

Finance Administration 215 N. Mason

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# AGENDA Council Finance & Audit Committee December 16, 2019 10:00 am - noon CIC Room - City Hall

Approval of Minutes from the November 18, 2019 Council Finance Committee meeting.

1. Utility LTFP & CIP – Electric & Stormwater	45 mins.	L. Smith
2. Purchasing Policy Update	30 mins.	G. Paul
3. Sales Tax on Mobile Homes	20 mins.	J. Poznanovic
4. Utility Off Cycle Budget Items	25 mins.	J. Phelan K. Bader L. Smith

#### **Council Finance Committee**

Agenda Planning Calendar 2019

#### RVSD 12/11/19 mb

Dec. 16 <sup>th</sup>				
	Utility LTFP & CIP – Electric & Stormwater	45 min	L. Smith	
	Purchasing Policy Update	30 min	G. Paul	
	Sales Tax on Mobile Homes	20 min	J. Poznanovic	
	Utility Off Cycle Budget Items	25 min	L. Smith	
Jan 27 <sup>th</sup> .				
	Utility LTFP & CIP – Water and Wastewater	45 min	L. Smith	
	Affordable Housing Support Process (Fees)	20 min	S. Beck-Ferkiss V. Shaw	
	EPIC 15 Year Loan Program	25 min	T. Storin S. Carpenter	
Feb 24 <sup>th</sup>				
	GASB 87 Implementation Update	20 min	T. Storin	
	2019 Re-appropriations	30 min	L. Pollack	
	Digital Equity Program Review	30 min	N. Bodenhamer	
Mar 16 <sup>th</sup>				
	B-Dam Alternatives and Recommendation	30 min	T. Connor	
	Prior BFO Headcount Addition Review	15 min	L. Pollack	
	City Give Portfolio Process Review	30 min	N. Bodenhamer	

#### Future Council Finance Committee Topics:

- Park/Median Design Standards & Maintenance Costs TBD
- Metro District Policy Update TBD 2020
- BFO Assumptions Review July 2020
- Annual Adjustment Ordinance Sep 2020



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#### Finance Committee Meeting Minutes 11/18/19 10 am - noon CIC Room - City Hall

Council Attendees: Mayor Wade Troxell, Ross Cunniff, Ken Summers

Staff: Darin Atteberry, Jeff Mihelich, Kelly DiMartino, Mike Beckstead, Travis Storin, Blaine

Dunn, Jennifer Poznanovic, Dave Lenz, Zach Mozer, Mark Kempton, Liesel Hans, Victoria Shaw, Carol Webb, Lance Smith, Dean Klingner, Noelle Currell, Cody Forst, Jennifer Selenske, Kerri Ishmeal, Renee Callas, John Duval, Tyler Marr, Jo Cech, Katie Ricketts,

Carolyn Koontz

Others: Kevin Jones, Chamber of Commerce

Dale Adamy, R1st.org

Meeting called to order at 10:02 am

Approval of Minutes from the October 21, 2019 Council Finance Committee Meeting. Ken Summers moved for approval of the minutes as presented. Mayor Troxell seconded the motion. Minutes were approved unanimously.

#### A. 2020 Long Term Financial Plan Outlook (excluding Utilities)

David Lenz, Director, Financial Planning & Analysis Zach Moser, Analyst, Financial Planning & Analysis

#### SUBJECT FOR DISCUSSION

2020 Long Term Financial Plan Outlook (excluding Utilities)

#### **EXECUTIVE SUMMARY**

The City updates the Long-Term Financial Plan (LTFP) outlook every two years as part of the Strategic Planning Process. The objective is to highlight potential challenges and aid in philosophical decision-making on strategies that span the longer term (5 - 10 plus years). The City has enjoyed a strong economic base and has done an excellent job in managing its expenditures and maintains a Aaa Moody's credit rating.

However, due to a general slowdown in actual and projected revenue growth, escalating cost pressures in serving a growing population base and a prior modeling error, the projected financial position (city reserves) come under more pressure in the mid-term than highlighted in the 2018 LTFP. This updated outlook fully accounts for the addition of approximately 100 FTE positions added over the last two BFO cycles and the requirement to continue to add more FTE positions to serve the increasing population base.

The baseline scenario assumes current operating conditions and service level delivery, as well as no outlier impacts (severe recession, natural disaster, etc.). Given our requirement to balance our expenses against revenues, the Strategic Plan will need to address a combination of options to contain costs, improve productivities and look for revenue enhancement opportunities.

#### GENERAL DIRECTION SOUGHT AND SPECIFIC QUESTIONS TO BE ANSWERED

Does Council Finance have any questions related to the 2020 Long-Term Financial Plan Outlook?

#### **BACKGROUND/DISCUSSION**

During the last two Strategic Plan updates, a key component of uncertainty was the potential for the KFCG tax to sunset in 2020. The potential loss of that revenue source would have put severe pressure on the City's finances. However, even with an extension of the tax (which ultimately was approved by voters), the projections were for City expenditures to exceed revenues over the long term (reaching approximately \$10 million per year in the 2016 Plan and \$15 million per year in the adjusted 2018 Plan by the year 2025).

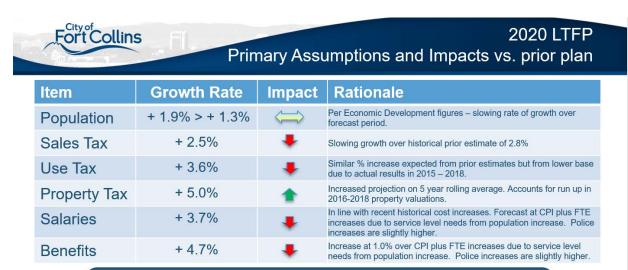
These pressures on longer term fund reserves continue in the 2020 Plan - the actual and expected increases to costs continue to accelerate and the estimates of revenue growth from existing sources have softened somewhat. Our projected deficit by year 2025 could reach \$35 to \$40 million per year.

Below are the major drivers of changes to the 2020 LTFP outlook compared to the prior 2018 LTFP:

- Lower Tax Revenues:
  - Slowing Sales Tax revenue growth projected at 2.5% annual increase vs 2.8% prior.
  - Lower Use tax revenue still increasing but driven off a lower base due to declines in 2015 2018 timeframe.
  - Offset by slightly higher property taxes from higher valuations.
- Higher Personnel costs:
  - Increased salary and benefits costs reflecting higher current actual FTE levels and increased future
     FTE levels to support services for the growing population base.
- Modeling issues corrected from the 2018 plan:
  - Adjustments to fully account for all fund groups and correct for erroneous data inputs in year 2016 that carried thru the projections.

#### **DISCUSSION / NEXT STEPS;**

Mike Beckstead; gap in revenue vs. expenditures to spending is the issue and is reflective of the difficult challenges we will face in the upcoming BFO cycle such as Police Services, Parks & Maintenance. We have added approximately 50 FTEs in each of the last 2 BFO cycles to scale services to serve an increasing population - this gap grows to between \$35 and \$40M per year in out years. The LTFP influences the Strategic Plan - the Strategic Plan results in specific objectives which influences BFO offers / priorities – we are not recommending any action - we just want Council to be aware - the kinds of solutions we will work on should come out of the BFO process. We will have 1 or 2 Strategic Objectives in the Strategic Plan that will address the staffing side and the revenue side.



#### Net negative impact from prior LTFP driven by:

- Lower Sales and Use tax offset by higher Property taxes
- Higher salary and benefits costs driven by higher actual FTE levels and increased projections of future FTE levels needed.

Where are we now? 2020 LTFP - Baseline

REVENUES & EXPENDITURES - ALL FUNDGROUPS - WITH TRANSFERS

Second S

Mayor Troxell; thank you for the thinking, the set up and for bringing it to us there.

Ross Cunniff; appreciate the attention to detail - question re: Slides 8 & 9 (see above) – we have been because of the salaries and benefits are above CPI

Mike Beckstead; yes, we were in a tight period of growth from 2000 to 2010. Sales Tax grew 1.7% during this time. From 2010-2015 we grew at an average of 5 ½ % and then property tax started growing. The service

requirements that are coming out of the community - we were able to meet it because we had some pretty strong growth years.

Ross Cunniff; one of the reasons I wanted us to find other revenue opportunities / options to try to meet those service levels. Based on current trends, our sales tax will continue to flatten out but I don't think our service demands will decrease regardless of population.

Mike Beckstead; the bigger the city the more complex the service offerings need to be.

Ross Cunniff; would be interesting to provide Council with metrics to help them understand a need for revenue diversification and a caution for trying to promote growth in Fort Collins - the more growth we promote the farther behind we could end up getting.

Mike Beckstead; I agree - there is a lot of 'spade work' economic and statistical analysis that we need to spend some time analyzing the data before we jump into solution mode - we could try to implement the wrong solution.

Ross Cunniff; I am not suggesting policy change at this time - We do have population growth - Service level demands and dollar amounts grow faster than population growth.

Darin Atteberry; if we were seeing a flat population - we would still be seeing labor costs going up, fuel costs go up.

Ken Summers; adding 50 employees every 2 years are being added to those things outside of public safety. It would be helpful to look at a breakdown of the last 100 added FTEs added over last 2 budget cycles- what categories they fall into and direct benefit. We should have a discussion on what we need to do to enhance the revenue areas that we have. Sales Tax revenue – watch it continue to stagnant and decline. We don't want growth but that is the funding source for our use tax. I would like a breakdown on the added FTEs over the last two BFO cycles to see what categories they fall into.

Darin Atteberry; we absolutely have that information - I appreciate the comment about public safety as well - the city has been very conservative about adding FTEs, - We know that the leakage is occurring — we don't have a clear solution right now — the city has been very conservative with FTE adds - 4+ years ago Council was concerned that we were being too thin around certain things (FTEs)- appreciate the thoughts that Ken and Ross shared - we have really good data and part of the purpose of this is to stimulate this type of conversation - we are going to have a thorough analysis of sales tax leakage and will come back to Council Finance with more information.

Background growth - Parks Master Plan that we are looking at with Council now - we will look at some of the very basic assumptions - frustrating to all is the diversification of revenue

Ross Cunniff; we have some difficult options in that space - asking people to spend more for something-When we tie that directly to service it is funding - that way it could fluctuate with that service. Nothing about sales tax decline - we have engaged with some large retailers – certainly we are engaged at a legislative level - statewide internet sales tax solution – we don't yet understand the model - communities around us that are more competitive in the retail space. Previous Councils were concerned about the number of FTEs but that has never been a metric – it has always been service levels.

Darin Atteberry; I am with you on the public safety issues – the challenge is that when you hire police officers, you also need more back-office support such as dispatchers, more accountants, purchasing, etc. I do have confidence around our transparency, our dashboards and new FTEs. I am proud that in Fort Collins models we have a great deal of visibility / transparency. You will be very well equipped as we further this conversation – ultimately Council will have the ability to make important decisions - I think we are well informed and we are in a solid position. We need to be very intentional.

Mike Beckstead; this is not a sky is falling kind of conversation, this is we have a trend coming at us and we have time to prepare and react. There will not be one single thing we do to get in front of it – it will involve lots of time. We spent a lot of time in 2014-2015 regarding revenue diversification. In all of the outreach for that when we were talking with the community it was positioned as revenue neutral. As Ross said – there will be a revenue enhancement necessary to help resolve this issue and to keep service levels up. We will be coming back with some proposals on what we want to do.

Ross Cunniff; disruptions - I think automation is on a tear right now - there are lots of things that could be automated and in the next 5-10 years that could help drive the cost side – efficiencies.

Mayor Troxell; we do have another revenue diversification strategy that we are using now and that is City Give– I could see that as a measurable percentage of the annual budget – example is CSERV at CSU which accounts for \$400M which is 1/3 of their budget.

Mike Beckstead; there will be some art in the community conversation - the way we message that to our community givers - is City Give backfilling a budget – one time or is it enhancing strategic opportunities.

Mayor Troxell; not simply going to the same pot - really the globe - with Bloomberg - \$1M - there are other funds that support things in urban municipalities - not so much operational – maybe pilots and other sorts of things -

Ken Summers; I would like to understand more what level of service speaks to. It is easy to look at police / parks / maintainance workers OR are we talking about administration. Added 100 FTEs - What is the fully loaded cost? What are the parameters that dictate adding? What is the number of employees we need to maintain a certain amount of park space? Those dynamics don't always fit in terms of some of the back office functions. Where do these 100 FTEs come from? What dictates when we need to add more? Let's evaluate our organization based on these issues - service levels / service being provided – how valuable is it to the community.

Darin Atteberry; we are prepared to have these conversations - we don't add FTEs without Council approval / budget approval- We can show you what budget offer an FTE is tied to and what it is hoping to accomplish and the total cost and ongoing costs. We can go through each of the 100 FTEs and say here is what strategy they were tied to for example; X number of parks this budget cycle - we will show you how many additional people we add.

Mike Beckstead; We have a meeting in March where we plan to review the 2021-2022 budget assumptions with Council Finance - I think it would be good to add a topic to review historical FTE additions during that presentation- the majority of FTEs added have been for service delivery around code enforcement, parks maintenance, new police but have not gone to back office management. An example from my shop we have 7 purchasing staff which hasn't changed in 6 years - the volume has gone up 73% in last 6 years and we haven't

added any staff. One buyer has 17 RFPs on his desk – there is pressure in some of the back office functions because we haven't added staff because we been focused more on service delivery.

Ken Summers; Nexxus between staff member and growth – diminishing returns – you can be so effective at a volume of work – important for us to be sensitive to how we address that.

Ross Cunniff; revenue growth projections are at 1.7% and expenditures 3.4%

Dave Lenz; that is over a 10-year period - annualized it is about a 2.1% on revenue and 3% on costs all in. Rate of growth 3 versus 2.1%

#### B. Water – Horsetooth Shutdown

Mark Kempton, Director of Plant Operations Liesel Hans, Water Conservation Manager Lance Smith, Director Utilities Finance

#### SUBJECT FOR DISCUSSION

Appropriation of \$3.2 million of reserve funds from the Water Fund for the construction of a temporary emergency backup drinking water supply system associated with the Horsetooth Outlet Project.

#### **EXECUTIVE SUMMARY**

The purpose of this item is to request an appropriation of \$3.2 million from Water Fund Reserves to design and construct a project to provide a temporary backup drinking water supply pumping system during a planned October-November 2020 closure of the Soldier Canyon Dam Outlet pipeline from Horsetooth Reservoir. The pipeline provides drinking water to the two drinking water treatment plants serving the City of Fort Collins and surrounding areas, serving about 250,000 people. The pumping system is intended as an emergency backup supply system to the primary Cache la Poudre River water supply during the 60-day long planned outage of the Horsetooth Reservoir water supply line. The City will be reimbursed approximately 40 to 50% of the project costs by our project partners at the conclusion of construction.

#### GENERAL DIRECTION SOUGHT AND SPECIFIC QUESTIONS TO BE ANSWERED

Does the Committee support the appropriation of Water Fund reserves to construct an emergency backup water supply system for the City and our partners, the Tri-Districts and Platte River Power Authority (PRPA)?

Does the Committee support implementation of water use reduction measures to lower water demands to typical winter levels of 15 million gallons per day for the duration of the project?

#### **BACKGROUND**

Northern Water, which operates the 54-inch Soldier Canyon Dam Outlet pipeline from Horsetooth Reservoir to the City's Fort Collins Water Treatment Facility and the Tri-District's (Fort-Collins Loveland, East Larimer County, and North Weld County water districts) Soldier Canyon Water Treatment Plant, is planning to perform necessary maintenance on the water line in October and November of 2020. This maintenance will require a full closure of the line for up to 60 days, which will result in both treatment plants relying on the Cache la Poudre River ("Poudre River") as the sole water source for the City's and the Tri-District's respective water service areas. Platte River Power Authority's (PRPA) Rawhide Plant also receives process water from the Horsetooth line and could be affected by a long-term loss of water.

Historically, the Poudre River has been a reliable source of high-quality water; however, it can be susceptible to water quality impairing incidents such as forest fires, vehicle crashes, chemical spills, and other incidents that may cause the treatment plants to shut off the water intakes from the River. If one or more of these such incidents were to occur and cause a prolonged shutdown of the Poudre River intakes during the planned outlet project, the City and the Tri-Districts could be at risk of a drinking water shortage. PRPA's Rawhide Plant could also be affected by a longer-term water outage shortage and is a working partner in this project. The City has sufficient treated water storage to withstand short term outages (up to 8 hours); however, the Tri-Districts do not have similar storage and may be susceptible to water shortages during a short loss of the Poudre supply.

To mitigate the potential water supply risk, the City, the Tri-Districts, and PRPA are proposing to construct a temporary emergency water supply project. Low cost, operational mitigation measures will also be implemented to help mitigate risks associated with the Poudre supply. Examples include stockpiling additional water treatment chemicals, installing containment booms in the river etc.

The Hansen Supply Canal project includes a temporary backup emergency pump station on the Hansen Canal that both the City and the Tri-Districts have agreed to design and construct as an alternative supply of Horsetooth Reservoir water to both treatment plants in the case of a loss of water supply from the Poudre River. The anticipated total cost of the project of \$3.2 million is to be shared between the City, the Tri-Districts, and PRPA as outlined in separate Inter Governmental Agreements (IGAs).

In the case of a sustained loss of the Poudre River supply (in excess of 8 hours), water will be pumped from the Hansen Supply Canal (the canal that flow out the north end of Horsetooth Reservoir) via a new temporary pump station to be constructed by summer 2020. Water will then be pumped into the existing Pleasant Valley Pipeline (PVP) or to the City's two existing Poudre River pipelines through a newly constructed pipeline connection that will transport water to both treatment plants to serve the City's and the Tri-District's customers, as well as PRPA.

#### **COST SHARING & PARTNERING STATUS**

The anticipated cost share percentages, based on million gallons per day (MGD) of flow to each partner for the project are approximately as follows;

- NWCWD 12 MGD (34%) \$1.1 million
- ELCO 3 MGD (8.5%) \$0.25 million
- FCLWD 5 MGD (14.2%) \$0.45 million
- Fort Collins 15 MGD (winter use; 42.4%) \$1.4 million
- PRPA 0.3 MGD (0.9%) \$0.03 million
- Total needed = 35.3 MGD (100%)

Based on the percentages above, the net cost to the City upon completion of the project is estimated to be \$1.4 million to \$1.6 million. There are some items in the project cost that do not pertain to all parties e.g. water conservation measures within the City will not apply to NWCWD.

To date both ELCO, NWCWD, and PRPA have verbally committed to paying for their portions of the project. FCLWD has also indicated interest in the project but has not formally approved their participation in the project. An Intergovernmental Agreement (IGA) has been developed between the City and the Tri-Districts which outlines the general ownership, operation, and payment terms for the project. The final details of percentages will be added to the IGA closer to selection of a final design alternative for the project.

#### **DEMAND MANAGEMENT**

The Horsetooth Outlet Project is an opportunity to share information about:

- the importance of proactive maintenance to sustain high quality, reliable water supplies;
- the source of our water supply;
- the collective responsibility to use our water resources wisely;
- and, the value of a community-owned water utility.

The proposed back-up supply project will provide 15 to 20 million gallons per day (MGD) of water to Fort Collins. Typical demands in early October are approximately 20 to 22 MGD and typically drop to 15 MGD toward the middle-to-end of October as irrigation and other seasonal uses end. Staff suggests the following water demand management approach to mitigate risk:

- Goal: Reduce water demand to typical winter levels (15 MGD) by October 1st and sustain this winter level throughout the Horsetooth Outlet Project.
  - 1. Perform extensive public outreach and education in the months leading up to and throughout the project.
    - Tactics may include, but is not limited to, utility bill inserts, direct mailers, local articles/ads, emails, newsletters, staff presence/activities at a variety of events throughout the year, community presentations (targeted and upon request), posters, promotion of programs/services and rebates, collaboration with City, commercial, and key accounts, etc.
  - 2. Mandatory or voluntary requirement for all customers to end all irrigation by October 1st, with limited exceptions.

With proactive outreach, communication and engagement, we believe the community will do their part to minimize some of the necessary risk of the project. Many communities across the nation only have one water supply and we are fortunate to have two reliable, high-quality sources. It is our responsibility to protect our community by protecting and proactively managing our water resources. Water is an essential ingredient to the many activities and businesses that make Fort Collins special. Investments we make today in our water resources, infrastructure, and community education help maintain clean, reliable water resources and protect the very thing our community was built upon — and continues to thrive upon.

While the goal is to achieve temporary water reductions, this effort stands to drive lasting efficiency and conservation impacts, benefiting our utility and residents alike. Additionally, the Water Supply Shortage Response Plan (WSSRP) update project identified the need to develop an approach for water shortages outside of the typical summer irrigation season. The Horsetooth Outlet Project provides an opportunity to collect information that will inform that approach for the next WSSRP update, currently slated for after the recently kicked-off Water Supply and Demand Management Policy update. Outreach will be performed in cooperation with the Tri-Districts where feasible, and these conversations have already started. Additional risk reduction measures such as restricting truck traffic in the Poudre Canyon during the shutdown are being discussed with the Colorado Department of Transportation (CDOT).

