

Control Number: 45870



Item Number: 84

Addendum StartPage: 0

FORMAL COMPLAINT OF  
ADC WEST RIDGE, L.P. AND  
CENTER FOR HOUSING  
RESOURCES, INC. AGAINST THE  
CITY OF FRISCO

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BEFORE THE STATE OFFICE

FILING CLERK

OF

ADMINISTRATIVE HEARINGS

**COMPLAINANTS' RESPONSE TO  
CITY OF FRISCO'S MOTION FOR SUMMARY DECISION**

TO THE HONORABLE ADMINISTRATIVE LAW JUDGES:

ADC West Ridge, L.P. and Center for Housing Resources, Inc. ("Complainants") file this Response to the City of Frisco's Motion for Summary Decision, and in support thereof, respectfully show as follows:

**I. INTRODUCTION**

This case relates to the refusal of the City of Frisco ("Frisco") to provide water and sewer service to Complainant ADC West Ridge, L.P.'s 4.9-acre tract of land along Westridge Boulevard located within Frisco's extraterritorial jurisdiction ("Lot 2").

The City refers to its pleading as a Motion for Summary Decision, but with respect to many of the issues addressed, the filing is more akin to a Motion to Dismiss for lack of jurisdiction under 16 TAC § 22.181. For issues to which it does not raise a jurisdictional argument, the City proclaims, without any evidentiary support, its position. For example, in response to the question asking whether the City is acting in "a discriminatory manner with respect to the type of development proposed by complainants?" the City responds as follows: "The City is NOT acting in a discriminatory manner."<sup>1</sup> In only a few instances, the City attempts

<sup>1</sup> See City of Frisco's Motion for Summary Decision at 10 (Oct. 31, 2016) (emphasis in original) ("City's Motion").

to provide evidentiary support through an affidavit of John Lettelleir. However, on the salient points, Mr. Lettelleir's affidavit merely makes legal conclusions which are insufficient to support the City's motion. Moreover, even if Mr. Lettelleir's affidavit constituted competent summary decision evidence – which it does not – there remain disputed issues of fact relating to nearly every issue identified by Frisco in its motion. For these reasons, the City's pleading is entirely deficient. A response to the City's position on each referred issue is provided below.

## **II. LEGAL STANDARD**

A summary decision is warranted when there is a demonstration that there is no genuine issue as to any material fact and that the moving party is entitled to a decision as a matter of law.<sup>2</sup> A motion for summary decision must specifically describe the facts upon which the request for summary decision is based, the information and materials which demonstrate those facts, and the laws or legal theories that entitle the movant to summary decision.<sup>3</sup> To rely on an affidavit to present competent evidence for a motion for summary decision, the affidavit must present facts in a form that would be admissible as evidence in a courtroom trial and cannot state legal conclusions.<sup>4</sup>

## **III. RESPONSE TO CITY OF FRISCO'S MOTION**

### **1. PUC has Exclusive Original Jurisdiction Over this Matter**

Texas Water Code §13.042(e) provides as follows:

The utility commission shall have exclusive original jurisdiction over water and sewer utility rates, operations, and services not within the incorporated limits of a municipality exercising exclusive original jurisdiction over those rates, operations, and services as provided in this chapter.

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<sup>2</sup> 16 Tex. Admin. Code § 22.182(a) ("TAC").

<sup>3</sup> 16 TAC 22.182(b).

<sup>4</sup> *Brownlee v. Brownlee*, 665 S.W.2d 111, 112 (Tex. 1984); *Goode v. Mazy*, 923 S.W.2d 746, 769 (Tex.App.—Tyler 1996, no writ).

According to the cited provision, PUC has exclusive original jurisdiction over rates, operations, and services to property located outside the city limits. A city may elect to exercise exclusive original jurisdiction over rates, operations, and services located inside the city limits and PUC then has appellate jurisdiction, or the city may choose to give the exclusive original jurisdiction to PUC. However, outside the city's incorporated limits, PUC always has exclusive original jurisdiction. It is undisputed that Lot 2 is located outside the incorporated limits of the City of Frisco.<sup>5</sup> Accordingly, PUC has exclusive original jurisdiction over rates, operations, and services related to Lot 2.<sup>6</sup>

In this case, Complainants have asserted that the City of Frisco is responsible for providing utility services to the Property, that it has failed to do so, and have asked PUC to review the matter and provide it relief, as the City's actions are in violation of Texas Water Code § 13.250 and 16 TAC §§ 24.85 and 24.114. The City argues that it can do what it wants—including an outright refusal to provide utility services to landowners within its CCN area—and that PUC has no jurisdiction. The City's flagrant refusal to provide utility services to Complainants in this case, at least, confirms that they are willing to back up their belief with action.

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<sup>5</sup> City of Frisco's Responses to Complainants' Second Set of RFIs and RFAs, RFA No: 10 (Sept. 7, 2016). An excerpt of the relevant responses are attached hereto as Attachment 1.

<sup>6</sup> Frisco contends that the Texas Legislature in Chapter 552 of the Texas Local Government Code has provided certain powers to municipalities, including the right to prescribe necessary rules relating to the water and sewer pipes that may be used inside or outside of the municipality. *See* City's Motion at 3. Frisco argues Chapter 552 of the Texas Local Government Code prevails over Chapter 13 of the Texas Water Code essentially stripping PUC of its jurisdiction over municipalities operating outside their corporate limits. Texas courts, however, must harmonize statutes, if possible, to avoid irreconcilable conflicts. Tex. Gov't Code § 311.026(a). Mere difference is insufficient to constitute an irreconcilable conflict. *See Garcia v. State*, 669 S.W.2d 169, 171 (Tex.App.—Dallas 1984, writ ref'd). Rather, it must be impossible to comply with both statutes before a court will find a conflict to be irreconcilable. *State v. Jackson*, 370 S.W.2d 797, 800 (Tex.Civ.App.—Houston [1st Dist.] 1963) *aff'd*, 376 S.W.2d 341 (Tex. 1964). Here, there is no irreconcilable conflict. The Texas Legislature authorized municipalities to own and operate water and sewer systems both inside and outside their corporate limits and to prescribe rules related to such systems—similar to the authority the Texas Legislature has given to other retail public utilities. However, PUC maintains exclusive original jurisdiction over the rates, services, and operations outside the corporate limits of a municipality. This does not mean that the municipality cannot make a rule—it just means that if the rule is challenged, PUC has the exclusive, original jurisdiction to review it.

In support of its contention that PUC lacks jurisdiction, the City focuses on the phrase “as provided in this chapter” in § 13.042(e) and states that the phrase limits PUC’s jurisdiction to “only the activities covered in TWC Chapter 13.”<sup>7</sup> The City then proceeds to list the activities that it believes are covered under Chapter 13 (as related to municipalities) and lists TWC § 13.043, § 13.044, § 13.250(a), and Subchapter G.<sup>8</sup> With respect to § 13.250(a), the City warns that the language must be “carefully” considered and that the provision must be read in its “entirety.” And after claiming to do as such, it concludes that § 13.250(a) was not “intended to protect or apply to applicants for retail water and/or sewer service” because it “only applies to “consumers.” A consumer, according to the City, means an existing customer. The City is wrong.

TWC § 13.250(a) provides as follows:

Except as provided by this section or Section 13.2501 of this code, any retail public utility that possesses or is required to possess a certificate of public convenience and necessity shall serve every consumer within its certified area and shall render continuous and adequate service within the area or areas.

A retail public utility has the obligation to provide service to all of its consumers, and it has the obligation to provide continuous and adequate service within its certificated area. The City refers to a definition of a consumer as one that “buys goods and services” but then concludes that a consumer in TWC § 13.250 is one who has already bought the goods and/or services. In the economics and marketing sense, a consumer is someone who makes the decision whether to purchase an item. A consumer in this context is the potential end user, and not necessarily the person that has already made the purchase. Without citing to any authority, the City declares that the legislative intent in support of its position (that consumer means an

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<sup>7</sup> City’s Motion at 2.

<sup>8</sup> City’s Motion at 4.

existing customer) is “clear.” Indeed, it is actually clear that the Legislature had no intent to demarcate between one that has already consumed and one that intends to consume. The more natural reading of the term in § 13.250(a) is not one that has already made the purchase but one that is capable of making the purchase. In other words, the person that is within the retail public utility’s certificated area.

Moreover, if the Legislature intended to include only existing customers, then it could have used the phrase “existing customers.” That phrase is used in Chapter 13 of the Water Code: § 13.254(g) and § 13.255(g). The term “existing” is used throughout the chapter.

Besides, TWC § 13.250(a) provides that a retail public utility shall serve every consumer with the certificated area “and shall render continuous and adequate service within the area or areas.” The duty to provide continuous and adequate service within the certificated area is a statutory obligation. While stating that TWC § 13.250(a) must be read in its entirety, the City somehow overlooks the latter part of the provision.

