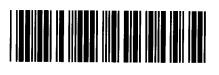


Control Number: 42867



Item Number: 89

Addendum StartPage: 0

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### SOAH DOCKET NO. 473-14-5138.WS PUC DOCKET NO. 42857

PETITION OF NORTH AUSTIN	§	<b>BEFORE THE STATE OFFICE</b>
MUNICIPAL UTILITY DISTRICT NO. 1		
NORTHTOWN MUNICIPAL UTILITY	8	
DISTRICT, TRAVIS COUNTY WATER	ş	
<b>CONTROL AND IMPROVEMENT</b>	ş	
DISTRICT NO. 10 AND WELLS	ş	
BRANCH MUNICIPAL UTILITY	\$\$ \$\$ \$\$ \$\$ \$\$ \$\$ \$\$	OF
DISTRICT	ş	
FROM THE RATEMAKING ACTIONS	§	
<b>OF THE CITY OF AUSTIN</b>	§	
AND REQUEST FOR INTERIM RATES	§	
IN WILLIAMSON AND TRAVIS	§	
COUNTIES	§	ADMINISTRATIVE HEARINGS
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SOAH DOCKE	T NO.	. 47 <u>3-1</u> 4-5138.WS
$\infty$ PUC DOC	CKET	NQ, 42867
•••••• ) ) /*****		
PETITION OF NORTH AUSTIN	§	<b>BEFORE THE STATE OFFICE</b>
MUNICIPAL UTILITY DISTRICT NO. 1	, §	
<b>NORTHTOWN MUNICIPAL UTILITY</b>	§	
DISTRICT, AND WELLS BRANCH	§	
MUNICIPAL UTILITY DISTRICT	§	OF
FROM THE RATEMAKING ACTIONS		
OF THE-CITY OF AUSTIN	\$ \$ \$	
AND REQUEST FOR INTERIM RATES	§	
IN WILLIAMSON AND TRAVIS	§	
COUNTIES	§	ADMINISTRATIVE HEARINGS

### WELLS BRANCH MUNICIPAL UTILITY DISTRICT'S RESPONSE TO CITY OF AUSTIN'S SECOND REQUEST FOR PRODUCTION OF DOCUMENTS

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, Wells Branch Municipal Utility District ("Wells Branch" or "Petitioner"), in the above-styled and numbered cause, and serves this, its Response to the City of Austin's Second Request for Production of Documents.

Respectfully submitted,

Randall B. Wilburn, Attorney at Law State Bar No. 24033342 3000 South IH 35, Suite 150 Austin, Texas 78704 Telephone: (512) 535-1661 Fax: (512) 535-1678

John Carlton State Bar No. 03817600 The Carlton Law Firm, P.L.L.C. 2705 Bee Cave Road, Suite 200 Austin, Texas 78746 Telephone: (512) 614-0901 Fax: (512) 900-2855

By:

JOHN J. CARLTON

#### **COUNSEL FOR PETITIONER**

#### **CERTIFICATE OF SERVICE**

I certify that I served a true and correct copy of the foregoing document on all parties of record in tis proceeding on this 19<sup>th</sup> day of November, 2014 via hand delivery, facsimile, electronic mail, overnight mail, U.S. mail and/or certified mail.

JOHN J. CARLTON

### **PRODUCTION REQUESTS**

The following requests pertain to the written prefiled testimony of David Malish and Thomas Arndt for Wells Branch Municipal Utility District.

11. Please provide any and all documents regarding any conversations between Wells Branch and the staff or administrators, City of Austin including Mr. {sic} Theresa Lutes and Mr. Mike Erdman, regarding the chlorine residuals, and/or low water pressure to Wells Branch, particularly in the Willow Run Subdivision.

**Objection:** Wells Branch objects to this request because the request is unduly burdensome, as it includes communications with the City of Austin and the City's consultants that are equally available to the City.

Response: Wells Branch assumes that the City is requesting documents related to "conversations between Wells Branch and the staff or administrators [of] the City of Austin, including [Ms.] Theresa Lutes..." Responsive documents will be produced.

12. Please provide any and all documents regarding the City's notification to Wells Branch, or anyone else, of its intentions to restore water pressure in the Willow Run Subdivision of Wells Branch.

**Objection:** Wells Branch objects to this request on the following independent bases: the request is overbroad in its time frame; and the request is overbroad as it requests "any and all documents regarding the City's notification to Wells Branch, or anyone else, of its intentions to restore water pressure in the Willow Run Subdivision of Wells Branch" (emphasis added) which would likely include documents not in the possession, custody or control of Wells Branch; and because the request it includes communications with the City of Austin and the City's consultants that are equally available to the City.

## Response: Notwithstanding and without waiving the objections noted above, responsive documents will be produced.

13. Please provide any and all documents regarding communications with the City of Austin regarding the financing of new water and wastewater facilities in Wells Branch.

**Objection:** Wells Branch objects to this request on the following independent bases: the request is overbroad as it is not limited in time; the request is irrelevant, because this Petitioner's method of financing new water and wastewater facilities is irrelevant to and not a basis for the underlying rate action; the request seeks information that is neither relevant nor 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 request is irrelevant and unduly burdensome as it is simply a part of a fishing expedition (*In re American Optical Corp.,* 988 S.W. 2d 711, 713-14 (Tex. 1998) and cases cited therein); and, the request is unduly burdensome, as any and all documents regarding communication with the City of Austin are equally available to the City.

# Response: Notwithstanding and without waiving the objections noted above, responsive documents will be produced.

14. Please provide any and all documents regarding studies made by Wells Branch or on behalf of Wells Branch, pertaining to the City of Austin's maintenance and rehabilitation issues at its Davis or Green Water Treatment Plants. This request is particularly focused on the feasibility of performing maintenance and rehabilitation on any of Austin's water treatment plants, particularly Davis or Green Water Treatment Plants.

# Response: After a diligent search, no items were identified that are responsive to the request.

15. Please provide all statements, letters, briefs, or reports made by Wells Branch representatives or individuals or companies representing or working on behalf of the interests or positions of Wells Branch about the need for or feasibility of Water Treatment Plant 4.

**Objection:** Wells Branch objects to this request because the request could include documents protected by attorney work product or attorney-client privileges;

Response: Notwithstanding and without waiving the objections noted above, responsive documents will be produced.

# **RESPONSE TO REQUEST NO. 11**

Til with wills Break my



## **City of Austin**

WATER Pression Problem #

Founded by Congress, Republic of Texas, 1839 Municipal Building, Eighth at Colorado, P.O. Box 1088, Austin, Texas, 78707, Telephone, 512, 400-2000

May 1, 1996

Ms. Sharlene N. Collins North Austin Municipal Utility District 600 Congress Avenue #2.600 Austin, Texas 76701-3288

Subject: City Water Service to North Austin Municipal Utility District No. 1

Dear Ms. Collins:

A copy of your letter dated April 19, 1996 to City Manager Jesus Garza, concerning a developing water pressure problem in the District has been forwarded to my office for a response.

