



Control Number: 52016



Item Number: 1

Addendum StartPage: 0

52016

PUC DOCKET NO. _____

RECEIVED

PETITION BY COUNTY LINE §
SPECIAL UTILITY DISTRICT FOR §
APPROVAL OF SERVICE AREA §
CONTRACT UNDER TEXAS WATER §
CODE § 13.248 §

BEFORE THE 2021 APR 12 AM 10:47
PUBLIC UTILITY COMMISSION
OF TEXAS

**PETITION FOR APPROVAL OF SERVICE AREA CONTRACT
UNDER TEXAS WATER CODE § 13.248**

TO THE PUBLIC UTILITY COMMISSION OF TEXAS;;

COMES NOW, County Line Special Utility District ("*Petitioner*" or "*District*"), and files this Petition for Approval of Service Area Contract under Texas Water Code § 13.248 ("*Petition*"), and in support thereof would respectfully show as follows:

I. PETITION

1. Pursuant to Texas Water Code ("*TWC*") § 13.248 and 16 Texas Administrative Code ("*TAC*") 24.253, contracts between retail public utilities designating areas and customers to be served ("*Service Area Contracts*") are valid and enforceable and are incorporated into the certificates of convenience and necessity ("*CCN*") of the retail public utilities if approved by the Public Utility Commission of Texas ("*Commission*") after notice and hearing.
2. Under 16 TAC § 24.253(b), retail public utilities may request approval of a Service Area Contract by filing a written petition with the Commission that includes the following:
 - i. Maps of the requested area in accordance with 16 TAC § 24.257(a);
 - ii. A copy of the executed Service Area Contract;
 - iii. The number of customers to be transferred, if any;
 - iv. Notice information in accordance with 16 TAC § 16.253(c);

- v. Any other information required by the Commission.
- 3. The applicable mapping requirements under 16 TAC § 24.257(a) for Commission approval of a Service Area Contract are as follows:
 - i. A general location map identifying the requested area in reference to the nearest county boundary, city or town;
 - ii. A detailed map identifying the requested area in reference to verifiable man-made and natural landmarks, such as roads, rivers, and railroads;
 - iii. One of the following for the requested area:
 - A. A metes and bounds survey sealed or embossed by either a licensed state land surveyor or a registered professional land surveyor;
 - B. A recorded plat; or
 - C. Digital mapping data in a shapefile (SHP) format georeferenced in either NAD 83 Texas State Plane Coordinate System (US Feet) or in NAD 83 Texas Statewide Mapping System (Meters). The digital mapping data shall include a single, continuous polygon record; and
 - iv. If applicable, maps identifying any facilities for production, transmission, or distribution of services, customers, or area currently being served outside the certificated service area.
- 4. Under 16 TAC § 24.253(c), the following notice requirements apply to a petition for approval of a Service Area Contract:
 - i. If affected customers will be transferred as part of the contract, then individual notice shall be provided to the affected customers;

- ii. If the decision to enter into a Service Area Contract was discussed at a meeting of a city council, a water supply or sewer service corporation's board, district board, county commissioner's court, or other regulatory authority, a copy of the meeting agenda and minutes of the meeting during which the item was discussed may be considered sufficient notice; and
 - iii. If notice is provided in accordance with either of the foregoing, then the parties to the Service Area Contract shall ensure that an affidavit attesting to the date that notice was provided and copies of the notice must be filed with the Commission.
- 5. The District and Polonia Water Supply Corporation ("Polonia") are both "retail public utilities" as defined by TWC § 13.002(19) and 16 TAC § 24.3(31).
 - 6. Polonia is the holder of CCN No. 10420, the boundaries of which are within Caldwell County, Texas (the "Polonia CCN").
 - 7. The District is the holder of water CCN No. 10292, the boundaries of which are within Hays and Caldwell Counties, Texas (the "District CCN").
 - 8. Polonia and the District have entered into that certain "Water Service Area Transfer Agreement" (the "Contract") dated March 24, 2021, pursuant to TWC § 13.248 and 24 TAC § 24.253 designating water service areas and customers to be served and transferring a portion of the Polonia CCN to the District CCN (the "Transfer Area"). A copy of the Contract is attached hereto as **Exhibit "A"**.
 - 9. No existing customers of Polonia will be transferred under the Contract or pursuant to this Petition.

