

State Office of Administrative Hearings

Kristofer S. Monson
Chief Administrative Law Judge

August 14, 2025

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**RE: SOAH Docket Nos. 582-25-02903, 582-25-02905; TCEQ Docket
Nos. 2024-1401-DIS, 2024-1406-DIS; *In re: Applications of Treasure
Island Laguna Azure, LLC for Creation of Grayson County Municipal
Utility District Nos. 6A and 6B***

Dear Parties:

Please find attached a Proposal for Decision in this consolidated case. Any party may, within 20 days after the date of issuance of the PFD, file exceptions or briefs. Any replies to exceptions, briefs, or proposed findings of fact shall be filed within 30 days after the date of issuance on the PFD. 30 Tex. Admin. Code § 80.257.

All exceptions, briefs, and replies along with certification of service to the above parties and the ALJ shall be filed with the Chief Clerk of the TCEQ electronically at <http://www14.tceq.texas.gov/epic/eFiling/> or by filing an original and seven copies with the Chief Clerk of the TCEQ. Failure to provide copies may be grounds for withholding consideration of the pleadings.

CC: Service List

BEFORE THE STATE OFFICE OF ADMINISTRATIVE HEARINGS

**IN RE: APPLICATIONS OF TREASURE ISLAND LAGUNA
AZURE, LLC FOR CREATION GRAYSON COUNTY
MUNICIPAL UTILITY DISTRICT NOS. 6A AND 6B**

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BEFORE THE
STATE OFFICE OF ADMINISTRATIVE
HEARINGS

IN RE: APPLICATIONS OF TREASURE ISLAND LAGUNA
AZURE, LLC FOR CREATION GRAYSON COUNTY
MUNICIPAL UTILITY DISTRICT NOS. 6A AND 6B

PROPOSAL FOR DECISION

This matter concerns two municipal utility district (MUD) creation petitions (Petitions) submitted to the Texas Commission on Environmental Quality (TCEQ or Commission) by Treasure Island Laguna Azure, LLC (Applicant). After consideration of all evidence and testimony presented in this matter, the State Office of Administrative Hearings (SOAH) Administrative Law Judge (ALJ) finds that a preponderance of the evidence shows that Applicant has met its burden of proof and therefore recommends granting the Petitions for the creation of Grayson County MUD Nos. 6A and 6B.

I. NOTICE, JURISDICTION, AND PROCEDURAL HISTORY

Notice and jurisdiction were undisputed and are set out in the Findings of Fact and Conclusions of Law without further discussion.

<u>Applicant:</u>	Natalie Scott, Derek Seal, and Byran J. Moore
<u>Protestant City of Van Alstyne (City):</u>	Emily W. Rogers, Stefanie P. Albright, Joshua D. Katz, and Sara Labashosky
<u>TCEQ Executive Director (ED):</u>	Harrison Malley, Kayla Murray
<u>Office of Public Interest Counsel (OPIC):</u>	Josiah Mercer
<u>SOAH ALJ :</u>	Vasu Behara
<u>Referral to SOAH:</u>	September 12, 2024
<u>Notice of Hearing Issued:</u>	October 11, 2024
<u>Preliminary Hearing:</u>	November 12, 2024
<u>Hearing Date:</u>	April 29, 2025 (via Zoom)
<u>Record Close Date:</u>	June 20, 2025

II. PROJECT DESCRIPTION AND BACKGROUND

The proposed MUDs are part of an overall development of around 1,128.71 acres (Property), consisting of cropland or pasture with the exception of a residential structure and a few outbuildings. The Property was acquired in November 2021 for purposes of developing a residential community, with an anticipated buildout of 3,221 single-family residential lots, multi-family apartment homes, several commercial establishments, a recreational laguna, amenities covering

several acres, and a school. Applicant estimates that the entire project will cost approximately \$206,420,000 (\$180,310,000 for water, wastewater, and drainage and \$26,110,000 for roads).

The Property is within City's extraterritorial jurisdiction (ETJ) in Grayson County, Texas. Applicant complied with the requirement to submit a request for water and sewer service where a proposed MUD would be located within the ETJ of a city. The 120-day period for reaching a mutually agreeable contract for water and sewer service expired without contracts for such service. Applicant then filed its Petitions for the creation of the proposed MUDs, which were received by the Commission on March 17, 2022. All notice requirements were met and one hearing request was received from City during the comment period, which ended on January 27, 2023. By a letter dated September 12, 2024, Petitioner requested consolidation of the Petitions and direct referral to SOAH.

The cases were consolidated and a hearing on the merits was held in March 2025, which lasted roughly thirty minutes and involved the cross-examination of one Applicant witness, James Wiegert. Pursuant to the parties' agreement and as directed by the ALJ at the hearing on the merits, briefing by the parties was to address the requirements of Texas Water Code section 54.021. The threshold question before the ALJ is whether the creation of the proposed MUDs is feasible, practicable, and necessary, and whether the land in the project to be included within the MUDs would be benefitted. OPIC limited the scope of its analysis to the water and sewer regionalization issues it viewed as most pertinent to its recommendation in light of the evidence presented, while the remaining parties addressed all issues. The ED and

OPIC recommend approval of Petitions. Applicant carries the burden of proof by a preponderance of the evidence to demonstrate that its Petitions comply with all relevant statutory requirements as outlined by Texas Water Code section 54.021.¹

III. DISCUSSION

A. APPLICABLE LAW

A MUD may be created under and subject to the authority, conditions, and restrictions of Article XVI, Section 59 of the Texas Constitution, Chapters 49 and 54 of the Texas Water Code, and the Commission’s administrative rules found at 30 Texas Administrative Code chapter 293. The purposes of a MUD include the control and distribution of storm water, floodwater, and the water of rivers and streams for irrigation and “all other useful purposes”; reclamation and irrigation or drainage of lands; and the preservation of water and other natural resources of the state.² For the Commission to grant a petition for a MUD, the petition must be sufficient; the proposed district must be feasible and practicable; the land and the property to be included in the district must be benefited by creation of the district; and there must be public necessity or need for the district.³

Generally, no land within the corporate limits of a city or within the ETJ of a city shall be included in a district unless the city grants its written consent. A request

¹ 30 Tex. Admin. Code § 80.17(a), .117(a)-(b).

² Tex. Water Code § 54.012.

³ Tex. Water Code §§ 54.014, .021; 30 Tex. Admin. Code § 293.11(a), (d).

for consent must be signed by a majority in value of the holders of title of the land within the proposed district as indicated by the county tax rolls. The request shall include a description of the land in metes and bounds or lot and block number, and shall state the general nature of the work proposed to be done, the necessity for the work, and the estimated cost of the project. If the city with jurisdiction fails to provide its consent within 90 days after receipt of the written request, a majority of the electors in the area proposed to be included in the district or the owner or owners of 50 percent or more of the land to be included may request that the city make the water or sanitary sewer service contemplated to be provided by the district available (to the land within the proposed district). If the city and the requestors fail to execute a mutually agreeable contract providing for the water or sanitary sewer service requested within 120 days after receipt of the petition, the requestors may petition the Commission for creation of the district.⁴

The Commission shall grant the petition if it conforms to the requirements of Texas Water Code section 54.015 and the project is feasible, practicable, necessary, and would be a benefit to the land to be included in the district.⁵ Otherwise, the Commission shall deny the petition.⁶ If the Commission finds that not all of the land proposed to be included in the district will be benefited by the creation of the district,

⁴ Tex. Water Code § 54.016(a)-(d); Tex. Loc. Gov't Code § 42.042(a), (f).

⁵ Tex. Water Code § 54.021(a).

