

**IN THE TENNESSEE REGULATORY AUTHORITY  
AT NASHVILLE, TENNESSEE**

**IN RE:** )  
 )  
**PETITION OF BERRY'S CHAPEL** )  
**UTILITY, INC. TO INCREASE RATES** )  
**AND CHARGES; TARIFF TO RECOVER** ) **DOCKET NO. 14-00004**  
**THE COST OF FINANCIAL SECURITY;** )  
**IMPLEMENTATION OF PASS** )  
**THROUGHS FOR SLUDGE REMOVAL,** )  
**ELECTRICITY, CHEMICALS AND** )  
**PURCHASED WATER** )

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**CONSUMER ADVOCATE AND PROTECTION DIVISION'S DISCOVERY  
REQUESTS RELATING TO ISSUES RAISED IN MICHAEL KNOTTS' TESTIMONY  
AND CERTAIN PARTS OF ROBERT T. BUCKNER'S REBUTTAL TESTIMONY**

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**To:** Berry's Chapel Utility, Inc.  
c/o Henry Walker  
Bradley Arant Boult Cummings, LLP  
1600 Division Street, Suite 700  
Nashville, TN 37203

This Discovery Request is hereby served upon Berry's Chapel Utility, Inc., ("Berry's Chapel", "BCUI", "Company", or "Utility"), pursuant to Rules 26, 33, 34 and 36 of the Tennessee Rules of Civil Procedure and Tenn. Comp. R. & Reg. 1220-1-2-.11. We request that full and complete responses be provided pursuant to the Tennessee Rules of Civil Procedure. The responses are to be produced at the Office of the Tennessee Attorney General and Reporter, Consumer Advocate and Protection Division, 425 Fifth Avenue North, Nashville, Tennessee 37243, c/o Vance Broemel, on or before 4:00 p.m. (CDT), July 29, 2014.

## **PRELIMINARY MATTERS AND DEFINITIONS**

These Additional Discovery Requests incorporate the same Preliminary Matters And Definitions as set forth in the *First Discovery Request of the Consumer Advocate and Protection Division to Berry's Chapel Utility, Inc.* filed February 12, 2014 and are to be considered continuing in nature, and are to be supplemented from time to time as information is received by Berry's Chapel which would make a prior response inaccurate, incomplete, or incorrect. For the avoidance of doubt, in these Additional Discovery Requests, the term "Board" refers to the Utility's board of directors elected by the Utility's members on or about March 13, 2014.

## **DISCOVERY REQUESTS**

1. With respect to the Testimony of Michael Knotts ("Knotts Testimony") filed on June 24, 2014, state whether Mr. Knotts is testifying as an expert and if yes, provide his qualifications, including his CV and relevant experience for testifying as such, including his experience on financial, accounting, legal, and regulatory matters and, further, list his board of directors, management, and business experience, with dates of such service and describe in detail his responsibilities, duties, and performance in connection with or relating to such experience.

### **RESPONSE:**

2. In the Knotts Testimony at 6:1-9, Mr. Knotts states that "each Board member received approximately 1000 pages of information that was requested of the Company's management consultant. These documents included background information (charter, bylaws, and all Board minutes), operational information (tariffs, overview of physical plant, copies of permits, breakdowns of customers by class, profiles of Company employees),

financial information (copies of all audit reports, complete financial statements since Company inception, copies of all contracts/agreements with third party providers, tax returns, and detailed information about assets and liabilities) ..." Provide complete copies of all the pages of information and all attachments that were received or reviewed by the Board as referenced by Mr. Knotts.

**RESPONSE:**

3. Provide all Board and Company member meeting minutes, and attachments or addendums or resolutions or bylaw amendments or similar documents adopted by, provided to, or reviewed by the Board or Company members, at or in any Board or Company member meeting held on or after March 13, 2014.

**RESPONSE:**

4. In the Knotts Testimony at 6:10-11, Mr. Knotts states that "[c]ompany employees and contractors were interviewed to further investigate the current state of the company." Provide detailed information about all of the questions asked and answers received from each employee and/or contractor that was interviewed, as well as all written notes, memoranda, summaries, or similar documents memorializing such interviews written or otherwise resulting from the efforts of any Board member or other individual or entity conducting such interview on behalf of the Board or its representative(s).

**RESPONSE:**

5. In the Knotts Testimony at 6:12-16 he states: "The Board also took immediate action to eliminate conflicts of interest in the Company operations. The

company's officers were changed to eliminate the conflict inherent in the situation we found which was that of a previous owner, contractor to the company, and creditor to the company simultaneously serving as President." With regard to possible conflicts of interest:

- a. List and describe in detail each conflict of interest identified by the Board relating to or in connection with the Company's finances and/or operations and list and describe in detail each action taken by the Board to eliminate each conflict of interest in the Company's operation.
- b. Does the Board believe that the Company has any legal or other obligation or duty to any former owners of the Company, including without limitation John Ring, Tyler Ring, or any entity directly or indirectly owned or controlled by either John Ring or Tyler Ring? If so, state the obligation or duty and provide complete details of such obligation or duty, including without limitation any written or oral agreements, understandings, or contracts relating to or in connection with such obligation or duty.
- c. Is the Board aware of the transfer or assignment of certain debt owed by the Company on or about July 7, 2014, as evidenced by the attached Exhibits A, B, and C or similar documents? If so, provide a description of the details and copies of documents in connection with or related to such transfer or assignment, and state whether it is known by the Board whether an entity known as SJ&TA, LLC, which now appears to hold all or part of the debt of the Company, is directly or indirectly owned or is controlled by John Ring and/or Tyler Ring or any of their associates and/or related entities.
- d. If the entity SJ&TA, LLC paid less than face value for the debt of the Company, would that affect the Board's valuation of the Company's debt and how will it be recorded in the Company's books?

- e. Provide any data or information received or that resulted from any written or oral inquiry or investigation by the Board into or concerning the assignment or transfer of the Utility's notes payable or corporate or personal guarantees by any owner or prior owner of the Utility, and provide any copies of such notes and any related security agreements and any assignment or transfer documents or notices received by the Board.

