

TIMBERON WATER AND SANITATION
DISTRICT

BUDGET COMMITTEE MEETING

10:00 A.M.

THURSDAY, FEBRUARY 2, 2012

AT THE LODGE

OPEN TO THE PUBLIC

A QUORUM OF THE BOARD OF DIRECTORS

MAY BE PRESENT

Posted 9:45 a.m., February 1, 2012

**NOTICE OF MEETING:
CHAIRMAN OF THE TWSD BOARD OF DIRECTORS BURT
RUBINOWITZ HAS CALLED FOR A WORK SESSION OF THE TWSD
BOARD OF DIRECTORS TO BE HELD AT 6:00 PM TUESDAY,
FEB. 14, 2012 AT THE COMMUNITY CENTER LODGE**

AGENDA

Approval of Agenda

Discuss items for placement on the Saturday Feb. 18, 2012 Board Meeting agenda.

Set agenda for the Saturday meeting.

Executive session to interview applicants for the position of manager.

Discuss \$40,000 Loan.

Discuss procedure for PRC filing.

Ratify emergency purchase of Transfer Pump.

Posted 10:10 a.m. Feb. 13, 2012

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Posted 8:15am Feb. 13, 2012

Approve submitting the updated "draft" budget along with actual expenditures to the State Department of Finance and Administration (DFA).

Authorize expenditure of the \$40,000 loan from the State.

Identify a specific project (s) and allocate dollars from the \$40,000 loan from the State.

Request DFA approve the long term repayment or grant status for the \$40,000 loan from the State.

Establish a committee to put together the PRC filing for permanent water rate increases and establish basic guidance for the committee.

Review and approve the Motion for Clarification to the PRC concerning water line extensions.

Consider sending one or more employees and or Directors to New Mexico Rural Water Association training sessions.

Forward copies of approved TWSD Board Meeting minutes to Judge Reynolds's clerk for appropriate dissemination.

Mail a monthly progress report to Judge Reynolds's clerk for appropriate dissemination.

Forward a copy of the January 20, 2012 letter from Doug Perrin (The Perrin Law Firm) to TWSD to Judge Reynolds.

Determine authorized individual(s) to contact Zach Cook, the newly contracted attorney for the District.

Executive session to discuss and evaluate applicants for the position of manager.

Select individual to offer part time General Manager position for the District from interviewed applicants.

Authorize Director Rubinowitz to negotiate agreement with Accounting and Consulting Group to be brought back to Board for consideration.

Directors' Remarks

Public Invited to Be Heard: Comments will be limited to (3) three minutes. The issues raised here are not action items and shall not be entitled to decision making by the TWSD Board of Directors at the meeting where they are first raised.

If you are an individual with a disability who is in need of service to attend or participate in the meeting please contact the Public Information Officer at 987-2250 at least one week prior to the meeting or as soon as possible.

Posted at 4:50 Feb January 16 2011
2012

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Posted at 3:50 PM January 16 2011
LODGE

11. Coordinate District business with regulatory agencies, and ensure compliance with state, local, and federal laws, rules, and regulations.

TERMS:

The following is an outline of terms under the contract.

1. This is a contract for management consulting services for the period of January 13, 2012 through April 30, 2012. Either party may terminate this contract, without cause, with thirty (30) calendar days advance written notice. Any and all work completed before the effective date of contract termination shall be paid in full within fifteen (15) days of final invoice.
2. For all tasks except #4 (collections), funds will be paid at a rate of \$25.00 per hour, with the requirement that the Management Consultant shall submit an invoice to TWSD outlining hours worked, and a written report of tasks accomplished during the work period. Hours worked shall be a combination of on-site, on-line, and telecommuting work, as needed to accomplish directed tasks. **By mutual agreement, the Management Consultant shall not count travel time as time worked.**
3. For task #4 (collections), funds will be paid at a rate of \$.10 cents for every dollar of past due metered water and standby water charges collected, billed by separate invoice on or after the last day of each month.
4. Mileage and per diem accrued during travel on official TWSD business, shall be reimbursed at standard TWSD rates, using standard TWSD forms.
5. The purchase of equipment, supplies or materials for the conduct of official TWSD business shall be reimbursed at actual cost, upon presentation of receipts.

