



Legislation Text

File #: 22-781, **Version:** 1

Title

A Resolution Authorizing the Purchase of Fort Lyon Canal Company Stock Owned by Thaddeus Wertz and Sierra 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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Travas Deal, Acting 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 80 Fort Lyon Canal Company ("FLCC") shares ("Corner Shares"), contractual rights to use the water associated with 105 FLCC shares three out of ten years ("3/10 Shares"), and easements and other real property covenants necessary for Springs Utilities to use the water associated with the Corner Shares and 3/10 Shares. City Council approved the transaction by resolution 150-22 on October 11, 2022. Thaddeus and Sierra Wertz ("Seller") wish to remove the 3/10 Shares from the transaction. Springs Utilities is agreeable to the request and desires to amend the PSA such that it is only purchasing the Corner Shares, which will reduce the purchase price from \$724,750.00 to \$520,000.00. The amendment to the transaction 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 amendment to the acquisition and filing of a Water Court application(s) necessary to use the water associated with the Corner Shares at its January 10, 2023 meeting.

Background:

City Council previously approved a transaction by resolution 150-22 on October 11, 2022 under which Springs Utilities would acquire from Seller: (i) the Corner Shares; (ii) the right to use water associated with the 3/10 Shares; (iii) easements that allow Springs Utilities to construct, operate, and maintain water augmentation and return flow facilities on the Wertz farm; and (iv) real property covenants that require portions of the Wertz farm be dried-up and revegetated (collectively the "Property") for a total purchase price of up to \$724,750.00. Since City Council's approval of the transaction, Seller has requested that the 3/10 shares be removed from the transaction. Springs Utilities desires to accommodate Seller's request and only purchase the Property minus the 3/10 Shares. Springs Utilities and Seller have negotiated an amendment to the PSA to remove the 3/10 Shares from the transaction which will reduce the purchase price from \$724,750.00 to \$520,000.00.

If City Council approves the Resolution authorizing the removal of the 3/10 Shares from the transaction and all required contingencies are satisfied, Springs Utilities intends to close on the acquisition in the first quarter of 2023.

To use the water available under the Corner Shares, 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 to be used in Springs Utilities' water system.

Previous Council Action:

N/A

Financial Implications:

The total cost to acquire the corner shares under the amended transaction is \$520,000.00. 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 amended transaction or not approve the proposed Resolution.

Proposed Motion:

Approve the proposed Resolution

Summary of Ordinance Language

N/A