



March 24, 2014
7:00 P.M.

**CITY COUNCIL AGENDA
REVISED**

NOTICE TO READERS: City Council meeting packets are prepared several days prior to the meetings. Timely action and short discussion on agenda items is reflective of Council's prior review of each issue with time, thought and analysis given. Many items have been previously discussed at a Council Study Session.

Members of the audience are invited to speak at the Council meeting. Citizen Communication (Section 7) is reserved for comments on any issues or items pertaining to City business except those for which a formal public hearing is scheduled under Section 10 when the Mayor will call for public testimony. Please limit comments to no more than 5 minutes duration.

- 1. Pledge of Allegiance**
- 2. Roll Call**
- 3. Consideration of Minutes of Preceding Meeting**
- 4. Report of City Officials**
 - A. City Manager's Report
- 5. City Council Comments**
- 6. Presentations**
 - A. Presentation of the 2014 Business Legacy Awards
 - B. Child Abuse Prevention Month Proclamation
 - C. Donate Life Month Proclamation
 - D. National Volunteer Week
- 7. Citizen Communication (5 minutes or less)**

The "Consent Agenda" is a group of routine matters to be acted on with a single motion and vote. The Mayor will ask if any Council member wishes to remove an item for separate discussion. Items removed from the consent agenda will be considered immediately following adoption of the amended Consent Agenda.

- 8. Consent Agenda**
 - A. Financial Report for February 2014
 - B. Open Space Purchase of 4.09-acre Kenneth H. Johnson Living Trust Property
 - C. Construction Engineering contract – 72nd Avenue/Raleigh Street Bridge Replacement
 - D. Rodeo Market Park Improvements Contract Award
 - E. Backhoe and Mini Excavator Purchase
 - F. Excess Workers' Compensation Insurance Purchase
 - G. 2014 Golf Courses' Cumulative Purchases over \$75,000
 - H. Public Safety Center Secure Parking Lot Reconstruction Project
 - I. 2nd Amendment to the Contract to Buy and Sell the City's 14-acre Parcel
 - J. Downtown Westminster Roadway Design Contract

9. Appointments and Resignations

10. Public Hearings and Other New Business

- A. Public Hearing to Amend CLUP and Approve the Legacy Ridge West Filing No. 8 ODP
- B. Councillor's Bill No. 5 re Legacy Ridge West CLUP Amendment
- C. Approval of Legacy Ridge West Filing No. 8 ODP
- D. Public Hearing re Third Amended PDP for Wallace Village
- E. Approval of Third Amended PDP for Wallace Village
- F. Resolution No. 6 Authorizing IGA with UDFCD for Little Dry Creek Major Drainageway
- G. Councillor's Bill No. 6 Authorizing 2013 4th Quarter Budget Supplemental Appropriation
- H. Councillor's Bill No. 7 Adding Section 4, Title I, Chapter 24, to W.M.C. re Employee Political Activity
- I. Award Contracts for Golf Court Maintenance Equipment
- J. Councillor's Bill No. 8 re Lease/Purchase of Golf Course Maintenance Equipment Package
- K. Modification of Lease/Purchase Master Lease Agreement

11. Old Business and Passage of Ordinances on Second Reading

12. Miscellaneous Business and Executive Session

- A. City Council

13. Adjournment

NOTE: *Persons needing an accommodation must notify the City Clerk no later than noon on the Thursday prior to the scheduled Council meeting to allow adequate time to make arrangements. You can call 303-658-2161/TTY 711 or State Relay or write to lyeager@cityofwestminster.us to make a reasonable accommodation request.*

GENERAL PUBLIC HEARING PROCEDURES ON LAND USE MATTERS

- A.** The meeting shall be chaired by the Mayor or designated alternate. The hearing shall be conducted to provide for a reasonable opportunity for all interested parties to express themselves, as long as the testimony or evidence being given is reasonably related to the purpose of the public hearing. The Chair has the authority to limit debate to a reasonable length of time to be equal for both positions.
- B.** Any person wishing to speak other than the applicant will be required to fill out a “Request to Speak or Request to have Name Entered into the Record” form indicating whether they wish to comment during the public hearing or would like to have their name recorded as having an opinion on the public hearing issue. Any person speaking may be questioned by a member of Council or by appropriate members of City Staff.
- C.** The Chair shall rule upon all disputed matters of procedure, unless, on motion duly made, the Chair is overruled by a majority vote of Councillors present.
- D.** The ordinary rules of evidence shall not apply, and Council may receive petitions, exhibits and other relevant documents without formal identification or introduction.
- E.** When the number of persons wishing to speak threatens to unduly prolong the hearing, the Council may establish a time limit upon each speaker.
- F.** City Staff enters a copy of public notice as published in newspaper; all application documents for the proposed project and a copy of any other written documents that are an appropriate part of the public hearing record;
- G.** The property owner or representative(s) present slides and describe the nature of the request (maximum of 10 minutes);
- H.** Staff presents any additional clarification necessary and states the Planning Commission recommendation;
- I.** All testimony is received from the audience, in support, in opposition or asking questions. All questions will be directed through the Chair who will then direct the appropriate person to respond.
- J.** Final comments/rebuttal received from property owner;
- K.** Final comments from City Staff and Staff recommendation.
- L.** Public hearing is closed.
- M.** If final action is not to be taken on the same evening as the public hearing, the Chair will advise the audience when the matter will be considered. Councillors not present at the public hearing will be allowed to vote on the matter only if they listen to the tape recording of the public hearing prior to voting.



WESTMINSTER
Strategic Plan
2013-2018
Goals and Objectives

STRONG, BALANCED LOCAL ECONOMY

- Maintain/expand healthy retail base, increasing sales tax receipts
- Attract new targeted businesses, focusing on primary employers and higher paying jobs
- Develop business-oriented mixed use development in accordance with Comprehensive Land Use Plan
- Retain and expand current businesses
- Develop multi-modal transportation system that provides access to shopping and employment centers
- Develop a reputation as a great place for small and/or local businesses
- Revitalize Westminster Center Urban Reinvestment Area



SAFE AND HEALTHY COMMUNITY

- Maintain citizens feeling safe anywhere in the City
- Public safety departments: well-equipped and authorized staffing levels staffed with quality personnel
- Timely response to emergency calls
- Citizens taking responsibility for their own safety and well being
- Manage disaster mitigation, preparedness, response and recovery
- Maintain safe buildings and homes
- Protect residents, homes, and buildings from flooding through an effective storm water management program



FINANCIALLY SUSTAINABLE CITY GOVERNMENT PROVIDING EXCEPTIONAL SERVICES

- Invest in well-maintained and sustainable city infrastructure and facilities
- Secure and develop long-term water supply
- Focus on core city services and service levels as a mature city with adequate resources
- Maintain sufficient reserves: general fund, utilities funds and self insurance
- Maintain a value driven organization through talent acquisition, retention, development and management
- Prepare for next generation of leaders; managers and employees.
- Maintain and enhance employee morale and confidence in City Council and management
- Invest in tools, training and technology to increase organization productivity and efficiency



VIBRANT NEIGHBORHOODS IN ONE LIVABLE COMMUNITY

- Develop transit oriented development around commuter rail stations
- Maintain and improve neighborhood infrastructure and housing
- Preserve and restore historic assets
- Have HOAs and residents taking responsibility for neighborhood private infrastructure
- Develop Westminster as a cultural arts community
- Have a range of quality homes for all stages of life (type, price) throughout the City
- Have strong community events and active civic engagement



BEAUTIFUL AND ENVIRONMENTALLY SENSITIVE CITY

- Have energy efficient, environmentally sensitive city operations
- Reduce energy consumption citywide
- Increase and maintain green space (parks, open space, etc.) consistent with defined goals
- Preserve vistas and view corridors
- A convenient recycling program for residents and businesses with a high level of participation



Mission statement: We deliver exceptional value and quality of life through SPIRIT.

CITY OF WESTMINSTER, COLORADO
MINUTES OF THE CITY COUNCIL MEETING
HELD ON MONDAY, MARCH 10, 2014, AT 7:00 P.M.

PLEDGE OF ALLEGIANCE

Mayor Atchison led the Council, Staff, and audience in the Pledge of Allegiance.

ROLL CALL

Mayor Herb Atchison, Mayor Pro Tem Faith Winter and Councillors Bruce Baker, Bob Briggs, and Emma Pinter were present at roll call. Councillors Alberto Garcia and Anita Seitz were attending the National League of Cities Conference in Washington, D.C. and were excused. Also present were City Manager J. Brent McFall, City Attorney Martin McCullough, and City Clerk Linda Yeager.

CONSIDERATION OF MINUTES

Councillor Baker moved, seconded by Councillor Briggs, to approve the minutes of the regular meeting of February 24, 2014, as presented. The motion carried unanimously.

CITY MANAGER'S REPORT

Mr. McFall reported that following tonight's brief agenda the Board of Directors of the Westminster Economic Development Authority would meet. The City Council would then attend a post-meeting briefing to discuss 2014 Council Outreach Events, proposed renovations to the City Council Chambers and Council Board Room, an update from Economic Development concerning 2013 activity and 2014 action plan, and an update about Surefire Medical, Inc. business. The public was welcome to attend. After the post-meeting briefing, the Council would meet in executive session to give direction concerning the proposed Economic Development Incentive Agreement with an expanding company in Westpark Business Park pursuant to Sections 1-11-3(C)(4) and (7), W.M.C., and Section 24-6-402(4)(e), C.R.S.

COUNCIL REPORTS

Mayor Pro Tem Winter invited the public to attend her favorite event of the year, the Green Chile Cook-Off, being held at the Promenade Rock Bottom Brewery on March 12 from 6 to 7:30 p.m. This event benefited the Firefighters Burn Fund.

Councillor Briggs reported having attended a recent meeting of the Westminster Historical Society, which was moving ahead with Resource Center after receiving a \$10,000 donation from the Noon Rotary Club. Additionally, he invited the public to attend the Red Chile Cook-Off that would be held on March 19 at the Orchard Rock Bottom Brewery from 6 to 7:30 p.m.

CITIZEN COMMUNICATION

Tom Roemersberger, 10421 West 102nd Avenue and Director of Neighbors from Countryside, introduced Dave DeMott, who was assuming the duties that he had held the past seven years for the neighborhood group. With the absence of a Homeowners' Association, property owners in Countryside had organized to maintain their property values. Advocating on their own behalf, they had worked with the City to identify needed improvements that not only maintained the appearance of the neighborhood, but also maintained residents' quality of life. He thanks the City Manager and the Council for working with him and knew the same cooperation would be offered to Mr. DeMott as he represented the Neighbors of Countryside in betterment efforts for the neighborhood.

CONSENT AGENDA

The following items were submitted for Council's consideration on the consent agenda: authorize the City Manager to sign an Intergovernmental Cooperation Agreement between the City of Westminster and the Westminster

Economic Development Authority, in substantially the same form as attached to the agenda memorandum, providing payment to the City from the Authority for reimbursement of costs associated with a redevelopment agreement benefitting the South Sheridan Urban Renewal Area and City incurred costs related to maintenance of improvements in the South Sheridan Urban Renewal Area; based upon the recommendation of the City Manager, determine that the public interest would be best served by ratifying contractual expenditures with Kelly Electrical Services, Inc. and approving total 2013 expenditures of \$52,545.58 with Kelly Electrical Services; and final passage on second reading of Councillor's Bill No. 4 appropriating funds from the Wastewater Capital Projects Reserve into the 87th Avenue & Wadsworth Boulevard Lift Station Project.

No items were removed for individual consideration and Councillor Briggs moved, seconded by Mayor Pro Tem Winter, to approve the consent agenda as presented. The motion carried with all Council members voting in favor.

ADJOURNMENT

There was no further business to come before the City Council, and, hearing no objections, Mayor Atchison adjourned the meeting at 7:11 p.m.

ATTEST:

Mayor

City Clerk



Agenda Item 6 A

Agenda Memorandum

City Council Meeting
March 24, 2014



SUBJECT: Presentation of the 2014 Business Legacy Awards

Prepared By: Ryan Johnson, Economic Development Specialist

Recommended City Council Action

City Council will present Business Legacy Awards to Westminster businesses celebrating 25-40 years of being in business in Westminster.

Summary Statement

- For the past several years, the City has celebrated and recognized local businesses for their role as essential components to the continued strength, well being, and high quality of life of Westminster. This year, there will be three events held to recognize nearly 43 businesses ranging from 25 years of being in business up to 50 years of being in business.
- During the first quarter of 2014, 14 businesses will be recognized on March 24, 2014, for their 25th through 40th anniversary of doing business in Westminster. The recognition includes the following:
 - Recognition Reception to get acquainted with award recipients
 - Presentation of Awards by Mayor Atchison and City Council at the Council meeting
 - Group photos with businesses, Mayor Atchison and City Council
 - Economic Development staff will be present to facilitate handing out awards
- The Recognition Reception is hosted in part by Bender's Bar & Grill.

Expenditure Required: \$2,100 for the 1st quarter event

Source of Funds: General Fund - Economic Development Division Operating Budget

Policy Issue

Should City Council take time to thank City of Westminster businesses for their investment in Westminster?

Alternatives

1. One alternative could be to stop providing awards to businesses. This alternative is not recommended because the business community appreciates this recognition and these businesses receive a great amount of exposure by being recognized. Additionally, recognition helps the City communicate to the business community the desire to retain a diverse and high quality business community.
2. A second alternative would be to provide awards to more businesses. This alternative is not recommended because City Staff currently participates in other awards and recognition programs throughout the region that recognizes Westminster businesses for other contributions to the community.
3. Another alternative could be to provide awards in another setting. This alternative is not recommended as the current setting provides more interaction between the business owners and the City Council.

Background Information

The City of Westminster has a long tradition of recognizing businesses that have been in business for 25 years or more in five year increments. Local businesses provide employment, shopping, entertainment and recreational opportunities for all citizens. The roughly 3,000 Westminster businesses contribute to the City’s operating funds through revenue generated from sales and use tax, accommodations and admissions tax, as well as property tax collections. Businesses also enrich the quality of life in Westminster by supporting community organizations with financial and in-kind contributions. The high caliber mix of retail, service, and corporate office establishments found in Westminster is virtually unparalleled in northwest metro Denver.

This first quarter of 2014, the City is recognizing the following businesses celebrating their 25th through 40th anniversary of doing business in Westminster.

Business Legacy Award Recipients

Name of Business	Anniversary	Address
A & R Plumbing Inc.	25	3660 W 73 rd Ave.
A A A Aqua Distiller	25	7901 Raleigh St.
Bally Total Fitness	25	7635 W 88 th Ave.
Brunswick Zone Westminster	25	9150 Harlan St.
Colorado Educational Theatre	25	8120 Sheridan Blvd. #B309
Crestline Mortgage	25	8690 Wolff Ct. #200
Garner Homes	30	9433 Saulsbury Ct.
Lamps Plus #28	30	7375 W 88 th Ave.
Los Arcos	30	4991 W 80 th Ave.
Miles Upholstery	30	9241 Irving St.
Mission Hill Management	35	4675 W 103 rd Cir.
Pachello’s Printing	35	3856 W 73 rd Ave.
Park Centre Lounge	40	12011 Pecos St.
Woodstone Village LP	40	4941 W 81 st Pl.

SUBJECT: 2014 Business Legacy Awards

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The Business Legacy Awards meets the City Council's Strategic Plan goal of building a Strong, Balanced Local Economy.

There are two attachments to this memo:

- 1.) "Business Legacy Awards – Order of Events" outlines the awards program for Monday night.
- 2.) Staging Map - Shows where the City Council and Mayor will stand during the awards presentation.

Respectfully submitted,

J. Brent McFall
City Manager

Attachments: Order of Events
Business Legacy Awards Staging Map

Business Legacy Awards Order of Events

Monday March 24, 2014

Below is an outline of events for the upcoming Business Legacy Awards reception and presentation on March 24, 2014. Please note that Economic Development Staff as well as others will be in attendance and can serve as an information resource and make introductions. The Mayor and City Council are invited to attend the reception as early as practicable after the conclusion of the dinner.

Our primary message during the event is "Thank you for doing business in Westminster."

6:20-6:50 p.m.

- Reception to be held for those businesses being honored
- Reception will be held in the upper atrium area outside the City Council Board Room
- City Council and Staff are invited to attend during this time to mingle with those people who are here to be recognized
- Coffee and tea as well as hors d'oeuvres will be provided during this reception

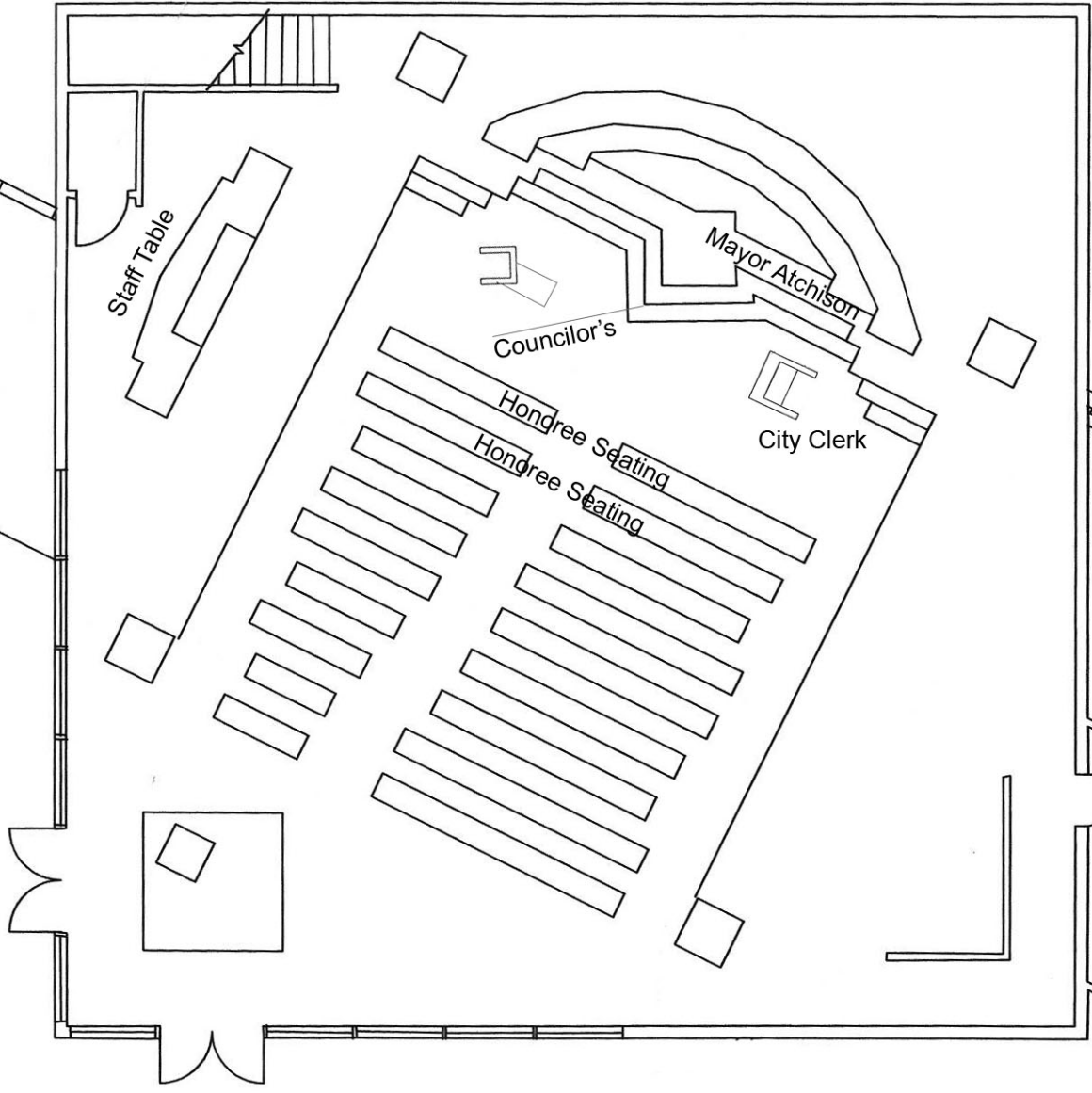
6:50-7:00 p.m.

- Those people who are accepting an award will find their assigned seats in the City Council Chambers

7:00 p.m. – City Council Meeting Starts

- Economic Development Staff will introduce the presentation. While this is occurring, the City Council is invited to come down and stand on the steps (as shown on the attached staging map)
- As each business is called up, they will shake the hands of City Council and the Mayor will present the business representative with the award
- At this time, the business representative will take a photo with the Mayor and then stand off to the side and wait until all 14 businesses have taken individual photos.
- After all of the 14 businesses have taken their individual photo with the Mayor, the group will combine on the steps for a group photo.
- After the photograph has been taken, the group of businesses will find their seats or leave.

Business Legacy Awards Staging Plan



City Hall Lobby

Main Entrance



Agenda Item 6 B

Agenda Memorandum

City Council Meeting
March 24, 2014

SUBJECT: Child Abuse Prevention Month Proclamation

Prepared By: Linda Yeager, City Clerk

Recommended City Council Action

Councillor Garcia to present a proclamation declaring April 2014 to be Child Abuse Prevention Month.

Summary Statement

- Child abuse and neglect knows no boundaries and is a serious problem world-wide. Nationally 1 in 5 girls and 1 in 10 boys will be sexually abused before their 18th birthday. Although reports of abuse have increased steadily over the years, professionals working together reduce the trauma of the investigative process and provide coordinated services to the child and his/her family.
- Ralston House is the child advocacy center in Colorado's 1st and 17th Judicial Districts, and interviewed 896 abused children in 2013. This nationally-accredited nonprofit agency helps children and teens who are suspected of being sexually or physically abused.
- Ashley Irlando and Vanessa DeMott, representatives from the Ralston House, will be present to accept the proclamation.

Expenditure Required: \$0

Source of Funds: N/A

Policy Issue

None identified

Alternative

None identified

Background Information

Ralston House professionals work with police departments, social services, and district attorneys in the 1st and 17th Judicial Districts to provide forensic interviews, forensic sexual assault medical exams and support services to children and teens suspected of being sexually or physically abused. Comprehensive services at child-friendly Ralston House help child victims and their families begin the healing process after traumatic experiences.

Blue pinwheels are a symbol of child abuse prevention awareness across the nation. Ralston House is approaching organizations around Jefferson County asking them to plant gardens of pinwheels in April to support the children in the community who have suffered abuse and to support efforts to keep children safe from abuse. Each garden will be a visible demonstration to child victims and their families that the community supports them, is on their side, believes in them, and wants to help them heal.

Ashley Irlando and Vanessa DeMott, representatives from Ralston House, will be present to receive the proclamation.

Respectfully submitted,

J. Brent McFall
City Manager

WHEREAS, every child deserves to grow up in a nurturing environment, free from harm and fear; and

WHEREAS, all children do not receive appropriate care, and too many children become victims at the hands of abusive perpetrators; and

WHEREAS, every responsible person would agree that even one abused child is too many, it is up to us as a community to tirelessly work to end the abuse of children through awareness and action; and

WHEREAS, Westminster has dedicated individuals and organizations who work daily to counter the problem of child abuse and to help parents obtain the assistance they need; and

WHEREAS, our community is stronger when all citizens become aware of child abuse prevention and become involved in supporting parents to raise their children in a safe and nurturing environment; and

WHEREAS, effective child abuse prevention programs, such as Ralston House, succeed because of partnerships among families, social service agencies, schools, religious and civic organizations, law enforcement agencies and the business community; and

NOW, THEREFORE, I, Herb Atchison, Mayor of the City of Westminster, Colorado, on behalf of the Westminster City Council, do hereby proclaim April 2014 to be

CHILD ABUSE PREVENTION MONTH

and urge all citizens to join in renewing our commitment to preventing child abuse and learning what we can do to promote the safety and well-being of all children.

Signed this 24th day of March, 2014.

Herb Atchison, Mayor



Agenda Memorandum

City Council Meeting
March 24, 2014



SUBJECT: Donate Life Month Proclamation

Prepared By: Linda Yeager, City Clerk

Recommended City Council Action

Councillor Briggs to present a proclamation declaring April 2014 to be Donate Life Month.

Summary Statement

- National Donate Life Month is an opportunity to celebrate the generosity of those who have saved lives by becoming organ, tissue, marrow, and blood donors and to encourage more Americans to follow their example. Even though more and more Americans are embracing the “Gift of Life” through organ and tissue donation, thousands are awaiting transplants and the listings grow by another name every 12 minutes.
- Created by Donate Life America and endorsed by the President of the United States, National Donate Life Month focuses on encouraging citizens to register as organ, eye and tissue donors and to celebrate those who have saved lives through the gift of donation. .
- Present to accept the proclamation will be Dale Sparks, Judy Thompson, Tiffany Pierce, and Joel Davis, volunteers with Donor Alliance.

Expenditure Required: \$0

Source of Funds: N/A

Policy Issue

None identified

Alternative

None identified

Background Information

There are more than 2,400 people in Colorado currently awaiting lifesaving transplants. It is the goal of local volunteers with Donor Alliance to build awareness in this area of the need for citizens to become organ, eye and tissue donors. These Advocate for Life volunteers have witnessed firsthand the lifesaving and healing impact of donations made by or to their loved ones. By proclaiming April to be Donate Life Month, the Advocate for Life volunteers are working to ensure that no person is ever denied the opportunity for a lifesaving transplant.

This proclamation supports the City Council's Strategic Plan goal of a Safe and Healthy Community by increasing awareness of the need for citizens to register as organ donors, making their Gifts of Life to others in the community whose lives are at risk without long-awaited transplants.

Respectfully submitted,

J. Brent McFall
City Manager

WHEREAS, National Donate Life Month creates an important opportunity to educate citizens about the need for organ, eye and tissue donation; and

WHEREAS, thousands of Westminster residents have chosen to register as organ, eye and tissue donors—a decision that reflects deep commitment to one another; and

WHEREAS, since 1988, nearly 2,500 Coloradans have donated lifesaving organs after death to patients in need; and

WHEREAS, despite the profound generosity of these donors, 2,400 Colorado men, women, and children continue to wait for a lifesaving organ transplant; and

WHEREAS, together, we can respond to the shortage that keeps thousands of patients from receiving lifesaving organs; and

WHEREAS, we can further improve lives through the lifesaving and healing gifts of eye, tissue, bone marrow and blood donation; and

WHEREAS, Donor Alliance and the Donate Life Colorado community call upon our state's health care professionals, volunteers, educators, government agencies, faith-based and community groups, and private organizations to join forces to boost the number of organ, eye and tissue donors throughout our state; and

WHEREAS, Westminster businesses are urged to participate in National Donate Life Month, utilizing available resources to educate patrons on the facts behind organ, eye and tissue donation.

NOW, THEREFORE, I, Herb Atchison, Mayor of the City of Westminster, Colorado, on behalf of the Westminster City Council, do hereby proclaim April 2014 to be

DONATE LIFE MONTH

and urge residents of Westminster to learn the facts about organ and tissue donation, to consider signing up on the Donate Life Colorado Organ & Tissue Donor Registry, and to talk to family and friends about these decisions.

Dated this 24th day of March, 2014

Herb Atchison, Mayor



Agenda Memorandum

City Council Meeting
March 24, 2014



SUBJECT: Proclamation re National Volunteer Week

Prepared By: Marina C. Miller, Volunteer Coordinator

Recommended City Council Action

Mayor Pro Tem Winter to proclaim April 6 through April 12, 2014, as City of Westminster Volunteer Week in celebration of National Volunteer Week and recognition of the significant contributions of volunteers to the overall success of the City organization and the quality of life of Westminster citizens.

Summary Statement

- The Mayor and City Council are being requested to proclaim April 6 through April 12, 2014, as National Volunteer Week.
- In 2013, the City of Westminster and its citizens benefited from 51,277 volunteer hours which is the hourly equivalent of \$1.2 million. Volunteer Westminster places volunteers in a variety of positions citywide such as victim advocates, probation, library services, golf operations, open space, and streets to name a few.
- The purpose of the proposed proclamation is to recognize the over 1000 volunteers who comprise Volunteer Westminster.
- On April 6, volunteers are invited to stop by City Hall for Monday Muffins as a thank you for their service. This recognition event along with other activities throughout the week will be one way of showing our appreciation.
- Citizens, who represent volunteers from all City departments, have been invited to attend Monday evening's meeting to accept the proclamation on behalf of Volunteer Westminster.

Expenditure Required: \$ 0

Source of Funds: N/A

Policy Issue

None identified

Alternative

None identified

Background Information

National Volunteer Week, April 6 through April 12, honors City of Westminster volunteers who tirelessly share their time and talent with the City. The ability of the City of Westminster organization to provide quality municipal services is in no small part due to the commitment and dedication of our volunteers.

City Council support can challenge and encourage the citizens and businesses to commit to a sustainable volunteer program. National Volunteer Week is about inspiring, recognizing and encouraging citizens to seek ways to engage in their community. It's about meeting society's challenges not as isolated individuals, but as members of a united community.

National Volunteer Week is sponsored by Points of Light. This special week was designated by an executive order of President Richard Nixon in 1974. Every President since has signed a proclamation of support announcing National Volunteer Week as the national week of recognizing volunteerism throughout the United States.

Recognition of the volunteer contribution to the City addresses all five of Council's Strategic Plan Goals by acknowledging that a volunteer program encourages citizen engagement as an integral element of a thriving community.

The attached Proclamation recognizes the contributions of volunteers and their efforts by proclaiming April 6 through April 12, 2014, National Volunteer Week in the City of Westminster.

Respectfully submitted,

J. Brent McFall
City Manager

Attachment - Proclamation

WHEREAS, the entire community can inspire, equip and mobilize people to take action that changes the world; and

WHEREAS, volunteers can connect with local community service opportunities through hundreds of community service organizations; and

WHEREAS, individuals and communities are at the center of social change, discovering their power to make a difference; and

WHEREAS, during this week all over the nation, service projects will be performed and volunteers recognized for their commitment to service; and

WHEREAS, the giving of oneself in service to another empowers the giver and the recipient; and

WHEREAS, experience teaches us that government by itself cannot solve all of our nation's social problems; and

WHEREAS, our country's volunteer force of more than 63 million is a great treasure; and

WHEREAS, volunteers are vital to our future as a caring and productive nation; and

NOW, THEREFORE, I, Herb Atchison, Mayor of the City of Westminster, Colorado, on behalf of the entire City Council and Staff, do hereby proclaim April 6-12, 2014, to be

**CITY OF WESTMINSTER
VOLUNTEER WEEK**

and urge my fellow citizens to volunteer, knowing that by volunteering and recognizing those who serve, we can come together to make a difference.

Signed this 24th of March, 2014.

Herb Atchison, Mayor



Agenda Memorandum

City Council Meeting
March 24, 2014



SUBJECT: Financial Report for February, 2014

Prepared By: Tammy Hitchens, Finance Director

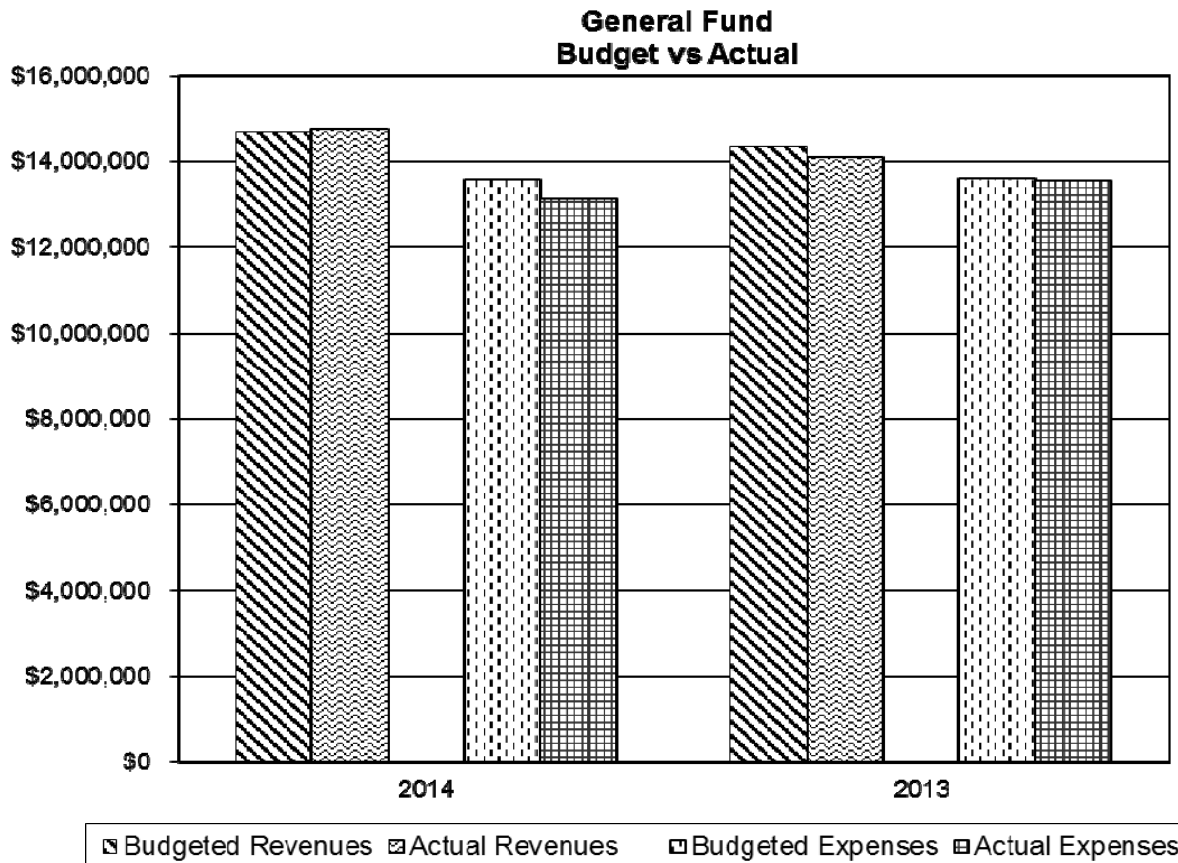
Recommended City Council Action

Accept the Financial Report for February as presented.

Summary Statement

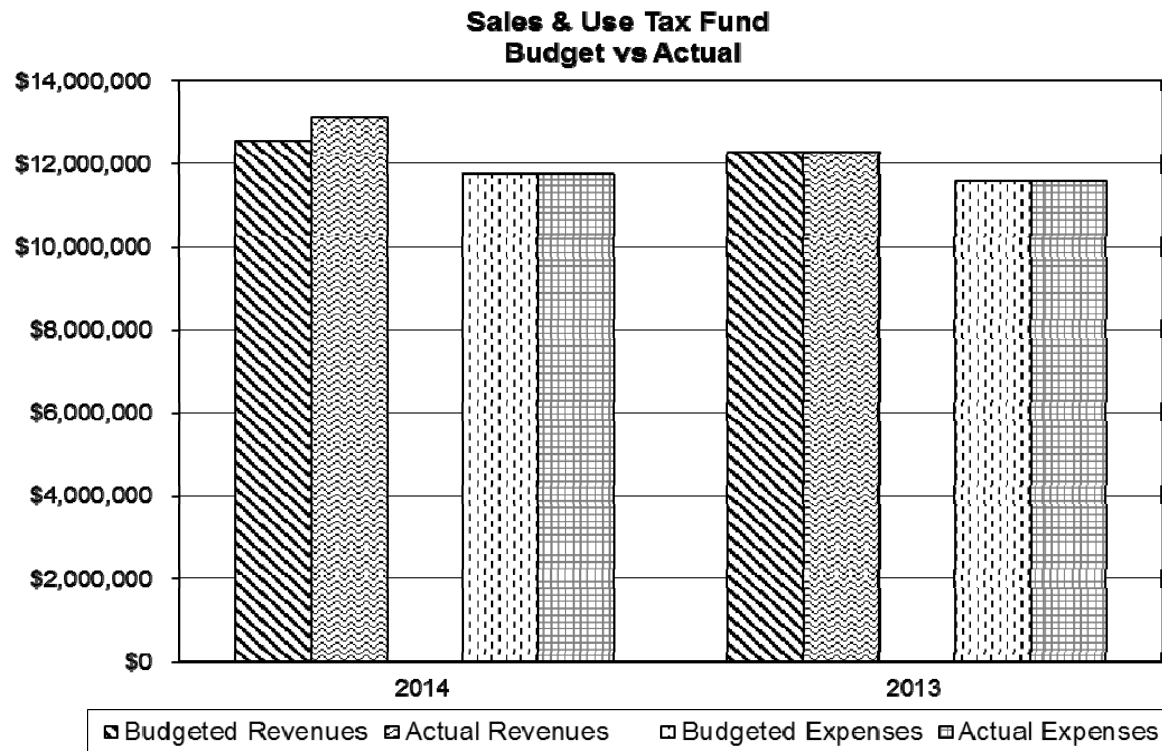
City Council is requested to review and accept the attached monthly financial statement. The Shopping Center Report is also attached. Unless otherwise indicated, "budget" refers to the pro-rated budget. The budget numbers that are presented reflect the City's amended adopted budget. Both revenues and expenditures are pro-rated based on 10-year historical averages.

Current projections show General Fund revenues and carryover exceeding expenditures by \$494,233. The following graph represents Budget vs. Actual for 2013-2014.

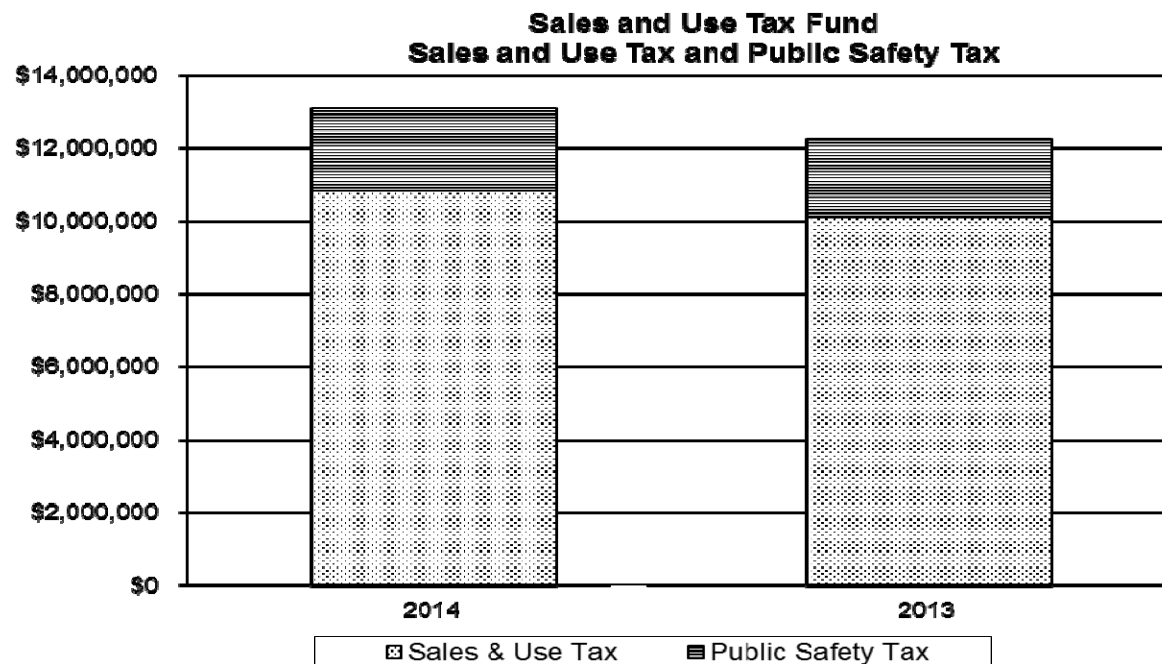


Current projections show the Sales and Use Tax Fund revenues exceeding expenditures by \$579,569. On a year-to-date cash basis, total sales and use tax is up 7.3% from 2013. Key components are listed below:

- On a year-to-date basis, across the top 25 shopping centers, total sales and use tax receipts are even with the prior year.
- Sales tax receipts from the top 50 Sales Taxpayers, representing about 61.4% of all collections, are down 7.3% for the month when compared to 2013.
- Urban renewal areas make up 39.3% of gross sales tax collections. After urban renewal area and economic development assistance adjustments, 87.0% of this money is being retained for General Fund use.

