



AGENDA
CITY OF GLENWOOD SPRINGS
REGULAR CITY COUNCIL MEETING
APRIL 18, 2019
101 W. 8TH STREET
6:00 PM

The agenda is subject to change, including the addition of items 24 hours in advance or the deletion of items at any time.

The order and times of agenda items listed are approximate and intended as a guideline for the City Council.

TIME	ITEM	PRE-MEETING	ACTION
9:00am	1	Review of Regular Session Agenda	Information/Discussion
	2	Future Agendas	Information/Discussion
	3	City Manager Update	Information
	4	Council Comments	Information
MORNING WORK SESSION			
9:30am	A.	Election of Mayor and Mayor Pro-Tem Process	Information/Discussion
AFTERNOON WORK SESSION			
4:45pm	A.	Computer Training	Information/Discussion
5:45pm	Meeting Set-up		
REGULAR SESSION			
6:00pm	5	Roll Call	Quorum
	6	Pledge of Allegiance	
	7	Agenda Changes	Information
	8	Conflict of Interest Disclosure	Information
	9	Citizens Appearing Before Council (for items not on the Agenda-comments limited to 3 minutes)	Information Only
	10	Consent Agenda	Discussion and/or Action
	A.	Receipt of Minutes from the March 21, 2019 and April 4, 2019 Regular Meetings	
ACTIONS AND/OR PRESENTATIONS			
15 Minutes	11	Council Comments	Information/Discussion
	12	Swearing in of New Council Members	
	13	BREAK	
	14	Election of New Mayor and Mayor Pro-Tem	Discussion and/or Action
	15	Proclamation Glenwood Springs Architecture Month	
	A.	Proclamation Glenwood Springs Architecture Month	Presentation
	16	Receipt of Results of the April 2, 2019 Municipal Election	
A.	Receipt of Results of the April 2, 2019 Municipal Election	Information/Discussion	

- 17 Resolution 2019-22: A Resolution of the City Council of the City of Glenwood Springs, Colorado, Authorizing the Service Schedule K-1, West Side Bulk Power Supply Agreement with the Municipal Energy Agency of Nebraska (MEAN)
 - A. Resolution 2019-22, A Resolution of the City Council of the City of Glenwood Springs, Colorado, Authorizing the Service Schedule K-1, West Side Bulk Power Supply Agreement with the Municipal Energy Agency of Nebraska (MEAN) Discussion and/or Action
- 18 Resolution 2019-21; A Resolution of the City Council of the City of Glenwood Springs, Colorado, Regarding Staff Appointment to Municipal Energy Agency of Nebraska ("MEAN") Board of Directors, the MEAN Management Committee and the Nebraska Municipal Power Pool ("NMPP") Members Council
 - A. Resolution 2019-21; A Resolution of the City Council of the City of Glenwood Springs, Colorado, Regarding Staff Appointment to Municipal Energy Agency of Nebraska ("MEAN") Board of Directors, the MEAN Management Committee and the Nebraska Municipal Power Pool ("NMPP") Members Council Discussion and/or Action
- 19 Council Meeting Format Discussion and/or Action
- 20 City Council Board Liaison Discussion and/or Action
- 21 Report from City Administration Information
 - A. City Manager
 - B. City Attorney
 - C. Correspondence Incoming/Outgoing
- 22 Executive Session to Conduct a Conference with the City Manager and City Attorney for the Purpose of Discussing the City's Purchase, Acquisition, Lease, Transfer or Sale of Real Property; Determining Positions Relative to Matters That May be Subject to Negotiations, Developing Strategy for Negotiations, and Instructing Negotiators; and to Conduct a Conference with the City Attorney to Receive Legal Advice in Accordance with C.R.S. 24-6-402(4)(a), (b) and (e), related to Garfield County Industrial Development Information/Discussion
- 23 Adjournment



MINUTES
CITY OF GLENWOOD SPRINGS
REGULAR CITY COUNCIL MEETING
MARCH 21, 2019
101 W. 8TH STREET
6:00 P.M.

6 Roll Call

Mayor Mike Gamba called the meeting to order at 6:00 p.m. Present at roll call: Shelley Kaup, Rick Voorhees, Todd Leahy, Mike Gamba, Steve Davis, Jonathan Godes and Jim Ingraham.

Also present were Debra Figueroa, City Manager; Karl Hanlon, City Attorney; Steve Boyd, COO; Jenn Ooton, Assistant City Manager, Economic and Community Development Director; Catherine Mythen Fletcher, City Clerk; Matt Langhorst, Public Works Director; Gretchen Ricehill, Assistant Director of Economic and Community Development; Terri Partch, City Engineer; Al Laurette, Parks Superintendent.

7 Pledge of Allegiance

Mayor Gamba led in the Pledge of Allegiance

8 Agenda Changes

9 Conflict of Interest Disclosure

10 27th Street Bridge Update

11 Citizens Appearing Before Council (for items not on the Agenda-comments limited to 3 minutes)

Sandy Habor-Voiced concerns over plowing and Spring Cleanup

12 Council Comments

Councilor Kaup – Inquired about the fountains on 7th Street

13 Consent Agenda

- A. Receipt of Minutes from the February 21, 2019 and March 7, 2019 Regular Meetings
- B. Ordinance No 10, Series of 2019; An Ordinance of the City Council of the City of Glenwood Springs, Colorado Annexing an Enclave into the Municipal Limits (SECOND READING)
- C. Ordinance No 11, Series of 2019; An Ordinance of the City Council of the City of Glenwood Springs, Colorado Rezoning an Enclave Property Annexed into the Municipal Limits (SECOND READING)
- D. Resolution 2019-18; A Resolution of the City Council of the City of Glenwood Springs, Colorado, Authorizing and Supporting the Application for a Grant from the U.S. Department of Agriculture for the Creation of a Revolving Loan Fund to Assist Businesses Install Fire Suppression Systems
- E. WWTF Demolition Asbestos Change Order
- F. Intergovernmental Agreement for Public Restroom Installation and Maintenance

Councilor Voorhees moved, seconded by Councilor Kaup to approve the consent agenda

Motion passed unanimously

ACTIONS AND/OR PRESENTATIONS

14 Resolution 2019-19; A Resolution of the City Council of Glenwood Springs, Colorado, Opposing Expansion of the Transfer Trail Mine and Requesting the Bureau of Land Management Conduct an Environmental Impact Statement Analysis

- A. Resolution 2019-19; A Resolution of the City Council of Glenwood Springs, Colorado, Opposing Expansion of the Transfer Trail Mine and Requesting the Bureau of Land Management Conduct an Environmental Impact Statement Analysis

Karl Hanlon spoke to Council, stating that this City of Glenwood Springs Resolution was requesting action from federal agencies to prevent the proposal of the Rocky Mountain Resources (RMR) mine expansion on federal land next to Glenwood Springs.

Mayor Gamba opened the item for public comment.

David McConahey, Rocky Mountain Resources-Introduced himself as the attorney for Rocky Mountain Resources and explained his client supported the Resolution

Stephen Bershenyi-was in favor of the Resolution and stated the integrity of the community needed to be protected

Jeff Peterson-was in favor of the Resolution and thanked Council for putting it together

Sarah Gordon-stated this was a non-partisan issue that effected the entire community

Heather McGregor-told council she appreciated them and asked that there be a unanimous vote for the resolution

Joe Malika-appreciated that council was taking an opposition to the development

Mary Steinbrecker-thanked council and explained that there were a dozen more people at the meeting who wanted to thank council

Mayor Gamba closed public comment.

Councilor Godes moved, seconded by Councilor Davis, to approve Resolution 2019-19; A Resolution of the City Council of Glenwood Springs, Colorado, Opposing Expansion of the Transfer Trail Mine and Requesting the Bureau of Land Management Conduct an Environmental Impact Statement Analysis

Motion passed unanimously

15 Planning Item #08-19; Consideration of An Application to Extend the Deadline for Filing a Development Plan from June 20, 2019 to June 20, 2027 for the Iron Mountain Planned Unit Development

- A. Planning Item #08-19; Consideration of a request to extend the deadline for filing a development plan from June 20, 2019 to June 20, 2027 for the Iron Mountain Planned Unit Development

Gretchen Ricehill presented to Council that in 2013 the Planning and Zoning Commission and City Council approved a rezoning of the abandoned limestone quarry, a 27-acre site, from I-1-General Industrial to Planned Unit Development. The city's Planned Unit Development (PUD) regulations required that within 6 months of receiving PUD zoning approval, the owner file a site-specific development plan of the property. Council previously extended this dead line to June 20, 2019,

with this date approaching the property owner submitted a written request to extend the filing deadline to June 20, 2027.

Mayor Gamba opened the item for public comment.

David McConahey, Rocky Mountain Resources- Stated that although RMR did not agree with the owners concerns, they would like to see his request approved

Stephen Bershenyi- Asked council to appreciate the irony that one person was trying to reclaim a quarry while another was trying to destroy a mountain

Mayor Gamba closed public comment.

Councilor Ingraham moved, seconded by Councilor Voorhees, to approve Planning item 08-19 – Consideration of an application to extend the deadline for filing a development plan from June 20, 2019 to June 20, 2027 for the Iron Mountain Planned Unit Development with one finding and two conditions found on page 319 of the March 21, 2019 Council packet

Motion passed unanimously

16 CONTINUED TO MAY 2, 2019 Planning Item #01-19 – Consideration of a Major Site/Architectural Plan Review for a Multi-Tenant Office/Retail Building, Lot 14 Glenwood Meadows No 2, Wulfsohn Road

- A. Planning Item #01-19 – Consideration of a Major Site/Architectural Plan Review for a Multi-Tenant Office/Retail Building, Lot 14 Glenwood Meadows No 2, Wulfsohn Road

Councilor Godes moved, seconded by Councilor Davis, to continue this item to the May 2, 2019 regular council meeting

Motion passed unanimously

17 Ordinance No 8, Series of 2019; An Ordinance of the City Council of the City of Glenwood Springs, Colorado, Amending 100.010.030 (c) Weed and Grass Control (FIRST READING)

- A. Ordinance No 8, Series of 2019; An Ordinance of the City Council of the City of Glenwood Springs, Colorado, Amending 100.010.030 (c) Weed and Grass Control to Include the Noxious Weed Management Plan (FIRST READING)

Al Laurette explained that at the January 3rd regular council meeting staff presented and recommended City Council adopt the proposed Noxious Weed Management Plan. The goal of the Management Plan was to promote healthy plant communities in the local jurisdiction and suppress the expansion of noxious weeds.

Mayor Gamba opened the item for public comment.

Debbie Martin- Thanked everyone in the City who helped to get this Ordinance into place and hoped that council would support it

Mayor Gamba closed public comment.