10. The Contract was discussed by the Board of Directors of Polonia at its regular meetings held on December 15, 2021. Copies of the meeting agenda and minutes for the meeting during which the Contract was discussed by the Board are hereto as **Exhibit “B”**.
11. Attached as **Exhibit “C”** is an affidavit from Paul Pittman General Manager of Polonia, attesting to the date that notice was provided, and which includes a copy of the meeting notices that were issued (the “*Polonia Affidavit*”).
12. Attached as **Exhibit “D”** is an affidavit from Chris Betz, the President of the District (the “*District Affidavit*”).
13. Attached as **Exhibit “E”** is the following mapping information:
 - i. a large-scale general location map identifying the Transfer Area in reference to the nearest county boundary, city or town (**Exhibit “E-1”**);
 - ii. a detailed map identifying the Transfer Area in reference to verifiable man-made and natural landmarks (**Exhibit “E-2”**); ; and
 - iii. digital mapping data.

II. CONCLUSION AND PRAYER

WHEREFORE, PREMISES CONSIDERED, Petitioner respectfully requests that: (i) this Petition be deemed properly filed with the Commission; (ii) the Commission approve the Contract as provided under TWC § 13.248 and 16 TAC § 24.253; (iii) the Commission enter an order transferring the Transfer Area from Polonia’s water CCN No. 10420 to the District’s water CCN No. 10292 as requested herein; and (iv) all other orders, acts, procedures and relief be granted as necessary to enforce the Contract.

Respectfully submitted.

COUNTY LINE SPECIAL UTILITY
DISTRICT



4/11/2021

Chris Betz

President, County Line Special Utility District

8870 Camino Real

Uhlend, Texas 78640

Telephone: (512) 398-4748

Facsimile: (512) 398-4749

Email: chris@chrisbetz.com

Exhibit "A"
(Service Area Contract)

WATER SERVICE AREA TRANSFER AGREEMENT

STATE OF TEXAS §

COUNTY OF CALDWELL §

This WATER SERVICE AREA TRANSFER AGREEMENT (this "Agreement") is entered into by and between **Polonia Water Supply Corporation**, a nonprofit water supply corporation organized and operating pursuant to Chapter 67 of the Texas Water Code and Chapter 22 of the Texas Business Organizations Code ("Polonia") and the **County Line Special Utility District**, a conservation and reclamation district created and operating pursuant to Chapters 49 and 65, Texas Water Code (the "District") to be effective as of the Effective Date. Polonia and the District are each referred to herein as a "Party" and are collectively referred to herein as the as the "Parties."

Recitals

WHEREAS, Polonia is the holder of Certificate of Convenience and Necessity No. 10420 (the "Polonia CCN"), the boundaries of which are within Caldwell County, Texas;

WHEREAS the District is the holder of water CCN No. 10292, the boundaries of which are within Hays and Caldwell Counties, Texas (the "District CCN");

WHEREAS, Texas Water Code ("TWC") §13.248 authorizes contracts between retail public utilities designating areas and customers to be served by those retail public utilities, when approved by the Public Utility Commission of Texas (the "PUC") after public notice and hearing; and

WHEREAS, the Polonia CCN and the District CCN boundaries are adjacent to each other in certain locations;

WHEREAS, Bob White Ranch Partners LP ("BWRP") owns certain real property which is located in the Polonia CCN, which is more particularly described and depicted in **Exhibit "A"** attached hereto (collectively, the "Transfer Tracts");

WHEREAS, BWRP has requested that Polonia authorize the transfer of the retail water certificated service rights for the Transfer Tracts from the Polonia CCN to the District CCN; and

WHEREAS, the Parties desire to transfer the retail water certification for the Transfer Tracts from the Polonia CCN to the District CCN in accordance with the terms of this Agreement.

