

**METRO Gold Line Executive Change Control Board (ECCB)
Meeting Agenda**

June 28, 2023, 10:00 AM – 11:00 AM

Time/Location: Gold Line Project Office – Large Conference Room

Metro Square, 121 7th Place East, Suite 102, St. Paul, MN 55101

Discussion Topics

1. Welcome/Announcements
2. Action Items
 - a. 2023-ECCB-03: Approve May 15, 2023, Meeting Minutes
 - b. 2023-ECCB-04: Recommendation of authorization of the use of additional contingency funds to address potential cost increases pursuant to the ECCB Operating Procedures
 - c. 2023-ECCB-05: Designation of emergency Part 1 Change Order or contract request authority where quorum cannot be timely assembled
 - d. 2023-ECCB-06: Approval for the use of project contingency for the METRO Gold Line BRT for Amendment #10 to the Kimley-Horn and Associates Design Contract #17P058
 - e. 2023-ECCB-07: Approval for the use of project contingency for the METRO Gold Line BRT for the purchase of 5 electric buses
3. Information Items
 - a. Change Order Report
 - b. Project Update
4. Next meeting – July 26, 2023
5. Adjourn

Executive Change Control Board

For the ECCB Meeting: June 28, 2023

Subject:	Approval of May 15, 2023 Meeting Minutes
Staff Prepared/Presented:	Alicia Vap, Gold Line Project Director Morgan Abbott, Gold Line Deputy Project Manager

Proposed Board Action

That the Executive Change Control Board (ECCB) approve the meeting minutes from the May 15, 2023, meeting.

Resolution

BE IT RESOLVED, that the May 15, 2023, meeting minutes are APPROVED.

Background

Draft meeting minutes for the May 15, 2023, meeting are attached for review.

**METRO Gold Line Executive Change Control Board (ECCB)
Meeting Agenda
May 15, 2023**

Gold Line Project Office
Metro Square, 121 7th Place East, Suite 102, St. Paul, MN 55101

CALL TO ORDER

Chair Zelle called to order the Executive Change Control Board (ECCB) meeting at 8:03 a.m.

MEMBERS PRESENT: Charles Zelle – Metropolitan Council Chair, ECCB Chair
Chai Lee – Metropolitan Council Member
Stan Karwoski – Washington County Commissioner
Michelle Clasen – Washington County Commissioner

Rafael Ortega - Ramsey County Commissioner, ECCB Vice Chair
Victoria Reinhardt – Ramsey County Commissioner

MEMBERS ABSENT:

OTHERS PRESENT: Alicia Vap, Nick Thompson, Mike Rogers, Morgan Abbott, Jamie Peterson, John Rinstad, Sara Allen, Lyssa Leitner, Mary Richardson, Steve Barrett, Liz Sund

DISCUSSION TOPICS

WELCOME/ANNOUNCEMENTS

Chair Zelle welcomed everyone to an in-person meeting of the board. He provided an overview of the ECCB guidelines. Quorum was met. Chair Zelle welcomed County Commissioner Michelle Clasen, the new Washington County member, Victoria Reinhardt, the new Ramsey County Commissioner, and Chai Lee, the new Metropolitan Council member. He shared announcements on the FFGA event with FTA Administrator Fernandez in April, and announced there is a new Regional Transit Infrastructure Division that will manage the development and construction of regional transit projects. Nick Thompson, the

Metro Transit Deputy General Manager for Capital Programs, will serve as interim executive director as we are searching for a new director.

ACTION ITEMS

1. **2022-ECCB-06: Approve September 28, 2022, Meeting Minutes**

Chair Zelle called for edits. There were no edits.

Commissioner Karwoski made a motion to approve the draft minutes from the September 28, 2022, meeting, seconded by Commissioner Ortega. **Motion carried.**

2. **2022-ECCB-07: Approval of use of contingency funds for Gold Line Woodlane Station Park and Ride Contract (22P425)**

Morgan Abbott provided an overview of ECCB operating procedures, the contingency, how we develop our budget and estimate the standard cost categories (SCC), and where the contingency was last time ECCB meet in Sept. 2022.

