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APPLICATION OF THE CITY OF	§	BEFORE THE STATE OFFICE
SCHERTZ TO AMEND A SEWER	§	
CERTIFICATE OF CONVENIENCE	§	
AND NECESSITY UNDER WATER	§	
CODE SECTION 13.255 AND TO	§	OF
DECERTIFY A PORTION OF GREEN	§	
VALLEY SPECIAL UTILITY	§	
DISTRICT'S CERTIFICATE RIGHTS IN	§	
BEXAR COUNTY	§	ADMINISTRATIVE HEARINGS

**CITY OF SCHERTZ'S RESPONSE TO GREEN VALLEY'S OBJECTIONS TO THE  
CITY OF SCHERTZ'S REBUTTAL TESTIMONY AND EXHIBITS AND  
MOTION TO STRIKE**

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ATTORNEYS FOR CITY OF SCHERTZ

March 14, 2017

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TO THE HONORABLE ADMINISTRATIVE LAW JUDGE:

The City of Schertz ("City"), files this Response to Green Valley's Objections to City of Schertz's Rebuttal Testimony and Exhibits and Motion to Strike ("Objections") filed by Green Valley Special Utility District ("GVSUD"), as set forth herein ("Response").

**I. INTRODUCTION**

On September 14, 2016, the Administrative Law Judge ("ALJ") issued his Order No. 2 in this matter, memorializing the purpose of this first phase of the bifurcated hearing process on the City's above-listed application filed under Texas Water Code ("TWC") § 13.255 (the "Application"). Specifically, the ALJ indicated that in this phase of the hearing process, the parties were to address three of the issues listed in the Commission's September 12, 2016 Preliminary Order, identified as Issue Nos. 8-10 ("Referred Issues"). These three issues are as follows:

8. What property, if any, will be rendered useless or valueless to Green Valley by the decertification sought by the City of Schertz in this proceeding?

9. What property of Green Valley, if any, has the City requested to be transferred to it?
10. 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?

The City filed Rebuttal Testimony on February 14, 2017, regarding the Referred Issues, and on February 28, 2017, GVSUD filed objections to the Rebuttal Testimony. Under the ALJ's Order No. 3 in this matter, the deadline for the City to file its Response to the Objections is March 14, 2017; thus, this Response is timely filed. For the reasons provided herein, all of GVSUD's Objections should be overruled and the Motions to Strike denied.

## II. RESPONSE TO GVSUD'S OBJECTIONS<sup>1</sup>

### A. Robert Adams, D.E., P.E.'s Rebuttal Testimony is Proper, Admissible Rebuttal Testimony

Like the objections filed by GVSUD to Mr. Adams's direct testimony, GVSUD's objections to Mr. Adams's rebuttal testimony should be overruled. In his rebuttal testimony, Mr. Adams, D.E., P.E., properly applies his specialized knowledge and expertise regarding utility systems and the Texas Commission on Environmental Quality's ("TCEQ") regulatory framework to rebut the allegations of GVSUD's witnesses in their direct testimony and exhibits.

1. **Mr. Adams's Testimony related to the TCEQ-designated regional wastewater provider is relevant and within the Commission's jurisdiction (Objections 1-3, and 5-9); and is not a collateral attack (Objection 3).**

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<sup>1</sup> The page and line references in GVSUD Objection Nos. 2, 5, 6, 8, and 16 do not actually refer to the purported subject matter and passage indicated by GVSUD and should thus be stricken. However, for the sake of a robust discussion and thorough evaluation of the Rebuttal Testimony, the City must guess and respond to the passages we believe GVSUD intended to reference based on the quoted language and in the context of the Objection.

In its Objections related to Mr. Adams's Rebuttal Testimony, GVSUD continues to make the same arguments it made in its Objections and Motion to Strike Mr. Adams's Direct Testimony: that testimony related to regionalization of wastewater treatment facilities is beyond the jurisdiction of the Commission or ALJs to consider and irrelevant to these proceedings. GVSUD's continued objections, merely attempt to hinder the fact-finder from considering evidence that is fatal to GVSUD's position. The City here responds to those failed arguments in much the same way it has before in this matter.

Contrary to GVSUD's contention, Mr. Adams's expert opinions regarding the application of the state's and TCEQ's regionalization policy with respect to Texas Pollutant Discharge Elimination System ("TPDES") permits, and the Cibolo Creek Municipal Authority's ("CCMA") status as the only entity designated by the TCEQ to plan for and provide wastewater collection and treatment facilities in the area to be decertified, directly impact what GVSUD property can be rendered useless or valueless by the City's Application for decertification. Accordingly, Mr. Adams's opinion that CCMA is the *exclusive* provider of regional wastewater services in CCMA's regional area is relevant to this matter because it provides one of the many reasons why no GVSUD property related to planning, constructing or operating a wastewater treatment plant and system is rendered useless or valueless by the decertification. Mr. Adams's testimony regarding regionalization and his concrete demonstrations showing that GVSUD intends to construct and operate wastewater facilities within CCMA's regional area are threshold considerations relevant to the entire proceeding, and specifically to this limited phase for determining what property is rendered useless or valueless by decertification, if any.

As required by Texas Rule of Evidence ("TRE") 401, Mr. Adams's discussion of regionalization both has a tendency to make the fact that no GVSUD property is rendered useless

or valueless by the Application more probable than it would be without such a discussion and is of consequence in determining the action. As such, this portion of Mr. Adams's testimony and the related exhibits are admissible pursuant to TRE 402. In addition to the other reasons stated by the City's witnesses, if property related to planning to serve the decertified area through a wastewater treatment plant can never have been useful to the decertified area under the theory of regionalization, then such property cannot be rendered useless or valueless by decertification.

Further, Mr. Montgomery's Direct Testimony identifies and discusses parts of the TCEQ Executive Director's ("ED") Response to Public Comments related to GVSUD's TPDES permit application that address this specific regionalization issue,<sup>2</sup> making Mr. Adams's Rebuttal Testimony regarding CCMA's regional area and the Cibolo Creek Watershed<sup>3</sup> directly responsive to Mr. Montgomery's testimony.

The ideas that Your Honor and the Commission should avoid the regionalization issue as one of the many bases to determining that no GVSUD property is rendered useless or valueless to GVSUD by the decertification because (i) the TCEQ has not yet made a decision on this issue and (ii) granting TPDES permits is not within the Commission's jurisdiction should also be rejected. Plus, the City is not making a collateral attack on a TCEQ proceeding as alleged without basis on Objection No. 3. The City is not asking the Commission to make a determination regarding the disposition of GVSUD's TPDES permit application. Rather, the City is providing Your Honor and the Commission with a relevant and legal reason as to why no property of GVSUD is rendered useless or valueless to GVSUD by decertification. In this matter, the Commission has a legislatively imposed duty to consider the reasons why any alleged

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<sup>2</sup> Direct Testimony of Gary Montgomery, P.E., CFM at 20:20-21:9.

<sup>3</sup> Rebuttal Testimony of Robert F. Adams, D.E., P.E. at 7:4-8:9.



GVSUD property would be rendered useless or valueless by decertification.<sup>4</sup> To responsibly discharge that duty, the Commission must consider all relevant evidence. Testimony and evidence tending to show that there is no property that can be rendered useless or valueless is wholly relevant and within the jurisdiction of the Commission and the ALJs and should be considered. The fact that the same regionalization issue pertains to whether GVSUD's TPDES permit should be denied and to whether any property of GVSUD is rendered useless or valueless by the City's Application does not somehow make the argument on regionalization in this case a collateral attack on a decision regarding regionalization in the TPDES contested case hearing.

While it may be true that a *final* determination by TCEQ regarding regionalization in another matter would be something the Commission could properly rely on in making a determination, there is no case law or other reason that a ruling is a condition precedent to the Commission evaluating the relevant evidence presented now. The suggestion that the Commission may rely on the ED's preliminary determination regarding GVSUD's permit application but not evidence and arguments that oppose its issuance, especially with respect to an issue that has been referred to contested case hearing, is also suspect. As an issue referred by the TCEQ to the State Office of Administrative Hearings ("SOAH") for a contested case hearing concerning GVSUD's TPDES permit application, regionalization is certainly an issue that the TCEQ believes is relevant to the analysis of whether that TPDES permit application should be approved or denied. By extension, it is certainly relevant to the analysis of whether any item GVSUD alleges is derived from that currently non-existent permit is property rendered useless or valueless by decertification.

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<sup>4</sup> Tex. Water Code § 13.255 (West 2017).

Likewise, GVSUD's objections disingenuously attempt to dispose of the City's position on regionalization by asserting that the TCEQ Commissioners' initial denial of the City's party status in the TPDES protest somehow makes regionalization irrelevant. Although true, such a determination should have no bearing in considering whether the issue of regionalization affects property rendered useless and valueless in this proceeding. First, the TCEQ Interim Order denying the City party status, attached hereto as **Attachment A**, only stated that the City's hearing request was denied based on its location; the TCEQ Commissioner's never determined that regionalization was not a concern for the City or GVSUD's TPDES permit application. Second, GVSUD failed to mention that on February 14, 2017, two weeks before its objections were filed in this case, the City again sought party status from SOAH, as it is legally entitled to do. At the time the objections were filed, SOAH had not determined that the City was not an affected person. In fact, on March 8, 2017, SOAH issued Order No. 1 in that docket, granting the City party status. The relevant portion of Order No. 1 is attached hereto as **Attachment B**. Therein, the SOAH ALJ explained that the City's relationship with the TCEQ-designated regional entity provides the City with affect person status. In other words, regionalization is a relevant consideration for the City.

