



Control Number: 49225



Item Number: 120

Addendum StartPage: 0

SOAH DOCKET NO. 473-20-1554.WS
PUC DOCKET NO. 49225



PETITION BY OUTSIDE CITY
RATEPAYERS APPEALING THE
WATER AND WASTEWATER RATES
ESTABLISHED BY THE CITY OF
CELINA

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PUBLIC UTILITY COMMISSION


OF TEXAS

**OUTSIDE CITY RATEPAYERS’
ELEVENTH REQUEST FOR INFORMATION TO CITY OF CELINA**

To: Respondent, City of Celina, by and through its attorneys of record, Scott Smyth and Patrick W. Lindner, Davidson Troilo Ream & Garza, P.C., 919 Congress Avenue, Suite 810, Austin, Texas 78701.

COME NOW, the Outside City Ratepayers of the City of Celina (“Petitioners”) and serve this, their Eleventh Request for Information to the City of Celina pursuant to 16 Tex. Admin. Code Ann. § 22.144 (“TAC”) and request the following information and answers to the following questions be provided under oath.

Respectfully submitted,

By: _____

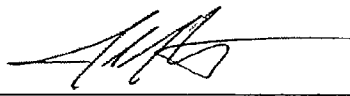
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ATTORNEYS FOR PETITIONERS

CERTIFICATE OF SERVICE

I hereby certify that I have served or will serve a true and correct copy of the foregoing document via hand delivery, facsimile, electronic mail, overnight mail, U.S. mail and/or Certified Mail Return Receipt Requested to all parties on this the 19th day of June 2020.

_____
John J. Carlton

**SOAH DOCKET NO. 473-20-1554.WS
PUC DOCKET NO. 49225**

**OUTSIDE CITY RATEPAYERS'
ELEVENTH REQUEST FOR INFORMATION TO CITY OF CELINA**

**I.
DEFINITIONS**

The following definitions apply herein unless otherwise indicated by the content or expressly stated:

1. The words “and” and “or” shall be construed either conjunctively or disjunctively, as required by the context, to bring within the scope of these discovery requests any response or document that might be deemed outside its scope by another construction.
2. “City” means the City of Celina.
3. “Communication” shall mean and include every manner or means of transmittal, disclosure, transfer, or exchange of information, and every form of transmission, disclosure, transfer or exchange of information, whether orally, electronically, or by document, and whether face-to-face, by telephone, mail, personal delivery, computer or otherwise.
4. “Concerning,” “relating to,” or “regarding,” and similar terms mean addressing, analyzing, referring, discussing, mentioning in any way, explaining, supporting, describing, forming the basis for, or being logically or casually connected in any way with the subject of these discovery requests.
5. “Describe,” “describe in detail” or “explain” means to give a complete and full description concerning the matter about which the inquiry is made in narrative form, including all facts and opinions known and held relating to what is requested to be described, and (i) to identify of each person or entity involved or having any knowledge of each fact or opinion that relates to what is so described, (ii) to identify each document evidencing the answer or response given or relating, referring or pertaining to said subject-matter in any way, and (iii) all relevant or material dates and time periods, specifying the way in which said dates or time periods are pertinent to the subject-matter described.
6. “Developer” or “Developers” means any or all of the following: LFC Devco GH LLC or LFC Devco Sage LLC III or Forestar/ RPG Land Company, LLC or LFC Land Company, LLC, or LFC Development Company, LLC.
7. “District” means Collin County Municipal Utility District No. 1.
8. “Document” means any documents or tangible items made discoverable by Texas Rule of Civil Procedure 192.3, and includes all originals, electronic and non-identical copies of any and all documents, papers, books, accounts, writings, drawings, graphs, charts, maps, surveys, photographs, electronic or videotape recordings, electronic mail (e-mail), phone

records, recordings, models, data and other data compilations from which information can be obtained and translated by you, if necessary, into reasonably useable form and tangible things. Documents and data are “electronic” if they exist in a medium that can be read through the use of computers. Such media include cache memory, magnetic disks (such as computer hard drives or floppy disks), optical disks (such as DVDs or CDs), and magnetic tapes. *See* Tex. R. Civ. P. 192.3 (2019).

