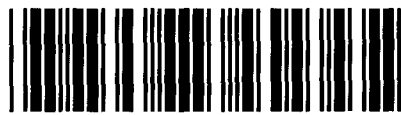




Control Number: 48161



Item Number: 1

Addendum StartPage: 0

DOCKET NO. **48161**

PETITION BY THE CITY OF LOS §
FRESNOS, TEXAS AND EAST §
RIO HONDO WATER SUPPLY §
CORPORATION FOR APPROVAL §
AND ENFORCEMENT OF §
CONTRACT DESIGNATING §
CERTIFICATE OF CONVENIENCE §
AND NECESSITY (CCN) SERVICE §
AREA UNDER TEXAS WATER CODE §
§ 13.248 IN CAMERON COUNTY §

BEFORE THE PUBLIC UTILITY

COMMISSION OF TEXAS

2016 MAR 13 PM 1:24
FILED IN 48161

**PETITION BY THE CITY OF LOS FRESNOS, TEXAS AND EAST RIO HONDO
WATER SUPPLY CORPORATION FOR APPROVAL AND ENFORCEMENT OF
CONTRACT DESIGNATING CERTIFICATE OF CONVENIENCE AND NECESSITY
AREA UNDER TEXAS WATER CODE § 13.248**

COMES NOW, the City of Los Fresnos, Texas (the “City”) and East Rio Hondo Water Supply Corporation (“ERHWSC”) (collectively, “Applicants”) and hereby file this Petition for Approval and Enforcement of Contract Designating Certificate of Convenience and Necessity (“CCN”) Service Area Under Texas Water Code § 13.248 (“Petition” or “Application”). The relief requested affects a portion of the City’s water CCN No. 11554 and a portion of ERHWSC’s water CCN No. 11552, both of which are located in Cameron County, Texas. In support thereof, Applicants would show the following:

I. PURPOSE OF THE PETITION

Applicants file this Petition seeking to amend their respective CCNs to partially decertify the areas that were dually-certificated to both the City and ERHWSC so that only either the City or ERHWSC, respectively, will have a CCN to serve these areas going forward, and also to transfer one small area with no existing customers that was singly-certificated to the City to the CCN of ERHWSC.

On or about February 21, 2017, ERHWSC filed a lawsuit in the United States District Court for the Southern District of Texas, Brownsville Division, entitled *East Rio Hondo Water Supply Corporation v. City of Los Fresnos, Texas* (the “lawsuit”). In the lawsuit, ERHWSC alleged that the City encroached on ERHWSC’s service area, and sought, among other claims, injunctive and declaratory relief that would preclude the City from providing water service within ERHWSC’s certificated service area as described in CCN No. 11552. ERHWSC asserted in the lawsuit that, because it had borrowed money from the United States Department of Agriculture (“USDA”) and remained indebted to USDA, it had the right to be the exclusive water service provider within its service area pursuant to 7 U.S.C. § 1926(b). The City is also a federally indebted water supply association within the meaning of 7 U.S.C. § 1926(b) and therefore arguably enjoys the same right to exclusively serve its respective CCN service area.

The areas that ERHWSC described in the lawsuit are dually-certificated to both ERHWSC and the City, pursuant to the ERHWSC’s CCN No. 11552 and the City’s CCN No. 11554. Thus, both the City and ERHWSC were certificated to provide retail water service to the areas that were dually-certificated under both of their CCNs.

The City and ERHWSC have now reached a settlement of the lawsuit, which has been approved by the Court pursuant to an Agreed Judgment. See **Exhibit A**, Settlement Agreement and Exchange of Service Area Agreement, and **Exhibit B**, Agreed Judgment. As part of the Settlement Agreement, the City and ERHWSC have agreed to delineate their currently dual-certificated service areas into two singly-certified service areas, one to each party, respectively. A portion of the dual-certified area would become singly-certified to the City, and a portion would become singly-certified to ERHWSC, so that each party would have the exclusive right to serve its own CCN area. There is also one small area of the City’s singly-certified CCN area of

approximately 33.72 acres that contains no existing retail water service customers that the parties request to be transferred to ERHWSC's singly-certified service area. *See* maps included as **Exhibit C**. The Application requests three types of relief: (1) The decertification of portions of the dual-certified CCN areas of the City and ERHWSC so that these areas will be respectively certified to only one entity, as depicted in the maps in **Exhibit C**, (2) The transfer of the 33.72 acre parcel from the City's CCN to ERHWSC's CCN, and (3) The amendment of the Applicants' respective CCNs to reflect these changes in accordance with Texas Water Code Chapter 13, Subchapter G.

The decertification of one entity in the dually-certificated areas so that these areas will be designated as singly-certified to either the City or ERHWSC will enhance the ability of each entity to provide retail water service to its current and future customers by providing certainty as to which entity has the exclusive legal right to serve each area. The requested decertification therefore allows the City and ERHWSC to extend their respective infrastructure and serve additional customers with the full protection and certainty afforded to them pursuant to their CCN, which allows each entity to avoid unnecessary additional costs.

II. REQUEST FOR TRANSFER/DECERTIFICATION

Pursuant to 16 Texas Administrative Code § 24.117, implementing Texas Water Code § 13.248, Applicants hereby provide the following information in furtherance of Commission approval for the CCN service area designations requested by this Petition:

1. Maps of the areas requested to be decertified from the CCNs of either the City or ERHWSC, and the one 33.72 acre area to be transferred from the CCN of the City to the CCN of ERHWSC, and accompanying information describing the acreage of the areas described, are included in **Exhibit C**.¹

¹ 16 TEX. ADMIN. CODE § 24.117(b)(1).

2. A copy of the executed Settlement Agreement and Exchange of Service Area Agreement are included as **Exhibit A**.²
3. There are five existing retail water customers of ERHWSC that, after decertification from ERHWSC's CCN, will receive service from the City pursuant to this Application. The service addresses for said customers are 33687 Whipple Rd., 3096 Whipple Rd., 320 Whipple Rd., 33979 Whipple Rd., and 98 Resaca Street. *See Exhibit D*, Description Map, for location of properties. Each of these five existing ERHWSC customers are located within the City limits, and within the area that is currently dually-certificated to both ERHWSC and the City. Pursuant to the Agreement, if approved by the PUC, these customers would be within the City's singly-certificated service area, and would receive retail water service from the City. If this Petition is approved, prior to commencement of service, the City shall provide written notice to these five affected customers, including current City retail water service rates and the date those rates were instituted, in the manner required by 16 Texas Administrative Code § 24.117(c)(1).
4. A recently-completed apartment complex known as "Villas at Indian Lake" is located at 32440 FM 1575, Los Fresnos, TX 78566. It is located within the area that is, at present, dually-certificated to both ERHWSC and the City. The Parties request that the complex, as depicted on the maps attached as **Exhibit C**,³ be decertified from ERHWSC's service area, and remain in the single-certificated service area of the City. The City is now providing retail water service to this complex. ERHWSC has never previously provided service to Villas at Indian Lake. *See Exhibit E*, Affidavit of Mark Milum.
5. The information described in 16 Texas Administrative Code § 24.117(c)(2)-(3) pertaining to public notice, has been accomplished as permitted by 16 Texas Administrative Code § 24.117(c)(2)⁴ through the City's posted agenda for its May 9, 2017 council meeting, and through ERHWSC's posted agenda for its October 9, 2017 Board meeting, at which respective meetings the Settlement Agreement and Exchange of Service Area Agreement were approved. *See Exhibit E*, Affidavit of Mark Milum, and **Exhibit F**, affidavit of Brian Macmanus.

The Commission has no standardized application form for the relief sought in this Petition.

Applicants therefore rely on the provisions of 16 Texas Administrative Code § 24.117 for the contents of and relief requested by this Petition. However, this rule states that "any other information required by the commission" should also be submitted.⁵ Applicants therefore

² 16 TEX. ADMIN. CODE § 24.117(b)(2). *See also Exhibit D*, Affidavit of Mark Milum.

³ Villas at Indian Lake is located within the 14.27 acre area depicted in **Exhibit C**.

⁴ 16 TEX. ADMIN. CODE § 24.117(b)(4) and (c)(2)-(3).

⁵ 16 TEX. ADMIN. CODE § 24.117(b)(5).

respectfully request that the Commission notify Applicants if there is any additional information that would assist the Commission in its consideration of this application.

III. REQUEST FOR INFORMAL DISPOSITION

Pursuant to 16 Texas Administrative Code § 22.35, Applicants respectfully request informal disposition processing for this Application without a hearing, as all requirements for same have been met.⁶ 16 Texas Administrative Code § 24.117 does not impose any additional notice requirements for this Application beyond those already required by 16 Texas Administrative Code § 24.117(c)(1)-(3) and demonstrated by **Exhibits E and F**. Further, if the Application is approved, the decision will not be adverse to any party.⁷ Thus, informal disposition without need for a hearing is appropriate for this matter.⁸

IV. CONCLUSION

The City of Los Fresnos, Texas and East Rio Hondo Water Supply Corporation respectfully request that the Commission process this Petition pursuant to Texas Water Code § 13.248 and 16 Texas Administrative Code § 24.117 with respect to the agreed-upon CCN decertification and transfer described herein, and approve the CCN designations contemplated by the Settlement Agreement and Exchange of Service Area Agreement.

Respectfully submitted,

Emily W. Rogers
State Bar No. 24002863
erogers@bickerstaff.com
Joshua D. Katz
State Bar No. 24044985
jkatz@bickerstaff.com
Bickerstaff Heath Delgado Acosta LLP
3711 S. MoPac Expressway

⁶ 16 TEX. ADMIN. CODE § 22.35(a)(1)-(3).


⁷ 16 TEX. ADMIN. CODE § 22.35(a)(2).

⁸ 16 TEX. ADMIN. CODE § 22.35(a)(3).

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Fryer & Hansen, PLLC
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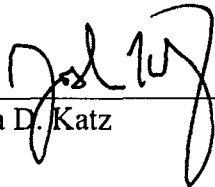
BY:



Joshua D. Katz

CERTIFICATE OF SERVICE

I hereby certify by my signature below that on the 13th day of March, 2018, a true and correct copy of the above and foregoing document was forwarded via hand delivery, facsimile, U.S. mail or electronic mail to all parties of record in accordance with 16 Texas Administrative Code § 22.74



Joshua D. Katz

EXHIBIT A

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
BROWNSVILLE DIVISION**

**EAST RIO HONDO WATER SUPPLY §
CORPORATION, §
Plaintiff §**

vs. §

**CITY OF LOS FRESNOS, TEXAS, §
Defendant §**

CIVIL ACTION NO. 1:17-CV-00041

**FULL AND FINAL SETTLEMENT
AGREEMENT, RELEASE AND INDEMNITY AGREEMENT**

THIS FULL AND FINAL SETTLEMENT AGREEMENT, RELEASE AND INDEMNITY AGREEMENT (the "*Agreement*") is made and entered into by and between East Rio Hondo Water Supply Corporation ("*ERHWSC*" or "*Plaintiff*") and City of Los Fresnos, Texas ("*City*" or "*Defendant*") (collectively hereinafter the "*Parties*").

WHEREAS, Plaintiff filed the above-captioned lawsuit against Defendant alleging Defendant encroached on Plaintiff's federally protected service area and requesting declaratory judgment under the Federal Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2002, and Rule 57 of the Federal Rules of Civil Procedure; and

WHEREAS, Defendant denies any liability to Plaintiff; and

WHEREAS, there are bona fide disputes, disagreements, and controversies between the Parties and the Parties desire to avoid the inconvenience, expense and uncertainty of litigation, to terminate all past, present and potential controversies between the Parties, and to compromise and settle all of their differences of any type and wish to enter into a compromise agreement relating to all claims and alleged damages which were or could have been asserted by the Parties in connection with this lawsuit, without admission by any party of the merits of the claims, demands, charges, and/or contentions of the others; and

WHEREAS, the Parties covenant and warrant that they have not assigned, transferred, or subrogated any portion of any claim which they have against each other and further warrant that the undersigned are authorized to act in the capacities indicated.

