

ORDINANCE NO. 053, 2019
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AUTHORIZING AN AMENDED AND RESTATED ORGANIC
CONTRACT FOR PLATTE RIVER POWER AUTHORITY

WHEREAS, the City is one of four member municipalities that entered into an organic contract establishing Platte River Power Authority (“Platte River”); and

WHEREAS, the first such contract was entered into in 1975, and the contract was last amended by the execution of an Amended and Restated Organic Contract Establishing Platte River Power Authority as a Separate Governmental Entity dated September 1, 2010 (the “Existing Organic Contract”), as approved by City Council on June 1, 2010, by Ordinance No. 061, 2010; and

WHEREAS, the Existing Organic Contract extended the operation of Platte River on behalf of the its member owner cities through the date of December 31, 2050; and

WHEREAS, the parties recently negotiated a proposed, updated agreement entitled “Amended and Restated Organic Contract Establishing Platte River Power Authority as a Separate Governmental Entity” (the “Updated Organic Contract”), a copy of which is on file with the City Clerk, dated February 15, 2019, the purpose of which is to replace and supersede the Existing Organic Contract; and

WHEREAS, the Updated Organic Contract, if approved by the parties, would extend amendments to the Existing Organic Contract made in 2010, so as to:

- affirm Platte River's commitment to environmental stewardship and sustainability; reflect the current manner in which the parties conduct business;
- expand the kinds of services Platte River will provide to the member cities and obligate Platte River to assist member cities reach their renewable energy targets and develop products and services to improve the efficiency of generation, transmission and use of electrical energy;
- clarify the role of appointed member city representatives as directors of the Platte River board; and
- extend the termination date of the Existing Organic Contract by ten years to December 31, 2060; and

WHEREAS, on March 14, 2019, the Energy Board reviewed Updated Organic Contract and recommended the City Council authorize approval of the Contract as amended; and

WHEREAS, it is the understanding of City Utility Services staff that respective staff of Loveland, Longmont and Estes Park electric utilities will be recommending approval of the Updated Organic Contract to their respective governing bodies as well.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

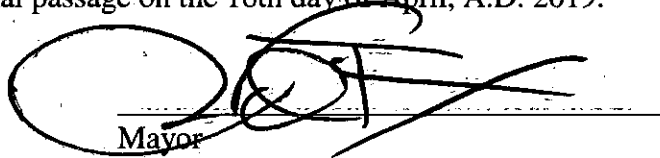
Section 1. That the City Council hereby makes and adopts the determinations and findings contained in the recitals set forth above.

Section 2. That the City Council hereby finds that it is in the best interests of the City to replace and supersede the Existing Organic Contract with the Updated Organic Contract.

Section 3. That the Updated Organic Contract is hereby approved, and the Mayor is hereby authorized and directed to execute the same on behalf of the City in substantially the form on file in the office of the City Clerk and as attached hereto as Exhibit "A."

Section 4. That the City Council hereby directs the Energy Board to annually review the terms and conditions of the Updated Organic Contract and suggest any revisions to the City Council by formal board action.

Introduced, considered favorably on first reading, and ordered published this 19th day of March, A.D. 2019, and to be presented for final passage on the 16th day of April, A.D. 2019.



Mayor

ATTEST:


City Clerk



Passed and adopted on final reading on the 16th day of April, A.D. 2019.


Mayor

ATTEST:


City Clerk





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:
