

Buddy Garcia, *Chairman*
Larry R. Soward, *Commissioner*
Bryan W. Shaw, Ph.D., *Commissioner*
Mark R. Vickery, P.G., *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

June 18, 2008

Ms. LaDonna Castañuela, Chief Clerk
Office of the Chief Clerk
Texas Commission on Environmental Quality
P.O. Box 13087, MC-105
Austin, Texas 78711-3087

2008 JUN 18 PM 1:55
CHIEF CLERKS OFFICE
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Re: TCEQ Docket No. 2006-0407-UCR; Consideration of a request for a Commission order approving a contract designating service areas between the City of Waco, Certificate of Convenience and Necessity (CCN) No. 20010 and the City of Woodway (Woodway), CCN No. 20014.

Dear Ms. Castañuela:

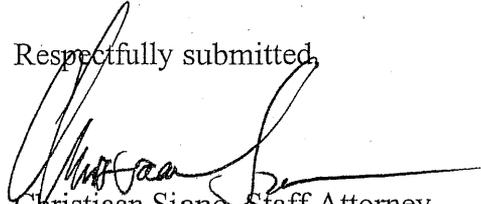
Transmitted herewith for filing with the Texas Commission on Environmental Quality ("Commission") are the following items to be filed as backup material for the July 9, 2008 agenda on a request for an order approving a contract designating service areas between the City of Waco and Woodway:

1. Proposed Order;
2. Caption;
3. Agenda Executive Summary;
4. Staff memo on the financial, managerial, and technical capabilities of the City of Waco Woodway to provide continuous and adequate service to the affected area;
5. Initial letter for Commission order approving a TWC, Section 13.248 agreement filed by the City of Waco and Woodway on January 30, 2006 and declared administratively complete on February 2, 2006;
6. Texas Water Code, Section 13.248 Agreement between the City of Waco and Woodway executed October 7, 2005;
7. Consent to service from existing customer, Woodway First United Methodist Church;
8. Map of the area covered by the agreement;

9. Forms from City of Woodway and City of Waco consenting to the maps; and
10. Notices Mailed to Parties and to Affected Customers.

Please do not hesitate to contact me at (512) 239-6743 if you have any questions regarding this material. Thank you for your attention to this matter.

Respectfully submitted,



Christian Siano, Staff Attorney
Environmental Law Division

Enclosures
cc: mailing list

MAILING LIST
WACO/WOODWAY 13.248 AGREEMENT
TCEQ DOCKENT NO. 2006-0407-UCR

FOR THE CITY OF WACO:

Annette Jones, Attorney
City of Waco
PO Box 2570
Waco, Texaco 76702-2570

FOR THE CITY OF WOODWAY:

Yost Zakhary, City Manager
9191 W. Woodway Dr.
Woodway, Texas 76712

FOR THE CUSTOMER

Jeffrey A. Smith, D.Min.
PO Box 20548
Waco Texas 76702-0548

FOR THE CHIEF CLERK:

LaDonna Castañuela
Office of Check Clerk, MC-105
Texas Commission on Environmental
Quality
P.O. Box 13087
Austin, Texas 78711-3087
Tel: (512) 239-3300
Fax: (512) 239-3311

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



AN ORDER approving an agreement designating service areas between the City of Waco and the City of Woodway pursuant to Texas Water Code Section 13.248; TCEQ Docket No. 2006-0407-UCR.

A request for a Commission Order approving a contract designating service areas between the City of Waco ("Waco") Certificate of Convenience and Necessity ("CCN") No. 20010, and City of Woodway ("Woodway"), CCN No. 20014 in McLennan County, Texas, was presented to the Texas Commission on Environmental Quality ("Commission") for approval pursuant to Section 13.248 of the Texas Water Code and Title 30, Section 291.117 of the Texas Administrative Code.

On or about October 7, 2005, Waco and Woodway executed an agreement ("the Agreement") regarding their respective sewer service areas pursuant to Section 13.248 of the Texas Water Code. The agreement states that Waco will provide the area of the First United Methodist-Woodway Church Site shown in the attached map entitled Exhibit A ("map") with sewer service until such time as Woodway can connect to the Church service line and provide service. The Agreement is attached to this Order.

Contracts between retail public utilities that designate areas to be served and customers to be served by those retail public utilities, when approved by the Commission after public notice and hearing, are valid and enforceable and are incorporated into the appropriate areas of public convenience and necessity. TEXAS WATER CODE, §13.248.

The Commission held a hearing on the request at the July 9, 2008, agenda and found the request had merit.

Waco is capable of rendering continuous and adequate sewer service to every customer in the area covered by the Agreement. The dual certification the Church Site is necessary for the service, accommodation, convenience, or safety of the public.

NOW, THEREFORE, BE IT ORDERED BY THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY that:

The Agreement addressing the dual certification of a portion of Woodway's CCN No. 20014 and designating that retail sewer service shall be provided by Waco, CCN No. 20010 in the Church Site, is hereby approved.

CCN No. 20014 in McLennan County, held by Woodway, and CCN No. 20010 held by the Waco is hereby amended in accordance with the Agreement.

The Executive Director is directed to re-draw the respective CCNs as provided in the Agreement and as set forth on the map attached to this Order, and to amend the Commission's official sewer service area map for McLennan County, Texas. The certificate amendments requested in the application are necessary for the service, accommodation, convenience, and safety of the public.

The Chief Clerk of the Texas Commission on Environmental Quality shall forward a copy of this Order to the parties.

If any provision, sentence, clause, or phrase of this Order is for any reason held to be invalid, the invalidity of any portion shall not affect the validity of the remaining portions of the Order.

