

BRIEFING PAPER

Subject: Intergovernmental Agreement to Effectuate Cost Sharing of the Pueblo Flow Management Restoration of Yield Program

Parties: The City of Colorado Springs Utilities Enterprise, The City of Aurora, The Southeastern Colorado Water Conservancy District, The City of Fountain, The Board of Waterworks of Pueblo Colorado and the Pueblo West Metropolitan District

Date: August 6, 2015

BACKGROUND

Prior to commencement of construction on the Southern Delivery System it became necessary to resolve a number of intergovernmental conflicts among water users on the Arkansas River. Among the issues to be addressed was the desire of the City of Pueblo to have more consistent flows in the Arkansas River through the City of Pueblo for recreational and amenity purposes. In May of 2004 six parties (Aurora, Colorado Springs, Pueblo, Pueblo Board of Water Works, Southeastern District and Fountain) entered into an Intergovernmental Agreement that established the Arkansas River Flow Management Program. The original parties have subsequently been joined by the Pueblo West Metropolitan District. The fundamental agreement was that the six parties, to the extent required, would maintain an identified minimum flow through Pueblo and would agree to forbear on the exercise of certain of their exchange water rights to accomplish that goal. The forgone exchange water would then be captured in a downstream reservoir. The Parties would then collectively exchange the water back into Pueblo Reservoir during favorable river conditions. The 2004 Agreement has operated successfully the past 10 years. In order for the capture and exchange of forgone diversions to be formalized it was necessary for the participating parties to obtain a water right recognizing the exchange priority and the terms and conditions for the exchange. The Parties have initiated that process in the case entitled 06CW120. It will also be necessary for the Parties to share the cost of the engineering necessary to support the application in 06CW120. More importantly it will be necessary for the Parties to share the cost of acquiring efficient long-term storage, to be utilized for the purposes of the long-term operation of the Restoration of Yield Plan, located shortly below the confluence of the Arkansas and Fountain Creek. The Intergovernmental Agreement is designed to effectuate the cost sharing for those aspects for the Restoration of Yield Plan where all parties must participate for it to be successful.

BENEFIT TO COLORADO SPRINGS

Colorado Springs was the principal beneficiary of the 2004 IGA because it required that the City of Pueblo no longer oppose the Colorado Springs plan to construct the Southern Delivery System. The Agreement has been successful in that regard. The percentage cost of the Restoration of Yield Program allocated to Colorado Springs is 30% of total, with all of the other

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entities sharing in proportion to their respective reliance on the Restoration of Yield Program. By participating in the Restoration of Yield Cost Sharing IGA Colorado Springs is able to maintain its commitments to the City of Pueblo concerning the Flow Management Program; to fully cooperate with its fellow water users to insure that the water supply of the Arkansas River is maximized; and, to ensure that all of Colorado Springs' usable water supply is accounted for and recovered for the benefit of the people of Colorado Springs.

RECOMMENDATION

It is the staff recommendation that the City Council approve the execution of the Intergovernmental Agreement for Cost Sharing of the Restoration of Yield Program. Outside counsel concurs and supports the staff recommendation.