**RESPONSE:**

6. With reference to the Knotts Testimony at 6:17 through 7:5, list and describe in detail each step that has occurred or been implemented, has been developed, is being developed, and/or is being contemplated, as well as analysis performed and conclusions or finding reached, by the Board relating to or in connection with:

- a. the referenced strategic path forward to ensure future solvency,
- b. the operation of the Utility's collection and treatment systems in full compliance with the permits issued by the Tennessee Department of Environment and Conservation,
- c. the change in the Company's governance and ownership model into that of a member-owned cooperative,
- d. the restatement of the Company's financials based upon a commonly accepted asset valuation method to more accurately reflect the value of the Company's plant,
- e. significantly lowering the Company's long term debt liabilities,
- f. preparing for future capital improvement and replacement needs through a combination of cash savings and increased credit worthiness, and

- g. the implementation of an operating structure that provides the highest level of value to the end-use customer over the long-term.

**RESPONSE:**

7. Provide a list of and describe in detail all long-term and short term debt and accounts payable obligations owed by the Company, along with the identity of the owner / holder of each such debt instrument and/or obligation, and provide copies of all notes payable, deeds of trusts, loan applications, UCC filings, TRA approval orders or similar documents for the issuance of such debt or the refinancing or transfer thereof, agreements for the provision of services or products, agreements concerning the forgiveness or forbearance of any long-term and short term debt or accounts payable obligation owed by the Company; and, further, provide a list and describe in detail any oral debt obligations, agreements for the provision of services or products, and agreements or understandings concerning the forgiveness or forbearance of any debt obligation owed by the Company.

**RESPONSE:**

8. List and describe in detail all agreements between the Board (or any member thereof) and the Company's board of directors (or any member thereof) that served prior to March 13, 2014, including without limitation any agreement to take or not take certain actions, to indemnify or hold harmless either such board (or any member thereof), to forgive or not pursue any debt owed by or to any member of either such board, to employ or retain directly or indirectly the services of any member of either such board, or to not pursue legal action (including without limitation any action for self-dealing or breach of fiduciary duty) against either such board (or any member thereof).

**RESPONSE:**

9. With reference to the Knotts Testimony at 8:17-21, provide the Board's analysis and the substantive basis, including without limitation any supporting financial statements, budgets, and/or financial spreadsheets, for:

- a. the Board's belief that "the company's current cash flow is sufficient to ensure the base level of necessary expenditures to continue short-term operations of the utility, at least until the Board has a better idea of the success of [the Board's] cost containment efforts and the status of the Company's debt obligations."
- b. the financial and/or operational changes, if any, for the Utility that have occurred since the filing of the original Petition and expert testimony in this Docket that caused or influenced the Board's decision to modify its requests.

**RESPONSE:**

10. With reference to the Knotts Testimony at 8:17 through 9:3, and the Buckner Rebuttal Testimony at 11:3-29 --

- a. Provide the Board's analysis and the substantive basis, including without limitation any supporting financial statements, budgets, and/or financial spreadsheets, for Mr. Knotts' statement that "the utility's two most important financial needs, which must be addressed now -- were financial security and capital improvements/replacements. At this time, the Board has decided to hold off requesting additional revenue, which would allow us to

stop the practice of monetizing depreciation and would provide revenue for debt payments.”

- b. State whether Mr. Knotts agrees with Mr. Novak that depreciation expense should not be included in the cash needs approach that was being used in Mr. Buckner’s testimony, and provide Mr. Knotts’ analysis and the substantive basis for his position.
- c. Provide Mr. Knotts’ analysis and the substantive basis, including without limitation any supporting financial statements, budgets, and/or financial spreadsheets, for Mr. Knotts’ apparent opinion that currently available cash and cash flow (assuming no cash flow results from any request made by the Utility in this TRA Docket 14-00004) over the next twenty-four months would not be adequate to pay for any repair or replacement.
- d. Provide Mr. Knotts’ analysis, findings, and conclusions, including without limitation any supporting financial statements, budgets, and/or financial spreadsheets, as to how long, in terms of years and/or months, the company’s current cash flow will be sufficient to ensure the base level of necessary expenditures will be adequate to fund the Utility’s operations, including, as separately stated item in any such analysis, any repair and/or replacement funding requirement.
- e. Provide Mr. Buckner’s analysis, findings, and conclusions, including without limitation any supporting financial statements, budgets, and/or financial spreadsheets, as to how long, in terms of years and/or months, the company’s current cash flow will be sufficient to ensure the base level of necessary expenditures will be adequate to fund the Utility’s operations, including, as



separately stated item in any such analysis, any repair and/or replacement funding requirement.

- f. Provide Mr. Buckner's analysis, findings, and conclusions, including without limitation any supporting financial statements, budgets, and/or financial spreadsheets, as to how Mr. Knotts' proposal will meet the Utility's immediate needs while planning for the Utility's future.
- g. State whether, in Mr. Buckner's experience, the TRA has ever authorized, ordered, or implemented a \$1 tariff charge, or a similar charge in any amount, to be paid by a Utility's customers to enable a utility to satisfy the utility's TRA financial security requirement.
- h. In view of the Utility's apparent agreement that for this case that there is no revenue deficiency and the Utility's proposal to increase revenues by approximately \$7,500 in miscellaneous rates, how does the Company think it is possible for the TRA to increase miscellaneous rates while finding that there is no revenue deficiency as the Company has proposed?
- i. With respect to the accounting that would take place on a regular basis for escrow deposits if the TRA were to approve the Company's proposal, assume the following: The Company has only one customer for the month and his regular bill is \$35. Under the Company's proposal, \$4.00 would be added for a capital improvement surcharge and another \$1.00 as a financial security surcharge. So the customer's total bill for the month is \$40.
  - i. If the customer pays his entire bill, how would this be accounted for on the Company's books? Provide all applicable journal entries.

- ii. Exactly what are the account numbers that would be debited and credited? Has the Company already set up these new accounts on its books? When would they be created?
- iii. What would happen if the customer only pays a portion of his bill? Does the first portion of the payment go to escrow or operating revenue?

**RESPONSE:**

11. Provide the Board's analysis and the substantive basis, including without limitation any supporting financial statements, budgets, and/or financial spreadsheets, for the Board's decision to request "to add a \$4 per month "Capital Improvement Surcharge" to each customer's bill for a period of twenty-four months, "a \$1 per month "Financial Security Surcharge" to each customer's bill for a period of up to 12 months[," and "the four changes to [the Company's] tariff as detailed in Mr. Terry Buckner's direct testimony (in this docket) in the last paragraph of page 9 [for fees for late payment, disconnection, and reconnection, and to charge fees for late payment,]" including without limitation Board's analysis and the substantive basis for how each of the above amounts were determined and any documents supporting those amounts.

