



Control Number: 49904



Item Number: 14

Addendum StartPage: 0

DOCKET NO. 49904

PETITION OF REPUBLIC BUSINESS	§	PUBLIC UTILITY COMMISSION
CENTER LLC TO AMEND AQUA	§	
TEXAS, INC.'S CERTIFICATES OF	§	OF TEXAS
CONVENIENCE AND NECESSITY IN	§	
HARRIS COUNTY BY EXPEDITED	§	
RELEASE	§	

COMMISSION STAFF'S FINAL RECOMMENDATION

COMES NOW the Staff of the Public Utility Commission of Texas (Staff), representing the public interest, and in response to Order No. 3, files this Final Recommendation. Staff recommends that the petition be approved and, in support, shows the following:

I. BACKGROUND

On August 27, 2019, Republic Business Center LLC (Republic or Petitioner) filed an application for expedited release from Aqua Texas, Inc.'s (Aqua) water Certificate of Convenience and Necessity (CCN) No. 13203 and sewer CCN No. 21065 in Harris County under Texas Water Code § 13.254(a-5) and 16 Texas Administrative Code § 24.245(l).

Petitioner asserted that it owns approximately 156 acres of contiguous property in Harris County, Texas (Property) and requested expedited release for approximately 14 acres. Furthermore, Petitioner stated that all of the Property is located within the boundaries of Aqua's water CCN No. 13203 and sewer CCN No. 21065. Additionally, Petitioner claimed that the Property is not receiving service from any water service provider.

On October 11, 2019, Staff filed a recommendation that the petition be found administratively complete and its notice sufficient. Thereafter, on October 18, 2019, the Administrative Law Judge (ALJ) issued Order No. 3, whereby Staff was required to file a final recommendation by November 1, 2019. Therefore, this pleading is timely filed.

II. JURISDICTION AND LEGAL AUTHORITY

As an alternative to decertification, the Texas Water Code and the Texas Administrative Code permit a landowner to petition the Commission for an expedited release of land from a

17

CCN. The Texas Water Code and the Texas Administrative Code have separate, though similar, provisions for landowners seeking an expedited release.¹ The relevant portion of the Texas Water Code states:

[T]he owner of a tract of land that is at least 25 acres and that is not receiving water or sewer service may petition for expedited release of the area from a certificate of public convenience and necessity and is entitled to that release if the landowner's property is located in a county with a population of at least one million, a county adjacent to a county with a population of at least one million, or a county with a population of more than 200,000 and less than 220,000 that does not contain a public or private university that had a total enrollment in the most recent fall semester of 40,000 or more, and not in a county that has a population of more than 45,500 and less than 47,500.²

Comparatively, the Texas Administrative Code states:

[T]he owner of a tract of land may petition the commission for streamlined expedited release of all or a portion of the tract of land from the current CCN holder's certificated service area if the following conditions are met: (A) the tract of land is at least 25 acres in size; (B) the tract of land is not receiving service of the type that the current CCN holder is authorized to provide under the applicable CCN; and (C) at least part of the tract of land is located in the current CCN holder's certificated service area and at least some of that part is located in a qualifying county. (D) A qualifying county under subparagraph (C) of this paragraph does not have a population of more than 45,000 and less than 47,500 and is a county (i) with a population of at least one million, (ii) adjacent to a county with a population of at least one million, or (iii) with a population of more than 200,000 and less than 220,000 that does not contain a public or private university that had a total enrollment in the most recent fall semester of 40,000 or more.³

Republic is seeking expedited release of 14 acres from its 156 acre tract of land that is not receiving water service.⁴ Pursuant to TWC § 13.254(a-6), the Commission must render a decision on a petition for expedited release “not later than the 60th calendar day after the date the landowner files the petition.” A petition is not considered filed until after a determination of administrative completeness. Republic's petition was deemed administratively complete in

¹ See generally TWC § 13.254(a-5); 16 TAC § 24.245(l).

² TWC § 13.254(a-5).

³ 16 TAC § 24.245(l)(2).

⁴ Amended Petition by Republic Business Center LLC for Expedited Release Pursuant to Texas Water Code Section § 13.254(a-5), at 2 (Sept. 17, 2019).

Order No. 3, issued on October 18, 2019. Therefore, the sixty (60) day deadline for administrative approval is December 17, 2019.

