



CITY COUNCIL - WORK SESSION
Monday, October 2, 2023 10:00 AM
City Council Chambers, Elks Civic Building - 107 S. Cascade Ave.

Public participation for this meeting will be in person in the City Council Chambers. The meeting can be viewed via livestream at <https://www.cityofmontrose.org/759/Live-Meetings-Viewer> and recordings of the meetings can be viewed at <https://www.youtube.com/user/MontroseCityGov>.

Hearing assistance devices are available for public use. Please let us know if you need accommodation. The City also offers interpretation for Spanish speakers. To allow time to book this resource, please email planningmail@cityofmontrose.org at least three (3) days before the meeting.

1) DISCUSSION ITEMS

- A) Sanitary Sewer Master Plan CIP 3 Design Contract Award (10 minutes)
Staff: City Engineer Scott Murphy
- B) Otter Pond Dam Utility Relocation Expense Authorization (15 minutes)
Staff: City Engineer Scott Murphy
- C) Uncompahgre Riverway Trail Landscaping Improvements Expense Authorization (10 minutes)
Staff: City Engineer Scott Murphy
- D) Proposed Changes to 6-1-21 Regarding Unreasonable Noise (10 minutes)
Staff: Assistant City Attorney Matt Magliaro
- E) Proposed Campaign Finance Ordinance for Municipal Elections (20 minutes)
Staff: City Attorney Ben Morris and City Clerk Lisa DelPiccolo
- F) 2024 City Council Meeting Calendar (15 minutes)
Staff: City Clerk Lisa DelPiccolo

2) GENERAL CITY COUNCIL DISCUSSION

3) STAFF COMMENTS

CONTRACT AWARD RECOMMENDATION



TO: Honorable Mayor and Members of the City Council
FROM: Scott Murphy, *City Engineer*
DATE: September 22, 2023
RE: Sanitary Sewer CIP3 Design Contract Recommendation
CC: William Bell, Shani Wittenberg, David Bries

Action

Consider the award of a professional services contract to Del-Mont Consultants in the amount of \$124,200 for completion of the Sanitary Sewer CIP3 Project Phase 1 design.

Project Background

The City of Montrose sanitary sewer master plan calls for the completion of Capital Improvement Project (CIP) 3 by 2030 in order to meet long-range flow capacity needs for a trunk line running between East Main Street and North 7th/Uncompahgre as shown in a marked-up excerpt included as Figure 1. The overall design project is expected to include the following key tasks, split into two phases:

Phase 1

1. Perform a detailed survey of the existing trunk line alignment (pipe sizes and invert elevations)
2. Fine-tune and calibrate the sewer model for this reach
3. Project anticipated growth within the sewer basin
4. Use these data to verify the need and extents of the sewerline upgrades (i.e., identify anticipated choke points within the trunk network and when they are anticipated to be limited in capacity)
5. Evaluate alignment alternatives to be more direct, accessible, and to improve sewer slopes

Phase 2

1. Perform detailed sanitary sewer design for the selected alignment

The project is split into two phases given the unknown scope of Phase 2. Once Phase 1 is able to identify the extents of improvements needed and establish a preferred alignment, the detailed design could then be scoped and priced for Phase 2.

Request for Proposals and Design Team Recommendation

The City issued a request for proposals (RFP) for design of the Sanitary Sewer CIP3 Project on June 22, 2023. Proposals were publically received on July 18, 2023 from seven consultants summarized in Table 1 below. Following receipt of the proposals, each was evaluated by the City of Montrose Engineering and Utility Departments and a score between 0 and 4 was assigned based on weighted evaluation criteria. The City then entered into pricing negotiations with the highest-rated consultant. This method of procurement was utilized for the project given the high-stakes nature of sewer design and the need for accurate designs from qualified teams.

TABLE 1		
Summary of Consultant Proposals		
Consultant	Location	Rating
Del-Mont Consultants	Montrose, CO	3.60
Farnsworth Group	Fort Collins, CO	3.40
HDR	Denver, CO	3.00
JUB Engineers	Palisade, CO	3.00
Landmark	Loveland, CO	2.70
SGM	Glenwood Springs, CO	2.60
JVA	Boulder, CO	2.40

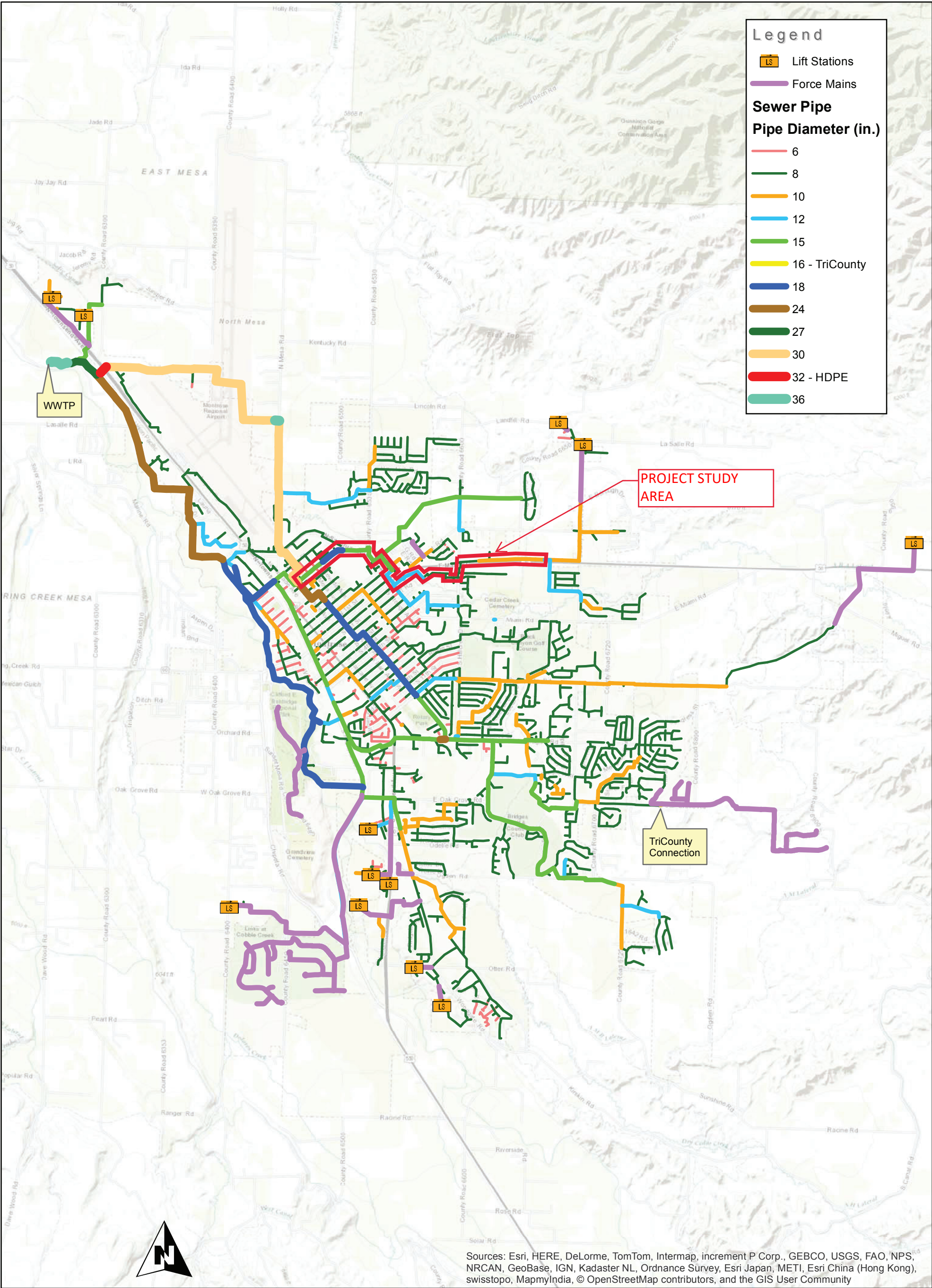
Using the process described above, the City selected Del-Mont Consultants as the preferred consultant for design of the Sanitary Sewer CIP3 Project. The negotiated price for completion of Phase 1 design is \$124,200 on a time-and-materials, not-to-exceed basis and this price is within expectations of the City. Once Phase 1 is complete, a separate contract change order would be considered for completion of Phase 2 sometime in late 2024.

