

## AGENDA



Thursday, September 23, 2010

**Law  
RECOMMENDATION FOR COUNCIL ACTION****Item No. 34**

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**Subject:** Authorize negotiation and execution of an amendment to an outside counsel contract with Renea Hicks, for legal services related to City of Austin v. Harry M. Whittington, et al.; Case No. 10-0316 in the Supreme Court of Texas, in an amount of \$40,000, for a total contract amount not to exceed \$122,000 (concerns the City's condemnation of Block 38 in downtown Austin).

**Amount and Source of Funding:** Funding in the amount of \$20,000 is available in the Fiscal Year 2009-2010 Operating Budget of the Austin Convention Center, and funding in the amount of \$20,000 is available in the Fiscal Year 2009-2010 Operating Budget of Austin Energy.

**Fiscal Note:** A Fiscal Note is not required.

**For More Information:** Anne Morgan, Assistant City Attorney, 974-2507, or Andy Perny, Assistant City Attorney, 322-6277.

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This action authorizes an amendment to the legal services contracts with Renea Hicks, to represent the City of Austin in the appellate proceedings concerning this matter. The current appeal is City of Austin v. Whittington, et al. Initially, the Law Department contracted with Renea Hicks on 3/2/05, to represent the City in its appeal of the trial court's decision in Harry M. Whittington, et al v. City of Austin, Cause No. GN302752 in the 250th Judicial District of Travis County. The original contract amount was \$35,000, which was under the department's administrative authority. That case concerned the alleyway in Block 38. The appellate court found in favor of the City, and remanded the case to trial.

On 7/8/05 the Law Department contracted with Renea Hicks to substitute in as the appellate counsel in the ongoing appeal of the underlying condemnation lawsuit: City of Austin v. Harry M. Whittington, et al.; Cause No. 2403, in the County Court at Law No. 1 in Travis County, Texas. The original contract amount was for \$20,000, which was under the department's administrative authority. In the spring of 2007 the two cases were consolidated and tried to a jury. The City appealed the jury findings.

On 11/06/08 Council authorized an additional \$27,000 on this case and the contracts were combined for Mr. Hicks to handle the appeal in the Third Court of Appeals.

Council is now asked to authorize an additional \$40,000 on this contract. This will be used for Mr. Hicks to represent the City in the Supreme Court of Texas.