

Control Number: 45959



Item Number: 16

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RECEIVED

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 §

BEFORE THE NOV 10 PM 2:12

PUBLIC UTILITY COMMISSION
FILING CLERK

PUBLIC UTILITY COMMISSION

OF TEXAS

JOINT PROPOSED NOTICE OF APPROVAL AND MOTION TO ADMIT EVIDENCE

COMES NOW the Town of Providence Village ("Providence Village"), having conferred and agreed with the Staff of the Public Utility Commission of Texas ("Staff") representing the public interest, and files this Joint Proposed Notice of Approval and Motion to Admit Evidence.

I. BACKGROUND

On May 12, 2016, Providence Village filed with the Public Utility Commission of Texas ("Commission" or "PUC") its application (the "Application") to obtain new water and sewer certificates of convenience and necessity ("CCNs"), 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 (the "WCID") in Denton County pursuant to Tex. Water Code Chapter 13 and 16 Tex. Admin. Code §§ 24.101 – 24.107. On September 23, 2016, the Administrative Law Judge issued Order No. 4 requiring that on or before November 10, 2016, the Parties should file a joint proposed notice of approval including proposed findings of fact, conclusions of law and ordering paragraphs. Accordingly, this Joint Proposed Notice of Approval and Motion to Admit Evidence is timely filed.

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II. JOINT PROPOSED NOTICE OF APPROVAL

Attached hereto is a Joint Proposed Notice of Approval agreed to by Providence Village and Commission Staff. The attached Joint Proposed Notice of Approval would grant Providence Village's Application to issue new water CCN No. 13250 and new sewer CCN No. 21096 in Denton County; amend Mustang Special Utility District's water CCN No. 11856 and sewer CCN No. 20930 in Denton County; and cancel Providence Village WCID No. 1 of Denton County's water CCN No. 13020 and sewer CCN No. 20922 in Denton County.

III. JOINT MOTION TO ADMIT EVIDENCE

The Parties move to admit the following evidence into the record of this proceeding: (a) Providence Village's May 12, 2016 Application (Commission automated interchange system [AIS] Item No. 1, filed May 12, 2016); (b) a publisher's affidavit dated August 15, 2016 and an affidavit of notice to neighboring systems, landowners, cities and other affected parties dated September 1, 2016 (AIS Item No. 11, filed September 1, 2016); (c) Consent Form signed by the Applicant with attached map and revised CCN (AIS Item No. 14, filed on October 18, 2016); and (d) Commission Staff's Final Recommendation for approval and the Staff memo attachment thereto (AIS Item No. 15, filed November 4, 2016).

WHEREFORE, the Parties respectfully request that the Commission issue the attached Joint Proposed Notice of Approval and admit the evidence described in Section III.

Respectfully submitted,

KELLY HART & HALLMAN LLP

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Telephone: (512) 495-6413

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By: 


Stephen C. Dickman

State Bar No. 05836500

**ATTORNEYS FOR THE TOWN
OF PROVIDENCE VILLAGE**

**CERTIFICATE OF SERVICE
PUC DOCKET NO. 45959**

I hereby certify that a true and correct copy of the foregoing document has been served on all parties of record on November 10, 2016 in accordance with 16 Tex. Admin. Code § 22.74.


Stephen C. Dickman

PUC DOCKET NO. 45959

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

JOINT PROPOSED NOTICE OF APPROVAL

This Joint Notice of Approval addresses the application ("Application") of the Town of Providence Village ("Providence Village" or "Applicant") for issuance of new water and sewer certificates of convenience and necessity ("CCNs"), 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 (the "WCID") in Denton County pursuant to Tex. Water Code Chapter 13 and 16 Tex. Admin. Code §§ 24.101 – 24.107. Through its Application, Providence Village seeks new water and sewer CCNs to provide retail water and sewer service within its incorporated city limits, and seeks to amend the existing water and sewer CCNs of Mustang and to cancel the existing water and sewer CCNs of the WCID covering the same area sought to be certified to Providence Village. The Public Utility Commission of Texas Staff ("Staff") recommended approval of the Application.

The Public Utility Commission of Texas ("Commission") adopts the following Findings of Fact and Conclusions of Law:

I. FINDINGS OF FACT

1. On May 12, 2016, Providence Village filed an Application with the Commission to

obtain new water and sewer CCNs, 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 of Denton County affecting the area located within the incorporated city limits of Providence Village.

