

City of Hesperia STAFF REPORT



DATE: March 17, 2015

TO: Mayor and Council Members

FROM: Mike Podegracz, City Manager

BY: Scott Priester, Director of Development Services
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SUBJECT: Water Rights Purchase from Aqua Capital Management

RECOMMENDED ACTION

It is recommended that the City Council (i) authorize the purchase of 500 acre feet of permanent Base Annual Production water rights in the Alto Subarea from Aqua Capital Management at \$5,000 per acre foot, for a total amount of \$2,500,000, (ii) adopt Resolution 2015-007 amending the FY 2014-15 General Fund Budget by appropriating \$2,500,000 from General Fund reserves for the purchase, (iii) adopt Resolution 2015-008, declaring intention to reimburse expenditures made prior to the issuance of debt, and (iv) authorize City Manager or his designee to execute associated documents.

BACKGROUND

The Adjudication (City of Barstow et al, v. City of Adelanto et al) is intended to remediate overdraft in the Mojave Basin Area by limiting the amount of water produced in specific subareas. The Free Production Allowance (FPA) is the maximum amount of water a producer may pump in one year without incurring a replacement or make-up obligation. As a result of the judgment, Hesperia Water District (District) incurs replacement water obligations in the Alto Subarea when verified production amounts exceed the FPA for the water year.

The City and District may meet these replacement water obligations by three mechanisms: 1) assignment of carryover right or temporary transfer of unused FPA (i.e. lease) from interested water rights owners in the respective subarea at negotiated rates (this is a cost effective short-term option to meeting the production demands); 2) purchase water from the Mojave Basin Area Watermaster (Watermaster) at the current per acre foot (AF) water rate which is derived from the State Water Project water rates, and/or; 3) purchase permanent water rights from interested parties in the Alto Subarea at negotiated rates (purchase provides a long-term solution, but is costly and difficult to acquire).

Historically, the District has been able to meet a large portion of its replacement utilizing the assignment of carryover right or temporary assignment mechanism and will continue to do so when agreements with water rights owners can be secured. However, permanent water rights are purchased from private parties when there is a feasible opportunity. With the growing demands of the District's service area, water availability, and the ascending competitive nature of assignment water, the balance of the replacement obligation has been met by purchasing water from the Watermaster each water year.

Aqua Capital Management (ACM) has been a reliable source of leased water for the District in years past. ACM has expressed interest in selling 500 AF of permanent Base Annual Production (BAP) water rights. Due to the ramp down to 60 percent required by the Adjudication, this equates to 300 AF of FPA that can be used to offset annual replacement obligations.

ISSUES/ANALYSIS

During the last water year (October 2013 to September 2014), the District produced 14,427 AF of water. The District’s FPA is 8,213 AF leaving a replacement obligation of 6,214 AF. The purchase of permanent water rights, while costly, provides a long-term solution to the inevitable water production overrun the District faces annually. Purchasing the 500 AF of BAP affords the City the option of leasing water rights to the District to assist in meeting its annual water replacement obligations.

The table below represents the City’s historical purchases of permanent water rights. More recently, permanent water transactions among other parties approved by the Watermaster in October 2014 and February 2015 were at \$5,000 per AF.

MM/YY	Purchased From	Acre Feet Purchased	Cost Per Acre Foot
Feb-2012	Summit Valley Ranch	40	\$4,010.00
Jul-2012	Summit Valley Ranch	25	\$4,035.00
Dec-2012	Rancho Las Flores (R.E. Loans)	5,971	\$5,024.28
Mar-2014	Summit Valley Ranch	200	\$5,000.00
Total Permanent Water Purchased		6,236	

Because opportunities to purchase permanent water rights are scarce and involve narrow time frames, approval for the purchase of 500 AF from ACM is requested utilizing General Fund reserves, along with adoption of a reimbursement resolution that will allow the City to obtain reimbursement when debt financing has been secured. The resolution, which has been reviewed by the City’s bond counsel Jones Hall, specifies a maximum principal amount of \$7,500,000, which is the estimated purchase price of water rights that City staff reasonably expects to be available to the City in the immediate future. While the current proposed purchase is \$2,500,000, setting up a financing mechanism and reimbursement resolution in advance will allow the City to respond quickly to additional purchases of water rights, should they become available. The current proposed purchase of \$2,500,000 may necessitate additional incidental expenditures which, if required, will be brought back to the City Council in the form of a fourth quarter budget amendment. Each additional proposed purchase of water rights will be presented to the City Council for approval, as purchase opportunities arise.

A budget amendment has been included with this staff report to amend the FY 2014-15 General Fund Budget, appropriating the funds needed to front the cost of the purchase. Long-term financing for all or part (purchase cost less any required deposit) of the proposed purchase is being evaluated and staff have begun the credit underwriting process to secure the desired financing. Upon conclusion of the underwriting process, the proposed financing will be presented to the City Council for approval. A reimbursement resolution has been included with

this staff report to enable reimbursement to the General Fund for expenditures incurred prior to the issuance of the debt obligation.

In an effort to obtain future water supply, staff recommends the purchase of 500 AF of permanent BAP water rights in the Alto Subarea from ACM at \$5,000 per AF for a total of \$2,500,000.

FISCAL IMPACT

Use of existing General Fund reserves to initially fund the water rights purchase is requested via Resolution No. 2015-007, which amends the FY 2014-15 Budget for General Fund Account No. 100-19-220-0000-8480 by \$2,500,000. Reimbursement to the General Fund for the water rights purchase (less any potential deposit) will be made from subsequent debt financing. Adoption of Resolution No. 2015-008 will allow the City to obtain reimbursement when the debt financing has been secured. The proposed purchase price of \$2,500,000 may require incidental expenditures which, if required, will be brought back to the City Council in the form of a fourth quarter budget amendment.

ALTERNATIVE(S)

1. Provide alternative direction to staff.

ATTACHMENT(S)

1. Resolution No. 2015-007 Amending the FY 2014-15 General Fund Budget
2. Resolution No. 2015-008 Declaring Intention to Reimburse Expenditures from the Proceeds of Obligations to be Issued by the City