



## Rabun County Board of Commissioners

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March 8, 2021

### VIA U.S. MAIL

Mayor Jordan Greene  
Clayton City Council  
City of Clayton, Georgia  
837 Highway 76 West, Suite 101  
Clayton, Georgia 30525

### RE: Rabun County Service Delivery – Offer in Compromise

Dear Mayor Green and City Council:

I hope this letter finds you well. As you recall, Rabun County presented the City of Clayton with an offer in compromise with respect to the ongoing Service Delivery Strategy and Water System concerns in a letter dated September 8, 2020. That letter proposed consolidating the City of Clayton's water and sewer systems into the Rabun County Water and Sewerage Authority's (RCWSA) system. This arrangement would place all water and sewer systems within the County under the direction and control of the RCWSA, which is comprised of an equal number of representatives of the County and the City of Clayton. The primary advantage of consolidating systems into a single county-wide authority is that this arrangement would enable county-wide investment and additional funding mechanisms, rather than requiring the City of Clayton to finance the needed repairs through City property taxes and user fees.

The County's September 8, 2020, letter offered to compensate the City for its existing infrastructure and equipment at a price of \$3,000,000 plus an amount equal to the cash on hand in the City's Water and Sewer Fund, which is approximately \$2,000,000. The County also offered to assume the City's existing water and sewer debts, which currently stand at approximately \$2,200,000. Most importantly, the County's offer would relieve the City from the cost of replacing the City's existing water and sewer infrastructure, which the County estimates to be in the neighborhood of \$40,000,000.

In order to finance the first phase of the rehabilitation project, the County proposed entering into a 5-year TSPLOST intergovernmental agreement to raise approximately \$16,000,000 in revenue, which would be used exclusively for road, sidewalk, and stormwater improvements on Main Street in downtown Clayton and the relocation (and replacement, when necessary) of all fiber, electric, water, and sewer utility lines underground. This would be an extraordinary investment in the City of Clayton that will pay dividends for the community as a whole for years to come. While the County does not have the power to agree in advance to a second 5-year TSPLOST for the second phase of the project, it is anticipated that both the County and the community as a whole would support a second TSPLOST at that time.

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*Member*

The City's October 6, 2020, letter expressed a general interest in the proposed compromise, but requested several additional terms: (1) increasing the purchase price by \$2,000,000; (2) that the RCWSA would retain all City of Clayton Water and Sewer employees for a minimum of 12 months; (3) that City customers will not be charged a higher rate than other customers in the County; (4) that the City would retain all multi-use water and sewer assets; (5) that the County would assist the City in reallocating its current SPLOST funds earmarked for water and sewer improvements; (6) that the County would pay \$200,000 per year for the next ten years to the City as a "millage adjustment" to settle Service Delivery Strategy disputes concerning road maintenance; and (7) that City-marked compactor trucks would receive a 50% reduction in tipping fees at the County Recycling Center and Landfill.

In response, the County sent a revised offer on December 10, 2020, which included some, but not all, of the terms requested by the City. Specifically, the County's revised offer stipulated (1) that the RCWSA would be required to retain all City of Clayton Water and Sewer employees for a minimum of 12 months, but that the RCWSA would have the right to terminate or discipline the employees for cause for documented violations of the employee handbook; (2) that all customers in the County would pay the same rates for water and sewer services; (3) that the City would retain its multi-use assets as well as all other water or sewer related fixtures that are not currently incorporated into its water and sewer system; (4) that the County would assist the City in reallocating its current SPLOST funds earmarked for water and sewer improvements; and (5) that City-marked compactor trucks would receive a 50% reduction in residential tipping fees.

Essentially, the County agreed to each of the City's requests except for the increase in the purchase price and the \$200,000 per year "millage adjustment." Specifically, the County did not increase the proposed purchase price because its original offer included both a cash payment and the assumption of the City's existing water and sewer debt, which brings the total to approximately. According to the City of Clayton's audited financial statements for FY 2019, the City water and sewer system has a book value of only \$5,362,528. Furthermore, the City has incurred operating losses of \$294,438; \$148,580; and \$206,314 for each of the past three years.

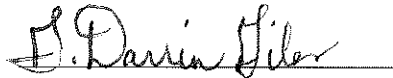
The County did not agree to the City's request for a \$200,000 per year "millage adjustment" because the County has extensively examined the City's Service Delivery concerns and concluded that there is no tax inequity between City taxpayers and County residents located in the unincorporated area of the County. The services that are still in dispute (i.e., road maintenance, engineering, stormwater, etc.) are provided for the benefit of the entire County and, therefore, City taxpayers are not exempt from taxes for those purposes. In fact, every court that has considered the matter has reached the same conclusion. Finally, the County notes that the \$200,000 requested by the City is less than the City's average annual operating loss for water and sewer services over the past three years (\$216,444). Therefore, under the County's proposal, the City stands to save well over \$200,000 per year and no further "millage adjustment" is necessary.

For the reasons outlined above, the County sincerely believes that the settlement proposed in the County's December 10, 2020, offer is in the best interests of all County and City of Clayton

residents. Nevertheless, nearly three months have lapsed and the City of Clayton has yet to respond. Please recall that the County's offer in compromise was made in order to avoid prolonged litigation concerning the Service Delivery Strategy and the City of Clayton's existing water and sewer service area. If an agreement cannot be reached, the County will have no choice but to proceed with the judicial resolution remedy provided by the Service Delivery Act. Therefore, please be advised that the County's offer in compromise will expire at 5:00 p.m. on Friday, April 30, 2021.

Thank you for your attention to this matter and I look forward to the City's response.

Sincerely,

A handwritten signature in cursive script, appearing to read "D. Darrin Giles", is written over a horizontal line.

Darrin Giles

Rabun County Administrator

cc: Rabun County Board of Commissioners