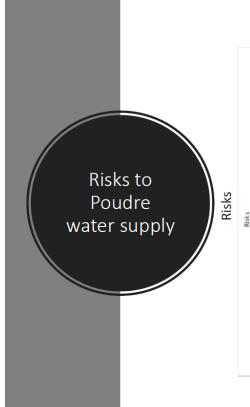
The City will initially fund and manage the construction of the project. The Tri-Districts and PRPA will reimburse the City at appropriate milestones for their portion of the project costs. The pipelines and appurtenances will be permanent connections, though, at this time, the pumps associated with the pump station will be temporary and will be removed from the site at the completion of the Horsetooth Outlet Repair Project.

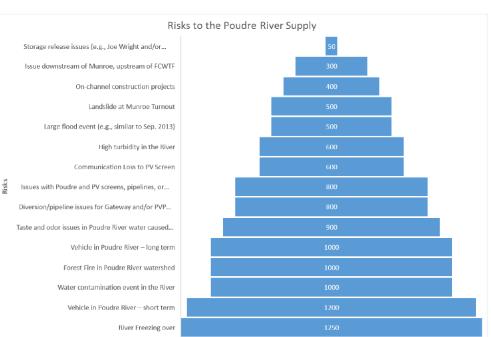
#### **DISSCUSSION / NEXT STEPS:**

Work is scheduled to start on October 15, 2020 and is scheduled to last 60 days – no flow during that time - mitigating loss of supply

Will restrict large trucks and smaller trucks carrying toxic chemicals
Winter demand = 15 MGD (Million Gallons per Day)
Weather controls October demand
Irrigation restrictions - mandatory vs voluntary - mandatory has 4x greater impact / effectiveness

Darin Atteberry; our intent is to fund the project and then we will get 100% reimbursed from our partners once the project is completed





Magnitude of Risk (larger bar = greater risk) • PRPA: \$0.03 million (0.9%)

• ELCO: \$0.25 million (8.5%)

• FCLWD: \$0.45 million (14.2%)

• NWCWD: \$1.1 million (34%)

• Fort Collins: \$1.4 million (42.2%)

## **Financials**

End of 2018: Water Fund Reserve = \$70.2M

 \$41.7M needed for minimum reserves and prior appropriations

• \$28.6M available for new appropriations

Significant amount over next decade includes Halligan

Darin Atteberry; there is a big capital play coming with Halligan - we are not through the permitting process yet but it is looking very positive - as we are talking about using 1.4M here - this mitigates risk and does not take away from other capital needs.

Ross Cunniff; have we modeled the impact to our revenue? decreased revenue over summer

Lance Smith; I have not done that at this point

Ross Cunniff; for October restrictions to be effective we need to start education program in July – it wouldn't surprise me to see revenue impact - bring back in January to talk about

Mike Beckstead; will we implement the restrictions effective 10/1? Do we implement restrictions before there is an issue with the normal supply?

Liesel Hans: the intent is to have the restrictions in place on 10/1 – whether we end of needing it or not project starts 10/15 - disruption

Ross Cunniff; they need for citizens to plan ahead in response - what garden to plant, make repairs need to be made to sprinklers. Have we considered any additional tiered price signals that might help as well?

Lance Smith; we do water shortage response plan

Liesel Hans; the existing plan does not address this sort of shortage - so if we tried to utilize that we would have a price increase right away - that is part of the gap that we have identified

Ross Cunniff; may be a policy change

Mayor Troxell; are the other regions doing the same things? Are we coordinating in relation to restrictions?

Liesel Hans; we are starting those conversations and will makes sure we move forward together - they are very motivated to be partners for this project.

Liesel Hans; we don't have common branding but we do include all logos

Mayor Troxell; thinking of the branding of Efficiency Works - Platt River - we may want to have a common brand which should be seamless especially to users

Darin Atteberry; I like the idea of co-branding and doing it early

Liesel Hans; we hear from customers that they are confused with Efficiency Works

Ross Cunniff; thank you for being on top of this

Ken Summers; mandatory restriction for 60 days makes sense - I like the education piece If we begin through the summer with encouraging less water use - what happens to the water, we don't use?

Liesel Hans; early education - getting them ready - not just a switch October 1<sup>st</sup> -making the most of those supplies

Ken Summers; Is Joe Wright at capacity?

Mark Kempton; at that time of year it is close to capacity - we will intentionally hold back water - we will be storing extra water next summer to release during October and November

Carol Webb; working now to position water up high in the canyon – also working with tri districts regarding storage so they can also have their water high - working together to ensure that everyone has the supply they need – plant to start bringing down the level in Horsetooth - we will shift to use more of our CBT water and manage the supply in that way – there will be increases in the river flow as they bring that water down

Ross Cunniff; leftover water - if we use less water and water supply is high

Carol Webb; yes, there would be more water as they draw that down - best outcome - keep storage in Joe Wright and maintain flows in the Poudre up high

Tri – they have gravel pit - some storage they get from some of the ditch companies

Carol Webb; Greeley has quite a bit - we are working with them so they can utilize ous They have to position their water up high - usually they are switching over at that time

Ken Summers; how does Halligan factor in this?

Carol Webb; it doesn't - the status of what is in Halligan now will make releases to main stem – doesn't physically get moved to our intake but gives us another tool

Mayor Troxell; diversion structure - at that time of year it will be basically dry

Carol Webb; this project allows us to exercise working together with our partners and this time we have the time to plan - next time we may not but we will have the framework in place

Water storage for energy - work with property owner

#### GENERAL DIRECTION SOUGHT AND SPECIFIC QUESTIONS TO BE ANSWERED

Does the Committee support the appropriation of Water Fund reserves to construct an emergency backup water supply system for the City and our partners, the Tri-Districts and Platte River Power Authority (PRPA)?

Does the Committee support implementation of water use reduction measures to lower water demands to typical winter levels of 15 million gallons per day for the duration of the project?

Result;

Mayor Troxell, Ross Cunniff and Ken Summers; all yes and yes for questions above.

Meeting adjourned at 11:15 am

## WORK SESSION AGENDA ITEM SUMMARY TEMPLATE

Staff: Lance Smith, Utilities Strategic Financial Director

**SUBJECT FOR DISCUSSION** – Utilities 2019 Capital Improvement Plans and Strategic Financial Plan Updates for the Light & Power and Stormwater Utilities

#### **EXECUTIVE SUMMARY**

The purpose of this agenda item is to provide the Council Finance Committee with an overview of the planning processes underway within Fort Collins Utilities. This agenda item will focus on the Light & Power and Stormwater Enterprise Funds. The Water and Wastewater Enterprise Funds will be presented for discussion in January. The 2019 Capital Improvement Plans (CIPs) and the 2019 Strategic Financial Plans for each utility are outlined. The resulting investment projections set the basis for beginning the 2021-22 Budgeting For Outcomes (BFO) cycle. The overall 10 year rate projections for both utilities is also presented here along with the forecasted debt issuance needs.

Through active management of O&M expenses, modest rate adjustments and the issuance of some debt, the Light & Power Enterprise Fund is expected to be able to meet its operational objectives through targeted capital investments over the coming decade.

The Stormwater Enterprise Fund has a significant amount of capital investment required to complete the initial buildout of all the needed infrastructure. Given the high operating ratio (operating income / operating revenue) and the amount of capital investment needed, this utility will require the issuance of significant debt over the next 25 years as this initial infrastructure is built. Modest rate adjustments allow for some increase in the debt capacity of this Fund but not enough to accelerate the build out. Timely debt issuances will allow for rates to remain close to current rates while completing build out over the next 25 years.

#### **GENERAL DIRECTION SOUGHT AND SPECIFIC QUESTIONS TO BE ANSWERED**

1. Does the Council Finance Committee support the Utilities Strategic Financial Plan assumptions ahead of the 2021-22 BFO cycle? In particular, the projected rate increases necessary to meet anticipated revenue requirements?

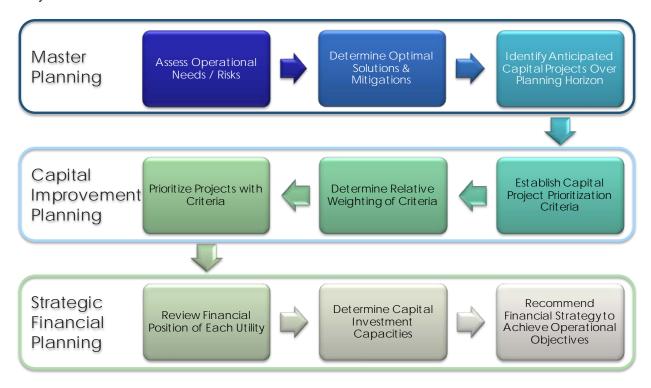
#### BACKGROUND/DISCUSSION

The financial health of each utility Enterprise Fund depends on active management of ongoing operating and maintenance expenses as well as planning for large capital expenditures. In some years it is expected that the capital investment alone may exceed the annual operating revenues for an Enterprise Fund even before considering operating expenses. Thus the capital investment required to maintain the current levels of service provided by each of the four utility services to the community requires a long planning horizon and consistent reevaluation and prioritization. Additionally the expected operating and maintenance expenses must be forecasted and managed so that the financial sustainability of each utility is ensured while continuing to provide the levels of service expected without large rate increases being necessary in any given year.

#### 10 Year Capital Improvement Plans

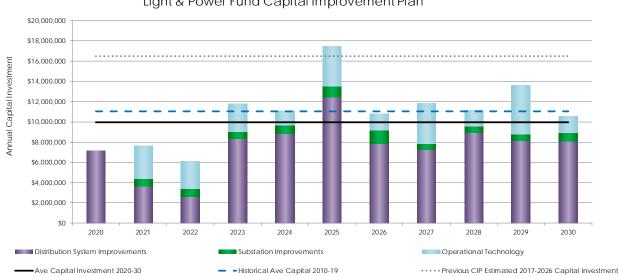
The capital improvement planning process begins with periodically developing and updating Operational Master Plans for each utility. These plans assess current infrastructure for needs and risks and review expected growth and regulatory requirements. The Master Plans generate a list of recommended capital projects over the planning horizon which are then included in the Capital Improvement Plans (CIP). The Utility Asset Management program has implemented a standardized process to prioritize necessary capital investments that has been in place since 2014. This prioritized list includes the associated annual capital investment which becomes an input into the long term Strategic Financial Plan. This list is updated ahead of the two year BFO process and prioritized using metrics intended to measure the levels

of service that each utility is targeting to provide to the community. The financial position of each utility is also reviewed in this step with the output being a recommended path forward which may involve rate adjustments and future debt issuances in order to achieve the operational objectives and needs of each utility.



#### Light & Power Enterprise Fund

The 10 year Capital Improvement Plan (CIP) for the Light & Power Fund consists of projects needed to provide adequate substation and distribution capacity to developing areas of the City, anticipated annexations including the Mulberry Corridor, operational technology improvements and system renewal of existing substations and underground distribution assets.

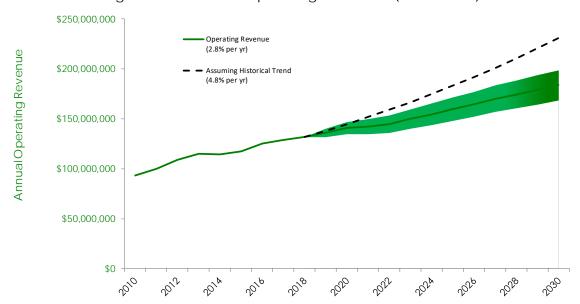


Light & Power Fund Capital Improvement Plan

The 2019 CIP for Light & Power includes a significant decrease in identified capital work over the 2017 CIP. The 2017 CIP identified \$165M as being needed to meet the capital investments needed over the next decade. The 2019 CIP includes \$99M of capital investments. This is due in part to new growth and load projections which are not anticipated to require the addition of 2 new substations as had previously been forecasted.

#### **Light & Power Operations**

Operating revenues have grown significantly over the past decade through rate increases while total energy sales have remained flat. Based on the projected revenue requirements for O&M and capital investment revenues are projected to grow at a rate slower than the past decade.



Light & Power Fund Operating Revenues (2010 - 2030)

The colored area represents the 95% confidence band around the expected operating expense.

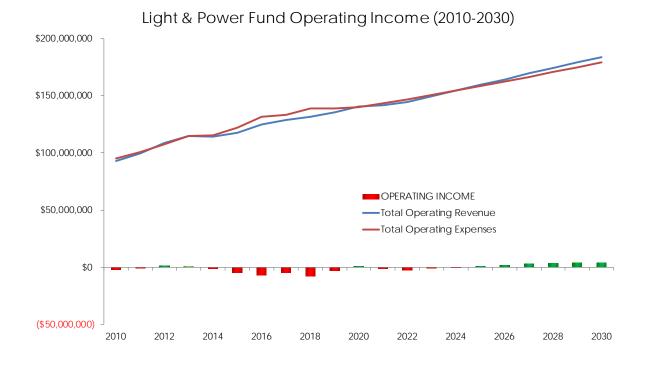
Light & Power O&M expenses have increased at an unsustainable rate over the past decade. This will need to be addressed through active management. The rate and debt issuance forecasts in the plan assume that O&M will increase at a rate close to the rate of inflation.

\$300,000,000 Annual Operating Expenses Operating Expenses (2.2% per yr) \$250,000,000 - Assuming Historical Trend (4.9% per yr) \$200,000,000 \$150,000,000 \$100,000,000 \$50,000,000 \$-2010 2012 2014 2016 2018 2020 2022 2024 2026 2028 2030

Light & Power Fund Operating Expenses (2010 - 2030)

The colored area represents the 95% confidence band around the expected operating expense.

By limiting O&M to a more modest rate of growth it is expected that the L&P Fund will generate positive operating income which will be available for capital investments. This will limit the amount of debt issuance that is necessary over the coming decade.



**Light & Power Rate and Debt Forecasts** 

Rate increases above those necessary to cover wholesale purchased power increases are not anticipated to be significant over the coming decade although any significant change in the necessary

capital investments may require modest adjustments to ensure adequate operating revenue is generated to support the system renewal investments. Some debt is anticipated to be needed for capital investments over the next decade.

	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030
Rate Increase	5.0%	2%	2%	1-3%	1-3%	1-3%	1-3%	1-3%	1-3%	1-3%	1-3%
Debt Issuance \$M	-	-	-	\$10-15M	-	-	\$10-15M	-	-	-	-

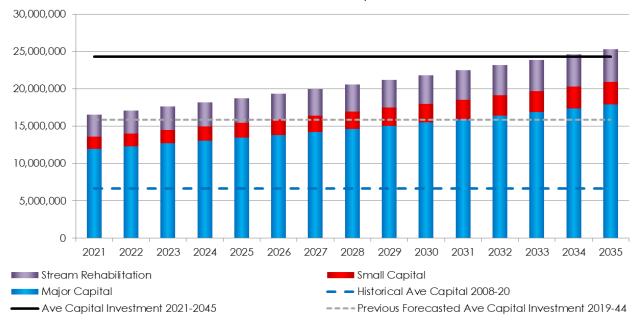
\$100M of capital work is expected to be needed between 2020 and 2030 in addition to the current capital appropriations.

#### Stormwater Enterprise Fund

#### **Stormwater CIP**

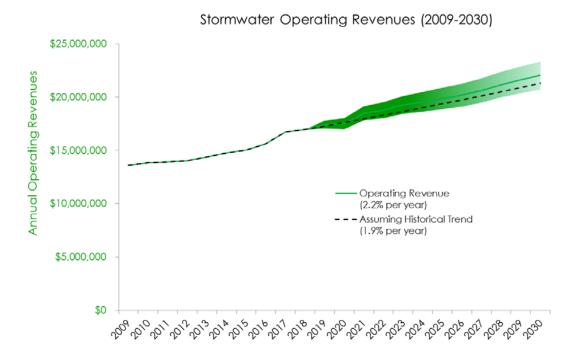
The Capital Improvement Plan for the Stormwater Fund includes new cost estimates for all anticipated initial buildout projects. Updating the cost estimates, along with some preliminary design refinements to some of the project requirements, increased the anticipated capital investment needed to build out the stormwater infrastructure from \$272M in the 2017 CIP to \$374M. Cost adjustments for stream restoration projects are also included in the model which now shows \$70M in stream restoration projects separate from the infrastructure projects. The CIP is now being proposed to be built over a 25 year period which as the graph below shows will still require investing almost 4 times as much each year in capital infrastructure than the previous decade's level of investment. It is shown below as being a levelized investment subject to inflation because the prioritization is not completed yet and the investments will require significant debt issuances to fund the major outfall projects that are still needed to complete the buildout.

504 - Stormwater Fund Capital Investment



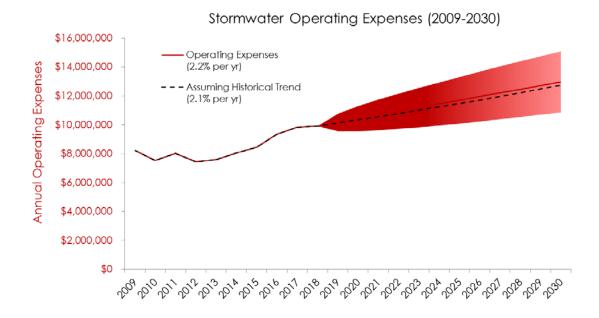
#### **Stormwater Operations**

Operating revenues have grown modestly over the past decade primarily through annexations and infill development along with some modest rate adjustments.



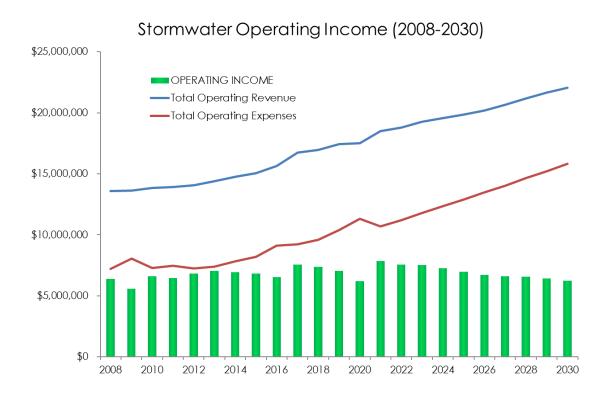
The colored area represents the 95% confidence band around the expected operating expense.

Stormwater O&M has increased as more infrastructure is built requiring O&M. The financial forecast recognizes this but assumes that the growth can be managed to increase at the rate of inflation. The largest increases were seen in engineering and administrative charges.



The colored area represents the 95% confidence band around the expected operating expense.

The combination of operating revenues increasing very modestly and O&M increasing at a faster rate will over time reduce the operating income being generated for this utility. However, operating income is expected to remain strong over the coming decade as shown in the graph below.



#### **Stormwater Rate and Debt Forecasts**

With the strong operating income being generated every year in this utility only providing a fourth of the anticipated capital investment required to fully build out the infrastructure for the community over the next 25 years it will be necessary to issue significant debt to complete the remaining flood mitigation infrastructure. Significant rate increases could be implemented rather than, or in conjunction with, issuing debt, however, the capital needs are not ongoing capital needs. Rates are usually adjusted to fund ongoing operational and capital needs. There is significant debt capacity in this fund that operates with an operating margin of 40%. Increasing rates would increase the operating margin but not necessarily allow for the initial infrastructure to be built on an accelerated schedule because of the relative scale of the capital investment compared to the operating revenues. The anticipated levelized annual capital investment required to complete the initial build out over the next 25 years along with minor capital investments required on existing infrastructure is \$24M per year or 150% of the 2019 operating revenue. Infrastructure that is expected to last for at least 50 years into the future could be financed over that time period with those customers benefiting from the new investment paying for its cost rather than increasing rates substantially. The table below shows the amount of debt that would need to be issued over the next decade to establish this 25 year build out schedule while adhering the financial boundary conditions of gradual, modest rate adjustments, positive operating income and a debt coverage ratio of at least 2.0.

As the table below shows, there will be the need to issue debt for several capital investments over the next decade. The first such issuance should be done in 2022 so that the funds are available for the 2023-24 BFO cycle.

	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030
Rate Increase	2.0%	0.0%	0.0%	0-2%	0-2%	0-2%	0-2%	0-2%	0-2%	0-2%	0-2%
Debt Issuance			\$35-40M				\$35-40M			\$20-25M	

<sup>\*\$374</sup>M of capital work is expected to be needed between 2021 and 2045.

#### Conclusion and Next Steps

Updating the ten year Capital Improvement Plans ahead of the budget cycle allows for an assessment of potential rate adjustments and debt issuances that may be necessary in the near future. The Strategic Financial Plan provides a financial path forward to meet the operational needs of each utility.

Through active management of O&M expenses, modest rate adjustments and the issuance of some debt, the Light & Power Enterprise Fund is expected to be able to meet its operational objectives through targeted capital investments over the coming decade.

The Stormwater Enterprise Fund has a significant amount of capital investment required to complete the initial buildout of all the needed infrastructure. Given the high operating ratio (operating income / operating revenue) and the amount of capital investment needed, this utility will require the issuance of significant debt over the next 25 years as this initial infrastructure is built. Modest rate adjustments allow for some increase in the debt capacity of this Fund but not enough to accelerate the build out. Timely debt issuances will allow for rates to remain close to current rates while completing build out over the next 25 years.

