

BEFORE THE CITY COUNCIL OF  
THE CITY OF COLORADO SPRINGS

IN THE MATTER OF THE REVISION     )  
OF THE ELECTRIC TARIFF OF         )     DECISION & ORDER 19-03 (E)  
COLORADO SPRINGS UTILITIES       )

1. Colorado Springs Utilities, an enterprise of the City of Colorado Springs (“City”), a Colorado home-rule city and municipal corporation, (“Utilities”), provides electric utility service within the City and within its Colorado Public Utilities Commission-certificated service territory outside of the City.
2. Utilities proposes changes to the Water, Wastewater, and Electric Rate Schedules as well as the Utilities Rules and Regulations (“URR”) in the 2020 Rate Case filing.
3. The proposed effective date for Utilities’ tariff changes is January 1, 2020, unless otherwise noted.
4. Utilities 2020 Rate Case does not include a Cost of Service (“COS”) study for electric service as no base rate changes are proposed. Utilities filing proposes the following changes to the Electric tariff:
  - a) Green Power Service – Utilities’ filing proposes the addition of a Green Power Service to allow Utilities’ Customers to enroll or contract for a higher percentage of renewable energy than provided under standard service. Service under this rate schedule is subject to availability on a first come, first serve basis and is limited to 7,000,000 kWh monthly. Customers receiving service under this rate schedule will elect a percentage of their monthly energy to be subject to the Green Power Service Rate in lieu of the Electric Cost Adjustment. Customers may subscribe in 10% increments up to 100%, with a minimum subscription of 30% for enrolling Residential Customers.

The proposed pricing methodology is based on the actual weighted average cost of Utilities’ approved renewable energy sources plus the administrative cost associated with Green-e certification. The tariff is designed to incorporate any approved source of renewable energy and with future additions, the rate would be adjusted to maintain alignment of the Green Power Service rate with Utilities’ weighted average cost of renewable energy.

- b) Primary Demand Charge for Industrial Service – Time-of-Day Service 1,000 kWh/Day Minimum (ETL) – Utilities’ filing proposes adding Demand Charge Primary rates to the ETL Rate Schedule to provide consistency across the Industrial Rate Schedules. Utilities Rules and Regulations provide that under Primary Service all wiring, pole lines, conductor, transformers and other electric

substation and distribution equipment, will be provided, owned, installed, and maintained at the Customer's expense. As a result of these provisions, primary charges are lower relative to secondary charges. With this proposed addition, primary charges will be offered to all Industrial Rate Schedules.

- c) Contract Service – Military On-site, Direct-service Solar Contract – USAFA Charge (EINFPRS) – Utilities' filing proposes an update to the Special Contract-Military (EINFPRS) payment table. Service is available to the United States Air Force Academy (USAFA) for solar energy provided from generation facilities located within geographic confines of the USAFA. This change adjusts the payment table to reflect contract payment changes as contractually executed with the Customer.
5. In addition to the proposed Electric Tariff revisions, Utilities proposes changes to the Water and Wastewater Tariffs, as well as the URR.
  6. Utilities filed its COS study supporting the Water and Wastewater services base rate and Tariff changes with the City Auditor, Mr. Denny Nester, and with the City Attorney, Ms. Wynetta Massey, on August 9, 2019. Utilities then filed the enterprise's formal proposals on September 10, 2019, with the City Clerk, Ms. Sarah Johnson, and a complete copy of the proposals was placed in the City Clerk's Office for public inspection. Notice of the filing was published on-line at [www.csu.org](http://www.csu.org) on September 10, 2019, and in *The Gazette* on September 12, 2019. These various notices and filings comply with the requirements of §12.1.108 of the City Code and the applicable provision of the Colorado Revised Statutes. Copies of the published and mailed notices are contained within the record. Additional public notice was provided through Utilities' website, [www.csu.org](http://www.csu.org), and a complete copy of the proposals was placed on that website for public inspection.
  7. The information provided to the City Council and held open for public inspection at the City Clerk's Office was supplemented by Utilities on October 15, 2019. The supplemental materials contained:
    - a) Information addressing the previously addressed new pricing methodology for Wastewater Outside City Limits – Contract Service (S9C), including a response to the City of Manitou Springs' alternate calculations, the Brattle Group memorandum supporting Utilities' proposal, an updated Wastewater report, and an updated Schedule 9 providing additional clarification;
    - b) The Office of the City Auditor's audit report;
    - c) The legal notice Affidavit of publication;
    - d) Public outreach information;
    - e) An executive summary addressing the impact of Utilities' proposed Electric Cost and Gas Cost Adjustments effective November 1, 2019; and
    - f) A compilation of all proposed rate and fee table adjustments.
  8. Prior to the public hearing, Utilities provided a copy of the complete rate filing to the City Auditor and to the City Attorney for review. The City Auditor issued his findings

on the proposed rate and tariff changes, dated September 2019. A copy of that report is contained within the record.