NOW THEREFORE, for and in consideration of the mutual promises and covenants herein contained and other good and valuable consideration, the receipt and sufficiency of which is acknowledged by both Parties, it is agreed as follows:

1. **Purpose.** This Agreement shall be a "contract" designating areas and customers to be served by the Parties in accordance with TWC § 13.248.
2. **Transfer.** The Parties agree that the portion of Polonia CCN that overlaps with the Transfer Tracts is hereby transferred from the Polonia CCN to the District CCN; and the Parties hereby agree to the modifications of the boundaries of their water CCNs accordingly.
3. **PUC Application.** The District agrees to take all necessary steps and pay all costs to prepare, file, and advance the application(s) at the PUC to transfer such water CCN boundaries from the Polonia CCN to the District CCN. Polonia agrees to cooperate with the District in advancing such application(s) should the need arise, but shall be under no obligation to incur any costs or expenses. The Parties agree that BWRP may fund any such costs, and to take any such actions, on behalf of the District as otherwise agreed between the District and BWRP.
4. **No Continuing Obligation to Serve.** The Parties agree that upon PUC approval of the application(s) to transfer the portions of the Polonia CCN that overlap the Transfer Tracts to the District, Polonia shall have no further obligation to provide retail water service to the Transfer Tracts. If the PUC does not agree to allow the transfer of the water CCN area corresponding with the Transfer Tracts, the Parties agree to continue to discuss how best to achieve the purpose of this Agreement.
5. **No Customers Transferred.** On the Effective Date, there are no retail water customers of Polonia located within the Transfer Tracts.
6. **No Reservation of Capacity.** This Agreement does not reserve water capacity by the District to the Transfer Tracts. Retail water service by the District to the Transfer Tracts will be governed by the District's established service policies.
7. **Term.** This Agreement shall continue in effect for five (5) years from the Effective Date. Notwithstanding the foregoing, this Agreement will terminate earlier on the date the approval by the PUC of this Agreement is final and non-appealable.
8. **Applicable Law.** This Agreement shall be governed by, and construed in accordance with, the Constitution and laws of the State of Texas.
9. **Entire Agreement.** This Agreement reflects the entire agreement between the Parties, and supersedes all prior and contemporaneous agreements and understandings, both written and oral, between the Parties with respect to the subject matter hereof.
10. **Notices.** All notices and correspondence pertaining to the Agreement shall be in writing delivered by hand or certified mail, return receipt requested and postage prepaid, or by nationally recognized courier service, and shall be addressed as follows, unless a Party notifies the other in accordance with this Section of a change of address or other information provided herein:

If to Polonia:

Polonia Water Supply Corporation
Attn: General Manager
PO Box 778
Lockhart, TX 78644
Telephone: (512) 559-2030

If to District:

County Line Special Utility District
Attn: General Manager
8870 Camino Real,
Uhland, Texas 78640
Telephone: (512) 398-4748

Notice shall be effective only upon receipt by the party being served, except notice shall be deemed delivered and received seventy-two (72) hours after posting by the United States Post Office, by the method described above.

11. **Successors and Assigns.** This Agreement shall bind the Parties and their legal successors, but shall not otherwise be assignable by any Party without prior written consent of the other Party, which consent shall not be unreasonably withheld. All of the respective obligations of each of the Parties shall bind that Party and shall apply to and bind any successor or assigns of that Party.

12. **Venue.** Actions taken by either Party in connection with this Agreement shall be deemed to have occurred in Travis County, Texas.

13. **Recitals.** The above recitals are true and correct and are incorporated into this Agreement for all purposes.

14. **Multiple Originals.** This Agreement may be executed in any number of counterparts, each of which shall be, for all purposes, deemed to be an original, and all such counterparts shall together constitute and be one and the same instrument.

15. **Authority.** The Parties represent that the individuals named below are duly authorized to execute this Agreement on behalf of their respective Party.

16. **Enforceability.** The Parties agree that this Agreement constitutes the legal, valid and binding obligation of each Party hereto, enforceable in accordance with its terms, and that each Party is entering into this Agreement in reliance upon the enforceability of this Agreement.

[The remainder of this page intentionally left blank.]

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement effective as of the date signed by the last of the Parties hereto (the "Effective Date").

**POLONIA WATER SUPPLY
CORPORATION**

By: [Signature]
Name: Joe M. Kelly Jr.
Title: President
Date: 2/9/21

THE STATE OF TEXAS

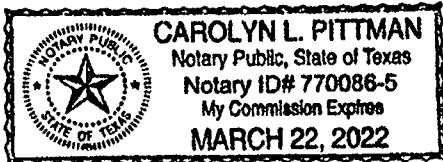
COUNTY OF CALDWELL

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This instrument was acknowledged before me on the 9th day of February, ²⁰²¹~~2020~~,
by Joe M. Kelly Jr. President of the Board of Directors of Polonia Water Supply Corporation.

