



Legislation Text

File #: 22-535, **Version:** 1

Title

A Resolution Authorizing the Purchase of Fort Lyon Canal Company Stock Owned by Arkansas River Farms for Colorado Springs Utilities and Authorizing the Filing of Water Court Applications for Changes of Water Rights and Appropriative Rights of Exchange

Presenter:

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Summary:

Colorado Springs Utilities (“Springs Utilities”) has entered into a Purchase and Sale Agreement (“PSA”) to acquire ownership of 2,919 shares in the Fort Lyon Canal Company (“FLCC”). Springs Utilities will also acquire easements, obtain 644.67 acres of real property, real property covenants, and enter into agreements necessary for Springs Utilities to use the water derived from the shares. The total cost for this acquisition is \$27,085,175.00 plus closing costs. In addition to the acquisition costs, Utilities will make mitigation payments to Bent County. Following completion of the acquisition, Utilities will file Water Court applications in order to use the water derived from the shares. Springs Utilities requests that City Council approve the attached resolution authorizing the acquisition and filing of a Water Court application(s) necessary to use the water associated with the FLCC shares to City at its October 11, 2022, meeting.

Background:

Springs Utilities has entered into a PSA with Arkansas River Farms (“ARF”) under which it may acquire: (i) 2,919 FLCC shares; (ii) easements that allow Springs Utilities to construct, operate, and maintain water augmentation and return flow facilities on the ARF farms; (iii) 644.67 acres of real property in Bent County, Colorado; and (iv) rights of first refusal for additional shares and real property interests (collectively, the “Property”). The PSA also includes as a condition of the purchase and sale that ARF encumber the underlying property with restrictive covenants that require that portions of the underlying property be dried-up and revegetated. The purchase price is \$27,085,175.00.

The water associated with the 2,919 FLCC shares purchased by Springs Utilities will no longer be needed to water the ARF farms as a result of implementation of efficient irrigation methods that maintain or even increase farm productivity with less irrigated acreage. This acquisition is consistent with policy direction contained in Springs Utilities’ Policy Governance and Integrated Water Resource Plan and the Colorado Water Plan and allows Springs Utilities to pursue municipal water supply in a way that maintains the viability of agriculture in communities of the Lower Arkansas Basin

Springs Utilities is in the process of completing its due diligence on the acquisition and negotiating the required easements, covenants, and agreements. If City Council approves the acquisitions and

all required contingencies are satisfied, Springs Utilities intends to close on the acquisition in the fall of 2022.

To use the water acquired in these transaction, Springs Utilities will need to file Water Court applications requesting changes of use and conditional appropriative rights of exchange that will allow the water derived from the FLCC shares to be used in Springs Utilities' water system.

Previous Council Action:

N/A

Financial Implications:

The total cost to acquire the Property is \$27,085,175.00 and additional mitigation to Bent County is estimated at \$4,670,400. Springs Utilities will also incur expenses associated with adjudicating the Water Court application(s) necessary to use the water associated with the FLCC Shares as well as costs associated with obtaining any necessary permits from municipal and regulatory entities.

City Council Appointed Board/Commission/Committee Recommendation:

N/A

Stakeholder Process:

N/A

Alternatives:

Approve the proposed Resolution Authorizing the Purchase of Fort Lyon Canal Company Stock Owned by Arkansas River Farms for Colorado Springs Utilities and Authorizing the Filing of Water Court Applications for Changes of Water Rights and Appropriative Rights of Exchange, not approve the Resolution, or choose not to take action.

Proposed Motion:

Approve the Resolution Authorizing the Purchase of Fort Lyon Canal Company Stock Owned by Arkansas River Farms for Colorado Springs Utilities and Authorizing the Filing of Water Court Applications for Changes of Water Rights and Appropriative Rights of Exchange.

Summary of Ordinance Language

N/A