

Business Item

Management Committee



Committee Meeting Date: September 13, 2023

For the Metropolitan Council: September 27, 2023

Business Item: 2023-159

METRO Green Line Extension Legal Services Contract Sole Source Amendment 3 with Best & Flanagan LLP

District(s), Member(s):	All
Policy/Legal Reference:	MN Statutes section 473.3999; FM 14-2 Expenditures for the Procurement of Goods, Services, and Real Estate Policy
Staff Prepared/Presented:	Lesley Kandaras, General Manager, 612-349-7513 Nick Thompson, Interim Executive Director, 612-349-7507 Jim Alexander, Project Director, 612-373-3880 Joan Hollick, Deputy Project Director, 612-373-3820
Division/Department:	Metro Transit / Green Line Extension Project

Proposed Action

That the Metropolitan Council approve a sole source contract amendment for legal services for real estate acquisition for the Southwest Light Rail Transit (LRT) Project with Best & Flanagan LLP (19P037C) to increase the contract amount by \$150,000 to a total contract amount of \$1,525,000.

Background

In November of 2016, the Council approved Business Item 2016-28 declaring that the Southwest LRT Project (Green Line Extension) is a valid public purpose for the use of condemnation proceedings and directing the Council's attorneys to acquire properties needed for the Project by condemnation if they could not be acquired by direct negotiation. In 2017, on multiple occasions, the Council authorized the use of condemnation for certain parcels appraised at greater than \$1 million.

In 2017, the Minnesota Legislature modified the eminent domain statute, Minnesota Statutes Chapter 117, and clarified that the Council must pay landowners' attorneys' fees and costs pursuant to Minn. Stat. § 117.031 for LRT projects. This had the effect of discouraging owners from settling and thus having more parcels put into condemnation.

In early 2018, it was determined that neither MnDOT legal staff nor the Council's Office of General Counsel had the capacity to handle all the Southwest LRT condemnations. As a result, the Council contracted with private firms to handle condemnation proceedings.

In March 2019, an RFP was issued for a legal services master contract. As a result of that RFP, three master contracts were assigned, totaling \$2,200,000. The contract executed for Best & Flanagan totaled \$1,250,000. In February 2020, the scope of this contract was amended, through Amendment 1, to include 2 additional properties. No additional funds were added at that time. Amendment 2, which was issued in December 2022, added 10% to the overall contract value, \$125,000, as a result of the depth of work needed to address issues on several properties being more than originally estimated.

Amendment 3 to the contract is requested in the amount of \$150,000, bringing the contract total to \$1,525,000. This amendment is requested to provide the following services:

- Assisting the Council in resolving attorney fees for parcels which Best & Flanagan provided legal support in the condemnation process; and
- Providing additional legal support in the condemnation process for parcels which Best & Flanagan is involved.

Rationale

Authorization to execute Amendment 3 is necessary to provide the successful litigation of parcels in condemnation. An amendment of a services contract at this dollar value that exceeds 10% of the original authorized value requires Council approval.

Thrive Lens Analysis

Successful completion of the METRO Green Line Extension will advance the following Thrive MSP 2040 outcomes:

Stewardship: Transit investment provides an opportunity to reinvest and grow the capacity of our communities, with more inclusive development and intentional investment. It encourages businesses to invest in communities, which means access to resources, community amenities, jobs, and other community assets.

Equity: Connections to other METRO lines and countless local bus routes will bring people to jobs, education, resources and connect diverse and vibrant communities across the region.

Livability: The METRO Green Line Extension will add 14.5 miles to the existing Line, which connects downtown Minneapolis, downtown Saint Paul, and places in-between. This segment connects Eden Prairie, Minnetonka, Hopkins, and St. Louis Park to both downtown Minneapolis and Saint Paul, and major destinations at the University of Minnesota and the State Capitol.

Prosperity: The METRO Green Line Extension reflects strategic investment in regional infrastructure that will promote economic competitiveness and create prosperity for the region. Despite being under construction, the METRO Green Line Extension has already seen more than \$2 billion of existing and planned development investment within a half-mile of the line.

Sustainability: As many as 700,000 more people will be living, working, and moving around the Twin Cities region by 2040. As a result, a robust transportation system is needed to provide the region choices and more mobility.

Funding

The is a METRO Green Line Extension Project (61001) eligible cost. Funds are available in Project No. 61001 budget and included in the Council's authorized capital budget.

Small Business Inclusion

The proposed contract amendment will be executed through a sole source agreement. The Office of Equity and Equal Opportunity does not review sole source contracts for small business participation goals.