Contract Administration, Schedule, and Project Financials

Contract administration and project management will be performed by the City of Montrose engineering department.

As part of previous-years' budget-planning efforts, this design project was originally envisioned to start in 2024; however, deferment of other sewer projects scheduled for late 2023 created an opening in the schedule to get this started now. Throughout 2023, the City has also seen several development proposals within CIP3's sewer basin that warrant design/study now to ensure the system is able to stay ahead of the anticipated growth.

2023 expenditures for the project would be funded using available reserves within the sewer enterprise fund. The 2024 budget proposes \$250k towards Phases 1 and 2 of the project; this leaves approximately \$126k for Phase 2.



Montrose Existing Sewer System

Figure 1

PROJECT EXPENSE AUTHORIZATION



TO: Honorable Mayor and Members of the City Council
FROM: Scott Murphy, *City Engineer*
DATE: September 22, 2023
RE: Otter Pond Dam Utility Relocation Project
CC: William Bell, Shani Wittenberg, Craig Ullmann, Jason Ward, Kristie Sanchez

Purpose

Consider the approval of \$370,000 in reimbursement expenditures payable to Mountain Valley Contracting for the relocation of City water and sewer utilities around the Otter Pond Dam replacement project.

Background

Otter Pond, located off of Woodgate Road in the City of Montrose, is a private 14 acre pond and residential subdivision first developed around 1994. The pond was created by impounding the Bureau of Reclamation's (BOR) F-Drain through construction of a dam embankment and outlet works at its northern end as shown in Figure 1. The Otter Pond Circle right of way and utilities were constructed by the developer over top of/through this embankment. Prior to being turned into a pond, the land was irrigated farmland and was relatively distant from the City's urban core as shown in Figure 2.

The pond, its embankment, and outlet works are private amenities owned and maintained by the Otter Pond Homeowner's Association (HOA). A records search has indicated that the embankment was never formally permitted with the Bureau of Reclamation (as the F-Drain facility owner) or the Colorado Division of Water Resources (DWR, as the regulator of water impoundments in the State). It is not known why this permitting was not performed by the developer or their engineers at the time it was designed and built.

In the late summer of 2022, City street crews started to receive calls about subsidence at the northern end of Otter Pond Circle over-top of the pond's outlet works. Upon further investigation, it was determined that the outlet works for Otter Pond were structurally compromised due to corrosion of the pipes. Entire portions of the outlet work pipes (twin 24-inch diameter corrugated metal pipes on a steep grade) had failed which was then allowing for erosion, significant soil loss, and development of large underground soil caverns within the embankment. Once the caverns became large enough, they started to collapse in on themselves which then showed up as sinkholes and depressions at the road surface. Once discovered, Otter Pond Circle was closed by City street crews in the vicinity of the embankment.

Following discovery of the outlet works failure, the Otter Pond HOA reached out to the Colorado DWR, division of dam safety. The regional dam safety engineer performed an emergency inspection of the embankment and immediately ordered the HOA to begin emergency drawdown of the pond on the premise that progression of the embankment to failure was plausible if left in the current condition. The Otter Pond HOA then worked to setup a siphon over the embankment and partially drew down the pond. Since this initial inspection, the dam has remained under a formal fill-level restriction order imposed by the State Engineer.

The division of dam safety then worked to determine the jurisdictional status and hazard classification of the pond and its embankment. Following several surveys and modeling of the flood hazard presented by

a potential failure of the embankment, the division of dam safety determined that the embankment and reservoir do fall under the jurisdiction of the State and classify as a significant hazard. Modeling indicated that a failure of the embankment would lead to flooding several feet deep between Otter Pond and the Uncompahgre River, including much of Woodgate Road and the Community Recreation Center property.

Classified as a significant hazard dam under the jurisdiction of the State, repair of the embankment and its outlet works would need to occur under the State's purview and according to their dam-safety rules and regulations. To that end, the Otter Pond HOA hired Applegate Group, an engineering consultant specializing in dams, to complete design of the repair. In the interest of protecting property downstream of the pond and ensuring the emergency situation was stabilized as quickly as possible, the City also committed \$100k in ARPA funds to assist with emergency drawdown, design, and repair of the embankment.

Embankment Repair and Utility Relocations

Repair of the Otter Pond dam will require removing portions of the existing embankment and outlet works, construction of a new, properly sized/configured outlet works, and reconstruction of the embankment back to the road level. Unfortunately, as mentioned above, the City's water and sewer lines currently parallel and are situated within the embankment. The presence of water and sewer utilities within what has become a state-jurisdictional dam creates the following risks to both Otter Pond and the City:

1. A leak in the pressure waterline, should it occur, could lead to excessive erosion or reduce soil strength to the point of compromising the integrity of the embankment and potentially leading to failure of the dam.
2. Access to either the water or sewer line for any maintenance activities could require excavation into the embankments. In order to perform these excavations and avoid compromising the embankment, it would likely be necessary to perform emergency drawdown of Otter Pond. This would be a negative for the Otter Pond neighborhood and could delay response times to the maintenance needs of the utility.
3. Restoration of the maintenance excavations would require specialized designs and approval by the State which would prolong the reservoir drawdown and substantially increase costs of the backfill/restoration.
4. The sanitary sewer line appears to be in vertical conflict with the proposed replacement outlet works of the dam.
5. Accommodating the utility lines during construction of the dam would substantially increase its construction costs and add risk to the project.

