



## Filing Receipt

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**PUC DOCKET NO. 53299**

<b>CRYSTAL BLUFF GOAT RANCHES</b>	<b>§</b>	<b>BEFORE THE PUBLIC UTILITY</b>
<b>LLC’S APPEAL OF THE COST OF</b>	<b>§</b>	
<b>OBTAINING SERVICE FROM</b>	<b>§</b>	<b>COMMISSION OF TEXAS</b>
<b>POSSUM KINGDOM WATER SUPPLY</b>	<b>§</b>	
<b>CORPORATION</b>	<b>§</b>	

**POSSUM KINGDOM WATER SUPPLY CORPORATION’S PLEA TO THE  
JURISDICTION, MOTION TO DISMISS, AND RESPONSE TO APPEAL**

COMES NOW Possum Kingdom Water Supply Corporation (“Possum Kingdom” or “Respondent”) and files this Plea to the Jurisdiction, Motion to Dismiss, and Response to Appeal. Order No. 3 established the deadline for Possum Kingdom to file a response to the Appeal to May 16, 2022. Therefore, this pleading is timely filed. In response to the appeal submitted to the Commission by Crystal Bluff Goat Ranches, LLC (“Applicant”) under TWC §13.043(g) and P.U.C. SUBST. R. 24.101(g) (the “Application”),<sup>1</sup> Respondent Possum Kingdom would show as follows.

**I. INTRODUCTION**

The Application was filed well after 90 days following the date Possum Kingdom provided Applicant with “written notice of the amount to be paid to obtain service.”<sup>2</sup> The communication containing the estimated cost amount per connection was provided to the Applicant on May 11, 2021.<sup>3</sup> Continued written communications lasting into this year concerning the amount to be paid do not make those communications a “new written estimate” as Applicant contends.<sup>4</sup> Therefore, the Commission should dismiss the Application for lack of jurisdiction. Alternatively, the Commission should affirm the cost estimate for service provided to Applicant as it: (1) is clearly

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<sup>1</sup> Item No. 1 (Application).

<sup>2</sup> Compare Item No. 1 (Application), with Texas Water Code (TWC) § 13.043(g) and 16 Texas Administrative Code (TAC) § 24.101(g).

<sup>3</sup> **Exhibit 1** (May 11, 2021 Letter from Possum Kingdom WSC to Mr. Gary Ray).

<sup>4</sup> Item No. 1 (Application).



reasonable; (2) is consistent with Respondent's tariff; (3) is reasonably related to the cost of installing off-site facilities to provide service to Applicant; and (4) complies with the other applicable criteria set forth in the Commission's rules.<sup>5</sup>

## II. BACKGROUND

Possum Kingdom is "a member-owned, non-profit corporation" incorporated pursuant to TWC Chapter 67, now also subject to applicable provisions of the Texas Business Organizations Code, which applies to member-owned, member-controlled, non-profit corporations, formed "for the purpose of furnishing potable water service" to its members/customers.<sup>6</sup> Possum Kingdom has approximately 2600 retail water service connections in Palo Pinto County and Stephens County, Texas.<sup>7</sup> Possum Kingdom is not subject to original ratemaking jurisdiction of the Commission or many of the same Commission tariff rules that apply to utilities as defined, but is a "retail public utility" and "water supply corporation" subject to certain types appellate ratemaking provisions including TWC §13.043(g) and P.U.C. SUBST. R. 24.101(g) cost of obtaining service appeals.<sup>8</sup> Possum Kingdom's tariff provisions are designed to be just, reasonable, and non-discriminatory. However, they also were developed to protect the whole of Possum Kingdom's existing membership when considering responses to new service connection requests.

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<sup>5</sup> TWC § 13.043(g) and (j); 16 TAC § 24.101(g) and (i).

<sup>6</sup> **Exhibit 2** (Possum Kingdom Tariff) at Section B.1; TWC §§ 67.001-67.017; Texas Business Organizations Code §§ 22.001-22.516; *see also* TWC § 13.002(24) (defining "Water supply or sewer service corporation").

<sup>7</sup> *See* Texas Drinking Water Watch website Fact Sheet for Possum Kingdom WSC water system (PWS ID No. 1820076) at [https://dww2.tceq.texas.gov/DWW/JSP/Fact.jsp?tinwsys\\_is\\_number=5229&tinwsys\\_st\\_code=TX&wsnumber=TX1820076%20%20%20&DWWState=TX&begin\\_date=&end\\_date=&counter=](https://dww2.tceq.texas.gov/DWW/JSP/Fact.jsp?tinwsys_is_number=5229&tinwsys_st_code=TX&wsnumber=TX1820076%20%20%20&DWWState=TX&begin_date=&end_date=&counter=) (last visited May 11, 2022).

<sup>8</sup> TWC §§ 13.002(19), (23), and (24) and 13.043(g); 16 TAC §§ 24.3(31), (39), and (40) and 24.101(g); *see also* Item No. 1 (Application).

Thus, the Possum Kingdom tariff contains processes for both standard and non-standard service requests.<sup>9</sup> Per the form contract included in Possum Kingdom's tariff, the CIAC amounts calculated by Possum Kingdom for non-standard service are typically based on what is needed "for the Developer to reimburse PKWSC for that portion of its existing service capacities being reserved for the Property [*i.e.*, the Developer's property to be served] plus increased capacity to be created by an upgrade(s) to the Water Treatment Plant ("WTP") to increase production in .5 MGD increments, a portion of which will be dedicated to the Developer's service area."<sup>10</sup> Further, "[t]he cost of future expansions to PKWSC's WTP and distribution system will be apportioned between the Developer and PKWSC in proportion to the amount of new service capacities that will be dedicated to each, and at construction costs then current to be determined by PKWSC at the time of the new expansion."<sup>11</sup> However, the CIAC amounts per connection necessarily change over time as new WTP expansion projects are undertaken and capacity is reserved by various developers for their respective projects.

Attached to this pleading is a timeline of relevant events leading up to the Application filed earlier this year.<sup>12</sup> In 2017, Applicant first contacted Possum Kingdom about water service, completed a service application, requested a service investigation which Possum Kingdom performed, and there were communications back and forth between Applicant and Possum Kingdom about obtaining service for many months.<sup>13</sup> Possum Kingdom found no water service extension line was needed for Applicant's development project because a main already runs along the side of the highway where Applicant planned to build homes, so the cost to obtain service only

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<sup>9</sup> **Exhibit 2** at Sections E, F, and G.

<sup>10</sup> *Id.* at Section F at Non-Standard Service Contract ¶ 6 Contribution-in-aid-of-Construction (PKWSC 000046).

<sup>11</sup> *Id.*

<sup>12</sup> See **Exhibit B** (Affidavit of Sue Cathey) at Attachment 1.

<sup>13</sup> **Exhibit 3** (Communications between Applicant and Possum Kingdom).

included CIAC payments. On June 6, 2017, Possum Kingdom informed Applicant that service could be provided for between \$2,300 to \$2,800 per connection.<sup>14</sup> On July 19, 2017, Possum Kingdom informed Applicant that service could be provided estimated at \$2,300 per connection.<sup>15</sup> However, Applicant failed to respond to that offer for many months and never followed up with Possum Kingdom about finalizing and executing a non-standard service contract.<sup>16</sup> On July 26, 2017, Applicant submitted an Application for Service for Lot 7 and Possum Kingdom submitted a request to its engineer to review feasibility for installation of a Lot 7 meter.<sup>17</sup> On August 2, 2017, Possum Kingdom's engineering firm approved the request for one (1) meter to be installed on Lot 7.<sup>18</sup> Possum Kingdom then completed the meter installation for Lot 7.<sup>19</sup> In 2019, two landowners who purchased properties from Applicant requested meters and Possum Kingdom fulfilled those requests.<sup>20</sup> However, a non-standard service contract with Possum Kingdom reserving capacity at the 2017 estimated price was never completed.

Subsequently, all the capacity in Possum Kingdom's then most recent water treatment plant expansion project was reserved and Possum Kingdom needed to initiate a new expansion project. This required a change in Possum Kingdom's CIAC amount for new non-standard service applicants to \$13,385.00 per connection which the Possum Kingdom Board approved on April 21, 2021.<sup>21</sup> Possum Kingdom tried to follow up with Applicant yet again by sending a new offer with a new service contract incorporating the new CIAC amount on May 11, 2021.<sup>22</sup> Possum Kingdom even offered to recognize the two connections as already paid, so that Applicant would only have

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<sup>14</sup> *Id.* at PKWSC 000204.

<sup>15</sup> *Id.* at PKWSC 000206.

<sup>16</sup> *Id.* at PKWSC 000206 and 000229-000230; *see also* **Exhibit B** at Attachment 1.

<sup>17</sup> *Id.* at PKWSC 000207 – PKWSC 000212.

<sup>18</sup> *Id.* at PKWSC 000212; **Exhibit B** at Attachment 1.

<sup>19</sup> *Id.*

<sup>20</sup> **Exhibit B** at Attachment 1.

<sup>21</sup> **Exhibit 4.**

<sup>22</sup> **Exhibit 3** at PKWSC 000214 – PKWSC 000227.

to pay for 10 additional connections at the \$13,385.00 per connection price which would have resulted in a total lower than the \$160,620.00 total complained of in the Application based on 12 connections.<sup>23</sup> Applicant agreed to meet at the Possum Kingdom office to discuss this matter, but Applicant did not keep that commitment. Additional attempts to contact Applicant were not successful. Applicant still did not respond.

Then, Applicant contacted Possum Kingdom about service through counsel on September 21, 2021.<sup>24</sup> Intermittent contact occurred after that date without Applicant accepting a non-standard service contract as offered.<sup>25</sup> Applicant cannot reasonably contend that negotiations were not attempted by Possum Kingdom. Yet, this process culminated with Applicant filing its Application with the Commission on January 11, 2022 attempting to appeal the CIAC price quoted to Applicant on May 11, 2021 – approximately one (1) year ago – by characterizing it as a “new” service offer.<sup>26</sup> Applicant offers no explanation for why it failed to respond to Possum Kingdom’s earlier offers or why it believes the latest offer is not reasonable. Instead, Applicant seeks the Commission’s assistance to pressure Possum Kingdom into offering Applicant the same price quoted *in 2017*.<sup>27</sup> That is not right.

Possum Kingdom cannot reasonably be expected to hold non-standard service offers to developers open forever, so it places reasonable limits on the time to accept such offers which is clearly communicated.<sup>28</sup> All prices go up over time and, similarly, expansion projects used as the basis for CIAC charges change over time. Since April 2021, Possum Kingdom has uniformly offered non-standard service to developers for costs that include CIAC payments of \$13,385.00

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<sup>23</sup> *Id.* at PKWSC 000214.

<sup>24</sup> *Id.* at PKWSC 000228.

<sup>25</sup> *Id.* at PKWSC 000229 – PKWSC 000235.

<sup>26</sup> Item No. 1 (Application).

<sup>27</sup> Item No. 1 (Application).

<sup>28</sup> *See, e.g., Exhibit 3* at PKWSC 000214 (May 11, 2021 Letter informing service applicant that estimated cost to obtain service would be available for 90 days).

per connection based on its \$10.4 million 0.5 million gallons per day (MGD) water treatment plant expansion project.<sup>29</sup> The original offer to Applicant was for the expansion project Possum Kingdom is expected to complete by June 2022, however, the Applicant never signed and agreed to a Non-Standard Contract presented to the Applicant. Subsequently, all the capacity in Possum Kingdom's then most recent water treatment plant expansion project was reserved by others and Possum Kingdom needed to initiate a new expansion project. The new project forms the basis for the price Possum Kingdom plainly offered to Applicant in May 2021, not January 2022, before Possum Kingdom was ignored for many months.<sup>30</sup> The offered CIAC amount is entirely reasonable and has been offered to all non-standard service applicants in a non-discriminatory fashion since the Possum Kingdom Board approved it on April 21, 2021.<sup>31</sup> Applicant has effectively "ghosted" Possum Kingdom at various times since first requesting service in 2017 and that cannot be held against Possum Kingdom. Possum Kingdom cannot reasonably be expected to revert to its CIAC charges in effect five years ago.

In sum, instead of working with Possum Kingdom and its Board to complete the non-standard service application process by executing a non-standard service contract reflecting reasonable CIAC cost estimates in effect at any given time over the past five years, Applicant has seen fit to blow off Possum Kingdom intermittently during that period and then file the Application here well after the required 90-day filing period. The Commission should dismiss or reject the Appeal.

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<sup>29</sup> Exhibits 3, 4, 5 and 6.

<sup>30</sup> Exhibit 3.

<sup>31</sup> Exhibit 4.

### III. APPLICABLE LAW

The Application is not one proposing a rate change and, therefore, Applicant has the burden of proof in this proceeding.<sup>32</sup> TWC § 13.043(g) states as follows:

An applicant for service from an affected county or a water supply or sewer service corporation may appeal to the utility commission a decision of the county or water supply or sewer service corporation affecting the amount to be paid to obtain service other than the regular membership or tap fees. In addition to the factors specified under Subsection (j), in an appeal brought under this subsection the utility commission shall determine whether the amount paid by the applicant is *consistent with the tariff* of the water supply or sewer service corporation and is *reasonably related* to the cost of installing on-site and off-site facilities to provide service to that applicant. If the utility commission finds the amount charged to be *clearly unreasonable*, it shall establish the fee to be paid for that applicant. An appeal under this subsection must be initiated within 90 days after the date written notice is provided to the applicant or member of the decision of an affected county or water supply or sewer service corporation relating to the applicant's initial request for that service. A determination made by the utility commission on an appeal under this subsection is binding on all similarly situated applicants for service, and the utility commission may not consider other appeals on the same issue until the applicable provisions of the tariff of the water supply or sewer service corporation are amended.<sup>33</sup>

TWC § 13.043(j) provides:

In an appeal under this section, the utility commission shall ensure that every rate made, demanded, or received by any retail public utility or by any two or more retail public utilities jointly shall be just and reasonable. Rates shall not be unreasonably preferential, prejudicial, or discriminatory but shall be sufficient, equitable, and consistent in application to each class of customers. The utility commission shall use a methodology that preserves the financial integrity of the retail public utility.<sup>34</sup>

Commission rules clarify that “the commission shall affirm the decision of the water supply or sewer service corporation” if the standards in TWC § 13.043(g) and (i) reflected in the Commission’s implementing rules are met.<sup>35</sup>

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<sup>32</sup> 16 TAC § 24.12.

<sup>33</sup> TWC § 13.043(g) (emphasis added); *see also* 16 TAC § 24.101(g).

<sup>34</sup> TWC § 13.043(j); *see also* 16 TAC § 24.101(i).

<sup>35</sup> 16 TAC § 24.101(g)(2).

#### **IV. PLEA TO THE JURISDICTION AND MOTION TO DISMISS**

The Commission should dismiss the Application with prejudice for lack of jurisdiction.<sup>36</sup> The applicable statute plainly requires a cost to obtain service appeal be “initiated within 90 days after the date written notice is provided to the applicant of the decision of [a] water supply . . . corporation relating to the applicant’s initial request for that service.”<sup>37</sup> The applicable Commission rule also requires such an appeal to be “initiated within 90 days after written notice of the amount to be paid to obtain service is provided to the service applicant . . . of the decision of [a] water supply . . . corporation affecting the amount to be paid to obtain service as requested in the applicant’s initial request for that service.”<sup>38</sup> Prolonging negotiations over a cost estimate provided to a non-standard service applicant following an initial request and then using that as the basis for appeal is not permitted by these 90-day provisions. Applicant did not respond to Possum Kingdom’s initial offer for months and certainly did not attempt to bring its issues to this Commission for nearly one year. The Application is beyond “unorthodox” as Applicant claims.<sup>39</sup> The Application is unlawfully filed.

If not dismissed, Possum Kingdom will be unjustly compelled to litigate a cost estimate for obtaining service provided to Applicant many months ago and its comparison to the cost estimate offered to Applicant several years ago. The applicable statute and rule should prevent Possum Kingdom and the Commission from the burden of expending resources to entertain Applicant’s issues here. The Commission should dismiss the Application.

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<sup>36</sup> 16 TAC § 22.181(a) and (d)(1).

<sup>37</sup> TWC § 13.043(g).

<sup>38</sup> 16 TAC § 24.101(g).

<sup>39</sup> Item No. 1 (Application).

## **V. RESPONSE TO APPLICATION (ALTERNATIVE)**

Subject to its Plea, and if the Application is not dismissed, Respondent requests a contested case hearing on the Application. Respondent generally denies Applicant's characterization of events, such as allegations that "attempts to negotiate were rejected by PKWSC."<sup>40</sup> More importantly, Possum Kingdom vehemently denies that the estimated cost for Applicant to obtain non-standard service from Possum Kingdom violates the applicable statutory and regulatory provisions in any way, shape, or form. Possum Kingdom's per connection CIAC amount estimated for Applicant is clearly reasonable, it is consistent with Respondent's tariff, it is reasonably related to the cost of installing off-site facilities to provide service to Applicant, it is not unreasonably preferential, prejudicial, or discriminatory, and it is sufficient, equitable, and consistent in application to each class of customers.<sup>41</sup>

The Application includes no information to the contrary and is completely baseless. The Application provides no rationale for why the CIAC amount Possum Kingdom offered Applicant in 2021, subject to periodic negotiations over the past year, should be priced in line with Possum Kingdom's 2017 offer. Possum Kingdom submits that rolling back its offered CIAC amount to 2017 for Applicant now would be a discriminatory practice not in line with its tariff. If the Commission does not dismiss the Application, the Commission should affirm Possum Kingdom's decision concerning Applicant's cost to obtain service.

## **CONCLUSION**

Possum Kingdom Water Supply Corporation hereby respectfully requests that the Commission grant its Plea to the Jurisdiction and Motion to Dismiss. Alternatively, subject to its Plea, Possum Kingdom requests the Commission refer this matter for a contested case hearing and

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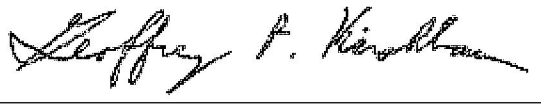
<sup>40</sup> Item No. 1 (Application).

<sup>41</sup> TWC § 13.043(g) and (j); 16 TAC § 24.101(g) and (i).



affirm the cost estimate provided to Applicant by Possum Kingdom as just, reasonable, non-discriminatory, and consistent with Possum Kingdom's tariff. Possum Kingdom also requests all other and further relief to which it is justly entitled at law or in equity.

Respectfully submitted,

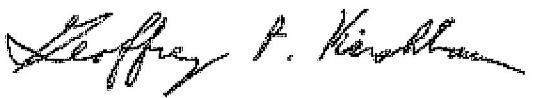
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**ATTORNEYS FOR POSSUM KINGDOM  
WATER SUPPLY CORPORATION**

### **CERTIFICATE OF SERVICE**

I certify that, unless otherwise ordered by the presiding officer, notice of the filing of this document was provided to all parties of record via electronic mail on May 16, 2022, in accordance with the Orders Suspending Rules filed in Project No. 50664.

  
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Geoffrey P. Kirshbaum

## PUC DOCKET NO. 53299

CRYSTAL BLUFF GOAT RANCHES	§	BEFORE THE PUBLIC UTILITY
LLC'S APPEAL OF THE COST OF	§	
OBTAINING SERVICE FROM	§	COMMISSION OF TEXAS
POSSUM KINGDOM WATER SUPPLY	§	
CORPORATION	§	


## AFFIDAVIT OF THOMAS E LABBE, JR.

STATE OF TEXAS           §  
                                      §  
 COUNTY OF PALO PINTO §

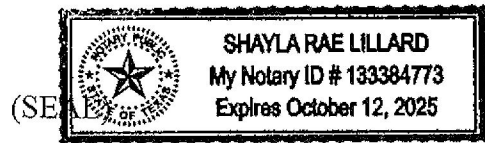
BEFORE ME, the undersigned authority, on this day personally appeared Tom Labbe, whose identity is known to me. Upon being duly sworn he stated:


1. My name is Thomas E Labbe, Jr. I am capable of making this Affidavit. The facts stated in this Affidavit are within my personal knowledge and are true and correct.
2. I am the General Manager of Possum Kingdom Water Supply Corporation ("Possum Kingdom"). I have held that position since November 2021. As General Manager of Possum Kingdom, I am authorized to sign on its behalf.
3. The facts contained in Possum Kingdom's Plea to the Jurisdiction, Motion to Dismiss, and Response to Appeal ("Plea") are true and correct.
4. I am familiar with the manner in which Possum Kingdom has regularly maintained and currently maintains its records, including the documents attached as Exhibits 1 through 6 to Possum Kingdom's Plea. Each exhibit document attached to the Plea was made at or near the time of each act, event, condition, opinion, or diagnosis set forth in the record, made by, or from information transmitted by, persons with knowledge of the matters set forth, and kept in the course of regularly conducted business activity. They are exact duplicates of each original record.

Further affiant sayeth not.

  
Thomas E Labbe, Jr.  
General Manager  
Possum Kingdom Water Supply Corporation

SWORN TO and SUBSCRIBED before me by Tom Labbe on May 10, 2022.



  
Notary Public in and for the State of Texas

My commission expires: 10/12/25



May 11, 2021

Mr. Gary Ray  
Crystal Bluff Goat Ranch, LLC  
6300 Ridglea Place  
Suite 920  
Fort Worth, TX 76116

Dear Mr. Ray;

Attached is a draft Non-Standard Contract to enable potable water to be delivered to your development on Hummingbird Lane. The Texas Environmental Quality Commission declares any person that sub-divides property into more than two properties is considered a developer and, as such, is subject to the Non-Standard Contract for water service and must pay Capital in Aid of Construction (CIAC) to obtain or reserve water to the properties.

Possum Kingdom Water Supply Corporation (PKWSC) is a non-profit member owned organization. Developers pay CIAC to PKWSC to enable plant expansion to supply potable water to the development or to reserve water in the current available supply. The price is based on the cost of that portion of the available water to PKWSC or the cost to build additional capacity. The existing plant is at maximum capacity at this time and the cost for additional capacity is estimated at \$10,400,145.00 which will enable an additional 777 meters to be added to the system.

Your original development was for 12 lots. Two lot owners have paid for meters to be installed and they are members of the corporation. We will grandfather these meters and only apply the CIAC to the additional 10 lots on an exception basis and will not apply to any additional development you may have. This contract must have approval by the Board of Directors and be put in place within the next 90 days to insure potable water is available for the lots in your development. No additional meters will be installed until this transaction is completed.

Please review the contract and add the required information on the draft copy and return to my office for an original contract to be created in 90 days. We will also need a copy of the final plat and engineering drawings for our engineers to review and potentially approve.

Sincerely,

A handwritten signature in black ink, appearing to read "Bob Neal", is written over the printed name.

Bob Neal  
General Manager  
Possum Kingdom Water Supply Corporation

Attachment: 12 page Non-Standard Contract

## NON-STANDARD SERVICE CONTRACT

THE STATE OF TEXAS  
COUNTY OF PALO PINTO

THIS CONTRACT is made and entered into by and between **Crystal Bluff Goat Ranch, LLC** hereinafter referred to as "Developer", and Possum Kingdom Water Supply Corporation, hereinafter referred to as "PKWSC" or "Corporation".

WHEREAS, Developer is engaged in developing that certain \_\_\_\_\_ acres in Palo Pinto, County, Texas, more particularly known as the Hummingbird West subdivision, according to the plat thereof recorded at Vol. \_\_\_, Page \_\_\_ of the Plat Records of Palo Pinto County, Texas, said land being hereinafter referred to as "the Property"; and,

WHEREAS, PKWSC owns and operates a water system which supplies potable water for human consumption and other domestic uses to customers within its service area; and,

WHEREAS, the Property is located within PKWSC's state-certificated service area which obligates PKWSC to provide it with retail public water utility service subject to the terms and conditions of PKWSC's lawful tariff and the regulations of the Texas Commission on Environmental Quality ("TCEQ"); and,

WHEREAS, Developer has requested PKWSC to provide such water service to the Property through an extension of PKWSC's water system, such extension being hereinafter referred to as "the Water System Extension"; NOW THEREFORE:

KNOW ALL MEN BY THESE PRESENTS:

THAT for and in consideration for the mutual promises hereinafter expressed, and other good and valuable consideration, the sufficiency of which is hereby acknowledged by the parties, Developer and PKWSC agree and contract as follows:

**1. Engineering and Design of the Water System Extension.**

- (a) The Water System Extension shall be engineered and designed by a Texas Licensed Professional Engineer at Developer's expense and in accordance with the applicable specifications of PKWSC and all governmental agencies having jurisdiction. All plans and specifications must be reviewed and approved by PKWSC's consulting engineer, at Developer's expense, prior to the issuance of any request for bids for the construction of the Water System Extension. After such approval of the plans and specifications by PKWSC's consulting engineer, the plans and specifications shall become part of this Agreement by reference and shall more particularly define "the Water System Extension".
- (b) The Water System Extension must be sized to provide continuous and adequate water service to the Property based on plans for the development provided to PKWSC by the Developer. PKWSC may require the Water System Extension to be oversized in anticipation of the needs of other customers of PKWSC, subject to the obligation to reimburse the Developer for any such oversizing as provided below. If the Water System Extension proves to be insufficient for the long-term retail public water utility service demands of the Property, PKWSC shall have the continuing option, and Developer shall be under the continuing obligation, to construct such additional service capacities as may be needed to meet TCEQ Chapter 290 regulations plus meeting the local demands of the Property. PKWSC's right to seek additional capital contribution and/or physical retail water utility facilities from Developer shall commence on the date the original Water System Extension is placed into commercial operation and shall expire seven (7) calendar years

thereafter. This right to collect additional capital contributions shall be separate and apart from the obligation to pay contribution in aid of construction ("CIAC") as set forth in Section 6 below.

