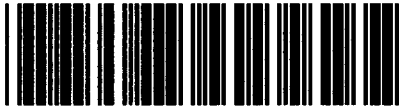


Control Number: 44212



Item Number: 10

Addendum StartPage: 0

House Bill (HB) 1600 and Senate Bill (SB) 567 83<sup>rd</sup>  
Legislature, Regular Session, transferred the functions  
relating to the economic regulation of water and sewer  
utilities from the TCEQ to the PUC effective  
September 1, 2014

44212

WHOLESALE TREATED WATER CONTRACT RECEIVED

2015 JAN 12 AM 10:17

THE STATE OF TEXAS        )  
COUNTY OF DALLAS        )(

PUBLIC UTILITY COMMISSION  
FILING CLERK

THIS contract made and entered into this the 22 day of APRIL, 1991, by and between the City of Cedar Hill, Texas, hereinafter called "Cedar Hill", and the City of Ovilla, Texas, hereinafter called "Customer".

WHEREAS, Cedar Hill, as a condition of its treated water contract with the City of Dallas, has received written approval from the Director of Water Utilities of Dallas for the resale of water outside Cedar Hill's corporate boundaries to the City of Ovilla; and

WHEREAS, Cedar Hill and Customer desire to enter into a treated water contract; and

WHEREAS, Customer is desirous of purchasing water from Cedar Hill, and Cedar Hill desires to make provisions for the delivery and sale of water to Customer as set forth herein under the terms and conditions herein stated; and

WHEREAS, Cedar Hill recognizes the need to plan for Customers future water demands, as if customer is a part of the Cedar Hill system, based on data required herein; and

WHEREAS, upon expiration of this contract Cedar Hill and Ovilla intend to consummate a long term water supply contract to replace this contract.

NOW, THEREFORE, Cedar Hill, and Customer in consideration of the terms, covenants, and conditions herein contained, hereby agree as follows:

W I T N E S S E T H:

1.0 WATER SALES:

1.1 Cedar Hill agrees to deliver to Customer potable water in accordance with the specifications and restrictions in Section 3.0 hereof. Cedar Hill agrees to provide potable water to meet volume and demand requirements of Customer as provided herein.

- 1.2 Delivery of potable water to meet the requirements of Customer is subject to and limited to available system supply and system deliverability, as determined by the Director of Public Services of Cedar Hill. Such delivery shall not be unreasonably withheld.
- 1.3 Customer agrees to limit Cedar Hill's liability in supplying potable water only to that total available at any given time from Cedar Hill's ground water and/or that retrieved from Lake Joe Pool.
- 1.4 In the event that water service is suspended or discontinued or terminated by the City of ~~Cedar Hill~~ <sup>Camp</sup> ~~Dallas~~ <sup>MSF</sup>, then such suspension shall also suspend all water delivery by Cedar Hill to customer for the duration of any suspension by the City of Dallas. Cedar Hill shall have no liability to customer for any suspension of water from the City of Dallas in connection with the furnishing of wholesale treated water to the City of Cedar Hill.

2.0 DEMAND: CHANGES IN DEMAND:

- 2.1 Customer agrees that Cedar Hill's capability to provide increases in demand or volume is subject to available supply and deliverability, as determined by the Director of Public Services of Cedar Hill. Unless otherwise approved by Cedar Hill in writing, Customer's maximum day demand shall not exceed 1.0 million gallons per day (MGPD).

3.0 DELIVERY POINT, ACCESS, ETC:

- 3.1 Cedar Hill agrees to deliver water contracted for by Customer at delivery point(s) as described in Exhibit "A" attached hereto and at such additional points as may be mutually agreed upon by both parties. The cost of all delivery facilities, whether described in Exhibit "A" hereof or mutually agreed upon at a later date, shall be borne by Customer, except that Cedar Hill may elect to require oversizing of the delivery facilities for the benefit of Cedar Hill or other parties. If Cedar Hill elects to oversize delivery facilities, Cedar Hill shall be responsible for oversizing costs to the extent of the difference between Customer's required delivery facilities and the oversize specified by Cedar Hill. Unless otherwise mutually agreed to by Cedar Hill and Customer, Customer shall be responsible for the design, contracting, construction and financing of facilities and acquisition of any right-of-way for delivery of the water from the Cedar Hill system to the delivery point(s). Plans shall be submitted to Cedar Hill for written

approval; and all designs, materials and specifications shall conform to Cedar Hill's requirements. Customer agrees that Cedar Hill has the right to make periodic inspections during the construction phase of the delivery facilities. Final acceptance of completed delivery facilities is subject to the written approval of Cedar Hill.

- 3.2 Unless otherwise agreed by both parties, Cedar Hill shall construct and maintain meter vaults, meters, and all associated facilities, and obtain electric and telephone service in connection therewith, if needed. Customer agrees to reimburse Cedar Hill for actual construction costs attributable to service of Customer, excluding costs of telephone and electric service.
- 3.3 Customer agrees that after final inspection and acceptance of delivery facilities, Customer will convey title of those facilities and rights-of-way in conjunction therewith to Cedar Hill. Upon conveyance of title to delivery facilities by appropriate instrument(s), Cedar Hill shall be responsible for operation and maintenance thereof.
- 3.4 Customer agrees to provide ingress and egress for Cedar Hill's employees and agents to all its premises inside Customer's boundaries to install, operate, inspect, test, maintain facilities and read meters owned or maintained by Cedar Hill within city limits of Customer.
- 3.5 Cedar Hill agrees to provide ingress and egress for Customer's employees and agents to all premises inside Cedar Hill's boundaries to install, operate, inspect, test, maintain facilities, and read meters owned or maintained by Customer within the city limits of Cedar Hill.
- 3.6 It shall be the duty of either party to this contract to notify the other party in the event that the meter(s) is registering inaccurately or malfunctioning so that the meter(s) can be promptly repaired. Each meter will be operated and maintained so as to record with the most recent standards established by the American Water Works Association. Cedar Hill will notify Customer prior to any meter test. Either party has the right to request a meter be tested with the other party having the right to witness such test. If Customer requires an independent testing service be used, Customer shall pay the cost of said testing service if the meter(s) is found to be accurate. If meter(s) is found inaccurate, Cedar Hill shall pay the costs of said testing service.

#### 4.0 BOOKS AND RECORDS:

Cedar Hill agrees that Customer or its agent may have access to the books and records of Cedar Hill Water Utilities at reasonable times. Customer agrees that Cedar Hill or its agent, and Dallas or its agent, may have access to the books and records of the Customer's Water Utilities at reasonable times.

#### 5.0 ADDITIONAL WATER SUPPLIES:

5.1 If Customer develops or acquires additional water supplies from any source other than Cedar Hill, resulting in reduced demand from Cedar Hill, then Cedar Hill is released from the obligation to supply the demand amount mutually established under Section 2 hereof. In such event, Cedar Hill may adjust its supply obligation to levels commensurate with Customer's reduced demand.

5.2 If within the term of this contract, Customer totally or partially discontinues taking water from Cedar Hill because other water supplies have been developed or acquired, Customer shall for five years or the balance of this contract, whichever is less, remain liable for charges at the billing level in effect at the date of notification of such partial or total cessation. This obligation, once established, shall serve as liquidated damages and is intended to compensate Cedar Hill for the expenditures incurred on Customer's behalf for the cost of installation of supply, transmission, treatment, delivery and service facilities. Provided, however, that Cedar Hill may waive Customer's obligation in the event of nominal reductions based on Customer's plans if Cedar Hill has received prior notice of the plans and concurred in the reduction. It is agreed by the parties that liquidated damages are a reasonable substitute for compensatory damages which are difficult or impossible to calculate herein. This obligation is intended by the parties not to be a penalty, but instead, a reasonable measure of damages.

#### 6.0 RESALE:

6.1 Customer agrees not to sell water purchased from Cedar Hill to any person or entity outside Customer's corporate boundaries (as may be adjusted from time to time) after the effective date

of this contract unless Customer has received prior written approval from Cedar Hill. Notwithstanding the foregoing provision, Cedar Hill expressly recognizes and agrees that those existing residential customers identified on Exhibit "F" attached hereto are approved for water service from Customer. In granting such authorization, Cedar Hill may establish the terms and conditions of the conveyance of such water including, but not restricted to, the setting of monetary rates for sale of such water. "Convey" means sell, trade, donate, exchange, transfer title, or contract therefore.

7.0 RATES AND PAYMENT:

7.1 At the commencement date of this Contract, Customer will be a "Flat Rate" customer plus a transportation charge which is subject to increase. "Flat Rate" customers make payments based on the volume of water metered. At the commencement date of this contract, Customer does not have an established wastewater collection and treatment system nor master plans for wastewater collection and treatment. It is a specific condition of this contract that Customer will begin development and provide to Cedar Hill and to Dallas a wastewater master plan meeting the standards of Exhibits B and D. It is a further specific condition of this contract that the maximum quantity of water demand supplied to Customer shall not exceed 1.0 MGPd, on maximum day, until Customer develops an adequate wastewater collection system in accordance with the standards of Exhibit D of this contract. It is a condition of this Contract that Customer may be required to become a two-part customer whose rate is determined based on volume and demand at such time as Customer's average daily demand equals or exceeds .4 MGPd or Customer's maximum daily demand equals 1.0 MGPd. However, Customer may request to become a volume and demand rate customer, but Cedar Hill shall not be obligated to honor the request if it is determined not to be economically or technically feasible to honor such request.