Last, Your Honor and the Commission are certainly capable of weighing and forming a recommendation regarding the competing testimony and evidence as to whether regionalization prohibits GVSUD from permitting and constructing a sewerage system in the area to be decertified in this matter. As Your Honor is well aware, the ED's determination in a response to public comments is not a final determination of the Commissioners of the TCEQ. For these reasons, all of GVSUD's objections to Mr. Adams's testimony and exhibits on these bases should be overruled and the motion to strike should be denied.

**2. Mr. Adams's testimony is not legal opinion (Objections 1-3, 5-9).**

Again, GVSUD's above-listed Objections that Mr. Adams's testimony relating to regionalization should be stricken as purely legal opinion should be overruled. As discussed below, regionalization is not a legal concept, Mr. Adams is qualified to provide opinions regarding regionalization, and GVSUD's Objections in this regard again merely attempt to exclude, without merit, evidence that would undermine GVSUD's position.

Mr. Adams is not, nor does he hold himself out to be, an attorney. GVSUD's presumption that only an attorney can express an opinion about a TCEQ policy and its implementation is simply wrong. Just because the regionalization policy is contained in regulations does not automatically make any application of the policy or the regulations legal opinion. A person does not need to be an attorney to read the plain language of statutes and regulations or be familiar with rule or policy and apply that rule or policy. This is particularly true of a wastewater engineer, who must routinely read, evaluate, and apply regulations in the planning, design and construction of a system. In fact, wastewater and other utility engineers look at regulations and policies as much, if not more, than attorneys because regulations – particularly those related to wastewater utilities – are technical, not legal, in nature, and engineers are tasked with ensuring operational compliance with such regulations.

Knowledge of a policy that is codified in a regulation or how it is implemented by an agency does not require legal expertise. An engineer, like Mr. Adams, who has over 30 years of experience in the wastewater utility industry and who has prepared and filed TPDES permit applications, which includes a section specifically related to the regionalization policy, is capable of being knowledgeable of TCEQ's regionalization policy and to have an opinion on the application of that policy. Mr. Adams has already established that he is qualified to express

opinions regarding this experience, what his understanding of TCEQ policies are, and how the TCEQ has implemented the regionalization policies in his experience.

Further, Mr. Adams's Rebuttal Testimony on page 7, line 13 through page 9, line 13 (referred to in GVSUD Objection 5) could not be considered legal opinion by any stretch of the imagination. It is clearly testimony regarding watersheds and the geography of the regions discussed in both the City's and GVSUD's testimony in this matter, which a wastewater engineer with abundant personal knowledge of the applicable region is qualified to discuss. While this testimony and the underlying facts testified to may result in a legal outcome unfavorable to GVSUD's TPDES permit application and this matter, those legal implications do not render Mr. Adams's testimony legal opinion. GVSUD's Objections should be overruled and the motion to strike should be denied.

**3. Relevant Regionalization testimony should not be excluded under TRE 403 (Objections 1-3, 5-9).**

While GVSUD also raises objections to Mr. Adams's regionalization testimony under TRE 403, it again fails to explain the basis for such objections. TRE 403 provides that a 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." Although asserted in its chart of objections, GVSUD never actually explains its basis for asserting that regionalization is irrelevant and thus excludable under TRE 403. Regardless, as discussed in this Subsection II.A.1 and 2, regionalization is one of several significant elements in this phase of the proceeding illustrating that there is no property of GVSUD that can be rendered useless or valueless to GVSUD by the decertification (one of the Referred Issues). As such, Mr. Adams's opinions regarding how the TCEQ has implemented regionalization policies are neither misplaced, given

the issues to be considered in this proceeding, nor premature. Mr. Adams's testimony serves to prove that no GVSUD property can be rendered useless or valueless by the decertification. As such, this testimony has substantial probative value to the issues in this proceeding. Unlike the typical TPDES regionalization policy implemented by TCEQ, for which there are no specific regulations, the regionalization issue in this instance is much more straightforward because there are specific rules in play. Your Honor certainly has the ability to understand and evaluate the issue. As a result, this objection should be overruled and the motion to strike should be denied.

**4. Testimony regarding GVSUD's Water Master Plan and Land Use Map is proper rebuttal testimony (Objection 4).**

In its Objections, GVSUD objects to portions of Mr. Adams's Rebuttal Testimony discussing GVSUD's 2014 Water Master Plan on the grounds that it is "improper rebuttal testimony." While not making formal arguments on this objection, GVSUD claims that in no part of the GVSUD testimony or appraisal does GVSUD "assign value to its Water Master Plan." Additionally, GVSUD claims that this testimony is not relevant to this first phase of these proceedings and is misleading. Such objections should be overruled. Further, if GVSUD desires to stipulate to the fact that GVSUD does not assign value to its Water Master Plan, the City is certainly willing to consider that issue.

Amazingly, regarding GVSUD's "improper rebuttal" objection, the City notes that GVSUD absolutely makes specific references to the Water Master Plan in Mr. Montgomery's direct testimony at page 6, lines 12-13 and in Mr. Allen's testimony at page 6, lines 21-22. Similarly, Mr. Montgomery's direct testimony makes specific reference to the Land Use Map at page 6, line 14. Further, these documents are presented as part of an exhibit and as being relevant to Mr. Korman for preparing GVSUD's appraisal.<sup>5</sup> It is not clear why GVSUD would

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<sup>5</sup> See Direct Testimony of Gary Montgomery, P.E., CFM at 5:2-5.

attach such documents and make sure to include them as exhibits to its testimony if it did not find those exhibits to be relevant to the determination of what property of GVSUD is rendered useless or valueless by decertification. In fact, Mr. Korman states that he based his opinions on what property is rendered useless or valueless by decertification “on all documents attached to or referenced in my testimony.”<sup>6</sup> The 2014 Water Master Plan and the Land Use Map are just two of those documents included in GVSUD-1.

Further, Mr. Montgomery testifies to a typical “Master Planning process” but does not specifically identify or distinguish between a Water or a Wastewater Master Plan.<sup>7</sup> Later in Mr. Montgomery’s testimony, he testifies regarding problems implementing its “Master Plan,” but again does not specify which Master Plan he is referring to.<sup>8</sup> Mr. Montgomery also dedicates a portion of his testimony to describing how this “Master Planning process” also entails creating a map to show the location of other utilities in order to hold meetings with relevant stakeholder groups prior to providing service.<sup>9</sup>

Likewise, Mr. Korman’s direct testimony vaguely discusses “many other wastewater planning activities” and “design-service activities” but never identifies which “planning activities” he considered when determining what property would be rendered useless or valueless by decertification.<sup>10</sup> In fact, the City would argue that GVSUD has never been completely clear on what “planning activities” it considers relevant to this proceeding, and how any such planning is rendered useless or valueless by the decertification sought by the City. Here, Mr. Adams’s

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<sup>6</sup> Direct Testimony of Joshua Korman at 9:15-16.

<sup>7</sup> Direct Testimony of Gary Montgomery, P.E., CFM at 10:20; and further description of the process at 11:1-12:11.

<sup>8</sup> *Id.* at 15:21-16:2.

<sup>9</sup> *Id.* at 10:5-11.

<sup>10</sup> Direct Testimony of Joshua Korman at 13:1. *See also*, at 13:3-5.

testimony on page 18, line 21 through page 20, line 3 rebuts whether the Water Master Plan is a planning document and then whether it is a wastewater planning document and provides a similar analysis for the Land Use Map on page 21 line 18 through page 22, line 21. As a result, such testimony is proper rebuttal. Therefore, GVSUD's objection should be overruled. GVSUD should not be rewarded for being intentionally vague. In the alternative, if GVSUD would like to withdraw any and all testimony regarding the 2014 Water Master Plan and Land Use Map or any "investment" it made in the Water Master Plan or Land Use Map, then the City is willing to work with GVSUD to reach that end. Until that occurs, GVSUD's objection should be overruled and the motion to strike should be denied.

**5. Testimony regarding the 2014 Water Master Plan and the Land Use Map is relevant and not misleading (Objection 4).**

For many of the same reasons as Section II.A.4. of this Response, Mr. Adams's testimony regarding the Water Master Plan and the Land Use Map is relevant and is not misleading. The fact that GVSUD asserts that nowhere in GVSUD's testimony or appraisal does it assign value to its Water Master Plan or Land Use really has no meaning. In the City's view, it is not clear which of GVSUD's planning activities had value assigned to it in the GVSUD appraisal, and in fact, Mr. Korman asserts that all documents attached to his testimony formed the basis of his opinions.<sup>11</sup> Therefore, the City must assume that every item attached to GVSUD's appraisal could be evidence of a planning activity that GVSUD considered an "investment" and assigned value to and relevant to determining what property would be rendered useless or valueless by decertification.

Second, while it may have been misleading for GVSUD to include documents it did not consider relevant to what property is rendered useless or valueless, it could have clarified its

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<sup>11</sup> *Id.*

reason for including the document in either its appraisal or its testimony or in the various discovery requests the City has sent in an attempt to clarify what exactly GVSUD is and is not claiming is property rendered useless and valueless. It did not. If the City's testimony draws out the conclusion that the Water Master Plan, the Land Use Map, or an investment in the plan or map is not rendered useless or valueless by decertification, it can hardly be considered misleading. Rather, it focuses attention on GVSUD's lack of forthrightness and clarity in identifying relevant "property." The reality is that Mr. Adams's objected testimony rebuts several documents that GVSUD provided in its testimony. The Water Master Plan and the Land Use Map are just two of them. GVSUD's objection should be overruled. Again, if GVSUD would like to withdraw any and all testimony regarding the 2014 Water Master Plan and Land Use Map or any "investment" it made therein, then the City is willing to work with GVSUD to reach that end. Until that occurs, GVSUD's objection should be overruled and the motion to strike should be denied.

