

AGENDA



Thursday, August 9, 2007

**Law
RECOMMENDATION FOR COUNCIL ACTION****Item No. 7**

Subject: Approve an amendment to the outside counsel contract with Scott, Douglass & McConnico, LLP, Austin, TX. In the amount of \$200,000 for legal counsel concerning development at Northcross Mall including legal services related to cause of action no. D-1-GN-07-001957, Responsible Growth For Northcross, Inc. v. The City of Austin, Lincoln Property Company Commercial, Inc., and Lincoln Northcross, LTD.; and cause of action no. D-1-GN-07-002012, Allandale Neighborhood Association v. The City of Austin, Lincoln Property Company Commercial, Inc., and Lincoln Northcross, LTD. (concerning site plan approvals by the City) for a total contract amount not to exceed \$424,000. Funding is available in the Liability Reserve Fund.

For More Information: Martha Terry, Assistant City Attorney, 974-2974

Prior Council Action: On February 15, 2007, Council approved an amended contract of \$175,000 for a total contract amount of \$224,000 including initial administrative authority authorization of \$49,000.

In mid-December 2006, the City Attorney engaged the law firm of Scott, Douglass & McConnico LLP to advise the City on certain limited and specific questions related to the site plan filed by Lincoln Properties in connection with the development at Northcross Mall.

On February 15, 2007 the City Council approved an amendment to the initial contract in the amount of \$175,000 bringing the total contract amount to \$224,000. The amendment was for the purpose of addressing new facts and circumstances creating a need for different and additional assistance from outside counsel, including assistance related to the filing of a second site plan by Lincoln Properties, as well as the initiation of negotiations with concerned citizens, Lincoln Properties, and Wal-Mart, concerning potential site plan improvements.

On June 28, 2007 Responsible Growth For Northcross, Inc. filed suit against the City challenging the City's site plan approvals for the site. On July 3, 2007 the Allandale Neighborhood Association also filed suit challenging the City's site plan approvals for the site. The Plaintiffs have advised the City that they intend to take several depositions and conduct in-depth discovery.

Additional funds are necessary in the amount of \$200,000 to provide an initial defense of the City in these two lawsuits for a total contract amount of \$424,000. The estimate is an initial estimate of the expense necessary for representation before the district courts of Travis County in these matters for the next 6 months.