**2. Required Sites, Easements or Rights-of-Way.**

- (a) Developer shall be responsible for dedicating or acquiring any easements across privately owned land or sites (including off-site) which are necessary for the construction or operation of the Water System Extension and for obtaining any Governmental approvals necessary to construct the Water System Extension in public right-of-way. Public rights-of-way may be used only when private rights-of-way are not available or are necessitated by public roadway crossings. If private easements are not otherwise available, PKWSC agrees to exercise its powers of eminent domain to acquire such easements subject to Developer paying all expenses incurred in such actions.
- (b) Any easements acquired by the Developer shall be in a form approved by PKWSC's attorney (see Form of Easement, attached to this Contract and made a part hereof) and shall be assigned to PKWSC upon proper completion of the construction of the Water System Extension.
- (c) The validity of the legal instruments by which the Developer acquires any such easements and by which Developer assigns such easements to PKWSC must be approved by PKWSC's attorney.

**3. Construction of the Water System Extension**

- (a) Developer shall advertise for bids for the construction of the Water System Extension in accordance with such generally accepted bidding practices as maybe required by the United States Department of Agriculture, Rural Development and shall award the contract for the construction of the Water System Extension subject to the approval of PKWSC. PKWSC may reject any bid.
- (b) The Water System Extension shall be constructed in accordance with the approved plans and specifications. PKWSC shall have the right to inspect, at Developer's expense, all phases of the construction of the Water System Extension. Developer must give written notice to PKWSC of the date on which construction is scheduled to begin so that PKWSC may assign an inspector. PKWSC may charge reasonable inspection fees based on the actual costs of labor, travel and incidental expenses of the inspectors, plus 10% overhead.

**4. Dedication of Water System Extension to PKWSC.**

- (a) Upon proper completion of construction of the Water System Extension and final inspection and testing thereof by PKWSC, the Water System Extension shall be dedicated to PKWSC by an appropriate legal instrument approved by PKWSC's Attorney. The Water System Extension shall thereafter be owned and maintained by PKWSC subject to the warranties required of Applicant under Subsection (b). Any connection of individual customers to the Water System Extension shall be made by PKWSC.
- (b) Excepting only Developer's continuing obligation to guarantee adequate service capacities set forth in Section 1(b) above, upon dedication of the Water System Extension, Applicant shall warrant materials and performance of the Water System Extension constructed by Applicant for twelve (12) months following the date of dedication.

**5. Cost of the Water System Extension.**

- (a) Developer shall pay all costs associated with the Water System Extension as CIAC, including, without limitation, the cost of the following:
  - (1) engineering and design at cost plus 10%;
  - (2) easement or right -of-way acquisition, including, if necessary, condemnation costs;
  - (3) construction;
  - (4) inspection at cost plus 10%;
  - (5) attorneys' fees at cost plus 10%; and
  - (6) Water Treatment Plant expansion
  - (7) Governmental or regulatory approvals required to lawfully provide service.
  - (8) Developer shall indemnify PKWSC and hold PKWSC harmless from all of the foregoing costs.
- (b) Provided, however, nothing herein shall be construed as obligating the Developer to maintain the Water System Extension subsequent to its dedication and acceptance for maintenance by PKWSC.
- (c) If PKWSC has required the Water System Extension to be oversized in anticipation of the needs of the other customers of PKWSC, PKWSC shall reimburse Developer for the additional costs of construction attributable to the oversizing, as determined by PKWSC's consulting engineer. As new PKWSC customers outside of the Property are connected to and served from the oversized facilities funded by Developer, PKWSC shall collect CIAC from each such customer equal to the cost of the surplus capacities that customer will use as determined by PKWSC's consulting engineer. This CIAC shall be paid to Developer within thirty (30) days of collection by PKWSC. This obligation to charge and this right to receive CIAC for the Developer-funded CIAC shall terminate at the earlier of:
  - (1) Developer's recovery of all costs incurred for the oversized utility facilities; or,
  - (2) five (5) calendar years of the placement of said facilities into commercial operation.

**6. Contribution-in-aid-of-Construction.**

- (a) The parties recognize the Developer's obligation to compensate PKWSC for service capacities that will be dedicated to serve the Property. The Developer and PKWSC have negotiated a mutually agreeable CIAC payment for the Developer to reimburse PKWSC for that portion of its existing service capacities being reserved for the Property plus increased capacity to be created by an upgrade(s) to the Water Treatment Plant ("WTP") to increase production in .5 MGD increments, a portion of which will be dedicated to the Developer's service area. The agreed CIAC amount is \$13,385.00 per lot. This CIAC payment scale will only cover the first 10 (ten) lots for which capacity the Developer will pay \$133,850.00 with the execution of this agreement. The cost of future expansions to PKWSC's WTP and distribution system will be apportioned between the Developer and PKWSC in proportion to the amount of the new service capacities that will be dedicated to each, and at construction costs then current to be determined by PKWSC at the time of the new expansion.
- (b) Additional service requests for future 100-lot phases shall be made not less than twelve (12) months before the time the Developer wants to commence accepting delivery of the additional water. PKWSC shall complete any necessary improvements and provide service within twelve (12) months after receiving a timely request and payment of the applicable CIAC. If the Developer does not

make a request for additional water at least twelve (12) months in advance, PKWSC shall make reasonable efforts to provide additional service capacity when requested but PKWSC makes no guarantee or covenant that such additional water will be available on the date requested.

- (c) No additional fees shall be paid except as stated in Sections 1(b), 7(a) and 7(b). As provided in PKWSC's lawful tariff, the owner of individual lots or tracts connected to or able to receive service from the Water System Extension within the Property with the installation of a properly sized meter will pay monthly service or reserve service fees effective on the closing date of the sale from the Developer to the buyer. These fees will be based on the rates in effect from the corporation's Tariff at the time of closing and will include the following fees: Membership, Administration, Meter Installation and Inspection of Meter Connection.
- (d) Water service to be used by the Developer will be subject to monthly service fees based on the rates in effect from the corporation's Tariff at the time that water service is available to the specified property. Developer shall not be entitled to a membership in PKWSC for any connection serving property owned or being developed for resale to the public. Developer may obtain and hold memberships for service connections to be held permanently by Developer, i.e., to sales offices, common area irrigation meters, and Property maintenance buildings.

**7. Service from the Water System Extension.**

- (a) After proper completion and dedication of the Water System Extension to PKWSC, PKWSC shall provide continuous and adequate water service to the Property for the initial 10 (ten) lots subject to all duly tariffed rules and regulations and bylaws of PKWSC. Any increase of service capacity beyond the 10 (ten) initial minimum shall be contingent upon the Developer paying CIAC for such additional service capacity.
- (b) Service Capacity Reservation. PKWSC's agreement to provide long-term water service capacity to the Developer and the cost to be paid for such capacity of materially conditioned upon the Developer's projections of the service area's demands. It is agreed that if the Developer is not taking and paying for at least 50% of the water capacity contracted for herein at the end of the first four (4) years of this Agreement and 100 % within seven (7) years, the parties shall renegotiate the terms of the Agreement or, at its option, the Developer shall surrender all unused reserved water service capacity so PKWSC may use it to serve other customers, wholesale or retail. The Developer shall not be reimbursed for any surrendered service capacity. Surrendering that capacity will only release the Developer from the continued payment of monthly reservation
- (c) The existing WTP and distribution lines of PKWSC do not support fire flow. "Fire hydrants" installed within PKWSC's water distribution system are provided at the convenience of PKWSC and do not imply any responsibility on the part of PKWSC to meet fire flow requirements of local, county, state, or federal governmental agencies. Such fire hydrants are support facilities only meant to be used as flush and control valves in the public drinking water system. State public health and safety regulations require public drinking water systems to be flushed on a routine basis and metallic flush valves (commonly referred to a "fire hydrant") are a preferred manner of complying with these regulations. PKWSC makes no representation that it is offering fire protection or fire flows under any fire code or firefighting standard. PKWSC has no obligation at law to provide water for fire related activities because this is not a public water PKWSC or potable domestic



water service as defined by the Texas Water Code and/or the Texas Health and Safety Code.

PKWSC, at its sole option, may permit local area fire departments to use water from its public drinking water system on an "AS IS, AS AVAILABLE" basis and will in no manner be liable for damages caused by its inability to supply sufficient water for the prevention or suppression of fire. Any fire department or other person using PKWSC's water system to take water for firefighting purposes shall be liable to PKWSC for damage caused to PKWSC's plant and equipment during such use, especially for, but not limited to, damage to pumps caused by improperly opening and closing hydrants/valves under pressure or damage for driving heavy vehicles over water lines. PKWSC reserves the right to remove any fire hydrant (metallic flush valve), due to improper use or detriment to the system as determined by PKWSC, at any time without notice, refund, or compensation to the contributors. Any water taken from PKWSC's water system for any purpose, including firefighting, without prior knowledge and consent of the Board of Directors and/or the General Manager shall be deemed to be theft and shall be prosecuted. Fire Departments may obtain advanced consent for emergency usage on an "AS IS, AS AVAILABLE" basis.

It is understood that the Developer anticipates providing fire flow service within the development. PKWSC does not accept liability for fire-related injuries or damages to persons or property caused or aggravated by the availability (or lack thereof) of water or water pressure (or lack thereof) during fire emergencies. PKWSC neither possesses nor claims to possess knowledge or expertise in firefighting or the requirements of firefighting. No statement or action of PKWSC shall ever be implied or meant to suggest that any facilities of PKWSC comply with any state or local fire code. On-site storage of water reserved for firefighting shall preferably be accomplished through elevated storage; however, if permitted to achieve Developer's desired ISO rating, reserved water may be stored in ground storage tanks with an emergency backup generator(s) if such water can be injected into the public drinking supply without contamination or significant degradation of drinking water quality during mixing.

- (d) It is understood and agreed by the parties that the obligation of PKWSC to provide water service in the manner contemplated by this Contract is subject to the issuance by the Texas Commission on Environmental Quality and all other governmental agencies having jurisdiction of all permits, certificates or approvals required to lawfully provide such service.
- (e) Unless the prior approval of PKWSC is obtained, the Developer shall not:
  - (1) construct or install additional water lines or facilities to service areas outside the Property;
  - (2) add any additional lands to the Property for which water service is to be provided pursuant to this Agreement; or
  - (3) Connect or serve any person or entity who, in turn, sells water service directly or indirectly to another person or entity.

#### **8. Effect of Force Majeure.**

In the event either party is rendered unable by force majeure to carry out any of its obligations under this Contract, in whole or in part, then the obligations of that party, to

the extent affected by the force majeure shall be suspended during the continuance of the inability, provided however, that due diligence is exercised to resume performance at the earliest practical time. As soon as reasonably possible after the occurrence of the force majeure relied upon to suspend performance, the party whose contractual obligations are affected thereby shall give notice and full particulars of the force majeure to the other party.

The cause, as far as possible, shall be remedied with all reasonable diligence. The term "force majeure" includes acts of God, strikes, lockouts or other industrial disturbances, acts of the public enemy, orders of the government of the United States or the State of Texas or any civil or military authority, insurrections, riots, epidemics, landslides, lightning, earthquakes, fires, hurricanes, storms, floods, washouts, droughts, arrests, restraints of government and civil disturbances, explosions, breakage, or accidents to equipment, pipelines, or canals, partial or complete failure of water supply, and any other inability's of either party, whether similar to those enumerated or otherwise, that are not within the control of the party claiming the inability and that could not have been avoided by the exercise of due diligence and care. It is understood and agreed that the settlement or strikes and lockouts shall be entirely within the discretion of the party having the difficulty and that the requirement that any force majeure be remedied with all reasonable dispatch shall not require the settlement of strikes and lockouts by acceding to the demands of the opposing party if the settlement is unfavorable to it in the judgment of the party having the difficulty.

**9. Notices.**

Any notice to be given hereunder by either party to the other party shall be in writing and may be affected by personal delivery or by sending said notices by registered or certified mail, return receipt requested, to the address set forth below. Notice shall be deemed given when deposited with the United States Postal Service with sufficient postage affixed. Any notice mailed to PKWSC shall be addressed:

Possum Kingdom Water Supply Corporation  
1170 Willow Road  
Graford, TX 76449

Any notice mailed to Applicant shall be addressed:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Either party may change the address for notice to it by giving written notice of such change in accordance with the provisions of this paragraph

**10. Breach of Contract and Remedies.**

- (a) If either party breaches any term or condition of this Contract, the non-breaching party may, at its sole option, provide the breaching party with a notice of the breach within sixty (60) days of discovery of the breach by the non-breaching party. Upon notice of breach, the breaching party shall have sixty (60) days to cure the breach.

If the breaching party does not cure the breach within the sixty (60) days, the non-breaching party, below, shall have all rights at law and in equity including the right to enforce specific performance of this Contract by the breaching party, the right to perform the obligation in question and to seek restitution for all damages incurred in connection therewith. It should be noted that PKWSC's willingness to enter into this contract is expressly and materially dependent upon Developer's timely and full payments of all sums due hereunder. Developer's failure to perform under this agreement shall expressly be grounds for PKWSC to exercise its statutory right to refuse water utility service to the Property as provided by Texas Water Code §13.2502. Such an election by PKWSC shall not deprive it of any other rights or remedies it may have at law or in equity.

- (b) In the event of termination of this Contract by a non-breaching party, such action shall not affect any previous conveyance unless PKWSC has the statutory right to refuse service to such conveyed property under Texas Water Code §13.2502.
- (c) The rights and remedies of the parties provided in this Contract shall not be exclusive and are in addition to any other rights and remedies provided by law and under this Contract.

**11. Third Parties.**

It is the express intention of the parties that the terms and conditions of this Contract may be enforced by either party but not by any third party or alleged third-party beneficiary.

**12. Captions.**

Captions are included solely for convenience of reference and if there is any conflict between captions and the text of the Contract, the text shall control.

**13. Context.**

Whenever the context requires, the gender of all words herein shall include the masculine, feminine, and neuter, and the number of all words shall include the singular and the plural.

**14. Mediation.**

Prior to the institution of legal action by either party related to any dispute arising under this Contract, said dispute shall be referred to non-binding mediation by an independent mediator mutually agreed upon by both parties. The cost of the mediator shall be shared equally by both parties.

**15. Litigation Expenses.**

Either party to this Contract who is the prevailing party in any legal proceeding against the other party, brought in relation to this Contract, shall be entitled to recover court costs and reasonable attorneys' fees from the non-prevailing party.

**16. Intent.**

The parties hereto covenant and agree that they shall execute and deliver such other and further instruments and documents as are or may become necessary or convenient to effectuate and carry out the intent of this Contract.

**17. Multiple Originals.**

This Contract may be executed in multiple originals, any copy of which shall be

considered to be an original.

**18. Authority.**

The signatories hereto represent and affirm that they are authorized to execute this Contract on behalf of the respective parties hereto.

**19. Severability.**

The provisions of this Agreement are severable, and if any word, phrase, clause, sentence, paragraph, section, or other part of this Agreement or the application thereof to any person or circumstance shall ever be held by any court of competent jurisdiction to be invalid or unconstitutional for any reason, the remainder of this Agreement and the application of such word, phrase, clause, sentence, paragraph, section, or other part of this Agreement to other persons or circumstances shall not be affected thereby and this Agreement shall be construed as if such invalid or unconstitutional portion had never been contained therein.

**20. Entire Agreement.**

This Agreement, including any exhibits attached hereto and made a part hereof, constitutes the entire agreement between the parties relative to the subject matter of this Agreement. All prior agreements, covenants, representations, or warranties, whether oral or in writing, between the parties are merged herein.

**21. Amendment.**

No amendment of this Agreement shall be effective unless and until it is duly approved by each party and reduced to a writing signed by the authorized representatives of PKWSC and the Developer, respectively, which amendment shall incorporate this Agreement in every particular not otherwise changed by the amendment.

**22. Governing Law.**

This Agreement shall be construed under and in accordance with the laws of the State of Texas and all obligations of the parties are expressly deemed performable in Palo Pinto County, Texas.

**23. Venue.**

Any civil action at law or in equity brought to enforce or interpret any provision of this Contract shall be brought in a state court of competent jurisdiction with venue in Palo Pinto County, Texas. Any administrative action shall be brought before the TCEQ and the courts of competent jurisdiction in Travis County, Texas.

**24. Successors and Assigns.**

This Agreement shall be binding on and shall inure to the benefit of the heirs, successors and assigns of the parties.

**25. Assignability.**

The rights and obligations of the Developer hereunder may not be assigned without the prior written consent of PKWSC.

**26. Effective Date.**

This Agreement shall be effective from and after the date of due execution by all

parties.

IN WITNESS WHEREOF each of the parties has caused this Agreement to be executed by its duly authorized representative in multiple copies, each of equal dignity, on the date or dates indicated below.

Possum Kingdom Water Supply Corporation

DEVELOPER

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: William M. Jasper

Name: \_\_\_\_\_

Title: President, Board of Directors

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

## **RIGHT OF WAY EASEMENT (General Type Easement)**

KNOW ALL MEN BY THESE PRESENTS, that **Crystal Bluff Goat Ranch**, (hereinafter called "Grantors"), in consideration of one dollar (\$1.00) and other good and valuable consideration paid by Possum Kingdom Water Supply Corporation, (hereinafter called "Grantee"), the receipt and sufficiency of which is hereby acknowledged, does hereby grant, bargain, sell, transfer, and convey to said Grantee, its successors, and assigns, a perpetual exclusive easement with the right to erect, construct, install, and lay and thereafter access and use, operate, inspect, repair, maintain, replace, upgrade, parallel and remove water distribution lines and appurtenances and any other facilities necessary to serve Grantors' property [including that property's water meter(s) if the easement is located at or near the property line] as well as the Grantee's current and future system-wide customers, under, over and across \_\_\_\_\_ acres of land, more particularly described in instrument recorded in Vol. \_\_\_\_\_, Page \_\_\_\_\_, Deed Records, Palo Pinto County, Texas, together with the right of ingress and egress over Grantor's adjacent lands for the purpose for which the above mentioned rights are granted. The easement hereby granted shall not exceed twenty feet (20') in width, and Grantee is hereby authorized to designate the course of the easement herein conveyed except that when the pipeline(s) is installed, the easement herein granted shall be limited to a strip of land 20' in width the center line thereof being the pipeline as installed.

During the period of construction of the water pipeline, the easement shall be extended an additional twenty feet (20') in width as shown on Exhibit A for a total of forty feet (40'). Upon conclusion of all construction and the restoration of the surface to its pre-construction condition, the construction easement (the extra 20') shall revert to Grantor and shall not be available to Grantee without future consent of Grantor, which consent shall not be unreasonably withheld if the easement is needed for future construction on the water utility facilities.

Grantee shall have such other rights and benefits necessary and/or convenient for the full enjoyment and use of the rights herein granted, including without limitation, (1) the reasonable right of ingress and egress over and across lands owned by Grantor which are contiguous to the easement for the purpose of accessing the easement in the most efficient and effective manner but not to use Grantor's contiguous property for other purposes; (2) the reasonable right from time to time to remove any and all paving, undergrowth and other obstructions that may injure Grantee's facilities and appurtenances or interfere with the construction, maintenance, inspection, operation, protection, repair, alteration, testing, replacement, upgrading, paralleling, relocation (as above limited), substitution or removal thereof; and (3) the right to abandon-in-place any and all water supply lines, service lines and associated appurtenances, such that Grantee shall have no obligation or liability to Grantor or their successors or assigns to move or remove any such abandoned lines or appurtenances.

In the event the easement hereby granted abuts on a public road and the county or state hereafter widens or relocates the public road so as to require the relocation of this water line as installed, Grantor further grants to Grantee an additional easement over and across the land described above for the purpose of laterally relocating said water line as may be necessary to clear the road improvements, which easement hereby granted shall be limited to a strip of land 20' in width the center line thereof being the pipeline as relocated.

Grantor shall have the right to construct and maintain a driveway across the easement so long as it crosses the easement at an approximate ninety-degree (90°) angle and does not cover the easement for a protracted or unreasonable distance. Grantor takes this action with the full knowledge and understanding that Grantee may, at some unknown date, without or without advance notice, have to excavate its water line for maintenance or repair. Thereafter, Grantee shall be charged only with a reasonable duty to restore the drive to a working condition without guarantee or warranty of aesthetic or pre-existing condition.

Grantor shall have the right to erect a fence(s) across the easement for the purpose of containing livestock and domesticated animals. However, if Grantor erects a fence(s), Grantor shall install a gate at each end of the easement (if the total easement exceeds 300 feet or if it crosses a watercourse). These gates may be locked but the locking combinations must be given to the Grantee and not changed without its prior knowledge. The Grantor's water meter shall be located in proximity to a gate for ease of reading if maintained behind the fence. One gate

may be replaced by a stile capable of bearing a 300-pound person to be located at the site of the water meter. This requirement for gates and fence stiles may be waived in writing by Grantee on a landowner-by-landowner basis as the property passes in chain of title in recognition of Grantee's above-recited right of access across Grantor's contiguous lands if the waiver does not place an undue burden on meter readers.

The consideration recited herein shall constitute payment in full for all damages sustained by Grantors by reason of the installation of the structures referred to herein and the Grantee will maintain such easement in a state of good repair and efficiency so that no unreasonable damages will result from its use to Grantors' premises. This agreement together with other provisions of this grant shall constitute a covenant running with the land for the benefit of the Grantee, its successors, and assigns. The Grantors covenant that they are the owners of the above described land and that said lands are free and clear of all encumbrances and liens except the following:

Grantor does hereby bind itself, its successors and assigns, to WARRANT AND FOREVER DEFEND, all and singular, the easement herein granted to Grantee, or Grantee's successors and assigns, against every person whomsoever claiming, or to claim, the same or any part thereof.

The easement conveyed herein was obtained or improved through Federal financial assistance. This easement is subject to the provisions of the Title VI of the Civil Rights Act of 1964 and the regulations issued pursuant thereto for so long as the easement continues to be used for the same or similar purpose for which financial assistance was extended or for so long as the Grantee owns it, whichever is longer.

IN WITNESS WHEREOF the said Grantors have executed this instrument this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_

\_\_\_\_\_

## ACKNOWLEDGEMENT

STATE OF TEXAS  
COUNTY OF \_\_\_\_\_

BEFORE ME, the undersigned, a Notary Public in and for said County and State, on this day personally appeared \_\_\_\_\_ known to me to be the person(s) whose name(s) is(are) subscribed to the foregoing instrument, and acknowledged to me that he (she) (they) executed the same for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE THIS THE \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_

(Seal)

\_\_\_\_\_, County, Texas.  
(Notary Public in and for)

**RIGHT OF WAY EASEMENT  
(General Type Easement)**

"Exhibit A"

[CHECK APPROPRIATE DESCRIPTION]

1. \_\_\_\_\_ The easement shall be located parallel to and within the first twenty (20) feet of the property line of the encumbered tract based upon that side of the tract fronting \_\_\_\_\_ Road/Drive/Street/Lane.

or

2. \_\_\_\_\_ The easement shall be located across the encumbered tract based upon the following surveyed metes and bounds and attached sealed drawing prepared by \_\_\_\_\_:

Metes and Bounds Description:



## **Addendum 1**

### **Detail of Fees**

The following is a detail listing of fees to be paid by the Developer and the buyer of the Developer's property/ lot. Paragraph 5 of the Non-Standard Contract lists other costs that may apply.

- Developer will pay:
  - \$133,850.00 as Contribution in aid of Construction (CIAC) which will reserve capacity for the 10 (ten) meters to be installed at Crystal Bluff Goat Ranch
  - Service Investigation Fee of \$1,500.00

All fees listed below are subject to the PKWSC Tariff and are subject to change with 30 day notice. The amount billed will be the fee that is in effect at the time of closing and meter will be installed at that time and billing initiated.

