

BUTLER | SNOW

November 9, 2018

**VIA ELECTRONIC FILING**

Hon. David Jones, Chairman  
c/o Sharla Dillon  
Tennessee Public Utilities Commission  
502 Deaderick Street, 4<sup>th</sup> Floor  
Nashville, TN 37243

**RE: *Joint Petition of Tennessee-American Water Company, and Thunder Air, Inc. d/b/a Jasper Highlands Development, Inc. for Approval of a Purchase Agreement and for the Issuance of a Certificate of Convenience and Necessity***  
**TPUC Docket No. 18-00099**

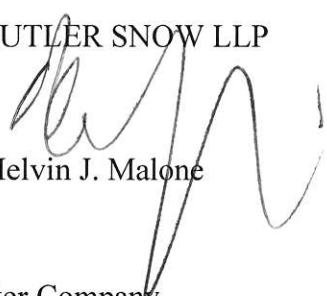
Dear Chairman Jones:

Attached for filing please find *Tennessee-American Water Company's Supplemental Response to First Discovery Request No. 4 of the Consumer Protection and Advocate Division* in the above-captioned matter.

As required, an original of this filing, along with four (4) hard copies, will follow. Should you have any questions concerning this filing, or require additional information, please do not hesitate to contact me.

Very truly yours,

BUTLER SNOW LLP

  
Melvin J. Malone

clw

Attachment

cc: Linda Bridwell, Tennessee-American Water Company  
Daniel Whitaker, Consumer Protection and Advocate Division  
William H. Horton, Counsel for Thunder Air, Inc.

*The Pinnacle at Symphony Place  
150 3rd Avenue South, Suite 1600  
Nashville, TN 37201*

44892658.v1

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BUTLER SNOW LLP

**BEFORE THE TENNESSEE PUBLIC UTILITY COMMISSION  
NASHVILLE, TENNESSEE**

**JOINT PETITION OF TENNESSEE-  
AMERICAN WATER COMPANY AND  
THUNDER AIR, INC. D/B/A JASPER  
HIGHLANDS DEVELOPMENT, INC.  
FOR APPROVAL OF AN ASSET  
PURCHASE AGREEMENT AND FOR  
THE ISSUANCE OF A CERTIFICATE  
OF CONVENIENCE AND NECESSITY** )  
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**DOCKET NO. 18-00099**

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**TENNESSEE-AMERICAN WATER COMPANY'S SUPPLEMENTAL RESPONSE  
TO FIRST DISCOVERY REQUEST NO. 4 OF  
THE CONSUMER PROTECTION AND ADVOCATE DIVISION**

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Tennessee-American Water Company ("TAWC"), by and through counsel, hereby submits its Supplemental Response to the First Discovery Request No. 4 propounded by the Consumer Protection and Advocate Division of the Office of the Attorney General ("CPAD").

**GENERAL OBJECTIONS**

1. TAWC objects to all requests that seek information protected by the attorney-client privilege, the work-product doctrine and/or any other applicable privilege or restriction on disclosure.
2. TAWC objects to the definitions and instructions accompanying the requests to the extent the definitions and instructions contradict, are inconsistent with, or impose any obligations beyond those required by applicable provisions of the Tennessee Rules of Civil Procedure or the rules, regulations, or orders of the Tennessee Public Utility Commission ("TPUC" or "Commission").

3. The specific responses set forth below are based on information now available to TAWC, and TAWC reserves the right at any time to revise, correct, add to or clarify the objections or responses and supplement the information produced.

4. TAWC objects to each request to the extent that it is unreasonably cumulative or duplicative, or seeks information obtainable from some other source that is more convenient, less burdensome or less expensive.

5. TAWC objects to each request to the extent it seeks information outside TAWC's custody or control.

6. TAWC's decision, now or in the future, to provide information or documents notwithstanding the objectionable nature of any of the definitions or instructions, or the requests themselves, should not be construed as: (a) a stipulation that the material is relevant or admissible, (b) a waiver of TAWC's General Objections or the objections asserted in response to specific discovery requests, or (c) an agreement that requests for similar information will be treated in a similar manner.

