



360 Main St. • Delta, Colorado 81416 • Phone (970) 874-7566 • Fax (970) 874-8776

A G E N D A

**Delta City Council
Work Session**

**May 1, 2018
5:30 p.m.**

- A. Discussion Regarding Consideration to add Chipeta Water District as a Voting Member to Project 7**
- B. City Council and Planning Commission Orientation by City Attorney**
- C. Discussion Regarding Wellness Pool Repairs**



360 Main St. • Delta, Colorado 81416 • Phone (970) 874-7566 • Fax (970) 874-8776

Date: March 28, 2018
 To: City Council for May 1 Work Session
 From: Betsy Suerth, Public Works and Utilities Director
 Cc: David Torgler, City Manager
 Subject: Consideration of the third Amendment to make Chipeta Water District a “Contracting Party” under the terms of the *Contract Establishing Project 7 Water Authority* dated on or about August 29, 1977.

Background: The Project 7 Water Authority was established via an October 6, 1977 recorded contract by the 4-contracting members, City of Delta, City of Montrose, the Tri-County Water Conservancy District and the Town of Olathe to purchase and treat raw water and to deliver such water to the contracting parties as well as to associate members the Menoken Water Company and the Chipeta Water Company. Annual minimum purchase obligations were as shown in the table below. Contract amendment #1, adopted in September of 1980, modified those obligations as also shown in the table. Contract amendment #2, dated June 24, 1998 increased the voting members to 5 by including the Menoken Water District (then converted from a water company) as a contracting party. The proposed contract amendment #3 would include the Chipeta Water District (no longer a water company) as a contracting party and increase voting members to 6. Annual minimum purchase obligations are also proposed to be modified as shown in the below table.

| Entity | Original Contract (million gallons - MG) | Amendment #1 (MG) | Amendment #2 (MG) | Proposed Amendment #3 (MG) |
|------------|--|----------------------|----------------------|----------------------------------|
| Montrose | 1208.7 | 925 | 925 | 825 |
| Delta | 976.4 | 500 | 500 | 500 |
| Tri-County | 186.9 | 183 | 183 | 183 |
| Olathe | 19.6 | 45 | 45 | 45 |
| Chipeta | 2.2 | 50 | 50 | 50 |
| Menoken | 1.2 | 45 | 45 | 45 |

Cost to City: There are no anticipated cost increases at this time.

Alignment with Strategic Plan: As a contracting party with Project 7, the City is able to provide high quality, safe drinking water to our citizens and is therefore contributing to their quality of life. It is unclear whether the inclusion of the Chipeta Water District as contracting party will have any effect on this goal.

Recommendation: The Project 7 Board Members discussed this matter on March 22 at their annual board meeting. They have agreed to advocate the adoption of the subject contract amendment #3.

THIRD AMENDMENT

TO CONTRACT ESTABLISHING PROJECT 7 WATER AUTHORITY AS A SEPARATE GOVERNMENTAL ENTITY

This *Third Amendment to Contract Establishing Project 7 Water Authority as a Separate Governmental Entity* (Third Amendment) is entered into between the parties signing below and is effective as of the

_____ 2018. The purpose of this Third Amendment is to make Chipeta Water District a “Contracting Party” under the terms of the *Contract Establishing Project 7 Water Authority* dated on or about August 29, 1977. (Contract.) This Contract was first amended on or about April 22, 1981. (First Amendment). And was amended again on or about June 24, 1998. (Second Amendment.) The “Contracting Parties,” as defined in the Contract, are now the City of Delta, the City of Montrose, the Town of Olathe, the Tri-County Water Conservancy District, Menoken Water District and Chipeta Water District.

The following sections of the Contract, First Amendment and Second Amendment are hereby amended, and the below sections shall read in their entirety as follows:

2.2(c) Selling at wholesale to the Contracting Parties or others.

3.1 Number: The number of directors shall be six (6).

3.2 Appointment: The Board of Directors shall consist of six (6) members. The governing body of each of the Contracting Parties shall appoint one principal member and one alternate member to serve on the Board of Directors. Each member of the Board of Directors shall reside within the service boundaries or municipality of the Contracting Party that member represents. Any alternate member of the Board of Directors shall act and vote only in the absence of the principal member appointed by the Contracting Party.

3.3 Term: Except as herein provided, each Director shall serve as a member of the Board at the pleasure of the governing body of the Contracting Party who appointed the Director.

