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RECEIVED

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AZ CORP COMMISSION  
DOCKET CONTROL

8 **BEFORE THE ARIZONA CORPORATION COMMISSION**

9 **COMMISSIONERS**

10 DOUG LITTLE, CHAIRMAN  
11 BOB STUMP  
12 BOB BURNS  
13 TOM FORESE  
14 ANDY TOBIN

Arizona Corporation Commission

DOCKETED

FEB 09 2016

DOCKETED BY

15 IN THE MATTER OF APPLICATION OF  
16 CLEAR SPRINGS UTILITY CO., INC.,  
17 FOR AN INCREASE IN RATES

Docket No. W-01689A-11-0401  
Docket No. WS-01689A-11-0402

18 IN THE MATTER OF THE  
19 APPLICATION OF CLEAR SPRINGS  
20 UTILITY COMPANY, INC., FOR  
21 AUTHORITY TO INCUR LONG-TERM  
22 DEBT

**CLEAR SPRINGS' FILING OF  
ADDITIONAL LOAN DOCUMENTS  
AND REVISED APPLICATION TO  
IMPLEMENT THE SURCHARGE**

23 Pursuant to Decision No. 74037, Clear Springs Utility Company, Inc. ("Clear  
24 Springs" or "Company") hereby files with the Arizona Corporation Commission  
25 ("Commission") copies of the Company's loan document with Annece Capital, LLC. See  
26 Attachment 1. Clear Springs requests that the finance surcharge sought by the Company  
27 include an additional \$70,400 to make Commission approved improvements that WIFA  
28 will not finance.



# **ATTACHMENT 1**

THIS NOTE HAS NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "ACT") OR ANY STATE SECURITIES LAWS (THE "SECURITIES LAWS"). THIS NOTE MAY NOT BE TRANSFERRED OR OFFERED FOR SALE OR PLEDGED OR HYPOTHECATED BY THE HOLDER IN THE ABSENCE OF AN EFFECTIVE REGISTRATION STATEMENT PURSUANT TO THE ACT AND ANY APPLICABLE SECURITIES LAWS WITH RESPECT TO THIS NOTE OR AN EXEMPTION FROM REGISTRATION OR REGULATION UNDER SUCH ACT AND ANY APPLICABLE SECURITIES LAW TOGETHER WITH AN OPINION OF COUNSEL REASONABLY SATISFACTORY TO DEBTOR THAT SUCH REGISTRATION IS NOT REQUIRED.

## SECURED PROMISSORY NOTE

\$70,400.00

February 9, 2016

FOR VALUE RECEIVED, Clear Springs Utility Company, Inc., an Arizona corporation ("**Maker**"), hereby promises to pay to the order of Annece Capital, LLC, a Texas limited liability company, on the Maturity Date (as defined herein) in immediately available lawful money of the United States of America, the principal sum of Seventy thousand four hundred and 00/100ths dollars (\$70,400.00), together with interest on the outstanding principal amount of this Note from the date hereof (as modified and supplemented and in effect from time to time, this "**Note**") at the rate of interest of four point four six two five percent (4.4625%) per annum.

Interest for each year shall be computed monthly on the basis of 360 days for the actual number of days elapsed. In no event shall the amount of interest due or payable under this Note exceed the maximum rate of interest allowed by applicable law and, in the event any such payment is inadvertently paid by the Maker or inadvertently received by Holder, then such excess sum shall be credited as payment of principal. Unless otherwise stated herein, all payments made by the Maker hereunder will be applied: (i) first, to the payment of all charges and fees due under this Note, (ii) second, to the payment in full of accrued and unpaid interest, and (iii) third, to the reduction of outstanding principal. In the event the date for the payment of any amount payable under this Note falls due on any day that is not a Business Day (as defined below), the time for payment of such amount shall be extended to the next succeeding Business Day but interest shall not continue to accrue on any principal amount so affected until the payment thereof on such extended due date. Subject to the immediately preceding sentence, payments on the Note shall be made in accordance with **Attachment 1** hereto.

