Date: July 17, 2020
To: Utilities Board
From: Aram Benyamin, Chief Executive Officer

Subject: Communication to Utilities Board

1. Water Main Replacement Program (WMRP) 2-Week Look Ahead
   [See attachment]

2. Water Update
   [See attachment]

3. Project COPE Assistance Numbers
   • As of June 30, 2020, Colorado Springs Utilities has spent $321,570.
   • As of June 30, 2020, Springs Utilities has assisted 724 households with Project COPE.

4. Underground Damage Prevention Safety Program & Ordinance
   • Colorado Springs Utilities sent a Letter of Intent (LOI) May 22 to the Colorado Underground Damage Prevention Safety Commission. The purpose of the letter is a declaration to establish our own damage prevention and safety program as a home rule entity, rather than reporting directly to the state.
   • The program will entail City Code change and includes an enhanced enforcement program. From the LOI: Colorado Springs Utilities has a long standing and robust damage prevention program, which includes enforcement. The revised statute allows us to expand our program and partner with the City of Colorado Springs for a combined enforcement program.
   • This is not a new program. Springs Utilities has had a damage prevention safety program in place for years, utilizing a group of 29 in-house locators. Using a locate ticket management system, the locators mark underground infrastructure when a homeowner or contractor makes a request through 811. Within two business days after the day the request was made, Utilities’ locators mark (with small colored flags and spray paint) pipelines, electrical lines, water lines, wastewater lines and fiber. Springs Utilities also has two damage investigators. Upon an alleged violation (damaging Utilities’ assets), existing state law and City Code sections are enforced with fines and additional educational requirements.
   • These City Code changes will codify the program, provide relevant definitions, and set forth actions considered as violations of the program provisions (based on state law). A City Code-authorized Enforcement Officer will review complaints and will characterize the violation as minor, moderate or major, and apply the same penalty matrix as the state commission.
• Attached to this communication is the language of the proposed ordinance and a comparison spreadsheet of current applicable City Code, proposed changes/additions, and the revised State of Colorado requirements labeled “2018 Revised Statute Provisions.”
• Timeline: Springs Utilities staff will bring the proposed ordinance with a presentation including pros and cons and a FAQ to the Board Strategic Planning and Finance Committees on August 13 and 14, respectively. The presentation is on the Utilities Board agenda for August 19, for referral to City Council September 8 and 22.
• Stakeholder Engagement: The proposed ordinance and comparison will be shared with the Housing and Building Association and Contractors Association prior to August meetings for review and input. Stakeholders will be invited to speak during the Utilities Board and City Council meetings. Extensive stakeholder outreach and education is planned between passage of the ordinance and the January 1, 2021 effective date.

5. Proposed Electric Cost Adjustment (ECA), Electric Capacity Charge (ECC) and Industrial Service – Large Power and Light (ELG) Supply Credit:
   • At the July 28, 2020 City Council meeting, Colorado Springs Utilities is proposing changes to the Electric Cost Adjustment (ECA), Electric Capacity Charge (ECC) and Industrial Service – Large Power and Light (ELG) Supply Credit rates effective August 1, 2020.
     o The proposed ECA rate adjustment changes the current effective rate of $0.0149 per kWh to a proposed rate of $0.0185 per kWh.
     o The proposed ECC adjustments change rates by Rate Class consistent with capacity allocations.
     o The proposed ELG Supply Credit adjustment changes the current effective credit rate of $(0.0018) per kWh to a proposed rate of $(0.0014) per kWh.
   • If approved, the proposed rates will impact the respective customer’s sample electric bill as follows:
     o Residential electric bill increase of $2.24 or 2.7%
     o Commercial electric bill increase of $19.80 or 3.7%
     o Industrial electric bill increase of $1,400.00 or 4.7%

6. Proposed Gas Cost Adjustment (GCA) and Gas Capacity Charge (GCC):
   • At the July 28, 2020 City Council meeting, Colorado Springs Utilities is proposing changes to the Gas Cost Adjustment (GCA) and Gas Capacity Charge (GCC) rates effective August 1, 2020.
     o The proposed GCA rate adjustment changes the current effective rate of $0.0738 per Ccf to a proposed rate of $0.1084 per Ccf.
     o The proposed GCC adjustments change rates by Rate Class consistent with capacity allocations.
   • If approved, the proposed rates will impact the respective customer’s sample natural gas bill as follows:
     o Residential gas bill increase of $3.56 or 12.2%
Commercial gas bill increase of $72.55 or 20.1%
Industrial gas bill increase of $725.40 or 21.4%

7. A Resolution Authorizing the Acquisition of Property to be Used for Energy Distributed Generation Gas and Electric (EDGE) Portfolio Improvements

- At the July 28th Formal City Council meeting Colorado Springs Utilities will be seeking City Council approval of a Resolution authorizing the acquisition of two parcels totaling approximately 160 acres of real property needed for the Energy Distributed Generation Gas and Electric (EDGE) Portfolio from Lockheed Martin Corporation, a Maryland corporation, for the purchase price of $2,250,000.
- The acquisition of the properties would support several projects in the EDGE Portfolio including:
  - Construction of a new electric substation.
  - Construction/installation of new energy generation facilities to meet current and future customer needs.
  - Construction of new renewable energy generation and storage facilities.
  - Construction of a new campus to support future technology advances in the electric, gas, water, and wastewater industries.
- Pursuant to section 4.1 of The City of Colorado Springs Procedure Manual for the Acquisition and Disposition of Real Property Interests (Real Estate Manual), City Council approval is required for acquisition of real property interests if the purchase price exceeds $50,000.00.

[See attachment]

Attachments:
- Attachment 1 (Water Main Replacement Program (WMRP) 2-Week Look Ahead)
- Attachment 2 (Water Update)
- Attachment 3 (Underground Damage Prevention Attachments)
- Attachment 4 (EDGE Portfolio Resolution)

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Legend
CA - Condition Assessment
CP - Cathodic Protection
REP - Replacement

This report includes CSU planned finished water projects.
-For other projects see Project Viewer.
-For emergency projects see Cone Zone Map.

