

**AGREEMENT BETWEEN THE CITY OF PFLUGERVILLE AND
MONARCH UTILITIES I, L.P. DISMISSING ALL ADMINISTRATIVE
PROCEEDINGS BETWEEN THEM AND COMMITTING TO COLLABORATE TO
ESTABLISH REGIONALIZED LONG TERM WATER SOLUTIONS FOR THE
PFLUGERVILLE, TEXAS AREA**

The Parties to this agreement are as follows:

City – refers to the City of Pflugerville, Texas, a governmental entity organized and existing under the laws of the State of Texas, including its successors in interest, agents, officials, council members, employees, and assigns, and including its insurers and risk pool members, as well as the Texas Municipal League Intergovernmental Risk Pool, and its officials, members, agents, representatives, employees and predecessors and successors in interest.

SWWC – refers to SWWC Utilities, Inc., d/b/a Windermere Utility Company, Inc. a corporation organized and existing under the laws of the State of Delaware (“Windermere”), and doing business in the State of Texas, including its successors in interest, its agents, officials, directors, employees and assigns, and including any subsidiary company, and Monarch Utilities I, L.P. (“Monarch Utilities”), including any successors in interest.

Parties – refers to “City” and “SWWC”.

Recitals:

WHEREAS, Monarch Utilities filed an application in February 2011 to consolidate other utility assets in Texas from an affiliated company, SWWC Utilities, Inc. doing business as Diamond Water Company; Hornsby Bend Utility Company; Huntington Utility Company; Mid-Tex Utilities, Inc.; SW Utility Company; Water Services, Inc.; and Windermere Utility Company, Inc. (SOAH Docket No. 582-12-0224 and TCEQ Docket No. 2011-1533-UCR; hereinafter “Transfer Application”).

WHEREAS, the City of Pflugerville, Texas, as part of a coalition of cities, objected to and contested Monarch Utilities requested transfer of the Windermere Utility Company, Inc.

WHEREAS, Monarch Utilities also sought and filed for authorization to increase its rates charged to Windermere customers within the City of Pflugerville in August 2011.

WHEREAS, the City of Pflugerville also objected to and denied the Rate Application in November 2011.

WHEREAS, Monarch appealed the City’s decision to deny Monarch’s request to charge higher rates. (SOAH Docket No. 582-12-4138 and TCEQ Docket No. 2011-2347-UCR; hereinafter “Pflugerville Appeal”).

WHEREAS, the Windermere Utility Company serves approximately 5,000 customer accounts in northwestern Pflugerville amounting to approximately 15,000 Pflugerville citizens (slightly less than one-third of the City's population), who are directly impacted by these actions by SWWC.

WHEREAS, water is a public necessity and customer rates for water in the Windermere service area has a direct impact on the City of Pflugerville as a whole.

WHEREAS, SWWC Utilities, Inc. and the City of Pflugerville find that it is in the best interest of the parties to resolve and dismiss all pending administrative proceedings between them and instead, commit to collaborate to work towards the possible establishment of a regionalized long term water solutions for the Pflugerville, Texas area.

WHEREAS, the City and SWWC have reached an agreement in connection with the application of Monarch to transfer water and sewer facilities and certificates of convenience and necessity (SOAH Docket No. 582-12-0224 and TCEQ Docket No. 2011-1533-UCR; hereinafter "Transfer Application") and the appeal of Pflugerville's denial of Monarch's rate application (SOAH Docket No. 582-12-4138 and TCEQ Docket No. 2011-2347-UCR; hereinafter "Pflugerville Appeal").

NOW, THEREFORE the Parties agree as follows:

SWWC agrees to:

- 1) Withdraw the Transfer Application within (7) days of the effective date of this agreement with this agreement attached to the filing.
- 2) Withdraw the Pflugerville Appeal within seven (7) days of the effective date of this agreement with this agreement attached to the filing.
- 3) Except as stated herein, waive any right to the payment or reimbursement from the City or any Windermere customers of any attorneys' fees and related costs incurred or expended by either party in the course of the Transfer Application, Rate Application and Pflugerville Appeal
- 4) Waive any right to seek or charge a rate increase or charge any other miscellaneous fees not currently in effect, affecting Windermere customers, for at least 12 months from the effective date of this agreement.

City agrees to:

- 1) Pay \$176,752 to SWWC Utilities, Inc., doing business as Windermere Utility Company for operating costs and City of Pflugerville Rate Case expenses, upon receiving proof of dismissal of the Transfer Application and Pflugerville Appeal. *w/within seven (7) days of awf*
- 2) Pflugerville's payment shall be within seven (7) days of the effective date of this Agreement. *awf*

- 3) Not institute condemnation proceedings to acquire Windermere properties or equipment for at least 12 months from the effective date of this agreement.
- 4) Will extend its existing wholesale water delivery contract with Windermere for at least 12 months from the effective date of this agreement under its existing terms.
- 5) Consider unforeseen circumstances, if such occur, that in the opinion of SWWC warrant an increase in a fee or rate charged customers for 12 months from the effective date of this agreement, by evaluating a request by SWWC to include materials demonstrating the circumstances, the necessity for the increase, the amount sought and the period such amount is to be in effect. Upon adequate showing as determined by the City Council, the consent and approval for such a request will not be unreasonably withheld. The determination of whether such consent and approval is unreasonably withheld will be determined by a preponderance of the evidence.

