



Date: November 24, 2021
Current Meeting: December 02, 2021
Board Meeting: December 09, 2021

BOARD MEMORANDUM

TO: Indianapolis Public Transportation Corporation (IPTC) Board of Directors
THROUGH: President/CEO Inez P. Evans
FROM: Vice President of Infrastructure, Strategy, and Innovation Jennifer Pyrz
SUBJECT: Consideration and approval of an amendment to the agreement regarding stormwater management and Citizens and CWA infrastructure and the Purple Line Bus Rapid Transit Project

ACTION ITEM A – 16

RECOMMENDATION:

It is requested that the Board authorize the President/CEO to execute Amendment No. 2 to the *Agreement Regarding Stormwater Management and Citizens and CWA Infrastructure and the Purple Line Bus Rapid Transit Project* to increase IPTC’s contribution to Citizens’ Purple Line utility relocation costs from a maximum of \$1,400,000 to a maximum of \$3,000,000.

BACKGROUND:

The original referenced agreement between Citizens, Indianapolis DPW, and IPTC was approved by the Board at its May 28, 2020 meeting and was executed by all parties on May 29, 2020. It provides for the design and construction of stormwater drainage facilities within the Purple Line BRT Project and includes provisions for IPTC’s Purple Line Contractor to complete a combined storm sewer separation project and IPTC’s reimbursement of a portion of Citizens’ utility relocation costs.

At the time the agreement was signed, the cost of the utility’s relocations work was estimated at \$3,800,000 with contingency. The agreement stipulates that Citizen’s pay the first \$2,400,000 of the costs incurred and that IPTC pay the next \$1,400,000. If costs exceed the combined total of these two costs, Citizen’s and IPTC agreed to meet to determine a fair and reasonable allocation of costs for the additional work. IPTC has not yet paid any of these costs.

Amendment No. 1 was approved by the Board at its May 27, 2021 meeting and modified the section of the agreement related to utility relocation costs. Per the amendment, an option was added whereby IPTC could pay its share of relocation costs first, with Citizens reimbursing IPTC in the event that final costs are less than the \$3,800,000 estimate. The amendment also provides an option for IPTC to pay up to \$2,000,000 of the initial relocation work costs (\$600,000 more than IPTC’s anticipated share), with all costs over \$1,400,000 reimbursed. These options were not exercised.

DISCUSSION:

The necessary relocations of Citizens’ utilities are underway. As with the Purple Line construction bids, bids for the utility relocation work have also come in over budget. The overages are a result of increased material and labor costs, presumed to be influenced by the pandemic.

Relocations are performed only pursuant to approved work plans. Citizens has notified IPTC that, by the time all work is completed, water relocations may be as much as \$2,700,000 over the original estimate and that gas relocations may be as much as \$1,552,000 over the original estimate. They have asked IPTC to consider how these costs will be shared and proposed that Citizens and IPTC share in the overages in the same proportion that was agreed to in the original

agreement. In that agreement, Citizens' \$2,400,000 contribution is approximately 63% of the total relocation costs and IPTC's \$1,400,000 contribution covers the remaining 37%.

This amendment would modify the original agreement to extend that 63/37 split to all costs incurred on the relocations, including anything over and above the originally estimated \$3,800,000. IPTC would only contribute to construction labor and material costs; soft costs would be specifically excluded from the cost share agreement. Under this amendment, IPTC would pay 37% of any relocation costs determined to be allowable, allocable, and reasonable. Current estimates put this contribution in the range of \$1 Million to \$1.5 Million. The agreement would require additional approval for any contribution from IPTC that exceeds \$3,000,000.

IPTC anticipates starting Purple Line construction in the 4th quarter of this year. It is imperative that utilities be relocated as soon as possible so as not to delay construction progress. IPTC's contribution to the relocation of Citizens' utilities will help keep the project on schedule.

ALTERNATIVES:

The Board could choose not to support this amendment. This would result in further negotiation with Citizens related to share of utility relocation costs and could require mediation and formal dispute resolution proceedings to come to agreement. This could delay relocations and, ultimately, impact the project schedule.

FISCAL IMPACT:

This action can be funded by the more than \$20 million of capital budget underspending in 2021. There will be no negative impact to fund balances if approved.

DBE/XBE DECLARATION:

Not applicable

STANDING COMMITTEE DISCUSSION/RECOMMENDATION:

This action will be reviewed by the Finance Committee on December 2, 2021.