- Buyers of all 10 (ten) properties / lots from the Developer will pay:
  - Membership in PKWSC of \$300.00
  - Meter Installation \$800.00
  - Inspection \$40.00
  - Administrative Fee \$30.00

**Tariff**

**of the**

**Possum Kingdom**

**Water Supply**

**Corporation**

**Palo Pinto and Stephens Counties, Texas**

**CCN 12890**

**TCEQ 1820076**

**1170 Willow Rd, Graford, TX 76449**  
**940-779-3100**

**Tariff of the  
Possum Kingdom Water Supply Corporation**

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## Section B

### Statements of Operation

## **SECTION B.**

### **STATEMENTS OF OPERATION**

1. **Organization.** The Possum Kingdom Water Supply Corporation is a member-owned, non-profit corporation incorporated pursuant to the Texas Water Code Chapter 67, Nonprofit Water Supply or Sewer Service Corporations and as supplemented by the Texas Non-Profit Corporation Act, Tex. Rev. Civ. Stat. Ann., Article 1396-1.01, et seq. (West 1980, Vernon Supp. 1996 as amended) for the purpose of furnishing potable water and or sewer utility service. *This service is to be expanded to include the area supported by the Rock Creek Water Supply Corporation through a merger agreement during the first quarter of 2017. The main portion of this area is a development known as The Hills above PK Lake. (updated 7-1-17)* Corporation operating policies, rates, and regulations are adopted by the Board of Directors elected by the Members of the Corporation.
2. **Non-Discrimination Policy.** Membership in the Corporation and service is provided to all Applicants who comply with the provisions of this Tariff regardless of race, creed, color, national origin, sex, disability, or marital status.
3. **Policy and Rule Application.** These policies, rules, and regulations apply to the water and or sewer services provided by the Possum Kingdom Water Supply Corporation, also referred to as Corporation, or PKWSC. Failure on the part of the Member, Consumer, or Applicant to observe these policies, rules and regulations gives the Corporation the authority to deny or discontinue service according to the terms of this Tariff as amended from time to time by the Board of Directors of the Corporation.
4. **Corporation Bylaws.** The Corporation Members have adopted bylaws (see Article 1396-2.09) which establish the make-up of the Board of Directors and other important regulations of the Corporation. The bylaws are on file at the Corporation's office.
5. **Fire Protection Responsibility.** The Corporation does not provide nor imply that fire protection is available on any of the distribution system. All hydrants or flush valves are for the operation and maintenance of the system and may be used for refill only by authorized fire departments. The Corporation reserves the right to remove any hydrant, due to improper use or detriment to the system as determined by the Corporation, at any time without notice, refund, or compensation to the contributors unless such hydrants are installed pursuant to the terms of a Non-Standard Service Contract as provided for in Section F, in which event the terms and conditions of the Contract shall apply.
6. **Damage Liability.** The PKWSC is not liable for damages caused by service interruptions, events beyond its control, and for normal system failures. The limits of liability of the PKWSC is the extent of the cost of service provided. By acceptance of Membership, Member consents to waiver of such liability.
7. **Information Disclosure.** The records of the Corporation shall be kept in the Corporation office at Possum Kingdom Lake, Graford, Texas. All information collected, assembled, or maintained by or for the Corporation shall be disclosed to the public in accordance with the Texas Public Information Act. An individual customer may request in writing that their name, address, telephone number, or social security number be kept confidential. Such confidentiality does not prohibit the utility from disclosing this information to an official or employee of the state or a political subdivision of the

state acting in an official capacity or an employee of the Corporation acting in connection with the employee's duties. Further, such confidentiality does not prohibit the Corporation from disclosing the name and address of each member on a list to be made available to the Corporation's voting members, or their agents or attorneys, in connection with a meeting of the Corporation's members. The Corporation shall give its applicants and customers notice of rights to confidentiality under this policy and all prevailing associated fees for such request.

8. ***Grievance Procedures.*** Any Member of the Corporation or individual demonstrating an interest under the policies of this Tariff in becoming a Member of the Corporation shall have an opportunity to voice concerns or grievances to the Corporation by the following means and procedures:
  - a. By presentation of concerns to the Corporation's manager or authorized staff member. If not resolved to the satisfaction of the aggrieved party then,
  - b. By presenting a letter to the Board of Directors stating the individual's grievance or concern and the desired result.
  - c. The Board of Directors shall respond to the complaint by communicating the Board's decision in writing.
  - d. Any charges or fees contested as a part of the complaint in review by the Corporation under this policy shall be suspended until a satisfactory review and final decision has been made by the Board of Directors.
9. ***Customer Service Inspections.*** The Corporation requires that a customer service inspection certification be completed prior to providing continuous water service to new construction and for all new members as part of the activation of standard and some non-standard service. Customer service inspections are also required on any existing service when the corporation has reason to believe that cross-connections or other potential contaminant hazards exist, or after any material improvement, correction or addition to the members' water distribution facilities. This inspection is limited to the identification and prevention of cross connections, potential contaminant hazards and illegal lead materials. (30 TAC 290.46(i-j))
10. ***Submetering Responsibility.*** Submetering and Non-Submetering by Master Metered Accounts may be allowed in the Corporation's water distribution or sewer collection system provided the Master Metered Account customer complies with the ~~Texas Commission on Environmental Quality Chapter 291 Subchapter H~~ Public Utility Commission 16 TAC Chapter 24 Subchapter H rules pertaining to Submetering. The Corporation has no jurisdiction over or responsibility to the tenants. Tenants receiving water under a Master Metered Account are not considered customers of the Corporation. Any interruption or impairment of water service to the tenants is the responsibility of the Master Metered Account Customer. Any complaints regarding submetering should be directed to the ~~Texas Commission on Environmental Quality~~ Public Utility Commission (PUC). Revised 7-16

**NOTE:** The system should check with the Master Metered Account Customer to:

1. See if they have registered with the TCEQ, (Chapter 13 Texas Water Code Subchapter M.)
  2. See that they do not charge their tenants more than the total amount of charges that you have billed. If the aggregate bill is greater than the Corporation's charge, the Master Metered Account Customer is considered by the TCEQ to be a separate Public Water System and will be required to comply with all TCEQ regulations.
  3. Protect the System's CCN. Should the Master Metered Account Customer continue to violate these or other State regulations, the Corporation will need to request a Cease and Desist Order from the TCEQ PUC. (Texas Water Code Chapter 13.252 and 30 TAC Chapter 291.118 16 TAC Chapter 24.118) Revised July 2016
11. ***Customer Notice Provisions.*** The Corporation shall give written notice of monthly rate changes by mail or hand delivery to all consumers at least 30 days prior to the effective date of the new rate. The notice shall contain the old rates, new rates, effective date of the new rate, date of Board authorization, and the name and phone number of the Corporation's contact person designated to address inquiries about the rate change. *(added 9-2014)*
12. ***Voluntary Contributions Policy.*** The Corporation's board has approved and set up guidelines for accepting Voluntary Contributions on Behalf of Emergency Service Providers in our service area. The policy adopted sets up the guidelines for collection, accounting, and distribution of funds to the respective local Emergency Service Response entities. References Texas Water Code Section 13.143 & Section 67.017 (See Voluntary Contribution Policy in Miscellaneous Section.) *(added 9-2014)*

## Section C

### Definitions



## **SECTION C.**

### **DEFINITIONS**

**Active Service** -- The status of any Member receiving authorized service under the provisions of this Tariff.

**Apartment House** -- A building or buildings containing five or more dwelling units that are occupied primarily for non-transient use, including a residential condominium whether rented or owner occupied, and if a dwelling unit is rented, having rental paid at intervals of one month or longer.

**Applicant** -- A person, partnership, cooperative corporation, corporation, agency, public or private organization of any type applying for service with the Possum Kingdom Water Supply Corporation.

**Base Rate** -- The monthly charge assessed each Member/Customer for the opportunity of receiving service. The Base Rate is a fixed rate based upon the meter size as set forth in the equivalency chart in Section G. (*Added 9-14*)

**Board of Directors** -- The governing body elected by the Members of the Possum Kingdom Water Supply Corporation. (Article 1396-1.02 (7))

**Bylaws** -- The rules pertaining to the governing of the Possum Kingdom Water Supply Corporation adopted by the Corporation Members. (Article 1396-1.02 (5))

**Certificate of Convenience and Necessity (CCN)** -- The authorization granted under Chapter 13 Subchapter G of the Texas Water Code for Possum Kingdom Water Supply Corporation to provide water and/or sewer utility service within a defined territory. Possum Kingdom Water Supply Corporation has been issued Certificate Number 12890. Territory defined in the CCN shall be the Certificated Service Area. (See Section D. Certificated Service Area Map)

**Corporation** -- The Possum Kingdom Water Supply Corporation. (Section B. 3 of this Tariff)

**Commercial Business Service** -- Service rate for member's business that has water as a component of their product, service or revenue. Example -- Restaurant, apartment / condo, commercial camp, car wash, non-transient master meter facilities, transient facilities. (Updated in Tariff 2/1/08)

**Developer** -- Any person, partnership, cooperative corporation, corporation, agency, or public or private organization who subdivides land or requests two (2) or more water or sewer service connections on a single contiguous tract of land [as defined in Chapter 13.2502 (e)(1) of the Water Code].

**Disconnection of Service** -- The discontinuance of water or sewer service by the Corporation to a Member/Customer.

**Dwelling Unit** -- One or more rooms in an apartment house or condominium suitable for occupancy as a residence, and containing kitchen and bathroom facilities; a unit in a multiple use facility; or a manufactured home in a manufactured home rental community.

**Easement** -- A private perpetual dedicated right-of-way for the installation of water and or sewer pipelines and necessary facilities which allows access to property for future operation, maintenance, facility replacement, facility upgrades, and/or installation of additional pipelines (if applicable). This may also include restrictions on the adjacent area to limit the installation of sewer lines or other facilities that would restrict the use of any area of the easement. (See Sample Application Packet, Form-RUS-TX 442-8 (Rev. 6-06) or Form RUS-TX 442-9 (Rev. 6-06)) The easement will be filed in the real property records of the appropriate county or counties. *(Revised 9-14)*

**Equity Buy-In Fee** -- Each Applicant shall be required to achieve parity with existing Members. This fee shall be assessed prior to providing or reserving service on a per unit basis for each tap/lot and shall be assigned and restricted to the tap/lot for which the service was originally requested. (Section G. 5, also see Miscellaneous)

**Final Plat** -- A complete plan for the subdivision of a tract of land showing or referencing Local Tax Appraisal Maps, access to public road(s), number and size of lots, location of dedicated water/sewer easements, and location(s) of lakes, streams, or rivers through the property. The Possum Kingdom Water Supply Corporation shall determine if a plat submitted for the purpose of this Tariff shall qualify as a final plat. For purposes of evaluating Sub-Division service requests under Section F. the Corporation may accept preliminary plats or plats awaiting final approval pending execution of agreement for service by the Corporation. *(Revised 9-14)*

**Hazardous Condition** -- A condition that jeopardizes the health and welfare of the Members/Consumers of the Corporation as determined by the Corporation or regulatory authority.

**Indication of Interest Fee** -- A fee paid by a potential Member of the Corporation for the purpose of determining the feasibility of a construction and /or expansion project. The Indication of Interest Fee may be converted to a Membership Fee upon determination that service to the Applicant is feasible and available. This also applies to applicants applying for, or receiving, Temporary Service. (Section E. 6. b., and Sample Application Packet - USDA RUS-TX Bulletin 1780-9 (Rev. 5/99))

**Liquidated Membership** -- A Membership that has been canceled due to delinquent charges exceeding the Membership Fee or for other reasons as specified in this Tariff.

**Master Meter** -- A meter used to measure, for billing purposes, all water usage of an apartment house, condominium, multiple use facility, or manufactured home rental community, including common areas, common facilities, and dwelling units.

**Manufactured Home Rental Community** -- A property on which spaces are rented for the occupancy of manufactured homes for non-transient residential use and for which rental is paid at intervals of one month or longer.

**Member** -- Any person, partnership, cooperative corporation, corporation, agency, or public or private organization who holds a membership in the Corporation and who is a record owner of a fee simple title to the property served, that has qualified for service and been certified as a member in accordance with the Corporation's Tariff. (TX Water Code Chapter 13.0010, TX Water Code Chapter 67)

**Membership** -- A non-interest bearing stock purchased from the Corporation evidencing a Member's interest in the Corporation. (See Tariff Section E. 6 b and Article 1396-2.08 D)

**Membership Fee** -- A fee qualified as such under the terms of the tariff and the bylaws of the Corporation assigned to the real estate designated to receive service. The membership fee shall be refundable upon termination of service and surrendering the Membership. (30 TAC 291.3 Definitions, Texas Water Code 13.043(g))

**Multiple Use Facility** -- A commercial or industrial part, office complex, or marina with five or more units that are occupied primarily for non-transient use and are rented at intervals of one month or longer.

**Public Utilities Commission of Texas (PUC)** -- State regulatory agency having jurisdiction of water and sewer service utilities and appellate jurisdiction over the rates and fees charged by Nonprofit Water and Sewer Service Corporations. *Updated June, 2016*

**Proof of Ownership** -- For the purpose of this tariff, applicants for service and membership shall provide proof of ownership or long term interest in the property to be served by deed of trust, warranty deed, lease, or other recordable documentation of fee simple title to real estate to be served. (Texas Water Code 67.016 (d))

**Renter** -- A consumer who rents or leases property from a Member or who may otherwise be termed a tenant. (See Tariff Section E. 7.)

**Re-Service** -- Providing service to an Applicant at a location for which service previously existed. Costs of such re-servicing shall be based on justifiable expenses. (See Tariff Section E. 3. b., E. 4. b., and Miscellaneous)

**Reserved Service Charge** -- A monthly charge for each active account at a specific location for which a meter has not been installed but for which the Corporation and the Applicant have entered into agreement and/or contract for reserving service. This monthly charge shall be based on the Corporation's fixed costs to service the Applicant's dedicated facilities on a per Service Unit basis. This charge reserves service to the Applicant's property designated to receive service. This fee is determined on a case by case basis but shall never exceed the Base Rate for Metered Service on a per Service Unit basis. (See Tariff Section F. 5. d., e) *(Revised 9-14)*

**Rural Utilities Service (RUS)** -- An Agency of the United States Department of Agriculture Rural Development Mission Area that provides loan and grant funds for development of rural water and sewer systems serving communities with a population of less than ten thousand (10,000) people. *(Added 9-14)*

**Service Application and Agreement** -- A written agreement between the Member/Applicant and the Corporation defining the specific type of service requirements requested on the current service application and agreement form, and the responsibilities of each party required before service is furnished. (See Sample Application Packet RUS-TX Bulletin 1780-9 (Rev. 5/99) or Non-Standard Service Contract) *(Revised 9-14)*

**Service Unit** -- The base unit of service used in facilities design and rate making. For the purpose of this Tariff, a service unit is a 5/8" X 3/4" water meter. Sewer facilities are designed and rates are based on the basis of population served or demand. (See Tariff Section G. 6. a., Miscellaneous)

**Small Business Service** -- Service rate for members business that does not have water as a component of their product, service or revenue. Example – real estate office, gift shop, construction office. Meter size would be 5/8" by 3/4". (Updated in Tariff 2/1/08)

**Subdivide** -- To divide the surface area of land into lots or tracts. (Local Government Code Chapter 232, Section 232.021 Definitions)

**Sub-divider** -- An individual, firm, corporation, or other legal entity that owns any interest in land and that directly or indirectly subdivides land into lots as a part of a common promotional plan in the ordinary course of business. (Local Government Code Chapter 232, Section 232.021 Definitions)

**Subdivision** -- An area of land that has been subdivided into lots or tracts. (Local Government Code Chapter 232, Section 232.021 Definitions)

**Sub-metered Utility Service** -- Water utility service that is master metered for the owner by the retail public utility and individually metered by the owner at each dwelling unit.

**Tariff** -- The operating policies, service rules, service extension policy, service rates, rationing policies, sample application packet, and miscellaneous transaction forms adopted by the Board of Directors. A copy of this Board approved tariff is on file at the Corporation office and as required at the State office of the PUC. *Updated from TCEQ June, 2016.*

**Temporary Service** -- The classification assigned an applicant that is in the process of construction. This could also apply to service for uses other than permanent (agricultural, road construction, drilling, livestock, etc.). The Board will set the length of time associated with this classification. This classification will change to permanent service after requirements in Section E. 1, E. 2, E. 3, and E. 5 are met. Applicant must have paid an Indication of Interest Fee.

~~**Texas Commission on Environmental Quality (TCEQ)** -- State regulatory agency having jurisdiction of water and sewer service utilities and appellate jurisdiction over the rates and fees charged by Non-Profit Water and Sewer Service Corporations. *Updated to remove July, 2016*~~

**Transferee** -- An Applicant receiving a PKWSC Membership by legal means from a person or entity desiring to forfeit and transfer current rights of Membership to another person or entity. (See Tariff Section E. 6 c., Miscellaneous Transaction Forms)

**Transferor** -- A Member who transfers Membership by legal means to another person or entity desiring to qualify for service at a property for which the Membership is currently issued or to the Corporation. (Texas Water Code, Chapter 67.016)

**Water Conservation Penalty** -- A penalty that may be assessed under Section H of this Tariff to enforce customer / member water conservation practices during drought contingency or emergency water demand circumstances. (Texas Water Code Section 67.011 (b)). *Added 9-14*

Section D  
Geographic Area Served

**SECTION D.**  
**GEOGRAPHIC AREA SERVED**

This section should include an area map that shows the Corporation's Certificated Service Area. Therefore, the Corporation must make sure that its current service area corresponds to the area and/or facilities as approved by the TCEQ in its Certificate of Convenience and Necessity. **It is the responsibility of the Corporation to properly file a map showing its service area with the TCEQ and to file for any changes in that service area. This copy of the Commission's official service map will serve as documentation in the event of future disputes over service areas.**

**CERTIFICATE OF CONVENIENCE AND NECESSITY**

To Provide (Water or Sewer) Service Under V.T.C.A., Water Code  
and Texas Commission on Environmental Quality Substantive Rules

**Certificate No. 12890**

**I. Certificate Holder:**

Name: Possum Kingdom Water Supply Corporation  
Address: 1170 Willow Road  
Graford, Texas 76449

**II. General Description and Location of Service Area:**

See CCN Map

**III. Certificate Maps:**

The certificate holder is authorized to provide water service in the area identified on the Commission's official service area map, WRS-255, maintained in the offices of the Texas Commission on Environmental Quality, 12015 Park 35 Circle, Austin, Texas with all attendant privileges and obligations.

This certificate is issued under Application No. 33943-C and subject to the rules and orders of the Commission, the laws of the State of Texas, conditions contained herein and may be revoked for violations thereof. The certificate is valid until amended or revoked by the Commission.

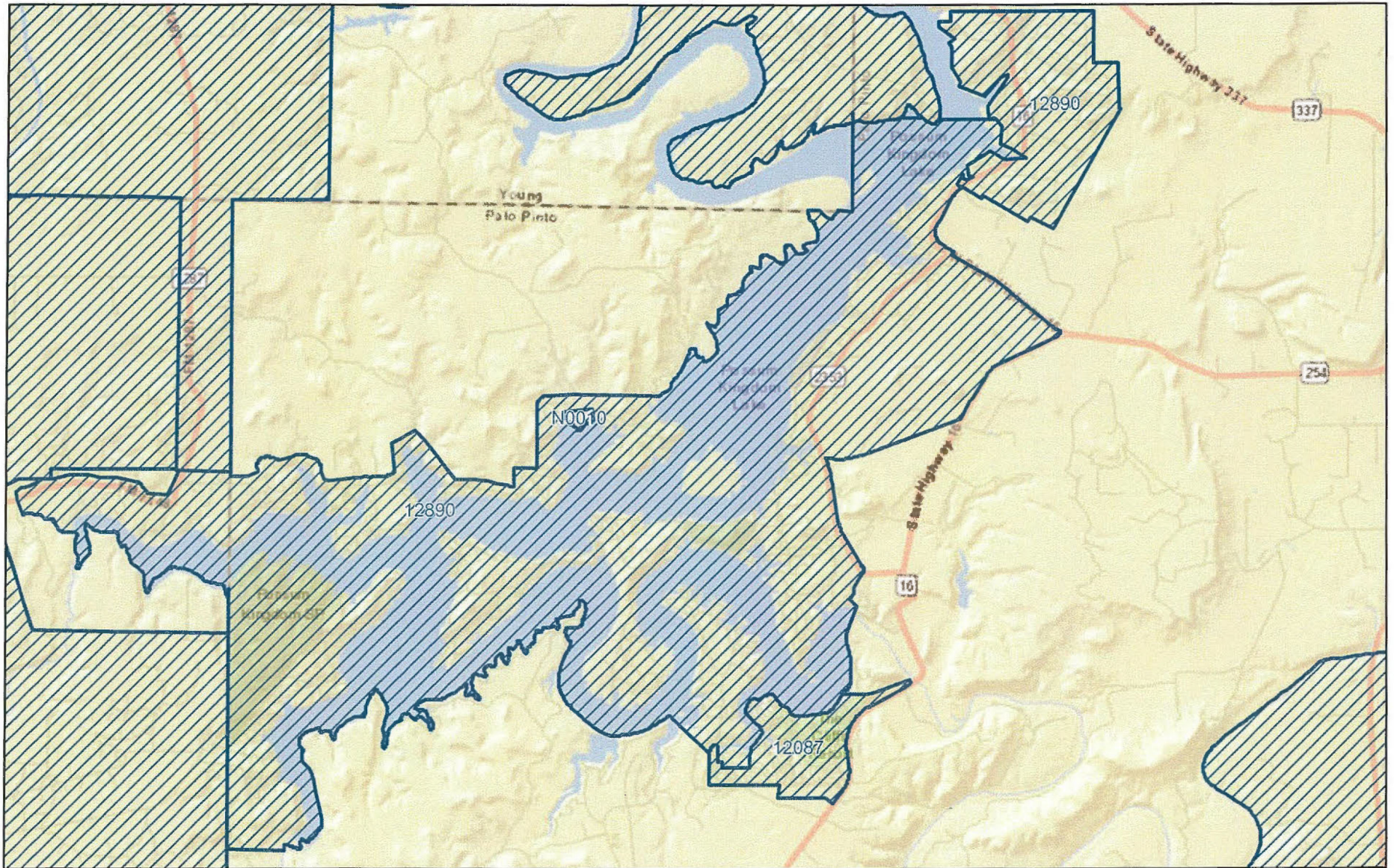
Issued Dated: December 11, 2002

ATTEST: \_\_\_\_\_

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For the Commission

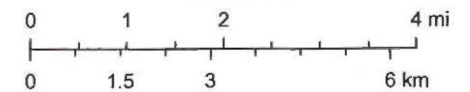


PKWSC (CCN 12890)



April 5, 2019

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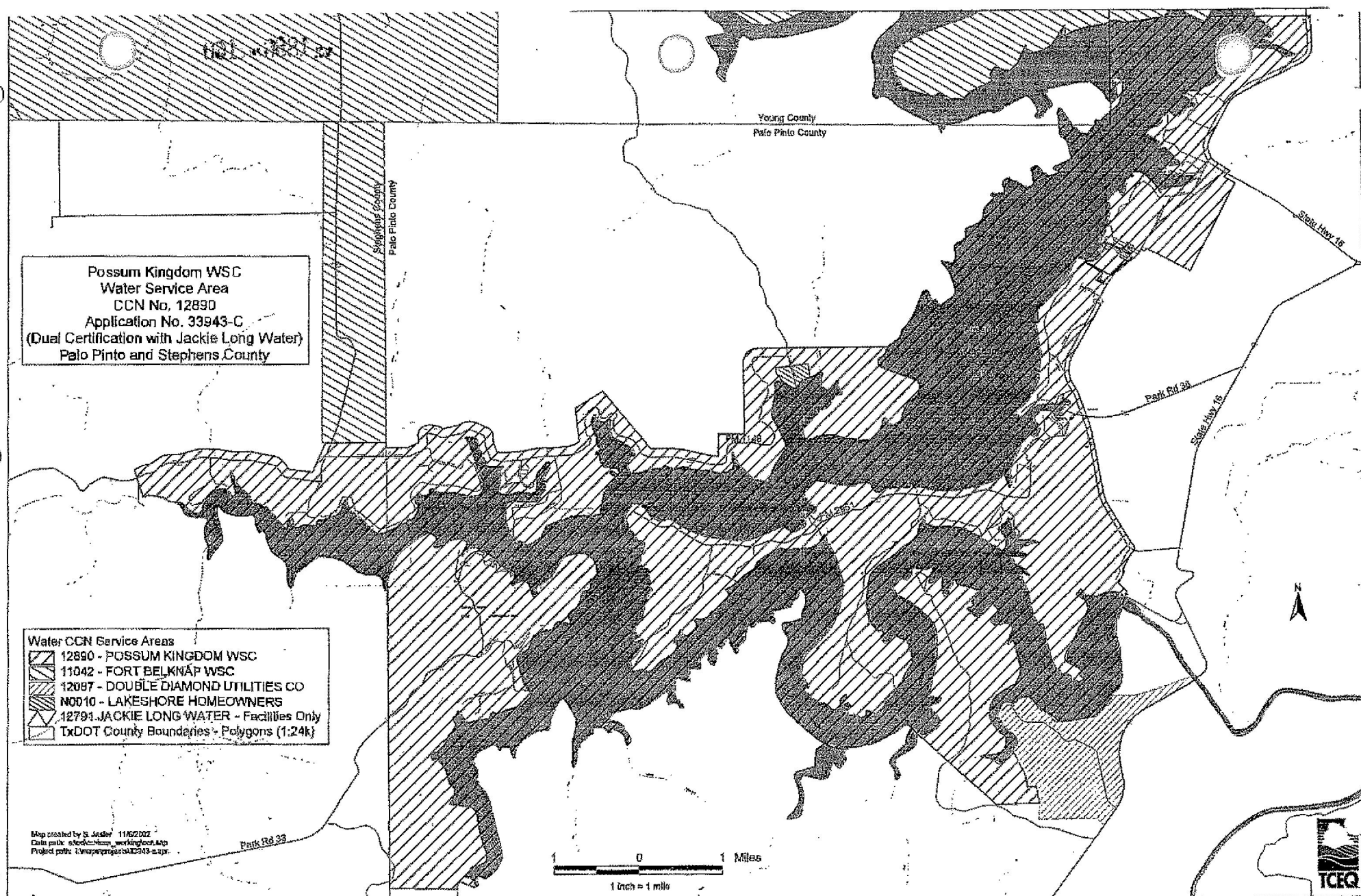


