

ORDINANCE NO. 1106.5

AN ORDINANCE CONSOLIDATING AND COMPLETING PAYMENT OF BUSINESS INCENTIVES PROVIDED TO DELTA OIL FIELD INC. AND PRO-TECH ENTERPRISES WHICH WERE GRANTED UNDER ORDINANCE NOS. 1011, 1056 AND 1064

WHEREAS, the City of Fort Morgan has granted business development incentives to Delta Oilfield Tank Company LLC (“Delta”) and Pro-Tech Enterprises LLC (“Pro-Tech”); and,

WHEREAS, those incentives were approved in Ordinance Nos. 1011, 1056 and 1064; and,

WHEREAS, the current incentives require substantial administrative tracking which costs both the taxpayers and the business additional money to manage and administer; and

WHEREAS, the parties to the original Ordinances and Agreements now wish to consolidate and finalize any outstanding incentive payments with one final payment to absolve the City’s responsibility for business development payments to both Delta and Pro-Tech over time; and,

WHEREAS, Delta’s annual water consumption has exceeded its annual limit in past years, and under the City’s water development policy Delta is now required to purchase a Colorado Big Thompson (“C-BT”) water unit and transfer said unit to the City; and,

WHEREAS, it is the intent of the parties to this agreement that any costs necessary to offset the cost of the C-BT unit shall be taken from any outstanding economic incentive payments stated in this agreement.

NOW, THEREFORE, LET IT BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FORT MORGAN, COLORADO AND APPROVED BY THE PARTIES TO THIS AGREEMENT THAT:

SECTION 1. All economic incentive payments that the City is required to pay under Ordinance Nos. 1011, 1056 and 1064 are hereby consolidated into a single payment of Twenty-three Thousand Dollars (\$23,000.00).

SECTION 2. The City shall credit eight thousand dollars (\$8,000.00) from the payment required herein to pay for the C-BT unit that Delta current owes the City. The City shall provide a check in the amount of Fifteen Thousand Dollars (\$15,000.00) made payable to both Delta and Pro-Tech within ten days after the final adoption of this Ordinance.

SECTION 3. Any and all payments due under Ordinance Nos. 1011, 1056 and 1064 are hereby satisfied by payment under Section 2 of this Ordinance. The City shall not be responsible to Delta or Pro-Tech for any further payments under these ordinances, nor shall Delta or Pro-Tech be eligible to receive any other payment under these or any other ordinances providing incentive payments that may exist prior to the passage of this ordinance.

SECTION 4. The Eight Thousand Dollars (\$8,000.00) shall be transferred from the general fund to the water works enterprise to pay for the C-BT unit.

READ, PASSED ON FIRST READING AND ORDERED PUBLISHED the 2nd day of November, 2010.

THE CITY COUNCIL OF THE CITY
OF FORT MORGAN, COLORADO

ATTEST:

BY: /s/ Terry L. McAlister
Mayor

/s/ Yolanda L. Eurich
Deputy City Clerk

PASSED, APPROVED AND ADOPTED ON FINAL READING AND ORDERED
PUBLISHED the 16th day of November, 2010.

THE CITY COUNCIL OF THE CITY
OF FORT MORGAN, COLORADO

ATTEST:

BY: /s/ Terry L. McAlister
Mayor

/s/ Yolanda L. Eurich
Deputy City Clerk

STATE OF COLORADO)
COUNTY OF MORGAN)
CITY OF FORT MORGAN)

CERTIFICATE

I, Yolanda L. Eurich, the duly appointed, qualified and acting Deputy City Clerk of the City of Fort Morgan, Colorado, do hereby certify and attest that the foregoing **ORDINANCE NO. 1106.5** was, as a proposed Ordinance, duly and legally presented to the City Council of the City of Fort Morgan, Colorado, at a regular meeting on the 2nd day of November, 2010. Said Ordinance, as proposed, was duly read at length at said regular meeting, and thereafter the same was, on the 6th day of November, 2010, published in the *Fort Morgan Times*, a daily newspaper of general circulation published and printed in the City of Fort Morgan, Morgan County, Colorado. Said proposed Ordinance was again taken up and read a second time, duly and legally passed, approved and adopted at a regular meeting of the City Council held on the 16th day of November, 2010. Within five (5) days after its final passage, said Ordinance was published in the *Fort Morgan Times*, a daily newspaper of general circulation published and printed in the City of Fort Morgan, Morgan County, Colorado.

/s/ Yolanda L. Eurich
Deputy City Clerk

Acceptance by Delta and Pro-Tech

The undersigned individual hereby affirms and represents that he is authorized for Delta and Pro-Tech to accept this agreement for satisfaction of any economic incentives owed by the City of Fort Morgan on behalf of Delta and Pro-Tech.

/s/ Gary W. Harms Jr
Gary W. Harms Jr.

/s/ _____
Notary Public