

## 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.

PKWSC 000054

**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

# EXHIBIT CB- 8



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 typed 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 \_\_\_\_\_ 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 of the 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. Future requests for service capacity will only be accepted in 100-lot increment or phases. 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 five (5) 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 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 agree to contract with Developer to provide water service capacities to the Property in excess of the TCEQ's domestic water system regulations so that such water volumes and pressures may be used by the customer/applicant or local fire department (at their sole election and responsibility) for firefighting purposes. Such additional water service capacities shall be provided only in response to and according to design criteria and/or plans prepared by the Developer's consulting engineer.

Notwithstanding any understanding or intent of Developer for the use of such excess water service capacity, PKWSC does not profess, state, warrant, guarantee, or imply that such additional water service capacity is, or shall ever be, adequate or sufficient for firefighting. 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  
Grafton, 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. (optional)**

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

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

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

Title: President, Board of Directors

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

DEVELOPER

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

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

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

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\_\_\_\_.

\_\_\_\_\_

\_\_\_\_\_, 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:**

# EXHIBIT CB- 9



September 29, 2021

Joseph Modric, Esq.  
407 Throckmorton St.  
Suite 500  
Fort Worth, TX 76102

Re: Crystal Bluff Goat Ranch, LLC – Proposed Non-Standard Contract Terms  
File No.: 4612-0001

Dear Mr. Modric:

This letter is in response to your correspondence and request for information dated September 21, 2021.

**Capital in Aid of Construction (CIAC):**

In order to support a development over time, the developer must pay for water capacity based on the cost of the available capacity or capacity to be built. This is directed by the Public Utility Commission of Texas. Paragraph 5. “Cost of the Water System Extension” of the Non-Standard Contract details the developer’s costs. Water Treatment Plant expansion is listed in paragraph 5. (a) and the CIAC is paragraph 6. (a).

The expansion affecting the Crystal Bluff Goat Ranch, LLC, is currently estimated to cost \$10,400,145.00 and will support 777 meters, thus the cost of \$13,385.00 per meter. Should the total cost of the expansion be less than what was approved by the board, it will be refunded on a proportional basis. Should there be additional costs it will be passed on to the developer on the same proportional basis.

This expansion, unlike previous expansions, will require extensive “brick and mortar” additions to the water treatment plant building. Additionally, it will require land acquisition, major electrical components at the plant and intake station with a 2 ½ mile pipeline from the lake to the plant. Previous upgrades or expansions have been within the footprint of the existing building and the cost has been substantially less. There is no additional capacity available under those expansions and any current contract will be supported by the upgrade explained above.

June 6, 2017, I provided Mr. Ray with a “Will-Serve” letter, copy attached, that clearly states in the third paragraph, “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”. Attached was a sample copy of the Non-Standard Contract that was in place at that time. Mr. Ray

did not act on this obligation that offered the capacity at \$2,300 to \$2,800 which was in effect four (4) years ago.


Various attempts have been made over time to reach Mr. Ray in order to provide the service required for the sale of the lots, but we have not been able to bring this to a successful conclusion for him. In actuality it is Mr. Ray's responsibility to contact the water supply to provide the necessary information to obtain water for the lots to be sold.

May 11, 2021, a letter was sent to Mr. Ray, copy attached, stating the current cost was \$13,385.00 per meter with a concession of applying it to only 10 meters instead of 12 with a 90-day response parameter. No action was taken by Mr. Ray within the 90 day window and your letter is the first correspondence received by this office. The contract for Mr. Ray will now include 12 meters at \$13,385.00 per meter or a total of \$160,620.00. No water service will be provided without the contract in place.

Hopefully this will provide the information you need. If you have questions, please do not hesitate to contact me.

Sincerely,

Sue Cathey  
General Manager  
Possum Kingdom Water Supply

  
c: Rosendo Ferrer  
Monty Jasper  
Gary Ray

Attachments



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

**Sue Cathey**

---

**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.

---

**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

7/19/2017



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



# EXHIBIT CB- 10



January 11, 2022

Timothy R. MacGorman, Esq.  
407 Throckmorton St.  
Suite 500  
Fort Worth, TX 76102

Re: Crystal Bluff Goat Ranch, LLC – Proposed Non-Standard Contract Terms  
File No.: 4612-0001

Dear Mr. MacGorman:

This letter is in response to your correspondence dated January 6, 2022, regarding the information provided in Possum Kingdom Water Supply Corporation's letter of September 29, 2021.

It appears the current issue is the "exorbitant increase of nearly 500% over amounts previously quoted". The prices quoted began in 2017 and have increased over the past 5 years as expansion projects have been completed. The latest expansion is currently under construction and no additional capacity is available in this upgrade.

Possum Kingdom Water Supply Corporation is a member-owned, non-profit water supply. The corporation cannot financially support additional requirements of developments and that cost must be passed.

The next plant expansion was estimated on January 21, 2021, and approved by the Board of Directors as the estimated cost for any developer contract put in place after that date. Attached is a copy of the estimate from our engineer that would allow additional capacity for 777 meters. This estimate was prior to the approximate 10% to 15% increase in material and labor inflation prevalent in 2021. A new estimate will be requested in the next 30 days that will probably increase this cost that will be passed on in current and future contracts. The price of \$13,385.00 is only presented for 30 days, with no guarantee that future requests would be at this price.

