

AGENDA



Thursday, January 17, 2008

**Austin Water Utility
RECOMMENDATION FOR COUNCIL ACTION****Item No. 3**

Subject: Approve an ordinance authorizing negotiation and execution of a cost reimbursement agreement, related to Service Extension Request No. 2502, with WANDERING CREEK INVESTMENTS, L.P., providing terms and conditions for construction of a 36-inch gravity wastewater main and appurtenances to provide wastewater service to the Wandering Creek Subdivision located south and west of Elroy Road and east of McAngus Road with City cost reimbursement in an amount not to exceed \$6,691,275; waiving the requirements of Section 25-9-61 and Section 25-9-63 of the City Code relating to the amount of cost reimbursement for eligible projects, and waiving the requirements of Section 25-9-67 of the City Code relating to cost reimbursement payments.

Amount and Source of Funding: Funding is available in the Fiscal Year 2007-2008 Capital Budget of the Austin Water Utility.

Fiscal Note: A fiscal note is attached.

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

Boards and Commission Action: Recommended by the Water and Wastewater Commission.

The Wandering Creek Subdivision is a proposed single-family development located on approximately 648 acres of land south and west of Elroy Road and east of McAngus Road (the "Property"), outside the full-purpose city limits. Wandering Creek Investments, (the "Developer") has submitted Service Extension Request 2502 requesting that the City provide wastewater utility service to the Property which is within the Council approved Impact Fee Boundary, Utility Service Area, City of Austin Wastewater Certificate of Convenience and Necessity (CCN) area and also within the Desired Development Zone and Dry Creek Watershed.

Under the proposed cost reimbursement agreement the Developer will construct (Phase One) approximately 10,650 feet of 36-inch gravity wastewater main from the existing City of Austin Pearce Lane Lift Station, south paralleling Dry Creek and through the Stoney Ridge Tract to the Property. The proposed gravity wastewater improvements must be placed within an appropriately sized wastewater easement dedicated to the City of Austin.

The City will reimburse the Developer for the actual construction costs of the 36-inch gravity wastewater main and appurtenances constructed within public right-of-way or easements for a total not to exceed \$4,453,500.00 for Phase One, and the costs for engineering, design and project management of the 36-inch gravity wastewater main and appurtenances constructed within public right-of-way or easements for a total not to exceed 15% of the actual construction costs of the 36-inch gravity wastewater main and appurtenances up to a maximum of \$668,025.00 for Phase One, whichever is less, for a total not to exceed \$5,121,525.00 for Phase One. The Developer will bear all other costs for financing, interest, fiscal security, accounting, insurance, inspections, permitting, easement acquisition and legal services associated with this construction.

The Developer must also construct (Phase Two) approximately 3,500 feet of 36-inch gravity wastewater main from the Phase One wastewater improvements, south paralleling Dry Creek to the most southern

point of the proposed development needing service. The proposed gravity wastewater improvements must be placed within an appropriately sized wastewater easement dedicated to the City of Austin. The Developer will dedicate an appropriately sized wastewater easement(s) (approximately 30-feet wide) from the terminus of the Phase Two wastewater improvements, south to the southern property line of the Property at Dry Creek. The Developer will also grant appropriately sized wastewater easements/right-of-way within the Property to allow adjoining tracts reasonable access to the proposed 36-inch gravity wastewater improvements.

The City will reimburse the Developer for the actual construction costs of the 36-inch gravity wastewater main and appurtenances constructed within public right-of-way or easements for a total not to exceed \$1,365,000.00 for Phase Two, and the costs for engineering, design and project management of the 36-inch gravity wastewater main and appurtenances constructed within public right-of-way or easements for a total not to exceed 15% of the actual construction costs of the 36-inch gravity wastewater main and appurtenances up to a maximum of \$204,750.00 for Phase Two, whichever is less, for a total not to exceed \$1,569,750.00 for Phase Two. The Developer will bear all other costs for financing, interest, fiscal security, accounting, insurance, inspections, permitting, easement acquisition and legal services associated with this construction.

The not to exceed for actual construction costs for both Phases of the 36-inch gravity wastewater main and appurtenances are \$5,818,500.00. The overall not to exceed for engineering, design and project management of the 36-inch gravity wastewater main and appurtenances is 15% of the actual construction costs of the 36-inch gravity wastewater main and appurtenances or \$872,775.00, whichever is less, for a overall total amount not to exceed \$6,691,275.00.

Based on the Utility's capacity analysis, adequate system capacity exists to meet the projected demands of the property to be served and the proposed 36-inch gravity wastewater main will serve additional development north, south, east and west of the Property.

Because the City requested that the Developer construct water improvements beyond those needed only to serve the proposed development and the reimbursement amounts established in City Code Sections 25-9-61 are insufficient to reimburse the over-sizing requested, the Developer is requesting a waiver from City Ordinance requirements of:

1) Section 25-9-61 relating to the amount of cost reimbursement. Under this Section, the maximum amount of cost reimbursement for the 36-inch gravity wastewater main is computed by multiplying the capacity of the gravity wastewater main in LUEs by \$404.00 per LUE (36-inch gravity wastewater main at minimum slope of 0.05% has a capacity of 6,863 LUEs), resulting in a maximum reimbursement amount, for the minimum slope main, not to exceed \$2,772,652.00.

2) Section 25-9-63 relating to the amount of cost reimbursement. Under this Section, reimbursement may not exceed the maximum amount provided in Section 25-9-61 and the amount of cost reimbursement is only for the actual construction costs.

3) Section 25-9-67 relating to cost reimbursement payments. Under this Section, cost reimbursement payments are to be made in one (1) payment on March 1 of the second year following the year in which the wastewater improvements are accepted.

This action waives the requirements of Section 25-9-61 and Section 25-9-63, thereby allowing the reimbursement of the actual construction costs of the 36-inch gravity wastewater main and the costs for engineering, design and project management of the 36-inch gravity wastewater main up to a maximum of \$6,691,275.00.

This action waives the requirements of Section 25-9-67, thereby allowing the cost reimbursement payment for Phase One in one (1) payment one (1) year after final acceptance of the Phase One 36-inch gravity wastewater improvements only. The Phase Two cost reimbursement payment will be per Ordinance.

The Developer will conform to the City of Austin design criteria and construction standards in all respects. The Developer will construct all required improvements at their cost and after approval of construction, the applicant will dedicate the facilities to the City for ownership, operation and maintenance.

The Developer agrees to allow the City to use the Plans and Specifications approved by the Director, to solicit and publish invitations for bids for the construction of the improvements following standard City bidding practices and procedures, including the minority-owned business enterprise procurement program found in Title 2, City Code, as amended, and Chapters 212 and 252, Texas Local Government Code, as amended.