



Control Number: 49272



Item Number: 13

Addendum StartPage: 0

**DOCKET NO. 49272**

**APPLICATION OF YANCEY  
WSC TO AMEND A WATER  
CERTIFICATE OF CONVENIENCE  
AND NECESSITY IN MEDINA AND  
FRIO COUNTIES**

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**BEFORE THE**  
JUL 25 PM 12:26  
**PUBLIC UTILITY COMMISSION**  
PUBLIC UTILITY COMMISSION  
FILING CLERK  
**OF TEXAS**

**EAST MEDINA COUNTY SPECIAL UTILITY DISTRICT'S  
MOTION TO INTERVENE IN THE APPLICATION OF YANCEY WATER  
SUPPLY CORPORATION TO AMEND A WATER CCN IN  
MEDINA AND FRIO COUNTIES AND REQUEST FOR HEARING**

TO THE HONORABLE JUDGE HUNTER BURKHALTER:

COMES NOW, the East Medina County Special Utility District (District or EMCSUD) and files this Motion to Intervene and Request for Hearing in connection with Docket No. 49272, the Application of Yancey Water Supply Corporation (YWSC) to Amend a Water Certificate of Convenience and Necessity filed February 28, 2019 (Application). The District would respectfully show that it should be permitted to intervene and be named as a party in this proceeding.

**BACKGROUND**

1. EMCSUD is a retail public utility that holds Certificate of Public Convenience and Necessity (CCN) No. 10217 to provide retail public water utility service to portions of Medina County. EMCSUD also provides water service outside its CCN in areas uncertificated to and not served by other retail public utilities. EMCSUD's business address is 16313 FM 741 South Devine, Texas 78016, and its mailing address is PO Box 628, Devine, Texas 78016. EMCSUD should be contacted through the undersigned legal counsel who enters a notice of appearance pursuant to 16 Tex. Admin. Code § 22.101(a).

## **MOTION TO INTERVENE**

2. This Motion to Intervene is timely filed because it is being submitted by the deadline set out in Commission Order No. 3. That is, under Order No. 3, the deadline to intervene is 30 days after notice is issued. YWSC issued notice on July 2, 2019; therefore, the deadline to intervene is August 1, 2019.
3. EMCSUD seeks to participate in this proceeding as an Intervenor.<sup>1</sup> Pursuant to 16 Tex. Admin. Code § 22.103(b), a person has standing to intervene if that person (1) has a right to participate which is expressly conferred by statute, commission rule or order, or other law; or (2) has or represents persons with a justiciable interest which may be adversely affected by the outcome of the proceeding. EMCSUD satisfies both tests.
4. First, the District has a statutory right to participate in this proceeding because Texas Water Code section 13.246 (a) provides that any “person affected” by an application to amend a CCN may intervene at a utility commission-designated hearing. An “affected person” includes any retail public utility affected by any action of the regulatory authority. 16 Tex. Admin. Code § 24.3(5). *See also* Tex. Water Code § 13.002(1). In this Docket, the regulatory authority, the Public Utility Commission of Texas (PUC), may grant a CCN amendment to Yancey WSC that includes area and customers already served by EMCSUD. Such action by the PUC affects EMCSUD and its existing customers.
5. Second, the District has a justiciable interest that will be adversely affected by the outcome of this proceeding. The same facts that demonstrate EMCSUD is an “affected party” also describe EMCSUD’s justiciable interest. YWSC seeks in its Application PUC certification

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<sup>1</sup> 16 Tex. Admin. Code § 24.3(31).

