

RESOLUTION 25-03

**GRANTING A WATER SERVICES FRANCHISE TO
CACTUS STATE UTILITY OPERATING COMPANY, LLC**

KNOW ALL MEN BY THESE PRESENTS THAT,

WHEREAS, CACTUS STATE UTILITY OPERATING COMPANY, LLC., pursuant to Arizona Revised Statutes ("A.R.S.") § 40-283, was granted a franchise by the Board of Supervisors of Cochise County, Arizona, ("Board of Supervisors") on November 7, 1994, through Resolution No. 94-94 for the right, privilege, license, and franchise to construct, install, operate, and maintain along, over, under and across the streets, alleys, and highways, within the County, facilities for the purpose of maintaining and operating water lines and all other facilities pertinent to the transmission, delivery, and sale of water for domestic and commercial consumers, as may be approved by the Arizona Corporation Commission; and

WHEREAS, On January 16, 2025, CACTUS STATE UTILITY OPERATING COMPANY, LLC., applied and petitioned, pursuant to A.R.S. § 40-283, to the Board of Supervisors for renewal of said franchise ("Application"); and

WHEREAS, the Board of Supervisors on January 31, 2025, ordered that public notice be given, in the manner provided by A.R.S. § 40-283, of the filing of said Application and of the intention of the Board of Supervisors to grant said Application, and fixed, March 11, 2025 at 10:00 a.m. at the regular meeting place of the Board of Supervisors in the City of Bisbee, Arizona, as the time and place for the consideration of the matter; and

WHEREAS, it appears from the affidavit of publication of the Herald/Review that due and regular notice of said date, time, and place set for the consideration of such action has been published once a week for three (3) consecutive weeks prior to the said date of the hearing, to-wit: in the issues of the 31st day of January, 2025; the 7th day of February, 2025; and the 14th day of February, 2025, of said newspaper, and the matter being called at 10:00 o'clock A.M., and it appearing that the Board of Supervisors has not received a petition signed by more than 50% of the qualified electors of said County asking the Board to deny said Application on or before the date set for consideration thereof; and

WHEREAS, said Application came on regularly to be heard on the 11th day of March 2025, before the Board of Supervisors, and the Board of Supervisors considered the Application for the franchise; and

WHEREAS, the Board of Supervisors of Cochise County having determined that the grant of this franchise is regular, proper, authorized by law and in the best interest of Cochise County, and the inhabitants thereof.

NOW, THEREFORE, IT IS HEREBY ORDAINED:

1. That this Board of Supervisors of Cochise County, Arizona, acting for and on behalf of said County (the "County"), does hereby grant unto CACTUS STATE UTILITY OPERATING COMPANY, LLC, (hereinafter called "Grantee") for the right, privilege, license, and franchise to construct, install, operate, and maintain along, over, under and across the streets, alleys, and highways, within the County, facilities for the purpose of maintaining and operating water lines and all other facilities pertinent to the transmission, delivery, and sale of water for domestic and commercial consumer or entities of Cochise County, exclusive of State highways and those areas within the corporate boundaries of any city or town. This grant is subject to the terms, conditions, and limitations expressed below or incorporated herein by reference.
2. The County reserves the right to impose future restrictions and limitations upon the exercise of the rights granted herein as it deems best for the public safety and welfare. The Grantee is further required to comply with all lawful applicable ordinances of Cochise County regulating the conduct of work within the public rights-of-way; as such ordinances are now enacted or may be amended or adopted from time to time.
3. The franchise granted hereby shall not be exclusive, and nothing herein shall be construed to prevent the County from granting other like or similar franchises to any other person, firm, or corporation.
4. The Grantee shall bear all expenses, including damages and compensation for the alteration of the direction, surface, grade, or alignment of a public roadway, which may arise in connection with its exercise of the rights granted herein.
5. The Grantee shall erect, construct, and maintain all facilities authorized herein in a good and workmanlike manner and in compliance with all valid laws, ordinances, and regulations, which may be in force from time to time. All such work shall be performed in such a manner as may be necessary to avoid any unreasonable

damage, disturbance, or modification to existing public rights-of-ways, including roads, streets, highways, bridges, borrow ditches or shoulders thereon.