Alicia presented the market/inflation increases, provided a summary of impacts to project contingency. Contingency as of May 2023. Use of contingency for the civil contract was bulk of use. A lot of risk has been decreased. Post FFGA budget comparison was shared, and SCC categories were reviewed, SCC 10-80. All contingency we used and are requesting today leaves remaining contingency at the 10.07% level.

Steve Barrett, Gold Line Construction Manager presented background information on the proposed board action.

- The Invitation for Bids advertised on February 28, 2023, followed by a pre-bid meeting on March 15, 2023.
- There were 62 plan holders (12 primes, 4 consultants, 14 suppliers, 27 subcontractors, 2 plan rooms, and 26 plan holders identified as woman, minority, veteran, or disadvantaged business enterprises).
- Public bid opening was held on April 12, 2023, and three bids were received ranging from \$18,312,00 to \$29,254,490.
- Donlar Construction submitted the lowest, responsive, and responsible bid and is recommended for award.
- The FTA granted FFGA for this work on April 4, 2023.
- The Gold Line ECCB Operating Procedures require approval of the use of contingency including contracts and contract cost increases of greater than \$250,000 prior to the

approval or execution of the contract. The value of this contract exceeds the amount budgeted in the 100% budget by more the \$250,000.

Proposed Board of Action No. 2023-ECCB-0012.

- Approval of the use of contingency funds in the amount of \$3,578,051 for contract #22P425 Woodlane Station Park and Ride Construction with Donlar Construction.

Commissioner Reinhard made a motion to approve, seconded by Commissioner Karwoski.

Motion carried.

QUESTIONS SOLICITED.

Commissioner Ortega inquired about the St. Paul Youth Services and Sun Ray Parcels. Alicia responded stating the project has filed for a partial condemnation to purchase a portion of St. Paul Youth Service's parking lot, and is planning to purchase a portion of Sun Ray back parking lot. Filed for condemnation and re-evaluation environmental work for full parcel for the park and ride. St. Paul Youth Services may be interested in a full acquisition of their property.

Commissioner Ortega asked how Parcel 400 Bielenberg impacts the budget. Alicia stated the project is carrying the risk and has mediation being scheduled for this parcel.

Commissioner Karwoski asked for more explanation on the use of contingency process. The team responded that the overall project has unallocated contingency, then SCC 10-80 has their own allocated contingency.

Commissioner Clasen asked where Parcel 400 Bielenberg is located. Alicia responded it's a portion of the Hartford building property.

We are coming back in June for the design contract. At the June meeting, will make modifications to the ECCB Operating Procedures.

Nick Thompson stated buses will be made in St. Cloud, MN. Commissioner Karwoski stated the project team is doing great work. Commissioner Ortega asked if there will be an increase in cost for buses. Nick stated we can provide an update at the next meeting.

Commissioner Ortega asked why is there such a wide range on the three bids. Steve stated it's hard to separate out the contracts and market conditions. With inflation the prices keep increasing, it's good we have received bids.

Members had questions about how many electric vehicle (EV) charging stations are at Woodland Park and Ride. *Morgan responded 19 stalls are EV ready and it falls into the B3 requirements. There were concerns there won't be enough charging stations. Commissioner Reinhardt asked where the buses will be charged. Alicia responded at the East Metro bus garage.

Commissioner Reinhard asked about how we will keep cars from not parking in charging stations. Alicia stated we don't allow overnight parking and Morgan said the Met Council is working on an EV charging policy.

Commissioner Karwoski if we have the infrastructure for expanding charging stations in the future. Morgan stated it will be retro fit.

*Correction after the meeting: Design files were checked after the meeting and 49 stalls will be EV ready per the approved plans.