**RESPONSE:**

12. With reference to the Knotts Testimony at 4:11-12, at which Mr. Knotts refers to "the seven principles of a member-owned cooperative[," explain in detail:

- a. How each of the principles applies to a nonprofit Utility that is not a cooperative under Tennessee law applicable to cooperatives.

- b. With respect to customers who are members, how members “own” the Company, including without limitation an explanation of each member’s voting, ownership, profit sharing, loss sharing, liability for debts or acts of the Company, and any other legal rights and obligations of each member in the Company in view of its organization as a nonprofit and operation as a cooperative.
- c. The difference between and implications of actually being a cooperative or only operating in accordance with cooperative principles.
- d. With respect to customers who are not members, such customers voting, ownership, profit sharing, loss sharing, liability for debts or acts of the Company, and any other legal rights and obligations of each customer who is not a member in view of the Company’s organization as a nonprofit and operation as a cooperative

**RESPONSE:**

13. In the Knotts Testimony at 2:24 through 3:3, Mr. Knotts states: “[The previous owners of the Company] also engaged in a protracted and **expensive** dispute to declare itself a nonutility, which would have removed TRA’s regulatory jurisdiction over the actions of the utility.” (Emphasis added.) Regarding the “**expense**” of this TRA Docket 14-00004:

- a. Provide and describe in detail the amounts billed or expected to be billed for all work on this rate case, TRA Docket No. 14-00004, and provide copies of all invoices and statements from attorneys, experts, or others working on the case and any evidence of payment by the Company.

- b. Provide and describe in detail the amounts billed or expected to be billed for all work on the Company's testimony filed as Rebuttal Testimony by Messrs. Knotts and Buckner, including but not limited to, the amount billed or expected to be billed for work related to the Consumer Advocate's Motion to Strike that testimony, and provide copies of all invoices and statements from attorneys and any evidence of payment by the Company.
- c. List and describe in detail the amount billed or expected to be billed for all work on the Company's Motion to Limit Intervention of Consumer Advocate filed July 10, 2014, and provide copies of all invoices and statements from attorneys and any evidence of payment by the Company.
- d. List all members of the Board who reviewed, discussed and/or approved the Motion to Limit Intervention of Consumer Advocate filed by the Company.

**RESPONSE:**

14. With reference to the Knotts Testimony at 11:23 through 12:2, 14:1-5 and the Rebuttal Testimony of Robert T. Buckner ("Buckner Rebuttal Testimony") at 10:2-10, concerning legal fees:

- a. Identify all attorneys and expert witnesses who have worked for or on behalf of the Utility on any matter since March 13, 2014.
- b. State whether the Board (or any member thereof) or any representative of the Company has discussed with any outside legal counsel for the Company or the firm of Bradley Arant Boult Cummings a plan of payment of legal fees or any reduction of the amount owed and, if so, describe in detail the term and conditions of any such payment plan or reduction in fees.

- c. State the source of funds that has been, is being, or will be used to pay legal fees, expert witness fees, and any related expenses incurred by or on behalf of the Utility.
- d. Describe in detail the Board's rationale for spending Utility funds on legal and expert testimony fees in comparison with the amount of additional revenue requested in connection with each of (i) the original Petition and (ii) the amended Petition in this Docket.
- e. Describe in detail the Board's rationale for spending Utility funds on legal and expert testimony fees on motions and similar pleadings in which no additional revenue is requested by the Utility.

**RESPONSE:**

15. Has the Utility or someone on its behalf applied for a tax refund from the Tennessee Department of Revenue? If so, is the requested refund in the amount of \$50,000.00; who requested the refund; and is this refund reflected in the Company's analysis and decisions with respect to the proposals made by Mr. Knotts in his testimony? Explain in detail how the Board intends to use those funds if received.

**RESPONSE:**

16. In the Knotts Testimony at 8:15-17 he states "[h]owever, the Board believes that its ongoing cost containment efforts and operational evaluation are having, and will continue to have, a positive impact on the company's operational efficiency." List and describe in detail each problem or issue identified by the Board relating to or in connection with the Board's cost containment efforts and list and describe each action taken by the

Board to implement each such cost containment effort, and provide any documents received or generated relating to or in connection with such effort.

**RESPONSE:**

17. In the Knotts Testimony at 11:12-13, Mr. Knotts states: "As part of the transition process, the Board has been attempting to communicate frequently with its customers about the company's changes." With regard to the make-up of the Company's customers/members:

- a. Please state how many customers the Company has.
- b. Please state how many customers are members.
- c. If a household has two adult persons (for example, a husband and wife or two partners) can both persons be members? If so, how many members are part of the same household?
- d. Does the Company know how many potential members there are?
- e. Please provide a break-down of members by community, e.g., how many from Cottonwood, River Landing, Legends Ridge, etc.
- f. Please state whether any members from any community served by the Company have informed the Board that they do not believe they have been adequately informed of the Company's financial situation and/or management and provide the details of that communication. Provide the name of the person or persons who have so informed the Board or complained.

**RESPONSE:**

18. With respect to the Knotts Testimony at page 17, concerning a resolution about a strategic review being performed of the operations of the Company in the 30 days following March 13, 2014, provide all notes, studies, and any other documentation created, reviewed, or otherwise used in connection with such strategic study, and provide the written summary of all actions taken and any actions required by members as such data and/or information was or is being provided to the members under that resolution, including without limitation any documentation sent or provided to the members under that resolution.

**RESPONSE:**

19. In the Buckner Rebuttal Testimony at 11:3-10, Mr. Buckner, in response to the question "If the Authority agrees with Mr. Knotts' proposal, will this provide the company with sufficient revenue to cover its costs?" replied "No. ... Under this reduced request, the company will still be unable to pay its depreciation expenses or its cost of debt. Those issues will have to be addressed later after the Board has implemented its cost-cutting measures and, the company hopes, restructured its outstanding debt. Mr. Knotts has proposed a short-term solution to meet the company's immediate and most pressing needs."

