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DOCKET NO. 52132

PETITION OF	§	PUBLIC UTILITY COMMISSION
LUMBERTON MUNICIPAL	§	
UTILITY DISTRICT TO AMEND	§	OF TEXAS
CERTIFICATES OF CONVENIENCE	§	
AND NECESSITY IN HARDIN COUNTY	§	

**PETITION OF LUMBERTON MUNICIPAL UTILITY DISTRICT TO AMEND
CERTIFICATES OF CONVENIENCE AND NECESSITY IN HARDIN COUNTY, TEXAS**

TO THE HONORABLE PUBLIC UTILITY COMMISSION OF TEXAS:

The Lumberton Municipal Utility District (“the District and/or Petitioner”) files this petition to amend its sewer Certificate of Convenience and Necessity No. 20376 and water Certificate of Convenience and Necessity (“CCN”) No. 10929.

I. BACKGROUND

1. The District is authorized to provide retail water and sewer service under sewer CCN No. 20367 and water CCN No. 10929 in certain areas in Hardin County.
2. The District filed its amended application to amend its CCN on June 2, 2021.
3. On July 1, 2021, the District received the Commission Staff’s Recommendation on Administrative Completeness and Notice and Proposed Procedural Schedule.
4. Additionally, in the first filing, the District only requested amendment of its water CCN. However, the District is also requesting, in this supplemental filing, an amendment of its sewer CCN.

II. REQUEST FOR TRANSFER OF WATER AND SEWER SERVICE AREA

As reflected in Petitioner’s Amended Application and the preceding section of this supplemental filing, Petitioner’s is requesting to amend both its water CCN and sewer CCN. To cure deficiencies as stated in the Memorandum dated June 30, 2021, the Petitioner submits the following information:

1. Signed and Notarized Affidavit;
2. Enabling legislation of the Petitioner which addresses the Petitioner's ability to serve within the municipal limits of the City of Lumberton and a memorandum from the Petitioner's Legal Counsel regarding the Petitioner's legal authority to serve within the City of Lumberton;
3. Digital mapping that includes a shapefile in a polygon format and resolves the overlap issue and additional requests addressing the mapping deficiencies;
4. Complete responses to numbers 33 and 34 of the application;
5. Correspondence with Fred Bednarski III regarding CCN amendment.

III. PRAYER

Petitioners respectfully request the Commission to approve the amendment of Lumberton Municipal Utility District water and sewer CCN and find the application to be administratively complete.

Respectfully submitted,

GERMER PLLC
P.O. Box 4915
Beaumont, Texas 77704
(409) 654-6700 – Telephone
(409) 835-2115 – Facsimile



Kate K. Leverett
State Bar No. 24083292
kleverett@germer.com – Email

COUNSEL FOR THE APPLICANT

LIST OF ATTACHMENTS

Attachment 1- Signed and Notarized Affidavit;

Attachment 2-Enabling legislation of the District which addresses the Petitioner's ability to serve within the municipal limits of the City of Lumberton and a memorandum from the Petitioner's Legal Counsel regarding the Petitioner's legal authority to serve within the City of Lumberton;

Attachment 3-Digital mapping that includes a shapefile in a polygon format and resolves the overlap issue;

Attachment 4- Complete responses to numbers 33 and 34 of the application.

Attachment 5- Correspondence with Fred Bednarski III regarding CCN amendment.

July 20, 2021

Public Utility Commission of Texas
Attention: Filing Clerk
1701 N. Congress Avenue
P.O. Box 13326
Austin, Texas 78711-3326

Re: Lumberton Municipal Utility District (the "District") – CCN Amendment Docket No. 52132

To Whom It May Concern:

Per a request from Scott Miles, Attorney reviewer, this is the formal statement further explaining the background of the District and why consent from the City of Lumberton is not needed.

The District was created in June 1973 to provide water and wastewater services to residents residing within the District limits. Per its enabling legislation, the District was created notwithstanding any provision of Section 212.003, Local Government Code, Chapter 42 or 43, Local Government Code, or Section 54.016, Water Code. Specifically, Section 54.016 speaks to obtaining city consent prior to a district serving within its city limits. The District's enabling legislation provides that this provision of the Water Code is inapplicable.

Further, the District was created prior to the incorporation of the City of Lumberton and, historically, has always provided water and wastewater services to residents living within the City limits of Lumberton. Although the City of Lumberton's Charter gives the City the option to provide water and/or wastewater service within the limits of the City it has never exercised that right.

Sincerely,

GERMER PLLC

By: 
Kate Leverett

KL/kg

SPECIAL DISTRICT LOCAL LAWS CODE

TITLE 6. WATER AND WASTEWATER

SUBTITLE F. MUNICIPAL UTILITY DISTRICTS

CHAPTER 8230. LUMBERTON MUNICIPAL UTILITY DISTRICT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8230.001. DEFINITIONS. In this chapter:

- (1) "Board" means the district's board of directors.
- (2) "Director" means a member of the board.
- (3) "District" means the Lumberton Municipal Utility District.

