

Mr. Klein's Direct Line: (512) 322-5818
Email: dklein@lglawfirm.com

REVIEWED

JAN 03 2023
By GCW H

CHIEF CLERKS OFFICE

2022 DEC 29 AM 11:00

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

December 27, 2022

Ms. Laurie Gharis, Chief Clerk
Office of the Chief Clerk
Texas Commission on Environmental Quality
P.O. Box 13087 (MC-105)
Austin, TX 78711-3087

VIA FACSIMILE, FIRST CLASS
MAIL AND TCEQ E-FILE

Re: Petition by JLMCG Properties, LLC and Cendi Sherwood to the Texas Commission on Environmental Quality for the creation of Rockwood Municipal Utility District No. 1 of Denton County; TCEQ Internal Control No. D-07212022-032

Dear Chief Clerk Gharis:

The Town of Ponder (the "**Town**") submits the following public comments and request for a contested case hearing on the petition of JLMCG Properties, LLC and Cendei Sherwood to create Rockwood Municipal Utility District No. 1 of Denton County (the "**Petition**"). Please direct all future correspondence on this Petition to the following representative of the Town:

Town of Ponder:
David Klein, Attorney for the Town
816 Congress Avenue, Suite 1900
Austin, Texas 78701
dklein@lglawfirm.com
Daytime Phone: (512) 322-5800
Fax: (512) 472-0532

I. PROCEDURAL HISTORY CONCERNING THE PETITION

On June 2, 2022, JLMCG Properties, LLC and Cendei Sherwood (collectively, the "**Petitioner**") filed their Petition for the creation of Rockwood Municipal Utility District No. 1 of Denton County (the "**District**") with the Texas Commission on Environmental Quality (the "**TCEQ**"). The TCEQ found the petition administratively completed on July 22, 2022. On November 9, 2022, the Chief Clerk of the TCEQ sent a letter to Mindy Koehne, attorney for the Petitioner, with a copy of the draft Notice of District Creation (the "**Notice**"). The Notice specified that the deadline to request a hearing is 30 days after newspaper publication of the Notice. The Petitioner filed an Affidavit of Publication of the Notice of District Creation indicating that notice was published on November 19, 2022, and November 26, 2022, and a Certificate of Posting Notice

from Michele Boutwell that Notice was posted on the bulletin board used for posting legal notices at the Denton County Clerk's Office on November 15, 2022. Therefore, based on these posting and publication notice dates and the procedural rules of the TCEQ, the deadline to submit public comments and/or request a hearing regarding the Petition is December 27, 2022. Thus, these public comments and request for a contested case hearing are timely filed.

II. PUBLIC COMMENT

With this filing, the Town submits the following comments regarding the Petition. The jurisdictional boundaries of the proposed District, consisting of approximately 359 acres of land, are located entirely within the Town's water Certificate of Convenience and Necessity ("CCN") No. 12951 and the Town's extraterritorial jurisdiction ("ETJ"). The Petition proposes that the District will finance the costs to build/acquire a water distribution system for domestic purposes, a sanitary sewer system, roads, and other facilities consistent with the purposes for which the District was organized. The Town currently provides water service in its water CCN service area and sewer, waste disposal, and emergency/fire-fighting services within its corporate limits and ETJ. The Town also invests in drainage facilities to control stormwater and other harmful excess waters. Accordingly, the Town is concerned that the creation of the proposed District would overlap and interfere with the Town's ability to plan for and provide these services and facilities within its ETJ and CCN service area. The Town is also concerned about the proposed District's effect on the health, safety, and welfare of the residents within the Town's ETJ, including future residents within the proposed District, especially the proposed development's impacts on water quality, drainage, runoff rates, and emergency/fire-fighting services. Additionally, the Town asks the TCEQ to explain how the District can provide domestic water service or build water infrastructure within the proposed District's boundaries if the Town has the exclusive right to provide water service over the land.

III. REQUEST FOR A CONTESTED CASE HEARING

The Petition requesting the creation of the District under Texas Water Code ("TWC") § 54.021 should be denied since the proposed district is within the Town's ETJ and water CCN No. 12951 service area. As such, the creation of the District is not feasible or practicable, not necessary, and would not be a benefit to the land to be included in the District. In relevant part, TWC § 54.021(a) and (b) state:

(a) If the commission finds...that the project is feasible and practicable and is necessary and would be a benefit to the land to be included in the district, the commission shall so find by its order and grant the petition.

(b) In determining if the project is feasible and practicable and if it is necessary and would be a benefit to the land included in the district, the commission shall consider: (1) the availability of comparable service from other systems, including but not limited to water districts, municipalities, and regional authorities...¹

¹ Tex. Water Code § 54.021(a) and (b).

Here, the Town's ETJ and water CCN service area extend over the entire area of the proposed District's boundaries. Maps depicting the Town's ETJ and water CCN boundaries, as well as the overlap with the boundaries of the proposed District, are attached hereto as **Attachment A** and incorporated herein for all purposes.² Thus, given that the Town is already providing the services contemplated by the District nearby and that it has the exclusive right to provide continuous and adequate retail water service to the proposed boundaries of the District, the Town can extend those services to the area within the boundaries of the proposed District. Said another way, since the Town is the only entity that can provide water service within the proposed District's jurisdictional boundaries, the District is legally prohibited from providing such service. Therefore, the Town is necessarily the sole provider of water service to the proposed District. The Town is fully capable and committed to providing these services to this portion of its ETJ and water CCN. Consequently, the proposed District is not necessary for the provision of such service. The TCEQ must consider these facts in determining whether the Petition is feasible and practicable under TWC § 54.021(b)(1).

Additionally, the Town is the holder of Texas Pollutant Discharge Elimination System Permit ("**TPDES**") No. WQ0011287003. With this TPDES Permit, the Town can and is ready to be the regional provider of wastewater service to the proposed District. Creating the District without an agreement with the Town for wastewater service would likely result in the District filing an application for a separate TPDES Permit that would utilize a small, package plant and would neither conserve nor preserve the State's natural resources. Although no agreement between the Town and the proposed District has been reached, recent conversations have taken place regarding the provision of services to the area of land in the proposed District. In short, it is not practicable for the creation of a district under these circumstances.

The Town requests a contested case hearing regarding the Petition under 30 TAC § 55.251. As a local government with authority under state law over issues contemplated by the application and the holder of water CCN No. 12951 with a water service area over the entire jurisdictional boundaries of the proposed District, the Town is an "affected person" under 30 Texas Administrative Code ("**TAC**") § 55.256 and has the right to submit this protest in addition to being considered an affected person as a local government.³ As further required by 30 TAC § 55.251(c), the contact information of the person filing this request is provided in the initial paragraph of this letter. For an entity other than the Commissioners, Executive Director, or Petitioner to have standing to request a contested case hearing, it must demonstrate that it is an "affected person" under the standards set forth in 30 TAC § 55.256.⁴ Under such rule, an affected person is one who has a personal justiciable interest not common to members of the general public that is related to a legal right, duty, privilege, power, or economic interest affected by the petition.⁵ Governmental

² A total of four maps are included in **Attachment A**, which depict: the Town's ETJ and city limit boundaries; the location of the proposed District in relation to the Town's ETJ and city limit boundaries; the Town's water CCN No. 12951 service area; and, the location of the proposed District in relation to the Town's water CCN No. 12951 service area.

³ 30 TAC § 55.256(b).

⁴ 30 TAC § 55.251(b).

⁵ 30 TAC § 55.256(a).

entities, such as the Town, with authority under state law over issues contemplated by the Petition, may be considered affected persons.⁶ All relevant factors must be considered by the TCEQ in determining affected person status, including: (1) whether the interest claimed is one protected by the law under which the petition will be considered; (2) distance restrictions or other limitations imposed by law on the affected interest; (3) whether a reasonable relationship exists between the interest claimed and activity regulated; (4) the likely impact of the regulated activity on the health, safety, and use of property of the person; (5) the likely impact of the regulated activity on the use of the impacted natural resource by the person; and (6) for governmental entities, their statutory authority over or interest in the issues relevant to the application.

Here, the jurisdictional boundaries of the proposed District are entirely within the Town's ETJ and water CCN No. 12951 service area, and the overlapping boundaries resulting from the Petition are a personal justiciable interest of the Town that is negatively affected by the Petition. A map of the Town's water CCN boundaries is attached hereto in **Attachment A**, as referenced above. Under Texas law, a water CCN provides its holder with the exclusive right to provide retail water service to the service area designated in such certificate.⁷ Here, however, the Petition contemplates creating a municipal utility district within the Town's water CCN service area. Thus, as the sole water CCN holder over the proposed District's jurisdictional boundaries, the creation of the District within the Town's water CCN boundaries is certainly a fact that is unique to the Town. Further, such unique fact negatively affects the Town as it impairs the Town's legal right, duty, privilege, power, and economic interest under its water CCN in providing retail water service within its water CCN service area. To that end, the Town's right, duty, privilege, power, and economic interest under its water CCN is statutorily protected.⁸ As to the Town's right, privilege, and power under its water CCN, TWC § 13.242(a) states that:

...except as otherwise provided by this subchapter, a retail public utility may not furnish, make available, render, or extend retail water or sewer utility service to any area to which retail water or sewer utility service is being lawfully furnished by another retail public utility without first having obtained a certificate of public convenience and necessity that includes the area in which the consuming facility is located.⁹

Additionally, the Town's obligation as a CCN holder to provide retail water service is established under TWC § 13.250(a), which provides that:

Except as provided by this section or Section 13.2501 of this code, any retail public utility that possesses or is required to possess a certificate of public convenience and necessity shall serve every consumer within its certified area and shall render continuous and adequate service within the area or areas.¹⁰

⁶ 30 TAC § 55.256(b).

⁷ Tex. Water Code § 13.002(20).

⁸ Tex. Water Code § 13.242(a).

⁹ *Id.*

¹⁰ Tex. Water Code § 13.250(a).

Plus, the Petition proposes the construction of water distribution infrastructure, which with the sewer, drainage, and roadway infrastructure improvements, is estimated to cost \$55,215,000. The water distribution infrastructure portion of such sum contemplates the installation of such infrastructure within the Town's water CCN service area, which also negatively affects the Town's ability to provide retail water service and economic interest in developing its water system. An additional factor used in the determination of whether a proposed District is feasible and practicable and if it is necessary and would be a benefit to the land included is the reasonableness of the projected construction cost.¹¹ Such estimated cost of \$55,215,000 is not reasonable in light of the Town's ability to otherwise continue to provide these services or when considered with the significantly lower cost estimate provided to the Town by the Petitioner in its Petition for Water Service and Sanitary Sewer Service, attached as **Attachment B**, that estimates the cost of such improvements to be \$46,438,781.30.

For these reasons, creating the proposed District with jurisdictional boundaries within the Town's water CCN service area uniquely impacts the Town and its legal right, duty, privilege, power, and economic interest in providing retail water service to that area. Thus, the Town is an affected person with the right to a contested case hearing on the Petition.

Further, the Town has an interest in this Petition as it has numerous sewer and water permits and facilities near the proposed District, which would also be uniquely and negatively affected by the creation of the proposed District. Just southeast of the boundaries of the proposed District lies the Town's wastewater treatment plant, permitted under TPDES Permit No. WQ0011287003. There is also a 6-inch water line running east and west along FM 2449, which abuts the southern border of the boundaries of the proposed District. Two water wells and an elevated storage tank are also near the proposed District on E. James Street.

Additionally, the Town is an affected person in this matter when evaluating its personal justiciable interests under the pertinent portions of the TCEQ's "other relevant factors" in 30 TAC § 55.256(c). As already noted in the portions of this Section III above, the Town's interest in being the exclusive retail water service provider in its water CCN service area is protected by law under TWC §§ 13.242 and 13.250. Such statutory protections are directly related to the analysis of whether to approve or deny the Petition under TWC § 54.021(a) and (b). As noted in TWC § 54.021(b)(1), when the TCEQ considers the feasibility and practicality of a petition to create a district, it must look to whether there are comparable services from other systems, such as municipalities. Clearly, with its water CCN, the Town is not just a comparable service provider but the mandatory water service provider within the jurisdictional boundaries of the proposed District. With respect to sewer service, the Town's TPDES Permit and nearby WWTP make the Town a comparable sewer service provider.

As to the second TCEQ factor under 30 TAC § 55.256(c), there are no express distance restrictions or other limitations imposed by law on the Town's affected interest in providing retail water service within the proposed District's boundaries. That being said, it is reasonable to assume that the applicable distance requirement should be based on whether the proposed District's

¹¹ Tex. Water Code § 54.021(b)(2).

boundaries are inside or outside the water CCN area. Here, such District boundaries would be entirely within the Town's water CCN service area. From the sewer service perspective, the Town's wastewater treatment plant is located less than one (1) mile from the boundary of the proposed District and such proximity would trigger a regionalization analysis under the TCEQ's application requirements for a TPDES Permit – an analysis evaluating whether it is feasible for the District to obtain wastewater service from the Town instead of permitting and operating a second, unnecessary wastewater treatment plant.

Next, a reasonable relationship exists between the Town's interest as the water CCN holder and the creation of the District. Specifically, in the event that the District is created, it cannot provide water service within its boundaries. Otherwise, the District would be infringing on the Town's exclusive right to provide retail water service. Again, the Town has the exclusive right to provide retail water service with its water CCN service area, including the proposed District, and it must also provide continuous and adequate service to consumers within such area.¹² Further, the addition of another retail water service provider would have a negative impact on the Town's investment in its water infrastructure. Similarly, the Town has an interest in utilizing its existing sewer infrastructure to provide wastewater service to the proposed boundaries of the District. Plus, if the District will not obtain sewer service from the Town, then it is very near to the sewer CCN of the City of Denton.

In sum, the proposed District is within a water CCN and adjacent to a sewer CCN as well as in immediate proximity to water and sewer facilities within the corporate limits of the Town. Thus, its creation would not promote wastewater regionalization and would adversely impact the Town's obligation to provide continuous and adequate water service to such land. So, it is in the public interest to deny the Petition.¹³

Therefore, for the reasons stated above, the Town is an affected person that is impacted by the Petition in a manner unique from the rest of the general public, and the TCEQ should grant its contested case hearing request. Additionally, the Town requests that the Executive Director respond to the Town's public comments.

Sincerely,



David Klein

Attorney for the Town of Ponder

¹² See Tex. Water Code § 13.250 (setting forth a CCN holder's obligation to serve).

¹³ See Tex. Water Code § 13.241(d) and § 26.081(a) reflecting state policy to promote regional water, sewer, and waste disposal services.