Issue Date:

TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

For the Commission

CAPTION
THE CITY OF WACO
Application No. 35256-C

TCEQ Docket No. 2006-0407-UCR. Consideration of a request for a Commission order approving a contract designating service areas between the City of Waco (Waco), sewer Certificate of Convenience and Necessity (CCN) No. 20010, and the City of Woodway (Woodway), sewer CCN No. 20014, in McLennan County, Texas, pursuant to Section 13.248 of the Texas Water Code. The agreement dually certifies the City of Waco and the City of Woodway to be the sewer service provider of that area. (Christiaan Siano, Lisa Fuentes)

Texas Commission on Environmental Quality

INTEROFFICE MEMORANDUM

TO: Texas Commission on Environmental Quality **DATE:** March 4, 2008
THRU: LaDonna Castañuela, Chief Clerk
FROM: Shana Horton, Staff Attorney, Environmental Law Division
SUBJECT: **TCEQ Docket No. 2006-0407-UCR.** Consideration of a request for a Commission order approving a contract designating service areas between the City of Waco and City of Woodway

DESCRIPTION OF APPLICATION

Applicant: City of Waco
Regulated Activity: Retail sewer utility service
Type of Application: Request for a Commission Order approving a contract
Commission Action: Hearing regarding approval of the contract
Authority: Texas Water Code § 13.248 and 30 Texas Administrative Code § 291.117

FACTUAL BACKGROUND

The City of Waco, sewer Certificate of Convenience and Necessity (CCN) No. 20010, and City of Woodway, sewer CCN No. 20014, provide retail sewer utility service in McLennan County, Texas. On October 4, 2005, the City of Waco and City of Woodway entered into an agreement regarding their respective sewer utility service areas pursuant to section 13.248 of the Texas Water Code.

Under the agreement, City of Woodway will transfer a portion of its CCN area to the City of Waco. The City of Woodway received a service request for sewer service in this area, however the City of Woodway does not have sewer lines in the area and would have to construct over 200 feet of lines, passing under U.S. Highway 84, in order to serve the requestor. The City of Waco plans to construct a lift station and sewer line to provide service on the same side of U.S. Highway 84 as the service requestor's property, and is therefore better situated to provide sewer utility service in the area.

There are no current customers or facilities in the area being transferred.

LEGAL AUTHORITY

The Texas Water Code prohibits a utility, a utility operated by an affected county, or a water supply corporation from rendering retail water or sewer utility service directly or indirectly to the public without first obtaining a CCN.¹ Conversely, a municipality is not required to obtain a CCN to provide retail water service.² However, a municipality may not provide service to areas that are outside of its corporate boundaries but within the CCN of another retail public utility without first obtaining written consent from that retail public utility.³

The Texas Water Code and TCEQ rules allow retail public utilities to enter into service area agreements and have the Commission affirm the agreements by amending the entities' respective CCNs.⁴ A transfer of a water or sewer system that also includes the transfer of customers and/or facilities may, in some cases, also require separate Commission approval for the transfer of customers and/or facilities.⁵

The request to approve a 13.248 agreement is not subject to the notice provisions of section 291.106, Title 30 of the Texas Administrative Code, which apply to applications for new and amended CCNs. The Commission may approve the service area agreement pursuant to section 13.248 of the Texas Water Code with the appropriate notice under the Open Meetings Act. The Executive Director will mail notice of the hearing upon the setting of an Agenda date.

BASIS FOR STAFF RECOMMENDATION

The following items were considered in developing the staff's recommendation:

1. Request for a Commission order approving the 13.248 agreement filed by City of Waco on January 30, 2006 (application no. 35256-C);

¹ TEX. WATER CODE ANN. § 13.242(a) (Vernon 2006).

² A municipality is a "retail public utility" under section 13.002(19) of the Texas Water Code but is not a "utility" under section 13.002(23). Therefore, the section 13.242(a) requirement that a "utility" must obtain a CCN before providing retail water utility service does not apply to a municipality.

³ *Id.* § 13.242(b).

⁴ *Id.* § 13.248; 30 TEX. ADMIN. CODE § 291.117 (West 2005) (Tex. Comm'n on Env'tl. Quality, Contracts Valid and Enforceable). Section 13.248 states "[c]ontracts between retail public utilities designating areas to be served and customers to be served by those retail public utilities, when approved by the commission after public notice and hearing, are valid and enforceable and are incorporated into the appropriate areas of public convenience and necessity."

⁵ TEX. WATER CODE § 13.301. The section requires that some applicants also demonstrate "adequate financial, managerial, and technical capability for providing continuous and adequate service to the service area being acquired and to any areas currently certificated to the person" for the separate transaction relating to the transfer of facilities and/or customers.

2. Agreement between the City of Waco and City of Woodway, executed on October 4, 2005;
3. Map of the service area subject to the 13.248 agreement submitted by City of Waco; and
4. Financial, Managerial, and Technical analysis of City of Waco to operate in the affected area.

STAFF RECOMMENDATION

Based on the facts stated in the application and the supporting documentation submitted by the City of Waco, Staff supports the request for a Commission order approving a contract designating service areas between the City of Waco and City of Woodway. Staff has confirmed that both parties are retail public utilities with active sewer utility CCNs and that the area the parties are seeking to transfer is either dually certificated to both parties or abuts the CCN of the entity receiving the CCN. Further, staff is satisfied that the City of Waco possesses the adequate financial, managerial, and technical capability to provide continuous and adequate service to the area being transferred.

STAFF CONTACTS

Shana Horton, Environmental Law Division (239-1088)
Lisa Fuentes, Water Supply Division (239-6117)

Texas Commission on Environmental Quality

INTEROFFICE MEMORANDUM

To: Environmental Law Division **Date:** November 14, 2007
Thru: Lisa Fuentes/Tammy Benter
From: Dan Smith
Subject: Contract Service Agreement Pursuant to Texas Water Code, Section 13.248, from the City of Waco, Certificate of Convenience and Necessity (CCN) No. 20010, to Transfer a Portion of CCN No. 20014 from the City of Woodway in McLennan County; Application No. 35256-C

CN: 600131940; RN: 101392439

In my opinion, the City of Waco has demonstrated adequate financial, managerial and technical capability to provide service to the area contracted for transfer.

