

Control Number: 47173



Item Number: 1

Addendum StartPage: 0



#### **BEFCO ENGINEERING, INC.**

Consulting Engineering/Land Surveying
P.O. BOX 615 485 NORTH JEFFERSON
LA GRANGE, TEXAS 78945-0615
979 / 968-6474 FAX 979 / 968-3056

47173

www.befcoengineering.com E-mail: <a href="mailto:office@befcoengineering.com">office@befcoengineering.com</a> \*
Texas Registered Engineering Firm F-2011 Texas Licensed Surveying Firm #10001700

May 12, 2017

Public Utility Commission of Texas Attention: Filing Clerk 1701 N. Congress Avenue P.O. Box 13326 Austin, Texas 78711-3326 PECEIVED

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PUBLIC PILITY CARRAISSION

RE: Transfer Water CCN between City of Smithville Water CCN #10946 and

Aqua Water Supply Corporation CCN #10294 pursuant to

Texas Water Code 13.248 BEFCO Job No. 16-6848

#### Dear Ms. Fuentes:

The City of Smithville and Aqua WSC have executed an agreement ("Agreement") that is compliant with the Texas Water Code, Section 13.248. A copy of the Agreement is attached to this letter. The City requests that the attached Agreement be deemed valid and enforceable pursuant to the Texas Water Code 13.248 and that the proposed CCN transfer of a portion of water service area from Aqua WSC (CCN #10294) to City of Smithville (CCN #10946) be approved.

If you have any questions or need additional information, please let me know.

Sincerely,

BEFCO Engineering, Ing.

Jøseph G. Willrich, P.E.

Cc: City of Smithville (via email)
Aqua WSC (via email)

JGW:bms

#### Agreement Designating Retail Water Service Area Boundaries

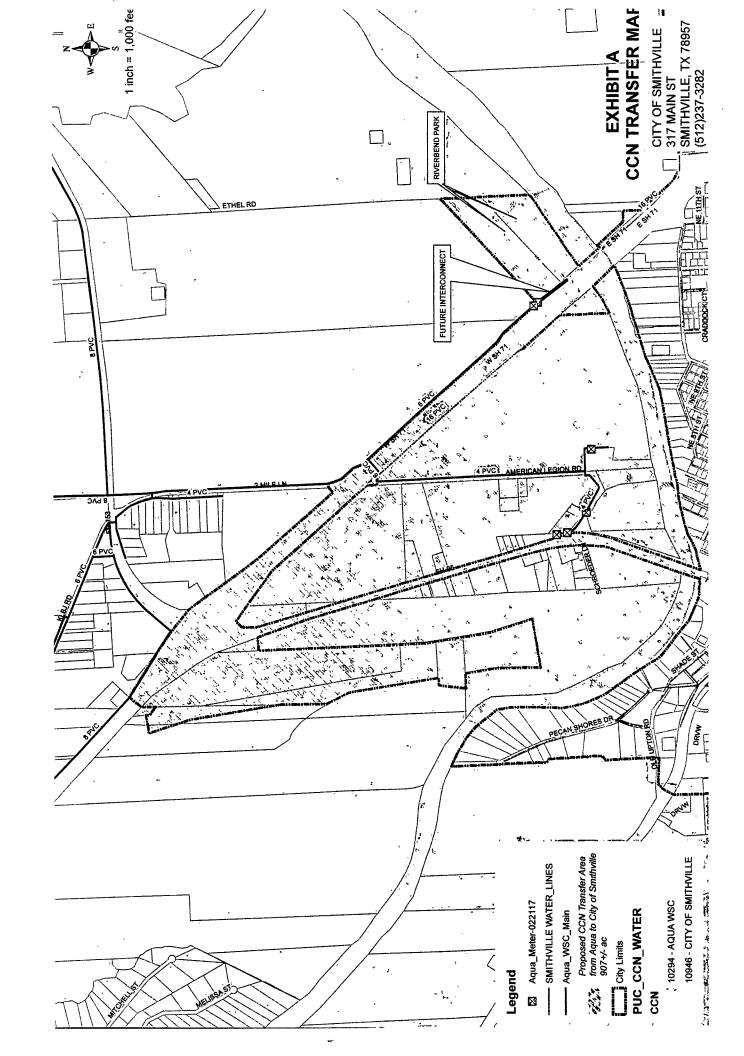
Aqua Water Supply Corporation ("Aqua") and the City of Smithville, Texas ("Smithville"), being the only Parties to the Agreement Designating Retail Water Service Area Boundaries ("Agreement"), with an Effective Date from and after the date of execution by all Parties, do hereby enter into this Agreement. Exhibit A shows a map of the boundary transfer and Exhibit B shows a written description of the transfer area. The Parties agree as follows:

- Aqua is a nonprofit rural water supply corporation organized under Texas Water Code, Chapter 67, for the purposes stated in Water Code §67.002. Aqua possesses Certificate of Convenience and Necessity ("CCN") No. 10294 ("Aqua Certificate") issued by the Texas Commission on Environmental Quality ("TCEQ").
- 2) Smithville is a General Law (Type A) municipality organized and existing under the laws of the State of Texas and located wholly within Bastrop County, Texas: Smithville possesses water CCN No. 10946 ("Smithville Certificate") issued by the TCEQ, authorizing Smithville to provide such services within the geographical area contained within the CCN ("Smithville Certificated Service Area").
- 3) This Agreement confirms that it is the Parties' intent that Smithville's revised CCN map, as depicted by Exhibit A of this document, be Smithville's official CCN map on file with the Public Utility Commission, as well as Aqua's revised boundaries as depicted in Exhibit A be Aqua's revised CCN.
- 4) Aqua agrees to decertificate the water service transfer area ("Transfer Area") depicted on the map attached hereto as Exhibit A, which map is incorporated herein for all purposes. Aqua further agrees that said Transfer Area be certified to Smithville.
- Aqua shall cooperate with Smithville to transfer the Transfer Area described in paragraph (4) above through any appropriate process before the Public Utility Commission, including the process described by Texas Water Code §13.248.
- 6) Exhibit C attached hereto is reflective of the Transfer Area shown on Exhibit A and is the proposed map to be used in the Notice requirements of the Public Utility Commission. Exhibit C is subject to change during the Public Utility Commission review process.
- 7) The transfer of said water CCN does NOT include the transfer of the current meters and/or facilities located within the CCN transfer area. Unless Aqua and Smithville agree otherwise in writing, any current metered customers described in the previous sentence and any future customers that are the recipients of a transfer of such meters or receive water service from such meters shall be customers of Aqua. Aqua's existing facilities within the Transfer Area are shown on Exhibit A. Exhibit D provides a list of addresses for the existing Aqua metered customers in the Transfer Area. In the future, Smithville may pursue a purchase from Aqua for all or part of these facilities and metered customers.
- 8) An Emergency Interconnect Agreement may be pursued in the future between Aqua and Smithville in the general location identified on Exhibit A. It is anticipated that the existing Aqua meter serving Riverbend Park (a City of Smithville Park), will be transferred to Smithville at the time of this Interconnect.
- 9) The agreement contemplated herein is contingent specifically on this Agreement being approved by the governing body of each party.
- Aqua agrees that it shall not protest, directly or indirectly, or cause the protest of Smithville's Application.
- 11) Aqua is currently indebted to the United States Department of Agriculture Rural Development ("USDA-RD") and CoBank on promissory notes used to finance improvements to Aqua's water utility system pursuant to 7 U.S.C. §1926. USDA-RD and CoBank hold security interests in Aqua's CCN pursuant to real estate deeds of trust executed in connection with the afore-

mentioned promissory notes. Final consummation of this sale is contingent on approval of the release of Aqua's CCN for the Transfer Area from the security interests held by USDA-RD and CoBank.

- 12) Within ten (10) business days after the Effective Date, Aqua shall file appropriate documentation with the USDA-RD and Cobank requesting release of their security interests in Aqua's water utility CCN for the area described in Exhibit A. Upon receipt by Aqua of written confirmation from USDA-RD and CoBank of such releases, Aqua will inform Smithville of such receipt. Thereafter, as soon as practicable, Smithville and Aqua shall cooperatively and jointly submit this Agreement to the Public Utility Commission and request that the terms of the Agreement be incorporated into the respective CCNs of Parties.
- 13) As compensation for the release by Aqua of the Transfer Area to Smithville, Smithville shall pay Aqua the compensation of \$10.00 and other valuable consideration.
- 14) The Parties agree to take all other actions necessary and convenient in connection with implementing this Agreement.
- 15) This Agreement shall be effective from and after the date of execution by all parties.
- 16) Upon execution, this Agreement shall be binding on Smithville and Aqua and their successors and assigns.

