

Jon Niermann, *Chairman*
Bobby Janecka, *Commissioner*
Catarina Gonzales, *Commissioner*
Kelly Keel, *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

December 2, 2024

Laurie Gharis, Chief Clerk
Texas Commission on Environmental Quality
P.O. Box 13087, MC 105
Austin, Texas 78711-3087

Re: Application For Lakshmi Municipal Utility District No. 1;
TCEQ Docket No. 2024-1822-DIS

Dear Ms. Gharis:

I have enclosed for filing the "Executive Director's Response to a Hearing Request." Please let me know if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Kayla Murray".

Kayla Murray
Staff Attorney
Environmental Law Division

Enclosure

cc: Mailing List

TCEQ DOCKET NO. 2024-1822-DIS

APPLICATION FOR THE CREATION	§	BEFORE THE TEXAS
OF LAKSHMI	§	COMMISSION ON
MUNICIPAL UTILITY DISTRICT	§	ENVIRONMENTAL QUALITY
NO. 1	§	

EXECUTIVE DIRECTOR'S RESPONSE TO A HEARING REQUEST

I. INTRODUCTION

The Executive Director of the Texas Commission on Environmental Quality ("TCEQ" or "Commission") files this Response to a Hearing Request on the Petition by Lakshmi Land Group LLC ("Petitioner") for the creation of Lakshmi Municipal Utility District No. 1 ("District").

The Petition states that: (1) the Petitioner holds title to a majority in value of the land to be included in the proposed District; (2) there is one lienholder, Capital Farm Credit, and it has consented to the petition; (3) the proposed District will contain approximately 244.579 acres located within an unincorporated portion of Williamson County, Texas, situated along East State Highway 29, approximately 10 miles east of downtown Georgetown and east of State Highway 130; and (4) the land is not within the extraterritorial jurisdiction or corporate boundaries of any municipality.

The Petition further states that the proposed District will purchase, construct, acquire, repair, extend and improve land, easements, works, improvements, facilities, plants, equipment, and appliances necessary to: (1) provide a water supply for municipal uses, domestic uses, and commercial purposes; (2) collect, transport, process, dispose of and control all domestic, industrial, or commercial wastes whether in fluid, solid, or composite state; (3) gather, conduct, divert, and control local storm water or other local harmful excesses of water in the proposed District and the payment of organization expenses, operational expenses during construction and interest during construction; (4) purchase, construct, acquire, provide, operate, maintain, repair, improve, extend and develop park and recreational facilities for the inhabitants of the proposed District; (5) design, acquire, construct, finance, improve, operate, and maintain macadamized, graveled, or paved roads, or improvements in aid of those roads; and (6) provide such other facilities systems, plants, and enterprises as shall be consonant with all of the purposes for which the proposed District is created and permitted under state law.

The Petition goes on to state that the District's area will, within the immediate future, experience a substantial and sustained residential growth, and there is not currently adequate water facilities and services, drainage facilities, park and recreation facilities, or road facilities.

Included with the ED's response are two TCEQ-generated maps of the proposed District, labelled as Attachments A and B.

II. PROCEDURAL HISTORY

The Petitioner filed an application for the creation of the District on June 17, 2024, and the application was declared administratively complete on June 24, 2024. The

Petitioner published the Notice of District Petition in the *Williamson County Sun*, a newspaper generally circulated in Williamson County, where the district is proposed to be located, on August 14, 2024, and August 21, 2024. On August 20, 2024, proper notice of the application was posted at the place for posting legal notices at the Williamson County Courthouse. The TCEQ received one letter on September 17, 2024, opposing the creation of the district. The period to request a contested case hearing ended on September 20, 2024.

The Office of the Chief Clerk sent notice of the agenda setting for the Commission's consideration of the hearing request on January 16, 2025.

III. CREATION OF MUNICIPAL UTILITY DISTRICTS

A. *District Purpose*

A municipal utility district (MUD) may be created under and subject to the authority, conditions, and restrictions of Article XVI, Section 59, of the Texas Constitution. Tex. Water Code § 54.011. The District in this case is proposed to be created and organized according to the terms and provisions of Article XVI, Section 59, of the Texas Constitution and Chapters 49 and 54 of the Texas Water Code.

