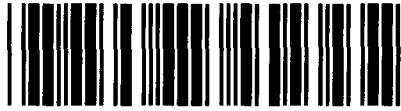




Control Number: 47653



Item Number: 1

Addendum StartPage: 0

MUSTANG SPECIAL UTILITY §  
DISTRICT NOTICE OF INTENT TO §  
PROVIDE RETAIL WATER SERVICE §  
TO AREA DECERTIFIED FROM §  
TERRA SOUTHWEST INC. §  
IN DENTON COUNTY §

BEFORE THE  
PUBLIC UTILITY COMMISSION  
OF TEXAS

**MUSTANG SPECIAL UTILITY DISTRICT'S NOTICE OF INTENT TO PROVIDE  
RETAIL WATER SERVICE TO AREA DECERTIFIED FROM  
TERRA SOUTHWEST INC AND AGREED SETTLEMENT.**

TO THE PUBLIC UTILITY COMMISSION OF TEXAS:

Pursuant to Section 13.254(e) of the Texas Water Code and Section 24.113(o) of the Rules of the Public Utility Commission of Texas ("PUC"), Mustang Special Utility District ("Mustang SUD") hereby notifies the PUC of Mustang SUD's intent ("Notice of Intent") to provide retail water service to the area decertified by the Texas Commission on Environmental Quality ("TCEQ") pursuant to TCEQ Application No. 37386-C (Petition from Shahan Prairie L.P.) granted by TCEQ Order dated August 29, 2012. In support thereof, Mustang SUD respectfully shows as follows:

Mustang SUD is a retail public utility currently providing water service to the area within its Certificate of Convenience and Necessity ("CCN") No. 11856. Mustang SUD intends to provide retail water service to the 102 acre area which was decertified from Terra Southwest, Inc. pursuant to TCEQ Application No. 37386-C (Petition from Shahan Prairie, L.P.). That application was granted by TCEQ Order dated August 29, 2012, pursuant to Section 13.254(a-5), Texas Water Code. A copy of the TCEQ Order granting the decertification, including the map of the decertified area, is attached hereto as Exhibit 1.

Under Section 13.254(d) of the Texas Water Code and PUC Rule 24.113(o)(1), Mustang SUD may not render retail water service to the public in the decertified area without providing compensation for any of Terra Southwest, Inc.'s property that the PUC determines is rendered useless or valueless (if any) to Terra Southwest, Inc. as a result of the decertification.

In this instance, Mustang SUD and Terra Southwest, Inc. have entered into a Settlement Agreement, along with the successor to Shahan Prairie, LP, where the parties have agreed on the compensation to be provided to Terra Southwest, Inc., the former CCN holder. The fully executed Settlement Agreement is attached hereto at Exhibit 2. Because of the Settlement Agreement, this matter does not require the identification of an appraiser or the valuation of real or personal property, and should instead be processed by the PUC as an agreed matter pursuant to PUC Rule 24.113(o)(6), under a streamlined procedural schedule.

This Notice of Intent should be docketed as a new case with appropriate notice published and a streamlined procedural schedule established, consistent with a settled uncontested matter.

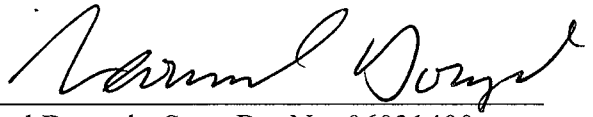
A copy of this Notice of Intent is being mailed via certified mail, return receipt requested, to Terra Southwest, Inc. and the legal successor to Shahan Prairie, L.P.

WHEREFORE, PREMISES CONSIDERED, Mustang Special Utility District respectfully requests that the PUC take notice of Mustang SUD's Notice of Intent to provide retail water service to the area which was decertified from Terra Southwest, Inc.'s CCN by TCEQ Order dated August 29, 2012; that appropriate public notice of this Notice of Intent be published as required by the PUC Rules; that an appropriate procedural schedule be established; that the PUC take note of the Settlement Agreement; that Mustang SUD be authorized to serve the subject area; and that Mustang SUD have all such other relief to which it may show itself entitled.

