

COATS | ROSE

TIMOTHY G. GREEN

tgreen@coatsrose.com
Direct Dial
(713) 653-7360
Direct Fax
(713) 890-3924

February 12, 2006

**VIA FACSIMILE 512-239-3311
AND FEDERAL EXPRESS (original + 11 copies)**

Chief Clerk
Texas Commission on Environmental Quality
Attention: Agenda Docket Clerk, Mail Code 105
12100 Park 35 Circle
Austin, Texas 78753

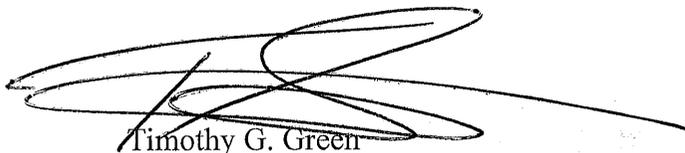
Re: Response by Ellis County Municipal Utility District No. 1 to the Request of the City of Ferris

Docket No. 2006-0391-DIS

Dear Sir/Madam:

Please see the attached Response of Ellis County Municipal Utility District No. 1 to the Request of the City of Ferris.

Sincerely,



Timothy G. Green

Enclosures

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY
2006 FEB 13 AM 9:17
CHIEF CLERK'S OFFICE

COATS | ROSE | YALE | RYMAN | LEE
A Professional Corporation

3 East Greenway Plaza, Suite 2000 Houston, Texas 77046-0307

Phone: 713-651-0111 Fax: 713-651-0220

Web: www.coatsrose.com

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MAILING LIST

TCEQ Docket No. 2006-0391-DIS
Internal Control No. 02212006-D04

Response by Ellis County Municipal Utility District No. 1 to the Request of the City of Ferris

FOR THE PETITIONER:

Timothy G. Green
Lauren M. Gray
Coats Rose Yale Ryman & Lee
3 E. Greenway Plaza, Suite 2000
Houston, Texas 77046-0307

Mac McCoy
810 N. Buckner Blvd
Dallas, Texas 75218

FOR THE HEARING REQUESTER:

Gus H. Pappas, City Manager
City of Ferris
100 Town Plaza
Ferris, Texas 75125
Tel: 972-544-2110

FOR THE EXECUTIVE DIRECTOR:

Todd Galiga, Senior Attorney
Texas Commission on Environmental Quality
Environmental Law Division, MC-173
P.O. Box 13087
Austin, Texas 78711-3087
Tel: 512-239-0600
Fax: 512-239-0606

FOR PUBLIC INTEREST COUNSEL:

Vic McWherter
Texas Commission on Environmental Quality
Public Interest Counsel, MC-103
P.O. Box 13087
Austin, Texas 78711-3087
Tel: 512-239-6363
Fax: 512-239-6377

RESOLUTION:

Todd Burkey, Attorney-Mediator
Texas Commission on Environmental Quality
Alternative Dispute Resolution, MC-222
P.O. Box 13087
Austin, Texas 78711-3087
Tel: 512-239-2941
Fax: 512-239-4015

FOR THE CHIEF CLERK:

Texas Commission on Environmental Quality
Agenda Docket Clerk, Mail Code-105
12100 Park 35 Circle
Austin, Texas 78753

FOR ALTERNATIVE DISPUTE

COATS | ROSE

TIMOTHY G. GREEN

tgreen@coatsrose.com
Direct Dial
(713) 653-7360
Direct Fax
(713) 890-3924

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AND FEDERAL EXPRESS (original + 11 copies)**

Chief Clerk
Texas Commission on Environmental Quality
Mail Code 105
P. O. Box 13087
Austin, Texas 78711-3087

Attn: Agenda Docket Clerk

Re: Response by Ellis County Municipal Utility District No. 1 to the Request of the
City of Ferris Docket No. 2006-0391-DIS

Dear Sir/Madam:

We represent the Petitioner, Mac McCoy (the "Petitioner"), in connection with the Petition requesting the creation of proposed Ellis County Municipal Utility District No. 1 (the "District"). This letter constitutes Petitioner's response to the letter dated March 21, 2006 (the "Request") filed by the City of Ferris ("City") in opposition to the Petition.

Petitioner asserts that this Commission should issue an order granting the application for the creation of the District because the City has failed to comply with Texas Water Code Section 54.016(d). Specifically, the City (i) has not offered any evidence that it has the ability to serve the proposed District with water and sanitary sewer service, and (ii) has failed to make a legally

COATS | ROSE | YALE | RYMAN | LEE
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3 East Greenway Plaza, Suite 2000 Houston, Texas 77046-0307

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binding commitment with sufficient funds available to provide water and sanitary sewer service adequate to serve the proposed development.

Background and Procedural History

By way of a brief background, Petitioner is the owner of a 434.969 acre parcel of land in Ellis County, within which the Petitioner is proposing to create the District. Petitioner submitted a petition to the City, dated June 9, 2003, and an amended petition, dated January 20, 2004 ("Petition"), requesting the City's consent to create the District because the land is located within the extraterritorial jurisdiction of the City. By Resolution No. 482, dated January 20, 2004, the City granted its consent. (Exhibit "1")

On March 20, 2006, the City Council revoked its consent by Resolution No. 0-06-619. (Exhibit "2") In response to the revocation, on or about May 30, 2006, Petitioner submitted a petition to the City for water and sanitary sewer service pursuant to Texas Water Code Section 54.016(b) and (c) and Texas Local Government Code Section 42.043. (Exhibit "3") The City responded to such petition by adopting Resolution No. R-06-22, dated June 3, 2006, again denying Petitioner's request to create the District. (Exhibit "4") By letter dated August 29, 2006, the City again reiterated its denial of Petitioner's request. (Exhibit "5")

Based on the City's failure and refusal to consent to the creation of the District, and based on the City's failure and refusal to execute a mutually agreeable contract providing for water and sanitary service within 120 days after receipt of the petition by the City (see Texas Water Code Sections 54.016(c) and (d)), Petitioner accordingly petitioned the Commission for the creation of the District. Such 120 day time period has expired.

The Commission's staff has informed Petitioner that the Petition meets the technical requirements of the Texas Water Code and Texas Administrative Code authorizing the creation of the District.

The Commission Should Grant The Application For The Creation Of The Proposed District: The City Has Not Offered any Evidence Demonstrating Its Ability To Serve The District With Water and Sewer Service And The City Has Failed To Make A Legally Binding Commitment With Petitioner To Provide Water and Sewer Service

Texas Water Code Section 54.016(d) provides:

* * *

The commission **shall** allow creation or inclusion of the land in a proposed district upon a finding that the city either does not have the reasonable ability to serve or has failed to make a legally binding commitment with sufficient funds available to provide water and wastewater service adequate to serve the proposed development at a reasonable cost to the landowner. The commitment shall provide that construction of the facilities necessary to serve the land shall be commenced within two years, and shall be substantially complete within four and one-half years from the date the petition was filed with the city.

* * *

The record before the Commission demonstrates that the City has failed to comply with Section 54.016(d) because it has offered no evidence to show that it has the ability to serve the proposed District with water and sanitary sewer service. Moreover, the City has failed to comply with Section 54.016(d) because it has failed to make a “legally binding commitment” to provide service to the development to be located within the proposed District.

Compounding the City’s failure of proof is the fact that, even if the City had made a legally binding commitment with sufficient funds, the City has failed to construct “facilities necessary to serve [the proposed District] within two years . . . [and] substantially complete within four and one-half years from the date the [p]etition was filed with the [City]”. The original petition was filed with the City on May 30, 2003. It is almost four (4) years since that petition was filed and yet the City has not commenced, let alone completed, construction of any water and wastewater facilities to serve the proposed District.

Under similar circumstances, the Commission previously granted the application to create a municipal utility district where a town failed to produce any evidence to satisfy the statutory requirements of Section 54.016(d). (See Order creating Denton County Municipal Utility District No. 1.) (Exhibit "6") In the absence of any evidence produced by the town, the Commission concluded that the town either did not have the reasonable ability to serve the district or failed to make a legally binding commitment with sufficient funds available to provide water and wastewater service. (See Order, p. 3, para. 8) Further, based on the city's failure to meet its burden under Section 54.016(d), the Commission did not refer the case to a hearing examiner. Rather, the Commission issued an order authorizing the creation of the district.

In this case, Petitioner urges the Commission to make the same findings and to issue an order authorizing the creation of the District.

Conclusion

Based on the City's failure to comply with Section 54.016(d), and based on Petitioner's compliance with the Texas Water Code and Administrative Code authorizing the creation of the District, Petitioner respectfully requests that the Commission issue an order authorizing the creation of the District.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Timothy G. Green", is written over the typed name. The signature is stylized and somewhat messy, with a long horizontal line extending to the right.

