

RESOLUTION 2025-083
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AUTHORIZING THE CITY MANAGER TO EXECUTE AN
AGREEMENT WITH THE COLORADO WATER CONSERVATION
BOARD FOR PROTECTED MITIGATION RELEASES FROM THE
HALLIGAN WATER SUPPLY PROJECT

A. The City owns and operates a water utility that provides water service to customers in its service area. Through the water utility, the City is pursuing the Halligan Water Supply Project ("Halligan Project"). The Halligan Project will provide additional firm yield for the City's water utility, in addition to various other benefits.

B. The Halligan Project primarily entails enlarging the existing Halligan Reservoir by 8,200 acre-feet. Once operational, the City will store water under its water rights ("City Water") in the enlarged Halligan Reservoir and make releases into the North Fork of the Cache la Poudre River ("North Fork") below Halligan Dam. The City Water will float these releases down about 22 miles of the North Fork to the confluence with the main stem of the Cache la Poudre River at Gateway Natural Area. The City will then generally divert a like amount of water into its pipelines located just upstream.

C. Pursuant to Colorado Revised Statute ("C.R.S.") Section 37-60-122.2, the State of Colorado, through the Colorado Parks and Wildlife Commission and the Colorado Water Conservation Board ("CWCB"), has adopted the Halligan Water Supply Project: Fish and Wildlife Mitigation and Enhancement Plan, dated June 7, 2023 ("Mitigation Plan"), as the official state position on the mitigation actions required of the City for the Halligan Project.

D. Pursuant to the Mitigation Plan, the City will attempt to protect its releases of the City Water from the enlarged Halligan Reservoir ("Halligan Releases") under C.R.S. § 37-92-102(8) by seeking a decree from the Water Court. Such a decree would generally not allow others to divert, exchange upon, or use the Halligan Releases between the enlarged Halligan Reservoir Dam and Milton Seaman Reservoir if that were to cause a reduction in the Halligan Releases. See C.R.S. § 37-92-102(8)(c)(II). To proceed seeking such a decree, the City must enter into an agreement with the CWCB to dedicate the reservoir releases to the CWCB. See C.R.S. § 37-92-102(8)(d)(I).

E. The City and the CWCB have negotiated a Water Dedication and Delivery Agreement ("Agreement") for the dedication of such reservoir releases of City Water from the enlarged Halligan Reservoir to the CWCB, a copy of which is attached hereto and incorporated by reference, as Exhibit A.

F. Under the Agreement, the City would retain ownership of all of the City Water associated with the reservoir releases from the enlarged Halligan Reservoir. The Agreement would not alter the City's planned operations of the enlarged Halligan Reservoir, including with respect to the City's yield from the Halligan Project or the environmental benefits of the project.

G. Entering into the Agreement is in the best interests of, and will benefit the City and its citizens because it will further the Halligan Project and its various benefits, it will further the goal of preserving and improving the ecological, environmental, recreational, sociological, and other resources benefitted by Poudre River flows, and while imposing few, if any, costs on the City as discussed herein.

H. The City Water associated with the reservoir releases from the enlarged Halligan Reservoir is part of the City's water utility system, but its use under the Agreement will not materially impair the viability of the water utility system as a whole and will be for the benefit of the citizens of the City.

I. No compensation is to be paid to the City under the Agreement, but the Agreement would serve a bona fide public purpose because:

- (1) The use to which the City Water will be put under the Agreement promotes health, and general welfare and benefits a significant segment of the citizens of Fort Collins;
- (2) The use to which the City Water will be put supports one or more of the City Council's goals, adopted policies, projects or plans;
- (3) The financial support provided by the City through the below-market disposition of the rights in the City Water will be leveraged with other funding or assistance associated with the Halligan Project;
- (4) The Agreement will not result in any direct financial benefit to any private person or entity, except to the extent such benefit is only an incidental consequence and is not substantial relative to the public purpose being served; and
- (5) The Agreement will not interfere with current City projects or work programs, hinder workload schedules or divert resources needed for primary City functions or responsibilities.

In light of the foregoing recitals, which the Council hereby makes and adopts as determinations and findings, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. City Council finds, pursuant to Section 23-111(a) of the City Code, that the disposition of certain rights associated with the City Water pursuant to the Agreement is in the best interests of the City.

Section 2. City Council finds, pursuant to Section 23-111(b) of the City Code, that the disposition of certain rights associated with the City Water pursuant to an agreement that is substantially similar to the Agreement will not materially impair the viability of the water utility system as a whole and that it will be for the benefit of the citizens of the City.

Section 3. City Council finds, pursuant to Section 23-114, that the disposition of certain rights associated with the City Water pursuant to the Agreement may be for an amount less than market value, but that it would serve a bona fide public purpose for the reasons set forth above.

Section 4. The City Manager is hereby authorized to execute the Agreement in the form of Exhibit A, attached hereto and incorporated by this reference, with such modifications and additional terms and conditions as the City Manager, in consultation with the City Attorney, determines to be necessary and appropriate to protect the interests of the City or effectuate the purposes of this Resolution.

Passed and adopted on September 16, 2025.

Mayor

ATTEST:

Sr. Deputy City Clerk

Effective Date: September 16, 2025

Approving Attorney: Eric Potyondy

Exhibit: Exhibit A –Water Dedication and Delivery Agreement