#### **Attachments**

Attachment 1 - Powerpoint presentation





## Purpose and Direction Sought

## Objective:

- Provide an update on the Capital Improvement Plans and Strategic Financial Plan for the Light & Power and Stormwater Enterprise Funds
- Recommend strategic path forward to meet 10 year operational and financial objectives ahead of the 2021-22 Budget cycle

## **Direction Sought:**

 Does the Council Finance Committee support the Utilities Strategic Financial Plan assumptions ahead of the 2021-22 BFO cycle? In particular, the projected rate increases necessary to meet anticipated revenue requirements?



## **Utilities Planning Process**

5-7 years

Master Planning

Assess Operational Needs / Risks



Determine Optimal Solutions & Mitigations



Identify Anticipated Capital Projects Over Planning Horizon



2 years

years

Capital Improvement Planning (CIP)

Prioritize Projects with Criteria



Determine Relative Weighting of Criteria



Establish Capital
Project Prioritization
Criteria



Strategic Financial Planning

Review Financial Position of Each Utility



Determine Capital Investment Capacities



Recommend
Financial Strategy to
Achieve
Operational
Objectives



## Objectives Utilities Strategic Financial Plan

## Financial Objectives

- Maintain adequate reserve balances such that:
  - Meet Minimum Reserves Policy
  - Reserves and revenues adequate to cover near term capital requirements
- Maintain current credit ratings for each Enterprise Fund and the City
- Avoid rate spikes by limiting rate increases to no more than 5% annually

### Operational Objectives

- Provide adequate funds for anticipated capital investments
- Maintain adequate reserves to meet unanticipated capital investments and any debt service expense

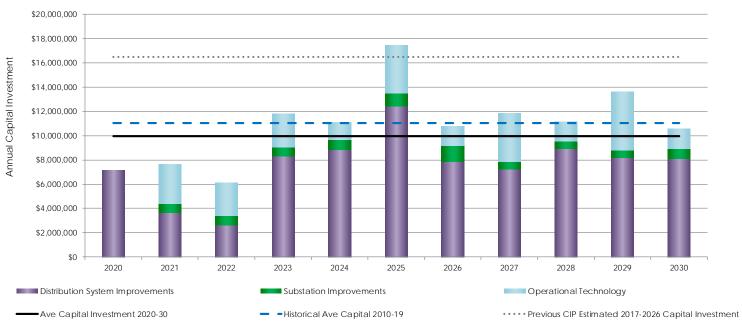


## Light & Power Enterprise Fund



## Light & Power Fund CIP

Light & Power Fund Capital Improvement Plan

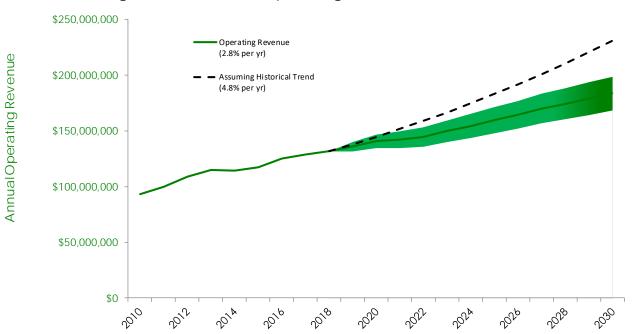


2018 Operating Revenue not used for Purchased Power expense was \$38M



## Light & Power OperatingRevenue

Light & Power Fund Operating Revenues (2009 - 2028)

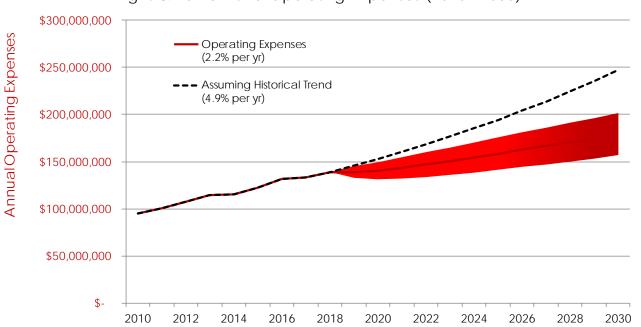


- Expect revenue growth < 3% on average
- 5% over the last decade 2010 -2019



## Light & Power Rate Pressures

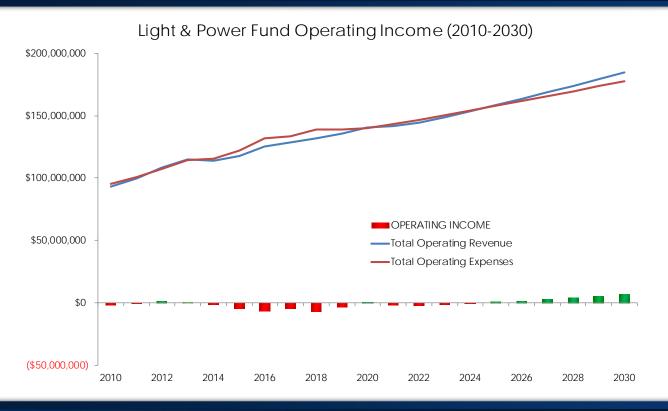




- Limit O&M inflation to 2%:
- Assumes PRPA increase of 2.0%
- Increased efficiencies
- CIP

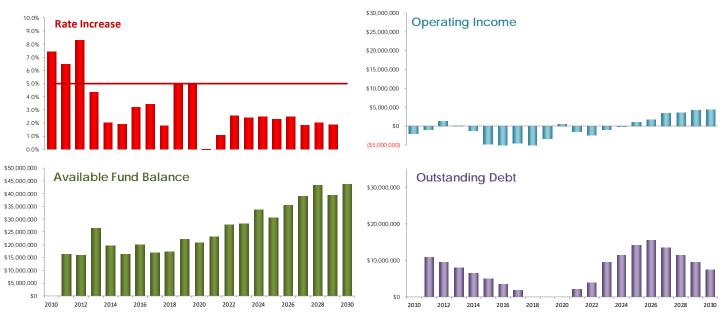


## Light & Power Operating Income





## Light & Power Financial Health Forecast



#### Assumptions:

- 1. Annual Rate increases limited to 5%.
- 2. Debt issued no more often than once every 3 years.



## Light & Power Rate & Debt Forecasts

	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030
Rate Increase	5.0%	2%	2%	1-3%	1-3%	1-3%	1-3%	1-3%	1-3%	1-3%	1-3%
Debt Issuance \$M	-	-	-	\$10-15M	-	-	\$10-15M	-	-	-	-
\$100M of capital work is expected to be needed between 2020 and 2030 in addition to the current capital appropriations											

- Modest rate adjustments will be necessary over the coming decade
- Operating Income becomes positive and Available Reserves increase
- Some debt issuances are expected to be necessary for electric infrastructure over the coming decade

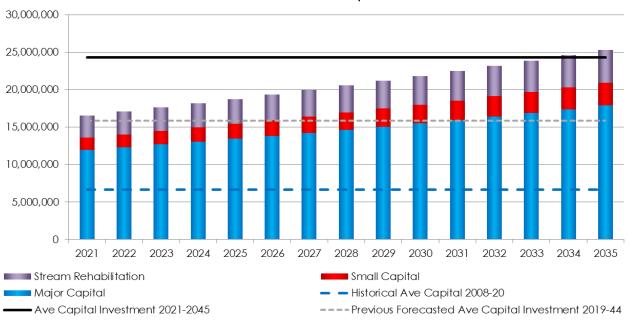


## Stormwater Enterprise Fund



## Stormwater Fund CIP

504 - Stormwater Fund Capital Investment

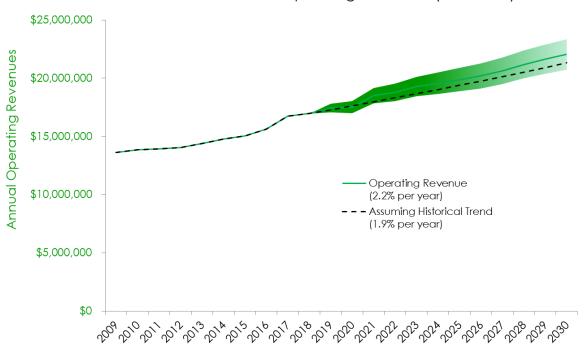


2018 Operating Revenue was \$17.0M



## Stormwater Operating Revenue

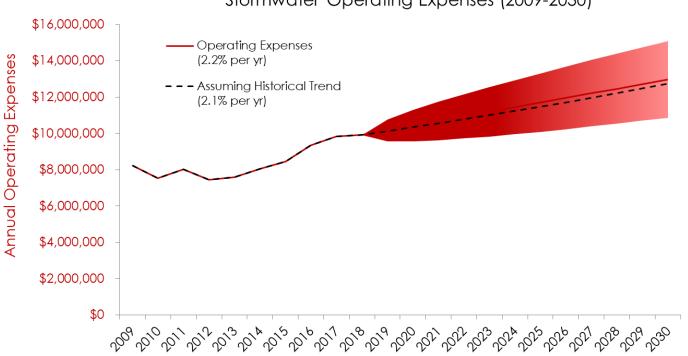
Stormwater Operating Revenues (2009-2030)





# Stormwater Operating Expenses







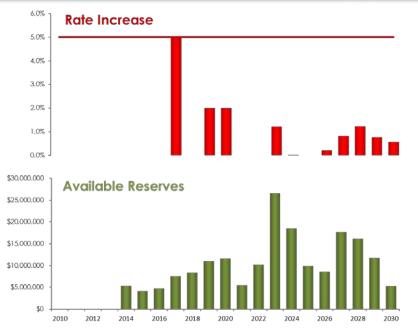
# Stormwater Fund Operating Income

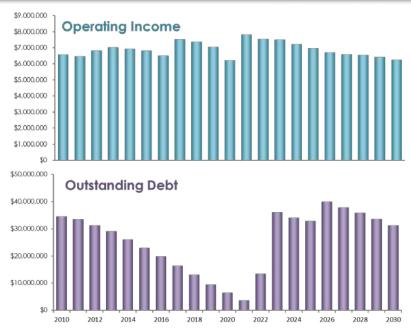






# Stormwater Fund Financial Health Forecast





#### Assumptions:

- 1. Rates are increased up to 5% as needed.
- 2. Debt is issued a year ahead and no more than once every three years.
- 3. Capital work is extended out to 25 years rather than 10 years.
- 4. CIP costs escalate 2.9% annually.



## Stormwater Rate & Debt Forecasts

	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030
Rate Increase	2.0%	0.0%	0.0%	0-2%	0-2%	0-2%	0-2%	0-2%	0-2%	0-2%	0-2%
Debt Issuance		\$35-40M			\$35-40M			\$20-25M			

<sup>\*\$374</sup>M of capital work is expected to be needed between 2021 and 2045.

- Near term capital needs are met with debt issuance in 2022 for the 2023-24 BFO cycle
- Initial buildout of infrastructure to be completed by 2045
- 2030 rates are projected to be 7% higher than 2019
- Total debt issued between 2020 and 2030 is \$90-105M



# Stormwater Rate & Debt Forecasts Alternative Rate Strategy

	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030
Rate Increase	2.0%	3.0%	2.0%	2.5%	2.0%	2.0%	2.0%	2.1%	2.4%	2.4%	2.2%
Debt Issuance	\$30-35M						\$20-25M		\$15-20M		

<sup>\*\$374</sup>M of capital work is expected to be needed between 2021 and 2045.

- Near term capital needs are met with debt issuance in 2022 for the 2023-24
   BFO cycle
- Initial buildout of infrastructure to be completed by 2045
- 2030 rates would be 28% higher than 2019 (vs. 7%)
- Total debt issued between 2020 and 2030 would be \$65-80M (vs. \$90-105M)





- January 2020 Council Finance Committee update on Water and Wastewater
   Enterprise Fund CIPs and Strategic Financial Plans
- January 2020 Finalize the prioritization of the CIPs for all Utility Enteprise Funds
- March 2020 Enter 2021 and 2022 revenue projections into BART as the first step in BFO 2021-22



# Purpose and Direction Sought

## Objective:

- Provide an update on the Capital Improvement Plans and Strategic Financial Plan for the Light & Power and Stormwater Enterprise Funds
- Recommend strategic path forward to meet 10 year operational and financial objectives ahead of the 2021-22 Budget cycle

## **Direction Sought:**

 Does the Council Finance Committee support the Utilities Strategic Financial Plan assumptions ahead of the 2021-22 BFO cycle? In particular, the projected rate increases necessary to meet anticipated revenue requirements?





#### COUNCIL FINANCE COMMITTEE AGENDA ITEM SUMMARY

**Staff:** Gerry Paul, Purchasing Director

Date: December 16, 2019

#### SUBJECT FOR DISCUSSION

Recommended revisions to the Municipal Code, Article IV, Purchasing and Contracting

#### **EXECUTIVE SUMMARY**

Purchasing staff in collaboration with the City Attorney's Office has revised the Municipal Code, Article IV, Purchasing and Contracting to reflect current business needs including:

- Updated language, definitions, descriptions, and processes
- Updated timing of public disclosures
- Update thresholds of authority minor purchases
- Excluded select contract types for the five (5) year term limit

The recommended revisions to the Municipal Code also expand on the appropriate use of alternative delivery methods for delivery of capital projects.

#### GENERAL DIRECTION SOUGHT AND SPECIFIC QUESTIONS TO BE ANSWERED

1. Does the Council Finance Committee support bringing the recommended revisions to the Municipal Code, Article IV to the full council for adoption?

#### **BACKGROUND/DISCUSSION**

Staff periodically reviews and updates Article IV, Purchasing and Contracting to the Municipal Code, based on changing needs and conditions. The impetus for the update to the procurement code resulted from a cross-functional team evaluation of the Alternative Project Delivery System (APDS) utilized by Utilities. Based on this work, the opportunity was identified to update the procurement code to expand upon the appropriate use of all alternative delivery methods utilized City-wide to delivery capital construction projects.

The revisions to the procurement code also address current business needs consistent with public procurement best practices.

## **ATTACHMENTS**

- 1. Presentation to Council Finance Committee
- 2. Redline changes to Municipal Code, Article IV, Purchasing and Contracting
- 3. Revised Municipal Code, Article IV, Purchasing and Contracting





# **Code Update Objectives**

- Periodic update to code to reflect current business needs
  - Updated language, definitions, descriptions, processes
  - Update timing of public disclosure of notice of award
  - Update thresholds of authority minor purchase
  - Exclude select contracts from the term limit of 5 years i.e. software
- Provide better definition of various procurement delivery methods for capital projects



# **Code Update Summary**

## **Sec 8-110 - Procurement Application – Expanded Exemptions**

- Real property, grants awarded by the City, Museum exhibits
- Benefits Eliminated ambiguity

## **Sec 8-158 – Competitive Sealed Proposals**

- Public disclosure of offerors after submittal deadline
- Name of firm awarded disclosed after the notice of award vs. after contract signing
- Benefits Transparency & enhanced timeliness of communications

## **Sec 8-186 – Multi-year Contracts**

- Exclude select types of agreements from the 5-year term limit
  - Software licensing & maintenance agreements
  - Select financial services credit card processing, retirement record keeping
  - Content for City-delivered video programming
- Benefits Enhanced alignment of contract term and service type



## **Code Update Summary**

## Sec 8- 161 - Minor Purchases

- Increase department threshold from \$5k to \$7.5k and \$10k to \$15k for pricing agreements
- Benefits Efficiency

## **Sec 8-161 – Construction Change Orders**

- Exempt capital projects using APDS from the 15% cumulative change order limit
- Benefits Enhanced alignment of code with APDS (Cost Plus)

## **Defined Alternative Delivery Methods & Expanded on Appropriate Use**

- APDS use will be limited to Utility capital projects on a project-by-project basis
- Increase opportunities for competition and document material & subcontractor quotes



# **Capital Construction Delivery Methods**

### • CMGC – Construction Manager General Contractor/Construction Manager At-Risk

- The design and construction of a project is contracted for separately
- Both are largely qualification-based selection with consideration to cost
- General Contractor typically joins the project at about 30% design
- Reach a guaranteed maximum price at 90% design

### Design Build

- A single contract with a single contractor to provide both design and build services
- Reach a guaranteed maximum price at 90% design

#### APDS – Alternative Procurement Delivery System

- Qualification based selection of both design and construction for each project
- City and contractors jointly develop solutions and designs on each project
- Costs verified via contractor quotes and Independent Cost Estimates
- No guaranteed maximum price cost plus

## Design / Bid / Build

- Qualification based selection of the design firm
- Contractor selection is based on lowest cost bid



# **Construction Methodology Matrix**

APDS	CM/GC & CMAR	Design/Build	Design/Bid/Build	Service Agreement	
Michigan Ditch Tunnel	Michigan Ditch Tunnel Poudre White Water Park		Fossil Creek Trail	Operations & Maintenance	
Halligan Reservoir	Horsetooth & Prospect/College Intersections		North College Pedestrian Gap	Minor Water line replacement	
DWRF Headworks	Sugar Beet Park		Riverside Bridge Replacement	Hydrants	
Magnolia Outfall	Police Training Center		Sharp Point/Nancy Gray Connection	Pipe replacement	
	Stormwater Levees		Transfort Bus Pad Construction	Electrical	
	Water & Sewer Line Replacement		Paving Replacement & Rehabilitation	Pumps	



# **Utility APDS Implications**

- Within Utilities, process engineering and project management resources have been supported by long term APDS contractors
  - Less work completed using APDS will require additional Utility internal resources to support process engineering and project management
  - Key should be cost neutral, these costs have historically been in the contractor project costs.
  - More work will be competitively bid <u>adding workload to Purchasing</u>





#### Refreshed Procurement Code

- Reduced ambiguity with exemptions
- Enhance alignment of contract term with service type
- Increased transparency with timing of public disclosures
- Increase minor purchase threshold from \$5K to \$7.5K

## Aligned APDS with Code and Public Procurement Principles

- Contract-by-contract basis
- Enhanced competition expanded contractor base
- Increased quoting for materials and subcontractors
- Increased transparency

Attachment 2
Redline changes to Municipal Code, Article IV,
Purchasing and Contracting

ARTICLE IV. - PURCHASING AND CONTRACTING[3]

Footnotes:

--- (3) ---

**Editor's note**— Ord. No. 84, 1990, adopted Aug. 7, 1990, repealed former Art. IV, "Purchasing," §§ 8-110-8-132, derived from Code 1972, §§ 2-56-2-69, and Ord. No. 97, 1987, §§ 1, 2, adopted July 21, 1987, and added a new Art. IV, §§ 8-110-8-206..

Charter reference— Purchasing, Art. V, Pt. IV.

**Cross reference**— The Director of Administrative Services shall be responsible for the function and duties of the Financial Administration Unit and the Purchasing Division, § 2-500.

Division 1 - Generally

Sec. 8-110. - Procurement application.

This Article shall apply to the procurement of all materials, services—and\_ professional services, and construction required or used by all departments and agencies of the City, including businesses and enterprises operated by the City, whether used in the construction of City improvements or otherwise, irrespective of the source of the funds, excepting only donations, real property, the procurement of legal and litigation services, City grants, museum exhibits, musical, dramatic and other fine arts performances, power purchases for resale, and services or activities subject to contracts between the City and other governmental bodies. When any procurement involves the expenditure of federal or state funds, the procurement shall be conducted in accordance with any mandatory applicable federal or state laws or regulations. This Article does not create or confer any right or entitlement upon any person to bid on or receive an award of any City contract.

(Ord. No. 84, 1990, 8-7-90)

Sec. 8-111. - Purpose.

The purposes of this Article are to provide for the fair and equitable treatment of all persons involved in public purchasing by the City, to maximize the purchasing value of public funds, to codify and standardize the City's purchasing procedures for the orderly and efficient administration thereof, to provide safeguards for maintaining a procurement system of quality and integrity and to foster effective, broad-based competition within the free enterprise system.

(Ord. No. 84, 1990, 8-7-90)

Sec. 8-112. - Definitions.

The following words, terms and phrases, when used in this Article, shall have the meanings ascribed to them in this Section:

Alternative delivery method process\_shall mean a process of construction using either the Alternative Project Delivery System (APDS), Construction Manager/General Contractor (CM/GC), Construction Manager At-Risk (CMAR) or Design/Build approaches.

Alternative Project Delivery System (APDS) shall mean a process of managing a construction manager process, project in which the design/build process or and construction of the project are contracted for separately, typically during the preliminary design/select/build process phase of the project. Firms are selected utilizing a qualification based competitive sealed proposal with consideration to cost. The designer and construction contractor teams work with the City as part of an integrated team focused on risk reduction, value engineering and best value.

*Brand name* shall mean a specification limited to one (1) or more items by manufacturers' names or catalog numbers.

Change order shall mean any written modification to an existing contract authorizing changes within the scope of work, additions or deletions to the work or an adjustment to any other provision of the contract.

<u>City Grants</u> shall mean direct monetary assistance to an organization or individual to undertake a specific project or program. Grants fund solutions to identified problems and/or opportunities within the City.

Confidential information shall mean any information which is available to an employee only because of the employee's status as an employee of the City and which is not a matter of public knowledge or available to the public on request.

Construction shall mean the process of building, improving, altering or demolishing improvements. Construction shall not include the operation, repair or maintenance of improvements.

