



REGULAR MEETING AGENDA

CALL TO ORDER

NEW EMPLOYEE INTRODUCTIONS

APPROVAL OF MINUTES – 2/20/2019

LUC LIAISON SELECTION – Electric Rate Study and Budget Committee

CITIZENS REPORT (*See procedural instructions on the following page.)

INFORMATIONAL ITEMS

1. Financial Report Update – Jim Lees
2. Electric Legislative Update – Kim O’Field
3. Water Legislative Update – Ryan Van Pelt
4. Water Supply Update – Ryan Van Pelt

CONSENT AGENDA

REGULAR AGENDA

5. Acceptance of One Share of Loudon Ditch into the Water Bank – Nathan Alburn
6. Proposed Long-Term Augmentation Lease with Crystal Mountain Ranch - Ryan Van Pelt
7. Proposed Modifications to the Platte River Power Authority (PRPA) Organic Contract and Power Supply Agreement – Joe Bernosky

STAFF REPORTS

8. Boards & Commissions Survey Results – Steve Adams
9. City Budget Dashboard – Joyce Robinson

COMMISSION & COUNCIL REPORTS

DIRECTOR’S REPORT

ADJOURN

*** Citizens Report Procedures**

Anyone in the audience may address the LUC on any topic relevant to the commission. If the topic is a Consent Agenda item, please ask for that item to be removed from the Consent Agenda; pulled items will be heard at the beginning of the Regular Agenda. If the topic is a Regular Agenda item, members of the public will be given an opportunity to speak to the item during the Regular Agenda portion of the meeting before the LUC acts upon it. If the topic is a Staff Report item, members of the public should address the LUC during this portion of the meeting; no public comment is accepted during the Staff Report portion of the meeting.

Anyone making comment during any portion of tonight's meeting should identify himself or herself and be recognized by the LUC chairman. Please do not interrupt other speakers. Side conversations should be moved outside the Service Center Board Room. Please limit comments to no more than three minutes.

Notice of Non-Discrimination

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“La Ciudad de Loveland está comprometida a proporcionar igualdad de oportunidades para los servicios, programas y actividades y no discriminar en base a discapacidad, raza, edad, color, origen nacional, religión, orientación sexual o género. Para más información sobre la no discriminación o para asistencia en traducción, favor contacte al Coordinador Título VI de la Ciudad al TitleSix@cityofloveland.org o al 970-962-2372. La Ciudad realizará las acomodaciones razonables para los ciudadanos de acuerdo con la Ley de Discapacidades para americanos (ADA). Para más información sobre ADA o acomodaciones, favor contacte al Coordinador de ADA de la Ciudad en adacoordinator@cityofloveland.org o al 970-962-3319”.

Commission Members Present: Dan Herlihey, Gary Hausman (Chair), Gene Packer, Larry Roos, John Butler, Randy Williams, Stephanie Fancher-English, Tom Vail

Commission Members Absent: Sean Cronin

Council Liaison: Steve Olson

City Staff Members Present: Alan Krcmarik, Brieana Reed-Harmel, Courtney Whittet, Derek Turner, Jim Lees, Joe Bernosky, John Beckstrom, Kim O'Field, Larry Howard, Michelle Erickson, Nathan Alburn, Roger Berg, Ryan Van Pelt, Tanner Randall, Tom Greene, Tracey Hewson

Guest Attendance: Bruce Croissant, Jeff Clough, Dick Mallot, Jane Clevenger, Alicia Hays, David Crowder

CALL TO ORDER: Gary Hausman called the meeting to order at 4:00 pm.

APPROVAL OF MINUTES: Hausman asked for a motion to approve the minutes of the December 19, 2018 meeting.

Motion: Dan Herlihey made the motion to approve the minutes with corrected date in title bar.

Second: John Butler seconded the motion. The minutes were approved unanimously.

CITIZENS REPORT

Alicia Hayes – 811 Introduced herself and offered any assistance with understanding the new 811 law.

Bruce Croissant – Gave a presentation and handout regarding the rates/fees of self-generation.

INFORMATION ITEMS

Item 1: Electric Legislative Update – Kim O'Field

This item and the attachment are intended to give a brief update on electric-related legislation at both the state and federal level. Loveland Water and Power works closely with Platte River Power Authority (PRPA) and its sister cities but relies primarily on the Colorado Association of Municipal Utilities (CAMU) for information on electric-related legislation.

Information Item only. No action required.

Item 2: Water Legislative Update – Ryan Van Pelt

This item is intended to give a brief update on water-related legislation being contemplated by the Colorado General Assembly. Loveland Water and Power relies primarily on the Colorado Water Congress (CWC) for information on water-related legislation.

Information Item only. No action required.

Item 3: Water Supply Update – Ryan Van Pelt

Raw water supply update.

Information Item only. No action required.

CONSENT AGENDA

Both of the Consent Agenda Items pulled to Regular Agenda.

REGULAR AGENDA

Item 4: N. Wilson Waterline Replacement - Emergency Contract Change Order (#1) for Connell Resources, Inc. – Carlos Medina

This item is for the approval of the first change order to the contract that Connell Resources, Inc. has for the N. Wilson Waterline Replacement - Emergency (W1811C). Connell is currently finishing the installation of the waterline in Wilson Avenue that was included in the original contract that was signed in December as an emergency declaration. This change will cover the remaining construction of asphalt paving of Wilson Avenue and 22nd Street.

Recommendation: Adopt a motion recommending that the LUC approve the change order to the contract for N. Wilson Waterline Replacement - Emergency with Connell Resources to increase the not-to-exceed amount to \$1,499,477.10 and authorize the City Manager to sign the change order on behalf of the City.

Motion: Dan Herlihey made the motion to approve the item.

Second: John Butler seconded the motion. The item was approved unanimously.

Item 5: Service Contract with the Jake Kauffman & Son, Inc. for completion of reservoir riprap – Ryan Van Pelt

The City of Loveland recently purchased from Jake Kauffman & Son, Inc. (“Kauffmans”) the land associated with the Great Western Pit No.1, often referred to as the downstream storage reservoir project. As part of the purchase agreement, the Kauffmans have agreed to enter into a service contract to finish the riprap reinforcement along the embankment of the lined gravel pit. The City intends to eventually use this as a raw water storage reservoir.

Recommendation: Adopt a motion to award the contract for the riprap reinforcement effort to Jake Kauffman & Son, Inc. in an amount not to exceed \$579,600.00, and authorize the City Manager to execute the service contract on behalf of the City.

Motion: Dan Herlihey made the motion to approve the item.

Second: Gene Packer seconded the motion. The item was approved 7-0 with 1 abstention. Randy Williams abstained from voting.

Item 6: C-BT Water Market Recognition – Nathan Alburn

This item evaluates our existing Cash-in-Lieu price charged to satisfy water rights required for development.

Recommendation: Approve Resolution R-01-2019U (Attachment A), setting the City’s recognized current C-BT market value at \$35,444/unit. This will result in a revised Cash-in-Lieu price of \$37,220/acre-foot after adding the required 5%.

Motion: Dan Herlihey made the motion to approve the item.

Second: John Butler seconded the motion. The item was approved unanimously.

Item 7: ~~Proposed Modifications to the Platte River Power Authority (PRPA) Organic Contract and Power Supply Agreement~~

~~Proposed Modifications to the Platte River Power Authority (PRPA) Organic Contract and Power Supply Agreement~~

Recommendation:

~~Adopt a motion recommending that City Council approve the proposed changes to the Organic Contract and Power Supply Agreement between the City of Loveland and the Platte River Power Authority.~~

REGULAR AGENDA

Item 8: Quarterly Financial Report Update – Jim Lees

This item summarizes the monthly and year-to date financials for December 2018.

Staff Report only. No action required.

Item 9: Wireless Pole Attachment and Permit Fees – Joe Bernosky

Information on a resolution set to go to City Council on February 19, 2019 for the revision of pole attachment fees within the Schedule of Rates, Charges, and Fees

Staff Report only. No action required.

COMMISSION/COUNCIL REPORTS

Item 10: Commission/Council Reports

Discuss events that the Loveland Utility Commission Board members attended, special topics and any City Council items related to the Water and Power Department from the past month.

Dan Herlihey:

Gene Packer: Thought the Water Supply Update was interesting viewing the drought map vs 108% SWE. Ryan Van Pelt explained that the drought map is a deficit in soil moisture that needs to be replenished before we see runoff.

Gary Hausman: Advised he heard that on average, 13% of a new home price was for water.

John Butler: Had a wonderful time at Colorado Water Congress, particularly the climate change seminar. Are we putting new light poles anywhere, he noticed a new light pole down the street from his house.

Larry Roos: It may take some regulation and education on water conservation. We are also the only town on the Front Range that does not have a tiered rate to promote water conservation.

Randy Williams:

Sean Cronin:

Stephanie Fancher-English: Young residents are not able to afford housing at this point, I don't know if it needs a task force with developers, but it's going to affect Loveland economically. It's a policy that needs to be addressed. Loveland Ready Mix trying to get new gravel pit approved and have already had 2 entities inquire about water. Will have all the water sold before breaking ground on the pit. Also, even though permitting was done, a law suit has been brought to fight the gravel pit. This seems to be the normal response at this point.

Tom Vail: Colorado Water Congress was very informative and is very interested in the Colorado Water Plan. Was very interested in how the forest affects water flows.

Council Report: Congressman Neguse came to visit the City today, pole attachments were one of the topics of discussion. This was an agency ruling not a congressional law, foresees the FCC being told they overstepped their reach and eventually rescinding the ruling. Discussed water with Congressman Neguse, we don't have a water problem, we have a storage problem and there are obstacles in place to slow down progress on new reservoirs. Also, recommends looking at the Accounting Dashboard Report. Northern Colorado tours this summer.

David Crowder, Vice President of Community Development from McWhinney – Would like to see the City try to keep the cost of water down. Possibly offering a pilot program or an alternative to across the board rise in Cash-

In-Lieu. Jeff Clough advised that Loveland is actual well below surrounding areas and predicts we will be up to \$50,000 by the end of the year.

DIRECTOR'S REPORT

Item 8: Director's Report – Joe Bernosky

ADJOURN The meeting was adjourned at 5:57 pm. The next LUC Meeting will be February 20, 2019 at 4:00 pm.

Respectfully submitted,

Courtney Whittet
Recording Secretary
Loveland Utilities Commission
/s/ Gary Hausman, LUC Chairman

ITEM TITLE:

Financial Report Update

DESCRIPTION:

This item summarizes the monthly and year-to date financials for February 2019.

SUMMARY:





The February 2019 financial reports are submitted for Commission review. The following table summarizes the sales and expense results for the month of February, and the February Year-To-Date results in comparison to the same periods from 2018. The summarized and detailed monthly financial statements that compare February Year-To-Date actuals to the 2019 budgeted figures are attached.

	February				February Year-To-Date			
	2019	2018	\$ Ovr/(Und) vs. 2018	% Ovr/(Und) vs. 2018	2019	2018	\$ Ovr/(Und) vs. 2018	% Ovr/(Und) vs. 2018
WATER								
Sales	\$932,703	\$889,719	\$42,984	4.8%	\$1,849,817	\$1,747,822	\$101,995	5.8%
Operating Expenses	\$1,099,326	\$791,617	\$307,709	38.9%	\$2,883,162	\$2,532,044	\$351,118	13.9%
Capital (Unrestricted)	\$715,044	\$38,158	\$676,886	1773.9%	\$806,689	\$43,170	\$763,519	1768.6%
WASTEWATER								
Sales	\$1,119,392	\$1,035,224	\$84,168	8.1%	\$2,225,988	\$2,047,900	\$178,088	8.7%
Operating Expenses	\$831,534	\$612,638	\$218,896	35.7%	\$1,493,138	\$1,245,796	\$247,343	19.9%
Capital (Unrestricted)	\$643,419	\$620,088	\$23,331	3.8%	\$643,541	\$635,288	\$8,254	1.3%
POWER								
Sales	\$5,362,530	\$6,454,284	(\$1,091,754)	-16.9%	\$10,708,400	\$11,694,959	(\$986,559)	-8.4%
Operating Expenses	\$4,353,892	\$4,424,758	(\$70,867)	-1.6%	\$8,848,965	\$9,100,703	(\$251,737)	-2.8%
Capital (Unrestricted)	\$971,865	\$934,389	\$37,476	4.0%	\$1,646,039	\$1,412,381	\$233,658	16.5%

RECOMMENDATION:

Staff item only. No action required.

ATTACHMENTS:

-  Attachment A: City of Loveland Financial Statement-Raw Water
-  Attachment B: City of Loveland Financial Statement-Water
-  Attachment C: City of Loveland Financial Statement-Wastewater
-  Attachment D: City of Loveland Financial Statement-Power

Attachment A

City of Loveland
Financial Statement-Raw Water
For Period Ending 02/28/2019 - Preliminary as of 3-11-19

	* TOTAL BUDGET *	YTD		OVER	
	FYE 12/31/2019	ACTUAL	YTD BUDGET	<UNDER>	VARIANCE
1 REVENUES & SOURCES	*	*			
2 High Use Surcharge	73,118	3,070	0	3,070	0.0%
3 Raw Water Development Fees/Cap Rec Surcharge	485,213	53,416	62,972	(9,556)	-15.2%
4 Cash-In-Lieu of Water Rights	227,167	52,290	37,862	14,428	38.1%
5 Native Raw Water Storage Fees	196,876	0	12,000	(12,000)	-100.0%
6 Proceeds on Loan	37,560,000	0	0	0	0.0%
7 Raw Water 3% Transfer In	531,164	55,495	56,027	(533)	-1.0%
8 Interest on Investments	300,965	54,951	50,160	4,791	9.6%
9 TOTAL REVENUES & SOURCES	39,374,503	219,221	219,021	200	0.1%
10 OPERATING EXPENSES	*	*			
11 Loan to Water	0	0	0	0	0.0%
12 Windy Gap Payments	7,100	0	1,184	(1,184)	-100.0%
13 TOTAL OPERATING EXPENSES	7,100	0	1,184	(1,184)	-100.0%
14 NET OPERATING REVENUE/(LOSS) (excl depr)	39,367,403	219,221	217,837	1,384	0.6%
15 RAW WATER CAPITAL EXPENDITURES	59,433,300	4,463,786	16,330,538	(11,866,752)	-72.7%
16 ENDING CASH BALANCES	*	*			
17 Total Available Funds	*	22,585,344			
18 Reserve - Windy Gap Cash	*	0			
19 Reserve - 1% Transfer From Rates	*	67,720			
20 Reserve - Native Raw Water Storage Interest	*	3,015			
21 TOTAL RAW WATER CASH	6,604,070	22,656,078	10,557,266	12,098,813	

NOTE: YTD ACTUAL DOES NOT INCLUDE ENCUMBRANCES TOTALING:

Attachment B

City of Loveland Financial Statement-Water

For Period Ending 02/28/2019 - Preliminary as of 3-14-19

	TOTAL BUDGET * FYE 12/31/2019	* YTD ACTUAL	YTD BUDGET	OVER <UNDER>	VARIANCE
1 **UNRESTRICTED FUNDS**	*	*			
2 REVENUES & SOURCES	*	*			
3 Water Sales	17,705,446	1,849,817	1,867,572	(17,755)	-1.0%
4 Raw Water Transfer Out	(531,164)	(55,495)	(56,027)	533	-1.0%
5 Wholesale Sales	181,091	12,724	4,171	8,553	205.1%
6 Meter Sales	92,269	8,500	15,378	(6,878)	-44.7%
7 Interest on Investments	120,220	2,946	20,036	(17,090)	-85.3%
8 Other Revenue	1,117,884	39,380	615,449	(576,069)	-93.6%
9 Federal and State Grants	0	0	0	0	0.0%
10 Internal Loan Monies Received	0	0	0	0	0.0%
11 External Loan Monies Received	0	0	0	0	0.0%
12 TOTAL REVENUES & SOURCES	18,685,746	1,857,873	2,466,579	(608,706)	-24.7%
13 OPERATING EXPENSES	*	*			
14 Source of Supply	2,579,802	435,989	421,450	14,539	3.4%
15 Treatment	3,815,206	422,845	579,261	(156,416)	-27.0%
16 Distribution Operation & Maintenance	3,947,022	483,675	585,462	(101,787)	-17.4%
17 Administration	2,681,453	87,909	1,168,162	(1,080,253)	-92.5%
18 Customer Relations	399,386	59,913	67,924	(8,011)	-11.8%
19 PILT	1,202,200	125,603	200,364	(74,761)	-37.3%
20 1% for Arts Transfer	76,788	7,916	61,108	(53,192)	-87.0%
21 Services Rendered-Other Departments	1,530,293	255,050	255,050	0	0.0%
22 Internal Loan Debt Expense	783,750	792,458	0	792,458	0.0%
23 External Loan Debt Expense	1,015,685	211,805	169,280	42,525	25.1%
24 TOTAL OPERATING EXPENSES	18,031,585	2,883,162	3,508,061	(624,899)	-17.8%
26 NET OPERATING REVENUE/(LOSS)(excl depr)	654,161	(1,025,289)	(1,041,482)	16,193	-1.6%
27 CAPITAL EXPENDITURES	5,517,708	806,689	3,001,668	(2,194,979)	-73.1%
28 REVENUES LESS OPER EXP LESS CAPITAL	(4,863,547)	(1,831,979)	(4,043,150)	2,211,171	-54.7%
30 ENDING CASH BALANCE (34% OF OPER EXP)	3,709,184	6,178,686	4,529,581	1,649,105	36.4%
31 WATER DEBT FUNDS ENDING CASH BALANCE		443,054			
32 MINIMUM BALANCE (15% OF OPER EXP)		2,704,738			
33 OVER/(UNDER) MINIMUM BALANCE		3,473,948			
34 **RESTRICTED FUNDS**	*	*			
35 REVENUES & SOURCES	*	*			
36 SIF Collections	5,732,613	271,540	823,400	(551,860)	-67.0%
37 SIF Interest Income	37,710	8,278	6,286	1,992	31.7%
38 SIF Federal and State Grants	0	0	0	0	0.0%
39 Internal Loan Monies Received	0	0	0	0	0.0%
40 TOTAL SIF REVENUES & SOURCES	5,770,323	279,817	829,686	(549,869)	-66.3%
41 SIF Capital Expenditures	5,874,420	115,085	2,233,964	2,118,879	100
42 1% for Arts Transfer	40,372	1,133	11,372	(10,239)	-90.0%
43 Legal Agreements & Shared Costs	334,375	17,885	55,728	(37,843)	-67.9%
44 TOTAL SIF CAPITAL EXPENDITURES	6,249,167	134,102	2,301,064	(2,166,962)	-94.2%
45 SIF REVENUE LESS EXPENDITURES	(478,844)	145,715	(1,471,378)	1,617,093	100
46 SIF ENDING CASH BALANCE	3,226,755	3,652,750	2,234,221	1,418,529	163.5%
47 TOTAL ENDING CASH BALANCE		9,831,436			
NOTE: YTD ACTUAL DOES NOT INCLUDE ENCUMBRANCES		5,098,212			
48 Water Treated at WTP (in million gallons)		388			
49 Water Sold To Customers (in million gallons, includes Ranch Water & Hydrant Sales)	3,808	313	305	8	2.5%

Attachment C

City of Loveland-LIVE
Financial Statement-Wastewater
 For Period Ending 02/28/2019 - Preliminary as of 3-13-19

	TOTAL BUDGET			OVER		
	* FYE 12/31/2019 *	* YTD ACTUAL	YTD BUDGET	<UNDER>	VARIANCE	
1 **UNRESTRICTED FUNDS**	*	*				
2 REVENUES & SOURCES	*	*				
3 Sanitary Sewer Charges	13,584,364 *	2,225,988	2,225,994	(6)	0.0%	
4 High Strength Surcharge	427,327 *	46,790	58,452	(11,662)	-20.0%	
5 Interest on Investments	38,862 *	26,337	6,478	19,859	306.6%	
6 Other Revenue	1,124,075 *	770	187,344	(186,574)	-99.6%	
7 Bond Proceeds	4,476,304 *	3,181,042	4,476,304	(1,295,262)	-28.9%	
8 Federal Grants	0 *	0	0	0	0.0%	
9 State Grants	0 *	0	0	0	0.0%	
10 TOTAL REVENUES & SOURCES	19,650,932 *	5,480,927	6,954,572	(1,473,645)	-21.2%	
11 OPERATING EXPENSES	*	*				
12 Treatment	4,354,046 *	603,571	671,708	(68,137)	-10.1%	
13 Collection System Maintenance	3,144,386 *	325,209	472,023	(146,814)	-31.1%	
14 Administration	1,447,442 *	51,689	967,509	(915,820)	-94.7%	
15 Customer Relations	66,710 *	14,401	10,170	4,231	41.6%	
16 PILT	980,820 *	159,094	163,470	(4,376)	-2.7%	
17 1% for Arts Transfer	167,020 *	13,434	135,182	(121,748)	-90.1%	
18 Services Rendered-Other Departments	928,606 *	154,768	154,768	0	0.0%	
19 Debt Service	2,063,177 *	170,972	177,196	(6,224)	-3.5%	
20 TOTAL OPERATING EXPENSES	13,152,207 *	1,493,138	2,752,026	(1,258,888)	-45.7%	
21 NET OPERATING REVENUE/(LOSS)(excl depr)	6,498,725 *	3,987,788	4,202,546	(214,758)	-5.1%	
22 CAPITAL EXPENDITURES	13,754,631 *	643,541	10,228,231	(9,584,690)	-93.7%	
23 REVENUES LESS OPER EXP LESS CAPITAL	(7,255,906) *	3,344,247	(6,025,685)	9,369,932	-155.5%	
24 ENDING CASH BALANCE (119% OF OPER EXP)	7,305,994 *	15,599,450	8,536,215	7,063,235	82.7%	
25 WASTEWATER DEBT FUNDS ENDING CASH BALANCE	*	474,522				
26 MINIMUM BALANCE (15% OF OPER EXP)	*	1,972,831				
27 OVER/(UNDER) MINIMUM BALANCE	*	13,626,619				
28 **RESTRICTED FUNDS**	*	*				
29 REVENUES & SOURCES	*	*				
30 SIF Collections	2,774,324 *	210,485	295,722	(85,237)	-28.8%	
31 SIF Interest Income	2,640 *	17,559	440	17,119	3890.7%	
32 SIF Bond Proceeds	1,837,089 *	1,949,671	1,837,089	112,582	6.1%	
33 TOTAL SIF REVENUES & SOURCES	4,614,053 *	2,177,715	2,133,251	44,464	2.1%	
34 SIF Capital Expenditures	4,677,835 *	471,458	3,459,087	(2,987,629)	-86.4%	
35 1% for Arts Transfer	92,384 *	4,577	81,968	(77,391)	-94.4%	
36 Debt Service	591,393 *	104,789	98,564	6,225	6.3%	
37 TOTAL SIF CAPITAL EXPENDITURES	5,361,612 *	580,825	3,639,619	(3,058,794)	-84.0%	
38 SIF REVENUE LESS EXPENDITURES	(747,559) *	1,596,890	(1,506,368)	3,103,258	-206.0%	
39 SIF ENDING CASH BALANCE	3,752,342 *	4,501,677	2,993,533	1,508,144	50.4%	
40 TOTAL ENDING CASH BALANCE		20,101,127				
NOTE: YTD ACTUAL DOES NOT INCLUDE ENCUMBRANCES TOTALING		11,276,969				
Wastewater Treated at WWTP (in million gallons)	N/A *	320	N/A			
Wastewater Billed To Customers (in million gallons)	1,778 *	287	290	(3)	-1.1%	

Attachment D

City of Loveland
Financial Statement-Power
For Period Ending 02/28/2019 - Preliminary as of 3/15/2019

	*	TOTAL BUDGET	*	YTD ACTUAL	YTD BUDGET	OVER <UNDER>	VARIANCE
UNRESTRICTED FUNDS							
1 REVENUES & SOURCES:	*		*				
2 Electric revenues	*	\$68,256,630	*	\$10,708,400	\$11,058,810	(\$350,410)	-3.2%
3 Wheeling charges	*	\$265,000	*	\$40,435	\$44,167	(\$3,731)	-8.4%
4 Interest on investments	*	\$397,580	*	\$31,204	\$66,263	(\$35,059)	-52.9%
5 Aid-to-construction deposits	*	\$1,610,000	*	\$353,446	\$268,333	\$85,113	31.7%
6 Customer deposit-services	*	\$310,000	*	\$8,531	\$51,667	(\$43,135)	-83.5%
7 Late Payment Penalty Fees	*	\$450,000	*	\$79,080	\$75,000	\$4,080	5.4%
8 Connect Fees	*	\$170,000	*	\$23,745	\$28,333	(\$4,588)	-16.2%
9 Services rendered to other depts.	*	\$67,500	*	\$0	\$11,250	(\$11,250)	-100.0%
10 Other revenues	*	\$386,572	*	\$55,900	\$64,429	(\$8,529)	-13.2%
11 Federal Grants	*	\$0	*	\$0	\$0	\$0	0.0%
12 State Grants	*	\$0	*	\$0	\$0	\$0	0.0%
13 Year-end cash adjustments	*	\$0	*	\$0	\$0	\$0	0.0%
14 TOTAL REVENUES & SOURCES	*	\$71,913,282	*	\$11,300,742	\$11,668,252	(\$367,510)	-3.1%
15 OPERATING EXPENSES:	*		*				
16 Hydro oper. & maint.	*	\$1,308,616	*	\$6,708	\$201,326	(\$194,617)	-96.7%
17 Solar oper. & maint.	*	\$90,000	*	\$0	\$13,846	(\$13,846)	-100.0%
18 Purchased power	*	\$44,761,779	*	\$6,777,569	\$6,808,859	(\$31,290)	-0.5%
19 Distribution oper. & maint.	*	\$5,674,385	*	\$604,396	\$872,982	(\$268,586)	-30.8%
21 Customer Relations	*	\$1,557,956	*	\$85,063	\$239,686	(\$154,623)	-64.5%
22 Administration	*	\$3,504,208	*	\$147,065	\$539,109	(\$392,044)	-72.7%
23 Payment in-lieu-of taxes	*	\$4,777,960	*	\$741,898	\$797,919	(\$56,022)	-7.0%
24 1% for Arts Transfer	*	\$105,703	*	\$5,617	\$17,652	(\$12,035)	-68.2%
25 Services rendered-other depts.	*	\$2,883,905	*	\$480,650	\$480,651	(\$1)	0.0%
26 TOTAL OPERATING EXPENSES (excl depn)	*	\$64,664,512	*	\$8,848,965	\$9,972,030	(\$1,123,065)	-11.3%
27 NET OPERATING REVENUE/(LOSS) (excl depn)	*	\$7,248,770	*	\$2,451,777	\$1,696,222	\$755,555	
28 CAPITAL EXPENDITURES:	*		*				
29 General Plant/Other Generation & Distribution	*	\$10,308,300	*	\$1,440,757	\$1,260,854	\$179,903	14.3%
30 Aid-to-construction	*	\$1,680,000	*	\$170,714	\$613,846	(\$443,132)	-72.2%
31 Service installations	*	\$310,000	*	\$34,568	\$47,692	(\$13,124)	-27.5%
32 TOTAL CAPITAL EXPENDITURES	*	\$12,298,300	*	\$1,646,039	\$1,922,392	(\$276,354)	-14.4%
33 REVENUES LESS OPER EXP LESS CAPITAL	*	(\$5,049,530)	*	\$805,738	(\$226,171)	\$1,031,909	
34 ENDING CASH BALANCE (22% of Oper Exp)	*	\$15,186,081	*	\$14,242,797	\$20,009,440	(\$5,766,643)	-28.8%
35 MINIMUM BAL. (22% of OPER EXP)	*		*	\$14,872,838			
36 OVER/(UNDER) MINIMUM BALANCE	*		*	(\$630,041)			
RESTRICTED FUNDS							
38 PIF Collections	*	\$2,743,740	*	\$426,104	\$457,290	(\$31,186)	-6.8%
39 PIF Interest Income	*	\$37,450	*	\$17,871	\$6,242	\$11,629	186.3%
40 Water Loan Payback	*	\$783,750	*	\$792,458	\$0	\$792,458	0.0%
41 Federal Grants	*	\$0	*	\$0	\$0	\$0	0.0%
42 State Grants	*	\$0	*	\$0	\$0	\$0	0.0%
43 TOTAL REVENUES	*	\$3,564,940	*	\$1,236,433	\$463,532	\$772,901	166.7%
44 PIF Feeders	*	\$5,835,511	*	\$792	\$897,771	(\$896,979)	-99.9%
45 PIF Substations & Solar	*	\$2,464,418	*	\$363,184	\$410,736	(\$47,552)	-11.6%
46 TOTAL EXPENDITURES	*	\$8,299,929	*	\$363,977	\$1,308,507	(\$944,531)	-72.2%
47 PIF REVENUES LESS EXPENDITURES	*	(\$4,734,989)	*	\$872,456	(\$844,976)	\$1,717,432	
48 ENDING PIF CASH BALANCE	*	(\$1,154,196)	*	\$6,383,235	\$2,735,817	\$3,647,417	133.3%
49 TOTAL ENDING CASH BALANCE	*		*	\$20,626,032			

NOTE: YTD ACTUAL does NOT include encumbrances totalling \$5,822,239.

50 Energy Purchased (in million kWh) from PRPA	*	739	*	120	116	3	2.9%
51 Energy Sold to Customers (in million kWh)	*	716	*	115	119	(4)	-3.1%



ITEM TITLE:

Electric Legislative Update

DESCRIPTION:

This item and the attachment are intended to give a brief update on electric-related legislation at both the state and federal level. Loveland Water and Power works closely with Platte River Power Authority (PRPA) and its sister cities but relies primarily on the Colorado Association of Municipal Utilities (CAMU) for information on electric-related legislation.

SUMMARY:

State Update:

Please see Attachment A for the Legislative Tracking Sheet of current state bills.

RECOMMENDATION:

Information item only. No action required.

ATTACHMENTS:

-  Attachment A: Legislative Tracking Sheet

Attachment A

Colorado Association of Municipal Utilities 2019 State Legislative Tracking Sheet

HB19-1003
Community Solar Gardens Modernization Act

Comment: **Municipal utilities are currently exempted from this section of statute. CAMU will monitor to protect exemption language.**

Position: **Monitor**

Short Title: Community Solar Gardens Modernization Act

Sponsors: C. Hansen / M. Foote | T. Story

Summary: Increasing the maximum size of a CSG from 2 megawatts to 10 megawatts.

Status: 1/4/2019 Introduced In House - Assigned to Energy & Environment
1/17/2019 House Committee on Energy & Environment Refer Amended to Appropriations
2/28/2019 House Committee on Appropriations Refer Amended to House Committee of the Whole
3/1/2019 House Second Reading Laid Over Daily - No Amendments
3/5/2019 House Second Reading Laid Over to 03/08/2019 - No Amendments

Amendments: [Amendments](#)

Bill Version: Pre-Amended

HB19-1037
Colorado Energy Impact Assistance Act

Comment:

Position: **Monitor**

Short Title: Colorado Energy Impact Assistance Act

Sponsors: C. Hansen | D. Esgar / K. Donovan

Summary: The bill authorizes any electric utility (utility) to apply to the public utilities commission (PUC) for a financing order that will authorize the utility to issue low-cost Colorado energy impact assistance bonds (bonds) to lower the cost to electric utility customers (ratepayers) when the retirement of a power plant occurs.

Status: 1/4/2019 Introduced In House - Assigned to Energy & Environment
2/11/2019 House Committee on Energy & Environment Refer Amended to House Committee of the Whole
2/14/2019 House Second Reading Laid Over Daily - No Amendments
2/25/2019 House Second Reading Laid Over to 02/27/2019 - No Amendments
2/26/2019 House Second Reading Laid Over to 02/28/2019 - No Amendments
2/28/2019 House Second Reading Passed with Amendments - Committee, Floor
3/1/2019 House Third Reading Laid Over Daily - No Amendments
3/4/2019 House Third Reading Passed - No Amendments
3/7/2019 Introduced In Senate - Assigned to Agriculture & Natural Resources

Amendments: [Amendments](#)

Bill Version: Pre-Amended

HB19-1087 **Local Public Meeting Notices Posted On Website**

Comment: **CML to Monitor. Working on an amendment to make the language permissive.**

Position: **Monitor**

Short Title: Local Public Meeting Notices Posted On Website

Sponsors: M. Soper | C. Hansen / R. Woodward

Summary: Requires a local government to post notices of public meetings required by the state open meetings law on the local government's website.

Status: 1/14/2019 Introduced In House - Assigned to Transportation & Local Government

Amendments:

Bill Version: Introduced

HB19-1096 **Colorado Right To Rest**

Comment: **The definition of "public space" includes municipal utility facilities. Working with CML to oppose or amend the bill to refine this overly-broad definition.**

Position: **Monitor**

Short Title: Colorado Right To Rest

Sponsors: J. Melton

Summary: Establishes basic rights for people experiencing homelessness, including but not limited to the right to rest in public spaces, to shelter themselves from the elements, to occupy a legally parked vehicle, and to have a reasonable expectation of privacy of their property

Status: 1/14/2019 Introduced In House - Assigned to Transportation & Local Government
2/26/2019 House Committee on Transportation & Local Government Postpone Indefinitely

Amendments:

Bill Version: Introduced

HB19-1159 **Modify Innovative Motor Vehicle Income Tax Credits**

Comment:

Position: **Monitor**

Short Title: Modify Innovative Motor Vehicle Income Tax Credits

Sponsors:	S. Jaquez Lewis M. Gray / J. Danielson
Summary:	Modifies the amounts of and extends the number of available years of the existing income tax credits for the purchase or lease of an electric motor vehicle, a plug-in hybrid electric motor vehicle, and an original equipment manufacturer electric truck and plug-in hybrid electric truck.
Status:	1/29/2019 Introduced In House - Assigned to Energy & Environment + Finance 2/25/2019 House Committee on Energy & Environment Refer Unamended to Finance 3/11/2019 House Committee on Finance Refer Amended to Appropriations
Amendments:	
Bill Version:	Introduced

HB19-1179 Public Fund Investments

Comment:	
Position:	Monitor
Short Title:	Public Fund Investments
Sponsors:	M. Gray
Summary:	The bill modifies statutes governing the legal investments of public funds as follows:

- ★ Allows public entities to invest in the federal agricultural mortgage corporation;
- ★ Modifies and standardizes the credit rating requirements for securities invested in by public entities;
- ★ Requires rating requirements to first apply to the security being purchased by a public entity and, if there is no such rating, to then apply to the issuer;
- ★ Clarifies that negotiable certificates of deposit are a legal investment and not deposits subject to the limitation of the "Public Deposit Protection Act";
- ★ Includes the secured overnight financing rate as an allowable index; and
- ★ Allows public entities to invest in local government investment pools.
(Note: This summary applies to this bill as introduced.)

Status:	2/14/2019 Introduced In House - Assigned to Finance
Amendments:	
Bill Version:	Introduced

HB19-1188 Greenhouse Gas Pollution Impact In Fiscal Notes

Comment:	
Position:	Monitor
Short Title:	Greenhouse Gas Pollution Impact In Fiscal Notes

Sponsors: E. Sirota | M. Snyder

Summary: Beginning in 2020, the bill requires fiscal notes on legislative measures to include an assessment of whether the measure is likely to directly cause a net increase or decrease in greenhouse gas pollution in the 10-year period following its enactment. The assessment must consider new sources of emissions, increases or decreases in existing sources of emissions, and any impact on sequestration of emissions. The fiscal note is not required to estimate the magnitude of the impact. The director of research of the legislative council staff is required to develop policies and procedures for completing the assessment. The department of natural resources, the Colorado energy office, and other state agencies with relevant subject matter expertise are required to cooperate with and provide information, if requested, to develop the policies and procedures for the assessment and to provide information to the legislative council staff on a legislative measure's impact on greenhouse gas pollution in connection with the preparation of a fiscal note.
(Note: This summary applies to this bill as introduced.)

Status: 2/19/2019 Introduced In House - Assigned to Energy & Environment + Appropriations
3/4/2019 House Committee on Energy & Environment Refer Unamended to Appropriations

Amendments:

Bill Version: Introduced

HB19-1198 Electric Vehicle Grant Fund

Comment:

Position: **Monitor**

Short Title: Electric Vehicle Grant Fund

Sponsors: A. Valdez | D. Valdez / J. Bridges | K. Priola

Summary: The bill modifies the statute governing the electric vehicle grant fund (fund) as follows:

- ★ Allows the fund to be used to administer grants for the installation of charging stations for electric vehicles;
- ★ Allows the fund to prioritize the grants it will provide based on criteria defined by the Colorado energy office;
- ★ Allows the fund to be used to fully fund the installation of charging stations and offset station operating costs; and
- ★ Requires the money in the fund to be continuously appropriated to the Colorado energy office.

(Note: This summary applies to the reengrossed version of this bill as introduced in the second house.)

Status: 2/20/2019 Introduced In House - Assigned to Energy & Environment + Appropriations
3/4/2019 House Committee on Energy & Environment Refer Unamended to

House Committee of the Whole
 3/7/2019 House Second Reading Passed - No Amendments
 3/8/2019 House Third Reading Passed - No Amendments
 3/11/2019 Introduced In Senate - Assigned to Transportation & Energy

Amendments:**Bill Version:** Reengrossed**HB19-1199****Colorado Clean Pass Act****Comment:****Position:** **Monitor****Short Title:** Colorado Clean Pass Act**Sponsors:** A. Valdez / B. Pettersen | F. Winter

Summary: On and after July 1, 2022, the bill requires the high-performance transportation enterprise (HPTE) to impose an express lane access fee (access fee) in a specified amount annually at the time of registration of any eligible plug-in electric motor vehicle that weighs 19,500 pounds or less, that is certified as being qualified for the federal plug-in electric drive motor vehicle tax credit or can be recharged from an external source of electricity and that stores electricity in a rechargeable battery that propels or contributes to the propulsion of the vehicle's drive wheels if the owner of the vehicle chooses to pay the access fee in exchange for the right to operate the vehicle on express lanes without regard to the number of persons in the vehicle for free on any express lane that is a high occupancy vehicle lane and for a reduced toll on any express lane that is a toll lane or a high occupancy toll lane. HPTE is not authorized to impose the access fee upon the registration of a vehicle registered for a registration period beginning on or after July 1, 2020, but before July 1, 2022, but, upon the registration of a vehicle for such a registration period, the owner of an eligible plug-in electric motor vehicle may choose to apply for the right to operate the vehicle for free on any express lane that is a high occupancy vehicle lane without regard to the number of persons in the vehicle and for a reduced toll on any express lane that is a toll lane or a high occupancy toll lane.

A plug-in electric motor vehicle is an "eligible plug-in electric motor vehicle" if it is being registered for its 1st, 2nd, or 3rd registration period under the ownership of the same owner and if making the vehicle eligible would not cause the total number of eligible vehicles to exceed a specified cap that increases annually for 5 years until reaching a permanent maximum amount. "Express lane" is defined to include any high occupancy vehicle lane, toll lane, or high occupancy toll lane that HPTE, a private partner of HPTE, or HPTE in conjunction with a private partner of HPTE or the department of transportation (CDOT) operates and maintains or that HPTE designates as an express lane, which currently includes:

- ★ Operating express lanes on Interstate Highway 25 between downtown Denver and 120th Avenue, on Interstate Highway 70 between Idaho Springs and Empire, and on U.S. Highway 36 between Denver and Boulder; and

★ Planned express lanes on: (1) Interstate Highway 25 between 120th Avenue and State Highway E-470, Johnstown and Fort Collins, and Monument and Castle Rock; (2) Interstate Highway 70 between Interstate Highway 25 and Chambers Road; and (3) State Highway C-470 between Interstate Highway 25 and Wadsworth Boulevard.