Texas Commission on Environmental Quality

December 27, 2022

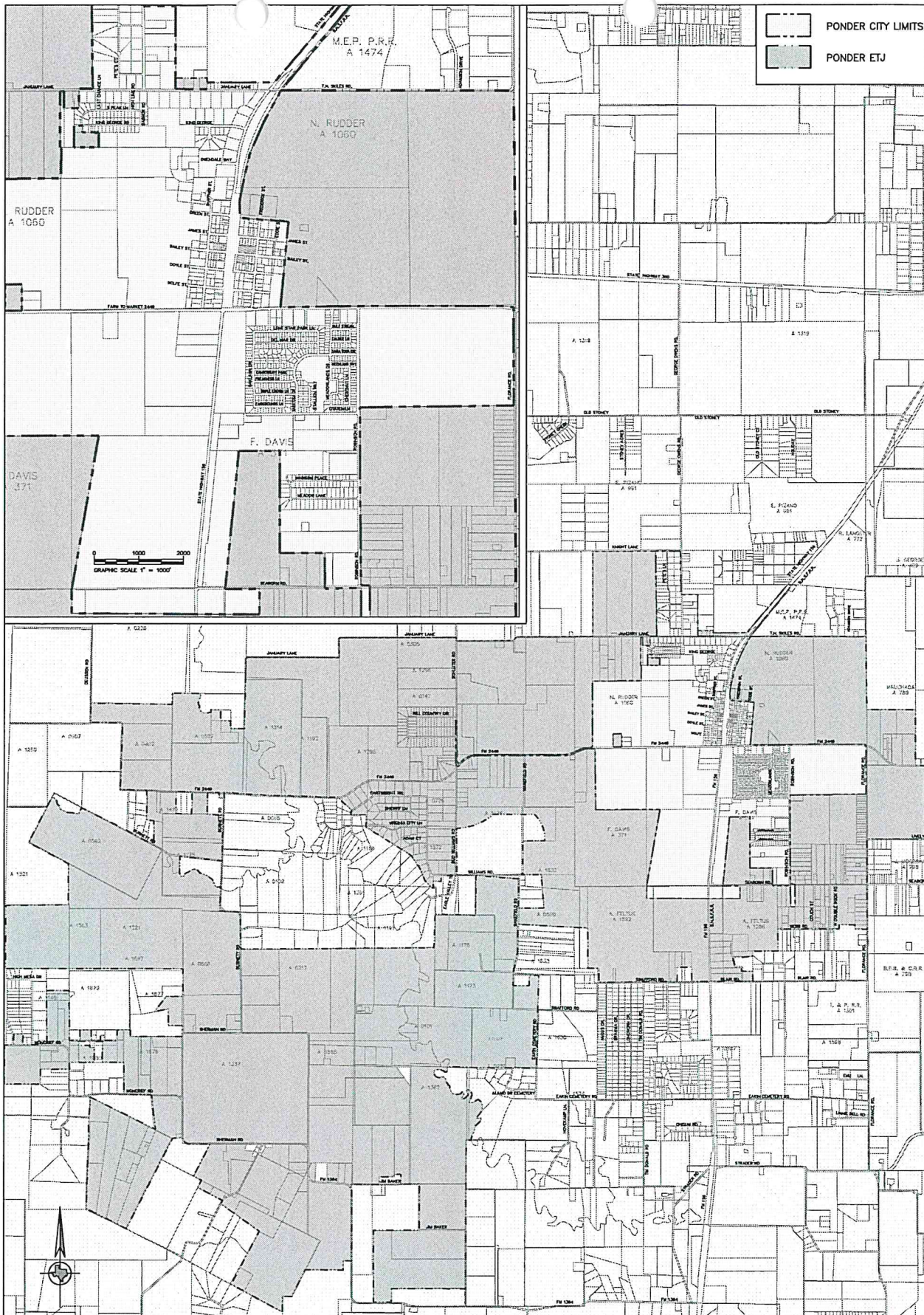
Page 7

Enclosures

cc: Todd Galiga, Environmental Law Division
Justin Taack, Districts Section Manager
Matthew Poole, Mayor, Town of Ponder
Matthew Boyle, Attorney for the Town of Ponder
Chloe Daniels, Lloyd Gosselink Rochelle & Townsend

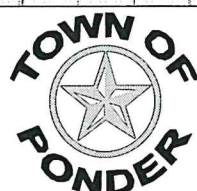
Attachment A

Maps of the Town of Ponder's ETJ and Water CCN No. 12951



PONDER CITY LIMITS
 PONDER ETJ

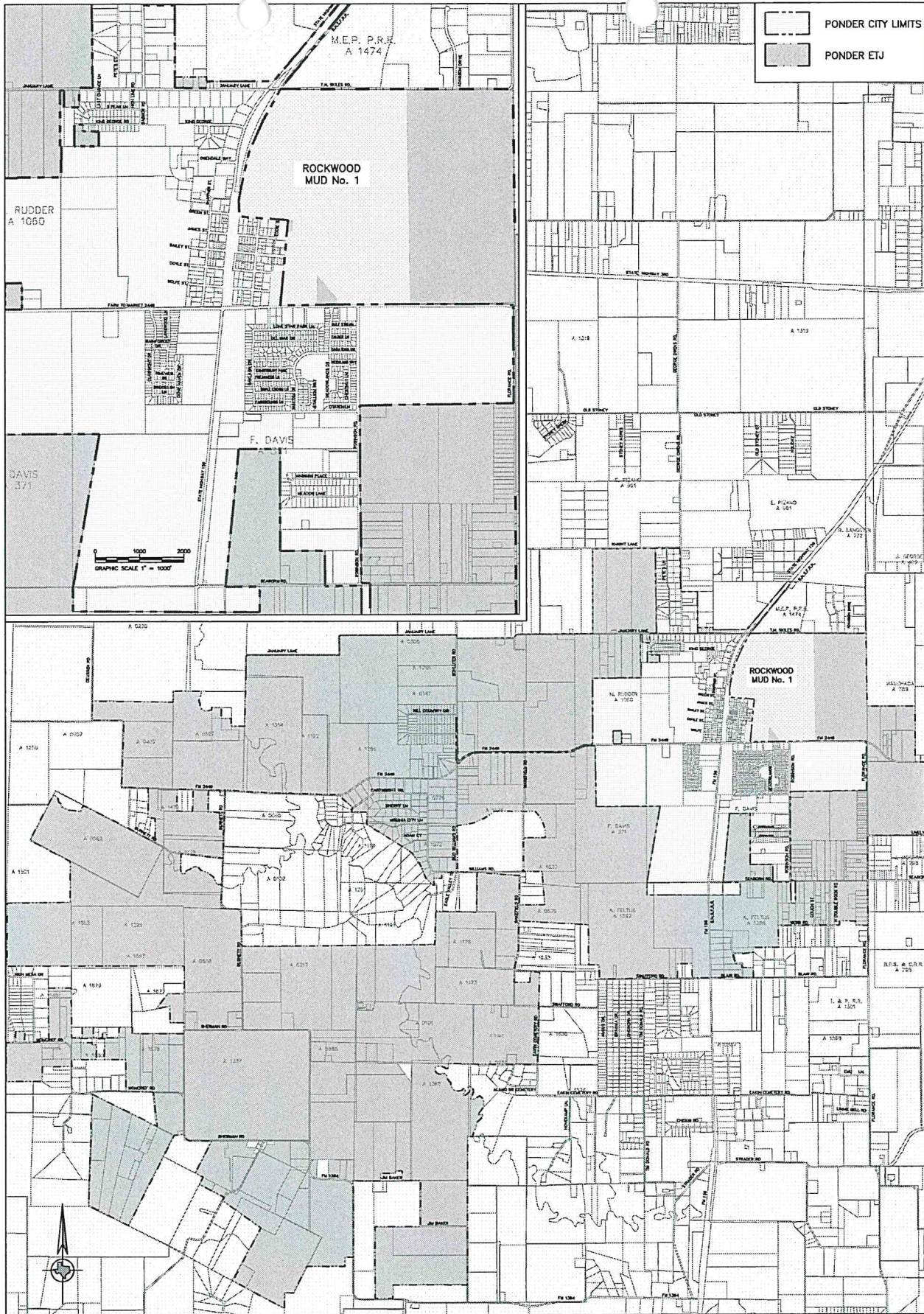
0 2000 4000
 GRAPHIC SCALE 1" = 2000'



TOWN MAP
 REVISED: NOVEMBER 2016
 UPDATED: MAY 2019

B Belcheff & Associates, Inc.
 Municipal Engineering and Program Management
 1660 Keller Plaza, Ste. 103 Phone: 817-431-1800
 Keller, Texas 75248 Fax: 817-431-1800
 TDR# Reg. No. F-368

ETJ boundary is referenced from the Interlocal Boundary and Extraterritorial Jurisdiction Contract between the City of Denton and the Town of Ponder dated May 12, 2015



PONDER CITY LIMITS
 PONDER ETJ

0 1000 2000
 GRAPHIC SCALE 1" = 1000'

0 2000 4000
 GRAPHIC SCALE 1" = 2000'





B Belcheff & Associates, Inc.
 Municipal Engineering and Program Management
 3075 Loop East, Suite 124, Fort Worth, Texas 76177
 Phone: 817.431.1800 Fax: 817.431.1900
 TDD: 817.431.1900

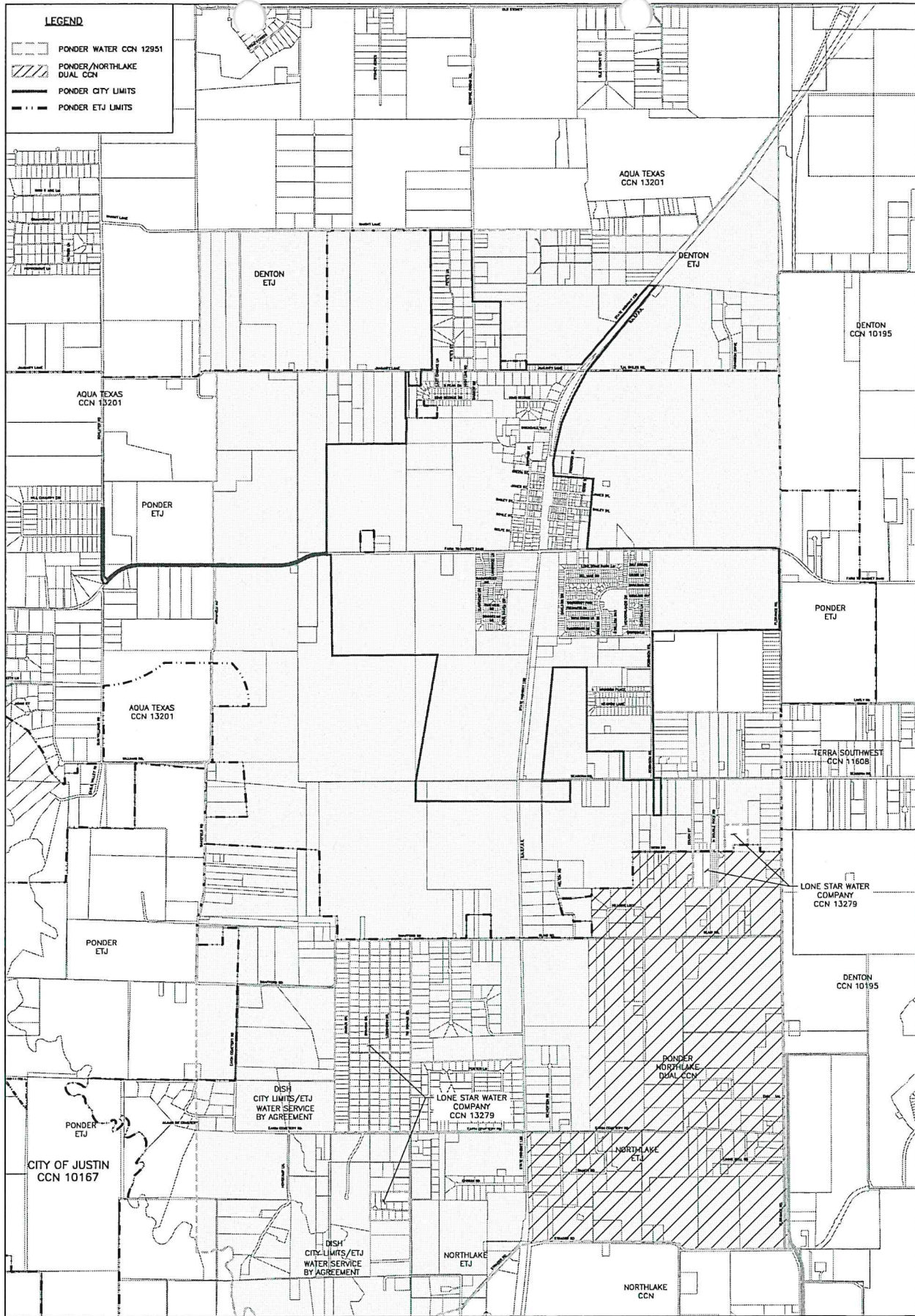


TOWN MAP
 REVISED: NOVEMBER 2016
 UPDATED: MAY 2019

ETJ boundary is referenced from the Interlocal Boundary and Extraterritorial Jurisdiction Contract between the City of Denton and the Town of Ponder dated May 12, 2015

LEGEND

-  PONDER WATER CCN 12951
-  PONDER/NORTHLAKE DUAL CCN
-  PONDER CITY LIMITS
-  PONDER ETJ LIMITS







B Belcheff & Associates, Inc.
Municipal Engineering and Program Management
3075 Loop East Circle Phone: 817.421.1900
Suite 100 Fax: 817.421.1900
Fort Worth, Texas 76117 TDEC Reg. No. F-368

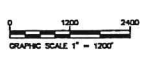
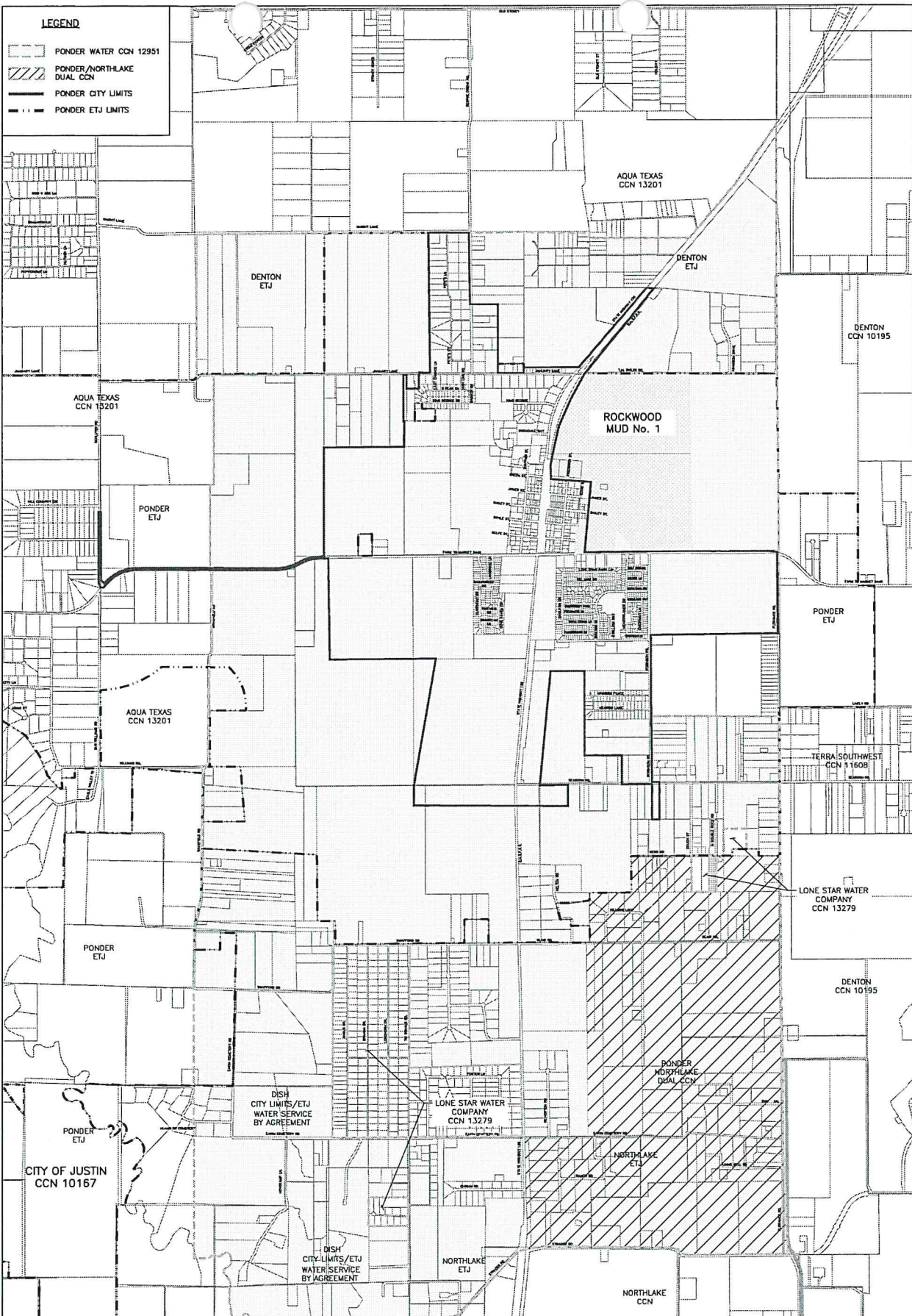


