



## **Filing Receipt**

**Filing Date - 2023-07-31 12:10:56 PM**

**Control Number - 54813**

**Item Number - 8**

**DOCKET NO. 54813**

<b>APPLICATION OF CITY OF</b>	<b>§</b>	
<b>DONNA TO AMEND ITS</b>	<b>§</b>	<b>PUBLIC UTILITY COMMISSION</b>
<b>CERTIFICATE OF CONVENIENCE</b>	<b>§</b>	
<b>AND NECESSITY IN HIDALGO</b>	<b>§</b>	<b>OF TEXAS</b>
<b>COUNTY</b>	<b>§</b>	

**APPLICANT’S RESPONSE TO ORDER NO. 3**

COMES NOW, the City of Donna (“City”), applicant in the above-entitled and numbered Docket, and file this Response to Order No. 3. In support thereof, City shows the following:

**I. BACKGROUND**

On March 31, 2023, the City of Donna filed an application to amend Certificate of Convenience and Necessity (“CCN”) No. 20825 with the Public Utility Commission of Texas (“Commission”). The area involved in the proceeding currently contains zero customer accounts and approximately 80 undeveloped acres in Hidalgo County. The proposed amendment will enable the City to provide sewer service within the area. The area to which City seeks single certification is entirely within the incorporated boundaries of City and sewer service within the area is currently not certified to any entity.

On April 3, 2023, the Commission issued its **Order No. 1**, which required Commission Staff to file comments/recommendations regarding how this petition should be processed and whether or not the Application was sufficient for filing by May 1, 2023.

On May 1, 2023, Commission Staff filed its Recommendation on Administrative Completeness and Proposed Procedural Schedule. Commission Staff’s response to **Order No. 1**. Commission Staff found the Application incomplete and requested that the Applicant be allowed time to cure the noted deficiencies. Commission Staff’s response indicated that the noted deficiencies in the Application would be cured by Applicant’s submission of: 1) Applicant’s last Comprehensive Compliance Investigation (“CCI”) report from the Texas Commission on Environmental Quality (“TCEQ”); 2) (a) a general location map identifying only the requested service area in reference to the nearest county boundary, city or town; (b) a detailed map

identifying only the requested area in reference to verifiable man-made and natural landmarks such as roads, rivers and railroads; and (c) digital mapping data for the requested area as a single polygon record, in a shapefile (“SHP”) format, georeferenced in either NAD83 Texas Statewide Mapping System (“Meters”) or NAD833 Texas State Plane Coordinate System (“US Feet”).

On May 2, 2023, the Commission issued its **Order No. 2**, which set a deadline of June 1, 2023 for the Applicant to amend the Application by submitting: 1) Applicant’s last CCI report from the TCEQ; 2) (a) a general location map identifying only the requested service area in reference to the nearest county boundary, city or town; (b) a detailed map identifying only the requested area in reference to verifiable man-made and natural landmarks such as roads, rivers, and railroads; and (c) digital mapping data for the requested area as a single polygon record, in a SHP format, georeferenced in either NAD83 Texas Statewide Mapping System (“Meters”) or NAD833 Texas State Plane Coordinate System (“US Feet”).

On June 7, 2023, Applicant filed its 2022 audited financial statements and adopted 2023 budget to supplement financial information submitted with the Application filed with the Commission on March 31, 2023.

On July 5, 2023, the Commission Staff filed its Recommendation on Administrative Completeness and Proposed Procedural Schedule determining that the Application remains administratively incomplete because it continues to contain material deficiencies as specifically described in Commission Staff’s May 1, 2023 filing and recommending that Applicant have until August 1, 2023 to cure the deficiencies.