7. TAWC objects to those requests that seek the identification of "any" or "all" documents or witnesses (or similar language) related to a particular subject matter on the grounds that they are overbroad and unduly burdensome, and exceed the scope of permissible discovery.

8. TAWC objects to those requests that constitute a "fishing expedition," seeking information that is not relevant or reasonably calculated to lead to the discovery of admissible evidence and is not limited to this matter.

9. TAWC does not waive any previously submitted objections to the CPAD's discovery requests.

**SUPPLEMENTAL RESPONSE TO DISCOVERY REQUEST NO. 4**

4. How Thunder Air, Inc. justifies the operation of the utility without a Certificate of Public Convenience and Necessity?

**RESPONSE:**

The provision of water services by Thunder Air, Inc. is consistent with Tenn. Code Ann. § 65-4-101(6)(B)(i). We will supplement this response with JHPOA's organizational documentation on file with the Tennessee Secretary of State (SOS Control #000685272). A consent from JHPOA to the acquisition that is the subject of the Joint Petition, along with a lease and a management agreement between JHPOA and Thunder Air, Inc., are attached hereto as **COLLECTIVE EXHIBIT D**.

**SUPPLEMENTAL RESPONSE:**

The consent of JHPOA to the acquisition was not attached as a part of **COLLECTIVE EXHIBIT D** in the original response filed on November 6, 2018. JHPOA's consent to the acquisition is attached to this supplemental response as **EXHIBIT E**. A certified copy of JHPOA's charter, along with JHPOA'S Certificate of Existence/Authorization and its most recently submitted Tennessee Corporation Annual Report Form, are attached to this supplemental response as **COLLECTIVE EXHIBIT F**.



# Exhibit E

## CONSENT

THIS CONSENT is made and entered into as of the 6<sup>th</sup> day of August, 2018, by and between Thunder Air, Inc., a Tennessee corporation ("Thunder") and Jasper Highlands Property Owners' Association, Inc., a Tennessee nonprofit corporation ("JHPOA").

## RECITALS

1. JHPOA operates a water system for the exclusive use of the residents of the Jasper Highlands development in Marion County, Tennessee, having been unable to obtain water services directly from the South Pittsburg Board of Water Works and Sewers.
2. Thunder owns the infrastructure of the water system, which provides water services to customers in the Jasper Highlands, and is responsible for managing the water system under an agreement with JHPOA;
3. JHPOA holds the customer information for the water system and handles the billing for water services;
4. Thunder desires to sell the water system and Tennessee American Water Company ("TAWC") desires to purchase the water system and take over management of the system with JHPOA's responsibilities terminated;
5. JHPOA desires to consent to the transfer of the water system to TAWC.

NOW THEREFORE, in consideration of the mutual promises and conditions stated herein, the parties agree as follows:


1. Recitals. The foregoing recitals are herein fully incorporated by reference the same as if fully incorporated herein.
2. Agreement. JHPOA consents to the transfer of the water system. The parties agree to terminate the management arrangement regarding the water system. At the closing of the transfer, JHPOA will deliver all information in its possession regarding the water system to TAWC, including but not limited to, customer addresses and account information.
3. Governing Law. This Consent shall be governed by the laws of the State of Tennessee.
4. Counterparts. This Consent may be executed in two (2) or more counterparts, each of which shall be deemed to be an original. Execution and delivery of this Consent by delivery of a facsimile or .pdf copy bearing the facsimile or .pdf signature of a party shall constitute a valid and binding execution and delivery of this Consent by such party.

IN WITNESS WHEREOF, the parties have executed this Consent as of the date first above written.

THUNDER AIR, INC.

By:   
Its: SECRETARY CFO

JASPER HIGHLANDS PROPERTY OWNERS'  
ASSOCIATION, INC.