Councilor Ingraham moved, seconded by Councilor Kaup, to approve Ordinance No 8, Series of 2019; An Ordinance of the City Council of the City of Glenwood Springs, Colorado, Amending 100.010.030 (c) Weed and Grass Control to Include the Noxious Weed Management Plan

Motion passed unanimously

18 Ordinance No 13, Series of 2019; An Ordinance of the City of Glenwood Springs, Colorado, Adopting a New Section 090.040.120 regarding Hauling Routes to the Glenwood Springs Municipal Code and Setting Forth the Regulations and Permit Requirement for Commercial Hauling Operation in the City (FIRST READING)

- A. Ordinance No 13, Series of 2019; An Ordinance of the City of Glenwood Springs, Colorado, Adopting a New Section 090.040.120 regarding Hauling Routes to the Glenwood Springs Municipal Code and Setting Forth the Regulations and Permit Requirement for Commercial Hauling Operations in the City (FIRST READING)

Terri Partch spoke to Council about how all the streets had been reevaluated in order to work toward repairing them. Most streets were rated for single axel vehicles and thus are built that way. However, with larger commercial vehicles continuing to use the streets, major damage would incur because of the weight. In order to protect the streets staff have suggested a new ordinance.

Councilor Kaup moved, seconded by Councilor Ingraham, to continue this item to the next regular scheduled meeting on April 4, 2019

Motion passed unanimously

19 Ordinance No 14, Series of 2019; An Ordinance of the City Council of the City of Glenwood Springs, Colorado, Amending Municipal Code to allow Glenwood Springs City Council to Reschedule or Cancel a Regular City Council Meeting by Resolution (FIRST READING)

- A. Ordinance No 14, Series of 2019; An Ordinance of the City Council of the City of Glenwood Springs, Colorado, Amending Municipal Code to allow Glenwood Springs City Council to Reschedule or Cancel a Regular City Council Meeting by Resolution (FIRST READING)

Karl Hanlon conveyed that it currently took an ordinance to cancel or reschedule a meeting however, sometimes there could be short notice of a change. A resolution would allow for last minute changes to be made if needed.

Mayor Gamba opened the item for public comment and no comments were noted. Mayor Gamba closed public comment.

Councilor Ingraham moved, seconded by Councilor Davis, to adopt Ordinance No 14, Series of 2019; An Ordinance of the City Council of the City of Glenwood Springs, Colorado, Amending Municipal Code to allow Glenwood Springs City Council to Reschedule or Cancel a Regular City Council Meeting by Resolution

Motion passed unanimously

20 Ordinance No 15, Series of 2019; An Ordinance of the City Council of the City of Glenwood Springs, Colorado, amending Section 070.040.060 of the Municipal Code (FIRST READING)

- A. Ordinance No 15, Series of 2019; An Ordinance of the City Council of the City of Glenwood Springs, Colorado, amending Section 070.040.060 of the Municipal Code (FIRST READING)

Gretchen Ricehill explained that on January 17, 2019 City Council conducted a public hearing to consider several amendments of Title 070, the City's new Development Code adopted the previous August. The January report included the recommended correction for Off-Street Parking and Loading but was inadvertently omitted from Ordinance 3, Series of 2019. Staff believed that it was Council's intent to correct the method in which the City calculates off-street parking.

Mayor Gamba opened the item for public comment and no comments were noted. Mayor Gamba closed public comment.

Councilor Voorhees moved, seconded by Councilor Kaup, to approve Ordinance No 15, Series of 2019; An Ordinance of the City Council of the City of Glenwood Springs, Colorado, amending Section 070.040.060 of the Municipal Code

Motion passed unanimously

21 Resolution 2019-17; A Resolution of the City Council of the City of Glenwood Springs, Colorado Repealing the Administrative Fee from the Residential Parking Policy

- A. Resolution 2019-17; A Resolution of the City Council of the City of Glenwood Springs, Colorado, Repealing the Administrative Fee from the Residential Parking Policy

Debra Figueroa told Council that at the previous council meeting Council had expressed wanting to repeal the fee from the residential parking policy, this resolution was to give Council that opportunity.

Mayor Gamba opened the item for public comment.

Ryan Muse-Stated that his in-laws, who lived on Colorado Ave, were upset about the added fee change to the parking policy

Mayor Gamba closed public comment.

Councilor Godes moved, seconded by Councilor Ingraham, to approve Resolution 2019-17; A Resolution of the City Council of the City of Glenwood Springs, Colorado Repealing the Administrative Fee from the Residential Parking Policy

Ayes: Kaup, Voorhees, Leahy, Gamba, Godes, Ingraham

Nays: Davis

Motion passed

22 SGM Additional Services at Two Rivers

- A. SGM Additional Services at Two Rivers

Terri Partch presented that on February 7th the council asked staff to evaluate several changes to the Two River Parks plan. Approval of the additional civil design scope would bring the SGM contract to a total of \$159,672.

Mayor Gamba opened the item for public comment and no comments were noted. Mayor Gamba closed public comment.

Councilor Davis moved, seconded by Councilor Kaup, to approve the additional services from SGM for the Two Rivers Park restoration project

Motion passed unanimously

23 Board and Commission Appointments for VALE Board, Historic Preservation Commission, and Housing Commission

- A. Board and Commission Appointments for VALE Board, Historic Preservation Commission, and Housing Commission

Council appointed Tara Ronski to the VALE Board with 4 votes in favor

24 Report from City Administration

- A. City Manager
- B. City Attorney
- C. Correspondence Incoming/Outgoing

25 Adjournment

The meeting was adjourned at 7:30pm



MINUTES
CITY OF GLENWOOD SPRINGS
REGULAR CITY COUNCIL MEETING
APRIL 4, 2019
101 W. 8TH STREET
6:00 P.M.

5 Roll Call

Mayor Mike Gamba called the meeting to order at 6:00 p.m. Present at roll call: Shelley Kaup, Rick Voorhees, Mike Gamba, Steve Davis, Jonathan Godes and Jim Ingraham. Absent: Todd Leahy.

Also present were Debra Figueroa, City Manager; Karl Hanlon, City Attorney; Steve Boyd, COO; Jenn Ooton, Assistant City Manager, Economic and Community Development Director; Catherine Mythen Fletcher, City Clerk; Brian Smith, Parks and Recreation Director; Matt Langhorst, Public Works Director; Gary Tillotson, Fire Chief; Terry Wilson, Police Chief.

6 Pledge of Allegiance

Mayor Gamba led in the Pledge of Allegiance

7 Agenda Changes

8 Conflict of Interest Disclosure

9 Citizens Appearing Before Council (for items not on the Agenda-comments limited to 3 minutes)

10 Council Comments

Councilor Godes – expressed his appreciation of Councilor Jim Ingraham’s time on City Council

Councilor Kaup – thanked Jim and stated she looked forward to serving with Charlie, Tony, and Paula. Also, since the street tax was not passed council would do its best to keep moving forward with fixing the streets

11 Consent Agenda

- A. Award of On-Site Sodium Hypochlorite Generation System Equipment for Red Mountain Water Treatment Plant (BD2019-026)
- B. Landfill Site Services T&M Contract Bid
- C. IGA between the City of Glenwood Springs and Colorado Division of Parks and Wildlife
- D. Ordinance No 8, Series of 2019; An Ordinance of the City Council of the City of Glenwood Springs, Colorado, Amending 100.010.030 (c) Weed and Grass Control to Include the Noxious Weed Management Plan (SECOND READING)
- E. Ordinance No 14, Series of 2019; An Ordinance of the City Council of the City of Glenwood Springs, Colorado, Amending Municipal Code to allow Glenwood Springs City Council to Reschedule or Cancel a Regular City Council Meeting by Resolution (SECOND READING)
- F. Ordinance No 15, Series of 2019; An Ordinance of the City Council of the City of Glenwood Springs, Colorado, amending Section 070.040.060 of the Municipal Code (SECOND READING)

G. Award NWCCOG Project THOR Contract

Councilor Kaup moved, seconded by Councilor Voorhees, to approve the consent agenda

Motion passed unanimously by all present, Leahy absent

ACTIONS AND/OR PRESENTATIONS

12 7th Street Change Order

A. 7th Street Change Order

Deric Walter presented that in 2016, the City and DDA constructed the paver and sandstone sidewalks from Blake Avenue to Grand along the south side of 7th Street. Since that date, accelerated wear of the white sandstone bands in the sidewalk areas have been noticed. This change order proposed to replace the spalling white sandstone bands with a much more durable black granite in the existing sidewalk areas, as well as in the new sidewalk areas. The proposed cost of this work is \$42,132.36

Mayor Gamba opened the item for public comment and no comments were noted. Mayor Gamba closed public comment.

Councilor Davis moved, seconded by Councilor Ingraham, to accept the change order at the cost of \$42,132.36

Motion passed unanimously by all present, Leahy absent

13 Two Rivers Park – Approval to Amendment to the Design Contract with Land Studio for Landscape and Lighting Design

A. Two Rivers Park – Approval of Amendment to the Design Contract with Land Studio for Landscape and Lighting Design

Brian Smith explained that the City engaged Land Studio to help with detailed landscaping and lighting plans for the project ahead of the first bid. This scope would slightly broaden their original scope by adding revegetation and lighting, totaling a cost of \$28,200.00

Mayor Gamba opened the item for public comment and no comments were noted. Mayor Gamba closed public comment.

Councilor Davis moved, seconded by Councilor Voorhees, to approve the amendment to the contract with Land Studio in the amount of \$28,200.00 for landscaping and lighting design on the Two Rivers Park project

Ayes: Godes, Davis, Gamba, Voorhees, Kaup

Nays: Ingraham

Motion passed, Leahy absent

14 CONTINUED FROM MARCH 21, 2019, Ordinance No 13, Series of 2019; An Ordinance of the City of Glenwood Springs, Colorado, Adopting a New Section 090.040.120 regarding Hauling Routes to the Glenwood Springs Municipal Code and Setting Forth the Regulations and Permit Requirement for Commercial Hauling Operations in the City (FIRST READING)

A. Ordinance No 13, Series of 2019; An Ordinance of the City of Glenwood Springs, Colorado, Adopting a New Section 090.040.120 regarding Hauling Routes to the Glenwood Springs

Municipal Code and Setting Forth the Regulations and Permit Requirement for Commercial Hauling Operations in the City (FIRST READING)

Terri Partch spoke about how in 2017 the City performed a pavement analysis. This analysis identified that approximately 2/3 of the City's streets were in poor condition or had failed. It is well known that large heavy trucks increase the rate of degradation of all pavements. This ordinance would help compensate for heavy truck use of City streets through assessing a fee.

Mayor Gamba opened the item for public comment and no comments were noted. Mayor Gamba closed public comment.

Councilor Ingraham moved, seconded by Councilor Davis, to approve Ordinance No 13, Series of 2019; An Ordinance of the City of Glenwood Springs, Colorado, Adopting a New Section 090.040.120 regarding Hauling Routes to the Glenwood Springs Municipal Code and Setting Forth the Regulation and Permit Requirement for Commercial Hauling Operations in the City

Motion passed unanimously by all present, Leahy absent

15 Arts Plan Estimates

A. Arts Plan Estimates

Brian Smith explained that at the January 3rd work session with the Arts and Culture Board, the Board presented to Council their list of priorities for 2019. Council asked for staff to bring back estimates for an Art Plan. After reviewing several municipalities that had recently undergone this process, as well as speaking with six Art Plan consultant firms, staff recommended allocating \$20,000 to complete an Art Plan for the City of Glenwood Springs.

