



Control Number: 42946



Item Number: 1

Addendum StartPage: 0

House Bill (HB) 1600 and Senate Bill (SB) 567 83rd
Legislature, Regular Session, transferred the functions
relating to the economic regulation of water and sewer
utilities from the TCEQ to the PUC effective
September 1, 2014.





RAPIER, WILSON & WENDLAND, P.C. Attorneys at Law

John Rapier
rapier@rapierwilson.com

RECEIVED
2014 OCT 16 PM 2:21
PUBLIC UTILITY COMMISSION
FILING CLERK

February 15, 2011

42946

RECEIVED
TCEQ
WATER SUPPLY DIV.
2011 FEB 16 PM 2 55

Via Federal Express

Texas Commission on Environmental Quality
Registration, Review & Reporting Division
Permits Administrative Review Section
Water Quality Applications Team, MC 156
P. O. Box 13087
Austin, Texas 78711-3087

**RE: Application for Sale, Transfer, or Merger of a Retail Public Utility
Mustang Special Utility District and Providence Village Water Control &
Improvement District of Denton County f/k/a Denton County FWSD 9**

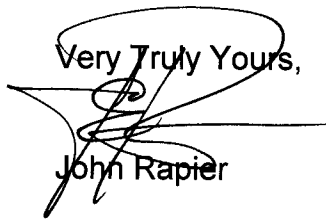
Dear Sir or Madam:

Enclosed for filing please find the following:

1. An original and three (3) copies of the completed application, and all required attachments, maps and exhibits;
2. Four copies of the agreement between parties, contingent contract, or other documents supporting the proposed transaction;
3. An original and three (3) copies of the schedule of rates to be charged after the transfer;
4. An original and three (3) copies of the proposed notice provided to customers and neighboring utilities;
5. The required filing fee of \$500.00;
6. Four copies of the latest TCEQ annual inspection report for the systems being acquired;
8. An original and three (3) copies of each of the sworn affidavits of the transferor and transferee utilities' representatives.

We thank you in advance for your assistance with filing this application. Please feel free to contact us should you have any questions or require further information.

Very Truly Yours,

A handwritten signature in black ink, appearing to read "John Rapiere". The signature is written over a horizontal line and is enclosed within a hand-drawn oval shape.

John Rapiere

JR/ak

c: Clay Crawford
Mustang SUD

F:\01 - AREA OF LAW\Water Districts\Mustang SUD\SMT Application 2010\Correspondence\20110214 Ltr to TCEQ filing application.wpd



APPLICATION FOR SALE, TRANSFER,

OR MERGER OF A RETAIL PUBLIC UTILITY

*RN# 101222669 *CN# 601363534 *If known (See instructions)

1. Proposed action of application (check all the boxes that apply):

Sale of All of the Water system(s) under CCN No.: _____
 Acquisition Portion Sewer system(s) under CCN No.: _____
 Lease/Rental

Transfer of All of the Certificated water service area – CCN No.: 13020
 Portion Certificated sewer service area – CCN No.: 20922

If only a portion of a system or certificated service area is affected by this transaction, please specify the areas or subdivision involved:

N/A. The entire system or certificated service area will be affected by this transaction.

RECEIVED
TCEQ
WATER SUPPLY DIV.
2011 FEB 16 PM 02:55

and to:

Obtain a CCN for the transferee (purchaser) – indicate if purchaser will take the seller's
 Amend the transferee's CCN No.: _____
 Merge or consolidate public utilities _____
 Cancel CCN of the transferor (seller) _____

2. Proposed effective date of this transaction: October 1, 2011
(Must be at least 120 days after proper notice is provided)

QUESTIONS 3 THROUGH 5 APPLY TO THE TRANSFEROR (CURRENT SERVICE PROVIDER OR SELLER)

3. For the current CCN holder or service provider please indicate:

A. Name: Providence Village Water Control & Improvement District of Denton County f/k/a Denton County Fresh Water Supply District 9

(Individual, Corporation or Other Legal Entity)

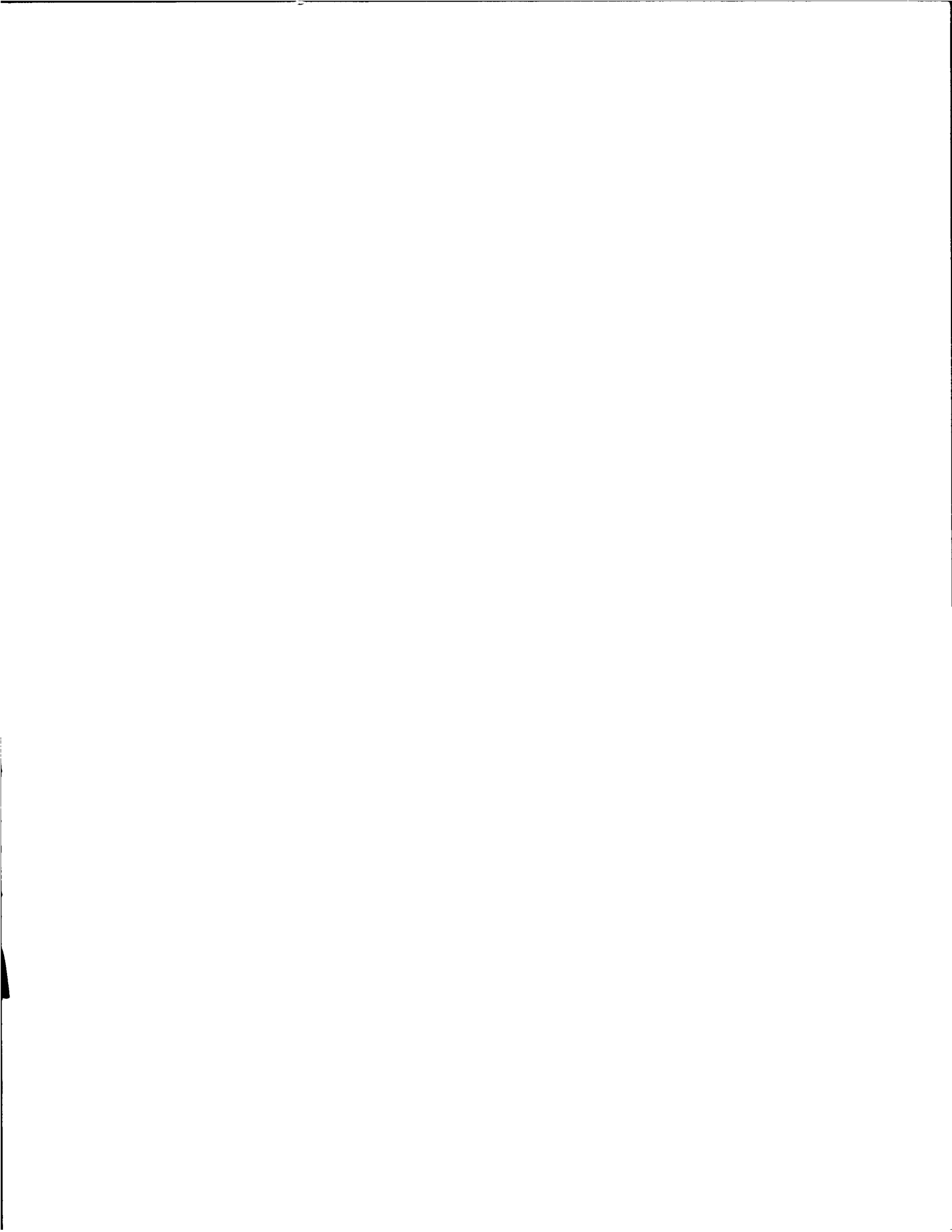
who is a(n): Individual Corporation WSC HOA or POA Other

B. Utility Name (if different than above):

Address: 19 Briar Hollow Ln, Ste 245 Telephone: (AC) 713-621-3707
Houston, Texas 77027-2801

C. Contact person. Please provide information about the person to be contacted regarding this application. Indicate if this person is the owner, operator, engineer, attorney or accountant.

Name: John Mitchell Title: President



Address: 1208 Oakcrest Drive
Aubrey, Texas 76227

Telephone: (AC) _____

Fax: _____

Email: John.mitchell@380districts.com

4. About the last rate increase for the system or facilities being transferred: _____

A. What was the effective date of the last rate increase? 11-16-08

B. Was notice of this increase provided to the Texas Commission on Environmental Quality or its predecessors?

No Yes Application/Docket Number: _____ Date: _____

5. Please provide a list of all customers affected by this transaction who have deposits held by the transferor or seller utility, if any, and include the following information (attach additional sheets if necessary):

Name and Address of Utility Customer	Date of Deposit	Amount of Deposit	Amount of Unpaid Interest on Deposit
List of Customers is attached hereto as "ATTACHMENT 1"			

☛ Within 30 days of the actual transaction date, and prior to the transfer of the certificate by the TCEQ, the seller must provide proof to the Commission that these customer deposits were returned to the customers or transferred to the purchasing utility. Proof should include a sworn affidavit.

QUESTIONS 6 THROUGH 16 REFER TO THE TRANSFEREE OR PURCHASER

6. For the person or entity acquiring the facilities and/or CCN:

Applicant: Mustang Special Utility District
(Individual, Corporation, or Other Legal Entity)

Utility Name: _____
(If different than above)

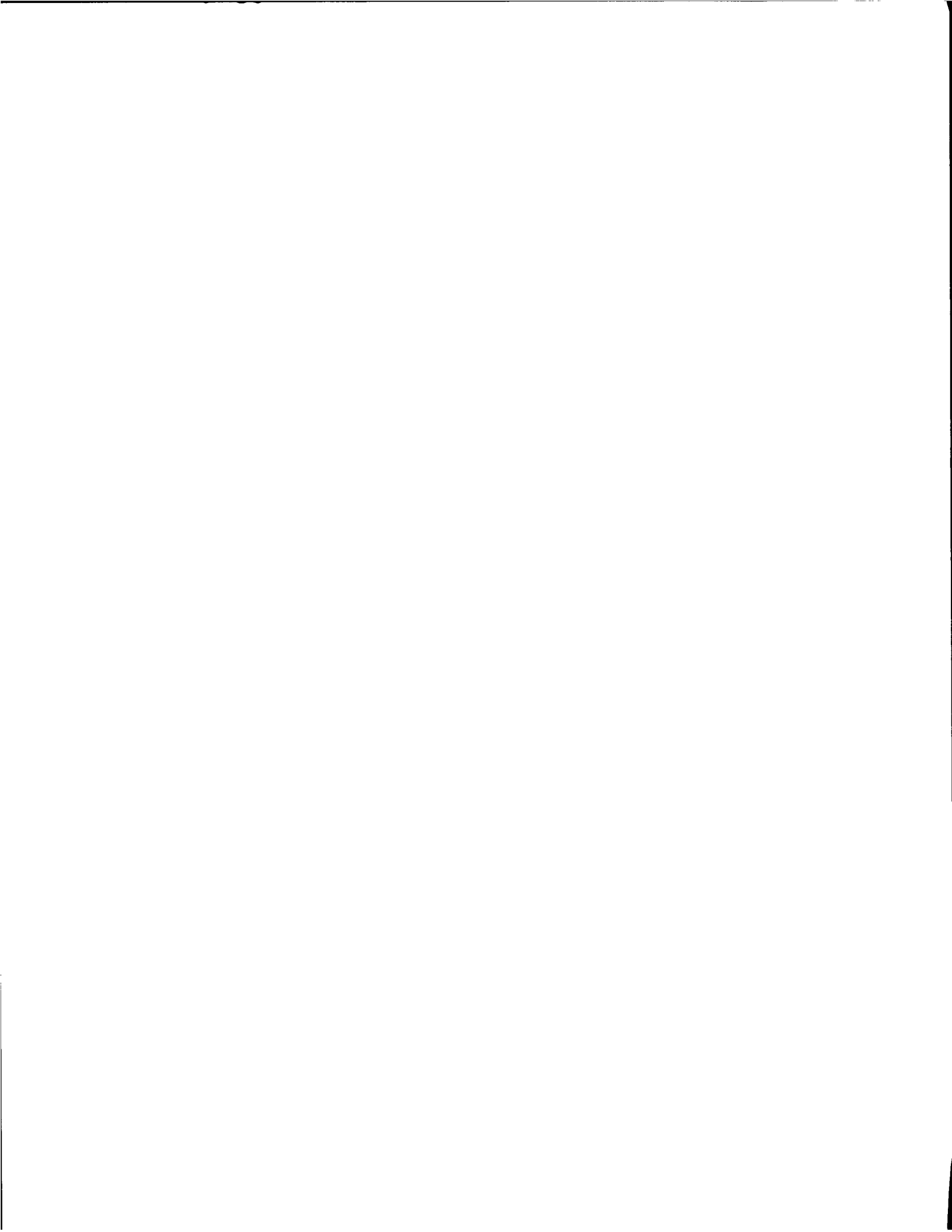
Utility Address: 7885 FM 2931, Aubrey, Texas 76227

Fax: 940-440-9686 Email: chris@mustangwater.com Telephone (AC): 940-440-9561

CCN Numbers held prior to the filing of this application: Water 11856 and Sewer 20930

7. Check the appropriate box and provide information regarding the legal status of the transferee applicant:

- Individual
- Home or Property Owners Association
- Partnership; attach copy of partnership agreement
- Corporation; provide charter number as recorded with the Office of the Secretary of State for Texas: _____
- Non-profit, member-owned, member-controlled Cooperative Corporation (Article 1434(a) Water



Supply or Sewer Service Corporation); provide charter number: _____

- ____ Municipally-owned utility
- District (MUD, SUD, WCID, etc.)
- ____ County
- ____ Other (please explain): _____

8. If the applicant is an *Individual* or sole proprietorship, provide the following information. If not, skip to the next question.

