

UTILITY SERVICE AGREEMENT

STATE OF TEXAS §
 §
COUNTY OF BEXAR §

This Utility Service Agreement (“Agreement”) is entered into by and between the San Antonio Water System Board of Trustees, through Resolution Number _____, acting by and through its President/Chief Executive Officer (“SAWS”) and Pecan Springs Development Company, LLC (“Developer”) together the Parties (“Parties”).

Recitals

Whereas, Developer has requested that SAWS provide Water service (the “Services”) to an approximate 245.62-acre tract of land, (the “Pecan Springs Tract” or “Tract”), which is located outside SAWS water CCN, outside SAWS wastewater CCN, and does not require SAWS’ financial participation in the development of infrastructure through oversizing or impact fee credits, therefore, Board action is required; and

Whereas, the Tract is located over the Edwards Aquifer Recharge or Contributing Zone, which is located within the 5-mile Awareness Zone of Camp Bullis, such Tract being more particularly described in Attachment VI hereto, as accepted by SAWS; and

Whereas, SAWS desires to provide the Services to the Developer pursuant to this Agreement, the SAWS Utility Service Regulations, and all applicable local, state, and federal regulations, as amended.

Now Therefore, The Parties Hereto Agree To The Following Terms and Conditions:

1.00 Interpretation of Agreement.

1.01 The Parties acknowledge that the Services contemplated by this Agreement shall be provided in accordance with the SAWS Utility Service Regulations, Design Criteria, Schedules, Attachments and Instruments thereto, as amended (together “USR”). In the event the specific terms of this Agreement are in conflict with the USR, the specific terms of this Agreement shall apply. The above notwithstanding, for the specific conflicting terms to prevail, the conflict must be expressly noted in the Agreement. The Parties further acknowledge that this Agreement is subject to future acts of the City Council of the City of San Antonio with respect to the adoption or amendment of impact fee ordinances/resolutions.

1.02 The Parties agree that the purpose of this Agreement is the reservation of the designated water supply and /or wastewater discharge capacity for the Tract. Any rights that the Developer claims arise under Chapter 245, Texas Local Government Code, that are related to this Agreement shall comply with the Unified Development Code Article IV, Division 1, Chapter 35-410 and applicable requirements in Article VII, Division 2 *Vested Rights*. If Developer intends to rely on this USA as its application for the purposes of vested rights under Chapter 245, then please contact

Development Services Department, Land Entitlement team at 210-207-1111 or 1901 S. Alamo, San Antonio, TX. 78204. In no event shall the Utility Service Regulations replace or conflict with the City's Unified Development Code, Article IV, Division 1, Chapter 35-410 and applicable requirements in Article VII, Division 2 *Vested Rights*.

2.00 Obligation Conditioned.

The obligation of SAWS to provide the Services is conditioned upon present rules, regulations and statutes of the United States of America and the State of Texas and any court order that directly affects the SAWS' Regional Water Production and Distribution System and/or Regional Wastewater Transportation and Treatment System and/or the utility infrastructure directly servicing the Tract. Developer acknowledges that if the rules, regulations and statutes of the United States of America and/or the State of Texas that are in effect upon the execution date of this Agreement are repealed, revised or amended to such an extent that SAWS becomes incapable of, or prevented from, providing the Services, then no liability of any nature is to be imposed upon SAWS as a result of SAWS' compliance with such legal or regulatory mandates. SAWS agrees that it will use its best efforts to prevent the enactment of such legal or regulatory mandates.

3.00 Term.

3.01 The term of this Agreement shall be seven (7) years from the Effective Date if the Developer complies with the requirements set out in G.C. 19.00 (attached) within the time period therein stated. This Agreement shall automatically expire if Developer fails to comply with the requirements of G.C. 19.00 within the time period therein provided. The term of this Agreement may be extended to fifteen (15) years from the Effective Date, if Developer complies with the requirements to extend the term set forth in G.C. 19.00 within the time period therein stated. Certain obligations of SAWS (described in Section 3.03 below) may survive the expiration of the term of this Agreement, to the extent that Developer has (i) paid all applicable impact fees for the Services at the then-current rate, and (ii) complied with all On-Site and Off-Site utility infrastructure requirements of this Agreement (described in the Special Conditions), including over-sizing requirements.

3.02 To the extent that SAWS' obligations do not survive the expiration of this Agreement, Developer understands and agrees that a new Utility Service Agreement must be entered into with SAWS to receive the Services for the development project that is the subject of this Agreement.

3.03 To the extent that Developer timely pays all applicable impact fees and complies with all On-Site and Off-Site utility infrastructure requirements prior to the expiration of this Agreement, the following obligations will survive expiration of this Agreement:

- (i) SAWS' recognition of the EDUs referenced as the subject of this agreement as Guaranteed Capacity.
- (ii) SAWS' continued recognition of impact fee credits previously earned by the Developer pursuant to Sections 15.8 and 15.9 of the USR.

- (iii) SAWS' continued provision of the Services to retail customers located in the Tract, so long as such customers pay for the services and comply with the regulations applicable to individual customers.

4.00 Entire Agreement.

The following documents attached hereto and incorporated herein are as fully a part of this Agreement as if herein repeated in full, together with this Agreement, comprise the Agreement in its entirety:

Attachment I:	General Conditions
Attachment II:	Special Conditions
Attachment III:	Description of Proposed Water and/or Wastewater Infrastructure
Attachment IV:	Board Summary & Recommendation and Resolution (if necessary)
Attachment V:	Developer Water and/or Wastewater Master Plan (if necessary)
Attachment VI:	Engineering Study Including Description of the Tract
Attachment VII:	Lift Station & Force Main Supplemental Agreement (if necessary)
Attachment VIII:	Water Recycling and Conservation Plan (if necessary)

Any of the above attachments that are created and submitted by the Developer as an attachment to this USA shall be limited to providing relevant engineering, planning or managing information for the purposes of setting aside or reserving water and/or wastewater service capacity as specified in the body of this USA, the General Conditions and the Special Conditions. Developer agrees that it will not attempt to rely on, and SAWS does not authorize, any of the contents of any attachments created and submitted by the Developer as a basis for claiming rights under Chapter 245 of the Texas Local Government Code, except as specifically required by Section 1.02 of this USA.

Developer understands that this Agreement, including, its General Conditions, Special Conditions and Attachments, is subject to the Texas Public Information Act; and, therefore, agrees that it will not claim that any of the information contained herein is subject to any third party exception under that Act.

5.00 Developer's Obligations.

The Developer acknowledges and agrees that the capacity provided by this Agreement runs with the land and shall be an appurtenance to the Tract. The Developer acknowledges that recordation of this Agreement in the Real Property Records of the County in which the Tract is located within three (3) years of the Effective Date of this Agreement is required; otherwise, this Agreement will automatically terminate. Developer shall record the Agreement and the delivery of a recorded copy to the Director within three (3) years of the Effective date of this Agreement or before any transfer of property or EDUs as specified in G.C. 20.00, whichever is sooner, is required. The Developer shall maintain records of EDU's remaining on the Tract pursuant to the approved Developer Master Plan. Developer shall provide SAWS with such records upon SAWS written request.

6.00 Indemnity.

TO THE EXTENT ALLOWED BY LAW AND TEXAS CONSTITUTION, THE DEVELOPER FURTHER AGREES TO DEFEND, INDEMNIFY AND HOLD HARMLESS SAWS AND ITS SUCCESSOR AND ASSIGNS FROM THE CLAIMS OF THIRD PARTIES ARISING OUT OF SAWS' RECOGNITION OF THE TRANSFER OF CAPACITY UNDER THIS AGREEMENT TO DEVELOPER'S SUBSEQUENT PURCHASERS, SUCCESSORS AND ASSIGNS.

7.00 Notices.

Any notice, request, demand, report, certificate or other instrument which may be required or permitted to be furnished to or served upon the parties shall be deemed sufficiently given or furnished or served if in writing and deposited in the United States mail, registered or certified, return receipt requested, addressed to such party at the address set forth below:

IF TO SAN ANTONIO WATER SYSTEM:

**SAN ANTONIO WATER SYSTEM
POST OFFICE BOX 2449
SAN ANTONIO, TEXAS 78298-2449
ATTN: TRACEY B. LEHMANN, P.E., DIRECTOR, DEVELOPMENT ENGINEERING**

IF TO DEVELOPER:

**Pecan Springs Development Company, LLC
325 East Sonterra Blvd, Suite 210
San Antonio, Texas 78258
Attn: Taylor Dreiss**

8.00 Severability.

If for any reason any one or more paragraph of this Agreement are held legally invalid, such judgment shall not prejudice, affect impair or invalidate the remaining paragraphs of the Agreement as a whole, but shall be confined to the specific sections, clauses, or paragraphs of this contract held legally invalid.

