

**BEFORE THE TENNESSEE REGULATORY AUTHORITY**

**NASHVILLE, TN**

**July 21, 2016**

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**IN RE:**

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**PETITION OF TENNESSEE**

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**WASTEWATER SYSTEMS, INC., FOR**

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**APPROVAL OF SPECIAL CONTRACT**

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**DOCKET NO. 16-00083**

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**PETITION OF TENNESSEE WASTEWATER SYSTEMS, INC.,  
FOR APPROVAL OF SPECIAL CONTRACT**

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Tennessee Wastewater Systems, Inc. ("TWSI") petitions the Tennessee Regulatory Authority ("TRA") pursuant to TRA Rule 1220-4-1-.07 to review and approve the Special Contract ("Contract" or "LOU") between TWSI and LBR, LLC ("LBR"), together the "Parties". A copy of the Contract is attached as Exhibit "A". LBR cannot begin construction on its development until this Contract is approved so time is of the essence.

LBR is a developer in Williamson County, TN and desires to develop a residential subdivision on approximately 142 acres of property located at 6269 Lampkins Bridge Road. This property will accommodate approximately 133 single family residential lots. TWSI is a public wastewater utility and has a current Certificate of Convenience and Necessity (CCN 97-01393) for this property and has a regional treatment facility (Eudailey TF – SOP 05036) capable of providing wastewater service to the same. LBR wishes to engage TWSI to oversee and coordinate the engineering, design, construction, and permitting of the wastewater system for the new development subject to the terms agreed upon by the Parties in the attached Contract.

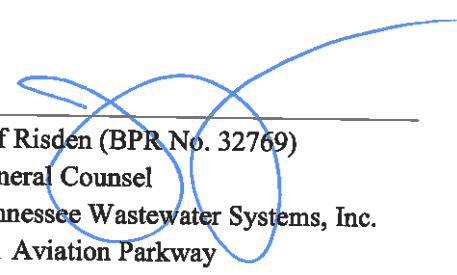
The Contract provides that TWSI will provide treatment and disposal capacity to the development project for the per lot capacity development fee of \$5500 dollars per lot. The capacity development fee includes, in addition to the treatment and disposal capacity, the treatment facility expansion, the drip field disposal expansion, the 40-day dry storage pond and fencing of the constructed components. The fee also includes the payment of engineering, soil mapping, and permit fees as required by local and state boards and agencies.

At the July 11, 2016 Authority Conference, the Directors unanimously approved a similar special contract between another developer and TWSI (Docket 16-00015).

TWSI respectfully requests the TRA, pursuant to TRA Rule 1220-4-1-.07, to review and approve the Contract in a timely manner so that LBR may begin construction in the development.

Respectfully submitted,

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



Jeff Riden (BPR No. 32769)  
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**BEFORE THE TENNESSEE REGULATORY AUTHORITY**

**NASHVILLE, TN**

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<b>PETITION OF TENNESSEE</b>	)	<b>DOCKET NO.</b>
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**DIRECT TESTIMONY OF CHARLES HYATT**

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**Q.** What is your name and occupation?

**A.** I am Charles Hyatt, president of Tennessee Wastewater Systems, Inc. ("TWSI").

**Q:** Are you familiar with the Petition that has been filed in this matter?

**A:** Yes.

**Q.** What is the purpose of your testimony?

**A.** The purpose of my testimony is to attest to the accuracy of the facts stated in the Petition and to provide additional information concerning TWSI's request.

**Q.** Please summarize the petition?

**A.** LBR, LLC ("LBR") intends to develop a residential subdivision in Williamson County, TN at 6269 Lampkins Bridge Road. The current plans are for the property to accommodate 133 single family residential lots. LBR needs wastewater service provided to the subdivision and TWSI holds a current CCN for the territory as well as owns and operates a regional treatment facility which services the territory.

TWSI has entered into an agreement with LBR to provide certain goods and services for the development of the wastewater treatment and collection system which includes providing treatment and disposal capacity, expansion of the current treatment facility, expansion of the drip

field, construction of the 40 day dry storage pond, fencing of the constructed components of the system, and payments to those responsible for engineering, soil mapping, and permit fees as required by local and state boards and agencies.

