

SUBJECT

Items Relating to Appropriations for Woodward Related Public Improvements.

- A. First Reading of Ordinance No. 098, 2013, Appropriating Unanticipated Revenue in the Capital Projects Fund and Authorizing the Transfer of Existing Appropriations from the Natural Areas Fund to the Capital Projects Fund for Woodward Related Public Improvements.
- B. First Reading of Ordinance No. 109, 2013, Waiving the Application of the Art in Public Places Requirements in Article XII of Chapter 23 of the City Code to Improvements Constructed Pursuant to the City's Agreement with Woodward, Inc., and the Downtown Development Authority Regarding the Link-N-Green Development.

EXECUTIVE SUMMARY

Council approved the public improvement portion of the Woodward incentive package in April 2013. The City of Fort Collins agreed to provide assistance for Woodward's relocation, construction and expansion. The following are the projects to be funded:

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|------------------------------|------------------|
| Transmission Line Relocation | \$1,297,080 |
| Right-of-Way Improvements | 1,750,000 |
| Open Space Improvements | <u>3,500,000</u> |
| | \$6,547,000 |

The projects will be funded through two sources: \$6,047,080 from DDA contributions and \$500,000 from 2013 appropriations existing in the Natural Areas Fund.

Ordinance No. 109, 2013, exempts the right-of-way improvements under the Woodward Agreement from the requirement to contribute 1% to Art in Public Places because the contribution would not be required if the developer were constructing the Improvements and the City's management of the right-of-way improvement project is being provided as part of the Woodward incentive package.

BACKGROUND / DISCUSSION

On April 2, 2013, Council adopted Ordinance No. 056, 2013, *Appropriating General Fund Reserves to Fund a Reimbursement Reserve Fund in Connection with an Agreement between the City, Downtown Development Authority (DDA) and Woodward, Inc., Regarding the Link-N-Green Development*. The agreement provided that Woodward would advance up to \$6.05 million to the City to be repaid by the DDA through Pledged Tax Increment Revenues ("TIF") to fund certain public improvements, including right-of-way improvements and open space restoration, as well as the relocation of a power transmission line. To allow the commencement of the capital improvement projects, City staff is requesting the immediate appropriation of \$6,547,000. The following are the projects to be funded:

| | |
|------------------------------|------------------|
| Transmission Line Relocation | \$1,297,080 |
| ROW Improvements | 1,750,000 |
| Open Space Improvements | <u>3,500,000</u> |
| | \$6,547,000 |

Transmission Line — Design plans resulted in placing one new transmission tower in the Williams Natural Area just south of the Mulberry/Lemay Avenue intersection and the removal of three transmission towers northwest of Mulberry; two in the Springer Natural Area and one at the Water Reclamation natural area. Ordinance No. 063, 2013, authorizing the necessary easements from the City, was adopted on second reading on May 7, 2013.

Specifically, one pole will be added in the Williams Natural Area (reference pole #6, yellow line. The general size of the pole will be approximately 100 to 125 feet tall and 3 to 5 feet in circumference at the base, depending upon the distance from pole #5. Placement will be approximately 150 feet south of the existing bike trail and approximately 60

feet west of the sidewalk that parallels south bound Lemay Avenue. Contingency placement will be known once the following items are specified:

- Signal light/pole on the northwest corner of Mulberry and Lemay for the westbound traffic on Mulberry
- Proposed restaurant placement at the southeast end of the Woodward Property
- New bike trail route across Lemay.

Funds for the Transmission Line were appropriated in the General Fund in Ordinance No. 076, 2013, on June 4, 2013. However, City staff recommends keeping all the public improvement funds related to the Woodward project in the same fund, the Capital Projects Fund (400). The General Fund appropriation will be frozen once this ordinance is approved.

Right-of-way (ROW) Improvements — The City will design and construct improvements to both Lincoln Avenue and Lemay Avenue required by the proposed relocation and expansion of Woodward's corporate headquarters and production facility. The improvements along Lincoln Avenue will generally include a center turn lane, bike lanes, and a temporary pedestrian path along the south side of the street. Improvements to Lemay Avenue will include a parkway, trees, sidewalk, street lighting, and other improvements to comply with the full street cross section. Some improvements may be on an interim basis until funds are available for the broader Lincoln Boulevard Improvements.

Open Space Improvements — Woodward will gift a 31-acre parcel to the City for the purpose of restoring the property to a natural condition. The restoration will include landscape and habitat improvements based on a design developed by the City's natural areas department. The tax increment financing will be used to help offset the design and construction costs related with these improvements.