9.00 Effective Date.

The Effective Date of this Agreement shall be the date signed by the authorized representative of the San Antonio Water System.

10.00 Ownership.

By signing this Agreement the Developer represents and warrants that it is the owner of the Tract or has the authority of the Tract owner to develop the area. Any misrepresentation of authority or ownership by Developer shall make this Agreement voidable by SAWS. If the Developer does not own the Tract, then the Developer must provide documentation from the owner of the Tract to show that Developer has the proper authority to develop the Tract.

ACCEPTED AND AGREED TO IN ALL THINGS:

San Antonio Water System

Developer

Signature: _____

Signature: _____

Print Name: Robert R. Puente

Print Name: _____

Title: President/Chief Executive Officer

Title: _____

Date: _____

Date: _____

ACKNOWLEDGEMENTS

STATE OF TEXAS, COUNTY OF BEXAR

§

BEFORE ME, the undersigned Notary Public, on this day personally appeared _____ known to me to be the person whose name is subscribed to the foregoing instrument and that he has executed the same as _____ for the purposes and consideration therein expressed and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this ____ day of _____, 2019.

(seal)

Notary Public

STATE OF TEXAS, COUNTY OF BEXAR

§

BEFORE ME, the undersigned Notary Public, on this day personally appeared _____ known to me to be the person whose name is subscribed to the foregoing instrument and that he has executed the same as _____ for the purposes and consideration therein expressed and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this ____ day of _____, 2019.

(seal)

Notary Public

GENERAL CONDITIONS OF THE UTILITY SERVICE AGREEMENT

G.C.1.00 Definitions.

G.C.1.01 Developer.

Owner of the tract, his subsequent purchasers, successors, and/or assigns.

G.C.1.02 Director of Development Engineering.

The Director of Development Engineering of the San Antonio Water System or his/her designated representative.

G.C. 1.03 Definition of Terms.

Unless defined in the Utility Service Agreement (the "Agreement"), the terms used in this General Conditions of the Utility Service Agreement (the "General Conditions") shall have the same definitions and meaning as those set out in Chapter 2, Definitions, of the Utility Service Regulations ("USR"). In the event a term is specifically defined in the General Conditions, and the definition is in conflict with that found in the USR, and such conflict is acknowledged in the General Conditions, the definition set out in the General Conditions shall apply.

G.C.2.00 Required Submittals.

If determined to be necessary by the Director of Development Engineering ("Director"), the Developer hereby agrees to submit the following documents prior to the execution of the Agreement: Developer Master Plan, Developer Utility Layout, Water Recycling and Conservation Plan, and Engineering Report. The Parties agree that such documents are included instruments to the Agreement. The submittal of such documents is a condition precedent to plat recordation and initiation of Services. Developer shall modify such documents as may be reasonably required by the Director. Such documents shall be updated as required by the Director and the USR.

G.C.3.00 Dedication to SAWS.

The Developer agrees to dedicate, grant, and convey to SAWS all rights, title and interest of Developer in both the Off-Site and On-Site utility infrastructure that the Developer is required to construct under the Special Conditions of the Utility Service Agreement (the "Special Conditions"), and to dedicate, grant, and convey to SAWS easements for such utility infrastructure. Upon written acceptance of Off-Site and On-Site utility infrastructure by SAWS, the infrastructure shall be owned, operated and maintained by SAWS.

G.C.4.00 Design and Construction Requirements.

The design and construction of all Off-Site and On-Site utility infrastructure shall, at a minimum, comply with the requirements established by SAWS, including the USR, the City of San Antonio, the County of Bexar, the State of Texas, and any agency thereof with jurisdiction, including but not limited to the Texas Commission on Environmental Quality and the Texas Department of Health. Off-Site and On-Site utility infrastructure shall be constructed under the inspection of SAWS. Provision of the Services to the Tract shall not commence until the Director has accepted and approved Off-Site and On-Site utility infrastructure in writing.

G.C.5.00 Joint Venture Agreements.

In the event the Developer enters into a Joint Venture Agreement covering the costs for supplying the Services to the Tract, the Developer shall send a copy of such agreement to the attention of the Director.

G.C.6.00 Assignment.

This Agreement may not be assigned in whole or in part; however, Developer may assign, convey or transfer EDU capacity ("EDU capacity transfer") to buyers of portions of the Tract in accordance with the terms in G.C. 20.00.

G.C.7.00 Event of Foreclosure.

In the event Developer's interest in the Tract described in Attachment VI are extinguished by an act of foreclosure, and the foreclosing party has supplied sufficient evidence to SAWS that they are the successor in interest to the Tract as a result of such foreclosure, and that there are no lawsuits pending concerning the Tract, SAWS shall consider the foreclosing party a successor in interest if the foreclosing party executes a utility service agreement with SAWS after the Director determines that the execution of such an agreement will not be adverse to SAWS' interest.

G.C.8.00 Payment for Provision of Utility Service.

In the event payment for the Services provided to a subdivision plat within the Tract is not billed by SAWS, the amount of the monthly fees for the provision of the Services will be those charged to the various customer classifications as set by City Ordinances, with the billing and collection thereof on behalf of SAWS, being the responsibility of the billing utility purveyor. To facilitate this arrangement, Developer is to insert into any utility agreement with whatever utility purveyor is to bill for utility services to a subdivision plat within the Tract, a provision requiring said purveyor to enter into a Contract with SAWS to bill and collect SAWS' monthly utility services fees and transmit said fees to SAWS. The billing utility purveyor shall advise customers that delinquent non-payment of any of SAWS' fees will result in interruption and/or termination of the Services provided by SAWS, in accordance with applicable interruption and termination policies and procedures, as amended. SAWS shall not be obligated to provide the Services to any plat within the Tract unless and until the utility purveyor has executed a contract with SAWS to provide for the billing and collection of the Services provided by SAWS.

G.C.9.00 Enforcement of Industrial Waste Ordinance if Required by SAWS.

The Developer shall cause to be recorded in the Deed and Plat Records of the counties in which the Tract is located, a restrictive covenant covering the entire Tract. This restrictive covenant shall run with the land in the Tract described in Attachment VI. Such covenant shall contain language expressly granting to SAWS the right, should SAWS so elect, to enforce and or otherwise pursue to the extent provided at law or in equity, the provisions of the City's Industrial Waste Ordinance No. 57214, as amended or as may be amended (codified as Chapter 34, Article V, Division 3 of the City Code). SAWS' right shall include, to the extent provided at law or in equity, the right to inspection, sampling and monitoring of the collection system to assure ordinance compliance.

Recordation of the Covenant shall be a condition precedent for SAWS' provision of the Services to any portion of said Tract.

G.C.10.00 Oversizing.

Developer must pay for all mains and other utility facilities needed to serve the Tract. SAWS may require the installation of oversized water mains and wastewater mains and related facilities. SAWS' requirements for oversizing, if any, are set forth in the Special Conditions. SAWS will execute a trilateral contract with Developer and a contractor for the construction of oversized facilities. Contracts for the construction of oversized facilities must be competitively bid as required by law. All oversizing shall be done in accordance with the USR.

G.C.11.00 Off-Site /On-Site Facilities.

Developer shall construct and install all required Off-Site and On-Site utility infrastructure in accordance with the USR and Special Conditions, at no cost to SAWS. Any specific requirements related to the facilities are set forth in the Special Conditions.

G.C.12.00 Impact Fee Payment.

Developer agrees that the Agreement does not constitute an assessment of impact fees. Developer agrees to pay all applicable impact fees at the time and in the amount prescribed by ordinance or resolution of the City Council of the City of San Antonio and the USR, as amended. An estimate of the impact fees for the development Tract is provided in the Special Conditions. The estimate does not constitute an assessment of impact fees, and the amount of impact fees is subject to change by the City Council of the City of San Antonio as provided by law.

G.C.13.00 SAWS' Obligation to Supply Service.

