

SERVICE AREA AGREEMENT

This Service Area Agreement (the "Agreement") is executed pursuant to Texas Water Code § 13.248 by and between Crosswinds Municipal Utility District ("Crosswinds"), the City of Kyle ("Kyle"), and Texas Water Utilities, L.P. ("TWU") (collectively the "Parties" or individually a "Party").

RECITALS

WHEREAS, Crosswinds is a Municipal Utility District with district boundaries in Hays County Texas and is located in whole or in part in the extraterritorial jurisdiction of the City of Kyle, Texas;

WHEREAS, TWU is a retail public utility and operates water Certificate of Convenience and Necessity ("CCN") No. 12983 in Hays County, Texas;

WHEREAS, Kyle is a Home Rule municipality located in Hays County, Texas, owning a retail public water utility operating under water CCN No. 11024 in Hays County;

WHEREAS, EB Windy Hill, L.P. submitted a petition to the Texas Commission on Environmental Quality ("TCEQ") to decertify an approximate 445.11 acre tract from TWU's CCN No. 12983 on January 8, 2013.¹ The petition was submitted under section 13.254(a-5) of the Texas Water Code (TWC). The petition was accepted for filing by the TCEQ on January 24, 2013. The petition was granted by order of the TCEQ Executive Director on February 13, 2013. The Petition requested that along with other property, the 20.901 acres shown as Exhibit A (hereafter the "Property") be removed from TWU's CCN.

WHEREAS, the Parties agree and acknowledge that TWU has been compensated for the CCN decertification of the approximate 445.11 acre tract, and that such compensation was fair and adequate.

WHEREAS, as a result of a technical error made in 2013 on the official CCN map now maintained by the Public Utility Commission of Texas ("PUC"), approximately 20.901 acres of the approximately 445.11 acre tract remains in the TWU service area (the "Property");

WHEREAS, the Parties are all in agreement that the Property should not be in CCN No. 12983;

WHEREAS, the Property is within the district boundaries of Crosswinds and Crosswinds desires to have the property served with water service from Kyle;

WHEREAS, Kyle is willing to provide water service to the Property;

WHEREAS, TWU desires to transfer the Property to Kyle CCN No. 11024;

¹ The name of TWU at the time of the requested CCN decertification was Monarch Utilities I L.P.

WHEREAS, Kyle desires to accept such Property into its service area under CCN 11024;

WHEREAS, TWU consents, pursuant to the terms of this Agreement, to allowing Kyle to provide retail water utility service to the Property;

WHEREAS, pursuant to Texas Water Code § 13.248, contracts between retail public utilities designating areas to be served, when approved by the PUC, are valid and enforceable and are incorporated into the appropriate CCNs;

WHEREAS, the Parties mutually desire to enter into this Agreement setting forth the terms and conditions pursuant to which they will designate areas and customers to be served and to request the PUC to incorporate such designations into the CCNs held by Kyle and TWU;

NOW, THEREFORE, in consideration of the promises, mutual agreements, and covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Crosswinds, Kyle, and TWU hereby contract and agree as follows:

AGREEMENT

I.

TERMS

1.01 The above recitals are true and correct and are incorporated into this Agreement for all purposes.

1.02 Term. This agreement shall be effective as of the date so approved by the PUC and shall remain valid and enforceable unless and until superseded by a subsequent written agreement.

1.03 Property Subject to the Agreement. The Property subject to this Agreement is the property shown on Exhibit A.

1.04 Designation of Water Utility Service Area. TWU agrees to transfer the Property to Kyle for Kyle to provide retail water utility service. Crosswinds consents and agrees to allow Kyle to provide retail water utility service to the Property.

1.05 No Compensation. TWU does not require any further compensation for Kyle providing retail water utility service to the Property.

1.06 Application to Amend CCN. Crosswinds may file, or cause to be filed, an application with the PUC to amend CCN No. 12983 such that the Property be removed from CCN No. 12983 and be added to CCN No. 11024. TWU will not oppose such amendment and will execute, at Crosswinds sole cost and expense, any reasonable consents that might be required to affect such amendment.

1.07 Alternative Administrative Approach. If the PUC denies the § 13.248 Application for any reason, the Parties shall work in good faith to implement a reasonable alternative administrative

and lawful approach providing Kyle with the necessary authority to provide retail water service to the Property.

