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AGENDA
Council Finance & Audit Committee
September 21, 2020
10:00 am - noon
Zoom Meeting <https://zoom.us/j/8140111859>

Approval of Minutes from the August 17, 2020 Council Finance Committee meeting.

- | | | |
|--|----------|-----------------------|
| 1. Annual Adjustment Ordinance | 20 mins. | L. Pollack |
| 2. Parks & Recreation - Master Plan Review | 60 mins. | J. Stokes
H. Depew |
| 3. Code Revisions for Self-Insurance Fund | 15 mins. | T. Storin
J. Duval |

Council Finance Committee
Agenda Planning Calendar 2020
 RVSD 09/17/20 ts

Sept. 21st			
	Annual Adjustment Ordinance	20 min	L. Pollack
	Parks & Recreation - Master Plan Review	60 min	J. Stokes H. Depew
	Code Revisions for Self-Insurance Fund	15 min	T. Storin J. Duval

Oct. 19th			
	2021 Revenue Contingency Planning	30 min	T. Storin
	Utility Rebate Consolidation	20 min	J. Poznanovic
	2020 Fee Updates	20 min	J. Poznanovic
	2021 Light & Power Rate Adjustment	30 min	L. Smith

Nov. 16th			
	2020 Financial Policy Updates	30 min	B. Dunn
	Supplemental Appropriation for Increased Premium for Self Insurance	20 min	C. Goodwin Z. Mozer

Dec. 21st			

Future Council Finance Committee Topics:

- Park/Median Design Standards & Maintenance Costs – TBD
- Metro District Policy Update – TBD 2020



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Finance Committee Meeting Minutes

August 17, 2020

10 am - noon

Zoom Meeting

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

Staff: Darin Atteberry, Kelly DiMartino, Travis Storin, Tyler Marr, Noelle Currell, Drew Brooks, Erick Keselburg, Carrie Daggett, John Duval, Arlene Yusnukis, Erik Martin, Blaine Dunn, Kelley Vodden, Jennifer Selenske, Dave Lenz, Zack Mozer, Jo Cech, Caryn Champine, Lance Smith, Arlene Yusnukis, Mark A? Carolyn Koontz

Others: Anna Thigpen and Chris Telli from BKD
Kevin Jones, Chamber of Commerce

Meeting called to order at 10:02 am

Approval of Minutes from the July 20, 2020 Council Finance Committee Meeting. Ross Cunniff moved for approval of the minutes as presented. Ken Summers seconded the motion. Minutes were approved unanimously.

A. Parking Fund COVID Financial Impacts

Drew Brooks, Transfort / Parking Services Director

Noelle Currell, Planning, Development & Transportation Finance Manager

EXECUTIVE SUMMARY

The Parking Fund is currently consuming reserves at the rate of \$88k/month because of COVID. These impacts are due to both the overall economic environment as well as Emergency Orders issued to help support both businesses and residents.

The Parking Fund is expected to lose approximately \$845k of fund balance over the course of 2020.

GENERAL DIRECTION SOUGHT AND SPECIFIC QUESTIONS TO BE ANSWERED

Inform Council Finance of the current financial status of the Parking Fund.

BACKGROUND/DISCUSSION

The Parking Fund is an administrative (non-codified) governmental fund. It was created in 2015 to ensure that Parking Revenue that is generated through a variety of sources will only be used to further the Parking Mission

(not provide a supplemental funding source for General Fund activities). As a non-enterprise fund, Parking is not intended to be self-regulating.

Leading into COVID; revenues and expenses were nearly balanced (with expenses being slightly higher than revenue in recent years and in the 2020 budget):

	Actual 2015	Actual 2016	Actual 2017	Actual 2018	Actual 2019	Budget 2020
Beginning Balance	0	1,510,396	1,516,953	1,796,033	1,546,205	1,487,872
Revenue	3,661,192	2,368,112	2,755,408	3,278,679	2,698,547	2,857,432
Expenses	2,150,796	2,361,555	2,476,328	3,528,507	2,756,881	2,900,003
Surplus / (Deficit)	1,510,396	6,557	279,080	(249,828)	(58,334)	(42,571)
<u>Ending Balance</u>	<u>1,510,396</u>	<u>1,516,953</u>	<u>1,796,033</u>	<u>1,546,205</u>	<u>1,487,872</u>	<u>1,445,301</u>

The impacts of both City decisions to support the economy and residents have had large negative impacts on Parking revenues. Parking has not been able to lower its expenses proportionally due to nature of the expenses; for example, software/hardware for garages/pay stations and existing security contracts with the garages. Due to the impact on revenue and nature of the expenses in the fund, reserves are being consumed at the rate of about \$88k/month on average.

Though it is expected that the Parking Fund will have a positive fund balance at the end of 2020, there is currently no path to rebuild that fund balance, nor pay for additional critical needs (e.g. Civic Center Parking Structure Elevator repairs). Budgeted ending fund balance for 2020 was \$1,455,301. Forecasted fund balance is \$708,501. Note that this decrease in fund balance will cause the use of specific Civic Center Reserves.

Staff is closely monitoring the situation and will make adjustments as nimbly as possible to continue to serve and support the community. Additional strains on the fund will be communicated to City Leadership and Council as soon as they are brought to light.

Discussion / Next Steps;

Ken Summers; good presentation – thank you -we are so dependent on our revenue. Are all of the parking enforcement folks back on duty? Interesting balance – enforcement vs back office – what is the breakdown?

Drew Brooks; We have five parking enforcement agents in place. Approximately staff percent is 70/30 office vs field enforcement.

Ken Summers: Are a lot of the maintenance items fixed costs or is there a correlation between parking volume and activity and maintenance?

Drew Brooks; Most of the maintenance items are fixed costs. There is a condition assessment of our parking garages approximately every 3 years to project out 5- and 10-year maintenance costs. As parking garages age that does increase – water, chemicals used for snow removal seep down into cervices which require replacing tension cables especially on a garage that is a precast garage which all 3 of our garages are precast. It is typical to have these major expenses for parking garages. Elevators require maintenance as well.

Ken Summers; in terms of parking sensors, what is the timeline, anticipated outcome related to revenue?

Drew Brooks; the on-street sensors

Historically there has been a lot of discussion about whether we should go to a paid model on street. It was decided in the 2017 Downtown Plan that we needed more data and the best way to get that was to use the in-ground sensors which give you an in and out time. We installed these in 2019 – mid to late summer we noticed some anomalies with the data – then we have some pretty serious failures with the in ground sensors – the vendor saw the same problem and agreed to replace the sensors – they came back in January – March and replaced many of the sensors then Covid hit – we are monitoring that data now to make sure we are comfortable before they replace the remaining sensors.

Ken Summers; so the capital investment has been for data collection?

Drew Brookes; yes and we can use that data to push out of customers regarding available spots via a parking app – customer could look and see where there was a parking vacancy, The current devices just give an in and out – it does not have the capability to enforce a 2 hour limit. That enforcement would have to be done by plate number

Ross Cunniff; my question is about the right balance of enforcement versus personnel costs

Once we are more into the analysis of the sensors - is that the right way to approach information in our outdoor parking areas? There have been many improvements in image-based sensing (cameras). I know there are privacy considerations. The big picture here is end user information - Signs on the garages that post the number of open spots - good information for citizens – maybe that type of information for on street parking would be helpful

For the next few years at least, our current model for parking funding is not sustainable so, what else should we do? Even our revenue projections may be optimistic dependent on what transpires economically taking into consideration that the Congress has yet to act on a longer-term renewal of the stimulus program and what that may do to our downtown economy.

Mayor Troxell; did parking receive any CARES funding?

Drew Brooks; no funds from CARES that went to parking - that might be possible via some bills that may pass in the future but nothing in the first round.

Noelle Currell; CARES was to offset expense and not intended to replace lost revenue. Some of the parking spaces that we have taken for outdoor dining but a small fraction and doesn't really move the needle.

Mayor Troxell; even the reassignment of some of the code enforcement - does that qualify in some way?

Thanks for the update on the sensors –I really appreciate the readjustment of dedicating some of the parking spaces for take-out parking – I think this has been honored well by our citizens. Can you speak to spaces given up for additional outdoor dining which I think has been terrific – has created a great atmosphere in difficult times. There is a balance there – I think it is being maintained well -better utilization

Drew Brooks; we are currently doing a re-calibration on the curb side spaces. We are working with DDA to look though block face by block face - where we could contract some spaces and where we may need to expand

based on usage. As far as the outdoor dining, this has been a fantastic program – may end up to something we transition to moving into retail business support. Monitor to make sure we maintain the correct balance. We will focus on communication as far as the right place to park for the right purpose. If you are going to be longer than 2 hours, the garages are your best option versus on street parking. I have learned that parking is a lot about psychology – how to incentivize folks to use the right spaces for the right purposes.

Mayor Troxell; I appreciate the Art in Public Places – think that has been a model - other communities have shut down streets – I think we have done a great job of protecting the diners with the walls – providing an ambiance that enhances our downtown - that was a very quick turnaround - thank you all for that

Drew Brooks; one of the incentives that we provided through the month of September was the first hour of parking free pre Covid - we have now made the first three hours free to incentivize parking movement into the garages and strike a better balance.

Mayor Troxell; To Ken's point earlier regarding revenue, CSU is an order of magnitude more related to revenue from fines – which is a primary support mechanism for parking on campus. I think Fort Collins revenue has gone up over time because of more dedicated enforcement. Do we still have a Parking Advisory Board and what role do they play and how is that working?

Drew Brooks; yes, we do have a Parking Advisory Board - we had some difficulty having a quorum due to vacancies which we have now been filled. They are a good resource to discuss ideas – we have used the board quite effectively - most members are downtown business owners.

Darin Atteberry; we brought this presentation to you for a couple reasons.

- 1) we wanted to update you on one of our important funds in the city - there are some real challenges - we do have some challenges in this fund
- 2) I am extremely confident in how this is being run and operated – Drew and Noelle providing excellence leadership. The relationship is strong business owners and parking services. At the last two DDA board meetings, Mayor asked what they thought of the outdoor dining. They were supportive and appreciative. At the last meeting, Eric Keselburg gave a presentation on parking services and Drew was in attendance – there were a lot of questions and the conversation ended with very sincere appreciation for the work that the city and Parking services were doing in the downtown area. We are adapting based on real time needs.

The other reason that is was important to bring this to you is to give you a status - as Drew mentioned the history that happened before he joined about on-going conversations regarding on street paid parking - the fact that people have to pay to park in structures but it is free on the streets. Council was very intentional about hearing the concerns from downtown constituents, business and property owners and the DDA and DBA, investing in a two year budget process in this data through the sensors and other data gathering techniques to come back in a very informed way to rethink on-street parking policy. It has been delayed as a result of this failed technology and has also been disrupted by Covid.

Part of the reason why I think our revenues are bolstered by enforcement is there is no additional revenue coming into the portfolio from on-street parking revenues.

