

AGENDA



Wednesday, June 18, 2008

**Austin Water Utility
RECOMMENDATION FOR COUNCIL ACTION****Item No. 6**

Subject: Approve an ordinance authorizing negotiation and execution of an amendment to the existing Wastewater Cost Reimbursement Agreement with Lennar Buffington Zachary Scott, L.P. modifying the payment schedule; 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 included in the Fiscal Year 2007-2008 Capital Budget of the Austin Water Utility.

Fiscal Note: A fiscal note is not required.

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

Boards and Commission Action: Scheduled for review by the Water and Wastewater Commission on June 18, 2008.

Prior Council Action: Originally approved by Council on October 23, 2003, Ordinance No. 031023-7. First amendment approved by Council on May 17, 2007, Ordinance No. 20070517-003.

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 \$1,333,740 for the actual "hard" wastewater 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. ("Lennar Buffington").

The proposed original wastewater main improvements were based on conceptual engineering and planning documents to include 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 from the existing Onion Creek Wastewater Treatment Plant southeast along the fairway of the Onion Creek Golf Course and under Rinard Creek to the Property. During the actual design of the proposed wastewater main, at the request of City environmental staff, the alignment was changed to move further into the fairway of the golf course and farther away from Critical Environmental Features identified during site visits. This change in alignment created a project that required many sections of the wastewater main to be bored in order to avoid damage to trees and identified Critical Environmental Features.

The City opened bids for the originally designed wastewater improvements on January 19, 2006, and the apparent low bidder was \$2,415,394 higher than the total 2003 Council authorization approved for "hard" construction cost reimbursement. Based on these bids, the City did not want to move forward with this project and requested Lennar Buffington to investigate the possibility of an alternative construction method. Because of this new delay imposed by the City, Lennar Buffington made a request to perform a pump and haul program for 64 homes within the Property currently under construction. The City approved the pump and haul program in September 2006 with stipulations that limited the number of

connections, set an expiration date and required the deposit of \$50,000. The pump and haul program was amended in April 2007 to allow up to 136 single-family homes. The actual pump and haul operations did not start until January 2007.

After months of work, Lennar Buffington submitted a wastewater design in the fall of 2006 that drastically reduced the length and number of bores and the depth of the proposed wastewater main. The primary change to the original design was the inclusion of an aerial wastewater crossing of Rinard Creek. Lennar Buffington worked with Watershed Protection and Development Review (WPDR) and the Utility on this design and after a number of concessions and requirements required by WPDR and the Utility then both Departments supported the design. The construction cost for this design is estimated at \$1,400,000. During the February 21, 2007 Environmental Board and the April 17, 2007 Zoning and Platting Commission hearings, the Board and Commission expressed some environmental concerns regarding the aerial wastewater crossing. On April 30, 2007 the City directed Lennar Buffington to abandoned the aerial design and investigate a subsurface design that will be the ultimate wastewater infrastructure to serve the entire Rinard Creek Basin.

The design for the ultimate wastewater infrastructure to serve the entire Rinard Creek Basin has been completed and includes approximately 600 feet of 10-inch bored gravity overflow wastewater line and approximately 3,100 feet of 36-inch gravity wastewater tunnel from the existing Onion Creek Wastewater Treatment Plant southeast along the fairway of the Onion Creek Golf Course and under Rinard Creek to Bradshaw Road. This design avoids all Critical Environmental Features and will only create minimal disturbance to the golf course. Because the scope of the project has drastically changed, the City has determined that the ultimate wastewater infrastructure will be constructed by the City as part of our Capital Improvements Projects. The ultimate wastewater infrastructure has been bid by the City and a low bid of approximately \$6.4 million is currently under review.

The first amendment to the Wastewater Cost Reimbursement Agreement approved by City Council on May 17, 2007 allowed for cost reimbursement to Lennar Buffington of the actual construction costs of the 18 and 30-inch gravity wastewater tunnel and appurtenances constructed within public right-of-way or easements for a total not to exceed \$3,696,000, and the costs for engineering, design and project management of the wastewater tunnel and appurtenances within public right-of-way or easements for a total not to exceed 15% of the actual construction costs up to a maximum of \$554,400, whichever is less, for a total not to exceed \$4,250,400 in one (1) payment 90-days after final acceptance; waived the City Code requirements of Section 25-9-67, to permit the modified payment schedule of the wastewater tunnel improvements; allowed for cost reimbursement to Lennar Buffington for the original wastewater design and the aerial wastewater design for a total not to exceed \$220,599, in one (1) payment 30-days after approval of this amendment; allowed for cost reimbursement to Lennar Buffington for 50% of the direct pump and haul costs from September 1, 2007 for a period of one year or the completion of the 18 and 30-inch gravity wastewater tunnel and appurtenances, whichever is sooner, for a total not to exceed \$150,000, in monthly payments starting October 1, 2007; and waived the City Code requirements in Section 25-9-63 relating to the amount of cost reimbursement to allow for payment of the costs associated with engineering, design and project management.

This action waives the requirements of Section 25-9-67, thereby allowing cost reimbursement of the approved ultimate wastewater infrastructure design, construction plans and specifications upon the execution of an amended Agreement and the dedication by Lennar Buffington of all required water and wastewater easements needed for the ultimate wastewater infrastructure and the South IH-35 Water and Wastewater Infrastructure Improvement Program.

The amount of cost reimbursement to Lennar Buffington for the procurement of the approved construction plans and specifications for the ultimate wastewater infrastructure will not exceed the \$554,400 approved by City Council under the first amendment.