Timothy G. Green

ORDINANCE NO. 482

ORDINANCE OF CITY OF FERRIS, TEXAS
EXPANDING THE CITY'S EXTRATERRITORIAL JURISDICTION
AND GIVING CONSENT TO THE CREATION OF
A MUNICIPAL UTILITY DISTRICT

WHEREAS, Pursuant to Chapters 49 and 54 of the Texas Water Code, Mac McCoy (the "Petitioner") wishes to create Ellis County Municipal Utility District No. 1 (the "District") to serve the 448.389 acres of land in Ellis County, Texas described in the attached Exhibit "I" ("Petitioner's Land"); and

WHEREAS, pursuant to Texas Local Government Code, Section 212.172, the City of Ferris, Texas (the "City") and Petitioner entered into a Development Agreement dated January 19, 2004 (the "Agreement"), which provided that Petitioner agreed to Petition the City for the expansion of the City's Extraterritorial Jurisdiction ("ETJ") to encompass all of Petitioner's Land in exchange for, among other things, the City's consent to the creation of the District; and

WHEREAS, Texas Local Government Code, Section 42.022(b), provides that an owner of land may request that a municipality expand its extraterritorial jurisdiction to include such land; and

WHEREAS, Texas Local Government Code, Section 42.042, provides that land within the extraterritorial jurisdiction of a city may not be included within a municipal utility district without the written consent of such city, town, or village; and

WHEREAS, Petitioner has requested that the City expand its ETJ to encompass Petitioner's Land; and

WHEREAS, Petitioner has submitted to the Mayor and City Council of the City of Ferris, Texas, a Petition for Consent to Creation of Ellis County Municipal Utility District No. 1 (the "District"); and

WHEREAS, the general nature of the work to be done in the District is the construction, acquisition, maintenance and operation of a waterworks, wastewater and drainage system; and

WHEREAS, the City Council of the City of Ferris desires to adopt Ordinance No. 482 for the purpose of consenting to the creation of the District; Now Therefore,

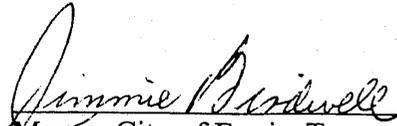
BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FERRIS, TEXAS:

1. That all of the matters and facts set out in the preamble hereof be true and correct.
2. That the City Council of the City of Ferris, Texas, hereby expands its ETJ to encompass Petitioner's Land.

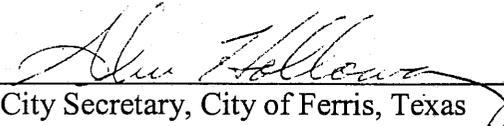
3. That the City Council of the City of Ferris, Texas, hereby specifically gives its written consent, as provided by Texas Local Government Code, Section 42.042 and Texas Water Code, Section 54.016, to the creation of Ellis County Municipal Utility District No. 1, all of which is within the extraterritorial jurisdiction of the City of Ferris, the boundaries of such land being described by metes and bounds in Exhibit "I" attached hereto and made a part hereof for all purposes.

4. That the City Council of the City of Ferris Texas hereby specifically imposes the conditions set forth in Exhibit "II" attached hereto and made a part hereof for all purposes.

PASSED AND APPROVED on this 20th day of January, 2004.


Mayor, City of Ferris, Texas

ATTEST:

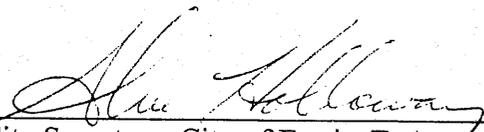

City Secretary, City of Ferris, Texas

CERTIFICATE OF ORDINANCE NO. 482

CITY OF FERRIS, TEXAS

I, the undersigned City Secretary of the City of Ferris, Texas, hereby certify that the attached and foregoing is a true and correct copy of Ordinance No. 482 Ordinance of City of Ferris, Texas, Order Giving Consent to the Creation of a Municipal Utility District. I further certify that said Ordinance was passed and approved by the City Council of the City of Ferris, Texas on January 20, 2004.

WITNESS MY HAND AND SEAL OF THE CITY OF FERRIS, TEXAS, the 20th day of January, 2004.


City Secretary, City of Ferris, Texas

(SEAL)

EXHIBIT "I"

ELLIS COUNTY MUNICIPAL UTILITY DISTRICT – 448.389 Acres

All that certain lot, tract or parcel of land situated in Ellis County, Texas, and being part of the John W. Baker Abstract 35, and the Mason Phelps Survey Abstract 824, and being all of the 45.9 acre tract conveyed to Fred M. Shaw by deed recorded in Volume 466 Page 108, all of the 10.6 acre tract of land conveyed to Fred M. Shaw by deed recorded in Volume 390, Page 213, and part of the following tracts conveyed to Fred M. Shaw; the 79.75 acre tract in deed recorded in Volume 466, Page 108, the 80.4 acre and 69 acre tract recorded in Volume 344, Page 572, the 160.04 acre tract recorded in Volume 390, Page 263, and the 1.52 acre and 4.52 acre tracts recorded in Volume 438, Page 396 of the Deed Records of Ellis County, and being more particularly described as follows:

BEGINNING at a point for corner at an iron rod found at the intersection of the southerly line of FM 664 and the southwesterly line of said 79.75 acre tract said point being South 54 degrees 49 minutes 05 seconds East a distance of 110.16 feet from the northwesterly corner of said 79.75 acre tract and also being in the easterly line of that 74 acre tract of land conveyed to Logan B. Cox, Jr. by deed recorded in Volume 508, Page 952 of the Deed Records of Ellis County;

THENCE North 60 degrees 01 minutes 30 seconds East along the southerly line of FM 664 a distance of 669.07 feet to an angle point at a highway monument;

THENCE North 59 degrees 55 minutes 50 seconds East continuing along the southerly line of FM 664 a distance of 499.75 feet to an angle point at a highway monument;

THENCE North 60 degrees 05 minutes 35 seconds East continuing along the southerly line of FM 664 a distance of 450.59 feet to an angle point at a highway monument;

THENCE North 61 degrees 06 minutes 35 seconds East continuing along the southerly line of FM 664 a distance of 1168.57 feet to the beginning of a curve to the right;

THENCE in an easterly direction continuing along the southerly line of FM 664 and along said curve to the right having a radius of 1849.86 feet, a central angle of 00 degrees 50 minutes 24 seconds, and an arc length of 27.21 feet to a point for corner at an iron rod set in the easterly line of said 79.75 acre tract;

THENCE South 27 degrees 16 minutes 40 seconds East along the easterly line of said 79.75 acre tract a distance of 1347.75 feet to a point for corner at an iron rod set;

THENCE South 61 degrees 07 minutes 30 seconds West along the southerly line of said tract a distance of 58.34 feet to a point for corner in the center of a ditch;

THENCE South 28 degrees 30 minutes 10 seconds East along the center of said ditch and the easterly line of said 45.9 acre tract a distance of 1,091.36 feet to a point for corner at an iron rod set;

THENCE North 60 degrees 02 minutes 45 seconds East along the northerly line of said 80.4 acre tract a distance of 682.53 feet to an angle point at an iron pipe found;
THENCE South 89 degrees 13 minutes 30 seconds East continuing along the northerly line of said 80.4 acre tract a distance of 876.81 feet to a point for corner at an iron rod set in the center line of a creek;

THENCE in a southerly direction along the meanders of said creek the following calls:

South 01 degrees 11 minutes 30 seconds East a distance of 224.29 feet,
North 85 degrees 37 minutes 35 seconds West a distance of 63.46 feet,
South 01 degrees 45 minutes 30 seconds West a distance of 152.23 feet,
South 44 degrees 42 minutes 10 seconds East a distance of 119.7 feet,
South 37 degrees 27 minutes 10 seconds West a distance of 112.17 feet,
South 46 degrees 42 minutes 30 seconds East a distance of 109.35 feet,
South 22 degrees 09 minutes 50 seconds West a distance of 223.42 feet,
South 87 degrees 58 minutes 35 seconds East a distance of 83.12 feet,
South 07 degrees 39 minutes 30 seconds West a distance of 75.62 feet,
South 46 degrees 54 minutes 10 seconds East a distance of 52.78 feet,
South 05 degrees 56 minutes 20 seconds West a distance of 83.24 feet,
South 33 degrees 42 minutes East a distance of 366.94 feet,
South 48 degrees 18 minutes 40 seconds East a distance of 175.86 feet
South 02 degrees 23 minutes 20 seconds West a distance of 324.45 feet,
South 26 degrees 36 minutes 40 seconds East a distance of 60.00 feet,
South 08 degrees 57 minutes 05 seconds East a distance of 448.46 feet
To a point for corner in the center line of another creek;

