

RESOLUTION NO. 2022-03R

A RESOLUTION OF THE BOARD OF DIRECTORS OF WYLIE NORTHEAST SPECIAL UTILITY DISTRICT OF COLLIN COUNTY, TEXAS, APPROVING A NON-STANDARD CONTRACT FOR WATER UTILITY SERVICE TO THE WYLIE LAKE TOWNHOMES ADDITION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Wylie Northeast Special Utility District (the "District") is a political subdivision of the State of Texas created under authority of Section 59, Article XVI, Texas Constitution, and operating pursuant to Chapters 49 and 65 of the Texas Water Code; and

WHEREAS, the District holds Certificate of Convenience and Necessity No. 10192 granting the District sole authority to own and operate a retail public water utility system in a defined service area covering part of Collin County, Texas; and

WHEREAS, TAAS Investments, LLC ("Developer") intends to develop a 21 lot residential subdivision on a 4.839 acre tract of land located in the District's certificated water service area (the "Development"); and

WHEREAS, 5 STAAR Investors, LLC ("Owner") owns the 4.839 acre tract of land and has authorized Developer to act as Owner's agent with respect to the Development; and

WHEREAS, Developer delivered a non-standard service application to the District to obtain potable water service for the Development and the Board of Directors finds that it is in the best interests of the District to serve the Development according to the terms of the attached Non-standard Contract for Water Utility Service.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF WYLIE NORTHEAST SPECIAL UTILITY DISTRICT THAT:

SECTION 1. Recitals Incorporated. The findings and recitations contained in the above recitals are incorporated herein by reference.

SECTION 2. Approval of Contract. The attached Non-standard Contract for Water Utility Service by and between the District, Developer and Owner is hereby approved and the President of the Board is hereby authorized to execute the contract for and on behalf of the District.

SECTION 3. Effective Date. This Resolution shall become effective from and after its passage by the Board of Directors of the District.

PASSED and ADOPTED on the 11th day of April, 2022, by the Board of Directors of Wylie Northeast Special Utility District.



ATTEST:

Lance Ainsworth, Secretary,
or Amanda Horst, Assistant Secretary

Jimmy C. Beach, President

APPROVED AS TO FORM:

James W. Wilson, Attorney

AFTER RECORDING RETURN TO:
Wylie Northeast SUD
745 Parker Road
Wylie, Texas 75098

NON-STANDARD CONTRACT FOR WATER UTILITY SERVICE

Wylie Lake Townhomes

THE STATE OF TEXAS §
COUNTY OF COLLIN §

This Non-standard Contract for Water Utility Service ("Contract") is entered into by and between **Wylie Northeast Special Utility District**, a political subdivision of the State of Texas (the "District"), and **TAAS Investments, LLC**, a Texas limited liability company ("Developer"), and **5 STAAR Investors, LLC**, a Texas limited liability company ("Owner").

PREAMBLE

WHEREAS, the District holds Certificate of Convenience and Necessity (CCN) No. 10192, issued by the Public Utility Commission of Texas or one of its predecessor agencies, granting the District sole authority to own and operate a retail public water utility system in a defined service area covering part of Collin County, Texas; and

WHEREAS, Owner is the sole owner of a 4.839 acre tract of land situated in the Francisco De La Pina Survey, Abstract No. 688, Collin County, Texas, and being more particularly described as WYLIE LAKE TOWNHOMES ADDITION, an addition to the City of Wylie, Collin County, Texas, according to the Final Plat thereof recorded in Volume 2021, Page 567, of the Map and Plat Records of Collin County, Texas, and as recorded in Clerk's File No. 20211014010003570 of the Real Property Records of Collin County, Texas (the "Property"); and

WHEREAS, the Property is located wholly within the District's water service area defined by CCN No. 10192; and

WHEREAS, Developer intends to develop a residential subdivision on the Property consisting of three 7-lot rows of connected townhomes (each a "Townhome Row") to be named Wylie Lake Townhomes (the "Development"), and Developer has asked the District to provide retail water utility service to the Property; and