Mayor Gamba opened the item for public comment and no comments were noted. Mayor Gamba closed public comment.

Councilor Voorhees moved, seconded by Councilor Kaup, to approve \$20,000 for the completion of a public art plan as presented

Ayes: Ingraham, Gamba, Voorhees, Kaup

Nays: Godes, Davis

Motion passed, Leahy absent

16 Landfill Rate Study and Resolution adoption of New Rates

A. Landfill Rate Study and Resolution 2019-20, A Resolution of the City of Glenwood Springs, CO, Setting 2019 Rate Fees

Matt Langhorst presented that the City of Glenwood Springs resumed operations of the South Canyon Landfill on April 1st, 2019. In 2018 American Environmental Consulting, Inc (AEC) started a new rate study looking at Solids and Liquid volume rates. The rate studies showed that the City should increase rates for Municipal Construction/Demolition, Sludge, Septage, Car Wash and Grease to come closer to surrounding area rates.

Mayor Gamba opened the item for public comment.

Tony Hershey-Asked council to remember that the higher rates would just be passed on to the business and home owners who used the services

Craig Ambershaw-Stated he appreciated everything Council was doing with the landfill and asked that Council to use the profits made from the landfill to improve South Canyon

Charlie Wilman-Asked about how much this would increase revenue

Mayor Gamba closed public comment.

Councilor Ingraham moved, seconded by Councilor Kaup, to approve Resolution 2019-20; A Resolution of the City of Glenwood Springs, CO, Setting 2019 Landfill Fees

Ayes: Ingraham, Davis, Gamba, Voorhees, Kaup

Nays: Godes

Motion passed, Leahy Absent

17 Board and Commission Appointments for Housing Board and Historic Commission

A. Board and Commission Appoints for Historic Commission and Housing Commission

Councilor Godes moved, seconded by Councilor Davis, to appoint the four candidates for the Historic Commission and Housing Commission by acclamation

Motion passed unanimously by all present, Leahy Absent

18 URA Appointment

A. URA Appointment

Continued to a future meeting once a new Mayor was appointed

19 Report from City Administration

A. City Manager – Sustainable Strategies asked to work with the Mayor to get a letter to the Trump administration making it easier for smaller communities such as Glenwood Springs to go after National Park Service Outdoor Recreation Legacy Partnership Programs

B. City Attorney

C. Correspondence Incoming/Outgoing

20 Executive Session to Conduct a Conference with the City Manager and City Attorney for the Purpose of Discussing the City's Purchase, Acquisition, Lease, Transfer or Sale of Real Property; Determining Strategy for Negotiations and Instructing Negotiators; and to Conduct a Conference with the City Attorney to Receive Legal Advice in Accordance with C.R.S. 24-6-402(4)(a), (b) and (e), related to South Midland

25 Adjournment

The meeting was adjourned at 8:05pm

Proclamation

of the City Council

COLORADO ARCHITECTURE MONTH

WHEREAS, we are shaped to great extent by our built environment—buildings, public spaces, streetscapes, and the interaction with our natural and unique environment through thoughtful planning, design, and careful stewardship of our state’s land and water resources and

WHEREAS, an essential element of the City of Glenwood Springs character is the quality of its architecture created in collaboration with architects of the past and the present and

WHEREAS, The American Institute of Architects (AIA) Colorado West Section dedicated to fostering design excellence by local architects and inspiring the next generation of design professionals through events such as Architecture Month; and

WHEREAS, Architecture Month is intended to celebrate the importance of architectural design in people’s everyday lives, and impacts how we live, work, play, and preserve our natural resources for future generations.

NOW, THEREFORE, BE IT PROCLAIMED, that I, _____, Mayor of the City of Glenwood Springs, Colorado, on behalf of the entire Council and the residents we serve, recognize, and support the valuable and important contributions of architectural design in our community.

IN WITNESS

Given under my hand and the official seal of the City of Glenwood Springs, in the State of Colorado, this 18th day of April 2019.

Mayor



City Council
STAFF REPORT
City of Glenwood Springs
April 18, 2019

Agenda Item: Receipt of Results of the April 2, 2019 Municipal Election

Action Requested: No Action Requested

Department: City Clerk

Presented By: Catherine Fletcher, City Clerk

Background Info: Results from the April 2, 2019 Municipal Election

Issues:

Staff Recommendation:



FINAL RESULTS OF THE APRIL 2, 2019 REGULAR ELECTION

I, Catherine B. Fletcher, City Clerk for the City of Glenwood Springs, Colorado, certify the following as the final results, as declared by the Judges of Election and Canvass Board, for the Regular Municipal Mail Ballot Election held on Tuesday, April 2, 2019:

CITY COUNCILOR - WARD 1

Steve Davis **Won by acclamation**

CITY COUNCILOR - WARD 3:

Jennifer Vanian	156 votes
Ksana Oglesby	46 votes
Charles (Charlie) Willman	211 votes

CITY COUNCILOR - WARD 4:

Paula Stepp **Won by acclamation**

CITY COUNCILOR - AT LARGE:

Jim Ingraham	592 votes
Erika Gibson	475 votes
Tony Hershey	1013 votes

CITY OF GLENWOOD SPRINGS BALLOT ISSUE A:

SHALL THE CITY OF GLENWOOD SPRINGS TAXES BE INCREASED \$4.5 MILLION ANNUALLY (WHICH AMOUNT REPRESENTS ESTIMATED REVENUES IN 2020, THE FIRST FULL FISCAL YEAR OF COLLECTION) AND BY WHATEVER AMOUNT IS GENERATED THEREAFTER THROUGH THE IMPOSITION FOR A LIMITED TWENTY-YEAR PERIOD OF A STREET MAINTENANCE AND RECONSTRUCTION SALES AND USE TAX IMPOSED AT THE RATE OF THREE-QUARTERS OF ONE PERCENT (0.75%), WHICH TAX SHALL COMMENCE JULY 1, 2019 AND SHALL EXPIRE AT MIDNIGHT ON JUNE 30, 2039; SHALL, WITHOUT FUTURE VOTER APPROVAL, SUCH TAX INCREASE BE USED ONLY FOR THE MAINTENANCE AND RECONSTRUCTION OF EXISTING STREETS AND ALLEYS, INCLUDING SIDEWALKS, DRAINAGE AND UTILITIES, AND DEBT ISSUED FOR SUCH PURPOSES; AND SHALL APPLICABLE PROVISIONS OF TITLE 040 OF THE CITY CODE BE AMENDED BY THE CITY COUNCIL CONSISTENT WITH THIS BALLOT ISSUE?

Ballot Question A received **897 YES votes, 1340 NO votes**

Ballot Question A DID NOT PASS

BALLOT ISSUE B:

SHALL THE CITY OF GLENWOOD SPRINGS DEBT BE INCREASED UP TO \$16 MILLION, WITH A MAXIMUM REPAYMENT COST OF UP TO \$21 MILLION, FOR THE PURPOSE OF FINANCING CAPITAL COSTS RELATING TO THE MAINTENANCE AND RECONSTRUCTION OF EXISTING STREETS AND ALLEYS INCLUDING SIDEWALKS, DRAINAGE AND UTILITIES, SUCH DEBT TO CONSIST OF SALES AND USE TAX REVENUE BONDS WHICH ARE PAYABLE FROM THE CITY'S STREET MAINTENANCE AND RECONSTRUCTION SALES AND USE TAX IF THE SEPARATE BALLOT ISSUE RELATING TO SAID TAX IS APPROVED BY VOTERS AT THIS ELECTION, WITH SUCH DEBT TO BE ISSUED, DATED AND SOLD AT SUCH TIME, AND AT SUCH PRICES (AT, ABOVE OR BELOW PAR) AND TO CONTAIN SUCH TERMS, NOT INCONSISTENT HERewith, AS THE CITY COUNCIL MAY DETERMINE?

Ballot Question B received **866 YES votes, 1344 NO votes**

Ballot Question B DID NOT PASS



City Council
STAFF REPORT
City of Glenwood Springs
April 18, 2019

Agenda Item:	Resolution 2019-22, A Resolution of the City Council of the City of Glenwood Springs, Colorado, Authorizing the Service Schedule K-1, West Side Bulk Power Supply Agreement with the Municipal Energy Agency of Nebraska (MEAN)
Action Requested:	Approval of a Resolution of the City Council of the City of Glenwood Springs, Colorado, Authorizing the Service Schedule K-1, West Side Bulk Power Supply Agreement with the Municipal Energy Agency of Nebraska ("MEAN").
Department:	Public Works
Presented By:	Matthew Langhorst, Public Works Director
Background Info:	The City of Glenwood Springs entered into a Service Schedule K-1 Bulk Power Supply contract with MEAN on June 6th, 2012 for a 10 year duration. This power supply contract provides bulk power to the City of Glenwood Springs Electric Department to supply localized power to City customers at a resale rate. The current contract is set to expire on December 31st, 2022. In 2018 MEAN staff contacted the City of Glenwood Springs to discuss a potential new contract option that includes a 100% Renewable Resource bulk power supply to the City. MEAN has acquired new and upgrades wind power supply facility options within their power portfolio and they are offering a large sum of these supplies to the City of Glenwood Springs. The proposed contract will provide 100% wind power to the City, allowable contract space for a 2 mega watt solar garden, and reasonable efforts to work with the City and local power generators defined within the contract that put the City above its contracted cap. The cost per MWH will drop from \$51 to \$46 which will save the City \$500,000 per year over the life of the contract.
Issues:	None at this time.
Staff Recommendation:	Approval of a Resolution of the City Council of the City of Glenwood Springs, Colorado, Authorizing the Service Schedule K-1, West Side Bulk Power Supply Agreement with the Municipal Energy Agency of Nebraska ("MEAN").

RESOLUTION 2019 - 22

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GLENWOOD SPRINGS, COLORADO, AUTHORIZING THE SERVICE SCHEDULE K-1, WEST SIDE BULK POWER SUPPLY AGREEMENT WITH THE MUNICIPAL ENERGY AGENCY OF NEBRASKA (“MEAN”).

WHEREAS, Section 13.7 of the Glenwood Springs Municipal Charter authorizes the City Council of the City of Glenwood Springs, by resolution to enter into agreements with other governmental units for furnishing or receiving commodities or services; and

WHEREAS, for many years the City has contracted with MEAN to provide electricity to the City under the Pooling Agreement dated May 16, 2002; and

WHEREAS, MEAN is requesting that the Service Schedule K-1, West Side Bulk Power Supply, (“Schedule K-1”) of the Pooling Agreement be updated; and

WHEREAS, the City has undertaken appropriate review of the changes to Schedule K-1 and finds these changes acceptable; and

WHEREAS, City Council believes it is in the best interest of the City to enter into the Schedule K-1 agreement.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF GLENWOOD SPRINGS, COLORADO, RESOLVES THAT:

Section 1. The foregoing recitals are hereby incorporated as if set forth in full.