NOW, THEREFORE, as material considerations and inducements to and for the execution of this Agreement, and in consideration of the mutual promises set forth herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto, and their respective past and present parents, subsidiaries, affiliates, predecessors, successors, directors, officers, agents, representatives, employees, and assigns, their respective heirs, executives, administrators and personal representatives, and any and all persons or entities

which may claim by or through the forgoing, hereby contract, covenant, and agree as follows:

1. Following execution of this Agreement by Plaintiff and delivery of same to counsel of record for Defendant, City shall pay to ERHWSC the principal amount of one hundred and fifteen thousand, four hundred and fifty one and 16/100ths dollars (\$115,451.16) as a "fixed fee" based on an estimate of one-half of the forecasted net monthly revenues generated from water sales to the apartment complex located on a 11.75 acre tract of land at the Northwest corner of Henderson Road and FM 1575, otherwise known as the "*Disputed Property*." The fixed fee shall be paid to ERHWSC in one hundred and twenty (120) monthly installments in the amount of nine hundred and sixty-two and 9/100ths dollars (\$962.09) each, with interest at the yearly rate of zero percent (0%) on the unpaid balance, beginning November 15, 2017, and continuing each month thereafter until October 15, 2027 (the "*Payment Agreement*"). The Payment Agreement is in consideration of the Settlement Agreement and the Exchange Agreement shown in Attachment "A" ("*Exchange Agreement*"). Payments by Defendant are from current revenues of the City that are subject to appropriation by the City Council.

2. If Defendant defaults in making payments pursuant to the terms of the Payment Agreement, and the default is not cured within fifteen (15) days after Plaintiff gives Defendant notice of the default and the time within which it must be cured, as may be required by law or by written agreement, Plaintiff may declare the unpaid principal balance and earned interest on this Payment Agreement immediately due. Defendant waives all demands for payment, presentations for payment, notices of intention to accelerate maturity, notices of acceleration of maturity, protests, and notices of protests, to the extent permitted by law.

3. If enforcement of the terms of the Payment Agreement is referred to an attorney for collection or enforcement, or if suit is brought for collection or enforcement, or it is collected or enforced through bankruptcy or other judicial proceedings, the City shall pay ERHWSC all costs of collection and enforcement, including reasonable attorney's fees and court costs, in addition to other amounts due. No modification or indulgence by ERHWSC hereof shall be binding unless made in writing; and any indulgence on any one occasion shall not be an indulgence for any other or future occasion. Any modification or change in terms, hereunder granted by ERHWSC, shall be valid and binding upon each of the undersigned, notwithstanding the acknowledgment of any of the undersigned, and each of the undersigned does hereby irrevocably grant to each of the others a power of attorney to enter into any such modification on their behalf. The rights of ERHWSC hereof shall be cumulative and not necessarily successive. This Payment Agreement shall take effect upon execution by all parties of the Settlement Agreement and shall be construed, governed, and enforced in accordance with the laws of the State of Texas. The City and ERHWSC are each responsible for all obligations represented by this Payment Agreement. When the context requires, singular nouns and pronouns include the plural.

4. City and ERHWSC further agree to execute an agreement, in the form attached hereto as Attachment "A," to delineate the current dually-certified service area into two singly-certified service areas as shown in Exhibits "2" and "3" of the Exchange Agreement and to obtain the approvals of the transaction from the Public Utility Commission of Texas ("*PUC*") and the United States Department of Agriculture, Rural Development ("*USDA-RD*").

5. City agrees to immediately terminate any water supply and/or delivery agreement it has with Town of Indian Lake and further agrees not to provide potable water, either directly or indirectly, to any portion of the Town of Indian Lake lying within ERHWSC's Certificate of Convenience and Necessity. City shall provide ERHWSC with proof evidencing such termination within 10 days of the effective date of said termination.

6. City agrees to obtain for ERHWSC a permanent and exclusive utility easement, in the form attached hereto as **Attachment "B,"** acceptable to ERHWSC, along the southern and eastern boundary of the Disputed Property.

7. It is hereby acknowledged and agreed by and between the Parties that this Agreement is being entered into for the sole and exclusive purpose of compromising and settling any and all claims asserted, or which could have been asserted, or arising out of any transaction or relationship between the Parties hereto, and this Agreement is entered into in full and final settlement of all such alleged or unalleged claims and causes of action, as well as any and all alleged or unalleged damages relating thereto.

8. It is further acknowledged and agreed by the Parties that this is a compromise of disputed claims, and that neither (a) the entry into this Agreement, nor (b) any recital contained herein, shall be construed or interpreted as an admission of liability by any party hereto.

9. Notwithstanding ERHWSC's rights and remedies available to it under the law, and as further set forth in Paragraph 19, and conditioned on full performance by Defendant of the obligations of this Agreement, Plaintiff does hereby **RELEASE, ACQUIT and DISCHARGE** any and all claims, rights, demands, debts, liabilities, attorneys' fees, controversies and causes of action, known or unknown, asserted or unasserted, liquidated or unliquidated, fixed or contingent, accrued or unaccrued, of any nature whatsoever whether sounding in tort, contract, statute or any other theory of liability which could be asserted by or through Plaintiff against Defendant, arising, directly or indirectly, out of the dispute that is the subject of this lawsuit. Plaintiff agrees to file an Agreed Motion to Dismiss with Prejudice all claims against Defendant in the above captioned lawsuit.

10. Conditioned on full performance by Plaintiff of the obligations of this Agreement, Defendant does hereby **RELEASE, ACQUIT, and DISCHARGE** any and all claims, rights, demands, debts, liabilities, attorneys' fees, controversies and causes of action, known or unknown, asserted or unasserted, liquidated or unliquidated, fixed or contingent, accrued or unaccrued, of any nature whatsoever whether sounding in tort, contract, statute or any other theory of liability which could be asserted by or through Defendant against Plaintiff, arising, directly or indirectly, out of the dispute that is the subject of this lawsuit.

11. By execution hereof, Plaintiff represents, covenants and warrants that none of the claims released herein against Defendant have been conveyed, assigned or in any manner transferred, in whole or in part, to any third party.

12. By execution hereof, Defendant represents, covenants and warrants that none of the claims released herein against Plaintiff have been conveyed, assigned or in any manner transferred, in whole or in part, to any third party.

13. Notwithstanding the fees associated with the Exchange Agreement and the approval thereof by the PUC, all parties to this Agreement will bear their own attorney's fees, expenses and costs in this lawsuit.

14. The Parties further warrant and represent that they will cooperate fully and execute any and all supplementary documents and to take such additional actions which may be reasonably necessary or appropriate to give full force and effect to the terms and intent of this Agreement. If any single section or clause of this Agreement should be found unenforceable (less and except City's payment obligations), it shall be severed and the remaining sections and clauses shall be enforced in accordance with the intent of this Agreement unless to do so would destroy the essential purpose of this Agreement. Texas law shall govern the validity and interpretation of this Agreement.

15. This Agreement contains the entire understanding between the Parties and supersedes all prior agreements and understandings, oral or written, relating to the subject matter of this Agreement. The Parties expressly acknowledge and agree that no provisions, representations, or warranties whatsoever were made, express or implied, other than those contained in this Agreement and that they are not relying on any statement or communication from the other party other than those expressly contained in this Agreement in deciding to execute this Agreement. This Agreement shall not be modified, amended, or terminated unless such modification, amendment, or termination is executed in writing and signed by authorized representatives of the affected parties.

16. The language of all parts of this Agreement shall in all cases be construed as a whole, according to its fair meaning, and not strictly for or against any party. Any ambiguity, doubt or question as to applicability of the Parties' respective releases contained in this Agreement shall be resolved in all events in favor of waiver, release, relinquishment and disavowal of any possible claims. The Parties agree that the waivers, releases, relinquishments and disavowals herein granted shall be with respect to claims, interests, rights, remedies and causes of action known or unknown, matured or unmatured, contingent or direct, existing or hereafter arising.

17. Notwithstanding Paragraphs 19 and 20, the Parties acknowledge (after full consideration of the consequences and after being fully advised in the premises) that the waiver and relinquishment of their respective claims contained in this agreement is full and complete, whether or not the factual basis for their respective claims or defenses are currently known to them.

18. The Parties, and each of them, hereby represent and certify that they (1) have had an opportunity to read all of this Agreement; (2) have been given a fair opportunity and have been advised to discuss and negotiate the terms of this Agreement by and through their legal counsel; (3) have been given a reasonable time to consider the Agreement; (4) understand the provisions of this Agreement; (5) have had ample opportunity to seek and have received advice from an attorney or other advisors regarding this Agreement or have otherwise waived their right to do so; (6) have

determined that it is in their best interest to enter into this Agreement; (7) have not been influenced to sign this Agreement by any statement or representation by the other party or its legal counsel or other representative not contained in this Agreement; (8) have had sufficient time to investigate the existence of the claims and other rights hereby released and have satisfied themselves with respect to the same based upon their investigation and the advice of counsel; (9) are fully authorized to execute this agreement in the capacities in which it is executed; and (10) enter into this Agreement knowingly and voluntarily without coercion, duress, or fraud.

19. Failure to perform any covenant or agreement herein shall entitle the non-breaching party to enforce the provisions hereof by specific performance or injunctive relief in addition to any remedy in damages to which either party may be entitled to. In the event any litigation arises out of this Agreement between the Parties hereto, the non-prevailing party shall pay the prevailing party all reasonable attorney's fees and expert fees.

20. In connection with any action or proceeding concerning the enforcement of this Agreement, the Payment Agreement, or other determination of the Parties' rights under this Agreement or the Payment Agreement, the City hereby knowingly and expressly waives all existing and future rights of sovereign and governmental immunity as a defense. This waiver is irrevocable.

21. The Parties agree that this Agreement is supported by good, valuable, and sufficient consideration.

22. The Parties agree that this Agreement may be signed in multiple counterparts, each of which shall be deemed an original for all purposes.

23. This Agreement shall be valid and enforceable upon: (1) approval by the PUC, and (2) approval by or letter of no-objection from the USDA-RD. If such approvals are not obtained, this Agreement shall become null and void, and the parties shall revert to their respective positions as if this Agreement was never executed.

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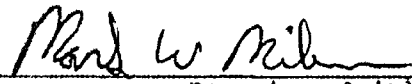
SIGNED AND DATED this 26th day of October 2017.

EAST RIO HONDO WATER SUPPLY
CORPORATION




Brian Macmanus, General Manager

CITY OF LOS FRESNOS, TEXAS




Printed Name: Mark W Milum
Title: City Manager

APPROVED AS TO FORM AND SUBSTANCE:



RICHARD W. FRYER,
ATTORNEY FOR PLAINTIFF
EAST RIO HONDO WATER SUPPLY
CORPORATION

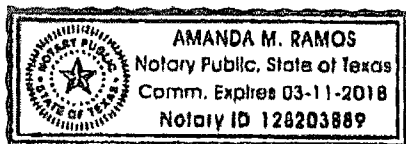


Signed by permission
BRADLEY YOUNG,
ATTORNEY FOR DEFENDANT
CITY OF LOS FRESNOS, TEXAS

STATE OF TEXAS §
 §
COUNTY OF CAMERON §

BEFORE ME, the undersigned, a Notary Public in and for the State of Texas, on this date personally appeared **BRIAN MACMANUS**, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that the same was the act of **EAST RIO HONDO WATER SUPPLY CORPORATION** for the purposes and consideration therein expressed, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 25th day of October, 2017.

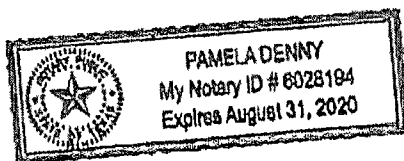


Amanda M. Ramos
Notary Public, State of Texas

STATE OF TEXAS §
 §
COUNTY OF CAMERON §

BEFORE ME, the undersigned, a Notary Public in and for the State of Texas, on this date personally appeared Mark W Milum known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that the same was the act of the **CITY OF LOS FRESNOS, TEXAS** for the purposes and consideration therein expressed, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 24th day of October, 2017.



Pamela Denny
Notary Public, State of Texas

EXCHANGE OF SERVICE AREA AGREEMENT

STATE OF TEXAS §
 §
COUNTY OF CAMERON §

PREAMBLE

This Exchange of Service Area Agreement ("*Exchange Agreement*") made this 25th day of OCTOBER, 2017 ("Effective Date") by and between what are sometimes referred to as the "*Parties*," City of Los Fresnos, Cameron County, Texas (hereinafter referred to as "*Los Fresnos*"), being a body politic and municipal corporation, and East Rio Hondo Water Supply Corporation (hereinafter referred to as "*ERHWSC*"), being a non-profit corporation of the State of Texas.