**B. Jack E. Stowe's Rebuttal Testimony is Proper, Admissible Rebuttal Testimony**

**1. Mr. Stowe's Testimony is proper testimony rebutting the testimony and exhibits of the GVSUD Witnesses (Objection 10).**

GVSUD's global objection to Mr. Stowe's testimony as improper rebuttal testimony should be overruled, as such testimony directly responds to the allegations made in GVSUD's witnesses' testimony and exhibits. GVSUD asserts, with little support, that Mr. Stowe's testimony should have been presented as part of the City's direct testimony and that GVSUD is improperly prejudiced by such testimony by not having the opportunity to address Mr. Stowe's opinions. However, GVSUD does nothing to suggest what parts of Mr. Stowe's opinions it might have theoretically addressed or how it is prejudiced.



GVSUD's claim, in essence, relies on an unrealistic and unreasonable assumption that the City knew or should have known what GVSUD would specifically argue in its prefiled testimony and anticipated that Mr. Stowe's specific testimony would be needed. GVSUD's arguments that the City has had GVSUD's appraisal since July 15, 2016 and that Mr. Stowe's testimony addresses GVSUD's appraisal as being indicative of Mr. Stowe's testimony not being true rebuttal testimony understates GVSUD's testimony. While it is true that Mr. Stowe's testimony addresses the factors listed in GVSUD's appraisal, his testimony goes well beyond just addressing GVSUD's appraisal, responding directly to GVSUD's financial, non-technical based theories, offered through its witness, Mr. Korman. Said another way, Mr. Stowe's testimony identifies and rebuts the financial falsities regarding alleged "property" and "property interests" that Mr. Korman asserts and relies upon in his testimony regarding his compensation factors.

The City should have known, based on any information the City received from GVSUD prior to the City filing its direct testimony, the precise nature of the "property" arguments Mr. Korman would make in his testimony. GVSUD's appraisal itself does not appear to specifically identify "property" other than planning and land (in spite of Mr. Korman's assertions to the contrary), and it does not explain how any such item is rendered useless and valueless by decertification. In GVSUD's Responses to the City's Second Requests for Information ("RFIs"), filed before the City submitted prefiled direct testimony in this matter, GVSUD responded to RFI 2-3, requesting GVSUD's legal theories and factual bases of its claims and defenses, by generally saying, with respect to property, that:

TWC § 13.255(c) and 16 [Tex. Admin. Code ("TAC")] § 24.120(c) require that the decertified retail public utility received adequate and just compensation from the applicant retail public utility for property being rendered useless or valueless by the decertification. All property, whether tangible or intangible, real, or personal must be considered as part of this process. TWC § 13.255(g) and 16 TAC §24.120(g), in addition to the definitions of "facilities" and "service" within

TWC Chapter 13 and 16 TAC §24.3, serve as guidance for the types of property to consider and the value to ascribe to them.

Here, the property that will be rendered useless or valueless to GVSUD if Schertz's application is approved was identified by a licensed expert appraiser in the GVSUD appraisal report filed on July 15, 2016.

What the City could gather from this description and the appraisal is that intangible property should be considered, not just tangible facilities or land. GVSUD did not go on to say that it would try to turn the money spent on planning or land into "property" rather than considering the planning or land itself the property. Further, the City could properly assume that Mr. Adamis's testimony alone could show that no property was rendered useless or valueless based on the fact that GVSUD has no facilities, property, or customers within the area to be decertified. GVSUD, instead, has offered, through its prefiled testimony, "in-the-clouds," esoteric arguments that the City could not have fully anticipated for a process that is generally firmly planted on the ground and in the physical realm. Further, it was not apparent from GVSUD's appraisal that it also considered "lost profits" to be "property" rather than a compensation factor. Taken at face value, GVSUD's appraisal skips past showing what property was rendered useless or valueless to get to the compensation factors.

Ultimately, for Mr. Stowe's rebuttal testimony to be improper, it would have to not address testimony put forth by GVSUD. Mr. Stowe's testimony does, in fact, address GVSUD's testimony and exhibits. GVSUD's testimony, as well as its RFI responses, has consistently pointed to GVSUD's appraisal as being the complete picture in terms of identifying property rendered useless or valueless by decertification. However, Mr. Korman's direct testimony in particular, puts a new spin on that appraisal by identifying items that look like compensation factors in the appraisal now as the property itself. It is entirely within the City's right to address these new—and arguably novel for the TWC §13.255 process—arguments in its rebuttal with a

witness who is an expert in the TWC §13.255 process, in financial concepts, and in utilities as a whole. Thus, GVSUD's global objection to Mr. Stowe's testimony should be overruled and motion to strike denied. GVSUD reasserts this objection in its other specific objections, and the City will address those more specific objections to Mr. Stowe's testimony in this Section II.B. below. GVSUD's objection should be overruled and its motion to strike should be denied.<sup>12</sup>

**2. Mr. Stowe's testimony regarding GVSUD's direct testimony on compensation factors is proper rebuttal and relevant testimony (Objection 11)**

In Objection 11, GVSUD objects to portions of Mr. Stowe's testimony addressing compensation factors as improper rebuttal and outside the scope of the first phase of this proceeding. As to GVSUD's improper rebuttal objection, the City incorporates its response in Section II.B.1 to GVSUD's Objection 11. While GVSUD does not call the "outside the scope" argument a relevance argument, the City will assume, for the sake of responding to GVSUD's objections in totality, that this is an objection under TRE 401 and 402. However, the cited portion of Mr. Stowe's testimony is proper rebuttal testimony and relevant to the question of whether GVSUD's appraisal is properly limited to property rendered useless or valueless by decertification.

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<sup>12</sup> In an identical proceeding wherein the City of Cibolo sought single certification of a portion of GVSUD's CCN, the Cibolo's appraiser was also Mr. Stowe, and Mr. Stowe offered rebuttal testimony in that case as well that addressed the ambiguities and new arguments raised in GVSUD's witnesses' direct testimony. The ALJs overruled GVSUD's objections claiming that such testimony was improper rebuttal testimony. In admitting such testimony, the ALJs explained that they considered, among others, "whether the rebuttal testimony addressed matters discussed or documents attached to or discussed in Green Valley's direct testimony (whether or not it was specifically cited in the rebuttal testimony)" and "took into account any vagueness in Green Valley's position as to whether an interest mentioned in its direct testimony and discussed in Cibolo's rebuttal testimony is Green Valley property that will be rendered useless or values to Green Valley by the decertification sought by Cibolo . . . ." SOAH Order No. 8, Ruling on Objections to Rebuttal Testimony, *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*, SOAH Docket No. 473-16-5296.WS, PUC Docket No. 45702.

First, GVSUD provides two witnesses, Mr. Korman and Mr. Blackhurst,<sup>13</sup> who argue that the compensation factors listed in TWC § 13.255(g) and 16 TAC §24.120(g) should be considered in determining what property is rendered useless and valueless by decertification in this first phase of the hearing. However, when the City's witness rebuts that testimony, calling the application of that property analysis into question, and shows how, in fact, Mr. Korman, rather than considering those factors in his identification of property, skips the analysis of property rendered useless and valueless and goes straight to compensation factors, GVSUD now suddenly considers those factors to be irrelevant. GVSUD's position is not only wrong for the substantive reason, but it also asks Your Honor to establish a double standard.

Second, GVSUD, through the prefiled testimony of Mr. Korman, has opened the door to reexamining and taking a deeper dive into GVSUD's appraisal because such testimony (i) implies that the GVSUD appraisal contained a complete analysis of precisely what portions of the items GVSUD alleged is property is rendered useless and valueless to GVSUD as a result of decertification and (ii) offers new property identification theories. The City has the right to rebut that testimony and provide its opinion on such theories. In its Response to the City's Fourth RFIs (which were narrowly tailored and aimed at specifically identifying what property GVSUD considered useless and valueless) and in its testimony, GVSUD consistently pointed to its appraisal as containing all the property rendered useless or valueless by decertification.<sup>14</sup> Because Mr. Korman (or any of GVSUD's other witnesses) does not properly identify such property either in his testimony or at the outset of the appraisal, it was necessary for Mr. Stowe

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<sup>13</sup> See, Direct Testimony of Stephen H. Blackhurst, P.E., at 13:11-14:2 and at 14:21-15:4; and Direct Testimony of Joshua Korman at 11:17-20.

<sup>14</sup> See, GVSUD's Responses to the City's Fourth RFI's, included as **Attachment C**; Direct Testimony of Joshua Korman at 8:6-10; at 12: 9-10. Korman's testimony on pages 12 and 13, like his appraisal, skips the analysis of how any property is rendered useless or valueless.

to “explain in further detail why GVSUD’s allegations in each of [the] compensation factors do not result in property rendered useless or valueless by the decertification requested in the Application, as they are presented in the GVSUD Appraisal.”<sup>15</sup> Mr. Stowe directly challenges the allegations in GVSUD’s testimony from Mr. Korman that GVSUD’s appraisal is limited to property rendered useless or valueless by decertification.

