

ORDINANCE NO.

AN ORDINANCE AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE AN AMENDMENT TO A COST REIMBURSEMENT AGREEMENT WITH MAK MARSHALL RANCH, L.P., TO INCREASE THE MAXIMUM AMOUNT OF CITY COST REIMBURSEMENT FROM \$4,478,500 TO AN AMOUNT NOT TO EXCEED \$5,150,275 FOR CONSTRUCTION OF A 24-INCH WATER MAIN AND APPURTENANCES TO SERVE THE WATERSEDGE PLANNED UNIT DEVELOPMENT; AND WAIVING CERTAIN REQUIREMENTS OF SECTIONS 25-9-63 AND 25-9-67 OF THE CITY CODE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

PART 1. On August 24, 2006, the council approved a cost reimbursement agreement with MAK Marshall Ranch, L.P., related to construction of a 24-inch water main and appurtenances to serve the Watersedge Planned Unit Development located near the intersection of State Highway 71 and Doctor Scott Drive.

PART 2. The council authorizes the city manager to negotiate and execute an amendment to the existing cost reimbursement agreement with MAK Marshall Ranch, L.P., for the water project in accordance with the following requirements:

- (A) Contingent on completion of construction of both Phase I and Phase II of the 24-inch water main project by MAK Marshall Ranch, L.P., the amount of eligible reimbursable costs for Phases I and II is increased by \$671,775.00, to an amount not to exceed \$5,150,275.00, to include:
 - (1) Costs for engineering, design, and project management for Phase I of the project not to exceed the lesser of 15 percent of the actual construction costs for Phase I of the 24-inch water main project or \$143,227.50; and
 - (2) Costs for engineering, design, and project management for Phase II of the project not to exceed the lesser of 15 percent of the actual construction costs for Phase II of the 24-inch water main or \$528,547.50; or
- (B) If MAK Marshall Ranch, L.P. completes construction of Phase I and design of Phase II of the 24-inch water main project by MAK Marshall Ranch, L.P., with the City completing construction of Phase II, the amount of eligible reimbursable costs shall:

- 1 (1) Include costs for engineering, design, and project management for Phase
2 I of the project not to exceed the lesser of 15 percent of the actual
3 construction costs for Phase I of the 24-inch water main project or
4 \$143,227.50;
- 5 (2) Include costs for expense incurred by MAK Marshall Ranch, L.P., for
6 engineering and design of Phase II of the project not to exceed
7 \$300,000.00; and
- 8 (3) Include costs for expense incurred by MAK Marshall Ranch, L.P. for
9 construction and review fees for Phase II of the project not to exceed
10 \$29,000.00.

11 **PART 3.** The council waives:

- 12 (A) the requirements of Section 25-9-63 (*Amount of Cost Participation*) of the
13 City Code that cost reimbursement be limited to actual construction costs and
14 not exceed maximum reimbursement provided in Section 25-9-61; and
- 15 (B) requirements of Section 25-9-67 (*Cost Participation and Cost Reimbursement*
16 *Payment*) of the City Code relating to the schedule for cost reimbursement
17 payments.

18 **PART 4.** This ordinance takes effect on _____, 2009.

19 **PASSED AND APPROVED**

20
21 §
22 §
23 _____, 2009 § _____
24 Will Wynn
25 Mayor
26
27

28 **APPROVED:** _____
29 David Allan Smith
30 City Attorney
31
32
33

ATTEST: _____
Shirley A. Gentry
City Clerk