Signed: *Dan Smith* Date: November 20, 2007

I have reviewed an unqualified audit for the City of Waco for the fiscal year ended 9/30/06, available on the Municipal Advisory Council's website. The balance sheet shows total primary government assets of \$681.4 mil., long-term liabilities of \$264.5 mil., and net assets (equity) of \$371.5 mil. for a debt-to-equity ratio of .71:1. The statement of revenues and expenses showed a change in net assets (income) of \$39.5 mil., and after covering depreciation expense of \$11.8 mil. and interest expense of \$7.1 mil. So cash available for debt service was \$58.4 mil. The total of general fund and proprietary fund required debt service for 2007 is \$28.1 mil. That debt service coverage ratio would be 2.1:1.

This information supports a finding of adequate capability to provide service to about 22 acres. In fact, it would not have been considered a material addition (more than 10%) to the City of Waco's present CCN area and would not have received a review of financial and managerial capability in a routine STM application procedure. The City of Waco presently provides service to about 35,000 sewer customers, according to the Municipal Advisory Council's website, and about 45,000 water customers. Their public water system is rated superior by TCEQ.

ART PERTILE, III
City Attorney

ANNETTE JONES
JOHN T. PATTERSON
KEN JOHNSON
CHRIS TAYLOR
SHERRI A. RUSSELL
NICOLE WEBSTER
Assistant City Attorneys

January 10, 2006

Water Supply Division
Texas Commission on Environmental Quality
MC 153
P.O. Box 13087
Austin, Texas 78711-3087

RE: Contract designating service area
City of Waco and City of Woodway

Dear Sir:

The Cities of Waco and Woodway both operate retail public utilities that provide sanitary sewer service to their respective cities. The First United Methodist Church of Woodway ("Church") purchased a tract of land within Woodway on Hannah Hill Road for the construction of a new church. The Church property is within the sewer service area of Woodway, but is not currently served by Woodway. Woodway could only provide sewer service to the Church property by running a sewer line more than 200 feet and boring under Highway 84.

Waco plans to construct a lift station and sewer line to provide sanitary sewer service to Landfill 948A that it operates on the same side of Highway 84 as the Church property. Waco is in a better position to provide sanitary sewer service when it constructs the lift station and sewer line to serve Landfill 948A. And providing sanitary sewer service to the Church property will provide a more reliable means of handling sewage generated through the use of the Church property, which is located within the watershed of Lake Waco.

Both Cities believe that providing reliable sewer service that minimizes the potential for discharges that might pollute Lake Waco is within the interest of both Cities. Consequently, the Cities have entered into an Agreement to allow Waco to provide sanitary sewer service to the Church property until such time as Woodway has a sewer line that can connect to the property service line.

Enclosed you will find:

1. Exhibit A – map showing the location of the Church property, Waco Landfill 948A, and the proposed lift station, force main, and facilities to connect to the

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Set up us
13.248
per disat

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JAN 27 2006

WASTEWATER PERMITTING
STORMWATER & PRETREATMENT



UTILITIES & DISTRICTS
SECTION

City of Waco
City Hall - 300 Austin Avenue
Waco, Texas 76701
- P. O. Box 2570
Waco, Texas 76702-2570
Phone: (254) 750-5680 or 5681
Fax: (254) 750-5880

ANNETTE JONES
Direct (254) 750-5683
E-mail: annettej@ci.waco.tx.us

ATTN: MISS HERRIN



Woodway = 10022
20614

Waco = 10039
20010

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JAN 12 2006
PLANS REVIEW LOG NO.
TCEQ

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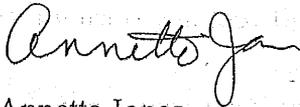
TCEQ Water Supply Division
RE: Waco – Woodway Sewer Service Area
January 10, 2006
Page 2

Church property. The only service area being transferred is the Church property. The enclosed CD has a digital version of the map in PDF format.

2. Exhibit B – copy of the agreement executed between Waco and Woodway. Copy of agreement is on enclosed CD in PDF format.
3. Exhibit C – CD containing financial information, specifically the Comprehensive Annual Financial Report for City of Waco for year ending September 30, 2004 (last year for which report is currently available).
4. Exhibit D – copy of deed to Church property for Lot 2 of Block 1 of the Florence Moore Addition recorded in the Official Public Records of McLennan County, Texas under Clerk's File No. 2002039896. Copy of deed is on enclosed CD in PDF format.
5. Exhibit E – copy of Final Plat of Lots 2 and 3 of Block 1 of the Florence Moore Addition recorded in the Official Public Records of McLennan County, Texas under Clerk's File No. 2202033603. Copy of subdivision plat is on enclosed CD in PDF format.
6. City of Waco Check No. 378224 made out to Texas Commission on Environmental Quality for filing fee of \$100.

