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

OF TEXAS

**CITY OF CIBOLO'S OBJECTIONS TO AND MOTION TO STRIKE THE PREFILED
DIRECT TESTIMONIES OF DAVID "PAT" ALLEN,
GARRY MONTGOMERY, P.E., CFM, JOSHUA M. KORMAN,
AND STEPHEN H. BLACKHURST, P.E.**

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PUC DOCKET NO. 45702**

APPLICATION OF CITY OF CIBOLO	§	PUBLIC UTILITY COMMISSION
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**CITY OF CIBOLO'S OBJECTIONS TO AND MOTION TO STRIKE THE PREFILED
DIRECT TESTIMONIES OF JOSHUA M. KORMAN, DAVID "PAT" ALLEN, GARRY
MONTGOMERY, P.E., CFM, AND STEPHEN H. BLACKHURST, P.E.**

TO THE HONORABLE ADMINISTRATIVE LAW JUDGE:

The City of Cibolo ("City") files these Objections to, and Motion to Strike, certain parts of the prefiled direct testimonies filed on behalf of Green Valley Special Utility District ("GVSUD"), as set forth herein ("Objections"). Pursuant to the Administrative Law Judge's Order No. 3 in this matter, these objections and this motion are timely filed.

I. INTRODUCTION

Testifying on behalf of GVSUD, witnesses David "Pat" Allen, Garry Montgomery, P.E., CFM; Joshua M. Korman, and Stephen H. Blackhurst, P.E., attempt to address, pursuant to the July 20, 2016 Public Utility Commission of Texas's (the "Commission") Supplemental Preliminary Order and SOAH Order No. 2, the following issues specifically referred in this phase of the above-referenced matter:

9. What property, if any will be rendered useless or valueless to GVSUD by the decertification sought by the City of Cibolo (the "City") in this proceeding?
10. What property of GVSUD, if any, has the City requested be transferred to it?

11. Are the existing appraisals limited to valuing the property that has been determined to have been rendered useless or valueless by decertification and the property that the City has requested be transferred?

(issues 9-11 are, collectively, the “Referred Issues”)

However, significant portions of GVSUD’s prefiled testimonies completely avoid the Referred Issues and, based on wholly conclusory identification of “property,” only discuss compensation for such “property”. As such, those portions of their testimonies should not be admitted into the record of this proceeding. Also, most of GVSUD’s witnesses, in addition to providing irrelevant testimony, are wholly unqualified to testify as experts on the topics for which they provide their opinions. The result is lay opinion testimony that is not helpful to clearly understanding the witness’s testimony or to determining a fact issue in this case. The City objects to the following described portions of GVSUD’s witnesses’ prefiled direct testimonies, and requests that such objected-to portions be struck under 16 Texas Administrative Code (“TAC”) § 22.221(a) and Tex. R. Evid. (“TRE”) 401, 402, 403, 602, 611(c), 701, 702, 703, 1002, 1003, and 1006, as set forth herein.

II. STANDARD OF REVIEW

The standard for evaluating objections and motions to strike evidence and exhibits in a contested case hearing before the State Office of Administrative Hearings is found in 16 TAC § 22.221(a). This rule provides the following:

- (a) Rules of civil evidence apply. The Texas Rules of Civil Evidence as applied in nonjury civil cases in the courts of Texas shall be followed in contested cases. Irrelevant, immaterial, or unduly repetitious evidence shall be excluded. When necessary to ascertain facts not reasonably susceptible of proof under the Texas Rules of Civil Evidence, evidence not admissible under those rules may be admitted, except where precluded by statute, if it is of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs.

TRE rules pertinent to these Objections provide the following:

RULE 401. DEFINITION OF "RELEVANT EVIDENCE"

"Relevant evidence" means evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence.

RULE 402. RELEVANT EVIDENCE GENERALLY ADMISSIBLE; IRRELEVANT EVIDENCE INADMISSIBLE

All relevant evidence is admissible, except as otherwise provided by Constitution, by statute, by these rules, or by other rules prescribed pursuant to statutory authority. Evidence which is not relevant is inadmissible.

RULE 403. EXCLUDING RELEVANT EVIDENCE FOR PREJUDICE, CONFUSION, OR OTHER REASONS

The court may exclude relevant evidence if its probative value is substantially outweighed by a danger of one or more of the following: unfair prejudice, confusing the issues, misleading the jury, undue delay, or needlessly presenting cumulative evidence.

RULE 602. NEED FOR PERSONAL KNOWLEDGE.

A witness may testify to a matter only if evidence is introduced sufficient to support a finding that the witness has personal knowledge of the matter. Evidence to prove personal knowledge may consist of the witness's own testimony. This rule does not apply to a witness's expert testimony under Rule 703.

RULE 611(C). MODE AND ORDER OF EXAMINING WITNESSES, AND PRESENTING EVIDENCE.

(c) Leading questions should not be used on direct examination except as necessary to develop the witness's testimony. Ordinarily, the court should allow leading questions:

- (1) on cross-examination; and
- (2) when a party calls a hostile witness, an adverse party, or a witness identified with an adverse party.

RULE 701. OPINION TESTIMONY BY LAY WITNESSES

If the witness is not testifying as an expert, the witness' testimony in the form of opinions or inferences is limited to those opinions or

inferences which are (a) rationally based on the perception of the witness and (b) helpful to a clear understanding of the witness' testimony or the determination of a fact in issue.

RULE 702. TESTIMONY BY EXPERTS

If scientific, technical, or other specialized knowledge will assist the trier of fact to understand the evidence or to determine a fact in issue, a witness qualified as an expert by knowledge, skill, experience, training, or education may testify thereto in the form of an opinion or otherwise.

RULE 703. BASES OF OPINION TESTIMONY BY EXPERTS

The facts or data in the particular case upon which an expert bases an opinion or inference may be those perceived by, reviewed by, or made known to the expert at or before the hearing. If of a type reasonably relied upon by experts in the particular field in forming opinions or inferences upon the subject, the facts or data need not be admissible in evidence.

RULE 1002. REQUIREMENT OF THE ORIGINAL.

An original writing, recording, or photograph is required in order to prove its content unless these rules or a federal statute provides otherwise.

RULE 1003. ADMISSIBILITY OF DUPLICATES.

A duplicate is admissible to the same extent as the original unless a genuine question is raised about the original's authenticity or the circumstances make it unfair to admit the duplicate.

RULE 1006. SUMMARIES TO PROVE CONTENT.

The proponent may use a summary, chart, or calculation to prove the content of voluminous writings, recordings, or photographs that cannot be conveniently examined in court. The proponent must make the originals or duplicates available for examination or copying, or both, by other parties at a reasonable time or place. And the court may order the proponent to produce them in court.

III. OBJECTIONS TO PREFILED DIRECT TESTIMONY OF DAVID "PAT" ALLEN

A. The History of or Justification for GVSUD's Efforts Contemplating Wastewater Service is Not Relevant in this Hearing.

The City objects to significant portions of Mr. Allen's testimony regarding the history of efforts GVSUD has undertaken in order to provide wastewater service and the justification for such efforts as inadmissible, irrelevant evidence under TRE 402. The testimony identified herein does nothing to demonstrate what property GVSUD has to the extent that it has any—that will be rendered useless or valueless upon decertification or address the scope of the existing appraisals in this proceeding. Therefore, the testimony does not make any fact at issue in this proceeding more or less probable as required of relevant evidence by TRE 401.

Mr. Allen's testimony in this regard is nothing more than a chronicle of GVSUD's contemplation to provide wastewater service and the reasons why it desires to do so, but bypasses any discussion identifying any real or personal property GVSUD has, much less any property that would be rendered useless or valueless upon decertification. Such evasiveness is an attempt by GVSUD to distract the fact finder from the Referred Issues- the real issues before SOAH in this proceeding. Had the Commission or SOAH intended such information to have any bearing in this proceeding, the Referred Issues would have been expanded to include such a history and statement of purpose. To be clear, what is relevant in this proceeding is only what *property GVSUD currently* has that will be rendered useless and valueless by decertification. Because neither the Commission nor SOAH requested a historical discussion, and the testimony is not clearly tied to the acquisition or ownership of property, the City objects to and moves to strike the following portions of Mr. Allen's testimony and accompanying exhibits as irrelevant, inadmissible evidence under TRE 401 and 402:

- Page 5, line 13, beginning with "an overview" through line 16, ending with "certificated area.";

- Page 5, line 21 through line 24, ending with “application (“Application”).”;
- Page 10, line 20 through page 11, line 7 in its entirety, including GVSUD-1 at GVSUD 100140-100254;
- Page 11, line 9 through page 12, line 1, ending with “authorized mission.”;
- Page 12, line 7 through page 15, line 5, ending with “to construct the system.”;
- and
- Page 16, line 19 through page 17, line 17, in their entirety.

B. Compensation Factors are Irrelevant and Confuse the Issues to be Addressed in this Proceeding.

The City objects to those portions of Mr. Allen’s testimony relating to compensation to GVSUD for any property. In this proceeding, compensation based on the value of the property rendered useless and valueless is explicitly not to be considered. Therefore, any testimony or exhibits relating to the valuation of GVSUD’s property—to the extent that it has any—or compensation to which GVSUD may otherwise be entitled pursuant to Texas Water Code (“TWC”) § 13.255(g) is irrelevant, and thus inadmissible, under TRE 402.