III. FINAL RECOMMENDATION

As supported by the attached memorandum of Nabaraj Pokharel (Attachment A), an Infrastructure Division Engineering Specialist, Staff has reviewed the petition for expedited release and recommends that it be approved. The maps and digital data filed by Petitioner provide adequate information to demonstrate that Petitioner satisfies the requirements of TWC § 13.254(a-5) and 16 TAC § 24.245(*l*). Specifically, the maps and digital data provided by Petitioner enable Staff to determine: (1) the acreage of the Property is at least 25 acres; (2) that the requested area for release is not receiving water service; (3) that the requested area for release is located within Aqua's certificated areas; and (4) the location of the requested release area is within a qualifying county, specifically, Harris County. In addition, the deeds submitted by Petitioner provide confirmation of Petitioner's ownership in the Property. Consequently, Republic has shown through its petition that it meets the requirements for expedited release. Therefore, Staff recommends that Republic's petition be approved.

Based on Mr. Pokharel's memorandum, Staff further recommends that no property be deemed useless or valueless in accordance with 24.245(n)(3). Staff further recommends that a compensation proceeding is not necessary, should the Commission determine that there is no useless or valueless property, pursuant to 24.245(n)(7).

The final Water CCN map (Attachment B) and Water CCN certificate (Attachment C) are attached to this filing.

IV. CONCLUSION

For the reasons detailed above, Staff respectfully recommends that Republic Business Center, LLC's petition be approved.

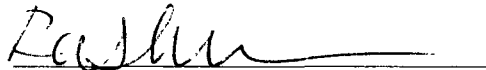
Dated: November 8, 2019

Respectfully submitted,

**PUBLIC UTILITY COMMISSION OF
TEXAS LEGAL DIVISION**

Margaret Uhlig Pemberton
Division Director

Rachelle Nicolette Robles
Managing Attorney

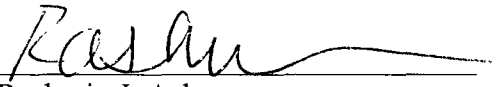
A handwritten signature in cursive script, appearing to read "Rashmin", followed by a horizontal line.

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DOCKET NO. 49904

CERTIFICATE OF SERVICE

I certify that a copy of this document will be served on all parties of record on November 8, 2019, in accordance with 16 TAC § 22.74.


Rashmin J. Asher

PUC Interoffice Memorandum

To: Rashmin Asher, Attorney
Legal Division

Thru: Heidi Graham, Manager
Infrastructure Division

From: Nabaraj Pokharel, Engineering Specialist
Infrastructure Division

Date: November 8, 2019

Subject: Docket No. 49904: Petition of Republic Business Center LLC to amend Aqua Texas, Inc.'s Certificates of Convenience and Necessity in Harris County by Expedited Release

On August 27, 2019, Republic Business Center LLC (Republic or Petitioner) filed an application for expedited release from Aqua Texas, Inc.'s (Aqua) water Certificate of Convenience and Necessity (CCN) No. 13203 and sewer CCN No. 21065 in Harris County, under Texas Water Code § 13.254(a-5) and 16 Texas Administrative Code § 24.245(l). The Petitioner asserts that the land is at least 25 contiguous acres, is not receiving water service, and is located in Harris County which is a qualifying county.

