

RESOLUTION NO. _____

**A RESOLUTION APPROVING AN AGREEMENT BETWEEN
THE CITY OF AURORA, THE SOUTHEASTERN COLORADO
WATER ACTIVITY ENTERPRISE, THE CITY OF FOUNTAIN,
THE CITY OF COLORADO SPRINGS, AND THE BOARD
OF WATER WORKS OF PUEBLO, COLORADO**

WHEREAS, the City of Colorado Springs, on behalf of its enterprise Colorado Springs Utilities, along with the City of Aurora, Colorado (“Aurora”), the Southeastern Colorado Water Activity Enterprise, the City of Fountain, Colorado, and the Board of Water Works of Pueblo, Colorado are collectively referred to as the “ROY Participants;” and

WHEREAS, on May 27, 2004, the City of Colorado Springs entered into an Intergovernmental Agreement (“IGA”) with the ROY Participants. Article II of the IGA provides, *inter alia*, for the recapture and storage for later use of water owned or controlled by one or more of the ROY Participants pursuant to a program called “Restoration of Yield;” and

WHEREAS, the May 27, 2004, IGA requires the parties to curtail exchanges to meet the Pueblo Flow Management Program flow targets to the extent possible; and

WHEREAS, on March 1, 2005, the City of Aurora entered into an agreement (“Original Holbrook Agreement”) with the Holbrook Mutual Irrigation Company (“Holbrook”) to use the unused diversion, carriage, and storage capacity that at times is available in Holbrook’s water diversion, conveyance and storage facilities (“Holbrook System”); and

WHEREAS, on March 1, 2005, Aurora and the ROY Participants entered into an agreement between themselves (“Original ROY Participants Agreement”) pursuant to which, *inter alia*, Aurora assigned a portion of its rights under the Original Holbrook Agreement to the ROY Participants on a *pro rata* basis; and

WHEREAS, on February 23, 2010, Aurora extended the term of the Original Holbrook Agreement for an additional five years (“Original Holbrook Agreement Extension”); and

WHEREAS, on October 6, 2010, Aurora and the ROY Participants entered into a renewed agreement (“Renewed ROY Participants Agreement”) pursuant to which Aurora’s assignment of a portion of its rights under the Original Holbrook Agreement to the ROY Participants was continued;

WHEREAS, on March 3, 2015, Aurora and Holbrook amended the Original Holbrook Agreement (the “Amended Holbrook Agreement”) to again extend the Original Holbrook Agreement; and

WHEREAS, the ROY Participants are fully aware of the terms of the Amended Holbrook Agreement; and

WHEREAS, the City of Colorado Springs on behalf of Colorado Springs Utilities desires to enter into an Amended Agreement with the ROY Participants for the use of the Holbrook System (“Amended ROY Participants Agreement”); and

WHEREAS, Colorado Springs Utilities is willing and desires to perform the obligations of the City of Colorado Springs identified in the attached Amended ROY Participants Agreement; and

WHEREAS, The Amended ROY Participants Agreement is necessary to effectuate Aurora’s assignment of a portion of its rights under the Original Holbrook Agreement to the ROY Participants and delineate the respective rights and obligations of all ROY Participants with respect to the use of the Holbrook System and actions contemplated by the Original Holbrook Agreement, the Original Holbrook Agreement Extension, and the Amended Holbrook Agreement; and

WHEREAS, it is in the best interest of the City of Colorado Springs to enter into the Amended ROY Participants Agreement because Colorado Springs Utilities’ *pro rata* use of the Holbrook System is an integral part of the Pueblo Flow Management Program and the Holbrook Agreement will enable Restoration of Yield through the recapture of flow curtailed as part of that program.

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

Section 1. City Council finds that the Amended ROY Participants Agreement between Aurora and the ROY Participants, attached as Exhibit 1 and incorporated herein by reference, is in the best interest of the City of Colorado Springs.

Section 2. City Council hereby approves the Amended ROY Participants Agreement on behalf of its enterprise, Colorado Springs Utilities.

Section 3. City Council hereby authorizes the Chief Executive Officer of Colorado Springs Utilities or his designee to execute the Amended ROY Participants Agreement on behalf of the City of Colorado Springs and Colorado Springs Utilities.

Dated at Colorado Springs, Colorado, this _____ day of _____, 2016.

Merv Bennett, Council President

ATTEST:

Sarah Johnson, City Clerk