



**SIXTH AMENDMENT TO INTERGOVERNMENTAL AGREEMENT**

39.00

This SIXTH AMENDMENT TO INTERGOVERNMENTAL AGREEMENT ("Sixth Amendment") is made and entered into as of the 6th day of February, 2021 between MOUNT CARBON METROPOLITAN DISTRICT, a quasi-municipal corporation and political subdivision of the State of Colorado (the "District"), and the TOWN OF MORRISON, a Colorado municipal corporation (the "Town").

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**RECITALS**

- A. The District and the Town entered into an Intergovernmental Agreement, dated October 27, 2008, a First Amendment to Intergovernmental Agreement, dated April 21, 2009, a Second Amendment to Intergovernmental Agreement, dated April 18, 2012, a Third Amendment to Intergovernmental Agreement, dated December 4, 2012, a Fourth Amendment to Intergovernmental Agreement, dated January 3, 2019, and a Fifth Amendment to Intergovernmental Agreement, dated December 17, 2019 (collectively, the "IGA");
- B. The IGA requires the District to construct and install certain Water Utility Infrastructure in order to provide the increase in water service capacity of the Town's system to serve the Property, as defined in, and anticipated by the IGA; and
- C. The District and the Town desire to amend the IGA to clarify their respective obligations as they related to the construction and installation of the water treatment plant expansion portion of the Water Utility Infrastructure (the "WTP").
- D. Pursuant to Section 4 of the IGA, the parties agreed to work in good faith to accomplish the expansion or replacement of the WTP to upgrade the WTP capacity to 1.0 MGD, as further delineated in Exhibit B to the IGA.

NOW, THEREFORE, for and in consideration of the mutual promises and covenants hereinafter set forth, the parties agree as follows:

**AGREEMENT**

- 1. The following language shall be added to the end of Section 3 of the IGA to create subsections 3.1, 3.2, 3.3, 3.4, and 3.5:

3.1 Denver Mountain Parks Property. The Town is responsible for obtaining the necessary consents from the City and County of Denver ("Denver"), as owner of the property operated through Denver Mountain Parks Head Quarters and known as the CCC Camp property ("Denver Property") to enable the expansion of the WTP at its present location. The Town's obligations as they relate to Denver Property include generally the following, subject to reasonable modification based on completion of negotiations with Denver:

- a) Performing an engineering and drainage study of the existing access road to the WTP;
- b) Constructing roadway and associated drainage improvements, as recommended and pursuant to a scope of work to be mutually agreed upon between the Town and Denver;
- c) Minimizing during the winter months the outflow that runs in the channel near the Denver Property headquarter buildings, and/or directing an adequate portion of the outflow away from the Denver Property headquarter buildings, pursuant to a scope of work to be mutually agreed upon between the Town and Denver;
- d) Coordinating with Denver to ensure any new or remodeled buildings re expansion of the WTP complement the architectural style and color of existing Denver Property Civilian Conservation Corps camp buildings; and
- e) Repainting and reroofing the existing WTP building to complement the architectural style and color of the new water treatment building as may be required or necessary or demolition of all or some of the buildings as may reasonably determined by the Parties.

3.2 WTP Expansion Site. The Town is also responsible for acquiring an approximate one-acre site for the WTP expansion ("Town Tract") from the property owners immediately adjacent to and south of the WTP (the "Sellers"). The Town shall prepare and enter into a purchase contract with the Sellers to acquire the Town Tract for the WTP expansion ("Purchase Contract"). The Purchase Contract shall contain the following obligations:

- a) The Town shall have a survey performed of the Town Tract and the internal lot lines of the Sellers' property to create and establish the Town Tract and the three legal lots the Sellers will retain, at the Town's cost.
- b) The Town shall have performed soils and engineering testing of the Town Tract.
- c) The purchase price for the Town Tract shall be \$500,000.
- d) The Town shall process a minor adjustment under the Jefferson County Land Use regulations and any required related approvals to enable the Town Tract to be legally conveyed to the Town. In the event a rezoning application is required to enable the minor adjustment approval, such application shall be made in the name of the current property owner, not the Town, but the Town shall be responsible for paying the costs for such application and documentation or shall reimburse the applicable Sellers for such costs.

- e) The Town shall grant two free sewer taps and two free water taps for use on the property retained by Sellers, which have an acknowledged total value of \$55,000.
- f) The Town shall agree to a deed restriction placed on the title of the Town Tract to restrict the Town's use of the Town Tract to the water treatment facility and related facilities.
- g) The Town shall relocate the northern boundary fence on the property to the south of the WTP in the same and similar design to represent the new boundary between the Town Tract and the Sellers' retained lands.
- h) The Town shall reimburse the Sellers for the reasonable costs the Sellers incur in carrying out their obligations under the Purchase Contract, including the Sellers' cost of attorney review and document preparation.
- i) The Town shall, per conditions of its agreement with Seller, relocate up to five (5) of the existing, large native cedar and oak trees on the Town Tract to locations on Seller's property.

