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DOCKET NO. 52739

PETITION OF SATER, LP TO AMEND	§	PUBLIC UTILITY COMMISSION
MARILEE SPECIAL UTILITY	§	
DISTRICT'S CERTIFICATE OF	§	OF TEXAS
CONVENIENCE AND NECESSITY IN	§	
COLLIN COUNTY BY EXPEDITED	§	
RELEASE	§	

**MARILEE SPECIAL UTILITY DISTRICT'S VERIFIED RESPONSE TO
PETITION OF SATER, L.P. TO AMEND CERTIFICATE OF CONVENIENCE AND
NECESSITY IN COLLIN COUNTY BY EXPEDITED RELEASE**

TO THE HONORABLE ADMINISTRATIVE LAW JUDGE BURKHALTER:

COMES NOW, MARILEE SPECIAL UTILITY DISTRICT (the "District") and files this Verified Response ("Response") to Sater, L.P.'s ("Petitioner") Petition for Expedited Release Pursuant to Texas Water Code Section 13.2541 ("Petition"), filed in this docket, and respectfully shows as follows:

I. BACKGROUND

1. On October 20, 2021, Petitioner filed its Petition for streamlined expedited release seeking to use the streamlined expedited release process found in Texas Water Code ("TWC") § 13.2541 and 16 Texas Administrative Code ("TAC") § 24.245(h) to extract approximately 269.84 acres (the "Tract of Land") from the water utility service area the District serves under Certificate of Convenience and Necessity ("CCN") No. 10150 in Collin County, Texas.¹ The Petition alleges that the Tract of Land is greater than 25 acres, is not receiving water or sewer service, and is entirely within Collin County.²

2. On October 21, 2021, the Honorable Administrative Law Judge ("ALJ") Burkhalter entered Order No. 1, requiring Staff for the Public Utility Commission (the "Commission") to file

¹ Petition by Sater, L.P. for Expedited Release Pursuant to Texas Water Code Section 13.2541 (Oct. 20, 2021).

² *Id.* at 2.

comments regarding the administrative completeness of the Petition and notice by November 29, 2021.³

3. On November 9, 2021, the District filed a Motion to Intervene, which was granted on November 22, 2021.⁴

4. On December 3, 2021, Petitioner filed a First Amended Petition, which clarified that the Tract of Land is part of a larger piece of 300.09 acres of land owned by Petitioner.⁵

5. On January 10, 2022, the ALJ ordered that the Petition was administratively complete, based on Commission Staff's recommendation, and established a deadline of January 31, 2022, for the District to file its Response to the Petition.⁶

6. On January 11, 2022, Commission Staff filed a First Request for Information to Petitioner and to the District (the "Discovery").⁷ Petitioner filed responses to Commission Staff's Discovery on January 25, 2022. On February 24, 2022, the District filed an Unopposed Motion to Extend Time, explaining that attorney for the District had, due to a clerical error, not having received electronic notification of filings in the case over the Commission Interchange, and requesting until March 10, 2022, to respond to Commission Staff's Discovery. On February 28, 2022, the ALJ declined to rule on the District's motion, holding that the ALJ cannot enforce the Commission's discovery rules in cases brought under TWC § 13.2541, because there is no

³ Order No. 1 – Requiring Comments on Administrative Completeness, Notice, and Other Matters, and Establishing Procedural Schedule (Oct. 21, 2021).

⁴ Marilee Special Utility District's Motion to Intervene (Nov. 9, 2021); Order No. 3 – Granting Intervention (Nov. 22, 2021).

⁵ First Amended Petition by Sater, L.P. for Expedited Release Pursuant to Texas Water Code Section 13.2541, at 2 (Dec. 3, 2021).

⁶ Order No. 6 – Finding Petition Administratively Complete and Notice Sufficient, and Establishing Procedural Schedule (Jan. 10, 2022).

⁷ Commission Staff's First Request for Information to Sater, L.P. Question Nos. Staff 1-1 Through Staff 1-3 (Jan. 11, 2022); Commission Staff's First Request for Information to Marilee Special Utility District Question Nos. Staff 1-1 Through Staff 1-11 (Jan. 11, 2022).

statutory right to conduct discovery in such cases.⁸ The District plans to file its responses to Commission Staff's Discovery on or before March 10, 2022.

7. On February 25, 2022, Commission Staff filed its Recommendation on Final Disposition, recommending release of the Tract of Land, and requesting that Petitioner and Commission Staff have deadlines of March 11, 2022, and March 21, 2022, to respond to the District's verified response to the Petition.⁹

8. On February 14, 2022, the ALJ entered Order No. 7, granting Commission Staff's extension request, and establishing a deadline of March 4, 2022, for the District to respond to the Petition.¹⁰ The District's Response is timely filed.

II. RESPONSE

9. The District is a retail public utility and political subdivision of the State of Texas and the holder of CCN No. 10150. On November 2, 2022, the District was consolidated with Mustang Special Utility District.¹¹ The District, now that it has been consolidated, currently provides retail water service to approximately 29,500 customers.

10. Petitioner is Sater, L.P., a Texas limited partnership.

11. Petitioner has requested that the Commission decertify the Tract of Land from the District's CCN 10150 through streamlined expedited release, the statutory mechanism found in TWC § 13.2541 and 16 TAC § 24.245(h). Streamlined expedited release was created in 2019 to be a simplified offshoot of expedited release that better codified the way CCN holders should be compensated for property decertified from their CCN service area.¹² The statutory mechanism

⁸ Order No. 8 – Declining to Rule on Discovery Motion (Feb. 28, 2022).

⁹ Commission Staff's Recommendation on Final Disposition, at 1 (Feb. 25, 2022).

¹⁰ Order No. 7 – Granting Extension (Feb. 14, 2022).

¹¹ See *infra* n.31 & accompanying text (describing the districts' consolidation pursuant to TWC § 65.723).

¹² See, e.g., Acts 2019, 86th Leg., R.S., Ch. 688, General and Special Laws of Texas (enrolled bill to be codified at TWC § 13.2541). The policies considered by the legislature regarding the substance of both TWC §§ 13.254 and 13.2541 are best reflected by the legislative history for TWC § 13.254, which was enacted in 2005 in House Bill 2876.

allows landowners who meet those criteria to decertify their property from the service area of the CCN holder, depriving the CCN holder of the opportunity to serve that landowner's property.

12. To obtain the release of property under TWC § 13.2541, Petitioner must demonstrate with affirmative evidence in a verified petition that the Petitioner owns a tract of land that is at least 25 acres, that the tract of land is located in a qualifying county, and that the tract of land is not receiving "service" of the type that the current CCN holder is authorized to provide under the applicable CCN.¹³

A. The Petition Must Be Denied Because the District Is Providing Water Service to the Tract of Land.

13. In the "Definitions" section, the TWC broadly defines "service" as:

any act performed, anything furnished or supplied, and any facilities or lines committed or used by a retail public utility in the performance of its duties...to its patrons, employees, other retail public utilities, and the public, as well as the interchange of facilities between two or more retail public utilities."¹⁴

14. Based on the statutory definition of "service," whether or not a tract is receiving "service" is not dependent on whether water or sewer is being used or has been requested on the tract. Instead, a tract is "receiving" water or sewer service if either of the following conditions are met:

- Any facilities or lines are committed or used in the performance of the CCN holder's duties as a retail public utility providing service to the property; or
- Any lines are committed or used in the performance of the CCN holder's duties as a retail public utility.¹⁵

¹³ TWC § 13.2541(b).

¹⁴ TWC § 13.002(21); *see also* 16 TAC § 24.3(33) (same definition).

¹⁵ *See id.*; *see also Tex. Gen. Land Office v. Crystal Clear Water Supply Corp.*, 449 S.W.3d 130, 137 (Tex. App.—Austin 2014, pet. denied).

15. The inquiry into whether a tract is “receiving service” requires the Commission to consider any lines or “facilities” committed to providing water to the tract of land. As defined by the TWC, “Facilities” include:

all the plant and equipment of a retail public utility, including all tangible and intangible real and personal property without limitation, and any and all means and instrumentalities in any manner owned, operated, leased, licensed, used, controlled, furnished, or supplied for, by, or in connection with the business of any retail public utility.¹⁶

16. The TWC’s definitions of “service” and “facilities” have been analyzed by Texas courts in proceedings brought pursuant to TWC § 13.2541 and 16 TAC § 16.245(h). The Austin Court of Appeals has held, for example, that when water lines are present within a tract and “committed” to the property, the tract is “receiving service,” and a petition for streamlined expedited release under TWC § 13.2541 may not be granted.¹⁷

17. As described in the previous section, the TWC and Texas cases, like *Crystal Clear*, define “water service” broadly. The District’s Assistant General Manager, Michael Garrison, and engineer of record, DBI Engineers, are familiar with the Tract of Land, and the District’s service to the Tract of Land. Mr. Garrison has provided an affidavit, attached hereto as “**Exhibit A**” to provide details about the service being provided to the Tract of Land. Eddy Daniel, engineer for DBI Engineers, has provided an affidavit, attached hereto as “**Exhibit B**” to map the Tract of Land and the meters and waterlines on it, surrounding it, and dedicated to serving the Tract of Land.

18. The District maintains the following facilities that currently provide water service to the Tract of Land:

- Meter No. 257 inside the northern boundary of the Tract of Land;
- Meter No. 1301 inside the western boundary of the Tract of Land;
- Meter No. 45 inside the southern boundary of the Tract of Land;

¹⁶ TWC § 13.002(9).

¹⁷ *Crystal Clear*, 449 S.W.3d at 140.

- Meter No. 299 inside the southern boundary of the Tract of Land;
- A 2” waterline, inside the northern boundary of the Tract of Land;
- A 4” waterline, inside the western boundary of the Tract of Land; and
- A 6” waterline, inside the southern boundary of the Tract of Land.¹⁸

19. Meter No. 257, which is located on the Tract of Land, is a District meter in the name of Gregg Allen of Sater, L.P.¹⁹ The meter is currently active, with a “last read” date of February 7, 2022. The meter has been active under Mr. Allen’s name since 2008.²⁰ The District Service Agreement and Cost of Service Agreement for the meter provides that the “Customer” of the District is “Sater, LP,” and the individual who signed the Service Agreement is Gregg Allen.²¹

20. Meter No. 1301, which is located on the Tract of Land, is also a District meter in the name of Gregg Allen of Sater, L.P.²² The meter is currently active, with a “last read” date of February 21, 2022.²³

21. Meter No. 45, which is located on the Tract of Land, is also a District meter in the name of Gregg Allen.²⁴ The meter is currently active, with a “last read” date of February 21, 2022.²⁵ The warranty deed provided to the District for the property associated with Meter No. 45 states that the property is owned by Petitioner, Sater, L.P.²⁶

22. Based on the District’s service to the Tract of Land, and meters, waterlines, and other facilities the District maintains within or near the Tract of Land, the District’s engineer has

¹⁸ See Exhibit A (Affidavit of Michael Garrison) at ¶¶ 3-4; Exhibit B (Affidavit of Eddy Daniel) at ¶¶ 4-5; Ex. B-1 (detailed map showing meters and waterlines inside the boundaries of the Tract of Land).

¹⁹ See Exhibit A (Affidavit Michael Garrison) at ¶ 3(a) and accompanying exhibits.

²⁰ *Id.*

²¹ *Id.*

²² See Exhibit A (Affidavit of Michael Garrison) at ¶ 3(b) and accompanying exhibits.

²³ *Id.*

²⁴ See Exhibit A (Affidavit of Michael Garrison) at ¶ 3(c) and accompanying exhibits.

²⁵ *Id.*

²⁶ *Id.*

stated that in his “professional opinion, the District provides and has the ability and facilities dedicated to continue to provide water service to the Tract of Land.”²⁷

23. Based on these verified facts, the Tract of Land is receiving water service from the District under TWC § 13.2541, 16 TAC § 24.45(h), and *Crystal Clear*. The Tract of Land is thus not eligible for streamlined expedited release, and the Petition (or First Mended Petition) must be denied.

B. Petitioner Has Not Met Petitioner’s Burden of Proof Under TWC § 13.2541 and 16 TAC § 24.245(h).

24. Petitioner, not the District, bears the burden to prove that the Tract of Land is not receiving service.²⁸ The Commission’s substantive rules, specifically 16 TAC § 24.245(h)(3)(D), provide that Petitioner must provide a “statement of facts that demonstrate that the property is not currently receiving service” as a required part of the verified petition.²⁹

25. The verified “statement of facts” that Petitioner must show to meet its burden under 16 TAC § 24.245(h) is reflected in *Johnson County Special Utility District v. Public Utility Comm’n of Texas*.³⁰ There, a land broker filed an affidavit swearing that he searched the property for several hours and found no district water meters or facilities, only “two shuttered ground well heads” and a “small, elevated water storage tank . . . implying that any dwelling on the [p]roperty required that water pressure be generated locally and not from a retail water utility service provider.”³¹ The Commission, based on this un rebutted recitation of facts, properly found that no part of the property requested to be extracted had received water service since at least 2005.³²

²⁷ Exhibit B (Affidavit of Eddy Daniel) at ¶ 6.