Dated: September 28, 2017.

Respectfully submitted,

JACKSON WALKER L.L.P.

By: 

Leonard Dougal - State Bar No. 06031400

100 Congress, Suite 1100

Austin, Texas 78701

E: ldougal@jw.com

T: (512) 236 2233

F: (512) 391-2112

ATTORNEYS FOR MUSTANG SPECIAL  
UTILITY DISTRICT

**CERTIFICATE OF SERVICE**

I hereby certify that on the 28th day of September, 2017, a true and correct copy of the foregoing document was served on the individuals listed below by certified mail, return receipt requested.

Terra Southwest Inc.  
c/o Mr. Jim Pressley  
P.O. Box 140  
Alvord, Texas 76225

*Terra Southwest, Inc.*

**Certified Article Number**

9414 7266 9904 2056 9103 90

**SENDERS RECORD**

*Courtesy Copy*

DRH Land Opportunities I, Inc.  
c/o Ms. Mindy Koehne  
Coats Rose, PC  
14755 Preston Road, Suite 600  
Dallas TX 75254

**Certified Article Number**

9414 7266 9904 2056 9104 06

**SENDERS RECORD**



Leonard H. Dougal

# Exhibit 1

Bryan W. Shaw, Ph.D., *Chairman*  
Carlos Rubinstein, *Commissioner*  
Toby Baker, *Commissioner*  
Zak Covar, *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY  
*Protecting Texas by Reducing and Preventing Pollution*

September 4, 2012

Skip Newsom  
P.O. Box 712  
Dripping Springs, Texas 78620

Terra Southwest, Inc.  
P.O. Box 140  
Alvord, Texas 76225

RE: Terra Southwest Inc.  
Certificate of Convenience and Necessity No. 11608

This letter is your notice that the Texas Commission on Environmental Quality (TCEQ) executive director (ED) has issued final approval of the above-named application. According to 30 Texas Administrative Code (TAC) Section 50.135 the approval became effective on the date the ED signed the permit or other approval. A copy of the final approval is enclosed and cites the effective date.

You may file a **motion to overturn** with the chief clerk. A motion to overturn is a request for the commission to review the TCEQ executive director's approval of the application. Any motion must explain why the commission should review the TCEQ executive director's action. According to 30 TAC Section 50.139 an action by the ED is not affected by a motion to overturn filed under this section unless expressly ordered by the commission.

A motion to overturn must be received by the chief clerk within 23 days after the date of this letter. An original and 7 copies of a motion must be filed with the chief clerk in person or by mail. The Chief Clerk's mailing address is Office of the Chief Clerk (MC 105), TCEQ, P.O. Box 13087, Austin, Texas 78711-3087. On the same day the motion is transmitted to the chief clerk, please provide copies to Robert Martinez, Environmental Law Division Director (MC 173), and Blas Coy, Public Interest Counsel (MC 103), both at the same TCEQ address listed above. If a motion is not acted on by the commission within 45 days after the date of this letter, then the motion shall be deemed overruled.

You may also request **judicial review** of the ED's approval. According to Texas Water Code Section 5.351 a person affected by the ED's approval must file a petition appealing the ED's approval in Travis County district court within 30 days after the effective date of the approval. Even if you request judicial review, you still must exhaust your administrative remedies, which includes filing a motion to overturn in accordance with the previous paragraphs.

Individual members of the public may seek further information by calling the TCEQ Public Education Program, toll free, at 1-800-687-4040.

Sincerely,

A handwritten signature in cursive script that reads "Bridget C. Bohac".