of an area that is bounded on the east by the western service area boundary of EMCSUD.<sup>2</sup> In this area abutting EMCSUD's CCN, EMCSUD is providing service to land parcels, portions of which are within EMCSUD's CCN. The eastern CCN boundary proposed by YWSC divides these parcels served by the District in such a manner that some parcels would be within both of the certificated areas of EMCSUD and YWSC, if the PUC grants YWSC's application. Moreover, EMCSUD serves other parcels, not on the proposed boundary lines of the two retail public utilities, which are wholly outside EMCSUD's CCN.<sup>3</sup> These parcels served by EMCSUD would be certificated to YWSC under its application. Included as Exhibit A to this Motion is a map from Attachment I of the Application showing the EMCSUD certificated service area and the proposed CCN boundaries of YWSC. Included as Exhibit B is a drawing prepared by EMCSUD showing both the parcels that would be divided between YWSC and EMCSUD and the parcels served by EMCSUD wholly outside EMCSUD's CCN within the proposed area sought for certification by YWSC. Exhibit C is similar to Exhibit B, but instead of showing the area proposed for certification by YWSC, it shows YWSC's existing CCN. If the PUC grants the Application, EMCSUD is adversely affected because the YWSC service area will include portions of parcels and customers within or currently served by EMCSUD.

6. YWSC represents in its June 27, 2019 Response to PUC's First Request for Information that "Yancey met with all neighboring utilities prior to submitting the initial application and everyone is in agreement with the boundary as proposed. All concerns and details amongst utilities were worked out prior to submitting the application." The YWSC

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<sup>2</sup> Part G: Notice Information, item 33 of the Application provides "The requested area is generally bounded on the East by: East Medina County SUD."

<sup>3</sup> It is important to note that as a retail public utility, EMCSUD may serve uncertificated areas that are not being lawfully served by another retail public utility.

General Manager did contact the EMCSUD Superintendent before the Application was filed and YWSC excluded certain properties from its application on the north side of the District. However, after reviewing the proposed CCN boundaries in the newspaper notice of the Application, EMCSUD discovered additional areas of concern described in paragraph 5 above. As a party to the proceeding, EMCSUD will continue efforts to resolve disputed areas.

### **REQUEST FOR HEARING**

7. Based on the concerns above, EMCSUD respectfully requests a hearing on YWSC's Application. A hearing would assist the PUC in determining whether the Application should be granted, granted with modifications, or denied.

### **CONCLUSION AND PRAYER FOR RELIEF**

For the foregoing reasons, the District requests that the Honorable Administrative Law Judge grant this Motion to Intervene and designate the District as a party to this proceeding and refer the matter to the State Office of Administrative Hearings for a contested case hearing.

Respectfully submitted,

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BY:

  
\_\_\_\_\_  
William D. Dugat III

**CERTIFICATE OF SERVICE**

I hereby certify by my signature below that on July 25, 2019, a true and correct copy of the above and foregoing document was forwarded via email or First Class Mail to all parties of record.

