

**A RESOLUTION AUTHORIZING THE PURCHASE OF FOUNTAIN MUTUAL IRRIGATION COMPANY AND CHILCOTT DITCH COMPANY STOCK AND ASSOCIATED WATER RIGHTS OWNED BY OSAGE TRUST FOR COLORADO SPRINGS UTILITIES; AND AUTHORIZING THE EXECUTION OF CLOSING DOCUMENTS**

**WHEREAS**, the City Charter of the City of Colorado Springs, § 6-50 provides: “The City shall have the authority to buy, exchange, augment, lease, own and control water and water rights”; and

**WHEREAS**, the City of Colorado Springs on behalf of its enterprise, Colorado Springs Utilities, and Osage Trust entered into that certain Contract for Purchase of Fountain Mutual Irrigation Company and Chilcott Ditch Company Stock on July 16, 2014 (the “Purchase Agreement”), for purchase of up to one hundred forty-seven (147) shares of stock in the Fountain Mutual Irrigation Company (“FMIC”) and up to eight (8) shares of stock in the Chilcott Ditch Company (“Chilcott”) (“Subject Stock”) that represent an ownership interest in senior Fountain Creek water rights (the “Subject Water Rights”) and are anticipated to yield approximately 300 acre-feet of renewable and reusable water per year; and

**WHEREAS**, upon execution of the closing documents described herein and on behalf of and in coordination with its enterprise, Colorado Springs Utilities, the City of Colorado Springs will hold title to stock certificates representing up to one hundred forty-seven (147) shares of stock in FMIC and up to eight (8) shares of stock in Chilcott purchased from Osage Trust (collectively, the “Subject Stock”) and the water rights represented by the Subject Stock in accordance with the Purchase Agreement; and

**WHEREAS**, the Subject Stock in FMIC is currently represented by FMIC stock certificate number 1648 and the Subject Stock in Chilcott is currently represented by Chilcott stock certificate number 355, which such certificates are attached hereto and incorporated herein by reference; and

**WHEREAS**, the Subject Stock shall be transferred to the City of Colorado Springs following closing of the purchase upon request of the City and Osage Trust by FMIC and Chilcott; and

**WHEREAS**, the acquisition of the Subject Stock and Subject Water Rights is in the public interest as the acquisition of new water rights is be required to meet Colorado Springs Utilities’ water customers’ long-term water demands; and

**WHEREAS**, the acquisition of the Subject Stock and Subject Water Rights is further supported by Executive Limitation 10, which provides that the Colorado Springs Utilities’ Chief Executive Officer “may not fail to protect and optimize existing water resources and aggressively seek to develop new water sources”; and

**WHEREAS**, such acquisitions are not subject to the procedures of *The City of Colorado Springs Procedure Manual for the Acquisition and Disposition of Real Property Interest* ("Real Estate Services Manual"), however, Colorado Springs Utilities has attempted to follow the Real Estate Services Manual to the greatest extent possible; and

**WHEREAS**, Colorado Springs Utilities and Osage Trust agree that the purchase price to be paid by Colorado Springs Utilities for the Subject Stock is up to \$2,900,000.00, \$1,617,000.00 of which is for the FMIC shares and \$1,283,000.00 of which is for the Chilcott shares; and

**WHEREAS**, Colorado Springs Utilities requests approval to proceed with closing on the purchase of the Subject Stock, to execute all necessary closing documents, and to accept the Subject Stock for the City of Colorado Springs on behalf of Colorado Springs Utilities; and

**WHEREAS**, pursuant to Chapter 4 and Chapter 7, of Real Estate Services Manual and City Code §7.7.1802, the City Council shall authorize the purchase and acceptance of real property subject to appropriate terms, conditions, and compliance with the provisions of the Real Estate Services Manual.

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

Section 1. City Council authorizes the purchase of the Subject Stock from Osage Trust for the agreed upon amount up to \$2,900,000.00 with additional closing costs, in accordance with the Purchase Agreement entered into between the parties.

Section 2. In accordance with Chapter 4 and Chapter 7 of the Real Estate Services Manual, and City Code §7.7.1802, City Council hereby finds that there is a public purpose for the purchase of the Subject Stock and authorizes the purchase and acceptance of the Subject Stock by deed and Stock transfer.

Section 3. The City's Real Estate Services Manager is authorized to execute all documents necessary to complete the acquisition of the Subject Stock.

Section 4. Upon execution of all documents necessary to complete the purchase of the Subject Stock, Colorado Springs Utilities is authorized to take all steps necessary for transfer of the Subject Stock to the City of Colorado Springs from Osage.

DATED at Colorado Springs, Colorado, this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

ATTEST:

\_\_\_\_\_  
Keith King, Council President

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Sarah B. Johnson, City Clerk