



Item: Water Rights Purchase and Related Requests for Proposals

From: Fiscal Services and Public Works Departments

Initiated By: Water Plan For Future of Great Falls

Presented By: Coleen Balzarini, Fiscal Services Director

Action Requested: 1) Authorize Staff to Proceed with Activities to Purchase Water Rights; 2) Authorize Distribution of Request for Proposals For Purchase of Water Rights; and 3) Authorize Distribution of Request for Proposals For Consulting Services to Evaluate Water Right Proposals Received

Suggested Motion:

1. Commissioner moves:

“I move that the City Commission 1) Authorize Staff to Proceed with Efforts to Purchase Water Rights; 2) Authorize Distribution of Request for Proposals For Purchase of Water Rights; and 3) Authorize Distribution of Request for Proposals For Consulting Services to Assist in Evaluation of Water Right Proposals Received, Assist in Due Diligence Related to the Proposed Water Right Offerings Received, and Facilitate the Acquisition Process”

OR

“I move that the City Commission take no action at this time to Purchase Additional Water Rights”

2. Mayor calls for a second, discussion, inquiries from the public, and calls the vote.

Background:

Over the past five years the City’s existing water rights have been reviewed and various amendments submitted to the Department of Natural Resources and Conservation. The 2006 Water Master Plan anticipates the City’s historic Water Rights and Reservations will provide adequate sources of water for general municipal needs of the community into 2025. Providing for additional water needs for future municipal growth and ongoing efforts to attract large industrial users may occur through various means. Including

- Water Right Acquisition
- Wastewater re-use
- Change in development policies
- Increased conservation measures
- Long term contracting for use of Bureau of Reclamation surplus water
- Well drilling in City parks for irrigation purposes
- Water storage.

Within the past five years, three large industrial users have contracted with the City to purchase and use raw water on a per gallon basis. The City's existing water right claims have been reviewed and amended as necessary to clarify places of use as well as to reflect volumes of historic water use prior to 1973.

At this time, there is at least one block of senior water rights available for purchase that would provide a source of water into the future that is adequate to serve a growth in population of 9,000 people (assuming 250 gallons/person/day, or two new industrial users similar in size and need as the malting plant.

Upon direction of the City Commission, staff will distribute requests for proposals for the purchase of water rights. And, upon direction of the City Commission, staff will distribute requests for proposals for consulting services to assist in the evaluation of those proposals, the completion of due diligence activities, and facilitation between the buyer and the seller during the acquisition process.

Requests for Proposals:

Water Rights RFP

The attached Request for Proposal to Purchase Water Rights defines various parameters for consideration in the purchase process. To assure uninterrupted delivery of water, the blocks of water should have a priority date of 1910 or earlier. The right must also have a demonstrated hydrologic connection to the Missouri River, which in turn demonstrates the water can be accessed by the City of Great Falls for municipal uses. In order to avoid excessive costs related to due diligence research and costs of claim change filings on any particular right, it is required that the offered right(s) consist of a minimum total volume of water of at least 500 acre feet with any single water right within the offer being at least 300 acre feet. The offered rights must be free of existing objections, as are the City's existing water rights.

Independent Consultant RFP

If the City Commission approves issuance of the Water Right RFP, proposals should also be sought for a consultant to provide services to assist in the evaluation of the water right proposals received. To avoid conflict, potential conflict, or the appearance of conflict, of interest the consultant would be selected from proposers clearly stating that a review of existing clients has been done and no conflict of interest exists in regards to the parties responding to the water right purchase RFP. To provide a basis for understanding the potential costs related to the engagement of a consultant, a sample listing of the types of services and cost ranges has been provided by WestWater Inc. and is attached for background information. The estimated cost for a consultant's services ranges from \$35,000 to \$200,000. The scope of desired services determines the final cost. It should be noted, that it is likely WestWater would respond to an RFP

for services. Other potential responders could include local consultants acting in conjunction with a national expert in the water right acquisition field, or other national entities similar to WestWater, or law firms that specialize in water right acquisitions.

Concurrences: The 2006 Water Master Plan, recommendations of Water Right Consulting, and Staff have presented information to the City Commission indicating that within the next twenty years the purchase of additional water rights will be likely. Acquisition efforts should be executed in conjunction with other measures such as wastewater re-use, change in development policies to accumulate funds for the purchase or acquisition of water rights, increased conservation measures, long term contracting for use of Bureau of Reclamation surplus water, installation of wells in various City parks for irrigation purposes, and water storage. Each of these actions is dependent upon variables such as applicability, time constraints, and necessity presented by various situations.

The Great Falls Development Authority CEO, Brett Doney, has spoken to the City Commission about the importance of adequate available water rights and the role that they play in attracting industrial type economic development opportunities to the Great Falls area.

Fiscal Impact: The source of payment for the purchase of water rights would be from the City's Water Fund and the revenues generated within that fund. A cash flow analysis of the Water Fund indicates the existing revenue stream is adequate to finance the purchase of water rights in the range of \$10 million in current fiscal year. Rate increases between 5% and 10% over the next ten years will also allow for the financing of \$4 to \$6 million annually in other water fund capital projects over the ten years. The level of additional capital investment will be dependent upon increases in revenues from new growth and/or from rate and fee increases approved by the City Commission.

The cash flow analysis that is attached presents one possible scenario in which there is no growth, 10% annual increases in rates, 5% annual increases in expenses, and additional debt issuance or use of accumulated funds to allow \$6 million annual investment in capital improvements through 2019. This analysis is conservative in its assumptions that there will be no growth and that implementing and completing \$6 million in annual capital investment is possible when taken into consideration with other capital construction activities occurring in the various City operations and the Great Falls area in general.

Alternatives: The City Commission may opt to take no action at this time in regards to acquiring additional water rights. The 2006 Water Master Plan projects adequate water is available through 2025 to accommodate residential and general commercial growth. Potential impacts of a decision to not purchase water rights at this time are related to restrictions on the types of large industrial businesses the City might attract if a demonstrated supply of water was already available. There is also an opportunity cost to be considered related to a decision to forego current acquisition of senior, currently available Montana water rights. Assuming current projections are correct, there will be a need for additional water rights within seventeen years. The historic trend in escalating costs to acquire water rights in the Northwest indicates there is a reasonable expectation of continued price increases in future years. Montana's relatively young maturing water market and related pricing will eventually evolve into a mature market in which increased costs, as well as reduction in availability of large proven blocks of senior rights in the future will be the norm.

Attachments/Exhibits/References:

1. Request for Proposals for Purchase of Water Rights
2. WestWater Estimated Cost Range for third party review
3. Financial Feasibility Worksheet (v 1) – Thru 2019
4. Chronological Listing of Commission involvement in regards to various water right actions, recommendations, and presentations.

**CITY OF GREAT FALLS
REQUEST FOR PROPOSALS
FOR PURCHASE OF WATER RIGHTS**

The City of Great Falls, Montana (City) seeks a request for proposal (RFP) from owners of artesian, senior ground water or senior surface water rights in the Missouri River Basin upstream from Morony Dam.

Water rights considered under this RFP must meet the following criteria. Further, the price the City will pay for water rights will be based on the specific details of these criteria.

- All water rights offered must have a Priority date of December 31, 1910, or earlier and senior enough that firm yield is deliverable throughout its historic period of use.
- Existing Place of use of the water rights must be within the upper Missouri Basin above Morony Dam and must have a demonstrable hydrologic connection with the Missouri River.
- Combined volume of the water rights offered must be at least 500 acre-feet with any single water right being at least 300 acre-feet.
- All water rights offered must have a sound historical basis, including an established history of beneficial use.
- All water rights offered must be free of existing objections or conflicts filed with the Montana Department of Natural Resources (DNRC), the Montana Water Court or District Court.

Proposals must be received by the City or post marked no later than _____. Once RFPs are received by the City, the following procedures will apply:

1. The City will prioritize potential transactions based on the criteria defined above and will select one or more proposals for consideration of purchase.
2. With the consent of the potential seller, the City will conduct a preliminary analysis and perform due diligence to determine if there are any obvious impediments to entering into a purchase agreement.
3. If no obvious impediments are found, the City and the potential seller will enter into a purchase agreement.
4. Closing will be scheduled upon completion of all contingencies in the purchase agreement, including final approval of the transaction by the City.

It is difficult to estimate how much time the evaluation process will take, but the City will proceed as quickly as possible to evaluate proposals.

Persons who are interested in selling their water rights to the City should submit an RFP response so that it is received by the City or post marked no later than 5:00 PM _____, 2008. Submission of a proposal to the City constitutes an acknowledgement that the conditions stated in this RFP are acceptable to the potential seller, but does not guarantee that the City will enter into a purchase agreement with the potential seller or close on any purchase transaction. The City reserves the right to accept or deny any proposal based on the criteria given in this RFP. Furthermore, the City will not close on any sale until all contingencies in the purchase agreement have been completed.

IMPORTANT

All RFPs must contain the following information for each water right presented for consideration of purchase.

1. Water right number.
2. A current DNRC abstract that reflects all existing elements of the water right.
3. A map showing the current point of diversion, conveyance (ditch, etc) and place of use.
4. A list of all current owner(s) with addresses and phone numbers.
5. How long the current owner(s) have owned the water right.
6. The previous owner(s) of the water right.
7. A statement specifying the last time the water right was used.
8. If for irrigation, the number of acres currently under irrigation.

Questions regarding the RFP are to be directed to:

City of Great Falls
Attention: Coleen Balzarini, Fiscal Services Director
PO Box 5021
Great Falls, MT 59403
406-455-8478
cbalzarini@greatfallsmt.net

Five sealed copies of the Proposal are to be sent to:

City of Great Falls
Attention: Lisa Kunz, City Clerk
PO Box 5021
Great Falls, MT 59403

From: Deborah Stephenson [Stephenson@waterexchange.com]
Sent: Monday, October 20, 2008 3:02 PM
To: Coleen Balzarini
Subject: RE: Request for Permission to use charts from 8th Water Law Conference
Coleen

It is tough to give a ball park figure on the cost of acquisition work as it does vary based on situation specific circumstances. But, in a nut shell we will typically divide up the work into two phases:

Phase 1

- a) Initial Due diligence and strategic planning – this would relate to the “Buyers” box on the top left of slide 4 in the document I sent you
 - i) Define client’s water needs
 - ii) Identify candidate water rights
 - iii) Due diligence and screening
 - iv) Rank and prioritize
 - v) Develop acquisition strategy
- b) The costs associated with stage depend on the geographic area in which we will be looking at for potential acquisition
- c) Typically ranges from \$35,000 to \$55,000

Phase 2

- d) This stage includes the negotiation(s) through to the completion of the transaction(s)
- e) Phase 2 has more variation in the price of our services.
- f) Variation depends upon:
 - i) The level of involvement the municipality would like us to have
 - ii) how much water is needing to be acquired
 - iii) how involved WestWater gets into the regulatory process (some municipalities have us do it all, some use internal folks to help complete regulatory process)
 - iv) Municipality’s price sensitivity (willing to pay for the water rights)- this influences the transaction time line
- g) Phase 2 can range from \$25,000 to \$150,000

Let me know if this helps or if you have any further questions.

Deb

WestWater Research, LLC
LEADERS IN WATER MARKETING

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From: Coleen Balzarini [mailto:cbalzarini@greatfallsmt.net]

Sent: Monday, October 20, 2008 2:31 PM

To: Deborah Stephenson

Subject: RE: Request for Permission to use charts from 8th Water Law Conference

Deb,

Can you give me a ballpark estimate on what this type of service typically costs? A wide range is fine, just looking for some perspective.

Thanks

Coleen

City of Great Falls, Montana

Water Fund

Cash Flow Analysis as of 8/28/08 - 10 Year Projection without Growth Projections (10% Revenue Increases and 5% Expense Increases)

	Actual YTD 2008	Projected 2009 (10% inc)	Projected 2010 (10% inc)	Projected 2011 (10% inc)	Projected 2012 (10% inc)	Projected 2013 (10% inc)	Projected 2014 (10% inc)	Projected 2015 (10% inc)	Projected 2016 (10% inc)	Projected 2017 (10% inc)	Projected 2018 (10% inc)	Projected 2019 (10% inc)
Beginning Unrestricted Cash Balance	2,529,532	1,383,812	(961,786)	(823,649)	(291,867)	602,854	1,181,485	1,614,689	3,471,012	5,973,938	10,249,347	16,022,992
Revenues												
Revenue from Existing Rates	8,261,467	8,850,641	9,735,705	10,709,276	11,780,203	12,958,224	14,254,046	15,679,451	17,247,396	18,972,136	20,869,349	22,956,284
Additional Water Revenue Required												
Miscellaneous Revenue (Receivable)		51,766										
Interest Income	216,351	200,000	100,000	100,000	(11,675)	24,114	47,259	64,588	138,840	238,958	409,974	640,920
Bond proceeds	632,097	3,369,981	4,000,000	4,000,000	4,000,000	3,000,000	2,000,000	2,500,000	2,000,000	2,500,000	2,500,000	2,500,000
Bond proceeds for Water Rights		10,000,000										
Miscellaneous Revenue & Sale of land	799,488											
Decrease Reserve Requirement (Debt Service Acct)												
Total Revenue	9,909,403	22,472,388	13,835,705	14,809,276	15,768,529	15,982,338	16,301,306	18,244,038	19,386,236	21,711,093	23,779,323	26,097,204
Expenses												
Operation and Maintenance Expense (5%)	4,741,927	5,008,519	5,258,945	5,521,892	5,797,987	6,087,886	6,392,280	6,711,894	7,047,489	7,399,864	7,769,857	8,158,350
Water Rights Expense		10,000,000										
Miscellaneous Expense												
Bond Issuance Expense												
Increased Reserve Requirement												
Debt Service												
Existing Bonds												
Existing Bonds (SRF)	219,480	219,220	219,760	219,080	219,180	219,180	219,180	219,180	219,180	219,180	219,180	219,180
Existing Bonds (Refund)	849,706	813,652	812,640	809,790	810,110	810,110	810,110	810,110	810,110	810,110	810,110	810,110
New Bonds	0	286,531	286,224	286,731	286,531	286,531	286,531	286,531	286,531	286,531	286,531	286,531
Bonds for Water Rights \$10,000,000		400,000	800,000	800,000	800,000	800,000	800,000	800,000	800,000	800,000	800,000	800,000
Bonds for Construction \$ 4,000,000			320,000	320,000	320,000	320,000	320,000	320,000	320,000	320,000	320,000	320,000
Bonds for Construction \$ 4,000,000				320,000	320,000	320,000	320,000	320,000	320,000	320,000	320,000	320,000
Bonds for Construction \$ 4,000,000					320,000	320,000	320,000	320,000	320,000	320,000	320,000	320,000
Bonds for Construction \$ 3,000,000						240,000	240,000	240,000	240,000	240,000	240,000	240,000
Bonds for Construction \$ 2,000,000							160,000	160,000	160,000	160,000	160,000	160,000
Bonds for Construction \$ 2,500,000								200,000	200,000	200,000	200,000	200,000
Bonds for Construction \$ 2,000,000									160,000	160,000	160,000	160,000
Bonds for Construction \$ 2,500,000										200,000	200,000	200,000
Bonds for Construction \$ 2,500,000											200,000	200,000
Bonds for Construction \$ 2,500,000												200,000
Capital Improvements- Bonds	632,097	3,369,981	4,000,000	4,000,000	4,000,000	3,000,000	2,000,000	2,500,000	2,000,000	2,500,000	2,500,000	2,500,000
Capital Improvements	4,611,913	4,720,083	2,000,000	2,000,000	2,000,000	3,000,000	4,000,000	3,500,000	4,000,000	3,500,000	3,500,000	3,500,000
Total Expenses	11,055,123	24,817,986	13,697,569	14,277,493	14,873,808	15,403,707	15,868,101	16,387,715	16,883,310	17,435,685	18,005,678	18,594,171
Annual Surplus (Deficiency)	(1,145,720)	(2,345,598)	138,136	531,782	894,721	578,631	433,204	1,856,323	2,502,926	4,275,408	5,773,645	7,503,033
Ending Unrestricted Cash Balance	1,383,812	(961,786)	(823,649)	(291,867)	602,854	1,181,485	1,614,689	3,471,012	5,973,938	10,249,347	16,022,992	23,526,025
Revenue from Charges for Services	8,261,467	8,850,641	9,735,705	10,709,276	11,780,203	12,958,224	14,254,046	15,679,451	17,247,396	18,972,136	20,869,349	22,956,284
Operating Expenditures	4,741,927	5,008,519	5,258,945	5,521,892	5,797,987	6,087,886	6,392,280	6,711,894	7,047,489	7,399,864	7,769,857	8,158,350
Total operating revenues over expenditures	3,519,540.0	3,842,122.2	4,476,760.4	5,187,383.7	5,982,216.7	6,870,337.7	7,861,765.8	8,967,556.4	10,199,906.7	11,572,271.8	13,099,492.2	14,797,934.3
Max Debt Service Payment	1,069,186	1,719,403	2,438,624	2,755,601	3,075,821	3,315,821	3,475,821	3,675,821	3,835,821	4,035,821	4,235,821	4,435,821
% of Revenue Coverage	329%	223%	184%	188%	194%	207%	226%	244%	266%	287%	309%	334%

Montana Department of Transportation projects require that the total amount of cash needed for the match on the project be placed in separate account and showed spent. In FY 2008 we entered into a project with them for 2nd Ave N for \$805,000, in addition we are entering into a project with them for Overlook Pass in FY 2009 for \$550,000. Total project amount \$1,355,000.

City Clerk Listing of dates at which Commission acted upon, discussed, and/or received presentations about water rights in Work Sessions or Commission Meetings

DATE	DESCRIPTION	PRESENTER
July 20, 2004	Commission Meeting – discussion	Dave Schmidt
July 19, 2005	Work Session – discussion	City Manager John Lawton
August 16, 2005	Work Session – presentation	Dave Schmidt
April 18, 2006	Work Session – presentation	Dave Schmidt
November 6, 2007	Commission Meeting – Commission Action	Coleen Balzarini
January 8, 2008	Work Session – presentation	Dave Schmidt
April 15, 2008	Commission Meeting – Commission Action	Coleen Balzarini
May 6, 2008	Commission Meeting – Commission Action	Coleen Balzarini and Dave Schmidt
July 15, 2008	Work Session – presentation	Dave Schmidt and Harley Harris
July 15, 2008	Commission Meeting – Commission Action	City Manager Greg Doyon
August 5, 2008	Work Session – presentation	Dave Schmidt
September 16, 2008	Commission Meeting – Commission Action	Coleen Balzarini and Dave Schmidt
October 21, 2008	Work Session – presentation	Dave Schmidt