GIS Public Portal
***Use this link for specific work zone information***
Weekly Water Update as of July 12, 2020:

CONSUMPTION:

WEEKLY:
Week of July 06 through July 12, 2020: 732.3 million gallons, average temperature: 67 deg F, precipitation: 0.02 in.
Week of July 06 through July 12, 2019: 661.1 million gallons, average temperature: 61 deg F, precipitation: 0.06 in.
Week of July 06 through July 12, 2018: 749.8 million gallons, average temperature: 73 deg F, precipitation: 0.28 in.
Week of July 06 through July 12, 2001: 1,042.1 million gallons, average temperature: 76 deg F, precipitation: 1.32 in.

MONTH-TO-DATE:
- July 12, 2020: 1,218.6 million gallons.
- July 12, 2019: 1,148.0 million gallons.
- July 12, 2018: 1,298.0 million gallons.
- July 12, 2001: 1,855.2 million gallons.

YEAR-TO-DATE:
- July 12, 2020: 12,093.8 million gallons (110.4% of 2019), precipitation was: 5.14 in.
- July 12, 2019: 10,958.8 million gallons, precipitation was: 7.83 in.
- July 12, 2018: 13,377.3 million gallons, precipitation was: 6.45 in.
- July 12, 2001: 15,512.9 million gallons, precipitation was: 10.11 in.

LOCAL STORAGE:
- July 12, 2020 volume is 16.40 billion gallons.
- July 12, 2020 was 76.3% of capacity.
- July 12, 2019 was 83.1% of capacity.
- July 12, 2018 was 63% of capacity.
- July 12 normal storage - 1997 to 2001 - is 75.6% of capacity.
- July 12 average storage for 30 years - 1981 to 2010 - is 78.9% of capacity.
- There are 251 days of demand in local storage.

SYSTEM STORAGE:
- As of July 05, 2020, system wide storage volume is 72.1 billion gallons.
- There are approximately 3.0 years of demand in storage system-wide.
- System storage is at 85.9% of capacity.
- System storage for July 05, 2019 was 89.6% of capacity.
- System storage for July 05, 2018 was 85.1% of capacity.
- Normal system storage - 1997 to 2001 - for July 05 is 85.5% of capacity.
- Average system storage - 1981 to 2010 - for July 05 is 82.5% of capacity.
ORDINANCE NO. _____

AN ORDINANCE ADOPTING A NEW ARTICLE 10
(UNDERGROUND DAMAGE PREVENTION SAFETY PROGRAM)
IN CHAPTER 12 OF THE CODE OF THE CITY OF COLORADO
SPRINGS 2001, AS AMENDED, PERTAINING TO UNDERGROUND
EXCAVATION REGULATIONS AND PROVIDING PENALTIES FOR
THE VIOLATION THEREOF.

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

Section 1. Section 203 (Application for License; Fees; Term; Bond and Insurance
Requirements; Suspension or Revocation) of Article 3 (Streets and Public Ways) of
Chapter 3 (Public Property and Public Works) of the Code of the City of Colorado
Springs 2001, as amended, is amended to read as follows:

3.3.203: APPLICATION FOR LICENSE; FEES; TERM; BOND AND INSURANCE REQUIREMENTS;
SUSPENSION OR REVOCATION:

A. Requirements: Any person desiring an excavation license shall submit an
application on forms provided by the City Clerk's Office in accord with the City's
General Licensing Code. All applications for an excavation license shall contain those
matters required by section 2.1.403 of the City Code. The license shall be issued by the
City Clerk upon payment of all application and license fees, successful completion of
the City’s Underground Damage Prevention Safety Class and compliance with the
provisions of this part and the General Licensing Code. Fees for excavation licenses
shall be as established by City Council under chapter 2, article 1, part 5 of the City
Code. All excavation licenses issued shall, unless sooner suspended or revoked, expire
one year from the date of issuance. A license may be renewed no later than thirty (30)
days after the expiration upon payment of the required fees. The City Clerk shall keep a
record of all licenses issued.

* * *

Section 2. A new Article 10 (Underground Damage Prevention Safety Program)
of Chapter 12 of the Code of the City of Colorado Springs 2001, as amended, is
adopted to read as follows:
12.10.101: DEFINITIONS:

DAMAGE: Includes the penetration or destruction of any protective coating, housing, or other protective device of an underground facility, the denting or partial or complete severance of an underground facility, or the rendering of any underground facility inaccessible.

EMERGENCY SITUATIONS: Includes ruptures and leakage of pipelines, explosions, fires, and similar instances where immediate action is necessary to prevent loss of life or significant damage to property, including, without limitation, underground facilities, and advance notice of proposed excavation is impracticable under the circumstances.

EXCAVATION: Any operation in which earth is moved or removed by means of any tools, equipment, or explosives and includes augering, backfilling, boring, ditching, drilling, grading, plowing-in, pulling-in, ripping, scraping, trenching, hydro excavating, postholing, and tunneling. “Excavation” includes all excavations performed in a public place pursuant to a license or permit granted in accord with chapter 3, article 3, part 2 of this Code. "Excavation" does not include:

A. Routine maintenance on existing planted landscapes; or

B. An excavation by a rancher or a farmer, as defined in section 42-20-108.5, C.R.S., occurring on a ranch or farm when the excavation involves:
   1. Any form of existing agricultural activity that is routine for that ranch or farm;
   2. Land clearing if the activity does not involve deep ripping or deep root removal of trees or shrubs; or
   3. Routine maintenance of:
      a. An existing irrigation facility if the facility has been subjected to maintenance in the previous 24 months; or
      b. Existing fence lines.

NOTIFICATION ASSOCIATION: The statewide notification association of owners and operators of underground facilities created in section 9-1.5-105, C.R.S., also known as “Colorado 811” or as the “Utility Notification Center of Colorado”.

OPERATOR or OWNER: Any person, including public utilities, municipal corporations, political subdivisions, or other persons having the right to bury underground facilities in or near a public road, street, alley, right-of-way, or utility easement “Operator” or “owner” as used in this article does not include any railroad.