**PONDER WATER CCN MAP
CCN 12951**

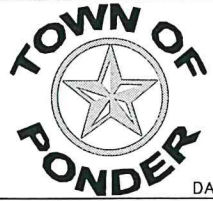
DATE: 27 Dec 2022

LEGEND

-  PONDER WATER CCN 12951
-  PONDER/NORTHLAKE DUAL CCN
-  PONDER CITY LIMITS
-  PONDER ETJ LIMITS



B Belcheff & Associates, Inc.
Municipal Engineering and Program Management
2675 Lone Star Circle
Suite 128
Fort Worth, Texas 76177
Phone: 817.431.1800
Fax: 817.431.1900
TDE Reg. No. F-364



**PONDER WATER CCN MAP
ROCKWOOD MUD No. 1
EXHIBIT**

ROCKWOOD MUD No. 1 PROPOSED BOUNDARY
SOURCED FROM KIMBERLY-HORN/FRISCO
EXHIBIT 1 DATED JUNE 2022

DATE: 27 Dec 2022

Attachment B

Petition for Water and Sanitary Sewer Service for Rockwood Municipal Utility District No. 1 of Denton
County

COATS | ROSE

A PROFESSIONAL CORPORATION

VICTOR CRISTALES
ASSOCIATE ATTORNEY

VCRISTALES@COATSROSE.COM
DIRECT: (972) 419-4704

January 13, 2022

VIA FEDERAL EXPRESS

Ms. Sheri Clearman
Town Secretary
Town of Ponder
102 W Bailey Street
Ponder, Texas 76259

Re: Petition for Water and Sanitary Sewer Service for Rockwood Municipal Utility
District No. 1 of Denton County

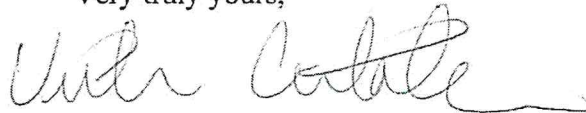
Dear Ms. Clearman:

Enclosed please find a copy of the Petition for Water Service and Sanitary Sewer Service for the proposed Rockwood Municipal Utility District No. 1 of Denton County. I have also enclosed three (3) copies of an affidavit of receipt of the petition. I would appreciate it if you would sign these certificates and return them to me in the enclosed overnight envelope.

Our office looks forward to working with the Town of Ponder regarding the creation of the District and the provision of water and sanitary sewer service to its property.

If you need any additional information, please contact me at (972) 419-4782.

Very truly yours,



Victor Cristales

Enclosures

14755 PRESTON ROAD, SUITE 600, DALLAS, TEXAS 75254
PHONE: (972) 788-1600 FAX: (972) 702-0662
WEB: www.coatsrose.com

HOUSTON | AUSTIN | DALLAS | SAN ANTONIO | NEW ORLEANS | CINCINNATI

PETITION FOR WATER SERVICE AND SANITARY SEWER SERVICE

THE STATE OF TEXAS §

COUNTY OF DENTON §

TO THE HONORABLE MAYOR AND TOWN COUNCIL OF THE TOWN OF PONDER:

The undersigned, acting pursuant to the provisions of Chapters 49 and 54 of the Texas Water Code, and Sections 42.042 and 42.043 of the Texas Local Government Code, respectfully petition the governing body of the Town of Ponder, Texas (the "Town") to make available water service and sanitary sewer service to serve the land described below and located within the Town's extraterritorial jurisdiction.

I.

The undersigned filed with the Town on August 26, 2021, a Petition for Consent to Creation of Rockwood Municipal Utility District No. 1 of Denton County (the "Petition"), requesting the Town's consent to creation of Rockwood Municipal Utility District No. 1 of Denton County (the "District").

II.

The proposed District will contain approximately 359 acres of land depicted by map and described in Exhibit "A" attached hereto and incorporated herein (the "Land"). The proposed District, including the Land, is located within the extraterritorial jurisdiction of the Town of Ponder, Denton County, Texas, and the District is not within the corporate limits or extraterritorial jurisdiction of any other city, town or village.

III.

The Town has failed to give its consent to the creation of the District within ninety (90) days after the Petition was filed with the Town.

IV.

The undersigned hereby petitions the governing body of the Town and requests that the Town make available water service and sanitary sewer service to the Land by entering into a mutually agreeable contract with the undersigned providing for the requested water service and sanitary sewer service as provided under Sections 54.016(b) and (c), Texas Water Code, as amended, and Sections 42.042(b) and (c), Texas Local Government Code, as amended.

V.

A preliminary investigation has been instituted to determine the cost of the proposed improvements to be constructed by the District, and it is now estimated by those filing this petition,

from such information as they have at this time, that the ultimate cost of such improvements will be approximately \$46,438,781.30

RESPECTFULLY SUBMITTED this the 28th day of December, 2021.

PETITIONER:

*Pursuant to Section 42.043(a)(6),
Texas Local Government Code, the
Petitioner owns approximately
180.880 acres of the Land to be serviced.*

JLMCG Properties, LLC,
a Nevada limited liability company

By: *Sandra A. Mahon*

Name: Sandra A. Mahon

Title: Manager

*Pursuant to Section 42.043(a)(6),
Texas Local Government Code, the
Petitioner owns approximately
178.085 acres of the Land to be serviced.*

PETITIONER:

CENDEI SHERWOOD

By: _____
Name: Cendei Sherwood

PETITIONER:

*Pursuant to Section 42.043(a)(6),
Texas Local Government Code, the
Petitioner owns approximately
178.085 acres of the Land to be serviced.*

CENDEI SHERWOOD


By: 
Name: Cendei Sherwood

EXHIBIT "A"

TRACT 1

BEING a tract of land situated in the Nathaniel Rudder Survey, Abstract No. 1060, Denton County, Texas, and being all of a called 180.585 acre tract of land described in a deed to JLMCG Properties, L.L.C., as recorded in Document No. 2007-38542 of the Official Records of Denton County, Texas and being more particularly described as follows:

BEGINNING at a concrete monument found for the southeast corner of said 180.585 acre tract, common to the northeast corner of a called 180.498 acre tract of land described in a deed to Cendei Sherwood, as recorded in Document No. 2011-18575 of the Official Records of Denton County, Texas, same being on the westerly line of a called 541.11 acre tract of land described as Tract 3 in a deed to J. Young Land & Cattle, Ltd., as recorded in Document No. 2003-203076 of the Official Records of Denton County, Texas;

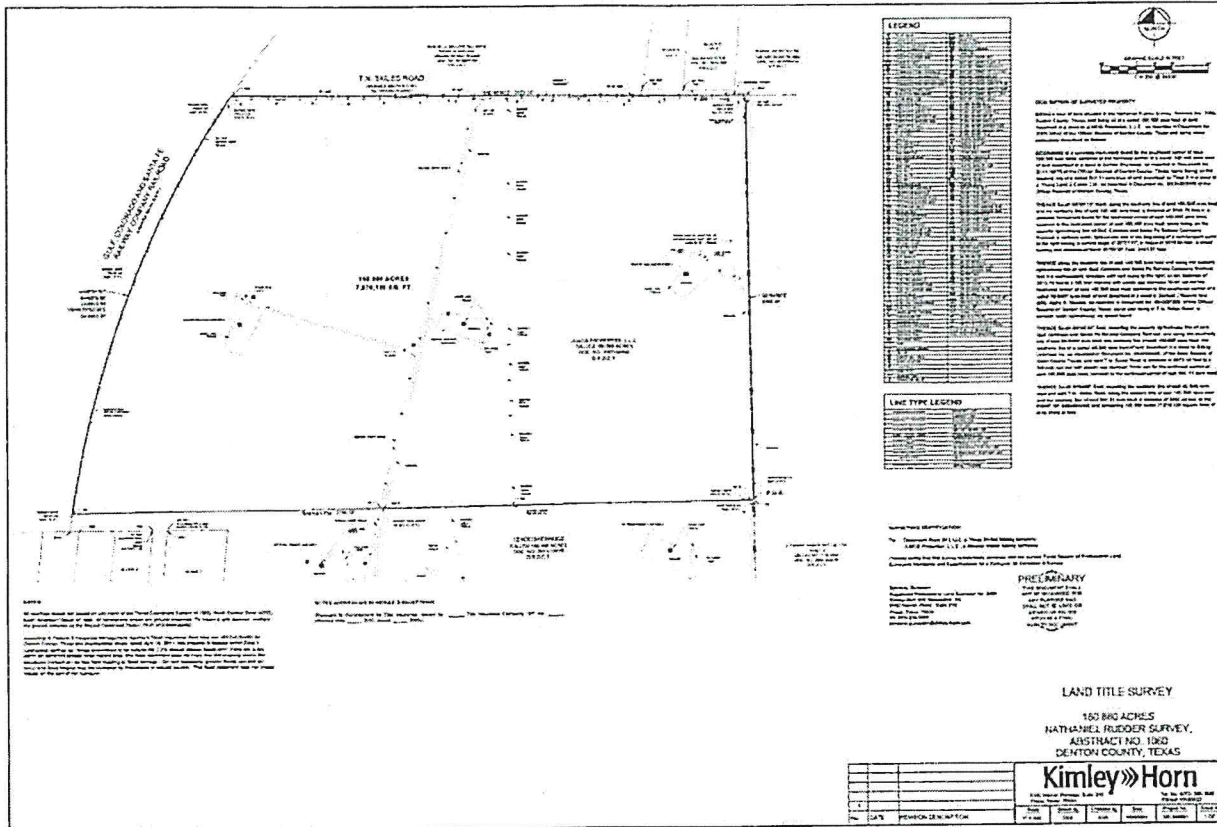
THENCE South 89°09'13" West, along the southerly line of said 180.585 acre tract and the northerly line of said 180.498 acre tract, a distance of 3798.78 feet to a concrete monument found for the southwest corner of said 180.585 acre tract, common to the northwest corner of said 180.498 acre tract, same being on the easterly right-of-way line of Gulf, Colorado and Santa Fe Railway Company Railroad, a variable width right-of-way and at the beginning of a non-tangent curve to the right having a central angle of 25°21'31", a radius of 5679.58 feet, a chord bearing and distance of North 20°53'39" East, 2493.27 feet;

THENCE along the westerly line of said 180.585 acre tract and along the easterly right-of-way line of said Gulf, Colorado and Santa Fe Railway Company Railroad and in a northeasterly direction, with said curve to the right, an arc distance of 2513.74 feet to a 5/8 inch iron rod with plastic cap stamped "KHA" set for the northwest corner of said 180.585 acre tract, common to the southwest corner of a called 89.9487 acre tract of land described in a deed to Samuel J Malone and Wife, Kathy A. Malone, as recorded in Document No. 93-0037220, of the Official Records of Denton County, Texas, same also being in T.N. Skiles Road, a variable width right-of-way, no record found;

THENCE South 89°46'46" East, departing the easterly right-of-way line of said Gulf, Colorado and Santa Fe Railway Company Railroad, and along the southerly line of said 89.9487 acre tract, the northerly line of said 180.585 acre tract, the southerly line of a called 48.646 acre tract of land described in a deed to Riding Unlimited Inc, as recorded in Document No. 93-0059495, of the Deed Record of Collin County Texas, and said T.N. Skiles Road, a distance of 2873.10 feet to a 5/8 inch iron rod with plastic cap stamped "KHA" set for the northeast corner of said 180.585 acre tract, common to the northwest corner of said 541.11 acre tract;

THENCE South 0°54'50" East, departing the southerly line of said 48.646 acre tract and said T.N. Skiles Road, along the easterly line of said 180.585 acre tract and the westerly line of said 541.11 acre tract, a distance of 2262.44 feet to the

POINT OF BEGINNING and containing 180.880 acres (7,879,120 square feet) of land, more or less.



TRACT 2

BEING a tract of land situated in the Nathaniel Rudder Survey, Abstract No. 1060, Denton County, Texas, and being the remainder of a called 180.498 acre tract of land described in a deed to Cendei Sherwood, as recorded in Document No. 2011-18575 of the Official Records of Denton County, Texas, same also being all of Lot 1, Block 1 and all of Lots 1 and 2, Block 2 of the Original Town of Ponder, according to the plat thereof recorded in Volume 75, Page 80 of the Deed Records of Denton County, Texas, and being more particularly described as follows:

BEGINNING at a concrete monument found for the northeast corner of said 180.498 acre tract, common to the southeast corner of a called 180.585 acre tract of land described in a deed to JLMCG Properties, L.L.C., as recorded in Document No. 2007-38542 of the Official Records of Denton County, Texas, same being on the westerly line of a called 541.11 acre tract of land described as Tract 3 in a deed to J. Young Land & Cattle, Ltd., as recorded in Document No. 2003-203076 of the Official Records of Denton County, Texas;

THENCE South 0°54'50" East, along the easterly line of said 180.498 acre tract and the westerly line of said 541.11 acre tract, a distance of 2569.90 feet to a 5/8 inch iron rod found for the southeast corner of said 180.498 acre tract, common to the southwest corner of said 541.11 acre tract, same being on the northerly right-of-way line of F.M. Highway 2499, a 90 foot wide right-of-way, and at the beginning of a non-tangent curve to the left having a central angle of 1°56'15", a radius of 5729.66 feet, a chord bearing and distance of North 89°34'31" West, 193.74 feet;

THENCE in a northwesterly direction along the southerly line of said 180.498 acre tract and the northerly right-of-way line of said F.M. Highway 2499, and with said curve to the left, an arc distance of 193.75 feet to a 1/2 inch iron rod found for corner;

THENCE South 89°27'27" West, continuing along the southerly line of said 180.498 acre tract and the northerly right-of-way line of said F.M. Highway 2499, a distance of 1461.09 feet to a 5/8 inch iron rod with plastic cap stamped "KHA" set for a southwest corner of said 180.498 acre tract, common to the southeast corner of a tract of land described in a deed to Cendei Sherwood, as recorded in Document No. 2011-18576 of the Official Records of Denton County, Texas;

THENCE North 1°08'09" West, departing the northerly right-of-way line of said F.M. Highway 2499, and along the common line of said 180.498 acre tract and said Sherwood tract, a distance of 134.71 feet to a 5/8 inch iron rod with plastic cap stamped "KHA" set for corner;

THENCE North 38°36'16" West, continuing along said common line, a distance of 700.83 feet to a 5/8 inch iron rod with plastic cap stamped "KHA" set for the northerly corner of said Sherwood tract, common to an ell corner of said 180.498 acre tract, from which, a 1/2 inch iron rod with plastic cap stamped "Coleman RPLS 4001" found for witness bears North 25°11' West, 0.35 feet;

THENCE South 2°08'23" West, continuing along said common line, a distance of 687.25 feet to the southwest corner of said Sherwood tract, common to a southeast corner of said 180.498 acre tract, same being on the northerly right-of-way line of said F.M. Highway 2499;

THENCE South 89°27'27" West, along the southerly line of said 180.498 acre tract and the northerly right-of-way line of said F.M. Highway 2499, a distance of 874.68 feet to a 5/8 inch iron rod with plastic cap stamped "KHA" set at the beginning of a tangent curve to the left having a central angle of 2°13'12", a radius of 5729.65 feet, a chord bearing and distance of South 88°20'51" West, 221.99 feet;

