



Control Number: 52048



Item Number: 1

Addendum StartPage: 0

MATHEWS & FREELAND, LLP.

ATTORNEYS AT LAW

RECEIVED

APR 21 2021

JIM MATHEWS
JOE FREELANDWestpark IV, Suite 200
8140 North Mopac Expressway
AUSTIN, TEXAS 78759(512) 404-7800
FAX: (512) 703-2785

April 21, 2021

Via PUC Interchange E-FilePublic Utility Commission of Texas
Central Records Division
1701 N. Congress Avenue, Room 8-100
Austin, Texas 78701

Re: Application of the City of Justin for Approval of a Service Area Agreement Under Texas Water Code §13.248 and to Amend Certificates of Convenience and Necessity in Denton County

To the Public Utility Commission of Texas:

On behalf of the City of Justin ("Justin"), please accept this application under Texas Water Code §13.248 and 16 Tex. Admin. Code §24.253 for approval of a service area agreement and to transfer a portion of Aqua Texas, Inc.'s, ("Aqua's") CCN No. 13201 in Denton County, Texas to Justin's CCN No. 10167. Justin and Aqua have both agreed to the transfer. A copy of the agreement is attached as Exhibit A. The agreement was presented to and approved by Justin's City Council. The agenda and minutes from Justin's March 29, 2021, City Council meeting in which the agreement was approved, and an affidavit attesting to the meeting, are attached as Exhibit B.

The amount of territory is approximately 202 acres, and there are no existing customers in the tract. Small and large-scale maps of the area to be transferred are attached as Exhibit C. The digital data supporting the maps will be uploaded along with this document. Justin consulted with Aqua regarding these maps.

Please let me know if you need any additional information to allow the Commission to incorporate this agreement into the respective CCNs of Justin and Aqua.

Sincerely,

Joe Freeland
Attorney for City of Justin

cc: Abby Reece, Director of Strategic Services, City of Justin
Geoffrey Kirshbaum, Attorney for Aqua Texas, Inc.

Exhibit A

**TWC §13.248 Agreement between
Justin and Aqua Texas, Inc.**

SERVICE AREA AGREEMENT

This Service Area Agreement (the "Agreement") is by and between the City of Justin, Texas, ("Justin" or "City") and Aqua Texas, Inc. d/b/a Aqua Texas ("Aqua") (all the above are also sometimes referred to herein collectively as the "Parties" or individually as a "Party").

RECITALS

WHEREAS, the City of Justin is a municipal corporation in Denton County, Texas, owning a retail public water utility operating under water CCN No. 10167 in Denton County; and

WHEREAS, Aqua Texas, Inc., is an investor-owned, retail public water utility operating under water CCN No. 13201 in Denton County; and

WHEREAS, Property Owners (Margaret Turner, Sally Turner Carolyn Box and Tommy Turner acting as Controlling Partner for 3 "I" s Partners Justin, LLC) ("Property Owners") own an approximately 196.712 acre-tract in Denton County located at the intersection of Boss Range Road and FM 407, inside Aqua's CCN but immediately adjacent to Justin's CCN and corporate boundaries and adjacent to additional acreage proposed for transfer that brings the total area shown as the "Proposed Transfer Area" on Exhibit A to 202 acres; and,

WHEREAS, Property Owners have requested retail water utility service from Justin; and,

WHEREAS, Aqua consents, pursuant to the terms of this Agreement, to allowing Justin to provide retail water utility service to the Proposed Transfer Area; and,

WHEREAS, pursuant to Texas Water Code §13.248, contracts between retail public utilities designating areas to be served, when approved by the Public Utility Commission ("PUC"), are valid and enforceable and are incorporated into the appropriate CCNs; and,

WHEREAS, Justin and Aqua mutually desire to enter into this Agreement setting forth the terms and conditions pursuant to which they will designate areas to be served and to request the PUC to incorporate such designations into the CCNs held by Justin and Aqua;

NOW, THEREFORE, in consideration of the promises, mutual agreements, and covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Justin and Aqua hereby contract and agree as follows:

ARTICLE I **TERMS**

1.1 **Term.** This Agreement shall remain valid and enforceable until superseded by subsequent written agreement.

1.2 **Property Subject to the Agreement.** The property subject to this Agreement is the property identified as "Proposed Transfer Area" as shown on Exhibit A.

1.3 **Transfer of Water Utility Service Area.** Aqua consents and agrees to the transfer of CCN service territory that includes the Proposed Transfer Area to Justin provided the following conditions are satisfied:

- A. Property Owners shall provide just and adequate compensation to Aqua pursuant to separate agreement for the requested CCN transfer. Aqua shall notify Justin when the reimbursement occurs. In the event Developer fails to reimburse Aqua within 30 days after PUC approves the transfer, Justin agrees to seek PUC approval for transfer of the Property back into Aqua's CCN No. 13201 at Justin's expense (for which it may seek reimbursement from Developer).
- B. Justin shall prepare, file, and diligently prosecute, at Justin's expense, an application pursuant to Texas Water Code §13.248 with the PUC to have the Proposed Transfer Area transferred from CCN No. 13201 to CCN No. 10167. Aqua shall support the 13.248 Application and will not object or otherwise attempt to defeat Justin's 13.248 Application to include the Proposed Transfer Area in Justin's water CCN.
- C. If the PUC denies the 13.248 Application for any reason, Justin and Aqua shall work in good faith to implement a reasonable alternative administrative approach providing Justin with the necessary authority to serve the Proposed Transfer Area.