  
\_\_\_\_\_  
William D. Dugat III

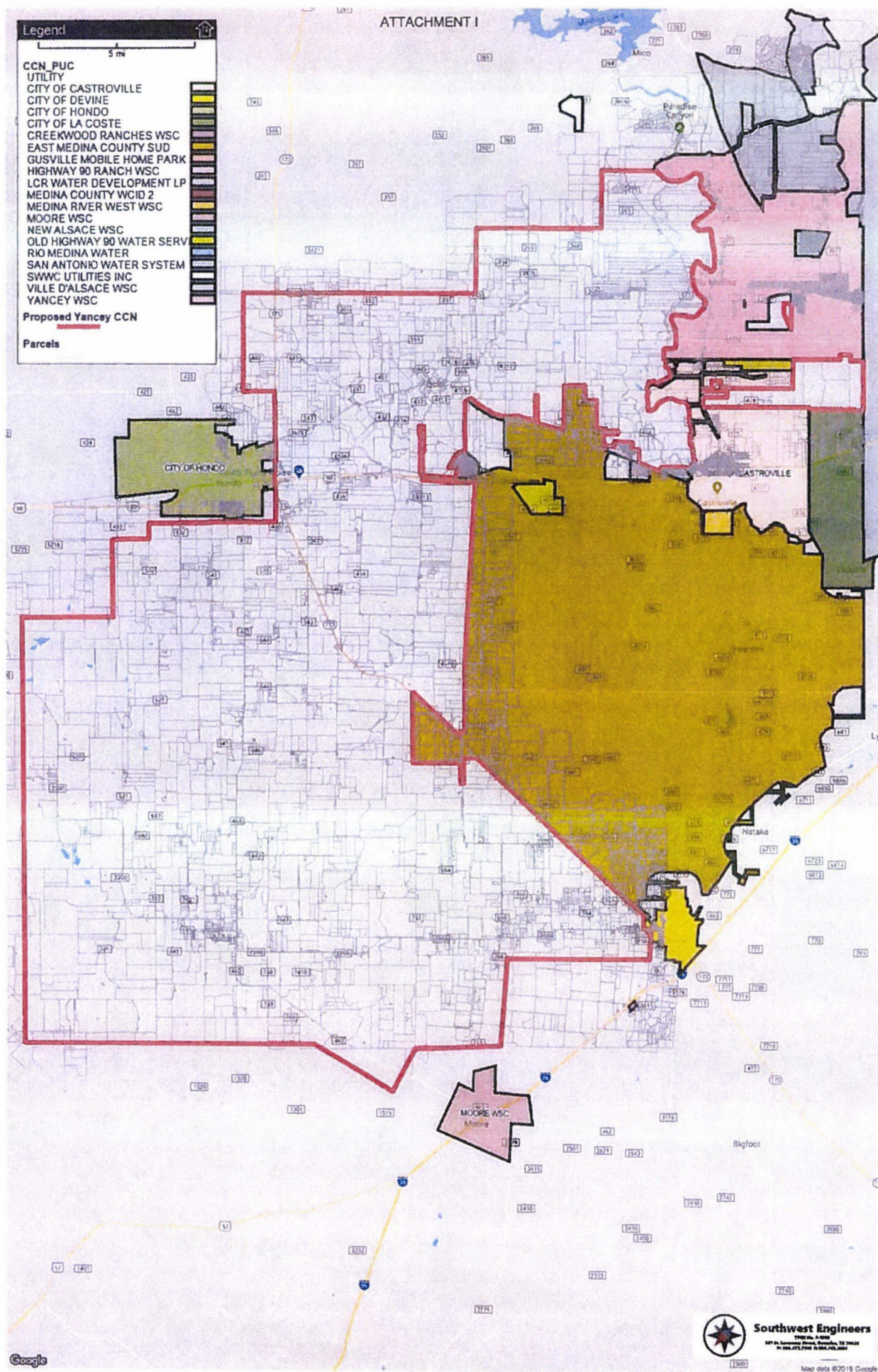
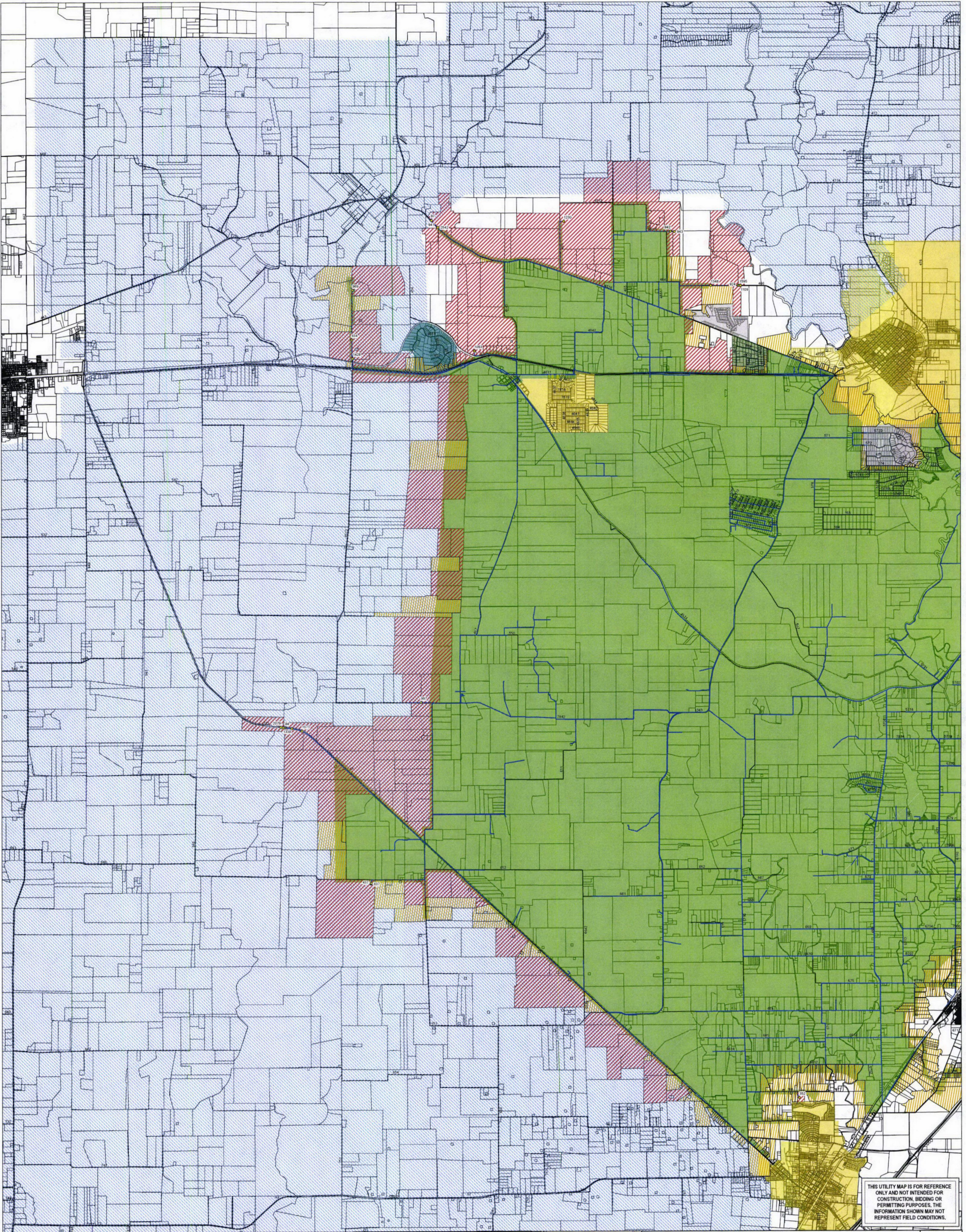



