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COUNTY OF KERN

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF KERN**

County of Kern,

Plaintiff,

v.

City of Bakersfield, ALL PERSONS
INTERESTED IN THE MATTER
CONCERNING THE CITY OF
BAKERSFIELD'S ADOPTION OF A
RESOLUTION ADOPTING SEWER
USER RATES FOR FISCAL YEARS
2026-27 THROUGH 2030-31, and DOES
1-100, inclusive,

Defendant.

Case No. 26CUB02363

Complaint and Petition for:

- 1. Reverse Validation (Code Civ. Proc., §§ 860 et seq.; Gov. Code, § 53759);**
- 2. Verified Writ of Mandate (Code Civ. Proc., § 1085);**
- 3. Declaratory Relief (Code Civ. Proc., § 1060);**
- 4. Injunctive Relief (Code Civ. Proc., §§ 526, 527);**
- 5. Refund of Unlawfully Collected Sewer Fees (Health & Saf. Code, § 5472; Cal. Const., art. XIII D, § 6); and**
- 6. Breach of Contract**

Plaintiff and petitioner the County of Kern ("County") alleges as follows:

1 1. This *in rem* reverse validation action challenges the City of Bakersfield
2 ("City") adoption of a resolution increasing sewer user rates for Fiscal Years 2026-27
3 through 2030-31 (the "**Resolution**"). The City Council adopted the Resolution on May 27,
4 2026, pursuant to a staff recommendation, following a cost-of-service analysis conducted
5 by HF&H Consultants, LLC. The Resolution increases annual sewer service charges
6 from the current rate of \$247 per year per single family home to \$475 per year in FY
7 2026-27, and then escalates \$100 each year to \$875 per year by FY 2030-31. The
8 Resolution also increases sewer service charges for multiple dwelling, commercial, and
9 industrial customer classes. For commercial users, the Resolution establishes a two-part
10 charge: a flat rate collected on the property tax bill equal to the single-family residential
11 rate, and a volumetric sewer surcharge per hundred cubic feet ("**HCF**") of water
12 consumed that varies by wastewater strength classification. The County's parcels are
13 classified as commercial accounts and are subject to the commercial rates. A true and
14 correct copy of Resolution No. 064-2026 is attached as Exhibit A.

15 2. The Resolution and sewer user rates are invalid on at least two
16 independent grounds. First, the City improperly included costs for its separate stormwater
17 system in the sewer user rates, in violation of California Constitution Article XIII D, section
18 6(b)(1), (2), and (3). Second, on information and belief, the rate structure does not
19 produce charges proportional to the cost of sewer service attributable to each parcel, as
20 required by California Constitution Article XIII D, section 6(b)(3).

21 3. The City also provides regional sewage conveyance and treatment services
22 to an area served by the County's County Service Area 71 local sewer lines, under an
23 *Agreement [for] Sewer Maintenance and Sewage Transport, Treatment and Disposal for*
24 *a Portion of County Service Area 71*, dated October 20, 1999 and attached as Exhibit C.
25 Under that Agreement, the City charges the County for wastewater treatment services at
26 the same sewer rate that the City charges its own ratepayers, which the County then
27 passes through to its County Service Area 71 customers. The County alleges that
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1 because the newly-adopted sewer charge includes stormwater costs, the City has
2 breached its duty to charge the County only the cost of sewer services.

3 THE PARTIES

4 4. Plaintiff and petitioner the County of Kern is a political subdivision of the
5 State of California. The County administers County Service Area No. 71 ("**CSA 71**"),
6 which provides sewer services to property owners within its boundaries. CSA 71 is
7 subject to the City of Bakersfield's sewer user rates pursuant to a contract between the
8 County and the City under which CSA 71 operates the local sewers and relies on the City
9 for regional wastewater collection and treatment. The City's rate increases will affect all
10 property owners within CSA 71 because the County must pay to the City the rates for
11 each parcel within CSA 71, a rate that the County must pass through to its CSA 71
12 customers.

13 5. In addition to its role as administrator of CSA 71, the County is also itself a
14 property owner and ratepayer subject to the proposed sewer user rates. The County
15 owns or occupies improved real property served by the City's sewer system and is
16 subject to the City's increased sewer service charges. The County's parcels are classified
17 as commercial accounts and are subject to the commercial rates. Therefore, the County
18 has standing to challenge the Resolution both as administrator of CSA 71 and
19 independently as a ratepayer owning property that is subject to the unlawful rates.

20 a. The County owns the following parcels that are subject to the
21 challenged rates (each identified by its assessor's parcel number
22 ("**APN**") and street address):

- 23 • APN 002-120-02-0 (1110 Golden State Avenue);
- 24 • APN 173-200-08-0 (1001 S Mt. Vernon Avenue);
- 25 • APN 168-200-29-3 (1101 E Belle Terrace);
- 26 • APN 006-580-01-3 (1115 Truxtun Avenue and 1215 Truxtun
27 Avenue);
- 28 • APN 002-120-07 (1120 Golden State Avenue / 2731 O
Street);
- APN 006-022-07-3 (1300 18th Street);

- APN 013-280-11-0 (1400 Baker Street);
- APN 006-392-08-8 (1401 L Street);
- APN 006-290-01-9 (1415 Truxtun Avenue);
- APN 006-401-01-2 (1420 H Street);
- APN 006-392-09-6 (1431 L Street);
- APN 006-192-11-6 (1530 Truxtun Avenue);
- APN 167-060-31-8 (1600 E Belle Terrace);
- APN 006-192-07-4 (1655 Chester Avenue/1751 McKee Road);
- APN 001-242-21-3 (2001 28th Street/2520 Church Avenue / 2601 Panorama Drive);
- APN 120-080-14-8 (3805 Chester Avenue);
- APN 382-010-25-4 (4175 Mt. Vernon Avenue);
- APN 139-440-10-1 (506 E Brundage Lane);
- APN 170-010-07-8 (521 Casa Loma Drive);
- APN 016-190-15-9 (620 E 18th Street);
- APN 006-140-01-6 (701 Truxtun Avenue);
- APN 389-140-04-7 (8301 Ming Avenue)
- APN 173-591-10 (702 Workman Street);
- APN 002-120-05 (700 M Street); and
- APN 002-202-05 (2820 M Street).

b. The County pays the sewer bill for the following parcels that are subject to the challenged rates (each identified by its APN and street address):

- APN 023-500-21 (3041 Wilson Road);
- APN 006-540-08 (1400 S Street); and
- APN 332-256-07 (4901 Commerce Drive A).

6. Defendant and respondent the City of Bakersfield is a charter city organized and existing under its charter and the laws of the State of California. The City provides services for the collection and treatment of the City's wastewater through two wastewater treatment plants and wastewater collection systems. The City is a "local agency" as defined in Article XIII D of the California Constitution and is subject to the requirements of Proposition 218.

7. Plaintiff is unaware of the true names and capacities of all persons interested in this matter and thus, pursuant to Code of Civil Procedure section 860, *et seq.*, names ALL PERSONS INTERESTED IN THE MATTER CONCERNING THE CITY OF BAKERSFIELD'S ADOPTION OF A RESOLUTION ADOPTING SEWER USER RATES FOR FISCAL YEARS 2026-27 THROUGH 2030-31, and fictitiously named defendants as Does 1 through 100.

STATUTORY AUTHORITY

8. Government Code section 53759 and Code of Civil Procedure section 860 *et seq.* provide the statutory authority for this reverse validation action.

9. Government Code section 53759(a) authorizes reverse validation actions challenging ordinances, resolutions, or motions adopting or amending sewer fees, commenced within 120 days of the effective date of final passage pursuant to Government Code section 53759, subdivision (a).

10. The City Council adopted the Resolution on May 27, 2026. The rate increases take effect July 1, 2026. The County brings this action within the 120-day statutory deadline of Government Code section 53759(a).

JURISDICTION AND VENUE

11. This Court has jurisdiction of the matters alleged in this complaint and petition pursuant to Code of Civil Procedure sections 860, *et seq.*, 1085, 526, and 527, and Government Code section 53759.

12. Venue for this action properly lies in the Superior Court for the State of California, County of Kern, pursuant to Code of Civil Procedure section 394. The City of Bakersfield is entirely within the County of Kern.

COMPLIANCE WITH GOVERNMENT CLAIMS ACT

13. The County asserts that compliance with the Government Claims Act is not required because this Action is by one public entity against another and the City has not adopted a claims ordinance. (Gov. Code, §§ 905(i), 935.) Additionally, a refund claim under Health and Safety Code section 5472 is exempt from compliance with the

1 Government Claims Act. (Gov. Code, § 905(a).) Nonetheless, out of an abundance of
2 caution, the County presented a government claim to the City on or about June 15, 2026
3 pursuant to Government Code section 910 *et seq.* A true and correct copy of the
4 County's Government Claim presented on June 15, 2026 is attached as Exhibit B. To the
5 extent the Government Claims Act applies to this Action, the County reserves the right to
6 amend following the City's response to the government claim or expiration of the 45-day
7 period under Government Code section 912.4. (Gov. Code, § 945.4.) The County does
8 not waive its position that the Government Claims Act does not apply to this Action by
9 presenting a claim.

10 **PUBLICATION OF THE SUMMONS**

11 14. Pursuant to Code of Civil Procedure section 861.1, Plaintiff requests that
12 this Court order publication of the Summons in the Bakersfield Californian, a newspaper
13 of general circulation in Kern County, in Bakersfield, and in the service area affected by
14 the City's sewer rate increases.

15 **FACTUAL ALLEGATIONS**

16 Proposition 218

17 15. In November 1996, California voters passed Proposition 218, adding
18 Articles XIII C and XIII D to the California Constitution. Article XIII D constrains local
19 government fees and charges that exceed the proportional cost of property-related
20 services, including by prohibiting revenues that exceed the cost of the service, prohibiting
21 use of revenues for purposes other than the service, and requiring that charges not
22 exceed the proportional cost of the service attributable to each parcel.

23 16. Article XIII D, section 6(b) sets forth substantive requirements for imposing
24 increases in fees or charges. A fee or charge may not be extended, imposed, or
25 increased unless it meets the following requirements:

- 26 (1) Revenues derived from the fee or charge shall not exceed the funds
27 required to provide the property-related service.

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(2) Revenues derived from the fee or charge shall not be used for any purpose other than that for which the fee or charge is imposed.

(3) The amount of a fee or charge imposed upon any parcel or person as an incident of property ownership shall not exceed the proportional cost of the service attributable to the parcel.

17. Because the City's sewer user rates are charges for sewer service, those charges are exempt from the voter approval requirement of Article XIII D, section 6(c). This action does not challenge the absence of a vote on the sewer rates. However, because the City's stormwater collection system operates separately from its sanitary sewer system and provides no benefit to it, the stormwater component of the rates does not qualify for the section 6(c) exemption and should have been submitted to a vote of affected property owners before being imposed. The County challenges the rates on the grounds that they fail the substantive cost and proportionality requirements of Article XIII D, section 6(b), and that the stormwater component constitutes an unlawful tax because it has not been authorized by voter approval under section 6(c). The City has not held a vote and has offered no legal basis for the section 6(c) exemption applying to its separate stormwater system.

18. Article XIII D, section 6(b) further provides that "[i]n any legal action contesting the validity of a fee or charge, the burden shall be on the agency to demonstrate compliance with this article."

City's Sewer Rate Proceeding

19. The City operates sewer and stormwater collection systems and two wastewater treatment plants. The City administrative reports describe the Sewer Enterprise as self-sustaining, primarily supported by sewer user rates collected on the property tax bill for all residential, commercial, and industrial customers.

20. In 2025, the City retained HF&H Consultants, LLC to conduct a cost-of-service analysis to identify capital improvement, operations and maintenance, and staffing requirements.

21. HF&H presented its original results to the City Council on October 22, 2025. Thereafter, the City sought and incorporated community feedback, and based on that feedback, HF&H revised its analysis in 2026, and recommended to the City Council that the City increase sewer charges under five-year rate schedule, as described below:

Fiscal Year	Existing Annual Rate
2025-26	\$247

Fiscal Year	Proposed Annual Rate
2026-27	\$475
2027-28	\$575
2028-29	\$675
2029-30	\$775
2030-31	\$875

22. The Resolution increases the annual sewer rate from \$247 in FY 2025-26 to \$875 by FY 2030-31. The above rates apply to single-family residential accounts. The Resolution also establishes separate rate schedules for multiple dwelling units, commercial accounts classified by wastewater strength, and permitted industrial users, as set forth in Exhibit A.

