



## AGENDA

Delta City Council  
Regular Meeting

November 21, 2023  
7:00 p.m.

- A. Pledge of Allegiance
- B. Changes to the Agenda
- C. Citizen Comments
- D. Consent Agenda
  - a. Minutes of the November 7, 2023 Regular Meeting
  - b. Street Closure Permit; Delta Area Chamber of Commerce (Parade of Lights)
- E. Delta County Historical Society Request to Add a Covered Exhibit Area at the Museum
- F. Appeal of Planning Commission's Decision – Soper-Wang Fence Height Variance
- G. Ordinance #12, 2023; Second and Final Reading  
Consideration of WPCRF City of Delta Construction Loan Agreement
- H. Ordinance #13, 2023; First Reading  
Charter Commission
- I. Digester Project Supplemental Grant Application Approval
- J. City Attorney Comments
- K. City Manager Comments
- L. Councilmember Comments
- M. Executive Session  
To discuss the purchase, acquisition, lease, transfer, or sale of real, personal, or other property interest under CRS Section 24-6-402(4)(a); or more specifically for discussions regarding property located on the corner of 5<sup>th</sup> Street and Confluence Drive (parcel #3457240207003)

Please preregister for the meeting:  
Join Zoom Meeting  
<https://us06web.zoom.us/j/85141150716>

One tap mobile  
+17193594580, 85141150716#



Item A:

**Pledge of Allegiance**



Item B:

**Changes to the Agenda**

Item C:

Citizen Comments



Mayor Kevin Carlson called the meeting to order at 7:00 p.m. Also present were Councilmembers Cathy Boyd, William Tedrow and Mark Broome, along with City Manager Elyse Casselberry. Absent was Councilmember Ryan Crick. A meeting notice was posted on the City's website and in the south window at City Hall at least twenty-four hours prior to the meeting.

**Pledge of Allegiance**

The Mayor led everyone present in the Pledge of Allegiance.

**Changes to the Agenda**

Councilmember Broome requested a moment of silence for the fallen in Israel.

**Citizen Comments**

There were none.

**Approval of the October 17, 2023 Regular Meeting Minutes**

It was moved by Councilmember Boyd and seconded by Councilmember Tedrow to approve the October 17, 2023 regular meeting minutes. All in favor, motion carried.

**Public Hearing: 2024 Budget**

The Mayor recessed the regular meeting and convened a public hearing.

The Mayor called for public comment and when there were none he closed the public hearing and reconvened the regular meeting.

Councilmember Tedrow questioned if the tennis courts lighting was included.

There needs to be additional research on the cost of the lighting and then staff will bring back the item for Council's consideration.

Councilmember Tedrow questioned the increase in murals and art line item.

City Manager Elyse Casselberry reported that \$15,000 is for mural repair that needs to happen on Davis Clothing building, and \$30,000 is for the façade and Main Street Alley activation program.

**Resolution #13, 2023; Setting the Mill Levy****Resolution #13, 2023**

A RESOLUTION LEVYING GENERAL PROPERTY TAXES FOR THE YEAR OF 2023 TO HELP DEFRAY THE COSTS OF GOVERNMENT OF THE CITY OF DELTA, COLORADO, FOR THE 2024 BUDGET YEAR

**Regular Meeting, Delta City Council, November 7, 2023 (Cont.)**

**Resolution #13, 2023; Setting the Mill Levy (cont.)**

was read by the Clerk.

It was moved by Councilmember Tedrow and seconded by Councilmember Boyd to adopt Resolution #13, 2023. Roll call vote: Councilmembers Broome, aye: Boyd, aye; Tedrow, aye and Carlson, aye. Motion carried.

**Resolution #14, 2023; Adopting the 2024 Budget**

Resolution #14, 2023

A RESOLUTION ADOPTING A BUDGET FOR THE CITY OF DELTA, COLORADO, FOR THE CALENDAR YEAR BEGINNING THE FIRST DAY OF JANUARY, 2024, AND ENDING ON THE THIRTY-FIRST DAY OF DECEMBER, 2024

was read by the Clerk.

It was moved by Councilmember Boyd and seconded by Councilmember Broome to adopt Resolution #14, 2023. Roll call vote: Councilmembers Broome, aye: Boyd, aye; Tedrow, aye and Carlson, aye. Motion carried.

