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SOAH DOCKET NO. 473-16-5296.WS  
PUC DOCKET NO. 45702

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APPLICATION OF THE CITY OF  
CIBOLO FOR SINGLE CERTIFICATION  
IN INCORPORATED AREA AND TO  
DECERTIFY PORTIONS OF GREEN  
VALLEY SPECIAL UTILITY  
DISTRICT'S SEWER CERTIFICATE OF  
CONVENIENCE AND NECESSITY IN  
GUADALUPE COUNTY

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BEFORE THE STATE OFFICE

PUBLIC UTILITY COMMISSION  
FILING CLERK

OF

ADMINISTRATIVE HEARINGS

DIRECT TESTIMONY

OF

RUDOLPH "RUDY" F. KLEIN, IV, P.E.

ON BEHALF OF

CITY OF CIBOLO

October 19, 2016

74

**DIRECT TESTIMONY OF  
RUDOLPH “RUDY” F. KLEIN, IV, P.E.**

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**ATTACHMENTS**

Exhibit A	Rudy Klein Résumé
Exhibit B	City of Cibolo Application
Exhibit C	City of Cibolo Appraisal
Exhibit D	GVSUD Appraisal
Exhibit E	30 Tex. Admin. Code §§ 351.62, 351.65, and 351.61
Exhibit F	TPWD Texas Watershed Viewer Map of Upper Cibolo Creek Watershed
Exhibit G	GVSUD’s Responses to the City’s First Requests for Admission and Requests for Information, and to the City’s Second Requests for Admission.

**I. BACKGROUND/QUALIFICATIONS**

**Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS FOR THE RECORD.**

A. My name is Rudolph "Rudy" F. Klein, IV, and my business address is City of Cibolo, 200 S. Main Street, Cibolo, TX 78108.

**Q. ARE YOU CURRENTLY EMPLOYED?**

A. Yes. I am employed by the City of Cibolo ("City").

**Q. WHAT IS YOUR POSITION WITH THE CITY?**

A. I am the Director of Planning and Engineering for the City.

**Q. HOW LONG HAVE YOU BEEN THE DIRECTOR OF PLANNING AND ENGINEERING FOR THE CITY?**

A. I was hired in May 2014, so approximately 2.5 years.

**Q. WHAT IS YOUR WORK EXPERIENCE AT THE CITY?**

A. As Director of Planning and Engineering, I have supervised and managed the planning department, building inspection, permits and code compliance departments, GIS mappings, and infrastructure inspections. As City Engineer, I work with the Director of Public Works and Capital Projects and the City's consultants on City public works projects. Specifically, I have worked on the design of a 5,000 linear foot 12 inch sanitary sewer line along FM 78; I have reviewed plans and specifications for water and wastewater utility infrastructure; and I have reviewed development construction plans for approximately 15 new residential subdivisions and site plans for approximately 15-20 commercial developments. Additionally, I administer the Flood Plain Management Program for the City. Prior to becoming part of the City of

1 Cibolo staff, I, through my consulting engineering company, served as the City of  
2 Cibolo City Engineer from 1998 to May 2014. I am familiar with and have been a  
3 part of the growth and development of the City since 1998.

4 **Q. PLEASE SUMMARIZE YOUR FORMAL EDUCATION.**

5 A. A summary of my educational background is attached as Exhibit A.

6 **Q. PLEASE SUMMARIZE YOUR PROFESSIONAL EXPERIENCE.**

7 A. A summary of my professional background is attached as Exhibit A.

8 **Q. ARE YOU A REGISTERED PROFESSIONAL ENGINEER IN TEXAS?**

9 A. Yes. My Texas registration number is 79689.

10 **Q. IS YOUR PROFESSIONAL REGISTRATION CURRENT AND OTHERWISE**  
11 **IN GOOD STANDING?**

12 A. Yes.

13 **Q. ARE YOU A MEMBER OF ANY PROFESSIONAL ORGANIZATIONS OR A**  
14 **RECIPIENT OF ANY AWARDS OR HONORS? IF SO, PLEASE IDENTIFY**  
15 **THEM.**

16 A. I am a member of the American Society of Civil Engineers, Texas Society of  
17 Professional Engineers, American Water Works Association, Texas Flood Plain  
18 Management Association, World Environment Federation and American Planning  
19 Association.

20 **Q. I AM SHOWING YOU WHAT HAS BEEN MARKED AS EXHIBIT A. CAN**  
21 **YOU IDENTIFY THIS DOCUMENT?**

22 A. It is my résumé describing my background and experience.

1 Q. DID YOU PREPARE THIS EXHIBIT?

2 A. Yes.

3 Q. IS THE INFORMATION IN YOUR RESUME TRUE AND CORRECT?

4 A. Yes.

5 THE CITY OFFERS EXHIBIT A INTO EVIDENCE.

6 Q. HOW LONG HAVE YOU BEEN WORKING IN THE WATER AND  
7 WASTEWATER INDUSTRY?

8 A. I have been working in the water and wastewater utility business for 35 years.

9 Q. DO YOU HAVE EXPERIENCE IN DESIGNING AND CONSTRUCTING  
10 WASTEWATER SYSTEMS?

11 A. Yes.

12 Q. PLEASE DESCRIBE YOUR EXPERIENCE IN DESIGNING AND  
13 CONSTRUCTING WASTEWATER SYSTEMS?

14 A. As a consulting engineer for 33 years, I was involved with many wastewater system  
15 projects for several communities in south Texas. My projects included the design of  
16 wastewater treatment plants ("WWTP") for both new plants and plant expansions, lift  
17 stations, force mains, collection systems, and treated wastewater land application  
18 disposal. For example, I have worked on projects for the city of Lacoste- WWTP  
19 expansion and wastewater permitting project; Flying L PUD- sewer plant replacement  
20 project; Encinal Water Supply Corporation ("WSC")- design and construction of a  
21 WWTP, including wastewater permitting; city of Natalia- WWTP expansion,  
22 including wastewater permit amendment; city of Charlotte- design and construction  
23 of a WWTP, including wastewater permitting; city of Pleasanton- design and

1 construction of a WWTP, including wastewater permitting; city of Jourdanton- design  
2 and construction of a WWTP, including wastewater permitting; city of Bandera-  
3 design and construction of a WWTP, including wastewater permitting; Falls City-  
4 converted WWTP from discharging treated effluent to disposal of treated effluent by  
5 land application, including wastewater permit amendment; city of Runge- wastewater  
6 permitting; Harvest Hills community design and construction of a WWTP, including  
7 wastewater permitting; and renewals of wastewater permits for most of these entities.  
8 Additionally, I provided consulting services related to the preparation of discharge  
9 permits for new wastewater plants, major amendments to wastewater plants, and  
10 permit renewals for wastewater plants. I now provide the same services to the City as  
11 the City Engineer.

12 **Q. DO YOU HAVE EXPERIENCE IN PREPARING COST ESTIMATES FOR**  
13 **WASTEWATER SYSTEMS?**

14 A. Yes.

15 **Q. PLEASE DESCRIBE YOUR EXPERIENCE IN PREPARING COST**  
16 **ESTIMATES FOR WASTEWATER SYSTEMS?**

17 A. As a function of planning and design of wastewater systems, providing a cost  
18 estimate or Engineer's Opinion of Probable Costs ("OPC") for projects is necessary  
19 and usually a requirement for the client, municipality or utility district, in order to  
20 fund said projects. I completed OPCs for the above listed projects.

21 **Q. DO YOU HAVE ANY OTHER EXPERIENCE IN PREPARING COST**  
22 **ESTIMATES FOR WASTEWATER SYSTEMS?**

23 A. Yes. I have prepared cost estimates of wastewater systems for insurance purposes.  
24 Specifically, I inventoried the infrastructure of a wastewater system and calculated its

1 value for insurance purposes. This is a post-construction cost analysis, analyzing the  
2 type of material used for the wastewater infrastructure, the age of such infrastructure,  
3 and the replacement costs for such infrastructure.

4 **Q. DO YOU HAVE EXPERIENCE WITH PREPARING TEXAS POLLUTANT**  
5 **DISCHARGE ELIMINATION SYSTEM ("TPDES") PERMIT**  
6 **APPLICATIONS?**

7 A. Yes.

8 **Q. WHAT IS YOUR EXPERIENCE WITH PREPARING APPLICATIONS FOR**  
9 **NEW, AMENDED, OR RENEWED TPDES PERMITS?**

10 A. As I previously mentioned, I have provided consulting services related to the  
11 preparation of TPDES permits of wastewater plants, including new plants, major  
12 amendments to existing plants, and permit renewal applications for several  
13 communities in Texas.

14 **Q. DO YOU HAVE EXPERIENCE WITH PREPARING APPLICATIONS**  
15 **WATER OR SEWER CERTIFICATES OF CONVENIENCE AND**  
16 **NECESSITY ("CCN")?**

17 A. Yes.

18 **Q. WHAT IS YOUR EXPERIENCE WITH PREPARING CCN APPLICATIONS?**

19 A. I have provided consulting services related to the preparation of water and sewer  
20 CCN applications for new CCNs as well as amended CCNs for municipalities and  
21 utility districts in Texas for more than 30 years. For example, I have worked on new  
22 water and wastewater CCNs for the city of Pleasanton; new water and wastewater  
23 CCNs for the city of Bandera; a water CCN amendment for El Oso WSC; a CCN  
24 decertification application for Harvest Hills; a water CCN amendment for Benton



1 City WSC; a water CCN amendment for Big Foot WSC; four CCN sale, transfer, and  
2 merger applications for East Medina SUD; a water CCN for Encinal WSC; and I have  
3 worked with the city of Schertz, as I worked for Cibolo, to amend Schertz's water and  
4 wastewater CCNs. In my CCN work for East Medina SUD and Benton City WSC, I  
5 prepared cost analyses for compensation.

6 **Q. ARE YOU FAMILIAR WITH SOAH DOCKET NO. 473-16-5296.WS AND**  
7 **PUC DOCKET NO. 45702?**

8 A. Yes. This Docket is the City's application (the "Application") for single sewer  
9 certificate of convenience necessity ("CCN") certification filed at the Public Utility  
10 Commission ("Commission") under Texas Water Code ("TWC") § 13.255, seeking to  
11 decertify portions of Green Valley Special Utility District ("GVSUD") sewer CCN  
12 No. 20973 that are within the City's corporate limits.

13 **Q. HOW DID YOU BECOME FAMILIAR WITH THE APPLICATION?**

14 A. I worked with Mr. Robert Herrera, City Manager for the City, and Mr. Tim Fousse,  
15 Director of Public Works and Capital Projects for the City, in preparing the  
16 Application and supervising the preparation of the exhibits thereto, including, but not  
17 limited to, the maps of the area to be decertificated.

18 **Q. I AM SHOWING YOU WHAT HAS BEEN MARKED AS EXHIBIT B. CAN**  
19 **YOU IDENTIFY THIS DOCUMENT?**

20 A. Yes. It is a true and correct copy of the Application that was filed by the City at the  
21 Commission.

22 **Q. DID YOU PREPARE THIS EXHIBIT?**

23 A. Yes.

1    **THE CITY OFFERS EXHIBIT B INTO EVIDENCE.**

2    **Q.    ON WHOSE BEHALF ARE YOU TESTIFYING IN THIS CASE?**

3    A.    The City.

4    **Q.    WHAT IS YOUR PROFESSIONAL EXPERIENCE IN THE WATER AND**  
5    **WASTEWATER INDUSTRY?**

6    A.    As a consulting engineer for over 30 years, I was involved with many water and  
7           wastewater system projects for several communities, cities, and utility districts in  
8           south Texas. Projects including the planning, design, and construction management of  
9           water production, storage, pumping, distribution, and treatment; wastewater treatment  
10          plants, new and expansions, lift stations, force mains, collection systems, and treated  
11          wastewater land application disposal. As the City Engineer for the City – as a  
12          consultant from 1998 to 2014 and on staff from 2014 to present – I have been  
13          involved with all of the water and wastewater projects for the City.

14   **Q.    HOW HAS THAT EXPERIENCE PREPARED YOU TO ADDRESS THE**  
15   **SUBJECTS ON WHICH YOU WERE ASKED TO TESTIFY IN THIS**  
16   **PROCEEDING?**

17   A.    The 35 years of experience in the water and wastewater industry provided the  
18          knowledge and ability to address the subjects on which I am being asked to testify.  
19          Additionally, my experience for the past 18 years with the growth and development in  
20          the Cibolo area in particular supports my ability to address the subject as well.

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A. Based upon Commission's Supplemental Preliminary Order and the Administrative Law Judge's Order No. 2 in this matter, which I reviewed, the purpose of this contested case hearing is to address the following three issues, identified in that Supplemental Order as Issue Nos. 9-11, respectively:

- Q. WHAT ARE THE PURPOSES OF YOUR TESTIMONY IN THIS PROCEEDING?**

1. Discuss my understanding of the Application.
2. Discuss my understanding of the Texas Commission on Environmental Quality's ("TCEQ") regionalization policy.
3. Provide my expert opinion regarding the three issues identified in my previous answer, above.

1    **Q.    WHAT MATERIALS HAVE YOU REVIEWED IN PREPARATION FOR**  
2    **THIS PROCEEDING?**

3    A.    I have reviewed the City's Application; the City's appraisal, filed at the Commission  
4           on June 28, 2016; GVSUD's appraisal, filed at the Commission on June 28, 2016; the  
5           discovery requests and responses in this matter, which includes GVSUD's TPDES  
6           permit application; Texas Water Code ("TWC") § 13.255; TWC, Chapter 26; 16 Tex.  
7           Admin. Code ("TAC") § 24.120; and 30 TAC Chapter 351, Subchapter F.

8    **Q.    I AM SHOWING YOU WHAT HAS BEEN MARKED AS EXHIBIT C. WHAT**  
9    **IS THIS DOCUMENT?**

10   A.    It is a certified copy of the City's appraisal ("City's Appraisal") that was filed by the  
11          City at the Commission and is available as Item 51 in this docket.

12   **Q.    WHO PREPARED EXHIBIT C?**

13   A.    Jack Stowe, Jr. with NewGen Strategies and Solutions, LLC, prepared the City's  
14          Appraisal on behalf of the City.

15   **Q.    HAVE YOU REVIEWED THE INFORMATION CONTAINED IN EXHIBIT**  
16    **C?**

17   A.    Yes.

18   **Q.    IS EXHIBIT C A TRUE AND CORRECT COPY OF THE CITY'S**  
19    **APPRAISAL THAT WAS FILED BY THE CITY AT THE COMMISSION**  
20    **AND IS AVAILABLE AS ITEM 51 IN THIS DOCKET?**

21   A.    Yes.

22   **THE CITY OFFERS EXHIBIT C INTO EVIDENCE.**

1   **Q.    I AM SHOWING YOU WHAT HAS BEEN MARKED AS EXHIBIT D. WHAT**  
2   **IS THIS DOCUMENT?**

3   A.    It is a certified copy of GVSUD's appraisal ("GVSUD's Appraisal") that is available  
4        on the Commission's Interchange as Item 50 in this docket.

5   **Q.    HAVE YOU REVIEWED THE INFORMATION CONTAINED IN EXHIBIT**  
6   **D?**

7   A.    Yes.

8   **Q.    IS EXHIBIT D A TRUE AND CORRECT COPY OF GVSUD'S APPRAISAL**  
9   **THAT IS AVAILABLE ON THE COMMISSION'S INTERCHANGE AS**  
10   **ITEM 50 IN THIS MATTER?**

11   A.    Yes.

12   **THE CITY OFFERS EXHIBIT D INTO EVIDENCE.**

13   **Q.    HAVE YOU CONSIDERED WHETHER ANY PROPERTY OF GVSUD**  
14   **WOULD BE RENDERED USELESS OR VALUELESS BY VIRTUE OF THE**  
15   **PROPOSED DECERTIFICATION?**

16   A.    I have.

17   **Q.    HAVE YOU CONSIDERED WHETHER THE APPRAISALS CONTAINED IN**  
18   **EXHIBITS C AND D ARE LIMITED TO PROPERTY THAT HAS BEEN**  
19   **DETERMINED TO BE RENDERED USELESS OR VALUELESS BY**  
20   **DECERTIFICATION?**

21   A.    I have.

1 Q. WHAT QUALIFIES YOU TO DRAW CONCLUSIONS AS TO WHETHER  
2 CERTAIN PROPERTY WOULD BE RENDERED USELESS OR  
3 VALUELESS AND WHETHER THE APPRAISALS IN THE PROCEEDING  
4 ARE LIMITED TO PROPERTY THAT WOULD BE RENDERED USELESS  
5 OR VALUELESS?

6 A. In my professional experiences of 35 years in the land development business, I have  
7 the expertise to determine what infrastructure is necessary to design and construct a  
8 wastewater system and to determine what portions of a wastewater system would be  
9 necessary to provide wastewater service to the area the City seeks to decertify  
10 through the Application. In reviewing the discovery responses and appraisals in this  
11 matter and through my personal knowledge of the region from my work with the  
12 City, I also have the understanding of the extent of GVSUD's wastewater property –  
13 both real and personal.

14 THE CITY TENDERS MR. RUDY KLEIN, P.E., AS AN EXPERT WITNESS.

15 Q. BASED UPON YOUR WORK FOR THE CITY AND YOUR EDUCATION,  
16 EXPERIENCE, AND EXPERTISE, HAVE YOU FORMED OPINIONS WITH  
17 REGARD TO WHETHER ANY PROPERTY HAS BEEN RENDERED  
18 USELESS OR VALUELESS TO GVSUD BY THE PROPOSED  
19 DECERTIFICATION?

20 A. I have.

21 Q. IN YOUR EXPERT OPINION, DO YOU BELIEVE THAT ANY PROPERTY  
22 OF GVSUD WOULD BE RENDERED USELESS OR VALUELESS BY  
23 VIRTUE OF THE PROPOSED DECERTIFICATION?

1 A. No. There is no real property or personal property of GVSUD that would be rendered  
2 useless or valueless, in whole or in part, by the Application.

3 **Q. BASED UPON YOUR WORK FOR THE CITY AND YOUR EDUCATION,**  
4 **EXPERIENCE, AND EXPERTISE, HAVE YOU FORMED OPINIONS WITH**  
5 **REGARD TO WHETHER THE EXISTING APPRAISALS CONTAINED IN**  
6 **EXHIBITS C AND D ARE LIMITED TO PROPERTY THAT HAS BEEN**  
7 **DETERMINED TO BE RENDERED USELESS OR VALUELESS BY**  
8 **DECERTIFICATION?**

9 A. I have.

10 **Q. IN YOUR EXPERT OPINION, DO YOU BELIEVE THAT THE APPRAISALS**  
11 **CONTAINED IN EXHIBITS C AND D ARE LIMITED TO PROPERTY**  
12 **THAT HAS BEEN DETERMINED TO BE RENDERED USELESS OR**  
13 **VALUELESS BY DECERTIFICATION?**

14 A. After having reviewed Exhibits C and D, I have reached the following conclusions:  
15 the City's Appraisal, which notes that no property of GVSUD will be rendered  
16 useless or valueless, is limited to property that I have determined to be rendered  
17 useless or valueless by decertification; and GVSUD's Appraisal is not limited to  
18 property that has been determined to be rendered useless or valueless by  
19 decertification and to the property that the City has requested to be transferred. In my  
20 opinion, GVSUD's Appraisal includes costs and expenses that are not property and  
21 are well beyond the scope of property that has been rendered useless and valueless by  
22 decertification, where (i) no property of GVSUD has been rendered useless or  
23 valueless and (ii) the City has not requested GVSUD to transfer any property to the

1 City. In other words, all of the costs asserted in GVSUD's Appraisal are for costs  
2 other than property that has been rendered useless and valueless by decertification.

3 **Q. WHAT DOCUMENTS, LAWS, AND/OR REGULATIONS DID YOU RELY**  
4 **UPON TO REACH YOUR CONCLUSIONS?**

5 A. Again, I have reviewed the City's Application; the City's Appraisal; GVSUD's  
6 Appraisal; the discovery requests and responses; and other filings in this matter; TWC  
7 § 13.255; TWC, Chapter 26; 16 TAC § 24.120; and 30 TAC Chapter 351, Subchapter  
8 F.

9 **III. THE APPLICATION**

10 **Q. ARE YOU FAMILIAR WITH THE AREA THE CITY HAS PETITIONED TO**  
11 **BE DECERTIFIED IN THE APPLICATION?**

12 A. Yes. As previously noted, the map attached to the Application as Attachment A  
13 depicting the area to be decertified was prepared under my supervision.

14 **Q. PLEASE DESCRIBE, GENERALLY, THE LOCATION OF THE AREA THE**  
15 **CITY HAS PETITIONED TO BE DECERTIFIED.**

16 A. This area to be decertified is approximately 1,694 acres of land from GVSUD's sewer  
17 CCN No. 20973 ("Decertificated Land"). The Decertificated Land is within the  
18 corporate limits of the City, and is generally bounded on the south by U.S. Interstate  
19 Highway 10; on the west by Cibolo Creek; on the north by Lower Seguin Road,  
20 Hackerville Road, and Arizpe Road; and on the east by the Court Decreed ETJ  
21 Boundary of the City and the City of Marion, as well as the boundaries of Guadalupe  
22 County Appraisal District Parcel Nos. 70979 and 71064. The Decertificated Land is  
23 more particularly depicted in light blue in the map accompanying the August 18,



1 2015 letter from Mr. Robert Herrera to Pat Allen, which is in Attachment A of the  
2 Application.

3 **Q. DOES GVSUD HAVE ANY SEWER INFRASTRUCTURE ON OR IN THE**  
4 **DECERTIFICATED LAND?**

5 A. It is my understanding based on the discovery responses in this matter and my  
6 personal knowledge of the Decertificated Land that GVSUD has no sewer  
7 infrastructure on or in the Decertificated Land. My personal knowledge comes from  
8 my experience working for the City and observing the growth in the subject area. In  
9 my role with the City, I have actual knowledge of the projects within the  
10 Decertificated Land, and I also have completed visual inspections of the  
11 Decertificated Land.

12 **Q. DOES GVSUD HAVE ANY RETAIL SEWER CUSTOMERS WITHIN THE**  
13 **DECORTICATED LAND?**

14 A. It is my understanding based on the discovery responses in this matter and my  
15 personal knowledge of the Decertificated Land that GVSUD has no retail sewer  
16 customers within the Decertificated Land. Again, my personal knowledge comes  
17 from my experience working for the City and observing the growth in the subject  
18 area. In my role with the City, I have actual knowledge of the projects within the  
19 Decertificated Land, and I also have completed visual inspections of the  
20 Decertificated Land.

21 **IV. TCEQ POLICY ON REGIONALIZATION**

22 **Q. ARE YOU FAMILIAR WITH THE STATE AND TCEQ'S POLICY ON**  
23 **REGIONALIZATION FOR WASTEWATER SYSTEMS?**

24 A. Yes.

1    **Q.    HOW ARE YOU FAMILIAR WITH THE STATE AND TCEQ'S POLICY ON**  
2       **REGIONALIZATION FOR WASTEWATER SYSTEMS?**

3    A.    I became familiar with the TCEQ's policy on regionalization through my previous  
4        experiences in preparing and/or participating in applications filed at the TCEQ for  
5        TPDES permits and review of applicable laws in TWC, Chapter 26, and applicable  
6        regulations in 30 TAC, Chapter 351.

7    **Q.    WHAT IS YOUR UNDERSTANDING OF THE STATE AND TCEQ'S**  
8       **POLICY ON REGIONALIZATION FOR WASTEWATER SYSTEMS?**

9    A.    In general, it is my understanding that it is the policy of the state to encourage and  
10       promote the development and use of regional and area wide waste collection,  
11       treatment, and disposal systems to serve the waste disposal needs of the citizens of  
12       the state. This policy is contained in TWC, Chapter 26. I believe that the TCEQ is  
13       the state agency that implements this policy. Further, in implementing this statewide  
14       policy, it is my opinion that the TCEQ has established two different regionalization  
15       schemes.

