



## Filing Receipt

**Received - 2022-09-12 02:23:00 PM**  
**Control Number - 53428**  
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**PUC DOCKET NO. 53428**

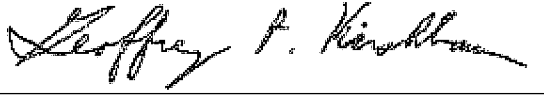
<b>APPLICATION OF AQUA TEXAS,</b>	<b>§</b>	<b>BEFORE THE PUBLIC UTILITY</b>
<b>INC. FOR SYSTEM IMPROVEMENT</b>	<b>§</b>	
<b>CHARGES PURSUANT TO 16 TAC</b>	<b>§</b>	<b>COMMISSION OF TEXAS</b>
<b>§ 24.76</b>	<b>§</b>	

**AQUA'S RESPONSE TO DEL WEBB THE WOODLANDS  
RESIDENTS GROUP'S FIRST REQUEST FOR INFORMATION**

To: Del Webb The Woodlands Residents Group, by and through its attorney of record, Beth Emery, 8000 Research Forest Blvd., Suite 115-246, The Woodlands, Texas 77382.

Aqua Texas, Inc. (Aqua) serves the following Responses to Del Webb The Woodlands Resident Group's (DWTW) First Request for Information. Aqua stipulates that the following responses to RFIs may be treated by all parties as if the answer was filed under oath.

Respectfully submitted,

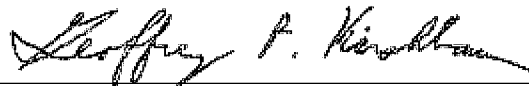
By: 

Geoffrey P. Kirshbaum  
State Bar No. 24029665  
TERRILL & WALDROP  
810 West 10<sup>th</sup> Street  
Austin, Texas 78701  
Tel: (512) 474-9100  
Fax: (512) 474-9888  
gkirshbaum@terrillwaldrop.com

**ATTORNEYS FOR AQUA TEXAS, INC.**

### **CERTIFICATE OF CONFERENCE**

On September 6, 2022, counsel for Aqua Texas, Inc. conferred with Beth Emery, counsel for Del Webb the Woodlands Residents Group (DWTW), about the objections in this filing. Negotiations concerning Aqua's objections were conducted diligently and in good faith. Those objections were not resolved and DWTW was unwilling to withdraw the requests to which Aqua objects.

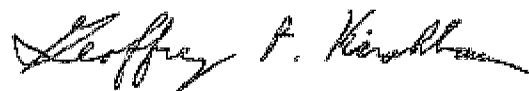


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Geoffrey P. Kirshbaum

### **CERTIFICATE OF SERVICE**

I certify that, unless otherwise ordered by the presiding officer, notice of the filing of this document was provided to all parties of record via electronic mail on September 12, 2022, in accordance with the Orders Suspending Rules filed in Project No. 50664.



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Geoffrey P. Kirshbaum

## **RESPONSES TO REQUESTS FOR INFORMATION**

**DWTW RFI 1-1** Any response to any other party's requests for information.

**RESPONSE:** All Aqua responses to requests for information, and any amendments or supplements to those responses, will be filed with the Public Utility Commission of Texas and served on all parties in accordance with applicable Commission and SOAH requirements. They will also be available for viewing on the Commission interchange.

Prepared by: Kurt A. Scheibelhut, Manager of Rates and Planning  
Aqua Texas, Inc.

Sponsored by: Kurt A. Scheibelhut, Manager of Rates and Planning  
Aqua Texas, Inc.

## **RESPONSES TO REQUESTS FOR INFORMATION**

**DWTW 1-2** All agreements in which Aqua and Pulte are parties concerning DWTW, including, but not limited to agreements concerning developer contributions and contributions in aid of construction.

