

## RESOLUTION NO. 2014 - 05

### A RESOLUTION

**WHEREAS**, on November 7, 2000, the voters of the State of Colorado (State) added provisions to Article XVIII of the State Constitution providing for medical use of marijuana for persons suffering from debilitating medical conditions; and

**WHEREAS**, on November 6, 2012, the voters of the State added provisions to Article XVIII of the State Constitution authorizing, among other things, a system of State and local licensing of businesses engaged in the cultivating, testing, manufacturing and selling of marijuana; and

**WHEREAS**, the State legislature enacted the Colorado Marijuana Code, Article 43.3 of Title 12, C.R.S., and the Colorado Retail Marijuana Code, Article 43.4 of Title 12, C.R.S.; and

**WHEREAS**, the Pueblo County Board of County Commissioners established regulations regarding marijuana licensing, Title 5, Chapter 5.12 of the Pueblo County Code, and has established regulations regarding land use for marijuana enterprises, Title 17, Chapter 17.120 of the Pueblo County Code (collectively referred to as "Pueblo County Marijuana Regulations"); and

**WHEREAS**, pursuant to the Charter for the City of Pueblo, Colorado (City Charter) the entire control, management and operation of the City of Pueblo, Colorado (City) water works is exercised by the Board of Water Works of Pueblo, Colorado (Board); and

**WHEREAS**, in accordance with the City Charter, the Board may supply surplus water to territories outside the City until needed by the inhabitants of the City; and

**WHEREAS**, the Bureau of Reclamation (Reclamation) has issued a Temporary Policy dated May 16, 2014, indicating that Reclamation will not approve use of Reclamation facilities or Reclamation water in the cultivation of marijuana; and

**WHEREAS**, the Board owns water rights pursuant to State law that are not subject to the Reclamation Temporary Policy; and

**WHEREAS**, the Board has received requests from marijuana enterprises licensed or to be licensed pursuant to the Pueblo County Marijuana Regulations to provide raw water (water that has not been treated to make it suitable for any particular use) for well augmentation or other use in connection with marijuana enterprises; and

**WHEREAS**, the Board desires to provide raw water which is not subject to Reclamation's Temporary Policy to Pueblo County marijuana enterprises pursuant to water leases; and

**WHEREAS**, the Board desires to establish guidelines regarding leasing of Board water to be used by marijuana enterprises in Pueblo County located outside the City corporate limits; and

**WHEREAS**, Section 11.01 of the Board's Rules and Regulations (Rules) provides that water service outside the City corporate limits is subject to the City Code of Ordinances, the City Charter, the decisions of courts having jurisdiction, all the Rules and the special provisions contained in Section 11.01; and

**WHEREAS**, the Board desires to amend the special provisions contained in Subsection (D) of Section 11.01 of the Rules in order to address the use of treated water by commercial greenhouses.

**NOW, THEREFORE, BE IT RESOLVED** that:

1. The Board will lease only raw water to marijuana enterprises located in Pueblo County and located outside the City corporate limits. The Board will lease no more than 800 acre feet per year of raw water for use by all of said marijuana enterprises. Any lease of raw water pursuant to these guidelines will include provisions indicating that the Board may modify the amount of raw water provided or terminate the lease in order for the Board to comply with (A) policy directives or guidelines issued by Reclamation or any other federal agency regarding the use of federal water facilities or federal water; or (B) the terms of a federal contract, license or permit. Any lease of raw water will include additional provisions regarding compliance by lessee with applicable law and early termination of the lease in order to comply with applicable law.
2. The Board will not consider entering into a raw water lease if a potential lessee has the option to take water from another water provider, including but not limited to St. Charles Mesa Water District and Pueblo West Metropolitan District, that normally provides water service to enterprises located in the service territory where the marijuana enterprise is located. However, if another water provider is not available or if the water provider that normally provides water service to enterprises located in the service territory where the marijuana enterprise is located does not object, the Board, at its sole discretion, will determine whether it agrees to provide raw water to said potential lessee.
3. All raw water leases for use by marijuana enterprises subject to these guidelines will be considered for approval by the Board at a regular or special meeting of the Board. These guidelines shall not entitle any potential lessee to require the Board to negotiate or approve a water lease.
4. Subsection 11.01 (D) of the Rules is hereby amended to add an additional sentence at the end of the Subsection to provide as follows (underscoring indicating matter being added):

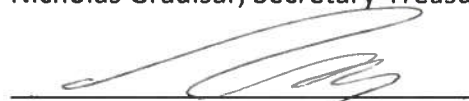
D. Treated water furnished by the Board shall not be used in connection with any property located outside the corporate limits of the City of Pueblo for the purpose of growing crops for market or for sale, regardless of the method under which the water may be furnished. Commercial greenhouse operations shall not be considered as "growing crops for market or for sale" for purposes of this Section.

APPROVED AND ADOPTED THIS 19<sup>TH</sup> DAY OF AUGUST, 2014

BOARD OF WATER WORKS OF PUEBLO, COLORADO

  
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Michael A. Cafasso, President

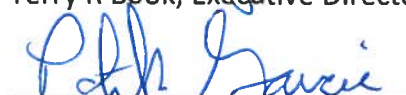
  
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Nicholas Gradisar, Secretary-Treasurer

  
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Thomas V. Autobee, Vice President

  
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James H. Gardner, Vice President

  
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Kevin F. McCarthy, Vice President

  
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Terry R Book, Executive Director

  
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Patrick Garcia, Board Attorney