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AT CORP. COMMISSION
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Jay L. Shapiro (No. 014650)
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3 Phoenix, Arizona 85012
4 Attorneys for Chaparral City Water Company

5 **BEFORE THE ARIZONA CORPORATION COMMISSION**

7 IN THE MATTER OF THE APPLICATION
OF CHAPARRAL CITY WATER
8 COMPANY, INC., AN ARIZONA
CORPORATION, FOR AN ORDER
9 PRELIMINARY TO EXTENSION OF ITS
CERTIFICATE OF CONVENIENCE AND
10 NECESSITY PURSUANT TO A.R.S. § 40-
282.D.

DOCKET NO: W-02113A-05-0178

REQUEST FOR EXTENSION OF DEADLINES

12 Chaparral City Water Company, Inc. ("Chaparral City"), an Arizona public service
13 corporation, hereby submits this Request for Extension of Deadlines as set forth in
14 Decision No. 68238 (October 25, 2005) and Decision No. 70608 (November 12, 2008).
15 Chaparral City asks for this relief at the request of the owner of the property that is the
16 subject of these decisions.

17 In summary, the Arizona State Land Department requested that Chaparral City
18 extend service to a parcel of state trust land containing approximately 1,300 acres that is
19 adjacent to Chaparral City's service territory to facilitate the sale of the property. Because
20 the development plan and ultimate use of the property was unknown, Chaparral City
21 applied for an Order Preliminary under A.R.S. § 40-282(D). The Commission granted
22 Chaparral City's application in Decision No. 68238 ("the Order Preliminary"). The Order
23 Preliminary imposed certain requirements that must be satisfied for the parcel to be
24 included within Chaparral City's Certificate of Convenience and Necessity ("CC&N").

25 Thereafter, the Fountain Hills Investment Company, LLC ("FHIC"), an affiliate of
26 The Ellman Companies, purchased the state land parcel. However, FHIC encountered

1 difficulties in connection with its development planning, and Chaparral City requested an
2 extension of the deadlines in the Order Preliminary. That request was granted in Decision
3 No. 70608.

4 Earlier this year, FHIC contacted Chaparral City and requested that the utility seek
5 additional time to comply with the deadlines established in Decision No. 70608 because
6 approval delays outside its control have left the developer unable to provide the
7 information necessary to obtain a final order approving expansion of Chaparral City's
8 CC&N. A copy of FHIC's letter to Chaparral City is attached hereto as **Exhibit A** and
9 incorporated herein by reference. According to this letter, and based on information
10 provided to the Company, FHIC could not proceed to the preliminary plat stage because
11 of a public referendum and pending litigation. This litigation has since been resolved in
12 FHIC's favor, allowing it to move forward with its preliminary plat for the property.

13 On February 4, 2010, FHIC received the Town of Fountain Hills' approval of its
14 preliminary plat. Immediately upon the Town's approval of the preliminary plat, the
15 developer began working with Chaparral City to outline the next steps in achieving the
16 conditions set forth in Decision No. 68238. At this time, the parties have begun the
17 engineering process, including determination of water supply and demand, and are set to
18 negotiate and memorialize the necessary agreements.

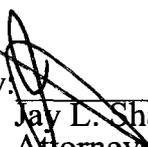
19 Under these circumstances, Chaparral City agreed to make this request on behalf of
20 FHIC, as it appears that progress is being made towards the development of the property,
21 and, more importantly, the delay will not negatively impact the opportunity for the
22 Company and the Commission to ensure that the final extension of the CC&N fulfills all
23 requirements and serves the public interest. Chaparral City must still comply with the
24 conditions set forth in the Order Preliminary, including submission of a main extension
25 agreement for approval. Consequently, the Commission will have an opportunity to
26 review the extension of Chaparral City's CC&N if the deadline for compliance with the

1 Order Preliminary is extended. The same is true of Chaparral City's opportunity to ensure
2 that growth pays for itself to the maximum extent possible, in accordance with the
3 Commission's rules and policies governing the extension of water utility service. The
4 relief requested would simply extend the compliance deadline and does not eliminate or
5 alter any of the requirements adopted in the Order Preliminary.

6 For the foregoing reasons, Chaparral City respectfully requests that the deadline for
7 compliance with the conditions set forth in Decision No. 68238, as amended by Decision
8 No. 70608, be further extend until February 1, 2011.