The Note shall mature on February 9, 2036 (the "**Maturity Date**"). Payments of interest shall begin on March 9, 2016 and shall be due on the 9 day of every month thereafter.

All accrued and unpaid interest, together with the Principal Balance on this Note will be due and payable on the Maturity Date, provided however, Maker may prepay the Principal Balance on the Note in whole or in part at any time without premium or penalty, together with the accrued and unpaid interest on the Principal Balance amount being prepaid. The following are the conditions to which this Note is subject, and to which Holder, by acceptance of this Note, agrees:

1. **Definitions.** For purposes of this Note, the following terms shall have the following meanings in this Note:

**Business Day** means each day Monday through Friday except for federal holidays.

**Bylaws** means the Bylaws of Maker dated as of November 7, 2014, governing the affairs of Maker and any amendments and modifications thereto.

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**Maturity Date** has the meaning as set forth in the third paragraph above.

2. **Assignment, Books and Records.** Holder may not sell, assign, pledge, dispose of or otherwise transfer all or any portion of this Note without the prior written consent of Maker, which consent shall not be unreasonably withheld, conditioned or delayed. Maker shall not assign, transfer or delegate any of its obligations under this Note without the prior written consent of Holder given in its absolute and sole discretion. Any attempted transfer in violation of the foregoing sentences will be deemed to be void *ab initio*. This Note is secured.

3. **Default and Remedies.**

3.1. **Events of Default.** If any of the events specified below shall occur (herein individually referred to as an "*Event of Default*"), which Event of Default shall remain uncured thirty (30) Business Days after written notice from Holder to Maker, the Holder may exercise any and all remedies at law or in equity including but not limited to its option to declare acceleration on the Note. Maker may cure the default by making a payment in respect of all then-remaining principal due and owing under the Note as of such date in accordance with **Exhibit A** (the "*Default Balance*") and all accrued and unpaid interest on the Default Balance or by the paying the Principal Balance due on the note in full within thirty (30) Business Days of Maker's receipt of the default notice from Holder. Each of the following shall be an Event of Default: (a) the failure of Maker to pay all amounts (whether principal or accrued unpaid interest) when due and owing on this Note (whether at stated maturity, by acceleration or otherwise); (b) a receiver, custodian, liquidator or trustee of Maker or any of its property is appointed by the order or decree of any court or agency or supervisory authority having jurisdiction; or either Maker is adjudicated bankrupt or insolvent; or a petition is filed against Maker under any state or federal bankruptcy, reorganization, arrangement, insolvency, readjustment of debt, dissolution, liquidation or debt receivership law of any jurisdiction, whether now or hereafter in effect; (c) Maker files a petition in voluntary bankruptcy or seeks relief under any provision of any bankruptcy, reorganization, arrangement, insolvency, readjustment or debt, dissolution or liquidation law of any jurisdiction, whether now or hereafter in effect, or consents to the filing of any petition against it under any such law; (d) Maker makes an assignment for the benefit of its creditors, or admits in writing its inability to pay its debts generally as they become due, or consents to the appointment of a receiver, trustee, or liquidator of such Maker; or (e) the institution by Maker of proceedings to be adjudicated as bankrupt or insolvent, or the consent by Maker to the institution of bankruptcy or insolvency proceedings against such Maker or the filing by Maker of a petition or answer or consent seeking release under any statute, law or regulation, or the consent by Maker to the filing of any such petition or the appointment of a receiver, assignee, trustee or other similar official of Maker, or of any substantial part of Maker's property, or the making by Maker of an assignment for the benefit of creditors, or the taking of action by Maker in furtherance of any such action.

3.2. **Limited Remedies.** If any Event of Default shall occur and be continuing thirty (30) Business Days after a default notice is sent to Maker, the Holder may proceed to protect and enforce its rights under this Note, as its exclusive remedies, by declaring the balance of the Note

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(together with all accrued and unpaid interest) immediately due and payable.

