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DOCKET NO. 45151

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CITY OF CELINA'S NOTICE OF  
INTENT TO PROVIDE WATER AND  
SEWER SERVICE TO AREA  
DECERTIFIED FROM MUSTANG  
SPECIAL UTILITY DISTRICT IN  
DENTON COUNTY

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PUBLIC UTILITY COMMISSION

OF TEXAS

NOTICE OF APPROVAL

This Notice addresses the city of Celina's (Celina) notice of intent to provide water and sewer service to an area decertified from water Certificate of Convenience and Necessity (CCN) No. 11856 and sewer CCN No. 20930 held by Mustang Special Utility District (Mustang SUD) in Denton County.

The Public Utility Commission of Texas (Commission) adopts the following findings of fact and conclusions of law:

I. Findings of Fact

Procedural History, Description and Background

1. On July 16, 2015, a 494.819-acre tract of land owned by CADG Sutton Fields, LLC was decertified pursuant to TWC § 13.254(a-5) from Mustang SUD's water CCN No. 11856 and sewer CCN No. 20930 (CADG Tract) in Docket No. 44629.<sup>1</sup>
2. On September 14, 2015, Celina filed a notice of intent to provide retail water and sewer service to the CADG Tract.
3. On September 18, 2015, Order No. 1 was issued requiring Celina and Mustang SUD to notify the Commission whether they have agreed on an independent appraiser.
4. On September 24, 2015, Celina and Mustang SUD notified the Commission that they did not agree on an independent appraiser.
5. On September 24, 2015, Mustang SUD filed a Motion to Intervene.

<sup>1</sup> *Petition of CADG Sutton Fields, LLC to Amend Mustang Special Utility District's Certificates of Convenience and Necessity in Denton County by Expedited Release*, Docket No. 44629, Order (Jul. 16, 2015).

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6. On September 29, 2015, Order No. 2 established a deadline of November 13, 2015 for the parties to file independent appraisals. Order No. 2 also granted Mustang SUD's Motion to Intervene.

### **Appraisal**

7. On November 12, 2015, Celina filed an independent appraisal prepared by Jones-Heroy & Associates, Inc. on behalf of Celina. Jones-Heroy & Associates, Inc. stated that in its opinion the value of the property associated with that portion of the water and sewer CCN decertified from Mustang SUD and associated with the CADG Tract is \$181,900.
8. On November 13, 2015, Mustang SUD filed an independent appraisal prepared by NewGen Strategies & Solutions on behalf of Mustang SUD. According to NewGen Strategies & Solutions' analysis the property rendered useless or valueless as a result of the decertification is \$1,850,192.
9. On November 19, 2015, Mustang SUD filed a response to Celina's appraisal.
10. On November 19, 2015, the Commission appointed Brett W. Fenner, P.E. as a third appraiser to determine the value of any property rendered valueless and useless to Mustang SUD.
11. On December 4, 2015, Jones-Heroy & Associates, Inc., on behalf of Celina, filed a review of the appraisal prepared by NewGen Strategies & Solutions.
12. On December 12, 2015, Brett W. Fenner, P.E. filed the third appraisal. Brett W. Fenner, P.E. determined that the value of the property rendered useless or valueless to Mustang SUD is \$258,081.
13. The value of any property rendered useless or valueless to Mustang SUD by decertification of the CADG Tract is \$258,081.

### **Evidentiary Record**

14. On December 15, 2015, Order No. 4 was issued admitting the following evidence into the record:
  - a) Celina's notice of intent to provide retail water and sewer service to the CADG Tract, filed September 14, 2015;

- b) The independent appraisal prepared Jones-Heroy & Associates, Inc. dated November 11, 2015;
- c) The independent appraisal prepared by NewGen Strategies & Solutions, dated November 12, 2015;
- d) NewGen Strategies & Solutions' review of Jones-Heroy & Associates, Inc.'s appraisal, dated November 19, 2015;
- e) Jones-Heroy & Associates, Inc.'s review of NewGen Strategies & Solutions' appraisal, dated December 4, 2015; and
- f) The third appraisal prepared by Brett W. Fenner, P.E., dated December 11, 2015.

## II. Conclusions of Law

1. The Commission has jurisdiction over these matters pursuant to TWC §§ 13.041 and 13.254.
2. Celina is a retail public utility as defined in TWC § 13.002 (19) and 16 TAC § 24.3(58).
3. Notice was provided as required by 16 TAC § 24.106.
4. Property of Mustang SUD has been rendered useless or valueless by the decertification, under TWC § 13.254(a-5), of the CADG Tract from Mustang SUD's water CCN No. 11856 and sewer CCN No. 20930.
5. Compensation in the amount of \$258,081 must be paid to Mustang SUD by Celina before Celina may in any way provide water or sewer service directly or indirectly to the CADG Tract in accordance with TWC § 13.254(e) and 16 TAC § 24.113(i).
6. The determination of compensation by third party appraiser Brett W. Fenner, P.E. is not less than the lower appraisal or more than the higher appraisal pursuant to TWC § 13.254(g-1).
7. Celina and Mustang SUD shall each pay half the cost of the third appraisal pursuant to TWC § 13.254(g-1).
8. The application was processed in accordance with the requirements of TWC § 13.254 and 16 TAC § 24.113.
9. The requirements for informal disposition pursuant to 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 Order:

1. Before Celina may provide service to the CADG Tract Celina must pay compensation to Mustang SUD in the amount of \$258,081.
2. Within 30 days of receipt of an invoice from Brett W. Fenner, P.E., Celina and Mustang SUD shall each pay half the cost of the third appraisal.
3. All other motions, requests for entry of specific findings of fact or conclusions of law, and any other requests for general or specific relief, if not expressly granted herein, are hereby denied.

SIGNED AT AUSTIN, TEXAS the 15<sup>th</sup> day of December 2015.

**PUBLIC UTILITY COMMISSION OF TEXAS**

  
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**JEFFREY J. HUHN**  
**ADMINISTRATIVE LAW JUDGE**

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