There are only a few sources of revenue which include parking structure revenue, any sort of general fund subsidy and fees and fines. If we choose to move more toward on street paid parking – you will see a shift as fees and fines become a much smaller percentage of the revenue portfolio.

I want to say publicly that Drew Brooks is leading both Parking Services and Transfort in an amazing way and I am grateful for the way that you are doing this. I met with Transfort operators last week and you would be proud how many of the operators represent the city. I am grateful for Drew's work and leadership.

Susan Gutowsky; I had an opportunity to hear Drew's presentation at DDA a couple of times
An on-going project that was going to get fixed – so great to hear you say that that has been progressing – put them in some places and study it and then set policy after reviewing the data. My complements to you on that – thank you for that work

Mayor Troxell; Fort Collins had on street parking meters and they were taken out. Our downtown vibrancy is amazing even now - there is a lot that goes into the balance. Colorado Springs as an example is looking to Fort Collins on how you make a vibrant downtown. Parking management plays into that as I have seen some communities sacrifice downtown vibrancy for a few nickels This is being data driven and the parking advisory board and some very knowledgeable folks – we want to keep that vibrancy because it drives so many things in a positive direction – thank you for the presentation.

B. Audit Review

Blaine Dunn, Interim Accounting Director
Kelley Vodden, Controller
Chris Telli, BKD LLP
Anna Thigpen, BKD LLP

SUBJECT FOR DISCUSSION

Independent Auditors' Report on 2019 Financial Statements
Independent Auditors' Report on Compliance for Major Federal Programs

EXECUTIVE SUMMARY

BKD will be presenting an overview of the *Report to Council*. This report covers the audit of the basic financial statements and compliance of the City of Fort Collins for year-end December 31, 2019.

GENERAL DIRECTION SOUGHT AND SPECIFIC QUESTIONS TO BE ANSWERED

Staff seeks input on areas of priority or concern, other than those established in this Report to the City Council, for matters of recordkeeping and/or the City's internal control environment.

Otherwise there are no specific questions to be answered as this is a 2019 year-end report.

BACKGROUND/DISCUSSION

In compliance with *Government Auditing Standards*, the City undergoes an independent external audit on an annual basis. BKD finalized its financial statement audit and compliance report on July 31, 2020 and the firm is required to report the results of the audit to those charged with governance.

Attachment 1 to this agenda item contains the full report, and findings of note are summarized below:

Significant Issues Discussed with Management (Attachment 1, page 4):

City management and the audit team discussed the accounting treatment of Fiduciary Activities and how they relate to the adoption of GASB 84. The audit team agreed with how the City presented the Fiduciary Activities.

Other Findings (Attachment 1, pages 6-8):

Other findings/deficiencies identified by the auditors but not rising to the level of a significant deficiency can be found in the Report to the City Council. Staff will provide a written response to the audit findings at a fourth quarter Council Finance Committee meeting.

Discussion / Next Steps;

Travis Storin; the findings are on a 1 2 3 scale depending on severity - the findings being discussed today at the lower end of the spectrum and they provide us for an opportunity to learn

Ken Summers; retainage and implications for net capital - what is the amount on that? I am not sure how much retainage we keep or the percentage on construction projects - wouldn't that retainage actually overstate in our net capital position?

Chris Telli; it comes in as a liability, so it reduces that number down – net investment in capital asset – it offsets it

I believe the highest amount in any of the funds was \$1.8M which was in the largest fund - Governmental Activities – that is the total in that fund – we look at retainage in every fund (opinion unit) that has retainage.

Blaine Dunn; with some of the technology that we have put in place on our accounts payable side we are hoping to leverage that to better capture the retainage payable so we can clear this going forward and not have this as an adjustment in future years.

Travis Storin; the net investment in capital is not generally a number that feeds into the city's planning process - our budgeting is set up around working capital, so current assets and current liabilities, so this is more of the term investment in our capital assets that a part of the city's fund balance.

Chris Telli; the result of this adjustment is a reclassification between two net position / equity accounts - the liability side for the retainage was recorded properly so no issue there it was the calculation of that net investment capital asset line item on the CAFR.

Audit findings were reviewed at a high level. Please refer to the Audit Report for details.

Internal Control Over Financial Reporting

- Deficiencies: Information Technology

- The primary data center door is in the same security group as other doors in the LaPorte Building.
- The secondary data center is located within five miles of the primary data center. Given their proximity, both data centers could be affected by the same regional events resulting in an extended service outage.
- The City's secondary/backup co-location data center is managed by a third party. A Service and Organization Controls (SOC) or similar report has not been received and evaluated by the City to verify the effectiveness of physical and environmental controls at the third party.
- There is not a formal change management policy for in-house application development
- A formal periodic user access and permission review is not evidenced for the applications listed below. A periodic review provides management with the opportunity to verify ongoing needs, limit potential segregation of duties conflicts, and to remove access for terminated users that were not otherwise caught in the normal termination process. The systems included are as follows: JD Edwards, CIS, Tungsten, MS Govern, Accela, Active Directory (AD)
- Although, the CIS application appears to have a shared Incident Response Program with other application shareholders, the City does not have an enterprise-wide Incident Response Program to provide uniform guidance on classifying and handling incidents.

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BKD

IT Deficiencies - BKD utilizes their enterprise risk solutions team for this part of the audit. Last year was the first time they were brought in. They identified several items and best practices. Many items were implemented, and progress was made from last year.

Arlene Yusnukis response to items listed on slide above; For many of these items we are looking to implement policies and procedures to address them. That would cover the first two items – we do have a new security person on board, and we look forward to working with her and Jim Byrne.

SOC Report - we do receive it but don't review it - we will implement a formal review this year

Formal Change Management Review is a work in progress

Incident response plan is also a work in progress - the current CIS application will be deprecated as we bring on the new billing system.

Secondary Data Center - we would have to work with Council to determine the priority of making a capital investment

Mayor Troxell and Arlene Yusnukis had a conversation about the secondary data center and concerns raised by BKS with the secondary data center.

Ken Summers; this is all from a category of things that the auditors need to bring to our attention – balancing out and being aware of the deficiency. –It may technically be out of compliance but still adequate for our needs - as far as how much of this risk we can reasonable mitigate even though it falls outside some recommended guidelines

Chris Telli; that is correct. We feel that our responsibility is to point out these items. More than likely this will fall off next year as everyone is aware and we understand that it is a significant investment. This is meant to address things like a tornado or a storm that could take out both blocks. Risk assessment.

ACTION ITEM:

Ross Cuniff; follow up memo or a SAR - What does our contract with a third party look like? What are our considerations / provisions for contractual disputes? If during that time we need to access our secondary backup. Arlene mentioned that we are doing near real time data transfer from our primary to our secondary – what controls do we have in the event of something that corrupts our primary data - do we have multiple copies? thinking of a ransomware as an example.

Mayor Troxell; recently a Colorado city had to pay ransom and I would like a comparative analysis on that included. What lessons learned? are we vulnerable? I sent Darin a news item to that effect, let me know if you need specifics. Also, what Chris was talking about the grants receivable - could you be more specific? Federal grant? I am Interested in how our philanthropic grants -that we are free & clear in terms of the separation and how those are dealt with on their own.

Anna Thigpen; the philanthropic grants are subject to testing but not necessarily recording in the financial statements. They likely roll up into an accounts receivable line item. In our testing – depending on the nature of receivable – if we are testing a federal receivable, we would make sure that whatever restriction that was in place was being met. Typically, federal and (non-federal) grants have different criteria - test that receivable in different ways.

City Give - Would do the same thing with private and federal grants – as we select and test them
It is individual to each award – federal awards generally operate on a reimbursement basis so the city has to incur expenses before they can recognize revenue - most of the grants the city receives but not 100%

Chris Telli; they are all included on the uniform guidance – there are certain federal grants that are required to be audited under uniform guidance which get very in depth financial and compliance audit –then there are some federal grants that are not subject to that level of compliance. All are subject to financial auditing - certain grants on federal guidelines are subject to a much higher level of audit. We look at the grant agreements from a financial reporting side. We are not doing a level of compliance that we do on federal grants.

Mayor Troxell; I would like for the city to be at a level that is rigorous such that there is a level of transparency as to philanthropic funds coming to the city - we are being strategic through City Give as a Foundation – there needs to be a level of framework to enables it to be auditable as a foundation might be.

Travis Storin; the standard scope of audit doesn't necessarily cover donor intention on the philanthropic side- so strategically it may be an instructive conversation to have at a future Council Finance meeting – we could

engage an audit service for City Give program specifically – it could be done at a 4-5 year interval – there are a lot of forms that could take. In the meantime, Blaine would be happy to comment on the City Give procedures and how we track for that and how we honor donor intentions or we could do that as a follow up memo from Nina and Blaine.

Mayor Troxell; not just donor intention but also public purpose -I am thinking specifically of what the Governor's office is dealing with now with pay to play - should be very intentional – public purpose – means of accomplishing this without any additional - it is a process and how that is maintained

ACTION ITEM

Blaine Dunn; I would like to send a memo to you and to Council as a follow up along with Nina to follow-up and answer your concerns.

Mayor Troxell; City Give is doing a great job – it rises to a level of being able to take the scrutiny as we have this audit conversation. thank you - open conversation regarding deficiencies and so forth.

Travis Storin; this is a clean audit opinion - this is the 33rd year we have participated in the GFOA certificate program which requires that we keep a clean audit. We view a 3rd party audit not just as an obligation under the city's charter but also as an opportunity to have an auditor review. We have some findings to address this year – the team is already at work remediating those – Thank you to our partners at BKD for the flexibility and to the staff - this has been a very trying year and challenging to do this remotely- logistically challenged -special acknowledgement to the staff

Blaine Dunn; the 2019 CAFR has been posted online and we should be distributing hard copies to Council next week.

Mayor Troxell; thank you for the good work you are doing - Travis and team – congratulation on keeping the long record going that we are proud of as a community – to be open and transparent.

Ross Cuniff; as we are moving into the City Manager's Recommended budget – can you remind me What economic assumptions we are basing that on?

Travis Storin; we have moved from the four scenario based presentation that we shared with you earlier - we have gone to a sensitivity approach rather than a scenario approach - our point estimate \$29M shortfall versus run rate - for process reasons we would like keep that in place as far as the recommended budget – if Council would like more information on what assumptions are baked in - conversation we would welcome as a staff if the data supports that kind of revision

Ross Cuniff; similar to how we did a few years ago - just a heads up - something I would be interested in driving - I would like some way to have some flexibility so if economic conditions transpire to be better than or worse than anticipated - if we are plus or minus a given threshold that we have a list of pre-determined actions that we would take – a lot of that would come out of the prioritization process that results from the budget process – that will one of the areas that I want to dig into

Travis Storin; you are correct in terms of the tool set – we will show you the rankings – you can refer to the budget document's drilling platforms to see what would come in above or below the line. The caveat that I would mention is that without the seven BFO teams this year – we don't actually have the rank order this cycle.