Name: N/A The Applicant is a Special Utility District Telephone (AC): _____
Fax: _____ Email: _____
Address: _____

9. If the applicant is other than an *Individual* provide the following information regarding the officers or partners of the legal entity applying for the transfer. You must complete either question 8 or question 9, whichever applies to the transferee applicant.

•Name: Bill Hathaway Telephone (AC): 214/766-7958 cell
Address: 2240 Blackjack Rd.
Pilot Point, TX 76258
Position: President Ownership % (if applicable): N/A

•Name: Mike Frazier Telephone (AC): 940/686-5664 home
Address: 12189 Merrill Road
Pilot Point, Texas 76258
Position: Vice President Ownership % (if applicable): N/A

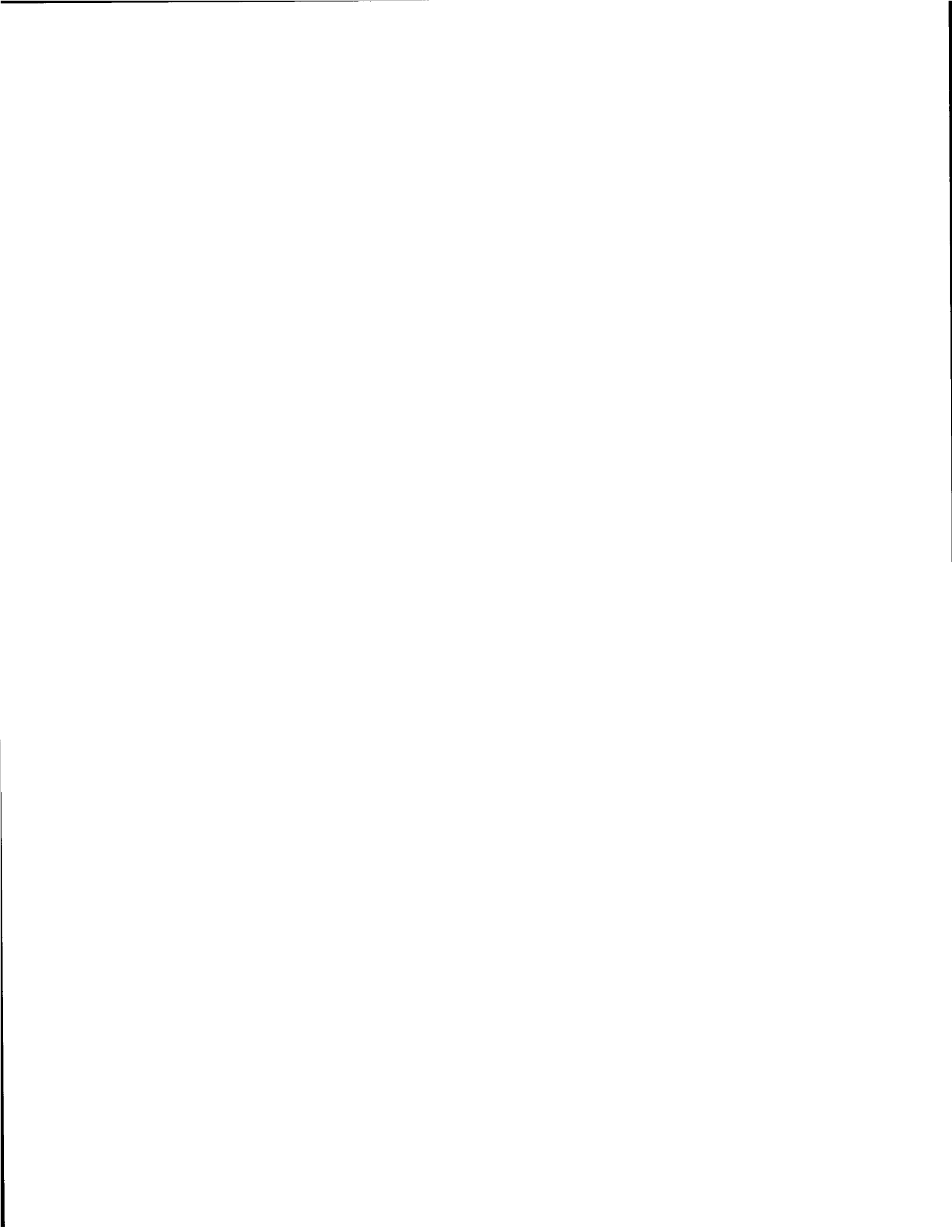
•Name: Randy Wallace Telephone (AC): 940-365-3883 home
Address: 5601 W. Oak Shores
Cross Roads, TX 76227
Position: Secretary Ownership % (if applicable): N/A

•Name: James Burnham Telephone (AC): 405-414-0071 cell
Address: 401 Niles Ct.
Oak Point, Texas 75068
Position: Director Ownership % (if applicable): N/A

•Name: Steve Rebhan Telephone (AC): 940/440-9942 home
Address: 4150 Oak Shores Dr. W
Cross Roads, TX 76227
Position: Director Ownership % (if applicable): N/A

•Name: Barbara Swadling Telephone (AC): 940-365-9264 home
Address: 11941 Friendship Rd.
P.O. Box 997
Pilot Point, TX 76258
Position: Director Ownership % (if applicable): N/A

- Attach additional sheet(s) if necessary – See attached “ATTACHMENT 2” for the remainder of the Directors



- ☛ **Important:** • If the applicant is a for-profit corporation, please provide a copy of the corporation's "Certification of Account Status" from the State Comptroller Office. This "Certification of Account Status" can be obtained from:

Texas Comptroller of Public Accounts
P. O. Box 13528, Capitol Station
Austin, Texas 78711
1-800-252-5555

- If the applicant is an Article 1434a water supply or sewer service corporation or other non-profit corporation, please provide a copy of the Articles of Incorporation and By-Laws.

10. Contact person. Please provide information about the person to be contacted regarding this application. Indicate if this person is the owner, operator, engineer, attorney or accountant.

Name: John Rapier	Title: General Counsel
Address: 1333 W. McDermott, Ste 100 Allen, Texas 75013	Telephone (AC): 972-727-9904
Fax # 972-727-4273	Email rapier@rapierwilson.com
Relationship to the applicant: <u>General Counsel</u>	

☛ ***IF THERE ARE MORE THAN TWO PARTIES INVOLVED IN THIS TRANSACTION, PLEASE ATTACH SHEETS PROVIDING THE INFORMATION REQUIRED IN QUESTION 6 THROUGH QUESTION 10 FOR EACH PARTY***

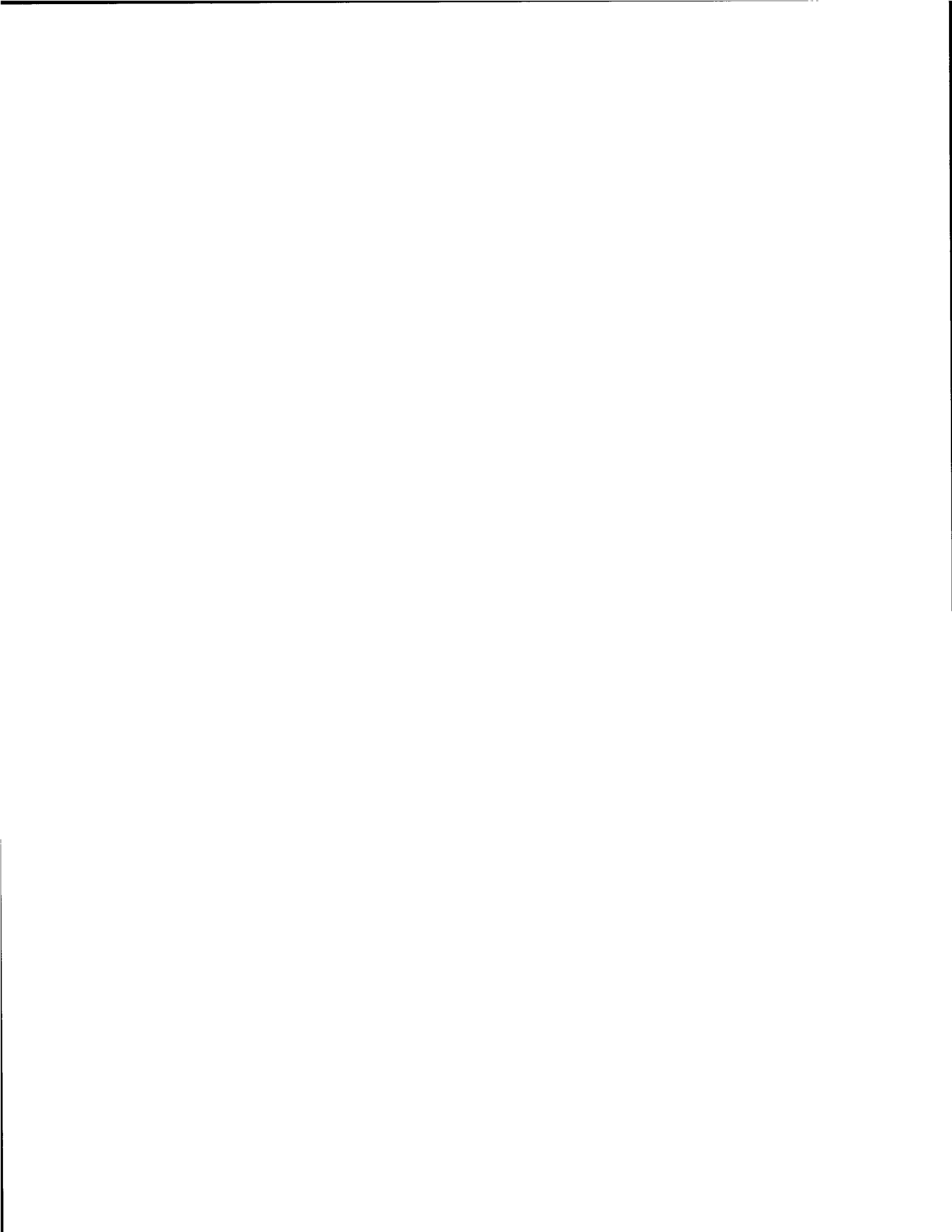
11. Please respond to each of the following questions. Attach additional sheets if necessary.
A. Describe the experience and qualifications of the applicant to provide adequate utility service to the requested area:

Mustang Special Utility District, the successor to Mustang Water Supply Corporation ("Mustang"), has supplied retail water service to over 100 square miles of northeast Denton County for 44 years and wastewater service for the past seven years. Mustang currently serves 3,648 retail water customers and 1,115 retail wastewater customers. In addition, Mustang provides maintenance and operating services to 5,223 water and wastewater customers of third party water districts. Mustang has six license operators in surface water, ground water and wastewater collection and treatment.

B. Has the applicant acquiring the CCN or facilities or an affiliated interest of the applicant been under enforcement action by the TCEQ, Texas Department of Health (TDH), the Office of the Attorney General (OAG) or the Environmental Protection Agency (EPA) in the past for noncompliance with rules, orders or State Statutes?

Yes No

If yes, please attach copies of any correspondence with these regulatory agencies concerning these enforcement actions and describe any actions and efforts to comply with those requirements. Attach additional sheets if needed.



N/A Applicant has not been under enforcement action by the TCEQ.

C. Describe the source and availability of funds required to make the planned or required improvements, if any, to meet minimum requirements of the TCEQ and ensure continuous and adequate service.

N/A. No planned or required improvements are necessary to meet minimum requirements of the TCEQ, therefore no funding is required.

D. Describe the anticipated impact of this transaction on the quality of utility service and explain any anticipated changes in the quality of service.

No changes are anticipated in the quality of water or wastewater utility services for the customers of the transferor.

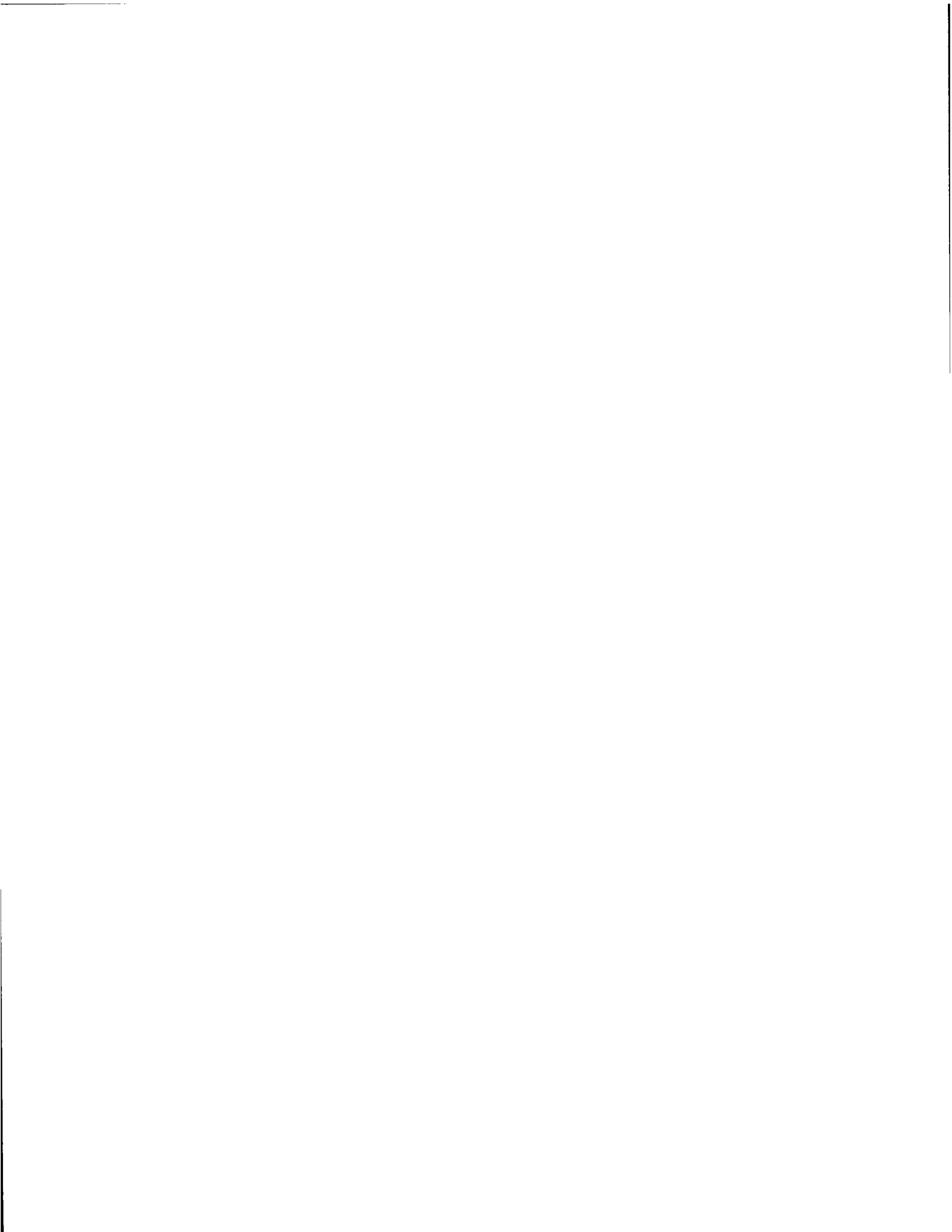
E. How will the transaction serve the public interest?

The water rates for the average customer in Providence Village ACID will decrease without any change in service because Mustang SUD has always managed the system to be transferred. See Attachment 3, attached hereto for a comparison of the current rates of the two systems.

12 Please describe the nature of the proposed transaction:

In 2000 and 2001, multiple fresh water districts were created by developers who owned land either side of US Hwy. 380 between the City of Denton and the Denton - Collin County boundary line. The aerial extent of Denton County fresh water supply districts 9, 10, 8A, 8B, 11A and 11B were located within certificated service area of Mustang WSC now known as Mustang SUD. All of the fresh water districts contracted with the Upper Trinity Regional Water District for wholesale treated water supply and wastewater treatment capacity. All of the retail customers together with the water and wastewater facilities of the fresh water districts by contracts with Mustang and the UTRWD are to be transferred to Mustang upon the final payment of the bonds issued by the fresh water supply districts to reimburse the developers for the construction costs associated with the construction of the water and wastewater infrastructure. For reasons stated in the Agreement, the transfer of customers and the water and wastewater infrastructure of Providence Village WCID formerly known as Denton County FWSD 9 was advanced to October 1, 2011. This purpose of this STM application is accomplish the transfer pursuant to the Agreement.

In June of 2005, Mustang and Denton County Fresh Water Supply District No. 9, currently known as Providence Village WCID of Denton County, executed a Merged, Amended and Restated Agreement Related to Water and Sanitary Sewer Service (the "Agreement"). **A copy of the Agreement is attached hereto as "ATTACHMENT 4".**



13 If the transferee applicant is an Investor Owned Utility (IOU) and will be under the rate jurisdiction of the TCEQ, please provide the following information. Water supply or sewer service corporations and political subdivisions of the state should mark this section N/A:

- A.
- Total Purchase Price: N/A
 - Total Original Cost (as recorded on books of seller or merging entity): _____
 - Accumulated Depreciation as of the proposed effective date of the transaction: _____
 - Contributions in Aid of Construction:
 - Specific surcharges approved by TCEQ: _____
 - Revenues from explicit customer agreements: _____
 - Developer Contributions (please explain): _____
 - Other Contributions (please explain): _____

Total Contributions in Aid of Construction _____

• Net Book Value: _____

☞ If the Original Cost or any of the above items has been established in a rate case proceeding by the PUC, the TWC or the TCEQ, please provide the Application/Docket Number and date:

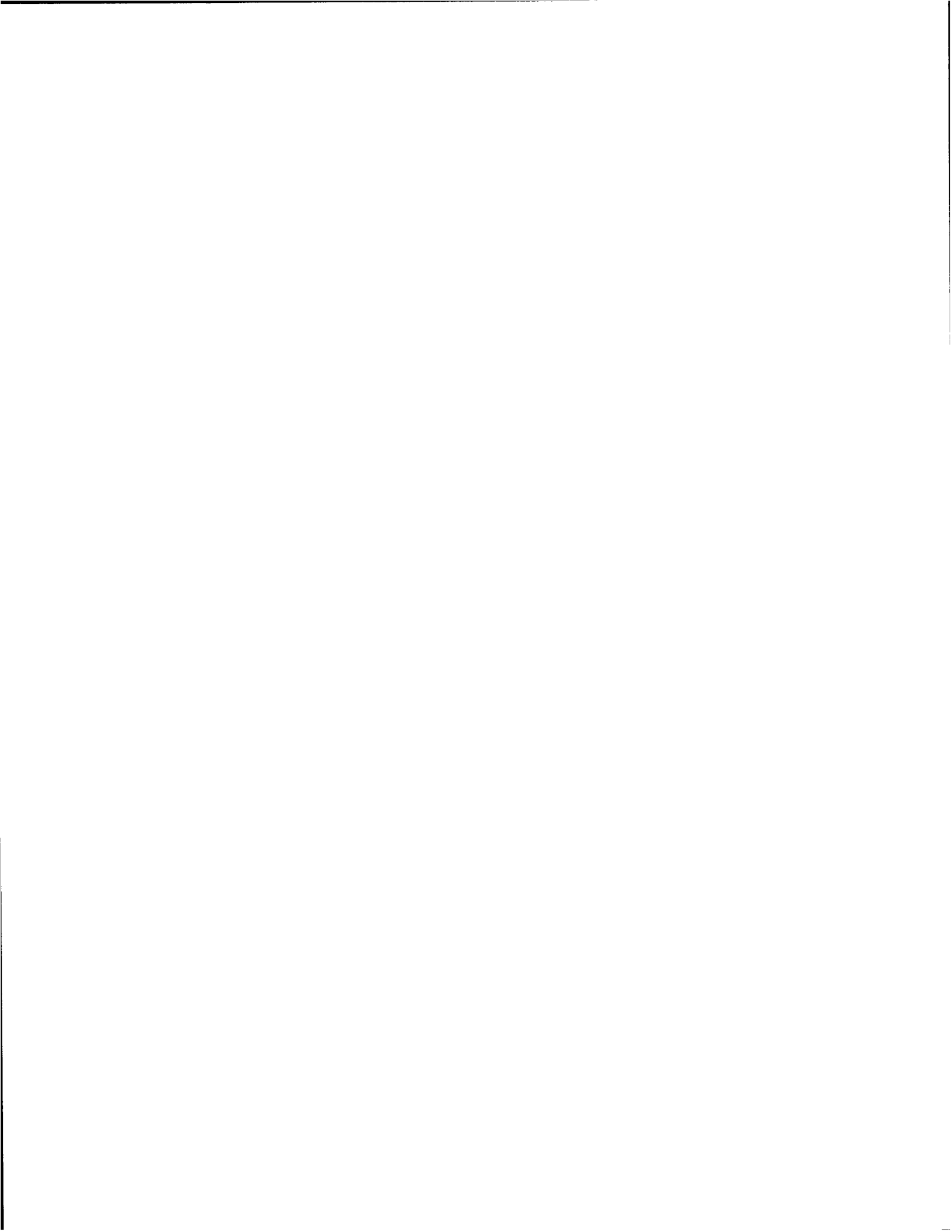
Application/Docket Number: N/A Date: _____

☞ If the applicant is not under the rate jurisdiction of the TCEQ, only the purchase price and information related to Contributions in Aid of Construction is required.

B. Please provide any other information concerning the nature of the transaction you believe should be given consideration if not explained elsewhere in the application [attach additional sheet(s) if necessary]:

C. Complete the following proposed entries listed below as shown in books of purchasing (or surviving) company. Additional entries may be made; the following are suggested only, and not intended to pose descriptive limitations.

Utility Plant in Service:	Transferee's Audit ending 9-30-2009 is attached as "ATTACHMENT 5".
Plant Acquisition Adjustment:	_____
Extraordinary Loss on Purchase:	_____
Accumulated Depreciation of Plant:	_____
Cash:	_____
Notes Payable:	_____
Mortgage Payable:	_____
Others (please list):	_____



As the purchaser, I understand that it is **my responsibility** in any future rate proceeding to provide written evidence and support for the original cost and installation date of all facilities used and useful for providing utility service.

Purchaser's Initials: FER Date: 1-28-2011

14. Please indicate the proposed effect of this transaction on the rates to be charged to the affected customers:

- All the customers will be charged the same rates as they were charged before the transaction.
 Some All customers will be charged different rates than they were charged before the transaction.

