

CITY COUNCIL REGULAR SESSION

Resolution authorizing execution of amendment No. 3 to the Professional Services Agreement with Pacifica Law Group LLP, outside counsel for the City, in the amount of \$615,000, plus applicable taxes, for legal services in the litigation involving the design and construction of the 120th Avenue (Stage 2) road widening project (CIP Plan No. PW-R-164).

Cheryl Zakrzewski, Assistant City Attorney, 452-4081
City Attorney's Office

Ron Kessack, Assistant Director, 452-4631
Transportation Department

EXECUTIVE SUMMARY

This Resolution is necessary to fund the existing contract for legal services through trial which is scheduled for January 13, 2020.

RECOMMENDATION

Move to adopt Resolution No. 9598

If approved, effective date: 05/20/2019

BACKGROUND/ANALYSIS

During the construction of the 120th Avenue NE (Stage 2) road widening 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 in costs to the City. Experts agree that the wall failure was due to structural design, geotechnical issues, and/or construction issues. The City unsuccessfully attempted to settle its claim with the responsible parties prior to litigation. The City engaged the Pacifica Law Group LLP to assist the City through the initial mediation and to initiate litigation when the mediation failed (*City of Bellevue v. WSP USA, Inc., et. al.*, King County Superior Court Cause No. 18-2-13554-1 SEA). In March, the City and the four named defendants engaged in another unsuccessful mediation. The parties are now preparing for trial which involves extensive discovery and preparation.

A Professional Services Contract was originally executed with Pacifica Law Group in January 2018 for \$75,000. The agreement was amended in June 2018 to a total not to exceed \$240,000. A second amendment was executed in February 2019 to cover legal services through the March 2019 mediation. This third amendment in the amount of \$615,000 is necessary to cover the legal and expert services necessary through trial in January 2020.

POLICY & FISCAL IMPACTS**Policy Impact**

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

Fiscal Impact

This action obligates the City to increase the total contract for legal services provided by the Pacifica Law Group LLC by \$615,000, plus applicable taxes, for the 120th Avenue NE (Stage 2) project (CIP Plan No. PW-R-164).

Professional Services Agreement with Pacifica Law Group LLP

Authorized Contract (No. 1850024)	\$ 75,000
Amendment No. 1	\$ 165,000
Amendment No. 2	\$ 205,000
Amendment No. 3	\$ 615,000
New Contract Total Amount	\$1,060,000

Funding for this project includes a right of way vacation that is currently in process and resolution of the litigation associated with wall design/construction that has been initiated by the City. Staff will balance the overall project budget as outstanding issues are resolved.

OPTIONS

1. Adopt the Resolution authorizing execution of amendment No. 3 to the Professional Services Agreement with Pacifica Law Group LLP, outside counsel for the City, in the amount of \$615,000, plus applicable taxes, for legal services in the litigation involving the design and construction of the 120th Avenue (Stage 2) road widening project (CIP Plan No. PW-R-164).
2. Do not adopt the Resolution and provide alternative direction to staff.

ATTACHMENTS & AVAILABLE DOCUMENTS

Proposed Resolution No. 9598

AVAILABLE IN COUNCIL LIBRARY

Amendment No. 3 to the Professional Services Agreement.