

## ORDINANCE NO. 1038

AN ORDINANCE GRANTING A FRANCHISE BY THE TOWN OF BERTHOUD, COUNTIES OF LARIMER AND WELD, COLORADO, TO POUDRE VALLEY RURAL ELECTRIC ASSOCIATION (POUDRE VALLEY REA), ITS SUCCESSORS AND ASSIGNS, THE RIGHT TO FURNISH, SELL AND DISTRIBUTE ELECTRIC POWER TO THE TOWN AND TO ALL PERSONS, BUSINESSES AND INDUSTRIES WITHIN THE TOWN AND THE RIGHT TO ACQUIRE, CONSTRUCT, INSTALL, LOCATE, MAINTAIN, OPERATE AND EXTEND INTO, WITHIN AND THROUGH SAID TOWN ALL FACILITIES REASONABLY NECESSARY TO FURNISH, SELL AND DISTRIBUTE ELECTRIC POWER TO THE TOWN AND TO ALL PERSONS, BUSINESSES AND INDUSTRIES WITHIN THE TOWN AND IN THE TERRITORY ADJACENT THERETO AND THE RIGHT TO MAKE REASONABLE USE OF ALL STREETS AND OTHER PUBLIC PLACES AS MAY BE NECESSARY, AND FIXING THE TERMS AND CONDITIONS THEREOF.

BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF BERTHOUD, LARIMER AND WELD COUNTIES, COLORADO:

### ARTICLE I

#### Grant of Franchise

1.1 Grant of Franchise. The Town of Berthoud hereby grants to Poudre Valley REA, for the period specified and subject to the conditions, terms and provisions contained in this Ordinance, the right to furnish, transport, sell and distribute electric power to the Town and to all persons, businesses and industries within the Town, the right to acquire, construct, install, locate, maintain, operate and extend into, within and through the Town all facilities reasonably necessary to provide electric power to the Town and to all persons, businesses and industries within the Town and in the territory adjacent thereto; and the right to make reasonable use of all streets and other public places as may be necessary to carry out the terms of the Ordinance.

1.2 Terms of Franchise. The term of this franchise shall be for six (6) months, beginning Sept. 24, 2006, and expiring March 23, 2007.

### ARTICLE II

#### Franchise Fee

2.1 Franchise Fee. In consideration for the grant of this franchise, Poudre Valley REA shall collect and remit to the Town a sum equal to three percent (3%) of the revenues derived annually from the sale of electric power within the Town, excluding the amount received from the Town itself for electric service furnished it. Annual franchise fee payments shall be made on or before March 1 for the preceding calendar year ending December 31. Payments at the beginning and end of the franchise shall be prorated.

2.2 Franchise Fee Payment in Lieu of Other Fees. Payment of the franchise fee by Poudre Valley REA is accepted by the Town in lieu of any occupancy tax, license tax, permit charge, inspection fee or similar tax, assessment or excise upon the pipes, mains, meters or other personal property of Poudre Valley REA or on the privilege of doing business or in connection with the physical operation thereof, but does not exempt Poudre Valley REA from any lawful taxation upon its real property or any other tax not related to the franchise or the physical operation thereof.

### ARTICLE III

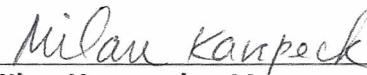
#### Conduct of Business

3.1 Conduct of Business. The terms of the Franchise Agreement between the Town of Berthoud and Poudre Valley REA executed September 24, 1986, and all amendments thereto, are incorporated herein by reference.

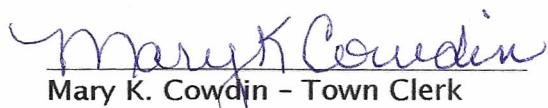
This Ordinance was introduced, read and ordered published the 14th day of November 2006 by the Board of Trustees of the Town of Berthoud.

Passed, adopted and approved this 14th day of November 2006.

TOWN OF BERTHOUD:

  
Milan Karspeck – Mayor

ATTEST:

  
Mary K. Cowdin – Town Clerk

Date of Final Publication: Nov. 22, 2006

ACCEPTED AND AGREED TO:

POUDRE VALLEY RURAL ELECTRIC ASSOCIATION

By: 