

RESOLUTION NO. 148 -22

A RESOLUTION APPROVING AN INTERGOVERNMENTAL AGREEMENT BY AND BETWEEN THE CITY OF COLORADO SPRINGS, COLORADO, ACTING BY AND THROUGH ITS ENTERPRISE COLORADO SPRINGS UTILITIES, AND BENT COUNTY, COLORADO

WHEREAS, the City of Colorado Springs (the "City"), on behalf of its enterprise Colorado Springs Utilities ("Utilities") is authorized to enter into intergovernmental agreements with other Colorado governmental entities for the provision of any function or service with the approval of the City Council of the City of Colorado Springs ("City Council"); and

WHEREAS, in order to meet the water supply demands of a growing population, mitigate against current and future water supply risks, and diversify its water supply portfolio, all consistent with Utilities' Integrated Water Resources Plan, Utilities desires to acquire water rights from agricultural interests that have been historically used for irrigation within Bent County, Colorado (the "County") and change them to include municipal and industrial uses; and

WHEREAS, in the past, the acquisition and change of use of agricultural water rights to municipal and industrial uses have required municipal entities to dry up and permanently remove from production historically irrigated agricultural lands, which can have adverse impacts on agricultural communities including, but not limited to, the loss of farm production and income, loss of tax revenues, loss of farming jobs, and loss of farm-related jobs and industries; and

WHEREAS, pursuant to authority granted by, *inter alia*, § 24-65.1-101, *et seq.*, C.R.S.; § 30-28-101, *et seq.*, C.R.S.; § 30-28-201, *et seq.*, C.R.S.; § 29-20-101, *et seq.*, C.R.S., and § 24-32-111, C.R.S., the County has adopted Guidelines and Regulations for Areas and Activities of State Interest, County of Bent, State of Colorado (the "County's 1041 Regulations"); and

WHEREAS, the County has designated the efficient utilization of municipal and industrial water projects as an activity of state interest, and the permanent cessation of irrigation as an area of state interest, as further set forth in the County's 1041 Regulations; and

WHEREAS, pursuant to § 1.108 of the County's 1041 Regulations, "No Person may undertake or engage in Development in Designated Areas of State Interest, or any activities of state interest designated in these Regulations, wholly or partially within the unincorporated areas of Bent County, without first applying for and obtaining from Bent County either a permit or a 'Finding of No Significant Impact' pursuant to these Regulations"; and

WHEREAS, under § 3.201 of the County's 1041 Regulations, "Upon the request of the state or federal Government, as defined by Section 29-1-202(1), C.R.S., including any political subdivision of the state, as defined in Section 29-1-202(2), C.R.S., proposing to engage in a Matter of State Interest, the requirements of the Guidelines and Regulations may be met by the approval of an intergovernmental agreement between the County and the Government Applicant."; and

WHEREAS, Utilities and the County recognize that it is in their interest to pursue water development strategies that, consistent with the Colorado Water Plan, seek to minimize the permanent cessation of irrigation and emphasize alternative transfer or water sharing methods that avoid or reduce the permanent dry-up of irrigated agricultural land in Bent County; and

WHEREAS, both Utilities and the County recognize that it is in their interests to avoid the time, expense, and uncertainty of litigation, while reserving all rights, and instead work collaboratively to enable Utilities to utilize water rights historically used for irrigation of lands in Bent County for municipal and industrial purposes in a manner that minimizes the permanent cessation of irrigation and appropriately mitigates the impacts of water transfers on Bent County; and

WHEREAS, Utilities and the County desire to enter into the attached intergovernmental agreement that (1) enables Utilities to develop up to fifteen thousand (15,000) acre-feet, on an average annual basis, for all municipal and industrial purposes, from agricultural water rights historically used in Bent County, in lieu of, and without the need for obtaining a permit under the County's 1041 Regulations; and, in exchange, (2) satisfy the requirements of the County's 1041 Regulations and appropriately mitigate the impacts of water development on the County; and

WHEREAS, City Council has determined that it is in the best interests of the City and Utilities to enter into the Intergovernmental Agreement, attached hereto and incorporated herein.

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

Section 1. The City Council hereby finds that approval of the attached Intergovernmental Agreement by and between the County of Bent and the City of Colorado Springs, acting by and through its enterprise Colorado Springs Utilities, is in the best interests of the citizens of the City of Colorado Springs and the ratepayers of Colorado Springs Utilities, and hereby approves the attached Intergovernmental Agreement.

Section 2. The City Council hereby authorizes the Chief Executive Officer of Colorado Springs Utilities, or his designee, to execute the attached Intergovernmental Agreement on behalf of Utilities.

DATED at Colorado Springs, Colorado, this 11th day of October 2022.

ATTEST:



Council President


Sarah B. Johnson, City Clerk

