

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



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

January 6, 2012

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

Re: TCEQ Docket No. 2011-0175-UCR; Consideration of a request for a Commission order approving a contract designating service areas between the City of McAllen, CCN No. 20524 and the City of Mission, CCN No. 20768

Dear Ms. Bohac:

Transmitted herewith for filing with the Texas Commission on Environmental Quality ("Commission") are the following items to be filed as backup material for the January 25, 2012, agenda on a request for an order approving a contract designating service areas between the City of McAllen and the City of Mission:

1. Proposed Order;
2. Agenda Executive Summary;
3. Caption;
4. Staff memo detailing financial, managerial, and technical capabilities of the Cities of McAllen and Mission to provide continuous and adequate service to the affected area;
5. Request for Commission order approving a TWC, Section 13.248 agreement filed by the City of McAllen and Mission on December 20, 2010 and declared administratively complete on January 20, 2011;
6. Texas Water Code, Section 13.248 contract between the Cities of McAllen and Mission executed July 9, 2009, and the July 28, 2011, Agreement to Extend and Ratify;
7. Certificates of Convenience and Necessity (CCN) Nos. 20524 and 20768;
8. Proposed map of the area covered by the agreement;
9. Consent forms signed by representatives for both McAllen and Mission giving approval to the ED for the above final 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,

A handwritten signature in black ink, appearing to read "Christiaan Siano".

Christiaan Siano, Staff Attorney
Environmental Law Division

Enclosures

**TCEQ DOCKET NO. 2011-0175-UCR
APPLICATION NO. 36921-C**

IN THE MATTER OF	§	BEFORE THE
THE REQUEST FOR AN ORDER	§	
APPROVING THE	§	TEXAS COMMISSION ON
CONTRACT DESIGNATING	§	
SERVICE AREAS BETWEEN	§	ENVIRONMENTAL QUALITY
THE CITY OF MCALLEN AND	§	
THE CITY OF MISSION	§	
IN HIDALGO COUNTY, TEXAS	§	

ORDER

On January 25, 2012, the Texas Commission on Environmental Quality considered a request for an Order approving a contract designating service areas between the City of McAllen ("McAllen") Certificate of Convenience and Necessity ("CCN") No. 20524, and City of Mission ("Mission"), CCN No. 20768 in Hidalgo County, Texas, pursuant to Section 13.248 of the Texas Water Code and Title 30, Section 291.117 of the Texas Administrative Code, and found the request had merit.

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 certified to be incorporated into the appropriate areas of public convenience and necessity. Texas Water Code, §13.248.

On July 9, 2009, McAllen and Mission executed an agreement ("the Agreement") regarding their respective sewer service areas. The areas are marked as "A" and "B" in the attached map entitled Certificate of Convenience and Necessity Sewer Boundary Amendment Transfers ("map"). The parties agreed that McAllen shall have its authority to serve in area "A" decertified and that that Mission shall simultaneously seek certification in that service area. The parties further agreed that Mission shall have its authority to operate in area "B" decertified and that McAllen shall simultaneously seek certification in that service area. The Agreement, along with the July 28, 2011 extension agreement, is attached to this Order. The total acreage to be transferred from McAllen to Mission is 387 acres. The total acreage to be transferred from Mission to McAllen is 64.7 acres.

Mission and McAllen are both capable of rendering continuous and adequate sewer service to every customer in the areas covered by the Agreement. The decertification of McAllen's authority to provide service in area A, and the simultaneous certification of Mission as the service provider in that area, is necessary for the service, accommodation, convenience, or safety of the public. The decertification of Mission's authority to provide service in area B, and the simultaneous certification of McAllen as the service provider in that area, 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 to transfer a portion of McAllen CCN No. 20524 and designating that Mission CCN No. 20768 shall provide retail sewer service in area A, is hereby approved. Additionally, the Agreement to transfer a portion of Mission CCN No. 20768 and designating that McAllen CCN No. 20524 shall provide retail sewer service in area B, is hereby approved.

Certificates of convenience and necessity 20524 (held by McAllen) and 20768 (held by Mission), in Hidalgo County are hereby amended in accordance with the Agreement.

The Executive Director is directed to redraw the respective certificates 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 Hidalgo 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

Texas Commission on Environmental Quality

INTEROFFICE MEMORANDUM

TO: Texas Commission on Environmental Quality **DATE:** January 6, 2012
THRU: Bridget C. Bohac, Chief Clerk
FROM: Environmental Law Division
SUBJECT: Consideration of a request for a Commission Order approving a contract designating service areas between the City of Mission (Mission) and the City of McAllen (McAllen). TCEQ Docket No. 2011-0175-UCR.

DESCRIPTION OF APPLICATION

Applicant: City of McAllen and City of Mission
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 (TWC) §13.248 and 30 Texas Administrative Code (TAC) § 291.117

FACTUAL BACKGROUND

City of McAllen, sewer Certificate of Convenience and Necessity (“CCN”) No. 20524, and City of Mission, sewer CCN No. 20768, provide retail sewer service in Hidalgo County, Texas. McAllen and Mission, in an effort to efficiently provide sewer service to their current and future customers, desire to adjust their CCNs to the agreed transfer areas located in the attached map entitled Certificate of Convenience and Necessity Water Boundary Amendment Transfers (“map”).

On July 9, 2009, McAllen and Mission executed an agreement regarding their respective sewer service areas pursuant to Section 13.248 of the Texas Water Code. The agreement decertifies McAllen’s authority to operate in area “A” shown on the map, and provides that Mission will be the sole provider of retail sewer service in that service area. Additionally, the agreement decertifies Mission’s authority to operate in area “B,” shown on the map, and provides that McAllen will be the sole provider of retail sewer service in

those service areas. On July 28, 2011, the July 9, 2009 agreement was extended until September 15, 2012.