In response to these risks/issues, the City recommends that the water and sewer utility lines be relocated around the embankment entirely as shown in the attached utility relocation drawing.

Construction Procurement

The dam's outlet works replacement design was completed and submitted to the state for review on August 2, 2023. Throughout the design process, the City worked with the dam designer to incorporate water and sewer utility relocations into the overall dam project drawings. Because under the jurisdiction

of the state, it is necessary that all work (both outlet works replacement and utility relocations) occur under the purview of a single design engineer.

With the design complete, the Otter Pond HOA then worked to solicit bids for construction of the project. The project bid form broke out costs for the outlet works replacement and utility relocations and two bids were received as summarized in Table 1 below.

Table 1				
Summary of Bid Results				
Bidder	Location	Outlet Works Replacement	Water and Sewer Relocations	Total
Mountain Valley Contracting	Grand Junction, CO	\$627,730.00	\$369,119.00	\$996,849.00
X-Field Services	Craig, CO	\$1,181,274.50	\$451,760.00	\$1,633,034.50

The project's low bidder is considered qualified to perform the work and was the same contractor who successfully completed the City's Cerro Reservoir Outlet Works Rehabilitation Project in 2020. The Otter Pond HOA has issued a letter of intent to award a construction contract to Mountain Valley Contracting.

Project Financials and Timeline

Because the project is being performed as a single construction project contracted with the Otter Pond HOA, the utility relocation project expenditures would be processed as reimbursements either to the contractor directly or to the Otter Pond HOA if they were to initially pay for the utility relocation work. For the \$370,000 in utility relocation expenditures, \$220k are associated with waterline relocations and \$150k with the sewerline work.

The Otter Pond HOA's goal is to have the dam replacement complete and the pond ready to refill by April of 2024. In order to meet this deadline, it will be necessary for the utility relocation work to be started in 2023. The contractor estimates that at least 50 percent of the utility relocation expenditures would be incurred in 2023 with the remainder in 2024. All 2023 expenditures would be paid using capital reserves within the water and sewer enterprise funds. 2024 expenditures are currently included in the proposed budget for 2024. Before construction on the dam can begin, it will be necessary for all designs to be approved and permitted with the BOR and State DWR. This approval timeline is unknown and may affect the overall schedule and 2023/2024 split.