Each county clerk and recorder, acting as an authorized agent of the department of revenue, is required to collect the access fee, and access fee revenue is credited to the statewide transportation enterprise special revenue fund for use by HPTE. The owner of an eligible plug-in electric motor vehicle may choose not to pay the access fee, but must pay the fee to be authorized to operate the vehicle for free on any express lane that is a high occupancy vehicle lane and for a reduced toll on any express lane that is a toll lane or a high occupancy toll lane, without regard to the number of persons in the vehicle. If the free or reduced toll use of express lanes by eligible plug-in electric motor vehicles is determined to cause a decrease in the level of service for other bona fide users of the express lanes so that CDOT or HPTE is violating or will violate within the next 3 months contractual level of service guarantees or will be unable to satisfy debt service coverage requirements, then CDOT may restrict or eliminate free and reduced toll use of the express lanes by eligible plug-in electric motor vehicles for as long as the violation or inability is expected to continue. CDOT is required to report annually during its "State Measurement for Accountable, Responsive, and Transparent (SMART) Government Act" hearing regarding the actual and projected free and reduced toll use of express lanes by eligible plug-in electric vehicles and any actions that it has taken or expects to take to restrict, limit, or restore such use.

The existing authorization for a limited number of inherently low-emission vehicles or hybrid vehicles to use express lanes without regard to the number of persons in the vehicle and without paying a toll expires for each participating vehicle on the date of the first registration of the vehicle for a registration period that begins on or after July 1, 2022.

The department of revenue and CDOT are required to coordinate to establish electronic processes that:

- ★ Automatically notify HPTE and, if deemed necessary by HPTE, any private partner of HPTE that operates an express lane, when the owner of a plug-in electric motor vehicle pays the access fee so that HPTE, directly or through its private partners, can successfully administer and enforce the conditions of access for eligible plug-in electric motor vehicles to express lanes; and
- ★ Automatically notify each authorized agent when the access fee can or cannot be collected in accordance with the limitation on the number of eligible plug-in electric motor vehicles.

CDOT is authorized to promulgate administrative rules to ensure proper implementation, administration, and enforcement of the conditions of access for eligible plug-in electric motor vehicles to express lanes.

(Note: This summary applies to this bill as introduced.)

Status:

2/20/2019 Introduced In House - Assigned to Energy & Environment + Appropriations

3/4/2019 House Committee on Energy & Environment Refer Amended to Finance

Amendments: [Amendments](#)

Bill Version: Pre-Amended

HB19-1231

New Appliance Energy And Water Efficiency Standards

Comment:

Position:

Short Title: New Appliance Energy And Water Efficiency Standards

Sponsors: M. Froelich | C. Kipp

Summary: The bill updates and adopts standards for water efficiency and energy efficiency that apply to a list of consumer and commercial appliances and other products. The standards are based on state standards, federal Energy Star and WaterSense specifications, and industry standards in most cases or, where a standard is not incorporated by reference, the standard is specified by statute.

The standards apply to new products sold or installed in Colorado and are phased in over a period of 3 years, with general service lamps covered beginning in 2020, air compressors and portable air conditioners covered beginning in 2022, and all other listed products covered beginning in 2021. The bill also keeps in place the water efficiency standards on certain products that were added to the Colorado statutes in 2014. The sale of a noncomplying product after the effective date of the applicable standard is defined as a deceptive trade practice under the "Colorado Consumer Protection Act".

The executive director of the department of public health and environment is directed to collect and publish the standards that are incorporated by reference. The executive director is also authorized, but not required, to adopt rules incorporating more recent versions of standards or test methods in order to maintain or improve consistency with other state or federal agency standards, subject to a one-year grace period between adoption and enforcement of any new or amended standards.

(Note: This summary applies to this bill as introduced.)

Status: 3/8/2019 Introduced In House - Assigned to Energy & Environment

Amendments:

Bill Version: Introduced

SB19-062

Limit Agency Rule-making Authority To Amend Rules

Comment:

Position: **Monitor**

Short Title: Limit Agency Rule-making Authority To Amend Rules

Sponsors: J. Sonnenberg

Summary: Requires an executive agency to obtain additional statutory rule-making authority to amend or reinterpret an existing rule.

Status: 1/10/2019 Introduced In Senate - Assigned to State, Veterans, & Military Affairs
1/28/2019 Senate Committee on State, Veterans, & Military Affairs Postpone Indefinitely

Amendments:

Bill Version: Introduced

SB19-077 **Electric Motor Vehicles Public Utility Services**

Comment: **The legislation does not apply to municipal utilities**

Position: **Monitor**

Short Title: Electric Motor Vehicles Public Utility Services

Sponsors: K. Priola | A. Williams / C. Hansen

Summary: Authorizes investor-owned public utilities to provide EV charging services as regulated or unregulated services and allows cost recovery.

Status: 1/11/2019 Introduced In Senate - Assigned to Business, Labor, & Technology
2/27/2019 Senate Committee on Business, Labor, & Technology Refer Amended to Senate Committee of the Whole
3/4/2019 Senate Second Reading Laid Over Daily - No Amendments
3/5/2019 Senate Second Reading Passed with Amendments - Committee
3/6/2019 Senate Third Reading Laid Over to 03/08/2019 - No Amendments
3/8/2019 Senate Third Reading Passed - No Amendments
3/8/2019 Introduced In House - Assigned to Transportation & Local Government

Amendments: [Amendments](#)

Bill Version: Pre-Amended

SB19-083 **Colorado Department Of Public Health And Environment Air Quality Control**

Comment: **This is one of several bills removing obsolete provisions from CDPHE statutes.**

Position: **Monitor**

Short Title: Colorado Department Of Public Health And Environment Air Quality Control

Sponsors: R. Zenzinger / H. McKean

Summary: Eliminates the requirement that the state board of health supervise certain air quality control programs

Status: 1/14/2019 Introduced In Senate - Assigned to Health & Human Services
1/23/2019 Senate Committee on Health & Human Services Refer Unamended - Consent Calendar to Senate Committee of the Whole
1/28/2019 Senate Second Reading Passed - No Amendments

1/29/2019 Senate Third Reading Passed - No Amendments
 1/31/2019 Introduced In House - Assigned to Energy & Environment
 2/21/2019 House Committee on Energy & Environment Refer Unamended to House Committee of the Whole
 2/25/2019 House Second Reading Passed - No Amendments
 2/26/2019 House Third Reading Passed - No Amendments
 2/27/2019 Signed by the Speaker of the House
 2/27/2019 Signed by the President of the Senate
 2/28/2019 Sent to the Governor
 3/7/2019 Governor Signed

Amendments:**Bill Version:** Signed Act

SB19-096 **Collect Long-term Climate Change Data**

Comment: **Members are concerned with grant of open-ended rule making authority to the CDPHE.****Position:** **Amend****Short Title:** Collect Long-term Climate Change Data**Sponsors:** K. Donovan / C. Hansen**Summary:** Requires the air quality control commission in the department of public health and environment to collect greenhouse gas emissions data from greenhouse gas-emitting entities, report on the data, including a forecast of future emissions, and propose a draft rule to address the emissions by July 1, 2020.**Status:** 1/23/2019 Introduced In Senate - Assigned to Transportation & Energy**Amendments:****Bill Version:** Introduced

SB19-107 **Broadband Infrastructure Installation**

Comment: **Members are concerned with language that asserts PUC oversight over a municipal utility.****Position:** **Amend****Short Title:** Broadband Infrastructure Installation**Sponsors:** K. Donovan**Summary:** Authorizes an electric utility or other electricity supplier to install and maintain above-ground broadband internet service infrastructure for internal use, for external use in providing broadband internet service, or for lease of any excess capacity to a broadband internet service provider.**Status:** 1/29/2019 Introduced In Senate - Assigned to Business, Labor, & Technology + Local Government**Amendments:****Bill Version:** Introduced

SB19-138**Bond Requirements For Public Projects Using Private Financing****Comment:****Position:****Monitor****Short Title:**

Bond Requirements For Public Projects Using Private Financing

Sponsors:

F. Winter | K. Priola / S. Bird

Summary:

Under current law, when a person, company, firm, corporation, or contractor (contractor) enters into a contract with a county, municipality, school district, or, in some instances, any other political subdivision of the state to perform work in connection with a project that has specified characteristics, the contractor is required to execute performance bonds and payment bonds.

The bill specifies that some of these bonding requirements apply to certain construction contracts situated or located on publicly owned property using public or private money or public or private financing.

(Note: This summary applies to the reengrossed version of this bill as introduced in the second house.)

Status:

2/12/2019 Introduced In Senate - Assigned to Finance
 2/28/2019 Senate Committee on Finance Refer Amended to Senate Committee of the Whole
 3/5/2019 Senate Second Reading Passed with Amendments - Committee
 3/6/2019 Senate Third Reading Passed - No Amendments
 3/8/2019 Introduced In House - Assigned to Finance

Amendments:[Amendments](#)**Bill Version:**

Pre-Amended

SB19-156**Sunset State Electrical Board****Comment:****Position:****Monitor****Short Title:**

Sunset State Electrical Board

Sponsors:

R. Rodriguez / T. Sullivan

Summary:

Sunset Process - Senate Business, Labor, and Technology Committee. The bill implements the recommendations of the department of regulatory agencies' sunset review and report on the state electrical board by:

- ★ Continuing the functions of the board for 13 years, until 2032 (**sections 1 and 2** of the bill);
- ★ Repealing the limitations on the fees that local jurisdictions may charge (**sections 7 and 8**);

- ★ Clarifying that cables and systems utilized for conveying power are not exempt from regulation when they are part of a building's electrical system (**section 7**);
- ★ Defining "direct supervision", with regard to the oversight of apprentices, and "supervision" of electrical work (**sections 3, 6, and 9**);
- ★ Repealing the requirement that the board notify an applicant that he or she is qualified to take a licensure examination (**section 5**);
- ★ Directing the governor to consider that at least one of the 4 members of the board who must be a master or journeyman electrician should be an electrician who works primarily in the residential sector (**section 4**);
- ★ Clarifying that traffic signals are exempt from regulation (**section 7**);
- ★ Repealing redundant language regarding an inspection exemption and obsolete language regarding providing copies of the electrical code and standards (**section 7**); and
- ★ Subjecting to regulation the alteration of existing facilities that are otherwise exempt from regulation (**section 7**).

Sections 10 through 17 make conforming amendments to harmonize the bill with House Bill 19-1172, the bill to recodify and reorganize title 12.

(Note: This summary applies to this bill as introduced.)

Status: 2/21/2019 Introduced In Senate - Assigned to Business, Labor, & Technology

Amendments:

Bill Version: Introduced

ITEM TITLE:

Water Legislative Update

DESCRIPTION:

This item is intended to give a brief update on water-related legislation being contemplated by the Colorado General Assembly. Loveland Water and Power relies primarily on the Colorado Water Congress (CWC) for information on water-related legislation.

SUMMARY:

The Second Regular Session of the 72nd Colorado General Assembly convened on **January 4, 2019** and runs through May 3, 2018. The Colorado Water Congress, through its State Affairs Committee, is currently tracking Colorado state house and senate bills related to water. This committee meets each Monday morning during the legislative session. After introduction of a bill it is covered at the next committee meeting to provide members an opportunity to learn about it. Usually, this committee votes on whether to take a position on the bill at the following State Affairs Committee meeting. The voting may be delayed another week if more time is needed on a bill. For CWC to take a position on a bill, the bill must have at least a 2/3 vote from the State Affairs Committee. Once CWC takes a position, it then advocates on behalf of its members before policy makers. Of the state bills that CWC takes a position, their success rate in either killing bills that are opposed or passing bills that are supported is eight-five percent.

While the state legislature is in session, each month in the LUC packet a Bill Summary Sheet (See Attachment A) gives a summary of each bill being tracked by CWC and a Bill Status Sheet (See attachment B) that shows how far along each bill has progressed. Once a bill is killed in a committee or lost in a floor vote, it is removed from this list. Bills that may be of interest to water providers in the Northern Front Range of Colorado are listed below:

HOUSE BILL 19-1015 Recreation Of The Colorado Water Institute: Concerns the recreation of the Colorado Water Institute, which is currently operated through Colorado State University. In the Colorado Revised Statutes, the bill will recreate and reenact, with amendments, part 8 of article 31 of title 23, Sections 801, 802, and 803. The Colorado Water Institute provides beneficial research and publications related to irrigation and municipal water providers (<http://www.cwi.colostate.edu/>).

HOUSE BILL 19-1050 Encourage Use of Xeriscape In Common Areas: Concerns the promotion of water-efficient landscaping on property subject to management by local supervisory entities.

HOUSE BILL 19-1082 Water Rights Easements: Concerns the rights of water rights easement holders. The bill clarifies that water rights easement holders may maintain, repair, and improve their easement.

HOUSE BILL 19-1218 Loaned Water for Instream Flows to Improve Environment: Concerning the Colorado Water Conservation Board's authority to use water that a water right owner voluntarily loans to the board for instream flow purposes and the loan duration and renewable policy.

SENATE BILL 19-186 Expand Agricultural Chemical Management Program Protect Surface Water: Concerns the expansion of agricultural chemical management plans to protect surface water.




The Colorado Water Congress, through its Federal Affairs Committee, provides the principal voice of Colorado's water community on federal issues that may affect Colorado or that are important to its members. The Federal Affairs Committee works closely with the National Water Resource Association (NWRA), a federation of state water organizations concerned with appropriate management, conservation and use of water resources. In the Federal Affairs section of the CWC website it lists a brief description of some key federal legislative items they are tracking (see attachment C).

Please visit www.cowatercongress.org if you would like additional information regarding federal or state bills related to water and www.cml.org for state and federal bills related to municipal cities and towns.

RECOMMENDATION:

Information item only. No action required.

ATTACHMENTS:

-  Attachment A: Colorado Water Bill Summary
-  Attachment B: CWC, State Affairs Committee, Water Bill Status Sheet (3-11-2019)
-  Attachment C: CWC, 2019 Federal Priorities

Attachment A

2019 Colorado Water Bill Summary

HOUSE BILL 19-1006 Wildfire Mitigation Wildland-urban Interface Areas: Concerning measures to mitigate the effects of wildfires within wildland-urban interface areas, and, in connection therewith, creating a state grant program to promote forest management fuels reduction projects in such areas.

CWC Position: Deliberating

Bill Summary: Wildlife Matters Review Committee. The bill creates a state grant program to be administered by the Colorado state forest service (forest service) to fund proactive forest management fuels reduction projects to reduce the impacts to life, property, and critical infrastructure caused by wildfires. To be eligible for a grant award, a grant recipient must be any one of a group of individual landowners as specified in the bill whose real property that is the subject of a grant application is located within a land area that is covered by a community wildfire protection plan. The bill specifies requirements pertaining to the evaluation of grant proposals. The forest service is to select the proposals that will receive funding, administer the grant program, and develop procedures by which applicants are to apply for grants. The bill imposes a monetary limit on the amount of a grant to be awarded and also requires a grant applicant to demonstrate an available amount of matching funds to be awarded a grant. The bill creates the forest management fuels reduction projects grant program cash fund in the state treasury. The bill requires the forest service to report annually to the general assembly on the number, location, and benefits of all projects for which a grant award is made.

HOUSE BILL 19-1015 Recreation of The Colorado Water Institute: Concerning the recreation of the Colorado Water Institute.

CWC Position: Support

Bill Summary: In the Colorado Revised Statutes, the bill will recreate and reenact, with amendments, part 8 of article 31 of title 23, Sections 801, 802, and 803.

HOUSE BILL 19-1026 Parks and Wildlife Violations of Law: Concerning fines assessed for violations of laws administered by the Division of Parks and Wildlife.

CWC Position: Conditionally Support

Bill Summary: With regard to fines imposed for violations of laws enforced by the division of parks and wildlife in the department of natural resources (division), the bill changes the amount of certain fines and modifies the disposition of money collected from fines.

Section 1 of the bill adds a nonstatutory short title.

Section 2 makes legislative findings.

HOUSE BILL 19-1029 Republican River Water Conservation District: Concerning the Republican River Water Conservation District, and, in connection therewith, expanding the boundaries of the district and adjusting the meeting schedule of the district's board of directors.

CWC Position: Support

Bill Summary: Water Resource Review Committee. The boundaries of the Republican river water conservation district are currently established by statute as certain counties and portions of counties that are within the Republican river basin. The bill expands the boundaries by including the district areas where groundwater pumping depletes the flow of the Republican river as contemplated by applicable United States supreme court case law. The composition of the district's board of directors is adjusted accordingly.

Current law requires the Republican river water conservation district board of directors to conduct regular quarterly meetings in January, April, July, and October. The bill changes these months to February, May, August, and November.

HOUSE BILL 19-1050 Encourage Use of Xeriscape In Common Areas: Concerning the promotion of water-efficient landscaping on property subject to management by local supervisory entities.

CWC Position: Conditionally Support

Bill Summary: Senate Local Government Committee.

Section 1 of the bill augments an existing law that establishes the right of unit owners in common interest communities to use water-efficient landscaping, subject to reasonable aesthetic standards, by specifically extending the same policy to common areas under the control of the community's governing board.

Sections 2 and 3 extend existing water conservation requirements, currently applicable only to certain public entities that supply water at retail and their customers, to property management districts and other special districts that manage areas of parkland and open space.

HOUSE BILL 19-1082 Water Rights Easements: Concerning the rights of a water rights easement holder.

CWC Position: Support

Bill Summary: Senate Agricultural & Natural Resources Committee. The bill clarifies that water rights easement holders may maintain, repair, and improve their easement.

SECTION 1. In Colorado Revised Statutes, **amend**1 37-86-103 as follows:

37-86-103. Extent of right-of-way. Such right-of-way shall extend only to a ditch, dike, cutting, pipeline, or other structure sufficient for the purpose required. Unless expressly inconsistent with the terms upon which the right-of-way was created, a ditch right-of-way includes the right to construct, operate, clean, maintain, repair, and replace the ditch, to improve the efficiency of the ditch, including by lining or piping the ditch, and to enter onto the burdened property for such purposes, with access to the ditch banks, as the exigencies then existing may require, for all reasonable and necessary purposes related to the ditch.

SECTION 2. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 2, 2019, if adjournment sine die is on May 3, 2019); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2020 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

SENATE BILL 19-096 Colorado Right to Rest: Concerning the creation of the "Colorado Right to Rest act".

CWC Position: Monitor

Bill Summary: The bill creates the "Colorado Right to Rest Act", which establishes basic rights for people experiencing homelessness, including but not limited to the right to rest in public spaces, to shelter themselves from the elements, to eat or accept food in any public space where food is not prohibited, to occupy a legally parked vehicle, and to have a reasonable expectation of privacy of their property.

HOUSE BILL 19-1108 Nonresidential Electors and Special Districts: Concerning measures to expand the ability of nonresident electors to participate in the governance of special districts, and, in connection therewith, allowing nonresident electors who own taxable property within the special district to vote in special district elections and allowing such electors to serve on special district boards in a nonvoting capacity.

CWC Position: Oppose

Bill Summary: This bill expands the definition of eligible elector and allows individuals who do not reside in Colorado to vote in a special district election if they own property within the district. It increases state and local government workload on an ongoing basis.

HOUSE BILL 19-1113 Protect Water Quality Adverse Mining Impacts: Concerning the protection of water quality from adverse impacts caused by mineral mining.

CWC Position: Support

Bill Summary: Current law does not address reliance on perpetual water treatment as the means to minimize impacts to water quality in a reclamation plan for a mining operation. **Section 1** of the bill requires most reclamation plans to demonstrate, by substantial evidence, an end date for any water quality treatment necessary to ensure compliance with applicable water quality standards.

Current law allows a mining permittee to submit an audited financial statement as proof that the operator has sufficient funds to meet its reclamation liabilities in lieu of a bond or other financial assurance. **Section 2** eliminates this self-bonding option and also requires that all reclamation bonds include financial assurances in an amount sufficient to protect water quality, including costs for any necessary treatment and monitoring costs.

HOUSE BILL 19-1200 Reclaimed Domestic Wastewater Point of Compliance: Concerning the point of compliance related to the treatment process involved in treating reclaimed domestic wastewater for indoor nonpotable uses within a building where the general public can access plumbing fixtures that are used to deliver the reclaimed domestic wastewater.

CWC Position: Support

Bill Summary: The bill authorizes the Water Quality Control Commission (WQCC) within the Colorado Department of Public Health and Environment to adopt rules related to the point of compliance for the disinfection of reclaimed wastewater that is used for indoor nonpotable uses. The point of compliance must be determined to protect public health and established at a single location on the occupied premises where the water is delivered and before the water is distributed.

HOUSE BILL 19-1213 Urban Drainage Flood Control District Director Compensation: Concerning the compensation payable to a member of a board of directors of an urban drainage and flood control district.

CWC Position: Monitor

Bill Summary: Under current law, members of the board of directors (board members) of the Urban Drainage and Flood Control District (UDFCD) receive compensation that cannot exceed \$1,200 per year, or \$75 per meeting attended. This bill increases these amounts to not exceed \$2,400 per year, and \$100 per meeting, which is the same amounts provided under current law for other special district board members.

HOUSE BILL 19-1218 Loaned Water for Instream Flows to Improve Environment: Concerning the Colorado Water Conservation Board's authority to use water that a water right owner voluntarily loans to the board for instream flow purposes.

CWC Position: Deliberating

Bill Summary: Under current law, the Colorado water conservation board (board), subject to procedural requirements established to prevent injury to water rights or decreed conditional water rights, may use loaned water for instream flows if the loaned water is used for preserving the natural environment of a stream reach that is subject to a decreed instream flow water right held by the board. The bill expands the number of years within a 10-year period that a loan may be exercised from 3 years to 5 years and allows a loan to be renewed for up to 2 additional 10-year periods. The bill also expands the board's ability to use loaned water for instream flows to allow loans to:

1. Improve the natural environment to a reasonable degree pursuant to a decreed instream flow water right held by the board; or
2. Preserve or improve the natural environment to a reasonable degree for a stream reach for which the board does not hold a decreed instream flow water right.

In considering whether to accept one of the new types of loans authorized by the bill, the board must evaluate the proposed loan based on a biological analysis performed by the division of parks and wildlife. The board is required to promulgate rules regarding the necessary steps for reviewing and accepting such a loan.

SENATE BILL 19-016 Severance Tax Operational Fund Distribution Methodology: Concerning the methodology to distribute money in the severance tax operational fund after core departmental programs are funded without changing the transfers to the Natural Resources and Energy Grant Programs.

CWC Position: Support

Bill Summary: Water Resources Review Committee. Money in the severance tax operational fund (operational fund) is primarily used for 2 purposes.

The general assembly annually appropriates money from the operational fund for several core departmental programs, which were previously described as "tier-one programs". If money remains after these appropriations and after a reserve requirement for the core departmental programs is satisfied, then the state treasurer transfers money to an array of funds that support natural resources and energy grant programs, which were previously described as "tier-two programs".

There is also a requirement that the reserve include an amount equal to 15% of the maximum transfers to natural resources and energy grant programs required by law, and this reserve is used for the transfers, if necessary.

The bill changes the distribution of the money in the operational fund as follows:

- ! Separates the reserve into the core reserve and the grant program reserve, while maintaining the overall purpose of each reserve;

- ! Increases the maximum grant program reserve to 100% of the maximum transfers to the natural resources and energy grant programs required by law, which currently is equal to \$36,378,072;

- ! Requires the state treasurer to make the transfers to the natural resources and energy grant programs on August 15 after a fiscal year and to base the transfers on actual revenue as opposed to estimated revenue. Money from the grant program reserve may be used for these transfers; and

- ! If all of the appropriations and transfers have been made and both reserves are full, then the state treasurer is required to transfer any money remaining in the operational fund to the severance tax perpetual base fund.

SENATE BILL 19-037 Wildfire Mitigation: Concerning measures to mitigate wildfires, and, in connection therewith, permitting county personnel to enter land owned by the federal or state government to remove wildfire fuel sources and appropriating money for the use of the Forest Restoration and Wildfire Risk Mitigation Grant Program.

CWC Position: Monitor

Bill Summary: In connection with any land area that is owned by the federal or state government that is located either within the territorial boundaries of a county or outside of but within 5 miles of the territorial boundaries of a county, where a supply of wildfire fuel materials exists on the land that is sufficiently concentrated posing a substantial threat of causing or aggravating a wildfire in such area, or where the federal or state government has failed to create a defensible space on such land to reduce the potential for damage from a wildfire, **section 1** of the bill permits the board of county commissioners of any county to use persons employed by the county or to contract with for-profit or not-for-profit organizations or entities to supply persons able to enter the federal or state land for the sole purpose of removing such fuel materials or creating such defensible space.

Under the bill, a person employed by or contracting with the county is not liable for any damages caused by any conduct he or she undertakes in accordance with this authority unless the person's conduct was due to willful misconduct, gross negligence, or bad faith.

Section 2 appropriates \$10 million for the 2019-20 state fiscal year, from the general fund to the department of higher education for allocation to the Colorado state university system to be used for the forest restoration and wildfire mitigation grant program.

SENATE BILL 19-181 Protect Public Welfare Oil and Gas Operations: Concerning additional public welfare protections regarding the conduct of oil and gas operations.

CWC Position: Deliberating

Bill Summary: The bill expands the regulatory charge of the Department of Natural Resources related to oil and gas production, and allows local governments to also regulate oil and gas operations within their jurisdictions. The bill increases state government revenue and expenditures and may also impact local government revenue and expenditures on an ongoing basis.

SENATE BILL 19-184 Authority Colorado Water Institute Study Blockchain Technology: Concerning a grant of authority to the Colorado Water Institute to study potential uses of blockchain technology

CWC Position: Deliberating

Bill Summary: The bill directs the Colorado water institute at Colorado state university to:

1. Study the potential uses of blockchain technology to manage a database of water rights, to facilitate the establishment or operation of water markets or water banks, and for any other useful purpose in the administration of the institute's powers and duties; and
2. Report the results to the general assembly.

SENATE BILL 19-186 Expand Agricultural Chemical Management Program Protect Surface Water: Concerning the expansion of agricultural chemical management plans to protect surface water.

CWC Position: Deliberating

Bill Summary: Under current law, the commissioner of agriculture is responsible for the management of the use of agricultural chemicals to protect groundwater, and the commissioner adopts rules establishing agricultural management plans for this purpose. The bill expands the scope of the commissioner's agricultural management plans to include the protection of state waters, which includes surface and subsurface waters.

HOUSE JOINT RESOLUTION 19-1005 Water Projects Eligibility Lists

CWC Position: Support

Bill Summary: No summary, the main contents of the joint resolution are listed below.

WHEREAS, Pursuant to section 37-95-107.8, Colorado Revised Statutes, the Drinking Water Revolving Fund (DWRF) has been created in the Colorado Water Resources and Power Development Authority (Authority) to provide financial assistance for certain drinking water supply projects; and

WHEREAS, Pursuant to sections 37-95-103 (4.8) and 37-95-107.8 (4)(c), Colorado Revised Statutes, in order to qualify for financial assistance from the DWRF, proposed projects must be included on the Drinking Water Project Eligibility List; and

WHEREAS, Pursuant to section 37-95-107.8 (4)(b), Colorado Revised Statutes, the Water Quality Control Commission (Commission) has developed additions, modifications, or deletions to the Drinking Water Project Eligibility List; and

WHEREAS, Pursuant to section 37-95-107.6, Colorado Revised Statutes, the Water Pollution Control Revolving Fund (WPCRF) has been created in the Authority to provide financial assistance for certain wastewater treatment system projects; and

WHEREAS, Pursuant to sections 37-95-103 (13.5) and 37-95-107.6 (4)(c), Colorado Revised Statutes, in order to qualify for assistance from the WPCRF, proposed projects must be included on the Water Pollution Control Project Eligibility List; and

WHEREAS, Pursuant to section 37-95-107.6 (4)(b), Colorado Revised Statutes, the Commission has developed additions, modifications, or deletions to the Water Pollution Control Project Eligibility List; and

WHEREAS, The provision of financial assistance from the DWRF and the WPCRF to the proposed projects will preserve, protect, conserve, and develop the water resources of the state; promote the beneficial use of the waters of the state and the protection and preservation of the public health, safety, and welfare; create and preserve jobs and employment opportunities; and improve the economic welfare of the people of the state; and

WHEREAS, The General Assembly deems the additions and modifications to the Drinking Water Project Eligibility List and the Water Pollution Control Project Eligibility List adopted by the Commission to be in the interest and to the advantage of the people of the state; now, therefore,

Be It Resolved by the House of Representatives of the Seventy-Second General Assembly of the State of Colorado, the Senate concurring herein:

The rest of the House Joint Resolution lists out the additions, modifications, and deletions to 1) the Drinking Water Project Eligibility List, and 2) the Water Pollution Control Project Eligibility List.

SENATE JOINT MEMORIAL 19-001 Memorial for Arkansas Valley Conduit: No brief description provided.

CWC Position: Support

Bill Summary: The memorial is for memorializing the United States Congress to fulfill the commitment of the federal government to provide funding for the Arkansas Valley Conduit Project.

SENATE JOINT MEMORIAL 19-002 Corps of Engineers to Dredge Lower Arkansas River: No brief description provided.

CWC Position: Support

Bill Summary: The memorial is for memorializing the United States Congress to enact legislation directing the United States Army Corps of Engineers, in conjunction and cooperation with the Lower Arkansas Valley Water Conservancy District, to dredge a portion of the Arkansas River.

Attachment B

Colorado Water Congress 2019 Bill Status Sheet																
Bill No.	Short Title	CWC Position	First House				Second House				Governor					
			Introduced	1st Committee	2nd Committee	2nd Reading	3rd Reading	Introduced	1st Committee	2nd Committee		2nd Reading	3rd Reading	First House Repass	Conference Committee	
HB19-1006	Wildfire Mitigation Wildland-urban Interface Areas	18-Mar	RA 1/4	3/14 RA												
HB19-1015	Recreation of the Colorado Water Institute	14-Jan	RA 1/4	1/14 RA	17-Jan	18-Jan	23-Jan	23-Jan	23-Jan	23-Jan	31-Jan Ag	4-Feb	5-Feb	11-Feb	20-Feb	
HB19-1026	Parks and Wildlife Violations of Law	14-Jan	RA 1/4	1/17 RA @ 1:30pm	28-Jan F	8-Mar	11-Mar									
HB19-1029	Republican River Water Conservation District	14-Jan	RA 1/4	1/14 RA @ 1:30pm	17-Jan	18-Jan	23-Jan	23-Jan	23-Jan	23-Jan	7-Feb Ag	11-Feb	12-Feb			
HB19-1050	Encourage Use of Xeriscape in Common Areas	22-Jan	EE 1/4	1/17 EE		25-Jan	28-Jan	28-Jan	28-Jan	1-Feb LG	12-Feb LG	15-Feb	19-Feb	26-Feb	27-Feb	
HB19-1082	Water Rights Easements	28-Jan	RA 1/11	1/28 RA		30-Jan	31-Jan	31-Jan	31-Jan	5-Feb Ag	14-Feb Ag	20-Feb	21-Feb	4-Mar		
HB19-1096	Colorado Right to Rest	22-Jan	TE 1/14	2/26 TE, LG												
HB19-1108	Nonresident Electors and Special Districts	25-Feb	SVMA 1/14	1/31 SVMA		15-Feb	19-Feb	19-Feb	19-Feb	20-Feb	6-Mar SVMA					
HB19-1113	Protect Water Quality Adverse Mining Impacts	4-Feb	RA 1/15	2/4 RA		6-Feb	7-Feb	7-Feb	7-Feb	11-Feb Ag	7-Mar Ag					
HB19-1200	Reclaimed Domestic Wastewater Point of Compliance	4-Mar	RA 2/20	3/4 RA		7-Mar	8-Mar	8-Mar	8-Mar							
HB19-1213	Urban Drainage Flood Control District Director Compensation	11-Mar	EE 2/26	3/14 EE												

Bill No.	Short Title	CWC Position	First House					Second House					Governor			
			Introduced	1st Committee	2nd Committee	2nd Reading	3rd Reading	Introduced	1st Committee	2nd Committee	2nd Reading	3rd Reading		First House Repass	Conference Committee	
HB19-1218	Loaned Water for Instream Flows to Improve Environment		EE 3/4	3/25 EE @ 1:30pm												
SB19-016	Severance Tax Operational Fund Distribution Methodology	14-Jan	Ag 1/4	1/17 Ag @ 1:30pm			22-Jan	23-Jan	23-Jan	23-Jan	23-Jan	23-Jan	23-Jan	23-Jan	23-Jan	23-Jan
SB19-037	Wildfire Mitigation	22-Jan	SVMA 1/4	1/28 SSVMA @ 1:30pm												
SB19-181	Protect Public Welfare Oil and Gas Operations	18-Mar	TE 3/1	3/5 TE	3/8 F											
SB19-184	Authority Colorado Water Institute Study Blockchain Technology	18-Mar	Ag 3/5													
SB19-186	Expand Agricultural Chemical Management Program Protect Surface Water	18-Mar	Ag 3/5	3/21 Ag												
HJR19-1005	Water Projects Eligibility Lists	14-Jan	RA 1/10	1/17 RA			25-Jan	25-Jan	25-Jan	25-Jan	25-Jan	25-Jan	25-Jan	25-Jan	25-Jan	25-Jan
SJM19-001	Memorial for Arkansas Valley Conduit	14-Jan	Ag 1/4	1/17 Ag @ 1:30pm												
SJM19-002	Corps of Engineers to Dredge Lower Arkansas River	14-Jan	Ag 1/4	1/17 Ag @ 1:30pm												

Bill No.	Short Title	CWC Position	First House				Second House					Governor
			Introduced	1st Committee	2nd Committee	2nd Reading	3rd Reading	Introduced	1st Committee	2nd Committee	2nd Reading	

BILL STATUS		<u>ABBREVIATIONS</u>											
Bill scheduled for action at next SA meeting (yellow)		RA = Rural Affairs Committee											
Bill not calendared (no fill)		Ap = Appropriations Committee											
Bill Passed, date of action (green)		BLEW = Business, Labor, Economic and Workforce Development Committee											
Bill no longer active (gray)		CC = Conference Committee											
Bill Postponed Indefinitely, Lost or Laid Over to end of session, date of action (orange)		F = Finance Committee											
Bill did not go to second committee or no action required (black)		HIE= Health, Insurance, and Environment											
		J = Judiciary											
<u>CWC POSITION</u>		LG = Local Government Committee											
Bill scheduled for activity in CWC State Affairs (yellow)		SVMA = State, Veterans, and Military Affairs Committee											
Support (green)		TE = Transportation and Energy Committee											
Oppose (orange)		UA = Upon Adjournment											
Amend (blue)		UR = Upon Recess											
Monitor, Neutral, No Position		Ag = Agriculture and Natural Resources Committee											
		EE = Energy & Environment											

Attachment C



Colorado Water Congress

2019 Federal Priorities

Authorization/Funding for Control of **Aquatic Nuisance** (Invasive) Species

Colorado River **Drought Contingency Planning**
Authorization and Implementation (\$)

Endangered Species Recovery Implementation Programs

Annual Appropriation
Legislative Change to Authorized Annual Spending
San Juan River Basin
Platte River Program Reauthorization (2019)

USDA Conservation Programs (**Farm Bill**)

Land & Water Conservation Fund
Authorization and Funding

Watershed, Forest, and Soil Health

Infrastructure Funding
Short-Term Infrastructure Package
Maintaining Existing Programmatic Funding (ex. State Revolving Loan)
Financing Mechanisms Other than Federal Appropriations

Tax Exemption for Water Conservation Rebates

Water Rights Protection Act

Water Transfer Rule Legislation

Good Samaritan Legislation

Superfund Programmatic Funding for Abandoned Mines (ex. Gold King)

Regulatory Changes due to **Climate Variability**

ESA Reform Efforts, Legislative and Administrative

NEPA and **Permit Streamlining**

Waters of the United States Rule-making

Other Colorado Priorities

NRCS Funding for Manual **Snow Course** Measurement

Bolt's Ditch

Duplicate Pesticide Permitting

USFS and BLM Management Plans



ITEM TITLE:

Water Supply Update

DESCRIPTION:

Raw water supply update.

SUMMARY:

United States Drought Monitor Map of Colorado, as of March 5, 2019 (Attachment A):

- Most of the South Platte Basin appears to still be designated as **Abnormally Dry** (D0).
- The drought conditions in southwestern Colorado are improving with only a small portion of the state designated as being in an **Extreme Drought** (D3).
- Most of the Colorado River Basin in Colorado is designated as being in a **Moderate Drought** (D1).

NRCS Colorado SNOTEL Snow Water Equivalent (SWE) Map, as of March 11, 2019 (Attachment B):

- Indicates the South Platte Basin is at **127% of Median SWE** (1981-2010)
- Overall Statewide, we are currently at **132% of Median SWE**

Locations of Bear Lake & Lake Irene SNOTEL Sites:

- Bear Lake SNOTEL site is in the upper Big Thompson River Basin
- Lake Irene SNOTEL site is in the upper Colorado River Basin near the Continental Divide and is indicative of conditions in the upper Big Thompson basin.

Bear Lake NRCS SNOTEL Site (Attachment C):

- First Graph shows the SWE from October 2019 through March 11, 2019 (red) compared to 2002, 2015, 2016, 2017, and the 30-year Median (1981-2010).
- Second Graph shows the entire snow accumulation and melt-off period from October through mid-June.
- Currently, the SWE accumulation is trending above the 30-year median and below the 2017 SWE.





Next Two Tables - NRCS SNOTEL as of February 11, 2019 (Attachment D)

- Bear Lake SWE at 17.6 inches, or 128% of Median
- Lake Irene SWE at 22.4 inches, or 105% of Median

RECOMMENDATION:

Information item only. No action required.

