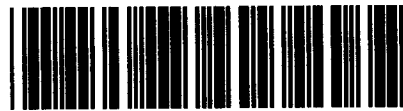


Control Number: 44212



Item Number: 16

Addendum StartPage: 0

House Bill (HB) 1600 and Senate Bill (SB) 567 83rd
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

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2015 JAN 12 AM 10:18

SOAH DOCKET NO. 582-06-1640

CEQ DOCKET NO. 2006-0125-UCR

RECEIVED
MAY 21 2007

PUBLIC UTILITY COMMISSION
APPLICATIONS OF THE CITY OF
OVILLA TO AMEND WATER
CERTIFICATE OF CONVENIENCE
AND NECESSITY, AND DECERTIFY
PORTIONS OF THE CERTIFICATES
OF CONVENIENCE AND NECESSITY
OF THE CITY OF GLENN HEIGHTS
IN DALLAS AND ELLIS COUNTIES,
TEXAS

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§
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BEFORE THE

STATE OFFICE OF

ADMINISTRATIVE HEARINGS

JOINT MOTION TO REMAND

COMES NOW, the City of Ovilla and the City of Glenn Heights and would respectfully show the following:

1. The cities of Ovilla and Glenn Heights have reached a settlement agreement regarding their disputes in this proceeding, which is attached as Exhibit 1 (exhibits referenced in settlement agreement not included).
2. The City of Glenn Heights withdraws its request for a contested case hearing and its opposition to Ovilla's application for a certificate of convenience and necessity hearing in return for the City of Ovilla's agreement to revise its CCN application to seek a water and sewer CCN for those areas identified on Exhibit 2 attached hereto.
3. The cities of Ovilla and Glenn Heights jointly request that the Administrative Law Judge remand Ovilla's CCN application so that the Texas Commission on Environmental Quality may approve the application as provided by the settlement agreement.

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY
2007 MAY 24 AM 10:22
CHIEF CLERKS OFFICE

4. The Executive Director does not oppose this motion.

Respectfully submitted,

MATHEWS & FREELAND, L.L.P.
P.O. Box 1568
Austin, Texas 78768-1568
(512) 404-7800
Fax: (512) 703-2785

By: 

Robert Pressley
State Bar Number 00784788

ATTORNEYS FOR THE CITY OF OVILLA

AKERS & BOULWARE-WELLS, L.L.P.
816 Congress Avenue, Suite 1725
Austin, Texas 78701
(512) 404-7882
Fax: (512) 320-5638

By: 

Monte Akers
State Bar Number 00953800

ATTORNEYS FOR THE CITY OF GLENN HEIGHTS

CERTIFICATE OF SERVICE

I hereby certify that on this the 21st day of May 2007, a true and correct copy of this Joint Motion to Remand was served on the parties of record by facsimile transmission and U.S. Mail.

STATE OFFICE OF ADMINISTRATIVE
HEARINGS

Honorable William G. Newchurch
Administrative Law Judge
State Office of Administrative Hearings
P.O. Box 13025
Austin, TX 78711-3025
Fax: (512) 475-4994

OFFICE OF THE EXECUTIVE DIRECTOR
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

Gabriel Soto
Attorney
Texas Commission on Environmental Quality
MC-173
P.O. Box 13087
Austin, TX 78711-3087
Fax: (512) 239-0606

OFFICE OF PUBLIC INTEREST COUNSEL
OF THE TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

Blas Coy, Jr.
Office of the Public Interest Council
Texas Commission on Environmental Quality
MC-103
P.O. Box 13087
Austin, TX 78711-3087
Fax: (512) 239-6377

TCEQ CHIEF CLERK

LaDonna Castañuela, Chief Clerk
Office of the Chief Clerk
Texas Commission on Environmental Quality
Mail Code 105
P.O. Box 13087
Austin, TX 78711-3087
Fax: (512) 239-3311

CITY OF GLENN HEIGHTS

Monte Akers
Akers & Boulware-Wells, LLP
816 Congress Ave., Suite 1725
Austin, TX 78701
Fax: (512) 320-5638

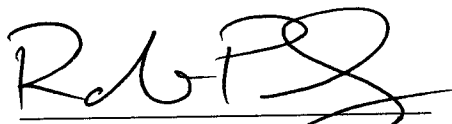

Robert Pressley

Exhibit 1

March 19, 2007

Mayor and City Council
City of Glenn Heights
1938 South Hampton
Glenn Heights, Texas 75154

RE: Ovilla Certificate of Convenience and Necessity Application –
Settlement Agreement

Dear Mr. Mayor and Members of the Glenn Heights City Council:

As you know, the City of Ovilla and the City of Glenn Heights have settled their disputes regarding Ovilla's application to amend its water certificate of convenience and necessity ("CCN") and to obtain a sewer CCN, and the purpose of this letter is to memorialize that agreement. Please execute this document to show Glenn Heights' acceptance of the settlement terms.

