

CITY COUNCIL REGULAR SESSION

Resolution authorizing execution of an amendment to a Professional Services Agreement with Kenyon Disend PLLC, outside counsel for the City, in an amount not to exceed \$75,000, plus all applicable taxes, for legal services and representation in property acquisitions related to the NE 4th Street Extension – 116th to 120th Avenues NE (CIP Plan No. PW-R-160).

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EXECUTIVE SUMMARY

This Resolution authorizes execution of an amendment to a Professional Services Agreement with Kenyon Disend PLLC for continued representation related to resolution of the Settlement Agreement entered into between the City and Bellevue 116th LLC for Phase 1 of the NE 4th Street Extension project dated May 7, 2014.

RECOMMENDATION

Move to adopt Resolution No. 10200

BACKGROUND/ANALYSIS

On April 16, 2012, the City Council adopted Ordinance No. 6051 authorizing and providing for the acquisition of interests in land, including through condemnation, for the purpose of completing Phase 1 of the NE 4th Street Extension Project. Phase 1 of this project extended from 116th Avenue NE to the eastern boundary of the Burlington Northern Santa Fe (BNSF) Railway Corridor and bisected an existing single parcel owned by Bellevue 116th Avenue, LLC ("Bellevue 116th"), resulting in a south remainder parcel and a north remainder parcel. On May 30, 2012, the City filed a Petition in Eminent Domain to acquire property rights necessary from Bellevue 116th for construction of this project.

On May 5, 2014, the City Council adopted Resolution No. 8740 authorizing execution of a Settlement Agreement with Bellevue 116th. The Settlement Agreement included a provision to defer and potentially offset a portion of just compensation in the event two proposed planned commercial retail developments proposed for the remainder sites proceeded as outlined in the agreement. In the event one or both of these projects did not proceed as outlined in the agreement, the parties agreed to submit the matter to mediation and then binding arbitration to resolve just compensation owed. Bellevue 116th has asserted that one of these projects did not proceed as outlined in the agreement and has requested mediation.

Kenyon Disend PLLC was originally retained to acquire the property rights necessary, including through condemnation, for the NE 4th Street Extension and represented the City in negotiating the Settlement Agreement with Bellevue 116th. The requested additional funding is intended to cover the cost to fully resolve this matter in mediation or binding arbitration if mediation is unsuccessful.

POLICY & FISCAL IMPACTS

Policy Impact

Bellevue City Code 4.28.040 provides that professional services contracts in excess of \$90,000 require Council approval.

Fiscal Impact

This action obligates the City to increase the Professional Services Agreement with Kenyon Disend PLLC, in an amount not to exceed \$75,000, plus all applicable taxes, for legal services and representation in property acquisitions related to the NE 4th Street Extension – 116th to 120th Avenues NE (CIP Plan No. PW-R-160). Sufficient funding exists in the 2021-2027 General Capital Investment Program (CIP) plan for PW-R-160 to fully fund this contract.

Professional Services Agreement with Kenyon Disend, PLLC	
Original Contract (No. 1050199)	\$49,000
Amendment No. 1	201,000
Amendment No. 2	250,000
Amendments No. 3-6	-
Amendment No. 7 (Tonight's Action)	75,000
New Contract Total Amount	\$575,000

OPTIONS

1. Adopt the Resolution authorizing execution of an amendment to a Professional Services Agreement with Kenyon Disend PLLC, outside counsel for the City, in an amount not to exceed \$75,000, plus all applicable taxes, for legal services and representation in property acquisitions related to the NE 4th Street Extension – 116th to 120th Avenues NE (CIP Plan No. PW-R-160).
2. Do not adopt the Resolution and provide alternative direction to staff.

ATTACHMENTS

- A. CIP Project Description (PW-R-160)
Proposed Resolution No. 10200

AVAILABLE IN COUNCIL LIBRARY

Amendment #7 to the Professional Services Agreement