9. “Fiscal year” or “FY” means and refers to the City’s fiscal year.
10. To “identify” an individual means to state the following about that individual: (i) the person’s full name; (ii) the person’s job title or former job title; (iii) the person’s job (or former job) duties and responsibilities; (iv) the individual’s superior(s); (v) current or last known telephone number(s); and (vi) current or last known business and home addresses.
11. To “identify” a person as defined herein, other than an individual, means to provide the following information: (i) the entity’s full and correct legal name; (ii) the nature of the entity’s structure and/or organization; (iii) the address and telephone number of its principal offices and, if applicable, the state in which it is incorporated; and (iv) its principal line(s) of business or activity.
12. To “identify” an act, event, occurrence, or communication means the following: (i) to state its date; (ii) to identify the persons that were parties to and/or witnesses of the act, event, occurrence, or communication; (iii) to describe where and how it took place; and (iv) to identify any document that constitutes or refers to such act, event, occurrence, or communication.
13. To “identify” a document means the following: (i) the electronic file name, if any; (ii) to identify its author; (iii) to identify its addressees, if any; (iii) to state the date of its preparation; and (iv) to describe its subject matter.
14. “Person” or “Persons” means any natural person, corporation, association, firm, partnership, or other business or legal entity and officers, employees, agents, attorneys, servants or representatives of such entity, as the context requires.
15. “Petition” means and refers to the petition that is the subject of SOAH Docket No. 473-20-1554.WS and PUC Docket No. 49225.
16. “Preliminary Order” means and refers to that certain Preliminary Order entered by the Commission on January 17, 2020, in this proceeding, SOAH Docket No. 473-20-1554.WS and PUC Docket No. 49225.
17. “PUC” or “Commission” refers to the Public Utility Commission of Texas and all predecessor agencies with similar responsibilities, including the Texas Commission on Environmental Quality, Texas Natural Resource Conservation Commission, Texas Water Commission, and Texas Department of Health.

18. “Ratepayers” means and refers to the petitioners in this proceeding, being the water and wastewater customers of the City of Celina residing outside the corporate limits of the municipality.
19. “Relate” or “relating to” means making or including a statement about, discussing, describing, reflecting, consisting of, constituting, comprising or in any way concerning in whole or in part the subject or thing.
20. “Statement” means and includes any written or graphic statement signed or otherwise adopted or approved by the user in making it, and stenographic, mechanical, electrical or other recording or transcription thereof, which is a substantially verbatim recital of an oral statement by the person making it and contemporaneously recorded.
21. “Willdan Rate Study” means and refers to the 2018 *Water and Wastewater Rate Study and Financial Forecast* for the City of Celina.
22. “You,” “your” and “City” means and refers to the City of Celina, as well as its officers, employees, affiliates, and expert witnesses.

II.

INSTRUCTIONS

1. These discovery requests must be answered in strict compliance with the orders of the Administrative Law Judge hearing this Docket, the Texas Rules of Civil Procedure, and the rules of the PUC.
2. Your answers to the discovery requests must be answered separately and fully in writing, and the answers must be signed and verified under oath by the person making the answers.
3. In those instances when the responding party chooses to answer a discovery request by referring to a specific document or record, the specification must be in sufficient detail to permit the requesting party to locate and identify the records and/or documents from which the answer is to be ascertained as readily as the party served with the request.
4. Whenever you are asked in these discovery requests to describe, identify, or produce documents, the term “documents” is not limited to documents in your actual or constructive possession, custody or control (as defined by Tex. R. Civ. P. 192.7(b)), but also includes all documents that you know to exist or which have existed or which you have reason to suspect to be in existence or to have been in existence, irrespective of whether the document is one intended for or transmitted internally by you or intended for or transmitted to any other person or entity, including without limitation any governmental agency, department, administrative entity, or their personnel.
5. Whenever you are asked in these discovery requests to describe or identify documents that once existed, but which no longer exist, in addition to identifying the documents, please indicate the approximate date and the circumstances under which the documents ceased to exist. Whenever you are asked in these discovery requests to describe or identify documents that are not in your actual or constructive possession, custody or control, as

those terms are defined in Tex. R. Civ. P. 192.7(b), please identify (by name, address and telephone number) the person whom you believe to have such possession, custody or control.

6. If a discovery request calls upon you to state your legal or factual contentions and/or the legal or factual basis for your contentions in this lawsuit, you should respond in accordance with Tex. R. Civ. P. 192.3(j). Such requests do not seek to require you to marshal all of your evidence.
7. As used in these discovery requests, the singular and masculine form of a noun or pronoun includes the plural form, the feminine, or the neuter form, where appropriate.
8. As used in these discovery requests, the past tense includes the present tense where the express meaning of the request is not distorted by that usage, and the verb form of a noun or pronoun may be used as appropriate in a particular context.

III. DUTY TO SUPPLEMENT

You are under a duty to supplement any responses that are incomplete or incorrect when made. Furthermore, you are under a duty to amend your responses within a reasonable time after you obtain information on the basis of which you know that a response either (1) was incorrect or incomplete when made or (2) although correct and complete when made, is no longer correct and complete, and the circumstances are such that failure to amend the response is in substance misleading.

IV. REQUESTS FOR INFORMATION

IN RESPONDING TO RATEPAYERS' REQUEST TO CITY 11-1 THROUGH 11-27, PLEASE SEE THE ATTACHED EXHIBIT A.