9. On October 22, 2019, the City Council held a public hearing concerning the proposed changes to the Water, Wastewater, and Electric Tariffs and the URR. This hearing was conducted in accordance with §12.1.108 of the City Code, the procedural rules adopted by City Council, and the applicable provisions of state law.
10. President of the Council Richard Skorman commenced the rate hearing.
11. The presentations started with Mr. Christopher Bidlack of the City Attorney's Office. Mr. Bidlack first presented the rate hearing agenda.
12. Mr. Bidlack then briefed the City Council on its power to establish rates, charges, and regulations for Utilities' services. In setting rates, charges, and regulations for Utilities' services, the City Council is sitting as a legislative body because the setting of rates, charges, and regulations is necessary to carry out existing legislative policy of operating the various utility systems. However, unlike other legislative processes, the establishment of rates, charges, and regulations is quasi-judicial and requires a decision based upon evidence in the record and the process is not subject to referendum or initiative. Mr. Bidlack provided information on the statutory and regulatory requirements on rate changes. Rates for Water and Wastewater service must be reasonable and appropriate in light of all circumstances, City Code § 12.1.108(F). Rates for Electric service must be just, reasonable, sufficient, and not unduly discriminatory, City Code § 12.1.108(E).
13. At the conclusion of his presentation, Mr. Bidlack polled the City Council Members concerning any *ex parte* communication that they may have had during the pendency of this proceeding. City Council indicated that no *ex parte* communications were received.
14. Mr. Scott Shewey, Utilities' Acting Chief Planning and Finance Officer, provided the enterprise's proposals.
15. Mr. Shewey started by providing an overview of the 2020 Rate Case. He noted that the 2020 Rate Case filing is based on the 2020 Sources and Uses Budget Ordinances and includes proposed changes to the (1) Water Rate Schedules and (2) Wastewater Rate Schedules. Additionally, the COS is prepared following industry standards and practices and rates are designed in compliance with Rate Design Guidelines. Utilities' filing also includes proposed changes to the Electric Rate Schedule and the URR.
16. Mr. Shewey then noted that Utilities' filing fulfilled proper procedural compliance requirements by (1) filing a preliminary COS study with the City Auditor on August 9, 2019, (2) requesting a public hearing date and filing the 2020 Rate Case with the City Clerk on September 10, 2019, (3) posting the filing to [www.csu.org](http://www.csu.org) on September 10, 2019, and (4) publishing notice on September 12, 2019.

17. Next, Mr. Shewey addressed the proposed changes to the Water tariff.
18. The proposed total water revenue is \$208.8 million, which is \$7.1 million higher than revenue under current rates. The overall system increase is 3.5% higher than current rates. The increase breaks down as a 5.4% increase for Residential, 0.5% increase for Nonresidential, 4.7% increase for Large Nonseasonal, 7.3% increase for Contract Services – Military, and 11.8% increase for Nonpotable – Miscellaneous customers.
19. In response to this information, Council Member Don Knight asked for clarification on the proposed rate increase for Nonresidential water service. Mr. Shewey confirmed that the provided information was accurate and that clarification would be provided shortly in the presentation.
20. Mr. Shewey then explained that the proposed water rate increases are driven by (1) funding the replacement and repair of aging infrastructure, (2) inflationary increases in labor and operating costs, and (3) compliance with the Water Surplus rates established in City Council Resolution No. 49-18.
21. The proposed water rate increases are consistent with the Rate Design Guidelines. All rate classes are within +/- 5% of COS, with the exception of Contract Services – Military at 85.5% of COS. The proposed rates are designed to continue flattening the price differential between Residential blocks or between Nonresidential summer and winter rates.
22. To address Mr. Knight's request for clarification, Mr. Shewey noted that the provided rate increases are accurate as the proposed changes maintain the relationship between daily charges and the total revenue requirement by rate class that have been in place for the last several years.
23. Mr. Shewey also presented the Water COS Study chart that was included in Utilities' filing.
24. Mr. Shewey then addressed several remaining Water Tariff Changes. Explaining that:
  - a) Utilities filing proposed to increase the Nonpotable – Contract Service commodity charges by 11.7%, changing the rate from \$0.0137 to \$0.0153 per cf;
  - b) Utilities' filing proposed to increase the Augmentation rate by 4.0% from \$0.0075 to \$0.0078 per cf;
  - c) Utilities filing proposes to increase the Temporary Service – Hydrant Use rate by 4.3%, changing the rate from \$9.8529 to \$10.2807 per 1,000 gallons; and
  - d) Utilities filing removes the current effective Water Rate Schedule – Water Shortage Tariff. The removal recognizes that the Water Shortage Tariff requires an update and that additional analysis will be performed to ensure an appropriate price signal for a future tariff that is in alignment with the Water Shortage Ordinance.