- a. For each of depreciation expense and cost of debt, state the amounts that have been paid in each of the last two years and the amounts that the Utility has projected to pay for each of these items over the next five years.
- b. List and describe in detail each item, with an estimate of the relevant cost, that might reasonably (based on engineering estimate or other reasonable source) be expected to be replaced or repaired over the next two years and

that would require the use of funds from the Capital Improvements Surcharge requested by Mr. Knotts.

- c. State and explain fully when the issues of depreciation expenses or cost of debt will have to be addressed, and why the Utility believes that they do not need to be addressed at this time.
- d. Explain fully each cost cutting measure contemplated or considered, including when each cost cutting measure is expected to be implemented, by the Board, and the cost savings, in the context of a time-frame in terms of months and years, that is expected to be realized upon implementation.
- e. Explain fully the debt restructuring contemplated or considered, including when such debt restructuring is expected to be implemented, by the Board, and the cost savings, in the context of a time-frame in terms of months and years, that is expected to be realized upon implementation.

**RESPONSE:**

20. In the Knotts Testimony at 12:7-9, Mr. Knotts states: "His reaction, along with many others like it, is indicative of the understanding that the customers now control the company, not an owner with a profit or value-growth motive. Given that independent Directors whose fiduciary duty is owed to the customers are making decisions, the lingering suspicion by the customer base about the company's motives seems to have greatly diminished."

- a. Describe in detail the "fiduciary duty owed to the customers" as referenced by Mr. Knotts.
- b. State whether and identify any members of the Utility's board of directors (past or present), have waived the provisions in the Utility's Charter (see



sections 12 and 13) providing for no liability on the part of a director for a breach of fiduciary duty and for indemnification of directors to the fullest extent permitted under Tennessee law, or have waived the similar provisions (sections 3.12. and 3.13) of the Utility's Bylaws?

- c. If a "customer" is not a "member" how can he or she participate in the "control" of the Company?
- d. In the Company's Motion to Limit Intervention of Consumer Advocate, the Company states, on page 1, paragraph 2: "In this case, those consumers are now in control of the utility, and the Advocate's participation is no longer needed to protect their interests."
  - i. Is it the position of the Board that "consumers" who are not "members" are "now in control of the utility?" If so, explain the nature of that "control."
  - ii. Is it the Board attempting to make all "consumers" who want to have a say-so in the Company's affairs become "members?"

**RESPONSE:**

RESPECTFULLY SUBMITTED,



WAYNE IRVIN (BPR #30946)  
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Consumer Advocate and Protection Division  
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Senior Counsel  
Office of the Attorney General  
Consumer Advocate and Protection Division  
P.O. Box 20207  
Nashville, Tennessee 37202-0207  
(615) 741-8733

Dated: July 22<sup>nd</sup>, 2014.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served via U.S. Mail or electronic mail upon:

Henry Walker  
Bradley Arant Boult Cummings, LLP  
1600 Division Street, Suite 700  
Nashville, TN 37203

This the 22nd day of July, 2014.

  
WAYNE IRVIN



This instrument prepared by:  
Bryan D. Spicer  
Attorney at Law  
342 Cool Springs Blvd.  
Suite 202  
Franklin, TN 37067

Maximum principal indebtedness for  
Tennessee recording tax purposes is  
\$1,250,000.00

**COLLATERAL ASSIGNMENT OF NOTE, DEED OF TRUST  
AND OTHER LOAN DOCUMENTS**

KNOW ALL MEN BY THESE PRESENTS, that Craig V. Gabbert, Jr., as trustee for SJ&TA, LLC, a Tennessee limited liability company, and having a mailing address of 333 Commerce Street, Suite 1500, Nashville, TN 37201 ("Assignor"), for and in consideration of TEN DOLLARS (\$10.00) and other good and valuable consideration, receipt and sufficiency of which are hereby acknowledged, does hereby grant, bargain, sell, assign, transfer and set over unto and in favor of Citizens First Bank, having a mailing address of 1065 Ashley St, Suite 150, Bowling Green, KY 42103 ("Assignee"), all of the rights, title and interest of the Assignor in and to the following:

(a) that certain Promissory Note, dated as of June 25, 2010, executed by Tenn. Contractors, Inc., a Tennessee corporation, in favor of Tennessee Commerce Bank, in the original principal amount of \$1,000,000.00 ("1.0MM Note"); and that certain Promissory Note, dated as of June 25, 2010, executed by Tenn. Contractors, Inc., a Tennessee corporation, in favor of Tennessee Commerce Bank, in the original principal amount of \$500,000.00 ("500M Note"); and that certain Promissory Note, dated as of December 12, 2007, executed by Lynnwood Utility Corporation, a Tennessee corporation, in favor of Tennessee Commerce Bank, in the original principal amount of \$1,000,000.00, said note having been modified by a Change in Terms Agreement dated February 1, 2008, said note having been renewed by a renewal Promissory Note, dated as of April 20, 2009, executed by Lynnwood Utility Corporation, a Tennessee corporation, in favor of Tennessee Commerce Bank, in the original principal amount of \$1,200,000.00 ("1.2MM Note"); (d) that certain Promissory Note, dated as of December 12, 2007, executed by Lynnwood Utility Corporation, a Tennessee corporation, in favor of Tennessee Commerce Bank, in the original principal amount of \$250,000.00 ("250M Note") (the 1.0MM Note, the 500M Note, the 1.2MM Note and the 250M Note and all renewal notes and change in terms agreements shall be collectively referred to as the "Notes"), the Notes were, as of the date hereof, assigned unto and in favor of the Assignor pursuant to four separate Assignment of Loan Documents (collectively the "Assignment Instrument");

(b) that certain Deed of Trust, dated as of June 25, 2010, executed by Tenn. Contractors, Inc., a Tennessee corporation in favor of Tennessee Commerce Bank, covering property commonly known as The Hamptons at Campbell Station, Spring Hill, Williamson County, Tennessee, and recorded as Book 5082 Page 338, in the Register's Office of Williamson County, Tennessee; said Deed of Trust having been assigned to 2012-SIP-1 Venture, LLC by an Assignment of Real Estate Deed of Trust recorded in Book 5732, Page 322, in the Register's Office of Williamson County, Tennessee (the "500M Deed of Trust") and that certain Deed of