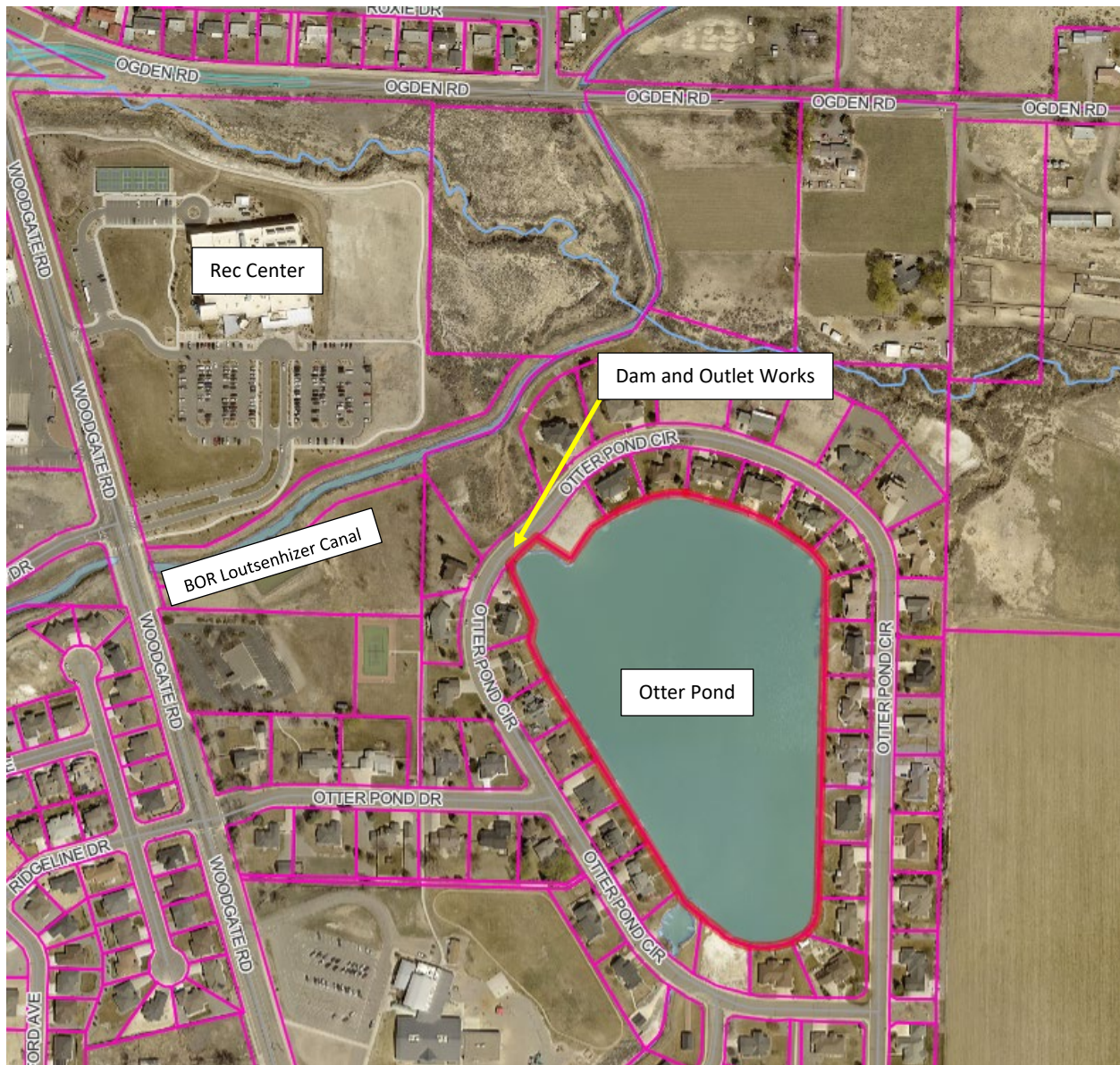
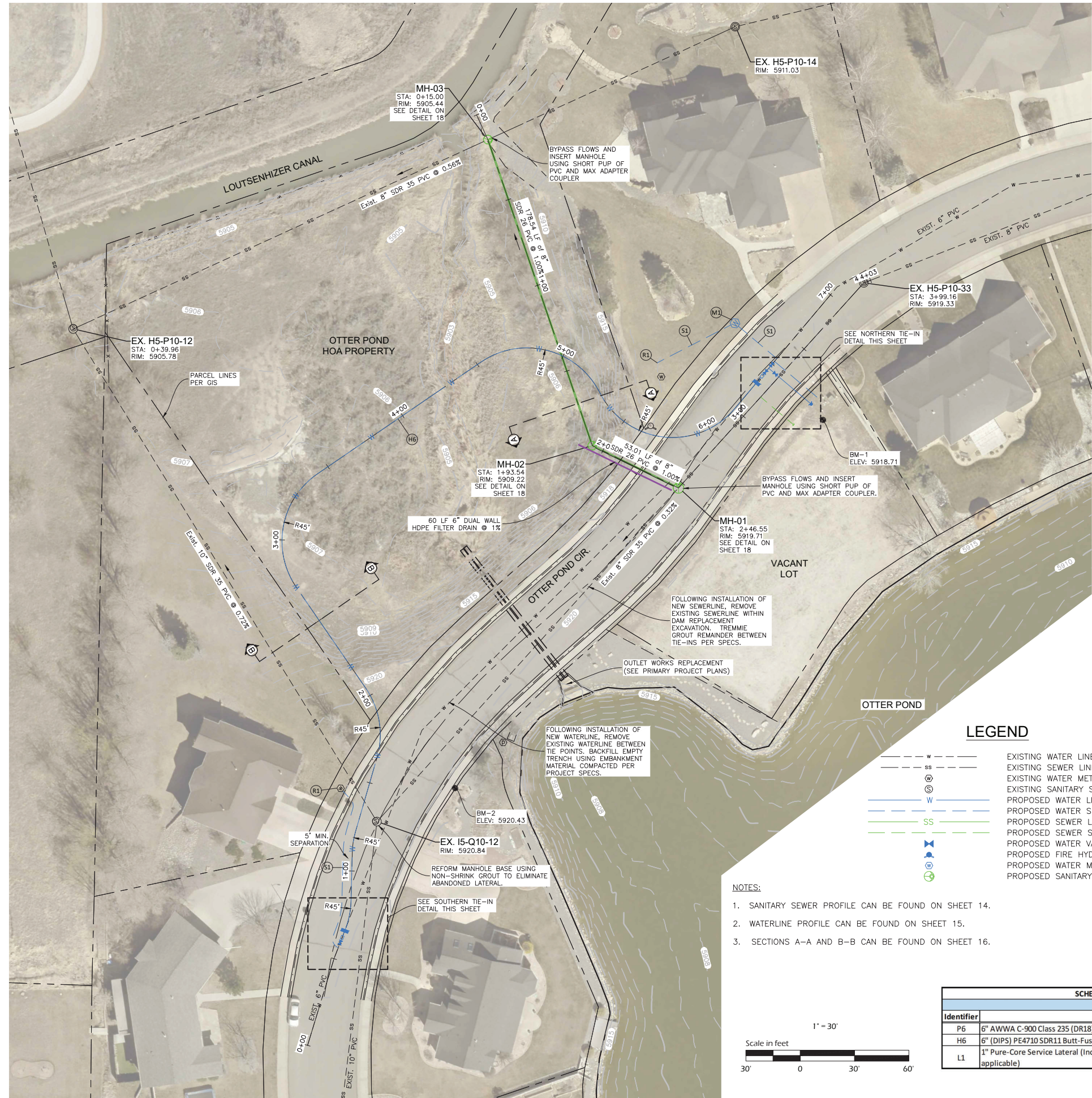


Figure 1: Otter Pond Site Overview



Figure 2: Otter Pond Area Immediately Prior to Development (Sept. 1993)



NORTHERN TIE-IN DETAIL



SOUTHERN TIE-IN DETAIL

SCHEDULE OF PIPE	
WATER	
Identifier	Description
P6	6" AWWA C-900 Class 235 (DR18) PVC Pipe
H6	6" (DIPS) PE4710 SDR11 Butt-Fused HDPE
L1	1" Pure-Core Service Lateral (Incl. curb stop and connection to meter pit where applicable)

SCHEDULE OF FITTINGS				
WATER				
Identifier	Description	Size (in)	Notes	
T5	Tap	6 x 6 x 6	Spony coated mechanical restrained joint	
A6	HDPE MJ Adapter	6 x 6	Butt Fused Mechanical Joint w/ Blue Bolts	
S1	Service Line Tap	1	CC Thread. See City Standard Detail W-63.	
M1	Meter Pit Assembly	1	Incl. curb stop valve, yoke, meter pit. Excl. lid and meter by City.	
R1	Reconnect to Meter Pit or Service	0.75 or 1	See City Standard Detail W-02	
G6	Gate Valve	6	Reconnect to existing yoke or service line. Use adapter if necessary to go from 1" to 3/4"	
F6	Hydrant Assembly	6"	See City Standard Detail W-10	
			See City Standard Detail W-09	
SEWER				
Identifier	Description	Size (in)	Notes	
T58	Tap Saddle	8 x 4		
SC4	PVC Cap	4"	Glue slip cap over end of exposed pipe	

PRELIMINARY

[illegible]

	DEL-MONT CONSULTANTS, INC. ENGINEERING & SURVEYING 125 Colorado Ave. W. Montrose, CO 81401 W (970) 248-2251 www.delmont.com & info@delmont.com		DWS	
	DESIGNED BY	CHECKED BY	DATE REBID	2023-08-02
DRAWN BY	RRD	FILE NAME 2023DC-24-NE-2RD-DWS		
	RRD			

CITY OF MONTROSE
 OTTER POND WATER AND SEWER RELOCATION
 MONTROSE, COLORADO

UTILITY PLAN OVERVIEW

DMC JOB NO.: 23082

SHEET NO.: 13

OF 19 SHEETS

PROJECT EXPENSE AUTHORIZATION



TO: Honorable Mayor and Members of the City Council
FROM: Scott Murphy, *City Engineer*
DATE: September 21, 2023
RE: Uncompahgre Riverway Trail Landscaping Improvements Expense Authorization

Action

Consider the approval of \$100,000 in reimbursement expenditures to construct landscaping improvements alongside the Uncompahgre Riverway Trail north of North 9th Street.