I. RECITALS

1. The Parties each presently hold a certificate of convenience and necessity ("*CCN*") with a potable water supply under the rules and regulations of the Public Utilities Commission of Texas (hereinafter referred to as "*PUC*"), to jointly serve the area that is adjacent to their respective current singly-certified CCN boundary. The joint service area is shown on the map attached hereto as **Exhibit "1"** and incorporated herein for all purposes, and is located within Cameron County, Texas (hereinafter referred to as "*Exchange Area*"). The Parties desire to exchange their right to jointly serve a portion of the Exchange Area for the exclusive right for each to solely serve a portion of the Exchange Area. Los Fresnos shall become singly certified to serve the area cross-hatched in **Exhibit "2"** ("*Los Fresnos Area*") with a potable water supply. ERHWSC shall become singly certified to serve the area cross-hatched in **Exhibit "3"** ("*ERHWSC Area*") with a potable water supply.

II. LOS FRESNOS AREA

2. For and in consideration of the assignment by Los Fresnos provided herein, along with Los Fresnos' commitment to serve the potable water demands of the Los Fresnos Area, and other valuable consideration ("*Los Fresnos Consideration*"), the receipt and adequacy of which is hereby acknowledged, ERHWSC agrees to and does hereby assign to Los Fresnos the right to serve its customers within said Los Fresnos Area, and Los Fresnos agrees to accept, and hereby accepts, such rights and responsibilities.

3. It is agreed that upon the execution of this Exchange Agreement by the Parties, Los Fresnos shall have provided the Los Fresnos Consideration.

4. Subject to the approval of this Exchange Agreement by PUC as provided by Article IV of this Exchange Agreement, ERHWSC hereby agrees to relinquish its rights to supply potable water to customers located within the Los Fresnos Area and Los Fresnos hereby agrees to supply potable water to all existing customers of ERHWSC and to any new customers requesting water service within the Los Fresnos Area.

5. Los Fresnos agrees not to supply potable water to any former customers of ERHWSC within the Los Fresnos Area if that customer has an unpaid balance on its account with ERHWSC, until the account is fully paid. Los Fresnos agrees to use its best efforts, in the exercise of the discretion granted under this Exchange Agreement, to collect amounts due to ERHWSC from customers for potable water service.

6. In the event water service is disconnected for nonpayment of potable water service charges, except as otherwise required by law or as agreed to by ERHWSC, Los Fresnos agrees not to provide water services to that customer until ERHWSC has received payment of all delinquent charges, plus any applicable charges which are then collectible in accordance with ERHWSC's

tariff or applicable law. Upon receipt of payment by ERHWSC of a past due account which is the subject of discontinued service under the above paragraphs, ERHWSC shall promptly so notify Los Fresnos in writing. ERHWSC shall notify Los Fresnos of all customer accounts which are delinquent and are either pending disconnection or have been disconnected upon commencement of service by Los Fresnos.

7. To the extent applicable, ERHWSC will provide Los Fresnos with the names and addresses of all ERHWSC customers being served within the Los Fresnos Area. Los Fresnos agrees to provide written notice of the change in service provider to any and all customers within the Los Fresnos Area within thirty (30) days prior to the date Los Fresnos commences service to the Los Fresnos Area.

8. Any lines owned by ERHWSC which run through the Los Fresnos Area, which are necessary for the operation of the remainder of ERHWSC's CCN, shall not become the property of Los Fresnos, but shall remain the property of ERHWSC.

9. Los Fresnos hereby agrees and obligates itself to supply potable water to all existing customers or members possessing existing water meters on property within the Los Fresnos Area without an additional fee, meter fee, hook-up fee or other additional charge or deposit as a condition for initial or continued service.

III. ERHWSC AREA

10. For and in consideration of the assignment by ERHWSC provided herein, along with ERHWSC's commitment to serve the potable water demands of the ERHWSC Area, and other valuable consideration ("*ERHWSC's Consideration*"), the receipt and adequacy of which is hereby acknowledged, Los Fresnos agrees to and does hereby assign to ERHWSC the right to serve customers within said ERHWSC Area, and ERHWSC agrees to accept, and hereby accepts,

such rights and responsibilities.

11. It is agreed that upon the execution of this Exchange Agreement by the Parties, ERHWSC shall have provided the ERHWSC Consideration.

12. Subject to the approval of this Exchange Agreement by PUC as provided by Article IV of this Exchange Agreement, Los Fresnos hereby agrees to relinquish its rights to supply potable water to its customers located within the ERHWSC Area and ERHWSC hereby agrees to supply potable water to all existing customers of Los Fresnos and to any new customers requesting water service within the ERHWSC Area.

13. ERHWSC agrees not to supply potable water to any former customers of Los Fresnos within the ERHWSC Area if that customer has an unpaid balance on its account with Los Fresnos, until the account is fully paid. ERHWSC agrees to use its best efforts, in the exercise of the discretion granted under this Exchange Agreement, to collect amounts due to Los Fresnos from customers for potable water service. Los Fresnos shall notify ERHWSC of all customer accounts which are delinquent and are either pending disconnection or have been disconnected upon commencement of service by ERHWSC.

14. In the event water service is disconnected for nonpayment of potable water service charges, except as otherwise required by law or as agreed to by Los Fresnos, ERHWSC agrees not to provide water services to that customer until Los Fresnos' receipt of payment of all delinquent charges, plus any applicable charges which are then collectible in accordance with Los Fresnos' ordinance or applicable law. Upon receipt of payment by Los Fresnos of a past due account which is the subject of discontinued service under the above paragraphs, Los Fresnos shall promptly so notify ERHWSC in writing.

15. To the extent applicable, Los Fresnos will provide ERHWSC with the names and

addresses of all Los Fresnos customers being served within the ERHWSC area. ERHWSC agrees to provide written notice of the change in service provider to any and all customers within the ERHWSC Area within thirty (30) days prior to the date ERHWSC commences service to the ERHWSC Area.

16. Any lines owned by Los Fresnos which run through the ERHWSC Area, which are necessary for the operation of the remainder of Los Fresnos' CCN, shall not become the property of ERHWSC, but shall remain the property of Los Fresnos.

IV. PUC, USDA APPROVALS; CLOSING

17. Los Fresnos and ERHWSC agree to file a joint application with the PUC requesting approval of the transfer of service areas and customers as provided by this Exchange Agreement, and for each of the exchanged service areas to become singly certified to the other Party. Final closing with respect to the purchase and transfer of the service areas and customers as provided by this Exchange Agreement shall be not more than forty-five (45) days after all of the following requirements to closing have been completed:

- i. All pipeline installations to be done by Los Fresnos are completed and ERHWSC is given written notice of said completion by Los Fresnos;
- ii. All pipeline installations to be done by ERHWSC are completed and Los Fresnos is given written notice of said completion by ERHWSC; and
- iii. Approval by the PUC and the United States Department of Agriculture, Rural Development ("USDA-RD") has been obtained.

18. The City shall prepare an application to be filed with the PUC requesting that the

service areas and customers be exchanged as provided by this Exchange Agreement. Within 60 days after the Effective Date of this Exchange Agreement, the City shall provide the application, maps, GIS data, and other materials to be included with the application to ERHWSC for ERHWSC's review of the same. ERHWSC shall provide the City comments regarding the application within thirty (30) days after the City provides ERHWSC with the application. The City shall incorporate ERHWSC's proposed changes to the application. If the City disagrees with one or more of the ERHWSC's proposed changes, the City and ERHWSC shall work to resolve the disagreement. The City shall promptly file the application with the PUC after completing any changes proposed by the ERHWSC and agreed to by the City.

19. ERHWSC agrees to pay the City for one-half of the costs (legal and other consulting costs) associated with preparing and filing of the application with the PUC and responding to any further requests from the PUC associated with the application. The City shall invoice ERHWSC these costs on a monthly basis and provide the ERHWSC with detailed descriptions of the work performed preparing and filing the application. ERHWSC will pay the invoice within thirty (30) days after its receipt. The Parties shall bear their own respective attorney's fees relating to this Exchange Agreement.

20. Within thirty (30) days after the Effective Date of this Exchange Agreement, the City and ERHWSC shall each request releases of any Security Agreement in favor of USDA-RD covering the exchanged services areas as provided by this Exchange Agreement. Upon USDA-RD's delivery of the releases, each Party will give notice to other Party and send the other Party a copy of said Release.

V. GENERAL PROVISIONS

21. This Exchange Agreement has been approved by the appropriate bodies of Los

Fresnos and ERHWSC as evidenced by appropriate minutes of the governing bodies, copies of which are attached hereto as Exhibits "4" and "5," respectively, executed by the appropriate officers of same.

22. Failure to perform any covenant and agreement herein shall entitle the non-breaching party to enforce the provisions hereof by specific performance or injunctive relief in addition to any remedy in damages that either party may be entitled to.

23. It is the intent of Los Fresnos and ERHWSC, and they do hereby specifically agree, that this Exchange Agreement creates no third-party beneficiary rights or interest in or to the supply of any treated water or facility relating thereto, nor to any existing or potential retail customer of Los Fresnos or ERHWSC.

24. No amendment, modification, or alteration of the terms hereof shall be binding unless the same be in writing, dated and subsequent to the date hereof and duly executed by the Parties.

25. No waiver by the Parties of any default or breach of any term, condition, or covenant of this Exchange Agreement shall be deemed to be a waiver of any other breach of the same or other term, condition, or covenant contained herein.

26. Each party represents and warrants that (i) it has carefully reviewed this Exchange Agreement; (ii) it has at all times been represented by and consulted with legal counsel concerning this Exchange Agreement; (iii) any questions that it has pertaining to this Exchange Agreement have been answered and fully explained to it by its counsel; (iv) its decision to execute this Exchange Agreement was not based on any statement or representation, either oral or written, made by any person on behalf of the other party; (v) this Exchange Agreement constitutes the entire agreement and understanding of the Parties; (vi) neither party has assigned, conveyed,

hypothecated or transferred any interest in any cause of action relating to the above described claims; (vii) each party understands that the other party is relying upon these representations and warranties in entering into this Exchange Agreement; and (viii) this Exchange Agreement may not be amended, modified, or changed orally.

27. The conveyance made in this Exchange Agreement is made without warranty, express or implied, and is conveyed "AS IS" and "WHERE IS."

IN WITNESS WHEREOF, THE PARTIES HERETO have executed this Exchange Agreement as of the date above stated.

CITY OF LOS FRESNOS, TEXAS

By: Mark W. Milum
Mark W. Milum, City Manager

ATTEST:

Pam Denny
Pam Denny, City Secretary

EAST RIO HONDO WATER SUPPLY
CORPORATION

By: Brian Macmanus
Brian Macmanus, General Manager

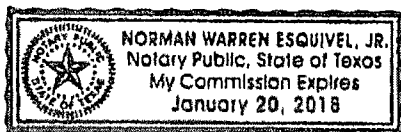
Attachments: Exhibit "1" (Exchange Area Map and Description)
Exhibit "2" (Los Fresnos Area Map and Description)
Exhibit "3" (ERHWSC Area Map and Description)
Exhibit "4" (Los Fresnos Minute Excerpt)
Exhibit "5" (ERHWSC Minute Excerpt)

CORPORATE ACKNOWLEDGMENTS

STATE OF TEXAS §
COUNTY OF CAMERON §

I hereby certify that on this day before me, an officer duly authorized in the State of Texas and in the County of Cameron to take acknowledgments, personally appeared Mark W. Milum, known to me to be the person described in and who executed the foregoing instrument as City Manager of City of Los Fresnos, Cameron County, Texas, body politic and municipal corporation therein, and acknowledged that he executed the same as such an officer, in the name and for on behalf of the said city.

IN WITNESS WHEREOF I hereunto set my hand and affixed my official seal this 24th day of October, 2017.