THENCE in a southwesterly direction continuing along the southerly line of said 180.498 acre tract and the northerly right-of-way line of said F.M. Highway 2499, and with said curve to the left, an arc distance of 222.00 feet to a 5/8 inch iron rod with plastic cap stamped "KHA" set for the southwest corner of said 180.498 acre tract, being on the easterly right-of-way line of aforesaid the Original Town of Ponder;

THENCE North 5°35'35" East, departing the northerly right-of-way line of said F.M. Highway 2499, along a westerly line of said 180.498 acre tract and the easterly line of said the Original Town of Ponder, a distance of 764.82 feet to a mag nail set for a northwest corner of said 180.498 acre tract, common to the southeast corner of Block 16 of said the Original Town of Ponder, and the southwest corner of called 1.01 acre tract of land described in a deed to James Norman Brooks, et al, as recorded in Document No. 2013-13723 of the Official Records of Denton County, Texas, and the north end of the easterly terminus of Doyle Street, an 80 foot wide right-of-way, as dedicated in said plat of the Original Town of Ponder;

THENCE South 84°31'22" East, departing said terminus, along the a northerly line of said 180.498 acre tract and the southerly line of said 1.01 acre tract, a distance of 274.84 feet to a 1/2 inch iron rod found for the southeast corner of said 1.01 acre tract, common to an ell corner of said 180.498 acre tract;

THENCE North 5°37'17" East, along a westerly line of said 180.498 acre tract, the easterly line of said 1.01 acre tract, the easterly line of a called 0.28 acre tract of land described in a deed to Kenneth and Christopher Corby, as recorded in Document No. 2008-66374 of the Official Records of Denton County, Texas, the easterly terminus of Bailey Street, a variable width right-of-way, the easterly line of a tract of land described as Tract 1 in a deed to Charlie E. Bostick and Janice Bostick, as recorded in Document No. 2008-66493 of the Official Records of Denton County, Texas, and the easterly line of Crider Addition, according to the plat thereof recorded in Cabinet Q, Page 135 of the Plat Records of Denton County, Texas, a distance of 699.82 feet to a 1/2 inch iron rod with plastic cap (illegible) found for the northeast corner of said Crider Addition, common to an ell corner of said 180.498 acre tract;

THENCE North 84°29'06" West, along a southerly line of said 180.498 acre tract and the northerly line of said Crider Addition, a distance of 275.18 feet to a mag nail set for a southwest corner of said 180.498 acre tract, common to the northwest corner of said Crider Addition, the northeast corner of Block 9 of said the Original Town of Ponder, and the south end of the easterly

terminus of James Street, an 80 foot wide right-of-way, same being in Eddie Street, a variable width right-of-way;

THENCE North 5°35'35" East, departing said Eddie Street, along a westerly line of said 180.498 acre tract and said terminus, a distance of 80.00 feet to a 5/8 inch iron rod with plastic cap stamped "KHA" set for a northwest corner of said 180.498 acre tract, common to the north end of said terminus, the southeast corner of Block 8 of said the Original Town of Prosper, and the southwest corner of Lot 1, Block A of David Lott Addition, according to the plat thereof recorded in Document No. 2017-388 of the Plat Records of Denton County, Texas;

THENCE South 85°48'52" East, departing said terminus, along the common line of said 180.498 acre tract and said Lot 1, a distance of 75.49 feet to a 5 inch metal post found for the southerly southeast corner of said Lot 1, common to an ell corner of said 180.498 acre tract;

THENCE North 64°04'09" East, continuing along said common line, a distance of 331.56 feet to a 1/2 inch iron rod with plastic cap stamped "Coleman RPLS 4001" found for the southeast corner of said Lot 1, common to an ell orner of said 180.498 acre tract;

THENCE North 3°36'41" West, continuing along said common line, a distance of 227.16 feet to a 5 inch metal post found for the northeast corner of said Lot 1, common an ell corner of said 180.498 acre tract;

THENCE South 88°36'14" West, continuing along said common line, a distance of 324.16 feet to a 5/8 inch iron rod with plastic cap stamped "KHA" set for the northwest corner of said Lot 1, common to the northeast corner of said Block 8, the south end of the easterly terminus of Greene Street, an 80 foot wide right-of-way, and a southwest corner of said 180.498 acre tract;

THENCE North 5°35'35" East, along a westerly line of said 180.498 acre tract and the northerly right-of-way line of said Greene Street, a distance of 80.00 feet to a 5/8 inch iron rod with plastic cap stamped "KHA" set for the north end of said terminus, common to the southeast corner of aforesaid Lot 1, Block 1, and an ell corner of said 180.498 acre tract, from which, a 1/2 inch iron rod with plastic cap stamped "Coleman RPLS 4001" found for witness bears South 24°36' West, 0.98 feet;

THENCE North 84°24'25" West, along the southerly line of said Lot 1, Block 1, a southerly line of said 180.498 acre tract, and the northerly right-of-way line of said Greene Street, a distance of 333.00 feet to a 5/8 inch iron rod with plastic cap stamped "KHA" set for the southwest corner of said Lot 1, Block 1, common to a southwest corner of said 180.498 acre tract, and at the intersection of the northerly right-of-way line of said Greene Street with the easterly right-of-way line of Frederick Street, an 80 foot wide right-of-way, from which, a 1/2 inch iron rod with plastic cap stamped "Coleman RPLS 4001" found for witness bears South 41°21' East, 1.53 feet;

THENCE North 5°35'35" East, along the westerly line of said Lot 1, Block 1, a westerly line of said 180.498 acre tract, and the easterly right-of-way line of said Frederick Street, a distance of 443.88 feet to a 5/8 inch iron rod with plastic cap stamped "KHA" set for the northwest corner of said Lot 1, Block 1, common to an ell corner of said 180.498 acre tract, and the east end of the

northerly terminus of Frederick Street, from which, a 1/2 inch iron rod with plastic cap stamped "Coleman RPLS 4001" found for witness bears South 32°55' East, 1.84 feet;

THENCE South 89°30'35" West, along a southerly line of said 180.498 acre tract and along said terminus, a distance of 80.45 feet to a 5/8 inch iron rod with plastic cap stamped "KHA" set for the northeast corner of aforesaid Block 2, common to an ell corner of said 180.498 acre tract, and the west end of said terminus, same being on the westerly right-of-way line of said Frederick Street, from which, a 1/2 inch iron rod with plastic cap stamped "Coleman RPLS 4001" found for witness bears South 17°03' East, 1.54 feet;

THENCE South 5°35'35" West, departing said terminus, along the easterly line of said Block 2, an easterly line of said 180.498 acre tract, and the westerly right-of-way line of said Frederick Street, a distance of 435.35 feet to a 5/8 inch iron rod with plastic cap stamped "KHA" set for the southeast corner of said Block 2, common to a southeast corner of said 180.498 acre tract, and at the intersection of the westerly right-of-way line of said Frederick Street with the northerly right-of-way line of said Greene Street;

THENCE North 84°24'25" West, along the southerly line of said Block 2, a southerly line of said 180.498 acre tract, and the northerly right-of-way line of said Greene Street, a distance of 410.00 feet to a 5/8 inch iron rod with plastic cap stamped "KHA" set for the southwest corner of said Block 2, common to a southwest corner of said 180.498 acre tract, same being on the easterly right-of-way line of Gulf, Colorado and Santa Fe Railway Company Railroad, a variable width right-of-way;

THENCE North 5°35'35" East, along the westerly line of said Block 2, a westerly line of said 180.498 acre tract, and the easterly right-of-way line of Gulf, Colorado and Santa Fe Railway Company Railroad, a distance of 391.66 feet to a 5/8 inch iron rod with plastic cap stamped "KHA" set for the northwest corner of said Block 2, common to an ell corner of said 180.498 acre tract;

THENCE South 89°30'35" West, along a southerly line of said 180.498 acre tract and continuing along the easterly right-of-way line of said Gulf, Colorado and Santa Fe Railway Company Railroad, a distance of 48.52 feet to a 5/8 inch iron rod with plastic cap stamped "KHA" set at the beginning of a non-tangent curve to the right having a central angle of 1°01'05", a radius of 5679.58 feet, a chord bearing and distance of North 7°42'21" East, 100.91 feet;

THENCE in a northeasterly direction along a westerly line of said 180.498 acre tract, continuing along the easterly right-of-way line of said Gulf, Colorado and Santa Fe Railway Company Railroad, and with said curve to the right, an arc distance of 100.91 feet to a concrete monument found for the northwest corner of said 180.498 acre tract, common to the southwest corner of aforesaid 180.585 acre tract;

THENCE North 89°09'13" East, departing the easterly right-of-way line of said Gulf, Colorado and Santa Fe Railway Company Railroad, and along a northerly line of said 180.498 acre tract and the southerly line of said 180.585 acre tract, a distance of 3798.78 feet to the **POINT OF BEGINNING** and containing 178.660 acres (7,782,444 square feet) of land, more or less, save an except the following described tract of land:

BEING a tract of land situated in the Nathaniel Rudder Survey, Abstract No. 1060, Denton County, Texas, and being all of a called 0.586 acre tract of land described in a deed to Jerry E. Inman and wife, Dannie M. Inman, also known as Danny Inman, as recorded in Volume 3211, Page 852 of the Deed Records of Denton County, Texas, and being more particularly described as follows:

COMMENCING at a 5/8 inch iron rod with plastic cap stamped "KHA" set for the southeast corner of Block 8 of the Original Town of Ponder, according to the plat thereof recorded in Volume 75, Page 80 of the Deed Records of Denton County, Texas, common to the southwest corner of Lot 1, Block A of David Lott Addition, according to the plat thereof recorded in Document No. 2017-388 of the Plat Records of Denton County, Texas, an ell corner of a called 180.498 acre tract of land described in a deed to Cendei Sherwood, as recorded in Document No. 2011-18575 of the Official Records of Denton County, Texas, the north end of the easterly terminus of James Street, an 80 foot wide right-of-way, and the southerly northwest corner of a 20 foot wide ingress/egress easement recorded in said deed recorded in Volume 3211, Page 852 of the Deed Records of Denton County, Texas;

THENCE South 85°48'52" East, departing the easterly terminus of said James Street, along the southerly line of said Lot 1, Block A, the northerly line of said easement and crossing said 180.498 acre tract, a distance of 75.49 feet to a 5 inch metal post found for the southerly southeast corner of said Lot 1, Block A, common to an ell corner of said easement;

THENCE North 64°04'09" East, continuing along the southerly line of said Lot 1, Block A, the northerly line of said easement, and across said 180.498 acre tract, passing at a distance of 331.56 feet a 1/2 inch iron rod with plastic cap stamped "Coleman RPLS 4001" found for the northerly southeast corner of said Lot 1, Block A, common to an ell corner of said easement, and continuing along the same course, for a total distance of 474.32 feet to an ell corner of said easement;

THENCE North 27°01'33" East, continuing along the northerly line of said easement and across said 180.498 acre tract, a distance of 117.66 feet to the northerly northwest corner of said easement;

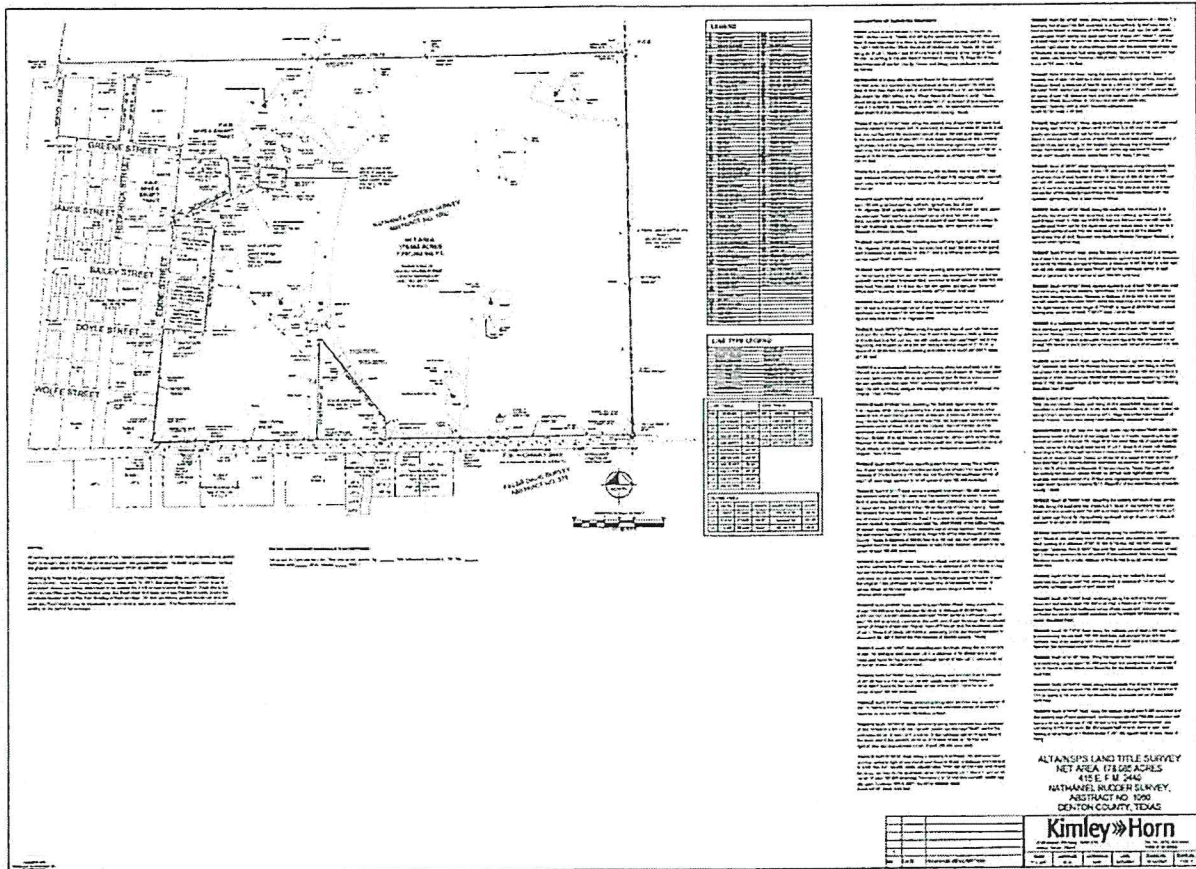
THENCE South 86°14'52" East, continuing along the northerly line of said easement and across said 180.498 acre tract, a distance of 17.59 feet a metal fence post found for the northeast corner of said easement, common to the northwest corner of said 0.586 acre tract, and the **POINT OF BEGINNING** of the herein described tract;

