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APPLICATION OF LAS LOMAS	§	PUBLIC UTILITY COMMISSION
MUNICIPAL UTILITY DISTRICT	§	
NO. 4B OF KAUFMAN COUNTY AND	§	OF TEXAS
LAS LOMAS MUNICIPAL UTILITY	§	
DISTRICT NO. 4 OF KAUFMAN	§	
COUNTY FOR SALE, TRANSFER, OR	§	
MERGER OF SEWER FACILITIES	§	
AND CERTIFICATE RIGHTS IN	§	
KAUFMAN COUNTY	§	

NOTICE OF APPROVAL

This Notice of Approval addresses the 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 (Las Lomas 4A), and Las Lomas Municipal Utility District 4B of Kaufman County (Las Lomas 4B) for approval of a sale, transfer, or merger of facilities and certificate rights in Kaufman County. The Commission approves the sale and transfer of all of of Las Lomas 4A's facilities and service area under certificate of convenience and necessity (CCN) number 21007 to Las Lomas 4B.

I. Findings of Fact

The Commission makes the following findings of fact.

Applicants

1. Las Lomas 4 was created by Senate Bill 1894, passed during the 79th Regular Legislative Session, was a conservation and reclamation district created under Section 52, Article III, and Section 59, Article XVI of the Texas Constitution, operating under Chapters 49 and 54 of the Texas Water Code (TWC).
2. Las Lomas 4A, 4B, and 4C are municipal utility districts created to provide sewer services in Kaufman County under certificate of CCN number 21007
3. 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, agreements, assets, and liabilities, including sewer CCN number 21007.

4. Las Lomas 4A, 4B, and 4C have agreed that Las Lomas 4B will serve as the master district.
5. Las Lomas 4A was granted a Texas Commission on Environmental Quality (TCEQ) discharge permit, number WQ0014803001. A regional sewer system that will operate under the permit is being developed.
6. On August 12, 2019, the TCEQ transferred discharge permit number WQ0014803001 to Las Lomas 4B.

Application

7. 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 and all of the associated service area to Las Lomas 4B, to be held by Las Lomas 4B as the master district. Las Lomas 4B will retain CCN number 21007
8. On April 9, 2019, June 21, 2019, September 10, 2019, and November 21, 2019 the applicants filed supplemental information.
9. The requested area includes 6,168 acres and no current connections.
10. The requested area is located approximately five miles east of downtown Terrell, and is generally bounded on the north by United States Highway 80; on the east by Texas State Highway Spur 557; on the south by Farm-to-Market (FM) Roads 148 and 2578; and on the west by FM Road 1641.
11. In Order No. 6 filed on October 17, 2019, the administrative law judge (ALJ) found the application administratively complete.

Notice

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

Evidentiary Record

14. On March 25, 2020, the parties filed a joint proposed motion to admit evidence.

15. In Order No. 9 filed on April 14, 2020, the ALJ admitted the following evidence into the record: (a) the application filed on March 28, 2019; (b) the applicants' supplemental filing of maps and CCN boundaries filed on April 9, 2019; (c) the applicants' supplemental information in response to Commission Staff's recommendation on administrative completeness filed on June 21, 2019; (d) the applicants' supplemental information in response to Commission Staff's recommendation on administrative completeness filed on September 10, 2019; (e) Commission 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 number 21007; and (g) Commission Staff's recommendation on the transaction filed on January 23, 2020.
16. In Order No. 12 filed on October 6, 2020, the ALJ admitted the following evidence into the record: (a) the applicants' proof of transaction filed on June 16, 2020; (b) Commission Staff's recommendation on sufficiency of closing documents and proposed procedural schedule filed on July 28, 2020; (c) the applicants' consent forms filed September 15, 2020; and (d) the map and certificates consented to by the applicants.

Sale

17. In Order No. 10 filed on May 20, 2020, the ALJ approved the transaction to proceed and required the applicants to file proof that the transaction had closed and that customer deposits had been addressed.
18. On June 16, 2020, the applicants filed proof that the transaction had been consummated and that there were no customers deposits to be addressed.
19. In Order No. 11 filed on July 28, 2020, the ALJ found the closing documents sufficient.

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

20. Las Lomas 4B has not been under an enforcement action by the Commission, the TCEQ, the Texas Department of Health, the Office of the Attorney General, nor the United States Environmental Protection Agency in the past five years for non-compliance with rules, orders, or state statutes.