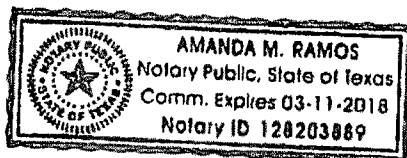


[Signature]
Notary Public and for the State of Texas

STATE OF TEXAS §
COUNTY OF CAMERON §

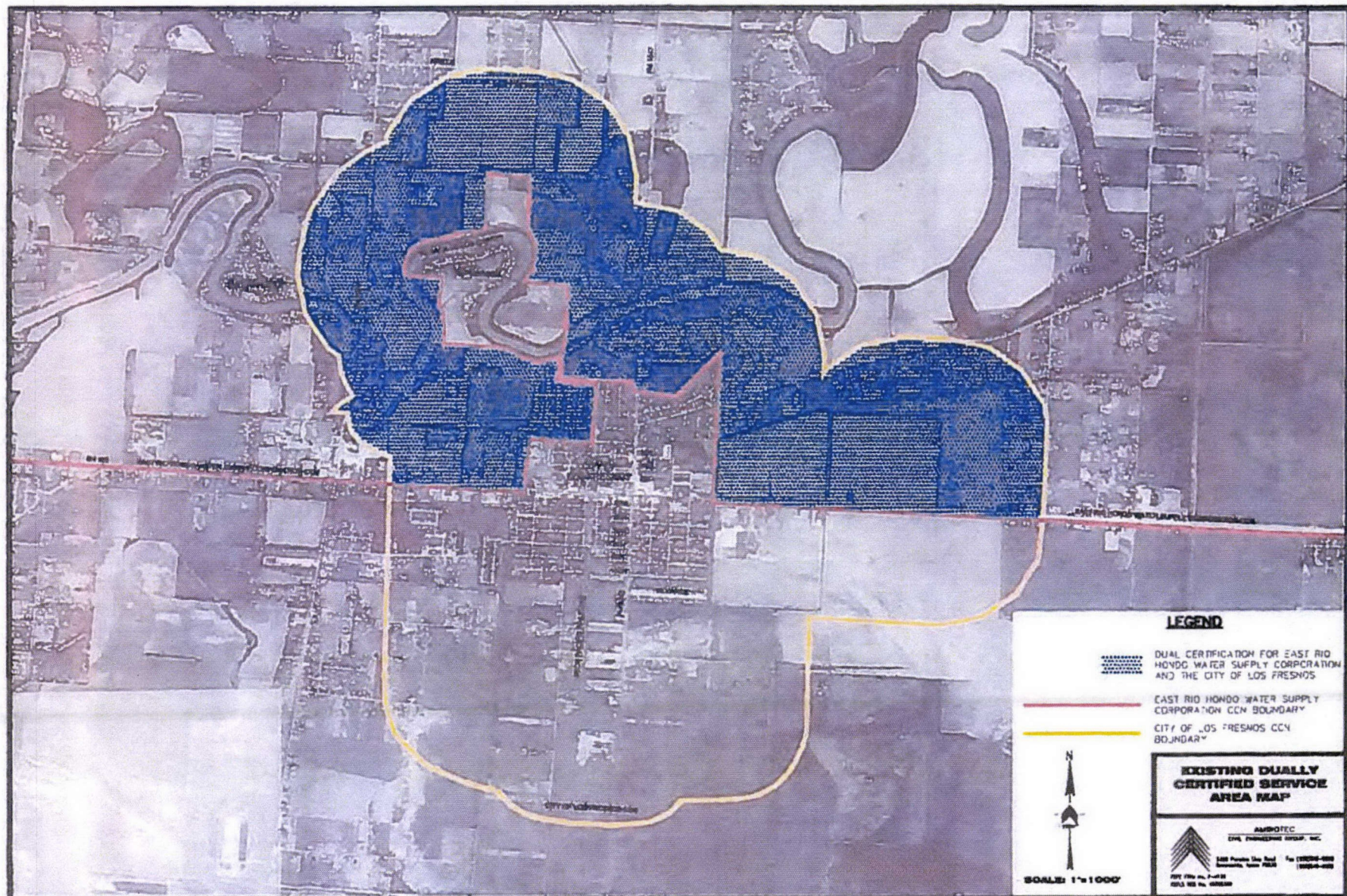
I hereby certify that on this day before me, an officer duly authorized in the State of Texas and in the County of Cameron to take acknowledgments, personally appeared **Brian Macmanus**, known to me to be the person described in and who executed the foregoing instrument as General Manager of East Rio Hondo Water Supply Corporation, the corporation therein, and acknowledged that he executed the same as such an officer, in the name and for on behalf of the said corporation.

IN WITNESS WHEREOF I hereunto set my hand and affixed my official seal this 25th day of October, 2017.



[Signature]
Notary Public and for the State of Texas

EXHIBIT "1"



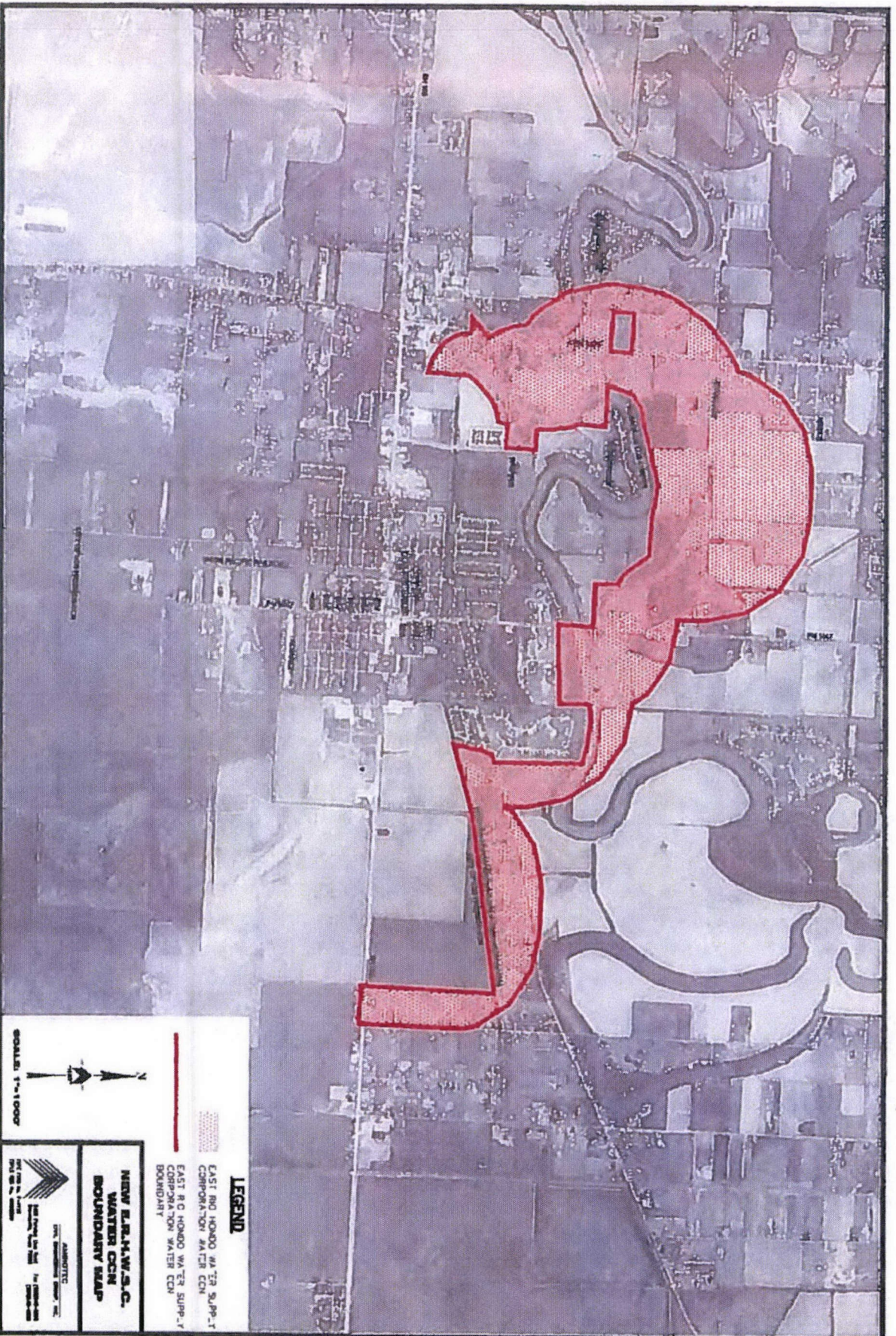
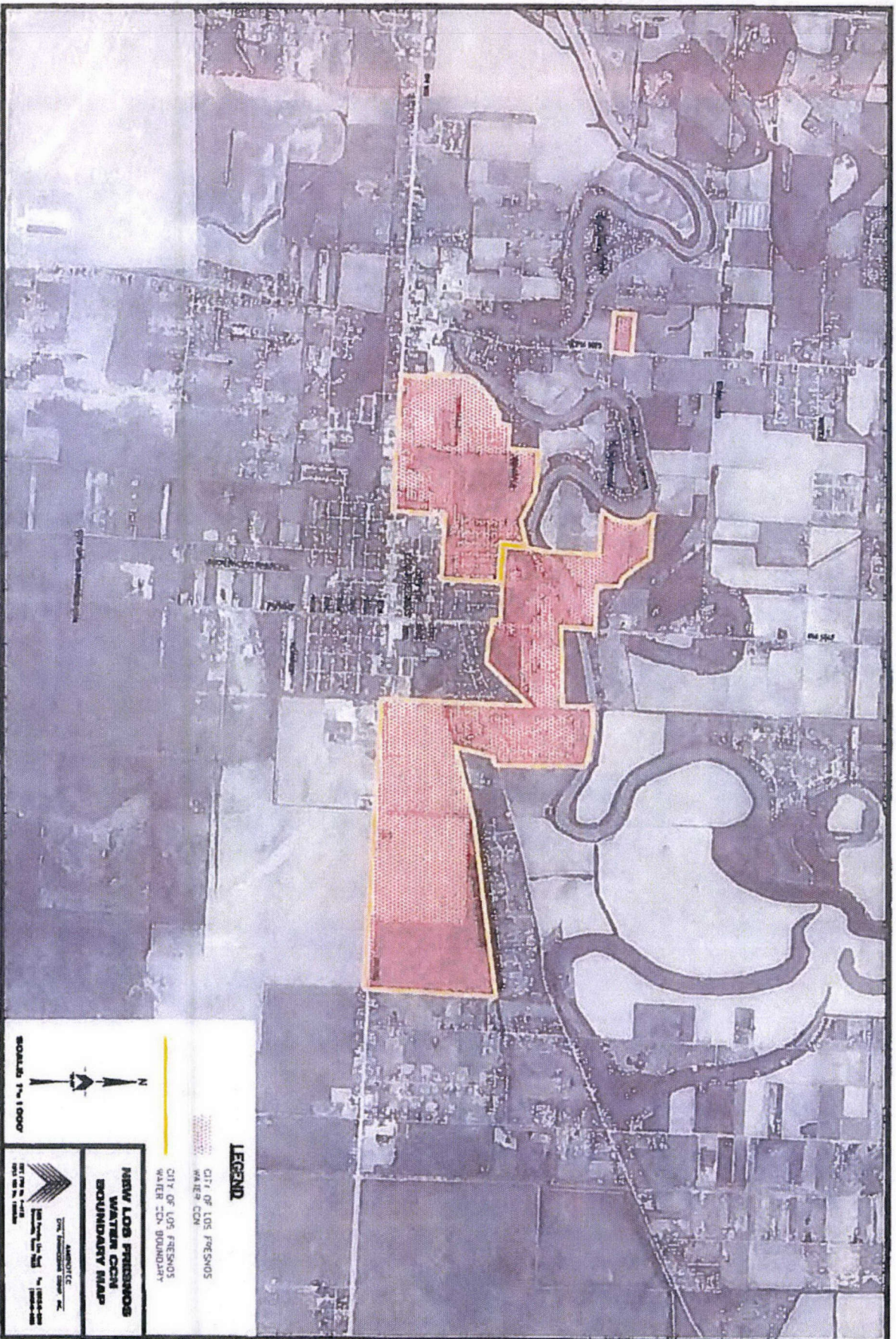


EXHIBIT "3"



RIGHT OF WAY EASEMENT

East Rio Hondo Water Supply Corporation

KNOW ALL MEN BY THESE PRESENTS, that **TX INDIAN LAKES APARTMENTS, LP** (hereinafter called "Grantors" whether one or more persons are named), in consideration of one dollar (\$1.00) and other good and valuable consideration paid by **EAST RIO HONDO WATER SUPPLY CORPORATION**, (hereinafter called "Grantee"), the receipt and sufficiency of which is hereby acknowledged, does hereby grant, bargain, sell, transfer, and convey to said Grantee, its successors, and assigns, a perpetual and exclusive easement with the right to erect, construct, install and lay and thereafter access and use, operate, inspect, repair, maintain, replace, upgrade, parallel, abandon-in-place, and remove utility lines and appurtenances and any other facilities necessary to serve Grantees' current and future system-wide customers under, over and across a portion of that certain property described in Document 40388, Vol. 22173, Page 108, Official Records, Cameron County, Texas, being more particularly described in the metes and bounds description attached hereto as Exhibit "A" made apart hereof for all purposes (the "Easement"), the approximate location of which Easement is depicted on Exhibit "B" attached hereto and made a part hereof for all purposes (the "Easement Area"), together with the right of ingress and egress along such routes selected in the reasonable discretion of Grantee, over Grantors' adjacent lands for the purpose for which the above-mentioned rights are granted, to have and to hold the above-described property and premises unto the said Grantee, Grantee's heirs, administrators, executors, successors and/or assigns forever. Notwithstanding the foregoing, Grantee acknowledges and hereby agrees that its use of the Easement and the Easement Area will not unreasonably interfere with any rights of ingress and egress to Grantor's property.

