



Control Number: 44892



Item Number: 46

Addendum StartPage: 0

RECEIVED

APPLICATION OF CITY OF LUBBOCK  
TO AMEND A CERTIFICATE OF  
CONVENIENCE AND NECESSITY  
IN LUBBOCK COUNTY

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OF TEXAS

### CITY OF LUBBOCK'S RESPONSE TO ORDER NO. 14

COMES NOW, the City of Lubbock (the "City") and files this Response as required by Order No. 14. This Response is timely filed.

#### I. BACKGROUND

On June 30, 2015, the City filed with the Commission an application to amend its water certificate of convenience and necessity ("CCN") No. 10627 in Lubbock County, Texas pursuant to Texas Water Code §§ 13.242-.250 and 16 Tex. Admin. Code §§ 24.101-.107. On October 28, 2015, the City filed an amended application to amend not only its water CCN No. 10627, but also its sewer CCN No. 20230 (the "Application").

On January 3, 2017, Commission Staff filed its Recommendation on Final Disposition of the City of Lubbock's Application to Amend its Certificates of Convenience and Necessity (the "Application"). On January 17, 2017, the City and Commission Staff filed a Joint Proposed Notice of Approval and Motion to Admit Evidence pursuant to the Application.

On February 10, 2017, the Commission issued Order No. 14 requesting clarification as to whether and to what extent the consent of Lubbock County Water Control and Improvement District No. 1 ("WCID #1") is necessary before the Application can be approved by the Commission.

#### II. CLARIFICATION

Order No. 14 references that on February 8, 2016 and March 11, 2016, Commission Staff identified deficiencies in the Application, recommending that the Application remain

administratively incomplete, and that in order to complete its technical review, among other things, the City must provide documentation signed by WCID #1 allowing the City to provide retail water and sewer services within its boundaries. The City believes that through the pleadings and maps it filed with the Commission pursuant to the Application, the discussions it has had with Commission Staff, the notice that was provided as required by the Commission, and the thorough review by Commission Staff of the mapping and other relevant information provided to it by the City, that no consent is necessary from WCID #1 for the City's Application to be approved by the Commission.

**Commission Staff and the City have Coordinated Extensively to Reconcile WCID #1's and the City's Respective Boundaries**

On April 6, 2016, the City and Commission Staff met to discuss the information required by Commission Staff for further review before the Application could be declared administratively complete. During the meeting, the City and Commission Staff discussed whether permission from WCID #1 was required. At that time, Commission Staff asserted that per mapping provided by the Texas Commission on Environmental Quality, the City's proposed water and sewer service areas overlapped with WCID #1's boundaries. Given the City's understanding that the boundaries of WCID #1 did not include all of Lubbock County, Commission Staff suggested that the City file a map showing the location of the WCID #1, along with information pursuant to its metes and bounds, and explain why there is no conflict.

On April 8, 2016, the City filed the briefing and maps requested by Commission Staff.<sup>1</sup> That pleading demonstrates i) the legislation creating WCID #1 specifically identified the limited

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<sup>1</sup> Available in this docket as Item No. 22 on the PUC Interchange.

area that is included within its boundaries by including a metes and bounds description;<sup>2</sup> ii) the location and area of WCID #1, as delineated by that metes and bounds description in the legislation, does not encompass the entire area of Lubbock County; and iii) the area of WCID #1 is limited only to the 1,209 acres in and around the Village of Buffalo Springs, a community well to the east of the City.

The City likewise proved to Commission Staff that neither the City's current water or sewer CCNs nor the areas proposed to be included through the Application overlapped any of the 1,209 acres comprising WCID #1. To illustrate the lack of proximity of WCID #1 to the City, maps included with the pleading as exhibits showed the location of the City's proposed water and sewer CCN areas in relation to WCID #1. Copies of those maps are included herein as Exhibit B.

Without any further questioning of these boundaries of the City relative to that of WCID #1, the next action taken by Commission Staff after receiving the supplemental boundary information from the City was on May 9, 2016, recommending the Application be deemed administratively complete. The presumption drawn from that recommendation coupled with the fact that Commission Staff abandoned its requests for documentation reflecting WCID #1's approval of the City's Application is that Commission Staff agreed that such documentation was not required after all, and the Application could proceed for final approval by the Commission.

**No Statutory Requirement for Consent from WCID #1**

The City briefed the Commission on March 3, 2016, that no provision of Texas Water Code ("TWC") Chapter 51, which specifically governs WCIDs, requires or authorizes WCID #1 to provide consent to an application seeking to obtain or amend a CCN within its boundaries as a

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<sup>2</sup> A copy of the Legislative Validation of WCID #1, which includes the metes and bounds description, is included herein as Exhibit A.

condition to the Commission's approval of the application.<sup>3</sup> Similarly, TWC Chapter 49, which contains provisions applicable to all general law districts, including WCIDs, likewise does not contain such a requirement or authorization applicable to WCID #1. Although other statutory provisions expressly require the consent of certain political subdivisions, no such provision is applicable to WCID #1. Moreover, although WCID #1 may protest a CCN application related to area within its boundaries, neither TWC Chapters 49 or 51 nor any other applicable statute require or authorize WCID #1 to provide affirmative, written consent to the Commission before the Commission may approve a CCN application, and in particular, the City's Application.

Finally, as explained in the City's previous briefing, WCID #1 would not be affected by the Application because the area proposed to be added to the City's CCN does not fall within the current boundaries of WCID #1. As discussed in further detail herein, the City has confirmed the relationship of WCID #1's boundaries to that of the City with Commission Staff, and both the City and Commission Staff are in agreement that no overlap occurs.