In regard to the concern that the Martin Hill Reservoir would have its operating level lovered to 980 feet which in turn would lower water pressure to North Austin Municipal Utility District (MUD), that information is not correct. Reservoir and Pumping operations are under the direction of Mr. George Greene, P.E., Water and Wastewater Utility, and he has confirmed that no one from the District's Management Company or the District's Engineering firm had contacted him for information on the operating ranges for Martin Hill Reservoir.

In order to share information with the MUD Engineer on reservoir operations and for the Utility to learn what problems are occurring inside the MUD boundary, a meeting vas held April 30, 1996. This meeting resulted in an agreement that both sides needed additional information, which will be obtained by the MUD Engineer on the water pressure problems that are occurring inside the District, when they started, what is the pressure drop, and how does that correspond to Utility Reservoir levels. The Utility will be sharing information with the District Engineer regarding a major engineering study of the Northwest "A" water pressure zone by the firm of Espey Ruston and Associates. This study which is just beginning will assist the Utility in determining what are the needs of this water service area and how service levels can be maintained or improved as the area continues to grow. The District Engineer and the Utility staff will continue to work on identifying the specifies of the problem and solutions for both the District and City customers in this area.

The results of this study which will provide the answers to long term water pressure and service issues will be shared with the North Austin MUD and the other districts in this water service zone as the study is completed. We will Ms. Sharlene N. Collins May 1, 1996 Fage 2

continue to work with your District Engineer in the meantime to ensure that the Utility is meeting the provisions of the Consent Agreement and providing a quality level of water service for North Austin MUD. If you have further questions, please call Mr. Mike Erdmann at 322-2876.

Sincerely,

Randy J. Goss, F.E., Director Water and Wastevater Utility

RJG:me

.

xc: Jesus Garza, City Manager Jim Smith, Assistant City Manager Nike Erdmann, Wholesale Services Manager John Tresnicky, Assistant City Attorney George Greene, P.E., Pumping Division Manager



March 3, 1998

Mr. Tom Ellison City of Austin Water and Wastewater Utilities P. O. Box 1088 Austin, Texas 78767

RE: Wells Branch MUD Inline Booster Pump Station Serving the Willow Run Subdivision MECI # 91070.155

Dear Tom:

Attached to this letter, please find a blueline print of the construction drawings for the inline booster pump station in Wells Branch MUD. I have also included the report which was submitted to the TNRCC for their review and approval.

Please call Mr. David Malish, P.E. or me at 327-9204 if you have any questions or if you need additional information. Also, we would like to receive a copy of the engineering report on the pressure study for this area, when it is available. We understand that Espey Huston & Associates has studied the issue and prepared a report.

Sincerely,

Robert Ferguson, P.E

Chuck Walters - President Wells Branch MUD cc Sue Littlefield - Armbrust Brown & Davis Don Williams - District Manager Wells Branch MUD David Malish, P. E. - MECI

Attachments

Robert/wellsbra/inline booster-COA

1101 Capital of Texas Highway South · Building D, Suite 110 · Austin, Texas 78746 · 512/327-9204

Barry R. Mclee, Dalrman R. B. "Ralph Manuez, Commissioner John M. Baked Commissioner Dan Pearson, Executive Director TEXAS NATURAL RE	Co.: Dept.: Fax # 32.7-	Co.: Phone # 2.36-(11.1
Protecting Te	tas by Rei	RCFX14
	March 28, 1997	91070.131
Mr. Charles R. Walters, President Wells Branch Municipal Utility District % Strasburger & Price 2600 One American Center 600 Congress Avenue Austin, Texas 78701		1.0. Usritute Stand W. D. Realty Star.
Re: Wells Branch Musician and		

Re: Wells Branch Municipal Utility District of Travis and Williamson Counties; Application to Proceed with Emergency Project by Negotiated Bid, Pursuant to V.T.C.A., Water Code, Section 49.274. TNRCC Internal Control No. 032797-D01 (TC/FA)

Dear Mr. Walters:

On March 27, 1997, the Commission received a request from the District's engineer for authorization to proceed with the emergency design and installation of a pressure boosting system on the basis of negotiated bids.

According to the District's engineer, certain areas of Willow Run Subdivision within the District are receiving water pressure at less than the minimum 35 psi required by state design criteria. The City of Austin, which provides the District with water, has indicated that it is unable to perform the necessary improvements until next year. The District's board feels that the reduced operating pressure is a threat to the health and well being of the affected District residents and that it is imperative to proceed with the design and installation of a pressure boosting system to provide its residents with water at pressure that meets or exceeds the state minimum design criteria.

The District's engineer has estimated the costs to design and construct an in-line booster pump and appurtenances to be in excess of \$25,000.

I have reviewed the request and concur that expeditious design and installation of a pressure boosting system is necessary to preclude potential health hazards arising from this situation. Therefore, pursuant to the provisions of V.T.C.A. Water Code Section 49.274, the District is hereby authorized to proceed with emergency design and installation of a pressure boosting system on the basis of negotiated bids.

If you have any questions, please contact Eddie DeRusse at (512) 239-6161.

Sincerely,

+or Samuel W. Jones, P.E. Manager, District Administration Section

SWJ:EAD:dja

cc: Mr. Robert Ferguson - Murfee Engineering Company Mr. John J. Carlton - Strasburger & Price

P.O. Box 13087 • Austin, Texas 78711-3087 • 512/239-1000 printed on regated spear using replaced ink Barry R. McBee, *Chairman* R. B. "Ralph" Marquez, *Commissioner* John M. Baker, *Commissioner* Dan Pearson, *Executive Director* 

917 131

## TEXAS NATURAL RESOURCE CONSERVATION COMMISSION

Protecting Texas by Reducing and Preventing Pollution

May 22, 1997

TRANSMITTED BY FACSIMILE TO: 512/327-2947

Mr. David Malish, P.E. Murfee Engineering Company, Inc. 1101 Capital of Texas Highway Austin, Texas 78746

Re: Wells Branch M.U.D. Number 1
 Proposed Water System Improvements - Emergency Booster Station
 Texas Natural Resource Conservation Commission (TNRCC) Public Water System
 Identification Number 2270227
 Plans Review and Rate Design Team Log Number 705-015
 Travis County, Texas

Dear Mr. Malish:

The proposed emergency booster station is approved for construction based on our review of planning material received on May 1, 1997, with your letter dated May 1, 1997. The project generally meets the minimum requirements of the TNRCC's Chapter §290 - <u>Rules and Regulations</u> for Public Water Systems (Rules).

The submittal consisted of an engineering report and two sheets of engineering drawings. The approved project consists of:

- Installing two 1,400 g.p.m. capacity at 50 feet total dynamic head (t.d.h.) in-line booster pumps with pressure gauge and pressure switch; and,
- Installing 8-inch and 6-inch diameter ductile-iron piping (AWWA C151 pressure class 350), valves, fittings, intruder resistant fencing, electrical controls and related appurtenances.

