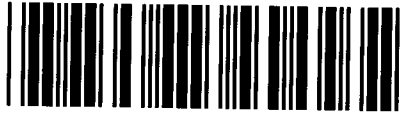


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PETITION OF MONTERREY  
OAKS, LTD TO AMEND THE CITY  
OF SPLENDORA'S CERTIFICATE  
OF CONVENIENCE AND  
NECESSITY IN MONTGOMERY  
COUNTY BY EXPEDITED  
RELEASE §  
§  
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§

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PUBLIC UTILITY COMMISSION  
PUBLIC UTILITY COMMISSION  
FILING CLERK  
OF TEXAS

**CITY OF SPLENDORA'S MOTION TO INTERVENE**  
**AND REQUEST FOR PUBLIC HEARING**

COMES NOW, the City of Splendor (the "City") and files this Motion to Intervene and Request for Public Hearing ("Motion") in this matter. The Administrative Law Judge's ("ALJ") Revised Order No. 1 in this matter established July 21, 2016 as the deadline to file a Motion to Intervene. Thus, this Motion is timely filed. In support of its Motion, the City would respectfully show the following:

**I. INTRODUCTION**

On June 20, 2016, Monterrey Oaks, LTD ("Monterrey") filed a petition to amend the City of Splendor's Certificate of Convenience and Necessity ("CCN") No. 11727 in Montgomery County by Expedited Release (the "Petition") pursuant to Texas Water Code § 13.254(a-5). Monterrey seeks the release of approximately 102.291 acres (the "Land") from the City's water CCN in Montgomery County. On June 22, 2016, the ALJ issued Revised Order No. 1 Correcting Style and Entity Requiring Comments on Administrative Completeness of the Petition and Notice, Other Procedural Matters, and Establishing Procedural Schedule. Such Order does not designate parties to this proceeding, but sets the deadline for intervention as July 21, 2016.

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## **II. MOTION TO INTERVENE**

The City respectfully requests to intervene as a party in this proceeding. As the water CCN holder over Monterrey's Land and the party against which this proceeding has been initiated, the City has standing to participate as a necessary party in accordance with 16 Tex. Admin. Code § 22.104(a). As a necessary party, the City need not even file a motion to intervene to participate in this proceeding. Regardless, the City additionally has standing to intervene under 16 Tex. Admin. Code § 22.103(b). The City has a right to participate pursuant to the aforementioned Commission rule as the City is the water CCN holder against which this proceeding has been initiated. As such, the City is directly and adversely affected by the Petition and is thus entitled to intervene under both 16 Tex. Admin. Code § 22.103(b)(1) and § 22.103(b)(2). Said another way, the City will be negatively affected by the approval of the Petition, if granted, in a manner unique from the general public.

For the foregoing reasons, the City requests that the ALJ designate the City as a party to this proceeding. In the event the Petition is determined to be administratively complete, the City further requests an opportunity to participate in the establishment of a procedural schedule at a prehearing conference scheduled pursuant to 16 Tex. Admin. Code § 22.121.

## **III. REQUEST FOR PUBLIC HEARING**

The City opposes and protests the above-referenced Petition, and as an affected person, it respectfully requests a public hearing in this matter. While Monterrey has the burden of proof in this matter, Monterrey cannot meet the applicable standard because the City is providing water service to the Land under Texas Water Code § 13.254(a-5). Section 13.254(a-5) only permits releasing a tract of land from a water or sewer CCN holder's certificated service area boundaries if it is "not receiving water or sewer service." Chapter 13 of the Texas Water Code broadly defines "service" as "any act performed, anything furnished or supplied, and any facilities or

lines committed or used by a retail public utility in the performance of its duties under this chapter to its patrons, employees, other retail public utilities, and the public, as well as the interchange of facilities between two or more retail public utilities.”<sup>1</sup> The City is currently providing service within the meaning of Section 13.254(a-5).

Currently, as demonstrated by the map in **Exhibit A**, a 2-inch water line runs directly to the Land at two separate locations on the Land’s northern boundary line. Additionally, a 2-inch water line parallels the entire eastern portion of the Land, ultimately connecting to a larger 4-inch water line that runs to the south of the Land. This 4-inch line to the southeast of the Land is positioned in such a way that it can be directly connected to the Land. Collectively, said lines have the capacity to serve the entirety of the Land. Additionally, approximately two years ago, a prospective purchaser of the Land inquired about the City’s ability to provide service the Land and, upon the City’s confirmation thereof, subsequently indicated that such service would be requested upon conveyance of the Land. In short, the City’s infrastructure at and near the Monterrey Land is sufficient evidence to demonstrate that the City is providing water service to the subject property within the meaning of Section 13.254(a-5). Accordingly, the Petition should be denied.

For the foregoing reasons, the Petition, if granted, would uniquely impact the City and its ratepayers. The City has standing to be a party in this matter, and its request for a public hearing should be granted. The City reserves its right to supplement this Motion to Intervene and Request for a Hearing.

#### IV. CONCLUSION

WHEREFORE, PREMISES CONSIDERED, the City of Splendora respectfully requests that the Administrative Law Judge grant the City’s request intervene in this matter and request

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<sup>1</sup> TEX. WATER CODE ANN. § 13.002(21) (West 2015).

for a public hearing in this matter, and for such other relief as to which it has shown itself to be entitled.

Respectfully submitted,

**LLOYD GOSSELINK ROCHELLE &  
TOWNSEND, P.C.**

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**DAVID J. KLEIN**

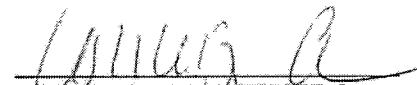
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**ATTORNEYS FOR CITY OF SPLENDORA**

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing document was transmitted by fax, hand-delivery and/or regular, first class mail on this 21st day of July, 2016 to the parties of record, in accordance with P.U.C. Procedural Rule 22.74.



**Ashleigh K. Acevedo**

City Water Service to Martin Properties