23. For commercial accounts, the rate structure consists of two components. First, all commercial accounts pay the same flat rate as single-family residences: \$475.00 per year in FY 2026-27, escalating \$100.00 annually to \$875.00 per year by FY 2030-31. Second, commercial accounts pay a volumetric sewer surcharge per HCF of water consumed based on their wastewater strength classification. The Resolution specifies that the minimum sewer charge for all properties equals the single-family residence flat rate. Because the County's parcels are classified as commercial accounts, the County is assessed the commercial flat rate plus the applicable strength-classification surcharge for each parcel identified in paragraph 4 above.

24. In connection with the proposed rate increases, the City conducted Proposition 218 proceedings pursuant to Health and Safety Code sections 5470, *et seq.*, and Article XIII D, section 6. The City mailed Proposition 218 Notices to approximately 70% of affected property owners on March 5, 2026, and after realizing that it had failed to

1 include all property owners in the original mailing, sent to approximately 30% of the
2 affected property owners a revised Proposition 218 notice on March 19, 2026. The City
3 held public hearings on April 22, 2026, and May 13, 2026. The two notices contained
4 different protest deadlines, which may have caused some property owners to forgo filing
5 a protest because they were not aware they had additional time. The City adopted the
6 Resolution increasing the sewer user rates on May 27, 2026.

7 **Improper Inclusion of Stormwater Costs in Sewer Rates**

8 25. The City impermissibly includes stormwater costs in the sewer use rate.
9 The cost-of-service analysis addresses capital improvements, operations and
10 maintenance, and staffing costs for both wastewater (sewer) services and stormwater
11 collection services. However, the City does not operate a combined sewer and
12 stormwater system. Combined sewer systems are a distinct regulatory category. The
13 City's stormwater system is separately regulated as a Municipal Separate Storm Sewer
14 System ("**MS4**") under its own National Pollutant Discharge Elimination System
15 ("**NPDES**") permit, confirming that the two systems are distinct.

16 26. The City's two wastewater treatment plants are regulated by Waste
17 Discharge Requirements issued by the California Regional Water Quality Control Board,
18 Central Valley Region. (WWTP No. 2, regulated by Order No. R5-2009-0122, and WWTP
19 No. 3, regulated by Order No. R5-2009-0087.) These permits document that the City
20 does not operate a combined system. The City also maintains a Sanitary Sewer
21 Management Plan ("**SSMP**") that makes no reference to stormwater management or
22 stormwater services.

23 27. The City has a separate NPDES MS4 permit for its stormwater collection
24 system (General Order No. R5-2016-0040-017, NPDES Permit No. CAS0085324). An
25 MS4 permit governs a system that collects and conveys stormwater separately from
26 sanitary sewage. (40 C.F.R. § 122.26(b)(8).) The existence of a dedicated MS4 permit
27 confirms that the City's stormwater and sewer systems are physically and operationally
28 distinct.

1 28. Furthermore, the City's own municipal code prohibits stormwater from being
2 discharged into sanitary sewers. Municipal Code Section 14.12.220, entitled "Prohibited
3 Discharges" states at subdivision B: "Except as provided in Section [14.12.230](#) [which
4 pertains to hospital wastes], no person shall discharge or cause to be discharged to a
5 public sewer, which directly or indirectly connects to the city's sewerage systems, the
6 following wastes: ...(5) any rainwater, stormwater, street drainage, subsurface drainage,
7 roof drainage, yard drainage, water from yard fountains, ponds or lawn sprays, swimming
8 pool drainage, or any other uncontaminated water, unless specifically authorized by the
9 city engineer".¹

10 29. In *Howard Jarvis Taxpayers Association v. City of Salinas* (2002) 98
11 Cal.App.4th 1351, 1356-1358, the Court of Appeal held that a storm drainage fee does
12 not qualify as a "sewer" or "water" service charge exempt from the requirement that
13 ratepayers vote on the service charge, pursuant to Section 6(c). Government Code
14 sections 53750(k) and 53751 define "sewer" to include stormwater management facilities
15 and programs that benefit the sewer system. Government Code section 53750(n) defines
16 "water" to mean water from "any source." But stormwater facilities benefit from the
17 Section 6(c) exemption only if they benefit the sewer system. The Court of Appeal in
18 *Gluck v. City and County of San Francisco* (2025) 111 Cal.App.5th 769, 787, a case
19 analyzing a San Francisco's permitted "combined sewer system" (which is permitted to
20 combine stormwater and sewage), confirmed that *City of Salinas* applies to separate (not
21 combined) stormwater systems and expressly distinguished San Francisco's system on
22 that basis, noting that both *City of Salinas* and *Department of Finance v. Commission on*
23 *State Mandates* (2022) 85 Cal.App.5th 535 are distinguishable "because, unlike City's
24 combined sewer system here, separate stormwater systems were at issue." (*Gluck*,
25 *supra*, 111 Cal.App.5th at p. 787.)

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28 ¹ [https://bakersfield.municipal.codes/Code/14.12.220\(B\)\(5\)](https://bakersfield.municipal.codes/Code/14.12.220(B)(5))

1 30. The court in *Gluck* recognized that *City of Salinas* emphasized the separate
2 nature and purpose of the storm drainage system, finding that the City of Salinas handled
3 storm drainage differently from sewage. (*Ibid.*) *Gluck* did not modify *City of Salinas's*
4 holding as applied to separate stormwater systems, and declined to express an opinion
5 on the holdings of *City of Salinas* and *Department of Finance*. (*Id.* at p. 788, fn. 6.)
6 Because the City of Bakersfield's stormwater collection system operates separately from
7 its sanitary sewer system, Government Code section 53751 does not authorize inclusion
8 of stormwater costs in sewer user rates. This is consistent with *Gluck's* holding that the
9 Section 6(c) exemption for a combined sewer system turns on whether the system's
10 stormwater and wastewater functions are integrated, and that voter approval remains
11 required where the stormwater system operates distinctly and independently. (*Gluck*,
12 *supra*, 111 Cal.App.5th at pp. 787-790.) The stormwater component of the proposed
13 rates remains subject to the full requirements of Article XIII D, section 6(b), which
14 includes a voting requirement.

15 31. The City's rate study does not demonstrate any nexus between its
16 stormwater collection system and the sewer system that could bring stormwater costs
17 within the definition under Government Code section 53751. The Proposition 218 Notices
18 mailed to property owners likewise identify no such nexus. The absence of any nexus
19 between the sewer and stormwater systems in the rate study record means the City
20 cannot carry its burden to demonstrate compliance with Article XIII D, section 6(b).

21 32. Because the cost-of-service analysis does not segregate stormwater costs
22 from sewer costs, the proposed rates violate Article XIII D, section 6(b) in three respects:

- 23 (1) revenues exceed funds required for the property-related sewer
24 service;
25 (2) revenues will fund purposes other than sewer service; and
26 (3) the fee exceeds the proportional cost of sewer service attributable to
27 each parcel.

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1 33. The City's Proposition 218 notices do not disclose the portion of the
2 proposed rate attributable to stormwater services as distinct from sewer services.

3 34. The City has not demonstrated, and cannot demonstrate, that revenues
4 derived from the proposed rates do not exceed the funds required to provide only
5 property-related sewer services because the City's cost-of-service analysis does not
6 segregate sewer costs from stormwater costs. As the entity seeking to impose the fee,
7 the burden is on the City to demonstrate compliance with Article XIII D, section 6(b).

8 The Rate Structure Is Not Proportional Even Absent Stormwater Inclusion

9 35. On information and belief, the City's rate structure violates Article XIII D,
10 section 6(b)(3)'s proportionality requirement because the rates imposed on each parcel
11 are not proportional to the actual cost of sewer service attributable to that parcel. The
12 lack of proportionality extends to all customer classes. The commercial and industrial rate
13 schedules were derived from the same deficient cost-of-service analysis and likewise fail
14 to demonstrate that charges do not exceed the proportional cost of sewer service
15 attributable to each commercial or industrial parcel. Because the County's parcels are
16 subject to the commercial rate schedule, any failure to properly allocate costs among
17 commercial parcels directly affects the rates the County is required to pay. The County
18 reserves the right to supplement this allegation following completion of an expert cost-of-
19 service analysis.

20 Basis for Attorney's Fees Under Code of Civil Procedure Section 1021.5

21 36. This action enforces important rights affecting the public interest within the
22 meaning of Code of Civil Procedure section 1021.5. The County challenges sewer user
23 rates imposed on property owners throughout the City's service area, including
24 thousands of ratepayers subject to rates that violate the substantive requirements of
25 Proposition 218 and Article XIII D of the California Constitution.

26 37. This action will confer a significant benefit on the general public and a large
27 class of persons. A successful challenge will prevent the City from collecting an unlawful
28 sewer rate from all property owners in its service area, including owners of residential,

1 commercial, and industrial parcels, as well as the County as a property owner and
2 provider for CSA 71 ratepayers. Therefore, the benefit to ratepayers extends beyond the
3 immediate parties to this litigation.

4 38. The necessity and financial burden of private enforcement make an
5 attorney's fee award appropriate. Litigation is required to enforce the constitutional
6 limitations on sewer rates, which involves complex constitutional and statutory issues
7 related to Proposition 218 compliance. The costs of this litigation are disproportionate to
8 the direct financial interest of any individual ratepayer, and it would be impractical for
9 individual ratepayers to bear the financial burden of enforcement.

10 **FIRST CAUSE OF ACTION**

11 **Reverse Validation Action (Code Civ. Proc. § 860, *et seq.* and Gov. Code § 53759)**

12 (Against City of Bakersfield)

13 39. The County hereby realleges and incorporates the allegations contained in
14 the above paragraphs, as though fully set forth herein.

15 40. Code of Civil Procedure section 860, *et seq.*, and Government Code
16 section 53759 grant any interested person the right to seek judicial determination of the
17 validity of an ordinance, resolution, or motion adopting, modifying, or amending a fee or
18 charge for sewer service within 120 days of the effective date or date of final passage.

19 41. By adopting the Resolution, the City acted unlawfully and failed to follow the
20 requirements of Proposition 218 and Article XIII D of the California Constitution, because:

- 21 (1) The revenues derived from the proposed rates exceed the funds
22 required to provide the property-related sewer service by improperly
23 including stormwater costs, in violation of Article XIII D, section
24 6(b)(1);
- 25 (2) The revenues derived from the proposed rates are used to fund
26 stormwater operations, a purpose other than the sewer service for
27 which the rates are imposed, in violation of Article XIII D, section
28 6(b)(2);

- 1 (3) The amount of the fee imposed upon individual parcels exceeds the
2 proportional cost of sewer service attributable to each parcel
3 because the rate includes stormwater costs that are not attributable
4 to sewer service, in violation of Article XIII D, section 6(b)(3);
- 5 (4) To the extent the rates include stormwater costs, those costs are not
6 sewer costs and are not exempt from the voter approval requirement
7 of Article XIII D, section 6(c). The City has not submitted stormwater
8 charges to a vote of affected property owners as required by section
9 6(c); and
- 10 (5) On information and belief, the rate structure violates Article XIII D,
11 section 6(b)(3) because rates do not reflect the proportional cost of
12 sewer service attributable to each parcel.

13 **SECOND CAUSE OF ACTION**

14 **Writ of Mandate (Code Civ. Proc. § 1085)**

15 (Against City of Bakersfield)

16 42. The County hereby realleges and incorporates the allegations contained in
17 the above paragraphs, as though fully set forth herein.

18 43. The City's adoption of the Resolution constitutes an abuse of discretion
19 because the Resolution is based on a cost-of-service analysis that fails to segregate
20 stormwater costs from sewer rates, in violation of Article XIII D, section 6(b). Additionally,
21 and on information and belief, the rate structure does not produce rates proportional to
22 the cost of sewer service attributable to each parcel, in violation of Article XIII D, section
23 6(b)(3).