Trust, dated as of June 25, 2010, executed by Tenn. Contractors, Inc., a Tennessee corporation in favor of Tennessee Commerce Bank, covering property commonly known as The Hamptons at Campbell Station, Spring Hill, Williamson County, Tennessee, and recorded in Book 5082, Page 347, in the Register's Office of Williamson County, Tennessee; said Deed of Trust having been assigned to 2012-SIP-1 Venture, LLC by an Assignment of Real Estate Deed of Trust recorded in Book 5732, Page 340, in the Register's Office of Williamson County, Tennessee (the "1.0MM Deed of Trust") and that certain Deed of Trust, dated as of December 12, 2007, executed by Lynwood Utility Corporation in favor of Tennessee Commerce Bank, covering property commonly known as 180 Cottonwood Drive, Franklin, TN 37069, Williamson County, Tennessee, and recorded in Book 4443, Page 719, in the Register's Office of Williamson County, Tennessee; Said Deed of Trust having been modified by a Modification of Deed of Trust recorded in Book 4797, Page 429, Register's Office of Williamson County, Tennessee; said Deed of Trust having been assigned to 2012-SIP-1 Venture, LLC by an Assignment of Real Estate Deed of Trust recorded in Book 5731, Page 222, in the Register's Office of Williamson County, Tennessee (the "1.45MM Deed of Trust") (the 500M Deed of Trust, the 1.0MM Deed of Trust and the 1.45MM Deed of Trust are collectively herein referred to as the "Deed of Trust");

(c) all other documents and instruments relating to the loans evidenced by the Note, as the same were assigned unto and in favor of Assignor pursuant to the Assignment Instrument (such documents, the Note, the Deed of Trust, as assigned to Assignor, shall be collectively referred to herein as the "Loan Documents");

(d) the monies and obligations due and to become due under the Note and the other Loan Documents, together with all interest payable thereunder, and the right to receive and retain all payments and all other distributions of any kind or nature under the Note and the other Loan Documents; and,

(e) all claims and rights with respect to nonperformance or breach of the contracts and agreements; and pursuant to Article 9 of the Uniform Commercial Code, as the same may, from time to time, be in effect in the State of Tennessee as of the date hereof.

(All of the foregoing rights, title and interests of the Assignor in and to the Note and the other Loan Documents hereby assigned to the Assignee are sometimes hereinafter collectively referred to as the "Assigned Assets").

# 1. REPRESENTATIONS. WARRANTIES AND COVENANTS OF THE ASSIGNOR.

(a) The Assignor hereby represents and warrants to the Assignee that: (i) the Assignor has full legal right, power and authority to execute and deliver this instrument (this "Assignment") and to consummate all of the transactions contemplated herein; (ii) this Assignment constitutes the authorized, valid and legally binding obligation of the Assignor enforceable in accordance with its terms; and (iii) no consent, approval, authorization or order of any party to any instrument representing any of the Assigned Assets, court or governmental agency or other body or entity is required to consummate the transactions contemplated by this Assignment.

(b) The Assignor represents, warrants and covenants to the Assignee that the Assigned Assets are free from all encumbrances and free from any and all rights to perfect liens except for a Collateral Assignment of Note, Deed of Trust and other Loan Documents executed simultaneously herewith securing an loan in the amount of \$500,000.00 and a Collateral Assignment of Note, Deed of Trust and other Loan Documents executed simultaneously herewith securing an loan in the amount of \$250,000.00, and that the Assignor will warrant and defend this Assignment to the Assignee, its successors and assigns, against any and all claims, liens and encumbrances whatsoever.

2. FURTHER ASSURANCES. The Assignor, for itself and its successors and assigns, further covenants and agrees that it will, at any time and from time to time after the date hereof upon the written request of the Assignee, execute and deliver such further instruments of conveyance, transfer, notice, consent or otherwise and take such other action as may reasonably be required or advisable to evidence, or give effect to, the rights granted to the Assignee pursuant to this Assignment and to effectively convey, transfer and vest in the Assignee or the Assignee's designee full and complete title in the Assigned Assets. Assignor shall execute, or join in executing, a financing statement and any other instrument or instruments deemed necessary by Assignee to perfect the security interest of Assignee in the Assigned Assets, and Assignor shall pay the cost of filing such financing statements and instruments.

3. ASSIGNMENT AS SECURITY.

(a) This Assignment is made and given as security for a loan by Assignee to Johnny Darrell Ring and Tyler Lee Ring (the "Borrower") (the "Loan") evidenced by that certain Promissory Note dated as of the date hereof executed by Borrower in favor of Assignee in the original principal balance of One Million Two Hundred Fifty Thousand and No/100 Dollars (\$1,250,000.00) (the "Assignee Note"). Assignor further grants to Assignee a security interest in Assigned Assets to secure payment under the Assignee Note and all other loan documents relating to the Assignee Note.

(b) Upon full payment and complete performance of the Assignee Note and all other loan documents relating to the Assignee Note, and the recording of a satisfaction, acknowledging satisfaction of Borrower's obligations under the Assignee Note and all other loan documents relating to the Assignee Note, this Assignment shall become void and be of no further effect.

(c) At any time and from time to time, Assignee shall have the right, in its sole discretion, to exercise, in its name or in the name of Assignor or otherwise, all of Assignor's rights or remedies provided under the Assigned Assets, but under no circumstances shall Assignee be obligated to take any such action. Assignee shall incur no liability on account of any action taken in good faith by it or on its behalf or otherwise under this Assignment, whether or not the same shall prove to be improper, inadequate, or invalid, in whole or in part, and Assignor agrees to protect, defend, indemnify, and hold Assignee harmless from and against any and all loss, cost, liability, or expense, including but not limited to attorney's fees, costs, and expenses (including attorney's fees, costs, and expenses incurred as a result of any appeal), in connection with any such action or actions. Upon the occurrence of an Event of Default (as defined in that certain Loan Agreement between Borrower and Assignee dated of even date

herewith), Assignee may exercise any and all rights available to it under the Assigned Assets or the Assignee Note.

(d) Upon the execution of this Assignment, Assignor shall deliver an Allonge to the 1.0MM Note, the 500M Note, the 1.2MM Note and the 250M Note, in substantially the form attached hereto as Exhibit A, B, C and D and made a part hereof for all purposes, endorsed by Assignor to Assignee, without recourse, representation or warranty of any kind.

(e) All or any amounts that the Assignee may at any time receive under and by virtue of this Assignment shall, to the extent, if any, that such amounts exceed the total indebtedness of the Assignor to the Assignee under the aforesaid loan, be paid over by the Assignee to the Assignor.