**City Provided Notice of the Application as Required by the Commission**

The May 9, 2016 recommendation from Commission Staff to find the amended Application administratively complete also included notice requirements and a list of those requiring individual, mailed notice. Such mailed notice was required for customers, neighboring systems, cities and other affected parties in Lubbock County.

The City published notice of the Application on May 15, 2016 and May 22, 2016 in the *Lubbock Avalanche Journal* in Lubbock County, and on May 18, 2016, WCID #1 was among those to whom individual notice was mailed. Affidavits of proof of publication of the public notice were filed with the Commission on May 31, 2016. The comment period ended June 21, 2016, and no protests, requests for hearing, or opt-out requests were received.

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<sup>3</sup> Available in this docket as Item No. 19 on the PUC Interchange.

Because the City provided the requisite notice—both via newspaper and mail—to WCID #1, it can be presumed that if WCID #1 took any issue with the Application or believed it had some obligation to provide approval of the CCN amendment before the Commission could have approved the Application, it would have exercised its right to protest the Application.

**Commission Staff Recommended Approval of the Application**

On May 10, 2017, the Commission issued Order No. 10 finding the Application administratively complete and sufficient. On September 30, 2016 and November 15, 2016, in response to requests from Commission Staff, the City submitted additional mapping documentation to resolve mapping deficiencies. Order No. 13, Finding Revised Mapping Sufficient, was issued on November 22, 2016. Commission Staff recommended approval of the Application on January 3, 2017.

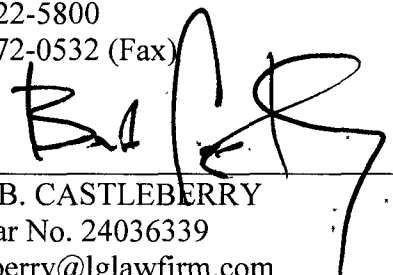
**III. CONCLUSION**

The City respectfully requests the Commission's consideration of this response as adequate clarification of whether and to what extent the consent of WCID #1 is necessary before the Application can be approved. Additionally, for the reasons set forth herein, the City respectfully requests that consent from WCID #1 not be required.

Respectfully submitted,

**LLOYD GOSSELINK ROCHELLE  
& TOWNSEND, P.C.**

816 Congress Avenue, Suite 1900  
Austin, Texas 78701  
(512) 322-5800  
(512) 472-0532 (Fax)

  
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BRAD B. CASTLEBERRY  
State Bar No. 24036339  
bcastleberry@lglawfirm.com

ASHLEIGH K. ACEVEDO  
State Bar No. 24097273  
aacevedo@lglawfirm.com

**ATTORNEYS FOR THE CITY OF LUBBOCK**

**CERTIFICATE OF SERVICE**

I certify that a copy of this document was served on all parties of record on February 24, 2016, in accordance with 16 Tex. Admin. Code § 22.74.

/s/Brad B. Castleberry  
BRAD B. CASTLEBERRY

## **Exhibit A**

### **Legislative Validation of the Lubbock County Water Control and Improvement District #1**



(b) *The report must show to the extent possible, without violating the confidentiality of information received by the program, the rate of relapse of persons who have received treatment services.*

(c) *The commission by rule may provide for the content and procedure for reporting under this section. The reports must be uniform in classifications of persons receiving treatment according to the severity of addiction, substance abused, age of person treated, and modality of treatment. A report may not reveal the name of any individual subject to treatment or of a family member or acquaintance of an individual treated and may not describe circumstances from which any of those individuals may be identified.*

SECTION 4. Subsection (a), Section 7, Chapter 553, Acts of the 65th Legislature, Regular Session, 1977 (Article 5561cc, Vernon's Texas Civil Statutes), is amended to read as follows:

(a) The commission shall adopt rules and standards for the following:

(1) the organizational structure of a treatment facility, including the governing authority of the facility, board authority, organization, fiscal and policy responsibilities, supervisory lines of authority, and staffing;

(2) the program conducted by a facility, including services to be provided, admission criteria, client rights, and standards for medication, nutrition, and emergency situations;

(3) the clinical and fiscal records kept by a facility;

(4) the general physical plant requirements for a facility, including environmental considerations, fire protection, safety, and other conditions to ensure the health and comfort of the clients; [and]

(5) standards relating to other aspects of chemical dependency treatment as necessary to protect the client, including standards required by federal or state law; and

(6) *requirements for a facility to provide discharge planning and client follow-up contact.*

SECTION 5. A person who holds a license for the operation of a substance abuse program under Chapter 553, Acts of the 65th Legislature, Regular Session, 1977 (Article 5561cc, Vernon's Texas Civil Statutes), on September 1, 1989, is not required to comply with standards for discharge planning and follow-up services adopted by the commission under Subsection (a) of Section 7 of that Act until the first date that the license is reviewed for renewal.

SECTION 6. This Act takes effect September 1, 1989.

SECTION 7. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Passed the Senate on April 28, 1989, by a viva-voce vote; and that the Senate concurred in House amendment on May 28, 1989, by a viva-voce vote; passed the House, with amendment, on May 27, 1989, by a non-record vote.

Approved June 16, 1989.

Effective Sept. 1, 1989.