Art in Public Places Exception—1% of funds appropriated by or for a City construction project are to be allocated to Art in Public Places (for projects \$250,000 or greater). The transmission line relocation is not a City construction project because it is being paid for by the DDA, the work is being done by Platte River Power Authority and there are no City improvements to be constructed through the project. Consequently, the transmission line portion of the project is not required to contribute to APP. Under the City Code, the ROW improvements must be constructed as a condition of development approval. If the developer provides the improvements, it is not a City construction project, so the 1% for APP is not required. In this instance, the City has agreed to construct the ROW improvements using funds paid by Woodward to the DDA and then provided to the City to be appropriated by the City for use for the project. This triggers the 1% for APP, which is not in the project budget. Adoption of Ordinance No. 109, 2013, exempts the ROW Improvements from the APP contribution. Staff is recommending adoption of Ordinance No. 109, 2013, because the APP contribution would not be required if the developer were constructing the improvements. The City agreed to manage the construction as an incentive to facilitate development of the project. Finally, the Open Space Improvements will contribute 1% to the extent required for project elements covered by APP, such as the trail. Restoration of a natural area does not require an APP contribution.

FINANCIAL / ECONOMIC IMPACTS

The appropriation of \$6,547,080 in the Capital Projects Fund will provide the necessary funds for the Woodward project to move forward. The transmission line relocation is a critical path component of the redevelopment of the new Woodward site.

STAFF RECOMMENDATION

Staff recommends adoption of the Ordinance on First Reading.

ORDINANCE NO. 098, 2013
OF THE COUNCIL OF THE CITY OF FORT COLLINS
APPROPRIATING UNANTICIPATED REVENUE IN THE CAPITAL PROJECTS FUND
AND AUTHORIZING THE TRANSFER OF EXISTING APPROPRIATIONS FROM THE
NATURAL AREAS FUND TO THE CAPITAL PROJECTS FUND FOR WOODWARD
RELATED PUBLIC IMPROVEMENTS

WHEREAS, pursuant to Ordinance No. 055, 2013, the City, the Downtown Development Authority (“DDA”), and Woodward Inc (“Woodward”) entered into an agreement which provides that Woodward will advance up to \$6.05 million to the DDA to fund certain public improvements, to be made on or near the former Link-N-Greens Golf Course in connection with the redevelopment of that property (the “Woodward Site”) and the City will act as either the project manager or construct the public improvements; and

WHEREAS, the improvements include right-of-way improvements (\$1,750,000), open space restoration (\$3,500,000), and the relocation and installation of a power transmission line (\$1,297,080) that currently crosses the Woodward Site for a total cost of \$6,547,080; and

WHEREAS, Woodward has agreed to advance funds to the City through the DDA in amount of \$6,047,080 for these public improvements, and the Natural Areas Fund is providing \$500,000 for the open space restoration; and

WHEREAS, on June 4, 2013, Ordinance No. 076, 2013, the City appropriated unanticipated DDA revenue in the amount of \$1,297,080 in the General Fund for the relocation and installation of the transmission line on the Woodward Site; and

WHEREAS, City staff recommends keeping all of the public improvement funds related to the Woodward Site in the Capital Projects Fund; and

WHEREAS, the DDA revenue will now be recorded in the Capital Projects Fund and not the General Fund, so the General Fund appropriations in the amount of \$1,297,080 will be treated as unavailable for expenditure after this ordinance is approved; and

WHEREAS, Article V, Section 9, of the City Charter permits the City Council to make supplemental appropriations by ordinance at any time during the fiscal year, provided that the total amount of such supplemental appropriations, in combination with all previous appropriations for that fiscal year, does not exceed the current estimate of actual and anticipated revenues to be received during the fiscal year; and

WHEREAS, City staff has determined that the appropriation of the revenue as described herein will not cause the total amount appropriated in the Capital Projects Fund to exceed the current estimate of actual and anticipated revenues to be received in that fund during any fiscal year.

WHEREAS, Article V, Section 10, of the City Charter authorizes the City Council to transfer by ordinance any unexpended and unencumbered appropriated amount or portion thereof

from one fund (project) to another fund (project), provided that the purpose for which the transferred funds are to be expended remains unchanged.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. That the unexpended appropriated amount of FIVE HUNDRED THOUSAND DOLLARS (\$500,000) in the Natural Areas Fund is hereby authorized for transfer to the Capital Projects Fund - Woodward Public Improvements Project and appropriated therein.

Section 2. That there is hereby appropriated from unanticipated revenue in the Capital Projects Fund the sum of SIX MILLION FORTY-SEVEN THOUSAND EIGHTY DOLLARS (\$6,047,080) for the Woodward Public Improvements Project.

