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PUC DOCKET NO. 51824

PETITION OF SAM HILL VENTURE	§	BEFORE THE
TO AMEND THE TOWN OF LITTLE	§	
ELM'S CERTIFICATE OF	§	PUBLIC UTILITY COMMISSION
CONVENIENCE AND NECESSITY IN	§	
DENTON COUNTY BY EXPEDITED	§	OF TEXAS
RELEASE	§	

**PETITIONER SAM HILL VENTURE'S
SUBMISSION OF APPRAISAL**

In accordance with Order No. 4 dated June 8, 2021 Granting Streamlined Expedited Release and Order No. 2, Petitioner Sam Hill Venture submits the attached appraisal report. According to Order No. 2, this appraisal report is due to be filed within 70 days after the Commission approves the expedited release, which is August 17, 2021. Accordingly, this submission of appraisal report is timely filed.

As supported by the attached appraisal report, the Town of Little Elm is not entitled to compensation in this docket.

Respectfully submitted,



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Email: sdickmanlaw@att.net
ATTORNEY FOR SAM HILL VENTURE

CERTIFICATE OF SERVICE

The undersigned hereby certifies that, unless otherwise ordered by the presiding officer, notice of the filing of this document was provided to all parties of record via electronic mail on August 13, 2021 in accordance with the Order Suspending Rules issued in Project No. 50664.

A handwritten signature in black ink, reading "Stephen C. Dickman". The signature is fluid and cursive, with a long horizontal flourish extending to the right.

Stephen C. Dickman

July 8, 2021

Dr. Mark Vargus
The Town of Lakewood Village
100 Highridge Dr.
Lakewood Village, TX 75068

Subject: Valuation of the Tract Subject to Petition of Sam Hill Venture to Amend the Town of Little Elm's Certificate of Convenience and Necessity in Denton County by Streamlined Expedited Release (PUC Docket No. 51824)

Mayor Vargus:

I have completed my valuation of a tract of land in Denton County which consists of a 14.5 acre portion of a 16.2 acre tract ("the Tract"), which is the subject of Sam Hill Venture's (Landowner's) petition to Amend the Town of Little Elm's Certificate of Convenience and Necessity ("CCN") in Denton County by Expedited Release from Water CCN No. 11202 in Denton County in PUC Docket No. 51824. The petition was approved via the issuance of an Order, included herein as Attachment A, dated June 8, 2021 and indicated via Ordering Paragraph Number 7 that "the amount of compensation to be awarded to the CCN holder, if any, ... will be made by a separate order." The following is in regard to compensation.

Governing Statute and Rules

The Petition in this proceeding was filed in accordance with Texas Water Code (TWC) §13.2541, which incorporates by reference TWC § 13.254(g), and consequently Chapter 21 of the Texas Property Code (TPC) to determine the value of real property owned and utilized by the retail public utility for its facilities. TWC §13.2541 provides for the following relative to the valuation to be conducted as part of this proceeding:

- (f) The utility commission may require an award of compensation by the petitioner to the certificate holder in the manner provided by this section,
- and
- (h) Section 13.254(g) applies to a determination of the monetary amount of compensation under this section.

In reference to TWC §13.254(g), the factors ensuring that the compensation to a retail public utility is just and adequate shall include:

1. The value of real property owned and utilized by the retail public utility for its facilities according to the standards set forth in TPC, Chapter 21;
2. The amount of the retail public utility's debt allocable for service to the area in question;
3. The value of the service facilities of the retail public utility located within the area in question;
4. The amount of any expenditures for planning, design, or construction of service



- facilities that are allocable to service to the area in question;
5. The amount of the retail public utility's contractual obligations allocable to the area in question;
 6. Any demonstrated impairment of service or increase of cost to consumers of the retail public utility remaining after the decertification;
 7. The impact on future revenues lost from existing customers;
 8. Necessary and reasonable legal expenses and professional fees; and
 9. other relevant factors.

