

RESOLUTION NO. 65-2006

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
MESQUITE, TEXAS, AUTHORIZING THE EXECUTION OF A
WASTEWATER CONTRACT WITH THE CITY OF DALLAS.

WHEREAS, the City of Mesquite ("Mesquite") has been receiving wholesale wastewater service from the City of Dallas ("Dallas") since 1972; and

WHEREAS, the current contract for wastewater transmission and treatment service has expired; and

WHEREAS, Mesquite desires to continue contracting for wastewater transmission and treatment services with Dallas; and

WHEREAS, Dallas desires to enter into a new contract with Mesquite.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MESQUITE, TEXAS:

SECTION 1. That the City Manager is hereby authorized to enter into a wastewater contract, attached hereto as Exhibit "A," with the City of Dallas.


DULY RESOLVED by the City Council of the City of Mesquite, Texas on the 3rd day of October, 2006.




Mike Anderson
Mayor

ATTEST:

APPROVED:



Judy Womack
City Secretary

B.J. Smith
City Attorney

WHOLESALE WASTEWATER CONTRACT

STATE OF TEXAS §
 §
COUNTY OF DALLAS §

THIS CONTRACT is made and entered into this the 14th day of June, 2006, by and between the City of Dallas, Texas (hereinafter called "Dallas"), and the City of Mesquite, Texas (hereinafter called "Customer").

WHEREAS, Customer has been receiving wholesale wastewater service from Dallas since 1972; and

WHEREAS, the current contract for wastewater transmission and treatment service has expired; and

WHEREAS, Customer desires to continue contracting for wastewater transmission and treatment services with Dallas; and

WHEREAS, Dallas desires to enter into a new contract with Customer;

NOW, THEREFORE, Dallas and Customer, in consideration of the terms, covenants, and conditions contained below, hereby agree as follows:

WITNESSETH:

1.0 DEFINITIONS:

1.1 "BOD" (biochemical oxygen demand) means the quantity of oxygen, expressed in milligrams per liter (mg/l), utilized in the biochemical oxidation of organic matter by standard methods procedure in five days at 20° Centigrade.

1.2 "Customer System" means the publicly owned facilities of Customer for collection and transportation of wastewater to the Point of Entry and any publicly owned facilities of Customer used exclusively or primarily for the pre-treatment of Industrial Wastes.

1.3 "Calibration" means to check, adjust, or standardize instrumentation for accuracy using internal systems, specialized calibration equipment, or velocity tests.

1.4 "Dallas System" or "System" means the wastewater collection and treatment system, the Publicly Owned Treatment Works (sometimes referred to as the "P.O.T.W.") owned and operated by Dallas.

1.5 "Delivery Facilities" means all publicly owned facilities of Customer (transmission mains, valves, manholes, and other similar facilities and appurtenances) necessary for transmission of wastewater to the Dallas System. The term includes facilities which are on the Customer side of

the metering facility which are constructed specifically to allow Dallas to serve Customer. The term excludes metering facilities.

1.6 "Incompatible Wastes" means substances that are not amenable to the treatment processes which will interfere with the operation of the Dallas System P.O.T.W., including interference with the use or disposal of municipal sludge, and pollutants that will pass through the treatment works unchanged by the treatment processes.

1.7 "Industrial Wastes" means all water-borne solids, liquids, or gaseous substances resulting from an industrial, manufacturing, or food processing operation, or from the development of a natural resource, or any mixture of these with water or domestic sewage.

1.8 "Industry" means a person or establishment that is recognized and identified in the 1972 Standard Industrial Classification Manual, Executive Office of the President: Office of Management and Budget.

1.9 "Infiltration Water" means water that has migrated from the ground into the wastewater system.

1.10 "Inflow" means water other than wastewater that enters a sewerage system (including sewer service connections) from sources such as, but not limited to, roof leaders, cellar drains, yard drains, area drains, foundation drains, drains from springs and swampy areas, manhole covers, cross connections between storm sewers and sanitary sewer catch basins, cooling towers, storm waters, surface runoff, street wash waters, or drainage. Inflow does not include, and is distinguished from, infiltration.

1.11 "Interference" means inhibition or disruption of the Dallas System, treatment processes, or operations which inhibition or disruption contributes to a violation of any requirement of Dallas' Federal NPDES effluent discharge permit.

1.12 "Metering Facility" means the meter, meter vault, all metering and telemetering equipment required to provide wastewater service to the Customer at the point of entry.

1.13 "Normal Domestic Wastewater" means water-borne wastes normally discharging from the sanitary conveniences of dwellings (including apartment houses and hotels), office buildings, factories and institutions, free from storm surface water and Industrial Wastes. The average concentration of suspended solids and five-day BOD is established at 250 milligrams per liter.

1.14 "Point of Entry" shall be defined as the location of the metering facility or, where no metering facility is utilized, the Dallas city limits line, where wastewater leaves Customer's System and enters into the Dallas System.

1.15 "Pretreatment Standards" means pollutant concentration discharge limitation requirements stipulated in Chapter 49 of the Dallas City Code and the Customer's City Code as hereinafter amended, and Federal Pretreatment Standards promulgated by the United States Environmental Protection Agency.

1.16 "Prohibited Substance" means substances that are prohibited from being discharged into Dallas' System and Customer's System as listed in Chapter 49 of the Dallas City Code and the Customer's City Code as hereinafter amended, except that if more stringent pretreatment standards are promulgated for certain industrial users by the United States Environmental Protection Agency, the more stringent Federal regulations shall apply to that class of sewer users.

1.17 "Significant Industrial User" means

(i) any industrial user that discharges 50,000 gallons or more of wastewater into Dallas' sanitary sewer system per day, not including cooling water used in air conditioning; or

(ii) any industrial user defined as a categorical user by the United States Environmental Protection Agency; or

(iii) any other industrial user deemed by the Director of Dallas Water Utilities to be a significant non-domestic discharge source that alone or combined with other sources may cause pass through, interference, or sludge contamination in the Dallas wastewater treatment works and facilities.

1.18 "State Rules" means Texas Department of Public Health Wastewater Surveillance and Technology Rules, Chapter 301 - Design Criteria for Sewerage Systems.

1.19 "Surcharge Rate" means a rate calculated so as to include a charge for either BOD or TSS or both in excess of 250 milligrams per liter (mg/l).

1.20 "TSS" (total suspended solids) means solids that either float on the surface of, or are in suspension in, water, wastewater, or other liquids and which, in accordance with standard methods, are removable by a standard, specific laboratory filtration device.

1.21 "Wastewater" means water-carried waste.

1.22 "Winter Months" means the billing months of December, January, February, and March.

2.0 CONSTRUCTION AND DESIGN OF FACILITIES

2.1 Delivery Facilities

Dallas agrees to accept wastewater from Customer at the points of entry as delineated in Exhibit B, attached hereto, and at such additional points as may later be mutually agreed upon by both parties. The costs of all delivery facilities necessary to convey wastewater to designated points of entry and connect Customer's System to the Dallas System whether delineated in Exhibit B hereof or mutually agreed upon at a later date, shall be borne by Customer, except that Dallas may elect to require oversizing of the delivery facilities for the benefit of Dallas or other parties. If Dallas elects to oversize delivery facilities, Dallas shall be responsible for the oversizing costs to the extent of the difference between Customer's required delivery facilities and the oversize specified by Dallas. Unless otherwise mutually agreed to by Dallas and Customer, Customer shall be responsible for the design, according to Dallas' standard requirements, contracting, construction, and financing of

delivery facilities and acquisition of any necessary rights-of-way. Plans and specifications shall be submitted to Dallas for written approval and all designs, materials and specifications shall conform to Dallas requirements. Customer agrees that Dallas has the right to make periodic inspections during the construction phase of the delivery facilities. Final acceptance of completed delivery facilities is subject to the written approval of Dallas.

2.2 Metering Facilities

Exhibit C, Provision C2.2, incorporated herein, as if copied word for word and made a part of this Contract contains special provisions concerning waiver of installation for a recording flow measuring device.

Unless otherwise agreed by both parties, Dallas shall construct and maintain meter vaults, meters, and all associated facilities, and obtain electric and telephone service in connection therewith, if needed. Customer agrees to provide advance funds to Dallas for actual construction costs plus interest attributable to service of Customer, excluding costs of engineering design, telemetry equipment, telephone and electric service prior to construction contract award. Replacement of metering facilities occasioned by obsolescence due to age or excessive maintenance, as determined by Dallas, shall be the responsibility of Dallas. Replacement of facilities necessary due to growth or reasons other than obsolescence due to age or excessive maintenance, as determined by Dallas, shall be the responsibility of Customer, but will be installed by Dallas.