1.08 Retail Service. TWU hereby consents to the City providing retail water service to the Property beginning on the effective date of this Agreement and during the pendency of the § 13.248 Application to the extent authorized pursuant to the Texas Water Code and the PUC's substantive rules.

1.09 Execution of Additional Documents. The Parties agree that they will each work in good faith to effectuate the purpose of this Agreement and will execute any documents and file any documents needed to effectuate the purpose of this Agreement.

1.10 Attorney's Fees. Crosswinds hereby agrees to cover reasonable and documented attorneys' fees of TWU up to \$1,000.00 with respect to the subject matter of this Agreement, including but not limited to any outside counsel representation of TWU reasonably necessary in the § 13.248 Application.

1.11 The Parties agree that upon PUC approval of the application to transfer the Property from TWU to Kyle, TWU shall have no further obligation to provide retail water service to the Property.

II. GENERAL PROVISIONS

2.01 No agreements other than this Agreement now exist between the Parties concerning the subject matter of this Agreement.

2.02 This Agreement shall be binding on the Parties and shall be binding on and inure to the benefit of the successors and assigns of the respective Parties to this Agreement.

2.03 This Agreement is the entire agreement between the Parties hereto with respect to the subject matter hereof. No modifications of this Agreement shall be of any force or effect, whatsoever, except as by subsequent modification in writing signed by the Parties.

2.04 The provisions of this Agreement shall be governed by and construed and entered in accordance with the substantive laws of the State of Texas and the substantive rules of the Public Utility Commission. Any action at law or in equity brought to enforce any provision of this Agreement shall be brought in a court of competent jurisdiction with venue in Hays County, Texas.

2.05 The individuals executing this Agreement on behalf of the respective parties below represent that all necessary and appropriate action has been taken to authorize the individual who is executing this Agreement to do so for and on behalf of the party for which his or her signature appears, that there are no other parties or entities required to execute this Agreement in order for the same to be an authorized and binding agreement on the party for whom the individual is signing, and that each individual affixing his or her signature is authorized to do so, and such authorization is valid and effective on the date hereof. If the authority of the individual executing this Agreement is subsequently challenged, the party for which the individual was acting shall take all steps necessary to ratify the authority of the individual.

2.06 Except as specifically set forth in this Agreement, 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 circumstances is ever 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 will not be affected thereby and this Agreement will be construed as if such invalid or unconstitutional portion had never been contained herein.

2.07 All notices which the Parties may be required, or may desire, to serve on the other shall be in writing and shall be served by personal delivery or by depositing the same with the U. S. Postal Service, first-class or certified mail, postage prepaid, return receipt required, and addressed to the respective party at the addresses set forth below. All notices shall be deemed received within five (5) business days of sending.

City:

City of Kyle
Attn: Jerry Hendrix
Interim City Manager
100 W. Center St
Kyle, Texas 78640

with a copy to:

The Knight Law Firm, LLP
Attn: Paige Saenz
223 West Anderson Lane, Suite A-105
Austin, Texas 78752

TWU:

Texas Water Utilities, L.P.
Attn: George Freitag
12535 Reed Road
Sugar Land, Texas 77478

Crosswinds:

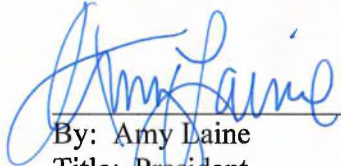
Crosswinds Municipal Utility District
Attn: Kimberly Studdard
401 Congress Avenue, Suite 2100
Austin, Texas 78701

2.08 This Agreement may be executed in counterparts, each to be considered an original and be effective upon execution by all parties.

(Signatures on the following page)

AGREED, effective the _____ day of _____ 2023:

CROSSWINDS MUNICIPAL UTILITY DISTRICT



By: Amy Laine
Title: President

DATE: March 27, 2023

TEXAS WATER UTILITIES, L.P.