PUC Procedural Rule § 24.114(a) states that a retail public utility “must provide continuous and adequate service to every customer and every qualified applicant for service...”<sup>9</sup> The City asserts that by protecting “qualified applicants,” the regulation goes beyond the statutory provision of TWC § 13.250 and is, therefore, void.<sup>10</sup> As explained, the City’s understanding of the term “consumer” is unsupported and strained, and its refusal to read TWC § 13.250(a) in its entirety cuts against its argument. Indeed, if 16 TAC § 24.114(a) is deemed to be void, it is not because it broadens TWC § 13.250(a), but rather, because it can serve to restrict the scope of TWC § 13.250(a) if improperly interpreted. TWC § 13.250(a) provides that a retail public utility “shall serve every consumer with its certificated area and shall render continuous

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<sup>9</sup> 16 TAC 24.114(a).

<sup>10</sup> City’s Motion at 5-6.

and adequate service within the area or areas.”<sup>11</sup> The duty to provide continuous and adequate service within the certificated area is a statutory obligation that cannot be restricted. If the phrase “qualified applicant” is interpreted to restrict an otherwise protected class, then it is void for that reason.

But, by reading 16 TAC § 24.114(a) to require continuous and adequate service within the certificated area – to both those already receiving water or sewer service and to those who seek to receive service – PUC is simply re-stating the statutory obligation of TWC § 13.250(a). Thus, the rule on its face is not void and does not constitute the exercise of a “new power” by PUC.

The City next contends that Complainants are not “qualified applicants” or “consumers” of the City’s services for Lot 2. The only evidence the City presents in support of this position is the affidavit of John Lettelleir. However, this affidavit is not competent summary judgment evidence. Mr. Lettelleir’s affidavit only contains conclusory statements – that Complainants are not “consumers” and that they have not “qualified to receive water or sewer service.” Mr. Lettelleir’s conclusory affidavit is insufficient to meet the City’s burden of demonstrating that no genuine issues of material fact exist as to whether Complainants are either “consumers” or “qualified applicants.” To the contrary, the facts show otherwise. Lot 2 is located within Frisco’s extraterritorial jurisdiction, water CCN, and sewer CCN.<sup>12</sup> Water and sewer facilities belonging to Frisco are stubbed out onto Lot 2.<sup>13</sup> ADC West Ridge, L.P. and Center for Housing Resources, Inc., submitted an application for water and sewer service to Frisco.<sup>14</sup>

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<sup>11</sup> TWC § 13.250(a) (emphasis added).

<sup>12</sup> See Attachment 1, RFA Nos. 10-13.

<sup>13</sup> See Attachment 2, Affidavit of Terri Anderson.

<sup>14</sup> *Id.*

For these reasons, Complainants urge the Honorable Administrative Law Judges to find that PUC has jurisdiction over this case and to deny the City's Motion for Summary Decision.

**2. Appellate Jurisdiction**

The second question addressed by the City is whether, if PUC does not have original jurisdiction, PUC has appellate jurisdiction. As explained above, PUC has exclusive, original jurisdiction over this matter pursuant to TWC § 13.042(e). Thus, there is no need to address PUC's appellate jurisdiction. Because PUC has jurisdiction over this matter and because Frisco has failed to meet its burden of proof to establish that it is entitled to a decision as a matter of law, Complainants request that Frisco's motion be denied as to this issue.

**3. Frisco is a retail public utility**

Frisco admits that it is a retail public utility as defined by TWC § 13.002(19). Because the parties agree that Frisco is a retail public utility, there appears to be no genuine dispute as to any material fact related to this issue.

**4. PUC Rule 24.85 applies to Frisco**

The City concludes, based on its faulty logic related to PUC's jurisdiction and TWC § 13.250, that 16 TAC § 24.85 does not apply to Frisco. However, as explained above, PUC has jurisdiction under TWC § 13.042(e). And, TWC § 13.250(a) requires retail public utilities, like the City, to provide continuous and adequate service to all consumers – including those who have already consumed and those who wish to consume – within their certificated area. PUC's rule in 16 TAC § 24.85(a), consistent with TWC § 13.250, provides:

Except as provided for in subsection (e) of this section, every retail public utility shall serve each qualified service applicant within its certificated area as soon as is practical after receiving a completed application. . . .



This rule, like 16 TAC § 24.114(a), does not expand the powers of PUC and merely restates the statutory obligation of a retail public utility holding a CCN. Finally, Complainants' evidence attached to this response demonstrates that there is at least a genuine dispute as to material facts related to whether Frisco has complied with Rule 24.85.<sup>15</sup> Frisco has failed to meet its burden of proof to establish that it is entitled to a decision as a matter of law in its favor on this point. Therefore, Complainants request Frisco's motion be denied on this issue.

**5. The City of Frisco has Failed to Provide Continuous and Adequate Service**

The City, again in its conclusory fashion, states that Frisco has not failed to provide continuous and adequate service by relying on its belief that TWC § 13.250 applies only to consumers already receiving water or sewer service. This argument fails because the City misinterprets TWC § 13.250 as described above. This argument also fails because the City has not presented any competent summary decision evidence in its favor. Again, Complainants' evidence attached to this response demonstrates that there is at least a genuine dispute as to material facts related to whether Frisco has provided continuous and adequate service.<sup>16</sup>

The City also asks for a finding that 16 TAC § 24.83 does not apply to it. On this particular sub-issue, there are no disputed issues of fact. As a matter of law, Frisco, as a municipality, is not a "utility" as defined by the Texas Water Code or PUC's regulations and therefore 16 TAC § 24.83 does not apply to it. However, 16 TAC § 24.83 is instructive in what is expected of an entity holding a CCN.

Because the City has failed to meet its burden of proof as to this issue as a whole, the City's motion should be denied.

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<sup>15</sup> *Id.*

<sup>16</sup> *Id.*

**6. Which, if any, Ordinances or Regulations of the City of Frisco Apply to Extension of Water and Sewer Service Outside its Corporate Limits Remains in Dispute**

Frisco moves for summary decision on the following issue:

Do the City of Frisco's subdivision regulations, or any other relevant city regulations or ordinances with regard to extensions of water or sewer service apply to 9331 Westridge, which is located outside the corporate limits of Frisco?

The City proposes to answer this question in the affirmative. However, the answer to this question requires more than a simple "yes" or "no." This question requires identification of *which*, if any, regulations or ordinances relating to the extension of water or sewer service apply to Lot 2 and *what* those regulations or ordinances require. Frisco fails to answer the question and fails to present any competent evidence in its favor.

The parties agree that Lot 2 is located outside the City's corporate limits but within the City's extraterritorial jurisdiction. And, Complainants do not dispute the general concept that a municipality may extend certain regulations or ordinances outside its corporate limits. Nor do Complainants contest that a municipality is authorized to own and operate a water and sewer system outside its corporate limits. Rather, the dispute lies in which regulations and ordinances apply outside Frisco's corporate limits, what those ordinances and regulations require, and whether Complainants have complied with such requirements. Consistent with Frisco's dealings with Complainants thus far, Frisco refuses to identify which ordinances and regulations it contends apply, what those ordinances or regulations require, and how Complainants have failed to comply with them. Frisco's conclusory statement that "[t]he answer is 'yes'" fails to meet its burden of proof of establishing that it is entitled to any decision as a matter of law in its favor on this issue. For this reason, Complainants request that Frisco's motion be denied on this issue.

## **7. What Facilities, if any, are Necessary Remains in Dispute**

Frisko also seeks summary decision on the issue of what, if any, new facilities are required to serve Lot 2 without submitting any evidence – let alone competent evidence – to establish that it is entitled to a decision as a matter of law. Rather, Frisko reiterates its jurisdictional arguments. Again, however, PUC unquestionably has jurisdiction under TWC § 13.042(e).

PUC's jurisdiction is not eliminated by the simple fact that the City is authorized to own and operate its water and sewer systems and to adopt regulations related to those systems. Like other retail public utilities, which also have the authority to own and operate water and sewer systems and adopt rules related to those systems, PUC has jurisdiction over the rates, services, and operations outside of the City's corporate limits.<sup>17</sup> Moreover, the City has not established that its definition of "consumers" is applicable or that Complainants are not "consumers." Those issues remain in dispute.<sup>18</sup> And, the City failed to submit competent evidence on these issues or to establish that it is entitled to a decision as a matter of law.<sup>19</sup> Because the City has failed to meet its burden of proof, Complainants request the City's motion for summary decision be denied on this issue. To the extent the City's motion is construed as a motion to dismiss for lack of jurisdiction, Complainants request the City's motion be denied because PUC has jurisdiction over this issue and this proceeding.

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<sup>17</sup> TWC § 13.042(e).

<sup>18</sup> See Attachment 2.

<sup>19</sup> Once again, the only "evidence" submitted by the City on this point is a conclusory affidavit of John Lettelleir. Because Mr. Lettelleir's affidavit just makes conclusory statements, it is not competent evidence on this point.

