

## AGENDA



Thursday, August 26, 2010

**Austin Water Utility  
RECOMMENDATION FOR COUNCIL ACTION****Item No. 4**

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**Subject:** Approve an ordinance authorizing negotiation and execution of an amended and restated cost reimbursement agreement with Club Deal 120 Whisper Valley, L.P., and Club Deal 116 Indian Hills TX, L.P., for construction of a 48 and a 24 inch water main, the design and construction of a 48 inch, or a 24 and 36 inch, water mains; for the design of a wastewater treatment plant for a total amount not to exceed \$22,500,000; waiving the requirements of City Code Sections 25-9-33, 25-9-61, 25-9-62, 25-9-63, 25-9-64, and 25-9-67.

**Amount and Source of Funding:** Funding is available in the Fiscal Year 2009-2010 Capital Budget of the Austin Water Utility.

**Fiscal Note:** A fiscal note is attached.

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

**Boards and Commission Action:** Recommended by the Water and Wastewater Commission. Related to Item #5.

**Prior Council Action:** May 27, 2010 - Council approved Ordinance No. 20100527-006, to execute a cost reimbursement agreement for the design of 24 and 48 inch water mains.

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Club Deal 120 Whisper Valley, Limited Partnership owns approximately 2,066 acres ("Whisper Valley") and Club Deal 116 Whisper Valley, Limited Partnership owns approximately 240 acres ("Indian Hills") (collectively, "Developer" and the "Property") generally located south of the City of Manor and north of FM 969 within the City's extraterritorial jurisdiction and the City's Desired Development Zone as shown on the attached map. Developer plans to construct single-family, multi-family, and commercial development within the Property that will require an estimated 9,900 units of water service LUEs (Living Unit Equivalents).

In June 2009, the City and the Developer entered into a development agreement authorized by City Council. The agreement contemplates the creation of public improvement districts ("PIDs"), in accordance with the City Council's adoption of its PID policy of December 2008, for the Indian Hills property and the Whisper Valley property. The PIDs are intended to assist in the financing of public improvements such as utilities, roads, and parks. The City Council authorized, on May 27, 2010, \$2,000,000 for payment of fees associated with the release of Whisper Valley from Manville Water Supply Corporation's service area, and the design for 19,700 linear feet of 48 inch water main ("Line 1") and 7,620 linear feet of 24 inch water main ("Line 2"). The \$2,000,000 authorization plus the request for this City Council action will total \$24.5 million for the Whisper Valley and Indian Hills PID developments.

The major points of this amended and restated cost reimbursement agreement, in addition to the items approved by Council May 27, 2010, include:

- a. Developer will construct Line 1 and Line 2.

b. Developer will design and construct 18,100 linear feet of either 48 inch water main or 24 inch and 36 inch water mains (depending upon housing market demand at the time Line 2 is fully utilized).

c. Developer will design a 3 million gallon per day wastewater treatment plant which will be located in Whisper Valley. (The Developer previously, in June 2007, entered into an agreement with the City relating to the construction of that wastewater treatment plant)

d. The PID bond proceeds will be used to fully repay the City all costs reimbursed to the Developer that are not related to the oversizing of water mains for purposes of serving other City customers (an estimated \$18,500,000 of the \$24,500,000 are not oversizing costs).

e. The amount of City reimbursement to the Developer shall not exceed the sum of \$24,500,000 for the May 27, 2010 authorization and this request. The Developer agrees to not seek any increase in City reimbursements for costs exceeding the total \$24,500,000 City Council authorization.

The proposed cost reimbursement agreement waives: the requirements of Sections 25-9-33 and 25-9-64, City Code, relating to submission of a Service Extension Request application for required water improvements and cost reimbursement; the requirements of Sections 25-9-61, 25-9-62, and 25-9-63, City Code, relating to the amount of reimbursement for water improvements because the amount of reimbursement will be for the hard and soft costs; and Section 25-9-67, City Code, relating to cost reimbursement payments because payments will be made within a delayed payback period.