

**CITY OF DELTA, COLORADO**  
**ORDINANCE NO. 2, 2024**

AN ORDINANCE AUTHORIZING AND DIRECTING EXECUTION OF THE AMENDED AND RESTATED TOTAL POWER REQUIREMENTS POWER PURCHASE AGREEMENT BY THE CITY OF DELTA, COLORADO, WITH THE MUNICIPAL ENERGY AGENCY OF NEBRASKA; TO ACKNOWLEDGE AND PROVIDE FOR LIMITATIONS ON USE OF THE ELECTRICITY; AND AMENDING THE DELTA MUNICIPAL CODE TO REAFFIRM AND CODIFY THE ESTABLISHMENT OF AN ELECTRICAL UTILITY ENTERPRISE

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, Section 38 of the Charter provides for the establishment and operation of a municipal light and power system including authorization for the City to issue interest-bearing revenue bonds payable solely out of the earnings and revenues of the system; and

WHEREAS, the provisions of Section 38 of the Charter are generally consistent with the intent and purpose of operating the City’s electrical utility system as an “Enterprise” within the meaning of Article X, Section 20 of the Colorado Constitution; and

WHEREAS, the City has previously acknowledged and reaffirmed its authorization and intent to operate the electrical utility system as an Enterprise, including without limitation by the City’s approval and enactment of Ordinance No. 3, 2005; and

WHEREAS, the City Council desires again to reaffirm that the electrical utility system is established as an Enterprise and to codify the same in the Delta Municipal Code; and

WHEREAS, in connection with operation of its electrical utility system, the City contracts with the Municipal Energy Agency of Nebraska (“MEAN”) to provide electricity to the City; and

WHEREAS, the City Council hereby finds and declares it to be in the public interest and in the interest of the customers of the City’s electric utility that the City adopt and execute Service Schedule M, Amended and Restated Total Power Requirements Power Purchase Agreement with MEAN.

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. Electrical Utility Enterprise. The Delta Municipal Code is hereby amended by the addition of a new Section 13.04.220 as follows:

13.04.220 Electrical System Enterprise.

The City’s Municipal Light and Power System, as authorized pursuant to Section 38 of the Home Rule Charter, including the City Electric System as defined in Section 13.04.010 of the Municipal Code, has been established and shall be operated as an “Enterprise” within the meaning of Article X, Section 20 of the Colorado Constitution.

3. Approval of MEAN Contract. It is hereby ordered and directed that the City of Delta, acting through its Mayor and City Clerk, execute Service Schedule M, Amended and Restated Total Power Requirements Power Purchase Agreement, a copy of the schedule being attached hereto and made a part hereof. The City of Delta does hereby adopt and approve each of the objectives, terms and conditions set forth in Service Schedule M.

4. Acknowledgements. The City acknowledges that certain of the generating facilities used by MEAN to provide electricity to the City have been financed with tax-exempt bonds and the use of the electric output of such generating facilities is restricted by federal tax regulations. In order to permit MEAN to comply with such federal tax regulations, the City agrees to use all of the electricity delivered to it by MEAN solely to serve customers in its long-term service area pursuant to generally applicable and uniformly applied rates and charges. “Long-term service area” means any area that the City has provided electric service to for at least ten years. Any other use, resale or remarketing of the electricity delivered by MEAN to the City must be approved in writing by MEAN.

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 March 19, 2024, 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 /s/ Kevin Carlson

Mayor

ATTEST:

/s/ Jolene E. Nelson  
City Clerk

INTRODUCED a second time at a meeting of the City Council on April 2, 2024, read by title and number, passed, approved, and ordered published as required by the Charter.

CITY OF DELTA, COLORADO

/s/ Kevin Carlson

Mayor

ATTEST:

/s/ Jolene E. Nelson  
City Clerk