4. ASSIGNEE APPOINTED ATTORNEY-IN-FACT. The Assignee is hereby appointed the attorney-in-fact of the Assignor for the purpose of carrying out the provisions of this Assignment and taking any action and executing any instruments that the Assignee may deem necessary or advisable to accomplish the purposes hereof, which appointment as attorney-in-fact is irrevocable and coupled with an interest. Without limiting the generality of the foregoing, the Assignee shall have the right and power to receive, endorse and collect all checks made payable to the order of the Assignor representing any payment or distribution in respect of the Note or any of the other Assigned Assets or any part thereof and to give full discharge for same.

5. SUCCESSORS; NO ORAL MODIFICATION. This Assignment shall inure to the benefit of the Assignee and each of its successors and assigns and is binding upon the Assignor and each of its respective successors or assigns and may not be modified or terminated except by a written agreement signed by the parties hereto.

6. GOVERNING LAW AND COSTS. This Assignment shall be governed by, and construed in accordance with, the laws of the State of Tennessee. In the event that any litigation arises out of the execution and implementation of this Assignment, the prevailing party shall be entitled to recover all costs incurred, including reasonable attorneys' fees, at all levels of legal proceedings.

7. PARTIAL INVALIDITY. If part of this Assignment is contrary to, prohibited by or deemed invalid under applicable laws or regulations, such part shall be inapplicable and deemed omitted to the extent contrary, prohibited or invalid, but the remainder of this Assignment shall not be invalidated thereby and shall be given effect so far as is possible.

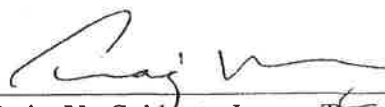
8. JURISDICTION AND VENUE. In the event any litigation arises under the terms of this Assignment or under the Note secured by this Assignment, Assignor specifically accepts and submits to the jurisdiction of the courts of the State of Tennessee for such litigation. Assignor acknowledges, confirms and agrees that sole and exclusive jurisdiction and venue for such litigation shall be and lie in Davidson County, Tennessee.

THE REMAINDER OF THIS PAGE WAS INTENTIONALLY LEFT BLANK



IN WITNESS WHEREOF, the Assignor has hereunto set its hand and seal as of the 17<sup>th</sup> day of June, 2014.

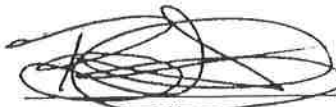
Assignor:

 Trustee  
Craig V. Gabbert, Jr., as Trustee for SJ&TA,  
LLC, a Tennessee limited liability company

STATE OF TENNESSEE  
COUNTY OF WILLIAMSON

Personally appeared before me, the undersigned authority, in and for said County and State, appeared Craig V. Gabbert, Jr., in his capacity as trustee for SJ&TA, LLC, a Tennessee limited liability company, with whom I am personally acquainted, (or proved to me on the basis of satisfactory evidence), and who acknowledged that he executed the foregoing instrument for the purposes therein contained.

Witness my hand and official seal at Franklin, Tennessee, this 17<sup>th</sup> day of June, 2014.

  
Notary Public

My Commission Expires: \_\_\_\_\_

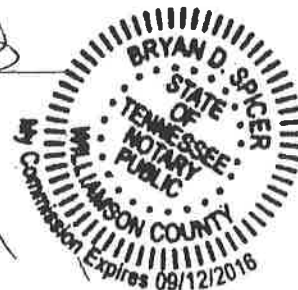


EXHIBIT A

ALLONGE

This ALLONGE is attached to and forms a part of that certain Promissory Note, dated as of June 25, 2010, executed by Tenn. Contractors, Inc., a Tennessee corporation, in favor of Tennessee Commerce Bank, in the original principal amount of \$1,000,000.00.

Pay to the order of Citizens First Bank, WITHOUT RECOURSE, WARRANTY, OR REPRESENTATION.

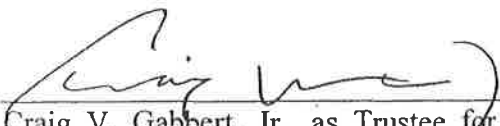
By:  Trustee  
Craig V. Gabbert, Jr., as Trustee for SJ&TA,  
LLC, a Tennessee limited liability company

EXHIBIT B

ALLONGE

This ALLONGE is attached to and forms a part of that certain Promissory Note, dated as of June 25, 2010, executed by Tenn. Contractors, Inc., a Tennessee corporation, in favor of Tennessee Commerce Bank, in the original principal amount of \$500,000.00.

Pay to the order of Citizens First Bank, WITHOUT RECOURSE, WARRANTY, OR REPRESENTATION.

By:

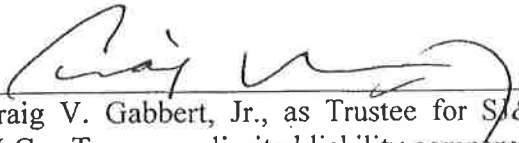
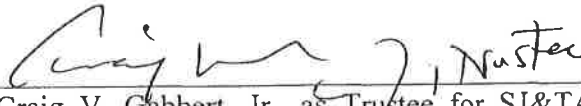
 trustee  
Craig V. Gabbert, Jr., as Trustee for S&TA,  
LLC, a Tennessee limited liability company

EXHIBIT C

ALLONGE

This ALLONGE is attached to and forms a part of that Promissory Note, dated as of December 12, 2007, executed by Lynnwood Utility Corporation, a Tennessee corporation, in favor of Tennessee Commerce Bank, in the original principal amount of \$1,000,000.00, said note having been modified by a Change in Terms Agreement dated February 1, 2008, said note having been renewed by a renewal Promissory Note, dated as of April 20, 2009, executed by Lynnwood Utility Corporation, a Tennessee corporation, in favor of Tennessee Commerce Bank, in the original principal amount of \$1,200,000.00.

Pay to the order of Citizens First Bank, WITHOUT RECOURSE, WARRANTY, OR REPRESENTATION.

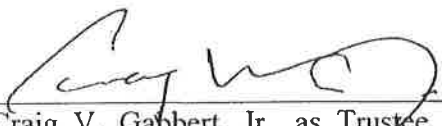
By:  Nuster  
Craig V. Gabbert, Jr., as Trustee for SJ&TA,  
LLC, a Tennessee limited liability company

## EXHIBIT D

## ALLONGE

This ALLONGE is attached to and forms a part of that certain Promissory Note, dated as of December 12, 2007, executed by Lynnwood Utility Corporation, a Tennessee corporation, in favor of Tennessee Commerce Bank, in the original principal amount of \$250,000.00.

