



**Budget Amendment  
CITY OF AUSTIN  
RECOMMENDATION FOR COUNCIL ACTION**

**AGENDA ITEM NO.:** 10  
**AGENDA DATE:** Thu 01/29/2004  
**PAGE:** 1 of 1

**SUBJECT:** Approve an ordinance amending the Fiscal Year 2003-2004 Capital Budget of the Parks and Recreation Department of Ordinance No. 030908-02 to appropriate \$1,000,000 in proceeds from the settlement of *Lowe's Home Centers, Inc. v. City of Austin*, Cause No. GN300629 in the 98<sup>th</sup> Judicial District Court of Travis County, Texas to be used for the acquisition of mitigation land that may be used for the protection of water quality and for the construction of water quality improvements for existing developments.

**AMOUNT & SOURCE OF FUNDING:** Funding in the amount of \$1,000,000 is available from the settlement of *Lowe's Home Centers, Inc. v. City of Austin*, Cause No. GN300629 in the 98<sup>th</sup> Judicial District Court of Travis County, Texas.

**FISCAL NOTE:** A fiscal note is attached.

**REQUESTING** Parks and Recreation  
**DEPARTMENT:**

**DIRECTOR'S**  
**AUTHORIZATION:** Jesus Olivares

**FOR MORE INFORMATION CONTACT:** Stuart Strong, Division Manager, 974-6766

**PRIOR COUNCIL ACTION:** N/A

**BOARD AND COMMISSION ACTION:** N/A

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On December 11, 2003, the City Council authorized the execution of a settlement agreement in the Lawsuit styled *Lowe's Home Centers, Inc. v. City of Austin*, Cause No. GN300629. This budget amendment will appropriate the \$1,000,000 in mitigation funds paid by Lowe's as part of their obligation under the settlement agreement.

The funds will be used to purchase mitigation land for protection of water quality and/or for the construction of water quality improvements for existing developments.

**CIP  
Fiscal Note**

**DATE OF COUNCIL CONSIDERATION:**  
**WHERE ON AGENDA:**  
**DEPARTMENT:**

1/29/2004  
Ordinance  
Parks & Recreation

**DESCRIPTION:** Amend Ordinance No. 030908-02 of the Fiscal Year 2003-04 Capital Budget of the Parks and Recreation Department by appropriating \$1,000,000 in proceeds from the settlement of *Lowe's Home Centers, Inc. v. City of Austin*, Cause No. GN300629 in the 98th Judicial District Court of Travis County, Texas to be used for the acquisition of mitigation land that may be used for the protection of water quality and for the construction of water quality improvements for existing developments.

**PARD**

Project Name: Mitigation Land Purchase  
Project Authorization: 2003-04 Capital Budget  
Funding Source: Settlement of *Lowe's Home Center, Inc. v. City of Austin*  
Number: 8740-867-0145

Current Appropriation	\$0
Amount of This Action	\$1,000,000
Amended Appropriation	\$1,000,000

Source: \$1,000,000 is available from the settlement of *Lowe's Home Center, Inc. v. City of Austin*, Cause No. GN300629 in the 98th Judicial District Court of Travis County, Texas.

Budget Office: \_\_\_\_\_

*Julie Ring CANZA*

Date: \_\_\_\_\_

*1/5/04*

The posting should read "Approve an ordinance amending Fiscal Year 2003-2004 Capital Budget of the Parks and Recreation Department of Ordinance No. 030908-02 to appropriate . . .

The change is only requested for the posting (if it can be changed independently from the RCA) as RCA is a mgmt tool and does not serve a legal requirement.

While those who work for the City may understand the posting language, the Open Meetings Act requires postings for the benefit of the general public, not the staff or city officials. If we give highly detailed information in the posting, then we need to make every effort to make the clearest possible statement of what Council is doing.

-- Sandy Z.

**ORDINANCE NO. 04**

**AN ORDINANCE AMENDING THE FY 2003-2004 PUBLIC WORKS DEPARTMENT CAPITAL BUDGET OF ORDINANCE NO. 030908-02 TO APPROPRIATE FUNDS; AND DECLARING AN EMERGENCY.**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:**

**PART 1.** The Council amends the FY 2003-2004 Public Works Department Capital Budget of Ordinance No. 030908-02 to appropriate \$1,000,000 in proceeds from the settlement of *Lowe's Home Centers, Inc. v. City of Austin*, Cause No. GN300629 in the 98<sup>th</sup> Judicial District Court of Travis County, Texas, to be used for acquisition of mitigation land for protection of water quality and for the construction of water quality improvements for existing developments.

**PART 2.** The Council finds that the need to amend the budget constitutes an emergency, a grave public necessity, and an unusual and unforeseen condition that could not, by reasonable diligence, have been included in the original budget for the current fiscal year. Because of this emergency, this ordinance takes effect immediately on its passage for the immediate preservation of the public peace, health, and safety.

**PASSED AND APPROVED**

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§  
§  
, 2004

Will Wynn  
Mayor

**APPROVED:**

David Allan Smith  
City Attorney

**ATTEST:**

Shirley A. Brown  
City Clerk