

# MINUTES

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**McCall City Council  
Regular Meeting  
Legion Hall (McCall City Hall - Lower Level)  
September 27, 2012**

## Agenda

Call to Order and Roll Call  
Approve the Agenda  
Work Session  
Pledge of Allegiance  
Public Hearing  
Public Comment  
Business Agenda  
Consent Agenda  
Adjournment

## **CALL TO ORDER AND ROLL CALL**

**Mayor Bailey called the regular meeting of the McCall City Council to order at 5:31 p.m. Council Member Aymon, Mayor Bailey, Council Member Scott, and Council Member Swanson all answered roll call. Council Member Witte was absent. A quorum was present.**

City staff present was Gene Drabinski, Interim City Manager; Bill Nichols, City Attorney; Delta James, City Planner; Michelle Groenevelt, Community Development Director; Peter Borner, Public Works Director; Jerry Summers, Chief of Police; Carol Coyle, Grant Coordinator; Nathan Stewart, City Engineer; Linda Stokes, City Treasurer; and BessieJo Wagner, City Clerk.

## **APPROVE THE AGENDA**

**Mayor Bailey, with the consent of the Council, approved the agenda as presented.**

## **WORK SESSION**

### **AB 12-178 Proposed Code Amendment to McCall City Code Title 4 - Taxicabs**

BessieJo Wagner, City Clerk, presented the proposed code amendment to Council. At the July 26, 2012 City Council Meeting it was identified that Title 4 of the McCall City Code is outdated and needs to be re-written. The McCall City code currently did not have any standard regarding the issuance of business licenses to taxicabs. At the September 13, 2012 City Council Meeting it was identified by staff and Council that there was a need to establish City Code to regulate how taxicab licenses would be issued.

Council reviewed the proposed ordinance and made the following comments and suggestions.

There was some discussion to clarify the definition section of the ordinance. Council expressed concern over the requirements to obtain a license. Bill Nichols, City Attorney, clarified that a taxi driver has a higher level of scrutiny due to the circumstance the driver may encounter when called for service and the level of vulnerability on the part of the client. Mrs. Wagner also clarified that the proposed ordinance was not any more restrictive than other cities that have taxi ordinances.

Mayor Bailey's opinion was that if a person could get a driver's license within the State of Idaho then they should be able to get a taxi license regardless of their driving record. Mrs. Wagner reiterated that the reasoning for the more restrictive regulations was that the taxi driver would be held at a higher level of accountability.

Council Member Aymon asked for clarification of "Illicit sexual activity" and Mr. Nichols responded that it should be changed to read "Illegal sexual activity".

Council liked the section on vehicle inspections.

Mayor Bailey was confused why there were two sections that were similar and what was the reasoning behind those sections. Section 4.4.5 and Section 4.4.15 were the sections in questions. Mrs. Wagner clarified that the first section covered the owner of the taxi service and the second covered the drivers for the taxi service. It was suggested that the two sections may be combined to prevent confusion.

Mayor Bailey asked for clarification of the revocation process and the appeal process. In Section 4.4.14 it states that:

"Failure upon the part of any person **operating** a taxicab or commercial transportation business to comply with the provisions of this chapter..."

Mr. Nichols stated that it could be clarified to read:

"Failure upon the part of any person **possessing** a taxicab or commercial transportation business **license** to comply with the provisions of this chapter..."

There was some discussion as to whether to allow the hailing of a cab.

Mayor Bailey was concerned that any traffic violation could determine that the license be revoked. Mr. Nichols clarified that the ordinance could be as restrictive or less restrictive as the Council would like.

Council Member Scott asked for clarification of how often the vehicle inspection would be required. Mrs. Wagner stated that upon renewal of the license annually. Discussion ensued on how often the vehicle inspections should occur.

John Brandell, current owner of Prompt Taxi Service, stated that that the insurance requires an annual inspection of his vehicle.

Mr. Nichols suggested that the form Mr. Brandell uses for his vehicle inspection be provided to determine if the same information is covered.

Council Member Swanson stated that he agreed with the DUI restriction, but did not agree with the speeding violation restriction. He was also concerned that other taxi services that are already operating could be put out of business if the regulations are too restrictive. Mr. Nichols stated that there could be an effective date for the ordinance to accommodate for the regulations needing to be met.

Council Member Scott stated that she did not want the Council to put something into place that would make it too onerous for someone trying to make a living in McCall. She felt that parts of the ordinance were too restrictive and others parts seemed reasonable; and as a whole would it be too difficult for people to have a business in McCall.

Council Member Aymon requested that staff review other similar cities' code to compare what their regulations are. There was discussion regarding what other cities require in their code regarding taxi licensing, some were more restrictive while others were less restrictive.

Mayor Bailey suggested that staff work with the suggestions made by Council and return with a revised ordinance at a future meeting.

**Mayor Bailey led the audience in the Pledge of Allegiance at 6:00 p.m.**

## **PUBLIC COMMENT**

**Mayor Bailey called for public comment at 6:01 p.m.**

**John Brandell**, current owner of Prompt Taxi Service, addressed the Council stating that he some comments on the proposed taxi ordinance. He stated that he was not clear on the commercial transportation section and what it meant. Mr. Brandell commented on the traffic violations and that he had read in other cities code that it was 2-4 violations in a year. He also stated that the vehicle inspection was required by his insurance company annually. Mr. Brandell also questioned Section 4.4.8 (C) Unlawful Practices – “Verbally attempt to divert patronage from one hotel, motel or business to another” stating that customers will often ask where the best place to eat or stay was.

Mayor Bailey stated that the section could be clarified to state that upon a passenger request the driver could make a suggestion. Mr. Nichols stated that the intent was that if a passenger requested to go to a specific destination and the driver responded that a different location would be better, then that would not be acceptable.

Mr. Brandell continued, stating that he had an issue with Section 4.4.8 (J) Unlawful Practices “Accept hails from prospective passengers upon or along the streets of the city.” He stated that he receives hails daily and did not see it as an issue. Mayor Bailey agreed that it should not be an unlawful practice.

Mr. Brandell also commented on Section 4.4.9 Signs, Designation and Inspection, that reads: “The vehicles shall be subject to periodic inspections by the police department in order to ensure that the vehicles and equipment are being maintained in a proper manner for the safety of the public,” stating that that the police would not be qualified to do those inspections. He stated that the insurance company’s required forms should be sufficient. Mayor Bailey commented that staff would look into to Mr. Brandell’s suggestion.

Mr. Brandell also commented on the regulation “Driving at a speed in excess of the maximum speed limit” could be terms for revocation of his license, stating that other places that he had operated a taxi at, the standard was 2-4 violations a year and if they exceeded that their license was revoked. Mayor Bailey agreed that the City of McCall needed to be more flexible on the minor traffic violation issue.

**Hearing no further comments, Mayor Bailey closed the public comment.**

## **BUSINESS AGENDA**

### **AB 12-175 Update – McCall Public Art Advisory Committee**

Delta James, City Planner, presented the McCall Public Art Advisory Committee to Council stating that in June, City Council approved (Resolution 12-13) the City of McCall Public Art Policies and Recommendations which included the formation and mission of a McCall Public Art Advisory Council. Ms. James stated that the Bylaws, Practices and Procedures for the McCall Public Art Advisory Committee would establish the membership, terms, officers, rules of order, and voting and meeting procedures of the committee. She also stated that the recommendation would be for a five member committee with each member serving a three year term.

Council Member Aymon suggested that the term limits be stricken from the bylaws. There was general consensus from the Council that a limit of two consecutive terms was not necessary for this committee.

Ms. James also stated that individuals recommended for committee appointment would be brought forward to Council for consideration by the end of October.

**Council Member Scott moved to approve the Bylaws, Practices and Procedures for the McCall Public Art Advisory Committee as amended. Council Member Aymon seconded the motion. In a voice vote, Council Member Scott, Council Member Aymon, Mayor Bailey, and Council Member Swanson all voted aye and the motion carried.**

### **AB 12-176 Tree Committee 2012 Annual Report**

John Lillehaug, Chairman of the Tree Advisory Committee, presented the Committee’s Annual report to Council. The report is attached as Attachment 1.

**AB 12-177 McCall Area Chamber of Commerce Winter Recreation Survey- Request for Funding**

Rick Certano, McCall Area Chamber of Commerce President, presented information on the Winter Recreation Survey Project. Mr. Certano explained that the Survey would include all winter activity sectors and the lodging sectors to better understand what visitors do when they are in the area, how they get here, why they come here, and how much money they spend. He stated that the goal would also be to understand the opportunities to increase duration and frequency of visits. Winter recreations would include a variety of activities including but not limited to snowmobiling, Nordic skiing, backcountry skiing, and Alpine skiing. The survey would be conducted by Guest Research.