If rates are changing, please explain:

All customers will be charged the same rates as Mustang charges its own customers. The rates charged by Providence Village WCID are generally higher than rates charged by Mustang SUD. Therefore, the effect is reduction in rates for the average customer to be transferred.

N/A Applicant is an IOU and intends to file with the Commission or municipal regulatory authority an application to change rates of some/all of its customers as a result of this transaction. If so, please explain: Applicant is not an IOU.

Other. Please explain:

15. List all neighboring water and /or sewer utilities, cities, and political subdivisions providing the same service within two (2) miles of area affected by this proposed transaction. This information should be available from the water utility database (WUD) or Applicant's licensed water operator.

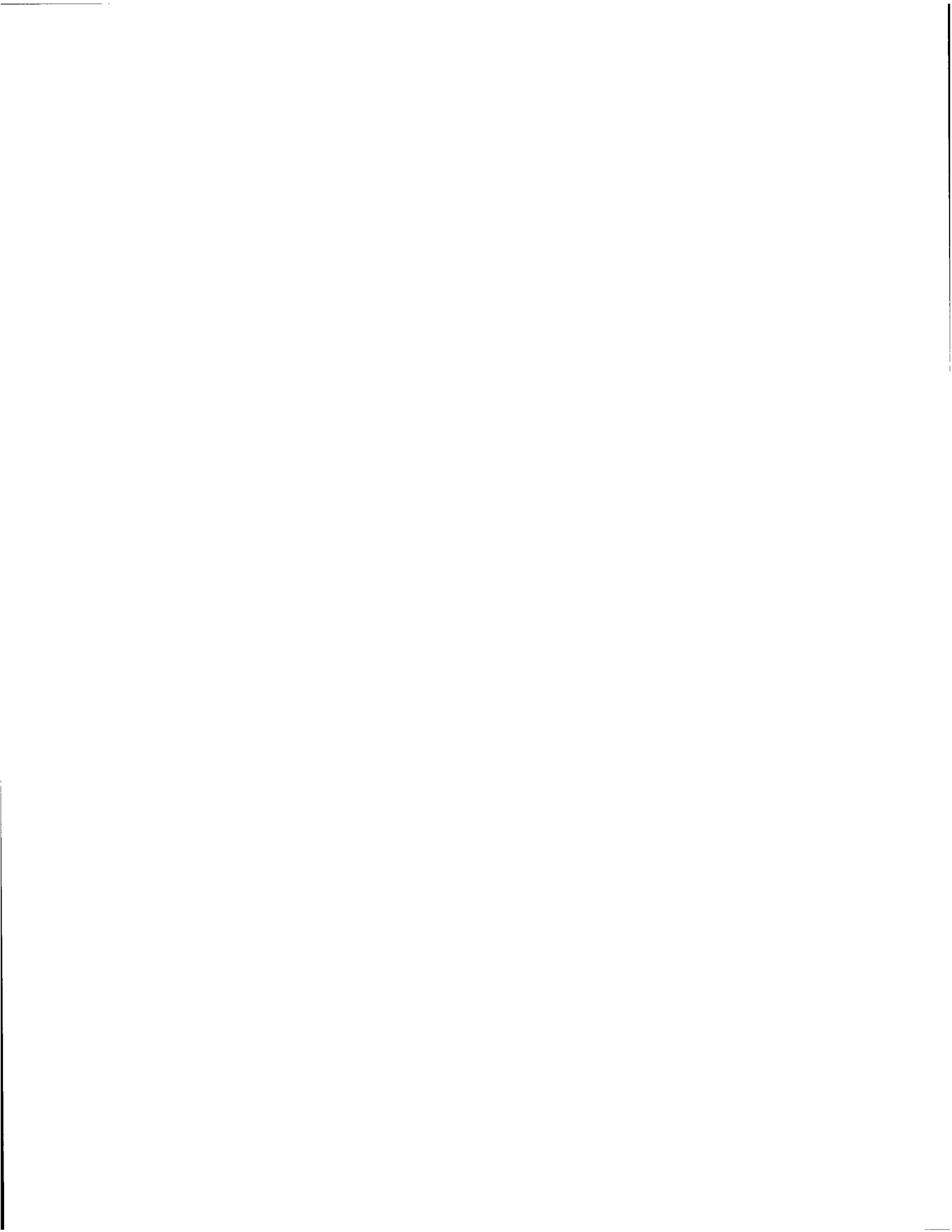
See "ATTACHMENT 6" attached hereto.

16. Financial, Managerial and Technical information for the acquiring entity. See "ATTACHMENT 7", Applicant's Income Statements and "ATTACHMENT 8", Applicant's Balance Sheets, attached hereto.

PLEASE ANSWER QUESTIONS 17 THROUGH 22 ON A DIFFERENT SHEET FOR EACH PHYSICALLY DISTINCT SYSTEM BEING TRANSFERRED OR ACQUIRED

17. A. For Water Systems. TCEQ Public Water System Identification Number: 06 10 24 4

Date of last inspection: February 21,
2006



B. For Wastewater Systems:
 Providence Village WCID contracts with the Upper Trinity Regional Water District ("UTRWD") for wastewater treatment. UTRWD hold the discharge permit.

-TCEQ Discharge Permit Number: W Q n/a -
 -Name of Permittee: The UTRWD has the discharge permit
 -Date of application to transfer Discharge Permit submitted: _____
 -Date of application to transfer Discharge Permit approved by TCEQ: _____

18. A. Are any improvements required to meet TCEQ standards? ___ Yes. If yes, please explain X No

B. Is there a moratorium on new connections? ___ Yes. If yes, please explain X No

C. Provide details of each required major capital improvement to correct the deficiencies and meet the TCEQ standards (attach additional sheets if necessary):

Description of the Required Improvement	Schedule to Complete	Estimated Cost
No improvements are needed		

19. Does the system being transferred operate within the city limits of a municipality or within district boundaries? X Yes ___ No

If yes, indicate the number of customers within the city limits or district boundaries:

1,722 Water 1,697 Sewer

Attach copy of franchise agreement or consent letter from the city or district.

20. Do you currently purchase water or sewer treatment capacity from another source? X Yes ___ No

X Water X Sewer Purchased on a X Regular ___ Seasonal ___ Emergency Basis

• Source: Upper Trinity Regional Water District % of total supply: 100%

21. List the number of existing connections to be effected by this transaction.

Water				Sewer	
0	-Non Metered	23	-2" meter	-Residential Connection	1,688
1,687	-5/8" or 3/4" meter	0	-3" meter	-Commercial Connection	3
8	-1" meter	1	-4" meter	-Industrial Connection	0



3	-1 1/2" meter	0	-Other	-Other	6 (Parks and Schools)
Total Water Connections:			1,722	Total Sewer Connections	1,697

22. Has the system reached 85% of its capacity based on TCEQ's minimum requirements?

NO X

If yes, please explain what steps are being taken to address the capacity issues:

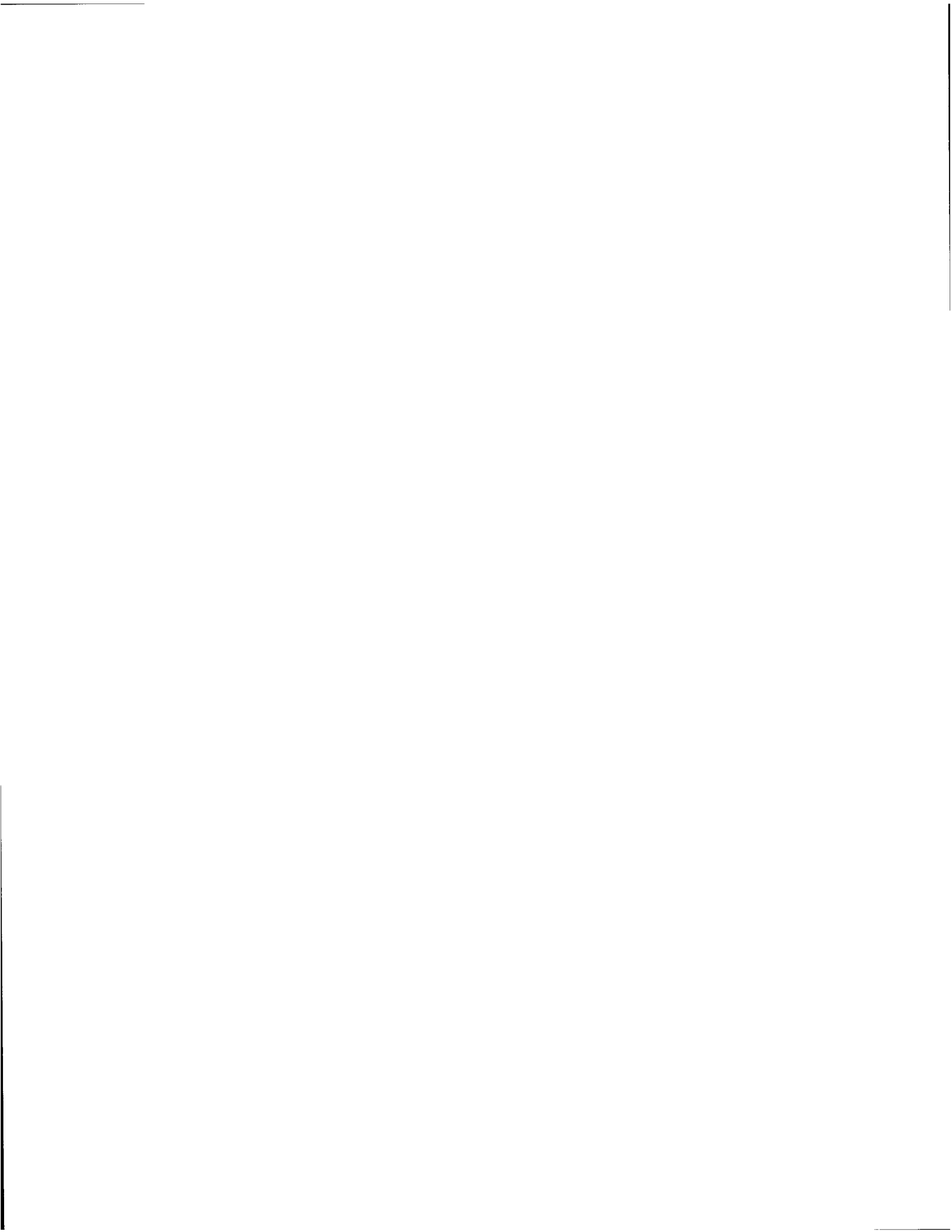
23. List the name, class, and license number of the operator(s) that will be responsible for the system:

Name	Class	License#
See "ATTACHMENT 9" attached hereto		

24. Attach the following maps with each copy of the application:

- a. One small scale map clearly showing affected service area with enough detail to accurately locate the area if the application is for the transfer of all or a portion of a CCN.
- b. One large scale map showing the proposed service area boundaries being sold, transferred, or merged and, if available, the existing and proposed facilities. Color coding should be used to differentiate existing from proposed facilities. Facilities and service area boundaries should be shown with such exactness that they can be located on the ground. If transferring area is currently in a CCN or a portion of an existing CCN area, please attached the following hard copy maps with each copy of application:
 1. A general location map delineating the proposed service area with enough detail to accurately locate the proposed area within the county.
 2. A map showing only the proposed area by:
 - i. metes and bounds survey certified by a licensed state or registered professional land surveyor; or
 - ii. projectable digital data with metadata (proposed areas should be in a single record and clearly labeled, data disk should be included); or
 - iii. following verifiable natural and man-made landmarks, or
 - iv. a copy of recorded plat map with metes and bounds.
 3. A written description of the proposed service area.

See "ATTACHMENT 10" attached hereto.



OATH FOR SELLER OR FORMER SERVICE PROVIDER

STATE OF TEXAS
COUNTY OF DENTON

transferor

relating to the transferor applicant

I, John W. Mitchell, being duly sworn, file this application for sale, lease, rental or merger or consolidation as President (indicate relationship to applicant) that is, owner, member of partnership, title as officer of corporation, or other authorized representative of applicant; that, in such capacity, I am qualified and authorized to file and verify such application, am personally familiar with the documents filed with this application, and have complied with all the requirements contained in the application; and, that all such statements made and matters set forth therein with respect to applicant are true and correct. Statements about other parties are made on information and belief. I further state that the application is made in good faith and that this application does not duplicate any filing presently before the Commission.

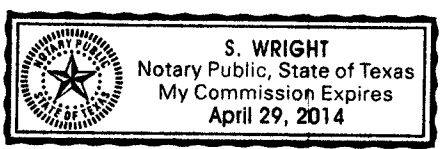
~~I further state that I have provided to the purchaser or transferee a written disclosure statement about any contributed property as required under Section 13.301(f) and copies of any outstanding Orders of the Commission or Attorney General and have also complied with the notice requirements in Section 13.301(k) of the Water Code.~~

[Handwritten signature]
AFFIANT
(Utility's Authorized Representative)

If the Affiant to this form is any person other than the sole owner, partner, officer of the Applicant, or its attorney, a properly verified Power of Attorney must be enclosed.

SUBSCRIBED AND SWORN TO BEFORE ME, a Notary Public in and for the State of Texas, day 2 of 11, 20 11.

SEAL



[Handwritten signature]
NOTARY PUBLIC IN AND FOR THE STATE OF TEXAS
Shelley Wright
PRINT OR TYPE NAME OF NOTARY
MY COMMISSION EXPIRES 4/29/14

One copy of this page must be submitted for each utility involved in this transaction.



OATH FOR PURCHASER OR ACQUIRING ENTITY

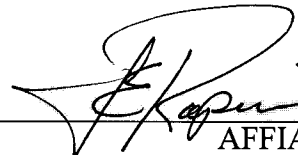
STATE OF TEXAS

COUNTY OF COLLIN

I, John Rapier, being duly sworn, file this application for

sale, lease, rental or merger or consolidation as General counsel
(indicate relationship to applicant) that is, owner, member of partnership, title as officer of corporation, or other authorized representative of applicant); that, in such capacity, I am qualified and authorized to file and verify such application, am personally familiar with the documents filed with this application, and have complied with all the requirements contained in the application; and, that all such statements made and matters set forth therein with respect to applicant are true and correct. Statements about other parties are made on information and belief. I further state that the application is made in good faith and that this application does not duplicate any filing presently before the Commission.

I am also authorized and do agree to be bound by and comply with any outstanding orders of the Commission or the Attorney General which have been issued to the system or facilities being acquired and recognize that I will be subject to administrative penalties or other enforcement actions if I do not comply.



AFFIANT

(Utility's Authorized Representative)

If the Affiant to this form is any person other than the sole owner, partner, officer of the Applicant, or its attorney, a properly verified Power of Attorney must be enclosed.

Applicant represents that all other parties to this transaction have been furnished copies of this completed application.

SUBSCRIBED AND SWORN TO BEFORE ME, a Notary Public in and for the State of Texas,
day 28 of January, 20 11.

SEAL



NOTARY PUBLIC IN AND FOR THE
STATE OF TEXAS



PRINT OR TYPE NAME OF NOTARY

MY COMMISSION EXPIRES 9-9-13

One copy of this page must be submitted for each utility involved in this transaction.



Notice to Current Customers, Neighboring Systems and Cities

Providence Village Water Control & Improvement 'S
District of Denton County f/k/a Denton County FWSD
9

(Seller's or Transferor's Name)

NOTICE OF INTENT TO SELL FACILITIES AND TRANSFER CERTIFICATE OF CONVENIENCE AND
NECESSITY (CCN) NO 13020 and 20922 TO Mustang Special Utility District
(Purchaser's or Transferee's Name)

IN Denton COUNTY, TEXAS

To: _____ Date Notice Mailed _____, 20 11
(Name of Customer, Neighboring System or City)

(Address)

City State Zip

Providence Village Water Control & Improvement District of Denton
County f/k/a Denton County Fresh Water Supply District No. 9
19 Briar Hollow Ln, Ste 245 Houston, Texas 77027

Sellers or Transferors' Name Address City/State/Zip Code

has submitted an application with the Texas Commission on Environmental Quality to sell facilities and transfer
water/sewer (please select) CCN No. 13020 and 20922 in Denton [County Name] County to:

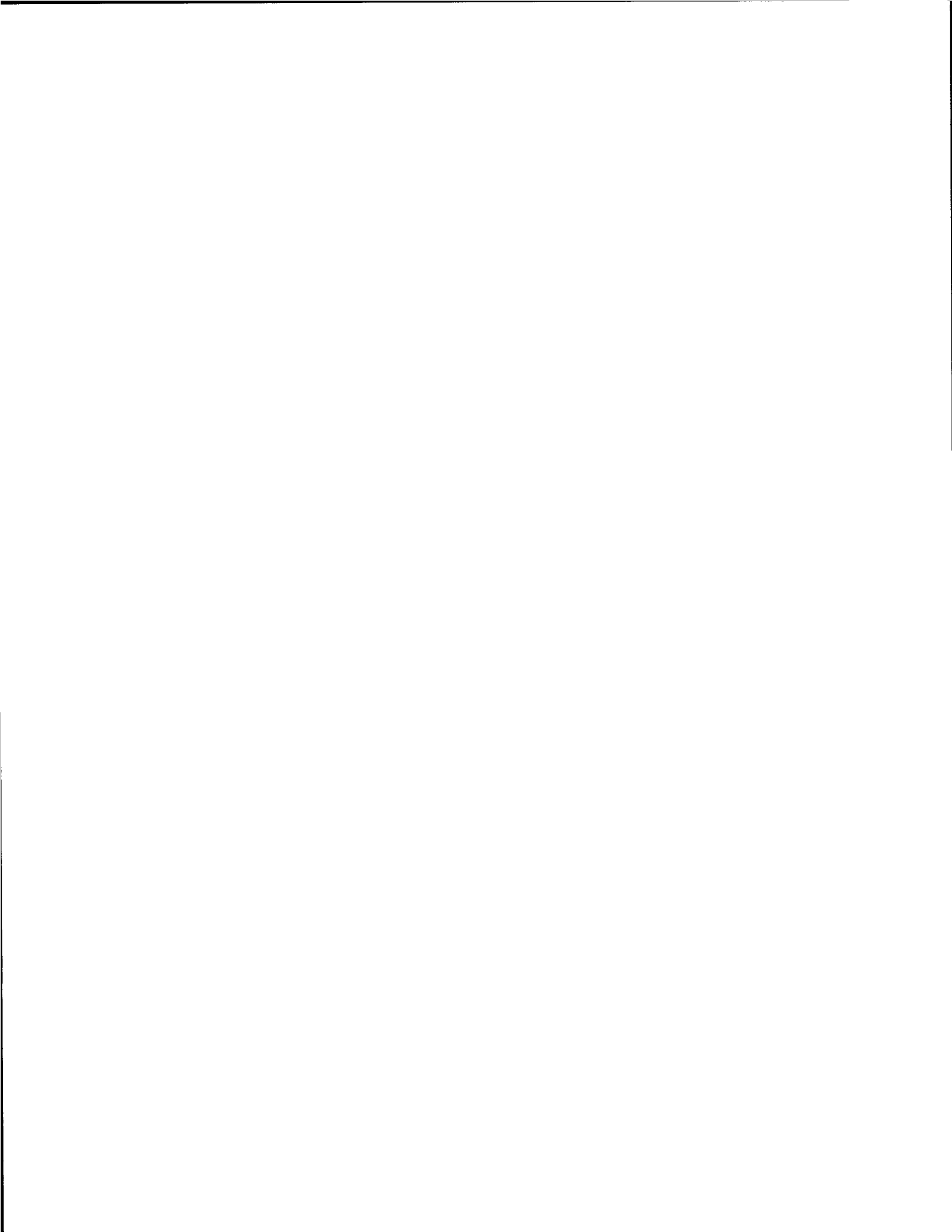
Mustang Special Utility District 7885 FM 2931 Aubrey, Texas 76227
Purchasers or Transferee's Name Address City/State/Zip Code

The sale is scheduled to take place as approved by the Executive Director (V.T.C.A., Water Code §13.301). The
transaction and the transfer of the CCN include the following subdivision(s) and zip codes:

The Providence Village, Texas located in the 76227 zip code.

The area subject to this transaction is located approximately 8 miles east [direction] of
downtown Denton, [City or Town] Texas, and is **generally** bounded on the north by
Gail Lane; on the east by Elm Fork of the Trinity River
;on the south by U. S. 380; and on the west by FM 2931 and Sanders Road

The total area being requested includes approximately 1115.93 acres and serves 1,722 current customers.
This transaction will have the following effect on the current customer's rates and services:
Current customers will on average decrease in water rates of 0 %. Water and wastewater services will remain
the same.



Affected persons may file written protests and/or request a public hearing within 30 days of this notice.

To request a hearing, you must:

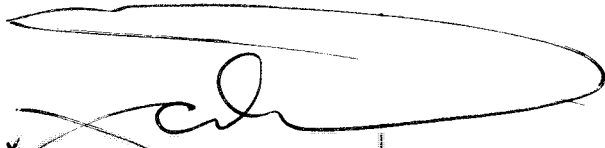
- (1) state your name, mailing address and daytime telephone number;
- (2) state the applicant's name, application number or another recognizable reference to this application;
- (3) include the statement "I/we request a public hearing";
- (4) write a brief description of how you, the persons you represent, or the public interest would be adversely affected by the proposed transaction and transfer of the CCN; and
- (5) state your proposed adjustment to the application or CCN which would satisfy your concerns and cause you to withdraw your request for a hearing.

Only those persons who submit a written request to be notified of a hearing will receive notice if a hearing is scheduled. The Executive Director will issue the CCN requested in the referenced application unless a hearing is scheduled to consider the transaction. If no protests or requests for hearing are filed during the comment period, the Executive Director may issue the CCN 30 days after publication of this notice.

Persons who wish to protest or request a hearing on this application should write the:

Texas Commission on Environmental Quality
Water Supply Division
Utilities and Districts Section, MC-153
P. O. Box 13087, Austin, TX 78711-3087

Se desea informacion on Espanol, puede llamar al 512-239-0200.

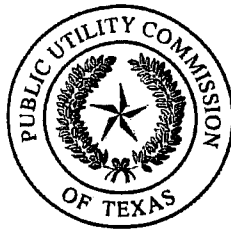


John Mitchell, Utility Representative

Providence Village Water Control & Improvement
District of Denton County f/k/a Denton County FWSD 9