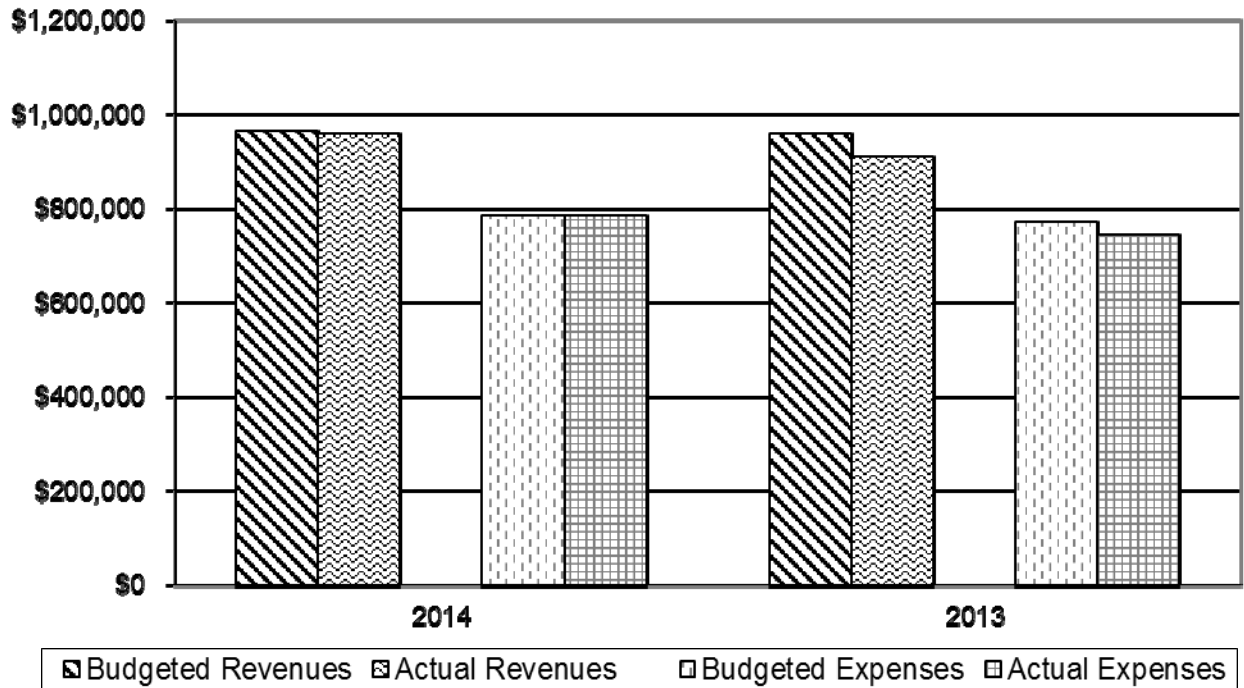


The graph below reflects the contribution of the Public Safety Tax to the overall Sales and Use Tax revenue.



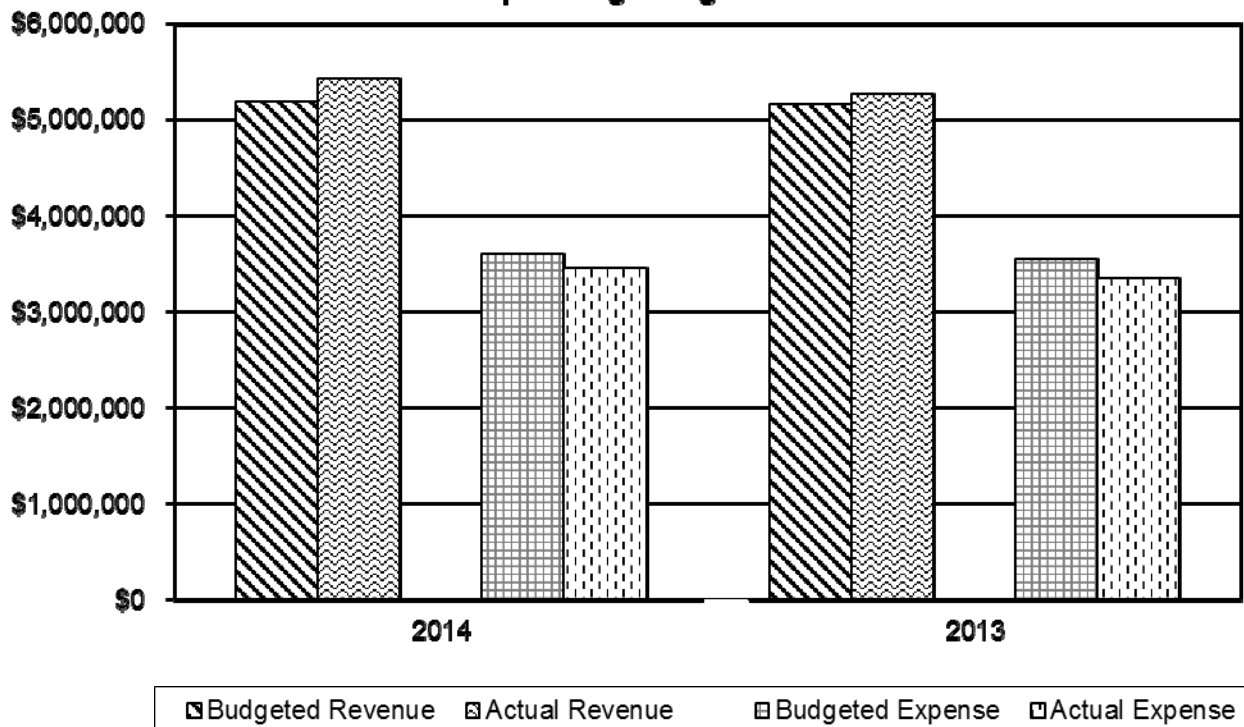
Current projections show Parks Open Space and Trails Fund revenues below expenditures by \$6,712.

POST Fund Budget vs Actual



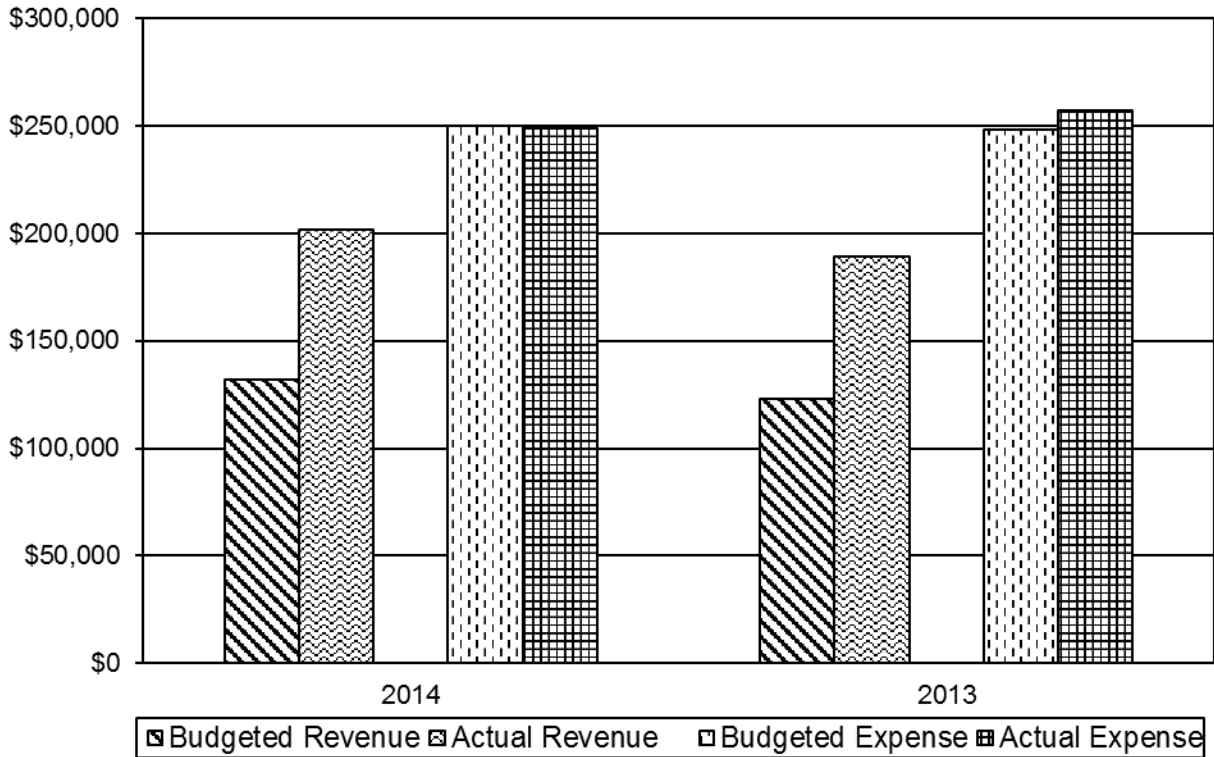
Current projections show combined Water & Wastewater Fund revenues below expenditures by \$715,211. This is mostly due to tap fees.

Combined Water and Wastewater Funds Operating Budget vs Actual



Current projections show combined Golf Course Fund revenues exceeding expenditures by \$71,932. This is attributable to the golf expo and promotions.

Golf Course Enterprise Operating Budget vs Actual



Policy Issue

A monthly review of the City’s financial position is the standard City Council practice; the City Charter requires the City Manager to report to City Council on a quarterly basis.

Alternative

Conduct a quarterly review. This is not recommended, as the City’s budget and financial position are large and complex, warranting a monthly review by the City Council.

Background Information

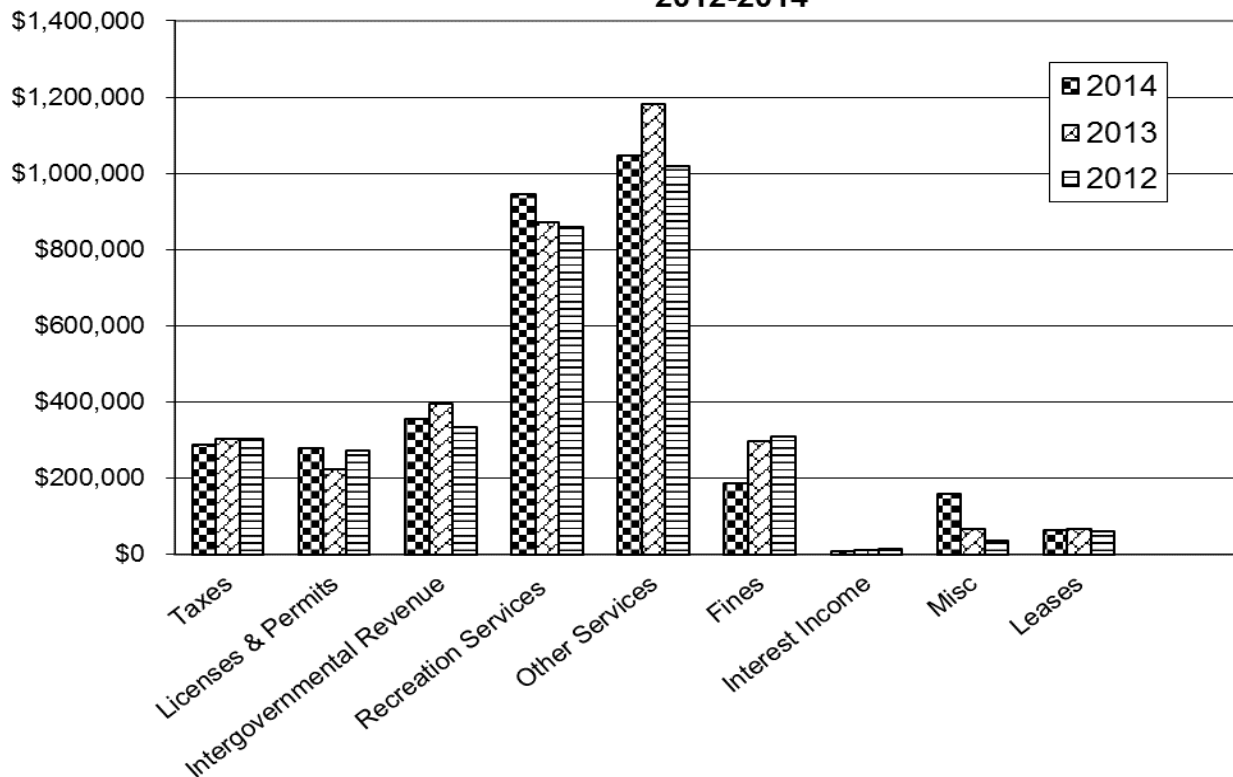
This section includes a discussion of highlights of each fund presented.

General Fund

This fund reflects the result of the City’s operating departments: Police, Fire, Public Works (Streets, etc.), Parks Recreation and Libraries, Community Development, and the internal service functions: City Manager, City Attorney, Finance, and General Services.

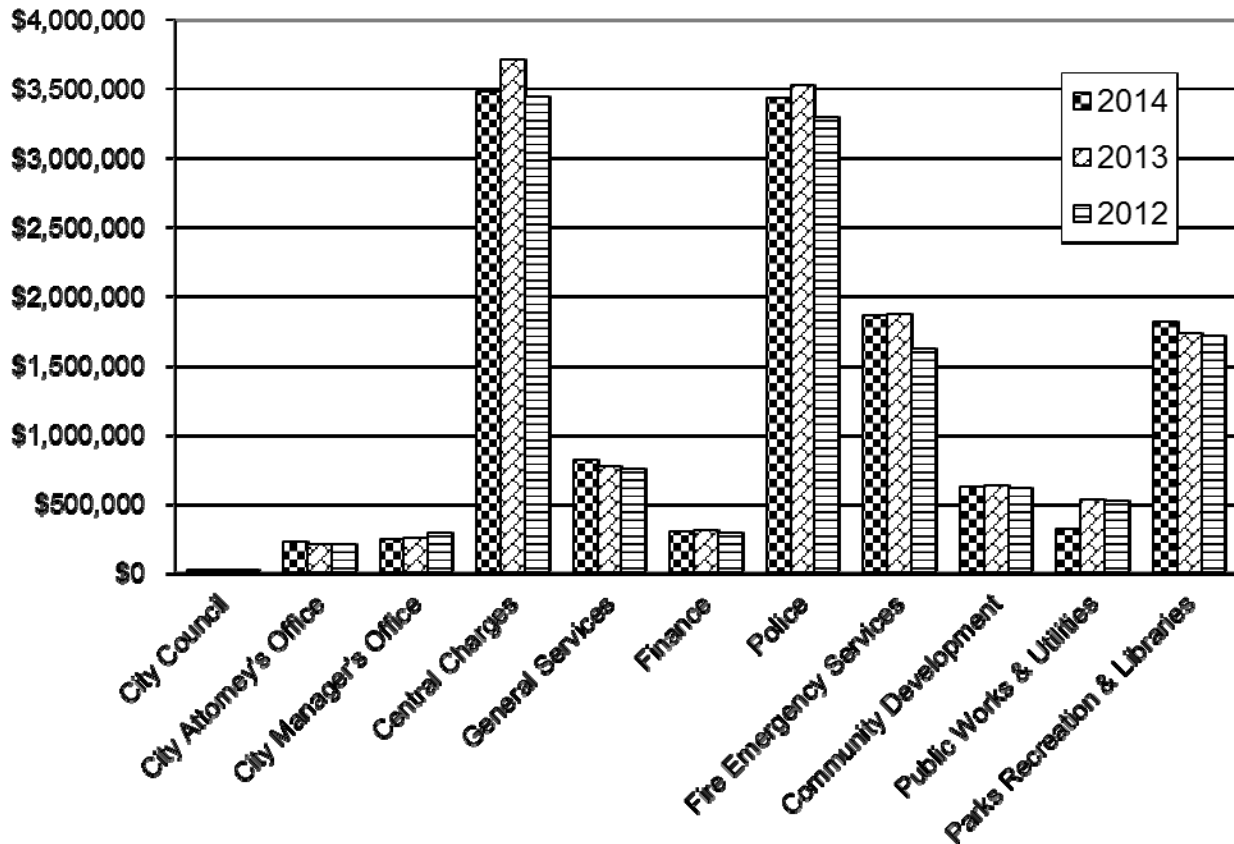
The following chart represents the trend in actual revenues from 2012-2014 year-to-date.

**General Fund Revenues without Transfers, Carryover, and Other Financing Sources
2012-2014**



Licenses and Permits revenue is higher in 2014 due to building permit activity in both Adams and Jefferson Counties. The variability in Intergovernmental revenue across years is mostly due to fluctuation with grant reimbursements. Recreation Services reflects an increase in pass revenue and youth activity fees as an outcome of the various Parks, Recreation and Libraries promotions. The decrease in Other Services revenue is caused by a significant write down of EMS ambulance billings. Fines are lower in 2014 generally mostly because of a decrease in traffic fines. Miscellaneous revenue is higher due to recovery proceeds that in March will be moved to the General Capital Improvement Fund.

**General Fund Expenditures by Function, less Other Financing Uses
2012-2014**

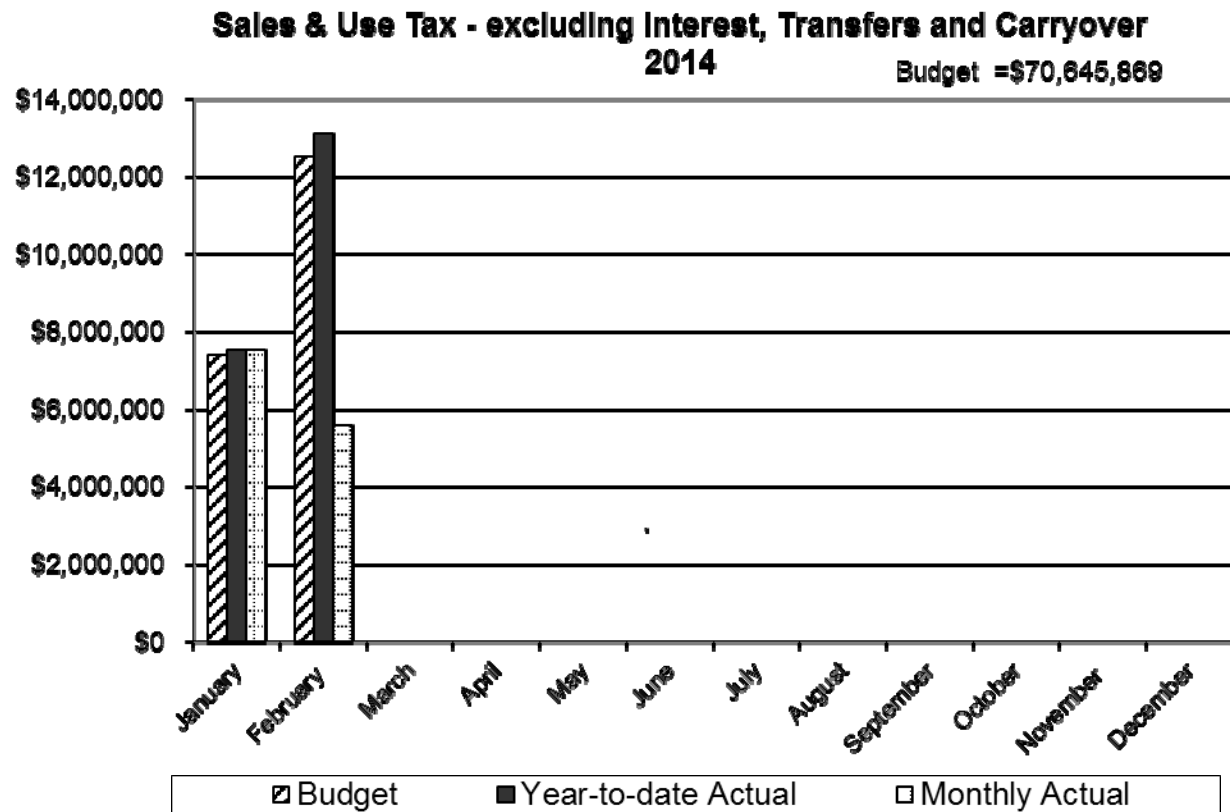


2013 Central Charges expenditures are higher when compared to 2014 mostly due to a timing difference in the occurrence of payroll related benefit charges. This variance will smooth out as the year progresses. Public Works and Utilities expenditures are lower because of a difference between years in the timing of a vendor payment.

Sales and Use Tax Funds (Sales & Use Tax Fund and Parks, Open Space and Trails Sales & Use Tax Fund)

These funds are the repositories for the 3.85% City Sales & Use Tax. The Sales & Use Tax Fund provides monies for the General Fund, the General Capital Improvement Fund, and the Debt Service Fund. The Parks, Open Space, and Trails Sales & Use Tax Fund revenues are pledged to meet debt service on the POST bonds, pay bonds related to the Heritage Golf Course, buy open space land, and make park improvements on a pay-as-you-go basis. The Public Safety Tax (PST) is a 0.6% sales and use tax to be used to fund public safety-related expenditures.

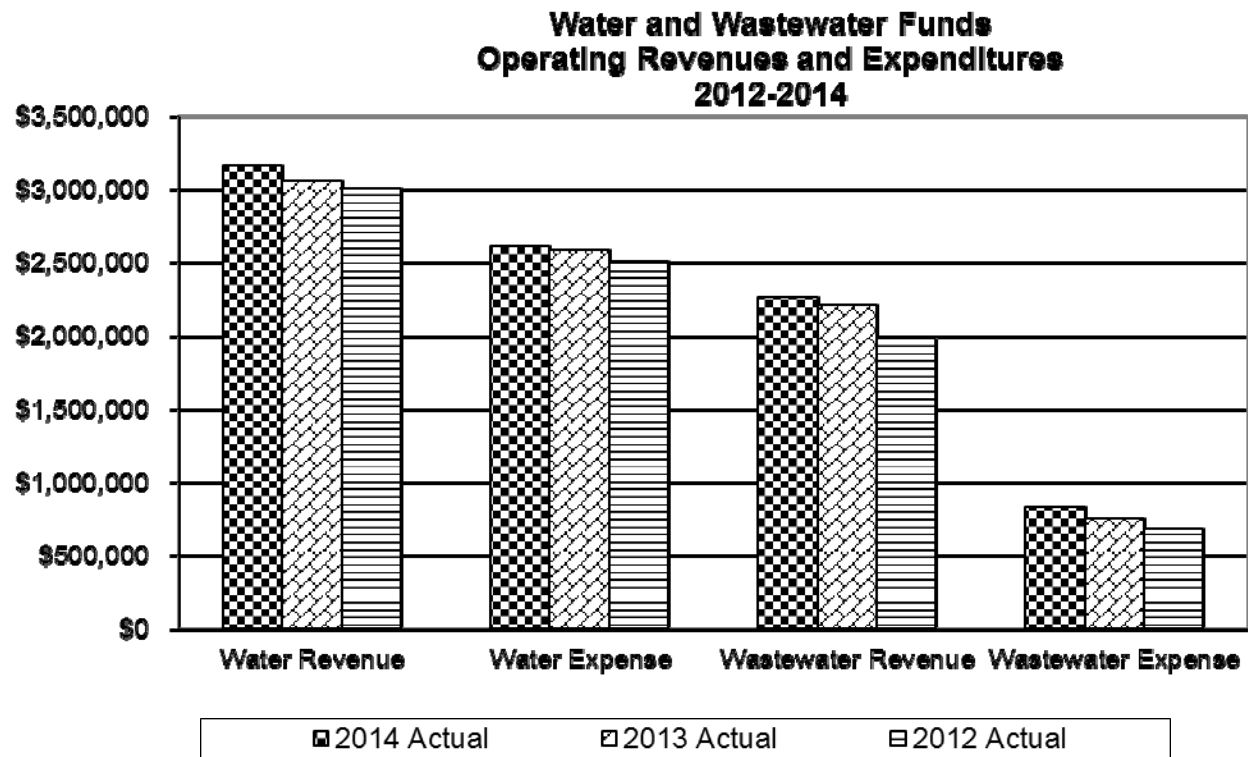
This chart indicates how the City’s Sales and Use Tax revenues are being collected on a monthly basis. This chart does not include Parks, Open Space, and Trails Sales & Use Tax.



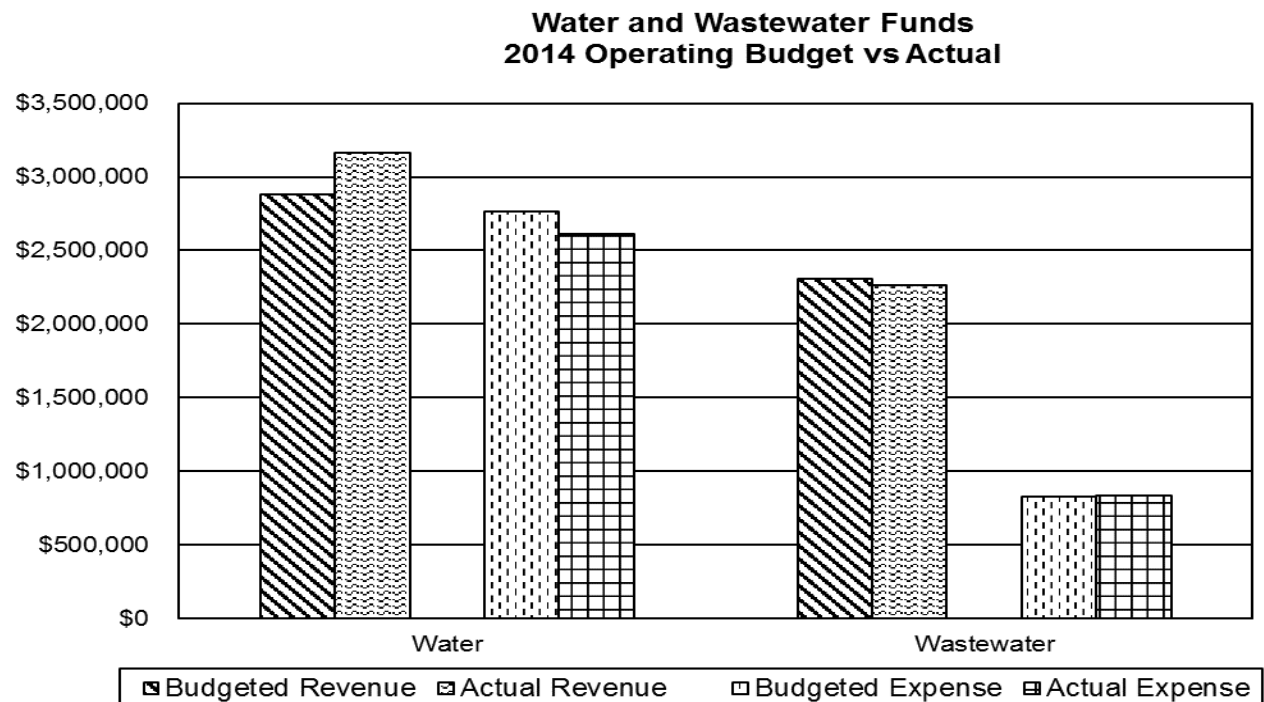
Water, Wastewater and Storm Water Drainage Funds (The Utility Enterprise)

This fund reflects the operating results of the City’s water, wastewater and storm water systems. It is important to note that net revenues are used to fund capital projects and reserves.

These graphs represent segment information for the Water and Wastewater funds.

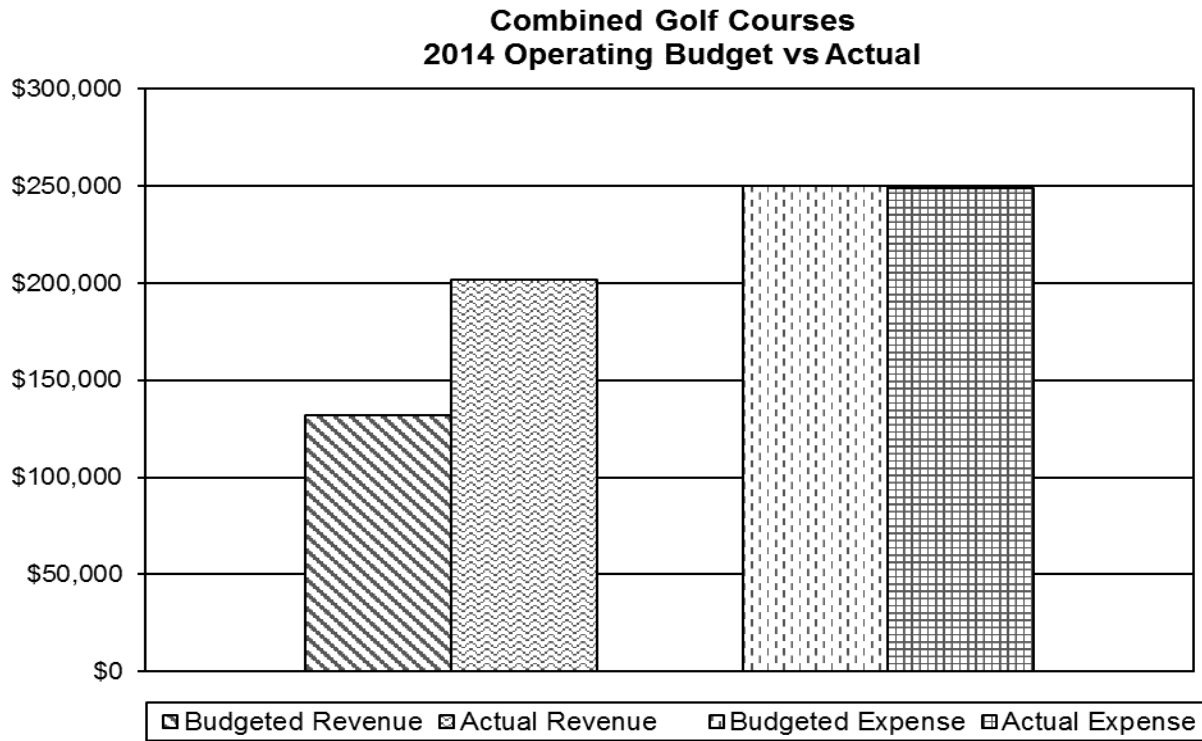


Water and Wastewater revenue variances are due to changes in billing rates; in the Water Fund the variance is also due to the effect of climatic variations on water consumption.

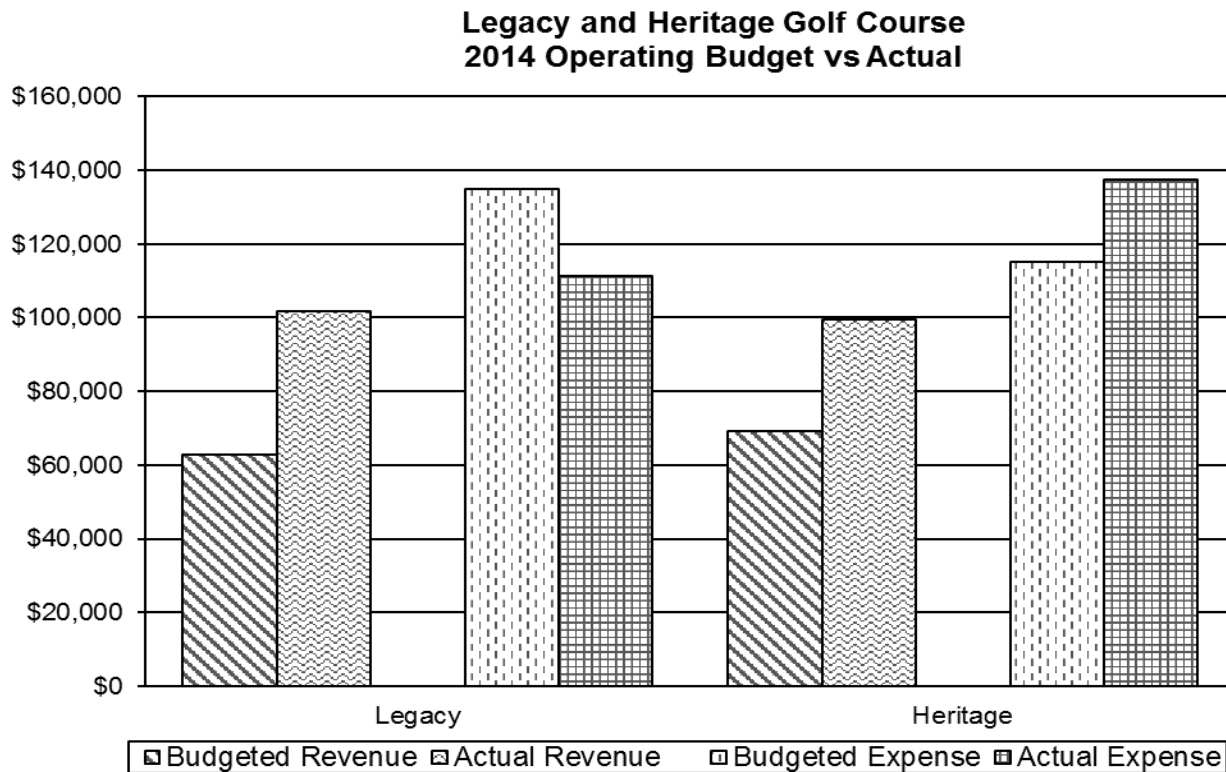


Golf Course Enterprise (Legacy and Heritage Golf Courses)

This enterprise reflects the operations of the City’s two municipal golf courses.



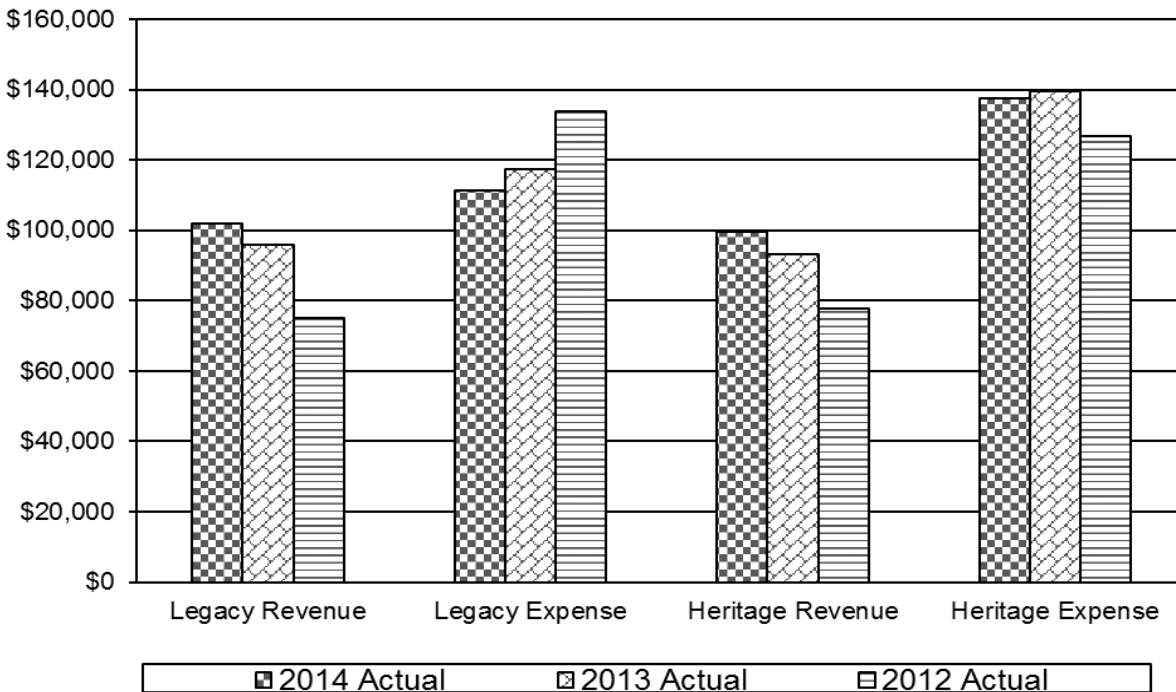
Combined Golf Course revenues exceed budget in part because of various promotions and proceeds from the Golf Expo.



Golf Course revenues exceed budget in part because of various special promotions that ran in January and February as well as proceeds from the Golf Expo. Legacy’s favorable budget to actual expenditure variance results primarily from utility and commodity savings; expenditures for Legacy’s irrigation system update later this year will significantly smooth this variance. Heritage’s expenditure variance is mostly due to salaries that exceed budget because of staff reassignments between the courses and with Parks, Recreation and Libraries.

The following graphs represent the information for each of the golf courses.

**Legacy and Heritage Golf Courses
Operating Revenue and Expenditures
2012-2014**



Revenue variances are due primarily to climatic effects on charges for services including driving range and greens fees. In February, several special promotions and the Golf Expo generated additional revenue for the courses.

Expenditure variances are due primarily to personnel service charges from staff reassignments between the golf courses and with Parks, Recreation and Libraries, as well as timing differences in the posting of January payrolls and yearend adjustments to ensure salaries were reported in the proper year.

This financial report supports City Council’s Strategic Plan Goal of Financially Sustainable City Government Providing Exceptional Services by communicating timely information on the results of City operations and to assist with critical decision making.

Respectfully submitted,

J. Brent McFall
City Manager

Attachments: Financial Statements
Shopping Center Report

**City of Westminster
Financial Report
For Two Months Ending February 28, 2014**

Description General Fund	Budget	Pro-rated for Seasonal Flows	Notes	Actual	(Under) Over Budget	% Budget
Revenues						
Taxes	5,617,500	249,129		287,406	38,277	115.4%
Licenses & Permits	1,622,000	245,621		278,580	32,959	113.4%
Intergovernmental Revenue	5,035,980	299,255		355,090	55,835	118.7%
Charges for Services						
Recreation Services	6,775,338	942,778		944,072	1,294	100.1%
Other Services	9,412,865	1,088,690		1,046,242	(42,448)	96.1%
Fines	2,150,000	330,213	(1)	187,238	(142,975)	56.7%
Interest Income	55,000	4,737		8,746	4,009	184.6%
Miscellaneous	1,657,987	34,584	(2)	157,560	122,976	455.6%
Leases	401,779	62,645		62,645	0	100.0%
Interfund Transfers	66,881,386	11,146,898		11,146,898	0	100.0%
Sub-total Revenues	<u>99,609,835</u>	<u>14,404,550</u>		<u>14,474,477</u>	<u>69,927</u>	<u>100.5%</u>
Carryover	265,000	265,000		265,000	0	100.0%
Total Revenues	<u>99,874,835</u>	<u>14,669,550</u>		<u>14,739,477</u>	<u>69,927</u>	<u>100.5%</u>
Expenditures						
City Council	254,094	27,719		22,376	(5,343)	80.7%
City Attorney's Office	1,316,607	195,598	(3)	221,645	26,047	113.3%
City Manager's Office	1,597,872	243,676		246,034	2,358	101.0%
Central Charges	26,745,374	3,552,767		3,477,578	(75,189)	97.9%
General Services	6,122,526	851,500		813,559	(37,941)	95.5%
Finance	2,133,622	310,663		301,166	(9,497)	96.9%
Police	21,578,228	3,334,598		3,433,840	99,242	103.0%
Fire Emergency Services	12,616,015	1,891,993		1,862,338	(29,655)	98.4%
Community Development	4,360,815	649,346		624,451	(24,895)	96.2%
Public Works & Utilities	8,180,693	606,253		314,978	(291,275)	52.0%
Parks, Recreation & Libraries	14,968,989	1,896,004		1,817,846	(78,158)	95.9%
Total Expenditures	<u>99,874,835</u>	<u>13,560,117</u>		<u>13,135,811</u>	<u>(424,306)</u>	<u>96.9%</u>
Revenues Over(Under)						
Expenditures	<u>0</u>	<u>1,109,433</u>		<u>1,603,666</u>	<u>494,233</u>	

(1) Budget to actual variance is due mostly to traffic fines.

(2) Actual revenue reflects a recovery fee that will be reclassified to the GCIF in March.

(3) Budget to actual variance is due mostly to one-time personnel service charges.

**City of Westminster
Financial Report
For Two Months Ending February 28, 2014**

Description	Budget	Pro-rated for Seasonal Flows	Notes	Actual	(Under) Over Budget	% Budget
Sales and Use Tax Fund						
Revenues						
Sales Tax						
Sales Tax Returns	48,071,133	8,846,363		9,369,593	523,230	105.9%
Sales Tx Audit Revenues	729,000	121,743		100,762	(20,981)	82.8%
S-T Rev. STX	<u>48,800,133</u>	<u>8,968,106</u>		<u>9,470,355</u>	<u>502,249</u>	105.6%
Use Tax						
Use Tax Returns	8,390,000	1,147,405		1,248,793	101,388	108.8%
Use Tax Audit Revenues	785,000	131,095		93,217	(37,878)	71.1%
S-T Rev. UTX	<u>9,175,000</u>	<u>1,278,500</u>		<u>1,342,010</u>	<u>63,510</u>	105.0%
Total STX and UTX	<u><u>57,975,133</u></u>	<u><u>10,246,606</u></u>		<u><u>10,812,365</u></u>	<u><u>565,759</u></u>	105.5%
Public Safety Tax						
PST Tax Returns	11,971,773	2,207,017		2,233,978	26,961	101.2%
PST Audit Revenues	308,500	51,520		38,781	(12,739)	75.3%
Total Rev. PST	<u><u>12,280,273</u></u>	<u><u>2,258,537</u></u>		<u><u>2,272,759</u></u>	<u><u>14,222</u></u>	100.6%
Interest Income	61,000	10,187		9,775	(412)	96.0%
Interfund Transfers	329,463	54,910		54,910	0	100.0%
Total Revenues	<u><u>70,645,869</u></u>	<u><u>12,570,240</u></u>		<u><u>13,149,809</u></u>	<u><u>579,569</u></u>	104.6%
Expenditures						
Central Charges	<u>70,645,869</u>	<u>11,774,312</u>		<u>11,774,312</u>	<u>0</u>	100.0%
Revenues Over(Under) Expenditures	<u><u>0</u></u>	<u><u>795,928</u></u>		<u><u>1,375,497</u></u>	<u><u>579,569</u></u>	

**City of Westminster
Financial Report
For Two Months Ending February 28, 2014**

Description POST Fund	Budget	Pro-rated for Seasonal Flows	Notes	Actual	(Under) Over Budget	% Budget
Revenues						
Sales & Use Tax	5,152,477	944,999		946,740	1,741	100.2%
Interest Income	10,000	1,670		1,315	(355)	78.7%
Miscellaneous	85,030	14,172		7,224	(6,948)	51.0%
Interfund Transfers	24,537	4,090		4,090	0	100.0%
Total Revenues	<u>5,272,044</u>	<u>964,931</u>		<u>959,369</u>	<u>(5,562)</u>	99.4%
Expenditures						
Central Charges	4,932,328	757,986		747,612	(10,374)	98.6%
Park Services	339,716	25,751	(1)	37,275	11,524	144.8%
Total Expenditures	<u>5,272,044</u>	<u>783,737</u>		<u>784,887</u>	<u>1,150</u>	100.1%
Revenues Over(Under) Expenditures	<u>0</u>	<u>181,194</u>		<u>174,482</u>	<u>(6,712)</u>	

(1) Budget to actual variance is mainly due to capital outlay.

