



360 Main St. • Delta, Colorado 81416 • Phone (970) 874-7566 • Fax (970) 874-8776

Council may take formal action on any item appearing on this Agenda. However, formal action WILL NOT be taken at this meeting on any item of business first identified during the course of the meeting as a change to the Agenda, other business, or Citizen, Councilmember and Staff Comments.

A G E N D A

**Delta City Council
Regular Meeting**

**May 7, 2013
7:00 p.m.**

- A. Pledge of Allegiance**
- B. Changes to the Agenda**
- C. Minutes**
- D. Citizen Comments**
- E. Reschedule Regular Council Meeting of June 18th, 2013**
- F. CML Board Applications**
- G. 1397 E. 7th Street Lease Agreement**
- H. Exchange and Relocation Agreements**
- I. Confluence Drive Change Order**
- J. Wetlands Mitigation Project Award**
- K. City Attorney Comments**
- L. City Manager Comments**
- M. Councilmember Comments**
- N. Executive Session:**
For the purpose of determining positions relative to matters that may be subject to negotiations, developing strategy for negotiations, and/or instructing negotiators, under CRS Section 24-6-402(4)(e); or more specifically for discussion regarding the City Attorney RFPs and also for discussion regarding the Silver Street Property Appraisal.

Item A:

Pledge of Allegiance



Item B:

Changes to the Agenda

Mayor Ed Sisson called the meeting to order at 7:00 p.m. Also present were Councilmembers Bill Raley, Mary Cooper, and Ray Penick along with City Manager Justin Clifton and City Attorney Mike Schottelkotte. Absent was Councilmember Robert Jurca. A meeting notice was posted in the south window at City Hall at least twenty-four hours prior to the meeting.

Pledge of Allegiance

The Mayor led everyone present in the Pledge of Allegiance.

Changes to the Agenda

There were none.

Minutes

It was moved by Councilmember Cooper and seconded by Councilmember Raley to approve the minutes of April 2, 2013 regular meeting as submitted by the Clerk. All in favor, motion carried.

Citizen Comments

There were none.

Public Hearing: Storm Water Infrastructure Improvement/CDBG Grant

The Mayor recessed the regular meeting and convened a public hearing.

The Clerk explained that this public hearing is a requirement of the CDBG grant agreement to get any feedback from the citizens regarding the storm water infrastructure improvement project.

There were no comments.

The Mayor closed the public hearing and reconvened the regular meeting.

Street Closure Permit: Delta Area Chamber of Commerce 1st Saturday Street Fair

The Clerk stated that the Delta Area Chamber of Commerce has submitted a street closure application for their 1st Saturday Street Fairs. The dates are listed in the memo for the closure.

Kami Collins, Director for the Chamber reported that there is one change on the dates. They would like to change from August 3rd to August 10th.

Councilmember Penick questioned if they determined last year a success.

Ms. Collins stated that she was not at the Chamber last year; however, she was a vendor for the event in October. She believes the street fairs were more successful than the block parties. They estimated the number of participants around 300 to 500.

Regular Meeting, Delta City Council, April 16, 2013 (cont.)

Street Closure Permit; Delta Area Chamber of Commerce 1st Saturday Street Fair (cont.)

It was moved by Councilmember Penick and seconded by Councilmember Raley to accept the application for the Chamber of Commerce to close 3rd Street for the 1st Saturday Street Fairs. All in favor, motion carried.

**Hotel/Restaurant Liquor License Transfer of Ownership;
Maa Delta Sundance Hospitality, LLC dba Days Inn**

The Clerk explained that Days Inn was sold at auction through the Delta County Treasurer's office. The new owners have submitted an application for Transfer of Ownership for the Hotel and Restaurant Liquor License. The application is complete and all fees have been paid. A temporary license was issued once the application was deemed complete which will be in effect until such time the transfer is approved. Fingerprints for the owners have been submitted to CBI and the results will possibly take up to 12 weeks to receive. The clerk recommended approving the transfer of ownership contingent upon receiving favorable results from CBI.

It was moved by Councilmember Cooper and seconded by Councilmember Penick to approve the transfer of ownership for the hotel and restaurant liquor license for Days Inn pending approval of the fingerprint report. All in favor, motion carried.

Retail Liquor Store License Renewal; D&B Liquors

The Clerk reported that D&B Liquors has submitted the Retail Liquor Store License renewal. The application is complete and all fees have been paid. The police department is recommending renewal.

It was moved by Councilmember Penick and seconded by Councilmember Raley to approve the retail liquor store license renewal for D&B Liquors. All in favor, motion carried.

DCED Request for Letter of Support RE: Broadband Infrastructure

City Manager Justin Clifton stated that DCED has discussed the need to expand broadband infrastructure in the community. They have started a program that has some short term as well as long term goals. John Gavin has been recently appointed to the DCED Board and he has been a contributor to the conversation through the planning committee and he is here tonight to give Council some information.

