



Motion No. M2023-71

Contract Modification with Mass Electric Construction Company for the East Link Extension Systems Construction Contract

Meeting:	Date:	Type of action:	Staff contact:
System Expansion Committee Board	08/10/2022 08/24/2022	Recommend to Board Final action	Brooke Belman, Deputy CEO, Chief Expansion Delivery Officer Ron Lewis, DECM Executive Director Jon Lebo, Executive Project Director – East Link Ben Neeley – Principal Construction Manager - Systems

Proposed action

Authorizes the chief executive officer to increase the contract contingency with Mass Electric Construction Company for the East Link Systems Construction contract in the amount of \$38,000,000 for a new total authorized contract amount not to exceed \$433,450,000, with \$321,556,534 allocated from the East Link Extension, all within the Board approved baseline budget.

Key features summary

- In April 2017, the Board authorized a Heavy Civil GC/CM construction contract with Mass Electric Construction (MEC) Company for systems construction of the Northgate Link and East Link extensions. There is a single contract with MEC with costs tracked separately between the extensions.
- While the Northgate scope of work is complete and Acceptance has been reached, delays to the completion of the predecessor Civil construction contracts have resulted in added costs to the East Link Systems contract. MEC has submitted a claim seeking payment of those costs in the amount of \$57 million.
- This action would provide authorization to allow the Agency to compensate MEC for that portion of MEC's extended overhead costs requested in its claim for which the required supporting information has been provided to Sound Transit. This amount totals \$33 million. Negotiations continue regarding any additional amounts to which MEC may be entitled.
- This action also authorizes approximately \$5 million to complete additional scopes of work, including pedestrian crossing enhancements, additional security cameras and onsite security presence and patrols.
- Sound Transit's rights against the relevant predecessor civil contractors and against MEC will be reserved as a condition of the anticipated change order, and may be pursued through negotiation, mediation, and/or litigation.

Background

In February 2013, Sound Transit made the decision to combine the Systems construction contract for the Northgate Link and East Link extensions into one construction package based on a Value Engineering recommendation. The Systems Construction Contract Package (N830/E750) includes installation of signals, traction electrification, traction power substations, overhead catenary systems (OCS), communications, and SCADA (supervisory control and data acquisition) systems across the combined Northgate and East Link extensions, covering 18 miles of the light rail system. It also includes the Sound Transit option to add the Systems work for the Lynnwood Link Extension. That option was exercised in 2020. The Systems work on that extension is underway.

Northgate Link and East Link extensions are both highly complex and require close coordination of work and access between the Civil contractors and the Systems contractor. Thus far, this approach has proven successful. Even in light of the costs of the delays in handover, the benefit of a single Systems contract is evident in the coordination efforts with Civil contractors and a unified approach to contract completion. Sound Transit and MEC meet regularly to progress work to the extent possible through coordinated access while the predecessor civil contracts continue to progress.

Track plinth quality issues and the continuing discovery of defects within the original track construction on the I-90 segment continue to delay MEC. MEC asserts claims for extended project duration, overhead costs, and inefficiencies through August 2024. For the period of delay addressed in its Claim, MEC has not received an adjustment to their contract time or payment for extended overhead or inefficiencies. Despite the foregoing, MEC has remained engaged since May 2022, performing a number of schedule-critical changed work scopes, including the East Link Starter Line, pedestrian grade crossing enhancements, and WSDOT transformer replacement within the Homer M Hadley floating bridge.

Of the \$38,000,000 requested, \$33,000,000 represents an amount that is fully supported by the documents and information MEC has provided in connection with its Claim. Because the access dates for the remainder of the work on the I-90 segment are uncertain, final resolution of this Claim will, by necessity, occur at a later time.

Apart from extended overhead costs, \$5,000,000 of this request will ensure that Sound Transit can implement change orders for schedule-critical work and have the necessary contingency to manage unexpected changes as they arise for the remainder of East Link construction and the opening of the East Link Starter Line, subject to Board approval.

As noted, Sound Transit's rights against the relevant predecessor civil contractors and against MEC will be reserved as a condition of the anticipated change order, and may be pursued through negotiation, mediation, and/or litigation.

Project status

Project Identification	Alternatives Identification	Conceptual Engineering/ Draft EIS	Preliminary Engineering/ Final EIS	Final Design	Construction

Projected Revenue Service: full East Link Extension - 2025; potential East Link Starter Line – Spring 2024

Project scope, schedule and budget summary are located on page 30 of the June 2023 Agency Progress Report.