The Commission’s recent adoption of this bifurcated hearing process in decertification matters is certain: the first phase is strictly limited to the identification of property; and the dollar valuation is irrelevant during the first phase. To the extent such directive was not previously clear, the Commission’s order in September 2016, attached hereto as **Attachment A**, eliminates any doubts on this issue, as follows:

[T]he SOAH ALJ should hold a hearing on the first phase of this docket and determine what property has been rendered useless or valueless. The ALJ should issue a [proposal for decision] on that issue to allow the Commission to make the determination that is required under TWC § 13.254(d): what property has been rendered useless or valueless as a result of the decertification. The Commission will then issue an interim order to memorialize that determination. *After the Commission issues the interim order, there will be a determination of compensation* based on the value of the property the Commission has determined

to have been rendered useless or valueless. If appraisals are necessary and if the Commission appoints a third-party appraiser under TWC § 13.254(g-1), . . . then the case may be returned to SOAH for a hearing on the second phase of this matter, particularly if the compensation determination is contested and becomes a fact-intensive inquiry. . . . After conclusion of the second phase, whether or not the second phase is referred to SOAH, the Commission will issue a final order regarding compensation for property rendered useless or valueless as a result of decertification.¹

Thus, if no property is found to be useless or valueless, then a proceeding to determine proper compensation need not occur. In this way, the identification of property is a threshold issue to discuss compensation.

Interestingly, Mr. Allen's testimony acknowledges this fact, yet still goes on to address compensation issues in a blatant disregard for the scope of this proceeding. Such testimony is objectionable in this proceeding, and any discussion of money spent by GVSUD is irrelevant and a thinly-veiled attempt to avoid discussion of the Referred Issues, namely, that GVSUD has no property that will be rendered useless or valueless by decertification.

Similarly, the City also objects to portions of Mr. Allen's testimony characterizing the steps GVSUD has taken in contemplation of wastewater service as "investments" as irrelevant. Mr. Allen's testimony is rife with references to the various measures GVSUD has taken as "investments", which implies that these measures are a property interest. An investment is "an expenditure to acquire property or assets to produce revenue; a capital outlay."² Such investments, under certain circumstance not present in the case, thus may constitute personal property that can be rendered useless and valueless by decertification. However, measures like applying for a wastewater discharge permit, contracting with an engineering firm to develop a

¹ Preliminary Order, City of Lampasas Notice of Intent to Provide Water Service to Area Decertified from Kempner Water Supply Corporation in Lampasas County, PUC Docket No. 46140, SOAH Docket No. 473-16-6049.ws (Sept. 23, 2016) (emphasis added). While the Lampasas docket is a petition under TWC §13.254, the Commission has expressed a desire to bifurcate the process of determining property and then compensation in §13.255 applications as well. See Supplemental Preliminary Order (Docket Item 58) (July 20, 2016).

² Black's Law Dictionary (10th ed. 2014).

wastewater master plan, and the like are not an investment in this sense because they are not assets, like securities, for example, that are purchased with the expectation that their value will appreciate and provide GVSUD passive income. Thus, such measures cannot be personal property. They are speculative.

Although expenditures may have been made with the hope that they one day would generate income for GVSUD, such expenditures are void of any cognizable property interest; just because Mr. Allen calls an expenditure an investment simply does not make it a property interest. Mr. Allen's testimony is totally void of any discussion of how these expenditures are property, which demonstrates just how little GVSUD has that is relevant at this stage of the proceeding. Therefore, any such discussion is irrelevant to determining what property will be rendered useless or valueless by decertification.

Even if the ALJ determines that such testimony is relevant, the testimony regarding "investments" should still be struck under TRE 403 because the probative value of such a characterization is substantially outweighed by the danger of unfair prejudice and misleading the ALJ. Allowing such unfairly prejudicial testimony has an undue tendency to suggest a decision on an improper basis, namely that GVSUD has property rendered useless or valueless when it simply does not, and the testimony makes no attempt to demonstrate otherwise beyond this conclusory characterization. Moreover, it is misleading because it suggests that GVSUD has more property than it actually does and that expenditures made by GVSUD can be considered at this phase of the proceeding. The City, therefore, objects to and moves to strike the following testimony under TRE 402, and in the alternative (with respect to discussions of investments), TRE 403:

- Page 5, line 14, beginning with “including its undertakings” through line 16, ending in “certificated area.”;
- Page 5, line 21 through page 6, line 1, ending in “useless and valueless”;
- Page 6, line 5, beginning with “that should” through line 6, ending with “TWC § 13.255.”;
- Page 7, lines 7 and 8 in their entirety, including Exhibit GVSUD-1 at 100459-100461; Wastewater Invoices, and 100455: summary of Legal Costs (June 27, 2016).”;
- Page 10, the words “and compensation” in line 7;
- Page 10, lines 9-10, stating “and compensable”;
- Page 11, line 23, beginning with “As I explain below,” through page 12, line 5 in its entirety;
- Page 12, line 11, beginning with “I will provide”, through line 16 in its entirety;
- Page 14, line 19 through page 16, line 4 in its entirety; and
- Page 16; line 6 through line 17 in its entirety;

C. Unqualified Opinion Testimony.

Under TRE 702, Mr. Allen’s opinions must be based on his knowledge, skill, experience, training, or education. Mr. Allen, however, offers opinions that are outside his expertise. No foundation has been provided for these unqualified opinions, and they must be struck accordingly.

Mr. Allen’s expertise is unclear based on his testimony. Mr. Allen is not a professional engineer and has not otherwise demonstrated experiential knowledge or training on matters relevant in this proceeding. In fact, Mr. Allen’s experience is limited to management roles, which

is insufficient to demonstrate the technical knowledge necessary to truly understand, identify, and determine usefulness and valuableness of wastewater collection and treatment systems. Further, to the extent he has knowledge regarding utilities, his experience appears to be limited to water utilities, not wastewater.

Aside from the fact that Mr. Allen's testimony discusses matters that are irrelevant to the Referred Issues, Mr. Allen provides opinions on issues on which he is not qualified as an expert. Accordingly, the City objects to and moves to strike those portions of Mr. Allen's testimony that assert expert opinions related to whether property is rendered useless and valueless, the scope of the appraisals, and—although irrelevant in this proceeding—compensation for such property in accordance with TRE 701, specifically:

- Page 5, line 13, beginning with “an overview” through line 16, ending with “certificated area.”;
- Page 5, line 21 through page 6, line 6 in its entirety;
- Page 9, line 19, beginning with “Mr. Montgomery” through line 20 in its entirety;
- Page 10, line 1, beginning with “Mr. Korman” through line 3 in its entirety;
- Page 12, line 1, beginning with “Those significant” through line 5 in its entirety;
- Page 17, lines 19 through 22; and
- Page 18, line 1 through line 6 in its entirety.

D. Inadmissible Opinion Testimony.

In addition, the following portions of Mr. Allen's testimony are not within his personal knowledge, and no foundation has been laid for him to assert his opinion as an expert witness as to what property GVSUD has that would be rendered useless or valueless by decertification and whether the appraisals are limited to identifying such property. Therefore, as a lay witness, Mr.

Allen must establish, per TRE 701, that his testimony in the form of an opinion is based on his personal knowledge, helpful to the clearly understanding his own testimony, and is not based on scientific, technical, or other specialized knowledge within the meaning of TRE 702.

Mr. Allen's testimony is void of any testimony explaining that he knows what wastewater property GVSUD has and, as explained herein; has only been able to provide irrelevant background on GVSUD's attempts to provide wastewater service. He in no way relates those steps to any property that has been rendered useless or valueless by decertification. In any event, as explained in Section III.C. herein, Mr. Allen has not demonstrated he has the technical experience necessary to make such a determination about GVSUD's property or opine as to whether the appraisals are limited to the same. As such, Mr. Allen's opinions expressed in his direct testimony are inadmissible opinion testimony under TRE 702. The City objects to and moves to strike those portions of Mr. Allen's testimony that assert inadmissible lay witness opinions related to whether property is rendered useless and valueless and the scope of the appraisals, specifically:

- Page 5, line 12, in its entirety through line 16, ending with "certificated area.";
- Page 5, line 21 through page 6, line 6 in its entirety;
- Page 9, line 19, beginning with "Mr. Montgomery" through line 20 in its entirety;
- and
- Page 12, line 1, beginning with "Those significant" through line 5 in its entirety.

E. Allen Testimony regarding Other GVSUD Witness Testimony – Lack of Personal Knowledge; Failure to Produce Best Evidence.

The City objects to those portions of Mr. Allen's testimony regarding the testimony of GVSUD's other witnesses and seeks to have such testimony struck because there is no foundation that he has any knowledge of GVSUD's other witnesses' testimony. Such testimony

is therefore inadmissible under TRE 602, which requires that non-expert witnesses have personal knowledge of the matter on which he is testifying. Mr. Allen's direct testimony does not support the finding that Mr. Allen has personal knowledge of the contents of Mr. Montgomery's, Mr. Korman's, or Mr. Blackhurst's testimony as it fails to assert that Mr. Allen reviewed such testimony or even hired those witnesses to testify as to particular matters in this case.

Further, the persons best placed to describe their qualifications as potential experts (to the extent they claim to be experts) are those persons themselves. It is not clear Mr. Allen has personal knowledge to be able to testify accurately to the qualifications of other parties or to the purpose of their testimonies.

Even if such personal knowledge has been established, Mr. Allen's summaries thereof are not best evidence under TRE 1002, generally requiring originals to prove content, and TRE 1006, specifically limiting summary testimony to voluminous originals that cannot be conveniently examined in court. In the context of a contested case hearing, in which all of GVSUD's witnesses will provide written direct testimony, such written testimony constitutes best evidence under TRE 1002. Mr. Allen cannot even make a colorable assertion that such testimony is too voluminous and must be summarized where, as here, such testimony *must* be filed and examined by SOAH.