The City of Ovilla and the City of Glenn Heights agree as follows:

1. The City of Ovilla and the City of Glenn Heights shall within ten business days of executing this settlement agreement file a joint motion with the State Office of Administrative Hearings requesting that the Administrative Law Judge remand Ovilla's CCN application to the Texas Commission on Environmental Quality ("TCEQ").

a. In that joint motion, attached as Exhibit 1, the cities shall indicate they have resolved their disputes regarding Ovilla's CCN application.

b. The City of Glenn Heights shall indicate in the joint motion that it withdraws its opposition to Ovilla's application and its request for a contested case hearing in return for the City of Ovilla's agreement to revise its CCN application to seek a water and sewer CCN for those areas as identified on the attached Exhibit 2 Service Area Map (the "Map").

2. Within five business days of the date when the ALJ remands Ovilla's CCN application to the TCEQ, Ovilla and Glenn Heights shall file a joint request with the TCEQ, attached as Exhibit 3, asking that agency to approve the terms of this settlement agreement and to revise their respective CCNs to:

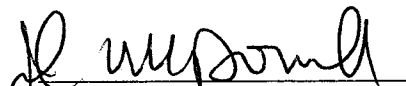
a. transfer that portion of Ovilla's water CCN depicted as orange area number 4 on the Map to the City of Glenn Heights;


- b. transfer that portion of Glenn Heights' water and sewer CCNs depicted as blue areas number 2 and 3 on the Map to the City of Ovilla; and
 - c. transfer that portion of Glenn Heights' water CCN depicted as blue area number 1 on the Map to the City of Ovilla.
 - d. Ovilla agrees to withdraw its request to obtain water and sewer CCN authorization for all other areas identified in its pending application with the TCEQ.
3. The cities agree that no facilities shall be transferred under the terms of this settlement agreement.
4. The cities agree that the transferor of CCN area is not due any compensation from the transferee for any of the transferred service area identified in item 2 above, or for any other reason. Each city will be responsible for its own costs associated with providing the TCEQ with whatever information is necessary to revise the city's CCN boundaries as provided herein.
5. The City of Glenn Heights agrees that the City of Ovilla has no responsibility to conduct any repairs to the old Donica Water System, which includes the water line running parallel to Ovilla Road from Westmoreland road east towards Glenn Heights, or to pay any compensation to Glenn Heights for activities or claims associated with Ovilla's prior operation of that system. Ovilla agrees that it relinquishes all ownership claims to the Donica Water System.
6. Glenn Heights agrees that it shall provide retail water utility service in accordance with the requirements of its water CCN to areas that are both: (1) within Ovilla's corporate limits; and (2) within Glenn Heights' water CCN area, thereby making retail water utility service available on behalf of the City of Ovilla in areas recently annexed by the City of Ovilla for purposes of section 43.056 of the Texas Local Government Code.
7. This settlement agreement contains the entire agreement between the cities regarding the City of Ovilla's pending CCN application. This agreement may be modified only by the written agreement of both parties.
8. The cities agree that each city's agreement to transfer service area as provided by this agreement is sufficient consideration to make this a binding contract.
9. Should there be any future disputes over the areas to be transferred to each city, the Map shall be deemed conclusive and control over any other interpretations.
10. This settlement agreement is indivisible and non-severable.

11. This settlement agreement shall be binding upon and inure to the benefit of the cities and their respective legal representatives, successors and assigns.

12. This settlement agreement shall be governed by, construed and enforced in accordance with, and subject to, the laws of the State of Texas. Any action at law or in equity brought to enforce or interpret any provision of this settlement agreement shall be brought in a state court of competent jurisdiction with venue in Ellis County, Texas.