4. **Waivers, Severability.** Maker on behalf of itself and all sureties, endorsers, guarantors and other parties hereafter assuming or otherwise becoming liable for the payment of any sum of money payable under this Note (a) waives grace, presentment and demand for payment, protest and notice of protest, and non-payment, and all other notice, including notice of intent to accelerate the Maturity Date and notice of acceleration of the Maturity Date, filing of suit and diligence in collecting this Note or enforcing any of the rights of a Holder hereunder, (b) agrees to any substitution, exchange or release of any such rights or the release of any party primarily or secondarily liable hereon, (c) agrees that the Holder shall not be required first to institute suit or exhaust its remedies hereon against Maker or others liable or to become liable hereon or to enforce its rights against any security which may be granted hereof in order to enforce payment of this Note by it, and (d) consents to any extension or postponement of time of payment of this Note and in any other indulgence with respect hereto without notice thereof. The invalidity or unenforceability in particular circumstances of any provision of this Note shall not extend beyond such provision or such circumstances and no other provision of this Note shall be affected thereby.

5. **Collections.** Any check, draft, money order or other instrument given in payment of all or any portion of this Note may be accepted by the Holder and handled in collection in the customary manner, but the same shall not constitute payment hereunder or diminish any rights of the Holder except to the extent that actual cash proceeds of such instrument are unconditionally received by the Holder.

6. **Financial Statements.** Maker will maintain a system of accounting established and administered to permit preparation of income statements, statements of cash flows and balance sheets.

7. **Choice of Law and Jurisdiction.** THIS NOTE HAS BEEN EXECUTED AND DELIVERED IN, AND SHALL BE GOVERNED BY AND CONSTRUED ACCORDING TO THE LAWS OF THE STATE OF TEXAS. ANY ACTION INITIATED BY A HOLDER AGAINST MAKER SHALL EXCLUSIVELY BE BROUGHT IN A COURT OF COMPETENT JURISDICTION LOCATED IN THE STATE OF TEXAS.

8. **Amendments.** This Note may not be changed or terminated without the prior written approval of the Holder and Maker. No waiver of any term or provision hereof shall be valid unless in writing signed by the Holder.

9. **Notices.** All notices and other communications in respect of this Note (including, without limitation, any modifications of, or requests, waivers or consents under, this Note) shall be given or made in writing and be given by personal delivery or sent by United States first-class mail, postage prepaid or sent by a nationally recognized air courier to Maker or the Holder, as

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the case may be, as follows:

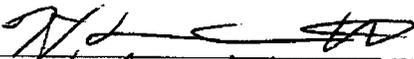
(A) If to Maker:  
Clear Springs Utility Company, Inc.  
5910 North Central Expressway, Suite 1580  
Dallas, TX 75206

(B) If to the Holder:  
Annece Capital, LLC  
1401 Eastwick Lane  
Plano, TX 75093

or to such other address as either party may designate for itself by notice given to the other party from time to time in accordance with the provisions hereof. Except as otherwise provided in this Note, all such communications shall be deemed to have been duly given when personally delivered or, in the case of a notice sent by mail or air courier, upon receipt, in each case given or addressed as aforesaid.

IN WITNESS WHEREOF, each of the undersigned has executed this Note on the day and year first written above.

CLEAR SPRINGS UTILITY COMPANY, INC.

By:   
Name: H. Armitstead  
Title: VP

Accepted and agreed this 9 day of February, 2016.

ANNECE CAPITAL, LLC

By:   
Name: Paul Kauffman  
Title: President

# **ATTACHMENT 2**

EXHIBIT C

**K. FINANCING APPLICATION (DOCKET NO. W-01689A-11-0401)**

On November 3, 2011, the Company filed a financing application requesting Commission authorization to borrow \$510,993.70 from Arizona Department of Water Infrastructure Finance Authority to upgrade plant items at Well Sites 3, 7 and 18, and to purchase a generator and replace broken gate valves in its systems. On May 1, 2012 the Company provided Staff with a revised scope of work associated with its financing. Staff's review and analysis is based on the revised scope of work filed in May.

