

CITY COUNCIL COMMUNICATION



MEETING DATE: September 14, 2021

ITEM NUMBER: 9.C

SECOND READING: September 28, 2021

{{customfields.ResoOrdNumber}}

TYPE OF ITEM: Consent

PRESENTED BY:

Dale Rademacher, City Manager's Office, Dale.Rademacher@longmontcolorado.gov

David Bell, PWNR Natural Resources, David.Bell@longmontcolorado.gov

Ken Huson, PWNR Water Resources, Ken.Huson@longmontcolorado.gov

Wes Lowrie, PWNR Water Resources, Wes.Lowrie@longmontcolorado.gov

SUBJECT/AGENDA TITLE:

Two Action Items in Furtherance of the Public/Private Partnership Agreement Among Diamond G Concrete Company, Costco Wholesale Corporation, and the City of Longmont for Development of a Costco Membership Warehouse Facility, Affordable Housing and Additional Commercial/Retail Uses

EXECUTIVE SUMMARY:

When the City of Longmont annexed the Irwin-Thomas and Golden Farms properties, it included previously permitted gravel mining activities on the properties. In addition to the current Irwin-Thomas COSTCO retail site, a proposed affordable housing site is being developed. The remainder of the property will continue to be mined under the existing permit. As part of the overall project development, it became necessary to work with the landowner and mining operator to ensure all aspects of the COSTCO and affordable housing projects were appropriately addressed.

Additionally, a water supply agreement is needed to complete the associated mining activities on the portions of these properties that are to be mined. At time of annexation of the properties, the City of Longmont became the owner of the historical water rights on the properties. To meet the water needs for the projects, it was necessary to craft two Water Supply Agreements for City Council's consideration. The Temporary Water Supply Agreement is required during the mining operations while the Reclamation Water Supply will be needed for the post-mining and reclamation phase of the project. These agreements allow for the state required augmentation of water depletions, primarily utilizing water associated with the Bonus Ditch water. This water was historical to the property at time of annexation. If the Bonus Ditch water is used in an augmentation plan for the project, Longmont will be reimbursed for the value of the water.

Water Board Recommendation:

Water Board reviewed these Water Supply Agreements at its July 19, 2021 board meeting. At

that meeting Water Board voted to forward to City Council a recommendation to approve the Water Supply Agreements in substantially the form presented to the board. Following are minutes from that meeting. Subsequently, a small non-substantive change was made to the agreement after Water Board approval. That change was reviewed by Water Board at its August board meeting and accepted. Staff concurs with Water Board's recommendation.

Minutes of July 19th Water Board meeting:

A. Irwin Thomas Water Supply Agreements

Staff Member Huson explained two separate water supply agreements for the Irwin Thomas properties, a short-term, temporary mining water supply agreement and a long-term reclamation agreement. He distributed a handout that included a proposed change to the language in the reclamation agreement for full disclosure to the Board, although the change would not substantively alter the agreement.

If approved, the temporary mining water supply agreement would regulate depletions through a temporary substitute water supply plan, which would be administered by the State during mining operations. After those operations are complete, the longer-term reclamation agreement would commence and remain in place for a proposed twenty years. Depletions during that time would be administered by the State with a formal augmentation plan approved by the Colorado Water Court.

Staff Member Huson reviewed the handout with the proposed change still under negotiation between the land owner and mining company. He stated that he highlighted the proposed change with red text in the handout for easy reference for the Board (attached).

Board Member Lange moved, seconded by Board Member Todd Duster, to recommend that City Council approve the Temporary Mining Water Supply Agreement in substantially the form presented to the Board. The motion carried 4-0.

Board Member Lange moved, seconded by Board Member Duster, to recommend that City Council approve the Irwin-Thomas Reclamation Water Supply Agreement.

Board Member Duster asked for clarification on terms in the long-term reclamation agreement related to obligation for upkeep of the reservoirs after the twenty years were finished. Further discussion ensued regarding consideration for such a requirement as part of the development process.

The motion carried 4-0.

COUNCIL OPTIONS:

1. Approve the Ordinances and Water Supply Agreements as presented
2. Amend either the Ordinances or Water Supply Agreements and approve as amended
3. Deny the Ordinances

**RECOMMENDED OPTIONS:**

Approve the Ordinances and Water Supply Agreements as presented

FISCAL IMPACT & FUND SOURCE FOR RECOMMENDED ACTION:

N/A. There are no expenditures associated with these proposed actions. If the agreements are entered into, any rental revenue derived from the agreements will accrue to the Water Operations Fund.

BACKGROUND AND ISSUE ANALYSIS:

N/A

ATTACHMENTS:

Att 1 - Ordinance for a temporary mining water supply agreement

Att 2 - Temporary Water Supply Agreement

Att 3 - Ordinance for a long term (20-year) reclamation water supply agreement

Att 4 – Long-Term Water Supply Agreement