On July 6, 2023, the Commission issued **Order No. 3** which set a deadline of August 1, 2023 for the Applicant to cure the deficiencies to the Application by submitting 1) Applicant’s last CCI report from the TCEQ; 2) (a) a general location map identifying only the requested service area in reference to the nearest county boundary, city or town; (b) a detailed map identifying only the requested area in reference to verifiable man-made and natural landmarks such as roads, rivers and railroads; and (c) digital mapping data for the requested area as a single polygon record, in a

SHP format, georeferenced in either NAD83 Texas Statewide Mapping System (“Meters”) or NAD833 Texas State Plane Coordinate System (“US Feet”), as set forth in Chase Lipscomb’s Memorandum of July 1, 2023.

Applicant hereby responds to Staff’s recommendations of July 6, 2023, recommending that the Applicant amend the Application by submitting: 1) Applicant’s last CCI report from the TCEQ; 2) (a) a general location map identifying only the requested service area in reference to the nearest county boundary, city or town; (b) a detailed map identifying only the requested area in reference to verifiable man-made and natural landmarks such as roads, rivers and railroads; and (c) digital mapping data for the requested area as a single polygon record, in a SHP format, georeferenced in either NAD83 Texas Statewide Mapping System (“Meters”) or NAD833 Texas State Plane Coordinate System (“US Feet”), as attached hereto as Exhibits “A” through “D” inclusive.

## **II. CONCLUSION**

Applicant respectfully requests that the documents attached hereto in response to PUC **Order No. 3**: 1) Applicant’s last CCI report from the TCEQ; 2) (a) a general location map identifying only the requested service area in reference to the nearest county boundary, city or town; (b) a detailed map identifying only the requested area in reference to verifiable man-made and natural landmarks such as roads, rivers and railroads; and (c) digital mapping data for the requested area as a single polygon record, in a SHP format, georeferenced in either NAD83 Texas Statewide Mapping System (“Meters”) or NAD833 Texas State Plane Coordinate System (“US Feet”), as attached herewith, be filed of record and that the Commission enter its Order finding the Application sufficient for filing.

Dated: July 31, 2023

Respectfully submitted:

/s/ Richard W. Fryer  
Richard W. Fryer  
State Bar No. 24085316

Brian J. Hansen  
State Bar No. 24072139

**FRYER & HANSEN, PLLC**  
1352 W. Pecan Blvd.  
McAllen, Texas 78501  
Telephone: (956) 686-6606  
Facsimile: (956) 686-6601  
Email: [email@fryerandhansen.com](mailto:email@fryerandhansen.com)

ATTORNEYS FOR  
CITY OF DONNA, TEXAS

DOCKET NO. 54813  
CERTIFICATE OF SERVICE

I certify that, unless otherwise ordered by the presiding officer, notice of the filing of this document will be provided to all parties of record via electronic mail on the 31st day of July, 2023 in accordance with the Second Order Suspending Rules, Issued in Project No. 50664.

Marisa Lopez Wagley, Division Director  
**Marisa.Wagley@puc.texas.gov**  
John Harrison, Senior Managing Attorney  
**John.Harrison@puc.texas.gov**  
Kevin Pierce  
**Kevin.Pierce@puc.texas.gov**  
Public Utility Commission of Texas  
Legal Division  
P. O Box 13326  
Austin, Texas 78711-3326  
Public Utility Commission Staff

/s/ Richard W. Fryer  
Richard W. Fryer

**SECOND ORDER SUSPENDING RULES,  
ISSUED IN PROJECT NO. 50664**



Control Number: 50664



Item Number: 3

Addendum StartPage: 0

ISSUES RELATED TO THE STATE OF  
DISASTER FOR THE CORONAVIRUS  
DISEASE 2019

§  
§  
§

2020 MAR 16 PM 3:10  
PUBLIC UTILITY COMMISSION  
PUBLIC UTILITY COMMISSION  
OF TEXAS  
FILING CLERK

### ORDER SUSPENDING RULES

In light of the ongoing health crisis created by the coronavirus, and under the authority found in 16 Texas Administrative Code (TAC) § 22.5(a), the Commission finds that there exists a public emergency and imperative public necessity for suspending the following rules:

- 1) Any provision in chapters 22, 24, 25, and 26 of title 16 of the Texas Administrative Code requiring that pleadings and documents in any Commission proceeding be physically filed with the Commission, and any rule that specifies the form or manner of such physical filings or requires that pleadings or documents be served on any party by a method other than email.
- 2) Any provision in chapters 22, 24, 25, and 26 of title 16 of the Texas Administrative Code requiring that the Commission act by a certain date, unless that requirement is also found in statute.
- 3) Any provision in chapters 22, 24, 25, and 26 of title 16 of the Texas Administrative Code requiring that filings be made in a certain amount of time or that the presiding officer act by a certain date, unless that requirement is also found in statute.