**Ordinance #11, 2023; First Reading  
2024 Appropriations**

Ordinance #11, 2023

AN ORDINANCE APPROPRIATING SUMS OF MONEY TO THE VARIOUS FUNDS AND SPENDING AGENCIES IN THE AMOUNTS AND FOR THE PURPOSES SET FORTH BELOW FOR THE CITY OF DELTA, COLORADO, FOR THE 2024 BUDGET YEAR

was read by the Clerk.

It was moved by Councilmember Broome and seconded by Councilmember Boyd to adopt Ordinance #11, 2023 on first reading. Roll call vote: Councilmembers Broome, aye: Boyd, aye; Tedrow, aye and Carlson, aye. Motion carried.

**Consideration of Proposals for the Design-Build Services for the Shelter Project**

Assistant to the City Manager Meganne Robinson stated staff issued a request for proposals for the design-build for the new shelter. She summarized the bids and the process for the qualitative analysis. Staff is recommending awarding the contract to Stryker & Company.

City Manager Elyse Casselberry explained that this is similar to how Council proceeded on the Community Safety Center. We will start with the design-build portion and then request proposals for the construction at which time Council will then consider the construction contract.

## **Regular Meeting, Delta City Council, November 7, 2023 (Cont.)**

### **Consideration of Proposals for the Design-Build Services for the Shelter Project (cont.)**

Mayor Carlson questioned what exactly goes into the evaluation process.

Manager Casselberry stated that as the City is getting more responses, staff has created an evaluation process. We look at the following:

- Understanding of the project
- Proposed work plan and approach
- Project schedule
- Experience and qualifications
- Reference follow-up

It was moved by Councilmember Boyd and seconded by Councilmember Tedrow to award the design-build RFP to Stryker & Company in the amount of \$127,349.57. Voting in favor: Councilmembers Boyd, Tedrow and Carlson. Voting against: Councilmember Broome.

### **Consideration to apply for the Gray & Black-Market Enforcement Grant Program**

Chief of Police Luke Fedler reported that he is seeking approval to submit the annual grant application for the Gray & Black-Market Enforcement Grant Program. He is proposing to use the funds if awarded for equipment and possibly for the new police department interview rooms. He anticipates being awarded approximately \$7500.

It was moved by Councilmember Broome and seconded by Councilmember Tedrow to approve the submission of the Gray & Black-Market Enforcement Grant. All in favor, motion carried.

### **Consideration of Approval of the Wastewater Treatment Plant Land Lease with Eddie and Cherri Lilly**

Wastewater Treatment Plant Manager Andy Mitchell stated that the City entered into a lease with Cindy McCollum in 2022 and there was a disagreement on several items once the lease was underway. It was mutually agreed to terminate the lease. After consulting with the City Attorney, the City could offer the lease to the second bidder which staff did. The Lilly's have agreed to the terms of the lease at the rate they bid in 2022. We will prorate the lease for 2023. We have had the Lilly's lease the property in the past and have had no issues.

City Clerk Jolene Nelson stated that there is only one change to the lease and that is to allow the Lilly's to sublease with the property. That sublease tenant must be approved by the City.

It was moved by Councilmember Boyd and seconded Broome to approve the lease of the WWTP land to Eddie and Cherri Lilly as presented. All in favor, motion carried.

### **Ordinance #12, 2023; First Reading**

#### **Consideration of WPCRF City of Delta Construction Loan Agreement**

Wastewater Treatment Plant Manager Andy Mitchell reported that this is similar to what Council approved for the design and engineering for the digester project. This is for the construction loan.

**Regular Meeting, Delta City Council, November 7, 2023 (Cont.)**

**Ordinance #12, 2023 (cont.)**

He summarized the loan terms.

ORDINANCE NO. 12, 2023

AN ORDINANCE OF THE CITY OF DELTA, COLORADO, ACTING BY AND THROUGH ITS WATER ACTIVITY ENTERPRISE, AUTHORIZING A LOAN AGREEMENT WITH THE COLORADO WATER RESOURCES AND POWER DEVELOPMENT AUTHORITY

was read by the Clerk.

It was moved by Councilmember Broome and seconded by Councilmember Boyd to adopt Ordinance #12, 2023 on first reading. Roll call vote: Councilmembers Broome, aye; Boyd, aye; Tedrow, aye and Carlson, aye. Motion carried.

**Consideration of Bids and Award of Contract for the Hillside Reconstruction Project**

City Manager Elyse Casselberry stated that staff has received proposals for the construction of Hillside Street. The project is partially being funded from a grant from the Colorado Department of Transportation (CDOT) which they will have to sign off on the decision this evening. She summarized the bid process. She also summarized the bids received explaining the bid alternate. Staff is recommending the second lowest bid after qualitative analysis of the bids. During the analysis references in particular determined staff's recommendation to award the bid to Wells Excavating and Farming, LLC. Although their bid is slightly higher, staff believes they will be a better fit for the project. Should CDOT disagree, the contract will be brought back to Council for further approval.

