

May 21, 2018

## **CITY COUNCIL AGENDA MEMORANDUM**

### **SUBJECT**

Resolution authorizing execution of an amendment to the Professional Services Agreement with Pacifica Law Group LLP, outside counsel for the City, in proposed litigation involving the 120th Avenue NE Stage 2 road widening project (CIP Plan No. PW-R-164) in an amount not to exceed \$240,000.

### **FISCAL IMPACT**

This action obligates the City to increase the total contract amount for legal services provided by Pacifica Law Group LLP by \$165,000.

Original Contract	\$75,000
Amendment #1	\$165,000
<b>New Contract Total Amount</b>	<b>\$240,000</b>

Sufficient funds exist within the 120<sup>th</sup> Avenue NE Stage 2 road widening project (CIP Plan No. PW-R-164) to fully fund this contract.

### **STAFF CONTACTS**

Lori Riordan, City Attorney, 452-7220

Cheryl Zakrzewski, Assistant City Attorney, 452-4081

*City Attorney's Office*

### **POLICY CONSIDERATION**

Should the City continue to retain outside counsel to provide legal services for the City in this lawsuit? If so, Bellevue City Code 4.28.040 (2): Council approval is required for contracts greater than \$90,000.

### **BACKGROUND**

During the construction of the 120<sup>th</sup> Avenue NE Stage 2 project, issues arose regarding the retaining walls on the west side of the project. Three of the walls had to be redesigned and reconstructed resulting in an additional \$3.2 million of costs to the City. Experts engaged by the City determined that the cause of the failure of these walls was the result of structural design and geotechnical issues. The City unsuccessfully attempted, through mediation, to recover its additional costs from the engineering and geotechnical firms responsible for the design of the failed walls, and to seek recovery of the additional costs of this project. The City engaged Pacifica Law Group LLP to assist the City through the mediation process and intends to continue to use Pacifica Law Group LLP to represent the City in this litigation. An amendment to the Professional Services Agreement is necessary to provide sufficient funding for the City to proceed with litigation.

### **EFFECTIVE DATE**

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

### **OPTIONS**

1. Adopt the Resolution authorizing execution of the amendment to the Professional Services Agreement with Pacifica Law Group LLP, outside counsel for the City, in proposed litigation involving the 120<sup>th</sup> Avenue NE Stage 2 road widening project (CIP Plan No. PW-R-164) in an amount not to exceed \$240,000.
2. Do not adopt the Resolution and provide alternative direction to staff.

### **RECOMMENDATION**

Option 1

### **MOTION**

Move to adopt Resolution No. 9409 authorizing execution of an amendment to the Professional Services Agreement with Pacifica Law Group LLP, outside counsel for the City, in proposed litigation involving the 120th Avenue NE Stage 2 road widening project (CIP Plan No. PW-R-164) in an amount not to exceed \$240,000.

### **ATTACHMENTS**

Proposed Resolution No. 9409

### **AVAILABLE IN COUNCIL DOCUMENT LIBRARY**

Amendment #1 to the Agreement for Services (Professional Services Contract)