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PETITION OF NORTH AUSTIN §  
MUNICIPAL UTILITY DISTRICT NO. 1, §  
NORTHTOWN MUNICIPAL UTILITY §  
DISTRICT, TRAVIS COUNTY WATER §  
CONTROL AND IMPROVEMENT §  
DISTRICT NO. 10 AND WELLS §  
BRANCH MUNICIPAL UTILITY §  
DISTRICT §  
FROM THE RATEMAKING ACTIONS §  
OF THE CITY OF AUSTIN §  
AND REQUEST FOR INTERIM RATES §  
IN WILLIAMSON AND TRAVIS §  
COUNTIES §

BEFORE THE STATE OFFICE

PUBLIC UTILITY COMMISSION  
FILING CLERK

OF

ADMINISTRATIVE HEARINGS

SOAH DOCKET NO. 582-14-3145  
TCEQ DOCKET NO. 2014-0489-UCR

PETITION OF NORTH AUSTIN §  
MUNICIPAL UTILITY DISTRICT NO. 1, §  
NORTHTOWN MUNICIPAL UTILITY §  
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FROM THE RATEMAKING ACTIONS §  
OF THE CITY OF AUSTIN §  
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IN WILLIAMSON AND TRAVIS §  
COUNTIES §

BEFORE THE STATE OFFICE

OF

ADMINISTRATIVE HEARINGS

**NORTH AUSTIN MUNICIPAL UTILITY DISTRICT NO. 1'S**  
**FIRST SUPPLEMENTAL RESPONSE TO CITY OF AUSTIN'S AMENDED**  
**FIRST SET OF INTERROGATORIES**

TO: City of Austin, by and through its attorneys of record, Stephen P. Webb and Gwendolyn Hill Webb, Webb & Webb, 712 Southwest Tower, 211 East 7<sup>th</sup> Street, Austin, Texas 78701.

COMES NOW, North Austin Municipal Utility District No. 1 ("North Austin," "Petitioner," or "District"), in the above-styled and numbered cause, and serves this, its First Supplemental Response to the City of Austin's Amended First Set of Interrogatories.

Respectfully submitted,

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By: 

JOHN J. CARLTON

**COUNSEL FOR PETITIONER**

**CERTIFICATE OF SERVICE**

I certify that a true and correct copy of the foregoing document has been served via hand delivery, facsimile, electronic mail, overnight mail, U.S. mail and/or certified mail, return receipt requested on all parties whose names appear below on the 14<sup>th</sup> day of August, 2014.

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\_\_\_\_\_  
JOHN J. CARLTON

## INTERROGATORIES

1. For the current year and past five (5) years, please describe, with specificity, North Austin's method for allocating each year's overall operating expenses into various categories of services that are provided by North Austin. Please explain the rationale and percentage basis for assigning each expense to water.

**Objection:** North Austin objects to this interrogatory on the following independent bases: the interrogatory is compound, seeking additional information in the second sentence, and the Petitioner counts three separate inquiries in this one interrogatory; the interrogatory is irrelevant and overbroad, as this Petitioner does not have the burden of proof; the interrogatory is irrelevant to the underlying matter and is simply a fishing expedition; the interrogatory is overbroad, as it has no relation to whether the City of Austin's ("City") rates are just and reasonable; the interrogatory is overbroad in its time frame; and, the interrogatory is irrelevant and is not reasonably calculated to lead to the discovery of admissible evidence (*K-Mart Corp. v. Sanderson*, 937 S.W.2d 429, 431-32 (Tex. 1996); *see also* Tex. R. Civ. P. 192.3).

**Answer:** Notwithstanding and without waiving the objections above, the District does not allocate operating expenses. Rather, the District records actual operating expenses in individual cost categories specific to the expense incurred.

2. For the current year and past five (5) years, please describe, with specificity, North Austin's method for allocating each year's overall capital expenses into various categories of services that are provided by North Austin. Please explain the rationale and percentage basis for assigning each expense to water.