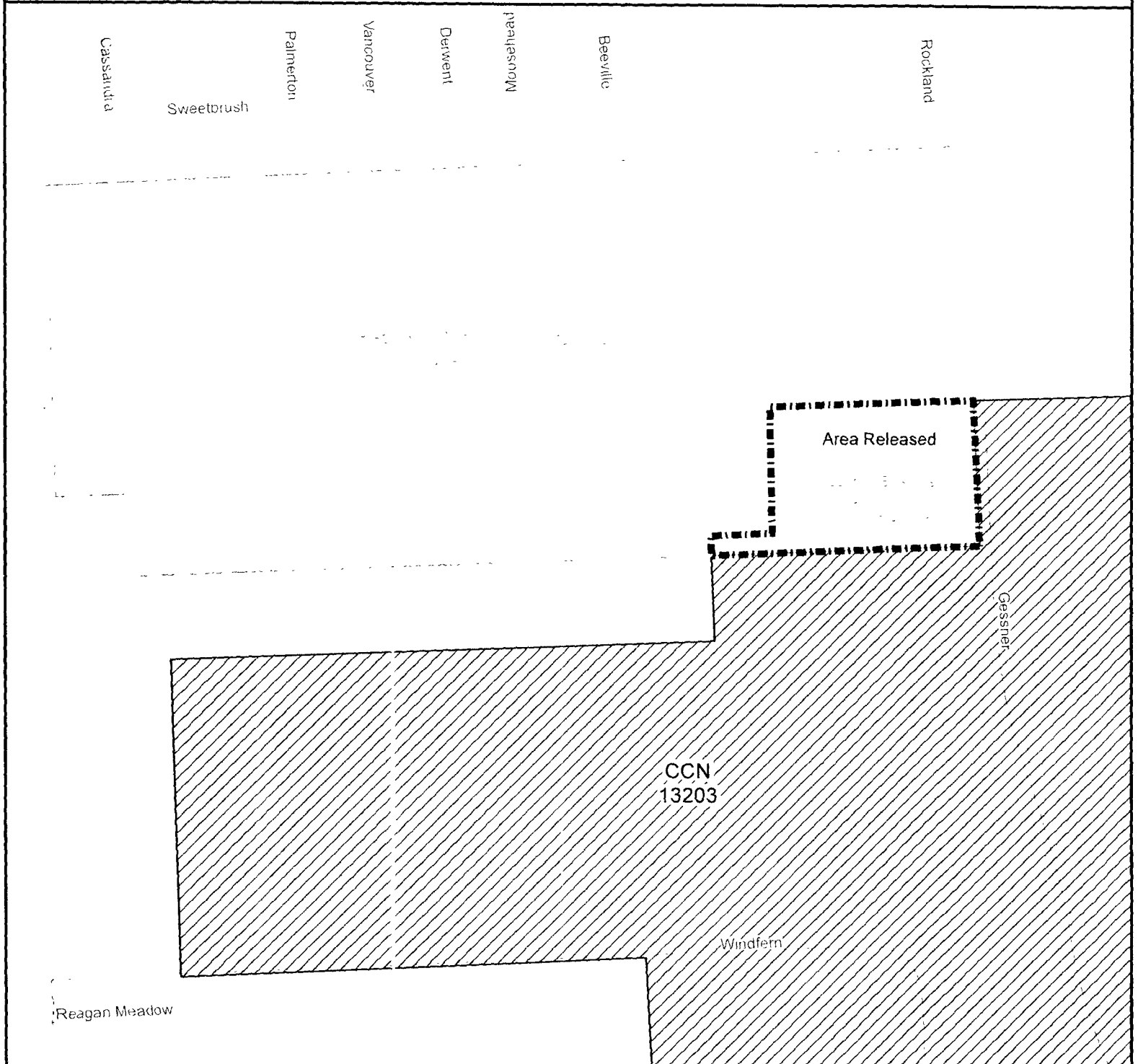
The Petitioner submitted a sworn affidavit attesting that the petition is being filed in accordance with 16 TAC § 24.245(l), as well as proof that a copy of the Petition was sent via certified mail to Aqua Texas, the current holder of water CCN No. 13203 and sewer CCN No. 21065.

The Petitioner submitted an adequate map delineating the requested area for expedited release with enough detail to confirm the accurate positioning of their digital data pursuant to 16 TAC § 24.257. The map and digital data were sufficient for determining the location of the requested release area within the Aqua's certificated area. Mapping Staff was able to confirm the acreage of the subject property and determined that the requested area was located within the subject property. Furthermore, the Petitioner provided a warranty deed confirming the Petitioner's ownership of the tract of land within the subject property. The total property owned by Petitioner is approximately 156 acres and the area being requested for expedited release is approximately 14 acres.

Aqua was granted intervenor status; however, Staff recommends that there is no useless or valueless property, in accordance with 24.245(n)(3). Staff further recommends that a compensation proceeding is not necessary, if the Commission determines that there is no useless or valueless property, pursuant to 24.245(n)(7).

Staff recommends that the Petitioner has met the Commission's requirements to allow for the release of the requested area from Aqua's water CCN No. 13203 and sewer CCN No 21065 and recommends approval of the petition. A final map and certificate are attached for Commission approval.

Aqua Texas, Inc.
 Portion of Water CCN No. 13203
 PUC Docket No. 49904
 Petition by Republic Business Center, LLC to Amend
 Aqua Texas, Inc.'s CCN by Expedited Release in Harris County



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

Water CCN



13203 - Aqua Texas, Inc.