Notary Public – State of Texas

[Signature]



COUNTY LINE SPECIAL UTILITY
DISTRICT

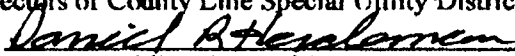
By: 
Name: Chris Betz
Title: President of CLSUD Board of Directors
Date: 3/24/2021

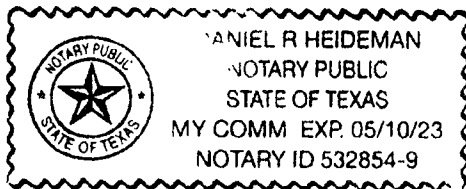
THE STATE OF TEXAS

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COUNTY OF HAYS

This instrument was acknowledged before me on the 24th day of MARCH, 2020, by
Chris Betz President of the Board of Directors of County Line Special Utility District.


Notary Public – State of Texas
Daniel R. Heideman



ACKNOWLEDGED by PROPERTY OWNER

BOB WHITE RANCH PARTNERS LP

By: [Signature]
Name: George H. Kronenberg III
Title: Manager
Date: 3/30/21

THE STATE OF TEXAS

COUNTY OF HAYS

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This instrument was acknowledged before me on the 30 day of March, 2021, by George H. Kronenberg III an authorized representative of Bob White Ranch Partners LP.

[Signature]
Notary Public - State of Texas

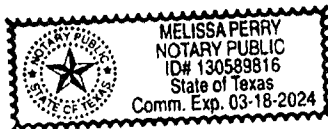


Exhibit "A"
Description of Transfer Tracts

STATE OF TEXAS
CALDWELL COUNTY

96.9268 ACRES

EXHIBIT "A"

Field Note Description for a **96.9268 acres (4,222,131.0 Square Feet)**, situated in the Ira Bisbee Survey, A-053, known as "FIRST TRACT" and also being out of the William Morrison Survey, A-187, known as "SECOND TRACT", and being out of the same tract of land as recorded in volume 623, Page 875, Official Public Records Caldwell County, Texas (O.P.R.C.C.T.), the **96.9268 acres (4,222,131.0 Square Feet)**, being more particularly described in by metes and bounds as follows:

BEGINNING at point in the east margin of Farm to Market (F.M.) 2720, same point being the southwest corner of a called 566.62 acres, as conveyed to Open R Family Partnership LTD., as recorded in Volume 536, Page 157, Document No. 083358, O.P.R.C.C.T., for the "**POINT OF BEGINNING**" and the northwest corner of the herein described 96.9268 acre tract;

THENCE North 78°46'00" East, along and with the common boundary of the called 566.62 acres (Open R Family Partnership tract), and the herein described 96.9268 acre tract, a distance of 4630.08 feet to a ½ inch iron rod with plastic cap found on a southerly boundary of a called 692.41 acres as conveyed to Open R Family Partnership LTD, in Volume 536, Page 157, Document No. 083358, O.P.R.C.C.T., same point being the northwest corner of a called 11.0 acres as conveyed to Jacob Hohertz in Document No. 2015-004255, O.P.R.C.C.T., for the northeast corner of the herein described 96.9268 acre tract;

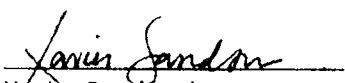
THENCE South 11°05'45" East, continuing along and with the common boundary of the called 11.0 acres (Hohertz tract), and the herein described 96.9268 acre tract, at a distance of 942.62 feet passing a ½ iron rod found on the north margin of Bobwhite Road, in all a distance of 987.37 feet to a PK Nail set in asphalt for the southeast corner of the herein described 96.9268 acre tract;

THENCE South 79°13'16" West, along and with the centerline of Bobwhite Road, a distance of 4,073.78 feet, to a PK Nail set in the east margin of F.M. 2720, for the southwest corner of the herein described 96.9268 acre tract;

THENCE North 41°21'11" West, along and with the common boundary of the east margin of F.M. 2720 and the herein described 96.9268 acre tract, a distance of 1,104.14 feet to the "**POINT OF BEGINNING**" and containing within these metes & bounds **96.9268 acre (4,222,131.0 Square Feet)**, of land, more or less. (All bearings are based on The Texas Coordinate System, South Central Zone 4204, NAD 83).

