

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

In the Matter of the Application of Timber Creek)
Sewer Company for Authority Related to Financing.)

File No. SF-2024-0141

UNANIMOUS STIPULATION AND AGREEMENT

COME NOW Timber Creek Sewer Company (“Timber Creek”), the Office of the Public Counsel (“OPC”), and the Staff of the Missouri Public Service Commission (“Staff”) (collectively, the “Parties”), by and through counsel, and for their *Unanimous Stipulation and Agreement* in this matter hereby state as follows to the Missouri Public Service Commission (“Commission”):

1. On February 15, 2024, Timber Creek filed an *Application and Motion for Waiver*, requesting authorization to issue preferred stock in an amount not to exceed \$4 million. On February 16, 2024, the Commission issued its *Order Directing Staff to File Recommendation*, directing Staff to file its recommendation in this matter no later than March 18, 2024. Extensions as to the filing of the Staff’s recommendation were subsequently requested and granted for the purpose of allowing time for the Parties’ settlement discussions. Staff’s recommendation is currently due May 24, 2024.

2. The Parties have since reached this *Unanimous Stipulation and Agreement*, which, if approved, would resolve all issues in this matter.

FINANCING TERMS

3. The Approvals found below contemplate that Timber Creek will issue financing having the following characteristics:

Type of Issue: Cumulative Preferred Stock

Term: Shares issued shall bear a maturity date not to exceed five years with an option for Timber Creek to buy back at any time with 30 days’ notice. Shareholder

Redemption rights with 60 days' notice.

Rate: A variable rate equal to the most recent quarter-end Secured Overnight Financing Rate, as published on the St. Louis Federal Reserve's website,¹ plus 225 basis points adjusted quarterly based on quarter-end, **or** a fixed rate of 7.25%

Par Value: \$10,000 per share

Distribution: Dividends

Distribution Period: Quarterly

APPROVALS

4. Based upon the Financing Terms described above and the Additional Terms described below, the Parties agree and recommend that the Commission issue an Order waiving the 60-day notice requirement of Rule 20 CSR 4240-4.017(1) for good cause shown and authorizing Timber Creek to:

A. Issue preferred stock in the maximum principal amount of \$4,000,000, as described herein;

B. Enter into, execute, deliver and perform the necessary arrangements or other documents necessary to effectuate the transactions described herein; and,

C. Take such other actions as may be necessary to complete the subject transactions.

ADDITIONAL TERMS

5. The Approvals identified above shall be conditioned on the following Additional Terms:

¹ <https://fred.stlouisfed.org/series/SOFR>

A. Timber Creek will provide information regarding its efforts to seek traditional debt financing coincident with its next immediate filed rate case (“Rate Case One”), which shall be filed no later than April 1, 2026, unless all Parties to this Stipulation file notice with the Commission of an alternative agreement (for example, in the event of a delay based on a slower than expected construction schedule). Timber Creek further agrees to meet with Staff and OPC to discuss those efforts to seek traditional debt financing within 3 months after the issuance of a Commission order establishing new rates in Rate Case One.

B. Timber Creek will provide Staff and OPC with the results of its efforts to seek traditional debt financing, which shall include offers from at least two non-affiliated lending institutions of generally accepted repute (or provide a detailed explanation of why no such offers were able to be produced), at least two months prior to the commencement of its next consecutive rate case (the rate case occurring after Rate Case One) (“Rate case Two”), which shall be filed no later than April 1, 2027, unless all Parties to this Stipulation file notice with the Commission of an alternative agreement.

C. For the purposes of Rate Case Two and subsequent rate cases, the ratemaking cost of preferred stock (issued pursuant to this Application) shall not exceed the lowest-cost of the following three options: (1) the interest rate at which the preferred stock is currently calculating dividends, (2) any debt procured subsequent to the approval of this application, or (3) either of the offers from the non-affiliated lending institutions discussed in Additional Term B above.