Darin Atteberry; I wonder Travis and Carrie if we think about the appropriation ordinance or any adopting language that actually highlights potential triggers - I don't have a concern about formalizing that - I actually like it a lot because it tells the public and Council and the organization that if things get worse we will be back. I like formalizing that - I'd like to rather than a list of what those contingency planning items would be - I prefer to a refer to process / trigger and then let the Finance Committee and Council go through the details. Let's design the triggers and get those into adoptive language then we will have a process outline. My only concern is I would hate to have if this then this language which causes us problems

Ross Cuniff; This budget will span a Council election and things can change - I like the idea of having the triggers formalized - not definitive but a list of possible actions

Darin Atteberry; why don't we take a shot at it and reflect this conversation and then come back to Finance committee members.

Ken Summers; what Ross is recommending is something I have seen before in terms of budgeting approaches - especially in a non-profit sector. Maybe do a high level by service area - you basically create three parallel budgets; Projections / worst case anticipated / best case scenarios. I have seen that recommended as part of budgeting processes - I think it is a good idea - we pretty much know based on our sales tax revenue as our baseline - it goes up and down. What does it mean for our seven core service areas - at least if we have some kind of broad - a starting point. Part of the ongoing thought process.

Darin Atteberry; the language that we are navigating through to preserve the adhoc committee coming back with any sort of 2nd quarter course changes - I think folding these two thoughts together would be good I like some sort of trigger / adopting language - it puts in the clutch - let's folks know we could be back given changes - The Police ad hoc committee - we aren't at a point where we are recommending changes - we may have some mid-course adjustments - we want to make sure that language is folded in as well. Let's think about how those two sync up in the adoptive language.

Ken Summers; I see we may be cutting \$1.2M from Police between 2020 and 2021

Darin Atteberry; I have not heard ever that here is a mindset of de-fund - there is a real curiosity of reallocating some money - some towards homeless services which are directly but indirectly involved with Police - I have not heard that from the committee or Council. It is really understanding the entire portfolio of police officers - are there certain things we can take out of their portfolio and have others that are better equipped doing that so police officers can focus on their basic core services - not hearing that from our policy makers at all - so far it has been a really good conversation.

Mayor Troxell; the budget that the Council is now in work session with and that will be coming through in September - beyond that - the adhoc committee work should probably come to Council Finance Committee as a vetting mechanism as well.

Darin Atteberry; I don't have any concerns about that nor do I think the committee will have concerns - if there are financial or budgetary ramifications I think it is very appropriate.

Travis Storin; appreciate the thoughts on process, timing and language. I do want to return to Ross' question as precision matters - \$19M is the governmental side revenue shortfall setting Utilities and Broadband aside which represents a 7% reduction from the 2019 revenue level - we will make sure that is emphasized in the document.

Meeting adjourned at noon

DRAFT

COUNCIL FINANCE COMMITTEE AGENDA ITEM SUMMARY

Staff: Lawrence Pollack
Travis Storin

Date: September 21, 2020

SUBJECT FOR DISCUSSION

First Reading of Ordinance No. , 2020, Appropriating Unanticipated Revenue in Various City Funds.

First Reading of Ordinance No. , 2020, Appropriating Prior Year Reserves in Various City Funds.

EXECUTIVE SUMMARY

The purpose of these Annual Adjustment Ordinances is to combine dedicated and unanticipated revenues or reserves that need to be appropriated before the end of the year to cover the related expenses that were not anticipated and, therefore, not included in the 2020 annual budget appropriation. The unanticipated revenue is primarily from fees, charges, rents, contributions, donations and grants that have been paid to City departments to offset specific expenses.

GENERAL DIRECTION SOUGHT AND SPECIFIC QUESTIONS TO BE ANSWERED

- What questions or feedback does the Council Finance Committee have on the 2020 Annual Adjustment Ordinance?
- Does the Council Finance Committee support moving forward with bringing the 2020 Annual Adjustment Ordinance to the full City Council?

BACKGROUND/DISCUSSION

This Ordinance appropriates unanticipated revenue and prior year reserves in various City funds and authorizes the transfer of appropriated amounts between funds and/or projects. The City Charter permits the City Council to appropriate unanticipated revenue received as a result of rate or fee increases or new revenue sources, such as grants and reimbursements. The City Charter also permits the City Council to provide, by ordinance, for payment of any expense from prior year reserves. Additionally, it authorizes the City Council to transfer any unexpended appropriated amounts from one fund to another upon recommendation of the City Manager, provided that the purpose for which the transferred funds are to be expended remains unchanged; the purpose for which they were initially appropriated no longer exists; or the proposed transfer is from a fund or capital project account in which the amount appropriated exceeds the amount needed to accomplish the purpose specified in the appropriation ordinance.

If these appropriations are not approved, the City will have to reduce expenditures even though revenue and reimbursements have been received to cover those expenditures.

The table below is a summary of the expenses in each fund that make up the increase in requested appropriations. Also included are transfers between funds and/or projects which do not increase net appropriations, but per the City Charter, require City Council approval to make the transfer. A table with

the specific use of prior year reserves appears at the end of the AIS.

Funding	Unanticipated Revenue	Prior Year Reserves	Transfers	TOTAL
General Fund	\$1,047,839	\$340,623	\$0	\$1,388,462
Capital Projects Fund	15,800	0	23,650	39,450
Equipment Fund	347,587	0	0	347,587
KFCG Fund (PFA)	0	52,335	0	52,335
Transit Services Fund	53,670	0	0	53,670
Transportation Services Fund	5,499	1,323,650	0	1,329,149
Transportation CEF Fund	0	0	0	0
GRAND TOTAL	\$1,470,395	\$1,716,608	\$23,650	\$3,210,653

A. GENERAL FUND

1. Title: Manufacturing Equipment Use Tax Rebates

Finance requests the appropriation of \$291,518 to cover the amount due for the 2019 Manufacturing Equipment Use Tax Rebate program as established in Chapter 25, Article II, Division 5, of the Municipal Code. The rebate program was established to encourage investment in new manufacturing equipment by local firms. Vendors have until December 31st of the following year to file for the rebate. This item appropriates the use tax funds to cover the payment of the rebates.

FROM:	Prior Year Reserves (Manufacturing Use Tax Rebate)	\$291,518
FOR:	Manufacturing Use Tax Rebates	\$291,518

2. Title: Northern Colorado Drug Task Force Rent

Real Estate Services, part of the Operation Services Department, has a rental agreement with the Northern Colorado Drug Task Force (NCDTF). NCDTF pays \$63,748 annually to Real Estate Services, and this revenue is used to pay the mortgage on the building.

FROM:	Unanticipated Revenue	\$63,748
FOR:	Building Mortgage	\$63,748

3. Title: 212 West Mountain Avenue Insurance Payment for Water Damage

Operation Services will be receiving an insurance payment for all costs associated with water damage at 212 West Mountain Avenue. This request is to appropriate those funds to cover the expenses of repairs from the water damage.

FROM:	Unanticipated Revenue	\$167,648
FOR:	Water damage repair	\$167,648

4. Parks' Forestry Division is requesting appropriation of new revenues, as well as prior year reserves. The characteristics of the two funding sources are described below:

- a. \$32,550 – Forestry Unanticipated Revenue – this request is to appropriate various unanticipated revenues for the Forestry Division in 2020. These funds will be used for tree plantings.
- b. \$1,350 – Forestry City Give Donations – this request is to appropriate the balance of City Give Reserves for Forestry from year end 2019. These funds will be used for tree plantings.

<u>TOTAL APPROPRIATION</u>	
FROM: Unanticipated Revenue	\$32,550
FROM: Prior Year Reserves	\$1,350
FOR: Tree Plantings	\$33,900

5. Fort Collins Police Services (FCPS) has received revenue from various sources. A listing of these items follows:

- a. \$36,356 – Battle Grant 2020-2021 - The Beat Auto Theft Through Law Enforcement [BATTLE] Grant is a state funded grant for overtime for officers to reduce auto theft and bring those who steal automobiles to justice. This grant pays for overtime on a reimbursable basis. This grant also includes the expenses for the purchase and installation of an automatic license plate reader (ALPR).
- b. \$750 – Explorers Gift through City Give - The Police Explorers help the with many tasks at Santa Cops, and as a way to say thank you Santa Cops has given a gift for the use of the Explorers.
- c. \$5,000 – 2020 Click it or Ticket Grant - In 2020 Police Services was awarded a Click it or Ticket Grant from the Colorado Department of Transportation to pay for officers to work overtime to conduct enforcement activities.
- d. \$19,061 - Police Reimbursement from City of Loveland for CRISP project software - As a part of the Colorado Regional Information Sharing Program (CRISP) upgrade project some additional software for Easy Street needed to be purchased for the City of Loveland. Based on the contracts and agreements in place, Loveland needed additional software, but the City of Fort Collins needed to make the purchase. The City of Loveland has reimbursed the City of Fort Collins for the purchase.
- e. \$11,745 – HVE Grant 2020-2021 – In 2020 Police Services was awarded a High Visibility Impaired Driving Enforcement grant from the Colorado Department of Transportation to pay for overtime for DUI enforcement during specific holiday time periods.
- f. \$66,580 – Sale of Police records and other miscellaneous Police revenue - FCPS receives revenue from the sale of Police reports along with other miscellaneous revenue
- g. \$10,831 – Contribution to Northern Colorado Drug Taskforce - As a part of the City of Fort Collins contribution to the Northern Colorado Drug Taskforce, any Drug Offender Surcharge, or Court Ordered Restitution that is remitted from Larimer County Court to Fort Collins Police, is then passed along to the NCDTF. Any additional restitution that is collected by FCPS is additionally passed along to the NCDTF.
- h. \$133,490 – Police Overtime Reimbursement - Police Services help schedule security and traffic control for large events. Since these events are staffed by officers outside of their normal duties, officers are paid overtime. The organization which requested officer presence is then billed for the costs of the officers' overtime. FCPS also partners with Larimer County to staff events at The Ranch. Police receives reimbursement from Larimer County for officers' hours worked at Ranch events.

<u>TOTAL APPROPRIATION</u>	
FROM: Unanticipated Revenue (2020 BATTLE Grant)	\$36,356
FROM: Unanticipated Revenue (Explorers Gift through City Give)	\$750
FROM: Unanticipated Revenue (2020 Click it or Ticket Grant)	\$5,000
FROM: Unanticipated Revenue (CRISP project software reimbursement)	\$19,061
FROM: Unanticipated Revenue (HVE Grant)	\$11,745
FROM: Unanticipated Revenue (Miscellaneous)	\$66,580
FROM: Unanticipated Revenue (Northern Colorado Drug Task Force)	\$10,831

FROM:	Unanticipated Revenue (Overtime Reimbursement)	\$133,490
FOR:	2020 BATTLE Grant	\$36,356
FOR:	Police Explorers within Community and Special Services	\$750
FOR:	2020 Click it or Ticket Grant	\$5,000
FOR:	CRISP project software	\$19,061
FOR:	2020 HVE Grant	\$11,745
FOR:	Police Administration	\$66,580
FOR:	Transfer of funding to Larimer County	\$10,831
FOR:	Police Services	\$133,490

6. Title: For Fort Collins Partnership

This is a contribution made through the Midtown Business Improvement District to support the For Fort Collins campaign. In response to the crippling impacts the Coronavirus and stay-at-home orders have had on our local business community, the Economic Health Office in partnership with CPIO, will implement a marketing and public relations campaign to encourage community members to support local, especially the most impacted industries.