The McCall Area Chamber requested funding from the Idaho Travel Council and other stakeholders in the area. The project would be a regional economic effort to obtain actionable information to assist in decision making on direction and opportunities to strengthen our regional tourism and recreational economy.

There was some discussion to the total budget for the project and Mr. Certano estimated that it would be about \$28,000 to do the survey and bring in Guest Research to gather information to put into the survey and then again to give the results of the survey. He also stated that the Chamber is working to bring in a guest speaker at an additional cost. The speaker was tentatively scheduled for May 2013 on a Saturday.

Michelle Groenevelt, Community Development Director, clarified that the funds would come from the economic development fund from the Council budget. There was some discussion as to whether some of the other local government entities would also be contributing funds to the project. Mr. Certano stated that he would be making similar requests of the other local governments.

**Council Member Swanson moved to approve the request for \$5,000, from the Economic Development support line item in the Council budget, to the McCall Area Chamber of Commerce for the Winter Recreation Survey from Council economic development support line item. Council Member Aymon seconded the motion. In a voice vote, Council Member Swanson, Council Member Aymon, Mayor Bailey, and Council Member Scott all voted aye and the motion carried.**

**AB 12-180 Centennial Committee recommendations for historic events for art wall**

Carol Coyle, Carol Coyle, Grant Coordinator and staff liaison to the Centennial Committee, requested that the Council table the Centennial Committee recommendations for historic events for art wall to a future meeting.

**AB 12-181 2012-2013 Winter Snow Removal Equipment Lease – Resolution 12-19**

Peter Borner, Public Works Director, presented the 2012-2013 Winter Snow Removal Equipment Lease to Council. Each year the Public Works Department requires additional heavy equipment for snow removal. At a minimum, two Loaders and one Grader are required. In FY12 the City paid CESCO \$67,225 for three pieces of equipment for five months. The FY13 Budget provides \$68,000 for equipment rental. Bids were solicited and firms bidding were asked to

provide monthly rental rates for all three pieces of equipment or an alternative bid proposal. Three bids were received (Burks Tractor, CESCO and Western States).

The bid from Burks Tractor included an alternate bid for a lease/purchase on a motor grader. This bid totaled \$13,126 per month or a total of \$65,630 for the 5 month winter season. The yearly cost with the included lease /purchase of the motor grader would be \$92,412. The bid from CESCO was \$17,375 per month or a total of \$86,875 for the 5 month winter season for the required three pieces of equipment.

Western States submitted an alternate bid which is actually a five (5) year lease. This lease is structured with a guaranteed buy back of the residual value at the end of the five (5) year lease. The City's costs would be fixed with 5 annual payments with the appropriate non-appropriations clause. The monthly cost for the equipment would be \$4,726. The annual cost would be \$56,703.27. If a skid steer loader with snow blower is included, the annual cost would be \$63,218.67. Legal counsel had reviewed the bids.

Mr. Borner stated that there had been a complaint lodged by CESCO regarding the bid placed by Western States. The CESCO representative did not think that the bid documents were clear that a lease option bid would be accepted. Considering the complaint and the time of year Mr. Borner stated that it was staff's recommendation to reject all bids. The earliest bid opening for new bids would be October 19, 2012.

Council Member Aymon asked for clarification on the complaint. Mr. Borner clarified that representatives from CESCO did not feel that Western States Bid of the five year lease purchase was not within the scope of the language of the bid documents which was a five month rental. Even though there was language providing for an alternate bid.

Mr. Borner clarified that by rejecting all the current bids and then soliciting bids with the clarification that a lease purchase option would be considered it would alleviate CESCO's concerns; however by requesting a re-bid creates an issue with Western States as their bid had already been made public for a five year lease.

Bill Nichols, City Attorney, clarified that the Council had the right to reject any and all bids as reserved in the bid documents. The decision to reject all bids would not be an actionable item and would be the recommended course of action.

Brad Drollinger, Western States Equipment, requested to address the Council. Mr. Nichols stated that it was up to the discretion of the Council whether or not to allow for comment. Mr. Nichols also stated that it was not a public hearing so the Council was not obligated to accept public comment. There was general consensus from the Council to allow comment.

Mr. Drollinger stated that Western States Equipment had continually provided the lowest cost solution to governmental entities. He stated that Western States Equipment complied with the bid specks and provided an alternate bid. Mr. Drollinger stated that he would respect the decision of the Council and appreciated the opportunity to address the Council.

Bob Nemick, CESCO, thanked the City for opportunity to supply equipment to the City for the past 6 years. Mr. Nemick stated that CESCO had tried to give a lease/purchase alternative to the City in the past and was told that a lease/purchase was not an option the City could consider. He stated that if the City had stated that the alternate bid could be for a lease/purchase then they would have prepared a bid accordingly; however since CESCO had been told over the past six years that a lease/purchase could not be done, CESCO did not think that the City should accept a lease /purchase bid. Mr. Nemick requested the opportunity to compete with a lease/purchase bid.

Mayor Bailey requested that Bill Nichols explain what the non-appropriations clause in the lease /purchase agreement was. Mr. Nichols stated that in the past CESCO's John Deere leasing had provided documents for lease purchasing; however those documents provided by John Deere were considerably different than the documents provided by Caterpillar Financing. If a re-bid went out then a version of the non-appropriation clause would be included in those documents. The John Deere Financing documents in the past had a provision requiring an opinion letter from the lessee's Council that did not comply with Idaho law and that was why legal counsel said no to the lease/purchase in the past. Mr. Nichols continued stating that Caterpillar Finance requirements are different.

Mr. Nichols further clarified that if the Council chose to re-bid for the equipment the bid documents would include an alternate bid for a lease/purchase and would include the non-appropriation language as part of the bid solicitation. He stated that then all the bidders would understand the rules of the bid. Mr. Nichols further explained that the non-appropriation clause would enable the Council to have a long term agreement that would be up for decision each year by the City Council as to whether to continue to spend money on that long term lease. Mr. Nichols also stated that the long term leasing has been a good deal for tax payers because it does lower costs. The Idaho State Constitution has a provision that makes long term leasing difficult. The non-appropriation clause allows the City to decide to not continue to make the payments and the equipment would go back to the provider and that would be the end of the lease with no further cost to the City.

There was a brief discussion as to whether or not to reject all bids and go back out to bid.

**Council Member Swanson moved to reject all bids submitted for the 2012-2013 Winter Snow Removal Equipment Rental/lease and re-open the bidding opportunity. Council Member Aymon seconded the motion. In a voice vote, Council Member Swanson, Council Member Aymon, Mayor Bailey, and Council Member Scott all voted aye and the motion carried.**

Council Member Aymon expressed concern that one company may not have completed their due diligence. Mr. Nichols stated that if Council wanted to hold a formal public hearing to determine whether all had done their due diligence.

Council Member Swanson thanked the vendors for attending and expressing their concerns to Council.

**AB 12-179 Third Street Corridor Revitalization Project (ICDBG-12-III-16-ED) Contract with Idaho Department of Commerce**

Carol Coyle, Grant Coordinator, presented the Third Street Corridor Revitalization Project (ICDBG-12-III-16-ED) Contract with Idaho Department of Commerce. She explained that the City of McCall has been awarded Idaho Community Development Block Grant funding from the Idaho Department of Commerce for streetscape, storm water, sidewalk, and water system improvements on Third Street. Mrs. Coyle stated that there were a few changes to the draft contract with Dept. of Commerce the Council had in their packet to review. She gave the Council a handout with a description of each change to the contract, Attachment 2.

Mrs. Coyle also stated to Council that the Idaho Community Development Block Grant is different than a typical Federal grant. She stated the City has committed to doing certain items in relation to the grant such as furthering the Fair Housing plan and updating the 504 Transition plan. Mrs. Coyle expressed the importance that each department involved must do their part in ensuring that these items are complete as the repercussion of not doing these items could be that the City does not receive the funding for the project.