In the event the Easement hereby granted abuts on a public road and the county or state hereafter widens or relocates the public road so as to require the relocation of this (these) utility line(s) as installed, Grantors agree to further grant to Grantee an additional Easement Area over and across the land described above for the purpose of laterally relocating said utility line(s) as may be reasonably necessary to clear the road improvements, which Easement Area hereby granted shall be limited to a strip of land 15-feet in width.

Grantors agree to not construct any improvement over, on, or under this easement that in any manner obstructs or interferes with Grantee's full exercise of its use of the easement. Grantors agree to not place any fences, which involve masonry, wrought iron or a concrete beam in, on, or above the Easement Area. If Grantors construct a permissible fence or improvement on the Easement Area, Grantors agree that Grantee will not be liable for any damages, replacement, repair, or other injury or cost, which may occur to such fence or other improvement when Grantee utilizes the Easement Area herein granted in any manner. The consideration recited herein shall constitute payment in full for all damages sustained by Grantors by reason of the installation of the utility lines(s), appurtenances, and other facilities and the subsequent authorized uses and actions of Grantee referred to herein. Grantee will maintain such Easement Area in a state of good repair and efficiency so that no unreasonable damages will result from its use of Grantors' property. This Right of Way Easement together with other provisions of this grant shall constitute an easement and a covenant running with the land for the benefit of the Grantee, its successors, and assigns. Grantors represent and warrant that they are the owners of the above-described lands and that said lands are free and clear of all encumbrances and liens, except the following: International Bank of Commerce Deed of Trust dated November 1, 2016.

Grantors do hereby bind themselves, their successors and assigns, to **WARRANT AND FOREVER DEFEND** all and singular, the easement herein granted to Grantee, or Grantee's successors and assigns, against every person whomsoever claiming, or to claim, the same or any part thereof.

The Easement conveyed herein was obtained or improved through Federal financial assistance. This Easement is subject to the provisions of Title VI of the Civil Rights Act of 1964 and the regulations issued pursuant thereto for so long as the Easement continues to be used for the same or similar purpose for which financial assistance was extended or for so long as the Grantee owns it, whichever is longer.

Any notice or communication required or permitted hereunder shall be given in writing, sent by (i) personal delivery, or (ii) United States mail, postage prepaid, registered or certified mail, return receipt requested or (iii) facsimile, addressed as follows:

To Grantor: TX Indian Lakes Apartments, LP
16812 Dallas Parkway
Dallas, Texas 75248

A copy to: John C. Shackelford, Esq.
Shackelford, Bowen, McKinley & Norton, LLP
9201 N. Central Expressway
Fourth Floor
Dallas, Texas 75231
Facsimile: 214-780-1401

To Grantee: East Rio Hondo Water Supply Corporation
206 Industrial Parkway
P.O. Box 621
Rio Hondo, Texas 78583
Facsimile: 956-748-3179

A copy to: Richard W. Fryer, Esq.
Fryer & Hansen, PLLC
1352 West Pecan Boulevard
McAllen, Texas 78501
Facsimile: 956-686-6601

IN WITNESS WHEREOF the said Grantors have executed this instrument this 2nd day of Oct 2017.

TX INDIAN LAKES APARTMENTS, LP

By. TX Indian Lakes Apartments GP, LLC,
a Texas limited liability company,
its general partner

By

Melissa Adami, Manager

AGREED TO AND ACCEPTED BY:

EAST RIO HONDO WATER SUPPLY CORPORATION

By: Brian E. Macmanus
Name: Brian E. Macmanus
Title: General Manager

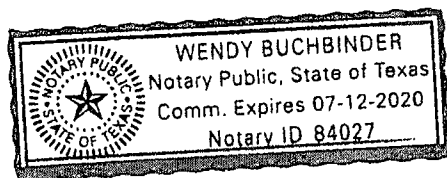
ACKNOWLEDGMENT

BEFORE ME, the undersigned, a Notary Public in and for Dallas County, Texas on this day personally appeared Melissa Adami, Manager.

TX INDIAN LAKES APARTMENTS GP, LLC, a Texas limited liability company, general partner of TX INDIAN LAKES APARTMENTS, LP known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that she executed the same for the purposes and consideration therein expressed

GIVEN UNDER MY HAND AND SEAL OF OFFICE THIS THE 2 day of Oct 2017.

(Seal)



Wendy Buchbinder
Notary Public in and for Texas

**CONSENT TO
RIGHT OF WAY EASEMENT**

INTERNATIONAL BANK OF COMMERCE as lienholder to the property more particularly described as:

Being 15.05 acres of land, more or less, out of the East 30.08 acres of Block 18, Thompson Tract in Cameron County, Texas, according to the plat recorded in Vol.4, Pg. 24 of the Cameron County Map Records and more particularly described by metes and bounds, recorded in Volume 22173, Page 108, Official Records, Cameron County, Texas.

hereby consents to the Right of Way Easement granted by TX INDIAN LAKES APARTMENTS, LP to East Rio Hondo Water Supply Corporation, P.O. Box 621, Rio Hondo, TX 78583. The person(s) signing below warrants and represents that he (she)(they) have the authority to execute this document.

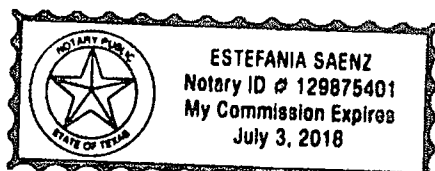

Printed Name: Wallace L. Reed IV

ACKNOWLEDGMENT

STATE OF Texas §
COUNTY OF Cameron §

BEFORE ME, the undersigned, a Notary Public in and for said County and State, on this day personally appeared Wallace L. Reed IV known to me to be the person(s) whose name(s) is (are) subscribed to the foregoing instrument, and acknowledged to me that he (she)(they) executed the same in his (her)(their) authorized capacity(ies), and that by his (her)(their) signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

GIVEN UNDER MY HAND AND SEAL OF OFFICE THIS THE 21st day of NOV 2017



My commission expires: July 03, 2018

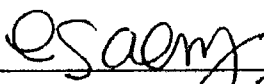

Notary Public in and for Brownsville
Cameron County, Texas

EXHIBIT "A"

[metes and bounds description]



**AMBIOTEC
GROUP**

*Land Surveyors,
Civil and Environmental
Engineers, Scientists and
Construction Managers
TBPE Firm No. F-4126
TBPLS Reg No. 10005300*

November 16, 2017

**METES AND BOUNDS DESCRIPTION
OF A
0.58 ACRE TRACT**

Being a 0.58 acre tract of land, more or less, out of a 15.05 acre tract in Block 18, Thomson Tract subdivision, Share 22, Espiritu Santo Grant as recorded in Volume 4, Page 24 of the Map Records of Cameron County, Texas. Said 0.58 acre tract further being conveyed to TX Indian Lakes Apartments, LP as recorded in Volume 22173, Page 108 of the Official Records of Cameron County, Texas. Said 0.58 acre tract being more particularly located and described as follows:

Beginning at the Northeast corner of said 15.05 acre tract, same being the Southeast corner of the remainder of a 50.23 acre tract conveyed to Stanford C. Knowles and wife, M. Carmen Knowles as recorded in Volume 9248, Page 261 of the Official Records of Cameron County, Texas, said corner being North 05 degrees 05 minutes 00 seconds East, a distance of 661.89 feet from the Southeast corner of said Block 18, said corner being in the East line of said Block 18, same being the original West right-of-way line of Farm-to-Market Road 1575 (Old Alice Road – existing 80 ft wide right-of-way), said corner being the Northeast corner of this 0.58 acre tract;

Thence, with the East line of said 15.05 acre tract, same being the East line of said Block 18, same being the original West right-of-way line of said Farm-to-Market Road 1575, South 05 degrees 05 minutes 00 seconds West, a distance of 15.00 feet, for an exterior corner of this 0.58 acre tract;

Thence, with a line parallel to and a distance of 15.00 feet perpendicular from the North line of said 15.05 acre tract, North 84 degrees 55 minutes 00 seconds West, a distance of 15.00 feet to the existing West right-of-way line of said Farm-to-Market Road 1575, continuing a total distance of 35.00 feet, for an interior corner of this 0.58 acre tract;

Thence, with a line parallel to and a distance of 20.00 feet from the existing West right-of-way line of said Farm-to-Market Road 1575, South 05 degrees 05 minutes



**AMBIOTEC
GROUP**

*Land Surveyors,
Civil and Environmental
Engineers, Scientists and
Construction Managers
TBPE Firm No. F-4126
TBPLS Reg No. 10005300*

00 seconds West, a distance of 610.68 feet, for an interior corner of this 0.58 acre tract;

Thence, with a line parallel to and a distance of 15.00 feet perpendicular from the North right-of-way line of Henderson Road (existing 40 ft wide right-of-way), South 82 degrees 58 minutes 00 seconds East, a distance of 20.01 feet to the existing West right-of-way line of said Farm-to-Market Road 1575, continuing a total distance of 35.02 feet to the East line of said 15.05 acre tract, same being the East line of said Block 18, same being the original West right-of-way line of said Farm-to-Market Road 1575, for an exterior corner of this 0.58 acre tract;

Thence, with the East line of said 15.05 acre tract, same being the East line of said Block 18, same being the original West right-of-way line of said Farm-to-Market Road 1575, South 05 degrees 05 minutes 00 seconds West, a distance of 15.01 feet to the North right-of-way line of said Henderson Road, for the Southeast corner of this 0.58 acre tract;

Thence, with the North right-of-way line of said Henderson Road, North 82 degrees 58 minutes 00 seconds West, a distance of 15.01 feet to a one-half inch iron pin with a red plastic cap stamped "AMAYA" found in the intersection of the existing West right-of-way line of said Farm-to-Market Road 1575 with the North right-of-way line of said Henderson Road, continuing a total distance of 1,017.59 feet to a point in the West line of said 15.05 acre tract, same being the East line of a 9.53 acre tract conveyed to Guy L. Holden and wife, Patsy E. Holden as recorded in Volume 7284, Page 11 of the Official Records of Cameron County, Texas, a one-half inch iron pin with a red plastic cap stamped "AMAYA" found at North 71 degrees 51 minutes 47 seconds West, a distance of 0.25 feet from said point, said point being the Southwest corner of this 0.58 acre tract;

Thence, with the West line of said 15.05 acre tract, same being the East line of said 9.53 acre tract, North 05 degrees 05 minutes 00 seconds East, a distance of 15.01 feet, for the Westernmost Northwest corner of this 0.58 acre tract;

Thence, with a line parallel to and a distance of 15.00 feet perpendicular from the North right-of-way line of said Henderson Road, South 82 degrees 58 minutes 00 seconds East, a distance of 956.72 feet, for an interior corner of this 0.58 acre tract;