Added by Acts 2009, 81st Leg., R.S., Ch. 1139 (H.B. 2619), Sec. 1.04, eff. April 1, 2011.

Sec. 8230.002. NATURE OF DISTRICT. The district is a conservation and reclamation district in Hardin County created under Section 59, Article XVI, Texas Constitution.

Added by Acts 2009, 81st Leg., R.S., Ch. 1139 (H.B. 2619), Sec. 1.04, eff. April 1, 2011.

Sec. 8230.003. FINDINGS OF BENEFIT AND PUBLIC PURPOSE. (a) The district is created to serve a public use and benefit.

(b) All land and other property included in the boundaries of the district will benefit from the works and projects accomplished by the district under the powers conferred by Section 59, Article XVI, Texas Constitution.

(c) The creation of the district is essential to accomplish the purposes of Section 59, Article XVI, Texas Constitution.

Added by Acts 2009, 81st Leg., R.S., Ch. 1139 (H.B. 2619), Sec. 1.04, eff. April 1, 2011.

Sec. 8230.004. DISTRICT TERRITORY. (a) The district is composed of the territory described by Section 2, Chapter 388, Acts of the 63rd Legislature, Regular Session, 1973, as that territory may have been modified under:

- (1) Subchapter H, Chapter 54, Water Code;
- (2) Subchapter J, Chapter 49, Water Code; or
- (3) other law.

(b) The boundaries and field notes of the district form a closure. A mistake in copying the field notes in the legislative process or another mistake in the field notes does not affect:

- (1) the district's organization, existence, or validity;
- (2) the district's right to issue any type of bond for a purpose for which the district is created or to pay the principal of and interest on the bond;
- (3) the district's right to impose a tax; or
- (4) the legality or operation of the district or its governing body.

Added by Acts 2009, 81st Leg., R.S., Ch. 1139 (H.B. 2619), Sec. 1.04, eff. April 1, 2011.

Sec. 8230.005. CERTAIN LAWS INAPPLICABLE TO CREATION OF DISTRICT. The district was created notwithstanding any provision of Section 212.003, Local Government Code, Chapter 42 or 43, Local Government Code, or Section 54.016, Water Code, and to the extent of the creation of the district only, those provisions shall have no application.

Added by Acts 2009, 81st Leg., R.S., Ch. 1139 (H.B. 2619), Sec. 1.04, eff. April 1, 2011.

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 8230.051. COMPOSITION OF BOARD. The board of directors is composed of five elected directors.

Added by Acts 2009, 81st Leg., R.S., Ch. 1139 (H.B. 2619), Sec. 1.04, eff. April 1, 2011.

SUBCHAPTER C. POWERS AND DUTIES

Sec. 8230.101. MUNICIPAL UTILITY DISTRICT POWERS. The district has the rights, powers, privileges, and functions conferred and imposed by general law applicable to a municipal utility district created under Section 59, Article XVI, Texas Constitution, including Chapters 49 and 54, Water Code.

Added by Acts 2009, 81st Leg., R.S., Ch. 1139 (H.B. 2619), Sec. 1.04, eff.
April 1, 2011.




LMUD CCN AMENDMENT

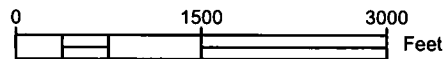
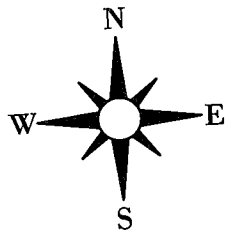
LUMBERTON MUD
WATER & SEWER CCN

MAY 2021

DETAILED MAP

Legend

-  REQUESTED WATER & SEWER AREA TO BE ADDED TO LUMBERTON MUD CCN
-  ROADWAYS
-  RIVER



LJA Engineering, Inc.

2615 Calder Avenue, Suite 500
Beaumont, Texas 77702

Phone 409.833.3363
Fax 409.833.0317
FRN - F-1386






LMUD CCA AMENDMENT

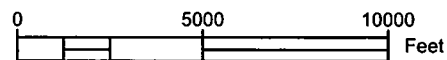
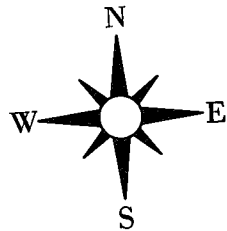
LUMBERTON MUD
WATER & SEWER CCA