1.4 **Retail Service.** Aqua hereby consents to Justin providing retail water service to the Proposed Transfer Area during the pendency of the 13.248 Application subject to the possibility that the conditions specified above may require return of the Proposed Transfer Area to Aqua.

ARTICLE II **MISCELLANEOUS**

2.1 No agreements other than this Agreement now exist between Justin and Aqua concerning the subject matter of this Agreement.

2.3 This Agreement shall be binding on Justin and Aqua, and this Agreement shall be binding on and inure to the benefit of the successors and assigns of the respective Parties to this Agreement.

2.4 This Agreement is the entire agreement between the Parties hereto with respect to the subject matter hereof. No modifications of this Agreement shall be of any force or effect, whatsoever, except as by subsequent modification in writing signed by the Parties.

2.5 The provisions of this Agreement shall be governed by and construed and entered in accordance with the substantive laws of the State of Texas. Any action at law or in equity brought to enforce any provision of this Agreement shall be brought in a court of competent jurisdiction with venue in Denton County, Texas.

2.6 The individuals executing this Agreement on behalf of the respective parties below represent that all necessary and appropriate action has been taken to authorize the individual who is executing this Agreement to do so for and on behalf of the party for which his or her signature appears, that there are no other parties or entities required to execute this Agreement in order for the same to be an authorized and binding agreement on the party for whom the individual is signing, and that each individual affixing his or her signature is authorized to do so, and such authorization is valid and effective on the date hereof. If the authority of the individual executing this Agreement is subsequently challenged, the party for which the individual was acting shall take all steps necessary to ratify the authority of the individual.

2.7 This Agreement may be executed in multiple originals, either copy of which shall be considered an original.

2.8 This Agreement shall be effective on the date of execution below.

2.9 No Party will be penalized for alleged authorship of a particular provision on judicial construction of this Agreement.

2.10 No Party to this Agreement shall initiate any litigation or arbitration challenging the validity or enforceability of any provision of this Agreement once it has been signed. The Parties reserve only their right to enforce the terms of this Agreement to the extent they are not fully performed by any other Party.

EXECUTED AND AGREED TO by the Parties hereto this 20th day of April ⁽¹⁵⁾ ~~March~~, 2021.

AQUA TEXAS, INC. D/B/A AQUA TEXAS

By: 

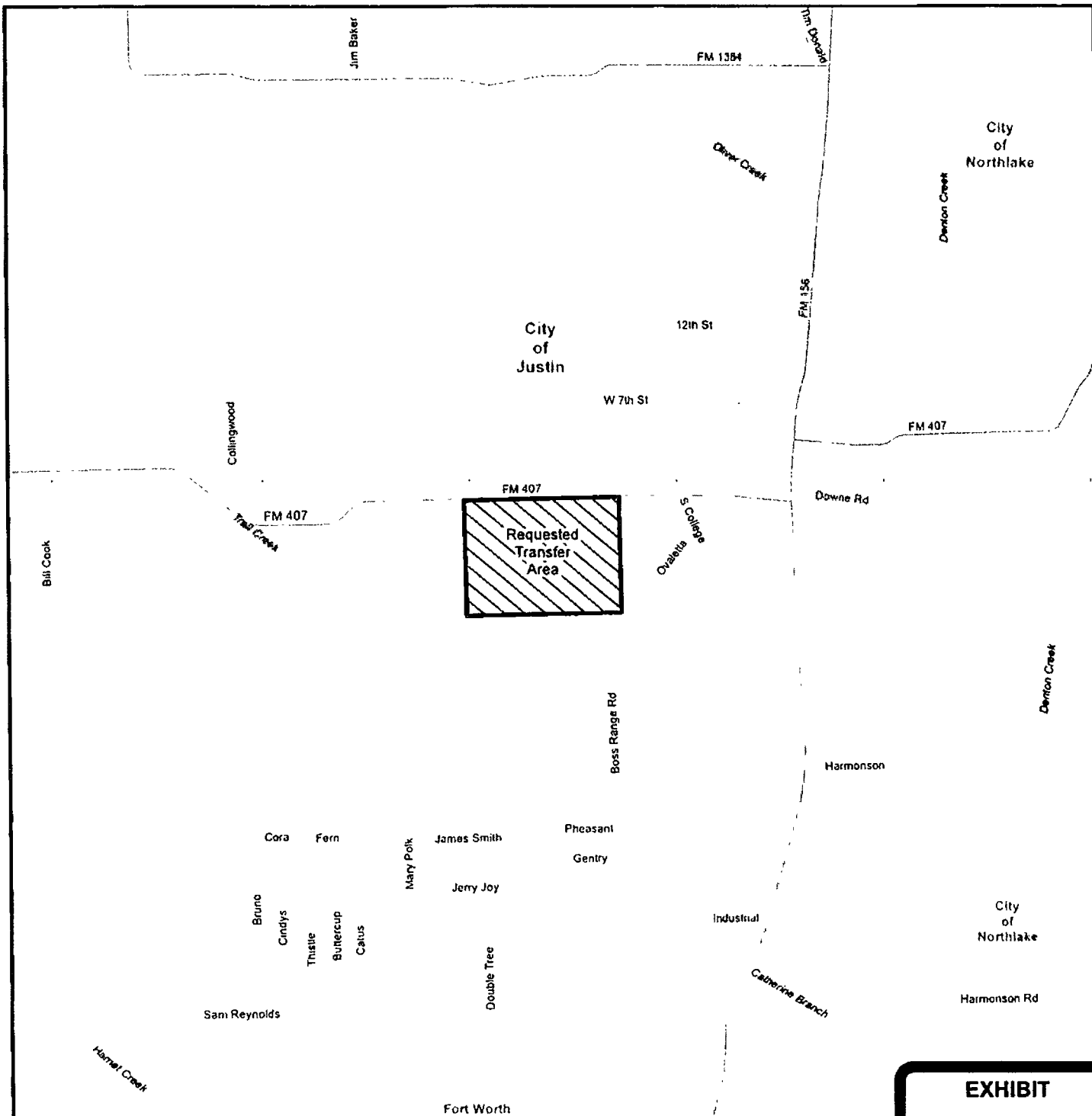
Printed Name: Robert L. Laughman
Title: President