Q. Will TWSI receive a fee for providing these goods and services?

A. TWSI will receive a capacity development fee of \$5500 per platted lot. This fee is not part of our current tariff and is why we request to have this contract approved.

Q: Why is this fee less than other capacity development fees collected in the same area?

A: The fee is less because the developer is covering certain costs related to the soils and engineering work directly.

Q. How will the capacity development fee be accounted?

A. At the Authority conference on July 11, 2016 the Directors unanimously voted to approve a similar special contract between TWSI and another developer. In the order TWSI was directed to book the capacity development fee along with the \$1200 per lot fee as regulated revenue.

Q. Once collected, what will the capacity development fee be used for?

A. In addition to the obligations for which TWSI has agreed to be responsible for under the agreement, the purpose of the capacity development fee is to seed the funding of TWSI's capital account. The capital account will be used to pay for future upgrades to, expansion and new construction of TWSI owned wastewater systems. Examples of upgrades and expansions include the construction of force mains between developments and regional systems, installation of drip piping that is not presently required but will be in the future, and the installation of membrane filters at the membrane plant once it is required to go operational.

Q. Will the capital development fees be used for regular system operation and maintenance costs?

A. We do not consider the capacity development fee part of our operation and maintenance budget. The purposes for the capital development fund and the operation and maintenance fund are separate and distinct. The capacity development fee is to fund upgrades, expansion and construction of TWSI owned systems whereas the operation and maintenance budget is to address

routine repair, maintenance and operational issues that arise from the day to day use of TWSI's wastewater systems.

- Q. TWSI charges the developer a \$1200 per lot fee prior to signing the final plat for a development. Is the capacity development fee impacted by or associated with this \$1200 fee?
- A. No. The purpose of the \$1200 per lot fee is to help offset the costs TWSI incurs with respect to regulatory approvals, setting up new account databases, engineering review, and construction and tank inspections. The capacity development fee does not cover these items as its purpose is to provide for the capital needs of the utility. The \$1200 per lot fee addresses administrative costs.
- Q. Does this complete your testimony?
- A. Yes.

# AFFIDAVIT

My name is Charles Hyatt and the attached is direct testimony and is true and correct to the best of my knowledge.

C. R. Hyatt  
Charles Hyatt

County of Rutherford       )  
State of Tennessee       )

On this 21st day of July, 2016, personally appeared before me, the above-named Charles Hyatt known to me personally who was duly sworn and on oath executed the above Affidavit.

Susan R. Chaffin  
Notary

My commission expires: 02/20/2018



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## Letter of Understanding

This Letter of Understanding ("LOU") outlines the fundamental terms of agreement and intentions between Tennessee Wastewater Systems, Inc. ("TWS" or "the Utility"), and LBR, LLC. ("LBR").

Questions and comments should be directed to Keith Townsend at (615) 522-7865 or [keith.townsend@adenus.com](mailto:keith.townsend@adenus.com)

Dated: May 2, 2016

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The fundamental terms of agreement and intention between TWS and LBR are as follows:

A. **NONBINDING PROVISIONS.** The following numbered paragraphs of this Letter (collectively, "Nonbinding Provisions") reflect our mutual understanding of the matters described in them, but each party acknowledges that the Nonbinding Provisions are not intended to create or constitute any legally binding obligation between TWS and LBR, and neither TWS nor LBR shall have any liability to the other party with respect to the Nonbinding Provisions. Only when a fully integrated, Sewer Service Agreement and other related documents, are prepared, authorized, executed and delivered by and between all parties, would there be a binding agreement. If the Sewer Service Agreement is not prepared, authorized, executed or delivered for any reason, no party to this Letter shall have any liability to any other party to this Letter based upon, arising from, or relating to the Nonbinding Provisions.