Section 2. The Glenwood Springs City Council hereby authorizes the changes to the Schedule K-1.

Section 3. The Mayor or Mayor Pro Tem is hereby authorized to execute the Schedule K-1.

INTRODUCED, READ AND PASSED THIS 18TH DAY OF APRIL 2019.

CITY OF GLENWOOD SPRINGS, COLORADO

_____, Mayor

ATTEST:

Catherine Mythen Fletcher, City Clerk

**Amended and Restated Agreement for Wind-Generated Energy Purchase
Between
Municipal Energy Agency of Nebraska
And
City of Glenwood Springs, Colorado**

This Amended and Restated Agreement for Wind-Generated Energy Purchase ("Agreement"), pursuant to City's effective firm power Service Schedule of the Electrical Resources Pooling Agreement ("ERPA"), is dated and made between the Municipal Energy Agency of Nebraska, an agency and political subdivision of the State of Nebraska ("MEAN"), and the City of Glenwood Springs, Colorado ("City") on this 1st day of June, 2019. MEAN and City are sometimes referred to collectively as the "Parties" and individually as "Party".

WHEREAS, City is a municipal corporation created under the laws of the State of Colorado; and

WHEREAS, City and MEAN have entered into an Electrical Resources Pooling Agreement, executed on May 16, 2002, and a Service Schedule K-1 Agreement for West Side Bulk Power Supply ("Service Schedule Agreement"), executed June 1, 2019, pursuant to which MEAN is to acquire and deliver to City all of City's electrical energy requirements except that with the Western Area Power Administration and that supplied by certain City renewable energy production facilities; and

WHEREAS, City and MEAN have entered into a Supplemental Agreement for Wind-Generated Energy Purchase executed as of January 7, 2011 ("Supplemental Wind Agreement"), pursuant to which MEAN provides to City certain amounts of wind-generated electrical energy as part of City's total electrical energy requirements; and

WHEREAS, City has requested MEAN to provide to City an additional amount of wind-generated electrical energy that will satisfy City's remaining electrical energy requirements; and

WHEREAS, City and MEAN desire to supersede, terminate and replace that certain Supplemental Wind Agreement; and

WHEREAS, due to unique circumstances affecting this sale of additional wind-generated electrical energy by MEAN to City, the Parties desire to agree on certain contractual terms and conditions specific to this sale and in addition to those that normally attend the sale of the electrical energy by MEAN to a MEAN participant; and

WHEREAS, City understands and acknowledges that the energy output from a wind turbine is weather sensitive and speculative in nature and, therefore, it is likely that MEAN may incur scheduling and/or delivery imbalance penalties and surcharges regarding the delivery of such energy to City; and

WHEREAS, MEAN has acquired, and may continue to acquire, wind generation resources to generate and deliver electrical energy for the benefit of MEAN participants and other regional suppliers; and

WHEREAS, MEAN has acquired, and may continue to acquire under certain circumstances as provided in this Agreement, the rights to environmental attributes which may be used to serve MEAN's obligations hereunder.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein and other good and valuable consideration the sufficiency of which is hereby acknowledged by the Parties, the Parties hereby agree as follows:

1. Representation and Warranties.

- A. Within thirty (30) days of execution of this Agreement, City shall provide an opinion of legal counsel that this Agreement has been duly authorized, executed and delivered by City and that all financial obligations undertaken or assumed by City, in connection herewith, are valid and enforceable against City in accordance with their terms.
- B. City has established by ordinance a Utility Enterprise (Enterprise) having all of the authority to act and operate in all respects as an Enterprise under Colorado law, Colorado Constitution Article X, §20.
- C. City and Enterprise represent and warrant that this Agreement has been executed in compliance with or is otherwise not subject to Article X, §20, of the Colorado Constitution (commonly known as the Taxpayer's Bill of Rights or "TABOR").

2. Obligations of the Parties.

- A. MEAN shall generate or cause to be generated wind-generated electrical energy, or, as permitted by this subsection A., MEAN shall generate or cause to be generated electrical energy and shall acquire equivalent amounts of Environmental Attributes, as defined below ("Contract Wind Energy"), and shall cause to be delivered to City equivalent amounts of electrical energy, in amounts sufficient to serve City's total power requirements in excess of the following resources: (i) City's allocation of firm power and energy from the Western Area Power Administration, and (ii) output from renewable resources permitted to offset purchases from MEAN under the Service Schedule Agreement.

City and MEAN hereby agree that any and all provisions pertaining to Support Energy within the then-current Schedule of Rates and Charges to the City's Service Schedule Agreement with MEAN shall not be applicable to City during the term of this Agreement. City's purchases under this Agreement shall include but not be limited to amounts that would have been classified as Support Energy and will be billed at the rate as described in Section 3.A.

True-Up. In the event that in any year the energy generated by the sources listed on Exhibit C hereto is not sufficient to allow MEAN to fulfill its contractual obligations for such year regarding sales of wind-generated electrical energy from the sources in the MEAN Wind Resource Pool, for reasons including but not limited to events of force majeure, MEAN shall be permitted to acquire Environmental Attributes to fulfill its obligations under this Agreement for such year as described above. MEAN agrees not to

enter into this Agreement with the sole intention of fulfilling this contractual obligation by purchasing Environmental Attributes. For any year in which MEAN purchases Environmental Attributes to fulfill its obligations hereunder, MEAN shall provide City with written notification of such purchase. Such notification shall state the amount of energy generated by the MEAN Wind Resource Pool for the applicable period of time, the amount of Environmental Attributes purchased to fulfill MEAN's contractual obligations to all participants in the MEAN Wind Resource Pool for the applicable time period, and the justification for such purchase.

- B. The generation source(s) of Contract Wind Energy may include but not be limited to the sources listed on Exhibit C, attached hereto and made part of this Agreement (collectively, the "MEAN Wind Resource Pool"). Upon approval of a modification to the MEAN Wind Resource Pool, a revised Exhibit C shall be issued by MEAN and shall be deemed part of this Agreement.
- C. For purposes of this Agreement, "Environmental Attributes" shall mean with respect to a specified quantity of the wind-generated electricity, the right of a purchaser of such Environmental Attributes to claim, under applicable energy generation disclosure and tracking laws and regulations, all of the non-energy attributes and value associated with the generation of such renewable power, including: any green tags, tradable renewable certificates or similar renewable energy certificates, credits, values or premiums associated with such renewable energy generation; any output-based incentive, allocation, credit, value, set-aside allowance or non-energy attribute relating to or arising out of the production of renewable wind energy generation, and emission and greenhouse gas reductions; whether any of the foregoing arises pursuant to existing or future energy generation disclosure and tracking laws and regulations, or existing or future certification, certification program, trading market or exchange; provided, however, that for purposes of this Agreement, Environmental Attributes shall specifically exclude any and all state and federal production tax credits, investment tax credits and any other tax credits which are or will be generated by facilities within the MEAN Wind Resource Pool or by other facilities from which the electricity and Environmental Attributes provided hereunder are generated. The Parties agree that the Environmental Attributes are not currently certified, and it is not anticipated that they will be certified by MEAN at any time. MEAN represents that the amount of Environmental Attributes which MEAN enters into bilateral agreements to sell from the MEAN Wind Resource Pool generation in each calendar year during the term of this Agreement shall not exceed the sum of (i) actual energy production by the MEAN Wind Resource Pool in such calendar year, plus (ii) Environmental Attributes procured by MEAN in such calendar year in accordance with this Agreement.

It is expressly agreed that City shall own the Environmental Attributes, as defined above, of the Contract Wind Energy actually generated and sold to City pursuant to this Agreement. Subject to City's right of recall as provided in Section 2.D. below, City hereby assigns to MEAN all rights to the Environmental Attributes, to be effective as provided in this Section 2.C., including but not limited to the right to transfer and sell from time to time the Environmental Attributes or any portion thereof to any other MEAN participant or third party(ies) as approved by the MEAN Management Committee or Board of Directors. This assignment shall take effect upon written notice to City by MEAN of the

sale or transfer, or the commitment to such sale or transfer, of Environmental Attributes by MEAN and shall be effective only as to the portion of Environmental Attributes actually sold or transferred, or committed to be sold or transferred, by MEAN.

- i. Financial or billing credit(s) for any net revenue from approved transfers and sales by MEAN of the Environmental Attributes or any portion thereof shall be given to City in the manner and amount approved by the MEAN Management Committee or Board of Directors.
 - ii. City acknowledges and agrees that, subject to City's right of recall as provided in Section 2.D. below, City shall have no authority to transfer any portion of the Environmental Attributes to any person or entity other than MEAN.
 - iii. City further acknowledges and agrees that City shall have no authority to market or report as renewable electricity, or to include as renewable electricity when calculating City's product or portfolio resource mix, any of the Contract Wind Energy from which the Environmental Attributes sold, transferred, or committed to be sold or transferred, by MEAN were derived.
- D. City may request, upon ninety (90) days advance written notice, that MEAN release back to the City rights to Environmental Attributes not already sold or transferred, or committed to be sold or transferred, by MEAN, and rights to Environmental Attributes of Contract Wind Energy generated thereafter during the term of this Agreement, and MEAN shall release such rights, except the right to sell or transfer the Environmental Attributes to a third party other than City's retail customers, provided at least one of the following two conditions is met:
 - i. That Environmental Attributes are required by City to meet a then-current local, state or federal renewable portfolio standard ("RPS") and that City agrees to apply the Environmental Attributes toward the RPS; or
 - ii. MEAN receives a certified copy of duly held proceedings of the governing body of City declaring that City shall retain the Environmental Attributes of the Contract Wind Energy.
- E. MEAN shall use its available resources and its best efforts to prevent any scheduling, imbalancing, or distribution penalties or surcharges from being incurred in the delivery of the wind-generated electrical energy to City.
- F. City shall receive energy amounts equivalent to the Contract Wind Energy for the term of this Agreement and City shall pay all associated monthly charges, as described in Section 3 below.

3. Charges.

- A. City agrees to pay all monthly charges, as set forth in Exhibit A of this Agreement, associated with generation and delivery of the Contract Wind Energy as set forth in Exhibit A of this Agreement. The charges and costs are subject to change from time to time.

Written notice of changes to the wind energy output charge, listed on Exhibit A of this Agreement, shall be provided by issuance of a revised Exhibit A to City within thirty (30) days of approval by the MEAN Management Committee or the MEAN Board of Directors.

