

CAUSE NO. _____

DOLCEFINO COMMUNICATIONS,
LLC D/B/A DOLCEFINO MEDIA, AND
WAYNE DOLCEFINO,

Plaintiffs,

vs.

CITY OF SAN BENITO, TEXAS,
SAN BENITO ECONOMIC
DEVELOPMENT CORPORATION,
AND JOSE MORALES

Defendant.

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IN THE DISTRICT COURT OF

CAMERON COUNTY, TEXAS

___ JUDICIAL DISTRICT

PLAINTIFFS' ORIGINAL PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

Plaintiffs, DOLCEFINO COMMUNICATIONS, LLC d/b/a DOLCEFINO MEDIA and WAYNE DOLCEFINO (“Plaintiffs”), files this Plaintiffs’ Original Petition complaining of the CITY OF SAN BENITO, TEXAS (“the City”), SAN BENITO ECONOMIC DEVELOPMENT CORPORATION (“the EDC”), and Jose Morales, and respectfully shows the following:

I. DISCOVERY CONTROL PLAN

1. Pursuant to TEX. R. CIV. P. 190.4, Plaintiffs request that discovery be conducted under a Level 3 discovery control plan.

II. PARTIES

2. Plaintiff, Dolcefino Communications, LLC d/b/a Dolcefino Media, is a Texas limited liability company.

3. Plaintiff, Wayne Dolcefino, is a natural person and resident of Harris County,

Texas.

4. Defendant, City of San Benito, Texas, is a municipality in Cameron County, Texas. In accordance with Texas Civil Practice and Remedies Code Section 17.024(b), the City may be served by serving the mayor, clerk, secretary, or treasurer. The mayor, clerk, secretary, or treasurer can be served at San Benito City Hall located at 485 N Sam Houston Blvd., San Benito, Texas 78586.

5. Defendant, Jose Morales, is a natural person and resident of Cameron County, Texas.

III. JURISDICTION

6. The amount in controversy exceeds the Court's minimum jurisdictional requirements. The Court has personal jurisdiction over Defendant because Defendant is a Texas resident, and no diversity of citizenship exists.

7. Plaintiffs seek to recover monetary relief of \$100,000 or less and non-monetary relief.

8. Plaintiffs expressly disavow that any claims are being made pursuant to federal law.

IV. VENUE

9. Venue for this action is proper in Cameron County because all or a substantial part of the transactions or occurrences made the basis of this lawsuit occurred in Cameron County, Texas. TEX. CIV. PRAC. & REM. CODE § 15.002.

10. Venue for this action is proper in Cameron County because a suit filed by a requestor under Texas Government Code §552 must be filed in a district court for the county in which the main offices of the governmental body are located.

V. NOTICE

11. Plaintiffs will show that in accordance with Texas Rules of Civil Procedure and all applicable Texas statutes, any notice required by law was given.

VI. FACTUAL BACKGROUND

12. Since the spring of 2024, Plaintiff, Dolcefino Communications, LLC d/b/a Dolcefino Media (“Dolcefino Media”) has been investigating public corruption in the City of San Benito, Texas. Topics of the Dolcefino Media investigation have included nepotism, the attempted hijacking of a multi-million dollar shopping center at taxpayers’ expense, lack of transparency, problematic government spending, and allegations of wrongdoing by employees of Defendant, the City of San Benito, Texas (“the City”) and members of Defendant, the San Benito Economic Development Corporation (“the EDC”).

13. During the course of this investigation, Plaintiffs have submitted a number of requests for information pursuant to the Texas Public Information Act (the “Act”).

14. The City and the EDC have produced information responsive to some of the requests, sought permission from the Office of the Attorney General to withhold information responsive to some of the requests, and wholly failed to respond to other requests. The issues with the requests are detailed below:

15. On May 23, 2024, Plaintiffs filed a request (“Request 1”) (*See* Exhibit A) with the EDC, pursuant to the Texas Public Information Act, seeking the production of the following:

- a) PDF copies of the original detailed phone records for City of San Benito EDC Board Member Jose L. Morales, on any device which City of San Benito EDC business is conduct, redacted to exclude personal phone calls and any other information made confidential under state law, since November 1, 2023. This

request includes text and phone messages.

16. On June 10, 2024, Defendants sought permission from the Office of the Attorney General to withhold the requested information, claiming that as Morales was an appointed/volunteer member of the Board of Directors for the San Benito EDC and was not issued/did not possess a municipal mobile phone, he did not have to provide the responsive information.

