

RESOLUTION NO. 01-21

A RESOLUTION DIRECTING THE CHIEF EXECUTIVE OFFICER OF COLORADO SPRINGS UTILITIES TO EXECUTE AN AGREEMENT FOR SUPPLEMENTAL WATER SERVICE WITH SECURITY WATER DISTRICT

WHEREAS, City Code § 12.4.304 allows Colorado Springs Utilities to provide by contract for the use of or connection to its water supply system by institutions, plants, districts, governments, municipal corporations, or other similar users; and

WHEREAS, Security Water District is a Colorado special district that provides water to customers located outside and generally to the south of Colorado Springs; and

WHEREAS, Security Water District was formed on March 22, 1954 and provides water service to approximately 7,750 taps within its service territory; and

WHEREAS, Security Water District is a participant with Colorado Springs Utilities in the Fountain Valley Authority and Southern Delivery System and uses water delivered by the Fountain Valley conduit and the Southern Delivery System in part to meet its customers' water demands; and

WHEREAS, Security Water District relies on water withdrawn from wells drilled in the Widefield Aquifer to meet its customer's demands that are not met by water delivered by the Fountain Valley Authority, the Southern Delivery System, and any other water rights it owns; and

WHEREAS, due to the presence of perfluorooctane sulfonate and perfluorooctanoic acid, water quality in the Widefield Aquifer has deteriorated to the point that Security Water District can no longer divert and use water withdrawn from the aquifer to serve its customers without additional water treatment to meet governmental drinking water standards; and

WHEREAS, due to the contamination of the Widefield Aquifer, Security Water District needs a supplemental, standby water supply to meet its customers' water demands while new treatment facilities are constructed, and to mitigate the impact of a Fountain Valley conduit outage, and has requested supplemental water service from Colorado Springs Utilities to provide such a supplemental water supply; and

WHEREAS, Colorado Springs Utilities is in a position to provide water service to the Security Water District on a short-term basis to deliver such a supplemental water supply; and

WHEREAS, in exchange for supplemental water service, Security Water District has agreed to pay Colorado Springs Utilities a water rate for all water delivered, a system usage fee based on applicable outside city rates, and has the option to purchase return flows at the applicable augmentation rate; and

WHEREAS, Colorado Springs Utilities requests that City Council authorize and direct the Chief Executive Officer for Colorado Springs Utilities to execute an agreement for supplemental water service with Security Water District; and

WHEREAS, the City Council finds that it is in the best interest of the City of Colorado Springs and the surrounding community for Colorado Springs Utilities to enter into a supplemental water services agreement with Security Water District.

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

Section 1. The City Council finds and determines that a supplemental water service agreement between Colorado Springs Utilities and Security Water District will benefit the public health, safety and welfare of the surrounding community and is in the best interest of the City of Colorado Springs.

Section 2. The Chief Executive Officer for Colorado Springs Utilities is authorized and directed to enter into a supplemental water services agreement with the Security Water District in a form substantially similar to that attached hereto.


Section 3. This Resolution shall be in full force and effect immediately upon its adoption.


Dated at Colorado Springs, Colorado, this 12th day of January, 2021.



Council President

ATTEST:


Sarah B. Johnson, City Clerk



AGREEMENT FOR SUPPLEMENTAL WATER SERVICE

THIS AGREEMENT (“Agreement”) is made and entered into this ____ day of _____, 2021, by and between Colorado Springs Utilities, an enterprise of the City of Colorado Springs, a Colorado home-rule city and municipal corporation, hereinafter called “UTILITIES,” and the Security Water District, acting by through its water activity enterprise hereinafter called the “DISTRICT.” Both the DISTRICT and UTILITIES hereinafter are each individually referred to as “Party” and collectively referred to as the “Parties.”