**OBJECTION:** This request is overly broad and is not reasonably calculated to lead to the discovery of admissible evidence. The request seeks confidential agreements between Aqua and a developer that contain information that is beyond the scope of issues relevant to this case and, specifically, improperly seeks information concerning developer contributions in aid of construction (CIAC). First, Aqua's SIC application includes SIC requests based only on eligible plant installed in 2020 and 2021. Yet, this request seeks agreements related to plant installed in the DWTW subdivision both before and after that period. Second, the Commission has determined that 16 TAC § 24.76(d)(3) does not contemplate consideration in a system improvement charge (SIC) proceeding of developer CIAC exclusion for claimed eligible plant as opposed to customer CIAC exclusion.<sup>1</sup> The Commission found those two types of CIAC are distinct.<sup>2</sup> The Commission declined to refer developer CIAC issues to SOAH in that SIC proceeding.<sup>3</sup> Subject to and notwithstanding the foregoing objection, Aqua responds as follows.

**RESPONSE:** Aqua stands on its objection.

Prepared by: Kurt A. Scheibelhut, Manager of Rates and Planning  
Aqua Texas, Inc.

Sponsored by: Kurt A. Scheibelhut, Manager of Rates and Planning  
Aqua Texas, Inc.

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<sup>1</sup> *Application of Undine Development, LLC for System Improvement Charges*, PUC Docket No. 53109, SOAH Docket No. 473-22-05848.WS, Preliminary Order at 3 (Aug. 26, 2022).

<sup>2</sup> *Id.*

<sup>3</sup> *Id.* at 4-7.

## **RESPONSES TO REQUESTS FOR INFORMATION**

**DWTW 1-3** A list of all payments, real property, tangible, or intangible assets received by Aqua from Pulte concerning DWTW.

**OBJECTION:** This request is overly broad, unduly burdensome, and is not reasonably calculated to lead to the discovery of admissible evidence. The request seeks information that is beyond the scope of issues relevant to this case and, specifically, improperly seeks information concerning developer contributions in aid of construction (CIAC). First, Aqua's SIC application includes SIC requests based only on eligible plant installed in 2020 and 2021. Yet, this request seeks information about payments related to plant installed and plant items received from Pulte in the DWTW subdivision both before and after that period. Second, the Commission has determined that 16 TAC § 24.76(d)(3) does not contemplate consideration in a system improvement charge (SIC) proceeding of developer CIAC exclusion for claimed eligible plant as opposed to customer CIAC exclusion.<sup>4</sup> The Commission found those two types of CIAC are distinct.<sup>5</sup> The Commission declined to refer developer CIAC issues to SOAH in that SIC proceeding.<sup>6</sup> Subject to and notwithstanding the foregoing objection, Aqua responds as follows.

**RESPONSE:** Aqua stands on its objection.

Prepared by: Kurt A. Scheibelhut, Manager of Rates and Planning  
Aqua Texas, Inc.

Sponsored by: Kurt A. Scheibelhut, Manager of Rates and Planning  
Aqua Texas, Inc.

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<sup>4</sup> *Application of Undine Development, LLC for System Improvement Charges*, PUC Docket No. 53109, SOAH Docket No. 473-22-05848.WS, Preliminary Order at 3 (Aug. 26, 2022).

<sup>5</sup> *Id.*

<sup>6</sup> *Id.* at 4-7.

## **RESPONSES TO REQUESTS FOR INFORMATION**

**DWTW 1-4** All documents relating to the commitment to, plans to, and drilling of a new water well to be located inside DWTW, including any applications to governmental authorities, internal communications, communications with Pulte, and project schedules.

**OBJECTION:** This request is overly broad, unduly burdensome, and is not reasonably calculated to lead to the discovery of admissible evidence. The request seeks information that is beyond the scope of issues relevant to this case and improperly seeks information concerning developer contributions in aid of construction (CIAC). First, Aqua's SIC application includes SIC requests based only on eligible plant installed in 2020 and 2021. Yet, this request seeks information about a well that is not yet installed inside the DWTW subdivision and cannot be part of this case. Aqua's understanding is DWTW does not claim that the planned well is part of this case, but DWTW would like to see the well installed. That does not make it relevant to Aqua's requested SICs. Second, the Commission has determined that 16 TAC § 24.76(d)(3) does not contemplate consideration in a system improvement charge (SIC) proceeding of developer CIAC exclusion for claimed eligible plant as opposed to customer CIAC exclusion.<sup>7</sup> The Commission found those two types of CIAC are distinct.<sup>8</sup> The Commission declined to refer developer CIAC issues to SOAH in that SIC proceeding.<sup>9</sup> Finally, some of the requested information is publicly available from the Texas Commission on Environmental Quality or other governmental authorities. Subject to and notwithstanding the foregoing objection, Aqua responds as follows.