**8. Whether Complainants can Receive Service from the Pre-existing Infrastructure Remains in Dispute**

The City again seeks summary decision on this issue, but its arguments rest on jurisdictional grounds.<sup>20</sup> As explained above, PUC has jurisdiction over this case and has jurisdiction over the City of Frisco's regulations related to the extension of service within its CCNs. Also, the City again fails to present any competent summary decision evidence that its definition of "consumers" is applicable or that Complainants are not "consumers."<sup>21</sup> Because the City has failed to meet its burden of proof, Complainants request the City's motion for summary decision be denied on this issue. To the extent the City's motion is construed as a motion to dismiss for lack of jurisdiction, Complainants request the City's motion be denied because PUC has jurisdiction over this issue and this proceeding.

**9. Whether the City of McKinney is Willing and Able to Provide Service**

Frisco contends that PUC lacks jurisdiction over this issue and apparently seeks summary decision on that ground. Frisco fails to submit any evidence in support of its position or to establish that it is entitled to decision as a matter of law. Contrary to Frisco's position, PUC does have jurisdiction over this matter and this issue and may order another retail public utility to provide service to an area if the CCN holder is unable or unwilling to do so.<sup>22</sup> Because the City has failed to meet its burden of proof, Complainants request the City's motion for summary decision be denied on this issue. To the extent the City's motion is construed as a motion to dismiss for lack of jurisdiction, Complainants request the City's motion be denied because PUC has jurisdiction over this issue and this proceeding.

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<sup>20</sup> The City also makes an interesting statement that if PUC required it to allow connection to the existing infrastructure, doing so would result in a violation of the City's CCN because the water and sewer services would be delivered and treated by a party other than the City. Yet, it appears that the City routinely allows another party to provide water and sewer service within its CCN.

<sup>21</sup> Once again, the only "evidence" submitted by the City on this point is a conclusory affidavit of John Lettelleir. Because Mr. Lettelleir's affidavit just makes conclusory statements, it is not competent evidence on this point.

<sup>22</sup> TWC §§ 13.042(e), 13.254(c).

#### **10. The Appropriate Remedy Remains in Dispute**

Frisco first states, in conclusory fashion and without any evidence in support, that it has not violated the relevant provisions. Then, it continues with its unsubstantiated argument that PUC lacks jurisdiction over this issue.<sup>23</sup> Yet again, as explained above, PUC has jurisdiction under TWC § 13.042(e). Further, Frisco's conclusory statement is not competent summary decision evidence. Because the City has failed to meet its burden of proof, Complainants request the City's motion for summary decision be denied on this issue. To the extent the City's motion is construed as a motion to dismiss for lack of jurisdiction, Complainants request the City's motion be denied because PUC has jurisdiction over this issue and this proceeding.

#### **11. Whether the City is Acting in a Discriminatory Manner Remains in Dispute**

Frisco moves for summary decision on the following issue:

Is the City of Frisco's line extension policy consistent and nondiscriminatory in accordance with 16 TAC § 24.86(c), or is the City of Frisco acting in a discriminatory manner with respect to the type of development proposed by complainants?

Frisco, without any evidentiary support, proclaims that it is not acting in a discriminatory manner. However, Complainants contend that the evidence will show to the contrary. Regardless, this proclamation is not sufficient to establish that Frisco is entitled to summary decision on this issue.

Frisco goes on to argue that 16 TAC § 24.86 is inapplicable to Frisco. Again, Complainants do not contend that Frisco is a "utility" subject to Rule 24.86(c). However, the rule is indicative of the duties of CCN holders. Further, if Frisco is discriminating in the provision of service – which Complainants contend that it is – then it is not providing continuous and adequate service as required by § 13.250(a). Therefore, PUC has jurisdiction over this issue,

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<sup>23</sup> The City also again argues that 16 TAC § 24.83 is inapplicable to Frisco. Complainants do not contend that 16 TAC § 24.83 applies to Frisco.

and, although the particular rule cited may not apply, the question remains relevant. For these reasons, Complainants request Frisco's motion be denied on this issue.

**12. The Rights and Responsibilities Related to the Annexation Agreement and Development Agreement**

In its last two issues, Frisco again argues that PUC lacks jurisdiction to consider the questions posed. However, PUC has jurisdiction over the services, rates, and operations of the City outside its corporate limits.<sup>24</sup> As such, it may consider relevant documents and agreements related to the extension of service. This is a fact question the answer to which is relevant to the ultimate question of whether Frisco is simply refusing to provide service to Complainants on Lot 2 due to objections associated with Complainants' proposed affordable housing complex. Frisco has not provided any competent evidence regarding this issue and has not established that it is entitled to decision as a matter of law. Because the City has failed to meet its burden of proof, Complainants request the City's motion for summary decision be denied on this issue. To the extent the City's motion is construed as a motion to dismiss for lack of jurisdiction, Complainants request the City's motion be denied because PUC has jurisdiction over this issue and this proceeding.

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<sup>24</sup> TWC § 13.042(e).

Respectfully submitted,

JACKSON WALKER L.L.P.

By: 

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ATTORNEYS FOR COMPLAINANTS  
ADC WEST RIDGE L.P., AND CENTER FOR  
HOUSING RESOURCES, INC.

**CERTIFICATE OF SERVICE**

I hereby certify that the above and foregoing document was served as shown below on  
this 30th day of November 2016:

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***Via email and U.S. First Class Mail***

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Ali Abazari



# ATTACHMENT 1

RECEIVED

SOAH DOCKET NO. 473-16-4619.WS  
PUC DOCKET NO. 45870

2016 SEP -7 AM 11:48

PUBLIC UTILITY COMMISSION  
FILING CLERK

COMPLAINT OF KER-SEVA LTD. § BEFORE THE STATE OFFICE OF  
AGAINST THE CITY OF FRISCO § ADMINISTRATIVE HEARINGS

**CITY OF FRISCO'S RESPONSES TO KER-SEVA, LTD., ADC WEST RIDGE, L.P., AND  
CENTER FOR HOUSING RESOURCES, INC.'S SECOND SET OF  
REQUESTS FOR INFORMATION AND REQUESTS FOR ADMISSION**

COMES NOW the City of Frisco ("City" or "Frisco") and files these Responses to the First Set of Requests for Information ("RFI") and Requests for Admission ("RFA") of Ker-Seva Ltd., ADC West Ridge, LP and Center for Housing Resources, Inc. ("Complainants") served on August 18, 2016.

Respectfully submitted,

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/s/ Arturo D. Rodriguez, Jr.  
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**ATTORNEYS FOR THE CITY OF FRISCO**

**SOAH DOCKET NO. 473-16-4619.WS  
PUC DOCKET NO. 45870**

**COMPLAINT OF KER-SEVA LTD.           §           BEFORE THE STATE OFFICE OF  
AGAINST THE CITY OF FRISCO       §           ADMINISTRATIVE HEARINGS**

**CITY OF FRISCO'S RESPONSES TO KER-SEVA, LTD., ADC WEST RIDGE, L.P., AND  
CENTER FOR HOUSING RESOURCES, INC.'S SECOND SET OF  
REQUESTS FOR INFORMATION AND REQUESTS FOR ADMISSION**

**Request for Admission No. 10:**   Admit that Lot 2 is not within the incorporated limits of Frisco.

**Response:**   Admit.

**Prepared/sponsored by:**   To be supplemented

**SOAH DOCKET NO. 473-16-4619.WS  
PUC DOCKET NO. 45870**

<b>COMPLAINT OF KER-SEVA LTD. AGAINST THE CITY OF FRISCO</b>	<b>§ §</b>	<b>BEFORE THE STATE OFFICE OF ADMINISTRATIVE HEARINGS</b>
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**CITY OF FRISCO'S RESPONSES TO KER-SEVA, LTD., ADC WEST RIDGE, L.P., AND  
CENTER FOR HOUSING RESOURCES, INC.'S SECOND SET OF  
REQUESTS FOR INFORMATION AND REQUESTS FOR ADMISSION**

**Request for Admission No. 11:** Admit that Lot 2 is within the extraterritorial jurisdiction of Frisco.

**Response:** Admit.

Prepared/sponsored by: To be supplemented

**SOAH DOCKET NO. 473-16-4619.WS  
PUC DOCKET NO. 45870**

**COMPLAINT OF KER-SEVA LTD.                    §                    BEFORE THE STATE OFFICE OF  
AGAINST THE CITY OF FRISCO                    §                    ADMINISTRATIVE HEARINGS**

**CITY OF FRISCO'S RESPONSES TO KER-SEVA, LTD., ADC WEST RIDGE, L.P., AND  
CENTER FOR HOUSING RESOURCES, INC.'S SECOND SET OF  
REQUESTS FOR INFORMATION AND REQUESTS FOR ADMISSION**

**Request for Admission No. 12:**     Admit that Lot 2 is within water certificate of convenience  
and necessity No. 11772 issued to Frisco.

