

Control Number: 51864



Item Number: 9

Addendum StartPage: 0



Harkins Engineering, Inc.

April 21, 2021

Filing Clerk
Texas Public Utility Commission
1701 North Congress
P.O. Box 13326
Austin, Texas 78711-3326

2021 APR 21 PM 3:19

RE: Application of the City of Midlothian to amend CCN Number 11706 in Ellis County, Texas

Docket: 51864

Dear Filing Clerk:

Per the Memo dated March 29, 2021, a mapping review indicated the need for and agreement from Mountain Peak for the certificated facility plus 200' that exists within the proposed CCN amendment.

Please see the attached agreement between the City of Midlothian and Mountain Peak SUD presenting designated agreed upon CCN areas.

The City of Midlothian and Mt. Peak SUD agreement indicates in Section 3.3 of the agreement that existing single use customers will remain with their current utility service provider. When and if they property is ever developed as anything but single use such as commercial, the utility provider would change to the CCN holder as directed by the Agreement. As such, the agreement contemplates two utility providers in both the City of Midlothian's CCN amendment application as well as Mountain Peak SUD's forthcoming CCN amendment application. The agreement determines who the provider is based on type of service. With these conditions, the area is appropriately dually certificated with the agreement in place to determine the appropriate provider.

Further, in Section 4, the agreement includes specific address of this application being filed by the City of Midlothian with the PUC for the appropriate CCN amendments.

Please let me know if you need any further information or have any additional questions. Thank you for your time.

Sincerely,

Victoria Richards Harkins, Ph.D., P.E.
President

**RETAIL WATER SERVICE AREA
AGREEMENT BETWEEN THE CITY OF MIDLOTHIAN AND
MOUNTAIN PEAK SPECIAL UTILITY DISTRICT**

THIS AGREEMENT is made between the City of Midlothian, a Texas home rule municipality (the "City") and Mountain Peak Special Utility District, a conservation and reclamation district operating as a special utility district under Article XVI, Section 59 of the Texas Constitution ("Mt. Peak"), collectively the "Parties," pursuant to the following considerations:

WHEREAS, the City is a retail water service provider within Ellis County, Texas, under Certificate of Convenience and Necessity ("CCN") No. 11706; and

WHEREAS, Mt. Peak is a retail water service provider within Ellis and Johnson Counties, Texas, under CCN No. 10908; and

WHEREAS, the Parties both provide retail water service to areas within the corporate boundary of the City; and

WHEREAS, within certain areas of the City, the CCN boundaries of the Parties are contiguous; and

WHEREAS, there exists a certain area within the corporate boundary of the City that is adjacent to the City's and Mt. Peak's existing CCN which is currently uncertificated but that could be served by either Party; and

WHEREAS, in the spirit of cooperation and partnership, the Parties wish to designate specific areas within the uncertificated service area for exclusive retail service by either the City or Mt. Peak.

NOW THEREFORE, the Parties, pursuant to the foregoing considerations, agree as follows:

1. Term. This Agreement shall remain valid and enforceable until superceded by subsequent written agreement.

2. Property Subject to the Agreement. The Property that is subject to this Agreement is the uncertificated area depicted in Exhibit "A".

3. Agreement of Water Utility Service Areas. The Parties agree to the following:

3.1 The City shall provide exclusive retail water service to the areas as shown in Exhibit "B," which is attached and made a part of this Agreement.

3.2 Mt. Peak shall provide exclusive retail water service to the areas as shown in Exhibit "B," which is attached and made a part of this Agreement.

3.3 The Parties agree that any existing retail water customers within the uncertificated area shall have the right to remain with the current water service provider as long as the property remains as a single-family use. However, upon redevelopment of the property from a single-family use to any other type of use, the water service provider shall become the designated provider for that area.

4. Public Utility Commission of Texas (PUCT) Approval. Within a mutually agreed upon time between the Parties following the execution of this Agreement, the City and Mt. Peak will file the appropriate documents requesting approval of this retail water service area agreement pursuant to applicable section(s) of the Texas Water Code. The Parties will fully cooperate with each other and not take any action to directly or indirectly oppose this application. Each party will pay their respective costs relating to the application.

5. Effective Date: This Agreement is enforceable among the Parties following the execution of this Agreement and as such, the Parties can begin providing service within the areas as shown in Exhibit "B".

6. Applicable Texas Law: This Agreement will be governed by and construed and enforced under the laws of the State of Texas.

7. Venue. The sole and exclusive venue for any disputes arising out of or related to this Agreement shall be in Ellis County, Texas.

8. Successors and Assigns. This Agreement shall be binding on and inure to the benefit of the Parties hereto and their respective successors and assigns.