**Objection:** North Austin objects to this interrogatory on the following independent bases: the interrogatory is compound, seeking additional information in the second sentence, and the Petitioner counts three separate inquiries in this one interrogatory; the interrogatory is irrelevant and overbroad, as this Petitioner does not have the burden of proof; the interrogatory is irrelevant to the underlying matter and is simply a fishing expedition; the interrogatory is overbroad, as it has no relation to whether the City of Austin's ("City") rates are just and reasonable; the interrogatory is overbroad in its time frame; and, the interrogatory is irrelevant and is not reasonably calculated to lead to the discovery of admissible evidence (*K-Mart Corp. v. Sanderson*, 937 S.W.2d 429, 431-32 (Tex. 1996); *see also* Tex. R. Civ. P. 192.3).

**Answer:** Notwithstanding and without waiving the objections above, the District does not allocate capital expenses. Rather, the District records actual capital expenses in individual cost categories specific to the expense incurred.

3. Please describe, with specificity, how North Austin non-utility services are fully excluded from water or sewer costs.

**Objection:** North Austin objects to this interrogatory on the following independent bases: the interrogatory is both vague and overbroad, as it is not limited in time; the interrogatory is irrelevant and overbroad, as this Petitioner does not have the burden of proof; the interrogatory is irrelevant to the underlying matter and is simply a fishing

expedition; the interrogatory is irrelevant and is not reasonably calculated to lead to the discovery of admissible evidence (*K-Mart Corp. v. Sanderson*, 937 S.W.2d 429, 431-32 (Tex. 1996); *see also* Tex. R. Civ. P. 192.3); and the interrogatory is overbroad, as it has no relation to whether the City's rates are just and reasonable.

**Answer: Notwithstanding and without waiving the objections above, the District's non-utility service expenses are recorded as separate line items.**

4. Please describe how often detailed water rate studies are performed that explicitly address direct and common cost allocations between the various North Austin service functions and water.

**Objection:** North Austin objects to this interrogatory on the following independent bases: the interrogatory is irrelevant and overbroad, as this Petitioner does not have the burden of proof; the interrogatory is irrelevant to the underlying matter and is simply a fishing expedition; the interrogatory is overbroad, as it has no relation to whether the City's rates are just and reasonable; the interrogatory is irrelevant and is not reasonably calculated to lead to the discovery of admissible evidence (*K-Mart Corp. v. Sanderson*, 937 S.W.2d 429, 431-32 (Tex. 1996); *see also* Tex. R. Civ. P. 192.3); and the interrogatory contains the term "direct and common cost allocations" that is neither a term of art nor defined in a manner that would allow this Petitioner to provide an answer.

**Answer: Notwithstanding and without waiving the objections above, the District does not perform detailed water rate studies.**

5. Please describe, in detail, the methodology by which your District's water and sewer rates are adjusted in the intervening years between detailed rate studies.

**Objection:** North Austin objects to this interrogatory on the following independent bases: the interrogatory is compound, making inquiry on two separate issues; the interrogatory is irrelevant and overbroad, as this Petitioner does not have the burden of proof; the interrogatory is irrelevant to the underlying matter and is simply a fishing expedition; the interrogatory is irrelevant and is not reasonably calculated to lead to the discovery of admissible evidence (*K-Mart Corp. v. Sanderson*, 937 S.W.2d 429, 431-32 (Tex. 1996); *see also* Tex. R. Civ. P. 192.3); and the interrogatory is overbroad, as it has no relation to whether the City's rates are just and reasonable.

**Answer: Notwithstanding and without waiving the objections above, the District does not perform detailed water rate studies. The District reviews existing costs, the City of Austin's proposed annual rate increases, and adjusts the volumetric and base charges as necessary.**

6. Please describe, with specificity, what facilities owner [sic] by the City of Austin do you use to comply with the Texas Commission on Environmental Quality's ("TCEQ") 0.6 gpm water delivery and gals/fire and reliability connection water storage requirements.

**Objection:** North Austin objects to this interrogatory on the following independent bases: the interrogatory is compound, making inquiry on three separate issues; the interrogatory is irrelevant and overbroad, as this Petitioner does not have the burden of proof; the interrogatory is irrelevant to the underlying matter and is simply a fishing expedition; the

interrogatory is irrelevant, as the underlying matter is not an enforcement case; the interrogatory is irrelevant and is not reasonably calculated to lead to the discovery of admissible evidence (*K-Mart Corp. v. Sanderson*, 937 S.W.2d 429, 431-32 (Tex. 1996); *see also* Tex. R. Civ. P. 192.3); and the interrogatory is overbroad, as it has no relation to whether the City's rates are just and reasonable.