24 44. In conjunction with, or in the alternative to, the County's reverse validation
25 claim, the County petitions this Court for a writ of mandate to rescind the Resolution. The
26 County further seeks a determination by this Court, on the basis of evidence with expert
27 testimony thereon, of the lawful rate the City may charge for sewer service. The rate
28 derived from a code-compliant (or proper) cost-of-service analysis should exclude

1 stormwater costs and allocate sewer costs proportionally to each parcel in compliance
2 with Article XIII D, section 6(b). To the extent the Resolution imposes charges for
3 stormwater service, those charges are not exempt from the voter approval requirement of
4 Article XIII D, section 6(c), and the City's failure to submit such charges to a vote of
5 affected property owners renders them invalid. The difference between the rates imposed
6 by the Resolution and the lawfully determinable rate forms the basis for the County's
7 refund claim set forth below. In the alternative, should the Court decline to determine the
8 correct rate, the County seeks an order directing the City to conduct a new, legally
9 compliant cost-of-service analysis, submit any stormwater charges to a vote as required
10 by Article XIII D, section 6(c), and impose only those rates that satisfy the substantive
11 requirements of Article XIII D, section 6(b) before adopting any corrected sewer rates.

12 **THIRD CAUSE OF ACTION**

13 **(Declaratory Relief (Code Civ. Proc. § 1060))**

14 (Against City of Bakersfield)

15 45. The County hereby realleges and incorporates the allegations contained in
16 the above paragraphs, as though fully set forth herein.

17 46. The County seeks a judicial declaration that the City's adoption of the
18 Resolution is unlawful and invalid because:

- 19 a. The revenues derived by the City from its increased sewer charges
20 exceed the funds required to provide the property-related sewer
21 service because the rate improperly includes stormwater costs, in
22 violation of Article XIII D, section 6(b)(1);
- 23 b. The revenues derived from the increased sewer charges are used to
24 fund stormwater operations, a purpose other than the sewer service
25 for which the rates are imposed, in violation of Article XIII D, section
26 6(b)(2);
- 27 c. The amount of the fee imposed upon individual parcels exceeds the
28 proportional cost of sewer service attributable to each parcel

1 because the rate includes stormwater costs not attributable to sewer
2 service, in violation of Article XIII D, section 6(b)(3);

3 d. To the extent the Resolution imposes charges for stormwater
4 service, those charges are not charges for sewer service within the
5 meaning of Article XIII D, section 6(c), and the City's failure to submit
6 such charges to a vote of affected property owners prior to
7 imposition renders the Resolution unlawful and invalid, in violation of
8 Article XIII D, section 6(c); and

9 e. Independently, and on information and belief, the rate structure
10 violates Article XIII D, section 6(b)(3) because the City's cost-of-
11 service analysis does not allocate sewer costs proportionally to each
12 parcel based on the actual cost of sewer service attributable to that
13 parcel, irrespective of the stormwater cost inclusion addressed
14 above.

15 **FOURTH CAUSE OF ACTION**

16 **(Injunctive Relief (Cal. Code Civ. Proc. §§ 526, 527))**

17 (Against City of Bakersfield)

18 47. The County hereby realleges and incorporates the allegations contained in
19 the above paragraphs, as though fully set forth herein.

20 48. The County and other affected property owners will suffer irreparable harm
21 if the City is permitted to collect sewer user rates that improperly include stormwater
22 costs. The County has no adequate remedy at law because the excessive rates will
23 impose unbudgeted costs on the County operations, disrupting the County's budget
24 outside the normal process for adopting and amending its budget, and the ongoing
25 collection of unlawful rates constitutes a continuing constitutional violation.

26 49. The County therefore seeks an order enjoining the City from collecting
27 sewer user rates pursuant to the Resolution to the extent those rates include costs
28 attributable to the City's stormwater collection system.

1 **FIFTH CAUSE OF ACTION**

2 **Refund of Unlawfully Collected Sewer Fees (Health & Saf. Code, § 5472; Cal.**

3 **Const., art. XIII D, § 6)**

4 (Against City of Bakersfield)

5 50. The County hereby realleges and incorporates the allegations contained in
6 the above paragraphs, as though fully set forth herein.

7 51. Health and Safety Code section 5472 provides that any charge or fee
8 collected in violation of Health and Safety Code sections 5470 *et seq.* shall be refunded
9 to the person making the payment. The City's sewer user rates are subject to those
10 statutory requirements because they are charges imposed for sewer service within the
11 meaning of Health and Safety Code sections 5470 and 5471.

12 52. As set forth above, the rates imposed by the Resolution violate Article XIII
13 D, section 6(b) of the California Constitution on two independent grounds:

- 14 (1) the rates improperly include costs attributable to the City's
15 stormwater collection system, which is separate from and provides
16 no benefit to its sanitary sewer system in violation of Article XIII D,
17 sections 6(b)(1), (2), and (3); and
18 (2) separately, and on information and belief, the City's cost-of-service
19 analysis does not allocate sewer costs proportionally to each parcel
20 based on the actual cost of sewer service attributable to that parcel,
21 as required by Article XIII D, section 6(b)(3), irrespective of the
22 stormwater cost inclusion addressed above.

23 53. To the extent the City collects sewer fees pursuant to the Resolution before
24 this Court acts, such fees will be collected in violation of Article XIII D. The County is
25 entitled to a refund of all fees collected in an amount equal to the difference between the
26 fees actually assessed against and collected from the County for each of its parcels
27 identified in paragraph 4 above, and the fees that would have been lawfully assessable
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54. had the City properly excluded stormwater costs from the rate base and set rates proportional to the actual cost of sewer service attributable to each parcel.

55. The precise amount of overcharge cannot be determined without a compliant cost-of-service analysis segregating stormwater from sewer costs that demonstrates proportional allocation of costs to each parcel. The County therefore seeks a refund in an amount to be proven at trial. The County reserves the right to supplement this claim following completion of an expert cost-of-service analysis.

SIXTH CAUSE OF ACTION

Breach of Contract

(Against City of Bakersfield)

56. The County hereby realleges and incorporates the allegations contained in the above paragraphs, as though fully set forth herein.

57. On October 20, 1999, the City and the County entered into Agreement No. 99-266 (City Agreement No. 99-266; County Agreement No. 943-99) [for] Sewer Maintenance and Sewage Transport, Treatment and Disposal for a Portion of County Service Area 71 ("**Agreement**"). A true and correct copy of the Agreement is attached hereto as Exhibit C.

58. Section 4 of the Agreement expressly provides that County shall pay to City, annually, for providing sewer service, and that said payment "shall be for the operation and maintenance of the CITY sewer system including wastewater treatment plants, pipeline maintenance and other associated expenses excepting operations and maintenance for the COUNTY maintained portions of the sewer lines."

59. The Agreement limits the authorized use of those annual payments to the operation and maintenance of the City sewer system. The Agreement does not authorize use of those payments for stormwater management, stormwater conveyance, stormwater infrastructure, or any other stormwater-related purpose. Stormwater falls outside those categories and outside the Agreement's scope.

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60. The Agreement further provides that the amount paid by County to City "shall be the same as would be charged by the CITY to CITY property owners for equivalent types of usage within the CITY's jurisdiction," and that the amount shall be calculated by City on the basis of sewer connections in the Sewer Service Area. This confirms that the payment is tied to sewage flows and sanitary sewer service, not to stormwater.

61. The County has performed all conditions, covenants, and obligations required of it under the Agreement, or performance has been excused.

62. The City breached the Agreement by adopting the increased rates that include a stormwater component not authorized by Section 4 of the Agreement. The inclusion of stormwater costs is outside the scope of, and contrary to, the express terms of the Agreement.

63. As a direct and proximate result of the City's breach, the County will suffer damages in an amount to be proven at trial, including but not limited to the amounts attributable to unauthorized stormwater purposes. Section 21 of the Agreement provides that in the event of a default, the non-defaulting party shall be allowed to recover interest on all damages at the legal rate from the date of the breach. Therefore, the County is also entitled to prejudgment interest from the date of breach.

PRAYER FOR RELIEF

WHEREFORE, the County respectfully requests that this Court issue relief as follows:

1. For an order setting aside and invalidating the Resolution adopting sewer user rates for Fiscal Years 2026-27 through 2030-31, finding it contrary to the provisions of Proposition 218 and Article XIII D of the California Constitution;

2. For a peremptory writ of mandate to set aside the Resolution, and, either:

(a) on the basis of evidence with expert testimony thereon, to declare the lawful rate the City may charge for sewer service; the difference between which and rates imposed by the Resolution constituting the measure of refund owed to County; or, (b) direct the City to conduct a new, legally compliant cost-of-service analysis, adopt replacement sewer

1 rates that comply with Article XIII D, section 6(b), and calculate the refund as the
2 difference between the newly adopted compliant rates and the rates imposed by the
3 Resolution;

4 3. If the Court determines that any replacement sewer rates require voter
5 approval under Article XIII D, section 6(c), for an order directing the City to submit any
6 such replacement rates to a vote of affected property owners before imposing or
7 collecting them;

8 4. For a judicial declaration that the inclusion of stormwater costs in sewer
9 user rates violates Article XIII D, section 6(b)(1), (2), and (3) of the California Constitution;
10 that the revenues derived from the proposed rates exceed the funds required to provide
11 property-related sewer service; and that the proposed rates exceed the proportional cost
12 of sewer service attributable to individual parcels;

13 5. For a preliminary and permanent injunction enjoining the City from
14 collecting sewer user rates pursuant to the Resolution or any rate schedule that includes
15 stormwater costs, pending full compliance with Article XIII D;

16 6. For a refund of all sewer fees collected in excess of the lawfully assessable
17 amount, in an amount to be proven at trial, with interest;

18 7. For an award of reasonable attorney's fees pursuant to Code of Civil
19 Procedure section 1021.5, on the ground that this action enforces an important right
20 affecting the public interest, confers a significant benefit on the general public and a large
21 class of persons, and the necessity and financial burden of private enforcement make an
22 award of fees appropriate;

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- 8. For costs of suit; and
- 9. For such other and further relief as the Court deems just and proper.

DATED: June 15, 2026

COUNTY OF KERN

By: Kendra L. Graham
KENDRA L. GRAHAM
SCOTT FONTES
BRIAN VAN WYK
Attorneys for Plaintiff and Petitioner
COUNTY OF KERN

DATED: June 15, 2026

HANSON BRIDGETT LLP

By: Claire H. Collins
CLAIRE H. COLLINS
ROSSLYN HUMMER
MICHAEL C. GASBARRO
Attorneys for Plaintiff and Petitioner
COUNTY OF KERN

1 **VERIFICATION**

2 I, Elsa Martinez, declare as follows:

3 I am the Assistant County Administrative Officer for the County of Kern, the
4 plaintiff and petitioner in the above-entitled action. I am authorized to make this
5 verification on the County's behalf.

6 I have read the foregoing Complaint and know the contents thereof. The matters
7 stated therein are true of my own knowledge, except as to those matters stated on
8 information and belief, and as to those matters, I believe them to be true.

9 I declare under penalty of perjury under the laws of the State of California that the
10 foregoing is true and correct.

11 Executed on this 15th day of June, 2026, at Bakersfield, California.

12 

13 Elsa Martinez
14 Assistant County Administrative Officer
15 County of Kern
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Exhibit A

RESOLUTION NO. 064-2026

**RESOLUTION ADOPTING NEW SEWER RATES
FOR FISCAL YEARS 2026-27 THROUGH
2030-31**

WHEREAS, Chapter 14.12 of the Bakersfield Municipal Code provides for the establishment of fees sufficient to recover reasonable costs of providing sewer services rendered; and

WHEREAS, HF&H Consultants completed a full cost-of-services analysis and provided rate recommendations; and

WHEREAS, City staff finalized the 2026-2030 Sewer Rates and Fees Report determining recommend rate increases; and

WHEREAS, proposed changes were presented to the City Council on February 11, 2026; and

WHEREAS, City staff was given permission to move forward with the proposed changes; and

WHEREAS, City staff prepared and mailed notices of the public hearings to residential and commercial users, as required by Proposition 218, notifying them of the proposed rate increases (Cal. Constitution Article XIII D, section 6); and

WHEREAS, both public hearings before the City Council were advertised in the Bakersfield Californian, a newspaper of general circulation; and

WHEREAS, two public hearings were held in order to receive evidence and hear all persons interested in or objecting to the proposed rate increases; and

WHEREAS, the City Council has considered the staff report, public comments, information presented at the public hearings, and written protests; and

WHEREAS, the Rate Schedule for Fiscal Years 2026-27 through 2030-31, attached hereto as Exhibit A and incorporated by reference herein, summarizes both residential and commercial rates proposed for Fiscal Years 2026-27 through 2030-31; and

WHEREAS, the adoption of sewer fees is exempt from the California Environmental Quality Act (CEQA) under the California Public Resources Code Section 21080(b)(8).