MAY 2021

GENERAL LOCATION

Legend

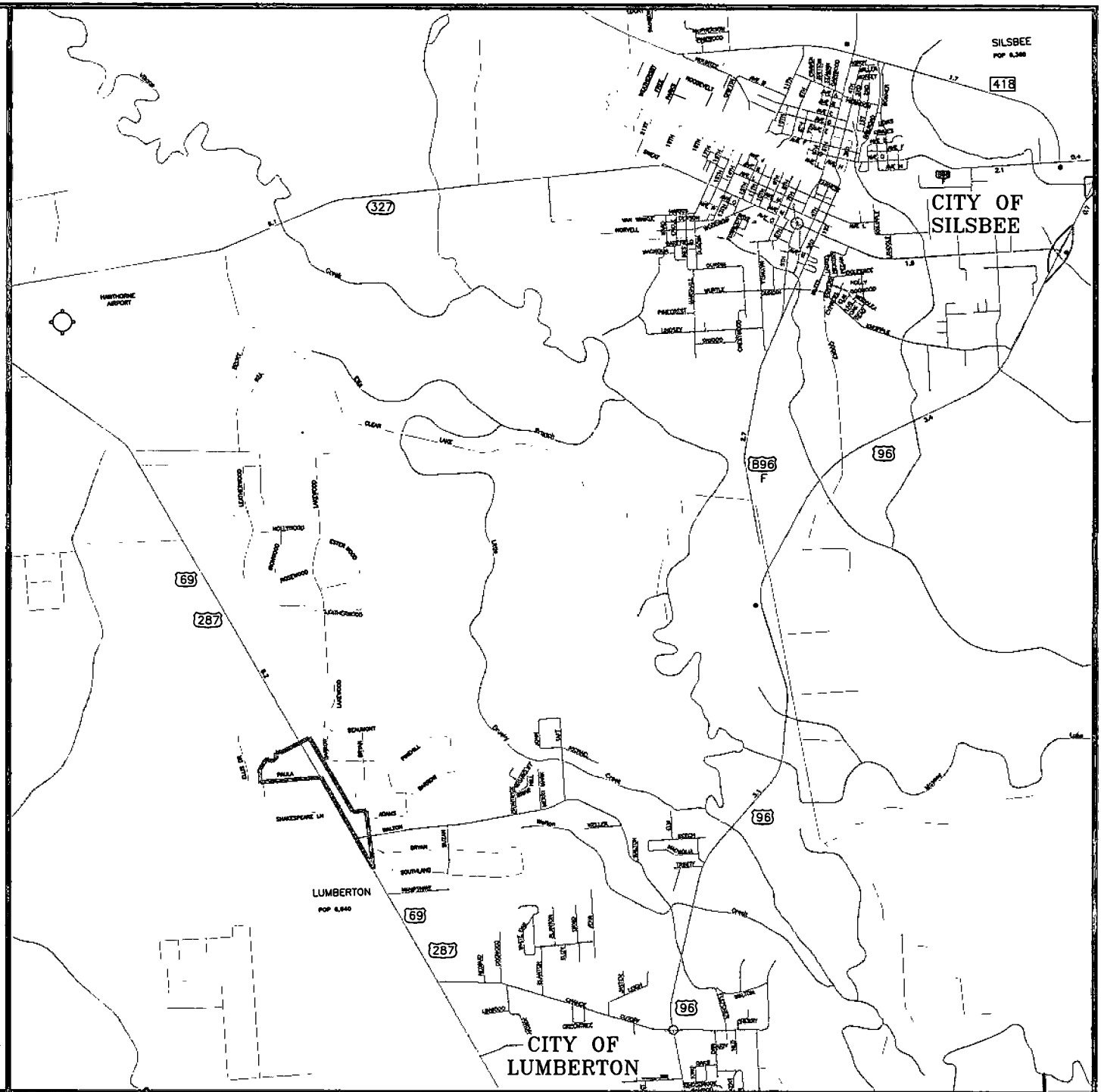
-  REQUESTED WATER & SEWER AREA TO BE ADDED TO LUMBERTON MUD CCA
-  ROADWAYS
-  RIVER



LJA Engineering, Inc.

2615 Calder Avenue, Suite 500
Beaumont, Texas 77702

Phone 409.833.3363
Fax 409.833.0317
FRN - F-1386



Applicant's Oath

STATE OF

Texas

COUNTY OF

Hardin

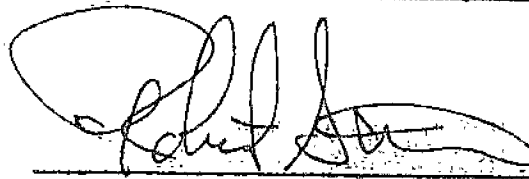
I, Robert Stars being duly sworn, file this application to
obtain or amend a water or sewer CCN, as

Winkler Municipal Utility District
(owner, member of partnership, title as officer of corporation, or authorized representative)

I attest that, in such capacity, I am qualified and authorized to file and verify such application, am personally familiar with the documents filed with this application, and have complied with all the requirements contained in the application; and, that all such statements made and matters set forth therein with respect to Applicant are true and correct. Statements about other parties are made on information and belief. I further state that the application is made in good faith and that this application does not duplicate any filing presently before the Commission.

I further represent that the application form has not been changed, altered, or amended from its original form.

I further represent that the Applicant will provide continuous and adequate service to all customers and qualified applicants within its certificated service area should its request to obtain or amend its CCN be granted.



AFFIANT

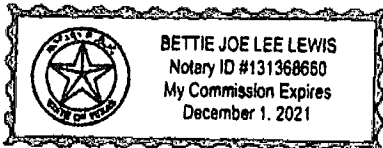
(Utility's Authorized Representative)

If the Affiant to this form is any person other than the sole owner, partner, officer of the Applicant, or its attorney, a properly verified Power of Attorney must be enclosed.

SUBSCRIBED AND SWORN BEFORE ME, a Notary Public in and for the State of Texas

this day the 13th of July, 2021

SEAL



NOTARY PUBLIC IN AND FOR THE
STATE OF TEXAS

Bettie J. Lee-Lewis
PRINT OR TYPE NAME OF NOTARY

My commission expires: December 1, 2021

- ii. A recorded plat. If the plat does not provide sufficient detail, Staff may request additional mapping information. Please refer to the mapping guidance in part 2 (above); or
- iii. 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. The following guidance should be adhered to:
 - a. The digital mapping data must correspond to the same requested area as shown on the general location and detailed maps. The requested area must be clearly labeled as either the water or sewer requested area.
 - b. A shapefile should include six files (.dbf, .shp, .shx, .sbx, .sbn, and the projection (.prj) file).
 - c. The digital mapping data shall be filed on a data disk (CD or USB drives), clearly labeled, and filed with Central Records. Seven (7) copies of the digital mapping data is also required.

Part G: Notice Information

The following information will be used to generate the proposed notice for the application.
DO NOT provide notice until the application is deemed sufficient for filing and the Applicant is ordered to provide notice.

33. Complete the following using verifiable man-made and/or natural landmarks such as roads, rivers, or railroads to describe the requested area (to be stated in the notice documents). Measurements should be approximated from the outermost boundary of the requested area:

The total acreage of the requested area is approximately: 89 Acres

Number of customer connections in the requested area: 11

The closest city or town: City of Lumberton

Approximate mileage to closest city or town center: 0.23 miles

Direction to closest city or town: South

The requested area is generally bounded on the North by: Beaumont Dr.

on the East by: Highway 69

on the South by: Paula Rd.

on the West by: Ellis Dr.

34. A copy of the proposed map will be available at lumbertonmud.com and at
Lumberton MUD's community bulletin board

LUMBERTON MUNICIPAL UTILITY DISTRICT

July 1, 2021

Fred Bednarski III

Financial Examiner

Rate Regulation

Public Utility Commission of Texas

Mr. Bednarski

Pursuant to our phone conversation yesterday I will expand on the need for the project for the wastewater plant. Currently there is not a project required for this additional CCN enlargement. We have had some operational issues at our wastewater plant due to covid and organic loading. Currently we are only at 51% of the wastewater plants permitted flow capacity. We are preparing bond documents to put out to our customer base for a vote on a proposed plant expansion. That vote will take place in November of 2021. All additions that added to our water and sewer system go through a rigorous capacity study by the districts contract engineer. I will attach the capacity study preformed for this project in question along with this letter. Hopefully this clears up any questions that your or anyone else at your agency has. However, if you need any other documentation, please do not hesitate to reach out to me at your earliest convenience.

Sincerely,

Robb Starr

District Manager

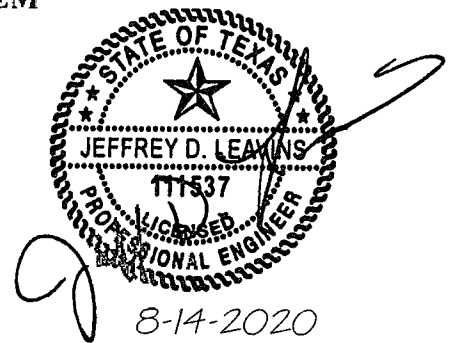
Lumberton M.U.D.

 Please consider the environment before printing this email.

LUMBERTON MUNICIPAL UTILITY DISTRICT

EXPRESS MART NO. 5
(1 COMMERCIAL CONNECTION)

**WATER AND SEWER SYSTEM
CAPACITY STUDY**



LJA ENGINEERING, INC.
CONSULTING ENGINEERS – PLANNERS - SURVEYORS
2615 CALDER AVENUE, SUITE 500
BEAUMONT, TEXAS 77702
(409) 833-3363

