



AGENDA ITEM: 24
MEETING DATE: 10/15/2013
TO: City Council
FROM: Steve Adams, Water & Power Department
PRESENTER: Larry Howard, Water & Power Department

TITLE:

Motion Directing the City Manager to Negotiate and Enter into an Agreement with the Consolidated Home Supply Irrigating & Reservoir Company (“Home Supply”), in Consultation with the City Attorney and on Terms Favorable to the City, Pursuant to Which the City Will Provide Financing to the Home Supply in an Amount not to Exceed \$300,000 to be Applied Toward the Cost of Repairing the Home Supply’s Diversion Structure on the Big Thompson River

RECOMMENDED CITY COUNCIL ACTION:

Adopt the motion.

OPTIONS:

1. Adopt the action as recommended
 2. Deny the action
 3. Adopt a modified action (specify in the motion)
 4. Refer back to staff for further development and consideration
 5. Adopt a motion continuing the item to a future Council meeting
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SUMMARY:

The Home Supply’s diversion structure on the Big Thompson River sustained significant damage as a result of the September 2013 Flood. Initial estimates indicate that it may cost up to \$600,000 to repair the diversion structure. The City is obligated under an 1895 agreement with the Home Supply to pay approximately 11% of the cost to repair the diversion structure, which the City has used since 1895 to divert water (currently delivered through a City-owned pipeline into the City’s water treatment plant). Because the Home Supply does not have adequate cash reserves or existing financing to cover the remaining 89% of the cost to repair the diversion structure, the Home Supply is requesting additional financial assistance from the City in an amount not to exceed \$300,000.

BUDGET IMPACT:

- Positive
 Negative

Neutral or negligible

BACKGROUND:

The September 2013 Flood significantly damaged the Home Supply's diversion structure on the Big Thompson River (see attached photos). Initial estimates provided by the Home Supply's engineer indicate that it may cost up to \$600,000 to repair the diversion structure.

The City is obligated under an 1895 agreement with the Home Supply to pay approximately 11% of the cost to repair the diversion structure, which is used by the City to divert water from the Big Thompson River through a City-owned pipeline into the City's water treatment plant (see attached agreement). However, the Home Supply currently lacks available funds and reasonable financing options to make up the remaining 89% of the cost to repair the diversion structure. The Home Supply has therefore asked the City to provide additional financial assistance in an amount not to exceed \$300,000.

City staff recommends that the City pursue negotiations with the Home Supply to provide the Home Supply with the funds necessary to repair the diversion structure in order to ensure the City's ability to make its decreed diversions in 2014 and thereafter. The parties have tentatively agreed that any such negotiations would address how reimbursable amounts obtained from the Natural Resource Conservation Service (NRCS), Federal Emergency Management Agency (FEMA), and the Colorado Water Conservation Board (CWCB), if any, would be shared by the parties, and what sort of collateral might be pledged by the Home Supply to secure a loan from the City.

It should be noted that the City is a 2% shareholder in the Home Supply. Any amounts contributed by the Home Supply toward the cost of diversion structure repairs will likely be assessed against the City in an amount proportionate to its interest in the Home Supply.

REVIEWED BY CITY MANAGER:



LIST OF ATTACHMENTS:

1. October 7, 2013 Stockholder Memo from the Board of the Consolidated Home Supply Ditch & Reservoir Company
 2. Two photos of damage to the diversion structure (one looking upstream, the other downstream)
 3. 1895 Agreement between the City and the Home Supply
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CONSOLIDATED HOME SUPPLY DITCH & RESERVOIR COMPANY

P O Box 1548

Berthoud, CO 80513

October 7, 2013

Dear Stockholder:

The flooding which occurred on September 12-16 has caused damage to several areas of our system, especially at the diversion structure on the Big Thompson River. The Board of Directors (Board) has met several times in emergency session to address the situation and to discuss a plan of action.