FROM:	Unanticipated Revenue	\$5,000
FOR:	Campaign to encourage local business support	\$5,000

7. Title: Radon Kits

Environmental Services sells radon test kits at cost as part of its program to reduce lung-cancer risk from in-home radon exposure. This appropriation would recover kit-sales for the purpose of restocking radon test kits.

FROM:	Unanticipated Revenue (radon kit sales)	\$1,554
FOR:	Radon test kit purchase	\$1,554

8. Title: Urban Sustainability Directors Network - Transforming Climate Planning and Practice Grant

In 2019, the City, along with 10 other U.S. cities, was awarded a grant from the Urban Sustainability Directors Network (USDN) to develop a framework for how to transform climate planning and practice to be centered in equity. While the total grant is \$89,500, per the award letter the majority of the grant was to be paid directly to Arup and Movement Strategy Center for payment of their services for the project. This portion (\$8,500) was awarded to the City of Fort Collins to fund part of the City's contractual position's salary to advance this work through the remainder of 2020. The development of this framework is intended to scale to the over 220 cities and counties across U.S. and Canada who are members of USDN and who are centering their climate efforts in equity. This work is aligned with the City's Our Climate Future efforts, the combined update to the Energy Policy, Road to Zero Waste, and Climate Action Plans.

FROM:	Unanticipated Revenue (grant)	\$8,500
FOR:	Portion of Contractual Position to develop framework	\$8,500

9. Title: Municipal Industrial Waste Opportunities Analysis

Funds for the Municipal Industrial Waste Opportunities Analysis were allocated in 2019 after being recommended by the interdepartmental Waste Innovation Program. The project came to completion in 2020 rather than in 2019. It has identified current programs that reuse or recycle waste that could be at risk, as well as identifying opportunities for additional reuse and recycling.

FROM:	Prior Year Reserves (Waste Innovation reserve)	\$29,155
FOR:	Waste innovation Program	\$29,155

10. Title: Land Bank Operational Expenses

This request is intended to cover expenses related to the land bank property maintenance needs for 2020. As expenses vary from year-to-year, funding is requested annually mid-year to cover these costs. Expenditures for 2020 include general maintenance of properties, raw water and sewer costs, electricity, and other applicable expenses.

FROM:	Prior Year Reserves (Land Bank reserve)	\$18,600
FOR:	Land Bank Expenses	\$18,600

11. Title: Restorative Justice Services Additional Grant Funding

Restorative Justice (RJ) Services received \$7,800 in additional grant funds to add to an already active grant from CO Dept. of Public Safety, Division of Criminal Justice Juvenile Diversion grant # 2021-DV-21-30008-08. The grant will pay for additional hours for the half-time supervisor of Mediation and Restorative Justice to provide additional support for RJ programming. Providing RJ services virtually is requiring more than 100% more staff time than delivering in person services. This will add an additional 5 hours/week of the supervisor's time Oct. 2020 - June 2021.

FROM:	Unanticipated Revenue (grant)	\$7,800
FOR:	Restorative Justice Services Program	\$7,800

12. Title: 2020 DTS and Finance Charges

This item is administrative in nature; it will not increase expenses to the City as expenses exist today. In past years, fees to finance and IT for support services provided to the Development Review Center were not properly classified as expenses to the Development Review Center, but rather as direct revenue to IT from the customer. This practice was out of compliance with Generally Accepted Accounting Principles (GAAP). During 2020 journal entries have been posted monthly to ensure GAAP compliance for revenue/expense. As this was corrected during 2020, no expense budget was in existence for these items. These entries and the needed budget reflect no change in cash flows for the City. In 2021 the budget has been adjusted to ensure appropriate accounting standards are being followed for revenue recognition.

FROM:	Previously acknowledged revenue	\$350,000
FROM:	Previously acknowledged revenue	\$91,000
FOR:	Development Review Center expenses	\$441,000

13. Title: Community Economic Development Support - Platte River Power Authority

Since 1982, Platte River Power Authority has granted funds annually to support municipalities' economic development efforts. This year, The City of Fort Collins will receive \$36,226. In accordance with Resolution No. 32-12, payments will be directed to help support the Small Business Capital Access Loan Program.

FROM:	Unanticipated Revenue (grant)	\$36,226
FOR:	Small Business Capital Access Loan Program	\$36,226

B. CAPITAL PROJECTS FUND**1. Title: Gardens on Spring Creek Capital Project donation through City Give**

The Gardens on Spring Creek received an additional \$15,800 from the Friends of the Gardens on Spring Creek to help with some remaining expenditures from the capital project to complete the Master Plan of the Gardens.

FROM:	Transfer from General Fund (City Give donation)	\$15,800
FOR:	Master Plan of the Gardens on Spring Creek	\$15,800

2. Title: Engineering Payment In Lieu for Projects (see item #F4 for additional information)

Occasionally, when a development comes into the City, a major capital project is already planned along the development's Right of Way (ROW) frontage. Typically, in the City's process, the developer is required to put in amenities along the ROW (such as curb/gutter/sidewalk). When a major capital project is planned, instead of having the developer build their frontage, the City collects a Payment in Lieu (PIL) and applies that toward the Capital Project. This request appropriates PILs that have previously been collected for 2 projects: One along Laporte Ave and one at the major intersection of College and Trilby.

FROM:	Transfer from Transportation Services Fund	\$23,650
FOR:	College and Trilby Intersection	\$19,250
FOR:	Laporte Ave	\$4,400

C. EQUIPMENT FUND**1. Title: State CNG vehicle and Electric Charging infrastructure Grants**

This revenue is from the Alt Fuels Colorado (\$330,376) and Charge ahead (\$17,211) grant programs administered by the State Energy Office and the Regional Air Quality Council. Alt Fuels Colorado provides 80% reimbursement on the incremental cost of Natural Gas vehicles, while the Charge Ahead provides infrastructure for vehicle charging stations.

FROM:	Unanticipated Revenue (grants)	\$347,587
FOR:	Natural Gas Vehicles & Charging Stations	\$347,587

D. KEEP FORT COLLINS GREAT FUND (PFA)**1. Title: KFCG Reserve for Fire**

Requesting the Keep Fort Collins Great Reserve for Fire to pay for two FC911 Dispatch Consoles (\$40,000) and for equipment (hydrafusion pump, chain saw and accessories, and a Stearns ice suit) for the new Heavy Rescue Apparatus (\$12,335).

FROM:	Prior Year Reserves (KFCG PFA)	\$52,335
FOR:	Dispatch consoles and equipment	\$52,335

E. TRANSIT SERVICES FUND**1. Title: Purchase of Cutaways Hardware to be reimbursed by Colorado State University**

Requesting for the purchase of 3 Intelligent Vehicle Network (IVN) Retrofits from Clever Devices for Cutaway Buses. Hardware will provide ridership data for CSU. CSU has agreed to reimburse City of Fort Collins for this purchase.

FROM:	Unanticipated Revenue (CSU reimbursement)	\$53,670
FOR:	IVN Retrofits for ridership data	\$53,670

F. TRANSPORTATION SERVICES FUND**1. Title: FC Moves City Give FONDO Foundation Philanthropic donation**

This is a donation from an organization who normally puts on an event every year to help benefit the Safe Routes to School (SRTS) program. Even though they were not able to put on their event this year, they were still able to raise and provide money to the City to help further the reach of the program. These dollars go toward supplies and programming costs for the Safe Routes to School work that is done annually.

FROM:	Transfer from General Fund (City Give donation)	\$1,843
FOR:	Safe Routes to School program	\$1,843

2. Title: Snow & Ice Removal

The 2020 snow budget has been consumed due to large snowstorms in February and March. The total annual budget is \$1.5M and YTD spending is \$1.9M. Extremely cold temperatures require more deicer material to keep the roads safe, which drives up the cost of snow operations significantly. Ice cutting can be required due to the weather pattern where daytime thawing and nighttime freezing. Additional funding of \$1.3M is requested to provide snow removal services from September through December 2020.

FROM:	Prior Year Reserves	\$1,300,000
FOR:	Snow and ice removal	\$1,300,000

3. Title: 243 N. College Sidewalk Improvements

The previous tenant of 243 N. College Avenue never completed their obligated sidewalk improvement work. The City still held the cash escrow from the previous tenant. The building was sold and vacated before work was complete. With the new tenant moving in, additional work was needed, and the City partnered with the new tenant to complete the sidewalk improvements. The money the City used was from the prior tenant's escrow (which has already been recognized as revenue). Work was completed in the spring.

FROM:	Unanticipated Revenue (forfeited escrow)	\$3,656
FOR:	Sidewalk Improvements	\$3,656

4. Title: Engineering Payment In Lieu for Projects (see item #B2 for additional information)

Occasionally, when a development comes into the City, a major capital project is already planned along the development's Right of Way (ROW) frontage. Typically, in the City's process, the developer is required to put in amenities along the ROW (such as curb/gutter/sidewalk). When a major capital project is planned, instead of having the developer build their frontage, the City collects a Payment in Lieu (PIL) and applies that toward the Capital Project. This request appropriates PILs that have previously been collected for 2 projects: One along Laporte Ave and one at the major intersection of College and Trilby.

FROM:	Prior Year Reserves	\$23,650
FOR:	Transfer to Capital Projects Fund	\$23,650

G. TRANSPORTATION CAPITAL EXPANSION FUND

1. Title: Transportation Capital Expansion Developer Reimbursements (transfer to Non-lapsing)

The Transportation Capital Expansion Fee (TCEF) Program reimburses development for eligible improvements after they are constructed and accepted by the City. In the past, reimbursements were always budgeted in lapsing funds, but this did not adequately portray the financial position of the overall TCEF Fund. For major projects that are under construction, appropriating the estimated reimbursement amounts into non-lapsing business units ensures that the City accounts for the financial liability that has already been incurred.

FROM:	Previously appropriated expenses (lapsing business unit)	\$1,400,000
FOR:	Transfer to Non-lapsing business units in the same Fund	\$1,400,000

FINANCIAL / ECONOMIC IMPACTS

This Ordinance increases total City 2020 appropriations by \$3,210,653. Of that amount, this Ordinance increases General Fund 2020 appropriations by \$1,388,462, including use of \$340,623 in prior year reserves. Funding for the total increase to City appropriations is \$1,470,395 from unanticipated revenue, \$1,716,608 from prior year reserves, and \$23,650 from transfers between Funds.

