

## AGENDA



Thursday, May 22, 2008

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

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**Subject:** Approve an ordinance authorizing negotiation and execution of an amendment to the existing Cost Reimbursement Agreement with Pebble Creek Joint Venture, Continental Homes of Texas, L.P., Rathgeber Investment Company, Ltd., and Developers of Avery Ranch, Ltd.; and to waive the requirements of Section 25-9-67 of the City Code relating to cost reimbursement payment schedule.

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

**Fiscal Note:** There is no anticipated fiscal impact. A fiscal note is not required.

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

**Boards and Commission Action:** To be reviewed by the Water and Wastewater Commission on May 21, 2008.

**Prior Council Action:** Originally approved by Council on November 4, 1999, Ordinance No. 991104-68-B.

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Avery Ranch is approximately 1,700 acres of mixed-use development located north of R.R. 620 and east and west of West Parmer Lane/F.M. 437, and south of Brushy Creek (the "Property") inside the corporate limits of Austin. Pebble Creek Joint Venture, Continental Homes of Texas, L.P., Rathgeber Investment Company, Ltd., and Developers of Avery Ranch, Ltd. (the "Avery Ranch Developers") previously submitted Service Extension Request Number 1900, requesting the extension of City water utility service to the Property, which is within the Desired Development Zone and the Brushy Creek Watershed.

The City Council approved the negotiation and execution of a cost reimbursement agreement with the Avery Ranch Developers, on November 4, 1999, with City cost reimbursement not to exceed \$15,600,000 for the actual hard construction costs of approximately 36,000 linear feet of 24, 30, 36 and 48-inch water mains and appurtenances, and an appropriately sized elevated water reservoir to provide service to the Property and surrounding area. The original Council actions also approved, as part of the \$15,600,000, cost reimbursement for all "soft" costs for design, financing, accounting, project management, and legal services associated with the construction of the 36-inch water main and appurtenances and the appropriately sized elevated water reservoir.

The City of Austin executed the Cost Reimbursement Agreement (the "Agreement") with the Avery Ranch Developers on June 4, 2000.

The proposed water improvements were to be constructed in discrete phases as the development progressed. All of the water improvements, with the exception of the elevated water reservoir, have been constructed by the Avery Ranch Developers or are under construction by others. At the time the water improvements were planned during the Service Extension Request review, the Utility felt that the elevated water reservoir would not be needed for a number of years and that it could be constructed under a future Capital Improvement Project. However, because of exceptional growth within Avery Ranch development and northwest Austin, the elevated water reservoir is now needed sooner than originally anticipated. The Utility requested the Avery Ranch Developers to initiate the design and construction of the elevated water

reservoir in early 2007. The design is now complete and construction is anticipated to be started by the summer of 2008.

The construction costs for the elevated water reservoir are estimated at \$8,000,000. The Agreement allows for the cost reimbursement of all soft costs associated with the design and construction of the elevated water reservoir. The Avery Ranch Developers have estimated that should they have to construct the elevated water reservoir, the cost of borrowing \$8,000,000 would add an additional \$400,000.00 to \$600,000 in finance cost to the reimbursable soft costs. To avoid spending this additional amount of money, the City informed the Avery Ranch Developers, that the City will construct the elevated water reservoir as part of our Capital Improvement Projects.

Per a provision within the Agreement the City has the option of procuring the design of the elevated water reservoir from the developers of Avery Ranch. The City is currently in the process of obtaining the approved design, construction plans, and specifications, however, as written in the current agreement, the cost reimbursement payment would be paid in one payment within 180 days of the City's written final acceptance of the construction of the elevated water reservoir. This action waives the requirements of Section 25-9-67, thereby allowing cost reimbursement of the approved design, construction plans, specifications and any management fees upon the execution of an amended Agreement.

The amount of cost reimbursement to the Avery Ranch Developers for the procurement of the approved design, construction plans, specifications and payment of any management fees is not estimated to exceed \$460,000.