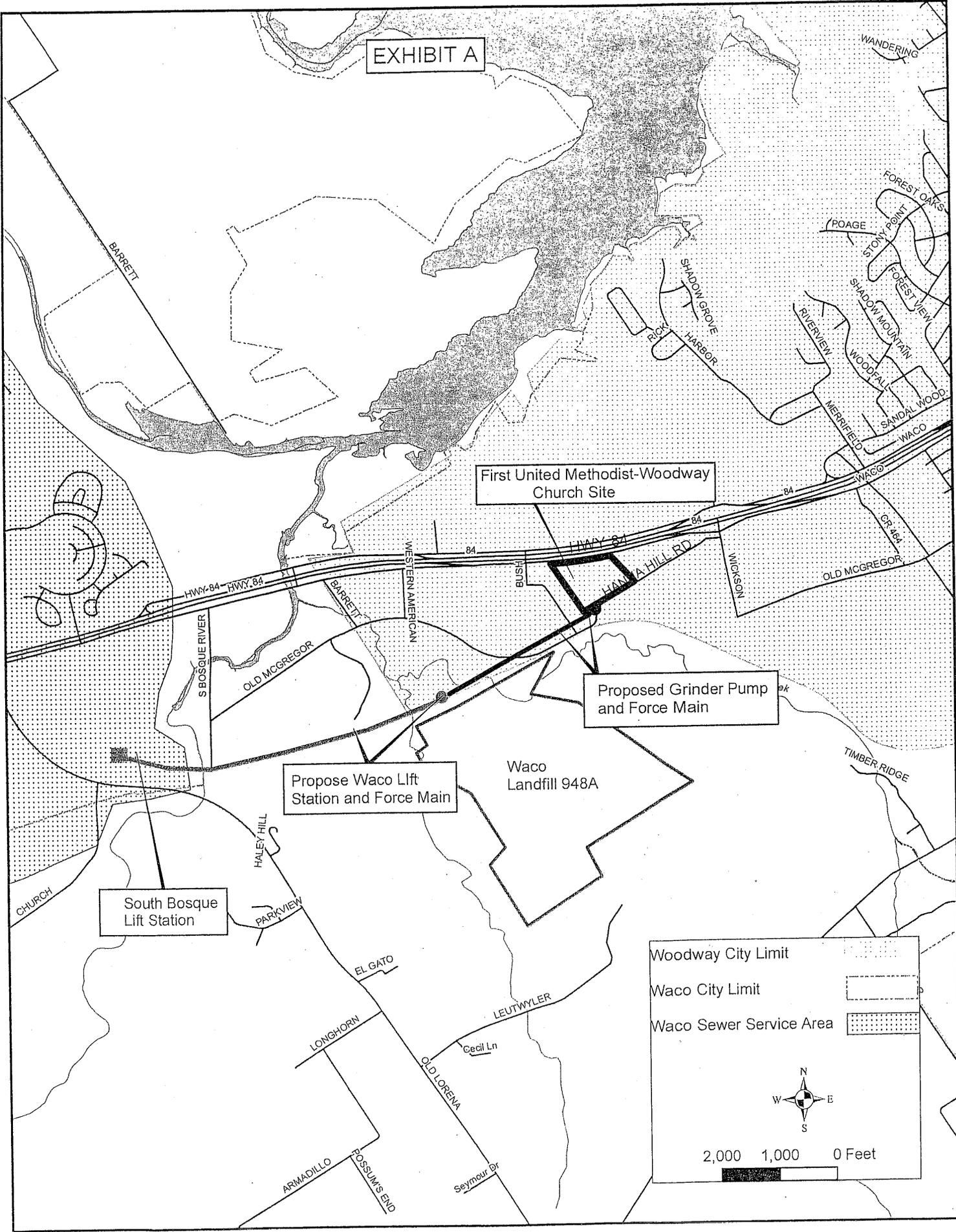
If you have any questions or if additional information is needed, please contact me.

Sincerely,



Annette Jones

EXHIBIT A



Please return to
City Secretary

EXHIBIT "B"

9/6/55

INTERLOCAL COOPERATION AGREEMENT BETWEEN
THE CITIES OF WACO AND WOODWAY:

Sewer Service for First United Methodist Church of Woodway Property

STATE OF TEXAS §
 §
COUNTY OF McLENNAN §

This Interlocal Cooperation Agreement ("Agreement") is made and entered into by and between the City of Waco, Texas ("Waco"), and the City of Woodway, Texas ("Woodway"), Texas home-rule municipal corporations, acting by and through their authorized representatives, and hereinafter referred to jointly as "Cities."

Recitals.

Whereas, the Cities of Waco and Woodway both operate retail public utilities that provide sanitary sewer service to their respective cities; and

Whereas, the First United Methodist Church of Woodway ("Church") has purchased a tract of land within Woodway on Hannah Hill Road for the construction of a new church along Highway 84 in a part of Woodway that is not currently served by sanitary sewer; and

Whereas, the Church property is within the sewer service area of Woodway, but Woodway cannot provide sewer service to the Church property without running a sewer line more than 200 feet and boring under Highway 84; and

Whereas, Waco plans to construct a lift station and sewer line to provide sanitary sewer service to Landfill 948A that it operates on the same side of Highway 84 as the Church property; and

Whereas, Waco is in a better position to provide sanitary sewer service when it constructs the lift station and sewer line to serve Landfill 948A; and

Whereas, providing sanitary sewer service to the Church property will provide a more reliable means of handling sewage generated through the use of the Church property, which is located within the watershed of Lake Waco; and

Whereas, both Cities believe that providing reliable sewer service that minimizes the potential for discharges that might pollute Lake Waco is within the interest of both Cities; and

Whereas, this Agreement will accomplish a legitimate public purpose of the Cities by providing for sewer service to the Church property by Waco until such time as Woodway has a sewer line that can connect to the property service line,

NOW, THEREFORE, pursuant to *Texas Government Code Chapter 791, Texas Local Government Code Chapter 401, Texas Water Code Section 13.248*, and as otherwise authorized and permitted by the laws of the State of Texas for and in consideration of the covenants, conditions and undertakings hereinafter described, and the benefits to accrue to

the citizens of the Cities, and subject to each and every term and condition of this Agreement, the Parties contract, covenant and agree as follows:

I. Responsibilities of Waco.

- A. Waco will provide sewer service to the Church property from the sewage pump station to be constructed to serve Landfill 948A.
- B. At the southwest corner of the Church property, Waco will install a grinder pump and force main to transport the sewage generated on the Church property to pump station/service line constructed to serve Landfill 948A as shown on the location map/drawing attached as Exhibit A.
 - 1. All facilities involved will be installed in existing Woodway right-of-way.
 - 2. The estimated completion date for this work is June 1, 2006. Waco will apprise Woodway and the Church of any changes to this schedule.
 - 3. If the Church finishes construction on its new building(s) and requires service prior to completion on the lift station, grinder pump, and force main, Waco will provide sewer service through use of a storage facility that will be serviced by Waco until the sewer service facilities are completed.
 - 4. Waco will send to Woodway an itemized list of the costs for the installation of the grinder pump and force main, including all materials used and labor, whether performed by Waco or a private contractor.
 - 5. Once installed, Waco will be responsible for the maintenance and repair of the grinder pump and force main to the point where it connects to the Church property service line.
- C. Once service is established to the Church property, Waco will bill the Church directly each month for the sewer service using the rate structure approved by the Waco City Council annually for similar customers and based on water consumption information from Woodway.
 - 1. A copy of the rate structure for FY 2004-05 and the proposed rate structure for FY2005-06 are attached as Exhibit A.
 - 2. Waco will require the Church to sign a sewer service agreement.
 - 3. If the Church require sewer service prior to the sewer facilities being completed so that service is provided by Waco through use of a storage facility that Waco services, the Church's charge for the service will still be billed based on the rate structure and water consumed.

II. Responsibilities of Woodway.

- A. Woodway authorizes and agrees for Waco to provide sewer service to the Church property located within Woodway's sanitary sewer service area, until

such time as Woodway can connect to the Church service line and provide the service.

1. Waco will have no responsibility for the costs for Woodway to make the connection to serve the Church property.
 2. When plans are approved for the construction of a service line to extend Woodway sewer service to the Church property, Woodway will notify both the Church and Waco and will coordinate with both on making the change in service.
- B. Woodway authorizes Waco to use, without any charge or fee, any right-of-way or other easements held by Woodway for the installation of the grinder pump and force main.
1. If requested, Woodway will executed easements in favor of Waco for the use of any such right-of-way or easements.
- C. As allowed by it subdivision plat approval, building plan approval, or other approval process, Woodway will require the Church to run its gravity service line to a point determined in consultation with Waco. As allowed by Woodway ordinances and state law, Woodway will also require that the Church maintain that service line in good working condition and repair any breaks or damage to the line in a timely manner.
- D. Woodway will reimburse Waco for up to \$50,000.00 for the cost of the grinder pump and force main, including both materials and labor, to be install at the Church property, whether the work is performed by Waco or a private contractor.
1. Waco will submit an itemized invoice for the work within 60 days of completion of the facilities.
 2. Woodway shall pay Waco the amount shown on the invoice within 30 days unless additional information is needed.
 3. If Woodway has any questions about the invoice or requires more information, it shall give Waco notice of that within 10 days of receipt of the invoice.
 4. After receiving the requested information and resolving any questions about the invoice, Woodway shall tender payment within 20 days.
- E. Woodway will either provide Waco with water consumption information for the Church or allow Waco to read the water consumption meter so that Waco can directly bill the Church for sewer service.
1. Woodway and Waco utility staff shall establish by letter agreement a protocol for Woodway to provide the information or for Waco to read the meter.
 2. To the extent necessary, Woodway will cooperate and assist Waco in collecting the sewer service rate and fees from the Church.

III. Cooperation Before Regulatory Authorities. Waco and Woodway shall cooperate and assist each other in acquiring any approvals that are needed from regulatory authorities for Waco to provide sewer service to the Church property until such time as Woodway can provide service. Any costs for Waco to acquire regulatory approvals to provide service to the Church property shall be borne by Waco. At the time Woodway gives notice that it will be able to provide service, the Cities shall again cooperate in obtaining any approvals needed from regulatory authorities for Woodway to assume responsibility for the sewer service. Any costs for Woodway to assume responsibility to provide service to the Church shall be borne by Woodway.

IV. Term of Agreement. This agreement shall remain in effect until such time as Woodway provides sewer service to the Church property.

V. Miscellaneous Provision.

- A. No Waiver.** Nothing in this Agreement shall be deemed to waive, modify or amend any legal defense available at law or in equity to the Cities nor to create any legal rights or claim on behalf of any third party. Neither City waives, modifies, or alters to any extent whatsoever the availability of the defense of governmental immunity under the laws of the State of Texas of the United States.
- B. Effective Date.** This Agreement shall be in full force and effect as of the date the governing bodies of Waco and Woodway have authorized and approved this Agreement.
- C. Entire Agreement.** This Agreement and any Exhibits hereto embody the entire agreement and understanding of the Cities and supersede any and all prior agreements, arrangements and understandings relating to the matters provided for herein. No amendment, waiver of compliance with any provision or condition hereof or consent pursuant to this Agreement shall be effective unless evidenced by an instrument in writing signed by the party against whom enforcement of any amendment, waiver or consent is sought. This Agreement may not be amended or modified except in writing executed by both Cities and authorized by their respective governing bodies.
- D. Exhibits.** The Exhibits that are attached hereto are incorporated herein and made a part of this Contract.
- E. Partial Invalidity.** In the event any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof, but rather this entire Agreement will be construed as if not containing the particular invalid or unenforceable provision or provisions, and the rights and obligations of the Cities shall be construed and enforced in accordance therewith. The Cities acknowledge that if any provision of this Agreement is determined to be invalid or unenforceable, it is their desire and intention that

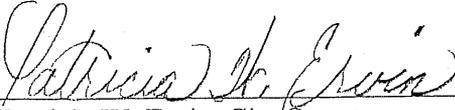
such provision be reformed and construed on such a manner that it will, to the maximum extent practicable, be deemed to be validated and enforceable.

