



Legislation Text

File #: ID-150-18, Version: 1

Department of Utilities

Reference: **A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRIGHTON, COLORADO, ACTING BY AND THROUGH ITS WATER ACTIVITY ENTERPRISE, AUTHORIZING THE PURCHASE OF ALL WATER RIGHTS AND INTERESTS, INCLUDING STORAGE RIGHTS, REPRESENTED BY SIX AND ONE HALF (6.50) SHARES OF CAPITAL STOCK IN THE SODA LAKES RESERVOIR AND MINERAL COMPANY (“SODA LAKES”) AND 3.14 CUBIC FEET PER SECOND OF DECREED PRIORITY NO. 12 WATER RIGHTS IN SPICKERMAN DITCH AND 5.13 CUBIC FEET PER SECOND OF DECREED PRIORITY NO. 18 WATER RIGHTS IN LOWER SPICKERMAN DITCH AND 4.675 CUBIC FEET PER SECOND OF DECREED PRIORITY NO. 19 WATER RIGHTS IN ROBERT LEWIS DITCH FROM MOUNT CARBON METROPOLITAN DISTRICT (SELLER) FOR THE TOTAL NOT TO EXCEED SUM OF TWO MILLION, ONE HUNDRED SEVENTY ONE THOUSAND, SEVEN HUNDRED AND FIFTY DOLLARS (\$2,171,750); AND AUTHORIZING THE CITY MANAGER TO UNDERTAKE SUCH TASKS AND EXECUTE SUCH DOCUMENTS AS MAY BE REQUIRED TO CONSUMMATE THE PURCHASE ON BEHALF OF THE CITY.**

To: Mayor Kenneth J. Kreutzer and Members of City Council

Through: Philip A. Rodriguez, City Manager

Prepared By: Curtis Bauers, Director of Utilities

Date Prepared: April 9, 2018

PURPOSE

To consider the approval of a resolution authorizing the execution of a Contract for Purchase of Water Rights (Contract) with the Mount Carbon Metropolitan District for the acquisition of shares and storage rights in the Soda Lakes Reservoir and Mineral Company, and decreed priority rights to the Spickerman Ditch, the Lower Spickerman Ditch, and the Robert Lewis Ditch. The shares have been deemed appropriate to be included in Brighton’s water portfolio for augmentation purposes. Funding in the amount of \$2,171,750 for the proposed purchase will come from existing Plant Investment Fees w/o Water Rights that have been specifically set aside for such acquisitions. The closing of the Contract is contingent upon Brighton securing an agreement with the Burlington Ditch, Reservoir and Land Company to use the Burlington bypass structures and any related appurtenances for the conveyance of the Water Rights to Brighton’s water structures and service area. This right of conveyance will cost the City an estimated \$150,000 and will be discounted by the Mount Carbon

Metropolitan District, upon closing, from their original price of \$2,321,750. In addition, the City has the right to terminate the Contract without penalty, within thirty days of the effective date of the Contract, if after due diligence, any conditions are unsatisfactory for the purchase.

BACKGROUND

In March of 2017, the City became aware of Mt. Carbon Metropolitan District having excess Bear Creek water rights it no longer needed and were inquiring about Brighton's interest in acquiring. The potential sale of the water rights was first offered to a local developer who needs water rights to fulfill some of their water dedication requirements.

When the developer decided they were not in a position to purchase the water rights, Brighton began to evaluate the water rights and to determine if and how they might work in Brighton's portfolio. After careful review of all the existing water rights decrees, necessary storage for managing winter return obligations, engineering review of variable yield scenarios, and the necessary steps to make the water available at Brighton's facilities, it was determined that these water rights would be a good acquisition.

Finally, the numbers, terms, and conditions were agreed upon with Mt. Carbon and approved by Mt. Carbon's Board of Directors. Mt. Carbon has executed the Contract and desires to complete the purchase as expeditiously as possible.

FINANCIAL IMPACT

The total amount payable to the Soda Lakes Reservoir and Mineral Water Company for the acquisition of the shares, storage rights, and decreed priority rights is \$2,171,750, of which, after sufficient due diligence, \$50,000 will be paid in the form of earnest money. Funding to offset this expense will be derived from the Water Acquisition account - a Plant Investment Fee specifically in place to fund such water acquisitions.

STAFF RECOMMENDATION

Staff recommends the approval of the proposed resolution in order to provide additional water for increasing Municipal demands.

OPTIONS FOR COUNCIL CONSIDERATION

- Approve the attached Resolution as presented
- Deny the attached Resolution as presented
- Postpone consideration of the Resolution with suggested changes

ATTACHMENTS

- Resolution
- Contract with the Mount Carbon Metropolitan District Regarding the Purchase of Shares, Storage Rights, and Decreed Priority Rights