THENCE in a southeasterly direction along the meanders of said creek the following calls:

South 63 degrees 20 minutes 45 seconds East a distance of 375.58 feet,
South 70 degrees 45 minutes 45 seconds East a distance of 393.92 feet to a point for corner in the northerly line of FM 983;

THENCE South 39 degrees 20 minutes 10 seconds West along the northerly line of FM 983 a distance of 78.87 feet to the beginning of a curve to the right;

THENCE in a westerly direction continuing along the northerly line of FM 983 and along said curve to the right having a radius of 909.93 feet, a central angle of 21 degrees 00 minutes, and an arc length of 333.51 feet to the end of said curve to the right;

THENCE South 60 degrees 20 minutes 10 seconds West continuing along the northerly Line of FM983 a distance of 121.4 feet to an angle point;

THENCE South 48 degrees 53 minutes 35 seconds West continuing along the northerly line of FM 983 a distance of 25.2 feet to an angle point;

THENCE South 60 degrees 20 minutes 10 seconds West continuing along the northerly line of FM 983 a distance of 650.5 feet to the beginning of a curve to the left;

THENCE in a westerly direction continuing along the northerly line of FM 983 and along said curve to the left having a radius of 1949.86 feet, a central angle of 02 degrees 11 minutes 37 seconds, and an arc length of 74.65 feet to a point for corner at an iron rod set;

THENCE North 15 degrees 36 minutes 15 seconds West a distance of 593.06 feet to a point for corner at an iron rod set;

THENCE South 54 degrees 41 minutes 15 seconds West a distance of 235.06 feet to a point for corner at an iron rod set;

THENCE South 15 degrees 36 minutes 15 seconds East a distance of 593.08 feet to a point for corner at an iron rod set in the northerly line of FM 983;

THENCE in a westerly direction along the northerly line of FM 983 and along a curve to the left having a radius of 1949.86 feet, a central angle of 11 degrees 28 minutes 23 seconds, and an arc length of 390.44 feet to the end of said curve to the left;

THENCE South 39 degrees 45 minutes 30 seconds West continuing along the northerly line of FM 983 a distance of 734.13 feet to the beginning of a curve to the right;

THENCE in a westerly direction continuing along the northerly line of FM 983 and along said curve to the right having a radius of 437.46 feet, a central angle of 50 degrees 54 minutes 50 seconds, and arc length of 388.73 feet to the end of said curve to the right;

THENCE North 89 degrees 19 minutes 40 seconds West continuing along the northerly line of FM 983 a distance of 1697.73 feet to the beginning of a curve to the left;

THENCE in a westerly direction continuing along the northerly line of FM 983 and along said curve to the left having a radius of 421.97 feet, a central angle of 15 degrees 08 minutes 47 seconds, and an arc length of 111.55 feet to a point for corner at an iron rod set;

THENCE North 29 degrees 45 minutes 35 seconds West along the westerly line of said 160.04 and 10.6 acre tracts and the easterly line of that 122.75 acre tract of land conveyed to M.A. Keeling by deed recorded Volume 321, Page 422 of the Deed Records of Ellis County, a distance of 2235.66 feet to a point for corner at an iron rod found;

THENCE North 36 degrees 50 minutes 45 seconds East along the northerly line of said 160.04 and 10.6 acre tracts and the southerly line of the 74 and 9.1 acre tracts of land conveyed to Logan B. Cox, Jr. by deed recorded in Volume 508, page 952 of the Deed Records of Ellis County a distance of 1706.33 feet to a point for corner at an iron rod found;

THENCE North 54 degrees 49 minutes 05 seconds West along the common line between said 9.1 acre tract and 45.9 acre tract a distance of 569.4 feet to an angle point;

THENCE North 54 degrees 11 minutes 30 seconds West along the southwesterly line of said 79.75 acre tract a distance of 816.24 feet to an angle point;

THENCE North 54 degrees 49 minutes 05 seconds West continuing along said southwesterly line and the northeasterly line of said Cox 74 acre tract a distance of 642.64 a feet to the PLACE OF BEGINNING and containing 450.296 acres.

SAVE & EXCEPT : (LAND WITHIN CITY OF RED OAK E.T.J.)

BEGINNING at a point for corner at an iron rod found at the intersection of the southerly line of FM 664 and the southwesterly line of said 79.75 acre tract said point being South 54 degrees 49 minutes 05 seconds East a distance of 110.16 feet from the northwesterly corner of said 79.75 acre tract and also being in the easterly line of that 74 acre tract of land conveyed to Logan B. Cox, Jr. by deed recorded in Volume 508, Page 952 of the Deed Records of Ellis County;

THENCE North 60 degrees 01 minutes 30 seconds East along the southerly line of FM 664 a distance of 415.62 feet to a point for a corner;

THENCE South 0 degrees 0 minutes 0 seconds East departing said FM 664 right-of-way, a distance of 461.46 feet to the southerly line of the 74 and 9.1 acre tracts of land conveyed to Logan B. Cox, Jr. by deed recorded in Volume 508, page 952 of the Deed Records of Ellis County a distance of 1706.33 feet to a point for corner;

THENCE North 54 degrees 49 minutes 05 seconds West continuing along said southwesterly line and the northeasterly line of said Cox 74 acre tract a distance of 440.50 a feet to the PLACE OF BEGINNING and containing 1.907 acres.

EXHIBIT "II"

**CONDITIONS OF CITY OF FERRIS, TEXAS
TO THE CONSENT TO CREATION OF
ELLIS COUNTY MUNICIPAL UTILITY DISTRICT NO. 1**

(a) The District will issue bonds or other obligations of the District only for the purposes of:

- (1) purchasing and constructing, or purchasing or constructing under contract with the City of Ferris, or otherwise acquiring waterworks systems, sanitary sewer systems, storm sewer systems, and drainage facilities, or parts of or capacity in such systems or facilities;
- (2) purchasing, constructing, or acquiring macadamized, graveled, or paved roads, or in aid thereof;
- (3) making any and all necessary purchases, construction, improvements, extensions, additions, and repairs to such systems, facilities, and roads;
- (4) purchasing or acquiring all necessary land, right-of-way, easements, sites, equipment, buildings, plants, structures, and facilities for such systems, facilities, and roads; and
- (5) creating, operating and maintaining the District and such systems, facilities, and roads.

Such bonds will expressly provide that: the District reserves the right to redeem the bonds on any date subsequent to the tenth (10th) anniversary of the date of issuance without premium; the bonds, other than refunding bonds, will be sold only after the taking of public bids therefor; none of such bonds, other than refunding bonds, will be sold for less than 95% of par provided that the net effective interest rate on bonds so sold, taking into account any discount or premium as well as the interest rate borne by such bonds, will not exceed two percent (2%) above the highest average interest rate reported by the Daily Bond Buyer in its weekly "20 Bond Index" during the one-month period next preceding the date notice of the sale of such bonds is given; and, bids for the bonds will be received not more than forty-five (45) days after notice of sale of the bonds is given. The resolution authorizing the issuance of the District's bonds will contain a provision that any pledge of the revenues from the operation of the District's water and sewer and/or drainage system to the payment of the District's bonds will terminate when and if the City of Ferris, Texas annexes the District, takes over the assets of the District, and assumes all of the obligations of the District.

(b) The District must construct all facilities in accordance with plans and specifications which have been approved by the City of Ferris.

(c) The City of Ferris shall have the right to inspect all facilities being constructed by the District.

(d) The City of Ferris shall be entitled to injunctive relief or a writ of mandamus issued by a court of competent jurisdiction restraining, compelling, or requiring the District and its officials to observe and comply with the terms and provisions prescribed by this Ordinance.

THE CITY OF FERRIS

ORDINANCE NO. O-06-619

AN ORDINANCE OF THE CITY OF FERRIS, TEXAS; AMENDING THE CITY OF FERRIS CODE OF ORDINANCES, BY REPEALING ORDINANCE NO. 482, AND FURTHER REPEALING RESOLUTION NO. 01/20/04 IN THEIR ENTIRETY. PROVIDING FOR A REPEALING CLAUSE; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR A SAVINGS CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, The City Council of the City of Ferris initially responded to the request of land developers on this subject property who wanted to develop the property for residential use but had no reasonable means of acquiring water for sewer services for that development without large off-site infrastructure cost; and,

WHEREAS, The City granted the requested ordinance so that the subject developers could pursue the creation of a Municipal Utility District to assist in defraying those costs to the subsequent property owners; and,

WHEREAS, The City of Ferris experienced significant changes in its political and managerial hierarchy which led to the development of City created utility improvement districts to serve the area in question; and,

WHEREAS, The developers participated in discussions with the City concerning the creation, location, boundaries, services to be provided, estimated fees, and timing for the project; and,

WHEREAS, Those conversations between the City of Ferris and the subject's developers led the City to believe that the developers were satisfied with this new local proposal and that it met their financial requirements for minimizing the off-site infrastructure cost associated with the development and therefore no longer proceeding with their attempts to create a Municipal Utility District; and,

WHEREAS, The attempt by the developers by the Developers to create a municipal utility district through the legislative mode failed; and,

WHEREAS, The City recently received notification from the Texas Commission on Environmental Quality that in fact, the Developer continues to seek the creation of a Municipal Utility District; and,

WHEREAS, The City of Ferris sees no alternative but to officially rescind all documents which may lead anyone to assume that the City of Ferris supports the creation of said Municipal Utility District for its creation would undermine the financial solvency of the City created utility improvement district as they evolve to serve the same problem without the creation of another layer of local government; Now therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FERRIS, TEXAS:

Section 1. That Ordinance No. 482, and Resolution No. 01/20/04 are hereby repealed in their entirety.