Customer shall acquire all property and rights-of-way necessary for construction of metering and delivery facilities located on the Dallas side of metering facility. Customer shall convey title to property for the metering site and rights-of-way for delivery facilities required to be constructed on the Dallas side of the metering facility to Dallas prior to commencement of construction. After final inspection and acceptance by Dallas of metering facilities and delivery facilities located on the Dallas side of the metering facility, Customer will convey title to those facilities to Dallas. After final inspection, acceptance, and conveyance of title of property and facilities, Dallas shall be responsible for operation and maintenance of the metering facilities and any delivery facilities located on the Dallas side of the metering facility.

3.0 METER MAINTENANCE AND TESTING

Exhibit C, Provision C3.0, incorporated herein, as if copied word for word and made a part of this Contract contains special provisions concerning waiver of installation for a recording flow measuring device.

It shall be the duty of either party to this contract to notify the other party in the event that a meter is registering inaccurately or malfunctioning so that the meter can be promptly repaired. Either party shall have the right to test a meter. Notification of a proposed test shall be provided at least 24 hours prior to conduct of the test, except in the case of emergencies. Either party shall have the right to witness meter tests.

Dallas shall calibrate and routinely service the meters no less than once during each six month period. Calibration shall be accomplished according to Dallas' standard methods. Customer shall be notified of proposed calibrations and may observe if so desired.

If, for any reason, any meter is out of service or inoperative, or if, upon any test, any meter is found to be inaccurate, registration thereof shall be corrected. Correction of inaccurate meter registration will normally be based on the most recent correct registration, if such is reasonably ascertainable. Alternatively, Customer and Dallas may agree to use future meter registrations as basis for correction. If future registrations are to be used as a basis for correction, Dallas shall be allowed to bill Customer based on estimated amounts prior to rendering a corrected billing. In no event will corrected billings be made for periods in excess of three billing periods prior to notification of meter inaccuracy.

Customer may, at its option and its own expense, install and operate a check meter to monitor each meter installed by Dallas, but the measurement for the purpose of this agreement shall be solely by Dallas' meters, except in the cases specifically provided to the contrary below. All such check meters shall be of standard make and shall be subject at all reasonable times to inspection and examination by any employee or agent of Dallas. The reading, calibration and adjustment of the check meter shall be made only by Customer, except during any period when a check meter may be used under specific written consent by Dallas for measuring the amount of wastewater delivered into the System, in which case the reading, calibration and adjustment thereof shall be made by Dallas with like effect as if such check meter or meters had been furnished or installed by Dallas. Customer's installation of check meters shall not interfere with operation of the Dallas wastewater collection system or Dallas metering equipment.

4.0 PAYMENT

Rates charged Customer shall be established by ordinance of Dallas.

Customer agrees that Dallas City Council has the right to revise, by ordinance, the rates charged, from time-to-time as needed, to cover all reasonable, actual and expected costs. Dallas shall give Customer a minimum of six months notice of intent to revise rates. Dallas will furnish Customer a draft copy of the Cost of Service Study for proposed rates thirty days prior to Dallas submitting a rate increase request to its City Council.

Customer agrees to give Dallas a minimum of thirty (30) days notice of intent to protest rates or any other condition of service. Provided, however, that Customer is not required to give a thirty (30) day notice of intent to appear before Dallas City Council to protest cost of service studies.

Dallas will render a statement of charges monthly. Payment is due upon receipt of statement.

5.0 RATES

Exhibit C, Provision C5.0, incorporated herein, as if copied word for word and made a part of this Contract contains special provisions concerning payment for wastewater flow from Dallas into Mesquite system.

When Customer billing is based on metered flow, Customer shall pay Dallas for all wastewater at the rate provided in the prevailing ordinances of the City of Dallas, subject to increase or decrease, without formal amendment of this Contract, as said ordinance might be amended from time-to-time.

When the Director of Dallas Water Utilities determines that wastewater metering is not feasible, Customer shall pay Dallas for wastewater service based on average winter month water consumption for those connections discharging into the Dallas wastewater system. (Water consumption billings for the months of December, January, February and March shall constitute the winter months.)

The calculation of wastewater discharged shall be as follows:

$$100\% \text{ water consumption for applicable connections for winter months} / 4 = \text{Average Winter Month Water Consumption.}$$

$$\text{Average Winter Month Water Consumption} \times \text{City of Dallas prevailing Ordinance Rate} = \text{Amount Due Monthly}$$

The prevailing Dallas ordinance rate for wastewater service is subject to increase or decrease, without formal amendment of this Contract, as said ordinances might be amended from time-to-time.

Customer understands and agrees that the wastewater entering the Dallas System emanating from any source whatsoever must be given treatment and handling, whether or not its source is revenue producing for Customer. Therefore, Customer agrees to pay for infiltration and inflow without abatement in the same manner and cost as other wastewater.

6.0 RATE SETTING PRINCIPLES

Rates shall be established according to the "WASTEWATER RATE GUIDELINES," attached to and made a part of this Contract as Exhibit A.

7.0 WASTEWATER QUALITY

7.1 Industrial Discharges and Prohibited Wastes

Customer agrees that Dallas has the responsibility and authority to establish:

- (i) types and quantities of discharges that are prohibited for entry into the Dallas wastewater system.
- (ii) discharge prohibitions for certain substances, as may be amended from time-to-time.
- (iii) pretreatment requirements for industries who discharge prohibited substances.

Customer shall require all significant industrial users that ultimately discharge into the Dallas System to obtain an industrial waste discharge permit. The permit shall require industrial users to abate prohibited substances from their waste stream and pretreat wastewater and industrial process water where necessary as a condition of allowing the discharge of the wastewater into Customer's System. The permit application shall, as a minimum, contain the following information:

- (1) the name and address of the industry seeking the permit;
- (2) the type of industry;
- (3) the products produced or services rendered;
- (4) a report demonstrating a typical analysis of the industry's waste discharge stream;
- (5) the chemicals used and chemicals being stored on the premises; and
- (6) pretreatment plans and expected compliance date.

Dallas shall be provided a copy of the application and permit within fourteen (14) days after issuance.

Any Customer not having a pretreatment program approved by EPA agrees to enact and enforce rules requiring those users connected to Customer's System to comply with the provisions of all prevailing Dallas Ordinances and applicable Federal regulations including but not limited to: (1) discharged substances; (2) prohibited discharges; (3) pretreatment requirements; (4) the industrial discharge permit system; (5) industrial self-monitoring reports; and (6) pretreatment plans. At the effective date of this Contract, Dallas City Code, Chapter 49, Section 42, is contained in Exhibit E, incorporated herein as if copied word for word and made a part of this Contract. Any future ordinance changes related to industrial discharges, prohibited or controlled wastes or pretreatment requirements, shall apply to this Contract as if in effect at the effective date of this Contract. Provided, however, that Customer shall be provided copies of present and future applicable ordinances and shall have an opportunity to review same before being formally required to acknowledge acceptance of the conditions of such ordinance.

Customer agrees to conform to pretreatment regulations as delineated in Exhibit D, attached to and made a part of this Contract.

Customer agrees to seek injunctive or other appropriate relief against industrial discharge sources whose discharge causes Interference, poses an imminent danger to public health, or when the specific industry is not making sufficient progress toward completing a required and approved pretreatment system.

Dallas Water Utilities Industrial Waste Division shall be provided with copies of all industrial monitoring data and pretreatment enforcement actions by Customer each fiscal quarter.

7.2 Sampling and Testing

For the purpose of determining the type and strength of discharges, Customer agrees that Dallas shall have the right to sample wastewater discharges at:

- (i) the site of the discharge;
- (ii) the point or points of entry of the discharge into Customer's System; and

- (iii) other locations as required.

Customer shall provide all possible assistance to Dallas in obtaining access to sampling points.

Customer agrees that any individual customer found in violation of allowable discharges or any individual customer who refuses access for the purpose of sampling shall be disconnected from Customer's System and the Dallas System. Provided however, that the violating individual customer shall be afforded the same rights, privileges of appeal, and deficiency cure periods as are customers operating within Dallas boundaries and under authority of Dallas ordinances.

In addition to other samples taken and tests made on an as required basis, Dallas shall regularly take twenty-four hour composite samples of wastewater discharges at points of entry no less frequently than semiannually. Costs of sampling and test shall be borne by Dallas. Customer, however, may request Dallas to perform tests desired by Customer and not required by Dallas. Customer shall reimburse Dallas for the cost of tests requested by Customer as agreed by Customer and Dallas.

Customer shall be provided with a copy of each sample test within thirty (30) days after the date of taking of the sample.

All samples shall be analyzed in accordance with the latest edition of Standard Methods of Examination of Water and Wastewater, published by the American Public Health Association, Inc., or any U.S. EPA approved laboratory standards.

