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DOCKET NO. 53399

PETITION OF AQUA TEXAS, INC.	§	PUBLIC UTILITY COMMISSION
AND THE CITY OF ELMENDORF	§	
FOR APPROVAL OF A SERVICE	§	OF TEXAS
AREA CONTRACT UNDER TEXAS	§	
WATER CODE § 13.248 AND TO	§	
AMEND CERTIFICATES OF	§	
CONVENIENCE AND NECESSITY IN	§	
BEXAR COUNTY	§	

JOINT MOTION TO ADMIT EVIDENCE AND PROPOSED NOTICE OF APPROVAL

Come now Aqua Texas, Inc. (Aqua), the City of Elmendorf (Elmendorf), and the Staff of the Public Utility Commission of Texas (Staff) (collectively, Parties) and submit this Joint Motion to Admit Evidence and Proposed Notice of Approval in response to Order No. 2. In support thereof, the Parties show the following:

I. BACKGROUND

On March 25, 2022, Aqua and Elmendorf (Applicants) filed an application under Texas Water Code (TWC) § 13.248 for approval of a service-area contract and to amend certificates of convenience and necessity (CCN) in Bexar County. Aqua holds CCN No. 21116, and Elmendorf holds CCN No. 21121. The Applicants, by mutual agreement, request that the CCNs be amended to reflect the transfer of approximately 990 acres. The agreement does not contemplate a transfer of facilities or customers between the Applicants.

The application was filed pursuant to TWC § 13.248 and 16 Texas Administrative Code (TAC) § 24.253. Order No. 2, issued by the Commission Administrative Law Judge (ALJ) on April 27, 2022, established a deadline of August 8, 2022, for the parties to file proposed findings of fact, conclusions of law, and ordering paragraphs. Therefore, this pleading is timely filed.

II. JOINT MOTION TO ADMIT EVIDENCE

The parties request the entry of the following into the record of this proceeding:

1. The application and all exhibits, including the agreement between Aqua and the City of Elmendorf and City of Elmendorf's City Council meeting agenda and minutes, filed on March 25, 2022 (Interchange Item No. 1);
2. Applicants' Digital Mapping Data, filed on April 5, 2022 (Interchange Item No. 3);

3. Commission Staff's Recommendation on Administrative Completeness and Proposed Schedule, filed on April 25, 2022 (Interchange Item No. 4);
4. Commission Staff's Final Recommendation on the Application, filed on June 27, 2022 (Interchange Item No. 6);
5. Aqua's and the City of Elmendorf's executed consent forms, filed on July 21, 2022 (Interchange Item Nos. 7 and 8); and
6. The attached final map and certificates.

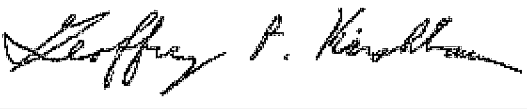
III. JOINT PROPOSED NOTICE OF APPROVAL

The Parties have agreed on the attached Joint Proposed Notice of Approval, which would grant the Application. Also attached are the final map and certificates consented to by the Applicants.

IV. CONCLUSION

Staff and Elmendorf have agreed that Aqua is authorized to file this pleading on their behalf. Therefore, the Parties respectfully request that the items listed above be admitted into the record of this proceeding as evidence and that the findings of fact, conclusions of law, and ordering paragraphs from the attached Joint Proposed Notice of Approval be adopted.

Respectfully submitted,

By: 

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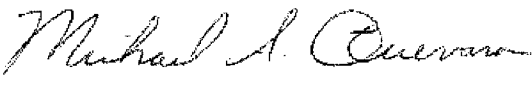
ATTORNEYS AQUA TEXAS, INC.

**PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION**

Keith Rogas
Division Director

Marisa Lopez Wagley
Managing Attorney

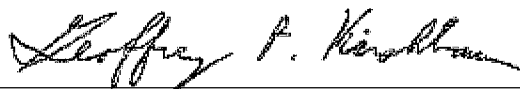
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ATTORNEYS FOR CITY OF ELMENDORF

CERTIFICATE OF SERVICE

I certify that, unless otherwise ordered by the presiding officer, notice of the filing of this document was provided to all parties of record via electronic mail on August 8, 2022, in accordance with the Orders Suspending Rules, issued in Project No. 50664.