Pay to the order of Citizens First Bank, WITHOUT RECOURSE, WARRANTY, OR REPRESENTATION.

By:  Trustee  
 Craig V. Gabbert, Jr., as Trustee for SJ&TA,  
 LLC, a Tennessee limited liability company

BK: 6212 PG: 417-425

14022187

9 PGS:AL-ASSIGNMENT	
344920	06/23/2014 - 08:01 AM
BATCH	344920
MORTGAGE TAX	1435.20
TRANSFER TAX	0.00
RECORDING FEE	45.00
ARCHIVE FEE	0.00
DP FEE	2.00
REGISTER'S FEE	1.00
TOTAL AMOUNT	1483.20

STATE OF TENNESSEE, WILLIAMSON COUNTY  
**SADIE WADE**  
 REGISTER OF DEEDS

3

THIS INSTRUMENT PREPARED BY  
AND WHEN RECORDED RETURN TO:  
E. Franklin Childress, Jr., Attorney  
Baker, Donelson, Bearman,  
Caldwell & Berkowitz  
2000 First Tennessee Bldg.  
MEMPHIS, TENNESSEE 38103

McCann & Hubbard  
1804 Williams St., Suite 201  
Brentwood, TN 37027  
615.377.8819

### PARTIAL RELEASE OF DEED OF TRUST

For and in consideration of TEN and 00/100 Dollars (\$10.00) in hand paid and other good and valuable consideration the receipt and sufficiency of which is hereby acknowledged by the parties hereto, the undersigned, **2012-SIP-1 VENTURE, LLC** (the "Beneficiary"), a Delaware limited liability company, as owner and holder of the indebtedness described in and secured by that certain Deed of Trust dated November 29, 2006, executed by JOHN D. RING and TYLER L. RING, as Grantors, to Andrew M. Hawkins, as Trustee, and filed of record in **Book 4117, Page 205**, in the Office of the Register of Deeds of Williamson County, Tennessee, does hereby release, without any warranty, all of the liens now held by said Beneficiary by virtue of said Deed of Trust in and to that portion of the property situated in Williamson County, Tennessee, and described below, and to this end, Beneficiary quitclaims and conveys to Grantors, their, successors and assigns, all of its right, title and interest in the following property located in Williamson County, Tennessee, to wit:

Being Lot 810, SECTION EIGHT, LEGENDS RIDGE, as shown on plat of record in Plat Book 28, Page 62, in the Register's Office, Williamson County, Tennessee, to which plat reference is hereby made for a more particular description of said property.

This is a partial release and applies only to the portion of the property described above, it being understood that said liens shall remain and continue in full force and effect as to all other real property and improvements, as described in said Deed of Trust.

IN WITNESS WHEREOF, the said Beneficiary has caused this instrument to be executed by and through its duly authorized officer this the 11<sup>th</sup> day of June, 2014.

[SIGNATURE ON FOLLOWING PAGE]

BK: 6210 PG: 32-34

14021706

3 PGS:AL-PARTIAL RELEASE	
344498	06/18/2014 - 01:39 PM
BATCH	344498
MORTGAGE TAX	0.00
TRANSFER TAX	0.00
RECORDING FEE	15.00
ARCHIVE FEE	0.00
DP FEE	2.00
REGISTER'S FEE	0.00
TOTAL AMOUNT	17.00

STATE OF TENNESSEE, WILLIAMSON COUNTY  
**SADIE WADE**  
REGISTER OF DEEDS

14019534

THIS INSTRUMENT PREPARED BY  
AND WHEN RECORDED RETURN TO:  
E. Franklin Childress, Jr., Attorney  
Baker, Donelson, Bearman,  
Caldwell & Berkowitz  
2000 First Tennessee Bldg.  
MEMPHIS, TENNESSEE 38103

3 PGS:AL-PARTIAL RELEASE	
342752	06/04/2014 - 09:49 AM
BATCH	342752
MORTGAGE TAX	0.00
TRANSFER TAX	0.00
RECORDING FEE	15.00
ARCHIVE FEE	0.00
DP FEE	2.00
REGISTER'S FEE	0.00
TOTAL AMOUNT	17.00

STATE OF TENNESSEE, WILLIAMSON COUNTY

SADIE WADE  
REGISTER OF DEEDS**PARTIAL RELEASE OF DEED OF TRUST**

For and in consideration of TEN and 00/100 Dollars (\$10.00) in hand paid and other good and valuable consideration the receipt and sufficiency of which is hereby acknowledged by the parties hereto, the undersigned, **2012-SIP-1 VENTURE, LLC** (the "Beneficiary"), a Delaware limited liability company, as owner and holder of the indebtedness described in and secured by that certain Deed of Trust dated November 29, 2006, executed by JOHN D. RING and TYLER L. RING, as Grantors, to Andrew M. Hawkins, as Trustee, and filed of record in **Book 4117, Page 205**, in the Office of the Register of Deeds of Williamson County, Tennessee, does hereby release, without any warranty, all of the liens now held by said Beneficiary by virtue of said Deed of Trust in and to that portion of the property situated in Williamson County, Tennessee, and described below, and to this end, Beneficiary quitclaims and conveys to Grantors, their, successors and assigns, all of its right, title and interest in the following property located in Williamson County, Tennessee, to wit:

Being Lot 811, SECTION EIGHT, LEGENDS RIDGE, as shown on plat of record in Plat Book 28, Page 62, in the Register's Office, Williamson County, Tennessee, to which plat reference is hereby made for a more particular description of said property.

This is a partial release and applies only to the portion of the property described above, it being understood that said liens shall remain and continue in full force and effect as to all other real property and improvements, as described in said Deed of Trust.

IN WITNESS WHEREOF, the said Beneficiary has caused this instrument to be executed by and through its duly authorized officer this the 30<sup>th</sup> day of May, 2014.