CITY OF JUSTIN, TEXAS

By: 

Printed Name: Alan W. Woodall

Title: Mayor



General Location

City of Justin / Aqua Texas, Inc. 13.248 Agreement
to Transfer a Portion of Aqua Texas, Inc., CCN No. 13201 to City of Justin, CCN No. 10167
in Denton County

EXHIBIT

A



0 1,500 3,000
Feet



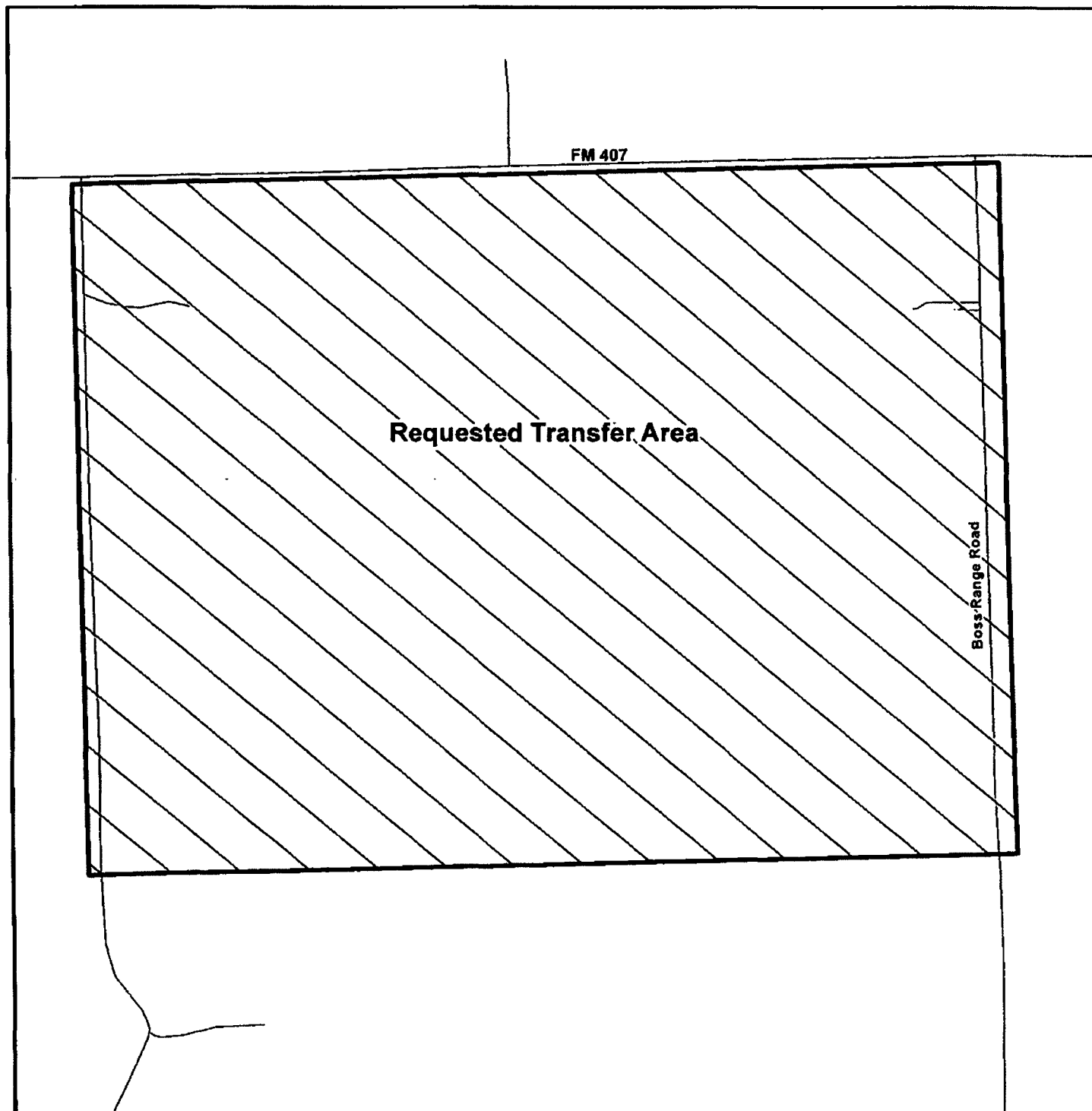
Requested Transfer Area - approx 202 acres

