



Control Number: 45959



Item Number: 15

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PUBLIC UTILITY COMMISSION  
PUBLIC UTILITY COMMISSION  
OF TEXAS  
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APPLICATION OF TOWN OF §  
PROVIDENCE VILLAGE TO OBTAIN §  
CERTIFICATES OF CONVENIENCE §  
AND NECESSITY, DECERTIFY §  
PORTIONS OF MUSTANG SPECIAL §  
UTILITY DISTRICT'S CERTIFICATES, §  
AND CANCEL PROVIDENCE VILLAGE §  
WCID NO. 1'S CERTIFICATES IN §  
DENTON COUNTY §

### COMMISSION STAFF'S FINAL RECOMMENDATION

Comes now the Staff of the Public Utility Commission of Texas (Staff), representing the public interest, and files this Staff's Final Recommendation in response to Order No. 3. In support thereof, Staff would show the following:

#### I. Background

On May 12, 2016, the Town of Providence Village (Providence Village or Applicant) filed with the Public Utility Commission of Texas (Commission) an application to obtain new water and sewer certificates of convenience and necessity (CCN), to amend water CCN No. 11856 and sewer CCN No. 20930 of Mustang Special Utility District (Mustang), and to cancel water CCN No. 13020 and sewer CCN No. 20922 of Providence Village WCID No. 1 in Denton County. The total area affected by the application includes approximately 760 acres and 2,012 current customers.

In Order No. 3, issued September 23, 2016, the Administrative Law Judge (ALJ) ordered Staff to file a final recommendation on the application by November 4, 2016. Therefore, this pleading is timely filed.

#### II. Staff's Recommendation

Staff has reviewed Providence Village's amended application, and as detailed by the attached memorandum from Leila Guerrero, Patricia Garcia, Gary Horton, and Kristy Nguyen of the Water Utilities Regulation Division, Staff recommends that the application be approved. As detailed in the memorandum, Staff's review indicates that Providence Village meets the applicable technical, managerial, and financial requirements of Chapter 13 of the Texas Water Code and Title

16, Chapter 24 of the Texas Administrative Code and is therefore capable of providing continuous and adequate utility service. Staff's review also indicates that approving Providence Village's application is necessary for the service, accommodation, convenience, and safety of the public. Staff therefore recommends that the application be approved. Staff also recommends that the Applicant file copies of the CCN maps along with a written description of the CCN service area in the Denton County Clerk's Office in accordance with Tex. Water Code § 13.257(r) and (s).

Attached to this recommendation are the proposed water and sewer service area maps, the proposed amendments to Mustang's water CCN No. 11856 and sewer CCN No. 20930, and Providence Village's water CCN No. 13250 and sewer CCN No. 21096.

### **III. Conclusion**

Staff respectfully recommends that Providence Village's application be approved. Proposed findings of fact, conclusions of law, and ordering paragraphs will be filed in accordance with the procedural schedule established in Order No. 3.

Dated: November 4, 2016

Respectfully Submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS  
LEGAL DIVISION**

Margaret Uhlig Pemberton  
Division Director

Karen Hubbard  
Managing Attorney



Michael Crnich  
State Bar No: 24059626  
1701 N. Congress Avenue  
P.O. Box 13326  
Austin, Texas 78711-3326  
(512) 936-7255  
(512) 936-7268 (facsimile)

**DOCKET NO. 45959**

**CERTIFICATE OF SERVICE**

I certify that a copy of this document will be served on all parties of record on November 4, 2016, in accordance with 16 TAC § 22.74.



Michael Crnich

# **Public Utility Commission of Texas**

## **Memorandum**

**TO:** Michael Crnich, Attorney  
Legal Division

**THRU:** Tammy Benter, Director  
Lisa Fuentes, Manager  
Heidi Graham, Manager  
Debi Loockerman, Financial Manager  
Water Utility Regulation

**FROM:** Leila Guerrero, Regulatory Accountant/Auditor  
Patricia Garcia, Engineering Specialist  
Gary Horton, GIS Specialist  
Kristy Nguyen, GIS Specialist  
Water Utility Regulation

