



## Legislation Text

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**File #:** 22-022, **Version:** 1

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A Resolution Authorizing the Purchase of Fort Lyon Canal Company Stock Owned by Mark Wertz and Heather Wertz 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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Aram Benyamin, Chief Executive Officer, Colorado Springs Utilities

**Summary:**

Colorado Springs Utilities ("Springs Utilities") has entered into a Purchase and Sale Agreement ("PSA") to acquire ownership of 113 shares in the Fort Lyon Canal Company ("FLCC"), which will yield an average of 113 acre-feet per year of new water supply and a contractual interest in another 90 shares in FLCC that will provide an additional yield of 90 acre-feet in three out of every ten years through a partnership with Lower Arkansas Valley farmers. Springs Utilities will also acquire easements, obtain 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 \$910,000. The acquisition and subsequent Water Court applications necessary to use the water derived from the shares require City Council approval. Springs Utilities requests that City Council approve the attached resolution authorizing the acquisition and filing of Water Court applications necessary to use the water associated with the FLCC shares to City Council at its January 11, 2022 meeting.

**Background:**

Springs Utilities has entered into a PSA with Mark Wertz and Heather Wertz (the "Wertz") under which it may acquire: (i) 113 FLCC shares; (ii) easements that allow Springs Utilities to construct, operate, and maintain water augmentation and return flow facilities on the Wertz' farm; (iii) the ability to use water derived from an additional 90 FLCC shares three out of every ten years; and (iv) real property covenants that require that portions of the Wertz' farm be dried-up and revegetated, collectively the "Property", for a total purchase price of up to \$910,000.

The water associated with the 113 FLCC shares purchased by Springs Utilities will no longer be needed to water the Wertz' farm 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 first quarter of 2022.

To use the water acquired in these transaction, Springs Utilities will need to file a Water Court application(s) 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 \$910,000. Springs Utilities will also incur expenses associated with adjudicating the water rights applications 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 Mark Wertz and Heather Wertz for Colorado Springs Utilities and Authorizing the Filing of Water Court Applications for Changes of Water Rights and Appropriative Rights of Exchange or not approve the proposed Resolution.

**Proposed Motion:**

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

N/A