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**DOCKET NO. 49386**

**APPLICATION OF LAS LOMAS  
MUNICIPAL UTILITY DISTRICT  
NO. 4A OF KAUFMAN COUNTY,  
FORMERLY KNOWN AS LAS  
LOMAS MUNICIPAL UTILITY  
DISTRICT NO 4 OF KAUFMAN  
COUNTY AND LAS LOMAS  
MUNICIPAL UTILITY DISTRICT  
NO. 4B OF KAUFMAN COUNTY  
FOR SALE, TRANSFER, OR  
MERGER OF SEWER FACILITIES  
AND CERTIFICATE RIGHTS IN  
KAUFMAN COUNTY**

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**PUBLIC UTILITY COMMISSION**

**OF TEXAS**

**AGREED MOTION TO ADMIT EVIDENCE AND PROPOSED ORDER APPROVING  
SALE AND ALLOWING TRANSACTION TO PROCEED**

**COMES NOW** the Staff (Staff) of the Public Utility Commission of Texas (Commission) representing the public interest, and files this Motion to Admit Evidence and Proposed Order Approving Sale and Allowing Transaction to Proceed, with the agreement of Las Lomas Municipal Utility District No. 4B of Kaufman County (Las Lomas 4B) and Las Lomas Municipal Utility District No. 4A of Kaufman County, formerly known as Las Lomas Municipal Utility District No 4 of Kaufman County (Las Lomas 4A), (collectively, Parties). In support thereof, Staff shows the following:

**I. BACKGROUND**

On March 28, 2019, Las Lomas 4A and Las Lomas 4B (collectively, Applicants) filed an application for sale, transfer, or merger of facilities and certificate rights in Kaufman County, Texas. Specifically, Las Lomas 4B seeks approval to acquire facilities and to transfer sewer service area from Las Lomas 4A under sewer Certificate of Convenience and Necessity (CCN) No. 21007. The requested area includes approximately 6,168 acres and zero customers. The Applicants filed supplemental information on April 9, 2019, June 21, 2019, and September 10, 2019.

On January 23, 2020, Staff filed a recommendation on the transaction recommending approval of the transaction. On March 4, 2020, the Commission ALJ issued Order No. 8, requiring

the Parties to submit a Motion to Admit Evidence and Proposed Order Approving Sale and Allowing Transaction to Proceed by March 24, 2020.

## **II. MOTION TO ADMIT EVIDENCE**

The Parties move to admit the following evidence into the record of this proceeding:

- A. The Applicants' application for sale-transfer, or merger, filed on March 28, 2019 (AIS Item No. 2);
- B. The Applicants' supplemental filing of maps and certificate of convenience and necessity (CCN) boundaries, filed on April 9, 2019 (AIS Item No. 4);
- C. The Applicants' supplemental information in response to Commission Staff's recommendation on administrative completeness, filed June 21, 2019 (AIS Item No. 7);
- D. The Applicants' supplemental information in response to Commission Staff's recommendation on administrative completeness, filed September 10, 2019 (AIS Item No. 14);
- E. Staff's supplemental recommendation on administrative completeness and proposed procedural schedule, filed on October 11, 2019 (AIS Item No. 11);
- F. The Applicants' affidavit of notice and notices of intent to purchase and transfer sewer service area under CCN No. 21007, filed on November 21, 2019 (AIS Item No. 18); and
- G. Staff's recommendation on the transaction, filed January 23, 2020 (AIS Item No. 21).

## **III. PROPOSED ORDER APPROVING SALE AND ALLOWING TRANSACTION TO PROCEED**

The attached Agreed Proposed Order Approving Sale and Allowing Proposed Transaction to Proceed would authorize the transfer to Las Lomas 4B of all Las Lomas 4A's sewer facilities and sewer service area held under CCN No. 21007. The Parties request that the Commission approve the proposed Order.

#### **IV. MOTION TO REQUIRE ELECTRONIC SERVICE**

Pursuant to 16 Texas Administrative Code (TAC) § 22.74(c), the presiding officer may require service by email on motion of a party. On March 16, 2020, the Commission issued an Order Suspending Rules in Docket No. 50664, Issues Related to the State Disaster for the Coronavirus Disease 2019. The Order stated in relevant part: “all parties must file any pleading or document with the Commission solely through the Interchange on the Commission's website and provide notice, by email, to all other parties that the pleading or document has been filed with the Commission, unless otherwise ordered by the presiding officer.” Accordingly, Staff requests that the Commission ALJ issue an order requiring service by electronic mail in this docket. Staff further requests that the Order direct any party to this proceeding who has not previously provided an email address to file a notice informing the parties of the email address to be used for service.