Staff answered questions regarding grading and asphalt.

Councilmember Boyd questioned what the difference is in qualifications between the two contractors.

Manager Casselberry stated that each contractor submitted similar projects and references. Staff contacted those references and based on those responses staff is recommending Wells Excavating.

Drew Abbot with K&K Construction is surprised by the recommendation. He provided some history of his company. He is having a hard time believing they are not appropriated to complete the job.

Manager Casselberry stated that it is ultimately Council's decision and CDOT will have to agree with the award. She provided CDOT's definition of the lowest responsible bidder which determined staff's recommendation.

Mayor Carlson questioned the difference between the two bids.



**Regular Meeting, Delta City Council, November 7, 2023 (Cont.)**

**Consideration of Bids and Award of Contract for the Hillside Reconstruction Project (cont.)**

Manager Casselberry stated is it approximately \$75,000.

There was discussion regarding the bid differences in specific line items as well as discussion regarding asphalt.

Mayor Carlson commented that staff did the evaluation process of the bids and he is willing to support their decision.

Mr. Abbott stated that if Council is concerned about timing of the completion of this project, they are wasting time by not approving the lowest bid.

It was moved by Councilmember Broome and seconded by Councilmember Tedrow to award the Hillside Reconstruction Project to Well's Excavating and Farming, LLC in the amount of \$2,469,757.86 contingent on CDOT's approval. All in favor, motion carried.

**Consideration of Agreement for Donation of Unit #4 Generator from Power Plant**

Electric Department Manager Adam Suppes reported that this agreement is for the donation of Unit #4 Generator from the power plant. This was previously discussed and Council agreed to move forward with an agreement to bring back for approval. This is the agreement with a release of liability drafted by the City Attorney.

It was moved by Councilmember Boyd and seconded by Councilmember Tedrow to approve the agreement for donation of Unit #4 Generator and authorize the Mayor to sign the agreement. All in favor, motion carried.

**Resolution #15, 2023; Authorized Signatory for the Transformational Homeless Res[pose Grant Agreement**

RESOLUTION NO. 15, 2023

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DELTA, CONFIRMING THE DESIGNATION OF AUTHORIZED OFFICERS FOR THE TRANSFORMATIONAL HOMELESS RESPONSE GRANT AGREEMENT

was read by the Clerk.

City Manager Elyse Casselberry stated that this resolution is to grant signatory authority which is required before the grant agreement can be completed.

It was moved by Councilmember Boyd and seconded by Councilmember Tedrow to adopt Resolution #15, 2023. Roll call vote: Councilmembers Broome, aye; Boyd, aye; Tedrow, aye and Carlson, aye. Motion carried.

**Regular Meeting, Delta City Council, November 7, 2023 (Cont.)**  
**Resolution #16, 2023; Authorized Signatory for the Transformational Affordable Housing Grant Agreement**

RESOLUTION NO. 16, 2023

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DELTA, CONFIRMING THE DESIGNATION OF AUTHORIZED OFFICERS FOR THE TRANSFORMATIONAL AFFORDABLE HOUSING GRANT AGREEMENT

was read by the Clerk.

It was moved by Councilmember Boyd and seconded by Councilmember Tedrow to adopt Resolution #16, 2023. Roll call vote: Councilmembers Broome, aye; Boyd, aye; Tedrow, aye and Carlson, aye. Motion carried.

**Consideration of Purchase and Sale Agreement with Mainspring Foundation for 1133 Main Street, Delta, CO**

City Manager Elyse Casselberry stated that this consideration is for the sale of the Municipal Light and Power building. Staff has been working with the City Attorney in drafting the proposed purchase and sale agreement with Mainspring. She summarized the sale and also stated that the City will lease back the portion of the building that houses the Carrier Neutral Location for broadband. The lease is for a fifty-year period; however, since Council cannot make future fiscal obligations the amount will be paid in full at the time of the signing of the lease. We hope to close by December 31, 2024 as we continue to remove the engines. The sale price is \$425,000 and the lease back amount if \$186,000.

Mayor Carlson questioned if there are any hazardous materials that need to be removed.

Electric Department Manager Adam Suppes reported that an analysis was completed about two years ago and there are some recommendations that need to be completed such as air sampling.

