

Control Number: 51023



Item Number: 392

Addendum StartPage: 0



SOAH DOCKET NO. 473-21-0247  
PUC DOCKET NO. 51023

APPLICATION OF THE CITY OF §  
SAN ANTONIO, ACTING BY AND § BEFORE THE STATE OFFICE  
THROUGH THE CITY PUBLIC §  
SERVICE BOARD (CPS ENERGY) § OF  
TO AMEND ITS CERTIFICATE OF § ADMINISTRATIVE HEARINGS  
CONVENIENCE AND NECESSITY §  
FOR THE PROPOSED SCENIC §  
LOOP 138-KV TRANSMISSION LINE §

**TOUTANT RANCH, LTD., ASR PARKS, LLC, PINSON INTERESTS LTD. LLP,  
AND CRIGHTON DEVELOPMENT CO.'S STATEMENT ON ROUTE ADEQUACY  
AND REQUEST FOR APPROVAL OF PROPOSED AGREED AMENDMENTS TO  
CPS ENERGY'S APPLICATION**

**I. INTRODUCTION**

Toutant Ranch, Ltd., Pinson Interests Ltd. LLP, and Crighton Development Co.<sup>1</sup> (collectively "Developers") are in the business of developing large tracts of unimproved ranchland into residential communities in the northwestern end of the study area. Developers' properties are extensive,<sup>2</sup> and taken together, they form a contiguous whole that (along with completed developments Pecan Springs Ranch and Anaqua Springs) was once a single large ranch.<sup>3</sup> Figure 1 shows Developers' directly impacted properties outlined in yellow:

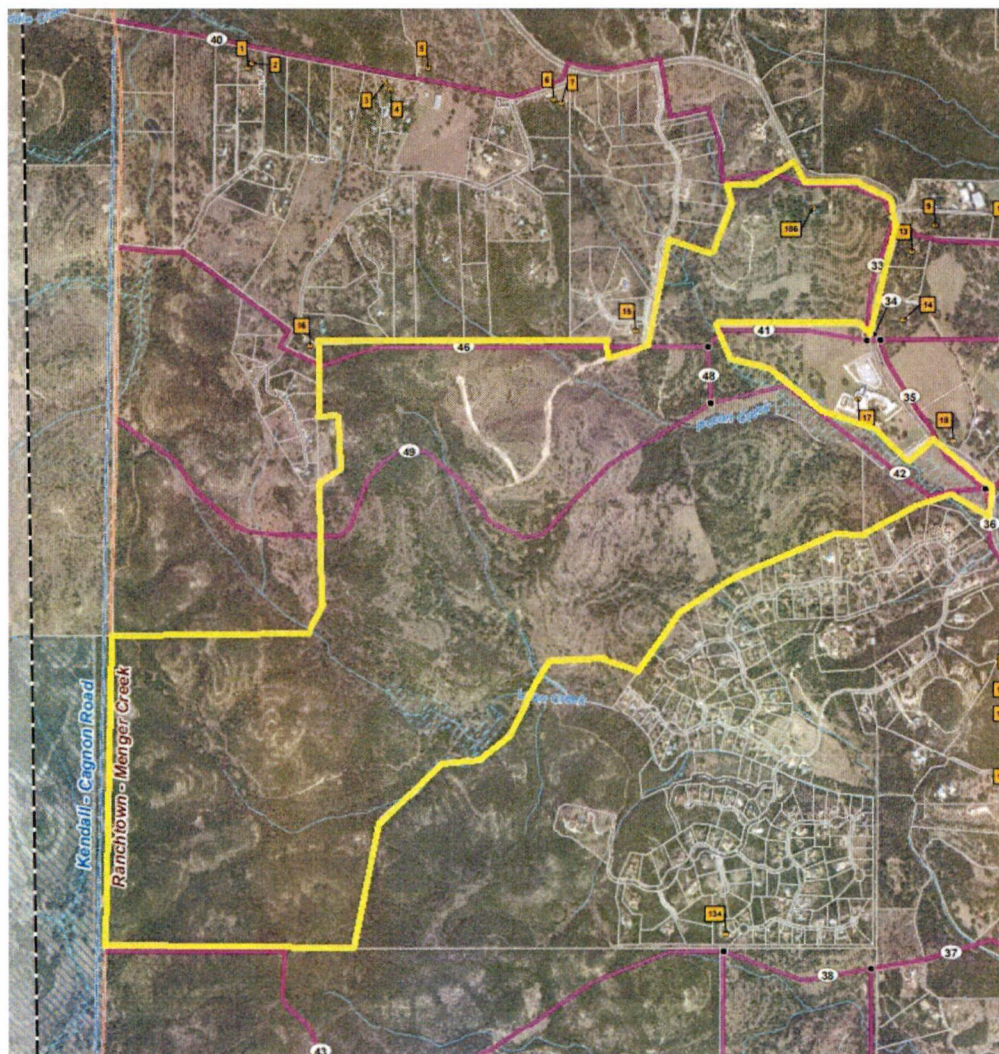
<sup>1</sup> Pinson Interests Ltd. LLP and Crighton Development Co. have intervened pursuant to a pending Supplemental Motion to Intervene that was filed on November 9, 2020 (Interchange #377). No party objected to that motion.

<sup>2</sup> Developers own the following tracts: A-086, A-158, A-164, A-166, B-004, B-005, B-007, B-009, B-011, B-041, B-043, F-029, and G-001.

<sup>3</sup> Developers' co-intervenor, ASR Parks, LLC, owns and maintains several tracts of greenbelt space in and around the Anaqua Springs subdivision.

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**Figure 1: Outline of Developers' Directly Impacted Properties**<sup>4</sup>



Developers believe that CPS Energy's proposed routing options across the center of Developers' properties along Segments 42, 48, 46, and 49 are inadequate and unnecessarily interfere with Developers' business. Over the past few months, Developers have worked with CPS Energy to come up with new, *agreed* routing options that *only impact Developers' property*, as described in an agreement between Developers and CPS Energy that is attached to this filing as Exhibit 1. These agreed routing options will mitigate the impact of this project on Developers' business and allow them to accept a significant portion of the proposed transmission line on their

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<sup>4</sup> Map Excerpt from CPS Energy's Application Attachment 1 (Environmental Assessment) at Figure 4-1.

land. The purpose of this filing is to solicit other parties' comments on these agreed routing options and request that the administrative law judges (ALJs) order CPS Energy to amend its Application to include them.

