



**Construction Contract  
CITY OF AUSTIN  
RECOMMENDATION FOR COUNCIL ACTION**

**AGENDA ITEM NO.: 25  
AGENDA DATE: Thu 08/25/2005  
PAGE: 1 of 2**

**SUBJECT:** Authorize negotiation and execution of a Community Facilities Contract with SIMON PROPERTY GROUP ARBOR WALK, L.P. for an amount not to exceed \$3,296,568 and all necessary and related documents for design and construction of modifications to an existing regional detention pond system.

**AMOUNT & SOURCE OF FUNDING:** Funding in the amount of \$485,831 is available in the Fiscal Year 2004-2005 Amended Capital Budget of the Watershed Protection and Development Review Department. Funding in the amount of \$2,810,737 is included in the Fiscal Year 2005-2006 Proposed Capital Budget of the Watershed Protection and Development Review Department.

**FISCAL NOTE:** A fiscal note is attached.

**REQUESTING** Watershed Protection and **DIRECTOR'S**  
**DEPARTMENT:** Development Review **AUTHORIZATION:** Joe Pantalion

**FOR MORE INFORMATION CONTACT:** George Oswald, P.E. 974-3369; Mapi Vigil, 974-3384; Jacqueline Ramos, 974-3371

**PRIOR COUNCIL ACTION:** N/A

**BOARD AND COMMISSION ACTION:** Recommended by Environmental Board and Zoning and Platting Commission.

**PURCHASING:** N/A

**MBE / WBE:** The developer will conform to the City of Austin design criteria and construction standards in all respects, solicit and publish invitation for bids, evaluate and award for construction of the improvements in accordance with standard City of Austin bidding practices, procedures and Chapter 252 of the Texas Local Government Code in which bids and solicitation based on plans and specifications prepared and approved, including the City MBE/WBE Ordinance.

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After the 1981 Memorial Day Flood along Shoal Creek and other Austin creeks, the City of Austin developed an overall Shoal Creek Watershed Flood Control Plan. A network of stormwater detention facilities was implemented in the early to mid 1980s to control runoff from the area upstream of US 183/Mopac intersection.

On July 5, 1985, Z-K Real Estate, a Texas joint venture, granted a Drainage and Flood Detention Easement to the City of Austin for construction and maintenance of a stormwater drainage and detention pond upon and across a certain 6.9 acre site. The City agreed to bear the responsibility for providing detention for general private properties in exchange for the easement. The Arbor Walk site was on of the properties identified.

In conjunction with the Arbor Walk commercial development (SP-05-1365C), Simon Property Group will design and construct modifications to the existing Z-K pond to increase flood flow reduction and to incorporate a wet-pond system for water quality improvement (SP05-1183D). The pond system will meet



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the flood hazard mitigation and water quality management requirements for the Arbor Walk development (46 acres) and will provide increased regional detention capacity and water quality treatment for 345 acres

of other lands tributary to the pond system. Detention storage volume will be increased by 27.4 acre-feet and wet-pond volume will be 21.95 acre-feet. This allows the City to meet detention responsibilities established by the 1985 agreement. The increased detention capacity will also account for changes in projected build-out impervious cover that have occurred in the tributary drainage area since the existing ZK pond was designed and constructed in the 1980s. In addition the project provides a large wet-pond feature for treatment of stormwater runoff for water quality improvement for the tributary drainage area. The City is committed to providing regional detention and water quality enhancements in this area and reducing the risk of flooding to downstream property owners. The City has taken the opportunity to work in partnership with the Simon Property Group to achieve these goals.

Under the terms of the Community Facilities Contract, the City will cost participate in the construction of the pond modifications, subject to a not to exceed maximum total payment of \$3,131,568. The provision of City funds to the Simon Property Group will be contingent on approval of the FY06 WPDRD Capital Improvements Program budget appropriations. The Simon Property Group will conform to City of Austin design criteria and construction standards, solicit and publish invitations for construction bids, evaluate and award for construction of the improvements in accordance with standard City bidding practices and procedures, including the City MBE/WBE Ordinance, and the requirements of Chapter 252 of the Texas Local Government Code (Competitive Bidding Practices).