ATTACHMENTS:

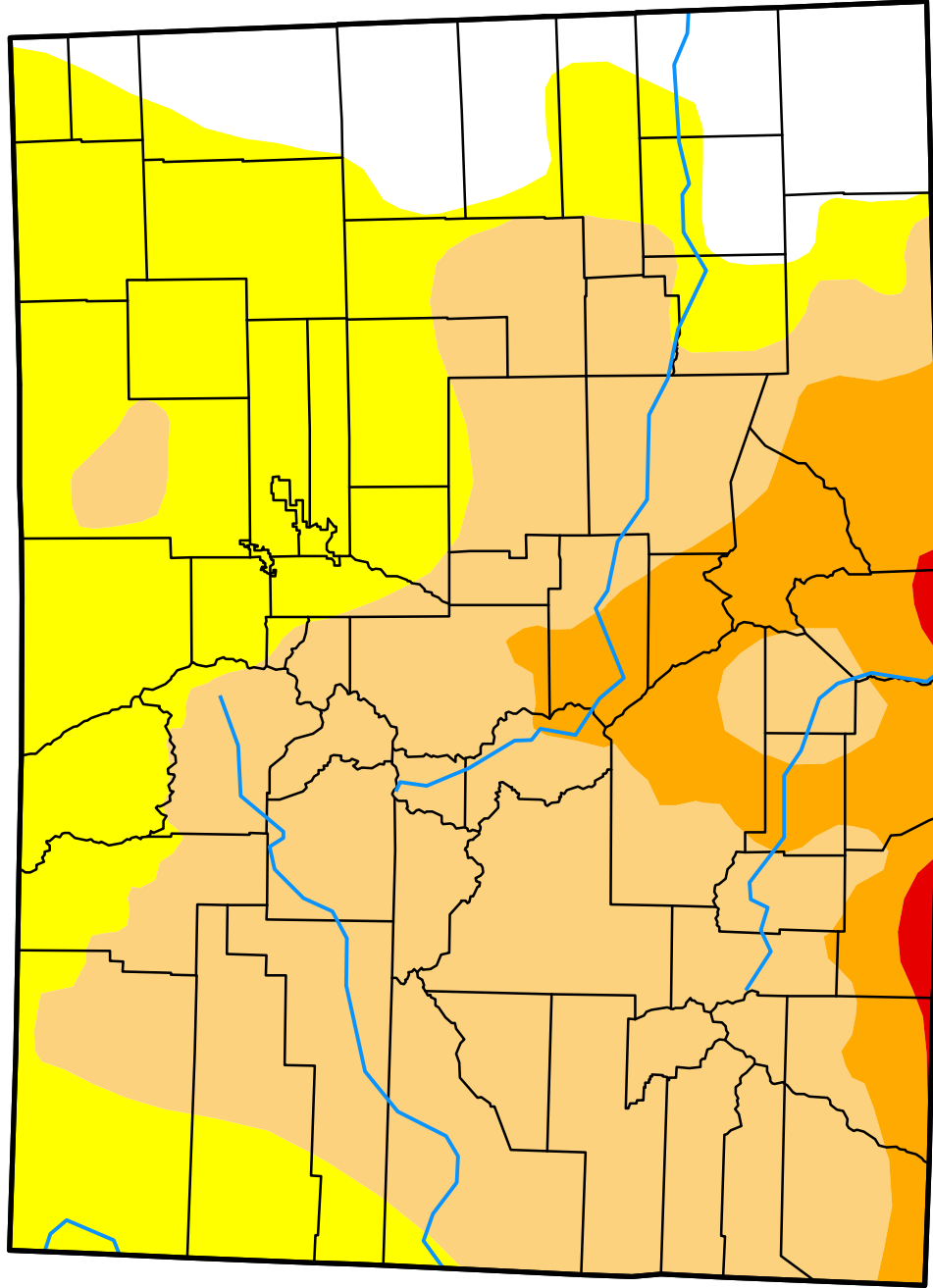
-  Attachment A – U.S. Drought Monitor Map of Colorado
-  Attachment B – Colorado SNOTEL SWE Update Map
-  Attachment C – Snow-Water Equivalent at Bear Lake
-  Attachment D – Colorado SNOTEL Update Table

U.S. Drought Monitor Colorado

March 5, 2019

(Released Thursday, Mar. 7, 2019)

Valid 7 a.m. EST



Intensity:



D0 Abnormally Dry



D1 Moderate Drought



D2 Severe Drought



D3 Extreme Drought



D4 Exceptional Drought

The Drought Monitor focuses on broad-scale conditions. Local conditions may vary. See accompanying text summary for forecast statements.

Author:

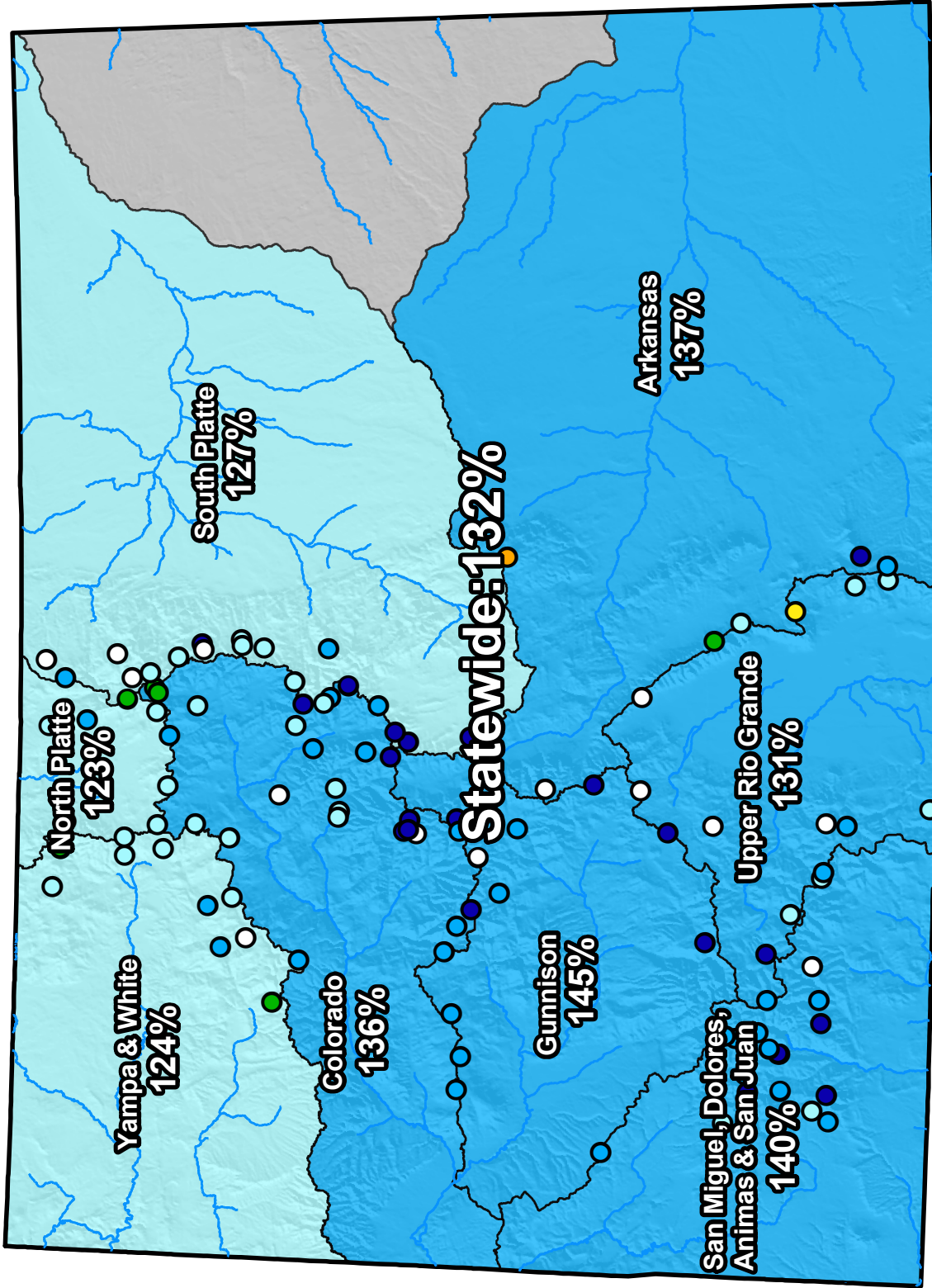
Eric Luebehusen

U.S. Department of Agriculture



Colorado SNOTEL Snow Water Equivalent (SWE) Update Map with Site Data

Current as of Mar 11, 2019



SWE	
Percent of Median	
○	Missing or Invalid
●	< 50
●	50 - 69
●	70 - 89
●	90 - 109
●	110 - 129
●	130 - 149
●	>= 150
○	SNOTEL

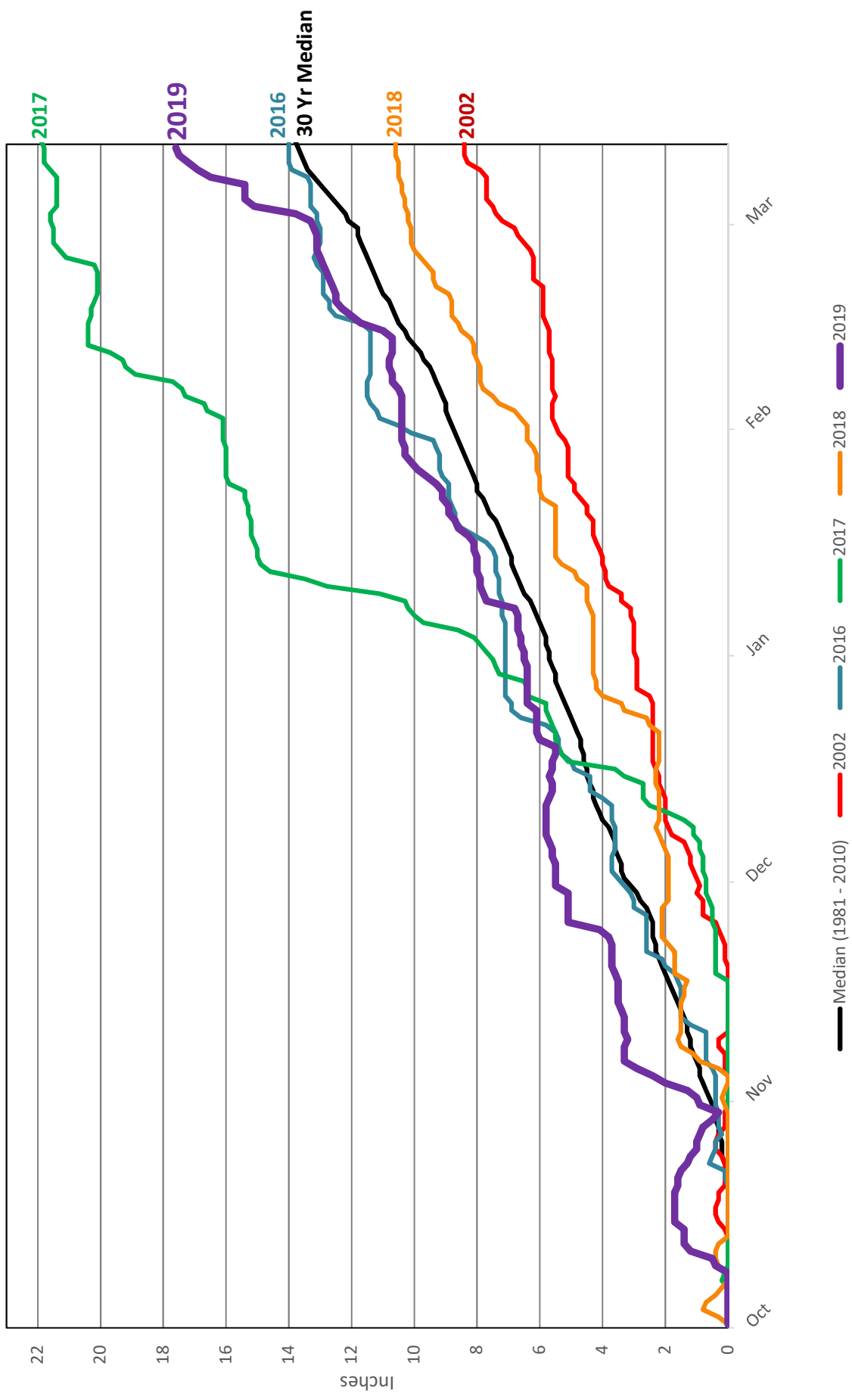


United States Department of Agriculture

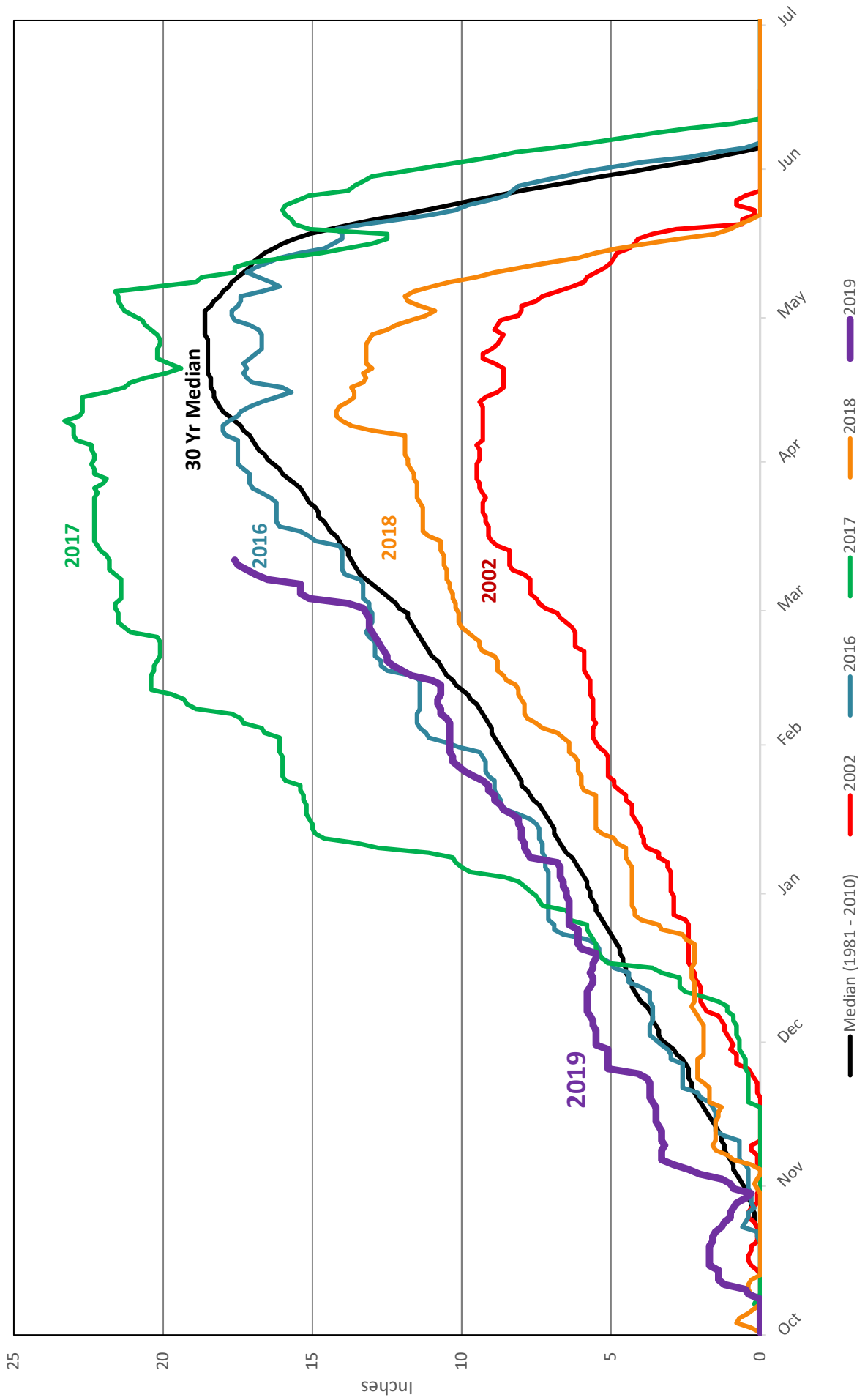
Natural Resources Conservation Service

Attachment C

Snow - Water Equivalent at Bear Lake as of March 11, 2019



Snow - Water Equivalent at Bear Lake, Graph through Late Spring



Attachment D

Colorado SNOTEL Snowpack Update Report

Based on Mountain Data from NRCS SNOTEL Sites

Data based on first reading of the day for: **March 11, 2019**

Station Name	River Basin	Elevation (ft)	Snow Water Equivalent (SWE)				Percent of	
			Current (in)	Today's Median (in)	Median Peak (in)	Median Peak Date	Today's Median (%)	Median Peak (%)
Bear Lake	South Platte	9,500	17.6	13.7	18.6	Apr-30	128	95
Lake Irene	Upper Colorado	10,700	22.4	21.3	24.9	Apr-07	105	90

ITEM TITLE:

Acceptance of One Share of Louden Ditch into the Water Bank

DESCRIPTION:

This item is an application to deposit one (1) share of Louden Irrigating Canal and Reservoir Company into the City's Water Bank.

SUMMARY:

The City of Loveland has received an application to deposit one (1) share of Louden Irrigating Canal and Reservoir Company (Louden Ditch) originating from Stock No. 3902 into the City's Water Bank. The water has historically been used within the Louden Ditch system. Previous shares of Louden Ditch have been acquired by the City and changed in Water Court for Loveland's municipal use.

The Municipal Code in Section 19.04.080 requires that the Loveland Utilities Commission consider and accept water rights upon satisfaction of each of the following requirements. *(The italics following each requirement summarizes how the requirement from Section 19.04.080 have been met):*


- 1. Evidence of the Applicant's ownership of the ditch water rights in a form satisfactory to the City Attorney.** *This will be provided in the form of a special warranty deed to the City of Loveland as well as an issuance of the stock certificate in the name of the City of Loveland. The Applicant has supplied a copy of the current stock certificate that is in good standing and in the Applicant's name.*
- 2. A Water Bank Agreement executed by the Applicant and, if applicable, other documentation, such as a Statement of Historical Use and Dry-up Covenant, in a form approved by the City Attorney.** *A Water Bank Agreement will be created and executed if the one (1) share of Louden Ditch meets the approval of the LUC. The Applicant submitted a notarized Statement of Historical Use (HCU), which City Water Resource Staff, Assistant City Attorney, and outside engineering firm have reviewed and approved. The Applicant also submitted a notarized Dry-up Covenant (DUC). Both the HCU and the DUC have been recorded with Larimer County and the City. Maps and other documents were also provided in addition to the previously mentioned items.*
- 3. A finding by the Loveland Utilities Commission that it is in the City's best interest to accept the ditch water rights.** *If the Loveland Utilities Commission finds this water bank deposit acceptable, this condition will be met. Staff concludes that approval of this deposit is in the best interest of the City because it is a beneficial addition; it continues to diversify our water portfolio with native ditch and transbasin water rights.*

The Water Resource Staff and Legal Counsel have reviewed the submitted documents and recommend accepting this water into the City's Water Bank.

RECOMMENDATION:

Adopt a motion finding that the requirements of City Municipal Code Section 19.04.080 have been met and that acceptance into the City of Loveland Water Bank of the one (1) share, originating from Stock Certificate No. 3902, of Louden Irrigating Canal and Reservoir Company is in the best interests of the City of Loveland and is hereby approved.

ATTACHMENTS:

-  Attachment A: Map – Louden Irrigated Area and Dry-up

Attachment A



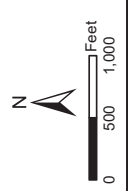
Legend

- Dry Up
- Waterways
- Louden Ditch

Dry-Up Area

LUC Item 5
Louden Ditch Share
 Created By: gis/view
 Date Created: 3/13/2019

City of Loveland
 Department of Water & Power
 Loveland, Colorado



This document was prepared for internal use by the City of Loveland, CO. The city makes no claim as to the accuracy or completeness of the data contained herein. If you have any concerns, the city requests that you do not post this document on the internet or otherwise make it available to persons unknown to you.

per: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

Text



ITEM TITLE:

Proposed Long-Term Augmentation Lease with Crystal Mountain Ranch

DESCRIPTION:

The owners of Crystal Mountain Ranch have approached the City of Loveland with a request for the City to provide a long-term augmentation supply to cover the evaporative depletions from two ponds and the consumptive use from irrigated pasture grass.

SUMMARY:

This augmentation lease would involve covering the out-of-priority depletions associated with the operations at Crystal Mountain Ranch, which is located off Fish Creek in the Buckhorn Creek Basin, a tributary to the Big Thompson River. The confluence of Buckhorn Creek and the Big Thompson River is approximately 2.5 river miles downstream of Loveland’s water treatment plant diversion off the Big Thompson River at the Big Dam.

Crystal Mountain Ranch is owned by Mr. and Mrs. Alan Villavicencio and is located in the mountains of Larimer County, approximately fifteen (15) miles northwest of Loveland. The ranch has one existing 2.5 surface acre pond and they are proposing to construct another smaller pond. The augmentation supply would be used to offset the depletions from both ponds, plus approximately five (5) acres of irrigated grass pasture.

The proposed agreement would require the City to annually provide twenty (20) acre-feet of reusable water from the Loveland Water Treatment Plant, either through decant pond releases or through direct releases into the river from Green Ridge Glade Reservoir. Crystal Mountain Ranch is located outside of Northern Water’s Subdistrict and the owners are not eligible to directly purchase C-BT units to offer to the City. The compensation being offered to the City for the augmentation agreement is a combination of money and raw water as follows:

- Two (2) unchanged shares of Loudon Irrigating Canal & Reservoir company, commonly referred to as Loudon Ditch Company (LDC)
- Currently, two shares of LDC render 24.34 acre-feet (af) of credit in City’s water bank.
- Native Raw Water Storage fee for two shares of LDC = \$166,729
- Five (5) cash equivalent units of C-BT, at a projected unit cost of \$40,000/unit, \$200,000
- City currently gives one (1) acre-feet of credit per dedicated unit of C-BT.
- Firm yield of C-BT = ~0.7 af/unit
- Total monetary compensation = **\$366,729**
- Total annual raw water compensation being offered = ~24.34 af
- Total annual raw water compensation possible = **~27.8 af**
- Based on average annual yield of two (2) shares of LDC after being changed in water court
- Based on firm yield associated with purchasing five units of C-BT
- If purchasing five (5) units of C-BT and including two (2) shares of LDC, the ratio of raw water supplied to augmentation water requested is **1.4:1**.

The City has entered into permanent augmentation agreements with four entities, including Sylvan Dale Ranch (6 AF/yr, 2017), Emissaries of Divine Light (3 AF/yr, 2006), Loveland Ready-Mix (200 AF/yr, 1998), and Coulson Excavating Company (100 AF/yr, 1998). However, those entities include local gravel mine operators within the City and neighbors to the City's water supply and treatment operations that provided significant assistance to the City during the 2013 flood (Sylvan Dale) and through the City's construction of Green Ridge Glade Reservoir (Emissaries). The proposal from Crystal Mountain Ranch is without precedent for the City.

RECOMMENDATION:

City staff does not recommend approving an augmentation agreement with Crystal Mountain Ranch for the following reasons:



Crystal Mountain Ranch has no nexus to the City.

The two most recent augmentation agreements (Sylvan Dale and Emissaries) provided the City with two (2) C-BT units for each acre-foot of augmentation supply (a 2:1 ratio). Crystal Mountain Ranch's proposal is less than 2:1.

No precedent for serving raw water to a property so distant from the City and its water utility customers.

City staff recommends a motion to reject the proposal from Crystal Mountain Ranch for a permanent augmentation supply from the City of Loveland.

Attachments:

-  Attachment A: Conceptual Proposal for Augmentation Supply
-  Attachment B: Crystal Mountain Ranch PowerPoint Presentation

Attachment A

DEERE & AULT
CONSULTANTS, INC.

November 28, 2018

Mr. Larry Howard, P.E.
Loveland Water & Power
200 North Wilson Avenue
Loveland, Colorado 80537

Re: Conceptual Proposal for Augmentation Supply

Dear Mr. Howard:

On behalf of our client, Mr. Alan T. Villavicencio, Deere & Ault Consultants, Inc. (D&A) formally requests Loveland Water and Power's (LWP) consideration of a proposal that would involve LWP's release of fully consumable water from the Green Ridge Glade Reservoir to the Big Thompson River for the purpose of augmenting out-of-priority depletions associated with my client's mountain property located in the Buckhorn Creek basin. In return for the augmentation releases, my client proposes to compensate LWP using a combination of a water rights dedication, payment of the associated Native Raw Water Storage Fee (NRWSF), and an additional cash-in-lieu fee. With this letter, we intend to provide you with enough information to present the proposal to the Utilities Commission for the purpose of gauging its interest in entering into such an agreement. If interest exists, we can begin discussing the specifics of the agreement and any revisions the Commission may desire to the terms. If after reviewing this letter you have any questions regarding the proposal, feel free to contact me.

BACKGROUND

Mr. Villavicencio is the owner of mountain property (commonly known as the Crystal Mountain Ranch) located in Larimer County, Colorado. The Crystal Mountain Ranch property is an active cattle ranch that resides within the Buckhorn Creek basin, a tributary of the Big Thompson River. The ranch has an existing on-channel pond located on the North Fork Fish Creek, a tributary of Buckhorn Creek. The existing pond has a maximum water surface area of approximately 2.5 acres and a maximum storage capacity of approximately 5.2 acre-feet. Our water rights research indicates that the existing pond has a decreed junior water storage right for 6 acre-feet. In addition to the existing pond, Mr. Villavicencio has begun the initial engineering investigations to add a second pond to the property. The preliminary engineering suggests the proposed pond could be approximately 1.5 to 2 acres in size depending on final dam configuration.

Mr. Villavicencio desires to maintain a constant storage level in the ponds as much as practicably possible including during times the junior storage right is out-of-priority. In addition to depletions associated with the ponds, Mr. Villavicencio desires to irrigate approximately 5 acres of pasture grass adjacent to the ponds. Based on the size of the ponds and an estimate of the

irrigation requirements, D&A estimates the maximum annual out-of-priority depletion associated with the uses on the ranch is 20 acre-feet. Therefore, Mr. Villavicencio desires to secure an adequate volume of augmentation water capable of replacing the out-of-priority depletions associated with the ponds and irrigation. LPW's Green Ridge Glade Reservoir is an ideal location for the augmentation releases as it is located above the senior call on the Big Thompson River downstream of the Buckhorn Creek confluence.

In 2015, Mr. Villavicencio purchased two shares of the Loudon Irrigating Canal and Reservoir Company (hereinafter "Louden Ditch") represented by Stock Certificate Nos. 3860 and 3863 ("Louden Shares"). The shares were historically used to irrigate the Mehaffey and Osborn properties, respectively. To date, the Loudon Shares have not undergone a change of use proceeding and remain decreed for irrigation use.

CONCEPTUAL PROPOSAL

Based on our previous conversations, I understand LPW has nearly completed the construction of infrastructure necessary to make small-scale releases from Green Ridge Glade Reservoir to Big Thompson River. I understand LPW will make use of this infrastructure, in part, for the purposes of replacing depletions associated with the Sylvan Dale Guest Ranch property located nearby Green Ridge Glade Reservoir. My client proposes to fairly compensate LPW for the release of 20 acre-feet per year of fully consumable water using this same infrastructure.

The proposed compensation would include the ownership transfer of the previously mentioned Loudon Shares along with paying LPW's NRWSF associated with the two Loudon Ditch shares. Pursuant to Loveland Municipal Code ("Code") 19.04.018, D&A understands that with payment of the NRWSF, LPW currently values shares of the Loudon Ditch at 12.17 acre-feet/year. With the transfer of 2 Loudon Ditch shares and payment of the NRWSF, the annual credit associated with the Loudon Shares would be 24.34 acre-feet. Per Code 19.04.045, the NRWSF is currently \$6,850 per acre-foot, or \$166,729 in total (24.34 acre-feet x \$6,850 per acre-foot). With the ownership transfer and payment of the NRWSF, the Loudon Shares would provide LPW 24.34 acre-feet annually for a 20 acre-foot per year augmentation requirement. In addition to the Loudon Shares transfer and NRWSF payment, my client is proposing to include as compensation a cash-in-lieu payment equivalent to the market price of five (5) Colorado-Big Thompson Project units ("C-BT Units"). As of October 2018, 63 C-BT units sold at \$36,111.97 per unit (highest unit cost on record). My client proposes to make a cash-in-lieu payment of \$200,000. This amount is the market equivalent of 5 C-BT units at an anticipated market value of \$40,000 per unit. Per Code 19.04.018C, LPW values a C-BT unit at one acre-foot. Therefore, the total "water bank" value of my client's proposal is approximately 29.34 acre-feet per year, or 9.34 acre-feet in excess of the maximum annual augmentation requirement of my client.

In summary, Mr. Villavicencio proposes to compensate LPW for the annual release of 20 acre-feet of fully consumable water from Green Ridge Glade through the transfer of two Loudon Ditch shares, the payment of a NRWSF of \$166,729, and an additional cash-in-lieu amount of \$200,000 (5 C-BT units at \$40,000/unit). Therefore, the total proposed compensation package

Mr. Larry Howard, P.E.
November 28, 2018
Page 3

would consist of two Louden shares and a cash payment of \$366,729. As previously mentioned, the purpose of this letter is to provide you with the conceptual makeup of my client's proposal so that you can begin discussions with the Utilities Commission to gauge their interest in such an agreement. If interest exists, we can begin discussing any desired revisions to the proposal, the specific terms of an agreement and details such as the monthly schedule of augmentation releases.

On behalf of Mr. Villavicencio, I appreciate your consideration of this request and look forward to answering any questions LPW may have.

Sincerely,

DEERE & AULT CONSULTANTS, INC.



Branden B. Effland, P.E.
Associate

BBE:be

cc: Alan T. Villavicencio – via email
Stephen C. Larson – Johnson & Repucci, LLP – via email

U:\0560 Villavicencio Pond Aug Plan\Letter\Letter To Loveland\2018 Proposal\City Of Loveland - Request For Conceptual Approval.Ltr.Docx

Crystal Mountain Ranch Proposed Long-Term Lease Agreement

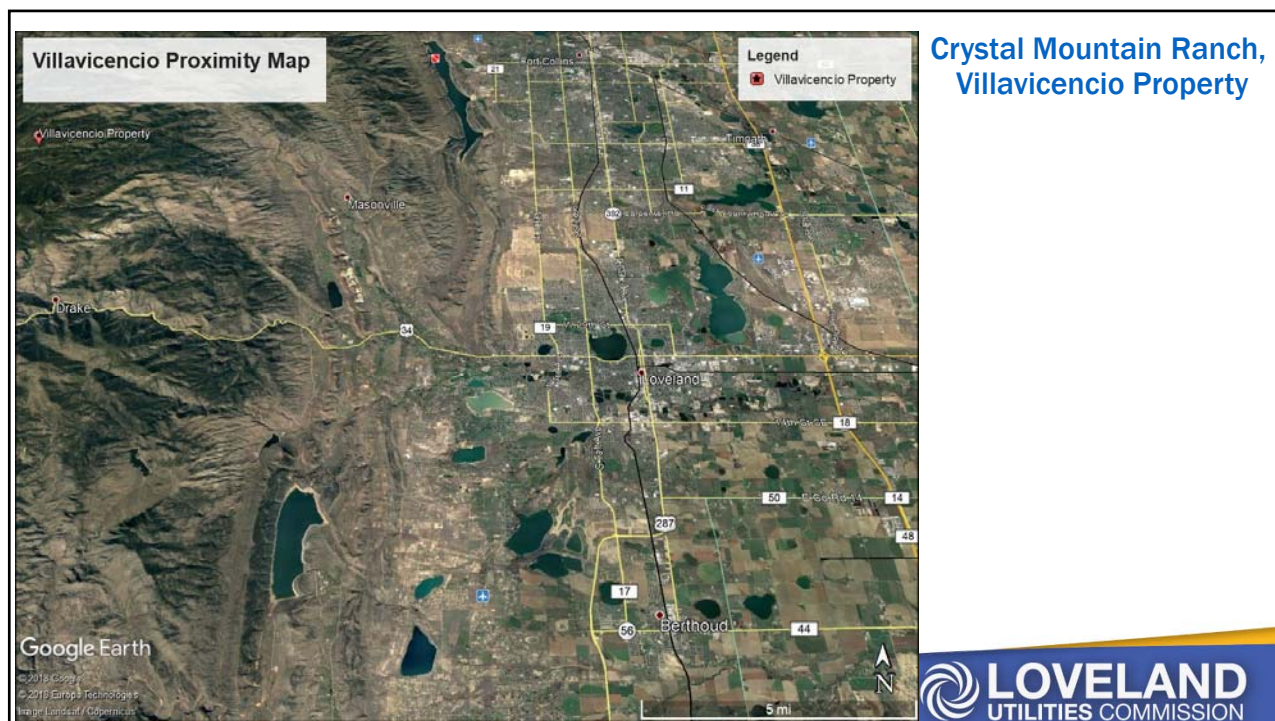


Ryan Van Pelt P.E., Civil Engineer II
March 20, 2019

Proposed Long-Term Augmentation Agreement

Requested Augmentation Supply for Crystal Mountain Ranch

- 20 acre-feet (af) annually, monthly amount varies
- Augmentation supply released from Loveland WTP to Big Thompson River
 - Decant Pond Release
 - Green Ridge Glade low-flow Release Structure
 - Coordinated with River Commissioner and Loveland's accounting



Crystal Mountain Ranch,
Villavicencio Property

Proposed Long-Term Augmentation Agreement

Compensation Package Offered to Loveland

- 2 shares of Loudon Ditch Company (LDC)
 - 2 shares of LDC = 24.34 af of credit in City's Water Bank
 - Native Raw Water Storage fee for 2 LDC shares = \$166,729
- 5 cash equivalents of C-BT
 - Projected unit cost of \$40,000/unit = \$200,000
 - Currently, City gives 1.0 af/unit of credit for C-BT units
 - Firm yield estimated at 0.7 af/unit, or 3.5 af for 5 C-BT units
- Total monetary compensation = \$366,729**
- Total annual raw water compensation = ~ 27.8 af**
 - Includes 2 LDC shares and firm yield associated with purchase of 5 C-BT units
 - Ratio of water supplied to augmentation water requested = ~ **1.4:1**

Proposed Long-Term Augmentation Agreement

Recommendation

- City staff recommends a motion to reject the proposal from Crystal Mountain Ranch for a permanent augmentation supply from the City of Loveland for the following reasons:
 - Crystal Mountain Ranch has no nexus to the City.
 - The two most recent augmentation agreements (Sylvan Dale and Emissaries) provided the City with 2 C-BT units for each acre-foot of augmentation supply (a 2:1 ratio). Crystal Mountain Ranch's proposal is less than 2:1.
 - No precedent for serving raw water to a property so distant from the City and its water utility customers.



QUESTIONS?

ITEM TITLE:

Proposed Modifications to the Platte River Power Authority (PRPA) Organic Contract and Power Supply Agreement

SUMMARY:

The Platte River Power Authority was formed in 1975 by an Organic Contract between the four owner cities of Estes Park, Ft. Collins, Longmont, and Loveland. PRPA staff is proposing changes to the Organic Contract and Power Supply Agreement(s) (PSAs) as described below.

DESCRIPTION:

The purpose of this item is to describe proposed changes to both the Organic Contract (a contract between the four PRPA Owner Cities) that Power Supply Agreement between the City of Loveland and PRPA. The Organic Contract and (PSAs) were last renewed in 2010 and currently extend through 2050.

PRPA staff is proposing to modify (as noted below), renew, and extend the Organic Contract and PSAs to provide flexibility in future bond issuances as well as flexibility in future Power Purchase Agreements (PPAs) for additional local solar resources. The changes will allow flexibility regarding the possibility of an organized market.

The proposed change to the Organic Contract (between the four owner cities) is:

- Extend the term of the contract to 2060
- The proposed changes to the PSA (each PSA is between PRPA and an individual owner city)
- Extend the term of the agreement to 2060
- Expand the exceptions to the “all requirements” obligation to allow third-party solar development
- Change the metering point to the high side of substation transformers

Additionally, PRPA is proposing minor, non-substantive language changes and clean-up of the two documents.

RECOMMENDATION:

Adopt a motion recommending that City Council approve the proposed changes to the Organic Contract and Power Supply Agreement between the City of Loveland and the Platte River Power Authority.

ATTACHMENTS:

- 🌀 Attachment A: Proposed Organic Contract with Redline
- 🌀 Attachment B: Proposed Organic Contract
- 🌀 Attachment C: Proposed Power Supply Agreement between City of Loveland and PRPA with Redline
- 🌀 Attachment D: Proposed Power Supply Agreement
- 🌀 Attachment E: PRPA Organic Contract and Power Supply Agreement PowerPoint Presentation

Attachment A



Platte River
Power Authority

Estes Park • Fort Collins • Longmont • Loveland

ORGANIC CONTRACT

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**AMENDED AND RESTATED ORGANIC CONTRACT ESTABLISHING PLATTE RIVER
POWER AUTHORITY AS A SEPARATE GOVERNMENTAL ENTITY**

THIS CONTRACT, originally made and entered into as of June 17, 1975, and amended February 14, 1977, and July 27, 1978, and amended and restated the 31st day of March 1980, and the 1st day of July, 1998, and ~~as further amended and restated on this~~the 1st day of September, 2010, and as further amended on the ____ day of _____, 2019, by the parties to this Contract which are: TOWN OF ESTES PARK, COLORADO, a municipal corporation of the State of Colorado (“Estes Park”), CITY OF FORT COLLINS, COLORADO, a municipal corporation of the State of Colorado (“Fort Collins”), CITY OF LONGMONT, COLORADO, a municipal corporation of the State of Colorado (“Longmont”), and CITY OF LOVELAND, COLORADO, a municipal corporation of the State of Colorado (“Loveland”). When specificity is not required, the municipal corporations which are parties hereto will hereinafter be individually referred to as “Municipality” and collectively as “Municipalities.”

WITNESSETH:

WHEREAS, Estes Park owns and operates a municipal electric system which supplies electric power and energy at retail to users located within the town limits of Estes Park and the adjacent service area of the Estes Park electric system; and

WHEREAS, Fort Collins owns and operates a municipal electric system which supplies electric power and energy at retail to users located within the city limits of Fort Collins and the adjacent service area of the Fort Collins electric system; and

WHEREAS, Longmont owns and operates a municipal electric system which supplies electric power and energy at retail to users located within the city limits of Longmont and the adjacent service area of the Longmont electric system; and

WHEREAS, Loveland owns and operates a municipal electric system which supplies electric power and energy at retail to users located within the city limits of Loveland and the adjacent service area of the Loveland electric system; and

WHEREAS, the Municipalities on June 17, 1975, established, pursuant to the provisions of C.R.S. § 29-1-204, as then enacted, Platte River Power Authority (the “Authority”), as a separate governmental entity and successor to a nonprofit corporation, to be the instrumentality of the Municipalities and as such successor, to continue to supply their wholesale electric power and energy requirements; and

WHEREAS, during 1998 the Municipalities contracted with one another to establish, pursuant to the provisions of C.R.S. § 29-1-203, the Authority as a separate legal entity and multi-purpose intergovernmental authority to provide designated functions, services, or facilities lawfully authorized to any combination of two or more of the Municipalities provided that such function, service, or facility constitutes an “enterprise” as defined in subsection 2(d) of Article X, Section 20 of the Colorado Constitution; and

WHEREAS, increased complexity and risk in the electric utility industry have created the need to enhance utility image and customer loyalty, the Municipalities wish to clarify that the Organic Contract authorizes the Authority to engage in a broad range of services which are incidental to or supportive of the Municipalities’ continued ability to provide electric power and energy services to their customers on a competitive basis; and

WHEREAS, the Municipalities acting through the Authority wish to ensure a source of electric power and energy that is reliable, cost-effective, and environmentally responsible; and

WHEREAS, providing energy in an environmentally responsible manner requires that the Authority incorporate environmental factors as an integral component of planning, design, construction and operational decisions; and

WHEREAS, the Municipalities now wish to further amend the Organic Contract, to extend its term and to restate the amended provisions thereof in a single updated document.

