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CITY OF MIDLOTHIAN NOTICE OF § BEFORE THE STATE OFFICE
INTENT TO PROVIDE WATER §
SERVICE TO LAND DECERTIFIED § OF
FROM MOUNTAIN PEAK SPECIAL §
UTILITY DISTRICT § ADMINISTRATIVE HEARINGS

**CITY OF MIDLOTHIAN'S
THIRD SET OF REQUESTS FOR INFORMATION
AND REQUEST FOR ADMISSION TO
MOUNTAIN PEAK SPECIAL UTILITY DISTRICT**

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

Leonard Dougal
Mallory Beck
JACKSON WALKER, LLP
100 Congress, Suite 1100
Austin, Texas 78701

David A. Miller
MILLER MENTZER WALKER, PC
P. O. BOX 130
Palmer, Texas 75152

The City of Midlothian, Texas, ("Midlothian" or "City") propounds the following Set of Requests for Information ("RFIs") and Requests for Admission ("RFAs") to Mountain Peak. You are hereby requested to answer the following written discovery separately, in writing, and, as for the Requests for Information, under oath, and, for this discovery, within twenty (20) days of the date of service, to the Law Offices of Davidson Troilo Ream & Garza, P.C., Attn: Paul M. Gonzalez, 601 N.W. Loop 410, Suite 100, San Antonio, Texas 78216. The written discovery questions are attached to this document and are incorporated for all purposes.

DEFINITIONS AND INSTRUCTIONS

A. When the word "documents" is used, it means any written, typed, printed, recorded, graphic or photographic matter, or sound reproductions, however produced or reproduced, including copies, or computer or data processing inputs or outputs in whatever form, or any means of electronic storage of information. These include, but are not limited to, all letters, telegrams, cables, wires, notes, studies, memoranda, accounts, invoices, ledgers, books, publications, diagrams, statements, drafts, transcripts, agreements, contracts, minutes, records, diaries, voice recordings, journals, logs, work papers, manuals, calendars, governmental forms, computer or data processing inputs or printouts, microfiche or microfilm recordings, statistical

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compilations, slides, photographs, negatives, motion pictures or other films, samples or other physical objects of whatever nature, whether originals or reproductions, now or formerly in your possession, custody or control, or in the possession, custody or control of any employee, agent, representative, servant or attorney acting on your behalf. The term "documents" also includes every copy where the copy is not an identical reproduction of the original or where the copy contains any commentary, marginal comment or any notation that may not appear in the original. A document is deemed within your control if you have ownership, possession, custody, or constructive possession of the document, or a superior right to compel the production from a third party (including an agent, authority or representative). The term "documents" also includes electronic and magnetic data which are to be produced in native format, or a format mutually agreed to by the responding party and the requesting party.

B. When "identify", "identity", or "identification" is used in these discovery requests:

(1) When used in reference to a natural person, "identify", "identity", or "identification" means that you should state that person's full name, address and telephone number.

(2) When used with respect to a "document," as defined above, "identify", "identity", or "identification" means that you should state the date, subject and substance, author, type of document, (e.g., letter, telegram, memorandum, computer printout, sound reproduction, chart, photograph, film, etc.), its present location and the identity of each of its present custodians and shall include all documents including those that you may claim are privileged. If any document was, but no longer is, in your possession or subject to your control, state whether it is (a) missing or lost; (b) was destroyed; (c) was transferred voluntarily or involuntarily to others; or (d) otherwise disposed of, and in each such instance explain the circumstances surrounding any authorization for such disposition.

(3) When used in respect to any meeting or conversation, "identify", "identity", or "identification" means that you should state the date and specific location of the meeting or conversation plus the "identification" of all persons present, attending, participating, witnessing or having knowledge of the meeting or conversation.

(4) When used in respect to an occurrence, event or happening, "identify", "identity", or "identification" means that you should describe in detail what occurred or transpired at the occurrence, event or happening; the date, specific location and duration of the occurrence, event or happening and identify all persons present, attending, participating, witnessing or having knowledge of the occurrence, event or happening.

(5) When used in respect to a statement, "identify", "identity", or "identification" means that you should state the substance of the statement; the date and specific location of the statement; and the "identity" of all persons present, witnessing, making or having knowledge of the statement.

C. "Person" or "Persons" includes natural persons, firms, partnerships, associations, joint ventures, corporations and any other form of business organization or arrangement, as well as governmental or quasi-governmental agencies.