#### **V. CONCLUSION**

The Parties respectfully request that the items listed above be admitted into the record of this proceeding as evidence and that the Order proposed by the Parties be adopted.

**Dated: March 25, 2020**

Respectfully submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS  
LEGAL DIVISION**

Rachelle Nicolette Robles  
Division Director

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**CERTIFICATE OF SERVICE**

I certify that, unless otherwise ordered by the presiding officer, notice of the filing of this document was provided to all parties of record via electronic mail on March 25, 2020, in accordance with the Order Suspending Rules, issued in Project No. 50664.

/s/ John Harrison  
John Harrison

**DOCKET NO. 49386**

<b>APPLICATION OF LAS LOMAS</b>	<b>§</b>	<b>PUBLIC UTILITY COMMISSION</b>
<b>MUNICIPAL UTILITY DISTRICT</b>	<b>§</b>	
<b>NO. 4A OF KAUFMAN COUNTY,</b>	<b>§</b>	<b>OF TEXAS</b>
<b>FORMERLY KNOWN AS LAS</b>	<b>§</b>	
<b>LOMAS MUNICIPAL UTILITY</b>	<b>§</b>	
<b>DISTRICT NO 4 OF KAUFMAN</b>	<b>§</b>	
<b>COUNTY AND LAS LOMAS</b>	<b>§</b>	
<b>MUNICIPAL UTILITY DISTRICT</b>	<b>§</b>	
<b>NO. 4B OF KAUFMAN COUNTY</b>	<b>§</b>	
<b>FOR SALE, TRANSFER, OR</b>	<b>§</b>	
<b>MERGER OF SEWER FACILITIES</b>	<b>§</b>	
<b>AND CERTIFICATE RIGHTS IN</b>	<b>§</b>	
<b>KAUFMAN COUNTY</b>	<b>§</b>	

**PROPOSED ORDER APPROVING SALE AND ALLOWING TRANSACTION TO  
PROCEED**

This Order addresses the March 28, 2019 application of Las Lomas Municipal Utility District No. 4B of Kaufman County (Las Lomas 4B) and Las Lomas Municipal Utility District No. 4A of Kaufman County, formerly known as Las Lomas Municipal Utility District No. 4 of Kaufman County (Las Lomas 4A) (collectively, the Applicants) for the sale, transfer, or merger of facilities and certificate rights in Kaufman County. Las Lomas 4B seeks approval to acquire facilities and to transfer sewer service area from Las Lomas 4A under sewer Certificate of Convenience and Necessity (CCN) No. 21007. On January 23, 2020, Commission Staff recommended that the transaction in this docket be allowed to proceed. The administrative law judge (ALJ) grants that the transaction proposed in this application may proceed and be consummated.

**I. Findings of Fact**

The Commission makes the following findings of fact.

**Applicants**

1. Las Lomas Municipal Utility District No. 4 of Kaufman County (Las Lomas) created by Senate Bill 1894 passed during the 79th Regular Legislative Session.

2. Las Lomas was a conservation and reclamation district created under and essential to accomplish the purposes of Section 52, Article III, and Section 59, Article XVI, of the Texas Constitution and operating pursuant to Chapters 49 and 54 of the Texas Water Code;
3. Las Lomas provided sewer service in Kaufman County under CCN number 21007.
4. On November 6, 2018, the residents of Las Lomas voted to divide Las Lomas into Las Lomas Municipal Utility District Nos. 4A, 4B, and 4C with Las Lomas 4A assuming all contracts, agreement, assets, and liabilities, including sewer CCN number 21007.
5. Lomas Municipal Utility District Nos. 4A, 4B, and 4C have agreed that Las Lomas 4B will serve as the Master District.

