

**AGENDA**



**Recommendation for Council Action**

**AUSTIN CITY COUNCIL**

**Regular Meeting: March 22, 2018**

Item Number: **003**

**Austin Water**

Authorize the negotiation and execution of an amendment to the development agreement with PK-RE Development Company, Inc. to eliminate the construction of a new wastewater treatment plant in the Woods of Greenshores subdivision and divert the wastewater flows to an existing wastewater treatment plant in the subdivision.

**District(s) Affected:** District 10

<b>Lead Department</b>	Austin Water
<b>Fiscal Note</b>	This item has no fiscal impact.
<b>Prior Council Action</b>	January 13, 2005- Council approved the limited purpose annexation of the area and the authorization for the development agreement.
<b>For More Information</b>	Bart Jennings, 512-972-0118; Denise Avery, 512-972-0104
<b>Council Committee, Boards and Commission Action</b>	March 7, 2018- Recommended by the Water and Wastewater Commission on an 8-2 vote with Commissioners Ho and Bell dissenting and Commissioner Lee absent. March 7, 2018- Recommended by the Environmental Commission on a 7-2 vote with Commissioners Perales and Guerrero against and Commissioners Creel and Istvan absent.

### **Additional Backup Information:**

PK-RE Development Company, Inc., (“PK-RE”) has requested that the City of Austin (“City”) amend an existing development agreement to allow PK-RE to provide wastewater service from one existing wastewater plant instead of two wastewater treatment plants as originally contemplated in the development agreement. This amendment will be limited to wastewater service for existing platted lots only.

In May 2004, PK-RE Development Company, Inc. (“PK-RE”), who served in the role of developer and water and wastewater utility provider, proposed to create a municipal utility district in an area located on the west side of Lake Austin, north of Emma Long Park, for the subdivisions known as Greenshores on Lake Austin and the Woods of Greenshores (see the attached map). In accordance with City policy at the time, the City of Austin (“City”) protested the application of their wastewater permit at the Texas Commission on Environmental Quality (“TCEQ”). The City and PK-RE subsequently entered into negotiations and in January 2005, the City executed a development agreement with PK-RE. The development agreement established a number of terms including:

- PK-RE would withdraw their application for the creation of a municipal utility district;
- City would immediately annex the area for limited purposes;
- PK-RE would use the City’s design criteria for future water and wastewater infrastructure;
- PK-RE would file a certificate of convenience and necessity for the area previously intended to be served by the municipal utility district; and
- PK-RE would grant the City a right of first refusal for the purchase of the water and wastewater utility system.

At the time of the agreement, it was the intent of PK-RE to build two wastewater treatment plants which was documented in the agreement. PK-RE constructed one wastewater plant but is currently using pump and haul services for approximately 40 residential connections with the concurrence of TCEQ. The City does not provide wholesale water or wastewater service to PK-RE, nor does the City have regulatory authority over PK-RE’s operation or maintenance of its systems. The TCEQ provides regulatory oversight of investor owned utilities.

PK-RE has determined that it no longer wishes to construct a new wastewater treatment plant and instead wishes to construct a force main to convey the wastewater to the existing wastewater treatment plant. The neighborhood association for the area has agreed to provide an easement for the force main in order to access the existing wastewater treatment plant. City staff supports amending the development agreement to forgo the construction of a secondary wastewater treatment plant for existing, platted lots. The following are some of the conditions (as agreed upon by PK-RE):

1. Legal access through the Balcones Canyonland Preserve (“BCP”) must be obtained and compliance with the terms of the conservation easement and Federal 10-A Permit;
2. Horizontal directional drilling shall be used through the BCP and a mitigation plan developed for City and County approval;
3. Verification that the existing wastewater treatment plant and wastewater irrigation area has sufficient capacity; and
4. Periodic testing of the carrier pipe for the force main and installation of a leak detection system.

Currently, PK-RE serves 160 residential connections and one commercial connection in the referenced developments. PK-RE has notified Austin Water that it plans to sell its system to Undine, a private utility company. Austin Water staff has evaluated the potential purchase of the system, but does not believe that it is in Austin Water’s customers’ best interests to acquire the water and wastewater systems.

The area is located in District 10.

This Request for Council Action is recommended by Watershed Protection and Austin Water staff.