1. LBR is a developer in Williamson County, TN, and desires to develop a residential subdivision on approximately 142 +/- acres of property, located at 6269 Lampkins Bridge Rd. (Tax Map 115, Parcel 115)(the "Property"). This property is proposing to accommodate approximately +/- 133 single-family residential lots (Equivalent Dwelling Units, or EDU's). This lot count will be used for this Letter of Understanding only.
2. TWS is a wastewater utility and has a current Certificate of Convenience and Necessity (CCN) for this property, and has a Regional Facility (Eudailey TF - SOP-05036) capable of providing wastewater service to the same. LBR has retained the engineering firm of SEC Inc. (SEC) to provide wastewater collection line design, DDR, site plan and landscaping design of storage pond. Additionally, LBR has retained the services of Lonnie Norrod Soil Consulting LLC (Norrod) to provide soil testing, pit descriptions and DSIR.
3. TWS will coordinate the design requirements of the reuse distribution system with LBR's engineer, as well as the location of the regional collection/reuse mains, and hydraulic requirements.

4. Regarding the design of the wastewater system, LBR agrees to:
  - Require SEC to design the residential subdivision site plan to accommodate the wastewater collection system, the regional reuse distribution system (easements, buffers, etc.), and the project site disposal system (collectively, the wastewater system) to the specifications of TWS, and to provide a copy of the site plans to TWS for review, and inclusion into the wastewater system plans.
  - TWS will prepare the regional reuse distribution system design plans,
  - Require SEC to prepare the wastewater system plans, and will submit plans to TWS for review and approval prior to submitting the plans to the Tennessee Department of Environment and Conservation and the Williamson County Planning Department (WCPD) for review and approval.
5. TWS agrees to prepare, or to have prepared, all necessary reports, and applications, including but not limited to state operating permits and zoning certificates, for TWS to operate the wastewater treatment and disposal system. TWS must approve all submittals.
6. LBR understands that a Design Development Report (DDR) and a Detailed Soils Investigation Report (DSIR) must be performed in order to develop property using a drip irrigation system for the disposal of treated wastewater in Williamson County, TN. SEC, in conjunction with Norrod will prepare the DDR/DSIR, and will submit reports to TWS. TWS will review the DDR/DSIR to ensure compliance with the requirements of the reports and with TWS requirements.
7. SEC will submit all plans and reports to regulatory agencies (County, or State), after review and approval from TWS, which approval shall be in writing.
8. LBR understands that the expansion of the Eudailey TF will require encroachment upon land areas already identified as reserve soils to meet County requirements. LBR will be required to allocate additional suitable soils to partially compensate for the losses. TWS agrees to propose an equitable allocation for recouping the needed soils from LBR (see item #10).
9. TWS will lay or have caused to be laid the regional main line and reuse distribution line to a stubout at the southeast corner of the property at Lampkins Bridge Road as shown in Exhibit 1.
10. LBR agrees to provide the following for engineering and construction of the treatment, disposal, and sewer collection system:
  - 3000 SF of good soil - soil must provide 0.2 gpd/SF disposal capacity to meet this requirement - per home (EDU's) proposed for disposal/recycling, plus an additional 150 SF of good soil per home for existing reserve area losses.