The following is a summary of the items requesting prior year reserves:

Item #	Fund	Use	Amount
A1	General	Manufacturing Equipment Use Tax Rebate	291,518
A4b	General	Forestry City Give Donations	1,350
A9	General	Municipal Industrial Waste Opportunities Analysis	29,155
A10	General	Land Bank Operational Expenses	18,600
D1	KFCG	KFCG Reserve for Fire	52,335
F2	Transportation Services	Snow & Ice Removal	1,300,000
F4	Transportation Services	Engineering Payment In Lieu for Projects	23,650
Total Use of Prior Year Reserves:			\$1,716,608

ATTACHMENTS

Attachment #1 – Presentation to City Council Finance Committee



2020 Annual Adjustment Ordinance

Council Finance Committee – September 21, 2020

Travis Storin – Interim CFO

The recommended 2020 Annual Adjustment Ordinance is intended to address:

- 2020 unanticipated revenues (e.g. grants & donations)
- Appropriation of unassigned reserves to fund unanticipated expenditures associated with approved 2020 appropriations
- Should be routine and non-controversial
- Items approved by the ordinance need to be spent within fiscal/calendar year 2020

City-wide Ordinance No. [REDACTED], 2020 increases total City 2020 appropriations by \$3,211k

- This Ordinance increases General Fund 2020 appropriations by \$1,388k, including the use of \$341k in prior year reserves. Those reserves are primarily for:
 - \$292k for the Manufacturer's Use Tax Rebate
 - \$29k for the Municipal Industrial Waste Opportunities Analysis
 - \$19k for Land Bank Operational Expenses
- Funding for the total City appropriation of \$3,211k is:
 - \$1,470k from additional revenue
 - \$1,717k from prior year reserves
 - \$24k from transfers between funds

Summary of 2020 Adjustments by Fund

Funding (all values in \$k)	Unanticipated Revenue	Prior Year Reserves	Transfers	TOTAL
General Fund	\$1,048	\$341	\$0	\$1,388
Capital Projects Fund	16	0	24	39
Equipment Fund	348	0	0	348
KFCG Fund (PFA)	0	52	0	52
Transit Services Fund	54	0	0	54
Transportation Services Fund	5	1,324	0	1,329
Transportation CEF Fund	0	0	0	0
GRAND TOTAL	\$1,470	\$1,717	\$24	\$3,211

Large Adjustments

Item (in \$k)	General Fund	Transportation Services Fund	Other	TOTAL
Manufacturing Equipment Use Tax Rebate	\$291.5			\$291.5
2020 DTS and Finance Charges	\$441.0			\$441.0
State CNG Vehicle and Electric Charging Infrastructure Grants			\$347.6	\$347.6
Snow Removal		1,300.0		1,300.0
Sub-Total	\$732.5	\$1,300.0	\$347.6	\$2,380.1
All Other Recommended Items	655.9	29.1	145.5	830.5
TOTAL	\$1,388.5	\$1,329.1	\$493.0	\$3,210.7

Guidance Requested:

- What questions or feedback does the Council Finance Committee have on the 2020 Annual Adjustment Ordinance?
- Does the Council Finance Committee support moving forward with bringing the 2020 Annual Adjustment Ordinance to the full City Council?

COUNCIL FINANCE COMMITTEE AGENDA ITEM SUMMARY

Staff: John Stokes, Honore Depew, Bob Adams, Kurt Friesen, Mike Calhoon

Date: September 21, 2020

SUBJECT FOR DISCUSSION: Parks and Recreation Master Plan

EXECUTIVE SUMMARY

The purpose of this item is to seek direction on possible funding options to include in the Parks and Recreation Master Plan for further exploration in the future. Staff will follow up from the July 20, 2020 Council Finance Committee meeting with additional details from a funding analysis of parks and recreation facilities. Consultants and department directors available for discussion/questions.

GENERAL DIRECTION SOUGHT AND SPECIFIC QUESTIONS TO BE ANSWERED

1. Is CFC comfortable with the funding options presented being included in the Master Plan?
2. Does CFC have a preference for any of the proposed funding strategies?

BACKGROUND/DISCUSSION

The Parks and Recreation Master Plan update process began in November 2019 and has included extensive system analysis and community engagement. Staff has been working with a consultant team, stakeholders, and the community to identify parks and recreation desires, assess how Fort Collins compares to other peer and benchmark communities, and identify key issues and priorities the plan should address – including a long-term financial framework.

Staff and the consulting team are conducting a thorough and detailed analysis of the entire inventory of parks and recreational facilities. The assessment includes an appraisal of assets and amenities throughout the system using benchmark communities, national trends, and survey data as guideposts. From this work current levels of service can be compared, and future amenities and services anticipated.

Several approaches are being used to develop an understanding of how current facilities compare to benchmark communities, and how those facilities relate to what Fort Collins' community members have highlighted in through surveys, open houses, etc. The analysis also includes an evaluation of the funding structures in place to support development, maintenance, replacement, and programing.

The Total Cost of Ownership for Parks and Recreation facilities includes four buckets:

- 1) New Parks and Facilities
 - a. the capital needed to construct
- 2) Operations and Maintenance (O&M)
 - a. the funds needed to maintain
- 3) Lifecycle Replacement
 - a. the funds to replace/upgrade parts and equipment
- 4) Park and Facility Refresh
 - a. the funds to completely redesign or remodel when necessary

Fort Collins has historically funded the first bucket with tax initiatives for new recreation facilities and dedicated impact fees for new parks. This model does not fully account for new infill parks. The other three buckets compete for general funds as part of the budget process every two years. As a result, the long-term financial sustainability of these assets is not assured.

For example, when compared with industry standards, Parks operations and maintenance is currently underfunded by approximately \$300,000 annually. Best practices also call for investing 3% of total asset value each year in replacement and upgrades of amenities. Based on Fort Collins Parks assets, the annual funding for lifecycle replacement of Parks amenities is approximately \$3.5 million below the recommended target investment. Recreation facilities face their own shortfalls for equipment replacement. The funding for Recreation facilities themselves (buildings, boilers, HVAC, etc.) falls within Operation Services' budget and also competes for general funds. Refresh of Parks and Recreation facilities does not have a consistent funding stream currently identified.

As part of the Master Plan update, several staff workshops have been held to develop a Capital Improvement Plan for all Parks and Recreation Facilities. This deliverable will be a useful tool to help better align timing and funding for projects by creating a rough lifecycle / refresh schedule for each park and facility. And it will estimate the cost of improvements, by location. In the long term, one tangible benefit of having this type of road map is the avoidance of unnecessary work (e.g., if a park is slated for refresh in a couple of years, investing in lifecycle replacement now should be avoided).

Based on consultant team research and staff guidance, numerous possible options for funding have been identified. They are listed in the attached powerpoint presentation on slides 11-14.

Next Steps

- Complete a forward-looking asset management financial projection for individual parks and recreational facilities (capital improvement plan)
- Refine strategies for funding alternatives and options for inclusion in Master Plan
- Conduct additional community outreach
- City Council Work Session: Oct. 27

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

1. Powerpoint presentation

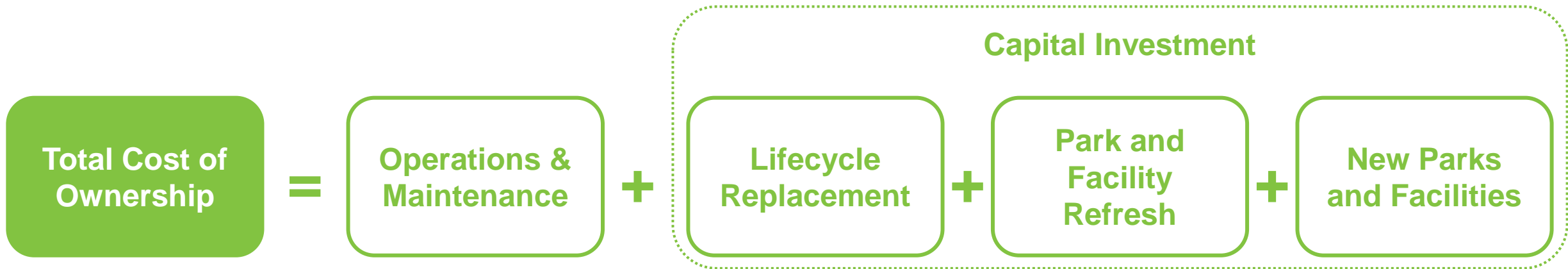


PARKS & RECREATION MASTER PLAN
Community Services

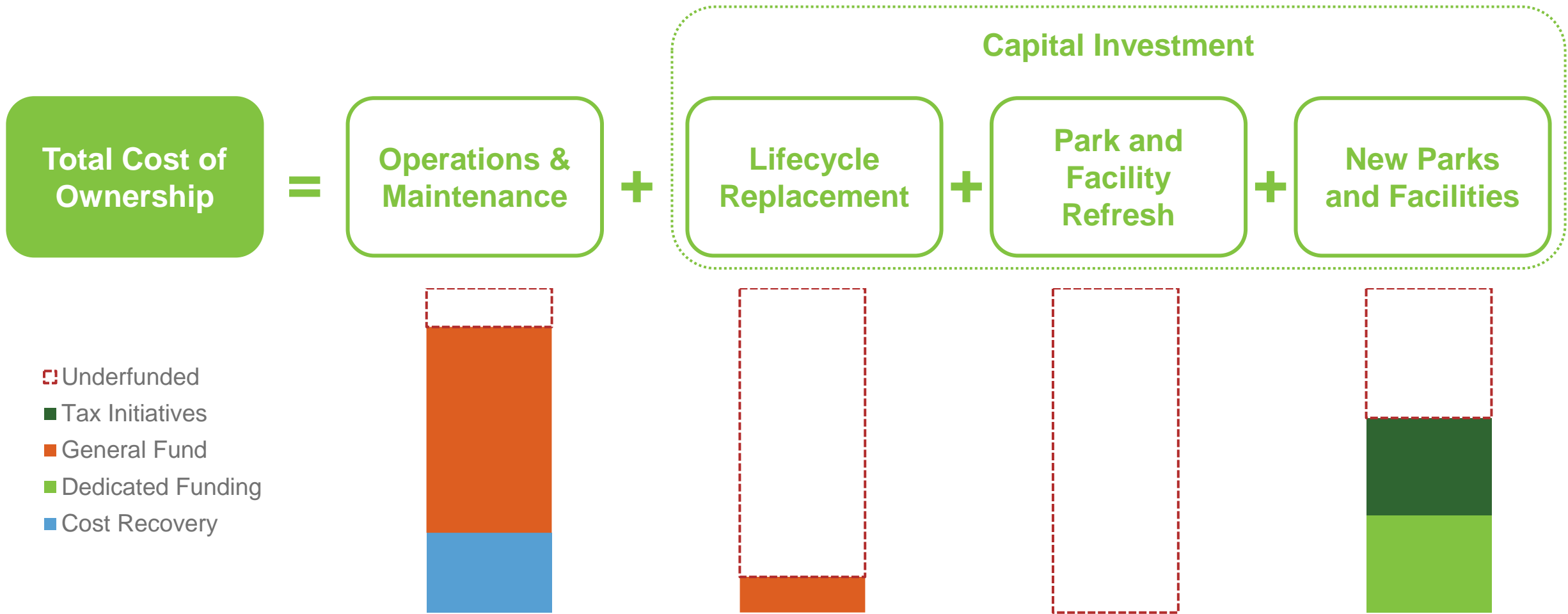
Direction Sought

1. Is CFC comfortable with the funding options presented being included in the Master Plan?
2. Does CFC have a preference for any of the proposed funding strategies?