**City of Westminster
Financial Report
For Two Months Ending February 28, 2014**

Description	Budget	Pro-rated for Seasonal Flows	Notes	Actual	(Under) Over Budget	% Budget
Water and Wastewater Funds - Combined						
Operating Revenues						
License & Permits	75,000	12,500		16,260	3,760	130.1%
Rates and Charges	47,265,414	5,107,775		5,278,778	171,003	103.3%
Miscellaneous	410,000	68,334	(1)	131,928	63,594	193.1%
Total Operating Revenues	<u>47,750,414</u>	<u>5,188,609</u>		<u>5,426,966</u>	<u>238,357</u>	104.6%
Operating Expenditures						
Central Charges	6,134,349	1,022,392		1,042,329	19,937	102.0%
Finance	644,754	107,674		103,516	(4,158)	96.1%
Public Works & Utilities	20,849,893	1,982,871		1,896,208	(86,663)	95.6%
Parks, Recreation & Libraries	152,417	6,554		6,499	(55)	99.2%
Information Technology	2,992,253	475,768		398,454	(77,314)	83.7%
Total Operating Expenditures	<u>30,773,666</u>	<u>3,595,259</u>		<u>3,447,006</u>	<u>(148,253)</u>	95.9%
Operating Income (Loss)	<u>16,976,748</u>	<u>1,593,350</u>		<u>1,979,960</u>	<u>386,610</u>	
Other Revenue and Expenditures						
Tap Fees	8,662,000	1,443,667		334,252	(1,109,415)	23.2%
Interest Income	323,847	53,974		61,568	7,594	114.1%
Interfund Transfers	8,619,230	8,619,230		8,619,230	0	100.0%
Debt Service	(7,204,825)	0		0	0	
Total Other Revenue (Expenditures)	<u>10,400,252</u>	<u>10,116,871</u>		<u>9,015,050</u>	<u>(1,101,821)</u>	
Revenues Over(Under) Expenditures	<u>27,377,000</u>	<u>11,710,221</u>	(2)	<u>10,995,010</u>	<u>(715,211)</u>	

(1) Budget to actual variance relates to a one-time sale of consumable water.

(2) Net revenues are used to fund capital projects and reserves.

**City of Westminster
Financial Report
For Two Months Ending February 28, 2014**

Description	Budget	Pro-rated for Seasonal Flows	Notes	Actual	(Under) Over Budget	% Budget
Water Fund						
Operating Revenues						
License & Permits	75,000	12,500		16,260	3,760	130.1%
Rates and Charges	33,445,414	2,804,442		3,018,819	214,377	107.6%
Miscellaneous	400,000	66,667	(1)	131,253	64,586	196.9%
Total Operating Revenues	<u>33,920,414</u>	<u>2,883,609</u>		<u>3,166,332</u>	<u>282,723</u>	
Operating Expenditures						
Central Charges	4,294,054	715,676		729,096	13,420	101.9%
Finance	644,754	107,674		103,516	(4,158)	96.1%
Public Works & Utilities	14,405,355	1,460,542		1,375,235	(85,307)	94.2%
PR&L Standley Lake	152,417	6,554		6,499	(55)	99.2%
Information Technology	2,992,253	475,768		398,454	(77,314)	83.7%
Total Operating Expenditures	<u>22,488,833</u>	<u>2,766,214</u>		<u>2,612,800</u>	<u>(153,414)</u>	94.5%
Operating Income (Loss)	<u>11,431,581</u>	<u>117,395</u>		<u>553,532</u>	<u>436,137</u>	
Other Revenue and (Expenditures)						
Tap Fees	7,567,000	1,261,167		294,301	(966,866)	23.3%
Interest Income	233,665	38,944		47,000	8,056	120.7%
Interfund Transfers	8,619,230	8,619,230		8,619,230	0	100.0%
Debt Service	(5,697,476)	0		0	0	
Total Other Revenues (Expenditures)	<u>10,722,419</u>	<u>9,919,341</u>		<u>8,960,531</u>	<u>(958,810)</u>	
Revenues Over(Under) Expenditures	<u>22,154,000</u>	<u>10,036,736</u>	(2)	<u>9,514,063</u>	<u>(522,673)</u>	

(1) Budget to actual variance relates to a one-time sale of consumable water.

(2) Net revenues are used to fund capital projects and reserves.

**City of Westminster
Financial Report
For Two Months Ending February 28, 2014**

Description	Budget	Pro-rated for Seasonal Flows	Notes	Actual	(Under) Over Budget	% Budget
Wastewater Fund						
Operating Revenues						
Rates and Charges	13,820,000	2,303,333		2,259,959	(43,374)	98.1%
Miscellaneous	10,000	1,667		675	(992)	40.5%
Total Operating Revenues	<u>13,830,000</u>	<u>2,305,000</u>		<u>2,260,634</u>	<u>(44,366)</u>	98.1%
Operating Expenditures						
Central Charges	1,840,295	306,716		313,233	6,517	102.1%
Public Works & Utilities	6,444,538	522,329		520,973	(1,356)	99.7%
Total Operating Expenditures	<u>8,284,833</u>	<u>829,045</u>		<u>834,206</u>	<u>5,161</u>	100.6%
Operating Income (Loss)	<u>5,545,167</u>	<u>1,475,955</u>		<u>1,426,428</u>	<u>(49,527)</u>	
Other Revenue and Expenditures						
Tap Fees	1,095,000	182,500		39,951	(142,549)	21.9%
Interest Income	90,182	15,030		14,568	(462)	96.9%
Debt Service	(1,507,349)	0		0	0	
Total Other Revenues (Expenditures)	<u>(322,167)</u>	<u>197,530</u>		<u>54,519</u>	<u>(143,011)</u>	
Revenues Over(Under) Expenditures	<u>5,223,000</u>	<u>1,673,485</u>	(1)	<u>1,480,947</u>	<u>(192,538)</u>	

(1) Net revenues are used to fund capital projects and reserves.

**City of Westminster
Financial Report
For Two Months Ending February 28, 2014**

Description	Budget	Pro-rated for Seasonal Flows	Notes	Actual	(Under) Over Budget	% Budget
Storm Drainage Fund						
Revenues						
Charges for Services	2,698,000	449,667		414,373	(35,294)	92.2%
Interest Income	38,000	6,333		3,368	(2,965)	53.2%
Miscellaneous	0	0		10	10	
Total Revenues	<u>2,736,000</u>	<u>456,000</u>		<u>417,751</u>	<u>(38,249)</u>	91.6%
Expenditures						
General Services	86,200	1,034		412	(622)	39.8%
Community Development	178,990	26,670		26,312	(358)	98.7%
PR&L Park Services	200,000	10,200		8,158	(2,042)	80.0%
Public Works & Utilities	329,810	13,852		101	(13,751)	0.7%
Total Expenditures	<u>795,000</u>	<u>51,756</u>		<u>34,983</u>	<u>(16,773)</u>	67.6%
Revenues Over(Under) Expenditures	<u>1,941,000</u>	<u>404,244</u>	(1)	<u>382,768</u>	<u>(21,476)</u>	

(1) Net revenues are used to fund capital projects and reserves.

**City of Westminster
Financial Report
For Two Months Ending February 28, 2014**

Description	Budget	Pro-rated for Seasonal Flows	Notes	Actual	(Under) Over Budget	% Budget
Golf Courses Combined						
Operating Revenues						
Charges for Services	3,019,336	131,848		201,492	69,644	152.8%
Total Revenues	<u>3,019,336</u>	<u>131,848</u>		<u>201,492</u>	<u>69,644</u>	152.8%
Operating Expenditures						
Central Charges	211,700	36,710		31,696	(5,014)	86.3%
Recreation Facilities	2,644,571	213,445		217,182	3,737	101.8%
Total Expenditures	<u>2,856,271</u>	<u>250,155</u>		<u>248,878</u>	<u>(1,277)</u>	99.5%
Operating Income (Loss)	<u>163,065</u>	<u>(118,307)</u>		<u>(47,386)</u>	<u>70,921</u>	
Other Revenues and Expenditures						
Interest Income	0	0		1,011	1,011	
Debt Service	(742,208)	(77,617)		(77,617)	0	100.0%
Interfund Transfers In	579,143	96,524		96,524	0	100.0%
Carryover	200,000	200,000		200,000	0	100.0%
Total Other Revenue (Expenditures)	<u>36,935</u>	<u>218,907</u>		<u>219,918</u>	<u>1,011</u>	
Revenues Over(Under) Expenditures	<u>200,000</u>	<u>100,600</u>	(1)	<u>172,532</u>	<u>71,932</u>	

(1) Net revenues are used to fund capital projects and reserves.

**City of Westminster
Financial Report
For Two Months Ending February 28, 2014**

Description	Budget	Pro-rated for Seasonal Flows	Notes	Actual	(Under) Over Budget	% Budget
Legacy Ridge Fund						
Operating Revenues						
Charges for Services	1,609,968	62,789		101,896	39,107	162.3%
Total Revenues	<u>1,609,968</u>	<u>62,789</u>		<u>101,896</u>	<u>39,107</u>	162.3%
Operating Expenditures						
Central Charges	98,900	17,308		14,010	(3,298)	80.9%
Recreation Facilities	1,384,198	117,657		97,279	(20,378)	82.7%
Total Expenditures	<u>1,483,098</u>	<u>134,965</u>		<u>111,289</u>	<u>(23,676)</u>	82.5%
Operating Income (Loss)	<u>126,870</u>	<u>(72,176)</u>		<u>(9,393)</u>	<u>62,783</u>	
Other Revenues and Expenditures						
Interest Income	0	0		595	595	
Debt Service	(158,600)	(61,695)		(61,695)	0	100.0%
Interfund Transfers In	31,730	5,288		5,288	0	100.0%
Carryover	100,000	100,000		100,000	0	100.0%
Total Other Revenue (Expenditures)	<u>(26,870)</u>	<u>43,593</u>		<u>44,188</u>	<u>595</u>	
Revenues Over(Under) Expenditures	<u>100,000</u>	<u>(28,583)</u>	(1)	<u>34,795</u>	<u>63,378</u>	

(1) Net revenues are used to fund capital projects and reserves.

**City of Westminster
Financial Report
For Two Months Ending February 28, 2014**

Description	Budget	Pro-rated for Seasonal Flows	Notes	Actual	(Under) Over Budget	% Budget
Heritage at Westmoor Fund						
Operating Revenues						
Charges for Services	1,409,368	69,059		99,596	30,537	144.2%
Total Revenues	<u>1,409,368</u>	<u>69,059</u>		<u>99,596</u>	<u>30,537</u>	144.2%
Operating Expenditures						
Central Charges	112,800	19,402		17,686	(1,716)	91.2%
Recreation Facilities	1,260,373	95,788		119,903	24,115	125.2%
Total Expenditures	<u>1,373,173</u>	<u>115,190</u>		<u>137,589</u>	<u>22,399</u>	119.4%
Operating Income (Loss)	<u>36,195</u>	<u>(46,131)</u>		<u>(37,993)</u>	<u>8,138</u>	
Other Revenues and Expenditures						
Interest Income	0	0		416	416	
Debt Service	(583,608)	(15,922)		(15,922)	0	100.0%
Interfund Transfers In	547,413	91,236		91,236	0	100.0%
Carryover	100,000	100,000		100,000	0	100.0%
Total Other Revenue (Expenditures)	<u>63,805</u>	<u>175,314</u>		<u>175,730</u>	<u>416</u>	
Revenues Over(Under) Expenditures	<u>100,000</u>	<u>129,183</u>	(1)	<u>137,737</u>	<u>8,554</u>	

(1) Net revenues are used to fund capital projects and reserves.

CITY OF WESTMINSTER
GENERAL RECEIPTS BY CENTER
MONTH OF FEBRUARY 2014

Center Location Major Tenant	/----- Current Month -----/			/----- Last Year -----/			/--- %Change ---/		
	General Sales	General Use	Total	General Sales	General Use	Total	Sales	Use	Total
THE ORCHARD 144TH & I-25 JC PENNEY/MACY'S	311,930	11,436	323,366	366,719	13,985	380,704	-15	-18	-15
WESTFIELD SHOPPING CENTER NW CORNER 92ND & SHER WALMART 92ND	282,564	6,169	288,732	280,895	818	281,713	1	654	2
NORTHWEST PLAZA SW CORNER 92 & HARLAN COSTCO	229,735	603	230,338	208,351	265	208,616	10	127	10
SHOPS AT WALNUT CREEK 104TH & REED TARGET	198,970	1,409	200,380	234,217	1,572	235,790	-15	-10	-15
BROOKHILL I & II N SIDE 88TH OTIS TO WADS HOME DEPOT	172,617	1,180	173,797	85,850	925	86,775	101	28	100
INTERCHANGE BUSINESS CENTER SW CORNER 136TH & I-25 WALMART 136TH	154,667	383	155,050	142,844	302	143,146	8	27	8
SHOENBERG CENTER SW CORNER 72ND & SHERIDAN WALMART 72ND	148,297	728	149,025	159,334	721	160,055	-7	1	-7
PROMENADE SOUTH/NORTH S/N SIDES OF CHURCH RANCH BLVD SHANE/AMC	125,105	19,839	144,945	134,872	16,273	151,146	-7	22	-4
SHERIDAN CROSSING SE CORNER 120TH & SHER KOHL'S	137,343	2,004	139,347	149,341	726	150,067	-8	176	-7
NORTH PARK PLAZA SW CORNER 104TH & FEDERAL KING SOOPERS	122,411	408	122,819	134,263	591	134,854	-9	-31	-9
STANDLEY SHORES CENTER SW CORNER 100TH & WADS KING SOOPERS	85,160	200	85,360	89,601	320	89,921	-5	-37	-5
CITY CENTER MARKETPLACE NE CORNER 92ND & SHERIDAN BARNES & NOBLE	83,868	499	84,367	100,089	5,014	105,103	-16	-90	-20
ROCKY MOUNTAIN PLAZA SW CORNER 88TH & SHER GUITAR STORE	59,494	284	59,778	55,721	190	55,911	7	49	7
WESTMINSTER PLAZA FEDERAL-IRVING 72ND-74TH SAFEWAY	52,643	478	53,121	51,764	963	52,727	2	-50	1
LUCENT/KAISER CORRIDOR 112-120 HURON - FEDERAL LUCENT TECHNOLOGY	8,408	40,339	48,747	9,034	24,662	33,696	-7	64	45

CITY OF WESTMINSTER
 GENERAL RECEIPTS BY CENTER
 MONTH OF FEBRUARY 2014

Center Location Major Tenant	Current Month			Last Year			%Change		
	General Sales	General Use	Total	General Sales	General Use	Total	Sales	Use	Total
VILLAGE AT PARK CENTRE NW CORNER 120TH & HURON CB & POTTS	46,788	224	47,013	43,390	778	44,168	8	-71	6
STANDLEY LAKE MARKETPLACE NE CORNER 99TH & WADSWORTH SAFEWAY	43,364	157	43,521	43,623	248	43,871	-1	-37	-1
GREEN ACRES NORTH SIDE 112TH SHER-FED CONOCO/FRCC	43,057	0	43,057	48,080	0	48,080	-10	*****	-10
NORTHVIEW 92ND AVE YATES TO SHERIDAN H MART	38,398	2,876	41,275	23,323	184	23,507	65	1462	76
PARK CENTRE INDUSTRIAL CENTER 123RD & PECOS ST DATA RAY	776	37,065	37,840	1,392	11,959	13,351	-44	210	183
WESTMINSTER MALL 88TH & SHERIDAN JC PENNEY	33,539	505	34,044	42,061	825	42,886	-20	-39	-21
COUNTRYDALE BUSINESS PARK S SIDE 108TH & WADSWORTH BALL CORPORATION	1	33,256	33,257	49	23,529	23,578	-97	41	41
WILLOW RUN 128TH & ZUNI SAFEWAY	29,934	142	30,076	29,755	106	29,861	1	34	1
BROOKHILL IV E SIDE WADS 90TH-92ND MURDOCH'S	23,889	70	23,959	20,835	3,674	24,508	15	-98	-2
STANDLEY PLAZA SW CORNER 88TH & WADS WALGREENS	23,530	107	23,637	25,841	183	26,024	-9	-41	-9
	2,456,488	160,362	2,616,850	2,481,246	108,814	2,590,060	-1	47	1

CITY OF WESTMINSTER
GENERAL RECEIPTS BY CENTER
FEBRUARY 2014 YEAR-TO-DATE

Center Location Major Tenant	/----- General Sales	YTD 2014 General Use	-----/ Total	/----- General Sales	YTD 2013 General Use	-----/ Total	Sales	%Change	---/ Use	Total
THE ORCHARD 144TH & I-25 JC PENNEY/MACY'S	1,022,361	28,681	1,051,042	1,065,952	37,101	1,103,052	-4	-23	-5	
WESTFIELD SHOPPING CENTER NW CORNER 92ND & SHER WALMART 92ND	763,338	7,325	770,663	775,316	2,532	777,848	-2	189	-1	
SHOPS AT WALNUT CREEK 104TH & REED TARGET	548,497	2,780	551,277	596,276	3,837	600,113	-8	-28	-8	
NORTHWEST PLAZA SW CORNER 92 & HARLAN COSTCO	530,183	37,428	567,611	473,973	1,201	475,174	12	3017	19	
BROOKHILL I & II N SIDE 88TH OTIS TO WADS HOME DEPOT	426,903	3,449	430,352	328,454	4,068	332,522	30	-15	29	
SHERIDAN CROSSING SE CORNER 120TH & SHER KOHL'S	388,351	8,529	396,880	404,142	2,651	406,792	-4	222	-2	
INTERCHANGE BUSINESS CENTER SW CORNER 136TH & I-25 WALMART 136TH	383,563	917	384,480	364,405	883	365,288	5	4	5	
SHOENBERG CENTER SW CORNER 72ND & SHERIDAN WALMART 72ND	366,524	1,120	367,644	405,730	3,179	408,909	-10	-65	-10	
NORTH PARK PLAZA SW CORNER 104TH & FEDERAL KING SOOPERS	352,514	2,247	354,760	347,697	1,911	349,609	1	18	1	
PROMENADE SOUTH/NORTH S/N SIDES OF CHURCH RANCH BLVD SHANE/AMC	322,105	43,981	366,086	316,108	37,569	353,677	2	17	4	
CITY CENTER MARKETPLACE NE CORNER 92ND & SHERIDAN BARNES & NOBLE	238,504	1,025	239,529	276,582	5,548	282,130	-14	-82	-15	
STANDLEY SHORES CENTER SW CORNER 100TH & WADS KING SOOPERS	237,435	720	238,155	227,857	562	228,419	4	28	4	
VILLAGE AT THE MALL S SIDE 88TH DEPEW-HARLAN TOYS 'R US	142,384	807	143,190	172,147	602	172,749	-17	34	-17	
ROCKY MOUNTAIN PLAZA SW CORNER 88TH & SHER GUITAR STORE	134,168	1,292	135,459	130,232	417	130,649	3	210	4	
WESTMINSTER PLAZA FEDERAL-IRVING 72ND-74TH SAFeway	110,592	824	111,416	108,086	1,429	109,514	2	-42	2	

CITY OF WESTMINSTER
 GENERAL RECEIPTS BY CENTER
 FEBRUARY 2014 YEAR-TO-DATE

Center Location Major Tenant	YTD 2014			YTD 2013			%Change		
	General Sales	General Use	Total	General Sales	General Use	Total	Sales	Use	Total
WESTMINSTER MALL 88TH & SHERIDAN JC PENNEY	105,412	1,245	106,657	120,813	1,845	122,659	-13	-33	-13
STANDLEY LAKE MARKETPLACE NE CORNER 99TH & WADSWORTH SAFEWAY	91,133	498	91,631	91,091	481	91,573	0	4	0
VILLAGE AT PARK CENTRE NW CORNER 120TH & HURON CB & POTTS	89,241	1,047	90,288	85,172	2,342	87,514	5	-55	3
NORTHVIEW 92ND AVE YATES TO SHERIDAN H MART	81,485	3,150	84,635	46,120	1,404	47,524	77	124	78
WESTMINSTER CROSSING 136TH & I-25 LOWE'S	73,860	92	73,952	100,854	197	101,052	-27	-53	-27
WILLOW RUN 128TH & ZUNI SAFEWAY	63,849	383	64,232	64,259	343	64,602	-1	12	-1
BROOKHILL IV E SIDE WADS 90TH-92ND MURDOCH'S	62,847	684	63,531	56,563	3,916	60,479	11	-83	5
BOULEVARD SHOPS 94TH & WADSWORTH CORRIDOR AMERICAN FURNITURE WAREHOUSE	48,736	686	49,423	41,849	932	42,781	16	-26	16
STANDLEY PLAZA SW CORNER 88TH & WADS WALGREENS	48,567	965	49,532	52,272	1,116	53,387	-7	-13	-7
MEADOW POINTE NE CRN 92ND & OLD WADS CARRABAS	48,535	52	48,587	48,282	62	48,344	1	-17	1
	<u>6,681,085</u>	<u>149,926</u>	<u>6,831,011</u>	<u>6,700,232</u>	<u>116,128</u>	<u>6,816,360</u>	<u>0</u>	<u>29</u>	<u>0</u>



Agenda Item 8 B

Agenda Memorandum

City Council Meeting
March 24, 2014



SUBJECT: Authorize the Purchase of the 4.09-acre Kenneth H. Johnson Living Trust Property located at 11645 Federal Boulevard for Open Space

Prepared By: Heather Cronenberg, Open Space Coordinator

Recommended City Council Action

Authorize the purchase of the 4.09-acre Kenneth H. Johnson Living Trust (“Johnson”) property located at 11645 Federal Boulevard for open space for \$1,078,000, including earnest money in the amount of \$10,000 plus closing costs not to exceed \$5,000, and authorize the City Manager to execute all documents required to close on the purchase of the property.

Summary Statement

- The Johnson property is adjacent to the Big Dry Creek Open Space area, west of Federal Boulevard and north of Stratford Lakes Drive. Acquiring the Johnson parcel is a logical continuation of Big Dry Creek Open Space and will protect a view corridor of the Rocky Mountains for motorists and residents along Federal Boulevard. This acquisition would also allow for the future construction of a trail along the high ridge of the property to take advantage of the views as well as a relocation of the Mushroom Pond Trail onto the site. The City’s Open Space Advisory Board considers this purchase a top priority acquisition.
- The City has negotiated a purchase price of \$1,078,000 or \$6.05 per square foot based on an appraisal commissioned by the City for the purchase the Johnson property for open space. The City has submitted a grant to Adams County for 70% of the purchase price or \$754,600. The acquisition of this property is contingent upon Council approval and the receipt of a grant from Adams County. Staff recommends using a portion of the 2013 POST carryover funds as match in the amount of \$323,400.

Expenditure Required: \$1,078,000 plus closing costs not to exceed \$5,000

Source of Funds: 2013 POST Carryover Funds - \$328,400
Adams County Grant funds - \$754,600

Policy Issue

Does City Council approve the use of 2013 POST Carryover Funds to purchase the Johnson property for open space?

Alternative

City Council could choose not to authorize the acquisition or use of funds at this time. Staff does not recommend this option because acquisition of this property is a high priority for the Open Space Advisory Board and previous City Councils. Staff has negotiated a purchase price based on appraised value. The City has also submitted a grant request to Adams County towards the purchase of this property.

Background Information

The Johnson parcel has been on the City's open space wish list for many years as a number one priority due to its location relative to the Big Dry Creek Open Space along the west side of Federal Boulevard. The City currently owns open space property to the north and west of the property. This acquisition would preserve the integrity of the Big Dry Creek Open Space in this area and would preserve an excellent Front Range westerly view corridor from Federal Boulevard.

Mr. Johnson recently passed away and negotiations have been taking place with the heirs. While the heirs have been negotiating to sell the property to the City for open space, they have also been talking to developers about the potential to develop the property. The property is zoned for residential development with a maximum density of 3.5 dwelling units per acre. If the property were to develop for residential development, up to 14 houses could be constructed on the property. This type of construction would block the signature view of the Big Dry Creek valley and the mountains from Federal Boulevard. Staff commissioned an appraisal that values the property at \$1,078,000 and the heirs agreed to this price. Staff proposes using \$323,400 in 2013 open space carryover funds as match for the grant request if this use is approved by Council. The purchase will be contingent upon a grant award from Adams County and City Council approval. The Adams County Open Space Advisory Board will make a recommendation regarding this grant application on March 26, 2014. If the grant is approved by the Adams County Commissioners, the funds would be available by May, 2014.

There is currently a single family house located on the property. City staff would like to acquire the property and remove the house and associated improvements and reseed it with native grasses. If the City is able to purchase the property, the proposed trail shown on the site map just to the west of the property could meander onto the ridge on the Johnson property to take in the spectacular mountain views. The Mushroom Pond Trail could also be routed across the property.

This acquisition supports the City's Strategic Plan Goals of "Financially Sustainable City Government" and "Beautiful City" by increasing revenues that support defined City projects and by providing the City with increased open space and trails.

Respectfully submitted,

J. Brent McFall
City Manager

Attachment: Vicinity Map

City of Westminster
Johnson Property
Proposed Open Space Acquisition

*Big Dry Creek
Open Space*

Current
Proposed Trail
Location

**4.09
Acres**

Potential
Trail Routes

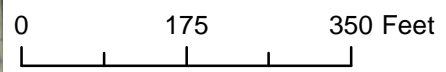
Mushroom Pond Trail

Stratford Lakes Dr

Federal Blvd

Ranch Reserve Pkwy

 Johnson Property
 Open Space





Agenda Item 8 C

Agenda Memorandum

City Council Meeting
March 24, 2014



SUBJECT: Construction Engineering Contract - 72nd Avenue/Raleigh Street Bridge Replacement

Prepared By: David W. Loseman, Assistant City Engineer

Recommended City Council Action

Based on the report of the City Manager, find that the public interest is best served by a negotiated contract with Jacobs Engineering Group, Inc for construction engineering services for the 72nd Avenue/Raleigh Street Bridge Replacement project, authorize the City Manager to execute a contract with Jacobs Engineering Group, Inc in the amount of \$679,407 for construction engineering services, and authorize a project contingency of \$68,000 and apportion the expense to the General Capital Improvement Fund project account and the Utility Fund project account as shown in this Agenda Memorandum.

Summary Statement

Planning and preliminary engineering efforts over the past several years have resulted in a recommended project to replace the culvert that carries Little Dry Creek under 72nd Avenue at the Raleigh Street intersection. The replacement of outdated water and sanitary sewer system facilities in the same general area was incorporated into the design work, which is expected to start construction in June 2014. This project will rebuild 72nd Avenue from approximately Stuart Street to Bradburn Boulevard and sets the stage for future phases of construction along the 72nd Avenue corridor, including a realignment of Bradburn Boulevard to connect to 72nd Avenue at Raleigh Street.

Approximately \$5.2 million is budgeted for this particular project, drawn from the General Capital Improvement Fund and the Utility Fund as appropriate, and utilizing \$1.84 million of federal funding awarded to the City under the Colorado Department of Transportation’s off-system bridge inspection and replacement program.

City staff is recommending that the contract for construction engineering be awarded to Jacobs Engineering Group, Inc, at a negotiated fee of \$679,407. Jacobs provided planning and preliminary design services for the 72nd Avenue corridor under contracts won by competitive proposal processes, and this company prepared the final design and bid documents for this particular project. Jacobs Engineering Group brings important continuity to the next step in this project. Authorization of \$68,000 for a construction engineering contingency is also recommended.

Expenditure Required: \$747,407

Source of Funds: General Capital Improvement Fund—Bradburn Realignment AdCo Road Tax--\$518,327
Utility Fund—72nd Avenue/Bradburn Water and Sewer Accounts-\$229,080

Policy Issue

Should the City contract for construction engineering services for the 72nd Avenue/Raleigh Street Bridge Replacement project with the Jacobs Engineering Group based on a negotiated scope of work and fee?

Alternative

The alternative in this case is to follow procedures for securing professional engineering services by requesting proposals (RFP process), short-listing and interviewing the most qualified firms and confirming the comparative value represented by the proposal of the firm that is recommended to City Council. The RFP process can take from six to eight weeks to conduct.

The 72nd Avenue/Raleigh Street Bridge Replacement project is the outcome of efforts started in 2007 when the City requested and received proposals from 11 firms for planning and engineering services necessary to evaluate future improvements to 72nd Avenue from Meade Street to Utica Street. The group of proposers was narrowed to two firms, with Jacobs Engineering Group (nee Carter-Burgess, Inc) offering both the lowest fees and the most competent and comprehensive scope of work. Council awarded the contract to Jacobs, no change orders were necessary to complete the assignment and the result of this efforts was the 72nd Avenue Planning Study (2009).

In 2010, proposals were requested for the preliminary engineering of improvements to 72nd Avenue and the realignment of Bradburn Boulevard north of 72nd Avenue. Seven firms responded and three firms were short-listed based on the strength of their proposals. As would be expected, Jacobs' understanding of the assignment was superior to the others. For that contract, the fees proposed by the three firms ranged from \$85,000 to \$144,000. Based on staff's recommendation, City Council awarded the preliminary design contract to Jacobs at a cost of \$98,000.

The process of securing engineering services for the 72nd Avenue Planning Study and for the preliminary engineering of the 72nd Avenue/Bradburn Realignment is summarized here to demonstrate that the Jacobs Engineering Group has participated in two previous competitive processes and has been found to provide high-quality engineering services at reasonable prices. City staff is very satisfied with Jacobs' performance under the three contracts, and the product of its efforts was instrumental in the City securing \$1.8 million of outside funding to replace the Little Dry Creek culvert. Jacobs' staff experience in this segment of 72nd Avenue is unparalleled, and they were the technical team that prepared the planning study and the final engineering drawings and bid documents for the 72nd Avenue and Raleigh Street Bridge Replacement Project. Staff is confident that the fee schedule and scope of work that has been negotiated with Jacobs for the construction engineering services of the 72nd Avenue/Raleigh Street bridge replacement is competitively priced and also offers the best opportunity for a successful outcome.

Background Information

As part of the continuing effort to revitalize the south Westminster area, in 2008, the City sponsored a planning study for the 72nd Avenue corridor, covering an area from Meade Street west to Utica Street. Much of the infrastructure there has been in service for over 40 years, and the corridor is characterized by narrow sidewalks, inadequate traffic operations facilities, aging water and sewer utilities and the clutter of overhead utility lines. The planning study was completed in 2009 by Jacobs Engineering Group after the company evaluated the existing conditions, reviewed alternatives and developed recommendations for future projects that would address these shortcomings. Jacobs had been chosen from 11 firms that had submitted proposals for the planning study contract.

Among those recommendations was the replacement of the concrete culvert that carries 72nd Avenue and its intersection with Raleigh Street over Little Dry Creek. This structure has had declining ratings in the bi-annual inspection program for off-systems bridges that is administered by the Colorado Department of Transportation (CDOT). While the structure remains serviceable, the study brought attention to its limited remaining life. The other major recommendation of the planning study was that Bradburn Boulevard be realigned to intersect 72nd Avenue at Raleigh Street. There is now a 200-foot offset of these streets that reduces safety and causes operational problems at the two intersections. For example, the current Bradburn Boulevard/72nd Avenue intersection is difficult for fire trucks to negotiate because of a steep slope and dip in the pavement.

In 2010, proposals were received from seven firms for the preliminary design of a project that would realign Bradburn Boulevard with Raleigh Street as recommended and replace the old culvert with a bridge, raising the intersection several feet to improve the flow conditions of Little Dry Creek during major storm events and also raising the trail along Little Dry Creek so it does not flood so often during minor storms (see attached exhibit). Jacobs won that contract as well. In parallel with this evaluation, staff of the City's Department of Public Works and Utilities investigated the condition of water and sewer systems in the area. While some replacement of water and sewer is occasioned by the bridge replacement itself, the project also presented an opportunity to replace and repair utility systems in the same general project area. That concept was refined during the preliminary design, and certain utility system upgrades are incorporated into the first phase of the 72nd Avenue corridor improvements.

For several years, the Colorado Municipal League has sponsored applications to CDOT's Special Highway Committee for federal funding to replace bridges where CDOT's off-system bridge inspection program had found highly-deficient structures. The Little Dry Creek culvert met those criteria, and in 2009 the City was successful in securing a grant for \$1.1 million. That success was repeated in 2010 when the Special Highway Committee authorized another \$743,000 for the replacement. The combined grant has been programmed for 2013, and it requires matching funds of \$461,000 from the City. The plan review and administration of the federal funding must be coordinated through CDOT, which is a tedious task that will require specialized knowledge from the construction engineering consultant selected for this project.

Staff considered seeking competitive/comparative proposals for the assignment, but had to recognize the significant advantage that Jacobs had in qualifications and experience compared to any other firm. The City is the beneficiary of that advantage since the scope of work for final design of the bridge replacement and the utility work builds significantly on the knowledge gained and the groundwork laid over the past five years in both the planning study, the preliminary design project and the final design and bid package preparation that followed. This firm also has extensive experience with CDOT's processes for federal-aid projects. Their efforts have given shape to a project that will replace the culvert, be compatible with future improvements and fit the budget constraints now in place.

As noted above, the project expenses will be shared between the General Capital Improvement Fund (GCIF) and the Utility Fund. The negotiated fees for construction engineering total \$679,407. A contingency of \$68,000 is also recommended. A breakdown of the recommended authorizations between the two funds is given below:

	GCIF	Utility Fund
Design Engineering and Bid Documents Preparation	\$471,169	\$208,238
Contingencies	\$ 47,158	\$ 20,842
Totals	\$518,327	\$229,080

SUBJECT: Construction Engineering Contract - 72nd Ave/Raleigh St Bridge Replacement Page 4

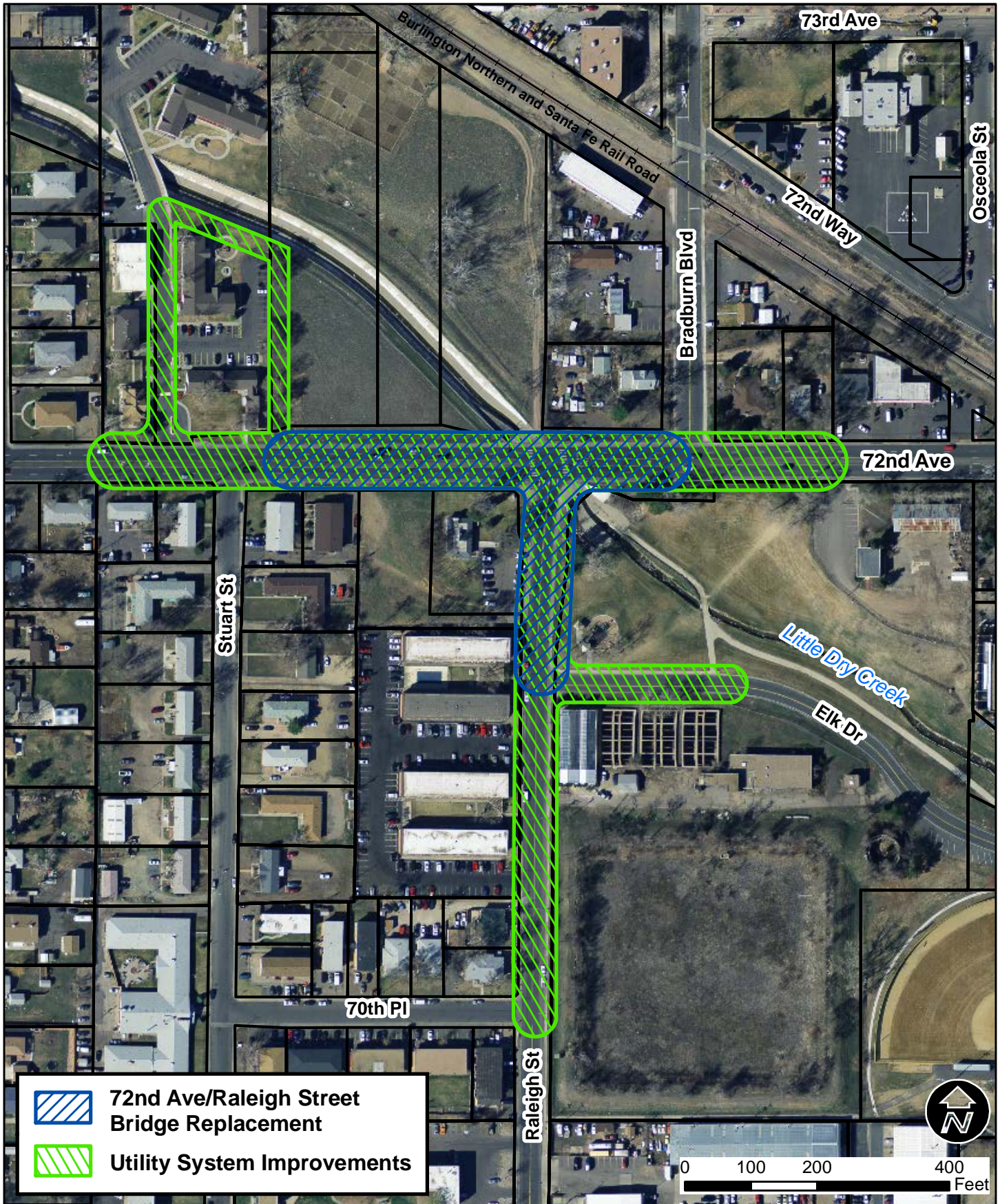
Award of the contract for construction engineering services of the 72nd Avenue/Raleigh Street bridge replacement supports City Council's goals of "Financially Sustainable City Government Providing Exceptional Services" and "Vibrant Neighborhoods in One Livable Community."

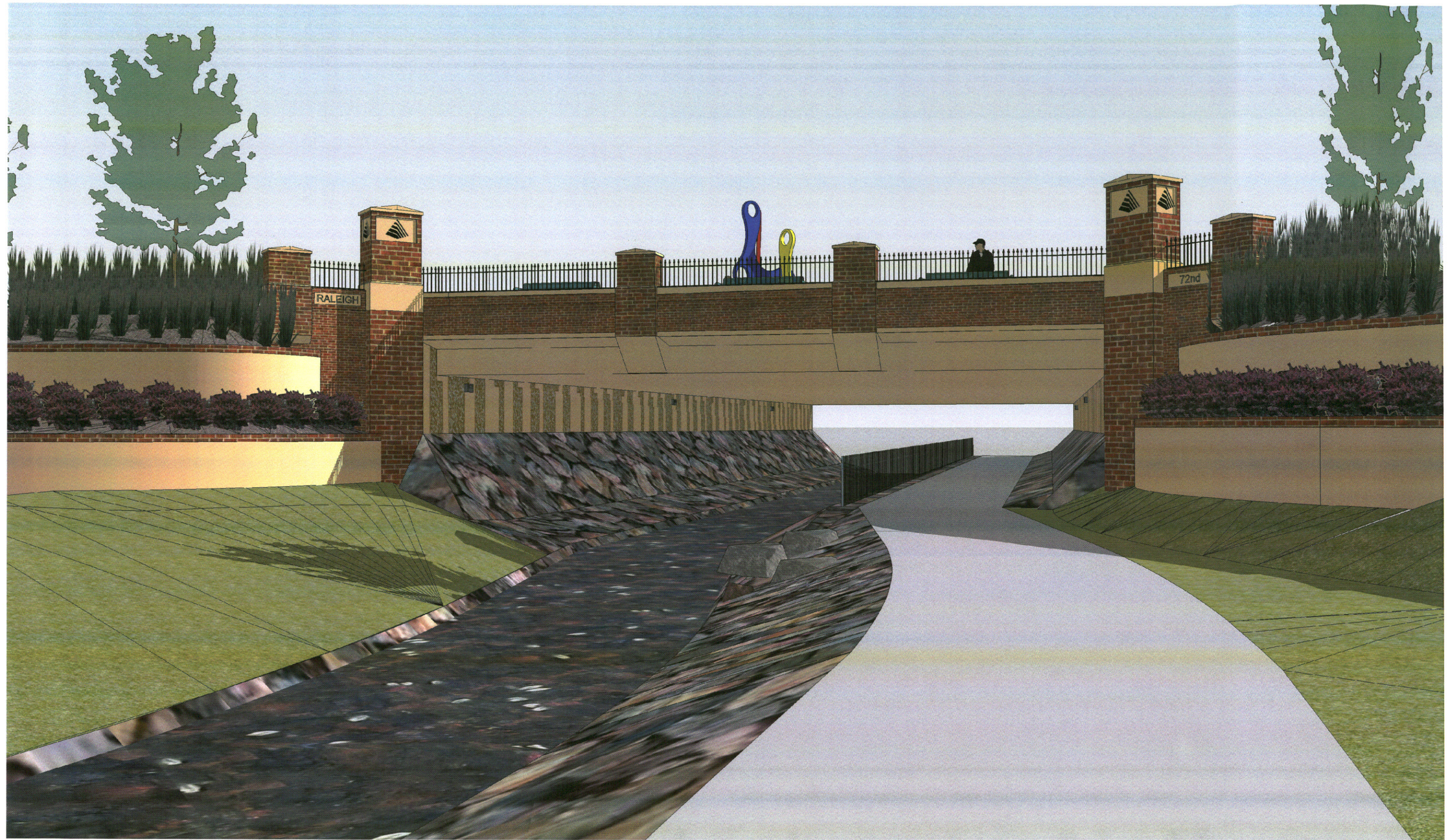
Respectfully submitted,

J. Brent McFall
City Manager

Attachments: Project map
Rendering of bridge

72nd Avenue/Raleigh Street -Project Area-





REVISION	DESCRIPTION	DATE	DRAWN BY	DATE
REVISION			RTF	
REVISION			JHM	
REVISION			JHM	8/26/11
REVISION				

ORIGINAL SCALE	
PLAN	PROFILE
HORIZ.	HORIZ.
	VERT.



