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DOCKET NO. 55154

APPLICATION OF THE CITY OF PHARR	§	PUBLIC UTILITY COMMISSION
TO AMEND ITS CERTIFICATE OF	§	
CONVENIENCE AND NECESSITY IN	§	OF TEXAS
HIDALGO COUNTY	§	

CITY OF PHARR'S RESPONSE TO ORDER NO. 2

On July 17, 2023, the Administrative Law Judge issued Order No. 2 requiring the City of Pharr (City) to supplement its application to cure deficiencies as described in the July 17, 2023 memoranda from Jolie Mathis and Fred Bednarski, III, attached to the Commission Staff's recommendation. Order No. 2 directed the City to submit the additional information by August 17, 2023. The City requested an extension to September 6, 2023, which was granted. Therefore, this Response is timely filed.

The Commission Staff requested the following information:

1. Proof that a request for a new wastewater permit, if applicable, for an additional facility that will provide service to the requested area has been submitted to the Texas Commission on Environmental Quality;
2. Resolution of overlaps between the requested area with the boundaries of Edinburg and San Juan;
3. A detailed budget of all costs required to provide sewer service to the entire requested areas and the source of funds to pay for each of the improvements; and
4. A facilities map showing the location of the wastewater treatment facilities, collection system and connections to serve the requested area per phase and a timeline of completion of each phase.

The City responds as follows:

1. The City has an existing wastewater treatment facility that is permitted to treat and dispose of 8.0 million gallons per day of treated wastewater. A copy of the permit is attached to the City's application behind Attachment 6. It is Appendix C to the Wastewater Master Plan. The City does not need to amend this permit or to obtain an additional permit to serve the requested areas.
2. The City has revised its service area request to remove the overlaps with the cities of Edinburg and San Juan. The new acreage is 510.02 acre for the northern requested area, and 168.93 acres for the southern requested area.
3. The City currently provides wastewater service to a significant portion of the area it is requesting in the northern part of the City. Please see the Facilities Map attached to the application as part of Attachment 9, and the more detailed map attached hereto. The City does not need additional facilities or improvements to serve the areas it is already serving. With respect to development of open space in the northern requested area and the southern requested area, the City's Code of Ordinances require subdividers to construct and dedicate to the City all onsite and offsite sanitary sewers necessary to serve the subdivided property. These facilities must be completed and installed before the City will issue the final plat. See Pharr's Code of Ordinances Nos. 118-48, 118-206, and 118-207 attached hereto. Thus, the City does not budget for the construction of these facilities, as they are paid for by the developers.
4. Attached to the application under Attachment 9 is a Facilities Map. A more detailed map of the northern requested area showing the collection system in that area is attached hereto. Most of the northern requested area is already served by the City. With respect to the unserved tracts of land in the northern and southern requested areas, as per the City's

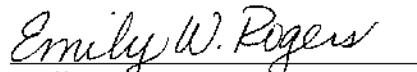
ordinances, the developer of the property is required to construct and dedicate to the City all onsite and offsite sanitary sewers necessary to serve the subdivided property. The timing of the construction of the facilities and the phasing of the development is dependent on the developer. However, facilities that are necessary to serve the property must be completed and installed before the City will issue the final plat. See Pharr's Code of Ordinances Nos. 118-48, 118-206, and 118-207.

Respectfully submitted,

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BY:


Emily W. Rogers

CERTIFICATE OF SERVICE

I certify that a copy of this document was served on all parties of record on September 6, 2023, in accordance with the requirements of 16 Tex. Admin. Code § 22.74 and PUC Order No. 2 in Docket No. 50664.


Emily W. Rogers

(a) *Generally.*

- (1) The subdivider shall dedicate, at his own cost, such rights-of-way and construct such water mains, water lines, fire hydrants, sanitary sewers, storm sewers and drainage ditches of such a size as to adequately serve the area being subdivided, as determined by the director of planning. All facilities shall be constructed in accordance with city standards.
- (2) In all subdivision developments, dwelling units (single-family, duplexes, townhouses, multifamily, apartments, condominiums and cluster developments) shall be connected to sanitary sewer mains by approved sewer lines, except where septic tanks are approved by the planning and zoning commission.
- (3) If the city should require the dedication of additional right-of-way or the construction of storm sewers, drainage ditches, sanitary sewers or water mains of a size greater than required for the subdivision alone, the city shall, within one year after date of approval of the final construction plans, provided construction has been completed within such one-year period and in accordance with approved construction plans, reimburse the subdivider for any increased cost of such facilities upon acceptance of such facilities by the city.
- (4) The subdivider shall provide, prior to the beginning of any such subdivision improvements, a guarantee of performance in accordance with section 118-207. Upon the completion of the system and acceptance by the city, the installation shall become the property of the city to operate and maintain.

(b) *Responsibility for installation.*

- (1) *Contributions to construction of water lines.* The subdivider's contribution to the cost of water service to the subdivision shall be an amount equal to the installed cost, including all labor, ditching, engineering and material, including pipes, fire hydrants, valves, fittings and other appurtenances necessary to furnish water service to the subdivision. The city has adopted water tapping fees, and these shall be paid according to such fee schedule prior to installation of water lines (see section 118-49). If any part of the water line is required to be larger than that necessary to serve the subdivision, in order to provide the service elsewhere in the city water system, the city shall pay for the pipe in excess of the size required of the developer, as soon as funds can be made available. For purposes of this section, water lines eight inches or less in diameter are considered to be necessary for any subdivision development; therefore, the city will not participate in the cost of providing lines equal to or less than eight inches in diameter.