²⁸ The fact that Petitioner must satisfy its burden of proof is important to note because, as streamlined-expedited-release cases are not “contested cases” and the District thus has no right to discovery or to an evidentiary hearing as to whether the District has “facilities” that provide or are capable of providing “service” to the Tract of Land in question. *See* 16 TAC § 24.245(h)(7) (“The commission will base its decision on the information filed by the landowner, the current CCN holder, and commission staff. No hearing will be held.”).

²⁹ 16 TAC § 24.245(h)(3)(D).

³⁰ No. 03-17-00160-CV, 2018 WL 2170259 (Tex. App.—Austin May 11, 2018, pet. denied) (mem. op.).

³¹ *Id.* at **6-7.

³² *Id.* at **9-10 (citing Commission’s Finding of Fact No. 24).

26. The “statement of facts” that Petitioner must show in its verified petition to meet its burden under 16 TAC § 24.245(h) is also reflected in *Crystal Clear*. Petitioner in that case, the Texas General Land Office, supported the contention that the area requested to be decertified was not receiving water service by explaining that there were “no active water meters or water connections on and no facilities providing current service” and that there was “one abandoned, empty meter box on the eastern portion of the property, which Crystal Clear itself classifies as inoperative.”³³

27. In this case, Petitioner has not set out facts similar to that in *Johnson County* case or *Crystal Clear*.³⁴ Petitioner has offered no statement of facts, but only a conclusory one-page affidavit claiming, without support, that the Tract of Land does not receive “service” from the District,³⁵ which, as demonstrated by the District’s meters, waterlines, and account details for the Tract of Land, is false. Petitioner has not provided any information regarding an investigation of the Tract of Land. Accordingly, Petitioner has not set out a “statement of facts” to establish that the Tract of Land is not receiving water service, as defined by the TWC, and thus has not satisfied its burden of proof under TWC § 13.2541 and 16 TAC § 24.245(h)(3)(D). As described in the previous section, had Petitioner provided a statement of facts regarding service, the Tract of Land would not be eligible for decertification because the District is providing water service to the Tract of Land through several active meters on the Tract of Land.

28. The District is currently defending against the decertification of 23 tracts of land in its service area, representing a total acreage of approximately 4,839,280 acres.³⁶ The petitions in

³³ *Crystal Clear*, 449 S.W.3d at 134.

³⁴ The same argument applies to the Petition or the First Amended Petition, neither of which are supported by a verified “statement of facts,” but the nearly identical one-page affidavit.

³⁵ See Petition at Exhibit A-1 (Affidavit of Jacob Allen) at ¶ 3 (“The Property is not receiving water or sewer service from Marilee SUD or any other water or sewer service provider. The Property has not requested water or sewer service from Marilee SUD or paid any fees or charges to initiate or maintain water or sewer service, and there are no billing records or other documents indicating an existing account for the Property.”); First Amended Petition at Exhibit A-1 (Affidavit of Jacob Allen) at ¶ 3 (identical).

³⁶ In addition to this case, the District is the CCN holder in 22 other streamlined decertification cases currently before the Commission. See *Petition of Sterling Deason O’Donnell and Darwin Deason, Co-Trustees of the Sterling Deason O’Donnell DD 2012 Trust Under Agreement of the DD 2014-B Grantor Retained Annuity Trust to Amend Marilee Special Utility District’s Certificate of Convenience and Necessity in Collin County by Expedited Release*, Docket No. 50404 (pending); *Petition of CCD-North Sky, LLC to Amend Marilee Special Utility District’s Certificate*

most of the 23 dockets are supported by conclusory, barebones affidavits like that provided in this case. The District respectfully submits that it is inequitable and procedurally improper for the District to have to affirmatively prove, via verified response, that each of the properties, including the Tract of Land in this case, is receiving or is capable of readily receiving water service from the District. Rather, Petitioner should be held to the burden of proof under 16 TAC § 24.245(h)(3)(D) to set out a verified statement of facts proving that the requested area is not receiving service before the Petition may be granted.

29. Petitioner has not met its burden of proof to decertify the Tract of Land under TWC § 13.2541 and 16 TAC § 24.245(h)(3)(D) because Petitioner has not provided the required verified

of Convenience and Necessity in Collin County by Expedited Release, Docket No. 52101 (pending); Petition of Celina Partners, L.P. to Amend Marilee Special Utility District's Certificate of Convenience and Necessity in Collin County by Expedited Release, Docket No. 52434 (pending); Petition of Legacy Equestrian Center LLC to Amend Marilee Special Utility District's Certificate of Convenience and Necessity in Collin County by Expedited Release, Docket No. 52435 (pending); Petition of Huffines Ranch, LLC to Amend Marilee Special Utility District's Certificate of Convenience and Necessity in Collin County by Expedited Release, Docket No. 52490 (pending); Petition of Belknap, FP, Ltd. to Amend Marilee Special Utility District's Certificate of Convenience and Necessity in Collin County by Expedited Release, Docket No. 52515 (pending); Petition of CCD-COIT Land, LLC to Amend Marilee Special Utility District's Certificate of Convenience and Necessity in Collin County by Expedited Release, Docket No. 52516 (pending); Petition of A.J. Malone to Amend Marilee Special Utility District's Certificate of Convenience and Necessity in Collin County by Expedited Release, Docket No. 52517 (pending); Petition of Clifton Van McKnight and Bryan Jeffery McKnight to Amend Marilee Special Utility District's Certificate of Convenience and Necessity in Collin County by Expedited Release, Docket No. 52518 (pending); Petition of HC Celina 414, LLC to Amend Marilee Special Utility District's Certificate of Convenience and Necessity in Collin County by Expedited Release, Docket No. 52497 (pending); Petition of East Tioga 581 LP to Amend Marilee Special Utility District's Certificate of Convenience and Necessity in Grayson County by Expedited Release, Docket No. 52529 (pending); Petition of E Real Estate, LLC to Amend Marilee Special Utility District's Certificate of Convenience and Necessity in Collin County by Expedited Release (Tract 5), Docket No. 52530 (pending); Petition of E Real Estate, LLC to Amend Marilee Special Utility District's Certificate of Convenience and Necessity in Collin County by Expedited Release (Tract 4), Docket No. 52531 (pending); Petition of E Real Estate, LLC to Amend Marilee Special Utility District's Certificate of Convenience and Necessity in Collin County by Expedited Release (Tract 3), Docket No. 52532 (pending); Petition of E Real Estate, LLC to Amend Marilee Special Utility District's Certificate of Convenience and Necessity in Collin County by Expedited Release (Tract 2), Docket No. 52533 (pending); Petition of Central Frisco, Ltd. to Amend Marilee Special Utility District's Certificate of Convenience and Necessity in Collin County by Expedited Release, Docket No. 52534 (pending); Petition of E Real Estate, LLC to Amend Marilee Special Utility District's Certificate of Convenience and Necessity in Collin County by Expedited Release (Mesquoakee Ranch), Docket No. 52536 (pending); Petition by Mesquoakee Ranch, LLC for Expedited Release from Water CCN No. 10150 Held by Marilee Special Utility District in Collin County, Docket No. 52542 (pending); Petition of the Moses and Mary Jane Hubbard Trust to Amend Marilee Special Utility District's Certificate of Convenience and Necessity in Collin County by Streamlined Expedited Release, Docket No. 53037 (pending); Petition of Eland Energy, Inc. to Amend Marilee Special Utility District's Certificate of Convenience and Necessity in Collin County by Streamlined Expedited Release, Docket No. 52653 (pending); Petition of Glenda Sue Winkler to Amend Marilee Special Utility District's Certificate of Convenience and Necessity in Collin County by Streamlined Expedited Release, Docket No. 52917 (pending); Petition of the Moses and Mary Jane Hubbard Trust to Amend Marilee Special Utility District's Certificate of Convenience and Necessity in Collin County by Streamlined Expedited Release, Docket No. 53037 (pending).

“statement of facts.” Accordingly, the District respectfully requests that the Petition be denied because it presents insufficient facts to prove that it is not receiving service from the District under TWC § 13.2541, 16 TAC § 24.245(h)(3)(D), and Texas law.

C. Decertifying the Requested Area Will Curtail and Limit the District’s Ability to Service Its Federal Debt.

30. Pursuant to the Consolidated Farm and Rural Development Act of 1961 and 7 U.S. Code § 1926, the United States Department of Agriculture (“USDA”) may make or insure loans to associations and public and quasi-public agencies. To protect a USDA debtor’s ability to service its debt, it is prohibited by federal law to “curtail or limit” the service area of a USDA debtor. The statute provides:

The service provided or made available through any such association shall not be curtailed or limited by inclusion of the area served by such association within the boundaries of any municipal corporation or other public body, or by the granting of any private franchise for similar service within such area during the term of such loan; nor shall the happening of any such event be the basis of requiring such association to secure any franchise, license, or permit as a condition to continuing to serve the area served by the association at the time of the occurrence of such event.³⁷

31. To be eligible for protection under § 1926(b), the District must show, in addition to federal indebtedness, that it satisfies the “physical abilities” test, as adopted by the U.S. Court of Appeals for the Fifth Circuit, sitting en banc in *Green Valley Special Utility District v. City of Schertz*.³⁸ Judge Smith, writing for the majority, characterized the “physical abilities” test broadly:

To make the test easy to apply to both water and sewer service, we hold that a utility must show that it has (1) adequate facilities to provide service to the area within a reasonable time after a request for service is made and (2) the legal right to provide service. A utility cannot satisfy that test if it has no nearby infrastructure. But ‘pipes in the ground’ is a colloquial shorthand, not a strict requirement.³⁹

³⁷ 7 U.S.C § 1926(b).

³⁸ 969 F.3d 460 (5th Cir. 2020) (en banc).

³⁹ *Green Valley*, 969 F.3d at 477.

32. The en banc court in *Green Valley* cited with approval precedent from the U.S. Court of Appeals for the Sixth Circuit stating that, to satisfy the “physical abilities” test, the utility must have “something in place to merit § 1926(b)’s protection.”⁴⁰ The Court further explained the broad interpretation, “[s]ervice may be ‘available’ even if it cannot be immediately used. No water or sewer utility can make service immediately available to rural, undeveloped land; providing such service involves building or installing facilities, which necessarily takes time to accomplish.”⁴¹ Based on the District’s meters and waterlines located inside the boundaries of the Tract of Land, as reflected in Exhibit B-1, the District is unquestionably providing actual service to the Tract of Land and, accordingly, more than satisfies the “physical abilities” test.

33. Under *Green Valley*, a federally indebted CCN holder has an equitable cause of action for prospective injunctive relief, preventing ongoing or future limitation or curtailment of its service area by the Commissioners.⁴²

34. The District is now consolidated with Mustang Special Utility District (“Mustang SUD”) (together with the District, the “Consolidated District”), in accordance with TWC Chapter 65, Subchapter H.⁴³ Voters within the two districts passed measures consolidating the districts on November 2, 2021 and the elections have been canvassed.⁴⁴

35. Prior to consolidation with the District, Mustang SUD was already indebted to the United States of America Department of Agriculture, Rural Utilities Service, which purchased bonds from Mustang SUD in 2016, in the amount of \$14,142,000 and 2018, in the amount of

⁴⁰ *Id.* at 477 & n.36 (quoting *Lexington—S. Elkhorn Water Dist. v. City of Wilmore*, 93 F.3d 230, 238 (6th Cir. 1996)).

⁴¹ *Id.* at n.38.

⁴² *See id.* at 475 (“Because . . . *Green Valley* has satisfied *Young*’s requirements, its suit for injunctive relief against the PUC Officials may go forward.”) (citing *Ex parte Young*, 209 U.S. 123 (1908)).

⁴³ *See* TWC § 65.723 (“Two or more districts governed by this chapter may consolidate into one district as provided by this subchapter.”); *see also* Exhibit A (Affidavit of Michael Garrison) at ¶¶ 8-9 & accompanying exhibits (affirming that the District has been consolidated with Mustang SUD) and Exhibit C (Affidavit of Chris Boyd) ¶¶ 3-4 & accompanying exhibits (affirming that Mustang SUD has been consolidated with the District).

⁴⁴ *See* TWC § 65.724 (describing procedure).

