

AGENDA

Denver Board of Water Commissioners

Denver Water Administration Building
1600 West 12th Avenue
Denver, CO
Board Room, Third Floor

Wednesday, May 24, 2017 9:00 a.m.

I. INTRODUCTORY BUSINESS

A. Call to Order and Determination of Quorum

B. Public Comment and Communications

At this point in the agenda, the Board may allow members of the public to address the Board on any item of interest within the jurisdiction of the Board, and not on the agenda for action. Speakers wishing to address a specific Action Item will be invited to address the Board when the item is being considered. Three minutes are allowed for each person unless the President determines otherwise.

1. Distributor Communications
2. Citizen Advisory Committee Communications

C. Ceremonies, Awards and Introductions

II. ACTION ITEMS

A. Consent Items

Items listed below are considered routine and may be enacted by one motion and vote. If any Board member desires discussion beyond explanatory questions, or corrections to the Minutes, the President may order that item to be considered in a separate motion and vote.

1. Contract 16041A First Amendment with Enviro Vac, Inc. for Vacuum Truck Services
2. Contract 17024A for Tires, Tire Repairs and Alignments
3. Contract 17151A Horse Creek Stream Restoration Project
4. Contract 16981A 2017 Roof Replacements
5. Contract 17023A Gross Dam and Strontia Springs Dam Foundation Drain Cleaning
6. Contract 17125A Vaults Modifications 2017 / 2018 Highlands Vaults Procurement of Sleeve Valves
7. Resolution Authorizing Acquisition of Certain Property Interests via Eminent Domain for the Lupton Lakes Project

DENVER BOARD OF WATER COMMISSIONERS

Meeting Date: May 24, 2017

Board Item: II-A-1

First Amendment for Vacuum Truck Services Contract # 16041A

Action by Consent

Individual Action

Summary:

Enviro-Vac has performed the work satisfactorily and has provided excellent service during the first 20 months of the initial contract. Enviro-Vac is very responsive and is willing to meet Denver Water's schedules for the various locations. No issues have occurred with the equipment and all business needs have been met. We would like to extend the current contract an additional 2 years and add \$ 75,000 to the contract amount.

Budget Information:

The total amount of this contract is \$75,000, and the term of the contract is August 1, 2015 through July 31, 2019. Funds for this service/contract will come from the 2017 budget for Environmental Compliance which has sufficient funds to pay the \$37,500 estimated to be needed in 2018. The remaining \$37,500 will be budgeted in year 2019.

Selection of Business Partner:

In 2015, Denver Water issued an Invitation for Bids (IFB) to the public on the Rocky Mountain E-Purchasing System (BidNet), on Denver Water's website, and through notifications to the SBE and MWBE communities. Denver Water received seven bids; four were SBE and none were MWBE. Enviro-Vac, Inc. was selected based on several factors including Environmental Compliance, Understanding of Work, Vendor's Equipment and Facility, and Price.

S/MWBE Information:

Enviro-Vac, Inc. is an SBE and counts towards our 15% organization-wide SBE goals.

Recommendation:

It is recommended that the Board approve the First Amendment to Contract 16041A with Enviro-Vac, Inc. for vacuum truck services for an extension of the contract period through July 31, 2019, and for an additional \$75,000.00, for a total amended contract amount not to exceed \$150,000.00.

Approvals:

Respectfully submitted,

Brian Good
For Brian Good
Chief Administrative Officer

James S. Lochhead
James S. Lochhead
CEO/Manager

Angela Briemont
Angela Briemont
Chief Finance Officer

DENVER BOARD OF WATER COMMISSIONERS

Meeting Date: May 24, 2017

Board Item: II-A-2

Tires, Tire Repairs and Alignments Contract # 17024A

Action by Consent

Individual Action

Summary:

Denver Water contracts the supply of tires and comprehensive tire service and repair including designated roadside installation services for its fleet vehicles. This contract is for the purchase of tires, service trucks and personnel to furnish all labor, equipment and materials necessary for tire repair and installation services in the Denver metropolitan area.

Budget Information:

The total amount of this contract is \$400,000.00, and the term of the contract is June 1, 2017 to May 31, 2020. Funds for this service/contract will come from the 2017 budget for Fleet, which has sufficient funds to pay the \$77,778.00 estimated to be needed in 2017. The remaining \$322,222.00 will be budgeted in years 2018, 2019 and 2020.

Selection of Business Partner:

Denver Water issued a Request for Proposal to the public on the Rocky Mountain E-Purchasing System (BidNet), on Denver Water's website, through notifications to the SBE and MWBE community, and via direct solicitation to known vendors. Denver Water received three (3) proposals, none of which were S/MWBE. A&E Tires, Inc. was selected based upon their price, expertise to provide tire repair and alignment services and ability to meet work requirements.

S/MWBE Information:

A&E Tire, Inc. is neither a SBE nor a certified MWBE. This contract has been determined to fall within the Covered Goods & Services MWBE program, which has an overall 2017 target of 10% MWBE participation. MWBE participation targets are not set on an individual contract basis in this program.


Recommendation:

It is recommended that the Board approve Contract 17024A with A&E Tire, Inc. for tires, tire repair and alignments for the contract period June 1, 2017 to May 31, 2020 for a total contract amount not to exceed \$400,000.00.