Bridget C. Bohac  
Chief Clerk

BCB/ms

cc: Blas Coy, TCEQ Public Interest Counsel (MC 103)

Bryan W. Shaw, Ph.D., *Chairman*  
Carlos Rubinstein, *Commissioner*  
Toby Baker, *Commissioner*  
Zak Covar, *Executive Director*



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

September 4, 2012

Mr. Skip Newsom  
P.O. Box 712  
Dripping Springs, TX 78620-0712

Re: Petition for Expedited Release Pursuant to Texas Water Code, Section 13.254(a-5)(a-6), from Shahan Prairie LP, to Decertify a Portion of Certificate of Convenience and Necessity (CCN) No. 11608 from Terra Southwest, Inc., in Denton County; Application No. 37386-C  
CN: 600627905 ; RN: 101180222

Dear Mr. Newsom:

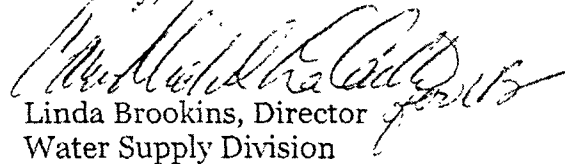
Enclosed are the following documents issued by the Commission in the above referenced application:

- certified copy of the order
- certified copies of the map
- copy of the CCN

This action is taken under authority delegated by the Executive Director of the Texas Commission on Environmental Quality.

If you have any questions, please contact Ms. Kristy Nguyen at 512/239-4634, by e-mail at [kristy.nguyen@tceq.texas.gov](mailto:kristy.nguyen@tceq.texas.gov), or if by correspondence, include Mail Code 153 in the letterhead address.

Sincerely,

  
Linda Brookins, Director  
Water Supply Division

LB/KN/mmg

Enclosures: as stated

cc: mailing list



Mailing List for Application No. 37386-C

Terra Southwest, Inc.,  
P.O. Box 140  
Alvord, TX 76225

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



THE STATE OF TEXAS  
COUNTY OF TRAVIS

I hereby certify that this is a true and correct copy of a Texas Commission on Environmental Quality document, which is filed in the permanent records of the Commission. Given under my hand and the seal of office on

*Bridget C. Bohac* **SEP 04 2012**

Bridget C. Bohac, Chief Clerk  
Texas Commission on Environmental Quality

**APPLICATION NO. 37386-C**

<b>PETITION FROM SHAHAN</b>	<b>§</b>	<b>BEFORE THE</b>
<b>PRAIRIE L.P., FOR AN</b>	<b>§</b>	
<b>EXPEDITED RELEASE FROM</b>	<b>§</b>	<b>TEXAS COMMISSION ON</b>
<b>TERRA SOUTHWEST INC.'S,</b>	<b>§</b>	
<b>CERTIFICATE OF CONVENIENCE</b>	<b>§</b>	<b>ENVIRONMENTAL QUALITY</b>
<b>AND NECESSITY (CCN) NO. 11608</b>	<b>§</b>	
<b>IN DENTON COUNTY, TEXAS</b>	<b>§</b>	

## ORDER

On **August 29, 2012**, the Executive Director of the Texas Commission on Environmental Quality, pursuant to chapters 5 and 13 of the Texas Water Code, considered the petition of Shahan Prairie L.P., (Petitioner) for expedited release from water CCN No. 11608, held by Terra Southwest Inc., in Denton County, Texas.

The criteria set forth in section 13.254(a-5) of the Texas Water Code have been considered. The Petitioner has satisfied all criteria to be released from the CCN pursuant to that section.


NOW, THEREFORE, BE IT ORDERED BY THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY that:

1. The petition from Shahan Prairie L.P., for expedited release from water CCN No. 11608 of Terra Southwest, Inc., as reflected in the attached copy of the official water service area map for Denton County, Texas, is hereby approved.
2. The Chief Clerk of the Texas Commission on Environmental Quality shall forward a copy of this Order and the attached map to the petitioner and the CCN holder.

