



Control Number: 43360



Item Number: 83

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Kenneth W. Anderson, Jr.
Commissioner

Brandy Marty Marquez
Commissioner

Brian H. Lloyd
Executive Director



Greg Abbott
Governor

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PUBLIC UTILITY COMMISSION
FILING CLERK

Public Utility Commission of Texas

TO: Kenneth W. Anderson, Jr., Commissioner
Brandy Marty Marquez, Commissioner

All Parties of Record

FROM: Irene Montelongo
Director, Docket Management

RE: **Open Meeting of June 29, 2017**
PUC Docket No. 43360
SOAH Docket No. 473-16-0101.WS – *Application of City of Pleasanton for Certificates of Convenience and Necessity in Atascosa County (37978-C & 37991-C)*

DATE: June 1, 2017.

Enclosed is a copy of the Proposed Order in the above-referenced docket. The Commission will consider this docket at an open meeting presently scheduled to begin at 9:30 a.m. on Thursday, June 29, 2017, at the Commission's offices, 1701 North Congress Avenue, Austin, Texas. The parties shall file corrections or exceptions to the Proposed Order on or before Wednesday, June 21, 2017.

On September 9, 2015, this proceeding was referred to the State Office of Administrative Hearings. Subsequently, the docket was returned to the Commission and the Docket Management Section prepared this Proposed Order.

If there are no corrections or exceptions, no response is necessary.

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PUC DOCKET NO. 43360
SOAH DOCKET NO. 473-16-0101.WS

APPLICATION OF CITY OF	§	PUBLIC UTILITY COMMISSION
PLEASANTON FOR CERTIFICATES	§	
OF CONVENIENCE AND NECESSITY	§	OF TEXAS
IN ATASCOSA COUNTY (37978-C &	§	
37991-C)	§	

PROPOSED ORDER

This Order addresses the application of the City of Pleasanton (Pleasanton) for water and sewer certificates of convenience and necessity (CCNs) in Atascosa County. Commission Staff recommended approval of the application. The application is approved.

The Commission adopts the following findings of fact and conclusions of law:

I. Findings of Fact

Procedural History and Background

1. On July 9, 2014, Pleasanton filed an application with the Texas Commission on Environmental Quality (TCEQ) to obtain water and sewer CCNs in Atascosa County to expand services to nearby and surrounding areas experiencing growth.
2. On September 1, 2014, functions relating to the economic regulation of water and sewer utilities were transferred from TCEQ to the Commission.
3. On September 30, 2014, the Commission issued Order Nos. 1 and 2, addressing the water program transfer and requiring Commission Staff comments on status, respectively.
4. On October 28, 2014, the Commission found the application incomplete and deficient and set deadlines to cure.
5. On December 1 and March 15, 2015, respectively, Pleasanton amended and supplemented the application.
6. On April 24, 2015, the Commission issued Order No. 8, deeming the application administratively complete and requiring that Pleasanton provide notice.
7. Requests by landowners to have property exempted from Pleasanton's requested service area were received from Kenneth David Minnich, Wayne Robert Beyer, Mary Jo Crandall

and Nanette Middleton, R.L and Darlene Daughtrey, James Wheeler, Greg DiCaro, and Lorraine Jasik Gregory.

8. On July 21, 2015, McCoy Water Supply Corporation filed comments requesting confirmation that the area proposed for certification does not encroach on McCoy's certificated service area under CCN No. 10649.
9. On September 2, 2015, the City of Jourdanton filed a request for hearing in this matter.
10. On September 9, 2015, this proceeding was referred to the State Office of Administrative Hearings (SOAH) for a hearing on the merits of the application.
11. On October 8, 2015, the Commission issued a preliminary order setting out the issues to be addressed in this proceeding.
12. On January 26, 2016, Jourdanton transmitted to the SOAH administrative law judge a motion to withdraw and contest and as party.¹
13. On January 27, 2016, SOAH issued Order No. 5, granting Jourdanton's request to withdraw as an intervenor to this proceeding.²
14. On April 21, 2017, Pleasanton filed a signed consent to the maps and certificates provided by Commission Staff for the proposed water and sewer certificates.
15. The maps and certificates described in finding of fact 14 are attached to this Order.
16. On May 3, 2017, Commission Staff filed a final recommendation that Pleasanton's application be approved.
17. On May 19, 2017, the parties filed a joint motion to remand, motion to admit evidence, and proposed order.
18. On May 22, 2017, SOAH issued Order No. 15, admitting evidence, remanding the case to the Commission, and dismissing the SOAH docket.