John Gavin, IT Manager for the Delta County Library District, presented Council information regarding efforts that are being made to expand broadband in our community. He also explained how broadband works and why it is important for our community. He asked Council for support with a letter to DMEA to endorse this proposal. He also would like to have supporters at the annual DMEA meeting to voice their support.

Councilmember Cooper stated that DCED has been one of the major supporters and has helped organize the committee.

There was a consensus amongst Council to provide a letter of support.

Regular Meeting, Delta City Council, April 16, 2013 (cont.)

GMP Contract with FCI

Manager Clifton reported that staff is looking for approval of the guaranteed maximum price of the work as discussed in the work session earlier tonight.

It was moved by Councilmember Cooper and seconded by Councilmember Raley to approve the GMP contract with FCI not to exceed \$2,713,329. All in favor, motion carried.

CAWS Contract Revisions; Local Preference & Limited Sales

Manager Clifton stated that there are two contracts governing the animal shelter, one for the property and the other for operations. Staff would like to cleanup some of the language that is in the contracts. In paragraph 3 addressed keeping employed a former city employee and that employee is no longer there.

Manager Clifton also stated that there are some changes that he would like to address. The first one is in paragraph 8 specifies that they use Delta vets only. Staff recommends tying this into the local preference policy to be more consistent with the City's own policies. This will enable the organization to save substantial funds in doing so.

Manager Clifton also addressed minor changes in the language regarding number of dog kennels. In paragraph 28 is does not allow sales. He stated it makes sense to allow the items like leashing and collars to be sold since the facility is in the business of adopting animals and new owners need those types of items. The last item to be addressed is extending the term from 2012 to 2014.

Councilmember Penick stated that there are just a few minor changes that need to be made in paragraph 3 and 8 for language.

It was moved by Councilmember Penick and seconded by Councilmember Cooper to allow the City Manager to sign the revised lease agreement with CAWS. All in favor, motion carried.

Resolution #2, 2013; Cable TV Permit Extension

Manager Clifton presented a revised resolution correcting the title and signature wording. This resolution is to extend the permit for six months while staff negotiates terms of renewal.

Resolution #2, 2013

A RESOLUTION OF THE CITY OF DELTA, COLORADO,
EXTENDING CABLE TELEVISION SYSTEM PERMIT TO AT&T
BROADBAND OF COLORADO, LLC

was read by the Clerk.

It was moved by Councilmember Penick and seconded by Councilmember Raley to adopt Resolution #2, 2013. Roll call vote: Councilmembers Cooper, aye; Penick, aye; Raley, aye and Sisson aye. Motion carried.

Regular Meeting, Delta City Council, April 16, 2013 (cont.)

Delta Urban Renewal Authority: Revised Lease Agreement with Delta Area Chamber of Commerce

Manager Clifton stated that this come back to Council after discussion of the terms of the lease. He explained the section that addresses the Chamber subleasing the permission to another agency.

City Attorney Michael Schottelkotte reported that they can continue the discussion while in the regular meeting; however DURA should be the one approving the agreement. He stated that he also cleaned up some of the language. He also made some substantial change to the option to purchase regarding the City furnishing a warrantee deed and he explained those changes.

The Mayor recessed the regular meeting and convened a meeting with the Delta Urban Renewal Authority.

It was moved by Commissioner Cooper and seconded by Commissioner Raley to adopt the revised lease agreement between DURA and the Delta Area Chamber of Commerce. All in favor, motion carried.

The Mayor closed the DURA meeting and reconvened the regular meeting.

Letter of Support for Department of Corrections

Manager Clifton reported that the State is looking at facilities and there is a possibility they may close one. Staff has met with the consultant that is going to each facility to review community impact. This was also brought up at the recent municipal quarterly meeting. The County has issued letters of support that are similar to the ones that are being presented tonight. At this time staff is looking for any suggestions and approval for the Mayor to sign the letters of support.

Councilmember Penick stated he is supported of moving forward with the letters.

There was a consensus amongst Council to proceed with the letters of support.

Mayor Sisson stated that he toured the facility and there is a need to keep it here.

Manager Clifton estimated the impact of the facility closing to about \$150,000 roughly for the City of Delta and that reflects minimum wage. To replace that labor if probably \$250,000 to \$300,000 a year of funds that the City just does not have.

City Attorney Comments

Attorney Schottelkotte stated that he plans for a good transition with the new City Attorney once Council appoints. He plans to retire August 1st but will be available through the end of the year.

City Manager Comments

Manager Clifton reported that there is an update on the truck route; however, it wasn't ready before the packets were put together. The update will be emailed to Council.

The following items were discussed:

- A revised budget is being completed that will include a summary of change orders.

Regular Meeting, Delta City Council, April 16, 2013 (cont.)

City Manager Comments (cont.)

- The signal on the south end of the project has been denied by CDOT.
- Staff is still working on the environmental cleanup.

Councilmember Comments

Councilmember Cooper commented on the rec center's 20th anniversary. She congratulated staff on the expansion. She attended DCED's annual meeting and they are doing very well. She also attended the airport board meeting and they will be doing some upgrades on the alignments on the taxi ways. She commented on the lights on the pools.

