

# AGENDA ITEM SUMMARY

City Council



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## STAFF

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## SUBJECT

**Second Reading of Ordinance No. 047, 2024, Establishing Rental Rates and Delivery Charges for Use of Water Available Under Fort Collins Utilities' Raw Water Interests for 2024 Through March 2027.**

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## EXECUTIVE SUMMARY

This Ordinance, unanimously adopted on First Reading on March 19, 2024, obtains Council approval for the proposed formulas for calculating rental rates and delivery charges for Fort Collins Utilities' (Utilities) raw water supplies for the next three years, including proposed rental rates and delivery charges for fully consumable water. The rates and charges would be effective through March 2027. Setting the rates and charges via formula ensures Utilities can recoup the ownership and administrative costs for rented supplies and provides planning certainty for the agricultural rental community.

Proposed formulas for most supply sources remain consistent with those from the previous rental rate and delivery charge ordinance (Ordinance No. 038, 2021). Staff is recommending an increase in the rental rate and delivery charge for fully consumable water to be in line with market conditions for this type of water. In addition, staff is recommending the rental rate for Water Supply and Storage Company supplies to be 130% of assessment versus the prior rate of assessment plus a flat administration fee. These are the only changes to rental rates and delivery charge methods.

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## STAFF RECOMMENDATION

Staff recommends the adoption of the Ordinance on Second Reading.

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## BACKGROUND / DISCUSSION

The City is a shareholder in several local ditch and reservoir companies and holds allotment contracts for the delivery of Colorado Big-Thompson (CBT) Project water. Utilities is responsible for most of these supplies. The main use for raw water sources is the treatment and delivery of potable water for the Utilities' ratepayers. In addition, there are delivery obligations under existing agreements to provide raw water shares to certain homeowners associations (HOA's), the Poudre School District (PSD), and other City Departments. In wet and average years, there are surplus water supplies that can be rented first to other City departments (if needed) and to agricultural users in respective irrigation company systems that Utilities' holds shares in.

This proposed ordinance defines the formulas and rates for annual water rentals and delivery agreements, not the availability of surplus water. It is staff's discretion to determine the availability of surplus water from different sources on an annual basis. There are many variables which can impact this availability, including snowpack in both the Poudre and Upper Colorado River basins, water quality in both river basins, available water in storage, and infrastructure and maintenance considerations. In addition, potential drought conditions or continued runoff impacts to water quality from the Cameron Peak and East Troublesome fires, will be considered when determining surplus water for 2024 through March 2027.

There are two categories for pricing raw water, as in past years:

- **Category 1 – Raw Water Rental Rates**

- Sets the price for surplus water for use by water users outside of the City organization.
- There are rental markets for many of Utilities' surplus water sources. Principally, for Utilities' supplies in North Poudre Irrigation Company and Water Supply and Storage Company.
- Typical customers are local agricultural producers, both large and small.

- **Category 2 – Raw Water Delivery Charges**

- Sets the price for sources where Utilities has an on-going obligation to provide raw water for irrigation or augmentation plans.
- Customers include specific HOAs, PSD, Fort Collins Parks Department, and Fort Collins Natural Areas Department.

A formula-based approach to setting rental rates and delivery charges for Utilities' raw water sources, except for fully consumable sources, has been used since 2015. The formulas are a function of the annual assessment for each ditch and reservoir company plus an administrative fee. Staff continues to receive positive feedback from the rental community regarding this formula-based approach to rate setting.

Starting in 2018, this formula-based approach to setting rental rates and delivery charges for Utilities' raw water supplies has been updated every three years. This was a change from the historical practice of having rates and charges approved for only one year at a time. This process change reduced the administrative burden of the rental program and increased the planning certainty for the water rental community. Staff is again recommending City Council adopt the proposed formulas for calculating rental rates and delivery charges for Utilities' raw water supplies for three years.