**RESPONSE:** Aqua stands on its objection but provides the following documents subject to that objection: Notice to Proceed and Purchase Order, Bates numbered Aqua 000945 – Aqua 000949.

Prepared by: Kurt A. Scheibelhut, Manager of Rates and Planning  
Aqua Texas, Inc.

Sponsored by: Lawrence Cameron Alden, Jr., State Engineer  
Aqua Texas, Inc.

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<sup>7</sup> *Application of Undine Development, LLC for System Improvement Charges*, PUC Docket No. 53109, SOAH Docket No. 473-22-05848.WS, Preliminary Order at 3 (Aug. 26, 2022).

<sup>8</sup> *Id.*

<sup>9</sup> *Id.* at 4-7.



**Aqua Texas – Old Egypt WP  
(WGA Project No. 40008-012-01)**

**NOTICE TO PROCEED  
2022-08-16**

Sequeira Civil Construction  
P.O. Box 454  
Tomball, Texas 77377

SUBJECT: Notice to Proceed with Old Egypt WP

Dear Bart Sequeira:

You are hereby authorized to proceed on the above referenced contract beginning August 22, 2022. This contract calls for all work to be completed in 200 calendar days for all items. Therefore, the contract completion date is established as March 10, 2023. Please provide a proposed construction schedule as soon as possible.

Thank you for your interest in doing business with Aqua Texas.

Sincerely,

A handwritten signature in black ink, appearing to read "P. Tilly".

Paul Tilly, E.I.T.  
On behalf of  
Aqua Texas Inc.





An Essential Utilities Company

SEQUEIRA CIVIL CONSTRUCTION  
PO BOX 454  
TOMBALL TX 77377

Your vendor number with us  
300049361  
Vendor Phone:

**Please deliver to:**  
spring west  
2211 Louetta Road,  
Spring TX 77388

**Invoice To:**  
Aqua Texas  
1106 Clayton Lane, Suite 400W  
Austin, TX 78723

## Purchase Order

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PO number/date  
5500078501 / 08/15/2022  
Contact person/Telephone  
E-Spring West PGRP

Delivery date: 03/31/2023

OLD EGYPT / DEL WEBB NEW WP #5 - CONSTRUCTION SERVICES AGREEMENT

Terms of delivery: FOB DESTINATION  
Terms of payment: Net 30 Days

Currency USD

Item Order qty.	Material #	Unit	Description	Price per unit	Net value
00001 1		Activ.unit	CONSTRUCTION SERVICES	1,697,000.00	1,697,000.00

**The item covers the following services:**

10	8000134		Services-Construction Work/Facility Impr		
	1,697,000	EA		1.00	1,697,000.00

Total net value excl. tax USD 1,697,000.00

The material, labor and services above shall be furnished in accordance with the Standard Provisions printed below and in accordance with any documents made apart hereof by the Company by attachment or reference, and shall have the same effect as though fully set forth above. The Purchase Order embodies the entire agreement between the parties and it supersedes all prior negotiations and communications. The Company will not recognize any changes in this Purchase Order except through the medium of its Official Change Order Form.



An Essential Utilities Company

SEQUEIRA CIVIL CONSTRUCTION  
TOMBALL TX 77377

PO number/date

5500078501 / 08/15/2022

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Item Order qty.	Material #	Unit	Description	Price per unit	Net value
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Naomi L. Tillinger  
Supply Chain Manager



An Essential Utilities Company

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TOMBALL TX 77377

PO number/date  
5500078501 / 08/15/2022

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Item Order qty.	Material #	Unit	Description	Price per unit	Net value
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AQUA SERVICES, INC. and its affiliated Companies

PURCHASE ORDER

GENERAL TERMS AND CONDITIONS

1.1 QUALITY. All materials to be provided by the vendor (the "Vendor") pursuant to this Purchase Order (the "Materials") shall be new, unless otherwise specified in writing by AQUA SERVICES, INC. and its affiliated Companies (the "Company"), and shall be subject to inspection and acceptance by the Company. All services to be provided pursuant to this Purchase Order (the "Services") are to be performed in a skillful and workmanlike manner.