RECITALS

- A. The DISTRICT, a Colorado statutory water district with service boundaries located just south of Colorado Springs and east of Fort Carson, was formed March 22, 1954, and currently serves a customer base of approximately 7,750 taps in the Colorado Springs metropolitan area;
- B. The DISTRICT is a participant in both the Fountain Valley Authority and the Southern Delivery System;
- C. The DISTRICT has a supplemental water connection to UTILITIES located at 4520 Clearview Drive, Colorado Springs, Colorado (“CLEARVIEW CONNECTION”) that was constructed pursuant to the terms of the certain Agreement for Short Term Water Service between UTILITIES and the DISTRICT dated March 16, 2017;
- D. The DISTRICT desires to have the ability to receive interruptible water service from UTILITIES and/or delivery of DISTRICT-owned water conveyed through UTILITIES’ water system at the CLEARVIEW CONNECTION;
- E. UTILITIES has sufficient system capacity, and may, from time to time, have available water supply to provide interruptible water service to the DISTRICT at the CLEARVIEW CONNECTION;
- F. Pursuant to Section 6-50 (Water Rights) of Article VI (Utilities) of the Charter of the City of Colorado Springs, as amended, the City of Colorado Springs has the authority to buy, exchange, augment, lease, own, and control water and water rights; and
- G. UTILITIES has entered into this Agreement pursuant to Section 12.4.304 (Service; Special Contract) of Article 4 (Water Code) of Chapter 12 (Utilities) of the Code of the City of Colorado Springs 2001, as amended (Ord. 10-76).

at least five (5) business days prior to the requested delivery date(s). UTILITIES will provide a written response to the DISTRICT's request at least three (3) days prior to the requested delivery date accepting, modifying, or denying the request. The request and response deadlines must be met in order to ensure that the line disinfection procedures set forth in Exhibit A can be completed by both Parties after UTILITIES approves the DISTRICT's request. For the purposes of the DISTRICT requesting service and UTILITIES responding to requests, the term "written" shall include communications by electronic mail to certain electronic mail addresses, which the DISTRICT and UTILITIES shall provide to each other upon execution of this Agreement. The DISTRICT shall limit its water demand on UTILITIES' system to an instantaneous flow rate when in use of no less than 15.68 gallons per minute, not more than 2,800 gallons per minute, and a total maximum daily delivery of four (4) million gallons per day (daily flow limit). UTILITIES agrees to maintain a pressure of 110 psi near the CLEARVIEW CONNECTION. UTILITIES may, as it deems necessary and without providing the DISTRICT notice, increase, decrease, or waive these daily and instantaneous flow limits based on system performance to protect UTILITIES' water system and deliveries to UTILITIES' customers or for other good cause. UTILITIES will make best efforts to provide the DISTRICT advance notice of any changes of this type to the DISTRICT's system control as specified in paragraph 3.D.

B. UTILITIES' System Control

- i. Operations Supervisor, Jeremy McBeain, jmcbeain@csu.org, Office (719) 668-4588, Cell phone (719) 494-6973.
- ii. System Control Operator, to be acknowledged within 24 hours by Mr. McBeain, Office (719) 668-4570; and
- iii. Water_accounting@csu.org

C. DISTRICT System Control

- i. Rick Davis, Water Superintendent, r.davis@securitywsd.com, Cell phone (719) 491-6123
- ii. James Jones, Assistant Superintendent, j.jones@securitywsd.com, Cell phone (719) 491-6119.

that is UTILITIES' return flows attributed to Full-Service Water provided to the DISTRICT pursuant to this Agreement. The DISTRICT shall be solely responsible for its own base cost for the use of the Model. UTILITIES shall have the right to review the water accounting documents of the DISTRICT to verify the quantities of such return flows resulting from UTILITIES' Full-Service Water deliveries to the DISTRICT.