7.2 Rates charged customer shall be established by ordinance of Cedar Hill. Rates shall be determined as detailed in Exhibit E and shall be calculated in accordance with normal rate principals, including, but not limited to, capital costs; water purchase costs; operation and maintenance costs; and any and all reasonable and necessary costs associated with the purchase, treatment, transportation and delivery of water to the customer.

- 7.3 Customer understands that the Cedar Hill City Council has the right by ordinance to revise the rates charged, as detailed in Exhibit E, from time to time as needed. Cedar Hill will furnish Customer a draft copy of the Proposed Rates sixty (60) days prior to Cedar Hill submitting a rate increase request to its City Council.
- 7.4 Customer agrees to give Cedar Hill a minimum of thirty (30) days notice of intent to protest rates or any other condition of service.
- 7.5 Cedar Hill agrees to render a statement of charges monthly. Payment is due upon receipt of statement. Customer agrees to pay within fifteen (15) days from the billing date. Any charges or penalties otherwise charged to customers in Cedar Hill shall also be levied to the Customer. Charges shall be billed monthly.
- 7.6 In the event a meter(s) is discovered malfunctioning, then the amount of water that has passed through the meter will be estimated for each day the meter has not functioned correctly. The last correctly measured monthly consumption will be used as a basis for mutually computing the amount of water delivered to Customer during the time the meter has not been functioning correctly.
- 7.7 Customer agrees that its maximum day demand shall not exceed 1.0 MGPD from Cedar Hill.
- 7.8 The Customer shall set rates adequate to pay for the monthly water purchase from Cedar Hill.
- 8.0 CURTAILMENT:
- 8.1 Customer agrees that if water supplies or services are curtailed within Cedar Hill, Cedar Hill may impose a like curtailment on deliveries to Customer. Customer will cooperate by imposing conservation measures upon its sales.
- 8.2 Customer agrees to develop a water conservation plan, as defined in Exhibit B, which incorporates loss reduction measures and demand management practices designed to insure that the available supply is used in an economically efficient and environmentally sensitive manner. Upon request, Customer will furnish a copy of its conservation plan to Cedar Hill.

8.3 To the extent Cedar Hill imposes restrictions or grants privileges of general applicability to itself and customer cities, including rules relating to the curtailment of water delivery and availability, Cedar Hill agrees to impose such restrictions and grant such privileges equitably and in non-discriminatory fashion.

9.0 RIGHTS-OF-WAY AND STREET USE:

9.1 Customer agrees to furnish any rights-of-way necessary within or without Customer's boundaries for Cedar Hill to make delivery of water as provided in Section 3 hereof, and to convey such rights-of-way to Cedar Hill as herein provided.

9.2 Customer agrees that with prior written approval of Customer, Cedar Hill may use streets, alleys and public rights-of-way within Customer's boundaries for pipeline purposes to provide water to Customer or to other customers without charges or tolls, provided that Cedar Hill makes the necessary repairs to restore the streets, alleys or public rights-of-way used to their original condition. Such use and repairs shall be pursuant to the terms and conditions of the conveyance Customer duly grants for such purposes.

9.3 Cedar Hill agrees that, with prior written approval of Cedar Hill, Customer may use Cedar Hill streets, alleys and public rights-of-way, within Cedar Hill boundaries for pipeline purposes to provide water to Customer without charges or tolls, provided Customer makes necessary repairs to restore the streets, alleys or public rights-of-way used to their original condition. Such use and repairs shall be pursuant to the terms and conditions of a private license duly granted by the Cedar Hill City Council.

10.0 STANDARDS:

10.1 Customer shall protect Customer's storage and distribution system from cross connections under the specifications required by health standards of the State of Texas.

10.2 Customer agrees to provide air gaps for any ground storage and back flow preventers for any elevated storage.

10.3 Customer is responsible for providing internal storage sufficient to meet its emergency needs and to maintain a reasonable load factor for deliveries from Cedar Hill to Customer.



10.4 Cedar Hill will comply with applicable state standards or regulations for the transmission of potable water to customer's central meter or meters; CEDAR HILL MAKES NO WARRANTIES, EXPRESS OR IMPLIED, AS TO THE QUALIFY, FITNESS OR MERCHANTABILITY OF SUCH WATER PAST CEDAR HILL'S METERING STATION.

10.5 Customer agrees that it will maintain in good order and repair its internal water system and customer agrees to comply with all state and federal statutes for the operation of a municipal water system. Failure to comply with any state or federal statute or regulation in the maintenance and operation of its municipal internal water system will authorize Cedar Hill to terminate this agreement upon sixty (60) days written notice to the customer.

11.0 FORCE MAJEURE, ETC.:

11.1 If, for any reason, not reasonably within the control of the party so claiming, either party hereto shall be rendered in whole or in part unable to carry out its obligations under this agreement, then that party's obligation shall be suspended during the continuance of the inability then claimed, but for no longer period. Such party shall endeavor to remove or overcome such inability with all reasonable dispatch.

11.2 Cedar Hill shall not be liable in damages for damage to Customer's water mains or water system resulting from the rate of flow or quantity of water delivered.

11.3 Customer hereby agrees to hold Cedar Hill whole and harmless from any claims or damages arising as a result of the chemical or bacteriological content of water provided to the Customer, unless the damages resulting from the chemical or bacteriological content of the water are caused by the negligence of Cedar Hill.

11.4 Customer agrees and is bound to hold Cedar Hill whole and harmless from any act or omission of any representative, agent, customer, employee, and/or invitee of Customer.

11.5 Recognizing that Cedar Hill's and Customer's undertakings as provided in this contract are obligations, the failure in the performance of which cannot be adequately compensated in money damages, Cedar Hill and Customer agree that, in the event of any default, the other party shall have available to it the equitable remedy of specific performance in addition to other legal or equitable remedies which may be available to such party.

12.0 SPECIAL PROVISIONS:

12.1 Special provisions applicable to this contract are attached hereto and styled Exhibits A, B, C, D, E, and F. These Exhibits are incorporated herein, as if copied word for word.

13.0 TERM:

13.1 This contract shall remain in force and effect until September 1, 2011 or until such time as Cedar Hill begins receiving water from Lake Joe Pool in an amount sufficient to supply Customer at the then prevailing demand. The parties hereto further agree that Customer may from time to time request additional water demand from Cedar Hill and nothing contained herein shall preclude Customer's rights to make such a request or Cedar Hill's approval or disapproval thereof.

14.0 VENUE:

14.1 The parties herein agree that this contract shall be enforceable in Cedar Hill, Texas, and if legal action is necessary to enforce it, exclusive venue shall lie in Dallas County, Texas.

15.0 NO VERBAL AGREEMENT:

15.1 This contract contains all commitments and agreements of the parties hereto and no verbal or written commitments shall have any force or effect if not contained herein.

16.0 APPLICABLE LAWS:

16.1 This contract is made subject to all applicable laws of the State of Texas and the United States of America.

17.0 CONTRACT INTERPRETATION:

17.1 In interpreting the various provisions of this contract in a court of law, any said court having jurisdiction shall apply the laws of the State of Texas to interpret the terms and provisions of this contract.

18.0 CAPTIONS:

18.1 The captions to the various clauses of this contract are for informational purposes only and shall not alter the substance of the terms and conditions of this contract.

19.0 NOTICES:

19.1 Any notice required under this contract may be given to the respective parties at the following addresses by Certified Mail postage prepaid:

**CUSTOMER**

City of Ovilla  
Attn: City Mayor  
P. O. Box 5047  
Ovilla, TX 75154

**CEDAR HILL**

City of Cedar Hill  
Attn: City Manager  
P. O. Box 96  
Cedar Hill, TX 75104

**EXECUTED** as of the day and year first written above on behalf of the City of Cedar Hill, Texas, by its Mayor, and on behalf of the City of Ovilla, Texas, by its Mayor.

CITY OF CEDAR HILL

ATTEST:

Frankie Lee  
City Secretary

BY: W.S. Permuta  
Mayor

APPROVED AS TO FORM:

BY: \_\_\_\_\_  
City Attorney

CITY OF OVILLA

ATTEST:

Helma Gaud  
City Secretary

BY: Chas B. Master  
Mayor

APPROVED AS TO FORM:

BY: John Richard Wilson, subject  
City Attorney  
to comments contained  
in City Attorney's April 24, 1991  
letter to Greg Vick

**EXHIBIT A**  
**CITY OF OVILLA**  
**DELIVERY FACILITIES**

**Description:** Customers Delivery Facilities will be metered at two different points of Delivery. One being a 4" Turbine meter located at Cedar Hill's most Southern City Limits on Duncanville Road. The larger installation shall be located at Cedar Hill's most Easterly City Limits on Bear Creek Road or at the Southeastern corner of Bear Creek Road and Cockrell Hill Road. The meter will be an 8" FM meter with a 4" MCI II compound.

**Demand**

**Capabilities:** This will depend upon the City of Cedar Hill ability to supply the water thru it's distribution system.

It is anticipated that additional delivery points may be added during the term of this contract. If additional delivery points are added, this Exhibit A will be revised to recognize such facilities.

## EXHIBIT B

### WATER SYSTEM FOR WHOLESALE TREATED WATER CUSTOMERS

The Customer water system shall, as a minimum, comply with the prevailing requirements of the "Rules and Regulations for Public Water Systems" as established by the Texas Department of Health. However, the rules and regulations do not address concerns of the Cedar Hill Water Supply System concerning economic and water conservation considerations, thus they are not all inclusive for the purpose of considering the adequacy of potential customer water systems.