PERSON: Any individual acting on his or her own behalf, a sole proprietor, partnership, association, corporation, or joint venture; the state, any political subdivision of the state, or any instrumentality or agency of either; or the legal representative of any of these.

PREMARK: Marking the route of a proposed excavation with white paint, flags, stakes or a combination of such methods to outline the dig site prior to notifying the notification association, and before the locator arrives on the site.
PROGRAM: The Colorado Springs underground damage prevention safety program, set forth in this article. The program will collaborate with the notification association and other state agencies on the enforcement authority as established by statute.

PROGRAM MANAGER: The person appointed by the Chief Executive Officer to administer this program.

ROUTINE MAINTENANCE: A regular activity that happens at least once per year on an existing planted landscape if earth is not disturbed at a depth of more than twelve inches by nonmechanical means, including using hand tools, or four inches by mechanical means and if the activities are not intended to permanently lessen the ground cover or lower the existing ground contours. Mechanical equipment used for routine maintenance tasks includes aerators, hand-held rototillers, soil injection needles, lawn edgers, and overseeders.

SOFT DIGGING: Any excavation using tools or equipment that utilize air or water pressure as the direct means to break up soil or earth for removal by vacuum excavation.

UNDERGROUND FACILITY: Any item of personal property which is buried or placed below ground for use in connection with the storage or conveyance of water or wastewater, electronic, telephonic, or telegraphic communications or cable television, electric energy, or oil, gas, or other substances. For purposes of this definition, an item of personal property includes, but is not limited to, pipes, wastewater collection facilities, conduits, cables, valves, lines, wires, manholes, and attachments thereto.

UTILITY LOCATE: Actions taken by or on behalf of an operator or owner using reasonable care to advise an excavator of the location, number and size of any underground facilities in the proposed excavation area including laterals in the public right of way, by accurately marking the location of the underground facilities with clearly identifiable markings.

VIOLATION: A determination by the Program Manager that a violation of this article has occurred.

VIOLATION, MAJOR: A major violation includes, but is not limited to, an act that the Program Manager finds to be in blatant disregard of this article where the potential for injury to the public or property is highly probable.

VIOLATION, MINOR: A minor violation includes, but is not limited to, an act that the Program Manager finds to be in violation of this article where the potential for injury to the public or property is not a factor. The act of filing a frivolous complaint shall also constitute a minor violation. For purposes of this article, a frivolous complaint is one that is entirely without merit and is made with the intention of causing inconvenience, harassment or expense.
VIOLATION, MODERATE. A moderate violation includes, but is not limited to, an act that the Program Manager finds to be in violation of this article where the potential for injury to the public or property is foreseeable.

12.10.102: PURPOSE:

The purpose of this part is to establish the Colorado Springs Underground Damage Prevention Safety Program, pursuant to section 9-1.5-101, et seq., C.R.S. The City is exercising its home rule authority to establish a Program similar to that of the underground damage prevention safety commission. City Council exercises its police powers to govern excavations near and around underground utility infrastructure for the purposes of protecting persons and underground utility infrastructure from nonemergency excavation work.

12.10.103: UNDERGROUND DAMAGE PREVENTION SAFETY PROGRAM:

There is hereby established the Colorado Springs Underground Damage Prevention Safety Program within Utilities. The Chief Executive Officer will appoint a Program Manager. The Program Manager will:

A. Collaborate with the underground damage prevention safety commission existing within the Colorado department of labor and employment, the notification association and other state agencies to develop best practices and training to prevent damage to underground utilities.

B. Review complaints alleging violations of this article and order appropriate remedial action or penalties.

C. Establish best practices for excavators.

D. Serve as the utility enforcement officer for violations of this article.

12.10.104: PREMARKING; NOTICE OF EXCAVATION; DUTIES OF EXCAVATORS; DUTIES OF OWNERS AND OPERATORS:

A. Premarking. A person planning to conduct an excavation shall premark the area to be excavated before calling the notification association. If the area is not premarked, an owner or operator may, at their discretion, choose not to locate and field mark any underground facilities, until the area to be excavated has been premarked.

B. Notification Association. No person shall make or begin excavation without first submitting a locate request to the notification association. At the time of submitting a locate request, excavators shall provide electronic delineation of the excavation area through the notification association, if available.
C. Perform Locate. Any owner or operator receiving notice pursuant to C.R.S. section 9-1.5-103 (4)(a)(I) shall, at no cost to the excavator and within two (2) business days unless otherwise agreed to by the excavator, not including the day the owner or operator receives notice from the notification association, use reasonable care to advise the excavator of the location, number and size of any underground facilities in the proposed excavation area including laterals in the public right of way, by marking the location for the facilities with clearly identifiable markings within eighteen inches (18") horizontally from the exterior sides of the facilities. The marking must include the depth, if known, and shall be made pursuant to the uniform color code as approved by the American Public Works Association. The markings must meet the marking standards as established by the commission pursuant to section 9-1.5-104.2 (1)(a)(I), C.R.S. The documentation required by this section shall be provided to the excavator through the notification association and must meet or exceed any quality standards established by the commission pursuant to section 9-1.5-104.2 (1)(a)(I), C.R.S. In addition to the markings, the owner or operator shall provide for each of its underground facilities:
   1. Documentation listing the owner's or operator's name and the size and type of each marked underground facility; and
   2. Documentation of the location of the underground facilities in the form of a digital sketch, a hand-drawn sketch, or a photograph that includes a readily identifiable landmark, where practicable.

D. Sewer Laterals. The owner or operator of a sewer system shall provide its best available information when marking the location of sewer laterals in the public right-of-way with clearly identifiable markings. This includes tap measurements and historic records. If the sewer lateral can be electronically located, the sewer system owner or operator shall mark and document the location of the sewer laterals in accordance with C.R.S. section 9-1.5-103 (4)(a). If a sewer system owner or operator of a sewer lateral cannot electronically locate the sewer lateral, the excavator shall find the sewer lateral.
   1. The marking of customer-owned laterals in the public right-of-way is for informational purposes only, and an owner or operator is not liable to any party for damages or injuries resulting from damage done to customer-owned laterals.

E. On-Site Assistance. If a person is excavating across a preexisting underground facility, the owner of such facility shall, pursuant to a predetermined agreement at the request of the excavator or owner, provide on-site assistance. An owner or operator may charge a reasonable fee for provision of on-site assistance.

F. Gas Standby Process and Compliance with Utilities Gas Line Extension and Service Standards. If a person is excavating across a preexisting natural gas underground facility, the excavator must schedule an appointment for a standby with the owner three days before excavation occurs. An owner or operator of a natural gas underground facility may charge a reasonable fee for standby services associated with excavation near natural gas underground facilities. In addition to the above requirements, all excavators excavating in an area where natural gas underground facilities have been identified, must comply with the excavation requirements of
Colorado Springs Utilities’ Gas Line Extension and Service Standards or the standards of any other operator or owner of natural gas underground facilities.

G. Absence of Facilities. Any owner or operator receiving notice concerning an excavator’s intent to excavate shall use reasonable care to advise the excavator of the absence of any underground facilities in the proposed excavation area by providing positive response documentation to the excavator through the notification association that no underground facilities exist in the proposed excavation area. An owner or operator will, within the time limits specified in subsection C., of this section, provide to the excavator evidence, if any, of the underground facilities abandoned after January 1, 2001, known to the owner or operator to be in the proposed excavation area.

H. Duration of Markings, Duty to Notify. The markings of underground facilities will be considered valid as long as the markings are clearly visible, but not for more than thirty calendar days following the due date of the locate request. If an excavation has not been completed within the applicable period, the excavator shall notify the notification association at least two business days, not including the day of actual notice, before the end of the applicable period.

I. Nondestructive Means on Edges. When a person excavates within eighteen inches (18") horizontally from the exterior edges of any marked underground facility, the person shall use nondestructive means of excavation, such as soft digging, prescribed by the Program Manager, to identify underground facilities and shall otherwise exercise reasonable care to protect any underground facility in or near the excavation area.

J. Trenchless Excavation. When utilizing trenchless excavation methods, the excavator shall expose underground facilities and visually observe the safe crossing of marked underground facilities.

K. Documentation on Site. The excavator shall maintain adequate and accurate documentation. This includes photographs, video, or sketches and documentation obtained through the notification association, at the excavation site on the location and identification of any underground facility. The excavator shall maintain adequate markings of any underground facility throughout the excavation period.

L. Discovery of Facilities during Routine Maintenance. If a person performing routine maintenance discovers an underground facility in an area where the routine maintenance is being performed, the person shall notify the notification association and the affected owner or operator as quickly as practicable and request an immediate verification of the location of any underground facility. Upon receiving notification, the affected owner or operator shall respond as quickly as practicable. The person shall cease routine maintenance activities in the immediate area, as determined by exercising due caution and care, until the location of any underground facilities has been verified. Persons performing routine maintenance shall take reasonable care when disturbing the soil.
M. Emergency Situations. In emergency situations, excavators shall submit a request to the notification association for emergency utility locates. Pre-marking shall not be a prerequisite to submitting a request for emergency utility locates. Excavators shall be on-site when utility locators arrive to perform utility locates in an emergency situation.

N. Cessation of Excavation; Lost, Invalid or Inaccurate Markings. If the documentation or markings maintained pursuant to C.R.S. section 9-1.5-103 (4)(a)(1) become lost, invalid or inaccurate, the excavator shall notify the notification association or the affected owner or operator through the notification association and request an immediate reverification of the location of any underground facility. Upon receipt of the notification, the affected owner or operator shall respond as quickly as is practicable. The excavator shall cease all excavation activities in the vicinity of electric, natural gas, water or wastewater underground facilities at the affected location until the location of any underground facilities has been reverified.

O. Cessation of Excavation for Failure to Locate. If documentation or markings requested and needed by an excavator pursuant to C.R.S. section 9-1.5-103 (4)(a)(1) are not provided by the owner or operator within two (2) business days, not including the day of actual notice, or such later time as agreed upon by the excavator and the owner or operator, or, if the documentation or markings provided fail to identify the location of the underground facilities, the excavator shall immediately give notice through the notification association or to the owner or operator. Upon receipt of the notification, the affected owner or operator shall respond as quickly as practicable. The excavator shall cease excavation activities in the vicinity of electric, natural gas, water or wastewater underground facilities at the affected location until the location of any underground facilities has been identified by the owner or operator.

P. Timing to Request a Locate. No person shall request marking pursuant to C.R.S. section 9-1.5-103 (4)(a)(1) unless excavating is scheduled to commence within ten (10) days.

Q. Failure to Timely Commence Excavation; Utility Locate Verification Fees. After an owner or operator has provided the requested utility locates, the excavator must commence work within ten (10) days of the “locate by” date on the locate ticket created by the notification association. In the event an excavator fails to commence work within ten (10) days of that date. All requests for verification of utility locates and requests for utility locates by the same excavator or for persons working for the same excavation company for the same geographic area for the same project occurring within a ninety (90) day period may be subject to a locate verification fee established by the owner or operator based on the time and materials required to verify the utility locates or $250, whichever is greater, except for those requests which are necessitated by circumstances not reasonably within the control of the excavator.

12.10.105: VIOLATIONS:
A. It shall be a violation of this article to willfully or maliciously remove a marking used by an owner or operator to mark the location of any underground facility, except in the ordinary course of excavation.

B. It shall be a violation of this article for any person to excavate without first obtaining locates for underground facilities.

C. It shall be a violation of this article for any person to excavate in a manner inconsistent with the requirements of this article.

12.10.106: COMPLAINTS AND ENFORCEMENT:

A. The Program Manager will investigate all complaints and alleged damage. The Program Manager may receive complaints from any person who observes or identifies a violation or evidence of a violation of this article or from the Colorado underground damage prevention safety commission. The Program Manager may also identify violations as a result of a damage investigation involving damaged underground facilities. The Program Manager will characterize the violations as minor, moderate or major. If violations are found, the Program Manager will issue a notice of violation and follow the enforcement process as set forth in part 2 of article 11 of this chapter.