Effective Date:

Effective this ____13th____ day of _____January____, 2012

Martin D. Moore, Ph.D., Management Consultant

Date

Burt Rubinowitz, Chairman

Date

Atch 2

MEETING AGENDA
TWSD Board of Directors
Regular Meeting
Saturday February 18, 2012 10:00 AM

Pledge of Allegiance

Salute to the New Mexico Flag *"I salute the flag of the state of New Mexico, the Zia symbol of perfect friendship among united cultures"*

Approval of Agenda

Adoption of the minutes of January 21, 2012 meeting

Adoption of the minutes of February 14, 2012 work session

Treasurer's Report

General Manager's/Management Consultant's Report

Committee Reports

Budget Committee

Golf Course Committee

Bylaws Committee

Unfinished Business

Letter to address debt owed to District vendors and submit for approval.

Respond to Federal Communication Commission (FCC) letter requesting information about District radio communications.

Solicit a community volunteer to act as a Timberon Community Ombudsman status.

Investigate ways to initiate an Infrastructure Rate Charge for Timberon/TWSD.

Accomplish a contract with Discover Timberon, Inc (DTI).

New Business

Election of officers for the newly elected TWSD Board of Directors.

Approve submitting the updated "draft" budget along with actual expenditures to the State Department of Finance and Administration (DFA).

Authorize expenditure of the \$40,000 loan from the State.

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If you are an individual with a disability who is in need of service to attend or participate in the meeting please contact the Public Information Officer at 987-2250 at least one week prior to the meeting or as soon as possible.

Posted at 5:10 p.m. ^{FEB} January 16 2012

Minutes of the February 18, 2012

Meeting of TWSD Board of Directors

Attending in person were Directors Burt Rubinowitz, Edward "Mike" Bovey, and Joe Mainello and attending via teleconference was Director Arden Schug. There being a quorum present the meeting was called to order by Chairman Rubinowitz at 10:00 AM.

Pledge of Allegiance

Salute to New Mexico Flag

Approval of Agenda: Joe Mainello moved to approve the agenda for the meeting. Mike Bovey seconded the motion. There being no discussion, the Chairman called for a vote on the agenda. Directors Schug, Bovey, Mainello, and Rubinowitz voted Aye. There were no negative votes and the agenda was approved.

Adoption of the minutes of January 21, 2012 meeting. Without objection Chairman Rubinowitz dispensed with the reading of the minutes and moved to approve the minutes as submitted. Hearing no objections, the minutes were adopted as submitted.

Adoption of the minutes of February 14, 2012 work session. Without objection Chairman Rubinowitz dispensed with the reading of the minutes and moved to approve the minutes as submitted. Hearing no objections, the minutes were adopted as submitted.

Treasurer's Report: Arden Schug reported the current status of our bank accounts: 1st National Bank (standby fees) - \$130,618.02; Western Bank (checking) - \$54,886.13; Western Bank (savings) \$23,646.91; and Otero Federal Credit Union (\$40K loan) \$43,263.41. He stated that past due accounts totals \$112,275.04 (approximately 97% lawyer fees and 3% outstanding payments to TWSD board members for travel expenses). The Valentine judgment is approximately \$165,000; however, this case is still in litigation. Mr. Schug stated we have a TWSD balanced budget and could submit it to the state for review if we had account numbers for the start of the FY from Dr Moore.

General Manager's/Management Consultant's Report:

Dr Moore stated that the water is back on in Timberon, and he discussed the problems associated with the water outages and the challenges associated with getting the system back online. Even though there were no breaches of the water system, four water samples were sent out as precaution. Dr Moore thanked Joe Shields and Dave McCall for their efforts to get the system up and working. The system is not 100% as the seals/casings for the transfer pump still require attention. Dr Moore also stated that the State Drinking Water Bureau (Joe Savage) has offered to send a State engineer at no cost to the District to evaluate the current setup that handles water after the water treatment plant. Dr. Moore anticipates that the engineer will come to Timberon early in the week of February 20th.

Dr Moore stated that he has tentative preliminary numbers for the beginning of FY 2011-2012 and will provide those numbers today. With respect to the audits, Dr Moore related the details of other documentation that has been provided to the auditors. A remaining issue is getting the "work papers" from the Accounting and Consulting Group for the 2008 audit. Dr Moore related the details surrounding this issue to include the contention by the Accounting and Consulting Group concerning overdue payment of fees for their services. Dr Moore recommended that the Board appoint a person to negotiate with the Account and Consulting Group in order to resolve this issue. He also stated that he had forwarded some additional data to the current auditors that might help in their efforts to complete the 2009 audit. Dr Moore recommended that the Board set a pre-exit conference (telephone conference) with the current auditors for the 2009 audit on or before the 29th of February. This would allow the auditors to provide documentation on the status of the audit which in turn could be forwarded to Judge Reynolds. Dr Moore related that data input of 2010 numbers into QuickBooks is going smoothly.

Dr Moore stated he was in Las Cruces and stopped by the USDA Rural Development office and discovered that there is another colonias grant available different than the one we researched earlier. He picked up an information package and will leave it at the office. Burt Rubinowitz asked is this was a combination of grant and loan. Dr Moore said normally it is a 70/30 split with 70% being a grant. Loan terms are typically a 40 year pay back and the funds can be used for water, waste water, and roads.

Dr Moore recommended getting with the State Water Board 3-6 months prior to working on the water collection system/diversion point to get inputs and approval from the State engineers. He also recommended getting together with Rural Development, DFA, and other appropriate financing agencies to discuss options and where TWSD wants to go with water distribution.

BF Adams asked about the electrical problems during the recent water outage; and if we hired an electrician to do the wiring, should he not be liable for some of our costs associated with this mistake. Dr Moore said he was not totally up to speed on just what happened and who did the electrical work, and he would need to gather more information.

Further discussion followed concerning the transfer pump, and Dr Moore indicated that he would be inspecting the work done after the Board meeting today.

Joe Mainello asked about the starting FY 2011/2012 numbers. Dr Moore said he would give the board the numbers later in the meeting.

Committee Reports

Budget Committee: Dick Dysart stated that he had passed out the budget recap for the current working budget (see Atch 1), and he went over some of the details of the recap. At this point Dr Moore provided the starting numbers for this working budget. General Fund \$40,741; Water Enterprise \$34,514; Stand By \$45,290; Cemetery Enterprise \$5,203; Golf Course Enterprise \$171; Recreation Enterprise - New Account. These are the balances on

1 July 2012. Note: these numbers do not include the \$40K loan, the \$64,000 outstanding from FEMA, nor the approximately \$3,000 still due to the TWSD from the 2011 freeze. Discussion followed concerning the funds transferred by the Receiver from Stand By to Water in the first quarter of the FY (total of \$62,815) and how it was funded. Dick Dysart also mentioned the figures for long term debt and judgments (see Atch 1). Arden Schug thanked everyone for their hard work on the Budget Committee getting this budget together.

Golf Course Committee. Arden Schug said there has not been a meeting of the Gold Course Committee, and he no longer had the time to work with this committee. Arden Schug moved to offer Charlie Ross the position of Board Representative to the Golf Course Committee. Mike Bovey seconded the motion. With no further discussion, the Chairman called for a vote. Directors Schug, Mainello, Bovey, and Rubinowitz voted Aye. There being no negative votes, the motion carried.

Bylaws Committee. This committee has not met; however, Burt Rubinowitz stated they will try and meet before the next meeting.

Unfinished Business

Letter to address debt owed to District vendors and submit for approval. Mike Bovey stated that the issue here is that we had discussed talking to Mr Cook the Board Attorney to see how we should go about this. Burt Rubinowitz said he would be talking to the Attorney soon and would bring up this issue.

Respond to Federal Communication Commission (FCC) letter requesting information about District radio communications. Burt Rubinowitz stated he is working on this issue and should finish this up in the next few weeks.

Solicit a community volunteer to act as a Timberon Community Ombudsman status. No responses have been received to date. Discussion followed concerning the duties of an community ombudsman as it would pertain to Timberon. Arden Schug moved to table this issue until further notice. Joe Mainello seconded the motion. With no further discussion, the Chairman called for a vote. Directors Schug, Mainello, Bovey, and Rubinowitz voted Aye. There being no negative votes, the motion carried.

