

RESOLUTION 2014-112  
OF THE COUNCIL OF THE CITY OF FORT COLLINS  
APPROVING AN INTERGOVERNMENTAL AGREEMENT  
WITH PLATTE RIVER POWER AUTHORITY AND OTHER LOCAL GOVERNMENTS  
AFFILIATED WITH PLATTE RIVER POWER AUTHORITY FOR NON-EMERGENCY  
RESPONSES FOR UTILITY NETWORK ASSISTANCE

WHEREAS, the Platte River Power Authority (“PRPA”) was formed by contract among the Cities of Fort Collins, Longmont, and Loveland; and the Town of Estes Park to provide electric generation and transmission services, pursuant to Colorado Revised Statutes (C.R.S.) Section 29-1-204; and

WHEREAS, PRPA provides wholesale power generation for the founding municipalities, who operate electric distribution systems providing retail utility services within their respective municipal service areas; and

WHEREAS, independent of PRPA’s formation, local communities, including several of the PRPA founding municipalities, entered into mutual aid agreements for emergency aid and non-emergency utility system support, including agreements executed in 1983 and 1999; and

WHEREAS, it is essential for neighboring communities to work together during non-urgent periods to share and provide resources to facilitate operation of connected utility systems, like electric distribution networks, that may affect life and property in the region; and

WHEREAS, in accordance with C.R.S. Section 29-1-203, governments may cooperate or contract with one another to provide any function, service or facility lawfully authorized to each of the cooperating or contracting units; and

WHEREAS, under Section 1-22 of the City Code, intergovernmental agreements and other cooperative arrangements between the City and other governmental entities are to be submitted to the City Council for review, unless they fit within one of the exceptions that permit authorization by the City Manager; and

WHEREAS, in light of the comingling of terms for emergency and non-emergency aid in current mutual aid agreements, and the need to renew assent among regional utility partners for non-emergency cooperation, Utilities staff recommends the City Council authorize the Mayor to enter into a new intergovernmental agreement to provide non-emergency mutual aid; and

WHEREAS, such an agreement will enable the City to share and provide its resources to connected communities, which will in turn further the partnership between PRPA and its founding members, and benefit City utility rate payers through more reliable and efficient regional utility networks.

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

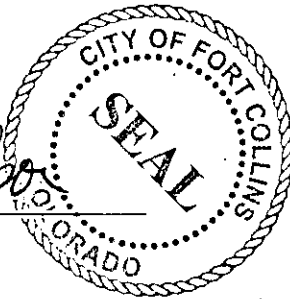
Section 1. That it is in the best interests of the City's utility ratepayers and the City for the City to enter into a mutual aid agreement with Platte River Power Authority and its founding municipalities to provide aid in response to requests for non-emergency utility network assistance.

Section 2. That the Mayor is hereby authorized to enter into a mutual aid agreement between the City, Platte River Power Authority, the Cities of Longmont and Loveland, and the Town of Estes Park on terms and conditions consistent with this Resolution in substantially the form attached hereto as Exhibit "A" and incorporated herein by this reference, with such modifications or additional terms and conditions as the City Manager, in consultation with the City Attorney, determines are necessary or appropriate to protect the interests of the City or to effectuate the purpose of this Resolution.

Passed and adopted at a regular meeting of the Council of the City of Fort Collins this 16th day of December, A.D. 2014.

ATTEST:

Wanda Nelson  
City Clerk



Karen Weidner  
Mayor

**INTERGOVERNMENTAL AGREEMENT  
FOR MUTUAL AID – POWER OPERATIONS**

THIS INTERGOVERNMENTAL AGREEMENT (“Agreement”) is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2014, by and between THE TOWN OF ESTES PARK, COLORADO, a municipal corporation, THE CITY OF FORT COLLINS, COLORADO, a municipal corporation, THE CITY OF LONGMONT, COLORADO, a municipal corporation, and THE CITY OF LOVELAND, COLORADO, a municipal corporation (collectively, the “Municipalities”), and PLATTE RIVER POWER AUTHORITY, a political subdivision of the State of Colorado (“Platte River”) (each a “Party,” and collectively, the “Parties”).