## CHAPTER 1149

### S.B. No. 1715

#### AN ACT

relating to the administration, boundaries, powers, duties, financing, and validation of the Lubbock County Water Control and Improvement District No. 1, of Lubbock County, Texas, including the power to levy taxes, issue bonds, take property by eminent domain, and impose penalties.

4789

*Be it enacted by the Legislature of the State of Texas:*

ARTICLE I. VALIDATING VARIOUS PROCEEDINGS FOR  
FORMATION OF DISTRICT

SECTION 1.1. (a) Lubbock County Water Control and Improvement District No. 1, of Lubbock County, Texas, is in all things validated and is declared to be a validly existing and operating water control and improvement district under Article XVI, Section 59, of the Texas Constitution from and after its initial formation on October 10, 1956, by the Commissioners Court of Lubbock County, Texas, under Chapter 25, General Laws, Acts of the 39th Legislature, Regular Session, 1925.

(b) In this Act, "district" means the Lubbock County Water Control and Improvement District No. 1, of Lubbock County, Texas.

SECTION 1.2. All governmental proceedings and acts performed by the Commissioners Court of Lubbock County, Texas, and the board of directors of the district and by any officer of the commissioners court or the district in connection with the establishment of the district are in all things validated as of the respective dates of those acts and proceedings, including the following acts and proceedings:

(1) the order of the Commissioners Court of Lubbock County granting the petition for the formation of the district on October 10, 1956;

(2) election proceedings and the order canvassing returns of the election to confirm the district held in Lubbock County, Texas, on January 10, 1956;

(3) the order confirming the district entered by the Commissioners Court of Lubbock County, Texas, on January 18, 1956;

(4) the notice of hearing for exclusion of land and the order entered on March 5, 1956, finding that no petition had been submitted to exclude land from the district;

(5) proceedings for authorization of bonds to provide funds for capital improvements that were approved by a vote of 2,424 for the bonds and 1,451 against the bonds at an election held on April 17, 1956; and

(6) the notice issued May 28, 1956, for hearing on the method of taxation and the hearing held on June 12, 1956, with a finding that the district should be supported by ad valorem taxation.

SECTION 1.3. (a) It is found and determined that the area described in this section containing approximately 1,209 acres is the land that is included within the boundaries of the district:

METES AND BOUNDS DESCRIPTION of a 1209.1 acre tract located in Sections 6, 7 and 8, Block 1, Sections 19, 20 and 24, Block S and Section 1, Stilson and Case Survey, Lubbock County, Texas, being further described as follows:

BEGINNING at a point which bears N. 00°40' W. a distance of 447.00 feet from the Southwest corner of Section 24, Block S, Lubbock County, Texas;

THENCE N. 00°40' W., along the West line of said Section 24, Block S, a distance of 438.00 feet;

THENCE N. 36°10' E., along the centerline of FM 835, a distance of 221.00 feet to a point of curvature;

THENCE Northwesterly around a curve to the left, continuing along said centerline, said curve having a radius of 447.46 feet, a central angle of 48°56', tangent lengths of 217.3 feet and a chord distance of 395.49 feet;

THENCE N. 12°56' W., continuing along said centerline, a distance of 522.5 feet to a point of curvature;

THENCE Northeasterly around a curve to the right, continuing along said centerline, said curve having a radius of 716.20 feet, a central angle of 17°52', tangent lengths of 112.7 feet and a chord distance of 222.43 feet;

THENCE N. 4°47' E., continuing along said centerline of FM 835, a distance of 1742.6 feet to a point of curvature;

THENCE Northeasterly around a curve to the right, continuing along said centerline, said curve having a radius of 1145.92 feet, a central angle of 9°42', tangent lengths of 97.2 feet and a chord distance of 193.77 feet;

THENCE N. 14°39' E., continuing along said centerline, a distance of 596.0 feet to a point of curvature;

THENCE Northeasterly around a curve to the right, continuing along said centerline, said curve having a radius of 572.96 feet, a central angle of 17°48', tangent lengths of 89.7 feet and a chord distance of 177.29 feet;

THENCE N. 32°27' E., continuing along said centerline of FM 835, a distance of 233.00 feet to a point of curvature;

THENCE Northwesterly around a curve to the left, continuing along said centerline, said curve having a radius of 572.96 feet, a central angle of 88°, tangent lengths of 506.9 feet and a chord distance of 759.31 feet;

THENCE N. 89°11' E. a distance of 4722.93 feet to a point in the East line of Section 20, Block S and in the West line of Section 19, Block S;

THENCE N. 56°05'20" E. a distance of 3560.63 feet;

THENCE N. 89°58' E. a distance of 2829.16 feet to a point in the East line of Section 7, Block I and the West line of Section 8, Block I;

THENCE N. 00°02' W., along the East line of Section 7, Block I and the West line of Section 8, Block I, a distance of 80.00 feet;

THENCE N. 89°58' E. a distance of 1112.00 feet;

THENCE S. 19°57' E. a distance of 2146.14 feet;

THENCE S. 89°58' W. a distance of 323.08 feet;

THENCE S. 63°32'14" W. a distance of 943.62 feet;

THENCE S. 00°02' E. a distance of 1502.27 feet;

THENCE S. 89°58' W., along the South line of Sections 7 and 8, Block I and the North line of Sections 4 and 6, Block I, at 675.00 feet pass the common corner of said Sections 4, 6, 7 and 8, Block I, continuing for a total distance of 2304.17 feet.