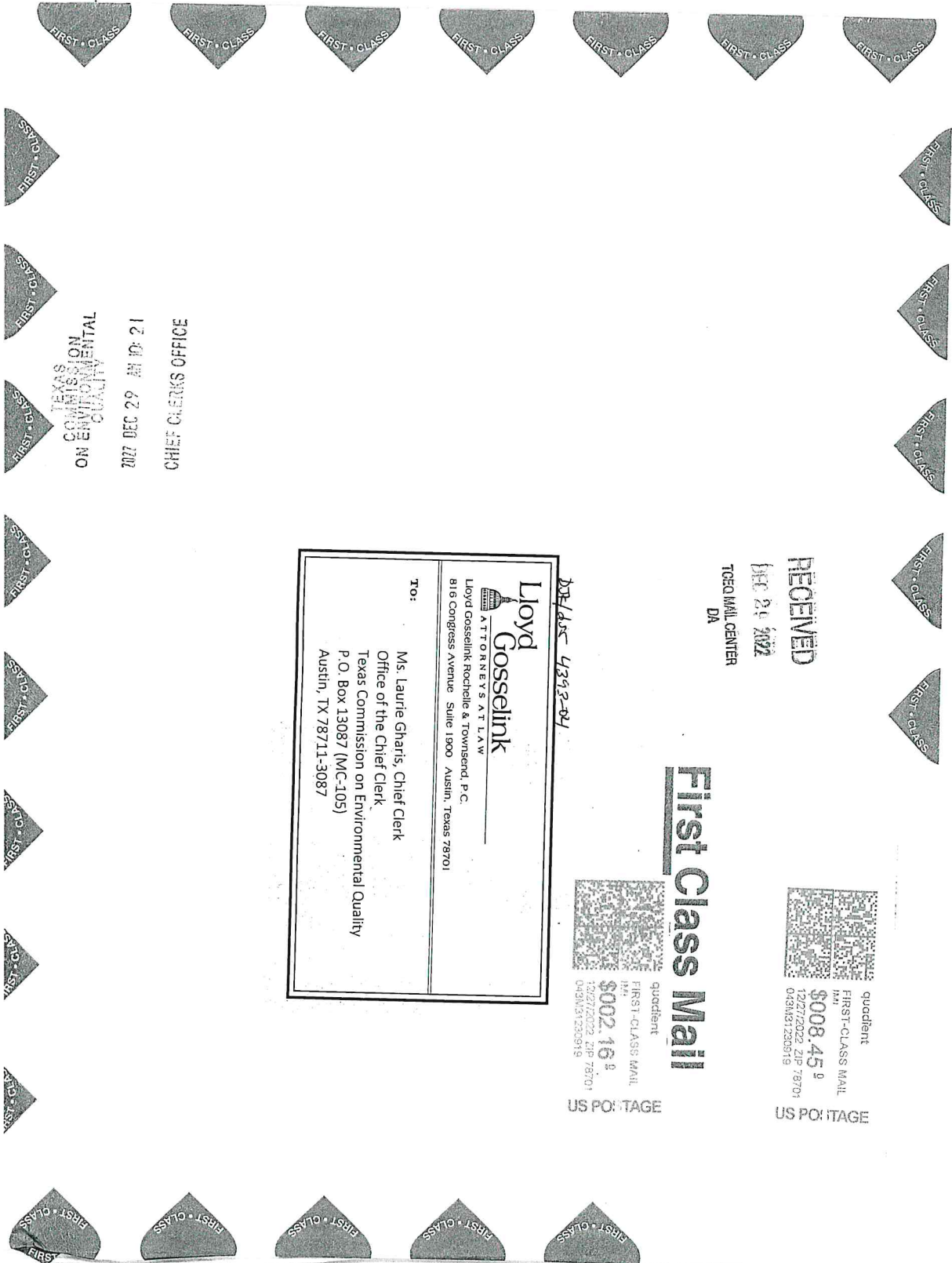
THENCE South 86°12'18" East, along the northerly line of said 0.586 acre tract and continuing across said 180.498 acre tract, and along a fence and the northerly face of an existing barn, a distance of 184.41 feet to a metal fence post found for the northeast corner of said 0.586 acre tract;

THENCE South 6°21'45" West, along the easterly line of said 0.586 acre tract and continuing across said 180.498 acre tract, and along a fence, a distance of 144.19 feet to a metal fence post found for the southeast corner of said 0.586 acre tract;

THENCE North 82°43'14" West, along the southerly line of said 0.586 acre tract and continuing across said 180.498 acre tract, and along a fence, a distance of 177.04 feet to a 1/2 inch iron rod found for the southwest corner of said 0.586 acre tract;

THENCE North 3°15'39" East, along the westerly line of said 0.586 acre tract and the easterly line of said easement, continuing across said 180.498 acre tract and along a fence, a distance of 133.29 feet to the **POINT OF BEGINNING**, and containing 0.575 of an acre (25,052 square feet) of land, more or less, and leaving a net acreage of 178.085 acres (7,757,392 square feet) of land, more or less.





TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

2027 DEC 29 AM 10:21

CHIEF CLERKS OFFICE

DE/LOS 4393-84

Lloyd Gosselink
ATTORNEY'S AT LAW
Lloyd Gosselink Rochelle & Townsend, P.C.
816 Congress Avenue Suite 1900 Austin, Texas 78701

To:
Ms. Laurie Gharis, Chief Clerk
Office of the Chief Clerk
Texas Commission on Environmental Quality
P.O. Box 13087 (MC-105)
Austin, TX 78711-3087

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 512.472.0532 f
 lglawfirm.com

REVIEWED

DEC 23 2022

Dr. Gou H

Mr. Klein's Direct Line: (512) 322-5818
 Email: dklein@lglawfirm.com

December 27, 2022

Ms. Laurie Gharis, Chief Clerk
 Office of the Chief Clerk
 Texas Commission on Environmental Quality
 P.O. Box 13087 (MC-105)
 Austin, TX 78711-3087

VIA FACSIMILE, FIRST CLASS
 MAIL AND TCEQ E-FILING

Re: Petition by JLMCG Properties, LLC and Cendi Sherwood to the Texas Commission on Environmental Quality for the creation of Rockwood Municipal Utility District No. 1 of Denton County; TCEQ Internal Control No. D-07212022-032

Dear Chief Clerk Gharis:

The Town of Ponder (the "*Town*") submits the following public comments and request for a contested case hearing on the petition of JLMCG Properties, LLC and Cendi Sherwood to create Rockwood Municipal Utility District No. 1 of Denton County (the "*Petition*"). Please direct all future correspondence on this Petition to the following representative of the Town:

Town of Ponder:

David Klein, Attorney for the Town
 816 Congress Avenue, Suite 1900
 Austin, Texas 78701
 dklein@lglawfirm.com
 Daytime Phone: (512) 322-5800
 Fax: (512) 472-0532

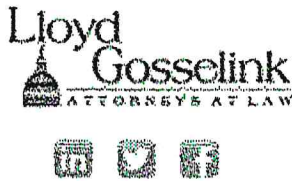
I. PROCEDURAL HISTORY CONCERNING THE PETITION

On June 2, 2022, JLMCG Properties, LLC and Cendi Sherwood (collectively, the "*Petitioner*") filed their Petition for the creation of Rockwood Municipal Utility District No. 1 of Denton County (the "*District*") with the Texas Commission on Environmental Quality (the "*TCEQ*"). The TCEQ found the petition administratively completed on July 22, 2022. On November 9, 2022, the Chief Clerk of the TCEQ sent a letter to Mindy Koehne, attorney for the Petitioner, with a copy of the draft Notice of District Creation (the "*Notice*"). The Notice specified that the deadline to request a hearing is 30 days after newspaper publication of the Notice. The Petitioner filed an Affidavit of Publication of the Notice of District Creation indicating that notice was published on November 19, 2022, and November 26, 2022, and a Certificate of Posting Notice

FAX COVER SHEET

To: **From:** Ricoh Services
Company: **Date:** 12/27/22 04:52:58 PM
Fax Number: 5122393311 **Pages (Including cover):** 28
Re: TCEQ Rockwood

Notes:



RICOH
Direct
Lloyd Gosselink Rochelle & Townsend, P.C.
816 Congress Ave., Suite 1900, Austin, TX 78701
www.lglawfirm.com | 512-322-5800

ATTENTION TO PUBLIC OFFICIALS AND OFFICIALS WITH OTHER INSTITUTIONS SUBJECT TO THE OPEN MEETINGS ACT

A "REPLY TO ALL" OF THIS EMAIL COULD LEAD TO VIOLATIONS OF THE TEXAS OPEN MEETINGS ACT. PLEASE REPLY ONLY TO LEGAL COUNSEL.

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December 27, 2022
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from Michele Boutwell that Notice was posted on the bulletin board used for posting legal notices at the Denton County Clerk's Office on November 15, 2022. Therefore, based on these posting and publication notice dates and the procedural rules of the TCEQ, the deadline to submit public comments and/or request a hearing regarding the Petition is December 27, 2022. Thus, these public comments and request for a contested case hearing are timely filed.

II. PUBLIC COMMENT

With this filing, the Town submits the following comments regarding the Petition. The jurisdictional boundaries of the proposed District, consisting of approximately 359 acres of land, are located entirely within the Town's water Certificate of Convenience and Necessity ("CCN") No. 12951 and the Town's extraterritorial jurisdiction ("ETJ"). The Petition proposes that the District will finance the costs to build/acquire a water distribution system for domestic purposes, a sanitary sewer system, roads, and other facilities consistent with the purposes for which the District was organized. The Town currently provides water service in its water CCN service area and sewer, waste disposal, and emergency/fire-fighting services within its corporate limits and ETJ. The Town also invests in drainage facilities to control stormwater and other harmful excess waters. Accordingly, the Town is concerned that the creation of the proposed District would overlap and interfere with the Town's ability to plan for and provide these services and facilities within its ETJ and CCN service area. The Town is also concerned about the proposed District's effect on the health, safety, and welfare of the residents within the Town's ETJ, including future residents within the proposed District, especially the proposed development's impacts on water quality, drainage, runoff rates, and emergency/fire-fighting services. Additionally, the Town asks the TCEQ to explain how the District can provide domestic water service or build water infrastructure within the proposed District's boundaries if the Town has the exclusive right to provide water service over the land.

III. REQUEST FOR A CONTESTED CASE HEARING

The Petition requesting the creation of the District under Texas Water Code ("TWC") § 54.021 should be denied since the proposed district is within the Town's ETJ and water CCN No. 12951 service area. As such, the creation of the District is not feasible or practicable, not necessary, and would not be a benefit to the land to be included in the District. In relevant part, TWC § 54.021(a) and (b) state:

(a) If the commission finds...that the project is feasible and practicable and is necessary and would be a benefit to the land to be included in the district, the commission shall so find by its order and grant the petition.

(b) In determining if the project is feasible and practicable and if it is necessary and would be a benefit to the land included in the district, the commission shall consider: (1) the availability of comparable service from other systems, including but not limited to water districts, municipalities, and regional authorities...¹

¹ Tex. Water Code § 54.021(a) and (b).

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Here, the Town's ETJ and water CCN service area extend over the entire area of the proposed District's boundaries. Maps depicting the Town's ETJ and water CCN boundaries, as well as the overlap with the boundaries of the proposed District, are attached hereto as **Attachment A** and incorporated herein for all purposes.² Thus, given that the Town is already providing the services contemplated by the District nearby and that it has the exclusive right to provide continuous and adequate retail water service to the proposed boundaries of the District, the Town can extend those services to the area within the boundaries of the proposed District. Said another way, since the Town is the only entity that can provide water service within the proposed District's jurisdictional boundaries, the District is legally prohibited from providing such service. Therefore, the Town is necessarily the sole provider of water service to the proposed District. The Town is fully capable and committed to providing these services to this portion of its ETJ and water CCN. Consequently, the proposed District is not necessary for the provision of such service. The TCEQ must consider these facts in determining whether the Petition is feasible and practicable under TWC § 54.021(b)(1).

Additionally, the Town is the holder of Texas Pollutant Discharge Elimination System Permit ("TPDES") No. WQ0011287003. With this TPDES Permit, the Town can and is ready to be the regional provider of wastewater service to the proposed District. Creating the District without an agreement with the Town for wastewater service would likely result in the District filing an application for a separate TPDES Permit that would utilize a small, package plant and would neither conserve nor preserve the State's natural resources. Although no agreement between the Town and the proposed District has been reached, recent conversations have taken place regarding the provision of services to the area of land in the proposed District. In short, it is not practicable for the creation of a district under these circumstances.

The Town requests a contested case hearing regarding the Petition under 30 TAC § 55.251. As a local government with authority under state law over issues contemplated by the application and the holder of water CCN No. 12951 with a water service area over the entire jurisdictional boundaries of the proposed District, the Town is an "affected person" under 30 Texas Administrative Code ("TAC") § 55.256 and has the right to submit this protest in addition to being considered an affected person as a local government.³ As further required by 30 TAC § 55.251(c), the contact information of the person filing this request is provided in the initial paragraph of this letter. For an entity other than the Commissioners, Executive Director, or Petitioner to have standing to request a contested case hearing, it must demonstrate that it is an "affected person" under the standards set forth in 30 TAC § 55.256.⁴ Under such rule, an affected person is one who has a personal justiciable interest not common to members of the general public that is related to a legal right, duty, privilege, power, or economic interest affected by the petition.⁵ Governmental

² A total of four maps are included in **Attachment A**, which depict: the Town's ETJ and city limit boundaries; the location of the proposed District in relation to the Town's ETJ and city limit boundaries; the Town's water CCN No. 12951 service area; and, the location of the proposed District in relation to the Town's water CCN No. 12951 service area.

³ 30 TAC § 55.256(b).

⁴ 30 TAC § 55.251(b).

⁵ 30 TAC § 55.256(a).

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entities, such as the Town, with authority under state law over issues contemplated by the Petition, may be considered affected persons.⁶ All relevant factors must be considered by the TCEQ in determining affected person status, including: (1) whether the interest claimed is one protected by the law under which the petition will be considered; (2) distance restrictions or other limitations imposed by law on the affected interest; (3) whether a reasonable relationship exists between the interest claimed and activity regulated; (4) the likely impact of the regulated activity on the health, safety, and use of property of the person; (5) the likely impact of the regulated activity on the use of the impacted natural resource by the person; and (6) for governmental entities, their statutory authority over or interest in the issues relevant to the application.

Here, the jurisdictional boundaries of the proposed District are entirely within the Town's ETJ and water CCN No. 12951 service area, and the overlapping boundaries resulting from the Petition are a personal justiciable interest of the Town that is negatively affected by the Petition. A map of the Town's water CCN boundaries is attached hereto in **Attachment A**, as referenced above. Under Texas law, a water CCN provides its holder with the exclusive right to provide retail water service to the service area designated in such certificate.⁷ Here, however, the Petition contemplates creating a municipal utility district within the Town's water CCN service area. Thus, as the sole water CCN holder over the proposed District's jurisdictional boundaries, the creation of the District within the Town's water CCN boundaries is certainly a fact that is unique to the Town. Further, such unique fact negatively affects the Town as it impairs the Town's legal right, duty, privilege, power, and economic interest under its water CCN in providing retail water service within its water CCN service area. To that end, the Town's right, duty, privilege, power, and economic interest under its water CCN is statutorily protected.⁸ As to the Town's right, privilege, and power under its water CCN, TWC § 13.242(a) states that:

...except as otherwise provided by this subchapter, a retail public utility may not furnish, make available, render, or extend retail water or sewer utility service to any area to which retail water or sewer utility service is being lawfully furnished by another retail public utility without first having obtained a certificate of public convenience and necessity that includes the area in which the consuming facility is located.⁹

Additionally, the Town's obligation as a CCN holder to provide retail water service is established under TWC § 13.250(a), which provides that:

Except as provided by this section or Section 13.2501 of this code, any retail public utility that possesses or is required to possess a certificate of public convenience and necessity shall serve every consumer within its certified area and shall render continuous and adequate service within the area or areas.¹⁰

⁶ 30 TAC § 55.256(b).

⁷ Tex. Water Code § 13.002(20).

⁸ Tex. Water Code § 13.242(a).

⁹ *Id.*

¹⁰ Tex. Water Code § 13.250(a).

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Plus, the Petition proposes the construction of water distribution infrastructure, which with the sewer, drainage, and roadway infrastructure improvements, is estimated to cost \$55,215,000. The water distribution infrastructure portion of such sum contemplates the installation of such infrastructure within the Town's water CCN service area, which also negatively affects the Town's ability to provide retail water service and economic interest in developing its water system. An additional factor used in the determination of whether a proposed District is feasible and practicable and if it is necessary and would be a benefit to the land included is the reasonableness of the projected construction cost.¹¹ Such estimated cost of \$55,215,000 is not reasonable in light of the Town's ability to otherwise continue to provide these services or when considered with the significantly lower cost estimate provided to the Town by the Petitioner in its Petition for Water Service and Sanitary Sewer Service, attached as Attachment B, that estimates the cost of such improvements to be \$46,438,781.30.