Approvals:


Thomas J. Roode
Chief Operations Maintenance Officer

Respectfully submitted,


James S. Lochhead
CEO/Manager


Angela Briemont
Chief Finance Officer

DENVER BOARD OF WATER COMMISSIONERS

Meeting Date: May 24, 2017

Board Item: II-A-3

Horse Creek Restoration Project Contract # 17151A

Action by Consent

Individual Action

Summary:

The Coalition for Upper South Platte (CUSP) is requesting a \$200,000 contribution from Denver Water as a partner in the Horse Creek Stream Restoration Project. Denver Water will gain significant source water quality improvements through this project, primarily by reducing erosion that was caused by the catastrophic wildfires that greatly impacted our collection system and that continue to impact Strontia Springs Reservoir with large amounts of sediment.

The Horse Creek Project will re-align approximately 2,000 feet of the creek, stabilize eroding stream banks and replace three failing bridges and culvert crossings that contribute large amounts of sediment to the system. The new bridges will be single span construction that will allow debris to pass underneath the structure without damage and will include weirs to direct the flow of the stream through the center of the channel to eliminate or minimize erosion from the stream banks on the sides of the channel. The project work will use heavy equipment and hand crews in the summer of 2017.

Primary Objectives and Benefits of the project:

1. Reduce erosion and flooding in Horse Creek to protect public infrastructure and reduce potential for loss of life and public safety.
2. Reduce sediment moving downstream to Strontia Springs by at least 50,000 tons per year.
3. Improve habitat for threatened and endangered species (Preble's meadow jumping mouse) and resident fisheries by providing aquatic species passage throughout the project reach.

Background:

The Hayman fire burned over 138,000 acres of the Upper South Platte watershed in 2002, yielding long-term negative impacts to water infrastructure and environmental values downstream of the fire scar that continue today. The Horse Creek drainage was significantly damaged, and has continued to experience and high-levels of erosion. In average precipitation years, Horse Creek is estimated to deliver over 57,000 tons of sediment downstream to Strontia Springs Reservoir and during high precipitation periods has delivered hundreds of thousands of tons into Strontia Springs. This ongoing sediment load is primarily from stream bank erosion in Horse Creek. This material has significant negative impacts on Denver Water's infrastructure, particularly with the volume being deposited in Strontia Springs, but also affecting downstream diversions and flumes. The large sediment loads also have significant impacts on fisheries and threatened & endangered species, as this area includes Preble's meadow jumping mouse habitat.

Addressing the sediment impacts of Horse Creek is a recommendation from the study that Denver Water funded in 2013 on how to manage our watershed upstream of Strontia Springs for water quality improvements, "Basin Prioritization – Upstream Management Practices at Strontia Springs Reservoir August 30, 2013 by Golder and Associates".

The Coalition for the Upper South Platte (CUSP) and some of the other partners (Aurora Water, US Forest Service (USFS), Colorado Department of Public Health and Environment (CDPHE), South Platte Enhancement Board (SPEB) and US Environmental Protection Agency (USEPA)) in this project partnered on a similar and highly successful restoration project from 2010 through 2012 upstream on Trail Creek. CUSP completed a

Denver Water aspires to be the best water utility in the nation.

Integrity :: Vision :: Passion :: Excellence :: Respect



Watershed Assessment for River Stability and Sediment Supply (WARSSS) with the USFS for this project area (this is the preferred methodology of EPA for quantifying and modeling sediment contributions), and prioritizing areas to be worked in. The WARSSS can be seen at http://cusp.ws/wp-content/uploads/2014/05/Horse-Creek-Watershed-Assessment_Final.pdf

Attached are photos to show the amount of erosion and sediment deposits to be addressed by this project.

Budget Information:

Denver Water's \$200,000 partner contribution would be matched by approximately \$1,822,000 for a total project cost of approximately \$2,022,000.

CUSP has secured funds from a number of additional partners as shown below:

| Partner | Cash Match | In-Kind Match | Total Partner Match |
|----------------|--------------------|------------------|---------------------|
| CWCB | \$650,000 | | \$650,000 |
| CDPHE | \$600,000 | | \$600,000 |
| Aurora Water | \$200,000 | | \$200,000 |
| USFS | \$68,000 | \$32,000 | \$100,000 |
| Douglas County | \$50,000 | | \$50,000 |
| SPEB | \$40,000 | | \$40,000 |
| CUSP | \$35,000 | \$22,000 | \$57,000 |
| Volunteers | | \$125,000 | \$125,000 |
| Total | \$1,643,000 | \$179,000 | \$1,822,000 |

Additional funding and various in-kind support is also anticipated from Colorado Department of Transportation, Colorado Parks and Wildlife, Trout Unlimited, landowners, and from CUSP's other regular fundraising activities.

The total amount of this contract is \$200,000, and the term of the contract is May 24, 2017 to December 31, 2019. Funds for this service/contract will come from the 2017 budget for Environmental Planning Business Unit 1005020000, which has sufficient funds to pay the \$200,000 estimated to be needed in 2017.

Recommendation:

It is recommended that the Board approve 17151A with CUSP for the contract period May 24, 2017 to December 31, 2019 for a total contract amount not to exceed \$200,000.