¹ Jourdanton's request was scanned into the Commission's Agency Information System (AIS) on January 29, 2016.

² SOAH Order No. 5 was scanned into AIS on January 28, 2016.

Notice

19. Pleasanton mailed notice of the application to neighboring systems, landowners, and cities and to neighboring utilities and affected parties on August 4, 2015. Pleasanton filed an affidavit dated August 11, 2015, that attests to this notice.
20. Notice of the application was published in the *Pleasanton Express* on June 3 and 10, 2015. A publisher's affidavit dated July 30, 2015 attests to this notice.

Pleasanton's Request

21. Pleasanton requested a certificate for a water service area that includes approximately 17,555 acres and 4,414 current customers and a certificate for a sewer service area that includes approximately 24,305 acres and 3,877 current customers.
22. The tract described in the request to opt-out received from landowner Minnich³ was determined to be outside the proposed water and sewer service areas. After further investigation, Pleasanton determined that the land described in the opt-out requests from landowners Beyer and Wheeler is outside the proposed water and sewer service areas.⁴
23. Pleasanton amended the application and maps to eliminate any encroachment into areas certificated to Jourdanton and to McCoy. The boundaries for the proposed service areas will abut Jourdanton's and McCoy's water certificates and the agreed boundary between Pleasanton and Jourdanton in June 2016.⁵
24. After addressing the DiCaro, Gregory, Daughtrey and Crandall opt-out requests, under the amended application and maps, Pleasanton seeks a water service area of approximately 14,032.50 acres and a sewer service area of approximately 18,412.93 acres.⁶
25. In the final recommendation Commission Staff stated that Pleasanton meets the requirements of TWC § 13.246⁷ and 16 TAC § 24.102 (TAC), has the financial, technical,

³ Updated Mapping (Apr. 15, 2016).

⁴ Updated Mapping (Aug. 15, 2016) and Beyer and Wheeler Properties – Opt-Out Acknowledgement (Dec. 27, 2016).

⁵ Updated Mapping (Aug. 15, 2016).

⁶ Updated Mapping/Acreage Verification.

⁷ Tex. Water Code Ann. § 13.246 (West 2008 and Supp. 2016) (TWC).

- and managerial capability to provide continuous and adequate service, and that Pleasanton's application be approved.
26. No additional construction is necessary for the Applicant to serve the proposed area. Pleasanton currently has an approved wastewater permit (WQ100598001) and an approved public water system (PWS ID 0070003) which has received a superior water rating by TCEQ.
 27. The water and sewer systems are maintained by the Pleasanton's licensed water and sewer operators on staff.
 28. The existing water system has access to an adequate supply of water and the water system facilities have excess capacity to serve the existing certificated area.

Informal Disposition

29. More than 15 days have passed since completion of the notice provided in this docket.
30. Pleasanton and Commission Staff are the only remaining parties to this proceeding.
31. The only request for hearing was withdrawn and no issues of fact or law are disputed by any party; therefore, no hearing is necessary.

II. Conclusions of Law

1. Pleasanton is a municipally-owned utility as defined in TWC § 13.002(13).
2. The Commission has jurisdiction and authority over this docket in accordance with TWC §§ 13.041, 13.241, and 13.246 and 16 TAC §§ 24.102 and 24.106-.107.
3. Pleasanton provided notice of the application in compliance with TWC § 13.246 and 16 TAC § 24.106.
4. The application was processed in accordance with the TWC and Commission rules.
5. After considering the factors in TWC § 13.246(c), Pleasanton has demonstrated adequate financial, managerial and technical capability for providing continuous and adequate service to the request area and its current service area as required by TWC § 13.241.
6. Pleasanton demonstrated that the application meets the requirements set forth in TWC §§ 13.241 and 13.246 and 16 TAC §§ 24.101 and 24.102 to be granted new certificates.