8.0 RATES FOR EXCESS STRENGTH DISCHARGES

8.1 Additional Charge

An additional charge shall be made for excess strength discharges at the Point of Entry. A surcharge for each mg/l of BOD in excess of 250 mg/l and for each mg/l of TSS in excess of 250 mg/l shall be assessed. Excess strength determination will be based on a minimum of seven (7) days averaged data.

Customer agrees that Dallas City Council has the right to revise, by ordinance, the allowable discharge strengths. At the effective date of this Contract, the allowable discharge strength is 250 mg/l for BOD and 250 mg/l for TSS.

Customer shall pay Dallas for concentrations of BOD and TSS exceeding 250 mg/l at the rate provided in the prevailing ordinances of the City of Dallas, subject to increase or decrease without formal amendment of this Contract, as said ordinance might be amended from time-to-time. The excess charge will be calculated each month. It will be based on the rate of excess discharge for that month. The surcharge will be assessed the entire month for each portion of the month Customer is in violation.

8.2 Calculation of Additional Amounts Due for Excess Strength

The following formula shall apply to billings for excess strength discharges:

$$S_w = C_B (\text{BOD} - 250) + C_S (\text{TSS} - 250)$$

WHERE

S_w = Wholesale excess strength wastewater billing rate in dollars per million gallons

BOD = Biological Oxygen Demand in mg/l of wastewater entering into Dallas wastewater system

TSS = Suspended Solids in mg/l of wastewater entering into Dallas wastewater system

C_B = Cost factor for BOD treatment for wholesale customers per Chapter 49-18.4, Dallas City Code, as amended from time-to-time.

C_S = Cost factor for TSS treatment for wholesale customers per Chapter 49-18.4, Dallas City Code, as amended from time-to-time.

V = Volume of waste discharged in million gallons, determined as per Customer's standard billing methodology.

(Any value of BOD and TSS below 250 mg/l is to be treated as 250 mg/l.)

9.0 QUANTITY AT POINT OF ENTRY

It is understood and agreed that Dallas and Customer have an obligation to prevent entrance of infiltration and inflow into Customer's System and thence into the Dallas System. Customer therefore agrees that all wastewater connections to Customer's System which ultimately bring the flow of Customer's wastewater into the Dallas System will be constructed with a permanent type material, carefully bedded to prevent over-stressing of the material and utilizing a joint which will provide a permanent water-tight connection. Customer agrees that each such installation shall pass an air test performed in accordance with applicable A.S.T.M. Standards and shall be done under the supervision of Customer's authorized representative at the time of installation. All tests shall be at Customer's expense. Each building lateral which interconnects private property to Customer's System shall be excluded from the air test requirements.

Customer agrees that the physical connection of each service line to Customer's System shall be the responsibility of Customer and shall not be left to the discretion of the plumber or contractor unless the plumber or contractor is under the direct supervision of, or whose work is inspected by, Customer's authorized representative. Customer further covenants that all future trunk wastewater lines added to Customer's System which ultimately discharge into the Dallas System shall be:

- (i) built in accordance with appropriate State of Texas design criteria, including infiltration/exfiltration limitations; and

(ii) subjected, in representative sections of each new line, to an air test or infiltration or exfiltration test at the time of installation, at the option of Dallas and at the sole expense of Customer, to assure the State design criteria standards are met.

Customer also covenants that it will maintain strict supervision and maintenance of the Customer System to prevent connections such as all roof drains or any other means by which surface drainage can enter Customer's System and thence the Dallas System.

10.0 PROTECTION OF WASTEWATER SYSTEM

It is mutually understood and agreed that only employees, agents, or contractors of Customer shall be permitted to work on or make connections to those elements of the Customer's System which ultimately discharge into the Dallas System. Only qualified plumbers licensed by the State of Texas shall be permitted to work on building laterals entering into those elements of the Customer's System which discharge into the Dallas System. It is further mutually understood and agreed, however, that this provision shall be waived in the event that personnel of the Industrial Waste Section or Wastewater Collection or Wastewater Treatment Division of the Dallas Water Utilities Department find it necessary to enter Customer's jurisdiction for assistance or surveillance purposes. Free access shall be provided to those Dallas personnel in the pursuit of their duties.

It is mutually understood and agreed that Customer will maintain a careful inspection of the Customer System and will exercise diligence and care in the maintenance of the Customer System and in the installation of connections and laterals that may be connected with the Customer System in order that the Dallas System not be burdened with excess discharge during rains and wet weather.

Laterals to private dwellings and public, commercial, or industrial buildings constructed in Customer's wastewater drainage area after the effective date of this Contract shall be of materials jointly approved by Dallas and Customer. Each building lateral which interconnects private property to the Customer's System shall pass a water test meeting minimum standards of the State Rules for wastewater collection systems.

It is further understood and agreed that a failure on the part of Customer to provide and enforce such regulations governing connections with the Customer's System shall be, at the sole option of Dallas after written notice to Customer in writing of the specific violation or violations and after failure within thirty (30) days to correct said violation or violations, sufficient ground for Dallas to restrict, limit, or terminate wastewater flow to the extent Dallas deems necessary in order to protect the Dallas System from damage of excessive flows or flows containing a high concentration of Incompatible Wastes. In the event of a serious emergency that imminently threatens Interference or damage to any portion of the Dallas System, or otherwise imminently threatens Dallas employee or the general public health and safety, Dallas may restrict, limit, or terminate wastewater flow by telephone notice to Customer at least twenty-four (24) hours in advance.

11.0 LIABILITY FOR DAMAGES AND RESPONSIBILITY FOR TREATMENT AND DISPOSAL OF WASTEWATER

Liability for damages arising from the reception, transportation, delivery, and disposal of all wastewater discharged by Customer under this Contract shall remain with Customer up to and through the Customer side of the Point of Entry. With exception of Incompatible Wastes or

wastewater deemed to be a cause of Interference, upon passage through the Point of Entry into the Dallas side, liability for damages and the handling and treatment of the wastewater discharged by Customer shall belong to Dallas. As between the parties and to the extent allowed by law, without waiving any sovereign governmental immunity available to each party, Dallas and Customer agree to release, save, and hold the other party harmless from all claims, demands, and causes of action which may be asserted by any person on account of the reception, transportation, delivery, and disposal while wastewater is in the respective control of either Dallas or Customer. Dallas takes the responsibility, as between the parties, for the proper reception, transportation, treatment, and disposal of all wastewater received by Dallas from Customer at the Point of Entry. The provisions of this Section 11 are solely for the benefit of the parties to this Contract and are not intended to create or grant any rights, contractual or otherwise, to any other person or entity.

12.0 ACCESS

Customer agrees to provide ingress and egress for Dallas employees and agents at all times to all Dallas property inside Customer's boundaries to install, operate, inspect, test, and maintain facilities owned or maintained by Dallas within city limits of Customer.

Dallas agrees to provide ingress and egress for Customer's employees and agents at all times to all Customer property inside Dallas' boundaries to install, operate, inspect, test, and maintain facilities, and read meters owned or maintained by Customer within Dallas.

13.0 CUSTOMER TO PROVIDE DATA

13.1 Classification of Customers

Customer shall provide the following data to Dallas not later than January 15th of each year during the term of this Contract:

- (1) Actual number of Customer accounts feeding into the Dallas System.
- (2) Classification, by number and percentage, of accounts feeding into the Dallas System according to the following:
 - (i) Residential
 - (ii) Multi-family
 - (iii) Business/Commercial
 - (iv) Other

13.2 Water Consumption

Customer shall provide data and supporting documentation on total water consumption for accounts feeding into the Dallas wastewater system during the four winter billing months (December, January, February and March) to Dallas not later than the 15th of April of each year.

Billing months need not be calendar months. Where available, this total consumption should be separated into consumption by type of account as listed in Section 13.1 (2) (i-iv) of this Contract.

13.3 Additional Data Requirements

Customer may be required to provide additional data as revised methodology for cost of service studies is developed. Provided, however, that Dallas shall not request data that will require Customer to incur unreasonable expenses in providing such data.

14.0 WASTEWATER MASTER PLAN

Customer agrees to provide a comprehensive wastewater master plan to Dallas prior to the effective date of this Contract. The master plan shall include, but shall not be limited to:

- (i) population data, present and projected;
- (ii) geography and topography data;
- (iii) current and proposed treatment processes;
- (iv) treatment alternatives;
- (v) existing and projected discharge flows into the Dallas system;
- (vi) existing and planned wastewater collection system maps;
- (vii) other data or information as is deemed necessary by the Director of Dallas Water Utilities.

Customer agrees that the initial plan shall be for a twenty-year period. Customer further agrees that the plan shall be reviewed jointly by Dallas and Customer and, if necessary, revised by Customer at five year intervals.

The initial submittal requirement is waived if Customer has provided a plan acceptable to Dallas within the previous five years.

