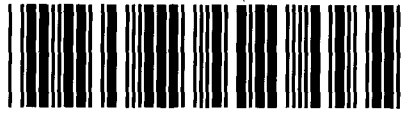




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CITY OF MIDLOTHIAN NOTICE OF §
INTENT TO PROVIDE WATER §
SERVICE TO LAND DECERTIFIED §
FROM MOUNTAIN PEAK SPECIAL §
UTILITY DISTRICT §

BEFORE THE PUBLIC UTILITY COMMISSION
FILING CLERK
PUBLIC UTILITY COMMISSION
OF TEXAS

**CITY OF MIDLOTHIAN'S OBJECTIONS TO
MOUNTAIN PEAK SPECIAL UTILITY DISTRICT'S
SECOND REQUEST FOR INFORMATION AND ADMISSIONS**

To: Mountain Peak Special Utility District, by and through its Attorney of Record:

Leonard Dougal
Mallory Beck
JACKSON WALKER, LLP

David A. Miller
MILLER MENTZER WALKER, PC

Now Comes the City of Midlothian ("Midlothian"), in the above-styled proceeding, and serves its Objections to Mountain Peak Special Utility District's ("Mountain Peak's") Second Set of Requests for Information ("RFIs") and Requests for Admission ("RFAs") to Midlothian. Midlothian files these objections pursuant to PUC Procedural Rule 22.144(d). Legal counsel of the parties have conducted negotiations diligently and in good faith and were unable to resolve disputes related to these RFIs and RFAs.¹ These objections are filed timely under the SOAH Order No. 2 and the Rule 11 agreement between the parties attached hereto as Exhibit A.

Set forth below are the individual discovery requests to which objections are being filed and the specific grounds relied upon by Midlothian ("Objections").

I. GENERAL STATEMENT OF OBJECTION ON RELEVANCE

As a threshold objection, Midlothian objects to all of the requests because they are outside the scope of discovery, particularly as it relates to the limited issues presented in this proceeding. The Preliminary Order identified the following issue to be addressed: (1) "What property, if any, has been rendered useless or valueless to Mountain Peak by the decertification

¹ The modifications to RFIs agreed to by Mountain Peak, as understood by Midlothian, are reflected in the text of each affected request.

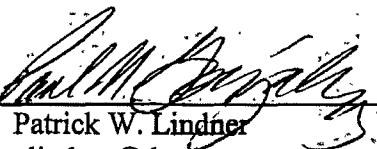
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granted in Docket No. 44394;” and, (2) “a determination of compensation based on the value of property the Commission has determined to have been rendered useless or valueless.”² The Water Code and PUC Substantive Rules identify factors that should be considered in making these determinations in TWC § 13.254(g) and 16 TAC § 24.113(h-k). The focus of the inquiry is *Mountain Peak and its property* as of the date the subject property was decertified, and *not*; for example, the actions or plans of Midlothian or the funding of those actions and plans.

Due to the very narrow scope of issues in this proceeding and the fact that any such determination is based upon the actions and property of Mountain Peak, the information sought is not admissible in this Docket, is not reasonably tailored to include only matters relevant to this Docket, and is not reasonably calculated to lead to the discovery of admissible evidence. The requests will provide no assistance to the Honorable Administrative Law Judge or the Commission in making a determination as whether *any property of Mountain Peak* was rendered useless or valueless *as a result of the decertification* of the park property in Docket No. 44394, nor will it lead to information which would be of assistance.

Respectfully submitted,
DAVIDSON, TROILO, REAM & GARZA, P.C.
601 NW Loop 410, Suite 100
San Antonio, Texas 78216
Telephone: (210) 349-6484
Facsimile: (210) 349-0041

By:



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ATTORNEYS FOR CITY OF MIDLOTHIAN

² Preliminary Order (September 23, 2016).

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document is being served on the following parties on November 30, 2016, via facsimile:

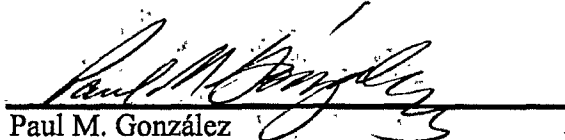
Counsel for Mountain Peak Special Utility District:

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Paul M. González

**OBJECTIONS OF CITY OF MIDLOTHIAN
TO MOUNTAIN PEAK SPECIAL UTILITY DISTRICT'S
SECOND SET OF REQUESTS FOR INFORMATION AND ADMISSIONS**

MPSUD RFA No. 2-1:

Admit that Midlothian acquired the Subject Tract on November 9, 2010.

OBJECTION: Midlothian specifically objects to this request as it is not calculated to lead to the discovery of evidence related to the issues in this case. The General Statement of Objection on Relevance, above, is incorporated herein. The request is not relevant to the PUC's determination of the existence of any real or personal property of Mountain Peak that was rendered useless or valueless by Commission decertification in Docket No. 44394, if any. For the same reasons, the information is equally irrelevant to a determination of the compensation due to Mountain Peak in this proceeding.