Documentation Reviewed

In conducting this valuation analysis, the following documentation was reviewed and relied upon:

- Order No. 4 - Granting Streamlined Expedited Release (Attachment A)
- Petition by Sam Hill Venture for Streamlined Expedited Release Pursuant to Texas Water Code Section 13.2541 (Attachment B)

Analysis of Valuation Criteria

The following discusses each of the factors outlined in TWC §13.254(g) and Kimley-Horn's analysis of each factor:

1. **"The value of real property owned and utilized by the retail public utility for its facilities..."**

Findings:

As noted in Findings of Fact 21 - 25, and in Attachment A, specific to water service for the subject area:

"The release property is not receiving actual water service from the CCN holder."

"The CCN holder has not committed or dedicated any facilities or lines to the release property for water service."

"The petitioner has never paid any fees or charges to the CCN holder to initiate or maintain water service and does not have an account with the CCN holder for water service."

"The CCN holder has no facilities or lines that provide water service to the release property."

"The CCN holder has not performed any acts for or supplied anything to the release property."

Provided the foregoing, because the Town of Little Elm has no facilities and/or customers within the Tract, nor to the best of my knowledge has performed acts or supplied anything to the subject area, it is my opinion no real property is owned or utilized by the retail public utility specific to the Tract in question.



2. “The amount of the retail public utility's debt allocable for service to the Tract.”

Findings:

Similar to Item No. 1 above, because the Town of Little Elm has no facilities and/or customers within the Tract, nor to the best of my knowledge has performed acts or supplied anything to the Tract, therefore it is my opinion no debt is allocable to this area.

3. “The value of the service facilities of the retail public utility located within the Tract.”

Findings:

Pursuant to the findings of fact cited above, the Town of Little Elm does not maintain service facilities on the Tract. Due to this fact, it is my opinion that there is no value to be assigned associated with service facilities located within the Tract.

4. “The amount of any expenditures for planning, design, or construction of service facilities that are allocable to service to the Tract.”

Findings:

While the Town of Little Elm may provide service in the general vicinity of the Tract, additional investment and additional action would be necessary to provide and expand the utility's service provision to the Tract. Based on documentation provided and reviewed, and to the best of my knowledge, there is no evidence that expenditures associated with the planning, design, or construction of service facilities are allocable to the Tract.

5. “The amount of the retail public utility's contractual obligations allocable to the Tract.”

Findings:

For the reasons stated above in item 4, to the best of my knowledge there are no contractual obligations allocable to the Tract.

6. “Any demonstrated impairment of service or increase of cost to consumers of the retail public utility remaining after the decertification.”

Findings:

Because there are no current customers or facilities within the Tract, it is my opinion that there will be no impairment of services and/or increase in costs to the remaining customers of the Town of Little Elm as a result of decertification, as no current customers contribute to fixed cost recovery currently from the Tract.



7. “The potential impact on future revenues lost from existing customers.”

Findings:

There are no existing customers within the Tract. Accordingly, there is no impact or loss of future revenues.

8. “Necessary and reasonable legal expenses and professional fees.”

Findings:

I am unaware of any legal fees that have been incurred by the Town of Little Elm; nor has the Town of Little Elm submitted evidence of such.

9. “And other relevant factors.”

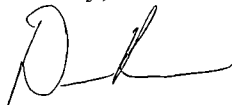
Findings:

I am unaware of any other relevant factors; nor has the Town of Little Elm submitted evidence of such for consideration.

Conclusion:

Based upon my analysis, as governed by TWC §§ 13.2541, 13.254(G), and TPC, Chapter 21, it is my opinion that the value of the area subject to the Landowner's application for Streamlined Expedited Decertification is zero dollars (\$0.00).

Sincerely,



David L. Perkins, P.E.
Kimley-Horn and Associates, Inc.



