

RESOLUTION NO. 148-19

A RESOLUTION APPROVING THE AMENDMENT TO
EXTEND TERM OF APRIL 3, 2014, FIRST REVISED
WATER TRANSMISSION SERVICE CONTRACT AMONG
AURORA – COLORADO SPRINGS JOINT WATER
AUTHORITY AND CITY OF AURORA, COLORADO AND
CITY OF COLORADO SPRINGS, COLORADO

WHEREAS, the cities of Aurora and Colorado Springs (“Cities”) have for many years worked cooperatively in developing water resources to bring water from the Colorado River Basin to the water systems of the Cities through the project commonly known as the Homestake Project; and

WHEREAS, by contract executed May 13, 1983, the Cities established a separate governmental entity and subdivision of the State of Colorado known as the Aurora-Colorado Springs Joint Water Authority (“Authority”); and

WHEREAS, one specific purpose of the Authority was to finance, construct, operate, and maintain a pipeline from the outlet of Twin Lakes Dam to the Otero Pumping Station Intake (“Otero Extension Pipeline”) and provide for the transmission of the Cities’ water through the pipeline; and

WHEREAS, on June 1, 1983, the Cities and the Authority entered into a Water Transmission Service Contract that set forth the terms under which the Authority would finance, construct, operate and maintain the Otero Extension Pipeline and provide water transmission service to the Cities through the pipeline; and

WHEREAS, the Water Transmission Service Contract expired on December 31, 2013 and on April 3, 2014, the Cities and the Authority, entered into a First Revised Water Transmission Service Contract that sets forth the terms under which the Authority will operate and maintain the Otero Extension Pipeline and provide water transmission service to the Cities in the near future; and

WHEREAS, the First Revised Water Transmission Service Contract Water expires on December 31, 2019; and

WHEREAS, the Authority and the Cities have negotiated an Amendment to Extend Term of April 3, 2014, First Revised Water Transmission Service Contract that extends the term of the

agreement such that its term is extended through December 31, 2021, with a single one-year automatic extension of the term and includes contemporary appropriations language that was not previously included in the agreement; and

WHEREAS, Colorado Springs Utilities requests that City Council: (1) approve the Amendment to Extend Term of April 3, 2014, First Revised Water Transmission Service Contract; and (2) authorize and direct the President of City Council to execute the Amendment to Extend Term of April 3, 2014, First Revised Water Transmission Service Contract.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF COLORADO SPRINGS:

SECTION 1: The City Council finds and determines that approving the Amendment to Extend Term of April 3, 2014, First Revised Water Transmission Service Contract is in the best interest of the City.

SECTION 2: The Amendment to Extend Term of April 3, 2014, First Revised Water Transmission Service Contract is hereby approved.

SECTION 3: The President of City Council is authorized and directed to execute the Amendment to Extend Term of April 3, 2014, First Revised Water Transmission Service Contract in a form substantially similar to that attached hereto.

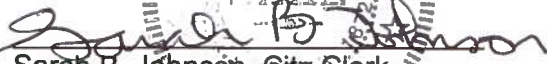
SECTION 4: The Executive Director of Colorado Springs Utilities is authorized to administer the Amendment to Extend Term of April 3, 2014, First Revised Water Transmission Service Contract.

Dated at Colorado Springs, Colorado, this 10th day of December, 2019.

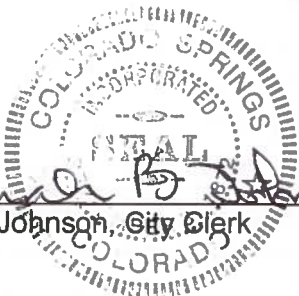


Council President

ATTEST:



Sarah B. Johnson, City Clerk



**AMENDMENT TO EXTEND TERM OF APRIL 3, 2014, FIRST REVISED WATER
TRANSMISSION SERVICE CONTRACT AMONG AURORA – COLORADO SPRINGS
JOINT WATER AUTHORITY AND CITY OF AURORA, COLORADO AND CITY OF
COLORADO SPRINGS, COLORADO**

This Amendment to Extend is entered into among the Aurora-Colorado Springs Joint Water Authority, a political subdivision of the State of Colorado (the "Authority"), the City of Colorado Springs, a home rule municipality of the State of Colorado, and the City of Aurora, a home rule municipality of the State of Colorado (collectively the "Cities"), this 31st day of December, 2019.

WITNESSETH

WHEREAS, on May 13, 1983, by executing the Establishing Contract for Aurora – Colorado Springs Joint Water Authority (the "Establishing Contract"), the Cities formed the Authority as a separate governmental entity pursuant to Section 18(2)(a) and (2)(b) of Article XIV, Constitution of the State of Colorado, and Section 29-1-204.2, Colorado Revised Statutes (1973), to effect the development of water resources, systems and facilities for the benefit of the Cities and their inhabitants.