A handwritten signature in black ink, reading "Geoffrey P. Kirshbaum". The signature is written in a cursive style with a horizontal line extending from the end of the name.

Geoffrey P. Kirshbaum

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FOR APPROVAL OF A SERVICE	§	
AREA CONTRACT UNDER TEXAS	§	
WATER CODE § 13.248 AND TO	§	
AMEND CERTIFICATES OF	§	
CONVENIENCE AND NECESSITY IN	§	
BEXAR COUNTY	§	

JOINT PROPOSED NOTICE OF APPROVAL

This Notice of Approval addresses the application of Aqua Texas, Inc. (Aqua) and the City of Elmendorf (Elmendorf), for approval of a service-area contract under Texas Water Code (TWC) § 13.248 and to amend sewer certificates of convenience and necessity (CCNs) in Bexar County. The application seeks the transfer of approximately 990 acres of Elmendorf's service area under CCN number 21121 to Aqua under CCN number 21116. The Commission approves the service-area contract and amends CCN numbers 21121 and 21116 accordingly.

I. Findings of Fact

The Commission makes the following findings of fact.

Applicants

1. Aqua is a domestic for-profit corporation registered with the Texas Secretary of State under file number 0800304878 (Texas Taxpayer No. 32014405503).
2. Aqua operates, maintains, and controls facilities for providing retail wastewater service in Bexar County under sewer CCN number 21116.
3. City of Elmendorf is a municipality located in Bexar County.
4. City of Elmendorf operates, maintains, and controls facilities for providing retail wastewater service in Bexar County under sewer CCN number 21121.

Application

5. On February 17, 2022, Aqua and City of Elmendorf executed a retail wastewater service area transfer agreement (the service area contract) to amend their sewer CCNs in Bexar County, Texas.

6. On March 25, 2022, Aqua and Elmendorf filed the application at issue in this proceeding for approval of the service area contract and to amend CCN numbers 21116 and 21121.
7. The application included a copy of the service area contract executed by Aqua and Elmendorf in which Aqua and Elmendorf agreed to the transfer of 990 acres of CCN sewer service area rights from Elmendorf to Aqua in Bexar County.
8. There are no customers within the approximately 990 acres of service area to be transferred.
9. There will be no transfer of customers, assets, or facilities as a result of the service area contract or application.
10. In Order No. 2 filed on April 27, 2022, the administrative law judge (ALJ) found the application administratively complete.

Notice

11. On February 17, 2022, the City of Elmendorf's City Council approved the service area contract.
12. The application included a copy of the agenda and minutes from the February 17, 2022, City Council meeting as well as a supporting affidavit from Roxanne De Leon, City Secretary of the City of Elmendorf.
13. In Order No. 2 filed on April 27, 2022, the ALJ found the notice sufficient.

Certificates and Map

14. On July 11, 2022, Commission Staff emailed its proposed map and certificates to the applicants.
15. On July 21, 2022, Aqua and Elmendorf filed their consents to the map and certificates provided by Commission Staff.

Evidentiary Record

16. On August 8, 2022, the parties filed a joint motion to admit evidence and notice of approval.
17. In Order No. 3 filed on _____, 2022, the ALJ admitted the following evidence into the record of this proceeding: (a) the application and all exhibits, including the agreement between Aqua and Elmendorf and Elmendorf's City Council meeting agenda and minutes, filed on March 25, 2022 (Interchange Item No. 1); (b) Applicants' Digital Mapping Data, filed on April 5, 2022 (Interchange Item No. 3); (c) Commission Staff's Recommendation on Administrative Completeness and Proposed Procedural Schedule, filed on April 25,

2022 (Interchange Item No. 4); (d) Commission Staff's Final Recommendation on the Application, filed on June 27, 2022 (Interchange Item No. 6); (e) Aqua's and Elmendorf's executed consent forms, filed on July 21, 2022 (Interchange Item Nos. 7 and 8); and (f) the attached final map and certificates.

Informal Disposition

18. More than 15 days have passed since the completion of the notice provided in this docket.
19. No person filed a protest or motion to intervene.
20. Aqua, Elmendorf, and Commission Staff are the only parties to this proceeding.
21. No party requested a hearing, and no hearing is needed.
22. Commission Staff recommended approval of the application.
23. This decision is not adverse to any party.

II. Conclusions of Law

The Commission makes the following conclusions of law.