GVSUD also asserts that Mr. Stowe’s testimony attaches monetary values to GVSUD’s identified “property interests.” This is untrue. Rather, Mr. Stowe makes the single argument that the items are not credible and should be rejected in their entirety. Said another way, Mr. Stowe’s testimony does not attach any monetary values because, unlike Mr. Korman, he finds no property to which a monetary value can be attached, in light of Mr. Korman’s theories. Stowe’s testimony regarding the compensation factors as applied (or not applied) to “property rendered useless or valueless” is both relevant and proper rebuttal. GVSUD’s objections in this regard should be overruled and its motion to strike should be denied.

**3. Mr. Stowe’s testimony addressing USPAP is not unqualified legal opinion and is relevant and admissible in this proceeding (Objection 13).**

GVSUD’s objections to Mr. Stowe’s discussion of the Uniform Standards of Professional Appraisal Practice (“USPAP”) are just as absurd as they are a mischaracterization of the purpose of that portion of Mr. Stowe’s testimony. First, contrary to one of the many flawed arguments asserted by GVSUD, Mr. Stowe never once holds himself out to be an expert on the application of USPAP. Mr. Stowe’s expertise is described in the 16 pages of testimony prior to his discussion of USPAP, including CCN matters, finance and accounting, and the utility business and evaluation of assets related thereto. Through that experience, Mr. Stowe has come to know,

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<sup>15</sup> Rebuttal Testimony of Jack E. Stowe at 20:13-16.

understand, and apply USPAP standards. Such experience is thus absolutely relevant in this proceeding. Additionally, as Mr. Stowe testified, he has had decades of experience with USPAP and has applied it on numerous occasions. Contrary to GVSUD's assertions, Mr. Stowe's experience therewith is not merely superficial.

Moreover, for reasons that defy logic, GVSUD claims that Mr. Stowe's testimony regarding the USPAP is unqualified legal opinion. Like Mr. Adams, Mr. Stowe does not hold himself out to be an attorney. This assertion presupposes that only an attorney can discuss USPAP and how it is applied in practice, which is absurd, especially because GVSUD tends to place undue weight on Mr. Korman's use of and experience with USPAP. Following this logic, Mr. Korman would likewise be precluded from any discussion of USPAP.

Additionally, GVSUD asserts that only licensed appraisers have the requisite "knowledge, skill, experience, training, or education" pursuant to TRE 702 to discuss USPAP. This is simply incorrect. USPAP is mandatory for licensed appraisers, but that does not mean that only licensed appraisers can or even should be the exclusive audience for USPAP and its application. Said another way, people who are not licensed are not precluded by USPAP from using USPAP. As Mr. Stowe explained at length, he has a great deal of experience in identifying and valuing various kinds of property, including wastewater infrastructure. Through that experience, he has come to know and understand the USPAP because the principles contained therein are directly applicable to the type of work he has performed and continues to perform in this case. Again, Mr. Stowe is an expert in areas to which USPAP relates, and Mr. Stowe has decades of experience with USPAP despite not being a licensed appraiser.

It is clear that GVSUD's attempt to have this portion of Mr. Stowe's testimony stricken is an ill-conceived attempt to try to deceive the ALJ into believing that Mr. Stowe must be a

licensed appraiser, although TWC § 13.255 explicitly does not require licensing. The broader purposes of making this a discussion about non-existent licensing requirements is to distract from the fact that Mr. Stowe has discredited Mr. Korman's testimony emphasizing USPAP and licensed appraisers' mandatory use of USPAP because USPAP is not even applicable in this case. Finally, Mr. Stowe will certainly be available for cross-examination as to his stated credentials. GVSUD's objections should be overruled and its motion to strike should be denied.

**4. Mr. Stowe's testimony regarding regionalization is relevant and not legal opinion (Objections 10 and 14).**

GVSUD's objection to the portions of Mr. Stowe's rebuttal testimony regarding regionalization are essentially the same arguments that it makes regarding Mr. Adams's regionalization testimony, *i.e.*, that it is not relevant, not within the Commission's jurisdiction, and that it constitutes legal opinion. The City incorporates its applicable responses to such arguments as provided above in Sections II.A.1., II.A.2., and II.A.3. (to the extent GVSUD is making a TRE 403 objection here, which is not clear). Mr. Stowe's opinions regarding regionalization are based on both his own experience<sup>16</sup> and supported by the conclusions of Mr. Adams, an expert witness, and are not presented as legal opinion.<sup>17</sup> Further, Mr. Stowe has additional experience with CCN decertification to help the trier of fact understand the consequences of this particular regionalization issue for determining what property of GVSUD, if any, is rendered useless or valueless by decertification. Based on Mr. Stowe's experience with these matters, he reaches the opinion that GVSUD's allegations are flawed, and consequently that no property can be rendered useless or valueless if it was never useful or valuable with

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<sup>16</sup> Rebuttal Testimony of Jack E. Stowe at 10:7-8.

<sup>17</sup> *Id.* at 22:5-13.

respect to the decertified area in the first place. GVSUD's objections should be overruled and its motion to strike should be denied.

**5. Mr. Stowe's testimony regarding what constitutes property is not unqualified legal opinion (Objection 15).**

This objection should be overruled. Although not explained in any detail by GVSUD, GVSUD incorrectly claims in Objection 15 that Mr. Stowe's testimony relating to Mr. Korman's economic opportunity property interest theory is unqualified legal opinion. The heart of all of Mr. Stowe's testimony is directly financial in nature and related specifically to utilities and CCN decertification matters. TRE 702 does not require any particular certification to qualify as an expert. Rather, special knowledge that qualifies a witness to give an expert opinion may be derived from specialized education, practical experience, a study of technical works, or some combination thereof. In this case, Mr. Stowe has all of those credentials. Mr. Stowe has extensive experience as an accountant and financial expert generally and decades of experience as a consultant on financial issues for utilities, specifically. Further, he has taken part in several CCN decertification matters as a consultant. These credentials make him uniquely qualified to help the trier of fact determine the issues of whether there is any property of GVSUD that is rendered useless or valueless by decertification and whether the appraisals submitted in this matter were limited to property rendered useless or valueless. And Mr. Stowe is able, through his experience, to address the property theories that GVSUD's witnesses, in particular Mr. Korman, misapplied in their testimonies.

Plus, Mr. Stowe's rebuttal testimony is proper, as the theories espoused by Mr. Korman as to what he believes to constitute "property" or a "property interest" are more expansive than indicated in either GVSUD's appraisal or its discovery responses. Rather, Mr. Stowe discusses his opinions, based on his experience with decertification matters, of what "property" includes



with respect to TWC §13.255 and when a decertified CCN holder can receive compensation. In this respect, it is functionally no different than Mr. Korman's direct testimony at page 7, lines 6-8, page 11, line 17 through page 12, line 2, page 13, lines 18-22, or page 14, line 19 through page 15, line 3, except that Mr. Stowe has more experience upon which to base his opinions. Again, Mr. Stowe has extensive financial experience, including experience in classifying assets, expenses, expenditures, investments and property from a financial perspective. And again, Mr. Stowe's testimony responds to similar financial testimony provided by Mr. Korman. GVSUD's objection should be overruled and the motion to strike should be denied.

**6. Mr. Stowe's testimony regarding GVSUD's federal debt is proper rebuttal, relevant (Objections 16-18).**

GVSUD's objections regarding its federal debt should be overruled. For efficiency, the City incorporates its arguments in Section II.B.1 here regarding the objection concerning proper rebuttal testimony. As to the objection regarding the relevance of GVSUD's USDA debt, GVSUD made such debt relevant and properly rebuttable when it included references to that federal debt in its appraisal, attached documents related to the alleged impacts of such federal debt to its appraisal, and claimed through Mr. Korman's testimony, without further explanation, that all documents attached to his testimony formed the basis of his opinions. Again, GVSUD cannot point to its appraisal as containing all relevant information and then object when that claim is analyzed document by document. Further, Mr. Stowe is directly rebutting the assertion by Mr. Korman that lost revenue not connected to anything tangible or fixed is property and that the GVSUD appraisal appropriately considers the impact of these lost revenues on the remainder of the (nonexisting) customer base related to that "property". This goes to the very heart of the Referred Issues. GVSUD's objection should be overruled and the motion to strike should be denied.

**7. Stowe testimony regarding GVSUD's federal debt is not legal opinion (Objection 16).**

GVSUD claims portions of Mr. Stowe's testimony regarding GVSUD's federal debt are unqualified legal opinions regarding the effect of GVSUD's federal debt. However, the cited portions of Mr. Stowe's testimony do not discuss the legal effect of the debt. It discusses both Mr. Korman's apparent attempt to tie the debt to potential lost revenues from sewer service and the financial impact of decertification on GVSUD's ability to repay such debt. None of this is legal opinion and is based on Mr. Stowe's experience as a financial consultant for utilities who understands debt, including the type of debt GVSUD has incurred. The City incorporates its arguments from Section II.B.4. here as to GVSUD's "pure legal opinion" objections. GVSUD's objections should be overruled and the motion to strike should be denied.

**8. Exhibit Stowe R-D relating to GVSUD's federal debt is proper rebuttal and relevant (Objections 16 and 17).**

GVSUD incorporates the same arguments in its response to Objection 16 in Sections II.B.6 and II.B.7. regarding GVSUD's federal debt, to this response, as Exhibit Stowe R-D is proper rebuttal and relevant to this matter. Exhibit Stowe R-D, a GVSUD document, wholly supports Mr. Stowe's proper rebuttal analysis of Mr. Korman's testimony and exhibits thereto, and is relevant to this proceeding by showing that the proposed CCN decertification can have no effect on GVSUD's ability to repay its bonds or on its future wastewater customers. Such document evidences the debt alleged in GVSUD's testimony and exhibits. GVSUD's objection should be overruled and the motion to strike should be denied.