**Council Member Aymon moved to approve the contract as amended with Idaho Department of Commerce for the Third Street Corridor Revitalization Project and authorize the Mayor to sign all necessary documents. Council Member Scott seconded the motion. In a voice vote, Council Member Aymon, Council Member Scott, Mayor Bailey, and Council Member Swanson all voted aye and the motion carried.**

**AB 12-182 Third Street Corridor Revitalization Project – Water and Storm Water Improvements – Fall, 2012 – Award of Contract**

Peter Borner, Public Works Director, presented Third Street Corridor Revitalization Project – Water and Storm Water Improvements – Fall of 2012 – Award of Contract to Council stating that the project consists of:

1. 4-inch water main replacement (upgrade to 10-inch main) and stormwater infrastructure improvements on Third Street, between Colorado and Washington Streets.
2. Water service improvements along the east side of Third Street between Bruneel Tire (615 N. 3<sup>rd</sup>) and Ray Woods Properties (601 N. Third Street)

This infrastructure work is a prerequisite for complete streetscape (sidewalk, curb gutter, trees, lighting, etc) improvements planned to be completed in Spring/Summer 2013 as part of the Idaho Community Development Block Grant (ICDBG-12-11-16). Due to the cost of the construction contract for the project being less than \$100,000, informal bidding was conducted. All bids were opened September 24, 2012. Mr. Borner stated that it was staff's recommendation to award the contract to Granite Excavation.

Nathan Stewart, City Engineer, clarified the bidding threshold for informal bidding was \$100,000 not \$75,000 that the Agenda Bill had stated.

**Council Member Scott moved to Issue a “Notice of Intent to Award a Construction Contract” for the project to Granite Excavation, and authorize the Mayor to sign all necessary documents. Council Member Swanson seconded the motion. In a voice vote,**



**Council Member Scott, Council Member Swanson, Council Member Aymon, and Mayor Bailey all voted aye and the motion carried.**

**AB 12-183 Timberlakes Condominium Sanitary Sewer Lift Station Removal Project – Award of Contract**

Peter Borner, Public Works Director, presented the Timberlakes Condominium Sanitary Sewer Lift Station Removal Project – Award of Contract to Council, stating that the lift station located at the Timberlakes Condominiums is 40 years old and was in need of replacement. He stated that this lift station serves not only the condominiums but a number of homes that are located within the City’s sewer service area, and approximately 70% of the flow is generated from those homes.

The project would consist of the removal of the lift station and the construction of 213 linear feet of gravity sewer line and associated appurtenances. Due to the cost of the construction contract for the project being less than \$100,000, informal bidding was conducted. All bids were opened September 26, 2012. Mr. Borner stated that it was staff’s recommendation to award the contract to Falvey Corporation.

**Council Member Swanson moved to issue a “Notice of Intent to Award a Construction Contract” for the project to Falvey Corporation, and authorize the Mayor to sign all necessary documents. Council Member Aymon seconded the motion. In a voice vote, Council Member Swanson, Council Member Aymon, Mayor Bailey, and Council Member Scott all voted aye and the motion carried.**

**AB 12-184 FY 2013 Water & Wastewater Treatment Chemical Bid Award**

Peter Borner, Public Works Director, requested that the Council table any action on the item of the FY13 Water & Wastewater Treatment Chemical Bid Award to the next Council Meeting. Due to questions concerning the materials being bid on, the age of the Material Data Safety Sheets the City has and a question on the quantity of the bulk salt, an addendum to the bid specks was sent out extending the bid date.

**AB 12-186 Prosecutor Contract discussion**

Gene Drabinski, Interim City Manager, presented the discussion to renew or put out to bid the prosecutor Contract stating that the City’s contract with Williams Law, for City Prosecutor services, is up 1/1/13. Williams Law has submitted a memo to extend the contract for another year, with a 25% increase in fees. Chief Summers and the City Manager have discussed the contract with one other potential firm. Mr. Drabinski also stated that January will bring a new County Prosecutor to office, and Council may wish to explore contracting with him.

Council had some discussion concerning benefit and deficit to having a prosecutor in a further away location.

Bill Nichols, City Attorney, clarified for Council that professional services are not bound to lowest bid.

There was a general consensus of the Council for moving forward with a Request for Proposal for a Prosecutor Contract. It was clarified that the budget for the prosecutor for the City of McCall for FY13 is \$48,000.

## CONSENT AGENDA

Staff recommended approval of the following items:

1. Council Regular Minutes – August 9, 2012
2. Council Special Minutes – August 27, 2012
3. Council Special Minutes – September 5, 2012
4. Warrant Registers Dated September 19, 2012
5. Payroll Report for Period ending September 14, 2012
6. License Report
7. AB 12-185 Contingent Revenue and Contingent Expense line item transfers for unanticipated revenue


A brief discussion took place regarding items in the minutes and on the Warrant Register.

