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**JUSTIN DEMERATH**

January 30, 2015

Local Government Assistance & Economic Analysis  
Texas Comptroller of Public Accounts  
P.O. Box 13528  
Austin, Texas 78711-3528

RE: Application to the Deer Park Independent School District from The Lubrizol Corporation

**(First Qualifying Year 2019)**

Application and Confidential Materials

To the Local Government Assistance & Economic Analysis Division:

By copy of this letter transmitting the application for review to the Comptroller's Office, the Deer Park Independent School District is notifying The Lubrizol Corporation of its intent to consider the application for appraised value limitation on qualified property should a positive certificate be issued by the Comptroller. The Applicant submitted the Application to the school district on January 18, 2015. The Board voted to accept the application on January 18, 2015. The application has been determined complete as of January 30, 2015. Please prepare the economic impact report.

The Applicant has requested the following information be kept confidential.

1. Tab 4, the complete project description
2. Tab 7, the description of qualified investment
3. Tab 8, the description of qualified property
4. The maps of the project vicinity, qualified investment, and reinvestment zone located in Tab 11 of the Application

In accordance with 34 TAC 9.1053, the information that is the subject of this request is segregated from the supplemental materials submitted with the application, that is. The items depicted in the maps are indexed before each section.

The description of the investment and the maps depicting existing property and the planned location of the project display proprietary commercial information regarding the specific location of the possible project and the nature of the business that will be conducted at the site. The materials are protected by the trade secret exception set forth in Texas Government Code §552.110. The determination of whether specific material is protected as a trade secret is a question of fact. While not defined in the statute, Texas has long recognized the definition of trade secrets set forth in the Restatement of Torts. See, *Hyde v. Huffings*, 314 S.W. 2d 763, 776 (Tex. 1957), cert denied, 358 U.S. 898 (1958). The Texas Attorney General's office has consistently applied the Restatement of Torts in determining whether information submitted to Texas governmental agencies is exempt from disclosure in response to Open Records requests under the "trade secret" doctrine. See e.g., Open Records Decision No. 652, pp. 3-5 (1997); See also, OR2002-2871 (May 28, 2002). The Restatement of Torts lists six factors to be utilized in determining whether material is, in fact a trade secret. These factors will be discussed below.

1. Extent to which information is known outside of LUBRIZOL;
2. Extent to which information is known by employees.
3. Security Measures.
4. Value of Information.
5. Effort Expended.
6. Ease of Duplication.

LUBRIZOL maintains security on the internal item specifications from which plans for site development are written, performance statistics, and other data from which the layout and location has been developed. This type of information is held to be a trade secret by LUBRIZOL. In fact, the maintenance of confidentiality of this type of information is the industry standard among all of the companies engaged in this industry.

Project confidentiality is maintained inside the company and with the consultants engaged to prepare the application. LUBRIZOL requires confidentiality of all employees and contractual confidentiality provisions with its consultants. LUBRIZOL uses proprietary methods for the development of layout and locating decisions. The chemical manufacturing industry is highly competitive. LUBRIZOL feels that secure information cannot be duplicated without access to its proprietary processes. The release of any information regarding these proprietary processes would give competitors of LUBRIZOL an unfair competitive position.

#### Section 552.104

This Section of the Texas Government Code provides that information is excepted from disclosure if it would give advantage to a competitor. As for the same reasons stated above, maintaining the confidential status of the underlying data is critical to maintaining LUBRIZOL's competitive position in the market.

The public release of this information would reveal information which the company considers to be a trade secret. Furthermore, the public production of this information would cause

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the company to suffer substantial competitive harm and weaken its position in competitive siting decisions.

Sincerely,

A handwritten signature in black ink, appearing to read "Kevin O'Hanlon", written in a cursive style.

Kevin O'Hanlon  
School District Consultant

Cc: The Lubrizol Corporation