

# KINGS CHAPEL CAPACITY

Providing Superior Wastewater Service to Tennessee

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TRA REGISTRATION

October 29, 2010

**Via Hand Delivery**

Mary Freeman, Chairman  
Tennessee Regulatory Authority  
460 James Robertson Parkway  
Nashville, TN 37243-0505

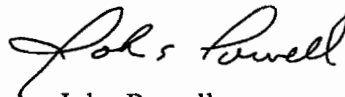
10-00207

**Re: Petition of Kings Chapel Capacity for Exemption from Financial Security as  
Required by the TRA's Wastewater Regulations -- Request to Continue Exemption**

Dear Chairman Freeman:

Kings Chapel Capacity files the attached Petition for Exemption from Financial Security as required by the TRA's wastewater regulations. Please contact me if you have any questions.

Sincerely,



John Powell

Enclosures

Cc: William H. Novak

**BEFORE THE TENNESSEE REGULATORY AUTHORITY**

**IN RE:**

<b>PETITION OF KINGS CHAPEL CAPACITY</b>	)	
<b>FOR EXEMPTION FROM FINANCIAL</b>	)	
<b>SECURITY AS REQUIRED BY THE</b>	)	<b>DOCKET NO. 10-</b>
<b>TENNESSEE REGULATORY AUTHORITY'S</b>	)	
<b>WASTEWATER REGULATIONS</b>	)	

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**REQUEST TO CONTINUE EXEMPTION**

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Pursuant to T.C.A. Section 65-4-201(e) and the Rules of the Tennessee Regulatory Authority ("TRA" or "Authority") Chapter 1220-4-13, Kings Chapel Capacity ("KCC" or the "Company") respectfully requests that the TRA **continue** to exempt it from providing additional financial security and instead find that the financial security already in place and required by the local government authority is adequate to fulfill the requirements of the TRA's rules.

Through the TRA Order in Docket 06-00061, issued on December 7, 2006, KCC was originally granted an exemption from providing the additional financial security required by TRA Rule, Chapter 1220-4-13-.07.<sup>1</sup> In part, this Order reads as follows:

The Petition of King's Chapel Capacity, LLC for an exemption from the provision of the TRA Rules 1220-4-13 which mandate the submission of financial security, insofar as the Petition requests a finding by the Authority that the security submitted by the Company to Williamson County, Tennessee, fulfills the requirements of TRA Rule 1220-4- 13-.07, is granted.

KCC now requests the TRA extend this exemption for another twelve (12) months as allowed by the provisions of TRA Rule 1220-4- 13-.07(6) which reads as follows:

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<sup>1</sup> KCC was subsequently granted further exemptions from financial security by the TRA in Dockets 07-00151 and 08-00069.

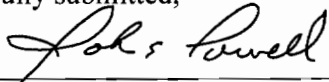
Financial securities required by any local government may be counted by the Authority in fulfilling this financial security obligation. The public wastewater utility shall file with the Authority by May 1 of each year evidence of any financial security required by any local government and a written request that the Authority count the security toward fulfilling the requirements of this Chapter.

KCC now requests that the TRA grant its Request to Continue Exemption for another year. In further support of its Request to Continue Exemption, the Company has attached a copy of its bonds that are presently in force and required by the Williamson County Government.

WHEREFORE, the Company prays:

1. That Notice be issued and a timely hearing be set regarding this Request to Continue Exemption prior to the termination of KCC's present exemption from providing additional financial security as required by TRA Rule, Chapter 1220-4-13-.07;
2. That the Authority approve KCC's requested exemption from providing further financial security, and find the security already in place and required by the Williamson County Government is sufficient to fulfill the requirements of TRA Rule, Chapter 1220-4-13-.07.

Respectfully submitted,

By:   
John Powell, Owner  
Kings Chapel Capacity



## IRREVOCABLE STANDBY LETTER OF CREDIT

**Issuer:** Franklin Synergy Bank (the "Issuer")

**Applicant:** King's Chapel Capacity, LLC, a Tennessee Limited Liability Company (the "Applicant")  
1413 Plymouth Drive  
Brentwood, TN 37027

**Project:** Wastewater Treatment and Disposal System Improvements for the King's Chapel Subdivision

**Beneficiary:** Williamson County Planning Commission (the "Beneficiary")  
1320 West Main Street, Suite 400  
Franklin, TN 37064

**Amount:** One Hundred Fifty One Thousand Six Hundred Forty Two and no/100 U.S. Dollars  
(U.S. \$151,642.00)

**Letter of Credit No.:** 400290300

This Letter of Credit replaces our Letter of Credit No. \_\_\_\_\_ issued on \_\_\_\_\_, 20\_\_\_\_. [Left blank if this Letter of Credit is not replacing an outstanding credit of the Issuer.]