Area Released



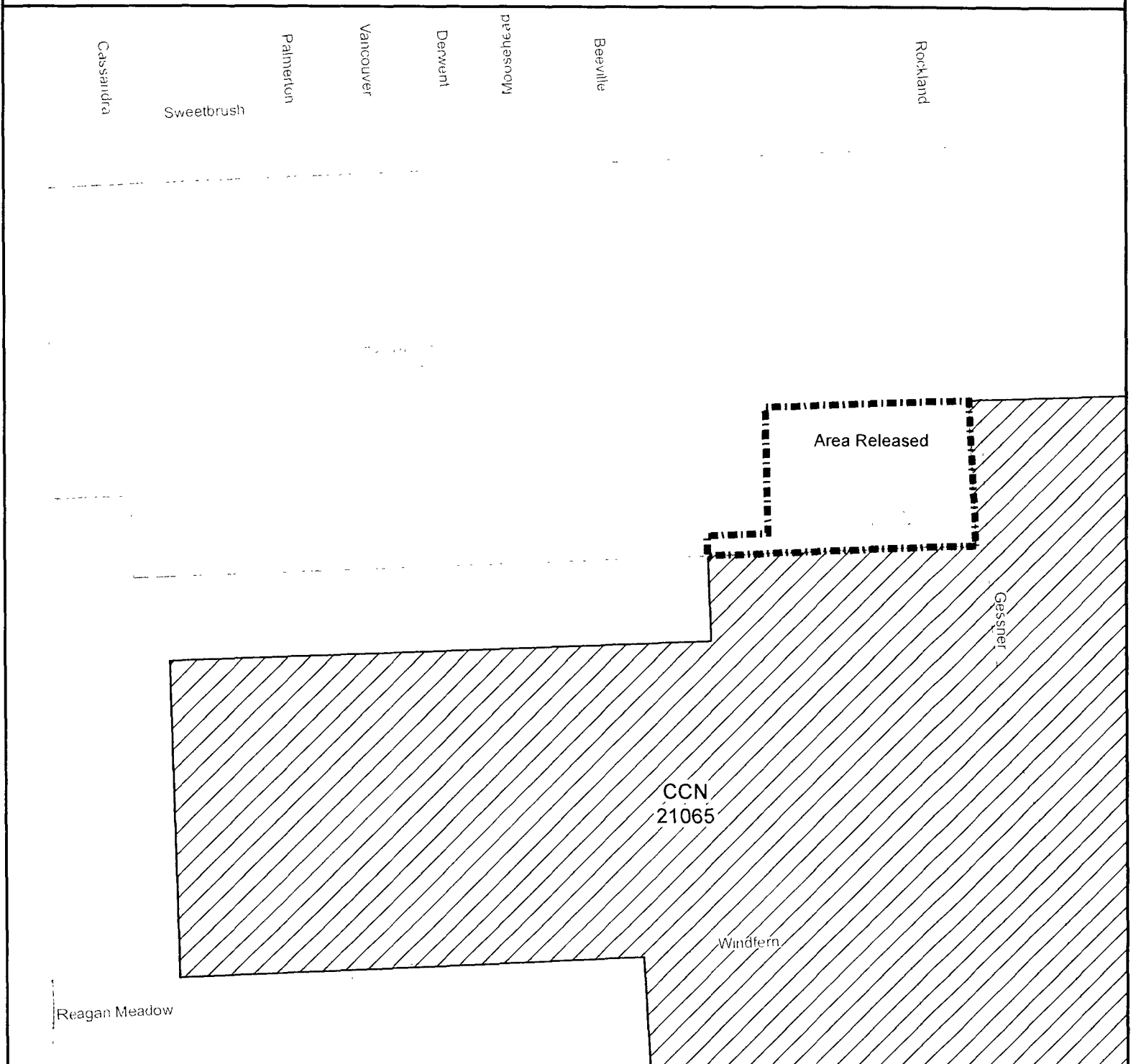
Property Boundary

0 300 600
 Feet




Map by Komal Patel
 Date created: October 17, 2019
 Project Path: n:\finalmapping\
 49904AquaTXWater.mxd

Aqua Texas, Inc.
 Portion of Sewer CCN No. 21065
 PUC Docket No. 49904
 Petition by Republic Business Center, LLC to Amend
 Aqua Texas, Inc.'s CCN by Expedited Release in Harris County



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

Sewer CCN

 21065 - Aqua Texas, Inc.

 Area Released
 Property Boundary

0 300 600
 Feet



Map by Komal Patel
 Date created October 17, 2019
 Project Path n:\finalmapping\
 49904AquaTXSewer.mxd



Public Utility Commission of Texas

By These Presents Be It Known To All That

Aqua Texas, Inc.

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, Aqua Texas, Inc., is entitled to this

Certificate of Convenience and Necessity No. 13203

to provide continuous and adequate water utility service to that service area or those service areas in Brazoria, Chambers, Fort Bend, Grimes, Harris, Jefferson, Liberty, Montgomery, Polk, San Jacinto, Trinity and Wharton Counties as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 49904 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 Aqua Texas, 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 _____ day of _____ 2019.



Public Utility Commission of Texas

By These Presents Be It Known To All That

Aqua Texas, Inc.

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, Aqua Texas, Inc., is entitled to this

Certificate of Convenience and Necessity No. 21065

to provide continuous and adequate sewer utility service to that service area or those service areas in Brazoria, Chambers, Fort Bend, Harris, Jefferson, Montgomery, Polk and Trinity Counties as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 49904 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 Aqua Texas, 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 _____ day of _____ 2019.