- (Approximately 418,950 SF, plus buffers). These soils will be transferred to TWS by warranty deed at the platting of Phase I of the proposed development.
- Adequate land for the construction of a 40-day dry storage pond, as required by Williamson County, with an access easement provided in a form acceptable to TWS, and Williamson County.
  - 3 original copies of an Extra High Intensity soil map (50' grid), to include pit observations, by a Tennessee Certified Soil Scientist of the drip field areas.
  - Topography map (digital AutoCAD .dwg file) of the entire proposed property @ a 2' contour interval.
  - Provide to TWS overall site plan of the proposed project, with proposed stormwater drainage plans, to include storage pond grading plans (digital AutoCAD .dwg file).
  - Lay/Install sewer collection regional main lines, reuse distribution lines, and residential collection lines on the property per requirements of TWS approved plans and specifications, to include any required pump stations and residential service taps, and any force mains required to connect any pump station to the collection main lines returning to the Budailey TF.
  - Single phase, 100 amps, underground electrical service to any required pump stations on the property.
  - Maintain (mow) the area of soil map grid staking until construction has begun.
  - Dedicate easements as dictated by the final design plans for access to the collection, treatment and reuse/disposal system, the storage impoundment, and for the residential services.
11. TWS needs piping infrastructure installed through LBR development to accommodate future development/expansion to the Regional system. TWS will give a credit for the cost of up-sizing the collection FM, and reuse FM. The credit will be the difference in the cost of the actual PVC pipe. LBR agrees to provide for any easements on the property necessary for TWS to extend this infrastructure during development of the project.
12. TWS has the right to extend these mains at any time it sees fit.
13. TWS will provide treatment and disposal capacity to the project. LBR or its assignee will be responsible for the per lot capacity development fee of \$5,500.00 per lot. Payment of the fees will be due when the final plat is presented to TWS for signature. Any per lot credits will be applied at this time.
14. The \$5,500.00 per lot capacity development fee will include:
- Construction of treatment and disposal capacity for the project, to include the TF expansion, the drip field disposal expansion, the 40-day dry storage pond, providing the stubout of the distribution and reuse lines as described above and fencing of the constructed components with four-rail wood fence

Lampkins Crossing – Lampkins Bridge Road  
Letter of Understanding  
Tom Moon  
April 19, 2016

- Any other professional report fees/costs necessary to LBR for preparation and performance of the work, and submitted to TWS for approval.
- LBR will be responsible for invoices for applicable and relevant work performed by SEC and Norrod pursuant to the Waste Treatment Site Plan submitted to WCPD.

\*No home will be released to connect to the sewer collection system, or to the treatment and disposal system, until the Developer has paid all sewer development fees less applicable credits.

15. TWS will assume ownership of the treatment, disposal, and collection system once inspections are approved and accepted by TWS. LBR or its assignee will be required to pay TWS a \$1200.00 per lot fee for all lots presented to TWS for final plat signing. The \$1200.00 per lot fee will be due at the time TWS is requested to sign the final plat for recording (Ex. 10 lots presented for final plat \* \$1200.00 per lot = \$12,000.00 due by LBR or its assignee to TWS at plat signing).

\*This fee covers regulatory coordination, new customer accounts database set-up, engineering review, and construction inspection (sewer collection/reuse mains, subdivision collection mains, individual residential tank and lot services, etc.).

16. LBR agrees to post any bond amounts required by the WCPD for the collection system on the property, prior to final plat being signed by TWS.
17. Cost of tankage, components, etc, for each individual residence site and installation of sewer collection/reuse main lines, pump stations, and lot services are outside the scope of this agreement.
18. LBR agrees that changes made to TDEC regulations, or to TRA rules, or to Williamson County regulations after the date of this understanding are beyond the control of TWS and could likely cause a change to the proposed costs. Assuming that no regulation changes occur, the costs and fees presented in this understanding shall be valid for a period of not more than one (1) year from the date at the beginning of this understanding, regardless of the date the parties sign. Any contracts, or agreements, between the parties that are not signed within this one-year time limit will be revised to reflect costs in effect at that time.

B. **BINDING PROVISION.** Upon execution by TWS and LBR, this Letter or counterparts thereof, the following numbered paragraphs of this Letter (collectively, "Binding Provisions") will constitute the legally binding and enforceable agreement of TWS and LBR (in recognition of the significant costs to be borne by TWS and LBR in pursuing this proposed transaction and further in consideration of their mutual undertakings as to the matters described herein).

Lampkins Crossing – Lampkins Bridge Road  
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14. LBR acknowledges and accepts the aforementioned terms of agreement and intention.

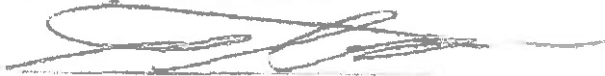
**Tennessee Wastewater Systems, Inc.**  
**Utility - Charles Hyatt**

  
\_\_\_\_\_

Title: President

Date: 5-2-2016

**LBR, LLC**  
**Developer – Tom Moon**

  
\_\_\_\_\_

Title: Chief Manager

Date: 5/3/16