The Parties, over the next 12 months, mutually agree to:

- 1) Collaborate to work towards the joint goals for regional long term water solutions for the Pflugerville Texas area, by:
 - a. Working together to solve the region's water supply issues
 - b. Considering innovative operational alternatives to supply water and wastewater services to the public
 - c. Considering alternative water supply sources for the region
 - d. Considering integration and exchange of water supplies to effectuate reduced operating costs, increased reliability, improved drought management, improved water quality and best possible rates for wholesale and retail water rates
 - e. Work together to collaborate with other utilities to participate in the goals that effectuate best possible rates for customers.
 - f. Consider forming a regional public-private partnership to promote and ensure water utility services in the region are of the best quality, and are provided at the best rate for the public.
- 2) Participate in joint monthly meetings to develop strategies to achieve the goals of this agreement.
- 3) Invest technical expertise and share subject matter expertise to consider better, cost effective methods to use and deliver water resources in such a way that minimizes the need for additional infrastructure cost.
- 4) Jointly participate in any legal proceeding determined to be mutually beneficial to the parties that are necessary to carry out these goals.

Acknowledgment of Terms & Conditions

- 1) In entering into this Agreement, the Parties represent that the terms of this Agreement are fully understood and voluntarily accepted.
- 2) Complete Understanding. The Parties and their attorney hereby declare that the terms of this Agreement have been completely read and

are fully understood and voluntarily accepted for the purpose of making a full and final settlement of the identified contested matters.

Delivery of Dismissal as Condition Precedent

Prior to payment of the monetary consideration herein, SWWC shall cooperate in filing the necessary paperwork to dismiss the pending identified matters.

Warranty of Capacity to Execute Agreement

The Parties' representatives represent, warrant and contract that no other person, attorney, law firm or entity has, or has had, any interest in the claims, demands, obligations, or causes of action referred to in this Agreement, except as otherwise set forth herein or that if any such interest exists, it will be fully satisfied by this Agreement; that each Parties' representative has the sole right and exclusive authority to execute this Agreement and obtain the consideration specified in it; and that the Parties have not sold, assigned, transferred, conveyed or otherwise disposed of any of the represented interest in the disputed matter referred to in this Agreement; nothing herein shall affect the rights of the remaining members of the Coalition of Cities to retain legal council of their choice and to be reimbursed for their rate case expenses as provided by law.

Force Majure

No Party shall be liable for any failure to perform its obligations where such failure is as a result of Acts of Nature (including fire, flood, earthquake, storm, hurricane or other natural disaster), war, invasion, act of foreign enemies, hostilities (whether war is declared or not), civil war, rebellion, revolution, insurrection, military or usurped power or confiscation, terrorist activities, nationalization, government sanction, blockage, embargo, labor dispute, strike, lockout or interruption or failure of electricity.

Alternate Dispute Resolution

The Parties agree to provide notice of any purported breach of the agreement to the other party and allow 30 days for the other party to cure any purported breach before seeking relief from any other source available at law.

The Parties further agree to conduct mediation for no more than one day, if any purported breach is not cured after notice above, but prior to seeking relief from any other source available at law.

Governing Law

This Agreement shall be construed and interpreted in accordance with the laws of the State of Texas with venue in Travis County.

Additional Documents

The Parties agree to cooperate fully and execute any and all supplementary documents and to take all additional action necessary or appropriate to give full force and effect to the basic terms and intent of this Agreement.

Effectiveness

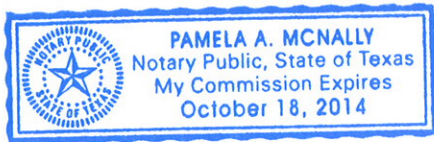
This Agreement shall become effective immediately following execution by the Parties.

APPROVED AS TO FORM AND CONTENT:

STATE OF TEXAS
COUNTY OF FORT BEND

Charles W. Profilet, Jr.
Charles W. Profilet, Jr.
Vice President & Managing Director
SWWC Utilities, Inc.
Monarch Utilities I, L.P.

This Agreement was acknowledged before me by CHARLES W. PROFILET on the 9TH day of APRIL, 2012.




Pamela A. McNally
NOTARY PUBLIC, STATE OF TEXAS

APPROVED AS TO FORM:

Michael Whellan
Michael Whellan
COUNSEL FOR SWWC

APPROVED AS TO FORM AND CONTENT:

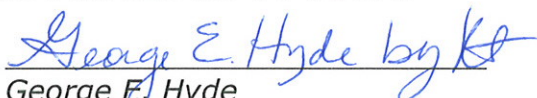
STATE OF TEXAS
COUNTY OF TRAVIS


By: Brandon Wade
City Manager
City of Pflugerville, Texas

This Agreement was acknowledged before me by Brandon Wade on the 10TH day of April, 2012.


NOTARY PUBLIC, STATE OF TEXAS

APPROVED AS TO FORM:


George E. Hyde
City Attorney,
COUNSEL FOR CITY