B. Full-Service Water delivered to the DISTRICT, up to the amount of DISTRICT Water furnished to UTILITIES to replace Full-Service Water in UTILITIES' water system, shall be considered to be water owned by the DISTRICT. Neither UTILITIES nor its customers shall have the right to make a succession of uses of such water; and upon delivery to the DISTRICT, all dominion over such water furnished hereunder shall revert completely to the DISTRICT. The DISTRICT retains the legal ownership of and the right to use, reuse, successively use, and dispose of all such return flows resulting from the DISTRICT's use of such water delivered by UTILITIES under this Agreement. UTILITIES shall maintain dominion and control over all such water until completion of delivery of the water to the DISTRICT.

6. Consequence of Loss of Dominion over Return Flows: If UTILITIES should lose legal dominion and control over the return flows that result from the DISTRICT's use of the Full-Service Water provided under this Agreement, due to the fault of the DISTRICT, UTILITIES may take either of the following actions at its sole discretion:

A. UTILITIES may charge the DISTRICT the then-applicable augmentation tariff rate as provided to the DISTRICT pursuant to this Agreement where appropriate to compensate for the value of the volume of return flows lost to UTILITIES. The DISTRICT agrees to pay UTILITIES for augmentation at the rates established in **Appendix A** attached hereto and incorporated herein. UTILITIES will bill the DISTRICT monthly in arrears with payment due within thirty (30) days of the date of billing; or

B. UTILITIES may terminate this Agreement without any liability to the DISTRICT or any third party including the DISTRICT's customers.

part thereof for which they are responsible pursuant to this section maintained so that they continue to properly serve the purposes for which they were originally intended.

Within sixty (60) days of the date this Agreement becomes effective, the DISTRICT shall convey and dedicate to UTILITIES, on forms acceptable to UTILITIES, ownership of all the portions of the CLEARVIEW CONNECTION and all related improvements located between the water main/tap and the secondary valve as depicted in **Exhibit B** as well as an assignment of the DISTRICT'S rights under the easements granted to the DISTRICT by Block 260 Ltd, on March 30, 2017 and recorded with the El Paso County, Colorado Clerk and Recorder at Reception Nos. 217049315 and 217049316 that provides UTILITIES with the right to locate the portions of the CLEARVIEW CONNECTION that it is responsible for within the easements and rights of ingress and egress over the property covered by the easements in order for UTILITIES to fulfill its obligations under this Agreement and any future agreement between the Parties related to the provision of water service. If the DISTRICT acquires a fee simple interest in the property that is the subject of the Easement recorder under Reception No. 217049315, the DISTRICT shall convey to UTILITIES a perpetual non-exclusive utility easement over the subject property that provides UTILITIES with the same rights as described in the preceding sentence.

10. Metering: All water delivered under this Agreement shall be measured at the point of connection between UTILITIES' and the DISTRICT's systems. If at any time either UTILITIES or the DISTRICT questions the accuracy of the meter, either Party may cause such meter to be tested for accuracy and recalibrated, if necessary, at such Party's expense. In the event a meter shall be tested, the Party testing the meter shall provide the other party with three (3) days' notice of such testing. If the Parties cannot agree that the meter is measuring accurately, they shall choose an independent third party qualified to test the accuracy of such meters, whose decision regarding accuracy shall be binding on both Parties. All costs associated with hiring an independent, third-party testing facility shall be the responsibility of the Party requesting the test(s), regardless of whether the test result(s) favor the requesting or non-requesting Party.

11. Water Use Restrictions: The DISTRICT agrees to establish formal restrictions regarding the use of water and to declare and enforce the same water-use restrictions in force within

agrees that its system constitutes a Consecutive System and, in accordance with §1.9 of the Colorado Primary Drinking Water Regulations, the DISTRICT is responsible for all applicable monitoring and reporting requirements of the Colorado Primary Drinking Water Regulations of water within the DISTRICT's system.

- B. The DISTRICT will be responsible for obtaining, prior to operation, any applicable permits from any permitting authority or approvals from the Colorado Department of Public Health and Environment for the construction and connection of the system interconnection/point of entry necessary to fulfill this Agreement. A copy of such approval will be provided to UTILITIES.