ATTACHMENT "A"

DOCKET NO. 51824

PETITION OF SAM HILL VENTURE	§	PUBLIC UTILITY COMMISSION
TO AMEND THE TOWN OF LITTLE	§	
ELM'S CERTIFICATE OF	§	OF TEXAS
CONVENIENCE AND NECESSITY IN	§	
DENTON COUNTY BY EXPEDITED	§	
RELEASE	§	

ORDER NO. 4 GRANTING STREAMLINED EXPEDITED RELEASE

This Order addresses the petition by Sam Hill Venture for streamlined expedited release of a portion of a tract of land in Denton County from the service area under certificate of convenience and necessity (CCN) number 11202. The Town of Little Elm is the holder of CCN number 11202. For the reasons stated in this Order, the Commission releases the tract of land from Little Elm's certificated service area. In addition, the Commission amends Little Elm's CCN number 11202 to reflect the removal of the tract of land from the service area.

Following entry of this Order, the Commission will determine the amount of compensation, if any, to be awarded to Little Elm, which will be addressed by separate order.

I. Findings of Fact

The Commission makes the following findings of fact.

Petitioner

1. Sam Hill Venture is a Texas joint venture.

CCN Holder

2. Little Elm is a municipality in Denton County.
3. Little Elm holds CCN number 11202 that obligates it to provide retail water service in its certificated service area in Denton County.

Petition

4. On February 22, 2021, the petitioner filed a petition for streamlined expedited release of a portion of a tract of land from the CCN holder's service area under CCN number 11202.
5. The petition includes: (1) the affidavit of Jim Williams, Jr., petitioner's authorized representative; (2) a warranty deed dated March 5, 2004, with a metes and bounds

- description; (3) a special warranty deed dated January 22, 2021, with a metes and bounds description; (4) general location maps; (5) a detailed map; and (6) digital mapping data.
6. On March 11, 2021, the petitioner supplemented the petition with supplemental mapping information.
 7. In Order No. 2 filed on April 14, 2021, the administrative law judge (ALJ) found the petition administratively complete.
 8. On May 27, 2021, Commission Staff filed its recommendation on final disposition recommending that though the petition requests streamlined expedited release of a 16.2-acre tract of land, the tract of land is approximately 14.5 acres.
 9. On June 1, 2021, the petitioner filed its agreement with Commission Staff's recommendation on final disposition.

Notice

10. The petitioner sent a copy of the petition by certified mail, return receipt requested, to the CCN holder, on February 22, 2021.
11. In Order No. 2 filed on April 14, 2021, the ALJ found the notice sufficient.

Intervention and Response to the Petition

12. The CCN holder has not sought to intervene in this proceeding.
13. The CCN holder did not file a response to the petition.

The Tract of Land

14. The tract of land is approximately 79 acres, is in Denton County, and is comprised of the following two contiguous parcels: (1) parcel 1 is 62.94 acres; and (2) parcel 2 is 16.209 acres.
15. The portion of the tract of land for which the petitioner seeks streamlined expedited release (the release property) is approximately 14.5 acres.
16. The release property is located within the CCN holder's certificated service area.

Ownership of the Land

17. The petitioner acquired parcel 1 by warranty deed dated March 5, 2004.
18. The petitioner acquired parcel 2 by special warranty deed dated January 22, 2021.

Qualifying County

19. Denton County abuts Dallas and Tarrant counties and has a population of more than 47,500.
20. Dallas and Tarrant counties each have a population greater than one million people.

Water Service

21. The release property is not receiving actual water service from the CCN holder.
22. The CCN holder has not committed or dedicated any facilities or lines to the release property for water service.
23. The petitioner has never paid any fees or charges to the CCN holder to initiate or maintain water service and does not have an account with the CCN holder for water service.
24. The CCN holder has no facilities or lines that provide water service to the release property.
25. The CCN holder has not performed any acts for or supplied anything to the release property.

Map and Certificate

26. On May 27, 2021, Commission Staff filed its recommendation that included a certificate and a map on which it identified the release property in relationship to the CCN holder's certificated service area.

II. Conclusions of Law

The Commission makes the following conclusions of law.

1. The Commission has authority over this petition for streamlined expedited release under Texas Water Code (TWC) §§ 13.254 and 13.2541.
2. The petitioner provided notice of the petition in compliance with 16 Texas Administrative Code (TAC) § 24.245(h)(3)(F).
3. No opportunity for a hearing on a petition for streamlined expedited release is provided under TWC §§ 13.254 or 13.2541 or 16 TAC § 24.245(h)(7).
4. Petitions for streamlined expedited release filed under TWC §§ 13.254 and 13.2541 and 16 TAC § 24.245(h) are not contested cases.