Councilmember Broome questioned if the City has the option to get out of the lease in the future.

Manager Casselberry stated that there is a provision to terminate the lease; however, there is no refund on the amount paid. She explained that moving the CNL would be extremely costly and likely not possible.

There was discussion regarding Mainspring's plan for the building. Those plans have not changed since the proposal to purchase. Their focus is farm to table and beverage making as well as housing a business incubation. Mainspring's plans will compliment the plans at the library for the makerspace as well as business support for the food and beverage industry.

It was moved by Councilmember Boyd and seconded by Councilmember Tedrow to approve the Purchase and Sale Agreement with Mainspring Foundation for 1133 Main Street granting authority to the City Manager to sign the agreement after final City Attorney review and approval. All in favor, motion carried.

## **Regular Meeting, Delta City Council, November 7, 2023 (Cont.)**

### **City Attorney Comments**

There were none.

### **Monthly Manager Report/City Manager Comments**

The monthly managers' report was provided to Council in their packets.

City Manager Elyse Casselberry reported that she will be on vacation starting November 17, 2023. As per the City Charter, she has provided notification that Joe Gillman will be Acting City Manager during her absence.

### **Councilmember Comments**

Councilmember Broome commented on Veteran's Day thanking all those that have served. He also commented on the conflict in the Middle East and encourage sending support packages.

Councilmember Boyd thanked the staff and encouraged everyone to support their local businesses.

Mayor Carlson also thanked staff. As we head into the holiday season some individuals experience difficulties during these times and he encouraged everyone to take that extra step to help those around us.

### **Executive Session**

It was moved by Councilmember Boyd and seconded by Councilmember Broome to convene an Executive Session for a conference with the City Attorney for the purposes of receiving legal advice on specific legal questions under CRS Section 24-6-402(4)(b); or more specifically discussions regarding Pittman Horses. All in favor, motion carried.

At 8:32 p.m., the Regular Meeting was recessed. The Executive Session was convened a short time later.

At 9:07 p.m., the Mayor reconvened the Regular Meeting and announced that the Executive Session had been concluded. He stated that in addition to himself, the participants in the Executive Session were Councilmembers Cathy Boyd, William Tedrow, and Mark Broome, and City Manager Elyse Casselberry, Commander Jarrod Lang, Chief of Police Luke Fedler and City Attorney Christine Gazda. For the record, the Mayor asked any person participating in the Executive Session who believed that any substantial discussion of any matters not included in the motion to go into Executive Session occurred during the Executive Session in violation of the Open Meetings Law, to state his or her concerns for the record. No concerns were stated.

The meeting was immediately adjourned.

---

Jolene E. Nelson, CMC, City Clerk

# City of Delta Special Permit for Temporary Closure

Date of Application: 10/13/23

PLEASE PRINT OR TYPE

## Event Information:

Date & Specific Time of Event: Friday December 1 6pm

Location of Event: Main St. 9th to 1st

Name & Description of Event: Parade of Lights

## Applicant

Name of Organization, Group or Individual: Delta Area Chamber of Commerce

Authorized Contact Person: Mariah Emmons

Mailing address: 301 Main St, Delta

Email address: chamber@delta.colorado.org

Phone #: 9709010707

Special equipment needs (power, water, etc): \_\_\_\_\_

The following items have been received by the City of Delta:

- Application Fee of \$ 25
- Deposit of \$ 500 to be refunded no more than five (5) business days after the event if the property is made clean and litter free by applicant within 24 hours of the event.
- Proof of Special Event Insurance (\$1 million event liability policy). on file

## Conditions for use

1. Sales of food, beverage and merchandise are not allowed without prior approval of the City.
2. A permit must be issued by the City of Delta for alcohol to be sold and consumed on designated City property as required by liquor law.

**Any authorized City of Delta representative may terminate the event at any time for any good cause and applicant must then immediately vacate. No refund will be given in such event.**

**Closure Regulations:**

- No closure may occur in conjunction with a Special Events Liquor Permit unless permission is granted by the City Council.
- No closure may be closed more than 10 hours
- Application must be submitted at least 30 days in advance of the event.
- Event must be concluded by 11:00pm.
- Closure area must be cleaned after event by the applicant.