**DATE:** November 4, 2016

**Subject:** **Docket No. 45959**, *Application of Town of Providence Village to Obtain Certificates of Convenience and Necessity, Decertify Portions of Mustang Special Utility District's Certificates, and Cancel Providence Village WCID No. 1's Certificates in Denton County*

### **Background**

On May 12, 2016, the Town of Providence Village, ("Applicant" or "Providence Village") filed an application to obtain water and sewer Certificates of Convenience and Necessity (CCNs), to decertify portions of Mustang Special Utility District's ("Mustang") CCN Nos. 11856 and 20930, and to cancel Providence Village WCID No. 1 ("WCID No. 1"), CCN Nos. 13020 and 20922 in Denton County, Texas. This application is being reviewed pursuant to the criteria in the Tex. Water Code Ann. §§ 13.241 – 13.242, 13.244, 13.2451 and 13.246 (TWC) and 16 Tex. Admin. Code §§24.102 - 24.107 (TAC).

As successor-in-interest to WCID No. 1, which was dissolved by operation of law effective August 15, 2015, Providence Village now owns and operates the water and sewer facilities formerly owned and operated by WCID No. 1. Providence Village currently provides retail water and sewer utility service to the residents of the Town of Providence Village and is seeking by this application to obtain a water and sewer CCN for the area within its incorporated limits.

The total area affected by this application includes approximately 760 acres and 2,012 current customers with Public Water System (PWS) No. 0610244. Treated water service is provided

through a wholesale water treatment contract with Upper Trinity Regional Water District (UTRWD). In addition, sewer service is provided through a wholesale wastewater treatment contract with UTRWD.

The proposed area within the Providence Village was also located within the water and sewer CCN areas of Mustang, but Mustang and Providence Village have entered into an agreement calling for Mustang to voluntarily and cooperatively relinquish the area within Providence Village from Mustang's water and sewer CCNs. A copy of the compromise settlement agreement and mutual release of claims entered into between the Providence Village and Mustang was filed confidentially in this docket.

#### **Notice Requirement**

Proper public notice was provided on August 8 and 15, 2016 in *Denton Record-Chronicle* which is generally circulated in Denton County, as required by 16 TAC § 24.106(c). On August 4, 2016, notice was provided to neighboring systems, landowners, cities and affected parties in Denton County, as required by 16 TAC §§ 24.106(b)(2) and (3). The Applicant filed proof of notice with the Commission on September 2, 2016, pursuant to 16 TAC § 24.106(b)(6) and (c). Since the most recent date of public notice was August 15, 2016, the comment period ended September 14, 2016, pursuant to 16 TAC § 24.107(b). The Commission did not receive any protests, requests for hearing, or opt-out requests regarding this application.

#### **Financial and Managerial Review**

Texas Water Code § 13.246(c)(6) (TWC) requires the Public Utility Commission of Texas (Commission) to consider the financial ability of Providence Village to pay for facilities necessary to provide continuous and adequate service and the financial stability of Providence Village. 16 Texas Admin. Code § 24.11 (TAC) establishes criteria to demonstrate that an owner or operator of a retail public utility has the financial resources to operate and manage the utility and to provide continuous and adequate service to the current and proposed utility service area. 16 TAC § 24.11(e) lists the financial tests. The applicant must meet one of the leverage tests and the operations test. The application included Providence Village's five-year projections (projected balance sheets and projected revenues and expenses) for the general fund, water and sewer fund, debt service fund; and the capital improvement fund, for the years 2016 to 2020.

Based on Staff's review of the financial documents provided by the Applicant, Providence Village met the criteria as required by:

**16 TAC § 24.11(e)(2)(C), which states that the owner or operator must have sufficient unrestricted cash available as a cushion for two years of debt service.**

- i. The projected balance sheet shows that the Applicant has no long-term debt on its general fund from FY 2016 to FY 2020. Projected unrestricted cash balances at the end of FY 2016 would be \$1.61 million (general fund) plus \$1.11 million (water and sewer fund), or \$2.7 million.
- ii. The annual payments for the long-term debt amount to \$1.445 million for FY 2016; \$1.251 million for 2017; \$1.263 million for 2018; \$1.265 for 2019; and \$1.277 million for FY 2020. Two years of debt service would be \$1.445 million plus \$1.251 million, or \$2.69 million.
- iii. The projected balance of cash at 9/30/16 of \$2.7 million is more than two years' worth of debt service of \$2.69 million.

Based on projections, Providence Village meets this criterion.

**16 TAC § 24.11(e)(3) refers to the operations test. This states that the owner or operator must demonstrate that sufficient cash is available to cover any projected operations and maintenance shortages in the first five years of operations.**

- a. There are no projected operations and maintenance shortages. Therefore, the applicant meets this test.

Based on the above discussion, Providence Village possesses adequate financial and managerial capability to provide continuous and adequate utility service.

#### **Texas Water Code (TWC) criteria considered**

TWC §13.246(c) requires the Commission to consider nine criteria when granting or amending a CCN. As a result of this application, Providence Village will be issued water and sewer CCNs, WCID No. 1's water CCN No. 13020 and sewer CCN No. 20922 will be canceled, and Mustang's water CCN No. 11856 and sewer CCN No. 20930 in Denton County will be amended to exclude the area affected by this application. The following criteria were considered:

- ***TWC §13.246(c)(1) requires the Commission to consider the adequacy of service currently provided to the requested area.*** The proposed area is being served by Providence Village through a wholesale purchase water and sewer utility service contract with the Upper Trinity Regional Water District (UTRWD).

***TWC §13.246(c)(2) requires the Commission to consider the need for additional service in the requested area, including whether any landowners, prospective landowners, tenants, or residents have requested service.*** Providence Village currently provides retail water and sewer utility service through a wholesale water and sewer utility service contract with the UTRWD. There is a need for the Applicant to continue to provide retail water and sewer utility service to the residents of the Town of Providence Village.

***TWC §13.246(c)(3) requires the Commission to consider the effect of granting an amendment on the recipient, on the landowners in the area, and on any other retail water utility servicing the proximate area.*** The Applicant will be issued new water and sewer CCNs, which will allow for orderly administration of municipal water and sewer utility

services within the Town, and eliminate the dual certification status with Mustang that existed since 2001. Landowners in the proposed area who currently do not have water and sewer will have access to retail water and sewer utility service. No other retail water and sewer utilities will be affected by this application.

***TWC §13.246(c)(4) requires the Commission to consider the ability of the applicant to provide adequate service.*** Providence Village currently provides retail water and sewer utility service through a wholesale water and sewer utility service contract with the UTRWD.

***TWC §13.246(c)(5) requires the Commission to consider the feasibility of obtaining service from an adjacent retail public utility.*** Since the Applicant will provide retail water and sewer through a wholesale water and sewer utility service contract with the UTRWD, it was not required to request service from the neighboring utilities.

***TWC §13.246(c)(6) requires the Commission to consider the financial ability of the applicant to pay for facilities necessary to provide continuous and adequate service.*** Based on the application and additional information provided, the existing systems do not have any outstanding violations and do not require any major capital improvements or repairs in order to provide service to the proposed area. Providence Village has demonstrated adequate financial and managerial capabilities to provide service to the area subject to this application. In addition, the Applicant's financial data show that Providence Village has the financial capability to ensure that reserve funds for debt payment and repairs and maintenance are build up and maintained.

***TWC §§13.246(c)(7) and (9) requires the Commission to consider the environmental integrity and the effect on the land to be included in the CCN.*** The effect on the land will be to enable it to be developed for economically valuable purposes as a benefit to current and future residents of Providence Village. There will be no adverse effect on the land within Providence Village other than the fact that the land will continue to be able to be developed as a result of retail water and sewer service being provided by the Town. The area will be served with existing infrastructure which does not require any construction. However, if construction will be required, it will not adversely affect the environment and the environmental integrity of the area will be maintained.

***TWC § 13.246(c)(8) requires the Commission to consider the probable improvement in service or lowering of cost to consumers.*** Providence Village currently provides retail water and sewer utility service through a wholesale water and sewer utility service contract with the UTRWD. Future customers will be charged the same rate as referenced in the Providence Village's water and sewer tariffs.

### **Conclusion and Recommendation**

The Applicant demonstrates adequate financial, managerial, and technical capability to provide service to the area subject to this application.