WITNESSETH:

WHEREAS, C.R.S. § 29-1-201 permits and encourages governments to make the most efficient and effective use of their powers and responsibilities by cooperating and contracting with other governments; and

WHEREAS, C.R.S. § 29-1-203 authorizes governments to cooperate or contract with one another to provide any function, service, or facility lawfully authorized to each; and

WHEREAS, the Municipalities own and maintain power distribution facilities whereby they supply their respective customers with power and energy; and

WHEREAS, Platte River owns and maintains power generation and transmission facilities for the benefit of the Municipalities, which are member owners of Platte River; and

WHEREAS, the Municipalities and Platte River desire to cooperate and contract with one another to provide essential services during critical periods when a Party determines additional resources are necessary to maintain the safe and efficient operation of power and energy facilities and services, not to include disaster or emergency events; and

WHEREAS, neither the Municipalities nor Platte River desire for this Agreement to interfere with or supersede the provision of mutual aid under any separate intergovernmental agreement, as may be executed by or between any of the Parties and other regional entities.

NOW, THEREFORE, in consideration of the mutual promises and commitments made herein, the Parties agree as follows:

1. Definitions.

- A. “Requesting Party” shall mean the Party requesting aid under this Agreement.
- B. “Aiding Party” shall mean the Party responding to a request for aid under this Agreement.
- C. “Authorized Representative” shall mean the person responsible for managing a Party’s response and activities under this Agreement.

2. Provision of Mutual Aid. Subject to the limitations and conditions set forth in this Agreement, the Parties agree to work cooperatively and collaboratively to provide mutual aid, assistance, and support, in the form of personnel, equipment, vehicles, materials, and supplies, in order to prevent, minimize, or mitigate the impacts of any event that threatens public health, safety, or welfare.
3. Request for Aid. The Requesting Party shall make its request in writing to the Aiding Party with reasonable specificity. The Requesting Party agrees to compensate the Aiding Party as specified in this Agreement, or as may later be negotiated and agreed to by the Parties.
4. Discretionary Rendering of Aid. Rendering of aid is entirely at the discretion of the Aiding Party and shall not be contingent upon a declaration of a major disaster or emergency by the federal government or upon receiving federal funds. The Aiding Party shall determine, in its sole discretion, the level and amount of resources, including equipment and personnel, to be devoted in response to any request for aid. Neither the Aiding Party nor the Requesting Party shall in any way be liable to the other or to any person, firm, or corporation for the determination to supply or not to supply, or to limit the amount of aid supplied, upon such request following such determination.
5. Authorized Representatives. In connection with each request for aid, the Parties shall designate an Authorized Representative to manage the Party's response and cooperative activities hereunder.
6. Response to Request for Aid. The Aiding Party shall report to the Requesting Party's Authorized Representative for assignment of duties. The Requesting Party's Authorized Representative shall direct and coordinate all activities; provided, however, that the Aiding Party's Authorized Representative shall remain in direct charge of all personnel and resources assigned to him or her to assist in providing aid, and shall be responsible for ensuring that appropriate staffing, training, and supervision have been provided to those rendering assistance on behalf of the Aiding Party. The Aiding Party may refuse to perform requested acts it deems inappropriate or that it is unable to perform under the circumstances.
7. No Employment Relationship. Notwithstanding the provision of aid as set forth in this Agreement, the personnel of the Aiding Party shall not be considered the employees or agents of the Requesting Party.
8. Recall of Aid. The Aiding Party reserves the right to recall its personnel, equipment, materials, supplies, and other resources at any time. The Aiding Party will endeavor to give the Requesting Party at least twenty-four (24) hours advance notice of its intent to withdraw. If such notice is not practicable, the Aiding Party will give the Requesting Party the earliest notice it deems possible.

