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ORDINANCE NO.

AN ORDINANCE AUTHORIZING NEGOTIATION AND EXECUTION OF AMENDED WASTEWATER COST REIMBURSEMENT AGREEMENT WITH CLUB DEAL 120 WHISPER VALLEY, L.P. TO INCREASE THE AMOUNT OF REIMBURSEMENT PAYMENTS FOR SOFT COSTS AND HARD COSTS RELATED TO WASTEWATER INFRASTRUCTURE, AND WAIVING CITY CODE SECTIONS 25-9-33, 25-9-61, 25-9-62, 25-9-63, 25-9-64, AND 25-9-66 AND RESOLUTION NO. 20080214-055

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

PART 1. FINDINGS.

A. The Council authorized the negotiation and execution of a cost reimbursement agreement in amount not to exceed \$11,500,000, for hard construction costs of a 0.5 million gallons per day (MGD) wastewater treatment plant (WWTP) and 13,400 linear feet of 30-inch gravity wastewater main, in Ordinance No. 20070607-004.

B. The Council authorized the negotiation and execution of a separate cost reimbursement agreement for certain water infrastructure in Ordinance No. 20100527-006. The Council further authorized the negotiation and execution of an amendment to the forgoing cost reimbursement agreement to authorize an amount not to exceed \$2,400,000 for wastewater soft costs in Ordinance No. 20100826-004.

C. The Council authorized the negotiation and execution of another amendment to the separate cost reimbursement agreement identified in Section B to increase the reimbursement amount for wastewater soft costs by \$100,000 to a total of \$2,500,000, and to decrease the reimbursement amount of water hard construction costs (for extensions of City water mains) by \$100,000 to a total of \$22,000,000, in Ordinance No. 20130117-015.

D. The Council further authorized the negotiation and execution of an amendment to the cost reimbursement agreement identified in Section B of this Ordinance to increase the reimbursement amount for wastewater soft costs by \$800,000 to a total of \$3,300,000, and decrease the reimbursement amount of water hard construction costs by \$800,000 to a total of \$21,200,000, in Ordinance No. 20140807-013.

PART 2. The Council authorizes the City Manager to negotiate and execute an amendment to the wastewater cost reimbursement agreement that increases the amount for wastewater soft costs by a total of \$394,779 for a total amount not exceed \$3,694,779

1 for soft costs related to the phased WWTP and the engineering and survey services
2 needed to dedicate an additional easement for the gravity wastewater main, authorizes
3 reimbursement of hard costs for the wastewater interceptor in an amount not to exceed
4 \$5,500,000, and authorizes reimbursement for hard construction costs for the phased
5 WWTP (lift station (components 1a and 1b), 100,000 and 250,000 average gallons per
6 day WWTPs) in an amount not to exceed \$9,000,000.
7

8 **PART 3.** The Council waives requirements of Section 25-9-66 (*Cost Participation*
9 *Payment*) relating to cost reimbursement payments. The Developer will be reimbursed
10 for non-design soft costs within 90 days of the City's conditional acceptance of each
11 component or phase of the WWTP. The hard costs incurred for the phased WWTP will
12 be reimbursed within 90 days of the City's conditional acceptance of each component or
13 phase of the WWTP. The Developer will be reimbursed for soft costs associated with the
14 additional design for the phase WWTP within 90 days of the City's final acceptance of
15 each design. The Developer will be reimbursed for any additional soft or hard costs
16 incurred after conditional acceptance within 90 days of the City's final acceptance of
17 each phase of the wastewater infrastructure.
18

19 **PART 4.** The Council waives requirements of the following City Code sections:
20

- 21 (A) Sections 25-9-33 (*Service Extension Application*) and 25-9-64 (*Approval*
22 *Process for Cost Participation*) relating to submission of a Service
23 Extension Request application for required improvements and cost
24 reimbursement;
25
26 (B) Sections 25-9-61 (*Eligible Projects*), 25-9-62 (*Amount of Cost Participation*)
27 relating to the amount of reimbursement for hard and soft costs and 25-9-63
28 (*Request for Cost Participation*)
29

30 **PART 5.** The Council waives Resolution No. 20080214-055 related to pump and haul
31 services. Pump and haul services will be temporarily allowed, at the Developer's cost
32 and liability, after the City's conditional acceptance of the first component (component
33 1a) of the lift station until the 100,000 average gallons per day WWTP is conditionally
34 accepted by the City. If the 100,000 average gallons per day WWTP has not been
35 conditionally accepted by the City by the one year anniversary date of Council's approval
36 of this waiver, then no Certificates of Occupancy will released by the City for the
37 Whisper Valley development until such time that the City has conditionally accepted
38 such WWTP. The City will also not approve any additional plats or site plans within the
39 Whisper Valley development until the 100,000 average gallons per day WWTP is
40 conditionally accepted by the City and the design for the 250,000 average gallons per day
41 WWTP has the City's final approval.
42

PART 6. This ordinance takes effect on _____, 2016.

PASSED AND APPROVED

_____, 2016 § _____
Steve Adler
Mayor

APPROVED: _____ **ATTEST:** _____
Anne L. Morgan Jannette S. Goodall
City Attorney City Clerk