



Control Number: 45870



Item Number: 92

Addendum StartPage: 0

RECEIVED

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

§  
§

2016 DEC -5 PM 3:10  
BEFORE THE STATE OFFICE OF  
ADMINISTRATIVE HEARINGS  
FILING CLERK

**SUR-REPLY OF THE CITY OF FRISCO TO ADC WEST RIDGE, LP AND CENTER FOR HOUSING RESOURCES, INC.'S OPPOSITION TO CITY OF FRISCO'S REQUESTS FOR SUBPOENA FOR DEPOSITIONS ON WRITTEN QUESTIONS**

COMES NOW, the City of Frisco ("City" or "Frisco") and files this Sur-reply to ADC West Ridge, LP and Center for Housing Resources, Inc.'s (collectively "Complainants") Opposition to City of Frisco's Requests for Subpoena for Depositions on Written Questions. In support thereof, the City shows the following:

On April 19, 2016, Ker Seva filed a formal complaint against the City alleging that the City had denied Ker Seva retail water and wastewater service. On November 21, 2016, the City requested subpoenas from four entities: Sanchez Advisory Group, LLC; Cross Engineering Consultants, Inc.; KWA Construction, LP; and Weir Bros. Partners, LLC. The City seeks the ability to verify documents that were requested. On November 29, 2016, Complainants filed its opposition to the request. The ALJ's called for a Pre-hearing Conference on the matter for December 6, 2016.

While the City will reserve oral arguments for the aforementioned Prehearing Conference, the City notes that it only sought documents from entities Complainants lists as having knowledge of relevant facts. See Exhibit A, *Complainants' Order No. 3 Response to Rule 194.2*.

Further, Complainants complained that fees for the subpoenas had not been filed with the court. Frisco hereby makes such deposit in the following amounts pursuant to Tex. Gov't. Code § 2001.105:

Sanchez Advisory Group, LLC - \$10 witness fee (witness is less than 25 miles from place of deposition)

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Cross Engineering Consultants, Inc. - \$10 witness fee (witness is less than 25 miles from place of deposition)

KWA Construction, LP - \$10 witness fee (witness is less than 25 miles from place of deposition)

Weir Bros. Partners, LLC - \$32.80 witness fee for the witness, which includes a \$10 witness fee, \$7.80 mileage reimbursement (34 miles each way), and \$15.00 meal expense amount,

## **I. CONCLUSION AND PRAYER**

The City respectfully requests:

- (1) Issuance of the requested subpoenas; and
- (2) Granting the City all other and further relief to which it is justly entitled.

Respectfully submitted,

**Russell & Rodriguez, L.L.P.**  
1633 Williams Drive, Building 2, Suite 200  
Georgetown, Texas 78628  
(512) 930-1317  
(866) 929-1641 (Fax)

**Abernathy Roeder Boyd & Hullett, P.C.**  
Richard Abernathy  
State Bar No. 00809500  
1700 Redbud Blvd., Suite 300  
McKinney, Texas 75069  
(214) 544-4000  
(214) 544-4040 (Fax)

/s/ Arturo D. Rodriguez, Jr.  
ARTURO D. RODRIGUEZ, JR.  
State Bar No. 00791551

**ATTORNEYS FOR THE CITY OF FRISCO**

## CERTIFICATE OF SERVICE

I hereby certify that on this 5th day of December, 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:

State Office of Administrative Hearings  
300 West 15<sup>th</sup> Street, Suite 502  
Austin, Texas 78701  
(512) 475-4993  
(512) 322-2061 Fax

Meitra Farhadi  
Administrative Law Judge  
State Office of Administrative Hearings 300  
West 15th St., Suite 502  
Austin, Texas 78701  
(512) 475-4993  
(512) 322-2061- *Via Facsimile*

Mr. Sam Chang  
Public Utility Commission of Texas  
1701 N. Congress Avenue  
Austin, Texas  
(512) 936-7261  
*Via Electronic Mail*

Mr. Ali Abazari  
Ms. Mallory Beck  
Jackson Walker, LLP  
100 Congress Avenue, Suite 1100  
Austin, Texas 78701  
(512) 236-2000  
*Via Electronic Mail*

William G. Newchurch  
Administrative Law Judge  
State Office of Administrative Hearings 300  
West 15th St., Suite 502  
Austin, Texas 78701  
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/s/ Arturo D. Rodriguez, Jr.  
ARTURO D. RODRIGUEZ, JR.