Map by: S. Burt, ASBGI

Date: March 3, 2021

Base: TxDOT 2015 Roadways, Denton CAD Cities

Project: City of Justin General Location



Detail Map

City of Justin / Aqua Texas, Inc. 13.248 Agreement
to Transfer a Portion of Aqua Texas, Inc., CCN No. 13201 to City of Justin, CCN No. 10167
in Denton County



0 250 500 Feet

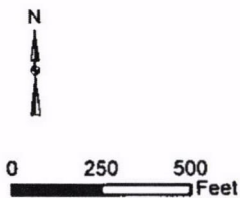
 Requested Transfer Area - approx 202 acres


Map by: S. Burt, ASBG
Date: March 3, 2021
Base: StrataMapTransv2
Project: City of Justin Detail Map



Detail Map on Imagery

City of Justin / Aqua Texas, Inc. 13.248 Agreement
to Transfer a Portion of Aqua Texas, Inc., CCN No. 13201 to City of Justin, CCN No. 10167
in Denton County



 Requested Transfer Area - approx 202 acres

Map by: S. Burt, ASBGI
Date: March 3, 2021
Base: ESRI Imagery
Project: City of Justin_Detail on Imagery

Exhibit B

**City of Justin City Council Meeting
March 29, 2021
Agenda and Minutes and Supporting Affidavit**

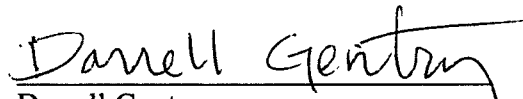
STATE OF TEXAS
COUNTY OF DENTON

§
§

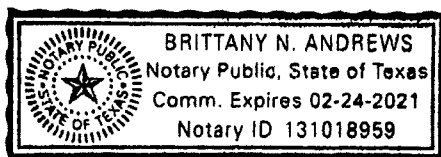
AFFIDAVIT OF DARRELL GENTRY

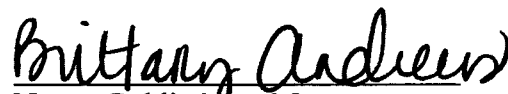
BEFORE ME, the undersigned authority, personally appeared Darrell Gentry, known to me to be the person who subscribed her name below, who, being by me first duly sworn did depose on her oath as follows:

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 Justin, Texas ("City") employs me a Director of Planning and Development. I am capable of making this Affidavit, and personally acquainted with the facts herein stated.
3. The City considered and approved an agreement between the City and Aqua Texas, Inc., ("Aqua") whereby certain water certificate of convenience and necessity ("CCN") service territory of Aqua's would be transferred to the City.
4. A true and correct copy of the City's City Council meeting agenda and minutes for the regular meeting on March 29, 2021, are attached hereto. Notice for this meeting complied with the Texas Open Meetings Act. At this meeting, the City Council discussed and approved the agreement with Aqua.
5. There are no customers being transferred pursuant to the agreement referenced above.
6. Further affiant sayeth not."


Darrell Gentry

Subscribed to and sworn to before me, the undersigned authority on this the 15th day of April, 2021.




Notary Public in and for
the State of Texas

John Mounce, Councilmember
Jim Tate, Councilmember
Nick Krueger, Councilmember



James Clark, Mayor Pro Tem
Chrissa Hartle, Councilmember

Alan Woodall, Mayor

MINUTES

**State of Texas
County of Denton
City of Justin**

Justin City Council Regular Session Meeting- March 29, 2021

One or more members of the City Council may participate in this meeting remotely in compliance with the Texas Open Meetings Act or under the provisions provided by the Governor of Texas in conjunction with the Declaration of Disaster enacted March 13, 2020.

In accordance with Order of the Office of the Governor issued March 16, 2020 and March 19, 2020, the Justin City Council will conduct the meeting scheduled at 5:00 p.m. on Monday, March 29, 2021 by telephone conference in order to advance the public health goal of limiting face-to-face meetings (also called "social distancing") to slow the spread of the Coronavirus (COVID-19). There will be no public access to the location described above. A recording of the telephonic meeting will be made, and will be available to the public.

