



Control Number: 49386



Item Number: 30

Addendum StartPage: 0

DOCKET NO. 49386

**APPLICATION OF LAS LOMAS
MUNICIPAL UTILITY DISTRICT NO.
4A OF KAUFMAN COUNTY,
FORMERLY KNOWN AS LAS LOMAS
MUNICIPAL UTILITY DISTRICT NO.
4 OF KAUFMAN COUNTY AND LAS
LOMAS MUNICIPAL UTILITY
DISTRICT NO. 4B OF KAUFMAN
COUNTY FOR SALE, TRANSFER, OR
MERGER OF SEWER FACILITIES
AND CERTIFICATE RIGHTS IN
KAUFMAN COUNTY**

§
§
§
§
§
§
§
§
§
§
§

**PUBLIC UTILITY COMMISSION
OF TEXAS**



**JOINT SUPPLEMENTAL MOTION TO ADMIT EVIDENCE AND PROPOSED
NOTICE OF APPROVAL**

COMES NOW the Staff (Staff) of the Public Utility Commission of Texas (Commission), representing the public interest, and files this Joint Motion to Admit Evidence and Proposed Notice of Approval, together with Las Lomas Municipal Utility District No. 4A of Kaufman County, formerly known as Las Lomas Municipal Utility District No. 4 of Kaufman County, and Las Lomas Municipal Utility District No. 4B of Kaufman County (collectively, the Parties,) and file this Joint Supplemental Motion to Admit Evidence and Proposed Notice of Approval. In support thereof, the Parties show the following.

I. BACKGROUND

On March 28, 2019, Las Lomas Municipal Utility District No. 4A (Las Lomas 4A) and Las Lomas Municipal Utility District No. 4B (Las Lomas 4B) (collectively, Applicants) filed an application for sale, transfer, or merger of facilities and certificate rights in Kaufman County, Texas. Specifically, Las Lomas 4B seeks approval to acquire facilities and to transfer sewer service area from Las Lomas 4A under sewer Certificate of Convenience and Necessity (CCN) No. 21007. The requested area includes approximately 6,168 acres and zero customers. The Applicants filed supplemental information on April 9, 2019, June 21, 2019, and September 10, 2019.

On October 17, 2019, Order No. 6 was issued, finding the application administratively complete. On January 8, 2020, Order No. 7 was issued, finding notice sufficient. On July 28, 2020, Order No. 11 was issued finding closing documentation sufficient and requiring that the parties file a joint motion to admit evidence and proposed notice of approval by September 28, 2020. This pleading, therefore, is timely filed.

II. JOINT SUPPLEMENTAL MOTION TO ADMIT EVIDENCE

The Parties move to admit the following into the record of evidence in this proceeding:

- (a) Applicants' Proof of Transaction filed on June 16, 2020 (AIS Item No. 26);
- (b) Staff's recommendation on sufficiency of closing documents and proposed procedural schedule filed on July 28, 2020 (AIS Item No. 28);
- (c) Applicants' consent forms filed on September 15, 2020 (AIS Item No. 29); and the attached map and certificate.

III. JOINT PROPOSED NOTICE OF APPROVAL

The attached Joint Proposed Notice of Approval would authorize the transfer of facilities and certificate rights in Kaufman County, Texas under sewer CCN No. 21007 from Las Lomas 4A to Las Lomas 4B.

IV. CONCLUSION

The Parties respectfully request that the Commission grant the Motion to Admit Evidence and adopt the attached Proposed Notice of Approval.

Dated: September 28, 2020

Respectfully submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION**

Rachelle Nicolette Robles
Division Director

Eleanor D'Ambrosio
Managing Attorney

/s/ John Harrison
John Harrison
State Bar No. 24097806
1701 N. Congress Avenue
P.O. Box 13326
Austin, Texas 78711-3326
(512) 936-7277
(512) 936-7268 (facsimile)
John.Harrison@puc.texas.gov

DOCKET NO. 49386

CERTIFICATE OF SERVICE

I certify that, unless otherwise ordered by the presiding officer, notice of the filing of this document was provided to all parties of record via electronic mail on September 28, 2020, in accordance with the Order Suspending Rules, issued in Project No. 50664.