Councilmember Penick reported attending the municipal quarterly meeting which is going to be moved to semi-annually. Two items that he took from the meeting was the support of the correctional facility which was addressed earlier. The second was that the county will not be supporting the recycling bins in the City. Recycling may need to be addressed by the City in the future.

Councilmember Raley commented on the Region 10 presentation earlier.

Mayor Sisson stated he will be retiring in about 10 days and will be more available.

Executive Session

It was moved by Councilmember Cooper and seconded by Councilmember Penick to convene an Executive Session for the purpose of determining positions relative to matters that may be subject to negotiations, developing strategy for negotiations, and/or instructing negotiators, under CRS Section 24-6-402(4)(e); or more specifically for discussion regarding the City Attorney RFPs and also for discussion regarding 1397 E. 7th Street lease agreement. All in favor, motion carried.

At 7:41 p.m., the Regular Meeting was recessed. The Executive Session was convened a short time later.

At 8:32 p.m., the Mayor reconvened the Regular Meeting and announced that the Executive Session had been concluded. He stated that in addition to himself, the participants in the Executive Session were Councilmembers Mary Cooper, Ray Penick and Bill Raley, City Manager Justin Clifton and City Attorney Michael Schottelkotte who was excused at 8:00pm. For the record, the Mayor asked any person participating in the Executive Session who believed that any substantial discussion of any matters not included in the motion to go into Executive Session occurred during the Executive Session in violation of the Open Meetings Law, to state his or her concerns for the record. No concerns were stated.

1397 E. 7th Lease Agreement

It was moved by Councilmember Penick and seconded by Councilmember Cooper to table this item until a future date. All in favor, motion carried.

The meeting was adjourned at 8:33 p.m.

Item D:

Citizen Comments





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MEMO

To: City Council, City Manager
From: Jolene E. Nelson, City Clerk
Date: May 3, 2013
Subject: Rescheduling June 18th, 2013 Regular Council Meeting

Recommendation

Staff suggests Council consider rescheduling the June 18, 2013 meeting to June 17, 2013.

Background

The Colorado Municipal League's Annual Conference is schedule from June 18, 2013 through June 22, 2013. The regular City Council meeting is currently scheduled for June 18, 2013. Since there will be three Councilmembers and staff attending the conference it is suggested that Council reschedule the meeting for June 17, 2013.

Cost

There is no cost to the City.

Alignment With Strategic Planning

The Delta Municipal Code under 2.04.010 "The Council shall hold at least two regular meetings per month at such times as it may prescribe in its rules, as provided by Section 16 of the City Charter."

Action to be Taken if Approved

The Clerk will post for the June 17, 2012 meeting.



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MEMO

To: City Council, City Manager
From: Jolene E. Nelson, City Clerk
Date: May 3, 2013
Subject: CML Executive Board Applications

Recommendation

Staff recommends endorsing Mary Cooper for the CML Executive Board.

Background

Mary Cooper has served on the Policy Committee for CML and is now interested in becoming a board member on the CML Executive Board. Letters of Applications are being accepted to fill nine positions on the CML Executive Board, three of which must be from municipalities with a population of at least 8,000 but less than 80,000 for two-year terms. Any official who desires to be nominated for a position on the board can ensure nomination by:

- Filing an application for nomination (in letter or other written format) with the Nominating Committee – the application must be received in writing by the League office at least 15 days prior to the annual business meeting (by 5pm June 5)
- Included with the application an endorsement in writing from the applicant's City Council, which also must be received by June 5. (A City Council may endorse the nomination of only one office from the City.)

Members whose names are placed on the ballot by the CML Nominating Committee will be voted on by the membership at the CML Annual Business Meeting scheduled for June 20 beginning at 1:45pm, during the CML Conference in Vail.

Cost

The only cost to the City would be travel expenses to board meetings.

Alignment With Strategic Planning

During the 2013 City Council retreat participation in regional and statewide organizations and initiatives was identified as a priority goal.

Action to be Taken if Approved

Should Council choose to endorse Mary Cooper for the CML Executive Board, an endorsement in writing from Council will need to be submitted with her application for nomination.

LEASE AGREEMENT

This lease agreement, is executed this _____ day of May, 2013 by and between the following parties: The City of Delta, Colorado, a Colorado municipal corporation of P.O. Box 19, Delta, Colorado 81416 (hereinafter referred to as "Landlord") and Justin Clifton of 1210 A Street, Delta, Colorado 81416 (hereinafter referred to as "Tenant"), and is to witness:

Recitals

Landlord owns title to the residential real property located at 1397 East 7th Street, Delta, Colorado 81416 (hereinafter referred to as "the premises"), including all buildings, improvements and fixtures and including the following appliances: washer, drier, gas range and dishwasher. The parties have negotiated an arrangement under which Landlord will lease the premises to Tenant on the terms and conditions set forth below.