**Council Member Swanson moved to approve the Consent Agenda, with the minutes corrected, Council Member Scott seconded the motion. In a voice vote, all voted aye and the motion carried.**

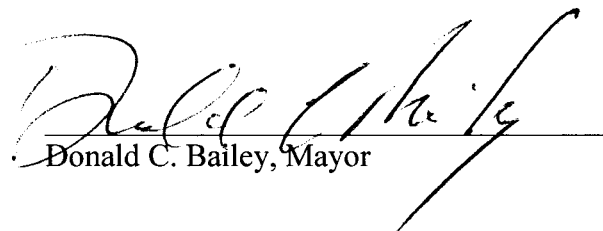
## ADJOURNMENT

Without further business, the Mayor adjourned the meeting at 8:31 p.m.

ATTEST:

  
BessieJo Wagner, City Clerk



  
Donald C. Bailey, Mayor

## **2012 Year-End Accomplishment Report**

### **McCall Tree Committee**

In Summary the McCall Tree Committee worked towards maintaining McCall's Tree City USA status for the eleventh year in a row and achieved our sixth annual growth award. The committee has also been working on ways to educate the public and counter growing concerns regarding the Spruce Budworm, Pine Bark Beetle and a number of other pests affecting the health of our community forest. John Lillehaug, (committee chair) has written numerous articles in the Star News regarding these issues. The committee finished the Tree Identification Brochure for common conifers in McCall and has begun printing and distributing throughout town. Arbor Day was celebrated on June 07 in Legacy Park with the planting of a large Spruce tree along with a demonstration of the use and operation of a tree spade during the planting. The use of the tree spade and labor were generously donated by Tony Meckel Inc. Given the poor weather the turnout was less than desirable and the committee intends to work on publicity and higher attendance for next year. In addition the committee spent two days planting spruce seedlings on school grounds with the McCall and Donnelly 5<sup>th</sup> grade classes.

Moving forward the committee will continue to work on ways to educate and alleviate growing concerns and problems with insect infestations throughout the area. The committee has drafted a mailer/educational flyer communicating signs and symptoms related to the various insect attacks and hope to publish by early next spring. The committee will continue to monitor hazard trees and work with the City Arborist to monitor, treat, or remove hazard trees.

In addition the Committee has begun working on the 2013 Tree City USA application and is in the process of identifying our year end accomplishments that will be applied towards another Growth Award. The committee is also hoping to work with the Treasure Valley Community College on a tree inventory and analysis through their GIS department. Conversations with the college have been initiated and the project looks very promising.

Date: September 27, 2012

To: McCall City Council

From: Carol Coyle, Grant Coordinator

RE: AB12-179 draft contract for Third Street Corridor Revitalization Project (ICDBG-12-III-16-ED) with Idaho Department of Commerce

The project budget (Attachment B) and project schedule in the draft contract have changed. The revised budget removes the in-kind matching funds from the Idaho Department of Environmental Quality for the Bruneel Tire environmental site assessment (\$57,695). The project schedule has been updated to include the fall, 2012 waterline and stormwater project. The revised budget and project schedule are below.

LINE ITEMS	AMOUNTS				
	ICDBG Grant	City Cash	City In-Kind	Private Cash	Total
Administrative Expenses*			\$49,440		\$49,440
Project Planning			\$5,715		\$5,715
Design Professional	\$117,150		\$7,035		\$124,185
Construction	\$377,250	\$310,063		\$120,000	\$807,313
Legal & Audit		\$3,000			\$3,000
<b>Total Costs</b>	<b>\$494,400</b>	<b>\$313,063</b>	<b>\$62,190</b>	<b>\$120,000</b>	<b>\$989,653</b>

- Design professional contract executed
- Grant Administration contract executed
- Environmental release
- Begin construction of fall project (water/utilities)
- Develop final design documents
- Final design review
- Bid document approval
- Bid advertisement, opening
- Contract award

Complete  
 Not applicable  
 September, 2012  
 October, 2012  
 November, 2012  
 December 2012  
 January 2013  
 February 2013  
 March 2013

- Fair Housing Plan updated April, 2013
- 504 Review and Transition plan update June, 2013
- Construction 50-80% complete, 2<sup>nd</sup> public hearing June, 2013
- CDBG funded construction 100% complete September, 2013
- Completion of private partner infrastructure improvements Dec. 1, 2013
- Final closeout January 2014
- Audit October, 2014