For these reasons, creating the proposed District with jurisdictional boundaries within the Town's water CCN service area uniquely impacts the Town and its legal right, duty, privilege, power, and economic interest in providing retail water service to that area. Thus, the Town is an affected person with the right to a contested case hearing on the Petition.

Further, the Town has an interest in this Petition as it has numerous sewer and water permits and facilities near the proposed District, which would also be uniquely and negatively affected by the creation of the proposed District. Just southeast of the boundaries of the proposed District lies the Town's wastewater treatment plant, permitted under TPDES Permit No. WQ0011287003. There is also a 6-inch water line running east and west along FM 2449, which abuts the southern border of the boundaries of the proposed District. Two water wells and an elevated storage tank are also near the proposed District on E. James Street.

Additionally, the Town is an affected person in this matter when evaluating its personal justiciable interests under the pertinent portions of the TCEQ's "other relevant factors" in 30 TAC § 55.256(c). As already noted in the portions of this Section III above, the Town's interest in being the exclusive retail water service provider in its water CCN service area is protected by law under TWC §§ 13.242 and 13.250. Such statutory protections are directly related to the analysis of whether to approve or deny the Petition under TWC § 54.021(a) and (b). As noted in TWC § 54.021(b)(1), when the TCEQ considers the feasibility and practicality of a petition to create a district, it must look to whether there are comparable services from other systems, such as municipalities. Clearly, with its water CCN, the Town is not just a comparable service provider but the mandatory water service provider within the jurisdictional boundaries of the proposed District. With respect to sewer service, the Town's TPDES Permit and nearby WWTP make the Town a comparable sewer service provider.

As to the second TCEQ factor under 30 TAC § 55.256(c), there are no express distance restrictions or other limitations imposed by law on the Town's affected interest in providing retail water service within the proposed District's boundaries. That being said, it is reasonable to assume that the applicable distance requirement should be based on whether the proposed District's

¹¹ Tex. Water Code § 54.021(b)(2).

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boundaries are inside or outside the water CCN area. Here, such District boundaries would be entirely within the Town's water CCN service area. From the sewer service perspective, the Town's wastewater treatment plant is located less than one (1) mile from the boundary of the proposed District and such proximity would trigger a regionalization analysis under the TCEQ's application requirements for a TPDES Permit – an analysis evaluating whether it is feasible for the District to obtain wastewater service from the Town instead of permitting and operating a second, unnecessary wastewater treatment plant.

Next, a reasonable relationship exists between the Town's interest as the water CCN holder and the creation of the District. Specifically, in the event that the District is created, it cannot provide water service within its boundaries. Otherwise, the District would be infringing on the Town's exclusive right to provide retail water service. Again, the Town has the exclusive right to provide retail water service with its water CCN service area, including the proposed District, and it must also provide continuous and adequate service to consumers within such area.¹² Further, the addition of another retail water service provider would have a negative impact on the Town's investment in its water infrastructure. Similarly, the Town has an interest in utilizing its existing sewer infrastructure to provide wastewater service to the proposed boundaries of the District. Plus, if the District will not obtain sewer service from the Town, then it is very near to the sewer CCN of the City of Denton.

In sum, the proposed District is within a water CCN and adjacent to a sewer CCN as well as in immediate proximity to water and sewer facilities within the corporate limits of the Town. Thus, its creation would not promote wastewater regionalization and would adversely impact the Town's obligation to provide continuous and adequate water service to such land. So, it is in the public interest to deny the Petition.¹³

Therefore, for the reasons stated above, the Town is an affected person that is impacted by the Petition in a manner unique from the rest of the general public, and the TCEQ should grant its contested case hearing request. Additionally, the Town requests that the Executive Director respond to the Town's public comments.

Sincerely,



David Klein
Attorney for the Town of Ponder

¹² See Tex. Water Code § 13.250 (setting forth a CCN holder's obligation to serve).

¹³ See Tex. Water Code § 13.241(d) and § 26.081(a) reflecting state policy to promote regional water, sewer, and waste disposal services.

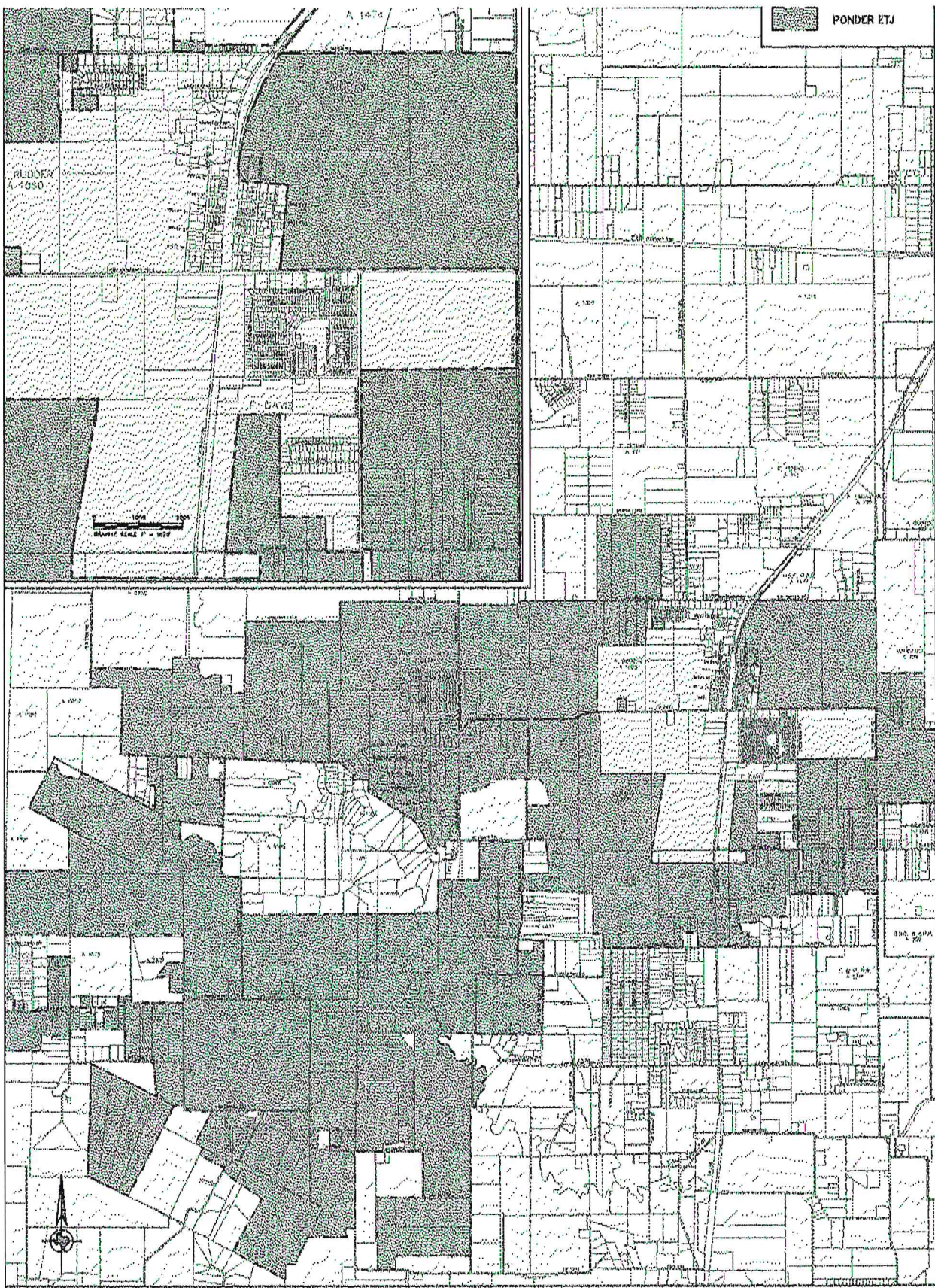
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Enclosures

cc: Todd Galiga, Environmental Law Division
Justin Taack, Districts Section Manager
Matthew Poole, Mayor, Town of Ponder
Matthew Boyle, Attorney for the Town of Ponder
Chloe Daniels, Lloyd Gosselink Rochelle & Townsend

Attachment A

Maps of the Town of Ponder's ETJ and Water CCN No. 12951



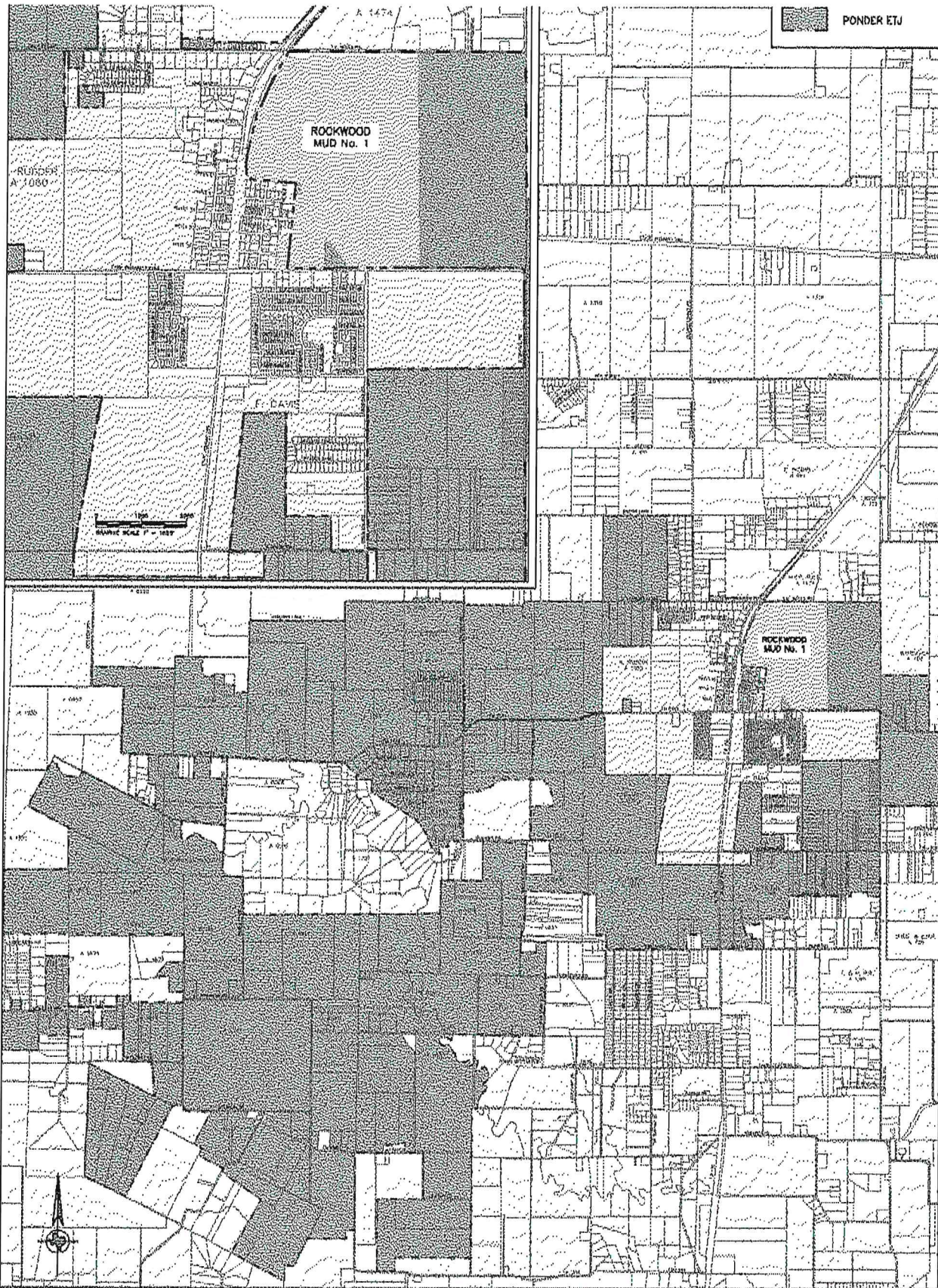
GRAPHIC SCALE 1" = 200'

B Belcoff & Associates, Inc.
 15000 W. 12th St. #14
 Denver, CO 80202
 Phone: (303) 755-1234
 Fax: (303) 755-1235
 Website: www.belcoff.com



TOWN MAP
 REVISED: NOVEMBER 2016
 UPDATED: MAY 2019

ETJ boundary is determined from the Interlocal Boundary and Extrajurisdictional Jurisdiction Contract between the City of Dayton and the Town of Ponder dated May 12, 2015



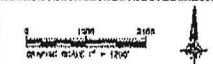
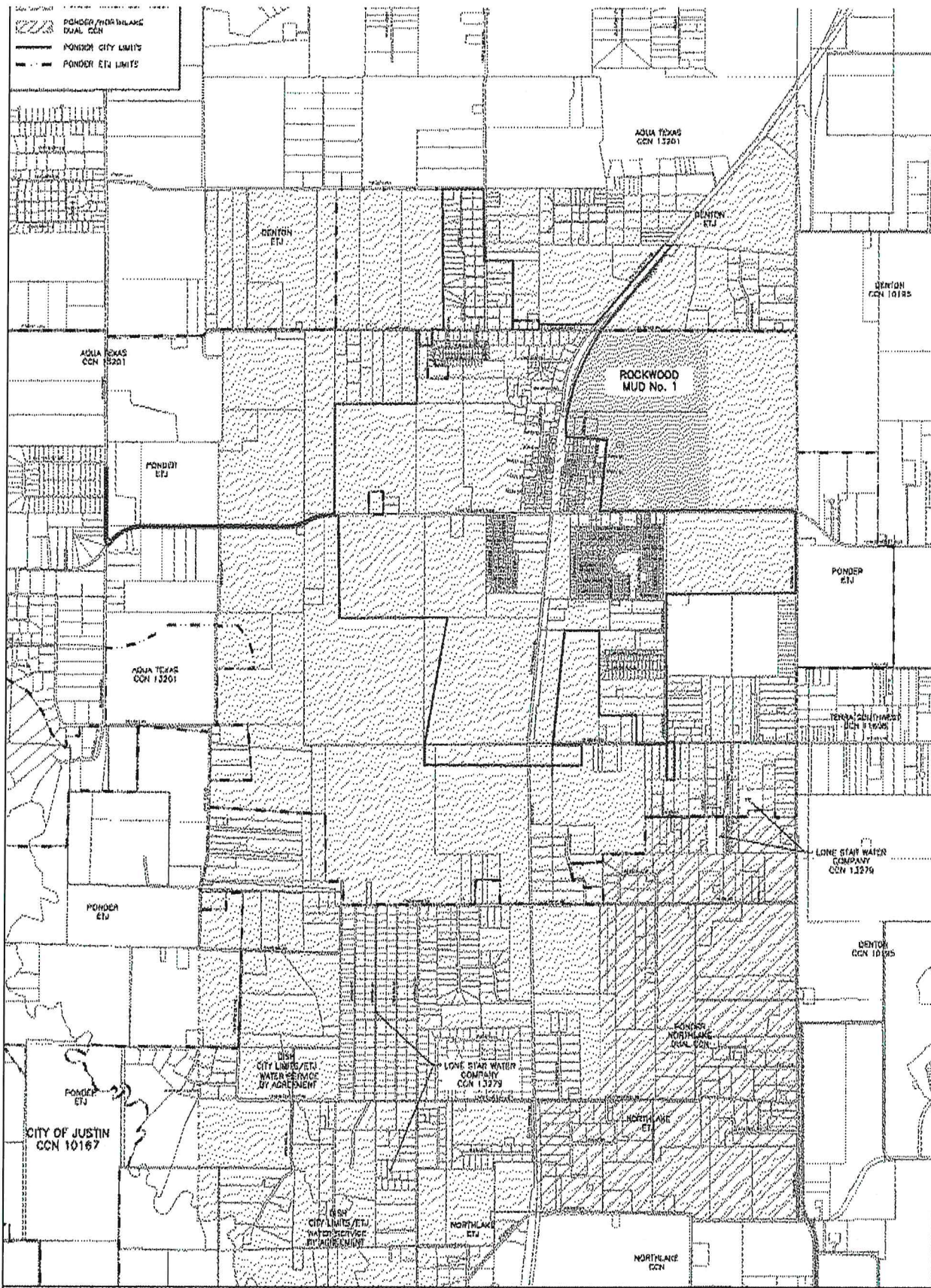
Graphic Scale 1" = 200'