CPS Energy should be required to amend its Application to incorporate these agreed routing options because the uncertainty created by the current proposed transmission line paths across Developers' properties is severely impacting Developers' business.<sup>5</sup> Before CPS Energy announced this transmission project, Developers had already invested significant capital to design, plan, and lay infrastructure for three new developments—Pecan Springs Ranches Unit 3, which is sandwiched between proposed segments 46 and 49 and already visible on the map above, and Pecan Springs Units 1 and 2, which are located between Segment 49 and the existing Anaqua Springs community to the southeast.<sup>6</sup> Uncertainty related to where this transmission project will be located is preventing Developers from selling completed home sites, and holding many millions of dollars of un-sellable inventory is stressing Developers' finances and impacting their ability to continue building out their planned subdivisions.<sup>7</sup> Unless the Commission orders CPS Energy to amend the routing options across Developers' properties, this transmission line project will continue to impede Developers' business until this case concludes, which will be next summer at the earliest.

Developers' proposed amendments to CPS Energy's routing options are shown below in Figure 2. Counsel for Developers is authorized to represent that CPS Energy supports these proposed changes and Commission Staff is unopposed.

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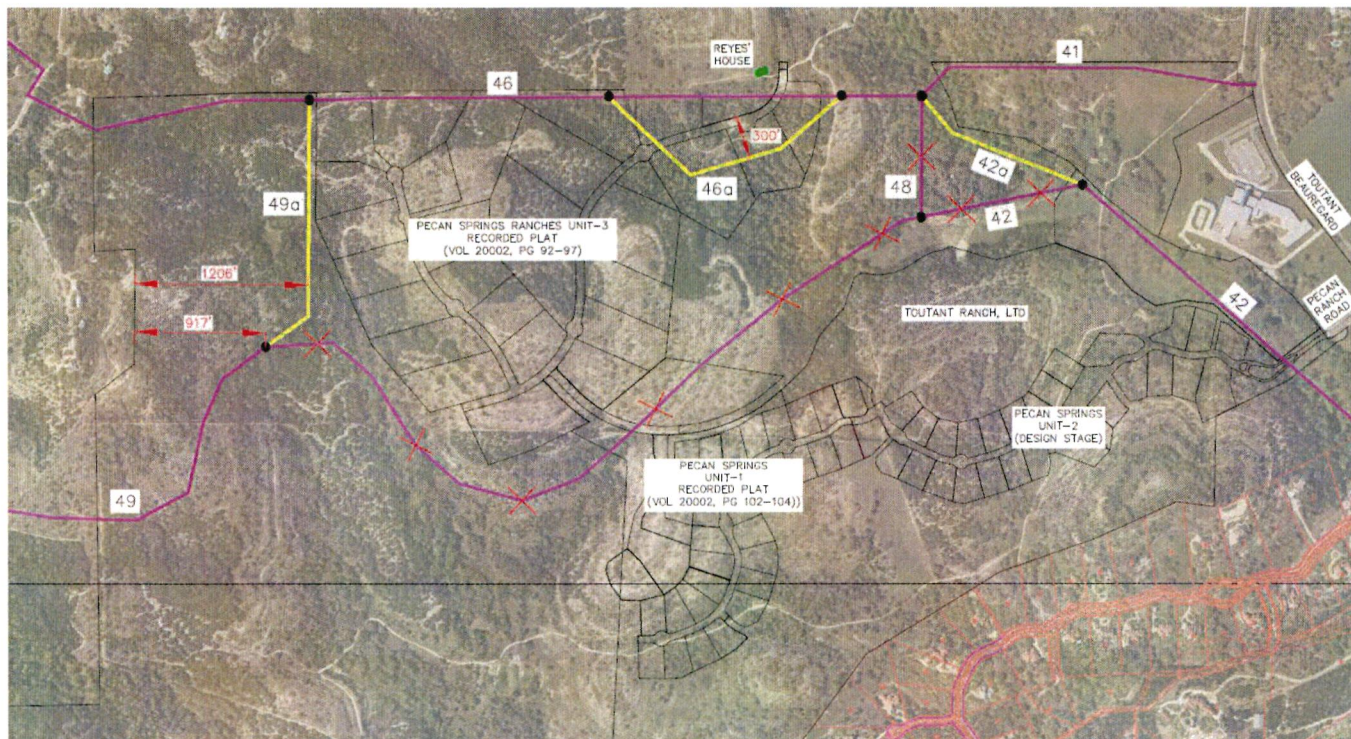
<sup>5</sup> See Exhibit 2 (Affidavit of Taylor Dreiss).

<sup>6</sup> Figure 2 below shows the locations of these developments.

<sup>7</sup> See Exhibit 2 (Affidavit of Taylor Dreiss).



**Figure 2: Agreed Changes to CPS Energy's Proposed Routing Options<sup>8</sup>**



As shown in Figure 2, Developers have agreed to add Segments 42a, 46a, and 49a to create new, adequately differentiated routing options across their properties. The rationale for each of Developers' proposed additions is discussed in detail below, but in general, these new routing options are designed to minimize unnecessary encroachment on Developers' tracts, avoid directly impacting an existing home, and keep the proposed segments far from established communities. Additionally, the agreed routing options would render proposed Segment 48 and portions of proposed Segments 42 and 49 unnecessary, so those segments should be removed as shown above. Removing those unnecessary paths across Developers' property will eliminate some of the uncertainty surrounding this transmission line project and provide Developers with a viable path forward for their subdivision projects while this case is being litigated. Importantly, *these changes will not impact the total number of routes available for the Commission to select,*<sup>9</sup> and CPS

<sup>8</sup> See Exhibit 1 (Agreement Between Developers and CPS Energy) at 5 (Map).

