

# KINGS' CHAPEL CAPACITY

Providing Superior Wastewater Service to Tennessee

September 24, 2008

**VIA HAND DELIVERY**

Mr. Tre Hargett, Chairman  
Tennessee Regulatory Authority  
460 James Robertson Parkway  
Nashville, Tennessee 37219

08-00181

RECEIVED  
2008 SEP 24 PM 3:01  
T.R.A. COLLECT ROOM

**Re: Petition of Kings' Chapel Capacity for approval of a loan in an amount not to exceed \$152,000 pursuant to T.C.A. § 65-4-109 in order to finance bonding costs required by the Williamson County Planning Commission**

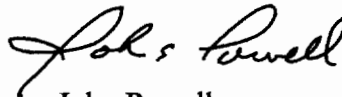
Dear Chairman Hargett:

I have enclosed a Petition of Kings' Chapel Capacity for approval of a loan in an amount not to exceed \$152,000 pursuant to T.C.A. § 65-4-109 in order to finance bonding costs required by the Williamson County Planning Commission.

The commitment from Ashby Communities, LLC for this loan will expire on October 31, 2008. Kings' Chapel Capacity respectfully requests that the Authority review and approve this Petition to enable it to close the loan in a timely manner.

Thank you for your assistance in this matter.

Sincerely,



John Powell  
President

Cc: William H. Novak

**BEFORE THE TENNESSEE REGULATORY AUTHORITY**

**AT NASHVILLE, TENNESSEE**

September 24, 2008

**IN RE:**

**PETITION OF KINGS' CHAPEL CAPACITY,  
LLC FOR APPROVAL OF A LOAN IN AN  
AMOUNT NOT TO EXCEED \$152,000  
PURSUANT TO T.C.A. § 65-4-109 IN ORDER TO  
FINANCE BONDING COSTS REQUIRED BY  
THE WILLIAMSON COUNTY PLANNING  
COMMISSION**

**DOCKET NO.**  
**08-00101**

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**PETITION**

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Comes now, Kings' Chapel Capacity, LLC ("KCC" or "the Company") and respectfully requests the Tennessee Regulatory Authority ("TRA" or "the Authority") for approval of a loan in an amount not to exceed \$152,000 pursuant to T.C.A. § 65-4-109 in order for the Company to finance bonding costs required by the Williamson County Planning Commission. In support of this Petition, the Company states the following.

1. Any notices or other communications with respect to this Petition should be sent to the following:

John Powell  
Kings' Chapel Capacity, LLC  
1413 Plymouth Drive  
Brentwood, TN 37027

William H. Novak  
WHN Consulting  
19 Morning Arbor Place  
The Woodlands, TX 77381

2. KCC currently provides wastewater service to approximately 50 customers in Williamson County, Tennessee pursuant to a certificate of public convenience and necessity issued by the TRA on January 3, 2006 in Docket 04-00335.
3. The Company's initial bonding costs required by the Williamson County Planning Commission were \$1,780,248. A significant portion of this bonding cost has been subsidized by Ashby Communities, LLC ("Ashby" or "the Developer"), the Developer of KCC's service territory.<sup>1</sup> On May 15, 2008 KCC received notice from the Developer that they would no longer be in a position to underwrite the bonding costs required by the Williamson County Planning Commission related to wastewater treatment and dispersal for KCC. A copy of this letter from the Developer to KCC is attached hereto as Exhibit 1.
4. On May 8, 2008, KCC received notice from the Williamson County Planning Commission that its total bond requirement had been reduced from \$1,780,248 to \$260,400. Of the \$260,400 total bonding requirement, only \$151,642 is considered a permanent utility bond related to the treatment and dispersal of wastewater. The remaining bond requirement of \$108,758 is considered to be a temporary bond related to the construction of the wastewater collection system that will continue to be the responsibility of the Developer. KCC has already provided notice to the TRA of this bond reduction in Docket 08-00069. A copy of the new bonds required by the Williamson County Planning Commission is attached hereto as Exhibit 2.
5. KCC has obtained a commitment letter dated September 24, 2008, from Ashby to loan KCC an amount not in excess of \$152,000 to finance the permanent bonding costs required by the Williamson County Planning Commission for the treatment and