17. On August 12, 2024, the Office of the Attorney General issued Open Records Decision 2024-028045, which held that requested information was within the scope of the Act if it relates to official business of a governmental body and is maintained by a public official or employee of a government body, and that to the extent the information at issue relates to corporation officials of employees acting in their official capacities or the information pertains to corporation business, it is subject to the Act and must be released.

18. Despite being ordered by the Office of the Attorney General to release the information, the Defendants have failed to do so.

19. As Jose Morales is a temporary custodian of the requested information, he has been named as a Defendant in this suit and is being sued in his capacity as custodian of the information requested in Request 1.

20. On December 3, 2024, Plaintiffs filed a second request (“Request 2”) with the City and the EDC, pursuant to the Texas Public Information Act, seeking the production of the following:

- a) A copy of the feasibility study completed by the University of Texas-Rio Grande Valley's Data and Information Center for the San Benito EDC relating to the San Benito Fairgrounds.

- b) All emails, sent or received, including attachments, by Mayor Rick Guerra, City Manager Fred Sandoval, or any members of the San Benito EDC relating to the San Benito Fairgrounds musical project since January 1, 2024.
- c) Documents detailing all income and expenditures by the City of San Benito and the San Benito EDC relating to the South Texas Music Festival that occurred on September 23, 2023.
- d) Documents detailing all income and expenditures by the City of San Benito and the San Benito EDC relating to the Hog Waddle Concert that occurred on March 22, 2024.
- e) Documents detailing all income and expenditures by the City of San Benito and the San Benito EDC relating to the ResacaFest Concert that occurred on August 9, 2024.
- f) Documents detailing the current balance of all funds in all San Benito EDC accounts.

21. The deadline for Defendants to produce responsive documents, seek permission from the Attorney General to withhold records, send a cost estimate, or seek a clarification or extension of time was December 17, 2024.

22. On December 23, 2024, counsel for Defendants sent a communication via email stating that the City would be requesting an extension of time to produce responsive information. The letter, from Assistant City Secretary Yolanda Galarza, stated that the City would have information ready to produce on or before January 6, 2025 by 5:00 p.m.

23. The City did not have responsive information ready to produce by January 6, 2025.

24. Documents responsive to Request 2(c), (d), and (e) were not produced until January

14, 2025.

25. Documents responsive to Request 2(a) were not produced until January 17, 2025

26. As of the filing of this lawsuit, documents responsive to Requests 2(b) and 2(f) have not been produced, in violation of the Texas Public Information Act.

27. On December 3, 2024, Plaintiffs filed another request (“Request 3”) with the City of San Benito and the San Benito EDC under the Texas Public Information Act, seeking the production of the following:

- a) PDF copies of the original detailed phone records for City of San Benito City Manager Fred Sandoval, on any device which City of San Benito or City of San Benito EDC business is conducted, including but not limited to the device with the phone number 956-961-9482, redacted to exclude personal phone calls and any other information made confidential under state law, since June 12, 2024. This request includes text and phone messages.
- b) All emails, sent or received, including attachments, by City of San Benito City Manager Fred Sandoval since June 12, 2024.

28. On January 22 and 24, 2025, the City produced documents responsive to Request 3(b).

29. On January 23, documents showing the phone call records responsive to Request 3(a) were produced.

30. On January 24, 2025, additionally responsive documents were produced.

31. To date, no text messages responsive to Request 3(a) have been produced, in violation of the Texas Public Information Act.

32. On January 14, 2025, Plaintiffs filed a fourth request (“Request 4”) under the Texas

Public Information Act with the San Benito EDC, seeking production of the following:

a) Copies of all invoices or receipts submitted for the following expenses from the

San Benito EDC expense reports:

- (1) 01/10/2024 CHK: 001577 MPC STUDIOS-WEB DESIGN 10 OF 12 - \$843.00;
- (2) 01/01/2024 CHK: 001605 VISA-XEMM GROUP/DRONE FOOTAGE - \$7,150.00
- (3) 01/26/2024 CHK: 001591 PLACER LABS-SVCS & ANALYTICS - \$10,500.00;
- (4) 02/08/2024 CHK: 001600 MPC STUDIOS-WEB DESIGN 11 OF 12 - \$843.00;
- (5) 02/27/2024 CHK: 001637 AGUIRRE & PATTERSON-APPRAISAL - \$1,500.00
- (6) 02/08/2024 CHK: 001604 VALLEY BUSINESS REPORT-FEB 24 - \$75.00;
- (7) 02/15/2024 CHK: 001628 A RIOJAS PHOTOGRAPHY-EDC - \$1,485.00
- (8) 02/29/2024 CHK: 001630 RIO GRANDE GUARDIAN/2024-2025 - \$2,500.00
- (9) 02/26/2024 CHK: 001667 PNC-SOUTHWEST/F.SANDOVAL - \$324.97
- (10) 02/07/2024 CHK: 001640 ISIDORE TECH-SVCS FEB 24/EDC - \$589.95
- (11) 02/01/2024 CHK: 001671 DOWNTOWN DECO-HOLIDAY DECOR - \$24,741.80
- (12) 02/08/2024 CHK: 001599 LUCKY SHOT-SUBSIDY 6 OF 6 - \$750.00
- (13) 02/08/2024 CHK: 001598 GADGETS REPAIR-SUBSIDY 6 OF 6 - \$751.78
- (14) 02/08/2024 CHK: 001601 R. TORRES-SUBSIDY 2 OF 6 - \$750.00
- (15) 02/14/2024 CHK: 001616 THE BARBER STUDIO-SUBSIDY FEB - \$793.50
- (16) 02/14/2024 CHK: 001618 THE SMUDGING-SUBSIDY 4 OF 6 - \$425.00
- (17) 02/14/2024 CHK: 001612 A TOUCH OF TEXAS-SUBSDY 2 OF 6 - \$400.00
- (18) 02/22/2024 CHK: 001631 TEENY WAIST FITNESS-SUBSDY 4/6 - \$400.00
- (19) 02/01/2024 CHK: 001642 SB CHAMBER-BIKE TOUR SPONSRSHIP - \$3,000.00
- (20) 03/19/2024 CHK: 001663 SHAPE CARDS-CARDS/MAYOR - \$43.30
- (21) 03/01/2024 CHK: 001641 MPC STUDIOS-WEB DESIGN 12 OF 12 - \$843.00
- (22) 03/02/2024 CHK: 001687 PNC-LYFT RIDE 3/2/24 3PM CA - \$21.06
- (23) 03/02/2024 CHK: 001687 PNC-LYFT RIDE 3/2/24 9AM CA - \$36.17
- (24) 03/03/2024 CHK: 001687 PNC-AIR PORT PARKING/FSANDOVAL - \$30.00
- (25) 03/03/2024 CHK: 001687 PNC-POST OAK HOTEL/F.SANDOVAL -