5. Landowners seeking streamlined expedited release under TWC §§ 13.254 and 13.2541 and 16 TAC § 24.245(h) are required to submit a verified petition through a notarized affidavit, and the CCN holder may submit a response to the petition.
6. To obtain release under TWC § 13.2541(b), a landowner must demonstrate that the landowner owns a tract of land that is at least 25 acres, that the tract of land is located in a qualifying county, and that the tract of land is not receiving service of the type that the current CCN holder is authorized to provide under the applicable CCN.
7. The petitioner owns the tract of land, which is at least 25 acres, and includes the release property for which it seeks streamlined expedited release through the petition.
8. Denton County is a qualifying county under TWC § 13.2541(b) and 16 TAC § 24.245(h)(2).
9. The release property is not receiving water service under TWC §§ 13.002(21) and 13.2541(b) and 16 TAC § 24.245(h), as interpreted in *Texas General Land Office v. Crystal Clear Water Supply Corporation*, 449 S.W.3d 130 (Tex. App.—Austin 2014, pet. denied).
10. The petitioner is entitled under TWC § 13.2541(b) to the release of the release property from the CCN holder's certificated service area.
11. After the date of this Order, the CCN holder has no obligation under TWC § 13.254(h) to provide retail water service to the release property.
12. The Commission has no authority to decertify any facilities or equipment owned and operated by the CCN holder to provide retail water service through the streamlined-expedited-release process under Texas Water Code § 13.2541(b).
13. The Commission processed the petition in accordance with the TWC and Commission rules.
14. Under TWC § 13.257(r) and (s), the CCN holder is required to record certified copies of the approved certificate and map, along with a boundary description of the service area, in the real property records of Denton County no later than the 31st day after the date the CCN holder receives this Order.

15. A retail public utility may not under TWC § 13.254(d) provide retail water service to the public within the tract of land unless just and reasonable compensation under TWC § 13.254(g) has been paid to the CCN holder.

III. Ordering Paragraphs

In accordance with these findings of fact and conclusions of law, the Commission issues the following orders.

1. The Commission releases the release property identified in the petition from the CCN holder's service area under CCN number 11202.
2. The Commission does not decertify any of the CCN holder's equipment or facilities that may lay on or under the release property.
3. The Commission amends CCN number 11202 in accordance with this Order.
4. The Commission approves the attached map.
5. The Commission approves the attached certificate.
6. The CCN holder must file in this docket proof of the recording required in TWC § 13.257(r) and (s) within 45 days of the date of this Order.
7. The proceeding to determine the amount of compensation to be awarded to the CCN holder, if any, commences with the filing of this Order in accordance with the schedule adopted in Order No. 2. Any decision on compensation will be made by a separate order.
8. The Commission denies all other motions and any other requests for general or specific relief not expressly granted by this Order.

