



**City Council**

Mayor  
Brian Dalton

Council President  
LaVonne Wilson

Councilor  
Jim Brown

Councilor  
Jim Fairchild

Councilor  
Kelly Gabliks

Councilor  
Beth Jones

Councilor  
Jackie Lawson

Councilor  
Kevin Marshall

Councilor  
Murray Stewart

Councilor  
Ken Woods, Jr.

**Staff**

City Manager  
Ron Foggini

City Attorney  
Lane Shetterly

Community Development/  
Operations Director  
Jason Locke

Finance Director  
Cecilia Ward

Fire Chief  
Bill Hahn

Chief of Police  
John Teague

Engineering Director  
Fred Braun

City Recorder  
Emily Gagner

Recording Secretary  
Jeremy Teal

# Dallas City Council Agenda

TUESDAY, February 19, 2013, 7:00 p.m.

Mayor Brian Dalton, Presiding

Dallas City Hall

187 SE Court Street

Dallas, Oregon 97338

*All persons addressing the Council will please use the table at the front of the Council. All testimony is electronically recorded. If you wish to speak on any agenda item, please sign in on the provided card.*

<u>ITEM</u>	<u>RECOMMENDED ACTION</u>
1. ROLL CALL	
2. PLEDGE OF ALLEGIANCE	
3. COMMENTS FROM THE AUDIENCE <i>This time is provided for citizens to comment on municipal issues and any agenda items other than public hearings. The Mayor may place time restrictions on comments. Please supply 14 copies of the material brought to the meeting for distribution.</i>	
4. PUBLIC HEARINGS <i>Public comment will be allowed on items appearing on this portion of the agenda following a brief staff report presenting the item and action requested. The Mayor may limit testimony.</i>	
5. CONSENT AGENDA <i>The following items are considered routine and will be enacted by one motion. There will be no separate discussion of these items unless a Council member so requests, in which case the item will be removed from the Consent Agenda and considered separately.</i>	
a. Approve minutes of February 4, 2013, City Council meeting p. 3	
b. Approve Visitors Center request for Bounty Market p. 7	
c. Approve Chamber's request for Summerfest p. 8	
6. ITEMS REMOVED FROM CONSENT AGENDA	
7. REPORTS OR COMMENTS FROM MAYOR and COUNCIL MEMBERS	
8. REPORTS FROM CITY MANAGER AND STAFF	
a. January financial report p. 9	Information

# Dallas City Council Agenda

## Page 2

### **Our Vision**

*Our vision is to foster an environment in which Dallas residents can take advantage of a vital, growing, and diversified community that provides a high quality of life.*

### **Our Mission**

*The mission of the City of Dallas is to maintain a safe, livable environment by providing open government with effective, efficient, and accountable service delivery.*

### **Our Motto**

*Commitment to the Community.  
People Serving People.*

Dallas City Hall is accessible to persons with disabilities. A request for an interpreter for the hearing impaired or for other accommodations for persons with disabilities should be made at least 48 hours before the meeting to the City Manager's Office, 503-831-3502 or TDD 503-623-7355.

b. Other	
9. RESOLUTIONS	
10. FIRST READING OF ORDINANCE	
11. SECOND READING OF ORDINANCE	
a. <u>Ordinance No. 1752</u> – An Ordinance defining chronic nuisance property, establishing the procedure and penalties therefore; and declaring an emergency. <span style="color: red;">p. 36</span>	Roll Call Vote
12. OTHER BUSINESS	
13. ADJOURNMENT	

1 The Dallas City Council met in regular session on Monday, February 4, 2013, at 7:00 p.m. in the  
2 Council Chambers of City Hall with Mayor Brian Dalton presiding.

3 **ROLL CALL AND PLEDGE OF ALLEGIANCE**

4 Council members present: Council President LaVonne Wilson, Councilor Jim Brown, Councilor  
5 Jim Fairchild, Councilor Kelly Gabliks, Councilor Beth Jones, Councilor Jackie Lawson,  
6 Councilor Kevin Marshall, Councilor Murray Stewart, and Councilor Ken Woods, Jr.

7 Also present were: City Manager Ron Foggin, City Attorney Lane Shetterly, Chief of Police John  
8 Teague, Fire Chief Bill Hahn, Engineering and Environmental Services Director Fred Braun,  
9 Finance Director Cecilia Ward, City Recorder Emily Gagner, and Recording Secretary Jeremy  
10 Teal.

11 Mayor Dalton led the Pledge of Allegiance.

12 **COMMENTS FROM THE AUDIENCE**

13 Mayor Dalton asked the audience members to limit their speeches to five minutes.

14 Joe Koubek, 565 SE Mifflin St., Dallas, Oregon, read a statement concerning the online payment  
15 program, a copy of which is attached to these minutes and incorporated herein.

16 Chelsea Pope, Executive Director of the Dallas Area Chamber of Commerce and Visitor's Center,  
17 119 SW Court St, Dallas, Oregon, stated the 56<sup>th</sup> Annual Community Awards would take place at  
18 the Readiness Center on February 22, 2013.

19 **PUBLIC HEARINGS**

20 **CONSENT AGENDA**

21 Councilor Woods asked that item a) the January 22, 2013, City Council meeting minutes be  
22 removed from the Consent Agenda.

23 It was moved by Council President Wilson *to approve the Consent Agenda as presented with item*  
24 *a removed*. The motion was duly seconded and carried unanimously.

25 Item approved by the Consent Agenda: b) appointments/reappointments to the Park and  
26 Recreation Board.

27 **ITEMS REMOVED FROM THE CONSENT AGENDA**

28 a) The January 22, 2013, City Council meeting minutes.

29 Councilor Woods stated the word "final" needed to be removed from line 41 as MWACT  
30 would recommend projects to ODOT and the final decision would be made by the Super-ACT in  
31 the fall.

32 It was moved by Councilor Gabliks *to approve the January 22, 2013, City Council meeting*  
33 *minutes with the noted correction*. The motion was duly seconded and carried unanimously.

34 **REPORTS OR COMMENTS FROM THE MAYOR AND COUNCIL MEMBERS**

35 **MAYOR'S STATE OF THE CITY ADDRESS**

36 Mayor Dalton presented his State of the City Address, a copy of which is attached to these  
37 minutes and incorporated herein.

38 **REPORT OF THE JANUARY 28, 2013, ADMINISTRATIVE COMMITTEE**

39 Councilor Fairchild outlined the Committee discussion on the proposed Council procedure  
40 revisions. He stated the Committee discussed online payments, a vacant building ordinance, and a  
41 chronic nuisance ordinance as well. He noted the Committee would look at a work plan for  
42 revising the City Charter at the next meeting.

43 **REPORT OF THE JANUARY 28, 2013, BUILDING AND GROUNDS COMMITTEE**

44 Councilor Stewart discussed the farmhouse repairs. He noted that the well had not been  
45 maintained properly and was being repaired. He stated that after the repairs were completed, the  
46 property would be listed between \$225,000 and \$235,000 and the funds would be put back in the  
47 Sewer Fund. He reported some equipment left on the property was sold to the county for \$7,700.

1 He noted the City secured state assistance to create a redevelopment plan for the Weyerhaeuser  
2 site.

3 OTHER

4 **REPORTS FROM CITY MANAGER AND STAFF**

5 DISCUSSION ABOUT JOINING THE OREGON MAIN STREET PROGRAM

6 Mr. Locke stated this was a request from staff to enroll the City in the Oregon Main Street  
7 Network (OMSN). He noted that program allowed joining without significant obligations or  
8 commitments. He reported the OMSN was run out of the State Historic Preservation office and  
9 had a dedicated staff person overseeing the program. He commented this was an opportune time  
10 with the projects downtown to provide the building owners with valuable resources that the City  
11 may not otherwise be able to provide.

12 Councilor Lawson declared a conflict of interest. Mr. Shetterly advised it was only a potential  
13 conflict of interest as there was no money involved at this stage.

14 Councilor Woods asked if this was similar to the program in which the City participated in the  
15 1980s. Mr. Locke indicated one of the next evolutions of being involved in the OMSN would be  
16 the formation of a downtown association. That was a goal of the mature members of the network  
17 such as McMinnville and Pendleton. Councilor Woods stated in the previous program, the City  
18 received grant money that was used to repaint the downtown buildings. Mr. Locke noted  
19 participation in the program would open up grant opportunities.

20 It was moved by Councilor Woods *to authorize the staff to enroll in the Oregon Main Street*  
21 *Program*. The motion was duly seconded and carried unanimously with Councilor Lawson  
22 abstaining.

23 COUNCIL RULES OF PROCEDURE REVISIONS

24 Councilor Fairchild reviewed the proposed changes to the Council Rules of Procedure.

25 Councilor Fairchild discussed the addition of a policy addressing attendance by telephonic or  
26 other electronic media. Councilor Woods asked how that would apply to executive sessions,  
27 adding the Council couldn't know who was listening on the other end of the phone. Mr. Shetterly  
28 advised that there was an obligation of confidentiality for Councilors to participate in executive  
29 sessions.

30 There was discussion about the requirements for prior approval of the Mayor for participation by  
31 electronic media. Mr. Shetterly suggested striking the word "prior" and allowing for approval at  
32 the meeting.

33 Councilor Fairchild suggested an alternate procedure for determining excused or unexcused  
34 absences. He recommended that when a Councilor couldn't attend a Council meeting and the  
35 reason was covered by Section 4.9, items a-e, the member should contact the City Recorder prior  
36 to the meeting. If the absence was not covered by Section 4.9, items a-e, the Councilor would  
37 notify the Council President. Councilor Fairchild advised that Section 4.9 stated that it was "not  
38 limited to" so that was why the Council President would make the judgment.

39 Mayor Dalton asked if everyone understood that Councilor Fairchild was suggesting modifying  
40 the Excused Absence policy.

41 It was moved by Councilor Stewart *to adopt the Council Rules of Procedure with the changes*  
42 *discussed*. The motion was duly seconded and carried unanimously.

43 ONLINE BILL PAYMENT

44 Ms. Ward reviewed her staff report. She advised the cost to the City to add an online bill payment  
45 service would be about \$1,600 to \$1,800 a month for water and sewer customers. She noted that  
46 figure didn't include court costs which would be minimal.

47 Councilor Woods asked about the cost per transaction. Ms. Ward indicated it was about \$.88.  
48 Councilor Woods asked if this new process would keep the staff from going through all the steps  
49 to enter a payment. Ms. Ward stated that it would. Councilor Brown asked if an analysis had been  
50 done on the time it would save staff. Ms. Ward stated there hadn't been an analysis done, but

- 1 noted walk-in customers usually occupied six hours a day of staff time.
- 2 Councilor Brown asked if there was a system in place to catch an error if someone sent in a wrong  
3 payment. Ms. Ward explained the payments would be associated with an account number and  
4 whatever payment amount was sent would be applied to the account.
- 5 Councilor Lawson asked if the City would send email statements instead of paper statements. Ms.  
6 Ward noted that would be part of the options with this service. Councilor Lawson asked if  
7 payments were late, would the customer receive an email or a paper late notice. Ms. Ward  
8 indicated the City would mail a late notice, but their statement could be emailed.
- 9 Councilor Lawson stated that \$.88 seemed high and having to go to a different website may deter  
10 some people from using the service.
- 11 Ms. Ward advised one service this vendor offered was to process the online bill pay checks and  
12 deliver electronic payments to the City.
- 13 There was discussion about bill pay services through a customer's bank. It was recommended to  
14 have the proposed vendor provide a presentation at a Council Meeting.
- 15 Mayor Dalton stated that the motion was to bring the presentation to a future meeting with more  
16 information.
- 17 It was moved by Councilor Fairchild *to have the vendor make a presentation to the Council to*  
18 *answer questions.* The motion was duly seconded and carried unanimously.
- 19 **TRANSIENT OCCUPANCY TAX 30% DISCRETIONARY ALLOCATION FOR 2013**
- 20 Ms. Pope presented a work plan for the 2013 Transient Occupancy Tax 30% Discretionary  
21 Allocation. She noted that the events were the same, but some amounts had changed. She stated  
22 the Winterfest lights needed to be in the budget every year.
- 23 Councilor Brown asked why the Bounty Market was being subsidized. Ms. Pope reported it was  
24 for marketing and management costs. She noted that the Bounty Market was staff managed, not  
25 volunteer managed. She commented that at year-end, the market expenses were \$12,000, while  
26 revenue was only \$7,000.
- 27 Councilor Brown asked if raising rates would chase vendors away. Ms. Pope stated it would and  
28 explained the market gave the vendors an opportunity to showcase products and become higher  
29 producing members of the community.
- 30 Mr. Shetterly advised after Council approval he would develop a contract to solidify the proposal.
- 31 Mr. Brown stated this was a discretionary fund that the City gave to the Chamber and the  
32 Visitor's Center to help promote tourism.
- 33 It was moved by Council President Wilson *to approve the work plan submitted by the Dallas*  
34 *Area Visitor's Center and direct the City Attorney to draw up a contract for services.* The motion  
35 was duly seconded and carried unanimously.
- 36 **OTHER**
- 37 **RESOLUTIONS**
- 38 **Resolution No. 3261** – A resolution authorizing the transfer of budgetary funds.
- 39 Ms. Ward reviewed her staff report. She indicated \$5,000 of the transfer was for a grant for tree  
40 removal in the Park, \$1,300 was for a portion of the City's match on a trail grant, and \$7,000 was  
41 for the reorganization of Library personnel. She explained that would decrease the \$150,000  
42 contingency fund by \$13,300.
- 43 Councilor Brown asked how the contingency was decreased if we received the \$5,000 from  
44 insurance to remove the trees. Ms. Ward stated she had to increase the expenditures to receive the  
45 payment as revenue.
- 46 Councilor Lawson asked about the library personnel reorganization cost. Ms. Ward stated  
47 Rosalyn McGarva was promoted to Lead Librarian. Councilor Stewart asked if this was an  
48 increase in salary for the remainder of the fiscal year. Ms. Ward stated it was and next year's  
49 budget would be adjusted accordingly.
- 50 A roll call vote was taken and Mayor Dalton declared Resolution No. 3261 to have PASSED BY  
51 A UNANIMOUS VOTE with Councilor Jim Brown, Councilor Jim Fairchild, Councilor Kelly  
52 Gabliks, Councilor Beth Jones, Councilor Jackie Lawson, Councilor Kevin Marshall, Councilor