## **CATEGORY 1 - RAW WATER RENTAL RATES**

Raw water rental sources include:

- North Poudre Irrigation Company
- Water Supply and Storage Company
- Colorado-Big Thompson Project
- Pleasant Valley and Lake Canal Company
- Southside Ditches (Arthur Irrigation Company, Larimer County Canal No. 2 Irrigating Ditch Company, New Mercer Ditch Company, and Warren Lake Reservoir Company)
- Fully Consumable Sources

The recommended changes to the proposed formulas and fixed rates for raw water rentals from the 2021 approved ordinance (Ordinance No. 38, 2021) is for Fully Consumable Sources and Water Supply and Storage Company water.

## North Poudre Irrigation Company (NPIC)

In wet and average years, Utilities can expect to have surplus NPIC water available for rent. Each NPIC share has an agricultural (AG) component and a multiple use (MU) component. The volume of water for each component varies annually and is set in April by the NPIC Board of Directors based on the company's water supply availability. Due to current legal constraints, the AG component can only be used for irrigation purposes on land served by the NPIC system and is rented to shareholders under that system. The MU portion of each NPIC share is available for Utilities' use and is largely comprised of NPIC-owned CBT water. When users in the NPIC system rent either AG or MU water, both components are delivered through the system in the same manner. Therefore, for rentals made into the NPIC system, it is proposed both types of water be rented at the same rate per acre-foot (AF).

**Rental Rate** – Beginning in 2015, a formula was defined to set the raw water rental rate, incorporating the NPIC assessment and share allocation to ensure the cost of the NPIC assessment was fully paid by the renter. At that time, a \$2.00 per acre-foot (ac-ft) administration fee was assessed as City staff spent considerable time receiving, billing, and tracking individual rentals. Starting in 2022, NPIC has administered our rentals which has been very helpful to City staff, and thus the fee is not included when NPIC administers our rentals. This has been accomplished by the City renting water to NPIC by an agreement, and then NPIC renting the water to shareholders. This same method is proposed for the 2024 – 2026 irrigation seasons and is defined below. The calculated rate is rounded up to the nearest dollar and is defined by the NPIC allocation made annually in mid-April. The rental rate will remain fixed until the assessment rate and allocation are defined for the next irrigation season. If administration of the City's NPIC rentals revert to City Staff, a \$2.00 per ac-ft fee will be added.

$$NPIC \text{ rental rate } \left( \frac{\$}{ac - ft} \right) = \frac{\text{assessment rate } (\$)}{MU (ac - ft) + AG(ac - ft)}$$

In some years there is a special class of NPIC water available for agricultural users for a very limited time early in the growing season. This Early AG water has a limited rental market and thus warrants a significantly lower rate. If Early AG water is available in the 2024 – 2026 irrigation seasons, staff proposes a rental rate of \$15 per ac-ft to reflect its limited use.

**Procedures** – Whether it be Utilities or NPIC administering the rentals, if the total volume of rental requests is greater than the available surplus water, a proportionate allocation method based on the requester's acreage will be used. This allocation method uses information provided by renters about their total land holdings served under the NPIC system. These requesting acreages are then added together and divided into the total volume of City-owned NPIC water available for rent in a given year. This ac-ft per acre ratio is then applied to each of the requesters' land holdings to determine the maximum amount of rental water available for each requester. This allocation method was developed and has been used since 2008 at the request of NPIC renters to provide some water to all requesters each year.

### CBT through NPIC Multiple Use Component

**Rental Rate** – Utilities does not typically rent CBT water from its own allotment contracts with Northern Water, but when available, Utilities can rent CBT water through its ownership of NPIC shares. Utilities retains its NPIC MU water for potentially high summer demands and can rent it to NPIC system renters or other (non-NPIC) renters later in the year if it was not needed.

For Utilities to rent CBT water from its NPIC shares to non-NPIC system users, the MU portion of the share is transferred as CBT water into the Utilities' CBT account. Northern Water institutes a transfer fee to the water user or entity receiving the transfer if the user has a higher open-rate assessment than the transferor. This is the case if NPIC MU water is transferred to Utilities' or another municipal entity's account.

Staff recommends the rental rate of CBT water through NPIC shares be calculated as the NPIC rental rate plus the cost of applicable Northern Water transfer fees, rounded up to the nearest dollar (Attachment 2).