⁶ Tex. Water Code § 54.021(d).

the Commission shall exclude all land which is not benefited from the proposed district and shall redefine the proposed district's boundaries accordingly.⁷

In determining if the project is feasible, practicable, necessary, and beneficial to the land included in the district, the Commission shall consider:

1. the availability of comparable service from other systems, including but not limited to water districts, municipalities, and regional authorities;
2. the reasonableness of projected construction costs, tax rates, and water and sewer rates; and
3. whether or not the district and its system and subsequent development within the district will have an unreasonable effect on the following:
 - (A) land elevation;
 - (B) subsidence;
 - (C) groundwater level within the region;
 - (D) recharge capability of a groundwater source;
 - (E) natural run-off rates and drainage;
 - (F) water quality; and
 - (G) total tax assessments on all land located within a district.⁸

⁷ Tex. Water Code § 54.021(c).

⁸ Tex. Water Code § 54.021(b).

Each requirement is described below with emphasis on specific issues raised in the parties' briefing. Uncontested issues are addressed more fully in the Findings of Fact section contained in the Proposed Order.

B. AVAILABILITY OF COMPARABLE SERVICES FROM OTHER SYSTEMS (TEX. WATER CODE § 54.021(B)(1))

In determining whether a project is feasible, practicable, necessary, and would be a benefit to the land included in the district, the Commission shall consider the availability of comparable service from other systems, including but not limited to water districts, municipalities, and regional authorities.⁹ A creation application shall contain an investigation and evaluation of the availability of comparable service from those other systems.¹⁰

Based on the following evidence, the ALJ concludes that Applicant has met its burden of proof to demonstrate that the proposed MUDs are necessary to provide the proposed services that would otherwise be unavailable:

- The Preliminary Engineering Reports show that the proposed MUDs are not located within any city limits or in proximity to an existing facility with the necessary capacity or infrastructure to serve the project.¹¹ As a result,

⁹ Tex. Water Code § 54.021(b)(1).

¹⁰ 30 Tex. Admin. Code § 293.11(d)(5)(G).

¹¹ See APP-JW1 (Wiegert Direct) at 00150-52; *see also* ED-JT-5 (Preliminary Engineering Report for Grayson County MUD No. 6A) at 0047, 0083-84; ED-JT-6 (Preliminary Engineering Report for Grayson County MUD No. 6B) at 0145, 0182-84.

Applicant chose to self-provide water and wastewater services to the project through a stand-alone public water system.¹²

- While the Property is within the water Certificate of Convenience and Necessity (CCN) of South Grayson Special Utility District (SUD) and Marilee SUD, neither SUD has the water supply capacity or permanent wastewater treatment capacity to service the project and neither has served the area previously.¹³ As a result, Applicant has received approval for decertification from the CCNs.¹⁴
- Applicant had discussions with City regarding water and wastewater service to the District; however, no mutually agreeable contract was reached.¹⁵ The City offered to provide water and wastewater services conditioned on terms that were inconsistent with Applicant's goals, such as annexation; therefore, Applicant declined.¹⁶
- As OPIC described, City effectively denied water and wastewater services by requiring annexation in return for service.¹⁷ Additionally, City's engineers did not provide Applicant with information about City's wastewater infrastructure.¹⁸

¹² See generally APP-ZI1 (Ipour Direct) at 00004:8-00016:14; see also generally APP-ZI3 (City's Conditional "Will Serve" Letter for Water and Wastewater Service) at 0025, through APP-ZI15B (City's Discovery Responses to Requests for Admission Nos. 35-56) at 00123-25.

¹³ See ED-JT-3 (Executive Director's Technical Memo Grayson County MUD 6A) at 0021; ED-JT-4 (Executive Director's Technical Memo Grayson County MUD 6B) at 0033.

¹⁴ See APP-ZI1 (Ipour Direct) at 00008:21-00009:2.

¹⁵ See APP-ZI1 (Ipour Direct) at 00006:20-00007:19; see also APP-JW1 (Wiegert Direct) at 0152.

¹⁶ See APP-ZI1 (Ipour Direct) at 00007:7-20, 00012:23-31; see generally APP-ZI3 (Email Correspondence re: City's Wastewater Infrastructure).

¹⁷ See OPIC's Closing Arg. at 12.

¹⁸ See APP-JW1 (Wiegert Direct) at 00152; see also APP-ZI11 (June 24, 2024, Letter to TCEQ re: Alternatives, with attachments) at 00089.

Despite diligently investigating alternatives for service, no other entity was able to provide water and wastewater services.¹⁹ Accordingly, the proposed MUDs will provide municipal services including, water supply and distribution system, wastewater collection and treatment, a storm drainage collection and detention system, and major thoroughfare and collector roadways.²⁰

**C. REASONABLENESS OF CONSTRUCTION COSTS, TAX RATES,
AND WATER AND SEWER RATES (TEX. WATER CODE
§ 54.021(B)(2))**

Texas Water Code section 54.021(b)(2) requires the Commission to consider “the reasonableness of projected construction costs, tax rates, and water and sewer rates” when determining if a project is feasible and practicable.²¹

Applicant asserts that the projected construction costs are reasonable, that the proposed water and sewer rates are reasonable, and that the contemplated District tax rates are equal to or less than the standards set by the Commission under its economic feasibility rules. The ALJ finds that Applicant has met its burden of proof to demonstrate that the proposed MUDs’ construction costs, tax rates, and water and sewer rates are reasonable. Each factor is considered independently below.

¹⁹ See APP-ZI1 (Ipour Direct) at 00008:9-19; *see also* APP-ZI1 (Ipour Direct) at 00004:8-00014:14; ED-JT-1 (Taack Direct) at 0012:11-16; ED’s Closing Arg. at 5.

²⁰ See ED-JT-3 (Executive Director’s Technical Memo Grayson County MUD 6A) at 0021; ED-JT-4 (Executive Director’s Technical Memo Grayson County MUD 6B) at 0033.

²¹ Tex. Water Code § 54.021(b)(2).

1. Reasonableness of Projected Construction Costs

For the Commission to approve a MUD, it must consider the projected construction costs required to ensure the practicability and benefit of the project.²² The Commission has held that the reasonableness of costs should be considered at the time a petition was submitted and does not consider future projections.²³

The City does not raise any specific issues regarding the calculation of the proposed costs; instead, it criticizes Applicant's construction cost comparisons, arguing that Wiegert compared the projected construction costs from 2022 with *current*, rather than *then-current*, construction costs.²⁴ In other words, City argues that Wiegert failed to perform a cost comparison to prices "at the time the Application was presented."²⁵ The City's argument incorrectly and narrowly interprets Wiegert's testimony. Wiegert testified that Applicant "prepared a cost estimate based on current costs in a review for the engineering report and then compared that to what was in the original report" ²⁶ Accordingly, Wiegert specifically included an evaluation of construction costs as presented in the Applications, and then he went further to compare those costs to current

²² *Id.*

²³ *Petition for the Creation of Highland Lakes Municipal Utility District No. 1 of Ellis County*, SOAH Docket No. 582-22-07138; TCEQ Docket No. 2022-0532-DIS (Commission discussion at open meeting) (Oct. 25, 2023).

²⁴ *See* City's Closing Arg. at 4.

²⁵ *See id.*

²⁶ Tr. 23:17-24 (Wiegert Cross).

construction costs, determining overall there was little difference.²⁷ While comparing the costs of construction between the project at issue and comparable projects from 2022 would be one way to indicate that construction costs are reasonable, it is not the only way to do so.²⁸

City also argues that the construction costs for new water and wastewater facilities—and the infrastructure to support them—were unreasonable because the cost of direct connection to City would be substantially less.²⁹ The potential costs of connection to City, however, are not relevant in considering whether the construction costs are reasonable. Those potential costs pertain to whether there is a comparable service from other systems, addressed above.