NOW, THEREFORE, the Municipalities do hereby amend and restate the Organic Contract, originally executed June 17, 1975, and subsequently amended, so that as hereby amended and restated it provides, and the Municipalities do agree, as follows:

1.0 EFFECTIVE DATE

This Contract, as hereby amended and restated, shall become effective when it has been duly executed by all of the Municipalities.

2.0 ESTABLISHMENT OF PLATTE RIVER POWER AUTHORITY

As of June 17, 1975, the Municipalities established a separate governmental entity, to be known as Platte River Power Authority, to be used by the Municipalities to effect the development of electric energy resources and the production and transmission of electric energy in whole or in part for the benefit of the inhabitants of the Municipalities. As of July 1, 1998, the Municipalities also established the Authority as a separate governmental entity and multi-purpose intergovernmental authority to provide additional designated functions, services, or facilities lawfully

authorized to any combination of two or more of the Municipalities, provided that such function, service, or facilities constitutes an “enterprise” as defined in subsection 2(d) of Article X, Section 20 of the Colorado Constitution.

2.1 PURPOSES

The purposes of the Authority are to conduct its business and affairs for the benefit of the Municipalities and their inhabitants:

- (i) to provide the electric power and energy requirements of the Municipalities and the retail customers within the Municipalities in a reliable, cost-effective, and environmentally responsible manner;
- (ii) to engage in business activities related to the provision of electric power and energy services, which may include but are not limited to investment in energy efficiency, renewable energy, demand side management, and associated communication systems, that the Board determines are likely to enhance the competitive position of the Authority or the Municipalities; and
- (iii) to provide any additional designated function, service, or facility lawfully authorized to any combination of two or more of the Municipalities, provided that these constitute an “enterprise” as defined in subsection 2(d) of Article X, Section 20 of the Colorado Constitution.

A particular function, service, or facility shall be treated as designated as a separate purpose under clause (iii) of the previous sentence only upon receipt by each Municipality which is designating the function, service, or facility to also be performed by the Authority of (a) a resolution adopted by unanimous vote of the Board of Directors of the Authority designating the function, service, or facility as a purpose to also be jointly exercised by the designating Municipalities through the Authority and (b) opinions of counsel to each Municipality which is designating the function, service, or facility to also be performed by the Authority setting forth the extent to which the

designated function, service, or facility is lawfully authorized by such designating Municipality; and (c) an opinion of the Authority's bond counsel to the effect that the designated function, service, or facility constitutes an "enterprise" as defined in subsection 2(d) of Article X, Section 20 of the Colorado Constitution.

2.2 FUNCTIONS, SERVICES, OR FACILITIES

The functions, services, or facilities to be provided by the Authority are: The supplying of the electric power and energy requirements of the Municipalities and retail customers within the Municipalities; and, the provision of any additional function, service, or facility, by means of

- (i) acquiring, constructing, owning, reconstructing, improving, rehabilitating, repairing, operating and maintaining electric generating plants, transmission systems and related facilities, or interests therein, for the purpose of producing, transmitting and delivering to the Municipalities, electric power and energy to the extent of their requirements, including renewable energy requirements;
- (ii) purchasing electric power and energy from electric utilities and other producers of energy, as required to supply the Municipalities and perform its other obligations;
- (iii) selling at wholesale to the Municipalities all of the electric power and energy produced or purchased by the Authority which the Municipalities require;
- (iv) selling, exchanging and otherwise disposing of, under the most advantageous terms and conditions obtainable, any surplus power and energy or transmission capacity which the Authority owns, produces or purchases;

- (v) developing electric energy resources (including renewable sources) and producing and transmitting electric energy in whole or in part for the benefit of the inhabitants of the Municipalities;
- (vi) developing cost-effective, reliable, and environmentally responsible products and services to improve the efficiency of generation, transmission and use of electrical energy, which may include but are not limited to investment in energy efficiency, renewable energy, demand side management, and associated communication systems;
- (vii) acquiring, constructing, owning, purchasing, selling, exchanging or otherwise disposing of, reconstructing, improving, rehabilitating, repairing, operating, and maintaining assets, infrastructure, plants, systems, and related facilities or interests therein;
- (viii) developing products, services, infrastructure, and resources related to such function, service, or facility for delivery to appropriate markets in whole or in part for the benefit of the inhabitants of the Municipalities; and
- (ix) on termination of this Contract to vest in the Municipalities all right, title and interest of the Authority in or to all of its property and assets.

2.3 BOARD OF DIRECTORS

The governing body of the Authority shall be a Board of Directors in which all legislative power of the Authority is vested.

2.3.1 NUMBER

The number of Directors shall be eight (8).

2.3.2 SELECTION

Each Municipality shall be represented by two (2) members on the Board of Directors of the Authority, who shall be designated or appointed as follows:

(i) MAYORS

The Mayor of each of the Municipalities is hereby designated and shall serve as a member of the Board of Directors of the Authority contemporaneously with service as Mayor; provided, however, that any Mayor may designate some other member of the governing board of such Municipality to serve as a Director of the Authority in place of the Mayor.

(ii) APPOINTED DIRECTORS

The governing body of each of the Municipalities shall appoint one (1) additional member to the Board of Directors. Appointed Directors shall be selected for judgment, experience, and expertise which make that person particularly qualified to serve ~~as a~~ on the Board of Directors of ~~an electric utility~~ the Authority.

2.3.3 TERM

The term of office of the Directors of the Authority shall be as follows:

(i) MAYORS

The Mayor of each Municipality, or the member of the Municipality's governing board designated by the Mayor, shall serve as a Director of the Authority for the same period of time that the Mayor serves as Mayor of that Municipality.

(ii) APPOINTED DIRECTORS

The term of the Appointed Director for Estes Park shall expire on December 31, 2011, the term of the Appointed

Director for Fort Collins shall expire on December 31, 2008, the term of the Appointed Director for Longmont shall expire on December 31, 2010, and the term of the Appointed Director for Loveland shall expire on December 31, 2009. Each successor shall be appointed for a term of four years from the date of the expiration of the term for which the predecessor was appointed.

2.3.4 REMOVAL

Any Director appointed by the governing board of a Municipality may be removed at any time by such governing board, with or without cause. A Mayor will be automatically removed as a Director upon vacating the office of Mayor, and a member of the Municipality's governing board designated to serve in place of a Mayor may be removed at any time by the Mayor, with or without cause.

2.3.5 VACANCIES

A vacancy occurring in the directorship of an Appointed Director, whether such vacancy be the result of resignation, death, removal or disability, shall be filled by the appointment of a successor Appointed Director by the governing body of the Municipality which appointed the Director whose office has become vacant. In the case of a vacancy in the directorship of a Mayor or his designee from any Municipality, the vacancy shall be filled by the new Mayor or the Mayor's designation of some other member of the governing board of that Municipality.

2.3.6 COMPENSATION

Directors shall not receive compensation for their services, but Directors may be reimbursed their actual expenses for attendance at meetings of the Board of Directors and for expenses otherwise incurred on behalf of the Authority.

2.3.7 ANNUAL MEETINGS

An annual meeting of the Board of Directors shall be held within the first 120 days in each year at such place in Fort Collins, Colorado, as shall be designated in the notice of the meeting, to elect officers, to pass upon reports for the preceding fiscal year, and to transact such other business as may come before the meeting. Failure to hold the annual meeting at a designated time, or failure to hold the annual meeting in any year, shall not cause a forfeiture or dissolution or otherwise affect the Authority.

2.3.8 REGULAR MEETINGS

The Board of Directors may provide for the time and place for the holding of regular meetings by resolution without notice to Directors other than the resolution adopting the meeting schedule.

2.3.9 SPECIAL MEETINGS

Special meetings of the Board of Directors may be called by the ~~Chairman~~Chair or any Director and it shall thereupon be the duty of the Secretary to cause notice of such meeting to be given as hereinafter provided. Special meetings of the Board of Directors shall be held at such time and place within the State of Colorado as shall be fixed by the ~~Chairman~~Chair or the Director calling the meeting.

2.3.10 NOTICE OF MEETINGS

Written notice of the annual or of any special meeting of the Board of Directors shall be delivered to each Director not less than seven (7), nor more than thirty-five (35), days before the date fixed for such meeting, either personally or by mail, by or at the direction of the Secretary, or, upon his/her default, by the person calling the meeting. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail addressed to the Director at his/her address as it appears on the records of the Authority, with postage prepaid.

2.3.11 WAIVER OF NOTICE

Whenever any notice is required to be given to any Director of the Authority under the provisions of the law or this Contract, a waiver thereof in writing signed by such Director, whether before or after the time stated therein, shall be equivalent to the giving of such notice. Attendance of a Director at any meeting of the Board of Directors shall constitute a waiver by such Director of notice of such meeting except when such Director attends such meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened.

2.3.12 QUORUM

A majority of the number of Directors then in office shall constitute a quorum for the transaction of business; provided that, if less than a majority of the Directors then in office is present at a meeting, a majority of the Directors present may adjourn the meeting; and, provided further, that the Secretary shall notify any absent Directors of the time and place of such adjourned meeting. The act of a majority of the Directors present at a meeting at which a quorum is present shall be the act of the Board of Directors.

2.3.13 ATTENDANCE BY TELECONFERENCE

Directors may attend and fully participate in any meeting through electronic teleconferencing.

2.3.14 VOTE IN CASE OF DEADLOCK

In the event the Board of Directors, at a meeting at which a quorum is present, is deadlocked and unable to obtain a majority vote of the Directors present concerning a matter being considered for action, any Director may require a "Weighted Vote." A "Weighted Vote" shall then be taken with each Director's vote being given one half the proportion which:

- (i) the dollar amount of electric power and energy purchased from the Authority during the twelve-month period ending with the close of the billing period for the month two months prior to the month of the deadlocked meeting and paid for by the Municipality appointing such Director bears to;
- (ii) the dollar amount of all electric power and energy purchased from the Authority and paid for by the Municipalities during said twelve-month period.

The act of a majority of the “Weighted Vote” shall be the act of the Board of Directors.

2.3.15 DUTIES

The duties of the Board of Directors shall be:

- (i) To govern the business and affairs of the Authority.
- (ii) To exercise all powers of the Authority.
- (iii) To comply with the provisions of parts 1, 5, and 6 of Article 1 of Title 29, C.R.S.
- (iv) To adopt a fiscal resolution, which complies with statutory and other restrictions imposed by law on the affairs of the Authority, to govern the financial transactions of the Authority, including the receipt, custody, and disbursement of its funds, securities, and other assets, and to provide for the services of a firm of independent certified public accountants to examine, at least annually, the financial records and accounts of the Authority and to report thereupon to the Board of Directors.
- (v) To keep minutes of its proceedings.

2.4 OFFICERS

The officers of the Authority shall be a ChairmanChair, Vice ChairmanChair, Secretary, Treasurer, General Manager and such other officers and assistant officers as may be authorized by the Board of Directors to perform such duties as may be assigned by the Board of Directors. The ChairmanChair and Vice ChairmanChair shall be members of the Board of Directors, but other officers of the Authority need not be members of the Board of Directors.

2.4.1 ELECTION OF OFFICERS AND TERMS OF OFFICE

At each annual meeting of the Board of Directors, the members of the Board of Directors shall elect officers who shall serve as such officers of the Authority until the next annual meeting of the Board of Directors and until their successors are elected and qualified. If the election of officers shall not be held at such meeting, such election shall be held as soon thereafter as may be convenient. Vacancies or new offices may be filled at any meeting of the Board of Directors.

2.4.2 REMOVAL

Any officer or agent elected or appointed by the Board of Directors may be removed by the Board of Directors, with or without cause, whenever in its judgment the best interests of the Authority will be served thereby.

2.4.3 DUTIES OF OFFICERS

In addition to duties assigned by the Board of Directors, the duties of the officers shall include the following:

(i) CHAIRMANCHAIR

The ChairmanChair shall preside at all meetings of the Board of Directors and, except as otherwise delegated by the Board of Directors, shall execute all legal instruments of

the Authority, and shall perform such other duties as the Board of Directors may prescribe.

(ii) VICE ~~CHAIRMAN~~CHAIR

The Vice ~~Chairman~~Chair shall, in the absence of the ~~Chairman~~Chair, or in the event of the ~~Chairman~~Chair's inability or refusal to act, perform the duties of the ~~Chairman~~Chair and when so acting shall have all the powers of and be subject to all the restrictions upon the ~~Chairman~~Chair. The Vice ~~Chairman~~Chair shall also perform such other duties as may be prescribed by the Board of Directors.

(iii) SECRETARY

The Secretary shall maintain the official records of the Authority, including all resolutions and regulations approved by the Board of Directors, the minutes of meetings of the Board of Directors, and a register of the names and addresses of Directors and officers, and shall issue notice of meetings, attest and affix the corporate seal to all documents of the Authority, and shall perform such other duties as the Board of Directors may prescribe.

(iv) TREASURER

The Treasurer shall serve as financial officer of the Authority and shall, pursuant to the fiscal resolution adopted by the Board of Directors governing the financial transactions of the Authority and the restrictions imposed by law, be responsible for the receipt, custody, investment, and disbursement of the Authority's funds and securities and for duties incident to the office of Treasurer, and shall perform other duties as the Board of Directors may prescribe.

(v) GENERAL MANAGER

The General Manager shall be the principal executive officer of the Authority with full responsibility for the planning, operations, and administrative affairs of the Authority, and the coordination thereof, pursuant to policies and programs approved by the Board of Directors, and shall be the agent for service of process on the Authority. When and while a vacancy exists in the office of General Manager, the Board of Directors shall appoint a qualified interim General Manager to act as the principal executive officer of the Authority.

2.4.4 BONDS OF OFFICERS

The Treasurer and any other officer or agent of the Authority charged with responsibility for the custody of any of its funds or property shall give bond in such sum and with such surety as the Board of Directors shall determine. The Board of Directors in its discretion may also require any other officer, agent, or employee of the Authority to give bond in such amount and with such surety as it shall determine. The cost of such bond shall be an expense payable by the Authority.

2.5 INDEMNIFICATION OF OFFICERS AND DIRECTORS

Each Director and officer of the Authority, whether or not then in office, and his/her personal representatives, shall be indemnified by the Authority against all costs and expenses actually and necessarily incurred by him/her in connection with the defense of any action, suit, or proceeding in which he/she may be involved or to which he/she may be made a party by reason of his/her being or having been such Director or officer, except in relation to matters as to which he/she shall be finally adjudged in such action, suit, or proceeding to be liable for gross negligence or willful and wanton misconduct in the performance of duty. Such costs and expenses shall include amounts reasonably paid in settlement for the purpose of curtailing the costs of litigation, but only if the Authority is advised in writing by its counsel that in his/her opinion the person indemnified did not commit gross

negligence or willful and wanton misconduct. The foregoing right of indemnification shall not be exclusive of other rights to which he/she may be entitled as a matter of law or by agreement.

2.6 TERM OF CONTRACT

This Contract shall continue in force and effect until December 31, 20~~50~~60, and until thereafter terminated by any Municipality following not less than twelve (12) months written notice to the other Municipalities of its intention to terminate; provided, however, that this Contract may be amended, modified, or terminated at any time by a written document approved and executed by each and every Municipality which is a party to this Contract; and, provided further, however, that this Contract may not in any event be terminated so long as the Authority has bonds, notes, or other obligations outstanding, unless provision for full payment of such obligations, by escrow or otherwise, has been made pursuant to the terms of such obligations.

2.7 ASSETS AND PROPERTIES

All assets and properties of the Authority shall be held in trust for the purposes herein mentioned, including the payment of the liabilities of the Authority.

2.8 DISTRIBUTION OF ASSETS UPON TERMINATION

In the event of the termination of this Contract and the dissolution of the Authority, all of its assets shall immediately vest in the Municipalities. The assets of the Authority conveyed to each Municipality shall be that proportion which (i) the total dollar amount of electric power and energy purchased and paid for by such Municipality, from the Authority and its predecessor during their corporate existence, bears to (ii) the total dollar amount of all electric power and energy purchased and paid for by all of the Municipalities, from the Authority and its predecessor during their corporate existence.

2.9 SEAL

The corporate seal of the Authority shall be in the form of a circle and have inscribed thereon the name of the Authority and the words "Corporate Seal," together with such insignia, if any, as the Board of Directors may authorize.

2.10 CONTRACTS

Except as otherwise provided by law, the Board of Directors may authorize any officer or officers, agent or agents, to enter into any contract, or execute and deliver any instrument in the name and on behalf of the Authority.

2.11 CHECKS, DRAFTS, AND OTHER FINANCIAL DOCUMENTS

All checks, drafts, or other orders for payment of money and all notes, bonds, or other evidences of indebtedness issued in the name of the Authority shall be signed by such officer or officers, agent or agents, employee or employees of the Authority and in such manner as shall be determined by the fiscal resolution.

2.12 DEPOSITS

All funds of the Authority shall be deposited in a manner set forth by the fiscal resolution.

2.13 FISCAL YEAR

The fiscal year of the Authority shall be the calendar year.

2.14 PRINCIPAL PLACE OF BUSINESS

The principal place of business of the Authority shall be in Fort Collins, Colorado.

3.0 GENERAL POWERS

The general powers of the Authority shall include the following powers:

(i) ELECTRIC ENERGY

To develop electric energy resources and related services, and produce, purchase, and transmit electric energy, in whole or in part, for the benefit of the inhabitants of the Municipalities.

(ii) **CONTRACTS**

To make and enter contracts of every kind with the Municipalities, the United States, any state or political subdivision thereof, and any individual, firm, association, partnership, corporation or any other organization of any kind.

(iii) **AGENTS AND EMPLOYEES**

To employ agents and employees.

(iv) **FACILITIES**

To acquire, construct, manage, maintain, and operate electric energy facilities, works, and improvements and any interests therein, including, without limitation, to acquire, construct, reconstruct, improve, and rehabilitate, repair, operate, and maintain (separately or jointly) generating plants, transmission systems and related facilities for the purpose of delivering electrical power and energy generated thereby to the Municipalities, and any mine, well, pipeline, plant, structure, or other facility for the development, production, manufacture, storage, fabrication, or processing of fossil or nuclear fuel of any kind for use, in whole or in major part, in any of such generating plants, and any railroad cars, trackage, pipes, equipment, and any structures or facilities of any kind used or useful in the transporting of fuel to any of such generating plants, and to sell, deliver, exchange, or otherwise dispose of the power and energy generated by said plants, and any of the waste or by-products therefrom, and to purchase, lease, or otherwise acquire and equip, maintain, operate, sell, assign, convey, lease, mortgage, pledge, and otherwise dispose of electrical generating plants, transmission systems and related facilities,

together with all lands, buildings, equipment, and all other real or personal property, tangible or intangible, necessary or incidental thereto.

(v) PROPERTY

To acquire, hold, lease (as lessor or lessee), sell, or otherwise dispose of any real or personal property, commodity, and service including, without limitation, to buy, lease, construct, appropriate, contract for, invest in, and otherwise acquire, and to own, hold, maintain, equip, operate, manage, improve, develop, mortgage, and deal in and with, and to sell, lease, exchange, transfer, convey and otherwise dispose of and to mortgage, pledge, hypothecate and otherwise encumber real and personal property of every kind, tangible and intangible.

(vi) CONDEMNATION

To condemn property for public use, if such property is not owned by any public utility and devoted to such public use pursuant to state authority.

(vii) DEBT

To incur debts, liabilities, or obligations and to borrow money and, from time to time, to make, accept, endorse, execute, issue, and deliver bonds, debentures, promissory notes, bills of exchange, and other obligations of the Authority for monies borrowed or in payment for property acquired or for any of the other purposes of the Authority, and to secure the payment of any such obligations by mortgage, pledge, deed, indenture, agreement, or other collateral instrument, or by other lien upon, assignment of, or agreement in regard to, all or any part of the properties, rights, assets, contracts, easements, revenues, and privileges of the Authority wherever situated.

(viii) LITIGATION

To sue and be sued in its own name.

(ix) SEAL

To have and to use a corporate seal.

- (x) RATES
To fix, maintain, and revise fees, rates, and charges for functions, services, or facilities provided by the Authority.
- (xi) REGULATIONS
To adopt, by resolution, regulations respecting the exercise of its power and the carrying out of its purposes.
- (xii) AGENTS
To do and perform any acts and things authorized by this section under, through, or by means of an agent or by contracts with any person, firm, corporation or governmental entity.
- (xiii) JOINT OWNERSHIP
To own, operate, and maintain real and personal property, and facilities in common with others, as permitted by law, and to conduct joint, partnership, cooperative, or other operations with others and to exercise all of the powers granted in this Contract in joint partnership or cooperative efforts and operations with others.
- (xiv) OTHER POWERS
To exercise any other powers which are essential, necessary, incidental, convenient, or conducive to providing the wholesale electric power and energy requirements of the Municipalities, as well as to accomplishing the purposes, functions, services, and facilities set forth in Sections 2.0, 2.1, and 2.2 of this Organic Contract.

4.0 POLITICAL SUBDIVISION

The Authority shall be a political subdivision and a public corporation of the State of Colorado separate from the Municipalities. It shall have the duties, privileges, immunities, rights, liabilities, and disabilities of a public body politic and corporate.

5.0 REVENUE BONDS

The Authority is authorized to issue bonds, notes, or other obligations secured by its electric revenues pursuant to the terms, conditions, and authorization contained in C.R.S. § 29-1-204(7).

6.0 DEBT NOT THAT OF MUNICIPALITIES

The bonds, notes, and other obligations of the Authority shall not be the debts, liabilities, or obligations of the Municipalities.

7.0 FILING OF CONTRACT

A copy of this Contract shall be filed with the Division of Local Government of the State of Colorado within ten (10) days after its execution by the Municipalities.

8.0 NOTICES

Any formal notice, demand, or request provided for in this Contract shall be in writing and shall be deemed properly served, given, or made if delivered in person or sent by registered or certified mail, postage prepaid, to the persons specified below:

Town of Estes Park, Colorado
c/o Town Administrator
P.O. Box 1200
Estes Park, Colorado 80517

City of Fort Collins, Colorado
c/o Utilities Executive Director
P.O. Box 580
Fort Collins, Colorado 80522

City of Longmont, Colorado
c/o Director of Longmont Power & Communications
1100 South Sherman
Longmont, Colorado 80501

City of Loveland, Colorado
c/o Water and Power Director
200 North Wilson
Loveland, Colorado 80537

9.0 SEVERABILITY

In the event that any of the terms, covenants, or conditions of this Contract or their application shall be held invalid as to any person, corporation, or circumstance by any court having jurisdiction, the remainder of this Contract and the application and effect of its terms, covenants, or conditions to such persons, corporation, or circumstances shall not be affected thereby.

10.0 DUPLICATE ORIGINALS

This Contract may be executed in several counterparts, each of which will be an original but all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the Municipalities have caused this Contract, as amended, to be executed as of the ^{1st} day of ~~September~~, 20109.

TOWN OF ESTES PARK, COLORADO

ATTEST:

By: _____
Mayor

By: _____
Town Clerk

CITY OF FORT COLLINS, COLORADO

ATTEST:

By: _____
Mayor

By: _____
City Clerk

APPROVED AS TO FORM:

By: _____
Assistant City Attorney

CITY OF LOVELAND, COLORADO

ATTEST:

By: _____
Mayor

By: _____
City Clerk

APPROVED AS TO FORM:

By: _____
Assistant City Attorney

CITY OF LONGMONT, COLORADO

ATTEST:

By: _____
Mayor

By: _____
City Clerk

APPROVED AS TO FORM AND SUBSTANCE:

Director of Longmont Power & Communications

APPROVED AS TO FORM:

Assistant City Attorney

PROOFREAD:

Attachment B



Platte River
Power Authority

Estes Park • Fort Collins • Longmont • Loveland

ORGANIC CONTRACT

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**AMENDED AND RESTATED ORGANIC CONTRACT ESTABLISHING PLATTE RIVER
POWER AUTHORITY AS A SEPARATE GOVERNMENTAL ENTITY**

THIS CONTRACT, originally made and entered into as of June 17, 1975, and amended February 14, 1977, and July 27, 1978, and amended and restated the 31st day of March 1980, and the 1st day of July, 1998, and the 1st day of September, 2010, and as further amended on the _____ day of _____, 2019, by the parties to this Contract which are: TOWN OF ESTES PARK, COLORADO, a municipal corporation of the State of Colorado (“Estes Park”), CITY OF FORT COLLINS, COLORADO, a municipal corporation of the State of Colorado (“Fort Collins”), CITY OF LONGMONT, COLORADO, a municipal corporation of the State of Colorado (“Longmont”), and CITY OF LOVELAND, COLORADO, a municipal corporation of the State of Colorado (“Loveland”). When specificity is not required, the municipal corporations which are parties hereto will hereinafter be individually referred to as “Municipality” and collectively as “Municipalities.”

WITNESSETH:

WHEREAS, Estes Park owns and operates a municipal electric system which supplies electric power and energy at retail to users located within the town limits of Estes Park and the adjacent service area of the Estes Park electric system; and

WHEREAS, Fort Collins owns and operates a municipal electric system which supplies electric power and energy at retail to users located within the city limits of Fort Collins and the adjacent service area of the Fort Collins electric system; and

WHEREAS, Longmont owns and operates a municipal electric system which supplies electric power and energy at retail to users located within the city limits of Longmont and the adjacent service area of the Longmont electric system; and

WHEREAS, Loveland owns and operates a municipal electric system which supplies electric power and energy at retail to users located within the city limits of Loveland and the adjacent service area of the Loveland electric system; and

WHEREAS, the Municipalities on June 17, 1975, established, pursuant to the provisions of C.R.S. § 29-1-204, as then enacted, Platte River Power Authority (the “Authority”), as a separate governmental entity and successor to a nonprofit corporation, to be the instrumentality of the Municipalities and as such successor, to continue to supply their wholesale electric power and energy requirements; and

WHEREAS, during 1998 the Municipalities contracted with one another to establish, pursuant to the provisions of C.R.S. § 29-1-203, the Authority as a separate legal entity and multi-purpose intergovernmental authority to provide designated functions, services, or facilities lawfully authorized to any combination of two or more of the Municipalities provided that such function, service, or facility constitutes an “enterprise” as defined in subsection 2(d) of Article X, Section 20 of the Colorado Constitution; and

WHEREAS, increased complexity and risk in the electric utility industry have created the need to enhance utility image and customer loyalty, the Municipalities wish to clarify that the Organic Contract authorizes the Authority to engage in a broad range of services which are incidental to or supportive of the Municipalities’ continued ability to provide electric power and energy services to their customers on a competitive basis; and

WHEREAS, the Municipalities acting through the Authority wish to ensure a source of electric power and energy that is reliable, cost-effective, and environmentally responsible; and

WHEREAS, providing energy in an environmentally responsible manner requires that the Authority incorporate environmental factors as an integral component of planning, design, construction and operational decisions; and

WHEREAS, the Municipalities now wish to further amend the Organic Contract, to extend its term and to restate the amended provisions thereof in a single updated document.

NOW, THEREFORE, the Municipalities do hereby amend and restate the Organic Contract, originally executed June 17, 1975, and subsequently amended, so that as hereby amended and restated it provides, and the Municipalities do agree, as follows:

1.0 EFFECTIVE DATE

This Contract, as hereby amended and restated, shall become effective when it has been duly executed by all of the Municipalities.

2.0 ESTABLISHMENT OF PLATTE RIVER POWER AUTHORITY

As of June 17, 1975, the Municipalities established a separate governmental entity, to be known as Platte River Power Authority, to be used by the Municipalities to effect the development of electric energy resources and the production and transmission of electric energy in whole or in part for the benefit of the inhabitants of the Municipalities. As of July 1, 1998, the Municipalities also established the Authority as a separate governmental entity and multi-purpose intergovernmental authority to provide additional designated functions, services, or facilities lawfully

authorized to any combination of two or more of the Municipalities, provided that such function, service, or facilities constitutes an “enterprise” as defined in subsection 2(d) of Article X, Section 20 of the Colorado Constitution.

2.1 PURPOSES

The purposes of the Authority are to conduct its business and affairs for the benefit of the Municipalities and their inhabitants:

- (i) to provide the electric power and energy requirements of the Municipalities and the retail customers within the Municipalities in a reliable, cost-effective, and environmentally responsible manner;
- (ii) to engage in business activities related to the provision of electric power and energy services, which may include but are not limited to investment in energy efficiency, renewable energy, demand side management, and associated communication systems, that the Board determines are likely to enhance the competitive position of the Authority or the Municipalities; and
- (iii) to provide any additional designated function, service, or facility lawfully authorized to any combination of two or more of the Municipalities, provided that these constitute an “enterprise” as defined in subsection 2(d) of Article X, Section 20 of the Colorado Constitution.

A particular function, service, or facility shall be treated as designated as a separate purpose under clause (iii) of the previous sentence only upon receipt by each Municipality which is designating the function, service, or facility to also be performed by the Authority of (a) a resolution adopted by unanimous vote of the Board of Directors of the Authority designating the function, service, or facility as a purpose to also be jointly exercised by the designating Municipalities through the Authority and (b) opinions of counsel to each Municipality which is designating the function, service, or facility to also be performed by the Authority setting forth the extent to which the

designated function, service, or facility is lawfully authorized by such designating Municipality; and (c) an opinion of the Authority's bond counsel to the effect that the designated function, service, or facility constitutes an "enterprise" as defined in subsection 2(d) of Article X, Section 20 of the Colorado Constitution.

2.2 FUNCTIONS, SERVICES, OR FACILITIES

The functions, services, or facilities to be provided by the Authority are: The supplying of the electric power and energy requirements of the Municipalities and retail customers within the Municipalities; and, the provision of any additional function, service, or facility, by means of

- (i) acquiring, constructing, owning, reconstructing, improving, rehabilitating, repairing, operating and maintaining electric generating plants, transmission systems and related facilities, or interests therein, for the purpose of producing, transmitting and delivering to the Municipalities, electric power and energy to the extent of their requirements, including renewable energy requirements;
- (ii) purchasing electric power and energy from electric utilities and other producers of energy, as required to supply the Municipalities and perform its other obligations;
- (iii) selling at wholesale to the Municipalities all of the electric power and energy produced or purchased by the Authority which the Municipalities require;
- (iv) selling, exchanging and otherwise disposing of, under the most advantageous terms and conditions obtainable, any surplus power and energy or transmission capacity which the Authority owns, produces or purchases;

- (v) developing electric energy resources (including renewable sources) and producing and transmitting electric energy in whole or in part for the benefit of the inhabitants of the Municipalities;
- (vi) developing cost-effective, reliable, and environmentally responsible products and services to improve the efficiency of generation, transmission and use of electrical energy, which may include but are not limited to investment in energy efficiency, renewable energy, demand side management, and associated communication systems;
- (vii) acquiring, constructing, owning, purchasing, selling, exchanging or otherwise disposing of, reconstructing, improving, rehabilitating, repairing, operating, and maintaining assets, infrastructure, plants, systems, and related facilities or interests therein;
- (viii) developing products, services, infrastructure, and resources related to such function, service, or facility for delivery to appropriate markets in whole or in part for the benefit of the inhabitants of the Municipalities; and
- (ix) on termination of this Contract to vest in the Municipalities all right, title and interest of the Authority in or to all of its property and assets.

2.3 BOARD OF DIRECTORS

The governing body of the Authority shall be a Board of Directors in which all legislative power of the Authority is vested.

2.3.1 NUMBER

The number of Directors shall be eight (8).

2.3.2 SELECTION

Each Municipality shall be represented by two (2) members on the Board of Directors of the Authority, who shall be designated or appointed as follows:

(i) MAYORS

The Mayor of each of the Municipalities is hereby designated and shall serve as a member of the Board of Directors of the Authority contemporaneously with service as Mayor; provided, however, that any Mayor may designate some other member of the governing board of such Municipality to serve as a Director of the Authority in place of the Mayor.

(ii) APPOINTED DIRECTORS

The governing body of each of the Municipalities shall appoint one (1) additional member to the Board of Directors. Appointed Directors shall be selected for judgment, experience, and expertise which make that person particularly qualified to serve on the Board of Directors of the Authority.

2.3.3 TERM

The term of office of the Directors of the Authority shall be as follows:

(i) MAYORS

The Mayor of each Municipality, or the member of the Municipality's governing board designated by the Mayor, shall serve as a Director of the Authority for the same period of time that the Mayor serves as Mayor of that Municipality.

(ii) APPOINTED DIRECTORS

The term of the Appointed Director for Estes Park shall expire on December 31, 2011, the term of the Appointed

Director for Fort Collins shall expire on December 31, 2008, the term of the Appointed Director for Longmont shall expire on December 31, 2010, and the term of the Appointed Director for Loveland shall expire on December 31, 2009. Each successor shall be appointed for a term of four years from the date of the expiration of the term for which the predecessor was appointed.

2.3.4 REMOVAL

Any Director appointed by the governing board of a Municipality may be removed at any time by such governing board, with or without cause. A Mayor will be automatically removed as a Director upon vacating the office of Mayor, and a member of the Municipality's governing board designated to serve in place of a Mayor may be removed at any time by the Mayor, with or without cause.

2.3.5 VACANCIES

A vacancy occurring in the directorship of an Appointed Director, whether such vacancy be the result of resignation, death, removal or disability, shall be filled by the appointment of a successor Appointed Director by the governing body of the Municipality which appointed the Director whose office has become vacant. In the case of a vacancy in the directorship of a Mayor or his designee from any Municipality, the vacancy shall be filled by the new Mayor or the Mayor's designation of some other member of the governing board of that Municipality.

2.3.6 COMPENSATION

Directors shall not receive compensation for their services, but Directors may be reimbursed their actual expenses for attendance at meetings of the Board of Directors and for expenses otherwise incurred on behalf of the Authority.

2.3.7 ANNUAL MEETINGS

An annual meeting of the Board of Directors shall be held within the first 120 days in each year at such place in Fort Collins, Colorado, as shall be designated in the notice of the meeting, to elect officers, to pass upon reports for the preceding fiscal year, and to transact such other business as may come before the meeting. Failure to hold the annual meeting at a designated time, or failure to hold the annual meeting in any year, shall not cause a forfeiture or dissolution or otherwise affect the Authority.

2.3.8 REGULAR MEETINGS

The Board of Directors may provide for the time and place for the holding of regular meetings by resolution without notice to Directors other than the resolution adopting the meeting schedule.

2.3.9 SPECIAL MEETINGS

Special meetings of the Board of Directors may be called by the Chair or any Director and it shall thereupon be the duty of the Secretary to cause notice of such meeting to be given as hereinafter provided. Special meetings of the Board of Directors shall be held at such time and place within the State of Colorado as shall be fixed by the Chair or the Director calling the meeting.

2.3.10 NOTICE OF MEETINGS

Written notice of the annual or of any special meeting of the Board of Directors shall be delivered to each Director not less than seven (7), nor more than thirty-five (35), days before the date fixed for such meeting, either personally or by mail, by or at the direction of the Secretary, or, upon his/her default, by the person calling the meeting. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail addressed to the Director at his/her address as it appears on the records of the Authority, with postage prepaid.

2.3.11 WAIVER OF NOTICE

Whenever any notice is required to be given to any Director of the Authority under the provisions of the law or this Contract, a waiver thereof in writing signed by such Director, whether before or after the time stated therein, shall be equivalent to the giving of such notice. Attendance of a Director at any meeting of the Board of Directors shall constitute a waiver by such Director of notice of such meeting except when such Director attends such meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened.

2.3.12 QUORUM

A majority of the number of Directors then in office shall constitute a quorum for the transaction of business; provided that, if less than a majority of the Directors then in office is present at a meeting, a majority of the Directors present may adjourn the meeting; and, provided further, that the Secretary shall notify any absent Directors of the time and place of such adjourned meeting. The act of a majority of the Directors present at a meeting at which a quorum is present shall be the act of the Board of Directors.

2.3.13 ATTENDANCE BY TELECONFERENCE

Directors may attend and fully participate in any meeting through electronic teleconferencing.

2.3.14 VOTE IN CASE OF DEADLOCK

In the event the Board of Directors, at a meeting at which a quorum is present, is deadlocked and unable to obtain a majority vote of the Directors present concerning a matter being considered for action, any Director may require a "Weighted Vote." A "Weighted Vote" shall then be taken with each Director's vote being given one half the proportion which:

- (i) the dollar amount of electric power and energy purchased from the Authority during the twelve-month period ending with the close of the billing period for the month two months prior to the month of the deadlocked meeting and paid for by the Municipality appointing such Director bears to;
- (ii) the dollar amount of all electric power and energy purchased from the Authority and paid for by the Municipalities during said twelve-month period.

The act of a majority of the “Weighted Vote” shall be the act of the Board of Directors.

2.3.15 DUTIES

The duties of the Board of Directors shall be:

- (i) To govern the business and affairs of the Authority.
- (ii) To exercise all powers of the Authority.
- (iii) To comply with the provisions of parts 1, 5, and 6 of Article 1 of Title 29, C.R.S.
- (iv) To adopt a fiscal resolution, which complies with statutory and other restrictions imposed by law on the affairs of the Authority, to govern the financial transactions of the Authority, including the receipt, custody, and disbursement of its funds, securities, and other assets, and to provide for the services of a firm of independent certified public accountants to examine, at least annually, the financial records and accounts of the Authority and to report thereupon to the Board of Directors.
- (v) To keep minutes of its proceedings.

2.4 OFFICERS

The officers of the Authority shall be a Chair, Vice Chair, Secretary, Treasurer, General Manager and such other officers and assistant officers as may be authorized by the Board of Directors to perform such duties as may be assigned by the Board of Directors. The Chair and Vice Chair shall be members of the Board of Directors, but other officers of the Authority need not be members of the Board of Directors.

2.4.1 ELECTION OF OFFICERS AND TERMS OF OFFICE

At each annual meeting of the Board of Directors, the members of the Board of Directors shall elect officers who shall serve as such officers of the Authority until the next annual meeting of the Board of Directors and until their successors are elected and qualified. If the election of officers shall not be held at such meeting, such election shall be held as soon thereafter as may be convenient. Vacancies or new offices may be filled at any meeting of the Board of Directors.

2.4.2 REMOVAL

Any officer or agent elected or appointed by the Board of Directors may be removed by the Board of Directors, with or without cause, whenever in its judgment the best interests of the Authority will be served thereby.

2.4.3 DUTIES OF OFFICERS

In addition to duties assigned by the Board of Directors, the duties of the officers shall include the following:

(i) CHAIR

The Chair shall preside at all meetings of the Board of Directors and, except as otherwise delegated by the Board of Directors, shall execute all legal instruments of the

Authority, and shall perform such other duties as the Board of Directors may prescribe.

(ii) VICE CHAIR

The Vice Chair shall, in the absence of the Chair, or in the event of the Chair's inability or refusal to act, perform the duties of the Chair and when so acting shall have all the powers of and be subject to all the restrictions upon the Chair. The Vice Chair shall also perform such other duties as may be prescribed by the Board of Directors.

(iii) SECRETARY

The Secretary shall maintain the official records of the Authority, including all resolutions and regulations approved by the Board of Directors, the minutes of meetings of the Board of Directors, and a register of the names and addresses of Directors and officers, and shall issue notice of meetings, attest and affix the corporate seal to all documents of the Authority, and shall perform such other duties as the Board of Directors may prescribe.

(iv) TREASURER

The Treasurer shall serve as financial officer of the Authority and shall, pursuant to the fiscal resolution adopted by the Board of Directors governing the financial transactions of the Authority and the restrictions imposed by law, be responsible for the receipt, custody, investment, and disbursement of the Authority's funds and securities and for duties incident to the office of Treasurer, and shall perform other duties as the Board of Directors may prescribe.