A MUD may be created for the following purposes:

- (1) the control, storage, preservation, and distribution of its storm water and floodwater, the water of its rivers and streams for irrigation, power, and all other useful purposes;
- (2) the reclamation and irrigation of its arid, semiarid, and other land needing irrigation;
- (3) the reclamation and drainage of its overflowed land and other land needing drainage;
- (4) the conservation and development of its forests, water, and hydroelectric power;
- (5) the navigation of its inland and coastal water;
- (6) the control, abatement, and change of any shortage or harmful excess of water;
- (7) the protection, preservation, and restoration of the purity and sanitary condition of water within the state; and
- (8) the preservation of all natural resources of the state.

Tex. Water Code § 54.012. The Commission has jurisdiction to hear this case and create the District. Tex. Water Code § 54.014.

B. *Required Findings*

The Commission must grant or deny a MUD creation application in accordance with Tex. Water Code § 54.021. In order to grant an application, the Commission must find that organization of the district as requested is feasible and practicable and is necessary and would be a benefit to the land to be included in the district. Tex. Water Code § 54.021(a); 30 Tex. Admin. Code § 293.13(b)(1). If the Commission fails to make these findings, it shall refuse to grant the petition. Tex. Water Code § 54.021(d); 30 Tex. Admin. Code § 293.13(a).

In determining if a 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;
- (2) the reasonableness of projected construction costs, tax rates, and water and sewer rates; and
- (3) whether or not the district and its system and subsequent development within the district will have an unreasonable effect on the following:
 - (A) land elevation;
 - (B) subsidence;
 - (C) groundwater level within the region;
 - (D) recharge capability of a groundwater source;
 - (E) natural run-off rates and drainage;
 - (F) water quality; and
 - (G) total tax assessments on all land located within a district.

Tex. Water Code § 54.021(b).

The Commission, however, must exclude the areas that it finds would not be benefited by the creation of the district and must redefine the boundaries of the proposed district according to its findings. 30 Tex. Admin. Code § 293.13(b)(2); Tex. Water Code § 54.021(c).

IV. THE EVALUATION PROCESS FOR HEARING REQUESTS

As the application was declared administratively complete after September 1, 1999, it is subject to the requirements of Title 30, Chapter 55, Subchapter G, Sections 55.250-55.256 of the Texas Administrative Code. The Commission, the Executive Director, the applicant or affected persons may request a contested case hearing on this application. *30 Tex. Admin. Code § 55.251(a)*. The Commission must evaluate the hearing requests and may take one of the following actions:

- (1) determine that the hearing requests do not meet the rule requirements and act on the application;
- (2) determine that the hearing requests do not meet the rule requirements and refer the application to a public meeting to develop public comment before acting on the application;
- (3) determine that the hearing requests meet the rule requirements and refer the application to the State Office of Administrative Hearings (“SOAH”) for a hearing; or
- (4) refer the hearing requests to SOAH for a hearing on whether the hearing requests meet the rule requirements.

30 Tex. Admin. Code § 55.255(a). The regulations provide that a hearing request made by an affected person must be in writing and must be filed with the Office of the Chief Clerk within the time provided in the Notice Of District Petition. *30 Tex. Admin. Code*

§ 55.251(b) and (d). These two requirements are mandatory. The affected person's hearing request must also substantially comply with the following:

- (1) give the name, address, and daytime telephone number of the person who files the request;
- (2) identify the person's personal justiciable interest affected by the application, including a brief, but specific, written statement explaining in plain language the requestor's location and distance relative to the activity that is the subject of the application and how and why the requestor believes he or she will be affected by the activity in a manner not common to members of the general public;
- (3) request a contested case hearing; and
- (4) provide any other information specified in the public notice of application.

30 Tex. Admin. Code § 55.251(c). An affected person's personal justiciable interest must be related to a legal right, duty, privilege, power, or economic interest affected by the application belonging to the requestor and not an interest common to members of the general public. *30 Tex. Admin. Code § 55.256(a)*. The regulations give the Commission flexibility to determine affected person status by considering any relevant factor, including the following:

- (1) whether the interest claimed is one protected by the law under which the application 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 the activity regulated;
- (4) likely impact of the regulated activity on the health and safety of the person, and on the use of property of the person; and
- (5) likely impact of the regulated activity on use of the impacted natural resource by the person.
- (6) for governmental entities, their statutory authority over or interest in the issues relevant to the application.

30 Tex. Admin. Code § 55.256(c). Government entities, including local governments, may be affected persons if they have authority under state law over issues contemplated by the application. *30 Tex. Admin. Code § 55.256(b)*.

V. THE HEARING REQUEST AND ANALYSIS

Williamson County, through its representative Bill Gravell, Jr., submitted a timely request which contained the name, address, and phone number of the person filing the request pursuant to 30 TAC § 55.251(c)(1). According to the petition, the proposed District will be located entirely within Williamson County. Williamson County requested a contested case hearing pursuant to 30 TAC § 55.251(c)(3) and included the internal control number in its request, as required in the notice pursuant to 30 TAC § 55.251(c)(4).

In its request, Williamson County discussed its statutory authority over road construction in subdivisions¹, order and rulemaking authority over roads,² authority over the fire code in unincorporated areas,³ authority over infrastructure planning,⁴ authority over building and setback lines,⁵ authority over emergency management,⁶ general control over roads, highways, and bridges,⁷ and authority over drainage on public roads.⁸

Under both 30 TAC §§ 55.256(b) & (c)(6), governmental entities with authority over issues relevant to the application may be considered affected persons. Thus, in order for a governmental entity to be an affected person, that entity's statutory authority must be relevant to at least one of the issues the Commission may consider as part of the review of the application.

Pursuant to TWC § 54.021(b), granting road powers to the proposed District is an issue that is part of the creation petition review process and part of the TCEQ's decision on the petition. As a result, the road powers issue is relevant to the application. As discussed above, Williamson County's hearing request described the statutory authority it has over roads constructed in the county, which is an issue relevant to the application. As a result, Williamson County has shown that it is an affected person pursuant to 30 TAC § 55.256(c)(6). The other issues raised by Williamson County are outside of TCEQ's jurisdiction to consider as part of the MUD creation process.

VI. RECOMMENDATION

The Executive Director recommends that the Commission find that Williamson County is an affected person and grant its hearing request. Should the Commission deny the County's hearing request, the Executive Director recommends the Commission grant the petition creation.

¹ Tex. Local Gov't Code §§ 232.001-.011.

² Tex. Local Gov't Code § 251.003.

³ Tex. Local Gov't Code, Ch. 233, Subchapter C; *see also* Tex. Local Gov't Code, Ch. 233, Subchapter E.

⁴ Tex. Local Gov't Code, Ch. 232, Subchapter E.

⁵ Tex. Local Gov't Code, Ch. 233, Subchapter B.

⁶ Tex. Local Gov't Code, Ch. 418.

⁷ Tex. Transp. Code § 251.016.


⁸ Tex. Transp. Code, Ch. 254.

Respectfully submitted,

TEXAS COMMISSION ON ENVIRONMENTAL
QUALITY

Kelly Keel, Executive Director

Charmaine Backens, Deputy Director
Environmental Law Division


By: _____
Kayla Murray, Staff Attorney
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REPRESENTING THE EXECUTIVE DIRECTOR OF
THE TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

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Lakshmi Municipal Utility District 1
DOCKET NO. 2024-1822-DIS; INTERNAL CONTROL NO. D-06172024-030

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REQUESTER(S)

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County Judge, Williamson County
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INTERESTEDPERSON(S)

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<https://www.tceq.texas.gov/goto/efilings>

Attachment A



Proposed Lakshmi Municipal Utility District No. 1

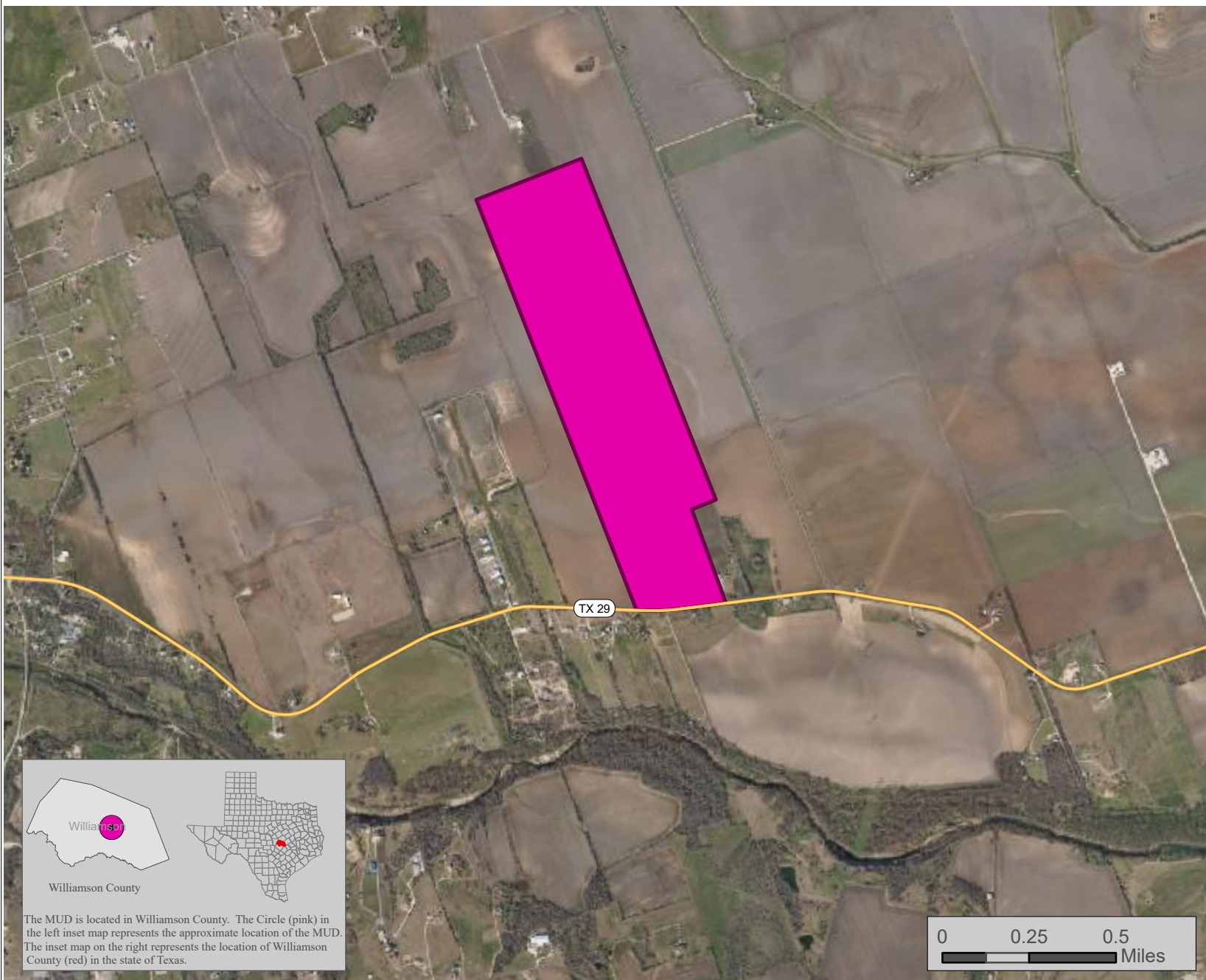
Map Requested by TCEQ Office of Legal Services
for Commissioners' Agenda



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Preventing Pollution*

Texas Commission on Environmental Quality
GIS Team (Mail Code 197)
P.O. Box 13087
Austin, Texas 78711-3087
Date: 9/25/2024
CRF 0111833_1
Cartographer: RKukushk

 Lakshmi MUD
 Highway



The MUD is located in Williamson County. The Circle (pink) in the left inset map represents the approximate location of the MUD. The inset map on the right represents the location of Williamson County (red) in the state of Texas.

Source: The location of the facility was provided by the TCEQ Office of Legal Services (OLS). OLS obtained the site location information from the applicant and the requestor information from the requestor.

This map was generated by the Information Resources Division of the Texas Commission on Environmental Quality. This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries. For more information concerning this map, contact the Information Resource Division at (512) 239-0800.