**9. Exhibit Stowe R-E and related testimony relating to GVSUD's federal debt is proper rebuttal, relevant, not offered for the truth of the matter asserted, and not misleading (Objections 16 and 18).**

GVSUD incorporates some of the same arguments regarding this exhibit as it made in its responses to Objection 16 (Sections II.B.6. and II.B.7) and Objection 17 (Section II.B.8), as

Exhibit Stowe R-E and related testimony is proper rebuttal and relevant to this matter. In addition, Stowe R-E is relevant because it forms part of the basis of Mr. Stowe's opinion that decertification of the area requested by the City will not affect GVSUD's ability to pay debt unrelated to wastewater. This Exhibit also became relevant and proper rebuttal when GVSUD presented the debt as relevant in its appraisal and continued in its testimony to assert that "lost revenues" were a property interest that could be connected to an impact on remaining customers.

GVSUD additionally argues that the document and related testimony is hearsay, is irrelevant, and is misleading. First, this exhibit is not submitted for the truth of the matter asserted but rather as a document upon which Mr. Stowe relied on to form his expert opinion regarding any impact the decertification would have on GVSUD's ability to repay its loans. Mr. Stowe is qualified by experience and training as both a financial expert and a utility expert to form opinions that aid the finders of fact in this matter. As such an expert, Mr. Stowe can properly rely on Exhibit Stowe R-E, a letter from the issuer of the debt in question, to form an opinion about how that debt is to be repaid.

Lastly, it is unclear why GVSUD characterizes the exhibit as misleading. Once again, GVSUD implicates items as relevant and then objects to items as misleading when its own suggestions are shown to be unclear or disingenuous. Here, the letter provides Mr. Stowe with yet another basis to rely on for his conclusions regarding Mr. Korman's testimony concerning property. GVSUD's objections should be overruled and motion to strike denied.

### **III. CONCLUSION AND PRAYER**

For the reasons set forth above, the City of Schertz respectfully requests that the Administrative Law Judge (1) overrule Green Valley Special Utility District's Objections to the

cited portions of the prefiled testimony of the City, (2) deny the District's motion to strike, and (3) grant the City such other relief to which it may be entitled.

Respectfully submitted,

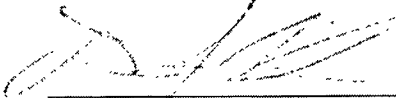
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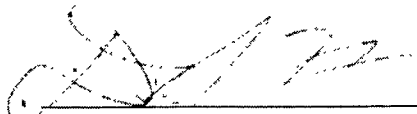
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ATTORNEYS FOR THE CITY OF SCHERTZ

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing document was transmitted by fax, hand-delivery and/or regular, first class mail on this 14th day of March 2017 to the parties of record.



David J. Klein

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**AN INTERIM ORDER** concerning the application by Green Valley Special Utility District for new TPDES Permit No. WQ0015360001; TCEQ Docket No. 2016-1876-MWD.

On December 7, 2016, the Texas Commission on Environmental Quality (Commission) considered during its open meeting requests for hearing and reconsideration filed by Cibolo Creek Municipal Authority (CCMA), the Cities of Cibolo and Schertz, and Otto Radtke concerning the application by Green Valley Special Utility District (Applicant) for new TPDES Permit No. WQ0015360001, which seeks authorization to discharge treated domestic wastewater at a daily average flow not to exceed 5.0 million gallons per day in the Final phase from a facility proposed to be located at 3930 Linne Road, Seguin, Guadalupe County, Texas. The requests for hearing and reconsideration were evaluated under the requirements in the applicable statutes and Commission rules, including 30 Texas Administrative Code Chapter 55. The Commission also considered the responses to the requests for hearing and reconsideration filed by the Executive Director and Office of Public Interest Counsel; the requestors' replies; all timely public comment; and the Executive Director's Response to Comment.

After evaluation of all relevant filings, the Commission determined that Cibolo Creek Municipal Authority and the City of Cibolo are affected persons under applicable law and that

their hearing requests should be granted. The Commission denied the remaining hearing requests and all Requests for Reconsideration.

The Commission next determined whether the affected persons' requests for hearing raised disputed issues of fact that were raised during the comment period which are relevant and material to its decision on the application. The Commission determined that the following issues met those requirements, and directed that they be referred to the State Office of Administrative Hearings (SOAH): A) Whether the draft permit authorizes the discharge of domestic wastewater effluent within the Cibolo Creek regional area as defined by 30 Texas Administrative Code Chapter 351, Subchapter F; B) Whether the application demonstrates compliance with the Commission's regionalization policy; C) Whether the draft permit contains sufficient provisions to prevent nuisance odors; D) Whether the Applicant has demonstrated that it needs the Final Phase of the draft permit; E) Whether the draft permit complies with the TCEQ's antidegradation requirements, including its impact on the bacteria impairment in Segment 1902 of the San Antonio River Basin; F) Whether the draft permit would adversely affect the human health of the residents living within the district boundaries of CCMA and within the corporate limits or ETJ of the City of Cibolo; and G) Whether the draft permit would adversely affect livestock and terrestrial wildlife.

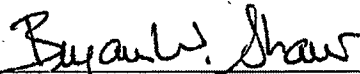
Finally, the Commission specified that the maximum duration of the contested case hearing shall be nine (9) months from the first day of the preliminary hearing to the date the proposal for decision is issued by SOAH.

NOW, THEREFORE, BE IT ORDERED BY THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY that:

- (1) The hearing requests filed by Cibolo Creek Municipal Authority and the City of Cibolo are hereby GRANTED;
- (2) The Chief Clerk shall refer to SOAH the following issues for a contested case hearing on the application:
  - A) Whether the draft permit authorizes the discharge of domestic wastewater effluent within the Cibolo Creek regional area as defined by 30 Texas Administrative Code Chapter 351, Subchapter F;
  - B) Whether the application demonstrates compliance with the Commission's regionalization policy;
  - C) Whether the draft permit contains sufficient provisions to prevent nuisance odors;
  - D) Whether the Applicant has demonstrated that it needs the Final Phase of the draft permit;
  - E) Whether the draft permit complies with the TCEQ's antidegradation requirements, including its impact on the bacteria impairment in Segment 1902 of the San Antonio River Basin;
  - F) Whether the draft permit would adversely affect the human health of the residents living within the district boundaries of CCMA and within the corporate limits or ETJ of the City of Cibolo; and
  - G) Whether the draft permit would adversely affect livestock and terrestrial wildlife;
- (3) The remaining hearing requests are hereby DENIED;
- (4) All Requests for Reconsideration are hereby DENIED;
- (5) The maximum duration of the hearing is set at nine months from the first day of the preliminary hearing to the date the proposal for decision is issued by SOAH; and

- (6) If any provision, sentence, clause or phrase of this Order is for any reason held to be invalid, the invalidity of any portion shall not affect the validity of the remaining portions of the Order.

TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

  
\_\_\_\_\_  
Bryan W. Shaw, Ph.D., P.E., Chairman

12-15-16  
\_\_\_\_\_  
Date Signed



**SOAH DOCKET NO. 582-17-1850  
TCEQ DOCKET NO. 2016-1876-MWD**

APPLICATION OF GREEN VALLEY SPECIAL UTILITY DISTRICT FOR A NEW TEXAS POLLUTANT DISCHARGE ELIMINATION PERMIT NO. WQ0015360001 IN GUADALUPE COUNTY, TEXAS	§ § § § § §	BEFORE THE STATE OFFICE       OF       ADMINISTRATIVE HEARINGS
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**ORDER NO. 1  
ESTABLISHING PARTY STATUS; ADOPTING PROCEDURAL SCHEDULE;  
NOTICE OF HEARING; AND PREHEARING AND HEARING REQUIREMENTS**

A preliminary hearing was convened in this case by Administrative Law Judge (ALJ) Joanne Summerhays on February 14, 2017, at the State Office of Administrative Hearings (SOAH). The Executive Director (ED) of the Texas Commission on Environmental Quality (TCEQ) offered Exhibits ED-A through ED-E, which included certified copies of the Notice of Application, certified copies of notice of publication of the Application, and certified copy of the notice of the preliminary hearing. Exhibits ED-A through ED-II were admitted for jurisdictional purposes only, and the ALJ found that jurisdiction was established and that notice was proper.

**I. PARTY STATUS AND ALIGNMENT**

The following appeared at the preliminary hearing and are designated as parties:

<b>PARTY</b>	<b>REPRESENTATIVE</b>
Green Valley Special Municipal Utility District (Applicant)	Mark Zeppa, Attorney
ED	Stephanie Skogen, Staff Attorney
City of Cibolo (Cibolo)	David Klein, Attorney
Cibolo Creek Municipal Authority (CCMA)	Brad B. Castleberry, Attorney
City of Schertz (Schertz)	David Klein, Attorney
Office of Public Interest Counsel (OPIC)	Eli Martinez, Assistant Public Interest Counsel

SOAH DOCKET NO. 582-17-1850  
TCEQ DOCKET NO. 2016-1876-MWD

ORDER NO. 1

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The party status of CCMA and Cibolo was uncontested. At the preliminary hearing, Schertz requested party status and submitted evidence, then later filed a brief in support of its request. Applicant opposed Schertz's request and filed a response to the brief. OPIC supported Schertz's request at the hearing, but did not file a brief. Staff did not file a brief, but argued at the hearing against Schertz's request. Although TCEQ denied Schertz party status, TCEQ's rules on contested case hearings for water quality applications provide that Schertz may be named a party after a preliminary hearing at SOAH.<sup>1</sup> After considering the evidence, oral arguments, briefs, and filings at TCEQ, the ALJ finds that Schertz is an affected party under 30 Texas Administrative Code § 55.203(c)(7), and that Schertz's request should be granted.