**Barricades, cones and signs needed:**

*All of these*

Barricades: \_\_\_\_\_ Signs: \_\_\_\_\_ Cones: \_\_\_\_\_

Time and Date for Delivery: \_\_\_\_\_

Time and Date for Pickup: \_\_\_\_\_

**Parade Regulations:**

- Application must be submitted at least 60 days in advance of event.
- Each parade must organize the stage on 9<sup>th</sup> Street from Grand Avenue to Main Street with additional staging area on Main Street from 9<sup>th</sup> to 11<sup>th</sup> Street on the east side. The parade must then travel North on Main Street to 2<sup>nd</sup> Street, turning off of Main Street east onto 2<sup>nd</sup> Street.
- Throwing candy and other items from moving vehicles is prohibited.

**I understand that the City of Delta has no liability and provides no insurance for the protection of the applicant or event spectators. The applicant agrees to save and hold harmless the City and its employees from any and all claims and demands arising out of the use of the permitted areas and will defend any cause of action brought to enforce any such claims and demands against the City and/or its Employees.**

*Marabelle*  
\_\_\_\_\_  
Signature of Applicant or Representative

*10/13/23*  
\_\_\_\_\_  
Date

*Thank you!* \*\*\*\*\*

The foregoing application for a special permit is hereby granted, subject to all terms, conditions and regulations previously stated and subject to all other applicable Delta Municipal Code Regulations.

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Date

DELTA COUNTY HISTORICAL SOCIETY  
251 Meeker Street  
Delta, Colorado 81416

October 28, 2023

Elyse Ackerman-Casselberry  
City Manager, City of Delta  
360 Main Street  
Delta, CO 81416

Dear Elyse,

The Trustees of the Delta County Historical Society are aware that our museum building, located at 251 Meeker Street, is the property of the City of Delta and note, for the record, that this building has housed our museum since about 1989. Lately, a huge concern of our Board of Trustees has been the removal of the engines from the historic ML&P building at the south end of Main Street, which is still in progress. Further, it is our understanding that the City of Delta has no plan in place to relocate any of these engines, to be placed on exhibit at another facility in Delta. Thus, the purpose of this letter.

The Delta County Historical Society Board of Trustees would like to make the City of Delta aware that the society would like permission to add a covered exhibit area to the existing museum building envelope for two of the engines being removed from the ML&P facility. Specifically, we would like the city to donate the three cylinder and the four cylinder units to the museum, and we, in turn, would design, build, and fund an addition to the current museum building to protect and exhibit the two engines as historical evidence of part of what powered the city electrically after 1937.

In order to accomplish this, the DCHS would need to accomplish a number of tasks, first of which would be the selection of an architect to draw sufficient plans from which we would, in partnership with the city, determine the feasibility of such a project, considering spatial needs as well as current ordinances. The DCHS would fund the architect part of the project.

At this point, further meetings with designated city persons would be required to review architectural plans and other matters prior to proceeding. It is the intent of the DCHS to solicit necessary funding for the building addition. Any participation by the city (or county) in this area would be determined in the future.

In order to proceed at all, the DCHS would require a letter of permission (to add to a building we do not own), and support for the project. It would also be in our mutual interest for the city to assign a liaison or contact to work with us so that both parties may be kept informed and up-to-date.

Sincerely,



Jim Wetzal, President  
DCHS Board of Trustees



To: City of Delta City Council  
 From: Joe Gillman, Community Development Manager; Mike Markus, City Planner; and Raini Ott, Contract City Planner  
 Date: November 21, 2023  
 Subject: Appeal of Planning Commission’s Decision – Soper-Wang Fence Height Variance

---

At a duly noticed public hearing on November 6, 2023, the City of Delta Planning Commission reviewed a Variance request to the maximum fence height in the A-1 Agricultural Zoning District for the property addressed as 10 Hartig Drive submitted by property owners Matthew C. Soper and I-Chu (Sarah) Wang (“Applicant”). The request was approved, subject to certain conditions, and the Applicant subsequently filed an appeal of the Planning Commission’s decision with the City Clerk on November 11, 2023, pursuant to Section 17.04.290(H)(4), which states:

*“An appeal of any decision of the Planning Commission may be filed with the City Clerk within 5 days of the date of its decision by the City Manager, the applicant or any interested person appearing at the hearing. The Council shall thereafter decide the matter de novo by holding a new hearing substantially in conformity with the procedures of this section, or by review of the tape-recording or transcript and record of the hearing before the Planning Commission, as Council determines in its discretion.”*

In this case, staff recommends City Council decide the matter *de novo* by holding a new public hearing in accordance with the procedures outlined in Section 17.04.290.