\$1,000,000 (collectively, the “Bonds”).⁴⁵ The District assumed Mustang SUD’s federal indebtedness when the District and Mustang SUD were consolidated.⁴⁶ The District will be required to make payments on the Bonds until 2055 (2016 Bonds) and 2058 (2018 Bonds).⁴⁷

36. On July 12, 2021, the District received approval from the USDA for a Water and Wastewater Guaranteed loan of \$1,553,000.⁴⁸ The District has not closed on the USDA loan but is working diligently to do so.

37. As the Consolidated District is federally indebted, and with the scheduled closing of the USDA loan approaching, the District has a federal equitable cause of action against the Commissioners should the Commissioners take action to limit or curtail of its service area.

D. Alternatively, the District Must Be Compensated if the Petition is Granted.

38. The Petition should be dismissed for the reasons the District has given; however, if the Commission does decertify the Tract of Land and reduce the District’s CCN No. 10150, the District is entitled to a determination of just and adequate compensation.

39. The TWC prohibits a retail public utility from “in any way render[ing] retail water or sewer service directly or indirectly to the public in an area that has been decertified ... unless just and adequate compensation ... has been paid to the decertified retail public utility,” in this case, the District.⁴⁹ Under the TWC and the Commission’s implementing regulations, “the value of real property owned and utilized by the retail public utility for its facilities shall be determined according to the standards set forth in Chapter 21, Property Code, governing actions in eminent domain,”⁵⁰ and the value of personal property shall be determined according to the factors in that

⁴⁵ See Exhibit C (Affidavit of Chris Boyd), at ¶ 5.

⁴⁶ See TWC § 65.726

⁴⁷ Exhibit C (Affidavit of Chris Boyd), at ¶ 5.

⁴⁸ Exhibit A (Affidavit of Michael Garrison), at ¶¶ 5-7 & accompanying exhibits.

⁴⁹ TWC § 13.254(d); see also TWC § 13.2541(a) (providing that “Sections 13.254(a-7), (c), (d), and (h) apply to a proceeding under this section.”).

⁵⁰ TWC § 13.254(g); see also TWC § 13.2541(h) (providing that “Section 13.254(g) applies to a determination of the monetary amount of compensation under this section.”).

subsection. The factors ensuring that the compensation to a retail public utility is just and adequate shall include:

The amount of the retail public utility's debt allocable for service to the area in question; the value of the service facilities of the retail public utility located within the area in question; the amount of any expenditures for planning, design, or construction of service facilities that are allocable to service to the area in question; the amount of the retail public utility's contractual obligations allocable to the area in question; any demonstrated impairment of service or increase of cost to consumers of the retail public utility remaining after the decertification; the impact on future revenues lost from existing customers; necessary and reasonable legal expenses and professional fees; and other relevant factors.⁵¹

40. If the Tract of Land is removed from the District's CCN No. 10150, the District is entitled to compensation under several of these factors including, but not limited to, the amount of its debt allocable for service to the area; the amount of any expenditures for planning, design, or construction of service facilities that are allocable to service to the area in question; the costs of obtaining permits, planning, design, and construction of facilities, and the necessary and reasonable legal expenses and professional fees that are incurred as a result of the Petition.

III. PRAYER

WHEREFORE, PREMISES CONSIDERED, the District respectfully requests that the ALJ enter a Proposed Order denying the Petition because the District is actively providing water service to the Tract of Land through multiple meters and waterlines located within the boundaries of the Tract of Land; Petitioner has failed to satisfy its burden of proof under TWC § 13.2541, 16 TAC § 24.245(h), and Texas state law; and because the federally indebted Consolidated District is protected from limitation or curtailment of its service area under 7 U.S.C. § 1926(b). Alternatively, if the ALJ proposes that the Petition be granted, the District seeks just and adequate compensation for the reduction of its CCN No. 10150. The District also seeks all other and further relief to which it may be justly entitled at law or in equity.

⁵¹ See TWC § 13.254(g) ("The utility commission shall adopt rules governing the evaluation of these factors.").

Respectfully submitted,


By: 

John J. Carlton
State Bar No. 03817600
Grayson E. McDaniel
State Bar No. 24078966
The Carlton Law Firm P.L.L.C.
4301 Westbank Drive, Suite B-130
Austin, Texas 78746
(512) 614-0901
Fax (512) 900-2855
john@carltonlawaustin.com
grayson@carltonlawaustin.com

ATTORNEYS FOR MARILEE SPECIAL
UTILITY DISTRICT

CERTIFICATE OF SERVICE

I hereby certify that I have served or will serve a true and correct copy of the foregoing document via hand delivery, facsimile, electronic mail, overnight mail, U.S. mail and/or Certified Mail Return Receipt Requested to all parties on this 3rd day of March 2022.



Grayson E. McDaniel

EXHIBIT A

**AFFIDAVIT OF MICHAEL GARRISON,
MARILEE SPECIAL UTILITY DISTRICT'S ASSISTANT MANAGER**

DOCKET NO. 52739

PETITION OF SATER, LP TO AMEND	§	PUBLIC UTILITY COMMISSION
MARILEE SPECIAL UTILITY	§	
DISTRICT'S CERTIFICATE OF	§	OF TEXAS
CONVENIENCE AND NECESSITY IN	§	
COLLIN COUNTY BY EXPEDITED	§	
RELEASE	§	

**SUPPORTING AFFIDAVIT OF MICHAEL GARRISON,
GENERAL MANAGER OF MARILEE SPECIAL UTILITY DISTRICT**

STATE OF TEXAS	§
	§
COUNTY OF COLLIN	§

BEFORE ME, the undersigned authority, on this date personally appeared Michael Garrison who being by me first duly sworn, on his oath deposed and testified as follows:

1. "My name is Michael Garrison. I am more than 18 years of age and I am of sound mind and qualified to make this affidavit. I have personal knowledge of all facts stated herein.
2. "Since 2008, I have been the duly appointed Assistant Manager of Marilee Special Utility District ("District").
3. "The District maintains four active meters within the boundaries of the 269.84 acres of land ("Tract of Land") sought to be decertified in this proceeding from the District's water certificate of convenience and necessity ("CCN") No. 10150. The District's meters on the Tract of Land are accurately reflected in Exhibit B-1 to the affidavit of the District's engineer.
 - a. Meter No. 257, which is located on the Tract of Land, is a District meter in the name of Gregg Allen of Sater, L.P. The meter is currently active, with a "last read" date of February 7, 2022. The meter has been active under Mr. Allen's name since 2008. The District Service Agreement and Cost of Service Agreement for the meter provides that the "Customer" of the District is "Sater, LP," and the individual who signed the Service Agreement is Gregg Allen. The exhibit attached to this affidavit as Exhibit A-1 reflect true and correct copies of District records regarding Meter No. 257.
 - b. Meter No. 1301, which is located on the Tract of Land, is also a District meter in the name of Gregg Allen of Sater, L.P. The meter is currently active, with a "last read" date of February 21, 2022. The exhibit attached to this affidavit as Exhibit A-2 reflect true and correct copies of District records regarding Meter No. 1301.
 - c. Meter No. 45, which is located on the Tract of Land, is also a District meter in the name of Gregg Allen. The meter is currently active, with a "last read" date of February 21, 2022. The warranty deed provided to the District for the property

associated with Meter No. 45 states that the property is owned by Petitioner, Sater, L.P. The exhibit attached to this affidavit as Exhibit A-3 reflect true and correct copies of District records regarding Meter No. 45.

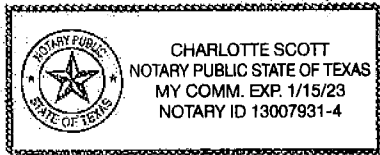
- d. Meter No. 299 is a District meter located on the Tract of Land.
4. "The District maintains active waterlines within the boundaries of the Tract of Land. The District's waterlines on the Tract of Land are accurately reflected in Exhibit B-1 to the affidavit of the District's engineer.
5. "On February 11, 2021, the District's Board of Directors authorized Donna Loiselle, the District's General Manager, to prepare and submit application documents as needed to Live Oak Banking Company ("Live Oak") in an effort to secure funding for construction of a 300,000-gallon water tank.
6. "Live Oak sent a commitment letter to the District's Board on April 13, 2021, committing to provide the District with a \$1,553,000 loan through the United States Department of Agriculture ("USDA") Water and Environmental Guaranteed Loan Program. A true and correct copy of that letter is attached to this affidavit as Exhibit A-4.
7. "The USDA sent correspondence to Ms. Loiselle, dated July 19, 2021, stating that USDA Rural Development approved the Loan on July 12, 2021. A true and correct copy of that letter is attached to this affidavit as Exhibit A-5.
8. "On November 2, 2021, an election was held in Collin County on a proposition to authorize the District to consolidate with Mustang Special Utility District ("Mustang"). On the same day, an election was held in Mustang on a proposition to authorize Mustang to consolidate with the District. A true and correct copy of the District's proposition as it appeared on the Collin County ballot is attached hereto as Exhibit A-6. A true and correct copy of Mustang's proposition as it appeared on the ballot is attached as Exhibit C-1 to the affidavit of Chris Boyd, Mustang's manager.
9. "The elections resulted in the Mustang's and the District's voters approving consolidation of Mustang with the District, authorizing the consolidated district to be named Mustang Special Utility District (the "Consolidated District"), and authorizing each district to assume the other district's bonds, notes, and other obligations. A true and correct copy of the District's election results in Collin County is attached hereto as Exhibit A-7. A true and correct copy of Mustang's election results is attached as Exhibit C-2 to the affidavit of Chris Boyd, Mustang's manager.
10. "I am authorized to make this affidavit on behalf of the District in Docket 52739 in support of its response to Sater, L.P.'s ("Petitioner") request to remove 269.84 acres of land (the "Tract of Land") from areas for which the District holds water certificate of convenience and necessity ("CCN") No. 10150.

FURTHER, AFFIANT SAYETH NOT.

Michael Harrison

Michael Garrison
Assistant Manager of Marilee Special Utility
District

SWORN TO AND SUBSCRIBED before me by ^{Michael}Garrison on this 3 day of March 2022.



Charlotte Scott

Notary Public in and for the State of Texas

EXHIBIT A-1

Mustang SUD

Customer Detail

Allen, Gregg

Account Number

257

Allen, Gregg

Sater LP Knoll Trail Plz

16400 Dallas Pkw #100

Dallas

TX

75248

(214)368-6100

(214)533-7166

Service Address:

CR# 135

Months On System

338

Total Usage

349,300

Average Usage

1,033

Sequence Number

4890

Meter Serial Number

32599972

Route Number

1

Last Read Date

2/21/2022

12 Month Average

0

Last Year Average

0

Previous Year Average

0

Last 'Paid On Time' Date

2/7/2022

Last Late Charge Date

12/16/2020

Number Of Late Months

8

Next Due Date

3/15/2022

Year To Date Charges

\$29.55

Date Turned On

Date Turned Off

Meter Check Date

5/1/2008

Rate Code

1

Pump/Well Number

23

Last Reading

1668

Previous Reading

1668

Usage

0

of Units

1

Meter

80896295 Z

Old Account #

257

Servicezipcode

75,009.00

Readresolution

1.00 brand&size

Badger .625

Deposit Information

Deposit Amount

\$0.00

Deposit Date

Certificate Number

0

Deposit Amount 2

\$0.00

Deposit 2 Date

Services

Current Balance

0

Usage

Charges

Read Date

Reading

Water

\$28.39

January

0

29.55

1/20/2022

1668

February

0

29.55

2/24/2021

1668

March

0

29.55

3/22/2021

1668

April

0

29.55

4/21/2021

1668

May

0

29.55

5/21/2021

1668

June

0

29.55

6/23/2021

1668

July

0

29.55

7/21/2021

1668

August

0

29.55

8/23/2021

1668

September

0

29.55

9/21/2021

1668

October

0

29.55

10/20/2021

1668

November

0

29.55

11/22/2021

1668

December

0

29.55

12/17/2021

1668

Tax

\$0.14

Previous Charges

\$29.55

Paid This Month

\$29.55

Current Balance**28.53**

Last Payment 2/7/2022

\$29.55

Check Number

6,194

Age 1

\$0.00 Age 2

\$0.00

Age 3

\$0.00

No Deposit, Easement Refused

Lanette Taylor 214-368-6100 ext 2144

Mustang SUD

Customer Detail

Allen, Gregg

Account Number

257

Allen, Gregg

Sater LP Knoll Trail Plz

16400 Dallas Pkw #100

Dallas

TX

75248

(214)368-6100

(214)533-7166

Service Address:

CR# 135

Months On System

338

Total Usage

349,300

Average Usage

1,033

Sequence Number

4890

Meter Serial Number

32599972

Route Number

1

Last Read Date

2/21/2022

12 Month Average

0

Last Year Average

0

Previous Year Average

0

Last 'Paid On Time' Date

2/7/2022

Last Late Charge Date

12/16/2020

Number Of Late Months

8

Next Due Date

3/15/2022

Year To Date Charges

\$29.55

Date Turned On

Date Turned Off

Meter Check Date

5/1/2008

Rate Code

1

Pump/Well Number

23

Last Reading

1668

Previous Reading

1668

Usage

0

of Units

1

Meter

80896295 Z

Old Account #

257

Servicezipcode

75,009.00

Readresolution

1.00 brand&size

Badger .625

Deposit Information

Deposit Amount

\$0.00

Deposit Date

Certificate Number

0

Deposit Amount 2

\$0.00

Deposit 2 Date

Services

Current Balance

0

Usage

Charges

Read Date

Reading

Water

\$28.39

January

0

29.55

1/20/2022

1668

February

0

29.55

2/24/2021

1668

March

0

29.55

3/22/2021

1668

April

0

29.55

4/21/2021

1668

May

0

29.55

5/21/2021

1668

June

0

29.55

6/23/2021

1668

July

0

29.55

7/21/2021

1668

August

0

29.55

8/23/2021

1668

September

0

29.55

9/21/2021

1668

October

0

29.55

10/20/2021

1668

November

0

29.55

11/22/2021

1668

December

0

29.55

12/17/2021

1668

Tax

\$0.14

Previous Charges

\$29.55

Paid This Month

\$29.55

Current Balance**28.53**

Last Payment 2/7/2022

\$29.55

Check Number

6,194

Age 1

\$0.00 Age 2

\$0.00

Age 3

\$0.00

No Deposit, Easement Refused

Lanette Taylor 214-368-6100 ext 2144

Allen, Gregg

Account Number

257

Extended Notes

12/29/1998

Transferring to Larry Froberg. Joe Merritt will become the renter after the transfer papers are received from the Frobergs

2/16/2000

Map page #'s 39-46

2/9/2009

Gave leak adjustment of \$798.07, repaired by Yardtransformer see file.

7/21/2010

Meter with transmitter installed 09/13/2005

8/5/2013

Received bill back in mail with new address 2034 Ponderosa Place, Mandeville, LA 70448-7522. Resent bill to new addresss. CSE

acct 257

Marilee Special Utility District

P.O. Box 1017
Celina, Texas 75009
972-382-3222

DISTRICT USE ONLY

Date Approved: _____
Service Classification: _____
Cost: _____
Work Order# _____
Account# _____
Service Inspection Date: _____

Service Application

DATE: 2/17/16

Applicants Name: SATER, LP

Co-Applicant's Name Gregg Allen / VAN Nichols 214-533-7166

CURRENT BILLING ADDRESS:

16400 Dallas Parkway Home Phone# _____

Suite 100

Dallas, TEXAS 75248 Work Phone # 214-368-6100

STREET ADDRESS OF PROPERTY: CR 135

LEGAL DESCRIPTION OF PROPERTY (if applicable, subdivision with lot and block number): _____

Acreage: 39+ Dwelling Size: NA

Number in Family: _____ Livestock & no.: _____

Previous Owners Name: Froberg

SPECIAL SERVICE NEEDS OF APPLICANT: Dallas Contract to Gary Goodnight

NOTE: This service application form must be completed by the applicant(s) only. A map or plat of the service location must be submitted with this application copy as well as a copy of the warranty deed for the location.

EQUAL OPPORTUNITY PROGRAM:

The following information is requested by the Federal Government in order to monitor compliance with Federal laws prohibiting discrimination against applicants seeking to participate in this program. You are not required to furnish this information, but are encouraged to do so. This information will not be used in evaluating your application or to discriminate against you in any way. However, if you choose not to furnish it, we are required to note the race/national origin of individual applicants on the basis of visual observation or surname.

☒ White; Not of Hispanic Origin ☐ Black; Not of Hispanic Origin ☐ American Indian or Alaskan Native ☐ Hispanic ☐ Asian or Pacific Islander ☐ Other ☐ Male ☐ Female

MARILEE SPECIAL UTILITY DISTRICT

P.O. Box 1017
Celina, Texas 75009
(972) 382-3222

SERVICE AGREEMENT

This agreement is made by SATER, LP ("Customer") and Marilee Special Utility District (the "District") and is effective upon approval and acceptance by the District as shown below. The District will maintain a copy of this agreement as long as the Customer and/or the property is connected to the District's water system. The District and Customer must execute this service agreement before the District provides service to Customer.

The District agrees to provide retail water utility service to Customer at the property described below, and Customer agrees to pay all applicable fees for such service, in accordance with the Rate Order of the District, as amended.

All bills shall be due and payable upon receipt and are past due beyond the date indicated on the bill; allowing approximately fifteen (15) days to pay. A one-time penalty of \$5.00 or 5.0%, whichever is larger, shall be applied to delinquent bills. A monthly bill for utility service is delinquent if full payment, including any outstanding late fees and regulatory assessments, is not received at the District by 5:00 p.m. on the due date. Payments made by mail will be considered late if postmarked after the past due date. If full payment is not timely received by the District, a final notice shall be mailed allowing ten (10) additional days for payment prior to disconnection. If Customer's service is disconnected, the District shall charge Customer a Reconnect Fee (\$35.00 during regular business hours; \$50.00 at any other time) before restoring Customer's service. The District's regular business hours are from 8:00 a.m. to 4:30 p.m., Monday to Friday.

Customer agrees to comply with the District's Drought Contingency Plan in the event the District's total water supply becomes insufficient to meet the needs of all District customers.

All water furnished by the District shall be metered by meters installed, maintained and owned by the District. The meter and connection is for the sole use of Customer and is to provide service to only one (1) dwelling or one (1) business. Any attempt to tamper with or to by-pass a meter, or to divert water utility service from one property to another, or to share, resell or submeter water to any other person, dwelling, business or property is prohibited. Unauthorized users of District services shall be prosecuted to the extent allowed by law under the Texas Penal Code § 28.03.

If required by the District in its sole discretion, the Customer agrees that the Customer and all persons or entities owning an interest in the property served by the meter will execute before a notary public the District's standard waterline easement adopted by the District pursuant to its Rate Order. At the sole option of the District, this requirement is a prerequisite for water service from the District.

The District shall have the right to select the location of the water service meter, pipe and appurtenant equipment on Customer's property necessary to connect Customer to the District's water system. The District shall have access to its meter and equipment located on Customer's property at all reasonable times for any purpose connected with or in the furtherance of the District's business operations, and upon disconnection or discontinuance of service, the District shall have the right to remove any of the District's property from Customer's property.

The District is responsible for protecting the drinking water supply from contamination or pollution, which could result from improper plumbing practices. This Service Agreement serves notice to each customer of the plumbing restrictions in place to provide this protection. The District shall enforce these restrictions to ensure the public health and welfare. The following unauthorized practices are prohibited by state regulations:

(1) Direct connections between a public drinking water supply and a potential source of contamination are prohibited. Potential sources of contamination shall be isolated from the public water system by an air gap or an appropriate backflow prevention assembly in accordance with state plumbing regulations. Additionally, all pressure relief valves and thermal expansion devices must be in compliance with state plumbing codes.

(2) Cross-connections between a public drinking water supply and a private water system are prohibited. These potential threats to the public drinking water supply shall be eliminated at the service connection by proper installation of an air gap or a reduced pressure-zone backflow prevention assembly and a service agreement must exist for an annual inspection and testing by a certified backflow prevention inspector.

(3) Connections that allow condensing, cooling, or industrial process water to be returned to a public drinking water supply are prohibited.

(4) Beginning July 1, 1988, pipe and pipe fittings containing more than 8.0% lead may not be used to install or repair plumbing at any connection that provides water for human consumption.

(5) Beginning July 1, 1988, solder or flux containing more than 0.2% lead may not be used to install or repair plumbing at any connection that provides water for human consumption.

(6) The installation of any plumbing fixture not in compliance with a state approved plumbing code is prohibited.

The District shall maintain a copy of this Service Agreement as long as the Customer and/or premise is connected to the District's water system. The Customer shall allow the District to inspect the Customer's property for possible cross-connections and other unauthorized plumbing practices during the District's regular business hours.

The District shall notify the Customer in writing of any cross-connection or other unauthorized plumbing practices found by the District during the initial or subsequent inspections. The Customer shall immediately correct any unauthorized plumbing practice on their premises. The Customer shall, at Customer's expense, properly install, test and maintain any backflow prevention assembly required by the District. Customer shall provide the District with a copy of all backflow prevention assembly test and maintenance records. Failure to comply with the terms of this Service Agreement shall cause the District to either terminate service or, at its sole discretion, to install, test and maintain an appropriate backflow prevention assembly at the service connection. Any expenses associated with the enforcement of this Service Agreement shall be billed to the Customer.

By execution hereof, the Customer shall hold the District harmless from any and all claims for damages caused by service interruptions due to waterline breaks by utility or like contractors, tampering by other persons or customers of the District, normal failures of the system, or other events beyond the District's control.

By execution hereof, the Customer expressly agrees that Customer's failure to comply the terms of this Service Agreement shall entitle the District to deny or discontinue service until such time as the violation(s) are corrected to the satisfaction of the District.

Any misrepresentation of facts by the Customer on this Service Agreement or the Service Application shall entitle the District to deny or discontinue service pursuant to the terms and conditions of the District's Rate Order.

(Please initial in the space below upon reading the following)

29 Customer acknowledges that the District's water system provides potable water for domestic consumption only and may not provide "fire flows" to the Service Address below as defined by the Uniform Fire Code or similar code or regulation to fight structure fires.

[Signature]
Customer Signature

Customer Signature

Service Address: CR 135-

Attach or State Legal Description: _____

ACCEPTED AND APPROVED by _____ on _____, 20____

Account No. _____ Work Order No. _____

Deposit Paid: \$ _____ By: _____

MARILEE SPECIAL UTILITY DISTRICT
P.O. Box 1017
Celina, Texas 75009
972-382-3222

COST OF SERVICE NOTICE
(Residential Service)

APPLICANT(S): Sater, LP DATE: 2/17/16
PROPERTY: CR135

The District has determined the cost for providing service to your property in the amount stated below. By signing this notice, you acknowledge that all charges and fees for service are non-refundable except for the Deposit. If you sell or vacate the property, you must request a final monthly bill and provide a forwarding address. The District will apply your Deposit to the final bill and refund the difference. This notice is provided in accordance with Section E.2(b)(5) of the District's Rate Order and shall remain in effect for thirty (30) days from the date above.

Check all that apply:

<input type="checkbox"/>	Deposit	\$ 200.00
<input type="checkbox"/>	Activation Fee	25.00
<input type="checkbox"/>	Connection Fee	3,200.00
<input type="checkbox"/>	Reserved Service Charges	
<input type="checkbox"/>	Easement Fee	
<input type="checkbox"/>	Street Crossing: County Road	
<input type="checkbox"/>	Street Crossing: State Highway	
<input type="checkbox"/>	(Other)	

TOTAL: \$ N/A

Applicant Signature: Gregg Allen DL #: 032033416

Applicant Signature: _____ DL #: _____

NON-DISCLOSURE

I/we hereby request that the District keep the personal information in my/our account record confidential, including my/our address, telephone number and social security number(s), to the extent permitted by federal and state law.

Gregg Allen
Applicant Signature

Applicant Signature

EXHIBIT A-2

Allen, Gregg

Account Number

1301

Extended Notes

7/12/2001

Map page #46

7/21/2010

Meter with transmitter installed 09/14/2005

2/5/2020

moved \$0.35 from account 45 to put it in renters name - cs

GUNTER RURAL WATER SUPPLY CORPORATION

SERVICE APPLICATION AND AGREEMENT

CORPORATION USE ONLY

Date Approved _____
 Service Classification _____
 Cost _____
 Work Order Number _____
 Eng. Update _____
 Account Number _____
 Service Inspection Date _____

Please Print: DATE 6/20/01APPLICANT'S NAME Gregg AllenCO-APPLICANT'S NAME Sherrri Allen

CURRENT BILLING ADDRESS:

FUTURE BILLING ADDRESS:

7705 Lairds Ln
Dallas, TX 7524810520 CR 132
Celina, TX 75009PHONE NUMBER - Home (972) 661-9618 Work (214) 368-6100PROOF OF OWNERSHIP PROVIDED BY Warranty DeedDRIVER'S LICENSE NUMBER OF APPLICANT 03203346+X

LEGAL DESCRIPTION OF PROPERTY (Include name of road, subdivision with lot and block number)

192 acres on east side of County Road 132
(see map)

PREVIOUS OWNER'S NAME AND ADDRESS (If transferring Membership)

ACREAGE 192 acresHOUSEHOLD SIZE 8,000 sq ftNUMBER IN FAMILY 5LIVESTOCK & NUMBER Horses 5SPECIAL SERVICE NEEDS OF APPLICANT: I am also buildinga barn on this property. Meter needs to be set
at orange stake along fence Row 75 yard West of
Road.NOTE: FORM MUST BE COMPLETED BY APPLICANT ONLY. A MAP OF SERVICE
LOCATION REQUEST MUST BE ATTACHED.

