

Control Number: 46247



Item Number: 145

Addendum StartPage: 0

SOAH DOCKET NO: 473-17-0067.WS  
PUC DOCKET NO. 46247

APPLICATION OF DOUBLE DIAMOND § BEFORE THE STATE OFFICE OF  
PROPERTIES CONSTRUCTION CO. §  
DBA ROCK CREEK FOR WATER § ADMINISTRATIVE HEARINGS  
RATE/TARIFF CHANGE §

**DOUBLE DIAMOND PROPERTIES CONSTRUCTION CO. D/B/A ROCK CREEK'S  
RESPONSE TO ROCK CREEK HOMEOWNERS' FOURTH REQUESTS FOR  
INFORMATION AND SECOND REQUESTS FOR ADMISSION TO  
DOUBLE DIAMOND PROPERTIES CONSTRUCTION CO.**

To: Rock Creek Homeowners, by and through its attorney, Trey Nesloney, Booth, Ahrens & Werkenthin, P.C., 206 East 9<sup>th</sup> Street, Suite 1501, Austin, Texas 78701

Double Diamond Properties Construction Co. d/b/a Rock Creek ("DDPC") files these Responses to Rock Creek Homeowners' Fourth Requests for Information and Second Requests for Admission to Double Diamond Property Construction, served on DDPC on May 19, 2017. These responses are timely filed. DDPC agrees and stipulates that all parties may treat these responses as if they were filed under oath.

Respectfully submitted,

JACKSON WALKER L.L.P.

By: 

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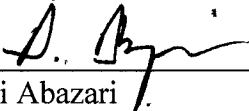
**ATTORNEYS FOR DOUBLE DIAMOND  
PROPERTIES CONSTRUCTION CO.**

**CERTIFICATE OF SERVICE**

This is to certify that on the 8<sup>th</sup> day of June, 2017, a true and correct copy of the foregoing document was served via email and U.S. First Class Mail pursuant to Rule 22.74:

Michael Crnich  
Vera Dygert  
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Public Utility Commission of Texas  
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\_\_\_\_\_  
Ali Abazari

**SOAH DOCKET NO. 473-17-0067.WS  
PUC DOCKET NO. 46247**

<b>APPLICATION OF DOUBLE DIAMOND PROPERTIES CONSTRUCTION CO. DBA ROCK CREEK FOR WATER RATE/TARIFF CHANGE</b>	§ § § §	<b>BEFORE THE STATE OFFICE OF ADMINISTRATIVE HEARINGS</b>
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**DOUBLE DIAMOND PROPERTIES CONSTRUCTION CO. D/B/A ROCK CREEK'S  
RESPONSE TO ROCK CREEK HOMEOWNERS' FOURTH REQUESTS FOR  
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DOUBLE DIAMOND PROPERTIES CONSTRUCTION CO.**

**RCH NO. 4-1:** For the following assets listed on Double Diamond's 2015 Tax Return "Depreciation and Amortization Report" and/or "Alternative Minimum Tax Depreciation Report" (bates nos. DDPC02348 – DDPC02393), please identify which utility system and subdivision/development the asset is associated with:

Asset No. 132 – "DDU-Test Well – RC," Date Acquired "7/1/08," Unadjusted Cost or Basis "\$16,287"

Asset No. 135 – "DDU-UF Water Plant," Date Acquired "7/1/08," Unadjusted Cost or Basis "\$97,500"

Asset No. 149 – "DDU-Water System Improv-2010," Date Acquired "7/1/10," Unadjusted Cost or Basis "\$105,138"

Asset No. 152 – "DDU-Water Plant," Date Acquired "7/1/2011," Unadjusted Cost or Basis "\$172,707"

Asset No. 154 – "DDU-Common Plant," Date Acquired "7/1/2011," Unadjusted Cost or Basis "\$31,316"

Asset Nos. 155 through 162, and 164, 165, and 180 – "DDU-Water System Improvements" and "DDU-Water System Improv"

Asset No. 561 – "DDU-Distri/system lines," Date Acquired "6/30/2015," Unadjusted Cost or Basis "\$70,951"

**RESPONSE:**

- Asset No. 132 Rock Creek
- Asset No. 135 The Cliffs
- Asset No. 149 The Cliffs
- The Retreat
- White Bluff
- Asset No. 152 The Cliffs
- The Retreat