Because a significant portion of Mr. Allen's testimony is based on matters for which personal knowledge has not been demonstrated and because testimony on such matters violates the best evidence rule regardless, the City objects to and moves to strike those portions of Mr. Allen's testimony pursuant to TRE 602, TRE 1002, and TRE 1006, specifically:

- Page 5, line 16, beginning with "I further provide" through line 18 in its entirety;

- Page 6, line 11, beginning with “some of which” through page 7, line 8 in its entirety, including Exhibit GVSUD-1 at GVSUD 100041-100139, 100140-100254, 100256-100342, 100343-100368, 100369-100418, 100432-100454, 100459-100461, and 100455;
- Page 8, line 13 through page 10, line 10 in its entirety;
- Page 11, line 23, beginning with “and” through line 24 ending with “in detail”;
- Page 12, line 13, beginning with “Green Valley witness” through line 16 in its entirety;
- Page 14, line 4, beginning with “which I co-sponsor” through line 5 ending with “Mr. Montgomery and”;
- Page 15, line 10, beginning with “and they” through line 11 in its entirety, including Exhibit GVSUD-1 at GVSUD 100432-100454;
- Page 15, the words “, in conjunction with RCE,” on line 19;
- Page 15, line 20, beginning with “and those” through line 22 in its entirety, including Exhibit GVSUD-1 at GVSUD 100256-100418; and
- Page 16, line 13, beginning with “and those costs” through line 16, ending with (GVSUD 100455).”, including Exhibit GVSUD-1 at GVSUD 100455.

F. References to Current Wastewater Customers is Inadmissible Testimony as Irrelevant, Misleading, and Unfairly Prejudicial.

Additionally, the City objects to the portions of Mr. Allen’s testimony and associated exhibits discussing GVSUD’s water customers because such evidence is irrelevant to a determination of what GVSUD wastewater property is rendered useless or valueless by decertification (or to determining any other questions at issue in this proceeding). Even if such testimony and/or exhibits are deemed relevant, testimony implying that GVSUD currently has or

has had wastewater customers should be struck under TRE 403 because the probative value of such a characterization is substantially outweighed by the danger of unfair prejudice and misleading the ALJ.

Through multiple rounds of discovery, the City has repeatedly learned that GVSUD does not have nor has it ever had wastewater customers.³ Any time Mr. Allen's testimony discusses customers, however, it is phrased as if GVSUD has such customers. Although the City maintains that potential future profits, as yet unknown and unknowable, are not property within the meaning of TWC § 13.255 and are speculative, the City objects to any suggestion that GVSUD has or had wastewater customers to the extent that wastewater customers may be considered at this phase of the proceeding. For example, Mr. Allen's testimony refers to Exhibit GVSUD-1 at GVSUD 100459-100461 as "Wastewater Invoices", implying that wastewater customers have been billed by GVSUD; upon inspection, it is clear these documents are only engineering fees, not bills to wastewater customers. Although the City acknowledges GVSUD does have water customers, Mr. Allen's testimony does not distinguish between actually existent water customers and potential or future wastewater customers.

Such a suggestion is misleading and unfairly prejudicial to the City not only because it is untrue, but also because it invokes a sense that GVSUD has dedicated property and taken other measures to serve an awaiting wastewater customer base. The City, therefore, objects to and moves to strike those portions of Mr. Allen's testimony and associated exhibits pursuant to TRE 401 and 402, and in the alternative, TRE 403, specifically:

³ Green Valley SUD's Response to Cibolo's First Requests for Admission and Requests for Information at RFA 1-1 and 1-3; Green Valley SUD's Response to Cibolo's Second Requests for Admission at RFA 2-19 and 2-22, attached collectively hereto as **Attachment B**.

- Page 7, line 7 in its entirety, including GVSUD-1 at GVSUD 100459-100461: Wastewater Invoices (2009-2016);
- Page 10, line 20 through page 11, line 7 in its entirety;
- Page 11, line 25, beginning with “to its customers/constituents” through page 12, line 5 in its entirety;
- Page 12, line 10, specifically the reference to GVSUD’s “current . . . customers”; and
- Page 12, line 17 through page 13, line 1, ending with “future customers”.

G. Contracts and Bylaws – Failure to Produce Best Evidence; Lack of Personal Knowledge.

The City objects to those portions of Mr. Allen’s testimony regarding matters for which he has not provided best evidence pursuant to TRE 1002. As explained herein in Section II.E, TRE 1002 requires original writings to prove the content of such writings. Mr. Allen refers in his testimony to GVSUD’s bylaws and provides what appears to be a quotation directly from those bylaws. However, the GVSUD bylaws (or a duplicate thereof as allowed by TRE 1003), in whole or in part, are not produced with Mr. Allen’s testimony to prove that the apparent quotation is actually from said bylaws. Similarly, Mr. Allen’s testimony refers to contracts with River City Engineering for purposes of providing wastewater service. Such a contract or a duplicate thereof is not produced with Mr. Allen’s testimony either. The City and the ALJ thus has no way of verifying the contents of such documents.

Moreover, with respect to the bylaws, Mr. Allen asserts the intent of the drafters of those bylaws. The City objects to this portion of Mr. Allen’s testimony because Mr. Allen has not demonstrated he has the requisite personal knowledge under TRE 602 to explain the drafters’ intent as Mr. Allen was not the general manager at the time those bylaws were passed.

The City therefore objects to and moves to strike those portions of Mr. Allen's testimony and associated exhibits pursuant to TRE 1002 and 602, specifically:

- Page 11, line 10, through line 23, ending with "earliest days"; and
- Page 12, line 20, beginning with "To that end," through page 13, line 1, ending with "future customers".

IV. OBJECTIONS TO PREFILED DIRECT TESTIMONY OF GARRY MONTGOMERY, P.E., CFM.

A. The History of or Justification for GVSUD's Efforts Contemplating Wastewater Service is Not Relevant.

The City objects to the significant portions of Mr. Montgomery's testimony regarding the history of and reasons for GVSUD's efforts to provide wastewater service. Such testimony is inadmissible, irrelevant evidence under TRE 401 and 402. The testimony identified below does nothing to demonstrate that GVSUD has any property whatsoever that is rendered useless or valueless, and is thus not relevant for the limited subject matter to be addressed in this proceeding. The relevancy arguments related to Mr. Allen's testimony in Section III.A., above, are reasserted and incorporated here and apply to the provisions listed below. Accordingly, the City objects to and moves to strike the following testimony and exhibits in accordance with TRE 401 and 402:

- Page 4, line 22, beginning with "The primary purpose" through page 5, line 2, ending with "system";
- Page 5, line 16, beginning with "To assist" through line 20, ending with "certificated area";
- Page 9, line 4 through page 17, line 16 in its entirety; and
- Page 18, line 6 through line 19 in its entirety;

B. Compensation Factors are Irrelevant and Confuse the Issues in this Proceeding.

The City objects to those portions of Mr. Montgomery's testimony relating to compensation to GVSUD for any property. At this stage of the proceeding, compensation based on the value of the property rendered useless and valueless is explicitly not to be considered. As explained above in Section II.B. regarding Mr. Allen's testimony of similar matters, any testimony or exhibits relating to the valuation of GVSUD's property—to the extent that it has any—or compensation to which GVSUD may otherwise be entitled pursuant to TWC § 13.255(g) is irrelevant and thus inadmissible under TRE 401 and 402.

Specifically, potential lost revenues, potential increased cost to customers, and potential lost impact fees are not property, and thus irrelevant for purposes of this proceeding. Such matters are pure speculation. Rather, these calculations, if at all, are only relevant to the next phase of this proceeding regarding compensation pursuant to TWC § 13.255(g), and even then those compensation factors only allow compensation for things like lost revenues and increased cost when the utility being decertified has existing customers, which GVSUD does not.

The relevancy arguments related to Mr. Allen's testimony in Section III.B., above, are reasserted and incorporated here and apply to the provisions listed below. Accordingly, the City objects and moves to strike the following testimony and exhibits in accordance with TRE 401 and 402:

- Page 20, line 9 beginning with "That analysis" through page 21, line 22 in its entirety; and
- Page 22, line 1 through line 6 in its entirety.

C. Testimony regarding GVSUD's Delay in Providing Wastewater Service is Inadmissible as Irrelevant, Misleading, and Unfairly Prejudicial.

The City objects to those portions of Mr. Montgomery's testimony relating to explanations for delay in obtaining property that could be rendered useless or valueless by decertification as inadmissible, irrelevant evidence under TRE 401 and 402. First, such testimony is irrelevant because, as exhaustively explained herein, the *only* thing that matters in this proceeding is what property, if any, GVSUD *currently* has and whether that property would be rendered useless or valueless. An explanation of the expected or delayed acquisition of such property has no bearing in this proceeding, does not help the trier of fact determine a question at issue in this proceeding, and as such, is irrelevant and inadmissible.

Second, such a discussion is merely an attempt to circumvent the requirement that GVSUD currently have property to be able receive adequate compensation and to place blame for a failure to have such property on the City. As such, beyond the fact that such testimony has no probative value in this proceeding, Mr. Montgomery's testimony thereto is unfairly prejudicial to the City under TRE 403 as it suggests that GVSUD's lack of property is, somehow, caused by the City in such a way that GVSUD deserves relief in this proceeding. What the testimony fails to provide, however, is that the City's actions with respect to its protest of GVSUD's pending application for a discharge permit and seeking single certification by virtue of this proceeding are rights to which the City is legally entitled. The City's exercise of such rights is not to be a consideration in this proceeding. To be clear, the City objects to the following testimony under TRE 401, 402, and 403:

- Page 15, line 17 through line 21 in its entirety.