Construction manager process shall mean the process of entering into a contract for the design and construction of a project together with a contract with a business organization having the expertise and resources to help manage the design and construction of the project and establish a guaranteed maximum price for the project.

Contract shall mean any agreement enforceable by law between the City and one (1) or more outside parties, regardless of form or title, for the procurement of materials, services or construction.

Contract Manager/General Contractor (CM/GC) or Construction Manager At-Risk (CMAR) shall mean a process of managing a construction project in which the design and construction of the project are contracted for separately with the construction contractor typically joining the project at about 30% design completion to provide constructability input, cost estimating, risk reduction, value engineering and best value. Firms are selected utilizing a qualification based competitive sealed proposal with consideration to cost.

Cost data shall mean factual information concerning the cost of labor, material, overhead and other cost elements which are expected to be incurred or which have been actually incurred by the contractor in performing the contract.

Design/build process—shall mean a process for managingexecuting a construction project in which a primary or mainone contractor—submits a combined proposal—, the design-build team, works under a single contract with the City to provide the design and construction services for the entire construction from initial design through project—completion. Firms are selected utilizing a qualification based competitive sealed proposal with consideration to cost.

Design/selectbid/build process shall mean a process for managing a construction-project delivery method in which the <u>City contracts with separate entities for the</u> design and construction of <u>thea</u> project-are contracted for separately but the designer. The design firm is a qualification-based selection process and <u>the</u> construction contractor work with the <u>City as part of an integrated team for is selected based on the design-lowest responsive and responsible bid.</u>

Guaranteed Maximum Price (GMP) shall mean the sum of money agreed upon between the City and the construction contractor to complete a construction project. This is a not-to-exceed total cost of the services and materials provided during the construction of the project phase of work including direct costs, overhead, any contingency, and fees. The GMP is typically established at approximately 90% design completion.

Independent Cost Estimate (ICE) shall mean a tool utilized to assist in determining the reasonableness of the project cost. The ICE is developed by a qualified independent third-party not associated with the project.

*Improvements* shall mean any structure, building, street, utility or other valuable addition to real property amounting to more than mere repairs or partial replacement and intended to enhance its value or utility or to adapt it for new or further purposes.

*Invitation for bids* shall mean all documents, whether attached or incorporated by reference, utilized for soliciting bids.

Legal services shall mean the advice, representation, document preparation or related services of an attorney as special counsel provided to the City upon the request of the City Attorney.

Litigation services shall mean professional or other services procured by the City Attorney for the purpose of evaluating, preparing, providing or presenting evidence at the trial of any lawsuit to which the City is a party. Litigation services shall not include legal services.

Maintenance shall mean acts of repair, replacement or other acts necessary to keep any improvements or personal property in proper condition and good working order, to prevent decline in, failure or cessation of the existing condition of the improvement or personal property or to restore any improvement to its original condition after partial failure or destruction. This term shall not include improvements.

<u>Master Agreement</u> shall mean an agreement established for the completion of a project or provision of services or materials on an as-required basis establishing the terms, conditions and general scope of services. The Master Agreement works in conjunction with a Work Order, which supplements the Master Agreement.

*Materials* shall mean all personal property, including, but not limited to, supplies, equipment, parts, printing and insurance; excluding, however, leases of a permanent interest in real property, securities and financial paper and water and water rights whether represented by shares of stock in ditch and irrigation companies, units of the Northern Colorado Water Conservancy District or otherwise.

*Price data* shall mean factual information concerning prices for items substantially similar to those being procured. *Prices* as used in this definition shall refer to offered or proposed selling prices, historical selling prices and current selling prices.

*Pricing agreement* shall mean an agreement by which procurements are conducted by or on behalf of more than one (1) governmental body.

*Procurement* shall mean the purchasing, renting, leasing or other acquisition of any materials, services, professional services or construction. It shall also include all functions that pertain to obtaining any material, service or construction, including the description of requirements, the selection and solicitation of sources and the preparation and award of contract. *Procurement* shall not include the buying, purchasing, renting or leasing of real property.

*Professional services* shall mean the furnishing of labor, time, effort or expertise by a contractor with specialized knowledge in a field, including, but not limited to, architecture, engineering, medicine, finance, accounting, appraisal and land surveying.

*Public notice* shall mean any publication reasonably calculated to inform responsible bidders or offerors. Public notice shall occur for a reasonable time and may be disseminated through any means of mass communication, including, but not limited to <u>e-procurement systems</u>, internet, newspapers, other written publications, posting, television, radio, other broadcasting media and electronic billboards.

Real property shall mean lands, lands under water, buildings, permanent structures and any and all easements, incorporeal hereditaments and every estate and right herein, legal and equitable, including terms for years and liens by way of judgment, mortgage or otherwise.

Request for proposals shall mean all documents, whether attached or incorporated by reference, utilized for soliciting proposals.

Responsible bidder or offeror shall mean a person who meets the criteria specified in § 8-160 of this Article and who has the capability in all respects to perform fully the contract requirements and the experience, integrity, reliability, capacity, facilities, equipment, insurance and credit which will ensure good-faith performance.

Responsive bidder or offeror shall mean a person whose bid or offer conforms in all material respects to the requirements set forth in the invitation for bids or request for proposals.

Services shall mean the performance of maintenance or the furnishing of labor, time or effort which does not involve the delivery of a specific end product other than a report or other item which is merely incidental to the performance of the service. Services shall not include services rendered under an employment agreement nor shall it include *professional services* as that term is defined in this Section.

Specification shall mean any description of the physical or functional characteristics of or the nature of the material, service or construction item. It may include a description of any requirement for inspecting, testing or preparing a material, service or construction item for delivery or a procedure for determining whether the requirements are satisfied.

Using agency shall mean any service area, department, board or commission of the City requiring supplies, professional services, services or construction procured pursuant to this Article.

Work order shall mean a written order defining a discrete service and/or material with a definite project, price and time of completion which is used in conjunction with a work order contract to create an enforceable contract.

Work order contract shall mean a master contract for completion of a project or provision of services or materials on an as-needed basis establishing all terms and conditions requested by the City except those contained in the work orders to be issued pursuant to the work order contract.

(Ord. No. 84, 1990, 8-7-90; Ord. No. 130, 2002, § 18, 9-17-02; Ord. No. 026, 2008, § 1, 3-18-08)

Sec. 8-113. - Authority and duties of purchasing agent.

- (a) The Purchasing Agent shall serve as the public purchasing official for the City, and shall be responsible for the procurement of all materials, services, professional services and construction for the City which are governed by the terms of this Article.
- (b) The Purchasing Agent may formulate and promulgate rules and regulations for the administration of this Article, not inconsistent with the provisions of this Article, with respect to purchasing procedures. Any rules and regulations promulgated by the Purchasing Agent hereunder shall be effective upon the Purchasing Agent's filing of the same withapproval by the City Clerk Manager.

(Ord. No. 84, 1990, 8-7-90; Ord. No. 026, 2008, § 2, 3-18-08)

**Charter reference**— Powers and duties of Purchasing Agent, Art. V, § 27.

Sec. 8-114. - Procurement contrary to this article.

Except as may be otherwise provided by law, it shall be unlawful for any City officer or employee to order a procurement contrary to the provisions of this Article. Any procurement or contract so made shall be void and wholly without effect and shall not be binding upon the City in any manner.

(Ord. No. 84, 1990, 8-7-90)

Secs. 8-115—8-135. - Reserved.

**Division 2 - Specifications** 

Sec. 8-136. - Intent.

All specifications, including, but not limited to, design, performance and brand name specifications, shall be drafted so as to provide a clear and concise description of the material, service or construction desired.

(Ord. No. 84, 1990, 8-7-90)

Sec. 8-137. - Preparation.

Before any procurement, the Purchasing Agent shall cause to be prepared written specifications detailing the City's requirements for the materials, service or construction. The Purchasing Agent may request other departments or agencies of the City to prepare specifications for procurements to be made primarily for such department or agency.

(Ord. No. 84, 1990, 8-7-90)

Sec. 8-138. - Approval.

- (a) Specifications prepared primarily for a procurement for a specific department or agency of the City shall be approved by both the Purchasing Agent and the head of the using <u>department</u>, agency <u>or</u> <u>designee thereof</u> before being submitted for bid.
- (b) If the Purchasing Agent and head of the using <u>department or</u> agency cannot agree, the matter shall be referred to the City Manager.

(Ord. No. 84, 1990, 8-7-90)

Sec. 8-139. - Brand name specification.

- (a) A brand name specification may be used to maintain standardization, interchangeability, or compatibility within a critical system or process or when the Purchasing Agent has determined that sufficient sources for competition exist for the procurement of the material and that the use of the brand name specification is not intended to limit or restrict competition.
- (b) A brand name specification may also be used to describe the standard of quality, performance and other salient characteristics of a material in lieu of a description of its physical or functional characteristics. In such cases, the solicitation shall contain explanatory language that the use of a brand name is for the purpose of describing the standard desired and that the substitution of equivalent materials is permitted.

(Ord. No. 84, 1990, 8-7-90)

Secs. 8-140—8-155. - Reserved.

Division 3 - Contract Formation and Award [4]

Footnotes:

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Charter reference— Competitive bidding, Art. V, § 27; contracts for services, Art. V, § 30.

Sec. 8-156. - Methods of source selection.

All procurements subject to the terms of this Article shall be awarded by competitive sealed bidding pursuant to § 8-157, except as provided in:

- (1) Section 8-158 concerning awards by competitive sealed proposals; and
- (2) Section 8-161 concerning exemptions to the use of competitive bids or proposals.

Sec. 8-157. - Competitive sealed bidding.

- (a) Procurements accomplished pursuant to this Section shall be awarded to the lowest responsive and responsible bidder after competitive sealed bidding.
- (b) An invitation for bids shall be issued and shall include specifications and all contractual terms and conditions applicable to the procurement.
- (c) Public notice shall be given and shall include the bid title, place, date and time of bid opening.
- (d) All bids shall be opened in public at the time and place stated in the invitation for bids. The amount of each bid and such other relevant information as the Purchasing Agent deems appropriate, together with the name of each bidder, shall be recorded. Thereafter, the record of bids and each bid shall be available for public inspection in the office of the Purchasing Agent in the same manner as are other public records. In the event of good cause as determined by the Purchasing Agent, bid openings may be postponed.
- (e) Bids shall be unconditionally accepted without alteration or correction, except as authorized in Subsection (g) of this Section. Bids shall be evaluated based on the requirements set forth in the invitation for bids, which may include criteria and/or processes for determining acceptability, such as inspection, provision of sample materials, testing, quality, workmanship, delivery and suitability for a particular purpose. Those criteria that will affect the bid price shall be objectively measurable, such as discounts, transportation costs and total or life cycle costs. The invitation for bids shall set forth all evaluation criteria to be used. No criteria may be used in bid evaluation that are not set forth in the invitation for bids.
- (f) Correction or withdrawal of inadvertently erroneous bids before or after bid opening, or cancellation of awards or contracts based on such bid mistakes, may be authorized when deemed appropriate by the Purchasing Agent.
- (1) Bids may be withdrawn by the offeror for any reason prior to bid opening. Any such notice of withdrawal must be received in the office designated in the invitation for bids prior to the time set for bid opening.
  - (2) Mistakes discovered before bid opening may be corrected or withdrawn in writing by the bidder. Any such corrections or notices of withdrawal must be received in the office designated in the invitation for bids prior to the time set for bid opening.
  - (2)—3) After bid opening, the following provisions shall apply:
    - a. A low bidder alleging a material mistake of fact may be permitted by the Purchasing Agent to correct its bid if the mistake is clearly evident on the face of the bid document and the intended correct bid is similarly evident.
    - b. A low bidder alleging a material mistake of fact may be permitted by the Purchasing Agent to withdraw its bid: (i) if the mistake is clearly evident on the face of the bid but the intended correct bid is not similarly evident or (ii) if the mistake is not clearly evident on the face of the bid but the bidder submits evidence to the Purchasing Agent which clearly and convincingly demonstrates that a mistake was made, in which case the bidder must show the nature of the mistake and the bid price actually intended.
  - (3) 4) No changes in bid prices or other provisions of bids prejudicial to the interests of the City or fair competition shall be permitted.
  - (4)—5) All decisions to permit the correction or withdrawal of bids or to cancel awards or contracts based on bid mistakes will be supported by a written determination made by the Purchasing Agent.
- (g) The contract shall be awarded with reasonable promptness by written notice to the lowest responsive and responsible bidder whose bid meets the requirements and criteria set forth in the invitation for bids. If the lowest responsive and responsible bid exceeds budgeted funds and either time constraints

or economic considerations preclude resolicitation of work of a reduced scope, the Purchasing Agent is authorized to negotiate an adjustment of the bid price with the lowest responsive and responsible bidder or to modify the scope of work, so as to bring the bid within the amount of available funds. The Purchasing Agent is also authorized to negotiate other terms and conditions.

(Ord. No. 84, 1990, 8-7-90)

Sec. 8-158. - Competitive sealed proposals.

- (a) Procurements for the following are eligible for award by competitive sealed proposals:
  - (1) —\_Materials and services when the Purchasing Agent determines—in writing that the use of competitive sealed bidding is either not practicable or not advantageous to the City;
  - (2) Professional services; and
  - (3) City improvements when the Purchasing Agent determines that the use of alternative delivery methods will provide substantial benefit to the City while retaining sufficient assurance of competitive pricing and/or performance.
- (b) —Procurements accomplished pursuant to this Section shall be solicited through a request for proposals.
- (c) Public notice shall be given and shall include the proposal title, place, date and time of proposal opening. The proposal must be received at the place stated in the request for proposal. In the event of good cause as determined by the Purchasing Agent, the time set for submittal of the proposals may be extended when determined to be in the City's best interest.
- (d) Except as provided in paragraphparagraphs (e) and (m) of this Section, proposals shall be opened so as to avoid disclosure of contents to competing offerors during the process of negotiation.
- (e) A register list of the offerors submitting proposals shall be maintained containing the name of each offeror and shall be open for public inspection or disclosure after the awardtime set for submittal of the contract in the office of the Purchasing Agent in the same manner as are other public records proposals.
- (f) The request for proposals shall state evaluation factors and their relative importance.
- (g) After proposal opening, interviews may be conducted with the highest ranked responsible offeror or offerors for the purpose of clarification and to assure full understanding of, and responsiveness to, solicitation requirements. Offerors selected for interview shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals. Revisions may be permitted after submissions and prior to award in order to reflect clarifications in the proposal's scope of work or contract amount.
- (h) Except as provided in <a href="mailto:paragraph-paragraphs">paragraphs</a> (e) and (m) of this Section, in conducting interviews, there shall be no disclosure by the City or any officer, employee or committee thereof, of any information derived from proposals submitted by competing offerors, nor shall there be any disclosure of information discussed by the evaluation committee in selecting the highest ranked offeror(s).
- (i) After the contract has been awarded and a written contract executed with the selected offeror(s), the total points of the evaluation committee will be retained by the Purchasing Agent for a period of time consistent with the City's record retention policy. The total points or ranking of the offerors shall not be made available for public inspection or disclosure.
- (j) Except as provided in paragraph (m) of this Section, individual rating sheets, notes, emails and notes other documents prepared or utilized by members of the evaluation committee shall not be made available for public inspection, or disclosure.
- (k) The contract shall be awarded with reasonable promptness by written notice to the responsible offeror whose proposal is determined in writing to be the most advantageous to the City, taking into consideration the evaluation factors set forth in the request for proposals. No other factors or criteria shall be used in the evaluation.

- (I) The Purchasing Agent is authorized to negotiate <u>contract terms</u>, <u>including but not limited to</u> the final price and precise scope of work, with the selected offeror.
- (m) If the proposals are for the services of a public accounting firm to conduct the annual independent audit of the City's books and accounts as required in Section 17 of Charter Article II, those proposals shall be reviewed and the interviews conducted by the City Council or a committee of the Council in a public meeting and the selection by Council shall be conducted in a public meeting. In conducting such review, interviews and selection, the City Council and committees of the Council shall not be subject to the provisions in paragraphs (d), (h), (i) and (j) of this Section.
- (n) No public accounting firm selected to conduct the City's annual independent audit shall be eligible to be selected under this Section to conduct that audit for more than two (2) consecutive five (5) year terms. In addition, any firm conducting the audit for five (5) consecutive years shall not be eligible to participate in a new competitive sealed proposal and be selected unless the firm assigns a new lead partner to conduct the audit under the new contract with a term of one (1) to five (5) years.
- (o) The construction of City improvements utilizing an alternative delivery method will ensure competitive pricing and value by requiring the contractor to obtain quotes from at least three (3) suppliers and/or subcontractors for all materials and services exceeding a cost of \$60,000 subject to the discretion of the Purchasing Agent. Subcontractors selected as part of the construction contractor team competitive process for the alternative delivery method are exempt from this requirement, subject to the discretion of the Purchasing Agent.

(Ord. No. 84, 1990, 8-7-90; Ord. No. 83, 1991, § 2, 7-16-91; Ord. No. 144, 1996, 12-3-96; Ord. No. 026, 2008, § 3, 3-18-08; Ord. No. 101, 2018, § 2, 8-21-18)

Sec. 8-159. - Competitive negotiated procurement.

- (a) Procurement for goods, <u>services</u>, <u>professional</u> services, products for resale or redistribution, distribution services usage and competitive business arrangements that are related to the establishment of strategic business plans or relationships of any City utility in a competitive market environment shall be eligible for award by competitive negotiation under this Section, provided that the following conditions are met:
  - (1) The Purchasing Agent determines in writing, with the approval of the City Manager, that the use of competitive sealed bidding or competitive sealed proposal processes are either not practicable or not advantageous to the City; and
  - (2) There is a minimum of two (2) vendors/businesses willing and able to provide the basic goods, services or products to be procured through competitive negotiation.
- (b) In order to initiate a competitive negotiated procurement under this Section, the procuring utility shall, in a manner acceptable to the Purchasing Agent as sufficient to identify potential appropriate and qualified vendors of the goods—or, services, or professional services to be procured, investigate and research the market for such goods, services, or professional services, and identify those vendors determined to be appropriate and qualified candidates in light of the competitive and other interests of the procuring utility.
- (c) The procuring utility may contact selected vendors, or may consider appropriate and qualified vendors that have initiated contact with the City, provided that a rational basis for identifying and selecting candidate vendors in view of the interests of the procuring utility is applied consistently to all vendors reasonably known to the procuring utility.
- (d) The Purchasing Agent shall, with the approval of the City Manager, be responsible for accepting and soliciting all offers made on behalf of the procuring utility under the provisions of this Section.
- (e) Each vendor participating in competitive negotiations under this Section shall be accorded a fair and reasonable opportunity to present and explain the goods—or, services, or professional services to be provided by such vendor.

- (f) The basis for final selection of a vendor under a competitive negotiation process, and the final terms of the contract under which goods—or, services, or professional services shall be procured under this Section, shall each be subject to the review and approval of the Purchasing Agent and City Manager.
- (g) Prior to the renewal or extension of any contract for goods—or, services, or professional services under this Section beyond the original potential term of such contract, the City Manager or procuring utility shall require that an assessment of the subject vendor's performance and the benefits to the City of the terms of such contract be conducted by a qualified third party, to be selected by the Purchasing Agent.

(Ord. 179, 1997, 11-18-97)

Sec. 8-160. - Responsibility of bidders and offerors.

- (a) In determining whether a bidder or offeror is responsible, the following shall be considered:
  - (1) The ability, capacity and skill of the bidder or offeror to perform the contract or provide the services required;
  - (2) Whether the bidder or offeror can perform the contract or provide the service promptly and within the time specified without delay or interference;
  - (3) The character, integrity, reputation, judgment, experience and efficiency of the bidder or offeror;
  - (4) The quality of the bidder's or offeror's performance of previous contracts or services;
  - (5) The previous and existing compliance by the bidder or offeror with laws and ordinances relating to the contract or service;
  - (6) The sufficiency of the financial resources and ability of the bidder or offeror to perform the contract or provide the service;
  - (7) The quality, availability and adaptability of the materials and services to the particular use required;
  - (8) The ability of the bidder or offeror to provide future maintenance and service for the use of the subject of the contract;
  - (9) Any other circumstances which will affect the bidder's or offeror's performance of the contract.
- (b) In addition to the authority for rejection found in §§ 8-157, 8-158, 8-160, 8-163, 8-164 and 8-166 of this Article, the Purchasing Agent shall have the authority to reject all bids or proposals or any portions thereof when the interests of the City and the public will be served thereby. All such decisions will be supported by a written determination made by the Purchasing Agent.
- (c) No bidder or offeror shall be in default on the performance of any other contract with the City or in the payment of any taxes, licenses or other monies due to the City.

(Ord. No. 84, 1990, 8-7-90; Ord. 179, 1997, 11-18-97)

Sec. 8-161. - Exemptions to use of competitive bid or proposal.

- (a) Minor purchases.
  - (1) The Purchasing Agent shall have the <u>powerauthority</u> to negotiate without formal competition for the purchase of any materials, professional services, services or construction not exceeding a cost of sixty thousand dollars (\$60,000-) per <u>year of</u> contract<u>or purchase order</u>. Where a project has been previously bid, project managers may approve, pursuant to administrative guidelines approved by the Purchasing Agent, change orders up to the minor purchase limit established in this Subsection; provided, however, that no such change order shall authorize any expenditure of funds in excess of the amounts budgeted and appropriated for the project.