P.O. Box 13087 • Austin, Texas 78711-3087 • 512/239-1000 • Internet address: www.tnrcc.state.tx.us

Mr. David Malish Page 2

The purpose of these improvements is to provide a temporary measure to maintain a minimum pressure of 35 psi in the Willow Run area distribution system. A low pressure switch will deactivate the pumps at 20 psi with manual reset. Because the area has continued to experience low pressures, the City of Austin intends to install a booster station in the area during 1998. TNRCC's District Administration Section has approved emergency design and installation by negotiated bid in their March 28, 1997 letter.

An appointed engineer must notify the TNRCC's Region 11 Office at (512) 339-2929 when construction will start.

Please keep in mind that within 60 days of project completion the engineer must attest in writing that the project was constructed as described in the approved plans, specifications and any change orders filed with the TNRCC as required in \$290.39(c)(3)(C) of the Rules.

Please refer to Plans Review and Rate Design Team Log No. 705-015 in all correspondence for this project. This will help complete our review and prevent it from being considered a new project.

For future reference, you can review part of the Plans Review and Rate Design Team's database to see if we have received your project. This is available on the TNRCC's homepage on the Internet at the following address:

http://www.tnrcc.state.tx.us/water/wu/rates/planrev.html

You can download most of the well construction checklists and the latest revision of Chapter 290 "Rules and Regulations for Public Water Systems" from this site.

If you have any questions please contact me at (512) 239-6960 or the Internet address: "DLAUGHLI@tnrcc.state.tx.us."

Sincerely, David D. Laughlin

David D. Laughlin, P.E. Plans Review and Rate Design Team Water Utilities Division, MC 153

DDL/mlm

cc: Wells Branch MUD No 1 TNRCC Region No.11 Office - Austin (w/approved materials) TNRCC Districts Administration Section - Attn.: P. Hiscoe

R. B. *	Ralph Martues, Commissioner	had the Maber / te	KAGEL From: David Auch	$\overline{\Lambda}$
	L Baker Commissioner	E Co.:	Co.:	are 1
	Parson, Executive Director	Dept.:	Phone # 234-6.161	
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Wells % Stri 2600 ( 600 C	Iharles R. Walters, President Branch Municipal Utility District asburger & Price One American Center ongress Avenue a, Texas 78701		Auto Veritate Sta W. D. Revite St	قسا - •
Re:	Wells Branch Municipal Utility Dis Proceed with Emergency Project by Section 49.274.	strict of Travis and William Negotiated Bid, Pursuant	ason Counties; Application to to V.T.C.A., Water Code,	

TNRCC Internal Control No. 032797-D01 (TC/FA) Dear Mr. Walters:

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for Samuel W. Jones, P.E. Manager, District Administration Section

SWJ:EAD:dja

cc: Mr. Robert Ferguson - Murfee Engineering Company Mr. John J. Carlton - Strasburger & Price

> P.O. Box 13067 • Austin, Texas 78711-3087 • 512/239-1000 primat an respect peak using sep-based ink

Barry R. McBee, Chairman R. B. "Ralph" Marquez, Commissioner John M. Baker, Commissioner Dan Pearson, Executive Director

**TEXAS NATURAL RESOURCE CONSERVATION COMMISSION** 

Protecting Texas by Reducing and Preventing Pollution

May 22, 1997

TRANSMITTED BY FACSIMILE TO: 512/327-2947

Mr. David Malish, P.E. Murfee Engineering Company, Inc. 1101 Capital of Texas Highway Austin, Texas 78746

Re: Wells Branch M.U.D. Number 1
 Proposed Water System Improvements - Emergency Booster Station
 Texas Natural Resource Conservation Commission (TNRCC) Public Water System
 Identification Number 2270227
 Plans Review and Rate Design Team Log Number 705-015
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P.O. Box 13087 • Austin, Texas 78711-3087 • 512/239-1000 • Internet address: www.tnrcc.state.tx.us

Mr. David Malish Page 2

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An appointed engineer must notify the TNRCC's Region 11 Office at (512) 339-2929 when construction will start.

Please keep in mind that within 60 days of project completion the engineer must attest in writing that the project was constructed as described in the approved plans, specifications and any change orders filed with the TNRCC as required in \$290.39(c)(3)(C) of the Rules.

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For future reference, you can review part of the Plans Review and Rate Design Team's database to see if we have received your project. This is available on the TNRCC's homepage on the Internet at the following address:

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You can download most of the well construction checklists and the latest revision of Chapter 290 "Rules and Regulations for Public Water Systems" from this site.

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Sincerely, David D. Laughlin

David D. Laughlin, P.E. Plans Review and Rate Design Team Water Utilities Division, MC 153

DDL/mlm

cc: Wells Branch MUD No 1 TNRCC Region No.11 Office - Austin (w/approved materials) TNRCC Districts Administration Section - Attn.: P. Hiscoe

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### MURFEE ENGINEERING COMPANY, INC.

1101 Capital of Texas Highway South Building D, Suite 110 Austin, Texas 78746 Phone: (512) 327-9204 Fax: (512) 327-2947

#### DATE: 24May2001

TO: Yvonne Gil Villejo @ FAX No. 322-2734

COMPANY: City of Austin

Regarding the Wells B ranch MUD Booster Pump STation /Electric Consumption...

FROM: Robert Ferguson, P.E.

the attached billing report is from TXU and is for the most recent 12 months... May 2000 - April 2001.

I believe the bookkeeper at Wells Branch is working to retrieve the information for prior years. Let me know if the earlier billing information is not needed.

CONFIDENTIALITY NOTICE: THIS MESSAGE IS INTENDED ONLY FOR THE USE OF THE INDIVIDUAL TO WHOM IT IS ADDRESSED AND MAY CONTAIN INFORMATION THAT IS PRIVILEGED. CONFIDENTIAL AND EXEMPT FROM DISCLOSURE UNDER APPLICABLE LAW IT THE READER OF THIS MESSAGE IS NOT THE INTENDED RECIPIENT OR AGENT RESPONSIBLE FOR DELIVERING THE MESSAGE OF THE INTENDED RECIPIENT YOU ARE HEREBY NOTIFIED THAT ANY DISSEMINATION. DISTRIBUTION, OR COFFING OF THIS COMMUNICATION IS STRICTLY PROHIBITED IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR. PLEASE NOTIFY US INMEDIATELY BY TELEPHONE (512) 127-9204

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The second s

Robert Ferguson 306-9620



## Wells Branch Municipal Utility District

## Memorandum

DATE: March 25, 1997

TO: Wells Branch MUD, Board of Directors

FROM: Scott I Manuel, Acting District Manager

RE: Water Pressure Problems In Willow Run

CC: Sue Brooks Littlefield, Strasburger & Price I J P.

Robert Lurgusson, Murtee Engineering

On Monday, March 24, Chris Mahanny of ST Environment and 1 investigated pressure problems at two locations in the Willow Run area.

At the Hamblin's residence, 15309 Ozone Place, the static pressure on an outside hose bib was 40 PS1, no pressure drop was experienced when a second hose bib was also opened.

At the Weaver residence, 3921 Licorice Lune, the static pressure was 39 PS1 and when a second hose bib was opened we observed a drop in pressure to 35 PS1. We also installed a 24 hour pressure monitor here, at this time

During the time of these investigations the pressure and flow inside both homes were adequate. We removed all faucet aerators and checked for debris. All aerators were clean.