21. The applicants have demonstrated a compliance status that is adequate for approval of the sale.

Adequacy of Existing Service—TWC § 13.246(c)(1); 16 TAC §§ 24.227(e)(1), 24.239(h)(5)(A)

22. There is no existing sewer service in the requested area.

Need for Additional Service—TWC § 13.246(c)(2); 16 TAC §§ 24.227(e)(2), 24.239(h)(5)(B)

23. The requested area is already certificated; therefore, this criterion was not considered.

24. 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(e)(3), 24.239(h)(5)(C)

25. The transaction will transfer the requested area to Las Lomas 4B.

26. Las Lomas 4A, 4B, and 4C are the only entities affected by this transfer.

27. Any landowner 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), (e)(4), and 24.239(g), (h)(5)(D)

28. Las Lomas 4B holds TCEQ discharge permit number WQ0014803001 and is capable of meeting the TCEQ's design criteria for sewer treatment plants and the requirements of the TWC.

29. Las Lomas 4B will contract with Inframark, LLC, which employs TCEQ-licensed operators, to operate its sewer system.

30. Las Lomas 4B has the managerial and technical capability to provide continuous and adequate service to the requested area.

Feasibility of Obtaining Service from Adjacent Retail Public Utility—TWC § 13.246(c)(5); 16 TAC §§ 24.227(e)(5), 24.239(h)(5)(E)

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

32. The area subject to the transaction is already certificated to Las Lomas 4A.

33. 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)(4), 13.301(b), (e)(2); 16 TAC §§ 24.11(e), 24.227(a), (e)(6), and 24.239(f),(h)(5)(F)

34. Las Lomas 4B has a debt service coverage ratio that is greater than 1.25, which meets the leverage test.
35. Las Lomas 4B has demonstrated that it has sufficient cash available to cover any projected operations and maintenance shortages in the first five years of operations. Specifically, 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 positive \$327,469, and years two to five show positive net income. Thus, there are no shortages to cover, which meets the operations test.
36. Las Lomas 4B has the financial ability and stability necessary to provide continuous and adequate service to the requested area.

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

37. There is no need to require Tri-County SUD 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(e)(7), 24.239(h)(5)(G)

38. The criterion was not considered because this transaction is only for the transfer of certificated area. Future construct may minimally affect the environmental integrity and the land.

Effect on Land—TWC § 13.246(c)(9); 16 TAC § 24.227(e)(9)

39. The criterion was not considered because this transaction is only for the transfer of certificated area. Future construct 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(e)(8), 24.239(h)(5)(H)

40. These criteria were not considered because there are no existing customers and service is not being provided to the requested in the area subject to the transaction.

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

41. Construction of a new facilities will be necessary for Las Lomas 4B to provide service to the requested area.

42. There are no retail public sewer utilities within one half mile from the outer boundary of the requested area.
43. Las Lomas has complied with the Commission's requirements on regionalization and consolidation.

Map and Certificate

44. On September 15, 2020, Commission Staff emailed to the applicants the final proposed map and certificate related to this docket.
45. On September 15, 2020, the applicants filed their consent form concurring with the map and certificate.
46. The final map and certificate were filed as an attachment to the joint supplemental motion to admit evidence and proposed Notice of Approval filed on September 28, 2020.

Informal Disposition

47. More than 15 days have passed since the completion of notice provided in this docket.
48. No person filed a protest or motion to intervene.
49. Las Lomas 4A, 4B, and Commission Staff are the only parties to this proceeding.
50. No party requested a hearing and no hearing is needed.
51. Commission Staff recommended approval of the application.
52. This decision is not adverse to any party.

II. Conclusions of Law

The Commission makes the following conclusions of law.