**Procedures** – Utilities will first meet the CBT delivery obligations to City departments and other entities with delivery agreements. If Utilities deems there is surplus CBT water available, it will then be offered to water users on ditches that run through town. These ditches, known collectively as the “Southside Ditches,” comprise the Arthur, New Mercer, and Larimer No. 2 Ditches, and Warren Lake Reservoir. The Pleasant Valley Lake and Canal Company (PVLC) is also included in this tier. Surplus CBT water will next be made available to other Poudre Basin water users. Finally, in the event any surplus CBT water remains, it will be offered to others within the entire Northern Water district.

### **Water Supply and Storage Company (WSSC)**

WSSC shares can only be rented to water users under that system. WSSC shares come with a both trans-basin and a native component. Utilities generally uses the trans-basin component and rents the native portion of its WSSC shares. In February of each year, Utilities’ staff determines how WSSC shares will be used for the year in its WSSC Annual Operating Plan. In 2023, Utilities exercised an agreement with WSSC to use Utilities’ shares to meet a CBT obligation with WSSC. This arrangement retained more CBT water in Utilities’ account and the remaining WSSC shares were rented and administered by WSSC for a \$250 administrative fee. Staff may pursue similar operations with WSSC in the future.

**Rental Rate** - Previously, the rental rate was set at assessment plus \$1,000 administration fee. For the next three irrigation seasons (2024-2026), Staff proposes a rate calculated as 130% of assessment. This is a similar methodology to many of our other sources and is in line with the market rental rate. Utilities staff administers WSSC water rentals and this rate will cover staff time costs. If the Utilities exercises its agreement with WSSC as described above, then any remaining shares available for rental may be administered by WSSC which would exclude the additional 30% over assessment as an administration fee.

**Procedures** – WSSC system users are to make rental requests through the online form on the City’s rental website. Rental requests are accepted for a month-long period around February and March. There are typically more requests than available supplies, so Utilities’ staff administer a lottery to determine recipients and allocate available WSSC rental water.

### **Pleasant Valley and Lake Canal Company (PVLC) and the Southside Ditches**

**Rental Rates** – The rental market for raw water from the Southside Ditches and PVLC is very limited, however Utilities can occasionally rent surplus water from these systems. Staff recommends the rate for these supplies be set at 120% of the assessment rate, rounded up to the nearest dollar, for each ditch company.

**Procedures** – PVLC and Southside Ditch shares can only be rented to water users under each specific system. As the market for these supplies is limited, availability of shares to rent will be determined by Staff at the time the request is made.

### **Fully Consumable Sources**

Utilities has occasional rental demand for fully consumable water to satisfy State requirements for substitute water supply and augmentation plans. Historically, Utilities has only leased this type of water under short-term arrangements of 1-year leases. Staff proposes setting the rental rate for these sources at \$800 per ac-ft for three years. Based on inquiries with entities renting and/or leasing water with similar characteristics in Northern Colorado, this rate is well within market range for short term agreements for augmentation water on the Cache la Poudre River.

**Procedures** – Utilities Staff will monitor reusable sources and determine availability for rental at the time the request is made.

## **CATEGORY 2 - RAW WATER DELIVERY CHARGES**

Sources utilized for obligated raw water deliveries include:

1. Pleasant Valley and Lake Canal Company
2. Southside Ditches
3. Colorado-Big Thompson Project
4. Fully Consumable Sources

The only recommended change to the proposed formulas and fixed rates for raw water delivery charges from the previous rental rate and delivery charge ordinance is for Fully Consumable Sources.

### **Pleasant Valley and Lake Canal Company (PVLC) and the Southside Ditches**

This category sets charges for water delivered for use on City facilities, such as parks and golf courses, or water delivered for use by other entities having met the Utilities' raw water requirement. Non-City organization entities with raw water delivery agreements are typically HOAs and the Poudre School District. It is proposed the delivery charges be set at 110% of each ditch and reservoir company per share annual assessment, rounded up to the nearest dollar to help offset administrative costs.

### **Colorado-Big Thompson Water (CBT)**

If necessary, Utilities can deliver CBT water to Parks or other City departments, typically for irrigation purposes. In those instances, Utilities utilizes its available supplies through its allotment contracts with Northern Water. Staff recommends setting the rate for delivery of this CBT water equal to the Northern Water assessment rate plus any applicable Northern Water transfer fees, rounded up to the nearest dollar.