Where a developer is required to extend a water line to reach his subdivision, and such extension is 300 feet or longer, the developer may obtain reimbursement from other landowners who tie onto such line, if by resolution the city commission shall deem it just and

fair that such reimbursement should be forthcoming. Such reimbursement shall apply only to the cost of constructing off-site lines and shall recognize that the subdivider may not recover his own share of such expenses from third parties. Further, this provision shall not apply to a looped line where the developer is required to loop water lines as a requirement for approval of a developer's subdivision.

In addition to the amount of reimbursement to be charged to the party requesting to tie on to the water line, the city shall recover a fee of \$25.00 from each such party requesting to tie on, such fee to cover the costs to the city of administering such reimbursement program.

- (2) *Contribution to construction of wastewater lines.* The subdivider's contribution to the cost of wastewater service to the subdivision shall be equal to the installed cost, including all labor, ditching, engineering and material, including pipe, lift stations, manholes and appurtenances necessary to furnish wastewater service to the subdivision. The city has adopted wastewater tapping fees, and these shall be paid according to such fee schedule prior to installation of wastewater lines (see section 118-49). If any part of the wastewater line is required to be larger than that necessary to serve the subdivision, in order to provide the service necessary elsewhere in the city wastewater system, the city shall, provided funds are available, pay for the pipe in excess of the size required of the developer. For purposes of this section, wastewater lines of eight inches or less in diameter are considered to be necessary to serve any subdivision development; therefore, the city will not participate in the cost of providing lines equal to or less than eight inches in diameter.
- (3) *Installation of drainage system.* The subdivider shall be responsible for providing an adequate drainage system, consisting of pipes, swales, natural features and manmade improvements that effectively carry runoff created by the development of the site.
- (4) *Bridges and/or large drainage structures.* Provided that funds are available, the city may participate in the extra cost of bridges and/or large drainage structures on principal streets shown on the major thoroughfare plan.
- (c) *Extension of city facilities.* To properly serve a subdivision, it may be necessary to extend existing city utilities and/or drainage facilities. When these extensions of facilities are constructed outside the proposed subdivision, they are referred to in this subsection as off-site improvements. The subdivider shall install at his own expense off-site improvements of such size to adequately serve the area being subdivided. However, the city may require the construction of off-site improvements of a size greater than set out in this subsection; and the city may within one year after the date of approval of the final construction plans, provided construction has been completed within such one-year period and in accordance with approved construction plans, shall, upon approval, reimburse the subdivider for any increased cost of such facilities.

(d)

Bid tabulation sheet and construction contract requirements. Before any subdivider shall be entitled to reimbursement of any funds under this section, he shall furnish the city with a signed copy of the bid tabulation sheet which has been accepted by him for construction of the improvements for which the reimbursement is to be made, as well as a copy of the construction contract between such subdivider and the contractor.

(Code 1976, § 30-63)

Sec. 118-206. - Recordation.

- (a) After approval of the final plat, the city commission shall cause the director of planning to record the final plat with the county clerk upon the subdivider's performance of one of the following:
- (1) Completion of the construction of required improvements prior to recordation in compliance with this section.
 - (2) Filing of security in lieu of completing construction prior to recordation in a form approved by the city attorney, and in compliance with this section.

Upon such recordation of the final plat with the county clerk, the director of planning shall notify the Hidalgo County Irrigation District No. 2 of the volume and page numbers of such recordation.

- (b) In addition to the performance required under subsection (a) of this section, the subdivider shall provide the following to the director of planning:
- (1) Tax certificates from the city, county and school district showing that no taxes are currently due or delinquent against the property.
 - (2) An agreement waiving any claims for damages against the city and placing responsibility for any damages occasioned by the alteration by the subdivider of the surface of any portion of existing streets and alleys. Such agreement to be required of the subdivider shall be in the following form:

CITY OF PHARR

Pharr, Texas

In accordance with section 118-206 of the City of Pharr subdivision ordinance and in consideration of the approval of _____ Subdivision, _____ (Printed name of owner) does hereby waive any and all claims for damages against the City of Pharr, Hidalgo County, Texas, and accepts responsibility for any damages occasioned by the establishment of grades or the alteration of the surface of any portion of existing streets and alleys to conform to the grades established in the above-named subdivision.

	<p>_____</p> <p>(Signature of Owner of Subdivision)</p>
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- (3) The original and one reproducible copy of the approved final plat, together with one reproducible set and four copies of the approved construction plans, shall be delivered to the director of planning. One reproducible set of as-built construction plans are required if completion of construction improvements precedes recordation of final plat. In all cases, a reproducible set of as-built construction plans will be required. The city will refuse to issue building permits within a subdivision that has not provided as-built construction plans.
- (4) The subdivider shall provide the city with sufficient evidence that he holds fee simple title to the property being subdivided.
- (5) The subdivider shall provide dedication of all streets, alleys, parks, easements and other land intended for public use, signed by the owners and by all other persons owning an interest in the property subdivided and platted, which shall be acknowledged in the manner prescribed by the laws of the state for conveyance of real property and shall be submitted and attached to or placed in the final plat in accordance with the provisions of section 118-203(e)(10).
- (6) No plat shall be filed of record without the written consent of the subdivider. If the subdivider fails to give such written consent within 30 days of the date of satisfaction of the requirements of this section, the planning and zoning commission may at any time thereafter cancel such approval.

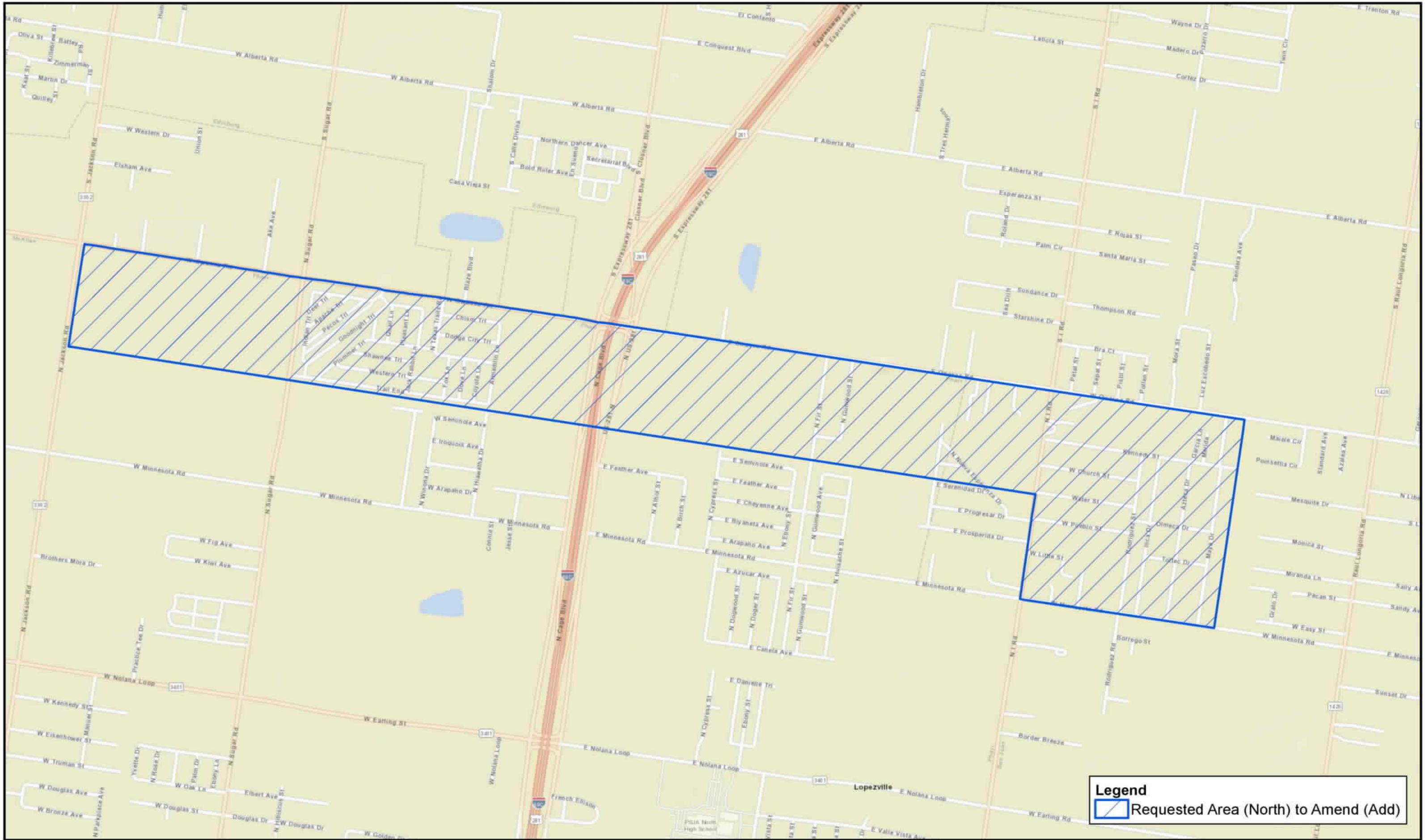
(Code 1976, § 30-44(f))

Sec. 118-207. - Guarantee of performance.

- (a) If under section 118-206 the subdivider chooses to construct the required improvements prior to recordation of the final plat, all such construction shall be inspected while in progress by the appropriate city department, and must be approved upon completion by the director of public works or his authorized representative. A certificate by such officer stating that the construction conforms to the specifications and standards contained in or referred to in this article must be presented to the director of planning prior to recordation of the final plat.
- (b) If the subdivider chooses to file security in lieu of completing construction prior to the final plat approval for recordation, he may utilize one of the following methods of posting security. If the subdivider chooses to file security, the plat shall not be approved for recordation unless the subdivider has done one of the following:
 - (1) *Performance bond.* The developer has filed with the director of planning a bond executed by a surety company holding a license to do business in the state, and acceptable to the city, in an amount equal to the cost of the improvements required by this chapter, and within the time for completion of the improvements as estimated by the director of public works. The performance bond shall be approved as to form and legality by the city attorney.

- (2) *Trust agreement.* The developer has placed on deposit in a bank or trust company, in the name of the city and approved by the city, in a trust account, a sum of money equal to the estimated cost of all site improvements required by this chapter, the cost and time of completion as estimated by the director of public works. Selection of the trustee shall be executed on the form provided by the city and approved as to form and legality by the city attorney. Periodic withdrawals may be made from the trust account for a progressive payment of installation cost. The amounts of such withdrawals shall be based upon progress and work estimates approved by the director of public works. All such withdrawals shall be approved by the trustee.
- (3) *Unconditional guarantee from local banks or local federally insured savings and loan associations, or other financial institutions approved by the city.* The developer has filed with the director of planning a letter, on the form provided by the city, signed by the principal officer of a local bank or local federally insured savings and loan association or other financial institution acceptable to the city, agreeing to pay to the city, on demand, a stipulated sum of money to apply to the estimated cost of installation of all improvements for which the subdivider or developer is responsible under this chapter. The guaranteed payment sum shall be estimated costs and scheduling as approved by the director of public works. The letter shall state the name of the subdivision and shall list the improvements for which the subdivider or developer is required to provide.
- (c) Acceptance or rejection of construction. If one of the three types of security is filed by the subdivider under subsection (b) of this section, the director of public works shall inspect the construction of the improvements while in progress, and he shall inspect each improvement upon completion of construction. After final inspection, he shall notify the subdivider and the planning director in writing as to his acceptance or rejection of the construction. He shall reject such construction only if it fails to comply with the standards and specifications contained or referred to in this chapter. If he rejects such construction, the planning director shall, on direction of the city commission, proceed to enforce the guarantee provided in this chapter.
- (d) Extension of time. Where good cause exists, the director of public works may extend the period of time required for completion under subsection (b) of this section. Such extension of time shall be reported to the director of planning. No such extension shall be granted unless security as provided in subsection (b) of this section has been provided by the subdivider covering the extended period of time.
- (e) Engineer's certificate. Upon the completion of construction, a certificate shall be provided, signed by the subdivision's registered engineer, that any and all improvements constructed in the subdivision have been completed in accordance with the approved construction plans, and that all monuments and lot markers have been properly located and placed in accordance with this chapter as applicable.

(Code 1976, § 30-44(g))



Legend
Requested Area (North) to Amend (Add)



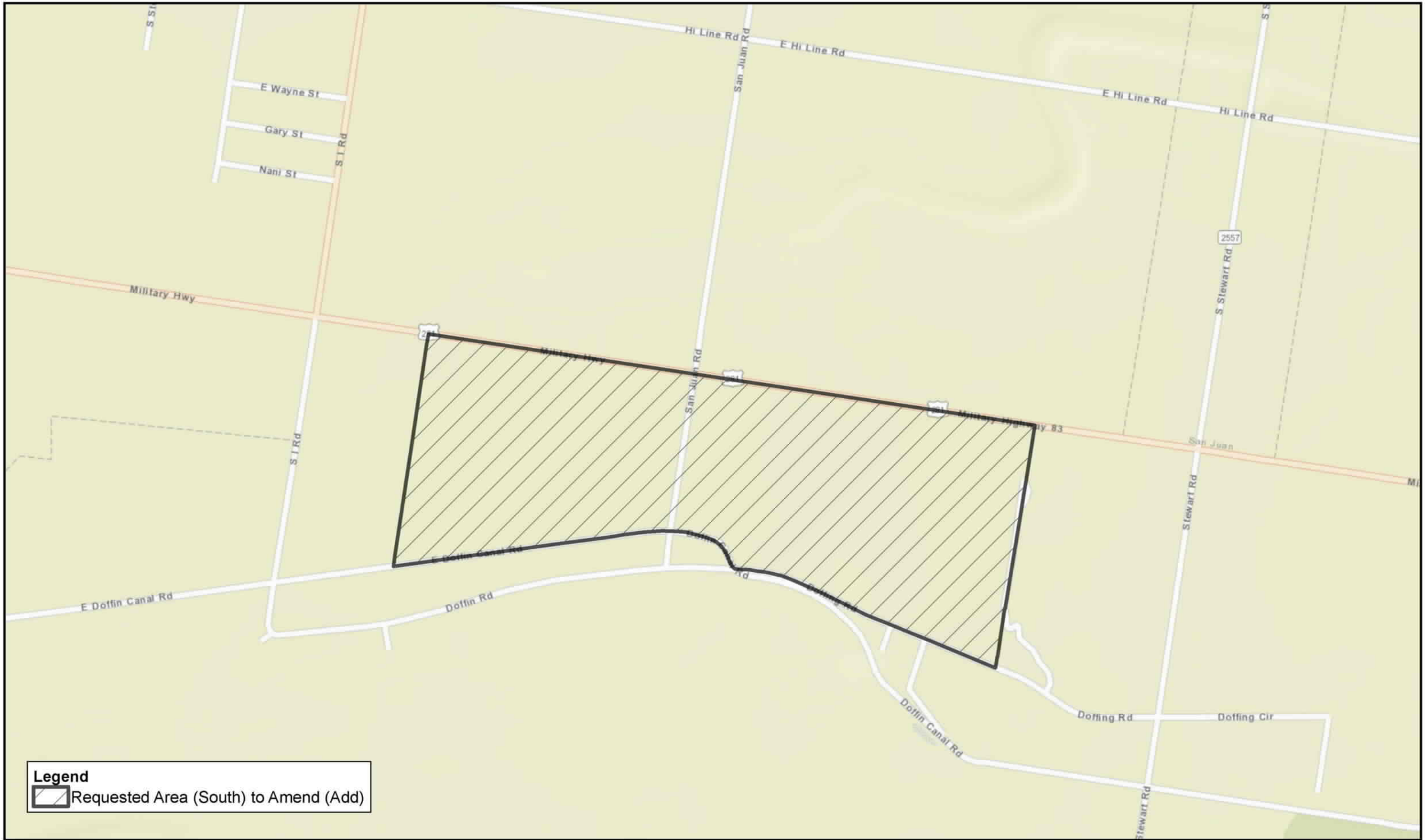
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Date Revised: 9/6/2023
(Revise overlap with San Juan and Edinburg Cities)