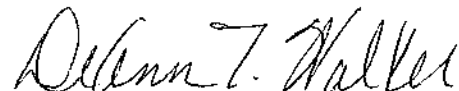
Such suspension will best serve the public interest and will not prejudice the rights of any party.

Accordingly, it is hereby ordered that, until the Governor's disaster declaration is terminated, in any Commission proceeding which has been assigned a docket number, tariff number, or project number, all parties must file any pleading or document with the Commission solely through the Interchange on the Commission's website and provide notice, by email, to all other parties that the pleading or document has been filed with the Commission, unless otherwise ordered by the presiding officer. It will be incumbent upon all other parties to obtain a copy of the pleading or document by accessing the Interchange.



Signed at Austin, Texas the 16th day of March 2020.

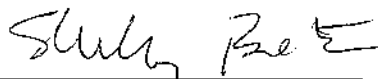
**PUBLIC UTILITY COMMISSION OF TEXAS**



**DEANN T. WALKER, CHAIRMAN**



**ARTHUR C. D'ANDREA, COMMISSIONER**



**SHELLY BOTKIN, COMMISSIONER**

W2013

q:\cadm\orders\misc.orders\5xxxx\50664 fo coronavirus.docx

**EXHIBIT “A”**

**APPLICANT’S LAST COMPREHENSIVE COMPLIANCE  
INVESTIGATION REPORT  
FROM THE TCEQ**

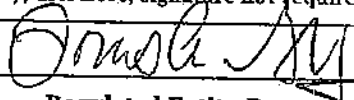
TCEQ EXIT INTERVIEW FORM: Potential Violations and/or Records Requested					
Regulated Entity/Site Name	City of Donna			TCEQ Add. ID No. RN No. (optional)	1080002
Investigation Type	CCI	Contact Made In-House (Y/N)	Y	Purpose of Investigation	PWS CCI
Regulated Entity Contact	Jose Tanguma		Telephone No.	956.464.3314	Date Contacted 11/2/2022
Title	Lead Water Operator		Fax No.		Date Faxed

NOTICE: The information provided in this form is intended to provide clarity to issues that have arisen during the investigation process between the TCEQ and the regulated entity named above and does not represent final TCEQ findings related to violations. Any potential or alleged violations discovered after the date on this form will be communicated by telephone to the regulated entity representative prior to the issuance of a notice of violation or enforcement. Conclusions drawn from this investigation, including additional violations or potential violations discovered (if any) during the course of this investigation, will be documented in a final investigation report.

Issue		For Records Request: Identify the necessary records, the company contact and date due to the agency. For Alleged and Potential Violation issues: include the rule in question with the clearly described potential problem. Other type of issues: fully describe.	
No.	Type <sup>1</sup>	Rule Citation (if known)	Description of Issue
1	RR	290.46(l)	12 months records for flushing logs
2	RR	290.46(n)	Copy of distribution map
3	RR	290.46(f)(3)(A)(iii)	12 months of complaint records
4	RR	290.42(j)	Record of ANSI/NSF Standard 60 day certification for direct additives
5	RR	290.46(i)	Verification of adopted Plumbing Code, Ordinance or Service Agreement
6	RR	290.111(d)(2)(B)	Copy of current CT study
7	RR	290.45(b-f)	Records of equipment capacities

<sup>1</sup>Issue Type Can Be One or More of: AV (Alleged Violation), PV (Potential Violation), O (Other), or RR (Records Request)

Did the TCEQ document the regulated entity named above operating without proper authorization?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Did the investigator advise the regulated entity representative that continued operation is not authorized?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

Document Acknowledgment. Signature on this document establishes only that the regulated entity (company) representative received a copy of this document and associated continuation pages on the date noted. If contact was made by telephone, document will be faxed to regulated entity; therefore, signature not required.			
Maritza Torres	11/29/2022		12-1-22
Investigator Name (Signed & Printed)	Date	Regulated Entity Representative Name (Optional)	Date

If you have questions about any information on this form, please contact your local TCEQ Regional Office.