Introduced, considered favorably on first reading, and ordered published this 16th day of July, A.D. 2013, and to be presented for final passage on the 20th day of August, A.D. 2013.

Mayor

ATTEST:

City Clerk

Passed and adopted on final reading on the 20th day of August, A.D. 2013.

Mayor

ATTEST:

City Clerk

ORDINANCE NO. 109, 2013
OF THE COUNCIL OF THE CITY OF FORT COLLINS
WAIVING THE APPLICATION OF THE ART IN PUBLIC PLACES REQUIREMENTS
IN ARTICLE XII OF CHAPTER 23 OF THE CODE OF THE CITY OF FORT COLLINS
TO IMPROVEMENTS CONSTRUCTED PURSUANT TO THE CITY'S
AGREEMENT WITH WOODWARD, INC., AND THE DOWNTOWN
DEVELOPMENT AUTHORITY REGARDING THE LINK-N-GREEN DEVELOPMENT

WHEREAS, pursuant to Ordinance No. 055, 2013, the City, the Downtown Development Authority (“DDA”), and Woodward Inc (“Woodward”) entered into an agreement which provides that Woodward will advance up to \$6.05 million to the DDA to fund certain public improvements, to be made on or near the former Link-N-Greens Golf Course in connection with the redevelopment of that property (the “Woodward Site”) and the City will act as either the project manager or construct the public improvements; and

WHEREAS, the public improvements include right-of-way improvements (\$1,750,000), open space restoration (\$3,500,000), and the relocation and installation of a power transmission line (\$1,297,080) that currently crosses the Woodward Site for a total cost of \$6,547,080; and

WHEREAS, Woodward has agreed to advance funds to the City through the DDA in the amount of \$6,047,080 for these public improvements, and the Natural Areas Fund is providing \$500,000 for the open space restoration; and

WHEREAS, on June 4, 2013, Ordinance No. 076, 2013, the City appropriated unanticipated DDA revenue in the amount of \$1,297,080 in the General Fund for the relocation and installation of the transmission line on the Woodward Site; and

WHEREAS, on this date the City Council has adopted Ordinance No. 098, 2013, appropriating unanticipated revenue in the Capital Projects Fund and authorizing the transfer of existing appropriations from the Natural Areas Fund to the Capital Projects Fund for the public improvements; and

WHEREAS, Article XII of Chapter 23 of the City Code, regarding Art in Public Places (“APP”), requires that appropriations for construction projects estimated to cost over \$250,000, must include an amount equal to one percent of the estimated project cost for works of art; and

WHEREAS, the one-percent APP requirement applies only to construction projects by or for the City, and the relocation and installation of the Platte River transmission line the City will not constitute a City improvement; and

WHEREAS, the one-percent APP requirement applies only to construction, rehabilitation, renovation, remodeling or improvement of a building, structure, street, sidewalk, park, utility or other public improvement, and the open space improvements for which DDA funds are appropriated in Ordinance No. 098, 2013, primarily constitute land restoration activities that are not generally treated as construction under the APP provisions; and

WHEREAS, as part of the open space improvements staff will arrange for the APP one-percent requirement to be met using appropriate City funds to the extent required for project elements that constitute construction, such as the trail; and

WHEREAS, the right-of-way improvements for which funds are appropriated in Ordinance No. 098, 2013, generally fall within the scope of the one-percent APP requirement as written; and

WHEREAS, the financing arrangements established in the Agreement are unique and result in the undertaking by the City of developer right-of-way improvements projects that would not normally be the responsibility of the City; and

WHEREAS, the potential application of the one-percent APP requirement was not taken into account in developing the financing and cost estimates for the Agreement, and the funds provided to the City for the improvements do not include funds for the APP requirement; and

WHEREAS, in light of the foregoing, the City Manager has requested that the City Council waive the application of Article XII of Chapter 23 of the City Code to the public improvements to be constructed by the City using funds provided by Woodward through the DDA pursuant to the Agreement.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS that the application and enforcement of the Article XII of Chapter 23 of the City Code is hereby waived to the extent it may apply to the public improvements to be constructed by the City using funds provided by Woodward through the DDA pursuant to the Agreement.

Introduced, considered favorably on first reading, and ordered published this 16th day of July, A.D. 2013, and to be presented for final passage on the 20th day of August, A.D. 2013.

Mayor

ATTEST:

City Clerk

Passed and adopted on final reading on the 20th day of August, A.D. 2013.

Mayor

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