Agreement

1. **General Provisions.** Landlord hereby leases to Tenant the aforementioned premises, and expressly consents to their use for ordinary residential purposes by Tenant and members of his immediate family.
2. **Term of Lease.** Upon actual commencement of the lease, as provided in paragraph 3 below, this lease shall continue from month to month thereafter until the earlier of (a) complete abandonment of the premises by Tenant or (b) termination by either party upon at least thirty (30) days prior written notice to the other party.
3. **Lease Commencement Date.** The operative provisions of this lease shall be deemed to actually commence at the time Tenant begins full possession and habitation of the premises, which the parties agree will occur when Tenant's current lease of other residential property terminates on or before October 10, 2013. In the meantime, Tenant and his agents shall be entitled to access the premises for the limited purpose of making physical alternations and improvements conducted in accord with the provisions of paragraph 8 hereof.
4. **Rent.** Although the parties agree that the premises, including the utility services provided by Landlord under paragraph 5 hereof, will have a fair rental value of \$650.00 per month following Tenant's full possession of the premises and actual commencement of the lease, the parties nevertheless agree that no rent shall be paid hereunder for so long as Tenant remains employed by Landlord as the City Manager of Delta, Colorado, it being understood that (b) the rent concession is provided in lieu of an equivalent amount of Tenant's monthly compensation for such employment. If, for any reason, the employment relationship between the parties ceases during the term of this lease, then Tenant shall thereafter be obligated for monthly rent of \$650.00, payable in advance on the date such cessation, and on or before the same date in each month thereafter, throughout the remainder of the lease term.

5. **Security Deposit.** To secure his faithful performance of all terms and conditions of this lease, Tenant shall pay a security deposit of \$650.00, receipt and sufficiency of which is hereby acknowledged by Landlord. Said deposit shall be held by Landlord until full termination of this lease, and shall thereupon be applied to any properly determined damages, and/or refunded to Tenant, all in accord with applicable law.

6. **Utilities.** From the date of execution of this lease, Landlord shall furnish, at its sole cost, domestic water, sewer and trash collection services for the premises. Tenant shall be responsible for paying the costs of all other utility services necessary or desired for his improvement and ultimate occupancy of the premises including, without limitation, the costs for gas, electric telephone, cable and other services.

7. **Maintenance and Repairs.** Tenant shall be responsible for making any and all ordinary repairs to the premises necessitated by his occupancy thereof and for generally keeping them in a clean and orderly condition. Tenant shall also maintain compliance with all State, federal and local laws governing the leased premises including, but without limitation, those which prohibit nuisances and environmental hazards and those require the removal of snow and ice from any sidewalks running through the premises. During the lease term, Landlord shall bear customary responsibility for maintaining the structural and functional integrity of the buildings and major mechanical systems on the premises, including particularly walls, floors and roofing, and the plumbing, electrical and heating facilities. Landlord shall also maintain and/or replace, as necessary, the aforementioned appliances described as components of the premises being furnished by the Landlord.

8. **Alteration and Improvements.** The parties agree that, subject to Landlord's performance of its aforementioned agreement to make specified initial repairs described on Exhibit A, the premises are otherwise presently in a sufficiently safe and secure condition for residential occupancy. They further agree that Tenant may hereafter make certain aesthetic alternations and/or improvements to the premises when and as desired by him, subject to the issuance of customary permits and approvals required under the City of Delta's Building Code and subject further to reasonable approval and oversight by the Landlord's employees. The permitted categories of improvements are generally described as fencing of the yard, landscaping, refurbishment or replacement of flooring, replacement of kitchen cabinets and countertops, exterior painting and replacement of bathroom fixtures and cabinets, and other items. Costs of all building materials selected for the permitted improvements shall be borne exclusively by Landlord; while the cost of all related labor for the improvements shall be borne exclusively by Tenant. (Tenant agrees that materials used for his desired improvements should be "mid-grade" and, if of sufficient quality, may be salvaged or refurbished rather than new materials.) Tenant shall not permit any mechanic's lien to be filed against the premises for any labor that is furnished at his request in connection with the permitted alterations and improvements.

9. **Relationship of Parties.** The relationship between the parties with regard to the lease of the premises is strictly that of landlord and tenant, and no partnership, co-venture, agency, employment or other relationship is intended by this agreement.

10. **Liability**. During the term of this lease, Tenant shall bear responsibility for any use of the leased premises and activities conducted or permitted thereon. Tenant agrees to defend and indemnify Landlord against, and hold it harmless from, any and all types and amounts of legal liability arising from or related to use and occupancy of the premises and the conduct of operations thereon, including any events attributable to Tenant which may result in injury to or death of persons, or loss of or damage to property of Tenant or other third parties. However, it is provided that Landlord shall be liable for such injury, death, property loss or damage which may be the demonstrable result of its own negligent act or omission.

11. **Insurance**. During the term of this lease, Tenant shall carry such insurance as he deems necessary for the protection of his own personal property, and of his personal and family interests hereunder, that could sustain damage or loss as the result of any fire or other casualty occurring on the leased premises. At all times during the duration of this Lease, Tenant shall also be responsible for maintaining in effect, with reputable carriers, comprehensive liability insurance adequate to cover his own interests and his responsibilities to indemnify Landlord hereunder.

