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BEFORE THE TENNESSEE REGULATORY AUTHORITY AT
2015 AUG 13 AM 10:20 NASHVILLE, TENNESSEE
T.R.A. DOCKET ROOM

IN RE:)
)
PETITION TO SHOW CAUSE WHY A CEASE AND) **DOCKET NO. 12-00077**
DESIST ORDER AND CIVIL PENALTIES &)
SANCTIONS SHOULD NOT BE IMPOSED)
AGAINST LAUREL HILLS CONDOMINIUM)
PROPERTY OWNERS ASSOCIATION)

**PETITION TO ADOPT FIRST ADDENDUM TO
SETTLEMENT AGREEMENT AND RELEASE**

Comes now Tennessee Regulatory Authority (“TRA” or “Authority”) Staff acting as a Party (“Party Staff”) appointed in Docket No. 12-00030 and Laurel Hills Condominium Property Owner’s Association (“Laurel Hills”) to respectfully request that the Authority adopt the First Addendum to Settlement Agreement attached hereto as Exhibit 1 simultaneous with the Settlement Agreement filed with the Authority on July 27, 2015. In support of this Petition to Adopt Settlement Agreement (“Petition”) the parties would show as follows:

Procedural History

1. On April 10, 2012, Laurel Hills filed a Petition for a Certificate of Public Convenience and Necessity (“CCN”) to operate a water system on Renegade Mountain in Cumberland County, Tennessee.¹
2. On July 7, 2012, the Authority issued an Order requiring Laurel Hills to show cause why a cease and desist order, civil penalties, and other sanctions should not be levied against

¹ *Petition of Laurel Hills Condominiums Property Owners Association for a Certificate of Public Convenience and Necessity*, Docket No. 12-00030, April 10, 2012.

them for violations of state law.²

3. On April 18, 2013, after a full hearing the Authority issued an Order Denying Certificate of Public Convenience and Necessity and Requiring Divestiture of Water System (“April 18th Order”) denying Laurel Hills’ petition for a CCN and ordered that Laurel Hills divest itself of the water system.³
4. The Authority determined that Laurel Hills lacked the managerial and financial capability to operate the water system.⁴
5. On June 14, 2013, Laurel Hills appealed the April 18th Order to the Tennessee Court of Appeals.
6. On April 14, 2014, the Tennessee Court of Appeals upheld the Authority’s April 18th Order.⁵
7. The Court of Appeals found that the TRA had the authority to order Laurel Hills to divest itself of the water system.⁶
8. Laurel Hills has to date been unable to find a new owner for the system.
9. At this time Laurel Hills is willing to voluntarily place the water system into receivership in order to comply with the Authority’s requirement that Laurel Hills divest itself of the water system.
10. A voluntary receivership would reduce costs to the Authority compared to forcing Laurel Hills into receivership and has the potential to shorten the time frame during which the system would need to be operated in a receivership.

² *Order Requiring Laurel Hills Condominiums Property Owners Association to Appear and Show Cause why a Cease and Desist Order and Civil Penalties & Sanctions Should not be Imposed Against it for Violations of State Law*, July 7, 2012.

³ *Order Denying Certificate of Public Convenience and Necessity and Requiring Divestiture of the Water System*, April 18, 2013.

⁴ *Id.* at pp 9 - 16

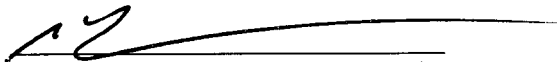
⁵ *Laurel Hills Condominiums Property Owners Ass. v. TRA*, 2014 WL 1494126, *1 (Middle Dist., 2014).

⁶ *Id.* at p. 6.

11. On July 27, 2015, TRA Party Staff and Laurel Hills requested that the Authority approve a Settlement Agreement. Since that time several individuals have raised concerns about Cumberland County's ability to place an emergency 911 antenna upon the water tower. The parties have reached an agreement that should alleviate Cumberland County's concerns.

Wherefore, the parties respectfully request that the Authority approved the attached First Addendum to Settlement Agreement and Release simultaneous with the July 27, 2015, Settlement Agreement.

Respectfully Submitted,



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**FIRST ADDENDUM TO
SETTLEMENT AGREEMENT AND RELEASE**

THIS FIRST ADDENDUM TO SETTLEMENT AGREEMENT AND RELEASE is made and entered into this _____ day of August, 2015, by, between, and among Laurel Hills Condominiums Property Owners Association ("Laurel Hills"), a Tennessee non-profit corporation, on the one hand, and the Tennessee Regulatory Authority ("TRA" or "Authority") Staff acting as a Party ("Party Staff") appointed in Docket No. 12-00030, on the other hand.

Laurel Hills and TRA agree to the following terms and conditions which shall either add to or modify the Settlement Agreement and Release in the following respects:

1. The terms and conditions set out in Section II, Paragraph(g) are hereby modified to the extent Laurel Hills will effectuate the transfer of the water tower and water tower parcel to the Receiver with a modified reverter clause and/or deed restrictions to allow the opportunity for an easement for a single 911 communications antenna owned, operated, and maintained by Cumberland County to be placed on top of the water tank subject to the following conditions:

- (a) the antenna be used solely for emergency communications;
- (b) the antenna be designed, constructed, and installed according to plans and specifications, i.e. height, type, etc. as represented by the County, and approved by the current title holder;
- (c) full compensation (including transaction costs) paid to the current title holder at appraised value for the easement and related easement rights;
- (d) all deed restrictions currently set out in Paragraph(g) above-referenced except as modified herein; and
- (e) the easement document be executed by the current title holder and such transaction be effected before conveyance of the fee title to the water tower and the water tower parcel to the Receiver.

2. Except as amended herein, all terms, conditions, and provisions of the Settlement Agreement and Release shall remain unaffected and in full force and effect as written.

Approved:

A handwritten signature in black ink, appearing to read 'Benjamin A. Gastel', written over a horizontal line.

Benjamin A. Gastel
Counsel for Laurel Hills

A handwritten signature in black ink, appearing to read 'Shiva Bozarth', written over a horizontal line.

Shiva Bozarth
Counsel for the Tennessee Regulatory Authority Party Staff