**BRADBURN BLVD./RALEIGH ST.
REALIGNMENT
PRELIMINARY DESIGN**

**LANDSCAPE PLAN
BRIDGE AESTHETIC CONCEPT
FROM LITTLE DRY CREEK**



Agenda Memorandum

City Council Meeting
March 24, 2014



SUBJECT: Rodeo Market Park Improvements

Prepared By: Tony Chacon, Senior Projects Coordinator

Recommended City Council Action

Authorize the City Manager to execute a contract with the low bidder, Goodland Construction, Inc., in the amount of \$239,790 for improvements to Rodeo Market Park with a 10% contingency of \$23,979 for a total project cost of \$263,769.

Summary Statement

- Rodeo Market Park is located at 3915 W. 73rd Avenue (See Attachment “A”).
- This project expands on the initial phase of completed park development, which is located immediately adjacent to 73rd Avenue, to the north of the Rodeo Market Community Art Center. The improvements include concrete sidewalks, a large lawn area, tree plantings, a reproduction of the historic Harris Park Ditch to accept storm runoff, and a small children’s play area.
- Bids were solicited from four reputable construction companies with experience in park construction. Of the four firms invited to bid, three provided bids. Goodland Construction provided the lowest collective bid incorporating the base improvements bid and the add-alternate bid for erection of a decorative fence along the northern property line.
- The construction should be completed by mid-June 2014.
- Goodland has completed several construction projects in Westminster including the streetscape improvements along 73rd Avenue, Lowell Boulevard, and Meade Street, the initial phase of the Rodeo Market Park improvements, and the two plazas at the Rodeo Market Community Art Center.
- Adequate funds are budgeted and are available to complete this project.

Expenditure Required: \$263,769

Source of Funds: United States Department of Housing and Urban Development
Community Development Block Grant (CDBG)

Policy Issue

Should the City proceed with the park improvements at the Rodeo Market Park?

Alternative

City Council could choose to not authorize the construction at this time. However, Staff does not recommend this option as the project was included in the 2013 Action Plan submitted to and approved by the U.S. Department of Housing and Urban Development (HUD). Failure to proceed with the project as presented to HUD would require approval of an amendment to the Action Plan. Further, it could place the City in jeopardy of meeting HUD required CDBG expenditure rates, whereby the City is required to maintain a funding balance of no more than 1.5 times its annual CDBG allocation at the end of a program year.

Background Information

In 2003, the City acquired an approximate one-half acre of property at 7319 Orchard Court to preserve a historic house. Thereafter, the City subdivided the property and sold the house, while retaining an approximate 16,000 square foot parcel for eventual improvement as a neighborhood pocket park. In 2004, the City, through the Westminster Housing Authority (WHA) acquired the adjacent Rodeo Market property at 3915 W. 73rd Avenue that is approximately one acre in size. The property included the historic 4,000 square foot Rodeo Market building, which was converted into a community-based arts and cultural center, and about 32,000 square feet of vacant land immediately to the north of the building.

The collective 1.1-acres of vacant land from the two acquisitions presented an opportunity to create a park that would complement and provide outdoor space for arts and cultural activities conducted at the community center by the South Westminster Arts Group (SWAG). Accordingly, Staff proceeded with the preparation of a conceptual park development plan in 2010 (See Attachment "B"). The plan focused on the creation of a park that would be attentive to the history of the area, while providing a unique venue for the arts. The plan's proposed improvements included a sidewalk system providing internal circulation and connection to the parking lot at the Westminster Presbyterian Church, a lawn area and planting beds adjacent to 73rd Avenue, plazas on both the east and west side of the Rodeo Market building, a large event lawn surrounded by a natural grass/planting area, and reconstruction of the historic Harris Park Ditch, all of which could be built on the City-owned property. Since completion of the plan, the ditch no longer runs irrigation waters since the water rights to the water have been sold. While the ditch is no longer active for irrigation purposes, its presence continues to serve as a symbolic artifact of the City's history. The plan also proposes an eventual community garden that could be accommodated through acquisition of adjacent privately-owned property. The City Council approved CDBG funding on December 9, 2013 to acquire the land for the community garden.

In 2008, the first phase of park improvements, covering about one-quarter of an acre, was completed immediately to the east of the Rodeo Market building as referenced in Attachment "A". This initial phase included installation of pavers leading up to and surrounding a "Christmas" tree, two crusher-fine paths, a lawn area, planter beds, and sculpture art bases. This improved area is now home to the South Westminster Arts Group's (SWAG) "73rd Avenue Sculptures in the Park" competition and exhibit. Additional phases to the park improvements were made in 2010 and 2012 with completion of plaza areas on both the east and west sides of the Rodeo Market Community Arts Center.

The next phase of improvements, per the proposed contract, is primarily directed towards improvements to the north side of the Rodeo Market building. The improvements in this area will include over-lot grading, creation of the formal event lawn area, installation of a perimeter concrete walk around the lawn area and tying back to 73rd Avenue and the church parking lot, the planting of several new trees, installation of a water quality pond and associated storm conveyance pipes, the installation of a small children's play area, and the installation of new fencing along the north and east property lines. The

planned improvements also include finishing out the pedestrian paths completed in Phase 1, whereby the crusher-fine pathway will be replaced with concrete, and a band of turf is to be installed along the northern edge of the existing path. The other substantial improvement will be the reconstruction of the Harris Park Ditch to serve as a channel to convey storm water to a storm system inlet at the corner of 73rd Avenue and Orchard Court. With completion of this phase of improvements the park will become an attractive community amenity, and will provide the South Westminster Arts Group (SWAG) with needed outdoor space to expand and improve its arts and culture programming and activities.

Staff solicited bids from four companies. Three of them responded to the Request for Bid. Staff reviewed the bids and determined that Goodland Construction, Inc. was the low bidder based on the collective amount for both the Base Bid and Add Alternate No. 2 for the installation of a decorative fence along the north property line. Goodland Construction, Inc. has constructed several projects in the immediate area in the past, including the Rodeo Market property and 73rd Avenue. Staff is pleased with the quality of Goodland’s work on these projects. Construction will begin in April and completion is expected by the end of June.

	Richdell Construction, Inc.	Goodland Construction, Inc.	Arrow-J Landscape & Design, Inc.
Base Bid	\$234,600	\$217,390	\$242,816.00
Alternate Bid #2 (Decorative Fence)	\$12,000	\$22,400	\$9,002.00
10% Contingency	\$24,660	\$23,979	\$25,181.80
Grand Total	\$271,260	\$263,769	\$276,999.80

This project meets City Council’s Strategic Plan Goals of “Financially Sustainable City Government Providing Exceptional Services,” “Vibrant Neighborhoods in One Livable Community,” and “Beautiful and Environmentally Sensitive City.”

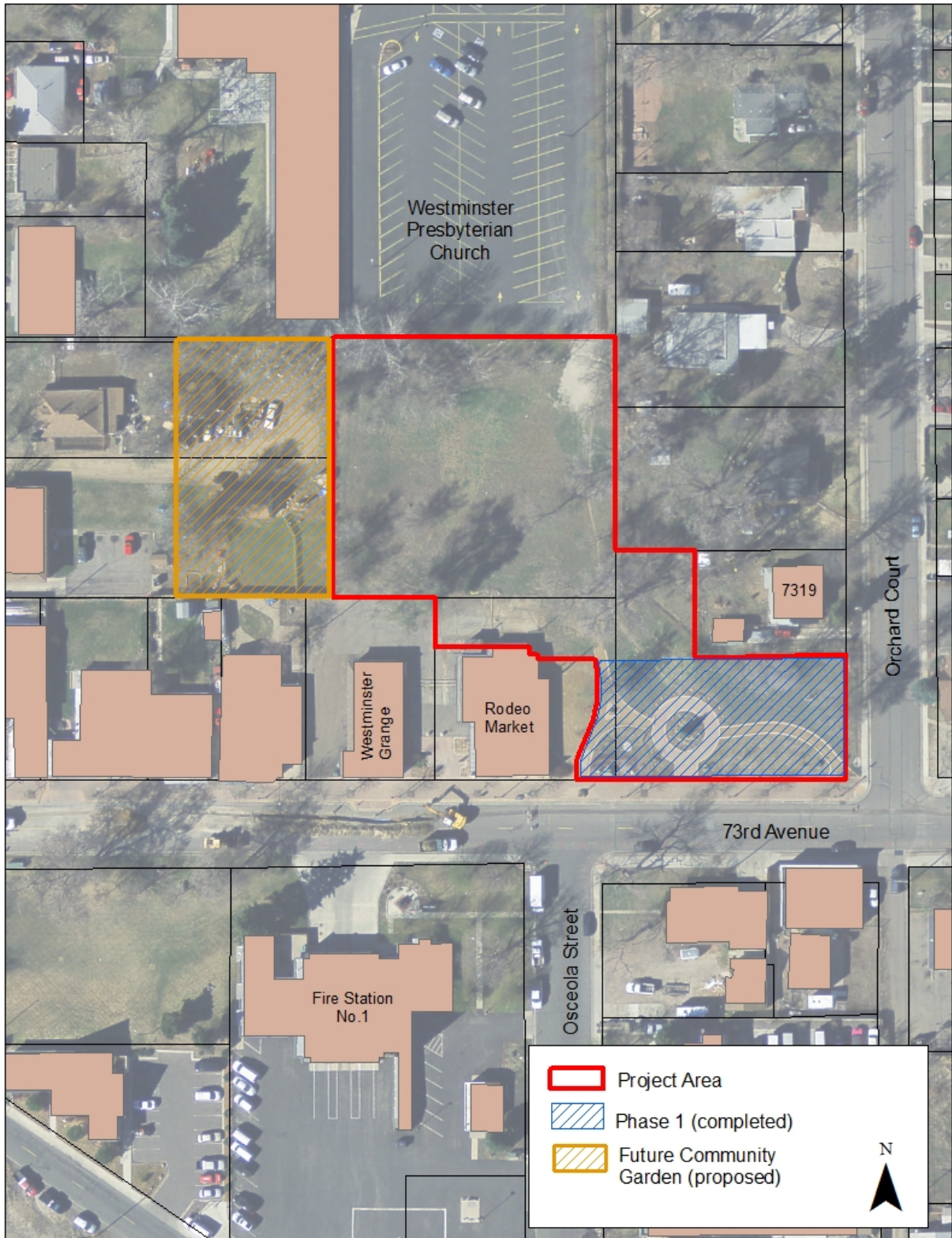
Respectfully submitted,

J. Brent McFall
City Manager

Attachment “A” – Site Photo
Attachment “B” – Conceptual Park Improvement Plan

ATTACHMENT "A"

Project Location Map



ATTACHMENT "B"

Rodeo Market Park Concept Plan



Rodeo Market Park
Wesminster, Colorado

FINAL DESIGN
Date: 5.20.2013





Agenda Memorandum

City Council Meeting
March 24, 2014



SUBJECT: Backhoe and Mini Excavator Purchase

Prepared By: Jeffery H. Bowman, Fleet Manager

Recommended City Council Action

Authorize the purchase of a John Deere backhoe from Honnen Equipment, utilizing the 2013 bid award in place from Rio Blanco County, for the amount of \$116,901 (less trade-in allowance of \$47,500, resulting in a net cost of \$69,401), and authorize the purchase of a John Deere mini excavator also from Honnen Equipment, utilizing the Colorado Multiple Assembly of Procurement Officials (MAPO) bid award for the amount of \$36,331.85.

Summary Statement

- City Council action is requested to authorize the purchase for one Public Works and Utilities John Deere 410-K backhoe, based on the Rio Blanco County bid award "4 Wheel Drive Backhoe Loader – 2013" in the amount of \$116,901 and one Public Work and Utilities John Deere 27-D mini excavator based on the MAPO bid award 002-98 in the amount of \$36,331.85.
- Authorize trade-in of a 2003 John Deere 710-G backhoe to Honnen Equipment for the amount of \$42,000 and the trade-in of a Kent compaction plate for the amount of \$5,500.
- Total cost for the 410-K backhoe and attachments is \$116,901. Honnen Equipment will discount \$47,500 as trade-in allowance for unit 9767, a 2003 John Deere 710-G backhoe with plate tamper resulting in a cost of \$69,401.
- Total cost for the 27-D mini excavator is \$36,331.85.
- City Council previously approved \$160,000 in the 2014 Water Capital Outlay Replacement Fund (WCORF) budget to purchase these vehicles.

Expenditure Required: \$105,732.85 (net cost)

Source of Funds: Water Capital Outlay Replacement Fund

Policy Issue

Should the City proceed with the purchase of one Public Works and Utilities (PW&U) John Deere backhoe and John Deere mini excavator?

Alternatives

1. Reject the Rio Blanco County “4-Wheel Drive Backhoe Loader-2013” solicitation to front-range area dealerships and reject the MAPO mini excavator bid award 002-98, and instruct City Staff to re-bid the backhoe and mini excavator. This is not recommended because Rio Blanco County and MAPO bid awards reflect a competitive bid process that provided heavy equipment dealerships the opportunity to compete fairly to provide the heavy equipment.
2. Do not purchase the proposed replacement backhoe and mini excavator in 2014. This is not recommended because the old backhoe has a costly maintenance history that makes it impractical to keep it in regular service based on Fleet Maintenance recommendations. There is also a need for a smaller sized backhoe and mini excavator to manage digging in tighter locations than is possible with the existing 710 class backhoe.

Background Information

As part of the 2014 Budget, City Council funded the purchase of one PW&U backhoe and mini excavator. The approved replacement backhoe identified in the table below has reached a point where it is no longer economically reasonable to maintain it in service. Please note, the life-to-date equipment maintenance costs in the table does not include fuel cost.

CITY DEPARTMENT	REPLACEMENT VEHICLE	LIFE-TO-DATE VEHICLE MAINTENANCE COST	NEW VEHICLE MAKE/MODEL	NEW VEHICLE PRICE	BIDDER AWARDED
PW&U	Unit 9767 2003 John Deere 710 Backhoe	\$54,078	John Deere 410-K John Deere 27-D	\$105,732.85	Honnen Equipment

Unit 9767, the current John Deere backhoe, is a large 710 class backhoe. PW&U currently operates two 710 class backhoes, which work well in locations where room is not an issue. As 9767 reached replacement age, it was recommended that a smaller backhoe and mini excavator combination should replace one large backhoe. Demonstrations models were brought in for digging comparisons and it was realized that having the replacement 410 class backhoe and mini excavator made business sense. With the recommended 410 class and mini excavator replacements, along with one remaining 710 class backhoe, PW&U is able to work in open areas and manage tight digs without causing damage to sidewalks and lawns.

This recommended purchase meets Council’s Strategic Plan goals of Financially Sustainable City Government Providing Exceptional Services and a Beautiful and Environmentally Sensitive City by keeping a highly dependable fleet of vehicles and equipment on the job and obtaining the best possible price for these vehicles.

Respectfully submitted,

J. Brent McFall
City Manager



Agenda Memorandum

City Council Meeting
March 24, 2014



SUBJECT: Excess Workers' Compensation Insurance Purchase

Prepared By: Martee Erichson, Risk Manager

Recommended City Council Action

Authorize the City Manager to purchase Workers' Compensation Excess Insurance for a two year policy at \$84,469 from Midwest Employers Casualty Company.

Summary Statement

- City Council is requested to authorize the City Manager to purchase the 2014/2015 annual excess workers' compensation insurance coverage effective April 1, 2014 and lock in the 2015/2016 premium.
- The City annually purchases specific stop loss insurance to cover catastrophic on-the-job employee injuries that would exceed the City's self-insured funds. This insurance is purchased through a broker, IMA of Colorado, Inc., who has recommended purchase of the coverage from the Midwest Employers Casualty Company. The recommended quote from IMA for coverage through March 31, 2014, is \$84,469, which will lock in that same premium for the 2015/2016 policy year.
- For 2013/2014, the cost of coverage through Midwest Employers Casualty Company was \$79,681 including broker commission. For 2014/2015, with no change in policy coverage or the City's current self-insured retention (SIR) limit of \$500,000, the quote of \$84,469 is a total increase in premium of \$4,788 (6%). The rate increase includes an additional \$2,400 in annual premium to lock in that rate for the 2015/2016 policy year at \$84,469. There was no change in the flat broker fee of \$9,500 per year that is included in both year's quotes.
- Adequate funds for this purchase were approved by City Council in the 2014 Workers' Compensation Self Insurance Fund budget.

Expenditure Required: \$84,469

Source of Funds: Workers' Compensation Self Insurance Fund

Policy Issue

Should the City continue to self-insure its workers' compensation coverage and purchase excess insurance to cover potential catastrophic claims?

Alternatives

1. City Council could choose to agree to only a one year policy term with Midwest for a premium of \$82,069 for the 2014/2015 policy year. This alternative is not recommended due to the uncertain insurance industry market for workers' compensation coverage and the potential for new legislation increasing the cost of both premiums and claims. A guaranteed two year rate would protect the City from these potential market risks.
2. City Council could choose to take on a higher self-insured retention (SIR) of \$550,000 or \$600,000 per claim with Midwest for a premium of \$78,006 or \$73,267 respectively. These alternatives are not recommended as just one catastrophic claim could cost the City up to an additional \$50,000 or \$100,000 effectively wiping out the small savings in premium.
3. City Council could choose one of two other quotes received from a different insurance carrier. Safety National quoted the City's program with two options. Option one is a premium of \$101,211 with a \$500,000 SIR. Option two is a premium of \$90,993 with a \$600,000 SIR for police and fire employee claims and a \$500,000 SIR for all other employees. These alternatives are not recommended as both result in increased costs to the City.
4. City Council could conclude excess insurance policy coverage is not necessary and consider fully self-insuring the City's Workers' Compensation Insurance Program. This alternative is not recommended at this time due to the almost certain increase in claim costs to the City that would counteract the savings in insurance premium.

Background Information

The City currently self-insures the first \$500,000 of each workers' compensation claim. This high retention type of program allows for more control over claims handling and payment, reaping immediate rewards from the City's loss control and safety programs. By self-insuring, the City also avoids some increases in premiums that continue to affect the governmental entity insurance market.

Many workers' compensation insurers nationwide are looking to self-insured employers to take on higher retention limits per claim as well as higher premiums. According to Midwest, many of their clients are seeing increases ranging from eight to 12 percent. The City's broker, IMA of Colorado, Inc., requested pricing information from several other carriers, besides Midwest and Safety National, and received responses ranging from minimum premiums of \$150,000 to required SIRs of \$750,000 for police and fire employee claims.

In 2007, HB07-1008 passed creating a presumption that cancer in a firefighter with a career of five or more years is work related and covered under the Workers' Compensation program. This presumption increases the City's risk of a claim exceeding the self-insured retention limit and emphasizes the importance of the excess insurance coverage need. In addition, this year the Colorado legislature may be asked to consider several new laws that could significantly effect the amount employers pay on workers' compensation claims.

In mid-February 2014, Risk Management completed and submitted the City's annual application for excess workers' compensation coverage to insurance broker IMA of Colorado, Inc. IMA then sought proposals on the open insurance market and received responses from only two carriers. In their renewal proposal,

IMA recommended Midwest Employers Casualty Company's two-year proposal that includes an increase in premium of \$4,788 (6%) over last year's coverage.

Staff agrees with IMA's proposal of using Midwest again this year, as well as locking in a two-year rate, for cost savings because:

- The relationship with one carrier benefits the City's coverage cost quotes. The City has been with Midwest for nine years, they know the Risk Management Staff, the City's safety programs and loss history well enough to quote insurance costs more appropriate to the City's program.
- The Midwest policy includes a blanket waiver of subrogation. This means that they permit the City to relinquish any rights the City might have to collect from another party for damages when it is required by contract.
- The Midwest policy does not include a commutation clause that many policies have. Commutation is the right of a carrier to value an open claim after the policy expires and pay that amount to the insured, thereby releasing the carrier from any further liability for the claim.
- The Midwest policy includes a Cash Flow Endorsement that, in the case of a catastrophic claim, would allow the City to spread its payments out over time with the excess carrier assisting with cash advances.
- The Midwest Company offers the City several loss control resources such as on-line training and best practice seminars as well as benchmarking reports that Staff has found very helpful over the last nine years.

Given the market availability for insuring workers' compensation for police and fire personnel continues to decrease and the fact higher increases are being seen in this line of coverage industry wide, Staff is pleased with the renewal terms.

Through City Council's action of purchasing excess workers' compensation insurance to cover potential catastrophic employee injuries, protections are kept in place that maintain sufficient reserves in the self-insurance fund supporting their Strategic Plan goal of a Financially Sustainable City Government Providing Exceptional Services.

Respectfully submitted,

J. Brent McFall
City Manager



Agenda Memorandum

City Council Meeting
March 24, 2014



SUBJECT: 2014 Golf Courses' Cumulative Purchases over \$75,000

Prepared By: Peggy Boccard, Recreation Services Manager
Lance Johnson, Recreation Facilities Superintendent

Recommended City Council Action

Based on the recommendation of the City Manager, determine that the public interest will be best served by awarding contracts and approve 2014 expenditures to the following vendors: Titleist, not to exceed \$75,000, Nike U.S.A. Golf Division, not to exceed \$75,000, Oakley, not to exceed \$75,000 and LL Johnson Distributing, not to exceed 75,000.

Summary Statement

- These purchases are for routine commodities that are provided for sale at the City's two golf course pro shops, driving ranges and maintenance facilities through specific single source vendors.
- The Westminster Municipal Code requires that all purchases over \$75,000 be brought to City Council for authorization. Staff has taken a conservative approach in interpreting this requirement to include transactions where the cumulative total purchases of similar commodities or services from one vendor in a calendar year exceeds \$75,000.
- Adequate funds were previously appropriated in the 2014 City Council Approved Budget and are available in the Golf Course Funds for these purchases.

Expenditure Required: Not to exceed \$300,000

Source of Funds: Golf Course General Operating Fund Budget

Policy Issue

Should Council approve the purchase of golf course commodities from the recommended vendors that total over \$75,000 for each vendor in 2014?

Alternative

1. Council could choose to approve individual vendors and not the entire package. The vendors selected have proven revenue producing lines of merchandise that are recognized as the most popular and highest quality products on the market and have been "packaged together" to best meet the needs of operations. These are sole source vendors and these product lines are not available from other sources.
2. Council could request that Staff solicit other vendors. Golf shop staff currently utilizes other product lines to offer alternative choices in merchandise and price points. Staff researches and works with many different vendors to offer a wide variety of merchandise for resale. The vendors listed in this agenda memo are typically the Staff's largest expenditures and could potentially reach the 75K limit. Other vendors are used, but will not reach the City Council approved limits.

Background Information

Staff has identified all four vendors, Titleist, Nike U.S.A. Golf Division, Oakley and LL Johnson Distributing as potentially having aggregate amounts exceeding \$75,000 by the end of 2014. Funds are available in the appropriate budgets for these expenditures. These products are ordered directly from the manufacturer. They are the sole source and cannot be purchased from any other entity. The golf shops and maintenance operations receive the best pricing available based upon the volume of sales, purchases and use of the quality products and services the four vendors provide.

The details of these purchases are as follows:

- The City anticipates expenses not to exceed \$75,000 from Titleist for both of the City's golf courses combined. The City purchases high-quality Pinnacle Range Balls (Legacy Ridge) from Titleist. Heritage at Westmoor and Legacy Ridge purchase merchandise for resale including 40% of the golf gloves; golf balls (Pro-V1, Pro-V 1x, NXT, NXT Tour and Pinnacle); and a limited number of clubs for stock in the golf shop (woods, wedges, putters). Most irons, drivers, fairway woods, and hybrid purchases are done on a special-order basis with Staff providing the customer with a custom club fit. Titleist is the number one golf ball in the market and is the number one-selling golf ball and merchandise in the City's golf shops.
- The City anticipates expenses from Nike USA Golf Division not to exceed \$75,000. The golf courses also purchase Nike USA Golf Division merchandise for resale including golf balls (Mojo, Nike One Platinum and Nike One Black); 60% of the shoe inventory, clothing and a limited number of clubs and special-order all iron sets. In 2013, Staff will purchase approximately 50% of the golf shop's clothing line for resale from Nike USA Golf Division (shirts, jackets, wind shirts, socks). Nike is the golf courses' top-selling merchandise line.
- The City anticipates expenses from Oakley not to exceed \$75,000. The golf courses also purchase Oakley merchandise for resale including approximately 30% of the shoe inventory at Legacy Ridge and over 33% at The Heritage at Westmoor in clothing and sunglasses and special-order clothing, shoes, and sunglasses. In 2013, Staff purchased approximately 40% of the golf shops' clothing line for resale from Oakley (shirts, jackets, wind shirts, socks, and sunglasses). Oakley is the number one sunglass manufacturer in the golf industry and is the number three top product sold in the City's golf shops.

- The City anticipates expenses from LL Johnson Distributing not to exceed \$75,000. LL Johnson Distributing is the sole source dealer of Toro maintenance equipment and parts in the State of Colorado. Toro comprises 75% of the maintenance equipment used at Legacy Ridge and the Heritage at Westmoor. A majority of our dealer service repairs and repair parts, including Toro repair parts to keep specific equipment under warranty, are purchased through LL Johnson Distributing along with other golf course accessories and irrigation parts and supplies.
- Routine commodities, such as these, provide golf course revenue while serving customer needs
- The 2013 gross profit from golf shop sales: Legacy Ridge \$63,503 = 37% margin, Heritage \$25,741 = 25.76% margin

These purchases support City Council's Strategic Plan Goal of "Financially Sustainable City Government Providing Exceptional Services."

Respectfully submitted,

J. Brent McFall
City Manager



Agenda Item 8 H

Agenda Memorandum

City Council Meeting
March 24, 2014



SUBJECT: Public Safety Center Secure Parking Lot Reconstruction Project

Prepared By: Kurt Muehlemeyer, Pavement Management Coordinator
Dave Cantu, Street Operations Manager

Recommended City Council Action

Find that the public interest will be served by authorizing the City Manager to execute a contract with Martin Marietta Materials, Inc. in the amount of \$307,280 for the reconstruction of the asphalt pavement in the secure parking lot at the Public Safety Center, plus a contingency amount of \$35,000, for a total authorized expenditure of \$342,280.

Summary Statement

- The secure parking lot at the Public Safety Center has deteriorated to the point that total pavement reconstruction and subgrade stabilization is required.
- Bids were solicited on the City's website via DemandStar.
- The recommended bidder, Martin Marietta Materials, Inc., meets all of the City bid requirements and has successfully completed similar projects in Westminster and the Denver metropolitan area over the last 25 years.
- The project consists of removing the asphalt pavement, treating the subgrade with hydrated lime, replacing the concrete curb and gutter, and placing new hot mix asphalt.
- Adequate funds were budgeted and are available for this planned expense.

Expenditure Required: \$342,280

Source of Funds: General Capital Improvement Fund
-City Facilities Parking Lot Maintenance Program

Policy Issue

Should this bid be awarded to the Martin Marietta Materials, Inc., for the Public Safety Center Parking Lot Reconstruction Project?

Alternatives

1. An alternative to this project would be to not reconstruct the parking lot and only address the worst areas with asphalt patching. This alternative is not recommended because severe pavement distresses are already present and previous attempts to mitigate these distressed areas have been difficult to carry out because of poor subgrade conditions. This alternative would also cause continual disruptions to the day to day operations of the Police Department.
2. A second alternative would be to not reconstruct the parking lot but instead apply a thick asphalt overlay to the entire surface. This alternative is not recommended because the existing subgrade conditions will limit the effectiveness of an overlay and substantially shorten the life of the new pavement.

Background Information

The secure parking lot at the Public Safety Center (PSC) was constructed in 2001. Approximately four years after construction pavement distresses started to appear. Given the premature nature of the distresses, Public Works & Utilities completed an evaluation to determine the cause of the early pavement failure. The evaluation identified several areas of the parking lot with soft or weak subgrade. Crews then stabilized distressed areas with patch and overlay in 2007, and again in 2010.

Following the initial repairs, more areas began showing moderate to severe distresses. A second, more comprehensive evaluation was performed in 2013, including core sampling of the subgrade. The tests revealed the soil was a very dense, sandy clay that contained higher than normal moisture levels. Two of the sample areas had water present from an unknown source. This water was tested for the presence of chlorine but none was detected, indicating that the source was likely groundwater and not a potable water leak.

The results of the second evaluation concluded that the parking lot would either need to be reconstructed or the entire surface covered with a thick asphalt overlay. Staff considered the life cycle costs of reconstruction versus overlay, and concluded that, given the subgrade concerns, the best long term approach would be to prepare a request for bids based on reconstruction versus overlay.

On January 20, 2014 the project was advertised for formal bidding on the City’s website through Demand Star. Bids were requested for two reconstruction options: Option A is based on removing a layer of the clay and replacing it with a rock drainage layer, and Option B is based on stabilizing the existing clay with lime. The following bids were received:

Option A Full Drain Layer

- | | |
|--------------------------------------|------------------|
| 1. Asphalt Specialties Company, Inc. | \$380,732 |
| 2. Martin Marietta Materials | \$399,002 |
| 3. Brannan Sand & Gravel Co. | \$456,843 |
| 4. City Staff’s Estimate | \$371,800 |

Option B Stabilized Subgrade

1. Asphalt Specialties Company, Inc.	\$306,985
2. Martin Marietta Materials	\$307,280
3. Brannan Sand & Gravel Co.	\$376,698
City Staff's Estimate	\$352,795

During the bid process, all of the bidders raised concerns with the constructability of Option A, as it involves excavating a layer of the existing clay, placing a layer of drain rock, and placing hot asphalt over the rock using heavy equipment that may shift the rock and compromise the pavement. The bids received for Option A reflect the constructability concerns and the added cost associated with the materials and construction efforts for this option. All bids received exceed the available funds. Thus, for constructability and cost reasons, Option A is not recommended.

Accordingly, Option B, to stabilize the existing clay soil with lime, is recommended. Subgrade stabilization using hydrated lime is a technique that has been used for many years to dry up wet soils and modify expansive clay. It works by changing the chemical properties of the clay, reducing the water content, decreasing plasticity and swelling properties. When the process is complete the clay soil is transformed into a compacted, fine granular material that is an ideal platform for asphalt pavement. If an inflow of groundwater is encountered during construction beyond what the lime stabilization can address, Staff has requested contingency funds to install an underground piping system to channel water from the subgrade into the storm drain system.

The two low bids for Option B were only \$295 apart, a difference of less than 0.1%. The low bid was received from Asphalt Specialties Company, Inc. (ASCI), the same company that has been awarded the City's Asphalt Pavement Rehabilitation Project for the past nine years. However, ASCI has had difficulty in completing the City's work promptly and within the specified contract time.

Because the Public Safety Center secure parking lot is a critical component in the day to day operations of the Police Department, minimizing disruptions to Police operations is one of the highest priorities for this project. For this reason, and the nominal difference between the low and second low bid, Staff advises that it is in the best interest of the City to award the contract for the Public Safety Center Secure Parking Lot Reconstruction Project to Martin Marietta Materials, Inc. in the amount of \$307,280, plus a contingency of \$35,000.

The proposed council action supports City Council's goals of Safe and Healthy Community by providing timely response to emergency calls as well as Financially Sustainable City Government Providing Exceptional Services by investing in well-maintained and sustainable city infrastructure and facilities.

Respectfully submitted,

J. Brent McFall
City Manager

Attachment: Location Map

Public Safety Center Parking Lot Replacement

Shaded area scheduled for replacement.





Agenda Memorandum

City Council Meeting
March 24, 2014



SUBJECT: Amendment of Pacific Companies and Urban Pacific Multi-Housing LLC
Contract to Buy and Sell Real Estate

Prepared By: Susan F. Grafton, Economic Development Director

Recommended City Council Action

Authorize the City Manager to execute the second amendment to the Contract to Buy and Sell Real Estate, in substantially the same form as attached, with Urban Pacific Multi-Housing, LLC and Pacific West Communities, Inc.; and to take all actions necessary to close this land sale.

Summary Statement

- The City owns approximately 15.8 acres between The Promenade and Circle Point (see vicinity map).
- The Contract to Buy and Sell Real Estate with Urban Pacific Multi-Housing, LLC and Pacific West Communities (the Contract) was approved by City Council on July 9, 2012.
- The current sale price is approximately \$4,469,000 (\$6.50/sf). Net proceeds from the land sale, taking into account all closing costs, brokers fee and NBC Metropolitan District exclusion, will be approximately \$3,738,550. The new sales price proposed will increase to \$4,619,931 (\$6.71 sf), unless early closing occurs.
- An Amendment to the Contract was approved on September 23, 2013 that provided for a new closing date of March 15, 2014, placed a cap on the Public Land Dedication fee and specifically outlined how costs will be shared concerning the NBC Metropolitan Districts.
- The developers propose building no less than 450 multi-family units on the property, which is in line with the City’s vision for this area.
- This second amendment provides for a new closing date of September 30, 2014, increases the purchase price by \$150,000, provides for early closing incentives, and makes the existing \$100,000 deposit currently in escrow non-refundable should closing of the Contract not occur.

Expenditure Required: \$0

Source of Funds: N/A

Policy Issue

Should the City enter into a second amendment to the current contract with Urban Pacific Multi-Housing LLC, per the terms and conditions outlined in the Agenda Memorandum?

Alternatives

1. Request a higher price: The \$4,619,931 price (\$6.71 per square foot) is considered at or above market, plus there are issues relative to the property that negatively impact the value. These include a small existing wetland, City's desire for higher density development, and the existence of a Metropolitan District on the north half of the property.
2. Shorten the closing period. The closing date is set to occur after receiving Official Development Plan approval, and to provide time to exclude the property from the NBC Metropolitan District.

Background Information

In July 2012, City Council authorized the City Manager to execute a Contract to Buy and Sell Real Estate with Urban Pacific Multi-Housing and Pacific West Communities for the 15.8 acres between The Promenade and Circle Point Corporate Center. The purchase price was established at \$4,469,931, subject to the broker fee, wetland mitigation and other closing costs. Closing was expected around January 15, 2013.

There were three contingencies to the contract:

1. Reach Resolution on the NBC Metropolitan District that affects the northern half of the property.
2. Reach approval on the Official Development Plan (ODP) that provides high density multi-family product and structured parking.
3. Obtain the necessary water taps for the project.

Of the three contingencies, only the receipt of water tap commitments was accomplished in time for original closing date. The NBC Metro District has finally begun working with the Buyer and Seller to remove the 15-acre parcel from the district. It is expected to take through July before removal from the district can be effectuated. Also, city staff and developers have reached agreement on a project concept plan with parking structures as part of the residential development. The project is now in the ODP review process. The timeframe for completion of the ODP and Plat approval indicates closing could occur as early as August. A September 30 closing date is requested to provide the developer and city sufficient time should it be needed. The early closing incentive is to encourage the developer to move ahead diligently on the entitlements.

The contract amendments proposed and agreed to by the buyer include:

1. Closing date deadline extension. The original agreement provided for three thirty (30) day extensions at \$25,000 each. The first amendment provided for only two extensions but at \$100,000 each that would not be refundable. This second amendment provides a new Closing date of September 30, 2014 with no extension.
2. Purchase Price. The original purchase price for the property will increase by \$150,000 from the \$4,469,931 to \$4,619,931.
3. Earnest Money Deposit. The \$100,000 Earnest Money Deposit currently being held in escrow shall not be refundable to the Buyer if Closing does not occur, but will be applicable to the sales price should closing proceed.
4. Early Closing Incentives. Should Buyer be able to achieve closing 30 days early, a \$25,000 price reduction will be provided; or, should Buyer be able to achieve closing 60 days early, a \$50,000 price reduction will be provided.

The Buyer/Developer is set to move forward in anticipation of a fall 2014 ground breaking. Staff is prepared to move forward within the anticipated time frame, and sees the project as a generator of activity for both The Promenade and The Shops at Walnut Creek. Though approval of the Axis ODP is still necessary, the project is moving forward positively for an August/September closing.

The approval of this amendment is consistent with City Council Strategic Goal of creating Vibrant Neighborhoods in One Livable Community.

Respectfully submitted,

J. Brent McFall
City Manager

Attachments: 2nd Amendment to Contract to Buy and Sell Real Estate
Vicinity Map

SECOND AMENDMENT TO CONTRACT TO BUY
AND SELL REAL ESTATE (“SECOND AMENDMENT”)

This Second Amendment to Contract to Buy and Sell Real Estate is made and entered into as of
the 15th day of April, 2014.

The undersigned Buyer and Seller are parties to that certain Contract to Buy and Sell Real Estate, dated July 10, 2012, attached hereto as Exhibit A (“Contract”).

The Parties hereby agree that the Contract is hereby amended as follows:

1. Section 2.c. is amended to read as follows:

Item No.	Reference	Event	Date or Deadline
1	§ 30a	Earnest Money Deadline	10 days from Effective Date- PROVIDED
2	§ 5a	Loan Application Deadline	N/A
3	§ 5b	Loan Conditions Deadline	N/A
4	§ 5c	Buyer’s Credit Information Deadline	N/A
5	§ 5c	Disapproval of Buyer’s Credit Information Deadline	N/A
6	§ 5d	Existing Loan Documents Deadline	N/A
7	§ 5d	Existing Loan Documents Objection Deadline	N/A
8	§ 5d	Loan Transfer Approval Deadline	N/A
9	§ 6a(2)	Appraisal Deadline	N/A
10	§ 7a	Title Deadline	30 days from Effective Date-DONE
11	§ 8a	Title Objection Deadline	45 days from Effective Date-NO OBJECTION
12	§ 7c	Survey Deadline	30 days from Effective Date- PROVIDED
13	§ 8c(2)	Survey Objection Deadline	45 days from Effective Date-NO OBJECTION
14	§ 7b	Document Request Deadline	30 days from Effective Date- PROVIDED
15	§ 7d(5)	CIC Documents Objection Deadline	N/A
16	§ 8b	Off-Record Matters Deadline	30 days from Effective Date- PROVIDED
17	§ 8b	Off-Record Matters Objection Deadline	60 days from Effective Date-NO OBJECTION
18	§ 8f	Right of First Refusal Deadline	N/A
19	§ 10a	Seller’s Property Disclosure Deadline	N/A
20	§ 10b	Inspection Objection Deadline	90 days from Effective Date- LETTER FROM BUYER RECEIVED
21	§ 10c	Resolution Deadline	120 days from Effective Date- RESOLUTION ACHIEVED
22	§ 10d	Property Insurance Objection Deadline	N/A
23	§ 25e	Approval Deadline	September 30, 2014
24	§ 12	Closing Date Deadline	September 30, 2014
25	§ 17	Possession Date	Closing Date
26	§ 17	Possession Time	5 p.m. Closing Date
27	§ 30	Acceptance Deadline Date	N/A
28	§ 30	Acceptance Deadline Time	N/A

2. The Purchase Price stated on page 1 of the Contract is hereby amended to read \$4,619,931.

3. Section 4 is hereby amended to read as follows:

PURCHASE PRICE AND TERMS. The Purchase Price set forth below shall be payable in U.S. Dollar by Buyer as follows:

Item No.	Reference	Item	Amount	Amount
1	§ 4	Purchase Price	\$4,619,931	
2	§ 4a	Earnest Money		\$100,000.00
3	§ 4d(1)	New First Loan		\$0.00
4	§ 4d(2)	New Second Loan		\$0.00
5	§ 4 e	Assumption Balance		\$0.00
6	§ 4f	Seller or Private Financing		\$0.00
7				
8				
9	§ 4b	Cash at Closing		\$4,519,931
10	TOTAL		\$4,619,931	\$4,619,931

Note: If there is an inconsistency between the Purchase Price on the first page and this § 4, the amount in § 4 shall control.

a. **Earnest Money.** ~~The Earnest Money set forth in this section, in the form of Good Funds is part payment of the Purchase Price and shall be payable to and held by Fidelity National Title Company (Earnest Money Holder), in its trust account, on behalf of both Seller and Buyer. Earnest Money Holder shall deposit the Earnest Money in an interest bearing account in a FDIC insured institution. All interest earned shall become part of the Earnest Money. (Intentionally deleted.)~~

~~b. **Cash at Closing.** All amounts paid by Buyer at Closing including cash at Closing, plus Buyer's closing costs, shall be in funds which comply with all applicable Colorado laws, which include cash, electronic transfer funds, certified check, savings and loan teller's check and cashier's check (Good Funds).~~

~~c. **Down Payment Assistance; Seller Paid Costs.** Seller, at Closing, shall credit \$ N/A to Buyer to assist with Buyer's down payment. Seller shall also, at Closing, credit to Buyer the amount of \$ N/A to assist with Buyer's closing costs, not to exceed the amount due from Buyer for such costs. These amounts are in addition to any sum Seller has agreed to pay or credit Buyer elsewhere in this Contract.~~

~~d. **New Loan.** N/A~~

~~(1) **New First Loan.** Buyer shall obtain a new loan set forth in this section as follows:~~

~~Conventional FHA VA Other .~~

~~This loan will be secured by a _____ (1st, 2nd, etc.) deed of trust.~~

~~The loan may be increased to add the cost of mortgage insurance, VA funding fee and other items for a total loan amount, not in excess of \$ _____, which shall be amortized over a period of _____ Years Months at approximately \$ _____ per _____ including~~

principal and interest not to exceed ___% per annum, plus, if required by Buyer's lender, a deposit of _____ of the estimated annual real estate taxes, property insurance premium, and mortgage insurance premium. If the loan is an adjustable interest rate or graduated payment loan, the payments and interest rate initially shall not exceed the figures set forth above.