7. Approval of the application is necessary for the service, accommodation, convenience, or safety of the public, as required under TWC § 13.246(b) and 16 TAC § 24.102(c).
8. Under TWC § 13.257(r) and 16 TAC § 24.106(e), Pleasanton is required to record a certified copy of the approved certificates and maps, along with a boundary description of the service areas in the real property records of each county in which the service area or a portion of the service area is located, and submit to the Commission evidence of the recording.
9. The requirements for informal disposition under 16 TAC § 22.35 have been met in this proceeding.

III. Ordering Paragraphs

In accordance with these findings of fact and conclusions of law, the Commission issues the following orders:

1. Pleasanton's application, as amended, is approved.
2. Pleasanton is granted water certificate 13256 and sewer certificate 21102.
3. Pleasanton shall serve every customer and applicant for service within the areas certified under its water and sewer certificates, and such service shall be continuous and adequate.
4. Pleasanton shall comply with the recording requirements in TWC § 13.257(r) for the areas in Atascosa County affected by the application and submit to the Commission evidence of the recording no later than 31 days after receipt of this Order.
5. All other motions, requests for entry of specific findings of fact and conclusions of law, and any other requests for general or specific relief, if not expressly granted herein, are denied.

Signed at Austin, Texas the _____ day of June 2017.

PUBLIC UTILITY COMMISSION OF TEXAS

KENNETH W. ANDERSON, JR., COMMISSIONER

BRANDY MARTY MARQUEZ, COMMISSIONER

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Public Utility Commission of Texas

By These Presents Be It Known To All That

City of Pleasanton

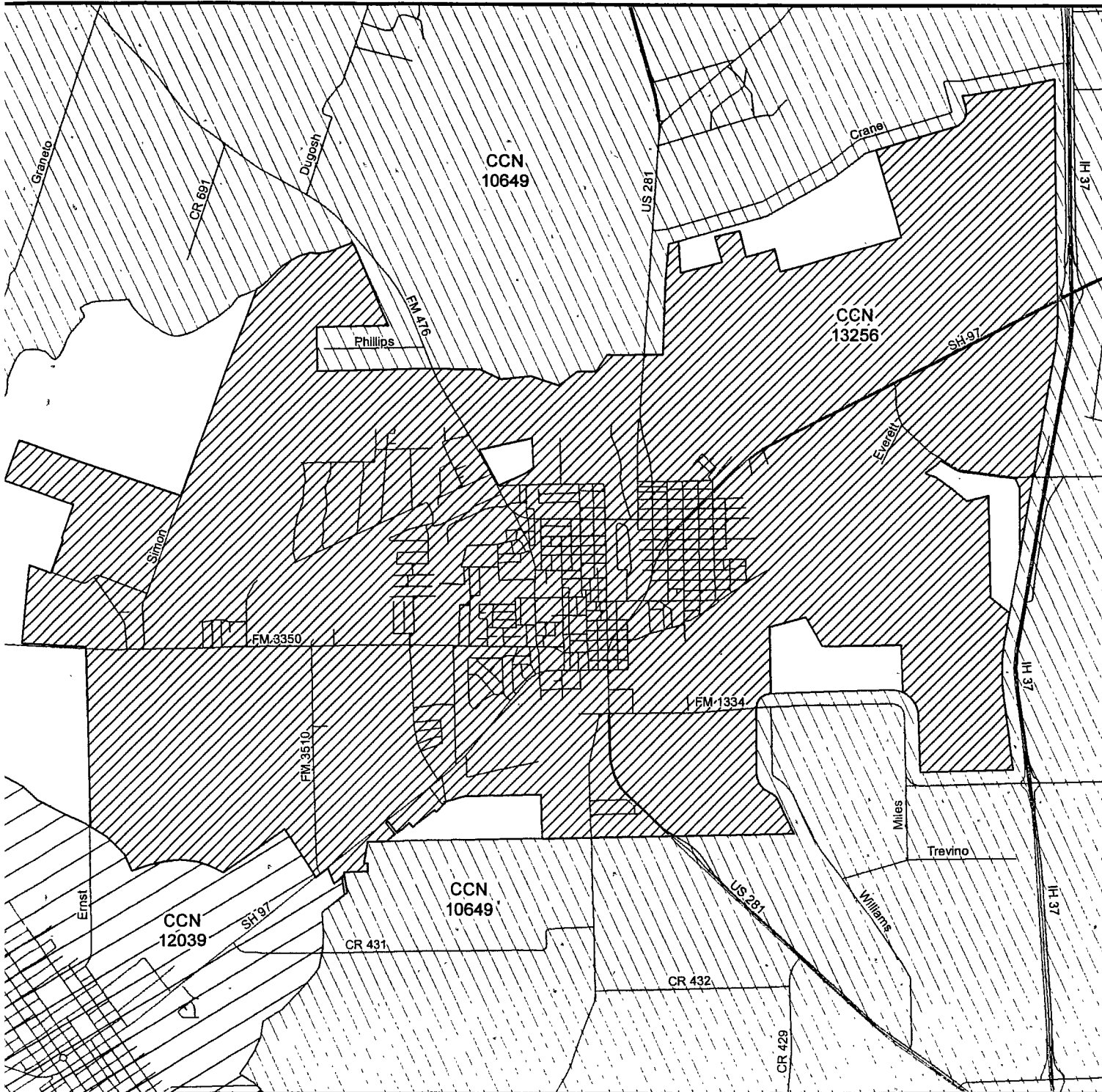
having duly applied for certification to provide water utility service for the convenience and necessity of the public, and it having been determined by this Commission that the public convenience and necessity would in fact be advanced by the provision of such service by this Applicant, is entitled to and is hereby granted this