<sup>9</sup> Instead, any route that would have followed Segment 46 would use Segment 46a, and any route that would have followed Segments 42-49 would use Segments 42a-46a-49a.

Energy's amended Application will continue to present reasonably differentiated paths across Developers' property.

Incorporating these proposed amendments into CPS Energy's Application is in the public interest and will not negatively impact other parties to this case. Critically, ***Developers are the only landowners who would be directly impacted by these new routing options***, and the proposed changes are far enough from any other landowner that CPS Energy will not be required to issue additional notice.<sup>10</sup> Further, ***Developers will donate sufficient right-of-way (ROW)<sup>11</sup> to offset any incremental costs associated with the new routing options***,<sup>12</sup> and will ensure that the existing cost differential between routes that use Segment 46 and those that use Segment 49 remains the same, so as to not prejudice any other party's arguments in this proceeding.<sup>13</sup> Finally, if the ALJs order CPS Energy to amend its Application as described in Exhibit 1, ***Developers would be willing to accept a large portion of this transmission line on their properties,<sup>14</sup> and would provide any necessary right-of-way (ROW) across their properties to CPS Energy at a significant discount.***<sup>15</sup>

Developers are submitting this filing to give other parties an opportunity to comment on these proposed changes within the context of the existing procedural schedule, and to allow the ALJs to review and approve these agreed changes to CPS Energy's Application well in advance of testimony deadlines. To that end, Developers request that other parties be required to submit any comments on this filing when responses to route adequacy comments are due on Thursday,

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<sup>10</sup> All ROW would be on Developers' property and none of the proposed new segments pass within 300 feet of a habitable structure (or even the boundary line of a tract that contains a habitable structure). Accordingly, CPS Energy would not be required to issue additional notice under PUC Proc. R. § 22.52(a)(3).

<sup>11</sup> In addition to the ROW that Developers have already agreed to donate along Segment 42, as discussed in CPS Energy's Application.

<sup>12</sup> Developers have agreed to donate additional ROW as necessary to accomplish this goal. *See* Exhibit 1 (Agreement Between Developers and CPS Energy) at 2-3.

<sup>13</sup> *Id.* at 3.

<sup>14</sup> Under the terms of Developers' agreement with CPS Energy, if the Application is amended as shown above in Figure 2, Developers will support the placement of a transmission line along either available path from the node of Segments 41, 42a, and 46a to the west. In other words, Developers would support the transmission line crossing their properties along either Segment 46a or Segments 46a-49a-49. *Id.* at 2.

<sup>15</sup> Developers have agreed that if the Commission ultimately selects a route that involves these new routing options, Developers will provide all necessary ROW across their properties that it does not donate pursuant to this or a prior agreement at 80% of CPS Energy's assumed ROW cost or the appraised value of that ROW, whichever is lower. *Id.* at 3-4.

December 3<sup>rd</sup>.<sup>16</sup> Additionally, if necessary, Developers would be willing to present a witness for live direct and cross examination during a route adequacy hearing on December 10<sup>th</sup>. After that date, Developers request that the ALJs issue an order requiring CPS Energy to amend its Application, consistent with the agreement attached to this pleading as Exhibit 1.

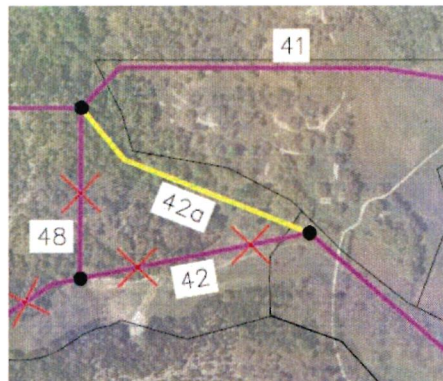
## II. ARGUMENT AND AUTHORITIES

### A. The ALJs should order CPS Energy to amend its Application to reflect its agreement with Developers.

#### i. *Developers' agreed routing options are reasonable and should be incorporated into CPS Energy's Application.*

Developers' agreement with CPS Energy contemplates the addition of three new route segments to create adequate paths across Developers' property: Segments 42a, 46a, and 49a. As shown below, these new segments are located *entirely on Developers' property* and would not pass within 300 feet of any habitable structure.<sup>17</sup> As described below, these agreed segments are reasonable and in the public interest, so the ALJs should order CPS Energy to amend its Application to incorporate them.

**Figure 3: Proposed Segment 42a**



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<sup>16</sup> Alternatively, parties should be required to submit responsive comments on Friday, December 4<sup>th</sup> to match the Commission's standard five working-day deadline for responsive pleadings. *See* PUC Proc. R. § 22.78(a) ("Unless otherwise specified by statute, by this chapter, or by order of the presiding officer, a responsive pleading, if made, shall be filed by a party within five working days after receipt of the pleading to which the response is made.").

<sup>17</sup> Accordingly, CPS Energy would not be required to issue additional notice for these proposed changes under PUC Proc. R. § 22.52(a)(3).



Segment 42a would connect the existing path of Segment 42 directly to the node of proposed Segments 42, 46, and 48. This change is reasonable because it provides a more direct path than using the end of proposed Segment 42 and Segment 48, decreases the length of any route that uses Segment 42, and eliminates two heavy turning structures at the ends of proposed Segment 48. It also avoids unnecessarily isolating a corner of Developers' Tract A-086. As with all of Developers' proposed changes, all of the ROW for Segment 42a would be on Developers' property, and the line would not pass within 300 feet of any habitable structure.

