

DENVER BOARD OF WATER COMMISSIONERS

Meeting Date: August 28, 2013

Board Item: 3-A-1

Intergovernmental Agreement with the City Of Arvada Regarding Financing of the Moffat Project Contract # _____

Action by Consent

Action

Information

In 1999, the Board and the City of Arvada entered into an IGA (1999 IGA) that permits Arvada to contract for up to 3,000 acre-feet of water through financial participation in the Moffat Project. Under the 1999 IGA, Arvada's financial participation consists of: (1) a Raw Water Capacity Charge, based on the nonpotable system development charge applicable outside the Combined Service Area; and (2) a Capital Charge, a pro-rata share of the costs of construction of the Moffat Project, including permitting and mitigation.

In 2009, in settlement of a lawsuit over the rates charged to Arvada by the Board, the parties agreed that the Raw Water Capacity Charge would be \$11,274 per acre-foot. The 2009 settlement agreement also required the parties to enter into a financing agreement determining the details of payments within 180 days of issuance of a Section 404 Clean Water Act permit for the Moffat Project, which now is defined as the enlargement of Gross Reservoir. The parties have decided to move forward with the financing agreement, rather than await the permit, and have negotiated the proposed IGA that is the subject of this Board item.

This IGA includes the following key elements:

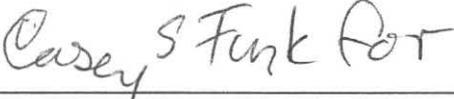
- Arvada will pay by September 30, 2013, the Raw Water Capacity Charge of \$11,274 per acre-foot for the full 3,000 acre-feet, or \$33,822,000.
- The Capital Charge will be based on an anticipated yield of 18,000 acre-feet produced by the Gross Reservoir Enlargement, so that Arvada's share of the overall project costs will be 16.67%.
- Arvada's first Capital Charge payment will also be paid by September 30, 2013, and will cover Arvada's share of costs incurred for the Moffat Project from January 1, 2003 through March 31, 2013.
- Prior to issuance of the 404 permit, payments of the Raw Water Capacity Charge and the Capital Charge will be deposited into an escrow account.
- After issuance of the permit, the Capital Charge payments held in escrow will be disbursed to the Board, and Arvada will then pay the Capital Charge directly to the Board.
- Disbursal of the Raw Water Capacity Charge in the escrow account will be made in equal quarterly payments over 20 quarters, and will begin upon issuance by the Board of a notice to proceed to for construction of the Moffat Project.
- The IGA contains a number of provisions for managing the escrow account, invoicing and making payments, tracking and collecting Arvada's fractional share of costs, and related matters.

- If the Moffat Project is not constructed, then Arvada will be refunded essentially all the payments made, with the exception of investment losses in the escrow fund and escrow costs.

Recommendation:

It is recommended that the Board approve the cost sharing Intergovernmental Agreement between the Board and the City of Arvada.

Approvals:



Patricia Wells
General Counsel

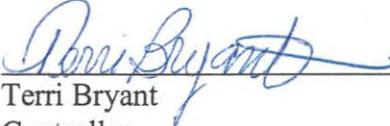


Angela Bricmont
Director of Finance

Respectfully submitted,



for James S. Lochhead
CEO/Manager



Terri Bryant
Controller