12. **Taxes**. Landlord shall be solely responsible for payment of taxes levied and/or assessed against the leased premises, if any. Tenant shall be responsible for the payment of any income taxes attributable to Landlord's rent concession.

13. **Additional Obligations of Tenant**. Tenant further specifically agrees as follows:

- (a) To maintain in a clean and attractive condition the interior and exterior areas of the premises; and to maintain trees and shrubs in healthy condition and keep lawn areas reasonably free of noxious weeds.
- (b) To maintain the interior temperature of the dwelling no lower than 50 degrees Fahrenheit.
- (c) To prohibit and prevent smoking in the interior areas of buildings on the premises.
- (d) To permit access to the premises at all reasonable times by Landlord's agents for purposes of examining the condition thereof or to make any necessary major repairs. Except in cases of emergency, Landlord will give Tenant at least 24 hour hours advance notice prior to exercising any right of access.
- (e) To keep no pets upon the premises except for two properly licensed dogs that shall be allowed subject to all applicable City animal control regulations

14. **Termination**. Termination of this Lease shall occur at the time and manner specified in paragraph 2 hereof, or sooner upon occurrence of any breach of any term or

condition of this lease by either party and failure by that party to cure such breach within ten (10) days of written notice thereof by the other party.

15. **Surrender of Premises.** Upon termination of this Lease, Tenant shall deliver and return possession of the leased premises to Landlord in as good condition as when first received, except for ordinary wear and normal residential use, acts of God and damage not attributable to proper activities on the premises.

16. **Breach or Default.** Breach of this lease by either party shall entitle the other party to all consistent legal and equitable remedies afforded by Colorado law including, but not limited, to those remedies provided under the unlawful entry and detainer statutes of Colorado. In the event of any dispute arising under the terms of this Lease, the prevailing party shall, in addition to all other remedies allowed, be entitled to recover reasonable attorney fees and court costs from the non-prevailing party.

17. **Venue and Choice of Laws.** This Lease shall be construed under the laws of the State of Colorado. Venue for any litigation shall be within Delta County, Colorado.

18. **Assignment and Sublease.** Tenant shall not assign his interest in this Lease, and shall not sublease all or any part of the subject premises, without Landlord's prior written consent. This provision shall not be deemed to preclude Tenant's right to share possession of the premises with his wife and other members of his immediate family.

19. **Payments and Notices.** Payments of rent and/or notices required by this lease shall be delivered to each entitled party at the address listed on page one of this lease or at such other address as such party may hereafter designate in writing to the other party. Notices shall be deemed properly delivered upon actual delivery in person or upon mailing by certified mail with return receipt requested.

20. **Binding Effect.** This Lease shall be binding upon, and shall inure to the benefit of, the parties hereto, their respective successors, personal representatives and permitted assigns.

IN WITNESS WHEREOF the parties hereto have executed this instrument of Lease on the day and year first above written.

Tenant:

Landlord:

CITY OF DELTA, COLORADO

Justin Clifton

By: _____
Mayor



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Memorandum

To: Mayor and Council
From: Jim Hatheway, Public Works Director
Date: 7 May 2013
Subject: Approval of UPRR Agreements

RECOMMENDATION

Staff has completed negotiations with Union Pacific Railroad for the Property Exchange Agreement and Track Relocation Agreement for the benefit of Confluence Drive. Staff requests that City Council authorize the City Manager to execute the agreements.

BACKGROUND

City Staff have been actively engaged in negotiations with Union Pacific Railroad for the last several years to facilitate the exchange of property for the Confluence Drive alignment. Negotiations were completed on 29 April 2013.

The exchange agreement outlines the property that UPRR and the City will exchange and additional compensation due to UPRR at closing.

The track relocation agreement outlines the responsibilities of the City and UPRR in the relocation of the Montrose Subdivision track between 5th Street and the south Hwy 50 intersection.

COST

The costs associated with these agreements are listed below:

Exchange Agreement

- \$855,000.00 to cover the value of excess property being conveyed to the City by UPRR
- \$121,000.00 (est.) to buyout leases that will exist in the property being conveyed to the City (value to be calculated at the time of closing)
- \$14,000.00 to replace storage buildings that cannot be moved in the Delta UPRR yard (WYE)
- \$10,000.00 (est.) to secure additional easements for Bridge Street to cross UPRR property

Track Relocation Agreement

- An estimate prepared by UPRR on February 27, 2013 shows an anticipated reimbursed cost for construction activities of \$356,119.00.

The Exchange Agreement cost above has been budgeted in 80-19-42100. The estimate prepared by UPRR for the Relocation Agreement was not provided prior to budget and this cost was inadvertently overlooked when the project budget was prepared, but is identified in the change order request discussed at the 7 May 2013 City Council Meeting.