INFORMATION ITEMS

1. 2023 Quarter 1 Report

The Project Team reviewed the following areas:

- Alicia Vap reviewed the Gold Line overview and project schedule including major milestones. Slides 28-31.
- Environmental updates – Section 106
- Steve Barratt reviewed the Construction Update – Civil Contract and Construction Admin Updates. See slides 37-42.
- Morgan Abbott presented the Project Budget, ECCB May 2023 Contingency Draw-Down Curve, funds expended by phase to date as March 31, 2023, and Forecasted costs (ETC and EAC)
 - Various changes, such as inflation, are evident in changes to SCC 10-50 and SCC 80. An item to note is that when the 100% design/scope/schedule/budget was approved last summer, the amount approved was \$326 million for SCC 10-50, but that included approximately \$5 million in locally funded work that isn't included in the total project budget of \$505.3 million.
- Real Estate Update – Acquisition as of May 11, 2023
 - Appraisals greater than \$1M submitted for FTA review. Including: St. Paul Youth Services (for Sun Ray Park and Ride), Bre Retail/Sun Ray Shopping Center, 3M Company, Donald Regan, and Intrepid Holdings.

Commissioner Ortega requested a timeline for construction to tell the community. Steve stated construction will end Oct. 2024.

Commissioner Karwoski asked if there has been a remedy with powerlines on Bielenberg in Woodbury and asked about communication with residents and businesses. Steve Barrett mentioned the coordination with private utilities has been challenging, but there has been ongoing communication with residents and business and continue to coordinate and relocate out of the way for Gold Line.

Commissioner Karwoski expressed gratitude for the project team and how great the team is doing with communicating and providing updates on construction.

Commissioner Ortega asked about the timing for Earl Street construction. Steve Barrett stated construction is scheduled to end of June. Alicia stated we'll put together a schedule and milestone information.

Chair Charles Zelle asks if there are any final questions for the Gold Line Project Team. There are none.

NEXT MEETING – JUNE 28, 2023

ADJOURNMENT

Business completed; Chair Zelle adjourned the meeting at 9:08 AM.

Liz Sund, Recording Secretary

DRAFT

Executive Change Control Board

For the ECCB Meeting: June 28, 2023

Subject:	Recommendation of authorization of the use of additional contingency funds to address potential cost increases pursuant to the ECCB Operating Procedures
Staff Prepared/Presented:	John Ristad, Gold Line Joint Powers Board Counsel

Proposed Board Action

Approve Resolution which recommends that the Joint Powers Board authorize the use of additional contingency funds, in the amount of \$25,500,000 to address potential cost increases pursuant to the Procedures.

Resolution

BE IT RESOLVED that the ECCB recommends that the Joint Powers Board authorize the use of additional contingency funds, in the amount of \$25,500,000 to address potential cost increases pursuant to the Procedures.

Background

The purpose of the ECCB is to ensure orderly and appropriate coordination of significant changes to the Gold Line Project (“Project”) cost and budget. In establishing the ECCB Operating Procedures (“Procedures”), the Gold Line Joint Powers Board set a hold point of \$51,508,500 (50% of the Contingency Funds at that time) as of the effective date of the Procedures. Section 2.0 of the Procedures require the Board to approve the use of Contingency Funds in excess of this amount. With the proposed amendment to the Kimley-Horn agreement and electric bus purchase, the ECCB now needs the Joint Powers Board to authorize future use of Contingency Funds. As of May 2023, the project has \$50,884,356 contingency. Staff is proposing that the JPB authorize approximately 50% of the remaining project contingency. The new recommended hold point is \$77,008,500, which leaves \$25,384,356 remaining that ECCB is not authorized to use. The contingency stated above refers to both allocated and unallocated.

The requested action does not change the other requirements contained in Section 2.0 (e.g., ECCB approval of change orders, new contracts, and other costs of \$250,000 or more and reporting all change orders less than \$250,000).

Action Summary	
Current Contingency Authorized Threshold	\$51,508,500
Proposed Increase	\$25,500,000
Proposed Contingency Authorized Threshold	\$77,008,500
<i>Remaining Unauthorized Contingency</i>	<i>\$25,384,356</i>

Contingency Use Summary			
ECCB Action No	Description	Contingency Amount	Meeting Date
2020-ECCB-02	Design Services Amendment #5	\$1,392,000	11/25/2020
2022-ECCB-03	Civil Construction Contract	\$33,475,000	07/11/2022
2022-ECCB-04	Civil Contract Administration & Inspection Services Contract	\$12,000,000	07/11/2022
2022-ECCB-07	Contaminated Materials Contract	\$1,063,226	09/28/2022
2023-ECCB-02	Woodlane Park & Ride Construction Contract	\$3,578,051	05/15/2023
Total		\$51,508,277	

Recommendation: Council and County staff recommend that the ECCB request authorization from the Joint Powers Board to release \$25,500,000 in remaining Contingency Funds to use for change orders and other Project expenses.