Total Cost of Ownership



Total Cost of Ownership



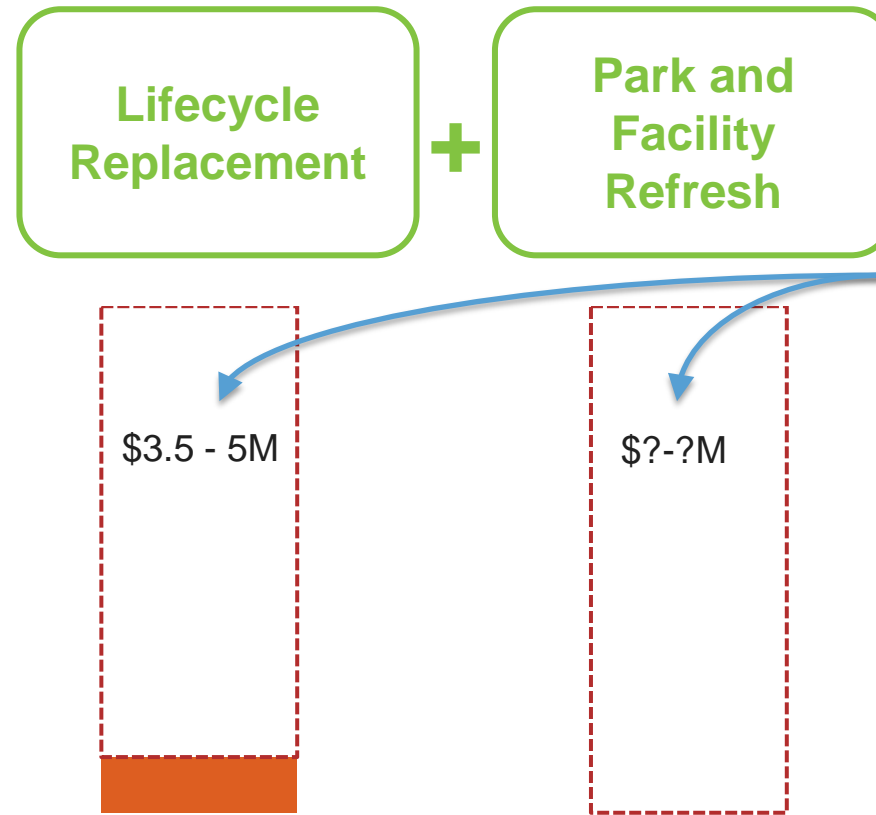
Operations & Maintenance

**Gap in
comparison to
best practices**

- Underfunded
- Tax Initiatives
- General Fund
- Dedicated Funding
- Cost Recovery



Lifecycle Replacement and Refresh



**Capital
Improvement
Plan will inform**

- Underfunded
- Tax Initiatives
- General Fund
- Dedicated Funding
- Cost Recovery

New Parks and Facilities

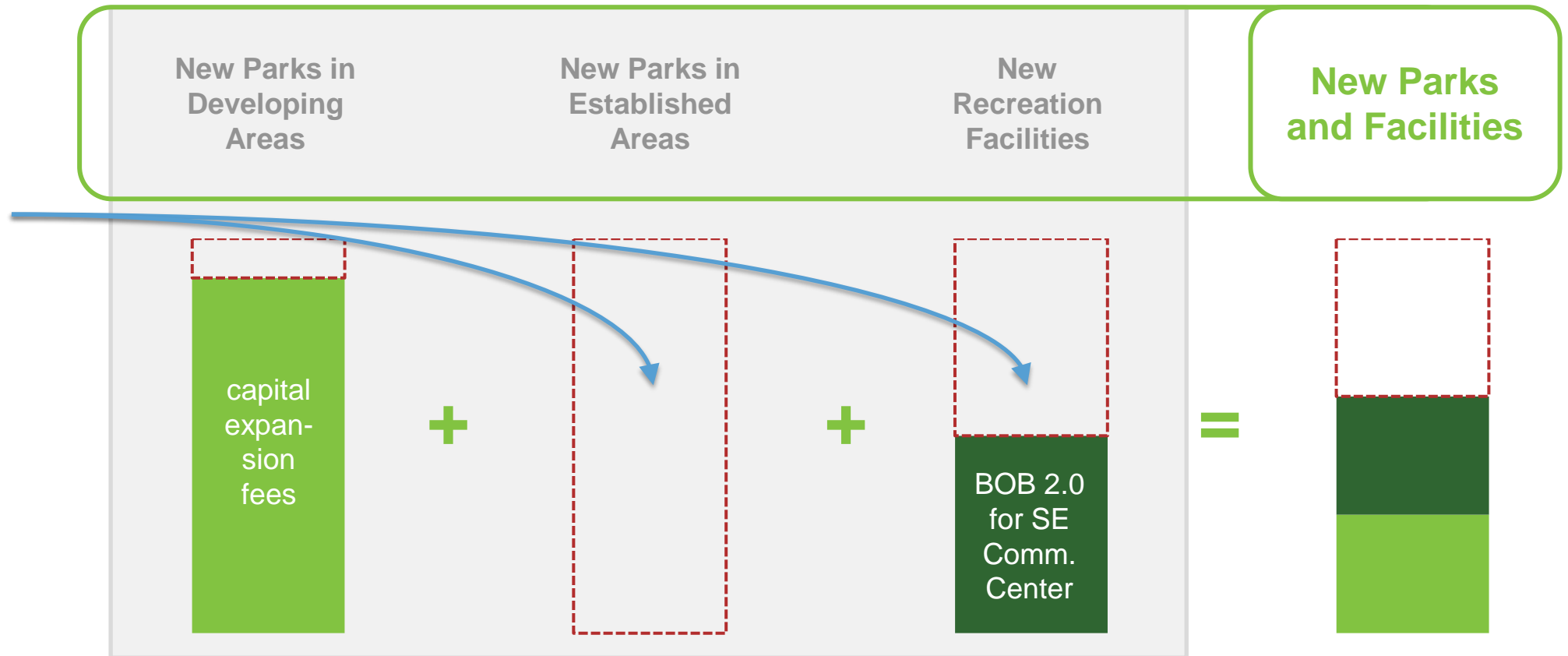
- Underfunded
- Tax Initiatives
- General Fund
- Dedicated Funding
- Cost Recovery



New Parks and Facilities

Level of service
analysis will
inform

- Underfunded
- Tax Initiatives
- General Fund
- Dedicated Funding
- Cost Recovery

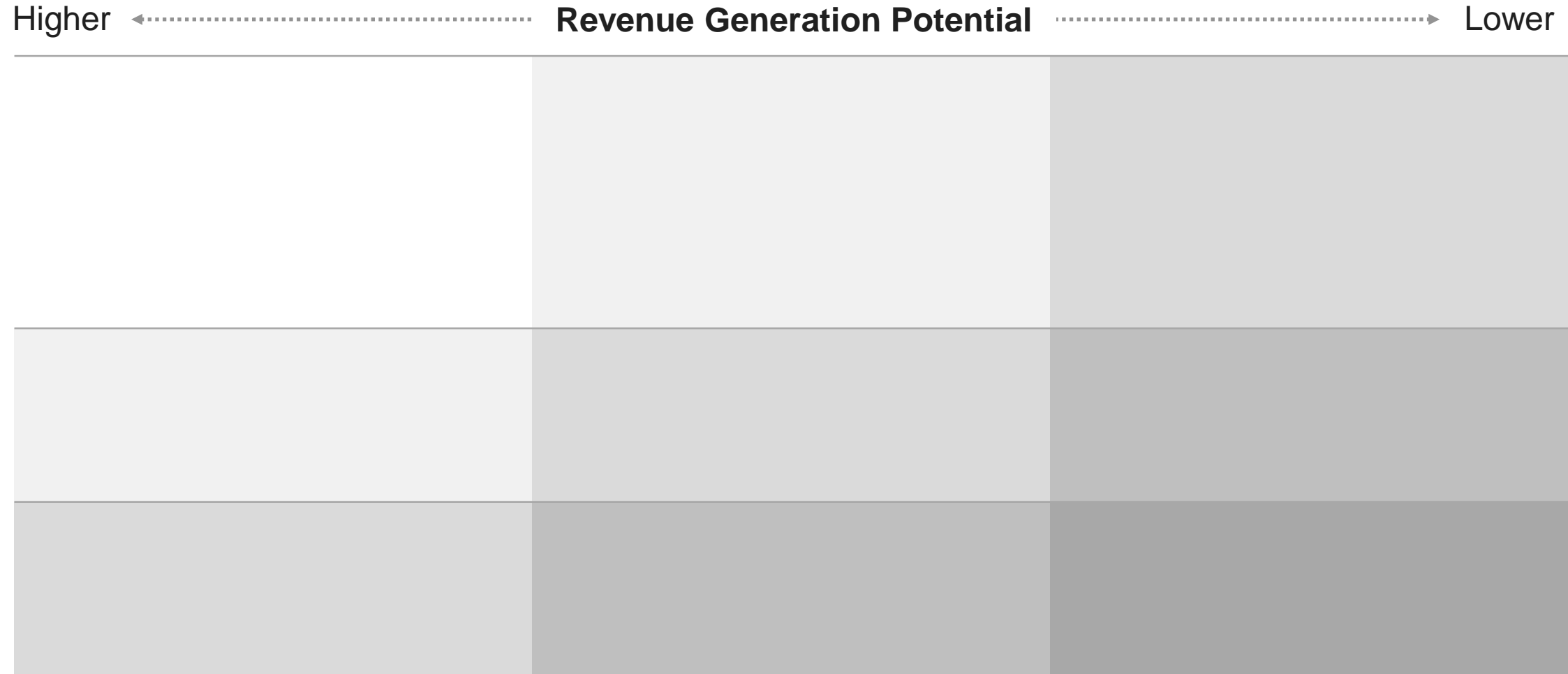


Menu of Funding Options

Higher
↑
Feasibility
in Fort
Collins
↓
Lower

External Funding	Capital Fees	User Fees	Grants	Tax Support	Franchises/ Licenses

Menu of Funding



Menu of Funding Options - Capital

Higher
 ↑
**Feasibility
 in Fort
 Collins**
 ↓
 Lower

External Funding	Capital Fees	User Fees	Grants	Tax Support	Franchises/ Licenses
	<ul style="list-style-type: none"> Developer Impact Fees Capital Improvement Reserve Funds (User Fees) 		<ul style="list-style-type: none"> Grants 	<ul style="list-style-type: none"> Sales Tax Special P&R District (Property Tax) 	<ul style="list-style-type: none"> Naming Rights Advertising Sales Joint Use Agreements
				<ul style="list-style-type: none"> Hotel and Restaurant Tax Food and Beverage Tax 	<ul style="list-style-type: none"> Private Developers Easements
			<ul style="list-style-type: none"> CDBG Funding Land Trust 	<ul style="list-style-type: none"> Metro Districts 	<ul style="list-style-type: none"> Greenway Utility