**Answer:** Notwithstanding and without waiving the above objections, the District responds as follows:

For adequate potable water service the District relies on the City of Austin's contractual agreement under Article II of the Agreement Concerning Creation and Operation of North Austin MUD No. 1 (Consent Agreement) executed by the City on May 20, 1983, which states that "the City agrees to sell and deliver to the District all water which may be reasonably required by inhabitants of the District for domestic and commercial purposes . . . meeting the requirement of the Texas Department of Health for human consumption and other domestic uses." Furthermore, the City has review authority and has approved all subdivision plats, site plans, and utility construction plans for all potable water services within the District and has also approved all utility cost reimbursement bond applications without qualifications. Development in the District is nearly built out and no water quantity or quality issued or concerns have been observed or forecast.

Based on the Consent Agreement and subsequent amendments, Northwest Pressure Zone A water is delivered from the City of Austin to the District from the City of Austin's Jollyville Reservoir which basically derives water from the City of Austin's Davis Water Treatment Plant. This water is delivered to the District via the McNeil 36-inch transmission main and the Parmer Lane 24-inch transmission main. Northwest B Pressure Zone potable water is delivered to the District from the City of Austin's Northwest B Pressure System through a 16-inch main extending from the existing 24-inch water main located at the intersection of FM 620 and Broadstone Avenue generally down the right-of-way from FM 620 to the boundary of the District.

7. Please list all water capital items (>\$10k) funded over the last five (5) years and the source of funds (cash or debt) used to pay for each project.

**Objection:** North Austin objects to this interrogatory on the following independent bases: this interrogatory is compound, seeking response to two separate inquiries; the interrogatory is irrelevant and overbroad, as this Petitioner does not have the burden of proof; the interrogatory is irrelevant to the underlying matter and is simply a fishing expedition; the interrogatory is overbroad in its time frame; the interrogatory is irrelevant and is not reasonably calculated to lead to the discovery of admissible evidence (*K-Mart Corp. v. Sanderson*, 937 S.W.2d 429, 431-32 (Tex. 1996); *see also* Tex. R. Civ. P. 192.3); and the interrogatory is overbroad, as it has no relation to whether the City's rates are just and reasonable.

**Answer:** Notwithstanding and without waiving the above objections, the District has not funded any potable water capital items for the last five (5) years. The

**District has installed non-potable water irrigation facilities within the last five years, which cost was paid from District reserve funds.**

8. Please provide the percent of your annual water revenue requirement for water capital facilities that are funded through available reserves.

**Objection:** North Austin objects to this interrogatory on the following independent bases: the interrogatory is both vague and overbroad, as it is not limited in time; the interrogatory is irrelevant and overbroad, as this Petitioner does not have the burden of proof; the interrogatory is irrelevant to the underlying matter and is simply a fishing expedition; the interrogatory is overbroad in its time frame; the interrogatory is irrelevant and is not reasonably calculated to lead to the discovery of admissible evidence (*K-Mart Corp. v. Sanderson*, 937 S.W.2d 429, 431-32 (Tex. 1996); *see also* Tex. R. Civ. P. 192.3); the interrogatory is overbroad, as it has no relation to whether the City's rates are just and reasonable; and the interrogatory contains the term "available reserves" that is neither a term of art nor defined in a manner that would allow this Petitioner to provide an answer..

**Answer:** Notwithstanding and without waiving the above objections, the District has not funded water capital facilities with "available reserves" as the District understands that term, within the last five (5) years. Future water capital facilities, when needed, may be funded through general District reserves, future ad valorem tax revenues, and utility revenues.



**VERIFICATION**

I, David Malish, District Engineer and a duly authorized representative of North Austin Municipal Utility District No. 1, states that I have read the foregoing Answers to Interrogatory No. 6, and that the factual statements therein are true and correct to the best of my knowledge.

Date: 12 Aug 14

Signature: David Malish

**VERIFICATION**

I, Alan McNeil, President and a duly authorized representative of North Austin Utility District No. 1, states that I have read the foregoing Answers to Interrogatories Nos. 1-5 and 7-8, and that the factual statements therein are true and correct to the best of my knowledge.

Date: 8/11/14

Signature: 