Attachment B

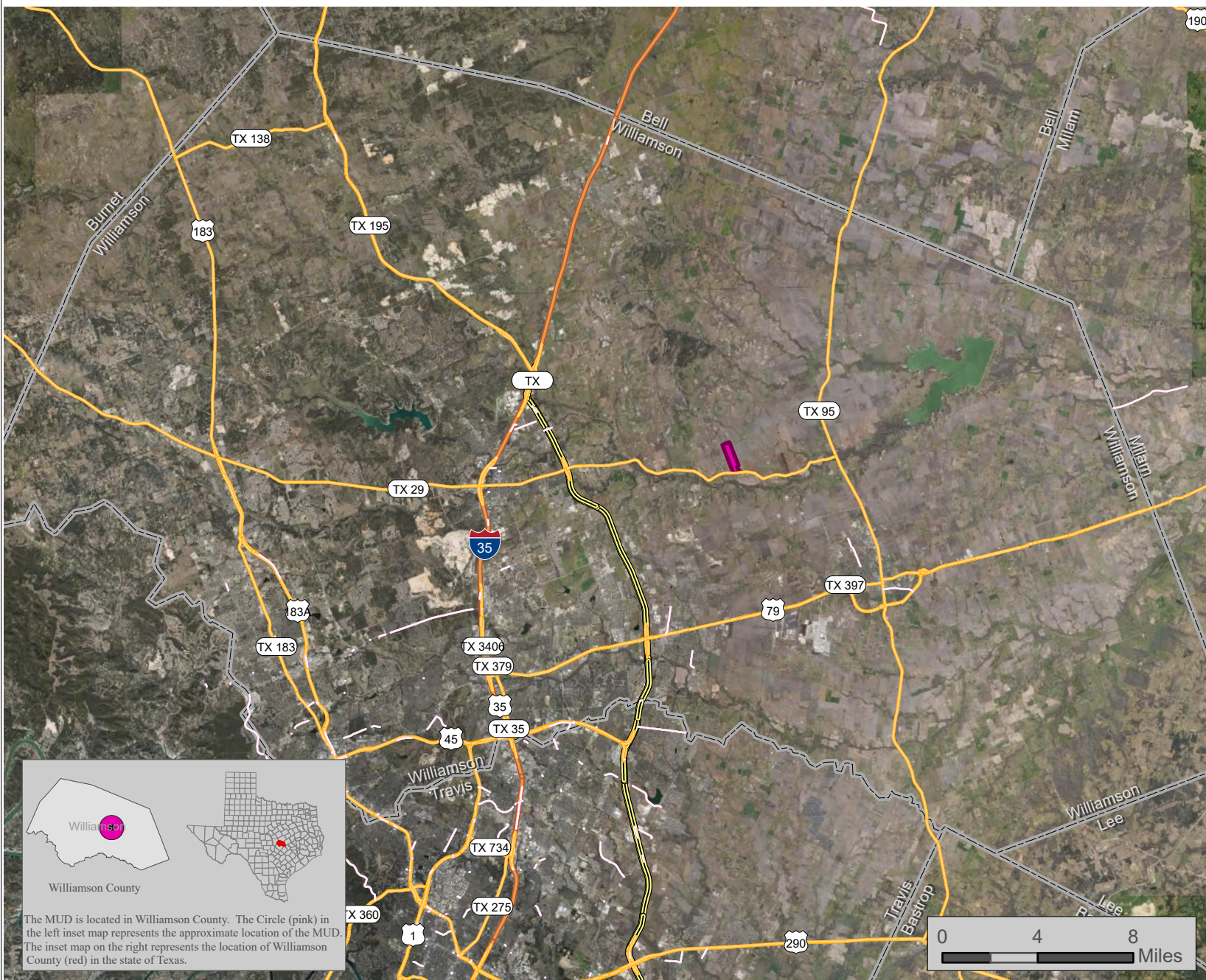
Proposed Lakshmi Municipal Utility District No. 1

Map Requested by TCEQ Office of Legal Services
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Date: 9/25/2024
CRF 0111833.1
Cartographer: RKukushk



- Lakshmi MUD
- Interstate
- Toll Road
- Highway
- Intermediate Roads
- County Boundary

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