

# Committee Report

Management Committee



**Committee Meeting Date:** October 11, 2023

**For the Metropolitan Council:** October 25, 2023

## Business Item: 2023-158

METRO Green Line Extension Legal Services Contract in Support of Project Activities, Contract 20P007 – Amendment No. 2

### Proposed Action

That the Metropolitan Council authorize the Regional Administrator to negotiate and execute a sole source amendment to the legal services contract with Venable, LLC (Venable) to support METRO Green Line Extension Project (Project) activities in an amount not to exceed \$8.5 million, with a total not to exceed contract value of \$19.25 million.

### Summary of Management Committee Discussion/Questions

Jim Alexander, Green Line Extension Project Director, and Dan Abelson, Office of General Counsel, presented the item.

Council Member Johnson asked if the amount in Amendment No. 2 gets us through 2025 will this be for the bulk of the work? Alexander responded yes and noted that the Venable contract extends through 2027, so staff may need to request authorization for an additional amendment which will be assessed toward the end of 2025. The work under this amendment by Venable and its subconsultant Wipfli, a construction cost accountant, will be resolving issues for the remainder of this year and in 2024 related to the Settlement Agreement with the Civil contractor and the delays to secant construction in 2022 and 2023 and for the extension of time required for the Systems contract due to the delays to Civil construction. The amendment also covers work associated with the Kenilworth LRT Tunnel as construction proceeds adjacent to the Cedar Isles Condominium buildings where Venable's subconsultant, Socotec is involved in monitoring conditions. The Kenilworth LRT tunnel work is currently anticipated to continue through 2025.

Council Member Johnson asked if this amount is in the project budget? Mr. Alexander responded yes.

Council Member Lee said that last year this contract was amended and this year we are amending it again. Do we expect another amendment next year for \$8 million? Mr. Alexander responded that the \$8.5 million being requested for Amendment No. 2 is based on what is known at this time for work through 2025.

Council Member Johnson asked how negotiations are going and with the data being requested and provided? Alexander stated both contractors are being cooperative and there is good dialogue being held. But noted that it takes time for our experts to ensure the data is accurate and valid and that Council is getting the best value.

Motion by Barber seconded by Lilligren. Motion carried.

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<b>District(s), Member(s):</b>	All
<b>Policy/Legal Reference:</b>	FM 14-2 Expenditures for the Procurement of Goods, Services, and Real Estate Policy
<b>Staff Prepared/Presented:</b>	Lesley Kandaras, General Manager, 612-349-7513 Nick Thompson, Deputy General Manager, 612-349-7507 Jim Alexander, Project Director, 612-373-3880 Joan Hollick, Deputy Project Director, 612-373-3820 Dan Abelson, Associate General Counsel, 651-602-1713
<b>Division/Department:</b>	Metro Transit / Green Line Extension Project

### Proposed Action

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### Background

In July 2020 after a competitive solicitation process, Schiff Hardin, LLP and the Metropolitan Council (Council) executed Contract 20P007 in the amount of \$2.5 million to provide construction-related legal services and expert subconsultants to support the Council during construction of the METRO Green Line Extension Project (Business Item 2020-157). In January 2021, the attorneys working on the contract moved their practice from Schiff Hardin to Venable. The Council agreed to assign the contract to Venable so the attorneys could continue their work. Venable has retained expert construction cost accountant experts and forensic engineers as subconsultants to support its legal services to the Council.

Venable's legal services include representing the Council in the negotiation of agreements and change orders with the Civil and Systems construction contractors, and representing the Council in the mediation with the Cedar Isles Condominium Association. Venable's expert subconsultants are providing financial and engineering analysis to support the resolution of disputes with the Council's construction contractors and third parties.

In Business Item 2022-64, the Council authorized Amendment No. 1 to the Venable contract to increase the amount of the contract by approximately \$8.25 million and to extend services through 2027.

Amendment No. 2 is required to provide funding for Venable and subconsultant services through 2025 to support the resolution of issues related to construction delays on the Project. The costs in

this amendment result from a higher than anticipated number and intensity of work tasks for Venable and its subconsultants from its base contract.

Venable and its experts are uniquely qualified to conduct this work as they have represented the Council in extensive negotiations with the Civil and Systems contractors and have gained an in-depth knowledge of the Project through the work completed under the original contract.

### **Rationale**

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**

This 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.