Individuals are entitled to request and review their personal information that the agency gathers on its forms. They may also have any errors in their information corrected. To review such information, call 512-239-3282.

# TCEQ EXIT INTERVIEW FORM: Potential Violations and/or Records Requested

Regulated Entity/Site Name	City of Donna			TCEQ Add. ID No. RN No. (optional)	1080002
Investigation Type	CCI	Contact Made In-House (Y/N)	Y	Purpose of Investigation	PWS CCI
Regulated Entity Contact	Jose Tanguma			Telephone No.	956.464.3314
Title	Lead Water Operator			Fax No.	
				Date Contacted	11/2/2022
				Date Faxed	

**NOTICE:** The information provided in this form is intended to provide clarity to issues that have arisen during the investigation process between the TCEQ and the regulated entity named above and does not represent final TCEQ findings related to violations. Any potential or alleged violations discovered after the date on this form will be communicated by telephone to the regulated entity representative prior to the issuance of a notice of violation or enforcement. Conclusions drawn from this investigation, including additional violations or potential violations discovered (if any) during the course of this investigation, will be documented in a final investigation report.

Issue		For Records Request: identify the necessary records, the company contact and date due to the agency. For Alleged and Potential Violation issues: include the rule in question with the clearly described potential problem. Other type of issues: fully describe.	
No.	Type <sup>1</sup>	Rule Citation (if known)	Description of Issue
8	RR	290.42(k)(2)	Copy of Risk Management Plan
9	RR	290.42(l)	Copy of Plant Operation Manual
10	PV	290.46(f)(3)(A)(i)	Failure to maintain records of amount and type of chemicals used

<sup>1</sup>Issue Type Can Be One or More of: AV (Alleged Violation), PV (Potential Violation), O (Other), or RR (Records Request)

Did the TCEQ document the regulated entity named above operating without proper authorization?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Did the investigator advise the regulated entity representative that continued operation is not authorized?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

Document Acknowledgment. Signature on this document establishes only that the regulated entity (company) representative received a copy of this document and associated continuation pages on the date noted. If contact was made by telephone, document will be faxed to regulated entity; therefore, signature not required.