The following information is requested by the Federal Government in order to monitor compliance with Federal laws prohibiting discrimination against applicants seeking to participate in this program. You are not required to furnish this information, but are encouraged to do so. This information will not be used in evaluating your application or to discriminate against you in any way. However, if you choose not to furnish it, we are required to note the race/national origin of individual applicants on the basis of visual observation or surname.

☐ White, Not of Hispanic Origin ☐ Black, Not of Hispanic Origin ☐ American Indian or Alaskan Native ☐ Hispanic ☐ Asian or Pacific Islander ☐ Other (Specify) ☐ Male ☐ Female

EQUAL OPPORTUNITY PROGRAM

AGREEMENT made this 20th day of June, 1901, between
Gunter Water Supply Corporation, a corporation organized under the laws of the State of
Texas (hereinafter called the Corporation) and Gregg Allen
(hereinafter called the Applicant and/or Member),

Witnesseth:

The Corporation shall sell and deliver water and/or wastewater service to the Applicant and the Applicant shall purchase, receive, and/or reserve service from the Corporation in accordance with the bylaws and tariff of the Corporation as amended from time to time by the Board of Directors of the Corporation. Upon compliance with said policies, including payment of a Membership Fee, the Applicant qualifies for Membership as a new applicant or continued Membership as a transferee and thereby may hereinafter be called a Member.

The Member shall pay the Corporation for service hereunder as determined by the Corporation's tariff and upon the terms and conditions set forth therein, a copy of which has been provided as an information packet, for which Member acknowledges receipt hereof by execution of this agreement. A copy of this agreement shall be executed before service may be provided to the Applicant.

The Board of Directors shall have the authority to discontinue service and cancel the Membership of any Member not complying with any policy or not paying any utility fees or charges as required by the Corporation's published rates, fees, and conditions of service. At any time service is discontinued, terminated or suspended, the Corporation shall not re-establish service unless it has a current, signed copy of this agreement.

If this agreement is completed for the purpose of assigning utility service as a part of a rural domestic water and/or wastewater system loan project contemplated with the Rural Development, an Applicant shall pay an Indication of Interest Fee in lieu of a Membership Fee for the purposes of determining

- a. The number of taps to be considered in the design and
- b. The number of potential ratepayers considered in determining the financial feasibility of constructing
 - 1) a new water system or
 - 2) expanding the facilities of an existing water system.

The Applicant hereby agrees to obtain, utilize, and/or reserve service as soon as it is available. Applicant, upon qualification for service under the terms of the Corporation's policies, shall further qualify as a Member and the Indication of Interest Fee shall then be converted by the Corporation to a Membership Fee. Applicant further agrees to pay, upon becoming a Member, the monthly charges for such service as prescribed in the Corporation's tariff. Any breach of this agreement shall give cause for the Corporation to liquidate, as damages, the fees previously paid as an indication of interest. In addition to any Indication of Interest Fees forfeited, the Corporation may assess a lump sum of \$300.00 as liquidated damages to defray any losses incurred by the Corporation. If delivery of service to said location is deemed feasible by the Corporation as a part of this project, the Applicant shall be denied Membership in the Corporation and the Indication of Interest Fee, less expenses, shall be refunded. The Applicant may re-apply for service at a later date under the terms and conditions³² of the Corporation's policies. For the

purposes of this agreement, an Indication of Interest Fee shall be of an amount equal to the Corporation's Membership Fees.

All water shall be metered by meters to be furnished and installed by the Corporation. The meter and/or wastewater connection is for the sole use of the Member or customer and is to provide service to only one (1) dwelling or one (1) business. Extension of pipe(s) to transfer utility service from one property to another, to share, resell, or submeter water to any other persons, dwellings, businesses, or property, etc., is prohibited.

The Corporation shall have the right to locate a water service meter and the pipe necessary to connect the meter on the Member's property at a point to be chosen by the Corporation, and shall have access to its property and equipment located upon Member's premises at all reasonable and necessary times for any purpose connected with or in the furtherance of its business operations, and upon discontinuance of service the Corporation shall have the right to remove any of its equipment from the Member's property. The Member shall install at their own expense any necessary service lines from the Corporation's facilities and equipment to the point of use, including any customer service isolation valves, backflow prevention devices, clean-outs, and other equipment as may be specified by the Corporation. The Corporation shall also have access to the Member's property for the purpose of inspecting for possible cross-connections, potential contamination hazards, and illegal lead materials.

The Corporation is responsible for protecting the drinking water supply from contamination or pollution which could result from improper plumbing practices. This service agreement serves as notice to each customer of the plumbing restrictions which are in place to provide this protection. The Corporation shall enforce these restrictions to ensure the public health and welfare. The following undesirable plumbing practices are prohibited by state regulations:

- a. No direct connection between the public drinking water supply and a potential source of contamination is permitted. Potential sources of contamination shall be isolated from the public water system by an airgap or an appropriate backflow prevention assembly in accordance with state regulations.
- b. No cross-connection between the public drinking water supply and a private water system is permitted. These potential threats to the public drinking water supply shall be eliminated at the service connection by the proper installation of an airgap or a reduced pressure-zone backflow prevention assembly and a service agreement must exist for annual inspection and testing by a certified backflow prevention device tester.
- c. No connection which allows condensing, cooling or industrial process water to be returned to the public drinking water supply is permitted.
- d. No pipe or pipe fitting which contains more than 8.0 % lead may be used for the installation or repair of plumbing on or after July 1, 1988, at any connection which provides water for human consumption.
- e. No solder or flux which contains more than 0.2 % lead may be used for the installation or repair of plumbing on or after July 1, 1988, at any connection which provides water for human consumption.

The Corporation shall maintain a copy of this agreement as long as the Member and/or premises is connected to the public water system. The Member shall allow his property to be inspected for possible cross-connections, potential contamination hazards, and illegal lead materials. These inspections shall be conducted by the Corporation or its designated agent prior to initiating service and periodically thereafter. Inspections shall be conducted during the Corporation's normal business hours.

The Corporation shall notify the Member in writing of any cross-connections or other undesirable practices which have been identified during the initial or subsequent inspection. The Member shall immediately correct any undesirable practice on their premises. The Member shall, at his expense, properly install, test, and maintain any backflow prevention device required by the Corporation. Copies of all testing and maintenance records shall be provided to the Corporation as required. Failure to comply with the terms of this service agreement shall cause the Corporation to either terminate service or properly install, test, and maintain an appropriate backflow prevention device at the service connection. Any expenses associated with the enforcement of this agreement shall be billed to the Member.

In the event the total water supply is insufficient to meet all of the Members, or in the event there is a shortage of water, the Corporation may initiate the Emergency Rationing Program as specified in the Corporation's Tariff. By execution of this agreement, the Applicant hereby shall comply with the terms of said program.

By execution hereof, the Applicant shall hold the Corporation harmless from any and all claims for damages caused by service interruptions due to waterline breaks by utility or like contractors, tampering by other Member/users of the Corporation, normal failures of the system, or other events beyond the Corporation's control.

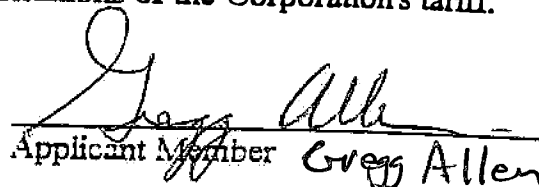
The Member shall grant to the Corporation, now or in the future, any easements of right-of-way for the purpose of installing, maintaining, and operating such pipelines, meters, valves, and any other equipment which may be deemed necessary by the Corporation to extend or improve service for existing or future Members, on such forms as are required by the Corporation.

By execution hereof, the Applicant shall guarantee payment of all other rates, fees, and charges due on any account for which said Applicant owns a Membership Certificate. Said guarantee shall pledge any and all Membership Fees against any balance due the Corporation. Liquidation of said Membership Fees shall give rise to discontinuance of service under the terms and conditions of the Corporation's tariff.

By execution hereof, the Applicant agrees that non-compliance with the terms of this agreement by said Applicant shall constitute denial or discontinuance of service until such time as the violation is corrected to the satisfaction of the Corporation.

Any misrepresentation of the facts by the Applicant on any of the four pages of this agreement shall result in discontinuance of service pursuant to the terms and conditions of the Corporation's tariff.

Witnesseth


Applicant Member Greg Allen

Approved and Accepted

Date Approved

INCORPORATED

No. 1947

ONE
MEMBERSHIP

1301

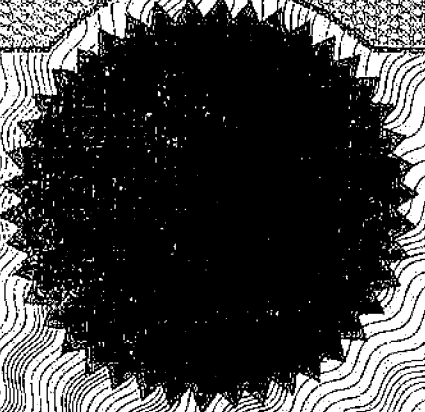
GUNTER
WATER SUPPLY CORPORATION

(Limitations as to transferability set forth on reverse side)

This Certifies that Gregg Allen is the owner of
One Membership of GUNTER
WATER SUPPLY CORPORATION at an initial

Membership fee of one hundred Dollars

a corporation organized under the laws of the State of Texas, transferable only on the books of the Corporation by the holder hereof in person or by duly authorized Attorney, upon surrender of this Certificate properly endorsed. IN WITNESS WHEREOF, the said Corporation has caused this Certificate to be signed by its duly authorized officers and to be sealed with the Seal of the Corporation this 12 day of July A.D. 2001



President

EXHIBIT A-3

Mustang SUD

Customer Detail

Bond, Stephen & Caroline

Account Number

45

Bond, Stephen & Caroline
8770 CR 134Allen, Greg
16400 Dallas Pkwy
Ste 100Celina TX
75009 (903)744-4499
Service Address: 8770 CR# 134Dallas TX
75248 (214)368-6100

Months On System 338

Total Usage 1,138,500

Average Usage 3,368

Sequence Number 5530

Meter Serial Number 29615082

Route Number 1

Last Read Date 2/21/2022

12 Month Average 2,883

Last Year Average 3,500

Previous Year Average 6,900

Last 'Paid On Time' Date 2/25/2022

Last Late Charge Date 2/16/2022

Number Of Late Months 15

Next Due Date 3/15/2022

Year To Date Charges \$32.08

Driver License #: 06448870

Driver License #: 00907384

Date Turned On

Date Turned Off

Meter Check Date 8/27/2014

Rate Code 1

Pump/Well Number 23

Last Reading 1604

Previous Reading 1578

Usage 2,600

of Units 1

Meter 85071045 Z

Old Account # 45

Servicezipcode 75,009.00

Readresolution

1.00 brand&size

Badger .625

Deposit Information

Deposit Amount	\$0.00	Deposit Date	Certificate Number	0
Deposit Amount 2	\$200.00	Deposit 2 Date	Services	Current Balance
0	Usage	Charges	Read Date	Reading
January	700	32.08	1/20/2022	1578
February	8,300	74.69	2/24/2021	1315
March	2,200	37.81	3/22/2021	1337
April	1,400	34.61	4/20/2021	1351
May	1,100	43.53	5/21/2021	1362 L
June	7,100	76.97	6/23/2021	1433 L
July	2,100	37.29	7/20/2021	1454
August	5,600	67.32	8/23/2021	1510 L
September	1,300	44.25	9/21/2021	1523 L
October	3,400	53.96	10/20/2021	1557 L
November	800	42.44	11/22/2021	1565 L
December	600	31.72	12/17/2021	1571
Last Payment	2/25/2022	\$45.00	Check Number	Credit
Age 1	\$0.00	Age 2	\$0.00	Age 3
				\$0.00

gallen@elandenergy.com wk # 214-368-6100 x 2140
no deposit several accounts ***** bondsteve03@gmail.com

Water	\$35.62
GW Con fee	\$0.26
Late Charge	\$10.00
Tax	\$0.18
Previous Charges	\$32.08
Paid This Month	\$45.00
Current Balance	33.14

NO Deposit
Has mutiple
accounts

Marilee Special Utility District
P. O. Box 1017
Celina, TX 75009
972-382-3222

COST OF SERVICE NOTICE
(Residential Service)

APPLICANT(S): Gregg Allen DATE: April 2, 2019

PROPERTY: 8770 CR 134, Celina, Texas 75009

The District has determined the cost for providing service to your property in the amount stated below. By signing this notice, you acknowledge that all charges and fees for service are non-refundable except for the deposit. If you sell or vacate the property, you must request a final monthly bill and provide a forwarding address. The District will apply your deposit to the final bill and refund the difference. This notice is provided in accordance with Section E.2(b)(5) of the District's Rate Order and shall remain in effect for thirty (30) days from the date above.

