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<b>BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH</b>	
<p>IN THE MATTER OF THE APPLICATION OF  <b>GRAND STAIRCASE WATER COMPANY,          L.L.C.</b>, FOR A CERTIFICATE OF          CONVENIENCE AND NECESSITY TO          OPERATE AS A PUBLIC UTILITY          RENDERING CULINARY WATER SERVICE</p>	<p><b>AMENDED SETTLEMENT          STIPULATION</b></p> <p>Docket No. 10-2529-01</p>

**SETTLEMENT STIPULATION**

**I. INTRODUCTION**

1. Applicant Grand Staircase Water Company (“GSW”) and the Division of Public Utilities (“Division”) (collectively, the “Parties”) hereby enter into this Amended Settlement Stipulation (“Stipulation”) as a resolution of all issues pertaining to approval of GSW’s proposed rates and Tariff in this matter, including all issues identified in the Issues Matrix filed July 7, 2011.

2. GSW and the Division have conducted discovery and settlement discussions throughout the course of this matter and proceeding. There are no other parties of record in this matter.

3. GSW and the Division represent that this Stipulation is just and reasonable in result and therefore recommend that the Public Service Commission of Utah (“Commission”) approve the Stipulation and all of its terms and conditions. GSW and the Division request that the

Commission make findings of fact and reach conclusions of law based on the evidence and on this Stipulation and issue an order approving GSW’s proposed rates and Tariff.

## II. BACKGROUND

4. GSW provides water service to the Canyon Land Resort (the “Resort”). Currently, the Resort comprises a 34-room hotel, service building, entry building, and 31 villa lots in southeast Kane County, Utah. The hotel, service building, and entry building have been completed and are operating. No villas have been completed yet, although one is under construction with completion expected in the summer of 2011.

5. Because of the remote location of the Resort, there was no existing water provider in the vicinity that could provide water service to the Resort. As a result, a completely new water system had to be designed and built. All water system infrastructure has been installed and completed, including the water well, booster pump station, storage tank, transmission main lines, and distribution lines. GSW’s only current water source for the Resort is a groundwater well located at the Service Building at the end of Ticaboo Road.

6. The majority of GSW’s owners are not the developers of the Resort and do not own the villa lots in the Resort. Specifically, as indicated in GSW’s Articles of Amendment to Articles of Organization, and GSW’s Amended and Restated Operating Agreement, § 1.9, the members (i.e. the investors) of GSW and their “Percentage Interest” in all of the assets, distributions, profits, and losses of GSW, are as follows:

1. Canyon Land Development, LLC	4.606%
2. Page Three, LLC	38.724%
3. <u>Christoph Henkel</u>	<u>56.670%</u>
	100.000%

Canyon Land Development, LLC is the only developer of the Resort, and its minority ownership interest in GSW is only 4.606%. The majority owners of GSW (95.394%) are non-developer

investors in GSW. Although Christoph Henkel has a direct majority interest in Page Three, LLC, and has an indirect majority interest in Canyon Land Development, LLC, the Parties agree that these interests are not substantive in regard to ownership of GSW.

7. On September 9, 2010, GSW filed its application for a Certificate of Public Convenience and Necessity (CPCN) to operate as a public utility providing culinary water service. No other persons or entities have joined or intervened as parties or have otherwise asserted any interests or concerns in this matter.

8. By Order dated March 14, 2011, the Commission approved GSW's application for a CPCN, granting GSW certificate number 2529. However, the Commission did not approve GSW's proposed Tariff at that time.

9. GSW and the Division have since conducted discovery and settlement discussions throughout the course of this matter, and have now voluntarily reached this Stipulation regarding GSW's proposed rates and Tariff.

10. This Stipulation is intended to resolve all remaining issues in GSW's general rate case.

### **III. TERMS OF STIPULATION**

11. Subject to Commission approval and for purposes of this Stipulation only, the Parties agree as follows:

#### ***A. Rate Base.***

12. The value of original utility plant in service shall be included in the rate base and is not contribution in aid of construction (CIAC). The rate base shall include the value of the water well, pumping equipment, water tank, and transmission system. The majority of the investors and owners of GSW are not the developers of the Resort and do not own any of the villa lots in the Resort. As a result, the value of the original utility plant in service is not recoverable through

the sale of lots. Therefore, the presumption under Utah Admin. Rule R746-330-6 does not arise, or it is rebutted by the evidence of GSW's ownership.