WHEREAS, Developer has installed or is in the process of installing all on-site water distribution lines, meter vaults and taps, fire protection facilities, and appurtenances reasonably required by the District to provide potable water service to the Development including 8-inch water distribution lines, 21 standard residential service connections suitable for the District to install standard $\frac{5}{8}$ " x $\frac{3}{4}$ " meters, and a 4-inch fire-line with a detectable double-check valve

assembly connected to each Townhome Row (collectively referred to as the "Water Improvements"); and

WHEREAS, the District inspected the Water Improvements during all phases of installation and hereby acknowledges and represents that Developer installed the Water Improvements in compliance with a water plan approved by the District's engineer; and

WHEREAS, the District owns an existing 8-inch water main that crosses the Property along and adjacent to its southeasterly boundary in an easement and right-of-way granted to the District; and

WHEREAS, the District represents that the 8-inch water main is capable of furnishing the level of service requested by Developer for the Development; and

WHEREAS, upon connecting the Water Improvements to the 8-inch water main, the District agrees to furnish potable water service to the Property in accordance with the terms and conditions of this Contract and the service policies set forth in the District's duly adopted Rate Order, as amended from time-to-time.

NOW THEREFORE, KNOW ALL MEN BY THESE PRESENTS, that for and in consideration of the mutual promises hereinafter expressed, and other good and valuable consideration, the sufficiency of which is hereby acknowledged by the parties, Developer and the District agree as follows:

1. Adoption of Preamble. The parties agree that all representations and matters stated in the preamble of this Contract are true and correct and the same are hereby incorporated into the body of this Contract by this reference for all purposes.

2. Grants of Authority to Developer by Owner. By separate agreement Owner acknowledges and represents that Owner has granted to Developer (i) authority to develop the Property as the residential subdivision described herein and (ii) authority to act as Owner's agent on all matters related to the Development and Property. Owner's execution of this Contract relates solely to the representations expressed in this paragraph 2.

3. Service Investigation Fee.

(a) Developer has paid a Service Investigation Fee in the amount of \$3,200 to the District to cover its administrative expenses and fees for legal and engineering services incurred to investigate the District's ability to provide water service to the Property including, without limitation, expenses and fees incurred for: (i) reviewing and approving plats, plans and specifications; (ii) obtaining or determining cost estimates for construction; (iii) advertising and accepting bids for construction; (iv) preparing a non-standard service contract between the District and Developer; and (v) obtaining or providing other services as required by the District for such investigation.

(b) The District will refund the remaining balance of the Service Investigation Fee, if any, upon completing its investigation, including the completion of all legal and engineering services associated with processing Developer's nonstandard service request. If the fee paid by Developer proves insufficient to pay all expenses incurred by the District in performing the service investigation, Developer shall pay or reimburse the District for such additional expenses following written request and receipt of documentation supporting the shortfall, and the District shall have no obligation to complete processing Developer's nonstandard service request until the requested payment or reimbursement has been paid.

4. Required Easements. Developer agrees to dedicate 15-foot-wide easements in, upon and across the Property granting the District authority to enter upon the Property to operate, inspect, maintain, repair and replace the Water Improvements. Developer will dedicate such easements on the Property by recorded plat approved by the District's engineer.

5. Record Plans. Within 60 days of the effective date of this Contract, Developer agrees to deliver a PDF file to the District showing the record plans (a/k/a as-built plans) for the Water Improvements.

6. Maintenance Bond and Conveying the Water Improvements to the District. Developer agrees to deliver a Developer's maintenance bond to the District in an amount equal to ten percent (10%) of the total construction cost of the Water Improvements and for a term of not less than two (2) years. The bond issuer must be authorized to do surety business in the State of Texas. Within a reasonable time of receiving a copy of the maintenance bond from Developer, the District's attorney will prepare a dedication instrument conveying the Water Improvements to the District for execution by the parties to this Contract. The District will record the executed dedication instrument in the Official Public Records of Collin County, Texas, to give notice of the date upon which the District took ownership of the Water Improvements and assumed sole responsibility for maintenance subject to the maintenance bond.

