

# AGENDA



Thursday, March 26, 2009

## Austin Water Utility RECOMMENDATION FOR COUNCIL ACTION

Item No. 3

**Subject:** Approve an ordinance authorizing negotiation and execution of an amendment to the Cost Reimbursement Agreement with MAK Marshall Ranch, L.P., changing the City's cost allocation, decreasing the overall maximum cost reimbursement for the entire wastewater project from \$3,014,951.76 to \$2,947,758.00, and extending the waiver of Section 25-9-67 of the City Code relating to cost reimbursement payment schedule to all project reimbursement payments.

**Amount and Source of Funding:** Funding is available in the Fiscal Year 2008-2009 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.

**Prior Council Action:** August 24, 2006, Ordinance No. 20060824 - 004MAK Marshall Ranch LP, Cost Reimbursement Agreement.

The Watersedge PUD is a proposed mixed-use development located on approximately 418 acres of land east of Onion Creek, south of the Colorado River, west of Doctor Scott Drive and north of State Highway 71 (the "Property"), currently within the limited purpose jurisdiction of Austin, that, upon completion, will receive City wastewater service pursuant to SER No. 2407.

On August 24, 2006, the City Council authorized a cost reimbursement agreement with the Owner that was executed on May 7, 2007, for up to \$3,014,951.76 in actual hard construction costs and engineering, design and project management of: (a) an appropriately sized permanent lift station (approximately 2,500 gpm) on an appropriately size site within the Property and approximately 3,200 feet of appropriately sized force main from the proposed lift station west to the South Austin Regional Wastewater Treatment Plant (SARP); (b) approximately 3,000 feet of 18-inch gravity wastewater main to the existing 84-inch Onion Creek Tunnel at SARP; and (c) an appropriately sized wastewater tunnel connection to the existing 84-inch Onion Creek Tunnel.

The Owner has made a written request for amendment to the Cost Reimbursement Agreement to accommodate revisions in overall project cost that include: (a) increase in the estimated cost of the lift station and force main from \$2,616,000.00 to \$2,800,000.00; (b) decrease in the construction costs of the 18-inch gravity wastewater main and appurtenances from \$720,000.00 to \$300,000.00; and (c) increase in the estimated cost of the wastewater tunnel connection from \$1,200,000.00 to \$1,500,000.00. The requested amendment would decrease the City's maximum cost reimbursement for the entire wastewater project from \$3,014,951.76 to \$2,947,758.00.

### Lift Station and Force Main:

The revised project costs will increase the actual "hard" construction cost reimbursement maximum for the lift station and force main from \$1,246,262.40 to \$1,333,920.00, or 47.64% of the actual construction costs for the lift station and force main, whichever is less. The increase in the cost estimate for the

proposed oversized lift station and force main will also increase the maximum cost reimbursement for engineering, design and project management from \$186,939.36 to \$200,088.00, or 15% of the 47.64% of the actual construction costs for the lift station and force main, whichever is less.

#### Gravity Sewer Line:

Because the length required for the 18-inch gravity wastewater main has been shortened, from an estimated 3,200 linear feet to 2,300 linear feet, the construction costs for which the City will reimburse the Owner is reduced to \$300,000.00.

#### Wastewater Tunnel Connection:

This change will increase the actual "hard" construction cost reimbursement maximum for the appropriately sized wastewater tunnel connection from \$720,000.00 to \$900,000.00, or 60% of the actual construction costs for the tunnel connection, whichever is less. The Owner is also requesting that the City increase the percentage of reimbursable hard costs used to calculate the maximum reimbursable amount for soft costs from 15% to 20%. The increase in the cost estimate for the appropriately sized wastewater tunnel connection, plus changing the percentage used for cost reimbursement of the engineering, design and project management of the appropriately sized wastewater tunnel connection from 15% to 20%, increased the maximum cost reimbursement for engineering, design and project management from \$108,000.00 to \$180,000.00, or 20% of the 60% of the actual construction costs for the tunnel connection, whichever is less. The percentage of change (5%) for the soft cost reimbursement is required because the appropriately sized wastewater tunnel connection's engineering and design required additional expertise and a revision to the design was required by the City.

The Owner is also requesting that the City extend the expiration of the Cost Reimbursement Agreement from the normal two years to three years after the effective date of the Agreement.

Because the Owner will construct wastewater improvements beyond those needed only to serve the proposed development, the Owner requested and was granted a waiver from requirements of City Code § 25-9-67 relating to cost reimbursement payments. Under § 25-9-67, the cost reimbursement payment may not be made before March 1 of the second year following the year in which the wastewater improvements are accepted.

Although § 25-9-67 was waived by Council for the original cost reimbursement, it was limited to the payment for reimbursable cost of the wastewater tunnel. Owner requested that the waiver of § 25-9-67 be extended to the cost reimbursement payment for the lift station and force main and the 18-inch gravity wastewater main. This action extends the waiver of § 25-9-67 to include the lift station and force main and 18-inch gravity wastewater main so that the City can make the reimbursement payment as soon as 90-days after final acceptance of the lift station and force main and 18-inch gravity wastewater main.