MPSUD RFI No. 2-1:

Please produce all deeds [and], contracts, ~~or other documents~~ demonstrating the transfer of ownership of the Subject Tract to Midlothian.

OBJECTION: Midlothian specifically objects to this request as it is not calculated to lead to the discovery of evidence related to the issues in this case. The General Statement of Objection on Relevance, above, is incorporated herein. The request is not relevant to the PUC's determination of the existence of any real or personal property of Mountain Peak that was rendered useless or valueless by Commission decertification in Docket No. 44394, if any. For the same reasons, the information is equally irrelevant to a determination of the compensation due to Mountain Peak in this proceeding.

MPSUD RFA No. 2-2:

Admit that Midlothian issued bonds to develop the Subject Tract into a park.

OBJECTION: Midlothian specifically objects to this request as it is not calculated to lead to the discovery of evidence related to the issues in this case. The General Statement of Objection on Relevance, above, is incorporated herein. The request is not relevant to the PUC's determination of the existence of any real or personal property of Mountain Peak that was rendered useless or valueless by Commission decertification in Docket No. 44394, if any. For the same reasons, the information is equally irrelevant to a determination of the compensation due to Mountain Peak in this proceeding.

MPSUD RFA No. 2-3:

Admit that the bonds issued by Midlothian to develop the Subject Tract included estimated costs to provide water to the Subject Tract.

OBJECTION: Midlothian specifically objects to this request as it is not calculated to lead to the discovery of evidence related to the issues in this case. The General Statement of Objection on Relevance, above, is incorporated herein. The request is not relevant to the PUC's determination of the existence of any real or personal property of Mountain Peak that was rendered useless or valueless by Commission decertification in Docket No. 44394, if any. For the same reasons, the information is equally irrelevant to a determination of the compensation due to Mountain Peak in this proceeding.

MPSUD RFI No. 2-2:

Please produce all communications, memoranda, evaluations, assessments, or reports evaluating the need for any bonds, loans, or other funds related to the provision of water to the Subject Tract ~~or related to the acquisition of the Subject Tract.~~

OBJECTION: Midlothian specifically objects to this request as it is not calculated to lead to the discovery of evidence related to the issues in this case. The General Statement of Objection on Relevance, above, is incorporated herein. The request is not relevant to the PUC's determination of the existence of any real or personal property of Mountain Peak that was rendered useless or valueless by Commission decertification in Docket No. 44394, if any. For the same reasons, the information is equally irrelevant to a determination of the compensation due to Mountain Peak in this proceeding.

Midlothian also objects that this request and is unreasonable and unduly burdensome under the circumstances of this case, as contemplated by Tex. R. Civ. P. 192.4(a) & (b).

MPSUD RFI No. 2-3:

Please produce all resolutions of the City Council of the City of Midlothian, or any subcommittee of the City Council of the City of Midlothian, approving the decision to set the Park Facilities Bond Program for voter approval.

OBJECTION: Midlothian specifically objects to this request as it is not calculated to lead to the discovery of evidence related to the issues in this case. The General Statement of Objection on Relevance, above, is incorporated

herein. The request is not relevant to the PUC's determination of the existence of any real or personal property of Mountain Peak that was rendered useless or valueless by Commission decertification in Docket No. 44394, if any. For the same reasons, the information is equally irrelevant to a determination of the compensation due to Mountain Peak in this proceeding.

MPSUD RFI No. 2-4:

Please produce all documents related to the Park Facilities Bond Program which also relate to the provision of water to the Subject Tract.

OBJECTION: Midlothian specifically objects to this request as it is not calculated to lead to the discovery of evidence related to the issues in this case. The General Statement of Objection on Relevance, above, is incorporated herein. The request is not relevant to the PUC's determination of the existence of any real or personal property of Mountain Peak that was rendered useless or valueless by Commission decertification in Docket No. 44394, if any. For the same reasons, the information is equally irrelevant to a determination of the compensation due to Mountain Peak in this proceeding.

Midlothian also objects that this request is unreasonable and unduly burdensome under the circumstances of this case, as contemplated by Tex. R. Civ. P. 192.4(a) & (b).

MPSUD RFI No. 2-5:

Please produce all planning and design documents related to the planning and design of the facilities to provide water to the Subject Tract.

OBJECTION: Midlothian specifically objects to this request as it is not calculated to lead to the discovery of evidence related to the issues in this case. The General Statement of Objection on Relevance, above, is incorporated herein. The request is not relevant to the PUC's determination of the existence of any real or personal property of Mountain Peak that was rendered useless or valueless by Commission decertification in Docket No. 44394, if any. For the same reasons, the information is equally irrelevant to a determination of the compensation due to Mountain Peak in this proceeding.

