

## AGENDA



Thursday, July 24, 2008

## Public Works

Item No. 53

## RECOMMENDATION FOR COUNCIL ACTION

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**Subject:** Approve a resolution authorizing the negotiation and execution of a Roadway Improvement Agreement with Endeavor, in the amount of \$1,475,536 to fund construction of Texas Department of Transportation roadway improvements along the I-35 southbound frontage road at Southpark Meadows Retail Center south of East Slaughter Lane.

**Amount and Source of Funding:** \$1,475,536 will be submitted to the City of Austin by Endeavor for deposit into escrow. Related to Item #54.

**Fiscal Note:** There is no unanticipated fiscal impact. A fiscal note is not required.

**For More Information:** Ronnie Bell 974-7015, Robin Field 974-7064

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Endeavor, a commercial real estate company, desires that roadway improvements, including auxiliary lanes, storm drains, curb & gutter and associated ancillary improvements, be constructed along the I-35 southbound frontage at its Southpark Meadows Retail Center south of East Slaughter Lane. Because the proposed improvements are in State (Texas Department of Transportation or TxDOT) right-of-way, it is necessary that the State implement the construction project.

TxDOT requires that construction of improvements in State right-of-way requested by a private entity be sponsored by and paid for by a local government. Therefore, it is necessary for the City to enter into an agreement with the developer to receive their funds for the project, and to enter into a separate agreement with TxDOT to provide funds received from the developer for the project. This agreement provides for the funding by the private entity to fund the designated improvements within the State right-of-way.

The estimated construction cost, construction engineering and inspection costs, direct costs, and indirect costs from TxDOT total \$1,360,975.22. The developer will provide a check to the City in the amount of \$1,475,536. This includes \$1,360,975.22 that the City must pay to TxDOT to begin the work plus an appropriate contingency and 5% administrative and indirect costs.

In the event that TxDOT incurs additional costs in construction, the City will pay TxDOT from the contingency. Typically, agreements between the City and developer for roadway improvements in TxDOT right-of-way include a 50% contingency of the construction cost estimate. However, since the construction cost for this project is based on actual TxDOT change order pricing rather than a cost estimate, the 50% contingency has been lowered to 5% for this agreement. The developer will be required to provide any additional funds as necessary to fund TxDOT's actual construction costs, to maintain this contingency, and to protect the City from incurring any costs. Any portion of the contingency remaining after the final completion and acceptance of the project by TxDOT will be returned to the developer.