**Application**

6. On March 28, 2019, the Applicants filed an application for approval to transfer all of Las Lomas 4A's facilities and service area under sewer CCN number 21007 to Las Lomas 4B, as Master District. Las Lomas 4B will retain CCN number 21007.
7. The Applicants filed supplemental information on April 9, 2019, June 21, 2019, and September 10, 2019.
8. The requested service area subject to this transaction consists of approximately 6,168 acres located approximately 5 miles east of downtown Terrell, Texas, and is generally bounded on the north by US 80; on the east by TX 557; on the south by FM 148 and FM 2578; and on the west by FM 1641.
9. The total service area subject to the transaction comprises approximately 6,168 acres and zero current customers.
10. In Order No. 6, issued on October 17, 2019, the ALJ deemed the application administratively complete.

**Notice**

11. On November 21, 2019, the Applicants filed the affidavit of Joshua A. Bethke attesting that notice was provided to current customers, neighboring utilities, and affected parties on November 20, 2019.
12. In Order No. 7 issued on January 8, 2020, the ALJ deemed the notice sufficient.

**Evidentiary Record**

13. On March 24, 2020, Commission Staff filed a motion to admit evidence on behalf of the parties.
14. In Order No. 9, issued on \_\_\_\_\_, 2020, the ALJ admitted the following evidence into the record: (a) the Applicants' application, filed on March 28, 2019 for sale, transfer, or merger of sewer facilities and certificate rights in Kaufman county; (b) the Applicants' supplemental filing of maps and certificate of convenience and necessity (CCN) boundaries, filed on April 9, 2019; (c) the Applicants' supplemental information in response to Commission Staff's recommendation on administrative completeness, filed June 21, 2019; (d) the Applicants' supplemental information in response to Commission Staff's recommendation on administrative completeness, filed September 10, 2019; (e) Staff's supplemental recommendation on administrative completeness and proposed procedural schedule, filed on October 11, 2019; (f) the Applicants' affidavit of notice and notices of intent to purchase and transfer sewer service area under CCN No. 21007; (g) Staff's recommendation on the transaction, filed January 23, 2020.

**System Compliance—Texas Water Code (TWC) § 13.301(e)(3); 16 Texas Administrative Code (TAC) §§ 24.227(a), 24.239(j)(3)(A), (j)(5)(A)**

15. Las Lomas 4A held discharge Permit No. WQ0014803001 registered with the Texas Commission on Environmental Quality (TCEQ) as Las Lomas Wastewater Treatment Facility.
16. On August 12, 2019, TCEQ transferred discharge Permit No. WQ0014803001 from Las Lomas 4A to Las Lomas 4B.

**Adequacy of Existing Service—TWC § 13.246(c)(1); 16 TAC §§ 24.227(d)(1), 24.239(j)(5)(B)**

17. There is currently no sewer service provided to the requested area. Therefore, these criteria were not considered.

**Need for Additional Service—TWC § 13.246(c)(2); 16 TAC §§ 24.227(d)(2), 24.239(j)(5)(C)**

18. The requested area is already certificated; therefore, these criteria were not considered.
19. This is an application to transfer only existing facilities, customers, and service area.



**Effect of Approving the Transaction and Granting the Amendment—TWC § 13.246(c)(3); 16 TAC §§ 24.227(d)(3), 24.239(j)(5)(D)**

20. Las Lomas 4A and Las Lomas 4B are the only entities affected by this transfer.
21. Any landowners in the area that do not currently receive service from Las Lomas 4A will need to request service from Las Lomas 4B if they require service after the transaction has been completed.

**Ability to Serve; Managerial and Technical—TWC §§ 13.241(a), 13.246(c)(4), 13.301(b), (e)(2); 16 TAC §§ 24.227(a), (d)(4), and 24.239(g), (j)(5)(E)**

22. Las Lomas 4B holds discharge Permit No. WQ0014803001 registered with the TCEQ, which has sufficient capacity to serve the area subject to the transaction.
23. Las Lomas' contracts with Inframark, LLC for the operation of its sewer system.
24. Las Lomas 4B has the managerial and technical capability to provide continuous and adequate service to the area that is the subject of the transaction.

**Feasibility of Obtaining Service from Adjacent Retail Public Utility—TWC § 13.246(c)(5); 16 TAC §§ 24.227(d)(5), 24.239(j)(5)(F)**

25. There are currently no other sewer service providers in the adjacent area.
26. The area subject to the transaction is already certificated to Las Lomas 4A.
27. It is not feasible for an adjacent utility to provide service to the requested area.

