ORDINANCE NO. 273

MUNICIPAL POWER CONTRACT.

An ordinance authorizing the City of Las Animas, Colorado, and the Mayor and City Council upon its behalf to enter into a contract for electric power to be supplied by The Western Public Service Company, a Maryland corporation.

BE IT ORDAINED by the Mayor and City Council of the City of Las Animas, Colorado:

Section 1.

That the Mayor and City Council of the said city be and they are hereby authorized to enter into a contract with The Western Public Service Company for electric power, and to affix the corporate name of the City and its seal to said contract, which said contract shall be in the following form, to-wit:

Contract

NOTICE -- This contract is not valid unless signed by a duly authorized officer of the Power Company, even though, for purposes of convenience, the Company may have installed the equipment and unless this contract is duly executed by an officer of the Company, the Company reserves the right to abandon service to the Customer, if the contract fails to meet the Company Officer's approval.

THIS AGREEMENT made this ------- day of ----------, 193---, by and between The Western Public Service Company, a Maryland corporation, with its principal place of doing business in Scottsbluff, Nebraska, its successors and assigns, party of the first part hereinafter called the "Power Company," and the City of Las Animas, Colorado a municipality, party of the second part, hereinafter called the "Purchaser."

Witnesseth That:

(1) For a period of five (5) years and thereafter until cancelled by either party upon ninety (90) days written notice to the other party, the Power Company will sell and deliver to, and continuously maintain for the use of the Purchaser, and the Purchaser will receive, take and pay for, all subject to and in accordance with the terms of this agreement, sixty (60) horsepower of electrical power, which shall, for the purpose of this agreement, be deemed the "Contract Power," Any increase in Contract Power must be agreed to by both parties and reduced to writing. The contract power herein, is to constitute all of the Purchaser's needs or uses of power in the conduct of Purchaser's Pumping Plant located at Sixth and Cottonwood Streets, Las Animas, Colorado.

The power shall be furnished as three (3) phase alternating current at a nominal voltage of Two Hundred and Twenty (220) volts and a nominal frequency of sixty (60) cycles per second, at the point of delivery at the City Pumping Plant.

(2) In consideration of the Power Company having made the necessary investment and maintaining its plant to deliver power to the Purchaser under this agreement, the Purchaser agrees to pay Power Company monthly in cash or warrants immediately convertable into cash for all energy used at the following rate:

RATE

Two and one-half (2½) cents per K. W. H.

Minimum Charge; $1.00 per month per H. P. connected.

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The above rate is available to municipalities only for water pumping or for other power installations at the descretion of the Power Company. It is further understood and agreed that the above rate will apply for electric energy used at the Cemetery Pumping Plant and that all power purchased under this agreement shall be used solely in conjunction with the operation of the Purchaser's water plants.

(3) All power taken under this agreement shall be measured at a nominal voltage of Two Hundred and Twenty (220) volts, by meters or measuring instruments of standard make, supplied by the Power Company and installed by it at the point of delivery.

(4) No allowance will be made on any bill on account of claim for inaccuracy of measurement, unless the Purchaser shall in writing request allowance within thirty (30) days from date of such bill. The Purchaser may, if it elects, install measuring instruments at its own expense for the purpose of checking the measurements made by the Power Company, such instruments, if installed, to be subject to test for accuracy as provided in the case of the Power Company's instruments. In case of question as to the accuracy of the Power Company's measuring instruments, either party shall have the right at any time and from time to time, upon giving forty-eight (48) hours written notice to the other party, to have them tested with both parties represented at the test, and if necessary, recalibrated. If it shall be shown by test that any of the measuring instruments are incorrect, proper allowance, as shown by test to be necessary, shall be made to the party entitled thereto, but not for a longer period than thirty (30) days prior to the time when written complaint of inaccuracy is made. If the Power Company's measuring instruments shall fail to register at any time during any month the power delivered during such month shall be estimated upon the basis of the amount of power delivered during the last preceding month or next succeeding period of one (1) month that the Purchaser's plant is operated under conditions similar to those existing during the month in which said instruments failed to register, the month to be mutually agreed upon; or if Purchaser has its own instruments, shall be based on the registration of the Purchaser's instruments. The expense of the test and the recalibration shall be borne by the Purchaser if the Power Company's meters are found to be accurate within two per cent (2%) otherwise the cost of the test shall be paid by the Power Company. No adjustment in the charge for power shall be made the Purchaser unless the error of the meter or meters exceeds two per cent (2%).