15.0 PAYMENTS TO CONSTITUTE OPERATING EXPENSES BY CUSTOMER

Customer represents and covenants that the services to be obtained pursuant to this Contract are essential and necessary to the operation of Customer and its local wastewater facilities, and that all payments to be made hereunder by it will constitute reasonable and necessary "operating expenses" of City's waterworks and wastewater systems, within the meaning of Chapter 1502, Texas Government Code, and the provisions of all ordinances authorizing the issuance of all revenue bond issues of Customer which are payable from revenues of Customer's waterworks and sewer systems.

16.0 FORCE MAJEURE; INDEMNITY; REMEDIES; NO WARRANTIES

16.1 If, for any cause not reasonably within the control of the party so claiming, either party to this Contract shall be rendered, in whole or in part, unable to carry out its obligations under this Contract, then that party's obligation shall be suspended during the continuance of the inability then claimed, but for no longer period. The party claiming the inability shall endeavor to remove or overcome the inability with all reasonable dispatch.

16.2 To the extent allowed by Texas law, Purchaser agrees to defend, indemnify and hold Dallas, its officers, agents and employees, harmless from any liability in claims, administrative proceedings and lawsuits for judgments, penalties, costs, expenses and attorney's fees for personal injury (including death), property damage, other harm for which recovery of damages is sought, or violations of state or federal laws or regulations that may arise out of or be occasioned by: a) a breach of this Contract by Customer; b) the negligent act or omission of Customer in the performance of this Contract; c) the laws or regulations; provided however, that the indemnity stated above shall not apply to any liability resulting from Dallas' sole violation of a state or federal law or regulation or from the sole negligence of Dallas, its officers, agents, employees or separate contractors, and in the event of the joint and concurring responsibility of the Purchaser and Dallas, responsibility and indemnity, if any shall be apportioned comparatively in accordance with the law of the State of Texas, without waiving governmental immunity or any other defenses of the parties under applicable Texas law. The provision of this paragraph are solely for the benefit of the parties to this Contract and are not intended to create or grant any right, contractual or otherwise, to any other person or entity.

17.0 COMPLIANCE WITH LAWS AND REGULATIONS; REGULATORY BODIES

This Contract is entered into subject to and controlled by the Charter and ordinances of the City of Dallas and all applicable laws, rules, and regulations of the State of Texas and the Government of the United States of America. Dallas and Customer shall, during the course of performance of this Contract, comply with all applicable State and Federal laws, rules and regulations, as amended.

Dallas must comply with all Federal, State and local government requirements to obtain grants and assistance for system construction, studies, and other similar activities. Customer is required to assist Dallas in compliance by setting adequate rates and complying with governmental requirements.

18.0 PUBLICATIONS, REFERENCE WORKS, GOVERNMENTAL REGULATIONS

In each instance herein where reference is made to a publication, reference work or Federal or State regulation, it is the intention of the parties that, at any given time, the then current edition of any such publication or reference work or Federal or State regulation shall apply. If a publication or reference work is discontinued or ceases to be the generally accepted work in its field or if conditions change or new methods or processes are implemented by Dallas, new standards shall be adopted which are in compliance with State and Federal laws and any valid rules and regulations pursuant thereto.

19.0 TERMINATION

Should Customer desire to partially or totally discontinue using the Dallas System, Customer shall, for five (5) years or the balance of this Contract, whichever is less, remain liable for wastewater charges at the billing level in effect at such cessation.

This obligation, once established, shall serve as liquidated damages and is intended to compensate Dallas for the expenditures incurred on Customer's behalf for the cost to provide additional waste transmission, treatment, and disposal facilities. Provided, however, that Dallas may waive Customer's obligation in the event of nominal reductions based on Customer's plans if Dallas has received prior notice of the plans and concurred in the reduction. It is agreed by the parties that such liquidated damages are a reasonable substitute for compensatory damages which are difficult or impossible to calculate herein. This obligation is intended by the parties not to be a penalty, but instead, a reasonable measure of damages.

Dallas shall have the right to terminate this agreement if Customer is more than six (6) months delinquent in any payments required to be made to Dallas under this Contract, or is in material breach of any obligation Customer has under this Contract.

20.0 TERM OF CONTRACT

The term of this Contract shall commence as of the date of its execution, which is also the date of the resolution of the Dallas City Council approving this Contract, and shall remain in effect for a period of thirty (30) years.

21.0 NOTICES

Any notice required under this contract may be given to the respective parties at the following addresses by Certified Mail, postage prepaid:

Customer
City of Mesquite, Texas
City Manager
P.O. Box 850137
Mesquite, Texas 75185-0137

Dallas
City of Dallas
Director, Water Utilities
1500 Marilla - 4/a/North
Dallas, Texas 75201

EXECUTED and effective as of the 14th day of June, 2006, on behalf of the CITY OF DALLAS by its City Manager, duly authorized by City Council Resolution No. 06-1596, adopted on June 14, 2006, and approved as to form by its City Attorney; and on behalf of Customer by its duly authorized officials.

APPROVED AS TO FORM:
THOMAS P. PERKINS
City Attorney

BY *Lawrence J. Saff*
Assistant City Attorney
Submitted to City Attorney

APPROVED AS TO FORM:

BY *Eric A. Lindsey*
Deputy City Attorney

CITY OF DALLAS
MARY K. SUHM
City Manager

BY *Mary K. Suhm*
Assistant City Manager

CUSTOMER:
CITY OF MESQUITE

T.M.T.
BY *Scott*
City Manager

EXHIBIT A
WASTEWATER RATE GUIDELINES

BASIS FOR RATES:

Revenue requirements will be determined by Cost-of-Service Study on a utility basis at original cost.

RATE OF RETURN:

Dallas is to receive a rate of return on rate base, equal to the embedded interest rate on wastewater revenue bonds, plus 1.5%.

RATE BASE:

The rate base shall include original cost plant investment (excluding contributed capital), construction work in progress, a reasonable allowance of working capital, and less accumulated depreciation. Working capital shall consist of an allowance of operation and maintenance (45 days or up to 1/8 annual operation and maintenance costs) and a reasonable inventory of materials and supplies necessary for the efficient operation of Dallas Water Utilities.

The rate base (common-to-all) shall include mains 18" and above, excluding all mains below this size, unless built exclusively to serve a particular city.

TEST PERIOD (OR TEST YEAR):

Normally a recently concluded 12 month operating period adjusted for known changes, selected to be representative of the period of time over which the new rates are expected to be in effect.

DATA BASIS:

Rate period projections shall be based on operating results during the most recent fiscal year for which actual data is available.

FREQUENCY OF COST OF SERVICE STUDIES:

Adequacy of rates shall be reviewed on an annual basis. Thirty (30) days in advance of a proposed rate change, cost of service information shall be made available to Customer for review and comment.

EXHIBIT B
POINTS OF ENTRY AND METERING FACILITIES

Special Contract Conditions regarding unmetered wastewater facilities are within Exhibit C of this Wholesale Wastewater Contract.

Mesquite is connected to the Dallas system at four points of entry that are described and schematically illustrated as follows:

POINT NO. 1

Mesquite is connected to the Dallas system through individual lateral service connections to the Eastfield Plaza area of Mesquite which are considered one point of entry.

Location: The lateral service connections are located in John West Road between Big Town Boulevard and a point approximately 900 feet west of Big Town Boulevard within the City of Dallas.

The area in Mesquite which is provided wastewater service into the Dallas system is known as Eastfield Plaza. It consists of approximately 45.01 acres bounded by John West Road on the north, Big Town Boulevard on the east, Interstate Highway 30 on the south and Dallas corporate limits on the west, and excludes a rectangular area of land having a northern boundary of 722.7 feet along John West Road, a western boundary of 460.5 feet along the Mesquite corporate limits, an eastern boundary of 460.5 feet and a southern boundary of 722.7 feet.

Ownership: Within the Dallas corporate limits, the lateral services and the 10" wastewater main in John West Road are owned by Dallas.

Schematic: See page B - 4 of this Exhibit B for schematic drawing.

At the entry point, the lateral services from the Eastfield Plaza Apartments, gas station, church, hotel and self storage facility within the Mesquite Eastfield Plaza area are connected to Dallas' 10" wastewater main in John West Road.

Dallas and Mesquite have agreed that wastewater flowing through this point of entry will not be metered per the terms of Exhibit C of this Wholesale Wastewater Contract.

POINT NO. 2

Location: The point of entry is located in Woodhill Drive near the north right-of-way line of Interstate Highway 20 in the City of Mesquite.

Ownership: Mesquite owns the wastewater facilities in Woodhill Drive discharging flow into the manhole at the point of entry. Dallas owns the wastewater facilities along the north right-of-way line of Interstate Highway 20 and the manhole at the point of entry.

Schematic: See page B - 5 of this Exhibit B for schematic drawing.

At the entry point, Mesquite's 6" wastewater main in Woodhill Drive connects, at a manhole, to Dallas' 8" wastewater main along the north right-of-way line of Interstate Highway 20.

Dallas and Mesquite have agreed that wastewater flowing through this point of entry will not be metered per the terms of Exhibit C of this Wholesale Wastewater Contract.

POINT NO. 3

Location: The point of entry is located in Redwood Drive near the north right-of-way line of Interstate Highway 20 in the City of Mesquite.

Ownership: Mesquite owns the wastewater facilities in Redwood Drive and along the north right-of-way line of Interstate Highway 20 east of the point of entry, both of which discharge flow into the manhole at the point of entry. Dallas owns the wastewater facilities along the north right-of-way line of Interstate Highway 20 west of the point of entry, crossing Interstate Highway 20 south of the point of entry, and the manhole at the point of entry.

Schematic: See page B - 5 of this Exhibit B for schematic drawing.

At the entry point, Mesquite's 6" wastewater main in Redwood Drive and 8" wastewater main along the north right-of-way line of Interstate Highway 20 east of the point of entry connect, at a manhole, to Dallas' 8" wastewater main along the north right-of-way line of Interstate Highway 20 west of the point of entry, and 12" wastewater main crossing Interstate Highway 20 south of the point of entry.

Dallas and Mesquite have agreed that wastewater flowing through this point of entry will not be metered per the terms of Exhibit C of this Wholesale Wastewater Contract.

POINT NO. 4

Location: The point of entry is located in Lawson Road south of McKenzie Drive at the Mesquite and Dallas corporate line on the south side of Interstate Highway 20.

Ownership: Mesquite owns the wastewater facilities upstream of and discharging flow into the point of entry. Dallas owns the wastewater facilities downstream of and accepting flow out of the point of entry.

Schematic: See page B - 5 of this Exhibit B for schematic drawing.

At the entry point, Mesquite's 8" wastewater main in Lawson Road connects to Dallas' 8" wastewater main in Lawson Road.

Dallas and Mesquite have agreed that wastewater flowing through this point of entry will not be metered per the terms of Exhibit C of this Wholesale Wastewater Contract.

Point of Entry No.s 3, 4 and 5 provides wastewater service to approximately 89 residential homes.

POINT NO. 5

- Location: The point of entry is located at 1224 Big Town Boulevard, near the intersection of Big Town Boulevard and Eastpoint Drive at the Mesquite and Dallas corporate line.
- Ownership: Mesquite owns the wastewater facilities upstream of and discharging flow into the point of entry. Dallas owns the wastewater facilities downstream of and accepting flow out of the point of entry.
- Schematic: See page B - 6 of this Exhibit B for schematic drawing.

At the entry point, Mesquite's 8" wastewater main serving the 1224 block of Big Town Boulevard, connects to the existing City of Dallas manhole. This entry point provides wastewater service to Adesa Dallas Auto Auction.

Dallas and Mesquite have agreed that wastewater flowing through this point of entry will not be metered per the terms of Exhibit C of this Wholesale Wastewater Contract.

Dallas is connected to the Mesquite system at the following point of entry as described and schematically illustrated as follows:

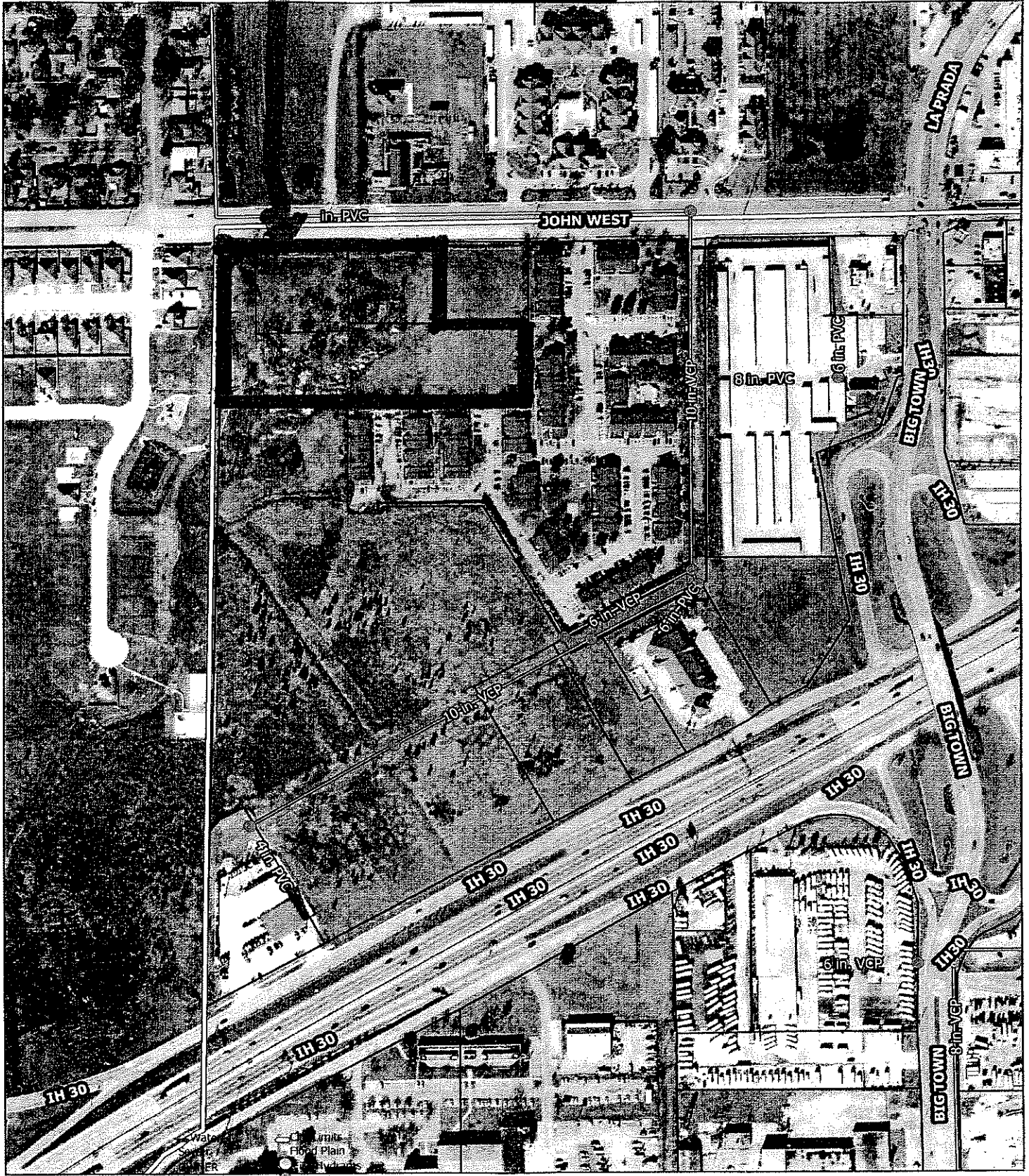
POINT NO. 1

- Location: The point of entry is located at the intersection of Sam Houston and Scyene Roads at the corporate limits of the Cities of Dallas and Mesquite.
- Ownership: Dallas owns the wastewater facilities upstream of and discharging flow into the point of entry. Mesquite owns the wastewater facilities downstream of and accepting flow out of the point of entry.
- Schematic: See page B - 7 of this Exhibit B for schematic drawing.

At the entry point, Dallas has a 6" wastewater main on the north side of Scyene Road and a 6" main on the south side of Scyene Road that flow to a Dallas manhole that connects to Mesquite's 6" wastewater main. This entry point provides wastewater service to a car wash, retail store, convenience store, storage facility, church and two residential homes. Mesquite directly bills the church and two residential homes.

Dallas and Mesquite have agreed that wastewater flowing through this point of entry will not be metered. The actual wastewater usage for the car wash, retail store, convenience store and storage facility at this point of entry will be deducted from Mesquite's monthly wastewater billing per the terms of Exhibit C of this Wholesale Wastewater Contract.

Eastfield Plaza



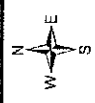
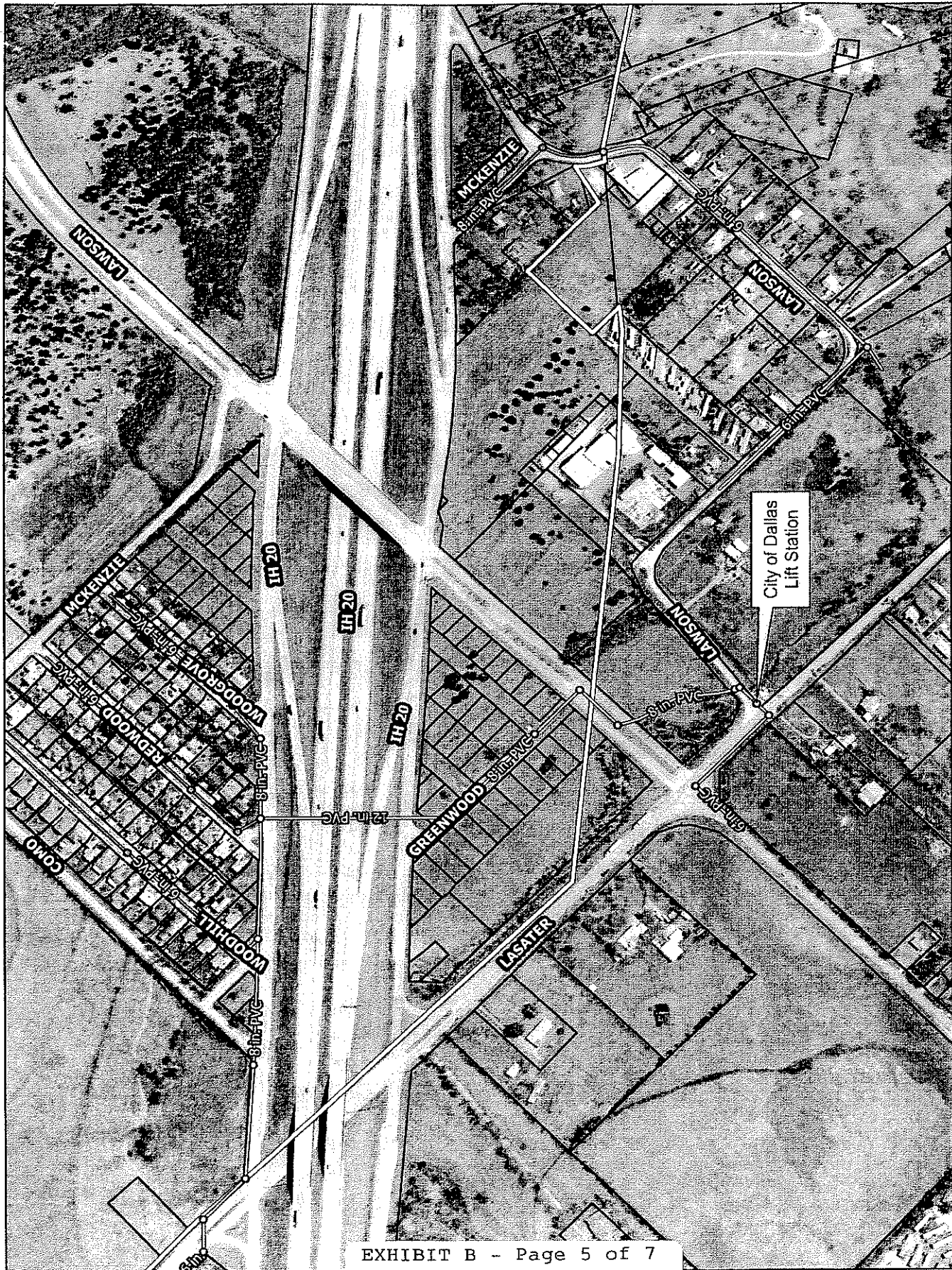
MESQUITE
Real Estate Service

- City of Dallas
- City of Mesquite
- Hydrology
- Drainage
- Manholes
- Flood Plain
- Water