1. The Commission has authority over the application under TWC §§ 13.041 and 13.248.
2. Aqua and Elmendorf are retail public utilities as defined in TWC § 13.002(19) and 16 TAC § 24.3(31).
3. Under TWC § 13.248, contracts between retail public utilities designating areas to be served, when approved by the Commission, are valid and enforceable and incorporated into the affected CCNs.
4. The application meets the requirements of TWC § 13.248 and 16 TAC § 24.253.
5. Public notice of the application was provided in compliance with TWC § 13.248 and 16 TAC § 24.253(c).
6. The Commission processed the application in accordance with the TWC, the Administrative Procedure Act,¹ and Commission rules.
7. Under TWC § 13.257(r) and (s), Aqua and Elmendorf are required to record a certified copy of the approved map for the certificate amendments, along with a boundary description of their respective service areas, in the real property records of Bexar County within 31 days of receiving this Notice of Approval and to submit evidence of the recording to the Commission.

¹ Tex. Gov't Code Ann. §§ 2001.001-.902.

8. The requirements for informal disposition under 16 TAC § 22.35 have been met in this proceeding.

III. Ordering Paragraphs

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

1. The Commission approves the application and service area contract to the extent provided in this Notice of Approval.
2. The Commission amends Aqua's sewer CCN 21116 as described in this Notice of Approval and as shown in the map attached to this Notice of Approval.
3. The Commission amends Elmendorf's sewer CCN number 21121 as described in this Notice of Approval.
4. The Commission approves the map attached to this Notice of Approval.
5. The Commission issues the certificates attached to this Notice of Approval.
6. Aqua must provide service to every customer and qualified applicant for wastewater service within the approved area under CCN number 21116 that requests wastewater service and meets the terms and conditions of Aqua's requirements for service, and such service must be continuous and adequate.
7. Elmendorf must provide service to every customer and qualified applicant for wastewater service within the approved area under CCN number 21121 that requests wastewater service and meets the terms and conditions of Elmendorf's requirements for service, and such service must be continuous and adequate.
8. Aqua and Elmendorf must each comply with the recording requirements in TWC § 13.257(r) and (s) for the area in Bexar County affected by the application and submit to the Commission evidence of the recording no later than 45 days after receipt of this Notice of Approval.
9. The Commission denies all other motions and any other requests for general or specific relief not expressly granted herein.

Signed at Austin, Texas, the _____ day of _____, 2022.

PUBLIC UTILITY COMMISSION OF TEXAS

**CHRISTINA DENMARK
ADMINISTRATIVE LAW JUDGE**



Public Utility Commission of Texas

By These Presents Be It Known To All That

Aqua Texas, Inc.

having obtained certification to provide sewer utility service for the convenience and necessity of the public, and it having been determined by this Commission that the public convenience and necessity would in fact be advanced by the provision of such service, Aqua Texas, Inc. is entitled to this

Certificate of Convenience and Necessity No. 21116

to provide continuous and adequate sewer utility service to that service area or those service areas in Bastrop, Bexar, Burnet, Hays, Travis, and Williamson counties as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 53399 are on file at the Commission offices in Austin, Texas; and are matters of official record available for public inspection; and be it known further that these presents do evidence the authority and the duty of Aqua Texas, Inc. to provide such utility service in accordance with the laws of this State and Rules of this Commission, subject only to any power and responsibility of this Commission to revoke or amend this Certificate in whole or in part upon a subsequent showing that the public convenience and necessity would be better served thereby.