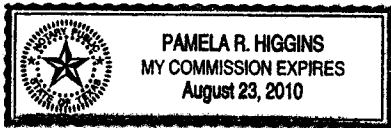
13. It is understood that this settlement agreement may be executed in a number of identical counterparts, each of which shall be deemed an original for all purposes.

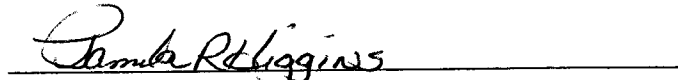

John McDonald
City Administrator, Ovilla
Date: 9/24/07


Clark Choate
Mayor, Glenn Heights
Date: 3/28/07

STATE OF TEXAS §
§
COUNTY OF ELLIS §

This instrument was acknowledged before me on the 24 day of APRIL, 2007, by John McDonald, on behalf of City of Ovilla, Texas.




Notary Public, State of Texas

STATE OF TEXAS §
§
COUNTY OF Dallas §

This instrument was acknowledged before me on the 22 day of March, 2007, by Clark Choate, on behalf of the City of Glenn Heights, Texas.

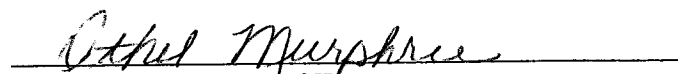

Notary Public, State of Texas

Exhibit 2

MK

MATHIEWS & FREELAND, L.L.P.

ATTORNEYS AT LAW

P.O. Box 1568
AUSTIN, TEXAS 78768-1568(512) 404-7800
FAX: (512) 703-2785JIM MATHIEWS
JOE FREELAND

July 13, 2006

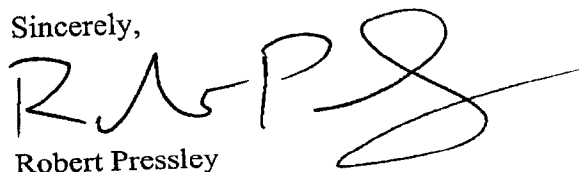
*Telecopy and U.S. Mail*Judge Rogan
State Office of Administrative Hearings
300 W. 15th Street, Suite 502
Austin, TX 78701-1649RE: SOAH Docket No. 582-06-1640, TCEQ Docket No. 2006-0125-UCR,
City of Ovilla Application to Amend Water Certificates of Convenience
and Necessity No. 11059 and No. 11459

Dear Judge Rogan:

The City of Ovilla and the City of Glenn Heights have reached an agreement in principle to settle their disputes regarding the captioned matter. Today, the cities met with representatives of the Texas Commission on Environmental Quality ("TCEQ") to discuss the procedures to be followed to implement the terms of that settlement agreement. The cities are optimistic that in the relatively near future they will be able to execute a settlement agreement, and file a joint motion with SOAH asking that Ovilla's application be remanded to the TCEQ so that the agency may revise the cities' CCNs to implement the terms of the settlement agreement. Accordingly, the City of Ovilla and the City of Glenn Heights request that this matter be abated for an additional forty-five days so that the cities may move forward with the settlement process. During today's meeting, the Executive Director indicated he would not oppose this request.

Please do not hesitate to contact me if you have any questions regarding this request.

Sincerely,



Robert Pressley

cc: Monte Akers
Gabriel Soto
Public Interest Council
Chief Clerk, TCEQ

OFFICE: 327 CONGRESS, SUITE 300, AUSTIN, TEXAS 78701

MATHEWS & FREELAND, LLP L.L.P.**ATTORNEYS AT LAW**P.O. Box 1568
Austin, Texas 78768-1568Jim Mathews
Joe Freeland(512) 404-7800
FAX: (512) 703-2785**Fax**

To:	Company	Fax	Phone
Judge Rogan	SOAH	512/475-4994	
Cc:	Company	Fax	Phone
Monte Akers		512/250-0749	
Gabriel Soto	TCEQ	512/239-0606	
From:		Fax	Phone
Robert Pressley		512/703-2785	512/404-7800

Number of Pages (including this one): 2 Date: 7/13/2006**To confirm receipt, or if you do not receive all pages, please call: Nina Hall****Reference:**

SOAH Docket No. 582-06-1640, TCEQ Docket No. 2006-0125-UCR, City of Ovilla's Application to Amend Water Certificates of Convenience and Necessity No. 11059 and No. 11459

 Urgent
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