LEGAL AUTHORITY

The Texas Water Code prohibits a utility from rendering retail utility service directly or indirectly to the public without first obtaining a CCN from the Commission. TWC § 13.242(a). Conversely, a municipality is not required to obtain a CCN to provide retail sewer service.¹ However, a municipality may not provide service to areas that are within the certificated area of another retail public utility without first obtaining written consent from that retail public utility. TWC § 13.242(b).

The Texas Water Code and TCEQ's regulations allow retail public utilities to enter into service area agreements and have the Commission affirm the agreements by amending the entities' respective CCNs. TWC § 13.248; *see also* 30 TAC § 291.117.²

A transfer of a sewer system that includes the transfer of customers and/or facilities may require separate Commission approval. TWC § 13.301.³ However, this does not apply to the transfer of a sewer system from one municipality to another because a municipality is not required by law to possess a CCN.⁴

The request to approve a §13.248 agreement is not subject to the notice provisions which apply to applications for new or amended CCNs. 30 TAC § 291.106(b)(3)(A). The Commission may approve the service area agreement at an agenda hearing pursuant to §13.248 with the appropriate notice under the Open Meetings Act. The Executive Director will mail notice of the hearing to the parties and to the affected customers of the McAllen and Mission upon receipt of an Agenda date.

¹ A municipality is a "retail public utility" under Section 13.002(19) of the Texas Water Code, but not a "utility" under Section 13.002(23). Therefore, the § 13.242(a) requirement that a "utility" obtain a CCN before providing retail water utility service does not apply to a municipality.

² Section 13.248 of the Texas Water Code provides:

Contracts 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.

³ Section 13.301 of the Texas Water Code requires some applicants to 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.

⁴ Section 13.301 only applies if the transfer involves a "utility or water supply or sewer service corporation . . . that is required by law to possess a CCN." TWC § 13.301.

BASIS FOR STAFF RECOMMENDATION

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

1. Request for a Commission order approving a §13.248 agreement filed by McAllen and Mission on December 20, 2010, and declared administratively complete on January 20, 2011;
2. Agreement between McAllen and Mission executed July 9, 2009, and extended on July 28, 2011;
3. Map of service area subject to the §13.248 agreement submitted by McAllen and Mission; and
4. Financial, Managerial, and Technical analysis of McAllen to operate in the affected area.

STAFF RECOMMENDATION

Based upon the facts stated in the application and the supporting documentation submitted by McAllen and Mission, Staff supports the request for a Commission order approving a contract designating service areas between McAllen and Mission. Staff has confirmed that both parties are retail public utilities with active sewer CCNs and that the area the parties are seeking to transfer/decertify is currently being served by the respective receiving utility. Further, staff is satisfied that both Mission and McAllen possess the adequate financial, managerial, and technical capability to provide continuous and adequate service to the areas being transferred to each party.

STAFF CONTACTS

Christiaan Siano, Environmental Law Division (239-6743)
Kamal Adhikari, Water Supply Division (239-0680)

CAPTION
City of McAllen / City of Mission
Application No. 36921-C

TCEQ Docket No. 2011-0175-UCR. Consideration of a request for a Commission Order approving a contract designating service areas between the City of McAllen (McAllen), Certificate of Convenience and Necessity (CCN) No. 20524, and the City of Mission (Mission), CCN No. 20768, in Hidalgo County, Texas, pursuant to section 13.248 of the Texas Water Code. The contract transfers from McAllen approximately 387 acres of its CCN area to Mission and from Mission approximately 64.7 acres of its CCN to McAllen. (Christiaan Siano, Kamal Adhikari)

TCEQ Interoffice Memorandum

To: Environmental Law Division

Thru: Kamal Adhikari, E.I.T.
Lisa Fuentes, Team Lead

From:  Debi Loockerman, C.P.A.

Date: Reissued on 11/22/2011; First issued on 2/24/2011

Subject: Contract Service Agreement Pursuant to Texas Water Code Section 13.248, from the City of McAllen, Certificate of Convenience and Necessity (CCN) No. 20524, to Transfer a Portion of CCN No. 20768 from City of Mission in Hidalgo County; Application No. 36921-C

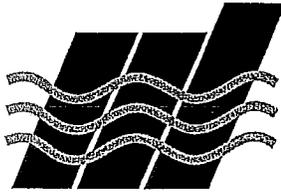
CN: 600520852; RN: 101398188 (transferor/City of Mission)

CN: 600343743; RN: 101389419 (transferee/City of McAllen)

In my opinion, the Cities of McAllen (McAllen) and Mission have demonstrated adequate financial, managerial and technical capability to provide service to the areas contracted for release and transfer.

Background

City of McAllen and City of Mission (Mission) entered an agreement as of July 9, 2009 to swap service areas as follows: a total of 387 acres from McAllen's CCN to Mission's CCN; a total of 64.7 acres presently included in Mission's CCN to McAllen who is already providing service to the area. The acreage is less than 2% of either City's certified area and the one customer and 10 potential customers being transferred are not material to either City's customer base. The transaction will have no material effect on the financial or managerial status of Mission and McAllen. According to Mission's 2009 Comprehensive Annual Financial Report (CAFR) available on Mission's website, the utility fund revenues exceeded \$16 million and net assets for the utility fund exceeded \$68 million. The City also achieved an award for excellence in financial reporting. McAllen's 2010 financial statements were available on the MACTexas website and indicate that McAllen's utility fund revenues exceeded \$26 million and net assets for the utility fund exceeded \$332 million. Both Cities' CAFRs contain unqualified auditors' opinions that the financial statements are present fairly, in all material respects, the respective financial position of the Cities' activities, in conformity with accounting principles generally accepted in the United States of America. This information supports a finding of adequate financial and managerial capability to provide service to the areas contracted for transfer.



