

Management Committee

Meeting date: August 14, 2019

For the Metropolitan Council meeting of August 28, 2019

Subject: Southwest Light Rail Transit (Green Line Extension) Amendment # 4 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
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Division/Department: Office of General Counsel and Metro Transit / Green Line Extension LRT

Proposed Action

That the Metropolitan Council approve a sole source contract amendment for legal services related to freight rail for the Southwest Light Rail Transit (SWLRT) project with Greene Espel, PLLP (16P030) to increase the contract by \$50,000 for a total contract amount of \$1.050 million.

Background

Greene Espel negotiated four critical freight rail agreements with BNSF Railway: A) Purchase and Sale Agreement (“PSA”); B) Freight Rail Coordination Agreement - Construction Phase; C) Shared Use Agreement; and D) Freight Rail Coordination Agreement – Pre-Construction Phase. The Council needed these agreements executed to start construction on the BNSF right-of-way and to apply for the Full Funding Grant Agreement for SWLRT. The PSA includes multiple closings and the Council is obligated to complete certain activities prior to the next scheduled closing in January 2020. It is critical to maintain the existing relationship with Greene Espel in order to complete activities required in conjunction with the next property closing.

The original contract was executed on April 1, 2016 for \$200,000. Amendments #1, #2, and #3 were executed on March 27, 2017, July 20, 2017, and May 4, 2018 respectively to increase the total contract value to \$1 million. Deliverables included the executed agreements and completion of two closings with BNSF. For amendment #4, staff recommends another sole source contract amendment to ensure the continuity of Greene Espel's role in completing activities required to complete the next closing with BNSF. Soliciting and retaining a new legal counsel will be very time consuming and costly since a new entity will not have historical knowledge of BNSF negotiations and will not possess the relations built over the past three years. This will impact numerous related issues and activities associated with the next scheduled closing in January 2020.

The funds requested for Amendment #4 will cover ongoing legal services associated with the Project as it relates to BNSF, providing continuity of legal services to complete activities required in the PSA in preparation for the next closing with BNSF, including (i) applications to the City of Minneapolis to vacate the portions of abandoned roadways overlapping BNSF right-of-way, (ii) release of an easement on property conveyed to BNSF at the second closing, and (iii) correct and release a street utility easement on property conveyed to

BNSF at the second closing with BNSF.

The Council intends to competitively procure a new legal services contract that will be in place for any further closing or freight rail related activities and anticipate issuing a Notice to Proceed in early 2020.

Rationale

Contract amendment #4 is for continued legal services needed to complete activities required to complete the next closing with BNSF.

Thrive Lens Analysis

- Livability
The Green Line Extension will increase the region's prosperity as it will provide access to 80,900 forecasted jobs and a new transportation option for 55,800 forecasted residents within half (½) mile of the planned new stations in addition to the 145,300 forecasted jobs and 35,600 forecasted residents in downtown Minneapolis.
- Prosperity
The Green Line Extension reflects strategic investment in regional infrastructure that will promote economic competitiveness and create prosperity for the region.

Funding

Legal Services are a Project-eligible cost and included in the Council's authorized capital budget.

Known Support / Opposition

There is no known opposition to this action.