[SIGNATURE ON FOLLOWING PAGE]





3

This instrument prepared by:  
Bryan D. Spicer  
Attorney at Law  
342 Cool Springs Blvd.  
Suite 202  
Franklin, TN 37067

Maximum principal indebtedness for  
Tennessee recording tax purposes is  
\$250,000.00

**COLLATERAL ASSIGNMENT OF NOTE, DEED OF TRUST  
AND OTHER LOAN DOCUMENTS**

KNOW ALL MEN BY THESE PRESENTS, that Craig V. Gabbert, Jr., as trustee for SJ&TA, LLC, a Tennessee limited liability company, and having a mailing address of 333 Commerce Street, Suite 1500, Nashville, TN 37201 ("Assignor"), for and in consideration of TEN DOLLARS (\$10.00) and other good and valuable consideration, receipt and sufficiency of which are hereby acknowledged, does hereby grant, bargain, sell, assign, transfer and set over unto and in favor of Citizens First Bank, having a mailing address of 1065 Ashley St, Suite 150, Bowling Green, KY 42103 ("Assignee"), all of the rights, title and interest of the Assignor in and to the following:

(a) that certain Promissory Note, dated as of June 25, 2010, executed by Tenn. Contractors, Inc., a Tennessee corporation, in favor of Tennessee Commerce Bank, in the original principal amount of \$1,000,000.00 ("1.0MM Note"); and that certain Promissory Note, dated as of June 25, 2010, executed by Tenn. Contractors, Inc., a Tennessee corporation, in favor of Tennessee Commerce Bank, in the original principal amount of \$500,000.00 ("500M Note"); and that certain Promissory Note, dated as of December 12, 2007, executed by Lynnwood Utility Corporation, a Tennessee corporation, in favor of Tennessee Commerce Bank, in the original principal amount of \$1,000,000.00, said note having been modified by a Change in Terms Agreement dated February 1, 2008, said note having been renewed by a renewal Promissory Note, dated as of April 20, 2009, executed by Lynnwood Utility Corporation, a Tennessee corporation, in favor of Tennessee Commerce Bank, in the original principal amount of \$1,200,000.00 ("1.2MM Note"); (d) that certain Promissory Note, dated as of December 12, 2007, executed by Lynnwood Utility Corporation, a Tennessee corporation, in favor of Tennessee Commerce Bank, in the original principal amount of \$250,000.00 ("250M Note") (the 1.0MM Note, the 500M Note, the 1.2MM Note and the 250M Note and all renewal notes and change in terms agreements shall be collectively referred to as the "Notes"), the Notes were, as of the date hereof, assigned unto and in favor of the Assignor pursuant to four separate Assignment of Loan Documents (collectively the "Assignment Instrument");

(b) that certain Deed of Trust, dated as of June 25, 2010, executed by Tenn. Contractors, Inc., a Tennessee corporation in favor of Tennessee Commerce Bank, covering property commonly known as The Hamptons at Campbell Station, Spring Hill, Williamson County, Tennessee, and recorded as Book 5082 Page 338, in the Register's Office of Williamson County, Tennessee; said Deed of Trust having been assigned to 2012-SIP-1 Venture, LLC by an Assignment of Real Estate Deed of Trust recorded in Book 5732, Page 322, in the Register's Office of Williamson County, Tennessee (the "500M Deed of Trust") and that certain Deed of



This instrument prepared by:  
Bryan D. Spicer  
Attorney at Law  
342 Cool Springs Blvd.  
Suite 202  
Franklin, TN 37067

Maximum principal indebtedness for  
Tennessee recording tax purposes is  
\$500,000.00

**COLLATERAL ASSIGNMENT OF NOTE, DEED OF TRUST  
AND OTHER LOAN DOCUMENTS**

KNOW ALL MEN BY THESE PRESENTS, that Craig V. Gabbert, Jr., as trustee for SJ&TA, LLC, a Tennessee limited liability company, and having a mailing address of 333 Commerce Street, Suite 1500, Nashville, TN 37201 ("Assignor"), for and in consideration of TEN DOLLARS (\$10.00) and other good and valuable consideration, receipt and sufficiency of which are hereby acknowledged, does hereby grant, bargain, sell, assign, transfer and set over unto and in favor of Citizens First Bank, having a mailing address of 1065 Ashley St, Suite 150, Bowling Green, KY 42103 ("Assignee"), all of the rights, title and interest of the Assignor in and to the following:

(a) that certain Promissory Note, dated as of June 25, 2010, executed by Tenn. Contractors, Inc., a Tennessee corporation, in favor of Tennessee Commerce Bank, in the original principal amount of \$1,000,000.00 ("1.0MM Note"); and that certain Promissory Note, dated as of June 25, 2010, executed by Tenn. Contractors, Inc., a Tennessee corporation, in favor of Tennessee Commerce Bank, in the original principal amount of \$500,000.00 ("500M Note"); and that certain Promissory Note, dated as of December 12, 2007, executed by Lynnwood Utility Corporation, a Tennessee corporation, in favor of Tennessee Commerce Bank, in the original principal amount of \$1,000,000.00, said note having been modified by a Change in Terms Agreement dated February 1, 2008, said note having been renewed by a renewal Promissory Note, dated as of April 20, 2009, executed by Lynnwood Utility Corporation, a Tennessee corporation, in favor of Tennessee Commerce Bank, in the original principal amount of \$1,200,000.00 ("1.2MM Note"); (d) that certain Promissory Note, dated as of December 12, 2007, executed by Lynnwood Utility Corporation, a Tennessee corporation, in favor of Tennessee Commerce Bank, in the original principal amount of \$250,000.00 ("250M Note") (the 1.0MM Note, the 500M Note, the 1.2MM Note and the 250M Note and all renewal notes and change in terms agreements shall be collectively referred to as the "Notes"), the Notes were, as of the date hereof, assigned unto and in favor of the Assignor pursuant to four separate Assignment of Loan Documents (collectively the "Assignment Instrument");

(b) that certain Deed of Trust, dated as of June 25, 2010, executed by Tenn. Contractors, Inc., a Tennessee corporation in favor of Tennessee Commerce Bank, covering property commonly known as The Hamptons at Campbell Station, Spring Hill, Williamson County, Tennessee, and recorded as Book 5082 Page 338, in the Register's Office of Williamson County, Tennessee; said Deed of Trust having been assigned to 2012-SIP-1 Venture, LLC by an Assignment of Real Estate Deed of Trust recorded in Book 5732, Page 322, in the Register's Office of Williamson County, Tennessee (the "500M Deed of Trust") and that certain Deed of