By: Jeffrey L. McIntyre
Title: President

DATE: _____

CITY OF KYLE, TEXAS

By: Jerry Hendrix
Title: Interim City Manager

DATE: _____

EXHIBIT "A"
DESCRIPTION OF PROPERTY

(attached hereto)

METES AND BOUNDS

BEING 20.901 ACRES OF LAND SITUATED IN THE JESSE B. EAVES SURVEY NUMBER 5, ABSTRACT NUMBER 166, HAYS COUNTY, TEXAS, BEING COMPRISED OF A PORTION OF A CALLED 23.500 ACRE TRACT OF LAND (TRACT 10) AND ALL OF A CALLED 2.732 ACRE TRACT OF LAND (TRACT 9) CONVEYED TO CF CSLK XWIND LLC BY DEED RECORDED IN INSTRUMENT NUMBER 21069744, OFFICIAL PUBLIC RECORDS, HAYS COUNTY, TEXAS, AND CORRECTED IN INSTRUMENT NUMBER 22008979, OFFICIAL PUBLIC RECORDS, HAYS COUNTY, TEXAS, ALL OF A CALLED 4.81 ACRE TRACT OF LAND CONVEYED TO PEDERNALES ELECTRIC COOPERATIVE, INC. BY DEED RECORDED IN INSTRUMENT NUMBER 16021101, OFFICIAL PUBLIC RECORDS, HAYS COUNTY, TEXAS, A PORTION OF LOT 1, BLOCK A, A PORTION OF LOT 1, BLOCK B, A PORTION OF CROSSWINDS PARKWAY (80' R.O.W), AND A PORTION OF THE 0.647 ACRE RIGHT-OF-WAY DEDICATION OF WINDY HILL ROAD (R.O.W. VARIES), CROSSWINDS PHASE ONE, A SUBDIVISION RECORDED IN INSTRUMENT NUMBER 17001539, OFFICIAL PUBLIC RECORDS, HAYS COUNTY, TEXAS, SAID 20.901 ACRE TRACT OF LAND BEING MORE FULLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING, at a 1/2 inch iron rod found at the southeast corner of said 23.500 acre tract of land, being at the westernmost corner of a called 4.4 acre tract of land conveyed to LCRA Transmission Services Corporation by deed recorded in Instrument Number 19014637, Official Public Records, Hays County, Texas, same being on the north line of Lot 15, Block I, said Crosswinds Phase One, for the southeast corner and **POINT OF BEGINNING** of the herein described tract,

THENCE, over and across said 23.500 acre tract, said Crosswinds Parkway, said Lot 1, Block B, and said 0.647 acre right-of-way dedication the following six (6) courses and distances, numbered 1 through 6,

- 1) N46°40'13"W, a distance of 247.29 feet to a calculated point for corner,
- 2) S88°09'24"W, a distance of 1182.73 feet to a calculated point for the southwest corner of the herein described tract of land,
- 3) N12°09'22"E, a distance of 30.91 feet to a calculated point for corner,
- 4) N13°35'04"E, a distance of 126.15 feet to a calculated point for corner, being at the beginning of a curve to the left,
- 5) Along said curve to the left, having a radius of 530.00 feet, an arc length of 146.93 feet, and a chord that bears N05°38'33"E, a distance of 146.46 feet to a calculated point for corner, and
- 6) N02°17'58"W, a distance of 217.01 feet to a calculated point on the north line of said 0.647 acre right-of-way dedication, being on the south original line of said Windy Hill Road, for the northwest corner of the herein described tract of land,

THENCE, with the north line of said 0.647 acre right-of-way dedication, and the original south line of said Windy Hill Road, the following four (4) courses and distances, numbered 1 through 4,

- 1) N88°09'24"E, a distance of 751.00 feet to a calculated point for corner, being at the beginning of a curve to the right,
- 2) Along said curve to the right, having a radius of 11419.16 feet, an arc length of 769.78 feet, and a chord that bears S89°22'51"E, a distance of 769.64 feet to a calculated point for corner, being at the beginning of a curve to the left,
- 3) Along said curve to the left, having a radius of 1036.68 feet, an arc length of 354.90 feet, and a chord that bears N82°44'29"E, a distance of 353.17 feet to a calculated point for corner, and
- 4) N88°06'40"E, a distance of 124.98 feet to a calculated point on the northwest line of a called 5.0024 acre tract of land conveyed to Christopher and Nichole Phares by deed recorded in Instrument Number 18009370, Official Public Records, Hays County, Texas, for the northeast corner of the herein described tract of land,

20.901 ACRES
JESSE B. EAVES SURVEY NO. 5, ABSTRACT NO. 166
HAYS COUNTY, TX

THENCE, S43°29'55"W, with the northwest line of said 5.0024 acre tract, the northwest line of said 4.4 acre tract of land, the southeast line of said 4.81 acre tract of land, and the southeast line of said 23.500 acre tract of land, a distance of 981.04 feet to the **POINT OF BEGINNING** and containing 20.901 acres of land, as shown on the attached sketch.