CITY OF BAKERSFIELD
ORIGINAL

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Bakersfield as follows:

1. The above recitals and findings are true and correct and are incorporated herein by reference.
2. The Council finds that insufficient written protests were presented to prevent the proposed rate increases.
3. The Council ratifies the Proposition 218 process followed by the City.
4. The fees and charges set forth in **Exhibit "A"** are hereby adopted and shall become effective July 1, 2026 with the subsequent increases following thereafter on July 1st of the indicated fiscal year.
5. The adoption of these fees and charges complies with Proposition 218 and Proposition 26.
6. Pursuant to the Bakersfield Municipal Code, the fees and charges herein shall be collected by the Kern County Tax Collector on the property tax rolls.
7. This Resolution is effective July 1, 2026.

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I **HEREBY CERTIFY** that the foregoing Resolution was passed and adopted,
by the Council of the City of Bakersfield at a regular meeting thereof held on
MAY 27 2026 by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

COUNCILMEMBER ARIAS, GONZALES, WEIR, SMITH, KOMAN, BASHIRTASH, KAUR
COUNCILMEMBER WEIR, KAUR
COUNCILMEMBER _____
COUNCILMEMBER _____

Julie Drimakis

JULIE DRIMAKIS, CPMC, MMC
CITY CLERK and Ex Officio of the
Council of the City of Bakersfield

APPROVED: MAY 27 2026

By *Karen Goh*
KAREN GOH
Mayor

APPROVED AS TO FORM:
VIRGINIA GENNARO
City Attorney

By: *Matthew S. Collom*
MATTHEW S. COLLOM
Deputy City Attorney I

Attachment: Exhibit A

CITY OF BAKERSFIELD
ORIGINAL

**SEWER USER FEES AND CHARGES
RATE SCHEDULE
FISCAL YEARS 2026-2027 THROUGH 2030-2031**

	Flat Rate - Collected on Property Tax Bill				
Strength Classification	FY 26/27	FY 27/28	FY 28/29	FY 29/30	FY 30/31
Single Family Residence	\$475.00	\$575.00	\$675.00	\$775.00	\$875.00
Multiple Dwelling	\$356.25	\$431.25	\$506.25	\$581.25	\$656.25
Commercial Low Strength	\$475.00	\$575.00	\$675.00	\$775.00	\$875.00
Commercial Medium Strength	\$475.00	\$575.00	\$675.00	\$775.00	\$875.00
Commercial Medium-High Strength	\$475.00	\$575.00	\$675.00	\$775.00	\$875.00
Commercial High Strength	\$475.00	\$575.00	\$675.00	\$775.00	\$875.00

	Sewer Surcharge per Hundred Cubic Foot of Water Consumed				
Strength Classification	FY 26/27	FY 27/28	FY 28/29	FY 29/30	FY 30/31
Commercial Low Strength	\$3.26	\$3.95	\$4.64	\$5.33	\$6.02
Commercial Medium Strength	\$3.80	\$4.60	\$5.40	\$6.20	\$7.00
Commercial Medium-High Strength	\$5.06	\$6.13	\$7.20	\$8.27	\$9.34
Commercial High Strength	\$6.19	\$7.49	\$8.79	\$10.09	\$11.39

	Permitted Industrial User Sewer Fee				
Parameter	FY 26/27	FY 27/28	FY 28/29	FY 29/30	FY 30/31
Flow / Million Gallons	\$3,862.30	\$4,675.42	\$5,488.54	\$6,301.66	\$7,114.78
Biochemical Oxygen Demand (BOD) / 1,000 pounds	\$351.64	\$425.67	\$499.70	\$573.73	\$647.76
Total Suspended Solids (TSS) / 1,000 pounds	\$219.41	\$265.60	\$311.79	\$357.98	\$404.17

Note: Sewer fees for commercial users consist of 1) a flat rate component, collected on the property tax bill by the Kern County Tax Assessor, and 2) sewer surcharge, which recovers costs that exceed the amount of water consumption allowed for in the flat rate. The minimum sewer charge for all properties is equal to the single family residence rate.



WASTEWATER SEWER FEES
MISCELLANEOUS SEWER FEES
FISCAL YEARS 2026-2027 THROUGH 2030-2031

<u>Pretreatment Section Fees</u>			
1.	Industrial waste monitoring - Permit application fee	\$900.00	
2.	Industrial waste monitoring - Permit fee	\$1,800.00	/ Annual
3.	Industrial waste monitoring - Noncompliance re-inspections	\$964.00	/ As needed
4.	Outside laboratory testing fees	Actual costs	
5.	Notice of violation (NOV) basic fee	\$800.00	
6.	Cost Recovery	See below	

Users may be charged cost recovery fees when discharges are monitored for compliance to regulatory requirements. Costs may include, but are not limited to outside commercial laboratory fees, city staff hourly rates and fringe benefit costs, equipment costs, reimbursement for damages, administrative costs, overhead costs and other costs incurred by the City.

<u>Septic / Grease Discharges</u>			
1.	Permit application fee	\$80.00	
2.	Septage discharge permit fee - initial	\$200.00	
3.	Septage discharge permit fee - annual	\$125.00	
4.	Card replacement fee	\$12.00	
5.	Notice of Violation (NOV) basic fee	\$69.00	
6.	Disposal rate	\$0.090	/ gallon

Exhibit B



June 15, 2026

City Clerk
City of Bakersfield
1600 Truxtun Avenue
Bakersfield, California 93301

Re: County of Kern's Government Claim Against the City of Bakersfield Regarding
Unlawful Sewer User Rates for Fiscal Years 2026-27 Through 2030-31

Dear City Clerk for the City of Bakersfield:

The County of Kern ("County"), by and through its attorney, Kendra L. Graham, County Counsel, presents the following government claim to the City of Bakersfield ("City"). The County's government claim arises from the City Council's adoption on May 27, 2026, of a resolution increasing sewer user rates for Fiscal Years 2026-27 through 2030-31 (the "Resolution").

I. The County's Claim is Presented as a Precautionary Measure Because the County's Claim is Exempt from the Claims Presentation Requirements of the Government Claims Act

The County asserts that compliance with the Government Claims Act (Gov. Code, §§ 910 *et seq.*) is not required because this action is by one public entity against another, and the City has not adopted a claims ordinance. (Gov. Code, §§ 905(i), 935.) Additionally, a refund claim under Health and Safety Code section 5472 is exempt from compliance with the Government Claims Act. (Gov. Code, § 905(a).) Out of an abundance of caution, the County presents this government claim pursuant to Government Code section 910 *et seq.* In doing so, the County does not waive the argument that its claims are exempt from the claims filing provisions of the Government Claims Act.

II. Claimant Information

1. Name of Claimant:

County of Kern, a political subdivision of the State of California

GROUND  BOUNDLESS

1115 Truxtun Ave. 4th Floor Bakersfield, CA. 93301 | 661.868.3800 | TTY Relay 800.735.2929

CHIEF DEPUTIES

Elizabeth M. Giesick
Marshall S. Fontes
Bryan E. Alba
Kathleen Rivera

DEPUTIES

Kelli R. Falk
Jeffrey N. Estey
Judith M. Denny
Brian Van Wyk
Gillian Smith
Kelli M. King

Kyle W. Holmes
Andrew C. Hamilton
Stephanie M. Bouey
Alexandria M. Ottoman
Jeremy S. McNutt
Stephanie V. Gutcher

Ana M. Ovando
Carissa A. Edwards
Tara J. Wahl
Kimberly L. Marshall
Pooya Hajibagheri
Joshua H. Rudnick

Raymond J. Aubele
Bryn A. Allard
Michael A. Morea

2. Address of Claimant:

Kern County Administrative Center
1115 Truxtun Avenue, Fourth Floor
Bakersfield, California 93301

3. Address for Notices:

Kendra L. Graham, County Counsel
Kern County Administrative Center
1115 Truxtun Avenue, Fourth Floor
Bakersfield, California 93301
Telephone: (661) 868-3800 | Fax: (661) 868-3805
Email: kgraham@kerncounty.com

III. Date, Place, and Circumstances of the Claim

On May 27, 2026, the City of Bakersfield City Council adopted a resolution increasing sewer user rates for Fiscal Years 2026-27 through 2030-31, following a cost-of-service analysis conducted by HF&H Consultants, LLC, and Proposition 218 proceedings conducted pursuant to Health and Safety Code sections 5470 *et seq.* The City mailed Proposition 218 Notices on March 5, 2026, and March 19, 2026. The City held public hearings on April 22, 2026, and May 13, 2026.

The Resolution increases the annual sewer service charge from \$247 per year per single-family home to \$475 in FY 2026-27, escalating by \$100 each fiscal year to \$875 per year by FY 2030-31, as follows:

FY 2025-26 (existing): \$247 per year
FY 2026-27: \$475 per year
FY 2027-28: \$575 per year
FY 2028-29: \$675 per year
FY 2029-30: \$775 per year
FY 2030-31: \$875 per year

The Resolution also increases sewer service charges for multiple dwelling, commercial, and industrial customer classes. For commercial users, the Resolution establishes a two-part charge: a flat rate collected on the property tax bill equal to the single-family residential rate, and a volumetric sewer surcharge per hundred cubic feet of water consumed that varies by wastewater strength classification. The County's parcels are classified as commercial accounts and are therefore subject to the commercial rates.

The unlawful conduct is ongoing and continuous. Each billing cycle in which the City imposes and collects sewer charges under the Resolution will constitute a separate and continuing violation.

IV. Legal Basis for Claim

A. Proposition 218 and Article XIII D, Section 6(b)

In November 1996, California voters passed Proposition 218, adding articles XIII C and XIII D to the California Constitution. Article XIII D, section 6(b) prohibits local agencies from imposing property-related fees and charges unless:

- (1) Revenues derived from the fee or charge do not exceed the funds required to provide the property-related service (Cal. Const., art. XIII D, § 6(b)(1));
- (2) Revenues are not used for any purpose other than that for which the fee or charge was imposed (Cal. Const., art. XIII D, § 6(b)(2)); and
- (3) The amount of the fee imposed upon any parcel does not exceed the proportional cost of the service attributable to that parcel (Cal. Const., art. XIII D, § 6(b)(3)).

The burden is on the City to demonstrate compliance with article XIII D. (Cal. Const., art. XIII D, § 6(b).)

B. Improper Inclusion of Stormwater Costs in Sewer Rates

The City impermissibly included stormwater costs in the increased sewer user rates. The City does not operate a combined sewer and stormwater system. The City's stormwater system is separately regulated as a Municipal Separate Storm Sewer System ("MS4") under a National Pollutant Discharge Elimination System ("NPDES") permit (General Order No. R5-2016-0040-017, NPDES Permit No. CAS0085324). This confirms that the two systems are physically and operationally distinct. The City's wastewater treatment plants are separately regulated by Waste Discharge Requirements (WWTP No. 2, Order No. R5-2009-0122; WWTP No. 3, Order No. R5-2009-0087). The City's Sanitary Sewer Management Plan makes no reference to stormwater management. Moreover, Bakersfield Municipal Code section 14.12.220(B)(5) expressly prohibits discharge of stormwater into sanitary sewers.

Because the City's cost-of-service analysis does not segregate stormwater costs from sewer costs, the Resolution violates article XIII D, section 6(b) in three independent respects: (1) revenues exceed the funds required for property-related sewer service; (2) revenues fund purposes other than sewer service; and (3) the fee exceeds the proportional cost of sewer service attributable to each parcel. Additionally, the stormwater component of the rates violates article XIII D, section 6(c) because it has not been submitted to a vote of affected property owners, as required for charges that are not sewer, water, or refuse collection charges. (See *Howard Jarvis Taxpayers Assn. v. City of Salinas* (2002) 98 Cal.App.4th 1351; *Gluck v. City and County of San Francisco* (2025) 111 Cal.App.5th 769, 787.)

C. Non-Proportional Rate Structure

On information and belief, the rate structure independently violates article XIII D, section 6(b)(3) because the rates do not reflect the proportional cost of sewer service even if stormwater is excluded.

D. Breach of Agreement No. 99-266

On October 20, 1999, the City and County entered into Agreement No. 99-266 for Sewer Maintenance and Sewage Transport, Treatment and Disposal for a Portion of County Service Area 71 ("Agreement"). Section 4 of the Agreement limits the County's annual payments to operation and maintenance of the City's sewer system. It does not authorize use of those payments for stormwater management, stormwater conveyance, stormwater infrastructure, or any stormwater-related purpose. By adopting rates that include stormwater costs, the City has breached the Agreement.

V. Parties Affected and Parcels at Issue

The County brings this claim in two capacities. First, as administrator of County Service Area No. 71 ("CSA 71"), which provides sewer services to property owners within its boundaries and relies on the City for regional wastewater collection and treatment pursuant to the Agreement. The City's rate increases affect all CSA 71 property owners because the County passes through the City's rates to its CSA 71 customers. Second, the County is a property owner and ratepayer subject to the increased sewer user rates. The County owns the following improved real parcels subject to the challenged rates:

APN 002-120-02-0 (1110 Golden State Avenue);
APN 173-200-08-0 (1001 S Mt. Vernon Avenue);
APN 168-200-29-3 (1101 E Belle Terrace);
APN 006-580-01-3 (1115 Truxtun Avenue and 1215 Truxtun Avenue);
APN 002-120-07 (1120 Golden State Avenue / 2731 O Street);
APN 006-022-07-3 (1300 18th Street);
APN 013-280-11-0 (1400 Baker Street);
APN 006-392-08-8 (1401 L Street);
APN 006-290-01-9 (1415 Truxtun Avenue);
APN 006-401-01-2 (1420 H Street);
APN 006-392-09-6 (1431 L Street);
APN 006-192-11-6 (1530 Truxtun Avenue);
APN 167-060-31-8 (1600 E Belle Terrace);
APN 006-192-07-4 (1655 Chester Avenue / 1751 McKee Road);
APN 001-242-21-3 (2001 28th Street / 2520 Church Avenue / 2601 Panorama Drive);
APN 120-080-14-8 (3805 Chester Avenue);
APN 382-010-25-4 (4175 Mt. Vernon Avenue);
APN 139-440-10-1 (506 E Brundage Lane);
APN 170-010-07-8 (521 Casa Loma Drive);
APN 016-190-15-9 (620 E 18th Street);
APN 006-140-01-6 (701 Truxtun Avenue);

APN 389-140-04-7 (8301 Ming Avenue);
APN 173-591-10 (702 Workman Street);
APN 002-120-05 (700 M Street); and
APN 002-202-05 (2820 M Street).

The County pays the sewer bill for the following parcels that are subject to the challenged rates (each identified by its APN and street address):

APN 023-500-21 (3041 Wilson Road);
APN 006-540-08 (1400 S Street); and
APN 332-256-07 (4901 Commerce Drive A).

VI. Injury, Damage, and Amount Claimed

The County is injured by the City's imposition of unlawful sewer charges. The County is entitled to:

- (1) A refund of all sewer fees collected by the City in excess of the lawfully assessable amount, including amounts attributable to improperly included stormwater costs and to any overcharges arising from a non-proportional rate structure, with interest at the legal rate from the date of collection;
- (2) Damages for breach of Agreement No. 99-266 in an amount equal to the stormwater-related component of charges paid under the Agreement, with prejudgment interest from the date of breach pursuant to Section 21 of the Agreement; and
- (3) Injunctive and mandamus relief to prevent continued collection of unlawful rates.

The amount of overcharge cannot be determined without a compliant cost-of-service analysis segregating stormwater from sewer costs and demonstrating proportional allocation of costs to each parcel. The amount of damages, including a refund for all County parcels identified above and for all CSA 71 ratepayers, is to be proven at trial. The County reserves the right to supplement this claim following completion of an expert cost-of-service analysis.

VII. Reservation of Rights

The County fully reserves all rights and remedies under both statutory and common law, including those arising under article XIII D of the California Constitution, Health and Safety Code section 5472, Government Code section 53759, Code of Civil Procedure sections 860 et seq., and all other applicable provisions. The County reserves the right to amend or supplement this claim following the City's response or expiration of the 45-day period under Government Code section 912.4. The County does not waive its position that the Government Claims Act does not apply to this action by presenting this claim.

June 15, 2026

Page | 6

The undersigned, on behalf of the County of Kern, states that he or she is authorized to present this claim on behalf of the County and declares under penalty of perjury that the foregoing is true and correct insofar as is known as of this date.

Executed on this 15th day of June, 2026, at Bakersfield, California.

By: Kendra L. Graham
Kendra L. Graham, County Counsel

Exhibit C

AGREEMENT NO. 99-266SEWER MAINTENANCE AND SEWAGE
TRANSPORT, TREATMENT AND DISPOSAL
FOR A PORTION OF COUNTY SERVICE
AREA 71

THIS AGREEMENT is made and entered into on OCT 20 1999, by and between the **CITY OF BAKERSFIELD**, a charter city and municipal corporation, ("CITY" herein) and the **COUNTY OF KERN**, a political subdivision of the State of California, ("COUNTY" herein).

RECITALS

WHEREAS, CITY and COUNTY have previously entered into several agreements concerning County Service Area 71 ("CSA 71" hereafter) concerning sewer service including agreements numbered 89-197 (CITY), 480-89 (COUNTY); 91-67 (CITY), 187-91 (COUNTY); and 93-149 (CITY), 109-92 (COUNTY); and

WHEREAS, CITY and COUNTY desire the above-listed agreements be terminated and all obligations, duties and rights set forth in said agreements be terminated and superseded by this Agreement; and

WHEREAS, CITY has awarded a contract for construction of the Allen Road Sewer Trunkline which can serve a portion of CSA 71; and

WHEREAS, COUNTY has previously contributed to the financing of the Jewetta Trunkline, the extension of the trunkline in Fruitvale Road and has constructed the trunkline in Olive Drive; and

WHEREAS, CITY intends to build another sewer trunkline known as the Buena Vista Sewer Trunkline II which can serve portions of CSA 71; and

WHEREAS, CITY estimates its cost of constructing the Allen Road Sewer Trunkline and Buena Vista Trunkline II will exceed Sixteen Million Dollars (\$16,000,000); and

WHEREAS, the cost per MGD ("million gallons per day") will change from time to time as computed by CITY; and

WHEREAS, the cost per MGD calculation is attached to this Agreement as **Exhibit "G"**; and

WHEREAS, COUNTY wishes to connect to the Allen Road Sewer Trunkline to serve a portion of CSA 71; and

WHEREAS, COUNTY has currently available Two Million Dollars (\$2,000,000) to pay for connecting a portion of CSA 71 to the Allen Road Sewer Trunkline; and

WHEREAS, both CITY and COUNTY are empowered to acquire, construct, operate and maintain sewerage systems; and

WHEREAS, COUNTY established CSA 71 to provide for sewerage service within its boundaries; and

WHEREAS, COUNTY has approved subdivision development in CSA 71 prior to the execution of this Agreement; and

WHEREAS, by this Agreement CITY AND COUNTY intend to designate an area within CSA 71 which will be allowed to connect to the CITY sewer system for the payment by COUNTY of Two Million Dollars (\$2,000,000) for sewer trunkline fees and other fees as set forth below; and

WHEREAS, by this Agreement CITY and COUNTY are establishing conditions where other portions of CSA 71(beyond those set forth in **Exhibit "A"**) could receive sewer service through the CITY's facilities; and

WHEREAS, COUNTY may choose to expand the Sewer Service Area (**Exhibit "A"**) through additional payments; and

WHEREAS, the parties desire to define what payment amounts would be necessary to cover sewer trunkline fees in the event the COUNTY wishes to add "Eligible Area" or portion thereof (**Exhibit "B"**) to the "Sewer Service Area" (**Exhibit "A"**) or "Other Area" (**Exhibit "F"**); and

WHEREAS, areas set forth in **Exhibit "F"** may receive COUNTY service in the future for the payment of additional fees, these additional fees will be calculated on a formula similar to the formula set forth in **Exhibit "G,"** and said new formula will be subject to future negotiations; and

WHEREAS, CITY desires a limit on the maximum area to be served by CITY.

NOW, THEREFORE, incorporating the foregoing recitals herein, CITY and COUNTY mutually agree as follows:

1. **AREAS OF SERVICE.** The following exhibits are attached to this Agreement and each exhibit is incorporated by reference as though fully set forth. CITY and COUNTY agree the exhibits accurately reflect their intentions concerning service areas:

1.1 **Exhibit "A":** Shows the area which will be served upon the payment of Two Million Dollars (\$2,000,000) and the fulfillment of other conditions set forth in this Agreement ("Sewer Service Area" herein);

1.2 **Exhibit "B":** Shows the area CITY sewer service may be expanded into upon the fulfillment of the conditions set forth in this Agreement ("Eligible Area" herein);

1.3 **Exhibit "C":** Shows the area within the original CSA 71 boundary which is now excluded from CITY sewer service under this Agreement;

1.4 **Exhibit "D":** Shows the area newly annexed and a part of CITY;

1.5 **Exhibit "E":** Shows the area currently served by North of the River Sanitary District No. 1 ("NOR").

1.6 **Exhibit "F":** Shows area for future service expansion by COUNTY which COUNTY may buy into for a contribution to future infrastructure costs (including but not limited to trunkline fees). A formula for the expansion of COUNTY service into these areas will be agreed to in the future. COUNTY and CITY agree the formula will be similar to the formula set forth in **Exhibit "G."**

1.7 **Exhibit "G":** Shows the MGD formula which will be used to calculate amounts that would be necessary for the COUNTY to pay the CITY to add territory to the "Service Area" (**Exhibit "A"**) from the "Eligible Area" (**Exhibit "B"**). All other applicable fees and policies would still be in effect.

2. **PAYMENT AND SERVICE.**

2.1 **Sewer Service Area.** COUNTY shall pay sewer trunkline fees to CITY in the sum of Two Million Dollars (\$2,000,000) upon execution of this Agreement and CITY shall provide sewerage service to the area in CSA 71 designated in **Exhibit "A."** This area designated in **Exhibit "A"** as the Sewer Service Area is the only portion of CSA 71 that will be allowed to connect to the CITY sewer trunkline system for the Two Million Dollar (\$2,000,000) payment. Connections outside the Sewer Service Area shall be permitted only under section 2.2 of this Agreement ("Adding Areas for Service"). COUNTY agrees to pay additional connection, operations and maintenance fees for all areas as set forth hereafter in this Agreement. CITY shall permit COUNTY and residents and landowners within Sewer Service Area to discharge sewage into CITY-operated sewerage system and agrees to transport it to a sewage plant and make proper disposal of all of said

sewage, subject to those same regulations and restrictions as CITY requires of sewage generated within CITY. COUNTY shall only accept properly disposed of sewage for discharge into CITY system. If areas within **Exhibit "A"** (Sewer Service Area) are annexed prior to their connection to the sewer a credit shall be given to COUNTY which may be used as part of any payment required under this Agreement for adding territory in the Eligible Area (**Exhibit "B"**). Said credit shall be based on the formula set forth in **Exhibit "G."** As for properties currently within the COUNTY and receiving service from CITY, CITY will continue to provide sewer service consistent with the terms of this Agreement.