Staff concludes that the estimated costs listed below with Staff's adjustments are reasonable.

**Table 5 Finance Related Capital Costs**

Work of Scope Descriptions	Co.'s Estimated Costs (\$)	Staff Adjusted Costs (\$)	Staff Recommended Costs (\$)
<b>I. Well #3 &amp; Well #7 Storage Improvements</b>			
<b>Well #3</b>			
One 5,000 gallon storage tank	3,780		3,780
40' of steel ring around storage tank	604		604
Two 5-HP Berkeley booster pump (\$2,611/unit)	5,222		5,222
Plumbing, facility piping (3 days labor (@\$572/day), equipment rental (@ \$865/day) total of 1,437/day)	4,311		4,311
New materials (pipes, valves & fittings)	5,000		5,000
New electric control panel, wires, etc.	2,500		2,500
Electric rack	1,200		1,200
8" concrete slab under booster pump station (100 square feet) & 6% inflation	742		742
ABC bedding material under the tank (3 cubic yards @ \$106/cubic yard)	318		318
Two 44 gallon bladder tank (\$700/unit)	1,400		1,400
<b>subtotal</b>	<b>25,077</b>		<b>25,077</b>
<b>Well #7</b>			
One 5,000 gallon storage tank	3,780		3,780
40' of steel ring around storage tank	604		604
ABC bedding material under the tank (2½ cubic yards)	265		265
One 44 gallon bladder tank (@ \$700/unit)	700		700
Plumbing, facility piping (3 days labor (@\$572/day), equipment rental (@ \$865/day) total of 1,437/day)	4,311		4,311
New materials (pipes, valves & fittings)	2,500		2,500
New electric materials	2,500		2,500
Electric rack	1,200		1,200
One 3-HP booster pump	2,611		2,611
Removal of existing horizontal tank	1,500		1,500
Add 38' of chain link fence (@ \$37.5/ft)	1,425		1,425
<b>subtotal</b>	<b>21,396</b>		<b>21,396</b>
<b>Total</b>	<b>46,473</b>		<b>46,473</b>

Permit fee	3,200		3,200
Engineering design fee (10%)	4,647		4,647
Administration & legal fee (5%)	2,324		2,324
Project management & inspection (10%)	4,647		4,647
Contingency (15%)	6,971		6,971
Sale Tax (4.60%)	2,138		2,138
<b>Total (Project I)</b>	<b>70,400</b>		<b>70,400</b>
<b>Project II. Fire Hydrant Replacement</b>			
22 fire hydrants (@ \$4,125/unit including \$1,650/unit and labor cost of \$2,475/unit)	90,750	(35,750) <sup>1</sup>	55,000
<b>subtotal</b>	<b>90,750</b>		<b>55,000</b>
Administration & legal fee (5%)	4,538	(1,787)	2,751
Project management & inspection (10%)	9,075	(3,575)	5,500
Contingency (15%)	13,613	(5,362)	8,251
Sale Tax (4.60%)	4,175	(1,645)	3,070
<b>Total (Project II)</b>	<b>122,151</b>	<b>(48,119)</b>	<b>74,072</b>
<b>Project III. Repair Plant Items in Well #18</b>			
Grout existing storage tank (1,710 cubic feet of grout material @ \$86.5/cubic feet)	147,915		147,915
One new 5,000 gallon pressure tank (@24,740/unit)	24,740	(24,740) <sup>2</sup>	0
Repair well pump (@ \$35,000/unit)	35,000		35,000
<b>subtotal</b>	<b>207,655</b>		<b>182,915</b>
Administration & legal fee (5%)	10,383	(1,237)	9,146
Project management & inspection (10%)	20,766	(2,474)	18,292
Contingency (15%)	31,148	(3,711)	27,437
Sale Tax (4.60%)	9,552	(2,677)	6,875
<b>Total (Project III)</b>	<b>279,504</b>	<b>(34,839)</b>	<b>244,665</b>
<b>Project IV. Replace Broken Isolation Gate Valves</b>			
Flomatic Resilient wedge three 6" gate valves (@ \$2,250/unit)	6,750	(680) <sup>3</sup>	6,070
Flomatic Resilient wedge one 8" gate valve (@ \$3,500/unit)	3,500	(295) <sup>3</sup>	3,205
Flomatic Resilient wedge one 10" gate valve (@ \$4,625/unit)	4,625	(256) <sup>3</sup>	4,369
<b>subtotal</b>	<b>14,875</b>		<b>13,644</b>
Administration & legal fee (5%)	744	(62)	682
Project management & inspection (10%)	1,488	(123)	1,365
Sale Tax (4.60%)	684.25	(57)	627
<b>Total (Project III)</b>	<b>17,791</b>	<b>(1,473)</b>	<b>10,855</b>
<b>Project V. Replace and/or Upgrade Distribution Services</b>			
Replace exist 56' of 1-inch poly service line along Justin (in PWS #02-008) (@ \$54/ft)	3,024		3,024
Replace exist 80' of 1-inch poly service line along Ford St (in PWS #02-008) (@ \$54/ft)	4,320		4,320
Replace exist 60' of 1-inch poly service line along	3,240		3,240