B Belchiff & Associates, Inc.
 14255 Highway 100, Suite 100
 Dallas, Texas 75244
 Phone: 972.440.1000
 Fax: 972.440.1001
 Website: www.belchiff.com



TOWN MAP
 REVISED: NOVEMBER 2016
 UPDATED: MAY 2019

ETJ boundary is obtained from the Interlocal Boundary and Extrajurisdictional Jurisdiction Contract between the City of Dallas and the Town of Ponder dated May 12, 2015



B Belchiff & Associates, Inc.
 10000 Lakeside Blvd.
 Suite 400
 Frisco, TX 75034
 Phone: (972) 291-1111
 Fax: (972) 291-1112



**PONDER WATER CCN MAP
 ROCKWOOD MUD No. 1
 EXHIBIT**

ROCKWOOD MUD No. 1 PROPOSED BOUNDARY
 SOURCED FROM KIMBERLY-HORN/FRISCO
 EXHIBIT 1 DATED JUNE 2022

DATE: 27 Dec 2022

Attachment B

Petition for Water and Sanitary Sewer Service for Rockwood Municipal Utility District No. 1 of Denton
County

COATS | ROSE

A PROFESSIONAL CORPORATION

VICTOR CRISTALES
ASSOCIATE ATTORNEY

VCRISTALES@COATSROSE.COM
DIRECT: (972) 419-4704

January 13, 2022

VIA FEDERAL EXPRESS

Ms. Sheri Clearman
Town Secretary
Town of Ponder
102 W Bailey Street
Ponder, Texas 76259

Re: Petition for Water and Sanitary Sewer Service for Rockwood Municipal Utility
District No. 1 of Denton County

Dear Ms. Clearman:

Enclosed please find a copy of the Petition for Water Service and Sanitary Sewer Service for the proposed Rockwood Municipal Utility District No. 1 of Denton County. I have also enclosed three (3) copies of an affidavit of receipt of the petition. I would appreciate it if you would sign these certificates and return them to me in the enclosed overnight envelope.

Our office looks forward to working with the Town of Ponder regarding the creation of the District and the provision of water and sanitary sewer service to its property.

If you need any additional information, please contact me at (972) 419-4782.

Very truly yours,



Victor Cristales

Enclosures

14755 PRESTON ROAD, SUITE 600, DALLAS, TEXAS 75254
PHONE: (972) 788-1600 FAX: (972) 702-0662
WEB: WWW.COATSROSE.COM

HOUSTON | AUSTIN | DALLAS | SAN ANTONIO | NEW ORLEANS | CINCINNATI

PETITION FOR WATER SERVICE AND SANITARY SEWER SERVICE

THE STATE OF TEXAS §

COUNTY OF DENTON §

TO THE HONORABLE MAYOR AND TOWN COUNCIL OF THE TOWN OF PONDER:

The undersigned, acting pursuant to the provisions of Chapters 49 and 54 of the Texas Water Code, and Sections 42.042 and 42.043 of the Texas Local Government Code, respectfully petition the governing body of the Town of Ponder, Texas (the "Town") to make available water service and sanitary sewer service to serve the land described below and located within the Town's extraterritorial jurisdiction.

I.

The undersigned filed with the Town on August 26, 2021, a Petition for Consent to Creation of Rockwood Municipal Utility District No. 1 of Denton County (the "Petition"), requesting the Town's consent to creation of Rockwood Municipal Utility District No. 1 of Denton County (the "District").

II.

The proposed District will contain approximately 359 acres of land depicted by map and described in Exhibit "A" attached hereto and incorporated herein (the "Land"). The proposed District, including the Land, is located within the extraterritorial jurisdiction of the Town of Ponder, Denton County, Texas, and the District is not within the corporate limits or extraterritorial jurisdiction of any other city, town or village.

III.

The Town has failed to give its consent to the creation of the District within ninety (90) days after the Petition was filed with the Town.

IV.

The undersigned hereby petitions the governing body of the Town and requests that the Town make available water service and sanitary sewer service to the Land by entering into a mutually agreeable contract with the undersigned providing for the requested water service and sanitary sewer service as provided under Sections 54.016(b) and (c), Texas Water Code, as amended, and Sections 42.042(b) and (c), Texas Local Government Code, as amended.

V.

A preliminary investigation has been instituted to determine the cost of the proposed improvements to be constructed by the District, and it is now estimated by those filing this petition,

from such information as they have at this time, that the ultimate cost of such improvements will be approximately \$46,438,781.30

RESPECTFULLY SUBMITTED this the 28th day of December, 2021.

PETITIONER:

*Pursuant to Section 42.043(a)(6),
Texas Local Government Code, the
Petitioner owns approximately
180.880 acres of the Land to be serviced.*

JLMCG Properties, LLC,
a Nevada limited liability company

By: *Sandra A. Mahon*

Name: Sandra A. Mahon

Title: Manager

*Pursuant to Section 42.043(a)(6),
Texas Local Government Code, the
Petitioner owns approximately
178.085 acres of the Land to be serviced.*

PETITIONER:

CENDEI SHERWOOD

By: _____
Name: Cendei Sherwood

PETITIONER:

CENDEI SHERWOOD

*Pursuant to Section 42.043(a)(6),
Texas Local Government Code, the
Petitioner owns approximately
178.085 acres of the Land to be serviced.*

By:

Name:


Cendei Sherwood

EXHIBIT "A"

TRACT 1

BEING a tract of land situated in the Nathaniel Rudder Survey, Abstract No. 1060, Denton County, Texas, and being all of a called 180.585 acre tract of land described in a deed to JLMCG Properties, L.L.C., as recorded in Document No. 2007-38542 of the Official Records of Denton County, Texas and being more particularly described as follows:

BEGINNING at a concrete monument found for the southeast corner of said 180.585 acre tract, common to the northeast corner of a called 180.498 acre tract of land described in a deed to Cendei Sherwood, as recorded in Document No. 2011-18575 of the Official Records of Denton County, Texas, same being on the westerly line of a called 541.11 acre tract of land described as Tract 3 in a deed to J. Young Land & Cattle, Ltd., as recorded in Document No. 2003-203076 of the Official Records of Denton County, Texas;

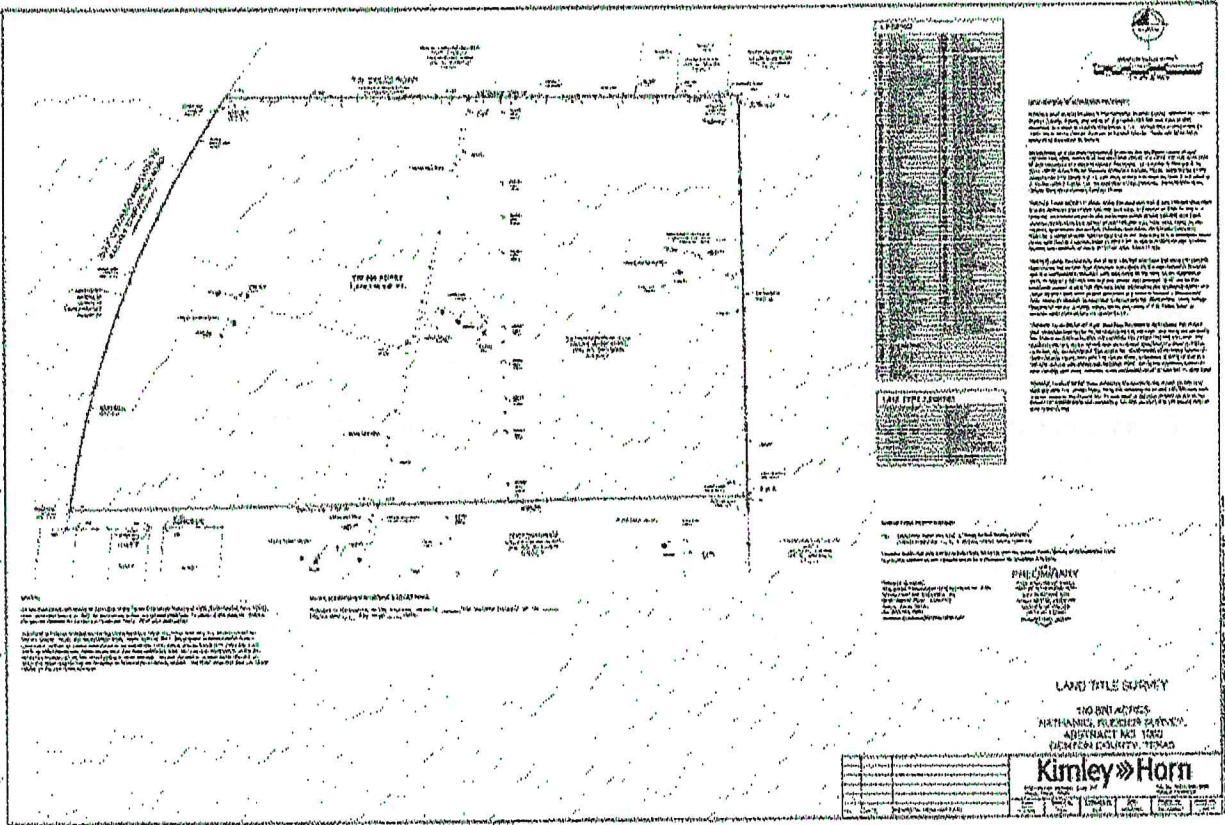
THENCE South 89°09'13" West, along the southerly line of said 180.585 acre tract and the northerly line of said 180.498 acre tract, a distance of 3798.78 feet to a concrete monument found for the southwest corner of said 180.585 acre tract, common to the northwest corner of said 180.498 acre tract, same being on the easterly right-of-way line of Gulf, Colorado and Santa Fe Railway Company Railroad, a variable width right-of-way and at the beginning of a non-tangent curve to the right having a central angle of 25°21'31", a radius of 5679.58 feet, a chord bearing and distance of North 20°53'39" East, 2493.27 feet;

THENCE along the westerly line of said 180.585 acre tract and along the easterly right-of-way line of said Gulf, Colorado and Santa Fe Railway Company Railroad and in a northeasterly direction, with said curve to the right, an arc distance of 2513.74 feet to a 5/8 inch iron rod with plastic cap stamped "KHA" set for the northwest corner of said 180.585 acre tract, common to the southwest corner of a called 89.9487 acre tract of land described in a deed to Samuel J Malone and Wife, Kathy A. Malone, as recorded in Document No. 93-0037220, of the Official Records of Denton County, Texas, same also being in T.N. Skiles Road, a variable width right-of-way, no record found;

THENCE South 89°46'46" East, departing the easterly right-of-way line of said Gulf, Colorado and Santa Fe Railway Company Railroad, and along the southerly line of said 89.9487 acre tract, the northerly line of said 180.585 acre tract, the southerly line of a called 48.646 acre tract of land described in a deed to Riding Unlimited Inc, as recorded in Document No. 93-0059495, of the Deed Record of Collin County Texas, and said T.N. Skiles Road, a distance of 2873.10 feet to a 5/8 inch iron rod with plastic cap stamped "KHA" set for the northeast corner of said 180.585 acre tract, common to the northwest corner of said 541.11 acre tract;

THENCE South 0°54'50" East, departing the southerly line of said 48.646 acre tract and said T.N. Skiles Road, along the easterly line of said 180.585 acre tract and the westerly line of said 541.11 acre tract, a distance of 2262.44 feet to the

POINT OF BEGINNING and containing 180.880 acres (7,879,120 square feet) of land, more or less.



TRACT 2

BEING a tract of land situated in the Nathaniel Rudder Survey, Abstract No. 1060, Denton County, Texas, and being the remainder of a called 180.498 acre tract of land described in a deed to Cendei Sherwood, as recorded in Document No. 2011-18575 of the Official Records of Denton County, Texas, same also being all of Lot 1, Block 1 and all of Lots 1 and 2, Block 2 of the Original Town of Ponder, according to the plat thereof recorded in Volume 75, Page 80 of the Deed Records of Denton County, Texas, and being more particularly described as follows:

BEGINNING at a concrete monument found for the northeast corner of said 180.498 acre tract, common to the southeast corner of a called 180.585 acre tract of land described in a deed to JLMCG Properties, L.L.C., as recorded in Document No. 2007-38542 of the Official Records of Denton County, Texas, same being on the westerly line of a called 541.11 acre tract of land described as Tract 3 in a deed to J. Young Land & Cattle, Ltd., as recorded in Document No. 2003-203076 of the Official Records of Denton County, Texas;

THENCE South 0°54'50" East, along the easterly line of said 180.498 acre tract and the westerly line of said 541.11 acre tract, a distance of 2569.90 feet to a 5/8 inch iron rod found for the southeast corner of said 180.498 acre tract, common to the southwest corner of said 541.11 acre tract, same being on the northerly right-of-way line of F.M. Highway 2499, a 90 foot wide right-of-way, and at the beginning of a non-tangent curve to the left having a central angle of 1°56'15", a radius of 5729.66 feet, a chord bearing and distance of North 89°34'31" West, 193.74 feet;

THENCE in a northwesterly direction along the southerly line of said 180.498 acre tract and the northerly right-of-way line of said F.M. Highway 2499, and with said curve to the left, an arc distance of 193.75 feet to a 1/2 inch iron rod found for corner;

THENCE South 89°27'27" West, continuing along the southerly line of said 180.498 acre tract and the northerly right-of-way line of said F.M. Highway 2499, a distance of 1461.09 feet to a 5/8 inch iron rod with plastic cap stamped "KHA" set for a southwest corner of said 180.498 acre tract, common to the southeast corner of a tract of land described in a deed to Cendei Sherwood, as recorded in Document No. 2011-18576 of the Official Records of Denton County, Texas;

THENCE North 1°08'09" West, departing the northerly right-of-way line of said F.M. Highway 2499, and along the common line of said 180.498 acre tract and said Sherwood tract, a distance of 134.71 feet to a 5/8 inch iron rod with plastic cap stamped "KHA" set for corner;

THENCE North 38°36'16" West, continuing along said common line, a distance of 700.83 feet to a 5/8 inch iron rod with plastic cap stamped "KHA" set for the northerly corner of said Sherwood tract, common to an ell corner of said 180.498 acre tract, from which, a 1/2 inch iron rod with plastic cap stamped "Coleman RPLS 4001" found for witness bears North 25°11' West, 0.35 feet;

THENCE South 2°08'23" West, continuing along said common line, a distance of 687.25 feet to the southwest corner of said Sherwood tract, common to a southeast corner of said 180.498 acre tract, same being on the northerly right-of-way line of said F.M. Highway 2499;

THENCE South 89°27'27" West, along the southerly line of said 180.498 acre tract and the northerly right-of-way line of said F.M. Highway 2499, a distance of 874.68 feet to a 5/8 inch iron rod with plastic cap stamped "KHA" set at the beginning of a tangent curve to the left having a central angle of 2°13'12", a radius of 5729.65 feet, a chord bearing and distance of South 88°20'51" West, 221.99 feet;