- (2) Such negotiated purchases shall be made in the open market, but wherever practical or advantageous, the Purchasing Agent, department or agency shall obtain quotes from at least three (3) suppliers. Negotiated purchases of materials, professional services, services or construction shall be awarded to the person supplying the lowest responsible and responsive quote. Critical attributes, such as quality, experience and delivery, may be considered in the award, but such attributes must be stated in the invitation for quote.
- (3) The purchasing procedures adopted pursuant to § 8-113 of this Article may authorize the purchase of materials, services or professional services in the open market by other departments or agencies of the City, provided that no such purchase shall exceed fiveseven thousand five hundred dollars (\$,5000.)(\$7,500) except that the Purchasing Agent may authorize the procurement of materials and services in an amount not to exceed tenfifteen thousand dollars (\$1015,000.)) per procurement when purchased pursuant to a pricing agreement approved by the Purchasing Agent and purchased by an employee of the City authorized by the Purchasing Agent to make such purchases.
- (4) No procurement willshall be divided so as to constitute a minor purchase under this Subsection.
- (b) Emergency purchases .
  - (1) In the case of an apparent emergency requiring the immediate purchase of materials, professional services, services or construction, the City Manager shall have the power to authorize the Purchasing Agent to secure necessary items in the open market regardless of the amount of the expenditure.
  - (2) In no event shall the contract price exceed commercially reasonable prices.
  - (3) A full written report of the circumstances of all emergency purchases over two hundred thousand dollars (\$200,000-) shall be made by the City Manager to the City Council. The report shall be received by the City Council in an open meeting, and such report shall be open to public inspection.
- (c) Construction change orders .
  - Notwithstanding the provisions of Paragraph (a)(1) of this Section and Subsection (2) below, one
     or more change orders to an existing construction contract may be executed without competition unless the cumulative amount of such change orders exceeds the greater of:
    - a. Fifteen (15) percent of the original contract amount; or
    - b. Fifteen (15) percent of the Guaranteed Maximum Price (GMP); or
    - b. Sixty thousand dollars (\$\frac{100}{60},000\_{-\frac{1}{2}}).

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- (2) Construction contracts utilizing an alternative delivery method shall not be subject to the limits of subsection (c)(1) of this Section 8-161, except in the event a Guaranteed Maximum Price (GMP) is established. In such event, subsection (c)(1) above shall apply.
- (3) Any construction change order which authorizes a new improvement under a construction contract may be executed without competition when the Purchasing Agent makes an administrative finding that it would be in the City's best interest to negotiate with the on-site contractor for the construction of the new improvement because:
  - a.—The new improvement is required for the completion of an improvement which is currently under construction pursuant to a competitive bidding or competitive proposal process; or
  - b. The new improvement results from the discovery of differing or unforeseen physical conditions at the site of the improvement under construction and is required for the completion of the improvement under construction; and.
- c. An administrative finding has been made by the Purchasing Agent that it would be in the City's best interest to negotiate with the on-site contractor for the construction of the new improvement. Any

change order executed under this subsection (3) is not subject to the cost limitations of subsection (c)(1) of this Section 8-161.

- (d) Miscellaneous exemptions.
  - (1) A contract for materials, professional services or services may be awarded without competition if the Purchasing Agent determines in writing that one (1) or more of the following conditions exists:
    - a. There exists only one (1) responsible source;
    - b. Although there exists more than one (1) responsible source, a competitive process cannot reasonably be used or, if used, will result in a substantially higher cost to the City, will otherwise injure the City's financial interests or will substantially impede the City's administrative functions or the delivery of services to the public;
    - c. A particular material or service is required to maintain interchangeability or compatibility as a part of an existing integrated system;
    - A particular material, professional service or service is required in order to standardize or maintain standardization for the purpose of reducing financial investment or simplifying administration;
    - e. The material is perishable;
    - f. The material qualifies as an object of fine art;
    - g. A particular material is required to match materials in use, so as to produce visual harmony;
    - h. A particular material is required to enable use by a specific individual;
    - i. A particular material is prescribed by a professional advisor;
    - j. The material, professional service or service is the subject of a change order.
  - (2) The Purchasing Agent shall submit each determination made under this Subsection (d) to the City Manager, who shall approve or reject the procurement.
  - (3) The City Manager shall submit all procurements under this Subsection (d) which exceed a cost of two hundred thousand dollars (\$200,000.) to the City Council in an open meeting for final approval.
  - (4) Any procurement approved under this Section <u>8-161</u> by the City Manager or the City Council may be used as the basis for a negotiated purchase of additional quantities of the same materials or services at any time within a period of five (5) years from the date of approval; provided, however, that subsequent procurements may be expressly limited to a specific number of purchases or a period of less than five (5) years.
- (e) Purchase of utility services.
- (f) Materials, certainservices, professional services and construction competitively bid within twenty-four (24) months. In any case where the City has, within the preceding twenty-four (24) months, pursuant to an invitation for bids or request for proposals, awarded a contract for the procurement of any materials or for the procurement of services, professional services or construction bid on a unit price basis and/or hourly rate schedule, the Purchasing Agent may negotiate with the successful bidder for the purchase of additional quantities of the materials or units of services or construction, under a new agreement subject to the limitations of Section 8-186. The Purchasing Agent may, based upon a reasonably prudent investigation of market conditions at the time, make procurements at a price warranted by such conditions, even if the resulting cost to the City is greater than the amount of the previous award.
- (gf) Purchase of content for City-delivered video programming and streaming services. The Purchasing Agent shall have the authority to negotiate without formal competition the purchase of video content

licensing rights for the City's delivery of cable or other subscriber video content, programming, and streaming services. The Purchasing Agent is authorized to procure such licensing from local channels, individual channels and channel families, and video content aggregation companies when he or she determines i) viable market demand supports obtaining rights to deliver the specific content, and ii) the anticipated cost to acquire such rights is reasonable based on the uniqueness of the content, region, and market. The Purchasing Agent shall submit a summary of such transactions and determinations to the City Manager's Office for each purchase under this Subsection. The Purchasing Agent and the City Manager designee with direct responsibility to manage City telecommunication facilities and services, as defined in Section 7(f) of Charter Article XII, shall jointly advise City Council regarding any purchase under this Subsection that exceeds an annual cost of one million dollars (\$1,000,000).

(Ord. No. 84, 1990, 8-7-90; Ord. No. 83, 1991, § 3, 7-16-91; Ord. No. 144, 1996, 12-3-96; Ord. 179, 1997, 11-18-97; Ord. No. 026, 2008, § 4, 3-18-08; Ord. No. 051, 2019, § 2, 4-16-19)

Sec. 8-162. - Bid and performance bonds.

- (a) When deemed necessary by the Purchasing Agent, bid bonds or other equivalent security shall be required and the invitation for bids or request for proposals shall describe the requirements. Unsuccessful bidders or offerors shall be entitled to the return of any cash deposit. Unless a specific extension is granted in writing, a successful bidder or offeror shall forfeit any bid bond or equivalent security required by the Purchasing Agent upon its failure to enter into a contract within fifteen (15) days after the award.
- (b) All contracts for construction the cost of which exceed the sum of one hundred thousand dollars (\$100,000.) shall require a performance bond or other equivalent security.
- (c) Nothing in this Section shall be construed to limit the authority of the City to require additional bonds or security.

(Ord. No. 84, 1990, 8-7-90; Ord. 179, 1997, 11-18-97; Ord. No. 026, 2008, § 5, 3-18-08)

Sec. 8-163. - Other procedural prerequisites for award of contracts.

- (a) In the case of a contract for procurement primarily for the use of a specific department or agency of the City, the head of such using <u>department or</u> agency or designee thereof shall also approve an award before written notice of the award is sent.
- (b) In any case where competitive sealed bids or proposals are required by this Article and less than three (3) are received, the Purchasing Agent shall document the rationale for rejecting or awarding the bid or proposal.
- (c) The Purchasing Agent shall not award any contract or finalize any procurement until the funds necessary to defray the cost of such procurement are appropriated and available, excepting only:
  - (1) Cases cases of emergency under Subsection 8-161(b); and
- (2) Cases where revenue to pay the bidder or offeror will be raised through the performance of the contract.).
- (d) No contract for the acquisition of property or the construction of improvements or other expenditures which is to be financed by bonds or other obligations shall be effective until the proceeds of the bonds or obligations have been received by the Financial Officer. Improvements to be paid for by special assessments are excepted from this requirement.
- (e) In any case where two (2) or more bids are received for the same total amount of unit price and are otherwise eligible for award, the low bidder shall be determined by any method which will, in the judgment of the Purchasing Agent, discourage the submission of tied bids.

(Ord. No. 84, 1990, 8-7-90; Ord. No. 144, 1996, 12-3-96; Ord. 179, 1997, 11-18-97)

Sec. 8-164. - Pregualification of bidders and offerors.

Any person desiring to receive invitations for bids or requests for proposals from the City may submit to the Purchasing Agent such information as the Purchasing Agent may require to determine that person's acceptability as a bidder or offeror. The Purchasing Agent may maintain one (1) or more lists compiled from such submittals and may utilize the same The Purchasing Agent may authorize the establishment of a prequalified list of vendors utilizing a competitive prequalification process. This list of vendors may be utilized in lieu of public notice for soliciting competitive sealed bids or competitive sealed proposals; provided, however, that the Purchasing Agent may use such list in lieu of public notice only if public notice of the prequalification procedure and intended use of the list has been given within the preceding twenty-four (24) months.

(Ord. No. 84, 1990, 8-7-90; Ord. 179, 1997, 11-18-97)

Sec. 8-165. - Cooperative procurement plans.

The Purchasing Agent shall have the authority to join with other units of government in cooperative procurement plansprocurements, including, but not limited to, the State and the Multiple Assembly of Procurement Officials, when the best interests of the City would be served thereby. Upon written approval by the Purchasing Agent, competitive sealed bids, competitive sealed proposals or pricing agreements received by any other governmental agency shall be the equivalent of bids or proposals received by the City and may be the basis for any procurement by the City.

(Ord. No. 84, 1990, 8-7-90; Ord. 179, 1997, 11-18-97; Ord. No. 026, 2008, § 6, 3-18-08)

Sec. 8-166. - Solicitations or awards in violation of law.

- (a) If, prior to the bid opening or the closing date for receipt of proposals, the Purchasing Agent determines that a solicitation is in violation of federal, state or municipal law, then the solicitation shall be canceled or revised to comply with applicable law.
- (b) If, after the bid opening or the closing date for receipt of proposals, the Purchasing Agent determines that a solicitation or a proposed award of a contract is in violation of federal, state or municipal law, then the solicitation or proposed award shall be canceled.
- (c) If, after an award, the Purchasing Agent, after consultation with the City Attorney, determines that a solicitation or award of a contract was in violation of applicable law:
  - (1) If the person awarded the contract has not acted in violation of Article IV, Section 9 of the Charter, the contract may be ratified and affirmed if it is determined by the Purchasing Agent that doing so is in the best interests of the City, or the contract may be terminated and the person awarded the contract shall be compensated for the actual costs reasonably incurred under the contract, prior to the termination;
  - (2) If the person awarded the contract has acted in violation of Article IV, Section 9 of the Charter, the contract may be declared null and void, if such action is in the best interest of the City.

(Ord. No. 84, 1990, 8-7-90; Ord. 179, 1997, 11-18-97)

Secs. 8-167—8-184. - Reserved.

Division 4 - Contract Administration

Sec. 8-185. - City attorney review.

All written contracts shall be on forms previously approved by the City Attorney and any changes or additions shall be approved by the City Attorney.

(Ord. No. 026, 2008, § 7, 3-18-08)

Sec. 8-186. - Multi-year contracts.

- (a) No contract for <u>materials</u>, services or professional services, including all renewals, shall be made by the City for a period longer than five (5) years, unless authorized by ordinance, which ordinance shall not be passed as an emergency ordinance. <u>Notwithstanding the foregoing, the following shall not be subject to the five (5) year term limitation but in any event shall not have a term in excess of ten (10) years:</u>
  - (1) Software licensing and/or maintenance agreements; or
  - (2) Select financial services including procurement credit cards, credit card processing, and retirement record keeping; or
  - (3) Purchase of content for City-delivered video programming and streaming services; or
  - (4) Master Agreements with Work Order(s) in-process may be renewed for up to a maximum of one (1) additional year if required to complete an in-process Work Order.
- (b) Multi-year contracts shall be expressly contingent upon the annual budgeting and appropriation of sufficient funds on an annual basis or by nonlapsing appropriation.
- (c) When funds are not appropriated or otherwise made available to support the continuation of the City's performance in a subsequent fiscal period, the contract shall be canceled.

(Ord. No. 84, 1990, 8-7-90)

Sec. 8-187. - Multiple source award.

A multiple source award may be made when an award to two (2) or more bidders or offerors for similar supplies—or, services, or professional services is necessary for adequate delivery, service or product compatibility.

(Ord. No. 84, 1990, 8-7-90; Ord. No. 82, 1991, § 1, 7-16-91)

Sec. 8-188. - Right to inspect plant.

The City may inspect the plant, place of business or work site of any contractor or subcontractor which is pertinent to the performance of any contract awarded or to be awarded by the City.

(Ord. No. 84, 1990, 8-7-90)

Sec. 8-189. - Right to audit records.

- (a) The City may, at reasonable times and places, audit the books and records of any contractor who has submitted cost or pricing data to the extent such books, documents, papers and records are pertinent to cost or pricing data.
- (b) The City shall be entitled to audit the books and records of any contractor or subcontractor when a negotiated contract is not a firm, fixed-price contract.

(Ord. No. 84, 1990, 8-7-90)

Secs. 8-190-8-205. - Reserved.

Division 5 - Resolution of Controversies

Sec. 8-206. - Resolution of controversies.

- (a) The Purchasing Agent is authorized, after consultation with the City Attorney, to settle and resolve any questions regarding:
  - (1) Any protest concerning the solicitation or award of a contract;
  - (2) Debarment or suspension from consideration for award of contracts; and

- (3) Any controversy arising between the City and a contractor by virtue of a contract between them, including, without limitation, controversies based upon breach of contract, mistake, misrepresentation or any other cause for contract modification or rescission.
- (b) This authority shall be exercised pursuant to procedures established pursuant to § 8-113 which shall provide for an expeditious resolution of the controversy.

(Ord. No. 84, 1990, 8-7-90; Ord. No. 144, 1996, 12-3-96)

Attachment 3
Revised Municipal Code, Article IV,
Purchasing and Contracting

ARTICLE IV. - PURCHASING AND CONTRACTING[3]

Footnotes:

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**Editor's note**— Ord. No. 84, 1990, adopted Aug. 7, 1990, repealed former Art. IV, "Purchasing," §§ 8-110-8-132, derived from Code 1972, §§ 2-56-2-69, and Ord. No. 97, 1987, §§ 1, 2, adopted July 21, 1987, and added a new Art. IV, §§ 8-110-8-206..

Charter reference— Purchasing, Art. V, Pt. IV.

**Cross reference—** The Director of Administrative Services shall be responsible for the function and duties of the Financial Administration Unit and the Purchasing Division, § 2-500.

Division 1 - Generally

Sec. 8-110. - Procurement application.

This Article shall apply to the procurement of all materials, services, professional services, and construction required or used by all departments and agencies of the City, including businesses and enterprises operated by the City, whether used in the construction of City improvements or otherwise, irrespective of the source of the funds, excepting only donations, real property, the procurement of legal and litigation services, City grants, museum exhibits, musical, dramatic and other fine arts performances, power purchases for resale, and services or activities subject to contracts between the City and other governmental bodies. When any procurement involves the expenditure of federal or state funds, the procurement shall be conducted in accordance with any mandatory applicable federal or state laws or regulations. This Article does not create or confer any right or entitlement upon any person to bid on or receive an award of any City contract.

(Ord. No. 84, 1990, 8-7-90)

Sec. 8-111. - Purpose.

The purposes of this Article are to provide for the fair and equitable treatment of all persons involved in public purchasing by the City, to maximize the purchasing value of public funds, to codify and standardize the City's purchasing procedures for the orderly and efficient administration thereof, to provide safeguards for maintaining a procurement system of quality and integrity and to foster effective, broad-based competition within the free enterprise system.

(Ord. No. 84, 1990, 8-7-90)

Sec. 8-112. - Definitions.

The following words, terms and phrases, when used in this Article, shall have the meanings ascribed to them in this Section:

Alternative delivery method –shall mean a process of construction using either the Alternative Project Delivery System (APDS), Construction Manager/General Contractor (CM/GC), Construction Manager At-Risk (CMAR) or Design/Build approaches.

Alternative Project Delivery System (APDS) shall mean a process of managing a construction project in which the design and construction of the project are contracted for separately, typically during the preliminary design phase of the project. Firms are selected utilizing a qualification based competitive sealed proposal with consideration to cost. The designer and construction contractor teams work with the City as part of an integrated team focused on risk reduction, value engineering and best value.

Brand name shall mean a specification limited to one (1) or more items by manufacturers' names or catalog numbers.

Change order shall mean any written modification to an existing contract authorizing changes within the scope of work, additions or deletions to the work or an adjustment to any other provision of the contract.

City Grants shall mean direct monetary assistance to an organization or individual to undertake a specific project or program. Grants fund solutions to identified problems and/or opportunities within the City.

Confidential information shall mean any information which is available to an employee only because of the employee's status as an employee of the City and which is not a matter of public knowledge or available to the public on request.

Construction shall mean the process of building, improving, altering or demolishing improvements. Construction shall not include the operation, repair or maintenance of improvements.

Contract shall mean any agreement enforceable by law between the City and one (1) or more outside parties, regardless of form or title, for the procurement of materials, services or construction.

Contract Manager/General Contractor (CM/GC) or Construction Manager At-Risk (CMAR) shall mean a process of managing a construction project in which the design and construction of the project are contracted for separately with the construction contractor typically joining the project at about 30% design completion to provide constructability input, cost estimating, risk reduction, value engineering and best value. Firms are selected utilizing a qualification based competitive sealed proposal with consideration to cost.

Cost data shall mean factual information concerning the cost of labor, material, overhead and other cost elements which are expected to be incurred or which have been actually incurred by the contractor in performing the contract.

Design/build shall mean a process for executing a construction project in which one contractor, the design-build team, works under a single contract with the City to provide the design and construction services from initial design through project completion. Firms are selected utilizing a qualification based competitive sealed proposal with consideration to cost.

Design/bid/build shall mean a project delivery method in which the City contracts with separate entities for the design and construction of a project. The design firm is a qualification-based selection process and the construction contractor is selected based on the lowest responsive and responsible bid.

Guaranteed Maximum Price (GMP) shall mean the sum of money agreed upon between the City and the construction contractor to complete a construction project. This is a not-to-exceed total cost of the services and materials provided during the construction phase of work including direct costs, overhead, any contingency, and fees. The GMP is typically established at approximately 90% design completion.

Independent Cost Estimate (ICE) shall mean a tool utilized to assist in determining the reasonableness of the project cost. The ICE is developed by a qualified independent third-party not associated with the project.

*Improvements* shall mean any structure, building, street, utility or other valuable addition to real property amounting to more than mere repairs or partial replacement and intended to enhance its value or utility or to adapt it for new or further purposes.

*Invitation for bids* shall mean all documents, whether attached or incorporated by reference, utilized for soliciting bids.

Legal services shall mean the advice, representation, document preparation or related services of an attorney as special counsel provided to the City upon the request of the City Attorney.

Litigation services shall mean professional or other services procured by the City Attorney for the purpose of evaluating, preparing, providing or presenting evidence at the trial of any lawsuit to which the City is a party. Litigation services shall not include legal services.

Maintenance shall mean acts of repair, replacement or other acts necessary to keep any improvements or personal property in proper condition and good working order, to prevent decline in, failure or cessation of the existing condition of the improvement or personal property or to restore any improvement to its original condition after partial failure or destruction. This term shall not include improvements.

Master Agreement shall mean an agreement established for the completion of a project or provision of services or materials on an as-required basis establishing the terms, conditions and general scope of services. The Master Agreement works in conjunction with a Work Order, which supplements the Master Agreement.

*Materials* shall mean all personal property, including, but not limited to, supplies, equipment, parts, printing and insurance; excluding, however, leases of a permanent interest in real property, securities and financial paper and water and water rights whether represented by shares of stock in ditch and irrigation companies, units of the Northern Colorado Water Conservancy District or otherwise.

*Price data* shall mean factual information concerning prices for items substantially similar to those being procured. *Prices* as used in this definition shall refer to offered or proposed selling prices, historical selling prices and current selling prices.

*Pricing agreement* shall mean an agreement by which procurements are conducted by or on behalf of more than one (1) governmental body.

*Procurement* shall mean the purchasing, renting, leasing or other acquisition of any materials, services, professional services or construction. It shall also include all functions that pertain to obtaining any material, service or construction, including the description of requirements, the selection and solicitation of sources and the preparation and award of contract. *Procurement* shall not include the buying, purchasing, renting or leasing of real property.

*Professional services* shall mean the furnishing of labor, time, effort or expertise by a contractor with specialized knowledge in a field, including, but not limited to, architecture, engineering, medicine, finance, accounting, appraisal and land surveying.

*Public notice* shall mean any publication reasonably calculated to inform responsible bidders or offerors. Public notice shall occur for a reasonable time and may be disseminated through any means of mass communication, including, but not limited to, e-procurement systems, internet, newspapers, other written publications, posting, television, radio, other broadcasting media and electronic billboards.

Real property shall mean lands, lands under water, buildings, permanent structures and any and all easements, incorporeal hereditaments and every estate and right herein, legal and equitable, including terms for years and liens by way of judgment, mortgage or otherwise.

Request for proposals shall mean all documents, whether attached or incorporated by reference, utilized for soliciting proposals.

Responsible bidder or offeror shall mean a person who meets the criteria specified in § 8-160 of this Article and who has the capability in all respects to perform fully the contract requirements and the experience, integrity, reliability, capacity, facilities, equipment, insurance and credit which will ensure good-faith performance.

Responsive bidder or offeror shall mean a person whose bid or offer conforms in all material respects to the requirements set forth in the invitation for bids or request for proposals.

Services shall mean the performance of maintenance or the furnishing of labor, time or effort which does not involve the delivery of a specific end product other than a report or other item which is merely incidental to the performance of the service. Services shall not include services rendered under an employment agreement nor shall it include professional services as that term is defined in this Section.

Specification shall mean any description of the physical or functional characteristics of or the nature of the material, service or construction item. It may include a description of any requirement for inspecting, testing or preparing a material, service or construction item for delivery or a procedure for determining whether the requirements are satisfied.

*Using agency* shall mean any service area, department, board or commission of the City requiring supplies, professional services, services or construction procured pursuant to this Article.

Work order shall mean a written order defining a discrete service and/or material with a definite project, price and time of completion which is used in conjunction with a work order contract to create an enforceable contract.

(Ord. No. 84, 1990, 8-7-90; Ord. No. 130, 2002, § 18, 9-17-02; Ord. No. 026, 2008, § 1, 3-18-08)

Sec. 8-113. - Authority and duties of purchasing agent.

- (a) The Purchasing Agent shall serve as the public purchasing official for the City and shall be responsible for the procurement of all materials, services, professional services and construction for the City which are governed by the terms of this Article.
- (b) The Purchasing Agent may formulate and promulgate rules and regulations for the administration of this Article, not inconsistent with the provisions of this Article, with respect to purchasing procedures. Any rules and regulations promulgated by the Purchasing Agent hereunder shall be effective upon approval by the City Manager.

(Ord. No. 84, 1990, 8-7-90; Ord. No. 026, 2008, § 2, 3-18-08)

**Charter reference**— Powers and duties of Purchasing Agent, Art. V, § 27.

Sec. 8-114. - Procurement contrary to this article.

Except as may be otherwise provided by law, it shall be unlawful for any City officer or employee to order a procurement contrary to the provisions of this Article. Any procurement or contract so made shall be void and wholly without effect and shall not be binding upon the City in any manner.

(Ord. No. 84, 1990, 8-7-90)

Secs. 8-115—8-135. - Reserved.

**Division 2 - Specifications** 

Sec. 8-136. - Intent.

All specifications, including, but not limited to, design, performance and brand name specifications, shall be drafted so as to provide a clear and concise description of the material, service or construction desired.

(Ord. No. 84, 1990, 8-7-90)

Sec. 8-137. - Preparation.

Before any procurement, the Purchasing Agent shall cause to be prepared written specifications detailing the City's requirements for the materials, service or construction. The Purchasing Agent may request other departments or agencies of the City to prepare specifications for procurements to be made primarily for such department or agency.

(Ord. No. 84, 1990, 8-7-90)

Sec. 8-138. - Approval.

- (a) Specifications prepared primarily for a procurement for a specific department or agency of the City shall be approved by both the Purchasing Agent and the head of the using department, agency or designee thereof before being submitted for bid.
- (b) If the Purchasing Agent and head of the using department or agency cannot agree, the matter shall be referred to the City Manager.

(Ord. No. 84, 1990, 8-7-90)

Sec. 8-139. - Brand name specification.

- (a) A brand name specification may be used to maintain standardization, interchangeability, or compatibility within a critical system or process or when the Purchasing Agent has determined that sufficient sources for competition exist for the procurement of the material and that the use of the brand name specification is not intended to limit or restrict competition.
- (b) A brand name specification may also be used to describe the standard of quality, performance and other salient characteristics of a material in lieu of a description of its physical or functional characteristics. In such cases, the solicitation shall contain explanatory language that the use of a brand name is for the purpose of describing the standard desired and that the substitution of equivalent materials is permitted.

(Ord. No. 84, 1990, 8-7-90)

Secs. 8-140—8-155. - Reserved.

Division 3 - Contract Formation and Award [4]

Footnotes:

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Charter reference— Competitive bidding, Art. V, § 27; contracts for services, Art. V, § 30.

Sec. 8-156. - Methods of source selection.

All procurements subject to the terms of this Article shall be awarded by competitive sealed bidding pursuant to § 8-157, except as provided in:

- (1) Section 8-158 concerning awards by competitive sealed proposals; and
- (2) Section 8-161 concerning exemptions to the use of competitive bids or proposals.

(Ord. No. 84, 1990, 8-7-90; Ord. No. 83, 1991, § 1, 7-16-91)

Sec. 8-157. - Competitive sealed bidding.

- (a) Procurements accomplished pursuant to this Section shall be awarded to the lowest responsive and responsible bidder after competitive sealed bidding.
- (b) An invitation for bids shall be issued and shall include specifications and all contractual terms and conditions applicable to the procurement.
- (c) Public notice shall be given and shall include the bid title, place, date and time of bid opening.
- (d) All bids shall be opened in public at the time and place stated in the invitation for bids. The amount of each bid and such other relevant information as the Purchasing Agent deems appropriate, together with the name of each bidder, shall be recorded. Thereafter, the record of bids and each bid shall be available for public inspection in the office of the Purchasing Agent in the same manner as are other public records. In the event of good cause as determined by the Purchasing Agent, bid openings may be postponed.

- (e) Bids shall be unconditionally accepted without alteration or correction, except as authorized in Subsection (g) of this Section. Bids shall be evaluated based on the requirements set forth in the invitation for bids, which may include criteria and/or processes for determining acceptability, such as inspection, provision of sample materials, testing, quality, workmanship, delivery and suitability for a particular purpose. Those criteria that will affect the bid price shall be objectively measurable, such as discounts, transportation costs and total or life cycle costs. The invitation for bids shall set forth all evaluation criteria to be used. No criteria may be used in bid evaluation that are not set forth in the invitation for bids.
- (f) Correction or withdrawal of inadvertently erroneous bids before or after bid opening, or cancellation of awards or contracts based on such bid mistakes, may be authorized when deemed appropriate by the Purchasing Agent.
  - (1) Bids may be withdrawn by the offeror for any reason prior to bid opening. Any such notice of withdrawal must be received in the office designated in the invitation for bids prior to the time set for bid opening.
  - (2) Mistakes discovered before bid opening may be corrected or withdrawn in writing by the bidder. Any such corrections or notices of withdrawal must be received in the office designated in the invitation for bids prior to the time set for bid opening.
  - (3) After bid opening, the following provisions shall apply:
    - a. A low bidder alleging a material mistake of fact may be permitted by the Purchasing Agent to correct its bid if the mistake is clearly evident on the face of the bid document and the intended correct bid is similarly evident.
    - b. A low bidder alleging a material mistake of fact may be permitted by the Purchasing Agent to withdraw its bid: (i) if the mistake is clearly evident on the face of the bid but the intended correct bid is not similarly evident or (ii) if the mistake is not clearly evident on the face of the bid but the bidder submits evidence to the Purchasing Agent which clearly and convincingly demonstrates that a mistake was made, in which case the bidder must show the nature of the mistake and the bid price actually intended.
  - (4) No changes in bid prices or other provisions of bids prejudicial to the interests of the City or fair competition shall be permitted.
  - (5) All decisions to permit the correction or withdrawal of bids or to cancel awards or contracts based on bid mistakes will be supported by a written determination made by the Purchasing Agent.
- (g) The contract shall be awarded with reasonable promptness by written notice to the lowest responsive and responsible bidder whose bid meets the requirements and criteria set forth in the invitation for bids. If the lowest responsive and responsible bid exceeds budgeted funds and either time constraints or economic considerations preclude resolicitation of work of a reduced scope, the Purchasing Agent is authorized to negotiate an adjustment of the bid price with the lowest responsive and responsible bidder or to modify the scope of work, so as to bring the bid within the amount of available funds. The Purchasing Agent is also authorized to negotiate other terms and conditions.

(Ord. No. 84, 1990, 8-7-90)

Sec. 8-158. - Competitive sealed proposals.

- (a) Procurements for the following are eligible for award by competitive sealed proposals:
  - (1) Materials and services when the Purchasing Agent determines that the use of competitive sealed bidding is either not practicable or not advantageous to the City;
  - (2) Professional services; and
  - (3) City improvements when the Purchasing Agent determines that the use of alternative delivery methods will benefit the City while retaining assurance of competitive pricing.

- (b) Procurements accomplished pursuant to this Section shall be solicited through a request for proposals.
- (c) Public notice shall be given and shall include the proposal title, place, date and time the proposal must be received at the place stated in the request for proposal. In the event of good cause as determined by the Purchasing Agent, the time set for submittal of the proposals may be extended when determined to be in the City's best interest.
- (d) Except as provided in paragraphs (e) and (m) of this Section, proposals shall be opened so as to avoid disclosure of contents to competing offerors during the process of negotiation.
- (e) A list of the offerors submitting proposals shall be maintained containing the name of each offeror and shall be open for public inspection or disclosure after the time set for submittal of the proposals.
- (f) The request for proposals shall state evaluation factors and their relative importance.
- (g) After proposal opening, interviews may be conducted with the highest ranked responsible offeror or offerors for the purpose of clarification and to assure full understanding of, and responsiveness to, solicitation requirements. Offerors selected for interview shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals. Revisions may be permitted after submissions and prior to award in order to reflect clarifications in the proposal's scope of work or contract amount.
- (h) Except as provided in paragraphs (e) and (m) of this Section, in conducting interviews, there shall be no disclosure by the City or any officer, employee or committee thereof, of any information derived from proposals submitted by competing offerors, nor shall there be any disclosure of information discussed by the evaluation committee in selecting the highest ranked offeror(s).
- (i) After the contract has been awarded and a written contract executed with the selected offeror(s), the total points of the evaluation committee will be retained by the Purchasing Agent for a period of time consistent with the City's record retention policy. The total points or ranking of the offerors shall not be made available for public inspection or disclosure.
- (j) Except as provided in paragraph (m) of this Section, individual rating sheets, notes, emails and other documents prepared or utilized by members of the evaluation committee shall not be made available for public inspection or disclosure.
- (k) The contract shall be awarded with reasonable promptness by written notice to the responsible offeror whose proposal is determined in writing to be the most advantageous to the City, taking into consideration the evaluation factors set forth in the request for proposals. No other factors or criteria shall be used in the evaluation.
- (I) The Purchasing Agent is authorized to negotiate contract terms, including but not limited to the final price and precise scope of work, with the selected offeror.
- (m) If the proposals are for the services of a public accounting firm to conduct the annual independent audit of the City's books and accounts as required in Section 17 of Charter Article II, those proposals shall be reviewed and the interviews conducted by the City Council or a committee of the Council in a public meeting and the selection by Council shall be conducted in a public meeting. In conducting such review, interviews and selection, the City Council and committees of the Council shall not be subject to the provisions in paragraphs (d), (h), (i) and (j) of this Section.
- (n) No public accounting firm selected to conduct the City's annual independent audit shall be eligible to be selected under this Section to conduct that audit for more than two (2) consecutive five (5) year terms. In addition, any firm conducting the audit for five (5) consecutive years shall not be eligible to participate in a new competitive sealed proposal and be selected unless the firm assigns a new lead partner to conduct the audit under the new contract with a term of one (1) to five (5) years.
- (o) The construction of City improvements utilizing an alternative delivery method will ensure competitive pricing and value by requiring the contractor to obtain quotes from at least three (3) suppliers and/or subcontractors for all materials and services exceeding a cost of \$60,000 subject to the discretion of the Purchasing Agent. Subcontractors selected as part of the construction contractor team

competitive process for the alternative delivery method are exempt from this requirement, subject to the discretion of the Purchasing Agent.

(Ord. No. 84, 1990, 8-7-90; Ord. No. 83, 1991, § 2, 7-16-91; Ord. No. 144, 1996, 12-3-96; Ord. No. 026, 2008, § 3, 3-18-08; Ord. No. 101, 2018, § 2, 8-21-18)

Sec. 8-159. - Competitive negotiated procurement.

- (a) Procurement for goods, services, professional services, products for resale or redistribution, distribution services usage and competitive business arrangements that are related to the establishment of strategic business plans or relationships of any City utility in a competitive market environment shall be eligible for award by competitive negotiation under this Section, provided that the following conditions are met:
  - (1) The Purchasing Agent determines in writing, with the approval of the City Manager, that the use of competitive sealed bidding or competitive sealed proposal processes are either not practicable or not advantageous to the City; and
  - (2) There is a minimum of two (2) vendors/businesses willing and able to provide the basic goods, services or products to be procured through competitive negotiation.
- (b) In order to initiate a competitive negotiated procurement under this Section, the procuring utility shall, in a manner acceptable to the Purchasing Agent as sufficient to identify potential appropriate and qualified vendors of the goods, services, or professional services to be procured, investigate and research the market for such goods, services, or professional services and identify those vendors determined to be appropriate and qualified candidates in light of the competitive and other interests of the procuring utility.
- (c) The procuring utility may contact selected vendors, or may consider appropriate and qualified vendors that have initiated contact with the City, provided that a rational basis for identifying and selecting candidate vendors in view of the interests of the procuring utility is applied consistently to all vendors reasonably known to the procuring utility.
- (d) The Purchasing Agent shall, with the approval of the City Manager, be responsible for accepting and soliciting all offers made on behalf of the procuring utility under the provisions of this Section.
- (e) Each vendor participating in competitive negotiations under this Section shall be accorded a fair and reasonable opportunity to present and explain the goods, services, or professional services to be provided by such vendor.
- (f) The basis for final selection of a vendor under a competitive negotiation process, and the final terms of the contract under which goods, services, or professional services shall be procured under this Section, shall each be subject to the review and approval of the Purchasing Agent and City Manager.
- (g) Prior to the renewal or extension of any contract for goods, services, or professional services under this Section beyond the original potential term of such contract, the City Manager or procuring utility shall require that an assessment of the subject vendor's performance and the benefits to the City of the terms of such contract be conducted by a qualified third party, to be selected by the Purchasing Agent.

(Ord. 179, 1997, 11-18-97)

Sec. 8-160. - Responsibility of bidders and offerors.

- (a) In determining whether a bidder or offeror is responsible, the following shall be considered:
  - (1) The ability, capacity and skill of the bidder or offeror to perform the contract or provide the services required;
  - (2) Whether the bidder or offeror can perform the contract or provide the service promptly and within the time specified without delay or interference;

- (3) The character, integrity, reputation, judgment, experience and efficiency of the bidder or offeror;
- (4) The quality of the bidder's or offeror's performance of previous contracts or services;
- (5) The previous and existing compliance by the bidder or offeror with laws and ordinances relating to the contract or service;
- (6) The sufficiency of the financial resources and ability of the bidder or offeror to perform the contract or provide the service;
- (7) The quality, availability and adaptability of the materials and services to the particular use required;
- (8) The ability of the bidder or offeror to provide future maintenance and service for the use of the subject of the contract;
- (9) Any other circumstances which will affect the bidder's or offeror's performance of the contract.
- (b) In addition to the authority for rejection found in §§ 8-157, 8-158, 8-160, 8-163, 8-164 and 8-166 of this Article, the Purchasing Agent shall have the authority to reject all bids or proposals or any portions thereof when the interests of the City and the public will be served thereby. All such decisions will be supported by a written determination made by the Purchasing Agent.
- (c) No bidder or offeror shall be in default on the performance of any other contract with the City or in the payment of any taxes, licenses or other monies due to the City.

(Ord. No. 84, 1990, 8-7-90; Ord. 179, 1997, 11-18-97)

Sec. 8-161. - Exemptions to use of competitive bid or proposal.

- (a) Minor purchases.
  - (1) The Purchasing Agent shall have the authority to negotiate without formal competition for the purchase of any materials, professional services, services or construction not exceeding a cost of sixty thousand dollars (\$60,000) per contract or purchase order. Where a project has been previously bid, project managers may approve, pursuant to administrative guidelines approved by the Purchasing Agent, change orders up to the minor purchase limit established in this Subsection; provided, however, that no such change order shall authorize any expenditure of funds in excess of the amounts budgeted and appropriated for the project.
  - (2) Such negotiated purchases shall be made in the open market, but wherever practical or advantageous, the Purchasing Agent, department or agency shall obtain quotes from at least three (3) suppliers. Negotiated purchases of materials, professional services, services or construction shall be awarded to the person supplying the lowest responsible and responsive quote. Critical attributes, such as quality, experience and delivery, may be considered in the award, but such attributes must be stated in the invitation for quote.
  - (3) The purchasing procedures adopted pursuant to § 8-113 of this Article may authorize the purchase of materials, services or professional services in the open market by other departments of the City, provided that no such purchase shall exceed seven thousand five hundred dollars (\$7,500) except that the Purchasing Agent may authorize the procurement of materials and services in an amount not to exceed fifteen thousand dollars (\$15,000) per procurement when purchased pursuant to a pricing agreement approved by the Purchasing Agent and purchased by an employee of the City authorized by the Purchasing Agent to make such purchases.
  - (4) No procurement shall be divided so as to constitute a minor purchase under this Subsection.
- (b) Emergency purchases.
  - (1) In the case of an apparent emergency requiring the immediate purchase of materials, professional services, services or construction, the City Manager shall have the power to authorize the Purchasing Agent to secure necessary items in the open market regardless of the amount of the expenditure.

- (2) In no event shall the contract price exceed commercially reasonable prices.
- (3) A full written report of the circumstances of all emergency purchases over two hundred thousand dollars (\$200,000) shall be made by the City Manager to the City Council. The report shall be received by the City Council in an open meeting, and such report shall be open to public inspection.
- (c) Construction change orders .
  - Notwithstanding the provisions of Paragraph (a)(1) of this Section and Subsection (2) below, one
     or more change orders to an existing construction contract may be executed without competition unless the cumulative amount of such change orders exceeds the greater of:
    - a. Fifteen (15) percent of the original contract amount; or
    - b. Fifteen (15) percent of the Guaranteed Maximum Price (GMP); or
    - b. Sixty thousand dollars (\$60,000).
  - (2) Construction contracts utilizing an alternative delivery method shall not be subject to the limits of subsection (c)(1) of this Section 8-161, except in the event a Guaranteed Maximum Price (GMP) is established. In such event, subsection (c)(1) above shall apply.
  - (3) Any construction change order which authorizes a new improvement under a construction contract may be executed without competition when the Purchasing Agent makes an administrative finding that it would be in the City's best interest to negotiate with the on-site contractor for the construction of the new improvement because:
    - a. The new improvement is required for the completion of an improvement which is currently under construction pursuant to a competitive bidding or competitive proposal process; or
    - b. The new improvement results from the discovery of differing or unforeseen physical conditions at the site of the improvement under construction and is required for the completion of the improvement under construction.

Any change order executed under this subsection (3) is not subject to the cost limitations of subsection (c)(1) of this Section 8-161.

- (d) Miscellaneous exemptions.
  - (1) A contract for materials, professional services or services may be awarded without competition if the Purchasing Agent determines in writing that one (1) or more of the following conditions exists:
    - a. There exists only one (1) responsible source;
    - b. Although there exists more than one (1) responsible source, a competitive process cannot reasonably be used or, if used, will result in a substantially higher cost to the City, will otherwise injure the City's financial interests or will substantially impede the City's administrative functions or the delivery of services to the public;
    - A particular material or service is required to maintain interchangeability or compatibility as a part of an existing integrated system;
    - A particular material, professional service or service is required in order to standardize or maintain standardization for the purpose of reducing financial investment or simplifying administration;
    - e. The material is perishable;
    - f. The material qualifies as an object of fine art;
    - g. A particular material is required to match materials in use, so as to produce visual harmony;

- h. A particular material is required to enable use by a specific individual;
- i. A particular material is prescribed by a professional advisor;
- j. The material, professional service or service is the subject of a change order.
- (2) The Purchasing Agent shall submit each determination made under this Subsection (d) to the City Manager, who shall approve or reject the procurement.
- (3) The City Manager shall submit all procurements under this Subsection (d) which exceed a cost of two hundred thousand dollars (\$200,000.) to the City Council in an open meeting for final approval.
- (4) Any procurement approved under this Section 8-161 by the City Manager or the City Council may be used as the basis for a negotiated purchase of additional quantities of the same materials or services at any time within a period of five (5) years from the date of approval; provided, however, that subsequent procurements may be expressly limited to a specific number of purchases or a period of less than five (5) years.
- (e) Materials, services, professional services and construction competitively bid within twenty-four (24) months. In any case where the City has, within the preceding twenty-four (24) months, pursuant to an invitation for bids or request for proposals, awarded a contract for the procurement of any materials or for the procurement of services, professional services or construction bid on a unit price basis and/or hourly rate schedule, the Purchasing Agent may negotiate with the successful bidder for the purchase of additional quantities of the materials or units of services or construction under a new agreement subject to the limitations of Section 8-186. The Purchasing Agent may, based upon a reasonably prudent investigation of market conditions at the time, make procurements at a price warranted by such conditions, even if the resulting cost to the City is greater than the amount of the previous award.
- (f) Purchase of content for City-delivered video programming and streaming services. The Purchasing Agent shall have the authority to negotiate without formal competition the purchase of video content licensing rights for the City's delivery of cable or other subscriber video content, programming, and streaming services. The Purchasing Agent is authorized to procure such licensing from local channels, individual channels and channel families, and video content aggregation companies when he or she determines i) viable market demand supports obtaining rights to deliver the specific content, and ii) the anticipated cost to acquire such rights is reasonable based on the uniqueness of the content, region, and market. The Purchasing Agent shall submit a summary of such transactions and determinations to the City Manager's Office for each purchase under this Subsection. The Purchasing Agent and the City Manager designee with direct responsibility to manage City telecommunication facilities and services, as defined in Section 7(f) of Charter Article XII, shall jointly advise City Council regarding any purchase under this Subsection that exceeds an annual cost of one million dollars (\$1,000,000).