Exhibit A




THIS UTILITY MAP IS FOR REFERENCE ONLY AND NOT INTENDED FOR CONSTRUCTION, BIDDING OR PERMITTING PURPOSES. THE INFORMATION SHOWN MAY NOT REPRESENT FIELD CONDITIONS.




PROJECT NAME:	East Medina
PROJECT NO.:	03347
DRAWN BY:	Jacob Edlund
CHECKED BY:	Daryl Spillmann

RESPEC • 1105 LORENZO STREET • CASTRO VILLE, TEXAS 78009  
TBP# FIRM NO. F-17562 • WWW.RESPEC.COM



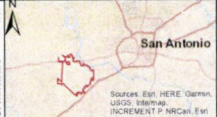
**East Medina County  
Special Utility District**  
*Committed to Providing Clean  
Safe Water for All Our Residents*



1 IN. = 3,000 FT.  
0 1,500 3,000 Feet

**EAST MEDINA COUNTY SUD**

EMCSUD CCN COVERAGE EXHIBIT



San Antonio  
Sources: Esri, HERE, Garmin, USGS, Intermap, INCREMENT P, NRCan, etc.

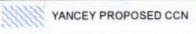
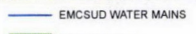
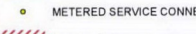
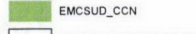
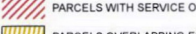
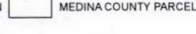
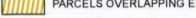
 YANCEY PROPOSED CCN	 EMCSUD WATER MAINS
 METERED SERVICE CONNECTION	 EMCSUD_CCN
 PARCELS WITH SERVICE OUTSIDE EMCSUD CCN	 MEDINA COUNTY PARCELS
 PARCELS OVERLAPPING EMCSUD CCN	

Exhibit No.