Section 2. All provisions of the ordinances of the City of Ferris in conflict with the provisions of this ordinance be, and the same or hereby, repealed, and all other provisions of the ordinances of the City of Ferris not in conflict with the provisions of this ordinance shall remain in full force and affect.

Section 3. That should any sentence, paragraph, subdivision, clause, phrase or section of this ordinance be adjudged or held to be unconstitutional, illegal or invalid, the same shall not affect the validity of this ordinance as a whole, or any part or provision thereof other than the part so decided to be invalid, illegal or unconstitutional, and shall not affect the validity of the Code of Ordinances as a whole.

Section 4. That this ordinance shall take effect immediately from and after its passage and publication of the caption of said ordinance as the law in such case provides.

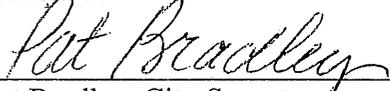
DULY PASSED AND APPROVED by the City Council of the City of Ferris, Texas this 20 th day of March, 200.

APPROVED:



Scott T. Born, Mayor

ATTEST:



Pat Bradley, City Secretary

APPROVED AS TO FORM:

David Dodd, City Attorney

**PETITION FOR WATER
AND SANITARY SEWER SERVICE**

THE STATE OF TEXAS §
 §
COUNTY OF ELLIS §

TO THE HONORABLE MAYOR AND CITY COUNCIL OF THE CITY OF FERRIS, TEXAS:

The undersigned Mac McCoy (“Petitioner”), acting pursuant to Section 54.016, Texas Water Code, as amended, and Section 42.042, Texas Local Government Code, as amended, respectfully petitions this Honorable Mayor and City Council of the City of Ferris, Texas (the “City”) for water and sanitary sewer service to serve the land described below and located within the City’s extraterritorial jurisdiction.

I.

Petitioner submitted to the City, a Petition for Consent to Creation of Ellis County Municipal Utility District No. 1, dated June 9, 2003, and an Amended Petition for Consent to Creation of Ellis County Municipal Utility District No. 1, dated January 20, 2004 (the “Amended Petition”), requesting the City’s consent to the creation of Ellis County Municipal Utility District No. 1 (the “District”) encompassing 448.389 acres of land.

II.

The City has granted its consent by Resolution No. 482 and has claimed to have withdrawn such consent by Resolution No. O-06-619. Nothing herein shall be taken to represent that Petitioner agrees with the ability of the City to withdraw its consent to the creation of the District.

III.

Inasmuch as the City now alleges to have withdrawn its consent to the creation of the District, Petitioner requests that the City make water and sanitary sewer service available to the Land referenced in Exhibit "A" and as also depicted in Exhibit "B" attached hereto.

IV.

There are no qualified voters residing on the Land.

V.

Petitioner hereby petitions the Honorable Mayor and City Council of the City and requests that the City make available to the Land the water and sanitary sewer service contemplated to be provided by the District by entering into a mutually agreeable contract with the undersigned to provide for the requested water and sanitary sewer service as provided under Section 54.016(b) and (c), Texas Water Code, as amended, and Section 42.042(b) and (c), Texas Local Government Code, as amended.

RESPECTFULLY SUBMITTED this 7th day of June, 2006.

“Petitioner”

Petitioner owns approximately
434.969 acres of the Land
described in Exhibit “A”.

Mac McCoy
Mac McCoy

Executed on May 30, 2006.

EXHIBIT "A"

DESCRIPTION OF THE AREA TO BE SERVICED

EXHIBIT "A"

ELLIS COUNTY MUNICIPAL UTILITY DISTRICT – 437.876 Acres

All that certain lot, tract or parcel of land situated in Ellis County, Texas, and being part of the John W. Baker Abstract 35, and the Mason Phelps Survey Abstract 824, and being all of the 45.9 acre tract conveyed to Fred M. Shaw by deed recorded in Volume 466 Page 108, all of the 10.6 acre tract of land conveyed to Fred M. Shaw by deed recorded in Volume 390, Page 213, and part of the following tracts conveyed to Fred M. Shaw; the 79.75 acre tract in deed recorded in Volume 466, Page 108, the 80.4 acre and 69 acre tract recorded in Volume 344, Page 572, the 160.04 acre tract recorded in Volume 390, Page 263, and the 1.52 acre and 4.52 acre tracts recorded in Volume 438, Page 396 of the Deed Records of Ellis County, and being more particularly described as follows:

BEGINNING at a point for corner at an iron rod found at the intersection of the southerly line of FM 664 and the southwesterly line of said 79.75 acre tract said point being South 54 degrees 49 minutes 05 seconds East a distance of 110.16 feet from the northwesterly corner of said 79.75 acre tract and also being in the easterly line of that 74 acre tract of land conveyed to Logan B. Cox, Jr. by deed recorded in Volume 508, Page 952 of the Deed Records of Ellis County;

THENCE North 60 degrees 01 minutes 30 seconds East along the southerly line of FM 664 a distance of 669.07 feet to an angle point at a highway monument;

THENCE North 59 degrees 55 minutes 50 seconds East continuing along the southerly line of FM 664 a distance of 499.75 feet to an angle point at a highway monument;

THENCE North 60 degrees 05 minutes 35 seconds East continuing along the southerly line of FM 664 a distance of 450.59 feet to an angle point at a highway monument;

THENCE North 61 degrees 06 minutes 35 seconds East continuing along the southerly line of FM 664 a distance of 1168.57 feet to the beginning of a curve to the right;

THENCE in an easterly direction continuing along the southerly line of FM 664 and along said curve to the right having a radius of 1849.86 feet, a central angle of 00 degrees 50 minutes 24 seconds, and an arc length of 27.21 feet to a point for corner at an iron rod set in the easterly line of said 79.75 acre tract;

THENCE South 27 degrees 16 minutes 40 seconds East along the easterly line of said 79.75 acre tract a distance of 1347.75 feet to a point for corner at an iron rod set;

THENCE South 61 degrees 07 minutes 30 seconds West along the southerly line of said tract a distance of 58.34 feet to a point for corner in the center of a ditch;

THENCE South 28 degrees 30 minutes 10 seconds East along the center of said ditch and the easterly line of said 45.9 acre tract a distance of 1,091.36 feet to a point for corner at an iron rod set;

THENCE North 60 degrees 02 minutes 45 seconds East along the northerly line of said 80.4 acre tract a distance of 682.53 feet to an angle point at an iron pipe found;

THENCE South 89 degrees 13 minutes 30 seconds East continuing along the northerly line of said 80.4 acre tract a distance of 876.81 feet to a point for corner at an iron rod set in the center line of a creek;

THENCE in a southerly direction along the meanders of said creek the following calls:

South 01 degrees 11 minutes 30 seconds East a distance of 224.29 feet,
North 85 degrees 37 minutes 35 seconds West a distance of 63.46 feet,
South 01 degrees 45 minutes 30 seconds West a distance of 152.23 feet,
South 44 degrees 42 minutes 10 seconds East a distance of 119.7 feet,
South 37 degrees 27 minutes 10 seconds West a distance of 112.17 feet,
South 46 degrees 42 minutes 30 seconds East a distance of 109.35 feet,
South 22 degrees 09 minutes 50 seconds West a distance of 223.42 feet,
South 87 degrees 58 minutes 35 seconds East a distance of 83.12 feet,
South 07 degrees 39 minutes 30 seconds West a distance of 75.62 feet,
South 46 degrees 54 minutes 10 seconds East a distance of 52.78 feet,
South 05 degrees 56 minutes 20 seconds West a distance of 83.24 feet,
South 33 degrees 42 minutes East a distance of 366.94 feet,
South 48 degrees 18 minutes 40 seconds East a distance of 175.86 feet
South 02 degrees 23 minutes 20 seconds West a distance of 324.45 feet,
South 26 degrees 36 minutes 40 seconds East a distance of 60.00 feet,
South 08 degrees 57 minutes 05 seconds East a distance of 448.46 feet
To a point for corner in the center line of another creek;