1.2 WARRANTY. Notwithstanding any acceptance by the Company, the Vendor warrants that: (a) the Materials shall be free from defects in workmanship, material and design, fit for the purpose intended, and shall conform to the requirements of this Purchase Order; and (b) the Services shall conform to the requirements of this Purchase Order and be performed in a workmanlike manner with the standard skill and care exercised by qualified providers of such services. Vendor shall, at its sole expense, promptly correct or replace any Materials, or re-perform any Services, found by the Company not to be in accordance with this warranty during the period specified on the face of this Purchase Order or in any Special Terms and Conditions made a part hereof or, if no such period is specified, during the period of one year after the Company's acceptance of the Materials and/or Services. The Company shall have the right to use such defective Materials until they can be removed for correction or replacement. A new warranty period (identical to the original warranty period) shall apply to any corrected or replaced Materials, commencing the date of receipt by the Company of such accepted Materials or Services, as the case may be.

1.3 DELIVERY. Unless otherwise specified on the face of this Purchase Order, delivery shall be FOB to the Company location(s) shown on the face of the Purchase Order. Time is of the essence in the performance of this Purchase Order and any failure to comply with the delivery date specified on the Purchase Order may be grounds for the Company to cancel this Purchase Order without further obligation to the Company. Vendor shall notify the Company promptly of any conditions affecting compliance with the delivery date. The Company may, at its sole option, accept or reject deliveries that vary from the specified delivery date or quantities, except for partial shipments authorized in writing by the Company.

1.4 TITLE AND RISK OF LOSS. Title and risk of loss or damage to the Materials shall pass to the Company upon delivery to the designated Company location. Title shall be free and clear of any and all liens and encumbrances. Vendor, for itself and for all other persons performing any labor and/or furnishing any materials hereunder, hereby waives the right to file mechanics' or other liens for or on account of the labor performed or the materials furnished. Vendor shall, upon request of the Company at any time, including as a condition precedent to final payment, deliver to the Company a satisfactory release or waiver of all liens arising hereunder.

1.5 PACKAGING. Materials shall be packaged and shipped in accordance with good shipping practices. All items or their containers shall be piece-marked with a material code or description, Purchase Order number and release number, if available. Items disassembled for shipment shall be match-marked. Unpainted surfaces and openings shall be protected from impact and weather damage.

2.1 ACCEPTANCE. The Company reserves the right to inspect or test the Materials or Services for acceptance within a reasonable period after delivery to the designated Company location. If such inspections or tests show the Materials or Services, or any part thereof, not to be as specified, the Company may reject such Materials or Services and the Vendor shall promptly correct or replace such Materials or re-perform such Services at Vendor's sole expense, or at the Company's option: (a) the Company and Vendor may mutually agree in writing to a new price for such Materials or Services; (b) the Vendor shall issue a refund to the Company for monies paid; and/or (c) the Company may cancel this Purchase Order in whole or in part without any further liability for the cancelled portion. Acceptance tests and/or inspections by the Company shall not be construed to limit in any way the Vendor's warranty obligations hereunder.

2.2 ACCEPTANCE OF SUPPLIER CODE OF CONDUCT. All vendors are expected to agree to and accept Aqua's Supplier Code of Conduct. Vendors can find this Code of Conduct at Aqua's website here.

