

A RESOLUTION DIRECTING THE CHIEF EXECUTIVE OFFICER OF COLORADO SPRINGS UTILITIES TO EXECUTE A SECOND AMENDMENT TO THE GROUNDWATER CAPACITY LEASE AGREEMENT WITH SECURITY WATER DISTRICT

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

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

WHEREAS, Colorado Springs Utilities is entitled to withdraw its apportionment of Widefield Aquifer capacity through its Pinello Wells at a base level pumping rate of not more than 375 acre-feet per month, nor more than 1,200 acre-feet in any successive four month period, nor more than 1,600 acre-feet in any calendar year; and

WHEREAS, Colorado Springs Utilities has leased up to 600 acre-feet per year of its apportionment of Widefield Aquifer capacity to Security Water District for a period of 25 years pursuant to a Groundwater Capacity Lease Agreement entered into on December 14, 2012 and Amended on March 13, 2014; and

WHEREAS, the Groundwater Capacity Lease Agreement contains a take or pay provision that requires Security Water District to pay for a minimum of 300 acre-feet of Widefield Aquifer capacity annually whether or not it withdraws any capacity; and

WHEREAS, the Groundwater Capacity Lease Agreement provides that Security Water District may terminate the lease if the water quality in the Widefield Aquifer is such that it requires treatment under governmental drinking water standards; and

WHEREAS, due to the presence of perfluorooctane sulfonate and perfluorooctanoic acid, water quality in the Widefield Aquifer in the vicinity of Security Water District's wells has deteriorated to the point that it can no longer divert and use the Widefield Aquifer capacity without additional water treatment to meet governmental drinking water standards; and

WHEREAS, Security Water District has requested an amendment to the Groundwater Capacity Lease Agreement that would suspend the take or pay provision for calendar years 2016, 2017, and 2018, with the option to extend the suspension upon mutual agreement of the parties, in order to give Security Water District time to investigate how to use its wells in compliance with drinking water standards; and

WHEREAS, Colorado Springs Utilities has negotiated a second amendment to the Groundwater Capacity Lease that suspends the take or pay provision as described above and that provides for automatic reinstatement of the take or pay provision on January 1 of the year immediately following the year in which Security Water District determines that it can use its wells in compliance with drinking water standards; and

WHEREAS, Colorado Springs Utilities requests that City Council authorize and direct the Chief Executive Officer of Colorado Springs Utilities to execute the second amendment to the Groundwater Capacity Lease with Security Water District; and

WHEREAS, the City Council finds that it is appropriate for Colorado Springs Utilities to enter into such an amendment to Groundwater Capacity Lease with Security Water District.

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

Section 1: The Chief Executive Officer of Colorado Springs Utilities is authorized and directed to enter into a second amendment to the Groundwater Capacity Lease Agreement with Security Water District in a form substantially similar to that attached hereto.

Section 2: The Chief Executive Officer of Colorado Springs Utilities is also authorized to enter into subsequent amendments to the Groundwater Capacity Lease Agreement that suspend the take or pay provision for additional periods not to exceed the original term of the Groundwater Capacity Lease Agreement without seeking further authorization from City Council.

Section 3: The Chief Executive Officer of Colorado Springs Utilities is also authorized to administer the Groundwater Capacity Lease Agreement and any amendments thereto.

Section 4: This Resolution shall be in full force and effect immediately upon its adoption.

Dated at Colorado Springs, Colorado, this 27th day of September, 2016.

Merv Bennett, Council President

ATTEST:

Sarah B. Johnson, City Clerk