One of the issues referred by TCEQ is "whether the Application demonstrates compliance with the Commission's regionalization policy." Schertz submitted evidence that Schertz's corporate boundaries overlap with Applicant's sewer certificate of convenience and necessity (CCN) area. Schertz argues that it is therefore an affected party because it has a "unique right to plan for the regionalization of its wastewater system in its corporate limits, and it is uniquely impacted by this Application." In support of this argument, Schertz cited TCEQ Docket No. 2015-1264-MWD, SOAH Docket No. 582-16-1442, in which the TCEQ granted City of San Marcos party status in a contested case involving a wastewater discharge permit application because the City allegedly had a collection line within three miles of the proposed facility.

This case can be distinguished from the San Marcos case in that Schertz has no current wastewater treatment facilities, or any other infrastructure related to wastewater treatment or discharge. However, Schertz contracts with a regional authority, CCMA, for wastewater services. CCMA has a permit under TCEQ rules to discharge wastewater. As a local governmental entity, Schertz has the same interest as Cibolo in maintaining its wastewater services under the existing permit to serve the disposal needs of its citizens. The TCEQ rules specifically provide that "governmental entities, including local governments and public

<sup>1</sup> 30 Tex. Admin. Code (TAC) § 55.211(e). The TCEQ did not elaborate regarding the basis for its denial of Schertz's request for party status in the referral order.

SOAH DOCKET NO. 582-17-1850  
TCEQ DOCKET NO. 2016-1876-MWD

ORDER NO. 1

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agencies, with authority under state law over issues raised by the application may be considered affected persons.”<sup>2</sup> Therefore, as noted above, Schertz’s request for party status is **GRANTED**.

## II. ADOPTION OF AGREED PROCEDURAL SCHEDULE

The parties conferred and reached agreement on a procedural schedule. **The parties agreed to waive the nine-month deadline for issuance of the Proposal for Decision.** Therefore, the ALJ adopts the following schedule, which shall govern this case:

DEADLINE/DATE	ACTIVITY
February 14, 2017	Discovery begins; objections and responses due 30 days from service.
June 13, 2017	Applicant must file direct case including testimony, proposed order of witnesses, and exhibits.
July 11, 2017	Protestants and OPIC must file their respective direct cases, including testimony, proposed order of witnesses, and exhibits.
August 16, 2017	ED must file its direct case, including testimony, proposed order of witnesses, and exhibits.
August 23, 2017	Objections to prefiled testimony and exhibits must be filed; Dispositive motions must be filed; Applicant must identify any rebuttal witnesses.
August 30, 2017	Responses to objections to prefiled testimony and exhibits and responses to dispositive motions must be filed.
September 9, 2017 10:00 a.m.	Final Prehearing Conference, if necessary.
September 12-14, 2017 9:00 a.m.	Hearing on the merits.
October 12, 2017	Written closing arguments must be filed.
November 9, 2017	Reply briefs must be filed; record closes.
January 8, 2018	Proposal for Decision due.

The parties may modify the procedural schedule by written agreement, except the parties must file a motion and obtain an order from the ALJ to change any filing deadline at SOAH or the dates for the prehearing conference and the hearing on the merits.

<sup>2</sup> 30 TAC § 55.203(b).

SOAH DOCKET NO. 473-16-5739.WS  
PUC DOCKET NO. 45956

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

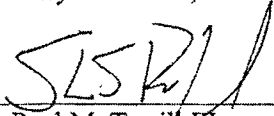
**GREEN VALLEY SUD'S RESPONSE TO SCHERTZ'S FOURTH  
REQUESTS FOR INFORMATION**

To: City of Schertz, 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 Schertz's Fourth 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. All documents marked as voluminous are available for inspection by appointment at Terrill & Waldrop, 810 West 10<sup>th</sup> Street, Austin, Texas 78701.

Respectfully submitted,

By: \_\_\_\_\_

  
 Paul M. Terrill III  
 State Bar No. 00785094  
 Geoffrey P. Kirshbaum  
 State Bar No. 24029665  
 Shan S. Rutherford  
 State Bar No. 24002880  
 TERRILL & WALDROP  
 810 W. 10<sup>th</sup> Street  
 Austin, Texas 78701  
 (512) 474-9100  
 (512) 474-9888 (fax)

**ATTORNEYS FOR GREEN VALLEY SPECIAL UTILITY  
DISTRICT**

**CERTIFICATE OF SERVICE**

I hereby CERTIFY that on February 9, 2017, 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 Gossclink  
816 Congress Ave., Suite 1900  
Austin, Texas 78701

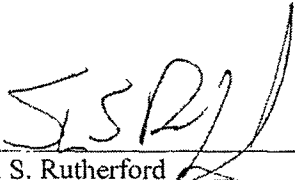
*via fax to: (512) 472-0532*

**ATTORNEY FOR APPLICANT**

Alexander Petak  
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**

  
\_\_\_\_\_  
Shan S. Rutherford

**RESPONSE TO REQUEST FOR INFORMATION**

**Schertz RFI 4-1** Please identify the specific portion(s) of GVSUD's 2006 Wastewater Master Plan identified in Mr. David "Pat" Allen's prefiled direct testimony in PUC Docket No. 45956 ("Mr Allen's Direct") as GVSUD-1 at GVSUD 200244-200341 that you contend would be rendered useless or valueless by the sewer CCN decertification sought by Schertz in this PUC Docket No. 45956.

**RESPONSE:** GVSUD contends that its appraisal filed at the PUC on July 15, 2016 includes all real and personal property of GVSUD that would be rendered useless or valueless by the decertification as of the date of the Appraisal. Values identified in the appraisal will need to be updated as part of the second phase of this hearing.

The dollars expended by GVSUD to develop and implement the 2006 Wastewater Master Plan are property and GVSUD's appraisal presents the dollars spent on those efforts that are allocable to the real property proposed for decertification. Those dollars will be rendered useless and valueless.

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

**Schertz RFI 4-2** Please explain your response to Schertz RFI 4-1.

**RESPONSE:** See GVSUD's response to Schertz RFI 4-1 and GVSUD's appraisal. The 2006 Wastewater Master Plan was developed for GVSUD's entire wastewater CCN area and the Plan will not be able to be implemented as to the requested decertification area.

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

**Schertz RFI 4-3** Please identify the specific portion(s) of GVSUD's TPDES Permit Application currently pending at the TCEQ identified in Mr. Allen's Direct as GVSUD-1 at GVSUD 200595-200260 that you contend would be rendered useless or valueless by the sewer CCN decertification sought by Schertz in this PUC Docket No. 45956.

**RESPONSE:** GVSUD contends that its appraisal filed at the PUC on July 15, 2016 includes all real and personal property of GVSUD that would be rendered useless or valueless by the decertification as of the date of the Appraisal. Values identified in the appraisal will need to be updated as part of the second phase of this hearing.

The dollars expended by GVSUD toward obtaining the TPDES Permit Application are property and GVSUD's appraisal presents the portion of

dollars spent that are allocable to the real property proposed for decertification. Those dollars will be rendered useless and valueless.

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

**Schertz RFI 4-4** Please explain the basis for your answer to Schertz RFI 4-3.

**RESPONSE:** See GVSUD's response to Schertz RFI 4-3 and GVSUD's appraisal. The TPDES Permit sought by GVSUD is sought to provide wastewater service to the GVSUD CCN area that includes the requested decertification area and the dollars expended in obtaining GVSUD's TPDES Permit will be rendered useless and valueless as to the decertification area.

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

**Schertz RFI 4-5** Please identify the specific portion(s) of GVSUD's 2014 Water Master Plan identified in Mr' Allen's Direct as GVSUD-1 at GVSUD 200342-200457 that you contend would be rendered useless or valueless by the sewer CCN decertification sought by Schertz in this PUC Docket No. 45956.

**RESPONSE:** GVSUD does not contend that a portion of the 2014 Water Master Plan will be rendered useless or valueless as the result of decertification. GVSUD contends that its appraisal filed at the PUC on July 15, 2016 includes all real and personal property of GVSUD that would be rendered useless or valueless by the decertification as of the date of the Appraisal. Values identified in the appraisal will need to be updated as part of the second phase of this hearing.

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

**Schertz RFI 4-6** Please explain the basis for your answer to Schertz RFI 4-5.

**RESPONSE:** See GVSUD's response to Schertz RFI 4-5 and GVSUD's appraisal.

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

**Schertz RFI 4-7** Please identify the specific portion(s) of GVSUD's IH-10 Industrial Park Water Service Feasibility Study identified in Mr. Allen's Direct as GVSUD-1 at GVSUD 200672-200681 that you contend would be rendered useless or valueless by the sewer CCN decertification sought by Schertz in this PUC Docket No. 45956.

**RESPONSE:** GVSUD contends that its appraisal filed at the PUC on July 15, 2016 includes all real and personal property of GVSUD that would be rendered

useless or valueless by the decertification as of the date of the Appraisal. Values identified in the appraisal will need to be updated as part of the second phase of this hearing.

GVSUD's appraisal does not include any dollars associated with GVSUD's IH-10 Industrial Park Water Service Feasibility Study (which studied both water and wastewater service). The Feasibility Study was provided to Mr. Korman to demonstrate that GVSUD's investments and steps taken to implement a wastewater system in its CCN area were made to meet the need for sewer service in GVSUD's CCN area. GVSUD witness Josh Korman used the Feasibility Study as a data point when performing GVSUD's appraisal.