Public Utility Commission of Texas

By These Presents Be It Known To All That

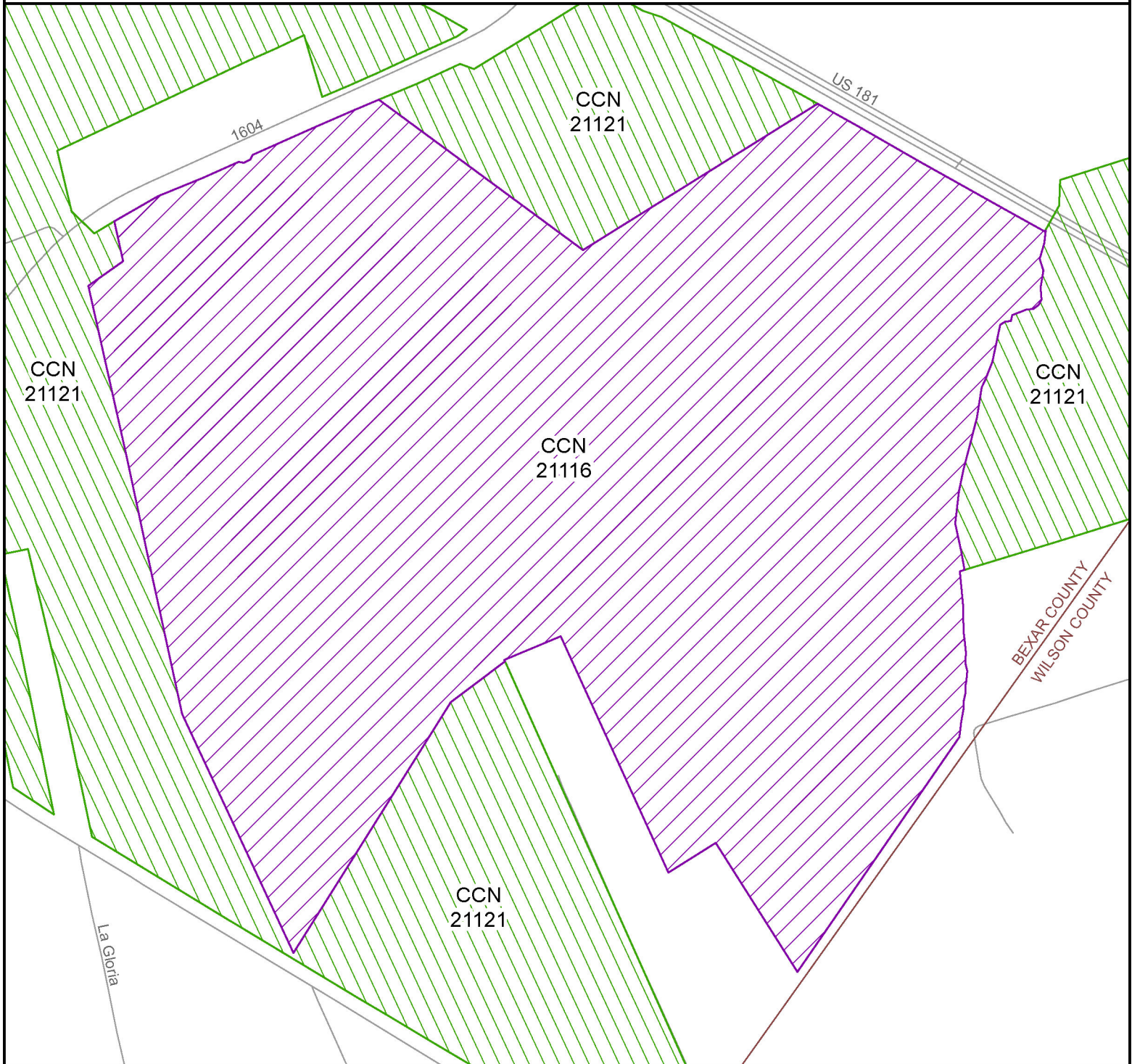
City of Elmendorf

having obtained certification to provide sewer utility service for the convenience and necessity of the public, and it having been determined by this Commission that the public convenience and necessity would in fact be advanced by the provision of such service, City of Elmendorf is entitled to this

Certificate of Convenience and Necessity No. 21121



to provide continuous and adequate sewer utility service to that service area or those service areas in Bexar and Wilson counties as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 53399 are on file at the Commission offices in Austin, Texas; and are matters of official record available for public inspection; and be it known further that these presents do evidence the authority and the duty of the City of Elmendorf to provide such utility service in accordance with the laws of this State and Rules of this Commission, subject only to any power and responsibility of this Commission to revoke or amend this Certificate in whole or in part upon a subsequent showing that the public convenience and necessity would be better served thereby.

Aqua Texas, Inc.
Portion of Sewer CCN No. 21116
PUC Docket No. 53399
13.248 Agreement Amended CCN No. 21116 and
Decertified a Portion of City of Elmendorf, CCN No. 21121 in Bexar County



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

Sewer CCN

-  21116 - Aqua Texas Inc
-  21121 - City of Elmendorf

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Feet



Map by: Komal Patel
Date: May 9, 2022
Project: 53399AquaTX.mxd