

ORDINANCE NO.

AN ORDINANCE AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE AMENDMENT NO. 1 TO THE WATER SERVICE COST REIMBURSEMENT AGREEMENT WITH LENNAR BUFFINGTON ZACHARY SCOTT, L.P. FOR CONSTRUCTION OF WASTEWATER UTILITIES AND PUMP AND HAUL OPERATIONS TO SERVE THE ZACHARY SCOTT TRACT AT OLD LOCKHART HIGHWAY AND BRADSHAW ROAD; AND WAIVING CERTAIN REQUIREMENTS OF SECTIONS 25-9-63 AND 25-9-67 OF THE CITY CODE RELATING TO COST REIMBURSEMENT.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

PART 1. This ordinance applies to a request by Lennar Buffington Zachary Scott, L.P. to amend a cost reimbursement agreement dated February 17, 2005, between the City and Development Alliance of Texas, L.L.C., and assigned to Lennar Buffington Zachary Scott, L.P., to increase the not-to-exceed amount to reimburse the construction of wastewater utilities to serve the Zachary Scott Tract located in the south corner of the Old Lockhart Highway and Bradshaw Road intersection, to reimburse professional services costs and to reimburse pump and haul operation costs to serve the Zachary Scott Tract.

PART 2. The council authorizes the city manager to negotiate and execute an amended cost reimbursement agreement with Lennar Buffington Zachary Scott, L.P. in accordance with the following requirements:

- (A) Total cost reimbursement for the project may not to exceed \$4,620,999, to be made in one payment 90 days after final acceptance of the wastewater utilities project except as provided in (C);
- (B) For the 18-inch and 30-inch wastewater main and appurtenances ("wastewater utilities"):
 - (1) cost reimbursement for actual construction costs may not exceed \$3,696,000;
 - (2) cost reimbursement for engineering, design, and project management may not exceed the lesser of 15 percent of the actual construction costs or \$554,400;
- (C) For the original wastewater main improvements proposal of approximately 850 feet of 18-inch gravity wastewater main, 2,200 feet of 24-inch gravity wastewater main and 1,100 feet of 15 or 18-inch gravity wastewater main

1 (“original design”) and the engineering revisions to the original design,
2 including the aerial wastewater crossing of Rinard Creek, cost reimbursement
3 for engineering and design costs may not exceed \$220,599 to be made in one
4 payment 30-days after execution of the amended agreement.

5 (D) For the pump and haul operation:

6 (1) total cost reimbursement may not exceed \$150,000;

7 (2) the City will reimburse Lennar Buffington Zachary Scott, L.P. for 50
8 percent of the direct monthly pump and haul operation costs from
9 September 1, 2007 until August 31, 2008 or the completion of the
10 wastewater utilities, whichever is sooner; and

11 (3) the City will begin the 50 percent monthly reimbursements on October
12 1, 2007.

13 **PART 3.** The council waives:

14 (A) the requirement of Section 25-9-63 (*Amount of Cost Reimbursement*) of the
15 City Code that cost reimbursement be limited to actual construction costs; and

16 (B) the provision of Section 25-9-67 (*Cost Participation and Cost Reimbursement*
17 *Payment*) of the City Code prescribing the date for a cost reimbursement
18 payment.

PART 4. This ordinance takes effect on _____, 2007.

PASSED AND APPROVED

_____, 2007 §
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Will Wynn
Mayor

APPROVED: _____
David Allan Smith
City Attorney

ATTEST: _____
Shirley A. Gentry
City Clerk