While conversing with Mrs. Weaver we decided to remove the flow restrictors from the faucets with her concurrence. This increased the flow from the kitchen sink faucet from approximately 1.2 gpm to 3 gpm

Arrangements have been made with both residents to install a pressure monitor inside their homes on Thursday, March 27, 1997. This could not be done at the time of the initial investigation, due to a lack of the required fittings.

> 2106 Kiattenhoff Drive • Austin. Texas 78728 (512) 251-9814

#### ARMBRUST BROWN & DAVIS, L.L.P.

ATTORNEYS AND COUNSELORS

100 CONGRESS AVENUE, SUITÉ 1300 AUSTIN TEXAS 78701-4042 (512) 432-2300

TELECOPIER (\$12) 435-2360

#### TELECOPY COVER SHEET

Date: <u>May 13, 1998</u>

4 (including cover)

#### PLEASE DELIVER THE FOLLOWING TELECOPY TO:

Name Robert Ferguson

Company: Murfee Engineering Co.

Telecopy No.: (512) 327-2947

Sender: Sue Brooks Littlefield

Telephone No.: (512) 435-2307

Verification No: (512) 327-9204

Total Number of Pages: \_\_\_\_

Client Matter No. 88606.0109

Please call immediately if the telecopy you receive is incomplete or illegible. Our telephone number is (512) 435-2300.

MESSAGE:

THIS MESSAGE IS INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY TO WHICH IT IS ADDRESSED AND MAY CONTAIN INFORMATION THAT IS PRIVILEGED, CONFIDENTIAL AND EXEMPT FROM DISCLOSURE UNDER APPLICABLE LAW. IF THE READER OF THIS MESSAGE IS NOT THE INTENDED RECIPIENT OR THE EMPLOYEE OR AGENT RESPONSIBLE FOR DELIVERING THE MESSAGE TO THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISSEMINATION, DISTRIBUTION, OR COPYING OF THIS COMMUNICATION IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE NOTIFY US IMMEDIATELY BY TELEPHONE (COLLECT), AND RETURN THE ORIGINAL MESSAGE TO US AT THE ABOVE ADDRESS VIA THE U.S. POSTAL SERVICE. THANK YOU.

/051398

MURFEE ENGINEERING COMPANY, INC.
Highway South         Building D, Suite 110         Austin, Texas 78746         Phone: (512) 327-9204         Fax: (512) 327-2947         Home: (512) 327-9204         Fax: (512) 327-2947         Home: (512) 327-9204         Fax: (512) 327-2947         Home: (512) 327-2947         Home: Home: (512) 327-2947         Home: Home: Home: (512) 327-2947         Home: Ho
FACSIMILE TRANSMITTAL INFORMATION
TO: SUE LITTLEFIELD - ARMBRUST BROWN & DAVIS
FAX NUMBER sent to:435-2360
Number of PAGES, including cover sheet: 3
FROM:ROBERT FERGUSON, P.E.
SPECIAL INSTRUCTIONS OR MESSAGE:
PREPARED IN RESPONSE TO THE REQUEST OF TOM ELLISON. PLEASE LOOK AT
THE PARAGRAPH REGARDING THE CITY PAYING FOR THE COST OF
CONSTRUCTION AND SEE IF THAT REFLECTS THE POSTURE TAKEN BY THE
BOARD AT THE LAST MEETING. I RECALL THAT THEY ASSIGNED THE
COMMUNICATION TO A COMMITTEE FACILITIES COMMITTEE
PROJECT/CLIENT NAME: WELLS BRANCH MUD - BOOSTER STATION
PROJECT NUMBER:91070.133

OPERATOR: \_\_\_\_\_

## City of Austin / Development Review and Inspection Department / Development Assistance Center SITE PLAN EXEMPTION DETERMINATION (Approval granted by this document does not constitute a City of Austin Permit )

(* prover granded by this occurrent does not constitute a City of Austin Permit. )
I. KUBERT FERGUSON do hereby certify I am the [ ] owner [ ] owner's agent of the property as described below, and in that capacity submit this claim for exemption form the site plan requirements of Chapter 13-1 of the City of Austin code. Furthermore, I certify the following to be true and correct information pertaining to this exemption
Project Name: WELLS BRANCH MUD TEMPORARY BOOSTER STATION
Address: NW CORNER OF THE INTERSECTION OF SHORELINE DR + CADOZ DR.
Legal Description: (subdivision, block, lot) Willow RUN Sechis Ove BLK B Lot 58
Specific Description of Proposed Development: 10 × 10' CONCRETE SLAIS FOR BOOSTER
STATION
FURTHERMORE, I certify and acknowledge that: <ol> <li>All applicable subdivision requirements will be completed prior to issuance of a permit. If the property is not an entire lot in a recorded subdivision and new additional or upgraded utility services (electric, water, wastewater) is required, a Land Status Determination or an exception verifying that the property is in compliance with subdivision regulations will be required prior to issuance of a building permit and purchase of utility service.</li> </ol>
2 The proposed development complies with all applicable zoning regulations. I will be required to secure all necessary approvals and permits before construction begins. Approval of this exemption does not prohibit enforcement of restrictive covenants and or deed restrictions.
3 I understand that I must confirm that all utility services necessary for this project are available. I will submit verification that all fees for such services have been paid prior to issuance of a building permit.
4 I am aware and understand that approval of this site exemption determination does not constitute authorization to violate any provision of the City of Austin code or other applicable regulation including regulations regarding the use or occupancy of the improvement.
5 Erosion and sedimentation controls will be used for all site work and will meet all City of Austin standards
Signature of Owner / Agent: Robert Houseon Date 5/7/97
Printed Name Owner / Agent: ROBERT FERGUSON Phone: 327-9204
Address of Owner / Agent: 1101 CAPITAL OF TK. Hwy So. D-110 City: AUSTIN State TK. Zip78746
FOR DEPARTMENTAL USE ONLY
[ ] Approved [ ] Denied Project Qualifies per Section 13-1-803 Flood Plain: [ ] Yes [ ] No
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Reviewed by (DRID) Date: 17/7
Reviewed by (DUD) KINALA MILLAN Date: 5/7/17 Fee: [/] Yes [] N/A
ABC Address: HARE WARE OF Area: C Seq. # 11769 Zoning: Grid: 1438

Site Plan Exemption Form / Development Review and Inspection Department / Oct. 6, 1998

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May 11, 1998

Mr. Tom Ellison, P.E. City of Austin Water and Wastewater Utility 625 East 10th Street Suite 700 Advante Building Austin, Texas 78701

Wells Branch Municipal Utility District; Willow Run In-Line Booster Pump RE: Station Operating Points

Dear Tom:

We have reviewed the operating curve for the pumps installed at the Wells Branch in-Line Booster Pump Station pursuant to your request of the week of May 1, 1998.