Loan discount points, if any, shall be paid to lender at Closing and shall not exceed _____% of the total loan amount. Notwithstanding the loan's interest rate, the first _____ loan discount points shall be paid by _____, and the balance, if any, shall be paid by _____.

Buyer shall timely pay Buyer's loan costs and a loan origination fee not to exceed ___% of the loan amount. If the loan is an FHA/VA insured or guaranteed loan, Seller shall pay closing costs and fees, not to exceed \$ _____, that Buyer is not allowed by law to pay for tax service and _____.

(2) **New Second Loan.** Buyer shall obtain a new loan set forth in this section as follows:

This loan will be secured by a ___ (2nd, etc.) deed of trust.

The total loan amount, not in excess of \$ _____, shall be amortized over a period of ___ Years Months at approximately \$ _____ per _____ including principal and interest not to exceed ___% per annum. If the loan is an adjustable interest rate or graduated payment loan, the payments and interest rate initially shall not exceed the figures set forth above.

Loan discount points, if any, shall be paid to lender at Closing and shall not exceed ___% of the total loan amount. Notwithstanding the loan's interest rate, the first _____ loan discount points shall be paid by _____, and the balance, if any, shall be paid by _____.

Buyer shall timely pay Buyer's loan costs and a loan origination fee not to exceed ___% of the loan amount.

c. **Assumption.** N/A Buyer agrees to assume and pay an existing loan in the approximate amount of the Assumption Balance set forth in this section, presently payable at \$ _____ per _____ including principal and interest presently at _____% per annum, and also including escrow for the following as indicated: **Real Estate Taxes** **Property Insurance Premium** **Mortgage Insurance Premium** and _____.

Buyer agrees to pay a loan transfer fee not to exceed \$ _____. At the time of assumption, the new interest rate shall not exceed _____% per annum and the new payment shall not exceed \$ _____ per _____ principal and interest, plus escrow, if any. If the actual principal balance of the existing loan at Closing is less than the Assumption Balance, which causes the amount of cash required from Buyer at Closing to be increased by more than \$ _____, then **Buyer May Terminate** this Contract effective upon receipt by Seller of Buyer's written notice of termination or _____.

Seller **Shall** **Shall Not** be released from liability on said loan. If applicable, compliance with the requirements for release from liability shall be evidenced by delivery at Closing of an appropriate letter of commitment from lender. Cost payable for release of liability shall be paid by _____ in an amount not to exceed \$ _____.

f. **Seller or Private Financing.** N/A Buyer agrees to execute a promissory note payable to: _____, as **Joint Tenants** **Tenants in Common** **Other** _____, on the note form as indicated:

(Default Rate) NTD 81-10-06 **Other** _____ secured by a _____ (1st, 2nd, etc.) deed of trust encumbering the Property, using the form as indicated: **Strict Due On Sale** (TD 72-10-06) **Creditworthy** (TD 73-10-06) **Assumable - Not Due On Sale** (TD 74-10-06)

Other _____.

~~The promissory note shall be amortized on the basis of Years Months, payable at \$_____ per _____ including principal and interest at the rate of ___% per annum. Payments shall commence _____ and shall be due on the ___ day of each succeeding _____.~~

~~If not sooner paid, the balance of principal and accrued interest shall be due and payable _____ after Closing. Payments Shall Shall Not be increased by _____ of estimated annual real estate taxes, and Shall Shall Not be increased by _____ of estimated annual property insurance premium. The loan shall also contain the following terms: (1) if any payment is not received within _____ calendar days after its due date, a late charge of _____% of such payment shall be due, (2) interest on lender disbursements under the deed of trust shall be _____% per annum, (3) default interest rate shall be _____% per annum, (4) Buyer may prepay without a penalty except _____, and (5) Buyer Shall Shall Not execute and deliver, at Closing, a Security Agreement and UCC-1 Financing Statement granting the holder of the promissory note a _____ (1st, 2nd, etc.) lien on the personal property included in this sale.~~

~~Buyer Shall Shall Not provide a mortgagee's title insurance policy, at Buyer's expense.~~

4. Section 30.b is hereby replaced and amended to read as follows:

a. Buyer has previously delivered the **Earnest Money** to the Title Company. ~~Buyer's Earnest Money deposit shall be refundable to the Buyer, except in the event of a breach of the Contract by Buyer.~~

b. Notwithstanding any provision of this Contract to the contrary, Buyer agrees the Earnest Money deposited with Fidelity National Title Company is non-refundable to Buyer and shall be released to the Seller within five (5) days of execution of this Second Amendment by both parties. Buyer shall receive a credit for the Earnest Money at Closing. In the event of a Closing on or before August 30, 2014, Buyer shall receive a credit of \$25,000 against the Purchase Price. In the event of a Closing on or before July 30, 2014, Buyer shall receive a credit of \$50,000 against the Purchase Price. ~~Seller agrees to extend the Closing Date Deadline with three (3) thirty-(30) day extensions upon payment by Buyer of a payment of Twenty-Five Thousand Dollars (\$25,000) for each exercised extension ("Extension Payments"). The first two extensions are non-refundable but applicable to the sales price. The Third extension is non-refundable and non-applicable to the sales price. Any such Extension Payments shall be immediately released to the Seller.~~

c. Buyer and Seller agree to aggressively proceed with the Official Development Plan approval process of the proposed project.

d. Buyer agrees that it shall make all commercially reasonable best efforts to begin construction of Phase I of the project within 12 months of Seller's final ODP approval.

e. Buyer intends to develop an urban style, high quality finish, urban style, market rate multi-family project of 450 units (the number of units is subject to final ODP approval, but shall be no less than 450 units).

f. At closing, the Buyer shall receive from the City the lesser of \$42,000 or one-half the cost of wetlands mitigation related to the Buyer's proposed development, to be determined in good faith by agreement of the Buyer and Seller at least fifteen (15) days prior to closing.

5. Buyer agrees the Contract has not been previously terminated and has remained and is in full force and effect as of the date of this Amendment. All terms and conditions of the Contract remain unchanged except as specifically modified by this Amendment.

Date: April 15, 2014

Buyer: The Pacific Companies

By: _____

Address: 430 E. State St., Ste. 100, Eagle, ID 83616

Phone No.: (208) 461-0022

Fax No.: (208) 461-3267

Email Address: calebr@tpchousing.com

Date: April 15, 2014

Buyer: Urban Pacific Multi-Housing, LLC

By: _____

Address: 5318 E. 2nd St., Ste. 644, Long Beach, CA 90803

Phone No.: (562) 552-1777

Fax No.: N/A (email to: choppin@urbanpacific.com)

Email Address: choppin@urbanpacific.com

Date: _____

By: _____

Seller

Address: _____

Phone No.: _____

Fax No.: _____

Email Address: _____

Date: April 15, 2014

By: _____

Seller: City of Westminster


Address: 4800 W. 92nd Avenue, Westminster, CO 80031

Phone No.: 303-658-2400

Fax No.: 303-706-3920

Email Address: _____

APPROVED AS TO LEGAL FORM:



City Attorney's Office

THIS FORM HAS IMPORTANT LEGAL CONSEQUENCES AND THE PARTIES SHOULD CONSULT LEGAL AND TAX OR OTHER COUNSEL BEFORE SIGNING.

CONTRACT TO BUY AND SELL REAL ESTATE (ALL TYPES OF PROPERTIES – CAO REVISED JANUARY 2008)

Effective Date: July 10, 2012
Purchase Price: \$4,469,931

1. AGREEMENT. Buyer agrees to buy, and Seller agrees to sell, the Property defined below on the terms and conditions set forth in this contract (Contract).

2. DEFINED TERMS.

a. Buyer. Buyer, Urban Pacific Multi-Housing, LLC and The Pacific Companies, will take title to the real property described below as [] Joint Tenants [] Tenants In Common [X] Other Limited Liability Company.

Seller. Seller is City of Westminster, a Colorado home-rule municipality

b. Property. The Property is the following legally described real estate in the County of Jefferson, Colorado: See Exhibit "A" attached hereto and incorporated herein by this reference, together with the interests, easements, rights, benefits, improvements and attached fixtures appurtenant thereto, and all interest of Seller in vacated streets and alleys adjacent thereto, except as herein excluded.

c. Dates and Deadlines.

Table with 4 columns: Item No., Reference, Event, Date or Deadline. Lists various deadlines such as Earnest Money Deadline, Loan Application Deadline, etc.

d. Attachments. The following are a part of this Contract: Exhibit "A" (Legal Description); [other, if any:].

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e. **Applicability of Terms.** A check or similar mark in a box means that such provision is applicable. The abbreviation "N/A" or the word "Deleted" means not applicable when inserted on any line in **Dates and Deadlines** (§ 2c), and it means that the corresponding provision of the Contract to which reference is made is deleted. The abbreviation "MEC" (mutual execution of this contract) means the latest date upon which both parties have signed this Contract.

3. INCLUSIONS AND EXCLUSIONS.

a. **Inclusions.** The Purchase Price includes the following items (Inclusions):

(1) ~~Fixtures.~~ ~~If attached to the Property on the date of this Contract, lighting, heating, plumbing, ventilating, and air conditioning fixtures, TV antennas, inside telephone wiring and connecting blocks/jacks, plants, mirrors, floor coverings, intercom systems, built-in kitchen appliances, sprinkler systems and controls, built-in vacuum systems (including accessories), garage door openers including _____ remote controls; and _____~~

(2) ~~Personal Property.~~ ~~The following are included if on the Property whether attached or not on the date of this Contract: storm windows, storm doors, window and porch shades, awnings, blinds, screens, window coverings, curtain rods, drapery rods, fireplace inserts, fireplace screens, fireplace grates, heating stoves, storage sheds, and all keys. If checked, the following are included: Water Softeners Smoke/Fire Detectors Security Systems Satellite Systems (including satellite dishes)~~

(3) **Other Inclusions.** The Property is vacant land. The Purchase price shall include any fixtures or other appurtenances located at or on the Property as of the date hereof _____

The Personal Property to be conveyed at Closing shall be conveyed, by Seller, free and clear of all taxes (except personal property taxes for the year of Closing), liens and encumbrances, except None. Conveyance shall be by bill of sale or other applicable legal instrument.

(4) ~~Trade Fixtures.~~ ~~With respect to trade fixtures, Seller and Buyer agree as follows:~~

~~The Trade Fixtures to be conveyed at Closing shall be conveyed, by Seller, free and clear of all taxes (except personal property taxes for the year of Closing), liens and encumbrances, except none. _____ Conveyance shall be by bill of sale or other applicable legal instrument.~~

(5) ~~Parking and Storage Facilities.~~ ~~Use Only Ownership of the following parking facilities: _____; and Use Only Ownership the following storage facilities: _____~~

(6) **Water Rights.** The following legally described water rights: all rights tributary to the Property. Any water rights shall be conveyed by N/A deed or other applicable legal instrument. The Well Permit # is N/A.

(7) **Growing Crops.** With respect to growing crops, Seller and Buyer agree as follows: N/A.

b. **Exclusions.** The following items are excluded: N/A.

4. PURCHASE PRICE AND TERMS. The Purchase Price set forth below shall be payable in U.S. Dollars by Buyer as follows:

Item No.	Reference	Item	Amount	Amount
1	§ 4	Purchase Price	\$ 4,469,931	
2	§ 4a	Earnest Money Installments		\$ 100,000
3	§ 4d(1)	New First Loan		-0-
4	§ 4d(2)	New Second Loan		-0-
5	§ 4e	Assumption Balance		-0-
6	§ 4f	Seller or Private Financing		-0-
7				
8				
9	§ 4b	Cash at Closing		4,369,931
10		TOTAL	\$ 4,469,931	\$ 4,469,931

Note: If there is an inconsistency between the Purchase Price on the first page and this § 4, the amount in § 4 shall control.

a. **Earnest Money.** The Earnest Money set forth in this section, in the form of Good Funds is part payment of the Purchase Price and shall be payable to and held by Fidelity National Title Company (Earnest Money Holder), in its trust account, on behalf of both Seller and Buyer. Earnest Money Holder shall deposit the Earnest Money in an interest bearing account in a FDIC-insured institution. All interest earned shall become part of the Earnest Money.

73 b. Cash at Closing. All amounts paid by Buyer at Closing including cash at Closing, plus Buyer's closing costs,
74 shall be in funds which comply with all applicable Colorado laws, which include cash, electronic transfer funds, certified
75 check, savings and loan teller's check and cashier's check (Good Funds).
76 e. Down Payment Assistance; Seller Paid Costs. Seller, at Closing, shall credit \$ N/A to Buyer to assist with
77 Buyer's down payment. Seller shall also, at Closing, credit to Buyer the amount of \$ N/A to assist with Buyer's closing
78 costs, not to exceed the amount due from Buyer for such costs. These amounts are in addition to any sum Seller has agreed
79 to pay or credit Buyer elsewhere in this Contract.
80 d. New Loan. N/A
81 (1) New First Loan. Buyer shall obtain a new loan set forth in this section as follows:
82 Conventional FHA VA Other _____
83 This loan will be secured by a _____ (1st, 2nd, etc.) deed of trust.
84 The loan may be increased to add the cost of mortgage insurance, VA funding fee and other items for a total loan
85 amount, not in excess of \$ _____, which shall be amortized over a period of _____ Years Months at
86 approximately \$ _____ per _____ including principal and interest not to exceed _____%
87 per annum, plus, if required by Buyer's lender, a deposit of _____ of the estimated annual real estate taxes,
88 property insurance premium, and mortgage insurance premium. If the loan is an adjustable interest rate or graduated
89 payment loan, the payments and interest rate initially shall not exceed the figures set forth above.
90 Loan discount points, if any, shall be paid to lender at Closing and shall not exceed _____% of the total loan amount.
91 Notwithstanding the loan's interest rate, the first _____ loan discount points shall be paid by _____,
92 and the balance, if any, shall be paid by _____.
93 Buyer shall timely pay Buyer's loan costs and a loan origination fee not to exceed _____% of the loan amount. If
94 the loan is an FHA/VA insured or guaranteed loan, Seller shall pay closing costs and fees, not to exceed \$ _____,
95 that Buyer is not allowed by law to pay for tax service and _____.
96 (2) New Second Loan. Buyer shall obtain a new loan set forth in this section as follows:
97 This loan will be secured by a _____ (2nd, etc.) deed of trust.
98 The total loan amount, not in excess of \$ _____, shall be amortized over a period of _____
99 Years Months at approximately \$ _____ per _____ including principal and
100 interest not to exceed _____% per annum. If the loan is an adjustable interest rate or graduated payment loan, the
101 payments and interest rate initially shall not exceed the figures set forth above.
102 Loan discount points, if any, shall be paid to lender at Closing and shall not exceed _____% of the total loan amount.
103 Notwithstanding the loan's interest rate, the first _____ loan discount points shall be paid by _____
104 _____, and the balance, if any, shall be paid by _____.
105 Buyer shall timely pay Buyer's loan costs and a loan origination fee not to exceed _____% of the loan amount.
106 e. Assumption. N/A Buyer agrees to assume and pay an existing loan in the approximate amount of the
107 Assumption Balance set forth in this section, presently payable at \$ _____ per _____ including principal and
108 interest presently at _____% per annum, and also including escrow for the following as indicated: Real Estate Taxes
109 Property Insurance Premium Mortgage Insurance Premium and _____
110 Buyer agrees to pay a loan transfer fee not to exceed \$ _____. At the time of assumption, the new interest
111 rate shall not exceed _____% per annum and the new payment shall not exceed \$ _____ per _____ principal
112 and interest, plus escrow, if any. If the actual principal balance of the existing loan at Closing is less than the Assumption
113 Balance, which causes the amount of cash required from Buyer at Closing to be increased by more than \$ _____,
114 then Buyer May Terminate this Contract effective upon receipt by Seller of Buyer's written notice of termination or
115 _____
116 Seller Shall Shall Not be released from liability on said loan. If applicable, compliance with the
117 requirements for release from liability shall be evidenced by delivery at Closing of an appropriate letter of commitment
118 from lender. Cost payable for release of liability shall be paid by _____ in an amount not to
119 exceed \$ _____.
120 f. Seller or Private Financing. N/A Buyer agrees to execute a promissory note payable to: _____
121 _____, as Joint Tenants Tenants in Common
122 Other _____, on the note form as indicated:
123 (Default Rate) NTD 81-10-06 Other _____ secured by a _____
124 (1st, 2nd, etc.) deed of trust encumbering the Property, using the form as indicated: Strict Due On Sale (TD 72-10-06)
125 Creditworthy (TD 73-10-06) Assumable Not Due On Sale (TD 74-10-06)
126 Other _____
127 The promissory note shall be amortized on the basis of _____ Years Months, payable at \$ _____
128 per _____ including principal and interest at the rate of _____% per annum. Payments shall commence
129 _____ and shall be due on the _____ day of each succeeding _____.

130 If not sooner paid, the balance of principal and accrued interest shall be due and payable _____ after Closing.
131 Payments Shall Shall Not be increased by _____ of estimated annual real estate taxes, and Shall Shall
132 Not be increased by _____ of estimated annual property insurance premium. The loan shall also contain the following
133 terms: (1) if any payment is not received within _____ calendar days after its due date, a late charge of _____% of
134 such payment shall be due, (2) interest on lender disbursements under the deed of trust shall be _____% per annum;
135 (3) default interest rate shall be _____% per annum, (4) Buyer may prepay without a penalty except _____
136 _____, and (5) Buyer Shall Shall Not execute and deliver, at
137 Closing, a Security Agreement and UCC-1 Financing Statement granting the holder of the promissory note a _____ (1st;
138 2nd, etc.) lien on the personal property included in this sale.
139 _____ Buyer Shall Shall Not provide a mortgagee's title insurance policy, at Buyer's expense.

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141 **5. FINANCING CONDITIONS AND OBLIGATIONS. N/A**

142 _____ a. **Loan Application.** If Buyer is to pay all or part of the Purchase Price by obtaining a new loan, or if an
143 existing loan is not to be released at Closing, Buyer, if required by such lender, shall make a verifiable application by **Loan**
144 **Application Deadline** (§ 2c). Buyer shall cooperate with Seller and lender to obtain loan approval, **DILIGENTLY AND**
145 **TIMELY PURSUE SAME IN GOOD FAITH**, execute all documents and furnish all information and documents
146 required by lender, and, subject to subsections 4d(1) and (2) and § 4e, timely pay the costs of obtaining such loan or
147 lender's consent. Buyer agrees to satisfy the reasonable requirements of lender, and shall not withdraw the loan or
148 assumption application, nor intentionally cause any change in circumstances that would prejudice lender's approval of the
149 loan application or funding of the loan. Buyer may obtain different financing provided Seller incurs no additional delay,
150 cost or expense, and provided Buyer is approved for such substitute loan.

151 _____ b. **Loan Conditions.** If Buyer is to pay all or part of the Purchase Price by obtaining a new loan as specified in
152 § 4b, this Contract is conditional upon Buyer's approval of the availability, terms, conditions and cost for the new loan.
153 This condition is for the benefit of Buyer and shall be deemed waived unless Seller receives from Buyer, no later than **Loan**
154 **Conditions Deadline** (§ 2c), written notice of Buyer's election to terminate this Contract as such loan was not satisfactory
155 to Buyer. Buyer shall not have the right to terminate under this § 5b based on the terms or conditions of any loan that is the
156 same as set forth in § 4. If Buyer so notifies Seller, this Contract shall terminate. **IF SELLER DOES NOT RECEIVE**
157 **WRITTEN NOTICE TO TERMINATE AND BUYER DOES NOT CLOSE, BUYER SHALL BE IN DEFAULT.**

158 _____ c. **Credit Information and Buyer's New Senior Loan.** If Buyer is to pay all or part of the Purchase Price by
159 executing a promissory note in favor of Seller, or if an existing loan is not to be released at Closing, this Contract is
160 conditional (for the benefit of Seller) upon Seller's approval of Buyer's financial ability and creditworthiness, which
161 approval shall be at Seller's sole and absolute discretion. In such case: (1) Buyer shall supply to Seller by **Buyer's Credit**
162 **Information Deadline** (§ 2c), at Buyer's expense, information and documents (including a current credit report)
163 concerning Buyer's financial, employment and credit condition; (2) Buyer consents that Seller may verify Buyer's financial
164 ability and creditworthiness; (3) any such information and documents received by Seller shall be held by Seller in
165 confidence, and not released to others except to protect Seller's interest in this transaction; (4) in the event Buyer is to
166 execute a promissory note secured by a deed of trust in favor of Seller, this Contract, for the benefit of Seller, is conditional
167 upon Seller's approval of the terms and conditions of any new loan to be obtained by Buyer if the deed of trust to Seller is
168 to be subordinate to Buyer's new loan (**Buyer's New Senior Loan**); Seller shall not have the right to terminate under this
169 § 5c for any loan when all such specific terms and provisions (e.g., interest rate, principal, payments, prepayment penalties,
170 due date, etc.) are met as set forth in § 4 or elsewhere in this Contract; and (5) if Seller does not deliver written notice of
171 Seller's disapproval of Buyer's financial ability and creditworthiness or of **Buyer's New Senior Loan** to Buyer by
172 **Disapproval of Buyer's Credit Information Deadline** (§ 2c), then Seller waives the conditions set forth in this section. If
173 Seller does deliver written notice of disapproval to Buyer on or before said date, this Contract shall terminate.

174 _____ d. **Existing Loan Review.** If an existing loan is not to be released at Closing, Seller shall deliver copies of the
175 loan documents (including note, deed of trust, and any modifications) to Buyer by **Existing Loan Documents Deadline** (§
176 2c). For the benefit of Buyer, this Contract is conditional upon Buyer's review and approval of the provisions of such loan
177 documents. If written notice of objection to such loan documents, signed by Buyer, is not received by Seller by **Existing**
178 **Loan Documents Objection Deadline** (§ 2c), Buyer accepts the terms and conditions of the documents. If the lender's
179 approval of a transfer of the Property is required, this Contract is conditional upon Buyer's obtaining such approval without
180 change in the terms of such loan, except as set forth in § 4e. If lender's approval is not obtained by **Loan Transfer**
181 **Approval Deadline** (§ 2c), this Contract shall terminate on such date. If Seller is to be released from liability under such
182 existing loan and Buyer does not obtain such compliance as set forth in § 4e, this Contract may be terminated at Seller's
183 option.

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185 **6. APPRAISAL PROVISIONS.**

186 a. **Appraisal Condition.**

187 (1) **Not Applicable.** This § 6a. shall not apply.

188 (2) **Conventional.** Buyer shall have the sole option and election to terminate this Contract if the Purchase
189 Price exceeds the Property's valuation determined by an appraiser engaged by _____.
190 This Contract shall terminate by Buyer delivering to Seller written notice of termination and either a copy of such appraisal
191 or written notice from lender that confirms the Property's valuation is less than the Purchase Price, received on or before
192 **Appraisal Deadline** (§ 2c). If Seller does not receive such written notice of termination on or before **Appraisal Deadline**
193 (§ 2c), Buyer waives any right to terminate under this subsection.

194 (3) **FHA.** It is expressly agreed that, notwithstanding any other provisions of this Contract, the Purchaser
195 (Buyer) shall not be obligated to complete the purchase of the Property described herein or to incur any penalty by
196 forfeiture of Earnest Money deposits or otherwise unless the Purchaser (Buyer) has been given in accordance with
197 HUD/FHA or VA requirements a written statement issued by the Federal Housing Commissioner, Department of Veterans
198 Affairs, or a Direct Endorsement lender setting forth the appraised value of the Property of not less than
199 \$_____. The Purchaser (Buyer) shall have the privilege and option of proceeding with the consummation of
200 the Contract without regard to the amount of the appraised valuation. The appraised valuation is arrived at to determine the
201 maximum mortgage the Department of Housing and Urban Development will insure. HUD does not warrant the value nor
202 the condition of the Property. The Purchaser (Buyer) should satisfy himself/herself that the price and condition of the
203 Property are acceptable.

204 (4) **VA.** It is expressly that, notwithstanding any other provisions of this Contract, the purchaser (Buyer)
205 shall not incur any penalty by forfeiture of Earnest Money or otherwise or be obligated to complete the purchase of the
206 Property described herein, if the Contract Purchase Price or cost exceeds the reasonable value of the Property established by
207 the Department of Veterans Affairs. The purchaser (Buyer) shall, however, have the privilege and option of proceeding
208 with the consummation of this Contract without regard to the amount of the reasonable value established by the Department
209 of Veterans Affairs.

210 b. **Cost of Appraisal.** Cost of any appraisal to be obtained after the date of this Contract shall be timely paid by
211 Buyer Seller.

212

213 7. **EVIDENCE OF TITLE.**

214 a. **Evidence of Title.** On or before **Title Deadline** (§ 2c), Seller shall cause to be furnished to Buyer, at Seller's
215 expense, a current commitment for owner's title insurance policy (**Title Commitment**) in an amount equal to the Purchase
216 Price, or if this box is checked, **An Abstract** of title certified to a current date. At Seller's expense, Seller shall cause
217 the title insurance policy to be issued and delivered to Buyer as soon as practicable at or after Closing. If a title insurance
218 commitment is furnished, it **Shall** **Shall Not** commit to delete or insure over the standard exceptions which relate to:

- 219 (1) parties in possession,
220 (2) unrecorded easements,
221 (3) survey matters,
222 (4) any unrecorded mechanic's liens,
223 (5) gap period (effective date of commitment to date deed is recorded), and
224 (6) unpaid taxes, assessments and unredeemed tax sales prior to the year of Closing.

225 Any additional premium expense to obtain this additional coverage shall be paid by Buyer Seller.

226 b. **Copies of Exceptions.** On or before **Title Deadline** (§ 2c), Seller, at Seller's expense, shall furnish to Buyer
227 and N/A, (1) a copy of any plats, declarations, covenants, conditions and restrictions burdening the Property, and (2) if a
228 title insurance commitment is required to be furnished, and if this box is checked **Copies of any Other Documents** (or,
229 if illegible, summaries of such documents) listed in the schedule of exceptions (**Exceptions**). Even if the box is not
230 checked, Seller shall have the obligation to furnish these documents pursuant to this subsection if requested by Buyer any
231 time on or before **Document Request Deadline** (§ 2c). This requirement shall pertain only to documents as shown of
232 record in the office of the clerk and recorder where the Property is located. The abstract or title insurance commitment,
233 together with any copies or summaries of such documents furnished pursuant to this section, constitute the title documents
234 (**Title Documents**).

235 c. **Survey.** On or before **Survey Deadline** (§ 2c), Seller Buyer shall cause Buyer (and the issuer of the
236 Title Commitment or the provider of the opinion of title if an abstract) to receive a current **Improvement Survey Plat**
237 **Improvement Location Certificate** Survey shall meet ALTA/ASCM standards (the description checked is known
238 as Survey). An amount not to exceed \$_____ for Survey shall be paid by Buyer Seller. If the cost exceeds
239 this amount, Buyer Seller shall pay the excess on or before Closing unless Buyer delivers to Seller before Survey
240 is ordered, Buyer's written notice allowing the exception for survey matters.

241 d. **Common Interest Community Documents.**

242 (1) **Not Applicable.** This § 7d. shall not apply.

243 (2) **Common Interest Community Disclosure.** THE PROPERTY IS LOCATED WITHIN A COMMON
244 INTEREST COMMUNITY AND IS SUBJECT TO THE DECLARATION FOR SUCH COMMUNITY. THE OWNER
245 OF THE PROPERTY WILL BE REQUIRED TO BE A MEMBER OF THE OWNER'S ASSOCIATION FOR THE

246 COMMUNITY AND WILL BE SUBJECT TO THE BYLAWS AND RULES AND REGULATIONS OF THE
247 ASSOCIATION. THE DECLARATION, BYLAWS, AND RULES AND REGULATIONS WILL IMPOSE FINANCIAL
248 OBLIGATIONS UPON THE OWNER OF THE PROPERTY, INCLUDING AN OBLIGATION TO PAY
249 ASSESSMENTS OF THE ASSOCIATION. IF THE OWNER DOES NOT PAY THESE ASSESSMENTS, THE
250 ASSOCIATION COULD PLACE A LIEN ON THE PROPERTY AND POSSIBLY SELL IT TO PAY THE DEBT. THE
251 DECLARATION, BYLAWS, AND RULES AND REGULATIONS OF THE COMMUNITY MAY PROHIBIT THE
252 OWNER FROM MAKING CHANGES TO THE PROPERTY WITHOUT AN ARCHITECTURAL REVIEW BY THE
253 ASSOCIATION (OR A COMMITTEE OF THE ASSOCIATION) AND THE APPROVAL OF THE ASSOCIATION.
254 PURCHASERS OF PROPERTY WITHIN THE COMMON INTEREST COMMUNITY SHOULD INVESTIGATE THE
255 FINANCIAL OBLIGATIONS OF MEMBERS OF THE ASSOCIATION. PURCHASERS SHOULD CAREFULLY
256 READ THE DECLARATION FOR THE COMMUNITY AND THE BYLAWS AND RULES AND REGULATIONS OF
257 THE ASSOCIATION.

258 (3) **Not Conditional on Review.** Buyer acknowledges that Buyer has received a copy of the owners'
259 association (Association) declarations, bylaws, rules and regulations, party wall agreements, minutes of most recent annual
260 owners' meeting and minutes of any directors' meetings during the 6-month period immediately preceding Title Deadline,
261 if any (Governing Documents), most recent financial documents consisting of (a) annual balance sheet, (b) annual income
262 and expenditures statement, and (c) annual budget (Financial Documents), if any (collectively CIC Documents). Buyer has
263 reviewed them, agrees to accept the benefits, obligations and restrictions that they impose upon the Property and its owners
264 and waives any right to terminate this Contract due to such documents, notwithstanding the provisions of § 8e.

265 (4) **CIC Documents to Buyer.**

266 (a) **Seller to Provide CIC Documents.** Seller shall cause the CIC Documents to be provided to
267 Buyer, at Seller's expense, on or before Title Deadline (§ 2c).

268 (b) **Seller Authorizes Association.** Seller authorizes the Association to provide the CIC Documents
269 to Buyer, at Seller's expense.

270 (c) **Seller's Obligation.** Seller's obligation to provide the CIC Documents shall be fulfilled upon
271 Buyer's receipt of the CIC Documents, regardless of who provides such documents.

272 (5) **Conditional on Buyer's Review.** If the box in either subsection 7d(4)(a) or subsection 7d(4)(b) is
273 checked, the provisions of this subsection 7d(5) shall apply. Written notice of any unsatisfactory provision in any of the
274 CIC Documents, in Buyer's subjective discretion, signed by Buyer, or on behalf of Buyer, and delivered to Seller on or
275 before CIC Documents Objection Deadline (§ 2c), shall terminate this Contract.

276 Should Buyer receive the CIC Documents after Title Deadline (§ 2c), Buyer shall have the right, at Buyer's
277 option, to terminate this Contract by written notice delivered to Seller on or before ten calendar days after Buyer's receipt of
278 the CIC Documents. If Buyer does not receive the CIC Documents, or if such written notice to terminate would otherwise
279 be required to be delivered after the Closing Date, Buyer's written notice to terminate shall be received by Seller on or
280 before three calendar days prior to Closing Date (§ 2c). If Seller does not receive written notice from Buyer within such
281 time, Buyer accepts the provisions of the CIC Documents, and Buyer's right to terminate this Contract pursuant to this
282 subsection is waived, notwithstanding the provisions of § 8c.

283 NOTE: If no box in this § 7d is checked, the provisions of subsection 7d(4)(a) shall apply.

284

285 8. TITLE AND SURVEY REVIEW.

286 a. **Title Review.** Buyer shall have the right to inspect the Title Documents. Written notice by Buyer of
287 unmerchantability of title, form or content of Title Commitment or of any other unsatisfactory title condition shown by the
288 Title Documents, notwithstanding § 13, shall be signed by or on behalf of Buyer and delivered to Seller on or before Title
289 Objection Deadline (§ 2c), or within five calendar days after receipt by Buyer of any change to the Title Documents or
290 endorsement to the Title Commitment together with a copy of the document adding any new Exception to title. If Seller
291 does not receive Buyer's notice by the date specified above, Buyer accepts the condition of title as disclosed by the Title
292 Documents as satisfactory.

293 b. **Matters Not Shown by the Public Records.** Seller shall deliver to Buyer, on or before Off-Record Matters
294 Deadline (§ 2c) true copies of all leases and surveys in Seller's possession pertaining to the Property and shall disclose to
295 Buyer all easements, liens (including, without limitation, governmental improvements approved, but not yet installed) or
296 other title matters (including, without limitation, rights of first refusal, and options) not shown by the public records of
297 which Seller has actual knowledge. Buyer shall have the right to inspect the Property to investigate if any third party has
298 any right in the Property not shown by the public records (such as an unrecorded easement, unrecorded lease, or boundary
299 line discrepancy). Written notice of any unsatisfactory condition disclosed by Seller or revealed by such inspection,
300 notwithstanding § 13, shall be signed by or on behalf of Buyer and delivered to Seller on or before Off-Record Matters
301 Objection Deadline (§ 2c). If Seller does not receive Buyer's notice by said date, Buyer accepts title subject to such rights,
302 if any, of third parties of which Buyer has actual knowledge.

303 c. **Survey Review.**

304 (1) **Not Applicable.** This § 8c shall not apply.

305 (2) **Conditional on Survey.** If the box in this subsection 8c(2) is checked, Buyer shall have the right to
306 inspect the Survey. If written notice by or on behalf of Buyer of any unsatisfactory condition shown by the Survey,
307 notwithstanding § 8b or § 13, is received by Seller on or before **Survey Objection Deadline** (§ 2c) then such objection
308 shall be deemed an unsatisfactory title condition. If Seller does not receive Buyer's notice by **Survey Objection Deadline**
309 (§ 2c), Buyer accepts the Survey as satisfactory.

310 d. **Special Taxing Districts.** SPECIAL TAXING DISTRICTS MAY BE SUBJECT TO GENERAL
311 OBLIGATION INDEBTEDNESS THAT IS PAID BY REVENUES PRODUCED FROM ANNUAL TAX LEVIES
312 ON THE TAXABLE PROPERTY WITHIN SUCH DISTRICTS. PROPERTY OWNERS IN SUCH DISTRICTS
313 MAY BE PLACED AT RISK FOR INCREASED MILL LEVIES AND EXCESSIVE TAX BURDENS TO
314 SUPPORT THE SERVICING OF SUCH DEBT WHERE CIRCUMSTANCES ARISE RESULTING IN THE
315 INABILITY OF SUCH A DISTRICT TO DISCHARGE SUCH INDEBTEDNESS WITHOUT SUCH AN
316 INCREASE IN MILL LEVIES. BUYER SHOULD INVESTIGATE THE DEBT FINANCING REQUIREMENTS
317 OF THE AUTHORIZED GENERAL OBLIGATION INDEBTEDNESS OF SUCH DISTRICTS, EXISTING MILL
318 LEVIES OF SUCH DISTRICT SERVICING SUCH INDEBTEDNESS, AND THE POTENTIAL FOR AN
319 INCREASE IN SUCH MILL LEVIES.

320 In the event the Property is located within a special taxing district and Buyer desires to terminate this Contract as a
321 result, if written notice, by or on behalf of Buyer, is received by Seller on or before **Approval Deadline** (§ 2c), this
322 Contract shall terminate. If Seller does not receive Buyer's notice by such date, Buyer accepts the effect of the Property's
323 inclusion in such special taxing district and waives the right to terminate for that reason.

324 e. **Right to Object, Cure.** Buyer's right to object shall include, but not be limited to, those matters listed in § 13.
325 If Seller receives notice of unmerchantability of title or any other unsatisfactory title condition or commitment terms as
326 provided in §§ 8a, b, c and d above, Seller shall use reasonable efforts to correct said items and bear any nominal expense to
327 correct the same prior to Closing. If such unsatisfactory title condition is not corrected to Buyer's satisfaction on or before
328 Closing, this Contract shall terminate and the Earnest Money shall be returned to Buyer; provided, however, Buyer may, by
329 written notice received by Seller on or before Closing, waive objection to such items.

330 f. **Right of First Refusal or Approval.** Seller warrants there are no rights of first refusal on the Property or any
331 rights to approve this Contract held by others.

332 g. **Title Advisory.** The Title Documents affect the title, ownership and use of the Property and should be
333 reviewed carefully. Additionally, other matters not reflected in the Title Documents may affect the title, ownership and use
334 of the Property, including without limitation boundary lines and encroachments, area, zoning, unrecorded easements and
335 claims of easements, leases and other unrecorded agreements, and various laws and governmental regulations concerning
336 land use, development and environmental matters. The surface estate may be owned separately from the underlying
337 mineral estate, and transfer of the surface estate does not necessarily include transfer of the mineral rights or water
338 rights. Third parties may hold interests in oil, gas, other minerals, geothermal energy or water on or under the
339 Property, which interests may give them rights to enter and use the Property. Such matters may be excluded from or
340 not covered by the title insurance policy. Buyer is advised to timely consult legal counsel with respect to all such matters as
341 there are strict time limits provided in this Contract (e.g., **Title Objection Deadline** [§ 2c] and **Off-Record Matters**
342 **Objection Deadline** [§ 2c]).

343
344 ~~9. LEAD-BASED PAINT. Unless exempt, if the improvements on the Property include one or more residential~~
345 ~~dwellings for which a building permit was issued prior to January 1, 1978, this Contract shall be void unless a completed~~
346 ~~Lead-Based Paint Disclosure (Sales) form is signed by Seller and the required real estate licensees, which must occur prior~~
347 ~~to the parties signing this Contract. Buyer acknowledges timely receipt of a completed Lead-Based Paint Disclosure (Sales)~~
348 ~~form signed by Seller and the real estate licensees.~~
349

350 **10. PROPERTY DISCLOSURE, INSPECTION, INSURABILITY AND BUYER DISCLOSURE.**

351 a. **Seller's Property Disclosure Deadline.** On or before Seller's **Property Disclosure Deadline** [§ 2c], Seller
352 agrees to deliver to Buyer the most current version of the Seller's **Property Disclosure** form completed by Seller to the best
353 of Seller's actual knowledge, current as of the date of this Contract.

354 b. **Inspection Objection Deadline.** Buyer shall have the right to have inspections of the physical condition of
355 the Property and Inclusions, at Buyer's expense. If the physical condition of the Property or Inclusions is unsatisfactory in
356 Buyer's subjective discretion, Buyer shall, on or before **Inspection Objection Deadline** (§ 2c):

- 357 (1) notify Seller in writing that this Contract is terminated, or
358 (2) deliver to Seller a written description of any unsatisfactory physical condition which Buyer requires
359 Seller to correct (**Notice to Correct**).

360 If written notice is not received by Seller on or before **Inspection Objection Deadline** (§ 2c), the physical condition
361 of the Property and Inclusions shall be deemed to be satisfactory to Buyer.

362 c. **Resolution Deadline.** If a Notice to Correct is received by Seller and if Buyer and Seller have not agreed in
363 writing to a settlement thereof on or before **Resolution Deadline** (§ 2c), this Contract shall terminate one calendar day
364 following **Resolution Deadline** (§ 2c), unless before such termination Seller receives Buyer's written withdrawal of the
365 Notice to Correct.