1. The Commission has authority over this proceeding under TWC §§ 13.041, 13.241, 13.244, 13.246, 13.251, and 13.301.
2. Las Lomas 4A and Las Lomas 4B are retail public utilities as defined by TWC § 13.002(19) and 16 TAC § 24.3(31).
3. The applicants provided notice of the application that complies with TWC § 13.301(a)(2) and 16 TAC § 24.239 (a) through (c)

4. The Commission processed the application as required by the TWC, the Administrative Procedure Act,¹ and Commission Rules.
5. Las Lomas 4A and Las Lomas 4B have complied with the requirements of 16 TAC § 24.239(k) with respect to customer deposits.
6. Las Lomas 4A and Las Lomas 4B completed the sale within the time required by 16 TAC § 24.239(m).
7. After consideration of the factors in TWC § 13.246(c) and 16 TAC §§ 24.227(e) and 24.239(h)(5), Las Lomas 4B demonstrated adequate financial, managerial, and technical capability to provide continuous and adequate service to the requested area, as required by TWC § 13.301(b) and 16 TAC § 24.239(g).
8. Las Lomas 4A and Las Lomas 4B demonstrated that the transfer of Las Lomas 4A's CCN number 21007 will serve the public interest and is necessary for the service, accommodation, convenience, or safety of the public, as required by TWC §§ 13.246(b) and 13.301(d).
9. Las Lomas 4B must record a certified copy of the certificate granted and map approved by this Notice of Approval, along with a boundary description of the service area, in the real property records of Kaufman County within 31 days of receiving this Notice of Approval and submit to the Commission evidence of the recording. TWC § 13.257(r), (s).
10. It is not necessary for Las Lomas 4B to provide a bond or other financial assurance under TWC §§ 13.246(d) and 13.301(c).
11. Las Lomas 4B must record a certified copy of the certificate granted and map approved by this Notice of Approval, along with a boundary description of the service area, in the real property records of Kaufman County within 31 days of receiving this Notice of Approval and submit to the Commission evidence of the recording, as required by TWC § 13.257(r) and (s).
12. The requirements for informal disposition under 16 TAC § 22.35 have been met in this proceeding.

¹ Tex. Gov't Code §§ 2001.001-.903.

III. Ordering Paragraphs

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

1. The Commission approves the transfer of Las Lomas 4A's sewer service are under CCN number 21007 to Las Lomas 4B, to the extent provided in this Notice of Approval.
2. The Commission transfers sewer CCN number 21007 to Las Lomas 4B.
3. The Commission approves the certificate and map attached to this Notice of Approval.
4. Las Lomas 4B must serve every customer and applicant for service within the approved area under sewer CCN number 21007 that requests sewer service and meets the terms of Las Lomas 4B's sewer service, and such service must be continuous and adequate.
5. Las Lomas 4B must comply with the recording requirements in TWC § 13.257(r) and (s) for the area in Kaufman County affected by the application and submit to the Commission evidence of the recording no later than 31 days after receipt of this Notice of Approval.
6. The Commission denies all other motions and any other requests for general or specific relief, if not expressly granted

Signed at Austin, Texas the 4th day of November 2020.

PUBLIC UTILITY COMMISSION OF TEXAS



GREGORY R. SIEMANKOWSKI
ADMINISTRATIVE LAW JUDGE

Las Lomas Municipal Utility District No. 4B of Kaufman County
Sewer CCN No. 21007
PUC Docket No. 49386

Transferred all of Las Lomas Municipal District No. 4 of Kaufman County, CCN No. 21007 in
Kaufman County



Sewer CCN

 21007 - Las Lomas Municipal Utility District No. 4B of Kaufman County

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Feet



Public Utility Commission of Texas
1701 N. Congress Ave
Austin, TX 78701

Map by: Komal Patel
Date created: August 19, 2020
Project Path: n:\finalmapping\
49386LasLomasMUD4B.mxd



Public Utility Commission of Texas

By These Presents Be It Known To All That

Las Lomas Municipal Utility District No. 4B of Kaufman County

having obtained certification to provide sewer utility service for the convenience and necessity of the public, and it having been determined by this Commission that the public convenience and necessity would in fact be advanced by the provision of such service, Las Lomas Municipal Utility District No. 4B of Kaufman County is entitled to this

Certificate of Convenience and Necessity No. 21007

to provide continuous and adequate sewer utility service to that service area or those service areas in Kaufman County as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 49386 are on file at the Commission offices in Austin, Texas; and are matters of official record available for public inspection; and be it known further that these presents do evidence the authority and the duty of the Las Lomas Municipal Utility District No. 4B of Kaufman County to provide such utility service in accordance with the laws of this State and Rules of this Commission, subject only to any power and responsibility of this Commission to revoke or amend this Certificate in whole or in part upon a subsequent showing that the public convenience and necessity would be better served thereby.

Issued at Austin, Texas, this 4th day of November 2020.