McALLEN

PUBLIC UTILITY

TONY AGUIRRE, JR., Chairman
CHARLES AMOS, Vice-Chairman
RECEIVED
FRY-PEBLEY, Trustee
ERNEST R. WILLIAMS, Trustee
T. SCOTT CRANE, Ex-Officio/Commissioner
WATER SUPPLY DIV
ROEL RODRIGUEZ, P.E., General Manager

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December 16, 2010

Texas Commission on Environmental Quality
Water Supply Division
Utilities and Districts Section, MC-153
PO Box 13087
Austin, Texas 78711-3087

Re: Application to Swap a Sewer CCN from City of Mission (CCN NO 20768) to City of McAllen (CCN NO. 20524) in accordance with TWC 13.248 and 30TAC 291.117(a-b)

To whom it may concern:

McAllen Public Utility (MPU) respectfully requests processing of the above-referenced application to swap a Sewer CCN from City of Mission to City of McAllen. Attached to this Cover Letter are the following supporting documentation.

- Contract Document between City of Mission and City of McAllen
- Statement indicating Financial, Managerial and Technical basis for supporting request
- Maps
- List of Public Water Systems affected by the Transfer
- List of Affected Customers/Landowners
- Filing Fee of \$100.00

If you should have any questions regarding this letter, please feel free to contact me at (956) 681-1630.

Sincerely,

Marco A. Vega, P.E.
Assistant General Manager

cc: Carlos Gonzalez, P.E., Asst. Utility Engineer

H:\Utility Engineering\PROJECTS\Mission CCN Swap\Anzalduas Bridge\Cover Letter to TOEQ 11-17-2010.doc

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**Contract Document Between
City of Mission and City of McAllen**

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AGREEMENT BETWEEN THE CITY OF MCALLEN, TEXAS (MCALLEN), AND THE CITY OF MISSION, TEXAS (MISSION), REGARDING AREAS IN WHICH EACH CITY'S CERTIFICATE OF CONVENIENCE AND NECESSITY (CCN) JURISDICTION TO BE SERVED BY THE OTHER CITY

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Whereas, the property described in Exhibits A and B (387 acre tract), attached hereto and made a part hereof for all purposes, is presently included in the jurisdiction of McAllen's CCN insofar as water and sewer is concerned although Mission has water and sewer facilities located in the area of said 387 acre tract; and

Whereas, the property described in Exhibits C and D (64.7 acre tract), attached hereto and made a part hereof for all purposes, is presently included in the jurisdiction of Mission's CCN insofar as water and sewer is concerned although McAllen has sewer facilities in the area of said 64.7 acre tract; and

Whereas, both cities have determined that it is in their mutual and best interest to have these properties reallocated to the City's utility CCN which will serve it.

NOW, THEREFORE, McAllen and Mission, for a good, valuable and mutual consideration hereby agree as follows:

1. McAllen shall have the hereinbefore described 387 acre tract decertified from its water and sewer CCN by making the appropriate applications therefor with the appropriate agencies of the State of Texas, and complying with all of the requirements necessary for decertification. Mission shall simultaneously have said property included in its water and sewer CCN by making the appropriate applications therefor with the appropriate agencies of the State of Texas, and complying with all of the requirements necessary for certification.
2. Mission shall have the hereinbefore described 64.7 acre tract decertified from its sewer CCN by making the appropriate applications therefor with the appropriate agencies of the State of Texas, and complying with all of the requirements necessary for decertification. McAllen shall simultaneously have said property included in its sewer CCN by making the appropriate applications therefor with the appropriate agencies of the State of Texas, and complying with all of the requirements necessary for certification.
3. Both parties have agreed that McAllen will prepare the proper documentation necessary to carry out the decertification and certification processes described herein at no significant cost to Mission.
4. Both parties shall undertake to accomplish the obligations incurred herein as soon as practicable but in no event later than September 15, 2009, failing which this agreement shall terminate and have no further force or effect.

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5. During the period between the date of this agreement and the date of the official decertifications and certifications described herein, (A) Mission shall serve the hereinbefore described 387 acre tract with water and sewer utilities as though said area were included in its water and sewer CCN, and (B) McAllen shall serve the hereinbefore described 64.7 acre tract with Sewer Utilities as though said area were included in its sewer CCN.

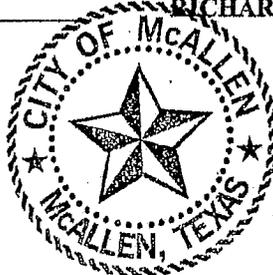
Dated July 9, 2009.

CITY OF MCALLEN

BY: Richard Cortez
RICHARD CORTEZ, MAYOR

ATTEST:

Annette Villarreal
ANNETTE VILLARREAL,
CITY SECRETARY



CITY OF MISSION

BY: Norberto Salinas
NORBERTO SALINAS, MAYOR

ATTEST:

Anna Carrillo
ANNA CARRILLO,
CITY SECRETARY



THENCE South 81° 22' 18" East departing from the west boundary line of said Lot 21, a distance of 2,614.62 feet (called 2,563.30 feet) to a point for a corner of the herein described tract and being located in the center line of Glasscock Road (40 feet wide) as recorded in Volume 0, Page 18, H.C.M.R. and for a common corner of said Lots 23 and 33;

THENCE North 08° 37' 42" East with the center line of said Glasscock Road, a distance of 984.00 feet to a point for a corner of the herein described tract and for the northwest corner of said Lot 33 and being located in the south right-of-way line of said 100-foot wide canal;

THENCE South 81° 22' 18" East with the south right-of-way line of said 100-foot wide canal and the north boundary line of said Lots 33 and 34, a distance of 2,640.00 feet to the POINT OF BEGINNING and containing 387 acres of land.

Notes:

- 1) This document was prepared under rule 22 TAC 663.21, does not reflect the results of an on the ground survey, and is not to be used to convey or establish interests in real property except those rights and interests implied or established by the creation or reconfiguration of the boundary of the political subdivision for which it was prepared.
- 2) This easement was not monumented.
- 3) This description has been prepared as a result of a survey completed on February 23, 2009 and is submitted in connection with a survey drawing prepared by Halff Associates, Inc. titled "Certificate of Convenience and Necessity Boundary", dated March 4, 2009, AVO No. 26712.


