

AGREEMENT CONCERNING CONTINUANCE OF TRIAL AND PAYMENT OF SUMS PAST DUE

This Agreement Concerning Continuance of Trial and Payment of Sums Past Due ("Agreement") is made and entered as of the dates set forth below, by the City of Colorado Springs, a Colorado home-rule city and municipal corporation, acting by and through its enterprise Colorado Springs Utilities, hereinafter called ("Utilities"), and Cascade Public Service Company, Inc. and Cascade Metropolitan District No. 1 (collectively "Plaintiffs").

Now, therefore, for good and valuable consideration, it is agreed as follows:

1. This Agreement is entered into in consideration for and as a condition of the Utilities' consent to Plaintiffs' and Plaintiff-Intervenor's Motion to Continue the Trial in the pending litigation between the parties.
2. For purposes of this Agreement only, the Plaintiffs accept Utilities' calculation of the amount of money past due to Utilities for treated water service provided to Plaintiffs under the June 14, 1990 Agreement ("1990 Agreement") between the City of Colorado Springs, the Cascade Public Service Company, and the Cascade Town Company. Utilities most recent calculation of the sums past due and owed to the Utilities is set forth in Exhibit A, attached hereto and incorporated herein by reference. The amount past due to Utilities will be finally determined by the judgment entered in this case, unless the parties otherwise agree on the amounts past due by separate written agreement.
3. Utilities sends Plaintiff, Cascade Public Service Company, two bills each month. The first bill includes the amount due for monthly water service deliveries provided by Utilities to Plaintiff. The second bill is the amount for monthly interest on past due amounts as set forth in the 1990 Agreement. During the term of this Agreement, Plaintiffs shall pay in full the amount of the monthly charges for water deliveries and accrued interest set forth in Utilities' monthly bills for water service and accrued interest. Such payment shall be made within 40 days after receipt of the bills as set forth in paragraph 11.a. of the 1990 Agreement.
4. On or before March 1, 2014, Plaintiff Cascade Metropolitan District No. 1 ("the District"), will consider imposition on all of its water customers an additional monthly fee, which must be \$25.00 per $\frac{3}{4}$ inch tap, and a pro-rated greater fee on all larger tap sizes. The amount of money collected from this

fee shall be paid by the District to Utilities monthly, and Utilities shall credit this additional payment against the accrued amounts past due by the Plaintiffs, as set forth in paragraph 2, above. Payment of the proceeds of the fee to Utilities shall begin in April 2014. Payment by the District of the amounts collected by the fee is required in addition to payment of Utilities' monthly bills for water service and interest.

5. During the term of this Agreement, upon imposition of the fee, the District will bill its customers monthly for water service, including the additional fee, and will diligently enforce collection of its water bills and the fee in its normal method.

6. All sums received by Plaintiffs from insurance, settlement, restitution, or any other payments received as compensation for losses related to the alleged embezzlement by Terry Malcom, shall be paid to Utilities within 15 days of receipt of such sums until the amount due, as described in paragraph 2 above, is paid in full. Utilities will credit any such payment against amounts due as determined under paragraph 2 above.

7. Plaintiffs shall not incur any new debts or other long-term, multiple-fiscal year financial obligations that are senior to the obligations set forth herein, and will not allow any new liens or encumbrances to be placed on any of their assets including, but not limited to, real property and water rights, that would (1) impair their ability to make payments to Utilities as required by this Agreement, or (2) be senior or superior to any judgment that may be obtained by Utilities in this matter.

8. During the term of this Agreement, Utilities and its representatives are entitled to inspect and audit the District's public financial books and records to ensure compliance with this Agreement during the term hereof. Plaintiffs shall maintain accurate documents, papers and records of (1) all amounts collected from their customers for water service; (2) all amounts collected under the fee required by paragraph 4 above; (3) all sums received by Plaintiffs from insurance, settlement, restitution, or any other payments received as compensation for losses related to the alleged embezzlement by Terry Malcom; (4) any new debts, other financial obligations, liens or encumbrances on Plaintiffs' assets; and (5) payments made to Utilities hereunder and under the 1990 Agreement in accordance with recognized accounting practices, and in a format that will permit audit, for a period of three (3) years after payment of the last invoice related to this Agreement. Such records shall be open to reasonable inspection and subject to audit and/or reproduction, during normal working hours, by Utilities or its authorized representatives, provided such documents are not subject to the mandatory non-disclosure requirements of the Colorado Open Records Act.

9. If the District fails to impose the fee required by paragraph 4 above, then Plaintiffs will forthwith notify the court and Utilities, and the court will set trial at the first available opening on its calendar that is more than 90 days from the date of notice to the court that the fee has not been imposed.

10. This Agreement shall be approved as an order of court, enforceable as such, and will be in effect until 30 days after entry of judgment in this matter. If, at any time the court determines that Plaintiffs have not materially complied with the terms of this Agreement, the court will set trial at the first available opening on its calendar that is more than 90 days from the date of its determination that Plaintiffs have not complied with the terms of this Agreement.

11. This Agreement is without prejudice to any claims or defenses of the parties in the lawsuit and is not admissible evidence at trial.

12. The undersigned represent and warrant that they are authorized to bind the respective parties to the terms of this Agreement.

13. This Agreement shall bind and benefit the parties hereto, and their successors and assigns. This Agreement shall be enforceable as an Agreement between the parties and, upon Court approval, as an order of the Court.

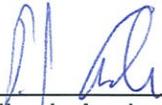
14. Each party shall bear its own costs and attorney fees associated with this Agreement.

15. Utilities may record a fully executed copy of this Agreement in the real property records maintained by the Clerk and Recorder's Office of El Paso County, Colorado.

16. Nothing herein shall constitute a waiver by either party of its rights and protections afforded under the Colorado Governmental Immunity Act, as it may be amended from time to time.

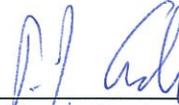
Agreed to on the dates indicated below.

Cascade Public Service Company

By: 
Philip J. Anderson
President

Date: 2/5/14

Cascade Metropolitan District No. 1

By: 
Philip J. Anderson
President

Date: 2/5/14

Colorado Springs Utilities

By: _____
Gary Bostrom,
Chief Water Services Officer

Date: _____