Check all that apply:

☐ Deposit.....\$ 200.00
☐ Activation Fee.....\$ 25.00
☐ Connection Fee.....
☐ Reserved Service Charges.....
☐ Easement Fee.....
☐ Street Crossing: County Road (Road Bore).....
☐ Street Crossing: State Highway (Road Bore).....
☐ Other

TOTAL: \$ _____

Applicant Signature: [Signature] Drivers License# 03203346

Co-Applicant Signature: [Signature] Drivers License# _____

NON DISCLOSURE

I/we hereby request that the District keep the personal information in my/our account record confidential, including my/our address, telephone number and social security number(s), to the extent permitted by federal and state law.

Applicant Signature

Co-Applicant Signature

MARILEE SPECIAL UTILITY DISTRICT
P.O. Box 1017
Celina, Texas 75009
972-382-3222

SERVICE APPLICATION

DATE April 2, 2019

DISTRICT USE ONLY	
Date Approved:	_____
Service Classification:	_____
Cost:	_____
Work Order #	_____
Account No	_____
Service Inspection Date:	_____

APPLICANT'S NAME Gregg Allen

CO-APPLICANT'S NAME NA

CURRENT BILLING ADDRESS
16400 Dallas Parkway
Suite 100
Dallas, Texas 75248

EMAIL ADDRESS: gallen@elandenergy.com
HOME PHONE: 214 368-6100 X 2140
work
CELL PHONE: 214 507-7846
cell

STREET ADDRESS OF PROPERTY 8770 CR 134, Celina, TX 75009

LEGAL DESCRIPTION OF PROPERTY (if applicable, subdivision with lot and block number):
* See attached Page 1 of Warranty Deed

ACREAGE: 52.399

DWELLING SIZE: 2,766 Sq. Ft. - Home
2,500 Sq. Ft. - Barn

NUMBER IN FAMILY NA

LIVESTOCK & NO: _____

PREVIOUS OWNER'S NAME Bryan Louder and Deborah Keck

SPECIAL SERVICE NEEDS OF APPLICANT NA

NOTE: This service application form must be completed by the applicant(s) only. A map or plat of the service location must be submitted with this application copy as well as a copy of the warranty deed for the location.

EQUAL OPPORTUNITY PROGRAM:

The following information is requested by the Federal Government in order to monitor compliance with Federal laws prohibiting discrimination against applicants seeking to participate in this program. You are not required to furnish this information, but are encouraged to do so. This information will not be used in evaluating your application or to discriminate against you in any way. However, if you choose not to furnish it, we are required to note the race/national origin of individual applicants on the basis of visual observation or surname.

☒ White, Not of Hispanic Origin ☐ Black, Not of Hispanic Origin ☐ American Indian or Alaskan Native ☐ Hispanic ☐ Asian or Pacific Islander ☐ Other (Specify) ☐ Male ☐ Female

MARILEE SPECIAL UTILITY DISTRICT

P.O. Box 1017
Celina, Texas 75009
(972) 382-3222

SERVICE AGREEMENT

This agreement is made by Gregg Allen ("Customer") and Marilee Special Utility District (the "District") and is effective upon approval and acceptance by the District as shown below. The District will maintain a copy of this agreement as long as the Customer and/or the property is connected to the District's water system. The District and Customer must execute this service agreement before the District provides service to Customer.

The District agrees to provide retail water utility service to Customer at the property described below, and Customer agrees to pay all applicable fees for such service, in accordance with the Rate Order of the District, as amended.

All bills shall be due and payable upon receipt and are past due beyond the date indicated on the bill; allowing approximately fifteen (15) days to pay. A one-time penalty of \$10.00 or 10.0%, whichever is larger, shall be applied to delinquent bills. A monthly bill for utility service is delinquent if full payment, including any outstanding late fees and regulatory assessments, is not received at the District by 5:00 p.m. on the due date. Payments made by mail will be considered late if postmarked after the past due date. If full payment is not timely received by the District, a final notice shall be mailed allowing ten (10) additional days for payment prior to disconnection. If Customer's service is disconnected, the District shall charge Customer a Reconnect Fee (\$50.00 during regular business hours; \$85.00 at any other time) before restoring Customer's service. The District's regular business hours are from 8:00a.m. to 4:30p.m., Monday to Friday.

Customer agrees to comply with the District's Drought Contingency Plan in the event the District's total water supply becomes insufficient to meet the needs of all District customers.

All water furnished by the District shall be metered by meters installed, maintained and owned by the District. The meter and connection is for the sole use of Customer and is to provide service to only one (1) dwelling or one (1) business. Any attempt to tamper with or to by-pass a meter, or to divert water utility service from one property to another, or to share, resell or submeter water to any other person, dwelling, business or property is prohibited. Unauthorized users of District services shall be prosecuted to the extent allowed by law under the Texas Penal Code § 28.03.

If required by the District in its sole discretion, the Customer agrees that the Customer and all persons or entities owning an interest in the property served by the meter will execute before a notary public the District's standard waterline easement adopted by the District pursuant to its Rate Order. At the sole option of the District, this requirement is a prerequisite for water service from the District.

The District shall have the right to select the location of the water service meter, pipe and appurtenant equipment on Customer's property necessary to connect Customer to the District's water system. The District shall have access to its meter and equipment located on Customer's property at all reasonable times for any purpose connected with or in the furtherance of the District's business operations, and upon disconnection or discontinuance of service, the District shall have the right to remove any of the District's property from Customer's property.

The District is responsible for protecting the drinking water supply from contamination or pollution, which could result from improper plumbing practices. This Service Agreement serves notice to each customer of the plumbing restrictions in place to provide this protection. The District shall enforce these restrictions to ensure the public health and welfare. The following unauthorized practices are prohibited by state regulations:

(1) Direct connections between a public drinking water supply and a potential source of contamination are prohibited. Potential sources of contamination shall be isolated from the public water system by an air gap or an appropriate backflow prevention assembly in accordance with state plumbing regulations. Additionally, all pressure relief valves and thermal expansion devices must be in compliance with state plumbing codes.

(2) Cross-connections between a public drinking water supply and a private water system are prohibited. These potential threats to the public drinking water supply shall be eliminated at the service connection by proper installation of an air gap or a reduced pressure-zone backflow prevention assembly and a service agreement must exist for an annual inspection and testing by a certified backflow prevention inspector.

(3) Connections that allow condensing, cooling, or industrial process water to be returned to a public drinking water supply are prohibited.

(4) Pipe and pipe fittings containing more than 8.0% lead may not be used to install or repair plumbing at any connection that provides water for human consumption installed on or after July 1, 1988; or pipe and pipe fittings that contain more than 0.25% lead installed on or after January 4, 2014.

(5) Beginning July 1, 1988, solder or flux containing more than 0.2% lead may not be used to install or repair plumbing at any connection that provides water for human consumption.

(6) The installation of any plumbing fixture not in compliance with a state approved plumbing code is prohibited.

The District shall maintain a copy of this Service Agreement as long as the Customer and/or premise is connected to the District's water system. The Customer shall allow the District to inspect the Customer's property for possible cross-connections and other unauthorized plumbing practices during the District's regular business hours.

The District shall notify the Customer in writing of any cross-connection or other unauthorized plumbing practices found by the District during the initial or subsequent

inspections. The Customer shall immediately correct any unauthorized plumbing practice on their premises. The Customer shall, at Customer's expense, properly install, test and maintain any backflow prevention assembly required by the District. Customer shall provide the District with a copy of all backflow prevention assembly test and maintenance records. Failure to comply with the terms of this Service Agreement shall cause the District to either terminate service or, at its sole discretion, to install, test and maintain an appropriate backflow prevention assembly at the service connection. Any expenses associated with the enforcement of this Service Agreement shall be billed to the Customer.

By execution hereof, the Customer shall hold the District harmless from any and all claims for damages caused by service interruptions due to waterline breaks by utility or like contractors, tampering by other persons or customers of the District, normal failures of the system, or other events beyond the District's control.

By execution hereof, the Customer expressly agrees that Customer's failure to comply the terms of this Service Agreement shall entitle the District to deny or discontinue service until such time as the violation(s) are corrected to the satisfaction of the District.

Any misrepresentation of facts by the Customer on this Service Agreement or the Service Application shall entitle the District to deny or discontinue service pursuant to the terms and conditions of the District's Rate Order.

(Please initial in the space below upon reading the following)

☒ Customer acknowledges that the District's water system provides potable water for domestic consumption only and may not provide "fire flows" to the Service Address below as defined by the Uniform Fire Code or similar code or regulation to fight structure fires.

Customer Signature

Customer Signature

Service Address: 8770 CR 134, Celina, TX 75009

Attach or State Legal Description: * See attached page 1 of Warranty Deed

ACCEPTED AND APPROVED by _____ on _____, 20__

Account No. _____ Work Order No. _____

Deposit Paid: \$ _____ By: _____

2018-269064

WARRANTY DEED WITH VENDOR'S LIEN

We certify that this is a true and correct copy of the original hereof.

REUNION TITLE

By: Deborah Bodg

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OF THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

THE STATE OF TEXAS §
 § KNOW ALL MEN BY THESE PRESENTS:
COUNTY OF COLLIN §

THAT BRYAN CASEY LOWDER and DEBORAH RENAE LOWDER KECK, Successor Trustees under THE LOWDER LIVING TRUST, dated December 17, 1996, and any amendments thereto, each expressly representing that the subject property constitutes no part of their respective homesteads (hereinafter referred to as "Grantor"), for and in consideration of the sum of TEN AND NO/100 DOLLARS (\$10.00) and other valuable consideration to the undersigned paid by the Grantee herein named, the receipt of which is hereby acknowledged, and the further consideration of the execution and delivery to LONE STAR, FLCA (hereinafter referred to as "Lender") by Grantee of Grantee's promissory note of even date herewith in the principal amount of TWO MILLION TWO HUNDRED TWENTY SIX THOUSAND NINE HUNDRED FIFTY SEVEN AND 50/100 DOLLARS (\$2,226,957.50), bearing interest and being payable as therein specified, the payment of which note is secured by the Vendor's Lien herein retained, and is additionally secured by a Real Estate Deed of Trust of even date herewith to JEFF DAVIS, Trustee, has GRANTED, SOLD AND CONVEYED, and by these presents does GRANT, SELL AND CONVEY unto: SATER L.P., a Texas limited partnership (herein referred to as "Grantee"), whose address is: 16400 Dallas Pkwy., Suite 100, Dallas, Texas 75248, all of the following described real property in Collin County, Texas (hereinafter referred to as the "Property"), to-wit:

Being 52.399 acres of land, more or less, situated in the Jonas Whitaker Survey, Abstract Number 962, and in the B.B.B. & C. Railroad Survey, Abstract Number 129, County of Collin, State of Texas, and being more fully described in EXHIBIT A attached hereto and made a part hereof for all purposes.

This conveyance shall include all rights, privileges, and appurtenances pertaining to the Property, including Grantor's right, title, and interest in any water rights, claims, permits, strips and gores, easements, and cooperative or association memberships.

This conveyance is made expressly subject to the exceptions listed on EXHIBIT B (the "Permitted Exceptions") attached hereto and incorporated herein for all purposes.

EXHIBIT A-4



LOAN COMMITMENT LETTER

April 13, 2021

Board of Directors
Marilee Special Utility District
230 W. Pecan Street
Celina, TX 75009

Dear Board of Directors:

Live Oak Banking Company dba Live Oak Bank ("Live Oak") is pleased to commit to provide Marilee Special Utility District (Borrower), a credit facility (Loan) in the principal amount of \$1,553,000 through the USDA Water and Environmental Guaranteed Loan Program. The following credit facility described is subject to all the terms and conditions contained herein, provided there has been no material adverse change in Borrower's financial condition as determined by the Bank.