**Figure 4: Proposed Segment 46a**



Segment 46a is designed to avoid the home of Ismael and Evangelina Reyes.<sup>18</sup> The Reyeses' home is located at the south end of Developers' completed Pecan Springs Ranches Unit 2, and Developers recently sold the Reyeses their home site. As proposed, Segment 46 would cut across the Reyeses' back yard and pass 174 feet from their home.<sup>19</sup> Developers have agreed to Segment 46a to minimize the impact of this line on their prior customers. Segment 46a is located well inside Developers' property and, as shown above, would bisect multiple established home sites in Developers' newer Pecan Springs Ranches Unit 3 rather than following the northern boundary of that development, as CPS Energy originally proposed. This concession from Developers will ensure that Segment 46a will be at least 300 feet from the Reyeses' property line, and well over 300 feet from their home. As such, if CPS Energy is ordered to amend its

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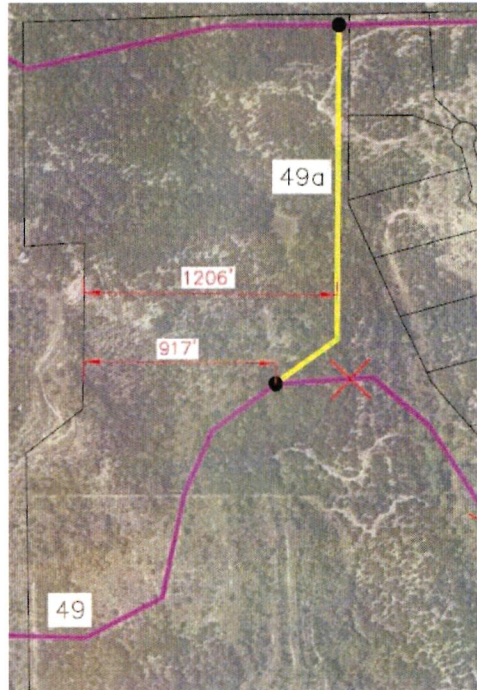
<sup>18</sup> The Reyes home is marked as Habitable Structure #15 on CPS Energy's maps.

<sup>19</sup> See Environmental Assessment at Page C-39.



Application as requested in this filing, the Reyes family's property would no longer be directly affected by the proposed transmission line.

**Figure 5: Proposed Segment 49a**



Segment 49a provides a pathway to connect Segment 46a to the western portion of Segment 49, while staying as far as possible from the established High Country Ranch community to the west of Developers' property. This proposed segment is located entirely on Developers' Tract B-004, and would back up to the western edge of Developers' Pecan Springs Ranches project on Tract B-005. At its closest point, Segment 49a would be approximately 917 feet from the eastern edge of the High Country Ranch subdivision, and is generally over 1,200 feet inside Developers' western property boundary.

- ii. ***In light of Developers' willingness to agree to a transmission line path across their property, it is reasonable for CPS Energy to remove unnecessary segments on Developers' property from its Application.***

The Commission has traditionally encouraged utilities to work with landowners where possible to develop agreed transmission line paths through their properties. Such agreements minimize controversy in CCN proceedings and allow landowners to effectively manage the impact of transmission infrastructure on their land. Developers have agreed to support a reasonable path

across their property that renders proposed Segment 48 and portions of proposed Segments 42 and 49 unnecessary.<sup>20</sup> As such, the Commission should order CPS Energy to amend its Application to remove those unnecessary segments. As mentioned above, the uncertainty surrounding whether the line will travel to the north or south of Developers' Pecan Springs Ranches community is preventing Developers from selling established home sites while this proceeding is pending, which is stressing their finances and interfering with their ability to effectively manage their ongoing subdivision projects.<sup>21</sup> Removing the now-unnecessary eastern portion of Segment 49 will provide Developers with the certainty that they need to effectively continue their business while this case is pending. Importantly, eliminating the unnecessary portions of Segments 42, 48, and 49 will not change the total number of routes available for the Commission to consider. Instead, routes that would have followed Segments 42-48 would use agreed Segment 42a, and routes that would have followed Segments 42-49 would use agreed Segments 42a-46a-49a. All potential paths entering and leaving Developers' property would remain the same.

***iii. Developers have agreed to bear any incremental costs associated with their agreed routing options.***

Developers are not asking for a handout from the Commission. To the contrary, they have agreed to donate additional ROW across their properties<sup>22</sup> as necessary to offset any incremental cost associated with their requested modifications.<sup>23</sup> Accordingly, electric ratepayers will not bear any additional costs as a result of Developers' agreement with CPS Energy.

***iv. Developers have agreed to maintain the existing cost differential between routes that use Segment 46 and those that use Segment 49.***

In an effort to avoid prejudicing other parties' litigation positions, Developers have agreed to donate additional ROW as necessary to ensure that the proposed amendments to CPS Energy's Application will not change the cost differential between routes that end on Segment 46 and routes

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<sup>20</sup> As noted above, Developers have agreed to support the Commission routing a transmission line along any path that travels west from the node of Segments 41, 42a, and 46a. That said, Developers have reserved their right to support routes that reach that node via either Segment 41 or Segment 42a. See Exhibit 1 (Agreement Between Developers and CPS Energy) at 2.

<sup>21</sup> See Exhibit 2 (Affidavit of Taylor Dreiss).

<sup>22</sup> In addition to the ROW that Developers previously agreed to donate along proposed Segment 42, as discussed in CPS Energy's Application. See *id.* at 1.

<sup>23</sup> *Id.* at 2-3.

that end on Segment 49.<sup>24</sup> In CPS Energy's Application, it estimates that using Segments 42-48-46 will cost \$57,133 less than using Segments 42-49.<sup>25</sup> If CPS Energy amends its Application to incorporate Developers' agreed routing options, Developers have committed to donate ROW such that routes which follow agreed Segment 46a and terminate along Segment 46 to the west will cost \$57,133 less than routes that follow agreed Segment 49a and terminate along Segment 49 to the west. That will ensure that Developers' agreement with CPS Energy will not impact the relative litigation positions of parties whose properties are located to the west of Developers'.