Treasure Rd/Christmas Tree (in PWS #02-008) (@ \$54/ft)			
Replace exist 26' of 1-inch poly service line along Treasure Rd (in PWS #02-008) (@ \$54/ft)	1,404		1,404
<b>subtotal</b>	<b>11,988</b>		<b>11,988</b>
Survey	3,500		3,500
Administration & legal fee (5%)	599		599
Engineering (10%)	1,199		1,199
Project management & inspection (10%)	1,199		1,199
Contingency (15%)	1,798		1,798
Sale Tax (4.60%)	551		551
<b>Total (Project V)</b>	<b>20,835</b>		<b>20,835</b>
<b>TOTAL</b>	<b>510,678</b>	<b>(84,431)</b>	<b>426,249</b>

Notes:

1. Based on Staff's experience, fire hydrant installation including material and labor can vary from \$1,500 per hydrant to \$2,500 per hydrant. Staff adjusted the fire hydrant installation cost to \$2,500 per hydrant.
2. The Company has an unused 5,000 gallon pressure tank stored at Well Site 16. Since Well Site 16 is disconnected from the water system and there is no well pump motor and/or power source at Well Site 16 Staff recommends the Company move the 5,000 gallon pressure tank at Well Site 16 Site to Well Site 18.
3. Per the Flomatic Valves website, the Flomatic Resilient 6" valve lists for \$2,023.35 per valve, the Flomatic Resilient 8" valve lists for \$3,204.60 per valve and the Flomatic Resilient 10" valve lists for \$4,369.05 per valve.

Staff concludes that the proposed capital improvements at Well Sites 3, 7 and 18 and the valve replacements and other distribution system improvements listed in the table above are appropriate and the cost estimates are reasonable. However, no "used and useful" determination of the proposed project item was made and no particular treatment should be inferred for rate making or rate base purpose in the future.

Staff recommends that the Company file with Docket Control, as a compliance item in this docket, by December 31, 2013, a copy of the ADEQ Approval of Construction ("AOC") for the capital improvements to be financed as discussed above.

**L. OTHER ISSUES**

*1. Service Line and Meter Installation Charges*

The Company is proposing to revise its meter and service line installation charges. These charges are refundable advances and the Company's proposed charges are within Staff's experience of what are reasonable and customary charges. Since the Company may at times install meters on existing service lines, it would be appropriate for some customers to only be charged for the meter installation. Therefore, separate service line and meter charges have been developed by Staff using the combined charge proposed by the Company. Staff recommends approval of the meter and service line installation charges listed under the columns labeled "Staff Recommendation" in Table 6.