D. Characterization as “Investments” is Inadmissible as Irrelevant, Misleading and Unfairly Prejudicial.

The City also objects to portions of Mr. Montgomery’s testimony containing a blanket characterization of efforts GVSUD has made in contemplation of providing wastewater service as “investments” under TRE 401 and 402, because such characterizations are disguised attempts to treat compensations issues as property, and as a discussion of compensation, are irrelevant. In the alternative, such testimony should be struck under TRE 403 because the probative value of such evidence is substantially outweighed by the danger of unfair prejudice and misleading the ALJ. The arguments related to Mr. Allen’s testimony in Section III.B., above, are reasserted and incorporated here and apply to the testimony listed below in this Section. Accordingly, the City objects to and moves to strike the following testimony in accordance with TRE 401 and 402, or 403:

- Page 4, line 22, beginning with “The primary purpose” through page 5, line 2, ending with “system”; and
- Page 5, line 14, beginning with “Having” through line 16 to “in this regard.”

V. OBJECTIONS TO PREFILED DIRECT TESTIMONY OF JOSHUA M. KORMAN

A. Unqualified Opinion Testimony.

Under TRE 702, Mr. Korman’s opinions must be based on his knowledge, skill, experience, training, or education. Mr. Korman, however, offers opinions that are outside his expertise. No foundation has been provided for these unqualified opinions, and they must be struck accordingly.

Mr. Korman is held out to be an expert in the field of real estate appraisals. However, nothing in Mr. Korman’s testimony demonstrates any education, training, personal knowledge, or experience in utilities, generally, or in identifying what property has been rendered useless and

valueless by decertification, specifically, which is the Referred Issue in this proceeding. In fact, Mr. Korman's only relevant experience with utilities at all was as an appraiser, *i.e.*, valuing property, not identifying property rendered useless and valueless, a role that is wholly irrelevant at this stage of the proceeding.⁴ His own description of the steps he took to prepare GVSUD's appraisal skips the main determinations relevant to this proceeding: identifying the property rendered useless and valueless by decertification and whether the appraisal is limited to such property.⁵ In other words, the extent of Mr. Korman's expertise is in valuing property that someone else has informed him is rendered useless and valueless. Likewise, Mr. Korman is not qualified by experience or training to provide testimony on the TWC § 13.255 process given that this is the first experience he has had with the process.

Aside from the fact Mr. Korman's testimony discusses matters that are irrelevant to the Referred Issues, Mr. Korman provides opinions on issues on which he is not qualified as an expert. Accordingly, the City objects to and moves to strike the following portions of Mr. Korman's testimony that assert expert opinions related to whether property is rendered useless and valueless, property requested to be transferred to the City, the scope of the appraisals, and—as also irrelevant testimony in this proceeding—compensation for such property, in accordance with TRE 701, specifically:

- Page 5, line 19, beginning with “I believe” through page 6, line 2 in its entirety;
- Page 8, line 2 through line 6 in its entirety;
- Page 11, line 14 through line 21 in its entirety;
- Page 12, line 9 through page 13, line 19 in its entirety;
- Page 14, line 1 through page 16, line 2 in its entirety; and

⁴ PUC Docket No. 45848, SOAH Docket No. 473-16-5011.

⁵ See Korman Direct Testimony, page 9, line 16 through page 10, line 9.

- Page 16, line 8 through line 12, ending with “requires compensation”.

B. Compensation Factors are Irrelevant and Confuse Issues in this Proceeding.

Significant portions of Mr. Korman’s testimony and referenced exhibits relate to compensation to GVSUD for any property rendered useless and valueless by decertification. At this stage of the proceeding, compensation based on the value of the property rendered useless and valueless is explicitly not to be considered. As explained above in Section II.B. regarding Mr. Allen’s testimony and Section III.B regarding Mr. Montgomery’s testimony, of similar matters, any testimony or exhibits relating to the valuation of GVSUD’s property to the extent that it has any—or compensation to which GVSUD may otherwise be entitled pursuant to TWC § 13.255(g), is irrelevant and thus inadmissible under TRE 401 and 402. The City, therefore, objects to all such testimony by Mr. Korman.

Specifically, the very purpose of an appraiser and an appraisal is to assign value to property that has already been identified, not to provide any property identification itself. Mr. Korman’s own testimony indicates as much in that it states his firm was hired specifically for the “appraisal/compensation process . . . so that adequate and just compensation may be paid to the retail public utility against which single certification is sought for any property being rendered valueless or useless” to “assist in deciding the amount of just and adequate compensation owed to GVSUD if the City’s Application was granted.”⁶ Additionally, Mr. Korman’s own understanding of the hearing process is that his rôle is limited to the second phase.⁷

Additionally, the *Uniform Standards of Professional Appraisal Practices*, which Korman mentions in several places, is limited to the valuation of property; their purpose is not to provide

⁶ Korman Direct Testimony, page 6, line 17 through page 7, line 7.

⁷ Korman Direct Testimony, page 7, lines 5-16 (stating “To my knowledge there are limited issues to be decided by the Commission in the first evidentiary hearing before my property valuations are considered in the second evidentiary hearing.”).

standards for identification of property that would be rendered useless or valueless by decertification. Similarly, any explanation of Mr. Korman's methodologies in developing said appraisal is irrelevant, as such testimony does not lend itself to the ultimate issues referred in this proceeding. As such, these standards and methodologies are irrelevant and thus inadmissible in this proceeding.

The relevancy arguments related to Mr. Allen's testimony in Section III.B. and to Mr. Montgomery's testimony in Section IV.B., above, are reasserted and incorporated here and apply to the provisions listed below. Accordingly, the City objects and moves to strike the following testimony and exhibits in accordance with TRE 401 and 402:

- Page 6, line 17 through page 7, line 4 in its entirety;
- Page 8, line 4, beginning with "In the GVSUD" through line 5, ending with "that property.";
- Page 8, line 8 through page 9, line 2 in its entirety, including Exhibit GVSUD-2;
- Page 9, line 16 through page 11, line 9 in its entirety;
- Page 11, line 20 through line 21 in its entirety;
- Page 12, line 9 through page 15, line 2 in its entirety;
- Page 15, line 11, beginning with "That is why" through line 14 in its entirety;
- Page 15, line 17 through page 16, line 2; and
- Page 16, line 11, beginning with "As discussed" through line 18 in its entirety.

C. Leading Questions.

The City objects to leading questions posed by counsel to Mr. Korman pursuant to TRE 611(c) and moves to strike the corresponding testimony from Mr. Korman. On direct examination, counsel may not ask questions that suggest to the witness the answer desired by

the examiner unless necessary to develop the witness's testimony, such as in the case of a hostile witness. In this case, such leading questions are not necessary to develop Mr. Korman's testimony as he is cooperative and capable of providing the elicited testimony on his own without such prodding by counsel. Accordingly, the City objects to and moves to strike the following questions and the corresponding testimony in accordance with TRE 611(c):

- Page 13, line 21 through page 15, line 2 in its entirety.

D. Inadmissible Opinion Testimony.

Mr. Korman offers an inadmissible opinion regarding how TWC § 13.255(c) and P.U.C. SUBST. R. 24.120 are interpreted to determine what types of property interests are relevant in this proceeding in violation of TRE 701. Mr. Korman is not an attorney, therefore his testimony regarding the interpretation of applicable statutes and regulations in the form of his opinion or inference is not admissible. Accordingly, the City objects to and moves to strike that portion of Mr. Korman's testimony that asserts an opinion relating to legal interpretations in accordance with TRE 701, specifically:

- Page 11, line 14 through line 19 in its entirety.

**VI. OBJECTIONS TO PREFILED DIRECT TESTIMONY OF
STEPHEN H. BLACKHURST, P.E.**

A. Statutory History and Compensation Factors are not Relevant Testimony in this Proceeding.

The City objects to significant portions of Mr. Blackhurst's testimony relating to the statutory history of TWC § 13.255 and related rulemaking projects, as such testimony is irrelevant under TRE 401. In this proceeding, a history and comparison of various versions of the applicable statute does not have any tendency to make any fact more or less probable than without such testimony, which is the standard under TRE 401. What is relevant in this

proceeding is how TWC § 13.255, *in its current form*, applies to GVSUD. The discrete issue in this case is whether any property was rendered useless or valueless to GVSUD as a result of decertification, not whether and to what extent previous versions of the statute would have, hypothetically, impacted GVSUD. Thus, Mr. Blackhurst's similar testimony regarding the historical progression of compensation schemes for property rendered useless and valueless is likewise irrelevant. The relevancy arguments related to compensation to Mr. Allen's testimony in Section III.B., to Mr. Montgomery's testimony in Section IV.B., and to Mr. Korman's testimony in V.B., above, are reasserted and incorporated here and apply to the provisions listed below.

Accordingly, the City objects to and moves to strike Mr. Blackhurst's following testimony in accordance with TRE 401:

- Page 7, line 8, beginning with "The purpose" through line 14 in its entirety;
- Page 8, line 3 through page 13, line 5 in its entirety;
- Page 13, line 10 through page 14, line 20 in its entirety; and
- Page 15, line 20 through page 16, line 4 in its entirety.