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<sup>1</sup> Mr. Powell, the owner of KCC, is also a 50% owner of Ashby Communities.

dispersal of wastewater. The term of the \$152,000 loan is five (5) years with an interest rate of 8.0% fixed for five years, and a balloon payment of the entire principal payment at the end of the loan. Because this loan is considered as permanent financing, the principal will be rolled over into a new loan at the end of five (5) years. Ashby's commitment letter setting forth the terms of the proposed loan is attached hereto as Exhibit 3. KCC states that it has attempted to obtain debt financing for KCC from independent third-party banks without success. KCC also states that it believes the 8.0% interest rate charged by Ashby is the best rate that would be available to KCC under any circumstances by a third-party lender.

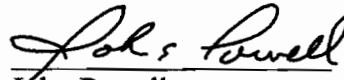
6. KCC will include the interest cost from its loan with Ashby along with bank letter of credit fees in KCC's monthly bonding surcharge. This bonding surcharge is presently \$6.31 per customer per month. Simultaneous with this Petition, KCC is also making a tariff filing to true-up its bonding surcharge to current costs as required by the TRA in Docket 08-00069. A copy of this true-up calculation is included as Exhibit 4.
7. The loan commitment from Ashby expires on October 31, 2008; therefore, the Authority must approve the loan in sufficient time to allow KCC close before October 31, 2008.

**WHEREFORE, PREMISES CONSIDERED, PETITIONER PRAYS THAT THE  
AUTHORITY:**

1. Approve the loan from Ashby in an amount not to exceed \$152,000 pursuant to T.C.A. § 65-4-109 in order for the Company to finance bonding costs required by the Williamson County Planning Commission.

2. To review and approve the loan to permit KCC to close on the loan by October 31, 2008.
3. Have such other relief to which it may be entitled.

Respectfully submitted this 24<sup>th</sup> day of September 2008.

  
John Powell  
President

**EXHIBIT 1**

1413 Plymouth Drive  
Brentwood, TN 37027

Tel: 615-395-0001  
Fax: 615-370-3095

## ASHBY COMMUNITIES

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May 15, 2008

Mr. John Powell, President  
Kings' Chapel Capacity  
1413 Plymouth Drive  
Brentwood, TN 37027

**Re: Wastewater Performance and Dispersion Bonding Costs for Kings' Chapel Capacity required by the Williamson County Planning Commission**

Dear Mr. Powell:

As you are aware, Ashby Communities, LLC, the developer of Kings' Chapel Subdivision, has historically paid significantly all of the bonding costs required by the Williamson County Planning Commission on behalf of Kings' Chapel Capacity. The funding for bonding by Ashby Communities was required because Kings' Chapel Capacity lacked the ability to provide funding for the \$1.8 million bond required by the Williamson County Planning Commission.

On May 8<sup>th</sup>, we received notice from the Williamson County Planning Commission that the bonds for Kings' Chapel Capacity were being reduced from \$1.8 million to approximately \$152,000. As such, I consider it time that the responsibility for funding these bonds be transferred to Kings' Chapel Capacity since the bonding cost represents a cost of providing continuing utility service and not a development construction cost that should be borne by Ashby Communities.

I therefore now expect Kings' Chapel Capacity to secure funding to cover the cost of utility bonds as quickly as possible, and that the utility be responsible for any future utility bond funding as required by state and local regulations.

Sincerely,



John Powell  
General Manager

Cc: William H. Novak

**EXHIBIT 2**



**Kings Chapel Capacity  
Williamson County Bonding Requirement  
May 8, 2008**

<b>Type of Bond</b>	<b>LOC #</b>	<b>Previous Amount</b>	<b>New Amount</b>	<b>Length</b>
Performance Bond for Sewer Collection System - Section 2C	F851168	\$41,000	\$27,375	6 Months
Performance Bond for Sewer Collection System - Section 2B	F850459	32,000	21,775	90 Days
Performance Bond for Sewer Collection System - Section 2A	P004121	57,500	11,500	15 Months
Performance Bond for Sewer Collection & Treatment System	F850007	998,748	199,750	2 Years A/
Performance Bond for Backup Wastewater Treatment System	F850008	651,000	0	
<b>Total Bonding Requirement</b>		<b>\$1,780,248</b>	<b>\$260,400</b>	

A/ Collection Bond of \$48,108 plus Treatment Bond of \$151,642.

