

RESOLUTION NO. 2011-13

A RESOLUTION OF THE TOWN OF PROVIDENCE VILLAGE, TEXAS REQUESTING THE PROVIDENCE VILLAGE WATER CONTROL AND IMPROVEMENT DISTRICT TAKE ACTION TO PREVENT THE TRANSFER OF WATER AND SEWER INFRASTRUCTURE TO A THIRD PARTY:

WHEREAS, the Town of Providence Village has the authority to provide for the health, safety and welfare of its citizens; and

WHEREAS, the Providence Village Water Control Improvement District was duly created pursuant to Chapter 53, Water Code, as a fresh water supply district by an order of the Denton County Commissioners' Court on August 29, 2000; and

WHEREAS, pursuant to elections held on November 7, 2000, the voters of the Providence Village Water Control Improvement District confirmed creation of the Providence Village Water Control Improvement District, and the Providence Village Water Control Improvement District assumed sanitary sewer powers under Chapter 53, Water Code, and road district powers under Chapter 257, Transportation Code; and

WHEREAS, on November 30, 2000, pursuant to Chapter 51, Water Code, the Providence Village Water Control Improvement District converted to a water control and improvement district; and

WHEREAS, Article III, Section 52 of the Texas Constitution and Chapters 49, 51, and, for limited purposes, 53, Water Code, as amended, and elections held within the Providence Village Water Control Improvement District, the Providence Village Water Control Improvement District has previously issued tax bonds utilized for the construction and maintenance of water and sewer infrastructure, maintenance and services; and

WHEREAS, pursuant to an Order, dated April 13, 2010, issued by the Texas Commission on Environmental Quality, the name of the Providence Village Water Control Improvement District was changed to "Providence Village Water Control and Improvement District of Denton County"; and

WHEREAS, pursuant to an election held May 8, 2010, at which a majority of the votes cast were for incorporation, the Denton County Judge made an entry in the records of the County Commissioners' Court that the Town was incorporated, and the boundaries of the Town of Providence Village contain most of the area included in the Providence Village Water Control and Improvement District; and

WHEREAS, the Town has a town council elected to serve for the benefit of the citizens of the Town of Providence Village; and

WHEREAS, the Providence Village Water Control and Improvement District has a board elected to serve for the benefit of the citizens which reside in the Water Control and Improvement District; and

WHEREAS, the Providence Village Water Control and Improvement District entered into a series of contracts beginning on June 18, 2001, which provided for the subsequent transfer of the Providence Village Water Control and Improvement District's Water and Sewer Certificates of Convenience and Necessity along with the its infrastructure for water and sewer services to Mustang Water Supply Corporation; and

WHEREAS, the Town of Providence Village filed suit in Denton County District Court against Mustang Special Utility District and Providence Village Water Control and Improvement District alleging that the contracts referenced above violated the "Reserved Powers Doctrine" and the transfers themselves violate the Texas Constitution; and

WHEREAS, the Providence Village Water Control and Improvement District has not taken any action to insure that the Water and Sewer infrastructure, and the Water and Sewer Certificates of Convenience and Necessity continue to be held by an entity which is controlled solely by an entity that represents the citizens of both the Town of Providence Village and the Providence Village Water Control and Improvement District; and

WHEREAS, the Providence Village Water Control and Improvement District has taken a position in Denton County District Court Case, Cause Number 2011-60876-393 that is adverse to the citizens of the Town of Providence Village; and,


WHEREAS, the Providence Village Water Control and Improvement District has aligned with Mustang Special Utility District and has taken no action to prevent the transfer of water and sewer infrastructure and the water and sewer Certificates of Convenience and Necessity to Mustang Special Utility District; and

WHEREAS, the Providence Village Water Control and Improvement District notified each property owner at closing of the purchase of real property in the Providence Village Water Control and Improvement District pursuant to a notice attached as exhibit "A", and incorporated by reference herein, that provided as follows, "The purpose of this District is to provide water, sewer, drainage or flood control facilities, roads, streets and services within the District through the issuance of bonds payable in whole or in part from property taxes. The cost of these facilities is not included in the purchase price of your property, and *these utility facilities are owned or are to be owned by the District.*"

NOW THEREFORE:

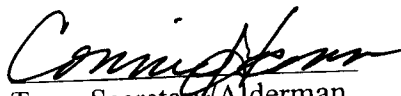
BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF PROVIDENCE VILLAGE, TEXAS THAT THE TOWN OF PROVIDENCE VILLAGE, hereby formally requests that the Providence Village Water Control and Improvement District take all steps necessary to prevent the transfer of the Water and Sewer Utility facilities and the Water and Sewer Certificates of Convenience and Necessity to Mustang Special Utility District, including, but not limited to aligning with the Town of Providence Village in all legal proceedings to insure that the water and sewer infrastructure and facilities and Certificates of Convenience and Necessity continue to be held by an entity that solely represents the citizens of Providence Village.

PASSED AND APPROVED this 12th day of December, 2011.



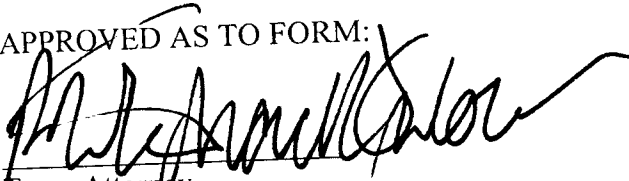
Brian D. Roberson, Mayor

ATTEST:



Town Secretary/Alderman



APPROVED AS TO FORM:


Town Attorney