2.2 Adding Areas for Service. In the Eligible Area only COUNTY shall be entitled to add area for sewer service in only the following way:

2.2.1 Eligible Area. COUNTY will pay all trunkline fees for the entire new area which COUNTY has requested be added to the Sewer Service Area. COUNTY understands and agrees that new areas must be of at least twenty (20) acres in size before CITY will approve service. Said payment will be made within thirty (30) days after submission by COUNTY of the written request for additional areas. The trunkline fees will be paid by COUNTY to CITY in an amount set by CITY in accordance with the terms of this Agreement. The connection fees shall be paid by the COUNTY within thirty (30) days of the time each property connects to the CITY sewer.

2.3 Palm/Olive Areas. Should any of the areas shown on **Exhibit "D"** de-annex and are no longer part of the CITY, said area shall become part of the Eligible Area (**Exhibit "B"**) and shall be subject to the same conditions for sewer service as other areas in **Exhibit "B."**

2.4 Other Areas. COUNTY may add areas beyond the Eligible Area by payment of a portion of future sewer collection system costs (including but not limited to trunkline fees). (See **Exhibit "F"**.) A formula for the expansion of COUNTY service into these areas will be agreed to in the future. CITY and COUNTY agree the formula will be similar to the formula set forth in **Exhibit "G."**

3. SERVICE AREAS. **Exhibit "B"** will designate the total area within CSA 71 which may connect to the CITY sewer system ("Eligible Area"). **Exhibit "A"** will designate the area within the Eligible Area which will be able to connect upon completion of the CITY sewer trunkline now under construction. Thus, **Exhibit "A"** will set forth the area to be immediately served by CITY, and **Exhibits "B"** and **"F"** will designate the future area of service by CITY within the CSA 71 boundaries.

4. OPERATION AND MAINTENANCE. COUNTY shall own and properly maintain and operate all portions of the sewer system located within its jurisdiction. CITY shall own and properly maintain and operate all portions of the sewer system within its jurisdiction. The CITY's jurisdiction shall be deemed to be its corporate boundaries (city

limits). COUNTY shall pay to CITY, annually, for providing sewer service as set forth in this Agreement. Said payment shall be for the operation and maintenance of the CITY sewer system including wastewater treatment plants, pipeline maintenance and other associated expenses excepting operations and maintenance for the COUNTY maintained portions of the sewer lines. The amount paid by COUNTY to CITY shall be the same as would be charged by the CITY to CITY property owners for equivalent types of usage within the CITY's jurisdiction. The amount shall be calculated by CITY on the basis of sewer connections in the Sewer Service Area and said calculation shall be forwarded to COUNTY on or about March 1st of each year. The payment will be calculated on the rate established by CITY for the fiscal year (July 1 to June 30) following the March 1st date. The payment shall be due to CITY from COUNTY on or before thirty (30) calendar days following the second installment payment deadline date for COUNTY property taxes. Should COUNTY fail to pay the charges in a timely manner, COUNTY shall pay interest on the outstanding sum at the legal rate, compounded monthly, from the date the charges accrue. CITY shall give COUNTY notice of its failure to pay and COUNTY shall have ninety (90) days from the date of the notice from CITY to pay all past due charges plus interest. Should COUNTY fail to pay after the ninety (90) day cure period, COUNTY shall be in material breach of this Agreement. Maintenance and operation of sewerage systems, portions of sewerage systems and trunk sewers shall include, without restriction, sewer cleaning, root control, vector control, adjustment of sewer manholes to street grade, replacement and/or repair of sewers and sewer manholes, response to complaints to sewer stoppages, repair of roadways or easements if damaged by sewers or sewage (although this shall not relieve developers of their responsibilities during any guarantee period as provided in any subdivision improvement agreement between CITY or COUNTY and a developer), and other such tasks as are required from time to time to maintain sewerage service provided, or to be provided, to property owners. CITY shall have the right to terminate or suspend service to any parcel served under this Agreement in order to comply with State law.

5. CONNECTION FEE. COUNTY shall pay CITY fees set by CITY for each connection to any parcel in the Sewer Service Area. This connection fee is based upon capacity usage of the wastewater treatment facilities constructed by CITY. Said amount may be adjusted by CITY. CITY shall not charge property owners in the Sewer Service Area more than is charged to CITY users under similar circumstances. This fee is separate and distinct from any trunkline fees discussed above.

6. CONSTRUCTION OF SEWERS. Within one hundred eighty (180) days of the date of this Agreement, the COUNTY shall modify the COUNTY standards for sewers to the equivalent engineering standards for CITY sewers, COUNTY shall also, as a condition of approval of new tracts or other construction within the Sewer Service Area, Eligible Area or Other Area (**Exhibits "A," "B," and "F"**), require that sewers be constructed to the new COUNTY standards. It shall be COUNTY's responsibility to inspect sewers in their area.

7. **INDUSTRIAL USERS.** Sewer connection permits for industrial users, as defined in the Bakersfield Municipal Code, shall be subject to prior written approval by CITY. Industrial users may not discharge sewerage constituents into the sewer system that have an adverse affect on pipelines, wastewater treatment and disposal facilities or public health. All industrial discharges must meet the requirements of the Bakersfield Municipal Code Chapter 14 as it now exists or may hereafter be amended as well as all State of California and United States laws and regulatory requirements.

8. **ANNEXATION.** Should any portion of the Sewer Service Area annex into CITY jurisdiction, that portion of the annual sewer operation and maintenance expense attributable to the annexed area shall no longer be paid by COUNTY; however, CITY shall collect such charges allowed by the Bakersfield Municipal Code from the annexed area unless the annexed area is part of the NOR service area.

9. **PREVIOUS AGREEMENT.** All previous agreements concerning CSA 71 sewerage between the CITY and COUNTY are hereby terminated. No rights, duties or obligations shall inure to or be imposed upon either party concerning the previous agreements for CSA 71 sewerage.

10. **ASSIGNMENT.** Neither this Agreement, nor any interest in it, may be assigned or transferred by any party without the prior written consent of all the parties. Any such assignment will be subject to such terms and conditions as CITY may choose to impose.

11. **BINDING EFFECT.** The rights and obligations of this Agreement shall inure to the benefit of, and be binding upon, the parties to the Agreement and their heirs, administrators, executors, personal representatives, successors and assigns.

12. **CORPORATE AUTHORITY.** Each individual signing this Agreement on behalf of entities represent and warrant that they are, respectively, duly authorized to sign on behalf of the entities and to bind the entities fully to each and all of the obligations set forth in this Agreement.

13. **EXECUTION.** This Agreement is effective upon execution. It is the product of negotiation and all parties are equally responsible for authorship of this Agreement. Section 1654 of the California Civil Code shall not apply to the interpretation of this Agreement.

14. **EXHIBITS.** In the event of a conflict between the terms, conditions or specifications set forth in this Agreement and those in exhibits attached hereto, the terms, conditions, or specifications set forth in this Agreement shall prevail. All exhibits to which reference is made in this Agreement are deemed incorporated in this Agreement, whether or not actually attached.

15. **FORUM.** Any lawsuit pertaining to any matter arising under, or growing out of, this Agreement shall be instituted in Kern County, California.

16. **JOINT LIMITATION ON LIABILITIES AND INDEMNIFICATION.**

16.1 Neither party shall be liable to the other party for any loss, damage, liability, claim or cause of action for damage to or destruction of property or for injury to or death of persons arising solely from any act or omission of the other party's officers, agents or employees.

16.2 CITY and COUNTY agree to indemnify and hold each other harmless from any and all claims, demands, liabilities, losses or causes of action which arise by virtue of its own acts or omissions (either directly or through or by its agents, officers, or employees) to such extent and in such part as the respective parties are found by reason of law to have proximately caused the injury or damage.

16.3 The party against whom any claim arising from any subject matter of this Agreement is filed shall give prompt notice of the filing of the claim to the other party.

17. **MERGER AND MODIFICATION.** All prior agreements between the parties are incorporated in this Agreement which constitutes the entire agreement. Its terms are intended by the parties as a final expression of their agreement with respect to such terms as are included herein and may not be contradicted by evidence of any prior agreement or contemporaneous oral agreement. The parties further intend this Agreement constitutes the complete and exclusive statement of its terms and no extrinsic evidence whatsoever may be introduced in any judicial or arbitration proceeding involving this Agreement. This Agreement may be modified only in a writing approved by the CITY Council and the COUNTY Board of Supervisors and signed by all the parties. CITY and COUNTY shall notify NOR of any proposed changes to this Agreement.

18. **NEGATION OF PARTNERSHIP.** CITY shall not become or be deemed a partner or joint venturer with COUNTY or associate in any such relationship with COUNTY by reason of the provisions of this Agreement. COUNTY shall not for any purpose be considered an agent, officer or employee of CITY, and CITY shall not for any purpose be considered an agent, officer or employee of COUNTY.

19. **NON-INTEREST.** No officer or employee of the CITY or COUNTY shall hold any interest in this Agreement (California Government Code section 1090).

20. **NOTICES.** All notices relative to this Agreement shall be given in writing and shall be personally served or sent by certified or registered mail and be effective upon actual personal service or depositing in the United States mail. The parties shall be addressed as follows, or at any other address designated by notice:

CITY: CITY OF BAKERSFIELD
City Hall
1501 Truxtun Avenue
Bakersfield, California, 93301

COUNTY: COUNTY OF KERN
Engineering and Survey Services Department
2700 M Street, Suite 570
Bakersfield, California 93301

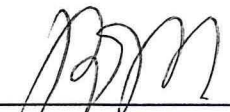
21. **PRE-JUDGMENT INTEREST.** In the event of a default by any party to this Agreement, the non-defaulting party shall be allowed to recover interest on all damages at the legal rate from the date of the breach.

22. **TIME.** Time is of the essence in this Agreement.

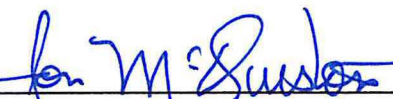
23. **NO WAIVER OF DEFAULT.** The failure of any party to enforce against another a provision of this Agreement shall not constitute a waiver of that party's right to enforce such a provision at a later time, and shall not serve to vary the terms of this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed, the day and year first-above written.

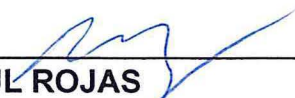
"CITY"
CITY OF BAKERSFIELD

By: 
BOB PRICE, Mayor

"COUNTY"
COUNTY OF KERN

By:  OCT 26 1999
JON McQUISTON
Chairman, Board of Supervisors

APPROVED AS TO CONTENT:
PUBLIC WORKS DEPARTMENT

By: 
RAUL ROJAS
Public Works Director

APPROVED AS TO CONTENT:
RESOURCE MANAGEMENT AGENCY

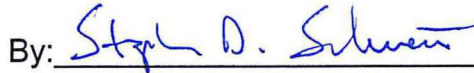
By: 
DAVID PRICE III
Resource Management Agency
Director