Previous correspondence with Mr. Ray has clearly detailed the requirements for a developer contract. The contract is to cover the entire platted development of 12 meters. Any future owner of lot 6 may request water in the future and this must be taken into account in the contract. The request for the first meter in 2017 was approved with the caveat that any additional meters would require a contract and CIAC. The other two meters installed in 2019 were approved without the manager's knowledge of previous communications.

The board made a concession in the May, 2021 letter to Mr. Ray for a payment of ten (10) water capacities. No response was received; thus, this offer was withdrawn. Several attempts have been made to resolve this over the years but Mr. Ray has not responded.

The cost is \$13,385.00 per meter or \$160,620.00 for this development. Previous contracts have been prepared and presented, and once Mr. Ray understands the financial requirement, a new contract will be prepared.

If you have questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in cursive script that reads "Sue Cathey".

Sue Cathey  
General Manager  
Possum Kingdom Water Supply

c: Monty Jasper  
Gary Ray

Attachment

## PRELIMINARY

Possum Kingdom Water Supply Corporation						
0.5 MGD WTP Expansion at Existing WTP						
Item Description	Qty.	Unit	Unit Cost	% Mark-Up	Line Total	Subtotals
<b>Raw Water Pump Station and Pipeline</b>						
Additional Raw Water Pump	1	LS	\$180,000	20%	\$216,000	
Piping, Valves, Appurtenances	1	LS	\$40,000		\$40,000	
New Pipeline to WTP in original easement (if allowed)	8800	FT	\$150	20%	\$1,530,000	
Category Total						\$ 1,786,000
<b>MF System</b>						
New AP-6X Skid	1	LS	\$980,000	20%	\$980,000	
Piping and Valves	1	LS	\$40,000		\$40,000	
Misc. Metals Fabrication	1	LS	\$15,000		\$15,000	
Category Total						\$ 1,015,000
<b>New RO System</b>						
New RO System	1	LS	\$980,000	20%	\$980,000	
Piping and Valves	1	LS	\$50,000		\$50,000	
Misc. Metals Fabrication	1	LS	\$15,000		\$15,000	
Category Total						\$ 1,025,000
<b>New MF Bland Pump Station</b>						
New Pumps	1	LS	\$150,000	20%	\$180,000	
Piping, Valves, appurtenances	1	LS	\$20,000		\$20,000	
Category Total						\$ 200,000
<b>New Waste Processing Basin</b>						
New Pumps	1	LS	\$100,000	20%	\$120,000	
Mixer	1	LS	\$20,000	20%	\$24,000	
Piping, valves, appurtenances	1	LS	\$15,000		\$15,000	
Category Total						\$ 159,000
<b>New Building Addition</b>						
150' long x 30' wide	4500	SF	\$260		\$1,125,000	
HVAC	1	LS	\$200,000		\$200,000	
Bland Pump Station Structure	1	LS	\$100,000		\$100,000	
Waste Processing Structure	1	LS	\$100,000		\$100,000	
Chemical/Plant Water System Upgrade	1	LS	\$20,000	20%	\$24,000	
Category Total						\$ 1,549,000
<b>Chemical Systems Modifications</b>						
Upgrade ClO <sub>2</sub> Generator - Retrofit to Increase Capacity	1	LS	\$30,000	20%	\$36,000	
Upgrade NaClO <sub>2</sub> System - Additional Storage Tank, Piping	1	LS	\$30,000	20%	\$36,000	
Upgrade Cl <sub>2</sub> Gas Systems - Cylinders, Scoles, Eductors	1	LS	\$30,000	20%	\$36,000	
Upgrade LAS System - Tanks & Pumps	1	LS	\$35,000	20%	\$42,000	
Upgrade NaOH System - Tanks & Pumps	1	LS	\$20,000	20%	\$24,000	
Upgrade FeCl <sub>3</sub> Coagulant System - Tanks & Pumps	1	LS	\$20,000	20%	\$24,000	
Category Total						\$ 198,000
<b>Yard Piping</b>						
	1	LS	\$5,932,000	7%	\$415,240	
Category Total						\$ 415,000
<b>Protective Coatings</b>						
	1	LS	\$6,347,000	1%	\$63,470	
Category Total						\$ 63,000
<b>Site Work, Paving, SWPPP</b>						
Site work, Paving, & SWPPP	1	LS	\$8,410,000	3%	\$180,000	
Category Total						\$ 160,000
<b>Electrical and SCADA Controls</b>						
	1	LS	\$8,670,000	25%	\$1,842,500	
Category Total						\$ 1,843,000
<b>Mobilization, Bonds &amp; Insurance, OHP</b>						
	10%	JOB	\$8,213,000		\$821,300	\$ 821,000
<b>BASE SUBTOTAL</b>						\$ 8,034,000
<b>CONTINGENCY</b>				15.0%		\$ 1,356,000
<b>CONSTRUCTION SUBTOTAL</b>						\$ 10,390,000
DISCLAIMER: This opinion of probable project cost is released under the authority of Jordan S. Hibbs, Texas PE license number 116729, on January 12, 2021, and represents the design professional's best judgment. Enprotec / Hibbs & Todd, Inc. has no control over the cost of labor, materials, or equipment; over the Contractor's methods of determining bid prices; or over competitive bidding or market and industry conditions. Accordingly, Enprotec / Hibbs & Todd, Inc. cannot and does not guarantee that bids will not vary from this cost estimate.						