**v. *Developers' agreement with CPS Energy is in the public interest because it would decrease CPS Energy's cost of acquiring transmission ROW across Developers' property.***

Developers have agreed that if the Commission selects a route that involves any of Segments 42a, 46a, or 49a, Developers will forego the condemnation process and provide all necessary, non-donated<sup>26</sup> ROW across their properties at a 20% discount compared to CPS Energy's assumed cost of ROW.<sup>27</sup> While CPS Energy has not yet calculated the estimated value of this concession, it will undoubtedly save ratepayers a substantial sum if the Commission ultimately selects a route that crosses Developers' property. Depending on which path the Commission selects, there could be roughly *two miles* of non-donated ROW on Developers' property. Additionally, Developers have agreed to waive any claim to remainder damages to the established home sites in its Pecan Springs Ranches Unit 3. It is in the public interest for CPS Energy to capture these potential savings for ratepayers by amending its Application pursuant to its agreement with Developers.

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<sup>24</sup> *Id.* at 3.

<sup>25</sup> This is the difference between CPS Energy's cost estimates for proposed Route Z (Sub 7-54-20-36-42-48-46) and Proposed Route AA (Sub 7-54-20-36-42-49). *See* Application, Attachment 3.

<sup>26</sup> Developers previously agreed to donate 2,059 feet of ROW along Segment 42, and have agreed to donate additional ROW as necessary to offset any incremental costs associated with their agreed routing options and maintain existing cost differentials between routes that use Segment 46 and Segment 49. *See* Exhibit 1 (Agreement Between Developers and CPS Energy) at 1.

<sup>27</sup> Or the appraised value of that ROW, whichever is lower. *Id.* at 3-4.



**B. The ALJs should review and approve these agreed amendments to CPS Energy’s Application through the existing route adequacy process.**

The ALJs should review Developers’ agreed routing options and order CPS Energy to adopt them in the context of the route adequacy process contemplated in the procedural schedule. While this is not a traditional route adequacy challenge, Developers believe that because this pleading requests amendments to CPS Energy’s application that would incorporate new routing options, it fits within the scope of route adequacy. The Commission’s Preliminary Order Issue #1 instructs the ALJs to consider whether CPS Energy’s Application contains an adequate number of “reasonably differentiated” routes. It is Developers’ position that the current proposed route options across Developers’ property are not differentiated in a reasonable way in light of Developers’ agreement to accept the line in a particular location. As part of the route adequacy analysis, the ALJs are instructed to consider “the locations of the proposed transmission line” and “the facts and circumstances specific to the geographic area under consideration.”<sup>28</sup> Here, the facts and circumstances specific to Developers’ properties—in particular, the ongoing impacts that the proposed routing options are having on Developers’ business—demonstrate that the existing routing options across Developers’ property are not reasonable and should be amended. As noted above, Developers’ proposed agreed amendments to CPS Energy’s Application will not change the number of routes available for the Commission to consider.

Even if the ALJs believe that this pleading does not present a route adequacy issue, they should construe it as a request to add a new issue to this proceeding and then consider that issue in conjunction with route adequacy. Under the Commission’s Preliminary Order, “[t]he parties and the ALJ are free to raise and address any issues relevant to this docket that they deem necessary.”<sup>29</sup> For Developers, obtaining amendments to CPS Energy’s Application is not just necessary, but essential for the continued health of their businesses. It would be appropriate for the ALJs to consider Developers’ proposed amendment to CPS Energy’s Application using the same deadlines that the parties agreed to for route adequacy challenges. However, if the ALJs

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<sup>28</sup> Docket No. 51023, Order of Referral and Preliminary Order at 3 (Sept. 29, 2020).

<sup>29</sup> *Id.* at 5.

were to rely on the standard five working-day deadline for responsive pleadings,<sup>30</sup> then responses to this filing would be due one day later on December 4<sup>th</sup>. In either case, it would be reasonable for the ALJs to consider comments on Developers' agreed routing options in conjunction with any other route adequacy concerns, and if asked to do so, Developers would be willing to present a live witness at the route adequacy hearing scheduled for December 10<sup>th</sup>.

### III. CONCLUSION

Developers are willing to agree to accept this transmission line along a particular path across their property that *will not impact any other landowner*. Accordingly, Developers should not be required to wait until the end of this proceeding to get any level of certainty about where a transmission line might impact their land. Instead, the ALJs should order CPS Energy to amend its Application in accordance with its agreement with Developers. Those amendments will incorporate new, *agreed* routing options across Developers' property and eliminate unnecessary routing options that are interfering with Developers' ability to effectively conduct their business while this case is pending. As noted above, these agreed changes are contained *entirely* within Developers' properties and would not directly impact any other landowner. Further, Developers will donate additional ROW to offset any incremental costs associated with the new routing options and to keep the cost differential between existing routes the same. Finally, if CPS Energy amends its application to incorporate Developers' agreed routing options, Developers have agreed to accept a large portion of this line on their property and will provide all necessary, non-donated ROW across their property to CPS Energy at a substantial discount. This agreement is in the public interest, and CPS Energy should be ordered to amend its Application to effectuate it.

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<sup>30</sup> See PUC Proc. R. § 22.78(a) ("Unless otherwise specified by statute, by this chapter, or by order of the presiding officer, a responsive pleading, if made, shall be filed by a party within five working days after receipt of the pleading to which the response is made.").

Respectfully submitted,

THOMPSON & KNIGHT LLP

/s/ Michael McMillin

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**ATTORNEYS FOR TOUTANT RANCH, LTD.,  
ASR PARKS, LLC, PINSON INTERESTS LTD.  
LLP AND CRIGHTON DEVELOPMENT CO.**

**CERTIFICATE OF SERVICE**

I, Michael McMillin, Attorney for Toutant Ranch, Ltd., ASR Parks, LLC, Pinson Interests Ltd. LLP, and Crighton Development Co., hereby certify that a copy of the foregoing document was served on all parties of record in this proceeding on this 24<sup>th</sup> day of November, 2020 by hand-delivery, facsimile, electronic mail and/or First Class, U.S. Mail, Postage Prepaid.