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Exhibit B

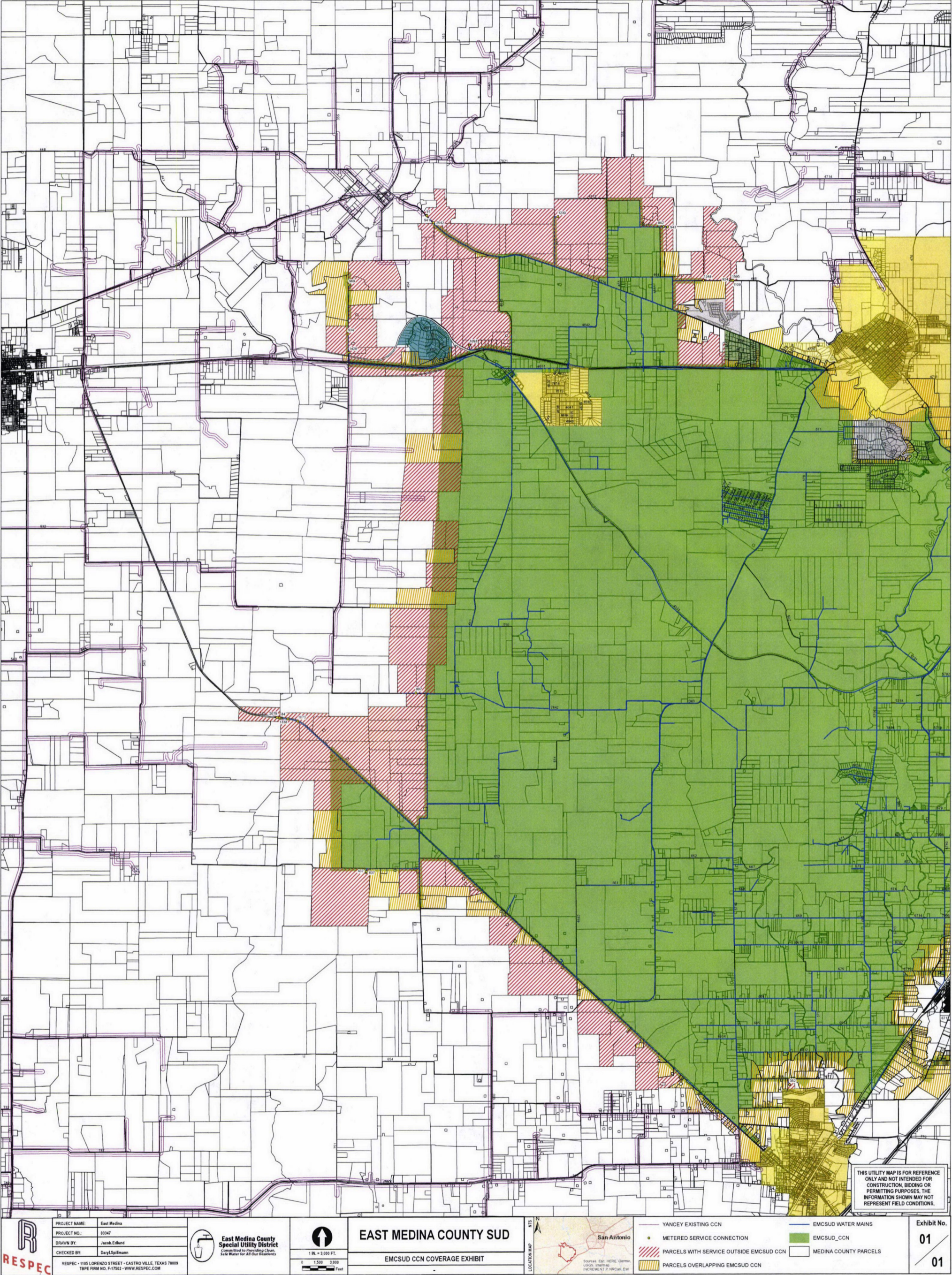


Exhibit C