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

<b>FORMAL COMPLAINT OF KER-SEVA LTD., ADC WEST RIDGE VILLAS, L.P., AND CENTER FOR HOUSING RESOURCES, INC. AGAINST THE CITY OF FRISCO, TEXAS</b>	§ § § § §	<b>BEFORE THE  PUBLIC UTILITY COMMISSION  OF TEXAS</b>
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**COMPLAINANTS' ORDER NO. 3 RESPONSE TO RULE 194.2**

TO: SERVICE LIST

COMES NOW, Complainants Ker-Seva Ltd., ADC West Ridge Villas, L.P., and Center for Housing Resources, Inc. (collectively, "Complainants"), and file this their Rule 194.2 Disclosures pursuant to Tex. R. Civ. P. 194.2, 16 Tex. Admin. Code § 22.144(c) and (j), and Order No. 3 in this docket. Discovery is ongoing, and Complainants reserve the right to supplement and amend the responses contained herein.

Respectfully submitted,

JACKSON WALKER L.L.P.

By: /s/ Mallory Beck

Leonard Dougal - State Bar No. 06031400

Ali Abazari – State Bar No. 00796094

Mallory Beck - State Bar No. 24073899

100 Congress, Suite 1100

Austin, Texas 78701

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T: (512) 236 2000

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ATTORNEYS FOR COMPLAINANTS  
KER-SEVA, LTD., ADC WEST RIDGE  
VILLAS 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 19th day of August 2016:

Art Rodriguez  
Russell & Rodriguez, L.L.P.  
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F: (866) 929-1641  
arodriguez@txadminlaw.com  
**Attorney for City of Frisco RFI**

***Via email***

Sam Chang  
Attorney – Legal Division  
Public Utility Commission of Texas  
1701 N. Congress Avenue  
P. O. Box 13326  
Austin, Texas 78711-3326  
sam.change@puc.texas.gov  
**Attorney for Public Utility Commission of Texas**

***Via email***

William G. Newchurch  
Administrative Law Judge  
State Office of Administrative Hearings  
300 West 15<sup>th</sup> St., Suite 502  
Austin, Texas 78701  
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***Via Facsimile (512) 322-2061***

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Austin, Texas 78701  
(512) 475-4993  
(512) 322-2061- Fax

***Via Facsimile (512) 322-2061***

/s/ Mallory Beck  
Mallory Beck

### **REQUESTS FOR DISCLOSURE**

**Request 194.2(a):** The correct names of the parties to this proceeding;

**Response:** Complainants believe that the parties have been identified properly as listed in Order No: 3.

**Request 194.2(b):** The name, address, and telephone number of any potential parties;

**Response:** Complainants believe that all potential parties have been named and admitted as parties.

**Request 194.2(c):** The legal theories and, in general, the factual bases of the responding party's claims or defenses (the responding party need not marshal all evidence that may be offered at trial);

**Response:** The City of Frisco, Texas, holds water certificate of convenience and necessity ("CCN") No. 11772 and sewer CCN No. 20591 which covers certain property owned by Complainants. As the holder of the CCNs, Frisco has a statutory duty to provide continuous and adequate service to its CCN areas. Pursuant to PUC rules, Frisco has a duty to provide continuous and adequate service to every qualified service applicant within its CCN areas. Complainants are qualified service applicants. Complainants have submitted completed applications for water and sewer service to Frisco. Frisco has denied such service by refusing to allow Complainants to use existing infrastructure belonging to Frisco which has the capacity to serve Complainants. Frisco has refused to provide service within the time required by PUC Rule 24.85. Alternatively, Frisco has denied service because Frisco has not identified the construction required and the expected date of service. The construction Frisco is currently stating is required constitutes an effective denial of service. Frisco has also denied service by refusing to allow Complainants to obtain any water for construction from Frisco. The factual bases will be pre-filed and submitted in this matter pursuant to Order No. 3 or any succeeding applicable order..

Discovery is ongoing and Complainants reserve the right to amend and supplement these responses, including the factual bases and legal theories stated herein.

**Request 194.2(d):** The amount and any method of calculating economic damages;

**Response:** Complainants are not seeking economic damages in this proceeding.

**Request 194.2(e):** The name, address, and telephone number of persons have knowledge of relevant facts, and a brief statement of each identified person's connection with the case;

Jastinder Jawanda  
c/o Ali Abazari  
Jackson Walker L.L.P.  
100 Congress Avenue, Suite 1100  
Austin, Texas 78701  
T: (512) 236-2000  
F: (512) 391-2197  
Email: aabazari@jw.com

Mr. Jawanda is the authorized representative of Ker-Seva, Ltd. On behalf of Ker-Seva, Ltd., Mr. Jawanda had conversations with representatives of the City of Frisco, Texas, and Collin County, Texas, regarding water and sewer service to Lot 2.

Discovery is ongoing and Complainants reserve the right to amend and supplement these responses, including the factual bases and legal theories stated herein.

Randall Chrisman  
c/o Ali Abazari  
Jackson Walker L.L.P.  
100 Congress Avenue, Suite 1100  
Austin, Texas 78701  
T: (512) 236-2000  
F: (512) 391-2197  
Email: aabazari@jw.com

Mr. Chrisman is the agent of Mr. Jawanda. On behalf of Mr. Jawanda and Ker-Seva, Ltd., Mr. Chrisman had conversations with representatives of the City of Frisco, Texas, and Collin County, Texas, regarding water and sewer service to Lot 2.

Discovery is ongoing and Complainants reserve the right to amend and supplement these responses, including the factual bases and legal theories stated herein.

Terri L. Anderson  
Randall Chrisman  
c/o Ali Abazari  
Jackson Walker L.L.P.  
100 Congress Avenue, Suite 1100  
Austin, Texas 78701  
T: (512) 236-2000  
F: (512) 391-2197  
Email: aabazari@jw.com

Ms. Anderson is the authorized representative of ADC West Ridge, L.P. and Center for Housing Resources, Inc. Ms. Anderson has experience developing properties for affordable



housing and, on behalf of Complainants, communicated with the City of Frisco, Texas, the City of McKinney, Texas, Collin County, Texas, and other governmental entities to plan and develop Lot 2, including the acquisition of water and sewer service for Lot 2.

Discovery is ongoing and Complainants reserve the right to amend and supplement these responses, including the factual bases and legal theories stated herein.

Cross Engineers  
Bill Robinson  
Jonathan Hayke  
John David Cross

Cross Engineers represented Complainants in filing the Preliminary Plat application with the City of Frisco, and employees of Cross Engineers have knowledge of the development of Lot 2, including the preparation of the Preliminary Plat and location of the water and sewer utilities required by Frisco, and had communications with the City of Frisco officials.

Discovery is ongoing and Complainants reserve the right to amend and supplement these responses, including the factual bases and legal theories stated herein.

Sanchez & Associates  
Levi Wild  
Tyler Scott  
Randall Chrisman  
c/o Ali Abazari  
Jackson Walker L.L.P.  
100 Congress Avenue, Suite 1100  
Austin, Texas 78701  
T: (512) 236-2000  
F: (512) 391-2197  
Email: aabazari@jw.com

Engineers with Sanchez & Associates currently represent Complainants in the development of Lot 2, and employees of Sanchez & Associates have knowledge of the development of Lot 2, including the provision of water and sewer service to Lot 2.