**Date Issued:** September 27, 2010

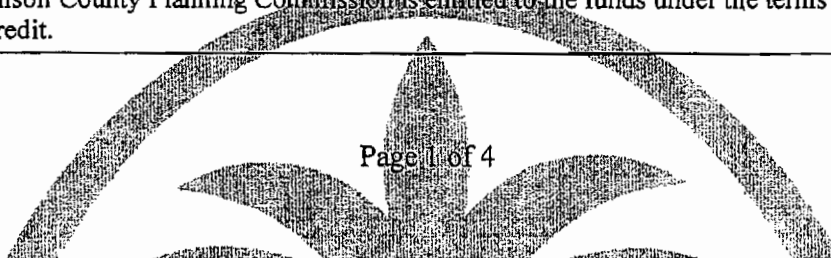
**Expiration Date:** ☐ \_\_\_\_\_, 20\_\_\_\_ OR ☒ Perpetual

The Issuer hereby establishes in favor of the Beneficiary this Irrevocable Standby Letter of Credit, including and incorporating the Additional Terms attached hereto, ("Letter of Credit"), with the above Letter of Credit Number, for the account of the Applicant in an amount not exceeding the above dollar amount. If a date certain is indicated above as the expiration date (the "Expiration Date"), this Letter of Credit shall expire at the close of business on that Expiration Date; if, however, the term of this Letter of Credit is perpetual, the Letter of Credit shall not expire except in accordance with applicable law. Funds under this Letter of Credit are available at the office of the Issuer at 722 Columbia Avenue, Franklin, TN 37064, or its successor-in-interest, after presentation of draft(s) drawn at sight on the Issuer at its counters. This Letter of Credit may be cancelled by the Issuer upon sixty (60) days' notice to the Beneficiary in accordance with the terms of this Letter of Credit.

The sight draft(s) shall be in the form of Exhibit A hereto, bearing the clause "Drawn under Letter of Credit Number 400290300 of Franklin Synergy Bank dated September 27, 2010."

The draft(s) shall be accompanied by the following documents:

A sworn affidavit from an official representative of Williamson County Planning Commission stating that an event of default exists and King's Chapel Capacity, LLC has failed to complete Wastewater Treatment and Disposal System Improvements and/or has failed to obtain written authorization to release from all affected agencies for the subdivision known as King's Chapel and Williamson County Planning Commission is entitled to the funds under the terms of the Letter of Credit.



☐ Partial drawings **ARE NOT** permitted, and this ORIGINAL Letter of Credit must accompany and be surrendered with the draft.

☒ Partial drawings **ARE** permitted, subject to the terms of this Letter of Credit. The ORIGINAL Letter of Credit must accompany and be surrendered with the final draft.

*[This space intentionally is left blank.]*

Except to the extent that the nonvariable provisions of the State of Tennessee's Uniform Commercial Code – Letters of Credit (Tenn. Code Ann. §§ 47-5-101 et seq.) ("UCC") and the specific terms of this Letter of Credit, including those certain Additional Terms incorporated herein and attached hereto, dictate otherwise, this Letter of Credit is governed by the International Standby Practices, 1999 ed., ICC Publication No. 590 ("ISP98").

Very Truly Yours,

Franklin Synergy Bank

By: 

Name: Joseph H. Bowman

Title: Executive Vice President

## ADDITIONAL TERMS

**1. Defined Terms.** The defined terms used in this Letter of Credit are intended to be consistent with those used in ISP98, except where the UCC's defined terms are nonvariable.

**2. Effective Date.** This Letter of Credit is effective upon leaving the Issuer's control.

**3. Agreement to Honor.** Issuer agrees to honor this Letter of Credit under the terms stated herein and to pay the requested draw(s). The agreement to honor is subject to timely and proper demand(s) hereunder, including freedom from any discrepancy at the time of presentment in the sight draft or the required presentment documents, and is subject to a determination of forgery or fraud. Further, the Issuer is not responsible for the performance or nonperformance of the underlying contract, arrangement, or transaction that created the need or purpose for the Letter of Credit; an act or omission of others; or observance or knowledge of the usage of a particular trade.

**4. Notice after Presentment.** Upon presentment, the Issuer shall have twenty (20) business days, beginning after the day of presentment, to either honor the presentment or to provide notice to the presenter of dishonor. Issuer shall provide notice of dishonor, which shall include the reason for dishonor, whether for discrepancies in the sight draft or presentment documents, expiration of the Letter of Credit, fraud, or forgery, and which shall be communicated to the presenter in writing. However, failure under this section to provide notice of dishonor for any reason does not preclude the Issuer's reliance on such reasons, including discrepancies, as a basis for refusal to honor or as a defense for wrongful dishonor.

**5. Fraud.** If a presentation is made that appears on its face strictly to comply with the terms and conditions of the Letter of Credit, but a required document is forged or materially fraudulent, or honor of the presentation would facilitate a material fraud by the Beneficiary on the Issuer or Applicant, the Issuer may not, in its discretion, honor the presentment.

