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DOCKET NO. 52774

PETITION OF MCCART ST, LLC TO	§	PUBLIC UTILITY COMMISSION
AMEND CITY OF DENTON’S	§	
CERTIFICATES OF CONVENIENCE	§	OF TEXAS
AND NECESSITY IN DENTON	§	
COUNTY BY EXPEDITED RELEASE	§	

ORDER NO. 4
GRANTING STREAMLINED EXPEDITED RELEASE

This Order addresses the petition by McCart St, LLC for streamlined expedited release of a tract of land in Denton County from the service area under water certificate of convenience and necessity (CCN) number 10195 and sewer CCN number 20072. The City of Denton is the holder of CCN numbers 10195 and 20072. For the reasons stated in this Order, the Commission releases the tract of land from Denton’s certificated service areas. In addition, the Commission amends Denton’s CCN numbers 10195 and 20072 to reflect the removal of the tract of land from the service areas.

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

I. Findings of Fact

The Commission makes the following findings of fact.

Petitioner

1. McCart is a Delaware limited liability company registered with the Texas secretary of state under filing number 804234840.

CCN Holder

2. Denton is a municipality located in Denton County.
3. Denton holds CCN numbers 10195 and 20072 that obligate it to provide retail water and sewer services in its certificated service areas in Denton County.

Petition

4. On October 29, 2021, the petitioner filed a petition for streamlined expedited release of a tract of land from the CCN holder’s service areas under CCN numbers 10195 and 20072.

5. The petition includes a special warranty deed dated January 10, 2018; maps; and an affidavit, dated October 19, 2021, of William J. Savage, the petitioner's chief executive officer.
6. In Order No. 2 filed on November 30, 2021, the administrative law judge (ALJ) found the petition administratively complete.
7. On February 15, 2022, the petitioner supplemented the application with an affidavit, dated January 27, 2022, of Mr. Savage.

Notice

8. The petitioner sent a copy of the petition by certified mail, return receipt requested, to the CCN holder on October 29, 2021.
9. In Order No. 2 filed on November 30, 2021, the ALJ found the notice sufficient.

Response to the Petition and Intervention

10. The CCN holder did not file a response to the petition and did not move to intervene in this proceeding.

The Tract of Land

11. The petitioner owns property in Denton County that is approximately 298.204 acres.
12. The tract of land for which the petitioner seeks streamlined expedited release is a portion of the petitioner's property that is approximately 250.6 acres.
13. The tract of land is located within the CCN holder's certificated service areas.

Ownership of the Tract of Land

14. The petitioner acquired the property by a special warranty deed January 10, 2018.

Qualifying County

15. Denton County has a population of more than 47,5000 and abuts Dallas and Tarrant counties.
16. Dallas and Tarrant counties each has a population of at least one million.

Water Service

17. The tract of land is not receiving actual water or sewer service from the CCN holder.
18. There are no water or sewer connections or meters on the tract of land.

19. The petitioner has not requested that the CCN holder provide water and sewer services to the tract of land.
20. The petitioner has not paid to the CCN holder any service reservation or standby fees to initiate or maintain water or sewer services for the tract of land.
21. There are no agreements between the petitioner and the CCN holder for the provision of water or sewer service to the tract of land.
22. The CCN holder has not committed or dedicated any facilities or lines to the tract of land for water service or sewer service.
23. The CCN holder has no facilities or lines that provide water service or sewer service to the tract of land.
24. The CCN holder has not performed any acts for or supplied anything to the tract of land.

Map and Certificate

25. On December 23, 2021, Commission Staff filed its recommendation on final disposition that included certificates and maps on which it identified the tract of land in relationship to the CCN holder's certificated service areas.

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) and, under 16 TAC § 24.245(h)(7), no hearing will be held on such a petition.
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 that must be verified by a notarized affidavit.
6. Under 16 TAC § 24.245(h)(7), the Commission's decision is based on the information submitted by the landowner, the CCN holder, and Commission Staff.
7. 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.
8. The time that the petition is filed is the only relevant time period to consider when evaluating whether a tract of land is receiving water or sewer service under TWC § 13.2541(b). Whether a tract of land might have previously received water or sewer service is irrelevant.
9. A landowner is not required to seek the streamlined expedited release of all of its property.
10. Denton County is a qualifying county under TWC § 13.2541(b) and 16 TAC § 24.245(h)(2).
11. The petitioner owns the tract of land that is at least 25 acres, for which it seeks streamlined expedited release.
12. The tract of land is not receiving water or sewer 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).
13. The petitioner is entitled under TWC § 13.2541(b) to the release of the tract of land from the CCN holder's certificated service areas.
14. Under TWC §§ 13.254(h) and 13.2541(a), after the date of this Order the CCN holder has no obligation to provide retail water or sewer service to the petitioner's tract of land.
15. The Commission may release only the property of the landowner from a CCN under TWC § 13.2541(b). The Commission has no authority to decertify any facilities or equipment

owned and operated by the CCN holder to provide retail water or sewer service through the streamlined-expedited-release process under TWC § 13.2541(b).

