

AGENDA



Thursday, January 28, 2010

**Austin Water Utility
RECOMMENDATION FOR COUNCIL ACTION****Item No. 2**

Subject: Approve an ordinance authorizing negotiation and execution of an amendment to the existing Cost Reimbursement Agreement with QUALICO CR, L.P. for Sun Chase Subdivision, authorizing an additional \$2,300,000 in City cost participation for wastewater treatment capacity and wastewater service connections for an increase in the overall cost reimbursement from \$6,184,440 to a new overall total cost reimbursement amount not to exceed \$8,484,440; waiving the requirements of Section 25-9-62 of the City Code relating to amount of cost participation; and waiving the requirements of Section 25-9-67 of the City Code relating to cost participation and cost reimbursement payments.

Amount and Source of Funding: Funding is available in the amount of \$2,300,000 in the Fiscal Year 2009-2010 Capital Budget of the Austin Water Utility.

Fiscal Note: A fiscal note is attached.

For More Information: Seyed Miri, P.E. 972-0202; Denise Avery 972-0104

Boards and Commission Action: Recommended by the Water and Wastewater Commission.

Prior Council Action: May 21, 2009 - Council approved Ordinance 20090521-003.

The Sun Chase Subdivision is a proposed multi-use development located on approximately 1,604 acres of land on the north and south side of Pearce Lane, west of Wolf Lane, south of Dry Creek and east of Navarro Creek Road (the "Property"), outside the City's full-purpose city limits. Qualico CR, L.P., (the "Owner") has submitted Service Extension Request 2761 requesting that the City provide wastewater utility service to the Property which is within the Council approved Impact Fee Boundary, Utility Service Area, the Desired Development Zone, and Dry Creek Watershed.

City Council approved the negotiation and execution of a cost reimbursement agreement with the Owner on May 21, 2009, with City cost reimbursement not to exceed \$3,249,732 for actual hard construction costs for construction of a 36-inch gravity wastewater main and a maximum of \$487,459.80, or 15% of the actual construction costs of the 36-inch gravity wastewater main for engineering, design and project management, whichever is less, and also a not to exceed amount of \$2,128,042 for the actual hard construction costs for construction of the permanent wastewater treatment plant facilities and a maximum of \$319,206.20, or 15% of the actual construction costs of the permanent wastewater treatment plant facilities for engineering, design and project management, whichever is less.

The City and the Owner have been negotiating additional provisions and the Owner and City are now seeking additional approval for: (1) The City of Austin may purchase 20% of the wastewater treatment capacity in the proposed Phase One Garfield Wastewater Treatment Plant, and the City of Austin will purchase, at a minimum 20% of the wastewater treatment capacity in each additional wastewater treatment plant expansion constructed by the Owner. The City of Austin will reimburse the Owner for purchased wastewater treatment capacity to be used by the City to serve development outside of the Property in any package plant constructed and funded by the Owner prior to the permanent wastewater treatment plant. If the amount of capacity purchased is 20%, then the actual cost participation amount to the Owner will be 18.5% of the plant purchase price. If the amount of capacity purchased is greater than

20%, then the actual reimbursement will be at the same ratio as 18.5% for 20% capacity. These purchases of capacity may not exceed an overall maximum reimbursement amount of \$1,000,000 for all wastewater capacity. The cost participation payment to the Owner will be made in one (1) payment 90-days after final acceptance of each wastewater treatment capacity expansion or Phase One of the proposed Garfield Wastewater Treatment Plant. The City may sell back to the Owner any unused purchased wastewater.

(2) Should the City need additional wastewater treatment capacity above the percentage purchased in any expansion or need wastewater treatment capacity not purchased in the Phase One Garfield Wastewater Treatment Plant, the City of Austin will reimburse the Owner for each additional wastewater connection made to the plant for development outside of the Property. The actual cost participation amount for each additional wastewater service connection outside of the Property will be determined by calculating the cost per connection for each plant. The maximum cost participation for all connections to wastewater plants is limited to an overall total maximum of \$1,300,000. The cost participation payment to the Owner will be made in one (1) payment each January 1st for the total connections made outside of the Property in the prior year.

Because this request is seeking a cost participation percentage amount that is less than what is required by City Code and a calculated cost per wastewater connection, a waiver from City Ordinance requirement of Section 25-9-62 of the City Code relating to amount of cost participation is required. Under this Section, the amount of cost participation is related to the roughly proportionate percentage of oversizing of the treatment capacity. This action waives the requirements of Section 25-9-62, thereby allowing the percentage amount of cost participation for the oversizing of the treatment capacity be reduced from 20% to 18.5%, and also allow a calculated cost per connection participation amount.

The cost participation payment for providing additional wastewater treatment capacity above the 20% purchased in any expansion or wastewater treatment capacity in the Phase One Garfield Wastewater Treatment Plant requires a waiver from City Ordinance requirement of Section 25-9-67 of the City Code relating to cost participation payments. Under this Section, cost participation payments are to be made in one (1) payment 90-days after final acceptance of required improvements. This action waives the requirements of Section 25-9-67, thereby allowing the cost participation payment in one (1) payment on January 1st for the total connections made outside of the Property in the prior year.

The Owner will conform to the City of Austin design criteria and construction standards in all respects. The Owner will construct all required improvements at their cost and after approval of construction; the applicant will dedicate the facilities to the City for ownership, operation and maintenance. All units constructed within the City of Austin will be served by City of Austin wastewater service.

The Owner agrees to meet the ethnic specific M/WBE utilization goals or demonstrate a good faith effort to meet the goals for consultants as established by Resolution 20071108-127, Third-Party Agreements.

The Owner also agrees to allow the City to use the Plans and Specifications approved by the Director and, to solicit and publish invitations for bids for the construction of the improvements following standard City bidding practices and procedures, including the minority-owned business enterprise procurement program found in Title 2 of the City Code, as amended, and Chapters 212 and 252, Texas Local Government Code, as amended.