/s/ John Harrison
John Harrison

DOCKET NO. 49386

APPLICATION OF LAS LOMAS	§	PUBLIC UTILITY COMMISSION
MUNICIPAL UTILITY DISTRICT NO.	§	OF TEXAS
4A OF KAUFMAN COUNTY,	§	
FORMERLY KNOWN AS LAS LOMAS	§	
MUNICIPAL UTILITY DISTRICT NO	§	
4 OF KAUFMAN COUNTY AND LAS	§	
LOMAS MUNICIPAL UTILITY	§	
DISTRICT NO. 4B OF KAUFMAN	§	
COUNTY FOR SALE, TRANSFER, OR	§	
MERGER OF SEWER FACILITIES	§	
AND CERTIFICATE RIGHTS IN	§	
KAUFMAN COUNTY	§	

JOINT PROPOSED NOTICE OF APPROVAL

This Notice of Approval addresses the application of Las Lomas Municipal Utility District No. 4A of Kaufman County, formerly known as Las Lomas Municipal Utility District No. 4 of Kaufman County (Las Lomas 4A), and Las Lomas Municipal Utility District No. 4B of Kaufman County (Las Lomas 4B) for approval of a sale, transfer, or merger of facilities and certificate rights in Kaufman County. The applicants seek to transfer all of Las Lomas 4A's facilities and service area under sewer certificate of convenience and necessity (CCN) number 21007 to Las Lomas 4B.

I. Findings of Fact

The Commission makes the following findings of fact.

Applicants

1. Las Lomas Municipal Utility District No. 4 of Kaufman County (Las Lomas) was created by Senate Bill 1894 passed during the 79th Regular Legislative Session.
2. Las Lomas was a conservation and reclamation district created under and essential to accomplishing the purposes of Section 52, Article III, and Section 59, Article XVI, of the Texas Constitution and operating pursuant to Chapters 49 and 54 of the Texas Water Code;
3. Las Lomas provided sewer service in Kaufman County under CCN number 21007.
4. On November 6, 2018, the residents of Las Lomas voted to divide Las Lomas into Las Lomas Municipal Utility District Nos. 4A, 4B, and 4C with Las Lomas 4A assuming all contracts, agreements, assets, and liabilities, including sewer CCN number 21007.

5. Lomas Municipal Utility District Nos. 4A, 4B, and 4C have agreed that Las Lomas 4B will serve as the Master District.

Application

6. On March 28, 2019, the applicants filed an application for approval to transfer all of Las Lomas 4A's facilities and service area under sewer CCN number 21007 to Las Lomas 4B, as Master District. Las Lomas 4B will retain CCN number 21007.
7. The applicants filed supplemental information on April 9, 2019, June 21, 2019, and September 10, 2019.
8. The requested service area subject to this transaction consists of approximately 6,168 acres located approximately 5 miles east of downtown Terrell, Texas, and is generally bounded on the north by US 80; on the east by TX 557; on the south by FM 148 and FM 2578; and on the west by FM 1641.
9. The total service area subject to the transaction comprises approximately 6,168 acres and zero current customers.
10. In Order No. 6 filed on October 17, 2019, the ALJ deemed the application administratively complete.

Notice

11. On November 21, 2019, the applicants filed the affidavit of Joshua A. Bethke, attorney for the applicants, attesting that notice was provided to current customers, neighboring utilities, and affected parties on November 20, 2019.
12. In Order No. 7 filed on January 8, 2020, the ALJ deemed the notice sufficient.

Evidentiary Record

13. On March 25, 2020, Commission Staff filed an agreed motion to admit evidence.
14. In Order No. 9 filed on April 14, 2020, the ALJ admitted the following evidence into the record: (a) the application filed on March 28, 2019; (b) the applicants' supplemental filing of maps and CCN boundaries filed on April 9, 2019; (c) the applicants' supplemental information in response to Commission Staff's recommendation on administrative completeness filed on June 21, 2019; (d) the applicants' supplemental information in response to Commission Staff's recommendation on administrative completeness filed on

September 10, 2019; (e) Commission Staff's supplemental recommendation on administrative completeness and proposed procedural schedule filed on October 11, 2019; (f) the applicants' affidavit of notice and notices of intent to purchase and transfer sewer service area under CCN number 21007; and (g) Commission Staff's recommendation on the transaction filed on January 23, 2020.

15. On September 28, 2020, Commission Staff filed a supplemental motion to admit evidence on behalf of the parties.
16. In Order No. 12, filed on _____, the ALJ admitted the following evidence into the record: (a) the applicants' Proof of Transaction filed on June 16, 2020; (b) Commission Staff's recommendation on sufficiency of closing documents and proposed procedural schedule filed on July 28, 2020; (c) the applicants' consent forms filed September 15, 2020; and (d) the map and certificates consented to by the applicants.