Approvals:



Mike King
Chief Planning Officer

Respectfully submitted,


James S. Lochhead
CEO/Manager

Angela Brimont
Chief Finance Officer

DENVER BOARD OF WATER COMMISSIONERS

Meeting Date: May 24, 2017

Board Item: II-A-4

2017 Roof Replacements Contract 16981A

Action by Consent

Individual Action

Summary:

In 2014, Denver Water had a consultant complete a system-wide roof inspection of over 170 facilities and received a condition report along with a replacement schedule for the roofs. The first roofing project, completed in 2016, included the roof replacement at eight of Denver Water's facilities, Contract 16981A is the second annual roofing contract, and consists of the removal and replacement of the roofing systems at 56th Avenue Pump Station, West Belleview Pump Station, West Side of Filter Chlorine Service Building No. 3 at the Moffat Treatment Plant, Kassler Storage Shed, Cherry Creek Garage at High Line, and Upper Assistant Caretakers House at Gross Reservoir.

Budget Information:

The work will be completed in 2017. The 2017 Expense Budget for the 2017 Roof Replacements Business Unit includes sufficient funds for the estimated \$229,113 for the 2017 expenditures.

Selection of Business Partner:

Denver Water solicited bids from six General Contractors listed on the Prequalified Contractor List under the Roofing discipline. This Contract was a restricted bid process using Invitation to Bids on the QuestCDN platform. On May 9, 2017, bids were received from three General Contractors. Central States Roofing & Insulating Co., Inc. of Colorado was selected based on the lowest priced bid.


S/MWBE Information:

Due to the specialized nature of the work, no Minority and Women Business Enterprise (MWBE) goal was established for the project, and MWBE firms were encouraged to bid. One of the Roofing Contractors that bid is MWBE-certified but they were not the lowest priced bid.

Recommendation:

It is recommended that the Board approve Contract 16981A with Central States Roofing & Insulating Co., Inc. for 2017 Roof Replacements for the contract period May 24, 2017 through October 13, 2017 for a total contract amount not to exceed \$229,113.

Approvals:


Robert J. Mahoney
Chief Engineering Officer

Respectfully submitted,


James S. Lochhead
CEO/Manager


Angela Brimont
Chief Finance Officer

DENVER BOARD OF WATER COMMISSIONERS

Meeting Date: May 24, 2017

Board Item: II-A-5

Gross Dam and Strontia Springs Dam Foundation Drain Cleaning Contract 17023A

Action by Consent

Individual Action

Summary:

Denver Water solicited proposals for high-pressure water jetting and video inspection of the foundation drains at Gross Dam and Strontia Springs Dam. The work is needed as a result of the last Federal Energy Regulatory Commission (FERC) Part 12 Safety Inspection Reports for Gross Dam and Strontia Springs Dam (dated September 7, 2013 and March 15, 2016, respectively), wherein the Independent Consultant identified, and FERC concurred with, the need to clean the foundation drains at these two dams using high pressure (10,000-20,000 psi) water jetting as routine scheduled maintenance (every 10-20 years). Approximately 40 select foundation drains in Strontia Springs Dam were last cleaned in 1991 due to decreased seepage out of those drains. There is no record of any foundation drain cleaning being conducted at Gross Dam.

High pressure water jetting of foundation drains in concrete dams has become standard industry practice for mitigating dam safety concerns associated with an uplift failure mode that could result from reduced pressure relief due to clogged foundation drains. High pressure water jetting provides an effective alternative to previous, much more expensive and time consuming, methods for cleaning foundation drains such as reaming or re-drilling foundation drains. Pre- and post-cleaning video inspection serves as a quality control measure to verify and document the effectiveness of the drain cleaning process.

The Independent Consultant's recommendation to clean the foundation drains at these two dams was formally submitted to FERC in the most recent Part 12 Safety Inspection Reports. As a result, FERC issued a letter requesting a plan and schedule for addressing this recommended action. Denver Water responded with a commitment to complete the drain cleaning in 2017.

The contract includes providing all labor, materials, and equipment including: high-pressure water jetting of all dam foundation drains, pre- and post-cleaning video inspection, data collection, cleanup and disposal of all cleaning debris, and site mobilization and demobilization.

Budget Information:

The work will be completed in 2017. The 2017 Capital Improvement Plan FERC Required Dam Drain Cleaning Business Unit includes sufficient funds for the estimated \$320,120 for the 2017 expenditures.

Selection of Business Partner:

Due to the specialized nature of the work, Denver Water was not able to solicit proposals from contractors on the Prequalified Contractor List. Rather, Denver Water Dam Safety performed an extensive search over the course of 12 months to identify qualified contractors to provide proposals. The following measures were taken to identify potentially qualified contractors:

- Outreach to subject matter experts
- Outreach to other owners with similar facilities
- Outreach to potentially qualified contractors
- Site visits with three different potentially qualified contractors
- Advertisement on www.denverwater.org one month in advance of issuing bid documents

This Contract was a Quality Based Selection and a restricted proposal process using Instructions to Proposers on the QuestCDN platform. On May 2, 2017, a proposal was received from one Contractor. The proposal was

evaluated based on cost, project execution plan, contractor qualifications and team personnel. Beartooth Water Jetting and Video Inspection, LLC of Montana is well qualified, having completed similar work on several recent projects of comparable size and complexity. They were also recommended by other owners during the outreach process. Their price of \$320,120 was below the Engineer's Opinion of Probable Construction Cost of \$400,000.