Amend City of Pharr (CCN No. 20643) in Hidalgo County
DETAILED MAP 1 OF 2
(NORTHERN PORTION)

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Data Source: Requested Area(s) to Amend obtained
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Background Image: ESRI Open Street Map



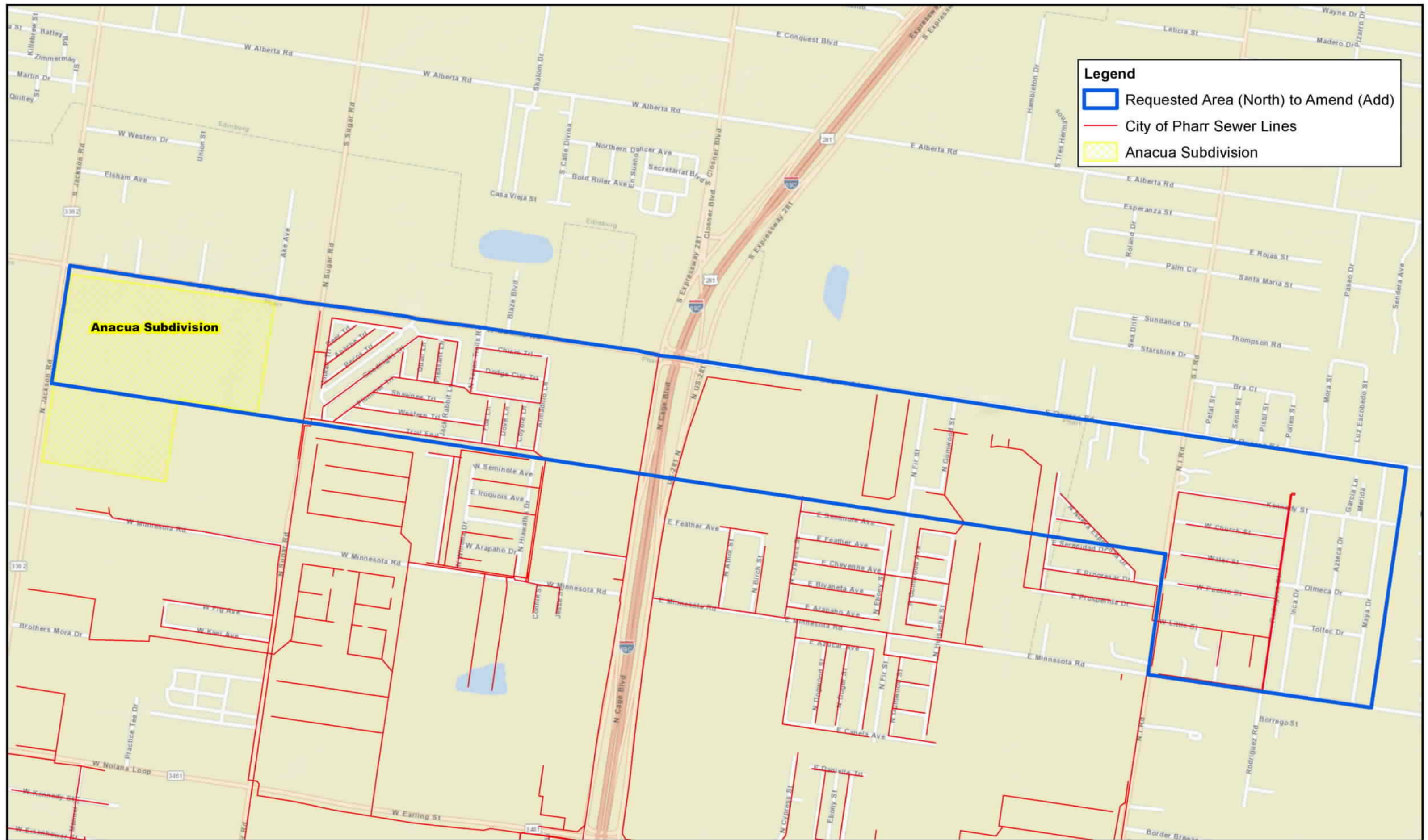


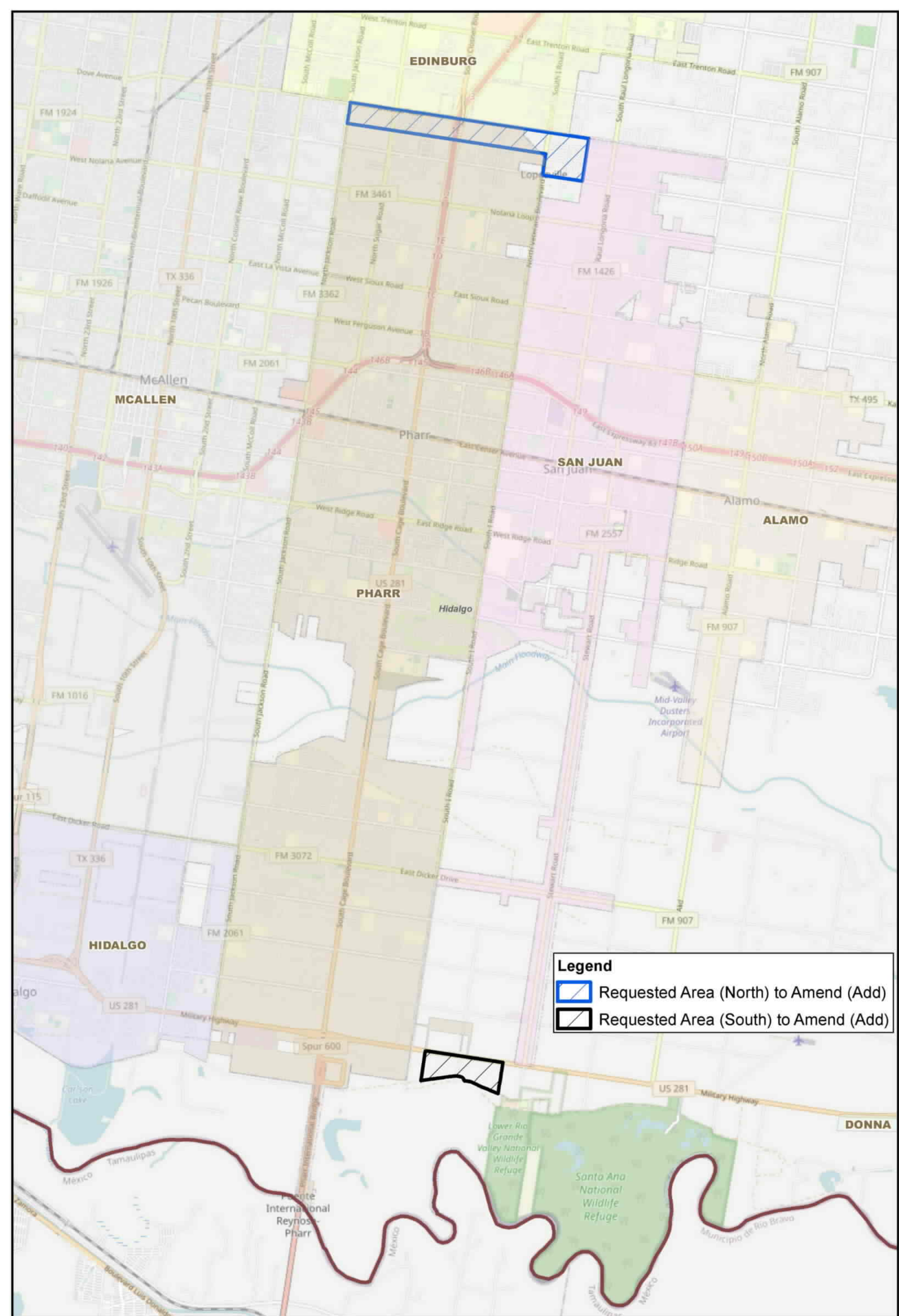
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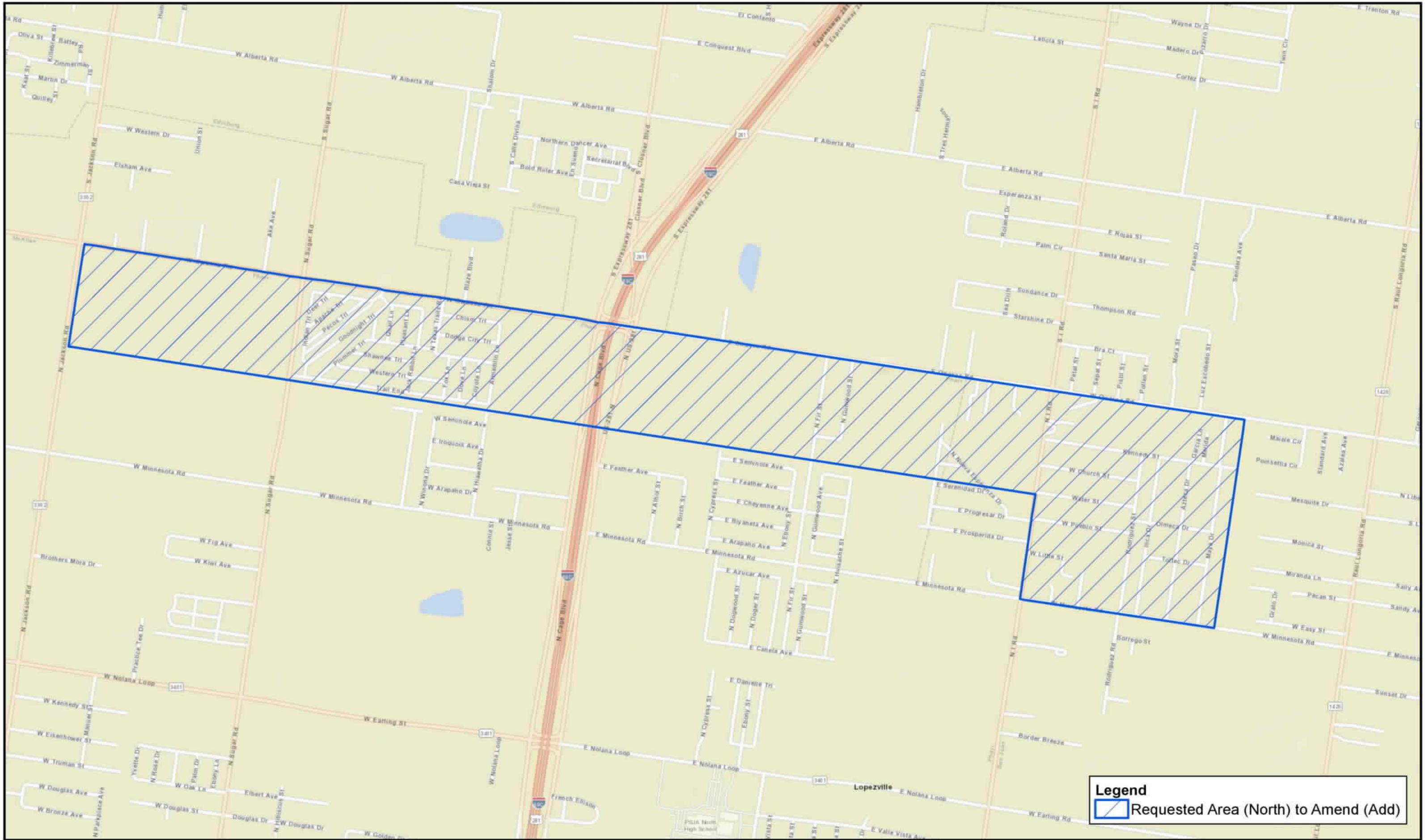
Amend City of Pharr (CCN No. 20643) in Hidalgo County
DETAILED MAP 2 OF 2
(SOUTHERN PORTION)