The Zoom meeting may be viewed by clicking the following link:

<https://us02web.zoom.us/rec/share/7XiYwZqW5Rjb1HxfBzbtTQXIe3l5pncSCIUC9Q2VeLHp6YBR3lbp7tpCq-A3Elcr.wI-wjolyqWKXRgYe>

CALL TO ORDER

Convene into session: Mayor Woodall called the Workshop Meeting to order at 5:01PM

Roll Call: Mayor Woodall, Mayor Pro Tem Clark, Councilman Mounce, Councilwoman Hartle, Councilman Tate, and Councilman Krueger

Staff Present: Public Works Director, Josh Little, Police Chief, Alex Coss, Finance Director, Josh Armstrong, Director of Strategic Services, Abbey Reece, Director of Planning and Development Services, Darrell Gentry, City Secretary, Brittany Andrews, City Engineer, Chris Cha and City Attorney, Matthew Boyle.

STAFF/BOARD UPDATES

- Monthly Financials
- Police Department – Introduction of new employees, and quarterly report.
- Public Works – quarterly report

WORKSHOP SESSION

1. Discussion regarding Fiscal Year 2021-2022 annual budget.

Finance Director, Josh Armstrong provided a tentative calendar to Council and discussed the City's financials to date. Josh Armstrong went through a few budgetary items that would be included in the upcoming discussions; Library Computer replacement, GIS license, additional cameras, IT updates, and other department budgetary items.

2. Discuss calling a public hearing to consider amending the City's Sign Ordinance, Chapter 36.

Director of Planning and Development, Darrell Gentry discussed that the Planning and Zoning Commission did look the Ordinance back over and has recommended calling a public hearing.

3. Discussion regarding a service area agreement between the City of Justin and Aqua Texas, Inc. regarding service of water to an approximately 197 acre-tract in Denton County located at the intersection of Boss Range Road and FM 407.

Director of Strategic Services, Abbey Reece updated the Council on the status of the agreement and that it was ready for them to take action.

4. Discussion regarding a proposed shared-use path easement and intent to construct a 10-foot wide shared pathway connection into City owned Reatta Park.

Director of Planning and Development, Darrell Gentry reviewed the proposed shared use path easement and graphic, explaining the accommodations of the pathway and future connections.

5. Discussion regarding lighting improvements for the Downtown Parking Area.

Staff and Council discussed the options presented. Council requested that this item be brought back with more information on costs associated with the improvements.

6. Discussion regarding approval of Lift Station Improvements.

Public Works Director, Josh Little discussed that while other items were approved and are currently being updated, that this item is to approve additional unbudgeted funds for the overall repairs.

7. Discussion regarding an amendment to the Community Development Corporation Annual 2020-2021 Budget.

Staff discussed that the CDC recommended approval for two façade enhancement grants, and that a budget amendment is necessary.

8. Discussion regarding an application to the Justin Economic Development Corporation and Community Development Corporation Boards.

9. Discussion regarding updates to City Hall renovations and Winter Storm Damage repairs.

Darrell Gentry and Building Official, Chuck Sellers gave Council an overview of the current City Hall renovation, and Repairs to facilities caused by the Winter Storm.

10. Discussion regarding current project list.

CONVENE INTO REGULAR SESSION- Immediately Following Workshop Session

CALL TO ORDER

Convene into Session:

Invocation and Pledge of Allegiance by Councilman Tate
American Flag

Texas Flag:

"Honor the Texas Flag; I pledge allegiance to thee, Texas, one state, under God, one and indivisible"

PUBLIC COMMENT

In an effort to allow the public the ability to participate in the public comment portion and not attend the meeting in person, the City will allow the following: The public may email their comment to the City Secretary by 5:00 pm on Monday, March 29, 2021 at bandrews@cityofjustin.com. The City Secretary will read the email to Council during the public comment portion of the meeting. Please make sure to include your name and address, along with your comment pertaining to an item on the agenda, in the body of the email.

POSSIBLE ACTION ITEMS

11. Consider and take appropriate action calling a public hearing to consider amending the City's Sign Ordinance, Chapter 36.

Councilman Mounce made the motion to call a public hearing to be held on April 26, 2021 to consider amending the City's Sign Ordinance, Chapter 36.

Seconded by: Mayor Pro Tem, Clark

Aye votes: Councilmembers Clark, Hartle, Tate, Mounce, and Krueger

Motion Carries

12. Consider and take appropriate action to approve a service area agreement between the City of Justin and Aqua Texas, Inc. regarding service of water to an approximately 197 acre-tract in Denton County located at the intersection of Boss Range Road and FM 407.

Councilman Mounce moved to approve the service area agreement as presented.

Seconded by: Mayor Pro Tem, Clark

Aye votes: Councilmembers Clark, Hartle, Tate, Mounce, and Krueger

Motion Carries

13. Consider and take appropriate action regarding a proposed shared-use path easement and intent to construct a 10-foot wide shared pathway connection into City owned Reatta Park.

Mayor Pro Tem, Clark moved to approve item number 13 in the packet as presented.

Seconded by: Councilwoman Hartle

Aye votes: Councilmembers Clark, Hartle, Tate, Mounce, and Krueger

Motion Carries

14. Consider and take appropriate action to approve lighting improvements for the Downtown Parking Area.

No Action

15. Consider and take appropriate action to approve Lift Station Improvements.

Mayor Pro Tem, Clark moved to approve \$93465.29 for Lift Station Improvements as presented.