366 d. **Insurability.** Intentionally omitted.

367 e. **Damage, Liens and Indemnity.** Buyer is responsible for payment for all inspections, tests, surveys,
368 engineering reports, or any other work performed at Buyer's request and shall pay for any damage which occurs to the
369 Property and Inclusions as a result of such activities. Buyer shall not permit claims or liens of any kind against the Property
370 for inspections, tests, surveys, engineering reports, or any other work performed on the Property at Buyer's request. Buyer
371 agrees to indemnify, protect and hold Seller harmless from and against any liability, damage, cost or expense incurred by
372 Seller in connection with any such inspection, claim, or lien. This indemnity includes Seller's right to recover all costs and
373 expenses incurred by Seller to enforce this subsection, including Seller's reasonable attorney and legal fees. The provisions
374 of this subsection shall survive the termination of this Contract.

375 f. **Buyer Disclosure.** Buyer represents that Buyer Does Does Not need to sell and close a property to
376 complete this transaction.

377 **Note:** Any property sale contingency should appear in **Additional Provisions** (§ 25).

378

379 **11. METHAMPHETAMINE LABORATORY DISCLOSURE.** The parties acknowledge that Seller is required to
380 disclose whether Seller knows that the Property was previously used as a methamphetamine laboratory. No disclosure is
381 required if the Property was remediated in accordance with state standards and other requirements are fulfilled pursuant to §
382 25-18.5-102, C.R.S. Buyer further acknowledges that Buyer has the right to engage a certified hygienist or industrial
383 hygienist to test whether the Property has ever been used as a methamphetamine laboratory. In the event that the Property
384 has been used as a methamphetamine laboratory, Buyer may deliver written notice to Seller, on or before Closing, to
385 terminate this Contract.

386

387 **12. CLOSING.** Delivery of deed from Seller to Buyer shall be at closing (Closing). Subject to the provisions of § 25e
388 the Closing shall occur on or before the **Closing Date Deadline** (§ 2c). The hour and place of Closing shall be by mutual
389 agreement as designated by _____ Buyer _____ Seller.

390

391 **13. TRANSFER OF TITLE.** Subject to tender or payment at Closing as required herein and compliance by Buyer with
392 the other terms and provisions hereof, Seller shall execute and deliver a good and sufficient special warranty deed to Buyer,
393 at Closing, conveying the Property free and clear of all taxes except the general taxes for the year of Closing. Except as
394 provided herein, title shall be conveyed free and clear of all liens, including any governmental liens for special
395 improvements installed as of the date of Buyer's signature hereon, whether assessed or not. Title shall be conveyed subject
396 to:

397 a. those specific Exceptions described by reference to recorded documents as reflected in the Title Documents
398 accepted by Buyer in accordance with § 8a (Title Review),

399 b. distribution utility easements (including cable TV),

400 c. those specifically described rights of third parties not shown by the public records of which Buyer has actual
401 knowledge and which were accepted by Buyer in accordance with § 8b (Matters Not Shown by the Public Records) and §
402 8c (Survey Review),

403 d. inclusion of the Property within any special taxing district,

404 e. the benefits and burdens of any recorded declaration and party wall agreements, if any, and

405 f. other. None.

406

407 **14. PAYMENT OF ENCUMBRANCES.** Any encumbrance required to be paid shall be paid at or before Closing from
408 the proceeds of this transaction or from any other source.

409

410 **15. CLOSING COSTS, DOCUMENTS AND SERVICES.**

411 a. **Good Funds.** Buyer and Seller shall pay, in Good Funds, their respective Closing costs and all other items
412 required to be paid at Closing, except as otherwise provided herein.

413 b. **Closing Documents.** Buyer and Seller shall sign and complete all customary or reasonably required
414 documents at or before Closing.

415 c. **Closing Services Fee.** Fees for real estate Closing services shall be paid at Closing by Buyer Seller
416 One-Half by Buyer and One-Half by Seller.

417 d. **Status Letter and Transfer Fees.** Any fees incident to the issuance of Association's statement of
418 assessments (Status Letter) shall be paid by Buyer Seller One-Half by Buyer and One-Half by Seller. Any

419 fees incident to the transfer from Seller to Buyer assessed by the Association (Association's Transfer Fee) shall be paid by
420 Buyer Seller One-Half by Buyer and One-Half by Seller. N/A.
421 e. Local Transfer Tax. The local transfer tax of _____% of the Purchase Price shall be paid at Closing by
422 Buyer Seller One-Half by Buyer and One-Half by Seller. N/A.
423 f. Sales and Use Tax. Any sales and use tax that may accrue because of this transaction shall be paid when due
424 by Buyer Seller One-Half by Buyer and One-Half by Seller. N/A
425

426 16. PRORATIONS. The following shall be prorated to Closing Date (§ 2c), except as otherwise provided:
427 a. Taxes. Personal property taxes, if any, and general real estate taxes for the year of Closing, based on
428 Taxes for the Calendar Year Immediately Preceding Closing Most Recent Mill Levy and Most Recent Assessed
429 Valuation Other _____.
430 b. Rents. Rents based on Rents Actually Received Accrued. Security deposits held by Seller shall be
431 credited to Buyer. Seller shall assign all leases to Buyer and Buyer shall assume such leases. N/A
432 c. Association Assessments. Current regular Association assessments and Association dues (Association
433 Assessments) paid in advance shall be credited to Seller at Closing. Cash reserves held out of the regular Association
434 Assessments for deferred maintenance by the Association shall not be credited to Seller except as may be otherwise
435 provided by the Governing Documents. Any special assessment by the Association for improvements that have been
436 installed as of the date of Buyer's signature hereon shall be the obligation of Seller. Any other special assessment assessed
437 prior to Closing Date (§ 2c) by the Association shall be the obligation of Buyer Seller. Seller represents that the
438 amount of the Association Assessments is currently payable at \$_____ per _____ and that there are no unpaid
439 regular or special assessments against the Property except the current regular assessments and except _____
440 _____ Such assessments are subject to change as
441 provided in the Governing Documents. Seller agrees to promptly request the Association to deliver to Buyer before Closing
442 Date (§ 2c) a current Status Letter. N/A.
443 d. Other Prorations. None.
444 e. Final Settlement. Unless otherwise agreed in writing, these prorations shall be final.
445

446 17. POSSESSION. Possession of the Property shall be delivered to Buyer on Possession Date at Possession Time (§
447 2c), subject to the following leases or tenancies:
448

449 If Seller, after Closing, fails to deliver possession as specified, Seller shall be subject to eviction and shall be
450 additionally liable to Buyer for payment of \$100 per day (or any part of a day) from the Possession Date and Possession
451 Time (§ 2c) until possession is delivered.

452 Buyer Does Does Not represent that Buyer will occupy the Property as Buyer's principal residence.
453

454 18. ASSIGNABILITY. This Contract Shall Shall Not be assignable by Buyer without Seller's prior written
455 consent. Except as so restricted, this Contract shall inure to the benefit of and be binding upon the heirs, personal
456 representatives, successors and assigns of the parties.
457

458 19. INSURANCE; CONDITION OF, DAMAGE TO PROPERTY AND INCLUSIONS. Except as otherwise
459 provided in this Contract, the Property, Inclusions or both shall be delivered in the condition existing as of the date of this
460 Contract, ordinary wear and tear excepted.

461 a. Casualty Insurance. In the event the Property or Inclusions shall be damaged by fire or other casualty prior
462 to Closing, in an amount of not more than ten percent of the total Purchase Price, Seller shall be obligated to repair the same
463 before Closing Date (§ 2c). In the event such damage is not repaired within said time or if the damages exceed such sum,
464 this Contract may be terminated at the option of Buyer by delivering to Seller written notice of termination on or before
465 Closing. Should Buyer elect to carry out this Contract despite such damage, at Closing, Buyer shall be entitled to a credit
466 for all insurance proceeds that were received by Seller (but not the Association, if any) resulting from such damage to the
467 Property and Inclusions, plus the amount of any deductible provided for in such insurance policy. Such credit shall not
468 exceed the Purchase Price. In the event Seller has not received such insurance proceeds prior to Closing, then Seller shall
469 assign such proceeds, at Closing, plus credit Buyer the amount of any deductible provided for in such insurance policy, but
470 not to exceed the total Purchase Price.

471 b. Damage, Inclusions and Services. Should any Inclusion or service (including systems and components of
472 the Property, e.g. heating, plumbing, etc.) fail or be damaged between the date of this Contract and Closing or possession,
473 whichever shall be earlier, then Seller shall be liable for the repair or replacement of such Inclusion or service with a unit of
474 similar size, age and quality, or an equivalent credit, but only to the extent that the maintenance or replacement of such
475 Inclusion, service or fixture is not the responsibility of the Association, if any, less any insurance proceeds received by
476 Buyer covering such repair or replacement. Seller and Buyer are aware of the existence of pre-owned home warranty
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477 programs that may be purchased and may cover the repair or replacement of such Inclusions. The risk of loss for damage to
478 growing crops by fire or other casualty shall be borne by the party entitled to the growing crops as provided in subsection
479 3a(7) and such party shall be entitled to such insurance proceeds or benefits for the growing crops.

480 c. **Walk-Through and Verification of Condition.** Buyer, upon reasonable notice, shall have the right to walk
481 through the Property prior to Closing to verify that the physical condition of the Property and Inclusions complies with this
482 Contract.

483
484 **20. RECOMMENDATION OF LEGAL AND TAX COUNSEL.** By signing this document, Buyer and Seller
485 acknowledge that the respective broker has advised that this document has important legal consequences and has
486 recommended the examination of title and consultation with legal and tax or other counsel before signing this Contract.
487

488 **21. TIME OF ESSENCE, DEFAULT AND REMEDIES.** Time is of the essence hereof. If any note or check received
489 as Earnest Money hereunder or any other payment due hereunder is not paid, honored or tendered when due, or if any
490 obligation hereunder is not performed or waived as herein provided, there shall be the following remedies:

491 a. **If Buyer is in Default:**

492 (1) **Specific Performance.** Seller may elect to treat this Contract as canceled, in which case all Earnest
493 Money (whether or not paid by Buyer) shall be forfeited by Buyer, paid to Seller and retained by Seller; and Seller may
494 recover such damages as may be proper; or Seller may elect to treat this Contract as being in full force and effect and Seller
495 shall have the right to specific performance or damages, or both.

496 (2) **Liquidated Damages.** All Earnest Money (whether or not paid by Buyer) shall be forfeited by Buyer,
497 paid to Seller, and retained by Seller. Both parties shall thereafter be released from all obligations hereunder. It is agreed
498 that the Earnest Money specified in § 4 is LIQUIDATED DAMAGES, and not a penalty, which amount the parties agree is
499 fair and reasonable and (except as provided in §§ 10e, 19, 21c, 22, 23), said forfeiture shall be SELLER'S SOLE AND
500 ONLY REMEDY for Buyer's failure to perform the obligations of this Contract. Seller expressly waives the remedies of
501 specific performance and additional damages.

502 b. **If Seller is in Default:** Buyer may elect to treat this Contract as canceled, in which case all Earnest Money
503 received hereunder shall be returned to Buyer, or Buyer may elect to treat this Contract as being in full force and effect and
504 Buyer shall have the right to specific performance but not damages.

505 c. **Cost and Expenses.** In the event of any arbitration or litigation relating to this Contract, the arbitrator or
506 court shall award to the prevailing party all reasonable costs and expenses, including attorney and legal fees.
507

508 **22. MEDIATION.** If a dispute arises relating to this Contract, prior to or after Closing, and is not resolved, the parties
509 shall first proceed in good faith to submit the matter to mediation. Mediation is a process in which the parties meet with an
510 impartial person who helps to resolve the dispute informally and confidentially. Mediators cannot impose binding decisions.
511 The parties to the dispute must agree before any settlement is binding. The parties will jointly appoint an acceptable
512 mediator and will share equally in the cost of such mediation. The mediation, unless otherwise agreed, shall terminate in the
513 event the entire dispute is not resolved within 30 calendar days of the date written notice requesting mediation is delivered
514 by one party to the other at the party's last known address. This section shall not alter any date in this Contract, unless
515 otherwise agreed.
516

517 **23. EARNEST MONEY DISPUTE.** Except as otherwise provided herein, Earnest Money Holder shall release the
518 Earnest Money as directed by written mutual instructions, signed by both Buyer and Seller. In the event of any controversy
519 regarding the Earnest Money (notwithstanding any termination of this Contract), Earnest Money Holder shall not be
520 required to take any action. Earnest Money Holder, at its option and sole discretion, may (a) await any proceeding, (b)
521 interplead all parties and deposit Earnest Money into a court of competent jurisdiction and shall recover court costs and
522 reasonable attorney and legal fees, or (c) deliver written notice to Buyer and Seller that unless Earnest Money Holder
523 receives a copy of the Summons and Complaint or Claim (between Buyer and Seller), containing the case number of the
524 lawsuit (Lawsuit) within 120 calendar days of Earnest Money Holder's written notice is delivered to the parties, Earnest
525 Money Holder shall be authorized to return the Earnest Money to Buyer. In the event Earnest Money Holder does receive a
526 copy of the Lawsuit, and has not interpleaded the monies at the time of any Order, Earnest Money Holder shall disburse the
527 Earnest Money pursuant to the Order of the Court. The parties reaffirm the obligation of Mediation (§ 22).
528

529 **24. TERMINATION.** In the event this Contract is terminated, all Earnest Money received hereunder shall be returned
530 and the parties shall be relieved of all obligations hereunder, subject to §§ 10e, 22 and 23.

531 **25. ADDITIONAL PROVISIONS.** (The following additional provisions have not been approved by the Colorado Real
532 Estate Commission.)
533

534 a. **Broker Commissions.** Other than William Jenkins of the Laramie Company, Buyer warrants to Seller that it
535 has not dealt with any real estate brokers in connection with this transaction and shall not be liable for the payment of any
536 brokerage commission. Seller shall indemnify and hold Buyer harmless from any brokerage or other commissions that may
537 be payable in connection with this or any other transfer of the Property or any part thereof, unless such claims arise through
538 the Buyer.

539
540 b. **Representations And Warranties.** Seller represents and warrants to Buyer both as of the date hereof and as
541 of the date of Closing that:

542 (1) Seller is not a "foreign Person" but is a "United States person" as such terms are defined in Section 1445 and
543 7701 of the Internal Revenue Code of 1986 as amended.

544 (2) As of the date of Closing there shall be no parties in possession of any portion of the Property, except Seller.

545 (3) No work shall have been performed or shall be in progress by Seller, and no materials shall have been
546 furnished to the Property or any portion thereof in connection with such work that might give rise to mechanic's liens
547 against the Property or any portion thereof. At Closing, there will be no unpaid bills or claims in connection with any such
548 work on the Property.

549 (4) No portion of the Property is subject to an earnest money contract, right of first refusal or similar contractual
550 right.

551 (5) To the best of Seller's actual knowledge, there is no suit, action, legal or other proceeding pending, or to
552 Seller's best knowledge, threatened which affects the Property.

553 (6) Seller has received no notice from any governmental authority of zoning, building, fire, water, use, health,
554 environmental or other statutory or regulatory violation issued in respect of the Property which has not been heretofore
555 corrected.

556 (7) No action in condemnation, eminent domain or public taking proceedings are now pending or contemplated
557 against the Property;

558 (8) No ordinance or hearing is now before any local governmental body which either contemplates or authorizes
559 any public improvements or special tax levies, the cost of which may be assessed against the Property;

560 (9) The Property is in compliance with all City of Westminster subdivision and platting regulations and with
561 applicable rules, regulations, ordinances, and requirements of the City;

562 (10) (i) To the best of Seller's actual knowledge, the Property does not contain asbestos or underground
563 storage tanks and has not been used for the purpose of receiving, handling, using, storing, treatment, transporting owned or
564 disposing of (A) any hazardous material as defined in any applicable federal, state, county or local statutes, laws,
565 regulations, rules, ordinances, codes, standards, orders, licenses and permits of any governmental authorities relating to
566 environmental matters (being hereinafter collectively referred to as the "Environmental Laws"), (B) other toxic, dangerous
567 or hazardous chemicals, materials, substances, pollutants and wastes, or any chemical, material or substance, exposure to
568 which is prohibited, limited or regulated by any federal, state, county, regional or local authority or (C) petroleum products
569 (all the foregoing being hereinafter collectively referred to as "Hazardous Materials");

570 (ii) To the best of Seller's actual knowledge, there are no existing or pending remedial actions or
571 other work, repairs, construction or capital expenditures with respect to the Property in connection with the Environmental
572 Laws, nor has Seller received any notice of the same;

573 (iii) To the best of Seller's actual knowledge, no Hazardous Materials have been or will be released
574 into the environment, or have been or will be deposited, spilled, discharged, placed or disposed of at, on or adjacent to the
575 Property, nor has the Property been used at any time by any person as a landfill or a disposal site for Hazardous Materials
576 or for garbage, waste or refuse of any kind; and

577 (iv) To the best of Seller's actual knowledge, no notices of any violation of any of the matters
578 referred to in the foregoing subsections relating to the Property or its use have been received by Seller and there are no
579 writs, injunctions, decrees, orders or judgments outstanding, no lawsuits, claims, proceedings or investigations pending or
580 threatened, relating to the ownership, use, maintenance or operation of the Property, nor, is there any basis for any such
581 lawsuit, claim, proceeding or investigation being instituted or filed.

582
583 The representations and warranties set forth in this Section 25(b) shall be continuing and shall be true and correct
584 on and as of the Closing Date with the same force and effect as if made at that time. Seller shall not be responsible for any
585 liabilities assumed by the title company under the title policy to be issued to Buyer, nor shall Seller be liable for any
586 indirect or consequential damages in the event of a breach of any of the foregoing representations and warranties. In the
587 event of such breach by Seller, Seller's liability shall be limited to the actual cost of remedying the breach.

588
589 c. **Time of Performance.** If any date for performance falls on a Saturday, Sunday or legal holiday, then the date
590 for performance shall be extended to the next day which is not a Saturday, Sunday or holiday.

591

592 d. **Authorization.** Buyer and Seller represent to each other that all necessary steps have been taken to authorize
593 this Contract and that each has the requisite authority to enter into and perform this Contract in accordance with its terms.
594

595 e. **Development Approvals.** This paragraph 25e. shall _____ shall not apply. Seller shall have until the
596 **Approval Deadline** (§ 2e) to (i) Approve Buyer's application for Water Tap Service Commitments sufficient to build at
597 least 450 multi-family units on the Property, which Buyer has submitted; (ii) Approve an Official Development Plan
598 ("ODP") for Buyer's intended development and use of the Property (collectively, the "Approvals") provided, however,
599 Seller agrees to not unduly delay its review of Buyer's applications and requests for Approvals, and provided further that
600 Seller shall not be required to perform acts or expend funds that are not in conformance with the laws, rules, or regulations
601 of the City of Westminster, Colorado; and (iii) Enter into a written agreement with the NBC Metropolitan District,
602 satisfactory to Buyer, addressing the respective obligations of the Buyer, Seller and District concerning the public
603 improvements related to Buyer's intended development ("Special District Agreement"). Should Buyer not obtain such
604 Service Commitments or Approvals or Special District Agreement prior to the **Approval Deadline**, Buyer may terminate
605 this Contract by notifying Seller prior to the **Approval Deadline**. In the event Buyer terminates prior to or on the
606 **Approval Deadline**, the Earnest Money shall be returned to Buyer. Provided that all other terms and conditions of this
607 Contract have been satisfied by the Seller, and subject to the provisions of § 30b below, Buyer agrees to close this
608 agreement within 30 days following the Seller's satisfaction of the provisions of this § 25e.
609

610 f. **Tax Deferred Exchange.** This paragraph 25f. _____ shall shall not apply. Following the Closing of
611 this Contract, Seller agrees to cooperate with any tax deferred exchange (whether a 1031 or 1033) that Buyer desires to
612 complete with respect to this transaction, provided there is no expense to Seller.
613

614 **26. ENTIRE AGREEMENT, MODIFICATION, SURVIVAL.** This agreement constitutes the entire Contract
615 between the parties relating to the subject hereof, and any prior agreements pertaining thereto, whether oral or written, have
616 been merged and integrated into this Contract. No subsequent modification of any of the terms of this Contract shall be
617 valid, binding upon the parties, or enforceable unless made in writing and signed by the parties. Any obligation in this
618 Contract that, by its terms, is intended to be performed after termination or Closing shall survive the same.
619

620 **27. FACSIMILE.** Signatures may _____ may not be evidenced by facsimile. Documents with original signatures
621 shall be provided to the other party at Closing, or earlier upon request of any party.
622

623 **28. FORECLOSURE DISCLOSURE AND PROTECTION.** Seller acknowledges that, to Seller's current actual
624 knowledge, the Property IS IS NOT in foreclosure. In the event this transaction is subject to the provisions of the
625 Colorado Foreclosure Protection Act (the Act) (i.e., generally the Act requires that the Property is residential, in foreclosure,
626 and Buyer does not reside in it for at least 1 year), a different contract that complies with the provisions of the Act is
627 required, and this Contract shall be void and of no effect unless the Foreclosure Property Addendum is executed by all
628 parties concurrent with the signing of this Contract. The parties are further advised to consult with their own attorney.
629

630 **29. NOTICE, DELIVERY, AND CHOICE OF LAW.**

631 a. **Physical Delivery.** Except for the notice requesting mediation described in § 22, delivered after Closing, and
632 except as provided in § 28b below, all notices must be in writing. Any notice to Buyer shall be effective when received by
633 Buyer or by Selling Brokerage Firm, and any notice to Seller shall be effective when physically received by Seller or
634 Listing Brokerage Firm.

635 b. **Electronic Delivery.** As an alternative to physical delivery, any signed document and written notice may be
636 delivered in electronic form by the following indicated methods only: Facsimile E-mail No Electronic
637 **Delivery.** Documents with original signatures shall be provided upon request of any party.

638 c. **Choice of Law.** This Contract and all disputes arising hereunder shall be governed by and construed in
639 accordance with the laws of the State of Colorado that would be applicable to Colorado residents who sign a contract in this
640 state for property located in Colorado.
641

642 **30. SPECIAL CONDITIONS.**

643
644 a. Buyer shall deliver the Earnest Money to the Title Company in one (1) installment as follows: (i) \$100,000
645 within ten (10) days of mutual execution of this Contract. Buyer's Earnest Money deposit shall be refundable to the Buyer,
646 except in the event of a breach of this Contract by Buyer.
647

648 b. Seller agrees to extend the Closing Date Deadline with three (3) thirty (30) day extensions upon payment by
649 Buyer of a payment of Twenty Five Thousand Dollars (\$25,000) for each exercised extension ("Extension Payments").

650 The first two extensions are non-refundable but applicable to the sales price. The Third extension is non-refundable and
651 non-applicable to the sales price. Any such Extension Payments shall be immediately released to the Seller.
652


653 c. Buyer agrees to aggressively proceed with the Official Development Plan approval process to encompass at
654 least 150 multi-family units as part of a Phase I of the proposed project. Further concerted efforts will commence with
655 future development plans to potentially include podium type construction to accommodate parking and increased densities.
656 Seller understands that the developer is not committing to podium parking on any portion of the property
657

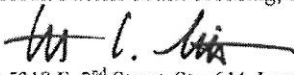
658 d. Buyer agrees that it shall make all commercially reasonable best efforts to begin construction of Phase I of the
659 project within 12 months of Seller's final ODP approval.
660

661 e. Buyer intends to develop an urban style, high quality finish, urban style, market rate multi-family project of
662 450 units (the number of units is subject to final ODP approval, but shall be no less than 450 units).
663

664 f. At closing, the Buyer shall receive from the City the lesser of \$42,000 or one-half the cost of wetlands
665 mitigation related to the Buyer's proposed development, to be determined in good faith by agreement of the Buyer and
666 Seller at least fifteen (15) days prior to closing.
667

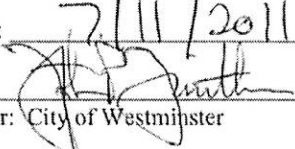
668 31. COUNTERPARTS. A copy of this document may be executed by each party, separately, and when each party has
669 executed a copy thereof, such copies taken together shall be deemed to be a full and complete contract between the parties.
670

671
672 Date: 7/5/12
673
674 Buyer: The Pacific Companies
675 
676
677 Address: 430 E. State Street, Ste. 100, Eagle, ID 83616
678 Phone No.: (208) 461-0022
679 Fax No.: (208) 461-3267
680 Email Address: calebr@tpchousing.com
681

Date: July 5, 2012
Buyer: Urban Pacific Multi-Housing, LLC

Address: 5318 E. 2nd Street, Ste. 644, Long Beach, CA 90803
Phone No.: (562) 552-1777
Fax No.: N/A (email to: choppin@urbanpacific.com)
Email Address: choppin@urbanpacific.com

682 [NOTE: If this offer is being countered or rejected, do not sign this document. Refer to § 31]
683

684 Date: _____
685
686
687 Seller _____
688
689 Address: _____
690
691 Phone No.: _____
692 Fax No.: _____
693 Email Address: _____
694

Date: 7/11/2011

Seller: City of Westminster
Address: 4800 W. 92nd Avenue, Westminster, CO 80031
Phone No.: 303-658-2400
Fax No.: 303-706-3920
Email Address: _____

695 COUNTER, REJECTION. This offer is Countered Rejected.
696 Initials only of party (Buyer or Seller) who countered or rejected offer _____
697 **END OF CONTRACT**

Note: Closing Instructions and Earnest Money Receipt should be signed on or before Title Deadline (§ 2e).

698
699
700 **SELLING BROKER'S ACKNOWLEDGMENTS AND COMPENSATION DISCLOSURE.**
701 (To be completed by Selling Broker)
702

703 Selling Broker Does Does Not acknowledge delivery of Earnest Money deposit specified in § 4 and, while not a
704 party to the Contract, agrees to cooperate upon request with any mediation concluded under § 22.

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Selling Broker is working with Buyer as a Buyer's Agent Transaction-Broker in this transaction. This is a Change of Status.

Seller IS IS NOT a customer working with Selling Broker as a Buyer's Agent.

Selling Brokerage Firm's compensation or commission is to be paid by Listing Brokerage Firm Buyer Other Seller _____

Selling Brokerage Firm's Name: The Laramie Company, LLC-

Date: _____ Broker _____

Address: 730 17th Street, Suite 840, Denver, CO 80202

Phone No.: 303-573-5007 Fax No.: 303 573 5002

Email Address: Bill@Laramiecompany.com

LISTING BROKER'S ACKNOWLEDGMENTS AND COMPENSATION DISCLOSURE.
(To be completed by Listing Broker)

Listing Broker Does Does Not acknowledge receipt of Earnest Money deposit specified in § 4 and, while not a party to the Contract, agrees to cooperate upon request with any mediation concluded under § 22.

Listing Broker is working with the Seller as a Seller's Agent Transaction-Broker in this transaction. This is a Change of Status.

Buyer IS IS NOT a customer working with Listing Broker as a Seller's Agent.

Listing Brokerage Firm's compensation or commission is to be paid by Seller Buyer Other _____

Listing Brokerage Firm's Name: _____

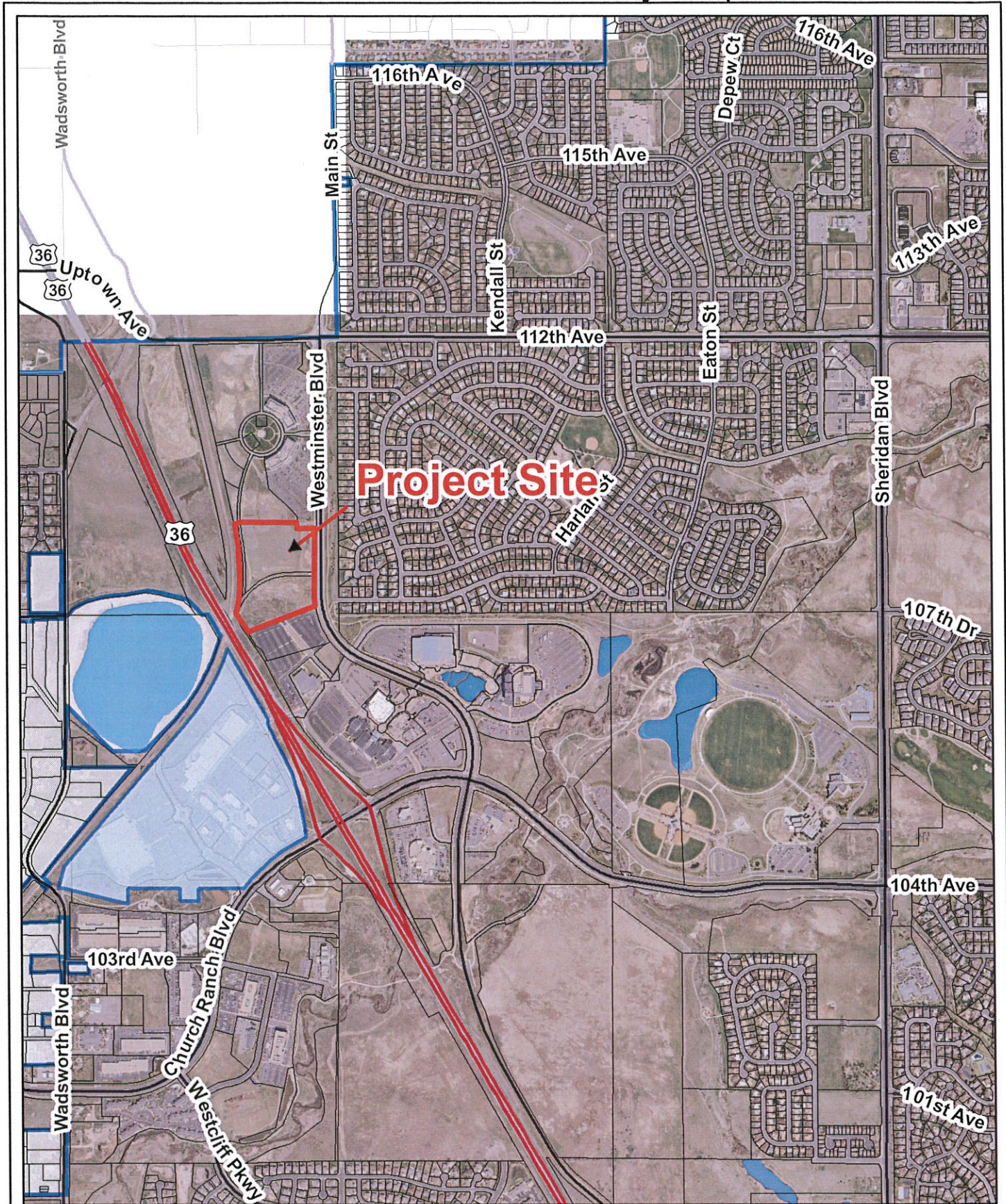
Date: _____ Broker _____

Address: _____

Phone No.: _____ Fax No.: _____

Email Address: _____

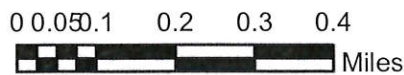
15.8 Acre Parcel Vicinity Map



Date: 3/6/2014

GIS-Apps\West\GIS\ArcGIS93\Templates\Westminster_Basic_93.mxd

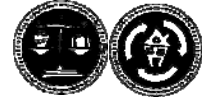
City of Westminister





Agenda Memorandum

City Council Meeting
March 24, 2014



SUBJECT: Downtown Westminster Roadway Design Contract

Prepared By: David W. Loseman, Assistant City Engineer

Recommended Board Action

Award the Downtown Westminster roadway design contract to the low bidder, Drexel, Barrell & Co, authorize the City Manager to execute a contract in the amount of \$394,195 for this design work and authorize an additional \$59,000 as a design contingency, and authorize the transfer of \$453,195 from the General Capital Improvement Fund – Orchard Parkway account to the General Capital Improvement Fund – Westminster Center Urban Reinvestment Project account.

Summary Statement

- Over the past few years, the Westminster Economic Development Authority (WEDA) has acquired approximately 90% of the former Westminster Mall site in anticipation of a major redevelopment of this property. In an effort to best position the Authority for that upcoming redevelopment, Staff recommends the removal of remaining asphalt, curb, gutter and minor structures from the site with the exception of the current uses listed below, the overlot grading of the land and the construction of a partial framework of the interior street network. Exceptions to the proposed scope of work for the overlot grading include the JC Penney lease area, the Brunswick Bowling Alley, Dr. McMurtrey's dental office, the Olive Garden lease area and the U.S. Bank lease area.
- Within the past month, the Authority has approved a contract for the design of the overlot grading plan, and this design work is currently underway. The next step in this process is the preparation of construction drawings and specifications for the proposed partial street system. Staff recommends the design and construction of the two, major north-south streets through the development connecting between 88th Avenue and 92nd Avenue as well as two of the east-west streets (see attached map).
- The Request for Proposals for the design of this project was available on the City's website for four weeks. Five proposals were received and evaluated. Of those five, the proposal from Drexel, Barrell & Co. was the best in terms of overall scope, past experience on similar projects, the quality of the personnel who will be working on the project and the fee.
- Drexel, Barrell & Co. is recommended for the preparation of the roadway construction documents for the Downtown Westminster Project. Drexel, Barrell's fee of \$394,195 is approximately 4.4% of the anticipated cost of this construction, which is a very favorable fee as compared to the fees associated with other similar projects.
- The recommended \$59,000 contingency is reasonable for a project of this magnitude and complexity.

Expenditure Required: \$453,195

Source of Funds: General Capital Improvement Fund - Westminster Center Urban Reinvestment Project Capital Improvement Project

Policy Issue

Should City Council proceed with the design of some of the roadway network of the Downtown Westminster site?

Alternative

City Council could chose to not move forward with this portion of the project. Staff recommends the approval of this contract for roadway design since this action will demonstrate to potential developers that the City is ready to proceed with the redevelopment of the property in an aggressive manner.

Background Information

Over the past few years, the Authority has purchased many properties at the former Westminster Mall, making WEDA the owner of approximately 90% of the site. In 2010 and 2012, the demolition of the old Mall began with the first phase of this effort being the removal of the Traildust Restaurant and the second phase being the removal of the Mervyn’s, Macy’s, the Steak and Ale Restaurant and theater buildings. The following phase of demolition included the Dillard’s, Montgomery Ward’s, Sears, Sears Automotive and the main Mall corridor buildings - essentially all structures within the Mall complex with the exception of the J.C. Penney store. As part of the next proposed demolition and grading project, accommodations for fire protection, parking lot lighting and electrical, gas, water and sanitary sewer services will be made to maintain all of these services to the buildings operated by J.C. Penney, Olive Garden, U.S. Bank, Brunswick Bowling and Dr. McMurtry during and after the demolition and grading activities.

Staff believes that it would be prudent to install some of the street network for the Downtown Westminster development at this time in order to vividly portray the City’s vision of the site layout to potential developers and “announce” that the area is ripe for development. The streets that were selected for this first phase of infrastructure construction were strategically chosen. The two major north-south roadways bracket the heart of the Downtown and demonstrate the ease with which access will be gained from both 88th Avenue and 92nd Avenue. The two east-west streets will highlight the spectacular mountain views that are available from the site. The southernmost of these two east-west streets will likely be fronted by retail uses and will provide access to the north side of the J.C. Penney building.

The first step in achieving the construction of these roadways is to select an engineering consulting firm to prepare the necessary design drawings and specifications. Requests for Proposals were available on the City’s website for four weeks and then evaluated by Staff. Five consultants submitted proposals with the preferred proposal being submitted by Drexel, Barrell & Co. As noted below, the fee proposal submitted by Drexel, Barrell was remarkably favorable:

<u>Consultant</u>	<u>Submitted Fee</u>
Drexel, Barrell & Co.	\$394,195.00
United Civil Design	\$749,165.50
JR Engineering	\$904,685.00
Martin/ Martin	\$983,745.00
Felsburg, Holt & Ullevig, Inc	\$1,316,247.00

Naturally, staff was concerned about this consultant’s ability to perform the work at such a dramatically low fee. Through a follow-up interview with staff, the president of Drexel, Barrell & Co., a long-time and proud Westminster resident, conceded that his firm slashed much of the profit margin out of the fee proposal in order to aggressively compete for the job. This is not an uncommon business practice for consulting firms whose officers envision the possibility of many future opportunities – from both public and private

clients - that could spring from landing the initial phase of a multi-phase project. Staff is comfortable that Drexel, Barrell & Co. is well qualified and very motivated to provide high quality services to the City on this contract.

While the overlot grading work is being completed this spring and summer under a separate contract, the final design of this roadway infrastructure to serve the site will be performed. Staff is recommending that Drexel, Barrell & Co. be hired, in the amount of \$394,195, to prepare the roadway construction package with a goal of beginning roadway construction in late 2014 and completion within about one year. A \$59,000 contingency is also requested for this design effort. This contingency is approximately 15% of the design fee and is appropriate for a project of this complexity.

The funding for this project is available from developer participation funds paid as part of the Orchard Parkway Project south of 144th Avenue and east of Huron Street. These funds were a reimbursement of funds already obligated by the City and therefore are available for other projects.

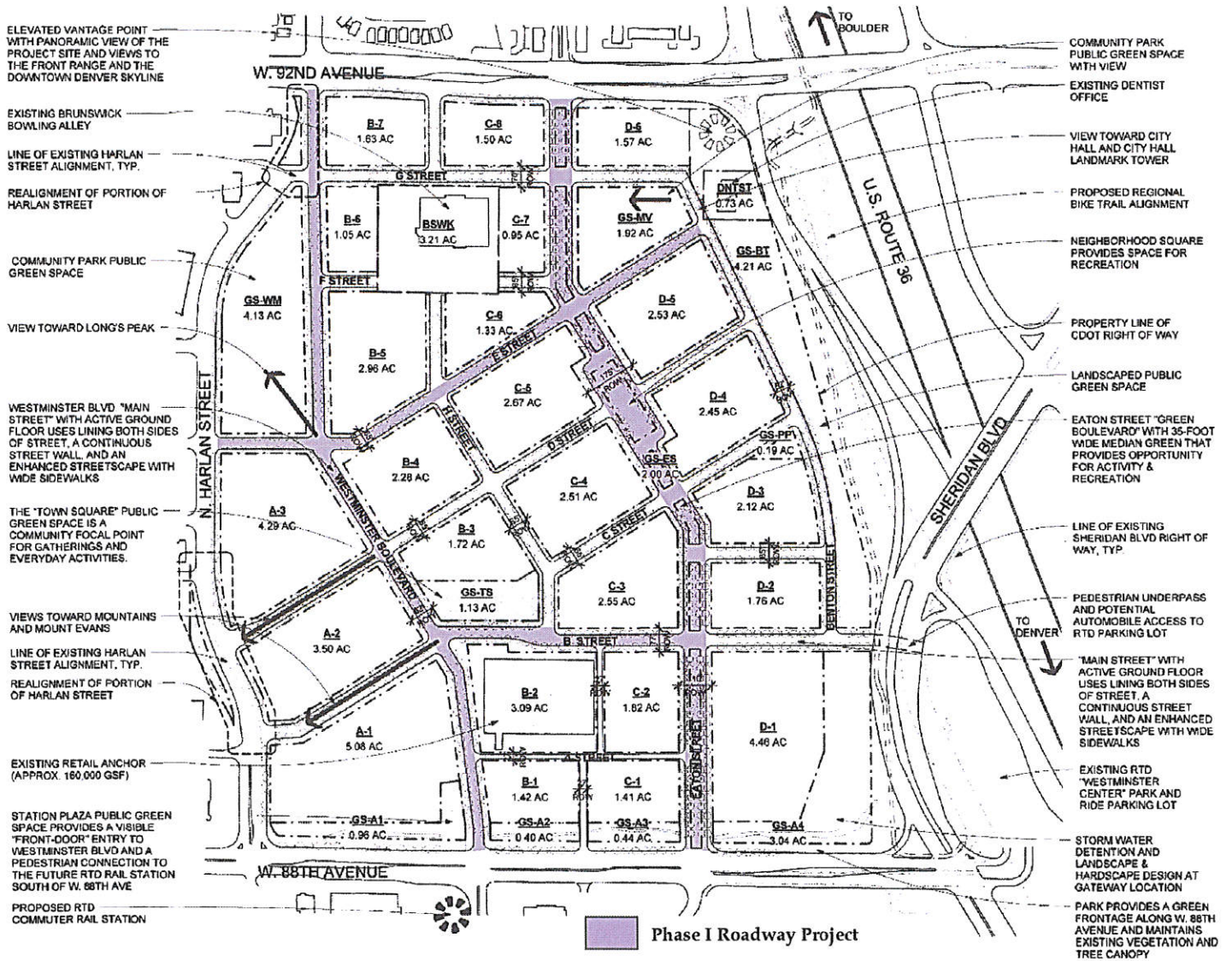
Council action on this item meets elements of two goals in the City's Strategic Plan: Strong Balanced Local Economy and Vibrant Neighborhoods in One Livable Community.