Menu of Funding Options - Capital

	Higher ← Revenue Generation Potential → Lower	
Higher ↑ Feasibility in Fort Collins ↓ Lower	<ul style="list-style-type: none"> • Developer Impact Fees • Capital Improvement Reserve Funds (User Fees) • Sales Tax • Special P&R District (Property Tax) 	<ul style="list-style-type: none"> • Grants
	<ul style="list-style-type: none"> • Hotel and Restaurant Tax • Food and Beverage Tax 	<ul style="list-style-type: none"> • Naming Rights • Advertising Sales • Joint Use Agreements
	<ul style="list-style-type: none"> • Metro Districts 	<ul style="list-style-type: none"> • Private Developers
		<ul style="list-style-type: none"> • Easements
		<ul style="list-style-type: none"> • CDBG Funding • Land Trust • Greenway Utility

Menu of Funding Options – O&M

Higher
 ↑
**Feasibility
 in Fort
 Collins**
 ↓
 Lower

External Funding	Capital Fees	User Fees	Grants	Tax Support	Franchises/ Licenses
<ul style="list-style-type: none"> Partnerships Foundations/ Gifts Friends Groups Volunteerism Special Fundraisers 		<ul style="list-style-type: none"> Ticket Sales/ Admissions Permits (Special Use) Reservations Equipment Rental 		<ul style="list-style-type: none"> Sales Tax Special P&R Tax District 	<ul style="list-style-type: none"> Concession Management Private Management Joint Use Agreements
<ul style="list-style-type: none"> Corporate Sponsorships 				<ul style="list-style-type: none"> Hotel and Restaurant Tax Food and Beverage Tax 	<ul style="list-style-type: none"> Catering Permits
<ul style="list-style-type: none"> Crowdfunding 					<ul style="list-style-type: none"> Pouring Rights

Menu of Funding Options – O&M

Higher ← **Revenue Generation / Expenditure Offset Potential** → Lower

Higher



**Feasibility
in Fort
Collins**



Lower

<ul style="list-style-type: none"> • Ticket Sales / Admissions • Permits (Special Use) • Reservations • Equipment Rental • Sales Tax • Private Management • Joint Use Agreements • Special P&R Tax District 	<ul style="list-style-type: none"> • Partnerships • Foundations / Gifts 	<ul style="list-style-type: none"> • Friends Groups • Volunteerism • Special Fundraisers • Concession Management
<ul style="list-style-type: none"> • Hotel and Restaurant Tax • Food and Beverage Tax 	<ul style="list-style-type: none"> • Corporate Sponsorships 	<ul style="list-style-type: none"> • Catering Permits
		<ul style="list-style-type: none"> • Crowdfunding • Pouring Rights

1. Is CFC comfortable with the funding options presented being included in the Master Plan?
2. Does CFC have a preference for any of the proposed funding strategies?

COUNCIL FINANCE COMMITTEE AGENDA ITEM SUMMARY

Staff: Travis Storin, Interim CFO
John Duval, Deputy City Attorney

Date: September 21, 2020

SUBJECT FOR DISCUSSION: 2020 City Code Updates Concerning City Self-Insurance Fund and City's Employee Defense and Indemnity Obligations– City Financial Administration

EXECUTIVE SUMMARY: The purpose of this agenda item is to propose amendments to the City Code for three primary purposes:

- 1) Clarify that the Self-Insurance Fund exists for payment of “covered expenses,” but that other Funds are permitted to be used to pay these covered expenses.
- 2) Update and revise the Code provisions related to the City's defense and indemnification obligations to its employees in civil lawsuits, including revisions related to City police officers as now required by SB 20-217.
- 3) Clarify that in addition to paying the defense costs of City employees in certain civil and criminal matters, employees defense costs may also be paid by the City in certain administrative matters related to an employee's licensure/certification/accreditation held as a condition of City employment.

GENERAL DIRECTION SOUGHT AND SPECIFIC QUESTIONS TO BE ANSWERED

Is the Finance Committee supportive of the proposed Code updates?

BACKGROUND/DISCUSSION

This series of Code updates are intended to clarify the administrative practices in accordance with Colorado law and staff practices. In addition to minor maintenance updates, there are three key areas proposed by staff:

1) Self-Insurance Program Administration

The Self-Insurance Fund was established to pay for the uninsured portion of “covered expenses” as defined by Section 8-106 of the Code. The Fund collects its revenues from other City Funds as determined during the biennial budget in order to cover the cost of these covered expenses.

In recent years, there has been a small population of claims settled and paid by the City for which, in staff's judgment based on the facts and circumstances of the claim, were more appropriately charged to the department budget from which the claim originated. This

department charge would be in conjunction with or instead of the amount paid by the Self-Insurance Fund.

In carrying out this direct department charge administratively, a concern was identified in that the current Code is ambiguous as to whether the Self-Insurance Fund is obligated to pay these claims vs. simply authorized to do so. Staff hopes to resolve this by clarifying in the Code that the Finance Officer is able to administratively allocate the costs of a specific claim to other Funds apart from the Self-Insurance Fund in accordance with the factors as proposed in Sections 8-107 and 8-108.

2) Peace Officer Indemnification and Defense

In June of 2020, Senate Bill 20-217 (SB 217), the Enhance Law Enforcement Integrity Bill, was signed into law by Governor Polis. City Council was provided with an overview of this legislation in executive session at the July 14, 2020, meeting. While there are still additional research and dialogue ongoing surrounding the impacts of SB-217, this proposed Code change clarifies and establishes the City's obligations for defending and indemnifying its police officers in the manner now required by SB 20-217 and under preexisting law.

3) Payment of Employee Defense Costs in Certain Administrative Actions

Current City Code is clear on the conditions for payment of a City employee's defense costs in civil lawsuits and criminal matters. It does not currently address whether this also includes payment of an employee's defense costs in an administrative matter related to a complaint or grievance filed against an employee concerning any licensure, certification, accreditation, or permit that the employee is required to hold as a condition of their employment. This Code update clarifies the conditions for which the City will pay these defense costs.

ATTACHMENTS

1. City Code Division 3 – Self-Insurance Program and Fund (redlined)
2. City Code Division 6 – City's Defense and Indemnification Obligations to its Public Employees (redlined)
3. Powerpoint Presentation

Division 3 - Self-Insurance Program and Fund

Sec. 8-105. - Creation and purpose of the self-insurance program and fund.

A self-insurance program and ~~a self-insurance~~ fund are hereby authorized and created for the City. However, the establishment of the program and ~~the~~ fund shall not be construed ~~so as~~ to expand in any way the City's legal liability to third-party claimants, whether under the provisions of the Colorado Governmental Immunity Act or otherwise. Other governmental entities may participate in the self-insurance program provided that each such entity has entered into an intergovernmental agreement with the City as authorized by C.R.S. Section 29-1-203, C.R.S., and, in such event, the terms and conditions of the intergovernmental agreement shall govern the City's obligations under the program to that other governmental entity and its public employees.

Sec. 8-106. - Covered expenses.

Except to the extent ~~that~~ the City has agreed otherwise in an intergovernmental agreement with any other participating entity concerning the participating entity's and its public employees' legal liability to third-party claimants, as authorized in § 8-105, the self-insurance fund shall only be used to pay the City's uninsured portion of the following "covered expenses":

- (1) The City's indemnity and defense obligations to its public employees under Division 6, Article VI of Chapter 2 of this Code.
- (2) The City's costs and attorneys' fees in anticipation of, to investigate or to defend the City and/or any of its public employees related to against any of the following potential or actually filed claims or causes of action;
 - a. Any tort claim;
 - ab. Any claim arising under contract;
 - bc. Any action under Rule 106 of the Colorado Rules of Civil Procedure;
 - cd. A declaratory judgment action;
 - de. Any action or claim arising under or pursuant to a state or federal statute; and
 - ef. An inverse condemnation or regulatory taking action; and
 - g. Any claim for equitable relief, including, without limitation, a claim for injunctive relief;
- (3) Judgments entered against and settlements agreed to by the City in civil claims or actions ~~for damages~~ arising under tort, state or federal statute, ~~or~~ Rule 106(a)(2) of the Colorado Rules of Civil Procedure or that seek declaratory or equitable relief;
- (4) The City's costs and expenses incurred for the repair or replacement of City property, real or personal, which costs are sustained by reason of the theft of or the damage to said property, excluding normal wear and tear, provided that such theft or damage is customarily covered by a commercial property insurance policy;
- (5) The City's defense costs, attorneys' fees, medical expenses, disability benefits, indemnity benefits and other costs associated with workers' compensation claims filed against the City;
- (6) Insurance premiums, broker fees and other costs related to the City purchase taxes for of liability, property, ~~and~~ workers' compensation and any other insurance policies purchased by the City, but excluding title insurance policies;
- (7) ~~Such~~ The City's costs ~~of~~ to administering the self-insurance program and fund as are deemed reasonable and necessary by the City's Financial Officer or such officer's designee; and

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- (8) The City's loss prevention costs for safety training, incentive programs, personal protective equipment for employees, industrial hygiene studies and other expenses that are deemed appropriate by the City's Financial Officer or such officer's designee.

8-107. - Funding of the self-insurance program.

The self-insurance program shall be funded by monies appropriated by the City Council for expenditure from the self-insurance fund, and the self-insurance fund is hereby created to be used for payment of the covered expenses ~~as~~ described in § 8-106. Notwithstanding the foregoing, no payment from the self-insurance fund shall exceed the uninsured portion of any covered expense. In addition, nothing in this Division 3 is intended to prohibit expenditures from other City funds to pay the self-insurance program's covered expenses described in § 8-106 provided the monies for such expenditures have either been previously appropriated for such use or transferred to the self-insurance fund in compliance with the applicable provisions of Article V, Part 1 of the Charter.

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Sec. 8-108. - Implementation and administration.

- (a) The City's Financial Officer shall be responsible for implementation and administration of the self-insurance program and fund, including the settlement of claims. The Financial Officer is authorized to promulgate rules for the proper daily management, operation and maintenance of the program and fund, and is further authorized to enter into a professional services agreements pursuant to relevant provisions of this Code for the administration of claims.
- (b) The Financial Officer or such officer's designee shall authorize expenditures from the self-insurance fund and may use other legally available funds for covered expenses described in § 8-106 and shall maintain such accounting records pertaining to each such transaction as may be deemed necessary by the City's Financial Officer. Covered expenses shall be paid on an occurrence basis.
- (c) The total amount of the covered expenses paid out of the self-insurance fund shall be allocated among the various service areas or departments of the City, and the service areas or departments charged therefor, according to an assessment of each service area's or department's exposure by the Financial Officer or such officer's designee. Factors to be considered by the Financial Officer or such officer's designee shall include, without limitation, each service area's or department's payroll, revenue, value of property utilized, previous loss history, expected losses, and reserves for workers' compensation claims that may be required by the Colorado Department of Labor and Employment.