RATEPAYERS' REQUEST TO CITY 11-1. Admit that you submitted the letter attached as Exhibit A and dated September 11, 2017 to the Texas Commission on Environmental Quality.

RATEPAYERS' REQUEST TO CITY 11-2 If you did not admit **Request 11-1**, please describe in detail the reason you could not admit that you submitted the letter attached as Exhibit A and dated September 11, 2017 to the Texas Commission on Environmental Quality.

RATEPAYERS' REQUEST TO CITY 11-3. Admit that you had authority from the City to make the representations in the letter attached as Exhibit A and dated September 11, 2017 to the Texas Commission on Environmental Quality.

RATEPAYERS' REQUEST TO CITY 11-4 If you did not admit **Request 11-3**, please describe in detail the reason you could not admit that you had authority from the City to make the

representations in the letter attached as Exhibit A and dated September 11, 2017 to the Texas Commission on Environmental Quality.

RATEPAYERS' REQUEST TO CITY 11-5 Please identify the person who drafted the letter attached as Exhibit A and dated September 11, 2017.

RATEPAYERS' REQUEST TO CITY 11-6 If the drafter of the letter attached as Exhibit A and dated September 11, 2017 was not Jason Laumer, please explain in detail the circumstance under which the letter was drafted.

RATEPAYERS' REQUEST TO CITY 11-7. Please identify and produce all documents related to the content of the letter that you (other than Mr. Laumer) reviewed before the letter attached as Exhibit A and dated September 11, 2017 was signed.

RATEPAYERS' REQUEST TO CITY 11-8. Please identify and produce all documents related to the content of the letter that Mr. Laumer reviewed before the letter attached as Exhibit A and dated September 11, 2017 was signed.

RATEPAYERS' REQUEST TO CITY 11-9. Please identify any person that you (other than Mr. Laumer) communicated with regarding the content of the letter before the letter attached as Exhibit A and dated September 11, 2017 was signed.

RATEPAYERS' REQUEST TO CITY 11-10. Please identify any person that Mr. Laumer communicated with regarding the content of the letter before the letter attached as Exhibit A and dated September 11, 2017 was signed.

RATEPAYERS' REQUEST TO CITY 11-11 Please produce any documents related to each communication identified in response to **Request 11-9** and **Request 11-10** and identify which communication the document relates to.

RATEPAYERS' REQUEST TO CITY 11-12. Please identify and produce all documents relating to the payment obligations referenced in the letter attached as Exhibit A as "380 Grants" to any of the Developers, including but not limited to:

1. Correspondence between the City and a Developer or a representative of a Developer regarding such payments;
2. Checks or disbursement records documenting such payments from City to a Developer; and
3. Audited financial statements documents such payments from City to a Developer.

RATEPAYERS' REQUEST TO CITY 11-13 Please identify the specific location by file name, tab name, line number and column number within the Willdan Rate Study where a water or

wastewater facility that is the subject of a payment for which a document was produced in response to **Request 11-12** is included in rate base.

RATEPAYERS' REQUEST TO CITY 11-14. Please identify and produce any documents relating to payments to any of the Developers that the City asserts are not payment obligations referenced in the letter attached as Exhibit A as "380 Grants" but are instead reimbursements for water and wastewater facilities used to provide service to the City's utility customers, including but not limited to:

1. Correspondence between the City and a Developer or a representative of a Developer regarding such payments;
2. Checks or disbursement records documenting such payments from City to a Developer;
3. Audited financial statements documents such payments from City to a Developer; and
4. Deeds or Bills of Sale showing the transfer of title of such facilities from Developer to City.

RATEPAYERS' REQUEST TO CITY 11-15 Please identify the specific location by file name, tab name, line number and column number within the Willdan Rate Study where a water or wastewater facility that is the subject of a payment for which a document was produced in response to **Request 11-14** is included in rate base.

RATEPAYERS' REQUEST TO CITY 11-16. Please identify and produce any documents relating to any payments to the District that the City asserts are not payment obligations referenced in the letter attached as Exhibit A as "380 Grants" but are instead reimbursements for water and wastewater facilities used to provide service to the City's utility customers, including but not limited to:

1. Correspondence between the City and the District or a representative of the District regarding such payments;
2. Checks or disbursement records documenting such payments from City to the District;
3. Audited financial statements documenting such payments from City to the District; and
4. Any Deed or Bill of Sale showing the transfer of title of such facilities from District to City.

RATEPAYERS' REQUEST TO CITY 11-17 Please identify the specific location by file name, tab name, line number and column number within the Willdan Rate Study where a water or wastewater facility that is the subject of a payment for which a document was produced in response to **Request 11-16** is included in rate base.

RATEPAYERS' REQUEST TO CITY 11-18 Please state the specific amount of water impact fees that you have reimbursed to the Developer for property within the District.