Midlothian also objects that this request is overbroad and unduly burdensome, providing no boundaries of time or property against which the completeness of a response might be tested, and is unreasonable and unduly burdensome under the circumstances of this case, as contemplated by Tex. R. Civ. P. 192.4(a) & (b).

MPSUD RFI No. 2-6:

Please identify the amount of any outstanding loans or bonds related to the provision of water to the Subject Tract.

OBJECTION: Midlothian specifically objects to this request as it is not calculated to lead to the discovery of evidence related to the issues in this case. The General Statement of Objection on Relevance, above, is incorporated herein. The request is not relevant to the PUC's determination of the existence of any real or personal property of Mountain Peak that was rendered useless or valueless by Commission decertification in Docket No. 44394, if any. For the same reasons, the information is equally irrelevant to a determination of the compensation due to Mountain Peak in this proceeding.

MPSUD RFA No. 2-4:

Admit that Midlothian has expended public funds to provide water to the Subject Tract.

OBJECTION: Midlothian specifically objects to this request as it is not calculated to lead to the discovery of evidence related to the issues in this case. The General Statement of Objection on Relevance, above, is incorporated herein. The request is not relevant to the PUC's determination of the existence of any real or personal property of Mountain Peak that was rendered useless or valueless by Commission decertification in Docket No. 44394, if any. For the same reasons, the information is equally irrelevant to a determination of the compensation due to Mountain Peak in this proceeding.

MPSUD RFI No. 2-7:

Please identify the total amount of public funds expended by Midlothian to date to provide water to the Subject Tract.

OBJECTION: Midlothian specifically objects to this request as it is not calculated to lead to the discovery of evidence related to the issues in this case. The General Statement of Objection on Relevance, above, is incorporated herein. The request is not relevant to the PUC's determination of the existence of any real or personal property of Mountain Peak that was rendered useless or valueless by Commission decertification in Docket No. 44394, if any. For the same reasons, the information is equally irrelevant to a determination of the compensation due to Mountain Peak in this proceeding.

Midlothian also objects that this request is unreasonable and unduly burdensome under the circumstances of this case, as contemplated by Tex. R. Civ. P. 192.4(a) & (b).

MPSUD RFI No. 2-8:

Please identify the individual expenditures of public funds by Midlothian to date to provide water to the Subject Tract and the purpose of each such expenditure.

OBJECTION: Midlothian specifically objects to this request as it is not calculated to lead to the discovery of evidence related to the issues in this case. The General Statement of Objection on Relevance, above, is incorporated herein. The request is not relevant to the PUC's determination of the existence of any real or personal property of Mountain Peak that was rendered useless or valueless by Commission decertification in Docket No. 44394, if any. For the same reasons, the information is equally irrelevant to a determination of the compensation due to Mountain Peak in this proceeding.

Midlothian also objects that this request is unreasonable and unduly burdensome under the circumstances of this case, as contemplated by Tex. R. Civ. P. 192.4(a) & (b).

EXHIBIT A

Parties' Rule 11 Agreement

Paul M. Gonzalez

From: Paul M. Gonzalez
Sent: Wednesday, November 23, 2016 3:25 PM
To: Dougal, Leonard
Cc: Beck, Mallory; Patrick Lindner; Richard E. Lindner
Subject: Re: City of Midlothian Notice on Intent to Provide Water Service to Land Decertified from Mountain Peak Special Utility District; PUC Docket No. 46120 - Rule 11 request

Thanks, Leonard.

Sent from a mobile device - please forgive typos.

On Nov 23, 2016, at 3:03 PM, Dougal, Leonard <ldougal@jw.com> wrote:

Paul, Yes, given the short turn around, we agree to Objections due on Wed. Nov. 30. But, I do want to see your answers/responses prior to the Preliminary Hearing. We can discuss on Monday, if needed:

Best,
Leonard Dougal
Ldougal@jw.com

On Nov 23, 2016, at 1:42 PM, Paul M. Gonzalez <pgonzalez@dtgrglaw.com> wrote:

Good afternoon, Leonard:

The City and DTRG close for Thanksgiving and Friday and I'm outside the office today. Would Mountain Peak agree to extend Midlothian's deadline for objections to next Wednesday? A favorable response to this email would suffice.

Have a good Thanksgiving!

Regards,
Paul Gonzalez

Sent from a mobile device - please forgive typos.

On Nov 23, 2016, at 11:27 AM, Starkie, Pat <pstarkie@jw.com> wrote:

Attached please find a copy of Mountain Peak Special Utility District's Second Set of Requests for Information and Requests for Admission to the City of Midlothian, Texas which has been submitted today to the Public Utility Commission of Texas in connection with the above referenced docket.

Pat Starkie | Legal Administrative Assistant to
Leonard Dougal, Wes Strickland,
Ali Abazari and Mallory Beck
100 Congress Avenue Suite 1100 | Austin, TX | 78701