Utility Name





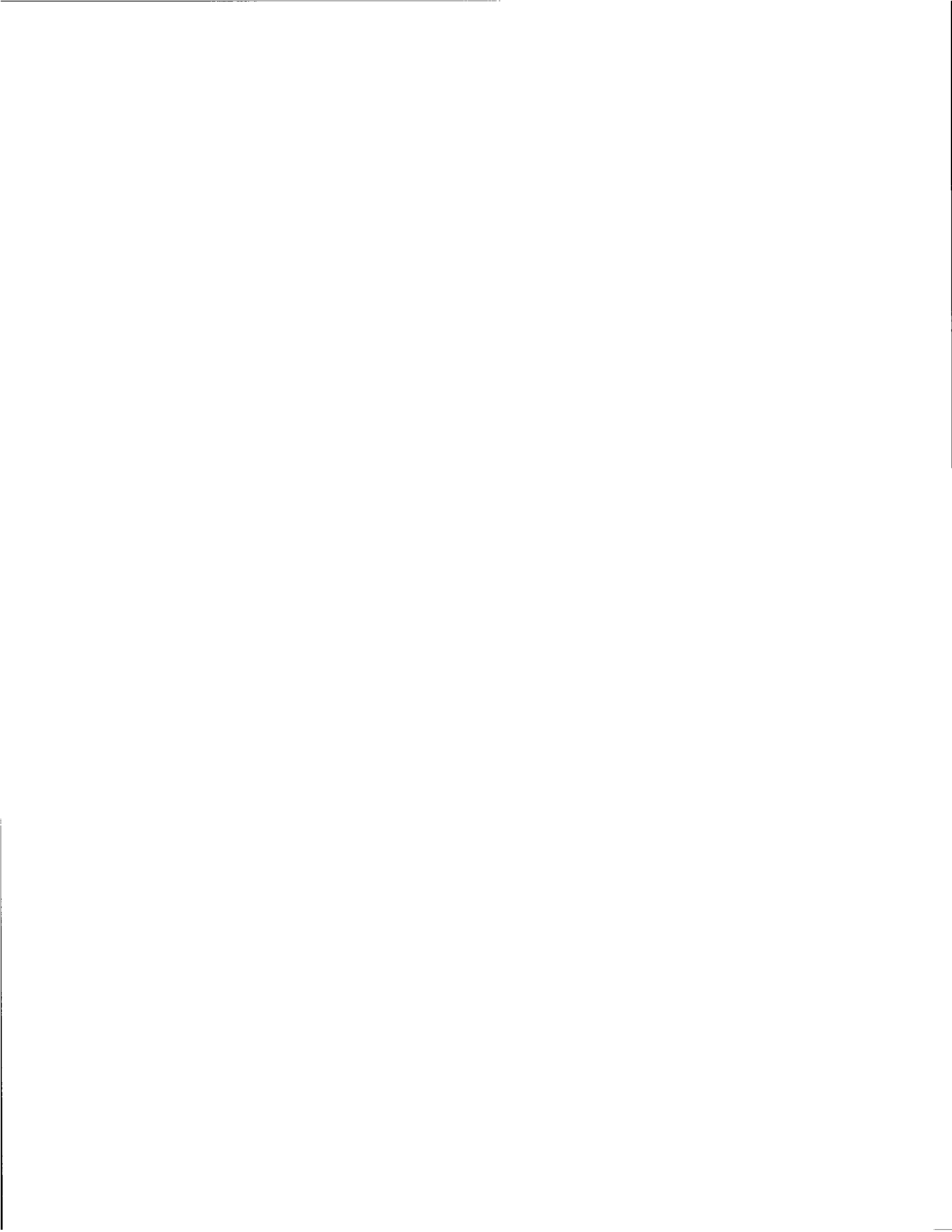
House Bill (HB) 1600 and Senate Bill (SB) 567 83rd Legislature, Regular Session, transferred the functions and records relating to the economic regulation of water and sewer utilities from the TCEQ to the PUC effective September 1, 2014.

Central Records Personally Identifiable Information Audit

NOTICE OF REDACTION

Documents containing Personally Identifiable Information* have been redacted from electronic posting, in accordance with Texas privacy statutes.

*"Personally Identifiable Information" (PII) is defined to include information that alone or in conjunction with other information identifies an individual, including an individual's: Social security or employer taxpayer identification number, driver's license number, government-issued identification card number, or passport numbers, checking and savings account numbers, credit card numbers, debit card numbers, unique electronic identification number, address, or routing code, electronic mail names or addresses, internet account numbers, or internet identification names, digital signatures, unique biometric data, and mother's maiden name, marriage and any other numbers or information used to access an individual's financial account.



Mustang Special Utility District
Remainder of list of Directors requested in Question 9

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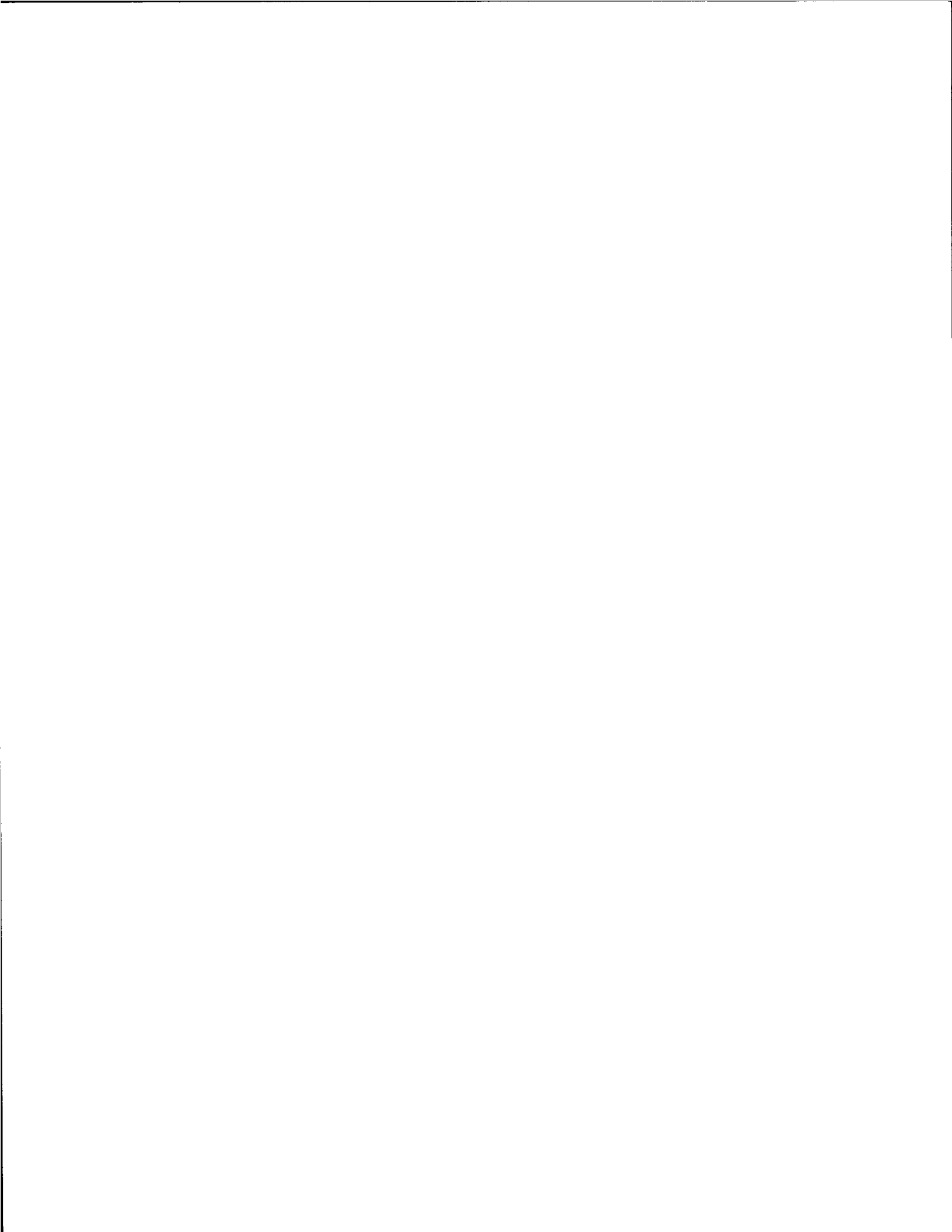
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Comparison of Water and Wastewater Rates		
	Mustang SUD	Providence Village WCID
Base Rate:	25.00	28.00
Gallonge Water Charge:		
1 to 1,000	2.43	3.00
1,001 to 3,000	2.66	3.00
3,001 to 6,000	3.30	3.00
6,001 to 9,000	3.64	3.00
9,001 to 10,000	3.99	3.00
10,001 to 12,000	3.99	3.80
12,001 to 15,000	4.34	4.13
15,001 to 20,000	4.91	4.68
20,001 to 25,000	5.49	5.23
> 25,000	9.41	8.97
Gallonge Wastewater Charge:		
1 to 8,000	35.50	32.00
8,001 to 10,000	39.50	32.00
> 10,000 gal.	39.50	35.75



03/15/05

**MERGED, AMENDED, AND RESTATED
AGREEMENT RELATED TO WATER AND
SANITARY SEWER SERVICE**

This Merged, Amended, and Restated Agreement Related to Water and Sanitary Sewer Service ("Agreement"), dated as of June 20th, 2005, is between Mustang Special Utility District ("Mustang") and Denton County Fresh Water Supply District No. 9 ("District").

1. RECITATIONS

A. Mustang is a special utility district established under the provisions of Chapter 65, Texas Water Code, as amended, and a "retail public utility" within the meaning of Chapter 13, Texas Water Code, as amended. Mustang holds Certificates of Convenience and Necessity Nos. 11856 and 20930 (collectively, "Mustang CCNs") to provide retail water and wastewater service to certain areas within Denton County, Texas ("Mustang Certificated Area"), as described by the Mustang CCNs.

B. Mustang is a member utility of the Upper Trinity Regional Water District ("UTRWD") and a wholesale customer of UTRWD.

C. The District is a political subdivision of the State of Texas organized and operating pursuant to Chapters 49, 51, and, for limited purposes, 53, Texas Water Code, as amended, and a "retail public utility" within the meaning of Chapter 13, Texas Water Code, as amended. The District holds Certificates of Convenience and Necessity Nos. 13020 and 20922 (collectively, "District CCNs") to provide retail water and wastewater services to 421.84 acres within Denton County, Texas ("District Certificated Area"), as described by Exhibit A hereto.

D. Pursuant to an "Upper Trinity Regional Water District Regional Treated Water System Participating Customer Contract" and an "Upper Trinity Regional Water District Northeast Regional Water Reclamation System Participating Customer Contract," each dated August 29, 2001, as subsequently amended (collectively, "UTRWD Contracts"), the District has acquired and is currently paying for wholesale water and wastewater treatment service for the District Certificated Area, as well as an additional 73 acres. Further, pursuant to the UTRWD Contracts, the District and UTRWD have agreed that: the provision of retail water and wastewater service for the District will be coordinated with Mustang; the District may own its water distribution and wastewater collection system ("District System"); and the District shall respect the Mustang Certificated Area.

E. On or about June 10, 2002, the District entered into two agreements with Mustang Water Supply Corporation, predecessor to Mustang, as follows: "Agreement By and Between Mustang Water Supply Corporation and Denton County Fresh Water Supply District No. 9 Relating to Water Service" and "Agreement By and Between Mustang Water Supply

03/15/05

Corporation and Denton County Fresh Water Supply District No. 9 Relating to Sanitary Sewer Service" (collectively, "Original Agreements"), giving the District the right to serve 494.84 acres with retail water and wastewater service.

F. Subsequent to the UTRWD Agreements and the Original Agreements, the District added 209.92 acres of land into its boundaries, such tract being hereinafter referred to as the "Stallings Tract," and as shown on Exhibit A hereto. No portion of the Stallings Tract is located within the District Certificated Area. However, pursuant to the UTRWD Contracts and Original Agreements, the District may serve up to 73 acres within the Stallings Tract.

G. The current owner of the Stallings Tract is planning a residential development within such area. As of the date hereof there are no water or wastewater customers within, and neither Mustang nor the District is providing retail service to, the Stallings Tract. The District and Mustang have determined that it is in the best interests of all concerned that the District initially provide water and wastewater service and facilities to the Stallings Tract subject to the merger, amendment, and restatement of the Original Agreements as provided herein.

H. The purpose of this Agreement is to merge, amend, and restate the Original Agreements to:

(1) allow for the provision of wholesale water and wastewater service to the District Certificated Area and the Stallings Tract by UTRWD;

(2) allow for the initial provision of retail water and wastewater service and facilities within the District Certificated Area and the Stallings Tract by the District;

(3) allow for the District to sell its bonds to finance the acquisition and construction of water and sewer facilities to serve the Stallings Tract;

(4) allow for UTRWD to sell its bonds to reimburse the District for funds advanced and to be advanced to UTRWD under the UTRWD Contracts for construction of the Riverbend Plant (hereinafter defined) to serve the District Certificated Area and the Stallings Tract; and

(5) protect and preserve the Mustang system integrity and Mustang CCNs.

I. This Agreement is authorized pursuant to the provisions of Section 13.248, Texas Water Code; and Chapters 30, 49, 51, and, for limited purposes, 53, and 65, Texas Water Code; and Chapter 791, Government Code.

2. CONTRACT TERMS

A. The parties stipulate that the obligations, rights and benefits provided herein are mutual and supported by adequate consideration.

B. Mustang and the District shall submit in a timely manner a copy of this Agreement to the Texas Commission on Environmental Quality ("TCEQ") for approval pursuant to Section 13.248, Texas Water Code. Further, the District shall submit this Agreement to UTRWD for limited approval concerning protection of the tax-exempt status of UTRWD's bonds and expansion of the District's "service area", as such term is used in the UTRWD Contracts, to include all of the Stallings Tract.