Borrower: Marilee Special Utility District

Borrowing Amount: \$1,553,000; funded under USDA Water and Environmental Program Guaranteed term loan

Purpose: To provide funds to finance a new 300,000-gallon elevated storage tank; related soft costs and closing costs.

Construction Phase

Interest Rate: The loan will have an interest rate that is adjusted quarterly during the construction phase based on Wall Street Journal Prime plus 2.00% at the time of closing. If the loan were to close today, the fully indexed rate would be 5.25%. The interest rate will continue to adjust quarterly at the then current index plus applicable spread until the loan is converted to the permanent phase.

Floor Rate: 5.00%

Repayment: Interest only during the construction phase up to a maximum of 12 months.

Prepayment Penalty: A 10% penalty will be applied on any amount prepaid prior to conversion to the permanent phase.

**DEDICATED
TO THE
DOERS™**

1741 Tiburon Dr
Wilmington, NC 28403
liveoakbank.com

©2020 Live Oak Banking Company. All rights reserved. Member FDIC. Equal Housing Lender. 

**Construction**

Origination Fee: 1% of the total loan amount

Permanent Phase

Interest Rate: The loan will have an interest rate that fixed for fifteen years based on the Fifteen-Year LIBOR (or similar index if that index becomes unavailable) plus 3.75%, adjusting at the end of the initial fixed rate period based on the then current index (or index equivalent) plus the original spread. If the loan were to close today, the fully indexed rate would be 5.71%.

Repayment: 348 regular monthly payments (29 years) of principal and interest payments. If the loan were to fund today, the monthly payments of principal and interest would be \$9,225.

**Prepayment
Penalty:**

There will be a sliding prepayment allowed over the life of the proposed loan request (10% in year one, 9% in year two, 8% in year three, 7% in year four, 6% in year five, 5% in year six, 4% in year seven, 3% in year eight, 2% in year nine, 1% in year 10). The ten-year prepayment timeline begins once the loan is fully disbursed.

Maturity Date: 360 months from the date the loan closes.

USDA Fee: 1.00% of the guaranteed portion of the loan

Origination Fee: 1% of the total loan amount

**USDA Annual
Renewal Fee:**

N/A – The USDA does not charge an annual renewal fee on WEP Guaranteed Loans per Fiscal Year 2021 Annual Notice.

**Source and Use
of Proceeds:**

Use of Proceeds:	Total
Construction – Elevated Tank	\$ 1,057,500
Contingency	\$ 106,317
Engineering, Testing, Inspection	\$ 171,525
Interest Reserve	\$ 92,644
USDA Guaranty Fee	\$ 12,424
LOB Origination Fee	\$ 31,060
Closing Costs & Other Misc.	\$ 81,530
Total	\$ 1,553,000

Borrower acknowledges that they must notify Live Oak Bank before proceeding with any changes as it relates to the use of funds as referenced above. All loan funds are to be used to cover cost



associated with the expansion of the facility and cannot be used for any capital expenditures that have not been approved. (Initial)

CA

Collateral: The loan will be evidenced by a water and sewer revenue bond issued by the District. The bond will be payable from and secured by a pledge of net revenues of the District's water and sewer system, on parity with the District's outstanding Water and Sewer Revenue Bonds; UCC-1 financing statement on all business assets in best available position.

Insurance: Business Personal Property Insurance
Borrower to provide Business Personal Property Insurance (Business Contents) in the amount of the replacement cost of the business assets collateral listed above with a Mortgagee Clause, or a Lender's Loss Payable Endorsement in favor of Live Oak Banking Company, ISAOA (satisfactory to the bank) prior to final disbursement of the loan. A Loss Payable Endorsement equivalent to a Lender's Loss Payable may be permissible if a copy of the endorsement on the policy is received and approved by the Bank.

Worker's Compensation Insurance
Worker's Compensation Insurance in an amount meeting the state law requirement and with an insurance company satisfactory to Live Oak Bank.

General Liability Insurance
General Liability Insurance policy in an amount meeting typical requirements for a manufacturing facility of similar size and an amount that is deemed acceptable by the USDA.

Disbursements: The loan will be disbursed over 12 months following closing. All disbursements from the control account will be made in accordance with the USDA authorization and as defined in the Loan Agreement.

Financial Reporting:

Quarterly:

- Internally prepared financial statements in accordance with GAAP within 45 days of quarter end for the borrowing entity and consolidated.

Annually:

- Audited financial statements prepared in accordance with GAAP within 120 days after fiscal year end for the borrowing entity and consolidated.
- Officer Compliance Certificate
- Annual approved operating budget



Covenants:

- Minimum DSCR $\geq 1.10x$ (tested annually based on audited financial statements)
- Borrower must obtain approval from Live Oak Bank prior to any purchases over \$5,000,000 related to fixed assets

**Power of Attorney
For UCC Filings:**

Borrower appoints Live Oak its true attorney in fact to prepare, execute, file, record, or deliver financing statements, continuation statements, termination statements, statements of assignment, applications for registration, or like papers to perfect, preserve, or release Live Oak's interests in the Collateral; cause any Collateral to be transferred to Live Oak's name or the name of Live Oak's nominee; and execute all documents in the name of Borrower or otherwise as Live Oak deems necessary, proper, or convenient in order to preserve, perfect, or enforce its rights in the Collateral.

**Material Adverse
Change:**

Live Oak's obligations and Commitments under this letter are subject to the accuracy of all information, representations, and materials submitted with or in support of the Borrower's request for the Loan and any material and inaccuracy, omission or change therein, shall, in the Live Oak's discretion, operate to terminate this offer and the Live Oak's Commitment hereunder. This Commitment letter may also be terminated by Live Oak upon the occurrence of any material adverse change in the financial condition, business, prospects, properties, or management of the Borrower or the occurrence of any other event as a result of which Live Oak believes that the prospect of the Borrower repaying its liabilities to Live Oak as contemplated herein may be impaired. Without limiting the generality of the foregoing, the Commitment hereunder shall immediately terminate in the event the Borrower becomes the subject of any proceeding under the United States Bankruptcy Code or any other insolvency, reorganization, liquidation, or moratorium of law.

Expenses:

The Loan shall be made and administered without cost to the Live Oak. The Borrower's and any guarantor acceptance of this Commitment shall constitute the unconditional agreement, jointly and severally, whether or not the Loan closes, to pay all reasonable fees, expenses, taxes, costs and charges incurred in connection with the Loan, or in any way incident to the making of or the ongoing administration of the Loan, including, but not limited to, reasonable attorneys' fees and expenses (including fees and expenses of the Live Oak's counsel), appraisal fees, title searching fees, title or other insurance premiums, fees and costs for environmental tests and studies, engineer's and architect's fees, inspector's fees, surveyor's fees, recording costs, and recordation and transfer taxes. The Live Oak shall not pay any brokerage fees or commissions arising from the Loan, and the borrower and all guarantors agree, jointly and severally, to defend, indemnify, and hold the Live Oak harmless against any and all expenses,



liabilities and losses (including attorneys' fees) arising from any such claims. The Borrower and each of the guarantors, jointly and severally, promise to pay to the Live Oak on demand all costs and expenses incurred by the Live Oak in connection with the enforcement of this Commitment or any of the Live Oak's rights hereunder or any defense of the Live Oak against any claim made in connection with or arising out of this Commitment, including, without limitation, all of the Live Oak's reasonable attorneys' fees and expenses and court costs, whether or not proceedings are brought.

LIBOR

Replacement:

Notwithstanding any provision to the contrary set forth in this letter, the applicable interest rate for this loan shall be subject to LIBOR replacement rate language, stating that, in the event the Lender determines that reasonable means do not exist for ascertaining the applicable LIBOR rate and the Lender determines that the syndicated loan market has broadly accepted a replacement standard for the LIBOR rate, then the Lender may, without the consent of the borrower, apply such new broadly accepted market standard and make such other changes as shall be necessary or appropriate in the good faith determination of the Lender in order to implement such new market standard.

Commitment Fee: A \$10,000 commitment fee is required upon execution of the commitment letter and due within fourteen days from the date of this letter; otherwise, this commitment will have expired. The commitment fee will be applied to engage legal counsel and any other third-party costs incurred. The deposit held by Live Oak will be applied to any expenses incurred by Live Oak in connection with the Loan, including without limitation, lien and judgement searches, title searching fees, appraisals, business valuations, surveys, environmental tests and studies, and reasonable attorneys' fees and expenses, should the Loans not close. At the time the Loan closes, any unused portion of the deposit, if any, shall be returned to the borrower.

This Commitment letter is addressed solely to you, it is solely for your benefit, and may not be relied upon or used by any other person or entity and may not be disclosed by you without LOB's prior written consent to any person other than your attorneys and other advisors. This Commitment letter and the Commitment evidenced herein may not be assigned by you to any other person or entity.

This Commitment letter shall be governed by the laws of the state of North Carolina.

Live Oak's obligations and/or Commitments as contained in this letter are also subject to approval by the United States Department of Agriculture and the issuance of a written loan authorization by the USDA setting forth the terms and conditions of such Loan. In the event that there is any discrepancy between the terms of the Commitment as contained herein and the loan authorization as issued and approved by the USDA for this Loan, then the terms of the USDA loan authorization shall control. In the event that the USDA should fail or refuse to issue a Loan Note Guarantee as to this Loan, then this



Commitment shall terminate, and Live Oak shall have no further obligations or responsibilities hereunder. Furthermore, Live Oak's obligations hereunder are contingent upon the Borrower and/or Guarantor(s) being in compliance with all terms and conditions of any USDA Conditional Commitment which may be issued as to this Loan, and failure to comply with such will likewise terminate the terms and conditions of the Commitment letter and Live Oak shall have no further obligations hereunder in such event.

This credit accommodation is made available subject to the terms, conditions, and provisions of comprehensive loan documents to be executed within 180 days from Live Oak's Credit approval dated **April 12, 2021**. Should the loan not close within 180 days of same approval, updated financials and re-approval will be required.

If the terms outlined in this commitment letter are acceptable to you, please execute and return a copy to Live Oak Bank.

Sincerely,

Anna West
Loan Officer
Live Oak Bank

Accepted By:

Name: Donna Loiselle
Title: General Manager
Date:

Other Conditions:

Please note that a detailed checklist will be prepared for use during the closing process by your closing specialist.

EXHIBIT A-5



JUL 19 2021

Ms. Donna Loiselle
Marilee Special Utility District (SUD)
P. O. Box 1017
Celina, TX 75009

Dear Ms. Loiselle:

Congratulations on being selected to receive a \$1,553,000 Water and Waste Guaranteed Loan for Marilee SUD.

We have enclosed a copy of USDA-RD Form RD 1940-3, "Request for Obligation of Funds Guaranteed Loan." This form indicates that on July 12, 2021, USDA Rural Development approved loan of \$1,553,000 for Marilee SUD.

USDA Rural Development works to support the sustainable development of rural communities and to improve the quality of life in rural areas.

Sincerely,

A handwritten signature in black ink, appearing to read "Daniel Torres", written over a horizontal line.

DANIEL TORRES
Acting State Director

Enclosure

Rural Development • Texas State Office
101 South Main Street, Suite 102, Temple, Texas 76501
Voice 254.742-9789 • Fax 844.767.7087

USDA is an equal opportunity provider, employer, and lender.