To the extent that Developer pays all applicable impact fees and complies with all Off-Site and On-Site utility infrastructure requirements, Developer shall be entitled to the permanent use and benefit of the Services and is entitled to receive immediate service from any existing facilities with actual capacity to serve the development for which impact fees were paid, subject to compliance with other valid regulations. If, after collecting the impact fees, there is no actual capacity in existing facilities to provide the Services, SAWS will provide the Services within a reasonable period of time not to exceed five (5) years, as prescribed by Chapter 395 of the Local Government Code, as amended. In the event Services are required by Developer earlier than the five (5) year period, Developer and SAWS may agree that Developer may construct or finance the capital improvements or facility expansions required to provide Services, and the costs incurred or funds advanced will be credited against impact fees otherwise due from the new development or reimbursed to Developer from impact fees paid from other new developments that will use such capital improvements or facility expansions, which fees shall be collected and reimbursed to Developer at the time the other new development records its plat.

G.C.14.00 Facility Design and Construction.

The Developer shall design and construct all On-Site and Off-Site utility infrastructure described in the Special Conditions, including any oversizing, in accordance with the USR and all applicable local, state and federal requirements. Developer further recognizes that SAWS' approval in all respects as to facility right-of-way adequacy, location, size, grade and invert elevation is a condition precedent to any further obligation of SAWS. Specific design and construction requirements are set forth in the Special Conditions.

G.C.15.00 Use of Capacity by SAWS.

Developer understands that capacity in Off-Site and On-Site utility infrastructure resulting from the Agreement for the Tract may be utilized by SAWS for other tracts requesting service from SAWS. SAWS shall keep accurate records of the capacity provided to the Tract under the Agreement, whether Set-Aside or Guaranteed Capacity, and in no event will Developer be denied capacity as a result of SAWS' utilization of such capacity for another tract. Set-Aside capacity shall not survive the expiration of the Agreement.

G.C.16.00 Utility Master Plan Requirements.

The Developer will prepare a utility master plan, which details the water and/or wastewater systems for the Tract pursuant to the USR, as amended.

G.C.17.00 Phased Utility Master Plans.

If the Developer's water and/or wastewater systems are to be installed in phases or units, the Developer shall submit overall utility master plans to SAWS for review and approval. The overall utility master plan(s) shall be submitted before the first construction phase is submitted for plat approval. The overall utility master plan(s) shall show the development phases or units including the sequence and a timetable for build-out. The Developer shall also provide SAWS with a digital version of the proposed recorded plat, as submitted for plat recordation in a format acceptable to SAWS, for each phase or unit of the development project.

G.C.18.00 Conformance of Plans to Utility Master Plan.

All water and wastewater system facilities to serve the Tract shall be designed and constructed in conformance with the approved utility master plan. Changes in the water and wastewater system design shall be resubmitted to SAWS for written approval.

G.C.19.00 Timing Requirements for Submission of Plans.

Developer shall have three (3) years from the Effective Date of the Agreement to complete and submit the required utility master plan and to start construction of the Off-Site and On-Site utility infrastructure described in the Special Conditions. Developer agrees that the Agreement for the provision of Services shall automatically expire if Developer

has not submitted a utility master plan and started construction of required Off-Site and On-Site utility infrastructure within three (3) years of the Effective Date of the Agreement, and a new request for the Services must be submitted to SAWS, which SAWS will grant based on then existing policies and regulations. In the event Developer meets the above-mentioned requirements within the three (3) year period provided, the Agreement shall remain in effect for seven (7) years from the Effective Date. If Developer submits a revised Utility Master Plan in accordance with the USR prior to the expiration of the seven (7) year period, the Agreement for the provision of Services may be extended to a maximum term of fifteen (15) years from the Effective Date.

G.C. 20.00 EDU Transfers.

The transfer of EDU capacity outside the original boundaries of this Utility Service Agreement will not be allowed. The San Antonio Water System considers this Agreement to run with the land; however, EDU capacity transfers to subdivided tracts within the Tract of this Agreement are the responsibility of the Developer and approval of such transfers is not required by the San Antonio Water System. The Developer shall maintain an accounting of the EDU capacity that is used by the Developer and/or transferred after the effective date of this Agreement to portions of the Tract. If the Developer sells a portion of the Tract and transfers part of the EDU capacity contained in this Agreement, then that EDU capacity transfer must be included in the deed, bill of sale or instrument conveying the land and the Developer must require the buyer of the land who receives the allocated EDUs to record the instrument effectuating the transfer. Developer may file a Master Development Plan or an EDU Plan, prepared by an engineer, that shows specific EDU capacity allocations within the Tract and shall ensure that the Master Development Plan or EDU Plan is attached to this Agreement and properly recorded. SAWS will recognize the capacity allocations within the Master Development Plan or EDU Plan so long as those allocations are within the parameters of this Agreement. For properties that have areas of unplanned use, the demand will be calculated at four (4) EDUs per acre unless the engineering report specifies otherwise or there is not enough EDU capacity remaining for the Tract to allocate four (4) EDUs per acre.

In no event will the System be responsible to 3rd parties for providing water supply or wastewater discharge capacity beyond the total EDU capacity identified in this Agreement for the Tract. Developer expressly disclaims, releases and holds harmless SAWS from any liability, damages, costs or fees, and agrees to indemnify SAWS for any liability, including, costs and attorney's fees, associated with any dispute related to the transfer of all or a portion of EDU capacity approved for the Tract in this Utility Services Agreement.

G.C. 21.00 Camp Bullis Awareness Zone.

In the event that the Tract is located within, or partially within, the Camp Bullis Awareness Zone, the Developer acknowledges that certain lighting regulations may apply within at least a 3-mile radius of Camp Bullis, commonly referred to as down-lighting or dark sky lighting, and Developer will comply with those regulations. Developer agrees to comply with any local, state or federal law, rule or regulation related to the protection of the environment or endangered species, including but not limited to, any site assessments or surveys and notice to the United States Fish & Wildlife when required by law, rule or regulation. Developer acknowledges that any required assessment, survey or notice shall be current or updated as may be required by law, rule or regulation.

G.C. 22.00 Written Project Information.

The project associated with this Utility Service Agreement is described in the forms submitted by the applicant including but not limited to 1) a cover sheet clearly stating "USA Request" and the project name; 2) the Engineering Report; and 3) a legal description, metes and bounds description, or Master Development Plan (MDP), subdivision plat, or similar document of the Tract.

SPECIAL CONDITIONS OF THE UTILITY SERVICE AGREEMENT

WATER SERVICE

S.C.1.00 Tract Location and Ultimate Demand.

Pecan Springs, a 245.62-acre tract outside the City of San Antonio limits, is located at the southwest corner of Toutant Beauregard Rd and Pecan Ranch, as shown in Attachment VI (the "Tract"). The tract is located over the Edwards Aquifer Recharge or Contributing Zone and is located within the 5-mile Awareness Zone of Camp Bullis. The proposed Tract is located outside SAWS' water CCN, outside SAWS' wastewater CCN and does not require SAWS' financial participation in the development of infrastructure through oversizing or impact fee credits, therefore, Board Action is required.

On June 11, 2019 the San Antonio Water system executed a Utility Service Agreement (USA) for USA-15330 Anaqua Springs Unit 7 for 10 EDUs of potable water service. This USA replaces a portion of that previous USA and thereby reduces the water service available through USA-15330 by 1 EDU.

The ultimate demand from the proposed development, on SAWS' water infrastructure, shall not exceed 261 equivalent dwelling units (EDUs) of water supply.

S.C.2.00 Infrastructure Requirements.

Water Supply to the tract will be from Pressure Zone (PZ) 1636 & 1610. The flow capacity of a 12-inch main is required to supply water to the 245.62-acre Tract, in conformance with SAWS' Utility Service Regulations (USR).

Phase I (PZ 1636)

The Developer shall construct a 12-inch main from the existing (PZ 1636) 12-inch main on Cat Spgs Rd to approach & traverse the Tract as shown in Attachment III. The Developer shall then install a division valve (DV) on the proposed 12-inch main as shown in Attachment III. The DV will remain open until the completion of Phase II improvements. The Developer shall then construct a series of looped 8-inch mains throughout the Tract with no less than two connections to the proposed 12-inch main traversing the Tract.

The Developer may then make up to 40 connections to a combination of the proposed 12-inch main traversing the Tract, the proposed series of looped 8-inch mains throughout the Tract and/or the existing (PZ 1636) 8-inch main (Job No 07-1304) traversing the Tract. In order to obtain any additional capacity beyond 40 EDUs, the Developer will be required to complete Phase II improvements.

Note: All connections shall be made below an elevation of 1480 feet, where the static theoretical pressure shall be greater than 56 psi.