Following are considerations to be addressed in addition to State standards:

- I. Distribution system constructed by acceptable methods and of acceptable materials to convey water to internal customers considering...
  - ... Water distribution loss reduction. Engineering studies shall validate system average loss in distribution of less than 15%.
  - ... Potential contamination during distribution.
  - ... Adequacy of pressures for fire protection and customer convenience (normally minimum pressure shall be 35 p.s.i. operating and 20 p.s.i. residual).
- II. Conservation Plan and Practices...
  - ... All accounts (including municipal metered).
  - ... Published contingency plans for conservation during water shortages, peak demand periods, emergencies.
- III. Minimum ground and elevated storage shall be constructed or planned to insure...
  - ... Storage will be provided in accordance with Texas Department of Health criteria.
  - ... Maximum demand on the system shall not exceed 3 or 1 ratio maximum day to storage.
  - ... Elevated storage equal to 50 percent of average daily consumption or 55 gallons per capita, whichever is less, with a maximum of 5.0 MG required in each pressure zone.
- IV. Permanent connections operating off Cedar Hill's pressure will not be made without prior approval of Cedar Hill.
- V. Treatment facilities shall be available if supplementary water requiring additional treatment is to be used.

- VI. If system improvements are necessary to meet minimum service requirements, evidence of ability to finance the improvements must be provided.
- VII. Air gaps or other means, as approved by Cedar Hill, for ground storage, temporary connections and elevated storage shall be provided.
- VIII. A Water and Wastewater Master Plan shall be filled with Cedar Hill within one (1) year of commencement of Contract, containing the below data. This data shall be used by Cedar Hill to properly plan for Customers future water needs.

#### **WATER AND WASTEWATER MASTER PLAN DATA**

##### **I. Water**

###### **A. Existing System**

- 1. Written Description of Present System.
  - a. Past Experience
  - b. Demands
  - c. Supplies
  - d. Distribution
  - e. Storage
  - f. Land Use
  - g. Future Improvements
  - h. Goals
- 2. Map of System
  - a. Entity's Owned Facilities
  - b. Purchased Water Facilities
  - c. All Transmission and Distribution Mains
- 3. Entity's Owned Facilities
  - a. Types of Facilities
    - 1) Wells
    - 2) Water Treatment Plants
    - 3) Storage Facilities
    - 4) Pumping Stations
  - b. Hydraulic Capacity
- 4. Purchased Water Facilities
  - a. Water Supplier
  - b. Types of Facilities
  - c. Hydraulic Capacity

B. Future System

1. Map of Future System

- a. Future Owned Facilities
- b. Future Purchased Water Facilities
- c. Future Transmission and Distribution Mains
- d. Future Points of Delivery

2. Owned Facilities

3. Purchased Water Facilities

C. Area to be Served by City of Cedar Hill

1. Map of Service Area

- a. Present Boundaries
- b. Anticipated Future Boundaries

D. Population

- 1. Present Area Population
- 2. Population Projected: 5, 10, 15, 20, 25 Years  
Minimum

E. Water Requirements

1. Present

- a. Average Maximum Daily Demand
- b. Maximum Daily Demand
- c. Maximum Hourly Demand

2. Projected Water Requirements: 5, 10, 15, 20, Years  
Minimum

- a. Average Maximum Demand
- b. Maximum Daily Demand
- c. Maximum Hourly Demand

II. Wastewater

A. Existing and Future System

1. Written Description of Present System

- a. Past Experience
- b. Demands
- c. Collections System
- d. Type of Treatment
- e. Future Improvements
- f. Goals

2. Map of System

- a. Entity's Owned Facilities
- b. Contracted Wastewater Disposal Facilities
- c. Sewer Mains
- d. Effluent Location

3. Flow Data

- a. Peak Flow
- b. Average Daily Flow

4. Treatment

- a. Entity's Owned Facilities
- b. Contracted Wastewater Disposal Facilities
- c. Type of Treatment
- d. Type of Discharge Permit



**EXHIBIT C**  
**SERVICE CONDITIONS**  
**FOR**  
**TREATED WATER CUSTOMERS**

**I. Minimum Requirements**

**A. Financial**

1. Customer to bear up-front costs necessary to make service available (normally delivery facilities and metering stations). Facilities to be sized for foreseeable future.
2. No new accounts by Customer allowed that would necessitate unplanned expansion of treatment and transmission facilities of Cedar Hill.

**II. Other Requirements**

- A. Delivery facilities, metering stations, and rights of way to be dedicated to Cedar Hill. Cedar Hill to assume maintenance responsibility.
- B. Service shall be subject to the availability of water.
- C. Resale of water is prohibited except with prior approval of Cedar Hill.
- D. Ordinance and other legal bases for land use and development control shall be in effect prior to contract effective date.
- E. Temporary excess capacity in transmission mains shall be available for system transportation use.

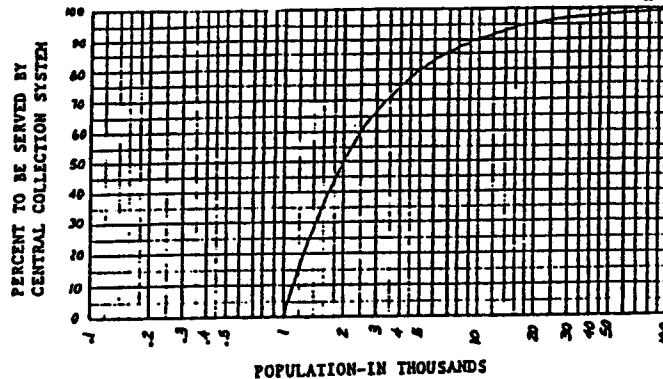
## EXHIBIT D

### WASTEWATER SYSTEMS FOR WATER CUSTOMERS

All customer wastewater systems shall, as a minimum, comply with the prevailing "Design Criteria for Sewerage Systems" as established by the Texas Department of Health.

Following are additional consideration to be addressed:

- I. Interconnected wastewater collection and transmission system must serve the percent of customers residing within the corporate boundaries as indicated by the following



- II. Wastewater disposal for residents not on established wastewater collection and transmission systems shall, as a minimum, comply with applicable...

- ... Local Ordinances
- ... County Ordinances
- ... State of Texas Standards

In the absence of equal or more stringent standards, Attachment 1 to this Exhibit D shall be considered the minimum standard for private sewage facilities. Primary considerations for evaluating private sewage facilities shall be (1) a valid percolation test, (2) adequate absorption field and (3) satisfactory construction. Enforcement authority for these considerations must be evidenced.

- III. The collection and transmission system shall be constructed according to acceptable materials.
- IV. The system in use shall not exceed the life expectancy cycle as outlined for the Cedar Hill Water Utilities wastewater collection, transmission and treatment system.

V. Treatment Plant, if operated by customer, shall be permitted by Environmental Protection Agency and approved by applicable State authority and shall...

...be adequately sized and maintained to meet permit requirements.

...be operated by qualified operators meeting minimum State certification requirements.

...be in satisfactory condition to serve future requirements.

...have an approved Master Plan for future expansion.

VI. If treatment service is to be provided by others, the service shall be evaluated according to the same standards as if customer proposed to operate the plant.

VII. Where areas are being served by septic systems or small unit treatment systems, a master plan for development of the collection system and connecting customers to the collection and transmission systems must be available.

VIII. It is recognized that local, county and State requirements for septic systems and other private sewage facilities are general rather than specific. The authority of Cedar Hill to impose requirements for wastewater collection and disposal based on the specific situation being evaluated is recognized.

## EXHIBIT D

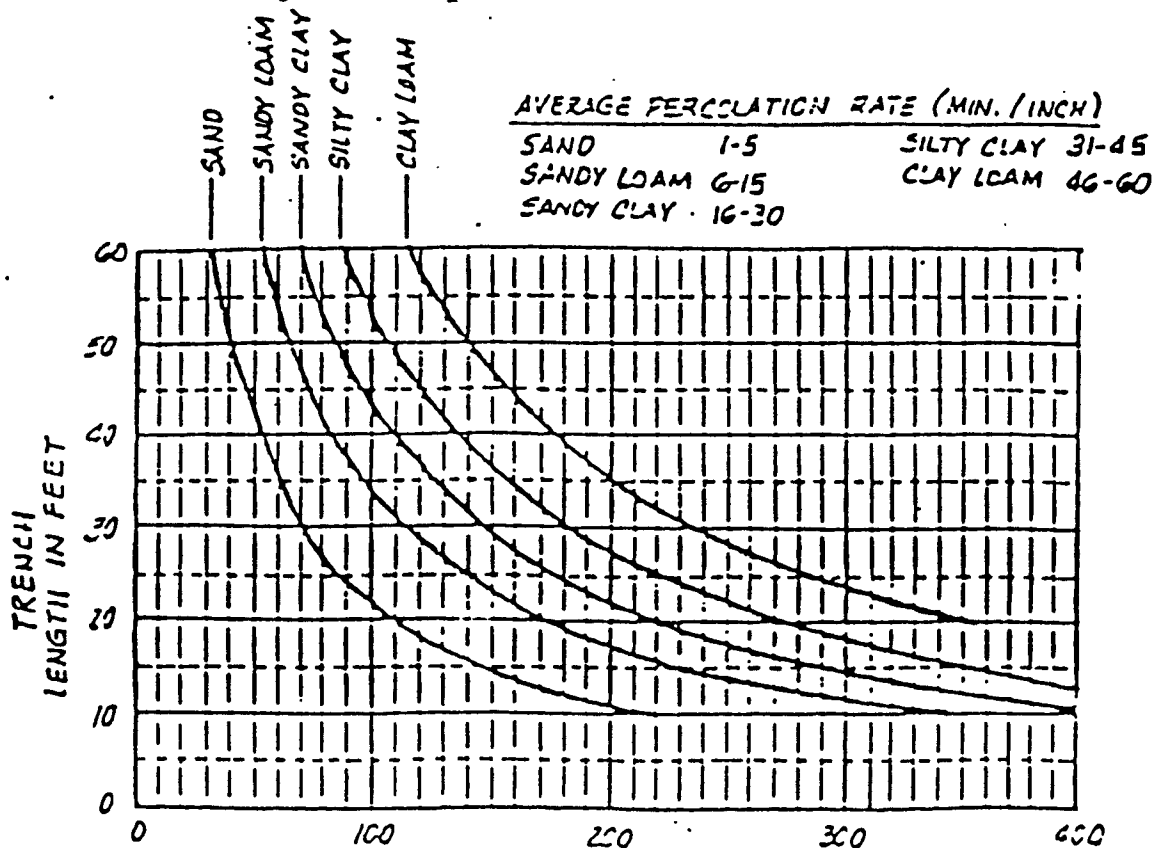
### ATTACHMENT 1

#### A. Private Sewage Facilities - Soil Percolation Tests

1. Minimum of 2 test holes uniformly spaced over absorption field site. Four holes may be required, depending on results of 2 holes tests, per Texas Department of Health publication.
2. Test hole should be 12-15 inches in diameter to the depth of the proposed trench.
3. Sides and bottom of hole must be roughened to remove slick, smeared surfaces.
4. Saturation of the soil to establish swelling during wet weather is required for a minimum period of 24 hours prior to percolation test.
5. Percolation test requires a water depth of 12 inches. The drop in water level is measured over a 30 minute period.
6. Sandy soil tests require other procedures.

NOTE: This information is from Texas Department of Health's "Construction Standards For Private Sewage Facilities".

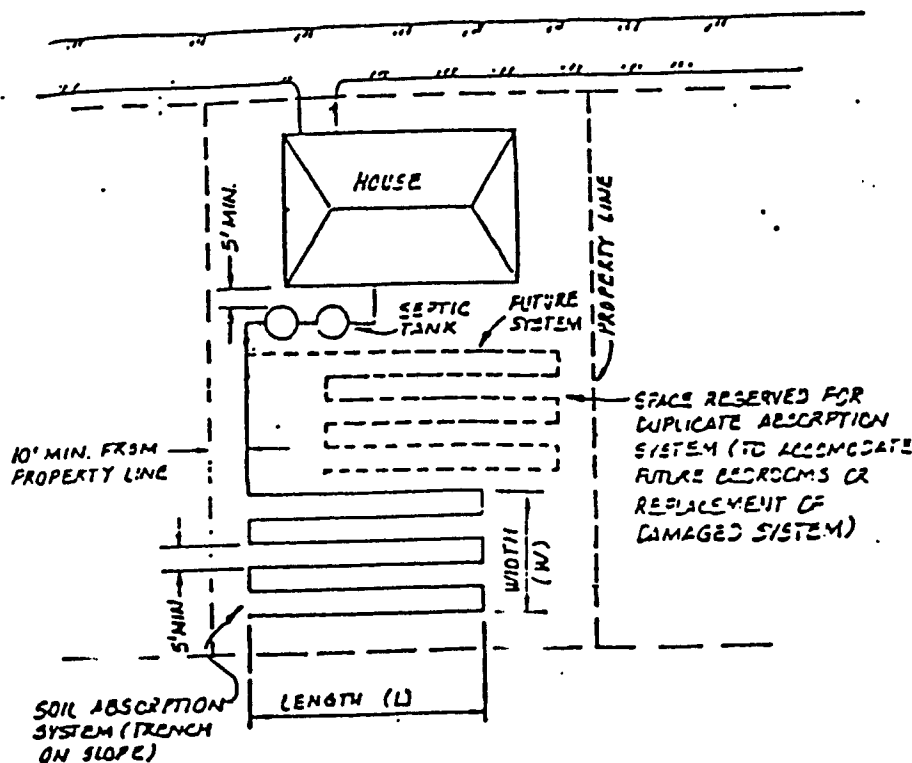
#### B. Private sewage facilities - absorption trench area for 2 bedroom single family residences.



NOTES:

1. Absorption trench is not allowed for gravel and clay soils where percolation rate is less than 1 min./inch or greater than 60 min./inch.
2. Area shown is for an absorption trench in irregular terrain which is larger than an absorption trench in level terrain.
3. Chart is based on Texas Department of Health's "Construction Standards for Private Sewage Facilities."
4. Calculations for chart are based on:
  - ...Trench width of 1 foot with roughened sides and bottom.
  - ...Spacing between parallel trenches of 5 feet.
  - ...Maximum trench length of 60 feet.
  - ...Minimum trench bottom areas per Texas Department of Health's publication referenced.
5. Each additional bedroom shall increase the area requirement of absorption trench by 33% of that shown in the Table.

C. Minimum Residential Lot Size - Private Sewage Facilities -  
Diagram of Minimum Absorption Trench Area for 3 Bedroom Residence.



To determine the required minimum lot size multiply lot length by width:

Length      Building set-back from property line + house depth + distance from house foundation to septic tank (minimum 5') + septic tank installation + distance from septic tank to soil absorption system (minimum 5') + length or width of soil absorption system (from chart) + distance to property line (minimum 10').

Width      Distance from property line to soil absorption system (minimum 10') + length or width of soil absorption system (from chart) + distance from soil absorption system to property line (minimum 10').

- D.      A maintenance requirement shall be in effect such that any standing surface seepage observed 24 hours after rainfall in the immediate area of the absorption system shall be repaired by the owner within 30 days after notification or it will be repaired for him at his expense.

## EXHIBIT E

During the term of this contract when Ovilla is on "flat rate", the rate to Ovilla shall be the prevailing Dallas flat rate charge per 1000 gallons plus a reasonable charge to cover Cedar Hill's transportation cost. Adjustments to the rate including the transportation charge proposed by Cedar Hill is subject to the conditions of the treated water contract executed by Cedar Hill and Dallas.

At the effective date of the contract, the following rate and transportation charge is in effect.

Rate: \$0.9120/1000 gallons

Transportation Charge: \$0.2056 cents/1000 gallons

If Ovilla is required to become a two-part rate customer during the term of this contract, this Exhibit E shall be renegotiated to contain rate setting principles applicable to two-part rate volume and demand customers.

**EXHIBIT F**

**THE CITY OF OVILLA, TEXAS  
RESIDENTIAL CUSTOMERS LOCATED OUTSIDE CORPORATE LIMITS**

<b>Name</b>	<b>Street</b>	<b>Address</b>
Anderson	Cockrell Hill Road	900
Perry	Cockrell Hill Road	902
Knott	Cockrell Hill Road	910
Moore	Cockrell Hill Road	912
Sitz	Cockrell Hill Road	919
Peugh	Cockrell Hill Road	921
Branch	Cockrell Hill Road	918
Gregory	Cockrell Hill Road	916
Hubbard	Cockrell Hill Road	923
Powers	Cockrell Hill Road	925
Freeman	Red Oak Creek Road	924
Hollingsworth	Red Oak Creek Road	922
Keith - Vacant Lot	Red Oak Creek Road	920
Keith	Red Oak Creek Road	918



Kathleen Hartnett White, *Chairman*  
R. B. "Ralph" Marquez, *Commissioner*  
Larry R. Soward, *Commissioner*  
Glenn Shankle, *Executive Director*



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

January 10, 2006

Mr. John McDonald, City Administrator  
City of Ovilla  
105 South Cockrell Hill Road  
Ovilla, Texas 75154

Re: Application from the City of Ovilla, Certificate of Convenience and Necessity (CCN) No. 11459, to Decertify a Portion of CCN No. 11059 from the City of Glenn Heights and to Amend CCN No. 11459 in Dallas and Ellis Counties; Application No. 35087-C

Application from the City of Ovilla to Obtain a Sewer CCN and to Decertify a Portion of CCN No. 20427 from the City of Glenn Heights in Dallas and Ellis Counties; Application No. 35088-C

CN: 600632129; RN: 102678265 (water) and pending (sewer)

Dear Mr. McDonald:

We have received two protest letters from Bovey, Akers & Bojorquez, LLP on behalf of the City of Glenn Heights. We have also received letters from The Trees of Ovilla, Mr. Davie W. Embry, and Mr. James H. Williams requesting a hearing on the City of Ovilla's applications. The letters are enclosed so the City of Ovilla may contact the protestants and attempt to address the issues mentioned in their letters.

Please respond to the protestants and forward a copy of that response to this office. If the protestants do not file a written withdrawal of their request for a hearing, the applications will be sent to the State Office of Administrative Hearings for scheduling.

Thank you for your attention in this matter. If you have any questions, or will not be able to forward the requested information to this office by **February 2, 2006**, please call me at 512/239-4683.

Sincerely,

A handwritten signature in cursive script that reads "Debbie Reyes".

Debbie Reyes  
Utilities & Districts Section  
Water Supply Division

DR/ac

Enclosures

cc: Mr. Monte Akers, Bovey, Akers & Bojorquez, LLP, Attorneys at Law, 12325 Hymeadow Drive, Suite 3-200, Austin, Texas 78750  
The Trees of Ovilla, P.O. Box 2806, Red Oak, Texas 75154  
Mr. Davie W. Embry, 601 Cardinal Drive, Ovilla, Texas 75154  
Mr. James H. Williams, 3121 South Hampton Road, Glenn Heights, Texas 75154

35087-C  
DR

BOVEY, AKERS & BOJORQUEZ, LLP  
Attorneys at Law

12325 Hymeadow Drive, Suite 3-200 ♦ Austin, Texas 78750 ♦ Phone: (512) 250-0411 Fax: 250-0749

December 1, 2005

Texas Commission on Environmental Quality  
Water Supply Division  
Utilities and Districts Section  
MC-153  
P.O. Box 13087  
Austin, TX 78711-3087

Re: Application of the City of Ovilla, Texas for CCN to Provide Water and Sewer Service in Dallas and Ellis Counties

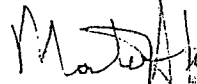
Dear sir or madam:

Our firm submitted a letter on behalf of the City of Glenn Heights dated November 2 requesting a public hearing on the referenced application. However, I learned recently that the letter was not on file with the application. Accordingly, it is submitted a second time, now in response to the notice of the application dated November 7, 2005.

The City of Ovilla's application is apparently for an amendment of CCN No. 11459 for water service and for a new CCN for sewer service. However, the areas for which Ovilla seeks certification are currently contained within the certificated areas of the City of Glenn Heights under CCN No. 11059 for water service and CCN No. 20477 for sewer service. Ovilla is apparently requesting that portions of the Glenn Heights CCNs be decertified, even though Glenn Heights is able to and is prepared to provide continuous and adequate service within those areas.

By separate filing, the City Glenn Heights has requested a commission order to prohibit the City of Ovilla from constructing, extending, or providing service within the Glenn Heights certificated areas. To the extent that it is necessary and convenient, the City of Glenn Heights requests that this matter be consolidated with its request for a commission order. Glenn Heights asks that the application of the City of Ovilla be denied and further that any request for decertification or dual certification be denied.

Yours truly,

 RECEIVED

Monte Akers

DEC 05 2005

TEXAS COMMISSION

ON

ENVIRONMENTAL QUALITY

Dillon

**BOVEY, AKERS & BOJORQUEZ, LLP**  
Attorneys at Law

12325 Hymeadow Drive, Suite 3-200 ♦ Austin, Texas 78750 ♦ Phone: (512) 250-0411 Fax: 250-0749

November 2, 2005

Texas Commission on Environmental Quality  
Water Supply Division  
Utilities and Districts Section.  
MC-153  
P.O. Box 13087  
Austin, TX 78711-3087

Re: Application of the City of Ovilla, Texas for CCN to Provide Water and Sewer Service in Dallas and Ellis Counties

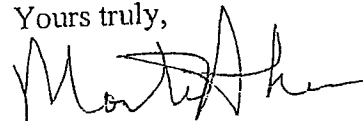
Dear sir or madam:

Our law firm represents the City of Glenn Heights. Glenn Heights requests a public hearing on the application of the City of Ovilla for a Certificate of Convenience and Necessity to provide water and sewer service in Dallas and Ellis Counties.

The City of Ovilla's application, notice of which was published on October 28, 2005, is apparently for an amendment of CCN No. 11459 for water service and for a new CCN for sewer service. However, the area for which Ovilla seeks certification is currently contained within the certificated areas of the City of Glenn Heights under CCN No. 11059 for water service and CCN No. 20477 for sewer service. Ovilla is apparently requesting that portions of the Glenn Heights CCNs be decertified, even though Glenn Heights is prepared to provide continuous and adequate service within those areas.

By separate filing, the City Glenn Heights has requested a commission order to prohibit the City of Ovilla from constructing, extending, or providing service within the Glenn Heights certificated areas. To the extent that it is necessary and convenient, the City of Glenn Heights requests that this matter be consolidated with its request for a commission order. Glenn Heights asks that the application of the City of Ovilla be denied and further that any request for decertification or dual certification be denied.

Yours truly,



Monte Akers



35087-C  
DR

November 30, 2005

To: Texas Commission on Environmental Quality  
Water Supply Division  
Utilities and Districts Section, MC-153  
P. O. Box 13087  
Austin, TX 78711-3087

RECEIVED

DEC 06 2005

From: George A. Tellez  
P. O. Box 2806  
Red Oak, TX 75154  
972-617-6171

TEXAS COMMISSION  
ON  
ENVIRONMENTAL QUALITY

Re: City of Ovilla application for a sewer CCN, to amend CCN No. 11459, and to decertify portions of the City of Glenn Heights with the Texas Water Commission on Environmental Quality to provide water and sewer utility service in Dallas and Ellis Counties, dated November 7, 2005.

I, George A. Tellez, request a public hearing on the above-referenced matter. I am a partner in and spokesperson for a limited partnership that owns a 122-acre tract of land affected by the application filed by the City of Ovilla referenced above. It is the desire of the limited partnership that owns the 122 acres that the application of the City of Ovilla be denied and the property that is subject to the application remain in the CCN of the City of Glenn Heights, Texas. This request is being made for the following reasons:

1. Ovilla does not have the capability in place to provide water service to the subject property. The burden to run water lines from Ovilla's existing facilities to the property would be borne by the developers. This could amount to a substantial expense to the developers. In contrast, the City of Glenn Heights has an existing water line directly adjacent to the subject property that is capable of supplying water to the subject property;
2. The wastewater metering station for the City of Ovilla is inaccessible to the subject property. The developers of the property would be required to bear the burden and considerable expense of installing a separate wastewater metering station that would tie into the Trinity River Authority's current line. This would be necessary for the City of Ovilla to be able to measure wastewater flow for

DAVID W. EMERY  
661 CARDINAL DRIVE  
CIVILLA TX.

11-17-05 DR

35087-C  
+  
35088-C

75154

972-287-4665

469-337-7495

I HEREBY REQUEST A PUBLIC HEARING IN REFERENCE  
TO CCN # 11459.

I AM CONCERNED WITH BEING FORCED TO CHANGE  
TO CITY SEWER SERVICE AT MY EXPENSE.

THIS APPEARS TO BE ANOTHER ATTEMPT BY THE  
CITY OF CIVILLA TO CHANGE EXISTING ZONING LAWS  
TO BENEFIT A GROUP OF DEVELOPERS.

David W. Emery

2005

January 4, 2006

To: Texas Commission on Environmental Quality  
Water Supply Division  
Utilities and Districts Section, MC-153  
P.O. Box 13087  
Austin, Texas 78711-3087

From: James H. Williams  
3121 South Hampton Road  
Glenn Heights, Texas 75154  
972-617-6700  
214-395-5351

Re: City of Ovilla application for a sewer CCN, to amend CCN No. 11459 and to decertify portions of the City of Glenn Heights with the Texas Water Commission on Environmental Quality to provide water and sewer utility service in Dallas and Ellis Counties, dated November 7, 2005.

I, James H. Williams, request a public hearing on the above referenced matter. I am the owner of a 50 acre tract of land located on the West side of Hampton Road with the Northeast corner of the property being approximately 1,800 feet South of Ovilla Road and the North boundary extends West for approximately 2,000 feet, then South along the West boundary approximately 1,350 feet, then East 2,000 feet to the Southeast corner, then North to the starting point. This property is in Ovilla's ETJ.

1. I entered into a verbal agreement with Ovilla and Glenn Heights to annex the 50 acre tract into Glenn Heights. Ovilla's Mayor Mr. Phillips and Glenn Heights Mayor N.L. Craddock agreed to give Glenn Heights the right to sue Oak Leaf over the illegal annexation by Oak Leaf into Ovilla's Extraterritorial Jurisdiction and Ovilla was to receive the CCN for the land West of my property. There was a 6 inch water line that was purchased

by Glenn Heights from Central Texas Water System that made a loop West from Hampton Road down Ovilla Road to Westmoreland to Red Oak Creek Road. It then went East along Red Oak Creek Road to return to Hampton Road and connect to the water line along Hampton Road coming South to complete the loop. This provided water to my property from both the North and South. This line was plugged and closed to East-West flow. I now have less water than before the agreement.

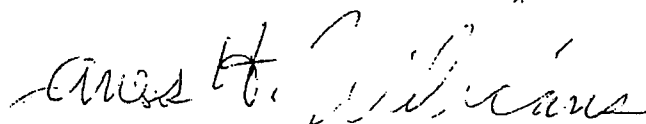
2. The agreement was never completed by either city and no action was taken by either council other than the annexation of my property and 2 approximately 95 acre tracts, south of mine, went  $\frac{1}{2}$  into Glenn Heights and  $\frac{1}{2}$  into Ovilla. The Loop water line was plugged both on Ovilla Road and Red Oak Creek Road. There was a problem with Glenn Heights annexation of the property South of mine because Oak Leaf had illegally annexed a 5 acre tract next to Hampton Road. No change was made to the CCN of Glenn Heights.
3. Oak Leaf is now demanding high dollar water line improvements to their city by Glenn Heights. Glenn Heights simply cannot afford to buy water lines and give them to Ovilla and improve costly water lines in Oak Leaf.
4. My solution is to nullify this partly completed agreement and return things the way they were prior to the partial agreement. This would allow me to be disannexed by Glenn Heights and I would then have no objections to Ovilla and Glenn Heights in working out a new agreement that did not involve my property. At the present time I am sandwiched between Ovilla on the West and Oak Leaf on the East..
5. At the time of the agreement I was willing to go into the City of Ovilla if they would provide water to my property. They did not want to do so. Mr. Phillips was only interested in getting free water lines and doing away with Oak Leaf. I have no idea what

Mr. Craddock's plans were as he never took action on the lawsuit with Oak Leaf.