9. Entire Agreement: This Agreement contains the entire agreement of the Parties with respect to the subject matter of the Agreement. This Agreement supersedes any and all prior agreements, arrangements, or understandings between the Parties. Any amendments to this Agreement must be in writing and signed by the Parties.

[Remainder of page intentionally left blank; signature page follows]

CITY OF MIDLOTHIAN, TEXAS:

EXECUTED by the City of Midlothian on this the 23rd day of June, 2020.



By: [Signature]
Chris Dick, City Manager

ATTEST:

[Signature]
Tammy Varner, City Secretary

APPROVED AS TO FORM:

[Signature]
Joseph J. Gorfida, City Attorney

MOUNTAIN PEAK SPECIAL UTILITY DISTRICT:

EXECUTED by Mountain Peak Special Utility District on this 2 day of July, 2020.

By: [Signature]
Clyde Bryant, President

ATTEST:

[Signature]

APPROVED AS TO FORM:

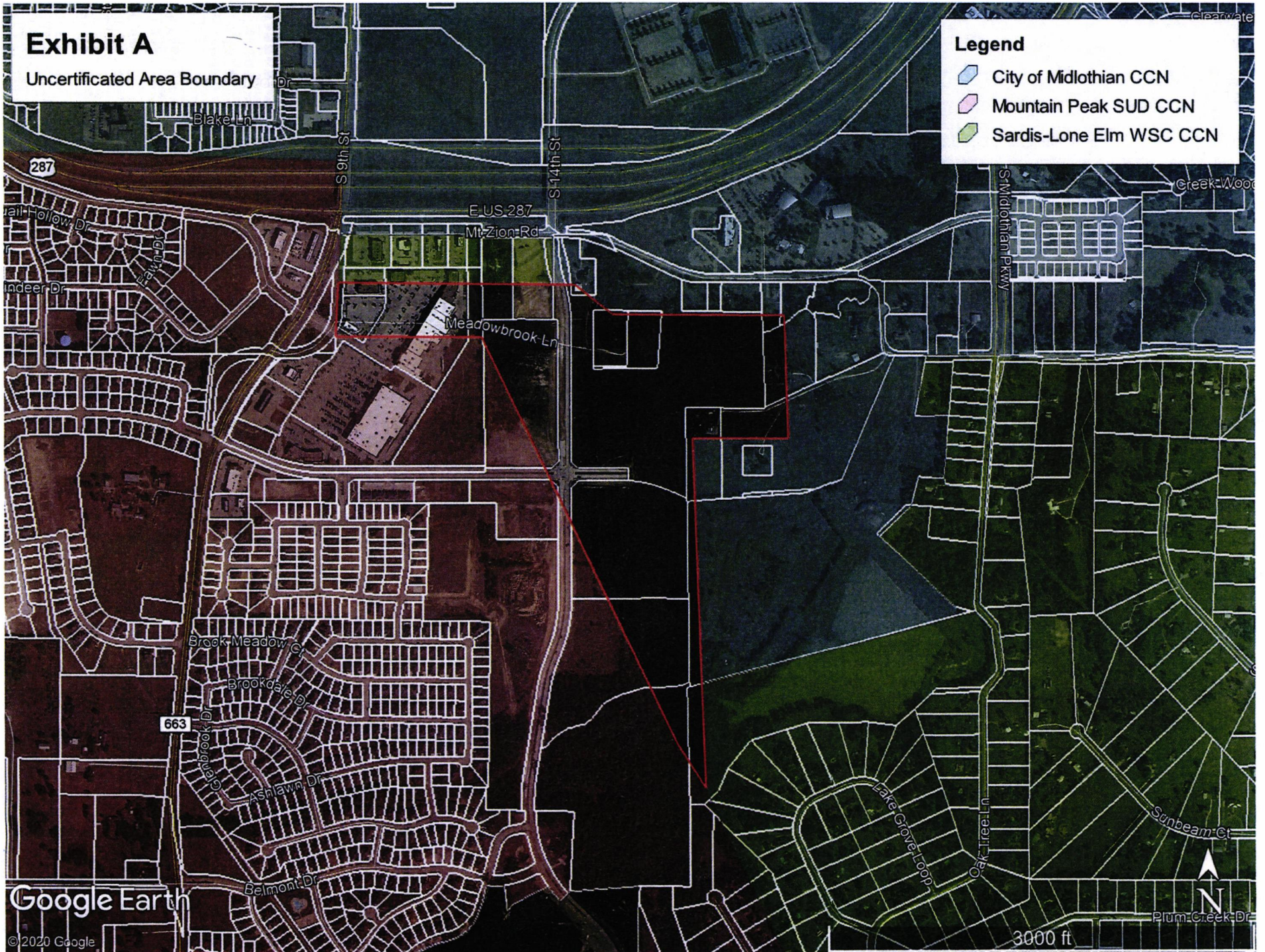
[Signature]

