



**Professional Services Amendment  
CITY OF AUSTIN  
RECOMMENDATION FOR COUNCIL ACTION**

**AGENDA ITEM NO.: 3  
AGENDA DATE: Thu 11/18/2004  
PAGE: 1 of 2**

**SUBJECT:** Authorize execution of Supplemental Amendment No. 1 to the professional services agreement with HDR ENGINEERING, INC., Austin, TX, for litigation assistance services related to the Onion Creek Tunnel litigation in the amount not to exceed \$219,000 for a total contract amount not to exceed \$1,742,182.

**AMOUNT & SOURCE OF FUNDING:** Funding in the amount of \$219,000 is available in the Fiscal Year 1995-1996 Amended Capital Budget of the Austin Water Utility.

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

**REQUESTING** Austin Water Utility  
**DEPARTMENT:**

**DIRECTOR'S  
AUTHORIZATION:** Chris Lippe

**FOR MORE INFORMATION CONTACT:** Randy Pohren, 972-0223; Laura Wiley, 972-0104

**PRIOR COUNCIL ACTION:** 10/10/02 Council ratified a contract with HDR Engineering for the Emergency Onion Creek Tunnel Liner Removal and Inspection.

**BOARD AND COMMISSION ACTION:** Recommended by the Water and Wastewater Commission

**PURCHASING:** N/A

**MBE / WBE:** N/A

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In 2002 pieces of tunnel liner were observed coming out of the Onion Creek Tunnel into Lift Station # 1 at the South Austin Regional Wastewater Treatment Plant. Subsequent investigations verified that there was a massive liner failure in the Onion Creek Tunnel.

An emergency was declared and HDR Engineering was placed under contract in October 2002 to provide engineering services related to the removal of the failed liner and inspection of the tunnel. As a result of this work, it was discovered that the Onion Creek Tunnel had been punctured, drilled through, and a fiber optic carrier pipe had been installed through the cross sectional flow area of the tunnel. It was determined that this fiber optic line was installed and owned by Level 3 Communications. It is the City's contention that this puncture/drill-through was the cause of the liner failure. This matter was subsequently sent to the Legal Department for advisement and action.

Currently litigation is underway between the City of Austin and Level 3 Communications. As a result of this litigation, litigation services are required from the HDR consulting engineering team. These services will include: gathering and copying project documentation during discovery, fact finding and reports, meetings with the City's legal counsel, communication and coordination, depositions, and trial testimony. Costs for these litigation services will be factored into the dollar value of damages to the City and will be pursued as part of the litigation.



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PAGE: 2 of 2**

The upper 4 miles of tunnel remains to be inspected. HDR Engineering will use the remainder of the funds in the original professional services agreement (\$693,866) to provide engineering services related to the inspection of the upper end of the tunnel. When that part of the inspection is complete, an engineering report will be prepared defining the condition of the entire tunnel, rehabilitation needs, and recommendations for tunnel corrosion protection / lining.

**AGREEMENT HISTORY**

<u>COUNCIL AUTHORIZATION DATE</u>	<u>DESCRIPTION</u>	<u>AMOUNT</u>
10/10/02	Engineering services for liner removal and tunnel inspection	\$1,523,182.00
Proposed	Litigation Services	\$ 219,000.00
	<b>TOTAL</b>	<b>\$1,742,182.00</b>

**M/WBE STATUS**

Due to the emergency status of the Onion Creek Tunnel Liner Removal and Tunnel Inspection Project, participation goals were not required or established.

# CIP FISCAL NOTE

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

11/18/2004  
Resolution  
Austin Water Utility

**DESCRIPTION:**

Authorize execution of Supplemental Amendment No. 1 to the professional services agreement with HDR ENGINEERING, INC., Austin, Texas for litigation assistance services related to the Onion Creek Tunnel litigation in the amount not to exceed \$219,000.00 for a total contract amount not to exceed \$1,742,182.00.

**FINANCIAL INFORMATION:**

Parent Project Name:	1984 Wastewater Improvements Prop. 11
Project Authorization:	1995-96 Amended Capital Budget
Funding Source:	1984 Revenue Bonds
Number:	4380 237 2008

Current Appropriation	\$ 17,801,000.00
Unencumbered Balance	1,715,018.22 *
Amount of This Action	<u>(219,000.00)</u>
Remaining Balance	<u>\$ 1,496,018.22</u>
Current Available Balance	\$ 1,715,018.22
Less Outstanding Commitments	<u>-</u>
Estimated Unencumbered Balance	<u>\$ 1,715,018.22 *</u>

Utility Finance:



David Anders, Utilities Finance Manager

Date:

10/26/04

REF. #4380 237 8933

No.110304-A

**SUPPLEMENTAL AMENDMENT NO. 1 TO THE PROFESSIONAL SERVICES AGREEMENT WITH HDR  
ENGINEERING, INC., AUSTIN, TEXAS FOR LITIGATION ASSISTANCE SERVICES RELATED TO THE  
ONION CREEK TUNNEL LITIGATION IN THE AMOUNT NOT TO EXCEED \$219,000.00 FOR A TOTAL  
CONTRACT AMOUNT NOT TO EXCEED \$1,742,182.00**

**WATER AND WASTEWATER COMMISSION RESOLUTION**

**November 3, 2004**

**REGULAR MEETING**

**VOTE: 6-0-0-3**

Motion made by: Miller


Commissioners Consenting: Coleman, Raun, Lee, Chan, Warner

Commissioners Dissenting:

Commissioners Abstaining:

Commissioners Absent: Kirfman, Friese, Pool

The Water and Wastewater Commission recommends the Council authorize the execution of Supplemental Amendment No. 1 to the professional services agreement with HDR Engineering, Inc., Austin, Texas for litigation assistance services related to the Onion Creek Tunnel litigation in the amount not to exceed \$219,000.00 for a total contract amount not to exceed \$1,742,182.00.

  
Michael Warner Chairperson  
Water and Wastewater Commission

11/3/04  
Date