- F. **Survival:** Any provisions that by their terms survive the termination of this contract shall bind its legal representatives, heirs, and assigns as set forth herein.
- G. **Gender and Number.** Words of any gender used in this Agreement shall be held and construed to include any other gender, and words in the singular number shall be held to include the plural, unless the context otherwise requires.
- H. **Article and Section Headings.** The Article and Section headings contained herein are for convenience and reference and are not intended to define or limit the scope of any provision of this contract.
- I. **Assignment.** Neither City may assign its rights and obligations hereunder.
- J. **Benefits.** This contract shall bind, and the benefits thereof shall inure to the respective parties hereto, their heirs, legal representative, executors, administrators, successors, and assigns.
- K. **Misspelled Words:** Misspelling of one or more words in this contract shall not void this contract. Such misspelled words shall be read so as to have the meaning apparently intended by the parties.
- L. **Multiple Copies.** This Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall be considered fully executed as of the date when both Cities have executed an identical counterpart.

THE CITY OF WACO, TEXAS

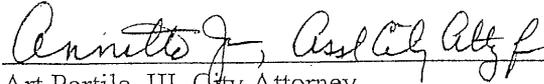
By: 
Larry D. Groth, P.E., City Manager

ATTEST

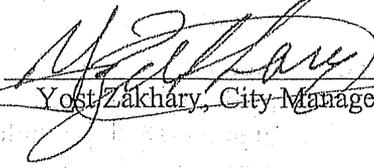

Patricia W. Ervin, City Secretary

10/04/2005
Date Signed

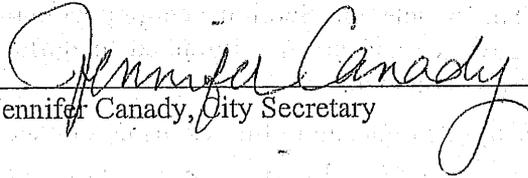
APPROVED AS TO FORM & LEGALITY:


Art Pertile, III, City Attorney

THE CITY OF WOODWAY

By: 
Yost Zakhary, City Manager

ATTEST


Jennifer Canady, City Secretary

10/7/05
Date Signed

Exhibit A
Fee Schedule By Department
 FY 2004-2005
 Effective October 1, 2004

<u>DESCRIPTION</u>	<u>ADOPTED</u>
WASTEWATER FUND	
Residential Sewer Rate	
Inside City	
0 - 2,000 gallons	9.14
over 2,000 gallons	2.35 per 1000
Outside City	
0 - 2,000 gallons	18.29
over 2,000 gallons	4.70 per 1000
Non-Residential Sewer Rate	
Inside City	
0 - 2,000 gallons	9.14
3/4 inch meter	9.14
1 inch meter	12.84
1.5 inch meter	19.01
2 inch meter	26.41
3 inch meter	36.27
4 inch meter	46.14
6 inch meter	68.33
8 inch meter	105.33
Over 2,000 gallons	2.35 per 1000
Outside City	
0 - 2,000 gallons	18.29
3/4 inch meter	18.29
1 inch meter	25.69
1.5 inch meter	38.02
2 inch meter	52.81
3 inch meter	75.54
4 inch meter	92.27
6 inch meter	136.67
8 inch meter	210.65
Over 2,000 gallons	4.70 per 1000
Sewer Tap 4"	1,200.00 minimum
Sewer Tap 6"	1,300.00 minimum
Commercial Sewer Taps:	
All commercial sewer services shall be tapped into a manhole	1,500.00 minimum
Industrial Waste Fees/Surcharges	
Excess of 300 ppm for BOD	0.01 per pound
Excess of 400 ppm for TSS	0.02 per pound
Charges for Industrial Pretreatment	
Non-contract Batch Discharge	160.00
Permit Formulation & Issuance	
SUC Application Review & Facility Inspection	
Small - < 25,000 GPD	155.00
Medium - > 25,000 < 100,000 GPD	240.00
Large - > 100,000 GPD	340.00
Formulation & Issuance	
Small - < 25,000 GPD	260.00
Medium - > 25,000 < 100,000 GPD	385.00
Large - > 100,000 GPD	560.00
Permit Renewal & Administration	
Small - < 25,000 GPD	375.00
Medium - > 25,000 < 100,000 GPD	510.00
Large - > 100,000 GPD	735.00

Exhibit A
Fee Schedule By Department
 FY 2004-2005
 Effective October 1, 2004

<u>DESCRIPTION</u>	<u>ADOPTED</u>
Compliance Sampling (subject to prices set by outside laboratories)	
BOD	21.00
TSS	7.50
Oil and Grease	21.00
Arsenic	17.50
Cadmium	13.00
Chromium	13.00
Cobalt	13.00
Copper	13.00
Lead	13.00
Nickel	13.00
Silver	13.00
Zinc	13.00
Cyanide	40.00
Chlorides	18.00
Mercury	17.50
pH	2.50
Metals Prep	10.50
EPA 624	190.00
EPA 601	105.00
EPA 608	125.00
EPA 625	425.00
Ionic Silver	240.00
COD	25.00
EPA 602	50.00
EPA 606	125.00
BTEX	95.00
Sampling Fee 4 trips max.	60.00
Sample Disposal	5.00
Shipping Cost (avg.)	100.00
TPH	34.00
Phenols	26.50
Sulfides	17.50
Formaldehyde	12.50

Rates are established as follows:

Residential - The average of the actual water consumption for the months of November, December, January and February, up to 16,000 gallons per month, is the maximum monthly consumption that will be charged.

For new residences and new turn-ons that do not have adequate consumption statistics during the months stated above, a maximum monthly consumption figure of 6,000 gallons shall be utilized.

The monthly service charge is the lesser between the actual monthly consumption shown by the water meter or the four months average consumption (November-February), capped at 16,000 gallons, less 2,000 gallons, times the use rate plus the minimum charge.

Non-residential - 100% of metered water volumes, less 2000 gallons times use rate.

Exhibit A

Interlocal Agreement with Woodway

Fee Schedule By Department FY 2005-2006 Effective October 1, 2005

DESCRIPTION	ADOPTED
WASTEWATER FUND	
Residential Sewer Rate	
Inside City	
0 - 2,000 gallons	11.00
over 2,000 gallons	2.63 per 1000
Outside City	
0 - 2,000 gallons	18.29
over 2,000 gallons	4.70 per 1000
Non-Residential Sewer Rate	
Inside City	
0 - 2,000 gallons	11.00
3/4 inch meter	11.00
1 inch meter	15.45
1.5 inch meter	22.88
2 inch meter	31.78
3 inch meter	43.65
4 inch meter	55.53
6 inch meter	82.24
8 inch meter	126.76
Over 2,000 gallons	2.63 per 1000
Outside City	
0 - 2,000 gallons	18.29
3/4 inch meter	18.29
1 inch meter	25.69
1.5 inch meter	38.02
2 inch meter	52.81
3 inch meter	75.54
4 inch meter	92.27
6 inch meter	136.67
8 inch meter	210.65
Over 2,000 gallons	4.70 per 1000
Sewer Tap 4"	1300.00 minimum
Sewer Tap 6"	Quoted on per cost basis
Commercial Sewer Taps:	
All commercial sewer services shall be tapped into a manhole	Quoted on per cost basis
Industrial Waste Fees/Surcharges	
Excess of 300 ppm for BOD	0.01 per pound
Excess of 400 ppm for TSS	0.02 per pound
Charges for Industrial Pretreatment	
Non-contract Batch Discharge	160.00
Permit Formulation & Issuance	
SUC Application Review & Facility Inspection	
Small - < 25,000 GPD	155.00
Medium - > 25,000 < 100,000 GPD	240.00
Large - > 100,000 GPD	340.00
Formulation	0.0000
Small - < 25,000 GPD	260.00
Medium - > 25,000 < 100,000 GPD	385.00
Large - > 100,000 GPD	560.00
Permit Renewal & Administration	
Small - < 25,000 GPD	375.00
Medium - > 25,000 < 100,000 GPD	510.00
Large - > 100,000 GPD	735.00
Compliance Sampling (subject to prices set by outside laboratories)	
BOD	21.00
TSS	7.50
Oil and Grease	21.00
Arsenic	17.50
Cadmium	13.00
Chromium	13.00
Cobalt	13.00
Copper	13.00
Lead	13.00
Nickel	13.00
Silver	13.00
Zinc	13.00
Cyanide	40.00
Chlorides	18.00
Mercury	17.50
pH	2.50
Metals Prep	10.50

Exhibit A
Interlocal Agreement with Woodway

Fee Schedule By Department
 FY 2005-2006
 Effective October 1, 2005

<u>DESCRIPTION</u>	<u>ADOPTED</u>
EPA 624	190.00
EPA 601	105.00
EPA 608	125.00
EPA 625	425.00
Ionic Silver	240.00
COD	25.00
EPA 602	50.00
EPA 606	125.00
BTEX	95.00
Sampling Fee 4 trips max.	60.00
Sample Disposal	5.00
Shipping Cost (avg.)	100.00
TPH	34.00
Phenols	26.50
Sulfides	17.50
Formaldehyde	12.50
Sewer Deposit (Non Water Customers)	100.00

Rates are established as follows:

Residential - The average of the actual water consumption for the months of November, December, January and February with consumption, up to 20,000 gallons per month, is the maximum monthly consumption that will be charged. If no consumption during these months, the winter quarter defaults to 6,000 gallons. For new residences and new turn-ons that do not have adequate consumption statistics during the months stated above, a maximum monthly consumption figure of 6,000 gallons shall be utilized. The monthly service charge is the lesser between the actual monthly consumption shown by the water meter or the four months average consumption (November-February), capped at 20,000 gallons, less 2,000 gallons, times the use rate plus the minimum charge.

Non-residential - 100% of metered water volumes, less 2000 gallons times use rate.

For INTERLOCAL COOPERATION AGREEMENT BETWEEN THE CITIES OF WACO AND WOODWAY: Sewer Service for First United Methodist Church of Woodway Property -- Church will be billed at rate for similar customer located within the City of Waco



Woodway First United Methodist Church

March 2, 2006

LEGAL SERVICES
RECEIVED

MAR 04 2006

TIME: _____

Mr. Larry Groth, City Manager
City of Waco
P.O. Box 2570
Waco, Texas 76702-2570

Mr. Groth,

In compliance with the Texas Commission on Environmental Quality and as requested, we are offering this letter as verification of our consent to have our property at 21000 Woodway Drive in the City of Woodway, Texas, assigned to the City of Waco, Texas, as a service area for sewer service utilizing the lift station to be constructed near the Waco Landfill entrance on Hannah Hill Road. This is in keeping with the document known as the "Interlocal Cooperation Agreement Between the Cities of Waco and Woodway: Sewer Service for First United Methodist Church of Woodway Property."

We do willingly consent to the service, and are planning on having some sort of receptacle or actual tie-in to a sewer line in place for us to receive our certificate of occupancy by May, 2006.

Thank you for your work and your cooperation in resolving the issue of sewer service for our church property.

Respectfully,

Jeffrey A. Smith, D.Min.
Senior Pastor

cc. James Studensky, Attorney
File

LEAH HAYES
City Attorney

ANNETTE JONES
JOHN T. PATTERSON
KEN JOHNSON
CHRIS TAYLOR
NICOLE L. WEBSTER
JULIE V. PANDYA
Assistant City Attorneys



Legal Services
P. O. Box 2570
Waco, Texas 76702-2570

City Hall - 3rd & Austin
Phone: (254) 750-5680
Fax: (254) 750-5880

January 11, 2008

Lisa V. Fuentes
Utilities & Districts Section, MC 153
Water Supply Division
Texas Commission on Environmental Quality
P. O. Box 13087
Austin, TX 78711-3087

Dear Ms. Fuentes:

Please find the enclosed Consent Form signed by Wiley Stem, which was also faxed to you on this date, January 11, 2008.

If you have questions, please feel free to contact Assistant City Attorney, Annette Jones, at the number above.

Sincerely,

Marilyn S. Hessel
Legal Secretary

/msh

2008 JAN 15 AM 10 12

RECEIVED
TCEQ
WATER SUPPLY DIV.

CONSENT FORM

Applicant's Name: City of Waco/City of Woodway 13.248 Agreement

Application No.: 35256-C

- I concur with the map created 1/8/2008 as a result of the above mentioned application.
- I do not concur with the map created 1/8/2008 and intend to respond by letter dated _____.

I am authorized by the City of Waco, to sign this form.

Signature: Wiley Stem

Printed Name: Wiley Stem

Relationship to Applicant: Assistant City Manager

Date signed: January 11, 2008

*
Mail to or fax to:
Lisa V. Fuentes
Utilities & Districts Section, MC 153
Water Supply Division
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, TX 78711-3087
Fax (512) 239-6972

2008 JAN 15 AM 10 12

RECEIVED
TCEQ
WATER SUPPLY DIV.

CONSENT FORM

Applicant=s Name: City of Waco/City of Woodway 13.248 Agreement
Application No.: 35256-C

- I concur with the map created 1/8/2008 as a result of the above mentioned application.
- I do not concur with the map created 1/8/2008 and intend to respond by letter dated _____.

I am authorized by the City of Woodway, to sign this form.

Signature: *[Handwritten Signature]*

Printed Name: Y. Zakharov

Relationship to Applicant: City mpr

Date signed: 1/30/08

Mail to or fax to:
 Lisa V. Fuentes
 Utilities & Districts Section, MC 153
 Water Supply Division
 Texas Commission on Environmental Quality
 P.O. Box 13087
 Austin, TX 78711-3087
 Fax (512) 239-6972

RECEIVED
 TCEQ
 WATER SUPPLY DIV.
 2008 FEB 12 PM 12 15

Texas Commission on Environmental Quality

INTEROFFICE MEMORANDUM

To: Deanna Avalos
Office of the Chief Clerk

Date: _____, 2008

From: Amy Vargas
Administrative Support
Water Supply Division

Subject: Texas Water Code, §13.248 Application Approved by Commissioner's,
Certificates to be Mailed

City of Waco, Application Number 35256-C, CCN: 20010, CN: 600131940,
RN: 101392439

The item listed above was approved by the Commissioners on _____, 2008.
Please present the certificates to Deanna Avalos for mailing.

Contact Name: Lisa Fuentes

Date Stamp This Page Only



Texas Commission On Environmental Quality

By These Presents Be It Known To All That

City of Waco

having duly applied for 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 by this Applicant, is entitled to and is hereby granted this

Certificate of Convenience and Necessity No. 20010

to provide continuous and adequate sewer utility service to that service area or those service areas in McLennan County as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Application Nos. 35256-C 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 City of Waco 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.

Issued at Austin, Texas, this _____

For the Commission



Texas Commission On Environmental Quality

By These Presents Be It Known To All That

City of Woodway

having duly applied for 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 by this Applicant, is entitled to and is hereby granted this

Certificate of Convenience and Necessity No. 20014

to provide continuous and adequate sewer utility service to that service area or those service areas in McLennan County as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Application Nos. 35256-C 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 City of Woodway 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.

Issued at Austin, Texas, this _____

For the Commission

City of Waco / City of Woodway 13.248 Agreement
Sewer CCN Service Areas
Application No. 35256-C (Amend City of Waco, CCN 20010, to include Dual Certification
w/ a Portion of City of Woodway, CCN 20014)
McLennan County

City of Waco
Sewer CCN 20010

City of Woodway
Fac. + 200'

City of Woodway
Sewer CCN 20014

City of Woodway
Fac. + 200'

Area Affected
by 13.248 Agreement

2000 0 2000 Feet

1 inch = 2,000 feet



Map by S. Jaster 1/8/2008
Data path: s:\ud\ccn\ccn_working\ccn.shp
and ccnfac.shp
Project path: c:\gis\projects\applications\35256-c.apr



Buddy Garcia, *Chairman*
Larry R. Soward, *Commissioner*
Bryan W. Shaw, Ph.D., *Commissioner*
Glenn Shankle, *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

June 17, 2008

Annette Jones, Attorney
City of Waco
PO Box 2570
Waco, Texas 76702-2570

Yost Zakhary, City Manager
9191 W. Woodway Dr.,
Woodway, Texas 76712

Re: Consideration of a request for a Commission order approving a contract designating service areas between the City of Waco and the City of Woodway (Woodway). TCEQ Docket No. 2006-0407-UCR.

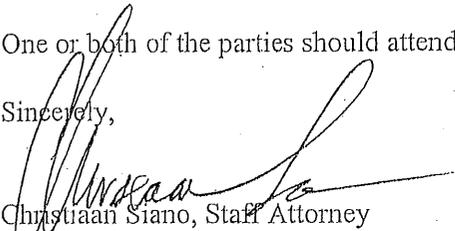
Dear Sir or Madam:

This letter is to inform you that the above referenced application has been set on the Agenda for consideration by the Texas Commission on Environmental Quality (TCEQ). The TCEQ Commissioners will consider this application on:

9:30 a.m., Wednesday, July 9, 2008
Building E, Room 201S
12100 Park 35 Circle
Austin, Texas

One or both of the parties should attend to present this matter and be available for questioning.

Sincerely,


Christian Siano, Staff Attorney
Water Quality and Water Utilities
Environmental Law Division
Phone: 512-239-6743

cc:

Mailing List.

LaDonna Castañuela, Chief Clerk, Office of the Chief Clerk, TCEQ, MC-105
Todd Galiga, Senior Attorney, Environmental Law Division, TCEQ, MC-173
Blas Coy, Public Interest Counsel, Office of the Public Interest Counsel, TCEQ, MC-103
Tammy Holguin-Benter, Team Leader, Utilities and Districts Section, TCEQ, MC-153
Celeste Baker, General Counsel, Office of the General Counsel, TCEQ, MC-101