1 Murray Stewart, Council President LaVonne Wilson, and Councilor Ken Woods, Jr. voting YES.

2 **FIRST READING OF ORDINANCE**

3 **Ordinance No. 1752** – An ordinance defining chronic nuisance property, establishing the  
4 procedure and penalties therefore; and declaring an emergency.

5 Councilor Lawson asked for whether the sidewalk outside a property was considered part of the  
6 property for the purposes of the ordinance. Mr. Shetterly clarified the ordinance indicated any  
7 nuisance within 200 feet of a property and associated with the property was covered under the  
8 ordinance.

9 **SECOND READING OF ORDINANCE**

10 **OTHER BUSINESS**

11 There being no further business, the meeting adjourned at 8:26 p.m.

Read and approved this \_\_\_\_\_ day of \_\_\_\_\_ 2013.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Manager

Draft



*Explore. Discover. Live.*

February 12, 2013

City of Dallas  
187 SE Court Street  
Dallas, OR 97338

Dear Mayor Dalton and City Councilors,

Thank you for your continued support of the Polk County Bounty Market. We are in full planning mode and look forward to kicking off our fourth season!

We are proud to say that in the past 3 years of hosting this Market, we have had over 25,000 people visit the 70 total vendors, spending over \$136,000!!

We have concluded our survey with an overwhelming number of vendors, citizens & downtown employees that would like to see hours of operation encompass the noon hour. Our decision is to change the Market hours to 10am – 3pm, still being hosted on Thursdays.

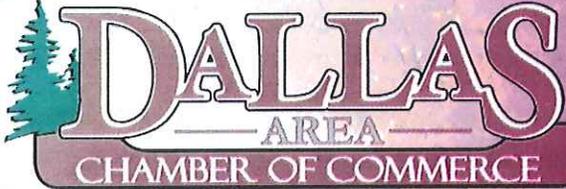
We request your support and approval in hosting the Bounty Market 2013 Season from May 2<sup>nd</sup> through September 26<sup>th</sup> on the Courthouse Lawn. We will be working with staff in adjustments for Market during the construction scheduled for the Urban Renewal District Project on the 800 & 900 blocks beginning after Summerfest.

Please feel free to contact us if you have any questions or comments.

Sincerely,

Bonnie Dreier  
Program Manager

cc: Ron Foggin, City Manager  
Chelsea Pope, Executive Director



February 12, 2012

City of Dallas  
187 SE Court Street  
Dallas, OR 97338

Dear Mayor Dalton and City Councilors,

We would like to request approval to hold Summerfest 2013 on July 25th – 28th (Thursday-Sunday), with downtown events being held Thursday through Saturday (using the Courthouse Lawn as the main focus). The focus then shifts to the Dallas City Park for 'A Day in the Park' events coordinated by the Dallas Rotary & the Dallas Arts Association/Dallas Area Visitors Center.

Please contact me if you have any questions, concerns or recommendations.

Thank you for your continued support!

Sincerely,

A handwritten signature in blue ink that reads "Chelsea".

Chelsea Pope  
Executive Director

cc: Ron Foggin, City Manager

# DALLAS CITY COUNCIL REPORT

**To: DALLAS CITY COUNCIL**

<i>City of Dallas</i>	<b>Agenda Item No. 8 a</b>	<b>Topic:</b> January 2013 Financial Reports
<b>Prepared By:</b> Cecilia Ward	<b>Meeting Date:</b> February 19, 2013	<b>Attachments:</b> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
<b>Approved By:</b>		

RECOMMENDED MOTION:

Information Only

BACKGROUND:

Provided is a new look to the monthly financial report format for the month of January 2013. As you review the report you will see that the General Fund is broken out by page beginning with revenues and expenditures for each department. Following General Fund, each fund is separated by page, one page per fund, with revenues and expenditures. Some columns have been deleted and one added for easier legibility. The column added is the previous year-to-date (YTD) for comparison. The last column has also been replaced with the percent collected or spent instead of percent remaining. Also provided is a chart comparing this year's YTD to last year's YTD and to this year's budget.

Two new reports have been added for additional information:

1. Cash Report - this report gives you the cash standing of the city at the end of the month.
2. Utility Aging Report - this report shows you the percentage of accounts receivable outstanding at the end of the month in comparison with the internal goal of 10%.

For January 2013:

- Percent spent should be at 58%. This can vary up or down depending on seasonal or one-time revenues and expenditures.
- There are no notable highlights for the month of January.

FISCAL IMPACT:

None

ATTACHMENTS:

January 2013 Financial Reports

# City of Dallas Monthly Financial Reports January 2013

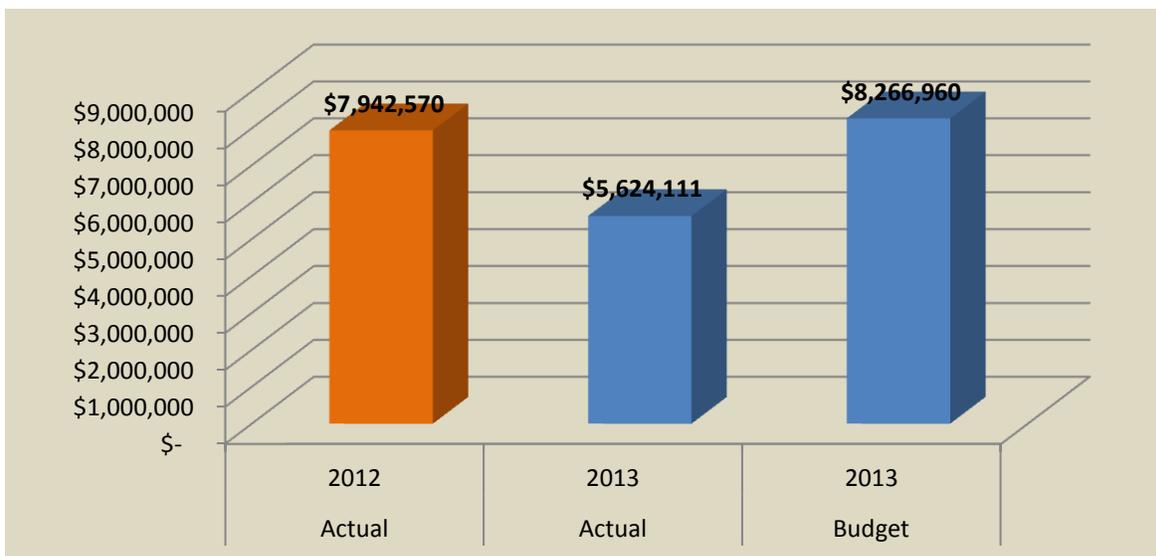
Financial Report  
Cash Report  
Utility Aging Report



**City of Dallas**  
**Monthly Financials**  
**January 2013**

**General Fund Revenue**

Description	Year-to-Date	Year-to-Date	Budget 2013	Budget Remaining	Percent Collected
	Actual 2012	Actual 2013			
Licenses, Permits and Fees	\$ 1,235,834	\$ 689,260	\$ 1,295,000	\$ 605,740	53.2%
Fines and Forfeitures	129,367	58,399	179,500	121,101	32.5%
Recreation Fees	431,304	243,527	461,000	217,473	52.8%
Library Fees	66,590	41,756	73,500	31,744	56.8%
Property Taxes	3,251,946	3,105,808	3,375,460	269,652	92.0%
Miscellaneous Taxes	274,583	170,536	247,500	76,964	68.9%
Franchise Fees	1,062,258	461,591	1,060,000	598,409	43.5%
Inter-governmental	158,565	83,299	157,000	73,701	53.1%
Miscellaneous Revenue	94,916	27,104	88,000	60,896	30.8%
Interest Earnings	22,478	7,222	15,000	7,778	48.1%
Transfers	1,214,728	735,610	1,315,000	579,390	55.9%
	<b>\$ 7,942,570</b>	<b>\$ 5,624,111</b>	<b>\$ 8,266,960</b>	<b>\$ 944,314</b>	<b>68.0%</b>



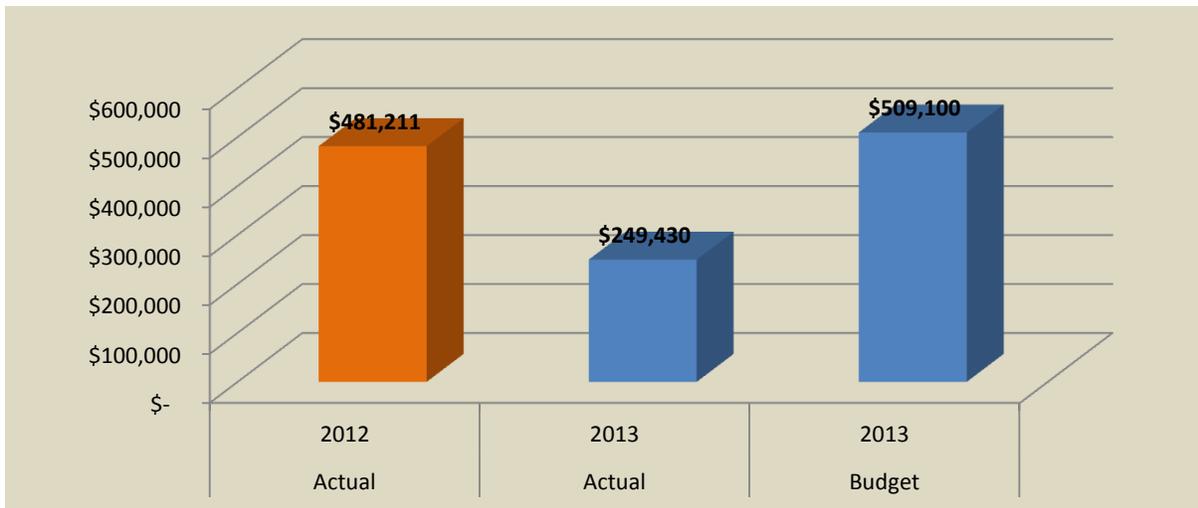
**58% Through the Fiscal Year**

**City of Dallas**  
**Monthly Financials**  
**January 2013**

**Department: Administration**

Description	Year-to-Date		Budget 2013	Budget Remaining	Percent Spent
	Actual 2012	Actual 2013			
Personal Services	\$ 343,344	\$ 183,390	\$ 358,500	\$ 175,110	51.2%
Materials and Supplies	137,866	66,040	150,600	84,560	43.9%
Capital Outlay	-	-	-	-	
	<b>\$ 481,211</b>	<b>\$ 249,430</b>	<b>\$ 509,100</b>	<b>\$ 259,670</b>	<b>49.0%</b>

There are no capital expenditures budgeted in this department.



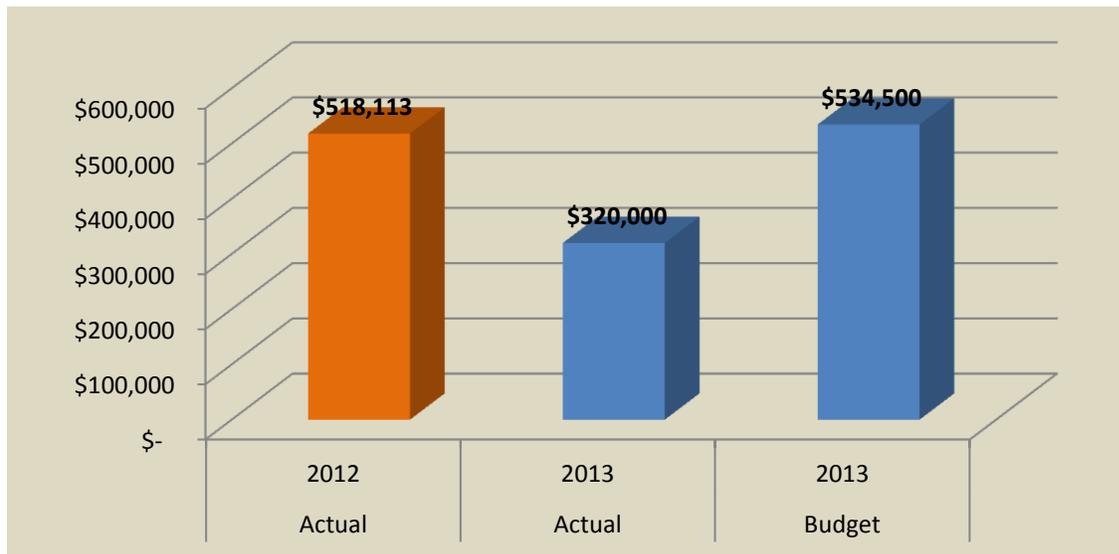
**58% Through the Fiscal Year**

**City of Dallas**  
**Monthly Financials**  
**January 2013**

**Department: Finance**

Description	Year-to-Date		Budget 2013	Budget Remaining	Percent Spent
	Actual 2012	Actual 2013			
Personal Services	\$ 329,684	\$ 190,796	\$ 337,000	\$ 146,204	56.6%
Materials and Supplies	188,429	129,204	192,500	63,296	67.1%
Capital Outlay	-	-	5,000	5,000	0.0%
	<b>\$ 518,113</b>	<b>\$ 320,000</b>	<b>\$ 534,500</b>	<b>\$ 214,500</b>	<b>59.9%</b>

Capital Expenditures: Remodel the vault for - \$5,000



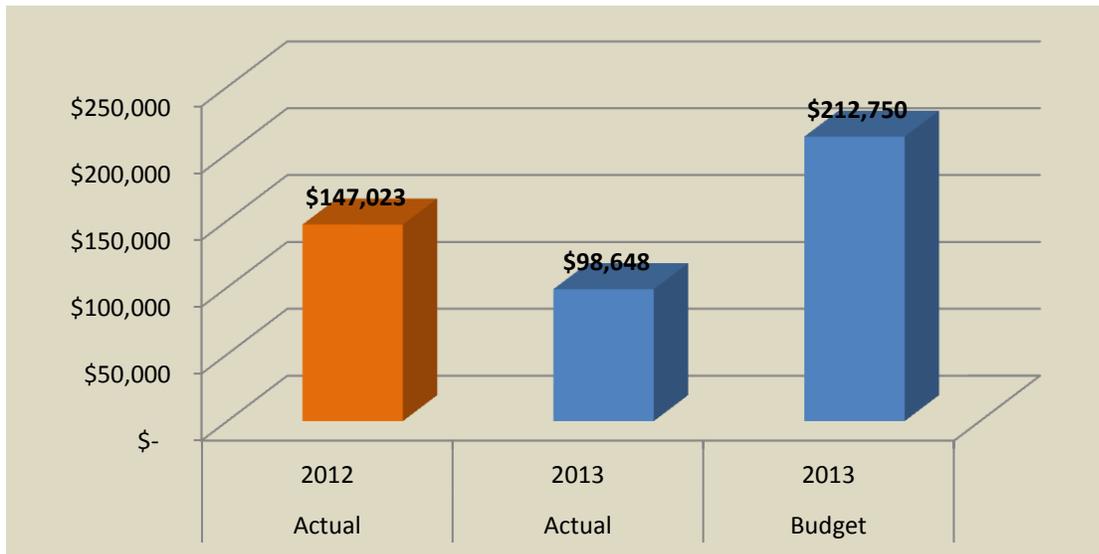
**58% Through the Fiscal Year**

**City of Dallas**  
**Monthly Financials**  
**January 2013**

**Department: Facilities**

Description	Year-to-Date		Budget 2013	Budget Remaining	Percent Spent
	Actual 2012	Actual 2013			
Personal Services	\$ 83,057	\$ 62,803	\$ 112,500	\$ 49,697	55.8%
Materials and Supplies	63,966	35,845	75,250	39,405	47.6%
Capital Outlay	-	-	25,000	25,000	0.0%
	<b>\$ 147,023</b>	<b>\$ 98,648</b>	<b>\$ 212,750</b>	<b>\$ 114,102</b>	<b>46.4%</b>

Capital Expenditures: HVAC system for Carnegie Building - \$25,000



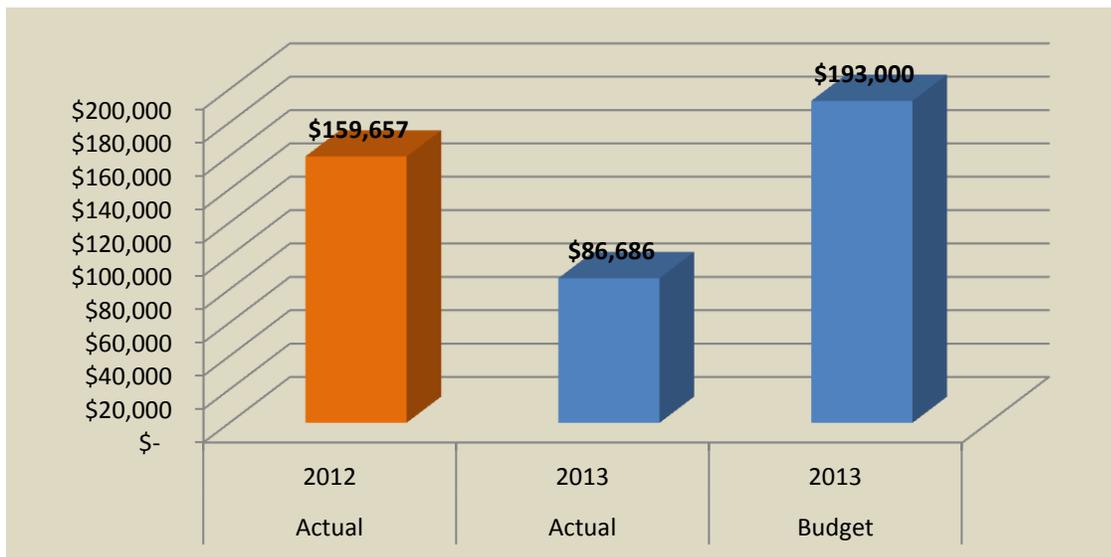
**58% Through the Fiscal Year**

**City of Dallas**  
**Monthly Financials**  
**January 2013**

**Department: Municipal Court**

Description	Year-to-Date		Budget 2013	Budget Remaining	Percent Spent
	Actual 2012	Actual 2013			
Personal Services	\$ 135,871	\$ 78,412	\$ 143,000	\$ 64,588	54.8%
Materials and Supplies	23,785	8,274	45,000	36,726	18.4%
Capital Outlay	-	-	5,000	5,000	0.0%
	<b>\$ 159,657</b>	<b>\$ 86,686</b>	<b>\$ 193,000</b>	<b>\$ 106,314</b>	<b>44.9%</b>

Capital Expenditures: Remodel the vault for - \$5,000



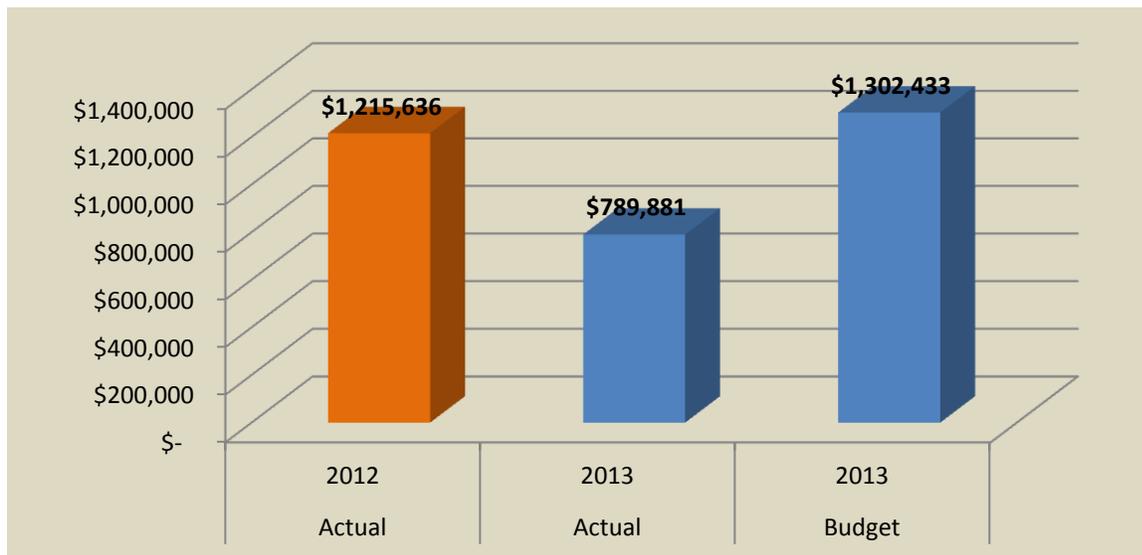
**58% Through the Fiscal Year**

**City of Dallas**  
**Monthly Financials**  
**January 2013**

**Department: Ambulance**

Description	Year-to-Date	Year-to-Date	Budget 2013	Budget Remaining	Percent Spent
	Actual 2012	Actual 2013			
Personal Services	\$ 862,233	\$ 547,097	\$ 904,000	\$ 356,903	60.5%
Materials and Supplies	303,326	200,293	347,800	147,507	57.6%
Capital Outlay	10,185	5,352	12,000	6,648	44.6%
Debt Service	39,893	37,140	38,633	1,493	96.1%
	<b>\$ 1,215,636</b>	<b>\$ 789,881</b>	<b>\$ 1,302,433</b>	<b>\$ 512,552</b>	<b>60.6%</b>

Capital Expenditures:                      Replacement of medical equipment - \$9,000  
                                                          Replacement of turnouts - \$3,000



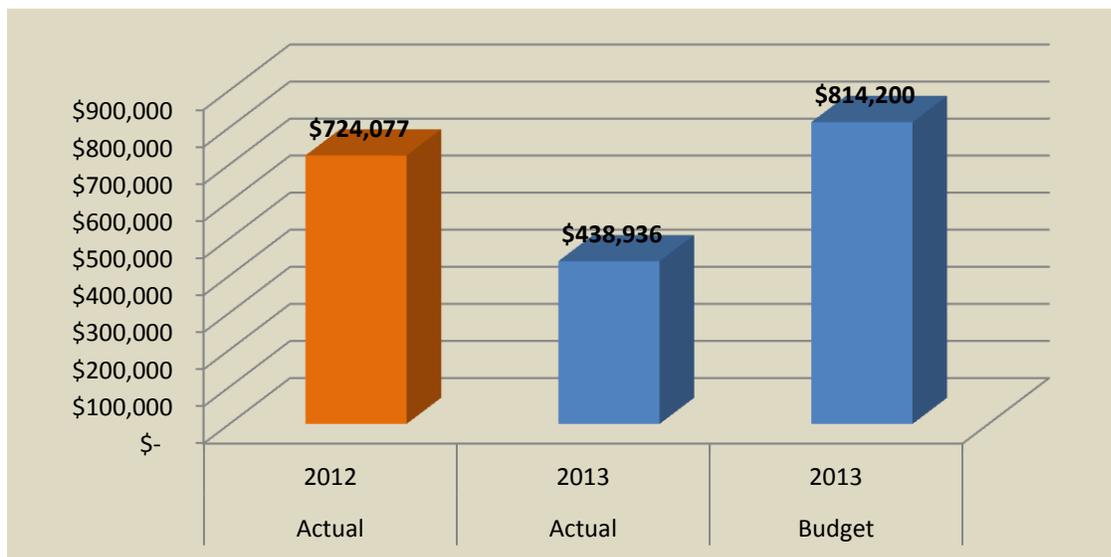
**58% Through the Fiscal Year**

**City of Dallas**  
**Monthly Financials**  
**January 2013**

**Department: Fire**

Description	Year-to-Date	Year-to-Date	Budget 2013	Budget Remaining	Percent Spent
	Actual 2012	Actual 2013			
Personal Services	\$ 466,477	\$ 266,931	\$ 492,000	\$ 225,069	54.3%
Materials and Supplies	215,463	143,310	272,200	128,890	52.6%
Capital Outlay	42,136	28,695	50,000	21,305	57.4%
	<b>\$ 724,077</b>	<b>\$ 438,936</b>	<b>\$ 814,200</b>	<b>\$ 375,264</b>	<b>53.9%</b>

Capital Expenditures:                      Replacement of equipment - \$8,000  
                                                          Replacement of turnouts - \$30,000  
                                                          Equipment (Grant match for Compressor) - \$12,000



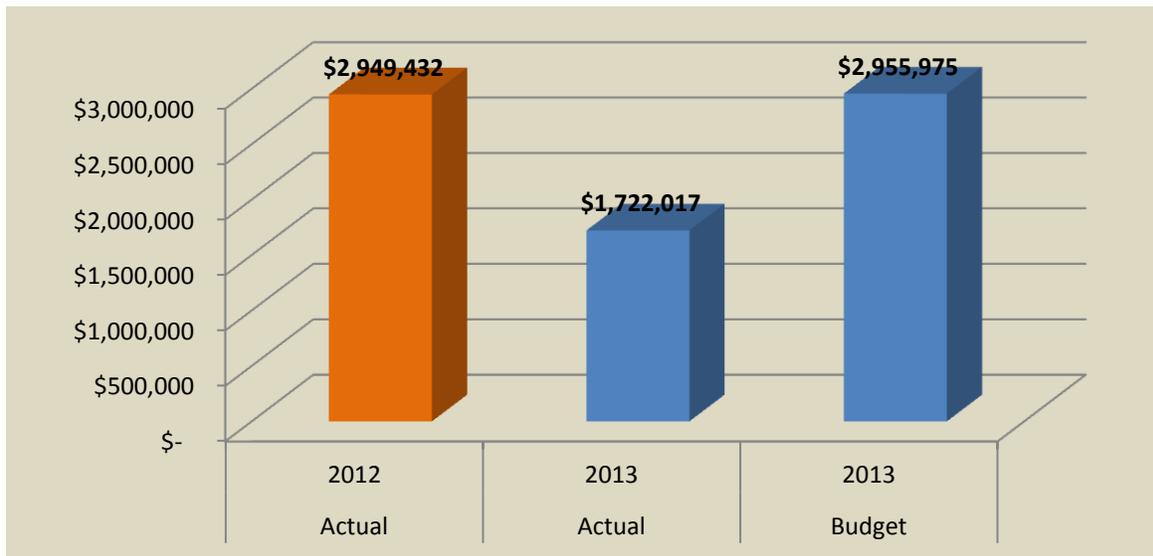
**58% Through the Fiscal Year**

**City of Dallas**  
**Monthly Financials**  
**January 2013**

**Department: Police**

Description	Year-to-Date	Year-to-Date	Budget 2013	Budget Remaining	Percent Spent
	Actual 2012	Actual 2013			
Personal Services	\$ 2,547,795	\$ 1,491,942	\$ 2,502,500	\$ 1,010,558	59.6%
Materials and Supplies	355,419	214,325	411,035	196,710	52.1%
Capital Outlay	-	-	-	-	0.0%
Debt Service	31,218	-	15,440	15,440	0.0%
Transfer	15,000	15,750	27,000	11,250	58.3%
	<b>\$ 2,949,432</b>	<b>\$ 1,722,017</b>	<b>\$ 2,955,975</b>	<b>\$ 1,233,958</b>	<b>58.3%</b>

There are no capital expenditures budgeted in this department.



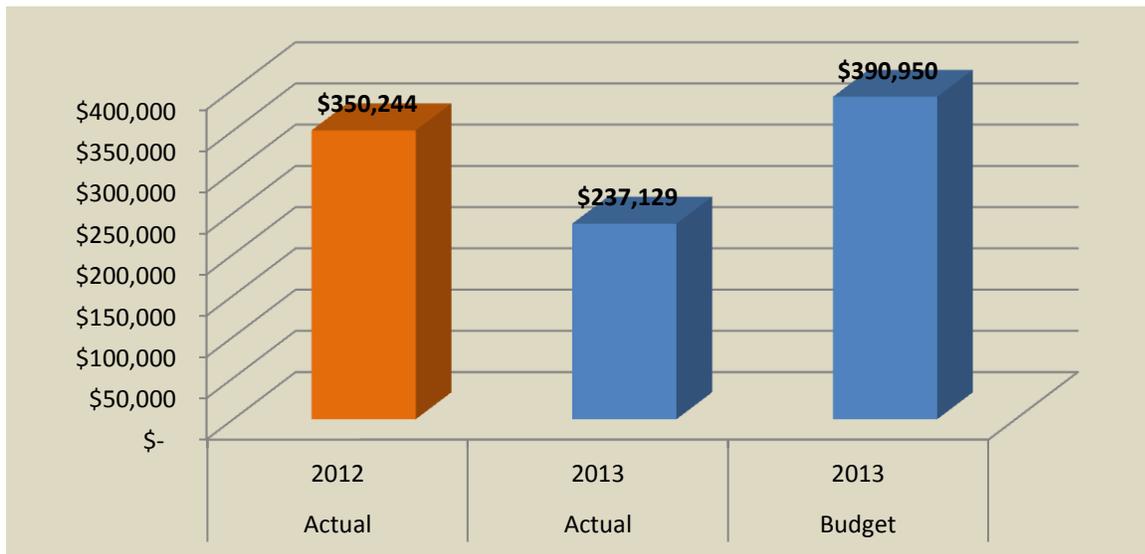
**58% Through the Fiscal Year**

**City of Dallas**  
**Monthly Financials**  
**January 2013**

**Department: Library**

Description	Year-to-Date	Year-to-Date	Budget 2013	Budget Remaining	Percent Spent
	Actual 2012	Actual 2013			
Personal Services	\$ 287,625	\$ 192,770	\$ 326,000	\$ 133,230	59.1%
Materials and Supplies	62,619	44,359	64,950	20,591	68.3%
Capital Outlay	-	-	-	-	
	<b>\$ 350,244</b>	<b>\$ 237,129</b>	<b>\$ 390,950</b>	<b>\$ 153,821</b>	<b>60.7%</b>

There are no capital expenditures budgeted in this department.



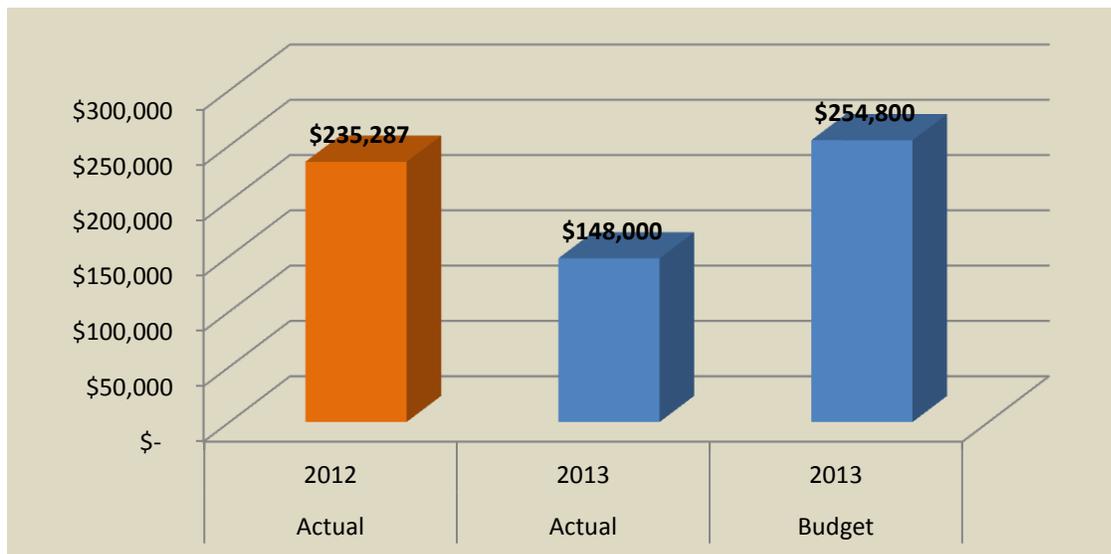
**50% Through the Fiscal Year**

**City of Dallas**  
**Monthly Financials**  
**January 2013**

**Department: Parks**

Description	Year-to-Date		Budget 2013	Budget Remaining	Percent Spent
	Actual 2012	Actual 2013			
Personal Services	\$ 154,204	\$ 94,115	\$ 161,000	\$ 66,885	58.5%
Materials and Supplies	81,083	53,885	93,800	39,915	57.4%
Capital Outlay	-	-	-	-	0.0%
	<b>\$ 235,287</b>	<b>\$ 148,000</b>	<b>\$ 254,800</b>	<b>\$ 106,800</b>	<b>58.1%</b>

There are no capital expenditures budgeted in this department.



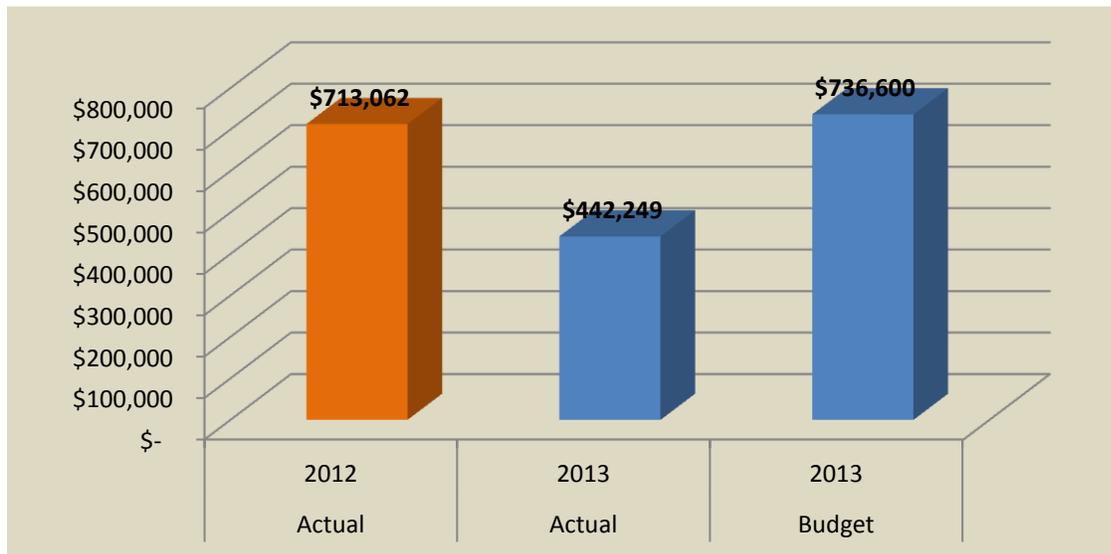
**58% Through the Fiscal Year**

**City of Dallas**  
**Monthly Financials**  
**January 2013**

**Department: Aquatic Center**

Description	Year-to-Date	Year-to-Date	Budget 2013	Budget Remaining	Percent Spent
	Actual 2012	Actual 2013			
Personal Services	\$ 398,980	\$ 247,311	\$ 413,000	\$ 165,689	59.9%
Materials and Supplies	264,082	165,771	273,600	107,829	60.6%
Capital Outlay	50,000	29,167	50,000	20,833	58.3%
	<b>\$ 713,062</b>	<b>\$ 442,249</b>	<b>\$ 736,600</b>	<b>\$ 294,351</b>	<b>60.0%</b>

Capital Expenditures:                      Equipment Reimbursement - \$50,000



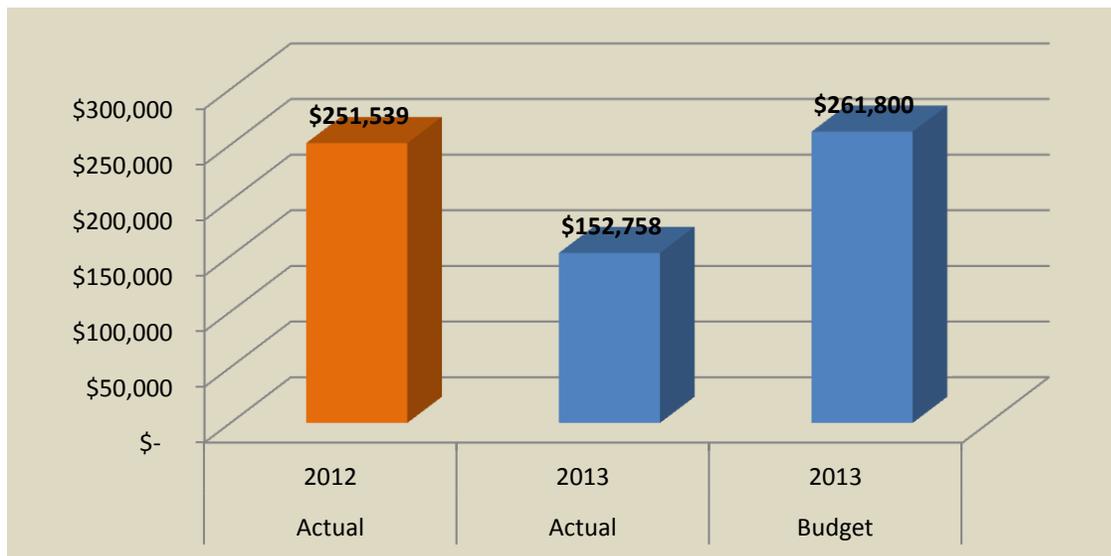
**58% Through the Fiscal Year**

**City of Dallas**  
**Monthly Financials**  
**January 2013**

**Department: Building Inspections**

Description	Year-to-Date	Year-to-Date	Budget 2013	Budget Remaining	Percent Spent
	Actual 2012	Actual 2013			
Personal Services	\$ 240,833	\$ 144,448	\$ 244,000	\$ 99,552	59.2%
Materials and Supplies	10,706	8,310	17,800	9,490	46.7%
Capital Outlay	-	-	-	-	
	<b>\$ 251,539</b>	<b>\$ 152,758</b>	<b>\$ 261,800</b>	<b>\$ 109,042</b>	<b>58.3%</b>

There are no capital expenditures budgeted in this department.



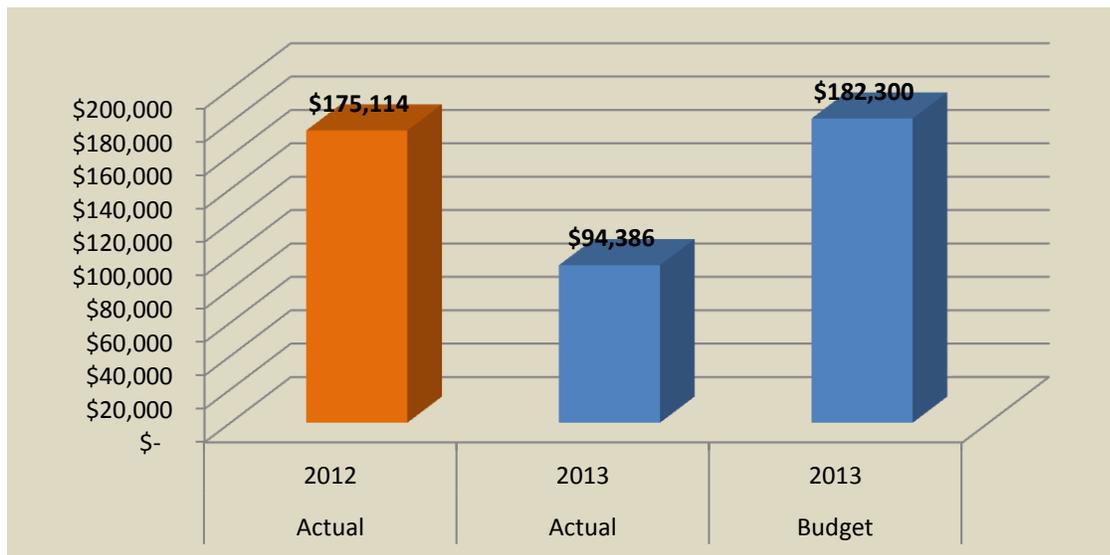
**50% Through the Fiscal Year**

**City of Dallas**  
**Monthly Financials**  
**January 2013**

**Department: Planning**

Description	Year-to-Date	Year-to-Date	Budget 2013	Budget Remaining	Percent Spent
	Actual 2012	Actual 2013			
Personal Services	\$ 161,636	\$ 83,324	\$ 140,500	\$ 57,176	59.3%
Materials and Supplies	13,478	11,062	41,800	30,738	26.5%
Capital Outlay	-	-	-	-	
	<b>\$ 175,114</b>	<b>\$ 94,386</b>	<b>\$ 182,300</b>	<b>\$ 87,914</b>	<b>51.8%</b>

There are no capital expenditures budgeted in this department.



**50% Through the Fiscal Year**

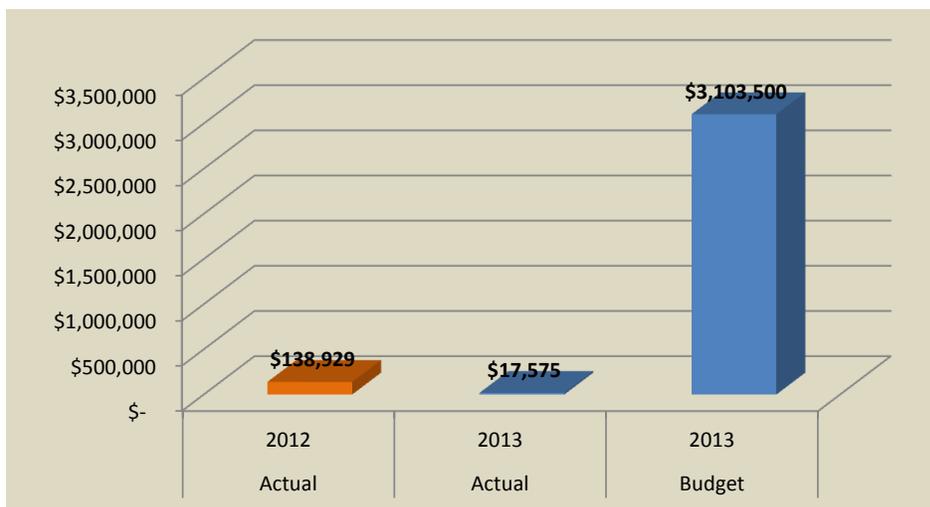
**City of Dallas**  
**Monthly Financials**  
**January 2013**

Department: System Development Fund

Description	Year-to-Date		Budget 2013	Budget Remaining	Percent Collected
	Actual 2012	Actual 2013			
<b>Revenue</b>					
Streets SDC	\$ 17,772	\$ 21,689	\$ 25,000	\$ 3,311	86.8%
Parks SDC	44,655	44,373	50,000	5,627	88.7%
Water SDC	44,655	44,373	50,000	5,627	88.7%
Sewer SDC	25,504	20,802	20,000	(802)	104.0%
Storm Water SDC	13,304	17,572	15,000	(2,572)	117.1%
Transfers	-	583,000	583,000	-	100.0%
	<b>\$ 145,889</b>	<b>\$ 731,809</b>	<b>\$ 743,000</b>	<b>\$ 2,253</b>	<b>98.5%</b>

Description	Year-to-Date		Budget 2013	Budget Remaining	Percent Spent
	Actual 2012	Actual 2013			
<b>Expenditures</b>					
Street SDC Projects	\$ -	\$ -	\$ 163,775	\$ 163,775	0.0%
Park SDC Projects	46,989	3,050	178,775	175,725	1.7%
Water SDC Projects	10,000	-	88,775	88,775	0.0%
Sewer SDC Projects	57,040	-	2,528,775	2,528,775	0.0%
Storm Water SDC Projects	-	-	18,500	18,500	0.0%
Transfers	24,900	14,525	124,900	110,375	11.6%
	<b>\$ 138,929</b>	<b>\$ 17,575</b>	<b>\$ 3,103,500</b>	<b>\$ 3,085,925</b>	<b>0.6%</b>

Capital Expenditures:



**58% Through the Fiscal Year**

**City of Dallas**  
**Monthly Financials**  
**January 2013**

**Department: Streets**

Description	Year-to-Date	Year-to-Date	Budget 2013	Budget Remaining	Percent Collected
	Actual 2012	Actual 2013			
<b>Revenue</b>					
Highway Reimbursement & Appropriations	\$ 998,148	\$ 685,703	\$ 1,019,790	\$ 334,087	67.2%
Miscellaneous Revenue and Interest	18,950	18,218	24,250	6,032	75.1%
	<b>\$ 1,017,097</b>	<b>\$ 703,921</b>	<b>\$ 1,044,040</b>	<b>\$ 340,119</b>	<b>67.4%</b>

Description	Year-to-Date	Year-to-Date	Budget 2013	Budget Remaining	Percent Spent
	Actual 2012	Actual 2013			
<b>Expenditures</b>					
Personal Services	\$ 326,784	\$ 183,701	\$ 319,000	\$ 135,299	57.6%
Materials and Supplies	237,482	145,252	250,500	105,248	58.0%
Capital Outlay	188,116	26,976	227,525	200,549	11.9%
Transfers	80,000	46,667	80,000	33,333	58.3%
	<b>\$ 832,383</b>	<b>\$ 402,595</b>	<b>\$ 877,025</b>	<b>\$ 474,430</b>	<b>45.9%</b>

Capital Expenditures: Contractual Overlays - \$207,525  
Sidewalks - \$20,000



**58% Through the Fiscal Year**

**City of Dallas**  
**Monthly Financials**  
**January 2013**

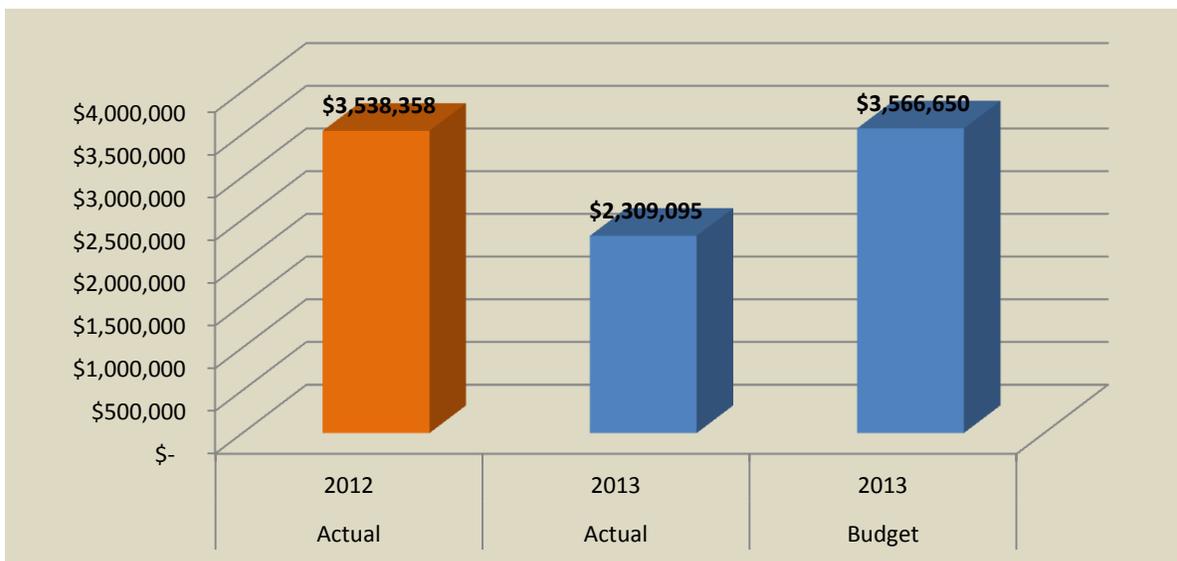
**Department: Sewer**

Description	Year-to-Date	Year-to-Date	Budget 2013	Budget Remaining	Percent Collected
	Actual 2012	Actual 2013			
<b>Revenue</b>					
Service Charges and Hook Up Fees	\$ 2,880,716	\$ 1,738,061	\$ 2,978,000	\$ 1,239,939	58.4%
Miscellaneous Revenue and Interest	91,753	121,402	87,450	(33,952)	138.8%
	<b>\$ 2,972,469</b>	<b>\$ 1,859,462</b>	<b>\$ 3,065,450</b>	<b>\$ 1,205,988</b>	<b>60.7%</b>

Description	Year-to-Date	Year-to-Date	Budget 2013	Budget Remaining	Percent Spent
	Actual 2012	Actual 2013			
<b>Expenditures</b>					
Personal Services	\$ 617,507	\$ 346,750	\$ 587,500	\$ 240,750	59.0%
Materials and Supplies	1,006,020	541,075	953,500	412,425	56.7%
Capital Outlay	152,297	94,794	470,000	375,206	20.2%
Transfers	1,762,534	1,326,477	1,555,650	229,173	85.3%
	<b>\$ 3,538,358</b>	<b>\$ 2,309,095</b>	<b>\$ 3,566,650</b>	<b>\$ 1,257,555</b>	<b>64.7%</b>

Capital Expenditures:

- I & I - \$300,000
- WWTF Capital Improvements - \$55,000
- Sewer Replacement Projects - \$25,000
- WWTF Equipment Replacement - \$90,000
- Repair to pump



**58% Through the Fiscal Year**

**City of Dallas**  
**Monthly Financials**  
**January 2013**

Department: Water

Description	Year-to-Date	Year-to-Date	Budget 2013	Budget Remaining	Percent Collected
	Actual 2012	Actual 2013			
<b>Revenue</b>					
Service Charges and Connection Fees	\$ 1,988,421	\$ 1,323,004	\$ 2,062,500	\$ 739,496	64.1%
Miscellaneous Revenue and Interest	43,260	36,772	49,225	12,453	74.7%
	<b>\$ 2,031,681</b>	<b>\$ 1,359,777</b>	<b>\$ 2,111,725</b>	<b>\$ 751,948</b>	<b>64.4%</b>

Description	Year-to-Date	Year-to-Date	Budget 2013	Budget Remaining	Percent Spent
	Actual 2012	Actual 2013			
<b>Expenditures</b>					
Personal Services	\$ 414,706	\$ 234,780	\$ 407,000	\$ 172,220	57.7%
Materials and Supplies	738,614	384,117	666,500	282,383	57.6%
Capital Outlay	-	-	95,000	95,000	0.0%
Transfers	980,111	771,109	948,193	177,084	81.3%
	<b>\$ 2,133,431</b>	<b>\$ 1,390,006</b>	<b>\$ 2,116,693</b>	<b>\$ 726,687</b>	<b>65.7%</b>

Capital Expenditures:

Equipment - \$75,000

Water Line Replacement Project - \$20,000



**58% Through the Fiscal Year**

**City of Dallas**  
**Monthly Financials**  
**January 2013**

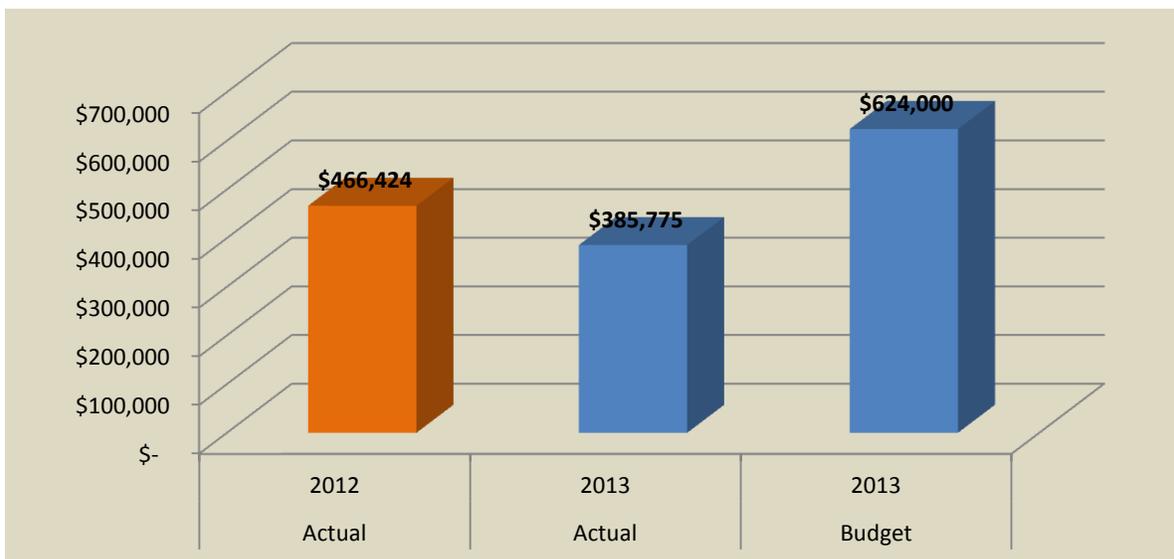
**Department: Fleet**

Description	Year-to-Date		Budget 2013	Budget Remaining	Percent Collected
	Actual 2012	Actual 2013			
<b>Revenue</b>					
Service Charges and Total Care	\$ 82,779	\$ 251,761	\$ 427,000	\$ 175,239	59.0%
Miscellaneous Revenue	51,511	54,740	92,800	38,060	59.0%
	<b>\$ 134,290</b>	<b>\$ 306,501</b>	<b>\$ 519,800</b>	<b>\$ 213,299</b>	<b>59.0%</b>

Description	Year-to-Date		Budget 2013	Budget Remaining	Percent Spent
	Actual 2012	Actual 2013			
<b>Expenditures</b>					
Personal Services	\$ 192,863	\$ 117,732	\$ 213,000	\$ 95,268	55.3%
Materials and Supplies	138,059	102,214	178,000	75,786	57.4%
Capital Outlay	55,502	119,162	153,000	33,838	77.9%
Transfers	80,000	46,667	80,000	33,333	58.3%
	<b>\$ 466,424</b>	<b>\$ 385,775</b>	<b>\$ 624,000</b>	<b>\$ 238,225</b>	<b>61.8%</b>

Capital Expenditures:

Equipment - \$38,000 (PW Pickup \$17,223; Sand Spreader \$7,432.08)  
 Vehicles - \$105,000 (2-Fire Trucks \$77,799; Comm Dev \$14,092)  
 Building Improvements - \$10,000



**58% Through the Fiscal Year**

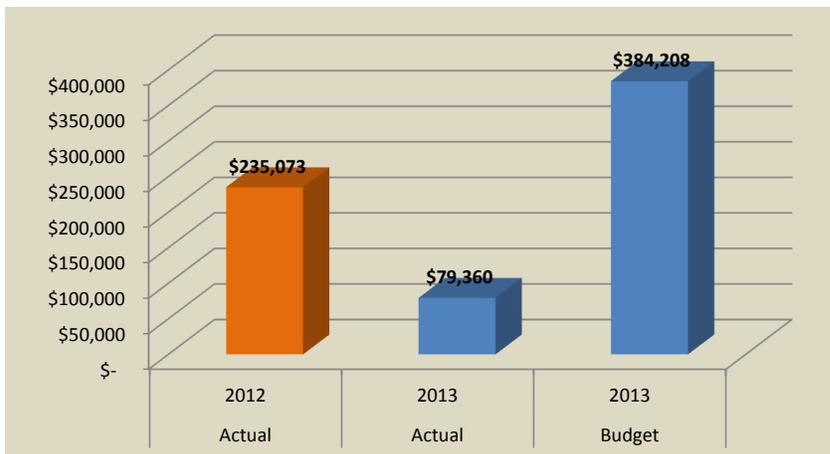
**City of Dallas**  
**Monthly Financials**  
**January 2013**

Department: Trust Fund

Description	Year-to-Date		Budget 2013	Budget Remaining	Percent Collected
	Actual 2012	Actual 2013			
<b>Revenue</b>					
Aquatics	\$ 84,177	\$ 71,194	\$ 67,200	\$ (3,994)	105.9%
Fire and Ambulance	60,921	68,756	58,833	(9,923)	116.9%
Street	101,028	61,059	55,000	(6,059)	111.0%
Transient Lodging	71,515	59,234	85,500	26,266	69.3%
Miscellaneous	33,910	11,942	9,615	(2,327)	124.2%
Economic Development	51,874	35,338	53,000	17,662	66.7%
Park	10,956	13,906	10,435	(3,471)	133.3%
Police	24,322	29,236	27,125	(2,111)	107.8%
Library	18,447	2,510	17,500	14,990	14.3%
	<b>\$ 457,151</b>	<b>\$ 353,175</b>	<b>\$ 384,208</b>	<b>\$ 31,033</b>	<b>91.9%</b>

Description	Year-to-Date		Budget 2013	Budget Remaining	Percent Spent
	Actual 2012	Actual 2013			
<b>Expenditures</b>					
Aquatics	\$ 12,983	\$ 6,379	\$ 67,200	\$ 60,821	9.5%
Fire and Ambulance	26,835	22,257	58,833	36,576	37.8%
Street	39,969	-	55,000	55,000	0.0%
Transient Lodging	66,644	40,113	85,500	45,387	46.9%
Miscellaneous	24,329	635	9,615	8,980	6.6%
Economic Development	44,274	2,965	53,000	50,035	5.6%
Park	100	2,014	10,435	8,421	19.3%
Police	2,894	1,624	27,125	25,501	6.0%
Library	17,045	3,373	17,500	14,127	19.3%
	<b>\$ 235,073</b>	<b>\$ 79,360</b>	<b>\$ 384,208</b>	<b>\$ 304,848</b>	<b>20.7%</b>

Capital Expenditures:



58% Through the Fiscal Year

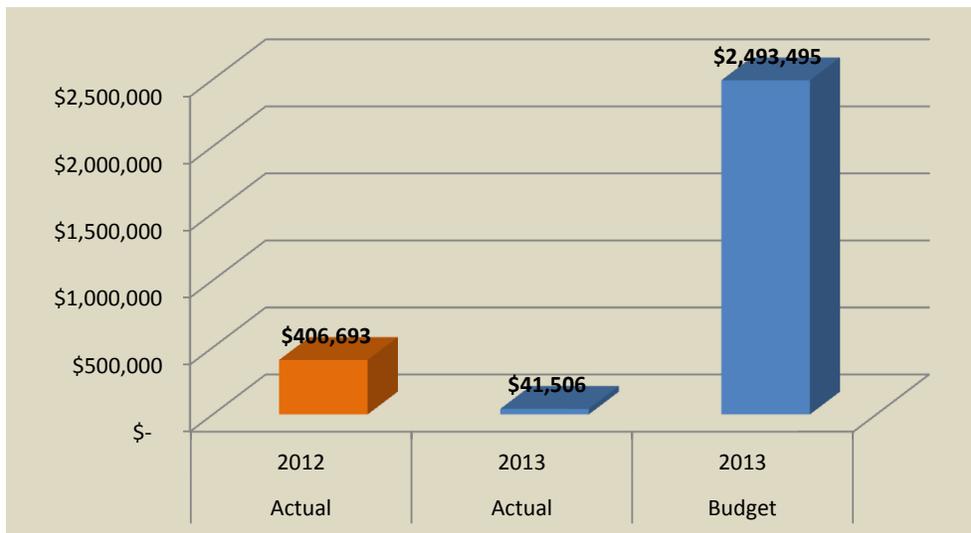
**City of Dallas**  
**Monthly Financials**  
**January 2013**

Department: Grant Fund

Description	Year-to-Date		Budget 2013	Budget Remaining	Percent Collected
	Actual 2012	Actual 2013			
<b>Revenue</b>					
Police	\$ 3,808	\$ 8,018	\$ 10,000	\$ 1,982	80.2%
Fire	860,441	38,047	463,000	424,953	8.2%
Parks and Trails	(30,149)	501	475,020	474,519	0.1%
Water	-	-	30,000	30,000	0.0%
Miscellaneous	220,160	2,739	1,515,475	1,512,736	0.2%
	<b>\$ 1,054,260</b>	<b>\$ 49,305</b>	<b>\$ 2,493,495</b>	<b>\$ 2,444,190</b>	<b>2.0%</b>

Description	Year-to-Date		Budget 2013	Budget Remaining	Percent Spent
	Actual 2012	Actual 2013			
<b>Expenditures</b>					
Police	\$ 1,125	\$ 3,506	\$ 10,000	\$ 6,494	35.1%
Fire	186,177	38,000	463,000	425,000	8.2%
Parks and Trails	-	-	475,020	475,020	0.0%
Water	-	-	30,000	30,000	0.0%
Miscellaneous	219,391	-	1,515,475	1,515,475	0.0%
	<b>\$ 406,693</b>	<b>\$ 41,506</b>	<b>\$ 2,493,495</b>	<b>\$ 2,451,989</b>	<b>1.7%</b>

Grant Projects: Fire Compressor - \$38,000  
Police Vests



58% Through the Fiscal Year

**City of Dallas**  
**Monthly Financials**  
**January 2013**

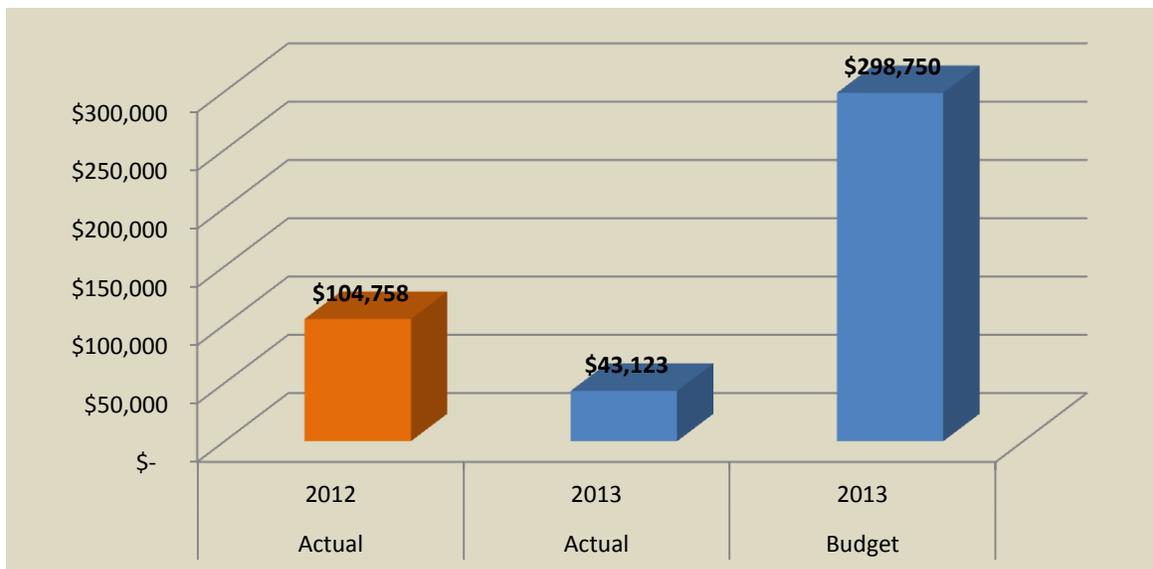
**Department: Urban Renewal Fund**

Description	Year-to-Date		Budget 2013	Budget Remaining	Percent Collected
	Actual 2012	Actual 2013			
<b>Revenue</b>					
Property Taxes	\$ 125,893	\$ 111,944	\$ 123,000	\$ 11,056	91.0%
Interest Earnings	1,541	1,156	750	(406)	154.2%
	<b>\$ 127,434</b>	<b>\$ 113,100</b>	<b>\$ 123,750</b>	<b>\$ 10,650</b>	<b>91.4%</b>

Description	Year-to-Date		Budget 2013	Budget Remaining	Percent Spent
	Actual 2012	Actual 2013			
<b>Expenditures</b>					
Personal Services	\$ 4,480	\$ 8,453	\$ 17,000	\$ 8,547	49.7%
Debt Service	-	-	175,000	175,000	0.0%
Capital Expenditures	100,278	34,671	106,750	72,079	32.5%
	<b>\$ 104,758</b>	<b>\$ 43,123</b>	<b>\$ 298,750</b>	<b>\$ 255,627</b>	<b>14.4%</b>

Capital Expenditures:

Church St Sidewalk



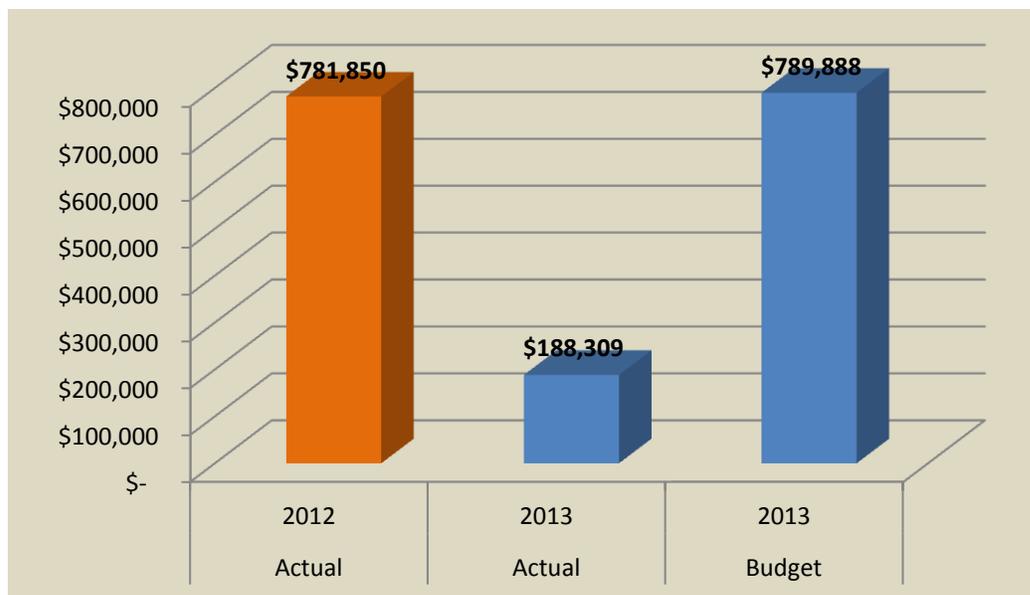
**58% Through the Fiscal Year**

**City of Dallas**  
**Monthly Financials**  
**January 2013**

**Department: General Obligation and Long Term Debt Funds**

Description	Year-to-Date Actual 2012	Year-to-Date Actual 2013	Budget 2013	Budget Remaining	Percent Collected
<b>Revenue</b>					
Property Taxes	\$ 717,013	\$ 664,129	\$ 714,000	\$ 49,871	93.0%
Transfers	97,110	53,005	106,010	53,005	50.0%
	<b>\$ 814,123</b>	<b>\$ 717,134</b>	<b>\$ 820,010</b>	<b>\$ 102,876</b>	<b>87.5%</b>

Description	Year-to-Date Actual 2012	Year-to-Date Actual 2013	Budget 2013	Budget Remaining	Percent Spent
<b>Expenditures</b>					
Principal	\$ 525,000	\$ 70,000	\$ 555,000	\$ 485,000	12.6%
Interest	256,850	118,309	234,888	116,579	50.4%
	<b>\$ 781,850</b>	<b>\$ 188,309</b>	<b>\$ 789,888</b>	<b>\$ 601,579</b>	<b>23.8%</b>



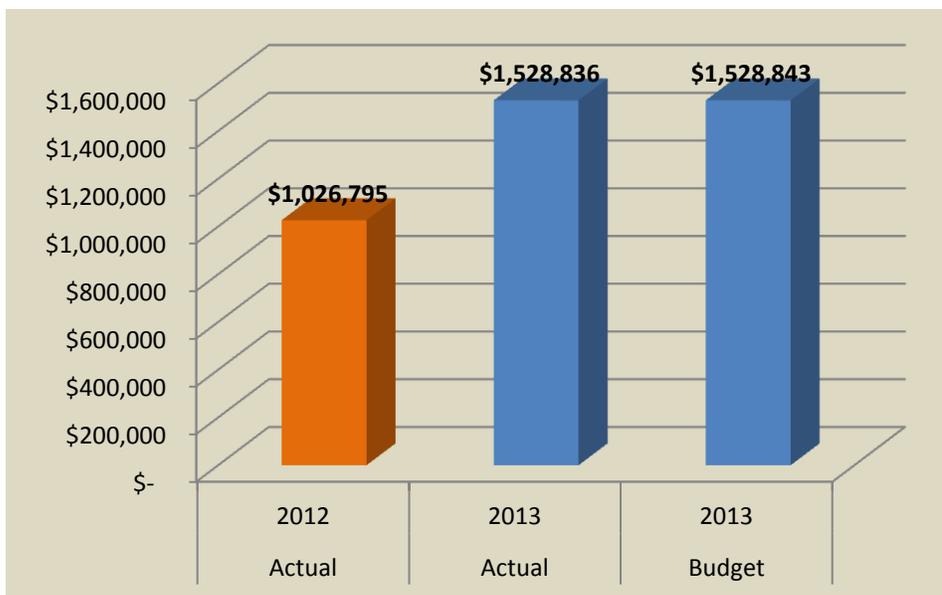
**58% Through the Fiscal Year**

**City of Dallas**  
**Monthly Financials**  
**January 2013**

**Department: Debt Service Fund**

Description	Year-to-Date Actual 2012	Year-to-Date Actual 2013	Budget 2013	Budget Remaining	Percent Collected
<b>Revenue</b>					
Transfers	\$ 1,767,645	\$ 1,528,836	\$ 1,528,843	\$ 7	100.0%
	<b>\$ 1,767,645</b>	<b>\$ 1,528,836</b>	<b>\$ 1,528,843</b>	<b>\$ 7</b>	<b>100.0%</b>

Description	Year-to-Date Actual 2012	Year-to-Date Actual 2013	Budget 2013	Budget Remaining	Percent Spent
<b>Expenditures</b>					
Principal	\$ 787,006	\$ 1,168,259	\$ 1,168,259	\$ (0)	100.0%
Interest	239,789	360,577	360,584	7	100.0%
	<b>\$ 1,026,795</b>	<b>\$ 1,528,836</b>	<b>\$ 1,528,843</b>	<b>\$ 7</b>	<b>100.0%</b>

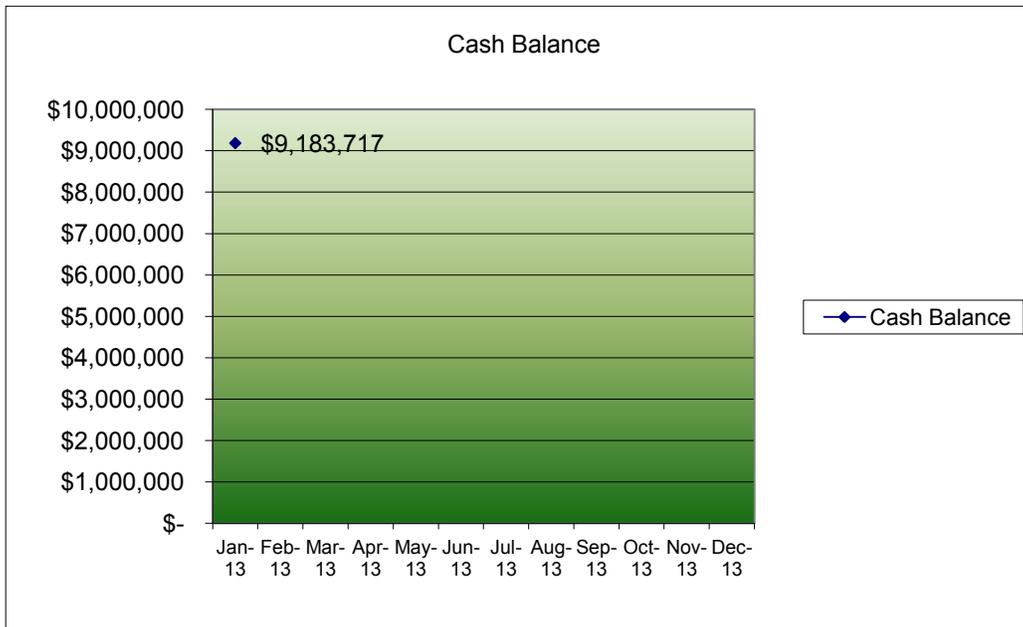


**58% Through the Fiscal Year**

**CITY OF DALLAS**  
**Cash Report**  
**For the Period Ending January 31, 2013**

Cash on hand	\$ 645
Cash in Investments	8,828,214
Cash in Bank	354,858
Total Cash Balance as of 1/31/2013	\$ 9,183,717

Restricted/Committed	\$ 6,156,805
Unrestricted	3,026,912
	\$ 9,183,717

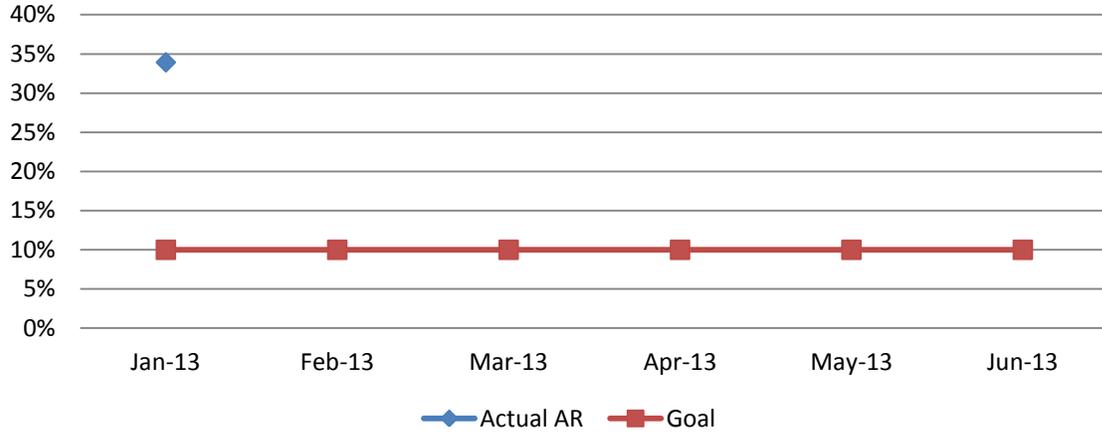


<u>Investment Breakdown</u>	<u>Ending Bal</u>	<u>Interest YTD</u>
LGIP	\$ 7,650,428	\$ 24,081
Wells Fargo Savings	1,177,786	\$ 347
	\$ 8,828,214	\$ 24,428

**UTILITY AGING REPORT**  
**January 31, 2013**

	Jan-13	Feb-13	Mar-13	Apr-13	May-13	Jun-13
Actual AR	34%					
Goal	10%	10%	10%	10%	10%	10%

**Utility Aging Report Graph**



# DALLAS CITY COUNCIL REPORT

**TO: MAYOR BRIAN DALTON AND CITY COUNCIL**

<i>City of Dallas</i>	<b>Agenda Item No. 11 a</b>	<b>Topic:</b> Ordinance 1752 Chronic Nuisance Property
<b>Prepared By:</b> Jason Locke, Community Development/ Operations Director	<b>Meeting Date:</b> February 19, 2013	<b>Attachments:</b> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
<b>Approved By:</b> Ron Foggin, City Manager 		

**RECOMMENDED ACTION:**

Adopt Ordinance 1752

**BACKGROUND:**

The purpose of this proposal is to ensure that there are adequate and effective tools to deal with a property upon which there are repetitive and ongoing illegal activities. These types of activities are outlined in 5.590 of the proposed ordinance. They include a wide range of both criminal and Code violation activities.