Respectfully submitted,

J. Brent McFall
City Manager

Attachment: Site Map

DOWNTOWN WESTMINSTER PHASE I ROADWAY PROJECT



ELEVATED VANTAGE POINT WITH PANORAMIC VIEW OF THE PROJECT SITE AND VIEWS TO THE FRONT RANGE AND THE DOWNTOWN DENVER SKYLINE

EXISTING BRUNSWICK BOWLING ALLEY

LINE OF EXISTING HARLAN STREET ALIGNMENT, TYP.

REALIGNMENT OF PORTION OF HARLAN STREET

COMMUNITY PARK PUBLIC GREEN SPACE

VIEW TOWARD LONG'S PEAK

WESTMINSTER BLVD "MAIN STREET" WITH ACTIVE GROUND FLOOR USES LINING BOTH SIDES OF STREET, A CONTINUOUS STREET WALL, AND AN ENHANCED STREETSCAPE WITH WIDE SIDEWALKS

THE "TOWN SQUARE" PUBLIC GREEN SPACE IS A COMMUNITY FOCAL POINT FOR GATHERINGS AND EVERYDAY ACTIVITIES.

VIEWS TOWARD MOUNTAINS AND MOUNT EVANS

LINE OF EXISTING HARLAN STREET ALIGNMENT, TYP.

REALIGNMENT OF PORTION OF HARLAN STREET

EXISTING RETAIL ANCHOR (APPROX. 160,000 GSF)

STATION PLAZA PUBLIC GREEN SPACE PROVIDES A VISIBLE "FRONT-DOOR" ENTRY TO WESTMINSTER BLVD AND A PEDESTRIAN CONNECTION TO THE FUTURE RTD RAIL STATION SOUTH OF W. 88TH AVE

PROPOSED RTD COMMUTER RAIL STATION

COMMUNITY PARK PUBLIC GREEN SPACE WITH VIEW

EXISTING DENTIST OFFICE

VIEW TOWARD CITY HALL AND CITY HALL LANDMARK TOWER

PROPOSED REGIONAL BIKE TRAIL ALIGNMENT

NEIGHBORHOOD SQUARE PROVIDES SPACE FOR RECREATION

PROPERTY LINE OF CDOT RIGHT OF WAY

LANDSCAPED PUBLIC GREEN SPACE

EATON STREET "GREEN BOULEVARD" WITH 35-FOOT WIDE MEDIAN GREEN THAT PROVIDES OPPORTUNITY FOR ACTIVITY & RECREATION

LINE OF EXISTING SHERIDAN BLVD RIGHT OF WAY, TYP.

PEDESTRIAN UNDERPASS AND POTENTIAL AUTOMOBILE ACCESS TO RTD PARKING LOT

"MAIN STREET" WITH ACTIVE GROUND FLOOR USES LINING BOTH SIDES OF STREET, A CONTINUOUS STREET WALL, AND AN ENHANCED STREETSCAPE WITH WIDE SIDEWALKS

EXISTING RTD "WESTMINSTER CENTER" PARK AND RIDE PARKING LOT

STORM WATER DETENTION AND LANDSCAPE & HARDSCAPE DESIGN AT GATEWAY LOCATION

PARK PROVIDES A GREEN FRONTAGE ALONG W. 88TH AVENUE AND MAINTAINS EXISTING VEGETATION AND TREE CANOPY



Agenda Item 10 A - C

Agenda Memorandum

City Council Meeting
March 24, 2014



SUBJECT: Public Hearing re Councillor's Bill No. 5 Approving a Comprehensive Land Use and Approval of the Legacy Ridge West Filing No. 8 Official Development Plan

Prepared By: Walter G. Patrick, Planner

Recommended City Council Action:

- 1) Hold a public hearing.
- 2) Pass Councillor's Bill No. 5 on first reading to amend the Comprehensive Land Use Plan by changing the designation on the site from R-18, R-8, and R-3.5 to R-8, and R-3.5. This recommendation is based on a finding that the proposed amendment meets the Comprehensive Plan Goal of "Providing opportunities for a range of housing types and affordability to accommodate all incomes, lifestyles, and age groups within the City."
- 3) Approve the Legacy Ridge West Filing No. 8 Official Development Plan. This recommendation is based on a finding that the criteria set forth in Section 11-5-15 of the Westminster Municipal Code have been met.

Summary Statement

- The proposed Comprehensive Plan amendment will change and reconfigure the designations on this site from R-18, R-8, and R3.5 to R-8 and R-3.5, eliminating the R-18 designation (see Attachment A).
- The proposed residential development consists of approximately 42.3 acres and is located at the northeast corner of Sheridan Boulevard and 107th Drive.
- The applicant, Ryland Homes, is proposing a mix of 89 single-family detached housing units and 64 patio villa paired units (32 buildings).
- The proposed residential densities and home types are in conformance with the existing Preliminary Development Plan (PDP). This property is the last vacant parcel of residential land governed by the Legacy Ridge West PDP.

Expenditure Required: \$ 0

Source of Funds: N/A

Planning Commission Action

The Planning Commission reviewed the Legacy Ridge Filing No. 8 proposal on March 11, 2014. The Commission voted unanimously (7-0) to recommend approval of the Comprehensive Plan Amendment and the ODP.

Four individuals from the Legacy Ridge West neighborhood spoke. They all expressed concerns regarding traffic on 107th Drive including the potential for traffic backup due to cars turning onto southbound Sheridan Boulevard. They asked about the possibility of adding a right-in/right-out connection to the proposed subdivision directly from Sheridan Boulevard. One speaker, from the Cotton Creek Subdivision, discussed concerns about traffic on 109th Avenue that will connect from the Cotton Creek subdivision to the proposed development.

City Engineer, Dave Downing, answered questions and referenced the Traffic Impact Study, which was prepared for this development, to address concerns regarding traffic at 107th Drive and Sheridan Boulevard. A right-in/right-out onto Sheridan Boulevard is not practical because of difficult topography associated with an existing drainage channel that runs east/west through the property. Mr. Downing stated that a new connection from Sheridan Boulevard would create an additional conflict point for existing Sheridan Boulevard traffic and that there would not be adequate distance for an acceleration lane, going north from a new Sheridan Boulevard connection, due to the bridge over Big Dry Creek. To address concerns of traffic going too fast on 109th Avenue from the proposed development into the Cotton Creek Subdivision, Mr. Downing pointed out that the section of 109th Avenue coming from the proposed development is very short and the two bulb-outs, located at the entrance to Cotton Creek, serve as effective traffic calming measures.

Sandy Hisamoto, president of the Legacy Ridge West HOA, also stated that as the proposed development would be part of the Legacy Ridge West HOA she would like a copy of the Official Development Plan (ODP) to review the proposed landscaping in detail. A copy of the proposed ODP was given to Ms. Hisamoto after the hearing.

Policy Issues

1. Should the City Council approve an amendment to the Comprehensive Plan to change and reconfigure the designation of this site from R-18, R-8, and R-3.5 to R-8 and R-3.5?
2. Should the City Council approve an Official Development Plan (ODP) for Legacy Ridge West Filing No. 8 Subdivision?

Alternatives

- 1) Deny the Comprehensive Plan amendment changing the designation from R-18, R-8, and R-3.5 to R-8 and R-3.5, removing the R-18 designation.

This alternative is not supported as a Comprehensive Plan amendment is required for approval of the Legacy Ridge West Filing No. 8 ODP and the R-18 designation allows a significantly higher density than exists in the adjacent neighborhoods. The proposed densities of R-8 and R-3.5 are more appropriate to the surrounding neighborhoods.

- 2) Deny the ODP for Legacy Ridge West Filing No. 8 Subdivision. This could be based on a finding that the site plan is not of good design and therefore not in compliance with Section 11-5-15 of the Westminster Municipal Code.

This alternative is not recommended because staff believes that the ODP is in compliance with the criteria set forth in Section 11-5-15 of the Westminster Municipal Code.

Background Information

Nature of Request

The applicant is requesting approval to develop a mix of 89 single-family detached housing units and 64 patio villa paired units on approximately 42.3 acres in the Legacy Ridge West subdivision.

Location

The site is located at the northeast corner of Sheridan Boulevard and 107th Drive.

Public Notification

Westminster Municipal Code 11-5-13 requires the following three public notification procedures:

- **Published Notice:** Notice of public hearings scheduled before Planning Commission shall be published and posted at least 10 days prior to such hearing and at least four days prior to City Council public hearings. Notice for the City Council hearing was published in the Westminster Window on March 13, 2014.
- **Property Posting:** Notice of public hearings shall be posted on the property with one sign in a location reasonably visible to vehicular and pedestrian traffic passing adjacent to the site. Two signs were posted on the property on March 13, 2014, one along 107th Drive and one along Sheridan Boulevard.
- **Written Notice:** At least 10 days prior to the date of the public hearing, the applicant shall mail individual notices by first-class mail to property owners and homeowner’s associations registered with the City within 300 feet of the subject property. Notices were mailed on February 26, 2014.

Property Owner

Ryland Homes
6161 S. Syracuse Way, Suite 200
Greenwood Village, CO 80111

Applicant

Ryland Homes
6161 S. Syracuse Way, Suite 200
Greenwood Village, CO 80111

Surrounding Land Use and Comprehensive Plan Designation

Development Name	Zoning	Comprehensive Plan Designation	Use
North; City Owned Big Dry Creek Open Space	PUD	City Owned Open Space	Open Space
East; Cotton Creek Subdivision	PUD	R-3.5 Residential	Single-Family Residential
South; Legacy Ridge West Filing No.7	PUD	R-3.5 Residential	Single-Family Residential
West; City Owned Open Space and City Park	PUD	City Owned Open Space and Public Parks	City Owned Open Space and Public Parks

Site Plan Information

- Traffic and Transportation: The main access to the site is 107th Drive, via Sheridan Boulevard. A secondary access is proposed on 109th Avenue through the Cotton Creek neighborhood.
- Site Design: The site comprises about 42.3 acres. 64 one-story paired homes are proposed on the northern portion of the site and 89 single-family detached homes are proposed on the southern portion of the site. The detached homes and paired homes are separated by a drainage channel which runs generally east-west through the property. The minimum lot size for the single family detached lots is 7,000 square feet. The lots range in size from 7,000 to over 14,000 square feet. Primary vehicular access is from the south on 107th Drive with another proposed access point from the east on 109th Avenue through the Cotton Creek Subdivision.
- Landscape Design: The site will be landscaped with trees provided along 107th Drive, Sheridan Boulevard and all interior streets. Additional landscaped green space is provided in the form of neighborhood tracts, perimeter landscape buffers and pocket parks. The landscaped areas are in conformance with the City's landscape requirements.
- Public Land Dedication/School Land Dedication: The Public Land Dedication for this property has been satisfied with the previous dedication of land for the Legacy Ridge Golf Course. The required School Land Dedication Fee will be collected at the time of building permit.
- Architecture/Building Materials: The building materials consist of a mixture of stone, brick, fiber cement lap siding, and shingle siding. These materials are similar to and compatible with materials used in neighboring developments and meet the requirements of the City's Single-Family Design Guidelines.
- Signage: A residential monument sign is proposed at the corner of Sheridan Boulevard and 107th Drive. The sign will consist of a low stone wall and columns to be compatible with the existing signage throughout the Legacy Ridge West subdivision. Abundant landscaping will be provided around the sign and up lighting will provide light to the sign at night.
- Lighting: Street lighting will be installed throughout the development. Pedestrian oriented lighting will be provided in green space and trail areas.

Service Commitment Category: Service Commitments for this site are available from Category L-1 and L-2. These categories are specifically designated for Legacy Ridge residential developments.

Referral Agency Responses: A copy of the proposed plans was sent to the following agencies: Comcast, Century Link, Xcel Energy, Urban Drainage and Flood Control, and Adams County School District 12. Staff did not receive any objections from these agencies.

Neighborhood Meeting(s) and Public Comments: A neighborhood meeting was held on October 2, 2013. About 38 attendees participated in the meeting. A primary concern voiced by nearby residents was the perceived potential for a significant increase in traffic, particularly at the 107th Drive and Sheridan Boulevard intersection. There was also discussion of the possibility for an entrance into the new subdivision directly from Sheridan Boulevard.

Staff concurs with the Traffic Impact Study submitted by the applicant that the proposed street and circulation pattern is adequate to handle the additional traffic created by this development and that the project can be successfully integrated into the existing and future roadway network without an additional entrance from Sheridan Boulevard. An entrance from Sheridan Boulevard would also create an additional conflict point for existing Sheridan Boulevard traffic. The topography and proposed grading would have to be significantly altered to accommodate an additional street from Sheridan Boulevard.

Westminster Municipal Code Requirements

The following information provided complies with the City's land development regulations and design guidelines; and the criteria contained in Section 11-5-15 of the Westminster Municipal Code (attached).

Official Development Plan (ODP) Application

11-5-15(A) sets forth the Standards for Approval of Official Development Plans and Amendments to Official Development Plans. Staff is of the opinion that the approval of the proposed Legacy Ridge West Filing 8 Official Development Plan satisfies all of the following criteria:

(A) In reviewing an application for the approval of an Official Development Plan or amended Official Development Plan the following criteria shall be considered:

1. The plan is in conformance with all City Codes, ordinances, and policies. *The proposed ODP for Legacy Ridge West Filing No. 8 is in conformance with City Code, ordinances, and policies.*
2. The plan is in conformance with an approved Preliminary Development Plan (PDP) or the provisions of the applicable zoning district if other than Planned Unit Development (PUD). *The proposed plan is in conformance with the Preliminary Development Plan, which designates this property as residential with a mix of densities ranging from 3.5 dwelling units per acre up to 18 dwelling units per acre. The applicant is concurrently processing a PDP Amendment, which is eligible for administrative approval, which will 'clean-up' the permitted densities for this area by removing the R-18 designation.*
3. The plan exhibits the application of sound, creative, innovative, or efficient planning and design principles. *Setbacks, lot sizes, and landscaping are compatible to the surrounding neighborhoods. A proposed neighborhood trail system allows connection to adjacent City trails. The street pattern is curvilinear in response to the natural grade of the property allowing the single family detached product to preserve mountain views to the west. The single family attached products are low profile 1 story buildings that help to reduce visual impact on the Cotton Creek subdivision. Innovative and efficient planning is demonstrated in the use of a drainage channel, which generally runs east/west through the property, as an attractive landscaped green space and trail corridor while still providing a drainage function.*
4. For Planned Unit Developments, any exceptions from standard code requirements or limitations are warranted by virtue of design or special amenities incorporated in the development proposal and are clearly identified on the Official Development Plan. *Any exceptions from the City's code requirements or Design Guidelines are warranted by virtue of design as listed below.*
 - *A 5 foot front setback reduction from 25 feet to 20 feet has been proposed for the single-family detached units. A 20 foot setback matches the front setbacks found in the Cotton Creek subdivision to the east as well as some of the Legacy Ridge West filings to the south. In addition, the 5 to 6 foot wide tree lawn located between the curb and sidewalk effectively offsets the lawn space lost in the setback reduction.*
 - *The current Single-Family Attached Design Guidelines require detached sidewalks for new developments, but this requirement is proposed to be waived for the attached homes in the current proposal. Staff believes that the attached sidewalks, in the paired homes area of the current proposal, to be compatible to the surrounding subdivisions as the Cotton Creek neighborhood to the east, the Legacy Ridge West developments to the south also have attached sidewalks. Attached sidewalks accommodate frequent driveway access points more efficiently than detached walks and will make getting from a car on the street to the sidewalk more convenient for elderly residents in the age targeted paired homes area of the proposed subdivision.*
5. The plan is compatible and harmonious with existing public and private development in the surrounding area. *This proposed residential development is surrounded by Open Space and single-family residential uses. This project proposes a low density single-family product, which staff believes is harmonious with the adjacent Cotton Creek and Legacy Ridge West developments.*
6. The plan provides for the protection of the development from potentially adverse surrounding influences and for the protection of the surrounding areas from potentially adverse influence from within the development. *Staff believes that this criterion has been met since the proposed*

development complies with the City Code and intent of the Residential Design Guideline requirements. The plan provides adequate buffers on each side of the development. The eastern edge of the development, adjacent to Cotton Creek, contains a 40-50 foot landscape buffer between the developments. The surrounding area consists of City Owned Open Space and residential uses which are compatible with this plan.

7. The plan has no significant adverse impacts on future land uses and future development of the immediate area. *No adverse impacts are foreseen upon future land uses or other development in the immediate area. This property represents the last vacant portion of the greater residentially zoned part of the Legacy Ridge West development and is already surrounded by Open Space and existing residential uses. The remaining vacant land nearby within the Legacy Ridge West development is zoned for retail and is located north of the Big Dry Creek Open Space.*
8. The plan provides for the safe, convenient, and harmonious grouping of structures, uses, and facilities and for the appropriate relation of space to intended use and structural features. *This proposed development is designed to be compatible and harmonious with the adjacent neighborhoods in terms of uses, structures, and park amenities.*
9. Building height, bulk, setbacks, lot size, and lot coverage are in accordance with sound design principles and practice. *This criterion has been met by being in conformance with Title XI of the Westminster Municipal Code and meeting the intent of the single-family detached and single-family attached design guidelines.*

The homes have similar setbacks, lot sizes, and landscaping as surrounding developments. The setbacks for the detached homes in the plan are as follows; 20 foot front, 15 foot front with a side loaded garage, 20 foot rear, and 15 foot rear backing to open space. These setbacks match or are similar to setbacks found in the Cotton Creek subdivision to the east and the Legacy Ridge West neighborhoods to the south.

The minimum lot size for the single family detached lots in the proposed development is 7,000 square feet, which is the minimum allowed for a Comprehensive Plan designation of R3.5. Minimum lot sizes in the existing single family detached neighborhoods of Legacy Ridge West range from about 6,400 square feet up to about 10,100 square feet. Lots in the Cotton Creek subdivision are as small as 5,200 square feet. Therefore, staff believes that the proposed minimum lot size is compatible to the surrounding developments.
10. The architectural design of all structures is internally and externally compatible in terms of shape, color, texture, forms, and materials. *The proposed dwellings will be compatible in size and materials to nearby neighborhoods. The majority of lots in this project will be considered 'enhanced lots' which will require brick or stone on all four elevations of the house. Building materials for the houses include a mixture of stone, brick, fiber cement lap siding, and shingle siding.*
11. Fences, walls, and vegetative screening are provided where needed and as appropriate to screen undesirable views, lighting, noise, or other environmental effects attributable to the development. *Landscaped setbacks are provided to adjacent streets and perimeter fencing is provided that will match the Legacy Ridge West development immediately to the south. A 40 to 50 foot landscape buffer is provided along the eastern edge of the property adjacent to the Cotton Creek subdivision. A landscape buffer is also provided along Sheridan Boulevard and 107th Drive. There should be no undesirable environmental effects from this low density residential development.*
12. Landscaping is in conformance with City Code requirements and City policies and is adequate and appropriate. *Abundant landscaping is proposed along streets and green spaces throughout the development. The plan proposes a 1/3 acre HOA maintained park and the existing drainage channel is proposed to be landscaped and equipped with a trail corridor ending in a small green space at its western edge. The proposed landscaping is in conformance with the Westminster Landscape Regulations and the relevant residential Design Guidelines.*
13. Existing and proposed streets are suitable and adequate to carry the traffic within the development and its surrounding vicinity. *There are two proposed street connections to this development, one from 107th Drive, in the Legacy Ridge West development, and another from 109th Avenue within the Cotton Creek subdivision to the east. The entrance from 107th Drive will be the primary connection for traffic flowing to and from Sheridan Boulevard. The Cotton Creek ODP clearly*

shows the intent of connecting from 109th Avenue to what was vacant land to the west. This property is now the proposed Legacy Ridge West Filing No. 8 development. The Cotton Creek connection will provide residents of the proposed development convenient access to Cotton Creek Elementary School and is consistent with existing Legacy Ridge and Legacy Ridge West connections to Cotton Creek on the east and south sides of the Cotton Creek subdivision. In addition, the Cotton Creek connection will provide emergency services with an additional connection to both developments. The traffic study submitted with this proposal, which includes on site observation, concludes that the existing internal and external road system is adequate to handle traffic within and around this development. Staff has reviewed this report and agrees with its findings.

14. Streets, parking areas, driveways, access points, and turning movements are designed in a manner that promotes safe, convenient, free traffic flow on streets without interruptions and in a manner that creates minimum hazards for vehicles and or pedestrian traffic. *The street system is designed in a clear and obvious manner. All residences are required to have a minimum of four off-street parking spaces including two in a garage and two in the driveway. This results in less on street parking, which helps to ensure free and clear traffic flow.*
15. Pedestrian movement is designed in a manner that forms a logical, safe, and convenient system between all structures and off-site destinations likely to attract substantial pedestrian traffic. *There is more than adequate pedestrian connectivity throughout the site. Detached walks are currently constructed along 107th Drive and detached sidewalks will be installed along the east side of Sheridan Boulevard as part of this project. The development will also include sidewalks along all streets within the subdivision. An 8 foot walk, along the subdivision's primary north/south street, will connect to a trail corridor that follows the landscaped drainage channel to the west. The trail system will provide residents of the proposed development and the surrounding neighborhoods access to the Big Dry Creek and Cotton Creek trail systems. Access is also provided to the sidewalk along Sheridan Boulevard and the existing bus stop near 107th Drive and Sheridan Boulevard.*
16. Existing and proposed utility systems and storm drainage facilities are adequate to serve the development and are in conformance with the Preliminary Development Plans and utility master plans. *Existing and proposed utility systems and storm drainage facilities will be adequate for the development and in compliance with the Preliminary Development Plan and the approved Utility Plans. A storm water detention pond will be provided onsite.*
17. The applicant is not in default or does not have any outstanding obligations to the City. *The applicant does not have any known default or outstanding obligations to the City.*

(B) Failure to meet any of the above-listed standards may be grounds for denial of an Official Development Plan or an amendment to an Official Development Plan.

Strategic Plan

This request meets the City Council's Strategic Plan goal of *Vibrant Neighborhoods in One Livable Community*, by promoting a range of quality homes for all stages of life, and *Beautiful and Environmentally Sensitive City*, by providing green spaces and trail connections to Westminster parks and open spaces.

Respectfully submitted,

J. Brent McFall
City Manager

Attachments

- Ordinance
- EXHIBIT A – Comprehensive Plan Map

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **5**

SERIES OF 2014

INTRODUCED BY COUNCILLORS

**A BILL
FOR AN ORDINANCE AMENDING THE WESTMINSTER
COMPREHENSIVE PLAN**

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The City Council finds that:

a. An application for an amendment to the Westminster Comprehensive Plan has been submitted to the City for its approval pursuant to W.M.C. § 11-4-16(D), by the owner of the properties described below, incorporated herein by reference, requesting a change in the land use designations from a combination of R-18, R-8, and R3.5 to a combination of only R-8 and R-3.5 for the 42.3 acre property located at the northeast corner of Sheridan Boulevard and 107th Avenue.

b. Such application has been referred to the Planning Commission, which body held a public hearing thereon on March 11, 2014, after notice complying with W.M.C. § 11-4-16(B) and has recommended approval of the requested amendments.

c. Notice of the public hearing before Council has been provided in compliance with W.M.C. § 11-4-16(B) and the City Clerk has certified that the required notices to property owners were sent pursuant to W.M.C. § 11-4-16(D).

d. Council, having considered the recommendations of the Planning Commission, has completed a public hearing and has accepted and considered oral and written testimony on the requested amendments.

e. The owners have met their burden of proving that the requested amendment will further the public good and will be in compliance with the overall purpose and intent of the Comprehensive Plan, particularly Goal LU-G-7 for the provision to "Provide opportunities for a range of housing types and affordability to accommodate all incomes, lifestyles, and age groups within the city."

Section 2. The City Council approves the requested amendments and authorizes City staff to make the necessary changes to the map and text of the Westminster Comprehensive Plan to change the designation of the property more particularly described as follows: Lot 1 of 107th and Sheridan Subdivision, from R-18, R-8, and R3.5 to R-8 and R-3.5, as depicted on the map attached as Exhibit A, hereto and incorporated herein.

Section 3. Severability: If any section, paragraph, clause, word or any other part of this Ordinance shall for any reason be held to be invalid or unenforceable by a court of competent jurisdiction, such part deemed unenforceable shall not affect any of the remaining provisions.

Section 4. This ordinance shall take effect upon its passage after second reading.

Section 5. The title and purpose of this ordinance shall be published prior to its consideration on second reading. The full text of this ordinance shall be published within ten (10) days after its enactment after second reading.

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE
ORDERED PUBLISHED this 24th day of March, 2014.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED
PUBLISHED this 14th day of April, 2014.

ATTEST:

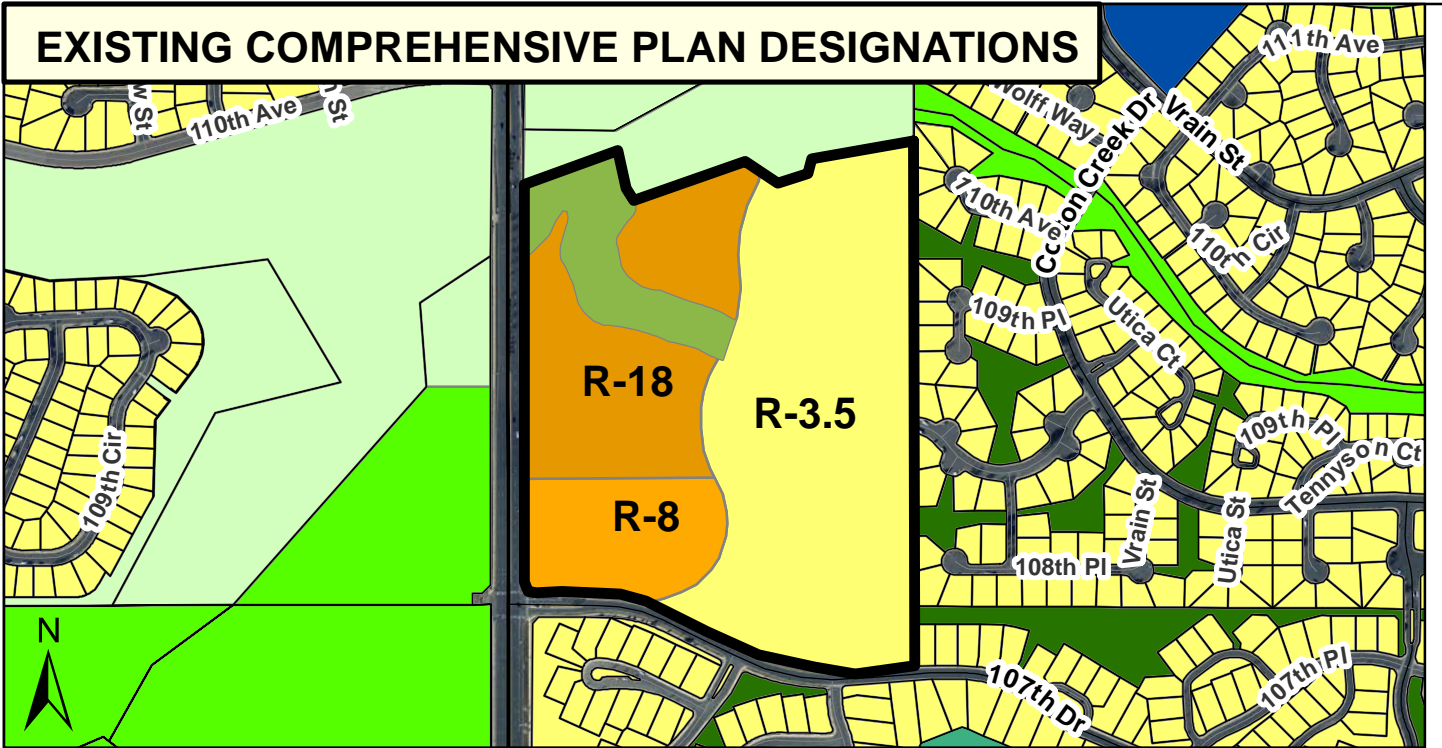
Mayor

City Clerk

APPROVED AS TO LEGAL FORM:

City Attorney's Office

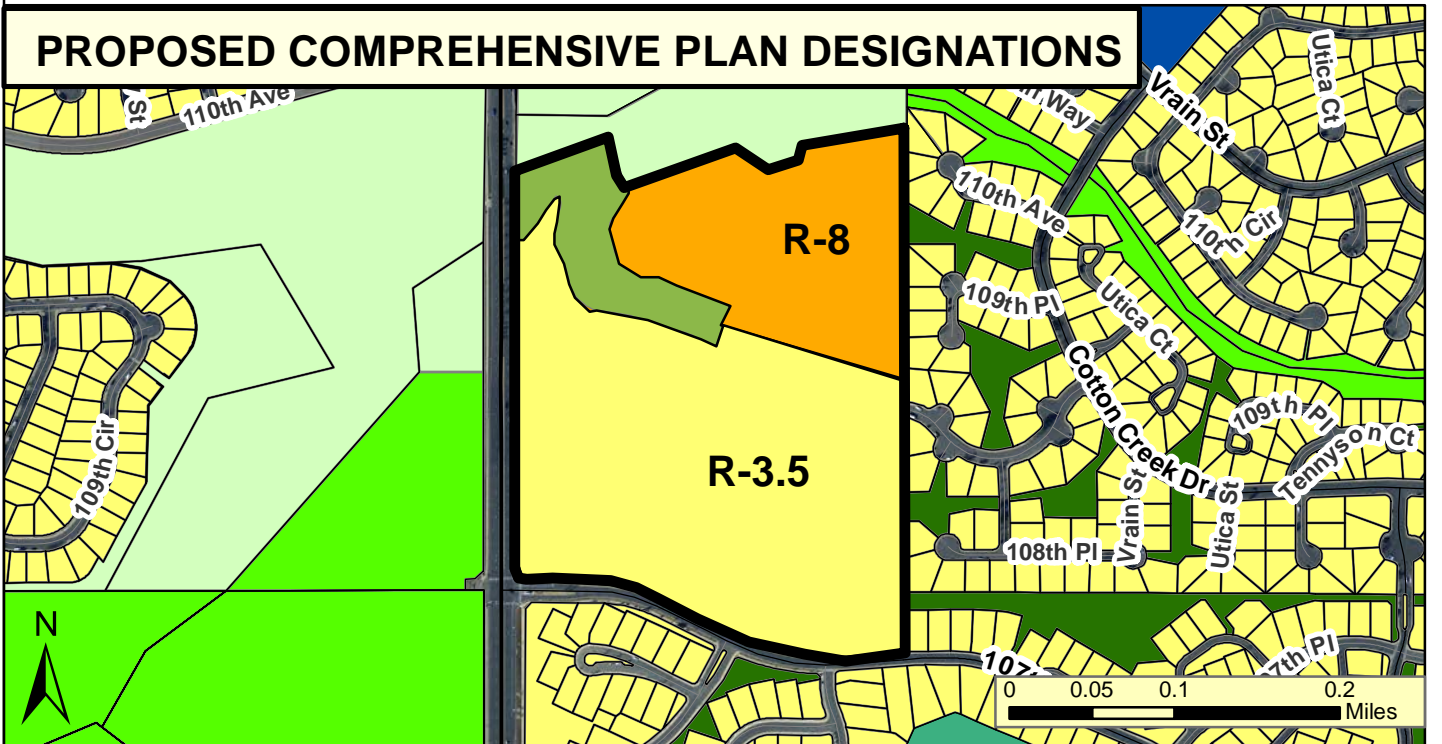
EXISTING COMPREHENSIVE PLAN DESIGNATIONS



Legend

	R-1		R-36		Office		Private Park/Open Space
	R-2.5		TMUND		Office/RD Low		Golf Courses
	R-3.5		Mixed Use		Office/RD High		Public/Quasi Public
	R-5		Mixed Use Center		Flex/Light Industrial		Major Creek Corridor
	R-8		Retail Commercial		City Open Space		RxR ROW
	R-18		Service Commercial		Public Parks		

PROPOSED COMPREHENSIVE PLAN DESIGNATIONS





City Council Meeting
March 24, 2014



SUBJECT: Public Hearing and Action on the Third Amended Preliminary Development Plan for Wallace Village

Prepared By: Patrick Caldwell, Senior Planner

Recommended City Council Action

- 1) Hold a public hearing.
- 2) Approve the Third Amended Preliminary Development Plan for Wallace Village, with the use of “Assembly Halls, Event Centers, Churches; Includes Private Functions such as Weddings, Receptions, Conference Center, and Similar” changed to a permitted use instead of a prohibited use. This recommendation is based on a finding that the criteria set forth in Sections 11-5-9(A)(2)(b) and 11-5-14, Westminster Municipal Code, have been met.

Summary Statement

- The Westminster Municipal Code Section 11-5-9(A)(2)(b) allows the City to initiate a Preliminary Development Plan (PDP) amendment and this proposed PDP amendment is in conformance with those requirements.
- This PDP amendment is a City-initiated action whose larger purpose is to increase the economic viability of the Wallace Village PDP by including additional land uses. This PDP is for the Standley Lake Marketplace Shopping Center located at the northeast corner of Wadsworth Parkway and Church Ranch Boulevard.
- The City is acting on behalf of all of the property owners because the Westminster Municipal Code, Section 11-5-9(A)(2)(a) requires, “All owners of the property covered by the Preliminary Development Plan” to initiate an amendment to the PDP, and it has been difficult to coordinate all of the property owners to initiate a PDP amendment to add land uses.

Expenditure Required: \$ 0

Source of Funds: N/A

Planning Commission Action

This request was considered by the Planning Commission on Tuesday, March 11, 2014. The Commission voted unanimously to approve the Third Amended PDP for Wallace Village, with Assembly Uses included as a permitted use.

The Commission had a lengthy discussion regarding the potential positive and negative impacts of introducing assembly uses within a retail commercial center. Commissioners discussed with staff impacts to parking and traffic, as well as possible changes to the character of a retail commercial center through the introduction of assembly uses. The Commission also desired to convey to the City Council a suggestion that the Council consider further analysis regarding the establishment of a maximum area restriction for assembly uses within a retail commercial center.

The Commission also discussed their desire for City Council to consider providing additional guidelines or regulation to assist with the determination of when it is appropriate for the City to initiate PDP and Official Development Plan (ODP) amendments.

Policy Issues

- 1) Should the City Council initiate an amendment to the Wallace Village PDP based on the criteria set forth in the Westminster Municipal Code (WMC) Section 11-5-9(A)(2)(b)?
- 2) Should the City Council approve an amendment to the Wallace Village PDP to include additional land uses that are not presently listed in the Wallace Village PDP?

Alternatives

- 1) Deny the City's initiative to amend the Wallace Village PDP based on the criteria set forth in the Westminster Municipal Code (WMC), Section 11-5-9(A)(2)(b). This alternative is not recommended because the City's initiative will be beneficial to all of the property owners in the Wallace Village PDP.
- 2) Deny the amendment to the Wallace Village PDP to add additional allowed land uses that are not presently listed in the Wallace Village PDP. This alternative is not recommended because the additional land uses will expand the options for all property owners in the Wallace Village to rent/lease empty space within the existing Wallace Village PDP.

Background InformationNature of Request

The existing Wallace Village PDP, also known as the Standley Lake Marketplace, has a large amount of vacant retail space. Several of the property owners have had difficulty leasing/renting vacant space, and one of the issues has been that the allowed list of uses in the existing PDP is very limiting. Obtaining all of the Wallace Village property owners' approval for an amendment to the PDP to expand the list of allowed uses has been difficult to coordinate. The City Code allows the City to initiate an amendment to an existing PDP if it is determined that the initiative meets criteria listed in WMC 11-5-9(A)(2)(b), and it has been determined that this City initiative meets those criteria. The expanded list of uses allows the land owners to have a broader range of land uses to offer tenants, and this may result in more spaces rented.

Background Information

Many other PDP's in the City have much more extensive allowed business commercial land uses. Examples include the Orchard Town Center Shopping Center PDP at 144th and Huron Street, the Bradburn PDP at 120th and Lowell Boulevard, and the Westbrook PUD at 100th Avenue and Wadsworth Parkway.

Location

The site is located at the northwest corner of Wadsworth Parkway and Church Ranch Boulevard.

Public Notification

Westminster Municipal Code 11-5-13 requires the following three public notification procedures:

- **Published Notice:** Notice of public hearings scheduled before Planning Commission shall be published and posted at least 10 days prior to such hearing and at least four days prior to City Council public hearings. Notice for the Planning Commission hearing was published in the Westminster Window on February 27, 2014.
- **Property Posting:** Notice of public hearings shall be posted on the property with one sign in a location reasonably visible to vehicular and pedestrian traffic passing adjacent to the site. Two signs were posted on the property on February 27, 2014.
- **Written Notice:** At least 10 days prior to the date of the public hearing, the applicant (the City) shall mail individual notices by first-class mail to property owners and homeowner's associations registered with the City within 300 feet of the subject property. WMC 11-5(D) requires that for City-initiated PDP amendments that the property owners within the PDP be notified by registered mail and that the notice set "forth the grounds for the proposed amendment and a statement that a copy of the proposed amended PDP is on file and available for inspection in the office of the Director of Community Development." The required notices were mailed on February 27, 2014.

Applicant

City of Westminster
4800 West 92nd Avenue
Westminster, Colorado 80031

Property Owners

SS LAND HOLDINGS 2 LLC
SS LAND HOLDINGS 3 LLC
1720 S. Bellaire Street
Denver, CO 80222

CHURCH RANCH BLVD HOLDINGS LLC
501 Wisconsin Avenue
Bethesda, MD 20814

SAFEWAY STORES 45 INC
1371 Oakland Blvd.
Walnut Creek, CA 94596

WESTMINSTER HOLDINGS LLC
2250 S. McDowell Extension
Petaluma, CA 94954

MAULDIN 50 LLLP
 3300 S. Shoshone Street
 Englewood, CO 80110

RODDIMEYER III LLC
 7123 E. Bluebird Lane
 Paradise Valley, AZ 85253

THE WALLACE VILLAGE FOR CHILDREN
 8405 West 100th Avenue
 Broomfield, CO 80020

Additional Outreach

In addition to the required public notification, a registered agent for S/S Land Holdings 2, LLC (owner of building previously occupied by Scandinavian Designs and pad sites), has contacted the majority of the affected property owners on an informal basis to discuss the proposed PUD changes. The registered agent has conveyed to staff that general support of the proposed PUD amendment was expressed by the other property owners.

Surrounding Land Use and Comprehensive Land Use Plan Designation

Development Name	Zoning	Land Use	CLUP Designation
North: Warwick Station and Wallace Village	PUD	Warwick Station apartments, and Wallace Village Residential Care Facility	R-18, and Public/Quasi-Public
South: Wadsworth Crossing and Collonades	PUD	Commercial uses for mini storage, daycare and car wash in Wadsworth Crossing; and Walgreens, dental care and retail uses in the Collonades PDP	Retail Commercial and Service Commercial
East: Wallace Village	PUD	Residential care facility	Public/Quasi-Public
West: Village at Standley Lake	PUD	Single-Family Residential in the Crown Pointe Subdivision; and retail, medical office, bank, and drive thru restaurant uses in the Village at Standley Lake Commercial PDP	Retail Commercial

Project Information

The following information provides an explanation of compliance with the City’s land development regulations and the criteria contained in Sections 11-5-9(A)(2)(b) and 11-5-14 of the Westminster Municipal Code (attached).

1. The Planned Unit Development (PUD) zoning and the proposed land uses therein are in conformance with the City's Comprehensive Plan and all City Codes, ordinances, and policies. *The proposed additional land uses are in conformance with the City’s Comprehensive Plan and all City Codes, Ordinances, and policies.*
2. The PUD exhibits the application of sound, creative, innovative, and efficient planning principles. *The PUD exhibits the application of sound, creative, innovative, and efficient planning principles with the addition of new allowed and prohibited land uses.*

3. Any exceptions from standard Code requirements or limitations are warranted by virtue of design or special amenities incorporated in the development proposal and are clearly identified on the Preliminary Development Plan. *No exceptions from the standard code requirements are proposed with this PDP amendment.*
4. The PUD is compatible and harmonious with existing public and private development in the surrounding area. *The PUD is compatible and harmonious with existing public and private development in the surrounding area and the additional allowed uses will maintain that compatibility.*
5. The PUD provides for the protection of the development from potentially adverse surrounding influences and for the protection of the surrounding areas from potentially adverse influence from within the development. *The provisions within the existing PUD that provide for the protection of the development from potentially adverse surrounding influences and for the protection of the surrounding areas from potentially adverse influence from within the development (landscape, buffering, and fencing) are not proposed to be modified. The provisions have been deemed to adequately provide protection from adverse surrounding influences and for the protection of the surrounding areas from potentially adverse influence from within the development, as the added land uses have been determined to be generally equivalent in intensity and impact as those uses currently allowed in the PUD.*
6. The PUD has no significant adverse impacts upon existing or future land uses nor upon the future development of the immediate area. *The PUD changes will have no significant adverse impacts upon existing or future land uses nor upon the future development of the immediate area.*
7. Streets, driveways, access points, and turning movements are designed in a manner that promotes safe, convenient, and free traffic flow on streets without interruptions and in a manner that creates minimum hazards for vehicles and pedestrian traffic. *The proposed additional land uses in the PDP will not affect any of the existing or proposed traffic items in the PDP.*
8. The City may require rights-of-way adjacent to existing or proposed arterial or collector streets, any easements for public utilities and any other public lands to be dedicated to the City as a condition to approving the PDP. Nothing herein shall preclude further public land dedications as a condition to ODP or plat approvals by the City. *The proposed additional uses in the PDP are not likely to require any additional street width or additional easements, or additional public land.*
9. Existing and proposed utility systems and storm drainage facilities are adequate to serve the development and are in conformance with overall master plans. *Existing utility systems and storm drainage facilities are adequate to serve the development and are in conformance with overall master plans. No additional utility or storm facilities are required or planned as a result of the additional land uses in the PDP.*
10. Performance standards are included that insure reasonable expectations of future Official Development Plans (ODP) being able to meet the Standards for Approval of an Official Development Plan contained in Section 11-5-15. *No changes to the performance standards are proposed with the additional uses in the PDP. The existing standards insure reasonable expectations of future ODPs being able to meet the Standards for Approval of an Official Development Plan contained in Section 11-5-15.*
11. The applicant is not in default or does not have any outstanding obligations to the City. *The applicant is the City, but the City is not aware of any of the landowners being now in default, and having any outstanding obligations to the City.*

Traffic and Transportation:

No significant transportation impacts are anticipated with the additional allowed uses for this PDP. The additional uses proposed are similar in character and traffic demand to the currently allowed uses, and the existing shopping center circulation design and traffic signals have been designed to adequately handle the existing uses. No physical changes to the PDP site are proposed, or suggested for this PDP amendment.