TEXAS REGISTERED ENGINEERING FIRM F-1386

AUGUST 2020

TABLE OF CONTENTS

I. INTRODUCTION	1
II. PROPOSED DEVELOPMENT	1
A. Description	1
B. Design Considerations.....	1
1. Water System Facilities	1
2. Sanitary Sewer Collection System Facilities	2
III. EXISTING FACILITIES	2
A. Water System Facilities	2
B. Sanitary Sewer Collection System Facilities	2
C. Wastewater Treatment Plant	2
IV. RECOMMENDATIONS	3
A. Water System Facilities	3
B. Sanitary Sewer Collection System Facilities	3
V. CONCLUSIONS	3
A. Water System Facilities	3
B. Sanitary Sewer Collection System Facilities	4
C. Wastewater Treatment Plant	4

APPENDIX

APPENDIX A - LOCATION MAP

APPENDIX B - WATER MAP

APPENDIX C – SEWER MAP

LUMBERTON MUNICIPAL UTILITY DISTRICT

EXPRESS MART NO. 5 (1 COMMERCIAL CONNECTION)

I. INTRODUCTION

The intent of this evaluation is to assess the ability of the existing Lumberton Municipal Utility District (LMUD) water distribution and sanitary sewer collection systems to support an existing Express Mart No. 5 convenience store/gas station, consisting of 1 commercial connection, located on the west side of Highway 69, approximately 4,000 linear feet north of West Walton Road.

II. PROPOSED DEVELOPMENT

A. Description

The existing Express Mart No. 5 consists of 1 commercial connection located on the west side of Highway 69, approximately 4,000 linear feet north of West Walton Road.

Location maps for the proposed development are included in **APPENDIX A**.

B. Design Considerations

1. Water System Facilities

The Texas Commission on Environmental Quality (TCEQ) requires in Chapter 290.44(d) of the design criteria that a water distribution system be designed to deliver a minimum of 1.5 gpm per connection while maintaining 35 psi at all points in the system. Water well capacity must be 0.6 gpm per connection as required by Chapter 290.45(b)(1)(D)(i). Total storage capacity must be at least 200 gallons per connections as required by Chapter 290.45(b)(1)(D)(ii) and 100 gallons per connection in elevated storage capacity as required by Chapter 290.45(b)(1)(D)(iv) where elevated storage is provided.

The TCEQ has granted LMUD a variance to the above referenced criteria. The minimum alternative capacity requirements are as follows:

Water Well Capacity	0.39 gpm/connection
Total Storage Capacity	130 gallons/connection
Elevated Storage Capacity	65 gallons/connection

The TCEQ has approved an Exception Request to TCEQ Chapter 290.44(d) of the design criteria that a water distribution system be designed to deliver a minimum of 1.5 gpm per connection while maintaining 35 psi at all points in the system to the following:

Deliver a minimum of 0.975 gpm per connection while maintaining 35 psi at all points in the system.

2. Sanitary Sewer Collection System Facilities

For commercial connections, a value of 299 gallons per day is typically used unless other usage data is available. The peaking factor is applied to this usage.

III. EXISTING FACILITIES

A. Water System Facilities

The existing LMUD water system currently serves approximately 9,501 equivalent living unit connections. The existing LMUD water system currently has a well capacity of 7,075 gpm which provides a capacity to serve 18,141 connections based on 0.39 gpm per connection. The total storage capacity for the District is 2,600,000 gallons (sufficient capacity for 20,000 connections, based on 130 gallons per connection), the total elevated storage capacity is 1,000,000 gallons (sufficient capacity for 15,384 connections, based on 65 gallons per connection). The LMUD is currently in compliance with the TCEQ Chapter 290 design criteria regarding water production and storage facilities.

The area of the proposed development is outside of the LMUD service area and does not currently have water service. The existing water distribution system closest to the area of the proposed development includes a 6" water line on the west side of US Highway 69 at Paula Road, approximately 1,250 linear feet south of the Express Mart No. 5. The 6" water line is fed primarily from Water Well #4.

B. Sanitary Sewer Collection System Facilities

The area of the proposed development is outside the LMUD service area and does not currently have sanitary sewer service. The existing sanitary sewer service in the area of the proposed development includes a 4" sanitary sewer force main on the west side of US Highway 69 and Paula Road, approximately 1,250 linear feet south of the Express Mart No. 5. This 4" force main services the Paul Road lift station (LS 62) and runs south on US Highway 69 and turns into a 6" and 12" force main. This 12" force main discharges into a manhole on Wheeler Road, which in turn flows to the headworks of the LMUD wastewater plant through a 30", 42", 48", and 60" sanitary sewer gravity trunk line.

C. Wastewater Treatment Plant

The wastewater treatment plant has a TCEQ approved capacity of 3.33 MGD average daily flow rate. According to LMUD personnel, the plant has been operating at approximately 1.8406 MGD average daily flow rate for the current calendar year. This means that the plant is currently operating at approximately 55% of its TCEQ approved capacity.

IV. RECOMMENDATIONS

A. Water System Facilities

The District has adequate water well and storage capacity to meet TCEQ criteria for existing connections and to provide for future development. The addition of the proposed development will not have a significant impact on the District's ability to meet these requirements.