- \$771.03
- (26) 03/03/2024 CHK: 001687 PNC-MTG BUS MEAL/F.SANDOVAL - \$110.00
 - (27) 03/03/2024 CHK: 001687 PNC-THE POST OAK/HOUSTON-FS - \$19.00
 - (28) 03/03/2024 CHK: 001687 PNC-LYFT RIDE 3/3/24 11AM CA - \$13.99
 - (29) 03/03/2024 CHK: 001687 PNC-LYFT RIDE 3/3/24 2PM CA - \$48.68
 - (30) 03/18/2024 CHK: 001687 PNC-PAPPASITOS/BUS MTG MEAL - \$30.95
 - (31) 03/28/2024 CHK: 001687 PNC-OYSTER BAR/BUS MTG MEAL - \$111.00
 - (32) 03/08/2024 CHK: 001672 VISA-GAMEGUARD/SHIRTS - \$488.42
 - (33) 03/21/2024 CHK: 001672 VISA-J.MAYA/EMBROIDERY - \$74.16
 - (34) 03/07/2024 CHK: 001645 THE SMUDGING-SUBSIDY 5 OF 6 - \$425.00
 - (35) 03/12/2024 CHK: 001650 A TOUCH OF TEXAS-SUBSDY 3 OF 6 - \$400.00
 - (36) 03/21/2024 CHK: 001664 TEENY WAIST FITNESS-SUBSDY 5/6 - \$400.00
 - (37) 03/21/2024 CHK: 001662 ROSALBA TORRES-SUBSIDY 3 OF 6 - \$750.00
 - (38) 03/21/2024 CHK: 001659 J & R PHONES & ELEC-SUBSDY 1/6 - \$400.00
 - (39) 04/30/2024 CHK: 001705 CASCOS-AUDIT SVCS FY 2022-2023 - \$5,500.00
 - (40) 04/09/2024 CHK: 001704 PNC-IHOP/BUS MTG MEAL - \$69.10
 - (41) 04/23/2024 CHK: 001704 PNC-CHICKFILA/BUS MTG MEAL - \$21.44
 - (42) 04/25/2024 CHK: 001704 PNC-PAPPASITOS/BUS MTG MEAL - \$47.08
 - (43) 04/26/2024 CHK: 001704 PNC-CALACAS/BUS MTG MEAL - \$46.04
 - (44) 04/29/2024 CHK: 001704 PNC-PAPAS & PAPAS/BUS MTG MEAL - \$35.16
 - (45) 04/15/2024 CHK: 001689 A TOUCH OF TEXAS-SUBSDY 4 OF 6 - \$400.00
 - (46) 04/16/2024 CHK: 001681 THE SMUDGING-SUBSIDY 6 OF 6 - \$425.00
 - (47) 04/30/2024 CHK: 001697 TEENY WAIST FITNESS-SUBSDY 6/6 - \$400.00
 - (48) 04/30/2024 CHK: 001692 J & R PHONES & ELEC-SUBSDY 2/6 - \$400.00
 - (49) 04/30/2024 CHK: 001695 REACH FOR THE SKY BAKESHOP - \$1,275.00
 - (50) 05/08/2024 CHK: 001694 MPC STUDIOS-WEBSITE SUPPORT - \$222.50
 - (51) 05/03/2024 VISA-PAPPASITOS/BUS MTG MEAL - \$39.70
 - (52) 05/06/2024 VISA-BLANQUITAS TQ/BUS MTG MEA - \$27.00
 - (53) 05/09/2024 VISA-SUBWAY/BUS MTG MEAL - \$40.01
 - (54) 05/10/2024 VISA-PAPPASITOS/BUS MTG MEAL - \$41.03
 - (55) 05/13/2024 VISA-DOS OLIVOS/BUS MTG MEAL - \$72.00
 - (56) 05/14/2024 VISA-LONGHORN/BUS MTG MEAL - \$132.00
 - (57) 05/28/2024 VISA-ROLLING SMOKE/BUS MTG MEL - \$44.84

- (58) 05/29/2024 VISA-HERNANDEZ TORT/BUS MTG ML - \$32.76
- (59) 05/08/2024 CHK: 001689 A TOUCH OF TEXAS-SUBSDY 5 OF 6 - \$400.00
- (60) 05/24/2024 CHK: 001712 J & R PHONES & ELEC-SUBSDY 3/6 - \$400.00
- (61) 05/08/2024 CHK: 001707 TX CONJUNTO-PROGRAM BK SPONSOR - \$500.00
- (62) 06/07/2024 CHK: 001720 MPC STUDIOS-WEBSITE SUPPORT - \$197.50
- (63) 06/01/2024 CHK: 001728 HALFF-ENG SVCS/AMISTAD DR - \$14,000.00
- (64) 06/01/2024 CHK: 001729 VISA-SUBWAY/BUS MTG MEAL - \$41.14
- (65) 06/01/2024 CHK: 001729 VISA-REACH FOR THE SKY/BUS MTG - \$67.59
- (66) 06/01/2024 CHK: 001729 VISA-SUBWAY/BUS MTG MEAL - \$41.14
- (67) 06/01/2024 CHK: 001729 VISA-BLANQUITAS/BUS MTG MEAL - \$55.01
- (68) 06/01/2024 CHK: 001729 VISA-PAPPASITOS/BUS MTG MEAL - \$244.88
- (69) 06/07/2024 CHK: 001747 VISA-HEB/PRKS APP LUNCHEON - \$65.86
- (70) 06/07/2024 CHK: 001747 VISA-HEB/PRKS APP LUNCHEON - \$5.36
- (71) 06/11/2024 CHK: 001747 VISA-OYSTER BAR/MOWING CUSTDIN - \$73.00
- (72) 06/12/2024 CHK: 001747 VISA-PARRY'S/BUS LUNCH MTG - \$53.00
- (73) 06/26/2024 VISA-PARRY'S/BUS MTG MEAL - \$112.00
- (74) 06/27/2024 VISA-PAPPASITOS/BUS MTG MEAL - \$219.16
- (75) 06/28/2024 VISA-PAPPASITOS/BUS MTG MEAL - \$98.88
- (76) 06/01/2024 CHK: 001736 ISIDORE TECH-IT CONSULTNG MAY - \$1,500.00
- (77) 06/28/2024 CHK: 001751 ISIDORE TECH-IT CONSULTING JUN - \$1,500.00
- (78) 06/28/2024 CHK: 001747 VISA-CULLIGAN/JUN 2024 - \$168.73
- (79) 06/21/2024 CHK: 001731 A TOUCH OF TEXAS-SUBSDY 6 OF 6 - \$400.00
- (80) 06/28/2024 CHK: 001737 J & R PHONES & ELEC-SUBSDY 4/6 - \$400.00
- (81) 07/12/2024 CHK: 001743 MPC STUDIOS-WEBSITE MAINT/JUL - \$197.50
- (82) 07/09/2024 CHK: 001766 VISA-BLANQUITA'S/BUS MTG MEAL - \$109.00
- (83) 07/10/2024 CHK: 001766 VISA-BLANQUITA'S/BUS MTG MEAL - \$85.00
- (84) 07/11/2024 CHK: 001766 VISA-ROLLING SMOKE/CDBG MTG - \$88.12
- (85) 07/18/2024 CHK: 001766 VISA-ARTURO'S WESLACO/BUS MTG - \$158.94