7. Connection Fees. Developer shall pay a connection fee of \$2,650 at the time service of any kind is first requested for a lot or service address on the Property. The connection fee includes all District fees and charges required to establish new residential service and to have a standard $\frac{5}{8}$ " x $\frac{3}{4}$ " meter installed by the District except for the customer deposit. The customer deposit shall be paid by applicants requesting permanent service to a lot or service address on the Property.

8. Continuous Service to the Property. The District's obligation to provide continuous and adequate water service to the Property is conditioned on Developer complying with the terms of this Contract and District service polices including payment of all fees and charges required under this Contract or the District's Rate Order. It is further understood and agreed by the parties that the obligation of the District to provide water service to the Property in the manner contemplated by this Contract is subject to the issuance of all permits, certificates, or approvals required for the District to lawfully provide retail water service by the Texas Commission on Environmental Quality and all other governmental agencies having jurisdiction.

9. Fire Protection. By executing this Contract, Developer acknowledges that the District's water system provides potable water primarily for domestic consumption but it is District policy to design all water system additions and improvements to meet the reasonable local demand characteristics of the Development, including the provision of fire-flows as defined by the Uniform Fire Code. Following dedication and acceptance of the Water Improvements, the District will use its best efforts to maintain and operate its water system to serve the Property in compliance with the lawfully adopted fire flow requirements of any governmental authority having jurisdiction. ***However, the District does not guarantee or warrant that its water system will provide fire-flows to the Property at all times.***

10. Cost of Water Improvements. Developer shall pay all costs associated with planning, designing, installing, inspecting, and dedicating the Water Improvements to the District including: (i) engineering and design; (ii) District legal work and contract preparation; (iii) insurance and bond premiums; and, (iv) governmental and regulatory approvals required for the District to lawfully provide service to the Property. Developer shall indemnify the District and hold the District harmless from all of the foregoing costs.

11. 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, lightening, earthquakes, fires, hurricanes, storms, floods, washouts, droughts, 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 inabilities' 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 of 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 in the judgment of the party having the difficulty.

12. Notices.

(a) Every notice to be given under this Contract must be in writing and may be delivered to the other party (i) by personal delivery, (ii) by commercial delivery service, (iii)

by email, or (iv) by certified mail, return receipt requested, to the corresponding address as follows:

To District: Wylie Northeast SUD
Attn: General Manager
745 Parker Road
Wylie, Texas 75098
Email: chester@wylie-northeastwater.com with a copy to
amanda@wylie-northeastwater.com

To Developer: TAAS Investments, LLC
Attn: Uzair Siddiqui
8105 Razor Blvd, Suite 241
Plano, Texas 75024
Email: _____

To Owner: 5 STAAR Investors, LLC
Attn: Tauheed Siddiqui
8700 Stonebrook Pkwy, #1265
Frisco, Texas 75034
Email: _____

(b) Delivery by certified mail or commercial delivery service shall be complete upon deposit of the document, postpaid and properly addressed, in the mail or with a commercial delivery service. Delivery by other permissible means shall be complete upon receipt by the party being notified. Either party may change its delivery or mailing address, email address, or fax number for receiving notice by giving written notice of the changes to the other party in accordance with the provisions of this paragraph.

13. Breach of Contract.

(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 notice of the breach within thirty (30) days of discovery of the breach by the non-breaching party. Upon its receipt of a 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 shall have all rights and remedies at law and in equity including, without limitation, the right to enforce specific performance of this Contract by the breaching party and the right to perform the obligation in question and to seek restitution for all damages incurred in connection therewith.

(b) Termination of this Contract shall not affect any previous conveyance of any component of the Water Improvements to the District.

(c) The rights and remedies granted in this Contract to the parties in the event of default are cumulative, and the exercise of such rights shall be without prejudice to the enforcement of any other right or remedy authorized by law or by this Contract.