/s/ Michael McMillin

Michael McMillin



# Exhibit 1

at the southern end to match the existing curve of Segment 49 as Segment 49 heads to the west.<sup>1</sup>

- ii) **Partial Removal of Segment 49:** Segment 49 to the east the interconnection with new Segment 49a will be removed. The western portion of Segment 49 will remain as proposed.
  - iii) **Creation of Alternative Segment 46a:** Two angles will be incorporated into Segment 46 to create alternative Segment 46a on Developers' Tracts B-005 and B-007 such that the centerline of Segment 46a will stay at least 300 feet from the boundary of Tract B-013 (the "Reyes Tract") and well over 300 feet from Habitable Structure 15 (the "Reyes Home").
  - iv) **Creation of Segment 42a:** A new Segment 42a will be created to connect the existing node of Segments 41, 46, and 48 directly to existing Segment 42 on Tract B-041 before Segment 42 turns from the northwest to the west. This new segment will travel as straight as possible while retaining all ROW on Developers' property and staying at least 300 feet from any habitable structure.
  - v) **Elimination of Segment 48:** Segment 48, which would be unnecessary following the addition of Segment 42a and the partial removal of Segment 49 will be removed.
- 3) **CPS Energy Agreement to Route Adequacy Proposal:** CPS Energy will file a pleading following the filing of Developers' route adequacy proposal acknowledging the proposal and expressing support and agreement with the changes proposed. CPS Energy agrees, following issuance of an order from the ALJs requiring the proposed adjustments, to amend its Application in Docket No. 51023 to incorporate the modifications depicted on Exhibit A.
- 4) **Staff Non-Opposition:** CPS Energy's agreement to file in support of the Developers' route adequacy proposal is contingent on Staff expressing support for the proposal, or at a minimum agreeing not to oppose the proposal.
- 5) **Agreement to Support Routing Options:** Developers<sup>2</sup> agree to support the Commission routing the line down either Segment 46 Modified (full length) or Segments 46 Modified (partial)-49a-49 (western portion), but do not commit to a position regarding the remainder of the route to the south or east of the eastern node of Segment 46. Developers reserve their right to argue that the Commission should reach Segment 46 Modified by following a path that includes Segment 41.
- 6) **No Net Cost Increase:** Developers agree to donate additional ROW as necessary to offset any net cost increase that results from Developers' requested modifications. The parties agree that the "net cost increase" will be calculated as follows:
- a) If the Commission uses Segment 42a-46 Modified (full length):
    - i) The cost of Segment 42a minus the cost of proposed Segments 42 and 48; plus

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<sup>1</sup> At its closest point, the centerline of Segment 49a will be approximately 917 feet from the western boundary of Tract B-004.

<sup>2</sup> As well as all other legal entities owned or controlled by Developers.

**Agreement Regarding Agreed Route Modifications and Amendment to Application**  
CPS Scenic Loop CCN, Docket No. 51023

Parties:

- CPS Energy
- Toutant Ranch, Ltd., Pinson Interests LTD LLP, and Crighton Development Co. (collectively, "Developers")

Background:

- Developers are in the process of developing residential communities in the northwestern portion of the study area, including along proposed Segments 42, 46, 48, and 49. The presence of multiple potential transmission line paths across Developers' property has severely impacted Developers' business such that Developers believe they need relief before litigation will conclude in Docket No. 51023.
- Developers have asked CPS Energy to amend its Application to eliminate one of the four potential transmission line paths that impact Developers' properties. In exchange, Developers are willing to accept the transmission line on their properties, donate additional ROW as necessary to minimize the impact of their requested modifications, and compromise on the proposed condemnation value of any ROW that is not donated pursuant to this or a prior agreement. The proposed modifications will only impact properties that Developers own or control through various development agreements.

Terms:

- 1) **Prior Agreements:** Developers will honor all prior agreements with CPS Energy, independently of the terms of this agreement, specifically with respect to Developers agreement to donate approximately 2,059 feet of ROW on Segment 42 in the location previously agreed upon.
- 2) **Route Adequacy Proposal:** Developers will present a route adequacy proposal on November 24, 2020 requesting CPS Energy be ordered to amend its application in the manner shown on Exhibit A.
  - a) **It is the parties' intention that the changes shown on Exhibit A will only directly impact land owned by one of the Developers. All ROW for new segments or modifications will fall on land owned by one of the Developers, and the centerline of the new segments or modifications will not pass within 300 feet of any habitable structure.**
  - b) The modifications depicted on Exhibit A are as follows:
    - i) **Segment 49a:** Segment 49a will connect Segment 46 to Segment 49. Segment 49a will originate at the northeastern corner of Developers' Tract B-004, and all associated ROW for Segment 49a will be contained within Tract B-004. Segment 49a will head south from Segment 46 to Segment 49, and will include a single angle



at the southern end to match the existing curve of Segment 49 as Segment 49 heads to the west.<sup>1</sup>

- ii) **Partial Removal of Segment 49:** Segment 49 to the east the interconnection with new Segment 49a will be removed. The western portion of Segment 49 will remain as proposed.
  - iii) **Creation of Alternative Segment 46a:** Two angles will be incorporated into Segment 46 to create alternative Segment 46a on Developers' Tracts B-005 and B-007 such that the centerline of Segment 46a will stay at least 300 feet from the boundary of Tract B-013 (the "Reyes Tract") and well over 300 feet from Habitable Structure 15 (the "Reyes Home").
  - iv) **Creation of Segment 42a:** A new Segment 42a will be created to connect the existing node of Segments 41, 46, and 48 directly to existing Segment 42 on Tract B-041 before Segment 42 turns from the northwest to the west. This new segment will travel as straight as possible while retaining all ROW on Developers' property and staying at least 300 feet from any habitable structure.
  - v) **Elimination of Segment 48:** Segment 48, which would be unnecessary following the addition of Segment 42a and the partial removal of Segment 49 will be removed.
- 3) **CPS Energy Agreement to Route Adequacy Proposal:** CPS Energy will file a pleading following the filing of Developers' route adequacy proposal acknowledging the proposal and expressing support and agreement with the changes proposed. CPS Energy agrees, following issuance of an order from the ALJs requiring the proposed adjustments, to amend its Application in Docket No. 51023 to incorporate the modifications depicted on Exhibit A.
- 4) **Staff Non-Opposition:** CPS Energy's agreement to file in support of the Developers' route adequacy proposal is contingent on Staff expressing support for the proposal, or at a minimum agreeing not to oppose the proposal.
- 5) **Agreement to Support Routing Options:** Developers<sup>2</sup> agree to support the Commission routing the line down either Segment 46 Modified (full length) or Segments 46 Modified (partial)-49a-49 (western portion), but do not commit to a position regarding the remainder of the route to the south or east of the eastern node of Segment 46. Developers reserve their right to argue that the Commission should reach Segment 46 Modified by following a path that includes Segment 41.
- 6) **No Net Cost Increase:** Developers agree to donate additional ROW as necessary to offset any net cost increase that results from Developers' requested modifications. The parties agree that the "net cost increase" will be calculated as follows:
- a) If the Commission uses Segment 42a-46 Modified (full length):
    - i) The cost of Segment 42a minus the cost of proposed Segments 42 and 48; plus

