

## AGENDA



Thursday, June 21, 2007

## Public Works

Item No. 67

## RECOMMENDATION FOR COUNCIL ACTION

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**Subject:** Authorize the negotiation and execution of a Community Facilities Contract between the City and SteepleRock Texas, LP, a Texas limited partnership, for construction of a westbound right turn lane on West Slaughter Lane at MoPac Expressway East Frontage Road, including acquisition of the necessary right-of-way.

**Amount and Source of Funding:** Funding in the amount of \$450,000 is available in the Fiscal Year 2006-2007 Capital Budget of the Public Works Department.

**Fiscal Note:** A fiscal note is attached.

**For More Information:** Richard Kroger 974-7219, Lauraine Rizer 974-7078, Laura Bohl 974-7064.

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The City of Austin identified a need to design the construction of a westbound right turn lane on West Slaughter Lane at MoPac Expressway East Frontage Road in order to alleviate traffic congestion (the "Project"). Some right-of-way had been dedicated and fiscal security posted to secure the construction of a portion of the turn lane.

City staff discussed the impact of the additional right-of-way required for the Project with SteepleRock Texas, LP, the developer of the abutting property, on its development. The developer has fulfilled its obligation for the turn lane through its right-of-way dedication and fiscal posting. The City needs to design the turn lane to accommodate future traffic needs.

The developer is currently constructing a commercial retail development under an existing site plan, which would be negatively impacted by the taking of additional right-of-way. The developer and, in turn, its commercial shopping center tenants would lose parking and lease space due to the additional turn lane construction. If the developer was to complete its project under the approved site plan, the City would have had to condemn the additional right-of-way, which would be exponentially more expensive once the shopping center was to be fully constructed.

However, the developer expressed its willingness to cooperate with the City in the modification of the site plan, the acquisition of the necessary right-of-way, and the construction of the turn lane. As a result, a development agreement has been drafted to provide for the acquisition of the right-of-way, the modification of the approved site plan to remove parking from right-of-way to be acquired, the completion of the City design, and the inclusion of the construction of the turn lane in the developer's construction project. By expediting the turn lane project, the City will not have to acquire right-of-way after the developer's project has been completed and tenants have moved in.

The development agreement will reimburse the developer for its actual costs of work necessary to implement the right turn lane project. In addition, the agreement will provide for the conveyance of the right-of-way at appraised value. In addition, because the developer's contractor has already mobilized for over \$3 million in construction on the site, the cost to the City for the turn lane will be less than if it had been bid as a separate project.

A development agreement for the oversizing of a public improvement is authorized by Section 212.071, et seq., of the Texas Local Government Code and allows the City to contract directly with the developer for the construction of the improvements without having to bid the work.

This City Council action will authorize the negotiation and execution of a contract between the City and the developer regarding the construction of the turn lane and reimbursement of all associated costs incurred by the developer, as well as approving acquisition of the property for the actual appraised value. Because the developer is already under construction with an existing contractor and subcontractors, it will not be possible to achieve compliance with the City's MBE/WBE Ordinance on this project. However, the developer has been informed about the City's MBE/WBE Ordinance and acknowledges that there may be opportunities for some level of participation, if the need arises for additional or substituted subcontractors.