Certificate of Convenience and Necessity No. 13256




to provide continuous and adequate water utility service to that service area or those service areas in Atascosa County as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 43360 are on file at the Commission offices in Austin, Texas; and are matters of official record available for public inspection; and be it known further that these presents do evidence the authority and the duty of the City of Pleasanton, to provide such utility service in accordance with the laws of this State and Rules of this Commission, subject only to any power and responsibility of this Commission to revoke or amend this Certificate in whole or in part upon a subsequent showing that the public convenience and necessity would be better served thereby.

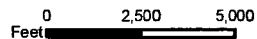
Issued at Austin, Texas, this _____ day of _____ 2017.

City of Pleasanton
 Water CCN No. 13256
 PUC Docket No. 43360
 Obtained New CCN in Atascosa County



Water CCN

-  13256 - City of Pleasanton
-  10649 - McCoy WSC
-  12039 - City of Jourdanton





Public Utility Commission of Texas

**By These Presents Be It Known To All That
City of Pleasanton**

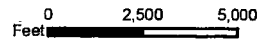
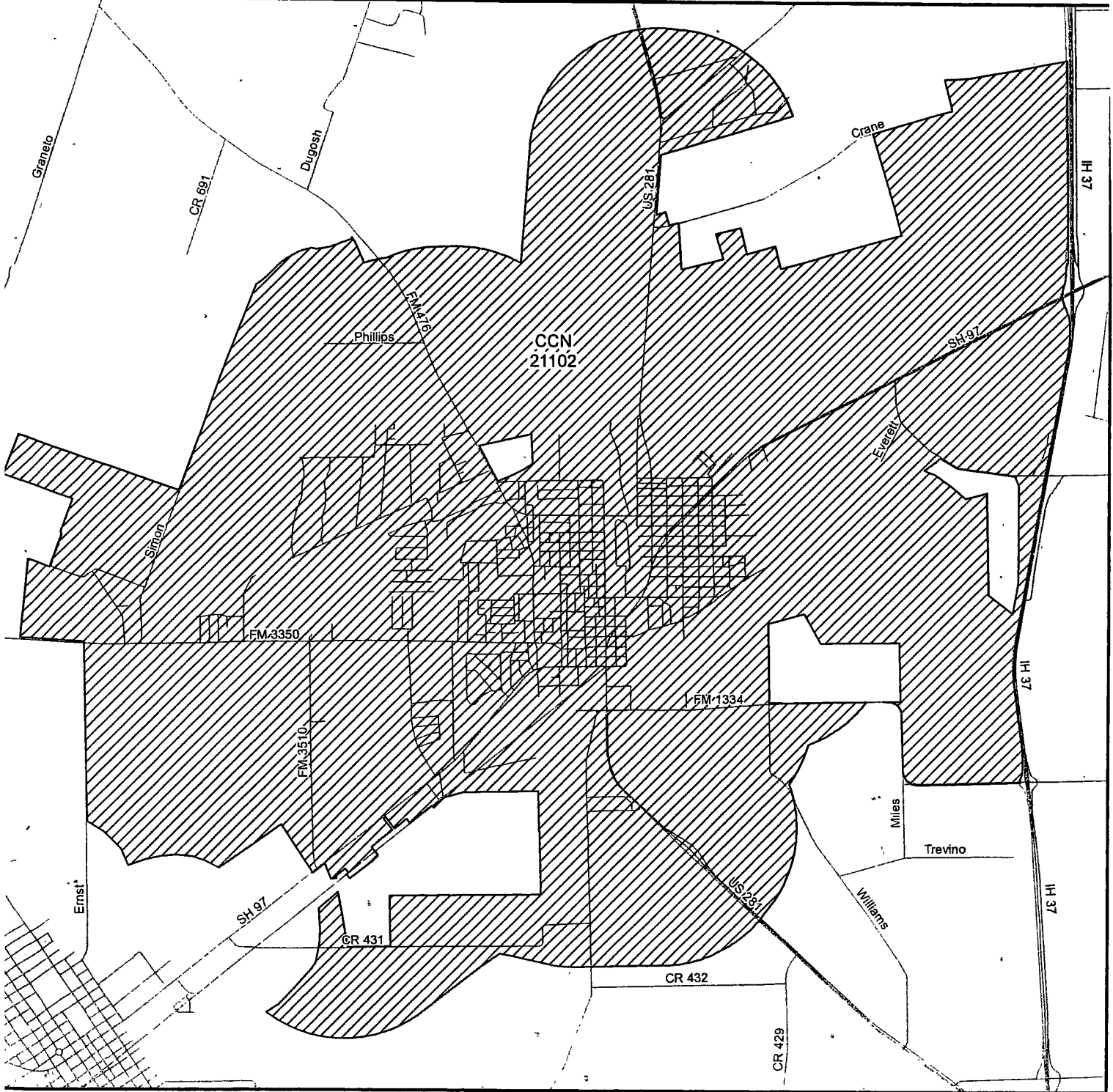
having duly applied for certification to provide sewer utility service for the convenience and necessity of the public, and it having been determined by this Commission that the public convenience and necessity would in fact be advanced by the provision of such service by this Applicant, is entitled to and is hereby granted this

Certificate of Convenience and Necessity No. 21102

to provide continuous and adequate sewer utility service to that service area or those service areas in Atascosa County as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 43360 are on file at the Commission offices in Austin, Texas; and are matters of official record available for public inspection; and be it known further that these presents do evidence the authority and the duty of the City of Pleasanton, to provide such utility service in accordance with the laws of this State and Rules of this Commission, subject only to any power and responsibility of this Commission to revoke or amend this Certificate in whole or in part upon a subsequent showing that the public convenience and necessity would be better served thereby.

Issued at Austin, Texas, this _____ day of _____ 2017.

City of Pleasanton
Sewer CCN No. 21102
PUC Docket No. 43360
Obtained New CCN in Atascosa County



Sewer CCN
 21102 - City of Pleasanton