9. Additional Responsibilities.

- A. Compliance with all Applicable Laws. The Parties shall each comply with all laws and regulations applicable to its actions hereunder. Each Party must, upon request by any other Party, make available on a reasonable basis such information as may be required to ensure or show compliance with local, state, and federal laws, except as otherwise prohibited by law or court order.
  - B. Safety Policies. The Requesting Party shall provide safety policies and procedures to the Aiding Party, and the Aiding Party must abide by them in the course of providing aid and assistance hereunder to the extent practicable.
  - C. Materials Management. The Requesting Party shall be responsible for the cleanup, removal, and disposition of any substances generated, managed, or requiring disposal in the course of an event during which aid was provided to the Requesting Party.
  - D. Food and Shelter. The Requesting Party shall supply reasonable food and shelter for the Aiding Party's personnel during the period of assistance. If the Requesting Party cannot provide such food and shelter, the Aiding Party is authorized to secure the resources necessary to meet the needs of its personnel. The cost for such resources must not exceed the State per diem rates for that area. The Parties' Authorized Representatives shall determine whether the Requesting Party is responsible for reimbursing the Aiding Party for all costs associated with providing food and shelter, if the Requesting Party does not provide such resources. If the Parties cannot agree on the level of reimbursement, they may agree to submit the matter to mediation at a mutually-agreed upon location; provided, however, that nothing in this section shall restrict the right of either Party to apply to a court of competent jurisdiction for a judicial resolution. The Parties shall jointly select the mediator. If a mediator cannot be agreed upon, each Party shall select a mediator and the two mediators so chosen shall select a third mediator. Each Party shall pay its own expenses associated with the mediation, and each Party shall pay one-half of the mediator's fees and costs.
  - E. Nondiscrimination. No person with responsibility for providing services under this Agreement shall discriminate against persons being assisted or requesting assistance on the basis of race, color, national origin, age, sex, religion, handicap, political affiliation or beliefs, or any other unlawful basis.
  - F. Public Information. All public information regarding any mutual aid incident shall be channeled through, or coordinated with, the Requesting Party's Authorized Representative.
10. Invoice to the Requesting Party. Within ninety (90) days of the recall of aid by the Aiding Party, the Aiding Party shall submit to the Requesting Party an invoice for all charges related to the aid provided pursuant to this Agreement.
11. Charges to the Requesting Party. Charges to the Requesting Party from the Aiding Party shall be as follows:

- A. Labor force. Charges for labor force shall be in accordance with the Aiding Party's standard pay practices.
  - B. Equipment. Charges for equipment, such as bucket trucks, digger derricks, and other special equipment used by the Aiding Party, shall be at the reasonable and customary rates for such equipment in the Aiding Party's location.
  - C. Transportation. The Aiding Party shall transport needed personnel and equipment by reasonable and customary means and shall charge reasonable and customary rates for such transportation.
  - D. Miscellaneous Expenses. Charges for other expenses related to the provision of aid pursuant to this Agreement, not otherwise addressed above, shall be the reasonable and actual costs incurred by the Aiding Party.
12. Insurance. The Aiding Party shall maintain workers compensation coverage for its employees, automobile liability coverage for its vehicles and equipment, and adequate general liability, public official's liability, and law enforcement liability insurance, or self-insurance coverage as applicable. The Requesting Party agrees to maintain adequate liability insurance under State law.
13. No Liability. Each Party assumes responsibility for the actions and omissions of its employees and agents in the performance or non-performance of its obligations under this Agreement, and, to the extent permitted by law, agrees to hold harmless the other Parties for the actions or omissions of its employees and agents. Nothing herein is intended as a waiver by the Parties of the privileges and protections of the Colorado Governmental Immunity Act, C.R.S § 24-10-101 *et seq.*
14. Modification. This Agreement may be updated, modified, revised, or renegotiated at any time by written agreement signed by the Parties.
15. Notice. Whenever a notice is either required or permitted to be given under this Agreement, it shall be given in writing and delivered personally, by U.S. Postal Service, certified mail, return receipt requested, or by email to the other Party at the address indicated below or at such other address as may be designated by the Party:

If to the Town of Estes Park:

Office of the Town Administrator  
Town of Estes Park  
170 MacGregor Ave  
P.O. Box 1200  
Estes Park, CO 80517

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|-------------------------------------|--|
| If to the City of Fort Collins:     | Office of the City Manager<br>City of Fort Collins<br>300 LaPorte Avenue<br>P.O. Box 580<br>Fort Collins, CO 80522                         |
| If to the City of Longmont:         | Longmont Power & Communications<br>Attn: General Manager, Tom Roiniotis<br>1100 S. Sherman St.<br>Longmont, CO 80501                       |
| If to the City of Loveland:         | Loveland Water & Power<br>Attn: Stephen C. Adams, Director<br>200 N. Wilson Avenue<br>Loveland, CO 80537<br>Steve.Adams@cityofloveland.org |
| If to Platte River Power Authority: | General Manager/CEO<br>2000 East Horsetooth Rd.<br>Fort Collins, CO 80525  |

16. Governing Law. This Agreement shall be construed and enforced in accordance with and governed by the laws of the State of Colorado, without giving effect to its conflicts of law provisions.
17. No Third Party Beneficiary. The terms and conditions of this Agreement, and all rights of action relating thereto, are strictly reserved to the Parties, and nothing in this Agreement shall give or allow any claim or right or cause of action whatsoever by any other person not a party to this Agreement. Any person or entity other than the Parties receiving services or benefits under this Agreement shall be deemed an incidental beneficiary only.
18. Severability. Should any portion of this Agreement be judicially determined to be illegal or unenforceable, the remainder of the Agreement shall continue in full force and effect, and the Parties will renegotiate any terms affected by the severance.
19. Appropriation Required. All obligations of each Party hereunder are expressly contingent upon the annual appropriation of funds sufficient and intended to carry out the same by the governing body of such Party, in its sole discretion. Nothing in this Agreement constitutes a debt, a direct or indirect multiple fiscal year financial obligation, a pledge of a Party's credit, or a payment guarantee by one Party to another.
20. Counterparts. The Parties may execute this Mutual Aid Agreement in one or more counterparts, with each counterpart being deemed an original Agreement, but with all counterparts being considered one Agreement.

21. Execution. Each Party hereto has read, agreed to, and executed this Agreement on the date first written above.
22. Prior and Other Mutual Aid Agreements. This Agreement expressly supersedes and replaces the intergovernmental agreements for mutual aid executed by the Municipalities on January 24, 1983 and August 18, 1999.

[Signatures appear on the following pages]



THE TOWN OF ESTES PARK, COLORADO,  
A Municipal Corporation

By: \_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
Town Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Town Attorney

(Remaining signatures on the following pages.)

THE CITY OF FORT COLLINS, COLORADO,  
A Municipal Corporation

By: \_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Assistant City Attorney

(Remaining signatures on the following pages.)

THE CITY OF LONGMONT, COLORADO,  
A Municipal Corporation

By: \_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:

Approved as to Form and Substance:

\_\_\_\_\_  
Assistant City Attorney

\_\_\_\_\_  
Originating Department

Proofread:

\_\_\_\_\_

(Remaining signatures on the following pages.)

THE CITY OF LOVELAND, COLORADO,  
A Municipal Corporation

By: \_\_\_\_\_  
City Manager

ATTEST:

\_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney

(Remaining signatures on the following page.)

PLATTE RIVER POWER AUTHORITY,  
A Political Subdivision of the State of Colorado

By: \_\_\_\_\_  
General Manager/CEO

APPROVED AS TO FORM:

\_\_\_\_\_  
General Counsel