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City of Austin

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March 22, 2018

Joshua Barron, Staff Attorney
Public Utility Commission
Legal Division
1701 N. Congress Ave.
Austin, TX 78701

RE: Docket No. 47229 for City of Austin Application to Amend a Water Certificate of Convenience and Necessity and to Decertify Sunfield Municipal Utility District No 4 in Hays County

Dear Mr. Barron:

This letter is being provided to address the Commission Staff's concerns regarding typographical errors discovered within the City of Austin's filing of March 9, 2018. The first typographical error is found on page 44, the first recital contains a transposed number of CCN No. 11316 that should read CCN No. 13116. The second typographical error found on page 46; section IV contains a transposed number of CCN No. 11316 that should read CCN No. 13116. The third typographical error found on page 47, Section 2 on the top of the page contains a transposed number of CCN No. 11316 that should read CCN No. 13116.

Attached are the above-referenced pages correcting these typographical errors. These typographical errors should not preclude the staff's review of the City's CCN application. If you have any concerns, please call me at 512-974-1354. Thank you for your attention to this matter.

Sincerely,

Maria Sanchez
Maria Sanchez
Assistant City Attorney

Enclosure

WHEREAS, the Texas Commission on Environmental Quality ("TCEQ") has issued Certificate of Convenience and Necessity ("CCN") No. ~~44516~~ ¹³¹¹⁶ to District 4 authorizing it to provide retail water service to approximately 575.7 acres, more or less, in Hays County and Travis County, Texas, which comprises the entire land area of District 2;

WHEREAS, the City and the Districts have determined that it is in the best interest of both Parties and also potential customers in District 2 to allow the City to provide retail water service within the boundaries of District 2;

WHEREAS, the City and the Districts wish to amend the Agreement to allow the City to provide retail water service within the boundaries of District 2;

WHEREAS, the Districts have, by formal action, approved the terms of this First Amendment in open session at meetings held in accordance with the Open Meetings Act;

WHEREAS, the City has by vote of Council approved on final reading the terms of this First Amendment as Ordinance No. 20150910-009 at a meeting held on 10 September 2015 in accordance with the Open Meetings Act; and

WHEREAS, all procedural requirements imposed by state law for the adoption of this Amendment have been met;

NOW, THEREFORE, in consideration of the foregoing premises and the mutual promises and agreements of the parties contained in the Agreement and this First Amendment and other good and valuable consideration, the receipt and sufficiency of which are acknowledged by all of the parties to this First Amendment, the City and the Districts severally and collectively agree and by the execution hereof shall be bound to the obligations and to the performance and accomplishment of the hereinafter described amendments, modifications, alterations and changes to the Agreement in the following respects only and all other terms and conditions remain as stated in the original Agreement.

I.

The **Recitals** of the Agreement are hereby amended as follows:

The current Recital H is relabeled as Recital I.

Add a new Recital H as follows:

H. District 2 held an election 12 May 2007 to (a) confirm creation of District 2, and (b) authorize (i) the issuance of \$12,465,000 bonds for system facilities and the levy of taxes in payment of the bonds, and (ii) the issuance of \$18,700,000 refunding bonds for system facilities and the levy of taxes in payment of the refunding bonds (collectively, the "**Authorized Bond Amounts**").

II.

bonds, except for an initial period not to exceed twenty-four (24) months after issuance of any series of bonds where District 2 may utilize capitalized interest to defer principal retirement;

(3) all new bond issues of District 2 shall have an optional redemption date beginning approximately ten years after issuance of the series of bonds being issued;

(4) the term of refunding bonds of District 2 shall not exceed the original term of the refunded bonds;

(5) a proposed issue of refunding bonds of District 2 shall meet the requirements of the City's approved financial policies in effect at the time of the refunding; and

(6) the proceeds of District 2's bonds may be used for any lawful purpose; provided, however, in regard to District 2 Internal Facilities and the cost of District 2's share of Regional Facilities that are water mains (which are less than or equal to twenty-four (24) inches in diameter), wastewater mains, lift stations, force mains, and associated appurtenances located within District 2 (collectively known as the "Article III. D. (6) Facilities"), such proceeds shall not be used to reimburse any developer expenditure for Article III.D.(6) Facilities by more than seventy percent of the cost of such Article III.D.(6) Facilities. For purposes of this paragraph, "District 2 Internal Facilities" and "District 2's share of Regional Facilities" shall not include the Far South Pressure Zone Facilities (defined in Article VI.B.5. below)

IV.

Article VI (Area of, and Limitations on, Service) of the Agreement is amended by labeling the existing paragraph of Article VI as paragraph "A. Service Limitations." and by adding the following new paragraphs to Article VI:

B District 2 Retail Water Service.

1. Certificate of Convenience and Necessity. Upon approval of a Planned Unit Development Ordinance for District 2 consistent with the Land Plan described in Article IX, the City, District 2, and District 4 shall collectively apply to the Texas Public Utility Commission (the "PUC") for the transfer to the City of the portion of the certificate of convenience and necessity which is referred to as CCN No. ~~11316~~ 13116 issued by the PUC with respect to all retail water service within District 2 in order to allow the City to provide all retail water service

within the geographic area of District 2 (the "District 2 CCN Transfer").

2. Interim Service. The City shall be authorized to provide retail water service within District 2 pending approval of the District 2 CCN Transfer application to the PUC as set forth in this Agreement. Nothing in this Agreement shall in any way impair, or adversely affect District 4's right to provide retail water service to any customers within CCN No. ~~11316~~ ¹³¹¹⁶, excepting District 2, before approval of the District 2 CCN Transfer by the PUC.

3. Application by City for Certification. District 2 and District 4 shall cooperate reasonably with the City in filing an appropriate application for the District 2 CCN Transfer with PUC. District 2 and District 4 shall support and cooperate with the City and PUC to obtain PUC approval of the District 2 CCN Transfer in a reasonably expeditious manner. Neither District 2 nor District 4 shall be responsible for costs associated with preparing and filing the District 2 CCN Transfer application or the pursuit of regulatory approvals, all of which such costs shall be paid by the City. District 2 and District 4, at no cost to the City, shall provide necessary signatures, information, and testimony required for the District 2 CCN Transfer application, documentation if required by PUC to confirm closing of the transaction, and shall cooperate in all respects in prosecuting the District 2 CCN Transfer application and in attempting to ensure that it is granted by PUC.

4. Customers in Certification Area. All customers, if any, whose place of use of water is currently located within District 2 and who are provided retail water service by the City whether on an interim basis or after approval of the District 2 CCN Transfer, shall be deemed retail water customers of the City for all purposes, and will be provided service in accordance with, and will be subject to, all applicable City rules, design criteria, ordinances, and policies applicable to City retail water service, including, but not limited to, the City's conservation ordinances. Service to customers within District 2 may be curtailed on the same basis as services may be curtailed to any other City retail water customer under applicable City ordinances and policies.

5. Water Service Plan and Utility Infrastructure Review. District 2 has submitted, and the City has approved, the Water Service Plan for water service to District 2, attached as Exhibit E hereto (the "Water Service Plan"). The Water Service Plan does not expire unless stated so in a future amendment to this Agreement. District 2 and property owners within District 2 shall retain the right to propose to modify the approved Water Service Plan. The approved Water Service Plan contemplates the construction of improvements to create the Far South pressure zone system,