3.6 Associate Members: The Uncompahgre Valley Water User’s Association may appoint an associate member of the Board of Directors. Such associate member shall not have the right to vote, act in behalf of the Authority, hold office, or exercise any of the powers of the Board of Directors, but shall act in an advisory capacity only to the Board of Directors.

10. Sale of Treated Water to Others: Upon the approval of two-thirds (2/3) of the Board of Directors, the Authority may sell wholesale treated water to others outside the boundaries of the Contracting Parties in such amounts, rates and charges as the Board of Directors may determine. Provided however any such sale shall set a maximum amount of water that may be delivered by the Authority and the charges established by the Authority shall be determined so as to include an equitable apportionment of prior capital investment by the Authority.

30. Minimum Purchase Obligation. The Contracting Parties shall be obligated to purchase the following minimum amounts of water each year at the rates set by the Authority in accordance with this agreement. The minimum purchase obligations are subject to the following conditions: amounts from time to time may be adjusted due to transfer of service area or customers between the Contracting Parties and the other users. The obligation for minimum purchases shall terminate when all debt, other than operating expenses of the Authority, has been paid.

| <u>Water User</u> | <u>Minimum (Millions of gallons)</u> |
|------------------------|--------------------------------------|
| Montrose | 825.0 |
| Delta | 500.0 |
| Tri-County | 183.0 |
| Olathe | 45.0 |
| Chipeta Water District | 50.0 |
| Menoken Water District | 45.0 |

The minimum purchase obligations are subject to the following conditions:

30(a). If the total amount of water delivered in a year exceeds the aggregate of the annual minimum purchase obligations, 1,648 million gallons, any Contracting Party or Company not using its minimum amount shall be excused from its minimum obligation for that year and shall be obligated only for the actual amount of water delivered to it.

30(b). If the total amount of water delivered in a year is less than the aggregate of the annual minimum obligations, 1,648 million gallons, those Contracting Parties and Companies not using their minimum amount shall be obligated to pay their proportionate share of the difference between the total water delivered and the aggregate of the minimum purchase obligations. Such proportionate share shall be based on the minimum purchase obligations of those not using their minimum amounts.

30(c). The amounts of the minimum purchase obligations may be adjusted annually by the Board of Directors to reasonably reflect the actual use of the Contracting parties and Companies, provided, however, that any adjustment must be made with the unanimous approval of all of the members of the Board of Directors and with the approval of any Company whose minimum purchase obligation is adjusted, and further provided, that the aggregate of the total annual minimum purchase obligation shall not be less than 1,648 million gallons.

31. Maximum Limit of Water Delivery. At any time that the total demand of the Contracting Parties for treated water exceeds the capacity of the plant, each shall be entitled to a pro-rata share of the volume purchased during the same month of the prior calendar year. Other users shall be limited by the limits provided in their supply contracts.

34. Notices: Any formal notice, demand or request provided for in this contract shall be in writing and shall be deemed properly served, given, or made if delivered in person or sent by registered or certified mail, postage prepaid, to the Contracting Parties as follows, unless another address is certified to the Authority:

City of Montrose, Colorado
c/o City Manager
PO Box 790
Montrose, CO 81402

City of Delta, Colorado
c/o City Manager
PO Box 19
Delta, CO 81416

Town of Olathe
c/o Town Clerk
PO Box 789
Olathe, CO 81425

Tri-County Water Conservancy District
c/o Manager
647 N 7th
Montrose, CO 81401

Menoken Water District
c/o Manager
4683 6225 Road
Montrose, CO 81401

Chipeta Water District
c/o Manager
14738 6175 Road
Montrose, CO 81403

The First Amendment and Second Amendment are not repealed by this Third Amendment. However, if a conflict in interpretation shall arise between the Contract and various Amendments, the Third Amendment shall control.

A copy of this Third Amendment shall be filed with the Division of Local Affairs of the State of Colorado as soon as practicable following the execution by the Contracting parties.

Project 7 Water Authority:

Date:

Its:

City of Delta:

Attest:

Date:

City of Montrose:

Attest:

Date:

Town of Olathe:

Attest:

Date:

Tri-County Water Conservancy District:

Attest:

Date:

Menoken Water District:

Date:

Attest:

Chipeta Water District:

Date:

Attest: