



Control Number: 47587



Item Number: 16

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PUBLIC UTILITY COMMISSION  
PUBLIC UTILITY COMMISSION  
FILING CLERK  
OF TEXAS

APPLICATION OF CITY OF AUBREY §  
TO AMEND ITS WATER AND SEWER §  
CERTIFICATES OF CONVENIENCE §  
AND NECESSITY AND TO §  
DECERTIFY A PORTION OF §  
MUSTANG SPECIAL UTILITY §  
DISTRICT SERVICE AREA (AUBREY §  
CREEK ESTATES) §

**NOTICE OF APPROVAL**

This Notice addresses the application of Aubrey Water Supply Corporation to amend water and sewer certificates of convenience and necessity (CCNs) in Denton 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**

1. On September 6, 2017, Aubrey filed an application to amend CCN No. 11234 and CCN No. 20491 to obtain single certification of a single tract of land, and to decertify a portion of Mustang Special Utility District's CCN No. 11856 and CCN No. 20930, in Denton County.
2. MQ Development Partners, owner of a 68-acre tract of land, requested water and sewer services from Aubrey. In addition, Mustang SUD and Aubrey have agreed that approximately 102 acres of Mustang SUD service area be transferred to Aubrey.
3. The total proposed service area requested in this application consists of approximately 172 acres, one current customer, and no infrastructure.
4. On September 8, 2017, Order No. 1 was issued requiring Commission Staff's comments on administrative completeness of the application and the proposed notice.
5. On September 28, 2017, Aubrey supplemented the application with a revised map.

6. On October 6, 2017, Commission Staff filed a recommendation on administrative completeness of the application recommending that the application be deemed sufficient.
7. On October 9, 2017, Order No. 2 was issued finding the application administratively complete and requiring Aubrey to provide notice consistent with Commission Staff's recommendation.
8. On October 25, 2017, Aubrey filed affidavits of notice.
9. On November 3, 2017 Commission Staff filed a recommendation that notice be deemed sufficient.
10. On November 3, 2017, Order No. 3 was issued finding notice sufficient.
11. On December 28, 2017, Mustang SUD filed a signed consent form concurring with the proposed map and certificate prepared by Commission Staff.
12. On December 29, 2017, Aubrey filed a signed consent form concurring with the proposed map and certificate as prepared by Commission Staff.
13. On January 9, 2018, Commission Staff recommended approval of the application.
14. On January 18, 2018, Aubrey filed a joint proposed notice of approval and motion to admit evidence.
15. On January 23, 2018, Commission Staff filed a supplement to the final recommendation attaching the certificates and maps.

**Notice**

16. On October 25, 2017, Aubrey filed a publisher's affidavit affirming that notice was provided by publication in the *Denton Record Chronicle* on October 11, 2017 and October 18, 2017.
17. On October 25, 2017, Aubrey filed affidavits affirming that mailed notice of the application to neighboring systems, landowners, and cities, and to neighboring utilities was completed on October 11, 2017.

**Evidentiary Record**

18. On February 21, 2018, Order No. 5 was issued admitting evidence into the record of this proceeding.

**Informal Disposition**

19. More than 15 days have passed since the completion of the notice provided in this docket.
20. Commission Staff and the City of Aubrey are the only parties to this proceeding.
21. No issues of fact or law remain disputed by any party.
22. No protests or requests for hearing were filed.
23. Adequate service is currently being provided by Aubrey in the requested area.
24. Aubrey has the ability to provide adequate service to the requested area through the capacity of its public water system and sewer treatment facilities, approved by the Texas Commission on Environmental Quality.
25. Service in the requested area is needed; Aubrey has one existing customer in the requested area and a developer in the area has requested service.
26. Granting Aubrey's CCN amendments will not adversely affect any landowners in the area nor any retail public utility serving the proximate area.
27. It is not feasible for an adjacent utility to provide service to the requested area because Aubrey is already serving the requested area.
28. Granting Aubrey's CCN amendment will not adversely impact the environmental integrity of the requested area, as no additional construction is needed to provide service to the requested area.
29. Aubrey will continue to serve customers in the requested area using the existing facilities.
30. Aubrey has demonstrated that it has the financial resources to operate and manage the utility and the ability to provide continuous and adequate service to the requested area.