THENCE in a southeasterly direction along the meanders of said creek the following calls:

South 63 degrees 20 minutes 45 seconds East a distance of 375.58 feet,
South 70 degrees 45 minutes 45 seconds East a distance of 393.92 feet to a point for corner in the northerly line of FM 983;

THENCE South 39 degrees 20 minutes 10 seconds West along the northerly line of FM 983 a distance of 78.87 feet to the beginning of a curve to the right;

THENCE in a westerly direction continuing along the northerly line of FM 983 and along said curve to the right having a radius of 909.93 feet, a central angle of 21 degrees 00 minutes, and an arc length of 333.51 feet to the end of said curve to the right;

THENCE South 60 degrees 20 minutes 10 seconds West continuing along the northerly line of FM983 a distance of 121.40 feet to an angle point;

THENCE South 48 degrees 53 minutes 35 seconds West continuing along the northerly line of FM 983 a distance of 25.20 feet to an angle point;

THENCE South 60 degrees 20 minutes 10 seconds West continuing along the northerly line of FM 983 a distance of 650.50 feet to the beginning of a curve to the left;

THENCE in a westerly direction continuing along the northerly line of FM 983 and along said curve to the left having a radius of 1949.86 feet, a central angle of 02 degrees 11 minutes 37 seconds, and an arc length of 74.65 feet to a point for corner at an iron rod set;

THENCE North 15 degrees 36 minutes 15 seconds West a distance of 593.06 feet to a point for corner at an iron rod set;

THENCE South 54 degrees 41 minutes 15 seconds West a distance of 235.06 feet to a point for corner at an iron rod set;

THENCE South 15 degrees 36 minutes 15 seconds East a distance of 593.08 feet to a point for corner at an iron rod set in the northerly line of FM 983;

THENCE in a southeasterly direction along the northerly line of FM 983 and along a curve to the left having a radius of 1949.86 feet, a central angle of 11 degrees 28 minutes 23 seconds, and an arc length of 390.45 feet to the end of said curve to the left;

THENCE South 39 degrees 45 minutes 30 seconds West continuing along the northerly line of FM 983 a distance of 734.13 feet to the beginning of a curve to the right;

THENCE in a westerly direction continuing along the northerly line of FM 983 and along said curve to the right having a radius of 437.46 feet, a central angle of 50 degrees 54 minutes 50 seconds, and arc length of 388.73 feet to the end of said curve to the right;

THENCE North 89 degrees 19 minutes 40 seconds West continuing along the northerly line of FM 983 a distance of 1697.73 feet to the beginning of a curve to the left;

THENCE in a westerly direction continuing along the northerly line of FM 983 and along said curve to the left having a radius of 421.97 feet, a central angle of 15 degrees 08 minutes 47 seconds, and an arc length of 111.55 feet to a point for corner at an iron rod set;

THENCE North 29 degrees 45 minutes 35 seconds West along the westerly line of said 160.04 and 10.6 acre tracts and the easterly line of that 122.75 acre tract of land conveyed to M.A. Keeling by deed recorded Volume 321, Page 422 of the Deed Records of Ellis County, a distance of 2235.66 feet to a point for corner at an iron rod found;

THENCE North 36 degrees 50 minutes 45 seconds East along the northerly line of said 160.04 and 10.6 acre tracts and the southerly line of the 74 and 9.1 acre tracts of land conveyed to Logan B. Cox, Jr. by deed recorded in Volume 508, page 952 of the Deed Records of Ellis County a distance of 1706.33 feet to a point for corner at an iron rod found;

THENCE North 54 degrees 49 minutes 05 seconds West along the common line between said 9.1 acre tract and 45.9 acre tract a distance of 569.4 feet to an angle point;

THENCE North 53 degrees 10 minutes 32 seconds West along the southwesterly line of said 79.75 acre tract a distance of 1671.69 feet to an angle point;

THENCE North 54 degrees 49 minutes 05 seconds West continuing along said southwesterly line and the northeasterly line of said Cox 74 acre tract a distance of 600.00 a feet to the **PLACE OF BEGINNING** and containing 437.876 acres.

This description was copied from a Quitclaim Deed to M.C. McCoy recorded in Volume 854, Page 0037 of the Deed Records of Dallas County, Texas. **This was not surveyed on the ground and the Surveyor makes no guaranties as to the accuracy of the description.**

SAVE & EXCEPT: (LAND WITHIN CITY OF RED OAK E.T.J.)

BEGINNING at a point for a corner at an iron rod found at the intersection of the southerly line of FM 664 and the southwesterly line of said 79.75 acre tract, said point being South 54 degrees 49 minutes 05 seconds East a distance of 110.16 feet from the northwesterly corner of said 79.75 acre tract and also being in the easterly line of that 74 acre tract of land conveyed to Logan B. Cox, Jr. by deed recorded in Volume 508, Page 952 of the Deed Records of Ellis County;

THENCE North 60 degrees 01 minutes 30 seconds East along the southerly line of FM 664 a distance of 415.62 feet to a point for a corner;

THENCE South 0 degrees 0 minutes 0 seconds East departing said FM 664 right-of-way, A distance of 461.46 feet to the southerly line of the 74 and 9.1 acre tract of land conveyed to Logan B. Cox, Jr. by deed recorded in Volume 508, Page 952 of the Deed Records of Ellis County;

THENCE North 54 degrees 49 minutes 05 seconds West continuing along said southwesterly line and the northeasterly line of said Cox 74 acre tract a distance of 440.50 feet to the **PLACE OF BEGINNING** and containing 1.907 acres.

This description was copied from a Quitclaim Deed to M.C. McCoy recorded in Volume 854, Page 0037 of the Deed Records of Ellis County, Texas. **This was not surveyed on the ground and the Surveyor makes no guaranties as to the accuracy of the description.**

Surveyors Certification

I, **Brian J. Maddox**, Registered Professional Land Surveyor Number 5430, State of Texas, do hereby certify to that this description and the sketch attached hereto was prepared from the public records. **However, there was no survey made on the ground and the Surveyor makes no guaranties as to the accuracy of the description.**

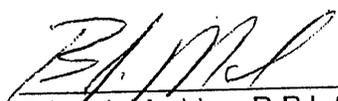
 4-24-06
Brian J. Maddox, R.P.L.S.
April 24, 2006



EXHIBIT "B"

BOUNDARY OF THE AREA TO BE SERVICED

P.O.B.

F.M. 664

SAVE & EXCEPT:
LAND WITHIN CITY
OF RED OAK E.T.J.



19073857 SQUARE FEET
OR 437.876 ACRES OF LAND

F.M. 983

SKETCH SHOWING A 437.876 ACRE TRACT OF
LAND DESCRIBED IN THE QUITCLAIM DEED TO
M. C. McCOY RECORDED IN VOLUME 854, PAGE
37 OF THE DEED RECORDS OF ELLIS COUNTY, TEXAS.

BRIAN J. MADDOX, R.P.L.S. #5430
APRIL 24, 2006

DWG FILE: 06337-HAM4.DWG

CITY OF FERRIS, TEXAS

RESOLUTION NO. R – 06 - 22

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FERRIS, TEXAS; DENYING PERMISSION FOR THE INCLUSION OF LAND IN THE EXTRATERRITORIAL JURISDICTION TO BE INCLUDED IN THE ELLIS COUNTY MUNICIPAL DISTRICT NO. 1; PROVIDING FOR A REPEALING CLAUSE; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR A SAVINGS CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, The City of Ferris, Texas, initially responded to the request of land developers on this subject property who wanted to develop the property for residential use, but had no reasonable means of acquiring water for sewer services for that development without large off-site infrastructure cost; and

WHEREAS, The City of Ferris, Texas, granted the requested ordinance so that the subject developers could pursue the creation of a Municipal Utility District to assist in defraying those costs to the subsequent property owners; and,

WHEREAS, The City of Ferris, Texas, experienced significant changes in its political and managerial hierarchy, which led to the development of City created utility improvement districts to serve the area in question; and,

WHEREAS, The Developers participated in discussions with the City of Ferris, Texas, concerning the creation, location, boundaries, services to be provided, estimated fees, and timing for the project; and,

WHEREAS, Those conversations between the City of Ferris, Texas, and the subject's Developers led the City of Ferris, Texas, to believe that the Developers were satisfied with this new local proposal, and that it met their financial requirements for minimizing the off-site infrastructure cost associated with the development, and therefore no longer proceeding with their attempts to create a Municipal Utility District; and,

WHEREAS, The attempt by the developers to create a Municipal Utility District through the legislative mode failed; and,

WHEREAS, The City of Ferris, Texas, recently received notification from the Texas Commission on Environmental Quality that in fact, the Developer continues to seek the creation of a Municipal Utility District; and,

WHEREAS, The City of Ferris, Texas, has repealed Ordinance No. 482 and Resolution No. 01-20-04 by the action of Ordinance No. O-06-619; and,

WHEREAS, The City of Ferris, Texas, can provide water and sanitary sewer services to the property in question at the current level of need;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FERRIS, TEXAS:

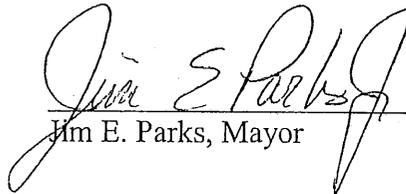
Section 1. That the Petition for the property described in Exhibit 1 of this Resolution to be included in Ellis County Municipal Water District No. 1, be denied.