25. Mr. Shewey then addressed Wastewater. The proposed total wastewater revenue is \$71.4 million, which is \$1.4 million higher than revenue under current rates. The overall system increase is 2.0% higher than current rates. The increase breaks down as a 1.5% increase for Residential, 3.8% increase for Nonresidential, and 3.5% increase for Contract Services – Military, and no change for Liquid Waste Hauler customers. Contract Service – Outside City Limits is addressed through an alternative methodology.
26. Next, Mr. Shewey explained that the wastewater rate increase drivers are (1) funding the replacement and repair of aging infrastructure and (2) inflationary increases in labor and operating costs.
27. Mr. Shewey stated that the proposed wastewater rate increases are consistent with the Rate Design Guidelines. All rate classes are within +/- 5% of COS, with the exceptions of Liquid Waste Hauler service which is at 112.1% of COS. Mr. Shewey also presented the Wastewater COS Study chart that was included in Utilities' filing.
28. Mr. Shewey then addressed the remaining Wastewater proposal.
- a) He explained that the filing proposes a change to the methodology used for calculating the rate for Contract Service – Outside City Limits. This service is available by contract outside-the-City Limits where Utilities' treatment system is available for institutions, plants, organized sewer districts, municipal corporations or other similar organizations, and only with approval by the City Council. These outside city limit customers are different than the small one-off residential and nonresidential customers who pay the 50% multiplier.
  - b) Previous wastewater rate filings identified Contract Service – Outside City Limits as a rate class and included its units with the Contract Service – Military for COS purposes. As a result, Outside City Limits wastewater service providers (or wholesale) Customers have historically received equivalent rate treatment to Inside City Customers.
  - c) Upon review of the COS and overall trends, Utilities determined that it is prudent and appropriate to implement a new methodology for Contract Service – Outside City Limits going forward. Utilities' new pricing methodology is Average System Cost (excluding certain costs) and is designed to isolate the cost of Utilities' wastewater system utilized by this rate class plus the addition of a 10% multiplier for outside-of-City Customers.
  - d) Average System Cost considers a system wide Wastewater cost derived from Utilities' functional revenue requirement. The calculation recognizes the nature of this rate class and excludes 50% of Utilities' Collection System costs and 100% of Industrial Pretreatment and Customer costs not applicable to the Outside City Limits Customers, because of the portions of the overall wastewater system this rate class uses.
  - e) The new pricing methodology for Contract Service – Outside City Limits also excludes any benefit from Utilities' miscellaneous and interest revenues from the rate class, keeping the benefit of such revenues to inside-the-City rate classes. This approach is prudent and appropriate because of the distinctions between

inside and outside the City Customers. Inside City service reflects Utilities' obligation to provide service within its jurisdictional wastewater service territory and these rates reflect the full responsibility, benefits, and risks of municipal utility ownership. In addition, Wastewater Development Charge revenue (included in miscellaneous revenue) provides equity between new and existing Inside City Limits Customers by partially defraying system capital costs. Utilities' Inside City Limits Customers will receive full benefit of miscellaneous revenues, including Development Charges and revenue from Outside City Limits usage. It is not appropriate to allocate any portion of miscellaneous and interest revenues to Outside City entities because they have the ability to elect to end service from Utilities in accordance with their contract terms and conditions and seek alternative wastewater service because they are not subject to Utilities' obligation to serve.

- f) Utilities believes the proposed 10% multiplier is appropriate and reasonable for this rate class. The use of a multiplier is an industry standard rate design technique used for Customers located outside jurisdictional limits that has been affirmed by Colorado courts under Colorado Revised Statutes § 31-35-402. A multiplier is not a specific calculated percentage but rather reflects components unique to different services and/or communities.
  - g) This methodology is addressed in the report provided by the Brattle Group, included in Utilities' supplemental filing, where it is found to be reasonable and defensible.
  - h) To address rate impacts, Utilities proposes to phase the rate changes over a three year period.
  - i) As a result of these factors, Utilities contends that the new methodology is just, reasonable, and not unduly discriminatory.
29. Mr. Shewey concluded his COS based presentation with a summary of the impact to customer bills, addressing the impact of the proposed rates and providing a sample total service bill.
30. Mr. Shewey then presented the proposed changes to the Electric Tariff. He explained that:
- a) Utilities' filing proposes the addition of a Green Power Service to allow Utilities' Customers to enroll or contract for a higher percentage of renewable energy than provided under standard service. Service under this rate schedule is subject to availability on a first come, first serve basis and is limited to 7,000,000 kWh monthly. Customers receiving service under this rate schedule will elect a percentage of their monthly energy to be subject to the Green Power Service Rate in lieu of the Electric Cost Adjustment. Customers may subscribe in 10% increments up to 100%, with a minimum subscription of 30% for enrolling Residential Customers. The proposed rate is \$0.0307 per kWh based on the pass-through pricing methodology of the actual weighted average cost of Utilities' approved renewable energy sources plus the administrative cost associated with Green-e certification. Green Power customers will continue to pay all non-fuel

base rates per their Electric Rate Schedule. Mr. Shewey also provided a sample electric bill comparison.

- b) Utilities' filing proposes adding Demand Charge Primary rates to the ETL Rate Schedule to provide consistency across the Industrial Rate Schedules. Utilities Rules and Regulations provide that under Primary Service all wiring, pole lines, conductor, transformers and other electric substation and distribution equipment, will be provided, owned, installed, and maintained at the Customer's expense. As a result of these provisions, primary charges are lower relative to secondary charges. With this proposed addition, primary charges will be offered to all Industrial Rate Schedules.
  - c) Utilities' filing proposes an update to the Special Contract-Military (EINFPRS) payment table. Service is available to the United States Air Force Academy (USAFA) for solar energy provided from generation facilities located within geographic confines of the USAFA. This change adjusts the payment table to reflect contract payment changes as contractually executed with the Customer.
31. Mr. Shewey then presented Utilities' six proposed changes to the URR. Presenting the following:
- a) Electric and Natural Gas Line Extension Fee: Utilities performs periodic detailed cost analysis and identified significant cost increases in 2019, primarily in boring and labor. The proposed change in fees capture a 7.5% increase in electric and 10.0% increase in gas costs.
  - b) Stormwater Billing for the City of Colorado Springs: Resolution No. 46-18 was approved May 8, 2018, which authorized the City of Colorado Springs to contract with Utilities for the invoicing, billing, and collection of residential Stormwater service fees. At that time, the URR was modified to create consistency and avoid any ambiguity with the Issue 2A and City Code. The proposed modifications to residential Stormwater service fees eliminates the word "residential" in order to facilitate the billing of both residential and nonresidential Stormwater service fees.
  - c) Water Leak Adjustment: Utilities will be implementing a program for early meter sets to facilitate construction activity. These early sets may include lost water due to the nature of the work in pre-final configuration. The proposed change clarifies that the Water Leak Adjustment Program is not available prior to issuance of Certificate of Occupancy by the Regional Building Department.
  - d) Development Charge Deferral for Affordable Housing: On July 18, 2018, the Utilities Policy Advisory Committee proposed and Utilities Board approved a recommendation to simplify the Water and Wastewater Development Charge Deferral for Affordable Housing programs. These proposed changes provide a consistent deferral program in both Water and Wastewater that keeps the most favorable terms for the Customer.
  - e) Administrative Corrections to Fee Table References: The proposed administrative corrections clean-up inaccurate references on the fee table and throughout the URR. There are no changes to any fee amounts as a result of these administrative corrections.

- f) Administrative Corrections Related to Development Charge Refund and Inactive Service: Resolution No. 9-16 was approved January 26, 2016, and eliminated inactive and abandoned status and reconnection charges for Water and Wastewater services in tandem with changes made to the Colorado Springs City Code. The proposed administrative correction eliminates obsolete verbiage that should have been deleted in 2016.
32. Next, Mr. Shewey addressed the customer outreach Utilities performed in relation to the 2020 Rate Case filing. The customer outreach was carried out throughout September and October and included electronic communications, social media channel communications, newsletter information about the proposal and hearing dates, required public notice, and meetings with commercial and industrial customers. He then noted Utilities’ programs that are in place to assist customers: (1) bill assistance through Project COPE and the Low Income Energy Assistance Program, (2) high bill counseling through conservation education and the Home Energy Assistance Program, and (3) payment plans through Utilities’ Budget Billing program.
33. Mr. Denny Nester, the Colorado Springs City Auditor, presented his report, explaining that his office reviewed Utilities’ proposals for consistency and accuracy and found no errors.
34. After Utilities’ presentation, President Skorman opened the floor for public comment.
35. The City of Manitou Springs (“Manitou”) addressed the City Council to address its opposition to the Utilities proposal for Wastewater service, Contract Service – Outside City Limits (S9C).
- a) Manitou complied with the requirements of City Code § 12.1.108(C)(3) by filing a notice of intent to present a witness with the Colorado Springs City Clerk on October 10, 2019. Manitou also provided the slides it intended to present which were included in the information provided to City Council.
  - b) The Manitou presentation commenced with Mayor Ken Jaray. Mayor Jaray asked that City Council consider an alternative approach to Contract Service – Outside City Limits (S9C), contending that the proposed change was overly large and that an alternative change would be more reasonable. He explained that Manitou is facing a backlog of wastewater infrastructure improvements and that the impact of the proposed Utilities rate increase coupled with the infrastructure costs will result in a rate increase to Manitou wastewater customers of 17.5%. Mayor Jaray also emphasized the long term relationship between Manitou and the City and Utilities and that Manitou is not going to leave Utilities’ service.
  - c) Next, Mr. Ed Harvey, of Harvey Economics, spoke on behalf of Manitou. Mr. Harvey was hired by Manitou to present their proposed rate alternative. Mr. Harvey presented the following:



- i. He started by noting that while the amount of money in question is relatively small, it is significant to Manitou. He also noted general rate making concepts, stating that rates are driven by the goals and objectives of the managing utility or city.
- ii. Mr. Harvey stated that the new Contract Service – Outside City Limits (S9C) methodology is not reflective of the historical relationship between Manitou and the City. Arguing that over the term of the relationship, Manitou has not been subsidized, but has contributed to the capital expenses and debt service associated with the development of Utilities’ wastewater system.
- iii. Next, Mr. Harvey positioned that Manitou brings a financial benefit to Utilities by using Utilities’ excess wastewater infrastructure capacity, which offsets costs by contributing revenue.
- iv. Mr. Harvey then contended that the proposed Contract Service – Outside City Limits (S9C) rates unfairly impact Manitou and that Utilities’ stated goals can be achieved in a more equitable manner. He addressed the total versus net revenue requirements for Utilities and argued that moving the miscellaneous revenue out of the Contract Service – Outside City Limits (S9C) is not equitable. He proposed an alternative rate methodology with miscellaneous revenue benefiting the Contract Service – Outside City Limits (S9C) rate class that would have a 6.83% rate increase. He also noted that Utilities could also maintain the rate methodology used in prior years.
- v. Mr. Harvey concluded by stating that regionalization can be achieved with alternative methodologies, but agreed that use of a multiplier is a fair approach for the Contract Service – Outside City Limits (S9C) rate class.

d) Mayor Jaray concluded Manitou’s presentation by asking that City Council provide a reasonable and appropriate rate, not one that is significantly higher. President Skorman asked Mayor Jaray if Manitou had an estimate of overall customer impact. Mayor Jaray did not have that information available.

