

AGENDA



Thursday, April 29, 2010

**Contract and Land Management
RECOMMENDATION FOR COUNCIL ACTION****Item No. 25**

Subject: Authorize negotiation and execution of an agreement with PAPE-DAWSON ENGINEERS, INC., Austin, TX, for purchase of the approved construction plans for the South I-35 Water/Wastewater Infrastructure Improvements Program, Segment 11/12, South Pleasant Valley Extension at Legend's Way, 42-Inch Water Main in amount not to exceed \$388,289.

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: Seyed Miri, P.E. 972-0202; Denise Avery 972-0104; April Thedford 974-7141

Purchasing Language: Developer Agreement.

MBE/WBE: This contract will be awarded in compliance with Chapter 2-9B of the City Code (Minority Owned and Women Owned Business Enterprise Procurement Program). No subcontracting opportunities were identified; therefore, no goals were established for this solicitation.

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

Prior Council Action: November 8, 2007 – Council approved the Legend's Way Developer Agreement; July 24, 2008 – Council approved amendment one to the agreement.

The City Council approved the negotiation and execution of a developer agreement with LOC 261 LLC (the "Developer") of Legend's Way Subdivision, on November 8, 2007, with City cost reimbursement not to exceed \$2,588,593.00 for the actual hard construction costs of approximately 3,400 linear feet of 42-inch water main and appurtenances and pressure reducing valve system to provide water service to approximately 108 acres of single-family development located east of Bradshaw Road at River Plantation Drive and the surrounding area. This action also approved cost reimbursement for engineering, design and project management "soft" costs of the 42-inch water main and appurtenances and pressure reducing valve system for a total not to exceed 15% of the actual construction costs of the 42-inch water main and appurtenances and pressure reducing valve system or \$388,289.00, whichever is less.

The Developer contracted with Pape-Dawson Engineers, Inc. to complete the design of the 42-inch water main and appurtenances and pressure reducing valve system. On July 24, 2008, the City Council approved the negotiation and execution of an amendment to the Developer Agreement to allow for cost reimbursement of the soft costs in one payment to the Developer within 30-days after the opening of the bids for the 42-inch water main and appurtenances and pressure reducing valve system. This amendment request was brought to the City Council because the 42-inch water main had been identified to be part of the South IH-35 Water and Wastewater Infrastructure Improvements Program and the subsequent Council action was consistent with prior Developer Agreements that had been identified as part of the South IH-35 Water and Wastewater Infrastructure Improvements Program.

The design, construction plans, and specifications are now complete and permitted. The City recently advertised and opened the bids for the water project and has tentatively selected the lowest responsible

bidder. A request for Council action on the authorization and execution of a construction contract with the lowest responsible bidder was recently withdrawn from the Council agenda when Pape-Dawson Engineers, Inc. informed the City that they had not received payment for the design, construction plans, and specifications from the Developer.

The City initiated discussions with the Developer to resolve this matter; however the City has been told by the Developer that he is unable to pay Pape-Dawson Engineers, Inc. for the design, construction plans, and specifications. As a result, paying for the design, construction plans, and specifications through the developer reimbursement approach authorized by Council is not possible.

This authorization will enable the City to negotiate and execute an agreement with Pape-Dawson Engineers, Inc. for the purchase of the design, construction plans, and specifications for the 3,400 linear feet of 42-inch water main and appurtenances and pressure reducing valve system.