

AGENDA



Thursday, May 17, 2007

**Austin Water Utility
RECOMMENDATION FOR COUNCIL ACTION****Item No. 2**

Subject: Approve an ordinance authorizing negotiation and execution of a second amendment to the existing Water Cost Reimbursement Agreement with Lennar Buffington Zachary Scott, L.P. to change the cost reimbursement payment schedule for both Phase One and Phase Two on the construction of a 24-inch water main and appurtenances with a cost not to exceed \$3,428,000 to provide water service to the Zachary Scott Tract located in the south corner of the Old Lockhart Highway and Bradshaw Road; and to waive the requirements of Section 25-9-67 of the City Code relating to cost reimbursement payments.

Amount and Source of Funding: No impact to the Capital Budget of the Austin Water Utility.

For More Information: Seyed Miri, P.E. 972-0202 and Denise Avery 972-0104

Boards and Commission Action: To be reviewed by both the Water and Wastewater Commission and the Environmental Board on May 16, 2007.

Prior Council Action: Originally approved by Council on 10/23/2003, Ordinance No. 031023-6. Amendment approved by Council on 10/20/2005.

The Zachary Scott Tract is a proposed 975 lot single-family development located on approximately 272 acres of land in the south corner of the Old Lockhart Highway and Bradshaw Road intersection (the "Property"), currently inside the corporate limits of Austin, which is within the Desired Development Zone and Rinard Creek Watershed. The City Council approved the negotiation and execution of a cost reimbursement agreement with Development Alliance of Texas, L.L.C., on October 23, 2003, with City cost reimbursement not to exceed \$1,080,000.00 for the Phase One Water Improvements and \$2,348,000.00 for the Phase Two Water Improvements, for a total not to exceed \$3,428,000.00 for actual "hard" construction costs. After the Cost Reimbursement Agreement was executed by Development Alliance of Texas, L.L.C., on February 17, 2005, it was assigned to Lennar Buffington Zachary Scott, L.P. On October 20, 2005, the City Council approved an amendment to the Cost Reimbursement Agreement to increase the amount of City cost reimbursement for construction of Phase One 24-inch water main and appurtenances. The first amendment did not increase the original overall actual "hard" construction cost dollars, but allowed \$299,379.00 approved for Phase Two to be allocated to Phase One.

The Phase One 24-Inch Water Improvements have been constructed and accepted by the City on August 21, 2006.

The proposed second amendment to the Water Cost Reimbursement Agreement will allow for the cost reimbursement payment of the actual "hard" construction dollars for the Phase One Water Improvements to be made in one (1) payment on July 1, 2007, and the Phase Two Water Improvements cost reimbursement payment to be made in one (1) payment 90-days after final acceptance.

The Developer and Utility are requesting a waiver of the City Code requirements in Section 25-9-67, relating to cost reimbursement payments to permit the modified payment schedule of the water improvements described above. Under Section 25-9-67, cost reimbursement payments are to be made in one (1) payment on March 1 of the second year following the year in which the water improvements are

accepted. The accepted Phase One Water Improvements would be reimbursed on March 1, 2008 under the originally approved Cost Reimbursement Agreement.