

CITY COUNCIL AGENDA MEMORANDUM

SUBJECT

Resolution No. §755 authorizing execution of an amendment to the Agreement for Professional Services with Kenyon Disend, PLLC to increase the total contract amount to \$70,000 to provide legal services for the City in the lawsuits of *City of Bellevue v. W2007 Seattle Office Bellevue Gateway 1 Realty, LLC, et al.*, KCSC No. 14-2-09245-8 SEA, and *City of Bellevue v. W2007 Seattle Office Bellefield Office Park Realty, LLC, et al.*, KCSC No. 14-2-09242-3 SEA.

FISCAL IMPACT

This action obligates the City to increase the total contract amount for outside legal services provided by Kenyon Disend, PLLC by \$20,001.

Original Contract	\$ 20,000
Amendment #1	29,999
Amendment #2	<u>20,001</u>
New Contract Total Amount	\$ 70,000

Sufficient funding exists within the CIP budgets for CIP S-53 (Bellefield Pump Station Capacity Improvement Project); CIP S-52 (East CBD Sewer Trunkline Improvement Project); and CIP S-60 (Wilburton Sewer Capacity Upgrade Project) to pay for this expense.

STAFF CONTACT

Lacey L. Hatch, 452-4081
Lori M. Riordan, City Attorney, 452-7220
City Attorney's Office

POLICY CONSIDERATION

Should the City continue to retain outside counsel to provide legal services for the City in these lawsuits?

BACKGROUND

The City filed two separate eminent domain lawsuits to obtain the temporary and permanent easement rights to construct the Bellefield Pump Station Project, the East CBD Sewer Trunkline Project, the Wilburton Sewer Project, and certain Alcove Creed Modifications located at the Bellefield Office Park Property and Bellevue Gateway Building Property. The City must obtain these temporary and permanent easement rights for construction of the herein referenced projects. The City retained Kenyon Disend, PLLC to prosecute the condemnation of these properties on the City's behalf. An amendment to the Professional Services Agreement is necessary to provide sufficient funding to cover the outstanding costs incurred in taking the following matters to trial. The original contract amount did not include costs for trial but rather were limited to obtaining use and necessity and possession and use.

EFFECTIVE DATE

If adopted, this Resolution will be effective immediately.

OPTIONS

1. Adopt Resolution No. 8755 authorizing execution of the amendment to the Agreement with Kenyon Disend, PLLC, increasing the total payment to an amount not to exceed \$70,000.
2. Do not adopt Resolution No. 8755, do not authorize the payment for these additional legal services and provide alternative direction to staff.

RECOMMENDATION

Adopt Resolution No. 8755 authorizing execution of an Amendment to the Agreement with Kenyon Disend, PLLC increasing the total contract amount to a total not to exceed \$70,000 to provide legal services for the City in the lawsuits of *City of Bellevue v. W2007 Seattle Office Bellevue Gateway 1 Realty, LLC, et al.*, KCSC No. 14-2-09245-8 SEA and *City of Bellevue v. W2007 Seattle Office Bellefield Office Park Realty, LLC, et al.*, KCSC No. 14-2-09242-3 SEA.

MOTION

Move to adopt Resolution No. 8755 authorizing execution of an Amendment to the Agreement with Kenyon Disend, PLLC increasing the total contract amount to a total not to exceed \$70,000 to provide legal services for the City in the lawsuits of *City of Bellevue v. W2007 Seattle Office Bellevue Gateway 1 Realty, LLC, et al.*, KCSC No. 14-2-09245-8 SEA and *City of Bellevue v. W2007 Seattle Office Bellefield Office Park Realty, LLC, et al.*, KCSC No. 14-2-09242-3 SEA.

ATTACHMENTS

Proposed Resolution No. 8755

AVAILABLE IN COUNCIL DOCUMENT LIBRARY

Amendment #2 to the Agreement for Services (Professional Services Contract).

CITY OF BELLEVUE, WASHINGTON

RESOLUTION NO. 8755

A RESOLUTION authorizing execution of an amendment to the Agreement for Professional Services with Kenyon Disend PLLC to increase the total contract amount to \$70,000 to provide legal services for the City in the lawsuits of *City of Bellevue v. W2007 Seattle Office Bellevue Gateway 1 Realty, LLC, et al.* KCSC No. 14-2-09245-8 SEA and *City of Bellevue v. W2007 Seattle Office Bellefield Office Park Realty, LLC, et al.* KCSC No. 14-2-09242-3 SEA.

THE CITY COUNCIL OF THE CITY OF BELLEVUE, WASHINGTON, DOES RESOLVE AS FOLLOWS:

Section 1. The City Manager or his designee is hereby authorized to execute an amendment to the Agreement for Professional Services with Kenyon Disend PLLC to increase the total contract amount to \$70,000 to provide legal services for the City in the lawsuits of *City of Bellevue v. W2007 Seattle Office Bellevue Gateway 1 Realty, LLC, et al.* KCSC No. 14-2-09245-8 SEA and *City of Bellevue v. W2007 Seattle Office Bellefield Office Park Realty, LLC, et al.* KCSC No. 14-2-09242-3 SEA, a copy of which agreement has been given Clerk's Receiving No. _____.

Passed by the City Council this _____ day of _____, 2014, and signed in authentication of its passage this _____ day of _____, 2014.

(SEAL)

Claudia Balducci, Mayor

Attest:

Myrna L. Basich, City Clerk