The proposed ordinance allows the City Manager to begin the process of declaring the property a chronic nuisance, with varying steps of enforcement, starting with a compliance agreement with the property owner and, if unsuccessful, moving the matter to municipal court where fines and even the closure of the property can occur.

The Administration Committee recommended moving this issue to the full Council for consideration.

**FISCAL IMPACT:**

**Undetermined**

**ATTACHMENTS:**

Ordinance 1752

ORDINANCE NO. 1752

An Ordinance defining chronic nuisance property, establishing the procedure and penalties therefore; and declaring an emergency.

WHEREAS, the City Council has determined that real property, employed as the site of recurring nuisance activity, is itself a nuisance to the people of the City of Dallas, and causes damage to and deterioration of the civil peace of the City, and is detrimental to the health, safety and welfare of the people of the City; and

WHERE AS, the City Council has the authority to declare such real property a nuisance and regulate and abate the nuisance created by the use of real property pursuant to ORS 105.550 through 105.600, ORS 221.915, and ORS 221.926; and

WHEREAS, the City Council does further find that it is both necessary and appropriate, in order to deter recurring nuisance activity from the same premises and to preserve and protect the habitability of the real property in the City of Dallas and the habitability of adjacent properties, to enact a civil penalty for a third violation from the same premises in any sixty-day period.

NOW, THEREFORE, THE CITY OF DALLAS DOES ORDAIN AS FOLLOWS:

Section 1. The following is adopted and made a part of Dallas City Code Chapter, under the heading: "Chronic Nuisance Property."

5.590. Definitions. In addition to those terms defined in section 5.500, for purposes of sections 5.590 through 5.597, the following definitions shall apply:

Chronic Nuisance Property. Property upon which three or more nuisance activities have occurred during any sixty (60) day period; or property upon which, or within 200 feet of which, any person associated with the property, including owners, tenants, occupants, guests, patrons, employees, or employers, has engaged in three or more nuisance activities during any sixty (60) day period.

Nuisance Activities. (1) Any commission, attempt to commit (as defined by ORS 161.405), or conspiracy to commit (as defined by ORS 161.455), the following activities, behaviors, or criminal conduct:

(a) Alcoholic liquor violations as provided in ORS 471.105 through ORS 471.482;

Ordinance

- (b) Animal Abuse or Neglect as provided in ORS 167.315 through 167.330;
- (c) Animal or Dog Fighting as provided in ORS 167.355 or ORS 167.365;
- (d) Arson or related offences as provided in ORS 164.315 through 164.335;
- (e) Assault as provided in ORS 163.160 through ORS 163.185, or in section 5.010 of this code;
- (f) Criminal Mischief as provided in ORS 164.345 through 164.365, or in sections 5.120 and 5.122 of this code;
- (g) Criminal Trespass as provided in ORS 164.243 through 164.265 or or in sections 5.128 and 5.130 of this code;
- (h) Discharging a Weapon as provided in section 5.102 of this code;
- (i) Disorderly Conduct as provided in ORS 166.025 or in section 5.000 of this code;
- (j) Harassment as provided in ORS 166.065 or in section 5.006 of this code;
- (k) Illegal Gambling as provided in ORS 167.117, and ORS 167.122 through 167.127;
- (L) Intimidation as provided in ORS 166.155 through 166.165;
- (m) Menacing as provided in ORS 163.190 or in section 5.012 of this code;
- (n) Offensive Littering as provided in ORS 164.805;
- (o) Prohibited Exposure as provided in section 5.203 of this code;
- (p) Prostitution or related offenses as provided in ORS 167.007, ORS 167.012, and ORS 167.017;
- (q) Public Indecency as provided in ORS 163.465 or in section 5.202 of this code;
- (r) Rape as provided in ORS 163.375;

(s) Sex Abuse, Contributing to the Delinquency of a Minor, or sexual misconduct as provided in ORS 163.415 through 163.445;

(t) Theft as provided in ORS 164.015 through 164.140 or in sections 5.132 through 5.136 of this code;

(u) Unlawful Entry into a Motor Vehicle as provided in ORS 164.272 or in section 5.142 of this code;

(v) Offenses involving firearms or destructive devices, including Unlawful Possession of a Firearm as provided in ORS 166.250 or in section 5.100 of this code, Possession of a Destructive Device as provided in ORS 166.382, Possession of a Hoax Destructive Device as provided in ORS 166.385, and Discharge of Weapons as provided in section 5.102 of this code;

(w) Unlawful Manufacture, Delivery, or Possession of a Controlled Substance or related offenses as provided in ORS 167.203, ORS 475.005 through 475.285, and ORS 475.940 through 475.995;

(x) Unnecessary Noise as provided in section 5.020 of this code.

(y) Maintenance of a Dangerous Building in violation of sections 8.400 through 8.455 of this code.

(z) Any nuisance condition or activity in violation of sections 5.540, (Nuisances affecting public health), 5.550 (Creating a hazard), 5.552 (Attractive nuisance), 5.556 (Scattering rubbish), 5.562 (Surface waters, Drainage), 5.582 (Junk), 5.584 (Inoperable motor vehicles and recreational vehicles), 5.586 (Exterior lighting), 5.588 (Graffiti).

Permit. To suffer, allow, consent to, acquiesce by failure to prevent, or expressly assent or agree to an act, or failure to act.

5.591. Violation. Any property used or maintained as chronic nuisance property within the city is declared to be a nuisance and shall be enjoined and abated.

5.592. Procedure.

(1) After three occurrences of any nuisance activity, as defined in section 5.590, within a sixty-day period, the City Manager or his or her designee shall notify the

person or persons responsible for the property on which the activity occurred of the incidents which are alleged to violate this ordinance and the remedies available to the City under this ordinance.

(2) Notice under this section is sufficient if it is delivered in person or sent by certified mail, return receipt requested, addressed to person or persons responsible at the address of the property where the incidents occurred, and, if different, to the address for the person or persons responsible as shown on the tax rolls of Polk County or such other place which is reasonably believed to give the person or persons responsible actual notice.

(3) A copy of the notice required under this section shall be served on the person or persons responsible at least ten (10) days prior to the commencement of any action by the city under section 5.594. In addition, a copy of the notice shall be posted at the property if ten (10) days has lapsed from the mailing of the notice to the person or persons responsible, and no contact has been received by the City from them during that period of time.

(4) The failure of any person to receive actual notice as provided in this section shall not invalidate or otherwise affect any proceedings under this chapter.

#### 5.593. Compliance Agreement.

After the giving of the notice required in section 5.592, but prior to commencement of action as provided in section 5.594, the person or persons responsible may enter into a compliance agreement with the city to voluntarily abate the nuisance activities giving rise to the notice. Such a compliance agreement must be in writing and signed by the City Manager or his or her designee, and all responsible persons.

#### 5.594. Commencement of Action; Remedies.

(1) The city may commence legal proceedings in the municipal court to enjoin or abate chronic nuisance property and seek closure of the property as well as the imposition of civil penalties against any or all of the owners or occupants thereof, and such other relief as may be deemed appropriate.

(2) In the event the court determines the property to be chronic nuisance property, the court may:

(a) Order that the property be closed and secured against all use and occupancy for not less than thirty (30) days, but not more than one (1) year;

(b) Impose upon the person or persons responsible a civil penalty in an amount up to \$500 per day for each day the person or persons had actual knowledge that the property was chronic nuisance property and permitted the property to remain as such;

(c) Order any other remedy deemed to be appropriate to abate the nuisance.

(3) In establishing the length of closure of the property, as provided in subsection (2), the court may consider any of the following factors, as may be appropriate:

(a) The actions taken by the person or persons responsible to correct or mitigate the nuisance activities the property;

(b) The cooperativeness of the person or persons responsible with the city;

(c) Whether the activities at the property were repeated or continuous;

(d) The magnitude or gravity of the problem;

(e) The cost to the city of investigating and correcting or attempting to correct the nuisance activities;

(f) Any other factor deemed to be relevant by the court.

#### 5.595. Burdens of Proof; Defenses; Mitigation of Civil Penalty

(1) In an action under section 5.594, the city shall have the initial burden of proof to show by a preponderance of the evidence that the property is chronic nuisance property.

(2) It is a defense to an action brought pursuant to section 5.594 that the person or persons responsible at the time in question could not, in the exercise of reasonable care or diligence, have known or determined that the property was chronic nuisance property, or could not, in the exercise of reasonable care and diligence, control the conduct leading to the finding that the property is chronic nuisance property. It is no defense that the person or persons responsible was not physically present at the property at or during the time of the incidents leading to the chronic nuisance situation.

(3) In establishing the amount of any civil penalty requested, the court may consider any of the following factors, as may be appropriate, and shall cite those found applicable:

- (a) The actions taken by the person or persons responsible to correct or mitigate the nuisance activities the property;
- (b) The cooperativeness of the person or persons responsible with the city;
- (c) Whether the activities at the property were repeated or continuous;
- (d) The magnitude or gravity of the problem;
- (e) The cost to the city of investigating and correcting or attempting to correct the nuisance activities;
- (f) Any other factor deemed to be relevant by the court.

5. 596. Closure During Pendency of Action; Emergency Closures. In addition to any other remedy available to the city under sections 5.590 to 5.597, in the event that the City Manager or the City Manager's designee determines that the property is an immediate threat to the public safety and welfare, the city may apply to the court for such interim relief as is deemed by the city to be appropriate. Proceedings to obtain an order of emergency closure shall be governed by the provisions of Oregon Rule of Civil Procedure 79. In such an event the notification procedures set forth in section 5.591 need not be complied with.

5.597. Enforcement of Closure Order; Costs; Attorney Fees.

(1) The court may authorize the city to physically secure the property against the use or occupancy in the event that the person or persons ordered to do so fail to do so within the time specified by the court. In the event that the city is authorized to secure the property, all costs and attorney fees reasonably incurred by the city to effect a closure shall be made a lien upon the property. As used in this subsection, "costs" includes those costs actually incurred by the city for the physical securing of the property, as well as tenant relocation costs given pursuant to subsection (3) of this section.

(2) The city shall prepare a statement of the costs of physically securing the property and attorney fees incurred by the city to effect the closure of the property, and shall thereafter submit that statement to the court. If no objection to the statement is made within the period prescribed by Oregon Rule of Civil Procedure 68, the statement of costs and attorney fees shall be included in the city's money judgment and lien.

(3) The court may award a tenant, as defined by ORS 90.100, reasonable relocation costs as those are determined by the court, if without actual notice the tenant moved into the property after either:

(a) The person or persons responsible, or agent thereof, received notice pursuant to section 5.592; or

(b) The person or persons responsible, or agent thereof, received notice of an action pursuant to section 5.594.

(4) Persons assessed any costs pursuant to this ordinance shall be jointly and severally liable for the payment thereof to the city.

Section 2. The provisions of this ordinance are severable, and if any phrase, clause or part of this ordinance is found by a court of competent jurisdiction to be invalid or unenforceable, each and every remaining phrase, clause and part shall nonetheless remain in full force and effect.

Section 3. This ordinance being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist and this ordinance shall take effect on its passage.

Read for the first time:	February 4, 2013
Read for the second time:	February 19, 2013
Adopted by the City Council:	February 19, 2013
Approved by the Mayor:	February 19, 2013

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BRIAN W. DALTON, MAYOR

ATTEST:

APPROVED AS TO FORM:

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RONALD W. FOGGIN, CITY MANAGER

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LANE P. SHETTERLY, CITY ATTORNEY

Ordinance

7