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<sup>1</sup> At its closest point, the centerline of Segment 49a will be approximately 917 feet from the western boundary of Tract B-004.

<sup>2</sup> As well as all other legal entities owned or controlled by Developers.

- ii) The cost of Segment 46 Modified (full length) minus the cost of proposed Segment 46.
  - b) If the Commission uses Segments 42a-46 Modified (partial)-49a-49:
    - i) The cost of Segment 42a minus the cost of proposed Segment 42; plus
    - ii) The cost of Segment 46 Modified (full length) minus the cost of proposed Segment 46;<sup>3</sup> plus
    - iii) The cost of Segment 49a and the portion of Segment 49 to the west of the interconnection with Segment 49, minus the cost of proposed Segment 49.
  - c) If the Commission uses Segment 41-46 Modified (full length):
    - i) The cost of Segment 46 Modified (full length) minus the cost of proposed Segment 46.
- 7) **Maintain Existing Cost Differentials:** Developers agree to donate additional ROW as necessary to maintain the existing cost differential between routes that use Segment 46 and Segment 49.<sup>4</sup> There are two possible scenarios:
- a) **Scenario 1:** The Commission selects a route that uses a variation of Segment 42.
    - i) In the current Application, starting at the node of Segment 36 and Segment 42, using Segments 42-48-46 costs \$57,133 less than using Segments 42-49.<sup>5</sup>
    - ii) If the Commission selects a route that uses a variation of Segment 42, Developers commit to donating additional ROW as necessary to make the estimated cost of using Segments 42a-46 Modified (full length) \$57,133 less than the estimated cost of using Segments 42a-46 Modified (partial)-49a-49.
  - b) **Scenario 2:** The Commission selects a route that uses Segment 41.
    - i) If the Commission selects a route that uses Segment 41, Developers commit to donate additional ROW as necessary to make the estimated cost of using Segments 41-46 Modified (full length) \$57,133 less than the estimated cost of using Segments 41-46 Modified (partial length)-49a-49.
- 8) **ROW Acquisition:** If the Commission selects a route that uses any of the modified segments shown on Attachment A, Developers agree to provide all necessary ROW across Developers' property (including any necessary access easements) that has not been donated pursuant to this (or an earlier) agreement to CPS Energy without resorting to a contested condemnation process. Developers will agree to provide all necessary, non-donated ROW across Developers' property to CPS Energy at the lower value of (1) \$0.40 per square foot, which is a 20% discount off of CPS Energy's assumed cost of ROW along the segments that impact Developers' property; or (2) the value of the ROW along the segments that impact Developers' property pursuant to an independent appraisal for the property right by an one or more appraisers agreed to by

<sup>3</sup> This captures the cost of avoiding the Reyes Tract on 46 Modified (partial).

<sup>4</sup> The magnitude of any associated ROW donation will be determined after CPS develops cost estimates for the new and modified segments described in this agreement.

<sup>5</sup> This is the difference between CPS's cost estimates for proposed Route Z (Sub 7-54-20-36-42-48-46) and Proposed Route AA (Sub 7-54-20-36-42-49). See Application Attachment 3.

the parties. Additionally, Developers will not seek any recovery for damages to the remainder value of any tracts that are impacted by the transmission line, including where Segment 46 Modified crosses Developers' Pecan Springs Ranch, Unit 3 development on Tract B-005.

- 9) CPS agrees that, consistent with the Commission's final order, if a route is approved by the Commission that includes Segment 42a, CPS Energy will work with Developers to make minor route deviations to Segment 42/42a as appropriate to minimize impacts to Developers' activities in the area.

Signed this 23<sup>rd</sup> day of November, 2020.

 (Sign)

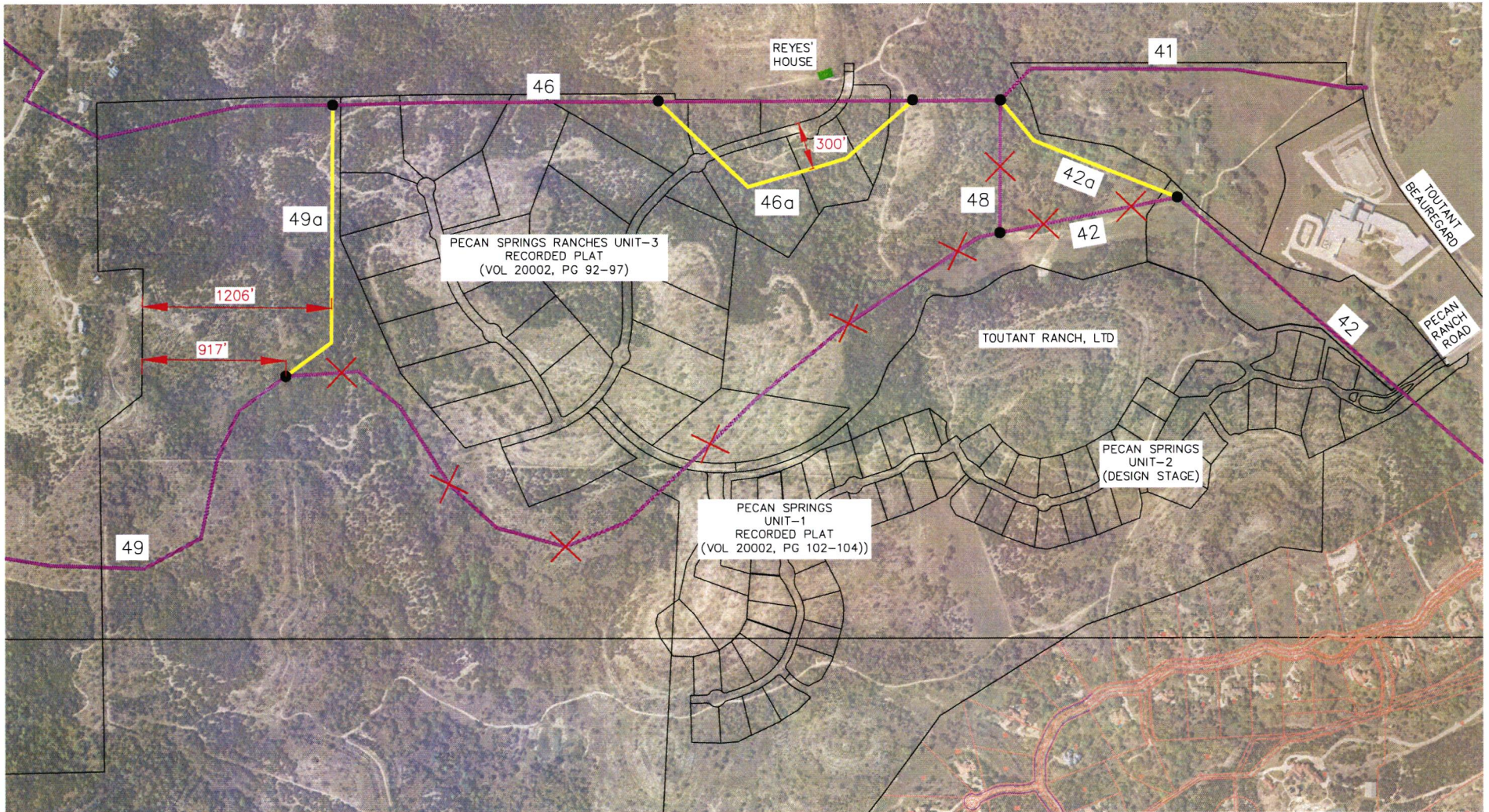
TAYLOR DREISS (Print)  
For Developers

 (Sign)

PAUL BARHAM (Print)  
For CPS Energy



Exhibit A to Agreement Regarding Agreed Route Modifications and Amendment to Application



## Exhibit 2



**SOAH DOCKET NO. 473-21-0247  
PUC DOCKET NO. 51023**

<b>APPLICATION OF THE CITY OF</b>	<b>§</b>	
<b>SAN ANTONIO, ACTING BY AND</b>	<b>§</b>	<b>BEFORE THE STATE OFFICE</b>
<b>THROUGH THE CITY PUBLIC</b>	<b>§</b>	
<b>SERVICE BOARD (CPS ENERGY)</b>	<b>§</b>	<b>OF</b>
<b>TO AMEND ITS CERTIFICATE OF</b>	<b>§</b>	
<b>CONVENIENCE AND NECESSITY</b>	<b>§</b>	<b>ADMINISTRATIVE HEARINGS</b>
<b>FOR THE PROPOSED SCENIC</b>	<b>§</b>	
<b>LOOP 138-KV TRANSMISSION LINE</b>	<b>§</b>	

**AFFIDAVIT OF TAYLOR DREISS**

<b>STATE OF TEXAS</b>	<b>§</b>
	<b>§</b>
<b>COUNTY OF BEXAR</b>	<b>§</b>

Before me, the undersigned authority, on this day personally appeared the person known by me to be Taylor Dreiss who, after being sworn by me, stated as follows:

1. My name is Taylor Dreiss. I am over eighteen years of age, am of sound mind and competent to make this Affidavit. I have personal knowledge of every statement contained in this Affidavit, and every statement contained herein is true and correct and based on my own personal knowledge.

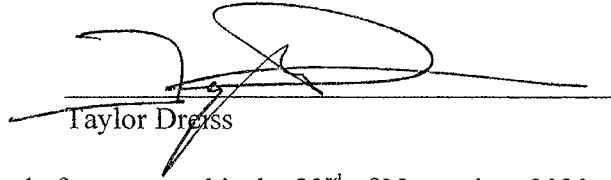
2. Toutant Ranch, Ltd., Pinson Interests Ltd. LLP, and Crighton Development Co. (“Developers”) are in the business of developing large tracts of unimproved ranchland into residential communities in the northwestern end of the study area in the above-captioned transmission CCN proceeding. I am familiar with Developers’ business and directly involved in the development and management of Developers’ ongoing subdivision projects.

3. Developers’ properties would be crossed by multiple routing segments proposed by CPS Energy in the above-captioned docket, including Segments 42, 46, 48, and 49.

4. Before CPS Energy announced this transmission project, Developers had already invested significant capital to design, plan, and lay infrastructure for three new developments—Pecan Springs Ranches Unit 3 and Pecan Springs Units 1 and 2.

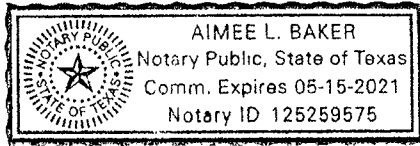
5. Since CPS Energy filed the above-captioned docket, uncertainty related to where the Scenic Loop transmission line could potentially cross Developers’ properties has prevented Developers from selling completed home sites, especially in Pecan Springs Ranches Unit 3, which is sandwiched between proposed Segments 42 and 49.

6. As a result, Developers are holding many millions of dollars of un-sellable inventory, which is stressing Developers' finances and impacting their ability to continue building out their planned subdivisions.



Taylor Dress

SUBSCRIBED AND SWORN to before me on this the 23<sup>rd</sup> of November, 2020 to certify which witness my hand and seal of office.



Aimee L. Baker  
Notary Public