More Signatures on Following Page

APPROVED AS TO FORM:
BART J. THILTGEN
City Attorney

APPROVED AS TO FORM:
OFFICE OF COUNTY COUNSEL

By: 
ALAN D. DANIEL
Assistant City Attorney

By: 
STEPHEN D. SCHUETT
Assistant County Counsel

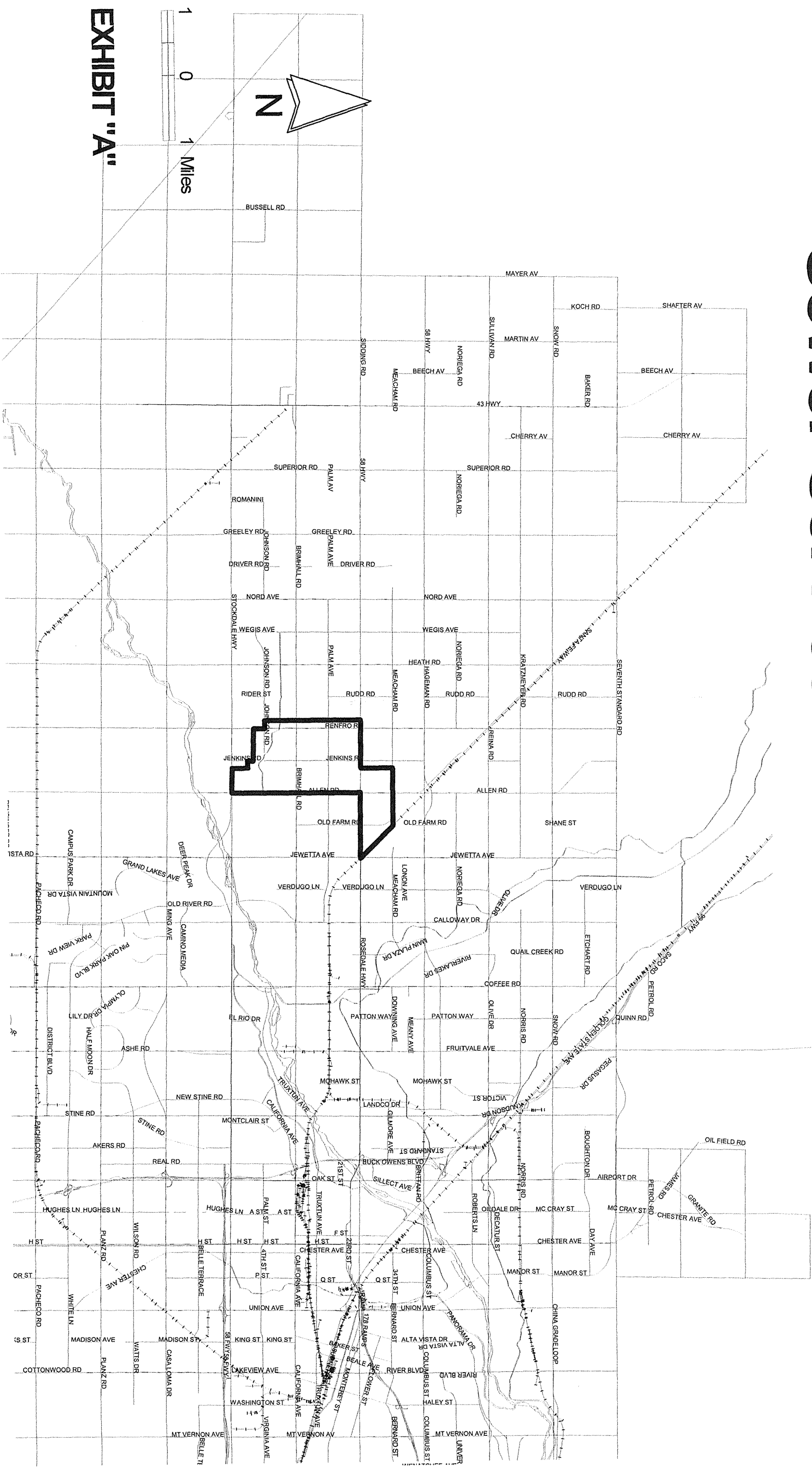
COUNTERSIGNED:

By: 
GREGORY J. KLIMKO
Finance Director

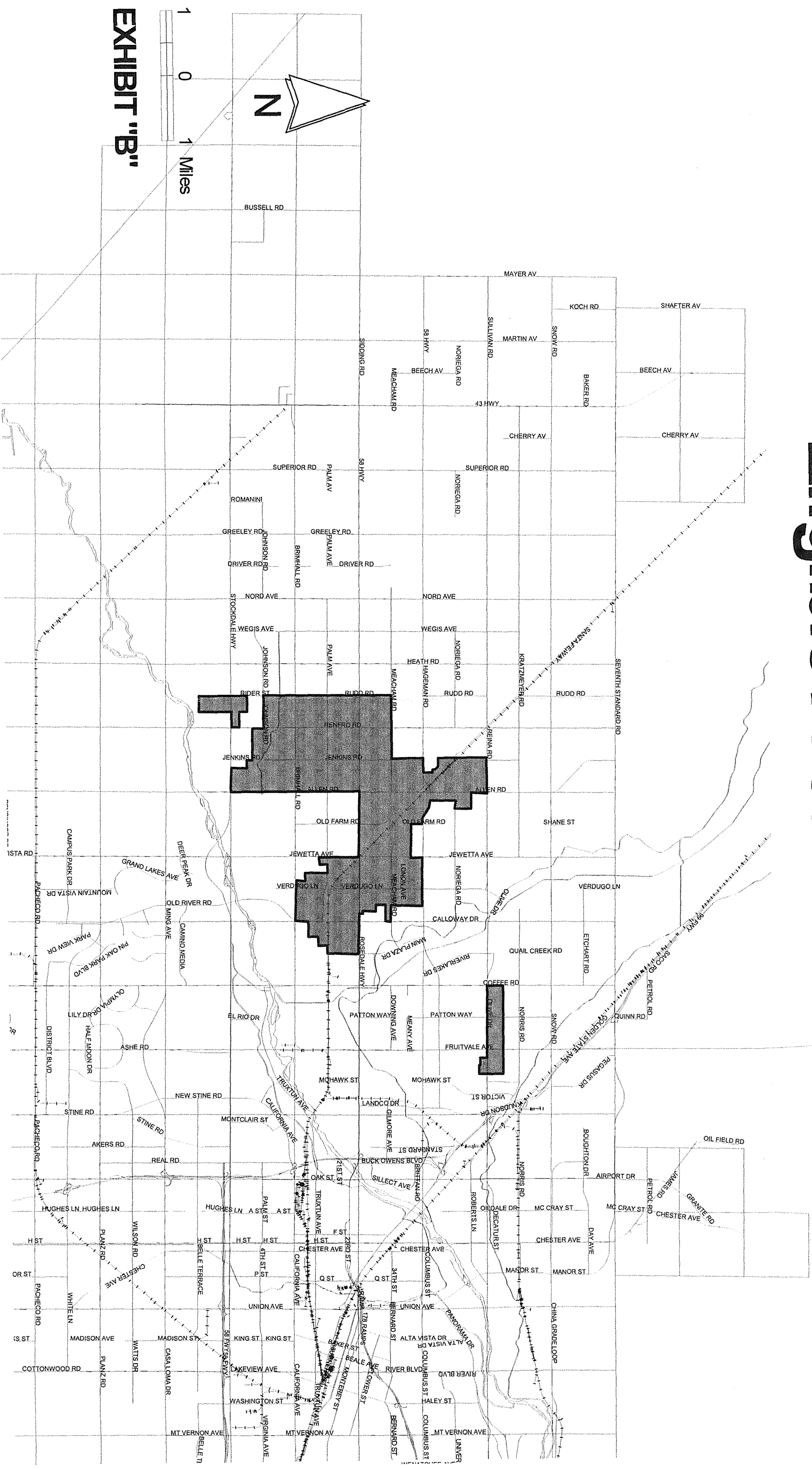
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Attachments:
Exhibits "A," "B," "C," "D," "E," "F," & "G"