Arden Schug requested to go back to the FCC issue and the Chairman approved. Discussion followed concerning the background of frequencies used and what should be addressed with this issue. Burt Rubinowitz stated he would include the items discussed in his efforts to complete this requirement.

Investigate ways to initiate an Infrastructure Rate Charge for Timberon/TWSD. Burt Rubinowitz stated he has had a brief discussion with DFA on this issue and they indicate that there is nothing in the Water and Sanitation District Act allowing this but they also did not object to it. Without objection, the Chairman said he would contact the Attorney to investigate this issue.

Accomplish a contract with Discover Timberon, Inc (DTI). Joe Mainello mentioned that this issue would be best addressed by the new manager and perhaps a Board representative and moved to postpone this issue until further notice. Mike Bovey seconded the motion.

Burt Rubinowitz asked Dr Moore if he know when the current contract expires. Dr Moore said the current contract expires in 2013. With no further discussion, the Chairman called for a vote. Directors Schug, Mainello, Bovey, and Rubinowitz voted Aye. There being no negative votes, the motion carried.

New Business

Election of officers for the newly elected TWSD Board of Directors. Discussion took place on just how to go about this election and that it would be best given the current status of the District to keep current positions. Mike Bovey requested not to continue to serve as Board Secretary, and Joe Mainello related that Charlie Ross was also unwilling to serve in the capacity. Joe Mainello recommended that we are now in a position to hire a paid Board Secretary. Mike Bovey said he would continue to serve until the April meeting or until a paid Secretary is hired. Burt Rubinowitz indicated he would be willing to continue to serve as the Chairman in order to complete several initiatives that he has started. Burt Rubinowitz also related that since he now resides in Albuquerque, he would like to step down as Chairman at some point. With no further discussion the following nominations were made: Burt Rubinowitz as Chairman; Joe Mainello as Vice Chairman; Arden Schug as Treasurer and Mike Bovey as Secretary until such time as a Board Secretary could be hired. All officers were elected as stated. Mike Bovey moved to start the process to hire a paid Board Secretary. Joe Mainello seconded the motion. Discussion followed related to the employee status of the Secretary and the rational for this (indemnification, etc.) Dr Moore related that if a current staff member applies and selected then all the rules governing the employees apply to the Secretary. With no further discussion, the Chairman called for a vote. Directors Schug, Mainello, Bovey, and Rubinowitz voted Aye. There being no negative votes, the motion carried.

Approve submitting the updated "draft" budget along with actual expenditures to the State Department of Finance and Administration (DFA). Mike Bovey moved to submit the updated "draft" budget along with actual expenditures to the State Department of Finance and Administration (DFA) for review. Discussion followed related to the budget thereby under Roberts Rules this constituted a second of the motion. Dr Moore made some recommendations for minor changes to the budget prior to submission to DFA. Additional changes were discussed in light of the availability of balances at the beginning of the FY, etc. Therefore, Mike Bovey withdrew his motion as stated. Arden Schug moved that we send the current draft budget back to the Budget Committee and upon there moving funds appropriately and as necessary to balance the budget and including the \$40K loan in the long term debt that the Budget Committee Chairman submit the budget to the DFA for review. Joe Mainello seconded the motion. With no further discussion, the Chairman called for a vote. Directors Schug, Mainello, Bovey, and Rubinowitz voted Aye. There being no negative votes, the motion carried.

Authorize expenditure of the \$40,000 loan from the State. Joe Mainello moved to authorize expenditure of the \$40,000 loan from the State. Mike Bovey seconded the motion. Discussion followed concerning the repayment date for the loan which is understood to be July 1, 2012. Concerns were express about spending this money without something in writing concerning payback. Dr Moore related that in his discussions with the State Board of Finance that we should immediately make a request for an extension for the repayment. In order to request an extension however, TWSD would need to allocate/spend these

funds. Chairman Rubinowitz put the meeting in recess at 11:45 AM and the meeting was back in session at 11:56 AM. Discussion continued related to the terms of the \$40K loan, the possibility of an extended payback period for the loan, and the fact that the Receiver requested the loan and not the TWSD Board. Joe Mainello moved to call the vote and Arden Schug seconded the motion. There being no discussion, the Chairman call for a vote. Directors Schug, Mainello, Bovey, and Rubinowitz voted Aye. There being no negative votes, the motion carried. The Chairman called for a vote on the motion to authorize expenditure of the \$40,000 loan from the State. Directors Schug, Mainello, Bovey, and Rubinowitz voted Aye. There being no negative votes, the motion carried.