White Bluff  
Asset No. 154 White Bluff  
Asset No. 155 The Cliffs  
Asset No. 156 White Bluff  
Asset No. 157 Not listed on tax return  
Asset No. 158 The Cliffs  
Asset No. 159 The Cliffs  
Asset No. 160 The Cliffs  
Asset No. 161 White Bluff  
Asset No. 162 White Bluff  
Asset No. 164 The Cliffs  
Asset No. 165 The Cliffs  
Asset No. 180 The Cliffs  
The Retreat  
White Bluff  
Rock Creek  
Asset No. 561 The Cliffs  
White Bluff

**Sponsored by:** Tim Grout

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**RCH NO. 4-2:** In referencing Double Diamond's 2015 tax returns, please identify the assets (by Asset No. and the page upon which they appear by bates no.) in the "Depreciation and Amortization Report" and/or "Alternative Minimum Tax Depreciation Report" (bates nos. DDPC02348 – DDPC02393), that are used and useful in providing utility service to the Rock Creek development. If the Rock Creek utility assets are not listed, please describe and explain why these claimed assets are not included in the depreciation schedules/reports.

**RESPONSE:** Internal books and records are being reviewed to identify the Rock Creek water utility assets. This response will be supplemented.

**Sponsored by:** Tim Grout

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**RCH NO. 4-3:** Please identify all developments/subdivisions where the utility Double Diamond Properties Construction Co. provides water or sewer service, the Certificate of Convenience and Necessity (CCN) associated with each development/subdivision, and the number of taps and/or active connections associated with each development/subdivision.

**RESPONSE:** Double Diamond Properties Construction Co. provides water service to Rock Creek Resort to the 76 active connections listed in the current rate application under CCN No. 13235.

A listing of the 76 active connections can be found in Attachment A – Test Year Meter Listing pages 95-98 of the original rate application identified as Exhibit DDPC-102 to Randy Gracy's prefiled direct testimony. Further, the individual contracts for the 63 lots in each subdivision were previously submitted as bates labeled DDPC04022-04278.

**Sponsored by:** Randy Gracy

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**RCH NO. 4-4:** Please explain your answer to RCH RFA No. 1-5.

**RESPONSE:** There is not a subdivision within the Rock Creek Resort called "The Rock  
Creek Subdivision."

**Sponsored by:** Randy Gracy



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**RCH NO. 4-5:** Please explain your answer to RCH RFA No. 1-8.

**RESPONSE:** There is not a subdivision within the Rock Creek Resort called "The Rock Creek Subdivision."

**Sponsored by:** Randy Gracy

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**RCH NO. 4-6:** If your answer to RCH RFA No. 2-1 was anything but an unqualified  
"ADMIT," please explain your answer to RCH RFA No. 2-1.

**RESPONSE:** DDI is the developer of the referenced developments.

**Sponsored by:** Randy Gracy

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**RCH NO. 4-7:** Please state the percentage of the water system assets/utility infrastructure that were expensed or written-off on Double Diamond's income taxes associated with the White Bluffs, the Cliffs, and the Retreat developments.

**RESPONSE:** A review of tax returns for this case has not revealed any water utility assets that were written off or expensed as a cost of sale when incurred.

**Sponsored by:** Peter Moore

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**RCH NO. 4-8:** In DDPC's Supplemental Response to RCH's First RFI, dated May 10, 2017, DDPC states that its rebuttal witness will opine that "Double Diamond, Inc., the developer of Rock Creek subdivision, has not expensed or written-off on its income taxes or other accounting documents the cost or value of the water utility infrastructure against the revenues generated by the sale of lots in the Rock Creek subdivision." Please provide tax returns or other accounting documents showing that the developer of the White Bluffs, the Cliffs, and the Retreat developments (described by DDPC witness Mr. Randy Gracy on page 2 lines 1-21 of his draft prefiled testimony), has expensed or written-off on its income taxes or other accounting documents all or some the cost or value of the water utility infrastructure against the revenues generated by the sale of lots in those developments. Also, please provide the specific page (by bates number) that evidences that those costs or values were expensed or written-off. If all or some of these documents have already been provided to RCH in a previous RFI request, DDPC does not have to re-produce these documents to RCH, and instead only needs to identify the page (by bates number) evidencing where the cost or value of this infrastructure was expensed or written-off.