Phase II (PZ 1636 & 1610)

The Developer shall construct a 12-inch main from the proposed 12-inch main, to traverse the Tract to connect to the existing (PZ 1610) 12-inch main on Toutant Beuregard Rd as shown in Attachment III. The Developer shall then close the proposed division valve described in Phase I so that all connections north of Cats Spgs Rd are being served by PZ 1610.

The Developer shall then construct a series of looped 8-inch mains throughout the Tract with no less than two connections to the proposed 12-inch main traversing the Tract. Developer shall then connect remaining services to the proposed series of looped 8-inch mains throughout the Tract and/or the proposed 12-inch main traversing the Tract.

Note: All connections shall be made below an elevation of 1480 feet, where the static theoretical pressure shall be greater than 56 psi.

S.C. 3.00 SAWS Master Plan and Oversizing Requirements.

N/A

S.C.4.00 Impact Fee Credit Eligibility.

N/A.

S.C.5.00 Engineering Study Report and/or Pro-Rata Refund Eligibility.

The engineering study report “Pecan Springs, Utility Service Agreement Engineering Report”, by Matkin Hoover Engineering & Surveying, dated June 2019 is included as Attachment VI.

S.C.6.00 Developer On-Site and/or Off-Site Requirements.

The Developer shall acquire any right-of-way or easements, and install all On-Site and Off-Site utility infrastructure required to serve the Tract in accordance with SAWS’ USR, solely at the Developer’s cost, unless otherwise stated in S.C.3.00 or S.C.4.00. Other On-Site requirements within the Tract will be determined at such time as the engineer submits an overall Utility Master Plan, and any subsequent revisions, for the Tract.

S.C.7.00 Requirement to Install Approved Pressure Regulators and/or Booster Pumps.

PZ 1636

A portion of the tract is below ground elevation of 1451 feet where the static pressure will theoretically exceed 80 psi. Any service connections within the Tract, at elevations lower than this ground elevation, shall require the installation of a Pressure Reducing Valve (PRV), on the customer(s) side of the meter, rated for a maximum working pressure of no less than 300 psi, prior to a SAWS meter being installed. Installation shall be in conformance with the current Plumbing Code with Local Amendments adopted by the City of San Antonio.

PZ 1610

A portion of the tract is below ground elevation of 1425 feet where the static pressure will theoretically exceed 80 psi. Any service connections within the Tract, at elevations lower than this ground elevation, shall require the installation of a Pressure Reducing Valve (PRV), on the customer(s) side of the meter, rated for a maximum working pressure of no less than 300 psi, prior to a SAWS meter being installed. Installation shall be in conformance with the current Plumbing Code with Local Amendments adopted by the City of San Antonio.

S.C.8.00 Time for Water Impact Fee Assessment and Payment.

Water Impact Fees will be assessed at the rates in effect at the time of plat recordation or the latest date allowed by law. Impact fees will be collected at either the time of plat recordation or connection to the SAWS' water system, at the discretion of the Developer.

S.C.9.00 Water Impact Fee Estimates Based Upon Current Charges.

Following is an estimate of impact fees for the provision of Services contemplated under the Agreement, which are based on current impact fee rates. This estimate shall not constitute an assessment of impact fees and impact fee rates are subject to change by the San Antonio City Council.

Type of Impact Fee	EDUs	\$/EDUs	Current Total
Flow Development	261	\$1,188	\$310,068
System Development High	261	\$1,203	\$313,983
Water Supply	261	\$2,706	\$706,266
Total			\$1,330,317

S.C.10.00 Pro-Rata Charge Requirement.

Developer shall be required to pay a Pro-Rata Charge pursuant to the USR, as amended, prior to connection to the SAWS water system if Developer is tying into a main that is subject to a pro-rata refund.

SPECIAL CONDITIONS OF THE UTILITY SERVICE AGREEMENT

WASTEWATER SERVICE

S.C.1.00 Tract Location and Ultimate Demand.

Pecan Springs, a 245.62-acre tract outside the City of San Antonio limits, is located at the southwest corner of Toutant Beauregard Rd and Pecan Ranch, as shown in Attachment VI (the "Tract") and lies within SAWS' Upper Collection and Treatment Area (UCTA). The tract is located over the Edwards Aquifer Recharge or Contributing Zone and is located within the 5-mile Awareness Zone of Camp Bullis.

The ultimate demand from the proposed development, on SAWS' wastewater infrastructure, shall not exceed 0 equivalent dwelling units (EDUs) of wastewater discharge.

S.C.2.00 Infrastructure Requirements.

The Developer has requested to utilize On-Site septic systems. Developer agrees to secure appropriate utility permits from the Bexar County Public Works Department. All septic wastewater utilities shall be designed and constructed in accordance to the requirements of the Bexar County Public Works Department.



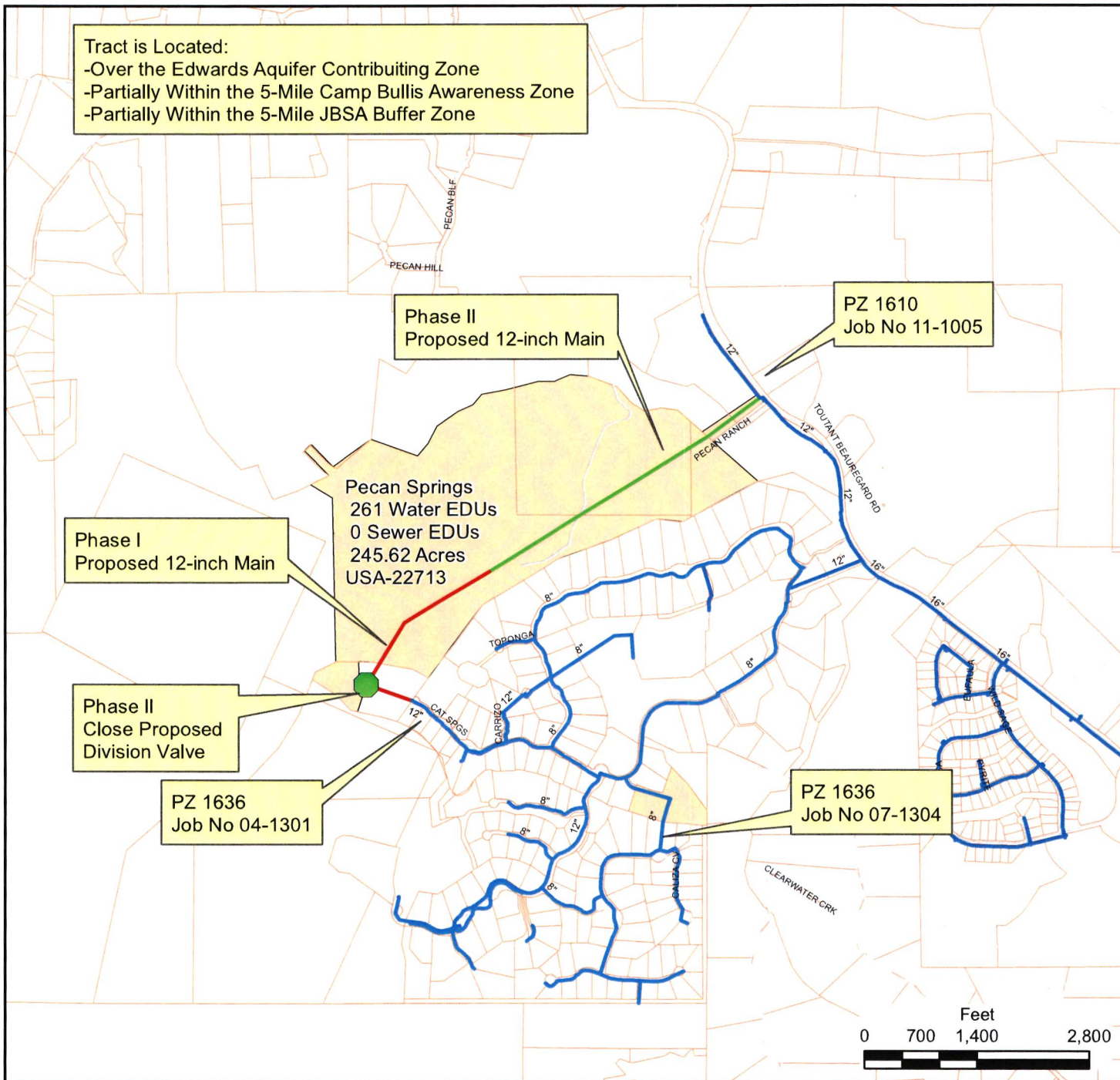
Legend

- Existing Water Main
- USA Tract
- Parcels Update
- Proposed Phase I Water Main
- Proposed Phase II Water Main
- Proposed Division Valve

Project Location



SAWS UTILITY MAP DISCLAIMER
 This utility map is for reference only. The information may not represent what actually has been constructed. SAWS explicitly disclaims any representation of the accuracy of the information on this map. SAWS assumes no liability for any errors, omissions, or inaccuracies in the map regardless of how caused. Field verification should be done as necessary. SAWS prohibits the reproduction or sale of this document. This SAWS utility map may not be used under any circumstances, be copied, reproduced, or published in any form or media, or transferred to another without the written permission of the San Antonio Water System (SAWS).