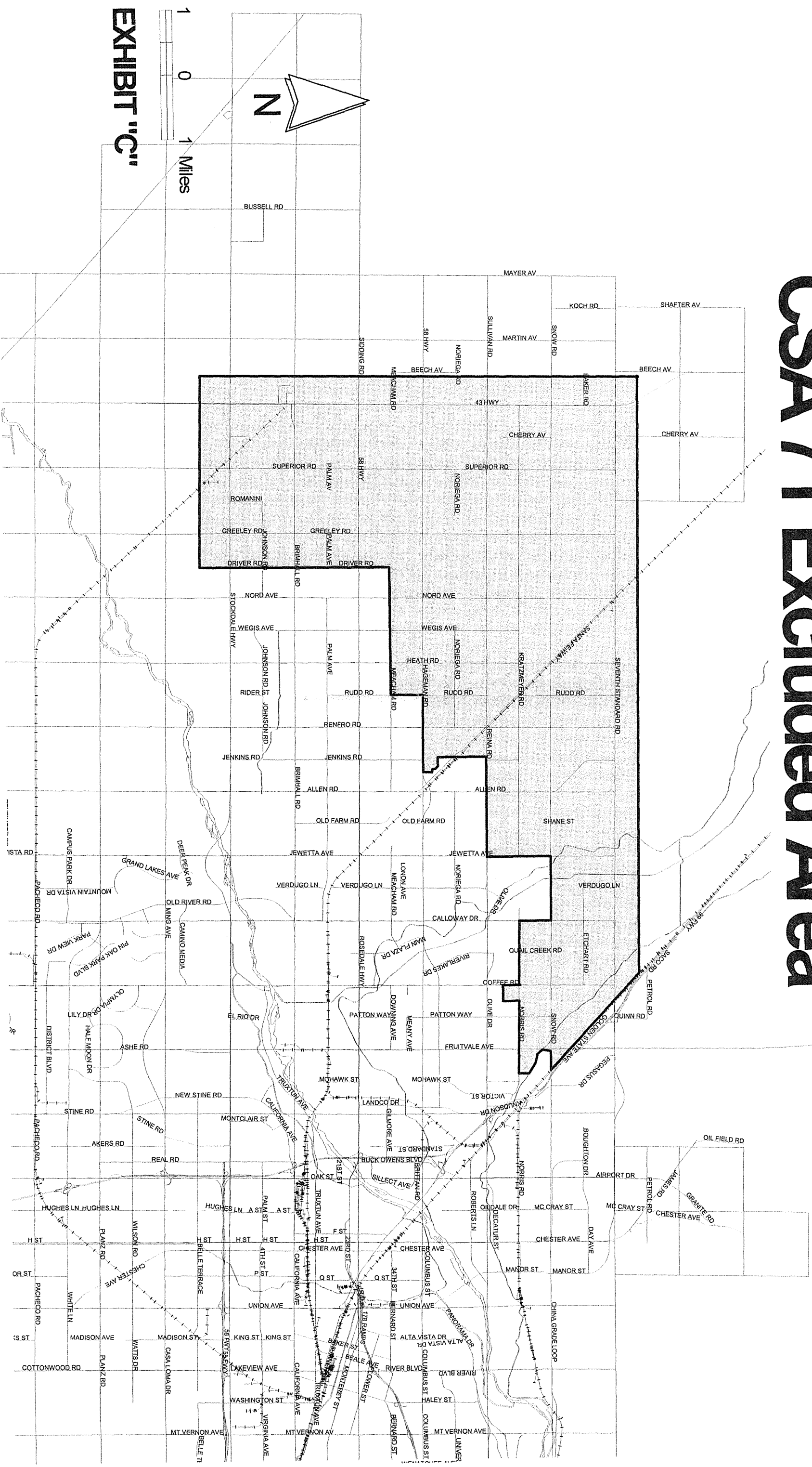
Sewer Service Area



Eligible Area



CSA 71 Excluded Area



New Annexations

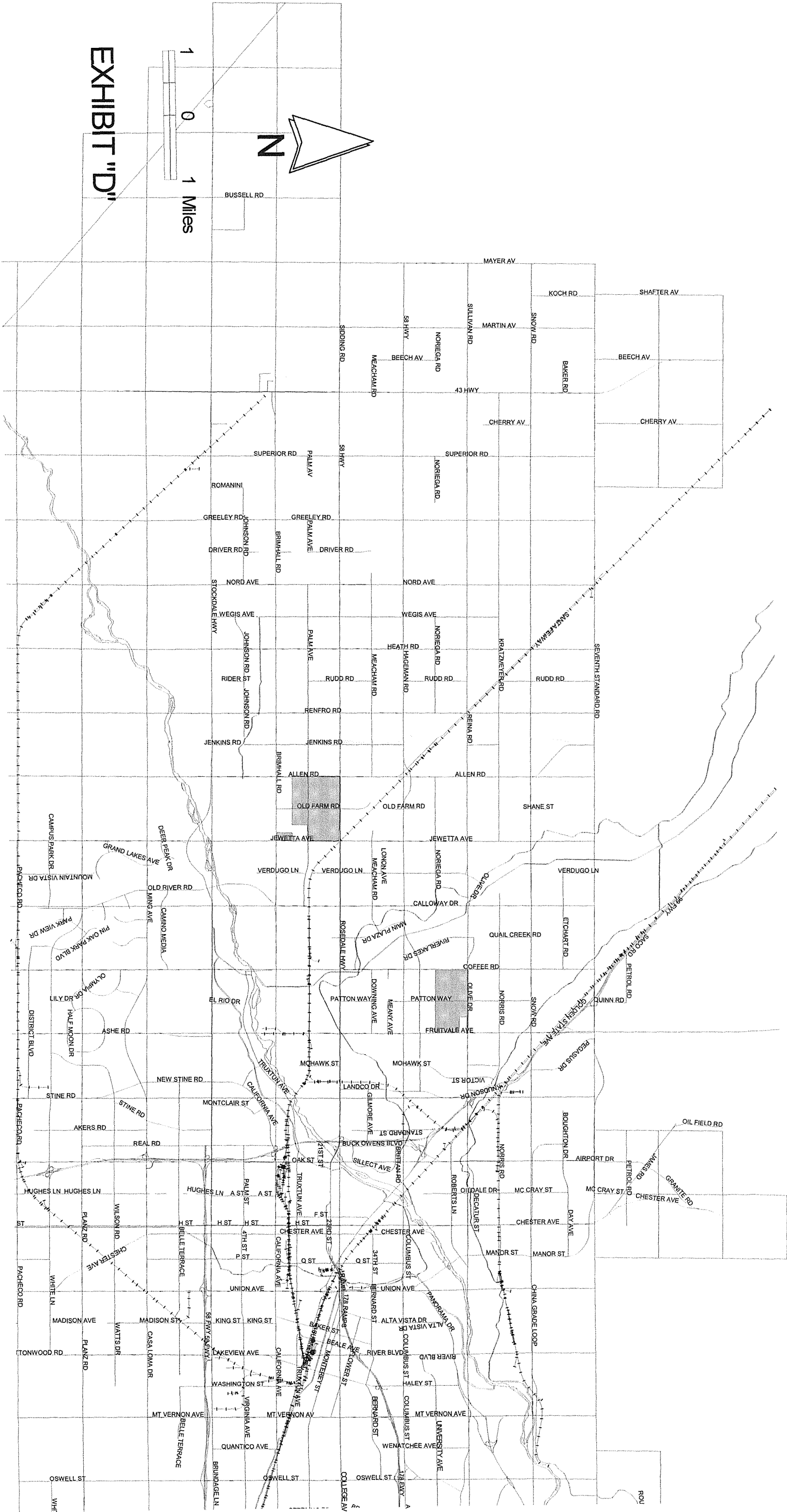
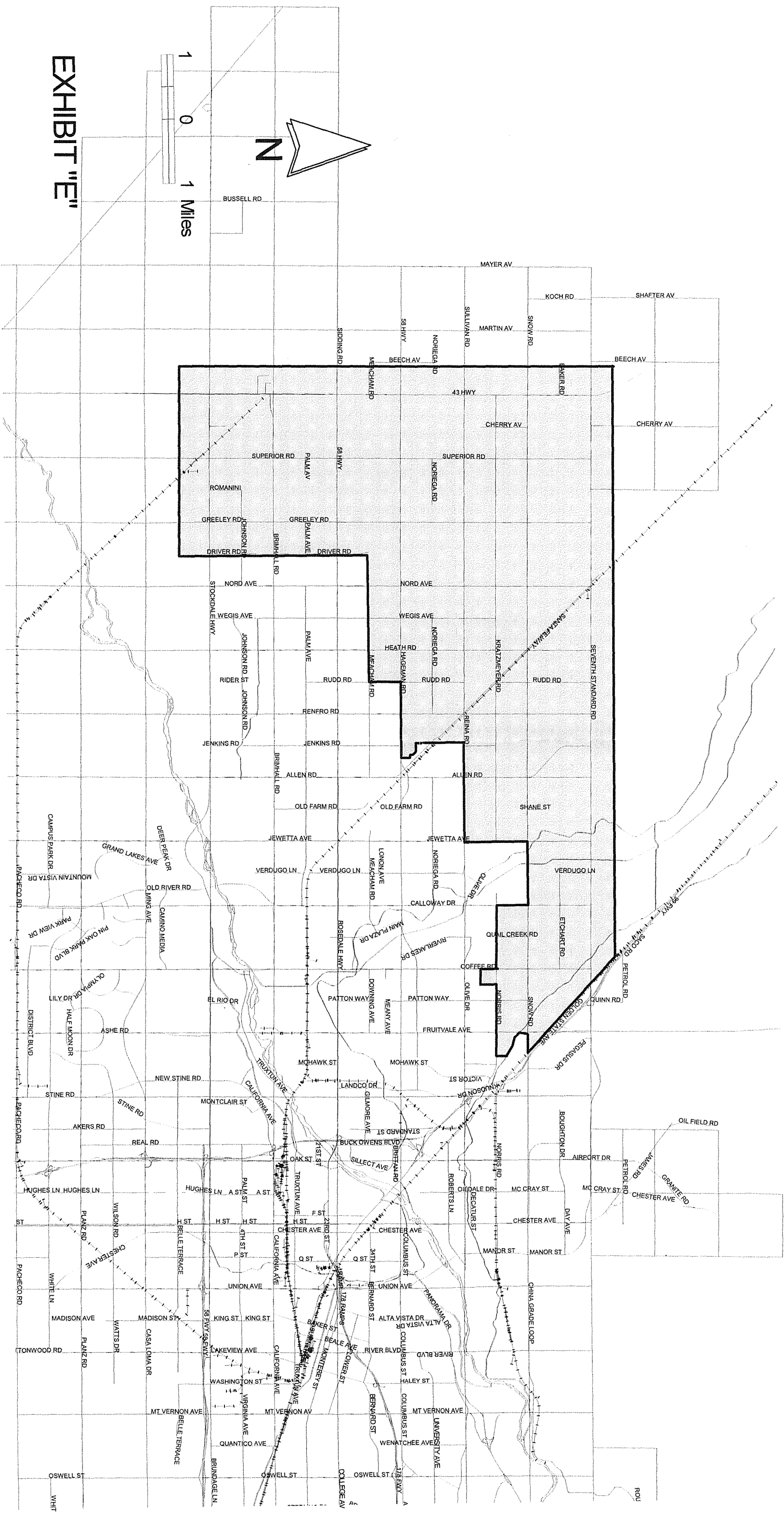


EXHIBIT "D"

North of the River Sanitary District No. 1



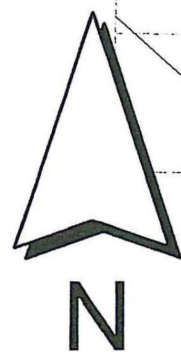


Exhibit F
Future Service Expansion Areas

-  Proposed CSA71 City Service Boundary
-  Initial Buy-in
-  Balance of CSA 71
-  Future Sewer Service Area at Negotiated Rate
-  Potential City Service Area

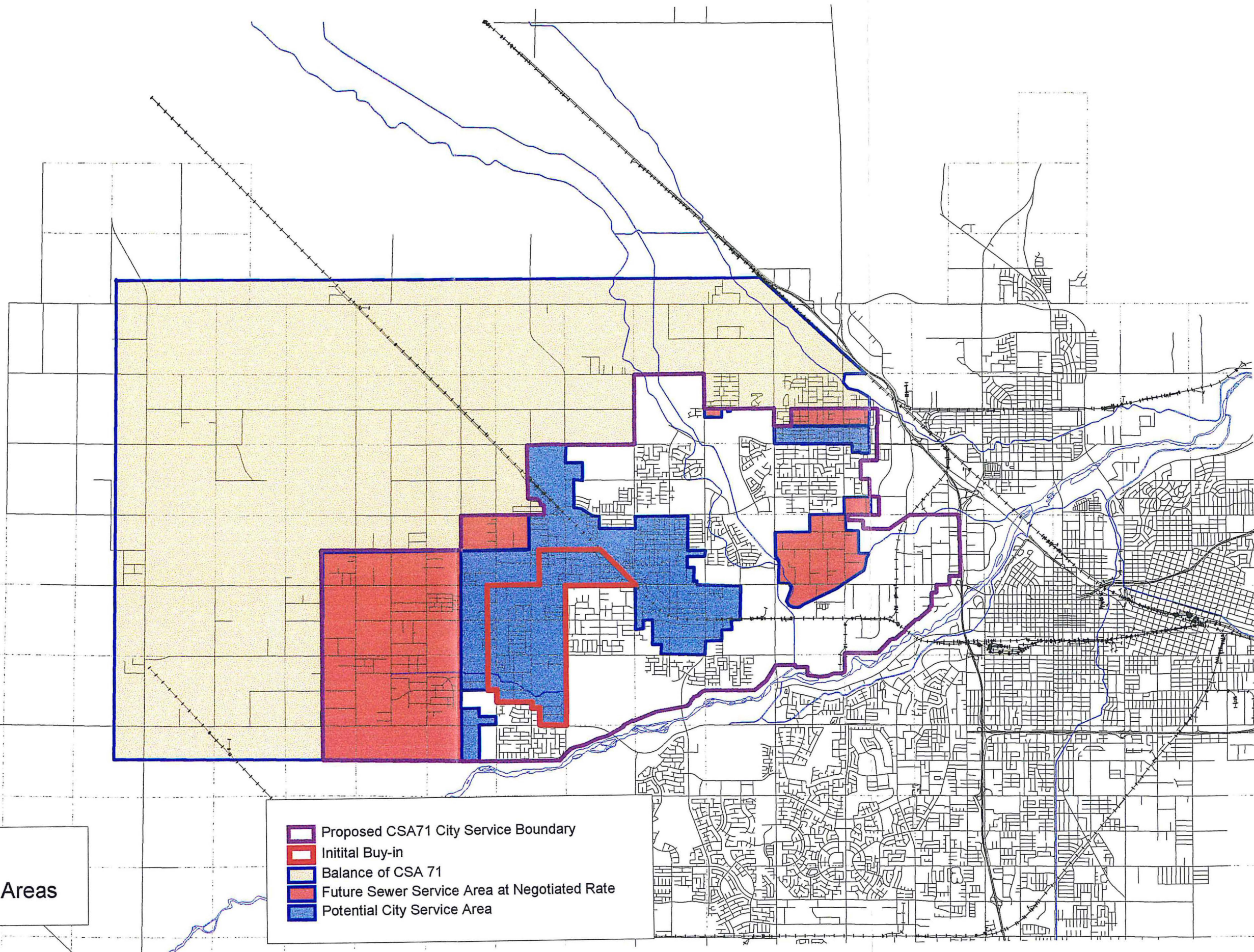


EXHIBIT 'G'

MGD FORMULA

Total Flow for Service Area = 27.85 MGD¹

Total Cost of System = \$16,000,000

Cost per MGD = \$16,000,000 / 27.85 = \$574,506 per MGD

An Area's Flow = Acreage x Factor per Acre²

The Area's Cost = \$574,506 x Area Flow

¹The total design peak flow is calculated from actual base service area, north of the river, which the GIS application computed (21.91 MGD) plus Areas 4 & 5 flows from the Carollo study, south of the river (5.94 MGD).

²Each Land Use designation has a flow factor per acre associated with it, based upon Bakersfield City Standards.

**CERTIFICATE OF ADOPTION OF RESOLUTION
AUTHORIZING CHAIRMAN TO SIGN INSTRUMENT**

The undersigned, Clerk of the Board of Supervisors of the County of Kern, hereby certifies that the following resolution was adopted by said Board of Supervisors at a regular meeting duly convened on the 26th day of October, 1999:

"WHEREAS, this Board has determined that the County of Kern should approve a certain Agreement No. 99-266 between Kern County and the City of Bakersfield re sewer maintenance and sewage transport, treatment and disposal for a portion of County Service Area 71 (Kern County Agreement No. 943-99), bearing the date October 20, 1999.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of the County of Kern, State of California, that said instrument be, and it is hereby executed on behalf and in the name of said County of Kern, and the Chairman of this Board is hereby authorized and directed to sign his name thereto on behalf of said County."

The undersigned further certifies that on the date last mentioned the person who so signed said instrument was the duly elected Chairman of said Board and that his signature on said instrument is genuine.

The undersigned further certifies that said resolution was adopted by the following vote:

Ayes: McQuiston, Perez, Patrick, Peterson, Parra

Noes: None

Absent: None

Dated: October 26, 1999



DENISE PENNELL
Clerk of the Board of Supervisors
County of Kern

By:

Judy A. Perry
Deputy Clerk

Reference: Item No. 5