# EXHIBIT CB- 11

## NON-STANDARD SERVICE CONTRACT

THE STATE OF TEXAS  
COUNTY OF PALO PINTO

THIS CONTRACT is made and entered into by and between Patterson Constantin Partners, 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 3.374 acres in Palo Pinto, County, Texas, more particularly known as the Patterson Constantin Plat subdivision, according to the plat thereof recorded at Vol. 11, Page 143 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. 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 \$3,765.00 per lot. This CIAC payment scale will only cover the first five (5) lots for which capacity the Developer will pay \$18,825.00 with the execution of this agreement. Three lots are deemed commercial and should they require more than an  $5/8 \times 3/4$  inch meter, additional funds will be required. 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(a). 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, Equity Buy-In, 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.

**2. Service from the Water System.**

- (a) 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 is 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 60% 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. PKWSC will notify the Developer at the end of the seventh (7th) year and the Developer must notify PKWSC within 60 days of intent to renegotiate or surrender the service capacity. Should the Developer not respond within the 60 days as required by the notice from PKWSC, the Developer shall surrender all unused reserved water service capacity to PKWSC.
- (b) 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.

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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.

### 3. **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

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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.

**4. 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:

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

Any notice mailed to Applicant shall be addressed:

Parkson Constantin Putman I, LLC  
2310 W. I 70 #100  
Arlington, TX 76017

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

**5. 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.

6. **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.

7. **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.

8. **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.

9. **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.

10. **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.

11. **Intent.**

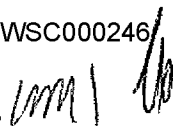
The parties hereto covenant and agree that they shall execute and deliver such other and further instruments and documents as are or may become necessary or convenient to effectuate and carry out the intent of this Contract.

12. **Multiple Originals.**

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

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13. **Authority.**

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

14. **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.

15. **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.

16. **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.

17. **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.

18. **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.

19. **Successors and Assigns.**

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

20. **Assignability.**

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

**21. 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

By: William M. Jasper

Name: William M. Jasper

Title: President, Board of Directors

Date: 9/15/21

DEVELOPER

By: [Signature]

Name: Janet Cox

Title: VP

Date: 9/23/2021

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## ADDENDUM 1

### Patterson Constantin Partners, LLC

#### DETAIL OF FEES:

The following is a detail listing of fees to be paid by the buyer of the developer's property / lot. Upon the sale of the property the developer will notify PKWSC of name and address of buyer.


- Membership in PKWSC of \$300.00
- Equity Buy-In of \$1,731.00 as of June 1, 2021 (If purchased after September 1, 2021)
- Meter Installation \$800.00
- Administration \$40.00
- Inspection of meter connection \$40.00

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

#### DEVELOPER WILL PAY:

- \$18,825.00 Capital in aid of Construction (CIAC) which will reserve capacity for the five (5) meters to be installed.
- \$750.00 for Engineering Investigation. THIS HAS BEEN PAID IN FULL.

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## RIGHT OF WAY EASEMENT (General Type Easement)

KNOW ALL MEN BY THESE PRESENTS, that Patterson Constantin Partners I, LLC, (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 3.374 acres of land, more particularly described as (911 Address) Patterson Constantin Place, (Lot), (Block/Area) \_\_\_\_\_, (Sub-Division/Tract) J.D. Alston Survey, or (Abstract) 2 in instrument recorded in Vol. 11, Page 143, Deed Records, Palo Pinto / Stephens 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.

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 23<sup>rd</sup> day of Sep, 2021.

Signature

Printed Name

#### ACKNOWLEDGEMENT

STATE OF TEXAS

COUNTY OF Tarrant

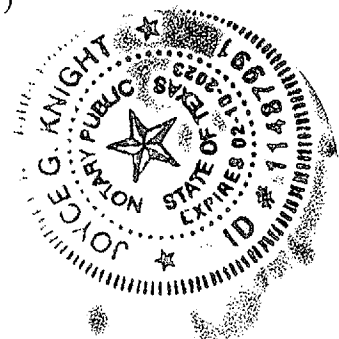
BEFORE ME, the undersigned, a Notary Public in and for said County and State, on this day personally appeared Jared Cox VP of PPT, LLC known to me to be the person(s) whose name(s) is(are) subscribed to the foregoing instrument, and acknowledged to me that he (she) (they) executed the same for the purposes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

GIVEN UNDER MY HAND AND SEAL OF OFFICE THIS THE 23 day of September 2021.

(Seal)

(Notary Public in and for)

County, Texas.



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mmj