Tract is Located:
 -Over the Edwards Aquifer Contributing Zone
 -Partially Within the 5-Mile Camp Bullis Awareness Zone
 -Partially Within the 5-Mile JBSA Buffer Zone

Phase II
 Proposed 12-inch Main

PZ 1610
 Job No 11-1005

Phase I
 Proposed 12-inch Main

Pecan Springs
 261 Water EDUs
 0 Sewer EDUs
 245.62 Acres
 USA-22713

Phase II
 Close Proposed
 Division Valve

PZ 1636
 Job No 04-1301

PZ 1636
 Job No 07-1304

From: [McMillin, Michael](#)
To: [Rasmussen, Kirk](#)
Subject: Meeting With CPS RE: Docket No. 51023
Date: Monday, October 26, 2020 4:09:15 PM

Kirk,

As we just discussed on the phone, the Dreisses and I would like to meet with you and someone from CPS who would have authority to agree to a modification proposal that would result in CPS removing a portion of Segment 49.

If at all possible, we would like the meeting to be **in person** so we can bring maps and more effectively communicate about our respective concerns.

Please let me know when we can set up this meeting. As I mentioned before, we would like to have the meeting in the next week or so if that can be arranged.

Thanks,

Michael McMillin | Thompson & Knight LLP

Associate

ThompsonKnight

98 San Jacinto Blvd., Suite 1900, Austin, TX 78701

512.404.6708 (direct) | 956.244.1134 (cell) | michael.mcmillin@tklaw.com

[vCard](#) | www.tklaw.com/michael-mcmillin/

This message may be confidential and attorney-client privileged. If received in error, please do not read. Instead, reply to me that you have received it in error and delete the message.

From: [Rasmussen, Kirk](#)
To: [McMillin, Michael](#)
Cc: [Bennett, Craig](#); kdgiles@cpsenergy.com
Subject: Proposed Terms [IMAN-JWDOCS.FID4061346]
Date: Thursday, November 19, 2020 5:34:39 PM
Attachments: [image001.png](#)
[CPS Scenic Loop CCN \(51023\) UPDATED DRAFT Term Sheet Active\(24218102\) Active\(5\).DOCX](#)

See attached.

Kirk Rasmussen | Partner

100 Congress Avenue Suite 1100 | Austin, TX | 78701

V. (512) 236-2310 | C. (512) 968-4566 | F. (512) 236-2002 | krasmussen@jw.com



DRAFT: 11/12/19/20

Proposed Term Sheet: CPS Scenic Loop CCN, Docket No. 51023

Parties:

- CPS Energy (“CPS”)
- 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) **Amendment to Application 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. CPS will amend its Application in Docket No. 51023 to incorporate the modifications depicted 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:** ~~CPS will create a new segment (“Segment 49a”)~~ will to 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

Commented [RK1]: Michael, these segment descriptions are fine with respect to the agreement of the parties and as shown on the Exhibit. Just a heads up that in talking with Power, they may end up with a slightly different naming convention and segment description than what is listed here. It would just be naming and description, but not substantive location changes (obviously).

DRAFT: 11/12/19/20

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.¹

- ii) **Partial Removal of Segment 49:** ~~CPS will remove the portion of~~ Segment 49 ~~that is~~ to the east the interconnection with new Segment 49a will be removed. The western portion of Segment 49 will remain as proposed.
- iii) **Modification to Segment 46:** ~~CPS will incorporate~~ Two angles will be incorporated into Segment 46 to shift it to the south onto Developers' Tracts B-005 and B-007 such that the centerline of modified Segment 46 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:** ~~CPS will create 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. The entire modified Segment 42 will be referred to as Segment 42a.
 - (1) ~~CPS agrees that, consistent with the Commission's final order, it will adopt minor deviations to Segment 42a so that segment will follow the northeastern boundary of Tract B-041 and cross the extreme northeastern tip of Tract B-043 at the termination of Pecan Ranch Road, such that all ROW remains on Developers' property and the centerline stays at least 300 feet from any habitable structure.~~
- v) **Elimination of Segment 48:** ~~CPS will remove~~ 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.

3)5) Agreement to Support Routing Options: Developers² 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.

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

² As well as all other legal entities owned or controlled by Developers.

DRAFT: 11/12/19/20

Developers reserve their right to argue that the Commission should reach Segment 46 Modified by following a path that includes Segment 41.

4)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
 - 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;³ 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.

5)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 49.⁴ 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 42-49.⁵
 - 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.

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

⁴ 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.

⁵ 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.

DRAFT: 11/4219/20

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 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 be 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, where Developers have already invested significant capital to create valuable home sites, eight of which will be directly impacted by Segment 46 Modified.

6)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 42a as appropriate to minimize impacts to Developers activities in the area.

From: [Rasmussen, Kirk](#)
To: [McMillin, Michael](#)
Subject: RE: Agreement [IMAN-JWDOCS.FID4061346]
Date: Tuesday, November 24, 2020 10:54:02 AM
Attachments: [image001.png](#)
[D. 51023 Signed Agreement - Clean.pdf](#)
[D. 51023 Signed Agreement - Highlight.pdf](#)

See attached.

Kirk Rasmussen

512-968-4566

From: McMillin, Michael

Sent: Tuesday, November 24, 2020 10:30 AM

To: Rasmussen, Kirk

Subject: RE: Agreement [IMAN-JWDOCS.FID4061346]

****RECEIVED FROM EXTERNAL SENDER – USE CAUTION****

Sure. I'm free now until noon.

Michael McMillin | Thompson & Knight LLP

Associate

98 San Jacinto Blvd., Suite 1900, Austin, TX 78701

512.404.6708 (direct) | 956.244.1134 (cell) | michael.mcmillin@tklaw.com

vCard | www.tklaw.com/michael-mcmillin/

From: Rasmussen, Kirk <krasmussen@jw.com>

Sent: Tuesday, November 24, 2020 10:29 AM

To: McMillin, Michael <Michael.McMillin@tklaw.com>

Subject: Agreement [IMAN-JWDOCS.FID4061346]

Got a minute this morning to visit about the agreement? Got a couple of questions from Paul that I want to run past you.

Kirk Rasmussen | Partner

100 Congress Avenue Suite 1100 | Austin, TX | 78701

V: (512) 236-2310 | C: (512) 968-4566 | F: (512) 236-2002 | krasmussen@jw.com



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.¹

- 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:** Developers² 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

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

² 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;³ 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 49.⁴ 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 42-49.⁵
 - 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

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

⁴ 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.

⁵ 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 23rd day of November, 2020.

 (Sign)

TAYLOR DRESS (Print)
For Developers

_____ (Sign)

_____ (Print)
For CPS Energy

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.¹

- 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:** Developers² 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

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

² 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;³ 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 49.⁴ 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 42-49.⁵
 - 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

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

⁴ 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.

⁵ 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 23rd day of November, 2020.

 (Sign)

Taylor Dress (Print)
For Developers

_____ (Sign)

_____ (Print)
For CPS Energy

From: [McMillin, Michael](#)
To: [Rasmussen, Kirk](#)
Cc: [Bennett, Craig](#)
Subject: RE: CPS CCN (51023): Draft Term Sheet for Route Modification Agreement [IMAN-JWDOCS.FID4061346]
Date: Thursday, November 12, 2020 8:22:53 AM
Attachments: [CPS Scenic Loop CCN \(51023\) UPDATED DRAFT Term Sheet Active\(24218102\) Active\(5\).DOCX](#)

Kirk,

I have attached an updated term sheet that incorporates the Dreisses' changes to the ROW Acquisition section. Please give me a call later today to discuss.