In addition, Providence Village has an elected City Council and Mayor. The Town has certified water and sewer operators on staff and has been providing retail water and sewer utility service through a wholesale purchase water and sewer utility service contract with the UTRWD. Providence Village does not have any unaddressed outstanding violations with the TCEQ. Therefore, I believe the Providence Village has the managerial capability to provide continuous and adequate utility service.

The Applicant meets all of the statutory requirements of Texas Water Code Chapter 13 and the Commission's Chapter 24 rules and regulations, and is capable of providing continuous and adequate service, as detailed above. Approving this application to issue water CCN No. 13250 and sewer CCN No. 21096 to the Town of Providence Village and amend water CCN No. 11856 and sewer CCN No. 20930 of Mustang Special Utility District, is necessary for the service, accommodation, convenience and safety of the public.

The Applicant consented to the attached revised maps and CCN on October 18, 2016.

Providence Village has fulfilled the requirements of 16 TAC § 24.102(a) and therefore has the financial, managerial, and technical capability to provide continuous and adequate utility service.

Providence Village has met the requirements of TWC §§ 13.241 – 13.250 and 16 TAC §§ 24.101-24.120. These conclusions are based on information provided by the Applicant prior to this date and may not reflect any changes in the Applicant's status subsequent to this date.

Based on the above review, Staff recommends approval of the application. Staff also recommends that the Applicant file copies of the CCN maps along with a written description of the CCN service area in the respective county clerks' office in Denton County and pursuant to Texas Water Code § 13.257 (r) and (s).