Sale

17. In Order No. 10 filed on May 20, 2020, the ALJ approved the transaction to proceed and required the applicants to file proof that the transaction had closed and that customer deposits had been addressed.
18. On June 16, 2020, the applicants filed proof that the transaction had been consummated and that there were no customer deposits to be addressed.
19. In Order No. 11 filed on July 28, 2020, the ALJ found the closing documentation sufficient.

System Compliance—TWC § 13.301(e)(3); 16 Texas Administrative Code §§ 24.227(a), 24.239(j)(3)(A), (j)(5)(A)

20. Las Lomas 4B has not been under an enforcement action by the Commission, the TCEQ, the Texas Department of Health, the Office of the Attorney General, nor the United States Environmental Protection Agency in the past five years for non-compliance with rules, orders, or state statutes.

Adequacy of Existing Service—TWC § 13.246(c)(1); 16 TAC §§ 24.227(e)(1), 24.239(j)(5)(B)

21. There is no existing sewer service in the requested area.

Need for Additional Service—TWC § 13.246(c)(2); 16 TAC §§ 24.227(e)(2), 24.239(j)(5)(C)

- 22. The requested area is already certificated; therefore, this criterion was not considered.
- 23. This is an application to transfer only existing facilities, customers, and service area.

Effect of Approving the Transaction and Granting the Amendment—TWC §§ 13.246(c)(3); 16 TAC §§ 24.227(e)(3), 24.239(j)(5)(D)

- 24. The transaction will transfer the requested area to Las Lomas 4B.
- 25. Las Lomas 4A, 4B, and 4C are the only entities affected by this transfer.
- 26. Any landowners in the area that do not currently receive service from Las Lomas 4A will need to request service from Las Lomas 4B if they require service after the transaction has been completed.

Ability to Serve: Managerial and Technical—TWC §§ 13.241(a), (c), 13.246(c)(4), 13.301(b), (e)(2); 16 TAC §§ 24.227(a), (e)(4), 24.239(2), (j)(5)(E)

- 27. Las Lomas 4B holds TCEQ discharge permit number WQ0014803001 and is capable of meeting the TCEQ's design criteria for sewer treatment plants and the requirements of the TWC.
- 28. Las Lomas 4B will contract with Inframark, LLC, which employs TCEQ-licensed operators, to operate its sewer system.
- 29. Las Lomas 4B has the managerial and technical capability to provide continuous and adequate service to the requested area.

Feasibility of Obtaining Service from Adjacent Retail Public Utility—TWC § 13.246(c)(5); 16 TAC §§ 24.227(e)(5), 24.239(j)(5)(F)

- 30. There are currently no other sewer service providers in the adjacent area.
- 31. The area subject to the transaction is already certificated to Las Lomas 4A.
- 32. It is not feasible for an adjacent utility to provide service to the requested area.

Ability to Serve: Financial Ability and Stability—TWC §§ 13.241(a), 13.246(c)(6), 13.301(b); 16 TAC §§ 24.11(e), 24.227(a), (e)(6), 24.239(2), (j)(5)(G)

- 33. Las Lomas 4B has a debt service coverage ratio that is greater than 1.25, which meets the

leverage test.

34. Las Lomas 4B has demonstrated that it has sufficient cash available to cover any projected operations and maintenance shortages in the first five years of operations. Specifically, based on the projected income statement for five years, the first year shows a net loss of (\$12,915); however, net operating income before non-cash depreciation positive \$327,469, and years two to five show positive net income. Thus, there are no shortages to cover, which meets the operations test
35. Las Lomas 4B has the financial ability and stability necessary to provide continuous and adequate service to the requested area.

Financial Assurance—TWC §§ 13.246(d), 13.301(c); 16 TAC §§ 24.227(f), 24.239(h)

36. Serving the future development that is planned in the requested area will require the construction of facilities that cost approximately \$120,715,483.
37. Las Lomas 4B and the developer have executed an agreement under which the developer will finance the construction of the infrastructure needed to provide sewer service, and Las Lomas will reimburse the developer out of bond proceeds.
38. Las Lomas 4B is able to issue debt in the form of bonds to fully reimburse the costs of the sewer infrastructure needed to serve future development the area subject to the transaction.
39. There is no need to require Las Lomas 4B to provide a bond or other financial assurance to ensure continuous and adequate service to the requested area.

Environmental Integrity—TWC § 13.246(c)(7); 16 TAC §§ 24.227(e)(7), 24.239(j)(5)(H)

40. This criterion was not considered because this transaction is only for the transfer of certificated area. Future construction may minimally affect the environmental integrity and the land.

Effect on the Land—TWC § 13.246(c)(9); 16 TAC § 24.227(e)(9)

41. This criterion was not considered because this transaction is only for the transfer of certificated area. Future construction may minimally affect the land.