A Survey plat of even date herewith accompanies the legal description.

I hereby certify that the foregoing legal description was prepared from survey performed on the ground under my supervision and it correctly represents the facts found at the time of the survey.


Xavier Sandoval
Registered Professional Land Surveyor
License No. 5886 State of Texas

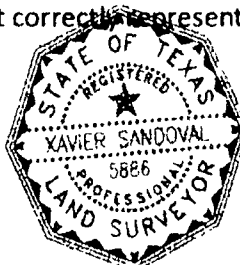


Exhibit “B”
(Polonia Meeting Agenda and Minutes)

POLONIA WATER SUPPLY CORPORATION

P. O. Box 778, Lockhart, TX 78644
512-559-2030

Agenda For Board of Directors Meeting

A meeting of the Board of Directors of Polonia Water Supply Corporation will be held on Tuesday, December 15, 2020 at 7:30 p.m. at 2990 FM 1185, Lockhart, Texas 78644 to consider and act on the matters listed below:

1. Meeting Called to Order.
2. Approval of Minutes from Prior Meetings of the Board of Directors.
3. Approval of Bills and Expenses.
4. Approval of Financial Statement.
5. Discussion and Possible Action Relating to Adoption of Resolution Authorizing a Water Service Area Transfer Agreement and Related Matters in Connection with the Requested Transfer of an Approximate 96.9268-acre Tract of Land From the Certificate of Convenience and Necessity (CCN) of Polonia Water Supply Corporation to the CCN of County Line Special Utility District.
6. Discuss for Action Procedures for Annual Meeting.
7. Manager's Report.
8. Meters to be Approve.

Members present Joe Kelly, Jr., Allen Guisinger, Forrest Laughlin, Larry Schnautz, Howard McCall, R. E. Brown III, and Byron Friedrich.

Mr. Friedrich made motion to approve minutes from last month's meeting. Mr. Guisinger, second the motion, motion carried.

The board looked over the bills and financial statement from last month. Mr. Friedrich, made motion to pay bills and Mr. McCall, second the motion, motion carried. Mr. Guisinger made motion to approve financial statement and Mr. Brown, second the motion, motion carried.

Mr. Friedrich made motion to adopt a resolution to transfer a 96.9268 acre tract of land from Polonia Water Supply to County Line Special Utility District, Mr. McCall, second the motion, motion carried.

Meters to be approved Julio Bravo-2, Matthew Reed, Margaret Livings, Gustavo Castillo, and Stephen Tonn. Mr. Guisinger made motion to approve meters. Mr. McCall, second the motion, motion carried.

Being no further business, meeting adjourned.

Exhibit “C”
(Polonia General Manager Affidavit)

AFFIDAVIT OF PAUL PITTMAN

THE STATE OF TEXAS §

COUNTY OF CALDWELL §

BEFORE ME, the undersigned authority, on this day personally appeared Paul Pittman,
who, after being by me duly sworn, on his oath stated as follows:

- 1 “My name is Paul Pittman. I am the General Manager of Polonia Water Supply Corporation (“Polonia”). I am over the age of 18 years, of sound mind, and am capable of making this Affidavit. The facts stated in this Affidavit are within my personal knowledge and are true and correct.
- 2 On December 15, 2020, the Board of Directors of Polonia held a regular meeting at which it discussed the proposed release by Polonia to the County Line Special Utility District (the “District”) of certain lands within the certificated water service territory of Polonia in response to the request of Bob White Ranch Partners LP. The lands discussed at the meetings were the same lands that are the subject of the Petition to the Public Utility Commission of Texas of which this Affidavit is part (the “Transfer Area”). Notice of the meetings was given by posting in accordance with the requirements of the Open Meetings Act of Texas. True and correct copies of said meeting notices are attached to this affidavit as Exhibit 1.
- 3 The Transfer Area is located within water CCN No. 10420 held by Polonia Water Supply Corporation.
- 4 On March 24, 2020, Polonia and the District entered into a “Water Service Area Transfer Agreement” pursuant to Texas Water Code § 13.248 and 16 Texas Administrative Code § 24.253 designating water customers to be served by Polonia and the District, and transferring the Transfer Area from Polonia’s water CCN No. 10420 to the District’s water CCN No. 10292.
- 5 Polonia does not provide retail water service to any customers within the Transfer Area. Therefore, no customers of Polonia will be transferred from Polonia to the District by transfer of the Transfer Area from Polonia to the District.
- 6 Polonia supports the ‘Petition for Polonia Water Supply Corporation and the County Line Special Utility District for Approval of a Service Area Contract under Texas Water Code § 13.248 and to Amend Certificates of Convenience and Necessity in Caldwell County, Texas.’