Based on the following evidence, the ALJ concludes that Applicant has met its burden of proof to demonstrate that the constructions costs are reasonable.

- Applicant contracted with an outside engineering consultant to prepare a Preliminary Engineering Report (Report) for each proposed MUD, each of which included estimated construction costs.³⁰ Applicant submitted the Reports in its Applications.

²⁷ APP-JW1 (Wiegert Direct) at 0146-47.

²⁸ See, e.g., *Petition for the Creation of Highland Lakes Municipal Utility District No. 1 of Ellis County*, SOAH Docket No. 582-22-07138, TCEQ Docket No. 2022-0532-DIS, Proposal for Decision at 27-28 (June 29, 2023) (determining construction costs were reasonable based on tax rates, water and wastewater rates, and that there was no indication the District would not be made unfeasible by inflation related cost increases).

²⁹ See City Exhibit 1 (McManus Direct) at 7:19-21.

³⁰ ED-JT-5 (Applicant's Engineering Report for MUD No. 6A) at 0043; ED-JT-4 (Applicant's Engineering Report for MUD No. 6B) at 0141.

- Wiegert persuasively opined that the costs projected in the Report are reasonable and “normal and necessary” for a development of this size in the Dallas-Fort Worth area.³¹ Specifically, construction costs “appear reasonable compared to other taxing authorities in the area.”³² ED’s expert witness, Justin Taack, corroborated Wiegert’s evaluation.³³
- Wiegert went further to describe that while some costs have changed since 2022, others remain “very close.”³⁴
- In addition, according to Wiegert, the increased costs can be absorbed by the developer.³⁵ A fifteen percent contingency is built into the construction costs.³⁶

Taken together, the evidence above indicates that Applicant’s estimated construction costs are reasonable.

2. Reasonableness of Projected Tax Rates

To determine the economic feasibility of a project, Texas Water Code Section 54.021(b)(2) and 30 Texas Administrative Code section 293.59 require consideration

³¹ APP-JW1 (Wiegert Direct) at 0145-46; *see also See Petition for Creation of Ellis Ranch Municipal Utility District No. 1*, TCEQ Docket No. 2022-1157-DIS, SOAH Docket No. 582-23-11658, Final Order at 8, Explanation of Changes No. 1 (July 16, 2024).

³² The ED concurred with this assessment, as did OPIC. ED’s Closing Arg. at 6; OPIC’s Closing Arg. at 11. ED-JT-1 (Taack Direct) at 0008.

³³ ED-JT-1 (Taack Direct) at 0008:8-16.

³⁴ APP-JW1 (Wiegert Direct) at 00146.

³⁵ *Id.*

³⁶ ED-JT-3 (Executive Director’s Technical Memo Grayson County MUD 6A) at 0024-25; ED-JT-4 (Executive Director’s Technical Memo Grayson County MUD 6B) at 0036-37.

of the reasonableness of tax rates.³⁷ Specifically, the combined projected tax rate for MUDs in Grayson County cannot exceed \$1.00 for every \$100 valuation.³⁸ The combined projected tax rate includes debt service tax rates and current or proposed district maintenance tax levies, among others.³⁹ When determining the combined projected tax rate of a district's first bond issue, a cash flow analysis should be provided to determine the projected debt service revenue and projected tax rate.⁴⁰ In such a projection, a 90% tax collection rate shall be used.⁴¹

The ALJ finds that by a preponderance of the evidence the proposed tax rates for the proposed MUDs No. 6A and 6B would be reasonable and support economic feasibility.

- For MUD 6A, the assessed value was estimated to be \$905,574,301 and the annual debt service was estimated to be \$7,687,000.
- For MUD 6B, the assessed value was estimated to be \$790,601,136 and the annual debt service was estimated to be \$6,959,000.
- For proposed MUD No. 6A, Applicant presented a debt service tax rate of \$0.87 per \$100 of valuation.⁴² Additionally, Applicant proposed a district maintenance levy of \$0.13 per \$100 valuation, bringing the combined tax rate to the \$1.00 per \$100 valuation limit.

³⁷ 30 Tex. Admin. Code § 293.59; *see also* 30 Tex. Admin. Code § 293.11(d)(5)(F) (requiring projected tax rates and water and wastewater rates to be addressed in preliminary engineering reports).

³⁸ *See* 30 Tex. Admin. Code § 293.59(k)(3).

³⁹ 30 Tex. Admin. Code § 293.59(f).

⁴⁰ 30 Tex. Admin Code § 293.59(k)(2).

⁴¹ 30 Tex. Admin Code § 293.59(k)(2)(C).

⁴² ED-JT-5 (Applicant's Engineering Report for MUD No. 6A) at 0067.

- For proposed MUD No. 6B, Applicant presented a debt service tax rate of \$0.90 per \$100 valuation.⁴³ Additionally, Applicant proposed a district maintenance levy of \$0.10 per \$100 valuation, bringing the combined tax rate to the \$1.00 per \$100 valuation limit.
- Applying the Report's provided numbers, for MUD 6A the result is a projected tax collection rate of \$.94 per \$100 in valuation and for MUD 6B the projected tax collection rate of \$.98 per \$100 in valuation.
- In addition, since the sewer rates presented are below those of the Mustang SUD and the City of Howe, these rates could be increased to make up for the maintenance deficit here while maintaining compliance with the \$1.00 limit.⁴⁴

These tax rates comply with Commission rules and were not contested by the parties. The combined projected tax rates remain below \$1.00 per \$100 in valuation. Because these numbers remain in compliance with 30 Texas Administrative Code section 293.59(k)(3), they are not disqualifying. The \$1.00 per \$100 valuation is comparable to area development projects and in compliance with the Commission rules.⁴⁵ Therefore, the project is considered economically feasible at this taxation rate.

⁴³ ED-JT-6 (Applicant's Engineering Report for MUD No. 6B) at 0165.

⁴⁴ See APP-JW1 (Wiegert Direct) at 0150 (stating that the MUD's maintenance tax revenue, together with water and wastewater rates, would fund the water and wastewater infrastructure. However, even "if higher rates are required to cover treatment ... they would still be competitive" due to the higher rates in the Mustang SUD and the City of Howe).

⁴⁵ See 30 Tex. Admin. Code § 293.59(k)(3).

3. Reasonableness of Projected Water and Sewer Rates

The Texas Water Code and Commission rules require Applicant to demonstrate the reasonableness of water and sewer rates.⁴⁶ Here, the proposed water and sewer rates will vary based on consumption.⁴⁷ The water and sewer rates proposed by Applicant are comparable to those in City.⁴⁸ The water and sewer rates are also lower than in both the nearby Mustang SUD and the City of Howe by two-to-three times.⁴⁹ This indicates a substantial degree of flexibility in pricing while remaining reasonable. Based on this evidence, the ALJ finds by a preponderance of the evidence that both the water and sewer rates are reasonable.

⁴⁶ Tex. Water Code § 54.021(b)(2); 30 Tex. Admin. Code § 293.11(d)(5)(F).

⁴⁷ MUD Nos. 6A and No. 6B have the same proposed water rates and the same proposed sewer rates. As to water rates, the Report defines a flat fee of \$32.00 for the first 10,000 gallons, \$2.90 per 1,000 gallons for the next 10,000 gallons, \$3.30 per 1,000 gallons for the next 5,000 gallons, and \$2.00 per 1,000 gallons beyond 25,000 gallons. As to sewer rates, the Report defines a flat fee of \$32 for the first 10,000 gallons (equating to \$3.20 per 1,000 gallons if the user meets or exceeds 10,000 gallons), \$1.50 per 1,000 gallons for the next 10,000 gallons, \$1.75 per 1,000 gallons for the next 5,000 gallons, and \$2.00 per 1,000 gallons beyond 25,000 gallons. ED-JT-5 (Applicant's Engineering Report for MUD No. 6A) at 0050-51; ED-JT-6 (Applicant's Engineering Report for MUD No. 6B) at 0148-49.

⁴⁸ APP-JW1 (Wiegert Direct) at 0149-50. The Commission's expert testified that the "water and wastewater rates appear reasonable compared to other taxing authorities in the area and meet the requirements and the intent of 30 [Texas Administrative Code] § 293.59." ED-JT-1 (Taack Direct) at 0027.

⁴⁹ APP-JW1 (Wiegert Direct) at 0150.

**D. WHETHER THE PROPOSED DISTRICT WILL HAVE AN
UNREASONABLE EFFECT ON GROUNDWATER LEVELS AND
RECHARGE WITHIN THE REGION (TEX. WATER CODE
§ 54.021(B)(3)(C),(D))**

In determining whether a project is feasible, practicable, necessary, and would be a benefit to the land included in the district, the Texas Water Code requires the Commission to consider whether the proposed district and its system and subsequent development within the district will have an unreasonable effect on groundwater levels within the region and recharge capability of a groundwater source.⁵⁰ The City argues that Applicant has not provided actual studies to show the proposed MUDs will not have an unreasonable effect on groundwater.⁵¹ Further, City notes that a groundwater evaluation prepared by Collier Consulting⁵² was not intended to identify potential impacts to the groundwater levels, but to confirm the sufficiency of groundwater to supply the MUDs.⁵³

The ALJ does not find City's argument persuasive. Wiegert explained that, consistent with Commission precedent, impervious cover from the development of mostly single-family residential lots will not have any greater effect on groundwater

⁵⁰ Tex. Water Code § 54.021(b)(3)(C)-(D).

⁵¹ See City's Resp. to Closing Arg. at 3.

⁵² APP-ZI6 (Collier Report).

⁵³ City Resp. to Closing Arg. at 4. The Commission has affirmed that it will not consider the impacts of a district's potential use of groundwater as a source of water supply for this inquiry. See *Petition for the Creation of Highland Lakes Municipal Utility District No. 1 of Ellis County*, SOAH Docket No. 582-22-07138; TCEQ Docket No. 2022-0532-DIS (Commission discussion at open meeting) (Oct. 25, 2023).

levels or recharge capacity of groundwater in the region than any other similar single-family development in the area.⁵⁴ The following evidence also establishes that the proposed MUDs will not have an unreasonable effect on groundwater levels and recharge capability:

- The TCEQ Technical Memos determined the project should not have an effect on groundwater recharge in the area.⁵⁵ The MUDs are located within the recharge zones for the Trinity and Woodbine aquifers.⁵⁶ However, the MUDs are not significant in relation to the overall size of the recharge zones.⁵⁷
- Presently, the Trinity and Woodbine aquifers contain sufficient levels to supply the proposed development and show no indication of issues regarding levels of recharge.⁵⁸ The development within the MUDs should not change topographical drainage patterns or the aquifers' ability to recharge.⁵⁹

⁵⁴ See APP-JW1 (Wiegert Direct) at 0153; *see also, e.g.*, Order to Grant Petition by Pitt Creek Ranch, LLC for the Creation of Lampasas County Municipal Utility District No. 1, TCEQ Docket No. 2022-1653-DIS, SOAH Docket No. 582-23-16963, Finding of Fact Nos. 54-55, and Conclusion of Law No. 6 (November 12, 2024); Order Granting Petition for Creation of Highland Lakes Municipal Utility District No. 1 of Ellis County, TCEQ Docket No. 2022-0532-DIS, SOAH Docket No. 582-22-07138, Findings of Fact Nos. 36a-37 and Conclusion of Law No. 9 (November 6, 2023); Order Denying Petition for Creation of Shankle Road Municipal Utility District of Ellis County, TCEQ Docket No. 2023-0566-DIS, SOAH Docket No. 582-23-26772, Finding of Fact Nos. 35 and 37 at 5 (November 3, 2024).

⁵⁵ See APP-JW4A (TCEQ ED Technical Memo for MUD No. 6A) at 00805; APP-JW4B (TCEQ ED Technical Memo for MUD No. 6B) at 00817.

⁵⁶ See APP-JW4A (TCEQ ED Technical Memo for MUD No. 6A) at EX. APP-00805; APP-JW4B (TCEQ ED Technical Memo for MUD No. 6B) at 00817.

⁵⁷ See APP-JW4A (TCEQ ED Technical Memo for MUD No. 6A) at 00805; APP-JW4B (TCEQ ED Technical Memo for MUD No. 6B) at 00816-17.

⁵⁸ See APP-JW1 (Wiegert Direct) at 00153.

⁵⁹ See APP-JW1 (Wiegert Direct) at 00153-54.

- The MUDs are located within the Red River Groundwater Conservation District and will adhere to the conservation district's requirements regarding groundwater levels and recharge.⁶⁰

E. WHETHER THE PROPOSED DISTRICT WILL HAVE AN UNREASONABLE EFFECT ON NATURAL RUN-OFF RATES AND DRAINAGE (TEX. WATER CODE § 54.021(B)(3)(E))

In determining whether a project is feasible, practicable, necessary, and would be a benefit to the land included in the district, the Commission shall consider whether the district and its system and subsequent development within the district will have an unreasonable effect on natural run-off rates and drainage.⁶¹ Applicant presented the following evidence on this issue:

- TCEQ Technical Memos show that any significant problems from increased runoff will be prevented by Applicant's proposed drainage and detention systems.⁶² Development plans include a curb and gutter system, underground drainage system, and detention storage in and around the floodplain.⁶³ The Preliminary Engineering Reports found that the existing land conditions are fit to construct infrastructure for runoff and drainage.⁶⁴

⁶⁰ See APP-JW4A (TCEQ ED Technical Memo for MUD No. 6A) at 00805; APP-JW4B (TCEQ ED Technical Memo for MUD No. 6B) at 00816.

⁶¹ Tex. Water Code § 54.021(b)(3)(E).

⁶² See Applicant's Closing Arg. at 29; ED's Closing Arg. at 7.

⁶³ See ED-JT-3 (Executive Director's Technical Memo Grayson County MUD No. 6A) at 0022, ED-JT-4 (ED's Technical Memo Grayson County MUD No. 6B) at 0034.

⁶⁴ See ED-JT-5 (Preliminary Engineering Report for Grayson County MUD No. 6A) at 0047, ED-JT-6 (Preliminary Engineering Report for Grayson County MUD No. 6B) at 0145.

- The development should not significantly change the current drainage patterns.⁶⁵ Specifically, the land remains sloped to the west in District 6A and to the east in District 6B, directing drainage to Whites Creek.⁶⁶
- The projects are substantially like others in the area and will comply with Grayson County, state, and federal regulations.⁶⁷

The City questions if the project requires more than 10% of land allocated to absorb stormwater runoff since the MUDs are located within two FEMA floodplains.⁶⁸ Applicant, however, must only show that flooding issues have been evaluated and overall plans are in place, which can be adjusted in accordance with local requirements.⁶⁹ Similarly, City argues that Applicant did not plan appropriately for the potential impact of dam failure or flows from spill away.⁷⁰ Section 7 of the Preliminary Engineering Report, however, addresses dam safety and critical infrastructure.⁷¹ Further, the TCEQ Technical Memo explained that the dam safety evaluation does not preclude property development.⁷²

⁶⁵ See ED-JT-3 (ED's Technical Memo Grayson County MUD No. 6A) at 0023; ED-JT-4 (ED's Technical Memo Grayson County MUD No. 6B) at 0035; *see also* APP-JW1 (Wiegert Direct) at 00154.

⁶⁶ See ED-JT-5 (Applicant's Engineering Report Grayson County MUD 6A) at 0048, ED-JT-6 (Applicant's Engineering Report Grayson County MUD No. 6B) at 0146.

⁶⁷ See APP-JW1 (Wiegert Direct) at 00143-44, 00155.

⁶⁸ See City Ex. No. 1 at 8:4-9; *see also* ED-JT-3 (Executive Director's Technical Memo Grayson County MUD No. 6A) at 0023; ED-JT-4 (ED's Technical Memo Grayson County MUD No. 6B) at 0035.

⁶⁹ See APP-JW1 (Wiegert Direct) at 00143.

⁷⁰ See City Rep. to Closing Arg. at 4.

⁷¹ See ED-JT-5 (Applicant's Engineering Report Grayson County MUD No. 6A) at 0054; ED-JT-6 (Applicant's Engineering Report Grayson County MUD No. 6B) at 0152.

⁷² See APP-JW1 (Wiegert Direct) at 00144.

Having considered the evidence, the ALJ concludes that Applicant has met its burden of proof to demonstrate that the proposed MUDs will not have an unreasonable effect on natural run-off rates and drainage:

F. WHETHER THE APPLICANT HAS OTHERWISE PROVIDED A COMPLETE JUSTIFICATION FOR THE CREATION OF THE DISTRICT (30 TEX. ADMIN. CODE § 293.11(D)(5)(J))

Commission rules require that the preliminary engineering report include “complete justification for creation of the district supported by evidence that the project is feasible, practicable, necessary, and would be a benefit to the land included in the district.”⁷³ The ALJ concludes that Applicant has met its burden of proof to demonstrate need for the proposed MUDs and that they are necessary to provide the required facilities for the development to meet the market need. The proposed MUDs will benefit residents because Applicant will provide affordable homes, rental communities, and retail parcels at a lower cost than otherwise possible.⁷⁴ MUDs provide long-term, fixed-rate, low-cost, and tax-exempt financing for the services necessary for the project.⁷⁵ As a result, the parcels will be provided at the lowest cost available.⁷⁶ Finally, Applicant has demonstrated strong market demand for the parcels in the proposed project.⁷⁷ Rising demand in the housing market is driven by

⁷³ 30 Tex. Admin. Code § 293.11(d)(5)(J).

⁷⁴ APP-ZI1 (Ipour Direct) at 00019:14-16.

⁷⁵ APP-ZI1 (Ipour Direct) at 0019:9-11.

⁷⁶ APP-ZI1 (Ipour Direct) at 0019:11-13.

⁷⁷ See generally APP-DJ5 (John Burns Data on Recent Trends); APP-DJ6 (Zonda Data on Recent Trends).

an increasing population change and a robust job market.⁷⁸ Demand is not anticipated to be negatively affected by the slightly higher mortgage rates seen in 2024.⁷⁹

IV. TRANSCRIPT COSTS

The Commission may assess reporting and transcription costs to one or more of the parties participating in a proceeding, and when doing so, must consider the following factors:

- the party who requested the transcript;
- the financial ability of the party to pay the costs;
- the extent to which the party participated in the hearing;
- the relative benefits of the various parties of having a transcript; and
- any other factor which is relevant to a just and reasonable assessment of costs.⁸⁰

Additionally, the Commission will not assess reporting or transcription costs against the ED or OPIC because they are statutory parties who are precluded by law from appealing the Commission's decision.⁸¹ Applicant proposes that the transcript

⁷⁸ APP-DJ1 (Jarvis Direct) at 00834:17-00835:2.

⁷⁹ APP-DJ1 (Jarvis Direct) at 00835:13-15.

⁸⁰ 30 Tex. Admin. Code § 80.23(d)(1).

⁸¹ 30 Tex. Admin. Code § 80.23(d)(2); *see* Tex. Water Code §§ 5.228, .273, .275, .356.

costs should be allocated equally between it and City. City requests that the transcript costs be assessed entirely to Applicant.

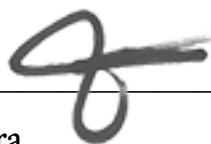
With respect to the factors in 30 Texas Administrative Code section 80.23(d)(1), the ALJ finds that no party requested the transcript because it was required by SOAH. City is a local governmental entity. Applicant is a company in the business of subdividing, selling, and developing land for profit. All parties fully participated in the hearing, albeit a very short proceeding, and benefitted from the transcript. Based on these factors, the ALJ recommends that the Commission assess the transcription costs equally between City and Applicant.

V. CONCLUSION

For the reasons stated above, the ALJ recommends the Commission approve the Petitions and create Grayson County MUD Nos. 6A and 6B. In further support of this recommendation, the ALJ has prepared the Findings of Fact and Conclusions of Law incorporated with the accompanying proposed Order of the Commission.

SIGNED AUGUST 14, 2025.

ALJ Signature:

A handwritten signature in black ink, appearing to be 'Vasu Behara', written over a horizontal line.

Vasu Behara

Administrative Law Judge

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

**AN ORDER GRANTING THE APPLICATIONS BY
TREASURE ISLAND LAGUNA AZURE, LLC
FOR THE CREATION OF GRAYSON COUNTY MUD NO. 6A
SOAH DOCKET NO. 582-25-02903
TCEQ DOCKET NO. 2024-1401-DIS
AND
FOR THE CREATION OF GRAYSON COUNTY MUD NO. 6B
SOAH DOCKET NO. 582-25-02905
TCEQ DOCKET NO. 2024-1406-DIS**

On _____, the Texas Commission on Environmental Quality (TCEQ or Commission) considered the applications of Treasure Island Laguna Azure, LLC (Applicant or Treasure Island) for the creation of Grayson County Municipal Utility District Nos. 6A and 6B. A Proposal for Decision (PFD) was prepared by Vasu Behara, Administrative Law Judge (ALJ) with the State Office of Administrative Hearings (SOAH), who conducted an evidentiary hearing concerning the applications on April 29, 2025, via Zoom videoconferencing.

After considering the ALJ's PFD, the Commission adopts the following Findings of Fact and Conclusions of Law.

I. FINDINGS OF FACT

Application

1. On March 17, 2022, the Texas Commission on Environmental Quality (TCEQ or Commission) received two petitions (Petitions) from Treasure Island for the creation of Grayson County Municipal Utility District (MUD) Nos. 6A and 6B.

2. TCEQ determined that the Petitions were administratively complete on March 23, 2022.
3. TCEQ mailed notice of the Petitions to Grayson County, the City of Van Alstyne (City), and to the state senator and state representative for that jurisdiction.
4. On December 19, 2022, notice of the Petitions was posted in the Grayson County Courthouse, where legal notices are posted in Grayson County.
5. Notice of the Petitions was published on December 21, 2022, and December 28, 2022, in *The Herald Democrat*.
6. TCEQ received timely hearing requests on the Petitions filed by City.
7. With agreement of City, on September 12, 2024, Applicant requested a direct referral of the Petitions to SOAH for a contested case hearing.
8. On November 12, 2024, SOAH ALJ Vasu Behara held a preliminary hearing, at which time the SOAH ALJ admitted the jurisdictional exhibits into evidence, took jurisdiction, and named Applicant, City, Staff for the TCEQ Executive Director (ED), and the Office of Public Interest Counsel (OPIC) as parties.
9. The hearing on the merits was held April 29, 2025, before SOAH ALJ Behara via Zoom videoconference. Applicant was represented by attorney Derek Seal. City was represented by attorneys Stefanie P. Albright and Sara Labashosky. The ED was represented by attorney Harrison “Cole” Malley and Kayla Murray. OPIC was represented by attorney Josiah Mercer. The record closed after written closing arguments were filed by June 6, 2025, and responses to written closing arguments were filed by June 20, 2025.

Petition for Consent and Request for Service

10. Proposed Grayson County MUD No. 6A is approximately 596.73 acres located in Grayson County, Texas.

11. Proposed Grayson County MUD No. 6B is approximately 531.98 acres located in Grayson County, Texas.
12. Proposed Grayson County MUDs 6A and 6B (Districts) are part of an overall development (Development) consisting of a total of 1,128.71-acres (Property).
13. Proposed Grayson County MUD 6A is bound by proposed Grayson County MUD 6B to the west, is south of West Farmington Road, and west of State Highway 75 (Sam Rayburn Freeway), within City's extraterritorial jurisdiction (ETJ).
14. Proposed Grayson County MUD 6B bound by proposed Grayson County MUD 6A to the east, is south of West Farmington Road, and east of Farmington Road, within City's ETJ.
15. Initially the Property was owned by various landowners (Previous Landowners) who submitted a petition for consent to City for the creation of proposed Grayson County MUD No. 6 which would have comprised the entire 1,128.71-acre Development.
16. The petition for consent was received by City on April 23, 2021.
17. The petition for consent was published in *The Herald Democrat* on April 6, 2021.
18. City did not provide a written response to the Previous Landowners regarding the petition for consent within 90 days.
19. City did not consent, by resolution or ordinance, to the inclusion of the land within the Districts.
20. Applicant complied with the requirements to submit a petition for consent where a proposed MUD would be located within the ETJ of a city.
21. On August 23, 2021, City received from the Previous Landowners a petition for water and sewer services for proposed Grayson County MUD No. 6.
22. In November 2021, Applicant acquired title to the Property.

23. Applicant complied with the requirements to submit a request for water and sewer service where a proposed MUD would be located within the ETJ of a city.
24. The 120-day period for reaching a mutually agreeable contract for water and sewer service expired without contracts for such service.
25. Thereafter, Applicant filed its Petitions for the creation of the Districts, which were received by the Commission on March 17, 2022.
26. On July 9, 2024, a Revised Petition for Grayson County MUD No. 6A was executed by Applicant, which owns title to majority in value of land to be included within the proposed MUD. The Revised Petition was subsequently filed with TCEQ and only changed one or more temporary directors compared to the initial Petition.
27. On September 5, 2024, a Revised Petition for Grayson County MUD No. 6B was executed by Applicant, which owns title to majority in value of land to be included within the proposed MUD. The Revised Petition was subsequently filed with TCEQ and only changed one or more temporary directors compared to the initial Petition.

Availability of Comparable Service from Other Systems

28. Applicant has taken steps to establish water service for the Property to be located within the Districts by establishing a stand-alone public water system (PWS) approved by TCEQ, and by obtaining authorization to produce groundwater from the Property within the Development.
29. The water facilities and infrastructure by which the Districts would provide water service to the Property to be included within the Districts are described in sufficient detail in a Preliminary Engineering Report which is part of the Petitions.
30. Water service will be available from the Districts for the Property to be included within the Districts.

31. Applicant has taken steps to establish stand-alone sewer service from the Districts for the Property to be located within the Districts, including by pursuing a TCEQ wastewater permit to provide for wastewater treatment capacity.
32. The water facilities and infrastructure by which the Districts would provide sewer service to the Property to be included within the Districts are described in sufficient detail in a Preliminary Engineering Report which is part of the Petition.
33. Sewer service will be available for the Property to be included within the Districts.

Service from City

34. City does not have a water or a sewer certificate of convenience and necessity (CCN) with service territory covering any part of the Property to be included within the Districts.
35. City has no exclusive right pursuant to a CCN to provide either water or sewer service to the Property to be included within the Districts.
36. Applicant has no obligation pursuant to a CCN to seek either water or sewer service from the City for the Property to be included within the Districts.
37. As part of a potential development agreement, Applicant and City have discussed terms by which City might provide water or sewer service, or both, to the Property to be located within the Districts.
38. City would only provide water or sewer service, or both, if Applicant had agreed to annexation and other conditions which were unacceptable to Applicant and would not be consistent with the needs for the Development.
39. Applicant and City have been unable to mutually agree on terms by which City might provide water or sewer, or both, to the Property to be located within the Districts.

40. Unless Applicant and City can arrive at a mutually agreeable contract for water services for the Property to be included in the Districts, water service is unavailable from City.
41. Unless Applicant and City can arrive at a mutually agreeable contract for sewer services for the Property to be included in the Districts, sewer service is unavailable from City.
42. Negotiations for the development agreement and for water and sewer service, or both, to be provided by City have ended.
43. With negotiations for service ended, neither water nor sewer service is available from City.

Water Service from Other Providers

44. A portion of Mustang Special Utility District's (SUD's) water CCN is located within the Property to be located within the Districts.
45. Mustang SUD has agreed to decertify its water CCN from the Property to be located within the Districts.
46. Mustang SUD has agreed for another entity to establish a PWS approved by TCEQ to provide for water service for the Property to be located within the Districts.
47. Water service is not available from Mustang SUD.
48. A portion of South Grayson SUD's water CCN is located within the Property to be located within the Districts.
49. South Grayson SUD has agreed to relinquish its water CCN from the Property to be located within the Districts if another water provider is available.
50. South Grayson SUD has agreed for another entity to establish a PWS approved by TCEQ to provide for water service for the Property to be located within the Districts.

51. Water service is not available from South Grayson SUD.
52. There are no other entities with a water CCN with territory inside the Property to be located within the Districts.
53. There are no other entities which are willing or able to provide water service to the Property to be located within the Districts.
54. Because there is no availability of water service to the Property to be included within the Districts from any other provider, there is no comparable water service.

Sewer Service from Other Providers

55. There are no entities with a sewer CCN with service territory covering any part of the Property to be included within the Districts.
56. There is no entity which has an obligation pursuant to a sewer CCN to provide sewer service to the Property to be included within the Districts.
57. Applicant has no obligation pursuant to a sewer CCN to seek sewer service for the Property to be included within the Districts.
58. Because there is no availability of sewer service to the Property to be included within the Districts from any other provider, there is no comparable sewer service.
59. There are no entities which are willing or able to provide sewer service to the Property to be located within the District.
60. The absence of the availability of comparable service from other systems demonstrates that the Districts are necessary.

Reasonableness of Projected Construction Costs

61. The facilities and infrastructure (Capital Improvements) by which the Districts would provide service to the Property to be included within the

Districts are described in sufficient detail in the Preliminary Engineering Reports which are part of the Petitions.

62. The scope and size of the proposed Capital Improvements are reasonable and necessary to provide the services that will be needed based on a comparison of other similar development projects in the area.
63. None of the Capital Improvements are beyond what would be considered normal and necessary in the area given the size of the Development and the number of single- family residential, commercial and recreational uses it will include.
64. The costs of the Capital Improvements are comparable to other similar developments in the area.
65. The evidence reflects that Applicant's projected construction costs are reasonable.

