



Legislation Details (With Text)

File #:	18-0061	Version:	1	Name:	
Type:	Resolution	Status:		Mayor's Office	
File created:	1/24/2018	In control:		City Council	
On agenda:	3/13/2018	Final action:		3/13/2018	
Title:	Resolution Authorizing Utilities to Enter into an Amendment to Agreement for Purchase of Return Flows				

Sponsors:

Indexes:

Code sections:

Attachments: 1. Return Flow Purchase Agreement Final 2-6-18.pdf, 2. Return FlowsResolution - Final 2-6-18.pdf, 3. Signed Resolution 14-18

Date	Ver.	Action By	Action	Result
3/13/2018	1	City Council	adopted	Pass

Resolution Authorizing Utilities to Enter into an Amendment to Agreement for Purchase of Return Flows

Presenter:

Michael Gustafson, Senior Attorney, City Attorney’s Office-Utilities Division
Jerry A. Forte, P.E., CEO, Colorado Springs Utilities

Summary:

Colorado Springs Utilities received a request from Visum I Investment Partnership, LTD, to amend an Agreement between Colorado Springs and Forest Lakes Metropolitan District under which the District is entitled to 660 acre-feet of Colorado Springs’ fully consumable return flows annually for augmentation of depletions associated with tributary well water withdrawn for water service and lake/reservoir water level maintenance on a 1,600 acre development in northern El Paso County. Visum is the owner of an approximately 159 acre tract (Village Tract) that is part of the 1,600 acre development. The requested amendment removes the Village Tract from the obligations of the Agreement since Visum no longer plans to plat, subdivide or develop the property as anticipated. The original Agreement requires that any amendment to it be approved by City Council. Colorado Springs Utilities is requesting City Council approval of a resolution authorizing it to execute the proposed amendment to Agreement.

Previous Council Action:

City Council approved the original agreement in 1984.

Background:

Forest Lakes Metropolitan District (FLMD) is the successor-in-interest to Agreement for Purchase of Return Flows (Agreement) dated April 23, 1984, whereby FLMD is entitled to 660 acre-feet of

Colorado Springs' fully consumable return flows annually for augmentation of depletions associated with tributary well water withdrawn for water service and lake/reservoir water level maintenance on a 1,600 acre development in northern El Paso County. The Agreement required covenants for the development that prohibit the use of septic systems and stated that Colorado Springs would have no responsibility for contamination caused by sewage treatment systems installed by the developer or future owners of the land. The Agreement also provided that any amendments to it must be approved by City Council.

Visum I Investment Partnership, LTD (Visum) is the owner of an approximately 159 acre tract (Village Tract) that is part of the 1,600 acre development. Colorado Springs Utilities (Utilities) received a request from Visum to amend the Agreement to remove the Village Tract from the obligations of the Agreement since Visum no longer plans to plat, subdivide or develop the tract as anticipated. Rather, Visum plans to maintain the property primarily as undeveloped open space with up to six residences on the Property, and to utilize septic systems and exempt domestic wells available under Case No. 07CW120 as the source of water supply and wastewater disposal for those residences. Utilities was a party to that case and reached a stipulated agreement on protective terms and conditions.

Utilities' Water Resources staff and the City Attorney's Office have negotiated the attached proposed amendment to the Agreement with Visum and FLMD releasing the Village Tract from the Agreement. The amendment does not change the amount of water available to FLMD nor any other obligations of FLMD or Utilities under the Agreement. The proposed amendment provides that Visum:

- 1) is not obligated to utilize a central sewage collection and treatment system for homes built on the Village Tract and instead can use septic systems;
- 2) may not use more than 12 acre-feet of well water available per the terms of Case No. 07CW20;
- 3) must promptly mitigate any degradation to the water quality on Monument Creek caused by its use of wells and septic systems on the Village Tract; and
- 4) must record covenants which ensure that no more than six residences may be constructed on the Village Tract.

Utilities requests that City Council approve the attached resolution authorizing Utilities to enter into the proposed amendment to the Agreement.

Financial Implications:

The proposed amendment to the Agreement will not have financial impacts on Utilities or the City.

Board/Commission Recommendation:

N/A

Stakeholder Process:

N/A

Alternatives:

Approve or not approve the attached resolution authorizing Utilities to enter into the proposed amendment to the Agreement.

Proposed Motion:

Move approval of the resolution authorizing Utilities to enter into the proposed amendment to the

Agreement.

N/A