36. No other customers or citizens provided any comments.

37. Following the opportunity for public comment, President Skorman opened the floor to questions from the City Council.

- a) Council Member David Geislinger asked if Mr. Shewey had any response to the information provided by Manitou. Mr. Shewey noted that Utilities’ proposal is to phase the rate increases to avoid rate shock to customers. Additionally, Mr. Shewey explained that Utilities’ believes that the benefit of miscellaneous revenue should directly benefit the citizens of Colorado Springs. He also noted that with the proposed changes the Contract Service – Outside City Limits (S9C) rate class would see an indirect benefit from miscellaneous revenue through defrayment of Utilities’ costs and reduced use of debt.

- b) Council President Pro Tem Tom Strand asked how many customers are subject to the Contract Service – Outside City Limits (S9C) rate. Mr. Shewey and Ms. Sonya Thieme, Utilities’ Rates Manager, noted that there are three (3) current customers, with the potential for City Council to approve additional customers in the future.
  - c) President Pro Tem Strand then asked if the proposed Contract Service – Outside City Limits (S9C) rate impact would be spread over multiple years. Mr. Shewey confirmed that the rate impact would be spread over three (3) years.
  - d) Mr. Harvey then spoke again to note that the phase in approach presented a cumulative impact over the three (3) year period and that Utilities could propose additional changes in the future.
  - e) President Pro Tem Strand then asked if the proposed Contract Service – Outside City Limits (S9C) rate increase impacted Utilities’ residential customers. Mr. Shewey confirmed that the change does not impact Utilities’ residential customers.
  - f) Council Member Geislinger then commented that he believes the methodology of the proposed Contract Service – Outside City Limits (S9C) rate is consistent with recognition of the citizens of the City as the owners of Utilities as an enterprise of the City.
  - g) Council Member Bill Murray next stated that while he sympathizes with Manitou’s concerns and the impact of system upgrades, the proposed Contract Service – Outside City Limits (S9C) rate is in the best interest of Utilities and that the phase in approach eases the impact to Manitou.
38. Based on the conversation and deliberation during the comment period, President Skorman determined that neither a break nor executive session were necessary.
39. Mr. Bidlack then polled the Council Members regarding the issues central to the Water, Wastewater, and Electric Tariffs and the URR.
40. During the polling regarding the proposed modification to stormwater billing within the URR, Council Member Knight provided additional comments. He explained his opposition to the proposed change to remove the limitation of Utilities billing of stormwater to residential fees. He stated that allowing Utilities to bill for nonresidential stormwater fees would impact the ability of the City to collect delinquent fees and that debts would be carried longer. He supports maintaining the current practice.
41. Council Member Murray then noted that while he disagrees with some portions of the approach to billing stormwater fees, he supports the proposed change because it will reduce overall costs and allow the money that is saved to go directly to stormwater projects.

42. The following are the proposed changes and the votes by City Council addressing the Electric Tariff:

- a) Should Utilities add a new electric rate schedule for Green Power Service?

The City Council held that Utilities shall add a new electric rate schedule for Green Power Service.

- b) Should Utilities add Demand Charge Primary, On and Off-Peak, per kW, per day rates to the Rate Table for Industrial Service – Time-of-Day Service (ETL) as proposed?

The City Council held that Utilities shall add Demand Charge Primary, On and Off-Peak, per kW, per day rates to the Rate Table for Industrial Service – Time-of-Day Service (ETL) as proposed.

- c) Should Utilities update the Special Contract – Military (EINFPRS) payment table for solar energy provided from generation facilities located within the geographic confines of the United States Air Force Academy (USAFA) as contracted for between Utilities and USAFA?

The City Council held that Utilities shall update the Special Contract – Military (EINFPRS) payment table for solar energy provided from generation facilities located within the geographic confines of the United States Air Force Academy (USAFA) as contracted for between Utilities and USAFA.

43. President Skorman then concluded the 2020 Rate Case Hearing.

**ORDER**

THEREFORE, IT IS HEREBY ORDERED that:

The Electric Tariff sheets as attached to the Resolution are adopted and will be effective on and after January 1, 2020. Such tariff sheets shall be published and held open for public review and shall remain effective until changed by subsequent Resolution duly adopted by the City Council.

Dated this 12<sup>th</sup> day of November, 2019.

CITY OF COLORADO SPRINGS

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Council President

ATTEST:

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City Clerk