THENCE S. 00°02' E. a distance of 1515.20 feet;

THENCE S. 89°58' W. a distance of 2013.44 feet;

THENCE S. 65°20' W. a distance of 2304.19 feet;

THENCE S. 00°04' W., along the West line of Section 6, Block I and the East line of Section 24, Block S, a distance of 441.00 feet.

THENCE West a distance of 1887.50 feet;

THENCE N. 12°35' W. a distance of 1111.11 feet;

THENCE S. 89°16' W. a distance of 1593.33 feet;

THENCE S. 37°36' W. a distance of 454.16 feet;

THENCE S. 48°36' W. a distance of 692.19 feet;

THENCE S. 16°35' W. a distance of 865.40 feet;

THENCE S. 88°46' W. a distance of 525.00 feet to the Point of Beginning.

DOES NOT REPRESENT A SURVEY ON THE GROUND. PREPARED FROM DEED DESCRIPTIONS ONLY.

PREPARED FOR: Lubbock W.C.I.D. No. 1

June 1, 1987

This land and other property on this land included within the boundaries of the district are and will continue to be benefited by the creation and operation of the district.

(b) The legislature finds that the boundaries and field notes of the district form a closure. A mistake in the field notes or in copying the field notes in the legislative process does not affect the organization, existence, or validity of the district, the right of the district to levy and collect taxes, or the legality or operation of the district or its governing body.

(c) If a majority of the voters of Lubbock County approve the boundaries provided by Subsection (a) of this section to be boundaries of the district, the boundaries of the district are the boundaries described in Subsection (a) of this section.

(d) The board of directors may call and hold an election to determine whether the district's boundaries will be the boundaries provided by Subsection (a) of this section in lieu of the current boundaries of Lubbock County.

(e) An election to determine the boundaries of the district may not be held later than the 150th day after the effective date of this Act. Subsection (a), Section 41.001, Election Code, does not apply to such an election.

(f) Ballots for the election shall be printed to provide for voting for or against the proposition: "The reduction of the boundaries for the Lubbock County Water Control and Improvement District No. 1 from the entire area of Lubbock County to include only the following area \_\_\_\_\_ (Insert a brief description of the territory in Subsection (a) of this section), and the consequential reduction in the district's taxing authority to include only the citizens living in that area."

(g) If a majority of the qualified voters voting at the election favor the proposition, the boundaries of the district are the boundaries described in Subsection (a) of this section, but if a majority of the qualified voters voting at the election vote against the proposition, the boundaries of the district continue to be coterminous with the boundaries of Lubbock County.

(h) Except as specifically provided by this section, the election shall be conducted in the manner provided for elections under Chapter 51, Water Code, and the Election Code.

(i) An election called and held under this section may be called and held in conjunction with another election of the district.

## ARTICLE II. EXTENDING AND ENLARGING POWERS, DUTIES, FUNCTIONS, AND PROCEDURES OF DISTRICT

SECTION 2.1. The district has the rights, powers, privileges, and duties conferred or imposed by and is governed by the general law of this state in Chapter 51, Water Code, and other law of this state applicable to water control and improvement districts created under Article XVI, Section 59, of the Texas Constitution. To the extent that any general law conflicts or is inconsistent with this Act, this Act prevails.

SECTION 2.2. (a) The district may construct, acquire, improve, maintain, and repair dams or other structures and may acquire by eminent domain or otherwise land, easements, property, or equipment that may be necessary to use, control, and distribute water that is impounded, diverted, or controlled by the district. The district may exercise the power of eminent domain both inside and outside the boundaries of the district as provided by Chapter 21, Property Code.

(b) If the district, in the exercise of the power of eminent domain or power of relocation or any other power granted under this Act, requires relocation, raising, lowering, rerouting, changing the grade of, or altering the construction of any highway, railroad, electric transmission, or electric distribution line, telephone or telegraph lines, conduits, poles, facilities, and pipelines, the district must bear the actual cost of relocation, raising, lowering, rerouting, changing the grade, or altering of construction to provide comparable replacement without enhancement of facilities, after deducting the net salvage value derived from the old facility.

SECTION 2.3. For the purpose of providing dams, structures, projects, and works of improvement and other necessary plans, facilities, and equipment in connection with those items, for flood prevention and the conservation and development of water, for the improvement, repair, and operation of those items and to carry out any other power or authority conferred by this Act or by Chapter 51, Water Code, and for the purpose of paying costs, charges, and expenses of the district, the district may issue negotiable bonds in the manner provided by Chapter 51, Water Code. Before bonds for the financing of any engineering project are issued, the district shall obtain approval of the engineering project, plans, and specifications from the Texas Water Commission, and the construction of the project shall be under the supervision of the Texas Water Commission in the

manner provided by the Water Code for water control and improvement district projects and the commission's rules.

SECTION 2.4. In addition to the powers granted by Chapter 51, Water Code, and other law of the state applicable to water control and improvement districts, the district may exercise any power necessary or requisite to fully cooperate with the federal government and its agencies in taking advantage of and in securing and procuring assistance, aid, benefits, grants, loans, credit, and money under federal law. It is the intent of the legislature to grant to the district all the power necessary to fully qualify and gain the full benefits of any federal law, including all power necessary or requisite to carry out the projects, works, and improvements contemplated by any of those federal laws and the power to secure a loan from the proper agency of the federal government and, if necessary, to issue bonds of the district as collateral or security for that loan for the purpose of defraying the cost and expenses of the district in connection with the carrying out of any project, work, and improvement.

SECTION 2.5. The district is a governmental agency and a body politic and corporate.

#### ARTICLE III. ELECTION AND QUALIFICATION OF DIRECTORS OF DISTRICT AND ORGANIZATION OF BOARD OF DIRECTORS

SECTION 3.1. The district's powers shall be exercised by a board of five directors. Each of the directors serving on the effective date of this Act shall serve for the term for which he was elected. Subsequent directors shall be elected as provided by Chapter 51, Water Code, and the Election Code.

SECTION 3.2. The directors are elected at large from within the district for four-year terms.

SECTION 3.3. A vacancy on the board shall be filled for the unexpired term by the remaining members of the board until the next election of directors for the district. If that position is not scheduled to be filled at that election, the person elected to fill the position shall serve only for the remainder of the unexpired term.

#### ARTICLE IV. DESIGNATING ADMINISTRATIVE PROCEDURES AND PROCESS

SECTION 4.1. The board of directors may employ a general manager and give him full authority in the management and operation of the district subject only to the orders of the board. On delegation of authority by the board of directors, the general manager may appoint peace officers and employ maintenance employees, machinery operators, and other employees who are required for the proper operation of the district.

SECTION 4.2. In connection with the use of a lake, dam, structure, project, work, or improvement for flood control and the conservation and development of water inside or outside the district, the board of directors may establish, maintain, and operate recreational facilities, including amusement rides, various types of concessions, picnicking and fishing facilities, boating facilities, camping improvements and accommodations, and general park improvements and arrangements. Also, the board of directors may establish, maintain, control, and operate incidental commercial enterprises that may be convenient, advisable, and requisite to carry on, enlarge, and extend the recreational program instituted on the lakes, dams, and land of the district.

SECTION 4.3. The board of directors may enter into any type of contract with an individual, firm, partnership, corporation, or other legal entity for any length of time and on terms and conditions and for the consideration the board considers advisable for the purpose of making available additional recreational facilities and accommodations for the convenience of the public.

#### ARTICLE V. AUTHORIZING FINANCING OF OPERATIONS AND CAPITAL IMPROVEMENTS

SECTION 5.1. The board of directors may establish a schedule of fees to be charged by the district for rental of recreation sites and host compartments, entrance on a recreation area for the purpose of boating, fishing, camping, and picnicking, and use of all

other recreational facilities. The fees shall be deposited to the credit of an operating fund and may be used to discharge the general operational and maintenance expenses of the district. Any surplus money obtained through assessment of the fees may be used at the discretion of the board of directors for the erection and construction of capital improvements of any kind determined by the board of directors.

SECTION 5.2. A loan may not be consummated by the district from the federal government and bonds may not be issued by the district unless the loan or bonds are approved by a majority of the qualified voters of the district voting at an election called and held for that purpose. On approval of bonds by the attorney general and registration by the comptroller of public accounts they are incontestable.

SECTION 5.3. (a) The board of directors may call an election to submit to the qualified voters of the district the question of whether a maintenance tax is to be levied by the district for the purpose of maintaining the projects, works, structures, or improvements that the district is authorized to construct, purchase, acquire, or improve.

(b) At the time the election is called, the board of directors shall establish the maximum rate of tax that may be levied and collected in a single year. The election shall be called and held in the manner provided by Chapter 51, Water Code, and the Election Code.

(c) A maintenance tax election may be held at the same time as an election for the issuance of bonds or as a separate election.

(d) On the affirmative vote of a majority of the qualified voters voting on a maintenance tax proposition at an election, the district may levy a maintenance tax.

(e) The district may use funds obtained from the maintenance tax to purchase easements and rights-of-way, for any of the purposes for which the district can spend bond proceeds, and for maintenance purposes.

(f) The district may deposit surplus maintenance taxes not needed for maintenance purposes in the interest and sinking fund for payment of the principal of and interest on outstanding bonds of the district.

(g) A determination by the board of directors relating to the expenditure of maintenance taxes is final and is not subject to judicial review except for fraud, palpable error, or gross abuse of discretion.

(h) The maintenance tax may not exceed a rate of 25 cents on each \$100 of valuation of all property in the district.

SECTION 5.4. (a) District bonds are legal and authorized investments for:

- (1) banks;
- (2) savings banks;
- (3) trust companies;
- (4) savings and loan associations;
- (5) insurance companies;
- (6) fiduciaries;
- (7) trustees;
- (8) guardians; and
- (9) sinking funds of municipalities, counties, school districts, and other political subdivisions of the state.

(b) The bonds are eligible to secure deposits of public funds of the state and of municipalities, counties, school districts, and other political subdivisions of the state. The bonds are lawful and sufficient security for deposits to the extent of their value if accompanied by all uninsured coupons.

SECTION 5.5. (a) The board of directors shall annually levy and collect an ad valorem tax on taxable property in the district at a rate sufficient to pay the principal of and interest on outstanding bonds of the district and to create an interest and sinking fund. The ad valorem tax rate may not exceed 50 cents on each \$100 of valuation of all property in the district. The tax must be approved by a majority of the qualified voters

of the district voting on the ad valorem tax proposition at an election called and held for that purpose.

(b) On payment of all principal of and interest on bonds issued by the district, if money remains in the interest and sinking fund for that bond issue that is no longer required for the liquidation of the bonds, the surplus funds together with any uncollected and delinquent taxes that are collected from a tax levy made in a previous year for liquidation of those bonds shall be transferred to a capital improvement account on the books of the district, and the funds in that account may be used by the board of directors to pay for erection, construction, repair, and improvement of the facilities of the district for which the original bonds were issued.