Executive Change Control Board

For the ECCB Meeting: June 28, 2023

Subject:	Designation of emergency Part 1 Change Order or contract request authority where quorum cannot be timely assembled
Staff Prepared/Presented:	John Ristad, Gold Line Joint Powers Board Counsel

Proposed Board Action

Designate the Gold Line Joint Powers Board Chair and Vice Chair to have emergency approval authority for a Part 1 Change Order or contract request when a quorum for an emergency meeting cannot be timely assembled.

Resolution

BE IT RESOLVED that the Executive Change Control Board hereby designates the Gold Line Joint Powers Board Chair to have approval authority for a Part 1 Change Order or contract request, subject to the conditions in Section 6.3 of the Executive Change Control Board Operating Procedures; and

BE IT RESOLVED that the Executive Change Control Board hereby designates the Gold Line Joint Powers Board Vice Chair to have approval authority for a Part 1 Change Order or contract request if the Gold Line Joint Powers Board Chair cannot be timely reached, subject to the conditions in Section 6.3 of the Executive Change Control Board Operating Procedures.

Background

The purpose of the ECCB is to ensure orderly and appropriate coordination of significant changes to the Gold Line Project (“Project”) cost and budget. This oversight requires ECCB approval of any change orders, contracts, or other costs of \$250,000 or more. In the event of an emergency, there may be circumstances where the ECCB chair cannot assemble a quorum for either a special or emergency meeting to approve the change orders, contracts, or other costs of \$250,000 or more. In those limited circumstances, Section 6.3 provides that the ECCB shall designate a representative from either Ramsey or Washington County who may provide approval authority for a Part 1 Change Order or contract request if:

- A. a quorum for an emergency meeting cannot be timely assembled; and
- B. in the judgement of the Project Director a decision must be made before a quorum can be assembled to avoid or remediate:
 - a. an imminent threat to the health and safety of the public, contractor, and/or employees or to the structural integrity of facilities or infrastructure,
 - b. a substantial likelihood that a contractor may have a meritorious and substantial delay claim, or
 - c. immediate action is critical in order to avoid a significant cost increase to the Project.

Section 6.3 also provides that the ECCB may designate, in ranked order, other county commissioners who are part of the Gold Line Joint Powers Board (“JPB”) to provide this approval authority if the designated representative cannot be timely reached.

Any Part 1 emergency Change Order or emergency contract request is subject to ECCB ratification at its next meeting, and ECCB approval through its regular process is still required before any Part 2 (final) Change Order or contract request is approved.

Recommendation: Council and County staff recommend that the ECCB designate the JPB Chair as the primary representative and the JPB Vice Chair as the secondary representative for all emergency Part 1 Change Order or contract requests. Designating these roles by position alleviates the need to re-designate each time there is a change of commissioner on the JPB. These designations have yet to be made but may become more necessary as construction progresses on the Project. Having these designations allows the ECCB to comply with the Operating Procedures and ensure minimal interruptions in case of emergencies where a quorum for an emergency meeting cannot be timely assembled.

Executive Change Control Board

For the ECCB Meeting: June 28, 2023

Subject: Approval for the use of project contingency for the METRO Gold Line BRT for Amendment #10 to the Kimley-Horn and Associates Design Contract #17P058

Staff Prepared/Presented: Ed Sanderson, Gold Line Design Manager

Proposed Board Action

Approval for the use of project contingency for the Metro Gold Line BRT for Amendment #10 Design Contract #17P058 with Kimley-Horn and Associates in an amount not to exceed \$975,315 subject to the Gold Line Joint Powers Board’s authorization to expend Contingency Funds in excess of \$51,508,500.