Aurelio D. Cortes
Registered Professional Land Surveyor
State of Texas No. 5413

Halff Associates, Inc.
5000 West Military Hwy.
Suite 100, McAllen, Texas 78503
Phone 956/664-0286
Fax 956/664-0282
www.halff.com



EXHIBIT A

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TCEQ Page 1 of 2
WATER SUPPLY DIV.

CERTIFICATE OF CONVENIENCE AND NECESSITY BOUNDARY 49
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DESCRIPTION OF A TRACT OF LAND
CONTAINING 387 ACRES SITUATED IN
THE NICOLAS BOCANEGRA SURVEY
PORCION 58, ABSTRACT NO. 27 AND
THE RAMON MANGUILLA SURVEY
PORCION 59, ABSTRACT NO. 42 IN
HIDALGO COUNTY, TEXAS

Being a 387-acre tract of land situated in the Nicolas Bocanegra Survey Porcion 58, Abstract No. 27 and the Ramon Manguilla Survey Porcion 59, Abstract No. 42, Hidalgo County, Texas and being comprised in part out of Lots 2, 3, 4, 12 and all of Lots 13, 14, 22, 23, 24, 33 and 34 of the Amended Map of John H. Shary Subdivision as recorded in Volume 0, Page 18 of the Hidalgo County Map Records (H.C.M.R.) and part of the Anzalduas Bridge Subdivision as recorded in Volume 53, Page 33, H.C.M.R. Said 387-acre tract being more particularly described by metes and bounds as follows: (All bearings are based on the Texas Coordinate System, South Zone (4205), North American Datum of 1983, 1993 adjustment. All distances herein are surface and may be converted to grid by dividing by a combined scale factor of 1.00004);

BEGINNING at a point for the common northeast corner of the herein described tract and said Lot 34 and being located at the intersection of the south right-of-way line of a 100-foot wide canal as recorded in Volume 877, Page 233, Hidalgo County Deed Records with the centerline of the original Shary Road 60 feet right-of-way;

THENCE South $08^{\circ} 37' 42''$ West with said original right-of-way, a distance of 4,103.23 feet to a point for the southeast corner of the herein described tract and being located in the east boundary line of said Lot 4;

THENCE North $81^{\circ} 22' 18''$ West departing from the east boundary line of said Lot 4 and from said original right-of-way and with a line parallel to and approximately 500 feet north of the south boundary line of said Lots 4 and 3, a distance of 2,795.10 feet to a point for a corner of the herein described tract;

THENCE North $45^{\circ} 52' 58''$ West with a line parallel to and approximately 800 feet north of the center line of F.M. 494 (100 feet wide), a distance of 3,018.60 feet to a point for the southwest corner of the herein described tract and being located in the original west boundary line of Lot 11 of said Amended Map of John H. Shary Subdivision, now platted as Anzalduas Bridge Subdivision as referenced;

THENCE North $08^{\circ} 33' 27''$ East with the west boundary line of said Lot 11 and Lot 21 of said Amended Map of John H. Shary Subdivision, a distance of 1,368.97 feet to a point for the northwest corner of the herein described tract;

EXHIBIT C

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TCEQ Page 1 of 2
WATER SUPPLY DIV.

CERTIFICATE OF CONVENIENCE AND NECESSITY BOUNDARY
10-15-20 09 11 49

DESCRIPTION OF A TRACT OF LAND
CONTAINING 64.7 ACRES SITUATED IN THE
RAMON MANGUILLA SURVEY PORCION 59,
ABSTRACT NO. 42 AND THE YLDEFONSO
QUIROGA SURVEY PORCION 60, ABSTRACT
NO. 43 IN HIDALGO COUNTY, TEXAS

Being a 64.7-acre tract of land situated in the Ramon Manguilla Survey Porcion 59, Abstract No. 42 and the Yldefonso Quiroga Survey Porcion 60, Abstract No. 43, Hidalgo County, Texas and being comprised in part out of Lots 65, 66 and 75 of the Amended Map of John H. Shary Subdivision as recorded in Volume 0, Page 18 of the Hidalgo County Map Records (H.C.M.R.), all of Sharyland Plantation Grove No. 5 as recorded in Volume 45, Page 137, H.C.M.R., all of Sharyland Service Center No. 9 as recorded in Volume 53, Page 39 H.C.M.R., part of Sharyland Service Center No. 8 as recorded in Volume 52, Page 49, H.C.M.R., part of Sharyland Business Park Lot 17A as recorded in Volume 53, Page 1, H.C.M.R., part of Sharyland Business Park Lot 16 as recorded in Volume 35, Page 56, H.C.M.R. and part of Sharyland Business Park No. 2 as recorded in Volume 37, Page 47, H.C.M.R. Said 64.7-acre tract being more particularly described by metes and bounds as follows: (All bearings are based on the Texas Coordinate System, South Zone (4205), North American Datum of 1983, 1993 adjustment. All distances herein are surface and may be converted to grid by dividing by a combined scale factor of 1.00004.)

BEGINNING at a point for the intersection of the north boundary line of said Sharyland Service Center No. 8 with the east boundary line of said Lot 66, now platted as Service Center No. 8 as referenced, from which an iron rod with a yellow plastic cap stamped "HALFF ASSOC" found for a north corner of said Sharyland Service Center No. 8 bears South 63° 14' 00" East, a distance of 35.22 feet;

THENCE South 08° 37' 42" West departing from the north boundary line of said Sharyland Service Center No. 8, a distance of 635.69 feet to a point for the southeast corner of the herein described tract and being the southeast corner of said Lot 66, now platted as Sharyland Business Park Lot 17A as referenced;

THENCE North 81° 22' 18" West with the original south boundary line of said Lot 66 and said Lot 65, now platted as Sharyland Business Park Lot 16 and Sharyland Business Park No. 2 as referenced, a distance of 2,640.00 feet to a point for the common southwest corner of the herein described tract and said Lot 65 and being located in the centerline of the original Shary Road 60 feet right-of-way;

EXHIBIT C

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TCEQ Page 2 of 2

WATER SUPPLY DIV.