B. The Program Manager may recommend to the City Engineer that the party’s excavator’s license/permit issued pursuant to City Code section 3.3.202 be suspended or revoked.

C. In addition to penalties, the Program Manager may require any person found to be in violation of this article to take an excavation safety training class.

D. Penalties and damages for violation of this article shall be as set forth in sections 9-1.5-104.4 and 9-1.5-104.5, C.R.S.

Section 2. Council deems it appropriate that this ordinance be published by title and summary prepared by the City Clerk and that this ordinance be available for inspection and acquisition in the office of the City Clerk.

Introduced, read, passed on first reading and ordered published this ___ day of ________________________, 2020.

Finally passed:

____________________________
Council President
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<td>N/A</td>
<td>ORDINANCE NO. _TBD_____AN ORDINANCE ADOPTING A NEW PART 121 (UNDERGROUND DAMAGE PREVENTION SAFETY PROGRAM) OF ARTICLE 1 OF CHAPTER 12 OF THE CODE OF THE CITY OF COLORADO SPRINGS 2001, AS AMENDED, PERTAINING TO UNDERGROUND EXCAVATION REGULATIONS AND PROVIDING PENALTIES FOR THE VIOLATION THEREOF</td>
<td>9-1.5-104.2. Underground damage prevention safety commission - creation - review of violations - enforcement - rules. (d)The governing body of a home rule county, city and county, municipality, or power authority established pursuant to section 29-1-204 (1) shall adopt by resolution, ordinance, or other official action either: (I)Its own damage prevention safety program similar to that established pursuant to this article 1.5; or</td>
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<td>3.3.203: APPLICATION FOR LICENSE; FEES; TERM; BOND AND INSURANCE REQUIREMENTS; SUSPENSION OR REVOCATION:</td>
<td>The license will be issued by the City Clerk upon payment of all application and license fees, successful completion of the City’s Underground Damage Prevention Safety Class and compliance with the provisions of this part and the General Licensing Code.</td>
<td>N/A</td>
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<td>N/A</td>
<td>12.10.101: Definitions: PREMARK: Marking the route of the excavation either electronically or with white paint, flags, stakes or a combination of such methods to outline the dig site prior to notifying Colorado 811, and before the Locator arrives on the site.</td>
<td>9-1.5-103. Plans and specifications - notice of excavation - duties of excavators - duties of owners and operators - fee - repeal. (II) If an area of excavation cannot be accurately described on the locate request, the excavator shall notify the owner or operator of the area of excavation using one or more of the following methods: (A) Physical delineation with white marks on a hard surface area; (B) Electronic delineation on a map, plan sheet, or aerial photograph that can be transmitted electronically from the excavator to the facility owner or operator through the notification association; or (C) Scheduling an on-site meeting between the excavator and the owner or operator.</td>
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<td>N/A</td>
<td>12.10.101: Definitions: SOFT DIGGING: any excavation using tools or equipment that utilize air or water pressure as the direct means to break up soil or earth for removal by vacuum excavation.</td>
<td>9-1.5-102. Definitions. (3) &quot;Excavation&quot; means any operation in which earth is moved or removed by means of any tools, equipment, or explosives and includes augering, backfilling, boring, ditching, drilling, grading, plowing-in, pulling-in, ripping, scraping, trenching, hydro excavating, postholing, and tunneling.</td>
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<td>B. Prior to opening an excavation in a public place, it shall be the duty of the excavator to determine whether underground facilities and utilities, (i.e., sewer, telephone, water, fuel, electric lines, underground traffic signal cables, cable television, etc.), will be encountered, and if so, where the underground facilities are located. No excavator, excavator's employee or agent, any subcontractor of the excavator or any other person shall commence any excavation unless and until information regarding facilities and utilities has been requested and obtained detailing the status of the public place in question not more than five (5) working days prior to the excavation.</td>
<td>PROGRAM: Also known as the Colorado Springs Underground Damage Prevention Safety Program or Program, as set forth in this Part. The Program will collaborate with the Notification Association and other state agencies on the enforcement authority as established by statute. PROGRAM MANAGER: The person appointed by the Chief Executive Officer to administer this Program.</td>
<td>(d) The governing body of a home rule county, city and county, municipality, or power authority established pursuant to section 29-1-204 (1) shall adopt by resolution, ordinance, or other official action either: (I) its own damage prevention safety program similar to that established pursuant to this article 1.5; or</td>
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<td>12.10.101: Definitions:</td>
<td>UTILITY LOCATE: Actions taken using reasonable care to advise an Excavator of the location, number and size of any underground facilities in the proposed excavation area including laterals in the public right of way, by marking the location for the facilities with clearly identifiable markings within eighteen inches horizontally from the exterior sides of the facilities.</td>
<td>9-1.5-103. Plans and specifications - notice of excavation - duties of excavators - duties of owners and operators - fee - repeal. (II) Effective January 1, 2021, except in emergency situations and except as to an employee or an employer's contractor with respect to the employer's underground facilities, a person shall not make or begin excavation without first notifying the notification association. Notice may be given by electronic methods approved by the notification association or by telephone.</td>
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<td>VIOLATION: A determination by the Program Manager that a violation of this Article 10 has occurred.</td>
<td>(2) The safety commission may review complaints of alleged violations of this article</td>
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<th>12.10.101: Definitions:</th>
<th>9-1.5-104.4. Penalties - guidance.</th>
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<td>VIOLATION, MAJOR: A major violation includes, but is not limited to, an act that the Program Manager finds to be in blatant disregard of this Article 10, and the potential for injury to the public or property is highly probable. VIOLATION, MODERATE. A moderate violation includes, but is not limited to, an act that the Program Manager finds to be in violation of this Article 10, and the potential for injury to the public or property is foreseeable. VIOLATION, MINOR: A minor violation includes, but is not limited to, a frivolous complaint or an act that the Program Manager finds to be in violation of this Article 10, and the potential for injury to the public or property is not a factor.</td>
<td>(a) Guidance shall be developed to help the review committee in determining whether an alleged violation should be classified as a minor, moderate, or major violation;</td>
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Section 12.10.103: UNDERGROUND DAMAGE PREVENTION SAFETY PROGRAM
The Chief Executive Officer will establish the Underground Damage Prevention Safety Program (“Program”) in the department of Regulatory and Compliance. The Chief Executive Officer will appoint a Program Manager (“Manager”). The Manager of the Program will:

(1.) Collaborate with the Colorado Underground Damage Prevention Safety Commission, the Notification Association and other state agencies to develop best practices and training to prevent damage to underground utilities.