(v) GENERAL MANAGER

The General Manager shall be the principal executive officer of the Authority with full responsibility for the planning,

operations, and administrative affairs of the Authority, and the coordination thereof, pursuant to policies and programs approved by the Board of Directors, and shall be the agent for service of process on the Authority. When and while a vacancy exists in the office of General Manager, the Board of Directors shall appoint a qualified interim General Manager to act as the principal executive officer of the Authority.

2.4.4 BONDS OF OFFICERS

The Treasurer and any other officer or agent of the Authority charged with responsibility for the custody of any of its funds or property shall give bond in such sum and with such surety as the Board of Directors shall determine. The Board of Directors in its discretion may also require any other officer, agent, or employee of the Authority to give bond in such amount and with such surety as it shall determine. The cost of such bond shall be an expense payable by the Authority.

2.5 INDEMNIFICATION OF OFFICERS AND DIRECTORS

Each Director and officer of the Authority, whether or not then in office, and his/her personal representatives, shall be indemnified by the Authority against all costs and expenses actually and necessarily incurred by him/her in connection with the defense of any action, suit, or proceeding in which he/she may be involved or to which he/she may be made a party by reason of his/her being or having been such Director or officer, except in relation to matters as to which he/she shall be finally adjudged in such action, suit, or proceeding to be liable for gross negligence or willful and wanton misconduct in the performance of duty. Such costs and expenses shall include amounts reasonably paid in settlement for the purpose of curtailing the costs of litigation, but only if the Authority is advised in writing by its counsel that in his/her opinion the person indemnified did not commit gross negligence or willful and wanton misconduct. The foregoing right of

indemnification shall not be exclusive of other rights to which he/she may be entitled as a matter of law or by agreement.

2.6 TERM OF CONTRACT

This Contract shall continue in force and effect until December 31, 2060, and until thereafter terminated by any Municipality following not less than twelve (12) months written notice to the other Municipalities of its intention to terminate; provided, however, that this Contract may be amended, modified, or terminated at any time by a written document approved and executed by each and every Municipality which is a party to this Contract; and, provided further, however, that this Contract may not in any event be terminated so long as the Authority has bonds, notes, or other obligations outstanding, unless provision for full payment of such obligations, by escrow or otherwise, has been made pursuant to the terms of such obligations.

2.7 ASSETS AND PROPERTIES

All assets and properties of the Authority shall be held in trust for the purposes herein mentioned, including the payment of the liabilities of the Authority.

2.8 DISTRIBUTION OF ASSETS UPON TERMINATION

In the event of the termination of this Contract and the dissolution of the Authority, all of its assets shall immediately vest in the Municipalities. The assets of the Authority conveyed to each Municipality shall be that proportion which (i) the total dollar amount of electric power and energy purchased and paid for by such Municipality, from the Authority and its predecessor during their corporate existence, bears to (ii) the total dollar amount of all electric power and energy purchased and paid for by all of the Municipalities, from the Authority and its predecessor during their corporate existence.

2.9 SEAL

The corporate seal of the Authority shall be in the form of a circle and have inscribed thereon the name of the Authority and the words "Corporate Seal," together with such insignia, if any, as the Board of Directors may authorize.

2.10 CONTRACTS

Except as otherwise provided by law, the Board of Directors may authorize any officer or officers, agent or agents, to enter into any contract, or execute and deliver any instrument in the name and on behalf of the Authority.

2.11 CHECKS, DRAFTS, AND OTHER FINANCIAL DOCUMENTS

All checks, drafts, or other orders for payment of money and all notes, bonds, or other evidences of indebtedness issued in the name of the Authority shall be signed by such officer or officers, agent or agents, employee or employees of the Authority and in such manner as shall be determined by the fiscal resolution.

2.12 DEPOSITS

All funds of the Authority shall be deposited in a manner set forth by the fiscal resolution.

2.13 FISCAL YEAR

The fiscal year of the Authority shall be the calendar year.

2.14 PRINCIPAL PLACE OF BUSINESS

The principal place of business of the Authority shall be in Fort Collins, Colorado.

3.0 GENERAL POWERS

The general powers of the Authority shall include the following powers:

(i) ELECTRIC ENERGY

To develop electric energy resources and related services, and produce, purchase, and transmit electric energy, in whole or in part, for the benefit of the inhabitants of the Municipalities.

(ii) CONTRACTS

To make and enter contracts of every kind with the Municipalities, the United States, any state or political subdivision thereof, and any individual, firm, association, partnership, corporation or any other organization of any kind.

(iii) AGENTS AND EMPLOYEES

To employ agents and employees.

(iv) FACILITIES

To acquire, construct, manage, maintain, and operate electric energy facilities, works, and improvements and any interests therein, including, without limitation, to acquire, construct, reconstruct, improve, and rehabilitate, repair, operate, and maintain (separately or jointly) generating plants, transmission systems and related facilities for the purpose of delivering electrical power and energy generated thereby to the Municipalities, and any mine, well, pipeline, plant, structure, or other facility for the development, production, manufacture, storage, fabrication, or processing of fossil or nuclear fuel of any kind for use, in whole or in major part, in any of such generating plants, and any railroad cars, trackage, pipes, equipment, and any structures or facilities of any kind used or useful in the transporting of fuel to any of such generating plants, and to sell, deliver, exchange, or otherwise dispose of the power and energy generated by said plants, and any of the waste or by-products therefrom, and to purchase, lease, or otherwise acquire and equip, maintain, operate, sell, assign, convey, lease, mortgage, pledge, and otherwise dispose of electrical generating plants, transmission systems and related facilities, together with all lands, buildings, equipment, and all other real or personal property, tangible or intangible, necessary or incidental thereto.

- (v) **PROPERTY**
To acquire, hold, lease (as lessor or lessee), sell, or otherwise dispose of any real or personal property, commodity, and service including, without limitation, to buy, lease, construct, appropriate, contract for, invest in, and otherwise acquire, and to own, hold, maintain, equip, operate, manage, improve, develop, mortgage, and deal in and with, and to sell, lease, exchange, transfer, convey and otherwise dispose of and to mortgage, pledge, hypothecate and otherwise encumber real and personal property of every kind, tangible and intangible.

- (vi) **CONDEMNATION**
To condemn property for public use, if such property is not owned by any public utility and devoted to such public use pursuant to state authority.

- (vii) **DEBT**
To incur debts, liabilities, or obligations and to borrow money and, from time to time, to make, accept, endorse, execute, issue, and deliver bonds, debentures, promissory notes, bills of exchange, and other obligations of the Authority for monies borrowed or in payment for property acquired or for any of the other purposes of the Authority, and to secure the payment of any such obligations by mortgage, pledge, deed, indenture, agreement, or other collateral instrument, or by other lien upon, assignment of, or agreement in regard to, all or any part of the properties, rights, assets, contracts, easements, revenues, and privileges of the Authority wherever situated.

- (viii) **LITIGATION**
To sue and be sued in its own name.

- (ix) **SEAL**
To have and to use a corporate seal.

- (x) **RATES**

To fix, maintain, and revise fees, rates, and charges for functions, services, or facilities provided by the Authority.

(xi) REGULATIONS

To adopt, by resolution, regulations respecting the exercise of its power and the carrying out of its purposes.

(xii) AGENTS

To do and perform any acts and things authorized by this section under, through, or by means of an agent or by contracts with any person, firm, corporation or governmental entity.

(xiii) JOINT OWNERSHIP

To own, operate, and maintain real and personal property, and facilities in common with others, as permitted by law, and to conduct joint, partnership, cooperative, or other operations with others and to exercise all of the powers granted in this Contract in joint partnership or cooperative efforts and operations with others.

(xiv) OTHER POWERS

To exercise any other powers which are essential, necessary, incidental, convenient, or conducive to providing the wholesale electric power and energy requirements of the Municipalities, as well as to accomplishing the purposes, functions, services, and facilities set forth in Sections 2.0, 2.1, and 2.2 of this Organic Contract.

4.0 POLITICAL SUBDIVISION

The Authority shall be a political subdivision and a public corporation of the State of Colorado separate from the Municipalities. It shall have the duties, privileges, immunities, rights, liabilities, and disabilities of a public body politic and corporate.

5.0 REVENUE BONDS

The Authority is authorized to issue bonds, notes, or other obligations secured by its electric revenues pursuant to the terms, conditions, and authorization contained in C.R.S. § 29-1-204(7).

6.0 DEBT NOT THAT OF MUNICIPALITIES

The bonds, notes, and other obligations of the Authority shall not be the debts, liabilities, or obligations of the Municipalities.

7.0 FILING OF CONTRACT

A copy of this Contract shall be filed with the Division of Local Government of the State of Colorado within ten (10) days after its execution by the Municipalities.

8.0 NOTICES

Any formal notice, demand, or request provided for in this Contract shall be in writing and shall be deemed properly served, given, or made if delivered in person or sent by registered or certified mail, postage prepaid, to the persons specified below:

Town of Estes Park, Colorado
c/o Town Administrator
P.O. Box 1200
Estes Park, Colorado 80517

City of Fort Collins, Colorado
c/o Utilities Executive Director
P.O. Box 580
Fort Collins, Colorado 80522

City of Longmont, Colorado
c/o Director of Longmont Power & Communications
1100 South Sherman
Longmont, Colorado 80501

City of Loveland, Colorado
c/o Water and Power Director
200 North Wilson
Loveland, Colorado 80537

9.0 SEVERABILITY

In the event that any of the terms, covenants, or conditions of this Contract or their application shall be held invalid as to any person, corporation, or circumstance by any court having jurisdiction, the remainder of this Contract and the application and effect of its terms, covenants, or conditions to such persons, corporation, or circumstances shall not be affected thereby.

10.0 DUPLICATE ORIGINALS

This Contract may be executed in several counterparts, each of which will be an original but all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the Municipalities have caused this Contract, as amended, to be executed as of the ____ day of _____, 2019.

TOWN OF ESTES PARK, COLORADO

ATTEST:

By: _____
Mayor

By: _____
Town Clerk

CITY OF FORT COLLINS, COLORADO

ATTEST:

By: _____
Mayor

By: _____
City Clerk

APPROVED AS TO FORM:

By: _____
Assistant City Attorney

CITY OF LOVELAND, COLORADO

ATTEST:

By: _____
Mayor

By: _____
City Clerk

APPROVED AS TO FORM:

By: _____
Assistant City Attorney

CITY OF LONGMONT, COLORADO

ATTEST:

By: _____
Mayor

By: _____
City Clerk

APPROVED AS TO FORM AND SUBSTANCE:

Director of Longmont Power & Communications

APPROVED AS TO FORM:

Assistant City Attorney

PROOFREAD:

Attachment C

AMENDED CONTRACT FOR THE SUPPLY OF ELECTRIC POWER AND ENERGY

This contract, made this ___ 4st day of ~~September~~ _____, 20109, between PLATTE RIVER POWER AUTHORITY, a political subdivision organized and existing under and by virtue of the laws of the State of Colorado (hereinafter called "Platte River") and the CITY OF LOVELAND, COLORADO, a municipal corporation of the State of Colorado (hereinafter called "Loveland.")

WITNESSETH:

WHEREAS, Platte River was formed by Estes Park, Fort Collins, Longmont, and Loveland (hereinafter collectively called "Municipalities") in order to provide the wholesale power and energy requirements of the Municipalities in a reliable, cost-effective, and environmentally responsible manner; and

WHEREAS, Platte River, owns, operates, and maintains electric generating facilities, transmission lines, substations, and related facilities for the purpose of supplying electric power and energy to the electric systems owned and operated by the Municipalities for resale; and

WHEREAS, Platte River has heretofore entered into or will enter into agreements for the sale of electric power and energy similar in form to this Agreement with the cities of Estes Park, Fort Collins, and Longmont; and

~~WHEREAS, this Agreement replaces the Transmission Facilities Agreement between Platte River and Loveland, dated March 18, 1980; and~~

WHEREAS, Loveland desires to purchase electric power and energy from Platte River on the terms and conditions herein set forth;

WHEREAS, through this Agreement the parties acknowledge that the electric industry is evolving from an industry dominated by central station power to one that will likely employ increasing amounts of distributed generation resources; and

WHEREAS, the Platte River Board of Directors approved a Resource Diversification Policy with the goal of becoming 100% non-carbon by 2030 and in doing so the Board recognized that distributed generation will be needed to achieve this goal; and

WHEREAS, intermittent resources must be managed to ensure continued system reliability; and

WHEREAS, Platte River will equitably manage the impact of adding and firming intermittent resources amongst the four communities to ensure continued financial sustainability; and

WHEREAS, the parties recognize that the exceptions created to the all-requirements provision set forth in Article 1(a) are not intended to be the only means by which the parties either singularly or in coordination work toward meeting the goal of the Resource Diversification Policy; and

WHEREAS, the parties intend through the expanded covenant contained in Article 3(c) to meet routinely to review new technologies and business models that may merit recognition through specific amendments to this Agreement; and

WHEREAS, in order to meet the goal of the Resource Diversification Policy the parties are committed to use this incremental amendment process to explore expanding opportunities for distributed generation resources that likely become an increasingly important component of our future resource mix and to amend this agreement when appropriate to accommodate technologies and business models that are not contemplated today; and

WHEREAS, in order to accomplish amendments identified as suitable exceptions to the all-requirements provisions set forth in Article 1(a) Platte River recognizes that it may be necessary in future financings to modify bond covenant restrictions.

NOW, THEREFORE, in consideration of the mutual undertakings herein contained, the Parties hereto agree as follows:

Article 1: Sale and Purchase of Electric Power and Energy

(a) Platte River shall sell and deliver to Loveland and Loveland shall purchase and receive from Platte River all electric power and energy which Loveland shall require for the operation of its municipal electric system to the extent that Platte River shall have such power and energy available; provided, however, that (1) Loveland shall have the right to continue to generate its own power and energy to the extent of the capacity of its generating facilities in service on September 5, 1974 and may also generate power and energy for its own use from any new generation resource(s) owned and operated by Loveland provided that the total rated capacity of all such new generation is no greater than 1,000 kW or one percent of the peak load of Loveland, whichever is greater, provided further that if Loveland develops new generation resources of a total rated capacity as set forth above Platte River commits that it will meet with Loveland to discuss in good faith an increase in the total rated capacity limit, and (2) Loveland

shall not be in violation of the all requirements purchase obligation herein when it purchases power from net metered customers, provided that customers who have entered into agreements with entities that own and operate solar generation located on the customer's property size the solar generation to supply no more than one hundred and twenty percent (120%) of the annual average consumption of electricity by the customer at that site.

(b) Subject to the provisions of Article 2(a), Loveland hereby binds itself to take and pay for all power and energy that is generated, purchased, or otherwise obtained by Platte River, and is furnished to Loveland for resale pursuant to Article 1(a) hereof, said payment to be made at the rates set forth in the Tariff Schedules of Platte River in effect at the time the power and energy is furnished to Loveland.

Article 2: Rate for Power and Energy

(a) Loveland shall pay Platte River for all electric power and energy furnished hereunder at the rates and on the terms and conditions as provided in the Platte River Tariff Schedules; provided, however, that notwithstanding any other provision of this Agreement, the obligation of Loveland to pay Platte River for all electric power and energy furnished hereunder shall be, and is, a special obligation of Loveland payable solely from revenues to be received by Loveland from the sale of electric power and energy to its electric utility customers during the term hereof and is not a lien, charge, or liability against Loveland or against any property or funds of Loveland other than revenues to be received by Loveland from the sale of electric power and energy to its electric utility customers during the term hereof, and the obligation to pay Platte River for all electric power and energy furnished hereunder does not constitute a debt, liability, or obligation of Loveland other than from its revenues to be received from the sale of electric power and energy to its electric utility customers during the term hereof, and Loveland is not otherwise obligated to pay such obligation.

(b) The Board of Directors of Platte River at such intervals as it shall deem appropriate, but in any event not less frequently than once in each calendar year, shall review the rates for electric power and energy furnished hereunder and under similar agreements with the other Municipalities and, if necessary, shall revise such rates to produce revenues which shall be sufficient, but only sufficient, with the revenues of Platte River from all other sources,

(i) to meet the cost of operation and maintenance (including, without limitation, fuel, replacements, insurance, taxes, fees, and administrative and general

overhead expense) of the electric generating plants, transmission system, and related facilities of Platte River;

- (ii) to meet the cost of any power and energy purchased for resale hereunder by Platte River and the cost of transmission service;
- (iii) to make payments of principal and interest on all indebtedness and revenue bonds of Platte River and provide an earnings margin adequate to enable Platte River to obtain revenue bond financing on favorable terms; and
- (iv) to provide for the establishment and maintenance of reasonable reserves.

(c) Platte River shall cause a notice in writing to be given to each Municipality to which it furnishes electric power and energy, which notice shall set out each revision of the rates with the effective date thereof, which shall be not less than thirty (30) days after the date of the notice. All rate adjustments shall apply equally to all Municipalities to which Platte River furnishes electric power and energy, unless otherwise agreed upon, and shall not be discriminatory. Loveland agrees that the rates from time to time established by the Board of Directors of Platte River shall be deemed to be substituted for the rates presently contained in the Tariff Schedules and agrees to pay for electric power and energy furnished to it hereunder after the effective date of any revisions to the Tariff Schedules at such revised rates.

Article 3: Covenants of Platte River

(a) Platte River shall use reasonable diligence to furnish a constant and uninterrupted supply of electric power and energy hereunder. If the supply of electric power and energy shall fail, or be interrupted, or become defective through uncontrollable forces, as defined herein, Platte River shall not be liable for any claim or damages caused thereby.

(b) After first satisfying the electric power and energy requirements of all Municipalities to which it furnishes electric power and energy, Platte River may, in its sole discretion, market and dispose of any surplus electric power and energy which it owns or produces or which Platte River is obligated by contract to purchase, under the most advantageous terms and conditions obtainable.

(c) Platte River shall carry out the planning, design, construction, and operating decisions associated with the performance of its obligations under this Agreement in an environmentally responsible manner. This includes, but is not limited to, scheduling meetings with Loveland at least every two years to review new technologies and business models that may serve to increase the penetration of distributed generation and efficiency technologies. As

appropriate the parties will amend this Agreement to allow such new technologies and business models to operate within the retail service territory of Loveland.

Article 4: Covenants of Loveland

(a) Loveland agrees to maintain rates for electric power and energy furnished to its electric utility customers which will, after payment of all of Loveland's costs of operation and maintenance (including, without limitation, replacements, insurance, administrative and general overhead expense), return to Loveland sufficient revenue to meet its obligations to Platte River hereunder.

(b) Loveland shall not sell at wholesale any of the electric energy delivered to it hereunder to any of its customers for resale by that customer, unless such resale is specifically approved in writing by Platte River.

(c) Loveland acknowledges that it is familiar with the provision of Platte River's contract with the Western Area Power Administration, which requires, as a condition of the purchase of federally generated power, that the Municipalities comply with certain provisions of the "General Power Contract Provisions," which is attached hereto as Attachment A. Loveland acknowledges its compliance obligations under the General Power Contract Provisions, as that document presently exists and as it may be modified in the future.

Article 5: Conditions of Delivery of Power and Energy

(a) The electric power and energy to be furnished by Platte River shall be alternating current, sixty (60) hertz, three-phase, subject to conditions of delivery and measurement as hereinafter provided and in the Tariff Schedules.

(b) Responsibilities for the facilities through which electric power and energy is delivered are set forth in Attachment B of this Agreement, attached hereto and made a part hereof.

(c) Loveland shall make and pay for all final connections between its system and the system owned by, or available to, Platte River at the points of delivery agreed upon.

(d) Unless otherwise agreed, Loveland shall install, own, and maintain the necessary substation equipment at the points of delivery from the system of, or available to, Platte River and shall install, own, and maintain switching and protective equipment of adequate design and sufficient capacity beyond such points of delivery to enable Loveland to take and use the electric power and energy supplied hereunder without hazard to such system.

(e) To provide adequate service to Loveland, Platte River agrees to increase the capacity of an existing transmission point of delivery, or to establish a new transmission point of delivery at a mutually agreeable location, of a design capacity of not less than ~~4020~~4020,000 kVa maximum nameplate rating at 55° C. rise, and in accordance with this Agreement.

(f) Loveland shall give Platte River at least two years written notice of the need to increase the capacity of an existing transmission point of delivery or the need for a new transmission point of delivery. If new transmission is required, Loveland shall give at least four years written notice. The notice shall specify the amount of additional or new capacity, the new transmission required, and the desired initial date of its operation. Platte River shall, within sixty (60) days after receipt of such notice, and on the basis of the best information available to Platte River from system plans and load projections for Loveland, inform Loveland in writing of Platte River's plans and schedules with respect to the supply of the additional capacity requested by Loveland, and shall thereafter keep Loveland informed of Platte River's progress in supplying such additional capacity. Any written notice requesting additional capacity at an existing point of delivery or the establishment of a new point of delivery shall provide to Platte River any and all authority necessary for its facilities to occupy the property of Loveland during the period in which that point of delivery is used by Platte River for the delivery of power and energy.

(g) If Loveland requires the construction of a 115 kV or 230 kV transmission line for additional service where such line is a tap or radial line over which energy can flow in only one direction, as distinguished from a system line over which energy can flow in either direction, then ownership, operation and maintenance of such 115 kV or 230 kV transmission line will be undertaken by Platte River pursuant to a separate agreement with Loveland which provides for an appropriate sharing of the annual costs of ownership and operations of such line for as long as such energy flow and delivery conditions prevail.

Article 6: Consultation on System Planning

(a) At least once each year, on or before July 1, Platte River shall consult Loveland concerning its requirements for transmission facilities to effect delivery of power and energy by Platte River. The date for such annual consultation shall be set by agreement of the Parties.

(b) At least thirty (30) days prior to the date of such annual consultation, Loveland shall provide Platte River with two (2) copies of its latest estimate of requirements for delivery of power and energy covering a future period of ten (10) years. Platte River shall review Loveland's annual estimates and shall consider them in preparing Platte River's annual system plan. Following Platte

River's annual consultations on delivery requirements with all Municipalities, Platte River shall prepare an annual system plan for the delivery of power and energy to all Municipalities covering a future period of ten (10) years. Decisions regarding the construction of any transmission and delivery facilities by Platte River primarily to supply Loveland, will take into account Loveland's long-range distribution requirements and costs and the long-range costs and benefits of alternative service plans. Platte River's annual system plan shall include appropriate load flow and stability studies and a copy thereof shall be furnished to Loveland if requested.

Article 7: Measurement of Power and Energy

(a) Metering equipment shall be furnished, installed, and maintained by Platte River at each point of delivery to Loveland at the low-high voltage side of the transforming equipment or at such other points as agreed upon by the Parties.

(b) Loss adjustments for low-high voltage side or remote metering shall be as specified in the Tariff Schedule or as otherwise agreed by the Parties.

Article 8: Meter Readings and Payment of Bills

(a) Platte River shall read meters and invoice Loveland for power and energy furnished hereunder at approximately monthly intervals. Such invoices shall be due and payable to Platte River within fifteen (15) days from date of issuance and shall become delinquent thereafter.

(b) If Loveland's monthly bill becomes delinquent, late charges at the rate of a one and one-half percent (1½ %) per month of the unpaid balance shall be added, and if such bill is delinquent for a period of fifteen (15) days or longer, Platte River may discontinue delivery of electric power and energy not less than fifteen (15) days following written notice to Loveland.

Article 9: Meter Testing and Billing Adjustment

(a) Platte River shall test and calibrate meters by comparison with accurate standards at intervals of twelve (12) months, and shall also make special meter tests at any time at Loveland's request. The cost of all tests shall be borne by Platte River; provided, however, that if any special meter test made at Loveland's request shall disclose that the meters are recording accurately, Loveland shall reimburse Platte River for the cost of such test. Meters registering within two percent (2%) above or below normal shall be deemed to be accurate.

(b) The readings of any meter which are disclosed by test to be inaccurate shall be corrected from the beginning of the monthly billing period immediately preceding the billing period

during which the test was made; provided, that no correction shall be made for a longer period than such inaccuracy is determined by Platte River to have existed. If a meter fails to register, the electric power and energy delivered during such period of failure shall, for billing purposes, be estimated by Platte River from the best information available.

(c) Platte River shall notify Loveland in advance of any meter reading or test so that Loveland's representative may be present at such meter reading or test.

Article 10: Right of Occupancy and Access

Both Parties shall have a revocable license to occupy the property of the other Party necessary to deliver and receive power and energy under this Agreement as described in Attachment B. Duly authorized representatives of either Party shall be permitted to enter the premises of the other Party at all reasonable times in order to carry out the provisions of this Agreement and those described in Attachment B.

Article 11: Uncontrollable Forces

Neither Party to this Agreement shall be considered to be in default in performance of any of its obligations, except the agreement to make payment, when a failure of performance shall be due to an uncontrollable force. The term "uncontrollable force" means any cause beyond the control of the Party affected, including but not restricted to, failure of or threat of failure of facilities, flood, earthquake, storm, fire, lightning, epidemic, war, riot, civil disturbance or disobedience, labor dispute, labor or material shortage, sabotage, restraint by court order or public authority and action or inaction by, or failure to obtain the necessary authorization or approvals from, any governmental agency or authority, which by the exercise of due diligence such Party could not reasonably have been expected to avoid and which by exercise of due diligence it shall be unable to overcome. Nothing contained herein shall require a Party to settle any strike or labor dispute in which it may be involved. Either Party rendered unable to fulfill any of its obligations under this Agreement by reason of an uncontrollable force shall give prompt written notice of such fact, if reasonable to do so, to the other Party and shall exercise due diligence to remove such inability with all reasonable dispatch.

Article 12: Enforceability

The Parties hereto recognize that there are legal constraints imposed upon them by the constitution, statutes, and rules and regulations of the State of Colorado and of the United States,

and imposed upon them by their respective governing statutes, charters, ordinances, rules and regulations, and that, subject to such constraints, the Parties intend to carry out the terms and conditions of this Agreement. Notwithstanding any other provision of this Agreement to the contrary, in no event shall either of the Parties exercise any power or take any action which shall be prohibited by applicable law. Whenever possible, each provision of this Agreement shall be interpreted in such a manner so as to be effective and valid under applicable law.

Article 13: Term of Agreement

(a) This Agreement shall become effective when executed by both Parties, and shall amend and supersede the existing Contract for the Supply of Electric Power and Energy between Platte River and Loveland, dated ~~July 1, 1998~~ September 1, 2010. This Agreement shall remain in effect until December 31, ~~2050~~2060, and thereafter until terminated by either Party following not less than twelve (12) months written notice to the other Party of its intention to terminate.

~~(b) The Transmission Facilities Agreement between Platte River and Loveland dated March 18, 1980, shall be deemed terminated as of the date of this Agreement.~~

Article 14: Notices

Any formal notice provided for in this Agreement, and the payment of monies due, shall be deemed properly served, given or made, if delivered in person or sent by regular mail to the persons specified below:

For Platte River:

General Manager
Platte River Power Authority
2000 East Horsetooth Road
Fort Collins, Colorado 80525

For Loveland:

City of Loveland, Colorado
Water and Power Director
200 North Wilson
Loveland, Colorado 80537

Article 15: Severability

In the event that any of the terms, covenants, or conditions of this Agreement or their application shall be held invalid as to any person or circumstance by any Court having jurisdiction, the remainder of this Agreement and the application of its terms, covenants, or conditions to such persons or circumstances shall not be affected thereby.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed the day and year first above written.

PLATTE RIVER POWER AUTHORITY

ATTEST:

By: _____
General Manager

By: _____
Assistant Secretary

CITY OF LOVELAND

ATTEST:

By: _____
Mayor

By: _____
City Clerk

APPROVED AS TO FORM:

Assistant City Attorney

ATTACHMENT A

Effective September 1, 2007

WESTERN AREA POWER ADMINISTRATION
GENERAL POWER CONTRACT PROVISIONS

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*Legal Citation Revised September 1, 2007

**WESTERN AREA POWER ADMINISTRATION
GENERAL POWER CONTRACT PROVISIONS**

I. APPLICABILITY.

1. Applicability.

1.1 These General Power Contract Provisions (Provisions) shall be a part of the contract to which they are attached. In the event these Provisions differ from requirements of the contract, specific terms set forth in the contract shall prevail.

1.2 If the Contractor has member utilities which are either directly or indirectly receiving benefits from the contract, then the Contractor shall require such members to comply with Provisions 10, 17, 18, 19, 29, 30, 36, 43, 44, and 45 of these General Power Contract Provisions.

II. DELIVERY OF SERVICE PROVISIONS.

2. Character of Service.

Electric energy supplied or transmitted under the contract will be three-phase, alternating current, at a nominal frequency of sixty (60) hertz (cycles per second).

3. Use of Capacity or Energy in Excess of Contract Obligation.

The Contractor is not entitled to use Federal power, energy, or capacity in amounts greater than the Western contract delivery obligation in effect for each type of service provided for in the contract except with the approval of Western. Unauthorized overruns of contract delivery obligations shall be subject to charges specified in the contract or the applicable rate schedules. Overruns shall not establish any continuing right thereto and the Contractor shall cease any overruns when requested by Western, or in the case of authorized overruns, when the approval expires, whichever occurs first. Nothing in the contract shall obligate Western to increase any delivery obligation. If additional power, energy, or capacity is not available from Western, the responsibility for securing additional power, energy, or capacity shall rest wholly with the Contractor.

4. Continuity of Service.

Electric service will be supplied or transmitted continuously except for: (1) fluctuations, interruptions, or reductions due to uncontrollable forces, as defined in Provision 34 (Uncontrollable Forces) herein, (2) fluctuations, interruptions, or reductions due to operation of devices installed for power system protection; and (3) temporary fluctuations, interruptions, or reductions, which, in the opinion of the party supplying the service, are necessary or desirable for the purposes of maintenance, repairs, replacements, installation of equipment, or investigation and inspection. The party supplying service, except in case of emergency, will give the party to whom service is being provided reasonable advance notice of such temporary interruptions or reductions and will remove the cause thereof with diligence.

5. Multiple Points of Delivery.

When electric service is supplied at or transmitted to two or more points of delivery under the same rate schedule, said rate schedule shall apply separately to the service supplied at or transmitted to each point of delivery; Provided, That where the meter readings are considered separately, and during abnormal conditions, the Contractor's system is interconnected between points of delivery such that duplication of metered power is possible, the meter readings at each affected point of delivery will be adjusted to compensate for duplication of power demand recorded by meters at alternate points of delivery due to abnormal conditions which are beyond the Contractor's control or temporary conditions caused by scheduled outages.

6. Metering.

6.1 The total electric power and energy supplied or transmitted under the contract will be measured by metering equipment to be furnished and maintained by Western, a designated representative of Western, or where situations deem it appropriate as determined by Western, by the Contractor or its agent(s). In the event metering equipment is furnished and maintained by the Contractor or its agent(s) and the equipment is used for billing and other accounting purposes by Western, the Contractor shall ensure that the metering equipment complies with applicable metering policies established by Western.

6.2 Meters shall be secured by appropriate security measures and meters shall not be accessed except when the meters are to be inspected, tested, adjusted, or repaired. Representatives of affected parties shall be afforded reasonable opportunity to be present upon such occasions. Metering equipment shall be inspected and tested each year by the party responsible for meter maintenance, unless a different test interval is determined in accordance with good utility practices by an applicable regional metering policy, or as agreed upon by the parties. Meters shall also be tested at any reasonable time upon request by a party hereto, or by an affected supplemental power supplier, transmission agent, or control area operator. Any metering equipment found to be damaged, defective, or inaccurate shall be repaired and readjusted or replaced by the party responsible for meter maintenance as soon as practicable. Meters found with security breaches shall be tested for tampering and, if appropriate, meter readings shall be adjusted by Western pursuant to Provision 6.3 below.

6.3 Except as otherwise provided in Provision 6.4 hereof, should any meter that is used by Western for billing or other accounting purposes fail to register accurately, the electric power and energy supplied or transmitted during the period of failure to register accurately, shall, for billing purposes, be estimated by Western from the best available information.

6.4 If inspections and tests of a meter used by Western for billing or other accounting purposes disclose an error exceeding 2 percent, or a lesser range in error as agreed upon by the parties, then a correction based upon the inaccuracy found shall be made to the service records for the period of inaccuracy as determined by Western. If the period of inaccuracy cannot be determined, the inaccuracy shall be assumed to have existed during the entire monthly billing period immediately preceding the billing period in which the inspection or test was made and the resulting correction shall be made accordingly.

6.5 Any correction in billing or other accounting information that results from a correction in meter records shall be made in a subsequent monthly bill rendered by Western to the Contractor. Payment of such bill shall constitute full adjustment of any claim between the parties arising out of inaccurate metering equipment.

7. Existence of Transmission Service Contract.

If the contract provides for Western to furnish services using the facilities of a third party, the obligation of Western shall be subject to and contingent upon the existence of a transmission service contract granting Western rights to use such facilities. If Western acquires or constructs facilities which would enable it to furnish direct service to the Contractor, Western, at its option, may furnish service over its own facilities.

8. Conditions of Transmission Service.

8.1 When the electric service under the contract is furnished by Western over the facilities of others by virtue of a transmission service arrangement, the power and energy will be furnished at the voltage available and under the conditions which exist from time to time on the transmission system over which the service is supplied.

8.2 Unless otherwise provided in the contract or applicable rate schedule, the Contractor shall maintain a power factor at each point of delivery from Western's transmission agent as required by the transmission agent.

8.3 Western will endeavor to inform the Contractor from time to time of any changes planned or proposed on the system over which the service is supplied, but the costs of any changes made necessary in the Contractor's system, because of changes or conditions on the system over which the service is supplied, shall not be a charge against or a liability of Western.

8.4 If the Contractor, because of changes or conditions on the system over which service under the contract is supplied, is required to make changes on its system at its own expense in order to continue receiving service under the contract, then the Contractor may terminate service under the contract upon not less than sixty (60) days written notice given to Western prior to making such changes, but not thereafter.

8.5 If Western notifies the Contractor that electric service provided for under the contract cannot be delivered to the Contractor because of an insufficiency of capacity available to Western in the facilities of others over which service under the contract is supplied, then the Contractor may terminate service under the contract upon not less than sixty (60) days written notice given to Western prior to the date on which said capacity ceases to be available to Western, but not thereafter.

9. Multiple Points of Delivery Involving Direct and Indirect Deliveries.

When Western has provided line and substation capacity under the contract for the purpose of delivering electric service directly to the Contractor at specified direct points of delivery and also has agreed to absorb transmission service allowance or discounts for deliveries of energy over other system(s) to indirect points of delivery and the Contractor shifts any of its load served under the contract from direct delivery to indirect delivery, Western will not absorb the transmission service costs on such shifted load until the unused capacity, as determined solely by Western, available at the direct delivery points affected is fully utilized.

10. Construction, Operation, and Maintenance of Contractor's Power System.

The Contractor shall, and, if applicable, shall require each of its members or transmission agents to construct, operate, and maintain its power system in a manner which, as determined by Western, will not interfere

with the operation of the system of Western or its transmission agents over which electric services are furnished to the Contractor under the contract, and in a manner which will coordinate with the protective relaying and other protective arrangements of the system(s) of Western or Western's transmission agents. Western may reduce or discontinue furnishing services to the Contractor if, after notice by Western, the Contractor fails or refuses to make such changes as may be necessary to eliminate an unsatisfactory condition on the Contractor's power system which is determined by Western to interfere significantly under current or probable conditions with any service supplied from the power system of Western or from the power system of a transmission agent of Western. Such a reduction or discontinuance of service will not relieve the Contractor of liability for any minimum charges provided for in the contract during the time said services are reduced or discontinued. Nothing in this Provision shall be construed to render Western liable in any manner for any claims, demands, costs, losses, causes of action, damages, or liability of any kind or nature arising out of or resulting from the construction, operation, or maintenance of the Contractor's power system.

III. RATES, BILLING, AND PAYMENT PROVISIONS.

11. Change of Rates.

Rates applicable under the contract shall be subject to change by Western in accordance with appropriate rate adjustment procedures. If at any time the United States promulgates a rate changing a rate then in effect under the contract, it will promptly notify the Contractor thereof. Rates shall become effective as to the contract as of the effective date of such rate. The Contractor, by written notice to Western within ninety (90) days after the effective date of a rate change, may elect to terminate the service billed by Western under the new rate. Said termination shall be effective on the last day of the billing period requested by the Contractor not later than two (2) years after the effective date of the new rate. Service provided by Western shall be paid for at the new rate regardless of whether the Contractor exercises the option to terminate service.

12. Minimum Seasonal or Annual Capacity Charge.

When the rate in effect under the contract provides for a minimum seasonal or annual capacity charge, a statement of the minimum capacity charge due, if any, shall be included in the bill rendered for service for the last billing period of the service season or contract year as appropriate, adjusted for increases or decreases in the contract rate of delivery and for the number of billing periods during the year or season in which service is not provided. Where multiple points of delivery are involved and the contract rate of delivery is stated to be a maximum aggregate rate of delivery for all points, in determining the minimum seasonal or annual capacity charge due, if any, the monthly capacity charges at the individual points of delivery shall be added together.

13. Billing and Payment.

13.1 Western will normally issue bills to the Contractor for services furnished during the preceding month within ten (10) days after the end of the billing period.

13.2 If Western is unable to issue timely monthly bill(s), Western may elect to render estimated bill(s). Such estimated bill(s) shall be subject to the same payment provisions as final bill(s), and any applicable adjustments will be shown on a subsequent monthly bill.

13.3 Payments of bills issued by Western are due and payable by the Contractor before the close of business on the twentieth (20th) calendar day after the date of issuance of each bill or the next business day thereafter if said day is a Saturday, Sunday, or Federal holiday. Bills shall be considered paid when payment is received by Western. Bills will be paid electronically or via the Automated Clearing House method of payment unless a written request to make payments by mail is submitted by the Contractor and approved by Western. Should Western agree to accept payments by mail, these payments will be accepted as timely and without assessment of the charge provided for in Provision 14 (Nonpayment of Bills in Full When Due) if a United States Post Office first class mail postmark indicates the payment was mailed at least three (3) calendar days before the due date.

13.4 The parties agree that net billing procedures will be used for payments due Western by the Contractor and for payments due the Contractor by Western for the sale or exchange of electric power and energy, use of transmission facilities, operation and maintenance of electric facilities, and other services. Payments due one party in any month shall be offset against payments due the other party in such month, and the resulting net balance shall be paid to the party in whose favor such balance exists. The parties shall exchange such reports and information that either party requires for billing purposes. Net billing shall not be used for any amounts due which are in dispute.

14. Nonpayment of Bills in Full When Due.

14.1 Bills not paid in full by the Contractor by the due date specified in Provision 13 (Billing and Payment) hereof shall bear a charge of five hundredths percent (0.05%) of the principal sum unpaid for each day payment is delinquent, to be added until the amount due is paid in full. Western will also assess a fee of twenty-five dollars (\$25.00) for processing a late payment. Payments received will first be applied to the charges for late payment assessed on the principal and then to payment of the principal.

14.2 Western shall have the right, upon not less than fifteen (15) days advance written notice, to discontinue furnishing the services specified in the contract for nonpayment of bills in full when due, and to refuse to resume such services so long as any part of the amount due remains unpaid. Such a discontinuance of service will not relieve the Contractor of liability for minimum charges during the time service is so discontinued. The rights reserved to Western herein shall be in addition to all other remedies available to Western either by law or in equity, for the breach of any of the terms hereof.