**Response:**     Admit.

**Prepared/sponsored by:**     To be supplemented.

SOAH DOCKET NO. 473-16-4619.WS

PUC DOCKET NO. 45870

COMPLAINT OF KER-SEVA LTD.  
AGAINST THE CITY OF FRISCO

§  
§

BEFORE THE STATE OFFICE OF  
ADMINISTRATIVE HEARINGS

**CITY OF FRISCO'S RESPONSES TO KER-SEVA, LTD., ADC WEST RIDGE, L.P., AND  
CENTER FOR HOUSING RESOURCES, INC.'S SECOND SET OF  
REQUESTS FOR INFORMATION AND REQUESTS FOR ADMISSION**

**Request for Admission No. 13:** Admit that Lot 2 is within sewer certificate of convenience  
and necessity No. 20591 issued to Frisco.

**Response:** Admit.

Prepared/sponsored by: To be supplemented

### **CERTIFICATE OF SERVICE**

I hereby certify that on this 7<sup>th</sup> day of September, 2016, a true and correct copy of the foregoing document has been sent via facsimile, first class mail, or hand-delivered to the following counsel of record:

Mr. Sam Chang  
Public Utility Commission of Texas  
1701 N. Congress Avenue  
Austin, Texas  
(512) 936-7261  
(512) 936-7268 Fax

Mr. Leonard Dougal  
Jackson Walker, LLP  
100 Congress Avenue, Suite 1100  
Austin, Texas 78701  
(512) 236-2000  
(512) 236-2002 Fax

/s/ Arturo D. Rodriguez, Jr.

ARTURO D. RODRIGUEZ, JR.

# **ATTACHMENT 2**



**PUC DOCKET NO. 45870  
SOAH DOCKET NO. 473-16-4619.WS**

<b>FORMAL COMPLAINT OF KER-SEVA LTD. AGAINST THE CITY OF FRISCO RFI, TEXAS</b>	§ § §	<b>BEFORE THE PUBLIC UTILITY COMMISSION OF TEXAS</b>
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**AFFIDAVIT OF TERRI ANDERSON**

**STATE OF TEXAS           §**

**COUNTY OF Dallas       §**

I, Terri Anderson, make this affidavit and hereby on oath state the following:

1. My name is Terri Anderson. I am the chairperson of Center for Housing Resources, Inc. ADC West Ridge, L.P.'s general partner, CHR West Ridge, LLC, is the wholly owned subsidiary of Center for Housing Resources, Inc. I am the authorized representative of Center for Housing Resources, Inc. and ADC West Ridge, L.P. The facts stated within this affidavit are within my personal knowledge and are true and correct.
  
2. ADC West Ridge, L.P. owns an approximately 4.9-acre tract of land located within the extraterritorial jurisdiction of the City of Frisco and within Frisco's water and sewer CCNs. This property is sometimes referred to as "Lot 2" because it was previously part of a larger approximately 8.5-acre tract of land which was divided into two lots. Lot 1 of that larger property was developed by Ker-Seva, Ltd. into a daycare. Stubbed out onto Lot 2 are water and sewer lines which I understand are owned by the City of Frisco. Attached hereto as Exhibit "A" is a letter from Frisco showing those lines.
  
3. ADC West Ridge, L.P. purchased Lot 2 from Ker-Seva, Ltd. with the intention of constructing an affordable housing complex on the site. ADC West Ridge, L.P. notified the City of Frisco, and other local governmental entities, of this intention as part of an attempt to obtain a housing tax credit. After the City of Frisco refused to provide support for the project, and in an attempt to move forward with the development of the project, ADC West Ridge, L.P., on behalf of Ker-Seva, Ltd., filed an application for a preliminary plat. After several months of revisions required by Frisco, Frisco's Planning and Zoning Committee approved the preliminary plat. Attached hereto as Exhibit "B" is the preliminary plat approved by Frisco.
  
4. In addition, Sanchez Advisory Group, LLC, performed a sanitary sewer study on behalf of ADC West Ridge, L.P. for the project. This study was produced to Frisco in this lawsuit.

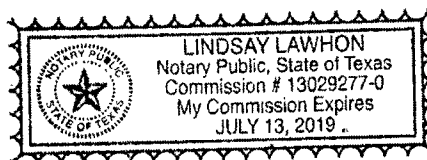
5. After closing on the purchase of Lot 2, ADC West Ridge, L.P. submitted an application for water and sewer service to Frisco. Attached hereto as Exhibit "C" is the application for water and sewer service. The application indicates that the project will consist of a 132 unit apartment complex and a leasing office.
6. In addition to the water and sewer service application and the preliminary plat, which were submitted to Frisco and also produced in discovery in this matter, I obtained an e-mail through a public information act request from Collin County which indicates that Collin County provided copies of the civil engineering construction plans for the project to Frisco. Attached hereto as Exhibit "D" is the e-mail, which has also been produced in discovery to Frisco. These plans show extensive details about the project.
7. As part of the construction of the project, representatives of each the general contractor, KWA Construction, L.P. and a sub-contractor, Weir Bros. Partners, LLC, applied for and obtained temporary construction water meters. On each such occasion, either representatives of the City of Frisco or of the City of McKinney confiscated these meters. Numerous documents related to these incidences have been produced in discovery, including, but not limited to, the e-mail and letters attached as Exhibit "E."


FURTHER AFFIANT SAYETH NAUGHT.

  
Signature of Affiant, Terri Anderson

Before me, the undersigned notary, personally appeared Terri Anderson and by oath stated that the facts stated herein are true and correct.

Sworn to and subscribed before me on this 28<sup>th</sup> day of November 2016.



  
Notary Public in and for the State of Texas

My commission expires: 7/13/2019

# **EXHIBIT A**



**CITY OF FRISCO**

GEORGE A. PUREFOY MUNICIPAL CENTER  
6101 FRISCO SQUARE BLVD · 3RD FLOOR  
FRISCO, TEXAS 75034  
TEL 972.292.5400 · FAX 972.292.5016  
WWW.FRISCOTEXAS.GOV

March 1, 2015

Bill Robinson  
Cross Engineering  
131 S. Tennessee Street  
McKinney, Texas 75069  
(972) 562-4409  
[brobinson@crossengineering.biz](mailto:brobinson@crossengineering.biz)

**Re: Westridge Apartments  
Frisco, Texas**

To Whom It May Concern:

As requested, I am sending you a letter verifying that the City of Frisco will serve water, sewer, and storm utilities to the area as shown on the attached map, when developed. The map indicates the current water lines (blue), sanitary sewer lines (green) on or near the subject property. The extension of utility lines to the subject property, which is subject to all ordinances, rules, and requirements of the City, as they exist or may be amended, is the sole responsibility of the owner/developer. In addition, the owner/developer is solely responsible for obtaining any required offsite easements. The City can provide current easement templates, which are subject to the final review and approval of the City prior to execution by any Grantor.

The developer is responsible for sizing any offsite lines to accommodate all future flows based on the more conservative value from either the Future Land Use Plan or the existing Zoning. Permanent service connections will be reviewed by the Engineering Department as part of the engineering plan review process, which begins with submittal of the final site plan. City requirements for water and sanitary sewer design and construction are available on the City's website.

If you have any additional questions, please contact the City of Frisco Engineering Services Department at 972-292-5472.

Sincerely,

**Stephanie Miller**  
Construction Technician  
6101 Frisco Square Blvd  
Frisco, TX 75034  
972-292-5472



## CITY OF FRISCO

GEORGE A. PUREFOY MUNICIPAL CENTER  
6101 FRISCO SQUARE BLVD · 3RD FLOOR  
FRISCO, TEXAS 75034  
TEL 972.292.5400 · FAX 972.292.5016  
WWW.FRISCOTEXAS.GOV



**DISCLAIMER:** The City of Frisco has prepared this map or information for internal use only. It is made available under the Public Information Act. Any reliance on this map or information is AT YOUR OWN RISK. Frisco assumes no liability for any errors, omissions, or inaccuracies in the map or information regardless of the cause of such or for any decision made, action taken, or action not taken in reliance upon any maps or information provided herein. Frisco makes no warranty, representation, or guarantee of any kind regarding any maps or information provided herein or the sources of such maps or information and DISCLAIMS ALL REPRESENTATIONS AND WARRANTIES, EXPRESSED AND IMPLIED, including the implied warranties of merchantability and fitness for a particular purpose.