UNITED STATES DEPARTMENT OF AGRICULTURE
RURAL DEVELOPMENT
FARM SERVICE AGENCY

**REQUEST FOR OBLIGATION OF FUNDS
GUARANTEED LOANS**

INSTRUCTIONS: Complete Items 1 through 25 and applicable Items 26 through 35. See FMI.			
1. CASE NUMBER ST CO BORROWER ID 49-093-*****8804		2. LOAN NUMBER 40	3. FISCAL YEAR 21
4. SOURCE OF FUNDS 1 (See FMI)			
5. BORROWER NAME Marilee Special Utility District			
		6. NUMBER NAME FIELDS (1, 2, or 3 from Item 5)	
7. STATE NAME Texas		8. COUNTY NAME Collin	
9. RACE CODE 1 - WHITE 4 - HISPANIC 2 - BLACK 5 - A/PI 3 - AI/IN 1	10. EMPLOYEE RELATIONSHIP CODE (See FMI)	11. SEX CODE 1 - MALE 4 - ORGANIZATION MALE OWNED 2 - FEMALE 5 - ORGANIZATION FEMALE OWNED 3 - FAMILY UNIT 6 - PUBLIC BODY 6	12. MARITAL STATUS 1 - MARRIED 2 - SEPARATED 3 - UNMARRIED (INCLUDES WIDOWED OR DIVORCED) 1
13. VETERAN CODE 1 - YES 2 - NO 1	14. TYPE OF PAYMENT 3 1 - MONTHLY 3 - SEMI-ANNUALLY 2 - ANNUALLY 4 - QUARTERLY	15. COMMUNITY SIZE 1 - 10,000 OR LESS (FOR SFH ONLY) 2 - OVER 10,000 1	
16. TYPE OF ASSISTANCE 061 (See FMI)	17. PURPOSE CODE 1	18. GUARANTEE PERCENT OF LOAN 1 %	
19. TERM OF INTEREST ASSISTANCE	20. SUBMISSION CODE 2 1 - INITIAL 2 - SUBSEQUENT	21. AMOUNT OF LOAN 1,553,000.0	
22. APPROVAL DATE MO DA YR JUL 12 2021	23. NOTE INTEREST RATE 5.7100 %	24. BORROWER EFFECTIVE INTEREST RATE %	
25. REPAYMENT PERIOD 30	26. INCOME CATEGORY 1 - VERY LOW 2 - LOW 3 - MODERATE 3	27. ADJUSTED FAMILY INCOME	
28. TYPE OF UNIT 1 - FARM TRACT 2 - NON-FARM TRACT 1	29. DWELLING TYPE USE OF FUNDS CODE (See FMI)	30. INTEREST ASSISTANCE CODE 1 - ELIGIBLE FOR INTEREST ASSIST PROGRAM 2 - INELIGIBLE FOR INTEREST ASSIST PROGRAM 1	
31. PERCENT OF INTEREST ASSISTANCE %	32. HIGH COST AREA Y = YES N = NO N	33. BORROWER HISTORY CODE (See FMI)	
34. AMOUNT AGENCY DIRECT DEBT REFINANCE		35. OBLIGATION DATE (Finance Office use only) MO DA YR JUL 12 2021	
36. BEGINNING FARMER/RANCHER (See FMI)			

CERTIFICATION APPROVAL

APPROVAL CONDITIONS:

(1) (Farm Loan Programs Only) This loan guarantee is approved subject to the availability of funds. If this loan guarantee is not issued for any reason within 90 calendar days from the date of approval on this document, the approval official may request updated information concerning the lender and the loan applicant. The approval official will have 14 working days to review any updated information and decide whether to submit this document for obligation of funds.

(2) This loan guarantee is approved subject to the conditions on the Conditional Commitment.

37. COMMENTS AND REQUIREMENTS OF CERTIFYING OFFICIAL

38. I HEREBY CERTIFY that all determinations and certifications required by the respective United States Department of Agriculture (USDA) Agency regulations prerequisite to providing assistance of the type indicated above have been made and that evidence thereof is in the docket, and that all requirements of pertinent regulations have been complied with. I hereby approve the above-described assistance in the amount set forth above, subject to the availability of funds, and subject to conditions prescribed by Agency regulations applicable to this type of assistance.

I further certify that USDA has complied with the applicable provisions of Title XI, Public Law 95-630, seeking financial information regarding the applicant.



(Signature of Approval Official)

Typed or Printed Name: Daniel Torres

Date Approved JUL 12 2021

Title: Acting State Director

39. TO THE APPLICANT/LENDER: As of this date JUL 12 2021, this is notice that your application for the above loan guarantee/Interest Assistance from USDA has been approved, as indicated above, subject to the availability of funds and other conditions required by the respective USDA Agency. If you have any questions contact the Approval Official.

EXHIBIT A-6

November 2, 2021
(2 de noviembre, 2021)

MARILEE SPECIAL UTILITIES DISTRICT
(*Distrito Especial de Servicios Públicos de
Marilee*)

PROPOSITION A

FOR ()	<p>Shall Marilee Special Utility District and Mustang Special Utility District be authorized to consolidate into one district; Authorize the name of the consolidated district to be Mustang Special Utility District; Authorize each district to assume the other district's bonds, notes, or other obligations?</p> <p>Each voter may vote for or against the proposition by placing an "X" in the square beside the word "FOR" or in the square beside the word "AGAINST".</p>
AGAINST ()	

PROPOSICIÓN A

A FAVOR ()	<p><i>¿Serán autorizados el Distrito Especial de Servicios Públicos de Marilee y el Distrito Especial de Servicios Públicos de Mustang para que sean consolidados en un solo distrito; Autorizar que el nombre del distrito consolidado sea Distrito Especial de Servicios Públicos de Mustang; Autorizar que cada distrito asuma los bonos, pagarés, y otras obligaciones del otro distrito?</i></p> <p><i>Cada votante puede votar a favor o en contra de la proposición marcando una "X" en el cuadro enseguida de la palabra "A FAVOR" o en el cuadro enseguida de la palabra "EN CONTRA".</i></p>
EN CONTRA ()	

EXHIBIT A-7

Summary Results Report
General and Special Elections
November 2nd, 2021

Combined Accumulated Totals
57 of 57 Vote Centers Reporting
FINAL RESULTS Collin County

Marilee Special Utilities District - Proposition A

Vote For 1

	TOTAL	VOTE %	Election Day	Early Voting	Mail	Provision al	Limited
For	123	67.21%	82	37	4	0	0
Against	60	32.79%	42	16	2	0	0
Total Votes Cast	183	100.00%	124	53	6	0	0
Overvotes	0		0	0	0	0	0
Undervotes	17		12	5	0	0	0
Contest Totals	200		136	58	6	0	0

EXHIBIT B

**AFFIDAVIT OF EDDY DANIEL,
REPRESENTATIVE OF MARILEE SPECIAL UTILITY DISTRICT'S
ENGINEER OF RECORD**

DOCKET NO. 52739

PETITION OF SATER, LP TO AMEND	§	PUBLIC UTILITY COMMISSION
MARILEE SPECIAL UTILITY	§	
DISTRICT'S CERTIFICATE OF	§	OF TEXAS
CONVENIENCE AND NECESSITY IN	§	
COLLIN COUNTY BY EXPEDITED	§	
RELEASE	§	

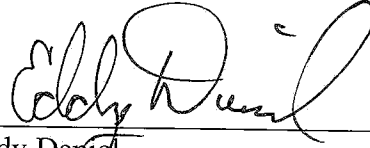
SUPPORTING AFFIDAVIT OF EDDY DANIEL,
PROFESSIONAL ENGINEER FOR MARILEE SPECIAL UTILITY DISTRICT

STATE OF TEXAS	§
	§
COUNTY OF COLLIN	§

BEFORE ME, the undersigned authority, on this date personally appeared Eddie Daniel, who being by me first duly sworn, on his oath deposed and testified as follows:

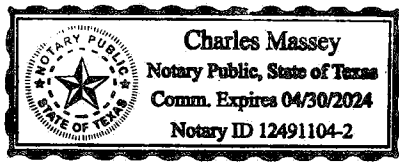
1. "My name is Eddy Daniel. I am more than 18 years of age and I am of sound mind and qualified to make this affidavit. I have personal knowledge of all facts stated herein.
2. "I am an engineer and employee of Dunaway/DBI Engineers. The company serves as the engineer of record for Marilee Special Utility District (the "District"), the Intervenor in this matter, and I am a project engineer for the utility.
3. "I am authorized to make this affidavit on behalf of the District in Docket 52739 in support of its response to Sater, L.P.'s ("Petitioner") request to remove 269.84 acres of land ("Tract of Land") from areas for which the District holds water certificate of convenience and necessity ("CCN") No. 10150.
4. "I supervised the preparation of the map of the Tract of Land attached to this affidavit as Exhibit B-1.
5. "The District maintains active meters and waterlines within the boundaries of the Tract of Land. The District's meters and waterlines are marked on Exhibit B-1.
6. "In my professional opinion, the District provides water service to the Tract of Land through its existing meters and waterlines, and has the ability and facilities dedicated to continue to provide water service to the Tract of Land.

FURTHER, AFFIANT SAYETH NOT.



Eddy Daniel
Engineer of Record for Marilee Special Utility
District

SWORN TO AND SUBSCRIBED before me by Eddy Daniel on this 3 day of March 2022.



Notary Public in and for the State of Texas

EXHIBIT C

**AFFIDAVIT OF CHRIS BOYD
MUSTANG SPECIAL UTILITY DISTRICT'S GENERAL MANAGER**

DOCKET NO. 52739

PETITION OF SATER, LP TO AMEND	§	PUBLIC UTILITY COMMISSION
MARILEE SPECIAL UTILITY	§	
DISTRICT'S CERTIFICATE OF	§	OF TEXAS
CONVENIENCE AND NECESSITY IN	§	
COLLIN COUNTY BY EXPEDITED	§	
RELEASE	§	

**SUPPORTING AFFIDAVIT OF CHRIS BOYD,
GENERAL MANAGER FOR MUSTANG SPECIAL UTILITY DISTRICT**

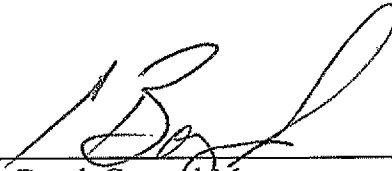
STATE OF TEXAS	§
	§
COUNTY OF COLLIN	§

BEFORE ME, the undersigned authority, on this date personally appeared Chris Boyd, who being by me first duly sworn, on his oath deposed and testified as follows:

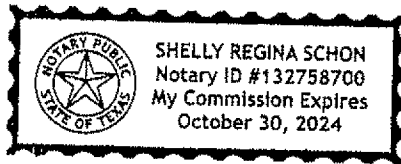
1. "My name is Chris Boyd. I am more than 18 years of age and I am of sound mind and qualified to make this affidavit. I have personal knowledge of all facts stated herein.
2. "I am the General Manager for Mustang Special Utility District ("Mustang"). I have been in that position for 19 years.
3. "On November 2, 2021, an election was held in Denton County on a proposition to authorize Mustang to consolidate with Marilee Special Utility District ("Marilee"). On the same day, an election was held in Collin County on a proposition to authorize Marilee to consolidate with Mustang. A true and correct copy of Mustang's proposition as it appeared on the ballot is attached hereto as Exhibit C-1.
4. "The election resulted in the Mustang's and Marilee's voters approving consolidation of Mustang with Marilee, authorizing the consolidated district be named Mustang Special Utility District (the "Consolidated District"), and authorizing each district to assume the other district's bonds, notes, and other obligations. A true and correct copy of the election results in Denton County is attached hereto as Exhibit C-2.
5. "Mustang has federal indebtedness that has been assumed by the Consolidated District. The United States of America Department of Agriculture, Rural Utilities Service, purchased bonds from Mustang in 2016, in the amount of \$14,142,000, and in 2018, in the amount of \$1,000,000 (collectively, the "Bonds"). The Consolidated District will be required to make payments on the 2016 bonds until 2055. The Consolidated District will be required to make payments on the 2018 bonds until 2058.
6. "I am authorized to make this affidavit on behalf of the Consolidated District in Docket 52739 in support of Marilee's response to Sater, L.P.'s ("Petitioner") request to remove approximately 269.84 acres of land (the "Tract of Land") from areas for which the

Consolidated District holds water certificate of convenience and necessity ("CCN") No. 10150.

FURTHER, AFFIANT SAYETH NOT.


Chris Boyd, General Manager
Mustang Special Utility District

SWORN TO AND SUBSCRIBED before me by Chris Boyd, General Manager of Mustang Special Utility District on this 3 day of March 2022.



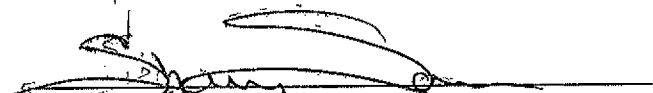

Notary Public in and for the State of Texas

Exhibit C-1

Mustang Special Utilities District Proposition A

Shall Mustang Special Utility District and Marilee Special Utility District be authorized to consolidate into one district; Authorize the name of the consolidated district to be Mustang Special Utility District; Authorize each district to assume the other district's bonds, notes, or other obligations?

For

Against

Contests: **1**

Options: **2**

Exhibit C-2

Cumulative Results Report

Denton County

Official Results

Official Results

Mustang Special Utility District Special Election

Registered Voters

172 of 37553 = 0.46%

Precincts Reporting

15 of 15 = 100.00%

Run Time 11:02 AM

11/2/2021

Run Date 11/09/2021

Page 1

Mustang Special Utility District Proposition A

Choice	Party	Absentee Voting		Early Voting		Election Day Voting		Total	
For		18	56.25%	39	76.47%	47	53.41%	104	60.82%
Against		14	43.75%	12	23.53%	41	46.59%	67	39.18%
Cast Votes:		32	100.00%	51	100.00%	88	100.00%	171	100.00%
Undervotes:		0		0		1		1	
Overvotes:		0		0		0		0	

*** End of report ***