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

**Schertz RFI 4-8** Please explain the basis for your answer to Schertz RFI 4-7 and GVSUD's appraisal.

**RESPONSE:** See GVSUD's response to Schertz RFI 4-7, Schertz RFI 4-15 and GVSUD's appraisal.

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

**Schertz RFI 4-9** Please identify the specific portion(s) of the Woods of St. Claire Subdivision Water Service Feasibility Study identified in Mr. Allen's Direct as GVSUD-1 at GVSUD 200682-200695 that you contend would be rendered useless or valueless by the sewer CCN decertification sought by Schertz in this PUC Docket No. 45956.

**RESPONSE:** GVSUD contends that its appraisal filed at the PUC on July 15, 2016 includes all real and personal property of GVSUD that would be rendered useless or valueless by the decertification as of the date of the Appraisal. Values identified in the appraisal will need to be updated as part of the second phase of this hearing.

GVSUD's appraisal does not include any dollars associated with GVSUD's Woods of St. Claire Subdivision Water Service Feasibility Study. This study examined the feasibility of water service to this subdivision, but subsequent units of this development will require retail public wastewater utility service from GVSUD. The Feasibility Study was provided to Mr. Korman to demonstrate that GVSUD's investments and steps taken to implement a wastewater system in its CCN area were made to meet the need for sewer service in GVSUD's CCN area. GVSUD witness Josh Korman used the Feasibility Study as a data point when performing GVSUD's appraisal.



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

**Schertz RFI 4-10** Please explain the basis for your answer to Schertz RFI 4-9.

**RESPONSE:** See GVSUD's response to Schertz RFI 4-9, Schertz RFI 4-15 and GVSUD's appraisal.

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

**Schertz RFI 4-11** Please identify any other specific GVSUD items you contend are property interests related to GVSUD's wastewater system planning and design activities that would be rendered useless or valueless by the sewer CCN decertification sought by Schertz in this PUC Docket No. 45956.

**RESPONSE:** GVSUD contends that its appraisal filed at the PUC on July 15, 2016 includes all real and personal property of GVSUD that would be rendered useless or valueless by the decertification as of the date of the Appraisal. Values identified in the appraisal will need to be updated as part of the second phase of this hearing.

All dollars spent on permitting, legal and professional/consulting fees both here and in GVSUD's TCEQ TPDES permit application proceeding, and dollars spent investing in development and implementation of the 2006 Wastewater Master Plan (which are all ongoing) are property interests that will be rendered useless or valueless on an allocated basis by the sought decertification. GVSUD's appraisal isolates the dollars and estimated dollars expended in this proceeding as to legal and appraisal fees in the appraisal's discussion of compensation factor number seven (7) as of July 15, 2016.

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

**Schertz RFI 4-12** For any item identified in Schertz RFI 4-11, please identify the specific portions of that item that you contend would be rendered useless or valueless by the sewer CCN decertification sought by Schertz in this PUC Docket No. 45956.

**RESPONSE:** GVSUD contends that its appraisal filed at the PUC on July 15, 2016 includes all real and personal property of GVSUD that would be rendered useless or valueless by the decertification as of the date of the Appraisal. Values identified in the appraisal will need to be updated as part of the second phase of this hearing. See GVSUD's response to Schertz RFI 4-11 and GVSUD's appraisal.

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

**Schertz RFI 4-13** Please identify the specific "lost revenues" you contend would be rendered useless or valueless by the sewer CCN decertification sought by Schertz in this PUC Docket No. 45956.

**RESPONSE:** GVSUD contends that its appraisal filed at the PUC on July 15, 2016 includes all real and personal property of GVSUD that would be rendered useless or valueless by the decertification as of the date of the Appraisal. Values identified in the appraisal will need to be updated as part of the second phase of this hearing. As identified in the appraisal, the net lost revenues allocable to the proposed decertified area are \$130,715 as of the July 15, 2016 date of the appraisal.

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

**Schertz RFI 4-14** Please identify all specific items you would characterize as "investments" in a future GVSUD wastewater system.

**RESPONSE:** GVSUD contends that its appraisal filed at the PUC on July 15, 2016 includes all real and personal property of GVSUD that would be rendered useless or valueless by the decertification as of the date of the Appraisal. Values identified in the appraisal will need to be updated as part of the second phase of this hearing.

The allocable "investments" as of the July 15, 2016 date of the appraisal consist of all dollars identified in the appraisal with the exception of the dollar amount identified as net lost revenues in GVSUD's response to Schertz RFI 4-13 and the increased cost to customers identified in the appraisal at GVSUD 200005-200006.

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

**Schertz RFI 4-15** Please explain how or if GVSUD's water planning documents identified in previous GVSUD RFI Responses (GVSUD's 2014 Water Master Plan; IH-10 Industrial Park Water Service Feasibility Study; and Woods of St. Claire Subdivision Water Feasibility Study) relate to planning a GVSUD wastewater system.

**RESPONSE:** In addition to the population projections in the above-referenced documents, the documents demonstrate GVSUD's responding to an increased level of interest and inquiries regarding the provision of water and wastewater service, which GVSUD must plan for and be prepared to serve. The IH-10 Industrial Park Water Service Feasibility Study includes a request for sanitary sewer service. The Woods of St. Claire Subdivision study relates to a request within the area of GVSUD's wastewater CCN.

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

**Schertz RFI 4-16** In your response to Schertz RFI 3-28, you refer to GVSUD's Water Revenue Bonds, Series 2003 as relating to the design and construction of sewer infrastructure. Please provide an explanation for that answer in light of GVSUD's response to Schertz RFI 3-13.

**RESPONSE:** The referenced bonds relate to the design and construction of sewer infrastructure because revenue from wastewater service could be used to repay the debt. See GVSUD's response to Schertz RFI 4-17.

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

**Schertz RFI 4-17** Do you contend that it is appropriate for wastewater customers to pay for debt assumed to construct water system facilities?

**RESPONSE:** Yes. All GVSUD revenues are eligible to pay all GVSUD debt.

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

**Schertz RFI 4-18** Please specifically identify and provide the documents and other data relating to market research performed by Korman Realty Consultants, LLC for purposes of GVSUD's Appraisal and the source of such documents and data.

**RESPONSE:** All documents relating to market research were provided in the addenda to the July 15, 2016 appraisal report submitted as Exhibit GVSUD-1 at GVSUD 200699-200700. Please also see voluminous documents GVSUD 002706 - GVSUD 002816 PWC 1st Quarter Investor Survey - CRE: Time to Wave the Caution Flag and GVSUD 002817 - GVSUD 002918 PWC 2nd Quarter Investor Survey - Stabilizing Values May Signal End of Expansion.

Prepared and Sponsored by: Joshua Korman, Principal, KOR Group, Inc.

**Schertz RFI 4-19** For any item identified in Schertz RFI 4-18, please identify and describe the specific portions of GVSUD's Appraisal derived from such documents or data.

**RESPONSE:** The market research was utilized to inform the entire appraisal process and not one particular component of the appraisal.

Prepared and Sponsored by: Joshua Korman, Principal, KOR Group, Inc.

**Schertz RFI 4-20** What is GVSUD's opinion regarding growth projections pertaining specifically to the portion of GVSUD's sewer CCN that is sought by Schertz for decertification in this PUC Docket No. 45956?

**RESPONSE:** See GVSUD's July 15, 2016 Appraisal submitted in this proceeding. See also the growth projections contained in GVSUD's 2006 Wastewater Master Plan (GVSUD 000001-731) and TPDES Permit Application (GVSUD 000732-834). As is the norm in utility planning, GVSUD's growth projections are applicable to its entire CCN service areas, which include the subject decertification area. The density or pattern of development in GVSUD's CCN areas may vary, but GVSUD has an obligation to serve all customers within those areas.

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

**Schertz RFI 4-21** Does GVSUD intend to develop a new wastewater master plan or to update the existing 2006 Wastewater Master Plan? If yes, please explain when.

**RESPONSE:** Yes. GVSUD intends to update its 2006 Wastewater Master Plan in the near future, but has not determined a firm date for completing that update.

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

**Schertz RFI 4-22** If GVSUD's TPDES Permit Application, as initially filed at the TCEQ, is approved by the TCEQ and infrastructure is constructed such that GVSUD can provide sewer service, then do you contend GVSUD can require residents within its sewer CCN service area to receive retail water service from GVSUD?

**RESPONSE:** GVSUD assumes that the reference to retail water service intends to reference retail wastewater service. Subject to this assumption, No, GVSUD cannot require residents to utilize its wastewater service. However, developer economics would dictate that customers inside subdivisions in GVSUD's wastewater service area would become GVSUD customers. Further, other retail public utilities would be unable to provide those customers with retail wastewater service in GVSUD's CCN area.

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

**Schertz RFI 4-23** Please identify and describe all issues with septic systems within GVSUD's CCN service area, including failures, improperly maintained systems, and systems contributing to contamination of surface and groundwater or otherwise causing public health issues, of which GVSUD is aware.

**RESPONSE:** GVSUD does not have the authority to inspect and permit septic systems, thus it is not aware of specific issues as described. Generally, however, septic systems have the potential to present the issues identified in Schertz RFI 4-23.

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

**Schertz RFI 4-24** Do you contend that the PUC must process and evaluate whether property is rendered useless or valueless by decertification in the precise manner as TCEQ previously processed and evaluated such matters?