**AMBIOTEC
GROUP**

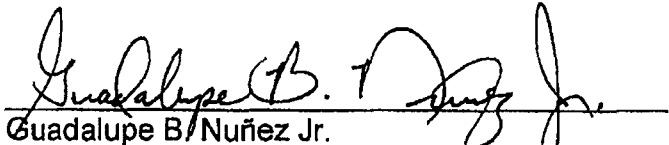
*Land Surveyors,
Civil and Environmental
Engineers, Scientists and
Construction Managers
TBPE Firm No. F-4126
TBPLS Reg No. 10005300*

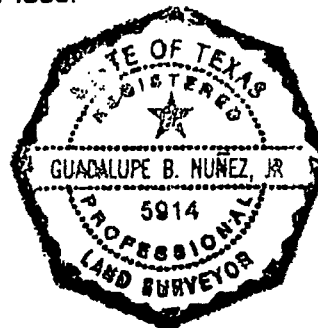
Thence, North 51 degrees 03 minutes 30 seconds East, a distance of 15.07 feet, for an interior corner of this 0.58 acre tract;

Thence, with a line parallel to and a distance of 35.00 feet perpendicular from the existing West right-of-way line of said Farm-to-Market Road 1575, North 05 degrees 05 minutes 00 seconds East, a distance of 614.32 feet to the North line of said 15.05 acre tract, same being the South line of the remainder of said 50.23 acre tract, for the Northernmost Northwest corner of this 0.58 acre tract;

Thence, with the North line of said 15.05 acre tract, same being the South line of the remainder of said 50.23 acre tract, South 84 degrees 55 minutes 00 seconds East, a distance of 35.00 feet to a one-half inch iron pin with a red plastic cap stamped "AMAYA" found in the existing West right-of-way line of said Farm-to-Market Road 1575, continuing a total distance of 50.00 feet, to the Point of Beginning;

Said described tract containing 0.58 acres, more or less.


Guadalupe B. Nuñez Jr.
Registered Professional Land Surveyor No. 5914



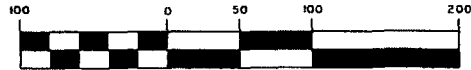
11-16-17

EXHIBIT "B"

[depiction of Easement Area]



GRAPHIC SCALE



(IN FEET)

1 inch = 100 feet

EXHIBIT

OF A 0.58 ACRE TRACT OF LAND, MORE OR LESS, OUT OF A 15.05 ACRE TRACT IN BLOCK 18, THOMSON TRACT SUBDIVISION, SHARE 22, ESPIRITU SANTO GRANT AS RECORDED IN VOLUME 4, PAGE 24 OF THE MAP RECORDS OF CAMERON COUNTY, TEXAS. SAID 0.58 ACRE TRACT FURTHER BEING CONVEYED TO TX INDIAN LAKES APARTMENTS, LP AS RECORDED IN VOLUME 22173, PAGE 108 OF THE OFFICIAL RECORDS OF CAMERON COUNTY, TEXAS

PREPARED FOR:

**EAST RIO HONDO WATER
SUPPLY CORPORATION**

9.53 ACRES
FRED G. HOLDEN, TRUSTEE
TO
GUY L. HOLDEN AND
WIFE, PATSY E. HOLDEN
VOL. 7284, PG. 11 C.C.O.R.

0.82 ACRES
BEING A 35 FT WIDE WATERLINE EASEMENT
STANFORD C. KNOWLES AND
WIFE, M. CARMEN KNOWLES
TO
TOWN OF INDIAN LAKE
VOL. 16037, PG. 172, C.C.O.R.

0.45 ACRES
BEING A 15 FT WIDE EASEMENT
AND RIGHT-OF-WAY
HARDIN AND ALINE MOSES
TO
COUNTY OF CAMERON
VOL. 504, PG. 189, C.C.O.R.

REMAINDER OF A 50.23 ACRE TRACT
DONALD G. MOSES, TRUSTEE
TO
STANFORD C. KNOWLES AND
WIFE, M. CARMEN KNOWLES
VOL. 9248, PG. 261, C.C.O.R.

THIS PROPERTY IS SUBJECT TO AN
EASEMENT AND RIGHT-OF-WAY
FOR AN ELECTRIC TRANSMISSION LINE
WILL D. VANCE
TO
CENTRAL POWER AND LIGHT COMPANY
VOL. 186, PG. 259, C.C.O.R.

15.05 ACRES
STANFORD C. KNOWLES AND
WIFE, CARMEN KNOWLES
TO
TX INDIAN LAKES APARTMENTS, LP
VOL. 22173, PG. 108, C.C.O.R.

THIS PROPERTY IS SUBJECT TO AN
EASEMENT AND RIGHT-OF-WAY
FOR AN ELECTRIC TRANSMISSION LINE
GEORGE L. GOATES AND WILL D. VANCE
TO
CENTRAL POWER AND LIGHT COMPANY
VOL. 185, PG. 372, C.C.O.R.

S 84°55'00" E 50.00'
N 84°55'00" W 35.00'

EXISTING ROAD
RIGHT-OF-WAY

15.00'

15.00'

20.00'

15.00'

N 05°05'00" E-614.32'

S 05°05'00" W-610.98'

S 05°05'00" W-661.89'

FARM-TO-MARKET ROAD 1575 (OLD ALICE ROAD)
(ORIGINAL 50 FT WIDE RIGHT-OF-WAY)

POINT OF
BEGINNING
NORTHEAST CORNER
OF 15.05 ACRE TRACT

S 05°05'00" W 15.00'

N 05°05'00" E 15.01'

15.00'

EXISTING ROAD
RIGHT-OF-WAY

N 82°58'00" W-1017.59'

0.58 ACRES

S 82°58'00" E-956.72'

HENDERSON ROAD
(EXISTING 40 FT WIDE RIGHT-OF-WAY)

S 82°58'00" E 35.02'

N 51°03'30" E 15.07'

S 05°05'00" W 15.01'

BLOCK 18
BLOCK 23



AMBIOTEC
CIVIL ENGINEERING GROUP, INC.

3420 Paradise Lane Road (754) 648-9333
Brownsville, Texas 78328 Fax (561) 548-9386

100% FROM THE P-4128
TYPED BY: J. 10001300
DATE: 7/24/73

Drawn by: M.E.

EXHIBIT B

ENTERED

December 05, 2017

David J. Bradley, Clerk

**IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
BROWNSVILLE DIVISION**

**EAST RIO HONDO WATER SUPPLY
CORPORATION,
Plaintiff**

VS.

**CITY OF LOS FRESNOS, TEXAS,
Defendant**

§
§
§
§
§
§
§
§
§

CIVIL ACTION NO. 1:17-CV-0041

AGREED JUDGMENT

On the 5th day of December, 2017, came on to be heard the above-titled and numbered cause wherein East Rio Hondo Water Supply Corporation ("ERHWSC") is the Plaintiff and the City of Los Fresnos, Texas ("City") is the Defendant. The parties appeared by and through their respective attorneys of record and announced to the to the Court that all matters of fact and things of controversy between them had been fully and finally compromised and resolved according to the terms set out in the fully executed Full and Final Settlement, Release and Indemnity Agreement ("Settlement Agreement"), and based thereon the Court makes the following orders:

It Is Therefore, Ordered, Adjudged and Decreed by the Court that:

1. City shall pay to ERHWSC the principal amount of one hundred and fifteen thousand, four hundred and fifty one and 16/100ths dollars (\$115,451.16) in one hundred and twenty (120) monthly installments in the amount of nine hundred and sixty-two and 9/100ths dollars (\$962.09) each, with interest at the yearly rate of zero percent (0%) on the unpaid balance, beginning November 15, 2017, and continuing each month thereafter until October 15, 2027.
2. In the event of a default in payment by Defendant, and this matter is referred to an attorney for collection or enforcement, the City shall pay ERHWSC all costs of collection and enforcement, including reasonable attorney's fees and court costs, in addition to other amounts due.
3. City and ERHWSC shall execute an Exchange Agreement, as set forth in the Settlement Agreement, to delineate the current dually-certified service area into two singly-certified service areas and to obtain the approvals of the transaction from the Public Utility

Commission of Texas ("PUC") and the United States Department of Agriculture, Rural Development ("USDA-RD").

4. City shall immediately terminate any water supply and/or delivery agreement it has with Town of Indian Lake and shall not provide potable water, either directly or indirectly, to any portion of the Town of Indian Lake lying within ERHWSC's Certificate of Convenience and Necessity. City shall further provide ERHWSC with proof evidencing such termination within 10 days of the effective date of said termination.
5. City shall obtain a permanent and exclusive utility easement on behalf of ERHWSC along the Southern and Eastern boundary of a 11.75 acre tract of land at the Northwest corner of Henderson Road and FM 1575, otherwise known as the "*Disputed Property*."
6. All costs of Court are taxed against the party incurring same.
7. The parties are allowed all such writs and processes as may be necessary in the enforcement of this Agreed Judgment.
8. All relief not expressly granted is denied.
9. The Clerk of the Court is hereby INSTRUCTED to close this case.


JUDGE PRESIDING

APPROVED:

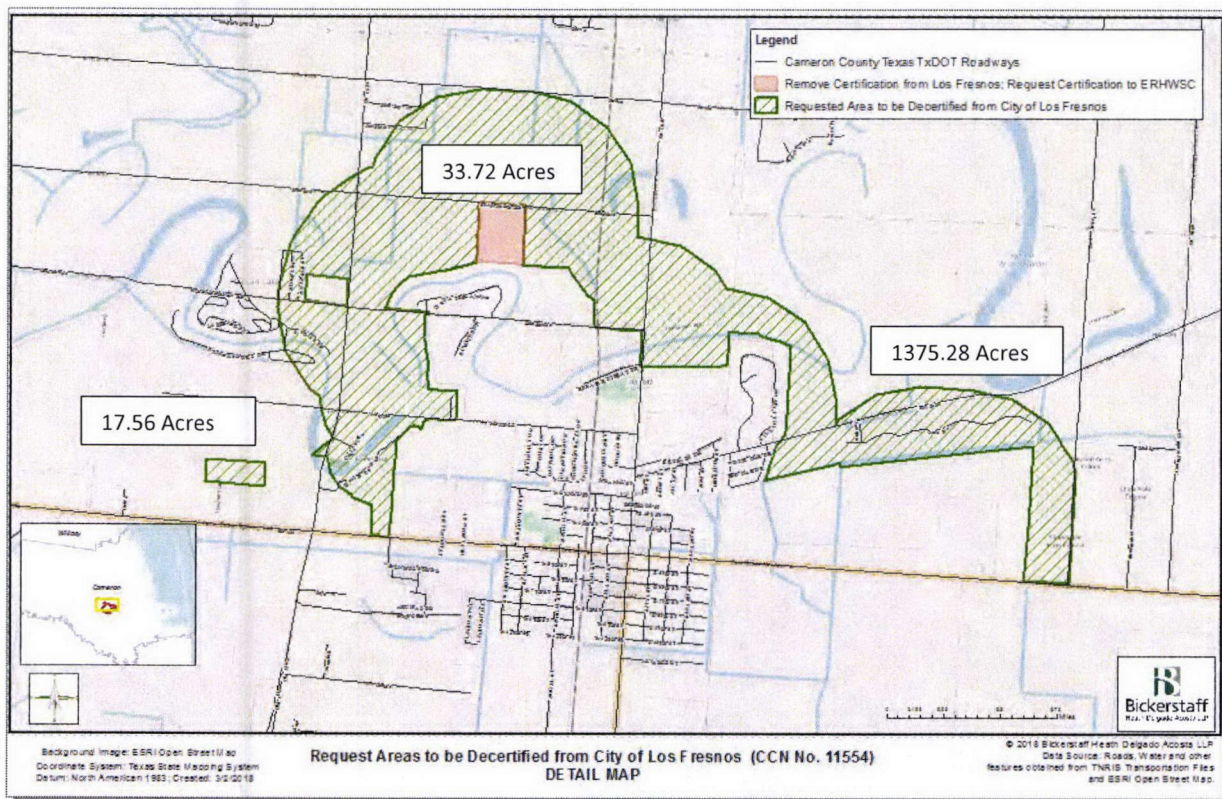
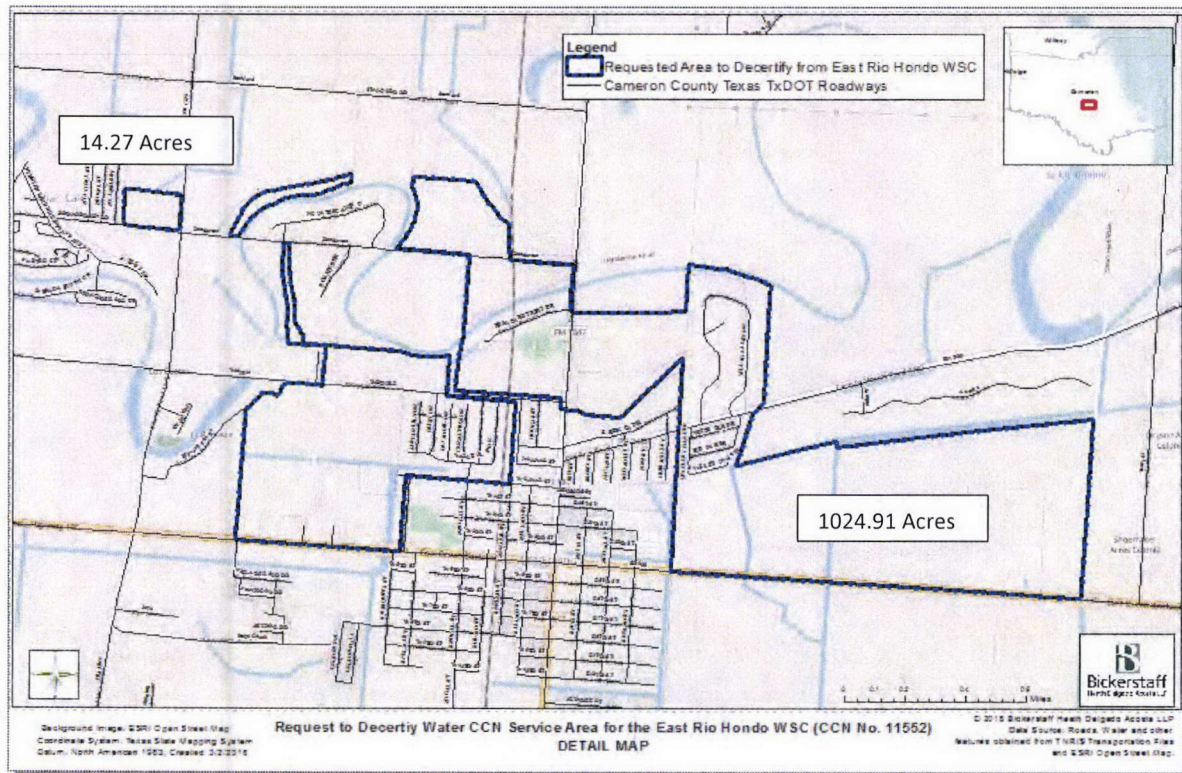
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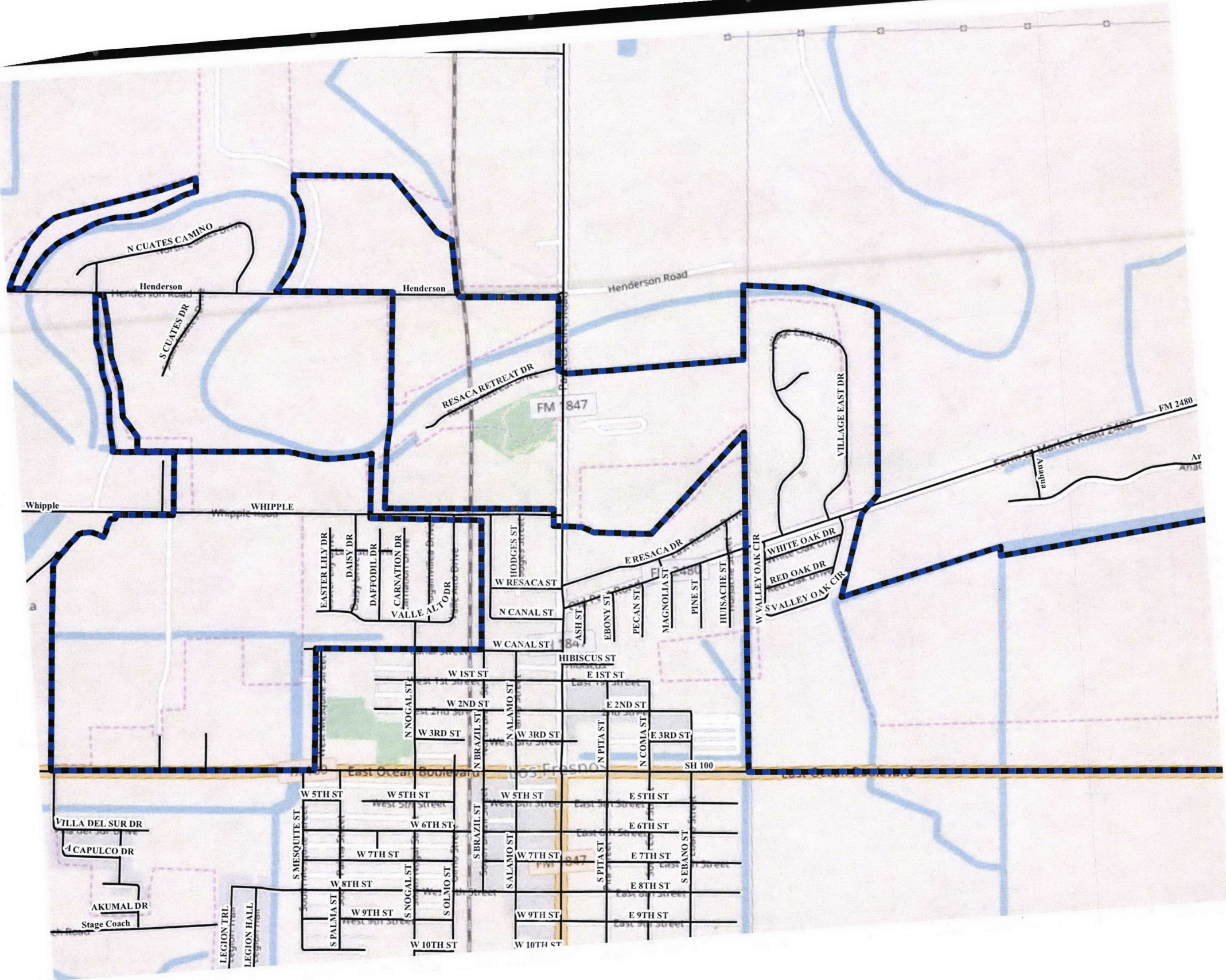
Richard W. Fryer
State Bar No. 24085316
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EAST RIO HONDO WATER SUPPLY
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ATTORNEY FOR DEFENDANT
CITY OF LOS FRESNOS, TEXAS

EXHIBIT C





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Henderson

Henderson Road

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RESACA RETREAT DR

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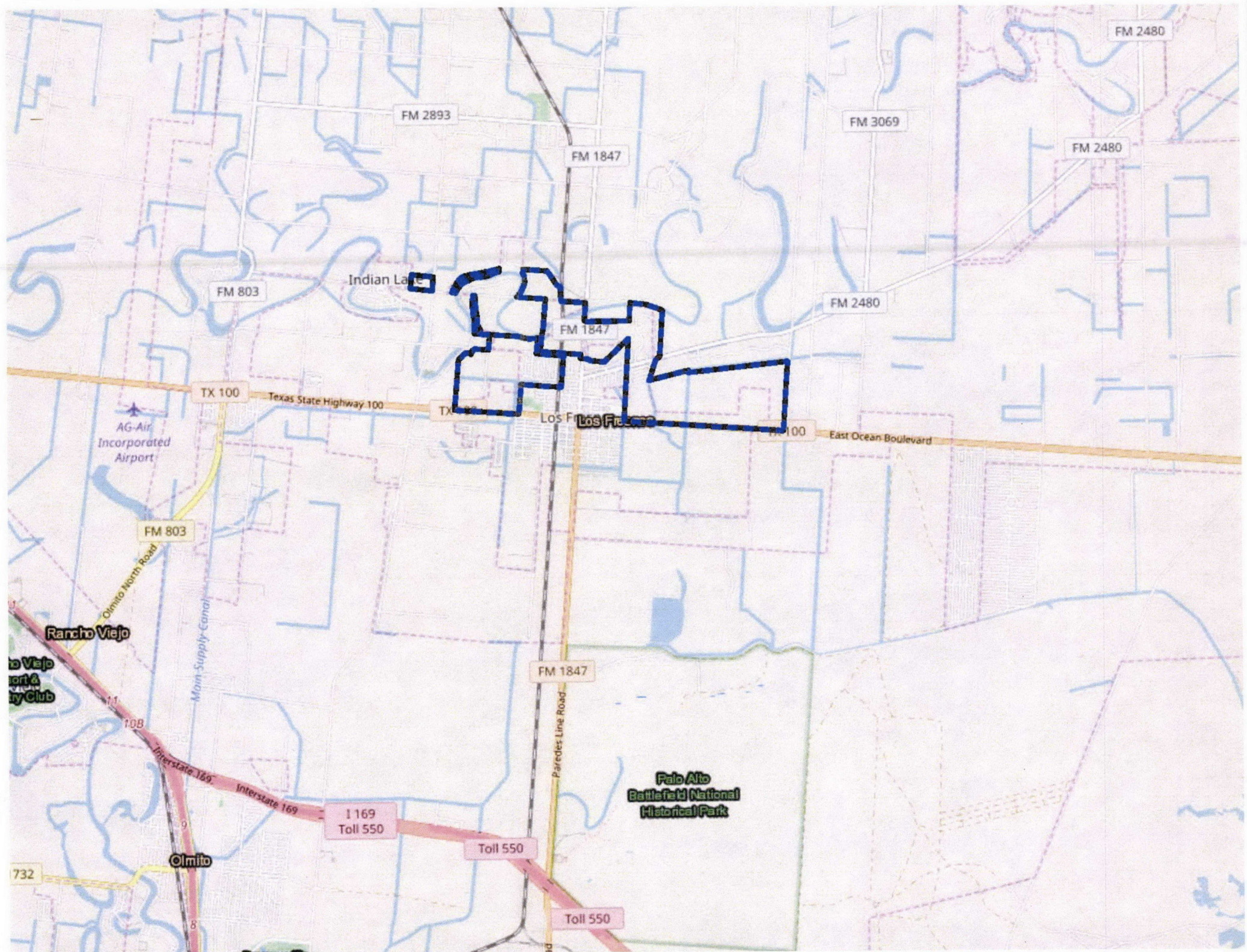
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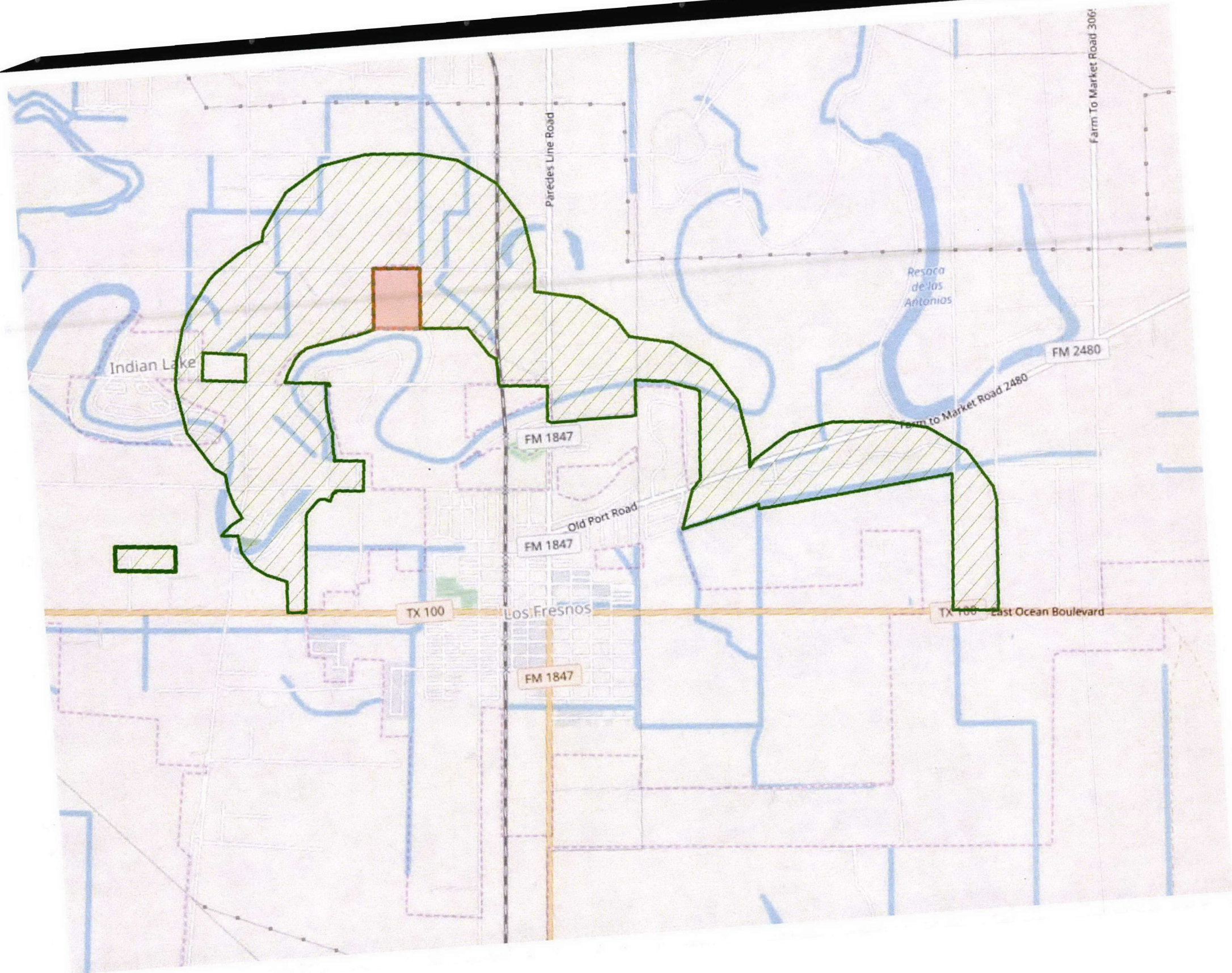