D. "You" or "Your" refers to the Mountain Peak Special Utility District, including its predecessor in interest, the Mountain Peak Water Supply Corporation, and either's board of directors, management, staff, agents or contractors.

E. "Park Property" refers to the approximately 97.7 acre property owned by the City of Midlothian, Texas, that was the subject of decertification in PUC Docket No. 44394, which is the subject of the notice to serve in this proceeding.

F. "Mountain Peak" refers to You, as defined herein.

G. "City" or "Midlothian" refers to the City of Midlothian, Texas.

H. Unless the context clearly provides otherwise, "decertification" refers to the action taken by the Public Utility Commission of Texas in Docket No. 44394 to remove the Park Property from the certificated water service area of Mountain Peak.

I. "Facilities" means all the plant and equipment of a retail public utility, including all tangible and intangible real and personal property without limitation, and any and all means and instrumentalities in any manner owned, operated, leased, licensed, used, controlled, furnished, or supplied for, by, or in connection with the business of any retail public utility. Texas Water Code §.13.002(9).

J. "Maximum daily demand" has the meaning provided in 30 Texas Administrative Code ("TAC") § 290.38(43).

K. "TCEQ" means the Texas Commission on Environmental Quality or its predecessor in interest.

L. With specific regard to the request for production of any documents or tangible things for inspection, copying or photographing, the following additional instructions apply:


(1) If the document(s) requested cannot be fully and completely produced even with the help of your attorney or any expert that you may hire, then please state the reasons why you cannot produce the requested documents and also state what effort was made by you to try to obtain the requested document(s).

(2) If any document or tangible thing requested to be identified was, but no longer is, in your possession or control, or if it is no longer even in existence, please state whether the document is missing or lost, destroyed, in the possession or control of others (and, if so, whom), or otherwise disposed of.

(3) THE ORIGINAL OF EACH ITEM REQUESTED IS TO BE PRODUCED IF POSSIBLE, FOR INSPECTION AND COPYING BY THIS PARTY. IF YOU DO NOT HAVE THE ORIGINAL, STATE THE LOCATION OF THE ORIGINAL.

Respectfully submitted,

DAVIDSON, TROILO, REAM & GARZA, P.C.
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ATTORNEYS FOR CITY OF MIDLOTHIAN

CERTIFICATE OF SERVICE

I hereby certify that a true copy of this document was served on all parties of record in this proceeding on January 20, 2017, in the following manner: by e-mail.


Paul M. González

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Request for Information No. 3-1.

Please provide the annual number of total and active retail water service connections in each of Mountain Peak SUD's three pressure zones from 2006 to 2016 and as of today, and identify the meter size of each connection.

Request for Information No. 3-2.

Provide the pressure zone map provided by Mountain Peak and referenced on page 14, line 19 of the Prefiled Direct Testimony of Donald G. Rauschuber.

Request for Information No. 3-3.

Please list all residential developments in Mountain Peak service area for which Mountain Peak has entered a service application and agreement since 2006, including, for each development, the Service Application (and amendments/attachments thereto), the estimated number of connections associated with the development, the estimated number of and types of connections in the development actually receiving water service from Mountain Peak, and the current status of the development.

Request for Information No. 3-5.

For each of the "MPSUD Water Plant Assets" line items listed in Exhibit DGR-5 (from "Well No. 1 250 gpm" through "2,250 LF 12" SDR21 PVC Pipe Including Fittings and Appurtenances"), please provide the date such asset was placed into service.

Request for Information No. 3-6.

For the "MPSUD Water Plant Assets" listed in Exhibit DGR-5 as "Water Plant and Construction Improvement by Circle H Construction, Lamar, Inc., ONCOR, and J.L. Meyers - Water Plant and Transmission Construction Projects," provide, for each project, a name and description and status of project, including and the date it was placed into service.

Request for Information No. 3-7.

With regard to the “MPSUD Assets Rendered Useless and Valueless Due to Decertification of Park Property” (Exhibit DGR-5), identify any other “assets” that Mountain Peak SUD asserts have been rendered useless and valueless as a result of the decertification in Docket No. 44394, including, for each asset, the pressure zone it is located in, and the date the asset was placed into service.

Request for Information No. 3-8.

Please identify each water system compliance investigation commenced by the TCEQ within the past 10 years, and provide documents related to each, including any commencing or ending the investigation and communications between you and the TCEQ.