

November 7, 2016

CITY COUNCIL AGENDA MEMORANDUM

SUBJECT

Resolution authorizing execution of Amendment #2, to the professional services agreement with Gary N. McLean for Hearing Examiner services, to increase the total contract value to an amount not to exceed \$115,000.

FISCAL IMPACT

This action amends the existing contracts with one of the City's four contracted Hearing Examiners. This contract amendment responds to an increased volume and complexity of administrative appeals, code interpretations, and Land Use matters coming before the Hearing Examiner's Office during the current year which is projected to continue in 2017. Examiner McLean is assigned many complex matters coming before the Examiners; the contracts of the other three Examiners, are not projected to surpass their contracted amount. Sufficient funding exists within the 2015-2016 city clerk's office budget in the general fund to cover 2016 contract costs. Funding for the 2017 costs have been requested as part of the preliminary 2017-2018 city clerk's office budget in the general fund.

Original Contract	\$50,000
Amendment #1	\$15,000
Amendment #2	\$50,000
New Contract Total Amount	\$115,000

STAFF CONTACTS

Kyle Stannert, Assistant City Manager/City Clerk, 452-6021
Sara Gollersrud, Hearing Examiner's Office Manager, 452-6934
City Clerk's Office

Lori Riordan, City Attorney, 452-7220
City Attorney's Office

POLICY CONSIDERATION

State law:

RCW 35.63.130 (amended to 35A.63.170) established the Hearing Examiner system in 1977.

Bellevue City Code:

BCC Chapter 3.68 established the Office of the Hearing Examiner and authorized the City Manager to appoint Examiners based on qualifications, training and experience to conduct administrative and quasi-judicial land use hearings.

City practice:

- Since 1989, Hearing Examiner services have been outsourced through contracts with qualified, independent Examiners who are paid on a fee-for-services basis. This contract approach has proved cost effective due to the ebb and flow in numbers, types, and complexity of cases managed.

- Because the amount of the amendments cause the contracts to exceed \$90,000, Council approval is required.

BACKGROUND

Consistent with the City's contracting policies, an RFP for Hearing Examiner services was conducted in October of 2015 with an effective date of January 4, 2016. Multi-year contracts in the amount of \$50,000 that were anticipated to run through yearend 2017 were established with Examiner McLean, based on costs of matters then coming before the Examiners.

Complexity and frequency of land use cases has been increasing over the past several years, resulting in matters requiring pre-hearing conferences, multiple hearing dates, the creation of significantly larger than normal records, and greater amounts of legal analysis on the part of the Examiners. For example, during late 2015 to early of 2016 the Downtown Park-Complete the Circle project decision of a Threshold Determination of Non-significance appeal involved two pre-hearing conferences and 9 hearing days, at a cost of \$23,250 in Examiner fees.

In 2016, Examiner McLean heard numerous complex land use appeals, including two appeals associated with Kemper Development Company's Helistop and a Design Mitigation permit application decision of the Sound Transit East Link South Bellevue Segment. A total of eight appeals went before Examiner McLean during his contract performance at a total cost of \$83,000 in Examiner fees. Combined, these matters caused the original contract amounts to be drawn down much more quickly than anticipated while additional routine cases and new appeals continue to be worked by other Examiners.

A contract amendment is being requested to ensure there is adequate capacity and expertise available to respond to the growing demand for more complex Hearing services. The current 2-year contract with Examiner McLean has a not-to exceed limits of \$65,000, which is close to being fully expended. Staff anticipate that the proposed contract amendments will be adequate to support the anticipated hearing services with this Examiner through the remainder of the 2017.

EFFECTIVE DATE

If approved, this Resolution becomes effective immediately upon Council adoption.

OPTIONS

1. Adopt Resolution authorizing amendment to the professional services agreement between the City and Gary N. McLean for Hearing Examiner services, to increase the total contract value to an amount not to exceed \$115,000.
2. Do not adopt Resolution and provide alternative direction to staff.

RECOMMENDATION

Option 1

MOTION

Move to adopt Resolution No. 9180 authorizing execution of Amendment #2, to the professional services agreement with Gary N. McLean for Hearing Examiner services, to increase the total contract value to an amount not to exceed \$115,000.

ATTACHMENTS

Proposed Resolution No. 9180

AVAILABLE IN COUNCIL DOCUMENT LIBRARY

N/A