Improvement of Service or Lowering Cost to Consumers—TWC § 13.246(c)(8); 16 TAC § 24.227(e)(8), 24.239(j)(5)(I)

42. These criteria were not considered because there are no existing customers and service is not being provided to the requested area.in the area subject to the transaction.

Regionalization or Consolidation—TWC §§13.241(d); 16 TAC § 24.227(b)

43. Construction of a new facilities will be necessary for Las Lomas 4B to provide service to the requested area.
44. There are no retail public sewer utilities within one half mile from the outer boundary of the requested area.
45. Las Lomas has complied with the Commission's requirements on regionalization and consolidation.

Map and Certificate

46. On September 15, 2020, Commission Staff emailed to the applicants the final proposed map and certificate related to this docket.
47. On September 15, 2020, the applicants filed their consent form concurring with the map and certificate.
48. The final map and certificate were filed as an attachment to the joint motion to admit evidence and proposed Notice of Approval.

Informal Disposition

49. More than 15 days have passed since the completion of notice provided in this docket.
50. No person filed a protest or motion to intervene.
51. Las Lomas 4A, Las Lomas 4B, and Commission Staff are the only parties to this proceeding.
52. No party requested a hearing and no hearing is needed.
53. Commission Staff recommends approval of the application.
54. The decision is not adverse to any party.

II. Conclusions of Law

The Commission makes the following conclusions of law.

1. The Commission has jurisdiction over this proceeding under TWC §§ 13.041, 13.241, 13.244, 13.246, 13.251, 13.254, and 13.301.
2. Las Lomas 4A and Las Lomas 4B are retail public utilities as defined by TWC § 13.002(19) and 16 Texas Administrative Code (TAC) § 24.3(31).
3. Notice of the application was provided as required by TWC § 13.301(a) and 16 TAC § 24.239(a) through (c).
4. The Commission processed the application as required by the TWC, Administrative Procedure Act,¹ and Commission rules.
5. Las Lomas 4A and Las Lomas 4B have complied with the requirements of 16 TAC § 24.239(m) with respect to customer deposits.
6. Las Lomas 4A and Las Lomas 4B completed the sale within the time required by 16 TAC § 24.239(o). After consideration of the factors in TWC § 13.246(c) and 16 TAC §§ 25.227(e) and 24.239(j)(5), Las Lomas 4B has demonstrated adequate financial, managerial, and technical capability for providing adequate and continuous service to the requested area. TWC § 13.301(b) and 16 TAC § 24.239(g).
7. Las Lomas 4A and Las Lomas 4B have demonstrated that the transfer of Las Lomas 4A's CCN number 21007 will serve the public interest and is necessary for the service, accommodation, convenience, or safety of the public. TWC §§ 13.301(d), 13.246(b).
8. Las Lomas 4B must record a certified copy of the certificate granted and map approved by this Notice of Approval, along with a boundary description of the service area, in the real property records of Kaufman County within 31 days of receiving this Notice of Approval and submit to the Commission evidence of the recording. TWC § 13.257(r), (s).
9. The requirements for informal disposition under 16 TAC § 22.35 have been met in this proceeding.

III. Ordering Paragraphs

In accordance with the preceding findings of fact and conclusions of law, the Commission issues the following orders.

¹ Tex Gov't Code §§ 2001 001- 902

1. The Commission approves the transfer of Las Lomas 4A's sewer service area under CCN number 21007 to Las Lomas 4B, to the extent provided in this Notice of Approval.
2. The Commission transfers sewer CCN number 21007 to Las Lomas 4B.
3. The Commission approves the map, and certificate attached to this Notice of Approval.
4. Las Lomas 4B must serve every customer and applicant for service within the approved area under sewer CCN number 21007 that requests sewer service and meets the terms of Las Lomas 4B's sewer service, and such service must be continuous and adequate.
5. Las Lomas 4B must comply with the recording requirements in TWC § 13.257(r) and (s) for the area in Kaufman County affected by the application and submit to the Commission evidence of the recording no later than 31 days after receipt of this Notice of Approval.
6. The Commission denies all other motions and any other requests for general or specific relief, if not expressly granted.

Signed at Austin, Texas the ____ day of September, 2020.