**II. Conclusions of Law**

1. The City of Aubrey is a retail public utility as defined in Texas Water Code (TWC) § 13.002(19)<sup>1</sup> and 16 Texas Administrative Code (TAC) § 24.3(59).

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<sup>1</sup> Tex. Water Code Ann § 13.002(19) (West 2008 and Supp. 2017) (TWC).

2. The Commission has jurisdiction over the application under TWC §§ 13.041, 13.241 and 13.246.
3. Public notice of the application was provided in compliance with TWC § 13.246 and 16 TAC § 24.106.
4. The application was processed in accordance with the Administrative Procedure Act,<sup>2</sup> TWC, and Commission rules.
5. After considering the factors in TWC § 13.246(c), Aubrey is entitled to approval of their water and sewer certificates of convenience and necessity, having demonstrated adequate financial, managerial, and technical capability for providing continuous and adequate service to the requested area and its current service area as required by TWC § 13.241.
6. Approval of the application is necessary for the service, accommodation, convenience, or safety of the public as required by TWC § 13.246(b) and 16 TAC § 24.102(c).
7. Under TWC § 13.257(r) and (s), Aubrey and Mustang are 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 a portion of the service area is located, and submit to the Commission evidence of the recording.
8. The requirements for informal disposition in 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. The application is approved.
2. Aubrey's water CCN No. 11234 and sewer CCN No. 20491 are amended, consistent with this Notice.
3. The Commission's official service area boundary maps for Aubrey and Mustang shall reflect this change as shown in the attached maps.

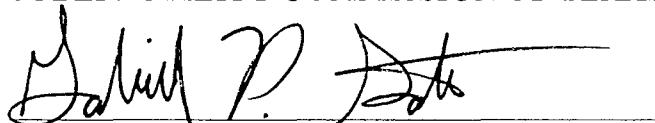
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<sup>2</sup> Tex. Gov't Code Ann. §§ 2001.001-.902 (West 2016 & Supp. 2017).

4. Aubrey shall serve every customer and applicant for service within the areas certified under its CCNs, and such service shall be continuous and adequate.
5. Aubrey shall comply with the recording requirements in TWC § 13.257(r) and (s) 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. Mustang's water CCN No. 11856 and sewer CCN No. 20930 are amended, consistent with this Notice.
7. Mustang shall serve every customer and applicant for service within the areas certified under its CCNs, and such service shall be continuous and adequate.
8. Mustang shall comply with the recording requirements in TWC § 13.257(r) and (s) 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.
9. All other motions and any other requests for general or specific relief, if not expressly granted, are denied.

Signed at Austin, Texas the 5<sup>TH</sup> day of March 2018.

