

**ORDINANCE NO. 20090326-005**

**AN ORDINANCE AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE AN AMENDMENT TO A COST REIMBURSEMENT AGREEMENT WITH WANDERING CREEK INVESTMENTS, L.P., INCREASING THE MAXIMUM AMOUNT OF CITY COST REIMBURSEMENT FROM \$3,929,265 TO AN AMOUNT NOT TO EXCEED \$4,413,240 FOR CONSTRUCTION OF A 24 AND 36-INCH WATER MAIN AND APPURTENANCES TO SERVE THE WANDERING CREEK SUBDIVISION; AND WAIVING CERTAIN REQUIREMENTS OF SECTION 25-9-63 OF THE CITY CODE.**

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

**PART 1.** On January 17, 2008, the council approved a cost reimbursement agreement with Wandering Creek Investments, L.P., related to construction of a 24 and 36-inch water main and appurtenances to serve the Wandering Creek Subdivision located south and west of Elroy Road and east of McAngus Road.

**PART 2.** Council authorizes the city manager to negotiate and execute an amendment to the existing cost reimbursement agreement with Wandering Creek Investments, L.P. for the water project in accordance with the following requirements:

- (A) Total cost reimbursement may not exceed \$4,413,240; and
- (B) Total cost reimbursement for the 36-inch water main may not exceed \$702,765, consisting of:
  - (1) Cost reimbursement for actual construction costs for the 36-inch water main that may not exceed \$611,100; and
  - (2) Cost reimbursement for engineering, design and project management for the 36-inch water main that may not exceed the lesser of:
    - (a) 15 percent of the actual construction costs; or
    - (b) \$91,665.
- (C) Total cost reimbursement for the 24-inch water main may not exceed \$3,710,475, consisting of:
  - (1) Cost reimbursement for actual construction costs for the 24-inch water main that may not exceed \$3,226,500; and

- (2) Cost reimbursement for engineering, design and project management for the 24-inch water main that may not exceed the lesser of:
- (a) 15 percent of the actual construction costs; or
  - (b) \$483,975.

**PART 3.** Council waives the requirements of City Code Section 25-9-63 (*Amount of Cost Reimbursement*), allowing the reimbursement of the costs for engineering, design and project management for the 24-inch water main in accordance with the schedule for reimbursement authorized by Ordinance No. 20080508-002 to correspond with reimbursement of the actual construction costs of the 24-inch water main. Waivers granted in Ordinance No. 20080508-002 remain in effect.

**PART 4.** This ordinance takes effect on April 6, 2009.

**PASSED AND APPROVED**

\_\_\_\_\_, March 26, 2009      §  
   §  
   §      Will Wynn  
   Mayor

**APPROVED:** David Allan Smith  
   City Attorney

**ATTEST:** Shirley A. Gentry  
   Shirley A. Gentry  
   City Clerk