Discovery is ongoing and Complainants reserve the right to amend and supplement these responses, including the factual bases and legal theories stated herein.

KWA Construction  
Randall Chrisman  
Keller Webster  
Stan Fulks  
c/o Ali Abazari  
Jackson Walker L.L.P.  
100 Congress Avenue, Suite 1100  
Austin, Texas 78701  
T: (512) 236-2000  
F: (512) 391-2197  
Email: aabazari@jw.com

KWA Construction is the general contractor for Complainants on Lot 2. Employees of KWA Construction have had communications with the City of Frisco officials regarding water and sewer service, including water service for construction, at Lot 2.

Discovery is ongoing and Complainants reserve the right to amend and supplement these responses, including the factual bases and legal theories stated herein.

Weir Brothers Contracting, LLC  
Randall Chrisman  
c/o Ali Abazari  
Jackson Walker L.L.P.  
100 Congress Avenue, Suite 1100  
Austin, Texas 78701  
T: (512) 236-2000  
F: (512) 391-2197  
Email: aabazari@jw.com

Weir Brothers Contract, LLC is a subcontractor for KWA Construction working on the development on Lot 2. Employees of Weir Brothers Contracting, LLC have had communications with the City of Frisco officials regarding the provision of water for construction at Lot 2.

Discovery is ongoing and Complainants reserve the right to amend and supplement these responses, including the factual bases and legal theories stated herein.

Frank Pollacia  
c/o Ali Abazari  
Jackson Walker L.L.P.  
100 Congress Avenue, Suite 1100  
Austin, Texas 78701  
T: (512) 236-2000  
F: (512) 391-2197  
Email: aabazari@jw.com

Mr. Pollacia is an architect with Architettura, Inc.. Mr. Pollacia represents Complainants and may have had communications with the City of Frisco regarding the development of Lot 2.

Discovery is ongoing and Complainants reserve the right to amend and supplement these responses, including the factual bases and legal theories stated herein.

City of Frisco  
Amy Matthews  
Nell Lange  
John Lettellier  
Toyin Fawehinmi  
Russell & Rodriguez, L.L.P.  
1633 Williams Dr., Bldg. 2, Suite 200  
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T: (512) 930-1317  
F: (866) 929-1641  
Email: arodriguez@txadminlaw.com

City of Frisco employees may have knowledge of the development of Lot 2 and the provision of water and sewer service to Lot 2.

Discovery is ongoing and Complainants reserve the right to amend and supplement these responses, including the factual bases and legal theories stated herein.

Collin County  
Tracy Homfield  
Jim Adams  
Misty Brown  
Susan Fletcher

Employees of Collin County, Texas, may have knowledge of facts relevant to this proceeding, including the development, construction, and provision of water and sewer service to Lot 2 and other properties in the area.

Discovery is ongoing and Complainants reserve the right to amend and supplement these responses, including the factual bases and legal theories stated herein.

Complainants incorporate any other person identified by any other party as a person with knowledge of relevant facts in this proceeding.

**Request 194.2(f):** For any testifying expert: (1) the expert's name, address, and telephone number; (2) the subject matter on which the expert will testify; (3) the general substance of the expert's mental impressions and opinions and a brief summary of the basis for them, or if the expert is not retained by, employed by, or otherwise subject to the control of the responding party, documents reflecting such information; (4) if the expert is retained by, employed by, or otherwise subject to the control of the responding party: (A) all documents, tangible things, reports, models, or data compilations that have been provided to, reviewed by, or prepared by or for the expert in anticipation of the expert's testimony; and (B) the expert's current resume and bibliography.

**Response:** Complainants will supplement their responses and respond to this Request in accordance with Order No. 3.

**Request 194.2(g):** Any indemnity and insuring agreements described in Rule 192.3(f).

**Response:** None.

**Request 194.2(h):** Any settlement agreements described in Rule 192.3(g).

**Response:** None.

**Request 194.2(i):** Any witness statements described in Rule 192.3(h).

**Response:** None.

**Russell & Rodriguez, LLP**  
**Attorneys At Law**  
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**VANTAGE BANK TEXAS**  
PO Box 790670  
San Antonio, Texas 78279  
(866) 580-7262  
88-1258/1149

003269

12/5/16

PAY TO THE  
ORDER OF,

Sanchez Advisory Group, LLC

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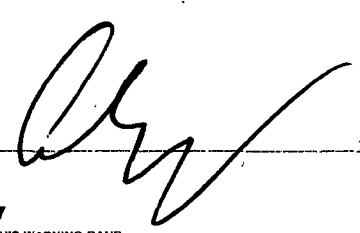
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DOLLARS

Sanchez Advisory Group, LLC

MEMO

Witness Fee



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Russell & Rodriguez, LLP/Attorneys At Law

Sanchez Advisory Group, LLC

12/5/16

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Russell & Rodriguez, LLP/Attorneys At Law

Sanchez Advisory Group, LLC

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**Russell & Rodriguez, LLP**  
**Attorneys At Law**  
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Georgetown, TX 78628  
PH. (512) 930-1317

**VANTAGE BANK TEXAS**  
PO Box 790570  
San Antonio, Texas 78279  
(866) 580-7262  
(88-1258/1149)

12/5/16

PAY TO THE ORDER OF Cross Engineering Consultants, Inc.

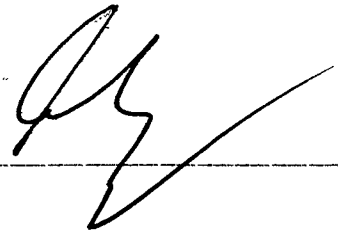
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DOLLARS

Cross Engineering Consultants, Inc.

MEMO Witness Fee



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Russell & Rodriguez, LLP/Attorneys At Law

Cross Engineering Consultants, Inc.

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Russell & Rodriguez, LLP/Attorneys At Law

Cross Engineering Consultants, Inc.

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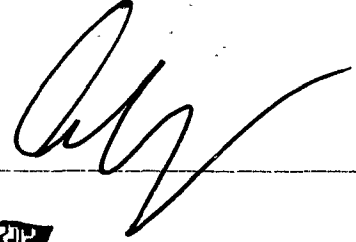
PAY TO THE ORDER OF KWA Construction, LP

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KWA Construction, LP

MEMO  
Witness Fee



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Russell & Rodriguez, LLP/Attorneys At Law

KWA Construction, LP

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Russell & Rodriguez, LLP/Attorneys At Law

KWA Construction, LP

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(866) 580-7262  
88-1256/1149

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12/5/16

PAY TO THE  
ORDER OF

Weir Bros. Partners, LLC

\$ \*\*32.80

Thirty-Two and 80/100\*\*\*\*\*

DOLLARS

Weir Bros. Partners, LLC

MEMO

Witness Fee

*[Signature]*

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Russell & Rodriguez, LLP/Attorneys At Law

Weir Bros. Partners, LLC

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Russell & Rodriguez, LLP/Attorneys At Law

Weir Bros. Partners, LLC

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WITNESSES: [REDACTED]

003273

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PAY TO THE ORDER OF Weir Bros. Partners, LLC

\$ \*\*32.80

Thirty-Two and 80/100\*\*\*\*\*

DOLLARS

Weir Bros. Partners, LLC

MEMO Witness Fee

*James A. Smith* NP

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Russell & Rodriguez, LLP/Attorneys At Law

Weir Bros. Partners, LLC

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Russell & Rodriguez, LLP/Attorneys At Law

Weir Bros. Partners, LLC

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