Lindsay Reed &lt;lindsay@cityofdelta.net&gt;

---

**Fwd: Request for Appeal: Soper/Wang Variance**

---

Jolene Nelson &lt;jolene@cityofdelta.net&gt;

Wed, Nov 15, 2023 at 3:54 PM

To: Joe Gillman &lt;joe@cityofdelta.net&gt;, Lindsay Reed &lt;lindsay@cityofdelta.net&gt;

Jolene E. Nelson, CMC  
City Clerk/Court Administrator  
City of Delta  
360 Main Street  
Delta, CO 81416  
(970) 874-7902

Confidentiality Notice: This e-mail message, including any attachments, is for the sole use of the intended recipient(s) and may contain confidential and privileged information. Any unauthorized review, use, disclosure, or distribution is prohibited. If you are not the intended recipient or his or her authorized agent, please inform the sender by reply e-mail and destroy all copies of the original message.

----- Forwarded message -----

From: **Rep. Matt Soper** <matthew.soper.house@coleg.gov>  
Date: Sat, Nov 11, 2023 at 10:31 PM  
Subject: Request for Appeal: Soper/Wang Variance  
To: Elyse Ackerman-Casselberry <elyse@cityofdelta.net>, <jolene@cityofdelta.net>  
Cc: Wang I-Chu <ichu.wang@gmail.com>

Dear Clerk Nelson and City Manager Casselberry:

This email is to request an appeal of the decision of the Delta Planning Commission in the matter of the Soper/Wang Variance heard on Nov. 6, 2023.

Best regards,  
Matt Soper  
10 Hartig Dr.  
Delta, CO 81416



**CITY OF DELTA, COLORADO  
ORDINANCE NO. 12, 2023  
AMENDED**

AN ORDINANCE OF THE CITY OF DELTA, COLORADO,  
ACTING BY AND THROUGH ITS WATER ACTIVITY ENTERPRISE,  
AUTHORIZING A LOAN AGREEMENT WITH THE  
COLORADO WATER RESOURCES AND POWER DEVELOPMENT AUTHORITY

WHEREAS, the City of Delta (“City”) is a home rule municipality duly organized and existing under Article XX of the Colorado Constitution and the Delta Home Rule Charter (“Charter”); and

WHEREAS, by Ordinance No. 21, 1995, the City established the City of Delta Water Activity Enterprise (the “Enterprise”) pursuant to the provisions of C.R.S. § 37-45.1-101, *et seq.*, with the power to issue bonds and other obligations to support water activities including but not limited to water delivery and wastewater treatment services; and

WHEREAS, the Enterprise is an “enterprise” as defined in Article X, Section 20(2) of the Colorado Constitution authorized to issue its own revenue bonds; and

WHEREAS, the City, acting by and through the Enterprise, has the power and authority to issue bonds to fund water and sewer improvements pursuant to the Charter and C.R.S. § 31-35-401, *et seq.*; and

WHEREAS, the Enterprise desires to construct improvements to the Delta wastewater treatment plant including improvements to the aerobic digestion process, constructing a new adjacent building, installing new dry pit chopper motive pumps, jet aeration blowers and manifolds, and an HVAC system (the “Project”); and

WHEREAS, the Project is a “water activity” as defined in in C.R.S. § 37-45.1-102; and

WHEREAS, in order to fund the Project, the City, acting by and through the Enterprise, has applied for a loan from the Colorado Water Resources and Power Development Authority (the “Authority”) for a principal amount of up to \$5,439,740.00, of which up to \$1,500,000 of the principal amount will be forgiven by the Authority subject to the terms and conditions of the loan agreement; and

WHEREAS, the City Council desires to approve the loan agreement with the Authority on behalf of the Enterprise.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DELTA, COLORADO:

1. Recitals. The foregoing recitals are incorporated herein as findings and determinations of the City Council.
2. Approval of Loan Agreement. The City Council, acting by and through the Enterprise, hereby approves the Loan Agreement between the Authority and the Enterprise for up to

\$5,439,740.00 to fund the Project. A copy of the Loan Agreement including exhibits and related documents is available for inspection at the office of the City Clerk.

3. Various Findings, Determinations, Declarations and Covenants. The City Council, having been fully informed of and having considered all the pertinent facts and circumstances, hereby affirms the representations set forth in Sections 2.01 and 2.02 of the Loan Agreement (capitalized terms used in this Section but not otherwise defined in this Ordinance shall have the meanings set forth in the Loan Agreement) and further finds, determines, declares and covenants with the Authority that:

(a) **Loan Terms.** It is in the best interests of the City and its residents that the Governmental Agency Bond in the maximum principal amount to be repaid of \$3,939,740 (after application of up-front principal forgiveness) be authorized to evidence the loan for a term of 20 years at an interest rate of 1.00% (excluding penalty interest as provided for late charges, if any), to be issued and delivered at the time, in the manner and for the purposes provided in this Ordinance and the Loan Agreement.