By:   
Its: CEO & Director



# Collective Exhibit F





**Tre Hargett**  
Secretary of State

**Division of Business Services**  
**Department of State**  
**State of Tennessee**  
312 Rosa L. Parks AVE, 6th FL  
Nashville, TN 37243-1102

CFS  
SUITE B  
992 DAVIDSON DRIVE  
NASHVILLE, TN 37205

**Request Type: Certified Copies**  
Request #: 295469

Issuance Date: 11/07/2018  
Copies Requested: 1

**Document Receipt**

Receipt #: 004366227

Filing Fee: \$20.00

Payment-Account - #00009 CFS, NASHVILLE, TN

\$20.00

I, Tre Hargett, Secretary of State of the State of Tennessee, do hereby certify that **JASPER HIGHLANDS PROPERTY OWNERS' ASSOCIATION, INC**, Control # 685272 was formed or qualified to do business in the State of Tennessee on 05/02/2012. JASPER HIGHLANDS PROPERTY OWNERS' ASSOCIATION, INC has a home jurisdiction of TENNESSEE and is currently in an Active status. The attached documents are true and correct copies and were filed in this office on the date(s) indicated below.

Tre Hargett  
Secretary of State

Processed By: Nichole Hambrick

The attached document(s) was/were filed in this office on the date(s) indicated below:

<u>Reference #</u>	<u>Date Filed</u>	<u>Filing Description</u>
7051-0190	05/02/2012	Initial Filing
B0488-2193	01/26/2018	2017 Annual Report (Due 04/01/2018)

## CHARTER

### OF

#### **JASPER HIGHLANDS PROPERTY OWNERS' ASSOCIATION, INC.**

The undersigned natural person having the capacity to contract and acting as the Incorporator of corporation under the Tennessee Nonprofit Corporation Act, T.C.A. §48-51-101, et seq., adopts the following Charter for the Corporation:

1. **NAME:** The name of the Corporation is:

#### **JASPER HIGHLANDS PROPERTY OWNERS' ASSOCIATION, INC.**

2. **PRINCIPAL OFFICE:** The address of the principal office of the Corporation in the State of Tennessee shall be 210 Battle Creek Road, South Pittsburg, Marion County, Tennessee, 37380. The mailing address of the Corporation is Post Office Box 4737, Chattanooga, Hamilton County, Tennessee, 37405.

3. **REGISTERED AGENT:** The initial registered agent for service of process for the Corporation is Mr. Dane Bradshaw, 210 Battle Creek Road, South Pittsburg, Marion County, Tennessee 37380.

4. **MUTUAL BENEFIT CORPORATION:** The Corporation is a not for profit mutual benefit Corporation.

5. **PERPETUAL:** The existence of the Corporation is perpetual.

6. **INCORPORATOR:** The name and address of the Incorporator is:

John H. Cameron, Jr.  
28 Courthouse Square, Ste. 100  
Post Office Box 759  
Jasper, Marion County, Tennessee 37347

7. **MEMBERS:** The Corporation shall have members. Every member or entity who is a record owner of a lot in Jasper Highlands Subdivision located in Marion County,

Tennessee ("Jasper Highlands") pursuant to Declaration of Covenants, Conditions, and Restrictions of Jasper Highlands ("Declarant") as amended from time to time, may be a member for so long as the member shall continue to be a record owner. Persons or entities who hold an interest merely as security for the performance of an obligation are not members of the Corporation. Membership shall be appertent to and may not be separated from ownership of any lot which is subject to assessment by the Corporation.

8. **PURPOSE:** The Corporation is organized for the purpose of carrying on one or more of the exempt functions of an owner's association for which a not for profit corporation may be organized under the Tennessee Non-Profit Corporation Act, including but not limited or restricted in any way through a Board of Directors the business activities, management, maintenance, care and preservation of Jasper Highlands.