16. Colorado Water Quality Control Act Compliance: If at any time during the effective term of this Agreement the DISTRICT fails to meet the requirements of the Colorado Water Quality Control Act applicable to the DISTRICT, and applicable control regulations promulgated and permits issued thereunder, UTILITIES may, in its sole discretion, suspend deliveries and interrupt its performance of this Agreement, without commensurate extension of this Agreement or liability to the DISTRICT or any third party, including the DISTRICT's customers, until any applicable compliance is achieved. With or without suspension or interruption by UTILITIES, the DISTRICT, in the event of its failure to meet such requirements applicable to the DISTRICT, shall implement cost-effective solutions to reduce water pollution with the objective of achieving and maintaining water quality in accordance with the applicable designated uses and water quality standards established by the Water Quality Control Commission and discharge permit limits imposed by the Water Quality Control Division on the DISTRICT. In the event UTILITIES fails to meet requirements of the Colorado Water Quality Control Act and applicable regulations thereunder, UTILITIES shall notify the DISTRICT in the same manner as other customers, and the DISTRICT shall have the same rights and remedies as provided to UTILITIES, including the option of immediately suspending the delivery of water under this Agreement.

17. Regional Cooperation: The following provisions apply only during the term of this Agreement.

F. The DISTRICT agrees, subject to the following sentence, to support any studies of a flood control dam or dams on Fountain Creek. It is understood that the DISTRICT has no legal authority or obligation to regulate or control stormwater or fund stormwater projects.

18. No Assignment Without Consent; No Third-Party Beneficiary: There shall be no assignment of the rights or obligations contained in this Agreement by either Party without the prior written consent by the other Party, and any such assignment shall be null and void. Notwithstanding anything herein to the contrary, upon written notice to the DISTRICT, UTILITIES may assign this Agreement without consent to the City of Colorado Springs, Colorado. Nothing herein shall be construed to give any rights or benefits hereunder to anyone other than UTILITIES and the DISTRICT.

19. Legal Notice: Notices under this Agreement, other than the DISTRICT's requests for water and UTILITIES' responses to such requests, shall be given in writing, signed by an authorized representative of the Party giving notice. Telephonic or electronic mail notice is not acceptable. Notices shall be delivered by facsimile, by courier service delivery (such as Federal Express), or by first-class mail to one of the two (2) people specified below at the following addresses and telephone numbers:

A. For UTILITIES

i. Chief Water Services Officer: Earl Wilkinson, III

Courier Service Address:

Colorado Springs Utilities

ATTN: Chief Water Services Officer

121 S. Tejon St., 5th Floor

Colorado Springs, CO 80903

United States Postal Service Address:

Colorado Springs Utilities

ATTN: Chief Water Services Officer

P.O. Box 1103

Colorado Springs, CO 80947-0950

ii. City Attorney's Office – Utilities Division

City Attorney's Office

may not be expended due to City Charter spending limitations, then this Agreement will thereafter become null and void by operation of law, and UTILITIES will thereafter have no liability for compensation or damages to the DISTRICT for future performance and obligations thereafter in excess of UTILITIES' authorized appropriation for this Agreement or the applicable spending limit, whichever is less. UTILITIES will notify the DISTRICT as soon as reasonably practicable in the event of non-appropriation or in the event a spending limit becomes applicable.

23. Entire Agreement; Modifications to be in Writing: This Agreement, including any and all appendices and exhibits attached hereto, contains the entire understanding between the Parties. No modification, amendment, notation, or other alteration to this Agreement shall be valid or any force or effect unless mutually agreed to by the Parties in writing as an addendum to this Agreement. At the time of the execution of this Agreement, there are no other terms, conditions, requirements, or obligations affecting this Agreement which are not specifically set forth therein. Electronic mail and all other electronic (including voice) communications from UTILITIES, except as otherwise specifically provided herein, in connection with this Agreement, are for informational purposes only. No such communication is intended by UTILITIES to constitute either an electronic signature or to constitute any agreement by UTILITIES to conduct a transaction by electronic means. Any such intention or agreement is hereby expressly disclaimed.