B. Inadmissible Opinion Testimony.

Additionally, the City objects to the significant portions of Mr. Blackhurst's testimony that are not within his personal knowledge, and no foundation has been laid for him to assert his opinion as an expert witness as to GVSUD property rendered useless or valueless as a result of decertification or to legislative intent under TRE 701. Although Mr. Blackhurst boasts a robust background of knowledge of regulatory processes involving retail water facilities, Mr. Blackhurst fails to demonstrate that he has any education, knowledge, training or experience in identifying property that will be rendered useless or valueless as a result of decertification, that he is an attorney qualified to interpret laws or regulations, that he has any expertise in

determining legislative or regulatory intent, that he has personal knowledge of such legislative or regulatory intent, that he is qualified by experience to testify how the Commission would interpret “property”, or any other relevant experience in the matters on which he opines.

Accordingly, the City objects to and moves to strike that portion of Mr. Blackhurst’s testimony that asserts an opinion relating to legal interpretations in accordance with TRE 701, specifically:

- Page 7, line 17 through line 19 in its entirety;
- Page 8, line 3 through line 13 in its entirety;
- Page 11, line 1 through line 15 in its entirety;
- Page 12, line 4 through page 13, line 5 in its entirety;
- Page 13, line 10 through line 22 in its entirety;
- Page 14, line 1 through line 7, in its entirety;
- Page 15, line 1 through page 16, line 4 in its entirety;
- Page 16, line 6 through line 16 in its entirety; and
- Page 17, line 1 through line 13 in its entirety.

C. Leading Questions.

The City objects to leading questions posed by counsel to Mr. Blackhurst pursuant to TRE 611(c) and moves to strike the corresponding testimony from Mr. Blackhurst. The leading arguments related to Mr. Korman’s testimony in Section V.C., above, are reasserted and incorporated here and apply to the provisions listed below. Accordingly, the City objects to and moves to strike the following questions and the corresponding testimony in accordance with TRE 611(c):

- Page 13, line 10 through line 18 in its entirety; and

- Page 13, line 20 through page 14, line 7 in its entirety.

VII. CONCLUSION

For the foregoing reasons, the City of Cibolo respectfully requests that its Objections to the Prefiled Direct Testimonies and exhibits of David “Pat” Allen, Garry Montgomery, P.E., CFM, Joshua M. Korman, and Stephen Blackhurst, P.E., be sustained and that its motion to strike such testimony and exhibits be granted. The City of Cibolo requests that it be granted such other relief to which it has shown itself entitled.

Respectfully submitted,

**LLOYD GOSSELINK ROCHELLE &
TOWNSEND, P.C.**
816 Congress Avenue, Suite 1900
Austin, Texas 78701
(512) 322-5800
(512) 472-0532 (Fax)



DAVID J. KLEIN
State Bar No. 24041257
dklein@lglawfirm.com

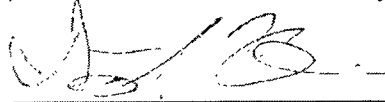
CHRISTIE DICKENSON
State Bar No. 24037667
cdickenson@lglawfirm.com

ASHLEIGH K. ACEVEDO
State Bar No. 24097273
aacevedo@lglawfirm.com

ATTORNEYS FOR THE CITY OF CIBOLO

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 9th day of November, 2016, to the parties of record.

A handwritten signature in black ink, appearing to read 'D. Klein', is written over a horizontal line.

DAVID J. KLEIN

PUC DOCKET NO. 46140
SOAH DOCKET NO. 473-16-6049.WS

RECEIVED

2016 SEP 23 PM 1:31

CITY OF LAMPASAS NOTICE OF
INTENT TO PROVIDE WATER
SERVICE TO AREA DECERTIFIED
FROM KEMPNER WATER SUPPLY
CORPORATION IN LAMPASAS
COUNTY

§
§
§
§
§

PUBLIC UTILITY COMMISSION
OF TEXAS

PUBLIC UTILITY COMMISSION
STATION 1000

PRELIMINARY ORDER

On July 8, 2016, the City of Lampasas filed notice of its intent to provide retail water service to an approximately 149-acre tract of land that was decertified from Kempner Water Supply Corporation's water certificate of convenience and necessity (CCN) no. 10456 in Docket No. 45778.¹ Lampasas's notice filing automatically initiated this proceeding for a determination of what compensation, if any, is owed to Kempner for property rendered useless or valueless.²

On July 20, 2016, Kempner moved to intervene in the case and notified the Commission ALJ that Lampasas did not seek an agreement with Kempner on a single appraiser.³ On August 30, 2016, the Commission referred this case to the State Office of Administrative Hearings (SOAH). Commission Staff, Kempner, and Lampasas timely filed requested issues.

There have been only a few cases of this type referred by the Commission to SOAH.⁴ While the Commission requests that the case be expedited to the extent possible, the Commission recognizes it is unlikely that SOAH can complete a hearing and issue a proposal for decision (PFD)

¹ *Petition of the Lampasas Economic Development Corporation to Amend Kempner Water Supply Corporation's Certificate of Convenience and Necessity No. 10456 by Expedited Release in Lampasas County*, Docket No. 45778, Order (Jul. 7, 2016).

² TWC § 13.254(d); 16 TAC § 24.113(i).

³ Kempner's Motion to Intervene (Jul. 20, 2016).

⁴ See *Zipp Road Utility Company, LLC's Notice of Intent to Provide Sewer Service to Area Decertified from Guadalupe-Blanco River Authority in Guadalupe County*, Docket No. 45679, Notice of Intent (Mar. 1, 2016); *City of Celina's Notice of Intent to Provide Water and Sewer Service to Area Decertified from Aqua Texas, Inc. in Denton County*, Docket No. 45848, Notice of Intent (Apr. 12, 2016); and *City of Midlothian's Notice of Intent to Provide Water Service to Land Decertified from Mountain Peak Special Utility District in Ellis County*, Docket No. 46120, Notice of Intent (Jul. 1, 2016).

within the directory 90-day timeframe provided by Texas Water Code (TWC) § 13.254(e). In its preliminary order in Docket No. 45679, the Commission established the process below that is intended to satisfy the substantive requirements of TWC § 13.254 and 16 TAC § 24.113.⁵

After appropriate discovery, the SOAH ALJ should hold a hearing on the first phase of this docket and determine what property has been rendered useless or valueless. The ALJ should issue a PFD on that issue to allow the Commission to make the determination that is required under TWC § 13.254(d): what property has been rendered useless or valueless as a result of the decertification. The Commission will then issue an interim order to memorialize that determination.

After the Commission issues the interim order, there will be a determination of compensation based on the value of the property the Commission has determined to have been rendered useless or valueless. If appraisals are necessary and if the Commission appoints a third-party appraiser under TWC § 13.254(g-1) because the parties are unable to agree on a single appraiser, then the case may be returned to SOAH for a hearing on the second phase of this matter, particularly if the compensation determination is contested and becomes a fact-intensive inquiry. If the case is returned to SOAH for a second phase, the Commission will issue a supplemental preliminary order addressing that phase.

After conclusion of the second phase, whether or not the second phase is referred to SOAH, the Commission will issue a final order regarding compensation for property rendered useless or valueless as a result of the decertification.

I. Issue to be Addressed

After reviewing the pleadings submitted by the parties, the Commission identifies the following issue that must be addressed in this docket:

1. What property, if any, has been rendered useless or valueless to Kempner by the decertification granted in Docket No. 45778?⁶ TWC § 13.254(d); 16 TAC § 24.113(h).

⁵ *Zipp Road Utility Company, LLC's Notice of Intent to Provide Sewer Service to Area Decertified from Guadalupe-Blanco River Authority in Guadalupe County*, Docket No. 45679, Preliminary Order (Jul. 20, 2016).

⁶ Docket No. 45778, Order (Jul. 7, 2016).

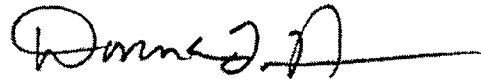
This list of issues is not intended to be exhaustive. The parties and the ALJ are free to raise and address any issues relevant in this docket that they deem necessary, subject to any limitations imposed by the ALJ or by the Commission in future orders issued in this docket. The Commission reserves the right to identify and provide to the ALJ in the future any additional issues or areas that must be addressed.

II. Effect of Preliminary Order

This Order is preliminary in nature and is entered without prejudice to any party expressing views contrary to this Order before the SOAH ALJ at hearing. The SOAH ALJ, upon his or her own motion or upon the motion of any party, may deviate from this Order when circumstances dictate that it is reasonable to do so. Any ruling by the SOAH ALJ that deviates from this Order may be appealed to the Commission. The Commission will not address whether this Order should be modified except upon its own motion or the appeal of a SOAH ALJ's order. Furthermore, this Order is not subject to motions for rehearing or reconsideration.

SIGNED AT AUSTIN, TEXAS the 23rd day of September 2016.

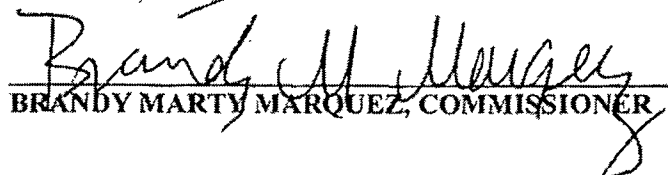
PUBLIC UTILITY COMMISSION OF TEXAS



DONNA L. NELSON, CHAIRMAN



KENNETH W. ANDERSON, JR., COMMISSIONER



BRANDY MARTY MARQUEZ, COMMISSIONER

DOCKET NO. 45702

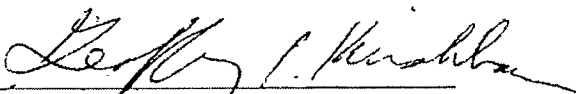
APPLICATION OF THE CITY OF	§	BEFORE THE PUBLIC UTILITY
CIBOLO FOR SINGLE CERTIFICATION	§	
IN INCORPORATED AREA AND TO	§	
DECERTIFY PORTIONS OF GREEN	§	COMMISSION OF TEXAS
VALLEY SPECIAL UTILITY	§	
DISTRICT'S SEWER CERTIFICATE OF	§	
CONVENIENCE AND NECESSITY IN	§	
GUADALUPE COUNTY	§	

**GREEN VALLEY SUD'S RESPONSE TO CIBOLO'S FIRST REQUESTS FOR
ADMISSION AND REQUESTS FOR INFORMATION**

To: City of Cibolo, Texas, by and through its attorneys of record, David Klein and Christie Dickenson, Lloyd Gosselink, 816 Congress Ave., Suite 1900, Austin, Texas 78701.

Green Valley Special Utility District ("Green Valley SUD") provides its response to City of Cibolo's First Requests for Admission and Requests for Information to Green Valley SUD. Green Valley SUD stipulates that the following response to requests for information may be treated by all parties as if the answer was filed under oath.

Respectfully submitted,

By: 
Paul M. Terrill III
State Bar No. 00785094
Geoffrey P. Kirshbaum
State Bar No. 24029665
TERRILL & WALDROP
810 W. 10th 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 20, 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

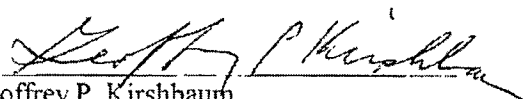
via fax to: (512) 472-0532

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

RESPONSE TO REQUESTS FOR ADMISSION

Cibolo RFA 1-1 Admit that on March 8, 2016, GVSUD had no existing retail sewer customers within the boundaries of its sewer CCN No. 20973.

RESPONSE: Admit

Cibolo RFA 1-2 Admit that on March 8, 2016, GVSUD had no existing sewer infrastructure within the boundaries of its sewer CCN No. 20973.

RESPONSE: Deny

Cibolo RFA 1-3 Admit that on March 8, 2016, GVSUD had no existing retail sewer customers within the area colored in light blue in Attachment A to the City's Application, which is attached hereto as Attachment 1.

RESPONSE: Admit

Cibolo RFA 1-4 Admit that on March 8, 2016, GVSUD had no existing sewer infrastructure within the area colored in light blue in Attachment 1.

RESPONSE: Admit

Cibolo RFA 1-5 Admit that on March 8, 2016, GVSUD had not entered into any agreement regarding the design or construction of sewer infrastructure within the boundaries of its sewer CCN No. 20973.

RESPONSE: Deny

Cibolo RFA 1-6 Admit that on March 8, 2016, GVSUD did not have any existing loans or other debt obligations relating to the design or construction of sewer infrastructure.

RESPONSE: Deny

Cibolo RFA 1-7 Admit that between August 18, 2015 and May 30, 2016, GVSUD did not receive any requests for retail sewer service from landowners within the area colored light blue in Attachment 1.

RESPONSE: Admit

Cibola RFA 1-8 Admit that on March 8, 2016, GVSUD had no contractual obligations to provide retail sewer service to landowners within the area colored in light blue in Attachment 1.

RESPONSE: Deny

RESPONSE TO REQUEST FOR INFORMATION

Cibolo RFI 1-1 If any of GVSUD's property may be rendered useless or valueless by single sewer certification as requested by the City, please identify such property.

RESPONSE: GVSUD has retained a qualified independent appraiser to investigate, identify, and value GVSUD's property that will be rendered useless or valueless by Cibolo's requested single certification as described in this request. The appraiser has not completed his appraisal report yet, but it will be filed with the PUC on June 28, 2016 as agreed with Cibolo. GVSUD intends for that report to provide information responsive to this request, but GVSUD does not have this information at this time.

Prepared by: Pat Allen, General Manager - Green Valley Special Utility District
Sponsored by: Pat Allen, General Manager - Green Valley Special Utility District

Cibolo RFI 1-2 Please provide GVSUD's most recent planning, engineering, or other reports that describe GVSUD's current sewer system and any proposed changes.

RESPONSE: Please see GVSUD 000001-947 and GVSUD 0002352-2551.

Prepared by: Pat Allen, General Manager - Green Valley Special Utility District
Sponsored by: Pat Allen, General Manager - Green Valley Special Utility District

Cibolo RFI 1-3 Please provide a map of GVSUD's sewer system indicating the parts of the system within the area colored light blue in Attachment 1.

RESPONSE: Please see GVSUD 000001-731 and GVSUD 000877-947.

Prepared by: Pat Allen, General Manager - Green Valley Special Utility District
Sponsored by: Pat Allen, General Manager - Green Valley Special Utility District

Cibolo RFI 1-4 Please provide the total gallons of raw wastewater treated by GVSUD, by month, for the full calendar years of 2014 and 2015, and for the partial calendar year of January-April 2016.

RESPONSE: 0 gallons.

Prepared by: Pat Allen, General Manager - Green Valley Special Utility District
Sponsored by: Pat Allen, General Manager - Green Valley Special Utility District

Cibolo RFI 1-5 Please provide the total gallons treated by GVSUD, by month, for retail sewer customers within the area colored light blue in Attachment 1 for the

full calendar years of 2014-2015, and for the partial calendar year of January-April 2016.

RESPONSE: 0 gallons.

Prepared by: Pat Allen, General Manager - Green Valley Special Utility District
Sponsored by: Pat Allen, General Manager - Green Valley Special Utility District

Cibolo RFI 1-6 Please provide GVSUD's total number of retail sewer customers, by month, for calendar years 2014-2015, and for calendar year 2016 to date.

RESPONSE: 0 retail sewer customers.

Prepared by: Pat Allen, General Manager - Green Valley Special Utility District
Sponsored by: Pat Allen, General Manager - Green Valley Special Utility District

Cibolo RFI 1-7 Please provide GVSUD's total number of retail sewer customers, by month, for the past two years for the retail sewer customers within the area colored light blue in Attachment 1, including their locations on GVSUD's system.

RESPONSE: 0 retail sewer customers.

Prepared by: Pat Allen, General Manager - Green Valley Special Utility District
Sponsored by: Pat Allen, General Manager - Green Valley Special Utility District

Cibolo RFI 1-8 Please provide a copy of GVSUD's current retail sewer rates.

RESPONSE: GVSUD has not yet adopted retail sewer rates.

Prepared by: Pat Allen, General Manager - Green Valley Special Utility District
Sponsored by: Pat Allen, General Manager - Green Valley Special Utility District

Cibolo RFI 1-9 Please provide a list of all loans currently outstanding associated with GVSUD's wastewater facilities, including terms, annual principal and interest payments, etc. Please provide copies of all loan documents supporting such loans.

RESPONSE: Green Valley Special Utility District Water System Revenue Bonds, Series 2003; \$500,000 outstanding debt amount at end of fiscal year 9/30/2015. *See also* GVSUD 000948-001196.

Prepared by: Pat Allen, General Manager - Green Valley Special Utility District
Sponsored by: Pat Allen, General Manager - Green Valley Special Utility District

Cibolo RFI 1-10 Please provide a detailed asset listing of GVSUD's sewer facilities within the area colored in light blue in Attachment 1, as well as the assets that support the identified wastewater facilities (including lift stations, interceptors, etc.), that includes:

- A description and the location of facilities in GVSUD's system
- Original or purchase cost
- Capacity
- Date placed in service
- To the extent known the financing vehicles used to purchase the wastewater facilities

RESPONSE:

1. Description of the location of facilities on GVSUD's system:

GVSUD purchased approximately 65 acres to construct a regional treatment facility. The discharge location is at 3930 Linne Road, Seguin, Guadalupe County, Texas 78155.

2. Original or purchase cost:

The property was purchased for \$ 325,000.00.

3. Capacity: As described in the approved draft permit from the Texas Commission on Environmental Quality (TCEQ).

The applicant has applied to the Texas Commission on Environmental Quality (TCEQ) for a new permit to authorize the discharge of treated domestic wastewater at an annual average flow not to exceed 0.25 million gallons per day (MGD) in the Interim I phase, an annual average flow not to exceed 2.5 MGD in the Interim II phase, and an annual average flow not to exceed 5.0 MGD in the Final phase. The proposed wastewater treatment facility will serve proposed developments within the District's Certified Wastewater service area.

4. Date Placed in Service:

Facility construction to begin pending final permit approval from TCEQ.

5. Financing Vehicles:

For completion of its wastewater impact projects, GVSUD is considering financing from the Texas Water Development Board, United States Department of Agriculture Rural Development, and GVSUD selling Bonds pending TCEQ Bond application

approval. The WWTP site property purchase was funded with cash from GVSUD's water revenues.

Please see GVSUD 002593; GVSUD 000861-947; GVSUD 002598-2606. GVSUD will also supplement this response with its appraiser's report to be filed in this docket.

Prepared by: Pat Allen, General Manager - Green Valley Special Utility District
Sponsored by: Pat Allen, General Manager - Green Valley Special Utility District

Cibolo RFI 1-11 Please provide copies of any wholesale wastewater treatment agreements that GVSUD is a party to that are currently in effect, including amendments.

RESPONSE: After a diligent search, GVSUD has not identified any documents responsive to this request.

Prepared by: Pat Allen, General Manager - Green Valley Special Utility District
Sponsored by: Pat Allen, General Manager - Green Valley Special Utility District

Cibolo RFI 1-12 Please provide a copy of GVSUD's CCN maps as filed with the PUC (or TCEQ or other predecessor agency).

RESPONSE: Please see GVSUD 001197-1225.