**RESPONSE:** See response to RCH No. 4-7.

**Sponsored by:** Peter Moore

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**RCH NO. 4-9:** Please provide all drafts of real estate purchase agreements for the sale of the lots located in the White Bluffs, the Cliffs, and the Retreat developments (described by DDPC witness Mr. Randy Gracy on page 2 lines 1-21 of his draft prefiled testimony in this matter).

**RESPONSE:** There are no draft real estate purchase agreements. Per discussion between the parties, a contract is being provided for each of the referenced developments. Please see documents enclosed herein and bates labeled DDPC04284-04294.

**Sponsored by:** Randy Gracy

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**RCH NO. 4-10:** In the real estate purchase agreement between the "Seller" Double Diamond, Inc. and the "Purchaser" Mr. and Mrs. Muchiri (bates nos. DDPC04018 through DDPC04021), Section 8 of the agreement (on page DDPC04019) contains a table with the "Seller's good faith estimate with respect to, and the obligation to provide and complete, certain items within the Rock Creek Resort." The table in Section 8 identifies the "Seller" (Double Diamond, Inc.) as the "PARTY RESPONSIBLE FOR PROVIDING" certain assets associated with the Rock Creek "Central Water System," including the "Water wells & storage tanks," and the following water lines: "Muirfield, Pronghorn, Wynstone, Toscana, Bear Lakes, Sherwood, Roaring Fork, Annadale, Barrington, Castle Pines, Palisades Phase 1 and 2," "La Paloma Phase 1, Pasadera Phase 1," "Grand Cypress Phase 1," and "Palisades Phase 3, Palmilla Phase 1, Pasadera Phase 2." Since the agreement states the developer is providing these Central Water System assets, please provide all reasons that these assets were not treated as developer contributions in DDPC's application.

**RESPONSE:** The Seller in the referenced contract, DDI, did not pay for the water utility assets and did not contribute any water utility assets to the water utility provider, DDPC.

**Sponsored by:** Chris Ekrut

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**RCH NO. 4-11:** Please provide and/or identify any documents that show what the Double Diamond cost basis was for the lots sold in the Rock Creek, White Bluffs, the Cliffs, and the Retreat subdivisions both in the corporate books and when developing the federal income tax statements. If all or some of these documents have already been provided to RCH in a previous RFI request, DDPC does not have to re-produce these documents to RCH, and instead only needs to identify the page (by bates number) of these documents.

**RESPONSE:** Please see documents enclosed herein and bates labeled DDPC04295-04702.

**Sponsored by:** Randy Gracy

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**RCH NO. 4-12:** Is it your contention that the Utility System, or any part of the Utility System, in the Rock Creek development has not been contributed to DDPC by Double Diamond, Inc.?

**RESPONSE:** Yes.

**Sponsored by:** Chris Ekrut



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**RCH NO. 4-13:** Please describe in general the factual bases in support of your contention that the Utility System, or any part of the Utility System, in the Rock Creek development has not been contributed to DDPC by Double Diamond, Inc.

**RESPONSE:** DDPC paid for the water utility assets, and there has been no contribution of water utility assets from the developer to DDPC.

**Sponsored by:** Chris Ekrut

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**RCH NO. 4-14:** Please produce all documents in support of your contention that the Utility System, or any part of the Utility System, in the Rock Creek development has not been contributed to DDPC by Double Diamond, Inc..

**RESPONSE:** In response to RCH RFI 2-3, DDPC has previously submitted bates labeled documents DDPC02743-03549 and DDPC003572-03577, which contain invoices and checks paid by DDPC.

**Sponsored by:** Randy Gracy

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**RCH NO. 4-15:** Please provide and fully describe the purpose of the table in Section 8 of the Rock Creek subdivision real estate purchase agreements, and Double Diamond's interpretation of the phrases "PARTY RESPONSIBLE FOR PROVIDING" and "PARTY RESPONSIBLE FOR MAINTAINING" in the table in Section 8 of the real estate purchase agreements (sample on page DDPC04019) between Double Diamond, Inc. and the purchasers of the lots in the Rock Creek development.

**RESPONSE:** DDI committed to lot owners that potable water would be made available to all lots. The utility provided DDI with certain estimates of when assets would be installed and those were communicated to the lot owners through the contract. DDI did not pay for the assets. The utility paid for the assets and is responsible for maintaining the infrastructure.