Sources: Esri, HERE, Garmin, USGS, Intermap, INCREMENT P, NRCan,

PKWSC 000014



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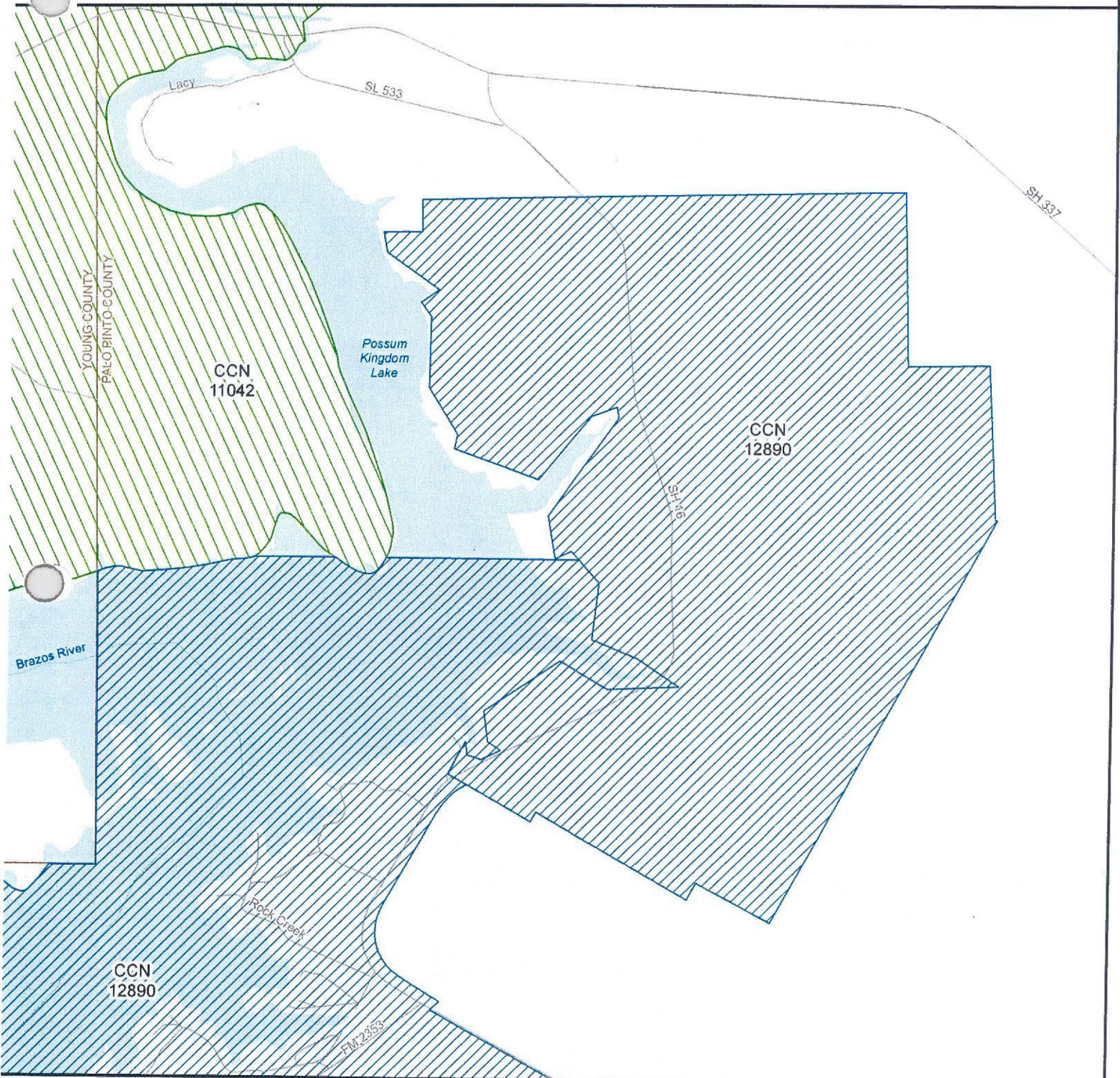


Possum Kingdom Water Supply Corporation

Portion of Water CCN No. 12890

PUC Docket No. 46312

Transferred all of Rock Creek Water Supply Corporation, CCN No. 13139 in Palo Pinto County



0 1,500 3,000  
Feet



**Water CCN**

 12890 - Possum Kingdom WSC

 11042 - Fort Belknap WSC





# **Public Utility Commission of Texas**

**By These Presents Be It Known To All That**

## **Possum Kingdom Water Supply Corporation**

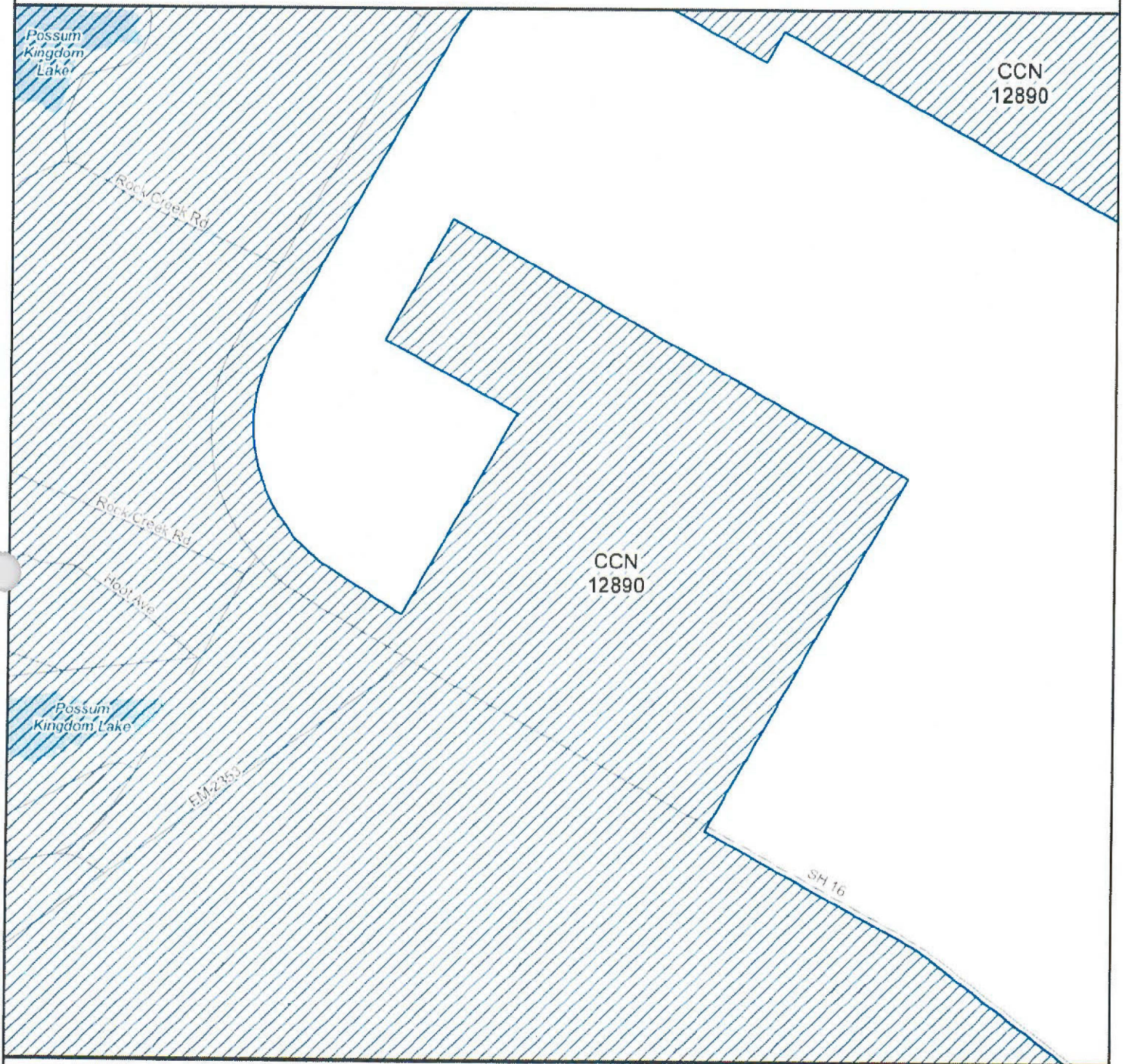
having obtained certification to provide water utility service for the convenience and necessity of the public, and it having been determined by this Commission that the public convenience and necessity would in fact be advanced by the provision of such service, Possum Kingdom Water Supply Corporation is entitled to this

### **Certificate of Convenience and Necessity No. 12890**

to provide continuous and adequate water utility service to that service area or those service areas in Palo Pinto and Stephens Counties as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 51161 are on file at the Commission offices in Austin, Texas; and are matters of official record available for public inspection; and be it known further that these presents do evidence the authority and the duty of the Possum Kingdom Water Supply Corporation to provide such utility service in accordance with the laws of this State and Rules of this Commission, subject only to any power and responsibility of this Commission to revoke or amend this Certificate in whole or in part upon a subsequent showing that the public convenience and necessity would be better served thereby.


Issued at Austin, Texas, this 13<sup>th</sup> day of May 2021.

Possum Kingdom Water Supply Corporation  
Portion of Water CCN No. 12890  
PUC Docket No. 51161  
Amended CCN No. 12890 in Palo Pinto County



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

**Water CCN**

 12890 - Possum Kingdom WSC

0 450 900  
Feet



Map by: Komal Patel  
Date created: March 12, 2021  
Project Name: 51161PossumKingdomWSC.mxd

PKWSC 000018

## Section E

### Service Rules and Regulations



## **SECTION E.**

### **SERVICE RULES AND REGULATIONS**

1. **Service Entitlement.** An Applicant shall be considered qualified and entitled to water and or sewer utility service when proper application has been made, terms and conditions of Service and Membership have been met and continue to be met, and all fees have been paid as prescribed. (~~30 TAC 291.85 (a)~~) 16TAC24.85. *Revised June 2016.*
2. **Application Procedures and Requirements.** For the purposes of this Tariff, service requested by an Applicant shall be for real estate designated to receive the service provided by the Corporation and shall be divided into the following two classes:
  - a. **Standard Service** is defined as service on an existing pipeline where pipeline or service facility extensions are not required and special design and/or engineering considerations are not necessary. Typically, this would include 5/8" X 3/4" or 3/4" sized water meter services set on existing pipelines or 4" gravity sewer taps, pressure collection facilities installed or connected to collection lines no more than five feet in depth.
  - b. **Non-Standard Service** is defined as any service request which requires a larger meter service, service to a Master Metered Account (see E. 2. c. (4) of this section), or an addition to the supply, storage and/or distribution/collection system. The service requirements as prescribed by Section F of this Tariff shall be required of the Non-Standard Service Applicant prior to providing service.
    - (1) The applicant shall be responsible for the cost of any extension(s), including looping, from existing Corporation mains determined by the Corporation's engineer to be necessary to bring adequate water utility service to meet the anticipated service demands of a new customer or of a new meter for an existing customer.
    - (2) The Corporation shall be responsible for any over-sizing of the main necessary to meet the service needs of other members or system reliability.
  - c. **Requirements for Standard and Non-Standard Service.**
    - (1) The Corporation's Service Application and Agreement Form shall be completed in full and signed by the Applicant. (See Sample Application RUS-TX Bulletin 1780-9 (Rev. 5/99))
    - (2) A Right-of-Way Easement Form, Sanitary Control Easement, or other such easement form, required by the Corporation, must be completed by the Applicant for the purpose of allowing future facility additions. (See Sample Application - RUS-TX Bulletin 1780-9 (Rev. 5/99), 30 TAC 290.47 Appendix C.) **NOTE:** This requirement may be delayed for Non-Standard Service requests.
    - (3) The Applicant shall provide proof of ownership or other long term interest to property for which service has been requested in a manner acceptable to the Corporation. Proof of ownership or other long term interest shall consist of warranty deed, deed of trust, lease agreement, or other recordable documentation of fee simple title to the real estate designated to receive service. (Texas Water Code 67.016 (e), and 13.002 (11)).
    - (4) On the request by the property owner or owner's authorized agent, the Corporation shall install individual meters owned by the Corporation in an apartment house, manufactured home rental community, multiple use facility, or condominium on which construction begins after January 1, 2003, unless the Corporation determines that installation of individual meters are not feasible. If the Corporation determines that installation of meters is not feasible, the property owner or manager shall install a plumbing system

that is compatible with the installation of sub-meters or individual meters. The Corporation shall be entitled to the payment of costs, including the costs of individual meter installations, as provided in Section F.4. The cost of individual meter installation shall be prepaid by the property owner as well as the cost of any additional facilities or supply occasioned by the total water/sewer service demand represented by full occupancy of the property, as determined under applicable provisions of Section F. It shall be the responsibility of the property owner to obtain the memberships required for each individual meter. The Corporation shall consider master metering and/or non-standard sewer service to apartments, condos, trailer /RV parks, or business centers and other similar type enterprises at an Applicant's request provided the total number of units to be served are all:

- (a) owned by the same person, partnership, cooperative, corporation, agency, public or private organization of any type but not including a family unit,
  - (b) directly inaccessible to public right-of-way, and
  - (c) considered a commercial enterprise i.e. for business, rental, or lease purposes.
- (5) Notice of application approval and costs of service determined by the Corporation shall be presented to the Applicant in writing and shall remain in effect for a period not to exceed thirty (30) days. After that time the Applicant must re-apply for service. (30 TAC 291.81 (a) (1))
- (6) If the water main has been located in the public right-of-way and is adjacent to Applicant's property due to the current or previous landowner's refusal to grant easement to the Corporation for the purpose of installing the water main and appurtenances, and the Corporation has documentation of such refusal, the Applicant, prior to receiving the requested service, shall grant easement required under this Tariff and in addition to the normally required fees for new customer service, shall pay such sums as are reasonably necessary to cap the existing line in the ROW and construct the appropriate line or lines within that easement for the Corporation's system-wide service. (see Miscellaneous Transaction Forms)
- (7) Meter requirements larger than 1" will be considered Non-Standard Service and the engineer for the corporation will determine the size of meter to be installed.

### 3. *Activation of Standard Service.*

- a. **New Tap** -- The Corporation shall charge a non-refundable service installation fee as required under Section G of this tariff. The service installation fee shall be quoted in writing to the Applicant. All fees shall be paid or a deferred payment contract signed in advance of installation. ~~-(30 TAC 291.86 (a)(1)(A))~~ 16 TAC 24.86 (a)(1)(A)). *Revised June 2016.*
- b. **Re-Service** -- On property where service previously existed, the Corporation shall charge the Membership Fee, where the Membership Fee has been liquidated, and costs necessary to restore service. In addition, the Corporation shall charge accumulated Reserved Service Fees that have been entered on the in-active account as monthly debits. This is allowing the Corporation to recover the costs of reserving capacity at the location for which re-service has been requested. If restoration of service is not requested, this fee will accumulate monthly until the total balance of Reserved Service Fees equals the amount of the Equity Buy-In Fee. After this time the service equipment may be removed by the Corporation and future request for service shall be treated as a new application. (see Miscellaneous Section) *(Revised 9-14)*
- c. **Performance of Work** -- After approval is granted by proper authorities, all tap and equipment installations specified by the Corporation shall be completed by the Corporation staff or designated representative. The tap shall be completed within five (5) working days after approval and receipt of payment of quoted fees. This time may be extended for installation of

equipment for Non-Standard Service Request. (see Section F. , ~~30 TAC 291.85~~) (*Added 9-14*)  
16 TAC24.85. *Revised June 2016*

- d. **Inspection of Customer Service Facilities** -- The property of the Applicant/ Member shall be inspected to insure compliance with state required Minimum Acceptable Operating Practices For Public Drinking Water Systems as promulgated by the Texas Commission on Environmental Quality or successor agency. (30 TAC 290.46(j) ) (*Added 9-14*)

4. **Ownership of equipment.** All water meters and equipment and materials required to provide water or wastewater service to the point of customer connection; water meter or service tap, is the property of the Corporation upon installation, and shall be maintained by the water system only.

5. **Changes in Service Classification.** If at any time the Corporation determines that the customer service needs changed from those originally applied for to a different service classification and the Corporation determines that additional or different facilities are necessary to provide adequate service, the Corporation shall require the Applicant/Member to re-apply for service under the terms and conditions of this Tariff. Applicant/Members failing to comply with this provision shall be subject to the Disconnection with Notice Provisions of this Tariff, Sub-Section ~~15.a-~~Corrected 10-26-2021 to read Section E,14 a.(4).

6. **Membership.**

- a. **Eligibility** - Eligibility for Membership shall not guarantee service to the Applicant or Transferee; however, qualification for service is a prerequisite to Membership eligibility for new Applicants or continued Membership for Transferees.
- b. **Membership** - Upon qualification for service, qualification for Membership, and payment of the required fees, the Corporation shall certify the Applicant as a Member. The Membership shall entitle the Member to one (1) connection to the Corporation's water/sewer utility service and one share of Corporation Stock. The Membership entitles the Member to one (1) vote in the election of directors and in such other matters requiring the approval of the Corporation's Members at any Annual or Special Membership Meeting of the Corporation as prescribed by the Corporation Bylaws. Ownership of more than one (1) Membership shall not authorize the Member to cast more than one (1) vote at any annual or special meeting. Each Membership and Stock thereby represented may be assigned to the specified parcel of land originally designated to receive service at the time of application. (Texas Water Code 67.016) **NOTE (1):** In the event that the Corporation is conducting a potential Members survey for indications of interest in future service for the purpose of determining the feasibility of an initial construction or expansion project under RUS guidelines (see Sample Application Packet - RUS TX Bulletin 1780-8, Membership Survey Data Sheet), regular application procedures may be modified. An Indication of Interest Fee may be required prior to qualifications for receipt of service by the Applicant but shall only be used or applied as a Membership Fee for Membership purposes (upon issuance of a Membership) if service is ultimately received or reserved by the Applicant as a result of the planned project facilities. If service is not provided within the scope of this project, Indication of Interest Fees shall be refunded, less expenses, within sixty (60) days of the loan closing with the Rural Utilities Service. **NOTE (2):** In the event the applicant is in the process of construction the Membership will be considered TEMPORARY until such time as the final Customer Service Inspection is completed and the forms are returned as required. (See Section C., Section E. Sub-Section 1. Service Entitlement)
- c. **Transfers of Membership.** (Texas Water Code 67.016)
  - (1) A Member is entitled to transfer Membership in the Corporation only under the following circumstances:

- (a) The Membership is transferred by will to a person related to the Transferor within the second degree by consanguinity; or
  - (b) The Membership is transferred without compensation to a person related to the Transferor within the second degree by consanguinity; or
  - (c) The Membership is transferred without compensation or by sale to the Corporation; or
  - (d) The Membership is transferred as a part of the conveyance of real estate from which the Membership arose.
- (2) In the event that Membership is transferred pursuant to the provisions of Sub-Section 6.c. (1) such transfer shall not be completed or recorded on the books and records of the Corporation until such time as the transferor has provided satisfactory evidence to the Corporation of such transfer. A transfer of Membership shall not be binding on the Corporation until such transfer has been approved as provided by Sub-Section 6.c. (3).
- (3) Qualifications for service upon transfer of Membership set forth in Sub-Section 6.c.(1) and 6.c.(2) shall be subject to approval of the Corporation and shall be recorded on the books and records of the Corporation only upon the following terms and conditions:
- (a) A Transfer Authorization Form has been completed by the Transferor and Transferee;
  - (b) The Transferee has completed the required Application Packet;
  - (c) All indebtedness due the Corporation has been paid; and
  - (d) The Transferee demonstrates satisfactory evidence of ownership of the property designated to receive service and from which the Membership originally arose.
- (4) If the application packet and other information is not completed on the day transfer of membership is requested the corporation will give the transferee written notice of 10 additional days to produce completed documentation to the corporation office. Service will be disconnected on the day following the 10<sup>th</sup> day according to disconnection with notice requirements. Additional time may be allowed at the directions of the manager or board.
- d. **Cancellation of Membership** -- To keep a Membership in good standing, a Service Availability Charge or a Reserved Service Charge must be paid monthly to the Corporation, whether or not water is used. Failure to pay this monthly charge to the Corporation shall jeopardize the Member's Membership standing and give rise to liquidation of the Membership Fee and forfeiture of the Membership. A Member may be relieved of this obligation to pay by surrendering the Membership, properly documented, to the Corporation. The Member shall also complete a Service Discontinuance Request Form prior to termination of service. (See Misc. Transaction Forms.) However, a Member is not relieved of any obligations incurred prior to the date of surrender of a properly endorsed Membership prior to termination of service. Rights to future service at this tap shall be extended on an as-available basis and subject to the terms of the Activation of Service Sub-Section E.3.a. of this Tariff. (Texas Water Code 67.016)
- e. **Liquidation Due To Delinquency** -- When the amount of the delinquent charges owed by the Member equals the Membership Fee, the Membership Fee shall be liquidated and the Membership canceled and transferred back to the Corporation. In the event the Member leaves a balance due on an account guaranteed under the terms of a Service Application and Agreement, and the delinquent Member owns more than one Membership, the Corporation may liquidate as many of the Member Guarantor's Membership Fees as necessary to satisfy the balance due the Corporation, provided proper notice has been given (see Tariff Section E, Subsection 15.1a.(4)). The Corporation shall collect any remaining account balances by initiation of legal action. Re-instatement of service shall be subject to the terms of the Activation of Service Sub-Section E. 3. a. of this Tariff.
- f. **Cancellation Due To Policy Non-Compliance** -- The Corporation may cancel a Membership anytime a Member fails to comply with policies of the Corporation, including but not limited to Member's failure to provide proof of ownership of the property from which the Membership



arose. (Texas Water Code 67.016)

g. **Re-assignment of Canceled Membership.** *(Revised 9-14)*

1) The Corporation, upon cancellation of Membership under the provisions of this Tariff, may re-assign the canceled Membership to a person or entity that has legal title to the real estate from which the canceled membership arose and for which water or sewer service is requested (Texas Water Code Section 67.016). Membership will not be re-assigned unless the person or entity that has legal title to the real estate has complied with the corporation's current rates, charges, and conditions of service, including current membership fee, set forth in the tariff and service application package.

2) The Corporation shall reassign a canceled Membership to a person or entity that acquires the real estate from which the Membership arose through judicial or nonjudicial foreclosure. The Corporation will require proof of ownership resulting from the foreclosure and compliance with the corporation's current rates, charges, and conditions of service, including current membership fee, set forth in the tariff and service application package. In the event of foreclosure by a mortgage institution, the Corporation may allow a property management company to acquire the Membership if the management company provides written documentation showing that the management company is legally responsible for the management of the property and it is not feasible for the mortgage institution to be the Member.

h. **Mortgaging of Memberships** -- Nothing herein shall preclude a Member from mortgaging his/her Membership. However, notification to the holder of any security interest (mortgagee/lien-holder) of account status of Member/mortgagor will be provided only upon satisfactory completion of requirements for such conditions under the Membership Mortgage Agreement (See Miscellaneous Transaction Forms). Prior to the cancellation of any Membership as provided under Sub-Section E. 6.d. (Cancellation of Membership), the Corporation will notify the holder of any security interest in the Membership. The holder of the security interest also must hold a security interest in the real property at which water service is provided under the Membership. The Corporation may transfer the Membership to the holder of such security interest in lieu of cancellation, provided the holder of the security interest pays in full all delinquent and unpaid obligations and provided further that the holder of the security interest has secured title to the real property from which the Membership arose. The Corporation may withhold cancellation of a Membership pending the resolution of any foreclosure proceedings or similar legal proceedings by the holder of the security interest.

i. **Cancellation and Re-Assignment of Membership as a Result of Bankruptcy Proceedings** -- Upon notice of the filing of a petition in bankruptcy, the Corporation may require the posting of a deposit or other form of security, acceptable to the Corporation, as a condition for continuing utility service. Unless special circumstances require otherwise, the amount of security shall equal the amount of charges for the month of greatest use during the preceding 12 months. The Corporation shall not require the payment of any security prior to the expiration of 20 days following the date on which the petition is filed. Failure to provide this security by the date specified by the Corporation may result in termination of service according to the Disconnection With Notice Provisions of Section E (15) (a) of this tariff, with a copy of the notice to the bankruptcy Trustee.

j. **Cancellation and Re-Assignment of Membership as a Result of Divorce (or Dissolution of Joint Tenancy)** -- The Corporation shall transfer the membership to a spouse (or joint tenant) who has been awarded the property designated to receive service. The Corporation must be provided adequate documentation of the ownership rights of the spouse (or joint tenant) requesting transfer, such as final divorce decree, temporary court order, or

agreement. In no event shall any membership(s) be transferred if the transferee does not otherwise meet the qualifications for membership and for service. *(Added 9-14)*

7. **Owners and Renters.** Any Member, renting or leasing real estate property designated to receive service according to the terms of this tariff to other parties, is responsible for all charges due the Corporation. The Corporation may bill the renter or lessee for utility service (at Member Request) as a third party, but the Member is fully responsible for any and all unpaid bills left by the renter/lessee. The owner shall be required to sign an Alternate Billing Agreement. (See Miscellaneous Transaction Forms.) The Member shall take responsibility for any necessary deposits from the renter/lessee to ensure payment of a past due bill. The Corporation may notify the Member of the renter's past due payment status subject to service charges (see Section: Miscellaneous Transaction Forms). If at any time the member requests that membership be canceled thereby discontinuing service to an occupied rental property, the Corporation shall provide written notice to the tenant(s) a minimum of five (5) days prior to the scheduled disconnection date. *(Revised 9-14)*
8. **Denial of Service.** The Corporation may deny service for the following reasons:
- a. Failure of the Applicant or Transferee to complete all required easements, forms and pay all required fees and charges;
  - b. Failure of the Applicant or Transferee to comply with rules, regulations, policies, and bylaws of the Corporation;
  - c. Existence of a hazardous condition at the Applicant's property which would jeopardize the welfare of the Members/Users of the Corporation upon connection;
  - d. Failure of Applicant or Transferee to provide representatives or employees of the Corporation reasonable access to property, for which service has been requested;
  - e. Failure of Applicant or Transferee to comply with all governmental rules and regulations of the Corporation's tariff on file with the state regulatory agency governing the service applied for by the Applicant;
  - f. Failure of Applicant or Transferee to provide proof of ownership, to the satisfaction of the Corporation, of property for which the tap has been requested, and/or
  - g. Applicant's service facilities are known to be inadequate or of such character that satisfactory service cannot be provided.
9. **Applicant's or Transferee's Recourse.** In the event the Corporation refuses to serve an Applicant under the provisions of these rules, the Corporation must notify the Applicant, in writing, on the basis of its refusal. The Applicant may file for an appeal, in writing, with the Board of Directors of the Corporation.
10. **Insufficient Grounds for Refusal of Service.** The following shall not constitute sufficient cause for the refusal of service to an Applicant:
- a. Delinquency in payment for service by a previous occupant of the premises to be served;
  - b. Failure to pay a bill to correct previous underbilling due to misapplication of rates more than six (6) months prior to the date of application;
  - c. Violation of the Corporation's rules pertaining to operation of non-standard equipment or unauthorized attachments which interferes with the service of others, unless the customer has first been notified and been afforded reasonable opportunity to comply with said requirements;
  - d. Failure to pay a bill of another customer as guarantor thereof unless the guarantee was made in writing to the Corporation as a condition precedent to service;
  - e. Failure to pay the bill of another customer at the same address except where the change of

customer identity is made to avoid or evade payment of a utility bill

- f. Failure of the Applicant or Transferee to pay any previous outstanding delinquent account(s) in full. This could be delinquencies resulting from the same account location or other service location(s) within the system where the Applicant or Transferee received service. (Also see E 9.) (*Revised 9-14*)