**6. Partial Draws.** If partial draws are permitted under this Letter of Credit, the original Letter of Credit shall be presented each time a draw is requested. The Issuer shall cause the total aggregate amount available hereunder to be reduced by the amount of the respective draw. The reduction shall be indicated on the original Letter of Credit, and each time a reduction is indicated, an appropriate officer of Issuer shall initial the reduction. The requirements of this section are not impacted or affected by the amendment requirements of Section 7.

**7. Expiration on a Non-Business Day.** If the Expiration Date is not a business day of the Issuer or of a nominated Person, then presentation made there on the first following business day shall be deemed timely.

**8. Amendment of Terms and Conditions.** This Letter of Credit is not subject to amendment. Amendment of the terms of this Letter of Credit may take place only with the issuance of a new letter of credit, indicating as shown above that it replaces a certain former letter of credit, that incorporates the desired amended terms. If the Issuer agrees to extend the Expiration Date or to otherwise renew the term of this Letter of Credit beyond the Expiration Date, the extension or renewal shall comply with the amendment requirements of this section.

**9. Waiver.** The issuer may, in its sole discretion, without notice to or consent of the Applicant and without effect on the Applicant's obligations to the Issuer, waive requirements that are for the Issuer's benefit or operational convenience.

**10. Original Letter of Credit Lost, Stolen, Mutilated or Destroyed.** If the original of this Letter of Credit is lost, stolen, mutilated or destroyed, the Issuer need not replace it or waive the requirement that the original be presented under the Letter of Credit. To the extent that the Beneficiary agrees to indemnify the Issuer for the amount of the original lost, stolen, mutilated, or destroyed Letter of Credit, the Issuer may replace it or waive the requirement that the original be presented. Electronic copies are not deemed originals.

**11. Termination.** This Letter of Credit shall automatically terminate upon the earliest of (a) the honoring of this Letter of Credit up to or for the full amount available hereunder; (b) notice of cancellation of this Letter of Credit as provided hereunder; (c) close of business on the Expiration Date, if any, without prior honor or amendment; or (d) in accordance with applicable law.

**12. Cancellation.** This Letter of Credit may be canceled by the Issuer upon sixty (60) days' written notice to the Beneficiary. The written cancellation notice shall be sent to the Beneficiary via certified United States mail, return receipt requested, and is valid upon return of the recipient signature or upon evidence, such as United States Postal Service notation of "unclaimed", of the recipient's refusal to accept delivery or to sign. Notice to the Beneficiary is deemed notice to any nominated Person. In the event of cancellation, this original Letter of Credit shall be returned to the Issuer.

**13. Transfer and Assignment.** This Letter of Credit, including both drawing rights and right to the proceeds of the Letter of Credit, is non-transferable and is not assignable. The Issuer's obligation under this Letter of Credit shall be limited to the face amount of the Letter of Credit, and upon honor, whether through one or multiple partial draws, the Issuer shall have no additional liability to any party in connection with this Letter of Credit.

**14. Fees.** The Applicant acknowledges and agrees that the Issuer may automatically deduct from any of Applicant's accounts at or with Issuer any fees or other amount due to Issuer in connection with Issuer's issuance of this Letter of Credit or with any renewal hereof.

**15. Governing Law; Venue.** This Letter of Credit is governed first by the nonvariable provisions of Tennessee Code Annotated §§ 47-5-101 *et seq.* Second, except to the extent that expressly stated terms of this Letter of Credit dictate otherwise, this Letter of Credit is governed by the International Standby Practices, 1999 ed., ICC Publication No. 590 ("ISP98"). The parties hereto agree that venue is solely proper with the courts of Williamson County, Tennessee and the United States District Court for the Middle District of Tennessee.

**16. Severability.** If any term or terms of this Letter of Credit are determined to be unenforceable by a court of competent jurisdiction, the remaining terms and provisions of this Letter of Credit shall remain valid and in full force and effect.

**EXHIBIT A**  
**SIGHT DRAFT**

\_\_\_\_\_, 20\_\_\_\_

FOR VALUE RECEIVED

Pay on Demand to: \_\_\_\_\_  
U.S. \_\_\_\_\_ Dollars  
(U.S. \$ \_\_\_\_\_).

Charge to account of Applicant:  
**King's Chapel Capacity, LLC**

**Drawn under Letter of Credit Number 400290300 of Franklin Synergy Bank dated September 27, 2010.**

TO: Franklin Synergy Bank  
722 Columbia Avenue  
Franklin, Tennessee 37064

If partial drawings are permitted under the terms of the Letter of Credit, the sum drawn does not exceed the difference between (a) the maximum aggregate amount to be drawn under the Letter of Credit with the above-referenced number and (b) the aggregate amount of all previous drawings made under the Letter of Credit with the above-referenced number.

Signature of Beneficiary

\_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_