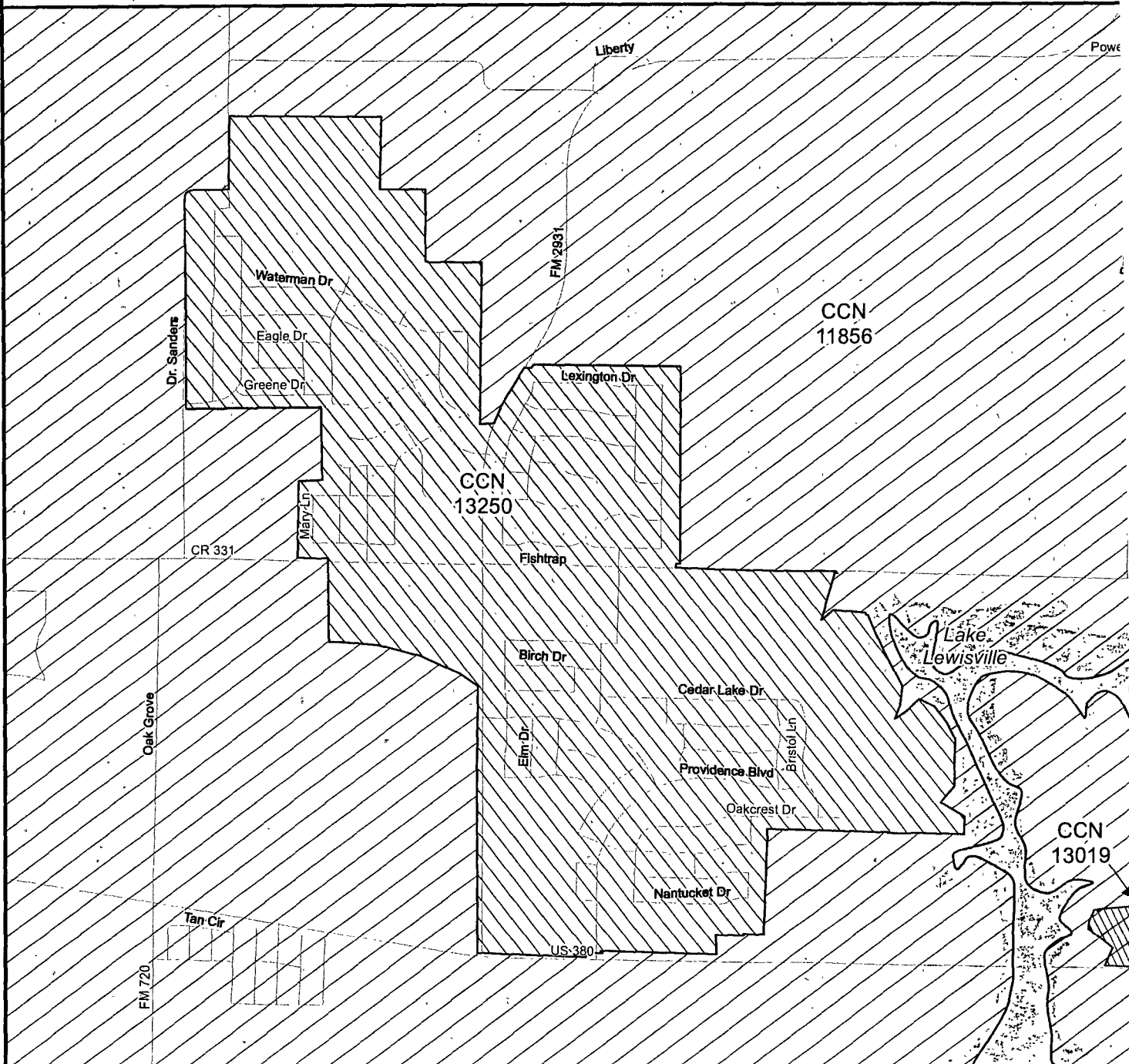
Town of Providence Village

Water Service Area

CCN No. 13250




PUC Docket No. 45959

Obtained CCN No. 13250, Decertified a Portion of Mustang SUD, CCN No. 11856, and  
Cancelled Providence Village WCID, CCN No. 13020 in Denton County



Public Utility Commission of Texas  
1701 N. Congress Ave  
Austin, TX 78701

**Water CCN Service Areas**

-  13250 - Town of Providence Village
-  11856 - Mustang SUD
-  13019 - Denton County FWSD 8B



Map by: Kristy Nguyen  
Date created: October 14, 2016  
Project Path: n:\Final Maps\45959Water.mxd