Further purposes of the Corporation include the promotion of the health, safety, and welfare of the Owners of Jasper Highlands and in addition thereto the power to:

(a) Fix, levy and collect payment of all charges and assessments including such licenses, taxes or other governmental charges as may be levied or imposed against the Corporation.

(b) Have and exercise any and all powers, rights and privileges which a Corporation organized under the provisions of the Tennessee Non-Profit Corporation Act relating to not for profit corporations may now or hereafter have or exercise.

9. **LIMITATION OF LIABILITY:** To the fullest extent permitted by the Tennessee Non-Profit Corporation Act and the laws of the State of Tennessee, no present or future Director of the Corporation (or his/her estate, heirs, and personal representatives) shall be liable to the Corporation or its members for monetary damages for any breach of



fiduciary duty as a Director of the Corporation.

10. **LIABILITY OF DIRECTOR:** Any liability of a Director (or his/her estate, heirs, or personal representatives) shall be further eliminated or limited to the fullest extent allowed by the laws of the State of Tennessee as may hereinafter be adopted or amended.

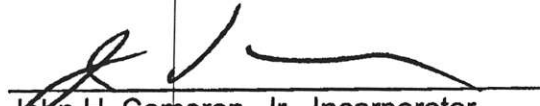
11. **DISSOLUTION:** The Corporation may be dissolved only if such dissolution is approved by the affirmative vote of at least two-thirds percent (2/3%) of the members. Upon dissolution of the Corporation, other than incident of a merger or consolidation, the assets of the Corporation, if any, shall be dedicated and conveyed to one (1) or more appropriate public agency on the express condition that such assets shall be devoted to purposes as nearly as practical to the same as those to which they were required to be devoted by the Corporation. In the event that such dedication is not accepted then in such assets shall be conveyed to a non-profit corporation, non-profit association, non-profit trust or other non-profit organization on the express condition that such assets shall be devoted to purposes as nearly practical as those which are required to be devoted by the Corporation.

12. **EARNINGS:** No part of the net earnings of the Corporation shall inure to the benefit of or be distributable to any of its members, directors, officers, or other private persons except through acquisition, construction, management, maintenance or care of the Corporation's profit or through the rebate of excess membership dues, fees or assessments. Notwithstanding this provisions reasonable compensation may be paid for services rendered to or for the Corporation affecting one (1) or more of its purposes.

13. **AMENDMENTS:** Amendment to this Charter shall require the affirmative vote of at least two-thirds percent (2/3%) of the members.

14. **EFFECTIVE DATE:** This document is to be effective upon the filing by the  
Secretary of State.

DATED: April 30, 2012.



John H. Cameron, Jr., Incorporator



**Tre Hargett**  
Secretary of State

**Division of Business Services**

**Department of State**

**State of Tennessee**

312 Rosa L. Parks AVE, 6th FL  
Nashville, TN 37243-1102

**BUTLER SNOW LLP**

SUITE 1600

150 3RD AVENUE SOUTH

NASHVILLE, TN 37201

November 7, 2018

**Request Type: Certificate of Existence/Authorization**

Request #: 0295399

Issuance Date: 11/07/2018

Copies Requested: 1

**Document Receipt**

Receipt #: 004365565

Filing Fee: \$20.00

Payment-Credit Card - State Payment Center - CC #: 3743355272

\$20.00

**Regarding: JASPER HIGHLANDS PROPERTY OWNERS' ASSOCIATION, INC**

Filing Type: Nonprofit Corporation - Domestic

Control #: 685272

Formation/Qualification Date: 05/02/2012

Date Formed: 05/02/2012

Status: Active

Formation Locale: TENNESSEE

Duration Term: Perpetual

Inactive Date:

Business County: MARION COUNTY

**CERTIFICATE OF EXISTENCE**

I, Tre Hargett, Secretary of State of the State of Tennessee, do hereby certify that effective as of the issuance date noted above

**JASPER HIGHLANDS PROPERTY OWNERS' ASSOCIATION, INC**

\* is a Corporation duly incorporated under the law of this State with a date of incorporation and duration as given above;

\* has paid all fees, interest, taxes and penalties owed to this State (as reflected in the records of the Secretary of State and the Department of Revenue) which affect the existence/authorization of the business;

\* has filed the most recent annual report required with this office;

\* has appointed a registered agent and registered office in this State;

\* has not filed Articles of Dissolution or Articles of Termination. A decree of judicial dissolution has not been filed.