(Ord. No. 84, 1990, 8-7-90; Ord. No. 83, 1991, § 3, 7-16-91; Ord. No. 144, 1996, 12-3-96; Ord. 179, 1997, 11-18-97; Ord. No. 026, 2008, § 4, 3-18-08; Ord. No. 051, 2019, § 2, 4-16-19)

Sec. 8-162. - Bid and performance bonds.

- (a) When deemed necessary by the Purchasing Agent, bid bonds or other equivalent security shall be required and the invitation for bids or request for proposals shall describe the requirements. Unsuccessful bidders or offerors shall be entitled to the return of any cash deposit. Unless a specific extension is granted in writing, a successful bidder or offeror shall forfeit any bid bond or equivalent security required by the Purchasing Agent upon its failure to enter into a contract within fifteen (15) days after the award.
- (b) All contracts for construction the cost of which exceed the sum of one hundred thousand dollars (\$100,000.) shall require a performance bond or other equivalent security.
- (c) Nothing in this Section shall be construed to limit the authority of the City to require additional bonds or security.

(Ord. No. 84, 1990, 8-7-90; Ord. 179, 1997, 11-18-97; Ord. No. 026, 2008, § 5, 3-18-08)

Sec. 8-163. - Other procedural prerequisites for award of contracts.

- (a) In the case of a contract for procurement primarily for the use of a specific department or agency of the City, the head of such using department or agency or designee thereof shall also approve an award before written notice of the award is sent.
- (b) In any case where competitive sealed bids or proposals are required by this Article and less than three (3) are received, the Purchasing Agent shall document the rationale for rejecting or awarding the bid or proposal.
- (c) The Purchasing Agent shall not award any contract or finalize any procurement until the funds necessary to defray the cost of such procurement are appropriated and available, excepting only cases of emergency under Subsection 8-161(b).
- (d) No contract for the acquisition of property or the construction of improvements or other expenditures which is to be financed by bonds or other obligations shall be effective until the proceeds of the bonds or obligations have been received by the Financial Officer. Improvements to be paid for by special assessments are excepted from this requirement.
- (e) In any case where two (2) or more bids are received for the same total amount of unit price and are otherwise eligible for award, the low bidder shall be determined by any method which will, in the judgment of the Purchasing Agent, discourage the submission of tied bids.

(Ord. No. 84, 1990, 8-7-90; Ord. No. 144, 1996, 12-3-96; Ord. 179, 1997, 11-18-97)

Sec. 8-164. - Prequalification of bidders and offerors.

The Purchasing Agent may authorize the establishment of a prequalified list of vendors utilizing a competitive prequalification process. This list of vendors may be utilized in lieu of public notice for soliciting competitive sealed bids or competitive sealed proposals; provided, however, that the Purchasing Agent may use such list in lieu of public notice only if public notice of the prequalification procedure and intended use of the list has been given within the preceding twenty-four (24) months.

(Ord. No. 84, 1990, 8-7-90; Ord. 179, 1997, 11-18-97)

Sec. 8-165. - Cooperative procurement plans.

The Purchasing Agent shall have the authority to join with other units of government in cooperative procurements, including, but not limited to, the State and the Multiple Assembly of Procurement Officials, when the best interests of the City would be served thereby. Upon written approval by the Purchasing Agent, competitive sealed bids, competitive sealed proposals or pricing agreements received by any other governmental agency shall be the equivalent of bids or proposals received by the City and may be the basis for any procurement by the City.

(Ord. No. 84, 1990, 8-7-90; Ord. 179, 1997, 11-18-97; Ord. No. 026, 2008, § 6, 3-18-08)

Sec. 8-166. - Solicitations or awards in violation of law.

- (a) If, prior to the bid opening or the closing date for receipt of proposals, the Purchasing Agent determines that a solicitation is in violation of federal, state or municipal law, then the solicitation shall be canceled or revised to comply with applicable law.
- (b) If, after the bid opening or the closing date for receipt of proposals, the Purchasing Agent determines that a solicitation or a proposed award of a contract is in violation of federal, state or municipal law, then the solicitation or proposed award shall be canceled.
- (c) If, after an award, the Purchasing Agent, after consultation with the City Attorney, determines that a solicitation or award of a contract was in violation of applicable law:

- (1) If the person awarded the contract has not acted in violation of Article IV, Section 9 of the Charter, the contract may be ratified and affirmed if it is determined by the Purchasing Agent that doing so is in the best interests of the City, or the contract may be terminated and the person awarded the contract shall be compensated for the actual costs reasonably incurred under the contract, prior to the termination:
- (2) If the person awarded the contract has acted in violation of Article IV, Section 9 of the Charter, the contract may be declared null and void, if such action is in the best interest of the City.

(Ord. No. 84, 1990, 8-7-90; Ord. 179, 1997, 11-18-97)

Secs. 8-167—8-184. - Reserved.

Division 4 - Contract Administration

Sec. 8-185. - City attorney review.

All written contracts shall be on forms previously approved by the City Attorney and any changes or additions shall be approved by the City Attorney.

(Ord. No. 026, 2008, § 7, 3-18-08)

Sec. 8-186. - Multi-year contracts.

- (a) No contract for materials, services or professional services, including all renewals, shall be made by the City for a period longer than five (5) years, unless authorized by ordinance, which ordinance shall not be passed as an emergency ordinance. Notwithstanding the foregoing, the following shall not be subject to the five (5) year term limitation but in any event shall not have a term in excess of ten (10) years:
  - (1) Software licensing and/or maintenance agreements; or
  - (2) Select financial services including procurement credit cards, credit card processing, and retirement record keeping; or
  - (3) Purchase of content for City-delivered video programming and streaming services; or
  - (4) Master Agreements with Work Order(s) in-process may be renewed for up to a maximum of one (1) additional year if required to complete an in-process Work Order.
- (b) Multi-year contracts shall be expressly contingent upon the annual budgeting and appropriation of sufficient funds on an annual basis or by nonlapsing appropriation.
- (c) When funds are not appropriated or otherwise made available to support the continuation of the City's performance in a subsequent fiscal period, the contract shall be canceled.

(Ord. No. 84, 1990, 8-7-90)

Sec. 8-187. - Multiple source award.

A multiple source award may be made when an award to two (2) or more bidders or offerors for similar supplies, services, or professional services is necessary for adequate delivery, service or product compatibility.

(Ord. No. 84, 1990, 8-7-90; Ord. No. 82, 1991, § 1, 7-16-91)

Sec. 8-188. - Right to inspect plant.

The City may inspect the plant, place of business or work site of any contractor or subcontractor which is pertinent to the performance of any contract awarded or to be awarded by the City.

(Ord. No. 84, 1990, 8-7-90)

Sec. 8-189. - Right to audit records.

- (a) The City may, at reasonable times and places, audit the books and records of any contractor who has submitted cost or pricing data to the extent such books, documents, papers and records are pertinent to cost or pricing data.
- (b) The City shall be entitled to audit the books and records of any contractor or subcontractor when a negotiated contract is not a firm, fixed-price contract.

(Ord. No. 84, 1990, 8-7-90)

Secs. 8-190-8-205. - Reserved.

Division 5 - Resolution of Controversies

Sec. 8-206. - Resolution of controversies.

- (a) The Purchasing Agent is authorized, after consultation with the City Attorney, to settle and resolve any questions regarding:
  - (1) Any protest concerning the solicitation or award of a contract;
  - (2) Debarment or suspension from consideration for award of contracts; and
  - (3) Any controversy arising between the City and a contractor by virtue of a contract between them, including, without limitation, controversies based upon breach of contract, mistake, misrepresentation or any other cause for contract modification or rescission.
- (b) This authority shall be exercised pursuant to procedures established pursuant to § 8-113 which shall provide for an expeditious resolution of the controversy.

(Ord. No. 84, 1990, 8-7-90; Ord. No. 144, 1996, 12-3-96)

#### COUNCIL FINANCE COMMITTEE AGENDA ITEM SUMMARY

Staff: Jennifer Poznanovic, Sr. Revenue & Project Manager

Date: December 16, 2019

#### SUBJECT FOR DISCUSSION

Sales Tax on Mobile Homes

#### EXECUTIVE SUMMARY

The purpose of this item is to discuss sales tax exemption options for mobile/manufactured home sales in the City of Fort Collins. Estimated sales tax collections have been roughly \$88k per year over the past two years.

The City of Fort Collins currently applies sales tax on all mobile/manufactured home sales, whereas the State of Colorado and Larimer County exempt all mobile/manufactured home sales from sales tax. Conventional (site-built) homes pay sales tax on materials used in construction and there is no sales tax for subsequent sales. All mobile/manufactured homes and site-built homes pay property tax based on the assessed value.

#### GENERAL DIRECTION SOUGHT AND SPECIFIC QUESTIONS TO BE ANSWERED

Does Council Finance Committee support option 2?

- Apply sales tax on initial purchase of new mobile/manufactured home and exempt all subsequent sales from sales tax
  - 50% exempt on initial sale
  - Update City code

#### BACKGROUND/DISCUSSION

Earlier this year City Council asked for sales tax data on mobile homes. The City does not exempt sales tax on mobile/manufactured homes sales. According to data from the Larimer County Assessor's Office, in 2017 and 2018 there were 181 mobile home sales in Fort Collins, an average of 90 per year. Sales tax over the two-year period was \$176k or roughly \$88k per year.

As of July 1, 2019, the State of Colorado and state collected jurisdictions (such as Larimer County) exempt all manufactured homes sales from sales tax (House Bill 18-1315). City Code does not differentiate between mobile and manufactured homes (per Safety Standards Act of 1974) but are considered the same in practice regarding taxation. There are 1,400 mobile/manufacture homes in Fort Collins and 2,100 in the Growth Management Area (GMA).

Tax treatment (sales tax and property tax) varies for mobile/manufactured homes and site-built homes. A summary is provided below:

Sale Type	State Sales Tax	County Sales Tax	City Sales Tax	Property Tax
New manufactured home purchase	Exempt	Exempt	100% of purchase price	Per assessed value
New site-built home	100% of construction material	100% of construction material	100% of construction material	Per assessed value
Subsequent sales of mobile/manufactured homes	Exempt	Exempt	100% of purchase price	Per assessed value
Subsequent site-built home sales	No	No	No	Per assessed value

- The State and the County exempt mobile/manufactured homes from all sales tax (new and used)
- The City applies sales tax to the full purchase price on all mobile/manufactured home sales (new and used)
- Site-built homes pay sales tax on the materials used in new construction; there is no sales tax on subsequent sales
- All types of dwelling units pay property tax based on the assessed value

#### Peer City Review

In a review of eleven self-collected home rule cities, each one includes mobile homes in their definition of automotive vehicle, which suggests mobile homes be treated as automotive vehicles for tax purposes. This definition of automotive vehicle is a product of the Colorado Municipal League's (CML) organized effort engaging municipalities to adopt standard sales tax definitions, which the City participated in. However, in other cities' codes, there are various terms and definitions for these types of structures, such as manufactured home, factory-built housing, or factory built residential structures.

Five cities, including Fort Collins, do not have exemptions on mobile/manufactured homes. Those with exemptions:

- Either exempt after having been taxed once or;
- 48% exempt for first sale and subsequent sales are exempt

#### Proposed Exemption Options:

- 1. Exempt all mobile/manufactured home sales from sales tax
- 2. Apply sales tax on initial purchase of new mobile/manufactured home and exempt all subsequent sales (100% or a percentage)

Staff recommends Option 2 with a 50% exemption on the initial new purchase. The intention is for mobile/manufactured and site-built homes to be taxed similarly. Site-built homes require a 50% deposit of total estimated construction valuation. When the project is complete, the remaining tax liability is calculated using a project cost report available from the City.

Both options would require Code updates. The definition of "automotive vehicle" would likely need to be amended to exclude mobile homes, so that a new definition of mobile homes and/or manufactured housing could be created so that these structures can be treated uniquely in the sales tax ordinances. Amending the "automotive vehicle" definition would stray from CML standard definitions, which is within Council's authority and discretion. The Code could be

updated to include a definition for mobile or manufactured homes. The City currently treats mobile and manufactured homes the same in practice regarding taxation.

Using the term "mobile home" and defining it separately would likely be the least Code changes to address the issue of sales tax on mobile/manufactured housing. Another approach would be to add a definition for the new term "manufactured home." Doing so may necessitate updating for consistency other parts of Municipal, Land Use and Traffic Codes, which also use the terms "mobile home" and "manufactured housing." This process would include additional legal review and coordination with other City departments. Regardless of the term used, any amendment would include the addition of an exemption from sales tax for mobile homes/manufactured homes.

Below is draft Code language for consideration, using the first approach discussed above. Depending on Council direction, this Code language would be subject to change:

#### Sec. 25-71. Definitions.

.. . ..

Automotive vehicle shall mean any vehicle or device in, upon or by which any person or property is or may be transported or drawn upon a public highway, or any device used or designed for aviation or flight in the air. Automotive vehicle includes, but is not limited to, motor vehicles, trailers, or semitrailers or mobile homes. Automotive vehicle shall not include devices moved by human power or used exclusively upon stationary rails or tracks.

Mobile home means any preconstructed building unit or combination of preconstructed building units, without motive power, where such unit or units are manufactured in a factory or a location other than the residential site of the completed home, which is designed and commonly used for occupancy by persons for residential purposes, in either temporary or permanent locations, and which unit or units are not licensed as a vehicle. It does not include travel trailers, campers, camper buses or motor homes...

#### New Exemption from Sales/Use Tax in Sales Tax Code

Sec. 25-73. Imposition of the sales tax and exemptions.

. . . .

(c)Transactions and items exempt from the sales tax. The following shall be exempt from the sales tax:

-• • •--

(25) Fifty percent (50%) of the purchase price on the first sale of a new mobile home for installation, use or storage in the City shall be exempt from taxation under this Code. For any subsequent sales of the mobile home, the entire purchase price is exempt from taxation under this Code.

**ATTACHMENTS** (numbered Attachment 1, 2, 3,...)

1. CFC Sales Tax on Mobile Homes PPT





- Mobile Home Sales Tax Exemption Overview
- Proposed Options
- Council Finance Committee Direction





### Mobile Home Sales Tax Exemption Overview

#### The City does not exempt sales tax on mobile/manufactured homes sales

- 181 mobile home sales in Fort Collins in 2017 & 2018\*
- Sales tax estimate over the two-year period of \$176k or roughly \$88k per year\*
- 1,400 mobile/manufactured homes & 2,100 in the GMA
- City Code does not differentiate between mobile and manufactured homes (per Safety Standards Act of 1974) but are considered the same in practice regarding taxation

## State and state collected jurisdictions (Larimer County) exempt all mobile/manufactured homes sales from sales tax

- House Bill 18-1315
- Effective July 1, 2019

<sup>\*</sup>According to data from the Larimer County Assessor's Office



# Mobile/Manufacture Homes and Site-Built Homes

#### Tax treatment (sales tax and property tax) varies for mobile/manufactured homes and a site-built homes

Sale Type	State Sales Tax	County Sales Tax	City Sales Tax	Property Tax
New manufactured home purchase	Exempt	Exempt	100% of purchase price	Per assessed value
New site-built home	100% of construction material	100% of construction material	100% of construction material	Per assessed value
Subsequent sales of mobile/manufactured homes	Exempt	Exempt	100% of purchase price	Per assessed value
Subsequent site-built home sales	No	No	No	Per assessed value

- The State and the County exempt mobile/manufactured homes from all sales tax (new and used)
- The City applies sales tax to the full purchase price on all mobile/manufactured home sale (new and used)
- Site-built homes pay sales tax on the materials used in new construction; there is no sales tax on subsequent sales
- All types of dwelling units pay property tax based on the assessed value



# Peer Cities Tax on Mobile Homes

- All peer cities reviewed include mobile homes in their definition of automotive vehicle
- Various terms and definitions for mobile/manufactured home exemptions
- Those with exemptions:
  - Either exempt after having been taxed once or;
  - 48% exempt for first sale and subsequent sales are exempt

CITY	Exemption	Comments
Arvada	No	Tax applied on new and used sales
Denver	No	Tax applied on new and used sales
Fort Collins	No	Tax applied on new and used sales
Littleton	No	Tax applied on new and used sales
Westminster	No	Tax applied on new and used sales
	Vos	48% exempt for first sale, subsequent sales are
Aurora	Yes	exempt if state tax was paid on sale of new housing
Boulder	Yes	Exempt after having been taxed once
	Vos	48% exempt for first sale, subsequent sales are
Brighton	Yes	exempt
<b>Colorado Springs</b>	Yes	Exempt after having been taxed once
	Yes	48% exempt for first sale, subsequent sales are
Lakewood	res	exempt
	Yes	48% exempt for first sale, subsequent sales are
Parker	162	exempt
	Voc	48% exempt for first sale, subsequent sales are
Thornton	Yes	exempt



### **Proposed Exemption Options**

- 1. Exempt all mobile/manufactured home sales from sales tax
- Apply sales tax on initial purchase of new mobile/manufactured home and exempt all subsequent sales (100% or a percentage)







### Option 2

Apply sales tax on initial purchase of new mobile/manufactured home and exempt all subsequent sales (50% exempt on initial sale)

- Intention for mobile/manufactured & site-built homes to be taxed similarly
- Site-built homes require 50% deposit of total estimated construction valuation\*

<sup>\*</sup>When the project is complete, the remaining tax liability is calculated using a project cost report





#### **Both options would require Code updates:**

- Update "automotive vehicle" definition to exclude mobile homes
- Add a definition of mobile homes/manufactured homes
  - Mobile and manufactured homes are currently considered the same in practice regarding taxation
  - Definition of manufactured home may need updating in other parts of Municipal, Land Use & Traffic Codes
  - Adding & updating manufactured home definition would require legal review with other City departments
- Add an exemption for sales tax on used mobile homes or manufactured homes



### **Does Council Finance Committee support option 2?**

- Apply sales tax on initial purchase of new mobile/manufactured home and exempt all subsequent sales
  - 50% exempt on initial sale
  - Update City Code

#### COUNCIL FINANCE COMMITTEE AGENDA ITEM SUMMARY

**Staff:** Lance Smith, Director Financial Planning and Analysis Tim McCollough, Deputy Director

Kraig Bader, Director, Electrical Engineering John Phelan, Energy Services Senior Manager

Date: 16 December 2019

#### SUBJECT FOR DISCUSSION

2020 Climate Action Plan Mitigation and Resilience Off-Cycle Appropriation for Light & Power

#### **EXECUTIVE SUMMARY**

Staff recommends bringing forward an off-cycle appropriation package to City Council in early 2020 to address existing and emerging infrastructure demands and refocused investments in energy services programs.

This package supports resilience by improving electric system reliability and grid flexibility with additional Distributed Energy Resource (DER) program elements and also carbon mitigation with additional support for commercial-scale solar. The Energy Services elements are a realignment of existing budget while the L&P distribution system elements can be funded from reserves based on 2019 underspend. The proposed package focuses on "no regrets" acceleration of planned activities of the L&P Capital Improvement Plan and 2030 climate and energy objectives.

The reliability scope also supports broadband services (3.7 Deploy reliable, high-speed internet) because the work is aligned with Connexion deployment as it creates new markets via annexations or pathways via spare conduits to deploy fiber in the electric system. Accelerating this investment is aligned with the recently published 2019 Capital Improvement Plan for Light & Power and the Connexion deployment schedule.

#### GENERAL DIRECTION SOUGHT AND SPECIFIC QUESTIONS TO BE ANSWERED

 Does Council Finance support this off-cycle budget package for Council consideration in January 2020?

#### **BACKGROUND/DISCUSSION**

#### Coordinated Planning and Implementation

The electric industry is facing rapid change. Market disruption is happening at a pace we have not experienced before. Solar photovoltaics (PV) are commonplace and growing at increasing rates each year, battery storage is no longer a thought experiment, and the fastest production car on earth is fully electric and has the capability to drive itself. We can no longer plan in the traditional way we have done for decades, because our former load growth models no longer hold true.

