

## AGENDA



Thursday, June 11, 2009

**Law**  
**RECOMMENDATION FOR COUNCIL ACTION****Item No. 23**

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**Subject:** Authorize negotiation and execution of an amendment to an outside legal contract with Denton, Navarro, Rocha & Bernal for legal services related to Austin Firefighters Association v. City of Austin and Travis County Emergency Services District No. 9, cause no. D-1-GN-08-003824 in the 98th Judicial District Court of Travis County Texas, in an amount of \$39,000, for a total contract amount not to exceed \$112,000 (concerns an Automatic Aid Agreement with ESD No. 9 and other similar Aid Agreements).

**Amount and Source of Funding:** Funding in the amount of \$39,000 is available in the Fiscal Year 2008-2009 Operating Budget of the Liability Reserve Fund.

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Plaintiffs filed suit, including a request for a temporary restraining order, against the City and ESD # 9 on October 22, 2008, challenging the legality of an Automatic Aid Agreement for fire protection services which covered certain areas, including the Peninsula. The court denied the TRO. The City hired attorney Lowell Denton and his firm, Denton, Navarro, Rocha & Bernal, to represent the City at trial and to provide advice and recommendations to the City on matters related to the litigation.

The city has a number of similar Automatic Aid Agreements in place. Due to the importance of the issue, the City filed a countersuit requesting the court's declaration that these agreements do not violate Civil Service law. The parties agreed to postpone a hearing on the merits until after the date Council voted on whether to annex the Peninsula. In late January the ESD #9 Board did not move forward with approving the Automatic Aid Agreement; subsequently, the Peninsula was not annexed and the item pertaining to the Agreement with ESD #9 was withdrawn.

The City continues to pursue a court ruling that such Agreements are legally acceptable and is preparing for a hearing on the merits. At this time additional funds are needed in the legal services contract with Denton, Navarro, Rocha & Bernal to continue their work on this case. Council is requested to approve an amendment to the outside counsel contract in the amount of \$39,000, for a total contract amount not to exceed \$112,000.