

A G E N D A



Recommendation for Council Action

Austin City Council	Item ID	60240	Agenda Number	3.
Meeting Date:	8/4/2016		Department:	Austin Water Utility
Subject				
<p>Authorize negotiation and execution of an amendment to the wastewater cost reimbursement agreement with Club Deal 120 Whisper Valley, L.P., for the design and construction of a phased wastewater treatment plant and wastewater interceptor. This amendment would modify deadlines related to the phasing of the wastewater treatment plant and clarify developer responsibilities.</p>				
Amount and Source of Funding				
<p>This amendment does not require additional funding.</p>				
Fiscal Note				
<p>A fiscal note is not required.</p>				
Purchasing Language:				
Prior Council Action:	<p>June 7, 2007- Council approved an ordinance negotiating and executing a cost reimbursement agreement with Club Deal 120 Whisper Valley. August 26, 2010- Council approved an ordinance amending and restating a cost reimbursement agreement with Club Deal 120 Whisper Valley. January 17, 2013- Council approved an ordinance amending a cost reimbursement agreement with Club Deal 120 Whisper Valley. August 7, 2014- Council approved an ordinance authorizing an amendment to a cost reimbursement agreement with Club Deal 120 Whisper Valley. January 28, 2016- Council approved an ordinance authorizing an amendment to a wastewater cost reimbursement agreement with Club Deal 120 Whisper Valley.</p>			
For More Information:	Bart Jennings, 512-972-0118; Denise Avery, 512-972-0104			
Council Committee, Boards and Commission Action:	July 13, 2016- Recommended by the Water and Wastewater Commission on a 7-0 vote with Commissioners Blanding, Parker, and Penn absent and Commissioner Turrieta recusing.			
MBE / WBE:				
Related Items:				
Additional Backup Information				

Club Deal 120 Whisper Valley, Limited Partnership (the "Developer") owns approximately 2,066 acres (the "Property") generally located south of the City of Manor and north of FM 969 within the City of Austin's ("City's") extraterritorial jurisdiction and the City's Desired Development Zone as shown on the attached map. The Developer plans to construct mixed used development within the Property that will require an estimated 8,600 units of wastewater service LUEs (Living Unit Equivalents). In June 2007, City Council approved a cost reimbursement agreement ("Agreement") for the construction of a wastewater treatment plant and wastewater interceptor. In August 2010, City Council approved the creation of the Whisper Valley Public Improvement District ("PID") for the Property.

Over time, the Agreement has been amended multiple times as the requirements related to the formation of the PID, infrastructure to be constructed, and financial obligations of the Developer have changed. Most recently, the City Council authorized the temporary waiver to Resolution 20080214-005 related to the prohibition of the use of pump and haul services. The developer previously expected that construction of the wastewater treatment facilities would have been completed by May 2016 and temporary pump and haul services would have been used until the deadline established by City Council of January 28, 2017. However, due to weather and design issues, part of the facilities has just started being constructed. The design for the remaining facilities related to the 100,000 gallons per day (gpd) wastewater treatment plant (WWTP) has not been approved by the City and therefore construction has not started for those remaining facilities.

Pump and haul services have not been initiated.

It is expected that the bidding and subsequent construction of the remaining facilities will extend beyond the deadline of January 28, 2017 and result in the developer being unable to sell lots to builders because of the uncertainty of future wastewater service.

Major provisions of the amendment include:

1. The period for the use of pump and haul services will end after one year from the date pump and haul services began. However, the Pump and Haul Period will start at that time there is a need for water and wastewater service to be provided within the development. This amendment does not extend the use of pump and haul services beyond the length of time previously approved by City Council but eliminates the time certain deadline previously set at January 28, 2017.
2. No Certificates of Occupancy or new water meters will be issued by the City for this development after the Pump and Haul Period ends, and the entire 100,000 gpd WWTP has not been conditionally accepted by the City.
3. The City will not review or approve construction plans for another platted subdivision or site plan within the Property until such time as the 100,000 gpd WWTP is conditionally accepted by the City and the City has issued final approvals for design of an additional 250,000 gpd WWTP (above the 100,000 gpd WWTP). Thereafter, the Developer can continue to plat as needed.

As previously agreed by the City and the Developer, the Developer will not be reimbursed for the costs associated with its pump and haul and will not be allowed to use PID bond proceeds to pay for pump and haul services. Therefore, no additional funding is required for this amendment to the Agreement. The Developer will be required to post a bond, acceptable to the City, for the Developer's temporary pump and haul services.