Tre Hargett  
Secretary of State

Processed By: Cert Web User

**Verification #: 030463026**





06028571

**Tennessee Corporation Annual Report Form**File online at: <http://TNBear.TN.gov/AR>AR Filing #: 06028571  
FILED: Jan 26, 2018 3:04PM

Due on/Before: 04/01/2018

Reporting Year: 2017

**Annual Report Filing Fee Due:**\$20 if no changes are made in block 3 to the registered agent/office, or  
\$40 if any changes are made in block 3 to the registered agent/officeThis Annual Report has been successfully  
paid for and filed. Please keep this report for  
your records.**Payment-Credit Card - State Payment  
Center - CC #: 3719964786****SOS Control Number:** 685272

Nonprofit Corporation - Domestic

Date Formed: 05/02/2012

Formation Locale: TENNESSEE

**(1) Name and Mailing Address:**JASPER HIGHLANDS PROPERTY OWNERS' ASSOCIATION  
104 BATTLECREEK RD  
SOUTH PITTSBURG, TN 37380-6308**(2) Principal Office Address:**104 BATTLECREEK RD  
SOUTH PITTSBURG, TN 37380-6308**(3) Registered Agent (RA) and Registered Office (RO) Address:**WILLIAM H HORTON  
STE 306  
735 BROAD ST  
CHATTANOOGA, TN 37402-2915Agent Changed: YesAgent County: MARION COUNTY**(4) Name and business address (with zip code) of the President, Secretary and other principal officers.**

Title	Name	Business Address	City, State, Zip
Secretary	Melissa Moss	104 BATTLECREEK RD	SOUTH PITTSBURG, TN 37380
Treasurer	John E Henegar	104 BATTLECREEK RD	SOUTH PITTSBURG, TN 37380
President	Christopher D Bradshaw	104 BATTLECREEK RD	SOUTH PITTSBURG, TN 37380-

**(5) Board of Directors names and business address (with zip code). None, or listed below.**

Name	Business Address	City, State, Zip
Christopher D Bradshaw	104 BATTLECREEK RD	SOUTH PITTSBURG, TN 37380
Clarence L Howard	104 BATTLECREEK RD	SOUTH PITTSBURG, TN 37380
John C Thornton	104 BATTLECREEK RD	SOUTH PITTSBURG, TN 37380-6308

**(6) This section applies to non-profit corporations ONLY.**

A. Our records reflect that your non-profit corporation is a public benefit or a mutual benefit corporation as indicated.

If blank or incorrect, please check appropriately: Public X MutualB. If a Tennessee religious corporation, please check here if blank: Religious**(7) Signature:** Electronic**(8) Date:** 01/26/2018**(9) Type/Print Name:** john e henegar**(10) Title:** treasurer

B0488-2193 01/26/2018 3:04 PM Received by Tennessee Secretary of State Tre Hargett

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:

Daniel Whitaker III  
Cynthia Kinser  
Consumer Protection and Advocate Division  
Office of the Tennessee Attorney General  
P.O. Box 20207  
Nashville, TN 37202-0207  
[Daniel.Whitaker@ag.tn.gov](mailto:Daniel.Whitaker@ag.tn.gov)  
[Cynthia.Kinser@ag.tn.gov](mailto:Cynthia.Kinser@ag.tn.gov)

This the 9<sup>TH</sup> day of November, 2018.

Melvin J. Malone

A handwritten signature in black ink, appearing to read 'Melvin J. Malone', is written over a horizontal line. The signature is stylized with several loops and a long, sweeping tail that extends downwards and to the right.