

AGENDA



Thursday, May 8, 2008

**Austin Water Utility
RECOMMENDATION FOR COUNCIL ACTION****Item No. 4**

Subject: Approve an ordinance authorizing negotiation and execution of a cost reimbursement agreement related to Service Extension Request No. 2542, with ONION ASSOCIATES, LTD., providing terms and conditions for construction of 24 and 42-inch water mains and appurtenances to provide water service to the Fox Hill Subdivision located east of South IH-35, south of Onion Creek and west of Bradshaw Road with City cost reimbursement in an overall total amount not to exceed \$9,749,485; and waiving the following requirements of these Code sections or ordinance provisions: Section 25-9-61 relating to the maximum amount of cost reimbursement for eligible projects; Section 25-9-63 relating to the amount of cost reimbursement for eligible projects and reimbursement for actual construction costs; Section 25-9-67 relating to the schedule for cost reimbursement payments; and Ordinance 20070910-008 relating to construction, inspection and review fees associated with the proposed 42-inch water main and appurtenances in an amount not to exceed \$200,000. The 42-inch water main has been identified as part of the South IH-35 Water and Wastewater Infrastructure Improvements Program.

Amount and Source of Funding: Funding in the amount of \$9,749,485 is included 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 and Denise Avery 972-0104

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

The Fox Hill Subdivision is a proposed single and multi-family development located on approximately 214 acres of land east of South IH-35, south of Onion Creek and west of Bradshaw Road (the "Property"), with approximately 41% of the Property within the City's full-purpose city limits. Onion Associates, Ltd., (the "Developer") has submitted Service Extension Request 2542 requesting that the City provide water utility service to the Property which is within the Impact Fee Boundary, Utility Service Area, Desired Development Zone and Onion Creek Watershed. In addition, fifty-nine percent (59%) of the property is within the Creedmoor-Maha Water Supply Corporation Certificate of Convenience and Necessity (CCN) area.

The Developer is currently seeking decertification of the portion of the Property within the Creedmoor-Maha Water Supply Corporation Certificate of Convenience and Necessity (CCN) area. Before the City of Austin will provide retail water service or sell water meters within the portion of the Property in the Creedmoor-Maha Water Supply CCN area, the property must be released from the Creedmoor-Maha Water Supply Corporation Certificate of Convenience and Necessity (CCN) area.

Under the proposed cost reimbursement agreement, the Developer will be required to construct the following improvements: Phase One-A Water Improvements: Developer will construct approximately 3,500 feet of 42-inch water main from the existing 24-inch water main in Bradshaw Road northeast of the Property, southwest within Bradshaw Road to River Plantation Drive. The Developer will also construct a 12-inch water main from the proposed 42-inch water main at Bradshaw Road and River Plantation Drive, northwest to the existing 12-inch South Reduced Water Pressure Zone water main in River Plantation Drive (less than 100 feet of 12-inch water main) and install an appropriately sized Pressure Reducing

Valve System on the proposed 12-inch water main (proposed 42-inch water main will be a South Water Pressure Zone water main and the existing 12-inch water main in River Plantation Drive is a South Reduced Water Pressure Zone water main). These water improvements are also required under the Legend's Way Service Extension Request 2611 and were approved by City Council on November 11, 2007, for City Cost Reimbursement (\$2,976,882).

Phase One-B Water Improvements: Developer will construct approximately 4,225 feet of 42-inch water main from the terminus of the 42-inch water main in Bradshaw Road at River Plantation Drive (Phase One-A Water Improvements), south along Bradshaw Road to the proposed east/west thoroughfare that will bisect the Property and the tracts immediately east of the Property. The above referenced water improvements must be designed and ready to be constructed by July 1, 2008, unless this date is extended by the City. If not, the proposed Phase One-A and One-B Water Improvements will be designed and constructed by the City of Austin South IH-35 Water and Wastewater Infrastructure Improvements Program. If the Developer can not meet the deadline date or any extended date authorized by the City, no cost reimbursement will be allowed for design and or construction.