**RESPONSE:** No.

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

**Schertz RFI 4-25** Please identify and describe any wastewater impact fee studies that GVSUD has performed that includes the portion of GVSUD's sewer CCN that is sought by Schertz for decertification in this PUC Docket No. 45956.

**RESPONSE:** The July 15, 2016 Appraisal contains impact fee estimates prepared based on information in the 2006 Wastewater Master Plan. A comprehensive impact fee study will be performed and presented to the GVSUD Board of Directors at the time the Wastewater Master Plan is updated, which will then be presented to TCEQ.

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

**Schertz RFI 4-26** Refer to page 11, lines 3-9 in the direct testimony of Mr. Allen's Direct. Please provide documentation identifying:

- (a) growth in GVSUD's wastewater customer base;
- (b) growth in wastewater usage within GVSUD's service area;
- (c) that portion of the 11,000 customer connections attributable to wastewater service;
- (d) that portion of the 33,000 individuals who are wastewater customers; and
- (e) the nature of GVSUD's wastewater customers (i.e. residential, light commercial, industrial, or other).

**RESPONSE:** Schertz has misconstrued GVSUD's testimony. After a diligent search, GVSUD has not identified any documents responsive to this request. See GVSUD's response to Schertz RFA 1-1 and 1-3. (a)-(e) Mr. Allen's testimony does not state that GVSUD has current wastewater customers. To clarify, GVSUD reiterates, as stated in its responses to Schertz RFA 1-1 and

1-3, that GVSUD has no current retail wastewater customers or consumers. As such, GVSUD has not identified any documents responsive to this request.

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

**Schertz RFI 4-27** Refer to page 12, lines 1-7 in Mr. Allen's Direct. Please provide documentation identifying:

- (a) the referenced wastewater customer/constituents;
- (b) specific "investments" that will be rendered useless or valueless by decertification;
- (c) the referenced "remaining customers"; and
- (d) the increased costs for "remaining customers".

**RESPONSE:**

- (a) Mr. Allen's testimony does not state that GVSUD has current wastewater customers. To clarify, GVSUD reiterates, as stated in its responses to Schertz RFA 1-1 and 1-3, that GVSUD has no current retail wastewater customers or consumers. As such, GVSUD has not identified any documents responsive to this request.
- (b) GVSUD contends that its appraisal filed at the PUC on July 15, 2016 includes all real and personal property of GVSUD that would be rendered useless or valueless by decertification as of the date of the Appraisal. Values identified in the appraisal will need to be updated as part of the second phase of this hearing. In addition, see GVSUD's response to Schertz RFI 4-14:
- (c) The reference was to all current water customers and all future wastewater customers. See GVSUD-1 at 200000-200007. See also the attached GVSUD Operations Report.
- (d) The reference was to all current water customers and all future wastewater customers. See GVSUD-1 at 200000-200007. See also the attached GVSUD Operations Report.

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

**Schertz RFI 4-28** Refer to page 12, line 12 in Mr. Allen's Direct. Please provide documentation identifying the referenced "current and future customers" to be provided with wastewater service.

**RESPONSE:**

Mr. Allen's testimony does not state that GVSUD has current wastewater customers. To clarify, GVSUD reiterates, as stated in its responses to Schertz RFA 1-1 and 1-3, that GVSUD has no current retail wastewater

customers or consumers. As such, GVSUD has not identified any documents responsive to this request.

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

**Schertz RFI 4-29** Refer to page 12, line 19 through page 13, line 3 in Mr. Allen's Direct. Please provide documentation identifying:

- (a) GVSUD's "rapidly-growing base" of water customers;
- (b) GVSUD's "rapidly-growing" base of wastewater customers; and
- (c) the referenced "current and future customers".

**RESPONSE:**

- (a) See GVSUD 200344-200349. See also the attached GVSUD Operations Report (GVSUD 003002).
- (b) Mr. Allen's testimony does not state that GVSUD has current wastewater customers. To clarify, GVSUD reiterates, as stated in its responses to Schertz RFA 1-1 and 1-3, that GVSUD has no current retail wastewater customers or consumers. As such, GVSUD has not identified any documents responsive to this request.
- (c) See GVSUD's response to subparts (a) and (b).

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

**Schertz RFI 4-30** Please produce all correspondence between (i) GVSUD, GVSUD's consultants, and/or GVSUD's contractors, and (ii) the Texas Commission on Environmental Quality regarding regionalization of wastewater facilities or services, between April 1, 2012 and January 20, 2017.

**RESPONSE:** Please see attached documents (GVSUD 2919 and GVSUD 002933-002969).

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

**Schertz RFI 4-31** Please produce all correspondence between (i) GVSUD and (ii) GVSUD's consultants and/or contractors regarding regionalization of wastewater facilities or services, between April 1, 2012 and January 20, 2017.

**RESPONSE:** None.

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

**Schertz RFI 4-32** Please explain why the documents bates stamped GVSUD 001982-2199 were not provided with GVSUD's Response to the City's 1<sup>st</sup> RFIs.

**RESPONSE:** Those documents were determined to be non-responsive to the City's request.

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

**Schertz RFI 4-33** As of May 11, 2016, has the Board of Directors of GVSUD adopted a wastewater or sewer impact fee?

**RESPONSE:** No.

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

**Schertz RFI 4-34** As of May 11, 2016, has GVSUD filed any applications with the Texas Commission on Environmental Quality to assess, charge, or collect a wastewater or sewer impact fee? If so, were any of those applications approved by the Texas Commission on Environmental Quality?

**RESPONSE:** No.

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

**Schertz RFI 4-35** Please provide all communications between GVSUD and/or its consultants or contracts and Cibolo Creek Municipal Authority from January 1, 2006 to the present regarding the provision of wastewater service.

**RESPONSE:** Please see attached documents (GVSUD 002920 - 002932).

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

**Schertz RFI 4-36** Please provide all proposed or executed agreements regarding the provision of wastewater service between GVSUD and Cibolo Creek Municipal Authority from January 1, 2006 to the present.

**RESPONSE:** There are no executed agreements. Please see attached draft agreement provided to Green Valley by CCMA (GVSUD 003012 - 003027).

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



**Schertz RFI 4-37** Please provide a copy of all invoices to the City referenced in GVSUD 200668-200670.

**RESPONSE:** The documents responsive to this request (GVSUD 003050 - 003173) are voluminous. Please contact Terrill & Waldrop regarding inspection.

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

**Schertz RFI 4-38** Please identify which portions of the engineering expenses reflected in the invoices in Schertz RFI 4-37 will be rendered useless or valueless by the decertification sought by Schertz in this PUC Docket No. 45956.

**RESPONSE:** All engineering expenses reflected in the invoices provided in response to Schertz 4-37 will be rendered useless or valueless by the decertification sought by Schertz with the exception of the following, which were inadvertently included in GVSUD 200668-200670:

“Emergency Generator Plant” invoice for \$1,616.25  
“Escrow for 65 Acres” invoice for \$10,000.00  
“Texas Land – Water & Sewer Treatment” invoice for \$1043.00  
“River City – Union Wine WL” invoice for \$4,025.00

The specific amounts will be refined and updated in the second phase of the hearing in this PUC Docket No. 45956.

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

**Schertz RFI 4-39** Please provide a copy of all legal invoices to GVSUD used to form the basis of Factor 7 in GVSUD’s appraisal at GVSUD 200007. The invoices may be redacted to maintain any applicable privilege.

**RESPONSE:** Please see attached documents (GVSUD 003028 - 003049).

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

**Schertz RFI 4-40** Please identify which portions of the legal expenses reflected in the invoices in Schertz RFI 4-39 will be rendered useless or valueless by the decertification sought by Schertz in this PUC Docket No. 45956.

**RESPONSE:** All of the legal expenses provided in response to Schertz RFI 4-39 are property that either is or will be rendered useless or valueless by the decertification.

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

**Schertz RFI 4-41** Please provide a copy of all requests received by GVSUD for wastewater service within the portion of GVSUD's sewer CCN that is sought by Schertz for decertification in this PUC Docket No. 45956, since January 1, 2003.

**RESPONSE:** None.

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

**Schertz RFI 4-42** Please provide a copy of all requests for retail sewer service within GVSUD's sewer CCN area since January 1, 2005.

**RESPONSE:** Please see attached documents (GVSUD 002973 - 003001).

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

**Schertz RFI 4-43** Please identify GVSUD employees who currently have licenses from TCEQ to operate a wastewater system. For any employee so identified, please indicate the type of license held.

**RESPONSE:** None at this time. While GVSUD is in the process of hiring licensed operators, the hiring process has not been completed.

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

**Schertz RFI 4-44** Please identify any contract or agreement between GVSUD and any other entity regarding the operation of a wastewater system on behalf of GVSUD.

**RESPONSE:** Please see attached documents (GVSUD 002970 - 002972).

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

**Schertz RFI 4-45** Provide a copy of any orders from the TCEQ received by GVSUD regarding GVSUD's pending TPDES Permit Application identified in Mr. Allen's Direct as GVSUD-1 at GVSUD 200595-200260.

**RESPONSE:** Any orders would be publicly available in TCEQ Docket No. 2016-1876-MWD and/or SOAH Docket No. 582-17-1850.

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

**Schertz RFI 4-46** Please identify which portions of the land identified in Mr. Allen's Direct as GVSUD-1 at GVSUD 200634-200667 that will be rendered useless or

valueless by the decertification sought by Schertz in this PUC Docket No. 45956.

**RESPONSE:** Green Valley does not contend that the identified land will be rendered and useless, but that an allocable portion of the dollars expended to purchase the land would be rendered useless or valueless as to the proposed decertificated area.

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