16. The Commission processed the petition in accordance with the TWC and Commission rules.
17. Under TWC § 13.257(r) and (s), the CCN holder is required to record certified copies of the approved certificates and maps, along with boundary descriptions of the service areas, in the real property records of Tarrant County no later than the 31st day after the date the CCN holder receives this Order.
18. A retail public utility may not under TWC § 13.254(d) provide retail water or sewer service to the public within the tract of land unless just and adequate 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 tract of land identified in the petition from the CCN holder's certificated service areas under CCN numbers 10195 and 20072.
2. The Commission does not decertify any of the CCN holder's equipment or facilities that may lay on or under the tract of land.
3. The Commission amends CCN numbers 10195 and 20072 in accordance with this Order.
4. The Commission approves the attached maps.
5. The Commission issues the attached certificates.
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 on the date 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 17th day of February 2022.

PUBLIC UTILITY COMMISSION OF TEXAS



HUNTER BURKHALTER
CHIEF ADMINISTRATIVE LAW JUDGE



Public Utility Commission of Texas

By These Presents Be It Known To All That

City of Denton

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, City of Denton is entitled to this

Certificate of Convenience and Necessity No. 10195

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. 52774 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 City of Denton 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.



Public Utility Commission of Texas

By These Presents Be It Known To All That

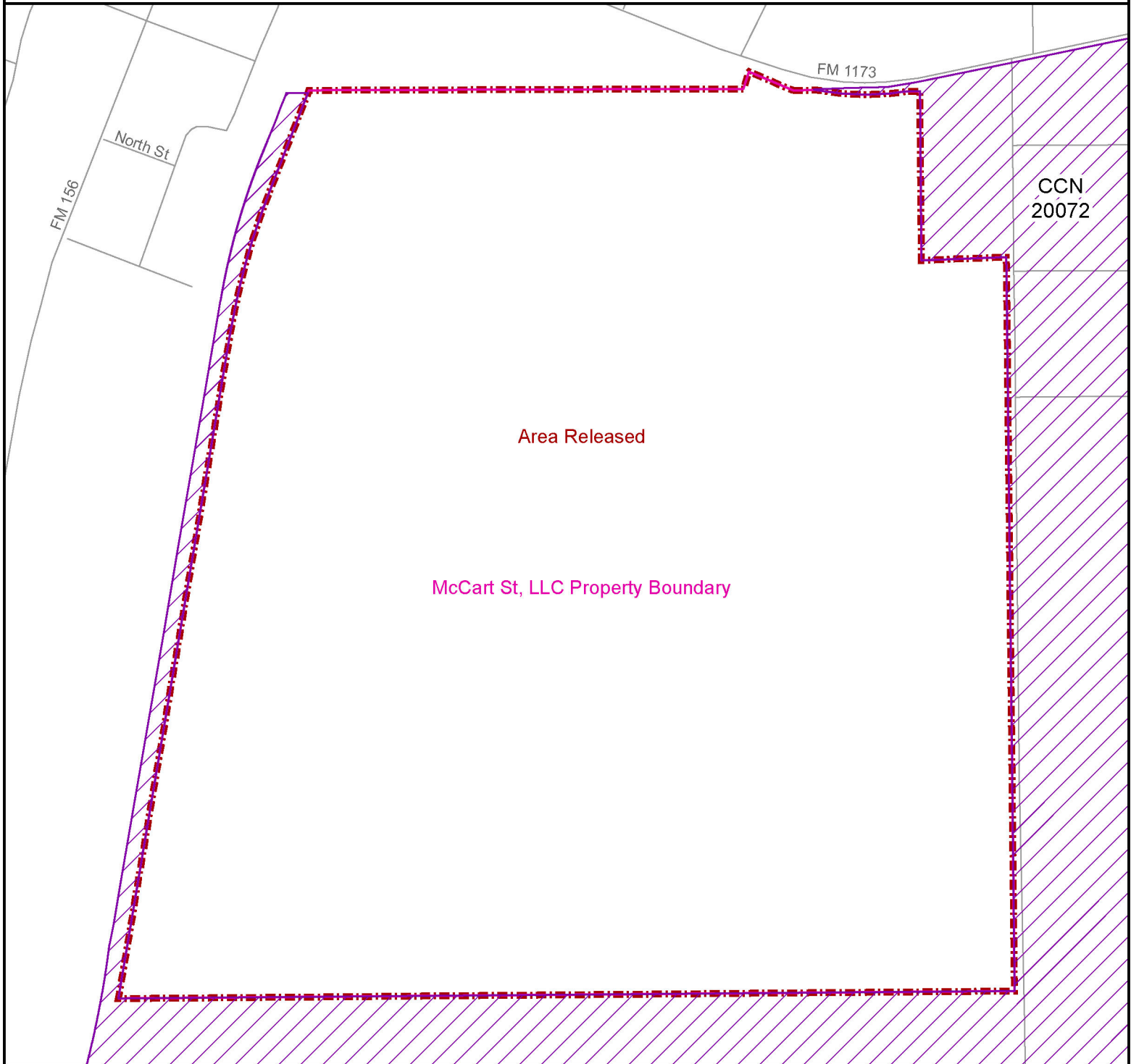
City of Denton

having obtained certification to provide sewer 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, City of Denton is entitled to this


Certificate of Convenience and Necessity No. 20072

to provide continuous and adequate sewer 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. 52774 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 City of Denton 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.