PUBLIC UTILITY COMMISSION OF TEXAS



GABRIEL P. SOTO  
ADMINISTRATIVE LAW JUDGE



# Public Utility Commission of Texas

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

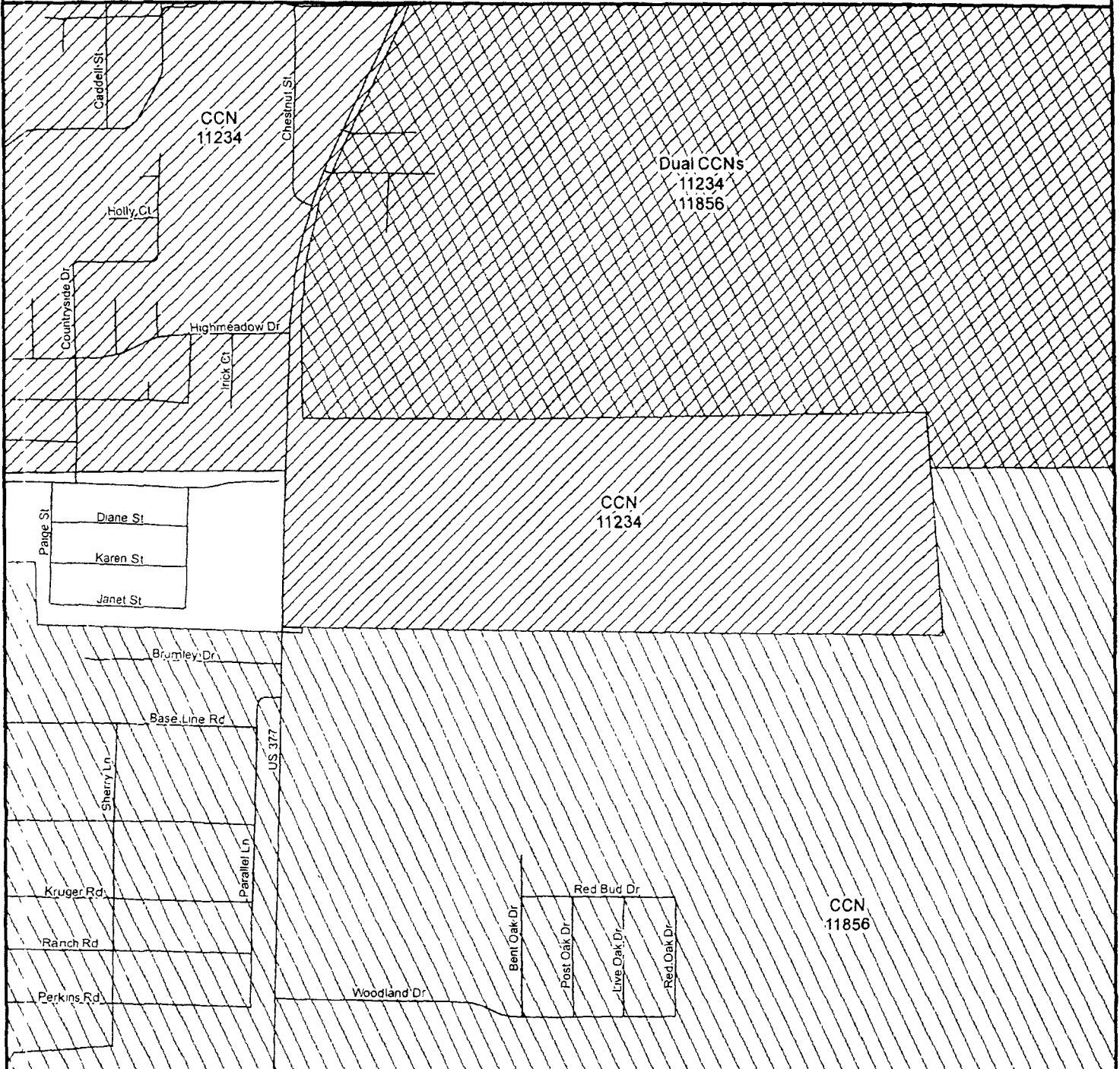
having obtained certification to provide water utility service for the convenience and necessity of the public, and it having been determined by this Commission that the public convenience and necessity would in fact be advanced by the provision of such service, the City of Aubrey is entitled to this

## **Certificate of Convenience and Necessity No. 11234**

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. 47587 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 Aubrey 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 5<sup>TH</sup> day of MARCH 2018.

City of Aubrey  
 Portion of Water CCN No. 11234  
 PUC Docket No. 47587  
 Amended CCN No. 11234 and Decertified a Portion of Mustang SUD, CCN No. 11856 in Denton County



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

**Water CCN**

-  11234 - City of Aubrey
-  11856 - Mustang SUD



Map by: Komal Patel  
 Date created: December 1, 2017  
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# Public Utility Commission of Texas