Procurement information

This contract was procured on June 2, 2015, through the GC/CM procurement method. Request for Qualifications (RFC) were due on July 11, 2015. Sound Transit received four (4) RFQ. The evaluation team shortlisted on September 14, 2015, two (2) most qualified submitters.

The Request for Final Proposal (RFFP) issued to the two (2) finalists. The RFFP was on October 21, 2015. The evaluation team selected Mass Electric as the highest qualified company.

This modification is within the original scope of work executed in the contract.

Fiscal information

This action is within the East Link baseline budget and sufficient monies remain after approval of this action to fund the remaining work. This action does not impact the affordability of any other system expansion project.

The baseline budget for the East Link project is \$3,677,150,000. Within the construction phase, \$323,200,000 has been allocated to E750 East Link Systems. The action would commit an additional \$38,000,000 to this line item and leave a budget balance of \$275,492.

(in thousands)	Total Baseline Budget	Board Approvals*	This Action	Board Approved Plus Action	Uncommitted / (Shortfall)
Operations and Maintenance	\$7,106	\$7,106		\$7,106	\$
Administration	183,174	129,183		129,183	53,991
Preliminary Engineering	50,874	50,874		50,874	0
Final Design	268,888	247,285		247,285	21,603
Third Parties	49,473	36,988		36,988	12,485
Right of Way	288,516	279,838		279,838	8,678
Construction	2,518,224	2,256,004	38,000	2,294,004	224,220
Construction Services	277,177	250,689		250,689	26,489
System Testing-Start Up	33,718	21,136		21,136	12,582
Total Current Budget	\$3,677,150	\$3,279,102	\$38,000	\$3,317,102	\$360,048

Phase Detail - Construction					
E750 East Link Systems	\$323,200	\$284,925	\$38,000	\$322,925	\$275
Other Construction	2,195,024	1,971,079		\$1,971,079	\$223,945
Total Phase	\$2,518,224	\$2,256,004	\$38,000	\$2,294,004	\$224,220

Mass Electric Construction (MEC) Company	Board Approvals to Date	Current Approved Contract Status	Proposed Action	Proposed Total for Board Approval
East Link Contract Amount	\$255,768	\$264,651		\$264,651
East Link Contingency	27,788	18,905	38,000	56,905
Northgate Contract Amount	102,732	107,807		107,807
Northgate Contingency	7,137	2,082		2,082
Convention Place Retrofit Contract	1,929	2,004		2,004
Convention Place Retrofit Contingency	96			0
Total Contract Amount	\$395,450	\$395,450	\$38,000	\$433,450
Percent Contingency	10%	6%	100%	16%

Notes:

Amounts are expressed in Year of Expenditure \$000s.

For detailed project information, see page 78 of 176 of the 2023 Financial Plan & Proposed Budget.

* Board Approvals = Commitment and PO Contingency Remaining as of 7/31/2023.

Disadvantaged and small business participation

Participation by small businesses and disadvantaged business enterprises (DBEs)

Sound Transit promotes and encourages small business participation, which also includes disadvantaged business enterprises (DBEs). Consistent with Sound Transit Policies and federal regulations, Sound Transit has established small business/DBE goals for this contract. These goals are based upon an examination of subcontracting opportunities contained in the work of this contract and the number of small businesses/DBEs available to perform such subcontracting work.

For this specific contract, the following goals were set and the successful Bidder/Proposer has committed to the following small business/DBE participation:

CN 0115-14: N830 Northgate E750 East Link Systems			
Small business and disadvantaged business enterprise (DBE) goals			
Sound Transit DBE goal:	3%	Sound Transit Small Business Goal:	6%
DBE Commitment:	3%	Small Business Commitment:	6%
Current DBE Participation:	5.46%	Small Business Participation:	7.39%

Public involvement

Not applicable to this action.

Time constraints

A one-month delay would not create a significant impact to the project schedule.

Prior Board/Committee actions

Motion No. M2023-24: Authorized the chief executive officer to increase the contract contingency with Mass Electric Construction Company for the East Link Systems Construction contract in the amount of \$15,000,000, for a new total authorized contract amount not to exceed \$395,450,000, with \$283,556,534 allocated to the East Link Extension, all within the Board approved project budget.

Motion No. M2017-49: Authorized the chief executive officer to execute a construction contract with Mass Electric Construction Company to provide Heavy Civil General Contractor/Construction Manager services for the Northgate Link and East Link Extensions systems construction in the amount of \$360,428,571 with a 5% contingency of \$18,021,429 for a total authorized contract amount not to exceed \$378,450,000.

Motion No. M2015-118: Authorized the chief executive officer to execute a contract with Mass Electric Construction Company to provide pre-construction services for the Northgate Link and East Link Extensions systems construction in the amount of \$2,993,538, with a 10% contingency of \$299,354, for a total authorized contract amount not to exceed \$3,292,892.

Environmental review – KH 8/1/23

Legal review – JEN 8/3/23



Motion No. M2023-71

A motion of the Board of the Central Puget Sound Regional Transit Authority authorizing the chief executive officer to increase the contract contingency with Mass Electric Construction Company for the East Link Systems Construction contract in the amount of \$38,000,000 for a new total authorized contract amount not to exceed \$433,450,000, with \$321,556,534 allocated from the East Link Extension, all within the Board approved baseline budget.

Background

In February 2013, Sound Transit made the decision to combine the Systems construction contract for the Northgate Link and East Link extensions into one construction package based on a Value Engineering recommendation. The Systems Construction Contract Package (N830/E750) includes installation of signals, traction electrification, traction power substations, overhead catenary systems (OCS), communications, and SCADA (supervisory control and data acquisition) systems across the combined Northgate and East Link extensions, covering 18 miles of the light rail system. It also includes the Sound Transit option to add the Systems work for the Lynnwood Link Extension. That option was exercised in 2020. The Systems work on that extension is underway.

Northgate Link and East Link extensions are both highly complex and require close coordination of work and access between the Civil contractors and the Systems contractor. Thus far, this approach has proven successful. Even in light of the costs of the delays in handover, the benefit of a single Systems contract is evident in the coordination efforts with Civil contractors and a unified approach to contract completion. Sound Transit and MEC meet regularly to progress work to the extent possible through coordinated access while the predecessor civil contracts continue to progress.

Track plinth quality issues and the continuing discovery of defects within the original track construction on the I-90 segment continue to delay MEC. MEC asserts claims for extended project duration, overhead costs, and inefficiencies through August 2024. For the period of delay addressed in its Claim, MEC has not received an adjustment to their contract time or payment for extended overhead or inefficiencies. Despite the foregoing, MEC has remained engaged since May 2022, performing a number of schedule-critical changed work scopes, including the East Link Starter Line, pedestrian grade crossing enhancements, and WSDOT transformer replacement within the Homer M Hadley floating bridge.

Of the \$38,000,000 requested, \$33,000,000 represents an amount that is fully supported by the documents and information MEC has provided in connection with its Claim. Because the access dates for the remainder of the work on the I-90 segment are uncertain, final resolution of this Claim will, by necessity, occur at a later time.

Apart from extended overhead costs, \$5,000,000 of this request will ensure that Sound Transit can implement change orders for schedule-critical work and have the necessary contingency to manage unexpected changes as they arise for the remainder of East Link construction and the opening of the East Link Starter Line, subject to Board approval.

As noted, Sound Transit's rights against the relevant predecessor civil contractors and against MEC will be reserved as a condition of the anticipated change order, and may be pursued through negotiation, mediation, and/or litigation.

In April 2017, the Board authorized a Heavy Civil GC/CM construction contract with Mass Electric Construction (MEC) Company for systems construction of the Northgate Link and East Link extensions. There is a single contract with MEC with costs tracked separately between the extensions.

While the Northgate scope of work is complete and Acceptance has been reached, delays to the completion of the predecessor Civil construction contracts have resulted in added costs to the East Link Systems contract. MEC has submitted a claim seeking payment of those costs in the amount of \$57 million.

This action would provide authorization to allow the Agency to compensate MEC for that portion of MEC's extended overhead costs requested in its claim for which the required supporting information has been provided to Sound Transit. This amount totals \$33 million. Negotiations continue regarding any additional amounts to which MEC may be entitled.

This action also authorizes approximately \$5 million to complete additional scopes of work, including pedestrian crossing enhancements, additional security cameras and onsite security presence and patrols.

Sound Transit's rights against the relevant predecessor civil contractors and against MEC will be reserved as a condition of the anticipated change order, and may be pursued through negotiation, mediation, and/or litigation.

Motion

It is hereby moved by the Board of the Central Puget Sound Regional Transit Authority that the chief executive officer is authorized to increase the contract contingency with Mass Electric Construction Company for the East Link Systems Construction contract in the amount of \$38,000,000 for a new total authorized contract amount not to exceed \$433,450,000, with \$321,556,534 allocated from the East Link Extension, all within the Board approved baseline budget.

APPROVED by the Board of the Central Puget Sound Regional Transit Authority at a regular meeting thereof held on August 24, 2023.



Dow Constantine
Board Chair

Attest:



Kathryn Flores
Board Administrator