Total project cost is estimated at \$3,757,255 including 10% contingency on construction cost; City share is \$3,296,568 and Simon Property Group share is \$460,687. Simon's share is based on the avoided cost of the wet-pond system that would have been necessary to serve solely the Arbor Walk development.



## ENVIRONMENTAL BOARD

Notes of Regular Meeting  
June 15, 2005

Meeting Called to Order:

6:07 p.m.

Meeting Adjourned: 8:12 p.m.

### Attendance of Board Members:

Mary Ruth Holder, Chair	Present
Karin Ascot, Vice Chair	Present
David Anderson, P.E., Sec	Present
Phil Moncada	Absent
Julie Jenkins	Present

William Curra, P. E.	Present
Dr. Mary Gay Maxwell	Present
Timothy Riley	Present
Rodney Ahart	Present

### Staff Members Present:

Roderick Burns, WPDR  
Pat Murphy, WPDR

Elizabeth Johnston, WPDR

Manuel Del Llano, WPDR

Attached is an agenda of the meeting and the motions made by the Board. There were three (3) motions passed by the board. An audio tape recording of this meeting is available through the Watershed Protection Department.

1. A motion was passed recommending conditional approval of the variance request from the Land Development Code Section 25-8-261- to allow construction of a building in the CWQZ with conditions for the Boggy Creek Greenbelt Dance Pavilion project. See attached.
2. A motion was passed recommending conditional approval of the variance requests from the Land Development Code Sections: 1) 25-8-261- to allow construction within the CWQZ; and 2) 25-8-343 - to allow the placements of spoils within the 100-year flood plain with staff and additional Board conditions for the Shops at Arbor Walk Off-site Drainage and Water Quality project. See attached.
3. A motion was passed recommending to Council the conditional approval of the LCRA Proposal to Expand a BCCP Utility Infrastructure Corridor for an Electric Transmission Line in Barton Creek Wilderness Park. All Board conditions have been agreed upon by LCRA. See attached.

  
Roderick Burns

Environmental Board Liaison



## **ENVIRONMENTAL BOARD MOTION 060105-B2**

**Date:** June 15, 2005

**Subject:** Boggy Creek Greenbelt Dance Pavilion

**Motioned By:** Rodney Ahart

**Seconded By:** Julie Jenkins

### **Recommendation**

The Environmental Board recommends conditional approval of the variance request from the Land Development Code Section 25-8-261- to allow construction of a building in the CWQZ with staff conditions for the Boggy Creek Greenbelt Dance Pavilion project. This item was passed on consent.

### **Staff conditions:**

1. The center shall not be used during severe weather conditions or flooding conditions;
2. An integrated pest management plan (IPM) shall be implemented; and
3. New plantings shall be from the Grow Green plant list or shall be other suited native plants.

### **Rationale**

The recommendation is based upon the information about the Boggy Creek Greenbelt Dance Pavilion provided by staff that the findings of fact have been met and the conditions recommended by staff are sufficient to protect the environment.



## ENVIRONMENTAL BOARD MOTION 061505-B3

**Subject:** Shops at Arbor Walk Off-Site Drainage and Water Quality

**Motioned By:** William Curra

**Seconded By:** Tim Riley

The Environmental Board recommends conditional approval of the variance requests from the Land Development Code Sections 25-8-261- to allow construction in the CWQZ and 25-8-343 - to allow spoils within the 100-year flood plain with staff and board conditions.

### Staff conditions:

The Environmental Board recommends conditional approval of the variance requests from the Land Development Code Sections 25-8-261- to allow construction in the CWQZ and 25-8-343 - to allow spoils within the 100-year flood plain with staff and board conditions.