3. If any provision, sentence, clause, or phrase of this Order is for any reason held to be invalid, the invalidity of any portion shall not affect the validity of the remaining portions of the Order.

Issue Date: **August 29, 2012**

TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

  
\_\_\_\_\_  
For the Commission



# Texas Commission On Environmental Quality

By These Presents Be It Known To All That

**Terra Southwest, Inc.**

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

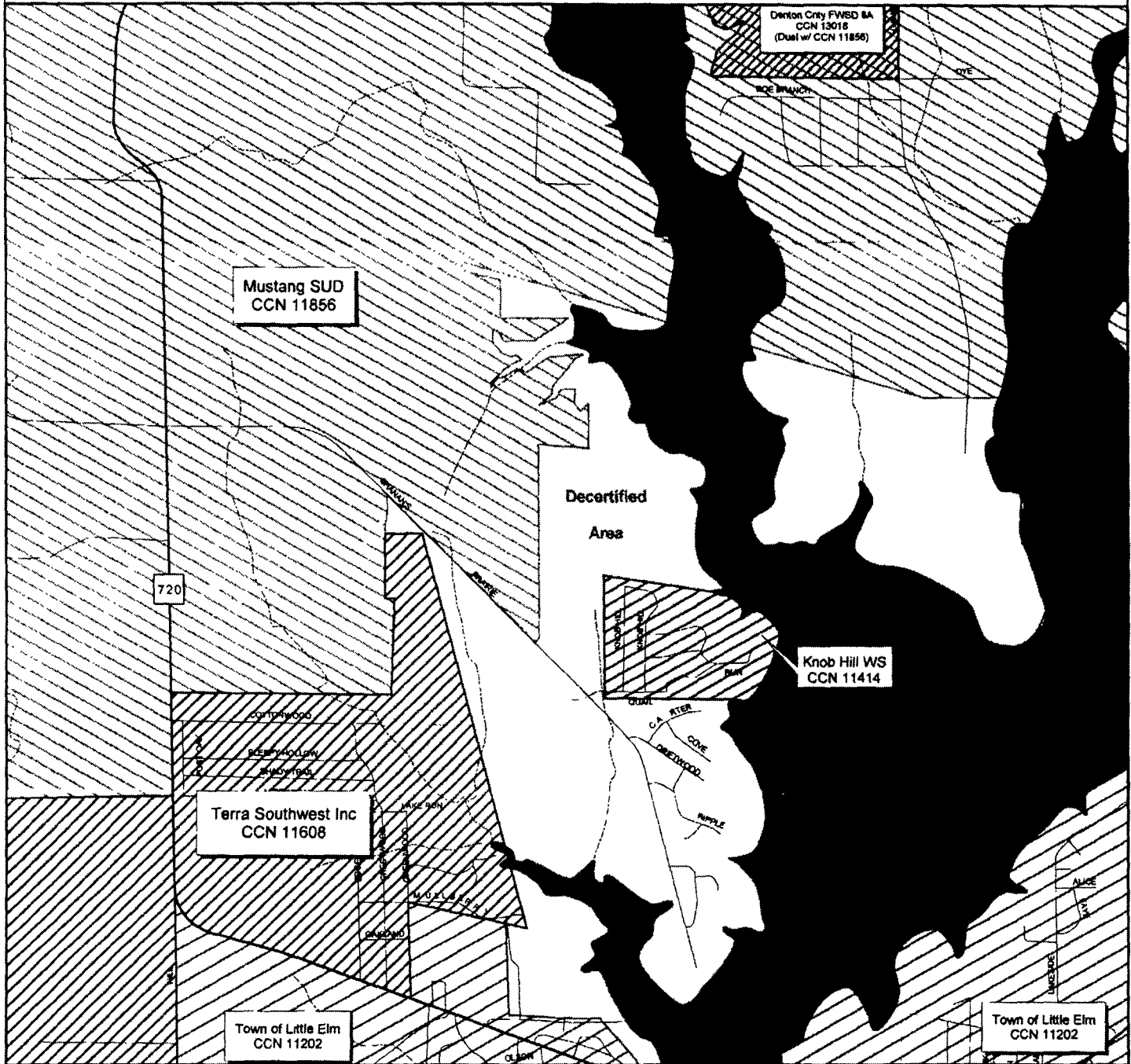
## **Certificate of Convenience and Necessity No. 11608**