- (86) 07/19/2024 CHK: 001766 VISA-CALACAS/BUS MTG MEAL - \$270.90
- (87) 07/26/2024 CHK: 001774 PNC-BLANQUITA'S/BUS MTG MEAL - \$14.04
- (88) 07/29/2024 CHK: 001774 PNC-BLANQUITA'S/BUS MTL MEAL - \$77.00
- (89) 07/30/2024 CHK: 001774 PNC-VERMILLION/BUS MTG MEAL - \$133.28
- (90) 07/31/2024 ISIDORE TECH-IT CONSULTING JUL - \$450.00
- (91) 07/11/2024 CHK: 001766 VISA-CULLIGAN WATER - \$57.69
- (92) 07/31/2024 CHK: 001762 J & R PHONES & ELEC-SUBSDY 5/6 - \$400.00
- (93) 07/31/2024 CHK: 001769 TROPICAL TRAIL PLAZA-SING RMB - \$1,500.00
- (94) 07/19/2024 CHK: 001753 SB HISTORICAL-COMM PART GRANT - \$19,956.02
- (95) 07/19/2024 CHK: 001750 GMAR-2024 GOLD LEVEL SPONSRSHP GREATER MCALLEN ASSOC REALTOR - \$500.00
- (96) 08/09/2024 CHK: 001763 MPC STUDIOS-WEBSITE MAINT/AUG - \$197.50
- (97) 08/13/2024 CHK: 001794 PNC-SOUTHWEST/F.SANDOVAL - \$232.96
- (98) 08/13/2024 CHK: 001794 PNC-SOUTHWEST/P.GALVAN - \$232.96
- (99) 08/13/2024 CHK: 001794 PNC-SOUTHWEST/R.GUERRA - \$232.96
- (100) 08/13/2024 CHK: 001794 PNC-SOUTHWEST/P.GALVAN - \$232.96
- (101) 08/09/2024 CHK: 001794 PNC-COSTCO/RESACFEST BBQ&COFFE - \$384.99
- (102) 08/09/2024 CHK: 001792 VISA-HEB/RESACAFEST BBQ - \$123.47
- (103) 08/09/2024 CHK: 001792 VISA-DELAGARZA MEAT MRKT/RSCFS - \$504.05
- (104) 08/16/2024 CHK: 001792 VISA-PAPPASITOS/BUS MTG MEAL - \$253.76
- (105) 08/19/2024 CHK: 001792 VISA-WHATABURGER/BUS MTG MEAL - \$12.51
- (106) 08/20/2024 CHK: 001792 VISA-BOOT CO BAR&GRILL/BUS MTG - \$82.96
- (107) 08/29/2024 CHK: 001817 VISA-VICKY'S/BUS MTG MEAL - \$16.00
- (108) 08/30/2024 CHK: 001780 J & R PHONES & ELEC-SUBSDY 6/6 - \$400.00
- (109) 09/06/2024 CHK: 001781 MPC STUDIOS-WEBSITE MAINT/SEPT - \$197.50
- (110) 09/09/2024 CHK: 001784 DISPUTE RESOLUTION CNTR-RM RNT - \$200.00
- (111) 09/09/2024 CHK: 001785 LAKESIDE MEDIATION CNTR-MEDITN - \$1,950.00
- (112) 09/06/2024 CHK: 001789 A. RIOJAS PHOTO-HEADSHOTS/EDC - \$1,250.00
- (113) 09/09/2024 CHK: 001783 A. LLANES-PERDIEM 9/11-13/2024 - \$100.00