**Ability to Serve; Financial Ability and Stability—TWC §§ 13.241(a), 13.246(c)(6), 13.301(b); 16 TAC §§ 24.11(e), 24.227(a), (d)(6), and 24.239(g), (j)(5)(G)**

28. Las Lomas 4B has a debt service coverage ratio of 1.69 which meets the leverage test of greater than 1.25.
29. Las Lomas 4B also meets the operations test. Based on the projected income statement for five years, the first year shows a net loss of (\$12,915); however, net operating income before non-cash depreciation is positive \$327,469, and years 2 to 5 show positive net income.
30. Las Lomas 4B has the financial ability and financial stability necessary to provide

continuous and adequate service to the area that is the subject of the transaction.

**Financial Assurance—TWC §§ 13.246(d), 13.301(c); 16 TAC §§ 24.227(e), 24.239(h)**

31. Serving the future development that is planned in the area subject to the transaction will require the construction of facilities that cost approximately \$120,715,483.
32. Las Lomas 4B and the developer have executed an agreement under which the developer will finance the construction of the infrastructure needed to provide sewer service, and Las Lomas will reimburse the developer out of bond proceeds.
33. Las Lomas 4B is able to issue debt (bonds) to fully reimburse the costs of the sewer infrastructure needed to serve future development the area subject to the transaction.
34. There is no need to require Las Lomas 4B to provide a bond or other financial assurance to ensure continuous and adequate service to the requested area

**Environmental Integrity—TWC § 13.246(c)(7); 16 TAC §§ 24.227(d)(7), 24.239(j)(5)(H) and Effect on Land—TWC § 13.246(c)(9); 16 TAC § 24.227(d)(9)**

35. These criteria were not considered because this transaction is only for the transfer of certificated area. Future construction may minimally affect the environmental integrity and the land.

**Improvement in Service or Lowering Cost to Consumers—TWC § 13.246(c)(8); 16 TAC §§ 24.227(d)(8,) 24.239(j)(5)(I)**

36. These criteria were not considered because there are no current customers in the area subject to the transaction.

**Regionalization or Consolidation—TWC §§ 13.241(d); 16 TAC § 24.227(b)**

37. There are currently no other sewer service providers in the adjacent area.

## **II. Conclusions of Law**

The Commission makes the following conclusions of law:

1. Notice of the application was provided in compliance with TWC §§ 13.246 and 13.301(a)(2), and 16 TAC § 24.239
2. After consideration of the factors in TWC § 13.246(c), Las Lomas 4B has demonstrated adequate financial, managerial, and technical capability for providing adequate and continuous service to the requested area. TWC § 13.301(b).
3. Las Lomas 4B and Las Lomas 4A have demonstrated that transferring the facilities and service area held under sewer CCN number 21007 from Las Lomas 4A to Las Lomas 4B, and the transfer of CCN No. 21007 from Las Lomas 4A to Las Lomas 4B, will serve the public interest and is necessary for the service, accommodation, convenience, and safety of the public. TWC § 13.301(d),(e).

## **III. Ordering Paragraphs**

In accordance with these findings of fact and conclusions of law, the Commission issues the following orders.

1. The transfer is approved and the transaction between applicants may proceed and be consummated.
2. As soon as possible after the effective date of the transaction, but not later than 30 days after the effective date, the applicants must file proof that the transaction has been consummated and customer deposits have been addressed.
3. The applicants have 180 days to complete the transaction.
4. Under 16 TAC § 24.239(o), if the transaction is not consummated within this period, or an extension is not granted, this approval is void and the applicants will have to reapply for approval.
5. The applicants are advised that CCN number 21007 will be held by Las Lomas 4A until the transfer transaction is complete in accordance with the Commission's rules.
6. In an effort to finalize this case as soon as possible, the applicants must continue to file monthly updates regarding the status of the closing and submit documents evidencing that the transaction was consummated.
7. Within 15 days following the filing of the applicants' proof that the transaction has been

consummated and customer deposits, if any, have been addressed, Commission Staff must file a recommendation regarding the sufficiency of the documents and propose a schedule for continued processing of this docket

**SIGNED AT AUSTIN, TEXAS, on the \_\_\_\_\_ day of \_\_\_\_\_, 2020.**

**PUBLIC UTILITY COMMISSION OF TEXAS**

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**ADMINISTRATIVE LAW JUDGE**