

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

In re:	§	Chapter 11
	§	
HI-CRUSH INC. et al.,	§	Case No. 20-33495
	§	
	§	
Debtors.	§	

**MIDLAND CENTRAL APPRAISAL DISTRICT, TEXAS' OBJECTION TO THE JOINT
PLAN OF REORGANIZATION FOR HI-CRUSH INC. AND ITS AFFILIATE
DEBTORS UNDER CHAPTER 11 OF THE BANKRUPTCY CODE**
[ECF 289]

NOW COMES Midland Central Appraisal District, Texas (hereinafter, referred to as "Midland CAD") and files this objection to the Joint Plan of Reorganization for Hi-Crush Inc., and Its Affiliate Debtors Under Chapter 11 of The Bankruptcy Code (the "Plan") and would respectfully show the Court the following:

1. Midland CAD, a duly organized governmental unit of the State of Texas, is the holder of a claim for pre-petition ad valorem business personal property taxes for tax years 2019-2020 assessed against the property of the Debtors in the aggregate amount of \$6,040.88.
2. Midland CAD's pre petition claim is secured by unavoidable, first priority, perfected liens on all of the Debtors' business personal property pursuant to Texas Tax Code Section 32.01 and 32.05 and 11 U.S.C. Section 362(b)(18). *In re Winn's Stores, Inc.*, 177 B.R. 253 (Bankr. W. D. Tex. 1995); *Central Appraisal District of Taylor County v. Dixie-Rose Jewels, Inc.*, 894 S.W.2d 841 (Tex. App. – Eastland 1995). These liens arise on January 1 of each tax year along with the property owner's personal liability for the ad valorem taxes



and attach to the property by operation of law. Tex. Prop. Tax Code 32.01; 11 U.S.C. Sec. 362(b)(18). Texas Tax Code Section 32.01 provides:

- (a) On January 1 of each year, a tax lien attaches to property to secure the payment of all taxes, penalties, and interest ultimately imposed for the year on the property, whether or not the taxes are imposed in the year the lien attaches. The lien exists in favor of each taxing unit having power to tax the property.
- (b) A tax lien on inventory, furniture, equipment, or other personal property is a lien *in solido* and attaches to all inventory, furniture, equipment, and other personal property that the property owner owns on January 1 of the year the lien attaches or that the property owner subsequently acquires
- (c) ..
- (d) The lien under this section is perfected on attachment and ... perfection requires no further action by the taxing unit.

11 U.S.C. Section 362(b)(18) allows the attachment of liens that secure taxes that come due post-petition.

(b) ... a tax lien provided by this chapter takes priority over the claim of any creditor of a person whose property is encumbered by the lien and over the claim of any holder of a lien on property encumbered by the tax lien, whether or not the debt or lien existed before attachment of the tax lien.

3. Midland CAD objects to the treatment of their claim in the Plan because it does not specifically provide for them to receive pre-Effective Date interest on their claims at the state statutory rate of 12% per annum pursuant to 11 U.S.C. Sections 511 and 1129.

4. Midland CAD objects to confirmation of the Plan to the extent that it does not provide that they retain the liens that secure all base tax, penalties and interest that may accrue on their Secured claim.
5. Midland CAD objects to the treatment of their claim because the Plan does not specifically provide for retention of their liens against their collateral.
6. Midland CAD objects to confirmation of the Plan because the treatment of Other Secured Claims provides the option of the Debtors returning the collateral that secures the claim of a member of this class. To the extent that the holder of an Other Secured Claim asserts a security interest in or lien against assets that secure a claim of one or more of Midland CAD, Midland CAD objects to the preferential treatment of creditors who are junior to them.

WHEREFORE, Midland CAD objects to the Debtor's Plan and requests this Court to order appropriate provisions to assure the protection of the position of their secured tax claim and further request other such relief as is just and proper.

Dated: September 17, 2020

Respectfully Submitted,

**McCREARY, VESELKA, BRAGG &
ALLEN, P.C.**

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CERTIFICATE OF SERVICE

I hereby certify that, on September 17, 2020, a true and correct copy of the foregoing document was served by the Electronic Case Filing System for the United States Bankruptcy Court for the Southern District of Texas, Houston Division.

/s/ Tara LeDay
Tara LeDay

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