

Management Committee

Meeting date: October 25, 2017

For the Metropolitan Council meeting of November 9, 2017

Subject: Southwest Light Rail Transit (Green Line Extension) Amendment #3 to the Legal Services Contract (16P030) with Greene Espel, PLLP

District(s), Member(s): All

Policy/Legal Reference: Minnesota Statutes 473.399, Minnesota Statutes 473.129

Staff Prepared/Presented: Ann Bloodhart, General Counsel, 651-602-1105
Brian Lamb, Metro Transit General Manager, 612-349-7510
Mark Fuhrmann, Metro Transit Deputy General Manager, 612-373-3810
Jim Alexander, SWLRT Project Director, 612-373-3880

Division/Department: Office of General Counsel and Metro Transit / Green Line Extension LRT

Proposed Action

That the Metropolitan Council authorize the Regional Administrator to execute Amendment #3 to the legal services contract (16P030) with Greene Espel, PLLP related to freight rail for the Southwest Light Rail Transit (Green Line Extension), to add \$300,000 for a total authorized contract value of \$1 million.

Background

Authorization to amend the legal services contract with Greene Espel, PLLP is required because the current contract value is anticipated to be fully expended by the end of October 2017.

Greene Espel is actively engaged in negotiating four essential freight rail agreements with BNSF Railway: 1) Purchase and Sale Agreement; 2) Freight Rail Coordination Agreement - Construction Phase; 3) Shared Use Agreement; and 4) Freight Rail Coordination Agreement – Pre-Construction Phase to reimburse BNSF for activities in advance of construction commencement, such as plan review. The agreements must be substantially completed prior to application for the Full Funding Grant Agreement for the Green Line Extension. It is critical to maintain existing relationships at this point in negotiations in order to achieve critical schedule milestones.

The original contract was executed on April 1, 2016 for \$200,000. Amendment #1 and #2 were executed on March 27, 2017 and July 20, 2017, respectively to increase the total contract value to \$700,000. For amendment #3, staff recommends increasing the contract value by an additional \$300,000 to ensure the continuity of Greene Espel's role in completing negotiations with BNSF.

These funds are anticipated to cover ongoing legal services associated with the Project as it relates to BNSF. The Council will utilize Greene Espel's services to (i) finalize the Purchase and Sale Agreement and process the 3 closings contemplated therein, (ii) finalize and execute the Freight Rail Coordination Agreement - Construction Phase and Shared Use agreements, (iii) finalize and execute the Freight Rail Coordination Agreement – Pre-Construction Phase Agreement, and (iv) execute an amendment to the Freight Rail Coordination Agreement - Construction Phase Agreement to incorporate the agreed plans, specifications, and schedule.

Rationale

Contract amendment #3 is for additional legal services needed for final negotiations of four critical freight rail agreements with BNSF prior to the SWLRT Project's application for the FFGA and to process the 3 closings contemplated in the Purchase and Sale Agreement, execute an amendment to the Freight Rail Coordination Agreement - Construction Phase Agreement, and provide on-call legal services during construction.

Thrive Lens Analysis

Coordination with freight rail companies is necessary to construct and operate the Green Line Extension that will increase the region's prosperity as it will provide access to 80,900 forecasted jobs and a new transportation option for 55,600 forecasted residents within ½ mile of the planned new stations in addition to the 145,300 forecasted jobs and 35,600 forecasted residents in downtown Minneapolis.

Funding

Legal Services is a project budgeted activity and a project eligible expense.

Known Support / Opposition

There is no known opposition to amending the contract with Greene Espel, PLLP (16P030).