### Staff conditions:

1. The applicant will use an Integrated Pest Management program;
2. The applicant will choose plants from the City of Austin's Grow Green Guide;
3. The applicant is prohibited from the use of coal-tar based asphalt sealants;
4. The applicant has agreed to additional tree plantings than what would otherwise be required;
5. The applicant will enter into the Community Facilities Contract with the City of Austin to ensure that the wet pond and detention facilities are constructed and maintained;
6. The applicant will adhere to staff recommendations regarding the mitigation of the wetlands, which includes 1:1 replacement of all woody vegetation greater than 1" and native seeding of disturbed area as per 609S specifications; and
7. These conditions will apply not only to this project but to the future site plan for the Shops at Arbor Walk that will address ultimate development conditions.

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## **ENVIRONMENTAL BOARD MOTION 061505-C1**

**Date:** June 15, 2005

**Subject:** LCRA Proposal to Expand a BCCP Utility Infrastructure Corridor for an Electric Transmission Line in Barton Creek Wilderness Park

**Motioned By:** Mary Ruth Holder

**Seconded By:** Dr. Mary Gay Maxwell

### **Recommendation**

The Environmental Board recommends to Council the conditional approval of the LCRA Proposal to Expand a BCCP Utility Infrastructure Corridor for an Electric Transmission Line in Barton Creek Wilderness Park. All Board conditions have been agreed upon by LCRA.

### **Board conditions:**

1. LCRA will work with the COA BCCP and Parks and Recreation Department staffs to develop and implement a vegetation management plan prior to LCRA's performing any maintenance work in the utility corridor expansion area. This plan will include:
  - a.) a plan to trim individual trees within the steep canyon area or other area containing Golden-cheeked Warbler habitat, using only hand cutting methods (no clearcutting or use of large equipment in this expansion area), and
  - b.) forbidding the use of herbicides or other chemical control of vegetation.
2. LCRA will provide a certified arborist to conduct daily on-site inspections for all tree trimming or cutting activities or other maintenance work. This individual will keep a daily log that sets out a detailed description of the work performed, whether the activities or equipment used exceeded the limits of the license agreement area, whether open tree cuts or wounds were properly treated to avoid disease, and whether the use of equipment damaged any tree or other vegetation in the vicinity of the work area. This log will be made available to City of Austin Parks and Recreation Department and Austin Water Utility Department.

Vote 8-0-0-1

For: Ahart, Anderson, Ascot, Curra, Holder, Jenkins, Maxwell, Riley

Against: None

Abstain: None

Absent: Moncada

Approved By:

*Mary Ruth Holder*

Mary Ruth Holder, Chair

**ZONING AND PLATTING COMMISSION**  
**ENVIRONMENTAL VARIANCE REQUEST REVIEW SHEET**  
**(Variance Requests Only)**

**CASE NUMBER:** SP-05-1183D

**ZONING AND PLATTING COMMISSION DATE:** 07/05/2005

**PROJECT NAME:** Shops at Arbor Walk Off-Site Drainage and Water Quality

**ADDRESS:** Mo-Pac and Loop 360

**WATERSHED:** Shoal Creek (Urban)

**AREA:** Total Site: 52.7 acres (22.68 Acres Limits of Construction)

**EXISTING ZONING:** CH (Commercial Highway Services)

**VARIANCE REQUESTS ONLY:**

Requesting two variances:

1. For construction within a CWQZ (Section 25-8-261); and
2. To place permanent spoils within the 100-Year Flood Plain (Section 25-8-343).

**SUMMARY STAFF RECOMMENDATION FOR VARIANCES:**

The findings of fact have been met. *Staff and the Environmental Board recommend approval* of the variances from LDC Sections 25-8-261 and 25-8-343.

The site will comply with all other requirements prior to release.

**PROPOSED USE:**

The applicant proposes to add the following to the existing facility: a reinforced concrete box storm sewer system, a wet pond water quality facility, and environmental mitigation channels.