All required easements that are owned or controlled by the Developer will be dedicated to the City of Austin 30-days after City Council approval of the Service Extension Request and all other required easements will be dedicated to the City of Austin prior to commencement of construction of improvements. 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 water improvements will serve additional development.

Phase Two Water Improvements (to serve proposed development east of the Property and the eastern portion of the Property): The Developer will construct approximately 3,475 feet of 24-inch water main from the terminus of the 42-inch Phase One-B Water Improvements in Bradshaw Road east of the Property, west along the proposed east/west thoroughfare that will bisect the Property.

Phase Three Water Improvements (to serve the remaining proposed development within the property): The Developer will construct approximately 6,000 feet of 24-inch water main from the terminus of the 24-inch water main at the eastern property line of the property (Phase Two Water Improvements), west along the proposed east/west thoroughfare to the proposed 36-inch water main to be constructed by the South IH-35 Water and Wastewater Infrastructure Improvements Program, along the western right-of-way of South IH-35. The Phase Two and Phase Three Water Improvements must be constructed under one phase if the proposed east/west thoroughfare is constructed under one phase.

The City will reimburse the Developer for the actual construction costs of the 42-inch water main, appurtenances and Pressure Reducing Valve System constructed within public right-of-way or easements for a total not to exceed \$5,872,188.00, and the costs for engineering, design and project management of the 42-inch water main and appurtenances within public right-of-way or easements for a total not to exceed 15% of the actual construction costs of the 42-inch water main and appurtenances up to a maximum of \$880,828, whichever is less, for a total not to exceed \$6,753,016. The Developer will bear all other costs for financing, interest, fiscal security, accounting, insurance, easement acquisition and legal services associated with this construction.

The City will reimburse the Developer for the actual construction costs of the 24-inch water main and appurtenances constructed within public right-of-way or easements for a total not to exceed \$2,996,469. The Developer will bear all other costs for engineering, design, project management, financing, interest, fiscal security, accounting, insurance, inspections, permitting, easement acquisition and legal services associated with this construction.

Because the Developer will construct water improvements beyond those needed only to serve the proposed development, 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 42-inch water main is computed by multiplying the capacity of the 42-inch water main in Living Unit Equivalents (LUEs) by \$345 per LUE (42-inch water main at peak hour has a capacity of 9,813 LUEs), resulting in a maximum reimbursement amount not to exceed \$3,385,485, and the maximum amount of cost reimbursement for the 24-inch water main is computed by multiplying the capacity of the 24-inch water main in Living Unit Equivalents (LUEs) by \$345 per LUE (24-inch water main at peak hour has a capacity of 3,204 LUEs), resulting in a maximum reimbursement amount not to exceed \$1,105,380.

2) Section 25-9-63 relating to the amount of cost reimbursement. Under this Section reimbursement cannot exceed the amount established in 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 water improvements are accepted.

This action waives the requirements of Section 25-9-61, thereby allowing the reimbursement of the actual construction costs of the 42-inch water main up to a maximum of \$5,872,188, and allowing the reimbursement of the actual construction costs of the 24-inch water main up to a maximum of \$2,996,469.

This action waives the requirements of Section 25-9-63, thereby allowing the maximum reimbursement set by Section 25-9-61 to be exceeded and allowing for reimbursement of the costs for engineering, design and project management of the 42-inch water main up to a maximum of \$880,828.

This action waives the requirements of Section 25-9-67, thereby allowing the cost reimbursement payment in one (1) payment 30-days after final acceptance of the 42-inch Phase One-A and or the Phase One-B Water Improvements, and allow the cost reimbursement payment in one (1) payment 90-days after final acceptance of the 24-inch Phase Two and or the Phase Three Water Improvements.

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 of the City Code, as amended, and Chapters 212 and 252, Texas Local Government Code, as amended.