**EXHIBIT 3**

**KING'S CHAPEL CAPACITY  
LOAN COMMITMENT TERMS WITH ASHBY COMMUNITIES, LLC**

September 24, 2008

Commitment Term:	Through October 31, 2008
Amount:	Up to \$151,642.00
Interest Rate:	Eight Percent (8%) due quarterly.
Loan Term:	Five (5) years
Repayment Schedule:	Balloon payment of entire balance at end of Loan Term
Other:	Subject to approval by the Tennessee Regulatory Authority

**PROMISSORY NOTE  
(TERM)**

**\$151,642.00**

**Brentwood, Tennessee  
October 31, 2008**

**FOR VALUE RECEIVED**, the undersigned, **KING'S CHAPEL CAPACITY**, a Tennessee limited liability company, ("**Borrower**"), promises to pay to **ASHBY COMMUNITIES**, a Tennessee limited liability company, ("**Lender**"), having an address of 1413 Plymouth Drive, Brentwood, TN 37027, the principal sum of one hundred fifty-one thousand, six hundred forty-two and 00/100 dollars (\$151,642.00), together with interest from date until paid, upon disbursed and unpaid principal balances, at the rate hereinafter specified.

- The term on this Note shall be for five (5) years.
- The interest rate on this Note shall remain fixed at eight percent (8%) with payments due quarterly.
- The entire principal (\$151,642.00) on this Note is due through a balloon payment at the end of the five (5) year term.

Unless otherwise agreed to or required by applicable law, payments will be applied first to accrued unpaid interest, then to principal, and any remaining amount to any unpaid collection costs. The annual interest rate for this Note is computed on a 365/365 basis. Borrower will pay Lender at Lender's office address shown above, or at such other place as Lender may designate in writing.

Lender and Borrower hereby waive the right to any jury trial in any action, proceeding, or counterclaim brought by either Lender or Borrower against the other. The terms of this Note shall be binding upon Borrower, and upon Borrower's heirs, personal representatives, successors and assigns, and shall inure to the benefit of Lender and its successors and assigns.

**PRIOR TO SIGNING THIS NOTE, THE BORROWER HAS READ AND UNDERSTOOD ALL PROVISIONS OF THIS NOTE, INCLUDING THE INTEREST RATE AND REPAYMENT PROVISIONS. BORROWER AGREES TO THE TERMS OF THE NOTE.**

**BORROWER:**

**KING'S CHAPEL CAPCITY**

**BY:** \_\_\_\_\_  
**John Powell, President**

**EXHIBIT 4**

**King's Chapel Capacity  
Bond Cost True-Up**

**Annual Bond Cost**

**Letter of Credit Fees: (A/)**

Amount of Bond

\$151,642

LOC Rate

1.00%

**Letter of Credit Fee**

**\$1,516**

**Interest Cost: (B/)**

Amount of Bond

\$151,642

Interest Rate

8.00%

**Interest Cost**

**\$12,131**

**Total Bond Financing Cost**

**\$13,648**

**Current Annual Bills (54 customers \* 12 bills per year)**

**648**

**Monthly Bonding Surcharge**

**\$21.06**

A/ Charged by third party banks to make a letter of credit available.

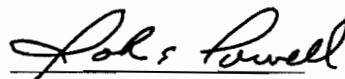
B/ Contingent upon TRA approval of KCC debt petition.

**Note: KCC and Ashby Communities waive all previously uncollected bond costs related to \$1,780,248 in bonds previously required by the Williamson County Planning Commission.**

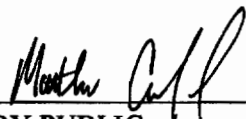
**VERIFICATION**

STATE OF TENNESSEE                    )  
  )  
COUNTY OF WILLIAMSON            )

I, John Powell, being duly sworn, depose and say that I am the President of Kings' Chapel Capacity and that I have read the foregoing Petition and know the contents thereof are true and correct to the best of my knowledge, information and belief.

  
\_\_\_\_\_  
John Powell  
President

Sworn to before me this 24<sup>th</sup> day of September, 2008

  
\_\_\_\_\_  
NOTARY PUBLIC

My Commission Expires: 11-22-2010

