

**City of Carson City
Agenda Report**

Date Submitted: August 24, 2015

Agenda Date Requested: September 3, 2015

Time Requested: 5 Minutes

To: Mayor and Supervisors

From: Darren Schulz, Public Works Director

Subject Title: For Possible Action: To authorize the Mayor to sign a five (5) year Mud Lake Reservoir Water Lease Agreement between Carson City and Carson Water Subconservancy District (Darren Schulz, dschulz@carson.org)

Staff Summary: On July 15, 2015, the Carson Water Subconservancy District Board of Directors unanimously approved the Mud Lake Reservoir Water Lease Agreement. Approving this Agreement will provide Carson City with up to 526.25 acre-feet of additional surface water annually, to be used during the water delivery season (October 1 to March 31) for the next five years. It has been the past practice of Carson City to lease these water rights as part of our conjunctive use management plan.

Type of Action Requested: (check one)

- Resolution Ordinance
 Formal Action/Motion Other (Information only)

Does This Action Require A Business Impact Statement: Yes No

Recommended Board Action: I move to authorize the Mayor to sign a five (5) year Mud Lake Reservoir Water Lease Agreement between Carson City and Carson Water Subconservancy District.

Explanation for Recommended Board Action: In order to provide additional surface water rights for the conjunctive use program, a lease of Carson River storage rights has been negotiated with the Carson Water Subconservancy District (CWSD). The City, per the Alpine decree, cannot pull from the river during the months of October through March. However, these rights will have been stored within the Mud Lake Reservoir during the irrigation season, which allows for their use during the winter months, under conditions which will be stipulated by the State Water Engineer and Federal Water Master.

The purchase of these water rights will help rest ground water sources over the winter, thereby indirectly assisting the recharging of ground water supplies. The Mud Lake Reservoir water rights will be sold to Carson City at \$103.00 per acre-foot for this water delivery season. For future water delivery seasons, the rate shall be determined by and equal to the percentage change in the Consumer Price Index for All Urban Consumers added to the base cost of \$103.00 per acre-foot. The City will only pay for what is delivered, as metered at the City's infiltration wells.

Applicable Statute, Code, Policy, Rule or Regulation: N/A

Fiscal Impact: Up to \$54,203.75 for fiscal year 15/16. Future years will be incrementally increased by the CPI.

Explanation of Impact: Reduction in budget up to \$54,203.75 for FY15/16.

Funding Source: Funding is available in account: 520-3502-435.04-54 Water Purchase / Lease Payment

Alternatives: Provide other direction

Supporting Material: Mud Lake Reservoir– Water Lease Agreement

Prepared By: David Bruketta – Utility Manager

Reviewed By:

[Signature]

(Public Works Director)

Date: 8/25/15

[Signature]

(City Manager)

Date: 8/25/15

[Signature]

(District Attorney)

Date: 8/25/2015

[Signature]

(Finance Director)

Date: 8/25/15

Board Action Taken:

Motion: _____ 1: _____ Aye/Nay

2: _____

(Vote Recorded By)

CARSON WATER SUBCONSERVANCY DISTRICT
777 East William Street, Suite 110A
Carson City, NV 89701
775/887-7450, fax 775/887-7457

July 30, 2015

Darren Schulz, Director
Carson City Public Works
3505 Butti Way
Carson City, NV 89701

Re: Mud Lake and Lost Lakes Water Lease Agreements

Dear Mr. Schulz:

At our Board meeting on July 15, 2015, the CWSD Board of Directors unanimously approved the Mud Lake and Lost Lakes Water Lease Agreements between CWSD and Carson City. I am enclosing two originals of each agreement for Robert Crowell's and Susan Merriwether's signatures. Once signed, please keep a copy of each for your files and return the others for our records.

If you have any questions, please feel free call me.

Sincerely,



Toni Leffler
Administrative Assistant

Enclosures

WATER LEASE AGREEMENT

This Water Lease Agreement is entered into between the CARSON WATER SUBCONSERVANCY DISTRICT, a political subdivision of the State of Nevada, by and through its duly constituted Board of Directors (hereinafter "CWSD") and CARSON CITY, a political subdivision of the State of Nevada, by and through its duly constituted Board of Supervisors (hereinafter "CITY").

WITNESSETH:

WHEREAS, CWSD holds title to 526.25 acre feet of water rights, including storage rights in Mud Lake Reservoir;

WHEREAS, CITY desires to lease CWSD water for the next five (5) years for use within the boundaries of CITY for municipal purposes; and

WHEREAS, CWSD has made or will make any necessary application(s) to the State Engineer for permission to use CWSD water rights for the purposes contemplated under this Agreement.

THEREFORE, in consideration of the mutual undertakings and for other good and valuable consideration, the parties agree and contract as follows:

1. Terms of Agreement/Cost of Water

The term of this Agreement shall commence on the date both parties have executed the Agreement and shall continue through September 30, 2020. CITY agrees to lease and use up to but not to exceed 526.25 acre feet of CWSD water, less any loss imposed by the State Engineer, subject to the requirements of Nevada water law, during the five year term. CITY shall use the water during this term in accordance with the terms of the Final Decree in the case entitled *United*

States v. Alpine Land & Reservoir Company, Civil No. D-183 BRT, United States District Court, District of Nevada (hereinafter "Alpine Decree").

If CITY does not intend to utilize all the Mud Lake water in any given year, CITY shall notify CWSD before the beginning of the next irrigation season, whereupon CWSD may lease the remaining unused water to another entity.

For the water delivery season beginning October 1, 2015, the CITY shall pay CWSD \$103.00 per acre foot for the use of said water as metered at CITY's point of re-diversion. For each water delivery season thereafter, CITY agrees to increase the price per foot of water paid to CWSD each year. The rate of increase shall be determined by and equal to the percentage change in the Consumer Price Index for All Urban Consumers (CPI) - All Items (1982-1984 = 100), as published by the Bureau of Labor Statistics, Washington, D.C., commencing with the index for the twelve month period ending September 30, 2015, as the baseline and using the annual percentage change above the baseline each year thereafter. Such an increase will be applicable every year.

As used in this Agreement, the term "water delivery season" means the period beginning October 1 and ending March 31 of the following year. The calculation of the water used by City shall not include any loss of water determined by the State Engineer or the Federal Water Master, due to conveyance from Mud Lake Reservoir or any other CWSD storage facilities to CITY's point of re-diversion. Unless otherwise agreed to by both parties, CITY shall make to CWSD yearly payments in arrears by the 15th of June based on the metered usage during the previous water delivery season.

2. Costs of Diversion and Delivery of Water

CWSD shall bear the costs of delivery of the water to CITY's point of re-diversion, including the costs of any required approvals by the State Engineer, operation and maintenance of

upstream storage facilities, and payment of water fees to the Federal Water Master. CITY shall bear the costs associated with pumping the water from the Carson River, measuring devices, pipelines and other transporting devices. CWSD and CITY shall coordinate the delivery of water.

3. Different Source of Water

CITY agrees that CWSD in its sole discretion may deliver a like amount of water from a source or sources other than Mud Lake Reservoir so long as the timing of the water delivery is mutually acceptable.

4. Treatment

CITY shall be responsible for the treatment of all water for municipal purposes, including water leased from CWSD, to applicable local, state and federal standards.

5. Hold Harmless

CITY agrees to indemnify and hold CWSD harmless for any claims or actions including damages, costs and attorneys fees concerning the use of this water by CITY as specified in this Agreement.

6. Successors and Assigns

This Agreement shall bind all successors in interest and assigns of CWSD and CITY.

7. General Provisions

The officials executing this Agreement hereby warrant and guarantee that they have the authority to act for and bind the respective organizations which they represent; all notices required by this Agreement shall be in writing, must be sent to the addresses provided herein and are deemed effective upon placement in the United States Mail, postage prepaid; this Agreement constitutes the entire agreement between the parties; this Agreement shall be enforced and construed according to the laws of the State of Nevada; the prevailing party to any dispute

involving this Agreement is entitled to an award of reasonable attorneys fees and costs; any modification of this Agreement must be made by a writing signed by both parties; portions of this Agreement which are held invalid are severable from the rest of the Agreement; this Agreement may be recorded in the office of the Carson City Recorder and the Douglas County Recorder; the preamble and recitals are hereby made a part of this Agreement; and this Agreement may be executed in any number of counterparts, each of which is deemed an original but together which constitutes but one and the same agreement.

8. Continuing Appropriation

Pursuant to NRS 244.320, the Board of Supervisors of CITY has no authority to bind CITY to a contract beyond the terms of the Supervisors in office at the time of the contract approval. If a future Board of Supervisors of CITY does not appropriate money for this Agreement, CITY is no longer bound by this Agreement.

For notice purposes, the addresses of each party are as follows:

CARSON WATER
SUBCONSERVANCY DISTRICT
Attn.: Edwin James
General Manager
777 E. William St., #110A
Carson City, NV 89701
775/887-7450

CARSON CITY

Attn.: Darren Schulz
Public Works Director
3505 Butti Way
Carson City, NV 89701
775/887-2355 x-7391

9. Termination of Agreement

Unless otherwise agreed to by both parties in writing, this Agreement shall be terminated only if the State of Nevada or a court of competent jurisdiction prevents the delivery of the surface water that is the subject of this Agreement to CITY's point of re-diversion or if the Federal Water

Master prevents the use of the subject water in which case CWSD and CITY are relieved from performance under this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement.

CARSON WATER
SUBCONSERVANCY DISTRICT

CARSON CITY



GREG LYNN, Chairman

ROBERT L. CROWELL, Mayor

Dated: 7/15/15

Dated: _____

ATTEST:

ATTEST:

By: 

TONI LEFFLER, Secretary to the Board

By: _____
SUSAN MERRIWETHER, Clerk-Recorder

Dated: 7/15/15

Dated: _____