



Board Summary Report

File #: 24-138

Agenda Date: 3/4/2024

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To: Board of County Commissioners

Through: Gini Pingnot, Director, Open Spaces

Prepared By:

Michele Frishman, Grants and Acquisitions Manager, Open Spaces

Presenter: Michele Frishman, Grants and Acquisitions Manager, Open Spaces; John Christofferson, Deputy County Attorney

Subject:

1:15 PM *Update on High Line Canal Acquisition

Purpose and Request:

Staff will present an informational update for the Board of County Commissioners (BOCC) on the planned acquisition of portions of the High Line Canal. No BOCC action is requested at this time.

Background and Discussion: Arapahoe County is working with Denver Water and the High Line Canal Conservancy (Conservancy) to take ownership of portions of the 71-mile canal corridor including sections in Arapahoe, Denver, and Adams Counties. Please note that, since signing our acquisition agreement, we have learned that Adams County expects to be able to take ownership of its section of the property directly from Denver Water this year, which will necessitate some changes to the transaction described below.

As part of its conveyance, Denver Water will reserve the right to continue to use the canal for water works purposes, and it will protect the property's conservation values through a conservation easement granted to the Conservancy. During the transition period through December 31, 2026, Denver Water will perform certain maintenance work to elevate the condition of the property, and Arapahoe County will begin to take over property management responsibilities from Denver Water.

Closing on the acquisition is currently scheduled for April 25, 2024. As we work toward closing, we have

several negotiations and tasks in progress:

Intergovernmental Agreement (IGA) with Denver Water

County staff continue to negotiate a long-term IGA with Denver Water, which will govern each party's responsibilities pertaining to use and maintenance of the High Line Canal property acquired by Arapahoe County. This agreement must be approved prior to closing. When it is in final form, we will present it to the BOCC for approval.

Memorandum of Understanding (MOU) with Denver Water and City of Aurora

County staff continue to negotiate an MOU with Denver Water and the City of Aurora, under which Denver Water and Arapahoe County will commit funding for the performance of certain up-front maintenance needs identified within the Aurora section of the property. Aurora also will be permitted to install a new sanitary sewer line through the property. In exchange, Aurora will commit to perform maintenance on the property following the transition period. We are aiming to have this MOU approved prior to closing. When it is in final form, we will present it to the BOCC for approval.

Amendment to Acquisition Agreement with Denver Water

We plan to amend our acquisition agreement with Denver Water for two purposes: (1) to remove the Adams County section from the property to be acquired by Arapahoe County; and (2) to extend the deadline to complete the previously described IGA with Denver Water, with a new deadline closer to the closing date. When the amendment is in final form, we will present it to the BOCC for approval.

Conservation Easement and Stewardship Procedures

We continue to work with the Conservancy and Denver Water to finalize the terms of the conservation easement and to refine the Conservancy's stewardship procedures as holder and enforcer of the conservation easement. When the easement is in near final form, we will present it to the BOCC for review. The easement and procedures must be finalized before closing.

Legal Description and Mapping of Denver Water Property

We continue to work with Denver Water to finalize the complicated legal description of the property to be acquired by Arapahoe County. Additionally, we will review Denver Water's mapping and GIS files of the property, which County staff will rely on for property management and operational responsibilities as the landowner. The legal description, maps, and GIS files must be completed prior to closing.

Review of Property Records

For several months, staff have been reviewing Denver Water's records concerning the High Line Canal, to familiarize ourselves with the current state of the property and the many existing agreements governing third-

party uses of the property. Additionally, we have reviewed records kept by the Colorado Department of Public Health and Environment to determine whether there are any areas of environmental concern on or in the vicinity of the High Line Canal. We are nearing our completion of reviewing these records and will make any objections to Denver Water in writing by late March, pursuant to our acquisition agreement. We will present a draft of any objections to the BOCC.

Property Inspections

With assistance from Public Works and Development, the Southeast Metro Stormwater Authority, and the Conservancy, we have begun inspections of the sections of the canal Arapahoe County will acquire. To date, we have observed a variety of conditions. Some areas of the property have been well-maintained by the leaseholders under recreation and stormwater leases issued by Denver Water, which will be assigned to Arapahoe County at closing. We have observed other areas that are in need of significant maintenance, such as erosion control, tree cutting, and brush removal. We will continue to work with Denver Water, the Conservancy, and the leaseholders through the transition period to address these needs. We will complete our property inspections in March and make any objections to Denver Water in writing pursuant to our acquisition agreement. We will present a draft of any objections to the BOCC.

Staff recognize that the conditions of the property, the future maintenance requirements, and the variety of third-party uses will have an impact on the Open Spaces program's funding and staffing needs, which we will continue to discuss with the BOCC.

Recreation Leases

Denver Water has extended the recreation leases for Greenwood Village, South Suburban Parks and Recreation District, and Cherry Hills Village. It will extend the Aurora recreation lease prior to closing and then assign all of these recreation leases to Arapahoe County at closing. These extensions take the leases through the end of the transition period, which will allow time for Arapahoe County to consider the current terms of the leases and any future modifications we may want to make.

Fiscal Impact: Denver Water is donating the High Line Canal property to Arapahoe County, and therefore the County will not incur any costs at closing. However, the acquisition will require Open Spaces to incur new costs for property maintenance, additional staff to manage the property, and services provided by Public Works and Development as well as the Conservancy.

Alternatives: Unless Arapahoe County staff become aware of any issues with the property or the transaction that necessitate extending the closing date or terminating our acquisition agreement, there are no anticipated alternatives to closing on the acquisition in April.

Alignment with Strategic Plan:

Be fiscally sustainable

Provide essential and mandated service

Be community focused

Staff Recommendation: N/A

Concurrence: N/A