(b) **Pledge of Net Revenue.** Net Revenue as defined in EXHIBIT A of the Loan Agreement is hereby pledged to the payment of the Governmental Agency Bond and the amounts due under the Loan Agreement. The Governmental Agency Bond shall constitute a first lien upon the Net Revenue, but not necessarily an exclusive first lien. Pursuant to and in accordance with Section 11-57-208, C.R.S., Net Revenue, as received by or otherwise credited to the Town, shall immediately be subject to the lien of the pledge stated above without any physical delivery, filing, or further act.

(c) **Additional Obligations.** No future bonds, notes, interim securities or other obligations payable from Net Revenue shall be issued having a lien thereon which is superior to the lien of the Governmental Agency Bond or, without first meeting the requirements set forth in EXHIBIT F of the Loan Agreement, shall be issued on a parity with or subordinate to the lien of the Governmental Agency Bond.

(d) **Maintenance of Rates and Coverage.** The City will establish, maintain, enforce and collect rates, fees and charges for services furnished by or the use of the System as required in provision set forth in EXHIBIT F of the Loan Agreement under the caption titled "Rate Covenant". In the event that the Gross Revenue at any time is not sufficient to make the payments required by said provision, the City covenants to promptly increase such rates, fees and charges to an extent which will ensure compliance with said covenant.

(e) **Enterprise Status.** The City has established, and covenants to continue to maintain, the System as an "enterprise" within the meaning of Article X, Section 20 of the Colorado Constitution; provided, however, after the calendar year in which the Governmental Agency Bond is issued the City may disqualify either the System as an "enterprise" in any year in which said disqualification does not materially, adversely affect the enforceability of the

covenants made pursuant to this Ordinance and the Loan Agreement. In the event that the System is disqualified as an enterprise and the enforceability of the covenants made pursuant to this Ordinance and the Loan Agreement are materially, adversely affected, the City covenants to immediately take all actions necessary to (i) qualify the System as an enterprise within the meaning of Article X, Section 20 of the Colorado Constitution and (ii) permit the enforcement of such covenants.

(f) Supplemental Public Securities Act. The City Council elects to apply all of the provisions of Part 2 of Article 57 of Title 11, C.R.S. to the execution of the Loan Agreement and to the issuance and delivery of the Governmental Agency Bond the form of which is set forth in EXHIBIT D to the Loan Agreement.

4. Authorization to Execute Documents. The City shall enter into the Loan Agreement and deliver the Governmental Agency Bond in substantially the form available in the office of the City Clerk with only such changes as are not inconsistent herewith; provided that such documents may be completed, corrected, or revised as approved by the City Attorney in order to carry out the purposes of this Ordinance. The Loan Agreement and the Governmental Agency Bond shall be executed by the Mayor, or in the Mayor's absence the Mayor Pro Tem, and attested by the City Clerk. Additionally, Elyse Ackerman Casselberry, City Manager, and Tod Dezeeuw, Finance Department, are authorized to execute related documents, including but not limited to requisitions, and to take such further actions as may be reasonably necessary to close the transaction contemplated by the Loan Agreement. Elyse Ackerman Casselberry, City Manager, and Tod Dezeeuw, Finance Department, shall be authorized officers and representatives as identified in EXHIBIT B to the Loan Agreement.

5. Effective Date. This Ordinance shall become effective thirty (30) days after final passage and publication pursuant to Section 19(c) of the Charter.

INTRODUCED on \_\_\_\_\_, 2023, at which time copies were available to the Council and to those persons in attendance at the meeting, read by title, passed on first reading, and ordered published as required by the Charter.

CITY OF DELTA, COLORADO

By: \_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

INTRODUCED a second time as amended at a meeting of the City Council on \_\_\_\_\_, 2023,  
read by title and number, passed, approved, and ordered published as required by the Charter.