City of Smithville
By: Robert Tamble, City Manager
Robert Tamble, City Manager
Date: 3/16/17
*
ATTEST
By: Mendal Sage
By: Date: 3/16/17
•
Aqua Water Supply Corporation
By: Cliff Kessler, President
By: Waff 1978 Co.
Cliff Kessler, President
Date: 3/6///
ATTEST:
By: Willia F. Tun
pot v
Date: 3-6-17

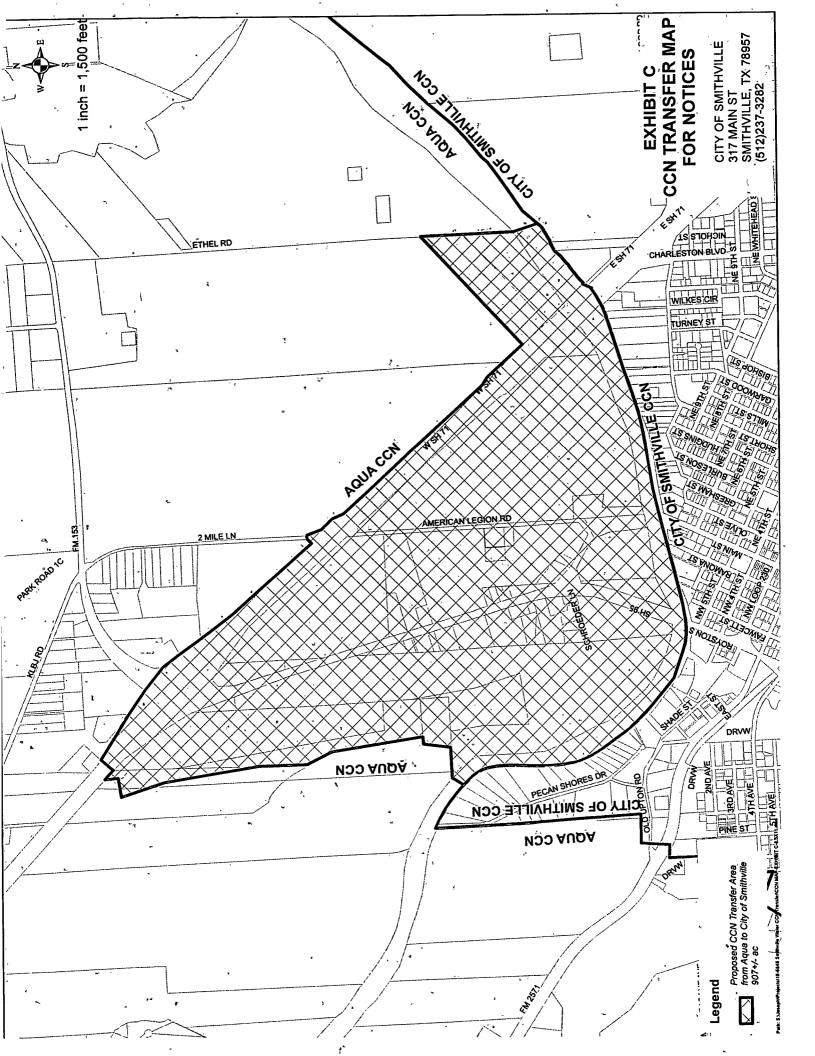


#### **EXHIBIT B**

## SERVICE AREA - WRITTEN DESCRIPTION

## Portion of Aqua CCN to be transferred to City of Smithville CCN

Approximately 907 acres, with the southern boundary being the south side of the Colorado River adjoining the existing City of Smithville CCN boundary and located approximately 0.5 miles north of downtown Smithville. The western boundary of the transfer area is formed by the western edge of property associated with the Smithville Crawford Municipal Airport and will adjoin the remaining portion of the Aqua CCN. The northern extents of the CCN transfer area form at the intersection of SH 71 and SH 95 with the north and east boundary being the north right-of-way line of SH-71, including the areas containing Riverbend Park and will adjoin the remaining portion of the Aqua CCN.