C. Nothing in this Agreement shall abridge, reduce or diminish Mustang's CCNs in the area of dual certification between Mustang and the District or in the area of the Stallings Tract. Mustang and District shall remain responsible for satisfying their obligations arising under their respective CCNs as required by the Texas Water Code and the applicable rules of the TCEQ, and nothing contained herein shall be construed as a delegation by Mustang of such obligations subject to the District's indemnify contained in Section 8.C. herein. However, pursuant to Section 13.248, Texas Water Code, as between Mustang and the District, the District shall be designated as the primary and preferred water and wastewater service purveyor in the area of dual certification and in the area of the Stallings Tract until the conveyance and lease transactions provided in Section 3 herein. In order to avoid the otherwise unnecessary construction and operation of capital-intensive water and wastewater utility service facilities during the term of this Agreement, service applicants shall be encouraged to apply for water and wastewater utility service from the District. If the District is unable to timely and cost effectively fulfill the applicant's service needs, Mustang shall extend its service to that applicant under the terms and conditions of Mustang's tariff then in effect. Notwithstanding this Agreement, Mustang and the District acknowledge that the service applicant shall have the right to choose its preferred service provider so long as the service area remains dually certificated to both utilities. This right of election of water and wastewater utility service provider shall terminate when, and if, the District CCNs are surrendered or transferred to Mustang in a future application to the TCEQ or its successor agency(ies).

D. The District System, including that portion serving the Stallings Tract, shall be designed in accordance with the standards of the TCEQ and other authorities with jurisdiction. The District shall submit all plans and specifications for construction of any part of the District System to Mustang for its review. Mustang will have thirty (30) days to deliver written comments to the District relating to such plans and specifications. The District will in good faith make a diligent effort to accommodate Mustang's comments. In the event that Mustang fails to deliver comments within thirty (30) days, then Mustang will have waived its right to comment on the District's plans and specifications.

E. The District agrees that, if it seeks dissolution by agreement and transfer to another entity, to the extent allowed by law, such agreement shall be an interlocal agreement between the District, Mustang, UTRWD and the municipality.

F. During the term of this Agreement, Mustang agrees to perform the services more particularly described in the attached Exhibit B, which may be amended as needed from time to time by the parties (the "Exhibit B Services"). Mustang's obligations pursuant to this section are subject to the District's timely performance of District's obligations pursuant to Section 4 of this Agreement.

G. (i) During the term of this Agreement, Mustang agrees to read each water meter of each retail water customer of the District one time every month and render a statement to each retail water customer of the District for the amount due District for water service. In addition, Mustang will collect the amount due District for water and wastewater service and remit to the District the funds collected by Mustang on behalf of the District at least once per month. (ii) In addition, Mustang agrees to render a monthly statement to each water customer of the District for solid waste collection services to be provided by third party contractors. Mustang will collect the amount due the District for solid waste collection, including initial deposits, and remit to the District the funds collected by Mustang at least once per month.

H. For services provided by Mustang for installations, maintenance or repair of the District System not listed on the Exhibit B Services, the District will pay for such services within thirty (30) days from the date of the invoice. The charges for services not listed on the Exhibit B Services are limited to Mustang's actual and direct expenses which shall be the prevailing prices for materials and labor in the North Texas area. In addition, Mustang may add fifteen percent (15%) overhead charge to its actual and direct expenses for the services identified in this paragraph. Any invoices not paid within thirty days of the date of such invoice will earn interest at the rate of 15% per annum.

I. Contemporaneously with the execution of this Agreement, the District has entered into an agreement with Mustang and the owner of that 411.17 acre tract of land located at the northwest corner of the intersection of Liberty Road and Brewer Road, Denton County, Texas, hereinafter referred to as the "Marriott Tract," that provides for the construction of a one million gallon (1 MG) elevated water storage tank within the Stallings Tract and a water line. The parties hereto agree to provide for the construction of certain water transmission facilities as described on Exhibit C hereto. Sharing of the ownership of the capacity in such facilities, and the cost of the design, construction and maintenance thereof are provided in such exhibit. The terms and provisions of Exhibit C are incorporated herein for all purposes.

3. CONVEYANCE AND LEASE

A. On October 1, 2011 (the "Transfer Date"), the District shall convey to Mustang all of its right, title, and interest to all sanitary sewer collection facilities, including land, easements, and rights of way that comprise the District System and that serve the District Certificated Area and the Stallings Tract (the "Sewer Facilities") that have been acquired by the District with the proceeds of outstanding bonds. Such conveyance will be made by deed and bill of sale in a commercially reasonable form acceptable to the attorneys for Mustang. Such conveyance shall be made by District on an "as is" basis with no representation or warranties other than warranties of title. With respect to any portion of the Sewer Facilities that, as of such date, have not been acquired by the District with the proceeds of its bonds, such facilities shall be leased to Mustang in accordance with the provisions of Section 3.B. below. Further, at such time as the District has sold its bonds and acquired the remaining portions of the Sewer Facilities, title thereto shall be conveyed to Mustang as set forth in this subparagraph 3.A.

B. On the Transfer Date, the District shall lease to Mustang all of its right, title, and interest to all water distribution and storage facilities, including all necessary land, easements, and rights of way, that comprise the District System and that serve the District Certificated Area and the Stallings Tract (the "Water Facilities"). The lease shall be for an initial term of 25 years, and shall automatically renew for additional successive 25 year terms. Only Mustang shall have the right to terminate the lease upon the issuance of 120 days' written notice to District. The lease document shall be in a commercially reasonable form acceptable to the attorneys for Mustang. The parties agree that at such time as, (i) the District has sold its bonds and acquired all of the Water Facilities and, (ii) in the opinion of bond counsel to the District, state law permits the sale and conveyance of the Water Facilities by the District, the provisions of this Section 3.B. shall be amended accordingly to provide for the sale of such facilities.

C. As additional consideration for the conveyance and lease set forth above, beginning October 1, 2011, Mustang agrees to pay to District 5% of the gross water and sanitary sewer revenues consisting of fees related to the base fee and volumetric charges for water and sewer service (the "Gross Revenues") received by Mustang from customers within District Certificated Area and the Stallings Tract. Gross Revenues shall not include any taxes, connection or other fees not related to the base fee and volumetric charges for water and sewer service provided. With respect to that portion of the Gross Revenues consisting of sanitary sewer revenues (the "Sewer Payments"), such payments shall be made on a quarterly basis beginning on February 1, 2012, and on the first day of each May, August, November, and February thereafter, in perpetuity.

With respect to that portion of the Gross Revenues consisting of water revenues, such payments shall be made contemporaneously with the Sewer Payments during the term of the lease. As further consideration for the lease of the Water Facilities, Mustang shall be responsible for all costs of the operation, maintenance, repair, and replacement of such facilities in a manner as will insure the provision of continuous and adequate water service to the District Certificated Area and the Stallings Tract.

D. Nine (9) months before the Transfer Date, the District and Mustang shall file a Sale, Transfer and Merger Application (the "STM Application") with the TCEQ to provide for the transfer of the District CCNs to Mustang. The cost of the preparation and processing of the STM Application shall be shared equally by the parties. The parties agree to cooperate to achieve TCEQ approval of the STM Application and effecting of the transfer of the District CCNs to Mustang.

E. Three (3) months before the Transfer Date, the District and Mustang shall submit to UTRWD for its review and approval proposed agreements providing for the assignment of the UTRWD Contracts from the District to Mustang (the "Assignments"). The cost of the preparation and processing of the Assignments shall be shared equally by the parties. The parties agree to cooperate to achieve UTRWD approval of the Assignments and effecting the assignment of the UTRWD Contracts to Mustang.

F. Mustang acknowledges and agrees that pursuant to the UTRWD Contracts, the District has advanced, or caused to be advanced on its behalf, certain amounts to UTRWD in connection with the design, permitting, and construction of the 1.5 million gallon per day phase 1 and 2 of the Riverbend Wastewater Treatment Plant (the "Riverbend Plant"). Further, as of the date hereof, such amount has not been reimbursed to the District by UTRWD and is hereinafter referred to as "UTRWD Reimbursement". Mustang further acknowledges and agrees that pursuant to the UTRWD Contracts, the District has the right to advance additional amounts to UTRWD in connection with the construction of additional improvements to the Riverbend Plant necessary to serve the District Certificated Area and the Stallings Tract. It is hereby expressly understood and agreed by the parties that in the event that there are any amounts of the UTRWD Reimbursement that remain unpaid and due to District as of the Transfer Date, the District shall retain all rights to such reimbursement and such right shall not be affected by the conveyance and lease contemplated herein.

G. Mustang acknowledges and agrees that pursuant to the Agreement for Reimbursement of Costs and Construction and/or Purchase of Utility Facilities (the "Developer Contract"), dated February 21, 2001, between the District and Valerian Properties Associates, L.P. (the "Developer"), the Developer has advanced funds on behalf of the District in connection with the design, permitting, and construction of water distribution and storage and wastewater collection facilities to serve the area within the District Certificated Area and the Stallings Tract. Further, as of the date hereof certain amounts so advanced have not been reimbursed to the Developer by the District. Such unreimbursed amounts are hereinafter referred to as "Developer Reimbursement". Mustang further acknowledges and agrees that pursuant to the Developer Contract, the Developer has the right to advance additional amounts on behalf of the District in connection with the water distribution and storage facilities and wastewater collection facilities necessary to serve the Stallings Tract. It is hereby expressly understood and agreed by the parties that in the event that any amounts remain due to the Developer by the District for Developer Reimbursement under the Developer Contract as of the Transfer Date, the transfer of the District System contemplated herein shall not affect or limit in any manner the right and obligation of the District under the Developer Contract to proceed to issue bonds, notes or other forms of indebtedness to reimburse the Developer therefor.

H. Pursuant to the UTRWD Contracts, the District has subscribed for 1.8 million gallons per day ("MGD") peak flow of water capacity and .36 MGD wastewater capacity. The District represents that such existing subscriptions will not be adequate to serve all of the projected users within the District Certificated Area and the Stallings Tract. Therefore, it is expressly understood and agreed that it shall be the obligation of the District to amend the UTRWD Contract to increase its subscriptions at times and in amounts to insure continuous and adequate service to the users within its boundaries. Mustang shall have no responsibility for any costs associated with the District increasing its subscriptions under the UTRWD Contracts prior to October 1, 2011. In addition, in the event the District increases its subscriptions, and it elects to finance the UTRWD equity fee, such fee shall be paid in full by the District prior to October 1, 2011. To the extent that there are any amounts of the UTRWD Reimbursement that remain unpaid and due to District as of the Transfer Date, Mustang agrees that it will establish service rates for wastewater service provided to customers within the District Certificated Area and the Stallings Tract sufficient to amortize UTRWD bonds sold to pay such reimbursement.

I. The District and Mustang acknowledge that each charges a different rate for retail water and sewer service. The parties further acknowledge that upon the Transfer Date, the District's water and sewer service customers shall become Mustang's customers and any material increase in water and sewer service rates at or immediately following the Transfer Date should be avoided. To that end, the parties agree to achieve rate parity prior to the Transfer Date by the periodic mutual evaluation of the possible adjustment of rates. However, no decrease in a party's rates will occur unless specifically permitted by applicable bond covenants and the UTRWD Contracts. The District agrees to adjust its water and sewer rates from time to time on an incremental basis so on or before April 1, 2011, the rates charged by the District to its retail water and sewer customers will at least equal the rates that Mustang charges its retail customers. Mustang will give the District notice of its current rates and any subsequent rate adjustment adopted by Mustang. Pursuant to Section 3A of this Agreement, the District will convey the Sewer Facilities to Mustang "as is." The District will also lease or convey the Water Facilities to Mustang on the same basis. With respect to the proceeds produced by any increase in the District's rates prior to the Transfer Date, after payment of all reasonable expenses of system administration and operation, including payments under the UTRWD Contracts, and provided it remains in compliance with applicable bond covenants, the District agrees to use such funds in amounts necessary to pay for needed maintenance, repair, and replacement of the Water Facilities and Sewer Facilities as mutually agreed upon by the District and Mustang.