CITY OF DELTA, COLORADO

By: \_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

**CITY OF DELTA, COLORADO  
ORDINANCE NO. 13, 2023**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DELTA  
REGARDING THE FORMATION OF A CHARTER COMMISSION BY ELECTION

WHEREAS, the City of Delta (“City”) is a home rule municipality duly organized and existing under Article XX of the Colorado Constitution and the Delta Home Rule Charter (“Charter”), as amended, and pursuant to Section 3, Article I of the Charter, the City has all the power of local self-government and home rule and all power possible for a municipality to have under the Constitution and laws of the State of Colorado; and

WHEREAS, the Charter was adopted by special election held on May 23, 1950; and

WHEREAS, since 1950 the Charter has been amended in minor respects from time to time; and

WHEREAS, the City Council finds that various provisions of the Charter have become obsolete or outdated and that the City would benefit from review of the Charter by an independent commission to propose such amendments and updates as the commission deems appropriate for consideration by the voters of the City; and

WHEREAS, the Charter provides, at Section 150, that it may be amended at any time in the manner provided by Article XX of the Constitution of the State of Colorado; and

WHEREAS, the Municipal Home Rule Act of 1971, C.R.S. § 31-2-201, *et seq.*, provides authority and procedures for the establishment of a charter commission to propose amendments to a home rule charter for consideration by the electors of the City; and

WHEREAS, the City Council desires to schedule an election to submit a decision to the eligible electors of the City to determine (1) if a charter commission should be formed, and (2) if so, which candidates should be elected to the commission.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DELTA, COLORADO:

1. Recitals. The foregoing recitals are incorporated herein as findings and determinations of the City Council.
2. Election on Formation of Charter Commission. The City Council hereby directs the City Clerk to take all necessary steps to set an election on the following matters:
  - A. Should the City of Delta form a charter commission?
  - B. If the commission is formed, to elect nine (9) members of the commission.

3. Petitions, Public Notice and Information. The City Clerk is directed to prepare and make available nomination petitions for membership in the charter commission and to take appropriate steps to make information available to the general public regarding the election process, the purpose of the charter commission, and to solicit nominations for membership on the commission. The City Clerk shall publish notices of the election pursuant to C.R.S. §§ 31-2-204 and 210 and take all other steps necessary to carry out the purpose and intent of this Ordinance.

4. Effective Date. This Ordinance shall become effective thirty (30) days after final passage and publication pursuant to Section 19(c) of the Charter.

INTRODUCED on \_\_\_\_\_, 2023, at which time copies were available to the Council and to those persons in attendance at the meeting, read by title, passed on first reading, and ordered published as required by the Charter.

CITY OF DELTA, COLORADO

By: \_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

INTRODUCED a second time at a meeting of the City Council on \_\_\_\_\_, 2023, read by title and number, passed, approved, and ordered published as required by the Charter.

CITY OF DELTA, COLORADO

By: \_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk



**To:** Delta City Council  
**From:** Andy Mitchell, Meganne Robinson  
**CC:** Elyse Ackerman-Casselberry,  
**Date:** 11/16/2023  
**Re:** WWTP – Digester Project Supplemental Grant Application

---

Request: Staff is requesting approval to submit a grant to the Colorado Department of Local Affairs (DOLA) – Energy Mineral Impact Fund program to request supplementary funding for the ongoing digester project.

Why: Council is in the process of entering into a construction loan agreement with WPCRF for the ongoing digester project at the Wastewater Treatment Plant. The first reading was during the 11/7/2023 regularly scheduled council meeting. However, in reviewing construction plans with the design engineer, we have identified an estimated gap in funding in the amount of \$1,000,000

Solution: Staff is requesting approval to apply to the DOLA Energy Mineral Impact grant fund to pursue the needed additional funding in the amount of \$1,000,000. We will be using the WPCRF loan as match for this application.

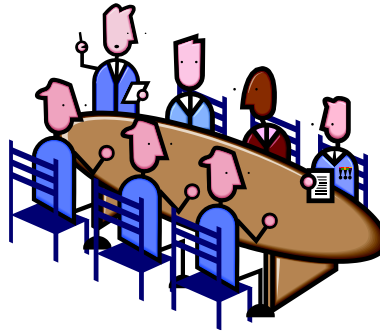
Process: Through our contract with the design engineer we are working with a consultant that will complete the grant application for the City. Staff will review and submit the application and will be responsible for managing the implementation and administration of the grant if successful. We are using the consultant to complete the application due to time constraint and their familiarity with this project. This will be a shovel-ready project and chances are good at getting some additional grant funding for this project.



**City Attorney Comments**

**City Manager Comments**

**Councilmember Comments**





### **Executive Session**

**To discuss the purchase, acquisition, lease, transfer, or sale of real, personal, or other property interest under CRS Section 24-6-402(4)(a); or more specifically for discussions regarding property located on the corner of 5<sup>th</sup> Street and Confluence Drive (parcel #3457240207003)**