RATEPAYERS' REQUEST TO CITY 11-19. Admit that your total payment to the Developer to reimburse water impact fees was equal to the lesser of \$230,000 or the actual total amount paid by the Developer for the design and construction of that portion of certain water facilities oversized to serve property outside of the District.

RATEPAYERS' REQUEST TO CITY 11-20 If you did not admit **Request 11-19**, please describe in detail the reason you could not admit that your total payment to the Developer to reimburse water impact fees was equal to the lesser of \$230,000 or the actual total amount paid by the Developer for the design and construction of that portion of certain water facilities oversized to serve property outside of the District.

RATEPAYERS' REQUEST TO CITY 11-21 Please state the specific amount of sewer impact fees that you have reimbursed to the Developer for property within the District.

RATEPAYERS' REQUEST TO CITY 11-22. Admit that your total payment to the Developer to reimburse sewer impact fees was equal to the lesser of \$270,000 or the actual total amount paid by the Developer for the design and construction of that portion of certain water facilities oversized to serve property outside of the District.

RATEPAYERS' REQUEST TO CITY 11-23 If you did not admit **Request 11-22**, please describe in detail the reason you could not admit that your total payment to the Developer to reimburse sewer impact fees was equal to the lesser of \$270,000 or the actual total amount paid by the Developer for the design and construction of that portion of certain water facilities oversized to serve property outside of the District.

RATEPAYERS' REQUEST TO CITY 11-24 Please produce a copy of the Economic Development Grant Agreement referenced in the letter attached as Exhibit A and dated September 11, 2017 from you to the Texas Commission on Environmental Quality and any amendments thereto.

RATEPAYERS' REQUEST TO CITY 11-25 Please produce a copy of the 2007 Development Agreement by and between the City and Developer related to the District and any amendments thereto.

RATEPAYERS' REQUEST TO CITY 11-26. Admit that the payment obligations under the Economic Development Grant Agreement produced in response to **Request 11-24** do not include any amounts payable to the Developer under the Development Agreement produced in response to **Request 11-25**.

RATEPAYERS' REQUEST TO CITY 11-27 If you did not admit **Request 11-26**, please describe in detail the reason you could not admit that the payment obligations under the Economic Development Grant Agreement produced in response to **Request 11-24** do not include any amounts payable to the Developer under the Development Agreement produced in response to **Request 11-25**.

Exhibit A



142 N. Ohio Drive • Celina, Texas 75009 • Phone 972.382.2682 • Fax 972.382.3736

September 11, 2017

Collin County Municipal Utility District No. 1
c/o Clay Crawford
Crawford & Jordan LLP
3100 McKinnon Street, suite 1100
Dallas, Texas 75201

Clyde Sifford
Texas Commission on Environmental Quality
12100 Park Thirty Five Circle, Building F
Austin, Texas 78753-1808

Re: Collin County MUD No. 1

Dear Mr. Crawford and Mr. Sifford:

I am writing to clarify the nature of certain payments from the City of Celina (the "City") to the developer of the property located within Collin County MUD No. 1 (the "MUD"). The City is obligated to make certain payments to the developer pursuant to an October 12, 2012 Amended and Restated Economic Development Grant Agreement between the developer and the City (the "380 Agreement"). The payment obligations are summarized as follows:

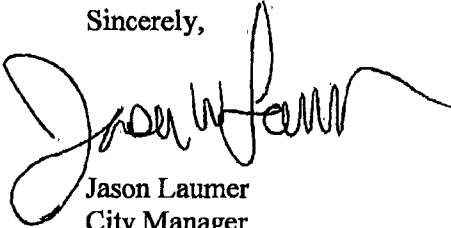
Four different grants pursuant to Section 3.2(a) of the 380 Agreement, as follows (collectively, the "380 Grants"): (i) a grant of \$1,640,000; (ii) a grant of \$5,780,000; (iii) a grant of \$1,000,000; and (iv) a grant of \$3,450,000.

The 380 Agreement is an economic development incentive agreement that provides for grants of City funds pursuant to Chapter 380 of the Texas Local Government Code ("Chapter 380") to promote local economic development and to stimulate business and commercial activity in the municipality. The 380 Grants are not reimbursements, and nothing in the 380 Agreement characterizes any of the 380 Grants as reimbursements, nor does it reference any facilities that would be reimbursed. Furthermore, the developer is

not required to submit invoices, receipts, or other evidence of costs incurred in order to receive the 380 Grants.

Consistent with the terms of the 380 Agreement, the 380 Grants are paid from funds. In conclusion the payments to the developer pursuant to the 380 agreement are not considered reimbursements. Please contact me if you have any additional questions at (972) 382-2682, ext. 1002 or by email at JLaumer@celina-tx.gov.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jason Laumer', with a large, stylized initial 'J'.

Jason Laumer
City Manager
City of Celina