out the Construction. The increase to the Life of Project (LOP) budget is required to close-out the Joint Development, Construction and Funding Agreement (JDCFA).

BACKGROUND

In April 2015, the Board authorized the Chief Executive Officer to negotiate and execute a JDCFA and Reciprocal Easement Agreement (REA) with NREA-TRC 700 LLC, a Delaware limited liability company, ownership entity of The Bloc formerly Macy's Plaza (the "Owner") for the design, construction, operation, maintenance and funding of a pedestrian passageway between the 7th Street/Metro Center Station ("The Bloc/Metro Connection").

The total cost of the passageway, including The Bloc improvements necessary to accommodate the

passageway, and the value of the forgone retail space was estimated to be \$9,312,000. Metro's share of the costs for The Bloc/Metro Connection (construction and easement fee) was not to exceed \$4,650,000, which represented approximately half of the total project costs. In November 2015, Metro executed the JDCFA with NREA-TRC 700 LLC, and the project was completed with full Certificate of Occupancy on April 18, 2017.

DISCUSSION

During the course of construction there were numerous unanticipated design issues and unforeseen site conditions which resulted in an increase to the project budget. These changes mainly focused on provisions for the shoring and grouting for the tunneling work to ensure public safety and additional equipment and construction related to the removal of the station knock-out panel. As a result, the Developer submitted a final change order of Metro's share totaling \$578,513.00. After reviewing the merit of the requested changes and negotiations with the developer, the changes were reduced down to \$478,000.00. The project was able to cover \$210,000.00 of this amount with remaining contingency funds from the original project budget. This action is to request an additional \$270,000 to close-out the remaining balance.

If approved, Metro would make its proposal subject to the understanding that the Developer's acceptance of the offer would resolve all of its claims for payment of Passageway Reimbursement Costs with regard to the JDCFA, and Metro would reserve its rights under the JDCFA.

DETERMINATION OF SAFETY IMPACT

There is no safety impact associated with this action.

FINANCIAL IMPACT

If this action is approved, the LOP budget will be increased by \$270,000. The cost will be incurred in FY2019 and will be added to the FY2019 budget. The source of funds for the increase will be TDA Article 4. These funds are eligible for Metro bus and rail operating expenditures and therefore the project may impact the Metro Operations budget.

IMPLEMENTATION OF STRATEGIC PLAN GOALS

The BLOC Passageway is a direct connection between the public 7th/Metro Station and the private development at the BLOC. This project engages Metro's main strategic goals by achieving the following:

- Installation of a direct, efficient and safe connection between station and development,
- True collaboration by partnering with the development team in the financing and design of the project,

- And, provide part of the framework for similar future collaborations where Metro can connect and extend to even more areas and developments.

ALTERNATIVES CONSIDERED

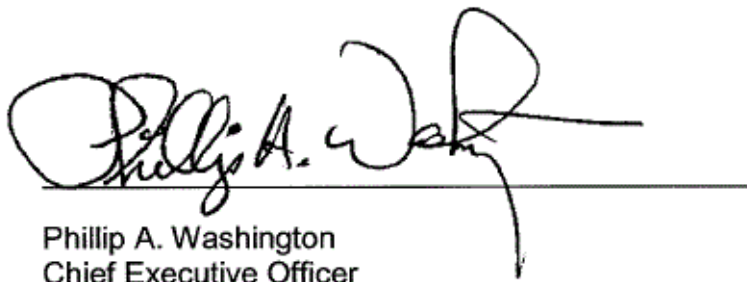
The Board may choose to not authorize the increase to the LOP Budget or the settlement agreement. This alternative is not recommended as staff would be unable to make a final payment to the Developer for the approved changes and proceed with Contract closeout.

NEXT STEPS

Upon Board approval, staff will execute the Settlement Agreement, submit the final payment, and proceed with Contract closeout.

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