

Resolution No. \_\_\_\_\_

**A RESOLUTION APPROVING THE FOURTH AMENDMENT TO THE EMPLOYMENT AGREEMENT FOR APPOINTMENT AS CHIEF EXECUTIVE OFFICER**

WHEREAS, the City Council of the City of Colorado Springs appointed Mr. Jerome A. Forte, Jr. as Chief Executive Officer of Colorado Springs Utilities, an enterprise of the City of Colorado Springs, as of December 2, 2005 and signed an employment agreement with Mr. Forte entitled "Employment Agreement for Appointment As Chief Executive Officer" ("Employment Agreement"); and

WHEREAS, by Resolution No. 45-07 the City Council approved the First Amendment to the Employment Agreement for Appointment As Chief Executive Officer effective February 28, 2007; and

WHEREAS, by Resolution No. 112-07 the City Council approved the Second Amendment to the Employment Agreement for Appointment As Chief Executive Officer effective June 26, 2007; and

WHEREAS, by Resolution No. 138-10 the City Council approved the Third Amendment to the Employment Agreement for Appointment As Chief Executive Officer effective January 1, 2010; and

WHEREAS, the City Council now desires to revise Section 2 and related provisions of the amended Employment Agreement to bring those provisions into alignment with the present compensation policies of Colorado Springs Utilities; and

WHEREAS, the City Council finds that the proposed amendment is reasonable, appropriate, and in the public interest; and

WHEREAS, the City Council finds that the President of the City Council is authorized to sign and execute the proposed amendment on behalf of the City Council ;

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF COLORADO SPRINGS, COLORADO:**

SECTION 1. The City Council hereby approves the attached Fourth Amendment to the Employment Agreement for Appointment As Chief Executive Officer ("Fourth Amendment") and authorizes the President of the City Council to execute and sign the Fourth Amendment.

SECTION 2. This Resolution shall be in full force and effect immediately upon its adoption.

Dated at Colorado Springs, Colorado this 8th day of April, 2014.

\_\_\_\_\_  
Keith King, Council President

Attest:

\_\_\_\_\_  
Sarah B. Johnson, City Clerk

**FOURTH AMENDMENT TO THE EMPLOYMENT AGREEMENT  
FOR APPOINTMENT AS CHIEF EXECUTIVE OFFICER**

This is the Fourth Amendment to the EMPLOYMENT AGREEMENT FOR APPOINTMENT AS CHIEF EXECUTIVE OFFICER effective as of December 2, 2005, made and entered into by and between 1) THE CITY COUNCIL OF THE CITY OF COLORADO SPRINGS, on behalf of the City of Colorado Springs (the "City"), a Colorado home-rule city and municipal corporation, pursuant to City Charter Art. VI, section 6-10 and the City's Colorado Springs Utilities enterprise, and 2) MR. JEROME A. FORTE, JR. (the "Appointee"). The First Amendment was effective as of February 28, 2007, the Second Amendment was effective as of June 26, 2007, the Third Amendment was effective as of January 1, 2010, and this Fourth Amendment is made as of April 8, 2014. The initial December 2, 2005, agreement and the first three amendments are collectively referred to herein as the "Agreement."

**RECITALS**

WHEREAS, the City Council and the Appointee have honored the Agreement; and

WHEREAS, to continue the Appointee's valuable contributions to Colorado Springs Utilities, the City Council desires to amend Section 2 of the Agreement and other related provisions concerning the Appointee's salary; and

WHEREAS, the City Council desires to amend Section 2 and other related provisions to revise the salary provisions to bring those provisions closer into alignment with the present compensation policies of Colorado Springs Utilities;

WHEREAS, the 2013 Executive Compensation Study performed for Colorado Springs Utilities determined that \$447,175 represents the 50th percentile base salary for similar public and private entities; and

NOW, THEREFORE, in consideration of the Agreement and this Fourth Amendment, the parties agree as follows:

- 1) Section 2.1 of the Agreement, Base Salary, is modified to increase the Base Salary to the annual rate of \$377,316 retroactively effective January 1, 2014. The base salary will be increased to an annual rate of \$412,246 effective January 1, 2015 and \$447,175, effective January 1, 2016. Further adjustments to the Appointee's Base Salary, beginning January 1, 2015, will be processed as an annual market adjustment equivalent to the percentage increase included in the annual budget as funding for staff base pay.
- 2) The City's obligations under Section 2.2 of the Agreement, Incentive Pay, will be considered fully performed with payment of the calendar year 2013 Annual Incentive Pay and Long Term Incentive Pay which is due prior to or on April 20, 2014. No further Incentive Pay amounts will be paid under the Agreement after payment of the amounts due for 2013 except as provided in this Amendment. All amounts of Long

Term Incentive Pay previously paid and paid for 2013 into Appointee's SERP account pursuant to the Agreement are deemed fully vested.

- 3) Section 2.3 of the Agreement, Benefits and Perquisites, is modified to provide an additional ten (10) personal leave days which will be administered as PLV days and subject to forfeiture each year according to the program guidelines.
- 4) This Fourth Amendment to the Agreement does not affect the Appointee's United States Internal Revenue Code Section 401(a) contributions for PERA excess earnings.
- 5) All other terms and conditions of the Agreement remain in full force and effect for the duration of the Agreement according to its terms.

### **EXECUTION AND EFFECTIVE DATE**

In Witness Whereof the foregoing, the City Council and the Appointee have duly executed this Fourth Amendment to the Employment Agreement for Appointment as Chief Executive Officer that was effective as of December 2, 2005, first amended as of February 28, 2007, second amended as of June 26, 2007, and third amended as of January 1, 2010. This Fourth Amendment is made as of April 8, 2014.

#### **CITY COUNCIL OF THE CITY OF COLORADO SPRINGS**

By: \_\_\_\_\_  
Keith King, City Council President

Date: \_\_\_\_\_

#### **APPOINTEE**

By: \_\_\_\_\_  
Jerome A. Forte, Jr.

Date: \_\_\_\_\_

Approved as to form:

\_\_\_\_\_  
Wynetta Massey, Interim City Attorney

Date: \_\_\_\_\_