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

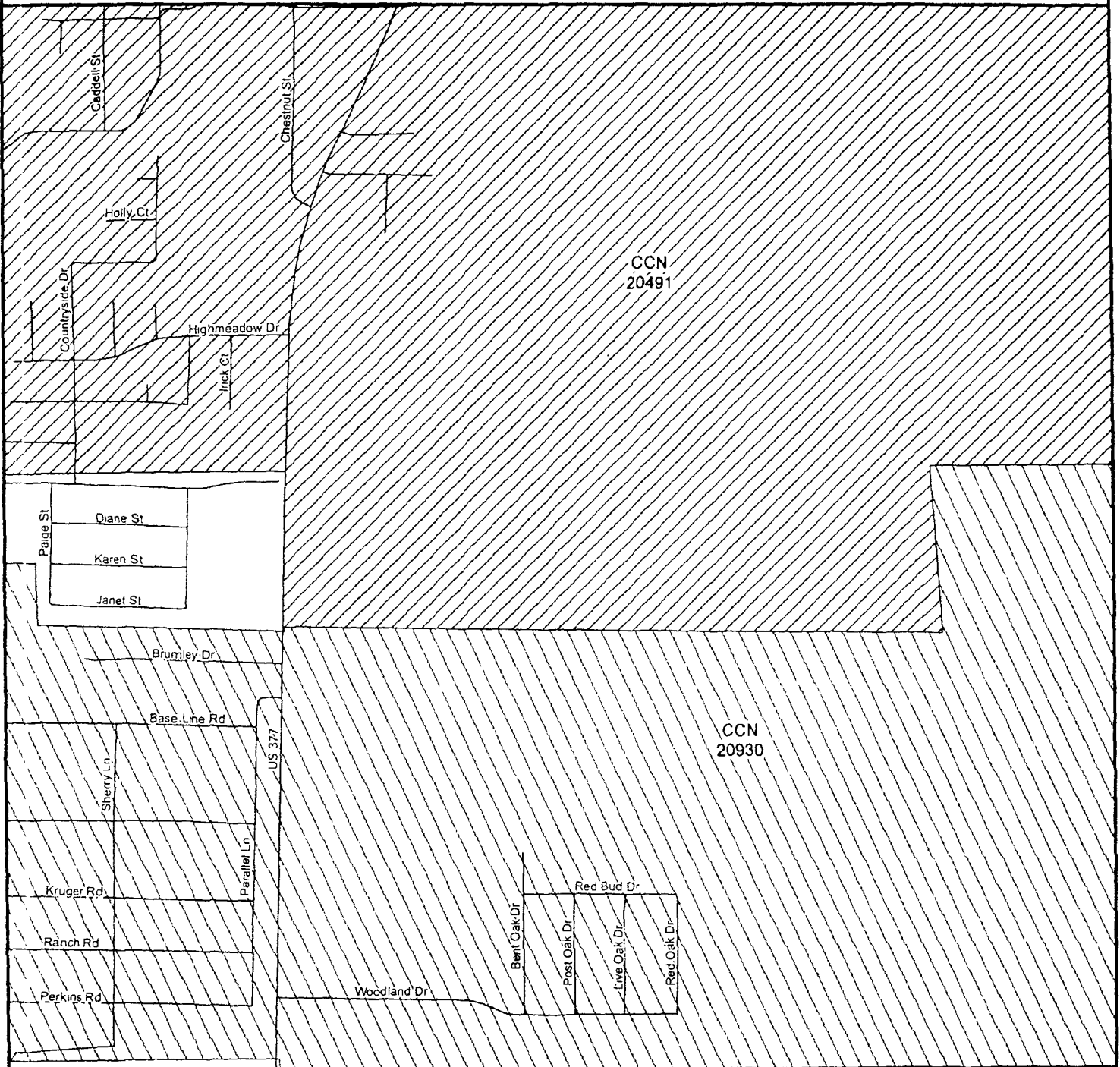
having obtained certification to provide sewer utility service for the convenience and necessity of the public, and it having been determined by this Commission that the public convenience and necessity would in fact be advanced by the provision of such service, the City of Aubrey is entitled to this

## **Certificate of Convenience and Necessity No. 20491**

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. 47587 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 Aubrey, 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 5<sup>th</sup> day of MARCH 2018.

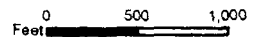
City of Aubrey  
 Portion of Sewer CCN No. 20491  
 PUC Docket No. 47587  
 Amended CCN No. 20491 and Decertified a Portion of Mustang SUD, CCN No. 20930 in Denton County



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

**Sewer CCN**

- 20491 - City of Aubrey
- 20930 - Mustang SUD



Map by Komal Patel  
 Date created: December 1, 2017  
 Project Path: n:\finalmapping\47587\CityofAubreySewer.mxd



# 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. 47587 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 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 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 5<sup>TH</sup> day of MARCH 2018.



# 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. 47587 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 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 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 5<sup>TH</sup> day of MARCH 2018.