S/MWBE Information:

The Minority and Women Business Enterprise (MWBE) goal established for this construction project is 1% participation. Beartooth Water Jetting and Video Inspection, LLC achieved 0.24% MWBE participation. The contract also includes 0.32% participation by a local small business enterprise (SBE). Due to the highly specialized nature of the work, there is little opportunity for involvement by subcontractors and suppliers.

Recommendation:

It is recommended that the Board approve 17023A with Beartooth Water Jetting and Video Inspection, LLC for high-pressure water jetting and video inspection of the foundation drains at Gross Dam and Strontia Springs Dam for the contract period May 24, 2017 through November 30, 2017 for a total contract amount not to exceed \$320,120.

Approvals:



Robert J. Mahoney
Chief Engineering Officer

Respectfully submitted,



James S. Lochhead
CEO/Manager



Angela Briemont
Chief Finance Officer

DENVER BOARD OF WATER COMMISSIONERS

Meeting Date: May 24, 2017

Board Item: II-A-6

Vaults Modifications 2017 / 2018 Highlands Vaults Procurement of Sleeve Valves Contract 17125A

Action by Consent

Individual Action

Summary:

As part of the annual vaults rehabilitation inspection, the filling valves from Conduit 27 and Conduit 96 into the Highlands Clean Water Reservoirs were inspected and are in need of replacement. The filling valves were originally installed in 1976 and required modification of the piping with orifice plates in 1985 to mitigate severe cavitation issues from incorrect valve selection and design. This addition of orifice plates helped mitigate the cavitation but limited the operational capabilities of the facility. The extensive damage in the early years of operation is now causing these control valves to severely leak and are unable to find replacements for worn out parts.

This Contract is for the procurement of four sleeve valves required for the construction of the Vaults Modification 2017/2018 – Contract 16965A. These valves will be used to safely and reliably regulate the extreme pressure differential and flow from Conduit 27 and Conduit 96 to fill the Highlands Clean Water Reservoirs. The pre-purchased sleeve valves will be provided as Owner-furnished equipment to the Contractor performing Contract 16965A. Due to the long lead time for fabrication, delivery, and complexity of design, the early procurement of these valves allow for installation within Distribution's outage schedule.

Budget Information:

The work begins in 2017 and will be completed in 2018. The 2017 Capital Improvement Plan for Vault Modifications 2017/2018 includes sufficient funds for the estimated \$555,450 for the 2017 expenditures. The remaining funds will be budgeted for the 2018 Capital Improvement Budget.

Selection of Business Partner:

This Contract used Invitation to Bids on the QuestCDN platform. In addition, Denver Water investigated and solicited bids from two Contractors whom regularly manufacture these specialized sleeve valves meeting engineering specifications. On May 9, 2017, two bids were received, with Bailey Valve, Inc. selected based on the lowest cost bid.

S/MWBE Information:

There was no Minority Women Business Enterprise (MWBE) participation goal required for the project due to the specialized nature of the equipment fabrication and procurement. Neither of the two bids included MWBE participation. MWBE participation will be required in the Construction Contract.

Recommendation:

It is recommended that the Board approve Contract 17125A with Bailey Valve, Inc. for the procurement of four sleeve valves for the contract period May 24, 2017 to February 9, 2018 for a total contract amount not to exceed \$555,450.

Approvals:


Robert J. Mahoney
Chief Engineering Officer

Respectfully submitted,


James S. Lochhead
CEO/Manager

DENVER BOARD OF WATER COMMISSIONERS

Meeting Date: May 24, 2017

Board Item: II-A-7

Resolution Authorizing Acquisition of Certain Property Interests via Eminent Domain for the Lupton Lakes Project

Action by Consent

Individual Action

Summary:

In 2006, the Board acquired interest in real property located in the City of Fort Lupton, Weld County, Colorado, to construct and operate a water storage reservoir and associated water conveyance facilities (the "Project"). This real property is commonly known as Lupton Lakes and generally consists of the North Cell and the South Cell. The construction of the groundwater cutoff wall (a.k.a slurry wall) for the North Cell commenced in the fall of 2016. The construction of the groundwater cutoff wall for the South Cell is scheduled to begin in April 2018. Kerr-McGee Rocky Mountain Corporation and Kerr-McGee Gathering, LLC ("Kerr-McGee") have existing facilities and certain rights to use and access the South Cell of the Lupton Lakes, located in the Northeast Quarter of Section 19, Township 1 North, Range 66 West, 6th P.M., Weld County, Colorado, in connection with oil and gas operations.

The Board's staff has determined that the Board needs to acquire Kerr-McGee interests in the South Cell to maximize storage capacity of the future reservoir. These interests include:

1. All of the right, title, and interest of Kerr-McGee Rocky Mountain Corporation and Kerr-McGee Gathering, LLC, and each of their successors-in-interest, in the Surface Use Agreement dated October 6, 2003, a memorandum of which was recorded on October 17, 2003 in Weld County, Colorado at Reception No. 3118093. This includes all surface rights pertaining to the Existing Oil and Gas Operations Area, any other Oil and Gas Areas, the Future Vertical Well Sites, the right to lay flowlines and pipelines, the right to conduct oil and gas surface operations, the right to locate, build, repair, and maintain wellheads, tanks, separators, dehydrators, compressors, and other equipment, and any other surface, easements, access, rights-of-way, or other surface rights as defined in and granted by the instrument; and

2. All of the right, title, and interest of Kerr-McGee Gathering, LLC, and its successors-in-interest, in the Right of Way Grant dated August 1, 2003, recorded in Weld County, Colorado at Reception No. 3127093.

