

<p><b>DISTRICT COURT, CITY &amp; COUNTY OF DENVER, STATE OF COLORADO</b></p> <p>Denver City &amp; County Building 1437 Bannock Street, Room 256 Denver, CO 80202 303-606-2300</p>	<p>DATE FILED: May 3, 2024 9:55 AM FILING ID: 4A2135ACA1E8C CASE NUMBER: 2023CV32212</p> <p style="text-align: center;"><b>▲ COURT USE ONLY ▲</b></p>
<p><b>EBERT METROPOLITAN DISTRICT,</b> a Colorado Special District,</p> <p>Plaintiff,</p> <p>v.</p> <p><b>TOWN CENTER METROPOLITAN DISTRICT,</b> a Colorado Special District,</p> <p>Defendant.</p>	<p>Case No.: 2023CV32212</p> <p>Courtroom: 280</p>
<p><b>Attorneys for Plaintiff, Ebert Metropolitan District:</b> Evan D. Ela, #23965 Joseph W. Norris, #46202 Dakota Spence-Zurek, #54134 Cockrel Ela Glesne Greher &amp; Ruhland, P.C. 44 Cook Street, Suite 620 Denver, Colorado 80206 Telephone: (303) 218-7200 eela@cegrlaw.com; jnorris@cegrlaw.com; dspencezurek@cegrlaw.com</p>	
<p style="text-align: center;"><b>JOINT MOTION TO VACATE AUGUST 5, 2024 TRIAL AND ADMINISTRATIVELY CLOSE CASE PENDING COMPLETION OF SETTLEMENT ACTIONS</b></p>	

Plaintiff Ebert Metropolitan District and Defendant Town Center Metropolitan District (collectively the “Parties”), through undersigned counsel, hereby jointly move this Court to vacate the trial and administratively close this matter pending the outcome of the Parties’ efforts to resolve the disputes at issue in this case pursuant to the terms of a Memorandum of Understanding between the Parties. In support of this Motion, the Parties state as follows:

1. In compliance with C.R.C.P. 121 § 1-15(8), undersigned counsel have conferred and agree that this Motion be filed jointly.

2. On November 22, 2023, this Court issued a Delay Reduction Order under C.R.C.P. 16.1, which did not require the Parties to submit a Case Management Order or engage in a Case Management Conference.

3. The Parties timely served their respective C.R.C.P. 26(a)(1) Disclosures on December 18, 2023. The Plaintiff also filed a Certificate of Compliance under C.R.C.P. 16.1(h) on January 8, 2024.

4. This Court set a three-day trial to begin on August 5, 2024 and extend through August 7, 2024.

5. The Parties have engaged in ongoing discussions since the filing of the Certificate of Compliance and have agreed upon a Memorandum of Understanding (the “MOU”) through which the Parties will attempt to resolve the issues being litigated in this case over the time period of two landscaping seasons (approximately two calendar years from the date of this Joint Motion).

6. The MOU describes the actions the Parties will cooperatively take to address the underlying issues of this litigation, including: applying additional funding to repairing and restoring damaged structures, repairing and restoring landscape areas that the Parties have identified, performing maintenance, jointly overseeing contractors engaged to perform such activities, and jointly seeking a stay of litigation. Additionally, the MOU requires that the Parties meet quarterly to discuss and manage the progress of the activities identified in the MOU.

7. The Parties, through their respective Boards of Directors, have approved the MOU and increases in funding levels to accomplish the objectives set forth in the MOU. Defendant approved the MOU and the agreed additional funding on March 7, 2024. Plaintiff approved the MOU and the agreed additional funding on March 26, 2024.

8. Plaintiff and Defendant agree it is appropriate to administratively close all case activity pending their joint efforts to address the underlying issues pursuant to the MOU, and to avoid litigation costs in favor of applying such saved costs to implementing the MOU.

9. Administrative closure of this case for two years will allow for implementation of the terms of the MOU and will be consistent with the requirements of Chief Justice Directive 08-05.

10. Plaintiff and Defendant request this court to suspend all pre-trial deadlines, including deadlines for C.R.C.P. 26(a)(2)(c) Expert Disclosures.

11. Plaintiff and Defendant further agree it is appropriate to schedule a status conference with the Court in early 2026 unless the Parties file a motion to dismiss the case prior to that time. If the MOU proves ineffective in addressing Plaintiff’s claims, at the 2026 status

conference the Parties can provide the Court with an update regarding the status of their efforts to address the matters at issue and the likelihood of further litigation.

12. Plaintiff and the Defendant jointly request this temporary administrative closure as it is in their respective best interests, and in the best interest of their respective constituents. A Court-ordered administrative closure will also conserve the Court's resources and further the interests of efficiency and judicial economy.

13. No parties will be prejudiced by administratively closing this case for the requested period of time.

WHEREFORE, the Parties respectfully request that the Court enter an Order vacating the August 5 – 7, 2024 trial, and administratively closing this case for a period of two calendar years. A proposed Order is submitted herewith for the Court's consideration.

Dated: 2 May, 2024

Respectfully submitted,

*E-filed per C.R.C.P. Rule 121*



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**CERTIFICATE OF SERVICE**

I hereby certify that on April 3, 2024, a true and correct copy of the foregoing **Joint Motion to Vacate the August 5-7 Trial and Administratively Close Case Activity Pending Completion of Settlement Actions** was e-filed and served on all parties of record via the Colorado Courts E-Filing system.

*/s/ Charlotte Rabadi* \_\_\_\_\_

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<p>Plaintiff: <b>EBERT METROPOLITAN DISTRICT</b>, a Colorado Special District</p> <p>vs.</p> <p>Defendant: <b>TOWN CENTER METROPOLITAN DISTRICT</b>, a Colorado Special District</p>	<p>▲ COURT USE ONLY ▲</p> <p>Case No.: 2023CV32212 Courtroom: 280</p>
<p align="center"><b>ORDER GRANTING JOINT MOTION TO VACATE AUGUST 5 – 7 TRIAL AND ADMINISRATIVELY CLOSE CASE PENDING COMPLETION OF SETTLEMENT ACTIONS</b></p>	

THIS MATTER has come before the Court on Plaintiff’s and Defendant’s Joint Motion to Vacate August 5 – 7 Trial and Administratively Close Case Pending Completion of Settlement Actions. The Court, having reviewed the Motion and being fully advised in the premises, hereby GRANTS said Motion.

IT IS ORDERED as follows:

1. Both the three-day trial currently set to begin on August 5, 2024 and all pre-trial deadlines are hereby preserved and suspended subject to the issuance of a new case management order if the case is administratively re-opened.
2. This case is hereby administratively closed for a period of two calendar years pending the efforts of the parties to implement the terms of the Memorandum of Understanding pursuant to which they have agreed to address the issues identified in Plaintiff’s Complaint.
3. Plaintiff is directed to contact the Court in April 2026 to request dates for a status conference before the court, unless dismissal of the case is granted upon motion prior to such time.

DATED: \_\_\_\_\_

BY THE COURT

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David H. Goldberg  
District Court Judge