- B. The Parties agree, for the term of this Agreement, that the monthly Contract Wind Energy under this Agreement will be calculated as the difference between (i) the City's Total Metered Energy, as defined below, and (ii) the energy actually supplied by the resources listed in Section 2.A.i. and 2.A.ii. during such month. For purposes of this Agreement, Total Metered Energy shall have the meaning ascribed thereto in the then-current Schedule of Rates and Charges to the City's Service Schedule Agreement with MEAN. There shall be no capacity credit applied for the wind resource since it is considered a non-firm resource, therefore City will remain subject to the Fixed Cost Recovery Charge (or any successor charge) under the then-current Schedule of Rates and Charges for such Service Schedule Agreement with no reduction for purchases under this Agreement. In the event that MEAN determines that a reliable level of capacity can be accredited to its wind resources in accordance with Regional Transmission Organization (RTO)/Independent System Operator (ISO) guidelines and industry best practices, MEAN will consider applying the appropriate capacity accreditation to reduce the impact of the Fixed Cost Recovery Charge on all participants in the MEAN Wind Resource Pool. Such reduction of the impact of the Fixed Cost Recovery Charge may be implemented via a reduced MEAN Wind Resource Pool energy rate if no wind-related fixed costs are part of the Fixed Cost Recovery Charge.
 - C. City acknowledges and agrees that the charges described above will be assessed each month regardless of actual production of the MEAN Wind Resource Pool in such month, and that Contract Wind Energy will be trued up at least annually in accordance with Section 2.A.
 - D. Except with regard to the energy charge and the Support Energy rate, for which an alternative rate is specified above, all provisions of the then-current Schedule of Rates and Charges for the Service Schedule Agreement shall apply to City through the term of this Agreement.
4. **Billing and Payment.** The terms and conditions for billing and payment of charges under this Agreement shall be those set forth in Article XVI of the ERPA and in City's Service Schedule Agreement for firm power service, which Service Schedule Agreement is attached hereto as Exhibit B of this Agreement.
5. **Term of Agreement.**
- A. This Agreement shall become effective on, and purchase of wind-generated energy by City hereunder shall begin as of June 1, 2019.
 - B. This Agreement, and purchase of wind-generated energy by City hereunder, shall continue for a term of ten (10) years, which term may be extended upon the execution of a written amendment between MEAN and the City. In the event City converts its ERPA participation from one firm power Service Schedule to another firm power Service Schedule, this Agreement shall continue and become supplemental to the subsequent

Service Schedule, or in the case of Service Schedule J, to the Supplemental Agreement for Firm Power Interchange Service. At such time, MEAN and City shall execute an addendum to the subsequent Service Schedule Agreement for firm power service to incorporate this supplemental Agreement. At that time and as necessary, MEAN shall issue a revised Exhibit A and Exhibit B of this Agreement.

- C. If at any time, through City's termination of its Service Schedule Agreement or otherwise, City ceases to purchase firm power from MEAN, this Agreement shall terminate, provided that because this Agreement is supplemental to City's firm power Service Schedule with MEAN, written notice of intent by City to terminate purchase of firm power from MEAN, which notice has been given in satisfaction of the notice requirements of City's firm power Service Schedule, shall be deemed to be adequate notice of intent to terminate this Agreement.
- D. MEAN shall have the right but not the obligation, upon thirty (30) days advance written notice to City, to terminate this Agreement or reduce the Contract Wind Energy amounts, in the event that one or more of the following occurs:
 - i. One or more of the facilities or generating units within the MEAN Wind Resource Pool permanently ceases commercial operation or is reduced in available energy output, as declared by the owner(s) of such facility (including MEAN, in its sole discretion, for any wind generation facilities for which MEAN is the owner); or
 - ii. The Participation Power Agreement (as defined in Exhibit C), or other agreement by which MEAN participates in a MEAN Wind Resource Pool facility or by which MEAN purchases output from a MEAN Wind Resource Pool facility, expires, is reduced in available energy output, or is terminated in accordance with the terms thereof.

In the event MEAN chooses to terminate this Agreement pursuant to this Section 5.D., the obligation of City to purchase Contract Wind Energy pursuant to this Agreement shall terminate on the date specified in the official notice of termination from MEAN, and this Agreement shall terminate upon issuance of the final invoice by MEAN and full payment by City.

- 6. **Relationship to Other Agreements.** Effective June 1, 2019, this Agreement shall supersede, terminate and replace the Supplemental Wind Agreement. Termination or expiration of this Agreement shall not impair, amend, or change City's then-current Service Schedule Agreement and nothing in this Agreement shall limit the rights of MEAN to enforce such other agreement.
- 7. **Severability.** If any provision of this Agreement is determined by any court or regulatory body having jurisdiction over this Agreement to be invalid or unenforceable, then it is the intention of the Parties that in lieu of each such invalid or unenforceable provision, there be added as part of this Agreement a provision as similar in terms as possible to such invalid or unenforceable provision. The remaining portions of the Agreement shall not be affected thereby and shall remain in full force and effect.

8. **Limitation of Liability.** In no event shall either Party be liable to the other Party for indirect, special, incidental, or consequential damages, including but not limited to the loss of revenues or profits, cost of substitute services, cost of purchased power, loss of opportunity, loss of goodwill, loss of data, governmental sanctions or penalties or claims of third parties, whether such liabilities arise as a result of breach of contract, warranty, indemnity, tort, negligence, strict liability or otherwise; and MEAN and City hereby release each other from any such liabilities. Further, in no event shall MEAN be liable to City for any public claims or marketing efforts made by a person or entity not a party to this Agreement (including without limitation the political subdivisions participating in MEAN) regarding the purchase or ownership of the Environmental Attributes.
9. **Integration Clause.** This Agreement, the attached Exhibits, and the ERPA constitute the complete agreement of the Parties relating to the matter specified in this Agreement and supersede all prior representations or agreements, whether oral or written, with respect to such matters. Except as provided in this Agreement, no modification of this Agreement shall be binding upon either Party unless agreed to in writing and signed by both Parties.
10. **Waiver.** Any waiver at any time by either Party to the Agreement of its rights with respect to a default or any other matter arising under or in connection with the Agreement shall not be deemed a waiver with respect to any subsequent default or matter arising under or in connection with the Agreement.
11. **Governing Law.** This Agreement shall be governed by and interpreted in accordance with the substantive and procedural laws of the State of Nebraska.
12. **Regulatory Approvals.** This Agreement may be subject to the regulatory powers of any state or federal agency having jurisdiction. Each Party shall use its best efforts and shall cooperate with the other Party to obtain from all such state and federal authorities as may have jurisdiction, all authorizations, approvals, and orders to the extent required by law in order to enable them to validly enter into this Agreement and to perform all their obligations hereunder.
13. **Force Majeure.** No Party shall be liable for any failure to perform its obligations in connection with this Agreement, where such failure results from any act of God or other causes beyond such Party's reasonable control (including, without limitation, war, terrorism, extreme weather conditions, substantial unplanned maintenance activities, strikes, fires, embargos, actions of civil or military enforcement authorities) and which, by the exercise of due diligence, such Party is unable to prevent or overcome. Any Party that becomes unable to perform its obligations under this Agreement because of any such event shall immediately give notice to the other Party of the occurrence of such an event, and shall promptly notify the other Party of the anticipated duration of such an event.
14. **Changes in Regulations.** Should changes in legislation or regulation, either state or federal, make performance by either Party under the Agreement commercially impracticable or impractical, the Parties agree that they will renegotiate the terms of the Agreement as they have been affected by such change in regulation or legislation.

15. **Notices.** All notices required or permitted to be given with respect to this Agreement shall be given by (a) mailing the same postage prepaid, or (b) given by facsimile or by courier, to MEAN at the address as set forth below or to the City at the address MEAN has on file for the City's Clerk. The City may provide notice of a change in its Clerk address by giving MEAN no less than five (5) days prior written notice of such new address. MEAN may change its address for the purpose of notice hereunder by giving the City no less than five (5) days prior written notice of such new address.

To MEAN: **Municipal Energy Agency of Nebraska**
 ATTN: Executive Director
 8377 Glynoaks Drive
 Lincoln, Nebraska 68516
 (402) 474-4759 voice
 (402) 474-0473 facsimile

16. **Assignment.** Neither this Agreement nor the rights or obligations of the Parties under this Agreement may be assigned or transferred by either Party without the prior written approval of the other Party, which approval shall not be unreasonably withheld; provided, any assignment or transfer, whether by merger or otherwise, to a Party's affiliate or successor in interest shall be permitted without prior consent if such affiliate or successor in interest assumes this Agreement in total and the assignor provides notice to the other Party at least thirty (30) days prior to the assignment or transfer.
17. **Arbitration.** If a dispute between the Parties should arise under this Agreement, either Party may call for submission of the dispute to arbitration, which call shall be binding upon the other Party. The arbitration shall be governed by the Commercial Industry Rules of the American Arbitration Association (or the rules and practice of a similar organization if the American Arbitration Association should not then exist), with the proviso that the arbitration panel shall, in all events, consist of three (3) arbitrators, one chosen by each of the Parties and the third chosen by those two (2) arbitrators. The Parties agree that once the three (3) arbitrators are selected that they shall at all times thereafter function as neutral arbitrators.

[SIGNATURE PAGE FOLLOWING.]

IN WITNESS WHEREOF, the Parties hereto have caused this Amended and Restated Agreement for Wind-Generated Energy Purchase to be executed by their duly authorized representatives as of the date and year first above written.

**MUNICIPAL ENERGY AGENCY
OF NEBRASKA**

By: _____

Name: _____

Title: _____

**CITY OF GLENWOOD SPRINGS,
COLORADO**

By: _____

Name: _____

Title: _____

AMENDED AND RESTATED AGREEMENT
FOR WIND-GENERATED ENERGY PURCHASE

EXHIBIT A

Monthly Charges:

1. Wind Energy Output: \$46.00/MWh, subject to change from time to time by action of the MEAN Management Committee or the MEAN Board of Directors.
2. Transmission Charges: Charged at the City's transmission provider's then-current transmission rate.
3. Other Charges: Other charges shall be those directly attributable to the MEAN Wind Resource Pool, including but not limited to such things as energy imbalance charges, ancillary service charges, and scheduling fees. Other charges will be assessed at the transmission provider's then-current rates.
4. Adjustments: The rates and charges shall be adjusted to reflect the impact of any governmental imposition, such as changes in or additions to sales tax, property tax, energy use tax or other governmental or regulatory fees, which are adopted, implemented or enforced after the execution of the Amended and Restated Agreement for Wind-Generated Energy Purchase or which occur as a result of a change after the execution of the Amended and Restated Agreement for Wind-Generated Energy Purchase in the interpretation or enforcement by the governmental or regulatory body of an existing governmental imposition.

Point(s) of Delivery: One or more of the resources in the MEAN Wind Resource Pool

Effective date of this Exhibit A: April 1, 2019
Supersedes Exhibit A dated effective: N/A

AMENDED AND RESTATED AGREEMENT
FOR WIND-GENERATED ENERGY PURCHASE

EXHIBIT B

Copy of the Service Schedule Agreement for firm power service between MEAN and City is hereby attached.

AMENDED AND RESTATED AGREEMENT
FOR WIND-GENERATED ENERGY PURCHASE

EXHIBIT C

MEAN Wind Resource Pool Facilities List

Effective as of May 17, 2018

- i. Wind generation facility near Ainsworth, Nebraska (“Ainsworth Wind Facility”), in which MEAN participates pursuant to the Participation Power Agreement executed as of October 26, 2004, between MEAN and the Nebraska Public Power District;
- ii. Wind generation facility near Wessington Springs, South Dakota (“Wessington Springs Wind Project”), from which MEAN purchases output pursuant to an agreement with Heartland Consumers Power District;
- iii. Wind generation facility near Bloomfield, Nebraska (“Elkhorn Ridge Wind Plant”), from which MEAN purchases output pursuant to an agreement with Nebraska Public Power District;
- iv. Wind generation facility near Petersburg, Nebraska (“Laredo Ridge Wind Plant”), from which MEAN purchases or will purchase output pursuant to an agreement with Nebraska Public Power District;
- v. Power Sales Agreement with the Nebraska Public Power District for 10% (approximately 4 MW) of the energy production that the Nebraska Public Power District purchases from the Crofton Bluffs Wind, LLC, Plant;
- vi. 30 MW of the electric generation facility consisting of wind turbines in Kimball County, Nebraska; and
- vii. Any other wind generation resource(s) which MEAN designates as part of the MEAN Wind Resource Pool and which MEAN acquires through ownership or in which MEAN participates or purchases output for the benefit of MEAN participants or other regional suppliers.

The composition of the MEAN Wind Resource Pool is subject to change from time to time upon action by the MEAN Board of Directors or the MEAN Management Committee in accordance with the Amended and Restated Agreement for Wind-Generated Energy Purchase.

Glenwood Springs, Colorado

SERVICE SCHEDULE K-1

Date _____

West Side Bulk Power Supply

This Service Schedule "K-1" (this "Agreement") to the Electrical Resources Pooling Agreement (the "Pooling Agreement") between the Municipal Energy Agency of Nebraska ("MEAN") and the cities or villages that are participants thereto, including the City of Glenwood Springs, Colorado ("Participant"), is hereby proposed by the Management Committee of MEAN and upon acceptance hereof by Participant as a "Bulk Power Participant" pursuant to Section 5.01(a) of the Pooling Agreement shall constitute the valid and binding agreement between MEAN and Participant for the supply of electrical energy upon the terms specified herein and in the Pooling Agreement. Terms used herein and not otherwise defined shall have the same meaning ascribed thereto in the Pooling Agreement. Effective as of June 1, 2019, this Agreement shall supersede, terminate and replace that certain Service Schedule K-1, West Side Bulk Power Supply Agreement executed as of June 6, 2012 to become effective January 1, 2013 between MEAN and the Participant.

RECITALS

- A. MEAN and Participant have entered into the Pooling Agreement dated May 16, 2002 as supplemented by the ERPA Policies & Procedures and the MEAN Renewable Distributed Generation Policy, incorporated herein by reference, as such documents may be modified from time to time and including any successor agreements, documents or policies adopted by the MEAN Management Committee or MEAN Board of Directors (referred to herein as the "ERPA Policies & Procedures" and the "DG Policy").
- B. MEAN and Participant have entered into the Service Schedule K-1, West Side Bulk Power Supply Agreement, with deliveries commencing January 1, 2013.
- C. The Parties desire to set forth the methods under which electric energy generated by certain renewable generation facilities of Participant will reduce the amount of energy which Participant receives from MEAN.

In consideration of the mutual promises and covenants set forth herein, the Parties agree as follows:

- 1. Renewable generation. The Parties acknowledge that the DG Policy permits total requirements participants of MEAN to use the output from certain renewable generation resources to reduce their purchases of electricity from MEAN, subject to the Cap defined in the DG Policy. Subject to the terms and conditions of this Agreement, the Parties agree that the following Cap shall be applicable to the Participant in lieu of the definition of Cap set forth in the DG Policy: 2 MW of a Community Solar Project, as that term is defined in the DG Policy. The 2 MW Community Solar allowance for renewables provided in this Section 2 shall be in lieu of, and not in addition to, any other Offset, as that term is defined in the DG Policy. Except as modified in this Agreement, all other terms and conditions of the DG Policy shall apply to Participant.

2. Local Generation. At Participant's request, MEAN will use reasonable efforts to work with Participant to evaluate a possible partnership with Participant on local generation in excess of the Cap defined above. The partnership would be subject to approval of the MEAN Board of Directors and could be in the form of a capacity compensation payment from MEAN or other assistance.
3. It is mutually agreed and understood that the obligations imposed by the provisions of the Pooling Agreement, the Amended and Restated Wind Agreement and this Agreement are only such as are consistent with applicable state and federal law. The parties further agree that if any provision of the Pooling Agreement, the Amended and Restated Wind Agreement or this Agreement becomes in its performance inconsistent with state or federal law or is declared invalid, the Parties will in good faith negotiate to modify the agreement accordingly.
4. This Agreement shall be governed by the laws of the State of Nebraska.
5. This Agreement, the Amended and Restated Wind Agreement, Service Schedules, ERPA Policies and Procedures and the Pooling Agreement (including supplements and modifications to such agreements as may be approved from time to time) constitute the complete agreement of the parties relating to the matter specified in this Agreement and supersede all prior representations or agreements, whether oral or written, with respect to such matters. No modification of this Agreement shall be binding upon either party unless agreed to in writing and signed by both parties.

SECTION I

Term of Service

- 1.01 Participant, located west of the east-west electrical inter-tie of the National Grid System, agrees to purchase electrical power and energy from MEAN for resale for a term of ten (10) years as a Bulk Power Participant as defined in Article V, Section 5.01(a) of the Pooling Agreement.

SECTION II

Deliveries; Services

- 2.01 All deliveries from Participant will be dispatched by the MEAN Coordination Center.
- 2.02 All power and energy to Participant will be dispatched by the MEAN Coordination Center.
- 2.03 MEAN shall serve as Participant's exclusive agent for scheduling and transmission of firm power and energy from Western Area Power Administration (WAPA).
- 2.04 MEAN shall serve as Participant's exclusive agent for transmission of firm power and energy on the transmission system of the applicable transmission provider (Transmission Provider), which shall be the Public Service Company of Colorado (PSCo) or any Regional Transmission Organization (RTO) or Independent System Operator (ISO) to which PSCo transfers functional control of its transmission facilities.

- 2.05 North American Electric Reliability Corporation (NERC) Responsibilities: MEAN's NERC Standards obligations shall be limited to the duties regarding NERC compliance described in Article II of the then-current ERPA Policies and Procedures, or any successor policy or agreement, which policies and documents may be modified from time to time by the Management Committee or the MEAN Board of Directors.
- 2.06 Notwithstanding anything to the contrary in this Agreement, Participant consents and agrees that MEAN may perform any and all of its duties and exercise its rights and powers under this Agreement by or through agents, subcontractors or employees appointed by MEAN. In addition, MEAN may delegate any or all of its duties under this Agreement to agents, employees or third parties appointed by MEAN.

SECTION III

Schedule of Rates; Charges; Payments.

- 3.01 The Schedule of Rates and Charges is attached to this Agreement and shall remain effective until modified by the Management Committee or the MEAN Board of Directors.
- 3.02 Participant shall make payments for energy supplied to it by MEAN pursuant to this Agreement in accordance with Article XVI of the Pooling Agreement.
- 3.03 Governmental Imposition. The rates as set forth above will be adjusted to reflect the impact of any Governmental Imposition, such as changes in or additions to sales tax, property tax, energy use tax, energy carbon tax, surcharge, or other governmental or regulatory fees or penalties (including without limitation emissions allowances, renewable portfolio standards, charges, fines or expenses), any ISO, RTO, imbalance market or integrated market fees or costs, or penalties, or any North American Electric Reliability Corporation, Federal Energy Regulatory Commission or Regional Entity fees or penalties, which are imposed, adopted, implemented or enforced after the execution of this Agreement or which occur as a result of a change after the execution of this Agreement in the interpretation or enforcement by the governmental or regulatory body of an existing governmental imposition, and any changes to expenditures for MEAN's owned, purchased or leased power supply resources caused by or resulting from any change in law, rule or regulation. In addition, any Governmental Imposition assessed to MEAN after expiration or termination of this Agreement and relating to or arising out of service under this Agreement shall be passed through by MEAN to Participant and shall be paid by Participant.
- 3.04 If and to the extent MEAN is billed therefor, MEAN shall invoice Participant on a cost pass-through basis for firm capacity and energy allocations from WAPA and the cost of transmission, subtransmission, applicable losses as described in Section 11.02, and associated ancillary services.
- 3.05 Power Factor. If the Participant's power factor at any Point of Delivery is less than the percentage required by the Transmission Provider, the rates may be adjusted to reflect the required power factor and any third party charges, fines or penalties will be passed through to Participant.
- 3.06 Adjustments to FCRC and Energy Charge. In the event revenue collected through the Fixed Cost Recovery Charge ("FCRC") or Energy Charge in a MEAN fiscal year is not sufficient to cover actual costs and actual costs include costs applicable to service during the term of this Agreement, the MEAN Board of Directors may at its discretion assess a charge to Participant to recover Participant's share of

such undercollection, and Participant will pay such charge regardless of whether it is assessed during or after the term of this Agreement. Similarly, in the event revenue collected through the FCRC or Energy Charge in a MEAN fiscal year exceeds actual costs for such fiscal year and actual costs included costs applicable to service during the term of this Agreement, the MEAN Board of Directors may at its discretion issue a credit to Participant equal to Participant's share of such overcollection, regardless of whether the credit is issued during or after the term of this Agreement.

- 3.07 Prior Period Adjustments and Resettlements. Back charges and credits assessed by a third party relating to or arising out of transmission service shall be paid as follows regardless of whether such amounts are assessed during or after the term of this Agreement: (i) MEAN will accumulate such charges and credits and periodically invoice and/or remit payment to the Participant for the net accumulated total during the eighteen (18) month period after expiration or termination of this Agreement; (ii) Participant will pay or reimburse MEAN for any such accumulated net charges invoiced; and (iii) Participant will receive any such accumulated net credits remitted. After the initial eighteen (18) month period after expiration or termination of this Agreement, MEAN will monitor such charges and credits and may invoice and/or remit payment to the Participant the net accumulated total if the amount is deemed material in MEAN's sole discretion. This Section 3.07 shall include without limitation prior period adjustments and resettlements by the Transmission Provider or RTO/ISO, but shall not apply to charges and credits associated with congestion hedging activity which are addressed in Section 11.05.
- 3.08 Charges During Transition to New Supplier. MEAN will pass through to Participant any charges MEAN receives from any transmission service provider or RTO/ISO under the applicable tariff(s) for market or transmission service provided to Participant after the expiration or termination of this Agreement. The provisions of this Section 3.08 shall survive expiration or termination of this Agreement.

SECTION IV

Assignment of Contracts

- 4.01 Participant agrees to assign to MEAN by the effective date of this Agreement all current power supply and interconnection agreements indicated on Exhibit "I" hereto which contracts and agreements constitute all of Participant's power supply and individual agreements other than with the Western Area Power Administration (WAPA) and certain other contracts as identified in Exhibit B in accordance with Article V, Section 5.01(a) of the Pooling Agreement.

SECTION V

Intervening Agency

- 5.01 In the event power is supplied to Participant through the system of an intervening agency other than service already included in the schedule of rates, the provisions of Service Schedule "F" to the Pooling Agreement may also apply.

SECTION VI

Modification of Rates

- 6.01 The rates established in Section III hereof may be modified from time to time by the Management Committee or the MEAN Board of Directors pursuant to the terms of the Pooling Agreement and shall become effective with respect to Participant upon written notification to Participant by MEAN.

SECTION VII

Covenant as to Rates; Termination; Limited Liability

- 7.01 Covenant as to Rates. Participant covenants and agrees that it will fix rates and charges for the services of its municipal electric utility system, and revise the same from time to time, and collect and account for the revenues therefrom, so that such rates and charges will produce revenues and receipts which will at all times be sufficient to enable Participant to pay the amounts payable by it hereunder when and as the same become due, to carry out its other obligations hereunder and to pay all other amounts which are payable from or a charge upon the revenue derived from the operation of its municipal electric utility system as and when the same become due.
- 7.02 Termination. Upon termination of Participant's participation in the Pooling Agreement pursuant to Section 2.04 thereof, MEAN may cease delivering power and energy to Participant provided that such cessation shall not relieve Participant of any obligation under this Agreement including the obligation to pay all applicable charges referred to in Section III hereof, assuming for purposes of Billing Energy an energy requirement equal to Participant's demand for the 12 months preceding such failure, plus all other costs of collection and including interests on unpaid amounts and attorneys' fees, less any amounts received by MEAN from the sale of electric power and energy it would otherwise have delivered to Participant; provided, however, that MEAN shall not be under a duty to mitigate the damages it may incur as a result of Participant's default hereunder, but shall undertake such sale as a convenience to and as agent for Participant.
- 7.03 Change of Participation Status. Notwithstanding any other provision of this Agreement or any provision to the contrary in the Pooling Agreement, either party to this Agreement may provide written notice to change the participation status of Participant under the Pooling Agreement, subject to approval by the Management Committee or the MEAN Board of Directors, from Bulk Power Participant to Service Power Participant effective upon the expiration of this Agreement; provided, that any notice pursuant to this Section 7.03 must be given to the other party and to all MEAN Participants during contract year eight (8) of this Agreement, and that such notice shall not relieve Participant of any obligation under this Agreement. The absence of such notice shall not affect Participant's status as a Bulk Power Participant under the Pooling Agreement.
- 7.04 Limited Liability. This Agreement and the obligations of Participant hereunder are not general obligations of Participant not payable in any manner by taxation, but this Agreement and the obligations of Participant hereunder are payable and enforceable solely and only from the revenues and receipts to be derived by Participant from the operation of its municipal electric utility system. Amounts payable by Participant hereunder, or in carrying out its other obligations hereunder, shall be considered to be operating expenses of the municipal electric distribution system of Participant.

SECTION VIII

Assignment

- 8.01 No assignment or transfer of this Agreement may be made except in accordance with the Pooling Agreement, provided, however, that it is hereby recognized and agreed that MEAN may assign its rights and interests herein to the extent necessary to accomplish borrowings from time to time by MEAN, all upon the terms and conditions specified by the Management Committee or the MEAN Board of Directors.

SECTION IX

Agreement

- 9.01 It is hereby recognized and agreed that this Agreement constitutes an agreement and contract between Participant and MEAN within the meaning of Sections 2.04 and 2.05 of the Pooling Agreement.

SECTION X

Representations and Warranties

- 10.01 Participant has established by ordinance a Utility Enterprise (Enterprise) having all the authority to act and operate in all respects as an Enterprise under Colorado law, Colorado Constitution Article X, Section 20.
- 10.02 Participant and Enterprise represent and warrant that this Agreement has been executed in compliance with or is otherwise not subject to Article X, Section 20, of the Colorado Constitution (commonly known as the Taxpayer's Bill of Rights or "TABOR").
- 10.03 Participant shall provide an opinion of Participant's legal counsel that this Agreement has been duly authorized, executed and delivered by Participant and/or Enterprise and that all financial obligations undertaken or assumed by the Participant and/or Enterprise in connection herewith are valid and enforceable against the Participant and/or Enterprise in accordance with the terms of this Agreement.

SECTION XI

Transmission

- 11.01 MEAN will use reasonable efforts to procure Network Integration Transmission Service to serve Participant under this Agreement and to designate MEAN resources as network resources on the Transmission Provider's system. In the event MEAN agrees to utilize Participant's Service Agreement for Network Integration Transmission Service, if any, in lieu of MEAN procuring Network Integration Transmission Service in MEAN's name, Participant shall designate MEAN as its transmission agent on the Transmission Provider's system for delivery of firm power and energy from MEAN and Transmission Provider. Participant shall also designate WAPA resources and this Agreement as network resources on the Transmission Provider's system (Network Resources). For purposes of clarity, Participant will notify Transmission Provider in writing that a copy of all transmission

notifications shall be sent to MEAN, along with the original copy to Participant for its records. Participant will consult MEAN and obtain MEAN's consent prior to modifying its Agreement for Network Integration Transmission Service with Transmission Provider, including without limitation any changes to the designated network resources, network loads, delivery points, points of receipt, or voltages.

- 11.02 The Participant is responsible for all costs associated with transmission and subtransmission for delivery of firm power and energy to Participant, including without limitation impact studies or transmission facilities necessary for the procurement of the Network Integration Transmission Service Agreement. In addition, MEAN may pass through to Participant any applicable losses related to delivery of firm power and energy to Participant under this Agreement. MEAN will not be responsible for facility upgrade costs.
- 11.03 MEAN is responsible to secure, provide and pay for Ancillary Service Schedules for Operating Reserve – Spinning Reserve Service and Operating Reserve – Supplemental Reserve Service under the applicable Open Access Transmission Tariff. MEAN is also responsible to secure Ancillary Service Schedules for Energy Imbalance Service under the applicable Open Access Transmission Tariff, which cost will be paid by MEAN.
- 11.04 Participant is responsible to pay for Ancillary Service Schedules for Scheduling, System Control and Dispatch Service, Reactive Supply and Voltage Control, and Regulation Frequency Response Service, FERC Assessment Charge and other schedules that may be charged under the applicable Open Access Transmission Tariff.
- 11.05 In the event the Transmission Provider transfers functional control of its transmission system to an RTO or ISO, MEAN in its sole discretion will determine the appropriate methodology for congestion hedging related to service to Participant, including without limitation Auction Revenue Rights and Transmission Congestion Rights. MEAN will receive and retain all charges and credits associated with such congestion hedging activity.

SECTION XII

Regional Transmission Organization/Independent System Operator

- 12.01 The Parties agree to work together in good faith to make necessary or desired changes to the terms and conditions of this Agreement to honor the intent of this Agreement in the event the Transmission Provider transfers functional control of its transmission system to an RTO or ISO or otherwise transfers functional control to another entity.
- 12.02 The Parties understand and agree that this Agreement and the service hereunder are subject to all applicable laws, ordinances, orders, rules, regulations and tariffs of any governmental entity, regulatory body, or entities owning and/or operating the interconnected transmission system applicable to service to Participant, including without limitation the Transmission Provider, having or asserting jurisdiction (such as the Federal Energy Regulatory Commission (FERC), PSCo, RTO or ISO), and the terms and conditions stated herein are subject to modifications resulting from changes in any such laws, ordinances, orders, rules, regulations or tariffs.

SECTION XIII

Telemetry

- 13.01 Participant shall provide or cause to be provided telemetry access to MEAN to access the electronic recorder (or successor recorders which must be compatible with the then-current MEAN equipment) located at the point of measurement, for scheduling and billing purposes. Any and all costs associated with replacing and maintaining the electronic recorders in order to stay compatible with MEAN's system shall be borne by the Participant.
- 13.02 The Participant and applicable Transmission Provider will determine the appropriate revenue metering equipment. MEAN has installed or will install a data recorder from which to schedule the load and/or generation. Any costs of MEAN equipment, maintenance and communication with MEAN's telemetry will be borne by MEAN. Any cost charged by the applicable Transmission Provider as part of its transmission services, including metering and communication costs, will be paid for by the Participant.

SECTION XIV

Collateral

- 14.01 MEAN may require security to ensure its risks associated with this Agreement are mitigated. If from time to time MEAN has reasonable grounds for insecurity regarding the performance of any obligation under this Agreement by the Participant, MEAN may demand Adequate Assurance of Performance, which shall be defined as sufficient security in the form, amount, for a term, and from an issuer, all as reasonably acceptable to MEAN, including, but not limited to cash, an irrevocable standby letter of credit, or a prepayment. Participant hereby grants to MEAN a continuing first priority security interest in, lien on, and right of setoff against all Adequate Assurance of Performance in the form of cash transferred by Participant to MEAN pursuant to this Section. Upon the return by MEAN to Participant of such Adequate Assurance of Performance, the security interest and lien granted hereunder on that Adequate Assurance of Performance shall be released automatically and, to the extent possible, without any further action by either party.
- 14.02 In addition to the Adequate Assurance of Performance requirements above, Participant agrees to provide additional security as may be required by an ISO or RTO from time to time for MEAN to perform services under this Agreement. MEAN will pass through the costs of such credit requirements to Participant, and Participant agrees to promptly pay MEAN for such costs incurred. The provisions above regarding security interests and rights of setoff shall apply to such additional credit.

SECTION XV

Events of Default

- 15.01 The following events shall constitute an event of default (Event of Default) hereunder: Participant is unable to pay its debts as they fall due; Participant fails to perform any obligation to MEAN with respect to any collateral relating to this Agreement; Participant fails to give Adequate Assurance of Performance within 48 hours but at least one business day of a written request by MEAN; Participant has not paid any amount due MEAN hereunder on or before the second business day following written notice that such payment is due; or material breach by Participant of any obligation hereunder which

is not remedied on or before the second business day following written notice that such material breach has occurred. In the event of a default under this Agreement, MEAN is entitled to a funding of the letter of credit and shall have the right, at its sole election, to immediately withhold and/or suspend services, deliveries or payments upon written notice, to net payments due by MEAN against amounts outstanding from Participant, and/or to terminate this Agreement in the manner provided below, in addition to any and all other remedies available hereunder or at law or in equity. If an Event of Default has occurred and is continuing, the non-defaulting party shall have the right, by written notice to the defaulting party, to designate a day, no earlier than the day such notice is given and no later than 15 days after such notice is given, as an early termination date for this Agreement and all services and deliveries hereunder. Participant acknowledges and agrees that in the event of a suspension or termination of services as permitted by this Section, MEAN shall not be responsible for any penalties or charges incurred by the Participant arising out of or in connection with the suspension or termination of services including without limitation imbalance/Real Time charges, fees and charges for transmission, ancillary services, applicable ISO or RTO fees and charges, taxes, and any applicable surcharges.