Section 2. That all provisions of any resolution of the City Council of the City of Ferris, Texas, in conflict with the provisions of this resolution be, and the same are hereby, repealed, and all other provisions not in conflict with the provisions of this resolution shall remain in full force and effect.

Section 3. That this resolution shall take effect immediately from and after its passage.

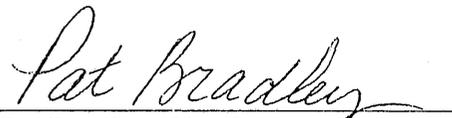
DULY PASSED AND APPROVED, by the City Council of the City of Ferris, Texas, this 3rd day of June 2006.

APPROVED:



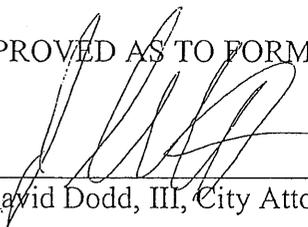
Jim E. Parks, Mayor

ATTEST:



Pat Bradley, City Secretary

APPROVED AS TO FORM:



J. David Dodd, III, City Attorney

NICHOLS, JACKSON, DILLARD, HAGER & SMITH, L.L.P.

J. David Dodd, III
e-mail: ddodd@njdhs.com

Attorneys & Counselors at Law
1800 Lincoln Plaza
500 North Akard
Dallas, Texas 75201
(214) 965-9900
Fax (214) 965-0010
E-mail NJDHS@NJDHS.com

ROBERT L. DILLARD, JR. (1913-2000)
H. LOUIS NICHOLS
LAWRENCE W. JACKSON
OF COUNSEL

August 29, 2006

Via CMRRR 7005-1160-0001-9591-7932

Mr. Timothy Green
Coats Rose
3 East Greenway Plaza
Suite 2000
Houston, Texas 77046

Re: *Water and sewage services*

Dear Mr. Green,

The City of Ferris is currently conducting the engineering and legal processes necessary to establish an internal improvement district to provide water and sewer services to your client's property. Your client's property is part of a large drainage basin in which the City of Ferris intends to extend water services, and sanitary services adequate for modest density development at and above 4.5 units per acre. The district will provide those services through the assessment of a fee, which is designed to be the pro-rata share of the entire cost of installing those improvements within the district without any additional surcharges. Your client will specifically be asked to provide dedicated easements for the installation of collection and distribution lines along the creek beds and deep ravines that are within his properties boundaries. It is in those locations that water mains and gravity sewer mains will be available for connection to your client as he develops his property.

Currently, the City is in the design phase of the installation of a lift station within a ravine on the northeast side of your client's property. That lift station will collect sewage from the current development of Shaw Creek, and could serve the initial phase of your client's property with sewer services. In addition, there are adequate water mains owned and operated by the City of Ferris within a reasonable distance, or adjacent to your client's property from which, initial access could be provided. The City is also constructing a new 250,000-gallon elevated storage tank to meet the requirement for service in your area. The construction of that tank has already begun.

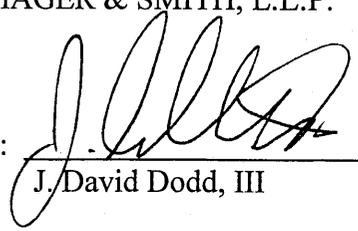
August 29, 2006
Mr. Green
Page 2

We would remind both you and your client that if they intend to meet their own imposed deadline of 200 homes completed by April 30, 2007, there are certain platting, zoning, and annexation requirements that must be met in order for construction to begin on this proposed project.

The City is prepared to sign a facilities agreement with your client once a plat has been presented and reviewed so that the City may determine if the construction criteria to be used conforms to its regulations.

Sincerely,

NICHOLS, JACKSON, DILLARD,
HAGER & SMITH, L.L.P.

By: 

J. David Dodd, III

JDD/als

cc: Gus Pappas, *via facsimile*

69401

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



THE STATE OF TEXAS
COUNTY OF TRAVIS
I hereby certify that this is a true and correct copy of a
Texas Commission on Environmental Quality document,
which is filed in the permanent records of the Commission.
Given under my hand and the seal of office on

LaDonna Castanuela DEC 06 2002

LaDonna Castanuela, Chief Clerk
Texas Commission on Environmental Quality

AN ORDER GRANTING THE APPLICATION FOR CREATION OF CROSS ROADS MUNICIPAL UTILITY DISTRICT NO. 1 OF DENTON COUNTY AND APPOINTING TEMPORARY DIRECTORS

RECEIVED

JAN 23 2003

UTILITY & DISTRICT
OVERSIGHT TEAM

An application by Cross Oak Ranch, Ltd. (hereafter "Applicant") was presented to the Executive Director of the Texas Commission on Environmental Quality (hereafter "Commission") for approval of the creation of Cross Roads Municipal Utility District No. 1 of Denton County (hereafter "District") pursuant to Article XVI, Section 59 of the TEXAS CONSTITUTION and TEX. WATER CODE ANN., Chapters 49 and 54.

The Commission has jurisdiction to consider this matter, and the following Findings of Fact and Conclusions of Law are appropriate after examining the application and supporting documentation:

FINDINGS OF FACT

1. On April 24, 2002 an application for the creation of Cross Roads Municipal Utility District No. 1 of Denton County was filed with the Commission pursuant to TEX. WATER CODE ANN., Chapter 54.
 - a. The petition was signed by a duly authorized officer of the Applicant, which represents it holds a majority in value of title of the land to be included within the proposed District's boundaries in accordance with TEX. WATER CODE ANN. § 54.014 (Vernon 1972 & Supp. 2002).
 - b. The application contains the matters required by TEX. WATER CODE ANN. § 54.015 (Vernon 1972 & Supp. 2002) and Title 30 Tex. Admin. Code § 293.11.
 - c. All persons holding liens on the land in the proposed District either have consented to the creation of the District or were notified by certified mail, return receipt requested, of the filing of the petition for creation of the District with the Commission.

State of Texas
County of Travis
I hereby certify that this is a true and correct copy of a
Texas Commission on Environmental Quality document
which is filed in the Records of the Commission.
Given under my hand and the seal of office on

Kay Steed JAN 30 2003
Kay Steed, Custodian of Records
Texas Commission on Environmental Quality

2. Proper notice of this application was given pursuant to TEX. WATER CODE ANN. § 49.011 (Vernon 2000) and Title 30 Tex. Admin. Code § 293.12.

a. Proper notice of the application was published on July 9, 2002 and July 16, 2002 in the Denton Record-Chronicle, a newspaper regularly published and generally circulated in Denton County, Texas, which is the county in which the proposed District is to be located.

b. On July 15, 2002, proper notice of the application was posted on the bulletin board used for posting legal notices in Denton County, Texas, which is the county in which the proposed District is to be located.

3. The appropriate and necessary deposits and fees associated with the filing of the application for creation of the District have been paid to the Commission.

4. The affidavits of five proposed temporary directors of the proposed District have been received. The proposed temporary directors are:

Don Lucky

William S. Colville

Greg S. Boling

David Caswell

Derek J. Hartsfield

5. Each of the persons named in Finding of Fact No. 4 is qualified to serve as a temporary director of the District as each: (1) is at least 18 years old; (2) is a resident of the State of Texas; (3) either owns land subject to taxation within the District, or is a qualified voter within the District; and (4) has completed and filed with the Commission an application for consideration of appointment as temporary director in the form and substance required by the Rules of the Commission.

6. The proposed District will be situated wholly within the extraterritorial jurisdiction of the Town of Cross Roads ("Town") and wholly within the boundaries of Denton County, Texas, and no part of the proposed District will be located within the corporate limits or extraterritorial jurisdiction of any other city, town or village of the State of Texas.

7. The metes and bounds description of the proposed District has been checked by the Commission's staff and was found to form an acceptable closure.