- (114) 09/09/2024 CHK: 001786 P. GALVAN-PERDIEM 9/11-13/2024 - \$100.00
- (115) 09/09/2024 CHK: 001787 R. GUERRA-PERDIEM 9/11-13/2024 - \$100.00
- (116) 09/11/2024 CHK: 001817 VISA-TERRY BLK BBQ/MEDIATION - \$192.96
- (117) 09/11/2024 CHK: 001817 VISA-LYFT/F.SANDOVAL-MEDIATION - \$37.91
- (118) 09/11/2024 CHK: 001823 PNC-LYFT/F.SANDOVAL-MEDIATION - \$9.78
- (119) 09/11/2024 CHK: 001823 PNC-LYFT/F.SANDOVAL-MEDIATION - \$8.64
- (120) 09/13/2024 CHK: 001817 VISA-HYATT-BREAKFAST/MAYOR - \$113.43
- (121) 09/13/2024 CHK: 001817 VISA-HYATT/MAYOR-MEDIATION - \$690.79
- (122) 09/13/2024 CHK: 001823 PNC-HYATT/P.GALVAN-MEDIATION - \$690.79
- (123) 09/13/2024 CHK: 001823 PNC-HYATT/F.SANDOVAL-MEDIATION - \$690.79
- (124) 09/13/2024 CHK: 001817 VISA-PARKING FEE AIRPORT/MEDIA - \$41.00
- (125) 09/13/2024 CHK: 001817 VISA-LYFT/F.SANDOVAL-MEDIATION - \$32.73
- (126) 09/09/2024 CHK: 001817 VISA-PAPPASITOS/BUS MTG MEAL - \$119.69
- (127) 09/10/2024 CHK: 001817 VISA-BLOOMFIELDS/E.CORTEZ - \$75.00
- (128) 09/13/2024 CHK: 001817 VISA-REPUBLIC/BUS MTG MEAL - \$106.51
- (129) 09/02/2024 CHK: 001782 SALAZAR'S BOOTS-CROC BOOTS - \$350.00
- (130) 09/30/2024 CHK: 001816 RGV-FAMILIES & FRIENDS OF MURD - \$500.00
- (131) 09/13/2024 CHK: 001817 VISA-HYATT/A.LLANES-MEDIATION - \$690.79
- (132) 09/13/2024 CHK: 001817 VISA-HYATT/M.PRUNEDA-MEDIATION - \$803.37
- (133) 09/26/2024 CHK: 001806 M. PALOMO-RMB MTG MEAL 9/26/24 - \$89.70
- (134) 10/09/2024 MPC STUDIOS-WEBSITE MAINT/OCT - \$197.50
- (135) 10/01/2024 VISA-STEFANO'S/BIG GULP INVSTR - \$157.00
- (136) 10/01/2024 VISA-HUDDLE HOUSE/RIBBON CUTNG - \$61.88
- (137) 10/01/2024 VISA-SALTGRASS STKHS/GOV ABBOT - \$138.00
- (138) 10/01/2024 VISA-SUBWAY/EDC BOARD MTG - \$93.58
- (139) 10/15/2024 VISA-BLANQUITA'S/VARCO UPDATE - \$74.92
- (140) 10/18/2024 VISA-WALMART/PUMPKIN CONTEST - \$57.35
- (141) 10/24/2024 VISA-BLANQUITA'S/BUS MTG MEAL - \$84.00
- (142) 10/25/2024 VISA-TACOS Y TORTAS/RECOGNITIN - \$148.02
- (143) 10/26/2024 VISA-GWS BBQ/PROJECT UPDATE - \$145.39
- (144) 10/28/2024 VISA-VICKY'S/BUS MTG MEAL - \$42.43

(145) 10/01/2024 VISA-CULLIGAN WATER -\$182.71

33. On January 29, 2025, counsel for the City sent Plaintiffs a letter providing an estimated cost for the requested records and notifying Plaintiffs that the records would not be provided to Plaintiff within ten (10) business days of the request, and that the information would be ready for production ten days after Plaintiffs' deposit for the cost of the records was paid.

34. On January 31, 2025, Plaintiffs paid the deposit for the cost estimate. By Defendants' own timeline, responsive documents were due on February 14, 2025.