13. The rate base shall initially be \$1,789,019 for 2010. This amount is calculated as follows:

<b>Regulatory Rate Base</b>	
Total Company Assets	\$8,262,792
Additions and Improvements	0
Intangibles (water rights)	(4,343,820)
Property Held for Future Use	(1,718,774)
Net Accumulated Deprec./Amort.	(55,117)
CIAC	(375,012)
Cash Working Capital	18,949
<b>TOTAL REGULATORY RATE BASE</b>	<u><u>\$1,789,019</u></u>

At full build-out, projected to be approximately 2019, the rate base is projected to be \$185,783.

This amount is calculated as follows:

<b>Regulatory Rate Base</b>	
Total Company Assets	\$8,433,792
Additions and Improvements	27,000
Intangibles (water rights)	(4,343,820)
Property Held for Future Use	(1,718,774)
Net Accumulated Deprec./Amort.	(406,611)
CIAC	(1,829,612)
Cash Working Capital	23,808
<b>TOTAL REGULATORY RATE BASE</b>	<u><u>\$185,783</u></u>

***B. Rate of Return.***

14. GSW shall be entitled to a rate of return of 12% on the rate base, which is a just and reasonable rate of return in today's economic climate.

***C. Connection Fees.***

15. GSW's proposed Connection Fees, as set forth on page T4 of GSW's proposed Tariff (attached hereto as Exhibit 1) are just and reasonable. The Connection Fees shall include three components:

- (i) Hookup Fee
- (ii) Project Cost Recovery Fee
- (iii) Revenue

16. The Hookup Fee is just and reasonable because it is based on the actual estimated costs to connect from the distribution water mains to the property line. The Hookup Fee shall be classified as CIAC.

17. The Project Cost Recovery Fee is just and reasonable because it is based on the original utility plant in service cost, similar to an impact fee. The Project Cost Recovery Fee has been established so that the aggregate of all Project Cost Recovery Fee payments, upon build-out of the 31 villas, hotel, and commercial connections, will not exceed the original utility plant in service cost included in the rate base. The Project Improvement Fee shall be classified as CIAC.

18. The balance of the Connection Fee shall be revenue to the Company and shall be reinvested in GSW to ensure all operation and maintenance expenses are paid.

***D. Rates and Charges.***

19. GSW's proposed usage rates and other charges, as set forth on page T3 of the proposed Tariff (Exhibit 1), are just and reasonable considering the unique circumstances of GSW, including GSW ownership, the remote location of the GSW service area, and the unique nature of the Resort.

***E. Capital Reserve Account.***

20. GSW shall establish and fund a Capital Reserve Account. Section 15 of the proposed Tariff (Exhibit 1) sets forth the terms for the establishment and management of the Capital Reserve Account. GSW shall fund the Capital Reserve Account through the collection of Capital Reserve Fees as part of the monthly rates to be charged to all lot owners within the GSW service

area, including non-connected and developer-owned lots. The Capital Reserve Fees shall be as set forth in the proposed Tariff.

21. In order to reduce some of the monthly out-of-pocket costs of the investors/owners of GSW, the monthly allocation to the Capital Reserve Account for the non-connected lots may be delayed until the end of each calendar year. The Capital Reserve Fees due and owing each year from non-connected lots may first be funded by GSW from the Project Cost Recovery Fees collected by GSW. At the end of each calendar year a reconciliation of the Capital Reserve Account shall be conducted to ensure that full funding has taken place. Any additional amounts still due and owing to the Capital Reserve Account from non-connected lots, not covered by the Project Cost Recovery Fees, shall be paid by the owners/investors of GSW with non-GSW funds or shall be paid by the resort developer in order to make the Capital Reserve Account whole. If Project Cost Recovery Fees are utilized to fund the Capital Reserve Account, the Rate Base shall not be affected adversely. The Project Cost Recovery Fees shall be applied to CIAC as outlined in item 17 above.

22. The annual Capital Reserve Account target has been set to approximate GSW's annual depreciation expense or the annual amortization of the CIAC, or a combination of the two. The annual Capital Reserve Account target shall not include the annual amortization amount of the CIAC assets (the distribution system) to the extent they are also included in the annual depreciation expense.

***F. Developer/Investors Subsidizes.***

23. GSW's annual cash shortfalls, if any, shall be subsidized by GSW's investors/owners until GSW breaks even with the rates, at which point GSW will be self-sustaining.