Identify a specific project (s) and allocate dollars from the \$40,000 loan from the State. Arden Schug moved to spend these funds to get the membrane water filtration system online, pay off the balance owed on the filtration system and begin the rehabilitation of the water collection site. Mike Bovey seconded the motion. Considerable discussion took place under the previous item related to the importance of this project to the community. Burt Rubinowitz related that this was an "emergency loan" and that given our current water problems with the well, it could be considered an emergency to get this project completed. There was additional discussion about the cost for the total rehabilitation of the water collection site and that it could be done in phases. Arden Schug stated that the \$40K loan notwithstanding, TWSD must get this water filtration system online as soon as possible. With no further discussion, the Chairman called for a vote. Directors Schug, Mainello, Bovey, and Rubinowitz voted Aye. There being no negative votes, the motion carried.

Request DFA approve the long term repayment or grant status for the \$40,000 loan from the State. Arden Schug moved that Burt Rubinowitz go to the New Mexico Board of Finance and request a long term extension on the loan. Mike Bovey seconded the motion. Dr Moore related that he sits on a board with one of the members of the State Board of Finance and that he assist the Chairman by talking to this person concerning the situation to with TWSD as it relates to this loan. With no further discussion, the Chairman called for a vote. Directors Schug, Mainello, and Bovey voted Aye and Director Rubinowitz abstained. There being no negative votes, the motion carried.

Establish a committee to put together the PRC filing for permanent water rate increases and establish basic guidance for the committee. Joe Mainello moved to establish a committee to put together the PRC filing for permanent water rate increases and establish basic guidance for the committee. Arden Schug seconded the motion. Discussion followed concerning who should be on the committee, what guidance should be provided to the committee, and the timeline and PRC requirements for this effort. With no further discussion, the Chairman called for a vote. Directors Schug, Mainello, and Rubinowitz voted Aye. There being no negative votes, the motion carried. The Chairman appointed Mike Bovey as the Board representative to the committee.

Review and approve the Motion for Clarification to the PRC concerning water line extensions. Without objection the Chairman postponed this item since Charlie Ross is not in attendance to present the motion.

Consider sending one or more employees and or Directors to New Mexico Rural Water Association training sessions. Burt Rubinowitz presented information on the types of training available and the approximate cost for this training. Further discussion related to who might need training and if any Board members were interested in attending. Mike Bovey moved to consider sending one or more employees and or Directors to New Mexico Rural Water Association training sessions. With no further discussion, the Chairman called for a vote. Directors Schug, Mainello, Bovey, and Rubinowitz voted Aye. There being no negative votes, the motion carried. The Chairman appointed Mike Bovey as the Board representative to the committee.

Forward copies of approved TWSD Board Meeting minutes to Judge Reynolds's clerk for appropriate dissemination. Burt Rubinowitz provided some background on this issue. At 12:40 PM Arden Schug requested to be excused from the meeting. There still being a quorum of Board members, the Chairman approved the request. Discussion followed as to how this item and the next agenda item are related and the direction we should take. Joe Mainello moved to forward copies of approved TWSD Board Meeting minutes to Judge Reynolds's clerk for appropriate dissemination. With no further discussion, the Chairman called for a vote. Directors Mainello and Bovey voted Aye. Director Rubinowitz abstained. There being no negative votes, the motion carried.

Mail a monthly progress report to Judge Reynolds's clerk for appropriate dissemination. Mike Bovey moved to mail a progress report to Judge Reynolds's clerk for appropriate dissemination subject to Board members review. Discussion followed concerning the details of this report and the need to get this out to the court prior to our next meeting. By previous discussion and Roberts Rules this motion was seconded. With no further discussion, the Chairman called for a vote. Directors Mainello, Rubinowitz and Bovey voted Aye. There being no negative votes, the motion carried.