9 DATED this 3rd day of June, 2010.

10 FENNEMORE CRAIG, P.C.

11
12 By: 
13 Jay L. Shapiro
14 Attorneys for Chaparral City Water
Company

15 **ORIGINAL**, and 13 copies
16 filed this 3rd day of June, 2010 with:

17 Docket Control
18 Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

19 **COPY** hand-delivered
20 this 3rd day of June, 2010 to:

21 Dwight D. Nodes
Assistant Chief Administrative Law Judge
Hearing Division
22 Arizona Corporation Commission
1200 West Washington Street
23 Phoenix, Arizona 85007

24 Janice Alward, Esq.
Legal Division
25 Arizona Corporation Commission
1200 West Washington Street
26 Phoenix, Arizona 85007

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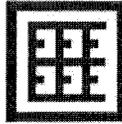
Steven M. Olea, Director
Utilities Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

By: *Mauro San Jose*

2318476

CHAPARRAL CITY WATER COMPANY, INC.
DOCKET NO: W-02113A-05-0178

Exhibit A



THE ELLMAN COMPANIES
International Real Estate and Corporate Investments
Established 1972

April 13, 2010

Mr. Ernest Gisler
Chaparral City Water Company
3035 Prospect Park Drive, Suite 60
Rancho Cordova, California 95670

Re: Request for Extension of Time to Comply with Order 68238 (Order Preliminary)

Dear Mr. Gisler:

We are writing to request immediate assistance from the Chaparral City Water Company ("Chaparral") regarding the extension of the Order Preliminary for the Fountain Hills Investment Company, LLC ("FHIC"). As you know, FHIC desires that Chaparral provide water service to approximately 1,300 acres of property located adjacent to the Town of Fountain Hills (the "Property"). The Order Preliminary: Decision No. 68238 (the "Order"), grants Chaparral City Water Company ("Chaparral") preliminary approval to extend its Certificate of Convenience and Necessity ("CC&N") to include the Property upon certain conditions. However, the Order will expire on **April 25, 2010** if the conditions set forth in the Order are not met.

Due to approval delays not within FHIC's control, FHIC has been unable to provide Chaparral with all of the information necessary to obtain a final order approving expansion of the Chaparral's CC&N prior to the quickly approaching compliance expiration date. Nevertheless, we must underscore the fact that significant progress has been made since our last request for an extension. For example, at the time of the last extension, FHIC could not proceed to the preliminary plat stage because of a public referendum and pending litigation in the Arizona Supreme Court and the Arizona Appellate Court. This litigation has since been resolved in FHIC's favor, allowing FHIC to move forward with its preliminary plat for the Property. On February 4, 2010, FHIC finally received the Town of Fountain Hill's approval of its preliminary plat. A copy is attached for your review.

Immediately upon the Town's approval of the preliminary plat, FHIC began diligently working with Chaparral to outline the next steps in achieving the conditions set forth in the Order. After several letters, correspondence and telephone calls, we were able to meet on March 18, 2010 and discuss FHIC's water demands, Chaparral's system capacity and proposed engineering plans, all of which culminated in a letter agreement between FHIC and Chaparral on March 31, 2010. As you know, extending the Order has been a key concern of FHIC. We continue to seek Chaparral's assistance in obtaining an extension through December 31, 2010.

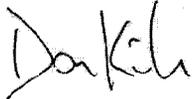
Mr. Ernest Gisler
Chaparral City Water Company
April 13, 2010

FHIC believes Chaparral is the appropriate utility company to provide water service to the Property as it previously received uncontested preliminary approval to expand its CC&N and remains the only water purveyor in the vicinity capable of providing public water service to the Property. We now have an approved preliminary plat and can proceed with the engineering necessary to comply with the Order. While we understand that Chaparral may resubmit for a new CC&N extension application upon the expiration of the Order, FHIC is concerned that the expiration will not serve judicial economy and that it may increase the timeline relating to FHIC's development of the Property. Thus we believe an extension through December 31, 2010 would best serve the resources of all parties concerned and FHIC is prepared to meet with the ACC staff to assist in this process.

For the reasons discussed above, FHIC requests Chaparral's assistance in obtaining an extension of the Order Amending Decision No. 68238 through the end of this year. Now that FHIC and Chaparral have a plan of action, we believe all the conditions can be met prior to December 31, 2010.

Respectfully,

FOUNTAIN HILLS INVESTMENT COMPANY, LLC



Don Kile, President
Master Planned Communities

Enclosure

cc: Lee Storey, Ballard Spahr
John LeSueur, Arizona Corporation Commission