EXHIBIT B - Page 4 of 7

1 inch equals 300 feet

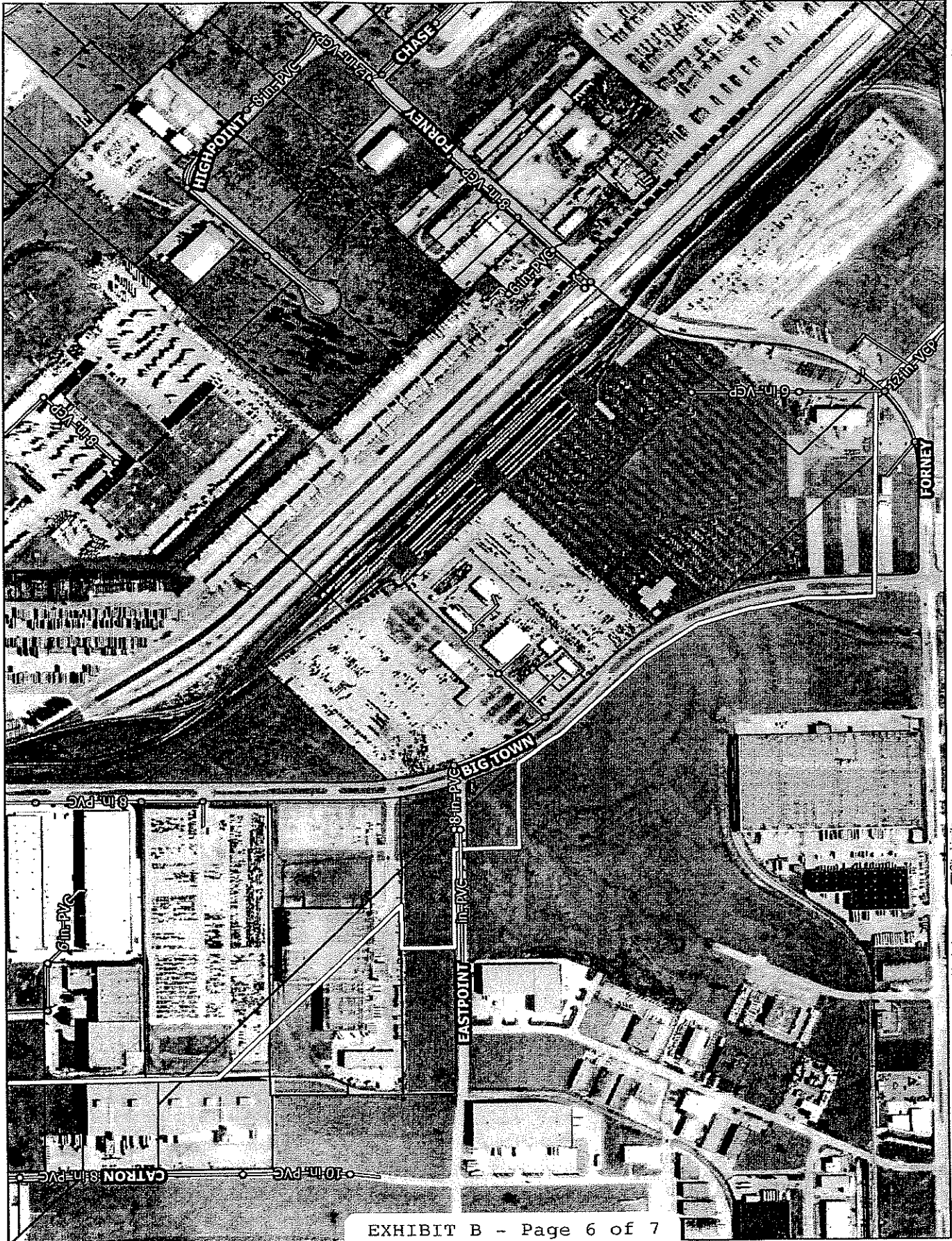




1 inch equals 400 feet

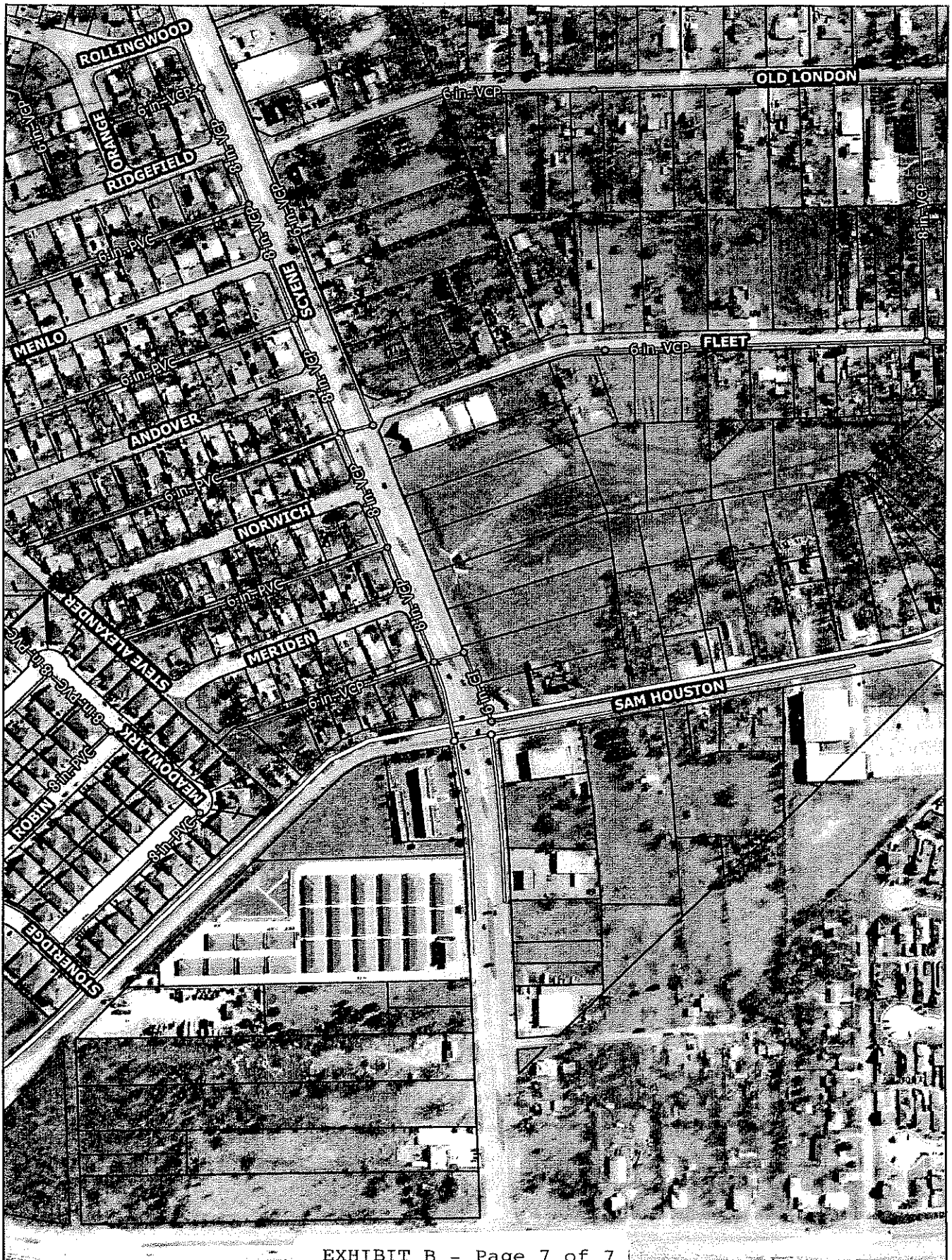
- City Limits
- Manholes
- City of Mesquite
- City of Dallas

MESQUITE
REGULATORY SERVICES



1 inch equals 600 feet

- MESQUITE**
 Sewer
 Manholes
 City Limits
 City of Dallas
 City of Mesquite
 Private
 City of Dallas
 City of Mesquite
 Private
 City of Mesquite
 Private



1 inch equals 300 feet

- City Limits
- Sewer
- Manholes
- City of Dallas
- City of Mesquite
- City of Mesquite

MESQUITE
 Public Works Department
 2001 Texas Avenue

EXHIBIT C

SPECIAL CONTRACT CONDITIONS/AGREEMENTS
SUPPLEMENTAL AGREEMENTS CONCERNING STANDARD CONDITIONS

The following conditions and clarifications are agreed to by Dallas and Customer in regard to the following standard conditions of this contract.

C2.2 (This condition supplements condition 2.2 on page 3 of the basic contract.)

Customer and Dallas have agreed that the recording flow measuring device referenced in the original contract has not been installed. It is agreed to by both Customer and Dallas that unless the quantity of wastewater discharging through each unmetered point of entry significantly increases, or if technology supports a recording flow measuring device that will accurately measure low flow, the installation of a recording flow measuring device will be waived.

C3.0 (This condition supplements condition 3.0 on page 4 of the basic contract.)

Customer and Dallas have agreed that the recording flow measuring device referenced in the original contract has not been installed. It is agreed to by both Customer and Dallas that unless the quantity of wastewater discharging through each unmetered point of entry significantly increases, or if technology supports a recording flow measuring device that will accurately measure low flow, the installation of a recording flow measuring device will be waived.

C5.0 (This condition supplements condition 5.0 on page 5 of the basic contract.)

The entry point of Dallas' wastewater flow into the Mesquite system provides unmetered wastewater service to a car wash, retail store, convenience store, church and two residential homes. Mesquite directly bills the church and two residential homes. The actual wastewater usage, as billed by Dallas, for the car wash, retail store, convenience store and storage facility at this point of entry will be calculated by Dallas and deducted from Mesquite's monthly wastewater billing.

EXHIBIT D
PRETREATMENT REGULATIONS

1. Dallas is the municipal entity that owns and operates the wastewater plant that the customer (Mesquite) is serviced through. Dallas is recognized by EPA and TCEQ as the Control Authority for purposes of all Federal and State pretreatment regulations.

2. If Mesquite has an established pretreatment program approved by Dallas, EPA, or TCEQ, then Mesquite agrees to enact and enforce rules requiring those users within that portion of their service area connected to the Dallas system to comply with the provisions of all applicable State and Federal regulations, as amended, as well as those portions of the Dallas Ordinances, as amended, regarding wastewater discharged substances and prohibited discharges. Mesquite shall perform service area surveys to maintain a current listing of industries which could have the potential to be significant industrial users within that portion of Mesquite's service that is connected to the Dallas system. The surveys should encompass field inspections, a review of building, plumbing and occupancy permits and a review of directories for new industries. Mesquite shall annually provide the listing of industries to Dallas. The listing should include each industry's name, address, discharged substances, pretreatment performed and violations recorded during the year.

If Mesquite does not have a pretreatment program approved by Dallas, EPA, or TCEQ, then Mesquite agrees to enact and enforce rules or ordinances requiring those users within that portion of their service area connected to the Dallas system to comply with the provisions of those portions of the Dallas Ordinances, as amended, regarding wastewater discharged substances and prohibited discharges, and all applicable State and Federal regulations, as amended, including but not limited to: (1) discharged substances; (2) prohibited discharges; (3) pretreatment requirements; (4) the industrial discharge permit system; (5) industrial self-monitoring reports; (6) pretreatment plans; (7) Baseline Monitoring Reports (BMR); (8) periodic compliance reports; and (9) other reports as may be required by EPA or TCEQ. Mesquite shall perform service area surveys to maintain a current listing of industries which could have the potential to be significant industrial users within that portion of Mesquite's service area connected to the Dallas system. The surveys should encompass field inspections, a review of building, plumbing and occupancy permits and a review of directories for new industries. Mesquite shall annually provide the listing of industries to Dallas. The listing should include each industry's name, address, discharged substances, pretreatment performed and violations recorded during the year. Dallas will perform the surveys and listing at Mesquite's request and Mesquite shall compensate Dallas for its actual cost to provide these services.

4. Mesquite agrees that since Dallas is considered by EPA and TCEQ to be the "Control Authority" for that portion of Mesquite's service area connected to the Dallas system, Dallas has the authority to approve Mesquite's pretreatment program. Mesquite, therefore, recognizes that Dallas has the authority to take enforcement actions, including the right to disconnect, against specific industries violating Dallas' or Mesquite's industrial waste regulations. Mesquite agrees to assist Dallas with enforcement actions, should enforcement by Dallas be necessary. To the extent that such authority is subject to Texas law, Mesquite agrees to allow Dallas to perform enforcement functions Mesquite could otherwise perform under applicable law on Mesquite's behalf, where necessary, pursuant to Article 26.175 of the Texas Water Code. Dallas shall afford Mesquite a reasonable amount of time to take enforcement actions itself before commencing enforcement as the "Control Authority." Dallas shall notify Mesquite at least 10 days prior to commencing enforcement activity

as the "Control Authority," unless imminent danger or NPDES permit violation occurs, in which case Mesquite will be notified of enforcement within 24 hours.

5. If Mesquite has an established pretreatment program approved by Dallas or EPA, then Mesquite shall perform sampling and inspection of industrial users within that portion of their service area connected to the Dallas system no less frequently than annually and provide the results to Dallas within 90 days of the date the sampling and inspection is performed. EPA categorical industries must be inspected no less frequently than annually and must be monitored 3-4 days each month. Significant Industrial Users (SIU) not determined to be categorical must be inspected no less frequently than annually and must be monitored at least 4 days annually. If violations occur, monitoring frequency must increase to monthly. Monitoring is to continue until three consecutive months of sampling indicate compliance.

If Mesquite does not have a pretreatment program approved by Dallas or EPA, then Dallas shall perform sampling and inspection of industrial users within that portion of Mesquite's service area connected to the Dallas system no less frequently than annually for significant industrial users regulated under local limits and 3-4 days monthly, with annual inspections, for categorical industries regulated by EPA and provide the results to Mesquite within 90 days of the date the sampling and inspection is performed. Mesquite shall compensate Dallas for its actual cost to provide this service.

7. All samples shall be taken and analyzed in accordance with the latest edition of the *Code of Federal Regulations, Title 40, Part 136* or other methods approved by Dallas Water Utilities when an appropriate method is not found in 40 CFR 136.

EXHIBIT E

SEC. 49-42. CERTAIN WASTES PROHIBITED IN THE WASTEWATER SYSTEM.