8-109. - Reserved.

Division 6 – City's Defense and Indemnification Obligations to ~~Officers and~~ its Public Employees

Sec. 2-610. - Public employee defined.

When used in this Division 6, the terms "public employee" and "employee" shall have the same meaning as the term "public employee" is given in ~~the Colorado Governmental Immunity Act, C.R.S. Section 24-10-103(4), C.R.S. of the Colorado Governmental Immunity Act.~~ In addition, these terms shall include within their meaning any official of a board, commission or authority appointed by the City Council and who is also subject to removal by the City Council, whether or not such board or commission is itself under the control of the City Council. However, with respect to any such official, the City's defense and indemnity obligations under this Division 6 shall be secondary to any insurance coverage carried by the board, commission or authority for the benefit of the official. Further, these terms may include the "public employees" (as defined in ~~the Colorado Governmental Immunity Act, C.R.S. Section 24-10-103(4), C.R.S.~~), of any other governmental entity provided the City has entered into an intergovernmental agreement with that governmental entity as authorized by C.R.S. Section 29-1-203, C.R.S., and Section 16, Article II of the Charter and the intergovernmental agreement provides that the other governmental entity may participate in the City's self-insurance program as established in Division 3, Article III of Chapter 8 of this Code. However, the City's obligations to defend and indemnify the public employees of the other governmental entity under this Division 6 shall be governed by the specific terms and conditions of the parties' intergovernmental agreement.

Sec. 2-611. - ~~City's d~~Defense and indemnification obligations to employees.

(a) Except as provided in paragraph (c) of this Section, The City shall assume liability, to the extent permitted by law, for the payment of all defense costs, attorneys' fees, judgments and settlements ~~of~~ in all civil claims, ~~except those arising under contract,~~ against any of its present or ~~and~~ former public employees that lie in tort or could lie in tort regardless of the type of action or form of relief chosen by the claimant and, regardless of whether or not the City itself is separately liable to the claimant, if all of the following circumstances exist:

- (1) The claim against the employee arises from an act or omission of the employee occurring during the performance of the employee's duties and within the scope of the employee's employment with the City;
- (2) The employee's act or omission was not "willful and wanton," that is, conduct purposely committed which the employee must have realized as dangerous, done heedlessly and recklessly, without regard to consequences, or of the rights and safety of others, particularly the person injured;
- (3) The defense of sovereign or governmental immunity is not available under the Colorado Governmental Immunity Act to bar the claim against the employee, ~~but (this circumstance, however,~~ shall not apply to the City's obligation under this Division 6 to pay the defense costs of its employees or to pay judgments or settlements where the employee's act or omission is willful and wanton while operating an emergency vehicle within the provisions of C.R.S. Section 42-4-108(2) and (3);
- (4) The employee has not compromised or settled the claim without the consent of the City;
- (5) If the civil claim is asserted in a lawsuit filed against the employee that does not name the City as a co-defendant, the employee has notified the City in writing about the lawsuit within fifteen (15) days after being served with the summons and complaint;
- (6) The employee has not willfully and knowingly failed to notify the City of the incident or occurrence which led to the claim within a reasonable time after such incidence or occurrence, if such incidence or occurrence could reasonably have been expected to lead to a claim; and

- (7) If there exists any other prerequisite under the Colorado Governmental Immunity Act or any other applicable law to the City's obligations to defend and indemnify the employee, the employee has satisfied that prerequisite.

(b) Except as provided in paragraph (c) of this Section and in addition to the City's obligations to defend and indemnify its employees as provided in paragraph (a) of this Section, the City shall further indemnify and defend, to the full extent required by C.R.S. Sections 13-21-131(4) and 29-5-111, its employees employed as peace officers certified by the Colorado Peace Officer Standards and Training Board.

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this Section, nothing in this Division 6 shall be construed as obligating the City to indemnify any of its employees for punitive or exemplary damages awarded against them in any civil action unless the City Council adopts a resolution authorizing such indemnification as provided in C.R.S. Section 24-10-118(5) or unless the City is required to do so by C.R.S. Section 13-21-131(4).

Sec. 2-612. - Legal representation of employees.

The City's obligation in § 2-611 to pay an employee's defense costs and attorney's fees shall apply only to legal counsel chosen and retained by the City to represent the employee in the civil action. When the City and the employee are named defendants in the same civil action, the City may retain the same legal counsel to represent them both as well any other City employee named as a defendant in the civil action. If, however, in the judgment of the City Attorney, a conflict of interest is determined to exist between the employee and the City or any other City employee named as a defendant, the City ~~shall~~may retain separate legal counsel for the employee and shall be obligated ~~under § 2-611~~ to pay the defense costs and attorney fees for such legal counsel as provided in § 2-611. ~~In either case~~However, except as otherwise provided in C.R.S. Sections 13-21-131(4) and 29-5-111, if a court subsequently determines that the employee's act or omission did not occur during the employee's performance of his or her duties for the City and within the scope of the employee's employment with the City, or that the act or omission of the employee was willful and wanton, the City may request, and the court is required to order, such employee to reimburse the City for its reasonable costs and attorney's fees incurred in the defense of ~~that~~the employee in the civil action.

Sec. 2-613. - ~~Reimbursement~~Payment of employees' attorneys' fees in criminal matters.

- (a) The City shall pay the reasonable defense costs and attorney's fees, as determined by the City Manager, in consultation with the City Attorney, ~~(or by the City's special legal counsel if it is the City Manager's attorney's fees being paid)~~, incurred by an employee related to any criminal investigation conducted concerning or criminal charge filed against the employee by any agency or branch of the federal government or of any state or local government, provided if all of the following circumstances exist:

~~(1) The investigation is conducted or the charge is formally filed by an agency of the federal government or of a state or local government;~~

~~(2)~~ The investigation or charge arises from an alleged act or omission of the employee occurring during the performance of his or her duties and within the scope of his or her employment with the City;

~~(3)~~ The investigation results in no charge being filed or any prosecution results in the dismissal or acquittal of all charges filed; and

~~(4)~~ The City Manager determines, in consultation with the City Attorney, that the employee's conduct from which the investigation or charge arises was not willful and wanton, as described in Paragraph§ 2-611(a)(2); provided, however, if it is the City Manager's defense costs and attorney's fees that are being considered for payment, special legal counsel for the City shall make the determination of whether the City Manager's conduct from which the investigation or charge arises was willful and wanton, as described in Paragraph§ 2-611(a)(2).

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(b) At the direction of the City Manager, or at the direction of the City's special legal counsel if it is the City Manager's defense costs and attorney's fees that are being paid, such costs and fees may be paid by the City as incurred by the employee or may be reimbursed by the City upon final disposition of the charge. In the event that such costs and fees are advanced by the City and the investigation and/or prosecution of the charge results in a final disposition other than dismissal or acquittal, the employee shall reimburse the City for the full amount of said defense costs and fees within ninety (90) days of the final disposition date of the charge.

(c) If the criminal investigation or charge is directed against the City Manager or City Attorney, or both of them, the determinations to be made by each of them under this § 2-613 shall be made by a special legal counsel appointed by City Council by resolution.

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Sec. 2-614. - Payment of employees' attorney fees in certain administrative matters.

The City shall pay the reasonable defense costs and attorney fees, as determined by the City Manager in consultation with the City Attorney, incurred by a City employee related to any investigation, grievance, charge, complaint or other administrative action commenced, taken or filed against the employee by any agency or branch of the federal government or of any state or local government concerning any license, certification, accreditation or permit the employee is required to have and maintain as a condition of his or her employment with the City ("Administrative Action"), provided all of the following circumstances exist:

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(1) The Administrative Action arises from an alleged act or omission of the employee occurring during the performance of his or her duties and within the scope of his or her employment with the City;

(2) The Administrative Action results in no action being taken by the government or agency or branch thereof to revoke, terminate or suspend the employee's license, certification, accreditation or permit; and

(4) The City Manager determines, in consultation with the City Attorney, that the employee's conduct from which the Administrative Action arises was not willful and wanton, as described in § 2-611(a)(2).

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(b) As determined by the City Manager, the employee's defense costs and attorney fees may be paid by the City under this § 2-614 as incurred by the employee or may be reimbursed by the City upon final disposition of the Administrative Action. In the event that such costs and fees costs are paid as incurred by the City and the Administrative Action results in the employee's license, certification, accreditation or permit being revoked, terminated or suspended, the employee shall reimburse the City for the full amount of said costs and fees within ninety (90) days of the final disposition date of the Administrative Action.

(c) If the Administrative Action is directed against the City Manager or the City Attorney, or against both of them, the determinations to be made by each them under this § 2-614 shall be made by a special legal counsel appointed by City Council by resolution.

Sec. 2-614~~5~~. - No liability to third parties.

The City's assumption of liability in this Division ~~6~~ shall not be construed ~~so as to~~ expand in any way the City's liability to third-party claimants, whether under the provisions of the Colorado Governmental Immunity Act or ~~otherwise under any other law~~.

Secs. 2-61~~56~~—2-61~~67~~. - Reserved.



September 21, 2020

2020 City Code Updates: City Self-Insurance and Employee Defense/Indemnity

- Proposed Amendments:
 1. Clarification of Self-Insurance Funds vs. other Funds for covered expenses
 2. Update and revise Code related to defense and indemnification obligations to employees in civil suits, including City police officers as required by SB-217
 3. Clarify employee coverage for administrative matters related to employee licensure/certification

1) Self-Insurance Program Administration

- Certain claims appropriate to cost-share between Self-Insurance Fund and department budget in other Funds
- Current Code is unclear as to whether the Self-Insurance Fund is obligated to pay all claims vs. simply authorized to do so

Staff proposes updates to Sections 8-107 and 8-108 to specify that the Finance Officer may administratively allocate the costs of a specific claim

2) Peace Officer Indemnification and Defense

- Senate Bill 20-217, the Enhance Law Enforcement Integrity Bill, establishes employer obligations for defending and indemnifying police officers
- Council provided with overview in executive session on July 14, 2020

Proposed Code change clarifies and establishes City obligations in a manner consistent with SB 20-217 and under preexisting law

3) Employee Defense Costs in Certain Administrative Actions

- Current Code is clear on conditions for payment of a City employee's defense costs in civil suits and criminal matters
- Code does not address defense costs in an administrative matter related to a complaint or grievance concerning employee licensure/certification

Proposed Code change clarifies conditions for reimbursement, including that the licensure/certification is held as a condition of employment

Is the Council Finance Committee supportive of consideration of the proposed Code changes with the full Council?