Thanks,

Michael McMillin | Thompson & Knight LLP

Associate

98 San Jacinto Blvd., Suite 1900, Austin, TX 78701

512.404.6708 (direct) | 956.244.1134 (cell) | michael.mcmillin@tklaw.com

[vCard](#) | www.tklaw.com/michael-mcmillin/

From: McMillin, Michael

Sent: Tuesday, November 10, 2020 5:04 PM

To: 'Rasmussen, Kirk'

Subject: RE: CPS CCN (51023): Draft Term Sheet for Route Modification Agreement [IMAN-JWDOCS.FID4061346]

I have relayed this information to the Dreisses. They're thinking it over and we are going to have a call tomorrow to work up edits to the last section of the draft agreement.

Let me know if you or Craig see any other issues in the agreement that you think we need to address.

Michael McMillin | Thompson & Knight LLP

Associate

98 San Jacinto Blvd., Suite 1900, Austin, TX 78701

512.404.6708 (direct) | 956.244.1134 (cell) | michael.mcmillin@tklaw.com

[vCard](#) | www.tklaw.com/michael-mcmillin/

From: Rasmussen, Kirk <kasmussen@jw.com>

Sent: Tuesday, November 10, 2020 3:39 PM

To: McMillin, Michael <Michael.McMillin@tklaw.com>

Subject: RE: CPS CCN (51023): Draft Term Sheet for Route Modification Agreement [IMAN-JWDOCS.FID4061346]

Thanks. Including them is fine.

Kirk Rasmussen

512-968-4566

From: McMillin, Michael <Michael.McMillin@tklaw.com>

Sent: Tuesday, November 10, 2020 3:37 PM

To: Rasmussen, Kirk <kasmussen@jw.com>

Subject: RE: CPS CCN (51023): Draft Term Sheet for Route Modification Agreement [IMAN-JWDOCS.FID4061346]

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Ok that makes sense. I'll work with the Dreisses to come up with the necessary changes to § 6 of the draft agreement I sent you. Do you mind if the agreement

includes these numbers?

Michael McMillin | Thompson & Knight LLP

Associate

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From: Rasmussen, Kirk <krasmussen@jw.com>

Sent: Tuesday, November 10, 2020 3:32 PM

To: McMillin, Michael <Michael.McMillin@tklaw.com>

Subject: RE: CPS CCN (51023): Draft Term Sheet for Route Modification Agreement [IMAN-JWDOCS.FID4061346]

Parcel as listed on the tax rolls as a separate parcel. Same cost for Segment 42. A parcel cost applies if a portion of the parcel is crossed by the ROW. A parcel for these purposes would not include "lots" that are part of an undivided tract that have not yet been sold.

Kirk Rasmussen

512-968-4566

From: McMillin, Michael <Michael.McMillin@tklaw.com>

Sent: Tuesday, November 10, 2020 3:28 PM

To: Rasmussen, Kirk <krasmussen@jw.com>

Cc: Bennett, Craig <cbennett@jw.com>

Subject: RE: CPS CCN (51023): Draft Term Sheet for Route Modification Agreement [IMAN-JWDOCS.FID4061346]

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Thanks, Kirk. A few questions so I can explain to my clients:

- Is the cost for Segment 42 also \$0.50 per sq. ft.?
- How does CPS define a "parcel" for these purposes?
- How does CPS decide when a parcel needs to be acquired?

I'm free the rest of the day if a call is easier for you.

Michael McMillin | Thompson & Knight LLP

Associate

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From: Rasmussen, Kirk <krasmussen@jw.com>

Sent: Tuesday, November 10, 2020 3:23 PM

To: McMillin, Michael <Michael.McMillin@tklaw.com>

Cc: Bennett, Craig <cbennett@jw.com>

Subject: RE: CPS CCN (51023): Draft Term Sheet for Route Modification Agreement [IMAN-JWDOCS.FID4061346]

Michael,

ROW cost for Segment 46 and Segment 49 were \$0.50 sq/foot.

Parcel acquisition cost was \$24,500 per parcel.

Kirk Rasmussen

512-968-4566

From: McMillin, Michael <Michael.McMillin@tklaw.com>

Sent: Tuesday, November 10, 2020 2:42 PM

To: Rasmussen, Kirk <krasmussen@jw.com>

Cc: Bennett, Craig <cbennett@jw.com>

Subject: CPS CCN (51023): Draft Term Sheet for Route Modification Agreement

****RECEIVED FROM EXTERNAL SENDER – USE CAUTION****

Kirk and Craig,

See attached per our call.

Thanks,

Michael McMillin | Thompson & Knight LLP

Associate

ThompsonKnight

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DRAFT: 11/12/20

Proposed Term Sheet: CPS Scenic Loop CCN, Docket No. 51023

Parties:

- CPS Energy (“CPS”)
- 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 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.

Terms:

- 1) **Prior Agreements:** Developers will honor all prior agreements with CPS, independently of the terms of this agreement.
- 2) **Amendment to Application:** CPS will amend its Application in Docket No. 51023 to incorporate the modifications depicted 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:** CPS will create a new segment (“Segment 49a”) to 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.¹

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

DRAFT: 11/12/20

- ii) **Partial Removal of Segment 49:** CPS will remove the portion of Segment 49 that is to the east the interconnection with new Segment 49a. The western portion of Segment 49 will remain as proposed.
 - iii) **Modification to Segment 46:** CPS will incorporate two angles into Segment 46 to shift it to the south onto Developers' Tracts B-005 and B-007 such that the centerline of modified Segment 46 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:**
 - (1) CPS will create a new segment to connect the existing node of Segments 41, 46, and 48 directly to existing Segment 42 on Tract B-041. 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. The entire modified Segment 42 will be referred to as Segment 42a.
 - (2) CPS agrees that, consistent with the Commission's final order, it will adopt minor deviations to Segment 42a so that segment will follow the northeastern boundary of Tract B-041 and cross the extreme northeastern tip of Tract B-043 at the termination of Pecan Ranch Road, such that all ROW remains on Developers' property and the centerline stays at least 300 feet from any habitable structure.
 - v) **Elimination of Segment 48:** CPS will remove Segment 48, which would be unnecessary following the addition of Segment 42a and the partial removal of Segment 49.
- 3) **Agreement to Support Routing Options:** Developers² 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.
- 4) **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
 - 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

² As well as all other legal entities owned or controlled by Developers.

DRAFT: 11/12/20

- ii) The cost of Segment 46 Modified (full length) minus the cost of proposed Segment 46;³ 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.
- 5) **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 49.⁴ 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 42-49.⁵
 - 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.
- 6) **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 that has not been donated pursuant to this (or an earlier) agreement to CPS without resorting to a contested condemnation process. Developers will agree to provide all necessary, non-donated ROW across Developers' property to CPS at \$0.40 per square foot, which is a 20% discount off of CPS's assumed cost of ROW along the segments that impact Developers' property. 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, where Developers have already invested significant capital to create valuable home sites, eight of which will be directly impacted by Segment 46 Modified.

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

⁴ 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.

⁵ 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.

From: [Rasmussen, Kirk](#)
To: [McMillin, Michael](#); [Bennett, Craig](#); [Giles, Kipling D.](#)
Subject: RE: CPS CCN (51023): Final/Signed Agreement [IMAN-JWDOCS.FID4061346]
Date: Monday, November 23, 2020 2:13:15 PM

Michael,

Are you sure you want to attach the terms with the filing? In the alternative, talking generally and making parties ask for the document in discovery plus the 15 days to respond before they can start taking aim at? Happy to discuss at your leisure.

Kirk Rasmussen

512-968-4566

From: McMillin, Michael

Sent: Monday, November 23, 2020 12:35 PM

To: Rasmussen, Kirk ; Bennett, Craig

Subject: CPS CCN (51023): Final/Signed Agreement

****RECEIVED FROM EXTERNAL SENDER – USE CAUTION****

Kirk and Craig,

I have attached a final version of our agreement with CPS. We accepted all your redlines. The only change from your version was to clarify that Section 9 on minor modifications would apply to "Segment 42/42a".

I have also included an updated attachment that adds a bit more information about the planned subdivisions. There were no changes to the substance of the modifications.

This version has been signed by Taylor Dreiss. If it looks ok to you, please have someone at CPS sign and return so I can attach this to our filing tomorrow.

Thanks,

Michael McMillin | Thompson & Knight LLP

Associate

ThompsonKnight

98 San Jacinto Blvd., Suite 1900, Austin, TX 78701

512.404.6708 (direct) | 956.244.1134 (cell) | michael.mcmillin@tklaw.com

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From: [Rasmussen, Kirk](#)
To: [McMillin, Michael](#)
Subject: RE: CPS Scenic Loop: Proposed Agreed Modification [IMAN-JWDOCS.FID4061346]
Date: Tuesday, October 6, 2020 4:00:40 PM

I'll send you something today or tomorrow as soon as I get it.