Background

Concurrent with the initial development of the Montrose Urban Renewal Authority (MURA), the City of Montrose constructed a northern extension of the Uncompahgre Riverway Trail (known as the GOCO Connect Trail Project) from Main Street north to Colorado Outdoors. Within the MURA/Colorado Outdoors area, the trail was constructed on a 40+ acre tract of land dedicated to the City. This land includes the river itself, sensitive riparian areas, and the area needed for the riverway trail.

As the MURA was being planned and designed, it was envisioned that the Uncompahgre Riverway Trail would eventually include trailside improvements between the trail and the river (on City property). These improvements were planned to make the trail corridor more aesthetically pleasing and to provide spaces for the public to spend time enjoying the river. However, at the time the trail was constructed there weren't any developments alongside the trail yet that would justify improving the riverfront area (e.g., it didn't make sense to create areas for the public to use if there wasn't a nearby draw to a restaurant or similar adjacent business). Furthermore, it was desired to make sure that any trailside improvements performed would match the look and feel of landscaping to take place on the private developments behind the trail. Ultimately, the long range vision would be to construct improvements on the public portions of the trail concurrent with each adjacent development that, when finished, would make for a complete riverwalk experience.

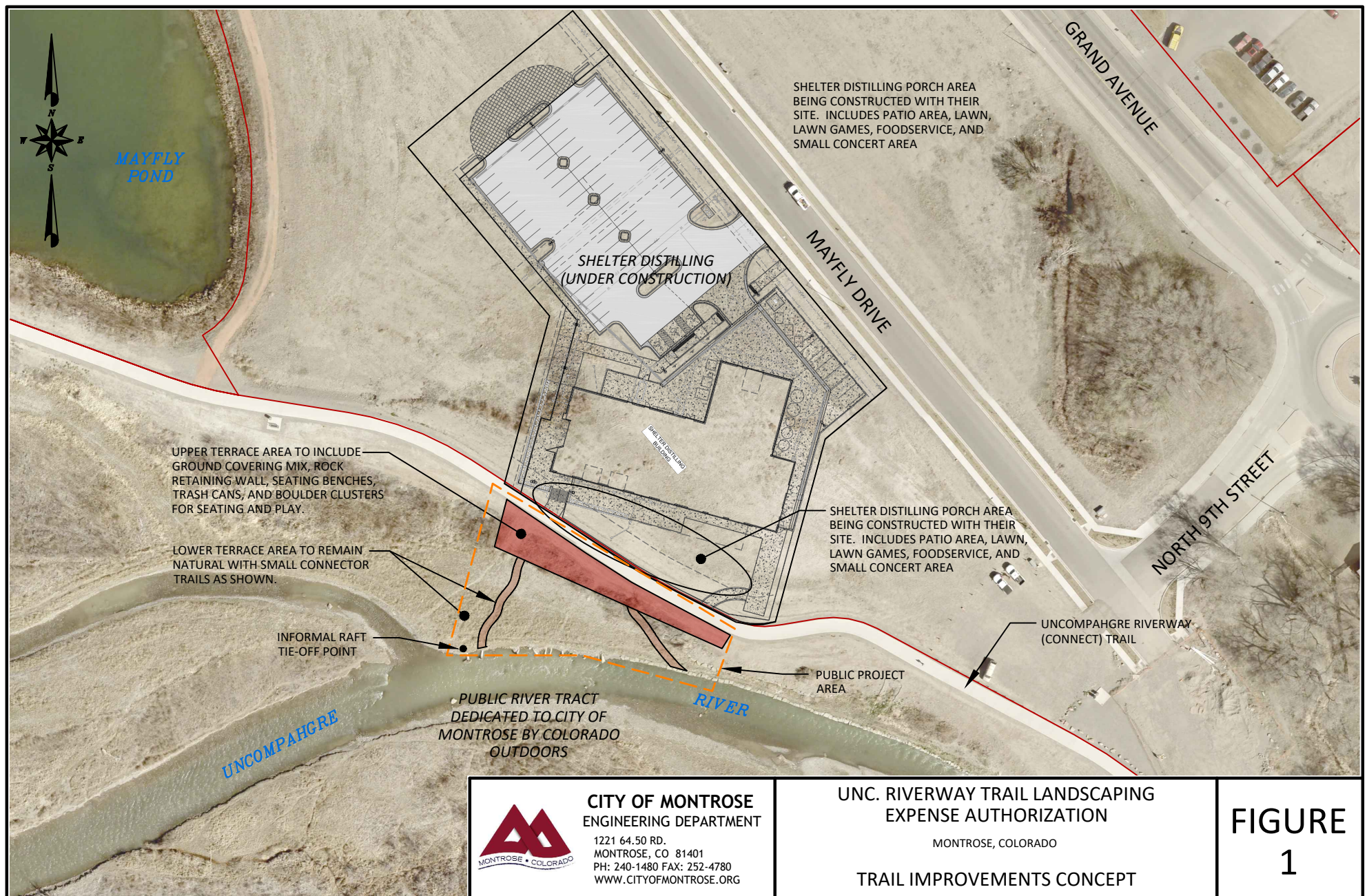
The first major development to occur immediately alongside accessible portions of the Uncompahgre River within Colorado Outdoors is the Shelter Distillery project. This project is under construction immediately north of North 9th Street and abuts the riverway trail as shown in Figure 1. As part of the Shelter Project, they will be creating a patio area on their lot to be used for foodservice, lawn games, and concert events. With these improvements and the public draw it will create, it is now worthwhile to create a complementary space on the public portion of the trail. The proposed main elements of this public trailside area are shown in Figure 1.

Project Timeline and Financials

The riverway trail landscaping improvements are targeted for completion before the Shelter Distillery opens. For continuity and efficiency, it is proposed to use the distillery site's landscaping contractor for construction of the public trailside landscaping improvements and to reimburse them for the work performed. Although the majority of the project would take place in 2024, the site landscaping contractor has indicated they will likely have openings in late fall of 2023 and would like to get started on the project in order to ensure that project deadlines are met.

Project Expense Authorization
Riverway Trail Landscaping Improvements
September 21, 2023

The 2024 budget included \$100k for the trailside improvements on the City's public tract. If the contractor is able to start this fall, it is anticipated that approximately \$20k of this total would be spent in 2023. As necessary, available budget savings from other projects or a budget supplement would be utilized to fund the 2023 portions of the project. The total expenditure would not exceed \$100k between both years' funding.



ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY OF MONTROSE, COLORADO,
REPEALING AND REPLACING TITLE 6 CHAPTER 1 SECTION 21 (6-1-21)
REGARDING UNREASONABLE NOISE.**

WHEREAS, the City's Police Regulations are updated from time to time; and

WHEREAS, the City Council of the City of Montrose has determined that the changes to the Municipal Code will further the health, safety, and welfare of the people of the City of Montrose.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MONTROSE, COLORADO that:

SECTION 1:

Title 6, Chapter 1 Section 21. (6-1-21.(D)) (Unreasonable noise.) of the Official Code of the City of Montrose, Colorado, is hereby amended to read in its entirety as follows:

6-1-21. - Unreasonable noise.

(D) If sound broadcast from speakers or emitted from any equipment from a motor vehicle is audible within other motor vehicles on the road with the windows up, or audible within an occupied structure with the doors and windows closed, it shall be prima facie evidence that such sound is unreasonable noise for the purposes of Subsection (A) of this Section. It is immaterial for the purposes of this provision whether the equipment emitting the sound was originally installed on the vehicle, installed subsequently, modified subsequently, or is emitting sound due to damage or defect.

SECTION 2:

Except as specifically amended hereby, the Official Municipal Code of the City of Montrose, and the various secondary codes adopted by reference therein, shall continue in full force and effect.

SECTION 3:

The City Council hereby finds, determines and declares that this Ordinance is necessary and proper to provide for the safety, preserve the health, promote the prosperity, and improve the order, comfort and convenience of the City of Montrose and the inhabitants thereof.

SECTION 4:

The City Council hereby finds, determines and declares that it has the power to adopt this Ordinance pursuant to the authority granted to home rule municipalities by Article XX of the Colorado Constitution and the powers contained in the City of Montrose Charter.

SECTION 5:

If any provision of this Ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable.

SECTION 6:

All ordinances and parts of ordinances in conflict with this Ordinance are hereby repealed.

SECTION 7:

This Ordinance shall become effective as set forth in the City of Montrose Charter.

You will please take notice that the Montrose City Council will hold a hearing upon the above Ordinance and on the question of its adoption on second reading on Tuesday, the ____ day of _____, 2023, at the hour of 6:00 p.m. at the Elks' Civic Building in Montrose, Colorado.

INTRODUCED, READ and PASSED on first reading this _____day of _____, 2023.

ATTEST:

Lisa DelPiccolo, City Clerk

Barbara Bynum, Mayor

INTRODUCED, READ and ADOPTED on second reading this _____day of _____, 2023.

ATTEST:

Lisa DelPiccolo, City Clerk

Barbara Bynum, Mayor

ORDINANCE NO. _____

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ATTEST:

Lisa DelPiccolo, City Clerk

Barbara Bynum, Mayor

INTRODUCED, READ and ADOPTED on second reading this _____day of _____, 2023.

ATTEST:

Lisa DelPiccolo, City Clerk

Barbara Bynum, Mayor

ORDINANCE NO. 2643

AN ORDINANCE OF THE CITY OF MONTROSE, COLORADO, ADDING NEW SECTIONS 5, 6, AND 7 TO TITLE 1 CHAPTER 9 OF THE OFFICIAL CODE OF THE CITY OF MONTROSE, COLORADO CONCERNING CAMPAIGN FINANCE REGULATIONS FOR ~~CITY COUNCIL CANDIDATES, CANDIDATE COMMITTEES, COMMITTEES FORMED IN OPPOSITION TO A CANDIDATE, AND ISSUE COMMITTEES~~CITY OF MONTROSE MUNICIPAL ELECTIONS

WHEREAS, the Official Code of the City of Montrose, Colorado does not contain provisions relating to campaign finance; and

WHEREAS, the Colorado Legislature by and through HB 23-1245, has created new campaign finance laws applicable to Colorado Municipalities, in the absence of local regulations; and

WHEREAS, the City Council finds and declares that local regulations concerning campaign finance funding limits, reporting, and complaints are in the best interest of the public health, safety, and welfare, and will further the City's policy goals of retaining local control over its affairs.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MONTROSE, COLORADO that:

Section 1:

A new Section 5 is hereby added to Title 1 Chapter 9 of the Official Code of the City of Montrose, Colorado to read in full as follows:

Sec. 1-9-5. Campaign finance.

(A) All applicable provisions of the Colorado Constitution, requirements of the Fair Campaign Practices Act, C.R.S. § 1-45-101, *et seq.*, and regulations promulgated by the Colorado Secretary of State, 8 CCR 1505-1, 6, all as amended from time-to-time, shall apply to City of Montrose elections, except when the Official Code of the City of Montrose asserts a different requirement, in which case said Code shall control.

(B) The Complaint procedure set forth herein shall apply to violations and alleged violations of the aforementioned laws and regulations, including those set forth within the Official Code of the City of Montrose, as they pertain to City of Montrose municipal elections.

~~(C) Anyone running for any seat on the City Council, whether for a specific district or for an at large seat, shall be referred to as a "candidate" in this Chapter.~~

~~(1) Issue committees favoring, opposing, or advocating in regard to a municipal referendum or initiative shall be treated the same as a candidate committee for purposes of this Chapter.~~

~~(2) Groups or individuals opposing a candidate or candidate committee shall be treated the same as candidates or candidate committees for the purposes of this Chapter.~~

~~(D) Candidates shall file a candidate affidavit form with the City Clerk within ten (10) days of declaring an intention to run for City Council. Issue committees shall do the same, within ten (10) days of formation, or before accepting donations.~~

~~(E) Candidates may fund a campaign through either a candidate committee or as a stand alone candidate (without a committee).~~

~~(1) A candidate committee may accept contributions and make expenditures under the authority of a candidate, and shall open a checking account exclusively for this purpose.~~

~~(2) A stand alone candidate may only spend their own money, and shall not accept contributions.~~

(D) Public disclosure of campaign finance-related activities: all ~~candidates and candidate committees~~ candidates, committees, and any other person or entity required by law to report campaign finance-related activities –shall file public disclosure statements, on forms provided by and acceptable to the City Clerk, as follows:

(1) The first filing is due on March 15th of the year in which the election is to be held.

(2) The second filing is due March 31st of the year in which the election is to be held.

(3) The third filing is due on May 5th of the year in which the election is to be held.

(4) Deadlines which fall on a weekend or City-observed holiday shall default to the next business day.

(5) The City Clerk shall post a schedule of similar deadlines in advance for special elections.

(E) Post-election activity: after a municipal election, all- ~~committees, and any other person or entity required by law to report campaign finance-related activities with a checking account containing campaign-related funds~~ candidate committees shall either:

(1) Close the ~~committee's~~ checking account and file a termination report on forms acceptable to the City Clerk; or

(2) If the account remains open, file an account report on forms acceptable to the City Clerk annually on or before May 5th.