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 resulting from Application No. 37386-C is on file at the Commission offices in Austin, Texas; and is a matter of official record available for public inspection; and be it known further that these presents do evidence the authority and the duty of Terra Southwest, Inc., 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 **August 29, 2012**

  
For the Commission

**Terra Southwest, Inc.**  
**Portion of Water Service Area**  
**CCN No. 11608**  
**Application No. 37386-C**  
**Petition for Expedited Release Pursuant to**  
**TWC Section 13.254(a-5) from Shahan Prairie, LP**  
**to Decertify a Portion of CCN No. 11608 from Terra Southwest, Inc. in Denton County**



2000 0 2000 Feet



Map by S. Jaster 8/21/2012  
 Data path: c:\gis\projects\shpsforapplications\37386-c.shp  
 Project path: c:\gis\projects\applications\37386-c.apr



**Decertified Area**

- Water CCN Service Areas**
- 11608 - TERRA SOUTHWEST INC
  - 11202 - TOWN OF LITTLE ELM
  - 11414 - KNOB HILL WATER SYSTEM
  - 11856 - MUSTANG SUD
  - 13018 - DENTON COUNTY FWSD 8A

THE STATE OF TEXAS  
COUNTY OF TRAVIS

I hereby certify that this is a true and correct copy of a  
Texas Commission on Environmental Quality document,  
which is filed in the permanent records of the Commission.  
Given under my hand and the seal of office on

Bridget C. Bohac SEP 04 2012

Bridget C. Bohac, Chief Clerk  
Texas Commission on Environmental Quality

# Exhibit 2

## SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is by and between Terra Southwest, Inc., a Texas corporation (“Terra Southwest”), Mustang Special Utility District, a conservation and reclamation district created under Article XVI, Section 59 of the Texas Constitution and operating under Chapters 49 and 65 of the Texas Water Code (“Mustang”), and DRH Land Opportunities I, Inc, a Delaware corporation (“DR Horton”), successor interest to Shahan Prairie, L.P., a Texas limited partnership (“Shahan Prairie”). Terra Southwest, Mustang, and DR Horton may be referred to herein individually as a “Party” or collectively as the “Parties.”

### Recitals

WHEREAS, Terra Southwest is an investor-owned, retail public utility operating under water certificate of convenience and necessity (“CCN”) number 11608;

WHEREAS, on August 29, 2012, the Texas Commission on Environmental Quality decertified a portion of Terra Southwest’s water CCN No. 11608 in Application No. 37386-C in response to a petition filed by Shahan Prairie (the “Decertified Area”);

WHEREAS, Mustang is a retail public utility holding water CCN No. 11856;

WHEREAS, Mustang and Shahan Prairie entered into that certain “Non-Standard Service Contract by and Between Mustang Special Utility District and Shahan Prairie, L.P.” (the “Non-Standard Service Agreement”) dated effective March 2, 2015, which provides that, upon approval by the Public Utility Commission of Texas (“PUC”), Mustang will provide water service to the Decertified Area and Shahan Prairie will pay compensation, if any, found to be due to Terra Southwest associated with the decertification of the Decertified Area;

WHEREAS, Shahan Prairie and DR Horton entered into that certain Assignment and Assumption of Non-Standard Service Contract by and between Mustang Special Utility District and Shahan Prairie, LP whereby Shahan Prairie assigned all of its rights and obligations under the Non-Standard Service Agreement to DR Horton;

WHEREAS, the Parties understand and acknowledge that Mustang must file a Notice of Intent to Serve the Decertified Area (“Notice of Intent”) which will initiate a docket at the PUC and that, without an agreement, the PUC will hold a contested case hearing in that docket to determine the amount of compensation, if any, owed to Terra Southwest due to the decertification of the Decertified Area;

WHEREAS, the Parties desire to avoid the costs and uncertainties associated with a protracted dispute regarding the compensation, if any, owed to Terra Southwest due to the decertification of the Decertified Area;

WHEREAS, the Parties mutually desire to enter into this Agreement setting forth the terms and conditions pursuant to which they will agree to resolve the determination of compensation owed to Terra Southwest due to the decertification of the Decertified Area.



NOW THEREFORE, in consideration of the promises contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and in settlement of any disputed claims, the Parties hereby contract and agree as follows:

## I. Settlement Terms

1. The Recitals, which the Parties acknowledge and agree are true and correct, are incorporated herein for all purposes.

2. The Effective Date of this Agreement shall be the date that the last Party executed this Agreement.

3. The Parties agree that DR Horton will provide compensation to Terra Southwest in the amount of \$3,500 within 10 days following a final order from the PUC in the docket number assigned to the Notice of Intent.

4. The Parties agree that the amount set forth in Paragraph 3 above may be deemed sufficient to fully compensate Terra Southwest for: a) property rendered useless or valueless by the decertification of the Decertified Area, including legal fees, if any, that have been or will be incurred in Application No. 37386-C and the PUC docket number assigned to the Notice of Intent, and b) any other claim, demand or other basis for compensation that Terra Southwest may have regarding the Decertified Area.

5. Terra Southwest further agrees to execute the affidavit attached hereto as Exhibit "A" which will be used by Mustang in seeking PUC approval of the Notice of Intent.

6. Mustang agrees that it will file the Notice of Intent within 10 days of the effective date of this Agreement.

7. The Parties agree to cooperate to implement the terms of this Agreement (including in connection with the Notice of Intent, and any other filings, consents, or notices required by the PUC associated with the Notice of Intent) and covenant and agree that they shall execute and deliver such other and further instruments and documents, and perform such other acts, as are or may be necessary or convenient to effectuate and carry out the intent of this Agreement.

8. If after executing this Agreement, Mustang is forced by the PUC to proceed with a contested hearing or litigation of the Notice of Intent, Mustang shall have the option to terminate this Agreement.

## II. Releases

1. Mustang and Terra Southwest do hereby release, acquit, and forever discharge one another and any of their respective officers, directors, employees, attorneys, agents, and representatives of and from any and all claims, causes of action, demands, damages, costs, expenses, interest, and attorney's fees, of whatever nature, at common law, statutory, or

otherwise, whether known or unknown, which Mustang or Terra Southwest may now have against one another or which may hereafter accrue against the other in connection with, arising out of, or related to the Decertified Area.

2. DR Horton and Terra Southwest do hereby release, acquit, and forever discharge one another and any of their respective officers, directors, employees, attorneys, agents, and representatives of and from any and all claims, causes of action, demands, damages, costs, expenses, interest, and attorney's fees, of whatever nature, at common law, statutory, or otherwise, whether known or unknown, which DR Horton or Terra Southwest may now have against one another or which may hereafter accrue against the other in connection with, arising out of, or related to the Decertified Area.

### **III. Miscellaneous**

1. This Agreement, in conjunction with the Non-Standard Service Agreement as it relates to Mustang and DR Horton, contains the entire agreement of the Parties with respect to the subject matter of this Agreement. No agreement, statement, or promise made by any Party to any employee, agent, officer, director, or representative of any other Party that is not contained in this Agreement or the Non-Standard Service Agreement shall be valid, binding, or of any force or effect.

2. Any amendments to this Agreement must be in writing and signed by all of the Parties to be charged.

3. This Agreement shall be binding upon the Parties hereto and their respective successors, representatives, and assigns. Notwithstanding the foregoing, no Party to this Agreement may assign their rights or obligations under this Agreement without the written consent of the other Parties.

4. The provisions of this Agreement shall be governed by and construed and entered in accordance with the substantive laws of the State of Texas. Any action at law or in equity brought to enforce any provision of this Agreement shall be brought in a court of competent jurisdiction with venue in Denton County, Texas.

5. Should any provision of this Agreement be declared void by a court of competent jurisdiction, the remaining provisions of this Agreement shall remain in full force and effect.

6. Nothing in this Agreement may be used as an admission in any litigation or other contested matter, except to enforce the terms of this Agreement and to obtain approval of the Notice of Intent.

7. The Parties represent that the respective signatories to this Agreement are authorized to execute this Agreement on behalf of their respective Party and that such signatory has received the necessary approval of its governing body to execute this Agreement on the Party's behalf.

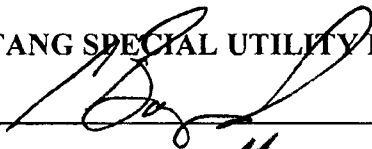
8. This Agreement may be executed in multiple counterparts, each of which shall constitute an original and all of which counterparts, when taken together, shall constitute one and

the same Agreement. The Parties agree that delivery of a signed counterpart, or the signed Agreement by facsimile or electronic mail, shall be deemed the same as the delivery of an original document.

*[Signature Pages Follow]*

Executed and Agreed by the Parties hereto as follows:

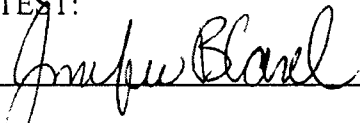
MUSTANG SPECIAL UTILITY DISTRICT

By: 

Title: GENERAL MANAGER

Date: 1 Aug 17

ATTEST:

  
Secretary

**TERRA SOUTHWEST, INC.**

By: Jim Brisley

Title: OWNER-OPERATOR

Date: July 7, 2017

**DRH LAND OPPORTUNITIES I, INC.**  
a Delaware corporation

By: Quil Barth

Title: Asst VP

Date: 7-21-17

Exhibit "A"

AFFIDAVIT OF JIM PRESLEY  
ON BEHALF OF TERRA SOUTHWEST, INC.

STATE OF TEXAS

COUNTY OF Hockley

BEFORE ME, the undersigned authority, on this day personally appeared Jim Presley, whose identity is known to me. Upon being duly sworn he stated:

1. "My name is Jim Presley. I am of sound mind and capable of making this Affidavit. The facts stated in this Affidavit are within my personal knowledge and are true and correct.
2. I am an owner of Terra Southwest, Inc. and am authorized to act on behalf of Terra Southwest, Inc.
3. I understand that Mustang Special Utility District intends to provide water service to an approximately 102-acre tract of land (the "Property") that was decertified from the water certificate of convenience and necessity of Terra Southwest, Inc. in Application No. 37386-C before the Texas Commission on Environmental Quality.
4. I hereby swear and affirm that Terra Southwest, Inc. has entered into a settlement agreement by which it will be paid just and adequate compensation by or on behalf of Mustang Special Utility District to Terra Southwest, Inc. under Texas Water Code § 13.254.
5. I authorize Mustang SUD to submit this affidavit to the PUC as proof of Terra Southwest, Inc.'s agreement that the amount to be paid by or on behalf of Mustang Special Utility District under the terms of the settlement agreement is just and adequate compensation due to the decertification of the Property."

FURTHER AFFIANT SAYETH NAUGHT.

Jim Presley  
 Jim Presley  
 Title Owner-Operator

SWORN TO and SUBSCRIBED before me by Jim Presley on July 6 - , 2017.

Christi Spruiell  
 Notary Public in and for the State of Texas  
 My Commission expires: 5-17-21