ALIGNMENT WITH STRATEGIC PLANNING

- This project is identified in the Master Road Plan in the Comprehensive Plan
- The bond approved by voters
- Council approval to award the contract for construction

ACTION TO BE TAKEN IF APPROVED

- City Manager will execute both agreements and return to UPRR for signature



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Memorandum

To: Mayor and Council
From: Jim Hatheway, Public Works Director
Date: 7 May 2013
Subject: Approval of construction change order

RECOMMENDATION

Staff is requesting approval for a change order request to address a change in scope for the Confluence Drive project. In essence, what was originally bid as a single project has developed into 2 projects separated by 5th Street. This has resulted in a need for import and export of soils from the project.

BACKGROUND

The original design concept for the Confluence Drive project was to utilize soils that had to be removed on south of 5th Street for fills north of 5th Street. Unfortunately, once the Exchange and Track Relocation Agreements with UPRR are executed, UPRR will not allow Hamon access to UPRR owned property to complete any work except rail related work preventing Hamon from accessing the soils to be cut on the south to transport them to the north. As a result, what was originally bid as a single project has developed into 2 projects separated by 5th Street. This change in scope results in excess import of soil north of 5th Street and excess export of soil south of 5th Street.

As discussed in the project update dated 16 April 2013 under *Challenges and Solutions*, City Staff, Hamon and Stantec have been working to identify options to mitigate these issues, some of which are identified below. This change order also exhausts the remaining contingency budgeted at the start of the project. (***The project budget, summary of change orders and supplemental information is attached for reference.***) The efforts of Hamon Contractors, City staff and Stantec have opened up an opportunity to provide a dual benefit to the City. In discussions with Paul and Tony with the Parks Department, reclamation of Riverbend Park was discussed. Hamon has agreed to complete a portion of the reclamation work on the north side of the existing lake and transport the spoils that are created by the reclamation plan to the truck route project.

Hamon has evaluated the cost to complete a portion of the reclamation work and has developed unit rate costs to remove the material and place it for the truck route. The unit rates that Hamon has developed compare favorably to the bid unit rates for similar work.

COST

The costs associated with this Change Order include:

- \$6.78/ton to place purchased pit run for embankment (estimated quantity 34,516 ton, estimated total \$234,133.46)

- \$7.12/cy to excavate according to the reclamation plan at Riverbend Park(estimated quantity 60,000 cy, estimated total \$427,293.75)
- \$3.61/cy to place Reclamation material for embankment (estimated quantity 30,000 cy, estimated total \$108,365.24)
- \$7.72/cy to place Reclamation material for Roadway section (estimated quantity 28,215 cy, estimated total \$217,779.30)
- \$5.50/cy to export soil to Riverbend Park to support reclamation (estimated quantity 49,391 cy, estimated total \$271,733.59)
- Deduct to current embankment placement of 30,000 cy at \$5.75/cy for a savings of \$172,500.00
- Deduct to pit run purchase for Roadway Section of 50,222 ton at \$6.90/ton for a savings of \$346,531.80

The total estimated Change Order total is \$740,273.54. This expense falls in the contingency line item in 80-19-36100 but exceeds the project contingency by \$257,212.

ALIGNMENT WITH STRATEGIC PLANNING

- This project is identified in the Master Road Plan in the Comprehensive Plan
- The bond approved by voters
- Council approval to award the contract for construction

ACTION TO BE TAKEN IF APPROVED

- Staff will execute Change Order #7 to move forward with the revised soil management plan.

Supplemental Information

As discussed in the change order request memorandum and the project update dated 16 April 2013, the Confluence Drive project has experienced challenges that staff is continuing to address. The challenges are outlined below with the potential impacts identified to the best of staff's ability.

- ***Exchange and Relocation Agreements with UPRR***
 - *Description:* Originally anticipated that this would be executed January 2013. Execution delayed due to delays in plan review and approval by UPRR.
 - *Impact:* Delay in execution has set schedule back about 60 days. If days cannot be made up, this will result in additional payments to Hamon for General Conditions charges as well as extending the CM/QA contract for Stantec.

- ***Remediation of the Ag Services Site (Completed within 150 days of Exchange Agreement execution)***
 - *Description:* Project award anticipated to be presented to council for award at 21 May meeting.
 - *Impact:* Budgeted cost for removal is based on best available information at this point, but will be subject to bids received and conditions encountered during remediation work.

- ***Utility Coordination for UPRR exchange parcels (Completed within 150 days of Exchange Agreement execution)***
 - *Description:* This was a condition not brought to the attention of staff until 8 February 2013 during the site inspection by UPRR. Requirement entails identifying utilities in the UPRR corridor at Hwy 348, upgrading any of the utility infrastructure to meet current railroad standards and helping facilitate permit updates with UPRR.
 - *Impact:* Costs unknown. (Have received a proposal from a Subsurface Utility Engineer that contracts with UPRR to do the investigation and design for a cost of \$18,500.) Cost for upgrading utilities to existing standards unknown at this time.