It is anticipated that the developer will construct approximately 1,250 linear feet of new water line along the west side of US Highway 69, from Paula Road, to provide service to the Express Mart No. 5. Extending the water line from US Highway 69 and Paula Road to the proposed development, will provide adequate service for the development without having a significant impact on the pressures within the District's water distribution system. A computer-generated water system model was used to analyze the impacts of this proposed development on the District's existing water distribution system. The model indicated that pressure within this area would be approximately 56 psi with this connection in place. This 56 psi is based on a water demand of 0.975 gpm per connection. Based on existing data, the water system sees a peak water demand closer to 0.6 gpm per connection. Actual pressures with this proposed development in place should be approximately 58 psi.

B. Sanitary Sewer Collection System Facilities

For the proposed commercial connection, the expected flows generated would be as follows:

$$299 \text{ gpd} \times 4 \text{ pk factor} = 1,196 \text{ gallons per day} \approx \underline{\underline{1 \text{ gpm}}}$$

It is recommended that the Owner of the Express Mart No. 5 construct a sanitary sewer grinder pump station and associated force main to provide sanitary sewer service to this development. The new sanitary sewer force main will be approximately 1,250 linear feet in length and tie into the existing 4" sanitary sewer force main at the intersection of US Highway 69 and Paula Road.

V. CONCLUSIONS

A. Water System Facilities

The existing water production and water storage facilities are sufficient to provide for the proposed commercial connection development and still meet the TCEQ design criteria.

It is recommended that the Developer construct approximately 1,250 linear feet of new water line to the Express Mart No. 5. This new water line will tie into the existing 6" water line at the intersection of US Highway 69 and Paula Road.

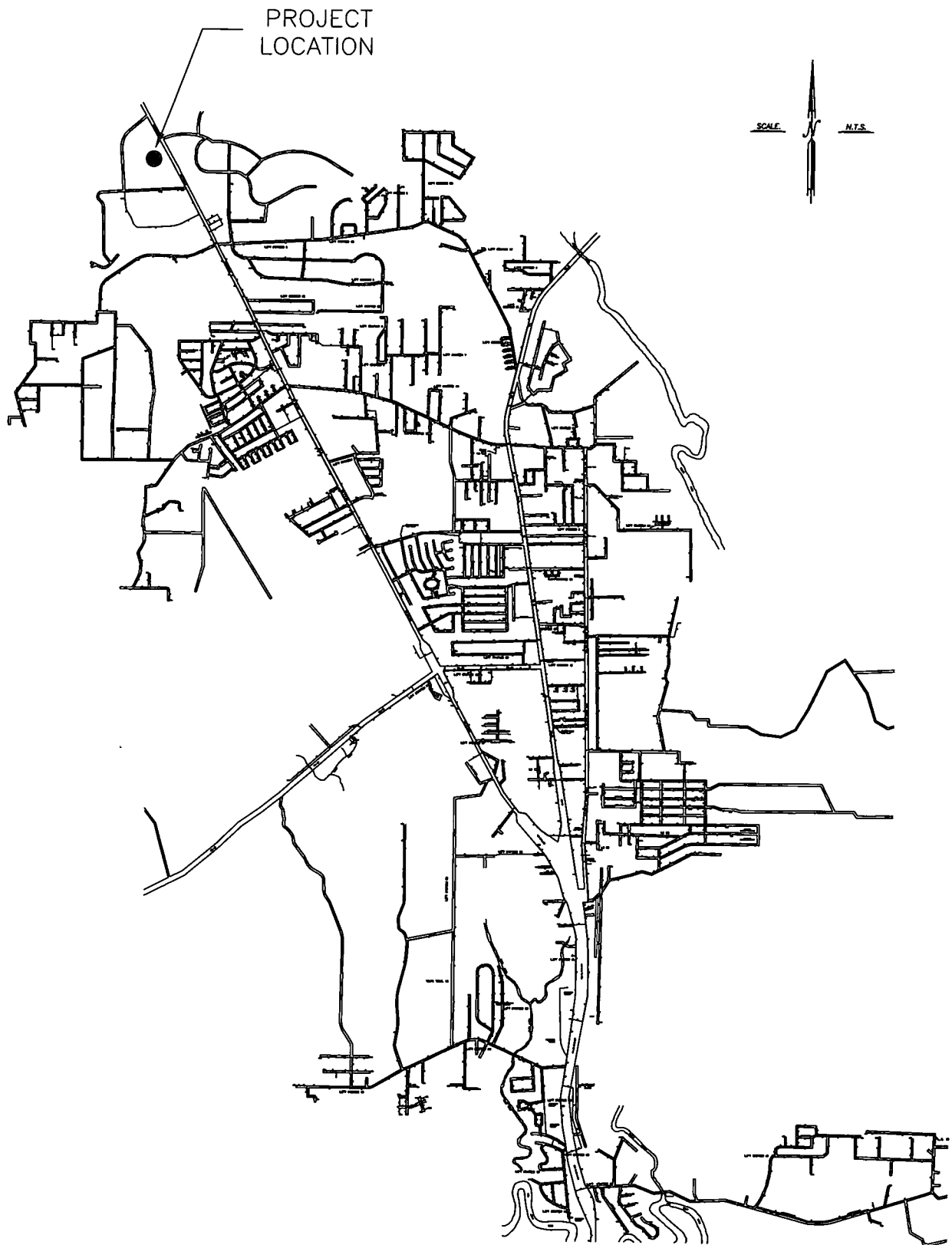
B. Sanitary Sewer Collection System Facilities

