

AGENDA



Thursday, September 25, 2008

**Austin Water Utility
RECOMMENDATION FOR COUNCIL ACTION**
Item No. 8

Subject: Approve an ordinance authorizing negotiation and execution of an amendment to an existing cost reimbursement agreement with Walters Southwest Development allowing an increase in cost reimbursement for professional services costs for engineering design and project management for a total amount not to exceed \$456,765, changing the schedule for cost reimbursement payments; and waiving the requirements of Section 25-9-67 of the City Code relating to cost reimbursement payment schedule.

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 not required.

For More Information: Bart Jennings, 972-0118; Denise Avery, 972-0104

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

Prior Council Action: October 21, 2004, Council approved Reimbursement Agreement.

Walters Southwest has acquired for development certain tracts that consist of approximately 247 acres located along I.H. 35 South and F.M. 1626, that Walters Southwest proposes to develop into retail, commercial, residential, and multi-family residential lots and for which Walters Southwest has requested City water utility service ("Property"). The Property is located in the corporate limits of the City, within the City's designated Desired Development Zone, and within the City's Austin Water Utility Impact Fee Service Area. In order to obtain approval for City water utility services for development of the Property, Walters Southwest made written application for approval of water utility service extension with the Director of the Austin Water Utility ("Director") and requested reimbursement for the construction cost and a portion of engineering design and project management costs of a water main extension necessary to connect the Property to existing City water facilities.

In Water Service Extension No. 2314 ("WSER No. 2314"), the Director determined the necessary requirements for the provision of water service, which included the construction of 6,500 feet of 36-inch water main, 2,900 feet of 24-inch water main, and additional 12-inch and 16-inch water mains as shown on the attached map. On October 21, 2004, the City Council authorized the City Manager or a designee to negotiate and execute an agreement with Walters Southwest to set forth terms and conditions where under Walters Southwest would design and construct the water infrastructure, and the City would reimburse Walters Southwest for (i) the actual "hard" construction costs incurred for WSER No. 2314 in an amount not to exceed \$2,589,000; (ii) for actual "soft" costs incurred for engineering design and project management only in an amount not to exceed 15% of the actual hard construction costs, or \$388,350, whichever was less; and (iii) for City of Austin inspection fees related to the construction of WSER No. 2314 in an amount not to exceed \$90,615, for an overall maximum cost reimbursement not to exceed \$2,977,350. The original Council action also waived certain other City Code requirements relating to reimbursement of certain soft costs, schedule for cost reimbursement payments, and waiver of construction inspection fees.

The City and Walters Southwest executed the Cost Reimbursement Agreement on September 20, 2005, and the First Amendment to Cost Reimbursement Agreement on February 10, 2006, ("CR Agreement"). The 24-inch water main has been constructed. Of the \$388,350 approved for soft costs, approximately \$68,415 was paid related to the construction of the 24-inch water main, leaving a balance of \$319,935.

Walters Southwest initiated engineering design and project management work related to the 36-inch main and unexpectedly encountered environmental features on the Property, which will cause significantly higher hard and soft costs than initially projected. The Parties to the CR Agreement determined that it would be in the best interests of the City for the City to assume the construction of the remaining water infrastructure associated with WSER No. 2314 and modify the requirements of the Parties. In November 2007, the City Council authorized the hiring of a professional engineering group to assume design responsibilities for the remaining water main associated with WSER No. 2314 and other associated water infrastructure to provide service to southeast Travis County.

The existing agreement allows for cost reimbursement of the soft costs of the 36-inch line. The City has already paid part of the authorized soft costs, for the work actually performed by Walters Southwest pursuant to the CR Agreement under the original authorization. The proposed amendment would authorize another \$68,415 for a total of \$456,765 in authorized soft costs.

The purpose of the proposed amendment is to:

1. Change the payment schedule from the existing agreement to allow Walters Southwest to be reimbursed upon Walters Southwest providing paid receipts and invoices, rather than 90 days after final acceptance of the improvements, for engineering design and project managements costs already incurred up to an amount not to exceed \$178,025;
2. Provide the City easements, at no cost to the City, for all City water infrastructure related to WSER No. 2314;
3. Provide for Walters Southwest to design (and obtain all appropriate and necessary permits and approvals for the City to properly and completely bid the design out for construction) approximately 4,900 feet of 36-inch water main from a point of connection with the existing 24-inch City water main at I.H. 35 South and West Slaughter Lane and extend south along I.H. 35 South to approximately Old San Antonio Road; and
4. Provide the City all copies of plans, studies, surveys, field notes, and formal correspondence related to WSER No. 2314 for the City's use in the construction of water infrastructure related to WSER No. 2314.