

ORDINANCE NO. 1083 - E

AN ORDINANCE AUTHORIZING AND DIRECTING EXECUTION OF THE TOTAL POWER REQUIREMENTS POWER PURCHASE AGREEMENT BY THE ELECTRIC DEPARTMENT AND SYSTEM ENTERPRISE, AS AN ENTERPRISE OF THE CITY OF FORT MORGAN, COLORADO, WITHIN THE MEANING OF ARTICLE X, SECTION 20, OF THE CONSTITUTION OF THE STATE OF COLORADO, WITH THE MUNICIPAL ENERGY AGENCY OF NEBRASKA; TO REAFFIRM TERMS OF THE ELECTRICAL RESOURCES POOLING AGREEMENT; TO ACKNOWLEDGE AND PROVIDE FOR LIMITATIONS ON USE OF THE ELECTRICITY; TO PRESCRIBE THE TIME WHEN THIS ORDINANCE SHALL BE IN FULL FORCE AND EFFECT.

BE IT ORDAINED BY THE BOARD OF DIRECTORS OF THE ELECTRIC DEPARTMENT AND SYSTEM ENTERPRISE OF THE CITY OF FORT MORGAN, COLORADO, THAT:

SECTION 1. The Board of Directors of the Enterprise hereby finds and declares it to be in the public interest and in the interest of the customers of the Electric Department and System Enterprise that the Electric Department and System Enterprise, as an enterprise of the City of Fort Morgan, Colorado, within the meaning of Article X, Section 20, of the Constitution of the State of Colorado, adopt and execute Service Schedule M, Total Power Requirements Power Purchase Agreement, to the Electrical Resources Pooling Agreement with the Municipal Energy Agency of Nebraska (“*MEAN*”).

SECTION 2. It is hereby ordered and directed that the Electric Department and System Enterprise, as an enterprise of the City of Fort Morgan, Colorado, acting through the Chairman and Secretary, execute Service Schedule M, Total Power Requirements Power Purchase Agreement, to the Electrical Resources Pooling Agreement, a copy of the schedule being attached hereto and made a part hereof, but not required to be published herewith.

SECTION 3. The Electric Department and System Enterprise, as an enterprise of the City of Fort Morgan, Colorado, does hereby adopt and approve each of the objectives, terms and conditions set forth in Service Schedule M.

SECTION 4. The Electric Department and System Enterprise, as an enterprise of the City of Fort Morgan, Colorado, does hereby reaffirm each of the objectives, terms and conditions set forth in the Electrical Resources Pooling Agreement and reaffirm the City’s participant status in the Electrical Resources Pooling Agreement as a Bulk Power Participant.

SECTION 5. This **Ordinance** shall be in full force and take effect after its passage, approval and publication as provided by law.

SECTION 6. The Electric Department and System Enterprise, as an enterprise of the City of Fort Morgan, Colorado, acknowledges that certain of the generating facilities used by MEAN to provide electricity to the City have been financed with tax-exempt bonds and the use of the electric output of such generating facilities is restricted by federal tax regulations. In order to permit MEAN to comply with such federal tax regulations, the Electric Department and System Enterprise, as an enterprise of the City of Fort Morgan, Colorado, agrees to use all of the electricity delivered to it by MEAN solely to serve customers in its long-term service area pursuant to generally applicable and uniformly applied rates and charges. "Long-term service area" means any area that the City has provided electric services to for at least ten years. Any other use, resale or remarketing of the electricity delivered by MEAN to the city must be approved in writing by MEAN.

INTRODUCED, READ AND PASSED UPON FIRST READING this 2nd of June, 2009, for publication once in a newspaper of general circulation in the City of Fort Morgan, Colorado, at least ten days before its final passage.

[SEAL]

ELECTRIC DEPARTMENT AND SYSTEM
ENTERPRISE OF THE CITY OF FORT
MORGAN, COLORADO

BY: */s/ Jack L. Darnell*
Chairman

ATTEST:

/s/ Andrea J. Strand
Secretary

FINALLY PASSED, ADOPTED AND APPROVED this 16th day of June, 2009, for publication once in a newspaper of general circulation in the City of Fort Morgan, Colorado, within five days of the final passage, to take effect five days after final publication.

[SEAL]

ELECTRIC DEPARTMENT AND SYSTEM
ENTERPRISE OF THE CITY OF FORT
MORGAN, COLORADO

BY: */s/ Jack L. Darnell*
Chairman

ATTEST:
/s/ Andrea J. Strand
Secretary

STATE OF COLORADO)
COUNTY OF MORGAN) ss. **CERTIFICATE**
CITY OF FORT MORGAN)

I, Andrea Strand, the duly appointed, qualified and acting Secretary of the Electric Department and System Enterprise of the City of Fort Morgan, Colorado, do hereby certify and attest that the foregoing **Ordinance No. 1083-E** was, as a proposed **Ordinance** duly and legally presented to the Board of Directors of the Enterprise, at a Regular Meeting on the 2nd day of June, 2009. Said **Ordinance**, as proposed, was duly read at length at said regular meeting, and thereafter the same was, on the 5th day of June, 2009, published in *The Fort Morgan Times*, a daily newspaper of general circulation published and printed in the City of Fort Morgan, Morgan County, Colorado. Said proposed **Ordinance** was again taken up and read a second time, duly and legally passed, approved and adopted at a Regular Meeting of the Board of Directors of the Enterprise held on the 16th day of June, 2009. Within five (5) days after its final passage, said **Ordinance** was published in *The Fort Morgan Times*, a daily newspaper of general circulation published and printed in the City of Fort Morgan, Morgan County, Colorado.

/s/ Andrea Strand
Secretary