

T Transportation Committee
Meeting date: September 27, 2010
Metropolitan Council Meeting: October 13, 2010

ADVISORY INFORMATION

Date: September 15, 2010
Subject: Design Settlement, Lakeville Kenrick Urban Partnership Agreement Park & Ride
District(s), Member(s): District 16, Wendy Wulff
Policy/Legal Reference: Council Policy 3.4.3 Procurement
Staff Prepared/Presented: Brian J. Lamb, General Manager, 612-349-7510
Tom Thorstenson, Director E & F, 612-349-7689
Pat Jones, Assistant Director E & F, 612-349-7606
Division/Department: Metro Transit/Engineering & Facilities

Proposed Action

That the Metropolitan Council (Council) authorize the Regional Administrator to execute a settlement agreement with Bonestroo, Inc. as a final settlement for design and construction support services related to Contract 08P066 in the amount of \$57,546.37 (3.9%), resulting in a total contract value of \$1,511,365.76.

Background

In June 2008, the Council authorized the execution of a design and construction support services contract with Bonestroo, Inc. for the design of two Urban Partnership Agreement (UPA) parking structures. Bonestroo provided such services during the term of its contract from 7/9/2008 to 12/31/2009.

During construction of the parking structures, Bonestroo worked expeditiously and responsively within the aggressive UPA schedule to complete the project on time. In doing so, they responded to revisions requested both by the City of Lakeville and Minnesota Department of Transportation (MnDOT) relative to the Kenrick structure. Bonestroo performed services in response to these requests in good faith but prior to formal authorization. Per Contract requirements, Bonestroo was required to obtain written authorization prior to implementation of the changes. In an attempt to recover costs, Bonestroo submitted a request for additional compensation in the total amount of \$121,096.50 on October 23, 2009, near the contract completion date.

In accordance with the claims process outlined in section 14.04 of the Contract, Metro Transit and Bonestroo mutually agreed on a final settlement amount of \$57,546.37, subject to Council approval. Metro Transit received documentation and communication to support this portion of the total claim, including sanitary sewer design revisions and MnDOT design review requirements.

Council policy requires Council approval for changes in the original contract value beyond 10% of the original contract price. \$30,968.40 of the proposed final settlement value falls within this 10% allowance. The portion above 10%, or \$26,577.97, requires Council approval. In summary, it is proposed to increase the total value of Contract 08P066 by \$57,546.37 to \$1,511,365.76, which is 12% above the original value.

Rationale

Council authorization is required to finalize contract costs above 10% of the original contract amount. The contract is no longer active and a final settlement agreement in

the amount of \$57,546.37 will close all remaining claims against the contract. Bonestroo, Inc. has indicated a willingness to accept this amount as a final payment for all services rendered under Contract 08P066.

Funding

Funding for this final settlement payment is available under the UPA grant.

Known Support / Opposition

Bonestroo, Inc. and the General Manager of Metro Transit are in support of this final settlement payment and entering into a settlement agreement.