Commented [BM1]: After we added the green highlighted language at Council's direction, it became clear we did not need these other provisions, as they generally mimic the State's from Title 1, Ch. 45.

- (F) No funding limits are provided for City Council candidates, committees, and any other person or entity required by law to report campaign finance-related activities ~~candidate committees or issue committees~~.
- (G) The City Manager, by and through the City Clerk, shall develop and administer the use of all forms required by this Chapter.
 - (1) The City Clerk may reject any filing for failure to use the proper form, or for failure to properly complete such form, or otherwise cooperate with the administration of these ~~regulations~~ provisions.

Section 2:

A new Section 6 is hereby added to Title 1 Chapter 9 of the Official Code of the City of Montrose, Colorado to read in full as follows:

Sec. 1-9-6. Complaint procedure pertaining to campaign finance.

- (A) Any elector for City of Montrose municipal elections who believes that a violation of this Chapter by a candidate, candidate committee or issue committee has occurred in a City election may file a written complaint with the City Clerk in conformance with subsection (B) below. A written complaint shall be filed with the City Clerk no later than thirty (30) days after such elector knew or should have known, by the exercise of reasonable diligence, of the alleged violation. This § 1-9-6 shall apply to violations arising out of a municipal campaign finance matter, which refers to any matter exclusively related to a municipal campaign, including matters involving a candidate for a municipal office; a municipal ballot issue or ballot question; and contributions or expenditures made by any person, committee, or group to support or oppose any candidate for municipal office, or municipal ballot issue or ballot question.
- (B) Written complaints shall be filed on a form provided by the City Clerk and shall include the following:
 - (1) The name, address, e-mail address, telephone number, and signature of the complainant (and, if complainant is represented by legal counsel, legal counsel's name, address, e-mail address, telephone number, and signature); and
 - (2) The name and, if known, the telephone number and address of the person alleged to have committed a violation (the "respondent"); and
 - (3) The particulars of the violation and any available documentation or evidence supporting the allegation.
- (C) If an incomplete complaint is received, the date on which the originally filed complaint was received is considered the filed date if a complete copy is received within three (3) business days of notification from the City Clerk that the complaint was incomplete.

(D) Initial Review. The City Clerk shall review the complaint within ten (10) business days of receipt and within such timeframe shall take one (1) or more of the following actions:

(1) The City Clerk shall dismiss a complaint if the City Clerk determines, upon consultation with the City Attorney, that the complaint:

(a) Was not timely filed under § 1-9-6 (A); or

(b) Has not identified one or more specific violations of this Chapter pertaining to a municipal campaign finance matter, or any policies or regulations promulgated by the City concerning municipal campaign finance matters; or

(c) Does not allege specific facts or provide information sufficient to support a legal and factual basis for the complaint.

(2) In the case of dismissal, the City Clerk shall notify the complainant and respondent of the reasons for dismissal in writing. The City Clerk's dismissal is a final decision, and subject to review under Rule 106 of the Colorado Rules of Civil Procedure.

(3) If the City Clerk determines that the complaint alleges one (1) or more curable violations, the City Clerk will notify the respondent and provide an opportunity to cure in accordance with Subsection (E).

(4) If the City Clerk determines that the complaint alleges one (1) or more violations, asserts facts, or provides information sufficient to support the alleged violations but that may require additional factual finding(s) or legal interpretation, and that the asserted violations may not be curable as described in Subsection (E), the City Clerk will take the actions set forth in Subsection (F).

(E) Curing violations.

(1) Upon the City Clerk's determination that a complaint alleges a failure to file or otherwise disclose required information, or other curable violation, the City Clerk will notify the respondent by e-mail, or by registered mail or certified mail, return receipt requested, if e-mail is unavailable, of the curable deficiencies alleged in the complaint.

(2) Respondent shall have ten (10) business days from the date the notice is mailed to cure any deficiencies specified in the notice.

(3) The City Clerk may ask the respondent to provide additional information and may grant extension(s) of time upon written request by the respondent.

(4) After the period for cure, the City Clerk will determine, within five (5) business days, whether the respondent cured the violation(s), and if so, whether the respondent substantially complied with respondent's legal obligations under this Chapter pertaining to municipal campaign finance matters ("legal requirements").

- (a) If the City Clerk determines that the respondent substantially complied with the legal requirements, the City Clerk will dismiss the complaint.
 - (b) If the City Clerk determines that the respondent did not substantially comply with the legal requirements, the City Clerk will take action as set forth in Subsection (F).
 - (c) The City Clerk's determination under this Subsection (E)(4) is a final decision and subject to review under Rule 106 of the Colorado Rules of Civil Procedure.
- (5) In determining whether respondent "substantially complied" pursuant to this Subsection (E), the City Clerk shall consider:
 - (a) The extent of the noncompliance; and
 - (b) The purpose of the provision violated and whether that purpose was substantially achieved despite the noncompliance; and
 - (c) Whether the noncompliance can properly be viewed as an intentional attempt to mislead the electorate or election officials.
- (F) Hearing officer, hearing, and determination.
 - (1) When the City Clerk is required to take further action as set forth in Subsections (D)(4) or (E)(4)(b), the City Clerk shall notify the City Manager of the complaint, and the City Manager, in consultation with the City Clerk and the City Attorney, shall refer the complaint to an independent hearing officer to hear and determine such complaint. Such referral shall occur within ten (10) business days of the City Clerk's determination pursuant to Subsections (D)(4) or (E)(4)(b).
 - (2) The hearing officer shall schedule a hearing to be held within fifteen (15) business days of referral of the complaint to the hearing officer.
 - (3) The City Clerk shall send notice of the hearing and any applicable rules governing the hearing process to the complainant and to the respondent, who shall also receive a copy of the complaint received by the City Clerk, within two (2) business days of the date of referral of the complaint to the hearing officer. The City Clerk may send notice by e-mail to the address of the complainant shown on the complaint form and to the respondent at the address provided by respondent. If e-mail is unavailable, the City Clerk shall send notice by registered mail or certified mail, return receipt requested.
 - (4) Upon the request of either party, the hearing officer may issue an administrative subpoena requiring the attendance of a witness or party in relation to an alleged municipal campaign finance violation, which shall be served on the party to whom it is directed by the requesting party pursuant to Rule 304 of the Colorado Rules of Civil Procedure. It shall be unlawful for a witness or party to fail to comply with such a

subpoena, and any person convicted of a violation thereof may be punished in accordance with § 1-2-3 of this Code.