24. No Precedent; Severability: The Parties agree that neither of them intends that this Agreement shall in any way constitute a precedent or standard for any future Agreement, nor vest any rights in either Party or any third party for novation, renewal, modification, or addition of any other rights or services on account of this Agreement's existence, as it is based solely on unique conditions currently existing at the time of execution. Any provision or part of this Agreement held to be void or unenforceable under any laws or regulations shall be deemed stricken, and all remaining provisions shall continue to be binding upon the Parties and this agreement shall be reformed to replace such stricken provision with a new provision that comes as close to possible to expressing the intention of the stricken provision.

APPENDIX A

- A. **Rates:** The DISTRICT agrees to pay UTILITIES for water delivered pursuant to this Agreement at the 2020 Rate of 13.67 cents per cubic foot. To the extent DISTRICT provides fully consumable DISTRICT Water decreed for municipal use to UTILITIES at a location specified by UTILITIES, the DISTRICT will then qualify for a Water Rate Credit of 5.53 cents per cubic foot for water provided on a one-for-one basis pursuant to paragraph 2 of the Agreement. Because components of the City Council approved outside City limits residential and nonresidential potable water rates have been used to calculate both the Rate and Water Rate Credit, the Rate and Water Rate Credit will be adjusted concurrently with changes to UTILITIES' outside city limits residential and nonresidential potable water rates.
- B. **Annualized System Usage Fee:** DISTRICT shall pay an annualized System Usage Fee (SUF) of \$33,330.00 each year during the term of this Agreement and any extensions thereof. The DISTRICT may elect to pay the SUF in one lump sum due by May 1st of each year, or it may elect a monthly SUF totaling \$2,775.04 per month. The total SUF charges to the DISTRICT under this Agreement, and under prior and future agreements for the use of the same connection by the DISTRICT shall not exceed \$743,313.00, which is the total SUF for the subject connection at the time of this Agreement.
- C. **Augmentation Rate:** The DISTRICT agrees to pay UTILITIES for return flows purchased as a result of this Agreement the Augmentation Rate (W1G) as approved by City Council. This Augmentation Rate will be adjusted concurrently with changes to UTILITIES' augmentation tariff rate.
- D. **Water Quality Monitoring Fee:** Subject to the provisions of subparagraph 17.E, the DISTRICT shall pay an annualized water quality monitoring fee that will be calculated on a yearly basis. The annual charge will be based on the DISTRICT's *prorata* share of UTILITIES and the DISTRICT's combined yearly wastewater treatment return flows, considering for the DISTRICT's *prorata* share the wastewater return flows that are generated from the water supplied by UTILITIES to the DISTRICT under this Agreement.

4.0 RESPONSIBILITIES

This section defines the general responsibilities of stakeholders within Utilities that are directly involved with the disinfection and flushing of potable water mains and connective systems water districts.

4.1 COLORADO SPRINGS UTILITIES RESPONSIBILITIES

- WQA is responsible for the managerial oversight of all chlorination injections, disinfections, system flushing, chlorine neutralization and system monitoring during dewatering activities.
- Utilities' Distribution and Collection Specialist is considered the ORC of all Utilities' potable mains under the control of the assigned specialist. This encompasses legal responsibility of all distribution system pipelines being operated and maintained.