THENCE North 08° 37' 42" East with the west boundary line of said Lot 65 and Lot 76, a distance of 1,500.53 feet to a point for the northwest corner of the herein described tract,

THENCE South 63° 14' 00" East departing from the west boundary line of said Lot 75, a distance of 2,778.05 feet to the POINT OF BEGINNING and containing 64.7 acres of land.

Notes:

- 1) This document was prepared under rule 22 TAC 663.21, does not reflect the results of an on the ground survey, and is not to be used to convey or establish interests in real property except those rights and interests implied or established by the creation or reconfiguration of the boundary of the political subdivision for which it was prepared.
- 2) This easement was not monumented.
- 3) This description has been prepared as a result of a survey completed on February 23, 2009 and is submitted in connection with a survey drawing prepared by Halff Associates, Inc. Titled Certificate of Convenience and Necessity Boundary, dated March 4, 2009, AVO No. 26712.

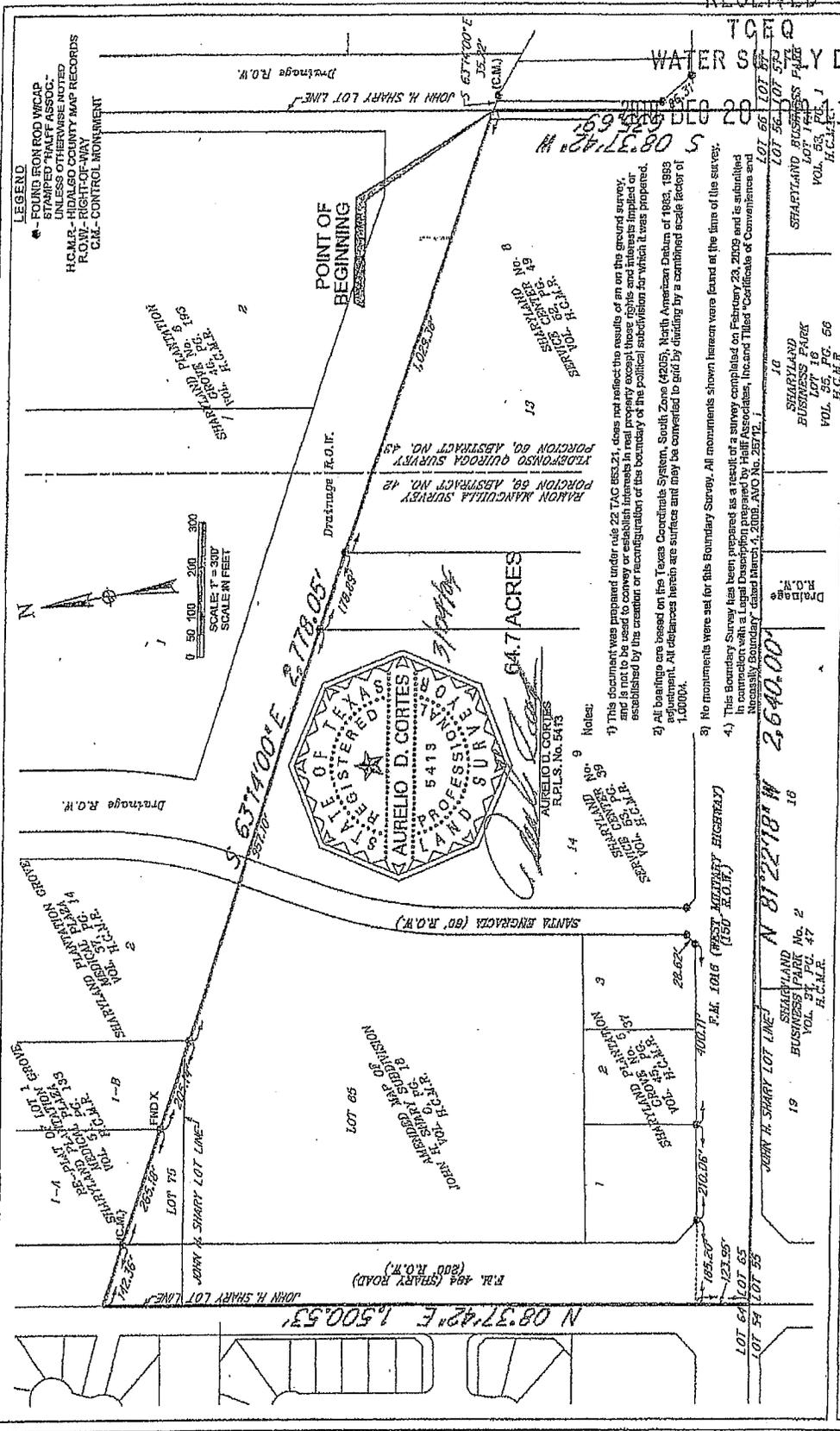


Aurelio D. Cortes
Registered Professional Land Surveyor
State of Texas No. 5413



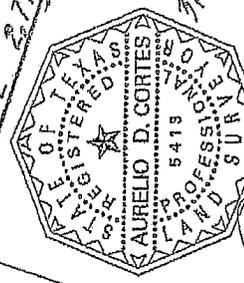
3/04/09

Halff Associates, Inc.
5000 West Military Hwy.
Suite 100, McAllen, Texas 78503
Phone 956/664-0286
Fax 956/664-0282
www.halff.com



LEGEND
 * FOUND IRON ROD W/ CAP STAMPED "HALFF ASSOC." ALL OTHERS OTHERWISE NOTED.
 H.C.M.R. - HIGHWAY RIGHT-OF-WAY RECORDS
 R.O.W. - RIGHT-OF-WAY
 C.M. - CONTROL MONUMENT

0 50 100 200 300
 SCALE 1" = 300'
 SCALE IN FEET



Notes:
 1) This document was prepared under rule 22 TAG 853.21, does not reflect the results of an on the ground survey, and is not to be used to convey or establish interests in real property except these rights and interests implied or established by the creation or reconfiguration of the boundary of the political subdivision for which it was prepared.
 2) All bearings are based on the Texas Coordinate System, South Zone (2011), North American Datum of 1983, 1983 adjustment. All distances herein are surface and may be corrected to grid by dividing by a combined scale factor of 1.00004.
 3) No monuments were set for this Boundary Survey. All monuments shown herein were found at the time of the survey.
 4) This Boundary Survey has been prepared as a result of a survey completed on February 23, 2009 and is submitted in connection with a Legal Description for the purpose of recording, including Title "Certificate of Convenience and Necessity Boundary" dated March 4, 2009, AVO No. 25712-1.

Project No. **26712**
 Issued: **3/14/2009**
EXHIBIT D
1 OF 1

CERTIFICATE OF CONVENIENCE AND NECESSITY BOUNDARY
 A 64.7 ACRE TRACT
 SITUATED IN
 THE RAMON MANGUILLA SURVEY PORCION 59, ABSTRACT NO. 42
 AND
 THE YLDEFONSO QUIROGA SURVEY PORCION 60, ABSTRACT NO. 43
 CITY OF MISSION, HIDALGO COUNTY, TEXAS

HALFF
 5000 WEST MILITARY HWY., SUITE 100
 FORT WORTH, TEXAS 76103
 TEL: (817) 884-4000
 FAX: (817) 884-4000

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WATER SUPPLY DIV.

Statement indicating Financial, Managerial and Technical basis for supporting request

2010 DEC 20 AM 11 49

McAllen Public Utility (MPU) provides water and wastewater utility service to residents/customers located within our CCN service area. The CCN area is, for the most part, consistent with existing city limit and/or ETJ boundaries. MPU and City of Mission have executed a contractual agreement to swap CCN Service areas. The following summarizes what each entity will gain and lose.

Part 1

City of Mission will add 387 acre Water CCN

City of McAllen will decertify 387 acre Water CCN

Note: Part 1 is being processed thru City of Mission's CCN Amendment Application

Part 2

City of Mission will swap 64.7 acre Sewer CCN in exchange for MPU's 387 acre Sewer CCN

Note: Part 2 is being processed thru TWC 13.248 and 30TAC 291.117(a-b)

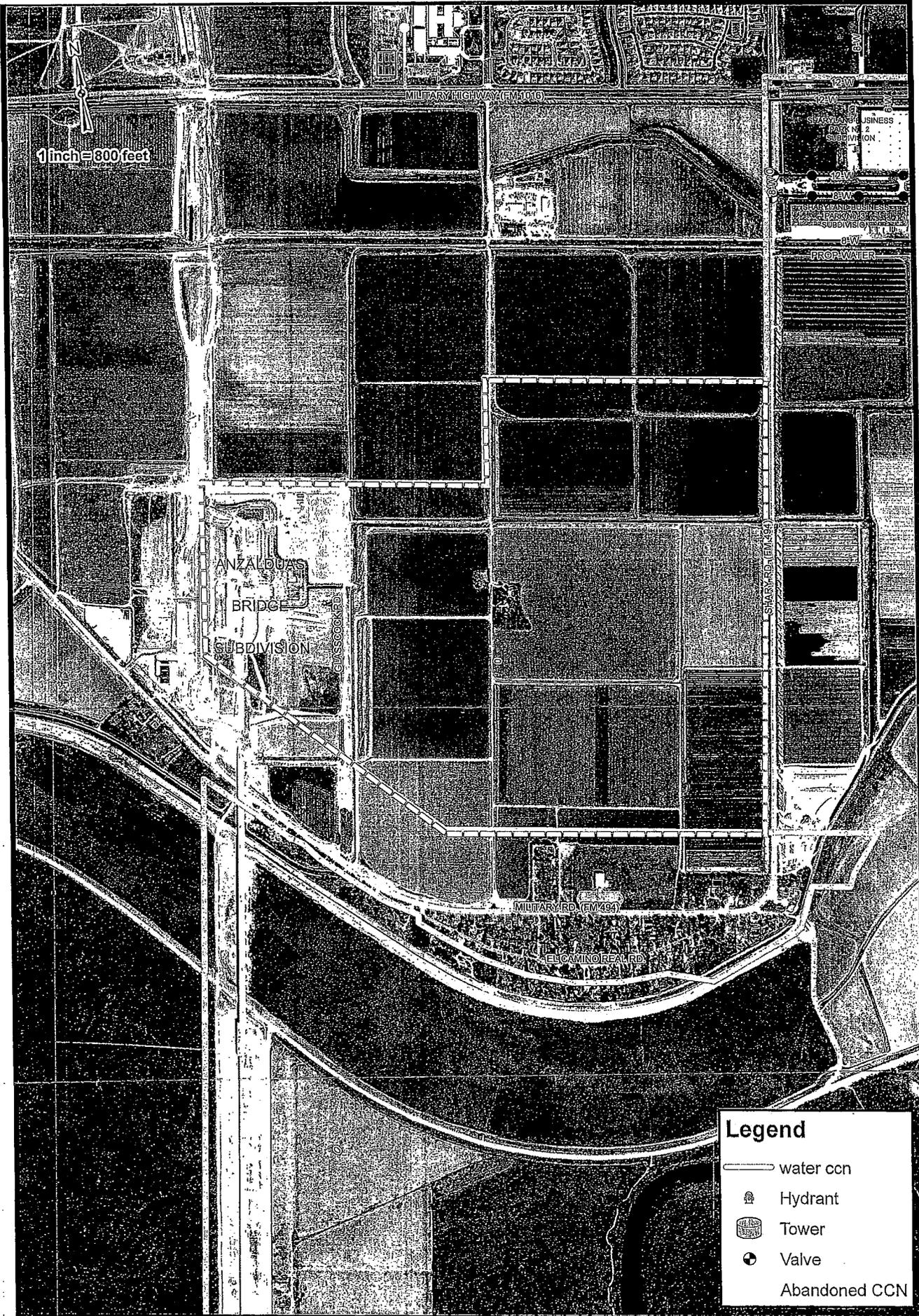
MPU is more than capable of serving this proposed addition (64.7 acre) to the existing Sewer CCN Service Area. In fact, MPU already has a sewer line in-place to serve this area (See Attached Exhibit), and is currently serving the only two (2) existing customers within this subject area (See Attached Exhibit) thru an interlocal agreement with the City of Mission.

City of Mission is more than capable of serving this proposed addition (387 acre) to their existing Sewer CCN Service Area. City of Mission has sewer facilities in-place that is currently serving their one (1) existing customer (Anzalduas International Bridge).

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TOEQ
WATER SUPPLY DIV.

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MAPS



PROPOSED CCN SWAP (387 AC)
 FROM CITY OF MCALLEN (20524) TO CITY OF MISSION (20768)

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TCEQ
WATER SUPPLY DIV.
2010 DEC 20 AM 11 50

List of Affected Customers/Landowners

1. Hidalgo North Properties, Inc.
2105 Remington Avenue
Edinburg, TX 78539-3931
2. Hunt Valley Industrial, L.P.
1900 Nakard
Dallas, TX 75201
3. Roman Catholic Diocese
P.O. Box 2279
Brownsville, TX 78522-2279
4. City of Mission
Attn: City Manager's Office
1201 East 8th Street
Dallas, TX 75201
5. Ridge CBF McAllen III, LLC
8430 West Bryn Mawr, Suite 400
Chicago, Illinois 60631
6. Luna Arlene
4607 South Bryan Road
Mission, TX 78572
7. Anzalduas Bridge
819 Taylor Street, Room12A2
Fort Worth, TX 76102
8. City of McAllen
Attn: City Manager's Office
P.O. Box 220
McAllen, TX 78505

AGREEMENT TO EXTEND AND RATIFY

On or about July 9, 2009, the City of McAllen ("McAllen") and the City of Mission ("Mission") entered into an agreement regarding areas in each city's Certificate of Convenience and Necessity ("CCN") jurisdiction to be served by the other city (the "agreement").

The agreement included a provision that required the obligations of the agreement be accomplished by September 15, 2009. Unforeseen circumstances have prevented the accomplishment of the obligations before the deadline. Neither party has been damaged by the failure to complete within the deadlines. All parties believe that an extension of the deadline until September 15, 2012 is recommended.

Therefore McAllen and Mission agree that the paragraph 4 of the July 9, 2009 agreement referred to above should be amended to read as follows:

"Both parties shall undertake to accomplish the obligations incurred herein as soon as possible, but in no event later than September 15, 2012."

and that the agreement shall in all other respects be revived, ratified and extended until September 15, 2012.

Dated: July 28, 2011.



Attest:

Annette Villarreal
Annette Villarreal, City Secretary

CITY OF McALLEN

By: Richard F. Cortez
Richard F. Cortez, Mayor



Attest:

Anna Carrillo
Anna Carrillo, City Secretary

CITY OF MISSION

By: Norberto Salinas
Norberto Salinas, Mayor



Texas Commission On Environmental Quality

By These Presents Be It Known To All That

City of McAllen

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. 20524

to provide continuous and adequate sewer utility service to that service area or those service areas in Hidalgo County as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Application No. 36921-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 the City of McAllen 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 Mission

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

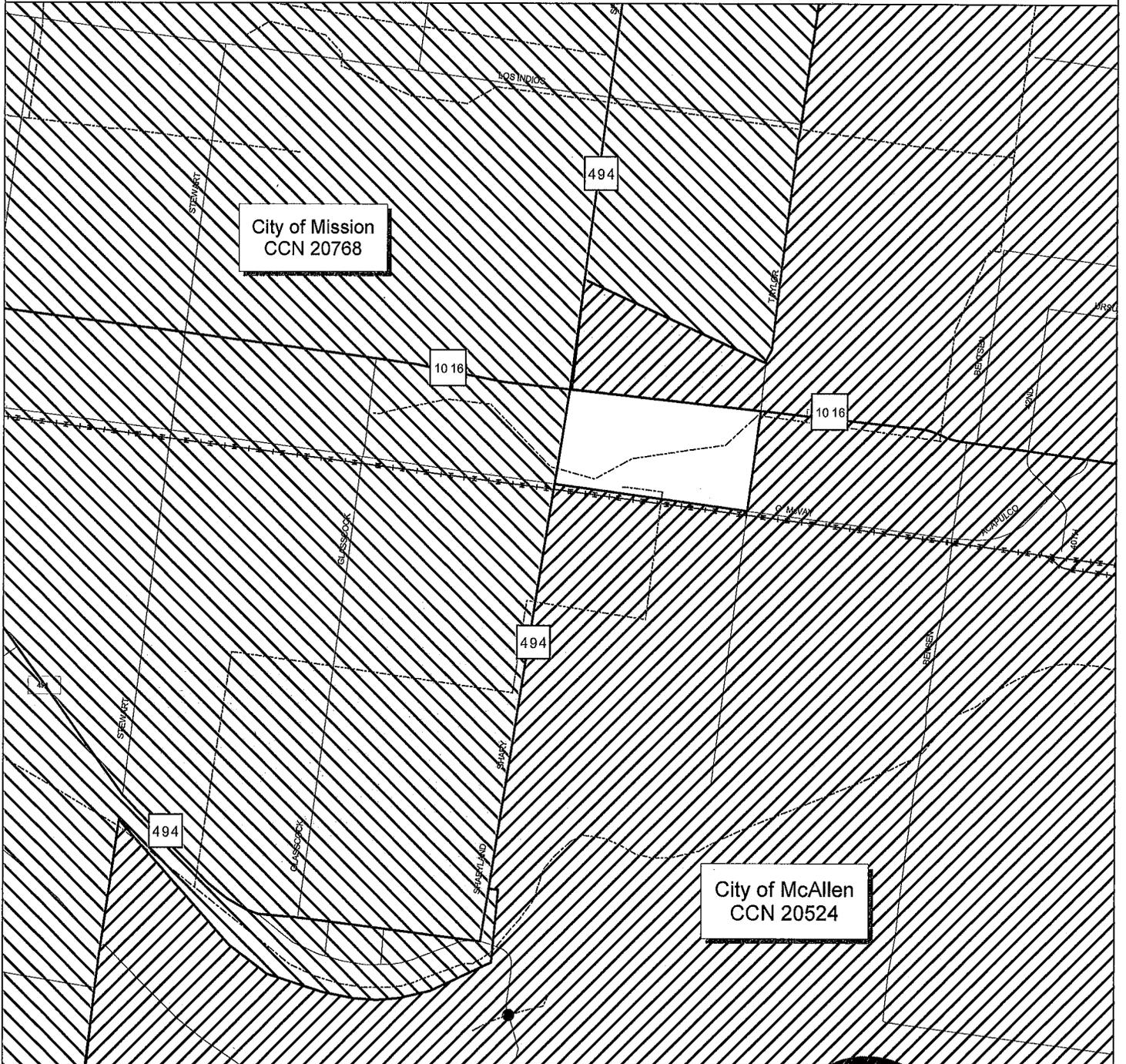
Certificate of Convenience and Necessity No. 20768