# EXHIBIT B

June 9, 2015

**Preliminary Plat:** Westridge Addition, Block A, Lot 2  
**Owner(s):** Terri L. Anderson

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**DESCRIPTION:**

One lot on 4.9± acres on the south side of Westridge Boulevard, 505± feet east of Memory Lane located within the City's ETJ. Neighborhood #6. AM

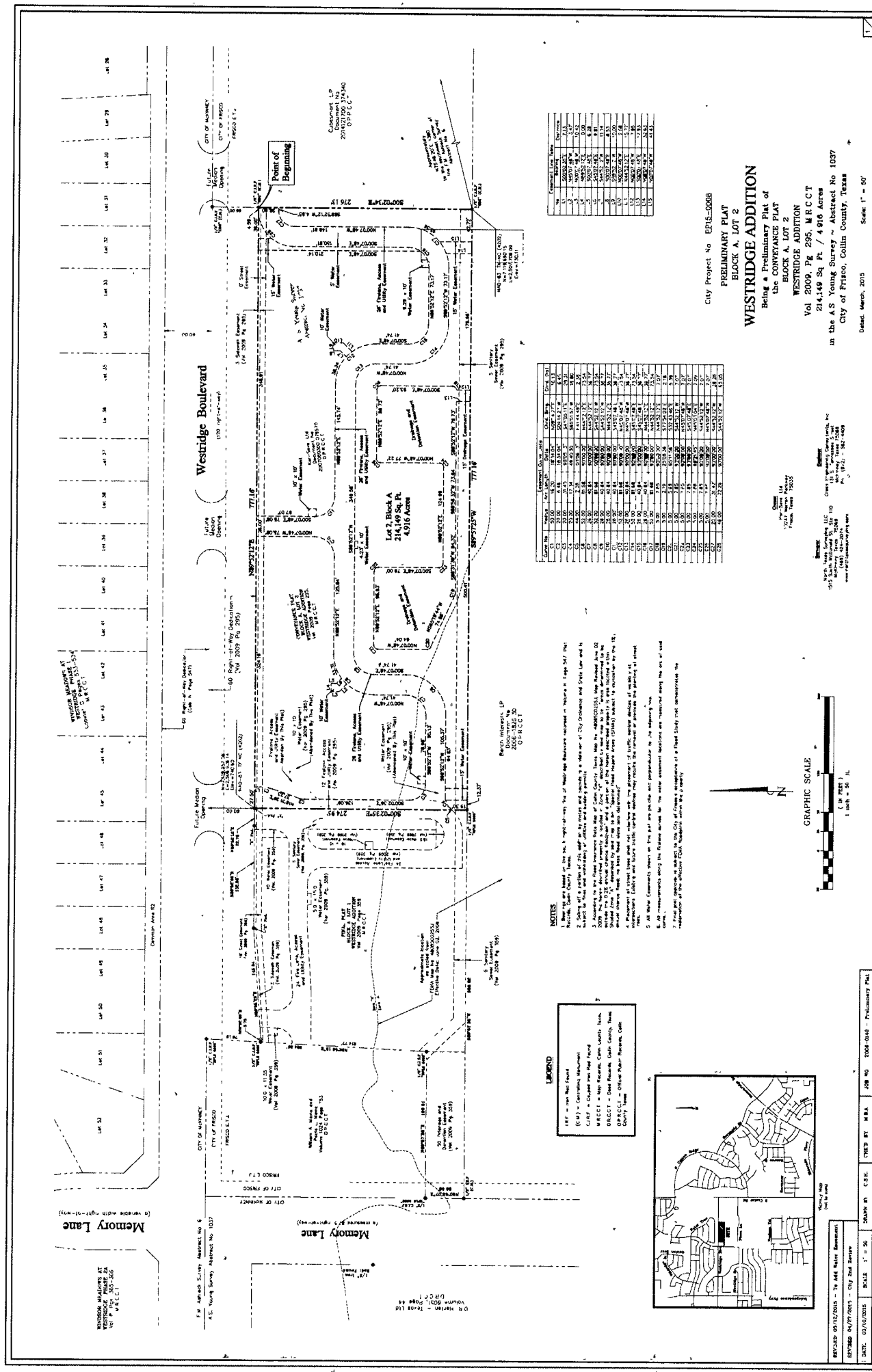
**Access:** Access is provided from Westridge Boulevard.

**Purpose:** The Preliminary Plat dedicates right-of-way for a portion of Westridge Boulevard and easements for future development on Lots 2.

**Additional Information:** The property is located within Frisco's Extraterritorial Jurisdiction (ETJ).

**RECOMMENDATION:**

Recommended for approval subject to additions and/or alterations resulting from Engineering Services' review of construction plans.



Lot	Area (Ac.)	Area (Sq. Ft.)	Area (Sq. Ft.)
1	0.00	0.00	0.00
2	0.00	0.00	0.00
3	0.00	0.00	0.00
4	0.00	0.00	0.00
5	0.00	0.00	0.00
6	0.00	0.00	0.00
7	0.00	0.00	0.00
8	0.00	0.00	0.00
9	0.00	0.00	0.00
10	0.00	0.00	0.00
11	0.00	0.00	0.00
12	0.00	0.00	0.00
13	0.00	0.00	0.00
14	0.00	0.00	0.00
15	0.00	0.00	0.00
16	0.00	0.00	0.00
17	0.00	0.00	0.00
18	0.00	0.00	0.00
19	0.00	0.00	0.00
20	0.00	0.00	0.00
21	0.00	0.00	0.00
22	0.00	0.00	0.00
23	0.00	0.00	0.00
24	0.00	0.00	0.00
25	0.00	0.00	0.00
26	0.00	0.00	0.00
27	0.00	0.00	0.00
28	0.00	0.00	0.00
29	0.00	0.00	0.00
30	0.00	0.00	0.00
31	0.00	0.00	0.00
32	0.00	0.00	0.00
33	0.00	0.00	0.00
34	0.00	0.00	0.00
35	0.00	0.00	0.00
36	0.00	0.00	0.00
37	0.00	0.00	0.00
38	0.00	0.00	0.00
39	0.00	0.00	0.00
40	0.00	0.00	0.00
41	0.00	0.00	0.00
42	0.00	0.00	0.00
43	0.00	0.00	0.00
44	0.00	0.00	0.00
45	0.00	0.00	0.00
46	0.00	0.00	0.00
47	0.00	0.00	0.00
48	0.00	0.00	0.00
49	0.00	0.00	0.00
50	0.00	0.00	0.00
51	0.00	0.00	0.00
52	0.00	0.00	0.00
53	0.00	0.00	0.00
54	0.00	0.00	0.00
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58	0.00	0.00	0.00
59	0.00	0.00	0.00
60	0.00	0.00	0.00
61	0.00	0.00	0.00
62	0.00	0.00	0.00
63	0.00	0.00	0.00
64	0.00	0.00	0.00
65	0.00	0.00	0.00
66	0.00	0.00	0.00
67	0.00	0.00	0.00
68	0.00	0.00	0.00
69	0.00	0.00	0.00
70	0.00	0.00	0.00
71	0.00	0.00	0.00
72	0.00	0.00	0.00
73	0.00	0.00	0.00
74	0.00	0.00	0.00
75	0.00	0.00	0.00
76	0.00	0.00	0.00
77	0.00	0.00	0.00
78	0.00	0.00	0.00
79	0.00	0.00	0.00
80	0.00	0.00	0.00
81	0.00	0.00	0.00
82	0.00	0.00	0.00
83	0.00	0.00	0.00
84	0.00	0.00	0.00
85	0.00	0.00	0.00
86	0.00	0.00	0.00
87	0.00	0.00	0.00
88	0.00	0.00	0.00
89	0.00	0.00	0.00
90	0.00	0.00	0.00
91	0.00	0.00	0.00
92	0.00	0.00	0.00
93	0.00	0.00	0.00
94	0.00	0.00	0.00
95	0.00	0.00	0.00
96	0.00	0.00	0.00
97	0.00	0.00	0.00
98	0.00	0.00	0.00
99	0.00	0.00	0.00
100	0.00	0.00	0.00

City Project No. EP-15-0088  
**PRELIMINARY PLAT**  
**BLOCK A, LOT 2**  
**WESTRIDGE ADDITION**  
 Being a Preliminary Plat of  
 the CONVEYANCE PLAT  
 BLOCK A, LOT 2  
 WESTRIDGE ADDITION  
 Vol. 2009, Pg. 295, M.R.C.T.  
 214,149 Sq. Ft. / 4.916 Acres  
 in the A.S. Young Survey ~ Abstract No. 1037  
 City of Frisco, Collin County, Texas

Date: March, 2015 Scale: 1" = 50'