Seconded by: Councilwoman Hartle

Aye votes: Councilmembers Clark, Hartle, Tate, Mounce, and Krueger

Motion Carries

16. Consider and take appropriate action approving an amendment to the Community Development Corporation Annual 2020-2021 Budget.

Mayor Pro Tem, Clark moved to approve the budget amendment in the amount of \$5500.00 as presented.

Seconded by: Councilman Mounce

Aye votes: Councilmembers Clark, Hartle, Tate, Mounce, and Krueger

Motion Carries

17. Consider and take appropriate action approving an application to the Justin Economic Development Corporation and Community Development Corporation Boards.

Councilwoman Hartle moved to appoint Tammy Foster to Place 6 on the EDC/CDC Boards.

Seconded by: Mayor Pro Tem, Clark

Aye votes: Councilmembers Clark, Tate, Mounce, and Krueger

**Councilwoman Hartle abstained
Motion Carries**

18. Consider and take appropriate action regarding current project list.

No Action

19. Consider and take appropriate action for future agenda items.

No Action

CONSENT

Any Council Member may request an item on the Consent Agenda to be taken up for individual consideration

20. Consider and take appropriate action to approve Ordinance 687-21, establishing speed limits along FM 407 within the city limits of Justin.

21. Consider and take appropriate action to approve City Council minutes dated March 8, 2021.

Councilman Mounce moved to approve all consent items.

Seconded by: Mayor Pro Tem, Clark

Aye votes: Councilmembers Clark, Hartle, Tate, Mounce, and Krueger

Motion Carries

EXECUTIVE SESSION

Any item on this posted agenda could be discussed in Executive Session as long as it is within one of the permitted categories under sections 551.071 through 551.076 and Section 551.087 of the Texas Government Code.

- Under Section 551.071, to conduct private consultation with the City Attorney regarding:
 - Appellate Docket No. 06-17-00054-CV – City of Justin v. Town of Northlake;
 - State Supreme Court Case No. 18-0651 – Town of Northlake v. City of Justin;
 - Denton County Municipal Utility District No. 10 and/or the Texas Commission on Environmental Quality's Executive Director's action in granting approval for the creation of Denton County Municipal Utility District No. 10
- Under Section 551.074, to deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee.