Staff believes it necessary to negotiate with the owners of the above described interests to purchase such interests and, if such negotiations fail, to commence eminent domain proceedings to acquire these interests.


Recommendation:

It is recommended that the Board adopt the attached Resolution authorizing the initiation of Eminent Domain proceedings.

Approvals:


Robert J. Mahoney
Chief Engineering Officer

Respectfully submitted,


James S. Lochhead
CEO/Manager


Michael E. King
Chief Planning Officer


Patricia L. Wells
General Counsel

RESOLUTION

WHEREAS, the City and County of Denver, acting by and through its Board of Water Commissioners (the “**Board**”), a home rule municipal corporation of the State of Colorado, owns, operates and maintains the municipal water works system and plant of the City and County of Denver; and

WHEREAS, the Board acquired an interest in real property located in the City of Fort Lupton, Weld County, Colorado, to construct and operate a water storage reservoir and associated water conveyance facilities (the “**Project**”); and

WHEREAS, the Project is commonly known as Lupton Lakes and generally consists of the North Cell and the South Cell; and

WHEREAS, the construction of the groundwater cutoff wall (a.k.a slurry wall) for the North Cell commenced in the fall of 2016 and the construction of the groundwater cutoff wall for the South Cell will begin in April 2018; and

WHEREAS, Kerr-McGee Rocky Mountain Corporation and Kerr-McGee Gathering, LLC (“Kerr-McGee”) have existing facilities and certain rights to use and access the South Cell of Lupton Lakes, generally located in the Northeast Quarter of Section 19, Township 1 North, Range 66 West, 6th P.M., Weld County, Colorado, in connection with oil and gas operations; and

WHEREAS, the Board finds it is necessary to acquire the following Kerr-McGee’s interests in the South Cell (“**Interests**”) to facilitate the Project, including to increase the storage capacity of the future reservoir:

1. All of the right, title, and interest of Kerr-McGee Rocky Mountain Corporation and Kerr-McGee Gathering, LLC, and each of their successors-in-interest, in the Surface Use Agreement dated October 6, 2003, a memorandum of which was recorded on October 17, 2003 in Weld County, Colorado as Reception No. 3118093. This includes all surface rights pertaining to the Existing Oil and Gas Operations Area, any other Oil and Gas Areas, the Future Vertical Well Sites, the right to lay flowlines and pipelines, the right to conduct oil and gas surface operations, the right to locate, build, repair, and maintain wellheads, tanks, separators, dehydrators, compressors, and other equipment, and any other surface, easements, access, rights-of-way, or other surface rights as defined in and granted by the instrument; and

2. All of the right, title, and interest of Kerr-McGee Gathering, LLC, and its successors-in-interest, in the Right of Way Grant dated August 1, 2003, recorded in Weld County, Colorado as Reception No. 3127093.

THEREFORE, BE IT RESOLVED THAT:

- A. The Project is for a public purpose and use;
- B. The Board requires the above described Interests and such Interests are necessary to facilitate the Project;
- C. The Attorneys of the Board’s Office of General Counsel, the staff of the Board’s Planning Division and staff of the Distribution and Property Management Section of the Board’s

Engineering Division (“**Staff**”) are authorized to pursue negotiations with the owners of the Interests and, if such negotiations fail or are deemed futile in accordance with the Colorado law, are authorized to commence legal proceedings to acquire the necessary Interests through the exercise of the Board’s power of eminent domain to the full extent of the law;

D. The Staff are authorized to amend legal descriptions or the extent of the Interests to be taken without further action of the Board.

ADOPTED AND APPROVED _____, BY CITY AND COUNTY OF DENVER, ACTING BY AND THROUGH ITS BOARD OF WATER COMMISSIONERS.

ATTEST:

By: _____
CEO/Manager

By: _____
President

DENVER BOARD OF WATER COMMISSIONERS

Meeting Date: May 24, 2017

Board Item: II-A-8

Property and Casualty Insurance Policy Renewals/Purchases

Contract # 16791A

Action by Consent

Individual Action

Summary:

Arthur J. Gallagher Risk Management Services, Inc. (AJG) markets the Board's insurance requirements every 3 to 5 years or sooner if favorable market conditions exist. Because insurance coverage expires annually, AJG provides recommendations to renew or replace the expiring policies so that we maintain insurance coverage for property, crime, fiduciary, and excess liability for the next year starting June 1, 2017. During the May 10, 2017 Board meeting staff presented a briefing paper to the Board regarding the need to renew or replace the above insurance policies. Attached to this document is a schedule that provides a cost comparison for this year and last year, the coverage amounts, retention amounts, and insurance providers for each coverage. Also in the attachment is a comparison of these coverages to the 2017 RIMS Benchmark Survey.