As is shown on the attached pump performance curve, the pump was designed to produce approximately 1500 gpm at a pressure differential of 55 feet or 24 psi. Recognizing a suction pressure of 40 to 45 psi, the pump <u>controls</u> are set to maintain a discharge pressure of 65 psi which will deliver a pressure of 50 psi at the highest elevation in the District. This pressure however will be maintained only if flows below 1500 gpm are observed.

If the suction pressure is lowered to 20 psi, the pump will attempt to maintain a discharge pressure of 65 psi requiring a pump pressure differential of 103 feet (45 psi) and the As indicated in this correspondence, punp will fail,

· nimbuse

I have included an accounting of the expenses incurred by the MUD in the design/and construction of the facility as well as the correspondence sent to the City regarding such. It is my understanding that the MUD is definitely interested in having the City pay the cost of construction for the facility, and evoid the duplication of costs and effort.

Have

The District has assigned this subject to the Facilities Committee, which consists of Master Committee, which consists of Master Gimen and Mas Joy Smith. Director

**P-WB00754** 22 Mr. Tom Ellison, P. E. - City of Austin May 11, 1998 Page 2

Please call either Mr. David Malish, P.E., Mr. Chuck Walters (MUD Board President) or me if you would like to discuss this in more detail. You may reach Mr. Malish at 327-9204 and Mr. Walters through 251-9814 (the MUD Office).

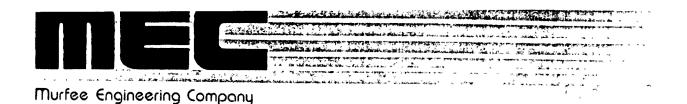
Sincerely,

Robert Ferguson, P.E.

Chuck Walters, President - Wells Branch MUD CC: Suc Lintefield - Armbrust Brown & Davis Scou Gilmore, Chairman Pinance Committee - Wells Branch MUD Don Williams, District Manager - Wells Branch MUD Scott & au ines Committee

Fin. Fac. Admin.

Robertiwelisticationater letter.doe



June 19, 1997

Mitt Tidwell, P.E. Assistant Director City of Austin Water & Wastewater Department 625 East 10th Street Suite 415 Austin, Texas 78701

Re: Wells Branch M.U.D. Emergency Booster Station Job. No. 91070.153

Dear Mitt:

Please find attached the original mylar of the Wells Branch M.U.D. Emergency Booster Station Site Plan and Details for your approval. I am submitting it to you, per David Malish's request.

If you have any questions or need any additional information, please feel free to call.

Sincerely, Ma G

John A. Clark, P.E.

cc: David Malish, MEC

1101 Capital of Texas Highway South · Building D. Suite 110 · Austin, Texas 78746 · 512/327-9204

## MURFEE ENGINEERING COMPANY, INC.

1101 Capital of Texas Highway South Building D, Suite 110 Austin, Texas 78746
Phone: (512) 327-9204 Fax: (512) 327-2947

DATE: <u>18-Aug-99</u>

TO: Tom Owens, P.E.

PBS&J - Austin

FROM: Robert Ferguson, P.E.

Wells Branch MUD; Willow Run Subdivision and the City of Austin Hydro-pnuematic booster station.

Attached, please find the engineering report for the District's booster station, as built drawings and a copy of a spreadsheet of data collected by the City of Austin during a fire demand test of the District's variable speed drive booster station. Tom Ellison and other city staff were present during the testing (actually conducted the test).

It is my understanding from the telephone conversation of today with you that the City has requested that PBS&J re-visit the operating points for the hydro system. The operating points you discussed were for a *pump on* setting of 72 psi and a *pump off* setting of 82 psi. We are not approving these settings, however, we can state that these operating points do place the operating range at a higher grade line than was previously proposed.

We are interested in staying informed as to the final design of the booster station so that we may provide information to the District's Board of Directors. We have not been able to get the City to respond to us directly. If you have need of other information, please let me know.

cc: Sue Littlefield – Armbrust Brown & Davis David Malish, P.E. – MEC Don Williams – Wells Branch MUD

CONFIDENTIALITY NOTICE THIS MESSAGE IS INTENDED ONLY FOR THE USE OF THE INDIVIDUAL TO WHOM IT IS ADDRESSED AND MAY CONTAIN INFORMATION THAT IS PRIVILEGED, CONFIDENTIAL AND EXEMPT FROM DISCLOSURE UNDER APPLICABLE LAW IF THE READER OF THIS MESSAGE IS NOT THE INTENDED RECIPIENT OR AGENT RESPONSIBLE FOR DELIVERING THE MESSAGE OF THE INTENDED RECIPIENT YOU ARE HEREBY NOTIFIED THAT ANY DISSEMINATION, DISTRIBUTION, OR COPVING OF THIS COMMUNICATION IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR PLEASE NOTIFY US IMMEDIATELY BY TELEPHONE. (\$12) 327-9204



## **City of Austin** Water and Wastewater Utility



Date: 7/1/58 Time: To: Robert Ferguson Company: Murfee Engineering

FAX Number: 32 > 294)

**Telephone** Number:

From:

Company: City of Austin Water and Wastewater Utility

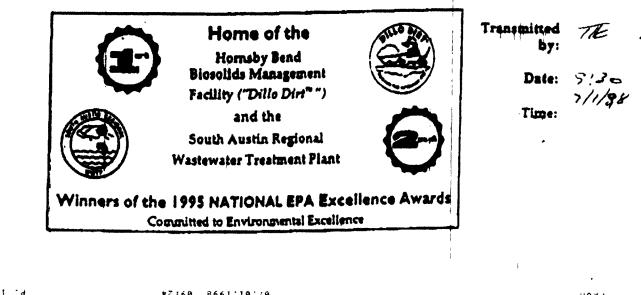
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**P-WB00759** 27

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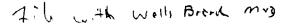
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**P-WB00761** 29

# **RESPONSE TO REQUEST NO. 12**





City of Austin

WATER Pression Picklim A.

Founded by Congress, Republic of Texas, 1839 Municipal Building, Eighth at Colorado, P.O. Box 1088, Austin, Texas, 78767, Telephone 512, 409-2000

May 1, 1996

Hs. Sharlene N. Collins North Austin Municipal Utility District 600 Congress Avenue #2600 Austin, Texas 76701-3288

Subject: City Water Service to North Austin Municipal Utility District No. 1

Dear Ms. Collins:

A copy of your letter dated April 19, 1996 to City Manager Jesus Garza, concerning a developing water pressure problem in the District has been forwarded to my office for a response.

In regard to the concern that the Martin Hill Reservoir would have its operating level lowered to 980 feet which is turn would lower water pressure to North Austin Municipal Utility District (MUD), that information is not correct. Reservoir and Pumping operations are under the direction of Mr. George Greene, P.E., Water and Wastewater Utility, and he has confirmed that no one from the District's Management Company or the District's Engineering firm had contacted him for information on the operating ranges for Martin Hill Reservoir.

In order to share information with the MUD Engineer on reservoir operations and for the Utility to learn what problems are occurring inside the MUD boundary, a meeting was held April 30, 1996. This meeting resulted in an agreement that both sides needed additional information, which will be obtained by the MUD Engineer on the water pressure problems that are occurring inside the District, when they started, what is the pressure drop, and how does that correspond to Utility Reservoir levels. The Utility will be sharing information with the District Engineer regarding a major engineering study of the Northwest "A" water pressure zone by the firm of Espey Huston and Associates. This study which is just beginning will assist the Utility in determining what are the needs of this water service area and how service levels can be maintained or improved as the area continues to grow. The District Engineer and the Utility staff will continue to work on identifying the specifies of the problem and solutions for both the District and City customers in this area.

The results of this study which will provide the answers to long term water pressure and service issues will be shared with the North Austin MUD and the other districts in this water service zone as the study is completed. We will Ms. Sharlene N. Collins May 1, 1996 Page 2

continue to work with your District Engineer in the meantime to ensure that the Utility is meeting the provisions of the Consent Agreement and providing a quality level of water service for North Austin MUD. If you have further questions, please call Mr. Mike Erdmann at 322-2876.

Sincerely,

x

Ranuy J. Goss, F.E., Director Water and Wastewater Utility

RJG:me

xc: Jesus Garza, City Manager Jim Smith, Assistant City Manager Nike Erdmann, Wholesale Services Manager John Tresnicky, Assistant City Attorney George Greene, P.E., Pumping Division Manager



## ity of Austin

Austin Water Utility, P.O. Box 1088, Austin, TX 78767 512-972-0118

May 11, 2006

Don Conklin North Austin Municipal Utility District 7800 N. Mopac Expy, Ste No. 315 Austin, TX 78759

Dear Mr. Conklin:

The purpose of this letter is to document our understanding concerning the method to address the North Austin Municipal Utility District's ("MUD") internal pressure problems. While the MUD and the Austin Water Utility ("Utility") worked hard and found the most beneficial engineering method to address the MUD's pressure problems, the cost of the solution was beyond the financial means of the MUD, even with the inclusion of a financial contribution by the Utility. Therefore, the next best method as an interim solution, until the Utility constructs in approximately 2011 the 84" water main that will allow a permanent solution providing a water supply at a higher hydraulic grade level, is the MUD's construction and installation of in-line booster stations. As we discussed, the Utility's approval of construction plans for in-line booster stations is conditioned on the following:

- 1. David Malish and Ron Humphrey will verify our understanding that the construction plans will only require two waivers from the Texas Commission on Environmental Quality ("TCEQ"). One waiver is for the requirement of a maximum of a one-year time period for the use of in-line booster stations. The second waiver is for the requirement of an air gap between the Utility and the MUD's water systems. The MUD agrees that, other than the waivers, the in-line booster stations will meet TCEQ and Utility requirements.
- 2. The MUD will request the waivers from TCEQ. The Utility will not oppose these two waivers, but the TCEQ, and not the Utility, must waive State requirements. The MUD must receive the waivers from TCEO in writing.
- 3. Upon the Utility's receipt of the TCEQ waivers, the Utility will approve the MUD's construction plans for the in-line booster stations.
- 4. The MUD will entirely fund the in-line booster stations project and pay all applicable City of Austin fees.

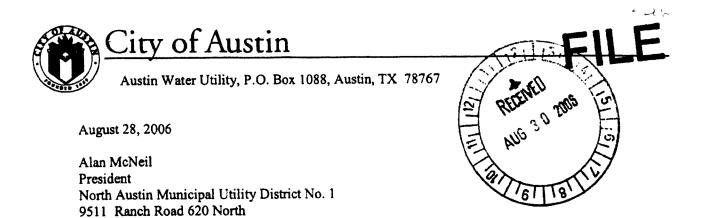
I understand the importance of this project to the MUD and its affected residents. As such, I will be glad to serve as your single point of contact for this project in order to expedite the City of Austin approval process. Please feel free to use this letter to indicate the Utility's agreement to in-line booster stations to TCEQ staff. If you have any questions or concerns, please call me at 972-0118. Thank you.

Sincerely. Bart Jennings

Austin Water Utility

Chris Lippe, P.E., Director, Austin Water Utility cc: Jose E. Canales, Deputy City Manager Toby Hammett-Futrell, City Manager

> The City of Austin is committed to compliance with the Americans with Disabilities Act. Reasonable modifications and equal access to communications will be provided upon request



Re: North Austin Municipal Utility District No. 1 ("MUD")-Proposed Booster Station

Dear Mr. McNeil:

Austin, TX 78726

Thank you for your letter dated August 24, 2006, regarding the MUD's proposed booster station. We congratulate you for working so hard and long in order to find a solution to improve water pressure within the MUD for a portion of its residents.

As noted in your letter, the Austin Water Utility ("Utility") plans to construct a large transmission main that upon its connection to water mains adjacent to the MUD will relieve the need for the MUD to continue to use the proposed temporary booster station. The Utility has proposed, in its FY 2007-2016 Capital Improvement Project plan, the project to be completed by the end of FY 2011-2012. The proposed Capital Improvement Plan is currently being reviewed by the Austin City Council. The Austin City Council will finalize and approve the City of Austin's ("City") budget in mid-September 2006.

In your letter, you requested the waiver of City fees regarding the MUD's booster station project. The Austin City Council's approval is required for any waiver of City fees. The Utility does not believe it can recommend or support a waiver of City fees for the following reasons:

- 1. The City does not obtain any economic or financial benefit from the MUD constructing the MUD's booster station project;
- 2. The Utility has already waived the application of the City's design criteria for this project and allowed the MUD to exclusively use the Texas Commission on Environmental Quality ("TCEQ") minimum criteria, which saves the MUD a significant amount of money:
- 3. In discussions with the MUD in February 2006, the Utility proposed that the MUD would be solely responsible for the expenses related to an interim solution for internal MUD pressure issues and the Utility would assume the \$24 million cost for a permanent solution of constructing the large diameter water transmission main and converting the existing 36" water main of the Northwest A pressure zone, located in Parmer Lane, to the Northwest B pressure zone. The Utility is not requiring the MUD to cost participate in the City's project, even though the MUD will benefit from the project; and

The City of Austin is committed to compliance with the Americans with Disabilities Act Reasonable modifications and equal access to communications will be provided upon request Letter to Mr. McNeil August 28, 2006 Page 2 of 2

4. On May 4, 2006, I spoke to Don Conklin, Vice-President of the MUD, and we finalized the terms of a proposal. This conversation was documented in a letter from me to Mr. Conklin dated May 11, 2006, which states that the MUD will pay all applicable City fees.

We do understand the MUD's desire to minimize the cost of the project and the Utility has already made significant financial concessions to the MUD's benefit.

Since the TCEQ has placed certain conditions on the MUD's construction and use of the in-line booster stations, I believe that it would be to our mutual benefit for your engineer, David Malish, to contact Ron Humphrey, Austin Water Utility, to clarify issues and coordinate the development of the MUD's construction plans. For example, we agree with the TCEQ that the requirements for the installation of automatic cut-off devices and continuous pressure recording devices to deactivate the pumps are essential. The minimum suction pressure setting will need to be tied to the minimum pressure associated with current levels of service at those suction-side device/recording locations. However, the minimum suction pressure setting will need to be in excess of 20 psi to ensure that Utility customers are not harmed by the installation of the MUD's booster pumping facilities.

