



Colorado Springs Utilities

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Ex 69

Interoffice Memorandum

DATE: April 13, 2009

TO: Honorable Mayor and Members of City Council

FROM: Jerry Forte P.E. Chief Executive Officer *Jerry Forte*

RE: **A RESOLUTION CONCERNING THE TERMS AND CONDITIONS OF THE PUEBLO COUNTY 1041 PERMIT FOR THE SOUTHERN DELIVERY SYSTEM**

CITY STRATEGIC GOAL(S) THIS ITEM SUPPORTS:

ECONOMIC VIABILITY **Q**UALITY OF LIFE

UTILITIES STRATEGIC GOAL(S) THIS ITEM SUPPORTS: 11. Plan, Build, Rehabilitate and Maintain Infrastructure

SUMMARY: Colorado Springs Utilities (CSU) requests City Council take action on the terms and conditions outlined by the Pueblo County Board of County Commissioners for the 1041 Permit.

PREVIOUS COUNCIL ACTION: City Council has approved permitting activities as part of the overall SDS Project. City Council will conduct a public hearing to take comments on the proposed 1041 Permit terms and conditions on April 9th.

BACKGROUND: The Pueblo County Board of County Commissioners voted to approve the 1041 Permit for the Southern Delivery System (SDS) with certain terms and conditions. One of the conditions (No. 27) states: "The Colorado Springs City Council must take formal action to recognize the commitments herein prior to Pueblo County's final issuance of a 1041 Permit for SDS." City Council will conduct a public hearing to take comments on the proposed terms and conditions on April 9th. Subsequent to the public hearing, City Council will consider action with respect to the terms and conditions at the formal City Council meeting on April 14th.

FINANCIAL IMPLICATIONS: The costs of performing the terms and conditions included in the Pueblo County 1041 Permit

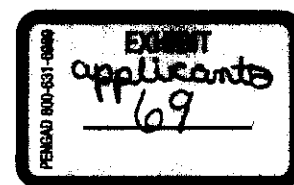
BOARD/COMMISSION RECOMMENDATION: Not Applicable

STAKEHOLDER PROCESS: City Council set a Public Hearing date for April 9, 2009 to receive public comments regarding Pueblo County's proposed 1041 Permit terms and conditions

ALTERNATIVES: Council may choose to delay action

RECOMMENDATION: Take formal action by resolution to be drafted after the public hearing on the terms and conditions outlined by the Pueblo County Board of County Commissioners for the 1041 Permit

PROPOSED MOTION: Approval of proposed resolution submitted after the public hearing



RESOLUTION NO. 09__

**A RESOLUTION RECOGNIZING THE TERMS AND CONDITIONS OF THE
PUEBLO COUNTY 1041 PERMIT FOR THE SOUTHERN DELIVERY SYSTEM**

WHEREAS, on March 18, 2009, the Pueblo County Board of County Commissioners approved certain terms and conditions for a 1041 Permit for the Southern Delivery System, specified in "Recommended Terms and Conditions and Mitigation of Project Impacts – Southern Delivery System 1041 Application" (March 18, 2009) ("Terms and Conditions"); and

WHEREAS, Condition No. 8 of the Terms and Conditions states that the Applicant for the 1041 Permit has submitted a letter to the Bureau of Reclamation stating its intention and desire to achieve the obligations set forth in the Final Environmental Impact Statement, Sections 5.2.4 and 5.2.6; and

WHEREAS, Condition No. 10 of the Terms and Conditions states that Colorado Springs Utilities shall promptly submit a signed Memorandum of Understanding between the Pueblo Board of Water Works and Colorado Springs Utilities related to implementation of the Arkansas River Low Flow Program ("Arkansas River Low Flow Program MOU"); and

WHEREAS, Condition No. 11 states that Colorado Springs Utilities shall promptly submit to Pueblo County an executed Memorandum of Understanding with the Pueblo Board of Water Works related to the use of the South Outlet Works & Joint Use Manifold and the North Outlet Works of Pueblo Dam ("Outlet Works MOU");

WHEREAS, Condition No. 27 of the Terms and Conditions states: "The Colorado Springs City Council must take formal action to recognize the commitments herein prior to Pueblo County's final issuance of a 1041 Permit for SDS"; and

WHEREAS, Colorado Springs Utilities recommends that City Council take formal action to recognize the Terms and Conditions as approved by the Pueblo County Board of County Commissioners on March 18, 2009; and

WHEREAS, City Council conducted a public hearing on April 9, 2009 to hear comments on the Terms and Conditions; and

WHEREAS, City Council finds that it is in the best interest of the City to take formal action to recognize the Terms and Conditions and to enter into the Arkansas Low Flow Program MOU and the Outlet Works MOU; and

WHEREAS, Colorado Springs Utilities recommends that the City Council approve the Arkansas Low Flow Program MOU and the Outlet Works MOU and direct the Utilities Chief Executive Officer to execute those MOUs on behalf of the City; and

WHEREAS, by letter dated March 17, 2009, Colorado Springs Utilities has committed to a dispute resolution process with the owner of approximately seven miles of proposed right of way for

the SDS pipeline, Mr. Gary Walker, for any disputes that may arise from SDS activities on land owned by Mr. Walker located in Pueblo County, and the City Council finds that it is in the best interest of the City to continue with that agreement:

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF COLORADO SPRINGS:

Section 1: City Council hereby recognizes the commitments in the Terms and Conditions to be included in the Pueblo County 1041 Permit for SDS, as approved by the Pueblo County Board of County Commissioners on March 18, 2009, and directs Colorado Springs Utilities to comply with such commitments if the SDS is constructed through Pueblo County.

Section 2: City Council hereby approves the Arkansas River Low Flow Program MOU and the Outlet Works MOU and directs the Chief Executive Officer for Colorado Springs Utilities to execute both MOUs on behalf of the City.

Section 3: City Council hereby ratifies the City's letter to the Bureau of Reclamation stating the City's intention and desire to achieve the obligations set forth in Sections 5.2.4 and 5.2.6 of the SDS Project Final Environmental Impact Statement.

Section 4: City Council hereby ratifies the City's March 17, 2009 letter to Mr. Gary Walker, the owner of approximately seven miles of proposed right of way for the SDS pipeline, and directs Colorado Springs Utilities to comply with the dispute resolution process outlined therein.

Dated at Colorado Springs, Colorado, this 14th day of April, 2009.

ATTEST:

MAYOR

CITY CLERK