16   **Q.    WHAT DO YOU BELIEVE ARE THE TWO REGIONALIZATION**  
17       **FORMATS?**

18   A.    First, there is a more general regionalization scheme, where the TCEQ may deny or  
19       alter a permit to treat and discharge wastewater, known as a TPDES permit,  
20       depending on the outcome of a feasibility analysis. However, such feasibility  
21       analysis is only triggered if (i) the wastewater treatment plant ("WWTP") proposed in  
22       the TPDES permit application is within the corporate limits of another entity, (ii) the  
23       WWTP proposed in the TPDES permit application is within the sewer CCN of

1 another entity, or (iii) whether another entity has a WWTP or wastewater system  
2 within 3 miles of the WWTP proposed in the TPDES permit application.

3 Second, I believe that there is a system-specific regionalization policy where  
4 the TCEQ designates certain wastewater entities to be the regional sewerage system  
5 for a specific geographic area. It is my understanding that at this point, there are only  
6 8 TCEQ-authorized regional entities in the entire state of Texas. I believe that these 8  
7 entities are identified in 30 TAC Chapter 351 of the TCEQ's regulations.

8 **Q. IN YOUR OPINION, IS BEING A TCEQ-APPROVED REGIONAL**  
9 **WASTEWATER PROVIDER UNDER 30 TAC CHAPTER 351 DIFFERENT**  
10 **FROM BEING A SEWER CCN HOLDER?**

11 A. Absolutely. It is my opinion that a sewer CCN relates to providing retail sewer  
12 service to the end user-customer and CCNs are regulated by the Commission. The  
13 term "retail water or sewer service" is defined in TWC, Chapter 13, as "potable water  
14 service or sewer service, or both, provided by a retail public utility to the ultimate  
15 consumer for compensation." Being a TCEQ-approved regional wastewater entity  
16 under Chapter 351, however, in my opinion, means that the regional entity is the only  
17 entity that can construct the regional sewerage system to collect and transport the raw  
18 wastewater to the WWTP, treat the wastewater at the WWTP, and discharge the  
19 treated effluent into a state watercourse, to the extent allowed by the TCEQ in  
20 Chapter 351. In other words, a Chapter 351 regional wastewater entity is not  
21 necessarily the entity that accepts raw wastewater from the end users- retail  
22 customers.

1 Q. WHAT IS THE IMPORTANCE OF REGIONALIZATION IN THIS  
2 MATTER?

3 A. Since the Application will decertify a portion of GVSUD's sewer CCN boundaries, I  
4 need to provide my opinions as to what property, if any, of GVSUD is rendered  
5 useless and valueless by such decertification. In developing such opinions, I must  
6 determine whether any GVSUD property could be applicable to providing wastewater  
7 service to the Decertificated Land. Specifically, if there is a TCEQ-authorized  
8 regional provider for the Decertificated Land other than GVSUD, then any GVSUD  
9 property- real or personal- that is intended to collect, transport, treat, and discharge  
10 wastewater cannot be included in the analysis of whether such property is rendered  
11 useless or valueless because it was never applicable to the Decertificated Land in the  
12 first place.

13 Q. IS THERE A TCEQ-AUTHORIZED REGIONAL PROVIDER FOR THE  
14 DECERTIFICATED LAND?

15 A. Yes. It is my opinion that the Cibolo Creek Municipal Authority ("CCMA") is the  
16 TCEQ-approved regional wastewater provider to the Decertificated Land. 30 TAC  
17 § 351.62 of the TCEQ's rules expressly states that "The Cibolo Creek Municipal  
18 Authority is designated the governmental entity to develop a regional sewerage  
19 system in that area of Cibolo Creek Watershed, in the vicinity of the cities of Cibolo,  
20 Schertz, Universal City, Selma, Bracken, and Randolph Air Force Base." A copy of  
21 this critical TCEQ regulation is attached hereto as Exhibit E. Additionally, 30 TAC  
22 § 351.65 of the TCEQ's rules expressly states that "All future permits and  
23 amendments to existing permits pertaining to discharges of domestic wastewater  
24 effluent within the Cibolo Creek regional area shall be issued only to the authority";

1 and the term "Cibolo Creek regional area" is defined in 30 TAC § 351.61 as "That  
2 portion of the Cibolo Creek Watershed lying in the vicinity of the cities of Cibolo,  
3 Schertz, Universal City, Selma, Bracken, and Randolph Air Force Base." A copy of  
4 these other important TCEQ regulations are also attached hereto in Exhibit E.

5 **Q. DID YOU PERFORM AN ANALYSIS TO DETERMINE IF THE**  
6 **DECERTIFICATED LAND IN THE AREA OF CIBOLO CREEK**  
7 **WATERSHED, IN THE VICINITY OF THE CITIES OF CIBOLO,**  
8 **SCHERTZ, UNIVERSAL CITY, SELMA, BRACKEN, AND RANDOLPH AIR**  
9 **FORCE BASE?**

10 A. Yes.

11 **Q. WHAT DID YOU DETERMINE IN THAT ANALYSIS?**

12 A. The Decertificated Land is within the area of Cibolo Creek Watershed, in the vicinity  
13 of the City. In fact, the Decertificated Land is not just within the vicinity of the City,  
14 it is within the City's corporate limits, as noted in my map in the Application. As  
15 such, it is my opinion that CCMA is the TCEQ-regional wastewater entity for the  
16 Decertificated Land.

17 **Q. CAN YOU PLEASE DESCRIBE HOW YOU REACHED THAT**  
18 **CONCLUSION?**

19 A. I went to the Texas Parks and Wildlife Department's ("TPWD") online  
20 Texas Watershed Viewer, located at  
21 [https://tpwd.maps.arcgis.com/apps/Viewer/index.html?appid=2b3604bf9ced441a98c](https://tpwd.maps.arcgis.com/apps/Viewer/index.html?appid=2b3604bf9ced441a98c500763b8b1048)  
22 [500763b8b1048](https://tpwd.maps.arcgis.com/apps/Viewer/index.html?appid=2b3604bf9ced441a98c500763b8b1048), and then zoomed in on the Upper Cibolo Creek Watershed.

1 Q. I AM SHOWING YOU WHAT HAS BEEN MARKED AS EXHIBIT F. CAN  
2 YOU IDENTIFY THIS DOCUMENT?

3 A. Yes. It is a screenshot from my research at TPWD's Texas Watershed Viewer. This  
4 particular image shows the outline of the Upper Cibolo Creek Watershed.

5 Q. WHAT IS THE TPWD TEXAS WATERSHED VIEWER?

6 A. It is a web-based mapping tool that shows all of the major watersheds in the state of  
7 Texas.

8 Q. HAVE YOU REVIEWED THE INFORMATION CONTAINED IN EXHIBIT  
9 F?

10 A. Yes.

11 Q. IS EXHIBIT F A FAIR AND ACCURATE REPRESENTATION OF THE  
12 WATERSHED VIEW PAGE FOR THE UPPER CIBOLO CREEK  
13 WATERSHED?

14 A. Yes.

15 THE CITY OFFERS EXHIBIT F INTO EVIDENCE.

16 Q. WHAT DOES THIS IMAGE IN EXHIBIT F DEMONSTRATE?

17 A. With my knowledge of where the Decertificated Land is located, this map confirms  
18 my opinion that the Decertificated Land is within the Cibolo Creek Watershed. To be  
19 clear, the Upper Cibolo Creek Watershed is within Cibolo Creek Watershed.

20 Q. WHAT IS THE IMPACT OF THIS MAP ON YOUR REGIONALIZATION  
21 ANALYSIS?

22 A. It is my opinion that with the Decertificated Land being located within the corporate  
23 limits of the City and the fact that the land is also within the Cibolo Creek Watershed,

1 CCMA is the regional wastewater collection and treatment provider for the  
2 Decertificated Land.

3 **Q. WHAT DO YOU BELIEVE IS THE RESULT IF CCMA IS THE TCEQ-**  
4 **APPROVED REGIONAL PROVIDER TO THE DECERTIFICATED LAND?**

5 A. I believe that GVSUD cannot collect, transport, treat or discharge the wastewater  
6 generated by landowners within the Decertificated Land, and any GVSUD property  
7 for such purposes must be excluded from the analysis of whether such property is  
8 rendered useless or valueless from the decertification of the Decertificated Land  
9 because it never could have been used to collect, transport, treat, or discharge  
10 wastewater generated by landowners within the Decertificated Land in the first place.

11 **V. NO PROPERTY IS RENDERED USELESS OR VALUELESS**  
12 **UPON DECERTIFICATION**

13 **Q. WITH RESPECT TO THE FIRST ISSUE IN THIS DOCKET- WHAT**  
14 **PROPERTY, IF ANY, OF GVSUD IS RENDERED USELESS OR**  
15 **VALUELESS BY DECERTIFICATION?**

16 A. None. It is my opinion that there is no property of GVSUD that has been rendered  
17 useless or valueless by the Application.

18 **Q. DOES THAT INCLUDE BOTH REAL AND PERSONAL PROPERTY?**

19 A. Yes.

20 **Q. WHEN YOU REFER TO REAL PROPERTY, WHAT DO YOU MEAN?**

21 A. To me, real property is a right to land, such as ownership of land or another lesser  
22 interest.

1    **Q.    WHEN YOU REFER TO PERSONAL PROPERTY, WHAT DO YOU MEAN?**

2    A.    In this context, personal property means, to me, wastewater infrastructure and other  
3    related facilities or assets.

4    **Q.    WHAT IS YOUR PROCESS FOR DETERMINING WHETHER ANY**  
5    **PROPERTY HAS BEEN RENDERED USELESS OR VALUELESS?**

6    A.    I reviewed the Application, City's Appraisal, GVSUD's Appraisal, and other  
7    materials noted in my previous answers and evaluated whether there was any real or  
8    personal property of GVSUD that could be used to provide wastewater service to the  
9    Decertificated Land. Then, to the extent GVSUD had any such real or personal  
10   property, I considered the extent that such property could be used to provide  
11   wastewater service to the Decertificated Land. Next, if there was such property, and  
12   it could have been used to provide wastewater service to the Decertificated Land, in  
13   whole or in part, then I considered the extent, if any, of whether the removal of the  
14   Decertificated Land from GVSUD's sewer CCN boundaries rendered that property  
15   useless or valueless.

16   **Q.    USING THAT PROCESS, HOW DID YOU REACH YOUR OPINION THAT**  
17   **NO GVSUD PROPERTY IS RENDERED USELESS OR VALUELESS BY**  
18   **THE DECERTIFICATION SOUGHT IN THE APPLICATION?**

19   A.    Given my personal knowledge of the area, after reviewing the Application, City's  
20   Appraisal, GVSUD's Appraisal, GVSUD's discovery responses in this matter, and  
21   the other materials noted in my previous answers, I determined that GVSUD has no  
22   property that will be rendered useless and valueless by the decertification sought by  
23   the City in the Application. Specifically, I have determined the following:

24   1.    GVSUD has no wastewater infrastructure within the Decertificated Land;



- 1           2.     GVSUD does not have any other wastewater infrastructure outside of the  
2                 Decertificated Land that could be used to provide wastewater service to the  
3                 Decertificated Land; and  
4           3.     GVSUD's Appraisal fails to identify any property of GVSUD that is rendered  
5                 useless and valueless by the decertification sought by the City in the  
6                 Application, in whole or in part.

7   **Q.   HOW DID YOU REACH YOUR FINDING THAT GVSUD HAS NO**  
8   **WASTEWATER INFRASTRUCTURE WITHIN THE DECERTIFICATED**  
9   **LAND?**

10  A.   GVSUD admits this finding in its responses to the City's First Requests for  
11       Admission and Request for Information, No. Cibolo RFA 1-4 and the City's Second  
12       Requests for Admission Nos. Cibolo RFA 2-20 and 2-21. Such discovery responses,  
13       which I reviewed, are attached hereto as Exhibit G. GVSUD also acknowledged this  
14       in GVSUD's Appraisal on page 3. Further, I am aware of this from my experience in  
15       working with the City as City Engineer and visual inspection of the Decertificated  
16       Land.

17  **Q.   IS EXHIBIT G A FAIR AND ACCURATE REPRESENTATION OF GVSUD'S**  
18  **RESPONSES TO THE CITY'S FIRST REQUESTS FOR ADMISSION AND**  
19  **REQUESTS FOR INFORMATION, AND GVSUD'S RESPONSES TO THE**  
20  **CITY'S SECOND REQUESTS FOR ADMISSION?**

21  A.   Yes.

22  **THE CITY OFFERS EXHIBIT G INTO EVIDENCE.**

1    **Q.    HOW DID YOU REACH YOUR FINDING THAT GVSUD HAS NO**  
2    **WASTEWATER INFRASTRUCTURE OUTSIDE OF THE**  
3    **DECERTIFICATED LAND THAT COULD BE USED TO PROVIDE**  
4    **WASTEWATER SERVICE TO THE DECERTIFICATED LAND?**

5    A.    As previously discussed in my prefiled testimony, it is my opinion that CCMA is the  
6    TCEQ-designated wastewater entity to develop a sewerage system to serve the  
7    Decertificated Land, and therefore, GVSUD cannot even utilize any wastewater  
8    infrastructure to provide wastewater collection, transportation, treatment, or discharge  
9    service to the Decertificated Land. Regardless, based upon GVSUD's responses to  
10   the City's Second Requests for Admission Nos. Cibolo RFA 2-3, 2-4, 2-5, 2-6, 2-7, 2-  
11   8 and 2-9, noted in Exhibit G of my testimony, GVSUD has not submitted designs for  
12   approval to the TCEQ for a wastewater collection system or a wastewater treatment  
13   facility and it does not have approval from the TCEQ to construct such infrastructure.  
14   Further, I am aware that GVSUD does not have a wastewater collection system from  
15   my experience in working with the City as City Engineer and visual inspection of  
16   land within GVSUD's sewer CCN.

17   **Q.    HOW DID YOU REACH YOUR FINDING THAT GVSUD'S APPRAISAL**  
18   **FAILS TO IDENTIFY ANY PROPERTY OF GVSUD THAT IS RENDERED**  
19   **USELESS AND VALUELESS BY THE DECERTIFICATION SOUGHT BY**  
20   **THE CITY IN THE APPLICATION, IN WHOLE OR IN PART?**

21   A.    It is my opinion that GVSUD's Appraisal asserts that compensation is due because of  
22   the following:

23   1.    money spent by GVSUD for its application for a TPDES permit that is  
24   currently pending at the TCEQ;

2. planning and design activities related to the wastewater collection system design, wastewater treatment facility design, operations and maintenance plans, and other wastewater utility service issues;
3. the purchase of an approximately 65 acre tract of land; and
4. alleged increased costs to future customers, the loss of revenue from potential customers, and costs incurred to date regarding the Application.

However, none of these items constitute property that have been rendered useless and valueless by the decertification sought by the City in the Application, in whole or in part.

**Q. WHY DOES THE MONEY SPENT BY GVSUD FOR ITS APPLICATION FOR A TPDES PERMIT THAT IS CURRENTLY PENDING AT THE TCEQ NOT CONSTITUTE PROPERTY THAT HAS BEEN RENDERED USELESS AND VALUELESS BY THE DECERTIFICATION SOUGHT BY THE CITY IN THE APPLICATION, IN WHOLE OR IN PART?**

A. First, it is my opinion that CCMA is the regional provider to develop a regional sewerage system in that area of the Decertificated Land. Consequently, any property of GVSUD utilized or created to request a TPDES permit from the TCEQ to serve the Decertificated Land must be excluded from this analysis. Again, even if GVSUD obtained a TPDES permit, it could not treat the raw wastewater generated in the Decertificated Land. Any GVSUD property allocated to GVSUD's TPDES permit application is property used for a purpose that is outside the scope of the CCN decertification. In other words, the City's Application does not render that GVSUD property useless or valueless, in whole or in part. Second, and regardless of my first opinion regarding regionalization, GVSUD's application for a TPDES permit is not

1 property that is rendered useless or valueless by the decertification sought in the  
2 Application because GVSUD's application is a pending request at the TCEQ, and it is  
3 uncertain whether the permit will be approved as requested, or at all. It is my  
4 understanding that GVSUD's application is protested by at least the City, the City of  
5 Schertz, and CCMA. Third, it is my understanding that the TCEQ does not require  
6 TPDES permit applicants to provide any wastewater collection system designs with  
7 their application, and GVSUD's TPDES permit application generically requests  
8 approval to treat and discharge wastewater in a phased process. So, removing the  
9 Decertificated Land from GVSUD's sewer CCN would not render the property used  
10 to prepare the GVSUD application or the application itself useless or valueless, in  
11 whole or in part. Without the Decertificated Land in its sewer CCN, GVSUD would  
12 still need to prepare and file a TPDES permit application with the TCEQ.

13 **Q. WHY DOES THE MONEY SPENT BY GVSUD FOR PLANNING AND**  
14 **DESIGN ACTIVITIES RELATED TO THE WASTEWATER COLLECTION**  
15 **SYSTEM DESIGN, WASTEWATER TREATMENT FACILITY DESIGN,**  
16 **OPERATIONS AND MAINTENANCE PLANS, AND OTHER**  
17 **WASTEWATER UTILITY NOT CONSTITUTE PROPERTY THAT HAS**  
18 **BEEN RENDERED USELESS AND VALUELESS BY THE**  
19 **DECERTIFICATION SOUGHT BY THE CITY IN THE APPLICATION, IN**  
20 **WHOLE OR IN PART?**

21 **A.** Again, it is my opinion that CCMA is the TCEQ-regional provider to develop a  
22 regional sewerage system in that area of the Decertificated Land. Consequently, any  
23 property of GVSUD utilized for planning and design activities related to the  
24 wastewater collection system design, wastewater treatment facility design, operations

1 and maintenance plans, and other wastewater utility service issues must be excluded  
2 from this analysis because GVSUD cannot collect and treat the raw wastewater  
3 generated in the Decertificated Land. Any GVSUD property used for these purposes  
4 is outside the scope of the CCN decertification. GVSUD erred in utilizing its  
5 property for such purposes in the first place. Additionally, these activities are highly  
6 speculative and it is uncertain whether the project is feasible or needed; and, as high-  
7 level speculative documents, they are not rendered useless or valueless with the  
8 decertification of the Decertificated Land, in whole or in part.

9 **Q. WHY IS GVSUD'S 65 ACRE TRACT OF LAND NOT RENDERED USELESS**  
10 **AND VALUELESS BY THE DECERTIFICATION SOUGHT BY THE CITY**  
11 **IN THE APPLICATION, IN WHOLE OR IN PART?**

12 A. First, once again, it is my opinion that CCMA is the regional provider to develop a  
13 regional sewerage system in that area of the Decertificated Land. Consequently,  
14 GVSUD's 65 acre tract of land cannot be used to construct a WWTP to treat the raw  
15 wastewater generated in the Decertificated Land, and such land must be excluded  
16 from this analysis. Any GVSUD real property used for these purposes is outside the  
17 scope of property that could be rendered useless or valueless by the CCN  
18 decertification. Second, and regardless of my first opinion regarding regionalization,  
19 I have recently seen this 65 acre tract of land, and it is currently undeveloped. So,  
20 there have been no activities on the land – either in terms of constructing a WWTP or  
21 otherwise – that have negatively impacted the usability of the land for any purpose.  
22 Further, if the land has not been disturbed, the value of the land should not change,  
23 aside from market conditions. Based upon my experiences with new development in  
24 the vicinity of the City, and in my years of experience in the water and wastewater

1 industry, the City is growing, which means value of land should be increasing. Thus,  
2 even with the decertification, the undeveloped land is not rendered useless or  
3 valueless, in whole or in part. Third, and also regardless of my first opinion regarding  
4 regionalization, GVSUD could only use this property for a WWTP if GVSUD obtains  
5 a TPDES permit. So, it is speculative at best for GVSUD to include this asset as  
6 property rendered useless or valueless, in whole or in part. If GVSUD does not  
7 obtain the TPDES permit – or even withdraws the application – then the land is not  
8 impacted by the decertification. Fourth (and regardless of my first opinion regarding  
9 regionalization), GVSUD's decision to purchase the 65 acre tract may have been  
10 premature and such property is not rendered useless or valueless by the Application.  
11 It is my understanding that the TCEQ does not require TPDES permit applicants to  
12 have ownership of land in fee to obtain the land. Rather, GVSUD should have  
13 obtained an option to purchase the 65 acre tract of land upon approval of the TPDES  
14 permit application. Again, even if GVSUD obtains a TPDES permit for any reason, it  
15 would still need this land for the WWTP, and therefore, the land is not rendered  
16 useless or valueless, in whole or in part, with the decertification of the Decertified  
17 Land.

18 **Q. WHY ARE GVSUD'S ALLEGED INCREASED COSTS TO FUTURE**  
19 **CUSTOMERS, LOSS OF REVENUE FROM POTENTIAL CUSTOMERS**  
20 **NOT CONSIDERED PROPERTY RENDERED USELESS AND VALUELESS**  
21 **BY THE DECERTIFICATION SOUGHT BY THE CITY IN THE**  
22 **APPLICATION, IN WHOLE OR IN PART?**

23 **A.** First, future costs and future lost revenues from potential customers are simply not  
24 property. They are pure speculation and are beyond the scope of determining what

1 property, if any, is rendered useless or valueless. Second, it is my opinion that  
2 CCMA is the regional provider to develop a regional sewerage system in that area of  
3 the Decertificated Land. Consequently, these GVSUD-alleged future costs and lost  
4 revenues from potential customers are costs that cannot be charged to customers  
5 within the Decertificated Land because those customers cannot be served with such  
6 facilities. Such alleged, future costs to permit, design, or construct a sewer system to  
7 treat the raw wastewater generated in the Decertificated Land must be excluded from  
8 this analysis. Such allegations are outside the scope of the property to be considered  
9 in this CCN decertification.

10 VI. THE CITY HAS NOT REQUESTED GVSUD TRANSFER  
11 ANY PROPERTY TO THE CITY

12 Q. WHAT PROPERTY, IF ANY, HAS THE CITY REQUESTED GVSUD  
13 TRANSFERRED TO THE CITY?

14 A. It is my opinion that the City has not requested GVSUD to transfer any property to  
15 the City in the past, and that the City is not requesting GVSUD to transfer any  
16 property to the City today.

17 Q. WHAT IS THE BASIS FOR YOUR OPINION?

18 A. My opinion is based upon the facts that I have not submitted any such request to  
19 GVSUD, that I am not aware of anyone else at the City submitting such request to  
20 GVSUD, and that the City Council has not given me any direction to submit such  
21 request to GVSUD. Additionally, given that GVSUD does not have any wastewater  
22 infrastructure, there is no property to transfer to the City. Plus, GVSUD's responses  
23 to the City's Second Requests for Admission Nos. Cibolo RFA 2-28, 2-29, and 2-30,  
24 noted in Exhibit G of my testimony, indicate that GVSUD has not received requests  
25 from the City to transfer GVSUD property to the City.

1 VII. WHETHER THE APPRAISALS ARE LIMITED TO VALUING PROPERTY  
2 THAT HAS BEEN DETERMINED TO HAVE  
3 BEEN RENDERED USELESS OR VALUELESS OR THAT  
4 THE CITY HAS REQUESTED TRANSFERRED

5 Q. DID YOU EVALUATE WHETHER THE CITY'S APPRAISAL AND  
6 GVSUD'S APPRAISAL ARE LIMITED TO VALUING PROPERTY, IF ANY,  
7 THAT WOULD BE RENDERED USELESS OR VALUELESS DUE TO THE  
8 PROPOSED DECERTIFICATION?

9 A. Yes.

10 Q. HOW DID YOU MAKE YOUR EVALUATION?

11 A. First, I employed the method I previously described in Section V, implementing TWC  
12 § 13.255: I determined whether there was any real or personal property of GVSUD  
13 that could be used to provide wastewater service to the Decertificated Land; then, I  
14 considered the extent that such property, if any, could be used to provide wastewater  
15 service to the Decertificated Land; and last, if there was such property, and it could  
16 have been used to provide wastewater service to the Decertificated Land, in whole or  
17 in part, then I considered the extent, if any, to which the removal of the Decertificated  
18 Land from GVSUD's sewer CCN boundaries rendered that property useless or  
19 valueless. Second, I reconciled those findings with the City's Appraisal and  
20 GVSUD's Appraisal.

21 Q. HAVE YOU FORMED AN OPINION ABOUT WHETHER THE GVSUD  
22 APPRAISAL IS LIMITED TO VALUING PROPERTY THAT HAS BEEN  
23 DETERMINED TO HAVE BEEN RENDERED USELESS OR VALUELESS  
24 OR THAT THE CITY HAS REQUESTED TRANSFERRED?

25 A. I have.



1   **Q.    WHAT IS YOUR OPINION?**

2   A.    The GVSUD Appraisal is not limited to valuing property that has been rendered  
3       useless or valueless or that the City has requested transferred. For the reasons I have  
4       already discussed in Section V, it is my opinion that there is no GVSUD property  
5       rendered useless or valueless from the decertification of Decertificated Land, and the  
6       City has not requested any GVSUD property be transferred to the City. Given that,  
7       GVSUD's Appraisal is entirely about compensation for GVSUD property and other  
8       speculative and/or future expenses that are not rendered useless and valueless, and are  
9       beyond the scope of property to be considered in this analysis. Further, in reconciling  
10      GVSUD's Appraisal with TWC § 13.255, GVSUD inappropriately includes  
11      compensation factors in TWC § 13.255(g) that are not related to property that is  
12      rendered useless or valueless – of which there is none.

13   **Q.    HOW DID YOU DETERMINE THAT GVSUD'S APPRAISAL SHOULD BE**  
14   **LIMITED TO EXCLUDE THE TWC § 13.255(g) FACTORS?**

15   A.    GVSUD's Appraisal should be limited to exclude the TWC § 13.255(g) factors  
16       because they are considerations if there is first a finding that that property is rendered  
17       useless or valueless by the decertification. Here, because there is no such property in  
18       this matter, the application of the compensation factors is unwarranted. In other  
19       words, the analysis of whether GVSUD property is rendered useless or valueless is  
20       about GVSUD property only, and the TWC § 13.255(g) factors address what  
21       compensation amount, if any, is appropriate for such property.

1 Q. HAVE YOU FORMED AN OPINION ABOUT WHETHER THE CITY'S  
2 APPRAISAL IS LIMITED TO VALUING PROPERTY THAT HAS BEEN  
3 DETERMINED TO HAVE BEEN RENDERED USELESS OR VALUELESS  
4 OR THAT THE CITY HAS REQUESTED TRANSFERRED?

5 A. I have.

6 Q. WHAT IS THAT OPINION?

7 A. I have reviewed the City's Appraisal, and I believe that it is properly limited to  
8 valuing property that has been determined to have been rendered useless or valueless.  
9 Specifically, as noted in my testimony, it is my opinion that there is no GVSUD  
10 property that has been determined to have been rendered useless or valueless by  
11 decertification, and the City's Appraisal accurately reflects that same opinion.

12 Q. DOES THIS CONCLUDE YOUR DIRECT TESTIMONY?

13 A. Yes.

**RUDOLPH F. KLEIN IV, P.E.**

502 Burnside Dr.  
San Antonio, Texas 78209  
(210) 213-6317

**EDUCATION:** Alamo Heights High School, 1975, San Antonio, Texas  
Texas A&M University, Civil Engineering (1975-1980)

**REGISTRATION:**

Professional Engineer, State of Texas # 79689

**PROFESSIONAL EXPERIENCE:**

May 2014 - Present: **CITY OF CIBOLO, TEXAS**, Cibolo, Texas  
Director of Planning and Engineering

Aug. 1994 - May 2014; **KLEIN ENGINEERING, INC.**, San Antonio, Texas  
President and Owner

Sept. 1992 - July 1994; **PYLE & KLEIN ENGINEERING, INC.**, San Antonio, Texas  
Vice President

Oct. 1990 - Aug. 1992; **SELIGMANN & PYLE CONS. ENGRS., INC.**, San Antonio, Texas  
Project and Design Engineer

Jan. 1981 - Sept. 1990; **HOWARD W. GADDIS CONS. ENGR., INC.**, San Antonio, Texas  
Project and Design Engineer

**PROFESSIONAL SOCIETIES:**

Member National Society of Professional Engineers  
Member Texas Society of Professional Engineers  
Member American Water Works Association  
Member American Society of Civil Engineers  
Member World Environmental Federation  
Member Texas Flood Plain Managers Association

**OTHER ACTIVITIES AND ORGANIZATIONS:**

International Order of Alhambra - Bejar Caravan # 56  
National Eagle Scout Association  
Knights of Columbus Council 786 San Antonio  
K of C 4<sup>th</sup> Degree Assembly 2012 San Antonio  
Beethoven Maennerchor  
Texas A&M Former Students Association  
Texas A&M Corps of Cadets Association

**PERSONAL INFORMATION:**

Date of Birth: 21 November 1957  
Wife's Name: Martha Finto Klein  
Children: Ellen (30) & Sarah (27)

Mr. Klein has over 35 years of civil engineering experience in San Antonio, and South Texas.

He studied Civil Engineering at Texas A&M University and is a registered professional engineer (#79689) with the State of Texas.

Mr. Klein worked for Howard W. Gaddis Consulting Engineers in San Antonio from 1981 to 1990 and Seligman & Pyle Engineering from 1990 to 1994. In 1994, he founded Klein Engineering, Inc. In May 2014, Klein Engineering was sold to Mr. Brian Cope P.E., an employee of Klein Engineering since 1999. Mr. Klein is now employed by the City of Cibolo as the Director of Planning and Engineering.

As owner and president of Klein Engineering, Mr. Klein performed and supervised civil engineering design work and project management functions primarily on municipal, residential, and commercial projects across south Texas.

Mr. Klein acted as City Engineer for the Cities of Cibolo, Bandera, Natalia, LaCoste, Kenedy, Christine, Pleasanton and Charlotte, Texas. He was also the System Engineer for several public water supply companies; the Benton City Water Supply Corporation, Atascosa Rural Water Supply Corporation, El Oso Water Supply Corporation and the East Medina County Special Utility District.

Mr. Klein's areas of expertise include:

- \_ Residential and Commercial Subdivision Master Planning
- \_ Site Feasibility Studies
- \_ Civil Site Engineering (dimensional control, grading and drainage design, pavement design and analysis and parking layout, site utility services)
- \_ Public Works Improvements (commercial and residential subdivision layouts, street design, utility main design and coordination, hydrologic studies, storm drainage systems design)
- \_ Water Resources (water system production, treatment, storage and distribution, wastewater system collection, treatment and disposal)
- \_ Governmental Compliance (EPA-NPDES compliance, TCEQ compliance, TCEQ Wastewater permits new, amending and renewals, CCN applications, zoning and platting)

Mr. Klein is a member of the Texas Society of Professional Engineers, and the American Society of Civil Engineers.

Mr. Klein is married and has two daughters. His wife Martha is a retired NEISD Elementary Music Teacher who now teaches music at St Pius X Catholic School in San Antonio. His oldest daughter Ellen is an Elementary Art Teacher in Cypress Fairbanks ISD in Houston, and his youngest daughter Sarah is a Middle School Math Teacher in Alamo Height ISD in San Antonio.

Mr. Klein enjoys working with Scouting, working with his parish community, and traveling with his family.



PURSUANT TO PUC CHAPTER 24, SUBSTANTIVE RULES APPLICABLE TO WATER AND SEWER SERVICE PROVIDERS, SUBCHAPTER G: CERTIFICATES OF CONVENIENCE AND NECESSITY

## Application to Obtain or Amend a Certificate of Convenience and Necessity (CCN) Under Water Code Section 13.255

Docket Number: **45702**

(this number will be assigned by the Public Utility Commission after your application is filed)

7 copies of the application, including the original shall be filed with

CERTIFIED TO BE A TRUE AND CORRECT  
COPY OF THE ORIGINAL ON FILE WITH THE  
PUBLIC UTILITY COMMISSION OF TEXAS  
CENTRAL RECORDS DIVISION

BY:

DATE:

*Robert Medina*  
*12-18-2016*



Public Utility Commission of Texas

Attention: Filing Clerk

1701 N. Congress Avenue

P.O. Box 13326

Austin, Texas 78711-3326

PUBLIC UTILITY COMMISSION  
FILING CLERK

2016 MAR -3 AM 10:17

If submitting digital map data, two copies of the portable electronic storage medium (such as CD or DVD) are required.

### CCN Requirements

#### 1. Purpose of application

Check all boxes that apply.

The purpose of this application is to:

☒ Obtain single certification to a service area within the cities limits; and /or

☐ Amend Certificate of Convenience and Necessity (CCN) No. \_\_\_\_\_

to provide ☐ water or ☒ sewer service to:

portions of the City of Cibolo's corporate limits

(Subdivision or Area) and to decertify

a portion of Green Valley Special Utility District's Sewer CCN No. 20973

(Name of Utility and CCN No.)

#### 2. Applicant

Name of City: City of Cibolo

Mailing address: 200 S. Main/P.O. Box 826, Cibolo, Texas 78108

Phone: (210) 658-9900

Fax: (210) 658-1687

Email: rherrera@cibolotx.gov

Tax Identification number: N/A

**3. County or counties**

Name of county(ies)where the city intends to provide retail public utility service:

Guadalupe County

**4. Contact information**

Contact person regarding this application:

**Name:** David Klein**Title:** Attorney**Mailing address:** 816 Congress Avenue, Suite 1900, Austin, Texas 78701**Phone:** (512) 322-5818**Fax:** (512) 472-0532**Email:** dklein@lglawfirm.com**5. Retail public utility**

Retail public utility currently certificated to the area involved in this application:

**Utility Name:** Green Valley Special Utility District ("GVSUD")**Title:****Mailing address:** P.O. Box 99, Marion, Texas 78124-0099**Phone:** (830) 914-2330**Fax:** (830) 420-4138**Email:**

Retail public utility contact person regarding negotiations with the city over the service area involved:

**Name:** Pat Allen**Title:** General Manager**Mailing address:** P.O. Box 99, Marion, Texas 78124-0099**Phone:** (830) 914-2330**Fax:** (830) 420-4138**Email:** pallen@gvsud.org**6. Service area**On what date was this proposed service area incorporated by the city? The service area was annexed between 2009-2013.**7. Negotiation date between city and retail public utility**On what date did negotiations begin between the city and the retail public utility? August 18, 2015**8. Notice date**On what date was notice of the city's intent to provide service to the incorporated or annexed area provided to the retail public utility made? August 18, 2015Please attach a copy of the notice provided. Also attach a copy of the mailing list indicating to whom such notice was provided. See Attachment A**9. Description of retail public utility facilities**

Please provide a brief description of the retail public utility's facilities in the service area involved in this application. Also indicate how many customers are currently receiving service from the retail public utility in this area:

It is the City's understanding that GVSUD has no wastewater facilities and no wastewater customers in the area to be decertified by this application.

**10. Service start date**

Provide the date when city service to the area can begin. Upon approval by PUC.

**11. Franchised utility information**

If the city will allow a franchised utility to provide service to the area involved, please attach a copy of the city consent or franchise agreement and provide the following information:

Utility Name: N/A

Mailing address:

Phone:

Fax:

Email:

Franchised Utility's CCN Number:

Franchised Utility's contact person and their address:

Name:

Title:

Mailing address:

Email:

Phone:

Phone:

Fax:

Email:

**12. Paper map requirements**

All maps should include applicant's name, address, telephone number, and date of drawing or revision and be folded to 8½ x 11 inches. See **Attachment B**.

Attach the following maps with each copy of the application:

- A. Subdivision plat or engineering plans or other large scale map showing the following:
  1. The exact proposed service area boundary showing locations of requests for service and locations of existing connections (if applicable).
  2. Metes and bounds (if available).
  3. Proposed and existing service area boundaries should be plotted on the map in relation to verifiable natural and man-made landmarks such as roads, creeks, rivers, railroads, etc.
  4. Service area boundaries should be shown with such exactness that they can be located on the ground.
- ❖ ***Applicant may use a USGS 7.5"-minute series map if no other large scale map is available.***
- B. Small scale location map delineating the proposed service area. The proposed service area boundary should be delineated on a copy of the official CCN map. This map will assist the Public Utility Commission in locating the proposed service area in relation to neighboring utility service areas.
- C. Hard copy maps should include the following items:
  1. Map scale should be prominently displayed.
  2. Color coding should be used to differentiate the applicants existing service areas from the proposed service area.
  3. Attach a written description of the proposed service area.
  4. Proposed service area should be the same on all maps.
  5. Include map information in digital format (if available), see 13, GIS map information.
- D. Each utility shall make available to the public at each of its business offices and designated sales offices within Texas the map of the proposed service area currently on file with the Commission. The applicant employees shall lend assistance to persons requesting to see a map of the proposed area upon request.

❖ ***For information on obtaining a CCN base map or questions about sending digital map data, please visit the Water Utilities section of the PUC's website for assistance.***

### 13. GIS map information

- A. Digital Map Requirements: In order that your digital data can be properly used, the following information is necessary:
1. Submit digital data of the proposed CCN service area on a CD, flash drive, or DVD. Two digital copies are necessary. Most files of CCNs (minus the base map) should be small enough to zip up and put on a CD.
  2. The digital data should include all items represented in the hard copy maps.
  3. Please identify data file format, projection information, map units and base map used. Acceptable Data File Format:
    - a. ArcView shape file (preferred)
    - b. Arc/Info E00 file

❖ *For information on obtaining a CCN base map or questions about sending digital map data, please visit the Water Utilities section of the PUC website for assistance.*

**ALL APPLICABLE QUESTIONS MUST BE ANSWERED FULLY.**

**THE APPLICATION WILL NOT BE ACCEPTED FOR FILING WITHOUT MAPS.**

**PLEASE NOTE THE FILING OF THIS APPLICATION DOES NOT CONSTITUTE AUTHORITY TO PROVIDE WATER/SEWER SERVICE IN THE REQUESTED AREA.**



## OATH

State of TexasCounty of GuadalupeI, Robert T. Herrera being duly sworn, file thisapplication under V.T.C.A., Water Code Section 13.255 as City Manager

(Name of the City); that, in such capacity, I am qualified and authorized to file and verify such application, am personally familiar with the maps filed with this application, and have complied with all the requirements contained in this application; and, that all such statements made and matters set forth therein are true and correct. I further state that the application is made in good faith and that this application does not duplicate any filing presently before the Public Utility Commission of Texas.

I further represent that the application form has not been changed, altered or amended from its original form available only from the Commission.

I further represent that the Applicant will provide continuous and adequate service to all customers and qualified applicants for service within its certificated service area.

Robert T. Herrera

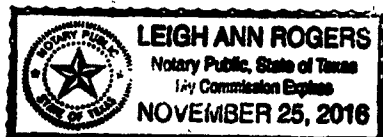
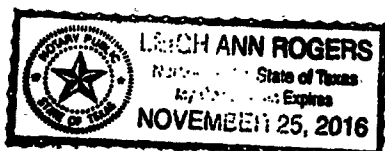
AFFIANT

(Applicant's Authorized Representative)

If the Affiant to this form is any person other than the sole owner, partner, officer of the Applicant, or its attorney, a properly verified Power of Attorney must be enclosed.

SUBSCRIBED AND SWORN TO BEFORE ME, a Notary Public in and for the State of  
Texas, this 7<sup>th</sup> day of March 20 16

SEAL



[Signature]

NOTARY PUBLIC

**ATTACHMENT A – NOTICE OF INTENT TO SERVE**



From the Office of Robert T. Herrera, City Manager  
City of Cibolo 200 S. Main / PO BOX 826 Cibolo, Texas 78108 (210) 658-9900 [www.cibolotx.gov](http://www.cibolotx.gov)

August 18, 2015

Green Valley Special Utility District  
Attn: Pat Allen, General Manager  
529 South Center Street  
Marion, TX 78124

**VIA HAND DELIVERY & USPS REGULAR MAIL**

Re: Notice of Intent by the City of Cibolo to Provide Sewer Service in Corporate Limits

Dear Mr. Allen:

The City of Cibolo ("City") currently provides retail sewer service to customers located within certain portions of the City's corporate limits and extra-territorial jurisdiction ("ETJ"). However, other portions of the City's corporate limits overlap with Green Valley Special Utility District's ("Green Valley SUD") sewer certificate of convenience and necessity ("CCN") No. 20973.

In accordance with Texas Water Code § 13.255, the City hereby provides Green Valley SUD with notice that the City intends to provide retail sewer service to the areas within its corporate limits that overlap with Green Valley SUD's sewer CCN service area ("Transition Areas"), which are more specifically depicted in light blue on the attached map, attached hereto as Attachment A. The yellow areas on Attachment A are additional tracts that are currently subject to annexation agreements with the City, and the City anticipates annexing these tracts in the near future. For your convenience, attached hereto as Attachment B, are field notes for the entire light blue and yellow shaded areas, which are bounded on the south by U.S. Interstate Highway 10; on the west by Cibolo Creek, on the north by Lower Seguin Road, Haackerville Road, and Arizpe Road; and on the east by the Court Decreed ETJ Boundary of the City and the City of Marion, as well as the boundaries of GCAD Parcel Nos. 70979 and 71064.

We look forward to discussing the terms of an agreement between the City and Green Valley SUD, which will detail the arrangement between the parties for the City's provision of retail sewer service to these Transition Areas. If you have any questions, please contact me at (210) 658-9900.

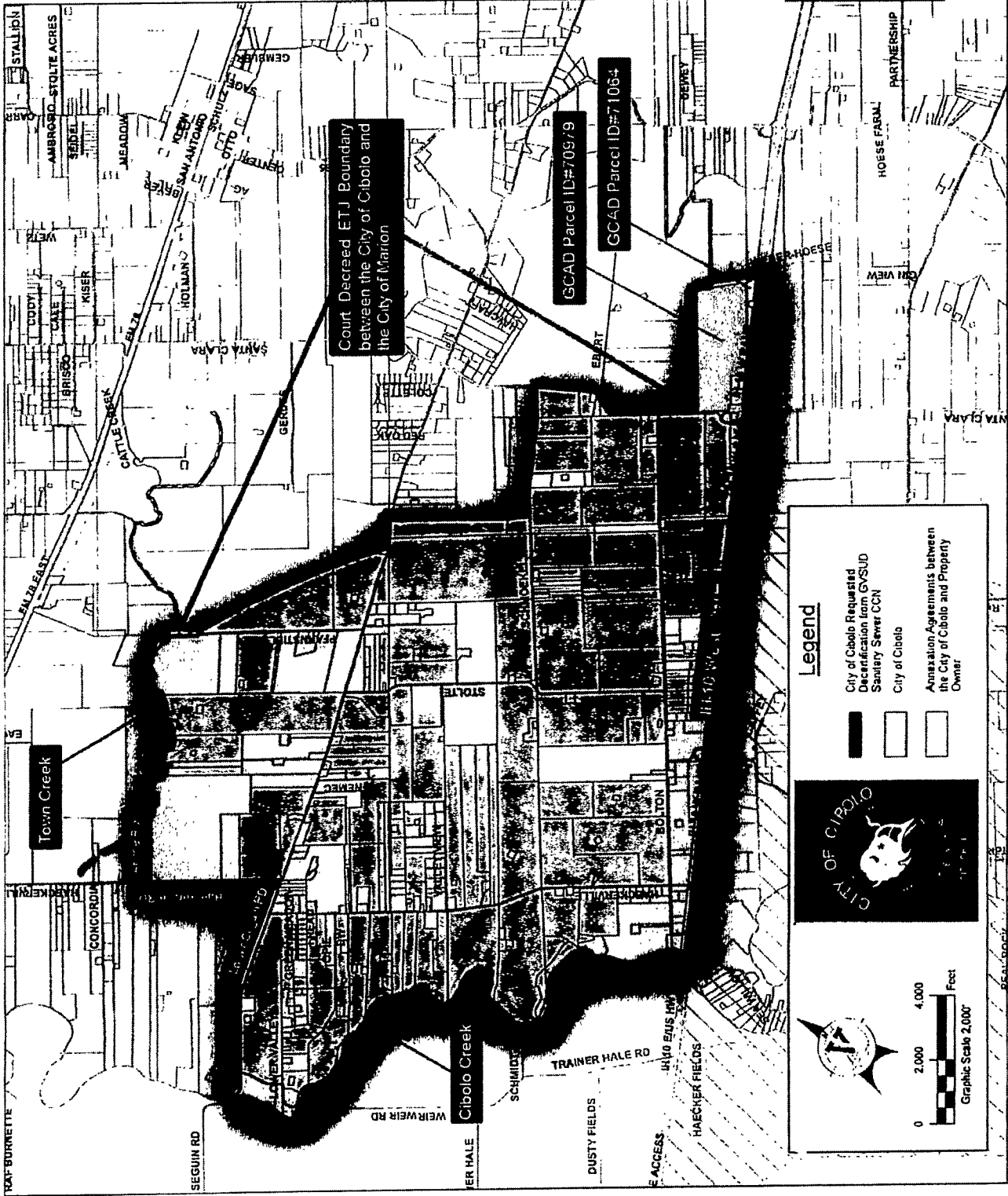
Sincerely,

Robert T. Herrera  
City Manager

CC: Mayor Jackson | City Council | Peggy Cimics, City Secretary | Rudy Klein, Director of Planning & Engineering

Enclosure(s)

COPY



## ATTACHMENT B

**COPY**

Field Notes for a 5,882 Acre area of land to be Certified into the City of Cibolo's Certificate of Convenience and Necessity (CCN) area; said 5,882 Acres of land is in the existing City Limits or ETJ of the City of Cibolo, Guadalupe County, Texas.

Beginning at the intersection of Haekerville Road and Arizpe Road, said intersection being 7,515 feet south of the intersection of Haekerville Road and Farm to Market Road 78, said point of beginning also being in the Extra Territorial Jurisdictional (ETJ) area for the City of Cibolo, Guadalupe County, Texas.

Thence in an easterly direction with Arizpe Road, approximately 2,304 feet to the intersection and crossing of Town Creek, an intermittent tributary to the Cibolo Creek;

Thence in an easterly direction with the meanders of Town Creek, approximately 6,860 feet to the intersection of Pfannstiel Lane and the Court Decreed ETJ Boundary between the City of Cibolo and the City of Marion;

Thence in a southerly direction with the Court Decreed ETJ Boundary between the City of Cibolo and the City of Marion, approximately 25,565 feet to the northeast corner of a 124.75 acre tract of land identified by the Guadalupe County Appraisal District as Parcel # 70979;

Thence in a southerly direction with the east line of said 124.75 acre tract, approximately 1,630 feet to the southeast corner of said tract, also being the north east corner of a 7.658 acres tract of land identified by the Guadalupe County Appraisal District as Parcel # 71064;

Thence in a southerly direction with the east line of said 7.658 acre tract, approximately 330 feet to the southeast corner of said tract, also being on the north right-of-way line of Interstate Highway 10;

Thence in a southwesterly direction with the north right-of-way line of Interstate Highway 10, approximately 20,900 feet to the intersection and crossing of the Cibolo Creek, the centerline of said Cibolo Creek also being the western limit of the ETJ of the City of Cibolo;

Thence in a northerly direction with the meanders of Cibolo Creek, approximately 21,350 feet to the intersection and crossing of Lower Seguin Road;

Thence in an easterly direction with Lower Seguin Road, approximately 7,005 feet to the intersection with Haekerville Road;

Thence in a northerly direction with Haekerville Road, approximately 4,003 feet to the point of beginning and containing 5,882 acres more or less.

**ATTACHMENT B**

**RESPONSE TO SECTION 12 – MAPPING**

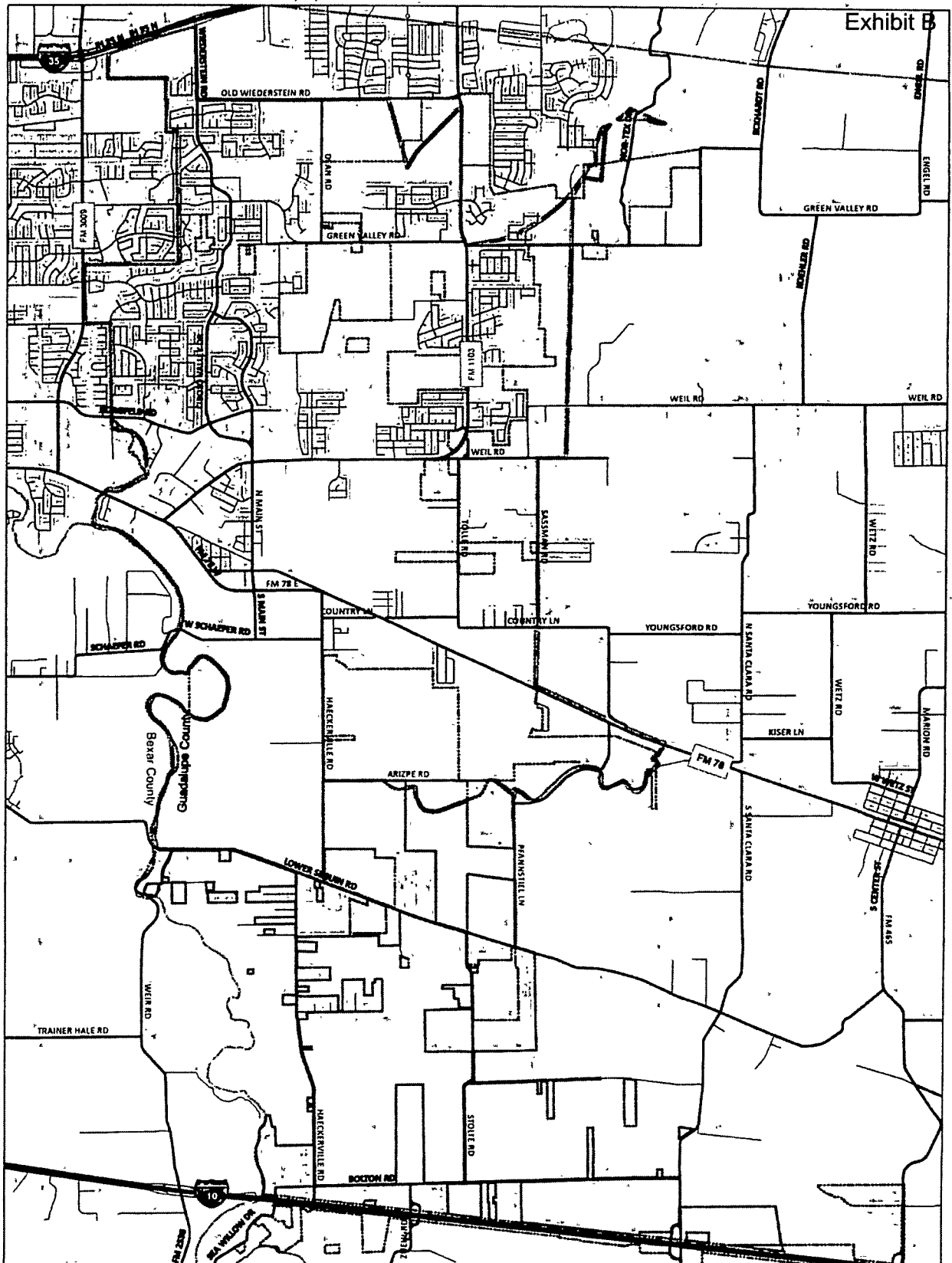
1. Large Scale Map depicting service area and area to be decertified (see attached map)
2. Small Scale Map depicting area to be decertified (see attached map)
3. Maps in digital format (see attached cd rom)
4. Written Description (see below):

Through this application, the City of Cibolo requests single sewer CCN certification/decertification of approximately 1,694 acres of land from Green Valley SUD's sewer CCN No. 20973 ("Decertificated Land"). The Decertificated Land is within the corporate limits of the City, and is generally bounded on the south by U.S. Interstate Highway 10; on the west by Cibolo Creek; on the north by Lower Seguin Road, Hackerville Road, and Arizpe Road; and on the east by the Court Decreed ETJ Boundary of the City and the City of Marion, as well as the boundaries of Guadalupe County Appraisal District Parcel Nos. 70979 and 71064.

**ATTACHMENT B.1. LARGE SCALE MAP (OVERSIZED DOCUMENT)**

**ATTACHMENT B.2. SMALL SCALE MAP**





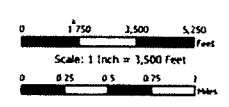
**City of Cibolo**  
**Proposed Wastewater CCN Boundaries**  
 Requested Decertification from  
 Green Valley SUD Sanitary Sewer CCN  
 March 7, 2016

City of Cibolo  
 200 S. Main Street, Cibolo, Texas 78108  
 210-658-9900 Ext. 3139



Information about the City of Cibolo's Geographic Database and Maps  
 The information used in this application was derived from digital databases in the City of Cibolo GIS. Although we strive to provide the best data we can, we sometimes use data derived by others outside the City. Therefore, the City of Cibolo cannot accept any responsibility for any errors, omissions, or outdated references, and the user should not rely on this product. Although these maps are based on land surveys, they may have been altered in the process of this product, so we may differ from the product information or describe a land survey. Users of this information should be aware of any changes before making any decisions.

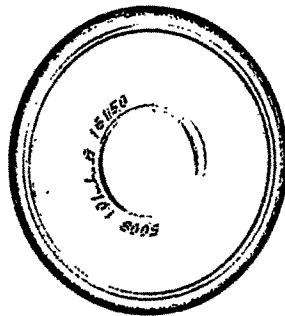
GIS Standard Map Disclaimer  
 This product is for informational purposes and may not be used for legal, engineering, or surveying purposes. Users of this information should consult the primary data and information sources to ascertain the accuracy of the information.



EXPLANATION	
	Cibolo City Limits
	City of Cibolo Requested Decertification from GV SUD Sanitary Sewer CCN
	Current City Cibolo Sewer Service Area

**ATTACHMENT B.3. MAPS IN DIGITAL FORMAT**

**City of Cibolo 13.255 CCN Application – Digital Data**  
**Data File Format: ESRI Shape File (ArcGIS)**



**Projection: Texas Stateplane NAD 83 – South Central**  
**Texas Zone 4204**  
**Map Units: US Feet**

DOCKET NO. 45702

RECEIVED

APPLICATION OF THE CITY OF  
CIBOLO FOR SINGLE  
CERTIFICATION IN  
INCORPORATED AREA AND TO  
DECERTIFY PORTIONS OF GREEN  
VALLEY SPECIAL UTILITY  
DISTRICT'S SEWER CERTIFICATE  
OF CONVENIENCE AND  
NECESSITY IN GUADALUPE  
COUNTY

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2016 JUN 20 PM 2:45  
PUBLIC UTILITY COMMISSION  
CLERK  
OF TEXAS

CITY OF CIBOLO'S APPRAISAL

COMES NOW, the City of Cibolo and files this its Appraisal pursuant to Tex. Water Code §13.255(l), 16 Tex. Admin. Code § 24.120(m), and the Administrative Law Judge's Order No. 7 Establishing Deadlines. This Appraisal is timely filed.

Respectfully submitted.

CERTIFIED TO BE A TRUE AND CORRECT  
COPY OF THE ORIGINAL ON FILE WITH THE  
PUBLIC UTILITY COMMISSION OF TEXAS  
CENTRAL RECORDS DIVISION

BY: [Signature]

DATE: 7-18-2016



LLOYD GOSSELINK ROCHELLE  
& TOWNSEND, P.C.

816 Congress Avenue, Suite 1900

Austin, Texas 78701

Telephone: (512) 322-5800

Facsimile: (512) 472-0532

[Signature]  
DAVID J. KLEIN

State Bar No. 24041257

dklein@lglawfirm.com

CHRISTIE DICKENSON

State Bar No. 24037667

cdickenson@lglawfirm.com

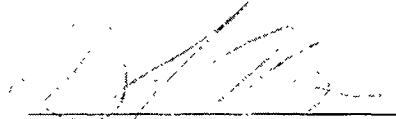
ATTORNEYS FOR THE CITY OF CIBOLO

CITY OF CIBOLO'S APPRAISAL

7120015.1

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing document was transmitted by e-mail, fax, hand-delivery and/or regular, first class mail on this 28th day of June, 2016 to the parties of record.

  
\_\_\_\_\_  
David J. Klein



3420 Executive Center Drive  
 Suite 165  
 Austin, TX 78731  
 Phone: (512) 479-7900  
 Fax: (512) 479-7905

June 28, 2016

Mr. David Klein  
 Lloyd Gosselink  
 816 Congress Ave., Suite 1900  
 Austin, Texas 78701

**Subject: Appraisal of Green Valley Special Utility District (GVSUD) in support of the City of Cibolo's Application under 13.255 for Single Certification**

Dear Mr. Klein:

I have completed my review of the area, which is the subject of the City of Cibolo's Certificate of Convenience and Necessity (CCN) application under Chapter 13.255 of the Texas Water Code for wastewater single certification, Public Utility Commission Docket No. 45702. Based on our understanding, per Public Utility Commission (PUC) Substantive Rule § 24.120 (formally TCEQ Rule 291.120 which was migrated to the PUC with the change in jurisdiction), the City of Cibolo (City) must make a determination of the monetary amount of compensation due to Green Valley Special Utility District (GVSUD) for the decertified area now that the City has applied for single certification in City's incorporated area and to decertify portions of GVSUD's sewer CCN in said area.

Specifically, Substantive Rule § 24.120, Paragraph c states:

"The commission shall grant single certification to the municipality. The Commission shall also determine whether single certification as requested by the municipality would result in property of a retail public utility being rendered useless or valueless to the retail public utility, and shall determine in its order the monetary amount that is adequate and just to compensate the retail public utility for such property." (emphasis added)

In performing this analysis, I must first determine if there is any property that has been rendered useless and valueless as a result of the decertification in PUC Docket No. 45702. In the event this determination finds such property, then compensation must be determined under Substantive Rule § 24.120(g).

As part of my analysis I have reviewed and relied on the GVSUD responses to Admissions and Interrogatories, as well as GVSUD's responses to the City's discovery requests.

Based on my review of the available documentation, I present the following findings:

- Based on available documentation, there does not appear to be any facilities and/or customers within the area in question (See GVSUD's responses to City's RFA 1-1 and RFA 1-4). In fact, GVSUD's response to RFA 1-1 shows that GVSUD does not have any wastewater customers throughout their CCN;
- Based on the review of available documentation, I have found no evidence of plans in place and/or funding committed related to GVSUD's provision of service to the area in question. GVSUD maintains that the subject area is incorporated in the historic Wastewater Master Plan as well as the current wastewater system design contract, both of which are based upon GVSUD's total CCN area which encompasses 76,000 (+) acres. The area subject to the City's application is only approximately 1,694 acres which, if excluded, would have no or little impact and would not render these planning/design

Mr. David Klein  
 June 28, 2016  
 Page 2

documents "useless or valueless". While GVSUD has argued that their outstanding water related debt issues to the TWDB and USDA constitute debt outstanding against the "to be built" wastewater system. The USDA's responses to lien request verification letters submitted by GVSUD clearly demonstrate that these agencies have no lien on the non-existent wastewater revenues of GVSUD.

- My analysis has also discovered that the wastewater property owned at this time by GVSUD only includes a parcel of land (approximately 65 acres) purchased to serve as the site of the yet to be built wastewater treatment plant.
- My review has also established that GVSUD has not obtained the Commission's approved final TPDES discharge permit, and the permit application is currently being contested.

### Conclusion

Based upon the above findings, and in compliance with PUC Substantive Rule § 24.120(c), it is my conclusion that there is no property that will be rendered useless and valueless as a result of decertification by the PUC and the provision of service by the City to the area in question. As such, no determination of monetary compensation is necessary under the rules.

However, if a monetary compensation determination were to be made, it is my opinion that the compensation to be provided is \$0.00 based on the following:

- There are no facilities in the area in question;
- There is no debt that has been used to fund facilities to serve the area in question;
- GVSUD has not demonstrated the expenditure of any funds associated with planning, designing, or constructing facilities specifically associated with the area in question;
- To my knowledge, GVSUD has no contractual obligations associated with the area in question;
- Given that GVSUD does not currently incur cost associated with the area, have facilities within the area, and off-site assets consist only of a 65 acre of land to be used for the wastewater treatment plant, assuming a discharge permit is issued and a plant is constructed, there is no demonstrated impairment or foreseeable cost increases to customers since there are NO existing wastewater customers;
- I would also note that the Cibolo Creek Municipal Authority (CCMA) has been designated as the governmental entity to provide the regional sewer treatment service in the Cibolo Creek watershed, in the vicinity of the cities of Cibolo, Schertz, Universal City, Selma, Bracken, and Randolph Air Force Base under TAC 30 Part 1 Chapter 351 Subchapter F, Rule 351.62 (Attachment A page 1). Further under Rule 351.65 of this statute any permits and/or amendments to existing permits pertaining to discharges of domestic wastewater effluent within the Cibolo Creek regional area shall be issued only to the Authority (Attachment A page 2). Therefore, even if GVSUD were able to survive the challenges to its pending permit application no costs of the to be built treatment plant should be allocable to the City of Cibolo which is currently receiving wastewater treatment service from the CCMA.
- Given that there are no customers in the area in question or within the GVSUD CCN for that matter, GVSUD will not experience a loss in revenues associated with the loss of the area in question; and,
- I am not aware, of any legal or professional fees incurred by GVSUD associated with the decertification of the area in question. In response the City's Request for Information RFI 1-21, GVSUD responded that the requested information would not be available until June 28, 2016 at such time their selected

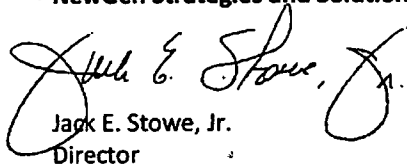
Mr. David Klein  
June 28, 2016  
Page 3

appraiser issues his report. I would merely point out that Rule 24.120 (g) provides for the reimbursement of **reasonable legal and professional fees**.

After review of this Letter Report, if you have any questions or require additional information, please feel free to contact Mr. Jack Stowe at [jstowe@newgenstrategies.net](mailto:jstowe@newgenstrategies.net) or call 512.479.7900.

Sincerely,

NewGen Strategies and Solutions, LLC



Jack E. Stowe, Jr.  
Director



[<<Prev Rule](#)[Attachment A](#)  
[Next Rule>>](#)

## Texas Administrative Code

<u>TITLE 30</u>	ENVIRONMENTAL QUALITY
<u>PART 1</u>	TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
<u>CHAPTER 351</u>	REGIONALIZATION
<u>SUBCHAPTER F</u>	CIBOLO CREEK
<u>RULE §351.62</u>	Designation of Regional Entity

The Cibolo Creek Municipal Authority is designated the governmental entity to develop a regional sewerage system in that area of Cibolo Creek Watershed, in the vicinity of the cities of Cibolo, Schertz, Universal City, Selma, Bracken, and Randolph Air Force Base.

**Source Note:** The provisions of this §351.62 adopted to be effective February 24, 1978, 3 TexReg 595.

[Next Page](#)[Previous Page](#)[List of Titles](#)[Back to List](#)[HOME](#)[TEXAS REGISTER](#)[TEXAS ADMINISTRATIVE CODE](#)[OPEN MEETINGS](#)

[<<Prev Rule](#)[Next Rule>>](#)

## Texas Administrative Code

<u>TITLE 30</u>	ENVIRONMENTAL QUALITY
<u>PART 1</u>	TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
<u>CHAPTER 351</u>	REGIONALIZATION
<u>SUBCHAPTER F</u>	CIBOLO CREEK
<u>RULE §351.65</u>	Issuance of Permits

All future permits and amendments to existing permits pertaining to discharges of domestic wastewater effluent within the Cibolo Creek regional area shall be issued only to the authority.

**Source Note:** The provisions of this §351.65 adopted to be effective February 24, 1978, 3 TexReg 595.

[Next Page](#)[Previous Page](#)[List of Titles](#)[Back to List](#)[HOME](#)[TEXAS REGISTER](#)[TEXAS ADMINISTRATIVE CODE](#)[OPEN MEETINGS](#)

DOCKET NO. 45702

RECEIVED

APPLICATION OF THE CITY OF §  
 CIBOLO FOR SINGLE CERTIFICATION §  
 IN INCORPORATED AREA AND TO §  
 DECERTIFY PORTIONS OF GREEN §  
 VALLEY SPECIAL UTILITY §  
 DISTRICT'S SEWER CERTIFICATE OF §  
 CONVENIENCE AND NECESSITY IN §  
 GUADALUPE COUNTY §

BEFORE THE PUBLIC UTILITY COMMISSION  
 2016 JUN 23 PM 2:40  
 PUBLIC UTILITY COMMISSION  
 FILING CLERK

### GREEN VALLEY SPECIAL UTILITY DISTRICT'S APPRAISAL

Subject to its Plea to the Jurisdiction and Motion to Dismiss ("Plea"), Green Valley Special Utility District ("GVSUD" or "District") files this Appraisal as its determination of just and adequate compensation that would be due to it pursuant to TWC §13.255 and P.U.C. SUBST. R. 24.120 in this proceeding if the application filed in this docket ("Application") by City of Cibolo ("Cibolo") is granted over the objections of GVSUD. Exhibit 1 contains the Appraisal prepared by the District's consultant, KOR Group, on behalf of GVSUD. The Appraisal describes the amount of just and adequate compensation that would be owed to the District as a result of the decertification/single certification for portions of GVSUD's sewer CCN No. 20973 as the Application requests consistent with the factors provided in TEX. WATER CODE § 13.255(g) and P.U.C. SUBST. R. 24.120(g), and demonstrates that the monetary amount of compensation that would be due to GVSUD resulting from the same is \$600,954. The District may incur additional professional and legal costs defending its CCN against the Application in this docket depending upon how the Commission elects to process the Application going forward. The District seeks full reimbursement for those costs.

CERTIFIED TO BE A TRUE AND CORRECT  
 COPY OF THE ORIGINAL ON FILE WITH THE  
 PUBLIC UTILITY COMMISSION OF TEXAS  
 CENTRAL RECORDS DIVISION

BY

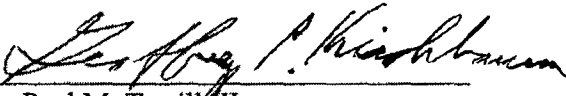
*Jose Medina*

DATE

10-18-2016



Respectfully submitted,

By:   
Paul M. Terrill III  
State Bar No. 00785094  
Geoffrey P. Kirshbaum  
State Bar No. 24029665  
TERRILL & WALDROP  
810 W. 10<sup>th</sup> Street  
Austin, Texas 78701  
(512) 474-9100  
(512) 474-9888 (fax)

**ATTORNEYS FOR GREEN VALLEY SPECIAL UTILITY  
DISTRICT**

**CERTIFICATE OF SERVICE**

I hereby CERTIFY that on June 28, 2016, a true and complete copy of the above was sent by the method indicated to counsel of record at the following addresses in accordance with P.U.C. PROC. R. 22.74:

David Klein  
Christie Dickenson  
Lloyd Gosselink  
816 Congress Ave., Suite 1900  
Austin, Texas 78701

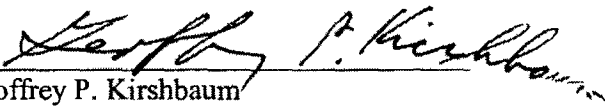
*via fax to: (512) 472-0532*

**ATTORNEY FOR APPLICANT**

Landon Lill  
Public Utility Commission of Texas  
1701 N Congress PO Box 13326  
Austin, Texas 78711-3326

*via fax to: (512) 936-7268*

**ATTORNEY FOR COMMISSION STAFF**

  
Geoffrey P. Kirshbaum



1401 FOCH STREET | SUITE 150 | FORT WORTH, TEXAS 76107

June 28, 2016

Mr. Pat Allen  
 Green Valley Special Utility District  
 PO Box 99  
 Marion, Texas 78124

**SUBJECT: SINGLE CERTIFICATION OF 1,694 ACRES IN THE CITY OF CIBOLO AND DECERTIFY A PORTION OF GREEN VALLEY SPECIAL UTILITY DISTRICT'S SEWER; CERTIFICATE OF CONVENIENCE AND NECESITY NO. 20973; DOCKET NO. 45702**

Dear Mr. Allen,

KOR Group is pleased to present this appraisal as considered by the Public Utility Commission of Texas to determine just compensation for the application for single certification in an incorporated area and the decertification of approximately 1,694 acres of land from Green Valley Special Utility District's sewer Certificate of Convenience and Necessity (CCN) No. 20973 in Cibolo, Guadalupe County, Texas. The application was filed by the City of Cibolo and is part of the Public Utility Commission of Texas Docket No. 45702. The application was filed pursuant to Tex. Water Code §13.255. The intended users of the report include the client (Green Valley Special Utility District), its representatives, and the Public Utility Commission of Texas.

The subject property is located within the corporate limits of the City of Cibolo. The property is generally bounded on the south by U.S. Interstate Highway 10; on the west by Cibolo Creek; on the north by Arizpe Road, Hackerville Road, and Lower Sequin Road; and on the east by the ETJ boundary of the City of Marion and City of Cibolo. Location and aerial maps of the subject property can be found in the Addenda section of the report.

### SCOPE OF WORK

As part of this appraisal, we have completed the following steps to gather, confirm, and analyze the data.

- ❖ Utilized the appraisal process to estimate the just compensation for the application for single certification in an incorporated area and the decertification of approximately 1,694 acres of land from Green Valley Special Utility District's sewer Certificate of Convenience and Necessity (CCN) No. 20973 in Cibolo, Guadalupe, Texas, as of June 28, 2016 as outlined in the Texas Water Code.
- ❖ Collected and reviewed factual information about the history of the subject. A list of the documents is detailed later in the report.
- ❖ Gathered market information on the surrounding market area. Sources of data include, but are not limited to, County deed records, County Appraisal District data, owner's representatives, brokers, investors, developers, and other knowledgeable individuals active in the area.
- ❖ Gathered market information on the surrounding market area.



- ❖ Prepared an appraisal report to determine just compensation as considered by the Public Utility Commission of Texas that falls outside of Standards Rules 1-10 of the *Uniform Standards of Professional Appraisal Practice, 2016-2017 Edition*. However, we have complied with the portions of the *Uniform Standards of Professional Appraisal Practice, 2016-2017 Edition* that apply to the assignment.

## COMPETENCY RULE

We have the ability to properly identify the problem to be addressed; the knowledge and experience to complete the assignment competently; and, recognize and comply with the laws and regulations that apply to the appraisers and the assignment. Additional competency was gained through the client and the client's representatives.

## JURISDICTIONAL EXCEPTION RULE

If any applicable law or regulation precludes compliance with any part of the *Uniform Standards of Professional Appraisal Practice*, only that part of the *Uniform Standards of Professional Appraisal Practice* becomes void for the assignment.

## DOCUMENTS REVIEWED

The documents collected and reviewed in preparation of the appraisal include, but are not limited to, the following:

- ❖ Tex. Water Code §13.255;
- ❖ Application of the City of Cibola for Single Certification in Incorporated Area and to Decertify Portions of Green Valley Special Utility District's Sewer Certificate of Convenience and Necessity in Guadalupe County ; Docket No. 45702 (March 8, 2016);
- ❖ Green Valley SUD Wastewater Master Plan 2006 (without Attachment 3) (January 16, 2007);
- ❖ Green Valley SUD Water Master Plan 2014 (November 19, 2014);
- ❖ River City Engineering Land Use Map (August 31, 2015);
- ❖ Texas Commission on Environmental Quality – Application for Permit No. WQ0015360001 (October 12, 2015);
- ❖ Green Valley SUD – Santa Clara Creek No. 1 Wastewater Treatment Plant TCEQ Domestic Wastewater Permit Application (March 2015);
- ❖ Resolution by the Board of Directors of the Green Valley SUD (December 18, 2014)
- ❖ Affidavit of Filing CCN No. 20973 (January 26, 2007);
- ❖ United States Department of Agriculture Bond (2002);
- ❖ Warranty Deeds for 65 acres of Land (2014);
- ❖ Unimproved Property Contract for 65 Acres (2014);
- ❖ Wastewater Invoices (2009-2016);



- ❖ Various Feasibility Studies for Wastewater Services (2013-2015);
- ❖ Summary of Legal Costs (June 27, 2016);
- ❖ Appraisal of Lost Revenue, Increased Costs to Remaining and Future Customers and Sample Rate Structure for PUC Docket No. 45702 – River City Engineering (June 27, 2016).

## FACTORS FOR COMPENSATION

The required specific factors that must be considered in determining compensation of a certificate holder subject to a decertification from a utility's CCN are set forth in Tex. Water Code §13.255(g) and Chapter 21 of the Property Code (for real property). Per Tex. Water Code §13.255(g), the factors ensuring that the compensation to a retail public utility is just and adequate shall include:

- ❖ Factor 1 – Impact on existing indebtedness of the retail public utility and its ability to repay that debt;
- ❖ Factor 2 – the value of the service facilities of the retail public utility located within the area in question;
- ❖ Factor 3 – the amount of any expenditures for planning, design, or construction of service facilities outside the incorporated or annexed area that are allocable to service to the area in question;
- ❖ Factor 4 – the amount of the retail public utility's contractual obligations allocable to the area in question;
- ❖ Factor 5 – any demonstrated impairment of service or increase of cost to consumers of the retail public utility remaining after single certification;
- ❖ Factor 6 – the impact on future revenues lost from existing customers;
- ❖ Factor 7 – necessary and reasonable legal expenses and professional fees;
- ❖ Factor 8 – factors relevant to maintaining the current financial integrity of the retail public utility;
- ❖ Factor 9 – and other relevant factors.

## ANALYSIS

The area to be decertified is located within the corporate limits of the City of Cibola. The property is generally bounded on the south by U.S. Interstate Highway 10; on the west by Cibola Creek; on the north by Arizpe Road, Hackerville Road, and Lower Sequin Road; and on the east by the ETJ boundary of the City of Marion and City of Cibola.

According to filings found in PUC Docket No. 45702, the area to be decertified was not receiving active wastewater service from Green Valley Special Utility District at the time of application. However, Green Valley Special Utility District performed work and incurred expenses in connection with service to the decertified area; as evidenced by the history of the subject property, including draft permits, feasibility studies, and other planning. Additionally, Green Valley Special Utility District purchased approximately 65 acres of land just outside the area to be decertified for a proposed wastewater facility. Green Valley Special Utility District has performed planning and design activities, and committed facilities toward those activities, to serve the



subject property. Below is a summary of compensation due to Green Valley Special Utility District based on the applicable factors for compensation.

**Factor 1, Factor 6, Factor 8 & Factor 9:**

On June 14, 2004, the United States Department of Agriculture approved issuance of the Green Valley Special Utility District Water System Revenue Bonds, Series 2003. The bonds were dated August 1, 2003 and were issued in denominations of \$1,000 or any integral multiple thereof, aggregating \$584,000. The bonds were issued in order to assist in financing Green Valley Special Utility District's utility operations. The increased costs to future customers, the loss of revenues from potential customers, and the costs incurred by Green Valley SUD to date regarding the area to be decertified could impact its ability to repay bonds that were issued in 2003. There is currently an outstanding balance of approximately \$450,000 on the debt facility. The compensation for the factors below is necessary in order to repay its existing debt obligations.

We have analyzed the net revenue to Green Valley SUD under two scenarios: first, considering an impact fee as considered in the 2006 Waste Water Master Plan of \$842 and second, considering an impact fee of \$3,000, which per the client would be more representative in present terms. Additionally, monthly rates were estimated at \$40.00 per EDU and increased at 3% per annum. Debt facilities of \$13,100,000, \$21,840,000 and \$10,610,000 were considered beginning in 2016, 2020, and 2044, respectively. The operating and maintenance expense was estimated and increased over time at 5% with bumps for additional phases in 2020 and 2044. The conclusions of the below analysis of \$3,000 impact fee is a net present value of the net revenues of \$8,636,302 which is attributable to the total acreage within Drainage Basins E and F for a total of 42,133 acres. Below is the calculation of the allocable lost net revenue to the decertified area:

$$(1,694 \text{ acres} / 42,133 \text{ acres}) \times \$8,636,302 = \$347,231$$





Discounted Cash Flow (\$3,000 Impact Fee)										
Year	Projected Connection Growth (Cumulative)	Capital Cost Fee at \$3,000/LUE	Projected Average Monthly Rate	Service No. 1 for \$13,100,000	Service No. 2 for \$21,840,000	Service No. 3 for \$10,610,000	Income - Debt Service	O&M Expenses	Net Revenue	PV @ 10%
2016	205	\$ 615,000	\$ 40.00	\$ (518,411)			\$ 86,589		\$ 96,589	\$ 96,589
2017	430	\$ 675,000	\$ 41.20	\$ (518,411)			\$ 369,181	\$ (225,000)	\$ 144,181	\$ 131,074
2018	660	\$ 690,000	\$ 42.44	\$ (518,411)			\$ 507,682	\$ (236,250)	\$ 271,432	\$ 224,324
2019	952	\$ 874,500	\$ 43.71	\$ (518,411)			\$ 855,159	\$ (248,063)	\$ 607,097	\$ 456,121
2020	1,047	\$ 285,450	\$ 45.02	\$ (518,411)	\$ (864,283)		\$ (531,797)	\$ (830,000)	\$ (1,361,797)	\$ (930,126)
2021	1,151	\$ 313,995	\$ 46.37	\$ (518,411)	\$ (864,283)		\$ (428,046)	\$ (871,500)	\$ (1,299,546)	\$ (806,917)
2022	1,266	\$ 345,395	\$ 47.76	\$ (518,411)	\$ (864,283)		\$ (311,442)	\$ (915,075)	\$ (1,226,517)	\$ (692,337)
2023	1,393	\$ 379,934	\$ 49.19	\$ (518,411)	\$ (864,283)		\$ (180,363)	\$ (960,829)	\$ (1,141,192)	\$ (565,612)
2024	1,532	\$ 417,927	\$ 50.67	\$ (518,411)	\$ (864,283)		\$ (32,991)	\$ (1,008,870)	\$ (1,041,861)	\$ (496,036)
2025	1,686	\$ 459,720	\$ 52.19	\$ (518,411)	\$ (864,283)		\$ 132,728	\$ (1,059,314)	\$ (926,586)	\$ (392,963)
2026	1,854	\$ 505,692	\$ 53.76	\$ (518,411)	\$ (864,283)		\$ 319,106	\$ (1,112,279)	\$ (793,171)	\$ (305,802)
2027	2,040	\$ 556,261	\$ 55.37	\$ (518,411)	\$ (864,283)		\$ 528,760	\$ (1,167,893)	\$ (639,134)	\$ (224,012)
2028	2,244	\$ 611,887	\$ 57.03	\$ (518,411)	\$ (864,283)		\$ 764,627	\$ (1,226,288)	\$ (461,662)	\$ (147,100)
2029	2,468	\$ 673,076	\$ 58.74	\$ (518,411)	\$ (864,283)		\$ 1,030,029	\$ (1,287,602)	\$ (257,575)	\$ (74,610)
2030	2,715	\$ 740,384	\$ 60.50	\$ (518,411)	\$ (864,283)		\$ 1,328,708	\$ (1,351,963)	\$ (23,274)	\$ (6,129)
2031	2,986	\$ 814,422	\$ 62.32	\$ (518,411)	\$ (864,283)		\$ 1,664,892	\$ (1,419,582)	\$ 245,311	\$ 58,725
2032	3,285	\$ 895,864	\$ 64.19	\$ (518,411)	\$ (864,283)		\$ 2,043,345	\$ (1,490,561)	\$ 552,784	\$ 120,302
2033	3,613	\$ 985,451	\$ 66.11	\$ (518,411)	\$ (864,283)		\$ 2,469,445	\$ (1,585,069)	\$ 904,356	\$ 178,922
2034	3,975	\$ 1,083,998	\$ 68.10	\$ (518,411)	\$ (864,283)		\$ 2,949,260	\$ (1,643,343)	\$ 1,305,916	\$ 234,881
2035	4,372	\$ 1,192,395	\$ 70.14	\$ (518,411)	\$ (864,283)		\$ 3,489,537	\$ (1,725,510)	\$ 1,764,127	\$ 288,449
2036	4,809	\$ 1,311,635	\$ 72.24	\$ (518,411)	\$ (864,283)		\$ 4,098,308	\$ (1,811,796)	\$ 2,286,523	\$ 339,877
2037	5,290	\$ 1,442,799	\$ 74.41	\$ (518,411)	\$ (864,283)		\$ 4,783,998	\$ (1,902,375)	\$ 2,881,623	\$ 389,395
2038	5,819	\$ 1,587,078	\$ 76.64	\$ (518,411)	\$ (864,283)		\$ 5,556,556	\$ (1,997,494)	\$ 3,559,062	\$ 437,216
2039	6,401	\$ 1,745,786	\$ 78.94	\$ (518,411)	\$ (864,283)		\$ 6,427,102	\$ (2,087,369)	\$ 4,339,733	\$ 483,537
2040	7,041	\$ 1,920,365	\$ 81.31	\$ (518,411)	\$ (864,283)		\$ 7,406,194	\$ (2,202,237)	\$ 5,205,957	\$ 528,536
2041	7,745	\$ 2,112,401	\$ 83.75	\$ (518,411)	\$ (864,283)		\$ 8,514,010	\$ (2,312,349)	\$ 6,201,661	\$ 572,389
2042	8,520	\$ 2,323,641	\$ 86.26	\$ (518,411)	\$ (864,283)		\$ 9,760,563	\$ (2,427,966)	\$ 7,332,596	\$ 615,245
2043	9,372	\$ 2,556,006	\$ 88.85	\$ (518,411)	\$ (864,283)		\$ 11,165,936	\$ (2,549,365)	\$ 8,616,571	\$ 657,252
2044	10,309	\$ 2,811,606	\$ 91.52	\$ (518,411)	\$ (864,283)	\$ (419,874)	\$ 12,330,681	\$ (2,804,301)	\$ 9,526,380	\$ 660,591
2045	11,340	\$ 3,092,767	\$ 94.26	\$ (518,411)	\$ (864,283)	\$ (419,874)	\$ 14,117,620	\$ (2,944,516)	\$ 11,173,104	\$ 704,346
2046	12,474	\$ 3,402,043	\$ 97.09	\$ (518,411)	\$ (864,283)	\$ (419,874)	\$ 16,132,944	\$ (3,091,742)	\$ 13,041,202	\$ 747,372
2047	13,722	\$ 3,742,248	\$ 100.00	\$ (518,411)	\$ (864,283)	\$ (419,874)	\$ 18,406,100	\$ (3,246,329)	\$ 15,159,770	\$ 789,804
2048	15,094	\$ 4,116,473	\$ 103.00	\$ (518,411)	\$ (864,283)	\$ (419,874)	\$ 20,970,358	\$ (3,408,646)	\$ 17,561,713	\$ 831,766
2049	16,603	\$ 4,527,801	\$ 106.09	\$ (518,411)	\$ (864,283)	\$ (419,874)	\$ 23,862,860	\$ (3,579,078)	\$ 20,283,782	\$ 873,354
2050	18,263	\$ 4,960,000	\$ 109.28	\$ (518,411)	\$ (864,283)	\$ (419,874)	\$ 27,125,969	\$ (3,758,032)	\$ 23,367,938	\$ 914,680
2051	20,090	\$ 5,481,000	\$ 112.55	\$ (518,411)	\$ (864,283)	\$ (419,874)	\$ 30,813,070	\$ (3,945,933)	\$ 26,867,137	\$ 956,043
2052	22,089	\$ 6,027,000	\$ 115.93	\$ (518,411)	\$ (864,283)	\$ (419,874)	\$ 34,967,577	\$ (4,143,230)	\$ 30,824,347	\$ 997,155
Total										\$ 8,636,302

### Factor 2 & Factor 3:

As previously stated, Green Valley SUD has performed planning and design activities, and committed facilities toward those activities, to serve the subject property. This includes purchasing approximately 65 acres of land for \$325,000 on December 19, 2014. The land is to be used for the construction of a wastewater facility (Santa Clara Creek WWTP No. 1) located just outside the area to be decertified. The wastewater plant is designed to serve CCN No. 20973, which consists of approximately 73,175 acres. The area to be decertified consists of approximately 1,694 acres. Below is the calculation of the allocable costs associated with the purchase of the land to the decertified area:

$$(1,694 \text{ acres} / 73,175 \text{ acres}) \times \$325,000 = \$7,524.$$

Green Valley SUD participated and engaged consultants for planning efforts related to the subject wastewater collection system design, wastewater treatment facility design, operations and maintenance plans, and other wastewater utility service issues that required consideration of the subject property. This also includes reviewing, coordinating, and commenting on wastewater engineering plans prepared for the subject property by consultant engineers. Additionally, Green Valley SUD has expended monies related to applying for a TPDES Permit (No. WQ0015360001), which was specifically to serve the subject property under the prevailing regulations.

According to invoices provided by Green Valley SUD, the total amount expended on the above items totals \$209,582. Below is the calculation of the allocable costs associated with the planning and design services allocable to the decertified area:



$$(1,694 \text{ acres} / 73,175 \text{ acres}) \times \$209,582 = \$4,852$$

Below is a summation of the expenses related to Factor 3:

Land Acquisition Costs	\$	7,524	
Planning and Design Costs	+ \$	<u>4,852</u>	
<b>Total Factor 2 &amp; Factor 3</b>			<b>\$ 12,376</b>

**Factor 4:**

Not applicable.

**Factor 5:**

In association with Green Valley SUD we have analyzed the increased cost to consumers. Based on the Waste Water Master Plan submitted in 2006, the impact fee for Drainage Areas E and F were estimated to be \$842 per EDU. The increased cost of the impact fee to the consumer ranges from \$15 to \$35 per EDU given the loss of 1,694 acres. The impact fee of \$35 represents the actual increase assuming capital costs are not reduced by the reduction of customers, which is the high end of the range. It is reasonable that the facilities could be scaled down, thus cost would be reduced. If that were to occur on a pro rata basis, which is not likely, the cost would be increased by only \$15 per EDU. We have reconciled on \$20 per EDU increase to the consumer.

We have applied the increased impact fee to the projected connection growth from Green Valley SUD. The growth period was analyzed from 2016 to 2052 as shown below and a discount rate of 10% was utilized and supported by market data including industry surveys and market participants. The net present value of the increased cost over the time period analyzed is **\$59,265**.



Discounted Cash Flow Analysis				
Year	Projected Connection Growth	New LUE's	Increased Cost	PV @ 10%
2016	205	205	\$ 4,100	\$ 4,100
2017	430	225	\$ 4,500	\$ 4,091
2018	660	230	\$ 4,600	\$ 3,802
2019	952	292	\$ 5,830	\$ 4,380
2020	1,047	95	\$ 1,903	\$ 1,300
2021	1,151	105	\$ 2,093	\$ 1,300
2022	1,266	115	\$ 2,303	\$ 1,300
2023	1,393	127	\$ 2,533	\$ 1,300
2024	1,532	139	\$ 2,786	\$ 1,300
2025	1,686	153	\$ 3,065	\$ 1,300
2026	1,854	169	\$ 3,371	\$ 1,300
2027	2,040	185	\$ 3,708	\$ 1,300
2028	2,244	204	\$ 4,079	\$ 1,300
2029	2,468	224	\$ 4,487	\$ 1,300
2030	2,715	247	\$ 4,936	\$ 1,300
2031	2,986	271	\$ 5,429	\$ 1,300
2032	3,285	299	\$ 5,972	\$ 1,300
2033	3,613	328	\$ 6,570	\$ 1,300
2034	3,975	361	\$ 7,227	\$ 1,300
2035	4,372	397	\$ 7,949	\$ 1,300
2036	4,809	437	\$ 8,744	\$ 1,300
2037	5,290	481	\$ 9,619	\$ 1,300
2038	5,819	529	\$ 10,581	\$ 1,300
2039	6,401	582	\$ 11,639	\$ 1,300
2040	7,041	640	\$ 12,802	\$ 1,300
2041	7,745	704	\$ 14,083	\$ 1,300
2042	8,520	775	\$ 15,491	\$ 1,300
2043	9,372	852	\$ 17,040	\$ 1,300
2044	10,309	937	\$ 18,744	\$ 1,300
2045	11,340	1,031	\$ 20,618	\$ 1,300
2046	12,474	1,134	\$ 22,680	\$ 1,300
2047	13,722	1,247	\$ 24,948	\$ 1,300
2048	15,094	1,372	\$ 27,443	\$ 1,300
2049	16,603	1,509	\$ 30,185	\$ 1,300
2050	18,263	1,660	\$ 33,200	\$ 1,300
2051	20,090	1,827	\$ 36,540	\$ 1,300
2052	22,099	2,009	\$ 40,180	\$ 1,300
<b>Total</b>				<b>\$ 59,265</b>

**Factor 6 – Impact on future revenues lost from existing customers**

Not applicable.


**Factor 7:**

Green Valley SUD incurred legal fees in connection with defending the decertification of the area in question. As of the date of this letter, reasonable and necessary legal fees identified by Green Valley SUD and its counsel associated with the decertification process total \$42,082. Legal counsel has estimated an additional \$50,000 – \$200,000 of fees for work that will be performed by legal counsel subsequent to the submission of the report, but related to the decertification. We have reconciled on the midpoint of \$125,000. Additionally, if the case were to be appealed there is the potential that the legal expenses could total in excess of \$200,000, which we have not considered at this time.

Green Valley SUD also engaged KOR Group to perform an appraisal report to estimate the compensation due to Green Valley SUD for the decertification. The fee for the appraisal service is \$10,000. Additionally, we have estimated other appraisal services of \$2,500 – \$7,500 to be invoiced after submission of the report. We have reconciled on \$15,000 of total appraisal expenses. A copy of the engagement letter can be found in the addenda.

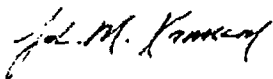
Legal Expenses	\$ 167,082	
Appraisal Expenses	+ \$ 15,000	
<b>Total Factor 7</b>		<b>\$ 182,082</b>

**TOTAL COMPENSATION**

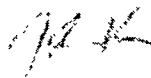
Below is a summary of the total compensation due to Green Valley SUD for the decertification of approximately 1,694 acres of land from a portion of its certificate of convenience and necessity (CCN) No. 20973 in Guadalupe County, Texas, as of June 28, 2016:

Factors 1, 6, 8 & 9	\$ 347,231	
Factors 2 & 3	\$ 12,376	
Factor 5	\$ 59,265	
Factor 7	+ \$ 182,082	
<b>Total Compensation</b>		<b>\$ 600,954</b>

The appraisers have retained all information regarding this appraisal in the file. Please contact me if I can be of further assistance in this matter.

Joshua M. Korman  
State of Texas Certification #TX-1330595-G



John Kostohryz  
State of Texas Certification #TX-1380151-G



## QUALIFICATIONS



## JOSHUA M. KORMAN

**Experience:** Mr. Korman is a principal of KOR Group, a full service real estate consulting and appraisal firm based in Fort Worth, Texas. Mr. Korman has been appraising real property since 1997. Mr. Korman's assignments have involved property types including, but not limited to, office buildings, retail centers, service stations, hospitals, educational facilities, apartment complexes, industrial facilities, raw and developed land, timberland, restaurants, mixed-use developments, automobile dealerships, mining operations, and master planned communities. Mr. Korman has valued and consulted on properties in Alabama, Arkansas, Florida, Kansas, Louisiana, Mississippi, Nebraska, New Mexico, New York, North Carolina, Oklahoma, South Carolina, Tennessee, and Texas.

Mr. Korman's assignments have included flooding impacts on master planned communities and residential subdivisions, analysis of sales, cost and income for office buildings and retail centers, estimates of value in tax increment financing districts, asset management, assistance in acquisitions/dispositions of property, estate tax planning, contributions to family limited partnerships, market studies, analysis of environmental impacts, and condemnation. Specific assignments include reporting on the impact of existing and proposed railroad corridors and sidings on adjacent properties. He has had extensive experience in eminent domain cases ranging from public roadway expansions to pipeline easements. Assignments have also included consultation for both ad valorem and estate tax purposes. Mr. Korman has testified in eminent domain proceedings and before appraisal district review boards in ad valorem tax disputes. Other assignments include retrospective valuations of real estate assets held by financial institutions in relation to Winstar cases. Properties within these portfolios consisted of master planned communities, commercial developments, ground leases, and government secured multi-family residential developments.

Mr. Korman attended preparatory school at Fort Worth Country Day before continuing at The University of Texas at Austin Business School. During college, Mr. Korman worked for an independent oil and gas company as a gas account manager and assistant to the Chief Financial Officer. Later Mr. Korman was employed as a legal aide for Texas State Representative Anna Mowery where he assisted with local and state policymaking. While with Representative Mowery, Mr. Korman worked with the Land and Resource Management Committee and the Appropriations Committee on budgeting issues. After graduation in 1996, Mr. Korman was employed as an appraiser and consultant with Lewis Realty Advisors.

<b>Professional Activities:</b>	<p><b>Licensed:</b> Texas State Certified General Real Estate Appraiser Certificate No. TX-1330595-G Practicing Affiliate of the Appraisal Institute 2007 Social Committee Chairman (Houston Chapter) 2008 Alternate Regional Representative (Houston Chapter)</p> <p><b>Member:</b> Forensic Expert Witness Association Member: Greater Fort Worth Real Estate Council Member: International Right of Way Association Member: Institute of Real Estate Management Member: International Council of Shopping Centers Member: Tarrant County Bar Association</p>
<b>Education:</b>	<p>University of Texas at Austin – 1996 Bachelor of Business Administration – Major in Finance Coursework accredited by the Appraisal Institute, The University of Texas, and the State of Texas</p>



## JOHN S. KOSTOHRYZ

**Experience:** Mr. Kostohryz is a principal of KOR Group, a full service real estate consulting and appraisal firm. Mr. Kostohryz has provided real estate consulting and appraisal services since 2008. He has provided consultation for complex eminent domain assignments of numerous types of properties including, but not limited to, office buildings, retail centers, service stations, hospitals, educational facilities, apartment complexes, industrial facilities, raw and developed land, timberland, restaurants, quick-service restaurants, mixed-use developments, automobile dealerships, mining operations, and master planned communities. Mr. Kostohryz has valued and consulted on properties in Kansas, Oklahoma, and Texas.

Mr. Kostohryz's assignments have included transmission line and pipeline impacts on master planned communities and residential subdivisions, asset management, assistance in acquisitions/dispositions of property, estate tax planning, market studies, analysis of environmental impacts, and condemnation. He has had extensive experience in eminent domain cases ranging from public roadway expansions to pipeline easements. Assignments have also included consultation for both ad valorem and estate tax purposes. Mr. Kostohryz has testified in eminent domain proceedings and before appraisal district review boards in ad valorem tax disputes.

Mr. Kostohryz is a 2006 graduate from Texas Christian University in Fort Worth, Texas with a Bachelors of Business Administration with majors in Finance, Accounting, and Marketing.

Prior to becoming a real estate appraiser and consultant, Mr. Kostohryz was a Consultant with Ryan, Inc. in Dallas, Texas where he consulted with transaction tax departments of Fortune 500 companies.

Mr. Kostohryz is from Fort Worth, Texas and graduated from Trinity Valley School.

<b>Professional Activities:</b>	<b>Licensed:</b>	Texas State Certified General Real Estate Appraiser, Certificate No: TX-1380151-G Various temporary out of state licenses Practicing Affiliate of the Appraisal Institute
	<b>Member:</b>	Member of the International Right of Way, Chapter 36
	<b>Member:</b>	Fort Worth Chamber of Commerce
	<b>Member:</b>	Greater Fort Worth Real Estate Council

**Education:** Texas Christian University, Fort Worth, Texas - 2006  
Bachelor of Business Administration  
Majors: Finance, Accounting, and Marketing

Relevant Coursework by the Appraisal Institute, accredited universities and others:

Principles of Real Estate Appraisal  
Procedures of Real Estate Appraisal  
Uniform Standards of Professional Appraisal Practice  
General Income Approach Part I  
General Income Approach Part II  
General Appraiser Sales Comparison Approach  
General Appraiser Site Valuation and Cost Approach  
Statistics and Valuation Modeling  
General Appraiser Report Writing and Case Studies  
General Appraiser Market Analysis and Highest & Best Use  
Expert Witness for Commercial Appraisers  
Commercial Appraisal Review



**CERTIFICATION OF THE APPRAISAL**





**WE CERTIFY THAT, TO THE BEST OF OUR KNOWLEDGE AND BELIEF:**

1. The statements of fact contained in this report are true and correct.
2. The reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions and are our personal, impartial, and unbiased professional analyses, opinions, and conclusions.
3. We have no present or prospective interest in the property that is the subject of this report and no personal interest with respect to the parties involved.
4. We have performed no services, as an appraiser or in any other capacity, regarding the property that is subject of this report within the three-year period immediately preceding acceptance of this assignment.
5. We have no bias with respect to the property that is the subject of this report or to the parties involved with this assignment.
6. Our engagement in this assignment was not contingent upon developing or reporting predetermined results.
7. Our compensation for completing this assignment is not contingent upon the development or reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value opinion, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this appraisal.
8. Our analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the *Uniform Standards of Professional Appraisal Practice*.
9. Joshua M. Korman and John Kostohryz made a personal inspection of the property that is the subject of this report.
10. No one provided significant real property appraisal assistance to the persons signing this certification.
11. The reported analyses, opinions and conclusions were developed, and this report has been prepared, in conformity with the requirements of the Code of Professional Ethics and Standards of Professional Appraisal Practice of the Appraisal Institute.
12. The use of this report is subject to the requirements of the Appraisal Institute relating to review by its duly authorized representatives.

Joshua M. Korman  
State of Texas Certification #TX-1330595-G

John Kostohryz  
State of Texas Certification #TX-1380151-G

KOR GROUP

**ADDENDA**



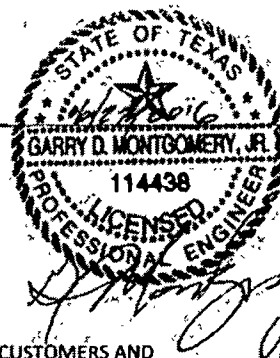
## MEMORANDUM

DATE: JUNE 27, 2016

TO: GREEN VALLEY SPECIAL UTILITY DISTRICT

FROM: GARRY MONTGOMERY, P.E.

RE: APPRAISAL OF LOST REVENUE, INCREASED COST TO REMAINING AND FUTURE CUSTOMERS AND SAMPLE RATE STRUCTURE FOR PUC DOCKET NO. 45702



### Explanation 1: Spreadsheet Titled = Increased Cost to remaining customers

Cells A11-A13 – The drainage basin in the master plan is Sub-basin E & F as shown in Exhibit 3 of the WWMP

Cells D11-D13 and E11-E13 are the costs shown in the WWMP, the remaining cells in the line item are the Capacity Fees shown in the WWMP on Page 25 and 26.

Cell I16 calculates the increased cost to the remaining and future customers due to this requested decertification. I16 shows the increased cost to customers for the Cibolo annexed City Limits (the 1694 acres) and I17 shows the increase for Cibolo total desired annexation area (the entire 5882 acres). The J16 & 17 cells simply total the data to show the total impact.

Since the treatment capacity to serve the area would be decreased if the single certification to Cibolo was approved, we reduced the total cost of the treatment column to reflect the change.

Cell K21 & K22 show what we calculate to be the adjusted impact to the remaining and future customers in the GVSUD system. Calculations are based on the current GVSUD Board Approved Wastewater Master Plan. We anticipate increased capital costs when the Master Plan is updated with current market estimates.

The collection system component was not adjusted because of the relatively flat topography in this area of the service area. If the single certification is granted to Cibolo, GVSUD would still need large diameter collection system infrastructure to serve the area.

**Explanation 2: Spreadsheet Titled Rate Scenario 1 – WWMP Service Fees**

We used the projected growth rate that was included in the Discharge Permit Application. The rate is an estimate and will be driven by the economy and development.

We have calculated a Debt Issuance for three phases of the proposed facilities. These are summarized in cell B6-8.

The Capital Cost Fee is the “Impact Fee” from the WWMP. For sub-basin E and F the combined rate is \$842. With updated cost estimates and a detailed impact fee study I would anticipate the impact fees system wide to be between \$2,000-\$3,000+. However, for this spreadsheet we used the WWMP numbers.

Debt Service No 1 – 40 years at 2.5% starting next year

Debt Service No. 2 – 40 years at 2.5% starting in 2020 – this timing depends on when the second phase of the plant is needed.

Debt Service No. 3 – 40 years at 2.5% starting in 2044 – this will be driven by development and may happen sooner.

Column H – Capital Cost Fee of \$842 \* Connections – Debt Service

Column I – Projected rate structure – Assumes there will be a base service charge and then a per 1000-gallon rate. Winter Weather Average water usage will be used to calculate the total bill. Average winter water use is in the 5500-6000-gallon range currently.

Total Column shows a deficit in income for several years. The cost estimates and impact fees need to be updated for today’s cost and market rates. This will increase the impact fee and make the budget come in balance.

O&M Expenses are estimates taken from comparable systems. This may be adjusted as more information becomes available. GVSUD will have an annual budget for the wastewater line of business. O&M increases in Year 2020 and 2044 due to plant expansions.

**Explanation 3: Spreadsheet Titled Rate Scenario 2 - \$3,000 Service Fee**

This is the same spreadsheet as the WWMP Fee Totals spreadsheet but we increased the Service Fee to \$3,000. This is a more realistic number for impact fees for this size and scope of system. O&M increases in Year 2020 and 2044 due to plant expansions.

A Rate and Service Fee Calculations										
1	2	3	4	5	6	7	8	9	10	11
General Info:										
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	A	B	C	D	E	F	G	H	I	J	K
1	Proposed Rate Structure - GVSUD										
2											
3	Debt Service Component										
4											
5	Initial phase WWTP and ultimate collection system for service area directly upstream of the plant site										
6	Total Debt Issuance No. 1	\$13,100,000									
7	Total Debt Issuance No. 2	\$21,840,000									
8	Total Debt Issuance No. 3	\$10,610,000									
9	Capital Cost Fees were taken from the 2006 WWMP, however in the update of the original study we anticipate Impact fees to increase to approximately \$2,000-\$3,000 per LUE										
10	40 year debt issuance										
11	Year	Projected Connection Growth	Debt Service Annual Payment for \$13,100,000	Capital Cost Fee (Income)	Debt Service No. 2 Annual Payment for \$21,840,000	Debt Service No. 3 Annual Payment for \$10,610,000	Total Projected Budget (Payments - Capital Income)	Monthly Rate with 3% Annual Increase	Annual Revenue from Rates (Comparable to surrounding utilities)	Total	O&M Expenses
12	2016	205	\$ 518,411	\$ 172,610.00			\$ (345,801.00)	\$ 40.00	\$ 0	\$ (345,801.00)	
13	2017	430	\$ 518,411	\$ 186,450.00			\$ (328,961.00)	\$ 41.20	\$ 212,592	\$ (116,369.00)	\$ 225,000.00
14	2018	660	\$ 518,411	\$ 193,660.00			\$ (324,751.00)	\$ 42.44	\$ 336,093	\$ 11,342.12	\$ 236,250.00
15	2019	952	\$ 518,411	\$ 245,443.00			\$ (272,968.00)	\$ 43.71	\$ 499,070	\$ 226,102.28	\$ 248,062.50
16	2020	1,047	\$ 518,411	\$ 80,116.30	\$ 864,283.00		\$ (1,302,577.70)	\$ 45.02	\$ 565,447	\$ (737,131.08)	\$ 830,000.00
17	2021	1,151	\$ 518,411	\$ 88,127.93	\$ 864,283.00		\$ (1,294,566.07)	\$ 46.37	\$ 640,651	\$ (653,915.05)	\$ 871,500.00
18	2022	1,266	\$ 518,411	\$ 96,940.72	\$ 864,283.00		\$ (1,285,753.28)	\$ 47.76	\$ 725,858	\$ (559,895.67)	\$ 915,075.00
19	2023	1,393	\$ 518,411	\$ 106,634.90	\$ 864,283.00		\$ (1,276,059.20)	\$ 49.19	\$ 822,397	\$ (453,662.53)	\$ 960,828.75
20	2024	1,532	\$ 518,411	\$ 117,298.27	\$ 864,283.00		\$ (1,265,395.73)	\$ 50.67	\$ 931,775	\$ (333,620.30)	\$ 1,008,870.18
21	2025	1,686	\$ 518,411	\$ 129,028.40	\$ 864,283.00		\$ (1,253,665.90)	\$ 52.19	\$ 1,055,702	\$ (197,964.34)	\$ 1,059,313.70
22	2026	1,854	\$ 518,411	\$ 141,930.91	\$ 864,283.00		\$ (1,240,763.09)	\$ 53.76	\$ 1,196,110	\$ (44,653.22)	\$ 1,112,279.38
23	2027	2,040	\$ 518,411	\$ 156,124.00	\$ 864,283.00		\$ (1,226,570.00)	\$ 55.37	\$ 1,355,192	\$ 128,622.48	\$ 1,167,893.35
24	2028	2,244	\$ 518,411	\$ 171,736.40	\$ 864,283.00		\$ (1,210,957.60)	\$ 57.03	\$ 1,535,433	\$ 324,475.48	\$ 1,226,288.02
25	2029	2,468	\$ 518,411	\$ 188,910.04	\$ 864,283.00		\$ (1,193,783.96)	\$ 58.74	\$ 1,739,646	\$ 545,861.72	\$ 1,287,602.42
26	2030	2,715	\$ 518,411	\$ 207,801.05	\$ 864,283.00		\$ (1,174,892.95)	\$ 60.50	\$ 1,971,019	\$ 796,125.60	\$ 1,351,982.54
27	2031	2,986	\$ 518,411	\$ 228,581.15	\$ 864,283.00		\$ (1,154,112.85)	\$ 62.32	\$ 2,233,164	\$ 1,079,051.18	\$ 1,419,581.67
28	2032	3,285	\$ 518,411	\$ 251,439.27	\$ 864,283.00		\$ (1,131,254.73)	\$ 64.19	\$ 2,530,175	\$ 1,398,920.11	\$ 1,490,560.75
29	2033	3,613	\$ 518,411	\$ 276,583.20	\$ 864,283.00		\$ (1,106,110.80)	\$ 66.11	\$ 2,866,686	\$ 1,760,577.29	\$ 1,565,088.79
30	2034	3,975	\$ 518,411	\$ 304,241.52	\$ 864,283.00		\$ (1,078,452.48)	\$ 68.10	\$ 3,247,958	\$ 2,169,505.12	\$ 1,643,343.23
31	2035	4,372	\$ 518,411	\$ 334,665.67	\$ 864,283.00		\$ (1,048,028.33)	\$ 70.14	\$ 3,679,936	\$ 2,631,907.64	\$ 1,725,510.39
32	2036	4,809	\$ 518,411	\$ 368,132.23	\$ 864,283.00		\$ (1,014,561.77)	\$ 72.24	\$ 4,169,367	\$ 3,154,805.69	\$ 1,811,785.91
33	2037	5,290	\$ 518,411	\$ 404,945.46	\$ 864,283.00		\$ (977,748.54)	\$ 74.41	\$ 4,723,893	\$ 3,746,144.78	\$ 1,907,375.20
34	2038	5,819	\$ 518,411	\$ 445,440.00	\$ 864,283.00		\$ (937,254.00)	\$ 76.64	\$ 5,352,171	\$ 4,414,917.14	\$ 1,997,499.96
35	2039	6,401	\$ 518,411	\$ 489,984.00	\$ 864,283.00		\$ (892,710.00)	\$ 78.94	\$ 6,064,010	\$ 5,171,299.90	\$ 2,087,368.66
36	2040	7,041	\$ 518,411	\$ 538,982.40	\$ 864,283.00		\$ (843,711.60)	\$ 81.31	\$ 6,870,523	\$ 6,026,811.62	\$ 2,202,237.10
37	2041	7,745	\$ 518,411	\$ 592,880.64	\$ 864,283.00		\$ (789,813.36)	\$ 83.75	\$ 7,784,303	\$ 6,994,489.44	\$ 2,312,348.95
38	2042	8,520	\$ 518,411	\$ 652,168.71	\$ 864,283.00		\$ (730,525.29)	\$ 86.26	\$ 8,819,615	\$ 8,080,088.78	\$ 2,427,966.40
39	2043	9,372	\$ 518,411	\$ 717,385.58	\$ 864,283.00		\$ (665,308.42)	\$ 88.85	\$ 9,992,624	\$ 9,327,315.46	\$ 2,549,364.72
40	2044	10,309	\$ 518,411	\$ 789,124.14	\$ 864,283.00	\$ 518,411.00	\$ (1,111,980.86)	\$ 91.52	\$ 11,321,643	\$ 10,209,661.99	\$ 2,804,301.19
41	2045	11,340	\$ 518,411	\$ 868,036.55	\$ 864,283.00	\$ 518,411.00	\$ (1,033,068.45)	\$ 94.26	\$ 12,827,421	\$ 11,794,352.90	\$ 2,844,516.25
42	2046	12,474	\$ 518,411	\$ 954,840.21	\$ 864,283.00	\$ 518,411.00	\$ (948,264.79)	\$ 97.09	\$ 14,533,468	\$ 13,587,203.60	\$ 3,091,742.06
43	2047	13,722	\$ 518,411	\$ 1,050,324.23	\$ 864,283.00	\$ 518,411.00	\$ (850,780.77)	\$ 100.00	\$ 16,466,420	\$ 15,615,638.92	\$ 3,246,329.16
44	2048	15,094	\$ 518,411	\$ 1,155,356.65	\$ 864,283.00	\$ 518,411.00	\$ (745,748.35)	\$ 103.00	\$ 18,656,454	\$ 17,910,705.16	\$ 3,408,645.62
45	2049	16,603	\$ 518,411	\$ 1,270,802.85	\$ 864,283.00	\$ 518,411.00	\$ (630,302.15)	\$ 106.09	\$ 21,137,627	\$ 20,507,324.39	\$ 3,579,077.90
46	2050	18,263	\$ 518,411	\$ 1,397,720.00	\$ 864,283.00	\$ 518,411.00	\$ (509,385.00)	\$ 109.28	\$ 23,948,537	\$ 23,445,152.48	\$ 3,758,031.80
47	2051	20,090	\$ 518,411	\$ 1,538,334.00	\$ 864,283.00	\$ 518,411.00	\$ (362,771.00)	\$ 112.55	\$ 27,134,638	\$ 26,771,867.42	\$ 3,943,933.38
48	2052	22,099	\$ 518,411	\$ 1,691,578.00	\$ 864,283.00	\$ 518,411.00	\$ (209,527.00)	\$ 115.93	\$ 30,743,545	\$ 30,534,018.33	\$ 4,143,230.06
49											
50	The projected monthly rate assumes a rate structure that included O&M and Debt Service. We assume there will be a base monthly rate for service availability and then a cost per 1,000										
51	gallons based on Winter Weather Average. The cost per 1,000 gallons is estimated to be in the \$4 - \$4.50 range.										
52											
53	This Cost Estimate is based on River City Engineering's experience and qualifications, and represents River City Engineering's best judgement. However, since River City Engineering has										
54	no control over the cost of labor, materials, equipment, financing cost at time of issuance or services furnished by others, River City Engineering does not guarantee that the actual										
55	construction cost will not vary from the provided Cost Estimate and rate structure.										

	A	B	C	D	E	F	G	H	I	J	K
1	Proposed Rate Structure - GVUSD										
2											
3	Debt Service Component										
4											
5	Initial phase WWTP and ultimate collection system for service area directly upstream of the plant site										
6	Total Debt Issuance No. 1	\$13,100,000									
7	Total Debt Issuance No. 2	\$21,840,000									
8	Total Debt Issuance No. 3	\$10,610,000									
9	Capital Cost Fees were taken from the 2006 WWMP, however in the update of the original study we anticipate impact fees to increase to approximately \$2,000-\$3,000 per LUE										
10	40 year debt issuance										
11	Year	Projected Connection Growth (Cumulative)	Debt Service No. 1 Annual Payment for \$13,100,000	Capital Cost Fee at \$3,000/LUE (Income)	Debt Service No. 2 Annual Payment for \$21,840,000	Debt Service No. 3 Annual Payment for \$10,610,000	Total Projected Budget (Debt Service - Capital Income)	Monthly Rate with 3% Annual Increase	Annual Revenue from Rates (Comparable to surrounding utilities)	Total Expense - Total Revenue (Excludes O&M)	O&M Expenses
12	2016	205	\$ 518,411	\$ 615,000.00			\$ 96,589.00	\$ 40.00	\$ 96,589.00	\$ 96,589.00	\$ 225,000.00
13	2017	430	\$ 518,411	\$ 675,000.00			\$ 156,589.00	\$ 41.20	\$ 212,592	\$ 369,181.00	\$ 225,000.00
14	2018	660	\$ 518,411	\$ 690,000.00			\$ 171,589.00	\$ 42.44	\$ 336,093	\$ 507,682.12	\$ 236,250.00
15	2019	952	\$ 518,411	\$ 874,500.00			\$ 356,089.00	\$ 43.71	\$ 499,070	\$ 855,159.28	\$ 248,062.50
16	2020	1,047	\$ 518,411	\$ 285,450.00	\$ 864,283.00		\$ (1,097,244.00)	\$ 45.02	\$ 565,447	\$ (531,797.38)	\$ 830,000.00
17	2021	1,151	\$ 518,411	\$ 313,995.00	\$ 864,283.00		\$ (1,068,699.00)	\$ 46.37	\$ 640,651	\$ (428,047.98)	\$ 871,500.00
18	2022	1,266	\$ 518,411	\$ 345,394.50	\$ 864,283.00		\$ (1,037,299.50)	\$ 47.76	\$ 725,858	\$ (311,441.89)	\$ 915,075.00
19	2023	1,393	\$ 518,411	\$ 379,933.95	\$ 864,283.00		\$ (1,002,760.05)	\$ 49.19	\$ 822,397	\$ (180,363.38)	\$ 960,828.75
20	2024	1,532	\$ 518,411	\$ 417,927.35	\$ 864,283.00		\$ (964,766.65)	\$ 50.67	\$ 931,775	\$ (32,981.23)	\$ 1,008,870.19
21	2025	1,686	\$ 518,411	\$ 458,720.08	\$ 864,283.00		\$ (932,973.92)	\$ 52.19	\$ 1,055,702	\$ 132,727.64	\$ 1,059,313.70
22	2026	1,854	\$ 518,411	\$ 505,692.09	\$ 864,283.00		\$ (877,001.91)	\$ 53.76	\$ 1,196,110	\$ 319,107.95	\$ 1,112,279.38
23	2027	2,040	\$ 518,411	\$ 556,261.30	\$ 864,283.00		\$ (826,432.70)	\$ 55.37	\$ 1,355,192	\$ 528,759.78	\$ 1,167,893.35
24	2028	2,244	\$ 518,411	\$ 611,887.43	\$ 864,283.00		\$ (770,806.57)	\$ 57.03	\$ 1,535,433	\$ 764,626.51	\$ 1,226,288.02
25	2029	2,468	\$ 518,411	\$ 673,076.17	\$ 864,283.00		\$ (709,617.83)	\$ 58.74	\$ 1,739,646	\$ 1,030,027.85	\$ 1,287,602.42
26	2030	2,715	\$ 518,411	\$ 740,383.79	\$ 864,283.00		\$ (642,310.21)	\$ 60.50	\$ 1,971,019	\$ 1,328,708.34	\$ 1,351,982.54
27	2031	2,986	\$ 518,411	\$ 814,422.16	\$ 864,283.00		\$ (568,271.84)	\$ 62.32	\$ 2,233,164	\$ 1,664,892.19	\$ 1,419,581.67
28	2032	3,285	\$ 518,411	\$ 895,864.38	\$ 864,283.00		\$ (486,829.62)	\$ 64.19	\$ 2,530,175	\$ 2,043,345.22	\$ 1,490,560.75
29	2033	3,613	\$ 518,411	\$ 985,450.82	\$ 864,283.00		\$ (397,243.18)	\$ 66.11	\$ 2,866,688	\$ 2,469,444.91	\$ 1,565,088.79
30	2034	3,975	\$ 518,411	\$ 1,083,995.90	\$ 864,283.00		\$ (298,698.10)	\$ 68.10	\$ 3,247,958	\$ 2,948,259.51	\$ 1,643,343.23
31	2035	4,372	\$ 518,411	\$ 1,192,395.49	\$ 864,283.00		\$ (190,298.51)	\$ 70.14	\$ 3,679,936	\$ 3,489,637.46	\$ 1,725,510.39
32	2036	4,809	\$ 518,411	\$ 1,311,635.04	\$ 864,283.00		\$ (71,058.96)	\$ 72.24	\$ 4,169,367	\$ 4,096,308.49	\$ 1,811,785.91
33	2037	5,290	\$ 518,411	\$ 1,442,798.54	\$ 864,283.00		\$ 60,104.54	\$ 74.41	\$ 4,723,893	\$ 4,783,997.87	\$ 1,902,375.20
34	2038	5,819	\$ 518,411	\$ 1,587,078.40	\$ 864,283.00		\$ 204,384.40	\$ 76.64	\$ 5,352,171	\$ 5,556,555.53	\$ 1,997,493.96
35	2039	6,401	\$ 518,411	\$ 1,745,786.24	\$ 864,283.00		\$ 363,092.24	\$ 78.94	\$ 6,064,010	\$ 6,427,102.13	\$ 2,097,368.66
36	2040	7,041	\$ 518,411	\$ 1,920,364.86	\$ 864,283.00		\$ 537,670.86	\$ 81.31	\$ 6,870,523	\$ 7,408,194.07	\$ 2,202,237.10
37	2041	7,745	\$ 518,411	\$ 2,112,401.35	\$ 864,283.00		\$ 729,707.35	\$ 83.75	\$ 7,784,303	\$ 8,514,010.15	\$ 2,312,348.95
38	2042	8,520	\$ 518,411	\$ 2,323,641.48	\$ 864,283.00		\$ 940,947.48	\$ 86.26	\$ 8,819,615	\$ 9,760,562.85	\$ 2,427,966.40
39	2043	9,372	\$ 518,411	\$ 2,556,005.63	\$ 864,283.00		\$ 1,173,311.63	\$ 88.85	\$ 9,992,624	\$ 11,165,935.51	\$ 2,549,364.72
40	2044	10,309	\$ 518,411	\$ 2,811,606.19	\$ 864,283.00	\$ -419,874.00	\$ 1,009,038.19	\$ 91.52	\$ 11,321,643	\$ 12,330,681.04	\$ 2,804,301.19
41	2045	11,340	\$ 518,411	\$ 3,092,766.81	\$ 864,283.00	\$ -419,874.00	\$ 1,290,198.81	\$ 94.26	\$ 12,827,421	\$ 14,117,620.16	\$ 2,944,516.25
42	2046	12,474	\$ 518,411	\$ 3,402,043.49	\$ 864,283.00	\$ -419,874.00	\$ 1,599,475.49	\$ 97.09	\$ 14,533,468	\$ 16,132,943.88	\$ 3,091,742.06
43	2047	13,722	\$ 518,411	\$ 3,742,247.84	\$ 864,283.00	\$ -419,874.00	\$ 1,939,679.84	\$ 100.00	\$ 16,466,420	\$ 18,406,099.53	\$ 3,246,329.16
44	2048	15,094	\$ 518,411	\$ 4,116,472.63	\$ 864,283.00	\$ -419,874.00	\$ 2,313,904.63	\$ 103.00	\$ 18,656,454	\$ 20,970,358.13	\$ 3,408,645.62
45	2049	16,603	\$ 518,411	\$ 4,527,801.11	\$ 864,283.00	\$ -419,874.00	\$ 2,725,233.11	\$ 106.09	\$ 21,137,627	\$ 23,862,859.65	\$ 3,579,077.90
46	2050	18,263	\$ 518,411	\$ 4,980,000.00	\$ 864,283.00	\$ -419,874.00	\$ 3,177,432.00	\$ 109.28	\$ 23,948,537	\$ 27,125,969.48	\$ 3,754,931.80
47	2051	20,090	\$ 518,411	\$ 5,481,000.00	\$ 864,283.00	\$ -419,874.00	\$ 3,678,432.00	\$ 112.55	\$ 27,134,638	\$ 30,813,070.42	\$ 3,945,933.39
48	2052	22,099	\$ 518,411	\$ 6,027,000.00	\$ 864,283.00	\$ -419,874.00	\$ 4,224,432.00	\$ 115.93	\$ 30,743,545	\$ 34,967,977.33	\$ 4,143,330.06
49											
50	The projected monthly rate assumes a rate structure that included O&M and Debt Service. We assume there will be a base monthly rate for service availability and then a cost per 1,000 gallons based on Winter Weather Average. The cost per 1,000 gallons is estimated to be in the \$4 - \$4.50 range.										
51											
52											
53	This Cost Estimate is based on River City Engineering's experience and qualifications, and represents River City Engineering's best judgement. However, since River City Engineering has										
54	no control over the cost of labor, materials, equipment, financing cost at time of issuance or services furnished by others, River City Engineering does not guarantee that the actual										
55	construction cost will not vary from the provided Cost Estimate and rate structure.										
56											
57											

**Tex. Water Code § 13.255**

This document is current through the 2015 regular session, 84th Legislature, Chapters: 2-707, 709-715, 717-854,  
856-1137, 1139-1282

**Texas Statutes & Codes Annotated by LexisNexis® > Water Code > Title 2 Water Administration > Subtitle B Water Rights > Chapter 13 Water Rates and Services > Subchapter G Certificates of Convenience and Necessity**

**Sec. 13.255. Single Certification in Incorporated or Annexed Areas.**

- (a) In the event that an area is incorporated or annexed by a municipality, either before or after the effective date of this section, the municipality and a retail public utility that provides water or sewer service to all or part of the area pursuant to a certificate of convenience and necessity may agree in writing that all or part of the area may be served by a municipally owned utility, by a franchised utility, or by the retail public utility. In this section, the phrase "franchised utility" shall mean a retail public utility that has been granted a franchise by a municipality to provide water or sewer service inside municipal boundaries. The agreement may provide for single or dual certification of all or part of the area, for the purchase of facilities or property, and for such other or additional terms that the parties may agree on. If a franchised utility is to serve the area, the franchised utility shall also be a party to the agreement. The executed agreement shall be filed with the utility commission, and the utility commission, on receipt of the agreement, shall incorporate the terms of the agreement into the respective certificates of convenience and necessity of the parties to the agreement.
- (b) If an agreement is not executed within 180 days after the municipality, in writing, notifies the retail public utility of its intent to provide service to the incorporated or annexed area, and if the municipality desires and intends to provide retail utility service to the area, the municipality, prior to providing service to the area, shall file an application with the utility commission to grant single certification to the municipally owned water or sewer utility or to a franchised utility. If an application for single certification is filed, the utility commission shall fix a time and place for a hearing and give notice of the hearing to the municipality and franchised utility, if any, and notice of the application and hearing to the retail public utility.
- (c) The utility commission shall grant single certification to the municipality. The utility commission shall also determine whether single certification as requested by the municipality would result in property of a retail public utility being rendered useless or valueless to the retail public utility, and shall determine in its order the monetary amount that is adequate and just to compensate the retail public utility for such property. If the municipality in its application has requested the transfer of specified property of the retail public utility to the municipality or to a franchised utility, the utility commission shall also determine in its order the adequate and just compensation to be paid for such property pursuant to the provisions of this section, including an award for damages to property remaining in the ownership of the retail public utility after single certification. The order of the utility commission shall not be effective to transfer property. A transfer of property may only be obtained under this section by a court judgment rendered pursuant to Subsection (d) or (e). The grant of single certification by the utility commission shall go into effect on the date the municipality or franchised utility, as the case may be, pays adequate and just compensation pursuant to court order, or pays an amount into the registry of the court or to the retail public utility under Subsection (f). If the court judgment provides that the retail public utility is not entitled to any compensation, the grant of single certification shall go into effect when the court judgment becomes final. The municipality or franchised utility must provide to each customer of the retail public utility being acquired an individual written notice within 60 days after the effective date for the transfer specified in the court judgment. The notice must clearly advise the customer of the identity of the new service provider, the reason for the transfer, the rates to be charged by the new service provider, and the effective date of those rates.
- (d) In the event the final order of the utility commission is not appealed within 30 days, the municipality may request the district court of Travis County to enter a judgment consistent with the order of the utility commission. In such event, the court shall render a judgment that:
  - (1) transfers to the municipally owned utility or franchised utility title to property to be transferred to the municipally owned utility or franchised utility as delineated by the utility commission's final order and



- property determined by the utility commission to be rendered useless or valueless by the granting of single certification; and
- (2) orders payment to the retail public utility of adequate and just compensation for the property as determined by the utility commission in its final order.
- (e) Any party that is aggrieved by a final order of the utility commission under this section may file an appeal with the district court of Travis County within 30 days after the order becomes final. The hearing in such an appeal before the district court shall be by trial de novo on all issues. After the hearing, if the court determines that the municipally owned utility or franchised utility is entitled to single certification under the provisions of this section, the court shall enter a judgment that:
- (1) transfers to the municipally owned utility or franchised utility title to property requested by the municipality to be transferred to the municipally owned utility or franchised utility and located within the singly certificated area and property determined by the court or jury to be rendered useless or valueless by the granting of single certification; and
- (2) orders payment in accordance with Subsection (g) to the retail public utility of adequate and just compensation for the property transferred and for the property damaged as determined by the court or jury.
- (f) Transfer of property shall be effective on the date the judgment becomes final. However, after the judgment of the court is entered, the municipality or franchised utility may take possession of condemned property pending appeal if the municipality or franchised utility pays the retail public utility or pays into the registry of the court, subject to withdrawal by the retail public utility, the amount, if any, established in the court's judgment as just and adequate compensation. To provide security in the event an appellate court, or the trial court in a new trial or on remand, awards compensation in excess of the original award, the municipality or franchised utility, as the case may be, shall deposit in the registry of the court an additional sum in the amount of the award, or a surety bond in the same amount issued by a surety company qualified to do business in this state, conditioned to secure the payment of an award of damages in excess of the original award of the trial court. On application by the municipality or franchised utility, the court shall order that funds deposited in the registry of the court be deposited in an interest-bearing account, and that interest accruing prior to withdrawal of the award by the retail public utility be paid to the municipality or to the franchised utility. In the event the municipally owned utility or franchised utility takes possession of property or provides utility service in the singly certificated area pending appeal, and a court in a final judgment in an appeal under this section holds that the grant of single certification was in error, the retail public utility is entitled to seek compensation for any damages sustained by it in accordance with Subsection (g) of this section.
- (g) For the purpose of implementing this section, the value of real property owned and utilized by the retail public utility for its facilities shall be determined according to the standards set forth in Chapter 21, Property Code, governing actions in eminent domain; the value of personal property shall be determined according to the factors in this subsection. The factors ensuring that the compensation to a retail public utility is just and adequate, shall, at a minimum, include: impact on the existing indebtedness of the retail public utility and its ability to repay that debt, the value of the service facilities of the retail public utility located within the area in question, the amount of any expenditures for planning, design, or construction of service facilities outside the incorporated or annexed area that are allocable to service to the area in question, the amount of the retail public utility's contractual obligations allocable to the area in question, any demonstrated impairment of service or increase of cost to consumers of the retail public utility remaining after the single certification, the impact on future revenues lost from existing customers, necessary and reasonable legal expenses and professional fees, factors relevant to maintaining the current financial integrity of the retail public utility, and other relevant factors.
- (g-1) The utility commission shall adopt rules governing the evaluation of the factors to be considered in determining the monetary compensation under Subsection (g). The utility commission by rule shall adopt procedures to ensure that the total compensation to be paid to a retail public utility under Subsection (g) is determined not later than the 90th calendar day after the date on which the utility commission determines that the municipality's application is administratively complete.

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- (h) A municipality or a franchised utility may dismiss an application for single certification without prejudice at any time before a judgment becomes final provided the municipality or the franchised public utility has not taken physical possession of property of the retail public utility or made payment for such right pursuant to Subsection (f) of this section.
- (i) In the event that a municipality files an application for single certification on behalf of a franchised utility, the municipality shall be joined in such application by such franchised utility, and the franchised utility shall make all payments required in the court's judgment to adequately and justly compensate the retail public utility for any taking or damaging of property and for the transfer of property to such franchised utility.
- (j) This section shall apply only in a case where:
  - (1) the retail public utility that is authorized to serve in the certificated area that is annexed or incorporated by the municipality is a nonprofit water supply or sewer service corporation, a special utility district under Chapter 65, Water Code, or a fresh water supply district under Chapter 53, Water Code; or
  - (2) the retail public utility that is authorized to serve in the certificated area that is annexed or incorporated by the municipality is a retail public utility, other than a nonprofit water supply or sewer service corporation, and whose service area is located entirely within the boundaries of a municipality with a population of 1.7 million or more according to the most recent federal census.
- (k) The following conditions apply when a municipality or franchised utility makes an application to acquire the service area or facilities of a retail public utility described in Subsection (j)(2):
  - (1) the utility commission or court must determine that the service provided by the retail public utility is substandard or its rates are unreasonable in view of the reasonable expenses of the utility;
  - (2) if the municipality abandons its application, the court or the utility commission is authorized to award to the retail public utility its reasonable expenses related to the proceeding hereunder, including attorney fees; and
  - (3) unless otherwise agreed by the retail public utility, the municipality must take the entire utility property of the retail public utility in a proceeding hereunder.
- (l) For an area incorporated by a municipality, the compensation provided under Subsection (g) shall be determined by a qualified individual or firm to serve as independent appraiser, who shall be selected by the affected retail public utility, and the costs of the appraiser shall be paid by the municipality. For an area annexed by a municipality, the compensation provided under Subsection (g) shall be determined by a qualified individual or firm to which the municipality and the retail public utility agree to serve as independent appraiser. If the retail public utility and the municipality are unable to agree on a single individual or firm to serve as the independent appraiser before the 11th day after the date the retail public utility or municipality notifies the other party of the impasse, the retail public utility and municipality each shall appoint a qualified individual or firm to serve as independent appraiser. On or before the 10th business day after the date of their appointment, the independent appraisers shall meet to reach an agreed determination of the amount of compensation. If the appraisers are unable to agree on a determination before the 16th business day after the date of their first meeting under this subsection, the retail public utility or municipality may petition the utility commission or a person the utility commission designates for the purpose to appoint a third qualified independent appraiser to reconcile the appraisals of the two originally appointed appraisers. The determination of the third appraiser may not be less than the lesser or more than the greater of the two original appraisals. The costs of the independent appraisers for an annexed area shall be shared equally by the retail public utility and the municipality. The determination of compensation under this subsection is binding on the utility commission.
- (m) The utility commission shall deny an application for single certification by a municipality that fails to demonstrate compliance with the commission's minimum requirements for public drinking water systems.

## History

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Enacted by Acts 1987, 70th Leg., ch. 583 (H.B. 2035), § 1, effective August 31, 1987; am. Acts 1989, 71st Leg., ch. 567 (H.B. 1808), § 32, effective September 1, 1989; am. Acts 1989, 71st Leg., ch. 926 (S.B. 1067), § 1, effective August 28, 1989; am. Acts 1995, 74th Leg., ch. 814 (H.B. 1935), §§ 1 to 4, effective August 28, 1995; am. Acts 1999, 76th Leg., ch. 1374 (H.B. 1291), § 1, effective August 30, 1999; am. Acts 1999, 76th Leg., ch. 1375 (H.B. 1362), § 1, effective September 1, 1999; am. Acts 2005, 79th Leg., ch. 1145 (H.B. 2876), § 10, effective September 1, 2005; am. Acts 2013, 83rd Leg., ch. 170 (H.B. 1600), § 2.56, effective September 1, 2013; am. Acts 2013, 83rd Leg., ch. 171 (S.B. 567), § 56, effective September 1, 2013.

## Annotations

## Notes

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### STATUTORY NOTES

#### 1999 Note:

The changes in law made by Ch. 1375 apply only to an application filed with the Texas Natural Resource Conservation Commission to grant single certification to a municipality under Section 13.255(b), Water Code, that is filed on or after September 1, 1999. An application to grant single certification filed with the commission under that section before September 1, 1999, is governed by the law in effect immediately before the effective date of this Act, and the former law is continued in effect for that purpose. Acts 1999, 76th Leg., ch. 1375, § 2.

#### Effect of amendments:

**2005 amendment**, added "owned and utilized by the retail public utility for its facilities" after "real property" in first sentence of (g); deleted "for the taking, damaging and/or loss of personal property, including the retail public utility's business" after "the compensation to a retail public utility" in (g); substituted "lost from existing customers" for "and expenses of the retail public utility" near the end of (g); and added (g-1).

**2013 amendment**, by chs. 170 and 171, added "utility" before "commission" or variants wherever it appears in (a) through (e), (g-1), (k), (l), and (m); deleted "of this section" at the end of the fifth sentence of (c); and deleted "of this section" after "Subsection (g)" in (e)(2).

#### Applicability.

Acts 2005, 79th Leg., ch. 1145 (H.B. 2876), § 15 provides:

"The changes in law made by this Act apply only to:

- (1) an application for a certificate of public convenience and necessity or for an amendment to a certificate of public convenience and necessity submitted to the Texas Commission on Environmental Quality on or after January 1, 2006; and
- (2) a proceeding to amend or revoke a certificate of public convenience and necessity initiated on or after January 1, 2006."

#### LexisNexis ® Notes

## Case Notes

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### Administrative Law: Informal Agency Actions

### Administrative Law: Judicial Review: Reviewability: Exhaustion of Remedies

## Tex. Water Code § 13.255

**Civil Procedure: Remedies: Injunctions: Preliminary & Temporary Injunctions****Energy & Utilities Law: Administrative Proceedings: Public Utility Commissions: Authority****Energy & Utilities Law: Utility Companies: General Overview****Governments: Public Improvements: Sanitation & Water****Administrative Law: Informal Agency Actions**

1. City was granted a preliminary injunction to prevent the U.S. Department of Agriculture from giving an additional loan to a special utilities district for a water project under 7 U.S.C.S. § 1926 because there was a substantial likelihood that the city would prevail on claims that the loan was approved for a longer term than permitted under 7 C.F.R. § 1780.13(e) and was thus not in accordance with 5 U.S.C.S. § 706, and that the loan included funds for facilities in nonrural areas in violation of 7 C.F.R. § 1780.7(b); furthermore, there was a threat that the city would suffer irreparable injury in the injunction were not granted because Water Code Ann. § 13.255 provided no guarantee that the city would be able to overcome the district's protection under 7 U.S.C.S. § 1926(b) if the loan were approved. City of College Station v. USDA, 395 F. Supp. 2d 495, 2005 U.S. Dist. LEXIS 26416 (S.D. Tex. 2005).

**Administrative Law: Judicial Review: Reviewability: Exhaustion of Remedies**

2. Trial court correctly granted a special utility district's plea to the jurisdiction in a dispute with a city that sought to be allowed to provide water utility service to a newly annexed area in the district's service area; because that determination could be made only by the Texas Commission on Environmental Quality, as provided in Tex. Water Code Ann. § 13.042(e), Tex. Water Code Ann. § 13.242(a), and Tex. Water Code Ann. § 13.255, the city was required to exhaust its administrative remedies. City of College Station v. Wellborn Special Util. Dist., No. 10-04-00306-CV, 2006 Tex. App. LEXIS 6533 (Tex. App. Waco July 26, 2006), reh'g denied, No. 10-04-00306-CV, 2006 Tex. App. LEXIS 9614 (Tex. App. Waco Aug. 29, 2006), pet. denied No. 06-0893, 2007 Tex. LEXIS 243 (Tex. Mar. 9, 2007).

**Civil Procedure: Remedies: Injunctions: Preliminary & Temporary Injunctions**

3. City was granted a preliminary injunction to prevent the U.S. Department of Agriculture from giving an additional loan to a special utilities district for a water project under 7 U.S.C.S. § 1926 because there was a substantial likelihood that the city would prevail on claims that the loan was approved for a longer term than permitted under 7 C.F.R. § 1780.13(e) and was thus not in accordance with 5 U.S.C.S. § 706, and that the loan included funds for facilities in nonrural areas in violation of 7 C.F.R. § 1780.7(b); furthermore, there was a threat that the city would suffer irreparable injury in the injunction were not granted because Water Code Ann. § 13.255 provided no guarantee that the city would be able to overcome the district's protection under 7 U.S.C.S. § 1926(b) if the loan were approved. City of College Station v. USDA, 395 F. Supp. 2d 495, 2005 U.S. Dist. LEXIS 26416 (S.D. Tex. 2005).

**Energy & Utilities Law: Administrative Proceedings: Public Utility Commissions: Authority**

4. Trial court correctly granted a special utility district's plea to the jurisdiction in a dispute with a city that sought to be allowed to provide water utility service to a newly annexed area in the district's service area; because that determination could be made only by the Texas Commission on Environmental Quality, as provided in Tex. Water Code Ann. § 13.042(e), Tex. Water Code Ann. § 13.242(a), and Tex. Water Code Ann. § 13.255, the city was required to exhaust its administrative remedies. City of College Station v. Wellborn Special Util. Dist., No. 10-04-00306-CV, 2006 Tex. App. LEXIS 6533 (Tex. App. Waco July 26, 2006), reh'g denied, No. 10-04-00306-CV, 2006 Tex. App. LEXIS 9614 (Tex. App. Waco Aug. 29, 2006), pet. denied No. 06-0893, 2007 Tex. LEXIS 243 (Tex. Mar. 9, 2007).

**Energy & Utilities Law: Utility Companies: General Overview**

5. Trial court correctly granted a special utility district's plea to the jurisdiction in a dispute with a city that sought to be allowed to provide water utility service to a newly annexed area in the district's service area; because that determination could be made only by the Texas Commission on Environmental Quality, as provided in Tex. Water Code Ann. § 13.042(e), Tex. Water Code Ann. § 13.242(a), and Tex. Water Code Ann. § 13.255, the city was required to exhaust its administrative remedies. City of College Station v. Wellborn Special Util. Dist., No. 10-04-00306-CV, 2006 Tex. App. LEXIS 6533 (Tex.

Tex. Water Code § 13.255

App. Waco July 26, 2006), reh'g denied, No. 10-04 (0306-CV, 2006 Tex. App. LEXIS 9614 (Tex. App. Waco Aug. 29, 2006), pet. denied No. 06-0893, 2007 Tex. LEXIS 243 (Tex. Mar. 9, 2007).

**Governments: Public Improvements: Sanitation & Water**

6. City was granted a preliminary injunction to prevent the U.S. Department of Agriculture from giving an additional loan to a special utilities district for a water project under 7 U.S.C.S. § 1926 because there was a substantial likelihood that the city would prevail on claims that the loan was approved for a longer term than permitted under 7 C.F.R. § 1780.13(e) and was thus not in accordance with 5 U.S.C.S. § 706, and that the loan included funds for facilities in nonrural areas in violation of 7 C.F.R. § 1780.7(b); furthermore, there was a threat that the city would suffer irreparable injury in the injunction were not granted because Water Code Ann. § 13.255 provided no guarantee that the city would be able to overcome the district's protection under 7 U.S.C.S. § 1926(b) if the loan were approved. City of College Station v. USDA, 395 F.Supp. 2d 495, 2005 U.S. Dist. LEXIS 26416 (S.D. Tex. 2005).

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PURSUANT TO PUC CHAPTER 24, SUBSTANTIVE RULES APPLICABLE TO WATER AND SEWER SERVICE PROVIDERS, SUBCHAPTER G: CERTIFICATES OF CONVENIENCE AND NECESSITY

## Application to Obtain or Amend a Certificate of Convenience and Necessity (CCN) Under Water Code Section 13.255

Docket Number: 45702

(this number will be assigned by the Public Utility Commission after your application is filed)

7 copies of the application, including the original shall be filed with

Public Utility Commission of Texas  
Attention: Filing Clerk  
1701 N. Congress Avenue  
P.O. Box 13326  
Austin, Texas 78711-3326

If submitting digital map data, two copies of the portable electronic storage medium (such as CD or DVD) are required.

### CCN Requirements

#### 1. Purpose of application

Check all boxes that apply.

The purpose of this application is to:

☒ Obtain single certification to a service area within the cities limits; and /or

☐ Amend Certificate of Convenience and Necessity (CCN) No. \_\_\_\_\_

to provide ☐ water or ☒ sewer service to:

portions of the City of Cibolo's corporate limits \_\_\_\_\_ (Subdivision or Area) and to decertify

a portion of Green Valley Special Utility District's Sewer CCN No. 20973 (Name of Utility and CCN No.)

#### 2. Applicant

Name of City: City of Cibolo

Mailing address: 200 S. Main/P.O. Box 826, Cibolo, Texas 78108

Phone: (210) 658-9900

Fax: (210) 658-1687

Email: rherrera@cibolotx.gov

Tax Identification number: N/A

**3. County or counties**

Name of county(ies) where the city intends to provide retail public utility service:

Guadalupe County

**4. Contact information**

Contact person regarding this application:

Name: David Klein

Title: Attorney

Mailing address: 816 Congress Avenue, Suite 1900, Austin, Texas 78701

Phone: (512) 322-5818

Fax: (512) 472-0532

Email: dklein@lglawfirm.com

**5. Retail public utility**

Retail public utility currently certificated to the area involved in this application:

Utility Name: Green Valley Special Utility District ("GVSUD")

Title:

Mailing address: P.O. Box 99, Marion, Texas 78124-0099

Phone: (830) 914-2330

Fax: (830) 420-4138

Email:

Retail public utility contact person regarding negotiations with the city over the service area involved:

Name: Pat Allen

Title: General Manager

Mailing address: P.O. Box 99, Marion, Texas 78124-0099

Phone: (830) 914-2330

Fax: (830) 420-4138

Email: pallen@gvsud.org

**6. Service area**On what date was this proposed service area incorporated by the city? The service area was annexed between 2009-2013.**7. Negotiation date between city and retail public utility**On what date did negotiations begin between the city and the retail public utility? August 18, 2015**8. Notice date**On what date was notice of the city's intent to provide service to the incorporated or annexed area provided to the retail public utility made? August 18, 2015Please attach a copy of the notice provided. Also attach a copy of the mailing list indicating to whom such notice was provided. See Attachment A.**9. Description of retail public utility facilities**

Please provide a brief description of the retail public utility's facilities in the service area involved in this application. Also indicate how many customers are currently receiving service from the retail public utility in this area:

It is the City's understanding that GVSUD has no wastewater facilities and no wastewater customers in the area to be decertified by this application.