D. Subject to Paragraph 5C nothing else shall be considered a finding by the Commission of the value of this transaction for rate-making purposes, and that the Commission reserves the right to consider the rate-making treatment to be afforded the financing transaction and its impact on cost of capital, including the cost of the preferred stock, in any future proceeding;

E. That the Company be authorized to issue preferred stock provided that the proceeds from the issuance of the indebtedness will be used by Timber Creek for the exclusive benefit of Timber Creek's regulated operations;

F. That the money, property or labor to be procured or paid for by Timber Creek through the issuance of the preferred stock is reasonably required and necessary for the purposes set forth and will be used therefore, and such purposes are not, in whole or in part, reasonably chargeable to operating expense or to income, as required by Section 393.200 RSMo;

G. That the Company shall file with the Commission within ten (10) days of issuance of any financing authorized pursuant to a Commission order in this proceeding, a report including the amount of preferred stock issued, date of issuance, interest rate (initial rate if variable), and other general and special terms, if any, including the use of proceeds and estimated expenses. In addition, the Company shall also provide the analysis to include, but not be limited to, indicative pricing information provided by investment banks, it performed to determine that the terms for the preferred stock it decided to issue were the most reasonable at the time;

H. That the Company shall file with the Commission as a non-case related submission in EFIS under “Resources” – “Non-Case Related Query” – “Ordered Submission” a copy of any and all documents that will be issued and provided at the time of stock issuance/purchase;

I. That the Company be required to file a five-year capitalization expenditure schedule in future finance cases; and,

J. That the Commission’s grant of authority shall expire five years from the effective date of the order in this proceeding.

GENERAL PROVISIONS

6. Unless otherwise explicitly provided herein, none of the Parties shall be deemed to have approved or acquiesced in any ratemaking or procedural principle, including, without limitation, any method of cost of service or valuation determination or cost allocation, rate design, revenue recovery, or revenue-related methodology. Except as explicitly provided herein, none of the Signatories shall be prejudiced or bound in any manner by the terms of this Stipulation in this or any other proceeding.

7. This Stipulation has resulted from negotiations among the parties, and the terms hereof are interdependent and non-severable. If the Commission does not approve this Stipulation unconditionally and without modification, or if the Commission approves the Stipulation with modifications or conditions to which a party objects, then this Stipulation shall be void and none of the Parties shall be bound by any of the agreements or provisions hereof.

8. In the event the Commission accepts the specific terms of this Stipulation without condition or modification, the Parties waive their respective rights to present oral argument and written briefs pursuant to RSMo. §536.080.1,1 their respective rights to the reading of the

transcript by the Commission pursuant to §536.080.2, their respective rights to seek rehearing pursuant to §386.500, and their respective rights to judicial review pursuant to §386.510. These waivers apply only to a Commission order approving this Stipulation without condition or modification issued in this proceeding and only to the issues that are resolved hereby. These waivers do not apply to any issues explicitly not addressed by this Stipulation. The Parties agree that any and all discussions, suggestions, or memoranda reviewed or discussed, related to this Stipulation shall be privileged and shall not be subject to discovery, admissible in evidence, or in any way used, described or discussed.

WHEREFORE, the Parties respectfully request that the Commission issue an order approving all of the specific terms and conditions of this *Unanimous Stipulation and Agreement*;

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and that the Commission grant such other and further relief as it considers just in the circumstances.

Respectfully submitted,

 Dean L. Cooper, Mo. Bar #36592 BRYDON, SWEARENGEN & ENGLAND P.C. 312 E. Capitol Avenue P.O. Box 456 Jefferson City, MO 65012 (573) 635-7166 telephone dcooper@brydonlaw.com ATTORNEYS FOR TIMBER CREEK SEWER COMPANY	<u>/s/ Eric Vandergriff</u> Eric Vandergriff Associate Counsel Missouri Bar No. 73984 P.O. Box 360 Jefferson City, MO 65102 573-522-9524 (Voice) Eric.Vandergriff@psc.mo.gov STAFF COUNSEL FOR THE MISSOURI PUBLIC SERVICE COMMISSION
<u>/s/ John Clizer</u> John Clizer (#69043) Senior Counsel Missouri Office of the Public Counsel P.O. Box 2230 Jefferson City, MO 65102 Telephone: (573) 751-5324 Facsimile: (573) 751-5562 E-mail: john.clizer@opc.mo.gov ATTORNEY FOR THE MISSOURI OFFICE OF THE PUBLIC COUNSEL	

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served by electronic mail on this 21st day of May, 2024, to all counsel of record.

