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**Council Meeting Date: August 14, 2017**

**Agenda Item: 7(e)**

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**CITY COUNCIL AGENDA ITEM**

CITY OF SHORELINE, WASHINGTON

<b>AGENDA TITLE:</b>	Authorize the City Manager to Execute an Amendment to the Agreement with Dorsey & Whitney LLP in an Amount Not to Exceed \$150,000 for Legal Assistance with Matters Related to the City's Assumption of the Ronald Wastewater District
<b>DEPARTMENT:</b>	City Attorney's Office
<b>PRESENTED BY:</b>	Margaret King, City Attorney
<b>ACTION:</b>	<input type="checkbox"/> Ordinance <input type="checkbox"/> Resolution <input checked="" type="checkbox"/> Motion <input type="checkbox"/> Discussion <input type="checkbox"/> Public Hearing

**PROBLEM/ISSUE STATEMENT:**

On January 1, 2017, the City contracted with Dorsey & Whitney LLP to provide specialized outside litigation assistance in the amount of \$30,000 for legal matters related to the City's assumption of the Ronald Wastewater District. On May 12, 2017 the City increased the contract by \$50,000, for a new do not exceed amount of \$80,000. Multiple appeals of Board decisions and Superior Court decisions necessitates additional work that will exceed \$100,000. Staff is seeking Council approval to authorize the City Manager to contract for this additional specialized litigation support work with Dorsey & Whitney LLP in an amount not to exceed \$150,000.

**RESOURCE/FINANCIAL IMPACT:**

There is no financial impact. The funding is already appropriated as a part of the 2017 budget.

**RECOMMENDATION**

Staff recommends that Council authorize the City Manager to execute an amendment of Contract No. 8710 with Dorsey & Whitney LLP with a not to exceed amount of \$150,000 for assistance with hearing, litigation, and appeal matters related to the City's assumption of the Ronald Wastewater District.

Approved By:            City Manager **DT**

City Attorney **MK**

## **BACKGROUND**

The City of Shoreline is currently engaged in three different proceedings before various courts or boards all relating to the assumption of the Ronald Wastewater District.

On June 29, 2016 Ronald Wastewater District filed a Complaint for Declaratory Judgment and Injunctive Relief in an attempt to resolve a dispute between the Ronald Wastewater District and Olympic View Water and Sewer District in regards to service areas within the Point Wells area. Summary Judgment Motions were filed and the Court issued its decision on May 9, 2017, granting a portion of the requested relief in Ronald's (and the City's) favor. The trial on the remaining issues was set for June 26, 2017, but the Court granted the Town of Woodway's motion to certify the decision to allow them to file an appeal without waiting for the remaining issues in the case to be decided. On June 5, 2017 Olympic View filed a Notice of Appeal to the Washington State Supreme Court and the Town of Woodway filed its Notice of Appeal to the Washington State Supreme Court on June 7, 2017. A Statement for Grounds of Direct Review to the Washington State Supreme Court were filed by both Olympic View and Town of Woodway with the City and the Ronald Wastewater District's answers filed on July 17, 2017. A decision by the Supreme Court allowing direct review has not been issued to date.

The City also filed its second Notice of Intent to Assume the Ronald Wastewater District with the Snohomish County Boundary Review Board (BRB) on February 17, 2017 seeking to assume only that portion of Ronald within the Point Wells area of unincorporated Snohomish. A public hearing was held on June 15 and June 22, 2017. The BRB denied the City's proposed assumption on July 11, 2017. The City will be filing a Notice of Appeal with the Superior Court.

Finally, on February 22, 2017 Olympic View Water & Sewer District filed a Petition for Review with the Superior Court appealing the Growth Management Hearings Board's January 25, 2017 Final Decision and Order in which the City and Ronald challenged Snohomish County's Amended Motion No. 16-135 approving Olympic View Water and Sewer District's Comprehensive Sewer Plan Amendment No. 2. A trial date has not been scheduled.

All three of these proceedings require specialized outside legal counsel support. The City has chosen Dorsey & Whitney LLP to support these proceedings.

## **DISCUSSION**

The City originally contracted with Dorsey & Whitney LLP (contract No. 8710) to provide assistance with legal matters related to the City's assumption of the Ronald Wastewater District on January 1, 2017 in the amount of \$30,000. On May 12, 2017 the City increased the contract by \$50,000, for a new do not exceed amount of \$80,000. The multiple appeals of Board decisions and Superior Court decisions noted above necessitate additional work that will exceed \$100,000.

Staff is seeking Council approval to authorize the City Manager to further amend this contract by \$70,000 for this additional specialized litigation support work with Dorsey & Whitney LLP. The new do not exceed amount of this contract would be \$150,000.

### **RESOURCE/FINANCIAL IMPACT**

There is no financial impact. The funding is already appropriated as a part of the 2017 budget.

### **RECOMMENDATION**

Staff recommends that Council authorize the City Manager to execute an amendment of Contract No. 8710 with Dorsey & Whitney LLP with a not to exceed amount of \$150,000 for assistance with hearing, litigation, and appeal matters related to the City's assumption of the Ronald Wastewater District.