It is recommended that the Developer of the Express Mart No. 5 construct a sanitary sewer grinder pump station and approximately 1,250 linear feet of new force main to provide sanitary sewer service to the Express Mart No. 5. This new sanitary sewer force main will tie into the existing 4" sanitary sewer force main at the intersection of US Highway 69 and Paula Road.

C. Wastewater Treatment Plant

The wastewater treatment plant is currently at approximately 55% of its TCEQ approved capacity and the addition of this development is not expected to increase that percentage significantly.

APPENDIX A



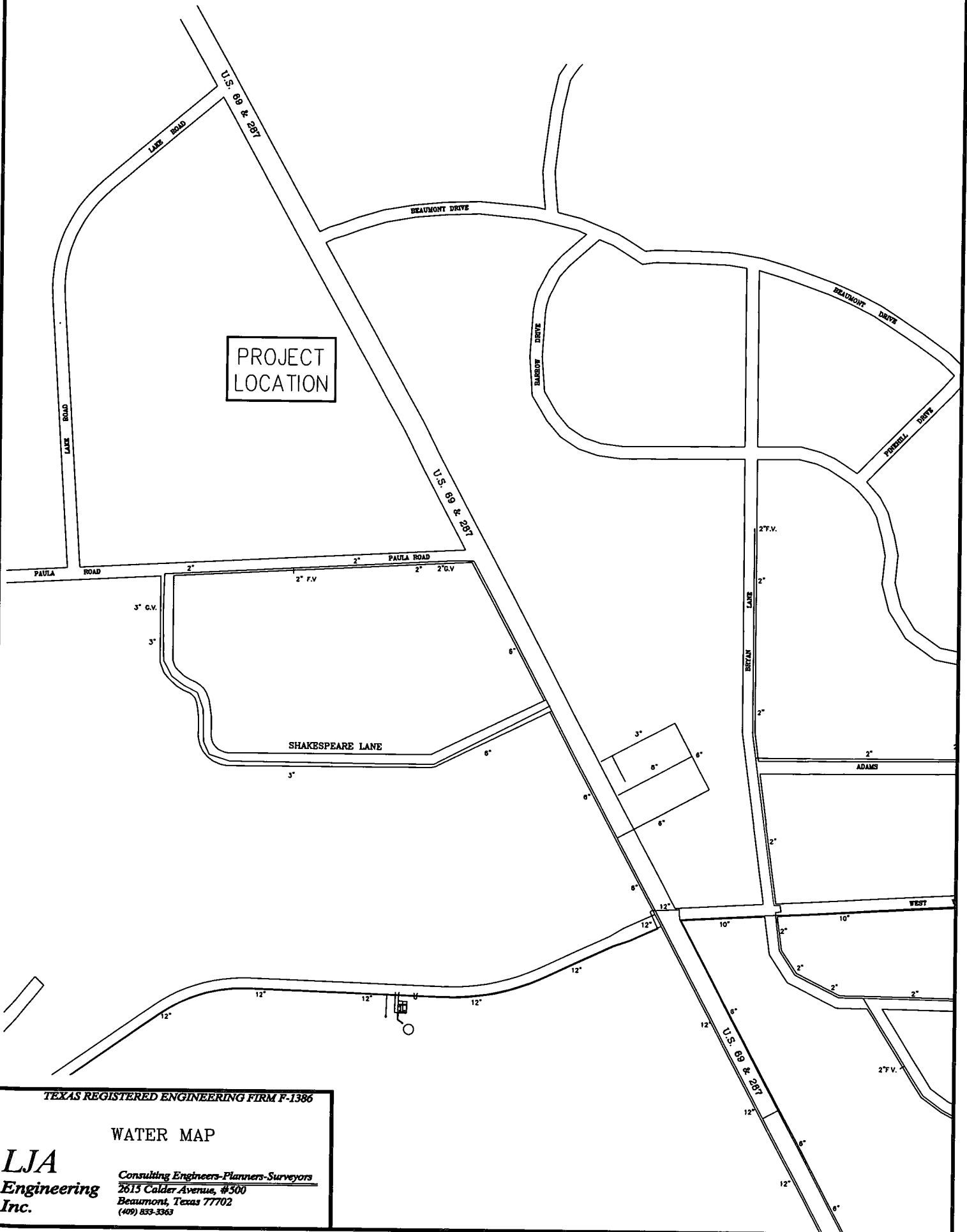
TEXAS REGISTERED ENGINEERING FIRM F-1386

PROJECT LOCATION MAP

LJA
Engineering
Inc.