Further Affiant sayeth not.”

Paul L Pittman
PAUL PITTMAN
GENERAL MANAGER, POLONIA WATER
SUPPLY CORPORATION

SUBSCRIBED AND SWORN TO BEFORE ME by Paul Pittman, General Manager of
Polonia Water Supply Corporation, a Texas nonprofit water supply corporation, on this the
31st day of March, 2021.



Kathy Mondin
Notary Public, State of Texas

POLONIA WATER SUPPLY CORPORATION

P. O. Box 778, Lockhart, TX 78644
512-559-2030

Agenda For Board of Directors Meeting

A meeting of the Board of Directors of Polonia Water Supply Corporation will be held on Tuesday, December 15, 2020 at 7:30 p.m. at 2990 FM 1185, Lockhart, Texas 78644 to consider and act on the matters listed below:

1. Meeting Called to Order.
2. Approval of Minutes from Prior Meetings of the Board of Directors.
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4. Approval of Financial Statement.
5. Discussion and Possible Action Relating to Adoption of Resolution Authorizing a Water Service Area Transfer Agreement and Related Matters in Connection with the Requested Transfer of an Approximate 96.9268-acre Tract of Land From the Certificate of Convenience and Necessity (CCN) of Polonia Water Supply Corporation to the CCN of County Line Special Utility District.
6. Discuss for Action Procedures for Annual Meeting.
7. Manager's Report.
8. Meters to be Approve.

Exhibit “D”
(District Affidavit)

AFFIDAVIT OF COUNTY LINE SPECIAL UTILITY DISTRICT

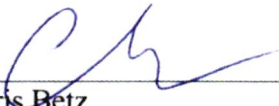
THE STATE OF TEXAS §

COUNTY OF HAYS §

BEFORE ME, the undersigned authority, on this day personally appeared Chris Betz,
who, after being by me duly sworn, on his oath stated as follows:

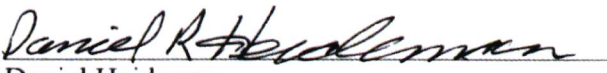
- 1 “My name is Chris Betz. I am the President, Board of Directors of the County Line Special Utility District (“District”). I am over the age of 18 years, of sound mind, and am capable of making this Affidavit. The facts stated in this Affidavit are within my personal knowledge and are true and correct.
- 2 On March 15, 2021, Polonia Water Supply Corporation and the District entered into a “Water Service Area Transfer Agreement” pursuant to Texas-Water Code § 13.248 and 16 Texas Administrative Code § 24.253 (the “Service Area Contract”) designating water customers to be served by Polonia and the District, and transferring certain lands (the “Transfer Area”) from Polonia’s water CCN No. 10420 to the District’s water CCN No. 10292.
- 3 The Transfer Area identified in the Service Area Contract are the same lands that are the subject of the ‘Petition for Polonia Water Supply Corporation and the County Line Special Utility District for Approval of a Service Area Contract under Texas Water Code § 13.248 and to Amend Certificates of Convenience and Necessity in Caldwell County, Texas’ to the Texas Public Utility Commission of which this Affidavit is part (“Petition”).
- 4 The District supports the Petition.

Further Affiant sayeth not.”



Chris Betz
President, Board of Directors of County Line Special
Utility District

SUBSCRIBED AND SWORN TO BEFORE ME by Daniel Heideman, General Manager
of the County Line Special Utility District, on this the 1st day of April, 2021.