2. The total proposed new service area requested in this Application consists of approximately 760 acres, 2,012 current customers, and current water and sewer service infrastructure owned by Providence Village.
3. Providence Village and Mustang entered into a December 21, 2015 Compromise Settlement Agreement and Mutual Release of Claims pursuant to which Mustang agreed to allow Providence Village to become the sole certificated provider of retail water and sewer service within the incorporated limits of the Town of Providence Village.
4. The Application was received by the Commission on May 12, 2016.
5. The Application was deemed sufficient for filing on July 28, 2016.
6. Proper public notice of the Application was provided by publication in the *Denton Record-Chronicle* newspaper on August 8 and 15, 2016. A publisher's affidavit dated August 15, 2016 and signed by Sandra Kelly, the Ad Director of the *Denton Record-Chronicle* attests to this notice.
7. The Applicant mailed individual notice of the Application to neighboring systems, landowners, cities and affected parties on August 4, 2016. An affidavit that these landowners and other entities received notice was dated September 1, 2016 and was filed with the Commission on September 1, 2016.
8. There were no protests or hearing requests filed in response to the public notices. No

issues of fact or law are disputed by any party.

9. More than 15 days have passed since the completion of the notice provided in this docket.
10. On October 18, 2016, the Applicant submitted a signed consent form evidencing its consent to the proposed map and new and amended CCNs.
11. On November 4, 2016, the Staff recommended that the Application be approved.
12. On November __, 2016, Order No. 5 was issued admitting the following documents into evidence: (a) Providence Village's May 12, 2016 Application (Commission automated interchange system [AIS] Item No. 1, filed May 12, 2016); (b) a publisher's affidavit dated August 15, 2016 and an affidavit of notice to neighboring systems, landowners, cities and other affected parties dated September 1, 2016 (AIS Item No. 11, filed September 1, 2016); (c) Consent Form signed by the Applicant with attached map and revised CCN (AIS Item No. 14, filed on October 18, 2016); and (d) Commission Staff's Final Recommendation for approval and the Staff memo attachment thereto (AIS Item No. 15, filed November 4, 2016).

II. CONCLUSIONS OF LAW

1. The Commission has jurisdiction and authority over this docket pursuant to Tex. Water Code ("TWC") §§ 13.041, 13.241, 13.242, 13.244, 13.246 and 16 Tex. Admin. Code ("TAC") §§ 24.101 – 24.107.
2. Providence Village is a retail public utility as defined in TWC § 13.002 (19) and 16 TAC § 24.3(58).
3. Providence Village has provided public notice of the Application in compliance with TWC § 13.246 and 16 TAC § 24.106.
4. The Application was processed in accordance with the requirements of TWC §

13.244 and 16 TAC §§ 24.102 and 24.105.

5. Based on the relevant factors in TWC § 13.246(c), Providence Village has demonstrated it should be granted certification of the requested area identified in the Application, Mustang should be decertificated from such area, and the WCID's water and sewer CCNs covering such area should be canceled. Providence Village possesses the financial, managerial and technical capability to provide continuous and adequate service to the requested area.
6. Providence Village has demonstrated that the Application meets the requirements set forth in TWC §§ 13.241, 13.242, 13.244 and 13.246, and 16 TAC §§ 24.101 and 24.102 to be granted water CCN No. 13250 and sewer CCN No. 21096.
7. Providence Village has demonstrated that issuance of water CCN No. 13250 and sewer CCN No. 21096 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. Providence Village has demonstrated that Mustang's water CCN No. 11856 and sewer CCN No. 20930 should be amended to delete the area covered by water CCN No. 13250 and sewer CCN No. 21096.
9. Providence Village has demonstrated that the WCID's water CCN No. 13020 and sewer CCN No. 20922 should be canceled.
10. Under TWC § 13.257(r) and 16 TAC § 24.106(f), Providence Village is required to record a certified copy of the approved CCN and map, along with a boundary description of the service area, in the real property records of each county in which the service area or portion of the service area is located, and submit to the Commission evidence of the recording.
11. The requirements for informal disposition pursuant to 16 TAC § 22.35 have been met

in this docket.

III. ORDERING PARAGRAPHS

In accordance with these Findings of Fact and Conclusions of Law, the Commission issues the following Order:

1. The Town of Providence Village's Application is approved.
2. Water CCN No. 13250 and sewer CCN No. 21096 are hereby issued to reflect the certification of the approximate 760 acres identified in the Application in Denton County to the Town of Providence Village.
3. Water CCN No. 11856 and sewer CCN No. 20930 of Mustang Special Utility District are amended to delete the area covered by water CCN No. 13250 and sewer CCN No. 21096.
4. Water CCN No. 13020 and sewer CCN No. 20922 of Providence Village WCID No. 1 are canceled.
5. The Town of Providence Village shall comply with the recording requirements of TWC § 13.257(r) for the area in Denton County affected by the Application and submit to the Commission evidence of the recording no later than 31 days after receipt of this Notice.
6. 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 on the ____ day of _____, 2016.

PUBLIC UTILITY COMMISSION OF TEXAS

ADMINISTRATIVE LAW JUDGE