SECTION 5.6. (a) The board of directors may issue without voter approval certificates of indebtedness up to the maximum amount of \$50,000 in a single calendar year. The certificates of indebtedness shall bear interest at a rate determined by the board of directors as practical and feasible and may have serial maturities for not longer than 10 years.

(b) The board of directors shall pay the certificates of indebtedness solely from excess income above the amount necessary to pay current operating expenses, from surplus unpledged and unallocated funds that remain in the interest and sinking fund of the district if specific bonds are finally and completely liquidated, and from delinquent taxes collected and to be collected from tax levies for the servicing of bonds if those bonds are completely liquidated.

(c) An order authorizing the issuance of certificates of indebtedness that provides for payment in whole or in part from excess funds from the district's operating fund, as a prerequisite to the issuance of those certificates of indebtedness, shall establish from the audits of the district for the preceding five-year period before the date the certificates of indebtedness are issued the amount of the surplus realized above operating costs each year and must find that this amount if projected for the years the certificates of indebtedness are outstanding and unpaid will be sufficient to retire the certificates of indebtedness and all interest on those certificates to the extent necessary under the order authorizing the issuance of the certificates of indebtedness.

(d) The certificates of indebtedness may be issued for the payment of obligations incurred for capital improvements and for maintenance, improvement, and extension of the antipollution systems of the district and for other plants, facilities, improvements, roads, and other items to be used in operation of the district.

#### ARTICLE VI. MISCELLANEOUS PROVISIONS RELATING TO DISTRICT

SECTION 6.1. In this Act, "peace officer" means the sheriff of Lubbock County and any of his deputies, a member of the Department of Public Safety, a Texas Ranger, any employee of the Parks and Wildlife Department who serves as a peace officer for that department, a constable of Lubbock County, an officer or employee of the district who serves as a peace officer for the district, and any member of a police force of a municipality inside the boundaries of the district, if assisting a peace officer of the district.

SECTION 6.2. Recognizing that peace officers of Lubbock County, due to the pressure of their other law enforcement duties, should not be depended on primarily for the enforcement of orders and rules of the district and other law of the state applicable inside the district, the general manager is a peace officer under Article 2.12, Code of Criminal Procedure. The general manager of the district may appoint one or more district employees as peace officers for the district. An employee appointed as a peace officer by the general manager is a peace officer under Article 2.12, Code of Criminal Procedure. The qualification and compensation of peace officers appointed by the general manager and the duration of service shall be established by order of the board of directors.

SECTION 6.3. (a) A district peace officer shall execute a bond for \$1,000, payable to the district, conditioned on the faithful execution of the peace officer's duties for the district. A bond may include any further conditions the board of directors considers

advisable. The bond must be approved by the board of directors. The district shall pay for each bond.

(b) Each peace officer shall take the oath of office prescribed by law for a sheriff.

SECTION 6.4. District peace officers may:

(1) make arrests if necessary to prevent or abate the commission of an offense against the rules and orders of the district and against state law if the offense or threatened offense occurs on land, water, or easements owned or controlled by the district; or

(2) make an arrest in case of an offense involving injury or detriment to property owned or controlled by the district.

SECTION 6.5. The district is not liable for any act of a peace officer whether within or exceeding the scope of his lawful authority, except in cases in which the officer is acting under express authorization of the board of directors.

SECTION 6.6. Each peace officer appointed to act on behalf of the district under this Act shall have a commission and a badge furnished by the district as evidence of authority to act as peace officer of the district.

SECTION 6.7. A district peace officer may be designated by a title and required to wear, while engaged in his duties on behalf of the district, a standard uniform that bears the insignia prescribed by order of the board of directors.

SECTION 6.8. A peace officer may file specific complaints in the appropriate justice, county, or district courts of Lubbock County concerning offenses committed in violation of an order or rule adopted by the board of directors or in violation of a state or federal law.

SECTION 6.9. (a) Irrespective of the fact that the district may charge an admission charge for entry on a lake, park, or recreation facility that it maintains in connection with a lake, dam, or other conservation project that it operates, all roads, trails, parking grounds, and other facilities to which the public has access and use are declared to be public places and are within the jurisdiction of a person designated as a peace officer as defined by Section 6.1 of this Act, and the peace officer may enter the territory controlled by the district for the purpose of conducting an investigation of a violation of any order or rule of the district or a violation of a state or federal law.

(b) If the driver of a motor vehicle operating on a district road violates the posted speed limit or otherwise violates an order or rule of the district or a state law relating to the driving of motor vehicles or is involved in an accident resulting in injury to or death of a person or total property damage to an apparent extent of \$50 or more, an officer of the Department of Public Safety or other peace officer shall investigate the violation or accident and file any justifiable charges without regard to whether the violation or accident occurred on a road of the district for which a fee is charged for entry.

SECTION 6.10. Since the availability of recreation sites in Lubbock County and the surrounding area is limited and since one of the reasons for creating the district was to develop the Buffalo Springs Lake area and make available to the greatest number of people in that area recreational facilities as well as the control of the floodwaters and conservation of the water supply in Lubbock County, it is provided that the best interest of the public would be served by restricting and limiting any individual, partnership, club, association, corporation, or other legal entity to the lease of only one recreational building site on land adjoining any lake, dam, or other project that is controlled and operated by the district.

SECTION 6.11. (a) The board of directors may prepare, file, and amend plats and site plans and specifications, locating and providing for recreational building sites, if the land is not otherwise necessary for the regular use of the district, and lease those sites on the terms and conditions and for the rentals the board of directors may prescribe for the personal use only of the lessee.

