



Finance, Administration and Oversight Committee

Action Item III-C

December 13, 2007

Approval of Largo Close-Out

**Washington Metropolitan Area Transportation Authority
Board Action/Information Summary**

Action
 Information

MEAD Number:
99928

Resolution:
 Yes No

PURPOSE

To obtain approval of the WMATA Board for (i) the settlement of the claim under Contract No. 1G0042 - Line, Trackwork and Systems from the contractor Lane, Granite, Slattery-Skanska Joint Venture (LGS) in the amount of \$9,500,000.00 to resolve all outstanding contract issues and closeout the contract in the amount of \$234,581,247.40, (ii) the increase of the Largo Extension project budget by \$9,500,000.00 from \$459,458,604.00 to \$468,958,604.00 and (iii) authorizing the General Manager to execute the First Amendment to the Largo Funding Agreement to include the additional funding.

DESCRIPTION

On February 21, 2002, the WMATA Board approved the award of Contract 1G0042 - Line, Trackwork and Systems to Lane, Granite, Slattery-Skanska Joint Venture (LGS) in the amount of \$217,755,000.00. Work under this contract included the preparation of the final design documents, construction and installation of box structures, aerial structures, trackwork, tail tracks, traction power and automatic train control systems for a 3.1 mile long section. This work was done in conjunction with the construction of two new stations (Largo Town Center and Morgan Boulevard) which was awarded under a separate contract as part of the Blue Line Extension.

To date, all design, construction and installation have been completed. The extension was placed in operation on December 18, 2004. This action will allow the issuance of a final modification to compensate the contractor for completed work on the basis of the negotiated settlement.

During the implementation of the contract, the region experienced terrible weather, including excessive rain, a hurricane, and record cold and snowfall. LGS did not submit a claim or a request for an extension of time until the end of the project. On November 30, 2004, LGS submitted a claim for constructive acceleration in the amount of \$29,880,323.00 alleging that they accelerated to meet the opening date of December 18, 2004. The claim is pending before the Armed Services Board of Contract Appeals. WMATA retained outside counsel to litigate the claim. Under the reimbursable

agreement with the State of Maryland, MDOT funded the litigation. After extensive discovery, the parties engaged in mediation with MDOT agreed to pay \$9,500,000.00 to settle the claim and resolve all outstanding contract issues.

FUNDING IMPACT

Budget: Reimbursable Projects
Line: Largo Metrorail Extension and Parking
Page: 106

Budget Information:

Current Budget Amount	\$459,458,604.00
This Action	9,500,000.00
Revised Budget	\$468,958,604.00
Prior Obligations	458,087,920.00
Subtotal	<u>467,587,920.00</u>
Remaining Budget	\$ 1,370,684.00 *

* Remaining Budget will be used to fund the litigation expenses and anticipated real estate and insurance costs.

RECOMMENDATION

That the WMATA Board approves (i) the settlement of the claim under Contract No. 1G0042 in the amount of \$9,500,000.00 to resolve all outstanding contract issues and closeout the contract in the amount of \$234,581,247.40, (ii) the increase of the Largo Extension project budget by \$9,500,000.00 from \$459,458,604.00 to \$468,958,604.00 and (iii) authorizing the General Manager to execute the First Amendment to the Largo Funding Agreement to include the additional funding.

PRESENTED & ADOPTED:

SUBJECT: LARGO CLOSEOUT AND SETTLEMENT

PROPOSED
RESOLUTION
OF THE
BOARD OF DIRECTORS
OF THE
WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY

WHEREAS, The Washington Metropolitan Area Transit Authority (WMATA) awarded Contract No. 1G0042 to Lane, Granite, Slattery-Skanska Joint Venture (LGS) for line, track work and systems on the Largo Metrorail extension project; and

WHEREAS, LGS asserted a claim for constructive acceleration in the approximate amount of \$29 million; and

WHEREAS, The claim for constructive acceleration is pending before the Armed Services Board of Contract Appeals; and

WHEREAS, All work has been completed and the Largo Metrorail extension began revenue service on December 18, 2004; and

WHEREAS, WMATA and LGS reached a settlement of the claim; and

WHEREAS, The State of Maryland has agreed to fund the claim pursuant to the First Amendment to the Funding Agreement funding the Largo Extension; now, therefore be it

RESOLVED, That the Board of Directors approves amending and increasing the Largo Extension Project budget by \$9,500,000, from \$459,458,604 to \$468,958,604; and be it further

RESOLVED, That the Largo Extension Project Budget may be increased up to an additional \$500,000 to cover the remaining unbilled legal fees; and be it finally

RESOLVED, That this Resolution shall be effective immediately.

Reviewed as to form and legal sufficiency,



Carol B. O'Keeffe
General Counsel



Settlement of Largo Construction Claim

Presented to the:

**Finance, Administration and Oversight
Committee**

December 13, 2007



Settlement of Largo Construction Claim

- Purpose
 - To obtain Board approval to:
 - Settle claim under Contract 1G0042 –Line, Trackwork and Systems with Lane, Granite, Slattery-Skanska Joint Venture (LGS) for \$9,500,000
 - Increase Project Budget from \$459,458.600 to \$468,958,600
 - Authorize the General Manager to increase Project Budget in the amount necessary to pay final invoiced legal fees and expenses
 - Authorize the General Manager to execute the First Amendment to the Largo Funding Agreement to include the additional funding



Settlement of Largo Construction Claim

- Background
 - On February 21, 2002 WMATA awarded Contract No. 1G0042 to LGS for Largo Extension – Trackwork and Systems the amount of \$217,755,000
 - The region experienced terrible weather during the construction of the project, including excessive rain, a hurricane, and record cold and snowfall
 - LGS performed during the adverse weather and the extension opened on December 18, 2004
 - LGS did not request an extension of time until a month before opening, November 30, 2004, and then filed a claim for constructive acceleration in the amount of \$28 million



Settlement of Largo Construction Claim

- Litigation
 - WMATA denied the claim and the parties litigated the claim before the Armed Services Board of Contract Appeals
 - After extensive discovery and analysis of the claim, the parties conducted a two-day mediation using a retired ASBCA judge. The judge advised both parties regarding the strengths and weakness of their respective cases
 - The parties reached a settlement of \$9.5 million to resolve all claims pertaining to the Contract
 - The State of Maryland also participated in the mediation and has agreed to fund the settlement amount



Settlement of Largo Construction Claim

- Recommendation
 - The Board approve the settlement of the LGS claim under Contract No. 1G0042 for \$9,500,000 to resolve all outstanding contract issues
 - The Board approve the Resolution which increases the Largo Extension Project Budget by \$9,500,000 from \$459,458,604 to \$468,958,604 and authorizes a further increase in the Largo Extension Project Budget in an additional amount to pay final invoiced legal fees and expenses
 - The Board authorize the General Manager to execute the First Amendment to the Largo Funding Agreement to include the additional funding