to provide continuous and adequate sewer utility service to that service area or those service areas in Hidalgo County as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Application No. 36921-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 the City of Mission 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 McAllen / City of Mission
Portion of Sewer Service Areas
Application No. 36921-C (13.248 Agreement to
Transfer a Portion of City of Mission, CCN No. 20768 to City of McAllen, CCN No. 20524
and to Transfer a Portion of City of McAllen, CCN No. 20524 to City of Mission, CCN No. 20768)
Hidalgo County



Transferred Areas

2000 0 2000 Feet

N

Map by S. Jaster 10/28/2011
Data path: c:\gis\projects\shpsforapplications\36921-c.shp
Project path: c:\gis\projects\applications\36921-c.apr

CONSENT FORM

Applicant's Name: City of McAllen
Application No.: 36921-C

I concur with the map and certificate transmitted by letter dated November 2, 2011.

I do not concur with the map and certificate transmitted by letter dated November 2, 2011 and Intends to respond.

I understand that I have 14 days from the date of this letter to provide my response.

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

Signature: *Carlos Gonzalez*

Printed Name: Carlos Gonzalez

Relationship to Applicant: Assistant Utility Engineer

Date signed: 11-18-2011

RECEIVED

NOV 18 2011

TEXAS COMMISSION
ON
ENVIRONMENTAL QUALITY

Mail or Fax to:
Kamal Adhikari, E.I.T.
Plan and Groundwater Review Section, MC 159
Water Supply Division
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, TX 78711-3087
Fax: (512) 239-6972

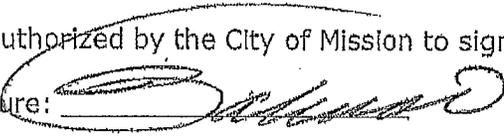
CONSENT FORM

Applicant's Name: City of McAllen
Application No.: 36921-C

- I concur with the recommendation map and certificate transmitted by letter dated November 2, 2011.
- I do not concur with the map and certificate transmitted by letter dated November 2, 2011 and intends to respond.

I understand that I have 14 days from the date of this letter to provide my response.

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

Signature: 

Printed Name: NORBERTO SALINAS

Relationship to Applicant: N/A

Date signed: 11/14/11

RECEIVED
NOV 17 2011
TEXAS COMMISSION
ON
ENVIRONMENTAL QUALITY

Mail or Fax to:
Kamal Adhikari, E.I.T.
Plan and Groundwater Review Section, MC 159
Water Supply Division
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, TX 78711-3087
Fax: (512) 239-6972

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



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

January 6, 2012

Mr. Marco A. Vega, P.E.
Assistant General Manager
City of McAllen
McAllen Public Utility
P.O. Box 220
McAllen, Texas 78505-0220

Mr. Guillermo Seguin
Deputy City Manager
City of Mission
1201 East 8th Street
Mission, Texas 78572

Re: TCEQ Docket No. 2011-0175-UCR; Consideration of a request for a Commission order approving a contract designating service areas between the City of McAllen, Certificate of Convenience and Necessity (CCN) No. 20524, and the City of Mission, CCN No. 20768.

Dear Parties:

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). This Agenda will occur on January 25, 2012, beginning at 9:30 a.m. in Building E, Room 201S, 12100 Park 35 Circle, Austin, Texas. Included with this letter are the Agenda backup materials to be considered by the Commission. **At least one of you will need to attend the Agenda to explain the agreement and to answer any questions the Commissioners may have.**

Persons with disabilities who plan to attend this hearing and who need special accommodations at the Agenda should call the TCEQ Office of Public Assistance at 1-800-687-4040 or 1-800-RELAY-TX (TDD) at least one week prior to the hearing. If you have any questions about this matter, you may contact Kamal Adhikari from the Water Supply Division at 1-512-239-0680 or me at 1-512-239-6743.

Sincerely,

A handwritten signature in black ink, appearing to read "Christiaan Siano", written over a horizontal dashed line.

Christiaan Siano
Staff Attorney, Environmental Law Division

Enclosure
Cc: Mailing List

Mailing List
List of Affected Customers/Landowners

Hidalgo North Properties, Inc.
2105 Remington Avenue
Edinburg, TX 78539-3931

Hunt Valley Industrial, L.P.
1900 Nakard
Dallas, TX 75201

Roman Catholic Diocese
P.O. Box 2279
Brownsville, TX 78522-2279

City of Mission
Attn: City Manager's Office
1201 East 8th Street
Dallas, TX 75201

Ridge CBF McAllen, III, LLC
8430 West Bryn Mawr, Suite 400
Chicago, IL 60631

Luna Arlene
4607 South Bryan Road
Mission, TX 78572

Anzalduas Bridge
819 Taylor Street, Room 12A2
Forth Worth, TX 76102

City of McAllen
Attn: City Manager's Office
P.O. Box 220
McAllen, TX 78505