THENCE in a southwesterly direction continuing along the southerly line of said 180.498 acre tract and the northerly right-of-way line of said F.M. Highway 2499, and with said curve to the left, an arc distance of 222.00 feet to a 5/8 inch iron rod with plastic cap stamped "KHA" set for the southwest corner of said 180.498 acre tract, being on the easterly right-of-way line of aforesaid the Original Town of Ponder;

THENCE North 5°35'35" East, departing the northerly right-of-way line of said F.M. Highway 2499, along a westerly line of said 180.498 acre tract and the easterly line of said the Original Town of Ponder, a distance of 764.82 feet to a mag nail set for a northwest corner of said 180.498 acre tract, common to the southeast corner of Block 16 of said the Original Town of Ponder, and the southwest corner of called 1.01 acre tract of land described in a deed to James Norman Brooks, et al, as recorded in Document No. 2013-13723 of the Official Records of Denton County, Texas, and the north end of the easterly terminus of Doyle Street, an 80 foot wide right-of-way, as dedicated in said plat of the Original Town of Ponder;

THENCE South 84°31'22" East, departing said terminus, along the a northerly line of said 180.498 acre tract and the southerly line of said 1.01 acre tract, a distance of 274.84 feet to a 1/2 inch iron rod found for the southeast corner of said 1.01 acre tract, common to an ell corner of said 180.498 acre tract;

THENCE North 5°37'17" East, along a westerly line of said 180.498 acre tract, the easterly line of said 1.01 acre tract, the easterly line of a called 0.28 acre tract of land described in a deed to Kenneth and Christopher Corby, as recorded in Document No. 2008-66374 of the Official Records of Denton County, Texas, the easterly terminus of Bailey Street, a variable width right-of-way, the easterly line of a tract of land described as Tract 1 in a deed to Charlie E. Bostick and Janice Bostick, as recorded in Document No. 2008-66493 of the Official Records of Denton County, Texas, and the easterly line of Crider Addition, according to the plat thereof recorded in Cabinet Q, Page 135 of the Plat Records of Denton County, Texas, a distance of 699.82 feet to a 1/2 inch iron rod with plastic cap (illegible) found for the northeast corner of said Crider Addition, common to an ell corner of said 180.498 acre tract;

THENCE North 84°29'06" West, along a southerly line of said 180.498 acre tract and the northerly line of said Crider Addition, a distance of 275.18 feet to a mag nail set for a southwest corner of said 180.498 acre tract, common to the northwest corner of said Crider Addition, the northeast corner of Block 9 of said the Original Town of Ponder, and the south end of the easterly

terminus of James Street, an 80 foot wide right-of-way, same being in Eddie Street, a variable width right-of-way;

THENCE North 5°35'35" East, departing said Eddie Street, along a westerly line of said 180.498 acre tract and said terminus, a distance of 80.00 feet to a 5/8 inch iron rod with plastic cap stamped "KHA" set for a northwest corner of said 180.498 acre tract, common to the north end of said terminus, the southeast corner of Block 8 of said the Original Town of Prosper, and the southwest corner of Lot 1, Block A of David Lott Addition, according to the plat thereof recorded in Document No. 2017-388 of the Plat Records of Denton County, Texas;

THENCE South 85°48'52" East, departing said terminus, along the common line of said 180.498 acre tract and said Lot 1, a distance of 75.49 feet to a 5 inch metal post found for the southerly southeast corner of said Lot 1, common to an ell corner of said 180.498 acre tract;

THENCE North 64°04'09" East, continuing along said common line, a distance of 331.56 feet to a 1/2 inch iron rod with plastic cap stamped "Coleman RPLS 4001" found for the southeast corner of said Lot 1, common to an ell corner of said 180.498 acre tract;

THENCE North 3°36'41" West, continuing along said common line, a distance of 227.16 feet to a 5 inch metal post found for the northeast corner of said Lot 1, common an ell corner of said 180.498 acre tract;

THENCE South 88°36'14" West, continuing along said common line, a distance of 324.16 feet to a 5/8 inch iron rod with plastic cap stamped "KHA" set for the northwest corner of said Lot 1, common to the northeast corner of said Block 8, the south end of the easterly terminus of Greene Street, an 80 foot wide right-of-way, and a southwest corner of said 180.498 acre tract;

THENCE North 5°35'35" East, along a westerly line of said 180.498 acre tract and the northerly right-of-way line of said Greene Street, a distance of 80.00 feet to a 5/8 inch iron rod with plastic cap stamped "KHA" set for the north end of said terminus, common to the southeast corner of aforesaid Lot 1, Block 1, and an ell corner of said 180.498 acre tract, from which, a 1/2 inch iron rod with plastic cap stamped "Coleman RPLS 4001" found for witness bears South 24°36' West, 0.98 feet;

THENCE North 84°24'25" West, along the southerly line of said Lot 1, Block 1, a southerly line of said 180.498 acre tract, and the northerly right-of-way line of said Greene Street, a distance of 333.00 feet to a 5/8 inch iron rod with plastic cap stamped "KHA" set for the southwest corner of said Lot 1, Block 1, common to a southwest corner of said 180.498 acre tract, and at the intersection of the northerly right-of-way line of said Greene Street with the easterly right-of-way line of Frederick Street, an 80 foot wide right-of-way, from which, a 1/2 inch iron rod with plastic cap stamped "Coleman RPLS 4001" found for witness bears South 41°21' East, 1.53 feet;

THENCE North 5°35'35" East, along the westerly line of said Lot 1, Block 1, a westerly line of said 180.498 acre tract, and the easterly right-of-way line of said Frederick Street, a distance of 443.88 feet to a 5/8 inch iron rod with plastic cap stamped "KHA" set for the northwest corner of said Lot 1, Block 1, common to an ell corner of said 180.498 acre tract, and the east end of the

northerly terminus of Frederick Street, from which, a 1/2 inch iron rod with plastic cap stamped "Coleman RPLS 4001" found for witness bears South 32°55' East, 1.84 feet;

THENCE South 89°30'35" West, along a southerly line of said 180.498 acre tract and along said terminus, a distance of 80.45 feet to a 5/8 inch iron rod with plastic cap stamped "KHA" set for the northeast corner of aforesaid Block 2, common to an ell corner of said 180.498 acre tract, and the west end of said terminus, same being on the westerly right-of-way line of said Frederick Street, from which, a 1/2 inch iron rod with plastic cap stamped "Coleman RPLS 4001" found for witness bears South 17°03' East, 1.54 feet;

THENCE South 5°35'35" West, departing said terminus, along the easterly line of said Block 2, an easterly line of said 180.498 acre tract, and the westerly right-of-way line of said Frederick Street, a distance of 435.35 feet to a 5/8 inch iron rod with plastic cap stamped "KHA" set for the southeast corner of said Block 2, common to a southeast corner of said 180.498 acre tract, and at the intersection of the westerly right-of-way line of said Frederick Street with the northerly right-of-way line of said Greene Street;

THENCE North 84°24'25" West, along the southerly line of said Block 2, a southerly line of said 180.498 acre tract, and the northerly right-of-way line of said Greene Street, a distance of 410.00 feet to a 5/8 inch iron rod with plastic cap stamped "KHA" set for the southwest corner of said Block 2, common to a southwest corner of said 180.498 acre tract, same being on the easterly right-of-way line of Gulf, Colorado and Santa Fe Railway Company Railroad, a variable width right-of-way;

THENCE North 5°35'35" East, along the westerly line of said Block 2, a westerly line of said 180.498 acre tract, and the easterly right-of-way line of Gulf, Colorado and Santa Fe Railway Company Railroad, a distance of 391.66 feet to a 5/8 inch iron rod with plastic cap stamped "KHA" set for the northwest corner of said Block 2, common to an ell corner of said 180.498 acre tract;

THENCE South 89°30'35" West, along a southerly line of said 180.498 acre tract and continuing along the easterly right-of-way line of said Gulf, Colorado and Santa Fe Railway Company Railroad, a distance of 48.52 feet to a 5/8 inch iron rod with plastic cap stamped "KHA" set at the beginning of a non-tangent curve to the right having a central angle of 1°01'05", a radius of 5679.58 feet, a chord bearing and distance of North 7°42'21" East, 100.91 feet;

THENCE in a northeasterly direction along a westerly line of said 180.498 acre tract, continuing along the easterly right-of-way line of said Gulf, Colorado and Santa Fe Railway Company Railroad, and with said curve to the right, an arc distance of 100.91 feet to a concrete monument found for the northwest corner of said 180.498 acre tract, common to the southwest corner of aforesaid 180.585acre tract;

THENCE North 89°09'13" East, departing the easterly right-of-way line of said Gulf, Colorado and Santa Fe Railway Company Railroad, and along a northerly line of said 180.498 acre tract and the southerly line of said 180.585 acre tract, a distance of 3798.78 feet to the **POINT OF BEGINNING** and containing 178.660 acres (7,782,444 square feet) of land, more or less, save an except the following described tract of land:

BEING a tract of land situated in the Nathaniel Rudder Survey, Abstract No. 1060, Denton County, Texas, and being all of a called 0.586 acre tract of land described in a deed to Jerry E. Inman and wife, Dannie M. Inman, also known as Danny Inman, as recorded in Volume 3211, Page 852 of the Deed Records of Denton County, Texas, and being more particularly described as follows:

COMMENCING at a 5/8 inch iron rod with plastic cap stamped "KHA" set for the southeast corner of Block 8 of the Original Town of Ponder, according to the plat thereof recorded in Volume 75, Page 80 of the Deed Records of Denton County, Texas, common to the southwest corner of Lot 1, Block A of David Lott Addition, according to the plat thereof recorded in Document No. 2017-388 of the Plat Records of Denton County, Texas, an ell corner of a called 180.498 acre tract of land described in a deed to Cendei Sherwood, as recorded in Document No. 2011-18575 of the Official Records of Denton County, Texas, the north end of the easterly terminus of James Street, an 80 foot wide right-of-way, and the southerly northwest corner of a 20 foot wide ingress/egress easement recorded in said deed recorded in Volume 3211, Page 852 of the Deed Records of Denton County, Texas;

THENCE South 85°48'52" East, departing the easterly terminus of said James Street, along the southerly line of said Lot 1, Block A, the northerly line of said easement and crossing said 180.498 acre tract, a distance of 75.49 feet to a 5 inch metal post found for the southerly southeast corner of said Lot 1, Block A, common to an ell corner of said easement;

THENCE North 64°04'09" East, continuing along the southerly line of said Lot 1, Block A, the northerly line of said easement, and across said 180.498 acre tract, passing at a distance of 331.56 feet a 1/2 inch iron rod with plastic cap stamped "Coleman RPLS 4001" found for the northerly southeast corner of said Lot 1, Block A, common to an ell corner of said easement, and continuing along the same course, for a total distance of 474.32 feet to an ell corner of said easement;

THENCE North 27°01'33" East, continuing along the northerly line of said easement and across said 180.498 acre tract, a distance of 117.66 feet to the northerly northwest corner of said easement;

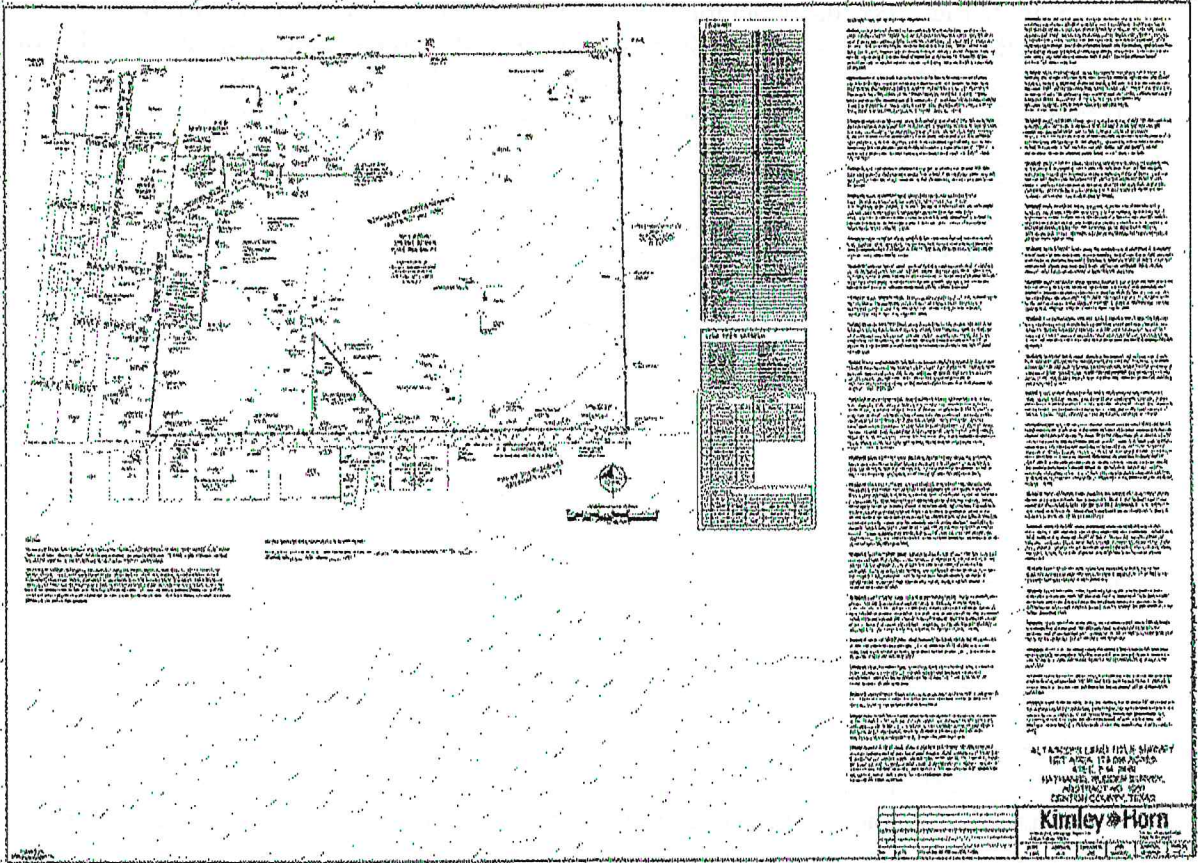
THENCE South 86°14'52" East, continuing along the northerly line of said easement and across said 180.498 acre tract, a distance of 17.59 feet a metal fence post found for the northeast corner of said easement, common to the northwest corner of said 0.586 acre tract, and the **POINT OF BEGINNING** of the herein described tract;

THENCE South 86°12'18" East, along the northerly line of said 0.586 acre tract and continuing across said 180.498 acre tract, and along a fence and the northerly face of an existing barn, a distance of 184.41 feet to a metal fence post found for the northeast corner of said 0.586 acre tract;

THENCE South 6°21'45" West, along the easterly line of said 0.586 acre tract and continuing across said 180.498 acre tract, and along a fence, a distance of 144.19 feet to a metal fence post found for the southeast corner of said 0.586 acre tract;

THENCE North 82°43'14" West, along the southerly line of said 0.586 acre tract and continuing across said 180.498 acre tract, and along a fence, a distance of 177.04 feet to a 1/2 inch iron rod found for the southwest corner of said 0.586 acre tract;

THENCE North 3°15'39" East, along the westerly line of said 0.586 acre tract and the easterly line of said easement, continuing across said 180.498 acre tract and along a fence, a distance of 133.29 feet to the POINT OF BEGINNING, and containing 0.575 of an acre (25,052 square feet) of land, more or less, and leaving a net acreage of 178.085 acres (7,757,392 square feet) of land, more or less.



Laurie Gharis

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