Resolution

BE IT RESOLVED that the Executive Change Control Board hereby approves the use of contingency funds in the maximum amount of \$975,315 as needed for the work under Gold Line Amendment #10 Design Contract #17P058 with Kimley-Horn and Associates is APPROVED, subject to the Gold Line Joint Powers Board’s authorization to expend Contingency Funds in excess of \$51,508,500.

Background

The Kimley-Horn and Associates Design Contract #17P058 was executed on January 26, 2018 for an original contract amount of \$35,161,507 and as is standard Metropolitan Council policy, an additional 10%, or \$3,516,150, for a total authorized amount of \$38,677,656. Since that time, nine amendments totaling \$2,117,800 have been executed. Amendments one through four were approved prior to the formation of the ECCB. These include:

Item No	Description	\$505.3 Budget	Local Funding	Amount
1	Indemnification; insurance requirements			\$0
2	Added insureds and indemnified parties		X	\$275,750
3	Local Work Scope Modification		X	\$70,000
4	Local Work Scope Modification		X	\$119,100
ECCB ESTABLISHED (MAY 2020)				
5	Woodbury Station Park & Ride and RTMC Utility Relocation 2020-ECCB-02 approved 11/25/2020 ECCB Meeting	X		\$1,392,000
6	Local Work Scope Modification and Contaminated Materials Testing	X	X	\$56,780
7	Local Work Scope Modification and Contaminated Materials Testing	X	X	\$12,670
8	Local Work Scope Modification		X	\$20,500
9	East Metro Transit Facility Improvements	X		\$171,000

With the addition of the nine amendments, the current contract amount is \$37,279,307. Amendment #10 would authorize the following additional services:

	Service	Reason	Amount
1	Civil Contract Construction Phase Services (through 3/2024)	Increased hours needed for additional coordination with partnering agencies thus far has been higher than initially anticipated	\$600,000
2	East Metro Transit Facility Design Improvements	Improvements to an existing maintenance facility to accommodate both larger buses and electric buses	\$15,000
3	Woodlane Park-n-Ride Construction Phase Services (through 3/2024)	Construction administration services	\$260,600
4	Landscape Design Package	Redesign of landscaping to modify scope, cost, and bid as a separate project to construct after completion of the main civil construction	\$40,000
5	Saint Paul Youth Services Parcel Redesign	Current discussions with SPYS may result in the need to redesign the current park-n-ride facility in a condensed schedule; this portion of the amendment will only be authorized if discussions with SPYS result in needed site changes	\$58,200
6	Oakdale Local Work Sanitary Sewer Redesign	To accommodate project partners' request to convey stormwater under I-94 to help them reduce future construction costs; locally funded/not part of \$505.3 budget.	\$1,515
		TOTAL	\$975,315

An independent cost estimate (ICE) was performed, and the work came in under the cost estimate.

Amendment #10 would increase the current contract amount to \$38,254,622, which is within the \$38,677,656 Council authorized amount.

Budget Summary

Contingency Use Summary			
Total Contingency as of May 2023		\$51,884,355	10.07%
Total Contingency after Builders Insurance		\$50,778,900	10.05%
Total Contingency after proposed action*		\$50,778,900	10.05%

* The proposed contingency use for Amendment #10 was included in the budget update following FFGA award in April 2023, as it is within the Council's authorized contingency authority, and as such, the total project contingency does not change with this action.

ECCB Guiding Principles:

Section 3.0.B. of the ECCB Operating Procedures provides that when considering the use of contingency funds, the ECCB may consider relevant factors, including but not limited to:

- a. Known and potential project costs or schedule risks
- b. Safety
- c. Operational reliability
- d. Current circumstances
- e. The potential need for contingency funds to complete the project
- f. The amount of remaining contingency and known or potential competing demands for the funds

The following summarizes the impacts of the proposed use of contingency in the amount of \$975,315 for the Amendment #10 services, considering the above factors:

- a. **Known and potential project costs or schedule risks.** The FFGA between the Federal Transit Administration and the Council includes activities identified in the scope of work of the services proposed under Amendment #10. The timely award of the contract amendment is important to keep the project on schedule. None of the additional scope items could be removed and still maintain the integrity of the design and meet project needs.
- b. **Safety.** A component of Item #2 - East Metro Transit Facility Design Improvements will be to expand fall protection in the bus service bays. This is important to worker safety as much of the electric bus charging connection related equipment is located on the roof of the buses and thus safe, adequate access is a necessity.
- c. **Operational Reliability.** Another component of Item #2 - East Metro Transit Facility Design Improvements is the retrofit of existing bus bays to adequately service larger 60' buses proposed as part of the Gold Line BRT.
- d. **Current circumstances.** The Gold Line BRT project is at a critical stage in many aspects – continuing to construct the main civil project on schedule, starting construction of the Woodlane Station Park-n-Ride in a timely manner, and finalizing the smaller East Metro Transit Facility Design and Landscaping Design packages for letting later this summer. Amendment #10 allows the project to keep on schedule with these milestones.
- e. **The potential need for contingency funds to complete the project.** At this stage of construction, FTA recommends that the project budget include total contingency funds equaling 13% of the project budget to mitigate future risk. The Council authorizes 10% contingency above contract quantities. The proposed contingency use for Amendment #10 was included in the budget update following FFGA award in April 2023, as it is within the Council's authorized contingency authority, and as such, the total project contingency drawdown does not change with this action, even though the project is requesting use of contingency funds.
- f. **The amount of remaining contingency and known or potential competing demands for the funds.** The proposed contingency use for Amendment #10 was included in the budget update following FFGA award in April 2023, as it is within the Council's authorized contingency authority, and as such, the total project contingency does not change with this action. Approximately \$100,000 contingency was used to purchase Builders Risk Insurance in May 2023. There is anticipated contingency use for the 5 electric bus purchase. There are two remaining construction contracts, the East Metro Garage and Landscaping that will go out for bid later in 2023 that are risks to contingency use. No other anticipated uses of contingency are known at this time.

- g. **Other factors.** Project staff are continuing to participate in a monthly risk management process, continuing to keep a closely track the civil contract change orders, reviewing future scope of unsolicited contract meeting monthly with county financial staff, and continuing to monitor active contractors on a monthly basis.

Recommendation: Council and County staff recommend that the ECCB approve Amendment #10 to Kimley-Horn and Associates Design Contract #17P058 and the use of contingency funds in the maximum amount of \$975,315.

Executive Change Control Board

For the ECCB Meeting: June 28, 2023

Subject:	Approval for the use of project contingency for the METRO Gold Line BRT for the purchase of 5 electric buses
Staff Prepared/Presented:	Alicia Vap, Gold Line Project Director

Proposed Board Action

Approval for the use of project contingency for the Metro Gold Line BRT for the purchase of five (5) electric buses from New Flyer of America off the Washington State Transit Bus Master Contract #06719-01 with the use of Contingency Funds in an amount not to exceed \$3,068,408.96, subject to the Gold Line Joint Powers Board's authorization to expend Contingency Funds in excess of \$51,508,500.

Resolution

BE IT RESOLVED that the Executive Change Control Board hereby approves the use of Contingency Funds in the maximum amount of \$3,068,408.96 as needed for the purchase of five (5) electric buses from New Flyer of America pursuant to Washington State Transit Bus Master Contract #06719-01 is APPROVED, subject to the Gold Line Joint Powers Board's authorization to expend Contingency Funds in excess of \$51,508,500.

Background

The METRO Gold Line Bus Rapid Transit (GBRT) project grant included the purchase of 12 diesel buses and five (5) electric buses to be used in the project. Metro Transit is purchasing the five (5) electric 60-foot buses, with expected delivery in 2024.

To proceed with this procurement, Metro Transit will be using a cooperative agreement with Washington State. The Council approved usage of the State of Washington Cooperative Purchasing agreement for rolling stock purchase and related equipment in September 2022, business item 2022-260, contract #06719-01. GBRT will be purchasing electric vehicles utilizing the Washington State Master Contract No. 04016.