- ***ALTA survey completion for UPRR (Completed within 150 days of Exchange Agreement execution)***
 - *Description:* There are 2 ALTA surveys that need to be completed as part of the Exchange Agreement. One on the parcels to be traded to UPRR and one on the yard area (WYE) retained by UPRR.
 - ✓ The ALTA on the trade property has been completed, but UPRR has requested that the ALTA be updated to reflect the changes due to completion of the condemnation actions that were completed.
 - ✓ The ALTA on the WYE property is in progress, but is waiting on title information to complete. There are challenges with obtaining title information because most of the property has little or no title history and the railroad rarely records information in the county office.
 - *Impact:* Minor impacts to budget depending on UPRR review and having to redo the trade parcel ALTA.

- **Right of Way Plans for CDOT approval**

- *Description:* Right of way (ROW) plans must be completed for CDOT review prior to construction of improvements at Hwy 348 and the south Hwy 50 intersection. (There are no ROW changes at the north Hwy 50 intersection, so plans are not required.) These plans are in progress, however they have been delayed while waiting for UPRR to approve the final design of improvements. Delays have also occurred due to gaps in the title history and ownership records.
- *Impact:* Depending on resolution of title work and CDOT review, may result in delays to construction of road improvements at the intersection.

- **Estimate of Potential Cost Savings**

Hamon Contractors, Stantec and City staff continue to evaluate potential cost savings that can be realized by the project. These items have not been formalized, but are anticipated to help offset costs that have been formalized in the approved change orders. Note: Savings are estimated at this time and are subject to adjustment.

Description	Savings
Chip Seal Detour removal	\$33,005.00
Geogrid removal above structural fills	\$74,200.00
Fabric removal from typical road section	\$42,000.00
Misc. changes to pipe length, inlets and manholes	\$15,000.00
Change from Class H concrete to Class D concrete	\$34,998.00
Export of Beet Waste on Back Haul vs. Dedicated Haul	\$71,245.26
Use of Reclamation Soil vs Pit Run Purchase for Road Section	\$26,115.44
Removal of Above Ground Signal Equipment South 50	\$96,694.95
Replace Monotube signage with Type 3 Roadside Signage	\$82,095.60
Redesign profile south of 5 th to reduce cut	\$143,750.00
Reduce excavation on 5 th Street pond	\$84,280.00
Approximate Savings	\$703,384.25

- **Estimate of Cost Increases (based on information available)**

Description	Cost
Change in soil management (import/export)	\$740,273.54
UPRR estimate for track relocation work	\$356,119.00
Construction Delays beyond Hamon control (General Conditions) (est. at \$100,000/mo based on bid amount over 15 months) assume 2 months behind schedule	\$200,000.00
Additional Paving Mobilization to open 1 st St and Palmer ahead of Confluence Drive Paving	\$18,600.00
UPRR mandated utility upgrades at 348 investigation/design	\$18,500.00
UPRR mandated utility upgrades at 348 construct (cost unknown)	\$100,000.00
Approximate Cost Impacts	\$1,433,492.54

Confluence Drive 2012/13 Project Budget

EXPENDITURES			
	<u>Budget</u>	<u>Actual</u>	<u>Unspent</u>
<u>Design/Consulting</u>	<u>\$1,607,225</u>	<u>\$1,799,636</u>	
STANTEC	\$1,607,225	\$1,799,636	(\$192,411)
<u>Right of Way</u>	<u>\$3,977,300</u>	<u>\$3,688,017</u>	
ROW CONSULTANT (TRS/WAAS)	\$257,300	\$225,911	\$31,389
PURCHASE/RELOCATE/APPRaise	\$3,600,000	\$3,366,296	\$233,704
DEMOLITION	\$120,000	\$95,809	\$24,191
<u>Railroad</u>	<u>\$1,710,500</u>	<u>\$127,890</u>	
PUC/UPRR ATTY (HILLYARD)	\$35,000	\$24,370	\$10,630
UPRR DESIGN REVIEW	\$45,000	\$51,975	(\$6,975)
UPRR ROW COST	\$1,030,500	\$51,545	\$978,955
REIMBURSED CONSTRUCTION	\$400,000	\$23,972	\$376,028
AG SERVICES CLEANUP	\$200,000	\$0	\$200,000
<u>Overhead</u>	<u>\$255,500</u>	<u>\$162,890</u>	
PERSONNEL	\$125,000	\$69,661	\$55,339
CITY ATTORNEY	\$50,000	\$59,448	(\$9,448)
OTHER/INSURANCE	\$75,000	\$32,002	\$42,998
TRAVEL	\$2,500	\$880	\$1,620
MEALS	\$1,000	\$288	\$712
PR/GROUND BREAKING	\$2,000	\$610	\$1,390
<u>Construction</u>	<u>\$19,652,768</u>	<u>\$3,915,170</u>	
HAMON	\$18,500,000	\$3,777,076	\$14,722,924
SEMA SETTLEMENT	\$50,000	\$50,000	\$0
WETLAND MITIGATION	\$100,000	\$4,273	\$95,727
ENGINEERING SERVICES/CM/QA	\$952,768	\$70,865	\$881,903
CITY PAID SUBS	\$50,000	\$12,956	\$37,044
<u>Contingency @5%</u>	<u>\$1,080,938</u>		
<u>Grand Total</u>	<u>\$28,284,232</u>	<u>\$9,693,602</u>	<u>\$17,485,719</u>