## EXHIBIT D (1 OF 2)

Account Number	Street Address	Meter #	Bastrop County R#
0501101201	301 FM 153	5206303	R20683
0501101101	130 Hwy 71 W	6946594	R55653
0502066701	580 NW Loop 230	9934488	R21635
0501295801	145 American Legion Rd	8622483	R20687
0501479402	114 American Legion Rd	7866212	R84140
0501831802	110 American Legion Rd	5199770	R21639- listed as 100 American Legion Rd



# PROPOSED NOTICES:

**PUBLICATION** 

NEIGHBORING ENTITIES

LANDOWNERS

## **Notice for Publication**

NOTICE OF APPLICATION FOR CERTIFICATE OF CO PROVIDE WATER/SEWER UTILITY SERVICE IN BASTROP	DNVENIENCE AND NECESSITY (CCN) TOCOUNTY(IES), TEXAS
Name of Applicant <u>CITY OF SMITHVILLE</u> has file a portion of <u>water service area from Aqua WSC (CC #10946)</u> with the	ed an application for a CCN transferring CN # 10294) to City of Smithville (CCN
Public Utility commission of Texas to provide	WATER (specify 1) water or 2) sewer or 3) water & sewer)
utility service in <u>BASTRÖP</u> County(ies).	
The proposed utility service area is located approx of downtown <u>Smithville</u> , Texas, and is generally be east by <u>SH 71 and the Colorado River</u> ; on the south west by the <u>Colorado River</u> and the <u>Smithville Cray</u> See Enclosed map of the proposed service are	ounded on the north by <u>SH 71</u> ; on the now by the Colorado River; and on the wford Municipal Airport.
	₹ ₹
The total area being requested includes approxima	itely <u>907</u> acres.
A copy of the proposed service area map is available Number): City of Smithville City Hall, 317 Main Str. 512-237-3282	
A request for a public hearing must be in writing, address, and daytime telephone number; (2) the a another recognizable reference to this application; public hearing"; (4) a brief description of how you adversely affected by the granting of the application adjustment to the application or CCN which would withdraw your request for a hearing.	applicant's name, application number or (3) the statement, "I/we request a or the persons you represent, would be on for a CCN; and (5) your proposed
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Persons who wish to intervene of comment should file with the PUC at the following address:

Filing Clerk
Public Utility Commission of Texas
1701 North Congress Avenue
P.O. Box 13326
Austin, Texas 78711-3326

within thirty (30) days from the date of this publication or notice. A public hearing will be held only if a legally sufficient hearing request is received or if the commission on its own motion requests a hearing. Only those individuals who submit a written hearing request or a written request to be notified if a hearing is set will receive notice if a hearing is scheduled.

If a public hearing is requested, the commission will not issue the CCN and will forward the application to the State Office of Administrative Hearings (SOAH) for a hearing. If no settlement is reached and an evidentiary hearing is held, the SOAH will submit a recommendation to the commission for final decision. If an evidentiary hearing is held, it will be a legal proceeding similar to a civil trial in state district court.

If you are a landowner with a tract of land at least 25 acres or more, that is partially or wholly located within the proposed area, you may request to be excluded from the proposed area (or "opt out") by providing written notice to the commission within (30) days from the date that notice was provided by the applicant. All requests to opt out of the requested service area must include a scaled; general location map and a metes and bounds description of the tract of land.

Persons who meet the requirements to opt out, and wish to request this option should file the required documents with the:

Filing Clerk
Public Utility Commission of Texas
1701 North Congress Avenue
P.O. Box 13326
Austin, Texas 78711-3326

A copy of the request to opt out of the proposed area must also be sent to the applicant. Staff may request additional information regarding your request.

## **Neighboring Entities Notice**

Aqua Water Supply Corporation 415 Old Austin Hwy Drawer P Bastrop, Texas 78602

City of Smithville P.O. Box 449 Smithville, Texas 78957

Bastrop County <sup>4</sup>
Bastrop County Judge Paul Pape
804 Pecan Street
Bastrop, Texas 78602

Lost Pines Groundwater Conservation District (GWCD) P.O. Box 1027 Smithville, Texas 78957

NOTICE OF APPLICATION FOR CERTIFICATE OF GONVENIENCE AND NECESSITY (CCN) TO
PROVIDE WATER/SEWER UTILITY SERVICE IN  BASTROP COUNTY(IES), TEXAS
To: Aqua Water Supply Corporation Date Notice Mailed 20 (Neighboring System, Landowner or City)
415 Old Austin Highway, Drawer P (Address)
Bastrop Texas 78602 City State Zip
Name of Applicant <u>City of Smithville</u> has filed an application for a CCN transferring a portion of <u>water service area from Aqua WSC (CCN #10294) to City of Smithville (CCN #10946)</u> with the
Public Utility Commission of Texas to provide  Water (specify 1) water or 2) sewer or 3) water & sewer)
utility service in Bastrop County(ies).
The proposed utility service area is located approximately 0.5 miles North

The proposed utility service area is located approximately <u>0.5</u> miles <u>North</u> of downtown <u>Smithville</u>, Texas, and is generally bounded on the north by <u>SH-71</u>; on the east by <u>SH 71</u> and the <u>Colorado River</u>; on the south by <u>the Colorado River</u>; and on the west by the <u>Colorado River</u> and the <u>Smithville Crawford Municipal Airport</u>.