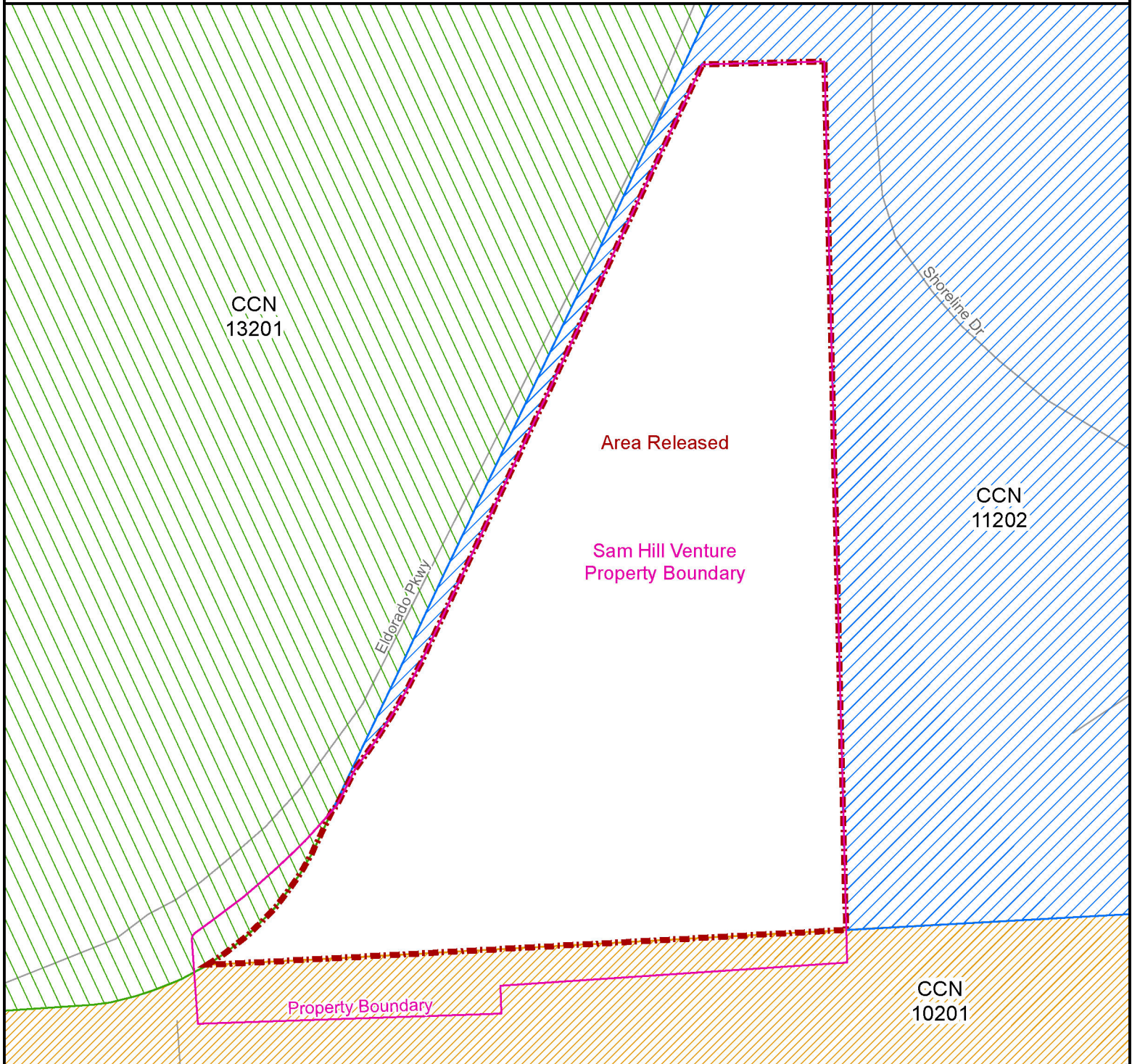
Signed at Austin, Texas the 8th day of June 2021.

PUBLIC UTILITY COMMISSION OF TEXAS






**ISAAC TA
ADMINISTRATIVE LAW JUDGE**

Town of Little Elm
Portion of Water CCN No. 11202
PUC Docket No. 51824
Petition by Sam Hill Venture to Amend
Town of Little Elm's CCN by Expedited Release in Denton County



Public Utility Commission of Texas
1701 N. Congress Ave
Austin, TX 78701

Water CCN

-  11202 - Town of Little Elm
-  13201 - Aqua Texas Inc
-  10201 - City of Lakewood Village

-  Area Released
-  Property Boundary

0 100 200
Feet



Map by: Komal Patel
Date created: May 20, 2021
Project Name: 51824TownofLittleElm.mxd



Public Utility Commission of Texas

By These Presents Be It Known To All That

Town of Little Elm

having obtained certification to provide water utility service for the convenience and necessity of the public, and it having been determined by this Commission that the public convenience and necessity would in fact be advanced by the provision of such service, Town of Little Elm is entitled to this

Certificate of Convenience and Necessity No. 11202

to provide continuous and adequate water utility service to that service area or those service areas in Denton County as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 51824 are on file at the Commission offices in Austin, Texas; and are matters of official record available for public inspection; and be it known further that these presents do evidence the authority and the duty of the Town of Little Elm to provide such utility service in accordance with the laws of this State and Rules of this Commission, subject only to any power and responsibility of this Commission to revoke or amend this Certificate in whole or in part upon a subsequent showing that the public convenience and necessity would be better served thereby.