City of Denton
Portion of Sewer CCN No. 20072
PUC Docket No. 52774
Petition by McCart St, LLC to Amend
City of Denton's CCN by Expedited Release in Denton County



Sewer CCN

 20072 - City of Denton

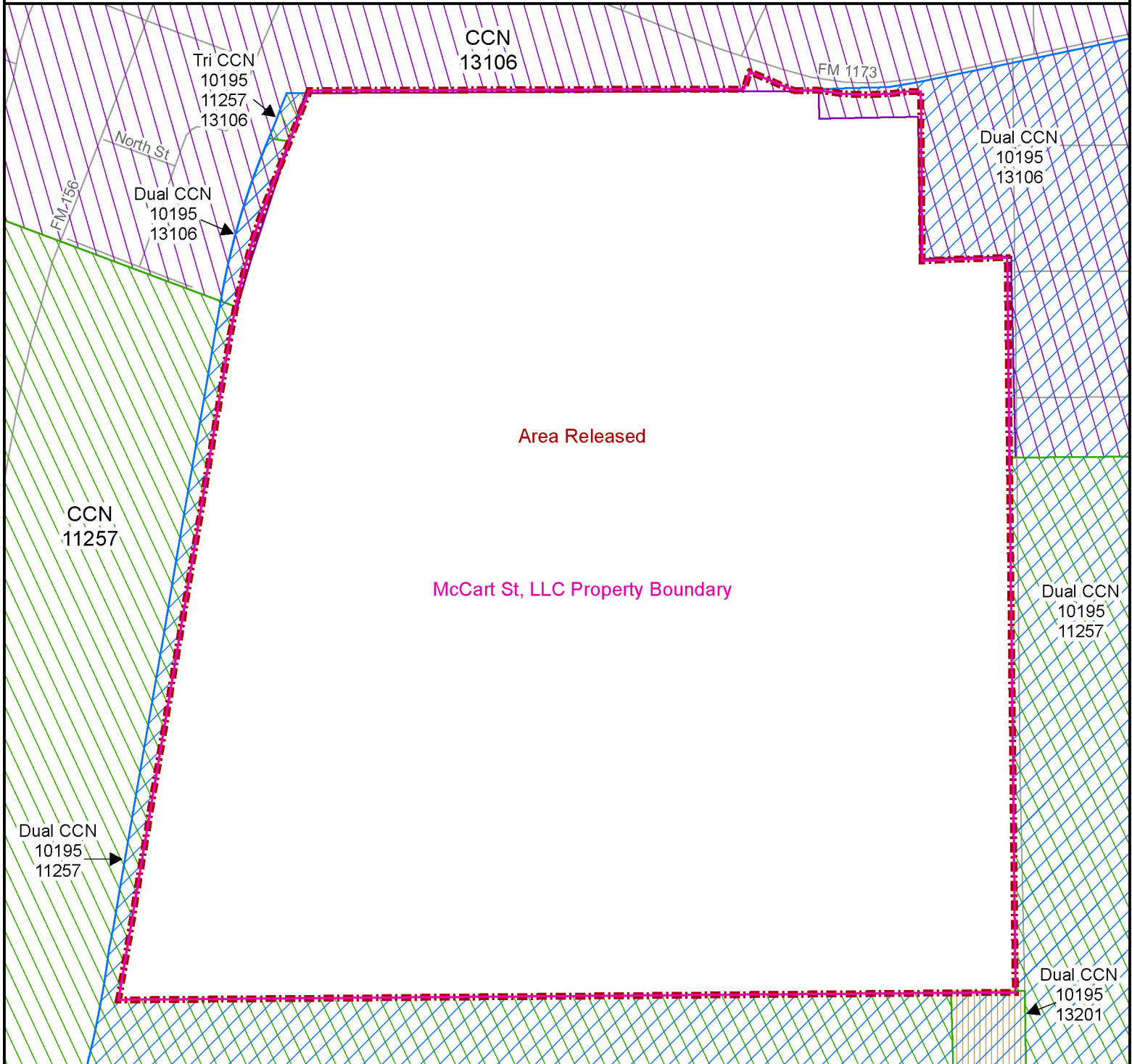
 Area Released

 Property Boundary

0 275 550
Feet







City of Denton
 Portion of Water CCN No. 10195
 PUC Docket No. 52774
 Petition by McCart St, LLC to Amend
 City of Denton's CCN by Expedited Release in Denton County



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

Water CCN

-  10195 - City of Denton
-  13106 - City of Krum
-  11257 - Bolivar WSC
-  13201 - Aqua Texas Inc

-  Area Released
-  Property Boundary

0 275 550
 Feet



Map by: Komal Patel
 Date: December 13, 2021
 Project: 52774CityofDenton.mxd