35. The City did not produce responsive documents on or before February 14, 2025.

36. On March 5, 2025, nearly two months after the request was made and more than two weeks after the records were due, legal counsel for the City of San Benito sent Plaintiffs a letter notifying them that the City was "in the process of locating and/or gathering the information responsive to your request," and that the City was unable to produce the requested information within ten (10) business days after Plaintiffs' request. The letter further went on to note that "The City will require additional time to prepare and process your request. The City will provide an additional response to you on or before March 19, 2025."

VII. CAUSES OF ACTION

A. WRIT OF MANDAMUS

37. The preceding paragraphs are incorporated for all purposes.

38. Plaintiffs qualify as a "Requestor" under the Act. The City is a "governmental body" under the Act.

39. Pursuant to TEX. GOV'T CODE § 552.321(a):

A requestor... may file suit for a writ of mandamus compelling a government body to make information available for public inspection if the governmental body refuses to request an attorney

general's decision... Or refuses to supply public information or information that the attorney general has determined is public information that is not excepted from disclosure...

40. Within ten (10) days after public information is requested, an officer for public information of a governmental body must: (1) promptly produce public information for inspection, duplication, or both, on application by any person to the officer (TEX. GOV'T CODE §552.221(a)), (2) request a clarification of vague or overly broad requests (TEX. GOV'T CODE §552.222(b)); (3) Request an OAG ruling regarding whether any information may or must be withheld (TEX. GOV'T CODE §552.301); or (4) if the requested documents cannot be produced within 10 business days after the date the information is requested, "the officer shall certify that fact in writing or to the requestor and set a date and hour within a reasonable time when the information will be available for inspection or duplication. TEX. GOV'T CODE § 552.221(d).

41. The Act can also apply to information on a privately owned device of a current or former governmental body employee or official. Section 552.203(4) of the Government Code requires each governmental body's officer for public information to make reasonable efforts to obtain public information from a temporary custodian. Section 552.003(7) of the Government Code defines "temporary custodian" as a current or former governmental employee or official who maintains public information that has not been provided to a governmental body's officer for public information or the officer's agent. Pursuant to section 552.203(4) of the Government Code, a governmental body's public information officer is required to obtain information from a temporary custodian if:

- a) the information has been requested from the governmental body;

- b) the officer for public information is aware of facts sufficient to warrant a reasonable belief that the temporary custodian has possession, custody, or control of the information;
- c) the officer for public information is unable to comply with the duties imposed by this chapter without obtaining the information from the temporary custodian; and
- d) the temporary custodian has not provided the information to the officer for public information or the officer's agent. Section 552.233(a) states a current or former officer or employee of a governmental body does not have a personal or property right to public information created or received while acting in an official capacity.

42. Section 552.233(b) provides that a temporary custodian with possession, custody, or control of public information shall surrender the information to the governmental body no later than the 10th business day after the governmental body requests it from the temporary custodian. Furthermore, pursuant to section 552.233(c), a temporary custodian's failure to surrender or return the information would be grounds for disciplinary action by the temporary custodian's employer or any other applicable penalties provided by the Act or other law.

43. In response to Request 1, Defendants have failed to produce any responsive records. The City and the EDC are required to obtain information from Defendant Morales. The City and the EDC have notified Plaintiffs that Defendant Morales will not surrender or return the information. This refusal is grounds for any other penalties provided by the Act or other law, and as such, Plaintiffs have filed a writ of mandamus against Morales as well as the City and the EDC.

44. Defendant has intentionally failed to produce the following records and has failed to seek permission from the Office of the Attorney General to withhold the requested information:

- a) In response to Request 2, Defendants have failed to produce documents responsive to Request 2(b) and 2(f) – both of which seek financial information from the City of San Benito and the San Benito EDC.
- b) In response to Request 3, Defendants have failed to produce text messages responsive to Request 3(a).

45. In response to Request 4, Defendants have failed to produce any of the requested invoices or receipts and they have failed to comply with the requirements of TEX. GOV'T CODE §552.221(d) in their notification for additional time. The City's most recent communication regarding Request 4 notifies Plaintiff that the City will again need additional time to produce the requested information. That notification is not only untimely under TEX. GOV'T CODE §552.221(d) (delivered more than ten business days after the records were due), but it also fails to identify the hour that the records will be made available pursuant to the same section. Further, the communication does not indicate that the records will be made available on the March 19, 2025 date identified in the communication – just that an “additional response” will be made on or before that date.