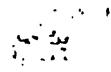
If you have any further questions or concerns, please call me at 972-0118. Thank you.

Sincerely, **Bart Jennings** 

Austin Water Utility

 cc: Toby Hammett-Futrell, City Manager Rudy Garza, Assistant City Manager Chris Lippe, P.E., Director, Austin Water Utility Teresa Lutes, Austin Water Utility Ron Humphrey, Austin Water Utility Sharon Smith, Assistant City Attorney David Malish, Murfee Engineering Company, Inc. Gary Spoonts, ECO Resources, Inc. Sharlene Collins, Armbrust and Brown, LLP

# **RESPONSE TO REQUEST NO. 13**



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#### AGREEMENT CONCERNING CREATION AND OPERATION OF NORTH AUSTIN GROWTH CORRIDOR MUNICIPAL UTILITY DISTRICT NO. 1

THE STATE OF TEXAS \$
KNOW ALL MEN BY THESE PRESENTS:
COUNTY OF TRAVIS \$

THAT FOR and in consideration of the mutual agreements, conditions, and covenants contained herein, the City of Austin, Texas (the "City"), Wells Branch, a joint venture ("Wells Branch"), and North Austin Growth Corridor Minicipal Utility District No. 1 (the "District"), mutually contract and agree as follows:

## ARTICLE I

#### PARTIES

This is a contract among the City, acting through Dan H. Davidson, City Manager, as authorized by specific action of the Austin City Council; the District, a municipal utility district created on  $\underline{MarcA 18}$ , 1981, by order of the Texas Water Commission and operating pursuant to Chapter 54, Texas Water Code; and Wells Branch, a joint venture of the holders of legal title to all of the land comprising the District, which consists of approximately 906.14 acres situated wholly in Travis County, Texas, and lying within the extraterritorial jurisdiction of the City.

# ARTICLE II

# ISSUANCE OF BONDS BY DISTRICT

A. The City has granted its consent to the creation of the District pursuant to the municipal utility district policy adopted by the City on March 20, 1980, under Ordinance No. 80 0320-E as the same may be amended, a true and correct copy of such policy as it exists on the data hereof being attached hereto as Exhibit A and incorporated herein by reference. Except as otherwise provided herein, the District agrees that it shall issue bonds and notes only for the purposes and in the manner provided by said City policy, as the same may be amended from time to time. It is specifically agreed, however, that the District's bonds, when issued, may be secured by a pledge of the District's taxes or revenues or both.

B. Water and wastewater trunk lines to serve the District will be constructed by the District pursuant to the Utility Construction Contract between the City and the District, a copy of which is attached hereto as Exhibit B. The District is hereby authorized to issue the bonds described in the Utility Construction Contract. Upon completion of construction by the District, the City shall own and operate said lines, but shall reserve adequate capacity therein to serve all land within the District. The District hereby agrees to pay a pro rate share of the cost of said lines based upon the capacity reserved for service to the District. The District shall make payments to the City semi-annually not later than fifteen (15) days prior to each principal and interest payment date on the bonds issued to finance said lines, in an amount equal to the percentages of the principal and/or interest due on said bonds on such date as follows:

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Water Approach Main Wastewater Approach Main Walnut Creek Extension (Described on Exhibit B)

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All such payments shall bear interest at the rate of ten percent (10%) per annum from their due date until paid.

The parties hereto acknowledge and agree that this Contract and С. the City's municipal utility district policy have the effect of restricting the general statutory purposes for which the District may issue bonds and notes. The parties further recognize and agree that neither this Contract nor said policy restrict or limit the powers and authority of the District otherwise to acquire, own, operate and maintain water or wastewater systems, drainage facilities, recreational facilities, or any other systems, facilities, assets or properties of or serving the District. The District may use funds and assets from any other lawful source available to it to provide for such acquisition, ownership, maintenance and operation, as well as to accomplish any purpose and exercise any function, act, power or right authorized by law. Such funds and assets shall include, without limiting the generality of the foregoing, revenues from any of the systems, facilities, properties and assets of the District not otherwise committed for the payment of indebtedness of the District; maintenance taxes; loans, gifts, grants and donations from public or private sources; and revenues from any other source lawfully available to the District; provided, however, that no payment for such purposes shall be made from the proceeds of bonds issued by the District, or from tax or other revenues pledged to the retirement of the bonded indebtedness of the District or payable to the City pursuant to the terms hereof.

## ARTICLE III

## WATER SUPPLY

The City agrees to sell and to deliver to the District all water Α. reasonably required by users within the boundaries of the District for domestic and commercial uses, such water to be supplied from the City's water distribution system as extended by the District pursuant to the Utility Construction Contract, at a point or points of delivery adjacent to the boundaries of the District to be designated by the District's engineer and approved by the City. The wale of water the District shall be annuliscriminatory and shall be uniform with the policy or policles established by the Austin City Council for the provision of utilities outside the City limits. Water as used in this Article III means potable water meeting the requirements of the Texas Department of Health for human consumption and other domestic uses. The City presently has, and shall maintain, an adequate water supply to provide service to the District. Without limiting the generality of the foregoing, the City agrees that it will maintain the capability to deliver to the District a minimum of 10,000 gallons of water per minute.

B. The City shall furnish, install, operate, and maintain, at its expense, at each point of delivery to the District, the necessary metering equipment to measure the water delivered to the District under this Contract, including a meter house or pit and metering devices of standard type for properly measuring the quantity of water delivered to the District. The City shall calibrate the metering equipment whenever requested by the District, but no more frequently than once every twelve (12) months. A meter registering not more than two percent (28) above or below the test result shall be

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deemed to be accurate. If any meter fails to register for any period, the amount of water furnished during such period shall be deemed to be the amount of water delivered in the corresponding period immediately prior to the failure, unless the City and the District agree on a different amount. The metering equipment shall be read once each calendar month.

C. \_ Rates for sustances of the District for water delivered pursuant to this Article III shall not be less than those normally charged by the City for comparable customers within the City or more than those normally charged by the City for comparable customers outside the City, all as established from time to time by the Austin City Council.

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Den-Billings and payments will be rendered to customers of the District in substantial compliance with the procedures established in the City of Austin Utility Service Regulations, as now in effect or hereafter amended; provided, however, the District may vary the procedures to the extent required by law.

# ARTICLE IV

## SEWAGE TREATMENT

A. The City agrees to receive, treat, and dispose of all sewage collected by the District and delivered to the City at a point or points of delivery into the City's sanitary sewer trunk line as extended by the District pursuant to the Utility Construction Contract, said point or points of delivery to be designated by the District's engineer and approved by the City. Sewage treatment and disposal services provided to the District shall be nondiscriminatory and uniform with the policy or policies established by the

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Austin City Council for the provision of utilities outside the City limits. The City presently has, and will maintain, adequate sewage treatment capacity to provide service to the District. Without limiting the generality of the foregoing, the City agrees that it will maintain the capability to recieve, treat, and dispose of 2,000 gallons per minute average sewage flow from the District.