**11. *Deferred Payment Agreement.*** The Corporation may offer a deferred payment plan to a Member or rental tenant who cannot pay an outstanding balance in full and is willing to pay the balance in reasonable installments as determined by the Corporation, including any Late Penalty Fees or interest on the monthly balance to be determined as per agreement. (See Miscellaneous Transaction Forms) Failure to make required and timely payments as provided in any deferred payment agreement will void that agreement and service will be discontinued. The Corporation may consider another deferred payment agreement provided payments will be made by automatic bank draft or credit/debit card. Non-payment of any amount under an additional deferred payment agreement will cause service to be disconnected immediately and service will not be restored until the account is paid in full and all other charges resulting from the disconnection of service are fully paid. In the event the requestor is a tenant of rental property the Corporation shall notify the owner/member of the deferred payment agreement. (*Revised 9-14*)

**12. *Charge Distribution and Payment Application.***

- a. **The Service Availability Charge or the Reserved Service Charge** are payable just as any normal billing. All services shall be subject to this charge whether or not the service is in use by the Member.
- b. **Gallonge Charge** shall be billed at the rate specified in Section G and billing shall be calculated in one hundred (100) gallon increments. The new digital meters shall be calculated in of ten (10). Water charges are based on monthly meter readings and are calculated from reading date to reading date. Readings used in all billing calculations shall be taken by the Corporation's employees or designated representative.
- c. **Posting of Payments** -- All payments shall be posted against previous balances prior to posting against current billings.
- d. **Forms of Payment:** The Corporation will accept the following forms of payment: cash, personal check, cashier's check, money order, credit card, automatic debit on customer's bank account, or draft on bank. The Corporation will not accept two-party checks, pay checks, or any other instrument of payment that is not made out to the Corporation. The Corporation reserves the right to require exact change and may refuse to accept payments made using more than \$1.00 in coins. The Corporation will not assess the credit card processing fee associated with Credit Card payments to those customers which make payment by credit card in accordance with consumer laws. (*Added 9-14*)

**13. *Due Dates, Delinquent Bills, and Service Disconnection Date.*** The Corporation shall mail all bills on or about the 20<sup>th</sup> day of the month. All bills shall be due and payable upon receipt and are past due beyond the date indicated on the bill (allowing approximately thirty (30) days to pay), after which time a penalty shall be applied as described in Section G. A bill is delinquent if not paid on or before the past due date. Payments made by mail will be considered late if postmarked after the past due date. A five (5) day grace period may then be allowed for delayed payments prior to mailing of final notices. Final notices shall be mailed to customers with two (2) months unpaid allowing ten (10) additional days for payment prior to disconnection. The ten (10) additional days shall begin on the day the final notice is deposited with the U.S. Postal Service with sufficient postage. If the past due date for the regular or final billing is on a weekend or holiday, the past due date for payment

purposes shall be the next day the Corporation office is open for business after said weekend or holiday. For all disputed payment deadlines, the date postmarked on each bill will determine the beginning of each billing cycle or final notice mailings. (updated May 18, 2005)

- a. Upon written request, any residential customer 60 years of age or older who occupies the entire premises of a dwelling receiving water utility service from the Corporation shall receive extension of the past due date, without penalty. The extension shall not exceed 10 days beyond the usual 30 day payment period for a total of no more than 40 days from the date the bill is issued. The request may specify extension of the late payment periods for current and subsequent billings. (*Revised 9-14*)
- b. Upon written request, any residential customer 60 years of age or older who occupies the entire premises of a dwelling receiving water utility service from the Corporation shall receive extension of the past due date, without penalty. The extension shall not exceed 10 days beyond the usual 15 day payment period for a total of no more than 25 days from the date the bill is issued. The request may specify extension of the late payment periods for current and subsequent billings. (Utilities Code Sections 182.001 - 182.005) If this request originates from a tenant at a rental property the owner / member will be notified in writing of any extension request. (*Added 9-14*)

**14. Rules for Disconnection of Service.** The following describes the rules and conditions for disconnection of service. For the purposes of disconnecting sewer service under these policies, water service will be terminated in lieu of disconnecting sewer service. In instances of nonpayment of sewer service or other violations by a Member who is not a water customer, the Corporation has the option to disconnect the sewer tap or take other appropriate actions.

- a. **Disconnection with Notice** -- Water utility service may be disconnected for any of the following reasons after proper notification has been given.
  - (1) Returned Checks -- The Corporation shall mail, via the U.S. Postal Service, a notice requiring redemption of the returned instrument within ten (10) days of the date of the notice to be made in the Corporation office. Redemption of the returned instrument shall be made by cash, money order, or certified check. Failure to meet these terms shall initiate disconnection of service. (see Miscellaneous Transaction Forms) Any such instruments returned as insufficient or non-negotiable for any reason for any two billing periods within a 12-month period shall be considered evidence of bad credit risk by the Corporation. The Member/Customer in violation shall be placed on a "cash-only" basis for a period of 12 months. **NOTE:** "cash only," means certified check, money order, or cash.
  - (2) Failure to pay a delinquent account for utility service, failure to timely provide a deposit or other security under Section E (6) (i), or failure to comply with the terms of a deferred payment agreement (Miscellaneous Transaction Forms);
  - (3) Violation of the Corporation's rules pertaining to the use of service in a manner which interferes with the service of others or the operation of non-standard equipment if a reasonable attempt has been made to notify the Member and the Member is provided with a reasonable opportunity to remedy the situation;
  - (4) Failure of the Member to comply with the terms of the Corporation's Service Agreement, Tariff, Bylaws, or Special Contract provided that the Corporation has given notice of said failure to comply, and Member has failed to comply within a specified amount of time after notification.
  - (5) Failure to provide access to the meter under the terms of this Tariff or to property at which water service is received when there is reason to believe that a hazardous condition or policy violation exists for which access is necessary to verify.
  - (6) Misrepresentation by any Applicant or Transferee of any fact on any form, document, or

other agreement required to be executed by the Corporation.

- (7) Failure of Member to re-apply for service upon notification by the Corporation that Member no longer meets the terms of the service classification originally applied for under the original service application.
  - (8) Cancellation of membership by Member on an account that the Member holds for water/sewer service to the Member's renter/lessee, even if the renter/lessee has kept the account balance current under an Alternate Billing Agreement. (Note: The cancellation of membership must be in writing and signed by the Member. CORPORATION ASSUMES NO LIABILITY TO RENTER/LESSEE; MEMBER IS SOLELY RESPONSIBLE FOR COMPLIANCE WITH, AND LIABILITY UNDER ANY FEDERAL, STATE OR LOCAL LAW CREATING OR PROTECTING RIGHTS OF RENTERS/LESSEES.)
  - (9) Failure to pay charges arising from service trip fee as defined in Section G 14., meter re-read fee, or meter read fee when customer on self-read plan failed to submit their meter reading. *(Added 9-14)*
  - (10) Failure by a Customer/Member to pay for all repair or replacement costs resulting from the Customer/Member damaging system facilities including, but not limited to water or sewer lines, service taps, meter boxes, valves, or meters by engaging in activities such as property excavations, installment of a driveway or roadway requiring encasements, lowering or re-routing of lines or system components, or by any other action. The Corporation will provide the Customer/Member with notice detailing the extent of the damage, the location of the damage, the cost of repair, and whether the damage occurred on private property or on a public right-of-way. Failure to pay the cost of repair or replacement will result in the Customer's/Member's service being disconnected in accordance with the Disconnection with Notice Provisions in this Section. Service will remain disconnected until payment is received or an acceptable payment plan is approved. *(Added 9-14)*
  - (11) Failure to disconnect or secure additional service tap(s) for an RV or other service connection (See ~~E-25~~ E24 of this Section) after notification by the Corporation of violation of the Prohibition of Multiple Connections. *(Added 9-14) (E24 Correction 10-26-2021)*
- a. **Disconnection Without Notice** -- Water utility service may be disconnected without notice for any of the following conditions: *(Revised 9-14)*
- 1) A known dangerous or hazardous condition exists for which service may remain disconnected for as long as the condition exists, including but not limited to a public health nuisance under Chapter 341.011 of the Health and Safety Code. If there is reason to believe a dangerous or hazardous condition exists, the Corporation may conduct a customer service inspection (CSI) to verify the hazardous condition and may notify the local county health office. The Corporation will disconnect without notice if the Member refuses to allow access for the purpose of confirming the existence of such condition and/or removing the dangerous or hazardous condition (30 TAC 290.46(j) and 290.46(i)). Service will be restored when a CSI confirms no health hazard exists, the health hazard has been removed or repaired, or the health hazard has been isolated from the Corporation's water system by the installation of a backflow prevention device. *(Revised 9-14)*
  - 2) A line leak on the member's side of the meter is considered a potentially hazardous condition under b (1). If the Corporation conducts a CSI and discovers that the line leak has created a hazardous condition, the Corporation will provide the member up to five (5) business days, or another time period determined reasonable under the circumstances, to repair the line prior to disconnection of service. *(Added 9-14)*



- 3) Service is connected without authority by a person who has not made application for service or who has reconnected service without authority following termination of service for nonpayment; and
- 4) In instances of tampering with the Corporation's meter or equipment, by-passing the meter or equipment, or other diversion of service.

**NOTE:** Where reasonable, given the nature of the reason for disconnection, a written statement providing notice of disconnection and the reason therefore shall be posted at the place of common entry or upon the front door of each affected residential unit as soon as possible after service has been disconnected.

- c. **Disconnection Prohibited** -- Utility service may not be disconnected for any of the following reasons:
  - (1) Failure of the Member to pay for merchandise or charges for non-utility service provided by the Corporation, unless an agreement exists between the Applicant and the Corporation whereby the Member guarantees payment of non-utility service as a condition of service;
  - (2) Failure of the Member to pay for a different type or class of utility service unless a fee for such service is included in the same bill;
  - (3) Failure of the Member to pay charges arising from an underbilling occurring due to any misapplication of rates more than six (6) months prior to the current billing;
  - (4) Failure of the Member to pay the account of another Member as guarantor thereof, unless the Corporation has in writing the guarantee as a condition precedent to service;
  - (5) Failure of the Member to pay charges arising from an underbilling due to any faulty metering, unless the meter has been tampered with or unless such underbilling charges are due under the Inoperative Meters subsection E. 19. of this tariff.
  - (6) Failure of the Member to pay estimated bill other than a bill rendered pursuant to an approved meter reading plan, unless the Corporation is unable to read the meter due to circumstances beyond its control;
  - (7) In response to a request for disconnection by an Owner/Member of rental property where the renter is billed directly by the Corporation as authorized by the owner, and the renter's account is not scheduled for disconnection under the Rules for Disconnection of Service in this Tariff.
- d. **Disconnection on Holidays and Weekends** -- Unless a dangerous condition exists or the Member requests disconnection, service shall not be disconnected on a day, or on a day preceding a day, when personnel of the Corporation are not available to the public for the purpose of making collections and reconnecting service.
- e. **Disconnection Due to Utility Abandonment** -- The Corporation may not abandon a Member or a Certificated Service Area without written notice to its Members and all similar neighboring utilities and approval from the ~~Texas Commission on Environmental Quality~~ PUC. *Revised June 2016*
- f. **Disconnection for Ill and Disabled** -- The Corporation may not discontinue service to a delinquent residential Member or tenant permanently residing in an individually metered dwelling unit when that Member or tenant establishes that discontinuance of service will result in some person at that residence becoming seriously ill or more seriously ill if service is discontinued. To avoid disconnection under these circumstances, the Member or tenant must provide a written statement from a physician to the Corporation prior to the stated date of disconnection. Service may be disconnected in accordance with Subsection (a) of this Section if the next month's bill and the past due bill are not paid by the due date of the next month's bill, unless the Member or tenant enters into a Deferred Payment Agreement (see Miscellaneous Transaction Forms). The Corporation shall provide notice to an owner of rental property in the event a tenant requests service not be discontinued due to illness as per

this subsection. (*Revised 9-14*)

- g. **Disconnection of Master-Metered Accounts** -- When a bill for water utility services is delinquent for a master-metered service complex (defined as a complex in which a single meter serves two (2) or more residential dwelling units), the following shall apply: (~~30-TAC~~ SUBCHAPTER H. 291.126 16 TAC Chapter 24) *Revised June 2016*
- (1) The Corporation shall send a notice to the Member as required. This notice shall also inform the Member that notice of possible disconnection will be provided to the tenants of the service complex in five (5) days if payment is not rendered before that time.
  - (2) At least five (5) days after providing notice to the Member and at least five (5) days prior to disconnection, the Corporation shall post at notices, stating "Termination Notice" in public areas of the service complex notifying the residents of the scheduled date for disconnection of service.
  - (3) The tenants may pay the Corporation for any delinquent bill in behalf of the owner to avert disconnection or to reconnect service to the complex.
- h. **Disconnection of Temporary Service** -- When an applicant with a Temporary service fails to comply with the conditions stated in the Service Application and Agreement Form or other rules of this Tariff service may be terminated with notice.

15. **Billing Cycle Changes.** The Corporation reserves the right to change its billing cycles if the workload requires such practice. After a billing period has been changed, the billings shall be sent on the new change date unless otherwise determined by the Corporation.
16. **Back-billing.** The Corporation may back-bill a Member for up to four (4) years (48 months) for meter error, misapplied meter multiplier, incorrect meter readings, or error in computing a Member's bill. Failure to pay the most recent six (6) months billing will result in disconnection of service. Back-billing shall not extend beyond current Membership except in cases involving the transfer of a Membership conditioned upon payment of delinquent obligations by the Transferee, as provided in Section E. Sub-Section 6.h.
17. **Disputed Bills.** In the event of a dispute between the Member and the Corporation regarding any bill, the Corporation shall forthwith make and conduct an investigation as shall be required by the particular case, and report the results in writing thereof to the Member. All disputes under this Subsection must be submitted to the Corporation, in writing, prior to the due date posted on said bill except in cases involving the transfer of a Membership conditioned on payment of delinquent obligations by the Transferee, as provided under Sub-Section 6.h. Disputed water usage will be investigated to determine meter accuracy. If the meter is found to be accurate the member will be responsible for any water that goes or has gone through the meter. (Updated 3/01/08)
18. **Inoperative Meters.** Water meters found inoperative will be repaired or replaced within a reasonable time. If a meter is found not to register for any period, unless by-passed or tampered with, the Corporation shall make a charge for units used, but not metered, for a period not to exceed three (3) months, based on amounts used under similar conditions during the period preceding or subsequent thereto, or during corresponding periods in previous years.
19. **Bill Adjustment Due To Meter Error.** The Corporation shall test any Member's meter upon written request of the Member. In the event the meter tests within the accuracy standards of The American Water Works Association, a test fee as prescribed in Section G of this Tariff shall be imposed. In the event the test results indicate that the meter is faulty or inaccurate, the test fee shall be waived, the

meter shall be calibrated or replaced, and a billing adjustment may be made as far back as six (6) months but not extending beyond current Membership except in cases involving the transfer of a Membership conditioned on payment of delinquent obligations by the Transferee, as provided under Sub-Section 6.h. The billing adjustment shall be made to the degree of the meter's inaccuracy as determined by the test. The Member shall complete a Meter Test Request Form prior to the test. (See Misc. Transaction Forms.)

- 20. *Meter Tampering and Diversion.*** For purposes of these Sections, meter-tampering, by-passing, or diversion shall all be defined as tampering with the Corporation's service equipment, by-passing the same, or other instances of diversion, such as:
- removing a locking or shut-off device used by the Corporation to discontinue service,
  - physically disorienting the meter,
  - attaching objects to the meter to divert service or to by-pass,
  - inserting objects into the meter, and
  - other electrical and mechanical means of tampering with, by-passing, or diverting service.
  - preventing the supply from being correctly registered by a metering device due to adjusting the valve so that flow is reduced below metering capability. (*Added 9-14*)

The burden of proof of meter-tampering, by-passing, or diversion is on the Corporation. Photographic evidence or any other reliable and credible evidence may be used; however, any evidence shall be accompanied by a sworn affidavit by the Corporation's staff when any action regarding meter-tampering as provided for in these Sections is initiated. A court finding of meter tampering may be used instead of photographic or other evidence, if applicable. Unauthorized users of services of the Corporation shall be prosecuted to the extent allowed by law under the Texas Penal Code 28.03.

- If the Corporation determines under subsection (a) that Tampering has occurred, the Corporation shall charge the offending party the total actual loss to the Corporation, including the cost of repairs, replacement of damaged facilities, and lost water revenues. (*Added 9-14*)
- In addition to actual damages charged under subsection (b), the Corporation may assess a penalty against the offending party. The penalty shall not exceed six (6) times the Base Rate. (*Added 9-14*)

**Note:** For purposes of this Section, "offending party" means the person who committed the Tampering. So, for example, in an owner/tenant situation where the tenant committed the Tampering, the Corporation cannot charge a penalty to the owner. (*revised 9-14*)

- 21. *Meter Relocation.*** Relocation of services shall be allowed by the Corporation provided that:
- No transfer of Membership is involved;
  - An easement for the proposed location has been granted to the Corporation;
  - The Member pays the actual cost of relocation plus administrative fees, and
  - Service capacity is available at proposed location.

**22. *Prohibition of Multiple Connections to A Single Tap.*** (*Revised 9-14*)

- No more than one (1) residential, commercial, or industrial service connection is allowed per meter or sewer tap. The Corporation may consider allowing an apartment building or mobile home/RV park to apply as a "Master Metered Account" and have a single meter or sewer tap (See Section E 26.) Any unauthorized sub-metering or diversion of service shall be considered a Multiple Connection and subject to disconnection of service. If the



Corporation has sufficient reason to believe a Multiple Connection exists, the Corporation shall discontinue service under the Disconnection with Notice provisions of this Tariff for a first violation and for subsequent violations service will be disconnected without notice in accordance with E 17, b. (See Sample Application Packet RUS-TX Bulletin 1780-9 (Rev. 01/09))

- b. For purposes of this section, the following definitions shall apply:
  - 1) A "multiple connection" is the connection to any portion of a member's system that is connected to a primary delivery point already servicing one residence, one commercial or industrial facility of a water line serving another residence or commercial or industrial facility. Water lines to outbuildings, barns or other accessory structures shall not be consider a multiple connection if: (i) those structures are located on the same tract as the primary delivery point and (ii) such structures are not used as a residence or as a commercial or industrial facility.
  - 2) A "primary delivery point" shall mean the physical location of a meter or sewer tap that is installed in accordance with this Tariff and applicable law and which provides water or sewer service to the residence or commercial or industrial facility of a member.
  - 3) A "residence" shall mean any structure which is being used for human habitation, which may include kitchen and bathroom facilities or other evidence of habitation as defined by the Corporation.
  - 4) "Commercial" facility shall mean any structure or combination of structures at which any business, trade, occupation, profession, or other commercial activity is conducted. A member that utilizes water within their residence or property for commercial purposes may be required to obtain a separate meter. A business conducted within a member's residence or property that does not require water in addition to that provided to the member's residence shall not be considered a separate commercial facility.
- c. The corporation agrees to allow members in good standing to share water usage with a visitor on their property with a recreation vehicle (RV) or travel trailer for a period of no longer than three months. If the recreation vehicle/travel trailer is being used for a permanent residence, this Tariff requires that an additional meter installation and membership be purchased. If the member routinely has more than one visitor at a time with recreation vehicles or travel trailers or has multiple visitors throughout the year, the corporation may require that a second or additional meter(s) be purchased. The member must submit a written request to the corporation's business office at least 5 business days prior to sharing corporation water with a visitor. The corporation has the right to refuse or deny the shared usage for any reason. The corporation also has the right to inspect the premises for any potential cross-contamination issues as outlined in the Customer Service Inspection requirements and to ensure that the meter is properly sized for the additional usage at the time of total peak water demand. These requirements pertain to visitors ONLY. No commercial usage where fees for water are charged is allowed. If a member is found to violate these conditions, the member will be sent a letter of notice stating that water service will be cut off in ten days if the situation is not corrected.

### ***23. Member's Responsibility.***

- a. The Member shall provide access to the meter as per the easement and service agreement. If access to the meter is hindered or denied preventing the reading of the meter, an estimated bill shall be rendered to the Member for the month; and a notice shall be sent to the effect that access could not be gained. If access is denied for three (3) consecutive months after proper notification to the Member, then service shall be discontinued and the meter removed with no further notice. (Section E. 3. d.)

- b. The Member shall be responsible for compliance with all utility, local, and state codes, requirements, and regulations concerning on-site service and plumbing facilities.
  - (1) All connections shall be designed to ensure against back-flow or siphonage into the Corporation's water supply. In particular, livestock water troughs shall be plumbed above the top of the trough with air space between the discharge and the water level in the trough. (30 TAC 290.44)
  - (2) All outside water faucets must have an anti-siphon device on hose bib connections.
  - (3) A Reduced Pressure Zone Assembly (RPZA) is required for any cross-connection classified as health hazard by the Texas Commission on Environmental Quality (TCEQ). Examples of these potential hazards are:
    - (a) Properties that are serviced by an On-Site Sewage Treatment Facility (septic tank and leach field) AND have an irrigation system, installed in 2009 or later (or if installed prior to 2009 and requires major maintenance, alteration, repair or service), supplied by the public potable water source ref. 30 TAC §344.51;
    - (b) Sewage pumps/lift stations;
    - (c) Water to a dock or dock side facility/marina;
    - (d) Commercial car wash and;
    - (e) Other examples shall be found in 30 TAC §290.47(f).

The RPZA must be installed by a licensed plumber or irrigation specialist between the system and the water meter. After installation it must be inspected by a certified Backflow Prevention Assembly Tester (BPAT) with the inspection report sent to PKWSC. Inspection is required annually thereafter with the report sent to PKWSC. (Revised 5-2021)
  - (4) Any connection classified as a non-health hazard but still deemed a cross-connection may use a Double-Check Valve Assembly (DCVA) or other approved back-flow prevention device. (Added 5-2021)
  - (5) The use of pipe and pipe fittings that contain more than 0.25% lead or solders and flux that contains more than 0.2% lead is prohibited for any plumbing installation or repair of any residential or non-residential facility providing water for human consumption and connected to the Corporation's facilities. Customer service pipelines shall be installed by the applicant. (30 TAC 290.44) *(Revised 6-2019 Per TCEQ Guidelines)*
  - (6) Service shall be discontinued without further notice when installations of new facilities or repair of existing facilities are found to be in violation of this regulation until such time as the violation is corrected. *(Revised 9-14)*
- c. A Member owning more than one (1) Membership shall keep all payments current on all accounts. Failure to maintain current status on all accounts shall be enforceable as per Service Application and Agreement executed by the Member.
- d. The Corporation's ownership and maintenance responsibility of water supply and metering equipment shall end at the meter or other service equipment. Therefore, all water usage registering upon and/or damages occurring to the metering equipment owned and maintained by the Corporation shall be subject to charges as determined by the Corporation's Tariff as amended from time to time by the Board of Directors.
- e. The Corporation shall require each Member to have a cut-off valve on the Member's side of the meter for purposes of isolating the Member's service pipeline and plumbing facilities from the Corporation's water pressure. The valve shall meet AWWA standards (a ball valve is preferred). The Member's use of the Corporation's curb stop or other similar valve for such purposes is prohibited. Any damage to the Corporation's equipment shall be subject to service charges. (This cut-off valve may be installed as a part of the original meter installation by the Corporation.)

- f. The member is required to notify the system 48 hours prior to digging or excavation activities along or near water/sewer lines and appurtenances. (*Revised 9-14*)

#### **24. Master Meters / Sub-metering**

- a. The Corporation will make master metered service available to qualified service applicants to enable sub-metering of dwelling units and multiple use facilities for water and sewer utility service. Reference Section B, paragraph 10.
- b. This section will apply to apartment houses, condominiums, multiple use facilities, and manufactured home rental communities billing for water and/or wastewater service on a sub-metered or allocated basis for non-transient residential use and for which rent is paid at intervals of one month or longer.
- c. The definitions and various services and facilities are included in Section C of this tariff.
- d. The size of the master meter will be based on the number of dwelling units or multiple use facilities to be served based on the commercial rate structure.
- e. After January 1, 2003, a manager or owner of an apartment house, manufactured home rental community, or multiple use facility must provide for the measurement of water, if any, consumed by the occupants of each unit through the installation of:
  - (1) Sub-meters, owned by the property owner or manager, for each dwelling or rental unit;  
or
  - (2) Individual meters, owned by the Corporation, for each dwelling unit or rental unit.