PUBLIC UTILITY COMMISSION OF TEXAS

ADMINISTRATIVE LAW JUDGE



Public Utility Commission of Texas

By These Presents Be It Known To All That

Las Lomas Municipal Utility District No. 4B of Kaufman County

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, Las Lomas Municipal Utility District No. 4B of Kaufman County is entitled to this

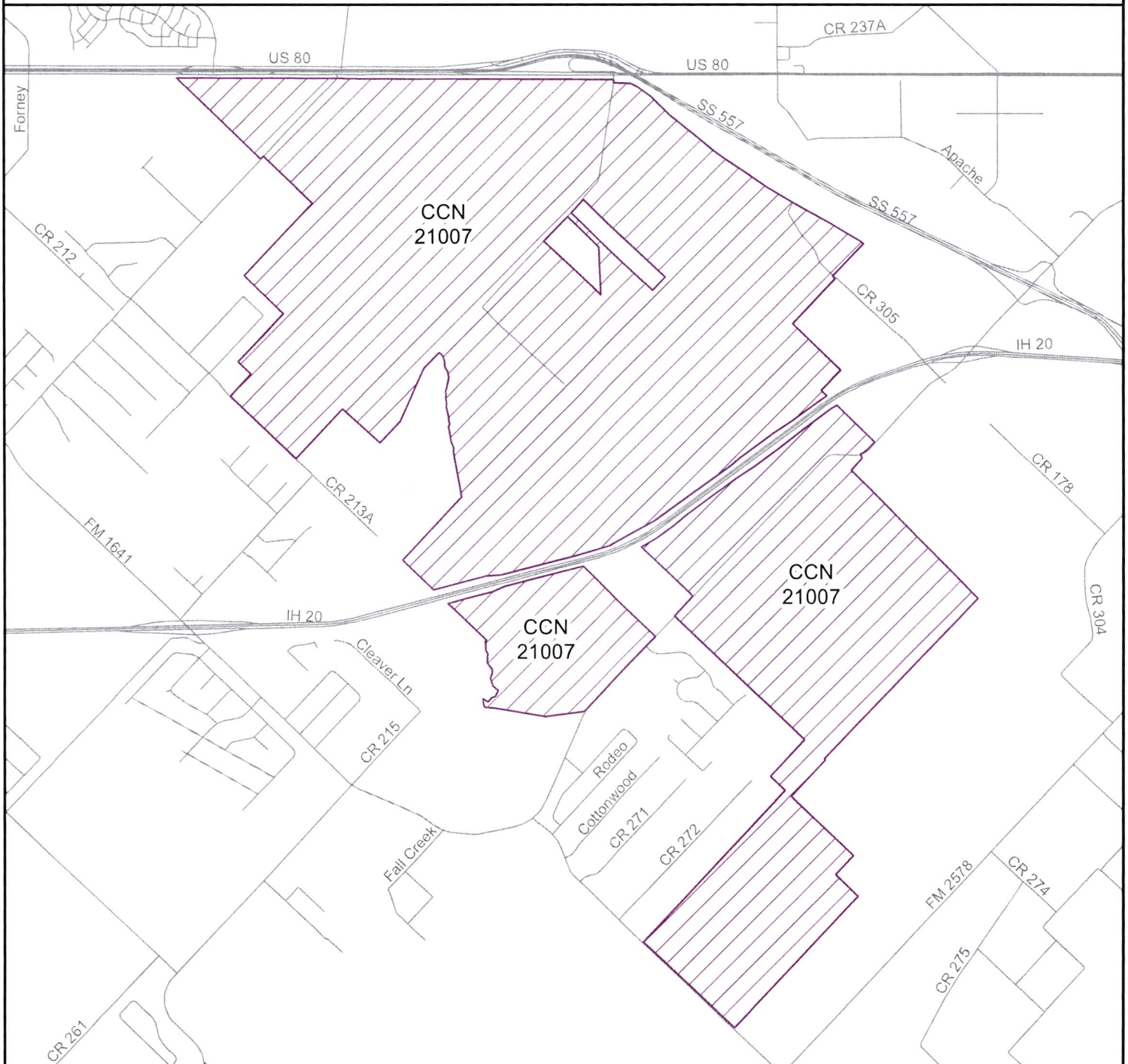
Certificate of Convenience and Necessity No. 21007

to provide continuous and adequate sewer utility service to that service area or those service areas in Kaufman County as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 49386 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 Las Lomas Municipal Utility District No. 4B of Kaufman County 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 _____ day of _____ 20__.

Las Lomas Municipal Utility District No. 4B of Kaufman County
Sewer CCN No. 21007
PUC Docket No. 49386

Transferred all of Las Lomas Municipal District No. 4 of Kaufman County, CCN No. 21007 in
Kaufman County



Sewer CCN

 21007 - Las Lomas Municipal Utility District No. 4B of Kaufman County

0 2,000 4,000
Feet