6. The Grantee shall, immediately upon erecting, constructing, replacing, or repairing its facilities, or any part thereof, at its own cost and expense, restore any effected public right-of-way, including any road, street, highway, bridge, borrow ditch or shoulder thereon, to not less than the same condition which existed prior to the Grantee's action.
7. The County does not waive or relinquish any rights it may have to the full and complete use of the public rights-of-way subject to this franchise, whether for road purposes or otherwise. In the event that the location of the Grantee's facilities may interfere or conflict with the County's use, expanded use, improvement, or maintenance of the County's rights-of-way, the County may require the Grantee to relocate, at the Grantee's expense, all facilities which give rise to such interference or conflict. The County will provide the Grantee with reasonable notice of any relocation requirement and will provide a reasonable period of time for the Grantee to perform such relocation.
8. The Grantee assumes the responsibility for all liability for any injury or damage to any person or property, or to the road and right-of-way itself, caused by or arising out of the exercise of the rights granted herein and attributable to any act or commission of the Grantee. The Grantee shall indemnify, defend and hold harmless Cochise County, its officers, departments, employees and agents from and against any and all suits, actions, legal or administrative proceedings, claims, demands or damages of any kind or nature, including all costs of legal defense, arising out of the exercise of these rights which are attributed to any act or omission of the Grantee, its agents, employees, or anyone acting under its direction, control or on its behalf.
9. This franchise is granted for a term of twenty-five (25) years from the date of its authorization by the County. This franchise may not be sold, leased, assigned, or conveyed without the express consent of the County, which consent shall not be unreasonably withheld.
10. The County reserves the right to alter or amend the terms of this franchise in any manner necessary to protect the safety or welfare of the public or the public interest. Upon its sole determination of substantial risk of environmental contamination, abandonment of infrastructure, obsolescence, or similar events, the County may require the Grantee to post financial assurance (e.g., a bond or letter of credit) sufficient to cover potential removal, remediation, or other associated costs. Additionally, the Grantee agrees to indemnify, defend, and hold

harmless the County against any liabilities, damages, cleanup or remediation costs, or other losses related to or arising from Grantee's infrastructure or operations. Franchise fees, if authorized by Arizona statute, will not be charged unless approved by voters through the election process as required by this body's resolutions and ordinances.

11. This franchise may be terminated by the County in the event that the Grantee fails to comply with the terms and conditions of this franchise. The Board of Supervisors, or its designee, shall provide the Grantee with written notice of noncompliance and allow the Grantee a period of not less than thirty (30) days to remedy any breach. If the Grantee continues to fail to comply with the terms of this franchise after this notice and remedy period, the Board of Supervisors may revoke all rights granted herein and render this franchise null and void.

12. Upon termination of the franchise, whether by expiration of its term, or for cause, or by voluntary abandonment, and after written notice from the County, the Grantee shall remove all of its facilities installed pursuant to the rights granted herein within one hundred eighty (180) days of such termination and shall repair any damages caused thereby. All such facilities which are not removed within this period shall be deemed to be abandoned and shall become the property of the County.

13. This franchise will not be effective for any purpose until the Grantee has indicated its acceptance in writing below.

14. The rights, privileges, and franchise granted herein are made pursuant to the laws of Arizona, including A.R.S. 40-283, which are incorporated herein by reference.

IN WITNESS WHEREOF, the Board of Supervisors of the County of Cochise, State of Arizona, has caused these presents to be executed and signed by the Chair of the Board of Supervisors on this 20th day of May 2025.

BOARD OF SUPERVISORS, COUNTY OF COCHISE:

Frank Antenori, Chair

ATTEST:

Lara Loewenheim
Clerk of the Board

APPROVED AS TO FORM:

/s/ Dylan Hendel
Dylan Hendel
Civil Deputy Cochise County Attorney

RESOLUTION 25-03

RE: Granting Franchise to Cactus State Utility Operating Company, LLC.

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ACCEPTANCE OF FRANCHISE

This is to certify that the Grantee, **CACTUS STATE UTILITY OPERATING COMPANY, LLC.**, an Arizona corporation, has on the 5th day of May, 2025, accepted the foregoing franchise. Grantee agrees that it will be bound by, observe, and carry out the terms and conditions of such franchise.

Dated: 05-05-2025

GRANTEE: CACTUS STATE UTILITY OPERATING COMPANY, LLC.



Title: President

CERTIFICATE OF CLERK

I, Lara Loewenheim, Clerk of the Board of Supervisors of Cochise County, Arizona, do hereby certify that the foregoing excerpt from the minutes of the meeting of the Board of Supervisors of Cochise County, Arizona held on **Tuesday, May 20, 2025**, constitutes a true and correct copy of the said minutes insofar as they relate to the Application of **CACTUS STATE UTILITY OPERATING COMPANY, LLC.**, for a water franchise in the County and to the granting of said water franchise pursuant to the resolution hereinabove set out, all as appears in the official records of the Board of Supervisors.

IN WITNESS WHEREOF, I have set my hand and official seal of the Board of Supervisors of Cochise County, Arizona this 20th day of May 2025.

Lara Loewenheim
CLERK, BOARD OF SUPERVISORS
COCHISE COUNTY, ARIZONA

Signature: 

Email: DHendel@cochise.az.gov






SIGNED RESOLUTION AND ACCEPTANCE

Final Audit Report

2025-05-13

Created:	2025-05-13
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-  Document e-signed by Dylan Hendel (DHendel@cochise.az.gov)
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