(2.) Review complaints alleging violations of this Article and order appropriate remedial action or penalties.

(3.) Establish best practices, the violation of which will result in penalties under this Article.

9-1.5-104.2. Underground damage prevention safety commission - creation - review of violations - enforcement - rules.
(1) (a) There is hereby created the underground damage prevention safety commission in the department of labor and employment. The safety commission is transferred to the department by a type 2 transfer as that term is defined in section 24-1-105. The safety commission shall:

(I) Advise the notification association and other state agencies, the general assembly, and local governments on:

(A) Best practices and training to prevent damage to underground utilities;

(B) Policies to enhance public safety, including the establishment and periodic updating of industry best standards, including marking and documentation best practices and technology advancements; and

(C) Policies and best practices to improve efficiency and cost savings to the 811 program, including the review, establishment, and periodic updating of industry best standards, to ensure the highest level of productivity and service for the benefit of both excavators and owners and...
1. Premarking. A person planning to conduct an excavation will premark the area to be excavated by marking the route of a proposed excavation either electronically or with white paint, flags, stakes or a combination of such methods to outline the dig site, before calling the Notification Association. If the area is not premarked, an owner or operator may, at their discretion, choose not to locate and field mark any underground facilities, until the area to be excavated has been premarked.

9-1.5-103. Plans and specifications - notice of excavation - duties of excavators - duties of owners and operators - fee - repeal.

(II) If an area of excavation cannot be accurately described on the locate request, the excavator shall notify the owner or operator of the area of excavation using one or more of the following methods:
(A) Physical delineation with white marks on a hard surface area;
(B) Electronic delineation on a map, plan sheet, or aerial photograph that can be transmitted electronically from the excavator to the facility owner or operator through the notification association; or
(C) Scheduling an on-site meeting between the excavator and the owner or operator.
3.3.211: WORK PROCEDURES AND OPERATIONS:
B. Prior to opening an excavation in a public place, it shall be the duty of the excavator to determine whether underground facilities and utilities, (i.e., sewer, telephone, water, fuel, electric lines, underground traffic signal cables, cable television, etc.), will be encountered, and if so, where the underground facilities are located. No excavator, excavator's employee or agent, any subcontractor of the excavator or any other person shall commence any excavation unless and until information regarding facilities and utilities has been requested and obtained detailing the status of the public place in question not more than five (5) working days prior to the excavation.

3.3.205: CITY RESPONSIBILITIES:
Within two (2) business days after the day a licensed excavator gives notice of intent to excavate, the City shall advise the excavator of the location and size of underground facilities in the proposed excavation area by marking the location of the facilities by clearly identifiable markings within eighteen inches (18") horizontally from the exterior.

2. Notification Association. A person will not make or begin excavation without first notifying the Notification Association and making a locate request.

9-1.5-103. Plans and specifications - notice of excavation - duties of excavators - duties of owners and operators - fee - repeal.
(II) Effective January 1, 2021, except in emergency situations and except as to an employee or an employer's contractor with respect to the employer's underground facilities, a person shall not make or begin excavation without first notifying the notification association. Notice may be given by electronic methods approved by the notification association or by telephone.
### 3.3.205: CITY RESPONSIBILITIES:
C. When possible and without assuming any additional liability for its actions, the City may assist the excavator in exposing underground facilities and locating privately owned gas, electric, water and wastewater service lines running from the main line to individual structures on private property.


1. **Gas Standby Process.** If a person is excavating across a preexisting underground natural gas facility, the excavator must schedule an appointment for a standby with the owner three days before excavation occurs.

### 9-1.5-103. Plans and specifications - notice of excavation - duties of excavators - duties of owners and operators - fee - repeal.
If a person is involved in excavating across a preexisting underground facility, the owner of such facility shall, upon a predetermined agreement at the request of the excavator or the owner, provide on-site assistance.

### 3.3.211: WORK PROCEDURES AND OPERATIONS:
C. When the excavation approaches the estimated location of the facility or utility, the exact location shall be determined and reasonable precautions, to include hand digging at the estimated location, shall be taken in uncovering the facility. When it is located, proper support shall be provided for the existing facility or utility. Utility companies, traffic engineering division, telephone company, cable television company and any other company having underground facilities or utilities shall be contacted and advised of proposed work five (5) days prior to the start of actual excavation.


1. **Nondestructive means on edges.** When a person excavates within eighteen inches horizontally from the exterior edges of any marked underground facility, the person will use nondestructive means of excavation prescribed by the Program Manager, to identify underground facilities and will otherwise exercise reasonable care to protect any underground facility in or near the excavation area.

### 9-1.5-103. Plans and specifications - notice of excavation - duties of excavators - duties of owners and operators - fee - repeal.
(b) (I) (A) When a person excavates within eighteen inches horizontally from the exterior sides of any marked underground facility, the person shall use nondestructive means of excavation to identify underground facilities and shall otherwise exercise reasonable care to protect any underground facility in or near the excavation area. When utilizing trenchless excavation methods, the excavator shall expose underground facilities and visually observe the safe crossing of marked underground facilities when requested to do so by the underground facility owner or operator or the government agency that issued a permit for the excavation.
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<tr>
<td>1. Trenchless excavation. When utilizing trenchless excavation methods, the Excavator will expose underground facilities and visually observe the safe crossing of marked underground facilities.</td>
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<th>9-1.5-103. Plans and specifications - notice of excavation - duties of excavators - duties of owners and operators - fee - repeal.</th>
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<td>(b) (I) (A) When a person excavates within eighteen inches horizontally from the exterior sides of any marked underground facility, the person shall use nondestructive means of excavation to identify underground facilities and shall otherwise exercise reasonable care to protect any underground facility in or near the excavation area. When utilizing trenchless excavation methods, the excavator shall expose underground facilities and visually observe the safe crossing of marked underground facilities when requested to do so by the underground facility owner or operator or the government agency that issued a permit for the excavation.</td>
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<td>B. If the information in subsection A of this section is not provided within two (2) business days or at another time as agreed between the City and excavator, or if the information provided fails to identify the facilities in accord with subsection A of this section, the excavator may proceed except as otherwise provided by law or regulation.</td>
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### 3.3.205: CITY RESPONSIBILITIES:

B. If the information in subsection A of this section is not provided within two (2) business days or at another time as agreed between the City and excavator, or if the information provided fails to identify the facilities in accord with subsection A of this section, the excavator may proceed except as otherwise provided by law or regulation.


1. **Cessation of excavation – lost, invalid or inaccurate markings.** If the documentation or markings maintained pursuant to C.R.S.§ 9-1.5-103 (4)(a)(1) become lost, invalid or inaccurate, the excavator will notify the notification association or the affected owner or operator through the notification association and request an immediate reverification of the location of any underground facility. Upon receipt of the notification, the affected owner or operator shall respond as quickly as is practicable. The excavator will cease excavation activities at the affected location until the location of any underground facilities has been reverified.

### 9-1.5-103. Plans and specifications - notice of excavation - duties of excavators - duties of owners and operators - fee - repeal.

(II) (A) If the documentation or markings maintained pursuant to subsection (4)(c)(I) of this section become lost or invalid, the excavator shall notify the notification association or the affected owner or operator through the notification association and request an immediate reverification of the location of any underground facility. Upon receipt of the notification, the affected owner or operator shall respond as quickly as is practicable. The excavator shall cease excavation activities at the affected location until the location of any underground facilities has been reverified.

(B) If the documentation or markings maintained pursuant to subsection (4)(c)(I) of this section are determined to be inaccurate, the excavator shall immediately notify the affected owner or operator through the notification association and shall request an immediate reverification of the location of any underground facility. Upon receipt of the notification, the affected owner or operator shall respond as quickly as practicable. The excavator may continue excavation activity if the excavator exercises due caution and care to prevent damaging any underground facility.
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<td>B. Prior to opening an excavation in a public place, it shall be the duty of the excavator to determine whether underground facilities and utilities, (i.e., sewer, telephone, water, fuel, electric lines, underground traffic signal cables, cable television, etc.), will be encountered, and if so, where the underground facilities are located. No excavator, excavator's employee or agent, any subcontractor of the excavator or any other person shall commence any excavation unless and until information regarding facilities and utilities has been requested and obtained detailing the status of the public place in question not more than five (5) working days prior to the excavation.</td>
<td>1. Timing to Request a Locate. No person will request marking pursuant to C.R.S.§ 9-1.5-103 (4)(a)(1) unless excavating is scheduled to commence.</td>
<td>(b) Notice of the commencement, extent, and duration of the excavation work shall be given at least two business days prior thereto not including the day of actual notice.</td>
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<tr>
<td>B. Prior to opening an excavation in a public place, it shall be the duty of the excavator to determine whether underground facilities and utilities, (i.e., sewer, telephone, water, fuel, electric lines, underground traffic signal cables, cable television, etc.), will be encountered, and if so, where the underground facilities are located. No excavator, excavator's employee or agent, any subcontractor of the excavator or any other person shall commence any excavation unless and until information regarding facilities and utilities has been requested and obtained detailing the status of the public place in question not more than five (5) working days prior to the excavation.</td>
<td>(c)(I) Any notice given pursuant to subsection (3)(b) of this section must include the following: (A) The name and telephone number of the person who is giving the notice; (B) The name and telephone number of the excavator; and (C) The specific location, starting date, and description of the intended excavation activity.</td>
<td>(c)(I) Any notice given pursuant to subsection (3)(b) of this section must include the following: (A) The name and telephone number of the person who is giving the notice; (B) The name and telephone number of the excavator; and (C) The specific location, starting date, and description of the intended excavation activity.</td>
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### 3.3.211: WORK PROCEDURES AND OPERATIONS:

B. Prior to opening an excavation in a public place, it shall be the duty of the excavator to determine whether underground facilities and utilities, (i.e., sewer, telephone, water, fuel, electric lines, underground traffic signal cables, cable television, etc.), will be encountered, and if so, where the underground facilities are located. No excavator, excavator’s employee or agent, any subcontractor of the excavator or any other person shall commence any excavation unless and until information regarding facilities and utilities has been requested and obtained detailing the status of the public place in question not more than five (5) working days prior to the excavation.


1. Failure to Timely Commence Excavation. After an owner or operator has made the requested marking, the excavator must commence work within ten days of the “locate by” date on the locate ticket created by Colorado 811.

### 9-1.5-103. Plans and specifications - notice of excavation - duties of excavators - duties of owners and operators - fee - repeal.

(b) Notice of the commencement, extent, and duration of the excavation work shall be given at least two business days prior thereto not including the day of actual notice.

(c)(I) Any notice given pursuant to subsection (3)(b) of this section must include the following:
(A) The name and telephone number of the person who is giving the notice;
(B) The name and telephone number of the excavator; and
(C) The specific location, starting date, and description of the intended excavation activity.
### 3.3.203: APPLICATION FOR LICENSE; FEES; TERM; BOND AND INSURANCE REQUIREMENTS; SUSPENSION OR REVOCATION:

### E. Stop Work Orders; License Suspension Or Revocation:

1. In addition to any other remedies or actions permitted by law, the City Engineer may order an excavator to stop work if the following conditions are observed:
   a. The excavator fails to obtain a location and injures or damages persons or property;
   b. The excavator fails to place and maintain barriers, warning devices or routing signs necessary for safety as specified by the "Manual On Uniform Traffic Control Devices (MUTCD)";
   c. The excavator’s conduct constitutes an immediate hazard to the public health, safety and general welfare sufficient to rise to the level of an emergency.

