



## Agenda Memorandum

Agenda Item – {{section.number}}.B.

City Council Meeting  
May 22, 2023



### **Strategic Priority 1: Preparedness and Resilience**

Build a system of intentional support for residents, businesses and the environment that mitigates risks and proactively seeks out ways to ensure the community not only endures, but thrives.



### **Strategic Priority 2: Proactive Public Safety**

Enhance public safety to emphasize both prevention and enforcement, engage the community through education and outreach and provide the resources necessary to ensure safety and well-being throughout Westminster. Enhance public safety to emphasize both prevention and enforcement, engage the community through education and outreach and provide the resources necessary to ensure safety and well-being throughout Westminster.



### **Strategic Priority 5: Robust Infrastructure**

Provide safe and equitable access to core services and amenities by safeguarding, maintaining and improving the city's water, wastewater, stormwater, mobility and roadway systems.

## **Subject:**

Resolution No. 16 Reimbursement from Financing Proceeds for Costs Incurred for Capital Projects Related to a Replacement Municipal Court Facility.

## **Prepared By:**

Larry Dorr, Deputy City Manager/CFO  
Robert Byerhof, Treasury Manager

## **Recommended City Council Action:**

Adopt Resolution No. 16 permitting reimbursement from financing proceeds related to the replacement municipal court facility.

## **Summary Statement:**

- City Council has given financing direction to issue Certificates of Participation (COPs) for the building of a replacement municipal court facility. Formal approval of an issuance will occur at a future City Council meeting. While the precise timing of both the financing and the commencement of related projects may vary, the City has incurred and will continue to incur project expenditures ahead of the issuance of the COPs. These types of costs, such as consultant and engineering studies, incurred by the City are eligible for reimbursement from the COPs proceeds.

- Federal Law permits a municipal government to approve a resolution that allows it to pay for capital project expenses from existing financial resources and then reimburse itself from proceeds of debt financing issued in the future. The resolution will permit reimbursement of all hard costs such as actual materials and construction costs incurred up to 60 days prior to the approval of the reimbursement resolution. Additionally, all qualified preliminary expenditures (soft dollar expenses in amounts that do not exceed 20% of the issued COPs par amount) may be reimbursed regardless of when they are incurred. Approval of this resolution grants financial flexibility that may be beneficial to the City, and save money on the project.

**Fiscal Impact:**

\$0 in expenditures.

**Source of Funds:**

Not applicable.

**Policy Issue(s):**

Should City Council adopt the reimbursement resolution to allow the City to reimburse itself for costs incurred prior to the issuance of COPs financing?

**Alternative(s):**

Do not adopt the reimbursement resolution. This action is not recommended. Time sensitive projects and/or purchases may have to be delayed, or without the reimbursement resolution, the City would not be able to recover costs paid prior to the issuance of financing from the proceeds. Federal law requires that a reimbursement resolution be adopted to permit a municipality to pre-pay construction costs and subsequently reimburse itself from financing proceeds.

**Background Information:**

The City has utilized reimbursement resolutions previously when project expenditures are anticipated ahead of a financing. The last reimbursement resolution passed was for the 2019 Water and Wastewater Revenue Bonds. Reimbursement resolutions are an important tool employed allowing for the use of City funds to commence capital projects, which are subsequently reimbursed with the financing proceeds.

As the precise timing of the COPs issuance to support project activities is unknown, there is a probability for project activities to commence prior to COPs issuance, such as engineering design, permitting, easement, and actual constructions costs of which the reimbursement resolution would permit repayment from the COPs proceeds.

Current law mandates the following provisions must be included by a municipality to properly pass a Reimbursement Resolution:

- An announcement and acknowledgement that the municipality will reimburse itself from proceeds for costs pre-funded through other means, in this case through the City's General Fund and General Capital Improvement Fund.

- An announcement and acknowledgement of the municipality's expectation to issue COPs financing.

Approving the resolution will allow the City to be reimbursed from the anticipated COPs financing to recover capital costs incurred over a 3-year period that starts 60 days prior to when the resolution was adopted. The adoption of the resolution does not impede or complicate the anticipated financing. The resolution facilitates issuance of a financing as it allows Staff to continue to move forward with potential sources of funding without the concern of trying to exactly time the financing with a project's incurred costs within the parameters of the reimbursement resolution and timing limitations.

Qualified preliminary expenditures are defined as architectural, engineering, surveying, soil testing, and similar costs that are incurred prior to commencement of the acquisition, construction, or rehabilitation of a project other than land acquisition, site preparation, and similar costs incident to commencement of construction.

The recommended action supports the City's Strategic Goals of Preparedness and Resilience, Proactive Public Safety, and Robust Infrastructure, as the anticipated financing will fund the construction of a replacement Municipal Court.

Respectfully Submitted,

*Mark A Freitag*

Mark A. Freitag  
City Manager

**Attachments:**

Resolution No. 16 Reimbursement from COPs Financing Proceeds for the Costs Incurred for Capital Projects Related to the Building of a New Municipal Court