B. Rates for customers of the District for sanitary sewer service shall not be less than those normally charged by the City for comparable customers within the City or more than those normally charged by the City for comparable customers outside the City, all as established from time to time by the Austin City Council.

C. Billings and payments will be rendered to customers of the District in substantial compliance with the procedures established in the City of Austin Utility Service Regulations, as now in effect or hereafter amended; provided, however, the District may vary the procedures to the extent reguired by law.

#### ARTICLE V

# OPERATION AND MAINTENANCE

The District shall operate and maintain the water and wastewater system within the District, unless the City and the District enter into a contract for the City to operate the system. The City shall have the right to inspect all water and wastewater connections made in the District. Water meters shall be purchased by the District from the City's Water and Wastewater Department at cost.

## ARTICLE VI

## AREA OF AND LIMITATIONS ON SERVICE

Except as provided in the Utility Construction Contract, the District may not construct or install water or wastewater lines or facilities to serve areas outside the District, or sell or deliver City water or wastewater service to areas outside the District, or annex any additional lands to the District without the prior approval of the Austin City Council.

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## ARTICLE II

## LIMITATION OF LIABILITY

The City shall not be liable to Wells Branch, any member thereof, the District, or any customer of the District for the failure of the City to provide water or sewer service where the failure results from the impairment of facilities by strikes or other conditions beyond the City's control so long as the City uses reasonable efforts to correct such condition.

## ARTICLE VIII

#### CITY ANNEXATION

A. The District agrees that at least 90% of the facilities and amenities for which the District bonds have been authorized will be installed within twelve (12) years from the date of execution of this Contract by the District. If such facilities are installed prior to such date, the City may annex the District at anytime thereafter. If installation of 90% or more of the facilities and amenities for which District bonds have been authorized has not been accomplished within the twelve (12) year period, the City, at its option, may revoke its authorization for or approval of the installation of any further facilities or amentities and also may revoke its authorization for the issuance of the balance of the District's unissued bonds; provided, however, that the City's right to revoke such authorization may be exercised only if the City concurrently annexes to the City the entire District as it then exists; and provided further that, if the installation of any items of authorized facilities has commenced in good faith in compliance with and in reliance on the provisions hereof and is in progress at the time the City proposes to revoke such authorizations, the annexation of the District to the City and the revocation of such authorizations shall be postponed until the installation of the items has been completed and the purchase of such items with the proceeds from the sale of District bonds or other funds of the District has been accomplished.

B. The District shall charge and collect a special water and sewer service surcharge in the amount of \$8.89 per month for each single-family residential customer or the equivalent of the District's water or sewer system. The surcharge shall be charged in addition to the regular water and sewer rates in the District. The District shall pay to the City each month all surcharges as collected and such payments shall be credited by the City to the amounts due the City for the District's pro rate share of the cost of the water and sewer trunk lines serving the District, as provided in Article II, Paragraph B of this Contract. At such time as the District has deposited surcharge payments with the City equal in amount to the next semi-annual payment due the City pursuant to Article II, Pargraph B hereof, all further surcharge payments made by the District prior to the due date of said

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semi-annual payment shall be credited against the amounts due the City for water and sewer service pursuant to Articles III and IV hereof.

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C. The parties hereby agree that the amount of said surcharge has been calculated pursuant to Paragraph IV of Part 1 of the City's municipal utility district policy. The surcharge shall be continued by the City after annexation of the District as authorized by Section 54.016(h), Texas Water Code, until the bonded indebtedness of the District has been retired. The surcharge may be charged in addition to the City's normal water and sewer rates.

D. All contract obligations and responsibilities of Wells Branch and the District under this Contract shall terminate when the area within the District is annexed to the City.

## ARTICLE IX

#### ADDITIONAL REQUIREMENTS

Wells Branch and the District hereby respectively agree to comply with all applicable requirements contained in Paragraph VI of Part 1 of the City's municipal utility district policy, except that where said requirements are inconsistent with the provisions of this Contract, the provisions of this Contract shall control.

#### ARTICLE X

#### CONSTRUCTION OF DISTRICT FACILITIES

All water, wastewater, and drainage facilities to be acquired or constructed by the District may be constructed by Wells Branch, with the con-

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sent of the District. Neither Wells Branch nor the District shall commence construction of any facility unless the plans and specifications for such facility have been approved by the City, the Texas Department of Water Resources, the Texas Department of Health, where applicable, and all other governmental agencies having jurisdiction. Upon issuance and sale of its bonds for such purposes, the District shall pay Wells Branch the cost of construction of any such facilities constructed by Wells Branch to the extent authorized by the Texas Department of Water Resources and permitted by the City's municipal utility district policy. To the extent the District is not permitted to pay Wells Branch for any such facilities, Wells Branch shall dedicate the facilities to the District without compensation.

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## ARTICLE XI

# LAND AND EASEMENT COSTS

Easements and rights-of-way needed for District purposes within the District will be dedicated to the District by Wells Branch or its assigns. The District may acquire land from Wells Branch in accordance with the rules of the Texas Department of Water Resources. Land and rights-of-way outside the District needed by the District may be acquired by the District in accordance with the usual and customary public purchasing standards and procedures applicable to the District.

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## ARTICLE XII

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## ASSIGNMENT OF CONTRACT

Wells Branch from time to time may transfer, convey or assign its rights and obligations under this Contract with respect to all or any part of the land owned by it. Upon prior approval by the City of the assignee or assignees (which approval will not be unreasonably withheld), and only upon the condition that the assignee or assignees assume the liabilities, responsibilities and obligations of this Contract, the party assigning this Contract ahall be released from the liabilities, responsibilities and obligations under this Contract to the extent of the land involved in the assignment or assignments, or as may be otherwise approved by the City. Neither the District nor the City shall assign this Contract without written consent of each of the other parties hereto.

#### ARTICLE XIII

#### TERM OF CONTRACT

This Contract shall be effective from the date of execution hereof by the City and shall continue in effect for a period of forty (40) years.

#### ARTICLE XIV

#### BENEFITS OF CONTRACT

This Contract is for the benefit of the City, the District, and Wells Branch and shall not be construed to confer any benefit on any other party except as expressly provided herein. This Contract may be executed by the City and Wells Branch prior to creation of the District and shall be binding

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upon said parties for a period of one year pending creation and confirmation of the District and approval and execution of this Contract by the Board of Directors thereof and shall thereafter be binding upon all parties in accordance with its terms.

IN WITNESS WHEREOF each of the parties has caused this Contract to be executed by its duly authorized representative, in multiple copies, each of equal dignity, on the date or dates indicated below.

CITY OF AUSTIN, TEXAS

a.a.l BY: Manager City

Executed on 113 , 1981.

NORTH AUSTIN GROWTH CORRIDOR MUNICIPAL UTILITY DISTRICT NO.1

A. Board of Directors resident.

Executed on <u>4/13</u>, 1981.

WELLS BRANCH, a Joint Venture

It duly authorized Manager , 1981. Executed on 17

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