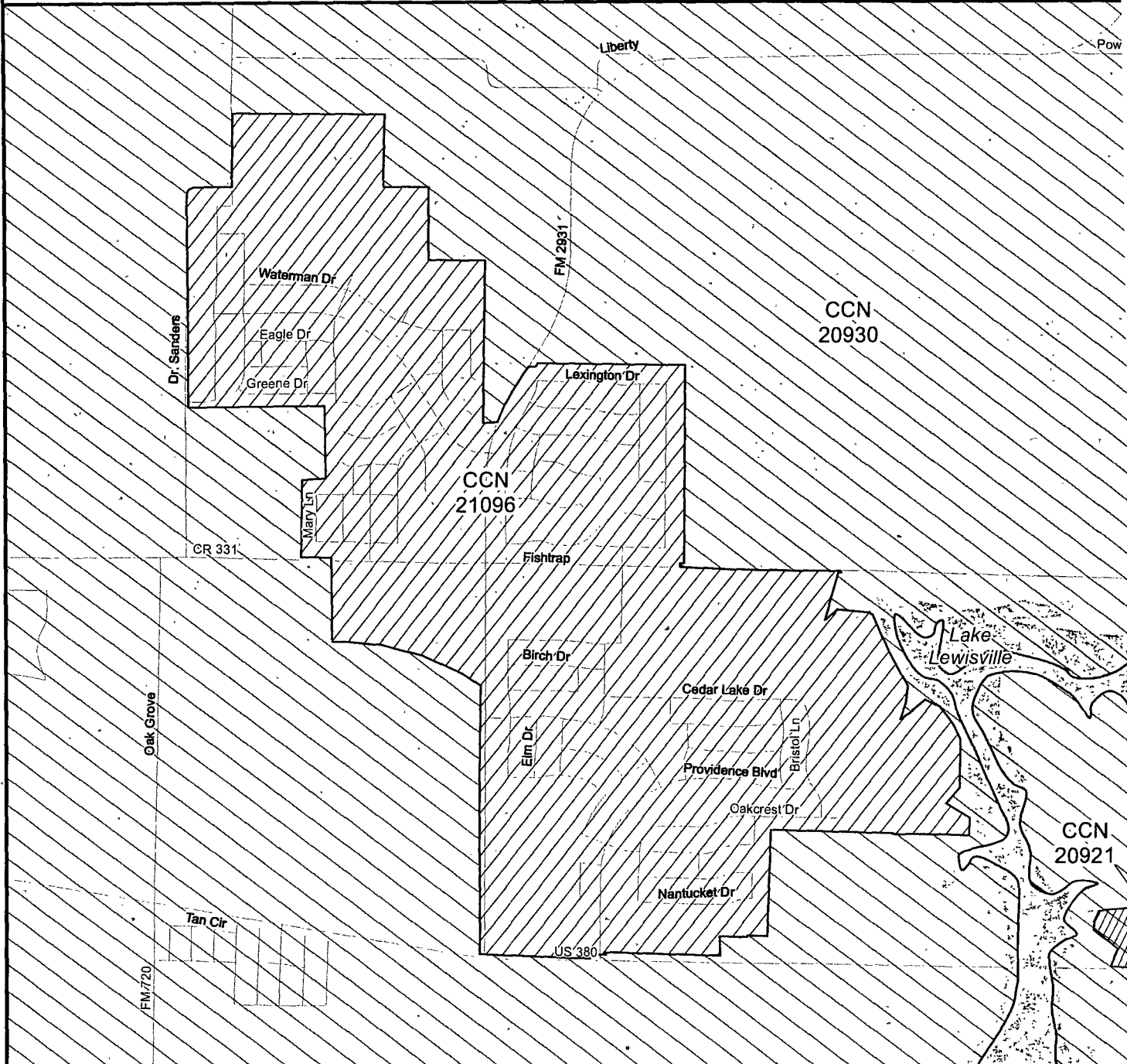
Town of Providence Village

Sewer Service Area

CCN No. 21096




PUC Docket No. 45959

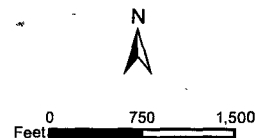
Obtained CCN No. 21096, Decertified a Portion of Mustang SUD, CCN No. 20930, and  
Cancelled Providence Village WCID, CCN No. 20922 in Denton County.



Public Utility Commission of Texas  
1701 N. Congress Ave  
Austin, TX 78701

**Sewer CCN Service Areas**

-  21096 - Town of Providence Village
-  20930 - Mustang SUD
-  20921 - Denton County FWSD 8B



Map by: Kristy Nguyen  
Date created: October 14, 2016  
Project Path: n:\Final Maps\45959Sewer.mxd



# **Public Utility Commission of Texas**

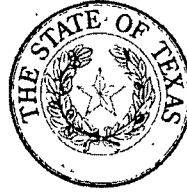
## **By These Presents Be It Known To All That Town of Providence Village**

having obtained 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, Town of Providence Village is entitled to this

### **Certificate of Convenience and Necessity No. 13250**

to provide continuous and adequate water utility service to that service area or those service areas in Denton County as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 45959 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 Town of Providence Village 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 obtain 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 \_\_\_\_\_ 2016



# **Public Utility Commission of Texas**

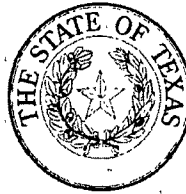
## **By These Presents Be It Known To All That Town of Providence Village**

having obtained 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, Town of Providence Village is entitled this

### **Certificate of Convenience and Necessity No. 21096**

to provide continuous and adequate sewer utility service to that service area or those service areas in Denton County as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 45959 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 Town of Providence Village 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 obtain 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 \_\_\_\_\_ 2016



# **Public Utility Commission of Texas**

## **By These Presents Be It Known To All That Mustang Special Utility District**

having obtained 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, Mustang Special Utility District is entitled to this

### **Certificate of Convenience and Necessity No. 11856**

to provide continuous and adequate water utility service to that service area or those service areas in Denton County as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 45959 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 Mustang Special Utility District 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 obtain 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 \_\_\_\_\_ 2016



# **Public Utility Commission of Texas**

## **By These Presents Be It Known To All That Mustang Special Utility District**

having obtained 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, Mustang Special Utility District is entitled to this

### **Certificate of Convenience and Necessity No. 20930**

to provide continuous and adequate sewer utility service to that service area or those service areas in Denton County as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 45959 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 Mustang Special Utility District 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 obtain 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 \_\_\_\_\_ 2016