Reasonableness of Projected Tax Rates

66. The projected tax rate for Grayson County MUD No. 6A is \$0.87 for the debt service tax rate per \$100 valuation based on a total bond issue requirement of \$108,335,000 at a 5.0%, 25-year amortization, a total assessed value of \$905,574,30, and a 98% collection rate.
67. The projected tax rate for Grayson County MUD No. 6B is \$0.90 for the debt service tax rate per \$100 valuation, based on a total bond issue requirement of \$98,085,000 at a 5.0%, 25-year amortization, a total assessed value of \$790,601,136, and a 98% collection rate.
68. The debt service tax rates were determined based on the total bond issue requirements, financing terms, and land valuation determined from the data in the Market Studies included with the Preliminary Engineering Reports.
69. For Grayson County MUD No. 6A, \$0.87 for debt service plus a \$0.13 tax levy for maintenance and operating expenses total a combined proposed District tax rate of \$1.00 per \$100 valuation, which is consistent with TCEQ's rules.

70. For Grayson County MUD No. 6B, \$0.90 for debt service plus a \$0.10 tax levy for maintenance and operating expenses total a combined proposed District tax rate of \$1.00 per \$100 valuation, which is consistent with TCEQ's rules.
71. The underlying basis for the calculations for the debt service tax rate are comparable to other similar development projects in the area.
72. The projected tax rates are reasonable.

Reasonableness of Projected Water and Sewer Rates

73. The proposed water and sewer rates, along with maintenance tax revenue, are sufficient to fund the costs of operating the water and sewer infrastructure for the Districts.
74. Neither water nor sewer service are available from another provider.
75. The proposed water and sewer rates are comparable to City's rates, and lower than rates from other nearby providers.
76. Even if higher rates are required to cover costs, the rates would still be competitive with other providers in the general region, which are two to three times higher.
77. The proposed water and sewer rates are reasonable.

Land Elevation

78. The topography of the land within the Districts ranges from between 720 feet to 830 feet above mean sea level (msl).
79. The Development will be in compliance with insurance requirements of the Department of Housing and Urban Development and in that regard, no major land elevation changes of any type are planned.
80. The need for mass movement of earth or significant changes to elevations or drainage divides is not anticipated for construction.

81. Development of the Districts' systems are not expected to cause overall land elevations other than normally associated with the construction of such systems.
82. Based on the proposed improvements and the topography of the land, a discernible impact land elevation cannot be expected.
83. The Districts, their systems, and subsequent development will not have an unreasonable effect on land elevation and subsidence.

Effect on Subsidence, Groundwater Levels Within the Region, and Recharge Capability of a Groundwater Source

84. Planned water usage is not expected to contribute significantly to the rate of subsidence.
85. The Districts will be located over the Trinity and Woodbine aquifers and over the associated recharge zones, but in light of the overall size of the recharge zones, the development of the Property to be included within the Districts would be insignificant and not expected to affect recharge capability.
86. Groundwater usage would need to comply with the requirements of the Red River Groundwater Conservation District relating to groundwater levels and recharge.
87. Subsidence in the area due to groundwater production has not been documented in the area near the Districts.
88. Almost 125 acres of the Development will be used for detention, drainage, and open space.
89. The impervious cover from the Development of mostly single-family residential lots will not have any greater effect on groundwater levels or recharge capacity of groundwater in the region than any other similar single-family development in the area.

90. The Development will not significantly change current drainage patterns for runoff, whether it be from open space or houses and streets, which would not be expected to impact the recharge capability of any groundwater source.
91. The Districts, their systems, and subsequent development will not have an unreasonable effect on subsidence, the groundwater levels within the region, or recharge capability of a groundwater source.

Effect on Natural Run-off Rates and Drainage

92. The Property to be included within the District is primarily open farmland with clay soil types suitable for construction, and topography ranging from 720 feet to 830 feet above msl.
93. For Grayson County MUD No. 6A, the land naturally slopes westerly, resulting in drainage to West Prong Whites Creek and then in a south direction down Whites Creek.
94. For Grayson County MUD No. 6B, the land naturally slopes easterly, resulting in drainage to West Prong Whites Creek and then in a south direction down Whites Creek.
95. Although development generally increases runoff and drainage, compared to natural conditions, detention improvements will prevent significant problems.
96. Over \$18 million is projected to be spent to address stormwater runoff and drainage, which will include a curb-and-gutter system, an underground drainage system, and detention storage in and around the floodplain to prevent increased runoff and drainage.
97. An additional \$5.9 million is allocated for detention facilities for the overall Development.
98. The planned improvements are substantially similar in scope to the types of improvements for other projects in the area.
99. All development must be implemented in compliance with regulations of Grayson County and other regulatory authorities.

100. An unreasonable effect on flooding, natural runoff rates, or drainage, or an unreasonable impact on natural run-off rates and drainage, can be expected.
101. Planned improvements will mitigate the increased runoff generated by the development prior to leaving the Districts' boundaries.
102. The proposed Districts, the systems, and subsequent development within the proposed Districts will not have an unreasonable effect on natural run-off rates and drainage.

Effect on Water Quality

103. The facilities designed to address natural runoff rates and drainage are also designed to protect water quality by addressing non-point sources.
104. The storm drainage features and detention facility improvements, which also address non-point sources of water pollution, are comparable to similar controls in other comparable developments in the area.
105. During construction, activities will be required to comply with TCEQ's stormwater construction general permit, which requires Stormwater Pollution Prevention Plans and Best Management Practices to prevent erosion and protect water quality.
106. All discharges authorized by a TCEQ wastewater permit will be required to meet TCEQ's surface water quality standards that have been developed to be protective.
107. The Districts, their systems, and subsequent development will not have an unreasonable effect on water quality.

Effect on Total Tax Assessments on All Land Located Within the Districts

108. The projected tax rate of \$1.00 per \$100 valuation for the District falls well within the valuation limit set by TCEQ under its economic feasibility rules.

109. The 2021 projected total taxes included in the Preliminary Engineering Reports are below the generally accepted \$3.00 threshold for developments in the area.
110. Even based on 2024 tax rates, the overlapping tax rates would be within the range of total tax rates for projects in the area.
111. The projected tax rates for the Districts are feasible from a financial perspective.
112. The Districts, their systems, and subsequent development within the Districts will not have an unreasonable effect on total tax assessments on all land located within the Districts.

Feasible, Practicable, Necessary, and Will Benefit All of the Land to be Included in the Districts

113. Sufficient evidence was presented to establish the Districts are feasible, practicable, necessary and will benefit all of the land included in the Districts.

Petition Signature of a Majority in Value of the Landowners

114. Both the Petitions and Revised Petitions for creation of the Districts were executed by Applicant and filed with the Commission.
115. Applicant is the holder of title to the majority in value of land to be included within the proposed Districts.

Appointment of Temporary Directors

116. The Revised Petition for Grayson County MUD No. 6A named Jason K. Ringstad, Jonathan Platt, Cathy Ackmann, Cliff Fielden, and Clara Carona as temporary directors. The Revised Petition attests the temporary directors are all over eighteen years of age, resident citizens of the State of Texas, owners of land subject to taxation within the District, and otherwise qualified to serve as directors of the District under the provisions of the Texas Water Code.

117. The Revised Petition for Grayson County MUD No. 6B named Brian Zelman, Stephen Sedwick, Gerald Abbruzzese, John-Astin Gardere, and Chad Ray as temporary directors. The Revised Petition attests the temporary directors are all over eighteen years of age, resident citizens of the State of Texas, owners of land subject to taxation within the District, and otherwise qualified to serve as directors of the District under the provisions of the Texas Water Code.