Fort Collins Utilities Light & Power and Energy Services teams are collaborating closer than ever before on planning, implementation and operations in support of the community's goals of 100% renewable electricity (100RE) in just ten years while maintaining our historic reliability and affordability.

This off-cycle budget proposal is a concrete example of this coordination. By bringing forward both customer program and distribution system investment funding proposals together, Utilities is presenting an optimal short-term mix of investment which supports electric system resilience and carbon mitigation. The proposed package focuses on "no regrets" acceleration of planned activities of the L&P Capital Improvement Plan and 2030 climate and energy objectives as described below.

#### Light & Power Proposed 2020 Scope

During the Budgeting for Outcomes process for the FY2019/20 budget, there were revisions made in the City Manager's recommended budget to enable the Climate Action Plan (CAP) opportunity package. One area of budget reduction was in the distribution transformer BFO offer (offer 8.70) in the amount of \$318,000. As a result, the ability to purchase transformers necessary to support system improvements was inhibited by the end of the second quarter of 2019. As part of this appropriation, the request is to first restore the funding to support distribution transformer purchases in 2020, which will also help to support system replacement projects and proactive outage mitigation activities. Capital projects in the following categories will also directly benefit from the appropriation of funds from the parent accounts.

- <u>High priority electric distribution cable system replacement areas to aimed at improving distribution system reliability:</u> As the electric distribution system ages, cable and cable accessory failure rates have been increasing. Specific areas have been identified for replacement based on probability of future failures, risk, and several other factors. Some of the identified replacement areas that do not have a spare conduit for fiber optic cables offer a synergistic benefit between Light & Power and Connexion if fiber is pulled in with the replacement power cables.
- Cable diagnostic testing equipment purchase: Thus far, our cable system prioritization efforts have been making use of statistical analysis drawn from past reliability and failure information. With the support from this off-cycle appropriation, we can purchase a cable diagnostic system that has the proven ability to assess the health of an existing circuit. Installed in a proper vehicle that allows access and effective application of the equipment, we can focus our cable system replacement investment based on forward-looking leading predictive maintenance indicators to supplement our statistical predictive failure models.
- <u>Electric distribution system connection for annexation areas:</u> Connecting the electric distribution system to annexed areas also provides an opportunity for Connexion to serve those customers via cooperative installation of conduit pathways that must be installed for electric service. These areas include Mail Creek Crossing, Strauss Cabin, Fox Hills, and Blehm Annexations.
- Conversion of overhead electric distribution system areas to underground: Consistent with Fort Collins' legacy and with the City Council's current priority to convert overhead electric lines to underground electric lines, there are nine projects that will replace the remaining overhead distribution lines in Light & Power's service territory with underground infrastructure. Work to convert overhead electric distribution areas not only

improves electric reliability, but also allows cooperative installation of conduit pathways for future Connexion customers.

Following the completion of capital projects in the 2019 Light & Power fund, underspend in the associated capital accounts has been identified which can be returned to the electric fund and be appropriated to support additional projects in 2020. Similarly, underspend in system additions and operations and maintenance (O&M) accounts that would otherwise be returned to the electric fund reserves can also be appropriated to support electric system reliability and resiliency. The projects detailed above total \$6.22 million, with currently budgeted and appropriated funds providing for all but a gap of about \$3.10 million.

Appropriating funds for the identified capital projects will allow for better definition of the offers that will be put into the 2021 / 2022 BFO process. If funds returned to reserves are not appropriated, we must prioritize the projects, putting the higher priority replacement projects completed under funds already appropriated for 2020 and the remaining projects identified for funding in the 2021/2022 BFO cycle. As the underspend in L&P and Energy Services accounts represents enough to support all projects described here, this truly does represent a "no regrets" opportunity to support system reliability and resilience.

#### Energy Services 2020 Funding Summary

During the Budgeting for Outcomes process for the FY2019/20 budget, there were revisions made in the City Manager's recommended budget to enable a scaled-down Climate Action Plan (CAP) opportunity package. In this package, commercial solar rebates (Offer 9.92) was funded at \$125,000 annually (25% of the original offer amount). As part of this appropriation, the 2020 commercial solar funding would be 73% of the original offer amount.

The following summarizes the external factors which driving the opportunity for maximizing benefit in 2020 with changes in Energy Services programs.

- Increase in energy efficiency funding from Platte River (\$390k): Platte River's proposed 2020 budget for efficiency and demand side management is increasing to reflect their commitment to reach higher levels of savings. Fort Collins Utilities will continue to receive our load ratio share of these funds. The proposed budget will result in an increase of approximately \$390k for Fort Collins common efficiency programs. This increase in Platte River 2020 funding will "offset" an equivalent amount of funds from the approved 2020 budget (offers 9.80 and 9.90).
- <u>Large-scale solar projects not moving forward (\$240k)</u>: Several incentives for large scale commercial solar projects were committed in 2018 and carried over into 2019 via purchase order. Customers have recently notified Utilities that these projects will not move forward due to various issues. The total incentive amount is \$240k. At the same time, staff has committed all of the 2019 funding and is tracking pending applications which will exceed current 2020 funding.
- <u>Solar Power Purchase Program (SP3) (\$150k)</u>: 2019 funding for the SP3 included a midyear anticipated start date of a new large system. Due to solar module federal tariffs and related delivery issues, the system was commissioned in mid-November. As a result, approximately \$150k of scheduled expenditures will not occur in 2019.
- Overall efficiency programs (\$1.5M): 2019 efficiency programs are on track for achieving savings targets but are currently forecast to meet the annual goals with a

financial balance of approximately \$1.5M. This is primarily due to lower participation in business efficiency and shifts in 2019 funding under Efficiency Works with Platte River.

#### Energy Services 2020 Proposed Scope

Priorities for Energy Services with regards to 2020 are to leverage customer interest in distributed solar to meet the 2020 Energy Policy local renewable energy target and to lay the groundwork for 2030 energy and climate goals with customer offers related to grid flexibility and beneficial electrification.

The following projects are proposed for implementation in 2020.

- Appropriation of commercial solar 2019 funds for 2020 commercial solar projects, \$240k. This would bring the 2020 commercial solar incentive budget up to \$365k. The 2019 commercial solar incentives budget (\$125k) is fully committed to customer projects. Staff has project intent affidavits from multiple customers for 2020 for a total of \$180k of incentives and active inquiries from an additional eight customers which could total over \$360k in incentives.
  - These solar projects will add approximately one megawatt of solar capacity, directly reduce carbon emissions by up to approximately 800 metric tons starting in 2021 and support reaching the Energy Policy 2020 renewable energy target of 20 megawatts of local solar.
- Realignment of 2020 activities under existing Offers 9.80 and 9.90. Approved offers 9.80 and 9.90 include incentives which will receive additional support from Platte River in 2020. The new funding from Platte River allows for the realignment of 2020 resources without changing Utilities funding levels. Staff proposes the following for 2020 and that any ongoing costs associated with these projects will be incorporated into existing funding levels for 2021/2022:
  - O Addition of Ecobee thermostats to the Bring Your Own Thermostat (BYOT) offer under the Peak Partners program. This will add the third most popular installed thermostat brand to the BYOT program (complementing Nest and Honeywell). 150 units would be added with a first-year cost of \$65,000 through the existing vendor Itron. Ongoing costs will be incorporated into the 2021/2022 demand energy resources management offer.
  - O Demonstration of Grid Interactive Water Heaters (GIWH). Up to 20 GIWH would be installed in low income customer premises at no cost to the customer. The units will prioritize heat pump water heater technology wherever possible but may include some resistance units based on customer premises. This project will test options for transitioning 3G cellular communications, streamline the business processes needed for the field deployment of future units, provide a storage platform for storing excess renewable electricity and demonstration of optimal control strategies. This project will be delivered in partnership with Itron for a cost of \$130k.
  - O Residential Battery Storage Demonstration. This project will engage existing battery customers with incentives for allowing utility monitoring and potentially control of behind the meter battery asset, install several residential behind the meter batteries for management by utilities and pilot an incentive for combining

- batteries with solar. This project will be delivered by existing Energy Services staff with a budget in 2020 of \$100k.
- O Development of Carbon-Based Incentive Structure. This project will provide funding for a collaborative effort with Sacramento Municipal Utilities District (SMUD) to customize a framework for carbon based incentives for efficiency, distributed generation and electrification. This framework will support the transition of incentives for reducing loads, increasing loads and shaping loads to a common carbon metric. A preliminary cost estimate for this project is \$25k.
- Expansion and coordination of Beneficial Electrification Incentives. This project will provide initial funding to expand and coordinate beneficial electrification incentives, specifically targeting customer and trade ally requirements to advance installation of heat pumps for space and water heating to reduce both natural gas and electric resistance use. This project will be delivered by existing Energy Services staff with a budget in 2020 of \$70k.

Realignment of approved 2020 Energy Services funds and appropriation of commercial solar funds allows for improved definition of offers for the 2021 / 2022 BFO process. Without this realignment, it is likely that existing efficiency funds will not be fully utilized in 2020 and that priority changes towards grid flexibility and beneficial electrification requests will be considered for starting in 2021.

#### **Off-cycle Budget Package**

The proposed funding described above will result in the following specific actions to be included in the Council ordinance (see attachment 1):

- Increase in System Improvements and Replacements (parent account 501012) by \$1,921,249.
- Increase in Annexations (parent account 501004) by \$268,585.
- Increase in System Conversions (parent account 501601) by \$909,925.
- Net reduction in Energy Services efficiency funding (business unit 13000000) by \$295,000. This will be offset by increased funding from Platte River
- Increase in Community Renewables funding for commercial solar incentives and for battery storage demonstration (business unit 11110000) by \$340,000. This will be funded from expiring purchase orders for past solar projects and from associated reductions in Energy Services.
- Increase in Demand Response funding for thermostats and grid interactive water heaters (business unit 135000000) by \$195,000. This will be funded from associated reductions in Energy Services.

#### **ATTACHMENTS**

- 1) Funding Summary
- 2) GIS map with Details of L&P projects can be viewed at this link: <a href="https://arcg.is/SS9ma">https://arcg.is/SS9ma</a>.

	Budget		2019		2020		Total
Offer 8.7 - Distribution Transformers (Original recommended budget)	FY1920	\$	800,000	\$	827,500	\$	1,627,500
Offer 8.7 - Distribution Transformers (Reduced funding, CAP opportunity)	FY1920	\$	577,000	\$	732,500	\$	1,309,50
Total to replace L&P funding that was reduced in CAP opportunity package \$ 318,000							
012 System Improvements & Replacements	Year		Budget	Pro	iect Cost	Fur	nding Gan
<u> </u>	<b>Year</b> 2019	\$	Budget 507,191	Pro	ject Cost	Fur	nding Gap
5010120000 Distribution System Improvements Capital Parent Account Balance		\$		Pro	ject Cost	Fur	nding Gap
112 System Improvements & Replacements 5010120000 Distribution System Improvements Capital Parent Account Balance 5010122781 2019 Cable Rpl Non-Work Ord 5010120000 Funding from Offer 8.9 - System Cable Replacement	2019	\$ \$ \$	507,191	Pro	ject Cost	Fur	nding Gap

1012 System improvements & Replacements	i Cai	Duuget	г	roject cost	Fui	iuiiig Gap
5010120000 Distribution System Improvements Capital Parent Account Balance	2019	\$ 507,191				
5010122781 2019 Cable Rpl Non-Work Ord	2019	\$ 141,500				
5010120000 Funding from Offer 8.9 - System Cable Replacement	2020	\$ 500,000				
FY1920 Offer 8.7 - Distribution Transformer Replacements (supplemental)	2020		\$	318,000	1	
501012F022 Distribution Transformer Purchases for Off-Cycle Projects	2020		\$	1,002,000		
Circuit 732 Feeder Cable Replacement (Identified by 4 Dec diagnostic test)	2020		\$	247,940		
Cable System Diagnostic Test Equipment with Vehicle	2020		\$	142,000		
501012C003 CAPITAL - Replacement Area 3 - Skyway South	2020		\$	213,000		
501012C004 CAPITAL - Replacement Area 4 - Stonehenge PUD	2020		\$	297,000		
501012C005 CAPITAL - Replacement Area 5 - Cottonwood	2020		\$	331,000		
501012C006 CAPITAL - Replacement Area 6 - Kreger Plaza	2020		\$	124,000		
501012C007 CAPITAL - Replacement Area 7 - Village East	2020		\$	242,000		
501012C008 CAPITAL - Replacement Area 8 - Brown Farm 3rd	2020		\$	153,000		
	Subtotal	\$ 1,148,691	\$	3,069,940	\$	1,921,249
004 Annexations						
5010040000 Annexations Capital Parent Account Balance	2019	\$ 993,415				
501004C001 Mail Creek Crossing 2nd Filing	2020		\$	392,000		
501004C002 Strauss Cabin Enclave	2020		\$	173,000		
501004C003 Fox Hills Annexation	2020		\$	127,000		
501004C004 Blehm_(REA) Annexation	2020		\$	514,000		
501004C004 Blehm_(Xcel) Annexation	2020		\$	56,000		
	Subtotal	\$ 993,415	\$	1,262,000	\$	268,58
601 System Conversions						
5016010000 System Conversions Capital Parent Account Balance	2019	\$ 974,075				
5016010001 Taft and Drake Overhead Conversion (Milfred)	2020		\$	336,000		
5016010002 Taft and Drake Overhead Conversion (Craws)	2020		\$	228,000		
5016010003 Taft and Drake Overhead Conversion (Tefft)	2020		\$	480,000		
5016010004 Taft and Drake Overhead Conversion (Drake)	2020		\$	24,000		
5016010005 College and Trilby Overhead Conversion	2020		\$	732,000		
5016010006 Overland Trail and Mulberry Overhead Conversion	2020		\$	36,000		
5016010007 North College and Willox Overhead Conversion	2020		\$	24,000		
5016010008 West Vine and Shields Overhead Conversion	2020		\$	24,000		
	Subtotal	\$ 974,075	\$	1,884,000	\$	909,92
rgy Services						
2020 Commercial Solar Rebate Appropriation of 2019 Funds	2020		\$	240,000		
Bring Your Own Thermostat Expansion	2020		\$	65,000		
Grid Interactive Water Heater pilot	2020		\$	130,000		
Residential Battery Demonstration	2020		\$	100,000		
Carbon Based Incentive Development	2020		\$	25,000		
Beneficial Electrification Incentive Development	2020		\$	70,000		
	SubTotal	\$ -	\$	630,000	\$	630,00
Grand Total for Off-Cycle Appropriatio	n	\$ 3,116,181	\$	6,845,940	\$	3,729,75

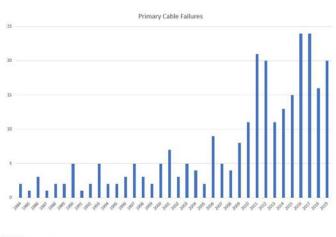
ling Sources (amounts will +return to 501 Fund Balance at the end of 2019)	Year	Budget
5010052724 Dixon Creek Substation Circuit 828 +	2019	\$ 105,018
5010052743 2019 Circuit 724 - Linden to Willox +	2019	\$ 619,529
5010082755 Hewlitt Packard Campus Ductbank +	2019	\$ 217,873
5010052785 2019 CKT 234B-Woodward Governor +	2019	\$ 299,456
12300000 Light & Power Operations 2019 Underspend +	2019	\$ 708,000
(15100000 - 19730000) System Addition/Replacement Underspend +	2019	\$ 456,000
2019 Commercial Solar Projects Cancelled +	2019	\$ 240,000
2019 Projected Underspend in Energy Services Operations +	2019	\$ 1,506,000
	Total Underspend Returning to Fund	\$ 4,151,875





## CAP Mitigation & Resiliency Package

- Restores funds removed from 2019/20 BFO for CAP opportunity package
- Addresses existing & emerging infrastructure needs through data informed investments
- Supports resiliency through grid flexibility programs with DERs
- Supports Connexion by opening new conduit pathways and new markets.
- Completes funding for undergrounding efforts
- Neutral fund impact by redeploying 2019 underspend







# Strategic Alignment

### Economic Health

- 3.5 Maintain utility systems, services, infrastructure
- 3.6 Invest in utility infrastructure
- 3.7 Deploy reliable, high-speed internet services

### Environmental Health

- 4.1 Achieve CAP 2020 goals and continue progress towards 2030
- 4.3 Achieve 2020 Energy Policy goals and work towards carbon neutrality
- 4.5 Develop strategies to improve climate resilience

## Council Priority

Undergrounding of electric infrastructure (transmission and distribution)



## Question for Council

 Does Council Finance support this off-cycle budget package for Council consideration in January 2020?



# Proposed Projects – Energy Services

- Commercial solar incentives
  - 2020 funding \$125k
  - Off-cycle supplemental funding \$240k
- Grid flexibility Redeploy \$390k
  - Bring your own thermostat expansion, \$65k
  - Grid interactive water heater demonstration, \$130k
  - Residential battery demonstration, \$100k
  - Carbon-based incentives framework development, \$25k
  - Beneficial electrification incentive development, \$70k
  - Net neutral funding, offset by increased funding from Platte River in 2020



# Proposed Projects – Energy Services

- Commercial solar incentives
  - Expect 8 to 12 projects, one megawatt capacity, 800 metric tons CO2
- Bring your own thermostat expansion
  - Add Ecobee thermostats to Peak Partners program
- Grid interactive water heater demonstration
  - Up to 20 GIWH installed in LMI households to reduce costs, demonstrate interactive storage and deployment processes









# Proposed Projects – Energy Services

- Residential battery demonstration
  - Engage existing battery customers, test residential scale batteries with solar
- Carbon-based incentives framework
  - Common carbon framework for efficiency, solar and electrification
- Beneficial electrification incentives
  - Trade ally and customer requirements for heat pump transition





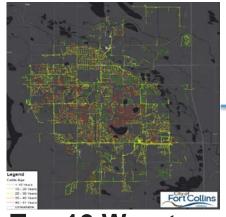
# Proposed Projects – Light & Power

Project	Project Costs	2020 Funding	Supplemental Funding
System Improvements & Replacements  • Cable replacements  • Diagnostic equipment  • Transformer replacements	\$3.07M	\$1.15M	\$1.92M
<ul><li>Annexations</li><li>Extends electric to annexed areas</li></ul>	\$1.26M	\$0.99M	\$0.27M
<ul><li>System Conversions</li><li>Completes undergrounding funding</li></ul>	\$1.88M	\$0.97M	\$0.91M
Total	\$6.22M	\$3.12M	\$3.10M



## System Improvements & Replacements

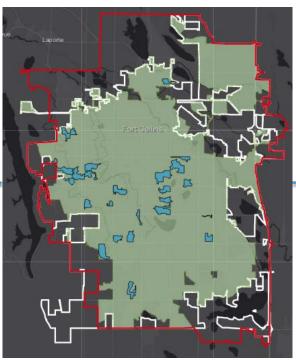
### Cable System Replacement – Data Driven Investment



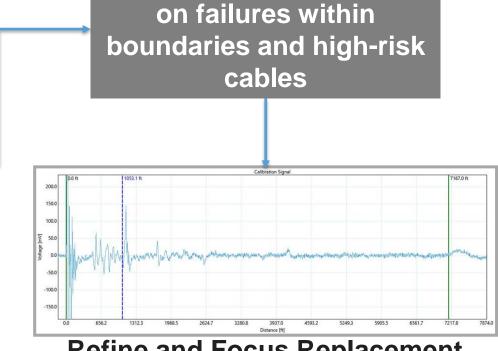
**Top 10 Worst Performing Vintages** 



**Outage Heat Map** 



Replacement Area Boundaries Developed



**Areas prioritized based** 

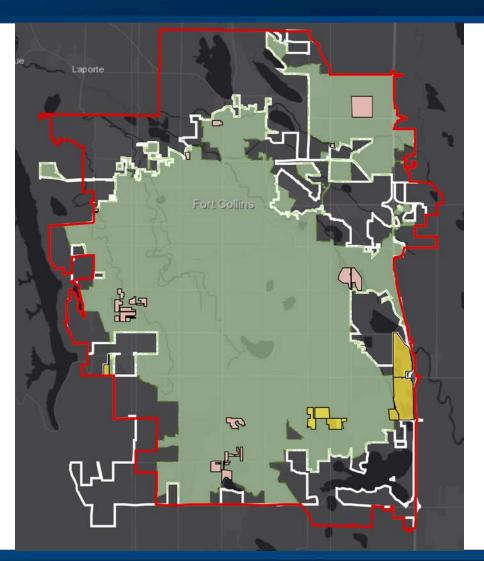
Refine and Focus Replacement Efforts with Cable Diagnostic Testing



### **Annexations & Overhead Conversions**

### Annexations

- Fox Hills
- Mail Creek Crossing 2<sup>nd</sup>
- Blehm
- Strauss Cabin
- Overhead Conversions (0.3%)
  - College & Trilby
  - Drake & Taft





# Light & Power Reserves

- Budget forecast of L&P reserves at end of 2019
  - \$5.5M
- Actual anticipated L&P reserves at end of 2019
  - \$10.5M
- Total off-cycle funding request from reserves
  - \$3.73M



## Question for Council

 Does Council Finance support this off-cycle budget package for Council consideration in January 2020?





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