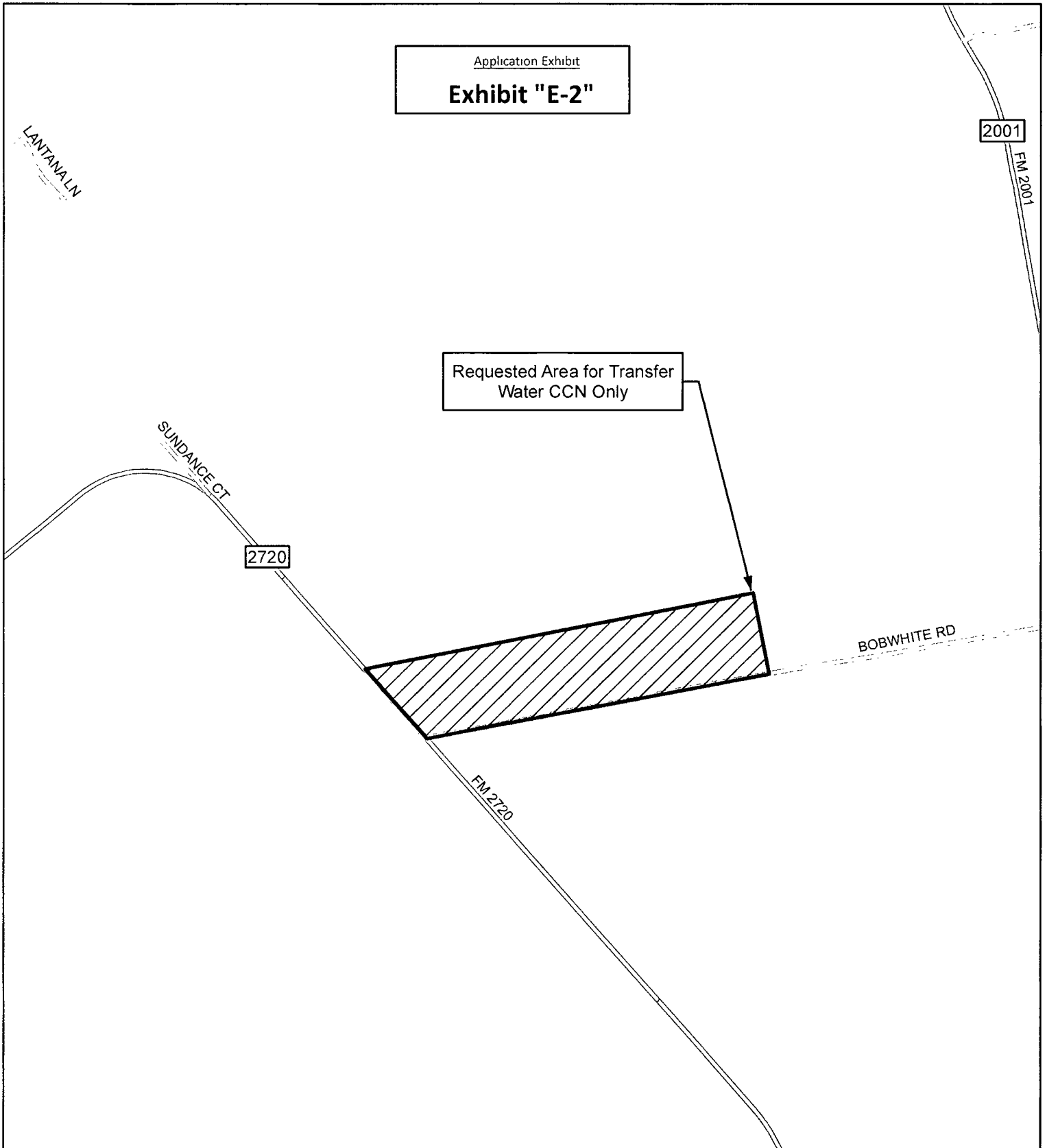


Daniel Heideman
General Manager of County Line Special Utility District

Exhibit “E”
(Mapping Information)

Application Exhibit

Exhibit "E-2"



Requested Area for Transfer from Polonia WSC Water CCN No.10420 to County Line SUD Water CCN No.10292



MAP SCALE: 1" = 1,500'

0 750 1,500 3,000 Feet

January 21, 2021

Requested Area for Transfer is northwest
of the City of Lockhart, TX along FM 2720
and north of Bobwhite Rd (CR 232)

Caldwell County, TX

MAP LEGEND:



Requested Area for Transfer
from Water CCN No. 10420
to Water CCN No. 10292

Digital Mapping files to be submitted in Native format