Kirk Rasmussen
512-968-4566

From: McMillin, Michael
Sent: Tuesday, October 6, 2020 2:55 PM
To: Rasmussen, Kirk
Subject: RE: CPS Scenic Loop: Proposed Agreed Modification [IMAN-JWDOCS.FID4061346]

****RECEIVED FROM EXTERNAL SENDER – USE CAUTION****

Is there a proposal that I can pass along to the Dreisses so we can look it over in preparation for a call? I'll see what their availability is like on those days.

Michael McMillin | Thompson & Knight LLP
Associate

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512.404.6708 (direct) | 956.244.1134 (cell) | michael.mcmillin@tklaw.com
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From: Rasmussen, Kirk <krasmussen@jw.com>
Sent: Tuesday, October 6, 2020 2:53 PM
To: McMillin, Michael <Michael.McMillin@tklaw.com>
Subject: RE: CPS Scenic Loop: Proposed Agreed Modification [IMAN-JWDOCS.FID4061346]

We can set up a zoom call Thursday or Friday to discuss or we can meet in person either day.

Kirk Rasmussen
512-968-4566

From: McMillin, Michael <Michael.McMillin@tklaw.com>
Sent: Friday, October 2, 2020 3:29 PM
To: Rasmussen, Kirk <krasmussen@jw.com>
Subject: CPS Scenic Loop: Proposed Agreed Modification

****RECEIVED FROM EXTERNAL SENDER – USE CAUTION****

Kirk,

I called just now but my service dropped before I got your voicemail. I was calling to see if there were any updates on the proposed agreed modification I've been discussing with you on behalf of the Dreisses.

Thanks,

Michael McMillin | Thompson & Knight LLP

Associate

ThompsonKnight

98 San Jacinto Blvd., Suite 1900, Austin, TX 78701

512.404.6708 (direct) | 956.244.1134 (cell) | michael.mcmillin@tklaw.com

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From: [Rasmussen, Kirk](#)
To: [McMillin, Michael](#)
Subject: RE: CPS Scenic Loop: Response to Modification Proposal and Request for Call [IMAN-JWDOCS.FID4061346]
Date: Wednesday, October 14, 2020 9:00:52 AM

Meeting with CPS Energy to discuss this today. Will be available to talk tomorrow.

Kirk Rasmussen
512-968-4566

From: McMillin, Michael
Sent: Monday, October 12, 2020 4:27 PM
To: Rasmussen, Kirk
Cc: Coleman, Katie
Subject: CPS Scenic Loop: Response to Modification Proposal and Request for Call

****RECEIVED FROM EXTERNAL SENDER – USE CAUTION****

Kirk,

I just got off a call with Tom and Taylor Dreiss about the modification proposal you sent us last week. CPS's proposed change didn't match up with what we were expecting, and we think it would be helpful to do another round of revisions in advance of a meeting. That way we can hopefully resolve all the necessary issues, including some lingering changes that we believe were discussed in the meeting you/CPS had with the Dreisses back in July.

Please call me at your earliest convenience to discuss this proposal. As you know, under your proposed procedural schedule, our testimony would be due in two months. We need to determine if an agreement will be possible in relatively short order so that we can make litigation decisions around hiring experts, etc.

The attached document includes hand-drawn modification proposals labeled 1 through 4:

Modification 1: Please see the **dotted** line labeled "1" on the attached map (ignore the highlighting). The solid line nearby represents the Dreisses' property boundary. We believe that placing the ROW along the dotted line and entirely within the Dreiss property would keep it at least 300 feet away from any habitable structure. We don't understand why CPS's proposal (the green line) is so far inside the Dreisses' property boundary.

Modification 2: To avoid the Reyes home, the Dreisses believe they can accept a modification similar to the one marked "2" on the attached map. We view this as a significant concession because it would require the Dreisses to eliminate two home sites that are already under contract, at a total cost of approximately \$350k.

Modification 3: We believe this modification reflects the discussions you/CPS had with the Dreisses in July surrounding their donation of the flood plain ROW behind the school.

-

Modification 4: We believe this modification reflects the discussions you/CPS had with the Dreisses in July surrounding their donation of the flood plain ROW behind the school. The line would hug the southwestern boundary of the school property, with all ROW on the Dreisses' land. We believe that this configuration would keep the line more than 300 feet from any school building.

Let's talk soon.

Best,

Michael McMillin | Thompson & Knight LLP

Associate

ThompsonKnight

98 San Jacinto Blvd., Suite 1900, Austin, TX 78701

512.404.6708 (direct) | 956.244.1134 (cell) | michael.mcmillin@tklaw.com

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From: [McMillin, Michael](#)
To: ["Rasmussen, Kirk"](#)
Cc: [Bennett, Craig](#)
Subject: RE: Docket No. 51023 - Proposed Schedule Tweaks [IMAN-JWDOCS.FID4061346]
Date: Wednesday, February 24, 2021 5:26:36 PM
Attachments: [image001.png](#)

Kirk,

My clients intend to uphold their agreement with CPS. We support the Commission routing on Segment 46/46a, and that is very clear in our testimony.

My understanding of what I told Wendy Harvel was that Anaqua/Jauer's proposed modification doesn't impact my clients' properties, so she could list us as unopposed to the **modification**. My discussions with Wendy separated out the issue of my clients' position on Anaqua/Jauer's **motion**, and I told her that because we didn't want to cause CPS any heartburn, we would not take a position on whether the Commission should certify Anaqua/Jauer's requested issues. I didn't see the motion before it was filed, but on page 3 it specifies that our entities are ("unopposed") to the **modification**, which appears to be consistent with that discussion. That said, I was under the impression that the motion would also have a list of parties that supported/were unopposed to the **motion**, which would have made this distinction clearer.

I don't read our agreement as committing my clients one way or the other with respect to other parties' proposed modifications. Nor do I interpret a commitment to support routing down 46/46a as requiring us to either oppose or remain silent on all other routing options or proposed modifications. To be clear, **my clients will only ever express support for routes that contain 46/46a, and they will not express support for any route that does not contain those segments**. That said, I don't think our agreement prohibits my clients from saying that they do not oppose the Commission putting the line somewhere else.

I'm happy to discuss this with you more. The Dreisses value their relationship with CPS and intend to uphold their agreement in all respects.

Thanks,

Michael McMillin | Thompson & Knight LLP
Associate

98 San Jacinto Blvd., Suite 1900, Austin, TX 78701
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From: Rasmussen, Kirk <krasmussen@jw.com>
Sent: Wednesday, February 24, 2021 3:37 PM
To: McMillin, Michael <Michael.McMillin@tklaw.com>
Cc: Bennett, Craig <cbennett@jw.com>

Subject: RE: Docket No. 51023 - Proposed Schedule Tweaks [IMAN-JWDOCS.FID4061346]

Unopposed to the motion is not consistent with supporting the Commission routing on Segment 46. You all really want to risk our agreement over this motion?

Kirk Rasmussen

512-968-4566

From: McMillin, Michael <Michael.McMillin@tklaw.com>

Sent: Wednesday, February 24, 2021 1:07 PM

To: Rasmussen, Kirk <krasmussen@jw.com>

Cc: Bennett, Craig <cbennett@jw.com>; Dunekack, Lee Ann <ldunekack@jw.com>

Subject: RE: Docket No. 51023 - Proposed Schedule Tweaks [IMAN-JWDOCS.FID4061346]

****RECEIVED FROM EXTERNAL SENDER – USE CAUTION****

Kirk,

My clients are on board with this proposal.

Thanks,

Michael McMillin | Thompson & Knight LLP

Associate

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From: Rasmussen, Kirk <krasmussen@jw.com>

Sent: Wednesday, February 24, 2021 1:01 PM

To: kdgiles@cpsenergy.com; Adam Marin (ARMarin@CPSEnergy.com)
<ARMarin@CPSEnergy.com>

Cc: Bennett, Craig <cbennett@jw.com>; Dunekack, Lee Ann <ldunekack@jw.com>

Subject: Docket No. 51023 - Proposed Schedule Tweaks [IMAN-JWDOCS.FID4061346]

All Parties to Docket 51023:

Thank you all for your patience over the last week and a half. Based on my previous emails and in accordance with the recent order by the Administrative Law Judges at the State Office of Administrative Hearings, CPS Energy proposes the following minor adjustments to the current procedural schedule. Please let me know by Friday if you cannot agree with these proposed changes.