SECTION XVI

Indemnification; Limitation of Liability

- 16.01 Participant agrees, to the fullest extent permitted by law, to defend, indemnify and hold harmless MEAN and its officers, employees and agents from and against all claims, damages, losses and expenses, direct or indirect, or consequential damages including, but not limited to, attorney's fees arising out of or resulting from the performance of MEAN's services under this Agreement, except for any negligent act or omission of MEAN or its officers, employees or agents. In no event shall MEAN be liable under any provision of this Agreement for special, incidental, or consequential damages, including but not limited to, lost profits, lost revenue, or claims of Participant for such damages, even if MEAN is expressly informed of the same. MEAN's total liability to Participant for any loss or damage arising out of or in connection with the performance of services or any other cause, whether based on contract, tort or any other legal theory, shall not exceed One Hundred Forty Eight Thousand Dollars (\$148,000.00), which amount is intended to be a reasonable approximation of the amount paid by Participant to MEAN for services under this Agreement in a twelve (12) month period (excluding amounts paid for energy, fees and charges for transmission, ancillary services, Auction Revenue Rights, Transmission Congestion Rights, applicable PSCo and ISO or RTO fees and charges, taxes, and any applicable surcharges or penalties).

SECTION XVII

Policies and Procedures

- 17.01 The Participant agrees to comply with policies and procedures established or modified from time to time by the MEAN Board of Directors or Management Committee, including without limitation the ERPA Policies and Procedures, DG Policy, the MEAN Financial and Administrative Policies and Guidelines, and the MEAN Operational Policies and Guidelines.

SECTION XVIII

Governance Documents

- 18.01 The Parties acknowledge that the MEAN Management Committee and MEAN Board of Directors may from time to time modify, terminate or replace the governance documents of MEAN. References in this Agreement to those governance documents shall be deemed to include any such modifications and successor documents. References in this Agreement to any specific provision within those governance documents shall also mean the corresponding provision of the modified and successor documents.

SECTION XIX

Use of Power and Energy

- 19.01 Participant shall not sell at wholesale any of the electric energy and power delivered to it hereunder to any purchaser from the Participant for resale by that purchaser, unless such resale is specifically approved in writing by MEAN. The Participant agrees that it will not use or permit to be used any power purchased from MEAN in any manner or for any purpose which would adversely affect the tax exempt or tax advantaged status of interest on any bonds for federal income tax purposes; this prohibition shall include contracts between the Participant and certain nonexempt persons or corporate bodies for the sale of power and energy. The Participant agrees to provide such information as MEAN may request from time to time to confirm the Participant's compliance with the provisions of this Section.
- 19.02 Participant covenants and agrees that it will use the power and energy delivered to it under this Agreement to provide electric service to retail electric customers located within its established electric service area under generally applicable and uniformly applied rate schedules or tariffs. Any other resale of the power and energy delivered to the Participant under this Agreement shall require the prior written approval of MEAN.

[SIGNATURE PAGE FOLLOWING]

MEAN hereby proposes and Participant hereby accepts the provisions of this Agreement to become effective on the 1st day of _____, 20____.

MUNICIPAL ENERGY AGENCY OF NEBRASKA

CITY OF GLENWOOD SPRINGS, COLORADO

By: _____

By: _____

Printed
Name: _____

Printed
Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

ATTEST:

By _____
City Clerk

(SEAL)

EXHIBIT "I"

CITY OF GLENWOOD SPRINGS, COLORADO

Interconnection agreements and power contracts assigned to Municipal Energy Agency of Nebraska pursuant to Section IV, subsection 4.01 of Service Schedule "K-1", west-side Bulk Power Supply.

(Insert list here, if applicable)

West Bulk K-1



City Council
STAFF REPORT
City of Glenwood Springs
April 18, 2019

Agenda Item:	Resolution 2019-21; A Resolution of the City Council of the City of Glenwood Springs, Colorado, Regarding Staff Appointment to Municipal Energy Agency of Nebraska ("MEAN") Board of Directors, the MEAN Management Committee and the Nebraska Municipal Power Pool ("NMPP") Members Council
Action Requested:	Approval of Resolution number 2019-21, a Resolution of the City Council of the City of Glenwood Springs, Colorado, regarding staff appointment to Municipal Energy Agency of Nebraska (MEAN) Board of Directors, the MEAN Management Committee and the Nebraska Municipal Power Pool (NMPP) Members Council.
Department:	Public Works
Presented By:	Matthew Langhorst, Public Works Director
Background Info:	The City of Glenwood Springs purchases its electric power from the Municipal Energy Agency of Nebraska (MEAN), which has a Board of Directors made up of its power pool members. Thus the City of Glenwood has a seat on the MEAN Board of Directors, a alternate seat on the MEAN Board of Directors, a seat on the MEAN Management Committee and a seat on the NMPP Members Council. With Robin retiring these seats need to be filled prior to the next MEAN meeting in Kearney, NE scheduled for May 22nd and 23rd. The seats are required by contract to be filled by a person that resides within the City of Glenwood Springs power supply boundary. Staff is recommending that Matthew Langhorst, Public Works Director be appointed to all three main seats and Debra Figueroa be appointed to the MEAN Board of Directors alternate seat. These positions can be changed by resolution any time Council sees fit and approval paperwork sent to MEAN for final designations.
Issues:	None at this time.
Staff Recommendation:	Approval of Resolution number 2019-21, a Resolution of the City Council of the City of Glenwood Springs, Colorado, regarding staff appointment to Municipal Energy Agency of Nebraska (MEAN) Board of Directors, the MEAN Management Committee and the Nebraska Municipal Power Pool (NMPP) Members Council.

RESOLUTION NO. 2019-21

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GLENWOOD SPRINGS, COLORADO, REGARDING STAFF APPOINTMENT TO MUNICIPAL ENERGY AGENCY OF NEBRASKA (“MEAN”) BOARD OF DIRECTORS, THE MEAN MANAGEMENT COMMITTEE AND THE NEBRASKA MUNICIPAL POWER POOL (“NMPP”) MEMBERS COUNCIL.

WHEREAS, the City Council of the City of Glenwood Springs, State of Colorado, is a member of MEAN and it is the responsibility of the City Council of Glenwood Springs to designate a director and alternate to the MEAN Board of Directors; and

WHEREAS, the City Council of the City of Glenwood Springs, State of Colorado, is a party to the Electrical Resources Pooling Agreement and, pursuant to the terms of such Agreement, it is the responsibility of the City Council of Glenwood Springs to designate a representative and alternate representative to the Municipal Energy Agency of Nebraska Management Committee provided for under the terms of said Agreement.

WHEREAS, the City Council of the City of Glenwood Springs, State of Colorado, is a member of NMPP and it is the responsibility of the City Council of Glenwood Springs to designate a representative and alternate representative to the NMPP Members Council.

NOW, THEREFORE, IT IS RESOLVED BY THE CITY COUNCIL OF THE CITY OF GLENWOOD SPRINGS, COLORADO, THAT:

Appointment to MEAN Board of Directors

Section 1. The City Clerk is hereby directed to give written notice and certification to the Municipal Energy Agency of Nebraska of the appointment of Matthew Langhorst to serve as Director to MEAN Board of Directors.

Section 2. The City Clerk is hereby directed to give written notice and certification to the Municipal Energy Agency of Nebraska of the appointment of Debra Figueroa as alternate Director to MEAN Board of Directors.

Appointment to MEAN Management Committee

Section 3. The City Clerk is hereby directed to give written notice to the Municipal Energy Agency of Nebraska of the appointment of Matthew Langhorst, Public Works Director, as representative to said MEAN Management Committee.

Section 4. The City Clerk is hereby directed to give written notice to the Municipal Energy Agency of Nebraska of the appointment of Debra Figueroa, City Manager, as alternate representative to said MEAN Management Committee.

Appointment to NMPP Members' Council

Section 5. Such City of Glenwood Springs be and hereby is a member of the Nebraska Municipal Power Pool.

Section 6. The City Council of the City of Glenwood Springs, State of Colorado, does hereby appoint Matthew Langhorst as the representative of the City Council of the City of Glenwood Springs, State of Colorado, to the Members' Council of the Nebraska Municipal Power Pool.

Section 7. The City Council of the City of Glenwood Springs, State of Colorado, does hereby appoint Debra Figueros as the alternate representative of the City Council of the City of Glenwood Springs, State of Colorado, to the Members' Council of the Nebraska Municipal Power Pool.

Section 8. The City Clerk certifications shall take the form of the appointment certificates attached as **Exhibit A.**

INTRODUCED, READ AND PASSED THIS 18TH DAY OF APRIL 2019.

CITY OF GLENWOOD SPRINGS, COLORADO

_____, Mayor

ATTEST:

Catherine Mythen Fletcher, City Clerk

EXHIBIT A

CERTIFICATION OF APPOINTMENT TO MEAN BOARD OF DIRECTORS

Director to MEAN Board of Directors

This is to certify that the City Council of the City of Glenwood Springs, State of Colorado, duly appointed Matthew Langhorst to serve as director to represent the City of Glenwood Springs on the Board of Directors of the Municipal Energy Agency of Nebraska. The appointment will run for a term of three (3) years with the powers and duties incident to such office. This certificate is issued in compliance with the Municipal Cooperative Financing Act contained in the Nebraska Revised Statutes §18-2401 et seq. (1987).

Alternate Director to MEAN Board of Directors

This is to certify that the City Council of the City of Glenwood Springs, State of Colorado, duly appointed Debra Figueroa to serve as alternate director to represent the City of Glenwood Springs on the Board of Directors of the Municipal Energy Agency of Nebraska. The appointment will run for a term of three (3) years with the powers and duties incident to such office. This certificate is issued in compliance with the Municipal Cooperative Financing Act contained in the Nebraska Revised Statutes §18-2401 et seq. (1987).

APPOINTMENT TO MEAN MANAGEMENT COMMITTEE

WHEREAS, the City Council of the City of Glenwood Springs, State of Colorado, is a party to the Electrical Resources Pooling Agreement and, pursuant to the terms of such Agreement, it is the responsibility of the City Council of the City of Glenwood Springs to designate a representative and alternate representative to the Municipal Energy Agency of Nebraska Management Committee provided for under the terms of said Agreement.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Glenwood Springs, State of Colorado, that:

1. The City Clerk is hereby directed to give written notice to the Municipal Energy Agency of Nebraska of the appointment of Matthew Langhorst as representative to said MEAN Management Committee.
2. The City Clerk is hereby directed to give written notice to the Municipal Energy Agency of Nebraska of the appointment of Debra Figueroa as alternate representative to said MEAN Management Committee.

APPOINTMENT TO NMPP MEMBERS' COUNCIL

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Glenwood Springs, State of Colorado, that:

1. Such City of Glenwood Springs be and hereby is a member of the Nebraska Municipal Power Pool.

2. The City Council of the City of Glenwood Springs, State of Colorado, does hereby appoint Matthew Langhorst as the representative of the City Council of the City of Glenwood Springs, State of Colorado, to the Members' Council of the Nebraska Municipal Power Pool.

3. The City Council of the City of Glenwood Springs, State of Colorado, does hereby appoint Debra Figueroa as the alternate representative of the City Council of the City of Glenwood Springs, State of Colorado, to the Members' Council of the Nebraska Municipal Power Pool.

This is to certify that the appointments set out above were approved by the City Council of the City of Glenwood Springs, State of Colorado, at their meeting on April 18, 2019.

Catherine Mythen Fletcher, City Clerk

(SEAL)