3.1 PAYMENT. Invoices shall be paid within thirty days after the date of acceptance of the Materials or Services or receipt of Vendor's invoice, whichever is later, and any discount period shall run from such date. For any portion of the Materials or Services that does not conform to the requirements of the Purchase Order, a corresponding portion of the price may be withheld until such nonconformance is corrected. Payment does not waive the Company's right to inspect and accept the Materials or Services, nor shall the withholding of any payment or portion thereof preclude the Company from pursuing any other rights or remedies it may have under this Purchase Order, or in law or equity. All invoices shall include the Purchase Order number and, if applicable, the Company's release number. Invoices shall separately identify sales or use taxes, where applicable, and any authorized prepaid freight. Invoices shall separately identify sales or use taxes, where applicable, and any authorized prepaid freight charges. Except for sales and use charges, the Purchase Order price for the Materials or Services is inclusive of all taxes, fees, excises and charges, which are now or hereafter imposed by any governmental authority.

4.1 COMPLIANCE WITH LAW. The Vendor shall comply with all federal and state laws, ordinances and regulations in effect as of the date of acceptance of the Materials or Services by the Company. This Purchase Order shall be governed and construed under the laws of the Commonwealth of Pennsylvania as if executed and wholly performed therein. The Vendor agrees to comply with the provisions of 29 CFR part 470.

5.1 INTELLECTUAL PROPERTY. The Vendor shall pay all royalties and license fees and shall defend and save the Company harmless from any and all suits, claims or expenses whatsoever arising out of or in connection with the infringement or violation of any other person's intellectual property rights with respect to the Materials or Services, and the Company's use thereof.

6.1 NONDISCRIMINATION. The Vendor agrees, unless exempt, to comply with its applicable affirmative action and minority and women-owned business obligations, including Executive Order 11246 and the applicable federal regulations pertaining thereto as well as the Equal Opportunity Clause (41 C.F.R. 60-1.4), the Affirmative Action Clause for Handicapped Workers (41 C.F.R. 60-741.4), and the Affirmative Action Clause for Disabled Veterans and Veterans of the Vietnam Era (41 C.F.R. 60-250.4), all of which are incorporated by reference. The Vendor further agrees, unless exempt, to comply with the Pennsylvania Nondiscrimination Clause (PA Code 48.101(D)) which is incorporated by reference.

7.1 INDEMNIFICATION. The Vendor agrees to indemnify, hold harmless and defend the Company, and its officers, employees and representatives from and against any claim, demand, cause of action, loss, expense or liability arising by reason of: (a) any claim by governmental authorities or others (including the suppliers and subcontractors of Vendor, or any of its or their



An Essential Utilities Company

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5500078501 / 08/15/2022

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Item Order qty.	Material #	Unit	Description	Price per unit	Net value
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employees) of any actual or asserted failure of the Vendor to comply in any applicable law, ordinance or regulation; (b) any injury to or death of persons (including the employees of the Company or Vendor, its suppliers or subcontractors) or damage to or loss of property (including the property of the Company) arising directly or indirectly out of the acts or omission of Vendor, its suppliers or subcontractors, irrespective of whether the Company was concurrently negligent, either actively or passively, but excepting where the injury or death of persons or damage or loss of property was caused by the sole negligence or willful misconduct of the Company; and (c) any actual or alleged contamination, pollution, or public or private nuisance arising directly or indirectly out of the acts or omissions of Vendor or its suppliers or subcontractors.

8.1 MISCELLANEOUS. No right, interest or obligation of the Vendor hereunder shall be assigned or delegated without the prior written consent of the Company and any attempted assignment or delegations without such consent shall be void. If the Vendor enters into any voluntary or involuntary receivership, bankruptcy or insolvency proceedings, this Purchase Order may be cancelled, at the Company's option, upon five days written notice to Vendor. The failure of the Company to enforce any of the terms and conditions, or to exercise any right or privilege, hereunder shall not be construed as a waiver thereof. No waiver shall be valid unless expressly stated to be a waiver in writing by the Company. This Purchase Order and the documents incorporated by reference herein contains the entire agreement and understanding between the Company and Vendor as to the subject matter hereof, and merges and supersedes all prior agreements, commitments, representations and discussions between the Company and Vendor with respect thereto. No modification of this Purchase Order or any Special Terms and Conditions made apart hereof will be binding on the Company unless in writing and signed by the Company.