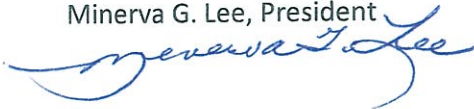
At the present time, emergency repairs are being made at the diversion structure so water can be diverted from the river through our head gate structure so we can begin winter storage on November 1. Without this temporary repair, our storage will be affected and deliveries in 2014 would be compromised.

The Board is seeking financial assistance from NRCS, FEMA, and CWCB. At this time, most of these agencies have not secured financial assistance themselves. The President and Senior Ditch Rider will continue to monitor these programs and will attend informational meetings as they are held.

The Board will be using our Line of Credit with the Home State Bank for temporary repair work.

More information will be available at our annual meeting on December 9th.

Minerva G. Lee, President



Gary Gerrard, Secretary



Rick Johnson, Board Member



Ray Schwarz, Board Member



Steve Spaur, Vice President



Mario Herrera, Treasurer



Bill Markham, Board Member



Abe Sauer, Associate Board Member







THIS AGREEMENT, made and entered into ^{this} 19th day of December A.D. 1895, by and between THE CONSOLIDATED HOME-SUPPLY DITCH & RESERVOIR COMPANY, a Corporation, of the County of Larimer and State of Colorado, of the first part, and THE TOWN of LOVELAND, a Municipal Corporation, of said County and State aforesaid of the second part,

WITNESSETH:- That whereas, the said party of the first part is the owner of a certain DAM in the Big Thompson River, in said County and State, known as "THE HOME-SUPPLY DAM" used by said first party to raise the water in said river to the Head-Gate of first parties Ditch, whereby a Reservoir is created in said river, and

Whereas, the said party of the second part has a system of Water-Works, consisting of a Pipe-line, the same extending into said Reservoir as its source of supply, and

Whereas, the said party of the first part has a Gate in said Dam, for the purpose of drawing off the water of said Reservoir, whereby the said source of supply of said second party is rendered unavailable when the said Reservoir is lowered below the said pipe-line,

Now Therefore, in consideration of the sum of TWELVE HUNDRED AND FIFTY Dollars in hand paid by the party of the second part to the said party of the first part, the receipt of which is hereby acknowledged, and the further consideration of the covenants and agreements herein mentioned to be kept and performed, the said party of the first part hereby agrees for itself, its successors and assigns, to keep the said Gate in said Dam closed, and never hereafter to draw off the water of said Reservoir by itself, agents or employes, or allow or permit the same to be done otherwise than through its Ditch as now located, whereby the said party of the second part may be deprived of taking water

through its said pipe-line, nor will the said party of the first part ever hereafter interfere with, or in any wise prevent the said second party from having access to said water in said Reservoir with its supply pipe.

And it is further agreed and understood, that if at any time after the said Dam shall be completely finished by said first party, it shall be deemed necessary by both parties hereto to draw off the water in the said Reservoir for the purpose of making alterations or repairs, the water may be drawn off for that purpose, and such alterations or repair if water be turned off for the purpose, shall be made without unnecessary delay, and the work prosecuted with reasonable dispatch.

And it is further agreed and understood, that if at any time it shall be deemed necessary for the interests of both parties hereto to make alterations or repairs upon said Dam, that the expense of said alterations or repairs shall be borne by both parties, in the proportion as the consideration herein is to the whole cost of the Dam, namely Eleven Thousand Dollars.

IN WITNESS WHEREOF, the said party of the first part has caused these presents to be executed by its President and Secretary, and to be sealed with its seal, and the said party of the second part has caused the same to be executed by the Mayor and Recorder of the said Corporation and the seal of said corporation to be affixed, the day and year first above written. *in duplicate*

THE CON, HOME-SUPPLY DITCH & RESERVOIR COMPANY.

By W. A. Hawkins President By J. Allen Sec'y

THE TOWN OF LOVELAND:

Attest J. A. Seaman Recorder.
By W. L. Beckfield Mayor.

1895

agreement
with Town of
Loveland