

**RESOLUTION NO. \_\_\_**

**A RESOLUTION BY THE CITY OF PFLUGERVILLE, TEXAS TO AUTHORIZE SPECIAL COUNSEL TO RESIST THE ACQUISITION OF WINDERMERE UTILITY COMPANY, INC. BY MONARCH UTILITIES I, L.P. IN SOAH DOCKET NO. 582-12-0224 AND RELATED PROCEEDINGS, TO ENCOURAGE CUSTOMERS OF WINDERMERE UTILITY COMPANY TO ATTEND THE PRELIMINARY HEARING SCHEDULED FOR NOVEMBER 8, 2011 AT 10:00 AM AT THE WILLIAM P. CLEMENTS BUILDING AT 300 WEST FIFTEENTH STREET, AUSTIN TEXAS; DETERMINING THAT THE MEETING AT WHICH THE RESOLUTION WAS ADOPTED COMPLIED WITH THE TEXAS OPEN MEETINGS ACT; MAKING SUCH OTHER FINDINGS AND PROVISIONS RELATED TO THE SUBJECT; AND DECLARING AN A EFFECTIVE DATE.**

**WHEREAS**, on February 25, 2011 Monarch Utilities I, L.P. (“Monarch”) filed an application with the Texas Commission on Environmental Quality (“TCEQ”) to transfer seven water utilities and three sewer utilities to Monarch; and

**WHEREAS**, one of the water and one of the sewer utilities sought to be transferred by Monarch is Windermere Utility Company, Inc. (“Windermere”), which serves more than 15,000 residents within the municipal boundaries of the City of Pflugerville (“City”); and

**WHEREAS**, the notice sent to customers of Windermere stated that the transfer of Windermere, along with the other utilities, to Monarch would have *no effect* on current water and sewer rates; and

**WHEREAS**, the claim that the transfer of Windermere to Monarch would have no effect on rates is false; and

**WHEREAS**, the acquisition of Windermere, and the other utilities, by Monarch would result in customers located in Pflugerville and its environs subsidizing several other utilities who are in various stages of disrepair, and it would cause very large increases in rates for customers of Windermere to pay for work in other areas; and

**WHEREAS**, the acquisition of Windermere by Monarch would diminish the ability of the City to mitigate or provide solutions to the high rates and poor service currently being experienced by Windermere customers by eroding local control and influence that a city should be able to exercise with its citizens within its boundaries; and

**WHEREAS, the City does not find this transfer of Windermere to be in the public interest as it can be detrimental to the City's governmental interests relating to health, safety and welfare concerns, economic development and neighborhood vitality, and adequate flow for fire suppression; and**

**WHEREAS, based upon the above, the City has a duty to its citizens to resist the acquisition of Windermere by Monarch in the pending Sale, Transfer or Merger proceeding at the State Office of Administrative Hearings ("SOAH"); and**

**WHEREAS, a preliminary hearing is scheduled for 10:00 am, November 8, 2011, Williams Clements Building, 300 West 15<sup>th</sup> Street, 4<sup>th</sup> Floor, Austin, Texas in SOAH Docket No. 582-12-0224 concerning the acquisition of Windermere and other utilities by Monarch; and**

**WHEREAS, customers of Windermere are encouraged to attend the preliminary hearing so that the depth of concern in opposition to the acquisition by Monarch can be made known to all in attendance.**

**NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL FO THE CITY OF PFLUGERVILLE, TEXAS:**

**Section 1.** That the statements and findings set out in the preamble to this resolution are in all things approved and adopted.

**Section 2.** That Special Counsel, Herrera & Boyle PLLC, is directed to take all appropriate measures, both procedural and substantive, to resist the acquisition of Windermere by Monarch in connection with any relevant proceedings at the SOAH, the TCEQ or in court.

**Section 3.** That Special Counsel is authorized to hire experts to assist in the presentation of evidence at SOAH Docket No. 582-12-0224, dealing with the acquisition of Windermere by Monarch.

**Section 4.** That the Council encourages customers of Windermere to attend the preliminary hearing at SOAH on November 8, 2011.

**Section 5.** That the meeting at which this resolution was approved was in all things conducted in strict compliance with the Texas Open Meetings Act, Texas Government Code, Chapter 551.

**Section 6.** That this resolution shall be effective immediately upon passage.

**PASSED AND APPROVED** this 1<sup>st</sup> day of November 2011.

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Jeff Coleman, Mayor

ATTEST:

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Karen Thompson, City Secretary