See enclosed map of the proposed service area transfer.

The total area being requested includes approximately 907 acres.

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within thirty (30) days from the date of this publication or notice. A public hearing will be held only if a legally sufficient hearing request is received or if the commission on its own motion requests a hearing. Only those individuals who submit a written hearing request or a written request to be notified if a hearing is set will receive notice if a hearing is scheduled.

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A copy of the request to opt out of the proposed area must also be sent to the applicant. Staff may request additional information regarding your request.

NOTICE OF APPLICATION FOR CERTIFICATE O PROVIDE WATER/SEWER UTILITY SERVICE IN	
BASTROP	COUNTY(IES), TEXAS
To: <u>City of Smithville</u> (Neighboring System, Landowner or City)	Date Notice Mailed20
P.O. Box 449 (Address) Smithville Texas 78957	•
City State Zip	· "A
Name of Applicant <u>City of Smithville</u> has filed a portion of <u>water service area from Aqua WSC (#10946)</u> with the	
Public Utility Commission of Texas to provide	Water (specify 1) water or 2) sewer or 3) water & sewer)
utility service in <u>Bastrop</u> County(ies).	
The proposed utility service area is located apposed to the control of downtown Smithville . Texas, and is general	

The proposed utility service area is located approximately <u>0.5</u> miles <u>North</u> of downtown <u>Smithville</u>, Texas, and is generally bounded on the north by <u>SH 71</u>;on the east by <u>SH 71 and the Colorado River;</u> on the south by the Colorado River; and on the west by the <u>Colorado River</u> and the <u>Smithville Crawford Municipal Airport.</u>

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BASTROP	COUNTY(IES), TEXAS
To: <u>Bastrop County (C/O County Judge)</u> (Neighboring System, Landowner or City)	Date Notice Mailed20
804 Pecan Street (Address) Bastrop Texas 78602 City State Zip	
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Public Utility Commission of Texas to provide	Water (specify 1) water or 2) sewer or 3) water & sewer)

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See enclosed map of the proposed service area transfer.

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BASTROP	COUNTY(IES), TEXAS
To: Lost Pines Groundwater Conservation District Date (Neighboring System, Landowner or City)	Notice Mailed20
P.O. Box 1027	
(Address)	
Smithville Texas 78957	
City State Zip	
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Public	Utility,Commission	of Texas t	o provide		Water.	er or 2) sewer (	or 3) water & sewer)
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Owner Name.	CITY OF SMITHVILLE	CITY OF SMITHVILLE	CITY OF SMITHWILE		CIT OF SMITHVILLE	CITY OF SMITHVILLE	CITY OF SMITHVILLE		CITY OF SMITHVILLE	CITY OF SMITHVILLE	SMITHVILLE MUNICIPAL AIRPORT	LOWER COLORADO RIVER AUTHORITY		HURTA LAND INC	AMERICAN LEGION POST #180	HOFFEREK, MARY ANN"	HOFFEREK, MARY ANN	HOFFEREK, MARY ANN	EMIL BUESHCER ESTATE	COON, TIMOTHY & BRENDA	ALL FAITHS FUNERAL HOMES INC	SMITHVILLE B & L LLC	LWS FUTURES LLC	LWS FUTURES LLC			BLUEBONNET ELECTRIC COOP INC	LCRA TRANSMISSION SERVICES CORP			BENNATT, RICHARD A & KATHLEEN	BENNATT, RICHARD A & KATHLEEN	3T5 LLC -SERIES D	SMITHVILLE 71 LTD	SMITHVILLE 71 LTD			NACOA, DAVID & SUSAN	ARMSTRONG COLLIS	ARMSTRONG COLLIS	ARMSTRONG, COLLIS	SOTO, CATALINO	NELSON, JO ANN M SELL	TRINITY BAPTIST CHURCH		ATKINSON, MARK & JOHN BADDERS	GRAY, ERNEST M & JANET D	SCHROEDER, JOHNNY W SR &	SCHROEDER, JOHNNY & ANN	SCHROEDER, JOHNNY W SR &	SCHROEDER, JOHNNY *	SCHROEDER, SUSAN	SCHROEDER, DANNY & BRENDA		LOKUMBE, HANNIBAL	VETERANS OF FOREIGN WARS POST #1
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