46. The failure of the City and the EDC is particularly concerning, as a majority of the information sought is financial in nature, relates to embattled City Manager Fred Sandoval, or both. It has recently come to light that Mr. Sandoval has a significant number of personal financial troubles and has had some significant professional financial troubles prior to accepting his role as City Manager, including but not limited to, defaulting on an SBA loan with a balance of over \$1 million, amassing \$430,000 in federal tax liens, and ongoing litigation over Sandoval's defaulting on a \$650,000 promissory note with Educate South Texas. Sandoval is accused of funneling city and EDC contracts to his drinking buddies and spending millions of dollars on a concert venue at

the Fairgrounds in San Benito without a public bid – amidst a host of other allegations of financial wrongdoing. When Sandoval’s history is juxtaposed with the hiding of records that would show (1) the state of the EDC’s finances; (2) invoices and receipts that would back up more than 100 expenditures; and (3) text message communications sent from and received by Sandoval in his professional capacity, the secrecy and lack of transparency becomes even more concerning.

47. Plaintiffs therefore files this mandamus due to Defendants’ refusal to produce the requested public information required by the Texas Public Information Act. TEX. GOV’T CODE §552.321(a); *Kallinen v. City of Houston*, 462 S.W.3d 25 (Tex. 2015). Dolcefino respectfully requests an accelerated hearing and an order granting mandamus and requiring the Defendants to produce the requested information.

B. VIOLATIONS OF THE TEXAS PUBLIC INFORMATION ACT

48. The preceding paragraphs are incorporated for all purposes.

49. Pleading further and in the alternative, if necessary, Defendants have committed numerous violations of the Texas Public Information Act by failing to provide access to documents and information in response to the Requests.

50. Plaintiffs submitted the Requests to the Defendants but, as of the date of this Petition, the Defendants have failed to promptly produce or make available much of the requested information.

51. Plaintiffs assert that the information they are seeking should be presumed as “public” and the Defendants should be required to make that information available.

52. Texas Government Code § 552.321 provides that a requestor may file suit for a writ of mandamus compelling a governmental body to make information available for public inspection if the governmental body refuses to request a decision from the Texas Attorney General or refuses

to supply public information or information that the Texas Attorney General has determined is public information that is not excepted from disclosure. Plaintiffs request that a writ of mandamus be issued under authority of Texas Government Code § 552.231 that compels the City to make the requested information available for public inspection. Specifically, Plaintiffs request that a writ of mandamus be issued to Defendants compelling them to make the requested information available to Plaintiffs.

VIII. ATTORNEY'S FEES

53. Pursuant to Chapters 551 and 552 of the Texas Government Code, Plaintiffs specifically request that it be awarded reasonable attorney fees and costs.

IX. PRE- AND POST-JUDGMENT INTEREST

54. Plaintiffs seek pre-judgment and post-judgment interest at the highest allowable rate under Texas law.

X. RESERVATION OF RIGHTS

55. Plaintiffs reserve the right to prove damages at trial. Plaintiffs further reserve the right to amend this Petition to add additional causes of action and/or parties as discovery continues.

XI. CONDITIONS PRECEDENT

56. Pursuant to Rule 54 of the Texas Rules of Civil Procedure, all conditions precedent to Plaintiffs' rights to recover and Defendant's liability have been performed or have occurred.

XII. JURY DEMAND

57. Plaintiffs demand a trial by jury on all issues and tenders the applicable fee.

XIII. REQUEST FOR DISCLOSURE

58. Pursuant to TEX. R. CIV. P. 194 of the Texas Rules of Civil Procedure, Defendant is requested to disclose, within 30 days of service of this request, the information or material

described in TEX. R. CIV. P. 194.2 (a) through (l).

PRAYER

WHEREFORE, PREMISES CONSIDERED, Plaintiffs, Dolcefino Communications, LLC d/b/a Dolcefino Media and Wayne Dolcefino pray that citation be issued and served upon Defendants, commanding Defendants to appear and answer this lawsuit and that upon final hearing of this cause, that Plaintiffs have a judgment against Defendants in an amount to be determined by the Court and Jury, for all damages, plus pre-judgment interest and post-judgment interest, costs of Court, attorney fees, mandamus relief, and for such other and further relief, at law or in equity, both general and special, to which Plaintiffs may be entitled.

Respectfully submitted,

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