

## AGENDA



Thursday, August 5, 2010

**Austin Water Utility  
RECOMMENDATION FOR COUNCIL ACTION****Item No. 4**

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**Subject:** Authorize the negotiation and execution of an amendment to the existing developer agreement with WANDERING CREEK INVESTMENTS, L.P., related to Service Extension Request No. 2501 to extend the expiration date of the developer agreement for cost reimbursement in water system improvements to serve the Wandering Creek Subdivision.

**Amount and Source of Funding:** No additional fiscal impact to the Fiscal Year 2009-2010 Capital Budget of the Austin Water Utility.

**Fiscal Note:** A fiscal note is not required.

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

**Prior Council Action:** January 17, 2008 - Council approved Ordinance 20080117-003; May 8, 2008 – Council approved the first amendment to the agreement, Ordinance 20080508-002; March 26, 2009 – Council approved second amendment, Ordinance 20090326-005.

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The Wandering Creek Subdivision consisting of approximately 648 acres of land south and west of Elroy Road and east of McAngus Road (the “Property”), outside the full-purpose city limits. The Wandering Creek Investments, (the “Developer”) previously requested that the Austin Water Utility (“AWU”) provide water utility to the property as proposed in Service Extension Request 2501. The Property is within the Council approved Impact Fee Boundary, Utility Service Area, City of Austin Water Certificate of Convenience and Necessity (CCN) area, the Desired Development Zone and the Dry Creek Watershed.

City Council approved the negotiation and execution of a developer agreement for cost reimbursement with the Developer on January 17, 2008, for an amount not to exceed \$3,837,600.00 for actual hard costs associated with the construction of a 36 and 24-inch water mains and \$91,665.00, or 15% of the actual hard costs of the 36-inch water main and appurtenances, whichever is less, for the engineering, design and project management (“soft costs”) of the 36-inch water main and appurtenances, for an overall project total amount not to exceed \$3,929,265. The Developer Agreement was executed on August 15, 2008.

City Council approved the negotiation and execution of a first amendment to the developer agreement on May 8, 2008, to allow a change to the schedule for cost reimbursement payments for the proposed water improvements.

City Council approved the negotiation and execution of a second amendment to the developer agreement on March 26, 2009, to allow cost reimbursement of the actual costs incurred for engineering, design and project management (“soft costs”) of the 24-inch water mains in an amount not to exceed 15% of the actual hard construction costs of the 24-inch water mains, or \$483,975, whichever is less, for a total maximum reimbursement of the 24-inch water mains not to exceed \$3,710,475.00 and an overall project total amount not to exceed \$4,413,240.

The Developer is now requesting the extension of the agreement for another two years. The current developer agreement will expire on August 15, 2010, if actual construction has not begun. The Developer

has the proposed water improvements designed, permitted and recently bid, however the contract between the Developer and the approved contractor has not yet been executed and the expiration date is weeks away. Therefore, this request is for the extension of the expiration dates within the developer agreement for the water improvements to August 15, 2012. The wastewater developer agreement was approved for a two-year extension by Council on April 29, 2010.