



## Legislation Details (With Text)

**File #:** 21-456      **Version:** 1      **Name:**  
**Type:** Resolution      **Status:** Mayor's Office  
**File created:** 7/19/2021      **In control:** City Council  
**On agenda:** 9/14/2021      **Final action:** 9/14/2021  
**Title:** A Resolution Approving an Intergovernmental Agreement Between the Board of Water Works of Pueblo, Colorado, the City Of Aurora, Colorado, Acting by and Through its Utility Enterprise, the Southeastern Water Activity Enterprise, the City of Fountain, Colorado, the City of Colorado Springs, on Behalf of its Enterprise Colorado Springs Utilities, and Pueblo West Metropolitan District Regarding the Acquisition of Real Property in Eastern Pueblo County for the Purpose of Constructing a Reservoir ("Purchase Iga")

**Presenter:**  
Earl Wilkinson, Chief Water Compliance Innovation Officer, Colorado Springs Utilities  
Aram Benyamin, Chief Executive Officer, Colorado Springs Utilities

### Sponsors:

### Indexes:

### Code sections:

**Attachments:** 1. Resolution ROY IGA-Fossil Acquisition, 2. Fossil Property Purchase IGA final, 3. Exhibit 1 - Fossil Property Legal Description, 4. Exhibit 2 - Amended Exhibit C to Lease Option Contract

Date	Ver.	Action By	Action	Result
9/14/2021	1	City Council	adopted	Pass

A Resolution Approving an Intergovernmental Agreement Between the Board of Water Works of Pueblo, Colorado, the City Of Aurora, Colorado, Acting by and Through its Utility Enterprise, the Southeastern Water Activity Enterprise, the City of Fountain, Colorado, the City of Colorado Springs, on Behalf of its Enterprise Colorado Springs Utilities, and Pueblo West Metropolitan District Regarding the Acquisition of Real Property in Eastern Pueblo County for the Purpose of Constructing a Reservoir ("Purchase Iga")

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### Summary:

Colorado Springs Utilities' staff and the City Attorney's Office have participated in the negotiation of an Intergovernmental Agreement pertaining to the purchase of property for a future reservoir storage site in eastern Pueblo County (Purchase IGA). The site has been determined to be suitable for construction of a 4,350-acre-foot reservoir to recapture foregone diversions. Recommendation is that Colorado Springs Utilities participate in the acquisition at the maximum percentage available to it (28.57%).

### Background:

In May 2004, the City of Aurora, Colorado Springs Utilities, City of Pueblo, Pueblo Board of Water Works, Southeastern Colorado Water Conservancy District and City of Fountain entered into an

Intergovernmental Agreement (“6-Party IGA”) to resolve numerous outstanding issues among Arkansas Basin water users. The 6-Party IGA was essential for garnering support for Colorado Springs Utilities’ Southern Delivery System and resulted in the establishment of the Arkansas River Flow Management Program which supports environmental and recreational flows through Pueblo. The original parties have since been joined by the Pueblo West Metropolitan District through a March 2011 letter agreement clarifying the 6-Party IGA.

The Arkansas River Flow Management Program requires that the seven parties not operate specific exchanges or alternate points of diversion (“Subject Exchanges”) that would deplete the Arkansas River below an identified minimum flow through Pueblo. The curtailment of the Subject Exchanges creates foregone exchange water (“Foregone Diversions”) which needs to be recaptured in downstream storage to recover lost water yield. The Restoration of Yield (“ROY”) subcommittee was formed to pursue joint development of storage to recapture Foregone Diversions for later exchange into Pueblo Reservoir when conditions allow.

The Pueblo Board of Water Works (“Pueblo Water”) entered into a certain Lease with Option to Purchase dated January 1, 2017, with Steven L. Fossel to lease and potentially purchase certain real property located in Pueblo County, Colorado, which is legally described in Exhibit 1 to the attached Resolution (the “Property”). Based on technical investigations of the Property, the parties to the Purchase IGA have determined that the Property is suitable for a reservoir facility for ROY purposes. The Purchase IGA, if approved by parties making up 85% of the participation percentages in the Purchase IGA, requires Pueblo Water to exercise its option to purchase the Property and to assign interests in the purchase contract to the parties in accordance with the participation percentages indicated below:

Colorado Springs Utilities	28.57%
Pueblo Water	28.58%
City of Aurora	28.57%
Southeastern Colorado Water Activity Enterprise	4.76%
City of Fountain	4.76%
Pueblo West Metro District	4.76%

In the event a party does not approve and execute the Purchase IGA by November 1, 2021, that party’s proposed participation percentage will be reallocated on a pro-rata basis among the remaining parties that have executed the Purchase IGA.

**Previous Council Action:**

Resolution 96-04 approving the 6-Party IGA. Resolution 92-15 approving an intergovernmental agreement regarding ROY cost sharing.

**Financial Implications:**

Total cost to acquire the property is \$2,850,000. If all parties execute the Purchase IGA by November 1, 2021, Colorado Springs Utilities is responsible for 28.57% of the total cost or \$814,245. If one or more parties does not execute the Purchase IGA, Colorado Springs Utilities’ share of the purchase price will increase by its pro-rata share of the remaining interest. The proposed resolution authorizes the acquisition of all interest offered to Colorado Springs Utilities pursuant to the Purchase IGA.

The probable cost for construction of the reservoir as studied is \$52.8 million but will likely change

based on concept refinement. Colorado Springs Utilities cost share (assuming a 28.57% ownership interest) is currently estimated to be \$15,000,000.

**City Council Appointed Board/Commission/Committee Recommendation:**

N/A

**Stakeholder Process:**

N/A

**Alternatives:**

N/A

**Proposed Motion:**

Motion to approve the proposed Resolution approving the Purchase IGA and authorizing the acquisition of an interest in real property owned by Steven L. Fossel in Pueblo County, Colorado in accordance with the Purchase IGA.

N/A