2. In addition to any other remedies or actions permitted by law, the Deputy Licensing Officer may issue cease and desist orders or initiate license suspension or revocation proceedings under the provisions of chapter 2, article 1, part 8 of the City Code against any excavator for a violation of...

### Section 12.10.104 Complaints

(1) The Colorado Underground Damage Prevention Safety Commission will receive all complaints and refer those appropriate to the Program Manager.

(2) The Program Manager will investigate the complaint and alleged damage. The Program Manager will characterize the violations as minor, moderate or major. If violations are found, the Program Manager will notify the proper party by letter of the violation and damage, and assess the Act’s statutory penalties by. The Program Manager may also issue warnings and require safety trainings as appropriate for the circumstances.

(3) The Program Manager may recommend to the City Engineer that the party’s excavator’s license/permit issued pursuant to City Code section 3.3.202 be suspended or revoked.

(4) If the complaint is against the City or Utilities, the Program Manager will refer it to the City Attorney’s Office to designate a Hearing Officer for formal review.

### 9-1.5-104.2. Underground damage prevention safety commission - creation - review of violations - enforcement - rules.

(d) The governing body of a home rule county, city and county, municipality, or power authority established pursuant to section 29-1-204 (1) shall adopt by resolution, ordinance, or other official action either:

(1) Its own damage prevention safety program similar to that established pursuant to this article 1.5; or
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<th>12.3.311: APPEALS:</th>
<th>Section 12.10.105: Request For Formal Review By Party Receiving an Administrative Order</th>
<th>9-1.5-104.3. Alternative dispute resolution.</th>
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<td>The decision or determination of the Hearing Officer shall in all cases be final and conclusive. A decision or determination of the Hearing Officer may only be reviewed by a District Court of the State of Colorado pursuant to Rule 106(a)(4) of the Colorado Rules of Civil Procedure, or successor rule. There shall be no stay of execution of the Hearing Officer's decision pending decision by the District Court, except by court order. In the event that the District Court remands the matter back to the Hearing Officer for additional proceedings, then there shall be no reinstatement of licensed privileges pending additional proceedings, except by court order. (Ord. 06-241)</td>
<td>(A) Appeal. If a Person is not satisfied with the outcome of the Program Manager’s informal review and wishes further proceedings, that Person will submit a written request for a formal review with the City Attorney within five working days of written determination, unless the City Attorney extends the time for good cause. The Person must identify in the request the portion(s) of the informal review results they are disputing</td>
<td>The notification association shall create a voluntary alternative dispute resolution program in consultation with its members and all affected parties. The alternative dispute resolution program must be available to all owners or operators, excavators, and other interested parties regarding disputes arising from damage to underground facilities, including any cost or damage incurred by the owner or operator or the excavator as a result of any delay in the excavation project while the underground facility is restored, repaired, or replaced, exclusive of civil penalties set forth in and fines assessed pursuant to section 9-1.5-104.5 or 9-1.5-104.4, that cannot be resolved through consultation and negotiation. The alternative dispute resolution program must include mediation, arbitration, or other appropriate processes of dispute resolution. The issue of liability and amount of damages under Colorado law may be decided by an appointed arbitrator or by the parties in mediation. Nothing in this section changes the basis for civil liability for damages.</td>
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<td>(B) Designation of Hearing Officer. The City Attorney will assign the formal review to an appropriate hearing officer, who will have had no previous involvement with the specific dispute.</td>
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RESOLUTION NO. _________ - 20

A RESOLUTION AUTHORIZING THE ACQUISITION OF PROPERTY TO BE USED FOR ENERGY: DISTRIBUTED-GENERATION, GAS, AND ELECTRIC PORTFOLIO IMPROVEMENTS

WHEREAS, certain real property owned by Lockheed Martin Corporation, a Maryland corporation ("Lockheed Martin") located at 0 Drennan Road and 8655 Drennan Road, Colorado Springs, Colorado, also known as El Paso County Tax Schedule Numbers 55041-00-001 and 55041-01-001, in the records of the El Paso Assessor totaling approximately 160 acres (the "Properties"), have been identified as necessary for the Energy Distributed Generation Gas and Electric Portfolio ("EDGE Portfolio"); and

WHEREAS, the Properties are legally described on Exhibit A attached hereto and depicted on Exhibit B attached hereto; and

WHEREAS, the acquisition of the Properties is in the public interest and is necessary for the construction of certain improvements in the EDGE Portfolio including an electric substation, electrical generation facilities, renewable energy generation and storage facilities, and a campus to support future technology advances; and

WHEREAS, the City of Colorado Springs on behalf of Colorado Springs Utilities desires to offer and Lockheed Martin desires to accept a purchase price of $2,250,000 for the Properties; and

WHEREAS, the $2,250,000 purchase price for the Properties is supported by a real estate appraisal conducted by an independent real estate appraiser; and

WHEREAS, pursuant to section 4.1 of The City of Colorado Springs Procedure Manual for the Acquisition and Disposition of Real Property Interests ("Real Estate Manual"), City Council approval is required for acquisition of real property interests if the purchase price exceeds $50,000.00; and

WHEREAS, Colorado Springs Utilities requests the approval of City Council to purchase the Properties from Lockheed Martin for a purchase price of $2,250,000.

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

Section 1. That the City Council finds the acquisition of the Properties is in compliance with the City’s Real Estate Manual, the City Charter, City Code, and all other applicable laws.

Section 2. That in accord with the Real Estate Manual, the City Council hereby authorizes the acquisition of the Properties from Lockheed Martin for the purchase price of $2,250,000.
Section 3. That the City’s Real Estate Services Manager is authorized to execute all documents necessary to complete the acquisition of the Properties as contemplated herein.

DATED at Colorado Springs, Colorado, this _____ day of ______________, 2020.

ATTEST:

______________________________
Council President

______________________________
Sarah B. Johnson, City Clerk