Forward a copy of the January 20, 2012 letter from Doug Perrin (The Perrin Law Firm) to TWSD to Judge Reynolds. Burt Rubinowitz recommended that we refer this issue to our attorney prior to taking any action. Mike Bovey move to postpone this issue. Joe Mainello seconded the motion. The details of the letter and the court guidance referred law suits were discussed. With no further discussion, the Chairman called for a vote. Directors Mainello, Rubinowitz and Bovey voted Aye. There being no negative votes, the motion carried. Without objection Burt Rubinowitz will contact the Attorney concerning this letter and appropriate action.

Determine authorized individual(s) to contact Zach Cook, the newly contracted attorney for the District. Burt Rubinowitz provided some background on this issue. Mike Bovey moved to designate the Chairman of the Board as the contact person with our attorney Zack Cook. Joe Mainello seconded the motion. Burt Rubinowitz briefly discussed some additional background on this issue. With no further discussion, the Chairman called for a vote. Directors Mainello, Rubinowitz and Bovey voted Aye. There being no negative votes, the motion carried.

Without objection the Chairman went to the last item on the agenda at this time in order that Dr Moore could be excused.

Executive session to discuss and evaluate applicants for the position of manager. Mike Bovey moved that the Board go into executive session to discuss and evaluate applicants for the position of manager. Joe Mainello seconded the motion. Hearing no discussion, the Chairman called for a roll call vote. Mike Bovey voted Aye. Joe Mainello voted Aye. Burt Rubinowitz voted Aye. There being no negative votes, the motion carried and the Board entered executive session at 1:00 PM. The Board came out of executive session at 1:31 PM and the board made no decisions but only discussed and evaluated the applicants for the position of manager.

Select individual to offer part time General Manager position for the District from interviewed applicants. Burt Rubinowitz explained that there were two candidates for the position of manager, Bill Brown and Ron Wyatt. The Chairman called for a roll call vote: Mike Bovey voted for Ron Wyatt; Joe Mainello voted for Ron Wyatt; and Burt Rubinowitz voted for Ron Wyatt.

Authorize Director Rubinowitz to negotiate agreement with Accounting and Consulting Group to be brought back to Board for consideration. Mike Bovey moved to authorize Director Rubinowitz to negotiate agreement with Accounting and Consulting Group to be brought back to Board for consideration. Joe Mainello seconded the motion. . There being no discussion, the Chairman called for a vote. Directors Mainello, Rubinowitz and Bovey voted Aye. There being no negative votes, the motion carried.

Joe Mainello recommended that we have another executive session at the very end of the agenda in order to discuss personnel issues with the new manager.

Non-Binding Resolutions. None

Memorials. None

Status of the District.

Directors' Remarks:

Mike Bovey thanked everyone for attending the meeting. He also thanked the TWSD staff for their hard work in getting the water system back up and running.

Joe Mainello added his thanks to everyone and added a special thanks to David McCall and Joe Bob Shields for their extraordinary efforts.

Burt Rubinowitz added his thanks and recognized Bill Morley for his efforts in working the recent water outage.

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Bill Morley mentioned that he is interested in what goes on in these meetings and wants to be an informed employee.

Eva Dysart asked for clarification on the \$17,000 payment for the membrane filtration system – we have this equipment already and this is the final payment for the system hardware.

Mike Bovey moved that IAW the Open Meetings Act the Board enter an executive session to discuss personnel issues and general guidance with the new manager. Joe Mainello seconded the motion. Hearing no discussion, the Chairman called for a roll call vote. Mike Bovey voted Aye. Joe Mainello voted Aye. Burt Rubinowitz voted Aye. There being no negative votes, the motion carried and the Board entered executive session at 1:42 PM. The Board came out of executive session at 2:34 PM and the board made no decisions but only discussed personnel issues and general guidance with the new manager.

The Chairman entertained a motion to adjourn. Mike Bovey moved to adjourn. Joe Mainello seconded the motion. There being no discussion, the Chairman called for a vote. Directors Mainello, Rubinowitz, and Bovey voted Aye. There were no negative votes and the meeting was adjourned.

Minutes Approved March 17, 2012:

Secretary Mike Bovey

Chairman Burt Rubinowitz

Handwritten signatures of Mike Bovey and Burt Rubinowitz. The signature of Mike Bovey is written over the line for Secretary, and the signature of Burt Rubinowitz is written over the line for Chairman.

1 Atch

1. Recap Sheet for Draft Working Budget