(b) The leasing of more than one recreational site by one individual, partnership, club, association, corporation, or other legal entity is prohibited as not being in the best interest of the public of Lubbock County.



SECTION 6.12. The board of directors may adopt any order to further regulate the use of any of the district's facilities by the public and for the purpose of providing penalties for the violation of this Act or of any order or rule.

ARTICLE VII. EXCEPTING ANY MATTERS IN LITIGATION AT  
TIME OF ADOPTION OF ACT

SECTION 7.1. This Act may not be construed as validating any governmental act or proceeding, if at the time this Act is adopted the governmental act or proceeding was the subject of litigation pending in a court of competent jurisdiction, if such litigation is ultimately determined against the legality of that governmental act or proceeding.

ARTICLE VIII. DISTRICT DECLARED ESSENTIAL

SECTION 8.1. The legislature declares that the enactment of this statute fulfills a responsibility conferred on the legislature by Article XVI, Section 59, of the Texas Constitution that provides that the legislature pass appropriate laws to preserve and conserve the natural resources of the state. The district is essential to the accomplishment of that purpose.

SECTION 8.2. All of the land and other property included in the boundaries of the district will be benefited by the works and projects that are to be accomplished by the district under powers conferred by Article XVI, Section 59, of the Texas Constitution. The district is created to serve a public use and benefit.

SECTION 8.3. (a) The proper and legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published as provided by law, and the notice and a copy of this Act have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished by the constitution and other laws of this state, including the governor, who has submitted the notice and Act to the Texas Water Commission.

(b) The Texas Water Commission has filed its recommendations relating to this Act with the governor, lieutenant governor, and speaker of the house of representatives within the required time.

(c) All requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this Act are fulfilled and accomplished.

SECTION 8.4. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Passed the Senate on May 15, 1989, by the following vote: Yeas 31, Nays 0; May 25, 1989, Senate refused to concur in House amendments and requested appointment of Conference Committee; May 28, 1989, House granted request of the Senate; May 29, 1989, Senate adopted Conference Committee Report by the following vote: Yeas 30, Nays 0; passed the House, with amendments, on May 22, 1989, by the following vote: Yeas 141, Nays 1, one present not voting; May 28, 1989, House granted request of the Senate for appointment of Conference Committee; May 29, 1989, House adopted Conference Committee Report by a non-record vote.

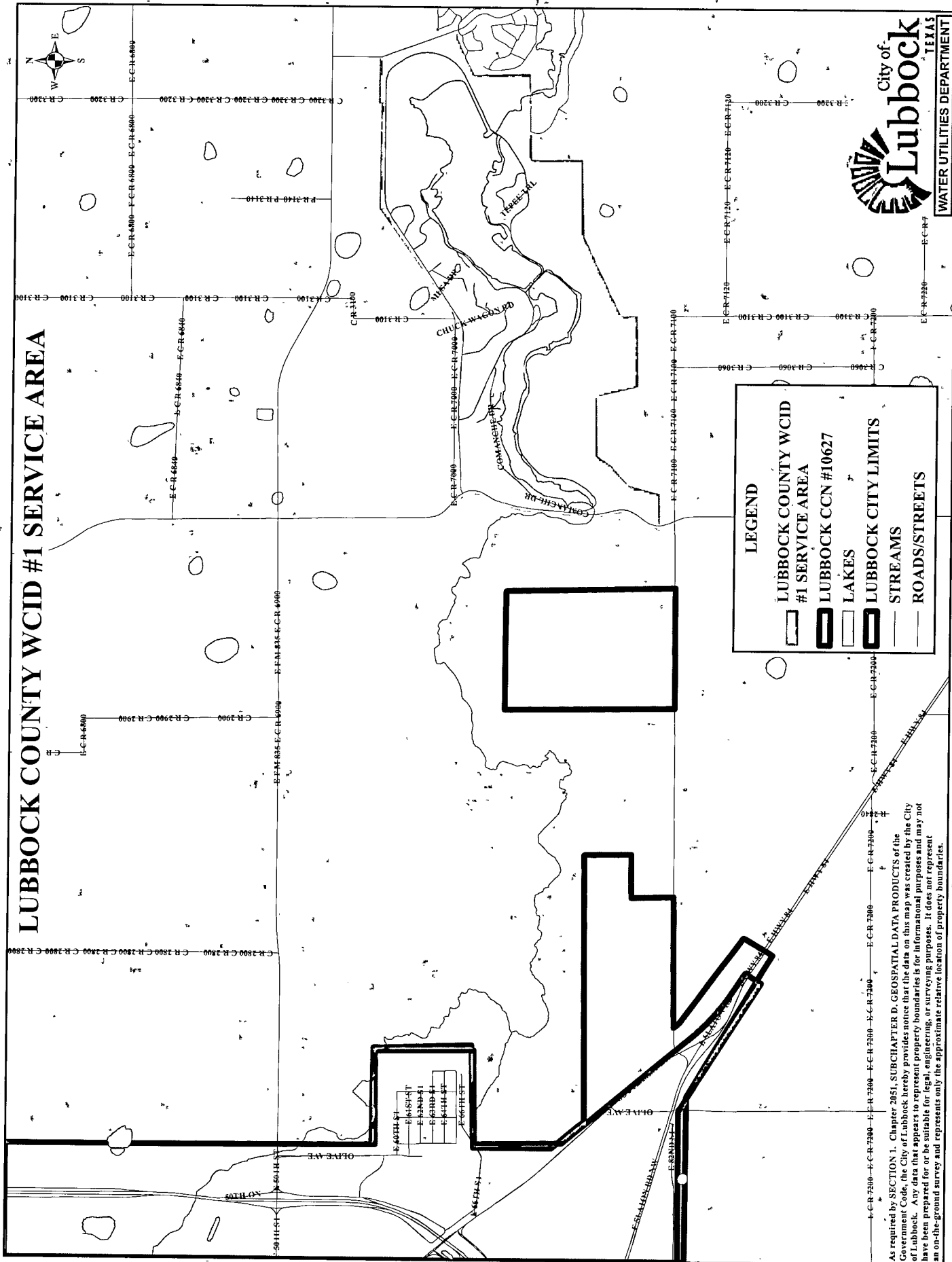
Approved June 16, 1989.