Section F  
Developer, Subdivision and  
Non-Standard Service Requirements

## SECTION F. DEVELOPER, SUBDIVISION AND NON-STANDARD SERVICE REQUIREMENTS

**This Section revised September 2014 based on the TRWA sample tariff.**

### **Part I. General Requirements.**

**This section details the requirements for all types of non-standard service requests.**

1. **Purpose.** It is the purpose of this Section to define the process by which the specific terms and conditions for service to subdivisions and other kinds of Non-Standard Service are determined, including the Non-Standard Service Applicant's and the Corporation's respective costs.

For purposes of the Section, the term "Applicant" shall refer to the individual or entity that desires to secure Non-Standard Service from the Corporation. The Applicant must be the same person or entity that is authorized to enter into a contract with the Corporation setting forth the terms and conditions pursuant to which Non-Standard Service will be furnished to the property. In most cases, the Applicant shall be the owner of real property for which Non-Standard Service is sought. In the event that the Applicant is other than the owner of real property, the Applicant must furnish evidence to the Corporation that it is authorized to request Non-Standard Service on behalf of such owner, or that it otherwise has authority to request Non-Standard Service for the real property.

2. **Application of Rules.** This Section is applicable to subdivisions, additions to subdivisions, developments, or whenever additional service facilities are required for a single tract of property. Examples of non-standard services for a single tract of land can include, but are not limited to, road bores, extensions to the distribution system, service lines exceeding 3/4" diameter and service lines exceeding \_\_\_\_ feet. Non-residential or residential service applications requiring a larger sized meter typically will be considered non-standard. For the purposes of this Tariff, Applications subject to this Section shall be defined as Non-Standard. This Section may be altered or suspended for planned facility expansions when the Corporation extends its indebtedness. The Board of Directors of the Corporation or their designee shall interpret on an individual basis whether or not the Applicant's service request shall be subject to all or part of the conditions of this Section.

This Section sets forth the general terms and conditions pursuant to which the Corporation will process Non-Standard Service Requests. The specific terms and conditions pursuant to which the Corporation will provide non-standard service in response to any request will depend upon the nature of such request and may be set forth in a legally enforceable, contractual agreement to be entered into by the Corporation and the service Applicant. The agreement may not contain any terms or conditions that conflict with this Section.

4. **Non-Standard Service Application.** The Applicant shall meet the following requirements prior to the initiation of a Non-Standard Service Contract by the Corporation:

- a. The Applicant shall provide the Corporation a completed Service Application And Agreement giving special attention to the item(s) on SPECIAL SERVICE NEEDS OF THE APPLICANT.
  - b. A final plat approved by the Corporation must accompany the Application showing the Applicant's requested service area. The plat must be approved by all governmental authorities exercising jurisdiction over lot sizes, sewage control, drainage, right-of-way, and other service facilities. Plans, specifications, and special requirements of such governmental authorities shall be submitted with the plat. Applicants for single taps involving extension or upsizing of facilities shall be required to submit maps or plans detailing the location of the requested extension and details of demand requirements.
  - c. A Non-Standard Service Investigation Fee shall be paid to the Corporation in accordance with the requirements of Section G for purposes of paying initial administrative, legal, and engineering fees. The Corporation shall refund any balance that remains after it has completed its service investigation, and has completed all legal and engineering services associated with processing a request. In the event such a fee is not sufficient to pay all expenses incurred by the Corporation, the Applicant shall pay to the Corporation all remaining expenses that have been, or will be incurred by the Corporation and Corporation shall have no obligation to complete processing of the request until all remaining expenses have been paid.
  - d. If after the service investigation has been completed, the Corporation determines that the Applicant's service request is for property located, in whole or in part, outside the area described in the Corporation's Certificate of Convenience and Necessity, service may be extended provided that:
    - (1) The service location is not in an area receiving similar service from another retail utility;
    - (2) The service location is not within another retail utility's Certificate of Convenience and Necessity; and
    - (3) The Corporation's Certificate of Convenience and Necessity shall be amended to include the entirety of Applicant's property for which service is requested. Applicant shall pay all costs incurred by Corporation in amending its CCN, including but not limited to engineering and professional fees. If the service location is contiguous to or within one-fourth (1/4) mile of Corporation's Certificate of Convenience and Necessity, Corporation may extend service prior to completing the amendment to its CCN, but will do so only upon Applicant's legally enforceable agreement to fully support such amendment (including but not limited to payment of all professional fees, including legal, surveying and engineering fees incurred by Corporation in securing the amendment).
5. **Design.** The Corporation shall approve the design requirements of the Applicant's required facilities prior to initiation of a Non-Standard Service Contract in accordance with the following schedule:
- a. The Corporation's Consulting Engineer shall design, or review and approve plans for, all on-site and off-site service facilities for the Applicant's requested service within the Corporation's specifications, incorporating any applicable municipal or other governmental codes and specifications.

- b. The Consulting Engineer's fees shall be paid out of the Non-Standard Service Investigation Fee under Section 4.
  - c. The Consulting Engineer shall submit to the Corporation a set of detailed plans, specifications, and cost estimates for the project.
  - d. The Corporation's Engineer shall ensure all facilities for any Applicant meet the demand for service as platted and/or requested in the plans or plat submitted in application for service. The Corporation reserves the right to upgrade design of service facilities to meet future demands provided however, that the Corporation shall pay the expense of such upgrading in excess of the Applicant's facility requirements.
6. **Non-Standard Service Contract.** Applicants requesting or requiring Non-Standard Service may be required to execute a written contract, drawn up by the Corporation's Attorney, in addition to submitting the Corporation's Service Application and Agreement. Said contract shall define the terms of service prior to construction of required service facilities. The service contract may include, but is not limited to:
- a. All costs associated with required administration, design, construction, and inspection of facilities for water/sewer service to the Applicant's service area and terms by which these costs are to be paid.
  - b. Procedures by which the Applicant shall accept or deny a contractor's bid, thereby committing to continue or discontinue the project.
  - c. Equity Buy-In Fee (Front-end Capital Contributions) required by the Corporation in addition to the other costs required under this Section.
  - d. Monthly Reserved Service Charges as applicable to the service request.
  - e. Terms by which service capacity shall be reserved for the Applicant and duration of reserved service with respect to the impact the Applicant's service demand will have upon the Corporation's system capability to meet other service requests.
  - f. Terms by which the Applicant shall be reimbursed or compensated for fees duplicated in assessments for monthly rates and Equity Buy-In Fees.
  - g. Terms by which the Corporation shall administer the Applicant's project with respect to:
    - 1) Design of the Applicant's service facilities;
    - 2) Securing and qualifying bids;
    - 3) Execution of the Service Agreement;
    - 4) Selection of a qualified bidder for construction;
    - 5) Dispensing advanced funds for construction of facilities required for the Applicant's service;
    - 6) Inspecting construction of facilities; and
    - 7) Testing facilities and closing the project.
  - h. Terms by which the Applicant shall indemnify the Corporation from all third party claims or lawsuits in connection with the project.
  - i. Terms by which the Applicant shall dedicate, assign and convey to the Corporation all constructed facilities and related rights (including contracts, easements, rights-of-way, deeds, warranties, and so forth) by which the Corporation shall assume operation and maintenance responsibility for the Applicant's project. The Applicant shall also provide reproducible as-built drawings of all constructed facilities. The as-built drawings must



verify that all facilities have been properly located within the easements conveyed to the Corporation.

- j. Terms by which the Board of Directors shall review and approve the Service Contract pursuant to current rules, regulations, and bylaws.
6. **Construction of Facilities by Applicant Prior to Execution of Service Contract.** – The Corporation and the Applicant must execute a Non-Standard Service Contract prior to the purchase of supplies and materials or initiation of construction of facilities by the Applicant. In the event that the Applicant commences construction of any such facilities prior to execution of a Contract with the Corporation, then the Corporation may refuse to provide service to the Applicant or, in a subdivision, to any person purchasing a lot or home from the Applicant. Alternatively the Corporation may require full costs of replacing/repairing any facilities constructed without prior execution of a contract from any person buying a lot or home from Applicant. At a minimum, the Corporation will require that all facilities be uncovered by the Applicant for inspection by the Corporation, require that any facilities not approved by the Corporation be replaced, and take any other lawful action determined appropriate by the Board of Directors of the Corporation.
7. **Property and Right-of-Way Acquisition.** With regard to construction of facilities, the Corporation shall require private right-of-way easements or private property as per the following conditions:
  - a. If the Corporation determines that right-of-way easements or facility sites outside the Applicant's property are required, the Applicant shall secure easements or title to facility sites in behalf of the Corporation. All right-of-way easements and property titles shall be researched, validated, and filed by the Corporation at the expense of the Applicant. (See Sample Application Packet RUS Form 442-8 or 442-9.)
  - b. All costs associated with facilities that must be installed in public right-of-ways on behalf of the Applicant, due to the inability of the Applicant to secure private right-of-way easements, shall be paid by the Applicant. Alternatively, Applicant shall pay all costs, including legal and other professional fees, and the condemnation award in the event Corporation secures such private easements or facility sites through eminent domain proceedings.
  - c. The Corporation shall require an exclusive dedicated right-of-way on the Applicant's property (as required by the size of the planned facilities and as determined by the Corporation) and title to property required for other on-site facilities.
  - d. Easements and facilities sites shall be prepared for the construction of the Corporation's pipeline and facility installations in accordance with the Corporation's requirements and at the expense of the Applicant.
8. **Bids for Construction.** The Corporation's Consulting Engineer shall advertise for bids for the construction of the Applicant's proposed facilities in accordance with generally accepted practices. Plans and specifications shall be made available, with or without charge, to prospective bidders. Although the Corporation reserves the right to reject any bid or contractor, the Corporation shall generally award the contract to the lowest and best bidder in accordance with the following criteria:



- a. The Applicant shall sign the Service Contract noting willingness to proceed with the project and shall pay all costs in advance of construction associated with the project;
  - b. The Contractor shall provide an adequate bid bond under terms acceptable to the Corporation;
  - c. The Contractor shall secure adequate performance and payment bonding for the project under terms acceptable to the Corporation;
  - d. The Contractor shall supply favorable references acceptable to the Corporation;
  - e. The Contractor shall qualify with the Corporation as competent to complete the work; and
  - f. The Contractor shall provide adequate certificates of insurance as required by the Corporation.
9. **Pre-Payment for Construction and Service.** After the Applicant has executed the Service Agreement, the Applicant shall pay to the Corporation all costs necessary for completion of the project prior to construction and in accordance with the terms of the Non-Standard Service Contract.
10. **Construction.**
- a. All roadwork pursuant to state, county and/or municipal standards (as applicable) shall be completed prior to facility construction to avoid future problems resulting from road right-of-way completion and excavation. Subject to approval of the requisite authority, road sleeves may be installed prior to road construction to avoid road damage during construction of Applicant's facilities.
  - b. The Corporation shall, at the expense of the Applicant, inspect the facilities to ensure compliance with Corporation standards.
  - c. Construction plans and specifications shall be strictly adhered to, but the Corporation reserves the right to change-order any specifications, due to unforeseen circumstances during the design phase, to better facilitate construction or operation of the Applicant's facility. All change-order amounts shall be charged to the Applicant.
11. **Dedication of Water System Extension to WSC.**
- a. Upon proper completion of construction of all on-site and off-site service facilities to meet the level and manner of service requested by the Applicant (the "Facilities"), the Facilities shall become the property of the WSC. The Facilities shall thereafter be owned and maintained by WSC subject to the warranties required of Applicant under Subsection (b). Any connection of individual customers to the Facilities shall be made by the WSC.
  - b. Upon transfer of ownership of the Facilities, Applicant shall warrant materials and performance of the Facilities constructed by Applicant for Twelve (12) months following the date of the transfer.

## **PART II. Request for Service to Subdivided Property**

**This section applies to applicants that are developers as defined in Section C Definitions.**

1. **Sufficient Information** - Applicants shall provide the corporation sufficient information describing the level and manner of service requested and the timeline for initiation of this service. The following is the minimum information needed for an engineering evaluation of the requested service to the property described in the application.
  - a. Completion of requirements described in Section F Part I, including completing the *Non-Standard Service Application*.
  - b. Applicant shall provide the Corporation with details concerning access to the property during evaluation of application.
  - c. Applicant shall be notified in writing by the Corporation or designated representative if service can be extended in accordance with the details described on the Applicant's request for service.
2. **Service within Subdivisions** – The Corporation's obligation to provide service to any customer located within a subdivision governed by this Section is strictly limited to the level and manner of the nonstandard service specified by the Applicant. The Applicant is responsible for paying for all costs necessary for non-standard service to a subdivision as determined by the Corporation under the provisions of this Tariff and specifically the provisions of this Section; if the Applicant fails to pay these costs, the Corporation has the right to require payment of these costs by any one or more of the persons purchasing lots or homes within such subdivision before the Corporation is obligated to provide water/sewer service (Texas Water Code 13.2502). In addition, Corporation may elect to pursue any remedies provided by the Non-Standard Service Contract if one has been executed. Applicant is advised that purchasers of lots also may have legal recourse to the Applicant under Texas law, including but not limited to Texas Water Code Section 13.257, and the Business and Commerce Code Chapter 17, Subchapter E Deceptive Trade Practices & Consumer Protection Act.
3. **Service to Subdivisions Involving Tracts of 50 Acres or Greater**. Applicant must provide the following in addition to all other information otherwise required by this Section:
  - a. Map and description of the area to be served using map criteria in ~~30-TAC 291.105(a)(2)(A-G))~~ 16 TAC 24.105 (a)(2)(A-H)). *Revised June 2016*
  - b. Time frame for:
    - i. Initiation of service
    - ii. Service to each additional phase following the initial service
  - c. Level of service (quantity and quality) for:
    - i. Initial needs
    - ii. Phased and final needs and the projected land uses that support the requested level of service for each phase
  - d. Manner of service for:
    - i. Initial needs
    - ii. Phased and final needs and the projected land uses that support the requested level of service for each phase

- e. Any additional information requested by the Corporation necessary to determine the capacity and the costs for providing the requested service.
- f. Copies of all required approvals, reports and studies done by or for the Applicant to support the viability of the proposed development.

Applicant must provide reasonably sufficient information, in writing, to allow the Corporation to determine whether the level and manner of service specified by the Applicant can be provided within the time frame specified by the Applicant and to generally determine what capital improvements, including expansion of capacity of the Corporation's production, treatment and/or storage facilities and/or general transmission facilities properly allocable directly to the service request are needed. If the Applicant proposes development in phases, the Applicant should specify the level and manner of service and the estimated time frame within which that service must be provided for each phase, and the Applicant must depict the currently estimated location of each phase on the maps required under ~~30 TAC Section 291.105(a)(2)(A-G)~~ 16 TAC 34.105 (a)(2)(A-H). It is important that the Applicant's written request be complete. A complete application by the Applicant should include: *Revised June 2016*

- a. the proposed improvements to be constructed by the Applicant;
- b. a map or plat signed and sealed by a licensed surveyor or registered professional engineer;
- c. the intended land use of the development, including detailed information concerning the types of land uses proposed;
- d. the projected water and/or sewer demand of the development when fully built out and occupied, the anticipated water/sewer demands for each type of land use, and a projected schedule of build-out;
- e. a schedule of events leading up to the anticipated date upon which service from the CCN holder will first be needed; and
- f. a proposed calendar of events, including design, plat approval, construction phasing and initial occupancy.

Applicant must establish that current and projected service demands justify the level and manner of service being requested. In making his/her written request for service, the Applicant must advise the corporation that he/she may request expedited decertification from the TCEQ PUC. *Revised June 2016*

Upon payment of the required fees, the Corporation shall review Applicant's service request. If no additional information is required from Applicant, the Corporation will prepare a written report on Applicant's service request, subject to any final approval by the Corporation's governing body (if applicable) which must be completed within the 90 days from the date of application and payment of the required fees. The Corporation's written report will state whether the requested service will be provided, whether the requested service can be provided within the time frame specified by the Applicant, and the costs for which the Applicant will be responsible (including capital improvements, easements or land acquisition costs, and professional fees).

In the event the Corporation's initial review of the Applicant's service shows that additional information is needed, the Corporation will notify Applicant of the need for such additional information. Notice of the need for additional information will be made in writing within 30 days of the date the Corporation receives the Applicant payment of the required fees. Applicant should respond to the Corporation's request for additional information within 15 days of receipt of the Corporation's written request. In any case, the Corporation will provide the written report, including any final approval by the Corporation's Board (if applicable) within 90 days from the date of the **initial** written application and payment of all required fees.

By mutual written agreement, the Corporation and the Applicant may extend the time for review beyond the 90 days provided for expedited petitions to the TCEQ PUC. Revised June 2016

4. **Final approval** – Upon final approval by the Corporation and acceptance of proposal for service by the Applicant, a non-standard service contract will be executed and the corporation shall provide service according to the conditions contained in the Non-Standard Service Contract.

## NON-STANDARD SERVICE CONTRACT

THE STATE OF TEXAS  
COUNTY OF PALO PINTO

THIS CONTRACT is made and entered into by and between \_\_\_\_\_ hereinafter referred to as "Developer", and Possum Kingdom Water Supply Corporation, hereinafter referred to as "PKWSC" or "Corporation".

WHEREAS, Developer is engaged in developing that certain \_\_\_\_\_ acres in Palo Pinto, County, Texas, more particularly known as the \_\_\_\_\_ subdivision, according to the plat thereof recorded at Vol. \_\_\_\_, Page \_\_\_\_ of the Plat Records of Palo Pinto County, Texas, said land being hereinafter referred to as "the Property"; and,

WHEREAS, PKWSC owns and operates a water system which supplies potable water for human consumption and other domestic uses to customers within its service area; and,

WHEREAS, the Property is located within PKWSC's state-certificated service area which obligates PKWSC to provide it with retail public water utility service subject to the terms and conditions of PKWSC's lawful tariff and the regulations of the Texas Commission on Environmental Quality ("TCEQ"); and, the Public Utility Commission (PUC).

WHEREAS, Developer has requested PKWSC to provide such water service to the Property through an extension of PKWSC's water system, such extension being hereinafter referred to as "the Water System Extension"; NOW THEREFORE:

KNOW ALL MEN BY THESE PRESENTS:

THAT for and in consideration for the mutual promises hereinafter expressed, and other good and valuable consideration, the sufficiency of which is hereby acknowledged by the parties, Developer and PKWSC agree and contract as follows:

**1. Engineering and Design of the Water System Extension.**

- (a) The Water System Extension shall be engineered and designed by a Texas Licensed Professional Engineer at Developer's expense and in accordance with the applicable specifications of PKWSC and all governmental agencies having jurisdiction. All plans and specifications must be reviewed and approved by PKWSC's consulting engineer, at Developer's expense, prior to the issuance of any request for bids for the construction of the Water System Extension. After such approval of the plans and specifications by PKWSC's consulting engineer, the plans and specifications shall become part of this Agreement by reference and shall more particularly define "the Water System Extension".
- (b) The Water System Extension must be sized to provide continuous and adequate water service to the Property based on plans for the development provided to PKWSC by the Developer. PKWSC may require the Water System Extension to be oversized in anticipation of the needs of other customers of PKWSC, subject to the obligation to reimburse the Developer for any such oversizing as provided below. If the Water System Extension proves to be insufficient for the long-term retail public water utility service demands of the Property, PKWSC shall have the continuing option, and Developer shall be under the continuing obligation, to construct such additional service capacities as may be needed to meet TCEQ Chapter 290 regulations plus meeting the local demands of the Property. PKWSC's right to seek additional capital contribution and/or physical retail water utility facilities from Developer shall commence on the date the original Water System Extension is placed into commercial operation and shall expire seven (7) calendar years

thereafter. This right to collect additional capital contributions shall be separate and apart from the obligation to pay Contribution in Aid of Construction ("CIAC") as set forth in Section 6 below.

**2. Required Sites, Easements or Rights-of-Way.**

- (a) Developer shall be responsible for dedicating or acquiring any easements across privately owned land or sites (including off-site) which are necessary for the construction or operation of the Water System Extension and for obtaining any Governmental approvals necessary to construct the Water System Extension in public right-of-way. Public rights-of-way may be used only when private rights-of-way are not available or are necessitated by public roadway crossings. If private easements are not otherwise available, PKWSC agrees to exercise its powers of eminent domain to acquire such easements subject to Developer paying all expenses incurred in such actions.
- (b) Any easements acquired by the Developer shall be in a form approved by PKWSC's attorney (see Form of Easement, attached to this Contract and made a part hereof) and shall be assigned to PKWSC upon proper completion of the construction of the Water System Extension.
- (c) The validity of the legal instruments by which the Developer acquires any such easements and by which Developer assigns such easements to PKWSC must be approved by PKWSC's attorney.

**3. Construction of the Water System Extension**

- (a) Developer shall advertise for bids for the construction of the Water System Extension in accordance with such generally accepted bidding practices as maybe required by the United States Department of Agriculture, Rural Development and shall award the contract for the construction of the Water System Extension subject to the approval of PKWSC. PKWSC may reject any bid.
- (b) The Water System Extension shall be constructed in accordance with the approved plans and specifications. PKWSC shall have the right to inspect, at Developer's expense, all phases of the construction of the Water System Extension. Developer must give written notice to PKWSC of the date on which construction is scheduled to begin so that PKWSC may assign an inspector. PKWSC may charge reasonable inspection fees based on the actual costs of labor, travel and incidental expenses of the inspectors, plus 10% overhead.

**4. Dedication of Water System Extension to PKWSC.**

- (a) Upon proper completion of construction of the Water System Extension and final inspection and testing thereof by PKWSC, the Water System Extension shall be dedicated to PKWSC by an appropriate legal instrument approved by PKWSC's Attorney. The Water System Extension shall thereafter be owned and maintained by PKWSC subject to the warranties required of Applicant under Subsection (b). Any connection of individual customers to the Water System Extension shall be made by PKWSC.
- (b) Excepting only Developer's continuing obligation to guarantee adequate service capacities set forth in Section 1(b) above, upon dedication of the Water System Extension, Applicant shall warrant materials and performance of the Water System Extension constructed by Applicant for twelve (12) months following the date of dedication.



**5. Cost of the Water System Extension.**

- (a) Developer shall pay all costs associated with the Water System Extension as CIAC, including, without limitation, the cost of the following:
- (1) engineering and design at cost plus 10%;
  - (2) easement or right -of-way acquisition, including, if necessary, condemnation costs;
  - (3) construction;
  - (4) inspection at cost plus 10%;
  - (5) attorneys' fees at cost plus 10%; and
  - (6) Water Treatment Plant expansion
  - (7) Governmental or regulatory approvals required to lawfully provide service.
  - (8) Developer shall indemnify PKWSC and hold PKWSC harmless from all of the foregoing costs.
- (b) Provided, however, nothing herein shall be construed as obligating the Developer to maintain the Water System Extension subsequent to its dedication and acceptance for maintenance by PKWSC.
- (c) If PKWSC has required the Water System Extension to be oversized in anticipation of the needs of the other customers of PKWSC, PKWSC shall reimburse Developer for the additional costs of construction attributable to the oversizing, as determined by PKWSC's consulting engineer. As new PKWSC customers outside of the Property are connected to and served from the oversized facilities funded by Developer, PKWSC shall collect CIAC from each such customer equal to the cost of the surplus capacities that customer will use as determined by PKWSC's consulting engineer. This CIAC shall be paid to Developer within thirty (30) days of collection by PKWSC. This obligation to charge and this right to receive CIAC for the Developer-funded CIAC shall terminate at the earlier of:
- (1) Developer's recovery of all costs incurred for the oversized utility facilities; or,
  - (2) five (5) calendar years of the placement of said facilities into commercial operation.

**6. Contribution-in-aid-of-Construction.**

- (a) The parties recognize the Developer's obligation to compensate PKWSC for service capacities that will be dedicated to serve the Property. The Developer and PKWSC have negotiated a mutually agreeable CIAC payment for the Developer to reimburse PKWSC for that portion of its existing service capacities being reserved for the Property plus increased capacity to be created by an upgrade(s) to the Water Treatment Plant ("WTP") to increase production in .5 MGD increments, a portion of which will be dedicated to the Developer's service area. The agreed CIAC amount is \_\_\_\_\_ per 100 lots. This CIAC payment scale will only cover the first \_\_\_\_\_ lots for which capacity the Developer will pay \_\_\_\_\_ with the execution of this agreement. The cost of future expansions to PKWSC's WTP and distribution system will be apportioned between the Developer and PKWSC in proportion to the amount of the new service capacities that will be dedicated to each, and at construction costs then current to be determined by PKWSC at the time of the new expansion.
- (b) Additional service requests for future phases shall be made not less than twelve (12) months before the time the Developer wants to commence accepting delivery of the additional water. PKWSC shall complete any necessary improvements and provide service within twelve (12) months after receiving a timely request and payment of the applicable CIAC. If the Developer does not make a request for additional water

- at least twelve (12) months in advance, PKWSC shall make reasonable efforts to provide additional service capacity when requested but PKWSC makes no guarantee or covenant that such additional water will be available on the date requested.
- (c) No additional fees shall be paid except as stated in Sections 1(b), 7(a) and 7(b). As provided in PKWSC's lawful tariff, the owner of individual lots or tracts connected to or able to receive service from the Water System Extension within the Property with the installation of a properly sized meter will pay monthly service or reserve service fees effective on the closing date of the sale from the Developer to the buyer. These fees will be based on the rates in effect from the corporation's Tariff at the time of closing and will include the following fees: Membership, Administration, Meter Installation and Inspection of Meter Connection.
  - (d) Water service to be used by the Developer will be subject to monthly service fees based on the rates in effect from the corporation's Tariff at the time that water service is available to the specified property. Developer shall not be entitled to a membership in PKWSC for any connection serving property owned or being developed for resale to the public. Developer may obtain and hold memberships for service connections to be held permanently by Developer, i.e., to sales offices, common area irrigation meters, and Property maintenance buildings.

**7. Service from the Water System Extension.**

- (a) After proper completion and dedication of the Water System Extension to PKWSC, PKWSC shall provide continuous and adequate water service to the Property for the initial \_\_\_\_\_ lots subject to all duly tariffed rules and regulations and bylaws of PKWSC. Any increase of service capacity beyond the \_\_\_\_ initial minimum shall be contingent upon the Developer paying CIAC for such additional service capacity.
- (b) Service Capacity Reservation. PKWSC's agreement to provide long-term water service capacity to the Developer and the cost to be paid for such capacity of materially conditioned upon the Developer's projections of the service area's demands. It is agreed that if the Developer is not taking and paying for at least \_\_\_\_\_% of the water capacity contracted for herein at the end of the first three (3) years of this Agreement, the parties shall renegotiate the terms of the Agreement or, at its option, the Developer shall surrender all unused reserved water service capacity so PKWSC may use it to serve other customers, wholesale or retail. The Developer shall not be reimbursed for any surrendered service capacity. Surrendering that capacity will only release the Developer from the continued payment of monthly reservation.
- (c) The existing WTP and distribution lines of PKWSC do not support fire flow. "Fire hydrants" installed within PKWSC's water distribution system are provided at the convenience of PKWSC and do not imply any responsibility on the part of PKWSC to meet fire flow requirements of local, county, state, or federal governmental agencies. Such fire hydrants are support facilities only meant to be used as flush and control valves in the public drinking water system. State public health and safety regulations require public drinking water systems to be flushed on a routine basis and metallic flush valves (commonly referred to a "fire hydrant") are a preferred manner of complying with these regulations. PKWSC makes no representation that it is offering fire protection or fire flows under any fire code or fire fighting standard. PKWSC has no obligation at law to provide water for fire related activities because this is not a public water PKWSC or potable domestic water service as defined by the Texas Water Code and/or the Texas Health and Safety Code.

PKWSC, at its sole option, may permit local area fire departments to use water from its public drinking water system on an "AS IS, AS AVAILABLE" basis and will in no manner be liable for damages caused by its inability to supply sufficient water for the prevention or suppression of fire. Any fire department or other person using PKWSC's water system to take water for fire fighting purposes shall be liable to PKWSC for damage caused to PKWSC's plant and equipment during such use, especially for, but not limited to, damage to pumps caused by improperly opening and closing hydrants/valves under pressure or damage for driving heavy vehicles over water lines. PKWSC reserves the right to remove any fire hydrant (metallic flush valve), due to improper use or detriment to the system as determined by PKWSC, at any time without notice, refund, or compensation to the contributors. Any water taken from PKWSC's water system for any purpose, including fire fighting, without prior knowledge and consent of the Board of Directors and/or the General Manager shall be deemed to be theft and shall be prosecuted. Fire Departments may obtain advanced consent for emergency usage on an "AS IS, AS AVAILABLE" basis.

It is understood that the Developer anticipates providing fire flow service within the development. PKWSC does not accept liability for fire-related injuries or damages to persons or property caused or aggravated by the availability (or lack thereof) of water or water pressure (or lack thereof) during fire emergencies. PKWSC neither possesses nor claims to possess knowledge or expertise in fire fighting or the requirements of fire fighting. No statement or action of PKWSC shall ever be implied or meant to suggest that any facilities of PKWSC comply with any state or local fire code. On-site storage of water reserved for fire fighting shall preferably be accomplished through elevated storage; however, if permitted to achieve Developer's desired ISO rating, reserved water may be stored in ground storage tanks with an emergency back up generator(s) if such water can be injected into the public drinking supply without contamination or significant degradation of drinking water quality during mixing.

- (d) It is understood and agreed by the parties that the obligation of PKWSC to provide water service in the manner contemplated by this Contract is subject to the issuance by the Texas Commission on Environmental Quality and all other governmental agencies having jurisdiction of all permits, certificates or approvals required to lawfully provide such service.
- (e) Unless the prior approval of PKWSC is obtained, the Developer shall not:
  - (1) construct or install additional water lines or facilities to service areas outside the Property;
  - (2) add any additional lands to the Property for which water service is to be provided pursuant to this Agreement; or
  - (3) Connect or serve any person or entity who, in turn, sells water service directly or indirectly to another person or entity.

#### **8. Effect of Force Majeure.**

In the event either party is rendered unable by force majeure to carry out any of its obligations under this Contract, in whole or in part, then the obligations of that party, to the extent affected by the force majeure shall be suspended during the continuance of the inability, provided however, that due diligence is exercised to resume performance

at the earliest practical time. As soon as reasonably possible after the occurrence of the force majeure relied upon to suspend performance, the party whose contractual obligations are affected thereby shall give notice and full particulars of the force majeure to the other party.

The cause, as far as possible, shall be remedied with all reasonable diligence. The term "force majeure" includes acts of God, strikes, lockouts or other industrial disturbances, acts of the public enemy, orders of the government of the United States or the State of Texas or any civil or military authority, insurrections, riots, epidemics, landslides, lightning, earthquakes, fires, hurricanes, storms, floods, washouts, droughts, arrests, restraints of government and civil disturbances, explosions, breakage, or accidents to equipment, pipelines, or canals, partial or complete failure of water supply, and any other inability's of either party, whether similar to those enumerated or otherwise, that are not within the control of the party claiming the inability and that could not have been avoided by the exercise of due diligence and care. It is understood and agreed that the settlement or strikes and lockouts shall be entirely within the discretion of the party having the difficulty and that the requirement that any force majeure be remedied with all reasonable dispatch shall not require the settlement of strikes and lockouts by acceding to the demands of the opposing party if the settlement is unfavorable to it in the judgment of the party having the difficulty.

**9. Notices.**

Any notice to be given hereunder by either party to the other party shall be in writing and may be affected by personal delivery or by sending said notices by registered or certified mail, return receipt requested, to the address set forth below. Notice shall be deemed given when deposited with the United States Postal Service with sufficient postage affixed. Any notice mailed to PKWSC shall be addressed:

Possum Kingdom Water Supply Corporation  
1170 Willow Road  
Graford, TX 76449

Any notice mailed to Applicant shall be addressed:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Either party may change the address for notice to it by giving written notice of such change in accordance with the provisions of this paragraph

**10. Breach of Contract and Remedies.**

- (a) If either party breaches any term or condition of this Contract, the non-breaching party may, at its sole option, provide the breaching party with a notice of the breach within sixty (60) days of discovery of the breach by the non-breaching party. Upon notice of breach, the breaching party shall have sixty (60) days to cure the breach. If the breaching party does not cure the breach within the sixty (60) days, the non-breaching party, below, shall have all rights at law and in equity including the right to enforce specific performance of this Contract by the breaching party, the right to

perform the obligation in question and to seek restitution for all damages incurred in connection therewith. It should be noted that PKWSC's willingness to enter into this contract is expressly and materially dependent upon Developer's timely and full payments of all sums due hereunder. Developer's failure to perform under this agreement shall expressly be grounds for PKWSC to exercise its statutory right to refuse water utility service to the Property as provided by Texas Water Code §13.2502. Such an election by PKWSC shall not deprive it of any other rights or remedies it may have at law or in equity.

- (b) In the event of termination of this Contract by a non-breaching party, such action shall not affect any previous conveyance unless PKWSC has the statutory right to refuse service to such conveyed property under Texas Water Code §13.2502.
- (c) The rights and remedies of the parties provided in this Contract shall not be exclusive and are in addition to any other rights and remedies provided by law and under this Contract.

**11. Third Parties.**

It is the express intention of the parties that the terms and conditions of this Contract may be enforced by either party but not by any third party or alleged third-party beneficiary.

**12. Captions.**

Captions are included solely for convenience of reference and if there is any conflict between captions and the text of the Contract, the text shall control.

**13. Context.**

Whenever the context requires, the gender of all words herein shall include the masculine, feminine, and neuter, and the number of all words shall include the singular and the plural.

**14. Mediation.**

Prior to the institution of legal action by either party related to any dispute arising under this Contract, said dispute shall be referred to non-binding mediation by an independent mediator mutually agreed upon by both parties. The cost of the mediator shall be shared equally by both parties.

**15. Litigation Expenses.**

Either party to this Contract who is the prevailing party in any legal proceeding against the other party, brought in relation to this Contract, shall be entitled to recover court costs and reasonable attorneys' fees from the non-prevailing party.

**16. Intent.**

The parties hereto covenant and agree that they shall execute and deliver such other and further instruments and documents as are or may become necessary or convenient to effectuate and carry out the intent of this Contract.

**17. Multiple Originals.**

This Contract may be executed in multiple originals, any copy of which shall be considered to be an original.

**18. Authority.**

The signatories hereto represent and affirm that they are authorized to execute this Contract on behalf of the respective parties hereto.

**19. Severability.**

The provisions of this Agreement are severable, and if any word, phrase, clause, sentence, paragraph, section, or other part of this Agreement or the application thereof to any person or circumstance shall ever be held by any court of competent jurisdiction to be invalid or unconstitutional for any reason, the remainder of this Agreement and the application of such word, phrase, clause, sentence, paragraph, section, or other part of this Agreement to other persons or circumstances shall not be affected thereby and this Agreement shall be construed as if such invalid or unconstitutional portion had never been contained therein.

**20. Entire Agreement.**

This Agreement, including any exhibits attached hereto and made a part hereof, constitutes the entire agreement between the parties relative to the subject matter of this Agreement. All prior agreements, covenants, representations, or warranties, whether oral or in writing, between the parties are merged herein.

**21. Amendment.**

No amendment of this Agreement shall be effective unless and until it is duly approved by each party and reduced to a writing signed by the authorized representatives of PKWSC and the Developer, respectively, which amendment shall incorporate this Agreement in every particular not otherwise changed by the amendment.

**22. Governing Law.**

This Agreement shall be construed under and in accordance with the laws of the State of Texas and all obligations of the parties are expressly deemed performable in Palo Pinto County, Texas.

**23. Venue.**

Any civil action at law or in equity brought to enforce or interpret any provision of this Contract shall be brought in a state court of competent jurisdiction with venue in Palo Pinto County, Texas. Any administrative action shall be brought before the TCEQ and the courts of competent jurisdiction in Travis County, Texas.

**24. Successors and Assigns.**

This Agreement shall be binding on and shall inure to the benefit of the heirs, successors and assigns of the parties.

**25. Assignability.**

The rights and obligations of the Developer hereunder may not be assigned without the prior written consent of PKWSC.

**26. Effective Date.**

This Agreement shall be effective from and after the date of due execution by all parties.

IN WITNESS WHEREOF each of the parties has caused this Agreement to be



executed by its duly authorized representative in multiple copies, each of equal dignity, on the date or dates indicated below.

Possum Kingdom Water Supply Corporation

DEVELOPER

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: William M. Jasper

Name: \_\_\_\_\_

Title: President, Board of Directors

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

## RIGHT OF WAY EASEMENT (General Type Easement)

KNOW ALL MEN BY THESE PRESENTS, that \_\_\_\_\_, (hereinafter called "Grantors"), in consideration of one dollar (\$1.00) and other good and valuable consideration paid by Possum Kingdom Water Supply Corporation, (hereinafter called "Grantee"), the receipt and sufficiency of which is hereby acknowledged, does hereby grant, bargain, sell, transfer, and convey to said Grantee, its successors, and assigns, a perpetual exclusive easement with the right to erect, construct, install, and lay and thereafter access and use, operate, inspect, repair, maintain, replace, upgrade, parallel and remove water distribution lines and appurtenances and any other facilities necessary to serve Grantors' property [including that property's water meter(s) if the easement is located at or near the property line] as well as the Grantee's current and future system-wide customers, under, over and across \_\_\_\_\_ acres of land, more particularly described in instrument recorded in Vol. \_\_\_\_\_, Page \_\_\_\_\_, Deed Records, Palo Pinto County, Texas, together with the right of ingress and egress over Grantor's adjacent lands for the purpose for which the above mentioned rights are granted. The easement hereby granted shall not exceed twenty feet (20') in width, and Grantee is hereby authorized to designate the course of the easement herein conveyed except that when the pipeline(s) is installed, the easement herein granted shall be limited to a strip of land 20' in width the center line thereof being the pipeline as installed.

During the period of construction of the water pipeline, the easement shall be extended an additional twenty feet (20') in width as shown on Exhibit A for a total of forty feet (40'). Upon conclusion of all construction and the restoration of the surface to its pre-construction condition, the construction easement (the extra 20') shall revert to Grantor and shall not be available to Grantee without future consent of Grantor, which consent shall not be unreasonably withheld if the easement is needed for future construction on the water utility facilities.

Grantee shall have such other rights and benefits necessary and/or convenient for the full enjoyment and use of the rights herein granted, including without limitation, (1) the reasonable right of ingress and egress over and across lands owned by Grantor which are contiguous to the easement for the purpose of accessing the easement in the most efficient and effective manner but not to use Grantor's contiguous property for other purposes; (2) the reasonable right from time to time to remove any and all paving, undergrowth and other obstructions that may injure Grantee's facilities and appurtenances or interfere with the construction, maintenance, inspection, operation, protection, repair, alteration, testing, replacement, upgrading, paralleling, relocation (as above limited), substitution or removal thereof; and (3) the right to abandon-in-place any and all water supply lines, service lines and associated appurtenances, such that Grantee shall have no obligation or liability to Grantor or their successors or assigns to move or remove any such abandoned lines or appurtenances.

In the event the easement hereby granted abuts on a public road and the county or state hereafter widens or relocates the public road so as to require the relocation of this water line as installed, Grantor further grants to Grantee an additional easement over and across the land described above for the purpose of laterally relocating said water line as may be necessary to clear the road improvements, which easement hereby granted shall be limited to a strip of land 20' in width the center line thereof being the pipeline as relocated.

Grantor shall have the right to construct and maintain a driveway across the easement so long as it crosses the easement at an approximate ninety-degree (90°) angle and does not cover the easement for a protracted or unreasonable distance. Grantor takes this action with the full knowledge and understanding that Grantee may, at some unknown date, without or without advance notice, have to excavate its water line for maintenance or repair. Thereafter, Grantee shall be charged only with a reasonable duty to restore the drive to a working condition without guarantee or warranty of aesthetic or pre-existing condition.

Grantor shall have the right to erect a fence(s) across the easement for the purpose of containing livestock and domesticated animals. However, if Grantor erects a fence(s), Grantor shall install a gate at each end of the easement (if the total easement exceeds 300 feet or if it crosses a watercourse). These gates may be locked but the locking combinations must be given to the Grantee and not changed without its prior knowledge. The Grantor's water meter shall be located in proximity to a gate for ease of reading if maintained behind the fence.

One gate may be replaced by a stile capable of bearing a 300-pound person to be located at the site of the water meter. This requirement for gates and fence stiles may be waived in writing by Grantee on a landowner-by-landowner basis as the property passes in chain of title in recognition of Grantee's above-recited right of access across Grantor's contiguous lands if the waiver does not place an undue burden on meter readers.

The consideration recited herein shall constitute payment in full for all damages sustained by Grantors by reason of the installation of the structures referred to herein and the Grantee will maintain such easement in a state of good repair and efficiency so that no unreasonable damages will result from its use to Grantors' premises. This agreement together with other provisions of this grant shall constitute a covenant running with the land for the benefit of the Grantee, its successors, and assigns. The Grantors covenant that they are the owners of the above described land and that said lands are free and clear of all encumbrances and liens except the following:

Grantor does hereby bind itself, its successors and assigns, to WARRANT AND FOREVER DEFEND, all and singular, the easement herein granted to Grantee, or Grantee's successors and assigns, against every person whomsoever claiming, or to claim, the same or any part thereof.

The easement conveyed herein was obtained or improved through Federal financial assistance. This easement is subject to the provisions of the Title VI of the Civil Rights Act of 1964 and the regulations issued pursuant thereto for so long as the easement continues to be used for the same or similar purpose for which financial assistance was extended or for so long as the Grantee owns it, whichever is longer.

IN WITNESS WHEREOF the said Grantors have executed this instrument this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_

\_\_\_\_\_

#### ACKNOWLEDGEMENT

STATE OF TEXAS

COUNTY OF \_\_\_\_\_.

BEFORE ME, the undersigned, a Notary Public in and for said County and State, on this day personally appeared \_\_\_\_\_ known to me to be the person(s) whose name(s) is(are) subscribed to the foregoing instrument, and acknowledged to me that he (she) (they) executed the same for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE THIS THE \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_

\_\_\_\_\_, County, Texas.

(Notary Public in and for)

(Seal)

**RIGHT OF WAY EASEMENT  
(General Type Easement)**

"Exhibit A"

[CHECK APPROPRIATE DESCRIPTION]

1. \_\_\_\_\_ The easement shall be located parallel to and within the first twenty (20) feet of the property line of the encumbered tract based upon that side of the tract fronting \_\_\_\_\_ Road/Drive/Street/Lane.

or

2. \_\_\_\_\_ The easement shall be located across the encumbered tract based upon the following surveyed metes and bounds and attached sealed drawing prepared by \_\_\_\_\_:

Metes and Bounds Description:

Section G  
Rates and Service Fees

## **SECTION G.**

### **RATES AND SERVICE FEES**

Unless specifically defined in this Tariff, all fees, rates, and charges as stated shall be non-refundable. *Additionally, rates and service fees will apply to all members unless specifically defined in the "fee" description. (Revised 7-1-17)*

1. **Service Investigation Fee.** The Corporation shall conduct a service investigation for each service application submitted at the Corporation office. An initial determination shall be made by the Corporation as to whether the service request is Standard or Non-Standard. An investigation shall then be conducted and the results reported under the following terms:
  - a. All Standard Service requests shall be subject to a Service Investigation Fee of \$150. Such requests shall be investigated and all applicable costs for providing service shall be quoted in writing to the Applicant within ten (10) working days of application. *Requests for service in the development of The Hills above PK Lake will not be charged this fee, but requests outside of the development within the CCN acquired from Rock Creek Water Supply will have this fee applied. (Revised 7-1-17)*
  - b. All Non-Standard Service requests shall be subject to a Service Investigation Fee of \$150. In addition, a fee shall be charged appropriate to each project, of sufficient amount to cover all administrative, legal, and engineering fees associated with investigation of the Corporation's ability to deliver service to the Applicant to;
    - (1) provide cost estimates of the project,
    - (2) to present detailed plans and specifications as per final plat,
    - (3) to advertise and accept bids for the project,
    - (4) to present a Non-Standard Service Contract to the Applicant, and
    - (5) to provide other services as required by the Corporation for such investigation. A Non-Standard Service Contract shall be presented to the Applicant within a suitable amount of time as determined by the complexity of the project. (See Section F.)
2. **Membership Fee.** At the time the application for service is approved, a refundable Membership Fee must be paid for each service requested before service shall be provided or reserved for the Applicant by the Corporation.
  - a. The Membership Fee for water service is \$300.00 for each service unit.
  - b. The Membership Fee for wastewater service has not yet been established under this Tariff.
  - c. Membership fee for oversized or Master Metered Accounts shall be based on multiples of meter size equivalence or actual connections served.
3. **Easement Fee.** When the Corporation determines that private right-of-way easements and/or facilities sites are necessary to provide service to the Applicant, the Applicant shall be required to make good faith efforts to secure easements in behalf of the Corporation and/or pay all costs incurred by the Corporation in validating, clearing, and retaining such right-of-way in addition to tap fees otherwise required pursuant to the provisions of this Tariff. The costs may include all legal fees and expenses necessary to attempt to secure such right-of-way and/or facilities sites in behalf of the Applicant. (See Section E. 2. c. (2), Section F. 7. a.)



4. **Installation Fee.** The Corporation shall charge an installation fee for service as follows:

- a. **Standard Service** shall include all current labor, materials, engineering, legal, customer service inspection, and administrative costs necessary to provide individual metered water service and shall be charged on a per tap basis as computed immediately prior to such time as metered service is requested and installed.
- b. **Non-Standard Service** shall include any and all construction labor and materials, inspection, administration, legal, and engineering fees, as determined by the Corporation under the rules of Section F of this Tariff.
- c. **Standard and Non-Standard Service Installations** shall include all costs of any pipeline relocations as per Section E.2. (d) (6) of this Tariff or other system improvements.

5. **Equity Buy-In Fee.** In addition to the Membership Fee, each Applicant shall be required to achieve parity with the contributions to the construction of the Corporation's facilities capacity that have been made previously by existing Members. This fee shall be assessed immediately prior to providing or reserving service on a per service unit basis for each property and shall be assigned and restricted to that property for which the service was originally requested. This fee shall be set aside for future capacity improvements such as line upgrades, new tanks, treatment, or production. The fee for oversized or Master Metered Accounts shall be based on multiples of meter size equivalence or actual connections served. *Requests for service from the area acquired from Rock Creek Water Supply will not have this fee applied. (Revised 7-1-17)*

The formula applied to such fee calculated annually after receipt of the system audit is as follows:

**Sample Calculation:**

Total Contributions and Assets of the Corporation minus (-)  
Accumulated Depreciation minus (-)  
Outstanding Corporation Debt Principle minus (-)  
Developer Contributions minus (-)  
Grants received divided by  
Total Number of Members / Customers equals =  
Average Net Equity Buy-In Fee

- a. The preliminary Equity Buy-In Fee is \$420.00
- b. Effective May 17, 2006, the Equity Buy-In Fee is \$390.00
- c. Effective July 18, 2007, the Equity Buy-In Fee is \$505.00
- d. Effective May 22, 2008, the Equity Buy-In Fee is \$590.00
- e. Effective July 15, 2009, the Equity Buy-In fee is \$485.00
- f. Effective June 1, 2010, the Equity Buy-In fee is \$415.00
- g. Effective June 1, 2011, the Equity Buy-In fee is \$430.00
- h. Effective May 1, 2012, the Equity Buy-In fee is \$570.00
- i. Effective May 1, 2013, the Equity Buy-In fee is \$554.00
- j. Effective May 1, 2014, the Equity Buy-In fee is \$524.00
- k. Effective May 1, 2015, the Equity Buy-In fee is \$570.00
- l. Effective June 1, 2016, the Equity Buy-In fee is \$460.00
- m. Effective June 1, 2017, the Equity Buy-In fee is \$495.00
- n. Effective June 1, 2018, the Equity Buy-In fee is \$1,167.00

- o. Effective June 1, 2019, the Equity Buy-In fee is \$1,169.00
- p. Effective June 1, 2020, the Equity Buy-In fee is \$1,242.00
- q. Effective June 1, 2021, the Equity Buy-In fee is \$1,731.00

**5-1. Impact Fee. Applies only to the development of The Hills above PK Lake.**

- a. *At the time of closing on property in The Hills above PK Lake, a \$5,900 impact fee was assessed for each lot to cover the cost of the infrastructure. Approximately 176 lots plus lots not sold as of January 1, 2017, are to pay this fee prior to becoming a member and getting a meter installed.*
- b. *The Master Lot Report identifies which lots are to be assessed this fee.. The account on the RVS billing has been noted as well. (revised 7/1/17)*

**6. Monthly Charges.**

**a. Service Availability Charge**

- (1) Water Service - monthly charge for metered water service is based on demand by meter size. See Section E, d, 7. Each charge is assessed based on the number of 5/8" X 3/4" meters (as per American Water Works Association). Based on 50% of the maximum continuous flow specifications and are calculated on a proportional basis for multi-jet meters. Equivalents are established for billing purposed only as the base multiplier for the Service Availability Charge and Equity Buy-in fee. Rates and equivalents are as follows:

**(2) Residential Water Service**

<u>Meter Size</u>	<u>5/8 X 3/4 Meter Equivalents</u>	<u>Monthly Rate</u>
5/8 X 3/4	1	\$ 41.15
1 – inch	2.5	\$102.88
1 ½ inch	5	\$205.75
2 – inch	8	\$329.20

- (3) Condominiums that are individually owned on a master meter will bill the residential rate with the monthly bill going to the association and the association will be the member of the corporation. The monthly fee will be the residential rate times the number of individual units in each complex. The step billing rate for water will be based on ½ of the number of units in the complex.

**(4) Small Business Water Service - (See Section C. Definitions)**

<u>Meter Size</u>	<u>5/8 X 3/4 Meter Equivalents</u>	<u>Monthly Rate</u>
5/8 X 3/4	1	\$57.50

**(5) Commercial Water Service – (See Section C Definitions)**

<u>Meter Size</u>	<u>5/8 X 3/4 Meter Equivalents</u>	<u>Monthly Rate</u>
5/8 X 3/4	1	\$150.15
¾ - Inch (discontinued)	1.5	\$225.22
1 – Inch	2.5	\$375.37
1.5 – Inch	5	\$750.75
2 – Inch Displacement	8	\$1,201.20

2 – Inch Compound	8	\$1,201.20
3 – Inch Displacement	9	\$1,351.35
3 – Inch Compound	16	\$2,402.40
3 – Inch Turbine	17.5	\$2,627.63
4 – Inch Compound	25	\$3,753.75
6 – Inch Compound	50	\$7,507.50
8 – Inch Compound	80	\$12,012.00

- b. **Reserved Service Charges** -- The monthly charge for each active account at a specific location for which a meter has not been installed but for which the Corporation and the Applicant have entered into agreement and/or contract for reserved service. This monthly charge shall be based on the Corporation's fixed costs to service the Applicant's dedicated facilities on a per Service Unit basis. This charge reserves service to the Applicant's property designated to receive service. This fee is determined on a case by case basis but shall never exceed the Service Availability Charge for Metered Service on a per Service Unit basis. The reserved service charge for a normal residential meter has been set by the Board at 85% of the service availability charge. *This fee does not apply to the development of The Hills above PK Lake. (Revised 7/1/17)*

- c. **Gallonge Charge** - In addition to the Service Availability Charge, a gallonge charge shall be added at the following rates for usage during any one (1) billing period based on 1,000 gallons. *(Revised May 1, 2014)*

~~(1) Conservation Residential Rate per 1,000 Gallons effective January 1, 2006~~

<del>1 to 10,000 gallons per month</del>	<del>\$3.16</del>
<del>10,001 to 30,000 gallons per month</del>	<del>\$4.75</del>
<del>30,001 to 50,000 gallons per month</del>	<del>\$6.25</del>
<del>50,000+ gallons per month</del>	<del>\$10.50</del>

~~(2) Small Business per 1,000 gallons \$5.45~~

~~(3) Commercial per 1,000 gallons \$5.45~~

(4) Residential Rate per 1,000 Gallons effective July 15, 2016 notification mailed June 14, 2016

- 1 to 10,000 gallons per month	\$3.32
- 10,001 to 30,000 gallons per month	\$5.00
- 30,001 to 50,000 gallons per month	\$8.00
- 50,000+ gallons per month	\$15.00

(5) Small Business- per 1,000 gallons \$5.55

(6) Commercial- per 1,000 gallons \$5.55

7. **Assessments** – If at the end of the fiscal year, or in the event of emergency repairs, the Board of Directors determines the total amount derived from the collection of water or wastewater charges to be insufficient for the payment of all costs incident to the operation of the Corporation's system during the year in which such charges are collected, the Board shall make and levy an assessment against each Member of the Corporation as the Board may determine or as may be required by Rural Development, so that the sum of such assessments and the amount collected from water and other charges is sufficient to fully pay all costs of the operation, maintenance, replacement and

repayment on indebtedness for the year's operations. (Article XVIII of Bylaws, Section 1.)

8. **Late Payment Fee.** Once per billing period, a penalty of \$15.00 or 1%, which ever is larger, shall be applied to delinquent bills. This late payment penalty shall not be applied to any balance to which the penalty was applied in a previous billing, but shall be applied to any unpaid balance during the current billing period.
9. **Owner Notification Fee.** The Corporation may, at the expense of the Member, notify said Member of a renter/lessee delinquent account status prior to disconnection of service. The Owner Notification Fee shall be \$15.00 per notification. (See Miscellaneous Transaction Forms.)
10. **Mortgagee/Guarantor Notification Fee.** The Corporation shall assess a fee of \$15.00 for each notification to a Membership lien-holder under agreement prior to Membership cancellation. (See Miscellaneous Transaction Forms.)
11. **Returned Check Fee.** In the event a check, draft, or any other similar instrument is given by a person, firm, corporation, or partnership to the Corporation for payment of services provided for in this Tariff, and the instrument is returned by the bank or other similar institution as insufficient or non-negotiable for any reason, the account for which the instrument was issued shall be assessed a return check charge of \$25.00. (see Miscellaneous Transaction Forms)
12. **Reconnect Fee.** The Corporation shall charge a fee of \$50.00 for reconnecting service after the Corporation has previously disconnected the service for any reason provided for in this Tariff except for activation of service under Section E.3.b. Re-Service.
13. **Meter Tampering and Diversion Penalty.** In addition to the Equipment Damage Fee, the Corporation may charge a penalty for "Tampering" as defined in Section E 23. The penalty may only be assessed against the person who committed the Tampering. An owner cannot be assessed for the Tampering committed by their tenant. The penalty shall not exceed six (6) times the Base Rate.
14. **Service Trip Fee.** The Corporation shall charge a trip fee of ~~\$25.00~~ \$40.00 for any service call or trip to the Member's tap as a result of a request by the Member or resident for response to damage of the Corporation's or another Member's facilities, or for customer service inspections due to suspicion of meter tampering. Additionally the Trip Fee is to include:
  - a. Bypass or diversion of service
  - b. Disconnecting or collecting payment for services
  - c. Request for a meter re-read
  - d. Turn on/off meter
  - e. Low water pressure
  - f. Check for leak

For service trips that extend beyond one hour, such as when an extended line location is required, the Corporation shall charge \$30.00 per employee per hour for each additional hour required.  
(Revised 9-14) (Revised 11-15-2021)

15. **Equipment Damage Fee.** If the Corporation's facilities or equipment have been damaged by tampering, by-passing, installing unauthorized taps, reconnecting service without authority, or

other service diversion, a fee shall be charged equal to the actual costs for all labor, material, and equipment necessary for repair, replacement, and other Corporation actions. This fee shall be charged and paid before service is re-established. If the Corporation's equipment has not been damaged, a fee equal to the actual costs for all labor, material, equipment, and other actions necessary to correct service diversions, unauthorized taps, or reconnection of service without authority shall be charged. All components of this fee will be itemized, and a statement shall be provided to the Member. If the Corporation's facilities or equipment have been damaged due to negligence or unauthorized use of the Corporation's equipment, right-of-way, or meter shut-off valve, or due to other acts for which the Corporation incurs losses or damages, the Member shall be liable for all labor and material charges incurred as a result of said acts or negligence.

16. **Customer History Report Fee.** A fee of \$15.00 shall be charged to provide a copy of the Members record of past water purchases in response to a Member's request for such a record.
17. **Meter Test Fee.** The Corporation shall test a Member's meter upon written request of the Member. Under the terms of Section E of this Tariff, a charge of \$25.00 shall be imposed on the affected account.
18. **Transfer Fee.** An Applicant for service who is a Transferee shall complete all required application forms, etc., and pay a Transfer Fee of \$300.00. *This changed to \$150.00 effective February 1, 2015.*
19. **Non-Disclosure Fee.** A fee of \$5.00 shall be assessed any customer requesting in writing that personal information under the terms of this tariff not be disclosed to the public.
20. **Information Disclosure Fee.** All public information except that which has been individually requested as confidential shall be available to the public for a fee to be determined by the Corporation based on the level of service and costs to provide such information, but not to be inconsistent with the terms of the Texas Publication Information Act: Chapter 552, Texas Government Code.
21. **Customer Service Inspection Fee.** A fee of \$40.00 will be assessed each Applicant before permanent continuous service is provided to new construction.
22. **Regulatory Assessment.** A fee of 0.5% of the amount billed for water/sewer service will be assessed each customer; this assessment is required under Texas law and TCEQ PUC regulations. *Revised June 2016*
23. **Additional Assessments.** In the event any federal, state or local government imposes on the Corporation a "per meter" fee or an assessment based on a percent of water/sewer charges, this fee or assessment will be billed and collected as a "pass through" charge to the customer.
24. **Other Fees.** All services outside the normal scope of utility operations that the Corporation may be compelled to provide at the request of a customer or Member shall be charged to the recipient based on the cost of providing such service.
25. **Data Logger / Meter Data Analysis.** Member requests for a "Data Logger" to run on their meter due to potential leak or high usage will be charged \$50.00. The meter data analysis report can be

provided to the member. Should it be determined that an error or mistake has been made by PKWSC, the fee will be waived or credited as appropriate. *(Added to the Tariff 11-15-2021)*

26. **Administrative Fee.** The administrative fee of \$40.00 will be billed for new service applications due to the document processing required for billing and coordination of the installation. *(Added 11-15-2021)*

27. **Stand-by Fee.** This fee applies only to the development of The Hills above PK Lake. All lots that have been sold but do not have a meter will be assessed a \$300.00 annual stand-by fee to cover the cost of maintenance and repair of the distribution system. This is to keep the system in maintained in good order until such time as the lot owner requires a water meter to be installed on the lot. This fee was identified on the closing documents with the purchase from Southern Lakes and Leisure and may not apply to second owners of the property. *(Revised 7/1/17)*



# Section H Water Conservation And Drought Contingency Plan

This information is provided in separate  
Handbook that contains information required  
annually by TCEQ and TWDB

**From:** Sue Cathey <sue@pkwsc.com>  
**Sent:** Tuesday, June 6, 2017 11:10 AM  
**To:** Gary Ray  
**Subject:** Humming West  
**Attachments:** Sue Cathey.vcf; Non-Standard Svc Contract NEW.doc; Ray Will Serve June 2017.PDF; Developer Notice.doc

Gary, attached is the boiler plate of the contract that we need to put in place. I have attached the will serve letter so you can plat the property.

Review the contract and we can get it approved at the June 21st board meeting. The existing water treatment plant will need to be expanded to accommodate any development and right now we are estimating that it will be about \$2,300 to \$2,800 per lot without having to do brick and mortar construction. That is considered "capital in aid of construction". The other fees for meter installation would be billed as meters are required excluding the equity-buy in fee. No monthly fees would be billed until a meter is installed.

Review all of this and let me know. I know this is somewhat confusing.

Sue Cathey



June 6, 2017

Gary Ray  
6300 Ridglea Place  
Suite 930  
Fort Worth, TX 76116

Re: Retail Public Water Utility Service  
to Property Located at: Hummingbird West Development

Dear Mr. Ray:


You have inquired whether Possum Kingdom Water Supply Corporation (PKWSC) will/can provide retail public water utility service to your property located at: Hummingbird West Development ("the Property"). The Property is within PKWSC's state-certificated service area of convenience and necessity (CCN) No.1820076.

Since the Property is within the PKWSC service area, PKWSC is obligated to provide continuous and adequate potable water service to meet the retail public water utility needs of the Property. [Texas Water Code §13.250] Retail public water utility service is that level of potable water necessary to meet ordinary local domestic water requirements plus reasonable outside water uses under Chapter 341 of the Texas Health & Safety Code, Chapter 13 of the Texas Water Code, TCEQ Rules Chapter 290 and TCEQ Rules Chapter 291. Retail public water utility service does not include fire fighting water or fire flows. [See: *Application of WSC-Maha Water Supply Corporation to Amend CCN No. 10229 in Travis and Hays Counties*, SOAH Docket No. 582-00-0546, TCEQ Docket No. 2000-0018-UCR, *Application of Creedmoor-Maha Water Supply Corporation to Amend CCN No. 10229 in Travis and Hays Counties*, November 6, 2002; motion for reconsideration granted to correct mapping error only July 23, 2003.]

PKWSC is ready, willing and able to provide the Property with retail public water utility service whenever requested upon compliance with the conditions precedent in PKWSC's tariff and the TCEQ's Chapters 290 and 291 rules. It will be your obligation to make formal application for service and to provide the water demand information per the non-standard service sections of PKWSC's tariff. Service will be provided within the time periods prescribed in 30 TAC §291.85(b).

If you have any questions, please contact us.

Sincerely,

  
Sue Cathey  
Business Operations Manager  
Possum Kingdom Water Supply

Possum Kingdom Water Supply Corporation  
1170 Willow Road • Possum Kingdom Lake • Graford, TX 76449 • P: 940.779.3100 • F: 940.779.3137 • TDD 800.735.2989

PKWSC 000205

**Sue Cathey**

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**From:** "Gary Ray" <gary@modcoins.com>  
**Date:** Wednesday, July 19, 2017 3:18 PM  
**To:** "Sue Cathey" <sue@pkwsc.com>  
**Subject:** RE: Non-Standard Agreement

Sue- Timing is everything as we are just getting bids on construction cost on lot 7.. All the property is owned by & the construction is actually being done under Crystal Bluff Goat Ranches, LLC, (CBGR,LLC) which is owned Chris Beeson & Gary Ray. Does PKWSC need a copy of the survey of Hummingbird West? Thanks GR

**CONFIDENTIALITY NOTICE:** This e-mail transmission, and any documents, files or previous e-mail messages attached to it may contain confidential information that is legally privileged. If you are not the intended recipient, or a person responsible for delivering it to the intended recipient, you are hereby notified that any disclosure, copying, distribution or use of any of the information contained in or attached to this transmission is **STRICTLY PROHIBITED**. If you have received this transmission in error, please immediately notify us by reply e-mail, by forwarding this to [Gary@modcoins.com](mailto:Gary@modcoins.com) or by telephone to (817) 546-1955, and destroy the original transmission and its attachments. Thank you.

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**From:** Sue Cathey [mailto:sue@pkwsc.com]  
**Sent:** Wednesday, July 19, 2017 2:58 PM  
**To:** Gary Ray  
**Subject:** Non-Standard Agreement

Gary, attached the draft of the non-standard agreement for the water to Hummingbird West. The cost is estimated to be \$2,300 per lot, but a firm number will be put in. Nothing beyond the \$2,300 per lot will be billed until the purchaser of the property requires a meter. That person will then pay membership, administration, meter installation and inspection.

Review this and let me know your thoughts on this contract.

Sue Cathey

**Possum Kingdom Water Supply Corporation****Service Application and Agreement**

940-779-3100

Fax 940-779-3137

TDD 800-735-2989

1170 Willow Road, Graford, Texas 76449

*Easement on  
left under bridge  
along 656*

Please Print:

DATE

7-26-17

APPLICANT'S NAME

CBGR, LLC

CO-APPLICANT'S NAME

Chris Beeson &amp; Gary Ray

APPLICANT'S BILLING ADDRESS

APPLICANT'S SERVICE ADDRESS

6300 Ridglen Place #920

Hummingbird West Lot 7

Fort Worth TX 76116

Graford TX 76449

PHONE NUMBER - Home

817-994-4617

Other

E-MAIL ADDRESS

GARY@MODCOWS.COM

PROOF OF OWNERSHIP PROVIDED BY: (Check applicable box) Lease ☐ Sub-Lease ☐ Warranty Deed ☒TYPE OF SERVICE: (Check applicable box) Single Family Residence ☒ Business ☐ Apt. Building ☐

LEGAL DESCRIPTION OF PROPERTY (Include subdivision with lot and block number from lease or warranty deed)

Lot 7 Hummingbird West Div.

NOTE: FORM MUST BE COMPLETED BY APPLICANT ONLY.

By execution hereof, the Applicant agrees that non-compliance with the terms of this agreement, pages two through four, by said Applicant shall constitute denial or discontinuance of service until such time as the violation is corrected to the satisfaction of the Corporation.

Any misrepresentation of the facts by the Applicant on any of the four pages of this agreement shall result in discontinuance of service pursuant to the terms and conditions of the Corporation's tariff.

Initial to confirm receipt of pages 2-4 \_\_\_\_\_

Applicant Signature

Approved and Accepted by PKWSC

PKWSC Date Approved

PKWSC 000207

## TERMS AND CONDITIONS

**AGREEMENT** made on approval date between Possum Kingdom Water Supply Corporation, a corporation organized under the laws of the State of Texas (hereinafter called the Corporation) and the Applicant and/or Co-Applicant.

Witnesseth:

The Corporation shall sell and deliver water and/or wastewater service to the Applicant and the Applicant shall purchase, receive, and/or reserve service from the Corporation in accordance with the by-laws and tariff of the Corporation as amended from time to time by the Board of Directors of the Corporation. Upon compliance with said policies, including payment of a Membership Fee, the Applicant qualifies for Membership as a new applicant or continued Membership as a transferee and thereby may hereinafter be called a Member.

The Member shall pay the Corporation for service hereunder as determined by the Corporation's tariff and upon the terms and conditions set forth therein, a copy of which has been provided as an information packet, for which Member acknowledges receipt hereof by execution of this agreement. A copy of this agreement shall be executed before service may be provided to the Applicant.

The Board of Directors shall have the authority to discontinue service and cancel the Membership of any Member not complying with any policy or not paying any utility fees or charges as required by the Corporation's published rates, fees, and conditions of service. At any time service is discontinued, terminated or suspended, the Corporation shall not re-establish service unless it has a current, signed copy of this agreement.

If this agreement is completed for the purpose of assigning utility service as a part of a rural domestic water and/or wastewater system loan project contemplated with the Rural Development, an Applicant shall pay an Indication of Interest Fee in lieu of a Membership Fee for the purposes of determining:

- a) The number of taps to be considered in the design and
- b) The number of potential ratepayers considered in determining the financial feasibility of constructing
  - 1) A new water system or
  - 2) Expanding the facilities of an existing water system.

The Applicant hereby agrees to obtain, utilize, and/or reserve service as soon as it is available. Applicant, upon qualification for service under the terms of the Corporation's policies, shall further qualify as a Member and the Indication of Interest Fee shall then be converted by the Corporation to a Membership Fee. Applicant further agrees to pay, upon becoming a Member, the monthly charges for such service as prescribed in the Corporation's tariff. Any breach of this agreement shall give cause for the Corporation to liquidate, as damages, the fees previously paid as an indication of interest. In addition to any Indication of Interest Fees forfeited, the Corporation may assess a lump sum of \$300.00 as liquidated damages to defray any losses incurred by the Corporation. If delivery of service to said location is deemed infeasible by the Corporation and the Indication of Interest Fee, less expenses, shall be refunded. The Membership in the Corporation and the Indication of Interest Fee, less expenses shall be refunded. The Applicant may re-apply for service at a later date under the terms and conditions of the Corporation's policies. For the purposes of this agreement, an Indication of Interest Fee shall be of an amount equal to the Corporation's Membership Fee.



All water shall be metered by meters to be furnished and installed by the Corporation. The meter and/or wastewater connection is for the sole use of the Member or customer and is to provide service to only one (1) dwelling or one (1) business. Extension of pipe(s) to transfer utility service from one property to another, to share, resell, or sub-meter water to any other persons, dwellings, businesses, or property, etc., is prohibited.

The Corporation shall have the right to locate a water service meter and the pipe necessary to connect the meter on the Member's property at a point to be chosen by the Corporation, and shall have access to its property and equipment located upon Member's premises at all reasonable and necessary times for any purpose connected with or in the furtherance of its business operations, and upon discontinuance of service the Corporation shall have the right to remove any of its equipment from the Member's property. The Member shall install, at their own expense, any customer service isolation valves, backflow prevention devices, clean-outs, and other equipment as may be specified by the Corporation. The Corporation shall also have access to the Member's property for the purpose of inspecting for possible cross-connections, potential contamination hazards, and illegal lead materials.

The Corporation is responsible for protecting the drinking water supply from contamination or pollution which could result from improper plumbing practices. This service agreement serves as notice to each customer of the plumbing restrictions which are in place to provide this protection. The Corporation shall enforce these restrictions to ensure the public health and welfare. The following undesirable practices are prohibited by state regulations:

- a) No direct connection between the public drinking water supply and a potential source of contamination is permitted. Potential sources of contamination shall be isolated from the public water system by an air gap or an appropriate backflow prevention assembly in accordance with state regulations.
- b) No cross-connection between the public drinking water supply and a private water system is permitted. These potential threats to the public drinking water supply shall be eliminated at the service connection by the proper installation of an air gap or a reduced pressure-zone backflow prevention assembly and a service agreement must exist for annual inspection and testing by a certified backflow prevention device tester.
- c) No connection which allows condensing, cooling, or industrial process water to be returned to the public drinking water supply is permitted.
- d) No pipe or pipe fitting which contains more than 8.0 % lead may be used for the installation or repair of plumbing on or after July 1, 1988, at any connection which provides water for human consumption.
- e) No solder or flux which contains more than 0.2 % lead may be used for the installation or repair plumbing on or after July 1, 1988, at any connection which provides water for human consumption.

The Corporation shall maintain a copy of this agreement as long as the Member and/or premises are connected to the public water system. The Member shall allow their property to be inspected for possible cross-connections, potential contamination hazards, and illegal lead materials. These inspections shall be conducted by the Corporation or its designated agent prior to initiating service and periodically thereafter. The inspections shall be conducted during the Corporation's normal business hours.

The Corporation shall notify the Member in writing of any cross-connections or other undesirable practices which have been identified during the initial or subsequent inspection. The Member shall immediately correct any undesirable practice on their premises. The Member shall, at their expense, properly install, test, and maintain any backflow prevention device required by the Corporation. Copies of all testing and maintenance records shall be provided to the Corporation as required. Failure to comply with the terms of this service agreement shall cause the Corporation to either terminate service or properly install, test, and maintain an appropriate backflow prevention device at the service connection. Any expenses associated with the enforcement of this agreement shall be billed to the Member.

In the event the total water supply is insufficient to meet all of the Members, or in the event there is a shortage of water, the Corporation may initiate the Emergency Rationing Program as specified in the Corporation's Tariff. By execution of this agreement, the Applicant hereby shall comply with the terms of said program.

By execution hereof, the Applicant shall hold the Corporation harmless from any and all claims for damages caused by service interruptions due to waterline breaks by utility or like contractors, tampering by other Member/users of the Corporation, normal failures of the system, or other events beyond the Corporation's control.

The Member shall grant to the Corporation, now or in the future, any easements of right-of-way for the purpose of installing, maintaining, and operating such pipelines, meters, valves, and any other equipment which may be deemed necessary by the Corporation to extend or improve service for existing for future Members, on such forms as are required by the Corporation.

By execution hereof, the Applicant shall guarantee payment of all other rates, fees, and charges due on any account for which said Applicant owns a Membership Certificate. Said guarantee shall pledge any and all Membership Fees against any balance due the Corporation. Liquidation of said Membership Fees shall give rise to discontinuance of service under the terms and conditions of the Corporation's tariff.

The following information is requested by the Federal Government in order to monitor compliance with Federal laws prohibiting discrimination against applicants seeking to participate in this program. You are not required to furnish this information, but are encouraged to do so. This information will not be used in evaluating your application or to discriminate against you in any way. However, if you choose not to furnish it, we are required to note the race/national origin of individual applicants on the basis of visual observation or surname.

☐ White, Not of Hispanic Origin    ☐ Black, Not of Hispanic Origin    ☐ American Indian or Alaskan Native    ☐ Hispanic    ☐ Asian or Pacific Islander    ☐ Other (Specify)    ☐ Male    ☐ Female

# Possum Kingdom Water Supply Corporation

## New Service Request

The Possum Kingdom Water Supply Corporation is a member owned, not for profit, public water provider. The regional system is being funded through Federal and State loans and grants. Bidding for the construction of the system was based upon the scope of the project as determined by the number of members who had joined as of August 31, 2002. Any system improvements for members wishing to be served by the system and who joined after that date are not included in the Federal and State funding.

In order for the PKWSC to determine whether a prospective member may be served by the system, a Service Investigation must be conducted by the Corporation's engineer. The Service Investigation will take into account whether a water distribution line is present to serve a particular site and whether an existing water line is of sufficient capacity to serve an additional connection. This will also identify costs associated with providing an additional water service line. Refer to the current rate chart for a detail of fees for a standard installation for new service. In addition, the new member must pay all costs to construct any improvements to serve a new connection. To initiate a Service Investigation, please fill out the form and return it along with a check for \$150.00 to the PKWSC. This cost is included in the total cost referenced on the rate sheet and is non-refundable.

Name Gary Ray (CBGR, LLC)  
Billing Address 6300 Ridgela Place <sup>#920</sup> Phone (817) 994-4617  
City, State, Zip Code Ft Worth, TX 76116  
Service Address Hummingbird West Lot 7  
Legal Description of Property (Include name of road, subdivision with lot and block number)  
Lot 7 Hummingbird West Div  
Note: Form must be completed by applicant only. A map of service location request must be attached.

Please mail this form with a check for \$150.00 to:

Possum Kingdom Water Supply Corporation  
1170 Willow Road  
Possum Kingdom Lake  
Graford, TX 76449

940-779-3160 Fax 940-779-3137 TDD 800-735-2989



August 2, 2017

Possum Kingdom Water Supply Corporation  
1170 Willow Road  
Graford, Texas 76449  
Attn: Cathy Pearson

**Re: Meter Request Evaluation**

Dear Cathy:

We have performed a meter request evaluation for the new service meter request worksheets provided by PKWSC. Based on that analysis, the following meter is **approved** for addition to the PKWSC system:

1. Glover, Larry & Shirley, 2281 Sage Circle, Lot 1-D, 1 Meter, Phase 1
2. CBGR, LLC, Lot 7 Hummingbird West, 1 Meter, Phase 1

I appreciate the opportunity to be of service to the PKWSC. Please do not hesitate to call me at (325) 698-5560 if you have any questions.

Sincerely,

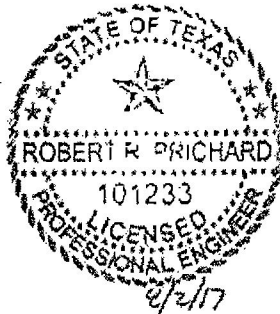
Enprotec / Hibbs & Todd, Inc.

BJ Prichard, P.E.

BJP/jd

Enclosure: Invoice

c: Project File # 06-3651B



P:\Projects\Possum Kingdom\Meter Requests\2017 Meter Requests\20170802\_Meter Response Letter (Glover-CBGR).docx

*Environmental, Civil & Geotechnical Engineers*

Ablene Office  
402 Cedar  
Ablene, Texas 79601  
P.O. Box 3097  
Ablene, Texas 79604  
325.698.5560 | 325.691.0058 fax

Lubbock Office  
6310 Genoa Avenue, Suite E  
Lubbock, Texas 79424  
806.794.1100 | 806.794.0778 fax

[www.e-h-t.com](http://www.e-h-t.com)

Granbury Office  
2901 Glen Rose Hwy, Suite 107  
Granbury, Texas 76048  
817.579.8791 | 817.579.8491 fax

PE Firm Registration No. 1151  
PG Firm Registration No. 50103  
RPLS Firm Registration Nos. 10011900 & 10007300

PKWSC 000212