**10. Service start date**

Provide the date when city service to the area can begin. Upon approval by PUC.

**11. Franchised utility information**

If the city will allow a franchised utility to provide service to the area involved, please attach a copy of the city consent or franchise agreement and provide the following information:

Utility Name: N/A

Mailing address:

Phone:

Fax:

Email:

Franchised Utility's CCN Number:

Franchised Utility's contact person and their address:

Name:

Title:

Mailing address:

Email:

Phone:

Phone:

Fax:

Email:

**12. Paper map requirements**

All maps should include applicant's name, address, telephone number, and date of drawing or revision and be folded to 8½ x 11 inches. See [Attachment B](#).

Attach the following maps with each copy of the application:

- A. Subdivision plat or engineering plans or other large scale map showing the following:
  1. The exact proposed service area boundary showing locations of requests for service and locations of existing connections (if applicable).
  2. Metes and bounds (if available).
  3. Proposed and existing service area boundaries should be plotted on the map in relation to verifiable natural and man-made landmarks such as roads, creeks, rivers, railroads, etc.
  4. Service area boundaries should be shown with such exactness that they can be located on the ground.
- ❖ *Applicant may use a USGS 7.5"-minute series map if no other large scale map is available.*
- B. Small scale location map delineating the proposed service area. The proposed service area boundary should be delineated on a copy of the official CCN map. This map will assist the Public Utility Commission in locating the proposed service area in relation to neighboring utility service areas.
- C. Hard copy maps should include the following items:
  1. Map scale should be prominently displayed.
  2. Color coding should be used to differentiate the applicants existing service areas from the proposed service area.
  3. Attach a written description of the proposed service area.
  4. Proposed service area should be the same on all maps.
  5. Include map information in digital format (if available), see 13, GIS map information.
- D. Each utility shall make available to the public at each of its business offices and designated sales offices within Texas the map of the proposed service area currently on file with the Commission. The applicant employees shall lend assistance to persons requesting to see a map of the proposed area upon request.

❖ *For information on obtaining a CCN base map or questions about sending digital map data, please visit the Water Utilities section of the PUC's website for assistance.*



**13. GIS map information**

A. Digital Map Requirements: In order that your digital data can be properly used, the following information is necessary:

1. Submit digital data of the proposed CCN service area on a CD, flash drive, or DVD. Two digital copies are necessary. Most files of CCNs (minus the base map) should be small enough to zip up and put on a CD.
2. The digital data should include all items represented in the hard copy maps.
3. Please identify data file format, projection information, map units and base map used. Acceptable Data File Format:
  - a. ArcView shape file (preferred)
  - b. Arc/Info E00 file

❖ *For information on obtaining a CCN base map or questions about sending digital map data, please visit the Water Utilities section of the PUC website for assistance.*

**ALL APPLICABLE QUESTIONS MUST BE ANSWERED FULLY.**

**THE APPLICATION WILL NOT BE ACCEPTED FOR FILING WITHOUT MAPS.**

**PLEASE NOTE THE FILING OF THIS APPLICATION DOES NOT CONSTITUTE AUTHORITY TO PROVIDE WATER/SEWER SERVICE IN THE REQUESTED AREA.**

## OATH

State of TexasCounty of GuadalupeI, Robert T. Herrera being duly sworn, file this

application under V.T.C.A., Water Code Section 13.255 as City Manager  
 (Name of the City); that, in such capacity, I am qualified and authorized to file and verify such application, am personally familiar with the maps filed with this application, and have complied with all the requirements contained in this application; and, that all such statements made and matters set forth therein are true and correct. I further state that the application is made in good faith and that this application does not duplicate any filing presently before the Public Utility Commission of Texas.

I further represent that the application form has not been changed, altered or amended from its original form available only from the Commission.

I further represent that the Applicant will provide continuous and adequate service to all customers and qualified applicants for service within its certificated service area.

Robert T. Herrera

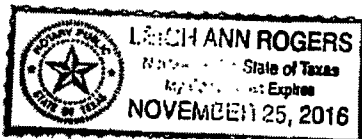
AFFIANT

(Applicant's Authorized Representative)

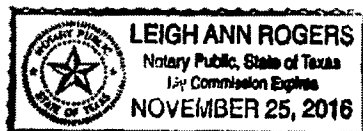
If the Affiant to this form is any person other than the sole owner, partner, officer of the Applicant, or its attorney, a properly verified Power of Attorney must be enclosed.

SUBSCRIBED AND SWORN TO BEFORE ME, a Notary Public in and for the State of  
 Texas, this 7<sup>th</sup> day of March 20 16

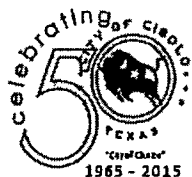
SEAL



[Signature]  
 NOTARY PUBLIC



ATTACHMENT A – NOTICE OF INTENT TO SERVE



From the Office of Robert T. Herrera, City Manager  
City of Cibolo 200 S. Main / PO BOX 826 Cibolo, Texas 78108 (210) 658-9900 [www.cibolotx.gov](http://www.cibolotx.gov)

August 18, 2015

Green Valley Special Utility District  
Attn: Pat Allen, General Manager  
529 South Center Street  
Marion, TX 78124

**VIA HAND DELIVERY & USPS REGULAR MAIL**

Re: Notice of Intent by the City of Cibolo to Provide Sewer Service in Corporate Limits

Dear Mr. Allen:

The City of Cibolo ("City") currently provides retail sewer service to customers located within certain portions of the City's corporate limits and extra-territorial jurisdiction ("ETJ"). However, other portions of the City's corporate limits overlap with Green Valley Special Utility District's ("Green Valley SUD") sewer certificate of convenience and necessity ("CCN") No. 20973.

In accordance with Texas Water Code § 13.255, the City hereby provides Green Valley SUD with notice that the City intends to provide retail sewer service to the areas within its corporate limits that overlap with Green Valley SUD's sewer CCN service area ("Transition Areas"), which are more specifically depicted in light blue on the attached map, attached hereto as Attachment A. The yellow areas on Attachment A are additional tracts that are currently subject to annexation agreements with the City, and the City anticipates annexing these tracts in the near future. For your convenience, attached hereto as Attachment B, are field notes for the entire light blue and yellow shaded areas, which are bounded on the south by U.S. Interstate Highway 10; on the west by Cibolo Creek, on the north by Lower Seguin Road, Haeckerville Road, and Arizpe Road; and on the east by the Court Decreed ETJ Boundary of the City and the City of Marion, as well as the boundaries of GCAD Parcel Nos. 70979 and 71064.

We look forward to discussing the terms of an agreement between the City and Green Valley SUD, which will detail the arrangement between the parties for the City's provision of retail sewer service to these Transition Areas. If you have any questions, please contact me at (210) 658-9900.

Sincerely,

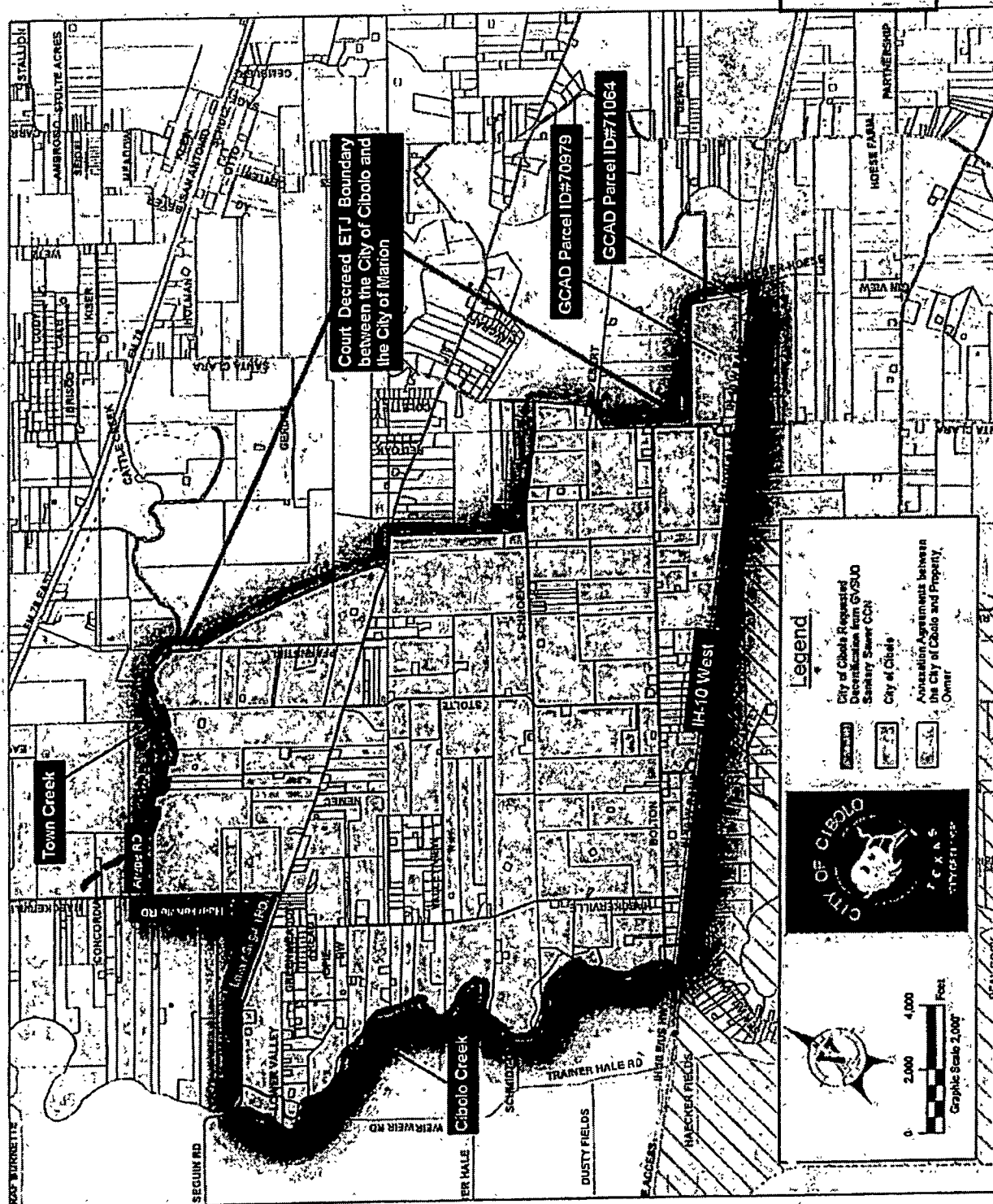
Robert T. Herrera  
City Manager

CC: Mayor Jackson | City Council | Peggy Cimics, City Secretary | Rudy Klein, Director of Planning & Engineering

Enclosure(s)

ATTACHMENT A

COPY



## ATTACHMENT B

**COPY**

Field Notes for a 5,882 Acre area of land to be Certified into the City of Cibolo's Certificate of Convenience and Necessity (CCN) area; said 5,882 Acres of land is in the existing City Limits or ETJ of the City of Cibolo, Guadalupe County, Texas.

Beginning at the intersection of Hackerville Road and Arizpe Road, said intersection being 7,515 feet south of the intersection of Hackerville Road and Farm to Market Road 78, said point of beginning also being in the Extra Territorial Jurisdictional (ETJ) area for the City of Cibolo, Guadalupe County, Texas.

Thence in an easterly direction with Arizpe Road, approximately 2,304 feet to the intersection and crossing of Town Creek, an intermittent tributary to the Cibolo Creek;

Thence in an easterly direction with the meanders of Town Creek, approximately 6,860 feet to the intersection of Pfannstiel Lane and the Court Decreed ETJ Boundary between the City of Cibolo and the City of Marion;

Thence in a southerly direction with the Court Decreed ETJ Boundary between the City of Cibolo and the City of Marion, approximately 25,565 feet to the northeast corner of a 124.75 acre tract of land identified by the Guadalupe County Appraisal District as Parcel # 70979;

Thence in a southerly direction with the east line of said 124.75 acre tract, approximately 1,630 feet to the southeast corner of said tract, also being the northeast corner of a 7.658 acres tract of land identified by the Guadalupe County Appraisal District as Parcel # 71064;

Thence in a southerly direction with the east line of said 7.658 acre tract, approximately 330 feet to the southeast corner of said tract, also being on the north right-of-way line of Interstate Highway 10;

Thence in a southwesterly direction with the north right-of-way line of Interstate Highway 10, approximately 20,900 feet to the intersection and crossing of the Cibolo Creek, the centerline of said Cibolo Creek also being the western limit of the ETJ of the City of Cibolo;

Thence in a northerly direction with the meanders of Cibolo Creek, approximately 21,350 feet to the intersection and crossing of Lower Seguin Road;

Thence in an easterly direction with Lower Seguin Road, approximately 7,005 feet to the intersection with Hackerville Road;

Thence in a northerly direction with Hackerville Road, approximately 4,003 feet to the point of beginning and containing 5,882 acres more or less.

## ATTACHMENT B

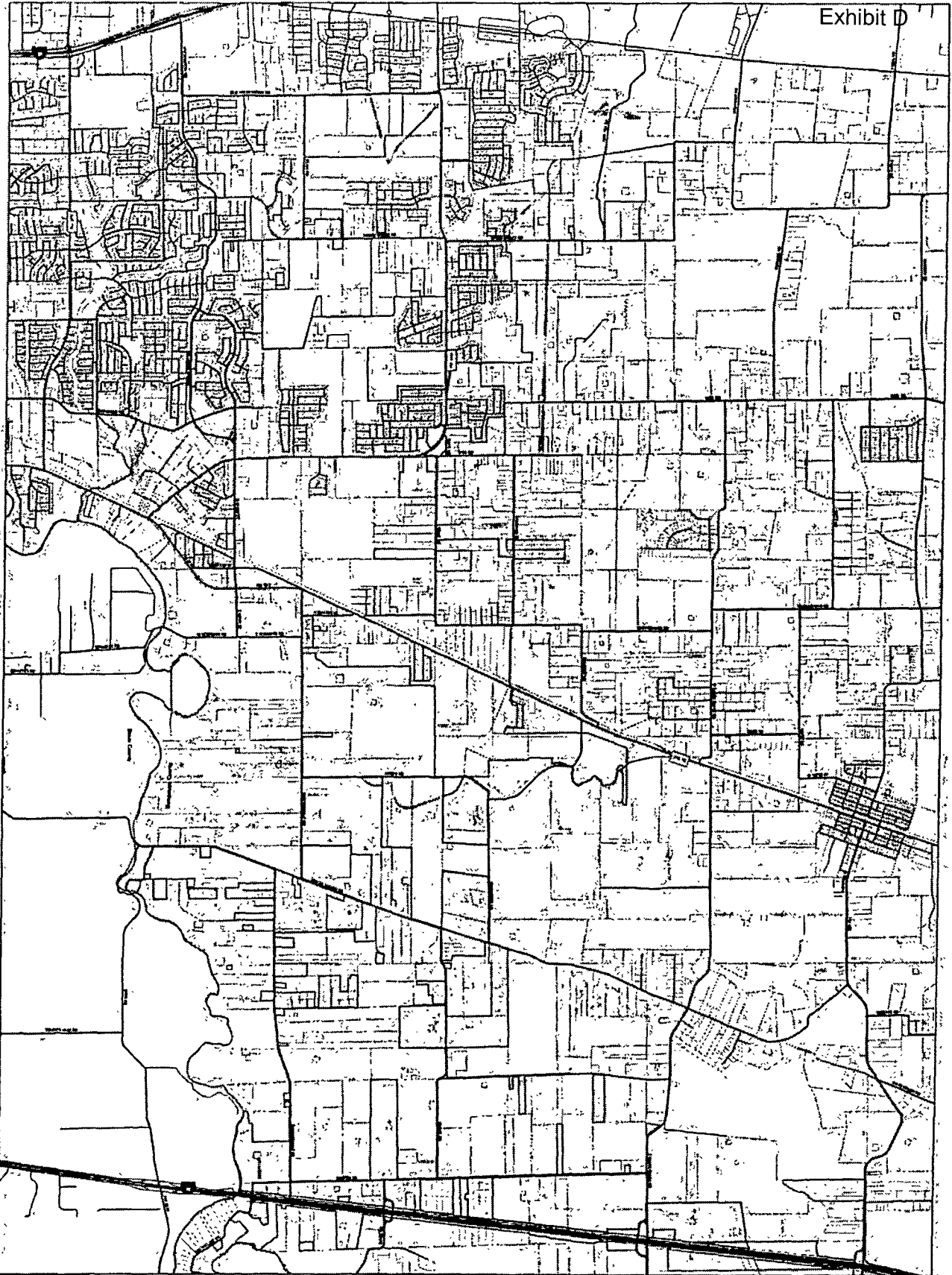
RESPONSE TO SECTION 12 – MAPPING

1. Large Scale Map depicting service area and area to be decertified (see attached map)
2. Small Scale Map depicting area to be decertified (see attached map)
3. Maps in digital format (see attached cd rom)
4. Written Description (see below):

Through this application, the City of Cibola requests single sewer CCN certification/ decertification of approximately 1,694 acres of land from Green Valley SUD's sewer CCN No. 20973 ("Decertificated Land"). The Decertificated Land is within the corporate limits of the City, and is generally bounded on the south by U.S. Interstate Highway 10; on the west by Cibola Creek; on the north by Lower Seguin Road, Hackerville Road, and Arizpe Road; and on the east by the Court Decreed ETJ Boundary of the City and the City of Marion, as well as the boundaries of Guadalupe County Appraisal District Parcel Nos. 70979 and 71064.

**ATTACHMENT B.1. LARGE SCALE MAP (OVERSIZED DOCUMENT)**





City of Cibola  
200 S. Main Street, Suite 100  
718-635-9900 Ext. 3134

# **City of Cibola** **Proposed Wastewater CCN Boundaries**

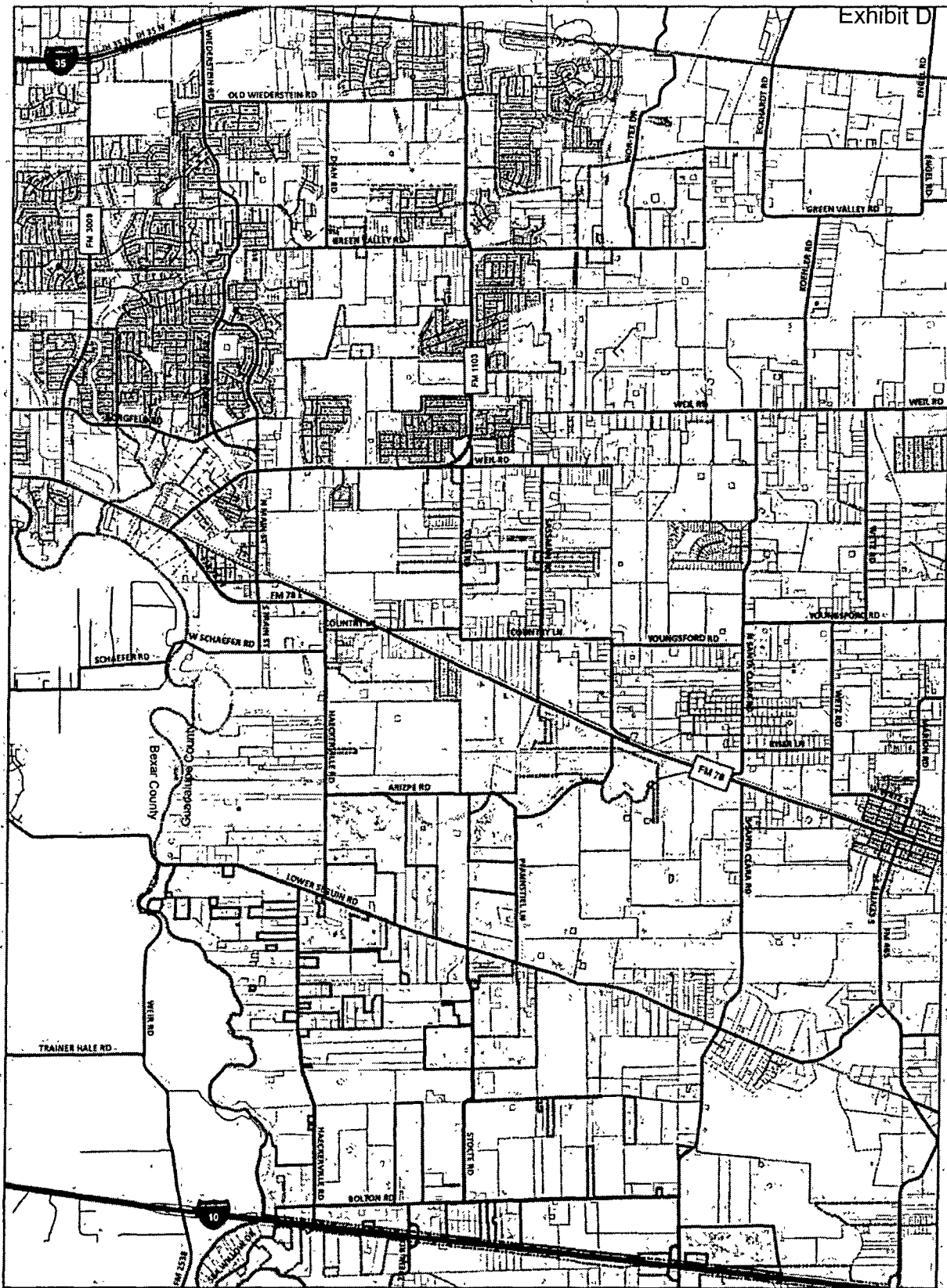
Requested Decertification from  
Green Valley SUD Sanitary Sewer CCN  
March 7, 2016

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EXPLANATION	
	City of Cibola Limits
	City of Cibola Requested Decertification from Green Valley SUD Sanitary Sewer CCN
	Current City of Cibola Sanitary Sewer

**ATTACHMENT B.2. SMALL SCALE MAP**



**City of Cibola**  
 200 S. Main Street, Cibola, Texas 78108  
 210-658-9900 Ext. 3139

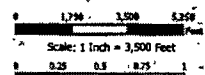
# **City of Cibola** **Proposed Wastewater CCN Boundaries**

Requested Decertification from:  
 Green Valley SUD Sanitary Sewer CCN  
 March 7, 2016



Information about the City of Cibola's Geographic Database and Maps:  
 The information used to create applications must be derived from digital boundaries in the City GIS.  
 Although we strive to provide the best data possible, we sometimes are able to identify errors in the data. Therefore, the City of Cibola cannot accept any responsibility  
 for any errors, omissions, or outdated information, and warrants. There are no warranties which accompany this product. Although information from Land Surveys may have been used in the  
 creation of this product, it is only those that are reported as correct in the Land Survey that are the responsibility of the City. The City of Cibola does not warrant the accuracy or  
 reliability of information before making any decision.

GIS Standard Map Disclaimer:  
 This product is for informational purposes and may not have been prepared for, or be suitable for, legal, engineering, or surveying purposes.  
 Users of this information should conduct their own primary data and information sources to ascertain the reliability of the information.



EXPLANATION	
	City Limits
	City of Cibola Requested Decertification from GVSSD Sanitary Sewer CCN
	Current City Cibola Sewer Service Area

**ATTACHMENT B.3. MAPS IN DIGITAL FORMAT**