



**Outside Counsel  
CITY OF AUSTIN  
RECOMMENDATION FOR COUNCIL ACTION**

**AGENDA ITEM NO.: 8  
AGENDA DATE: Thu 12/02/2004  
PAGE: 1 of 1**

**SUBJECT:** Authorize negotiation and execution of an outside counsel contract with KEMP SMITH LLC, Austin, TX, for legal counsel concerning issues relating to the November 3, 2003 explosion at the proposed North Austin Service Center, 10715 Burnet Road.

**AMOUNT & SOURCE OF FUNDING:** Funding in the amount of \$150,000 is available in the Fiscal Year 2002-2003 Amended Capital Budget of the Austin Water Utility.

**FISCAL NOTE:** There is no unanticipated fiscal impact. A fiscal note is not required.

**REQUESTING Law  
DEPARTMENT:**

**DIRECTOR'S  
AUTHORIZATION: Anne Morgan**

**FOR MORE INFORMATION CONTACT:** Laurie Eiserloh, Assistant City Attorney / 974-2188

**PRIOR COUNCIL ACTION:** N/A

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

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Reichhold was the chemical company and owner of the land located at 10715 Burnet Road that the City purchased as a site for the North Austin Service Center. While the City's contractor was clearing the site, there was a large explosion that seriously injured a worker. In a subsequent investigation, a large amount of an explosive, benzoyl peroxide was found at the site.

The City has expended over \$2 million to remediate the site and the project is not yet complete. Drew Miller, of the firm of Kemp Smith LLC, is an environmental law expert.

# CIP FISCAL NOTE

DATE OF COUNCIL CONSIDERATION:  
WHERE ON AGENDA:  
DEPARTMENT:

12/2/2004  
Resolution  
Austin Water Utility

**DESCRIPTION:**

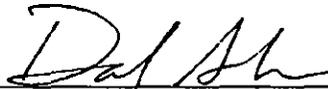
Authorize negotiation and execution of an outside counsel contract with KEMP SMITH LLC, Austin, TX, for legal counsel concerning issues relating to the November 3, 2003 explosion at the proposed North Austin Service Center, 10715 Burnet Road.

**FINANCIAL INFORMATION:**

Parent Project Name: 1998 Water Improvements Prop. 8  
Project Authorization: 2002-03 Amended Capital Budget  
Funding Source: 1998 Revenue Bonds  
Number: 4200 227 1024

Current Appropriation	\$ 64,179,000.00
Unencumbered Balance	23,620,220.59 *
Amount of This Action	<u>(75,000.00)</u>
Remaining Balance	<u>\$ 23,545,220.59</u>
Current Available Balance	\$ 28,511,099.13
Less Outstanding Commitments	<u>(4,890,878.54)</u>
Estimated Unencumbered Balance	<u>\$ 23,620,220.59 *</u>

Utility Finance:



David Anders, Utilities Finance Manager

Date:

11/23/04

REF. # 4200 227 7959

# CIP FISCAL NOTE

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**WHERE ON AGENDA:**  
**DEPARTMENT:**

12/2/2004  
Resolution  
Austin Water Utility

**DESCRIPTION:**

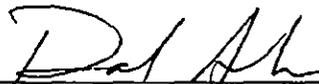
Authorize negotiation and execution of an outside counsel contract with KEMP SMITH LLC, Austin, TX, for legal counsel concerning issues relating to the November 3, 2003 explosion at the proposed North Austin Service Center, 10715 Burnet Road.

**FINANCIAL INFORMATION:**

Parent Project Name: 1998 Wastewater Imps. Prop. 9  
Project Authorization: 2002-03 Amended Capital Budget  
Funding Source: 1998 Revenue Bonds  
Number: 4530 237 2020

Current Appropriation	\$ 66,802,000.00
Unencumbered Balance	28,378,361.95 *
Amount of This Action	<u>(75,000.00)</u>
Remaining Balance	<u>\$ 28,303,361.95</u>
Current Available Balance	\$ 29,287,050.50
Less Outstanding Commitments	<u>(908,688.55)</u>
Estimated Unencumbered Balance	<u>\$ 28,378,361.95 *</u>

Utility Finance: \_\_\_\_\_



David Anders, Utilities Finance Manager

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

11/23/04

REF. # 4530 237 8962