Budget Information:

The total amount of this contract is not to exceed \$3,000,000, and the term of the contract is 1/1/2017 to 12/31/2019 with the option to extend for two additional one year periods. Funds for this service/contract will come from the 2017 budget for the Non-Divisional Risk Management Business Unit, which has sufficient funds to pay the \$644,175 estimated to be needed in 2017. The remaining unspent amount of \$2,101,576 will be budgeted in future years.

Selection of Business Partner:

This Board item is requesting renewal of expiring insurance policies. These policies are paid to AJG with amounts subsequently passed-through to the respective insurers.

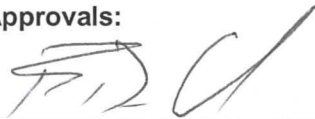
S/MWBE Information:

No goal has been established for this type of service.

Recommendation:

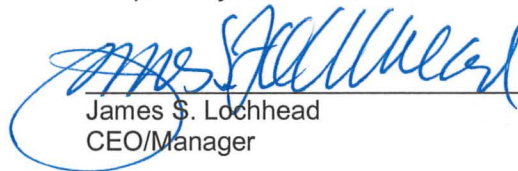
It is recommended that the Board approve the renewal of the insurance policies for property and equipment, utility excess liability and crime. It is also recommended that the Board approve the purchase of fiduciary insurance from Travelers Insurance Company and not renew the same coverage with ACE (Chubb). The total amount of this renewal and purchase is \$560,240.

Approvals:

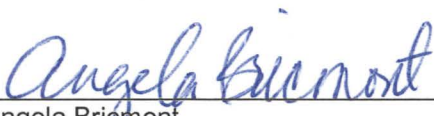


Brian Good
Chief Administrative Officer

Respectfully submitted,



James S. Lochhead
CEO/Manager



Angela Bricmont
Chief Finance Officer

DENVER BOARD OF WATER COMMISSIONERS

Meeting Date: May 24, 2017

Board Item: V-A-1

Briefing Paper for Legislative Update

Strategic Plan Alignment:

Lenses: Customer Centric, Industry Leader, and Long-Term View

GOAL: Play a key role in issues important to our success by advocating the interests of Denver Water in legislative and regulatory matters, specifically by proactively lobbying the Colorado General Assembly.

Summary:

The 2017 Session of the Colorado General Assembly came to an end on Wednesday, May 10. Our efforts to proactively lobby the Colorado General Assembly and advocate the interests of Denver Water can be characterized by the following metrics:

1. We reviewed 681 bills, identifying 33 that related to water policy or impacted Denver Water operations;
2. With much appreciation we relied on numerous internal experts from across all divisions of Denver Water to review many of our tracked bills and provide analysis and feedback;
3. We formed recommendations based on internal feedback. Of the 33 bills tracked, Denver Water supported 11 (nine passed), and opposed two (both failed to pass);
4. We met with 31 legislators as part of our strategic "meet-and-greet" initiative to offer information about Denver Water, our policy positions, and to further our professional relationships;
5. We met with seven legislators to follow up on specific information requests they initiated;
6. We had numerous impromptu meetings and communications with legislators while lobbying (likely no less than 100);
7. Through our memberships, we regularly attended the government relations committees of the Colorado Water Congress, the Colorado Competitive Council, the Colorado Municipal League, and the Colorado Water Utility Council to gain insight and strategic partnership on legislation;
8. Planned and executed a legislative lunch led by Jim Lochhead and hosted by the Front Range Water Council with approximately 25 legislators and many of their staff in attendance;
9. With much appreciation, we had several of our Denver Water experts testify on five bills, highlighted below.

In addition to the summary above, I have attached a full legislative report. Below is a summary of a few of the more pressing issues that we worked on this year.

1. **Lead Plumbing** - As a part of our 2017 Lead Program, we set a goal to promote awareness and removal of lead plumbing through public policy changes. We have made some progress on this by partnering with a group of stakeholders and legislators to pass HB17-1306 that establishes a voluntary public school lead testing program and included some funding to pay for it. While this bill does not go as far as some other States have, it is a good first step. We also established some new relationships with people representing groups that are willing to help further advance our goals over the next year or two. Some of these groups include Children's Hospital and the Colorado Children's Campaign. We will continue to work over the summer and fall to advance this goal further. **Steve Price**, Engineering Manager, testified twice in support of HB17-1306 offering perspective on the importance testing for lead in water and the partnership we have with Denver Public Schools on the testing they have recently completed.
2. **Seaplanes** - The seaplane issue cornered a significant amount of the Legislature's attention this year and while we were successful in stopping what was a bad idea this year, it is clear that the issue is not going away. We can expect to see this issue return in 2018. **Brandon Ransom**, Manager of Recreation, testified in opposition to this bill, explaining the risk of spreading aquatic nuisance species into Colorado waterways.
3. **St. Jude's** - We spent a significant level of effort finding common ground with the River District on HB17-1190 that would have addressed many concerns that the River District had with the St. Jude's Supreme Court decision (detailed analysis included in the full bill report). While the bill ultimately passed, many of the provisions important to the River District were stripped out. It is likely that the River District will seek to address their remaining concerns in 2018. One path forward they might explore is to combine their concerns with Northern Water's failed SB17-282 on dedicating reservoir releases for environmental purposes into a new bill in 2018.