8. On August 29, 2001, the Applicant submitted a petition to the Town of Cross Roads requesting its consent to include land from the Town's ETJ within the proposed District. Within 90 days after receipt of that written request, the Town failed to grant consent to inclusion of land from the Town's ETJ within the proposed District. On June 28, 2002,

contemplated to be provided by the proposed District. The Town and the Applicant failed to execute a mutually agreeable contract providing for the water and wastewater service requested within 120 days after the Town's receipt of the petition. Therefore, at this time, the Town either does not have the reasonable ability to serve or has failed to make a legally binding commitment with sufficient funds available to provide water and wastewater service adequate to serve development within the proposed District at a reasonable cost to the Applicant.

9. The proposed project as set out in the application is feasible and practicable.
 - a. There is an ample supply of water available, and the terrain of the area to be included in the proposed District is such that waterworks, wastewater, and drainage and storm sewer systems can be constructed or acquired at reasonable cost.
 - b. Projected construction cost for the project is reasonable at approximately \$14,620,000.
 - c. The proposed District's combined projected tax rate of \$2.856 per \$100 assessed valuation is reasonable and comparable to tax rates in the surrounding area.
 - d. Projected water and wastewater rates are reasonable.
 - e. A market study was provided which indicates that there is growth potential to support the proposed District.
10. The creation of the District as set out in the petition is necessary and would be a benefit to the land to be included in the District.
11. The District and its system and subsequent development within the District will not have an unreasonable effect on the following: land elevations; subsidence; groundwater level within the region; recharge capability of a groundwater source; natural run-off rates and drainage; and water quality.

CONCLUSIONS OF LAW

1. The Commission has jurisdiction to consider this application and is authorized to make and enter its Findings of Fact, Conclusions of Law, and Orders with respect to the creation of the proposed District.
2. All of the land and property proposed may properly be included within the District.
3. All statutory and regulatory requirements for creation of Cross Roads Municipal Utility District No. 1 of Denton County have been fulfilled, in accordance with TEX. WATER CODE ANN. § 54.021 (Vernon 1972 & Supp. 2002) and Title 30 Tex. Admin. Code §§ 293.11-293.13.

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

1. The application for the creation of Cross Roads Municipal Utility District No. 1 of Denton County is hereby granted.
2. The District is created under the terms and conditions of Article XVI, Section 59 of the TEXAS CONSTITUTION and TEX. WATER CODE ANN., Chapters 49 and 54.
3. The District shall have all of the rights, powers, privileges, authority, and functions conferred and shall be subject to all duties imposed by the Texas Commission on Environmental Quality and the general laws of the State of Texas relating to municipal utility districts.
4. The District shall be composed of the area situated wholly within Denton County, Texas, described by metes and bounds in Exhibit "A" attached hereto, and incorporated herein for all purposes.
5. The following five persons are hereby named and appointed as temporary directors of the District, to serve until their successors are elected or have been appointed in accordance with applicable law:

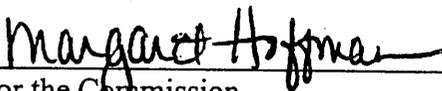
Don Lucky	David Caswell
William S. Colville	Derek J. Hartsfield
Greg S. Boling	
6. The foregoing temporary directors shall, as soon as practicable after the date of entry of this Order, execute their official bonds and take their official oath of office. All such

bonds shall be approved by the Board of Directors of the District, and each bond and oath shall be filed with the District and retained in its records.

7. This Order shall in no event be construed as an approval of any proposed agreement or of any particular item in any document provided in support of the application for creation, nor as a commitment or requirement of the Commission in the future to approve or disapprove any particular items or agreements in future applications submitted by the District for Commission consideration.
8. The Chief Clerk of the Commission shall forward a copy of this Order to all affected persons.
9. 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: **NOV 21 2002**

TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY



For the Commission

EXHIBIT A

PROPERTY DESCRIPTION

BEING A 262.530 ACRE TRACT OF LAND SITUATED IN THE MARCELLA JONES SURVEY, ABSTRACT NO. 662, DENTON COUNTY, TEXAS, AND BEING PART OF A 759.199 ACRE TRACT OF LAND, CONVEYED TO MAR-TOP RANCH, LTD. BY DEED RECORDED IN COUNTY CLERK'S FILE NO. 2001-R0092648, DENTON COUNTY, TEXAS, SAID 262.530 ACRE TRACT, WITH REFERENCE BEARING NORTH 00 DEGREES 15 MINUTES 16 SECONDS WEST BEING THE MONUMENTED SOUTHWEST LINE OF AFORESAID 759.199 ACRE TRACT, BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

COMMENCING AT A 1/2" IRON ROD FOUND FOR THE SOUTHWEST CORNER OF AFORESAID 759.199 ACRE TRACT, SAID POINT BEING AT THE INTERSECTION OF NAYLOR ROAD (A VARIABLE WIDTH PRESCRIPTIVE RIGHT-OF-WAY) AND MARTOP ROAD (A VARIABLE WIDTH PRESCRIPTIVE RIGHT-OF-WAY);

THENCE, WITH THE GENERAL DIRECTION OF SAID CENTERLINE OF NAYLOR ROAD AND ALONG THE WEST LINE OF AFORESAID 759.199 ACRE TRACT, THE FOLLOWING COURSES AND DISTANCES:

NORTH 00 DEGREES 15 MINUTES 16 SECONDS WEST, PASSING AT A DISTANCE OF 1438.65 FEET, A 1/2" IRON ROD FOUND, CONTINUING A TOTAL DISTANCE OF 2602.99 FEET TO A POINT FOR CORNER AND BEING THE POINT OF BEGINNING;

NORTH 00 DEGREES 15 MINUTES 16 SECONDS WEST, A DISTANCE OF 238.46 FEET TO A 1/2" IRON ROD FOUND FOR CORNER;

NORTH 00 DEGREES 26 MINUTES 06 SECONDS EAST, A DISTANCE OF 927.67 FEET TO A POINT FOR CORNER ON THE SOUTH LINE OF THE TOWN OF CROSSROADS AS DESCRIBED IN COUNTY CLERKS FILE NUMBER 96-R0088661, REAL PROPERTY RECORDS, DENTON COUNTY, TEXAS, SAID POINT BEARS NORTH 82 DEGREES 27 MINUTES 41 SECONDS WEST A DISTANCE OF 26.66 FEET FROM A FOUND CONCRETE MONUMENT STAMPED 20' OFFSET Q-220-E;

THENCE, OVER AND ACROSS AFORESAID 759.199 ACRE TRACT, THE FOLLOWING COURSES AND DISTANCES:

NORTH 83 DEGREES 28 MINUTES 18 SECONDS EAST, ALONG SAID SOUTH LINE OF THE TOWN OF CROSSROADS, A DISTANCE OF 2661.70 FEET TO A POINT FOR CORNER AT THE SOUTHEAST CORNER OF SAID TOWN OF CROSSROADS;

NORTH 00 DEGREES 31 MINUTES 45 SECONDS EAST, ALONG THE EAST LINE OF THE TOWN OF CROSSROADS, A DISTANCE OF 1111.00 FEET TO A POINT FOR CORNER;

NORTH 00 DEGREES 06 MINUTES 03 SECONDS EAST, CONTINUING ALONG SAID EAST LINE OF THE TOWN OF CROSSROADS, A DISTANCE OF 1863.90 FEET TO A POINT FOR CORNER AT THE INTERSECTION OF SAID EAST LINE OF THE TOWN OF CROSSROADS, THE NORTH LINE OF AFORESAID 759.199 ACRE TRACT, AND THE SOUTH LINE OF A TRACT OF LAND CONVEYED TO EDMOND'S INVESTMENTS, INC., MERCURY FINANCIAL SERVICES, INC., FATH INVESTMENTS, INC., BRIAN BURKE AND GAELE G. BURKE BY DEED RECORDED IN COUNTY CLERK'S FILE NO. 96-R0061717, DEED RECORDS, DENTON COUNTY, TEXAS;

THENCE, ALONG SAID NORTH AND SOUTH LINES, THE FOLLOWING COURSES AND DISTANCES:

NORTH 88 DEGREES 16 MINUTES 42 SECONDS EAST, A DISTANCE OF 454.53 FEET TO A 1/2" IRON ROD FOUND FOR CORNER;

NORTH 89 DEGREES 27 MINUTES 37 SECONDS EAST, A DISTANCE OF 975.57 FEET TO A 1/2"
IRON ROD FOUND FOR CORNER;