Prepared by: Pat Allen, General Manager - Green Valley Special Utility District
Sponsored by: Pat Allen, General Manager - Green Valley Special Utility District

Cibolo RFI 1-13 Please provide a complete and full description of GVSUD's existing wastewater treatment facilities.

RESPONSE: Please see GVSUD 000732-834; GVSUD 001229-1256; GVSUD 002593; GVSUD 000861-947; and GVSUD 002598-2606. GVSUD will also supplement this response with its appraiser's report to be filed in this docket.

Prepared by: Pat Allen, General Manager - Green Valley Special Utility District
Sponsored by: Pat Allen, General Manager - Green Valley Special Utility District

Cibolo RFI 1-14 Please provide a copy of any existing operation and maintenance contracts for GVSUD's sewer facilities.

RESPONSE: After a diligent search, GVSUD has not identified any documents responsive to this request.

Prepared by: Pat Allen, General Manager - Green Valley Special Utility District
Sponsored by: Pat Allen, General Manager - Green Valley Special Utility District

Cibolo RFI 1-15 Please provide a copy of GVSUD's most recent sewer cost of service and rate design study.

RESPONSE: After a diligent search, GVSUD has not identified any documents responsive June 20, 2016 to this request. GVSUD has not yet prepared such a study. However, GVSUD plans to do so as appropriate before setting its retail sewer rates.

Prepared by: Pat Allen, General Manager - Green Valley Special Utility District
Sponsored by: Pat Allen, General Manager - Green Valley Special Utility District

Cibolo RFI 1-16 Please provide a copy of GVSUD's current wastewater or sewer system master plan and/or capital improvement plan.

RESPONSE: Please see GVSUD 000001-731.

Prepared by: Pat Allen, General Manager - Green Valley Special Utility District
Sponsored by: Pat Allen, General Manager - Green Valley Special Utility District

Cibolo RFI 1-17 Please provide a copy of GVSUD's 2014 and 2015 audited financials. If audited financials are not available, please provide internal financials.

RESPONSE: Please see GVSUD 002256- 2351.

Prepared by: Pat Allen, General Manager - Green Valley Special Utility District
Sponsored by: Pat Allen, General Manager - Green Valley Special Utility District

Cibolo RFI 1-18 Please provide a copy of GVSUD's approved budget for its current and previous fiscal year.

RESPONSE: Please see GVSUD 002200-2207.

Prepared by: Pat Allen, General Manager - Green Valley Special Utility District
Sponsored by: Pat Allen, General Manager - Green Valley Special Utility District

Cibolo RFI 1-19 Please provide GVSUD's budget vs. actual, by line-item, for its prior fiscal year.

RESPONSE: Please see GVSUD 002200-2255.

Prepared by: Pat Allen, General Manager - Green Valley Special Utility District

Sponsored by: Pat Allen, General Manager - Green Valley Special Utility District

Cibolo RFI 1-20 Please provide copies of any correspondence related to GVSUD's sewer system within the last two years between GVSUD and the following entities:

- Texas Commission on Environmental Quality
Public Utility Commission of Texas
Texas Water Development Board
United States Environmental Protection Agency
- United States Department of Agriculture

RESPONSE: Please see GVSUD 001257-1978 and GVSUD 002594-002597.

Prepared by: Pat Allen, General Manager - Green Valley Special Utility District

Sponsored by: Pat Allen, General Manager - Green Valley Special Utility District

Cibolo RFI 1-21 Please provide an estimate of GVSUD's reasonable attorney's fees and consultant fees related to this docket.

RESPONSE: GVSUD has retained a qualified independent appraiser to investigate, identify, and value GVSUD's property that will be rendered useless or valueless by Cibolo's requested single certification as described in this request. The appraiser has not completed his appraisal report yet, but it will be filed with the PUC on June 28, 2016 as agreed with Cibolo. GVSUD intends for that report to provide information responsive to this request, but GVSUD does not have this information at this time.

Prepared by: Pat Allen, General Manager - Green Valley Special Utility District

Sponsored by: Pat Allen, General Manager - Green Valley Special Utility District

Cibolo RFI 1-22 Please provide a copy of any wastewater permits or authorizations issued by the TCEQ to GVSUD pertaining to the provision of wastewater service.

RESPONSE: Please see GVSUD 002953; GVSUD 000861-947; GVSUD 002598-2606.

Prepared by: Pat Allen, General Manager - Green Valley Special Utility District

Sponsored by: Pat Allen, General Manager - Green Valley Special Utility District

Cibolo RFI 1-23 If your answer to Cibolo RFA 1-1 is "deny," please provide any documentation in your possession that provides a basis for your answer.

RESPONSE: Not applicable

Prepared by: Pat Allen, General Manager - Green Valley Special Utility District
Sponsored by: Pat Allen, General Manager - Green Valley Special Utility District

Cibolo RFI 1-24 If your answer to Cibolo RFA 1-2 is "deny," please provide any documentation in your possession that provides a basis for your answer.

RESPONSE: Please see GVSUD 000001-731; GVSUD 000732-834; GVSUD 001229-1256; GVSUD 002532-2511.

Prepared by: Pat Allen, General Manager - Green Valley Special Utility District
Sponsored by: Pat Allen, General Manager - Green Valley Special Utility District

Cibolo RFI 1-25 If your answer to Cibolo RFA 1-3 is "deny," please provide any documentation in your possession that provides a basis for your answer.

RESPONSE: Not applicable.

Prepared by: Pat Allen, General Manager - Green Valley Special Utility District
Sponsored by: Pat Allen, General Manager - Green Valley Special Utility District

Cibolo RFI 1-26 If your answer to Cibolo RFA 1-4 is "deny," please provide any documentation in your possession that provides a basis for your answer.

RESPONSE: Not applicable.

Prepared by: Pat Allen, General Manager - Green Valley Special Utility District
Sponsored by: Pat Allen, General Manager - Green Valley Special Utility District

Cibolo RFI 1-27 If your answer to Cibolo RFA 1-5 is "deny," please provide any documentation in your possession that provides a basis for your answer.

RESPONSE: Please see GVSUD 001229-1256 and GVSUD 001979-1981.

Prepared by: Pat Allen, General Manager - Green Valley Special Utility District
Sponsored by: Pat Allen, General Manager - Green Valley Special Utility District

Cibolo RFI 1-28 If your answer to Cibolo RFA 1-6 is “deny,” please provide any documentation in your possession that provides a basis for your answer.

RESPONSE: Please see GVUSD 000948-001196.

Prepared by: Pat Allen, General Manager - Green Valley Special Utility District
Sponsored by: Pat Allen, General Manager - Green Valley Special Utility District

Cibolo RFI 1-29 If your answer to Cibolo RFA 1-7 is “deny,” please provide any documentation in your possession that provides a basis for your answer.

RESPONSE: Not applicable.

Prepared by: Pat Allen, General Manager - Green Valley Special Utility District
Sponsored by: Pat Allen, General Manager - Green Valley Special Utility District

Cibolo RFI 1-30 If your answer to Cibolo RFA 1-8 is “deny,” please provide any documentation in your possession that provides a basis for your answer.

RESPONSE: Please see GVSUD 002552-2592.

Prepared by: Pat Allen, General Manager - Green Valley Special Utility District
Sponsored by: Pat Allen, General Manager - Green Valley Special Utility District

DOCKET NO. 45702

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

**GREEN VALLEY SPECIAL UTILITY DISTRICT'S
 BATES NUMBER LOG**

Document #	Description	Responsive to
GVUSD 000001-731	Green Valley Special Utility District's Wastewater Master Plan	2, 3, 16, 24
GVSUD 000732-834	GVSUD's Application for a TPDES Permit	2, 13, 24
GVUSD 000835-860	November 12, 2015 City of Cibolo's Formal Comments on TPDES Application	2
GVSUD 000861-876	Notice of Application and Preliminary Decision for TPDES Permit	2, 10, 13, 22
GVSUD 000877-947	Draft TPDES Permit from TCEQ	2, 3, 10, 13, 22
GVSUD 000948-1196	USDA Loan Documents - \$584,000 Green Valley Special Utility District Revenue Bonds Series 2003	9, 28
GVSUD 001197-1225	CCN Area Maps and Metes and Bounds for Green Valley Special Utility District	12
GVSUD 001226-1228	Interlocal Agreement between the City of Marion and Green Valley Special Utility District	
GVSUD 001229-1237	Unimproved Property Contract - 65 acres on Linne Road	13, 24, 27
GVSUD 001238-1240	Payment for 65 acres	13, 24, 27
GVSUD 001241	Resolution of Green Valley Special Utility District's Board of Directors regarding purchase of 65 acres	13, 24, 27

GVSUD 001242-1249	Correction Warranty Deed - Murphey v. Green Valley Special Utility District for 45.689 acres	13, 24, 27
GVSUD 001250-1256	Correction Warranty Deed - Murphey v. Green Valley Special Utility District for 19.311 acres	13, 24, 27
GVSUD 001257-1292	Various e-mails between River City Engineers and TCEQ staff members	20
GVSUD 001293-1341	May 1, 2015 Response to TCEQ comments on TPDES Application	20
GVSUD 001342-1378	Various e-mails between River City Engineers and TCEQ staff members	20
GVSUD 001379	May 3, 2016 USDA Letter to Green Valley Special Utility District	20
GVSUD 001380-1383	June 17, 2016 Green Valley Special Utility District letter to TCEQ regarding WWTP Permit Application	20
GVSUD 001384-1978	Various documents filed at the Public Utility Commission related to Project No 45702	20
GVSUD 001979-1981	September 15, 2014 River City Engineering Professional Service Proposal for Wastewater Planning, Site Acquisition, and Permitting	27
GVSUD 002200-2203	2014-2015 Green Valley Special Utility District Annual Budget	18, 19
GVSUD 002204-2207	2015-2016 Green Valley Special Utility District Annual Budget	19
GVSUD 002208-2255	Green Valley Special Utility District's Monthly Budgeting Reports for October 2014 to September 2015	19
GVSUD 002256-2303	Green Valley Special Utility District's 2014 Audit	17
GVSUD 002304-2351	Green Valley Special Utility District's 2015 Audit	17
GVSUD 002352-2367	IH-10 Industrial Park Feasibility Study	2
GVSUD 002368-2381	Woods of St. Claire Feasibility Study	2
GVSUD 002382-2511	2014 Water Master Plan	2