4. **CPW funding for Boat Inspections** – Severance Tax funding for Colorado Parks and Wildlife's (CPW) boat inspection program has dried up due to reductions in oil and gas development. The Legislature passed a stop-gap bill this year, SB17-259, that will keep this program and others running for the 2017-18 fiscal year. CPW also asked for a more stable source of funding from the legislature by creating a new boat sticker and fee in HB17-1321. This bill also included significant fee increases for fishing and hunting licenses and small fee increases for State Parks passes. However the bill failed to pass through the Senate. While SB17-259 will get the boat inspection program through June of 2018, CPW will need to seek funding for the program to continue beyond that point. It is likely that they will bring back some version of HB17-1321. **Brandon Ransom**, Manager of Recreation, testified twice in favor of this bill describing the importance of the boat inspection program, specifically at Denver Water's Eleven Mile Reservoir.
5. **Underground Facilities Locates** – SB17-290 was an eleventh hour attempt to address concerns that some have with the process for depicting underground facilities during the design phase of projects. While this bill failed to pass, there is a broader movement to address both this issue and what some see as the failings of the Colorado One Call (or 811) system. There will likely be many stakeholder meetings over the summer to discuss these topics. We will be attending and monitoring stakeholder meetings and providing our input when needed. We can expect another bill or two on these issues in 2018.
6. **Recycled Water** – While there were no bills related to recycled water, there is interest by some in the legislature to push for more acceptance of recycled water. Representative Jeni Arndt (Chair of House Ag), has requested that recycled water be a topic for discussion and update during the interim at the Water Resources Review Committee. We will monitor and participate in these discussions and updates when appropriate.
7. **Graywater** – We had a significant victory in getting an amendment to HB17-1008 that will allow water providers to engage in graywater research. This will allow Denver Water to study graywater use both on our new campus and potentially at the National Western Center. **Greg Fisher** of Planning testified in support of this bill, specifically on the opportunities we have to advance the science of safe graywater use through doing our own research.
8. **Forest Health** – We supported and helped pass SB17-050 that combined and extended two important wildfire mitigation and forest health programs and continued funding for both. **Christina Burri** of Planning testified in support of this bill and its passage will continue the important work to protect our watersheds.

Background:

N/A

Budget Information:

N/A

Alternatives:

N/A

Approach:

N/A

Owner(s):

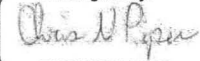
Chris Piper, Government Relations, Public Affairs

Attachments:

Final Report on 2017 Legislation

Respectfully submitted,

DocuSigned by:



F23E4A5311144B2
Division – Public Affairs

DENVER BOARD OF WATER COMMISSIONERS

Meeting Date: May 24, 2017

Board Item: V-A-2

Briefing Paper Regarding 1940 Agreement

Strategic Plan Alignment:

Lenses: Customer Centric Industry Leader Long-Term View

This paper describes an approach to regaining Denver Water's ability to reuse return flows from the Moffat System. Using return flows already being generated will improve the sustainability of Denver Water's supply and the efficiency of water use. In addition, maximizing reuse avoids the financial burden on our customers to acquire an equivalent amount of new supply.

Summary:

The 1940 Agreement between Denver Water and Consolidated Ditches Company of Water District No. 2 was executed with the purpose to eliminate the burden on the South Platte River caused by evaporation from Antero, Eleven Mile and Cheesman Reservoirs. The Agreement allows Denver Water to operate the reservoirs without regard to evaporative losses but precludes the reuse of return flows resulting from use of most of the water imported from the West Slope through the Moffat Tunnel. In 1940 Denver Water relinquished to the South Platte 23% more water than was lost to evaporation. At the present time, releases of return flows are more than double the losses from evaporation. The volume of reusable water relinquished to the river in excess of evaporation is needed for future supply for Denver Water's customers.

Background:

In 1940, Denver Water was in a very different position than it is today. In the pre-World War II era, Denver Water served a population in Denver of 350,000 people and only a few customers outside of Denver. Denver Water's major infrastructure included the newly constructed Moffat Tunnel and Moffat Treatment Plant, a sand-filter treatment plant on the South Platte, and three on-stream reservoirs on the South Platte – Antero, Eleven Mile and Cheesman.

Storage reservoirs impact stream flows due to loss of water from evaporation. In 1940, replacement of water lost to evaporation was not required by law, and no generally accepted means of calculating evaporation had been developed. Denver Water operated its reservoirs without regard to evaporative losses, which consequently impacted the South Platte by some volume of water.

Consolidated Ditches is an organization formed to protect the interests of its members, more than a dozen individual agricultural ditch companies with senior water rights that divert on the South Platte River downstream of the Denver area. Consolidated Ditches was concerned about potential impact to flows in the South Platte caused by seepage and evaporative losses from Denver Water's three reservoirs. To resolve this concern, Consolidated and Denver Water entered into the 1940 Agreement.

The 1940 Agreement. The 1940 Agreement allows Denver Water to operate Antero, Cheesman and Eleven Mile Reservoirs without regard to evaporative losses, but precludes the reuse of return flows resulting from use of most of the water imported through the Moffat Tunnel. Instead, the 1940 Agreement requires Denver Water to relinquish the return flows to the South Platte River after the initial municipal use. The water is released to the river, either as effluent from wastewater treatment plants or as lawn irrigation return flows, thereby increasing the flow in the river. Thanks to the diversion location and the seniority of the water rights of Consolidated's member ditch companies, the ditches can usually divert the additional flow in priority during the irrigation season. Denver Water still owns the return flows, but is precluded by the 1940 Agreement from using them.