NORTH 01 DEGREES 25 MINUTES 14 SECONDS WEST, A DISTANCE OF 15.05 FEET TO A 1/2"
IRON ROD FOUND FOR THE SOUTHEAST CORNER OF SAID EDMOND'S INVESTMENTS, INC., ET
AL TRACT, BEING A NORTHEAST PROPERTY CORNER OF AFORESAID 759.199 ACRE TRACT
AND BEING ON THE WEST LINE OF F.M. 720 (A 90' RIGHT-OF-WAY), SAID POINT BEING THE
BEGINNING OF A NON-TANGENT CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF 07
DEGREES 30 MINUTES 42 SECONDS, A RADIUS OF 617.96 FEET, AND A LONG CHORD THAT
BEARS SOUTH 30 DEGREES 39 MINUTES 30 SECONDS EAST A DISTANCE OF 80.96 FEET;

THENCE, ALONG THE EAST PROPERTY LINE OF AFORESAID 759.199 ACRE TRACT AND SAID WEST
LINE OF F.M. 720, THE FOLLOWING COURSES AND DISTANCES,

ALONG SAID NON-TANGENT CURVE TO THE LEFT, AN ARC DISTANCE OF 81.02 FEET TO A 1/2"
IRON ROD FOUND FOR CORNER;

SOUTH 34 DEGREES 24 MINUTES 54 SECONDS EAST, A DISTANCE OF 75.60 FEET TO A 1/2" IRON
ROD FOUND FOR CORNER AND THE BEGINNING OF A TANGENT CURVE TO THE RIGHT
HAVING A CENTRAL ANGLE OF 15 DEGREES 55 MINUTES 02 SECONDS, A RADIUS OF 527.96
FEET, AND A LONG CHORD THAT BEARS SOUTH 26 DEGREES 27 MINUTES 21 SECONDS EAST
A DISTANCE OF 146.20 FEET;

ALONG SAID TANGENT CURVE TO THE RIGHT, AN ARC DISTANCE OF 146.67 FEET TO A 1/2"
IRON ROD FOUND FOR CORNER;

SOUTH 18 DEGREES 29 MINUTES 51 SECONDS EAST, A DISTANCE OF 721.50 FEET TO A 1/2"
IRON ROD FOUND FOR CORNER AND THE BEGINNING OF A NON-TANGENT CURVE TO THE
RIGHT HAVING A CENTRAL ANGLE OF 07 DEGREES 40 MINUTES 38 SECONDS, A RADIUS OF
5729.58 FEET, AND A LONG CHORD THAT BEARS SOUTH 14 DEGREES 10 MINUTES 24 SECONDS
EAST A DISTANCE OF 767.14 FEET;

ALONG SAID NON-TANGENT CURVE TO THE RIGHT, AN ARC DISTANCE OF 767.71 FEET TO A
1/2" IRON ROD FOUND FOR CORNER;

SOUTH 10 DEGREES 38 MINUTES 01 SECONDS EAST, A DISTANCE OF 324.80 FEET TO A 1/2"
IRON ROD FOUND FOR CORNER AND THE BEGINNING OF A TANGENT CURVE TO THE RIGHT
HAVING A CENTRAL ANGLE OF 26 DEGREES 10 MINUTES 01 SECONDS, A RADIUS OF 527.96
FEET, AND A LONG CHORD THAT BEARS SOUTH 02 DEGREES 26 MINUTES 59 SECONDS WEST
A DISTANCE OF 239.03 FEET;

ALONG SAID TANGENT CURVE TO THE RIGHT, AN ARC DISTANCE OF 241.12 FEET TO A 1/2"
IRON ROD FOUND FOR CORNER;

SOUTH 15 DEGREES 31 MINUTES 59 SECONDS WEST, A DISTANCE OF 1701.10 FEET TO A 1/2"
IRON ROD FOUND FOR CORNER AND THE BEGINNING OF A TANGENT CURVE TO THE RIGHT
HAVING A CENTRAL ANGLE OF 13 DEGREES 03 MINUTES 00 SECONDS, A RADIUS OF 1387.41
FEET, AND A LONG CHORD THAT BEARS SOUTH 22 DEGREES 03 MINUTES 29 SECONDS WEST
A DISTANCE OF 315.32 FEET;

ALONG SAID TANGENT CURVE TO THE RIGHT, AN ARC DISTANCE OF 316.00 FEET TO A 1/2"
IRON ROD FOUND FOR CORNER;

SOUTH 28 DEGREES 34 MINUTES 59 SECONDS WEST, A DISTANCE OF 330.69 FEET TO A 1/2"
IRON ROD FOUND FOR CORNER AND THE BEGINNING OF A NON-TANGENT CURVE TO THE
LEFT HAVING A CENTRAL ANGLE OF 00 DEGREES 12 MINUTES 15 SECONDS, A RADIUS OF

1477.40 FEET, AND A LONG CHORD THAT BEARS SOUTH 28 DEGREES 26 MINUTES 18 SECONDS WEST A DISTANCE OF 5.27 FEET;

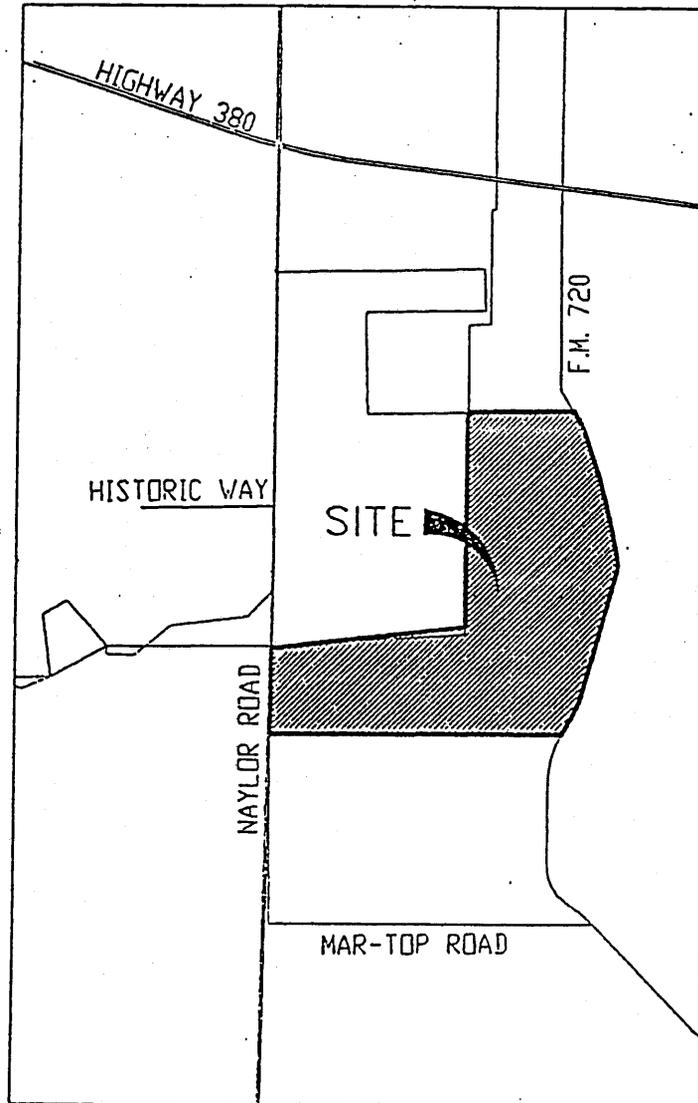
ALONG SAID NON-TANGENT CURVE TO THE LEFT, AN ARC DISTANCE OF 5.27 FEET TO A POINT FOR CORNER;

THENCE, SOUTH 89 DEGREES 54 MINUTES 33 SECONDS WEST, OVER AND ACROSS AFORESAID 759.199 ACRE TRACT, A DISTANCE OF 3974.37 FEET TO THE POINT OF BEGINNING AND CONTAINING 262.530 ACRES OF LAND, MORE OR LESS.



Michael J. Baitup
11/19/01

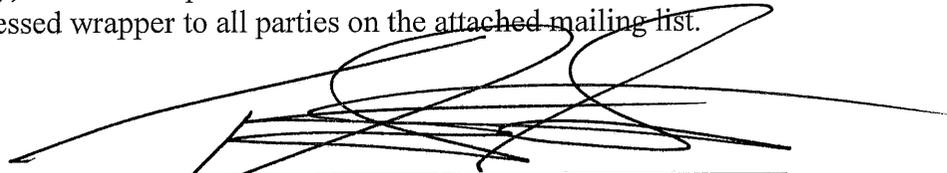
EXHIBIT B



VICINITY MAP
NOT TO SCALE

CERTIFICATE OF SERVICE

On February 12, 2007, this Response by Response of Ellis County Municipal Utility District No. 1 to the Request of the City of Ferris was faxed and sent to the Chief Clerk by Federal Express, receipted delivery, and was deposited in the U.S. mail via Certified Return Receipt in a postpaid properly addressed wrapper to all parties on the attached mailing list.

A large, stylized handwritten signature in black ink, consisting of several overlapping loops and lines, positioned above a horizontal line.

Timothy G. Green