4. CONSIDERATION

A. The District and Mustang heretofore agreed upon a budget for the costs of Mustang's Exhibit B Services for the sixty (60) month period beginning August 1, 2002. A copy of the O & M Budget is attached as Exhibit D hereto. Mustang acknowledges receipt from the District of the amount of \$143,658.21 as payment of the O & M Budget for Exhibit B Services relating to the District's water system through July 31, 2007. Unless otherwise mutually agreed, the District shall have no financial obligation with respect to the payment of any costs for Exhibit B Services relating to District's water system through July 31, 2007.

Mustang further acknowledges receipt from the District of the amounts of \$30,782.15, \$15,213.40, and \$48,003.49 as payment of the O & M Budget for Exhibit B Services relating to the District's wastewater system through July 31, 2005. The parties further acknowledge and agree that the District shall remain obligated to make the following payments: August 1, 2005 - \$29,699.75; and August 1, 2006 - \$32,972.88. Unless otherwise mutually agreed, the District shall have no financial obligation with respect to the payment of any costs for Exhibit B Services relating to the District's wastewater system through July 31, 2005.

B. i. Mustang has established a separate bank account entitled "O&M Account FBO FWSD 8A, 8B, 9, 10 and 11" ("FWSD Fund") at a depository of Mustang. The FWSD Fund shall be kept separate and apart from all other funds and accounts of Mustang, and will be used solely for the payment of those expenditures and line items as reflected on Exhibit B hereto. Funds received from the District pursuant to Section 4.A. above shall be deposited into such account, and may be commingled with funds received from the other participating districts.

ii. Mustang shall place all funds in the FWSD Fund in time or demand deposits or invest such money as authorized by law applicable to the District at the time of deposit. Obligations purchased as an investment of money in the FWSD Fund shall be deemed to be part of such fund. Amounts received from the investment of any money in the FWSD Fund that constitute a return of capital invested shall be retained therein, and be deemed part of such fund. Amounts received from the investment of money in the FWSD Fund that constitute a return on capital invested shall be distributed to Mustang on a monthly basis.

iii. The FWSD Fund shall be secured in the manner and to the fullest extent required by law for the security of funds of the District. Mustang shall place funds in the FWSD Fund in time or demand deposits in amounts not to exceed \$100,000, or in direct obligations of the State of Texas or United States of America.

iv. Mustang shall keep proper books of record and accounts in which full, true, and correct entries will be made of all dealings, activities, and transactions relating to the FWSD Fund, and all books, documents, and vouchers relating thereto shall during normal business hours be made available for inspection of District upon 72 hours' notice.

v. During the term of this Agreement Mustang shall provide on an annual basis financial information and operating data with respect to the payments/withdrawals from and investment earnings for the FWSD Fund. Any financial information so provided shall be prepared in accordance with generally accepted accounting practices.

vi. Mustang shall be entitled to draw upon the FWSD Fund in the amounts and at the times as shown on the O&M Budget. However, in the event that Mustang desires to draw \$30,000 or more for a capital item, then Mustang will file a written draw request with the District's engineer (the "District's Engineer") for approval. On behalf of the District, the District's Engineer shall respond within ten (10) days from the date of receipt of such request, and approval shall not be unreasonably withheld. In the event that the District's Engineer fails to

deliver a response to Mustang's request within ten (10) days, then District will have waived the right to approve such request.

vii. In the event that there are funds in excess of budgeted expenses remaining at the end of any O&M Budget year during the term hereof, including investment earnings, such funds shall remain in the FWSD Fund and be allocated to the next succeeding years' O&M Budget expenses.

C. On or about June 1, 2006, Mustang and the District will initiate discussions relating to the compensation that the District will pay Mustang for performance of the Exhibit B Services. The parties will take into consideration the District's rate of development and the actual costs incurred by Mustang to perform the Exhibit B Services since August 1, 2002. In no event shall the compensation to be paid to Mustang exceed the prevailing fees charged by other firms for similar services in the North Texas area.

D. As consideration of Mustang's duties under Section 2.G.(i) of this Agreement, the District will pay Mustang \$2.00 per month per meter. As consideration of Mustang's duties under Section 2.G.(ii) of the Agreement, the District will pay Mustang \$0.50 per month per customer. The parties further agree that Mustang's charges for meter installations shall be increased from \$438.86 to \$538.86 per meter.

E. The annual payments specified in this Section 4 may be adjusted for each year following the Effective Date as follows:

(i) For purposes hereof the following definitions apply:

(a) "Consumer Price Index" means the Consumer Price Index for All Urban Customers for Dallas-Fort Worth, Texas: All Items (1982-84 = 100) published by the Bureau of Labor Statistics, United States Department of Labor.

(b) "Base CPI" means the average of the four most recent Consumer Price Indices publicly reported prior to the Effective Date of term of the Agreement.

(c) "Escalation Period" means any period of one (1) year commencing on the Effective Date of the term of the Agreement or any anniversary of such date.

(d) "Comparison Month" means the last month within any Escalation Period for which a Consumer Price Index has been publicly reported.

(ii) In the event the Consumer Price Index for the Comparison Month in any Escalation Period exceeds the Base CPI, the monthly periodic payment for the subsequent Escalation Period shall be adjusted so that it shall be equal to the product of (a) the Consumer Price Index for the Comparison Month in such Escalation Period multiplied by (b) the Minimum Monthly periodic payment (prior to any adjustment) divided by (c) the Base CPI. If the monthly periodic payment is increased under the provisions hereof and subsequently the Consumer Price

Index for a Comparison Month is less than the Consumer Price Index for the Comparison Month in the immediately preceding Escalation Period, then the monthly periodic payment for the next succeeding Escalation Period shall be decreased, with the amount of such decreased monthly periodic payment calculated as above; provided, however, that in no event shall the monthly periodic payment be less than monthly periodic payment stated in Section 4 of this Agreement.

(iii) In the event that (i) the Consumer Price Index ceases to use the 1982-84=100 as the basis of calculation, or (ii) a substantial change is made in the number of items used in determining the Consumer Price Index or (iii) Mustang and the District agree the Consumer Price Index does not accurately reflect, in relationship to the Base CPI, the purchasing power of the dollar or (iv) the Consumer Price Index shall be discontinued for any reason, the Bureau of Labor Statistics shall be requested to furnish a new index comparable to the Consumer Price Index together with information that will make possible the conversion to the new index in computing the adjusted monthly periodic payment hereunder. If for any reason the Bureau of Labor Statistics does not furnish such an index and such information, the parties hereto shall thereafter accept and use such other index or comparable statistics on the cost of living for the City of Dallas as shall be computed and published by an agency of the United States or by a responsible financial periodical of recognized authority then to be selected by Mustang and the District.

5. CCN MATTERS

Pursuant to the provisions of Section 3 of this Agreement, the District will transfer the District CCNs to Mustang. The District will not voluntarily transfer the District CCNs to any entity other than Mustang or its successors or assigns without the express written approval and consent of Mustang. The transfer of the District's CCNs and its customers to Mustang shall be subject to the approval of and be made under the terms established by the TCEQ or its successor agency(ies) in a future application to surrender the District's CCNs or to transfer those CCNs to Mustang.

6. NOTICE OF DEFAULT

If either party believes that the other party has defaulted under one or more provisions of this Agreement, then the non-defaulting party shall give the other party written notice of such default and allow such party ten (10) days to cure a monetary default and thirty (30) days to cure a non-monetary default.

7. DISPUTE RESOLUTION

If a dispute arises between the parties relating to this Agreement, the parties agree to use the following procedure prior to either party pursuing other available remedies:

A. A meeting shall be held promptly between the parties, attended by individuals with decision-making authority regarding the dispute, to attempt in good faith to negotiate a resolution of the dispute.

B. If within thirty (30) days after such meeting, the parties have not succeeded in negotiating a resolution of the dispute, they will jointly appoint a mutually acceptable neutral person not affiliated with either of the parties as a mediator. The fees of the mediator shall be shared equally by both parties.

C. In consultation with the mediator, the parties will select or devise an alternative dispute resolution procedure ("ADR") by which they will attempt to resolve the dispute, and time and place for the ADR to be held, with the mediator making the decision as to the procedure, and/or place and time (but unless circumstances require otherwise, not later than sixty (60) days after selection of the mediator) if the parties have been unable to agree on any of such matters within twenty (20) days after initial consultation with the mediator.

D. The parties agree to participate in good faith in the ADR to its conclusion as designated by the mediator. If the parties are not successful in resolving the dispute through the ADR, then the parties may agree to submit the matter to binding arbitration or a private adjudicator, or either party may then seek an adjudicated resolution through the appropriate court.

8. GENERAL PROVISIONS

A. The District grants Mustang reasonable ingress and egress inside the District's Certificated Area and the Stallings Tract to operate, repair, maintain and inspect the District System in order to insure continuous and adequate water and wastewater collection service.

B. To the extent allowed by law, Mustang and the District agree to each be legally responsible for their own negligent acts and indemnify each other from same.

C. To the extent allowed by law, the District agrees to and will indemnify Mustang and hold Mustang harmless from claim or damage to Mustang that was caused by the District's failure to: (1) design or construct an adequate water and wastewater collection system within the District Certificated Area; or (2) comply with the terms of the District CCNs. To the extent allowed by law, Mustang agrees to and will indemnify the District and hold the District harmless from claim or damage to the District that was caused by Mustang's failure to: (1) adequately maintain, repair, and replace the water and wastewater collection system within the District Certificated Area; or (2) comply with the terms of the Mustang CCNs.

D. Mustang shall maintain general liability insurance in amount of at least one million dollars and statutory workers compensation insurance. Mustang will annually provide the District with an ACCORD certificate of insurance.

E. The prevailing party in any dispute or legal proceedings enforcing this Agreement shall be entitled to recover its attorney's fees, witness fees, litigation expenses and costs, as same are reasonable and necessary, to be paid by the non-prevailing party.

F. The District shall give Mustang notice ninety (90) days prior to the date that the District proposes to issue debt or renew and extend existing debt relating to the District System. The notice shall contain at least the amount of the debt issue, the purpose for which the proceeds of the debt issue will be used and the collateral to be pledged as security for the debt issue. For the purpose of this section "debt" shall mean any bond, note or other instrument used by the District to borrow money from a third party that must be repaid over time.

G. At such time as a water and wastewater customer of the District becomes a customer of Mustang pursuant to Section 3 hereof, Mustang agrees that there will be no charges to such customer other than the usual and customary charges for monthly water and wastewater service as provided in Mustang's Rate Order.

H. This Agreement and any amendment to this Agreement shall be subject to the review and approval by the UTRWD prior to execution thereof. However, the UTRWD review and approval shall not be unreasonably withheld and shall only be withheld if the amendment adversely affects the tax-exempt bond status of the UTRWD bonds in the opinion of the bond counsel for the outstanding bonds.

I. As required by the respective contracts with UTRWD, the District and Mustang, each covenant and agree that "...it will not use or permit the use of the System in any manner that would cause the interest on any of the UTRWD bonds to be or become subject to federal income taxation under the Code or any amendments thereto in effect on the date of issue of such Bonds."

J. Notwithstanding any provision, UTRWD is not a party to this Agreement, except as it relates to tax-exempt status of the bonds issued by UTRWD.

K. Time is of the essence in the performance of this Agreement.

L. The Effective Date of this Agreement is the latter of the dates that the TCEQ and UTRWD approve this Agreement.

M. This Agreement is subject to all applicable Federal and State laws, and any applicable permits, rules, orders, and regulations of any local, state or federal governmental authority having jurisdiction. In addition, the parties hereto specifically agree that in case any one or more of the provisions of the Agreement should be, or should be held to be, for any reason, invalid or unconstitutional, under the laws or the constitutions of the State or the United States of America, or in contravention of any such laws or constitutions, such invalidity, unconstitutionality or contravention shall not effect any other provisions of the Agreement.

N. The term of this Agreement shall be for forty (40) years from the Effective Date hereof. Notwithstanding the foregoing, this Agreement shall terminate earlier upon the occurrence of all of the following: (1) conveyance of the Sewer Facilities to Mustang; (2) lease of the Water Facilities to Mustang; (3) issuance of an order by TCEQ approving the STM Application; (4) UTRWD approval of the Assignments finally executed by the District, Mustang,