(a) Certain discharges prohibited. No person may discharge, or cause or permit to be discharged, into the wastewater system:

- (1) inflows or infiltration, as illustrated by, but not limited to, storm water, ground water, roof run-off, subsurface drainage, a downspout, a yard drain, a yard fountain or pond, or lawn spray;
- (2) wastewater or industrial waste generated or produced outside the city unless approval in writing from the director has been given the person discharging the waste;
- (3) a liquid or vapor having a temperature higher than 150 degrees Fahrenheit (65 degrees Centigrade);
- (4) gasoline, kerosene, naphtha, fuel oil, vapors, or materials capable of forming a flammable or explosive mixture, or industrial waste with a closed cup flashpoint of less than 140 degrees Fahrenheit (60 degrees Centigrade);
- (5) used motor oil;
- (6) solid or liquid substances in quantities capable of causing obstruction to the flow in wastewater mains or other interference with the proper operation of the wastewater system as illustrated by, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, whole blood, paunch manure, hair and fleshings, entrails, lime slurry, lime residues, slops, chemical residues, and paint residues or bulk solids, except when such items as lime slurry or lime residues are used in the treatment of combined storm and wastewater during storm runoff;
- (7) a gas or substance capable of forming a gas, vapor, or fume that either by itself or by interaction with other waste may cause objectionable odor, hazard to life, acute employee health or safety problems, or other conditions deleterious to structures or the city's wastewater treatment processes;
- (8) garbage that is not properly shredded as defined in Section 49-1(62);
- (9) except where the director has determined that different limits under an industrial waste discharge permit are appropriate, wastewater exceeding 100 mg/L of oils, fats, and grease of the following types:
 - (A) floatable grease of any origin;
 - (B) free or emulsified grease of petroleum or mineral origin, or both, including, but not limited to:
 - (i) cooling or quenching oil;
 - (ii) lubricating oil;
 - (iii) nonbiodegradable cutting oil; and
 - (iv) non-saponifiable oil;
- (10) a substance having a pH value lower than 5.5 or higher than 10.5;
- (11) metals in the form of compounds or elements in solution or suspension in concentrations

exceeding the following:

Arsenic (As)	0.5	mg/L
Cadmium (Cd)	1.0	mg/L
Chromium (Total)(Cr)	5.0	mg/L
Copper (Cu)	4.0	mg/L
Lead (Pb)	1.6	mg/L
Mercury (Hg)	0.01	mg/L
Nickel (Ni)	9.0	mg/L
Selenium (Se)	0.2	mg/L
Silver (Ag)	4.0	mg/L
Zinc (Zn)	5.0	mg/L

(12) cyanides or cyanogen compounds capable of liberating hydrocyanic gas on acidification in excess of 1.6 mg/L as cyanide;

(13) radioactive materials in a manner that will permit a transient concentration higher than 100 microcuries per liter;

(14) sulfides greater than 10 mg/L;

(15) unusual taste or odor producing substances, unless pretreated to a concentration acceptable to the director so that the material does not:

- (A) cause damage to collection facilities;
- (B) impair the city's treatment processes;
- (C) incur treatment costs exceeding those of normal wastewater;
- (D) render the water unfit for stream disposal or industrial use; or
- (E) create a public nuisance;

(16) BOD or suspended solids in excess of 10,000 mg/L;

(17) a discharge of water, normal domestic wastewater, or industrial waste that which in quantity of flow exceeds, for a duration of longer than 15 minutes, more than four times the average 24 hour flow during normal operation;

(18) organic chemical substances in concentrations exceeding the following:

Benzene	1.0	mg/L
Phenol	149.0	mg/L
Toluene	3.0	mg/L
Isopropyl alcohol	26,250.0	mg/L
Acetone	21,000.0	mg/L
Methylene chloride	21.0	mg/L
Ethyl benzene	1.6	mg/L
Methyl alcohol	20,000.0	mg/L

Methyl ethyl ketone	249.0	mg/L
Xylene	2.0	mg/L

(19) insecticides and herbicides in concentrations that are not amenable to treatment;

(20) poly-chlorinated biphenyls;

(21) without the approval of the director, a substance or pollutant other than industrial waste, normal domestic wastewater, septic tank waste or chemical toilet waste that is of a toxic or hazardous nature, regardless of whether or not it is amenable to treatment, including but not limited to bulk or packaged chemical products;

(22) except at discharge points authorized by this chapter, or by regulations promulgated by the director that are not in conflict with this chapter or other laws, wastewater or a pollutant that is trucked or hauled; or

(23) any other pollutant, substance, or material not amenable to treatment, or of a concentration or quantity sufficient to harm the wastewater system, as determined by the director.

(b) Defenses to prosecution. It is a defense to prosecution under Subsection (a) of this section if a person makes a prohibited discharge as a result of a bypass that has been authorized by the director in accordance with the provisions of Chapter 40, Code of Federal Regulations, Part 403.17, as amended.

(c) Enforcement actions. If a person discharges a substance into the wastewater system in violation of this section, the director may:

(1) terminate water and wastewater service to the premises from which the substance was discharged;

(2) by administrative order, where applicable, or by other authorized means, require pretreatment or control of the quantities and rates of discharge of wastewater to bring the discharge within the limits established by this section; or

(3) bring a criminal or civil enforcement action as authorized in Section 49-41.

(d) No waiver of other enforcement. Action taken by the director under Subsection (c) does not prevent the use of other enforcement methods available to the city.

(e) Applicability of more stringent regulations. If national pretreatment standards, categorical or otherwise, more stringent than the discharge limits prescribed in Subsection (a) of this section are promulgated by the United States Environmental Protection Agency for certain industries, the more stringent national pretreatment standards will apply to the affected industrial user. A violation of the more stringent national pretreatment standards will also be considered a violation of Subsection (a) of this section.

(f) Applicability of more stringent discharge limits. An industrial user within the city who discharges industrial waste ultimately received and treated by a publicly owned treatment works owned by a governmental entity pursuant to a wholesale wastewater contract or a reciprocal agreement with the city is subject to the following additional rules:

(1) If the governmental entity has more stringent instantaneous maximum allowable discharge limits than those prescribed by this section, or by a discharge permit issued under Section 49-45, because the United States Environmental Protection Agency or the Texas Commission on Environmental Quality requires the more

stringent instantaneous maximum allowable discharge limits as a part of the governmental entity's wastewater pretreatment program, the more stringent discharge limits will prevail. The director shall furnish to all industrial users affected by this subsection a copy of the more stringent discharge limits in effect under the contract. If a permit is issued to an industrial user under this subsection, a copy of the more stringent discharge limits must be included with the permit.

(2) The director shall issue a discharge permit in accordance with Section 49-45 to an industrial user affected by Paragraph (1) of this subsection, to ensure notice of and compliance with the more stringent instantaneous maximum allowable discharge limits. If the industrial user already has a discharge permit, the director shall amend the permit to apply and enforce the more stringent instantaneous maximum allowable discharge limits. An industrial user permitted under this subsection shall submit to the director an expected compliance date and an installation schedule if the more stringent instantaneous maximum allowable discharge limits necessitate technological or mechanical adjustments to discharge facilities or plant processes.

(3) If the director receives notice from the governmental entity of a change to the instantaneous maximum allowable discharge limits or to other applicable requirements, the director shall notify the affected industrial user in writing of the change and of the effective date of the change, amend the permit to apply and enforce the change, and furnish a copy of the change with the amended permit. If the change results in more stringent instantaneous maximum allowable discharge limits or other applicable requirements, an industrial user shall be given a reasonable opportunity to comply with the more stringent limits or requirements.

(4) The more stringent instantaneous maximum allowable discharge limits cease to apply upon termination of the city's wholesale wastewater contract or reciprocal agreement with the governmental entity, or upon modification or elimination of the limits by the governmental entity, the United States Environmental Protection Agency, or the Texas Commission on Environmental Quality. The director shall take the appropriate action to notify the affected industrial user of an occurrence under this paragraph.

(g) Variances in compliance dates. The director may grant a variance in compliance dates to an industrial user when, in the director's opinion, such action is necessary to achieve pretreatment or corrective measures. In no case may the director grant a variance in compliance dates to an industrial user affected by national categorical pretreatment standards beyond the compliance dates established by the United States Environmental Protection Agency.

(h) Authority to regulate. The director may establish regulations, not in conflict with this chapter or other laws, to control the disposal and discharge of industrial waste into the wastewater system and to ensure compliance of the city's pretreatment enforcement program with all applicable pretreatment regulations promulgated by the United States Environmental Protection Agency. The regulations established must, where applicable, be made a part of any discharge permit issued to an industrial user by the director under Section 49-45. (Ord. Nos. 19201; 19622; 20215; 21409; 21862; 25214; 25256)