REVENUES			
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BOND (From start of 2011)	\$21,997,676	
2011 INTEREST	\$58,122	
2012 INTEREST	\$32,379	
2013 INTEREST (estimated)	\$10,000	
DOLA	\$3,800,000	\$2.8 m SB232/\$1m Supplemental 4/2013
DELTA COUNTY	\$100,000	Received 11/19/12.
UPRR	\$150,000	To be paid at end of project
DOLA DESIGN CLOSEOUT	\$50,000	Received 10/11/12
RIVERSIDE SUB ESCROW TO HWY 50 DRAIN IMPROVE	\$1,000	Transferred Dec 2012
CWCI CONTINGENCY	\$2,041,934	2013 Budget

		<u>Over/Under</u>
<u>Grand Total</u>	<u>\$28,241,111</u>	<u>-\$43,121</u>

UNBUDGETED EXPENDITURES (to be covered by City Wide Capital Improvement Fund)	
UPRR Exchange Agreement	\$356,119
Construction Contingency Exceedance	\$257,212
Revenue vs Budget Over/Under	\$43,121
Add'l Contingency @ 3% of unspent budget	\$544,265
	<u>\$656,452</u>

Change Order Summary

Hamon Construction Contract

<u>Date</u>	<u>Type</u>	<u>Adjustment</u>	<u>Contract Total</u>	<u>Purpose</u>	<u>Authorization</u>
11/28/2012	Original Contract		\$17,969,000.00		City Council
1/31/2013	CO#1	(\$14,400.00)	\$17,954,600.00	Remove PDA Testing from Contract @ \$7200/test	JH
1/31/2013	CO#2 <i>NTE as needed</i>	\$10,395.00	\$17,964,995.00	Add Hourly Survey Rate for Non Contract Survey needs	JH
2/20/2013	CO#3 <i>est cost</i>	\$395,795.33	\$18,360,790.33	Beet Waste Stabilization, Add'l Grid/Fabric and Beet Waste Disposal	City Council
2/28/2013	CO#4	(\$1,393.80)	\$18,359,396.53	Contractor caused delays PDA Testing	JH
4/5/2013	CO#5	\$8,024.83	\$18,367,421.36	Force Account to Relocate Sewer 2nd Street west of Columbia	JH
4/16/2013	CO#6	\$165,700.00	\$18,533,121.36	Addition of MSE Wall Coping	JC
5/7/2013	CO#7 (pending)	\$740,273.54	\$19,273,394.90	Change in Earthwork Source	City Council
Sub total		\$1,304,394.90			

Stantec CM/QA/Engineering Services

<u>Date</u>	<u>Type</u>	<u>Adjustment</u>	<u>Contract Total</u>	<u>Purpose</u>	<u>Authorization</u>
10/30/2012	Original Approval		\$952,768.00	Construction Mgmt, QA and Engineering Services	City Council
2/1/2013	Change Order	\$23,929.00	\$976,697.00	Add PDA Testing into QA Services @ \$2530 ea plus travel plus soil testing	JH
2/1/2013	Change Order	\$8,433.00	\$985,130.00	Global Stability Analysis on Wall Foundation Soils	JH
2/27/2013	Change Order	\$1,393.80	\$986,523.80	Project Delays to PDA Testing captured in CO#4 for Hamon	JH
Sub total		\$33,755.80			

Contingency Summary

Project Contingency Start	\$1,080,938.40
Hamon CO Total	\$1,304,394.90
Stantec CO Total	\$33,755.80
Remaining Contingency	(\$257,212.30)



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Memorandum

To: Mayor and Council
From: Jim Hatheway, Public Works Director
Date: 7th May, 2013
Subject: ATR Wetlands Mitigation Project Bid Results

RECOMMENDATION

The Public Works Department is recommending that the City award the Contract for the ATR Wetlands Mitigation Project to Wells Excavation & Farming, LLC.

BACKGROUND

The ATR Wetlands Mitigation Project is a 9 acre site on the north end of the Graff Dairy property, with 4.76 acres to be reclaimed into a wetland area. Cutting of weed trees, excavation of 10,000 cubic yards of material then seeding and planting of 8,600 shrubs and herbaceous plants.

COST

The Public Works Department has received four bids for the excavation work on this project.

1. Wells Excavation & Farming LLC	\$31,990.00
2. H.H. Huff Inc.	\$38,500.00
3. Charles W. Sickles Construction	\$51,600.00
4. Hamon Contractors	\$87,376.00

This project has been budgeted for in 80-19-31600.

ACTION TO BE TAKEN IF APPROVED

Staff requests that City Council approve the award to Wells Excavation & Farming, LLC.

Attorney Comments



City Manager Comments



Councilmember Comments



Executive Session:

For the purpose of determining positions relative to matters that may be subject to negotiations, developing strategy for negotiations, and/or instructing negotiators, under CRS Section 24-6-402(4)(e); or more specifically for discussion regarding the City Attorney RFPs and also for discussion regarding the Silver Street Property Appraisal.