



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

AGENDA ITEM NO.: 9
AGENDA DATE: Thu 10/20/2005
PAGE: 1 of 1

SUBJECT: Approve an amendment to the legal service contract with KEMP SMITH, L.L.P. for legal representation, advice and counsel regarding the November 3, 2003 explosion at the North Service Center located at 10715 Burnet Road in an amount of \$120,000 for a total contract amount not to exceed \$270,000.

AMOUNT & SOURCE OF FUNDING: Funding in the amount of \$120,000 is available in the Fiscal Year 2005-2006 Approved Operation Budget of the Liability Reserve Fund.

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: Anne Morgan, Assistant City Attorney, 974-2507; Laurie Eiserloh, Assistant City Attorney, 974-2188

PRIOR COUNCIL ACTION: N/A

BOARD AND COMMISSION ACTION: N/A

Reichhold was the chemical company and owner of the land located at 10715 Burnet Road. The City purchased that 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 \$4 million to remediate the site and the project is not yet completed. The City has been utilizing the firm of Kemp Smith, LLC for its environmental law expertise in the investigation of the explosion and now plans to utilize Kemp Smith's services in litigation against Reichhold. The purpose of this litigation is to recover all or some of the City's costs related to the site.

This Council request will increase the outside counsel contract by \$120,000, for a total contract amount not to exceed \$270,000.