EXHIBIT D

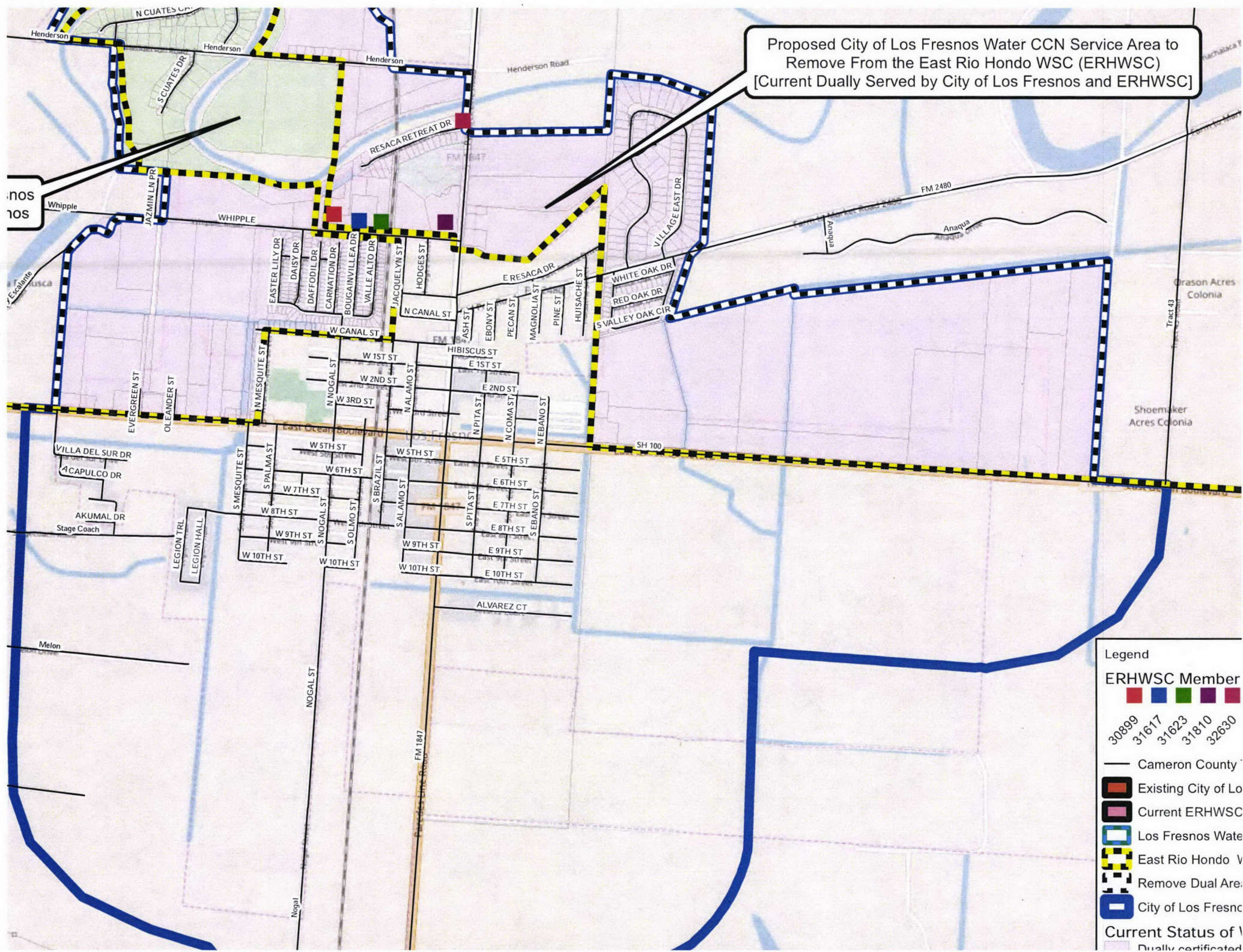


EXHIBIT E

AFFIDAVIT OF MARK MILUM

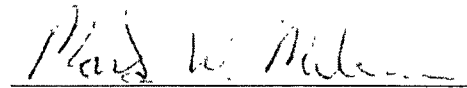
BEFORE ME, the undersigned authority, personally appeared Mark Milum, known to me to be the person who subscribed his name below, who, being by me first duly sworn, did depose on his oath as follows:

1. "I am over 18 years of age, have not been convicted of a crime, and I am of sound mind.
2. The City of Los Fresnos, Texas (the "City") employs me as its City Manager. As such, I am capable of making this Affidavit, and am personally acquainted with the facts herein stated.
3. The City considered and approved the Settlement Agreement and related Exchange of Service Area Agreement (the "Agreement") between the City and East Rio Hondo Water Supply Corporation ("ERHWSC"), whereby certain water certificate of convenience and necessity ("CCN") service territory areas that are currently dually-certificated to both the City and ERHWSC would be exchanged and instead singly-certificated to either the City or ERHWSC, respectively.
4. I do hereby certify that **Exhibit A** to the Petition filed by the City and ERHWSC for Approval and Enforcement of Contract Designating Certificate of Convenience And Necessity Area Under Texas Water Code § 13.248 is a true and correct copy of Agreement by and between the City and ERHWSC.
5. There are existing retail water customers of ERHWSC that will be transferred to receive service from the City pursuant to this Application. According to information received from ERHWSC, the name and physical address of these customers' properties are:

Elwood E. Wiley, 33687 Whipple Rd. Los Fresnos, Texas 78566
Hector G. Liendo, 3096 Whipple Rd., Los Fresnos, Texas 78566
Hector M. Liendo, 320 Whipple Rd., Los Fresnos, Texas 78566
Kay Bergin-Gambill, 33979 Whipple Rd., Los Fresnos, Texas 78566
Jesus Galarz, 98 Resaca Street, Los Fresnos, Texas 78566
6. Each of these five existing customers are located within the City limits, and within the area that is currently dually-certificated to both ERHWSC and the City. Pursuant to the Agreement, if approved by the PUC, these customers would be within the City's singly-certificated service area, and would receive retail water service from the City. Prior to switching these customers to receive service by the City, the City will provide written notice to these five affected customers, including current City retail water service rates and the date those rates were instituted, in the manner required by 16 Texas Administrative Code § 24.117(c)(1).

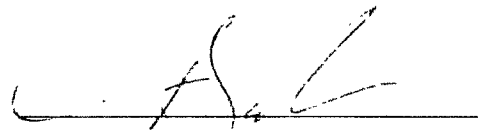
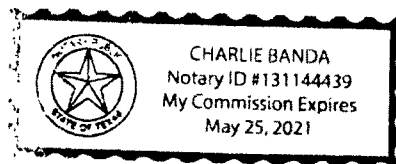
7. In addition, there is a recently constructed apartment complex known as the "Villas at Indian Lake," that previously was dually-certificated to both ERHWSC and the City. This apartment complex will be transferred to the singly-certified CCN area of the City pursuant to the Agreement. The physical address of this complex is 32440 FM 1575, Los Fresnos, Texas 78566. The City is now providing retail water service to this complex pursuant to the Settlement Agreement. It has never previously received service from ERHWSC.
8. A true and correct copy of the City's May 9, 2017 Regular City Council meeting agenda, which complied with the Texas Open Meetings Act, and whereby the Agreement was posted for consideration, is attached hereto as **Exhibit A**. The agenda posted an item for consideration and action regarding the litigation between ERHWSC and the City
9. A true and correct copy of the City's May 9, 2017 Regular City Council meeting minutes is attached hereto as **Exhibit B**. At this meeting, the Council authorized the City to enter into the Agreement.

Further affiant sayeth not."



Mark Milum

Subscribed to and sworn before me, the undersigned authority, on this the 31st day of January, 2018.



Notary Public in and for the State of Texas

EXHIBIT F

STATE OF TEXAS

§
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§


COUNT OF CAMERON

AFFIDAVIT OF BRIAN MACMANUS

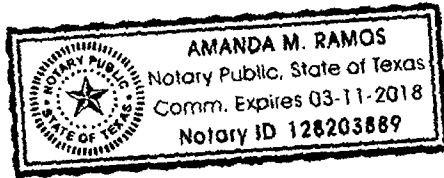
BEFORE ME, the undersigned authority, personally appeared BRIAN MACMANUS, known to me to be the person who subscribed his name below, who, being by me first duly sworn, did depose on his oath as follows:

1. "I am over 18 years of age, have not been convicted of a crime, and I am of sound mind.
2. East Rio Hondo Water Supply Corporation ("ERHWSC") employs me as its General Manager. As such, I am capable of making this Affidavit, and am personally acquainted with the facts herein stated.
3. ERHWSC considered and approved the Settlement Agreement and related Exchange of Service Area Agreement (the "Agreement") between ERHWSC and the City of Los Fresnos, Texas (the "City") whereby certain water certificate of convenience and necessity ("CCN") service territory areas that are currently dually-certificated to both the City and ERHWSC would be exchanged and instead singly-certificated to either the City or ERHWSC, respectively.
4. I do hereby certify that the attached **Exhibit A** is a true and correct copy of Agreement by and between the City and ERHWSC.
5. There are five residential customers and an apartment complex that is currently under construction, known as Indian Lakes Apartments, LP, that will be transferred from being within the CCN area of ERHWSC to being within the CCN area of the City pursuant to the Agreement.
6. A true and correct copy of ERHWSC's October 9, 2017 regular Board meeting agenda, which complies with the Texas Open Meetings Act, and whereby the Agreement was posted for consideration, is attached hereto as **Exhibit B**. The agenda posted an item for consideration and action regarding the litigation between ERHWSC and the City.
7. A true and correct copy of ERHWSC's October 9, 2017 regular Board meeting minutes is attached hereto as **Exhibit C**. At this meeting, the Board authorized ERHWSC to enter into the Agreement.

Further affiant sayeth not."


Brian Macmanus

Subscribed to and sworn before me, the undersigned authority, on this the 10th day of January, 2018.



Amanda M. Ramos
Notary Public in and for the State of
Texas