15. Adjustments for Fractional Billing Period.

The demand or capacity charge and minimum charges shall each be proportionately adjusted when fractional billing periods are applicable under this contract. A fractional billing period can occur: (1) at the beginning or end of electric service; (2) at the beginning or end of irrigation pumping service each year; (3) for a fractional billing period under a new rate schedule; or (4) for fractional periods due to withdrawals of electric services. The adjustment will be made based on the ratio of the number of hours that electric service is available to the Contractor in such fractional billing period to the total number of hours in the billing period involved. Energy billing shall not be affected by fractional billing periods.

16. Adjustments for Curtailments to Firm Service.

16.1 Billing adjustments will be made if firm electric service is interrupted or reduced because of conditions on the power system of the United States for periods of one (1) hour or longer in duration each.

Billing adjustments will not be made when such curtailment of electric service is due to a request by the Contractor or a discontinuance of electric service by Western pursuant to Provision 14 (Nonpayment of Bills in Full When Due). For purposes of billing adjustments under this Provision, the term power system of the United States shall include transmission facilities used under contract but not owned by the United States.

16.2 The total number of hours of curtailed firm electric service in any billing period shall be determined by adding: (1) the sum of the number of hours of interrupted electric service to (2) the product, of each reduction, of: the number of hours reduced electric service and the percentage by which electric service was reduced below the delivery obligation of Western at the time of each said reduction of electric service. The demand or capacity charge and applicable minimum charges shall each be proportionately adjusted in the ratio that the total number of hours of electric service determined to have been curtailed bears to the total number of hours in the billing period involved.

16.3 The Contractor shall make written claim within thirty (30) days after receiving the monthly bill, for adjustment on account of any curtailment of firm electric service, for periods of one (1) hour or longer in duration each, alleged to have occurred that is not reflected in said bill. Failure to make such written claim, within said thirty-day (30-day) period, shall constitute a waiver of said claim. All curtailments of electric service, which are due to conditions on the power system of the United States, shall be subject to the terms of this Provision; Provided, That withdrawal of power and energy under the contract shall not be considered a curtailment of electric service.

IV. POWER SALES PROVISIONS.

17. Resale of Firm Electric Service (Wholesale Sales for Resale).

The Contractor shall not sell any firm electric power or energy supplied under the contract to any electric utility customer of the Contractor for resale by that utility customer; Provided, That the Contractor may sell the electric power and energy supplied under the contract to its members on condition that said members not sell any of said power and energy to any customer of the member for resale by that customer.

18. Distribution Principles.

The Contractor agrees that the benefits of firm electric power or energy supplied under the contract shall be made available to its consumers at rates that are established at the lowest possible level consistent with sound business principles, and that these rates will be established in an open and public manner. The Contractor further agrees that it will identify the costs of firm electric power or energy supplied under the contract and power from other sources to its consumers upon request. The Contractor will demonstrate compliance with the requirements of this Provision to Western upon request.

19. Contract Subject to Colorado River Compact.

Where the energy sold under the contract is generated from waters of the Colorado River system, the contract is made upon the express condition and with the express covenant that all rights under the contract shall be subject to and controlled by the Colorado River Compact approved by Section 13 (a) of the Boulder Canyon Project Act of December 21, 1928, 43 U.S.C. §§ 617a-e, and the parties to the contract shall observe and be subject to and controlled by said Colorado River Compact in the construction, management, and operation of the dams, reservoirs, and powerplants from which electrical energy is to be furnished by Western to the Contractor

under the contract, and in the storage, diversion, delivery, and use of water for the generation of electrical energy to be delivered by Western to the Contractor under the contract.

V. FACILITIES PROVISIONS.

20. Design Approval.

All facilities, construction, and installation by the Contractor pursuant to the contract shall be subject to the approval of Western. Facilities interconnections shall normally conform to Western's current "General Requirements for Interconnection," in effect upon the signing of the contract document providing for each interconnection, copies of which are available from Western. At least ninety (90) days, unless otherwise agreed, prior to the date the Contractor proposes to commence construction or to incur an obligation to purchase facilities to be installed pursuant to the contract, whichever date is the earlier, the Contractor shall submit, for the approval of Western, detailed designs, drawings, and specifications of the facilities the Contractor proposes to purchase, construct, and install. The Contractor assumes all risks for construction commenced or obligations to purchase facilities incurred prior to receipt of approval from Western. Western review and approval of designs and construction work in no way implies that Western is certifying that the designs meet the Contractor's needs.

21. Inspection and Acceptance.

Western shall have the right to inspect the materials and work furnished by the Contractor, its agents, employees, and subcontractors pursuant to the contract. Such inspections shall be at reasonable times at the work site. Any materials or work that Western determines is defective or not in accordance with designs, drawings, and specifications, as approved by Western, shall be replaced or modified, as directed by Western, at the sole expense of the Contractor before the new facilities are energized.

22. As-Built Drawings.

Within a reasonable time, as determined by Western, after the completion of construction and installation of facilities pursuant to the contract, the Contractor shall submit to Western marked as-built prints of all Western drawings affected by changes made pursuant to the contract and reproducible drawings the Contractor has prepared showing facilities of Western. The Contractor's drawings of Western facilities shall use drawing title blocks, drawing numbers, and shall be prepared in accordance with drafting standards all as approved by Western. Western may prepare, revise, or complete said drawings and bill the Contractor if the Contractor fails to provide such drawings to Western within a reasonable time as determined by Western.

23. Equipment Ownership Markers.

23.1 The Contractor shall identify all movable equipment and, to the extent agreed upon by the parties, all other salvageable facilities constructed or installed on the United States right-of-way or in Western substations pursuant to the contract which are owned by the Contractor, by permanently affixing thereto suitable markers clearly identifying the Contractor as the owner of said equipment and facilities.

23.2 If requested by the Contractor, Western shall identify all movable equipment and, to the extent agreed upon by the parties, all other salvageable facilities constructed or installed on the Contractor's right-of-way or in the Contractor's substations pursuant to the contract which are owned by the United States, by

permanently affixing thereto suitable markers clearly identifying the United States as the owner of said equipment and facilities.

24. Third-Party Use of Facilities.

The Contractor shall notify Western of any proposed system change relating to the facilities governed by the contract or allowing third-party use of the facilities governed by the contract. If Western notifies the Contractor that said system change will, as solely determined by Western, adversely affect the operation of Western's system the Contractor shall, at no cost to Western, provide a solution to said adverse effect acceptable to Western.

25. Changes to Western Control Facilities.

If at any time during the term of the contract, Western determines that changes or additions to control, relay, or communications facilities are necessary to maintain the reliability or control of Western's transmission system, and said changes or additions are entirely or partially required because of the Contractor's equipment installed under the contract, such changes or additions shall, after consultation with the Contractor, be made by Western with all costs or a proportionate share of all costs, as determined by Western, to be paid by the Contractor. Western shall notify the Contractor in writing of the necessary changes or additions and the estimated costs to be paid by the Contractor. If the Contractor fails to pay its share of said estimated costs, Western shall have the right, after giving sixty (60) days' written notice to the Contractor, to terminate the applicable facility installation provisions to the contract and require the removal of the Contractor's facilities.

26. Modification of Western Facilities.

Western reserves the right, at any time, to modify its facilities. Western shall keep the Contractor informed of all planned modifications to Western facilities which impact the facilities installation pursuant to the contract. Western shall permit the Contractor to change or modify its facilities, in a manner satisfactory to and at no cost or expense to Western, to retain the facilities interconnection pursuant to the contract. At the Contractor's option, Western shall cooperate with the Contractor in planning alternate arrangements for service which shall be implemented at no cost or expense to Western. The Contractor and Western shall modify the contract, as necessary, to conform to the new facilities arrangements.

27. Transmission Rights.

If the contract involves an installation which sectionalizes a Western transmission line, the Contractor hereby agrees to provide a transmission path to Western across such sectionalizing facilities at no cost or expense to Western. Said transmission path shall be at least equal, in terms of capacity and reliability, to the path in the Western transmission line prior to the installation pursuant to the contract.

28. Construction and Safety Procedures.

28.1 The Contractor hereby acknowledges that it is aware of the hazards inherent in high-voltage electric lines and substations, and hereby assumes full responsibility at all times for the adoption and use of necessary safety measures required to prevent accidental harm to personnel engaged in the construction, inspection, testing, operation, maintenance, replacement, or removal activities of the Contractor pursuant to the contract. The Contractor and the authorized employees, agents, and subcontractors of the Contractor shall comply

with all applicable safety laws and building and construction codes, including the provisions of Chapter 1 of the Power System Operations Manual, entitled Power System Switching Procedure, and the Occupational Safety and Health Administration regulations, Title 29 C.F.R. §§ 1910 and 1926, as amended or supplemented. In addition to the safety program required herein, upon request of the United States, the Contractor shall provide sufficient information to demonstrate that the Contractor's safety program is satisfactory to the United States.

28.2 The Contractor and its authorized employees, agents, and subcontractors shall familiarize themselves with the location and character of all the transmission facilities of Western and interconnections of others relating to the work performed by the Contractor under the contract. Prior to starting any construction, installation, or removal work, the Contractor shall submit a plan of procedure to Western which shall indicate the sequence and method of performing the work in a safe manner. No work shall be performed by the Contractor, its employees, agents, or subcontractors until written authorization to proceed is obtained from Western.

28.3 At all times when the Contractor, its employees, agents, or subcontractors are performing activities of any type pursuant to the contract, such activities shall be under supervision of a qualified employee, agent, or subcontractor of the Contractor who shall be authorized to represent the Contractor in all matters pertaining to the activity being performed. The Contractor and Western will keep each other informed of the names of their designated representatives at the site.

28.4 Upon completion of its work, the Contractor shall remove from the vicinity of the right-of-way of the United States all buildings, rubbish, used materials, concrete forms, and other like material belonging to the Contractor or used under the Contractor's direction, and in the event of failure to do so the same may be removed by Western at the expense of the Contractor.

28.5 In the event the Contractor, its employees, agents, or subcontractors fail to comply with any requirement of this Provision, or Provision 21 (Inspection and Acceptance) herein, Western or an authorized representative may issue an order to stop all or any part of the work until such time as the Contractor demonstrates compliance with the provision at issue. The Contractor, its employees, agents, or subcontractors shall make no claim for compensation or damages resulting from such work stoppage.

29. Environmental Compliance.

Facilities installed under the contract by any party shall be constructed, operated, maintained, replaced, transported, and removed subject to compliance with all applicable laws, including but not limited to the National Historic Preservation Act of 1966, 16 U.S.C. §§ 470x-6, the National Environmental Policy Act of 1969, 42 U.S.C. §§ 4321-4347, the Endangered Species Act of 1973, 16 U.S.C. §§ 1531-1544, and the Archaeological Resources Protection Act of 1979, 16 U.S.C. §§ 470aa-470mm, and the regulations and executive orders implementing these laws, as they may be amended or supplemented, as well as any other existing or subsequent applicable laws, regulations, and executive orders.

30. Responsibility for Regulated Materials.

When either party owns equipment containing regulated material located on the other party's substation, switchyard, right-of-way, or other property, the equipment owner shall be responsible for all activities related to regulated materials in such equipment that are necessary to meet the requirements of the Toxic Substances Control Act, 15 U.S.C. §§ 2601-2692, the Resource Conservation and Recovery Act, 42 U.S.C. §§ 6901-6992k, the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. §§ 9601-

9675, the Oil Pollution Act of 1990, 33 U.S.C. §§ 2702-2761, the Clean Water Act, 33 U.S.C. §§ 1251-1387, the Safe Drinking Water Act, 42 U.S.C. §§ 300f-j26, and the regulations and executive orders implementing these laws, as they may be amended or supplemented, and any other existing or subsequent applicable laws, regulations, and executive orders. Each party shall label its equipment containing regulated material in accordance with appropriate laws and regulations. If the party owning the equipment does not perform activities required under appropriate laws and regulations within the time frame specified therein, the other party may perform or cause to be performed the required activities after notice to and at the sole expense of the party owning the equipment.

VI. OTHER PROVISIONS.

31. Authorized Representatives of the Parties.

Each party to the contract, by written notice to the other, shall designate the representative(s) who is (are) authorized to act in its behalf with respect to those matters contained in the contract which are the functions and responsibilities of the authorized representatives of the parties. Each party may change the designation of its authorized representative(s) upon oral notice given to the other, confirmed promptly by written notice.

32. Effect of Section Headings.

Section headings or Provision titles appearing in the contract or these General Power Contract Provisions are inserted for convenience only and shall not be construed as interpretations of text.

33. Operating Guidelines and Procedures.

The parties to the contract may agree upon and put into effect from time to time, such other written guidelines and procedures as may be required in order to establish the methods of operation of the power system to be followed in the performance of the contract.

34. Uncontrollable Forces.

Neither party to the contract shall be considered to be in default in performance of any of its obligations under the contract, except to make payment as specified in Provision 13 (Billing and Payment) herein, when a failure of performance shall be due to an uncontrollable force. The term "uncontrollable force" means any cause beyond the control of the party affected, including but not restricted to, failure of or threat of failure of facilities, flood, earthquake, storm, fire, lightning, epidemic, war, riot, civil disturbance or disobedience, labor dispute, labor or material shortage, sabotage, restraint by court order or public authority and action or nonaction by, or failure to obtain the necessary authorizations or approvals from, any governmental agency or authority, which by exercise of due diligence such party could not reasonably have been expected to avoid and which by exercise of due diligence it shall be unable to overcome. Nothing contained herein shall be construed to require a party to settle any strike or labor dispute in which it may be involved. Either party rendered unable to fulfill any of its obligations under the contract by reason of an uncontrollable force shall give prompt written notice of such fact to the other party and shall exercise due diligence to remove such inability with all reasonable dispatch.

35. Liability.

35.1 The Contractor hereby agrees to indemnify and hold harmless the United States, its employees, agents, or contractors from any loss or damage and from any liability on account of personal injury, death, or property damage, or claims for personal injury, death, or property damage of any nature whatsoever and by whomsoever made arising out of the Contractors', its employees', agents', or subcontractors' construction, operation, maintenance, or replacement activities under the contract.

35.2 The United States is liable only for negligence on the part of its officers and employees in accordance with the Federal Tort Claims Act, 28 U.S.C. §§ 1346(b), 1346(c), 2401(b), 2402, 2671, 2672, 2674-2680, as amended or supplemented.

36. Cooperation of Contracting Parties.

If, in the operation and maintenance of their respective power systems or electrical equipment and the utilization thereof for the purposes of the contract, it becomes necessary by reason of any emergency or extraordinary condition for either party to request the other to furnish personnel, materials, tools, and equipment for the accomplishment thereof, the party so requested shall cooperate with the other and render such assistance as the party so requested may determine to be available. The party making such request, upon receipt of properly itemized bills from the other party, shall reimburse the party rendering such assistance for all costs properly and reasonably incurred by it in such performance, including administrative and general expenses, such costs to be determined on the basis of current charges or rates used in its own operations by the party rendering assistance. Issuance and payment of bills for services provided by Western shall be in accordance with Provisions 13 (Billing and Payment) and 14 (Nonpayment of Bills in Full When Due) herein. Western shall pay bills issued by the Contractor for services provided as soon as the necessary vouchers can be prepared which shall normally be within twenty (20) days.

37. Transfer of Interest in the Contract or Change in Preference Status.

37.1 No voluntary transfer of the contract or of the rights of the Contractor under the contract shall be made without the prior written approval of the Administrator of Western. Any voluntary transfer of the contract or of the rights of the Contractor under the contract made without the prior written approval of the Administrator of Western may result in the termination of the contract; Provided, That the written approval of the Administrator shall not be unreasonably withheld; Provided further, That if the Contractor operates a project financed in whole or in part by the Rural Utilities Service, the Contractor may transfer or assign its interest in the contract to the Rural Utilities Service or any other department or agency of the Federal Government without such prior written approval; Provided further, That any successor to or assignee of the rights of the Contractor, whether by voluntary transfer, judicial sale, foreclosure sale, or otherwise, shall be subject to all the provisions and conditions of the contract to the same extent as though such successor or assignee were the original Contractor under the contract; and, Provided further, That the execution of a mortgage or trust deed, or judicial or foreclosure sales made thereunder, shall not be deemed voluntary transfers within the meaning of this Provision.

37.2 The Contractor shall maintain its status as an entity eligible for preference in Western's sale of Federal power pursuant to Reclamation law, as amended and supplemented.

37.3 Western shall give the Contractor written notice of Western's proposed determination that the Contractor has violated Provision 37.1 and Western's proposed action in response to the violation.

37.4 The Contractor shall have 120 days after receipt of Western's notice provided under Provision 37.3 to submit a written response to Western. The Contractor may also make an oral presentation to the Administrator during this 120-day period.

37.5 At any time during this process, the Contractor and Western may agree upon corrective action to resolve Western's proposed determination that the Contractor is in violation of Provision 37.1.

37.6 Within 30 days of receipt of the Contractor's written response provided under Provision 37.4, Western will notify the Contractor in writing of its final decision. The Administrator's written notice will include the intended action, the effective date thereof, and the reasons for taking the intended action. Implementation of the Administrator's action shall take place no earlier than 60 days from the Contractor's receipt of such notice.

37.7 Any successor to Western shall be subject to all the provisions and conditions of the contract to the same extent as though such successor were an original signatory to the contract.

37.8 Nothing in this Provision shall preclude any right to judicial review available to the Contractor under Federal law.

38. Choice of Law and Forum.

Federal law shall control the obligations and procedures established by this contract and the performance and enforcement thereof. The forum for litigation arising from this contract shall exclusively be a Federal court of the United States, unless the parties agree to pursue alternative dispute resolution.

39. Waivers.

Any waivers at any time by either party to the contract of its rights with respect to a default or any other matter arising under or in connection with the contract shall not be deemed a waiver with respect to any subsequent default or matter.

40. Notices.

Any notice, demand, or request specifically required by the contract or these Provisions to be in writing shall be considered properly given when delivered in person or sent by postage prepaid registered or certified mail, commercial delivery service, facsimile, electronic, prepaid telegram, or by other means with prior agreement of the parties, to each party's authorized representative at the principal offices of the party. The designation of the person to be notified may be changed at any time by similar notice. Where facsimile or electronic means are utilized for any communication covered by this Provision, the sending party shall keep a contemporaneous record of such communications and shall verify receipt by the other party.

41. Contingent Upon Appropriations and Authorization.

41.1 Where activities provided for in the contract extend beyond the current fiscal year, continued expenditures by the United States are contingent upon Congress making the necessary appropriations required for the continued performance of the United States' obligations under the contract. In case such

appropriation is not made, the Contractor hereby releases the United States from its contractual obligations and from all liability due to the failure of Congress to make such appropriation.

41.2 In order to receive and expend funds advanced from the Contractor necessary for the continued performance of the obligations of the United States under the contract, additional authorization may be required. In case such authorization is not received, the Contractor hereby releases the United States from those contractual obligations and from all liability due to the lack of such authorization.

42. Covenant Against Contingent Fees.

The Contractor warrants that no person or selling agency has been employed or retained to solicit or secure the contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. For breach or violation of this warranty, Western shall have the right to annul the contract without liability or in its discretion to deduct from the contract price or consideration the full amount of such commission, percentage, brokerage, or contingent fee.

43. Contract Work Hours and Safety Standards.

The contract, to the extent that it is of a character specified in Section 103 of the Contract Work Hours and Safety Standards Act (Act), 40 U.S.C. § 329, as amended or supplemented, is subject to the provisions of the Act, 40 U.S.C. §§ 327-334, as amended or supplemented, and to regulations promulgated by the Secretary of Labor pursuant to the Act.

44. Equal Opportunity Employment Practices.

Section 202 of Executive Order No. 11246, 30 Fed. Reg. 12319 (1965), as amended by Executive Order No. 12086, 43 Fed. Reg. 46501 (1978), as amended or supplemented, which provides, among other things, that the Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin, is incorporated herein by reference the same as if the specific language had been written into the contract, except that Indian Tribes and tribal organizations may apply Indian preference to the extent permitted by Federal law.

45. Use of Convict Labor.

The Contractor agrees not to employ any person undergoing sentence of imprisonment in performing the contract except as provided by 18 U.S.C. § 3622(c), as amended or supplemented, and Executive Order No. 11755, 39 Fed. Reg. 779 (1973), as amended or supplemented.

Attachment B
Substation Cost and Maintenance Responsibility
And
Lease of 115kV Facilities

The following describes the cost and maintenance responsibilities for Loveland and Platte River at the existing East, West, Valley, Airport, Horseshoe, ~~and Crossroads~~, ~~and Foothills~~ Substations. This description will also apply to any future substations that may be constructed by Loveland. If any special arrangements are required for a new substation different from the understanding described below, it will be documented in a separate letter agreement between the Loveland and Platte River and attached hereto.

Loveland will furnish, own, and maintain at its expense the following items in each substation owned by Loveland:

- The substation site with sufficient space for both the Loveland and Platte River equipment
- Grading and surfacing within the fenced or walled area
- Access right-of-way and roads
- Perimeter substation fence or wall
- Landscaping and maintenance of any grounds outside the fenced or walled area
- The 230 or 115kV/12.47 transformers, switchgear, feeder circuits, associated foundations and ~~oil~~ containment structures, duct banks, conduits, and all cabling, relays, and controls required to operate such equipment
- The Loveland switchgear room in a common Loveland/Platte River switchgear/control building or separate building, whichever is appropriate
- A remote terminal unit (RTU), for use to transmit substation information to Loveland
- The DC power supply system and associated equipment or ½ the cost of a DC system shared with Platte River.
- Substation site electric service (equipment, power and energy)
- Substation yard lighting
- Substation yard below grade grounding system

Platte River will furnish, own, and maintain at its expense the following items in each substation owned by Loveland:

- All transmission equipment required at the appropriate voltage class to deliver electric capacity and energy to Loveland's facilities including the transmission line transition structures, breakers, switches, bus system, relays, meters and associated controls
- All foundations required for the Platte River equipment listed above
- The Platte River control room in a combined Loveland/Platte River switchgear/control building, or the cost of a separate control building, whichever is appropriate
- Communication connections for Power System Operations use by both Loveland and Platte River
- A remote terminal unit (RTU), ~~for shared~~ use to transmit substation information to ~~both Loveland and~~ Platte River
- Weed control

Loveland and Platte River will share equally the cost of any substation security deemed by both parties to be appropriate for the location of the substation.

Lease of 115kV Facilities:

Background: In the Transmission Facilities Agreement dated March 11, 1980, Loveland leased multiple transmission and substation facilities to Platte River. With that lease Platte River assumed responsibility for 115kV transmission and substation facilities that served the Boyd, East, West, Horseshoe and Valley Substations. Platte River owns ~~all~~ 115kV facilities at Airport, ~~and~~ Crossroads, ~~and~~ Foothills Substations and all 230 facilities at Boyd and Horseshoe Substations as these substations were constructed after 1980.

Continuation of Lease: Loveland agrees to continue the lease of the facilities on the following list ("Leased Facilities") to Platte River through the term of this Agreement or until such facility is permanently removed from service or replaced. Platte River shall continue to have the right to use the Leased Facility in whatever manner it shall determine to be the most effective to meet its obligations under this Agreement and the local needs of Loveland and to make whatever modifications, improvements, repairs and replacements it shall determine to be necessary to provide reliable service. Platte River shall not permit any lien or encumbrance to attach to the Leased Facility and shall deliver them up to Loveland at the termination of this Agreement.

The following items comprise the Leased Facilities:

Land and Land Rights

All land, land rights and easements on which the following facilities are located:

- The portion of the Boyd Substation purchased by Loveland
- The West Tap (on the WAPA 115kV Valley-Flatiron line) to West Substation 115kV transmission line
- The 115kV transmission line from Horseshoe Substation east to 57th Street
- The 115kV transmission line from Horseshoe Substation west to West Substation

Substation Equipment

~~All~~ 115kV breakers, busses, switches, insulators, meters, relays, control panels, structural steel, foundations, and miscellaneous 115kV support equipment at the following substations:

- Boyd
- East
- West
- Horseshoe
- Valley

Transmission Lines

All poles and conductors and all support equipment required for operation of the following 115kV transmission lines:

- West Tap to West Substation
- Double circuit line north from Boyd Substation to 57th Street
- Horseshoe Substation to West Substation
- Horseshoe Substation to 115kV line at 57th Street

DRAFT

Attachment D

AMENDED CONTRACT FOR THE SUPPLY OF ELECTRIC POWER AND ENERGY

This contract, made this ____ day of _____, 2019, between PLATTE RIVER POWER AUTHORITY, a political subdivision organized and existing under and by virtue of the laws of the State of Colorado (hereinafter called "Platte River") and the CITY OF LOVELAND, COLORADO, a municipal corporation of the State of Colorado (hereinafter called "Loveland.")

WITNESSETH:

WHEREAS, Platte River was formed by Estes Park, Fort Collins, Longmont, and Loveland (hereinafter collectively called "Municipalities") in order to provide the wholesale power and energy requirements of the Municipalities in a reliable, cost-effective, and environmentally responsible manner; and

WHEREAS, Platte River, owns, operates, and maintains electric generating facilities, transmission lines, substations, and related facilities for the purpose of supplying electric power and energy to the electric systems owned and operated by the Municipalities for resale; and

WHEREAS, Platte River has heretofore entered into or will enter into agreements for the sale of electric power and energy similar in form to this Agreement with the cities of Estes Park, Fort Collins, and Longmont; and

WHEREAS, Loveland desires to purchase electric power and energy from Platte River on the terms and conditions herein set forth;

WHEREAS, through this Agreement the parties acknowledge that the electric industry is evolving from an industry dominated by central station power to one that will likely employ increasing amounts of distributed generation resources; and

WHEREAS, the Platte River Board of Directors approved a Resource Diversification Policy with the goal of becoming 100% non-carbon by 2030 and in doing so the Board recognized that distributed generation will be needed to achieve this goal; and

WHEREAS, intermittent resources must be managed to ensure continued system reliability; and

WHEREAS, Platte River will equitably manage the impact of adding and firming intermittent resources amongst the four communities to ensure continued financial sustainability; and

WHEREAS, the parties recognize that the exceptions created to the all-requirements provision set forth in Article 1(a) are not intended to be the only means by which the parties either singularly or in coordination work toward meeting the goal of the Resource Diversification Policy; and

WHEREAS, the parties intend through the expanded covenant contained in Article 3(c) to meet routinely to review new technologies and business models that may merit recognition through specific amendments to this Agreement; and

WHEREAS, in order to meet the goal of the Resource Diversification Policy the parties are committed to use this incremental amendment process to explore expanding opportunities for distributed generation resources that likely become an increasingly important component of our future resource mix and to amend this agreement when appropriate to accommodate technologies and business models that are not contemplated today; and

WHEREAS, in order to accomplish amendments identified as suitable exceptions to the all-requirements provisions set forth in Article 1(a) Platte River recognizes that it may be necessary in future financings to modify bond covenant restrictions.

NOW, THEREFORE, in consideration of the mutual undertakings herein contained, the Parties hereto agree as follows:

Article 1: Sale and Purchase of Electric Power and Energy

(a) Platte River shall sell and deliver to Loveland and Loveland shall purchase and receive from Platte River all electric power and energy which Loveland shall require for the operation of its municipal electric system to the extent that Platte River shall have such power and energy available; provided, however, that (1) Loveland shall have the right to continue to generate its own power and energy to the extent of the capacity of its generating facilities in service on September 5, 1974 and may also generate power and energy for its own use from any new generation resource(s) owned and operated by Loveland provided that the total rated capacity of all such new generation is no greater than 1,000 kW or one percent of the peak load of Loveland, whichever is greater, provided further that if Loveland develops new generation resources of a total rated capacity as set forth above Platte River commits that it will meet with Loveland to discuss in good faith an increase in the total rated capacity limit, and (2) Loveland shall not be in violation of the all requirements purchase obligation herein when it purchases power from net metered customers, provided that customers who have entered into agreements with entities that own and operate solar generation located on the customer's property size the

solar generation to supply no more than one hundred and twenty percent (120%) of the annual average consumption of electricity by the customer at that site.

(b) Subject to the provisions of Article 2(a), Loveland hereby binds itself to take and pay for all power and energy that is generated, purchased, or otherwise obtained by Platte River, and is furnished to Loveland for resale pursuant to Article 1(a) hereof, said payment to be made at the rates set forth in the Tariff Schedules of Platte River in effect at the time the power and energy is furnished to Loveland.

Article 2: Rate for Power and Energy

(a) Loveland shall pay Platte River for all electric power and energy furnished hereunder at the rates and on the terms and conditions as provided in the Platte River Tariff Schedules; provided, however, that notwithstanding any other provision of this Agreement, the obligation of Loveland to pay Platte River for all electric power and energy furnished hereunder shall be, and is, a special obligation of Loveland payable solely from revenues to be received by Loveland from the sale of electric power and energy to its electric utility customers during the term hereof and is not a lien, charge, or liability against Loveland or against any property or funds of Loveland other than revenues to be received by Loveland from the sale of electric power and energy to its electric utility customers during the term hereof, and the obligation to pay Platte River for all electric power and energy furnished hereunder does not constitute a debt, liability, or obligation of Loveland other than from its revenues to be received from the sale of electric power and energy to its electric utility customers during the term hereof, and Loveland is not otherwise obligated to pay such obligation.

(b) The Board of Directors of Platte River at such intervals as it shall deem appropriate, but in any event not less frequently than once in each calendar year, shall review the rates for electric power and energy furnished hereunder and under similar agreements with the other Municipalities and, if necessary, shall revise such rates to produce revenues which shall be sufficient, but only sufficient, with the revenues of Platte River from all other sources,

- (i) to meet the cost of operation and maintenance (including, without limitation, fuel, replacements, insurance, taxes, fees, and administrative and general overhead expense) of the electric generating plants, transmission system, and related facilities of Platte River;
- (ii) to meet the cost of any power and energy purchased for resale hereunder by Platte River and the cost of transmission service;

- (iii) to make payments of principal and interest on all indebtedness and revenue bonds of Platte River and provide an earnings margin adequate to enable Platte River to obtain revenue bond financing on favorable terms; and
- (iv) to provide for the establishment and maintenance of reasonable reserves.

(c) Platte River shall cause a notice in writing to be given to each Municipality to which it furnishes electric power and energy, which notice shall set out each revision of the rates with the effective date thereof, which shall be not less than thirty (30) days after the date of the notice. All rate adjustments shall apply equally to all Municipalities to which Platte River furnishes electric power and energy, unless otherwise agreed upon, and shall not be discriminatory. Loveland agrees that the rates from time to time established by the Board of Directors of Platte River shall be deemed to be substituted for the rates presently contained in the Tariff Schedules and agrees to pay for electric power and energy furnished to it hereunder after the effective date of any revisions to the Tariff Schedules at such revised rates.

Article 3: Covenants of Platte River

(a) Platte River shall use reasonable diligence to furnish a constant and uninterrupted supply of electric power and energy hereunder. If the supply of electric power and energy shall fail, or be interrupted, or become defective through uncontrollable forces, as defined herein, Platte River shall not be liable for any claim or damages caused thereby.

(b) After first satisfying the electric power and energy requirements of all Municipalities to which it furnishes electric power and energy, Platte River may, in its sole discretion, market and dispose of any surplus electric power and energy which it owns or produces or which Platte River is obligated by contract to purchase, under the most advantageous terms and conditions obtainable.

(c) Platte River shall carry out the planning, design, construction, and operating decisions associated with the performance of its obligations under this Agreement in an environmentally responsible manner. This includes, but is not limited to, scheduling meetings with Loveland at least every two years to review new technologies and business models that may serve to increase the penetration of distributed generation and efficiency technologies. As appropriate the parties will amend this Agreement to allow such new technologies and business models to operate within the retail service territory of Loveland.

Article 4: Covenants of Loveland

(a) Loveland agrees to maintain rates for electric power and energy furnished to its electric utility customers which will, after payment of all of Loveland's costs of operation and maintenance (including, without limitation, replacements, insurance, administrative and general overhead expense), return to Loveland sufficient revenue to meet its obligations to Platte River hereunder.

(b) Loveland shall not sell at wholesale any of the electric energy delivered to it hereunder to any of its customers for resale by that customer, unless such resale is specifically approved in writing by Platte River.

(c) Loveland acknowledges that it is familiar with the provision of Platte River's contract with the Western Area Power Administration, which requires, as a condition of the purchase of federally generated power, that the Municipalities comply with certain provisions of the "General Power Contract Provisions," which is attached hereto as Attachment A. Loveland acknowledges its compliance obligations under the General Power Contract Provisions, as that document presently exists and as it may be modified in the future.

Article 5: Conditions of Delivery of Power and Energy

(a) The electric power and energy to be furnished by Platte River shall be alternating current, sixty (60) hertz, three-phase, subject to conditions of delivery and measurement as hereinafter provided and in the Tariff Schedules.

(b) Responsibilities for the facilities through which electric power and energy is delivered are set forth in Attachment B of this Agreement, attached hereto and made a part hereof.

(c) Loveland shall make and pay for all final connections between its system and the system owned by, or available to, Platte River at the points of delivery agreed upon.

(d) Unless otherwise agreed, Loveland shall install, own, and maintain the necessary substation equipment at the points of delivery from the system of, or available to, Platte River and shall install, own, and maintain switching and protective equipment of adequate design and sufficient capacity beyond such points of delivery to enable Loveland to take and use the electric power and energy supplied hereunder without hazard to such system.

(e) To provide adequate service to Loveland, Platte River agrees to increase the capacity of an existing transmission point of delivery, or to establish a new transmission point of delivery at a mutually agreeable location, of a design capacity of not less than 20,000 kVa maximum nameplate rating at 55° C. rise, and in accordance with this Agreement.

(f) Loveland shall give Platte River at least two years written notice of the need to increase the capacity of an existing transmission point of delivery or the need for a new transmission point of delivery. If new transmission is required, Loveland shall give at least four years written notice. The notice shall specify the amount of additional or new capacity, the new transmission required, and the desired initial date of its operation. Platte River shall, within sixty (60) days after receipt of such notice, and on the basis of the best information available to Platte River from system plans and load projections for Loveland, inform Loveland in writing of Platte River's plans and schedules with respect to the supply of the additional capacity requested by Loveland, and shall thereafter keep Loveland informed of Platte River's progress in supplying such additional capacity. Any written notice requesting additional capacity at an existing point of delivery or the establishment of a new point of delivery shall provide to Platte River any and all authority necessary for its facilities to occupy the property of Loveland during the period in which that point of delivery is used by Platte River for the delivery of power and energy.

(g) If Loveland requires the construction of a 115 kV or 230 kV transmission line for additional service where such line is a tap or radial line over which energy can flow in only one direction, as distinguished from a system line over which energy can flow in either direction, then ownership, operation and maintenance of such 115 kV or 230 kV transmission line will be undertaken by Platte River pursuant to a separate agreement with Loveland which provides for an appropriate sharing of the annual costs of ownership and operations of such line for as long as such energy flow and delivery conditions prevail.

Article 6: Consultation on System Planning

(a) At least once each year, on or before July 1, Platte River shall consult Loveland concerning its requirements for transmission facilities to effect delivery of power and energy by Platte River. The date for such annual consultation shall be set by agreement of the Parties.

(b) At least thirty (30) days prior to the date of such annual consultation, Loveland shall provide Platte River with two (2) copies of its latest estimate of requirements for delivery of power and energy covering a future period of ten (10) years. Platte River shall review Loveland's annual estimates and shall consider them in preparing Platte River's annual system plan. Following Platte River's annual consultations on delivery requirements with all Municipalities, Platte River shall prepare an annual system plan for the delivery of power and energy to all Municipalities covering a future period of ten (10) years. Decisions regarding the construction of any transmission and delivery facilities by Platte River primarily to supply Loveland, will take into account Loveland's

long-range distribution requirements and costs and the long-range costs and benefits of alternative service plans. Platte River's annual system plan shall include appropriate load flow and stability studies and a copy thereof shall be furnished to Loveland if requested.

Article 7: Measurement of Power and Energy

(a) Metering equipment shall be furnished, installed, and maintained by Platte River at each point of delivery to Loveland at the high voltage side of the transforming equipment or at such other points as agreed upon by the Parties.

(b) Loss adjustments for high voltage side or remote metering shall be as specified in the Tariff Schedule or as otherwise agreed by the Parties.

Article 8: Meter Readings and Payment of Bills

(a) Platte River shall read meters and invoice Loveland for power and energy furnished hereunder at approximately monthly intervals. Such invoices shall be due and payable to Platte River within fifteen (15) days from date of issuance and shall become delinquent thereafter.

(b) If Loveland's monthly bill becomes delinquent, late charges at the rate of a one and one-half percent (1½ %) per month of the unpaid balance shall be added, and if such bill is delinquent for a period of fifteen (15) days or longer, Platte River may discontinue delivery of electric power and energy not less than fifteen (15) days following written notice to Loveland.

Article 9: Meter Testing and Billing Adjustment

(a) Platte River shall test and calibrate meters by comparison with accurate standards at intervals of twelve (12) months, and shall also make special meter tests at any time at Loveland's request. The cost of all tests shall be borne by Platte River; provided, however, that if any special meter test made at Loveland's request shall disclose that the meters are recording accurately, Loveland shall reimburse Platte River for the cost of such test. Meters registering within two percent (2%) above or below normal shall be deemed to be accurate.

(b) The readings of any meter which are disclosed by test to be inaccurate shall be corrected from the beginning of the monthly billing period immediately preceding the billing period during which the test was made; provided, that no correction shall be made for a longer period than such inaccuracy is determined by Platte River to have existed. If a meter fails to register, the electric power and energy delivered during such period of failure shall, for billing purposes, be estimated by Platte River from the best information available.

(c) Platte River shall notify Loveland in advance of any meter reading or test so that Loveland's representative may be present at such meter reading or test.

Article 10: Right of Occupancy and Access

Both Parties shall have a revocable license to occupy the property of the other Party necessary to deliver and receive power and energy under this Agreement as described in Attachment B. Duly authorized representatives of either Party shall be permitted to enter the premises of the other Party at all reasonable times in order to carry out the provisions of this Agreement and those described in Attachment B.

Article 11: Uncontrollable Forces

Neither Party to this Agreement shall be considered to be in default in performance of any of its obligations, except the agreement to make payment, when a failure of performance shall be due to an uncontrollable force. The term "uncontrollable force" means any cause beyond the control of the Party affected, including but not restricted to, failure of or threat of failure of facilities, flood, earthquake, storm, fire, lightning, epidemic, war, riot, civil disturbance or disobedience, labor dispute, labor or material shortage, sabotage, restraint by court order or public authority and action or inaction by, or failure to obtain the necessary authorization or approvals from, any governmental agency or authority, which by the exercise of due diligence such Party could not reasonably have been expected to avoid and which by exercise of due diligence it shall be unable to overcome. Nothing contained herein shall require a Party to settle any strike or labor dispute in which it may be involved. Either Party rendered unable to fulfill any of its obligations under this Agreement by reason of an uncontrollable force shall give prompt written notice of such fact, if reasonable to do so, to the other Party and shall exercise due diligence to remove such inability with all reasonable dispatch.