Surveyed by:



11/16/2022

AARON V. THOMASON R.P.L.S. NO. 6214

Carlson, Brigance and Doering, Inc.

Reg. # 10024900

5501 West William Cannon

Austin, TX 78749

Ph: 512-280-5160

aaron@cbdeng.com



BEARING BASIS: TEXAS COORDINATE SYSTEM, SOUTH CENTRAL ZONE (4204)

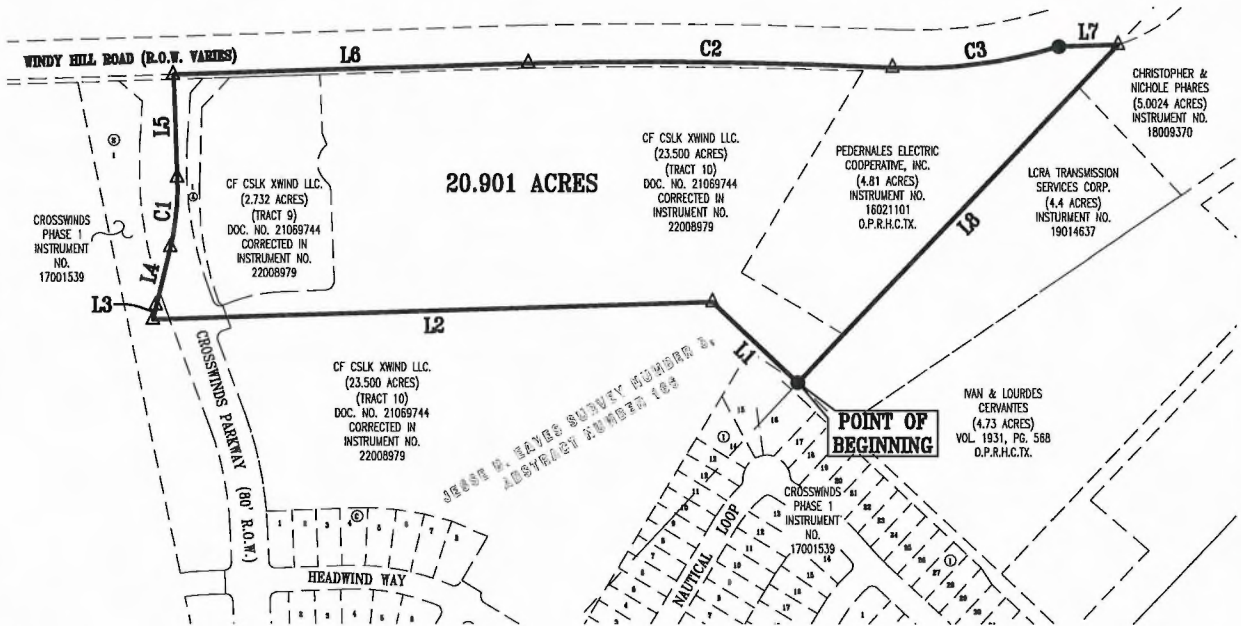
SKETCH TO ACCOMPANY FIELD NOTES



SCALE: 1" = 300'

LEGEND

- 1/2" IRON ROD FOUND
- △ CALCULATED POINT



11/16/2022

Line Table		
Line #	Length	Direction
L1	247.29	N46°40'13"W
L2	1182.73	S88°09'24"W
L3	30.91	N12°09'22"E
L4	126.15	N13°35'04"E
L5	217.01	N02°17'58"W
L6	751.00	N88°09'24"E
L7	124.98	N88°06'40"E
L8	981.04	S43°29'55"W

Curve Table						
Curve #	Length	Radius	Chord Direction	Chord Length	Tangent	DELTA
C1	146.93	530.00	N05°38'33"E	146.46	73.94	15°53'02"
C2	769.78	11419.16	S89°22'51"E	769.64	385.04	3°51'45"
C3	354.90	1036.68	N82°44'29"E	353.17	179.20	19°36'53"

BEARING BASIS: TEXAS COORDINATE SYSTEM, CENTRAL ZONE (4203), NAD83

Carlson, Brigrance & Doering, Inc.

1 (IRAN ID #13791) ♦ REG. # 10024900

Civil Engineering

5501 West William Cannon

Phone No. (512) 280-5160

Surveying

Austin, Texas 78749

Fax No. (512) 280-5165

J: \Autocad 2004 Land Projects\4871\survey\M&B - 20.901 ACRES - MONARCH CCN