6. I am concerned by Ovilla's lack of concern for the environment by allowing septic tank pollution of both Little Creek and Red Oak Creek. There are several houses built on the creeks with less than 75 feet from the septic tank beds; some built on the edge of the creek. Ovilla's lack of cost sharing has placed an undue cost burden on the sewer customers in both Glenn Heights and Red Oak. This year's cost estimate to the Red Oak Creek Regional Wastewater System for Glenn Heights is \$1,205,710 and for Ovilla \$18,500. Both cities have about the same amount of land. Glenn Heights has paid over 10 million dollars since the system went online. They are now paying 40% of the cost of the 6 city system. Even though Oak Leaf has 2 trunk lines on both Little and Red Oak creeks they are a total septic city even new construction is septic. Cedar Hill, Desoto and Lancaster are much larger and have other cheaper sewer systems that are their primary providers.

Thank you for your consideration of this matter.

Sincerely,



James H. Williams



200-503. p/c

  
**Ovilla****A Great Community With a Greater Future**

July 10, 1988

City of Glen Heights  
P. O. Box 1028  
DeSoto, Texas 75115-1028

Ref: Oak Leaf Legal Fees

Attention: The Honorable Mayor Craddock

Dear Mayor Craddock:

We have been in touch with the City Attorney about the legal fees that have been spent by Ovilla protecting its interests over the illegal annexation by Oak Leaf of some of our extra-jurisdictional area. The amount that Ovilla has paid is three thousand, two hundred fifty nine dollars; (\$3,259.00).

If you plan to take this suit over, per our agreement, we hope to receive the above amount from you in the near future.

Hoping to hear from you soon on this matter.

Very truly yours,

CITY OF OVILLA

*Charles B. Morton*

Charles B. Morton  
Mayor

CEM/dm



# Ovilla

*A Great Community With a Greater Future*

July 25, 1990

Congressman Joe Barton  
U. S. House of Representatives  
1225 Longworth Building  
Washington, D. C. 20515-4306

Dear Congressman Barton:

Since 1986, North Ellis County residents have worked for, and looked forward to, a waste water treatment plant for our area, that we might increase the quality of life for the citizens of our area. Septic systems are obsolete. There is no way for progress under the septic system. All of us are interested in our environment and try to be good stewards of our surroundings, and that in itself is a reason for the replacement of the septic system. As for Red Oak Creek being a fish habitat, that is nonsense. I cross Red Oak Creek (FM654) almost every day. There is drainage from horse barns, car washes, and, yes, septic lines into Red Oak Creek. Does this improve the environment? Does this type of bacteria create a habitat for the growth of fish and for children that are drawn to the creek to play in the shallow puddles?

Congressman Barton, you and Senator Gramm have done a tremendous job of bringing the SSC to Ellis County. There is no way for the anticipated growth of this part of Ellis County without a waste water treatment plant. Please use your influence and encourage the necessary permit, requested by TRA, to be granted. There may be a small vocal group that feels it should not be, but, believe me, there are a lot of silent ones that think it should be granted and feel the reason it has not been is political. I personally do not feel you would be a part of something that prevents new homes to be built for our young people, hospitals for the sick and schools for our children, or the other things necessary for a quality life. None of these things can happen on obsolete septic systems.

Stand on your convictions and see that this permit, as requested, will be granted for the health, welfare and economy of all concerned.

Thank you for your time.

Sincerely,

Cindy Jones  
Mayor Protem

CJ:vlg

P. O. Box 5047 • Ovilla, Texas 75154 • (214) 223-2944

# *The City of Oak Leaf*



Certified Mail, Return Receipt Requested  
No. 7001 1940 0000 5269 5951  
And Regular Mail

July 2, 2004

Mr. Fred Hayes  
City Manager  
City of Glenn Heights  
1938 South Hampton  
Glenn Heights, TX 75154

Re: Demand for Water System Improvements

Dear Mr. Hayes:

As you may know, for many years the City of Oak Leaf ("Oak Leaf") has attempted to work with the Certificate of Convenience ("CCN") provider, City of Glenn Heights ("Glenn Heights"), to improve the quality of water service to Oak Leaf residents. During that time, the condition of the Glenn Heights water system serving Oak Leaf (the "System") has led to many complaints by Oak Leaf residents about the inadequacy of water pressure and water flow in the System.

The concerns of Oak Leaf and its residents were first initiated in the early 1980's and subsequently confirmed in a 1997 Preliminary Engineering Report (the "Report") prepared by Richard Pierce, P.E. at the request of Glenn Heights. The Report's findings evidence the failure of the System to achieve some of the most basic standards required by the Texas Commission for Environmental Quality (the "TCEQ"). The Report also identified several System improvements necessary to provide an adequate level of service to the System in the City of Oak Leaf.

To date, Glenn Heights has failed to take action to correct the inadequacies evident in the System as documented and substantiated in the Report. Despite early plans and assurances by Glenn Heights that System improvements were imminent, physical activity to improve the System has never been taken. For years now, Glenn Heights has failed to even meet Oak Leaf's most basic requests for a progress report outlining the efforts by Glenn Heights to address System inadequacies.

Glenn Heights has been aware of the inadequacy of its System for over seven (7) years. In the meantime, Oak Leaf residents have suffered needless inconvenience and have seen their fire protection services compromised by the inaction of Glenn Heights. Oak Leaf will no longer wait upon Glenn Heights to fulfill its promises of System improvements.

301 Locust Drive • Oak Leaf, Texas 75154-3855 • (972) 617-2660  
Fax (972) 617-7108 • [www.hometown.aol.com/oakleaftx/HomePage.html](http://www.hometown.aol.com/oakleaftx/HomePage.html)  
*"A community dedicated to family values and a country living lifestyle."*

Kathleen Hartnett White, *Chairman*  
R. B. "Ralph" Marquez, *Commissioner*  
Larry R. Soward, *Commissioner*  
Glenn Shankle, *Executive Director*



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

December 22, 2005

Mr. John McDonald, City Administrator  
City of Ovilla  
105 South Cockrell Hill Road  
Ovilla, Texas 75154

Re: Application from the City of Ovilla, Certificate of Convenience and Necessity (CCN) No. 11459, to Decertify a Portion of CCN No. 11059 from the City of Glenn Heights and to Amend CCN No. 11459 in Dallas and Ellis Counties; Application No. 35087-C

Application from the City of Ovilla to Obtain a Sewer CCN and to Decertify a Portion of CCN No. 20427 from the City of Glenn Heights in Dallas and Ellis Counties; Application No. 35088-C

CN: 600632129; RN: 102678265 (water) and pending (sewer)

Dear Mr. McDonald:

Your applications for the City of Ovilla to amend a water CCN and to obtain a sewer CCN were received on September 1, 2005, and have been accepted for filing. Thank you for providing the items we requested with your December 16, 2005, December 19, 2005 and November 22, 2005, letters and fax. Ms. Debbie Reyes has been assigned to perform the technical review.

After further technical review additional financial, technical or other information may also be requested through future correspondence.

If you have any questions, please contact Ms. Debbie Reyes at 512/239-4683, or if by correspondence, include Mail Code 153 in the letterhead address.

Sincerely,

A handwritten signature in cursive script that reads "Doug Holcomb".

Doug Holcomb, P.E., Section Manager  
Utilities & Districts Section  
Water Supply Division

DH/KLB/ac

**Triumph Development Company, Inc**

July 6, 2005

Mr. John McDonald  
CITY OF OVILLA  
P.O. Box 5047  
Ovilla, TX 75154

Dear Mr. McDonald,

Over the past months I have tried to encourage the City of Glenn Heights to establish water service for our new neighborhood in the City of Ovilla. Despite several meetings with the mayor and other city officials of Glenn Heights, there has been no progress in supplying water to our new neighborhood. To make this point more clear, just today I received a call from a Glenn Heights city official stating the City would take no action regarding my formal request for water which I presented to them over two months ago.

Therefore, since Ovilla Creek Estates is in the City of Ovilla, was platted and approved by the City of Ovilla and the City of Ovilla is, and has been for nearly 30 years, supplying water to others homes north, south, east and west of our project, I am formally requesting that your city supply water to our new community.

Thank you in advance for your cooperation in this matter.

Sincerely,

HARRISON HOMES



Ed Harrison  
President



## *Ovilla United Methodist Church*

1403 Red Oak Creek Road Ovilla, Texas 75154

(972) 617-8840

www.ovillaumc.org email: ovillaumc@sbcglobal.net

The people of The United Methodist Church™

August 1, 2005

John McDonald  
City Manager  
City of Ovilla  
105 S Cockrell Hill Road  
Ovilla, Tx 75154

Regarding: Future Water Connection

Greetings John,

Having completed the process of granting a utility easement to a builder who owns land adjacent to our church property on Ovilla Road, I am concerned about the red tape which surfaced when negotiating water access. Someday, hopefully not too far in the future, our church will follow the same path when we begin to build and want to connect to a local water supply.

It is our hope that we will be able to use the water supply of the City of Ovilla instead of Glenn Heights when we get ready to connect. This makes sense considering the fact that we have a long history of supporting and interacting with the community of Ovilla. In addition to this, our future church sight is within the city limits of Ovilla. Considering that most of the homes and businesses around us are currently supplied with Ovilla water services adds further buoyancy to our request.