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Data Source: Requested Area(s) to Amend obtained
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Request for Service area









Legend
Requested Area (North) to Amend (Add)



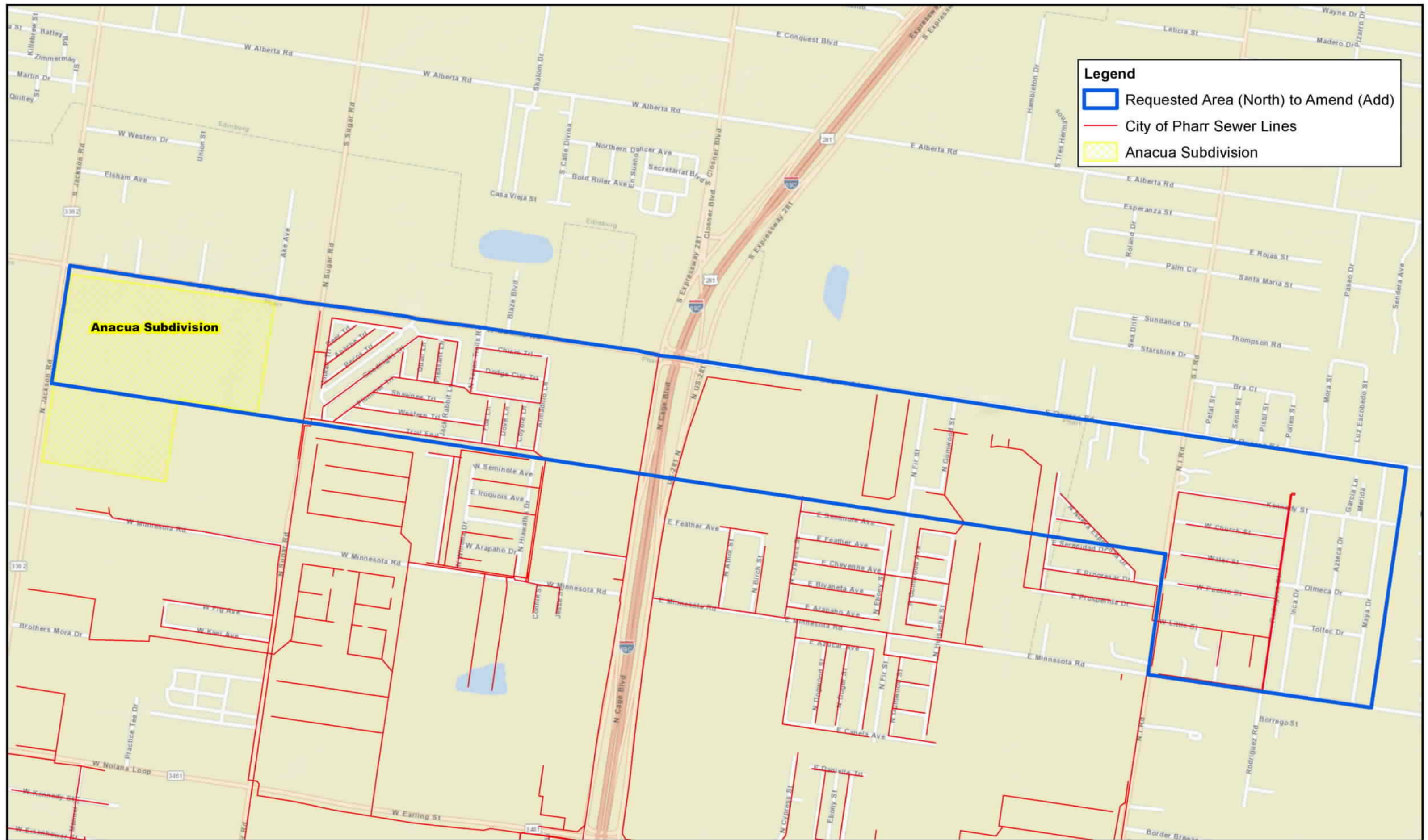
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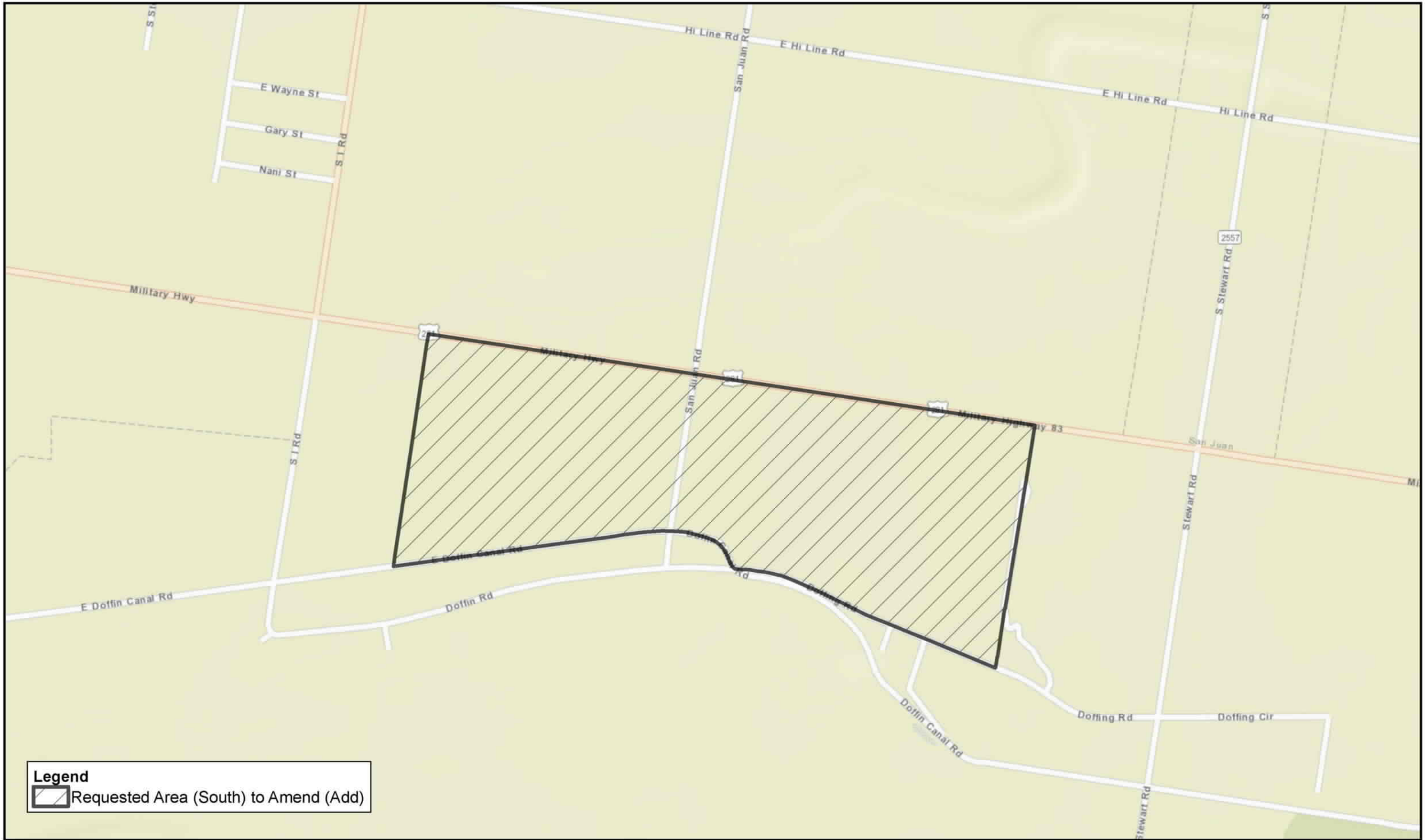
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Amend City of Pharr (CCN No. 20643) in Hidalgo County
DETAILED MAP 2 OF 2
(SOUTHERN PORTION)

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Request for Service area



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