Issued at Austin, Texas, this 8th day of June 2021.

ATTACHMENT "B"

PUC DOCKET NO. _____

PETITION BY SAM HILL VENTURE	§	BEFORE THE
FOR STREAMLINED EXPEDITED	§	
RELEASE FROM TOWN OF LITTLE	§	PUBLIC UTILITY COMMISSION
ELM'S WATER CCN NO. 11202 IN	§	
DENTON COUNTY, TEXAS	§	OF TEXAS
	§	

PETITION FOR STREAMLINED EXPEDITED RELEASE

TO THE PUBLIC UTILITY COMMISSION OF TEXAS:

COMES NOW Sam Hill Venture, a Texas Joint Venture ("Petitioner") and files this Petition with the Public Utility Commission of Texas ("PUC") for streamlined expedited release from the Town of Little Elm's water Certificate of Convenience and Necessity ("CCN") No. 11202 pursuant to Texas Water Code §13.2541 and Title 16 Texas Administrative Code ("TAC") §24.245(h), and in support thereof would respectfully show as follows:

I. INTRODUCTION AND LEGAL AUTHORITY

Petitioner files this petition seeking the streamlined expedited release of a 16.209-acre portion of 79.149 contiguous acres of property owned by the Petitioner. The 79.149 contiguous acres of land are being developed as a master-planned community and is currently located entirely within the incorporated city limits of the City of Lakewood Village. The 79.149 contiguous acres of land are located within the City of Lakewood Village's water CCN No. 10201, except for the 16.209-acre northern portion which is currently located within the Town of Little Elm's water CCN No. 11202. Pursuant to Texas Water Code §13.2541 and 16 TAC §24.245(h), the owner of a tract of land that is at least 25 acres and that is not receiving water service may petition the PUC for an expedited release of the property from an existing water CCN area and is entitled to release

if the property meets all qualification requirements set forth in the statute and implementing PUC rules.

According to PUC rules at 16 TAC Sec. 24.245(h)(1)(C), at least part of the tract of land must be located in the current CCN holder's CCN area. According to the PUC's Streamlined Expedited Release guidance document, a tract of land is qualified for streamlined expedited CCN release if (i) the subject property owned by the same property owner (whether through one or more corresponding deeds); (ii) the subject property is composed of contiguous tracts; (iii) the deed or deeds total at least 25 acres (note: according to the PUC guidance document, not all the subject property needs to be within the CCN from which release is sought, but the total acreage must be at least 25 acres); (iv) the subject property is not receiving water service; and (v) the subject property is located within one of the designated counties, one of which is Denton County. As more fully set out herein, Petitioner meets the legal criteria supporting the requested streamlined expedited CCN release.

II. SUPPORTING DOCUMENTS

In support of this request for decertification, Petitioner has attached the following documents:

Exhibit A: Affidavit of Jim Williams, Jr. on behalf of Petitioner and its general partner, JW Partners Ltd., a Texas limited partnership. As testified by Mr. Williams, the 16.209-acre northern portion of the 79.149-acre tract is located within the Town of Little Elm's water CCN No. 11202, while the remaining 62.94 acres of the 79.149 contiguous acres is currently located in the City of Lakewood Village's water CCN No. 10201.

Exhibit B: Deed showing Petitioner's ownership of the 62.94-acre tract located within the City of Lakewood Village's water CCN No. 10201. According to the Affidavit of Jim Williams, Jr., Sam Hill Venture's ownership of the 62.94-acre tract is embodied within the Exhibit B deed which is for 77.89 acres, but in January 2021, Sam Hill Ventures conveyed 14.95 acres of the 77.89 acres to Little Elm I.S.D. Therefore, the remaining 62.94 acres plus the 16.209-acre tract for which streamlined expedited release is sought equal the 79.149 contiguous acres owned by Sam Hill Ventures.