This facility currently serves as a regional detention facility and will serve a proposed future retail and entertainment complex for Simon Properties. This is the first of two permits for the proposed development.

**APPLICANTS:**

University of Texas, Board of Regents (James S. Wilson)  
210 W. 6<sup>th</sup> St. (ph: 512-499-4333)  
Austin, Texas 78701

Liverman Investments LP (Robert J. Liverman)  
2608 Barton Hills Drive  
Austin, Texas 78704



**AGENT:**

PBS & J (Robert Scholz, P.E.) (ph: 512-342-3231)  
6504 Bridge Point Parkway, Suite 200  
Austin, Texas 78730

**APPLICABLE WATERSHED ORDINANCE:**

Current Code - Comprehensive Watershed Ordinance (CWO)

**SUMMARY STAFF RECOMMENDATION FOR VARIANCE:**

The findings of fact have been met. Staff recommends approval of the variances from LDC Section 25-8-261 to allow construction within the CWQZ; and Section 25-8-343, to allow placement of permanent spoils in the 100-year flood plain, with the following staff and Environmental Board conditions:

1. The applicant will use an integrated Pest Management program;
2. The applicant agrees to use plants from the Grow Green Guide for all required landscaping;
3. The applicant is prohibited from the use of coal-tar based asphalt sealants;
4. The applicant has agreed to additional tree plantings than what would otherwise be required;
5. The applicant will enter into the Community Facilities Contract with the City of Austin to ensure that the wet pond and detention facilities are constructed and maintained;
6. The applicant will adhere to staff recommendations regarding the mitigation of wetlands, which includes 1:1 replacement of all woody vegetation greater than 1" and native seeding of disturbed area as per 609S specifications; and
7. These conditions apply not only to this project, but to the future site plan for the Shops at Arbor Walk that will address ultimate development conditions.

See attached Environmental Board support material for further information regarding the variance request.

**ENVIRONMENTAL BOARD RECOMMENDATION/ACTION:**

June 15, 2005: The Environmental Board recommended approval of the variance request with the above staff conditions.

Vote: 8-0-0-1

See attached Environmental Board Motion 061505-B3 for additional information.

**ZONING AND PLATTING COMMISSION ACTION:**

July 5, 2005:

**CASE MANAGER:** Kathy Haught  
**E-MAIL:** kathy.haught@ci.austin.tx.us

**PHONE:** 512-974-2724

**ENVIRONMENTAL STAFF:** Elizabeth Johnston  
**E-MAIL:** Elizabeth.johnston@ci.austin.tx.us

**PHONE:** 512-974-3428

## **CIP FISCAL NOTE**

**DATE OF COUNCIL CONSIDERATION:**  
**WHERE ON AGENDA:**  
**DEPARTMENT:**

8/25/2005  
Resolution  
Watershed Protection & Development Review

**DESCRIPTION:** Authorize negotiation and execution of a Community Facilities Contract with SIMON PROPERTY GROUP ARBOR WALK, Limited Partnership for an amount not to exceed \$3,296,568 for design and construction of modifications to an existing regional detention pond system to increase flood flow detention capacity and to incorporate a wet-pond system for water quality improvement. Project funding commitment to Simon Property Group is contingent upon approval of the FY06 WPDRD Capital Improvements program appropriations.

### **FINANCIAL INFORMATION**

#### **Watershed Protection & Development Review**

<b>Project Name:</b>	BMP Const - Urban Watersheds
<b>Project Authorization:</b>	2004-2005 Amended Capital Budget
<b>Funding Source:</b>	UWO Structural Control Fund
 <b>Fund/Agency/Orgn:</b>	 4850-617-6000
Current Appropriation	\$12,990,000.00
Unencumbered Balance	\$7,354,400.71
Amount of this Action	<u>(\$3,296,568.00)</u>
Remaining Balance	<u>\$4,057,832.71</u>