### **Fully Consumable Sources**

Utilities has a limited number of delivery obligations for fully consumable water where the Utilities' raw water requirement has been met. For these obligations it is proposed to charge a fee of \$200 per ac-ft to help offset operational and administrative costs.

## **CITY FINANCIAL IMPACTS**

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The rental rate methods set forth in this item ensure that rental payments cover the cost of owning such rented supplies (assessments) plus the staff time to coordinate and administer the rentals. Revenue from the rental and delivery of raw water has been \$475,000, on average, over the last three years (Attachment 4).

## **BOARD / COMMISSION / COMMITTEE RECOMMENDATION**

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On February 15, 2024, Water Commission unanimously recommended Council adopt the proposed formulas for calculating rental rates and delivery charges for Utilities' raw water supplies.

## **PUBLIC OUTREACH**

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The City has conducted water rentals for several decades and eligible renters are generally aware of the City's rental practices. Staff has historically provided outreach to specific audiences with announcements made at the NPIC and WSSC company annual meetings.

The public is encouraged to check the status and availability of rental water from Utilities on the Raw Water Rental Program website (<https://fcgov.com/water-rental>). If applicable, the site gives instructions on how

and when to make rental requests from available sources. Staff can be reached at a dedicated email ([waterrental@fcgov.com](mailto:waterrental@fcgov.com)) for water rental inquiries.

## **QUESTIONS RAISED AT FIRST READING**

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### **1. Is Utilities' charging appropriate rates for rental water?**

Rental rates and charges are set to appropriately cover water assessments and costs of staff time to administer the rental. Utilities' surplus supplies in irrigation companies can generally only be rented to users within those respective companies which warrants a lower rental rate. Thus, Fort Collins Utilities rates are similar to other municipal provider's rental rates of supplies in the same company. The fully consumable, or reusable water, rental rate reflects the market value for this type of water in our region, which is significantly higher (per acre-foot) than rental rates for irrigation company supplies. Reusable water is more valuable because it can be used for multiple purposes including augmentation plans.

### **2. What percentage of Utilities' supplies is rented each year?**

The amount of surplus water available to rent each year depends on supply yields from different sources and projected demands. There are many variables which can impact this availability, including snowpack in both the Poudre and Upper Colorado River basins, Poudre River water quality, Colorado Big-Thompson (CBT) Quota, available water in storage, and infrastructure and maintenance considerations. In severe drought conditions when these sources yield much less, Utilities needs all its treatable supplies and there is little water that can be rented.

Utilities' total supplies can yield about 50,000 acre-feet per year on average. Utilities rented about 17,000 acre-feet per year or 34% of this average yield from 2014-2023. Total treated water demands average about 23,400 acre-feet per year for the same period.

North Poudre Irrigation Company (NPIC) shares come with an agricultural (AG) component and a multiple-use (MU) component. The MU component is CBT water and can be treated for municipal use. The AG component of Utilities' NPIC shares are rented every year as these supplies are not yet decreed for municipal use. NPIC rentals accounted for 58% of rented supplies from 2014-2023. Utilities must plan to retain supplies for higher demands through a potentially hot, dry summer. If weather conditions allow there is often a portion of NPIC MU supplies that can be rented in the late summer months if they are not needed for treatment. For Water Supply and Storage Company (WSSC) supplies, Utilities will rent its shares that are not projected to be used each year. Utilities rental of its WSSC shares account for 12% of rented supplies from 2014-2023.

### **3. Are there mechanisms to keep water in the river?**

Currently, there are not meaningful mechanisms available to protect water rights that Fort Collins might leave in the river from being taken by other water rights. Fort Collins is a co-applicant in a water court case known as the "Poudre Flows Plan" which will protect water rights used in the plan that augment the river for the purpose of increasing stream flows from the mouth of the canyon to the confluence with the South Platte River. The water rights Fort Collins proposes to contribute to this plan are shares in local ditch companies that were changed in water court and have a limited rental potential since Fort Collins has grown over the farms the ditches used to supply.

## **ATTACHMENTS**

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First Reading attachments not included.

1. Ordinance for Consideration