Request for Road Powers

118. The Petitions request that TCEQ grant the Districts the authority to provide roads.
119. Applicant provided a preliminary layout as to the known roads and major thoroughfares and a cost estimate of the proposed road facilities.
120. Applicant established that the funding of the road improvements is financially and economically feasible.

Allocation of Transcript Costs

121. Applicant requested and paid for a court reporter for the hearing on the merits as required by the ALJ.
122. All parties had the opportunity to fully participate in the hearing and benefitted from the court reporter's organization of the record exhibits.
123. Applicant consists of a company that owns, maintains, subdivides, and develops land.
124. All parties fully participated.
125. Only City did not waive cross examination of witnesses.
126. All parties benefitted from preparation of a transcript.
127. There was no evidence that Applicant or City is financially unable to pay a share of the costs.

128. The total cost for recording and transcribing the preliminary hearing and the hearing on the merits was \$1,955.
129. Applicant and City should each pay one-half of the transcription costs.

II. CONCLUSIONS OF LAW

1. The Commission has jurisdiction over this matter. Tex. Water Code ch. 49 and 54; Texas Constitution, article XVI, section 59.
2. SOAH has jurisdiction over all matters relating to the conduct of a hearing in these cases, including the preparation of a proposal for decision with findings of fact and conclusions of law. Tex. Gov't Code ch. 2003.
3. Applicant and TCEQ have satisfied all applicable public notice requirements. Tex. Water Code § 49.011; 30 Tex. Admin. Code § 293.12.
4. Applicant carries the burden of proof by a preponderance of the evidence. 30 Tex. Admin. Code §§ 80.17(a), .117(a)-(b).
5. By seeking consent and seeking services, Applicant satisfied the requirements related to requests for service that apply when a District is proposed to be located within the ETJ of a city. Tex. Water Code § 54.016(a)-(d); Tex. Gov't Code § 42.042(a)-(f).
6. Applicant investigated and evaluated the availability of comparable service from other systems and provided sufficient evidence that comparable service is not available for the Districts. Tex. Water Code § 54.021(b)(1); 30 Tex. Admin. Code § 293.11(d)(5)(G).
7. Applicant provided sufficient evidence to establish the reasonableness of its projected construction costs. Tex. Water Code § 54.021(b)(2).
8. The Districts and their systems and subsequent developments will not have an unreasonable effect on: land elevation; subsidence, groundwater levels and recharge within the region; natural run-off rates and drainage; water quality; or total tax assessments on all land located within the district. Tex. Water Code § 54.021(b)(3).

9. Applicant's request for road powers meets all applicable requirements. Tex. Water Code § 54.234; 30 Tex. Admin. Code §§ 293.11(d)(11), .202(b).
10. If the Commission finds that the Petitions conform to the requirements of Texas Water Code section 54.015 and that the project is feasible and practicable and is necessary and would be a benefit to the land to be included in the districts, the Commission shall find so by its order and grant the Petitions. Tex. Water Code § 54.021(a).
11. In determining if the project is feasible, practicable, necessary, and would be a benefit to the land included in the districts, the Commission shall consider: the availability of comparable service from other systems; the reasonableness of projected construction costs, tax rates, and water and sewer rates; and whether the district and its system and subsequent development within the district will have an unreasonable effect on land elevation, subsidence, groundwater level within the region, recharge capability of a groundwater source, natural run-off rates and drainage, water quality, and total tax assessments on all land located within a district. Tex. Water Code § 54.021(b).
12. Sufficient evidence was presented to establish that the project is feasible, practicable, and necessary and would be a benefit to the land included in the Districts. Tex. Water Code § 54.021.
13. Jason K. Ringstad, Jonathan Platt, Cathy Ackmann, Cliff Fielden, and Clara Carona qualify to be temporary directors of Grayson County MUD No. 6A under Texas Water Code § 54.022.
14. Brian Zelman, Stephen Sedwick, Gerald Abbruzzese, John-Astin Gardere, and Chad Ray qualify to be temporary directors of Grayson County MUD No. 6B under Texas Water Code § 54.022.
15. No transcript costs may be assessed against the ED or OPIC because the TCEQ's rules prohibit the assessment of any cost to a statutory party who is precluded by law from appealing any ruling, decision, or other act of the Commission. Tex. Water Code §§ 5.275, .356; 30 Tex. Admin. Code § 80.23(d)(2).

16. Factors to be considered in assessing transcript costs include: the party who requested the transcript; the financial ability of the party to pay the costs; the extent to which the party participated in the hearing; the relative benefits to the various parties of having a transcript; and any other factor which is relevant to a just and reasonable assessment of the costs. 30 Tex. Admin. Code § 80.23(d)(1).
17. Considering the factors in 30 Texas Administrative Code section 80.23(d)(1), an appropriate allocation of transcript costs is to divide them equally between Applicant and City.
18. Applicant's Petitions should be granted.

NOW, THEREFORE, BE IT ORDERED BY THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY, IN ACCORDANCE WITH THESE FINDINGS OF FACT AND CONCLUSIONS OF LAW, THAT:

1. The Petitions for Creation of Grayson County Municipal Utility District Nos. 6A and 6B and the request to acquire road powers are granted.
2. The Districts are created under the terms and conditions of Article XVI, Section 59 of the Texas Constitution and Texas Water Code Chapters 49 and 54.
3. Grayson County MUD No. 6A shall be composed of approximately 596.73 acres located in Grayson County, Texas, all within the ETJ of City, contained in the metes and bounds description in ED's Exhibit ED-JT-5, at 0069-0073.
4. Grayson County MUD No. 6B shall be composed of approximately 531.98 acres located in Grayson County, Texas, all within the ETJ of City, contained in the metes and bounds description in ED's Exhibit ED-JT-6, at 0167-0172.
5. The Districts shall have, and shall be subject to, all of the rights, duties, powers, privileges, authority, and functions conferred and imposed by the

TCEQ and the general laws of the State of Texas relating to municipal utility districts, including road powers under Texas Water Code § 54.234, subject to the requirements of the TCEQ and the general laws of the State of Texas relating to the exercise of such powers.

6. Jason K. Ringstad, Jonathan Platt, Cathy Ackmann, Cliff Fielden, and Clara Carona are named and appointed as temporary directors of Grayson County MUD No. 6A and shall, as soon as practicable after the date of entry of this Order, execute their official bonds and take their official oaths of office. All such bonds shall be approved by the Board of Directors of the District, and each bond and oath shall be filed with the District and retained in its records.
7. Brian Zelman, Stephen Sedwick, Gerald Abbruzzese, John-Astin Gardere, and Chad Ray are named and appointed as temporary directors of Grayson County MUD No. 6B and shall, as soon as practicable after the date of entry of this Order, execute their official bonds and take their official oaths of office. All such bonds shall be approved by the Board of Directors of the District, and each bond and oath shall be filed with the District and retained in its records.
8. The total transcript costs of \$1,955.00 are allocated equally between Applicant and City in the amount of \$977.50 each.
9. All other motions, requests for entry of specific Findings of Fact or Conclusions of Law, and any other requests for general or specific relief, if not expressly granted, are denied.
10. The effective date of this Order is the date the Order is final as provided by 30 Tex. Admin. Code § 80.273 and Texas Government Code § 2001.144.
11. The Commission's Chief Clerk shall forward a copy of this Order to all parties.
12. If any provision, sentence, clause, or phrase of this Order is for any reason held to be invalid, the invalidity of any provision shall not affect the validity of the remaining portions of this Order.

ISSUED:

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Brooke Paup, Chair

For the Commission