1. The time for objecting to intervenor testimony was cut from 9 days to 7

- days after the testimony filing deadline (this makes sense because most intervenor testimony will have been filed prior to the deadline)
2. The time for discovery on intervenor testimony was cut from 12 days after the testimony filing deadline, to 10 days after (again, justified for the same reason above)
 3. Staff's testimony was cut from 26 days after intervenor testimony, to 24 days (again, justified for the same reason above)
 4. CPS Energy's rebuttal testimony was cut from 17 days after Staff/Cross Intervenor testimony, to 16 days after (originally 43 days after intervenor testimony, now 41 days after)
 5. The time for objections to rebuttal and for serving discovery on rebuttal were both cut from 8 days after, to 7 days after the filing of rebuttal
 6. The time for responding to discovery on rebuttal was cut from 17 days to 14 days. This was the biggest change, but it seems that 14 days is still sufficient, and it is a sacrifice worth making to preserve the current hearing schedule.

JKirk Rasmussen | Partner

100 Congress Avenue Suite 1100 | Austin, TX | 78701

V: (512) 236-2310 | C: (512) 968-4566 | F: (512) 236-2002 | krasmussen@jw.com

Jackson Walker L.L.P



From: [McMillin, Michael](#)
To: [Rasmussen, Kirk](#)
Subject: RE: Staff Discussion [IMAN-JWDOCS.FID4061346]
Date: Wednesday, November 18, 2020 10:49:25 AM

FYI, I gave Rustin a rough overview when I spoke to him yesterday, so he won't be coming in completely cold.

Michael McMillin | Thompson & Knight LLP

Associate

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From: McMillin, Michael

Sent: Wednesday, November 18, 2020 10:49 AM

To: 'Rasmussen, Kirk'

Subject: RE: Staff Discussion [IMAN-JWDOCS.FID4061346]

Got it, thanks. Do you think we should send Staff a copy of the term sheet in advance, or just walk them through the agreement on the call? I know y'all were going to have some minor changes to the terms at some point this week, but as I understand those they are unlikely to impact Staff's decision.

Michael McMillin | Thompson & Knight LLP

Associate

98 San Jacinto Blvd., Suite 1900, Austin, TX 78701

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From: Rasmussen, Kirk <krasmussen@jw.com>

Sent: Wednesday, November 18, 2020 10:46 AM

To: McMillin, Michael <Michael.McMillin@tklaw.com>

Subject: RE: Staff Discussion [IMAN-JWDOCS.FID4061346]

Yes. We are scheduled for 5 pm today. I just sent a Zoom invite.

Kirk Rasmussen

512-968-4566

From: McMillin, Michael <Michael.McMillin@tklaw.com>

Sent: Wednesday, November 18, 2020 10:01 AM

To: Rasmussen, Kirk <krasmussen@jw.com>

Subject: RE: Staff Discussion [IMAN-JWDOCS.FID4061346]

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Is this for a call with Staff? I haven't heard back from them since I spoke with Rustin.

Michael McMillin | Thompson & Knight LLP

Associate

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512.404.6708 (direct) | 956.244.1134 (cell) | michael.mcmillin@tklaw.com

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From: McMillin, Michael

Sent: Tuesday, November 17, 2020 5:34 PM

To: 'Rasmussen, Kirk' <krasmussen@jw.com>
Subject: RE: Staff Discussion [IMAN-JWDOCS.FID4061346]
Yes.

Michael McMillin | Thompson & Knight LLP

Associate

98 San Jacinto Blvd., Suite 1900, Austin, TX 78701

512.404.6708 (direct) | 956.244.1134 (cell) | michael.mcmillin@tklaw.com

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From: Rasmussen, Kirk <krasmussen@jw.com>
Sent: Tuesday, November 17, 2020 5:27 PM
To: McMillin, Michael <Michael.McMillin@tklaw.com>
Subject: Re: Staff Discussion [IMAN-JWDOCS.FID4061346]
Can you do 5 pm tomorrow?

Kirk

On Nov 17, 2020, at 4:51 PM, McMillin, Michael
<Michael.McMillin@tklaw.com> wrote:

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CAUTION****

I spoke to Rustin this afternoon. He was going to coordinate with Heath and get back to us today.

Michael McMillin | Thompson & Knight LLP

Associate

98 San Jacinto Blvd., Suite 1900, Austin, TX 78701

512.404.6708 (direct) | 956.244.1134 (cell) |

michael.mcmillin@tklaw.com

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From: Rasmussen, Kirk <krasmussen@jw.com>
Sent: Tuesday, November 17, 2020 10:35 AM
To: McMillin, Michael
<Michael.McMillin@tklaw.com>
Subject: RE: Staff Discussion [IMAN-JWDOCS.FID4061346]

I sent an email this morning. Discovery swallowed me up. Feel free to check with Rustin on your call. I can be available today and tomorrow pretty much anytime.

Kirk Rasmussen

512-968-4566

From: McMillin, Michael
<Michael.McMillin@tklaw.com>

Sent: Tuesday, November 17, 2020 10:24 AM

To: Rasmussen, Kirk <krasmussen@jw.com>

Subject: Staff Discussion

****RECEIVED FROM EXTERNAL SENDER – USE
CAUTION****

Kirk,

Have you heard anything from Staff about a meeting this week? If not, I'm on an unrelated call with Rustin and can ask him.

Thanks,

Michael McMillin | Thompson & Knight LLP

Associate

ThompsonKnight

98 San Jacinto Blvd., Suite 1900, Austin, TX
78701

512.404.6708 (direct) | 956.244.1134 (cell) |

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From: [Rasmussen, Kirk](#)
To: [McMillin, Michael](#)
Subject: Second Image [IMAN-JWDOCS.FID4061346]
Date: Thursday, October 8, 2020 2:40:52 PM
Attachments: [image001.png](#)

Michael,

In discussing the Dreiss property and the 49-46 connector, we will also need to discuss access to the transmission line corridor, something like as shown in green on this image file.

Kirk Rasmussen | Partner

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November 3, 2020

Tom and Taylor Dreiss
Dreico Management LLC; ASR Parks, LLC;
and Toutant Ranch, Ltd.
325 E. Sonterra Blvd., #110
San Antonio, TX 78258

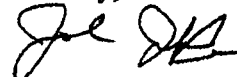
RE: Formal Grant of Authority to Represent the Interests of Pinson Interests LTD LLP and Crighton Development Co. in Texas Public Utility Commission Docket No. 51023 (PUC Docket No. 51023), *Application of the City of San Antonio, Acting By and Through the City Public Service Board (CPS Energy) to Amend Its Certificate of Convenience and Necessity for the Proposed Scenic Loop 138-kV Transmission Line Project in Bexar County, Texas*

Mr. Dreiss:

As you are aware, Pinson Interests LTD LLP (Pinson Interests) and Crighton Development Co. (Crighton Development) have a longstanding relationship with you and your companies through which you regularly acquire real estate that is owned by Pinson Interests for the purpose of developing residential communities in coordination with Crighton Development, thereby maximizing the value of those properties for everyone involved. As a part of that relationship, Pinson Interests and Crighton Development have previously represented to you that you have authority to act on their behalf in matters related to the installation of electric lines across property held by Pinson Interests and Crighton Development, including in PUC Docket No. 51023.¹

It is my understanding that two of your companies—ASR Parks, LLC and Toutant Ranch, Ltd.—have intervened in PUC Docket No. 51023. As a reflection of our unwritten agreement prior to this date, I hereby formally grant ASR Parks, LLC and Toutant Ranch, Ltd. authority to act on Pinson Interests' and Crighton Development's behalf in PUC Docket No. 51023, including authority to enter into transmission line route modification agreements with CPS Energy and/or other parties to that docket. Additionally, for administrative convenience, I grant you authority to add Pinson Interests and Crighton Development to your companies' existing intervention in PUC Docket No. 51023.

Sincerely,



John Jeffers
General Counsel
Pinson Interests LTD LLP
Crighton Development Co.

¹ Pinson Interests (listed on the tax rolls as either "Pinson Interests LTD LLP" or "Pinson Interests LLP") owns the following tracts that are potentially impacted by the proposed transmission line routes in PUC Docket No. 51023: A-086, B-004, B-007, B-009, B-011, F-029, and G-001.

Crighton Development owns the following tracts that are potentially impacted by the proposed transmission line routes in PUC Docket No. 51023: A-158, A-164, A-166, and B-005.