3.3 District Obligations. The District hereby agrees it shall be responsible for the following subject to subsection 3.5 below:

- a) The District shall, at its sole option, either: (1) perform the Town's obligations under subsection 3.1(a) above, or (2) reimburse the Town for the costs incurred for performing such obligations.
- b) The District shall, at its sole option, either: (1) perform the Town's obligations under subsection 3.1(b) above, or (2) reimburse the Town for the costs incurred for performing such obligations.
- c) The District shall reimburse the Town for the reasonable costs the Town incurs to minimize and/or redirect during the winter months the outflow from the bypass valve that flows in the channel near the Denver Property headquarter buildings, as needed.
- d) The District shall, at its sole option, either: (1) reimburse the Town for the reasonable costs of designing and constructing the WTP expansion, or (2) directly pay such costs.
- e) The District shall, at its sole option, either: (1) reimburse the Town for the reasonable cost of repainting and reroofing the existing WTP buildings as may be required or necessary or the demolition of all or some of the buildings as may reasonably be determined by the Parties, or (2) directly pay such costs.

- f) The District shall, at its sole option, either: (1) reimburse the Town for the reasonable costs to perform its obligations under subsections 3.2(a) and (b) above, or (2) provide the surveying and soils and engineering testing services on the Town's behalf.
- g) The District shall reimburse the Town for the purchase price of \$500,000 for the Town Tract and the associated closing costs.
- h) The District shall reimburse the Town for the reasonable costs of consultants and attorneys to process the minor adjustment pursuant to subsection 3.2(d) above.
- i) The District shall reimburse the Town for the cost of the two free sewer taps and two free water taps, in the amount of \$55,000, pursuant to subsection 3.2(e) above.
- j) At its sole option, the District shall either: (1) reimburse the Town for its reasonable cost to relocate the northern boundary fence to serve as the new southerly boundary fence of the Town Tract and the relocated northern boundary fence of the Sellers' retained property, pursuant to subsection 3.2(g) above, or (2) perform the relocation of the fence.
- k) At its sole option, the District shall either: (1) reimburse the Town for its reasonable cost to relocate up to five (5) of the existing, large native cedar and oak trees on the Town Tract to locations on Seller's property, or (2) perform such relocation.
- l) The District shall reimburse the Town for its reasonable direct attorney fee costs and the reasonable costs of the Sellers' attorney fees in connection with the Purchase Contract.

3.4 **Obligations of Both Parties.** Under the Purchase Contract, in the event the Town, as Buyer, does not close after the conditions precedent to closing have occurred (approval of the subdivision and approval of permits from Denver), the Town is required to pay the Sellers \$10,000 as liquidated damages. No other damages are available under the Purchase Contract. In the event the parties elect not to close on the property purchase after the conditions precedent to closing have been satisfied, the parties agree that the \$10,000 penalty for not closing shall be borne by the party making the decision that the Town shall not close, and in the event the parties jointly determine, for whatever reason, not to close on the purchase, the parties agree to bear the \$10,000 cost equally.

3.5 Tap Purchases. The District shall purchase a minimum of ten (10) water taps per month from the 143 Existing Town Taps starting in January 2021 and continuing until the District has purchased all 143 Existing Town Taps. If this Amendment is executed and effective after January 2021, the tap purchase obligation of the District shall be pro-rated

and accrue beginning January 2021 and accrued taps shall be due on the effective date of this Amendment and thereafter at 10 taps per month until the purchase of the 143 Existing Town Taps is completed.

3.6 Interest. Where stated above that the District shall reimburse the Town for certain costs and services, the Town shall incur the initial costs for those items and earn three percent (3.0%) simple interest per annum on any outstanding balance (excepting accrued interest) until paid in full by the District. The District shall pay the Town in full for any outstanding balance and accrued interest no later than sixty (60) days after completion of the WTP expansion.

3.7 Restated IGA. The Parties will make best efforts to timely pursue and execute a restated and revised IGA reflecting the current agreement of the Parties.

4. Effect. Except as specifically provided in this Amendment, all provisions of the IGA shall remain in full force and effect.

5. Effective Date. This Sixth Amendment shall take effect as of the date first written above.

*[Signatures on following page]*

IN WITNESS WHEREOF, the parties hereto have executed this Sixth Amendment to Intergovernmental Agreement as of the date first written above.

TOWN OF MORRISON

  
Sean Forey (Feb 6, 2021 22:36 MST)

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Mayor

ATTEST:

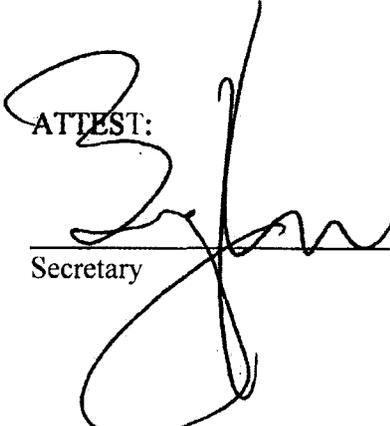
  
Lyndsey Paavilainen (Feb 8, 2021 08:37 MST)

\_\_\_\_\_  
Town Clerk

MOUNT CARBON METROPOLITAN DISTRICT

  
\_\_\_\_\_  
President

ATTEST:

  
\_\_\_\_\_  
Secretary