4.2 CONSECUTIVE SYSTEM OPERATIONS/ MANAGEMENT

- Public Water Systems that receive water from Utilities will be considered the ORC downstream of the demarcation/interconnect valve. This encompasses legal responsibility of all distribution system pipelines being operated and maintained. Responsibilities include, but are not limited to the following:
 - The oversight authority of the operation of the consecutive water district potable water distribution system.
 - Placement and providing a containment structure large enough to retain six times the volume of water to be discharged if an adequate storm intake is not available or the water cannot otherwise be properly managed.
 - Overseeing the operation of pressure regulation equipment, cross connection and system control valves.
 - ORC is responsible for the operation and maintenance of the cross-connection device, to include state certified cross connection control technician simultaneously testing its backflow assembly to ensure proper operation.

5.0 OPERATIONAL PROCEDURES

5.1 INITIAL START-UP OF A CONSECUTIVE SYSTEM

Prior to the initial start-up of a consecutive system:

- WQA will work with the Utilities site ORC and the consecutive system ORC to disinfect the main
- Utilities will conduct bacteriological testing.
- Utilities will notify the consecutive system ORC of a bacteriological testing once results are confirmed, typically within 24 hours. If results are negative, Utilities will open the demarcation valve and the consecutive system ORC will operate their valve and place the main into service.

- After flushing, WQA personnel will collect a bacteriological from Utilities' side of the interconnect closest to the demarcation valve to ensure water being delivered meets all Safe Drinking Water Act standards. This analysis takes approximately 24 hours to complete. Water will not be delivered until the sample has been read and authorized as absent of total coliform.
- If requested, Utilities personnel may also collect a bacteriological sample from the consecutive system side of the interconnect.

6.2 DISINFECTION

Disinfection is required when the connecting main is brought into service for the first time or when the main has been compromised in any way, such as during repairs or breaks.

- WQA personnel will be responsible for determining which disinfection method is most appropriate. WQA personnel will also be responsible for all aspects of water management during disinfection and flushing.
- Operations from the consecutive system will be responsible for BMP placement and providing a containment structure large enough to retain six times the volume of water to be discharged if an adequate storm intake is not available or the water cannot otherwise be properly managed.
- If disinfection activities must occur downstream of the demarcation valve, Utilities will function as a contractor if requested by the consecutive system. These activities are a courtesy to the consecutive system and Utilities holds no liability for infrastructure damage or contamination. Additionally, the consecutive system will be responsible for all time and material costs incurred by Utilities in associated with the disinfection. Operations from the consecutive system will be responsible for operating all appurtenances and valves on their system.

6.3 SAMPLING REQUIREMENTS

At the consecutive system location, WQA will verify the disinfection concentration meets acceptable levels, perform a clarity check, confirm free chlorine residual, and collect bacteriological samples.

Bacteriological Sampling Points

WQA will collect bacteriological samples from:

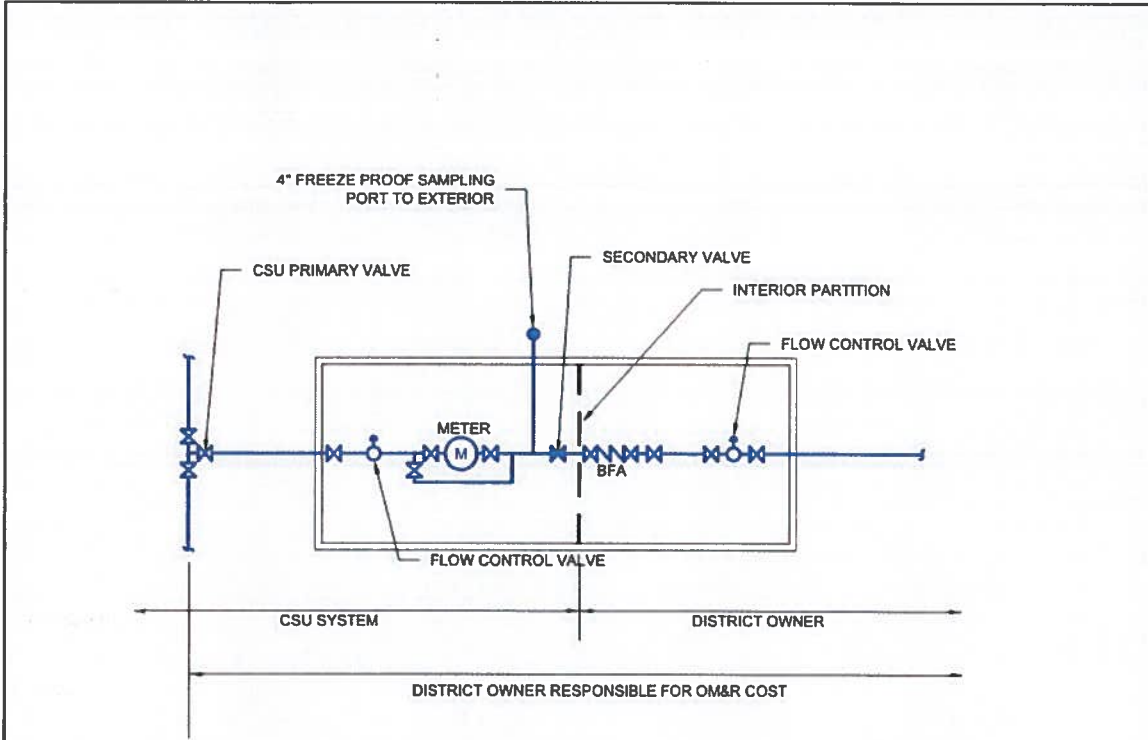
- The closest possible appurtenance to the tie-in point.
- The furthest appurtenance on each leg of the main.
- Every 1,000 linear feet of main.

Water Quality Check

- WQA will perform a water quality check, confirming free chlorine residual is >0.20 mg/L and collect a bacteriological sample at the closest possible appurtenance to the demarcation point and downstream of the demarcation valve, if requested.
- Results are read within 18 to 24 hours from sample set-up time.


EXHIBIT B

CLEARVIEW CONNECTION CONFIGURATION



NOTE:

1. COLORADO SPRINGS UTILITIES OWNERSHIP IS FROM THE CSU DISTRIBUTION SYSTEM AND INCLUSIVE OF THE PRIMARY VALVE. ALL OTHER RESPONSIBILITIES ARE DEFINED HEREIN AS AS DETAILED IN AN EXECUTED LICENSE AGREEMENT.
2. DISTRICT IS RESPONSIBLE FOR ALL INFRASTRUCTURE, EQUIPMENT AND FACILITIES LOCATED DOWNSTREAM AND INCLUSIVE OF THE SECONDARY VALVE.
3. PRIMARY FLOW CONTROL AND METER SHALL BE OWNED AND MAINTAINED BY CSU.
4. CSU WILL PROVIDE DISCRETE FLOW CONTROL AND METER SIGNAL TO DISTRICT OWNER FOR THEIR EXCLUSIVE USE. NO ACCESS TO CSU SCADA SYSTEM WILL BE PROVIDED.
5. CSU WILL BE RESPONSIBLE FOR OPERATING PRIMARY FLOW CONTROL, METER AND ISOLATION VALVES ASSOCIATED WITH THE REFERENCED EQUIPMENT.
6. DISTRICT SHALL PROVIDE SECURE INGRESS/EGRESS TO CSU AND DISTRICT OWNED PORTIONS OF THE FACILITY.
7. OPERATION, MAINTENANCE AND REPLACEMENT OF ALL EQUIPMENT, FACILITY AND APPURTENANCES SHALL BE THE RESPONSIBILITY OF THE DISTRICT AS DEFINED IN AN EXECUTED LICENSE AGREEMENT.

 <p>Colorado Springs Utilities <small>It's how we're all connected</small></p>	<p>DISTRICT CONNECTION TO COLORADO SPRINGS UTILITIES</p>	<p>X1-1 <small>DATED 11/2020</small></p>
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