14. Indemnity. Developer shall indemnify and save harmless the District, its officers, directors, consultants, agents, representatives and employees, from all suits, actions, losses, damages, claims or liability of any character, type or description, including without limiting the generality of the foregoing all expenses of litigation, court costs and attorney's fees, for injury or death to any person, or injury to any property, received or sustained by any person or persons or property, to the extent arising out of, or occasioned by, the acts of Developer or its agents, representatives or employees in connection with or related to the Development, the Water Improvements, or execution or performance of this Contract.

15. 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 singular and plural.

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

17. Authority. The signatories hereto represent and affirm that they have authority to execute this Contract on behalf of the respective parties hereto.

18. Severability. The provisions of this Contract are severable, and if any word, phrase, clause, sentence, paragraph, section, or other part of this Contract 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 Contract and the application of such word, phrase, clause, sentence, paragraph, section, or other part of this Contract to other persons or circumstances shall not be affected thereby and this Contract shall be construed as if such invalid or unconstitutional portion had never been contained therein.

19. Entire Agreement. This Contract, including any exhibits and/or addendums attached hereto and made a part hereof, constitutes the entire agreement between the parties relative to the subject matter of this Contract. All prior agreements, covenants, representations, or warranties, whether oral or in writing, between the parties are merged herein.

20. Amendment. No amendment of this Contract shall be effective unless and until it is duly approved by each party and reduced to a writing signed by the authorized representatives of the District and the Developer, respectively, which amendment shall incorporate this Contract in every particular not otherwise changed by the amendment.

21. Governing Law. This Contract 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 Collin County, Texas.

22. Successors and Assigns. Developer may not assign its rights and obligations under this Contract without the District's prior written consent, which consent shall not be unreasonably withheld; except that any assignment to an affiliate of Developer shall not require the consent of the District. The District may assign its rights and obligations under this Contract. This Contract shall be binding on and shall inure to the benefit of the heirs, successors and assigns of the parties.

23. No Third Party Beneficiaries. This Contract is solely for the benefit of the parties hereto and their assigns, and no other person has any right, interest or claim under this Contract.

24. No Waiver of Immunity. Nothing in this Contract shall be construed as a waiver of governmental immunity by the District or as a waiver of official immunity by District officials and representatives.

25. 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 singular and plural.

26. Effective Date. This Contract shall be effective upon its execution by representatives of Developer, Owner, and the District.

IN WITNESS WHEREOF each of the parties has caused this Contract to be executed by its duly authorized representative in multiple original copies, each of equal dignity, on the date or dates indicated below.

[SIGNATURE PAGES TO FOLLOW]

EXECUTED by Developer on this the _____ day of April, 2022.

TAAS INVESTMENTS, LLC, a Texas limited liability company

By: _____
Tauheed Q. Siddiqui, Sole Managing Member

THE STATE OF TEXAS §
 §
COUNTY OF _____ §

This instrument was acknowledged before me on the _____ day of April, 2022, by Tauheed Q. Siddiqui, as Sole Managing Member of TAAS INVESTMENTS, LLC, a Texas limited liability company.

Notary Public, State of Texas

EXECUTED by Owner on this the _____ day of April, 2022.

5 STAAR INVESTORS, LLC, a Texas limited liability company

By: _____
Tauheed Q. Siddiqui, Manager

THE STATE OF TEXAS §
 §
COUNTY OF _____ §

This instrument was acknowledged before me on the _____ day of April, 2022, by Tauheed Q. Siddiqui, as Manager of 5 STAAR INVESTORS, LLC, a Texas limited liability company.

Notary Public, State of Texas

EXECUTED by the District on this the _____ day of April, 2022.

WYLIE NORTHEAST SPECIAL UTILITY DISTRICT,
a political subdivision of the State of Texas

By: _____
Jimmy C. Beach, President

THE STATE OF TEXAS §
COUNTY OF COLLIN §

This instrument was acknowledged before me on the _____ day of April, 2022, by Jimmy C. Beach as President of WYLIE NORTHEAST SPECIAL UTILITY DISTRICT, a political subdivision of the State of Texas.

Notary Public, State of Texas