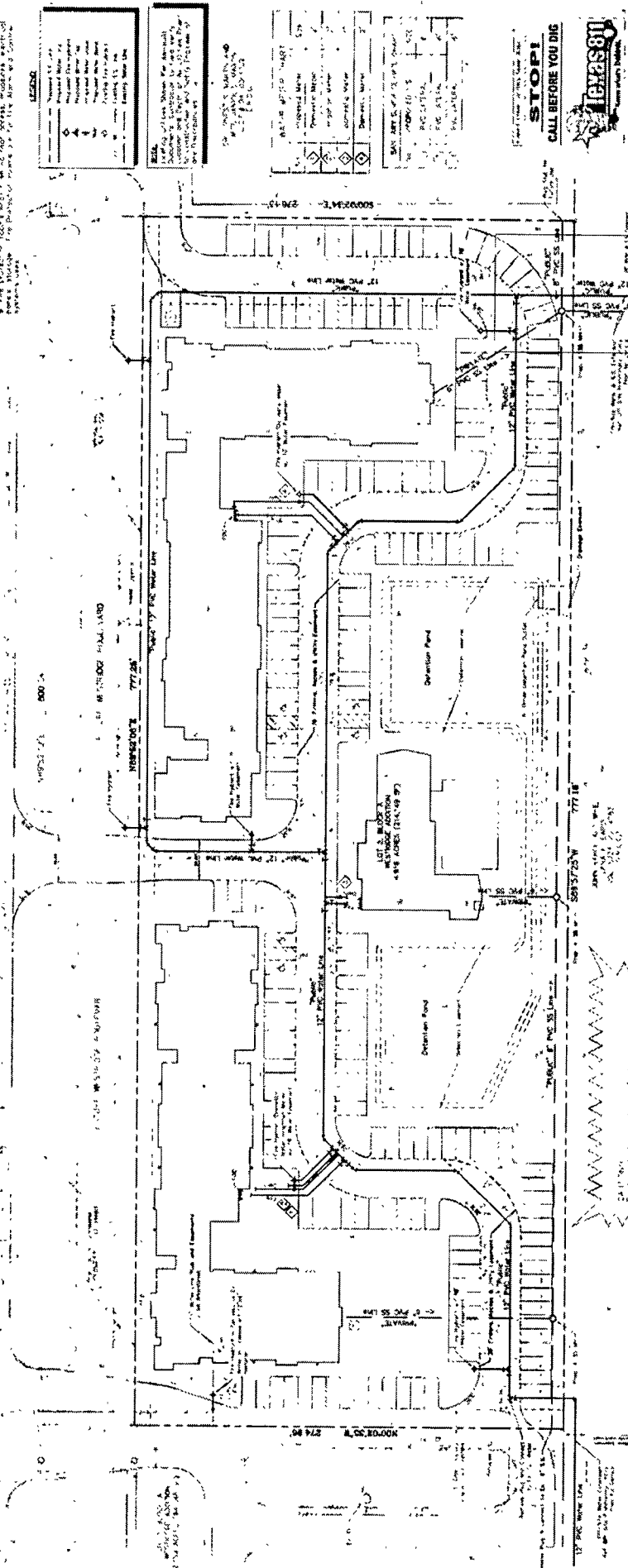
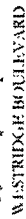
Survey No.	Block	Area (Ac.)	Area (Sq. Ft.)	Area (Sq. Ft.)	Area (Sq. Ft.)
1	1	0.00	0.00	0.00	0.00
2	2	0.00	0.00	0.00	0.00
3	3	0.00	0.00	0.00	0.00
4	4	0.00	0.00	0.00	0.00
5	5	0.00	0.00	0.00	0.00
6	6	0.00	0.00	0.00	0.00
7	7	0.00	0.00	0.00	0.00
8	8	0.00	0.00	0.00	0.00
9	9	0.00	0.00	0.00	0.00
10	10	0.00	0.00	0.00	0.00
11	11	0.00	0.00	0.00	0.00
12	12	0.00	0.00	0.00	0.00
13	13	0.00	0.00	0.00	0.00
14	14	0.00	0.00	0.00	0.00
15	15	0.00	0.00	0.00	0.00
16	16	0.00	0.00	0.00	0.00
17	17	0.00	0.00	0.00	0.00
18	18	0.00	0.00	0.00	0.00
19	19	0.00	0.00	0.00	0.00
20	20	0.00	0.00	0.00	0.00
21	21	0.00	0.00	0.00	0.00
22	22	0.00	0.00	0.00	0.00
23	23	0.00	0.00	0.00	0.00
24	24	0.00	0.00	0.00	0.00
25	25	0.00	0.00	0.00	0.00
26	26	0.00	0.00	0.00	0.00
27	27	0.00	0.00	0.00	0.00
28	28	0.00	0.00	0.00	0.00
29	29	0.00	0.00	0.00	0.00
30	30	0.00	0.00	0.00	0.00
31	31	0.00	0.00	0.00	0.00
32	32	0.00	0.00	0.00	0.00
33	33	0.00	0.00	0.00	0.00
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39	39	0.00	0.00	0.00	0.00
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41	41	0.00	0.00	0.00	0.00
42	42	0.00	0.00	0.00	0.00
43	43	0.00	0.00	0.00	0.00
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45	45	0.00	0.00	0.00	0.00
46	46	0.00	0.00	0.00	0.00
47	47	0.00	0.00	0.00	0.00
48	48	0.00	0.00	0.00	0.00
49	49	0.00	0.00	0.00	0.00
50	50	0.00	0.00	0.00	0.00
51	51	0.00	0.00	0.00	0.00
52	52	0.00	0.00	0.00	0.00
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67	67	0.00	0.00	0.00	0.00
68	68	0.00	0.00	0.00	0.00
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70	70	0.00	0.00	0.00	0.00
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73	73	0.00	0.00	0.00	0.00
74	74	0.00	0.00	0.00	0.00
75	75	0.00	0.00	0.00	0.00
76	76	0.00	0.00	0.00	0.00
77	77	0.00	0.00	0.00	0.00
78	78	0.00	0.00	0.00	0.00
79	79	0.00	0.00	0.00	0.00
80	80	0.00	0.00	0.00	0.00
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87	87	0.00	0.00	0.00	0.00
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89	89	0.00	0.00	0.00	0.00
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91	91	0.00	0.00	0.00	0.00
92	92	0.00	0.00	0.00	0.00
93	93	0.00	0.00	0.00	0.00
94	94	0.00	0.00	0.00	0.00
95	95	0.00	0.00	0.00	0.00
96	96	0.00	0.00	0.00	0.00
97	97	0.00	0.00	0.00	0.00
98	98	0.00	0.00	0.00	0.00
99	99	0.00	0.00	0.00	0.00
100	100	0.00	0.00	0.00	0.00

**NOTES**

1. All measurements shown on this plat are made and propagated to the nearest 1/100th of a foot.
2. All measurements shown on this plat are made and propagated to the nearest 1/100th of a foot.
3. All measurements shown on this plat are made and propagated to the nearest 1/100th of a foot.
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21. All measurements shown on this plat are made and propagated to the nearest 1/100th of a foot.
22. All measurements shown on this plat are made and propagated to the nearest 1/100th of a foot.
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29. All measurements shown on this plat are made and propagated to the nearest 1/100th of a foot.
30. All measurements shown on this plat are made and propagated to the nearest 1/100th of a foot.
31. All measurements shown on this plat are made and propagated to the nearest 1/100th of a foot.
32. All measurements shown on this plat are made and propagated to





[illegible]

CONTRACT NO. _____ DATE _____ PROJECT NO. _____ DATE _____ SHEET NO. _____ DATE _____		CROSS ENGINEERING CONSULTANTS 10000 15th Ave. N.E. Seattle, WA 98148 Tel: (206) 362-1000 Fax: (206) 362-1001		PRELIMINARY UTILITY PLAN WESTRIDGE APARTMENT ANDERSON DEVELOPMENT, LLC CITY OF RICHMOND, VA		SHEET NO. _____ TOTAL SHEETS _____ DATE _____
---	--	--	--	--	--	---

# **EXHIBIT C**



FOR OFFICE USE ONLY			
Account# _____	Deposit _____	Admin Fee _____	E-Billing <input type="checkbox"/>

## Commercial Water Application

Business Name: ADC West Ridge, LP / West Ridge Villas

Phone: 972 567 4630  
Office Office Accounts Payable

E-mail: TERRI - L - ANDERSON @msn.com

Requested By: \_\_\_\_\_ Phone: 972 567 4630

☐ PLEASE SIGN ME UP FOR E-BILLING. I UNDERSTAND THAT I WILL NOT RECEIVE A PAPER STATEMENT.

TYPE OF REQUEST: **New Service** X Sewer & water 132 unit apt. complex  
(Please check one) (Complete Section A below & include copy of Driver's License)

**Disconnect Service** \_\_\_\_\_ (Complete Section B below)

### New Service

Service Address: 9331 Westridge Blvd. McKinney, TX 75070  
Street City/State Zip Code

Billing Address: PO Box 1850 Coppell, TX 75019  
Street City/State Zip Code

Tax ID: 36-4820457

Date to Connect (Normal Business Day): June 14, 2016

\*\*The City of Frisco will bill you a \$1,100.00 deposit on each account which will be refunded after 24 months of good service history or upon disconnection of service.. \*\*\*The City of Frisco will bill you a \$20.00 non-refundable Administrative fee on each account. A 24-hour notice is required for all new service accounts.

### Disconnect Service

Service Address: \_\_\_\_\_  
Street City/State Zip Code

Forwarding Address: \_\_\_\_\_  
Street City/State Zip Code

Date to Disconnect (Normal Business Day): \_\_\_\_\_

- Each account is billed for water and sewer charges. For rate information, visit the [Utility Billing website](#).
- If you are continuing services at a commercial location, your property may already have waste services. For information about your property's waste services or to amend the existing waste services, please contact Environmental Services at (972)-292-5900.
- Waste equipment will be removed when water services is disconnected.