Effective Aug. 28, 1989, 90 days after date of adjournment.

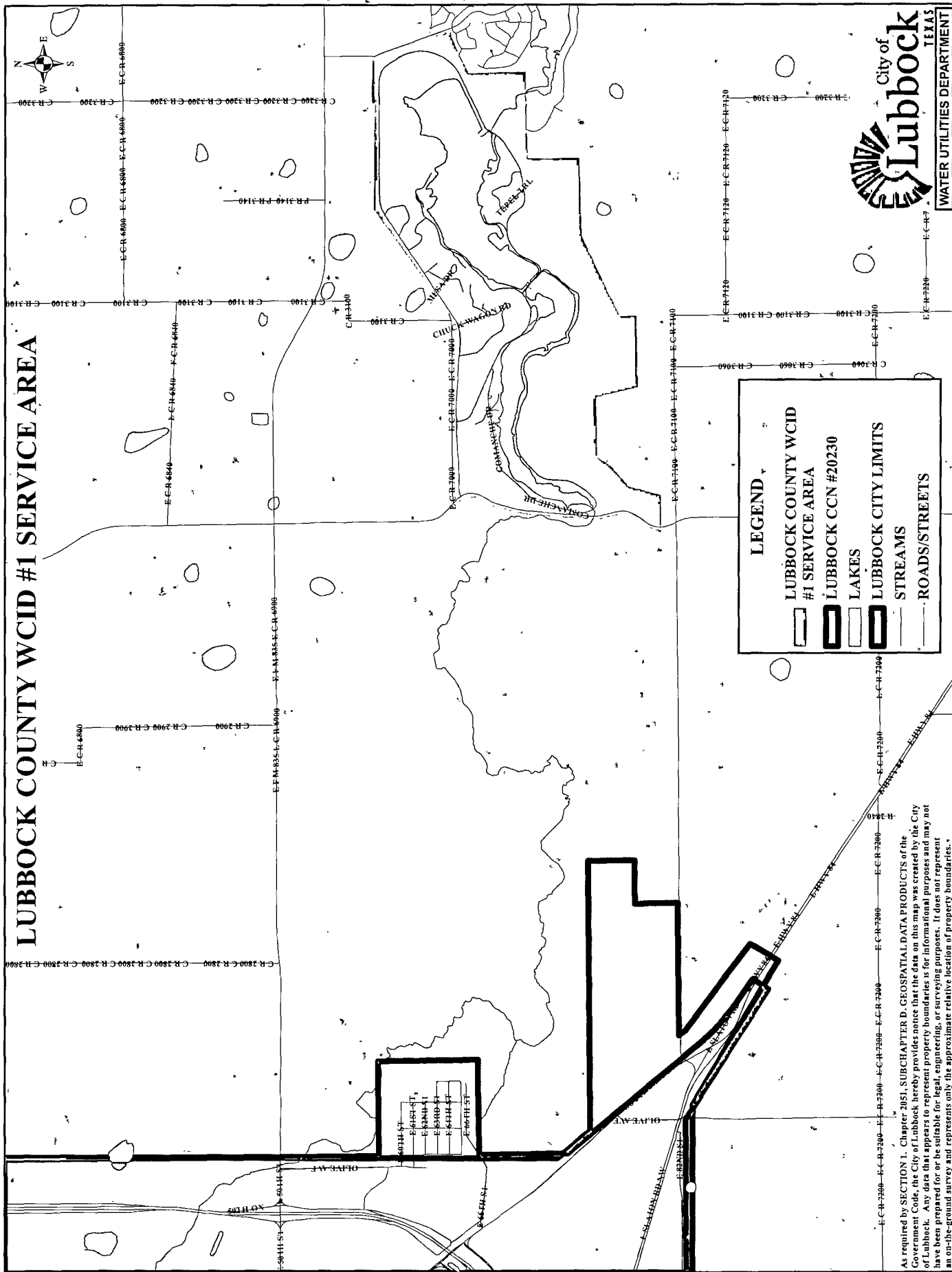
## **Exhibit B**

### **Maps Showing Location of the City's Proposed CCN Service Areas in Relation to the Boundaries of the Lubbock County Water Control and Improvement District #1**

# LUBBOCK COUNTY WCID #1 SERVICE AREA



# LUBBOCK COUNTY WCID #1 SERVICE AREA



As required by SECTION 1, CHAPTER 2051, SUBCHAPTER D, GEOSPATIAL DATA PRODUCTS of the Government Code, the City of Lubbock hereby provides notice that the data on this map was created by the City of Lubbock. Any data that appears to represent property boundaries 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.