WHEREAS, on June 1, 1983, the Parties entered into a Water Transmission Service Contract ("1983 Service Contract") for the provision of certain water transmission services by the Authority to the Cities, the term of which is set to expire, by its terms, on December 1, 2013.

WHEREAS, on April 3, 2014, the Parties entered into the First Revised Water Transmission Service Contract, which superseded and replaced the 1983 Water Transmission Service Contract, the term of which is set to expire on December 31, 2019.

WHEREAS, the Parties wish to amend the First Revised Water Transmission Service Contract to extend the term an additional two (2) years, with a single one (1) year automatic renewal.

NOW, THEREFORE, in consideration of the mutual undertakings herein contained, the Authority and each City agree as follows:

1 Extended Term: Section 1 of the First Revised Water Transmission Service Contract is hereby amended as follows:

Section 1: Term of Contract. The term of this Contract shall be from the Effective Date through December 31, 2021, with a single one-year automatic extension of the term. Further, the term of this Contract will automatically expire on the effective date of the termination of the Authority under the terms of the Establishing Contract.

2.. Appropriations: Section 8 of the First Revised Water Transmission Service Contract is hereby amended as follows:

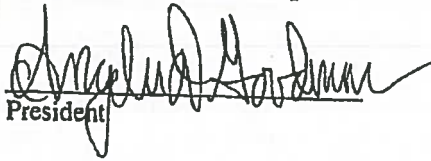
Section 8: Payments to Constitute Operation Expenses of City System: Each City's obligation to make payment under this Contract shall constitute, and shall be treated for all purposes by each City, as (to the extent permitted by law and by its contractual obligations to holders of its bonds and other obligations) an operating expense of its municipal system and prior to its obligation to make payments for any bonds or other obligations issued by the City and payable from revenues of its municipal system. The obligation of each City to make payments hereunder shall be limited to revenues derived from such City's operation of its municipal system, but it may make payment from any revenues legally available to the City's municipal system. The term "municipal system" as used in this Contract means, as applied to Aurora, its Utilities Enterprise water system and, as applied to Colorado Springs, its combined Utilities Enterprise for water, sewer, electricity and gas.

In addition, in accord with the Aurora City Charter and the Colorado Springs City Charter, performance of the Cities obligations under this Agreement is expressly subject to appropriation of funds by the respective City Councils of the Cities. In the event funds are not appropriated in whole or in part sufficient for performance of Aurora's or Colorado Springs' obligations under this Agreement, or appropriated funds may not be expended due to City Charter spending limitations, then this Agreement will thereafter become null and void by operation of law with regard to Aurora or Colorado Springs, and Aurora or Colorado Springs will thereafter have no liability for compensation or damages to the Authority for future performance and obligations thereafter in excess of Aurora's or Colorado Springs' authorized appropriation for this Agreement or the applicable spending limit, whichever is less. Aurora will notify those parties as soon as reasonably practicable in the event of non-appropriation or in the event a spending limit becomes applicable.

3. Except as hereby expressly amended, the terms of the First Amended Water Transmission Service Contract are continued in full force and effect.

IN WITNESS WHEREOF, the Authority and the Cities have caused this instrument to be executed on the dates set forth below.

AURORA-COLORADO SPRINGS
JOINT WATER AUTHORITY

By: 
President

Attest: _____
Secretary

Date: _____

CITY OF COLORADO SPRINGS

By: [Signature]
President of City Council

Date: 12/13/19

Attest: [Signature]
City Clerk

Date: 12-13-19



APPROVED AS TO FORM FOR THE CITY OF COLORADO SPRINGS, COLORADO,

[Signature]
Michael Gustafson, Senior Attorney

Date 12/13/19

CITY OF AURORA, COLORADO,
ACTING BY AND THROUGH ITS
UTILITY ENTERPRISE

Mike Coffman
Mike Coffman, Mayor

12/23/2019
Date

ATTEST:

Stephen J. Ruger
Stephen J. Ruger, City Clerk

12/31/19
Date

APPROVED AS TO FORM FOR AURORA:

Christine McKenney (for c.m.)
Christine McKenney
Interim Client Services Manager
City Attorney Office

12-20-19 19034413
Date ACS #

STATE OF COLORADO)
) ss
COUNTY OF ARAPAHOE)

The foregoing instrument was acknowledged before me this 23rd day of December, 2019, by Mike Coffman, Mayor, acting on behalf of the Utility Enterprise of the City of Aurora, Colorado.

Witness my hand and official seal. Cheryl Lee Daniels
Notary Public

My commission expires: 5/23/2021

(SEAL)

Cheryl Lee Daniels
Notary Public
State of Colorado
Notary ID 20014011257
My Commission Expires May 23, 2021