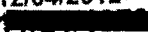

CHR West Ridge Villas, LLC  
By: Center for Housing Resources, Inc. June 10, 2016  
By: Spencer D. Challen, Chairman  
SIGNATURE OF CUSTOMER DATE

**\*\* All Delinquent Accounts will be sent to a Collection Agency \*\***


Phone: **972-292-5575**  
Fax: **(972) 292- 5585**  
E-mail: **utilitybilling@friscotexas.gov**

ADC00082

**Texas** **DRIVER LICENSE** USA TX

4a DL  5 Class **C**  
4b Iss **12/04/2012** 4b Exp **11/24/2018**  
3- DOB   
1 **ANDERSON**  
2 **TERRIL**  
4 

12 Restrictions **A** 14 End **NONE**  
16 Hgt **5-09** 15 Sex **F** 18 Eyes **HAZ**  
6 DD **16619281025044795477**



**COLLIN COUNTY DEVELOPMENT SERVICES**  
825 N. McDonald St., Ste. 170

McKinney, Texas 75069  
(972)548-5585

Application Number . . . . . 15-00002157 Date . 3/23/16  
Property Address . . . . . 9331 (MCKINNEY) WESTRIDGE BLVD  
TAX ID NUMBER . . . . .  
Old Address . . . . .  
Application type description . . . . . COMMERCIAL OTHER  
Subdivision Name . . . . .  
Application valuation . . . . . 0

<b>Owner</b>	<b>Contractor</b>
ADC WEST RIDGE, LP	KWA CONSTRUCTION, LP
PO BOX 1850	16200 WESTGROVE DRIVE
COPPELL TX 75019	SUITE 300
(972) 567-4630	ADDISON TX 75001
	(214) 978-0177

Structure Information 000 000 APARTMENT CPLX - LEASE OFFICE/132 UNITS  
Construction Type . . . . . \*\*NEEDS TO BE ENTERED\*\*  
Occupancy Type . . . . . RESIDENTIAL - MULTIPLE FA  
Flood Zone . . . . . FLOOD ZONE A  
Other struct info . . . . .  
DEED FILED Y  
RECORDED ABST. PLT FILED Y  
SURVEY FILED Y  
PLOT LOCATION FILED Y  
BLDG PLANS FILED Y  
\*ERROR\* NA  
OSSF SITE EVAL. FILED NC  
OSSF DESIGN FILED NO  
OSSF AFFID FILED NO  
OSSF SVC. CONTR. NO  
FIREPLACE (Y,N) NA  
LOG LIGHTER (Y,N) NA  
HEATING (ELEC/LP) LP  
HOT WATER (EL/LP) LP  
\*ELECTRICAL COMPANY TED  
\*CITY NO  
\*ETJ. FRISCO  
\*FIRE DISTRICT TBD

Permit . . . . . COMMERCIAL BUILDING  
Additional desc . . . . . APARTMENTS-LEASE OF./132 UNITS  
Permit Fee . . . . . 35264.00  
Issue Date . . . . . 2/22/16 Valuation . . . . . 0  
Expiration Date . . . . . 8/20/16

Qty	Unit	Charge	Per	Extension
175070.00		2000	BASE FEE	250.00
			COMMERCIAL	35014.00

**Special Notes and Comments**

Lease Office - 3,941 sq ft  
132 Apartment Units - 171,129 sq ft  
total

Collin County accepts the January 22nd, 2016 certification of no adverse impact, prepared by Jill Trevino, PE, CPM, engineer for the developer; that relates to flood plain development and off-site drainage, and the findings contained therein. To the extent there is any adverse impact to offsite owners from stormwater originating at the site, Collin County is not responsible therefor.

**Applicable Codes:**

THE MOST CURRENT VERSIONS OF THE FOLLOWING CODES WILL HAVE TO BE FOLLOWED IN THE CONSTRUCTION AND OPERATION OF YOUR PROJECT:

INTERNATIONAL FIRE CODE INTERNATIONAL BUILDING CODE  
INTERNATIONAL PLUMBING CODE INTERNATIONAL MECHANICAL CODE  
INTERNATIONAL FIRE CODE (NFPA) NATIONAL ELECTRIC CODE

\*\*It is illegal to run 2+ water services off of 1 water

MUST have Permit Location Card posted along with 911 Rural Address posted VISIBLE from roadway or inspection WILL NOT be performed.

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Application Number . . . . . 15-00002157 . . . . .  
Page 2  
Date 3/23/16

**Special Notes and Comments**

meter. You must verify that the water connection you have made/will make to a water purveyor's meter is a legal and approved connection. If there is evidence of an illegal water meter connection at the time of final inspection, the inspection will be failed and will not pass until approval is issued from the water purveyor (in writing) and a copy submitted to Development Services.

Absolutely NO plumbing or electrical work shall be covered before being inspected and approved by a Collin County Inspector for Code compliance - NO EXCEPTIONS

YOU WERE GIVEN A LETTER FROM THE COLLIN COUNTY FIRE MARSHALL DATED 12/02/2015. THIS LETTER DETAILS ADDITIONAL COMPLIANCE ISSUES FOR YOUR SPECIFIC OCCUPANCY TYPE. IF YOU DID NOT RECEIVE THE LETTER OR IF YOU HAVE ANY QUESTIONS, PLEASE CALL OUR OFFICE AT 972-548-5585.

\*\*\*\*\*  
Every commercial building permit issued shall become invalid unless the work on the site authorized by such is commenced within 180 days after its issuance, or if the work authorized on the site by such permit is suspended or abandoned for a period of 180 days after the time of work is commenced. Collin County is authorized to grant, in writing, one or more extensions of time, for periods not more than 180 days each. The extension shall be requested in writing and justifiable cause demonstrated.

See Development Services' Plan Review and Fire Marshall's office Plan Review for further needs and/or requirements regarding construction of the building.

\*\*\*Notice, This permit is applicable only to the inspection of the electrical components of ANY signs associated with this permit. Approval of this permit in no way suggests that the sign location has been approved or that erection of any sign is permitted at this location.

**Signage:**

Property owner and/or sign owner has the responsibility to verify that any sign erected under this commercial permit is either not within any city's Extra-Territorial jurisdiction (ETJ) or, if in a city's ETJ, that the sign is in compliance with all of the applicable municipality and/or TxDOT regulations (TxDOT regulations may be in effect whether in ETJ or not in ETJ) Property owner and/or building owner has the responsibility to verify that any new construction (including non-electrical signage) is either not within any city's ETJ or, if in a city's ETJ, that any construction is in compliance with all of the applicable municipal ordinances and any other regulations which may be in effect in the ETJ of that municipality. If a sign is constructed and/or placed in violation of any regulations - the sign must be promptly removed at sign owner's expense in addition to any fines that might be levied.

**Use of Groundwater:**

IF THIS PERMIT INVOLVES A WATER WELL, THE APPLICANT MUST CONTACT THE NORTH TEXAS GROUNDWATER CONSERVATION DISTRICT AT 855-428-4433 TO REGISTER AND/OR PERMIT THE WELL.

**OFF-SITE SEWAGE UTILITY SERVICE:**

THIS STRUCTURE DOES NOT UTILIZE AN OSSF (ON-SITE SEWAGE FACILITY) FOR WASTEWATER DISPOSAL. Applicant intends to connect to municipal water and wastewater lines. No final plumbing fixture inspection or Certificate of Occupancy will be issued until final connection is made to an approved, municipal wastewater system.

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**COLLIN COUNTY DEVELOPMENT SERVICES**  
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Application Number . . . . . 15-00002157 Page 3  
Date 3/23/16

**Special Notes and Comments**

**MISCELLANEOUS:**

\*\*\*\*\*You MUST have this permit number available when\*\*\*\*\*

\*\*\*\*\*scheduling inspections - NO INSPECTION WILL

\*\*\*\*\*SCHEDULED WITHOUT PERMIT NUMBER.\*\*\*\*\*

\*\*\*\*\*NOTE: IF YOU ARE LOCATED WITHIN THE ETJ (EXTRA TERRITORIAL JURISDICTION) OF ANY CITY, IT IS YOUR RESPONSIBILITY TO CHECK WITH THAT CITY TO FIND OUT IF THERE ARE ANY ADDITIONAL REQUIREMENTS BY THAT CITY PERTAINING TO YOUR PROJECT.

\*\*\*\*\*NOTE: During any inspection, the Inspector will ONLY note the first five (5) failing code items. Once an Inspector has identified five (5) failing items, the inspection will cease at that time and no further items will be inspected. Those failing items and any other situations contrary to adopted codes must be corrected for any re-inspection. A failed re-inspection will result in a penalty fee. IF THIS IS YOUR FIRST PROJECT IN COLLIN COUNTY, PLEASE SCHEDULE A MEETING WITH AN INSPECTOR PRIOR TO BEGINNING YOUR PROJECT TO AVOID ANY PROJECT DELAYS AND/OR FEES.\*\*\*

**OWNER CERTIFICATION:**

I certify that I am the property owner or the property owner's agent and that I have received, read and understand all "Special Notes and Comments"/permit requirements and I understand that this printed permit must be presented to the property owner),

Signature \_\_\_\_\_ Date Received \_\_\_\_\_

Printed Name \_\_\_\_\_

T/S: 02/29/2016 03:25 PM BROWNISTY

T/S: 02/29/2016 03:30 PM BROWNISTY

T/S: 02/29/2016 03:34 PM BROWNISTY

Fee summary	Charged	Paid	Credited	Due
Permit Fee Total	35264.00	.00	.00	35264.00
Grand Total	35264.00	.00	.00	35264.00

*Lois A. Anderson*  
*Lois A. J. Anderson*  
*23 March 2016*

MUST have Permit Location Card posted along with 911 Rural Address posted VISIBLE from roadway or inspection WILL NOT be performed.