Operating electric buses will provide Metro Transit with the potential to reduce energy consumption and reduce fleet emissions. Examples of additional benefits of electric transit buses: no engine oil changes, no diesel oxidation catalyst (DOC) and diesel particulate filter (DPF) cleaning, increased brake life, fewer moving parts, and reduced noise emission.

An independent cost estimate (ICE) was performed, and the work came slightly over the cost estimate.

Budget Summary

Bus Budget				
Item	Bus Type	QTY	Budget	Amount
1	Diesel	12	Base Budget	\$11,980,358.16
2	Electric	5	Base Budget	\$6,313,676.04
			Allocated Contingency	\$2,474,232.00
			Unallocated Contingency	\$321,176.96
			<i>Total Contingency</i>	<i>\$3,068,408.96</i>
Total Electric Bus				\$9,109,085.00
Total Bus Purchase (Diesel & Electric)				\$21,089,443.16

Contingency Use Summary		
Total Contingency as of May 2023	\$51,884,355	10.07%
Total Contingency after Builders Insurance	\$50,778,990	10.05%
Total Contingency after proposed action	\$47,700,925	9.44%

ECCB Guiding Principles:

Section 3.0.B. of the ECCB Operating Procedures provides that when considering the use of contingency funds, the ECCB may consider relevant factors, including but not limited to:

- a. Known and potential project costs or schedule risks
- b. Safety
- c. Operational reliability
- d. Current circumstances
- e. The potential need for contingency funds to complete the project
- f. The amount of remaining contingency and known or potential competing demands for the funds

The following summarizes the impacts of the proposed use of contingency in the amount of \$3,068,408.96 for the electric bus acquisition, considering the above factors:

- a. **Known and potential project costs or schedule risks.** The FFGA between the Federal Transit Administration and the Council includes the purchase of 12 diesel and 5 electric buses. The timely award of the contract option is important to keep the project on schedule. None of the buses could be removed from the scope given the commitments in the FFGA. Staff anticipates higher cost to this purchase if it is deferred to a later date.
- b. **Safety.** Operating electric buses will provide Metro Transit with the potential to reduce energy consumption and reduce fleet emissions, which improves health in the region. Examples of additional benefits of electric transit buses over diesel include reduced noise emission, reduced exposure to harmful diesel emissions like PM and NO_x, and greenhouse gas emissions.

- c. **Operational Reliability** East Metro Transit Facility Design Improvements design contract was approved at the May ECCB meeting and includes the retrofit of existing bus bays to adequately service larger 60' buses, including the 5 electric buses, proposed as part of the Gold Line BRT.
- d. **Current circumstances.** The Gold Line BRT project is at a critical stage in many aspects to maintain the proposed schedule. This includes procuring the buses and includes finalizing the smaller East Metro Transit Facility Design packages, which includes bus charging infrastructure. Approving the proposed contract option allows the project to keep on schedule with these milestones.
- e. **The potential need for contingency funds to complete the project.** At this stage of construction, FTA recommends that the project budget include total contingency funds equaling 13% of the project budget to mitigate future risk. The unallocated contingency use of this contract will change the total project contingency to 9.44%. This new percentage of total project contingency also includes use of unallocated contingency for the payment of builder's risk insurance of \$105,455, which is below the ECCB \$250,000 approval threshold.
- f. **The amount of remaining contingency and known or potential competing demands for the funds.** There are two remaining construction contracts, the East Metro Garage and Landscaping that will go out for bid later in 2023 that are risks to contingency use. No other anticipated uses of contingency are known at this time.
- g. **Other factors.** Project staff are continuing to participate in a monthly risk management process, continuing to keep a closely track the civil contract change orders, reviewing future scope of unsolicited contract meeting monthly with county financial staff, and continuing to monitor active contractors on a monthly basis.

Recommendation: Council and County staff recommend that the ECCB approve to execute an option with New Flyer of America off the Washington State Transit Bus Master Contract #06719-01 for the purchase of five electric buses for the METRO Gold Line Bus Rapid Transit Project and the use of Contingency Funds in an amount not to exceed \$3,068,408.96.