Exhibit A

Uncertificated Area Boundary

Legend

- City of Midlothian CCN
- Mountain Peak SUD CCN
- Sardis-Lone Elm WSC CCN



Google Earth

© 2020 Google

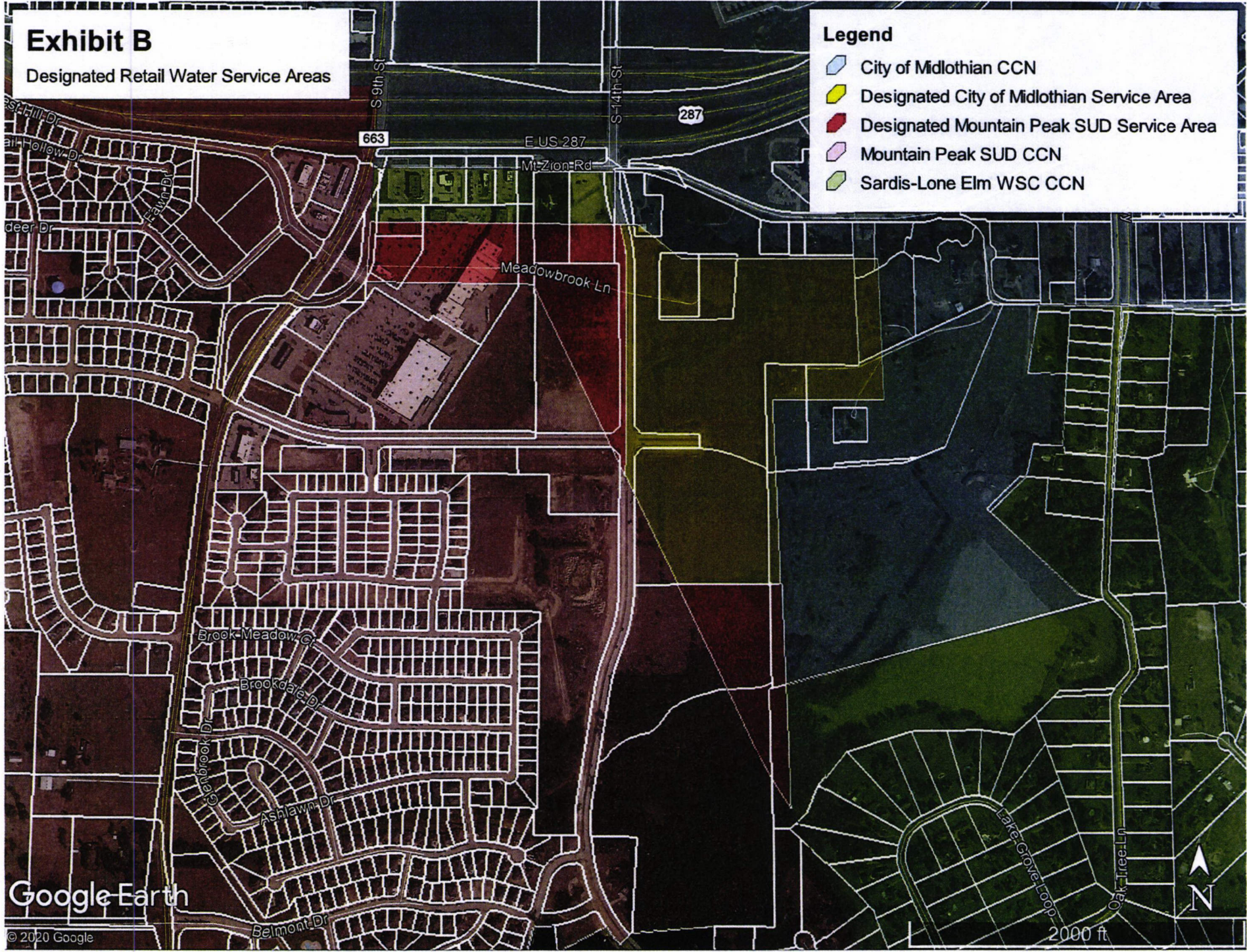
3000 ft

Exhibit B

Designated Retail Water Service Areas

Legend

- City of Midlothian CCN
- Designated City of Midlothian Service Area
- Designated Mountain Peak SUD Service Area
- Mountain Peak SUD CCN
- Sardis-Lone Elm WSC CCN



Google Earth

© 2020 Google

2000 ft