### ***G. Revenue Requirement***

24. All revenue requirement issues are resolved by this Stipulation. GSW's projected revenue requirement is set forth in Exhibit 2.

### ***H. Tariff***

25. The proposed Tariff (Exhibit 1), including the Usage Rates, Service Fees, and Rules and Regulations, are just and reasonable.

### ***I. Effective Date of Rates***

26. The effective date of the Tariff shall be the first day of the month following Commission approval of this Stipulation.

## **IV. GENERAL TERMS AND CONDITIONS**

27. Utah Code Ann. § 54-7-1 authorizes the Commission to approve a settlement so long as the settlement is just and reasonable in result. GSW and the Division agree that this Stipulation is just and reasonable in result.

28. All negotiations related to this Stipulation are confidential, and no Party shall be bound by any position asserted in negotiations. Except as expressly provided in this Stipulation, in accordance with Utah Admin. Code R746-100-10.F.5, neither the execution of this Stipulation nor the order adopting it shall be deemed to constitute an admission or acknowledgment by either Party of the validity or invalidity of any principle or practice of regulatory accounting or ratemaking; nor shall they be construed to constitute the basis of an estoppel or waiver by any party; nor shall they be introduced or used as evidence for any other purpose in a future proceeding by either Party except in a proceeding to enforce this Stipulation.

29. The Parties agree that no part of this Stipulation or the formulae and methodologies used in developing the same or a Commission order approving the same shall in any manner be argued or considered as precedential in any future case except with regard to issues expressly

resolved by this Stipulation. This Stipulation does not resolve and does not provide any inferences regarding, and the parties are free to take any position with respect to any issues not specifically called out and settled herein.

30. The Parties request that the Commission hold a hearing on this Stipulation. The Parties shall make one or more witnesses available to explain and offer support for this Stipulation. The Parties shall support the Commission's approval of this Stipulation. As applied to the Division, the explanation and support shall be consistent with its statutory authority and responsibility.

31. The Parties agree that if any person challenges the approval of this Stipulation or requests rehearing or reconsideration of any order of the Commission approving this Stipulation, each Party will use its best efforts to support the terms and conditions of this Stipulation. As applied to the Division, the phrase "use its best efforts" means that it shall do so in a manner consistent with its statutory authority and responsibility. In the event any person seeks judicial review of a Commission order approving this Stipulation, no Party shall take a position in that judicial review opposed to the Stipulation.

32. Except with regard to the obligations of the Parties under the five immediately preceding paragraphs of this Stipulation, this Stipulation shall not be final and binding on the Parties until it has been approved without material change or condition by the Commission.

33. This Stipulation is an integrated whole, and any Party may withdraw from it if it is not approved without material change or condition by the Commission or if the Commission's approval is rejected or materially conditioned by a reviewing court. If the Commission rejects any part of this Stipulation or imposes any material change or condition on approval of this Stipulation or if the Commission's approval of this Stipulation is rejected or materially conditioned by a reviewing court, the Parties agree to meet and discuss the applicable



Commission or court order within five business days of its issuance and attempt in good faith to determine if they are willing to modify the Stipulation consistent with the order. No Party shall withdraw from the Stipulation prior to complying with the foregoing sentence. If any Party withdraws from the Stipulation, any Party retains the right to seek additional procedures before the Commission, including presentation of testimony and cross-examination of witnesses, with respect to issues resolved by the Stipulation, and no party shall be bound or prejudiced by the terms and conditions of the Stipulation.

34. This Stipulation may be executed by individual Parties through two or more separate, conformed copies, the aggregate of which will be considered as an integrated instrument.

**V. RELIEF REQUESTED**

35. Based on the foregoing, the Parties request that the Commission schedule a hearing on this Stipulation and, thereafter, enter an order approving the terms and conditions set forth in this Stipulation.

RESPECTFULLY SUBMITTED: September \_\_\_\_, 2011.

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Bryan C. Bryner  
**Smith Hartvigsen, PLLC**  
*Attorneys for Applicant Grand Staircase Water Co.*

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William Duncan  
*Manager, Telecommunications – Water*  
*Division of Public Utilities*

## CERTIFICATE OF SERVICE

I hereby certify that on September \_\_\_\_, 2011, a true copy of the foregoing **AMENDED SETTLEMENT STIPULATION** was served by email on the following:

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**EXHIBIT 1**

**EXHIBIT 2**