The 1940 Agreement was appropriate under the legal principles of the time. The ability to reuse water imported from the West Slope had not yet been established in the law, so it was not certain Denver Water would be able to

Denver Water aspires to be the best water utility in the nation.

Integrity :: Vision :: Passion :: Excellence :: Respect



reuse its return flows. In addition, no legal authority required replacement of evaporative losses from a reservoir, so the only way to provide reliable mitigation for the impacts of evaporative losses was to agree to do so.

Impact of 1940 Agreement. The 1940 Agreement has been the subject of litigation over the years. In one lawsuit the Colorado Supreme Court defined the principal purpose of the contract: “to eliminate the burden on the river caused by evaporation from the streambed reservoirs.” The Court determined that Denver Water and Consolidated “anticipated that the gain to the river from the agreement would be roughly equivalent to the loss from evaporation.”

That anticipation of the parties was reasonably correct at the time of the agreement. In 1940, evaporative losses were 10,100 acre feet, while the return flows Denver Water relinquished to the South Platte totaled 12,500 acre feet, or 123% of the losses. This 1940 disparity between return flows and losses from evaporation was anticipated and was considered to be “roughly equivalent”.

However, the 1940 ratio of 123% has increased steadily over the decades. While evaporation from the three reservoirs has remained relatively constant (an average of 10,200 a.f. per year from 1989 to 2015), return flows from importation of water through the Moffat Tunnel have increased to an average of 21,540 acre feet per year. Average releases are now more than double the losses from evaporation.

In contrast, the actual benefit to Consolidated Ditches from the Agreement, beyond replacement of evaporative losses, involves much smaller volumes of water. The 1940 Agreement has benefitted Consolidated’s member ditches by allowing them to divert more water in priority than they would have if Denver Water’s return flows in excess of evaporation had not been in the river. Other water users not party to the 1940 Agreement, have also benefitted from the excess return flows Denver Water has relinquished over the years.

Denver Water has grown increasingly frustrated about being precluded by the 1940 Agreement from reusing some of its water rights for needed future supply and for regional efforts such as WISE. Denver Water has challenged the validity of the agreement in court based on the growing disparity described above. Although courts have recognized the disparity as a “windfall” to Consolidated Ditches and other diverters on the South Platte, the original disparity of 123% examined by the courts was determined not to be large enough to void the agreement.

Changed Circumstances. Obviously, circumstances have changed dramatically since 1940. Denver Water now provides water to 1.4 million people, about one-fourth of Colorado’s population and a greater proportion of the state’s economic activity. Population growth and the impacts of climate change present significant challenges to Denver Water’s ability to fulfill its mission of supplying reliable high-quality water to its customers. Reuse of water has become critical to helping to close Colorado’s water supply gap, while avoiding new diversions from the West Slope and away from agriculture.

From a legal perspective, the ability of an importer like Denver Water to reuse foreign water has been firmly established in law. Indeed, the right to reuse is inherent in importation and cannot be abandoned. The only means by which an importer can lose the right to reuse is by contract. In addition, the State Engineer now has the statutory authority to require replacement of evaporative losses, and accounting for evaporative losses from reservoirs has long since been developed and required in most circumstances. Given the changes to the legal landscape and the growing volume of reusable water unavailable to Denver Water, the 1940 Agreement no longer provides any benefit to Denver Water.

Impact on Ratepayers. Denver Water’s ratepayers have for 80 years paid the costs to construct, operate, improve, enlarge and replace all the facilities required to import water through the Moffat Tunnel and distribute it to customers, the system which creates the return flows currently being relinquished to the river. Denver Water customers have paid for the Fraser and Williams Fork collection systems, Moffat Tunnel, Gross and Ralston Reservoirs, Moffat Water Treatment Plant, miles of distribution pipe and other infrastructure. The replacement cost for these facilities would exceed \$2 billion.

The volume of reusable water relinquished to the river, in excess of the burden on the river caused by evaporation, has averaged over 11,300 acre feet per year. This water is needed for future supply for Denver Water’s customers. If Denver Water were required to acquire an equivalent amount of new water supply from another source such as agriculture or the West Slope, the cost of the water would be well in excess of \$200 million, assuming that much

water could even be acquired. The benefit Denver Water and its customers have gained from not having to replace evaporation on the three reservoirs has been far outstripped by the loss of potential supply represented by the unusable Moffat returns.

Approach:

The Board has expressed agreement with Staff that the time has come to reacquire the inherent right to reuse water imported through the Moffat Tunnel. Of course, Denver Water would still need to satisfy its legal obligations to replace evaporation from the three reservoirs. Although legal measures might be required, a negotiated settlement of disputes might be achievable. The Board will soon be presented with a resolution instructing staff to determine appropriate measures to achieve the goal of recapturing Denver Water's right to reuse return flows from its imported water in a manner that fairly recognizes ratepayers' past and future financial contributions to producing those return flows.

Owners:

The Office of General Counsel and the Water Rights Section of the Planning Division would be responsible for carrying out any directives approved by the Board.

Respectfully submitted,



Office of the General Counsel



Planning