Exhibit C: Deed showing Petitioner's ownership of the 16.209-acre tract for which streamlined expedited CCN release is being sought.

Exhibit D-1: General location map of the 79.149 contiguous acres and the 16.209-acre northern portion of which is being sought for streamlined expedited CCN release.

Exhibit D-2: Closer-scale general location map of the 79.149 contiguous acres and the 16.209-acre northern portion of which is being sought for streamlined expedited CCN release.

Exhibit E: Detailed map in relation to verifiable landmarks of the 16.209-acre tract which is being sought for streamlined expedited CCN release.

Exhibit F: Digital mapping data of the 16.209-acre tract shown in Exhibit E in the format required by PUC rules at 16 TAC Sec. 24.245(k)(1). This digital mapping information has been uploaded to the PUC Interchange filing system for this docket.

Exhibit G: Copy of certified mail "green card" showing mailing of this petition to the Town of Little Elm.

III. DECERTIFICATION REQUEST

As described in the affidavit of Petitioner's authorized representative Jim Williams, Jr. attached as Exhibit A and as evidenced by the deeds attached as Exhibit B and Exhibit C, Petitioner owns 79.149 contiguous acres of land in Denton County, the 16.209-acre northern portion of which Petitioner seeks to decertify from water CCN No. 11202 held by the Town of Little Elm. Denton County is a qualifying county as set forth in PUC Rules at 16 TAC §24.245(h)(2) and as stated in the PUC's Streamlined Expedited Release guidance document. As attested in the Exhibit A affidavit, neither the 16.209-acre tract for which CCN release is being sought, nor the southern adjacent 62.94-acres currently receives water service from any provider. The general location of the 79.149 contiguous acres including the 16.209-acre northern portion for which CCN release is being sought is shown in the maps attached as Exhibit D-1 and Exhibit D-2. The closer-scale boundaries of the subject 16.209-acre northern portion of the 79.149 contiguous acres in relation to verifiable landmarks (e.g., public roads; rivers; railroad lines) is shown in the detailed map

attached as Exhibit E. As required by PUC rules, the digital mapping data for the 16.209-acre tract in the PUC-required format has been uploaded to the PUC's Interchange filing system as referenced as Exhibit F. A true and correct copy of this Petition including all attachments is being sent to the Town of Little Elm by certified mail, return receipt requested on the same day that this Petition is being filed at the PUC as shown by the copy of the certified mail green card attached hereto as Exhibit G.

Pursuant to Texas Water Code §13.2541 and 16 TAC §24.245(h), Petitioner requests that the PUC grant expedited release of the 16.209-acre northern portion of the 79.149 contiguous acres from the Town of Little Elm's water CCN No. 11202.

CONCLUSION AND PRAYER

WHEREFORE, PREMISES CONSIDERED, Petitioner respectfully requests that the PUC accept and process this Petition pursuant to its applicable rules and release the 16.209-acre tract from the Town of Little Elm's water CCN No. 11202.

Respectfully submitted,



Stephen C. Dickman
State Bar No. 05836500
Law Office of Stephen C. Dickman
6005 Upvalley Run
Austin, Texas 78731
Telephone: (512) 922-7137
Facsimile: (512) 454-8495
Email: sdickmanlaw@att.net
ATTORNEY FOR SAM HILL VENTURE

CERTIFICATE OF SERVICE

I hereby certify that pursuant to PUC Rules at 16 TAC §24.245(h)(3)(F), a copy of the foregoing Petition for Streamlined Expedited Release was served on the CCN holder, the Town of Little Elm at the address shown below via certified mail, return receipt requested on this the 22nd day of February, 2021.

Town of Little Elm
c/o Mayor David Hillock
100 W. Eldorado Parkway
Little Elm, Texas 75068

A handwritten signature in black ink, reading "Stephen C. Dickman", with a long horizontal flourish extending to the right.

Stephen C. Dickman