**Sponsored by:** Randy Gracy

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**RCH NO. 4-16:** Please produce all documents that relate to any communications between members of Double Diamond (including parent companies, affiliates, subsidiaries, employees, agents, etc.) related to this matter, the application, and/or DDPC being selected/chosen to be the utility for the Rock Creek subdivision.

**RESPONSE:** Through discussions with RCH's counsel, this question was revised to read as follows: "Please produce all documents that relate to any communications between members of Double Diamond (including parent companies, affiliates, subsidiaries, employees, agents, etc.) related to DDPC being selected/chosen to be the utility for the Rock Creek subdivision, developer contribution of assets, Double Diamond's accounting issues that effect (sic) its ability to expense or write-off on its income taxes the cost or value of the water utility infrastructure against the revenues generated by the sale of lots (in the Rock Creek, White Bluffs, the Cliffs, or Retreat developments), and/or the Double Diamond entity selected/chosen to be the utility in the Rock Creek subdivision having an effect on the potential rate base of the application"

Please see documents enclosed herein and bates labeled DDPC04703-4706.

**Sponsored by:** Randy Gracy

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**RCH NO. 4-17:** Please identify all communications between members of Double Diamond (including parent companies, affiliates, subsidiaries, employees, agents, etc.) related to this matter, the application, and/or DDPC being selected as the utility for the Rock Creek subdivision, including the date of the communication, the individuals involved in the communication, and the subject matter of the communication.

**RESPONSE:** Through discussions with RCH's counsel, this question was revised to read as follows: "Please identify all communications between members of Double Diamond (including parent companies, affiliates, subsidiaries, employees, agents, etc.) related to DDPC being selected/chosen to be the utility for the Rock Creek subdivision, developer contribution of assets, Double Diamond's accounting issues that effect (sic) its ability to expense or write-off on its income taxes the cost or value of the water utility infrastructure against the revenues generated by the sale of lots (in the Rock Creek, White Bluffs, the Cliffs, or Retreat developments), and/or the Double Diamond entity selected/chosen to be the utility in the Rock Creek subdivision having effect on the potential rate base of the application."

Other than the documents produced in response to RCH RFI 4-16 and after a diligent search, DDPC has been unable to identify any specific dates of communications related to DDPC being selected to be the water utility provider at the Rock Creek Resort. However, discussions were held between Chris Ekrut and Randy Gracy regarding this issue on several occasions prior to DDPC submitting a CCN application to PUC to be the water utility provider at the Rock Creek Resort.

Other than the documents produced in response to RCH RFI 4-16 and after a diligent search, DDPC has been unable to identify any communications related to developer contribution of assets at the Rock Creek Resort.

After a diligent search, DDPC has been unable to identify any communications related to “accounting issues” that have an impact on Double Diamond’s “ability to expense or write-off on its income taxes the cost or value of the water utility infrastructure against the revenues generated by the sale of lots (in the Rock Creek, White Bluffs, the Cliffs, or the Retreat development).”

**Sponsored by:** Randy Gracy

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**RCH NO. 4-18:** Please produce all documents that relate to communications between any member of RCH and Double Diamond related to the purchase of that member's lot(s) in the Rock Creek development or the utilities that will be/are provided in the Rock Creek development.

**RESPONSE:** Please see documents previously produced bates labeled DDPC04022-04278. Please also see documents enclosed herein and bates labeled DDPC04707-05021.

**Sponsored by:** Randy Gracy

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PUC DOCKET NO. 46247**

<b>APPLICATION OF DOUBLE DIAMOND</b>	<b>§</b>	<b>BEFORE THE STATE OFFICE OF</b>
<b>PROPERTIES CONSTRUCTION CO.</b>	<b>§</b>	
<b>DBA ROCK CREEK FOR WATER</b>	<b>§</b>	<b>ADMINISTRATIVE HEARINGS</b>
<b>RATE/TARIFF CHANGE</b>	<b>§</b>	

**DOUBLE DIAMOND PROPERTIES CONSTRUCTION CO. D/B/A ROCK CREEK'S  
RESPONSE TO ROCK CREEK HOMEOWNERS' FOURTH REQUESTS FOR  
INFORMATION AND SECOND REQUESTS FOR ADMISSION TO  
DOUBLE DIAMOND PROPERTIES CONSTRUCTION CO.**

**RCH NO. 4-19:** Please explain why Double Diamond Properties Construction Co., and not Double Diamond Utilities Co., was chosen to be the water utility for the Rock Creek subdivision.

**RESPONSE:** DDPC paid for the water utility assets. In previous dockets, the Texas Commission on Environmental Quality made it clear that for the utility to be given an opportunity to earn a reasonable return on its investment the CCN holder must be able to demonstrate that it paid for the assets.

**Sponsored by:** Chris Ekrut



**SOAH DOCKET NO. 473-17-0067.WS  
PUC DOCKET NO. 46247**

<b>APPLICATION OF DOUBLE DIAMOND PROPERTIES CONSTRUCTION CO. DBA ROCK CREEK FOR WATER RATE/TARIFF CHANGE</b>	<b>§ § § §</b>	<b>BEFORE THE STATE OFFICE OF  ADMINISTRATIVE HEARINGS</b>
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**DOUBLE DIAMOND PROPERTIES CONSTRUCTION CO. D/B/A ROCK CREEK'S  
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DOUBLE DIAMOND PROPERTIES CONSTRUCTION CO.**

**RCH NO. 4-20:** When was the decision made for Double Diamond Properties Construction Co. to serve as the utility for the Rock Creek subdivision? Please provide any documents, correspondence, etc. related to this decision.

**RESPONSE:** After a diligent search, DDPC is unable to identify a specific date that the decision was made. DDPC has identified a communication dated March 13, 2015, produced in response to RCH No. 4-16 stating that the CCN application will be in the name of DDPC. DDPC filed its water CCN application in PUC Docket No. 44822 on June 9, 2015. The decision was made prior to the March 13, 2015 communication.

**Sponsored by:** Randy Gracy

**SOAH DOCKET NO. 473-17-0067.WS  
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**DOUBLE DIAMOND PROPERTIES CONSTRUCTION CO. D/B/A ROCK CREEK'S  
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**RCH NO. 4-21:** Please explain/describe why Double Diamond Utilities Co. does not serve as the utility for the Rock Creek subdivision for water utilities, but Double Diamond Utilities Co. provides wastewater services.

**RESPONSE:** For the water system, the decision was made to obtain the CCN in the name of the entity that acquired the assets. This was done based on precedent established in TCEQ matters in other dockets.

**Sponsored by:** Randy Gracy

**SOAH DOCKET NO. 473-17-0067.WS  
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<b>DBA ROCK CREEK FOR WATER</b>	<b>§</b>	<b>ADMINISTRATIVE HEARINGS</b>
<b>RATE/TARIFF CHANGE</b>	<b>§</b>	

**DOUBLE DIAMOND PROPERTIES CONSTRUCTION CO. D/B/A ROCK CREEK'S  
RESPONSE TO ROCK CREEK HOMEOWNERS' FOURTH REQUESTS FOR  
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DOUBLE DIAMOND PROPERTIES CONSTRUCTION CO.**

**RCH NO. 4-22:** What are the business functions (utility, construction company, etc.) provided by Double Diamond Properties Construction Co.? Please also state the years that Double Diamond Properties Construction Co. has provided each function.

**RESPONSE:** See Prefiled Direct Testimony of Randy Gracy dated December 16, 2016 Page 3 Lines 1-4 Bates document DDPC100\_005.

DDPC began construction services after it was incorporated with the Texas Secretary of State on December 30, 1996. It began providing water service at Rock Creek Resort when it obtained approval of its water CCN (CCN No. 13235) on March 31, 2016 in PUC Docket No. 44822.

**Sponsored by:** Randy Gracy

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DOUBLE DIAMOND PROPERTIES CONSTRUCTION CO.**

**RCH NO. 4-23:** Please produce all documents that relate to any communications between any member of RCH and Double Diamond related to the cost of or the construction of the Utility System in the Rock Creek development.

**RESPONSE:** Please see the CCN Application (CCN No. 13235), Rate Application, including related notices and communications for each, and the document enclosed herein and bates labeled DDPC05022-05023.

**Sponsored by:** Randy Gracy

**SOAH DOCKET NO. 473-17-0067.WS  
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**RCH NO. 4-24:** Please identify all communications between any member of RCH and Double Diamond related to the cost of or the construction of the Utility System in the Rock Creek Development, including the date of the communication, the individuals involved in the communication, and the subject matter of the communication.

**RESPONSE:** A meeting was held between representatives of the homeowners group (Roger Unger, Marcus Walker, and Steve Curren) and DDPC representatives (Randy Gracy, Stephen Miller, Buck Nunley, Christie Rotramel, Chris Ekrut, and Kim Bostick) on September 27, 2016, to discuss the rate change application. Please also see the document produced in response to RCH RFI 4-23.

**Sponsored by:** Randy Gracy

**SOAH DOCKET NO. 473-17-0067.WS  
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**DOUBLE DIAMOND PROPERTIES CONSTRUCTION CO. D/B/A ROCK CREEK'S  
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DOUBLE DIAMOND PROPERTIES CONSTRUCTION CO.**

**RCH NO. 4-25:** Please produce all documents that relate to any communications between Double Diamond and the Staff of the Public Utility Commission related to this proceeding.

**RESPONSE:** Please see documents enclosed herein and bates labeled DDPC05024-05046.

**Sponsored by:** Ali Abazari

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**RCH NO. 4-26:** Please provide income statements and balance sheets for Double Diamond Properties Construction Co., by year for 2005-2016. For these documents, please provide a breakdown of the Rock Creek water revenues, expenses, assets and liabilities versus other business functions of Double Diamond Properties Construction Co.

**RESPONSE:** DDPC does not have income statements or balance sheets but previously produced DDPC Statements of Operation for the years 2005 through 2015, (see documents responsive to RCH 2-2 and 2-15, bates labeled documents DDPC02692-02731 and DDPC03881-03883). include information regarding water revenue, expenses, assets, liability

**Sponsored by:** Randy Gracy

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**DOUBLE DIAMOND PROPERTIES CONSTRUCTION CO. D/B/A ROCK CREEK'S  
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DOUBLE DIAMOND PROPERTIES CONSTRUCTION CO.**

**RCH NO. 4-27:** Please provide all documentation related to developer contribution of utility infrastructure in any Double Diamond development in Texas.

**RESPONSE:** Please see documents enclosed herein and bates labeled DDPC05047-05059, which contains an exhibit from SOAH Docket No. 582-09-4288 showing an 80/20% split of Parent Contributed Assets between Parent and Utility.

Please also see all documentation produced as part of the following SOAH Docket Nos.

- SOAH Docket No. 582-00-0019;
- SOAH Docket No. 582-08-0698;
- SOAH Docket No. 582-09-4288; and
- SOAH Docket No. 582-09-6112.

**Sponsored by:** Chris Ekrut



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**RCH NO. 4-28:** Please provide any documentation regarding the difference in calculating lot prices in Double Diamond subdivisions where the developer contribution was 10% or greater versus Double Diamond subdivisions in which the developer contribution was less than 10%.

**RESPONSE:** There are no documents responsive to this request.

**Sponsored by:** Randy Gracy

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**RCH NO. 4-29:** Please provide any documents that were provided to the purchasers of lots in the Rock Creek subdivision by Double Diamond, prior to the purchase of the lots, that indicate the purchaser would have to pay for utility infrastructure.

**RESPONSE:** There are no documents responsive to this request.

**Sponsored by:** Randy Gracy.

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**RCH NO. 4-30:** Please provide any documents indicating that the developer (or another Double Diamond entity other than the utility) was the party responsible for providing all or some of the utility infrastructure in the White Bluffs, the Cliffs, and the Retreat developments.

**RESPONSE:** See response to RCH No. 4-9.

**Sponsored by:** Ali Abazari

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**RCH RFA NO. 2-1:** Admit or Deny: Double Diamond, Inc. was the developer of the White Bluffs, the Cliffs, and the Retreat developments (described by DDPC witness Mr. Randy Gracy on page 2 lines 1-21 of his draft prefiled testimony).

**RESPONSE:** Admit.

**Sponsored by:** Randy Gracy

SOAH Docket No. 473-17-0067.WS  
PUC Docket No. 46247

Double Diamond Properties Construction Co.  
d/b/a Rock Creek  
Responses to RCH's Fourth Requests for  
Information and Second Request for  
Admission

www.jw.com

JW Jackson Walker LLP

DDPC04284-05059  
June 8, 2017

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