- Police Department/Police Chief

Convene into executive session at **7:15PM**

Adjourn into open meeting at **8:26PM**

Discuss, consider, and act on items discussed in Executive Session

ADJOURN

With there being no further business the meeting was adjourned at 8:28PM

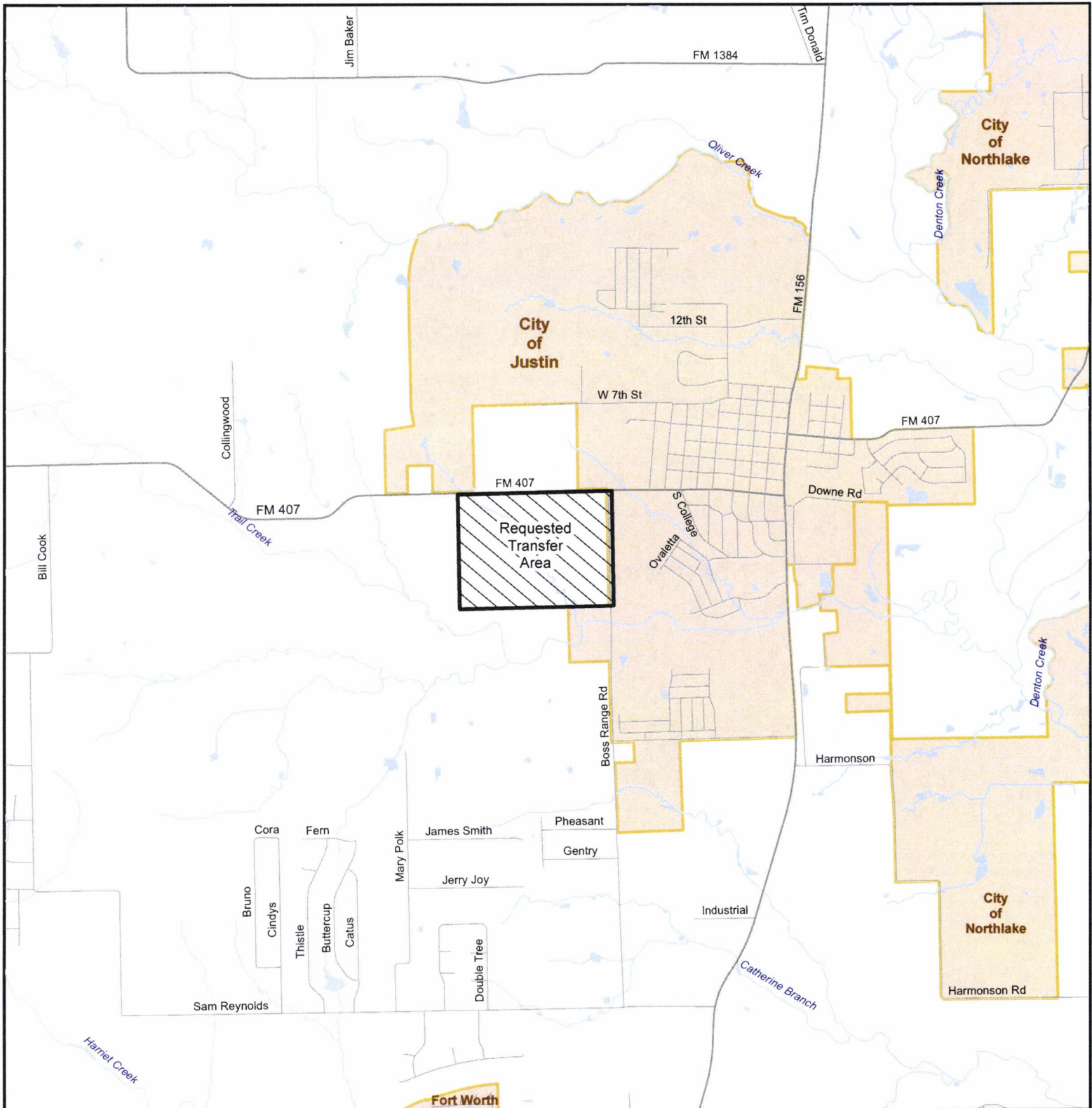
Brittany Andrews

Brittany Andrews, City Secretary

Seal:

Exhibit C

Small and Large Scale Maps



General Location

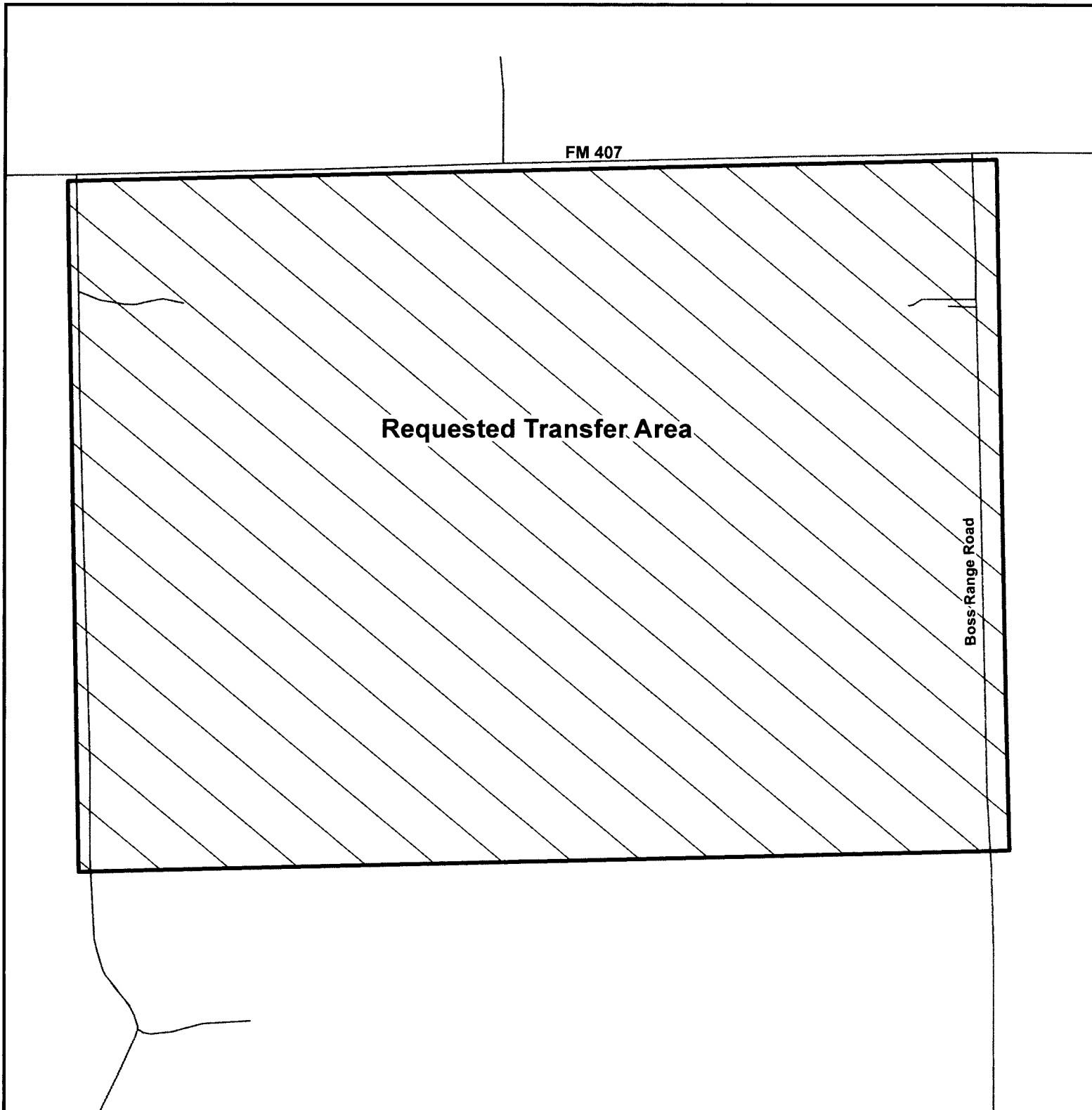
City of Justin / Aqua Texas, Inc. 13.248 Agreement
to Transfer a Portion of Aqua Texas, Inc., CCN No. 13201 to City of Justin, CCN No. 10167
in Denton County