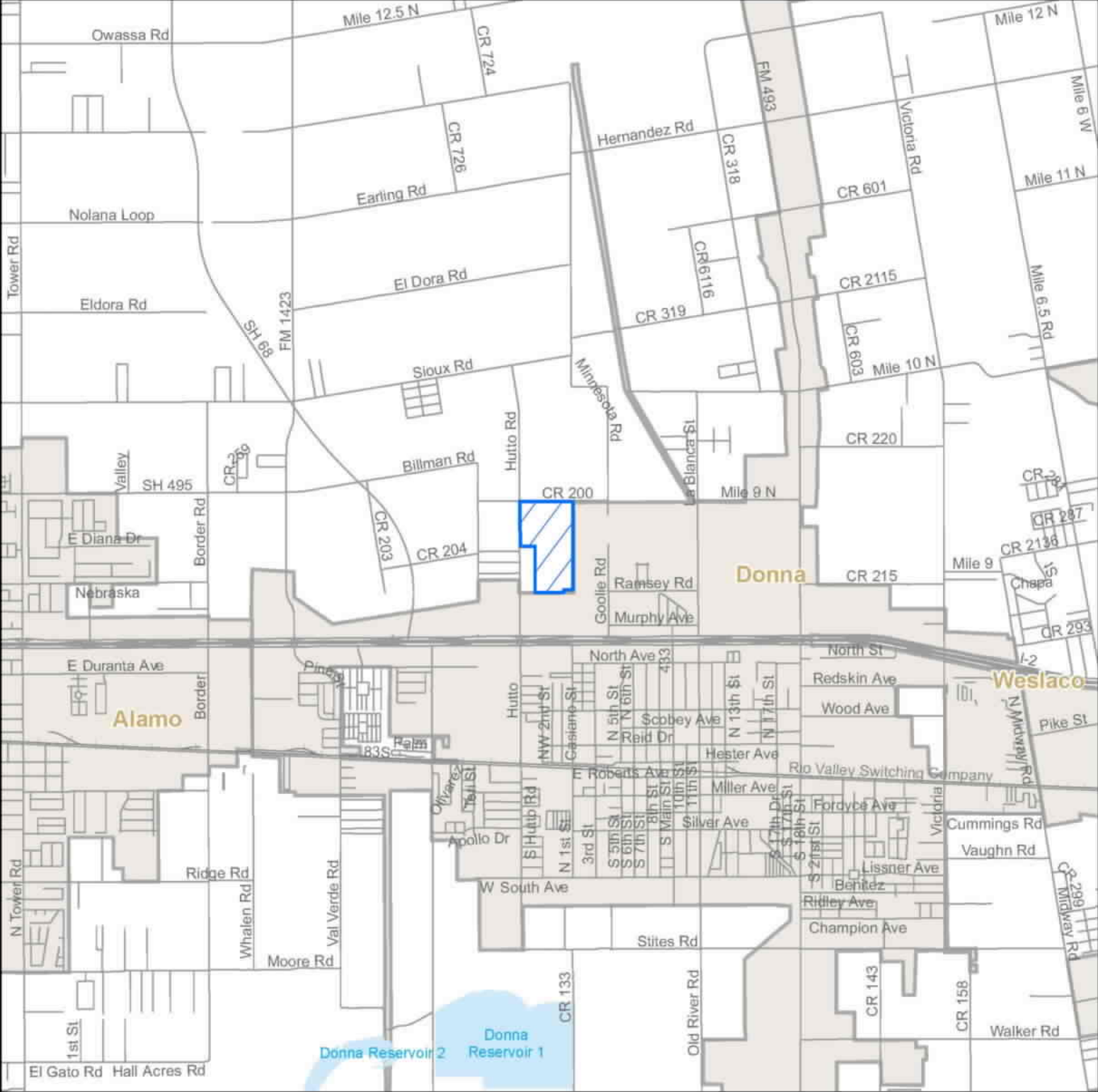
Maritza Torres	11/29/2022		
Investigator Name (Signed & Printed)	Date	Regulated Entity Representative Name (Optional)	Date

If you have questions about any information on this form, please contact your local TCEQ Regional Office.  
Individuals are entitled to request and review their personal information that the agency gathers on its forms. They may also have any errors in their information corrected. To review such information, call 512-239-3282.

## **EXHIBIT “B”**

**GENERAL LOCATION MAP IDENTIFYING ONLY THE  
REQUESTED SERVICE AREA IN REFERENCE TO THE  
NEAREST COUNTY BOUNDARY, CITY OR TOWN**

**Amend City of Donna (CCN No. 20825) in Hidalgo County**



### General Location Map



### Legend

Created by: M. Heller  
Date Created: 7/19/2023



 Requested Area to Amend (Add)

Feet 0 2,000 4,000

## **EXHIBIT “C”**

**DETAILED MAP IDENTIFYING ONLY THE  
REQUESTED AREA IN REFERENCE TO VERIFIABLE  
MAN-MADE AND NATURAL LANDMARKS SUCH AS  
ROADS, RIVERS AND RAILROADS**

**Amend City of Donna (CCN No. 20825) in Hidalgo County**

The map illustrates the proposed City Limits of Donna, Texas. Key features include:

- Roads:** Major roads shown include El Dora Rd, Sioux Rd, Billman Rd, FM 1423, SH 68, CR 203, CR 204, Hutto Rd, Minnesota Rd, Mile 10 N, Mile 9 N, FM 493, North Ave, Carroll Rd, N Valley View Rd, and Rio Valley Switching Company Rd.
- Streets:** Numerous streets are labeled, including Rebecca St, Marie St, CR 197, CR 200, CR 209, CR 211, CR 215, CR 318, CR 319, CR 273, Celia St, Dove Rd, La Blanca St, Ramsey Rd, Murphy Ave, Ray St, N 11th St, N 12th St, N 13th St, N 14th St, N 15th St, N 16th St, N 17th St, N 18th St, N 19th St, N 20th St, N 21st St, N 22nd St, N 23rd St, N 24th St, N 25th St, N 26th St, N 27th St, N 28th St, N 29th St, N 30th St, N 31st St, N 32nd St, N 33rd St, N 34th St, N 35th St, N 36th St, N 37th St, N 38th St, N 39th St, N 40th St, N 41st St, N 42nd St, N 43rd St, N 44th St, N 45th St, N 46th St, N 47th St, N 48th St, N 49th St, N 50th St, N 51st St, N 52nd St, N 53rd St, N 54th St, N 55th St, N 56th St, N 57th St, N 58th St, N 59th St, N 60th St, N 61st St, N 62nd St, N 63rd St, N 64th St, N 65th St, N 66th St, N 67th St, N 68th St, N 69th St, N 70th St, N 71st St, N 72nd St, N 73rd St, N 74th St, N 75th St, N 76th St, N 77th St, N 78th St, N 79th St, N 80th St, N 81st St, N 82nd St, N 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Created by: M. Heller  
Date Created: 7/19/2023



Feet 0 1,000 2,000



## **EXHIBIT “D”**

**DIGITAL MAPPING DATA FOR THE REQUESTED  
AREA AS A SINGLE POLYGON RECORD, IN A SHP  
FORMAT, GEOREFERENCED IN EITHER NAD83  
TEXAS STATEWIDE MAPPING SYSTEM (“METERS”)  
OR NAD83 TEXAS STATE PLANE COORDINATE  
SYSTEM (“US FEET”)**

*[SUBMITTED ELECTRONICALLY HEREWITH]*

**Richard W. Fryer**  
J.D., P.E., LEED AP

**FRYER & HANSEN, P.L.L.C.**

*Law Firm*  
1352 W. Pecan Blvd.  
McAllen, Texas 78501

Telephone 956-686-6606  
Telefax 956-686-6601  
[email@fryerandhansen.com](mailto:email@fryerandhansen.com)

July 31, 2023

**Via: <https://interchange.puc.texas.gov/Filer>**

Central Records Public Utility Commission  
1701 N. Congress Avenue  
Suite 8-100  
Austin, TX 78701

**Re: *PUC Docket No. 54813;***  
***Application of the City of Donna to Amend its Certificate of Convenience***  
***and Necessity in Hidalgo County***

Dear Clerk:

Please find attached this Applicant's Response to Order No. 3 with revised maps and shapefile in the referenced PUC Docket No. 54813, as follows:

- Revised detailed map;
- Revised general location map; and
- Revised shapefile

The approximate total acreage for the area requested and number of customer connections are:

- Approximate total acreage for the requested area (81 acres); and
- Number of customer connections: 325

Please contact the undersigned if you have any questions regarding this filing. Thank you.

Sincerely,

/s/ Richard W. Fryer

Richard W. Fryer

The following files are not convertible:

Requested\_Area.cpg  
Requested\_Area.dbf  
Requested\_Area.prj  
Requested\_Area.sbn  
Requested\_Area.sbx  
Requested\_Area.shp  
Requested\_Area.shp.xml  
Requested\_Area.shx

Please see the ZIP file for this Filing on the PUC Interchange in order to access these files.

Contact [centralrecords@puc.texas.gov](mailto:centralrecords@puc.texas.gov) if you have any questions.