(5) The Power Company will supply, at its own expense, all apparatus including poles, wires, meters, switches and stepdown transformers for connecting its line with the Purchaser's lines and delivering power under this agreement and also providing two (2) primary circuits to the City's Pumping Plant at Sixth and Cottonwood. All such apparatus on the Purchaser's premises shall remain the exclusive property of the Power Company, and shall be returned by the Purchaser in the same condition in which it was received, except for

ordinary wear and tear.

(6) If, on account of damage to the Purchaser's property or to the Power Company's property, caused by unavoidable accident, strike, fire, explosion, flood, storm, or any other physical cause beyond the control of either of them, or by Federal, State or municipal interference, or by judgment, court order or injunction, the Purchaser is prevented from taking, or the Power Company from delivering power, then both parties agree in case of such shutdown to use all reasonable diligence to put their respective works in condition to deliver and take the normal amount of power.

(7) The Power Company will, at all times, exercise due diligence in operating its plant so as to furnish the Purchaser the best service practicable. The purchaser shall have no claim against the Power Company for damages caused by interruptions, deficiencies, imperfections, or failure to furnish the power herein contracted for, unless such failure be due to neglect of the Power Company, or its failure to exercise reasonable diligence. Nor shall the Power Company be liabile for interruptions to service caused by unavoidable accident, strike, fire, explosion, flood, storm, or other physical cause beyond its control, or by reason of any judgment, court order or injunction, or by reason of any Federal, State or municipal order or interference, and it is expressly understood that the Company may, without incurring any liability to the Purchaser, interrupt its services hereunder for the purpose of making necessary bona fide repairs to its generating, transmission or distribution equipment.

(8) It is understood and agreed that the covenants of the Power Company herein contained are conditioned upon securing and retaining the necessary franchises, rights of way, and permits, at costs in its judgment reasonable and without expropriation, or the necessity of condemnation, to enable it to make delivery under this agreement, and the purchaser agrees to furnish a right of way over land which is owned by the Purchaser, free of cost, and to aid in every way in securing other necessary rights of way, and furnish Power Company and employees, access to premises, free of tolls or other charges when employees are on Company business.

(9) The Power Company shall have the right to enter the premises of the Purchaser at all times for the purpose of inspecting, testing, installing, repairing or changing its apparatus, or for the removal of its property from the premises of the Purchaser, either during or after the termination of this agreement.

(10) No agreement or representation made by a representative of the Power Company, unless incorporated herein, shall be binding upon the Power Company.

In testimony whereof witness signature of Power Company, in duplicate originals, before the undersigned witnesses on this ---------- day of ----------

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THE WESTERN PUBLIC SERVICE COMPANY

By President.

Witnesses:

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In testimony whereof witness signature of Purchaser in duplicate originals, before the undersigned witnesses on this ---------- day of ----------193----

CITY OF LAS ANIMAS, BENT COUNTY, COLORADO.

By. Mayor,

Witnesses: C. M. Halvarson

City Clerk

Section II.

This ordinance shall be in full force and effect from and after its passage and approval as required bylaw.

Section III.

All ordinances, resolutions and orders of the City Council in conflict herewith are hereby repealed.

Introduced and read February 2nd, A.D.1932

Passed and approved: February 16th, A.D. 1932

Mayor. Sterling A. Day

Witness: C. M. Halvarson

City Clerk.

State of Colorado)

County of Bent.) SS

I, C.M. Halvarson, City Clerk in and for the City of Las Animas, Colorado, do hereby certify that the foregoing Ordinance No.273 was read at an adjourned meeting of the City Council of the City of Las Animas, Colorado and published in the Las Animas Leader, a weekly newspaper of general circulation published in the City of Las Animas, Colorado, for ten days before its passage, and published once after its passage and approval in said Las Animas Leader.

In witness whereof, I have hereunto set my hand and affixed the officia seal of the City of Las Animas, Colorado, this 5 dayof March 1932.

City Clerk.

C. M. Halvarson