- (5) The hearing officer may grant the respondent a continuance of up to thirty (30) calendar days upon a showing of good cause.
- (6) The hearing shall be electronically audibly recorded. Procedure for such hearing shall be in substantial accordance with § 24-4-105, C.R.S., except when in conflict with the provisions of this Chapter, in which case this Chapter shall control. Additional rules of procedure may be promulgated by the City Manager. At the hearing, complainant shall have the burden of proof to establish that a violation occurred under a preponderance of the evidence standard. Respondent and complainant may present evidence to the hearing officer in the form of testimony, documents, rebuttal testimony, and may elect to make opening and closing statements.
- (7) Following the hearing, the hearing officer shall issue a written decision within ten (10) business days.
- (8) If the hearing officer determines that respondent violated the provisions of this Chapter, the hearing officer's order shall include any appropriate order, sanction, or relief authorized hereunder and may include, without limitation, sanctions as follows:
 - (a) Impose a civil penalty of at least double, and up to five (5) times, the amount contributed, received, or spent in violation of any contribution prohibition or limitation or in violation of a contribution reporting requirement.
 - (b) Impose a civil penalty of twenty-five dollars (\$25.00) per day for each day that a statement or other information required to be filed pursuant to this Chapter is not filed by the close of business on the day due.
 - (c) Order disclosure of the source and amount of any undisclosed contributions or expenditures.
 - (d) Order the return to the donor of any contribution made that was the subject of the violation.
 - (e) Any amounts collected as a penalty for violation of these campaign finance regulations shall be deposited into the City's general fund.
- (9) The hearing officer's determination is a final decision subject to review under Rule 106 of the Colorado Rules of Civil Procedure.
- (G) Personal liability. Candidates shall be personally liable for penalties imposed upon the candidate's committee.

- (1) If more than one individual is the legal agent of a candidate committee or issue committee, such individuals may be held jointly and severally liable for any penalty when they have acted with complicity as defined in § 6-1-1 to violate these provisions.
- (H) Collection of penalties. The City may collect civil penalties in accordance with applicable law, and may engage the use of a private collection agency.
- (I) Rules and regulations. The City Manager shall be authorized to adopt rules and regulations as may be required to implement the provisions of this § 1-9-6.

Section 3:

A new Section 7 is hereby added to Title 1 Chapter 9 of the Official Code of the City of Montrose, Colorado to read in full as follows:

Sec. 1-9-7. Records retention pertaining to campaign finance.

~~(A) — (A) All candidate and committee forms required by the City Clerk, or this Chapter, shall be retained by the City for a period of ten (10) years from the date of filing with the City Clerk, or such forms shall be retained for six (6) years from the date the candidate, if elected, leaves office, or leaves any consecutive and subsequent elective office held with the City of Montrose. Records pertaining to campaign finance shall be retained as required by C.R.S. § 1-45-101, *et seq.*, as amended, or other applicable law.~~

~~(B) — All records which would be considered “public records” under C.R.S. § 24-72-200.1, *et seq.*, (the Colorado Open Records Act, as amended) or other applicable law, generated by the City pertaining to this Chapter, shall be kept for a period of ten (10) years from their date of creation.~~

~~(C) —~~

(B) The record pertaining to any hearing held pursuant to § 1-9-6 (F) of this Chapter shall be retained for a period of ten (10) years from the date a final decision was rendered by the hearing officer.

- (1) Such record shall include: the original or certified copies of any pleadings, applications, evidence, exhibits, and other papers presented to or considered by the hearing officer, rulings upon exceptions, and the decision, findings, and action of such hearing officer, along with a digital audio recording of the proceedings, if any were held, and any transcript thereof.

Commented [BM2]: This is currently 1 year from date of filing, or 1 year after an elected candidate has left office.

Section 4:

Except as specifically amended hereby, the Official Municipal Code of the City of Montrose, and the various secondary codes adopted by reference therein, shall continue in full force and effect.

Section 5:

The City Council hereby finds, determines and declares that this Ordinance is necessary and proper to provide for the safety, preserve the health, promote the prosperity, and improve the order, comfort and convenience of the City of Montrose and the inhabitants thereof by having local regulations governing campaign finance reporting, limits, and complaints for municipal elections.

Section 6:

The City Council hereby finds, determines and declares that it has the power to adopt this Ordinance pursuant to the authority granted to home rule municipalities by Article XX of the Colorado Constitution and the powers contained in the City of Montrose Charter.

Section 7:

If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable.

Section 8:

All ordinances and parts of ordinances in conflict with this Ordinance are hereby repealed.

Section 9:

This Ordinance shall become effective as set forth in the City of Montrose Charter.

You will please take notice that the Montrose City Council will hold a hearing upon the above Ordinance and on the question of its passage on first reading on Tuesday, the _____ day of _____, 2023, at the hour of 6:00 p.m. at the Elks' Civic Building in Montrose, Colorado.

INTRODUCED, READ and PASSED on first reading September _____, 2023.

Barbara Bynum, Mayor

ATTEST:

Lisa DelPiccolo, City Clerk

INTRODUCED, READ and ADOPTED on second reading this ____ day of _____, 2023.

Barbara Bynum, Mayor

ATTEST:

Lisa DelPiccolo, City Clerk



CITY OF MONTROSE
CITY CLERK

MEMO

DATE: September 28, 2023
TO: City Council
FROM: Lisa DelPiccolo, City Clerk
RE: 2024 City Council Meeting Schedule

Listed below are calendar items for discussion at the October 2 work session. It is important to note that any changes to the regular meeting schedule require City Council action. Work sessions can be scheduled as City Council desires.

Work Session Conflicts

For Monday holidays that conflict with City Council work sessions, protocol has been to schedule the work session at 10 a.m. on the Tuesday of the regular meeting. The holiday conflicts for 2024 work sessions are listed below:

- January 1 - New Year's Day
- January 15 - Martin Luther King Jr. Day
- February 19 - Presidents Day
- September 2 - Labor Day
- October 14 - Indigenous Peoples Day

If City Council would like to continue with the current protocol, these work sessions will be rescheduled for January 2, January 16, February 20, September 3, and October 15, respectively.

Regular Meeting Conflicts

Election Day for the 2024 Municipal Election falls on Tuesday, April 2, which coincides with a regular City Council meeting. In the past, these meetings have been rescheduled.

The Colorado Municipal League (CML) Annual Conference is scheduled for June 18-21 and conflicts with the regular meeting scheduled on June 18.



City of Montrose

2024 City Council Calendar

City Holiday
City Council
City Council Work Session
CML Annual Conference

JANUARY						
S	M	T	W	T	F	S
	1	2	3	4	5	6
7	8	9	10	11	12	13
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28	29	30	31			

JULY						
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FEBRUARY						
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AUGUST						
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SEPTEMBER						
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OCTOBER						
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JUNE						
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DECEMBER						
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