

Management Committee

For the Metropolitan Council meeting of June 28, 2017

Subject: Southwest Light Rail Transit (Green Line Extension) Amendment #2 to the Legal Services Contract (16P030) with Greene Espel, PLLP

Proposed Action

That the Metropolitan Council authorize the Regional Administrator to execute Amendment #2 to the legal services contract (16P030) with Greene Espel, PLLP related to freight rail for the Southwest Light Rail Transit (Green Line Extension).

Summary of Committee Discussion/Questions

Joan Hollick, SWLRT Deputy Project Director, presented the item.

Councilmember Rodriguez asked about the previous legal amendment for SWLRT. Ms. Hollick stated that was for Nossaman legal services, who provides legal support for the other two railroads in our freight rail negotiations.

Councilmember Melander asked how the original contract amount was decided on. Ms. Hollick stated that this number was identified by project staff based on scope of services. However, BNSF typically brings their legal services to all meetings, where we typically would just bring engineers. For consistency, we feel we should also be represented and bring our legal team, which has generated additional costs that weren't anticipated. It was asked what the original contract amount was. Ms. Hollick stated the original contract was for \$200,000, with amendment #1 adding \$200,000 and if this amendment is approved, would add \$300,000 for a total contract amount of \$700,000.

Councilmember Melander asked if a detailed budget is being used with these law firms. Ms. Hollick stated the project office does put together a budget that is itemized based on tasks that represent this work. We often use other agreements as examples to use as a starting point and introduce and discuss with BNSF. BNSF often requests these agreements be redrafted or started anew. Greene Espel does the majority of the drafting for these agreements.

Motion by Councilmember Cunningham, seconded by Councilmember Barber and motion carried.

Management Committee

Meeting date: June 14, 2017

For the Metropolitan Council meeting of June 28, 2017

Subject: Southwest Light Rail Transit (Green Line Extension) Amendment #2 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: Brian Lamb, Metro Transit General Manager, 612-349-7510
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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 #2 to the legal services contract (16P030) with Greene Espel, PLLP related to freight rail for the Southwest Light Rail Transit (Green Line Extension).

Background

Authorization to amend the legal services contract with Greene Espel, PLLP is required because the current contract value of \$400,000 is anticipated to be fully expended by the end of June 2017.

Greene Espel is actively engaged in negotiating three essential freight rail agreements with BNSF Railway: 1) Property acquisition agreement; 2) Construction agreement; and 3) Operations and Maintenance agreement. 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 was executed on March 27, 2017 to increase the total contract value to \$400,000. For amendment #2, staff recommends increasing the contract value by an additional \$300,000 to ensure the continuity of Greene Espel's role in negotiations with BNSF.

Rationale

Contract amendment #2 is for additional legal services needed for final negotiations of three critical freight rail agreements with BNSF prior to the SWLRT Project's application for the FFGA.

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).