Requested Transfer Area - approx 202 acres

0 1,500 3,000
Feet

Map by: S. Burt, ASBGI
Date: March 3, 2021
Base: TxDOT 2015 Roadways, Denton CAD Cities
Project: City of Justin General Location



Detail Map

City of Justin / Aqua Texas, Inc. 13.248 Agreement
to Transfer a Portion of Aqua Texas, Inc., CCN No. 13201 to City of Justin, CCN No. 10167
in Denton County

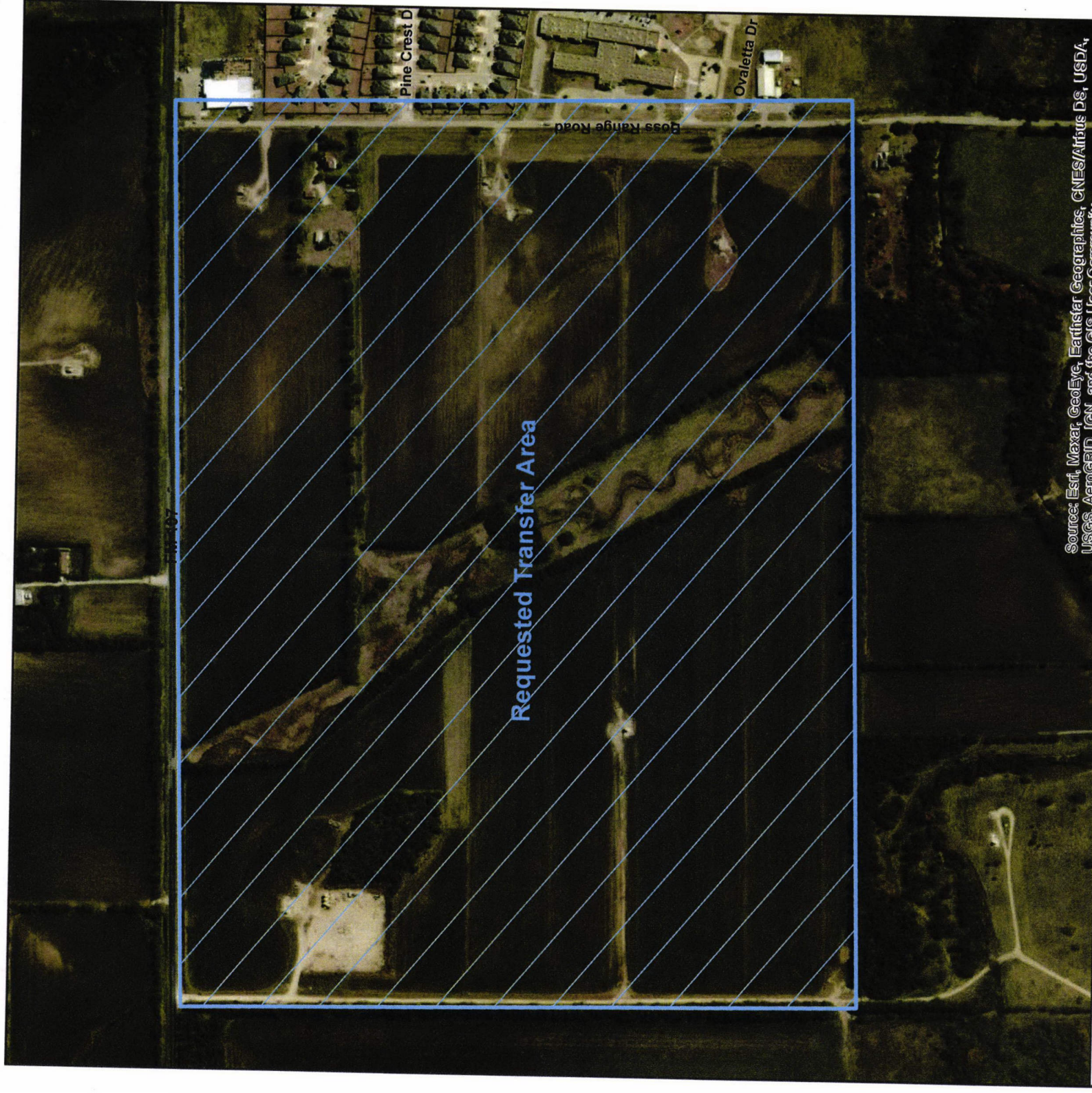


0 250 500 Feet



Requested Transfer Area - approx 202 acres

Map by S Burt, ASBGI
Date March 3, 2021
Base: StratMapTransv2
Project City of Justin Detail Map



Source: Esri, Maxar, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

Detail Map on Imagery

City of Justin / Aqua Texas, Inc. 13.248 Agreement
to Transfer a Portion of Aqua Texas, Inc., CCN No. 13201 to City of Justin, CCN No. 10167
in Denton County



 Requested Transfer Area - approx 202 acres