Our church would appreciate any future support from you when the appropriate time comes for us to float this request through without unnecessary complications.

With Quenched Thirst

Cal. V. Hoffman  
Pastor

*Dedicated to the building of lives through the sharing of friendships, the  
Biblical principle of forgiveness and grace, and the gift of salvation.*

Received  
May 12, 1986

TRINITY RIVER AUTHORITY OF TEXAS -  
RED OAK CREEK REGIONAL WASTEWATER SYSTEM CONTRACT

THE STATE OF TEXAS :

TRINITY RIVER AUTHORITY OF TEXAS :

THIS TRINITY RIVER AUTHORITY OF TEXAS - RED OAK CREEK REGIONAL WASTEWATER SYSTEM CONTRACT (the "Contract") made and entered into as of the 1st day of JUNE, 1986 (the "Contract Date"), by and among TRINITY RIVER AUTHORITY OF TEXAS (the "Authority"), an agency and political subdivision of the State of Texas, being a conservation and reclamation district created and functioning under Article 16, Section 59, of the Texas Constitution, pursuant to Chapter 518, Acts of the 54th Legislature of the State of Texas, Regular Session, 1955, as amended (the "Authority Act"), and the following:

CITY OF CEDAR HILL, IN DALLAS AND ELLIS COUNTIES, TEXAS,  
CITY OF DE SOTO, IN DALLAS COUNTY, TEXAS,  
CITY OF GLENN HEIGHTS, IN DALLAS AND ELLIS COUNTIES, TEXAS,  
CITY OF LANCASTER, IN DALLAS COUNTY, TEXAS  
CITY OF OVILLA, IN ELLIS AND DALLAS COUNTIES, TEXAS, and  
CITY OF RED OAK IN ELLIS COUNTY, TEXAS

(collectively the "Initial Contracting Parties").

W I T N E S S E T H:

WHEREAS, each of the Initial Contracting Parties is a duly created city and political subdivision of the State of Texas operating under the Constitution and laws of the State of Texas; and

WHEREAS, the Authority and the Initial Contracting Parties are authorized to enter into this Contract pursuant to the Authority Act, Chapter 30, Texas Water Code, Vernon's Ann. Tex. Civ. St. Article 4413(32c) (the "Interlocal Cooperation Act"), and other applicable laws; and

WHEREAS, the Authority proposes to acquire and construct a regional Wastewater treatment system to serve the Initial Contracting Parties in the area of the watershed or drainage basin of Red Oak Creek, being a tributary of the Trinity River, and being located in Ellis and Dallas Counties, Texas (the "System" or "Red Oak Creek System"); and

WHEREAS the "System" or "Red Oak Creek System", initially proposed to be acquired and constructed is described in a report of Espey, Huston & Associates, Consulting Engineers, Richardson, Texas, entitled "Feasibility Study On Red Oak Creek Regional Wastewater System"; and

WHEREAS, such report, including all amendments and supplements thereto made prior to the execution of acquisition and construction contracts for the System and as changed by change orders entered after acquisition and construction contracts for the System have been executed, is hereinafter called the "Engineering Report"; and

WHEREAS, it is expected by the parties hereto that as soon as practicable after the execution of this Contract the Authority will issue an installment of Bonds to provide part of the money to acquire and construct the System, and thereafter will issue a subsequent installment or installments of Bonds to complete the acquisition and construction of the System, with all of said Bonds to be payable from and secured by Annual Payments made under this Contract by the Initial Contracting Parties.

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, the Authority agrees to use its best efforts to provide Wastewater treatment services of the System to the Initial Contracting Parties under this Contract, and to use its best efforts to issue its Bonds and to acquire and construct the System, upon and subject to the terms and conditions hereinafter set forth, to-wit:

Section 1. DEFINITION OF TERMS. The following terms and expressions as used in this Contract, unless the context clearly shows otherwise, shall have the following meanings:

(a) "Additional Contracting Party" means any party not defined as one of the Initial Contracting Parties with which the Authority makes a contract similar to this Contract for providing services of the System, provided that after execution



of any such contract such party shall become one of the Contracting Parties for all purposes of this Contract, unless otherwise specifically provided herein.

(b) "Adjusted Annual Payment" means the Annual Payment, as adjusted during or after each Annual Payment Period, as provided by this Contract.

(c) "Advisory Committee" means the committee to be created to consult with and advise the Authority with respect to the System as provided in Section 10 of this Contract.

(d) "Annual Payment" means the amount of money to be paid to the Authority by each of the Contracting Parties during each Annual Payment Period as its proportionate share of the Annual Requirement.

(e) "Annual Payment Period" means the Authority's Fiscal Year, which currently begins on December 1 of each calendar year and ends on the last day of November of the next calendar year, and the first Annual Payment Period under this Contract is estimated to be the period of December 1, 1988, through November 30, 1989.

(f) "Annual Requirement" means the total amount of money required for the Authority to pay all Operation and Maintenance Expenses of the System, to pay the debt service on its Bonds, to pay or restore any amounts required to be deposited in any special, contingency, or reserve funds required to be established and/or maintained by the provisions of the Bond Resolutions, all as further described in Section 11 (a) of this Contract.

(g) "B.O.D." (denoting Biochemical Oxygen Demand) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20° C., expressed in milligrams per liter.

(h) "Bond Resolution" means any resolution of the Authority which authorizes any Bonds.

(i) "Bonds" means all bonds hereafter issued by the Authority, whether in one or more series or issues, and the interest thereon, to acquire and construct the System, and/or subsequently to improve and/or extend the System, and any bonds issued to refund any Bonds or to refund any such refunding bonds.

(j) "Contracting Parties" means the "Initial Contracting Parties", as defined in the first paragraph of this Contract, together with any other party or parties which hereafter becomes one of the Contracting Parties by becoming an Additional Contracting Party.

(k) "Contracting Party" means any one of the Contracting Parties.

(l) "Engineering Report" means the "Engineering Report" as defined in the preamble to this Contract.

(m) "Garbage" means solid wastes from the preparation, cooking, and dispensing of food, and from handling, storage, and sale of produce.

(n) "Grease" means fats, waxes, oils, and other similar nonvolatile materials in Wastewater, which are extracted by hexane from an acidified sample using the Soxhlet method.

(o) "Industrial User (IU)" means any person, including but not limited to, any individual, firm, partnership, corporation, association, municipality, or any other group or combination acting as a unit, or any other legal entity, who discharges or desires to discharge Industrial Wastes into the Ten Mile Creek System.

(p) "Infiltration water" means the water which leaks into a sewer.

(q) "Operation and Maintenance Expenses" means all costs and expenses of operation and maintenance of the System, including (for greater certainty but without limiting the generality of the foregoing) repairs and replacements for which no special fund is created in the Bond Resolutions, operating

personnel, the cost of utilities, the costs of supervision, engineering, accounting, auditing, legal services, supplies, services, administration of the System, including the Authority's general overhead expenses attributable to the System, insurance premiums, equipment necessary for proper operation and maintenance of the System, and payments made by the Authority in satisfaction of judgments resulting from claims not covered by the Authority's insurance arising in connection with the operation and maintenance of the System. The term also includes the charges of the bank or banks and other entities acting as paying agents and/or registrars for any Bonds. The term does not include depreciation.

(r) "pH" means the common logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

(s) "Project" means the "Project" as defined in the preamble to this Contract, and as generally described in the Engineering Report.

(t) "POTW" means Publicly Owned Treatment Works as defined in 40 CFR 403.

(u) "Properly Shredded Garbage" means garbage that has been shredded to such degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than 1/2 inch in any dimension.

(v) "Significant Industrial User (SIU)" means any industrial user who is connected or desires to connect to the City's domestic wastewater collection system and meets at least one of the following criteria:

(1) Average industrial wastewater discharge rate greater than 50,000 gpd.

(2) BOD and/or suspended solids concentrations in industrial wastewater greater than 250 mg/l.

(3) Industrial category regulated by National Pretreatment Standards as promulgated by the United States Environmental Protection Agency.

(w) "Suspended Solids" means solids that either float on the surface or are in suspension in water, sewage, or other liquids, and which are removable by laboratory filtering, expressed in milligrams per liter.

(x) "System" and "Red Oak Creek System" means the regional wastewater transportation and treatment system described in the preamble to this Contract and in the Engineering Report, and all improvements and additions to and extensions, enlargements, and replacements of such facilities which are deemed necessary and feasible by the Authority in order to receive, transport, treat, and dispose of Wastewater from Contracting Parties and to comply with the requirements of the Wastewater regulatory agencies of the State of Texas and the United States of America. Said terms do not include any facilities acquired or constructed by the Authority with the proceeds from the issuance of "Special Facilities Bonds", which are hereby defined as being revenue obligations of the Authority which are not secured by or payable from Annual Payments made under this Contract and similar contracts with Additional Contracting Parties, and which are payable solely from other sources.

(y) "Total Toxic Organics" means the sum of all detected concentrations greater than 10 micrograms per liter for all organic compounds classified as priority pollutants by the United States Environmental Protection Agency.

(z) "Trunk Sewer" means any sewer in which sewage from collecting and lateral sewers is concentrated and conveyed to the Red Oak Creek System.

(aa) "Wastewater" means Sewage, Industrial Waste, Municipal Waste, Recreational Waste, and Agricultural Waste, as defined in the Texas Water Code, together with Properly Shredded Garbage and such Infiltration Water that may be present.

Section 2. CONSULTING ENGINEERS; CONSTRUCTION OF PROJECT. The Authority and the Contracting Parties agree that Espey,

Huston & Associates shall be the Consulting Engineers for the System, provided that the Consulting Engineers may be changed at the option of the Authority. The Authority agrees to use its best efforts to issue its Bonds, payable from and secured by Annual Payments made under this Contract, to and to acquire and construct the System, and agrees that the System will be acquired and constructed in general accordance with the Engineering Report. It is anticipated that such acquisition and construction will be financed by the Authority through the issuance of one or more series or issues of its Bonds payable from and secured by Annual Payments made under this Contract, and the Authority agrees to use its best efforts to issue its Bonds for such purpose. The proceeds from the sale and delivery of such Bonds also will be used for the payment of the Authority's expenses and costs in connection with the refunding, the System, and the Bonds, including, without limitation, all financing, legal, printing, and other expenses and costs related to the issuance of such Bonds and the System.

Section 3. QUANTITY AND POINTS OF ENTRY. (a) In consideration of the payments to be made by each Contracting Party under this Contract, each such Contracting Party is entitled, during each Annual Payment Period while the System is in operation, to discharge into the Red Oak Creek System at its Point or Points of Entry hereinafter described, all of the Wastewater which is generated within its boundaries which are within the watershed or drainage basin of Red Oak Creek, subject to the restrictions hereinafter stated; and provided that each such Contracting Party must transport such Wastewater to its Point or Points of Entry. Further, each Initial Contracting Party shall be obligated to transport and discharge into the System at its Points of Entry all Wastewater which is generated within its boundaries which are within the watershed or drainage basin of Red Oak Creek, except for reasonably small fringe areas which could be more cost effectively served by

other means, and which are approved by a majority vote of the Advisory Committee and approved by the Authority, and further except for not to exceed 750,000 gallons of Wastewater per day average daily flow which currently is being discharged by the City of Cedar Hill into the Authority's Ten Mile Creek Regional Wastewater System.

(b) The combined maximum rate at which Wastewater is discharged by each Contracting Party at all of its Points of Entry shall not exceed a rate which, if continued for a period of twenty-four hours would equal 3.50 times such Contracting Party's estimated average daily contributing flow of Wastewater for the then current Annual Payment Period. The total quantity of Wastewater discharged into the System shall never exceed the amount which the System is capable of receiving, treating, and disposing, unless approved by a majority vote of the Advisory Committee and approved by the Authority, subject to terms and conditions to be established by the Authority. Notwithstanding the foregoing, no Contracting Party shall ever make any discharge into the System which would cause it to be overloaded or be in violation of its permits from the State of Texas and/or the United States of America.

(c) Wastewater meeting the quality requirements of Section 4 of this Contract will be received into the Red Oak Creek System at the Points of Entry, respectively, shown for each Initial Contracting Party, respectively, in the Engineering Report, or at such other or additional Points of Entry that may be established by mutual agreement between the Authority and a Contracting Party in the future, if such other or additional Points of Entry are determined by the Authority to be economical and beneficial to the System, and such Contracting Party pays any costs related thereto which the Authority determines should be paid by such Contracting Party.

(d) It is the intention of the parties hereto that the System shall be acquired, constructed, extended, and improved so that at all reasonable times it will be capable of

receiving, transporting, treating, and disposing of all eligible Wastewater generated within the boundaries of each Contracting Party which are within the watershed or drainage basin of Red Oak Creek and which such Contracting Party delivers to its Point or Points of Entry, and that the Authority will from time to time issue its Bonds in such amounts as are, within its judgment and discretion, sufficient to achieve such results.

Section 4. QUALITY. The obligation of the Authority to receive into the Red Oak Creek System such Wastewater depends upon compliance by each Contracting Party with the provisions of this Section.

General Objectives of Quality Requirements.

In order to permit the Authority to properly treat and dispose of each Contracting Party's Wastewater; to protect the public health; and to permit cooperation with other agencies which have requirements for the protection of the physical, chemical, and bacteriological quality of public water and water courses, and to protect the properties of the Red Oak Creek System, each Contracting Party agrees:

(a) Admissible Discharges into Authority's Red Oak Creek System. Discharges into the Red Oak Creek System shall consist only of Wastewater and other waste free from the prohibited constituents listed in Subsection (b) and limited in B.O.D., Suspended Solids, dissolved sulfides, and pH as hereinafter provided.

(b) Wastes Not Admissible. Gasoline; cleaning solvents; oils, greases; mineral oils; ashes; cinders; sand; gravel; tar; asphalt; ceramic wastes; plastics; other viscous substances; feathers; hair; rags; metal; metal filings; glass; wood shavings; sawdust; unshredded garbage; toxic, corrosive, explosive or malodorous gases; acetylene generation sludge; cyanides or cyanides or cyanogen compounds capable of liberating hydrocyanic gas on acidification in excess of 2 mg/l by weight as CN; radioactive materials which will permit a transient concentration higher than 100 microcuries per liter; emulsified oil

and grease, exclusive of soaps, exceeding on analysis an average of 100 mg/l of ether-soluble matter; acids or alkalis having a pH value lower than 6.0 or higher than 10.0; and Wastewater containing specific pollutant concentrations in excess of any of the numerical limitations named hereunder be prohibited from discharge to the Red Oak Creek System:

<u>Pollutant</u>	<u>Maximum Allowable Concentration (ug/l)</u>
Arsenic	100
Barium	1,000
Cadmium	100
Chromium	1,000
Copper	1,500
Lead	1,000
Manganese	1,500
Mercury	5
Nickel	1,000
Selenium	50
Silver	100
Zinc	2,000
Total Toxic Organics	1,000

(c) Biochemical Oxygen Demand (B.O.D.). B.O.D. of Wastewater delivered to the Red Oak Creek System, as determined by standard methods, shall not exceed 200 mg/l.

(d) Total Suspended Solids. Total Suspended Solids delivered to the System, as determined by Standard methods, shall not exceed 200 mg/l.

(e) Hydrogen Ion Concentration (pH). The pH of Wastewater delivered to the Red Oak Creek System shall be not lower than 6.0 nor higher than 10.0. No acids shall be discharged into the Authority's System unless neutralized to a pH of 6.0 or more.

(f) Hydrogen Sulfide Concentration. Dissolved sulfides in Wastewater at the point of delivery to the Red Oak Creek System shall not exceed 0.1 mg/l.

(g) Prohibited Discharge Limitations Subject to Change. Notwithstanding the foregoing provisions of this Section, the parties hereto agree and understand that Federal and State Regulatory Agencies periodically modify standards on prohibited



discharges; therefore, revisions to, additions to, or deletions from the items listed in this Section may become necessary in the future to comply with these latest standards. It is the intention of this Contract that prohibited discharge requirements be reviewed periodically by the Authority and revised in accordance with the latest standards of any Federal or State Agency having regulatory powers. Any required revisions shall be made and written notice thereof given to each Contracting Party. Each Contracting Party shall be responsible for integrating such changes into the local industrial waste ordinance and notifying all affected users of the change within ninety days following written notice to the Contracting Party of such changes.

(h) To determine normal quality of Wastewater, the Authority will collect twenty-four hour composite samples of Wastewater at each Point of Entry and cause same to be analyzed in accordance with testing procedures as set forth in the latest edition of Standard Methods of Examination of Water and Wastewater, published by American Public Health Association, Inc. Composite samples will normally be taken once a month, or at more frequent intervals if necessary to determine Wastewater quality. As provided above, such Wastewater shall not exceed the limits of concentration specified for Normal Wastewater as follows:

Normal Wastewater Concentration

BOD	200 mg/l
TSS	200 mg/l
pH, not less than	6 nor greater than 10
Hydrogen Sulfide	0.1 mg/l

Should the analysis disclose concentrations higher than those listed, the Authority immediately will inform the Contracting Party which made the discharges resulting in the violation of this Section, and such discharges shall cease immediately. However, with the approval of the Authority, Wastewater with concentrations of BOD and TSS greater than specified above may be discharged by a Contracting Party into

the System on an emergency and temporary basis, subject to the payment of a surcharge (in addition to all other payments required by this Contract), which surcharge shall be determined by the Authority and shall be in an amount sufficient to cover and pay for all additional costs of transportation, treatment, and disposal related to such discharges.

Section 5. METERING OF WASTEWATER. The Authority will furnish, install, operate, and maintain at its expense the necessary equipment and devices of standard type required for measuring properly all Wastewater discharged into the System by each Contracting Party, respectively, through its Point or Points of Entry, respectively. Such meters and other equipment shall remain the property of the Authority. Each Contracting Party shall have access to such metering equipment at all reasonable times for inspection and examination, but the reading, calibration, and adjustment thereof shall be done only by employees or agents of the Authority in the presence of a representative of the affected Contracting Party or Parties if requested by such Contracting Party or Parties. All readings of meters will be entered upon proper books of record maintained by the Authority. Upon written request any Contracting Party may have access to said record books during reasonable business hours. Not more than three times in each year of operation, the Authority shall calibrate its meters, if requested in writing by the affected Contracting Party or Parties to do so, in the presence of a representative of such Contracting Party or Parties, and such parties shall jointly observe any adjustments which are made to the meters in case any adjustment is found to be necessary. If, for any reason, any meters are out of service or out of repair, or if, upon any test, the percentage of inaccuracy of any meter is found to be in excess of five (5%) per cent, registration thereof shall be corrected for a period of time extending back to the time when such inaccuracy began, if such time is ascertainable, and if