Consulting Engineers-Planners-Surveyors
2615 Calder Avenue, #300
Beaumont, Texas 77702
(409) 833-3363

APPENDIX B



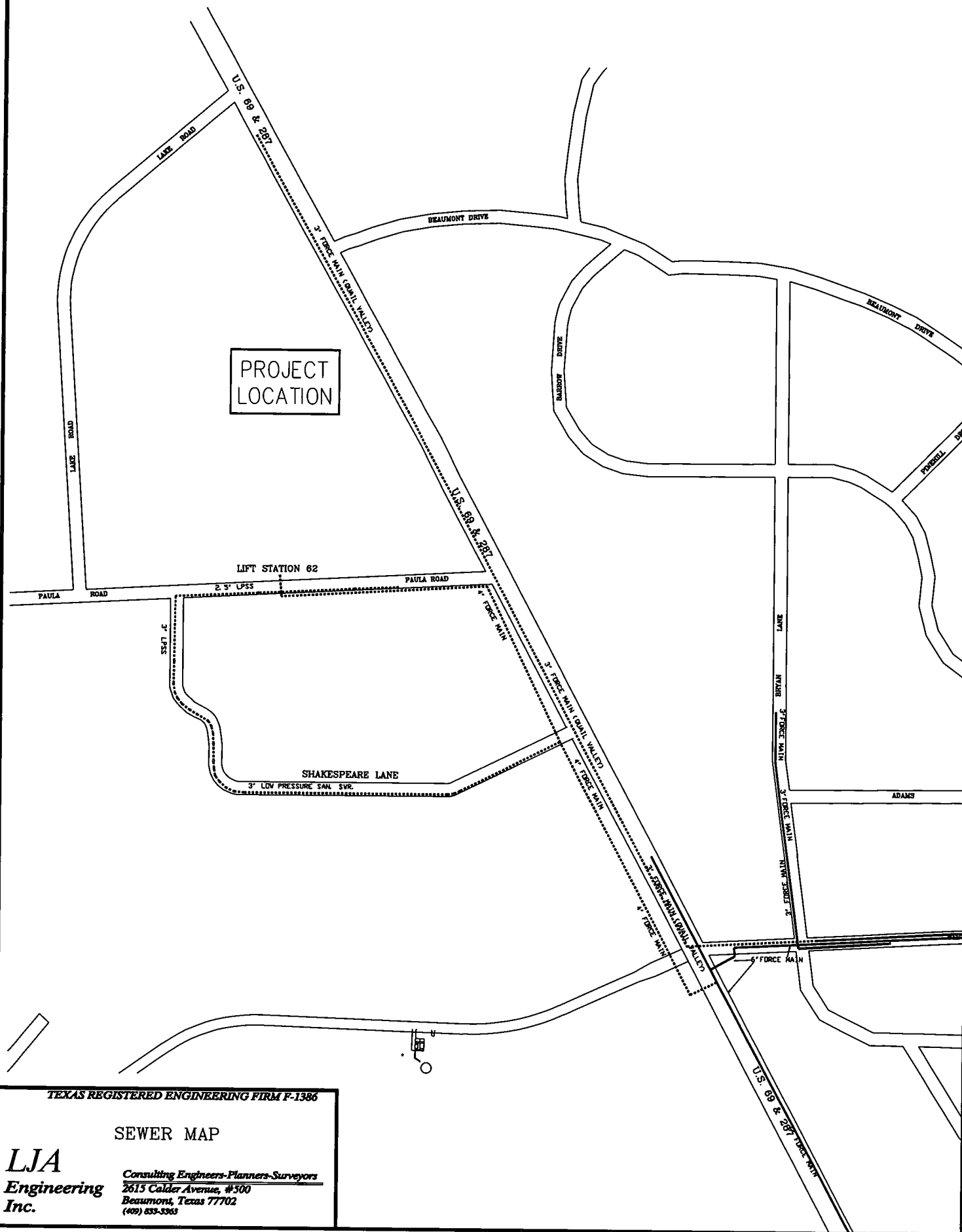
TEXAS REGISTERED ENGINEERING FIRM F-1386

WATER MAP

LJA
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Inc.

Consulting Engineers-Planners-Surveyors
2615 Calder Avenue, #500
Beaumont, Texas 77702
(409) 833-3363

APPENDIX C



TEXAS REGISTERED ENGINEERING FIRM F-1386

SEWER MAP

LJA
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Consulting Engineers-Planners-Surveyors
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(409) 653-3363