Article 12: Enforceability

The Parties hereto recognize that there are legal constraints imposed upon them by the constitution, statutes, and rules and regulations of the State of Colorado and of the United States, and imposed upon them by their respective governing statutes, charters, ordinances, rules and regulations, and that, subject to such constraints, the Parties intend to carry out the terms and conditions of this Agreement. Notwithstanding any other provision of this Agreement to the contrary, in no event shall either of the Parties exercise any power or take any action which shall

be prohibited by applicable law. Whenever possible, each provision of this Agreement shall be interpreted in such a manner so as to be effective and valid under applicable law.

Article 13: Term of Agreement

(a) This Agreement shall become effective when executed by both Parties, and shall amend and supersede the existing Contract for the Supply of Electric Power and Energy between Platte River and Loveland, dated September 1, 2010. This Agreement shall remain in effect until December 31, 2060, and thereafter until terminated by either Party following not less than twelve (12) months written notice to the other Party of its intention to terminate.

Article 14: Notices

Any formal notice provided for in this Agreement, and the payment of monies due, shall be deemed properly served, given or made, if delivered in person or sent by regular mail to the persons specified below:

For Platte River:

General Manager
Platte River Power Authority
2000 East Horsetooth Road
Fort Collins, Colorado 80525

For Loveland:

City of Loveland, Colorado
Water and Power Director
200 North Wilson
Loveland, Colorado 80537

Article 15: Severability

In the event that any of the terms, covenants, or conditions of this Agreement or their application shall be held invalid as to any person or circumstance by any Court having jurisdiction, the remainder of this Agreement and the application of its terms, covenants, or conditions to such persons or circumstances shall not be affected thereby.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed the day and year first above written.

PLATTE RIVER POWER AUTHORITY

ATTEST:

By: _____
General Manager

By: _____
Assistant Secretary

CITY OF LOVELAND

ATTEST:

By: _____
Mayor

By: _____
City Clerk

APPROVED AS TO FORM:

Assistant City Attorney

ATTACHMENT A

Effective September 1, 2007

WESTERN AREA POWER ADMINISTRATION
GENERAL POWER CONTRACT PROVISIONS

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*Legal Citation Revised September 1, 2007

**WESTERN AREA POWER ADMINISTRATION
GENERAL POWER CONTRACT PROVISIONS**

I. APPLICABILITY.

1. Applicability.

1.1 These General Power Contract Provisions (Provisions) shall be a part of the contract to which they are attached. In the event these Provisions differ from requirements of the contract, specific terms set forth in the contract shall prevail.

1.2 If the Contractor has member utilities which are either directly or indirectly receiving benefits from the contract, then the Contractor shall require such members to comply with Provisions 10, 17, 18, 19, 29, 30, 36, 43, 44, and 45 of these General Power Contract Provisions.

II. DELIVERY OF SERVICE PROVISIONS.

2. Character of Service.

Electric energy supplied or transmitted under the contract will be three-phase, alternating current, at a nominal frequency of sixty (60) hertz (cycles per second).

3. Use of Capacity or Energy in Excess of Contract Obligation.

The Contractor is not entitled to use Federal power, energy, or capacity in amounts greater than the Western contract delivery obligation in effect for each type of service provided for in the contract except with the approval of Western. Unauthorized overruns of contract delivery obligations shall be subject to charges specified in the contract or the applicable rate schedules. Overruns shall not establish any continuing right thereto and the Contractor shall cease any overruns when requested by Western, or in the case of authorized overruns, when the approval expires, whichever occurs first. Nothing in the contract shall obligate Western to increase any delivery obligation. If additional power, energy, or capacity is not available from Western, the responsibility for securing additional power, energy, or capacity shall rest wholly with the Contractor.

4. Continuity of Service.

Electric service will be supplied or transmitted continuously except for: (1) fluctuations, interruptions, or reductions due to uncontrollable forces, as defined in Provision 34 (Uncontrollable Forces) herein, (2) fluctuations, interruptions, or reductions due to operation of devices installed for power system protection; and (3) temporary fluctuations, interruptions, or reductions, which, in the opinion of the party supplying the service, are necessary or desirable for the purposes of maintenance, repairs, replacements, installation of equipment, or investigation and inspection. The party supplying service, except in case of emergency, will give the party to whom service is being provided reasonable advance notice of such temporary interruptions or reductions and will remove the cause thereof with diligence.

5. Multiple Points of Delivery.

When electric service is supplied at or transmitted to two or more points of delivery under the same rate schedule, said rate schedule shall apply separately to the service supplied at or transmitted to each point of delivery; Provided, That where the meter readings are considered separately, and during abnormal conditions, the Contractor's system is interconnected between points of delivery such that duplication of metered power is possible, the meter readings at each affected point of delivery will be adjusted to compensate for duplication of power demand recorded by meters at alternate points of delivery due to abnormal conditions which are beyond the Contractor's control or temporary conditions caused by scheduled outages.

6. Metering.

6.1 The total electric power and energy supplied or transmitted under the contract will be measured by metering equipment to be furnished and maintained by Western, a designated representative of Western, or where situations deem it appropriate as determined by Western, by the Contractor or its agent(s). In the event metering equipment is furnished and maintained by the Contractor or its agent(s) and the equipment is used for billing and other accounting purposes by Western, the Contractor shall ensure that the metering equipment complies with applicable metering policies established by Western.

6.2 Meters shall be secured by appropriate security measures and meters shall not be accessed except when the meters are to be inspected, tested, adjusted, or repaired. Representatives of affected parties shall be afforded reasonable opportunity to be present upon such occasions. Metering equipment shall be inspected and tested each year by the party responsible for meter maintenance, unless a different test interval is determined in accordance with good utility practices by an applicable regional metering policy, or as agreed upon by the parties. Meters shall also be tested at any reasonable time upon request by a party hereto, or by an affected supplemental power supplier, transmission agent, or control area operator. Any metering equipment found to be damaged, defective, or inaccurate shall be repaired and readjusted or replaced by the party responsible for meter maintenance as soon as practicable. Meters found with security breaches shall be tested for tampering and, if appropriate, meter readings shall be adjusted by Western pursuant to Provision 6.3 below.

6.3 Except as otherwise provided in Provision 6.4 hereof, should any meter that is used by Western for billing or other accounting purposes fail to register accurately, the electric power and energy supplied or transmitted during the period of failure to register accurately, shall, for billing purposes, be estimated by Western from the best available information.

6.4 If inspections and tests of a meter used by Western for billing or other accounting purposes disclose an error exceeding 2 percent, or a lesser range in error as agreed upon by the parties, then a correction based upon the inaccuracy found shall be made to the service records for the period of inaccuracy as determined by Western. If the period of inaccuracy cannot be determined, the inaccuracy shall be assumed to have existed during the entire monthly billing period immediately preceding the billing period in which the inspection or test was made and the resulting correction shall be made accordingly.

6.5 Any correction in billing or other accounting information that results from a correction in meter records shall be made in a subsequent monthly bill rendered by Western to the Contractor. Payment of such bill shall constitute full adjustment of any claim between the parties arising out of inaccurate metering equipment.

7. Existence of Transmission Service Contract.

If the contract provides for Western to furnish services using the facilities of a third party, the obligation of Western shall be subject to and contingent upon the existence of a transmission service contract granting Western rights to use such facilities. If Western acquires or constructs facilities which would enable it to furnish direct service to the Contractor, Western, at its option, may furnish service over its own facilities.

8. Conditions of Transmission Service.

8.1 When the electric service under the contract is furnished by Western over the facilities of others by virtue of a transmission service arrangement, the power and energy will be furnished at the voltage available and under the conditions which exist from time to time on the transmission system over which the service is supplied.

8.2 Unless otherwise provided in the contract or applicable rate schedule, the Contractor shall maintain a power factor at each point of delivery from Western's transmission agent as required by the transmission agent.

8.3 Western will endeavor to inform the Contractor from time to time of any changes planned or proposed on the system over which the service is supplied, but the costs of any changes made necessary in the Contractor's system, because of changes or conditions on the system over which the service is supplied, shall not be a charge against or a liability of Western.

8.4 If the Contractor, because of changes or conditions on the system over which service under the contract is supplied, is required to make changes on its system at its own expense in order to continue receiving service under the contract, then the Contractor may terminate service under the contract upon not less than sixty (60) days written notice given to Western prior to making such changes, but not thereafter.

8.5 If Western notifies the Contractor that electric service provided for under the contract cannot be delivered to the Contractor because of an insufficiency of capacity available to Western in the facilities of others over which service under the contract is supplied, then the Contractor may terminate service under the contract upon not less than sixty (60) days written notice given to Western prior to the date on which said capacity ceases to be available to Western, but not thereafter.

9. Multiple Points of Delivery Involving Direct and Indirect Deliveries.

When Western has provided line and substation capacity under the contract for the purpose of delivering electric service directly to the Contractor at specified direct points of delivery and also has agreed to absorb transmission service allowance or discounts for deliveries of energy over other system(s) to indirect points of delivery and the Contractor shifts any of its load served under the contract from direct delivery to indirect delivery, Western will not absorb the transmission service costs on such shifted load until the unused capacity, as determined solely by Western, available at the direct delivery points affected is fully utilized.

10. Construction, Operation, and Maintenance of Contractor's Power System.

The Contractor shall, and, if applicable, shall require each of its members or transmission agents to construct, operate, and maintain its power system in a manner which, as determined by Western, will not interfere

with the operation of the system of Western or its transmission agents over which electric services are furnished to the Contractor under the contract, and in a manner which will coordinate with the protective relaying and other protective arrangements of the system(s) of Western or Western's transmission agents. Western may reduce or discontinue furnishing services to the Contractor if, after notice by Western, the Contractor fails or refuses to make such changes as may be necessary to eliminate an unsatisfactory condition on the Contractor's power system which is determined by Western to interfere significantly under current or probable conditions with any service supplied from the power system of Western or from the power system of a transmission agent of Western. Such a reduction or discontinuance of service will not relieve the Contractor of liability for any minimum charges provided for in the contract during the time said services are reduced or discontinued. Nothing in this Provision shall be construed to render Western liable in any manner for any claims, demands, costs, losses, causes of action, damages, or liability of any kind or nature arising out of or resulting from the construction, operation, or maintenance of the Contractor's power system.

III. RATES, BILLING, AND PAYMENT PROVISIONS.

11. Change of Rates.

Rates applicable under the contract shall be subject to change by Western in accordance with appropriate rate adjustment procedures. If at any time the United States promulgates a rate changing a rate then in effect under the contract, it will promptly notify the Contractor thereof. Rates shall become effective as to the contract as of the effective date of such rate. The Contractor, by written notice to Western within ninety (90) days after the effective date of a rate change, may elect to terminate the service billed by Western under the new rate. Said termination shall be effective on the last day of the billing period requested by the Contractor not later than two (2) years after the effective date of the new rate. Service provided by Western shall be paid for at the new rate regardless of whether the Contractor exercises the option to terminate service.

12. Minimum Seasonal or Annual Capacity Charge.

When the rate in effect under the contract provides for a minimum seasonal or annual capacity charge, a statement of the minimum capacity charge due, if any, shall be included in the bill rendered for service for the last billing period of the service season or contract year as appropriate, adjusted for increases or decreases in the contract rate of delivery and for the number of billing periods during the year or season in which service is not provided. Where multiple points of delivery are involved and the contract rate of delivery is stated to be a maximum aggregate rate of delivery for all points, in determining the minimum seasonal or annual capacity charge due, if any, the monthly capacity charges at the individual points of delivery shall be added together.

13. Billing and Payment.

13.1 Western will normally issue bills to the Contractor for services furnished during the preceding month within ten (10) days after the end of the billing period.

13.2 If Western is unable to issue timely monthly bill(s), Western may elect to render estimated bill(s). Such estimated bill(s) shall be subject to the same payment provisions as final bill(s), and any applicable adjustments will be shown on a subsequent monthly bill.

13.3 Payments of bills issued by Western are due and payable by the Contractor before the close of business on the twentieth (20th) calendar day after the date of issuance of each bill or the next business day thereafter if said day is a Saturday, Sunday, or Federal holiday. Bills shall be considered paid when payment is received by Western. Bills will be paid electronically or via the Automated Clearing House method of payment unless a written request to make payments by mail is submitted by the Contractor and approved by Western. Should Western agree to accept payments by mail, these payments will be accepted as timely and without assessment of the charge provided for in Provision 14 (Nonpayment of Bills in Full When Due) if a United States Post Office first class mail postmark indicates the payment was mailed at least three (3) calendar days before the due date.

13.4 The parties agree that net billing procedures will be used for payments due Western by the Contractor and for payments due the Contractor by Western for the sale or exchange of electric power and energy, use of transmission facilities, operation and maintenance of electric facilities, and other services. Payments due one party in any month shall be offset against payments due the other party in such month, and the resulting net balance shall be paid to the party in whose favor such balance exists. The parties shall exchange such reports and information that either party requires for billing purposes. Net billing shall not be used for any amounts due which are in dispute.

14. Nonpayment of Bills in Full When Due.

14.1 Bills not paid in full by the Contractor by the due date specified in Provision 13 (Billing and Payment) hereof shall bear a charge of five hundredths percent (0.05%) of the principal sum unpaid for each day payment is delinquent, to be added until the amount due is paid in full. Western will also assess a fee of twenty-five dollars (\$25.00) for processing a late payment. Payments received will first be applied to the charges for late payment assessed on the principal and then to payment of the principal.

14.2 Western shall have the right, upon not less than fifteen (15) days advance written notice, to discontinue furnishing the services specified in the contract for nonpayment of bills in full when due, and to refuse to resume such services so long as any part of the amount due remains unpaid. Such a discontinuance of service will not relieve the Contractor of liability for minimum charges during the time service is so discontinued. The rights reserved to Western herein shall be in addition to all other remedies available to Western either by law or in equity, for the breach of any of the terms hereof.

15. Adjustments for Fractional Billing Period.

The demand or capacity charge and minimum charges shall each be proportionately adjusted when fractional billing periods are applicable under this contract. A fractional billing period can occur: (1) at the beginning or end of electric service; (2) at the beginning or end of irrigation pumping service each year; (3) for a fractional billing period under a new rate schedule; or (4) for fractional periods due to withdrawals of electric services. The adjustment will be made based on the ratio of the number of hours that electric service is available to the Contractor in such fractional billing period to the total number of hours in the billing period involved. Energy billing shall not be affected by fractional billing periods.

16. Adjustments for Curtailments to Firm Service.

16.1 Billing adjustments will be made if firm electric service is interrupted or reduced because of conditions on the power system of the United States for periods of one (1) hour or longer in duration each.

Billing adjustments will not be made when such curtailment of electric service is due to a request by the Contractor or a discontinuance of electric service by Western pursuant to Provision 14 (Nonpayment of Bills in Full When Due). For purposes of billing adjustments under this Provision, the term power system of the United States shall include transmission facilities used under contract but not owned by the United States.

16.2 The total number of hours of curtailed firm electric service in any billing period shall be determined by adding: (1) the sum of the number of hours of interrupted electric service to (2) the product, of each reduction, of: the number of hours reduced electric service and the percentage by which electric service was reduced below the delivery obligation of Western at the time of each said reduction of electric service. The demand or capacity charge and applicable minimum charges shall each be proportionately adjusted in the ratio that the total number of hours of electric service determined to have been curtailed bears to the total number of hours in the billing period involved.

16.3 The Contractor shall make written claim within thirty (30) days after receiving the monthly bill, for adjustment on account of any curtailment of firm electric service, for periods of one (1) hour or longer in duration each, alleged to have occurred that is not reflected in said bill. Failure to make such written claim, within said thirty-day (30-day) period, shall constitute a waiver of said claim. All curtailments of electric service, which are due to conditions on the power system of the United States, shall be subject to the terms of this Provision; Provided, That withdrawal of power and energy under the contract shall not be considered a curtailment of electric service.

IV. POWER SALES PROVISIONS.

17. Resale of Firm Electric Service (Wholesale Sales for Resale).

The Contractor shall not sell any firm electric power or energy supplied under the contract to any electric utility customer of the Contractor for resale by that utility customer; Provided, That the Contractor may sell the electric power and energy supplied under the contract to its members on condition that said members not sell any of said power and energy to any customer of the member for resale by that customer.

18. Distribution Principles.

The Contractor agrees that the benefits of firm electric power or energy supplied under the contract shall be made available to its consumers at rates that are established at the lowest possible level consistent with sound business principles, and that these rates will be established in an open and public manner. The Contractor further agrees that it will identify the costs of firm electric power or energy supplied under the contract and power from other sources to its consumers upon request. The Contractor will demonstrate compliance with the requirements of this Provision to Western upon request.

19. Contract Subject to Colorado River Compact.

Where the energy sold under the contract is generated from waters of the Colorado River system, the contract is made upon the express condition and with the express covenant that all rights under the contract shall be subject to and controlled by the Colorado River Compact approved by Section 13 (a) of the Boulder Canyon Project Act of December 21, 1928, 43 U.S.C. §§ 617a-e, and the parties to the contract shall observe and be subject to and controlled by said Colorado River Compact in the construction, management, and operation of the dams, reservoirs, and powerplants from which electrical energy is to be furnished by Western to the Contractor

under the contract, and in the storage, diversion, delivery, and use of water for the generation of electrical energy to be delivered by Western to the Contractor under the contract.

V. FACILITIES PROVISIONS.

20. Design Approval.

All facilities, construction, and installation by the Contractor pursuant to the contract shall be subject to the approval of Western. Facilities interconnections shall normally conform to Western's current "General Requirements for Interconnection," in effect upon the signing of the contract document providing for each interconnection, copies of which are available from Western. At least ninety (90) days, unless otherwise agreed, prior to the date the Contractor proposes to commence construction or to incur an obligation to purchase facilities to be installed pursuant to the contract, whichever date is the earlier, the Contractor shall submit, for the approval of Western, detailed designs, drawings, and specifications of the facilities the Contractor proposes to purchase, construct, and install. The Contractor assumes all risks for construction commenced or obligations to purchase facilities incurred prior to receipt of approval from Western. Western review and approval of designs and construction work in no way implies that Western is certifying that the designs meet the Contractor's needs.

21. Inspection and Acceptance.

Western shall have the right to inspect the materials and work furnished by the Contractor, its agents, employees, and subcontractors pursuant to the contract. Such inspections shall be at reasonable times at the work site. Any materials or work that Western determines is defective or not in accordance with designs, drawings, and specifications, as approved by Western, shall be replaced or modified, as directed by Western, at the sole expense of the Contractor before the new facilities are energized.

22. As-Built Drawings.

Within a reasonable time, as determined by Western, after the completion of construction and installation of facilities pursuant to the contract, the Contractor shall submit to Western marked as-built prints of all Western drawings affected by changes made pursuant to the contract and reproducible drawings the Contractor has prepared showing facilities of Western. The Contractor's drawings of Western facilities shall use drawing title blocks, drawing numbers, and shall be prepared in accordance with drafting standards all as approved by Western. Western may prepare, revise, or complete said drawings and bill the Contractor if the Contractor fails to provide such drawings to Western within a reasonable time as determined by Western.

23. Equipment Ownership Markers.

23.1 The Contractor shall identify all movable equipment and, to the extent agreed upon by the parties, all other salvageable facilities constructed or installed on the United States right-of-way or in Western substations pursuant to the contract which are owned by the Contractor, by permanently affixing thereto suitable markers clearly identifying the Contractor as the owner of said equipment and facilities.

23.2 If requested by the Contractor, Western shall identify all movable equipment and, to the extent agreed upon by the parties, all other salvageable facilities constructed or installed on the Contractor's right-of-way or in the Contractor's substations pursuant to the contract which are owned by the United States, by

permanently affixing thereto suitable markers clearly identifying the United States as the owner of said equipment and facilities.

24. Third-Party Use of Facilities.

The Contractor shall notify Western of any proposed system change relating to the facilities governed by the contract or allowing third-party use of the facilities governed by the contract. If Western notifies the Contractor that said system change will, as solely determined by Western, adversely affect the operation of Western's system the Contractor shall, at no cost to Western, provide a solution to said adverse effect acceptable to Western.

25. Changes to Western Control Facilities.

If at any time during the term of the contract, Western determines that changes or additions to control, relay, or communications facilities are necessary to maintain the reliability or control of Western's transmission system, and said changes or additions are entirely or partially required because of the Contractor's equipment installed under the contract, such changes or additions shall, after consultation with the Contractor, be made by Western with all costs or a proportionate share of all costs, as determined by Western, to be paid by the Contractor. Western shall notify the Contractor in writing of the necessary changes or additions and the estimated costs to be paid by the Contractor. If the Contractor fails to pay its share of said estimated costs, Western shall have the right, after giving sixty (60) days' written notice to the Contractor, to terminate the applicable facility installation provisions to the contract and require the removal of the Contractor's facilities.

26. Modification of Western Facilities.

Western reserves the right, at any time, to modify its facilities. Western shall keep the Contractor informed of all planned modifications to Western facilities which impact the facilities installation pursuant to the contract. Western shall permit the Contractor to change or modify its facilities, in a manner satisfactory to and at no cost or expense to Western, to retain the facilities interconnection pursuant to the contract. At the Contractor's option, Western shall cooperate with the Contractor in planning alternate arrangements for service which shall be implemented at no cost or expense to Western. The Contractor and Western shall modify the contract, as necessary, to conform to the new facilities arrangements.

27. Transmission Rights.

If the contract involves an installation which sectionalizes a Western transmission line, the Contractor hereby agrees to provide a transmission path to Western across such sectionalizing facilities at no cost or expense to Western. Said transmission path shall be at least equal, in terms of capacity and reliability, to the path in the Western transmission line prior to the installation pursuant to the contract.

28. Construction and Safety Procedures.

28.1 The Contractor hereby acknowledges that it is aware of the hazards inherent in high-voltage electric lines and substations, and hereby assumes full responsibility at all times for the adoption and use of necessary safety measures required to prevent accidental harm to personnel engaged in the construction, inspection, testing, operation, maintenance, replacement, or removal activities of the Contractor pursuant to the contract. The Contractor and the authorized employees, agents, and subcontractors of the Contractor shall comply

with all applicable safety laws and building and construction codes, including the provisions of Chapter 1 of the Power System Operations Manual, entitled Power System Switching Procedure, and the Occupational Safety and Health Administration regulations, Title 29 C.F.R. §§ 1910 and 1926, as amended or supplemented. In addition to the safety program required herein, upon request of the United States, the Contractor shall provide sufficient information to demonstrate that the Contractor's safety program is satisfactory to the United States.

28.2 The Contractor and its authorized employees, agents, and subcontractors shall familiarize themselves with the location and character of all the transmission facilities of Western and interconnections of others relating to the work performed by the Contractor under the contract. Prior to starting any construction, installation, or removal work, the Contractor shall submit a plan of procedure to Western which shall indicate the sequence and method of performing the work in a safe manner. No work shall be performed by the Contractor, its employees, agents, or subcontractors until written authorization to proceed is obtained from Western.

28.3 At all times when the Contractor, its employees, agents, or subcontractors are performing activities of any type pursuant to the contract, such activities shall be under supervision of a qualified employee, agent, or subcontractor of the Contractor who shall be authorized to represent the Contractor in all matters pertaining to the activity being performed. The Contractor and Western will keep each other informed of the names of their designated representatives at the site.

28.4 Upon completion of its work, the Contractor shall remove from the vicinity of the right-of-way of the United States all buildings, rubbish, used materials, concrete forms, and other like material belonging to the Contractor or used under the Contractor's direction, and in the event of failure to do so the same may be removed by Western at the expense of the Contractor.

28.5 In the event the Contractor, its employees, agents, or subcontractors fail to comply with any requirement of this Provision, or Provision 21 (Inspection and Acceptance) herein, Western or an authorized representative may issue an order to stop all or any part of the work until such time as the Contractor demonstrates compliance with the provision at issue. The Contractor, its employees, agents, or subcontractors shall make no claim for compensation or damages resulting from such work stoppage.

29. Environmental Compliance.

Facilities installed under the contract by any party shall be constructed, operated, maintained, replaced, transported, and removed subject to compliance with all applicable laws, including but not limited to the National Historic Preservation Act of 1966, 16 U.S.C. §§ 470x-6, the National Environmental Policy Act of 1969, 42 U.S.C. §§ 4321-4347, the Endangered Species Act of 1973, 16 U.S.C. §§ 1531-1544, and the Archaeological Resources Protection Act of 1979, 16 U.S.C. §§ 470aa-470mm, and the regulations and executive orders implementing these laws, as they may be amended or supplemented, as well as any other existing or subsequent applicable laws, regulations, and executive orders.

30. Responsibility for Regulated Materials.

When either party owns equipment containing regulated material located on the other party's substation, switchyard, right-of-way, or other property, the equipment owner shall be responsible for all activities related to regulated materials in such equipment that are necessary to meet the requirements of the Toxic Substances Control Act, 15 U.S.C. §§ 2601-2692, the Resource Conservation and Recovery Act, 42 U.S.C. §§ 6901-6992k, the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. §§ 9601-

9675, the Oil Pollution Act of 1990, 33 U.S.C. §§ 2702-2761, the Clean Water Act, 33 U.S.C. §§ 1251-1387, the Safe Drinking Water Act, 42 U.S.C. §§ 300f-j26, and the regulations and executive orders implementing these laws, as they may be amended or supplemented, and any other existing or subsequent applicable laws, regulations, and executive orders. Each party shall label its equipment containing regulated material in accordance with appropriate laws and regulations. If the party owning the equipment does not perform activities required under appropriate laws and regulations within the time frame specified therein, the other party may perform or cause to be performed the required activities after notice to and at the sole expense of the party owning the equipment.

VI. OTHER PROVISIONS.

31. Authorized Representatives of the Parties.

Each party to the contract, by written notice to the other, shall designate the representative(s) who is (are) authorized to act in its behalf with respect to those matters contained in the contract which are the functions and responsibilities of the authorized representatives of the parties. Each party may change the designation of its authorized representative(s) upon oral notice given to the other, confirmed promptly by written notice.

32. Effect of Section Headings.

Section headings or Provision titles appearing in the contract or these General Power Contract Provisions are inserted for convenience only and shall not be construed as interpretations of text.

33. Operating Guidelines and Procedures.

The parties to the contract may agree upon and put into effect from time to time, such other written guidelines and procedures as may be required in order to establish the methods of operation of the power system to be followed in the performance of the contract.

34. Uncontrollable Forces.

Neither party to the contract shall be considered to be in default in performance of any of its obligations under the contract, except to make payment as specified in Provision 13 (Billing and Payment) herein, when a failure of performance shall be due to an uncontrollable force. The term "uncontrollable force" means any cause beyond the control of the party affected, including but not restricted to, failure of or threat of failure of facilities, flood, earthquake, storm, fire, lightning, epidemic, war, riot, civil disturbance or disobedience, labor dispute, labor or material shortage, sabotage, restraint by court order or public authority and action or nonaction by, or failure to obtain the necessary authorizations or approvals from, any governmental agency or authority, which by exercise of due diligence such party could not reasonably have been expected to avoid and which by exercise of due diligence it shall be unable to overcome. Nothing contained herein shall be construed to require a party to settle any strike or labor dispute in which it may be involved. Either party rendered unable to fulfill any of its obligations under the contract by reason of an uncontrollable force shall give prompt written notice of such fact to the other party and shall exercise due diligence to remove such inability with all reasonable dispatch.

35. Liability.

35.1 The Contractor hereby agrees to indemnify and hold harmless the United States, its employees, agents, or contractors from any loss or damage and from any liability on account of personal injury, death, or property damage, or claims for personal injury, death, or property damage of any nature whatsoever and by whomsoever made arising out of the Contractors', its employees', agents', or subcontractors' construction, operation, maintenance, or replacement activities under the contract.

35.2 The United States is liable only for negligence on the part of its officers and employees in accordance with the Federal Tort Claims Act, 28 U.S.C. §§ 1346(b), 1346(c), 2401(b), 2402, 2671, 2672, 2674-2680, as amended or supplemented.

36. Cooperation of Contracting Parties.

If, in the operation and maintenance of their respective power systems or electrical equipment and the utilization thereof for the purposes of the contract, it becomes necessary by reason of any emergency or extraordinary condition for either party to request the other to furnish personnel, materials, tools, and equipment for the accomplishment thereof, the party so requested shall cooperate with the other and render such assistance as the party so requested may determine to be available. The party making such request, upon receipt of properly itemized bills from the other party, shall reimburse the party rendering such assistance for all costs properly and reasonably incurred by it in such performance, including administrative and general expenses, such costs to be determined on the basis of current charges or rates used in its own operations by the party rendering assistance. Issuance and payment of bills for services provided by Western shall be in accordance with Provisions 13 (Billing and Payment) and 14 (Nonpayment of Bills in Full When Due) herein. Western shall pay bills issued by the Contractor for services provided as soon as the necessary vouchers can be prepared which shall normally be within twenty (20) days.

37. Transfer of Interest in the Contract or Change in Preference Status.

37.1 No voluntary transfer of the contract or of the rights of the Contractor under the contract shall be made without the prior written approval of the Administrator of Western. Any voluntary transfer of the contract or of the rights of the Contractor under the contract made without the prior written approval of the Administrator of Western may result in the termination of the contract; Provided, That the written approval of the Administrator shall not be unreasonably withheld; Provided further, That if the Contractor operates a project financed in whole or in part by the Rural Utilities Service, the Contractor may transfer or assign its interest in the contract to the Rural Utilities Service or any other department or agency of the Federal Government without such prior written approval; Provided further, That any successor to or assignee of the rights of the Contractor, whether by voluntary transfer, judicial sale, foreclosure sale, or otherwise, shall be subject to all the provisions and conditions of the contract to the same extent as though such successor or assignee were the original Contractor under the contract; and, Provided further, That the execution of a mortgage or trust deed, or judicial or foreclosure sales made thereunder, shall not be deemed voluntary transfers within the meaning of this Provision.

37.2 The Contractor shall maintain its status as an entity eligible for preference in Western's sale of Federal power pursuant to Reclamation law, as amended and supplemented.

37.3 Western shall give the Contractor written notice of Western's proposed determination that the Contractor has violated Provision 37.1 and Western's proposed action in response to the violation.

37.4 The Contractor shall have 120 days after receipt of Western's notice provided under Provision 37.3 to submit a written response to Western. The Contractor may also make an oral presentation to the Administrator during this 120-day period.

37.5 At any time during this process, the Contractor and Western may agree upon corrective action to resolve Western's proposed determination that the Contractor is in violation of Provision 37.1.

37.6 Within 30 days of receipt of the Contractor's written response provided under Provision 37.4, Western will notify the Contractor in writing of its final decision. The Administrator's written notice will include the intended action, the effective date thereof, and the reasons for taking the intended action. Implementation of the Administrator's action shall take place no earlier than 60 days from the Contractor's receipt of such notice.

37.7 Any successor to Western shall be subject to all the provisions and conditions of the contract to the same extent as though such successor were an original signatory to the contract.

37.8 Nothing in this Provision shall preclude any right to judicial review available to the Contractor under Federal law.

38. Choice of Law and Forum.

Federal law shall control the obligations and procedures established by this contract and the performance and enforcement thereof. The forum for litigation arising from this contract shall exclusively be a Federal court of the United States, unless the parties agree to pursue alternative dispute resolution.

39. Waivers.

Any waivers at any time by either party to the contract of its rights with respect to a default or any other matter arising under or in connection with the contract shall not be deemed a waiver with respect to any subsequent default or matter.

40. Notices.

Any notice, demand, or request specifically required by the contract or these Provisions to be in writing shall be considered properly given when delivered in person or sent by postage prepaid registered or certified mail, commercial delivery service, facsimile, electronic, prepaid telegram, or by other means with prior agreement of the parties, to each party's authorized representative at the principal offices of the party. The designation of the person to be notified may be changed at any time by similar notice. Where facsimile or electronic means are utilized for any communication covered by this Provision, the sending party shall keep a contemporaneous record of such communications and shall verify receipt by the other party.

41. Contingent Upon Appropriations and Authorization.

41.1 Where activities provided for in the contract extend beyond the current fiscal year, continued expenditures by the United States are contingent upon Congress making the necessary appropriations required for the continued performance of the United States' obligations under the contract. In case such

appropriation is not made, the Contractor hereby releases the United States from its contractual obligations and from all liability due to the failure of Congress to make such appropriation.

41.2 In order to receive and expend funds advanced from the Contractor necessary for the continued performance of the obligations of the United States under the contract, additional authorization may be required. In case such authorization is not received, the Contractor hereby releases the United States from those contractual obligations and from all liability due to the lack of such authorization.

42. Covenant Against Contingent Fees.

The Contractor warrants that no person or selling agency has been employed or retained to solicit or secure the contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. For breach or violation of this warranty, Western shall have the right to annul the contract without liability or in its discretion to deduct from the contract price or consideration the full amount of such commission, percentage, brokerage, or contingent fee.

43. Contract Work Hours and Safety Standards.

The contract, to the extent that it is of a character specified in Section 103 of the Contract Work Hours and Safety Standards Act (Act), 40 U.S.C. § 329, as amended or supplemented, is subject to the provisions of the Act, 40 U.S.C. §§ 327-334, as amended or supplemented, and to regulations promulgated by the Secretary of Labor pursuant to the Act.

44. Equal Opportunity Employment Practices.

Section 202 of Executive Order No. 11246, 30 Fed. Reg. 12319 (1965), as amended by Executive Order No. 12086, 43 Fed. Reg. 46501 (1978), as amended or supplemented, which provides, among other things, that the Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin, is incorporated herein by reference the same as if the specific language had been written into the contract, except that Indian Tribes and tribal organizations may apply Indian preference to the extent permitted by Federal law.

45. Use of Convict Labor.

The Contractor agrees not to employ any person undergoing sentence of imprisonment in performing the contract except as provided by 18 U.S.C. § 3622(c), as amended or supplemented, and Executive Order No. 11755, 39 Fed. Reg. 779 (1973), as amended or supplemented.

Attachment B

Substation Cost and Maintenance Responsibility

And

Lease of 115kV Facilities

The following describes the cost and maintenance responsibilities for Loveland and Platte River at the existing East, West, Valley, Airport, Horseshoe, Crossroads, and Foothills Substations. This description will also apply to any future substations that may be constructed by Loveland. If any special arrangements are required for a new substation different from the understanding described below, it will be documented in a separate letter agreement between the Loveland and Platte River and attached hereto.

Loveland will furnish, own, and maintain at its expense the following items in each substation owned by Loveland:

- The substation site with sufficient space for both the Loveland and Platte River equipment
- Grading and surfacing within the fenced or walled area
- Access right-of-way and roads
- Perimeter substation fence or wall
- Landscaping and maintenance of any grounds outside the fenced or walled area
- The 230 or 115kV/12.47 transformers, switchgear, feeder circuits, associated foundations and oil containment structures, duct banks, conduits, and all cabling, relays, and controls required to operate such equipment
- The Loveland switchgear room in a common Loveland/Platte River switchgear/control building or separate building, whichever is appropriate
- A remote terminal unit (RTU), for use to transmit substation information to Loveland
- The DC power supply system and associated equipment or ½ the cost of a DC system shared with Platte River.
- Substation site electric service (equipment, power and energy)
- Substation yard lighting
- Substation yard below grade grounding system

Platte River will furnish, own, and maintain at its expense the following items in each substation owned by Loveland:

- All transmission equipment required at the appropriate voltage class to deliver electric capacity and energy to Loveland's facilities including the transmission line transition structures, breakers, switches, bus system, relays, meters and associated controls
- All foundations required for the Platte River equipment listed above
- The Platte River control room in a combined Loveland/Platte River switchgear/control building, or the cost of a separate control building, whichever is appropriate
- Communication connections for Power System Operations use by both Loveland and Platte River
- A remote terminal unit (RTU), for use to transmit substation information to Platte River
- Weed control

Loveland and Platte River will share equally the cost of any substation security deemed by both parties to be appropriate for the location of the substation.

Lease of 115kV Facilities:

Background: In the Transmission Facilities Agreement dated March 11, 1980, Loveland leased multiple transmission and substation facilities to Platte River. With that lease Platte River assumed responsibility for 115kV transmission and substation facilities that served the Boyd, East, West, Horseshoe and Valley Substations. Platte River owns 115kV facilities at Airport, Crossroads, and Foothills Substations and all 230 facilities at Boyd and Horseshoe Substations as these substations were constructed after 1980.

Continuation of Lease: Loveland agrees to continue the lease of the facilities on the following list ("Leased Facilities") to Platte River through the term of this Agreement or until such facility is permanently removed from service or replaced. Platte River shall continue to have the right to use the Leased Facility in whatever manner it shall determine to be the most effective to meet its obligations under this Agreement and the local needs of Loveland and to make whatever modifications, improvements, repairs and replacements it shall determine to be necessary to provide reliable service. Platte River shall not permit any lien or encumbrance to attach to the Leased Facility and shall deliver them up to Loveland at the termination of this Agreement.

The following items comprise the Leased Facilities:

Land and Land Rights

All land, land rights and easements on which the following facilities are located:

- The portion of the Boyd Substation purchased by Loveland
- The West Tap (on the WAPA 115kV Valley-Flatiron line) to West Substation 115kV transmission line
- The 115kV transmission line from Horseshoe Substation east to 57th Street
- The 115kV transmission line from Horseshoe Substation west to West Substation

Substation Equipment

115kV breakers, busses, switches, insulators, meters, relays, control panels, structural steel, foundations, and miscellaneous 115kV support equipment at the following substations:

- Boyd
- East
- West
- Horseshoe
- Valley

Transmission Lines

All poles and conductors and all support equipment required for operation of the following 115kV transmission lines:

- West Tap to West Substation
- Double circuit line north from Boyd Substation to 57th Street
- Horseshoe Substation to West Substation
- Horseshoe Substation to 115kV line at 57th Street

DRAFT

Attachment E



Proposed Changes to the PRPA Organic Contract and Power Supply Agreement



Joseph J. Bernosky
Director Water and Power
March 20, 2019

Current Agreements

Organic Contract

- Contract among the four owner communities first executed in 1975
- Renewed in 2010 through 2050

Power Supply Agreements

- Individual Agreements between Platte River and each of the owner communities first executed in 1973
- Renewed in 2010 through 2050
- Provides security for revenue bonds



Why Renew Now?

- Extend life of organization
 - Provides flexibility in future bond issuances
 - Provides flexibility in future PPA terms
- Update content relative to:
 - Distributed generation
 - Prepare for an organized market
 - Create a mechanism for (future) incremental changes to PSAs
 - Conform transmission facilities descriptions



Changes Proposed for the Organic Contract

- Staff initially suggested extension through 2075
 - Staff agreeable to extending only through 2060
- Minor edits and language clarifications



Changes Proposed for the PSAs

Introductory Whereas language:

- New language provides context introducing the Resource Diversification Policy
- Notes that intermittent resources present system management challenges/opportunities
- Describes how PSAs may be revised and modified in the future
- Introduces the possibility of future modification of bond covenants



Changes Proposed for the PSAs

Staff proposed three substantive changes and some language clean-up

- Substantive changes:
 - As with Organic Contract now suggesting 2060 extension
 - Expand the exceptions to the all-requirements obligation to allow third-party solar development
 - Change metering point to high side of substation transformers
 - Covenant to hold routine meetings with appropriate bodies in the owner communities to discuss new technologies and business models
- Addresses changes in transmission/substation interface that has occurred in owner communities since 2010



Timeline

- PRPA staff delivered initial changes to PRPA Board in July 2018
- PRPA staff has discussed this with individual Board members and Utility Directors
- Loveland Utility Commission – January & March 2019
- Loveland City Council – April 16, 2019
- PRPA Staff continues to meeting with representatives of other owner cities



QUESTIONS?