GVSUD 002512-2551	Green Valley Special Utility District's Planning Documents - Cost Estimates, Quantity Summaries, and Schematics and Plans for Proposed Wastewater Treatment Plant	2
GVSUD 002552-2592	Green Valley Special Utility District's By-laws and Operating Procedures	30
GVSUD 002593	Sewer CCN	10, 13
GVSUD 002594-2597	Various correspondence with TWDB and USDA	20
GVSUD 002598-2606	May 18, 2015 Admin Complete Letter from the TCEQ	10, 13
GVSUD 002607-2609	Green Valley Special Utility District's Ledger of Wastewater Expenses to Date	

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 §

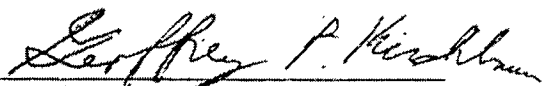
BEFORE THE PUBLIC UTILITY
PUBLIC UTILITY COMMISSION
FILING CLERK
COMMISSION OF TEXAS

**GREEN VALLEY SUD'S RESPONSE TO CIBOLO'S
SECOND REQUESTS FOR ADMISSION**

To: City of Cibolo, Texas, by and through its attorneys of record, David Klein and Christie Dickenson, Lloyd Gosselink, 816 Congress Ave., Suite 1900, Austin, Texas 78701.

Green-Valley Special Utility District ("Green Valley SUD") provides its response to City of Cibolo's Second Requests for Admission to Green Valley SUD.

Respectfully submitted,

By: 
Paul M. Terrill III
State Bar No. 00785094
Geoffrey P. Kirshbaum
State Bar No. 24029665
TERRILE & WALDROP
810 W. 10th 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 October 10, 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

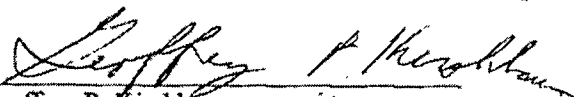
via fax to: (512) 472-0532

ATTORNEY FOR APPLICANT

Landón 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

RESPONSE TO REQUESTS FOR ADMISSION

Cibolo RFA 2-1 Admit that GVSUD's 2014 Water Master Plan is the most recent comprehensive planning and/or engineering document for GVSUD's water system.

RESPONSE: Admit

Cibolo RFA 2-2 Admit that GVSUD's 2006 Wastewater Master Plan is the most recent comprehensive planning and/or engineering document for GVSUD's wastewater system.

RESPONSE: Deny

Cibolo RFA 2-3 Admit that GVSUD does not possess a Texas Pollutant Discharge Elimination System ("TPDES") permit that has been approved by the Texas Commission on Environmental Quality.

RESPONSE: Admit

Cibolo RFA 2-4 Admit that GVSUD has not submitted designs to the Texas Commission on Environmental Quality for a wastewater treatment facility.

RESPONSE: Admit

Cibolo RFA 2-5 Admit that GVSUD has not submitted designs to the Texas Commission on Environmental Quality for a wastewater collection system.

RESPONSE: Admit

Cibolo RFA 2-6 Admit that GVSUD has not submitted designs to the Texas Commission on Environmental Quality for a wastewater collection system that could be installed to serve the area colored in light blue in Attachment A to the City's Application, which is attached hereto as Attachment I.

RESPONSE: Admit

Cibolo RFA 2-7: Admit that GVSUD does not have final approval from the Texas Commission on Environmental Quality of its designs for a wastewater treatment facility.

RESPONSE: Admit

Cibolo RFA 2-8 Admit that GVSUD does not have final approval from the Texas Commission on Environmental Quality of its designs for a wastewater collection system.

RESPONSE: Admit

Cibolo RFA 2-9 Admit that GVSUD does not have final approval from the Texas Commission on Environmental Quality of its designs for a wastewater collection system that could be installed to serve the area colored in light blue in Attachment A to the City's Application, which is attached hereto as Attachment 1.

RESPONSE: Admit

Cibolo RFA 2-10 Admit that all or a portion of the 65 acres of land purchased by GVSUD outside of the area designated for single sewer CCN certification in the Application will be rendered useless and valueless upon decertification.

RESPONSE: Deny

Cibolo RFA 2-11 Admit that in the event of decertification, GVSUD intends to amend its pending TPDES permit application to address the decreased service area.

RESPONSE: Cannot admit or deny. GVSUD will make a determination on this issue if decertification occurs before GVSUD receives the TPDES Permit.

Cibolo RFA 2-12 Admit that GVSUD's TPDES Permit Application, styled as Application for TPDES Permit No. WQ0015360001, pending at the TCEQ, includes the area colored in light blue in Attachment A to the City's Application, which is attached hereto as Attachment 1 in the service area of that application.

RESPONSE: Admit

Cibolo RFA 2-13 Admit that GVSUD intends to treat raw wastewater generated within the area colored in light blue in Attachment A to the City's Application, which is attached hereto as Attachment 1, with wastewater treatment plant that is contemplated in the GVSUD application pending at the TCEQ, styled as Application for TPDES Permit No. WQ0015360001.

RESPONSE: Admit

Cibolo RFA 2-14 Admit that a portion of the bond proceeds from GVSUD's Water System Revenue Bonds, Series 2003, have been used to design or construct wastewater infrastructure.

RESPONSE: Deny

Cibolo RFA 2-15 Admit that none of the bond proceeds from GVSUD's Water System Revenue Bonds, Series 2003, have been used to design or construct any wastewater infrastructure.

RESPONSE: Admit

Cibolo RFA 2-16 Admit that GVSUD anticipates growth in its wastewater service area beyond that portion to be decertified.

RESPONSE: Admit

Cibolo RFA 2-17 Admit that GVSUD's capital costs for planning, designing, and constructing the proposed wastewater treatment facility will be impacted upon decertification.

RESPONSE: Deny

Cibolo RFA 2-18 Admit that Cibolo Creek Municipal Authority is a political subdivision of the state of Texas.

RESPONSE: Admit

Cibolo RFA 2-19 Admit that on September 20, 2016, GVSUD had no existing retail sewer customers within the boundaries of its sewer CCN No 20973.

RESPONSE: Admit

Cibolo RFA 2-20 Admit that on March 8, 2016, GVSUD had no existing sewer infrastructure within the area colored in light blue in Attachment A to the City's Application, which is attached hereto as Attachment 1.

RESPONSE: Admit

Cibola RFA 2-21 Admit that on September 20, 2016, GVSUD had no existing sewer infrastructure within the area colored in light blue in Attachment A to the City's Application, which is attached hereto as Attachment 1.

RESPONSE: Admit

Cibola RFA 2-22 Admit that on September 20, 2016, GVSUD had no existing retail sewer customers within the area colored in light blue in Attachment A to the City's Application, which is attached hereto as Attachment 1.

RESPONSE: Admit

Cibola RFA 2-23 Admit that on September 20, 2016, GVSUD had no existing sewer infrastructure within the area colored in light blue in Attachment 1.

RESPONSE: Admit

Cibola RFA 2-24 Admit that on March 8, 2016, GVSUD had not entered into any agreements regarding the design or construction of sewer infrastructure within the area colored in light blue in Attachment A to the City's Application, which is attached hereto as Attachment 1.

RESPONSE: Deny

Cibola RFA 2-25 Admit that on September 20, 2016, GVSUD had not entered into any agreements regarding the design or construction of sewer infrastructure within the area colored in light blue in Attachment A to the City's Application, which is attached hereto as Attachment 1.

RESPONSE: Deny

Cibola RFA 2-26 Admit that between May 31, 2016 and September 20, 2016, GVSUD did not receive any requests for retail sewer service from landowners within the area colored in light blue in Attachment A to the City's Application, which is attached hereto as Attachment 1.

RESPONSE: Admit

Cibola RFA 2-27 Admit that on March 8, 2016, GVSUD had no contracts with landowners or residents within the area colored in light blue in Attachment A to the City's

Application, which is attached hereto as Attachment 1, to provide retail sewer service to such landowners or residents within the area colored in light blue in Attachment A to the City's Application, which is attached hereto as Attachment 1.

RESPONSE: Admit

Cibolo RFA 2-28 Admit that between September 20, 2011 and September 20, 2016, GVSUD has never received a request from the City to transfer any wastewater infrastructure to the City.

RESPONSE: Admit

Cibolo RFA 2-29 Admit that between September 20, 2011 and September 20, 2016, GVSUD has never received a request from the City to transfer any personal property to the City.

RESPONSE: Admit

Cibolo RFA 2-30 Admit that between September 20, 2011 and September 20, 2016, GVSUD has never received a request from the City to transfer any real property to the City.

RESPONSE: Admit

Cibolo RFA 2-31 Admit that Cibolo Creek Municipal Authority treats raw wastewater.

RESPONSE: Admit

Cibolo RFA 2-32 Admit that GVSUD's filed an appraisal report with the Public Utility Commission on June 28, 2016.

RESPONSE: Admit