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Application Number . . . . . 15-00002157 Page 4  
Property Address . . . . . 9331 (MCKINNEY) WESTRIDGE BLVD Date 3/23/16  
TAX ID NUMBER . . . . . " " " "  
Old Address . . . . .  
Application Description . . . . . COMMERCIAL OTHER  
Subdivision Name . . . . .

Permit . . . . . COMMERCIAL BUILDING

Additional desc . . . . . APARTMENTS-LEASE OF./132 UNITS

Required Inspections

Seq	Insp Code	Description	Initials	Date
10	STOR	STORM WATER INSPECTION		
20-5	FMFR	FIRE MARSHAL PLAN REVIEW		
30	DSFR	DEVELOPMENT SVCS PLAN REVIEW		
40-10	NC01	INSPECTION 1 (T-POLE)		
40-10	NC02	INSPECTION 2 (RGM-PLBG)		
40	NC03	INSPECTION 3 (ELEC ROUGH)		
40	NC05	INSPECTION 6 (FINAL)		
40	SP4	OSSF FINAL INSPECTION		
40	SP3	OSSF INITIAL INSPECTION		
40	NC13	INSPECTION 4 (PLBG TOP-OUT)		
40	NC23	INSPECTION 5 (PLBG FIXTURES)		
999	NC08	INSPECTION 7 MISCELLANEOUS		
1000	NC07	INSPECTION FOR C/O		

# EXHIBIT D

## Tracy Homfeld

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Subject:

FW:

-----Original Message-----

From: Toyin Fawehinmi [<mailto:TFawehinmi@friscotexas.gov>]

Sent: Monday, January 18, 2016 2:48 PM

To: Tracy Homfeld

Subject:

Tracy,

By the way, I briefly reviewed the civil plans for Westridge Apts and interestingly enough they are connecting to McKinney's water and not really sure of how the sewer is being addressed. I am waiting for the hardcopies from Terri's Engineer

Toyin Fawehinmi, P.E.

Senior Engineer

City of Frisco - Engineering Services Department

6101 Frisco Square Blvd., 3rd Floor

Frisco, Texas 75034

Office (972) 292 5439

Fax (972) 292 5016

# **EXHIBIT E**

**terri\_l\_anderson@msn.com**

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**From:** "Stan Fulks" <sfulks@kwaconstruction.com>  
**Date:** Thursday, June 23, 2016 11:52 AM  
**To:** <ghill@mckinneytexas.org>; <ajenkins@friscotexas.gov>  
**Cc:** "'TERRI ANDERSON'" <terri\_l\_anderson@msn.com>; "Keller Webster" <kwebster@kwaconstruction.com>; "Brian Webster" <bwebster@kwaconstruction.com>; "Richie Keene" <rkeene@kwaconstruction.com>  
**Subject:** RE: Frisco Will Serve Letter and Map for West Ridge Villas  
 Mr. Hill,

Per our phone conversation a few moments ago in which your only comment was that this issue needed to go through the City of Frisco or Collin County and that you had no further say;

Here is what I have confirmed with Mr. Alex Jenkins with the City of Frisco's Public Utility Department. Per the City's maps, the hydrants on the south side of Westridge Blvd. in the area of the Montessori school belong to the City of Frisco. This only confirms what their engineering depart had said and as previously documented in the letter and map I sent you. If you wish to confirm this you may contact Mr. Jenkins as he is included in this email.

I would also like to add that you said this area was not in McKinney's CCN so I am not certain of the keep this issue amicable.

We will be utilizing the hydrant in front of the school this afternoon. Thank you so much for your help in this matter.

Stan Fulks, Senior Project Manager  
 KWA Construction, 16800 Westgrove Dr., Addison, Tx 75001  
 Off. 214-978-0177 Mbl. 214-385-9936  
 sfulks@kwaconstruction.com

**From:** Stan Fulks  
**Sent:** Thursday, June 23, 2016 10:12 AM  
**To:** 'chill@mckinneytexas.org' <chill@mckinneytexas.org>  
**Cc:** 'TERRI ANDERSON' <terri\_l\_anderson@msn.com>; Keller Webster <kwebster@kwaconstruction.com>; Brian Webster <bwebster@kwaconstruction.com>; Richie Keene <rkeene@kwaconstruction.com>  
**Subject:** Frisco Will Serve Letter and Map for West Ridge Villas

Mr. Hill,

Please find attached the will serve letter from the City of Frisco and the accompanying map showing the locations of service. When I had met with Toyin Fawehinmi, Stephanie Miller and Lori Chapin with the City of Frisco, two weeks ago, they confirmed the map and the location of services. With that knowledge, we in good faith proceeded to utilize the water service for our use using a Frisco approved meter.

Again today I went to the Frisco utility department, showed them a map and requested a new temporary water meter. They gave me a meter without issue. Based upon the City of Frisco's knowledge and cooperation, we plan to continue our work utilizing the meter supplied by the City of Frisco. Should there be issue with this, please contact me.

Thank you,

Stan Fulks, Senior Project Manager  
KWA Construction, 16800 Westgrove Dr., Addison, Tx 75001  
Off. 214-978-0177 Mbl. 214-385-9936  
[sfulks@kwaconstruction.com](mailto:sfulks@kwaconstruction.com)

**From:** [kwascanner@gmail.com](mailto:kwascanner@gmail.com) [mailto:[kwascanner@gmail.com](mailto:kwascanner@gmail.com)]

**Sent:** Thursday, June 23, 2016 9:55 AM

**To:** Stan Fulks <[sfulks@kwaconstruction.com](mailto:sfulks@kwaconstruction.com)>

**Subject:** Message from KM\_C454e

**terri\_l\_anderson@msn.com**

---

**From:** "Keller Webster" <kwebster@kwaconstruction.com>  
**Date:** Tuesday, June 28, 2016 4:10 PM  
**To:** "'TERRI ANDERSON'" <terri\_l\_anderson@msn.com>  
**Cc:** "Brian Webster" <bwebster@kwaconstruction.com>; "Richie Keene" <rkeene@kwaconstruction.com>; "Stan Fulks" <sfulks@kwaconstruction.com>; "Frank Pollacia" <pollacia@architettura-inc.com>  
**Attach:** image2016-06-28-181724.pdf  
**Subject:** FW: West Ridge Apts. Water Issue  
 Terri,

Attached you will find a letter from our earthwork subcontractor outlining the obstacles they have encountered by the City of Frisco and the City of McKinney concerning their attempts in obtaining the water necessary to moisture condition the foundation pads. I do not know what "legal matters" Mr. Goulette with the City of Frisco is speaking. KWA Construction has not received any legal notices from any one regarding this project.

Not having access to water to moisture condition the pads will effectively shut the job down.

Please let me know ASAP as to how you would like to proceed.

Thanks,

Keller

**From:** Stan Fulks  
**Sent:** Tuesday, June 28, 2016 3:38 PM  
**To:** Keller Webster <kwebster@kwaconstruction.com>  
**Cc:** Brian Webster <bwebster@kwaconstruction.com>; Richie Keene <rkeene@kwaconstruction.com>  
**Subject:** FW: West Ridge Apts. Water Issue

Keller,

Per our conversation, I just received this from Craig at Weir Bros.

Thanks,

Stan Fulks, Senior Project Manager  
 KWA Construction, 16800 Westgrove Dr., Addison, Tx 75001  
 Off. 214-978-0177 Mbl. 214-385-9936  
[sfulks@kwaconstruction.com](mailto:sfulks@kwaconstruction.com)

**From:** Craig Williams [<mailto:cwilliams@weirbros.com>]  
**Sent:** Tuesday, June 28, 2016 3:34 PM  
**To:** Stan Fulks <[sfulks@kwaconstruction.com](mailto:sfulks@kwaconstruction.com)>  
**Subject:** West Ridge Apts. Water Issue

Stan,

Here is what chain of events have accrued over the last several days.

Thanks,

Craig Williams

Weir Brothers Contracting, LLC.

**From:** [MinoltaCopier@weirbros.com](mailto:MinoltaCopier@weirbros.com) [<mailto:MinoltaCopier@weirbros.com>]

**Sent:** Tuesday, June 28, 2016 3:26 PM

**To:** [cwilliams@weirbros.com](mailto:cwilliams@weirbros.com)

**Subject:**