ITEM TITLE:

Boards & Commissions Survey Results

DESCRIPTION:

A brief presentation on the results from the Boards & Commissions Survey.

SUMMARY:

At the end of 2017, the City Manager's Office conducted a survey of Boards & Commissions members. Manager Steve Adams will give a brief presentation on the results of that survey.

RECOMMENDATION:

Staff item only. No action required.



AGENDA ITEM: 9
MEETING DATE: 3/20/2019
SUBMITTED BY: Joyce Robinson
STAFF TITLE: Accounting Manager,
Finance

ITEM TITLE:

City Budget Dashboard

DESCRIPTION:

Finance Accounting Manager, Joyce Robinson will give a brief presentation on the City's Budget Dashboard.

SUMMARY:

Finance Accounting Manager, Joyce Robinson will give a brief presentation on the City's Budget Dashboard. The Budget Dashboard can be found on the City's website at:

<http://www.cityofloveland.org/home/showdocument?id=47248>

RECOMMENDATION:

Staff item only. No action required.




ITEM TITLE:

Commission & Council Report

SUMMARY:

Discuss events that the Loveland Utility Commission Board members attended, special topics and any City Council items related to the Water and Power Department from the past month.

 City Council Report

RECOMMENDATION:

Commission/Council report only.



ITEM TITLE:

Director's Report

GENERAL & PREVIOUS LUC MEETING FOLLOW UP ITEMS:

- 🌀 Attachment A: E-mail regarding Self-Generation and the Electric Cost of Service Rate Study
- 🌀 Attachment B: Memo - Limits on Solar Self-Generation Systems
- 🌀 Attachment C: Memo – Platte River Power Authority Power Supply Agreement Article 1

EVENTS:

Northern Water Spring Water Users Meeting: Save the date for April 9, 2019. Learn more about the upcoming water season as well as receive updates on the projects Northern Water is pursuing during the 2019 Spring Water Users Meeting to be held at The Ranch in Loveland. At the meeting, staff will preview the Colorado-Big Thompson quota and the outlook for water supplies in 2019.

Tri-City Water Board Meeting: Loveland will be hosting the Tri-City Water Board Meeting this year on May 2, 2019 at Embassy Suites Loveland from 6:00pm – 9:00pm.

OPERATIONS:

Water Operations:

Reclaimed Water Reuse at the Wastewater Treatment Plant (WWTP): The Water Quality Lab and WWTP operations staff have been working together to find a solution to better improve the non-potable water reuse system at the treatment plant. The facility has the capability to partially divert finished wastewater from its ultimate discharge into the Big Thompson River and recycle it back to be used for irrigation, maintenance, cleaning of plant infrastructure, and other processes that do not require the high quality of drinking water that comes from the tap. Water reuse is not only a sustainable practice that helps to extend our water supply, it also has the capability to save the utility money. Last year alone, the WWTP used 72.9 million gallons of reclaimed water, and aims to better optimize this technology going into 2019 to save another 30% off their current tap water usage. Currently, operations is limited to snail growth and debris from broken shells that clog nozzles on sprayers and damage pumps in their reuse system. We are in the process of working with the Colorado Department of Public Health and Environment in looking at trial dosing copper sulfate or chlorine in the system as two potential approaches to remediate this issue and better optimize this process.

A River (Once Again) Runs Through It: On Wednesday, February 12, the Loveland water treatment plant (WTP) began using river water for the first time in 101 days. An agreement was reached with the Colorado Department of Transportation, Kiewit Construction, and Rocksol Consulting Group for the City's WTP to forgo it's native water rights of 2.2 million gallons per Day (3.44 cubic feet per second) while construction activities stemming from the 2013 Flood were finally wrapped up. The agreement stipulates that the City of Loveland will be reimbursed for all water lost during the construction activities and the construction team can finish their work without fear of mucking up our



drinking source water. This agreement constituted a real win/win situation for all parties involved and was the result of steadfast compromise. It was a collaborative effort between WTP operations, tech services, water quality, and water resources to deal with the massive challenge of a river project of the scale we've seen in the last year and a half. Well done team!



Wilson Avenue Emergency Waterline Replacement: The City experienced the surfacing of numerous waterline leaks along North Wilson Avenue, between Eisenhower Blvd and 22nd Street over the last few weeks of 2018. The existing 12-inch diameter ductile iron waterline began failing at an alarming rate due to external corrosion of the pipe and needed replacement. Connell Resources started work in early January 2019 and has completed installation of 2,700 linear feet of new 12-inch waterline along Wilson Avenue from 22nd Street to Eisenhower. The installation of this waterline included connections to all the branch waterlines, valve, fitting and waterline services,

and replacement of initial lifts of asphalt pavement. The final lift of asphalt will be completed in Spring 2019. Currently, Connell is finishing 670 linear feet of 12-inch diameter waterline from Wilson Avenue to Firstview Drive along 22nd Street. While completing replacement of these waterlines, some pipe was found to be in very poor condition and multiple previously unknown leaks were found.



Wastewater Treatment Plant Biological Nutrient Removal and Digester Project Garney Construction is closing in on the startup phase of the new digester facility. Equipment and pump checkout will begin in May with plant process being introduced to the facility shortly after Memorial Day. Crews continue the renovation of the return activated sludge (RAS) pump station inside the basement of the administration building. The first of three new RAS pumps has been installed and placed into operation. The second RAS pump will be placed online during the last week of February followed by the last pump in mid-March. In the headworks building, crews successfully prepared and coated the concrete channels ahead of the installation of the long-awaited "Step Screens".. The new step screens are a much-needed improvement to the wastewater plant in terms of rag and debris removal ahead of the treatment process.



Other noteworthy construction activities include the successful renovation and startup of aeration basin #5. The sixth and final aeration basin will be taken offline next week for a four-week duration while crews complete the work inside the basin.

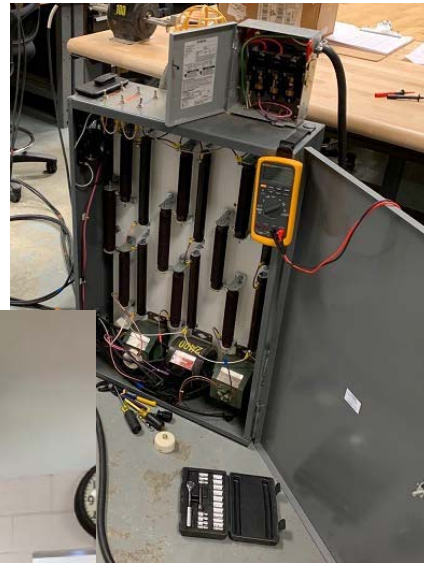
Hydraulic improvements are underway within the ultraviolet disinfection (UV) channels inside the UV building. These improvements have been strategically planned, as this treatment process cannot be taken completely offline, as it must continue to disinfect the effluent flows leaving the plant on a daily basis.

Power Operations:

Electric Metering: With constant changes to electric metering technology, it is very important to test functionality, accuracy and reliability. The Electric Metering group spent a good part of January and February building and wiring a new testing environment within the shop.

The new test environment allows simulation of real world applications within a safe, controlled setting. Shop personnel are able to test the functionality and capabilities of any electric meter without disrupting the distribution system services. This has become a very beneficial solution, because in the past these tests and demos could only be conducted in the field within the distribution system on active City and public customer services. The new environment simulates and functions as real metered services found all over the City.

- 🌀 Current flow monitoring (load)
- 🌀 Voltage monitoring
- 🌀 Bi-Directional flow (reverse rotation from solar customers)
- 🌀 Outage notification
- 🌀 Overload detection (over current)
- 🌀 Meter tampering
- 🌀 Energy theft



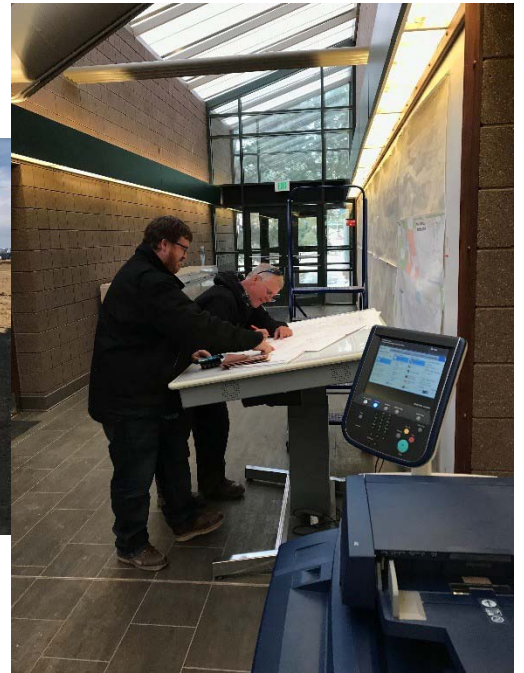


Overview of Phase I – Railway Flats Housing Project

as it moves forward even before curb and gutters are in place - an unusual practice but it looks like the way of the future! Once a project leaves the Field Designers table and is assigned to a Line Crew, there still needs to be follow up and good communication between the two to review details and progress of the project.

Typically, crews are not pulling in new cables and terminating these cables on construction sites where the road access is not paved. Working in muddy condition can expose the cables and connection to contaminate: rock and mud that may cause early failures to the system. When assigned a project that requires crews to work in these conditions, extra effort and time is needed to make sure the new cable is clear of these contaminants, especially during the termination process.

Line Crews: To meet the targeted deadline of March 1 to energize several transformers on the first phase of the Railway Flats Project east of Centerra Parkway (north of Sky Pond Drive), Line Crews ventured out on another snowy day in February to set up equipment to begin the installation of cable between vaults and the new transformer locations. The Railway Flats Project is a new HUD residential housing development. Phase I has plans to house around 240 medium income, single and multi-family residence. Line Crews have been assigned the first phase of the project



UTILITY APPLICATION SERVICES:

Upgrade to Designer: New design software has been installed on our test server and the design staff is working on the compatible units library. Things are going smooth and we are excited to get it completely stood up.

Cityworks/Australia Visit: Cityworks asked if we could host Evoenergy/ActewAGL an electric provider from Australia, for a day to show our Cityworks program. We are honored to be considered for this opportunity. We are ready to go for February 25.

Schneider's Link Conference: The UAS team will have quite a footprint at this software conference. We use several of Schneider's products here in water and power and have for many years. This year at the conference, Ryan and Amy will be hosting a session on version upgrades and Cree will be sitting on the Customer Panel for a Q&A at the plenary session. We are excited to be recognized as leaders in our field.

Project & Request Tracking: One of the Technology Roadmap recommendations was to establish a tracking system for our team's work. Since the beginning of 2017 we have configured Cityworks for this purpose. The big projects, tracked as work orders, are reported to be approved and prioritized by our division's team. There are currently 25 approved projects in our queue, 7 of which currently have the status of "In Progress". The smaller, maintenance type jobs are tracked as service requests. So far this year we have completed 41 requests within an average of 7.17 days. These are the numbers broken down by type since 2017:

- Application Requests – 5.97 days
- Application Support – 10.26 days
- Data Requests – 7.21 days
- Hardware Support – 8.33 days
- Map Requests – 5.12 days
- Report Requests – 6.17 days

UTILITY ACCOUNTING:

Preliminary Financial Overview: 2018 was a solid year in terms of sales for the three water and power utilities. Water sales came in at 2.7% above budget, or about \$447K. Wastewater sales were very close to budget, coming in above budget by \$53K on a \$13.0 million budget. Power sales also came in above budget, with sales coming in 0.7% above budget, or \$477K. According to the preliminary year-end financial statements, water came out with a bottom-line favorable variance in comparison to budgeted revenues and expenditures of \$5.5 million, Wastewater had a favorable variance of \$9.2 million and power had a favorable variance of \$4.4 million. A favorable variance that is common for all three utilities is coming in under budget for each utility's contribution toward the new Customer Information System (CIS). For both water and wastewater, the favorable variance is \$900K, and for power, the favorable variance is \$2.1 million. These unspent funds will be re-appropriated and spent in 2019. Water's favorable variance is also due to coming in under budget in capital. There is a caveat for wastewater; these favorable outcomes are driven significantly by unspent capital budgets. Wastewater was under budget by \$12.2 million in capital and was also under budget by \$5.0 million in revenue, both due to construction and loan proceeds for the Wastewater Treatment Plant Expansion Project not occurring until 2019. Power was under budget by \$650K in distribution O&M expenses and did not spend \$740K of the budget for environmental restoration associated with the removal of Idylwilde Dam, the pipeline and the power house.

Non-lapsing Capital Project Budget Re-appropriations: Staff is appreciating the new process for automatically re-appropriating unspent funds for capital projects that City Council approved back in January. Having the funds available earlier in the year will save a lot of time administratively. There is a total of \$21.7 million of unspent budgeted funds for capital projects that will be added to the 2019 budget, of which water

is \$2.6 million, wastewater is \$12.9 million (\$11.4 million for the Wastewater Treatment Plant Expansion and Rehabilitation) and power is \$6.2 million (of which \$2.0 million is for new feeders and \$1.3 million is for municipal fiber).

Poudre Valley REA Annual Surcharge Payment: We submitted our annual surcharge payment to Poudre Valley REA (PVREA) at the end of January to compensate them for customers we have taken from them through service takeovers over the past 10 years. The total amount paid to PVREA for 2018 was \$6,520. This amount is expected to stay the same or increase over the next several years, as the majority of the service takeovers occurred in 2017 and 2018, and therefore, the duration of the 10-year clock to remit payment to PVREA will not run out on these customers until 2027 and 2028.

CUSTOMER RELATIONS:

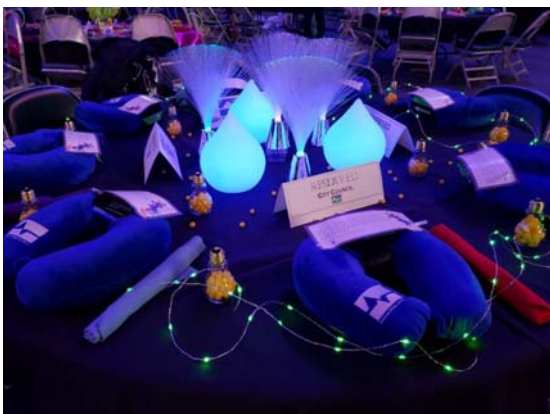
Outage Preparedness and Circuit 911: Customer Relations released their latest videos in February. The first video, “Power Outages - Be Prepared, Safe & Informed.” This video provides valuable information about being prepared for the unlikely event of an outage. This video also emphasizes Loveland Water and Power’s commitment to providing reliable service, ending with the key message “Please be assured, our top priority is restoring your power—ASAP.” Video available here: <https://www.youtube.com/watch?v=Jdk4lqoXZbQ&t>

The second video, “Big Thompson Canyon Construction - Circuit 911 Upgrades” focuses on the hard work and dedication that went into making this massive project possible. It features some stunning drone footage of the canyon and shows LWP crews using engineering and hard work to tackle the challenging terrain—ultimately with the goal of bringing the Canyon more reliable service.

Video available here: https://www.youtube.com/watch?v=Pn7I13k_D40&t



Text-to-join the Residential e-newsletter: The Customer Relations team is proud to announce that a text-to-join feature is now available for the residential e-newsletter. An offer to join via text will be sent out in the March edition of City Update. Sign-ups will be tracked. If results are promising, a business customer signup for the Key Points newsletter may follow.



A Night to Glow: LWP was proud to assist the City Manager’s office in decorating the Loveland City Council’s table at the annual Chamber of Commerce dinner. The theme for 2019 was “a Night to Glow.” LWP showcased the water and power utilities, as well as its mascot, “Glow” the bug., with glowing water droplets and light bulbs (plus a few fiber optic lights in recognition of our new municipal fiber utility).

Sharing the Love: LWP recognized Loveland’s most iconic holiday with some new social media graphics. Happy Valentine’s Day!

Slow the Flow: LWP is currently preparing for the 2019 Slow-the-Flow season in partnership with Resource Central. This popular 10-week program offering free sprinkler inspections starts on June 11th.

Children’s Day: LWP is hosted two booths at the annual Children’s Day celebration that took place at Public Works on March 1. One booth was dedicated to a power safety demonstration. The other was an interactive booth inviting families to learn about water conservation through planting wildflower seeds in compostable cups.

Upcoming:

Garden In a Box: In partnership with resource Central, LWP is offering residential customers a \$25 discount on the purchase of a Xeric garden kit. These ready-made kits allow customers to conserve water in their home gardens through a pre-selection of water-conscious plants. Boxes will be available for purchase beginning March 4 with the local pick-up day May 9.

The Great Divide Movie Screening: LWP is excited to partner with Parks and Recreation to screen “The Great Divide”. This movie from Havey Productions highlights the importance of water resources that are born in Colorado and spread across several other major American regions. The screening will be at 2:00 p.m. on Feb 28 at the Senior Center.

After the screening, an LWP water team representative will serve as the local professional to answer questions from the public.

Children’s Water Festival: LWP staff is currently working with partners to assure this event is executed effectively. This year is looking to be an exciting event with LWP staff assisting with activities, T-shirt designs, and transportation. The Annual Children’s Water Festival event will be taking place on May 13 this year.

Raptors of Northern Colorado: This popular educational session will be making a return in 2019. In this presentation, citizens will hear about the raptors’ natural history, abundance, and survival, and also the importance of conserving habitat for these birds.

Fix-a Leak Week: March 18 through 24 is Fix-a Leak Week. The March edition of the City Update will be highlighting some tips to check for leaks in your home, as well as LWP’s much-needed efforts to fix leaks on Wilson Avenue with the \$1.5 million pipe replacement project.

2019 Video Production Plan: With videos being one of LWP’s most popular forms of outreach, the Customer Relations team has developed a 2019 video production plan. This plan includes upcoming video topics, the outreach process, and the overarching goals of the 2019 video program.

Community Outreach: Loveland Water and Power will be attending the following upcoming events:
Community Lecture - Raptors of Northern Colorado – March 28, 2019
Community Lecture - Water-Wise Landscape Seminar; The Three B's – Award Winning Plants for Bees, Butterflies and Beauty! – April 17, 2019

Facebook Insights (February 2019):

- Reach (unique users) – 1,892 people
- Engagement (unique users) – 209 people
- Impressions (total count) – 7,193 people

Media:

- Longmont Observer– February 13, 2019: [Capitol Letters: A Change of Climate](#)
- Reporter Herald– February 13, 2019: [Council rejects staff recommendation to close Lake Loveland swim beach](#)
- Reporter Herald– February 14, 2019: [City of Loveland urges support of federal wireless broadband bill](#)
- Reporter Herald– February 14, 2019: [Platte River Power Authority contracts for more solar energy](#)
- Coloradoan– February 14, 2019: [Fort Collins electricity provider plans new solar facility with battery storage](#)
- BizWest– February 15, 2019: [PRPA moves forward with 20-MW solar array](#)
- Collegian– February 17, 2019: [Platte River Power Authority signs agreement for solar installation](#)
- Renewables Now– February 19, 2019: [Platte River signs PPA for proposed 20-MW solar park](#)
- Reporter Herald– February 22, 2019: [Power outage planned for Big Thompson Canyon on Tuesday](#)
- Reporter Herald– February 23, 2019: [Before 5G wireless takes cellular speed to a new level, Loveland wrestles with policy](#)
- High Country News– February 25, 2019: [Push for renewables vexes Western power supplier](#)
- Reporter Herald– February 26, 2019: [Northern Water tells Loveland City Council drought may lead to strategic reduction in NoCo water deliveries](#)
- PR Newswire– February 26, 2019: [eMotorWerks and Platte River Power Authority Partner on Colorado's First Smart Electric Vehicle Charging Study](#)
- BizWest– February 26, 2019: [Platte River Power Authority, eMotorWerks to study electric vehicle charging](#)
- North Forty News– February 27, 2019: [The Water & Energy Program is now accepting Home Efficiency Assessment applications for 2019](#)
- Smart Energy International– February 27, 2019: [Colorado implements first smart EV-DR integrated pilot](#)
- Clean Technica– February 27, 2019: [eMotorWerks Looks To Save Colorado Utility Some Cash With New EV Charging Pilot](#)
- Reporter Herald– March 1, 2019: [Lane closures planned in Big Thompson Canyon](#)
- Pagosa Daily Post– March 1, 2019: [OPINION: Water Deliveries to Front Range to be 'Strategically Reduced'?](#)
- Daily Energy Insider– March 1, 2019: [Colorado utility seeks participants for electric vehicle study](#)

Attachment A

From: Patrick Eitenbichler <pateiten@hotmail.com>
Sent: Tuesday, March 5, 2019 1:10 PM
To: Joe Bernosky <Joe.Bernosky@cityofloveland.org>; Ward III - Steve Olson <Steve.Olson@cityofloveland.org>
Cc: City Council <CCouncil@cityofloveland.org>; Steve Adams <Steve.Adams@cityofloveland.org>; Jim Lees <Jim.Lees@cityofloveland.org>; rlwatty1@mindspring.com; Larry Roos <lar5555@comcast.net>; Dick Mallot <dickmallot@comcast.net>; Jane Clevenger <jcbertha@gmail.com>; Bruce Croissant <bruce.croissant@gmail.com>
Subject: Key Questions for Electric Cost of Service Rate Study

Hi Mr. Bernosky,

Could you please ask the consultants to help answer the following questions in the upcoming electric cost of service rate study?

- In your presentation to the Loveland City Council on July 24th, 2018, you committed to providing the actual fixed costs for residential power. You had told the City Council that they're between \$40 to \$50 per month – when both the numbers in the last rate study (Page 18 of 21) as well as my calculations below show that they're closer to \$15. What is the actual fixed cost percentage for residential power in Loveland?
- In the last rate study, the consultant stated in Appendix C that “UFS identified a current overall cost shift of \$7,874.50 from solar to non-solar customers since the traditional rate model attempts to collect costs by charging a kWh charge on electricity usage.” I’ve requested details re: how UFS came up with that number repeatedly over the past two years, but am still in the dark (other than a generic statement that it’s for fixed charges such as Meter Reading, Utility Billing, Customer Relations, Administrative). How did UFS

come up with that number of \$7,874.50 – and were there any other cost shifts for other groups of customers that played into this equation?

- Since the current rate structure for Self Generating Solar Customers appears to be based on an incorrect financial model, could you please ask the rate consultants to review the following approach – which is very simple and equitable?
 - Base Charge: Self-Gen customers pay the same base rate as residential customers (currently \$14.80/month)
 - Meter In Reading: Self-Gen customers pay for kWh consumed on a monthly basis at the residential rate – exactly the same as all other residential customers
 - Meter Out Reading: Self-Gen customers get reimbursed by the City for kWh contributed to the grid at the wholesale rate of ~6 cents (which makes a lot more financial sense for the City – vs. paying retail rates)

Steve, could you please forward this email to the Loveland Utility Commission to keep everyone on the same page?

Thanks in advance!

Patrick Eitenbichler

From: Joe Bernosky [<mailto:Joe.Bernosky@cityofloveland.org>]
Sent: Friday, October 12, 2018 12:53 PM
To: 'Patrick Eitenbichler' <pateiten@hotmail.com>; Jim Lees <Jim.Lees@cityofloveland.org>
Cc: City Council <CCouncil@cityofloveland.org>; Steve Adams <Steve.Adams@cityofloveland.org>; Bruce Croissant <bruce.croissant@gmail.com>; Jim Lees <Jim.Lees@cityofloveland.org>
Subject: RE: Loveland Residential Power Fixed Costs: \$14.10 vs. \$40?

Mr. Eitenbichler –

I apologize if my statements were misleading. They were not intended to be so.

The last cost-of-service study did indicate that solar self-generation customers were not contributing to the overall systems costs because of their reduced power consumption. This lack of revenue had to be recovered from some other source and thus the additional charge (differential between non-solar residential and solar self-generating residential) was added to make up the difference.

The Department of Water and Power schedules our cost-of-service studies and does not have funds for interim or ad hoc studies of individual rates. As I have stated, our next power cost-of-service study is scheduled for next year. At that time, all customer classes will be evaluated including residential solar self-generation customers. Unless the department receives different direction from

City Council, we will operate under the assumption that no one customer class can be supported or subsidized by others.

Finally, no sir, I will not agree to your speaking to our rate consultant directly.

Joe Bernosky

Joseph J. Bernosky, P.E.
City of Loveland
Water and Power Director
200 North Wilson Avenue
Loveland, CO 80537
Office: 970.962.3500
Mobile: 970.342.0540

From: Patrick Eitenbichler <pateiten@hotmail.com>
Sent: Friday, October 12, 2018 12:28 PM
To: Joe Bernosky <Joe.Bernosky@cityofloveland.org>; Jim Lees <Jim.Lees@cityofloveland.org>
Cc: City Council <CCouncil@cityofloveland.org>; Steve Adams <Steve.Adams@cityofloveland.org>; Bruce Croissant <bruce.croissant@gmail.com>
Subject: RE: Loveland Residential Power Fixed Costs: \$14.10 vs. \$40?

Mr. Bernosky,

Unfortunately, there still seems to be quite a bit of confusion.

- You wrote in your email below: *“The graphics were intended for **illustrative purposes only**. The terms Power Costs and Systems Costs were used in the last Cost-of-Service study, and this presentation reflected their usage. Systems costs do not equal fixed costs which extend beyond those you note below (debt service, etc.).”*
 - When you presented slide 5 (shown below) to the City Council on July 24, you stated (verbatim): *“Let's take a look at costs - and what a customer pays for on a monthly basis. The largest bulk of what a customer pays for is the power that is used ... and represents about 73% of functional cost breakdown. But there are also Systems Costs that are associated with providing 24hr/day, 7 days/week service to a customers. **Those costs are bundled - and then they yield the cost for a typical residential customer.**”*
 - **You didn't say anything about “illustrative purposes only” – which was very misleading – and your last sentence above clearly implied that the 27% represented the entire cost burden for each residential customer.**
 - BTW – your comment re: ‘debt service’ above surprised me – since the last Cost-of-Service Study specifically stated that **“No debt will be issued or is outstanding for the projection period of 2017-2021”**

- You wrote in your email below: *“We have not run any calculations regarding allocating all fixed costs into the base costs. The \$40-\$50/month figure is only estimated. We will ask our rate consultant to calculate exactly what those would be in the next cost-of-service study scheduled for next year.”*
 - The ‘rate consultant’ made a recommendation in 2017 to shift a significant amount of ‘cost’ to residential, self-generating solar customers based on the claim that they ‘don’t pay their fair share of fixed costs’.
 - **Why would it take your department a full year to get back to a request from the City Council to provide the true fixed costs for delivering power to residential customers in Loveland – when this was the basis for making the rate change in 2017?**

Instead of me burdening you and your department with these questions, would you allow me to talk to Mark Beauchamp at Utility Financial Solutions (your rate consultant) directly?

Thanks in advance!

Patrick Eitenbichler
1770 Tabeguache Mountain Drive
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pateiten@comcast.net
970-443-9857

From: Joe Bernosky [<mailto:Joe.Bernosky@cityofloveland.org>]
Sent: Wednesday, October 10, 2018 8:52 AM
To: 'Patrick Eitenbichler' <pateiten@hotmail.com>; Jim Lees <Jim.Lees@cityofloveland.org>
Cc: City Council <CCouncil@cityofloveland.org>; Steve Adams <Steve.Adams@cityofloveland.org>; Bruce Croissant <bruce.croissant@gmail.com>
Subject: RE: Loveland Residential Power Fixed Costs: \$14.10 vs. \$40?

Mr. Eitenbichler –

The graphics were intended for illustrative purposes only. The terms Power Costs and Systems Costs were used in the last Cost-of-Service study, and this presentation reflected their usage. Systems costs do not equal fixed costs which extend beyond those you note below (debt service, etc.).

We have not run any calculations regarding allocating all fixed costs into the base costs. The \$40-\$50/month figure is only estimated. We will ask our rate consultant to calculate exactly what those would be in the next cost-of-service study scheduled for next year.

Joe Bernosky

Joseph J. Bernosky, P.E.
City of Loveland
Water and Power Director
200 North Wilson Avenue
Loveland, CO 80537
Office: 970.962.3500
Mobile: 970.342.0540

From: Patrick Eitenbichler <pateiten@hotmail.com>
Sent: Wednesday, October 10, 2018 8:28 AM
To: Joe Bernosky <Joe.Bernosky@cityofloveland.org>; Jim Lees <Jim.Lees@cityofloveland.org>
Cc: City Council <CCouncil@cityofloveland.org>; Steve Adams <Steve.Adams@cityofloveland.org>;
Bruce Croissant <bruce.croissant@gmail.com>
Subject: RE: Loveland Residential Power Fixed Costs: \$14.10 vs. \$40?

Thanks for the quick response, Mr. Bernosky!

Unfortunately, I'm more confused than before.

- You mentioned in your email below: *"The difference is that the base cost does not equal fixed costs."*
 - In the attached email, Jim had stated that *"We have certain **fixed costs** that each of our customers pays to be on our electric distribution system, such as Meter Reading, Utility Billing, Customer Relations, Administrative and what's called a Minimum System Cost, which is the cost to be connected to our distribution system and be able to receive 1 kilowatt of electricity."*
 - In my mind, this means that the **"System Costs"** (27%) on your slide below equal **Fixed Costs**.
- You mentioned in your email below: *"Some revenue for fixed costs is contained in the power (or commodity rate)."*
 - Your slide/table below doesn't talk about revenues, but only "Power Costs" and "Systems Costs" – which is why I used the 'cost of power' in my analysis. In other words, I don't understand why your response talks about 'revenues'.
- You mentioned in your email below: *"Although we have not run the exact calculation, it is like that including all fixed costs in the base rate would result in a much higher base rate, perhaps approaching \$40-\$50."*
 - Could you please let me know when you'll be able to share your calculations with us? You had mentioned in your presentation 11 weeks ago that you'd get back to the City Council with those numbers.

Thanks for helping me understand the details!

Patrick Eitenbichler
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970-443-9857

From: Joe Bernosky [<mailto:Joe.Bernosky@cityofloveland.org>]
Sent: Wednesday, October 10, 2018 6:42 AM
To: 'Patrick Eitenbichler' <pateiten@hotmail.com>; Jim Lees <Jim.Lees@cityofloveland.org>
Cc: City Council <CCouncil@cityofloveland.org>; Bruce Croissant <bruce.croissant@gmail.com>
Subject: RE: Loveland Residential Power Fixed Costs: \$14.10 vs. \$40?

Mr. Eitenbichler-

The difference is that the base cost does not equal fixed costs. Some revenue for fixed costs is contained in the power (or commodity rate). Although we have not run the exact calculation, it is like that including all fixed costs in the base rate would result in a much higher base rate, perhaps approaching \$40-\$50.

Joe Bernosky

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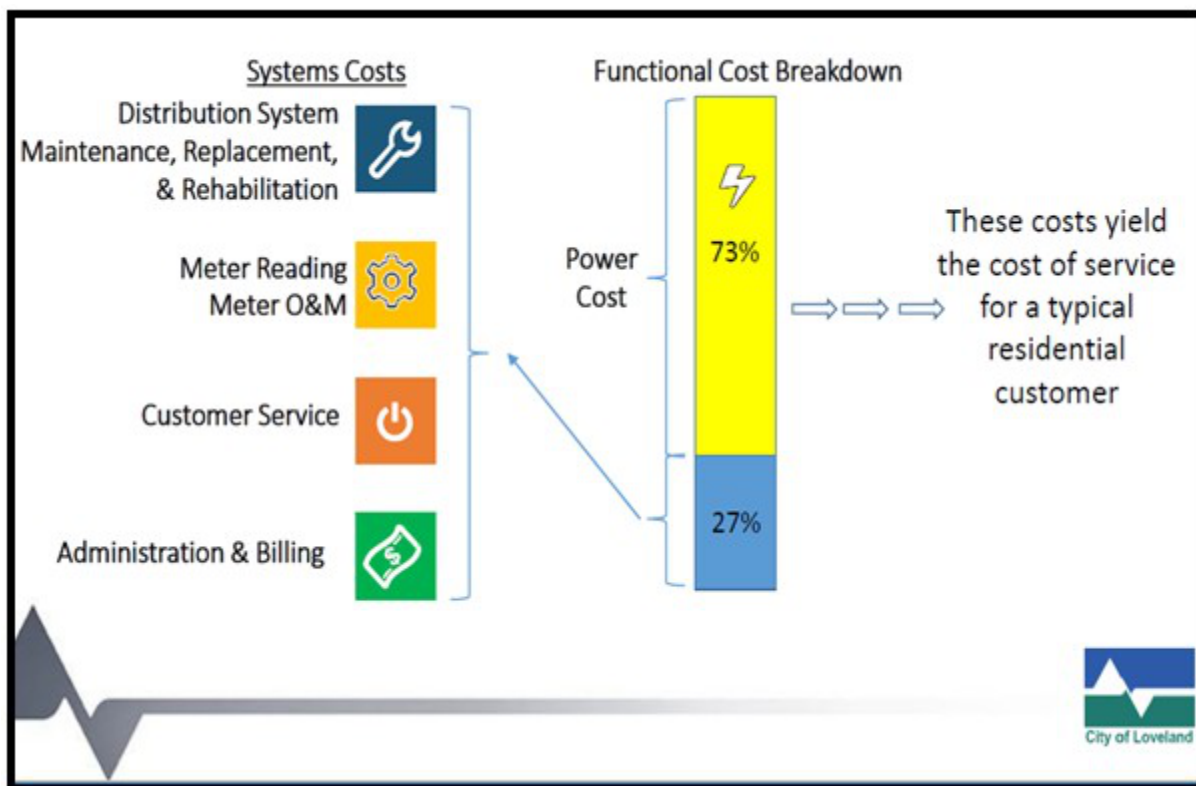
From: Patrick Eitenbichler <pateiten@hotmail.com>
Sent: Tuesday, October 9, 2018 7:45 PM
To: Joe Bernosky <Joe.Bernosky@cityofloveland.org>; Jim Lees <Jim.Lees@cityofloveland.org>
Cc: City Council <CCouncil@cityofloveland.org>; Bruce Croissant <bruce.croissant@gmail.com>
Subject: Loveland Residential Power Fixed Costs: \$14.10 vs. \$40?

Hi Joe, Jim,

In your presentation to the Loveland City Council on July 24th, 2018, you mentioned that the fixed costs for residential power are between \$40 to \$50 per month.

A couple of days ago, Bruce Croissant made me aware of the attached Loveland Water and Power Fact Sheet – which helped me ‘run the numbers’ – and actually calculate the fixed costs myself. Here is what I’ve come up with:

Average Monthly Residential Electric Usage (from the Fact Sheet):	639 kWh
Total Number of Residential Power Customers (from the Fact Sheet):	31,915
Total Annual Residential Power Consumption (Monthly Usage x Total Number of Residential Customers x 12):	$639 * 31,915 * 12 = 244,724 \text{ MWh}$
Total Annual City Revenues from Residential Customers for 244,724 MWh:	~\$20.7M
Total Annual City Costs to buy 244,722 MWh per year – which equals the 73% of “Power Costs” that are variable (see slide 5 attached & below):	~\$14.7M
Total Annual Fixed Costs for Residential Power (the 27% of your slide 5 attached and below):	~\$5.4M
Monthly Fixed Costs per Resident = Total Annual Fixed Costs divided by 31,915 Residential Customers divided by 12 Months:	\$14.10



Could you please help me understand the discrepancy between my calculations (~\$14.10 of fixed costs per residential customer per month) vs. the \$40-\$50 you mentioned to the City Council?

Thanks in advance!

Patrick Eitenbichler
1770 Tabeguache Mountain Drive
Loveland, CO
pateiten@comcast.net
970-443-9857

Attachment B



MEMORANDUM

To: Loveland Utilities Commission
From: Joseph J. Bernosky, P.E. Water and Power Director
Date: March 20, 2019
Subject: Limits on Solar Self-Generation Systems

The City of Loveland Department of Water and Power publishes (and routinely updates) its *Requirements for Electric Service*. The most recent revision is dated July 2, 2018. Section 9 of that document is titled “Interconnection Requirements for Generating Facilities No Larger than 2 MVA” and addresses, among other self-generating devices, the requirements for solar self-generation installations. The entire document is available at <http://www.cityofloveland.org/departments/water-and-power/development-building/requirements-for-electric-service> .

Article 1 of the forthcoming *Power Supply Agreement* between Platte River Power Authority and the City of Loveland notes that behind-the-meter solar self-generation systems shall supply no more than 120% of the annual average consumption of electricity by the customer at that site. That limit notwithstanding, Water and Power has elected to delimit the size of behind-the-meter solar self generation systems through Section 9.2.b “System Sizing” of the *Requirements for Electric Service* – “the size of the system shall be limited to 100% of the prior year’s operating energy usage for residential and small commercial.” This limit is primarily intended to maintain fiscal responsibility and ensure adequate revenues to support the entirety of the electric power utility.

Attachment C



MEMORANDUM

To: Loveland Utilities Commission
From: Joseph J. Bernosky, P.E. Water and Power Director
Date: March 20, 2019
Subject: Platte River Power Authority Power Supply Agreement Article 1

During the February Loveland Utilities Commission meeting, a question was raised regarding the verbiage in Article 1 of the proposed Power Supply Agreement. That section (which is printed in its entirety below) appeared to be out of date because it did not recognize the destruction of the hydroelectric power unit in the Big Thompson Canyon and the subsequent installation of the City's Foothills Solar facility.

I spoke with Joe Wilson, Platte River Power Authority's General Counsel, and he explained that the language originated in earlier iterations of the document and is consistent within the agreements with each of the communities. The substitution of the Foothills Solar facility for the hydro facility destroyed in the 2013 flood is acknowledged in actions taken by the Platte River Board of Directors. Consequently to avoid confusion the language of Article 1 is not customized for each community. To date, the City of Loveland is the only owner city that has installed generating capacity that exceeds one percent of its peak load (approximately 1.6 MW). This is in addition to the "grandfathered" generating capacity of approximately 960 KW rendered by the now-destroyed hydroelectric station on the Big Thompson River.

Article 1: Sale and Purchase of Electric Power and Energy

(a) Platte River shall sell and deliver to Loveland and Loveland shall purchase and receive from Platte River all electric power and energy which Loveland shall require for the operation of its municipal electric system to the extent that Platte River shall have such power and energy available; provided, however, that (1) Loveland shall have the right to continue to generate its own power and energy to the extent of the capacity of its generating facilities in service on September 5, 1974 and may also generate power and energy for its own use from any new generation resource(s) owned and operated by Loveland provided that the total rated capacity of all such new generation is no greater than 1,000 kW or one percent of the peak load of Loveland, whichever is greater, provided further that if Loveland develops new generation resources of a total rated capacity as set forth above Platte River commits that it will meet with Loveland to discuss in good faith an increase in the total rated capacity limit, and (2) Loveland shall not be in violation of the all requirements purchase obligation herein when it purchases power from net metered customers, provided that customers who have entered into agreements with entities that own and operate solar generation located on the customer's property size the solar generation to supply no more than one hundred and twenty percent (120%) of the annual average consumption of electricity by the customer at that site.