



Legislation Text

File #: ID-180-18, **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 *FRICO-BRIGHTON BYPASS AGREEMENT* BETWEEN THE CITY OF BRIGHTON AND THE FARMER'S RESERVOIR AND IRRIGATION COMPANY (FRICO) FOR THE BYPASS OF CERTAIN WATER RIGHTS FROM DIVERSION BY FRICO FOR THE TOTAL SUM OF ONE HUNDRED FIFTY THOUSAND DOLLARS (\$150,000); AND AUTHORIZING THE CITY MANAGER TO EXECUTE SAID AGREEMENT ON BEHALF OF THE CITY AND TO UNDERTAKE SUCH TASKS AS MAY BE REQUIRED TO IMPLEMENT THE PROVISIONS OF THE AGREEMENT 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 13, 2018

PURPOSE

To consider the approval of a Bypass Agreement with the Farmer's Reservoir and Irrigation Company (FRICO), and its partners the Burlington Ditch Company, and the Henrylyn Irrigation District (3-Way) which will allow the City to move its water rights beyond the Burlington-O'Brian Canal river headgate when any of the 3-Way water rights are the senior calling rights in this stretch of the South Platte River.

BACKGROUND

FRICO constructed a structure in 2016 capable of bypassing up to 150 cfs of flow past the Burlington-O'Brian river headgate, and back to the South Platte River approximately 900 feet down ditch of the headgate, when the 3-Way rights are the calling right. Without such a structure, and Agreement allowing for its use, the entire river will be diverted by the Burlington-O'Brian headgate during these times, and any water owned by the City of Brighton will be diverted to FRICO's benefit and be unavailable to the City.

Brighton has certain water rights now, and may acquire more in the future, which will be lost and diverted by the Burlington-O'Brian Canal without an Agreement to Bypass the water, and a physical structure to accomplish it. The water rights recently purchased from the Mt. Carbon Metro District in particular will yield significantly less water in average and dry years without capabilities to bypass the Burlington-O'Brian headgate. Brighton has been offered the ability to purchase a portion of the existing bypass capacity at this time. There is much interest in this structure from various water rights holders, so there is no guarantee of future capacity, and the construction of our own structure for this purpose would be cost-prohibitive. Options for this purchase could include per/AF charges for all flows bypassed, or ownership of a limited portion of the structure. Staff has evaluated these options, and a one-time capital investment in ownership appears to be more economic than a permanent lease arrangement.

FRICO has agreed to sell the City 5 cfs of permanent capacity for \$25,000 per cfs; for a total investment of \$125,000,

plus \$25,000 for operations and maintenance of the structure on a pro-rata total flow basis, estimated to cover 30 years of O&M.

FINANCIAL IMPACT

The total amount payable to FRICO under this Agreement is \$125,000 for the acquisition of the capacity in the Bypass Structure, plus \$25,000 for operation and maintenance of the structure. There will be annual assessments for operation and maintenance expenses based on our pro-rata share of the total flow through the bypass structure over the preceding 12 months, to count against the \$25,000 payment, but the intent is that the \$25,000 will last for the useful life of the structure. As this capital investment is necessary to increase the yield of water rights, funding to offset this expense will be derived from the Water Acquisition account - a Plant Investment Fee specifically in place to fund water acquisitions.

STAFF RECOMMENDATION

Staff recommends the approval of the proposed resolution in order to deliver and to continue 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
- Bypass Agreement with FRICO