Site Design: No changes to the site design are proposed with this PDP amendment.

Architectural Design: No changes to the existing PDP architectural design requirements are proposed with this PDP amendment.

Landscape Design: No changes to the existing PDP landscape design requirements are proposed with this PDP amendment.

Public Land Dedication: No public land dedication is required for this PDP amendment.

Park Development Fee: No park development fee is required for this PDP amendment.

School Land Dedication: No school land dedication or fee is required for this PDP amendment.

Signage: No changes to the signage standards are required for this PDP amendment.

Strategic Plan: The PDP amendment meets the City Council's Strategic Plan goal of *Strong, Balanced Local Economy*. The additional uses will allow the retail property owners to retain and expand current businesses.

Respectfully submitted,

J. Brent McFall
City Manager

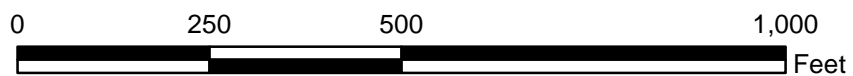
Attachments

- Attachment A - Vicinity Map
- Attachment B - Criteria and Standards for Land Use Applications
- Attachment C - List Proposed Permitted and Prohibited Uses



City of Westminster Planning/Engineering (GIS) - DWG - 02-26-2014

Vicinity Map Wallace Village Third Amended PDP



Criteria and Standards for Land Use Applications

Comprehensive Land Use Plan Amendments

- The owner/applicant has “the burden of proving that the requested amendment is in the public good and in compliance with the overall purpose and intent of the Comprehensive Land Use Plan...” (WMC 11-4-16(D.4)).
- Demonstrate that there is justification for the proposed change and that the Plan is in need of revision as proposed;
- Be in conformance with the overall purpose, intent, and policies of the Plan;
- Be compatible with the existing and surrounding land uses; and
- Not result in excessive detrimental impacts to the City’s existing or planned infrastructure systems, or the applicant must provide measures to mitigate such impacts to the satisfaction of the City (Page VI-5 of the CLUP).

Approval of Planned Unit Development (PUD), Preliminary Development Plan (PDP) and Amendments to Preliminary Development Plans (PDP)

11-5-14: STANDARDS FOR APPROVAL OF PLANNED UNIT DEVELOPMENTS, PRELIMINARY DEVELOPMENT PLANS AND AMENDMENTS TO PRELIMINARY DEVELOPMENT PLANS: (2534)

(A) In reviewing an application for approval of a Planned Unit Development and its associated Preliminary Development Plan or an amended Preliminary Development Plan, the following criteria shall be considered:

1. The Planned Unit Development (PUD) zoning and the proposed land uses therein are in conformance with the City's Comprehensive Plan and all City Codes, ordinances, and policies.
2. The PUD exhibits the application of sound, creative, innovative, and efficient planning principles.
3. Any exceptions from standard code requirements or limitations are warranted by virtue of design or special amenities incorporated in the development proposal and are clearly identified on the Preliminary Development Plan.
4. The PUD is compatible and harmonious with existing public and private development in the surrounding area.
5. The PUD provides for the protection of the development from potentially adverse surrounding influences and for the protection of the surrounding areas from potentially adverse influence from within the development.
6. The PUD has no significant adverse impacts upon existing or future land uses nor upon the future development of the immediate area.
7. Streets, driveways, access points, and turning movements are designed in a manner that promotes safe, convenient, and free traffic flow on streets without interruptions and in a manner that creates minimum hazards for vehicles and pedestrian traffic.
8. The City may require rights-of-way adjacent to existing or proposed arterial or collector streets, any easements for public utilities and any other public lands to be dedicated to the City as a condition to approving the PDP. Nothing herein shall preclude further public land dedications as a condition to ODP or plat approvals by the City.

9. Existing and proposed utility systems and storm drainage facilities are adequate to serve the development and are in conformance with overall master plans.
10. Performance standards are included that insure reasonable expectations of future Official Development Plans being able to meet the Standards for Approval of an Official Development Plan contained in section 11-5-15.
11. The applicant is not in default or does not have any outstanding obligations to the City.

(B) Failure to meet any of the above-listed standards may be grounds for denial of an application for Planned Unit Development zoning, a Preliminary Development Plan or an amendment to a Preliminary Development Plan.

Zoning or Rezoning to a Zoning District Other Than a Planned Unit Development (PUD)

11-5-3: STANDARDS FOR APPROVAL OF ZONINGS AND REZONINGS: (2534)

(A) The following criteria shall be considered in the approval of any application for zoning or rezoning to a zoning district other than a Planned Unit Development:

1. The proposed zoning or rezoning is in conformance with the City's Comprehensive Plan and all City policies, standards and sound planning principles and practice.
2. There is either existing capacity in the City's street, drainage and utility systems to accommodate the proposed zoning or rezoning, or arrangements have been made to provide such capacity in a manner and timeframe acceptable to City Council.

City Initiated Rezoning

(B) The City may initiate a rezoning of any property in the City without the consent of the property owner, including property annexed or being annexed to the City, when City Council determines, as part of the final rezoning ordinance, any of the following:

1. The current zoning is inconsistent with one or more of the goals or objectives of the City's Comprehensive Land Use Plan.
2. The current zoning is incompatible with one or more of the surrounding land uses, either existing or approved.
3. The surrounding development is or may be adversely impacted by the current zoning.
4. The City's water, sewer or other services are or would be significantly and negatively impacted by the current zoning and the property is not currently being served by the City.

Official Development Plan (ODP) Application

11-5-15: STANDARDS FOR APPROVAL OF OFFICIAL DEVELOPMENT PLANS AND AMENDMENTS TO OFFICIAL DEVELOPMENT PLANS: (2534)

(A) In reviewing an application for the approval of an Official Development Plan or amended Official Development Plan the following criteria shall be considered:

1. The plan is in conformance with all City Codes, ordinances, and policies.

2. The plan is in conformance with an approved Preliminary Development Plan or the provisions of the applicable zoning district if other than Planned Unit Development (PUD).
3. The plan exhibits the application of sound, creative, innovative, or efficient planning and design principles.
4. For Planned Unit Developments, any exceptions from standard code requirements or limitations are warranted by virtue of design or special amenities incorporated in the development proposal and are clearly identified on the Official Development Plan.
5. The plan is compatible and harmonious with existing public and private development in the surrounding area.
6. The plan provides for the protection of the development from potentially adverse surrounding influences and for the protection of the surrounding areas from potentially adverse influence from within the development.
7. The plan has no significant adverse impacts on future land uses and future development of the immediate area.
8. The plan provides for the safe, convenient, and harmonious grouping of structures, uses, and facilities and for the appropriate relation of space to intended use and structural features.
9. Building height, bulk, setbacks, lot size, and lot coverages are in accordance with sound design principles and practice.
10. The architectural design of all structures is internally and externally compatible in terms of shape, color, texture, forms, and materials.
11. Fences, walls, and vegetative screening are provided where needed and as appropriate to screen undesirable views, lighting, noise, or other environmental effects attributable to the development.
12. Landscaping is in conformance with City Code requirements and City policies and is adequate and appropriate.
13. Existing and proposed streets are suitable and adequate to carry the traffic within the development and its surrounding vicinity.
14. Streets, parking areas, driveways, access points, and turning movements are designed in a manner promotes safe, convenient, promotes free traffic flow on streets without interruptions and in a manner that creates minimum hazards for vehicles and or pedestrian traffic.
15. Pedestrian movement is designed in a manner that forms a logical, safe, and convenient system between all structures and off-site destinations likely to attract substantial pedestrian traffic.
16. Existing and proposed utility systems and storm drainage facilities are adequate to serve the development and are in conformance with the Preliminary Development Plans and utility master plans.
17. The applicant is not in default or does not have any outstanding obligations to the City.

(B) Failure to meet any of the above-listed standards may be grounds for denial of an Official Development Plan or an amendment to an Official Development Plan.

EXHIBIT C

PERMITTED USES

- ACCOUNTING, BOOKKEEPING
- ADDRESSING/MAILING SERVICE
- ADMINISTRATIVE OFFICE
- ADOPTION AGENCY
- ADVERTISING OFFICE
- AEROBICS, BALLET, DANCE, EXERCISE INSTRUCTION AND CLASSES
- ALL USES OWNED AND OPERATED BY THE CITY
- ANTIQUE SHOP
- APPAREL AND ACCESSORY STORE
- APPRAISAL SERVICE
- ARCHITECTURE LANDSCAPE ARCHITECTURE, PLANNING DESIGN OFFICE
- ARTIST'S STUDIO/ART GALLERIES
- ARTS AND CRAFTS/DRAFTING SUPPLY
- ASSEMBLY HALLS, EVENT CENTERS, CHURCHES; INCLUDES PRIVATE FUNCTIONS SUCH AS WEDDINGS, RECEPTIONS, CONFERENCE CENTER, AND SIMILAR
- AUDIO/VISUAL SALES, SERVICE AND PARTS STORE
- AUTO ACCESSORY STORE
- BAKERIES
- BANKS AND FINANCIAL USES (DRIVE THRU ACCESS LIMITED TO ONE FINANCIAL PAD DEVELOPMENT)
- BARS/TAVERNS UNDER 5,000 SQUARE FEET
- BARBER AND BEAUTY SHOP
- BEAUTY SUPPLY SALES
- BED AND BATH SHOP
- BOOK/MAGAZINE/NEWS DEALER, EXCLUDING DEALERS SELLING GOODS NOT AVAILABLE TO ALL AGES
- BOOK SALES
- CAMERA AND PHOTOGRAPHIC EQUIPMENT
- CARDS AND GIFTS
- CARPET STORES
- CATERER
- CHINA AND GLASSWARE
- CLEANING/LAUNDRY/TAILOR/FUR STORAGE
- COMPUTER HARDWARE, SOFTWARE AND ACCESSORIES
- COMPUTER SALES AND SERVICE
- CONSIGNMENT SHOPS OR SALES OF USED ITEMS IN LESS THAN 5,000 SQUARE FEET - EXCEPT LOT 8 OF THE STANDLEY LAKE MARKETPLACE PLAT WHERE THE SALE OF GENTLY USED FURNITURE IS ALLOWED WITHIN THE STRUCTURE ON THAT LOT
- CONVENIENCE STORES
- COSTUME SALES AND RENTAL
- COUNSELING/CONSULTING SERVICE

EXHIBIT C

- CREDIT/COLLECTION AGENCY
- CUSTOM CRAFTS/CERAMICS/STAINED GLASS
- DATA PROCESSING SERVICE
- DAY CARE FACILITY
- DELICATESSEN AND SANDWICH SHOPS
- DEPARTMENT/VARIETY/CATALOG STORE
- DESKTOP PUBLISHING
- DETECTIVE AGENCY
- DRAPERIES AND WINDOW COVERINGS
- DRUGSTORES/PHARMACIES
- DRY CLEANING
- EMPLOYMENT AGENCY
- ENCLOSED FRUIT AND VEGETABLE SALES
- ENGINEERING AND TECHNICAL OFFICE
- ENTERTAINMENT SERVICES OFFICE
- FABRIC STORE
- FLOWERS AND FRUITS
- FOOD AND GROCERY STORES
- FURNITURE SALES, SERVICE, RENTAL FURNITURE SALES WITH LIMITED WAREHOUSING
- GASOLINE SALES/CAR WASHES (DRIVE THRU ACCESS LIMITED TO ONE GAS/CONVENIENCE/CO-BRAND PAD DEVELOPMENT)
- GIFT/NOVELTY/SOUVENIRS EXCLUDING DEALERS SELLING GOODS NOT AVAILABLE TO ALL AGES
- HANDICRAFT PRODUCTS
- HARDWARE
- HEALTH AND FITNESS CLUB INCLUDING YOGA, WORKOUT, EXERCISE AND MARTIAL ARTS STUDIOS
- HIGH SPEED DATA TRANSMISSION
- HOME FURNISHING
- HOME IMPROVEMENT CENTERS ~~W/SEASONAL SALE~~
- INSURANCE OFFICE, SALES AND ADJUSTORS
- JEWELRY
- LEGAL SERVICE
- LIQUOR STORE
- LOCKS
- LUGGAGE
- MEDICAL/DENTAL/VETERINARY OFFICE AND CLINIC
- MEDICAL AND DENTAL CLINICS WITH LIMITED ACCESSORY USES
- MEETING/CONFERENCE FACILITIES IN CONJUNCTION WITH OFFICE USES.
- MILITARY RECRUITING
- MUSIC, RECORD, TAPE, VIDEO SALES AND RENTAL
- MUSIC, MUSICAL INSTRUMENTS AND RECORDS
- NEWS OFFICE
- OFFICE FURNISHINGS AND SUPPLY/TYPEWRITER SALES AND SERVICE
- OPTICAL SALES

EXHIBIT C

- PACKAGING AND POSTAL SUBSTATION
- PAINT AND WALLPAPER
- PERSONAL SERVICES, INCLUDING NAIL SALONS, DAY SPAS, MASSAGE THERAPY, AND FULL SERVICE SALONS
- PET STORE/PET GROOMING
- PHOTOGRAPHY STUDIOS
- PICTURE FRAMING
- PLACES OF AMUSEMENT OR RECREATION CONTAINED COMPLETELY WITHIN AN ENCLOSED STRUCTURE PROVIDED THAT PLACES OF AMUSEMENT AND RECREATION OFFERING TO THE PUBLIC THE USE OF POOL OR BILLIARD TABLES OR COIN-OPERATED AMUSEMENT GAMES SHALL BE A USE BY LICENSE ONLY. A MAXIMUM OF TWELVE MACHINES OF AMUSEMENT ONLY
- PRINTING AND COPYING FACILITIES (SMALL SCALE)
- PUBLIC UTILITIES
- RADIO AND TV EQUIPMENT
- RADIO/TV/RECORDING STUDIO
- REAL ESTATE OFFICE
- RESEARCH
- RESEARCH AND TESTING LABORATORY TRAINING SERVICE
- RESTAURANTS AND LOUNGES
- RESTAURANT WITH DRIVE-THRU (LIMITED TO ONE RESTAURANT PAD DEVELOPMENT)
- RESTAURANT - SIT DOWN
- SADDLE AND TACK STORE (NO OUTSIDE DISPLAY OF MERCHANDISE)
- SHOES
- SPECIALTY RETAIL
- SPORTING GOODS
- STATIONERY
- TANNING SALON
- TEMPORARY CONSTRUCTION AND REAL ESTATE BUILDINGS
- THEATERS
- THRIFT STORE 5,000 SQUARE FEET OR LESS
- TOBACCO AND PIPES
- TOY STORES
- TRAVEL AGENCY
- TUTORING CENTERS

PROHIBITED USES

- ADULT BUSINESS PER CITY CODE
- AMBULANCE SERVICE
- AUTOMOBILE WASH FACILITY (STAND ALONE)
- AUTOMOBILE, BOAT, CAMPER AND RV SHOWROOMS FOR PURPOSE OF LEASE ONLY, WITHOUT PARTS, SERVICE, OUTDOOR STORAGE OR OPERATIONAL DEMONSTRATIONS

EXHIBIT C

- AUTOMOTIVE RENTAL
- BINGO ESTABLISHMENT
- **BOARDING AND ROOMING HOUSES**
- **BODY PIERCING PARLOR**
- **BOOK/MAGAZINE/NEWS DEALER, SELLING GOODS NOT AVAILABLE TO ALL AGES**
- BULK FUEL SALES
- CHECK CASHING SERVICE AS THE PRIMARY BUSINESS
- **CONSIGNMENT SHOPS OR SALES OF USED ITEMS IN EXCESS OF 5,000 SQUARE FEET - EXCEPT LOT 8 OF THE STANDLEY LAKE MARKETPLACE PLAT WHERE THE SALE OF GENTLY USED FURNITURE IS ALLOWED WITHIN THE STRUCTURE ON THAT LOT**
- DAY LABOR EMPLOYMENT OFFICES
- ~~EMPLOYMENT AGENCY AS A STAND ALONE OR NOT WITHIN AN OFFICE BUILDING~~
- **FUNERAL HOME/MORTUARY**
- GENERAL AUTOMOBILE REPAIR
- GENERAL REPAIR SHOP
- GREENHOUSE
- **GROUP CARE FACILITY**
- ~~HEAVY EQUIPMENT RENTAL~~
- **HOTEL, MOTEL, OR RESORT**
- **INSTITUTIONAL CARE FACILITY**
- MASSAGE PARLOR
- MOTOR VEHICLE, RV, AND COMMERCIAL EQUIPMENT DEALER, INCLUDING AUTOMOBILES, AIRCRAFT, BOATS, CAMPERS, MOBILE HOMES, TRUCKS, TRAILERS, HEAVY EQUIPMENT, CONSTRUCTION EQUIPMENT, AND FARM IMPLEMENTS
- OUTDOOR ENTERTAINMENT ESTABLISHMENTS
- PAWN SHOP
- **PRIVATE SCHOOL**
- ~~SADDLE AND TACK STORE~~
- SOCIAL GAMING OUTLET
- TATTOO PARLORS
- **THRIFT STORE OVER 5,000 SQUARE FEET**
- TV/ELECTRONIC APPLIANCE REPAIR
- ~~USED MERCHANDISE/THRIFT STORE - INCLUDING USED MOTOR VEHICLE PARTS~~
- USED MERCHANDISE -NO USED MOTOR VEHICLE PARTS SALE OF USED MOTOR VEHICLE PARTS
- **USES INCONSISTENT WITH THE COMPREHENSIVE LAND USE PLAN OR WITH EACH OTHER, AS DETERMINED BY THE CITY**
- ~~VARIETY STORES~~



Agenda Item 10 F

Agenda Memorandum

City Council Meeting
March 24, 2014



SUBJECT: Resolution No. 6 Approving Intergovernmental Agreement with the Urban Drainage and Flood Control District for Major Drainageway Planning and Flood Hazard Area Delineation for Little Dry Creek

Prepared By: Andrew Hawthorn, PE, Senior Engineer

Recommended City Council Action

Adopt Resolution No. 6 authorizing the City Manager to execute an intergovernmental agreement with the Urban Drainage and Flood Control District for the Little Dry Creek Major Drainageway Planning and Flood Hazard Area Delineation update.

Summary Statement

- The Urban Drainage and Flood Control District (UDFCD) recently requested financial participation from the City to help fund the preparation of an updated Master Drainage Plan for the Little Dry Creek drainage basin. The most recent study of this area was completed in 1979. Much development has occurred within the basin area since that time.
- The current cost estimate for the preparation of the updated plan is \$250,000. The UDFCD has requested financial participation in the amount of \$43,000 from the City. The balance will be paid by Arvada, Adams County and the District.
- This intergovernmental agreement (IGA) is necessary to encumber funds that the UDFCD has budgeted in 2014 for this project.
- The UDFCD annually requests that the local jurisdictions of the District provide input on flood control studies that should be prepared or updated. Due to the amount of growth and significant land use changes that have occurred and continue to occur within this drainage basin, staff of the City of Westminster, the City of Arvada and Adams County are all interested in updating the study.
- Under the terms of the IGA, UDFCD will manage the project and will hire an engineering firm to prepare the updates in cooperation with Westminster, Arvada and Adams County.

Expenditure Required: \$43,000 (City's share)

Source of Funds: Stormwater Utility Fund - Miscellaneous Stormwater Project

Policy Issue

Should the City enter into an Intergovernmental Agreement with the Urban Drainage and Flood Control District, the City Arvada and Adams County to update the Little Dry Creek Major Drainageway Planning and Flood Hazard Area Delineation study?

Alternative

Council could choose to not execute this intergovernmental agreement at this time. Staff recommends updating this study at this time for the following reasons:

1. It has been 35 years since this study has been updated.
2. Matching funds from the UDFCD and Adams County will help to complete this project in a timely and cost effective manner.

Background Information

There have been significant development changes in the Little Dry Creek basin since 1979, all of which contribute to the need to update this study for current and future planning purposes. It is anticipated that the new Master Plan will accurately delineate the current 100-year floodplain for Little Dry Creek and provide very conceptual sketches of any proposed channel improvements that are still needed to safely contain the floodplain. The Little Dry Creek basin is depicted in Exhibit A of the attached IGA. While the vast majority of Little Dry Creek through the City of Westminster is already channelized in a manner to fully contain the 100-year floodplain, certain segments (e.g. the stretch of the creek in the vicinity of Lowell Boulevard and immediately upstream of that crossing) do not yet accomplish this goal. Furthermore, the section of the creek located between approximately 72nd Avenue and Winona Court was constructed as a wide concrete ditch in the late 1980s in accordance with drainage criteria that was in effect at that time. In more recent years, the water quality benefits of more natural channels have been recognized, and it is possible that these concrete-lined portions of Little Dry Creek may be reconstructed in the future to adhere to enhanced federal mandates. The information that will be gained from the proposed update to the Master Plan will be a valuable resource for City staff as further improvements to the creek become necessary.

The Urban Drainage and Flood Control District is a quasi-governmental entity, supported by property taxes garnered from owners of land located within the District's seven county area. The District provides great technical assistance and funding for storm drainage-related studies, construction projects and channel maintenance to its member cities and counties. The City of Westminster has historically enjoyed much success in the receipt of grants from the UDFCD and City staff maintains a fine relationship with District personnel. In short, City staff can assure Council that the work product that will be generated by this proposed Master Plan update will be of high, professional quality, and the UDFCD will support the City in any future efforts to implement portions of the Plan.

The engineer's cost estimate for the preparation of the Master Plan is \$250,000. Urban Drainage will contribute \$150,000 (60%), Arvada will contribute \$43,000 (17.2%), Adams County will contribute \$14,000 (5.6%) and the UDFCD has requested that the City contribute \$43,000 (17.2%), which is roughly equivalent to each entities share of the land area within the drainage basin. Funds for the City's share of this project (\$43,000) are available in the Storm Water Utility Fund.

The UDFCD proposes to begin the study in 2014 with a stakeholder process that will include all interested parties within the Little Dry Creek basin. Though Westminster has already planned for and constructed a good portion of the infrastructure identified in the 1979 study, Staff felt that it is in the City's best interest to participate in this particular update to incorporate numerous other developments and infrastructure improvements that have occurred and are not reflected in the 1979 version. Furthermore, staff believes that it is advisable for the City to act as a "good neighbor" to those Adams County residents who could be affected.

This project supports the Council's Strategic Plan Goals of creating a Safe and Healthy Community by protecting people, homes and buildings from flooding through an effective stormwater management program, and Vibrant Neighborhoods In One Livable Community by maintaining and improving neighborhood infrastructure.

Respectfully submitted,

J. Brent McFall
City Manager

Attachments:

- Resolution
- Intergovernmental Agreement

RESOLUTION

RESOLUTION NO. **6**

INTRODUCED BY COUNCILLORS

SERIES OF 2014

A RESOLUTION

AUTHORIZING AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF WESTMINSTER AND URBAN DRAINAGE AND FLOOD CONTROL DISTRICT (UDFCD) DEFINING FINANCIAL OBLIGATIONS RELATING TO LITTLE DRY CREEK DRAINAGE BASIN MASTER DRAINAGE PLAN

WHEREAS, Section 18(2)(a) of Article XIV of the Colorado Constitution, as well as Sections 29-1-201, et seq., and 29-20-205 of the Colorado Revised Statutes authorize and encourage governments to cooperate by contracting with one another for their mutual benefit; and

WHEREAS, the Intergovernmental Agreement attached to this Resolution identifies funding obligations of the City of Westminster and Urban Drainage and Flood Control District for the preparation of a Master Drainage Plan for the Little Dry Creek drainage basin.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WESTMINSTER:

1. The Intergovernmental Agreement between the City of Westminster and Urban Drainage and Flood Control District for the preparation of a Master Drainage Plan for the Little Dry Creek drainage basin Project is hereby approved.
2. The City Manager is hereby authorized to execute and the City Clerk to attest the Intergovernmental Agreement in substantially the same form as attached.

PASSED AND ADOPTED this 24th day of March, 2014.

Mayor

ATTEST:

APPROVED AS TO LEGAL FORM:

City Clerk

City Attorney

AGREEMENT REGARDING FUNDING OF
MAJOR DRAINAGEWAY PLANNING
AND FLOOD HAZARD AREA DELINEATION
FOR LITTLE DRY CREEK

Agreement No. 13-12.06

THIS AGREEMENT, made this _____ day of _____, 2014, by and between URBAN DRAINAGE AND FLOOD CONTROL DISTRICT (hereinafter called "DISTRICT"), CITY OF WESTMINSTER (hereinafter called "WESTMINSTER"), CITY OF ARVADA (hereinafter called "ARVADA, and ADAMS COUNTY (hereinafter called "ADAMS"); (hereinafter WESTMINSTER, ARVADA and ADAMS shall be collectively known as "PROJECT SPONSORS" and DISTRICT and PROJECT SPONSORS shall be collectively known as "PARTIES");

WITNESSETH THAT:

WHEREAS, DISTRICT in a policy statement previously adopted (Resolution No. 14, Series of 1970), expressed an intent to assist public bodies which have heretofore enacted floodplain zoning measures; and

WHEREAS, DISTRICT has previously established a Work Program for 2014 (Resolution No. 53, Series of 2013) which includes master planning; and

WHEREAS, PARTIES now desire to proceed with development of a drainageway master plan and a digital flood hazard area delineation (DFHAD)) report for Little Dry Creek (hereinafter called "PROJECT"); and

WHEREAS, PARTIES desire to acquire mapping needed to conduct the engineering studies for PROJECT; and

WHEREAS, PARTIES desire to engage an engineer to render certain technical and professional advice and to compile information, evaluate, study, and recommend design solutions to such drainage problems for PROJECT which are in the best interest of PARTIES.

NOW, THEREFORE, in consideration of the mutual promises contained herein, PARTIES hereto agree as follows:

1. SCOPE OF AGREEMENT

This Agreement defines the responsibilities and financial commitments of PARTIES with respect to PROJECT.

2. PROJECT AREA

DISTRICT shall engage an engineer and obtain mapping as needed to perform or supply necessary services in connection with and respecting the planning of PROJECT of the area and watershed shown on the attached Exhibit A dated December 2013, (hereinafter called "AREA").

3. SCOPE OF PROJECT

The purpose of PROJECT is to develop a drainageway master plan and DFHAD, including hydrologic information and the locations, alignments, and sizing of storm sewers, channels, detention/retention basins, and other facilities and appurtenances needed to provide efficient

stormwater drainage within AREA. The proposed work shall include, but not be limited to, mapping; compilation of existing data; necessary field work; and development and consistent evaluation of all reasonable alternatives so that the most feasible drainage and flood control master plan can be determined and justified for AREA. Consideration shall be given to costs, existing and proposed land use, existing and proposed drainage systems, known drainage or flooding problems, known or anticipated erosion problems, stormwater quality, right-of-way needs, existing wetlands and riparian zones, open space and wildlife habitat benefits, and legal requirements. Conceptual alternate plans shall be developed such that comparison with other alternates can be made. Drainage system planning shall be done in two phases by the engineer engaged by DISTRICT, culminating in a drainage master plan report. During the first phase, the selected engineer shall perform all studies and data gathering needed to prepare an alternatives analysis report containing a brief PROJECT description, study history, schematics of alternatives developed, their costs, and a discussion of the pros and cons of each alternative. A single alternative will be selected by PARTIES after the review and evaluation of the alternatives analysis report. During the second phase, the engineer shall be directed to prepare a preliminary design for the selected alternative, which shall be included in the final drainage master plan report.

4. PUBLIC NECESSITY

PARTIES agree that the work performed pursuant to this Agreement is necessary for the health, safety, comfort, convenience, and welfare of all the people of the State, and is of particular benefit to the inhabitants of PARTIES and to their property therein.

5. PROJECT COSTS

PARTIES agree that for the purposes of this Agreement PROJECT costs shall consist of, and be limited to, mapping, master planning, DFHAD and related services and contingencies mutually agreeable to PARTIES. Project costs are estimated not to exceed \$250,000.

6. FINANCIAL COMMITMENTS OF PARTIES

PARTIES shall each contribute the following percentages and maximum amounts for PROJECT costs as defined in Paragraphs 5:

	<u>Master Plan Percentage Share</u>	<u>Maximum Contribution</u>	<u>FHAD Contribution</u>
DISTRICT	50.00%	\$100,000	\$50,000
WESTMINSTER	21.50%	\$43,000	-
ARVADA	21.50%	\$43,000	-
<u>ADAMS</u>	<u>7.00%</u>	<u>\$14,000</u>	<u>-</u>
TOTAL	100%	\$200,000	\$50,000

7. MANAGEMENT OF FINANCES

Payment by DISTRICT of \$150,000, by WESTMINSTER of \$43,000, by ARVADA of \$43,000, and by ADAMS of \$14,000 shall be made to DISTRICT subsequent to execution of this

Agreement and within thirty (30) calendar days of request for payment by DISTRICT. The payments by PARTIES shall be held by DISTRICT in a special fund to pay for increments of PROJECT as authorized by PARTIES, and as defined herein. DISTRICT shall provide a periodic accounting of PROJECT funds as well as a periodic notification to PROJECT SPONSORS of any unpaid obligations. Any interest earned by the monies contributed by PARTIES shall be accrued to the special fund established by DISTRICT for PROJECT and such interest shall be used only for PROJECT and will not require an amendment to this Agreement.

In the event that it becomes necessary and advisable to change the scope of work to be performed, the need for such changes shall first be discussed with PARTIES, and their general concurrence received before issuance of any amendments or addenda. No changes shall be approved that increase the costs beyond the funds available in the PROJECT fund unless and until the additional funds needed are committed by PARTIES by an amendment to this Agreement.

Within one year of completion of PROJECT if there are monies including interest earned remaining which are not committed, obligated, or dispersed, each party shall receive a share of such monies, which shares shall be computed as were the original shares.

8. PROJECT MAPPING

Upon execution of this Agreement DISTRICT will solicit priced proposals for mapping services and engage the mapping firm submitting the lowest priced proposal that is also judged by DISTRICT to be responsible and qualified to perform the work. DISTRICT reserves the right to reject any proposal and to waive any formal requirements during the evaluation of the proposals. DISTRICT will administer the contract with the mapping firm. The mapping services contracted by DISTRICT will provide for topographic mapping at a two-foot contour interval and a scale of 1-inch = 100-feet.

9. MASTER PLANNING AND DFHAD

Upon execution of this Agreement, PARTIES shall select an engineer mutually agreeable to PARTIES. DISTRICT, with the approval of PROJECT SPONSORS, shall contract with the selected engineer, shall administer the contract, and shall supervise and coordinate the planning for the development of alternatives and of preliminary design.

10. PUBLISHED REPORTS AND PROJECT DATA

DISTRICT will provide to each of PROJECT SPONSORS access to the draft and final electronic DFHAD report files, the draft and final electronic alternatives analysis report files, and the draft and final conceptual design report in electronic plan (ePlan) format.

Upon completion of PROJECT, electronic files of all mapping, drawings, and hydrologic and hydraulic calculations developed by the engineer contracted for PROJECT shall be provided to any PROJECT SPONSORS requesting such data.

11. TERM OF THE AGREEMENT

The term of this Agreement shall commence upon final execution by all PARTIES and shall terminate two years after the final master planning report is delivered to DISTRICT and the final

accounting of funds on deposit at DISTRICT is provided to all PARTIES pursuant to Paragraph 7 herein.

12. LIABILITY

Each party hereto shall be responsible for any suits, demands, costs or actions at law resulting from its own acts or omissions and may insure against such possibilities as appropriate.

13. CONTRACTING OFFICERS

- A. The contracting officer for WESTMINSTER shall be the City Manager, 4800 West 92nd Avenue, Westminster, CO 80031.
- B. The contracting officer for ARVADA shall be the Public Works Director, 8101 Ralston Road, Arvada, CO 80022.
- C. The contracting officer for ADAMS shall be the Engineering Manager, 4430 South Adams County Parkway, Suite 2000B, Brighton, CO 80601.
- D. The contracting officer for DISTRICT shall be the Executive Director, 2480 West 26th Avenue, Suite 156B, Denver, Colorado 80211.
- E. The contracting officers for PARTIES each agree to designate and assign a PROJECT representative to act on the behalf of said PARTIES in all matters related to PROJECT undertaken pursuant to this Agreement. Each representative shall coordinate all PROJECT-related issues between PARTIES, shall attend all progress meetings, and shall be responsible for providing all available PROJECT-related file information to the engineer upon request by DISTRICT or PROJECT SPONSOR. Said representatives shall have the authority for all approvals, authorizations, notices, or concurrences required under this Agreement. However, in regard to any amendments or addenda to this Agreement, said representative shall be responsible to promptly obtain the approval of the proper authority.

14. RESPONSIBILITIES OF PARTIES

DISTRICT shall be responsible for coordinating with PROJECT SPONSORS the information developed by the various consultants hired by DISTRICT and for obtaining all concurrences from PROJECT SPONSORS needed to complete PROJECT in a timely manner. PROJECT SPONSORS agree to review all draft reports and to provide comments within 21 calendar days after the draft reports have been provided by DISTRICT to PROJECT SPONSORS. PROJECT SPONSORS also agree to evaluate the alternatives presented in the alternatives analysis report, to select an alternative, and to notify DISTRICT of their decision(s) within 60 calendar days after the alternatives analysis report is provided to PROJECT SPONSORS by DISTRICT.

15. AMENDMENTS

This Agreement contains all of the terms agreed upon by and among PARTIES. Any amendments to this Agreement shall be in writing and executed by PARTIES hereto to be valid and binding.

16. SEVERABILITY

If any clause or provision herein contained shall be adjudged to be invalid or unenforceable by a court of competent jurisdiction or by operation of any applicable law, such invalid or unenforceable

clause or provision shall not affect the validity of the Agreement as a whole and all other clauses or provisions shall be given full force and effect.

17. APPLICABLE LAWS

This Agreement shall be governed by and construed in accordance with the laws of the State of Colorado. Jurisdiction for any and all legal actions regarding this Agreement shall be in the State of Colorado and venue for the same shall lie in the County where the Project is located.

18. ASSIGNABILITY

No party to this Agreement shall assign or transfer any of its rights or obligations hereunder without the prior written consent of the nonassigning party or parties to this Agreement.

19. BINDING EFFECT

The provisions of this Agreement shall bind and shall inure to the benefit of PARTIES hereto and to their respective successors and permitted assigns.

20. ENFORCEABILITY

PARTIES hereto agree and acknowledge that this Agreement may be enforced in law or in equity, by decree of specific performance or damages, or such other legal or equitable relief as may be available subject to the provisions of the laws of the State of Colorado.

21. TERMINATION OF AGREEMENT

This Agreement may be terminated upon thirty (30) days' written notice by any party to this Agreement, but only if there are no contingent, outstanding contracts. If there are contingent, outstanding contracts, this Agreement may only be terminated upon the cancellation of all contingent, outstanding contracts. All costs associated with the cancellation of the contingent contracts shall be shared between PARTIES in the same ratio(s) as were their contributions.

22. PUBLIC RELATIONS

It shall be at PROJECT SPONSOR's sole discretion to initiate and to carry out any public relations program to inform the residents in PROJECT area as to the purpose of PROJECT and what impact it may have on them. Technical information shall be presented to the public by the selected engineer. In any event DISTRICT shall have no responsibility for a public relations program, but shall assist PROJECT SPONSOR as needed and appropriate.

23. GOVERNMENTAL IMMUNITIES

The PARTIES hereto intend that nothing herein shall be deemed or construed as a waiver by any PARTY of any rights, limitations, or protections afforded to them under the Colorado Governmental Immunity Act (Section 24-10-1-1, C.R.S., et seq.) as now or hereafter amended or otherwise available at law or equity.

24. NO DISCRIMINATION IN EMPLOYMENT

In connection with the performance of work under this Agreement, PARTIES agree not to refuse to hire, discharge, promote or demote, or to discriminate in matters of compensation against any person otherwise qualified on the basis of race, color, ancestry, creed, religion, national origin,

gender, age, military status, sexual orientation, marital status, or physical or mental disability and further agrees to insert the foregoing provision in all subcontracts hereunder.

25. APPROPRIATIONS

Notwithstanding any other term, condition, or provision herein, each and every obligation of PROJECT SPONSORS and/or DISTRICT stated in this Agreement is subject to the requirement of a prior appropriation of funds therefore by the appropriate governing body of each PROJECT SPONSOR and/or DISTRICT.

26. NO THIRD PARTY BENEFICIARIES

It is expressly understood and agreed that enforcement of the terms and conditions of this Agreement, and all rights of action relating to such enforcement, shall be strictly reserved to PARTIES, and nothing contained in this Agreement shall give or allow any such claim or right of action by any other or third person on such Agreement. It is the express intention of PARTIES that any person or party other than any one of PROJECT SPONSORS or DISTRICT receiving services or benefits under this Agreement shall be deemed to be an incidental beneficiary only.

27. ILLEGAL ALIENS

PARTIES agree that any public contract for services executed as a result of this intergovernmental agreement shall prohibit the employment of illegal aliens in compliance with §8-17.5-101 C.R.S. et seq. The following language shall be included in any contract for public services: "The Consultant or Contractor shall not and by signing this Agreement certifies that it does not knowingly employ or contract with an illegal alien to perform work under this Agreement. Consultant or Contractor shall not enter into a subcontract with a subcontractor that fails to certify to the Consultant or Contractor that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this public contract for services. Consultant or Contractor affirms that they have verified through participation in the Colorado Employment Verification program established pursuant to 8-17.5-102 (5)(c) C.R.S. or the Electronic Employment Verification Program administered jointly by the United States Department of Homeland Security and the Social Security Administration that Consultant or Contractor does not employ illegal aliens. Consultant or Contractor is prohibited from using these procedures to undertake pre-employment screening of job applicants while the public contract for services is being performed.

In the event that the Consultant or Contractor obtains actual knowledge that a subcontractor performing work under this Agreement knowingly employs or contracts with an illegal alien, the Consultant or Contractor shall be required to:

- A. Notify the subcontractor and PARTIES within three days that the Consultant or Contractor has actual knowledge that the subcontractor is employing or contracting with an illegal alien; and
- B. Terminate the subcontract with the subcontractor if within three days of receiving the notice required the Subcontractor does not stop employing or contracting with the illegal alien; except that the Consultant or Contractor shall not terminate the contract with the

Subcontractor if during such three days the Subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien.

Consultant or Contractor is required under this Agreement to comply with any reasonable request by the Colorado Department of Labor and Employment (DEPARTMENT) made in the course of an investigation DEPARTMENT is undertaking pursuant to its legal authority.

Violation of this section of this Agreement shall constitute a breach of this Agreement and may result in termination by PARTIES. Consultant or Contractor shall be liable to PARTIES for actual and consequential damages to PARTIES resulting from such breach pursuant to §8-17.5-101(3) C.R.S. PARTIES shall also report any such breach to the Office of the Secretary of State.

Consultant or Contractor acknowledges that DEPARTMENT may investigate whether Consultant or Contractor is complying with the provision of the Agreement. This may include on-site inspections and the review of documentation that proves the citizenship of any person performing work under this Agreement and any other reasonable steps necessary to determine compliance with the provisions of this section."

28. EXECUTION IN COUNTERPARTS

This Agreement shall be executed by PARTIES in counterparts and only upon execution of the responsible counterparts by everyone listed herein shall this Agreement be treated as executed by PARTIES.

WHEREFORE, PARTIES hereto have caused this instrument to be executed by properly authorized signatures as of the date and year above written.

URBAN DRAINAGE AND
FLOOD CONTROL DISTRICT

(SEAL)

By _____

ATTEST:

Title Executive Director

Date _____

CITY OF WESTMINSTER

(SEAL)

By _____

ATTEST:

Title _____

Date _____

APPROVED:

CITY OF ARVADA

(SEAL)

By _____

ATTEST:

Title _____

Date _____

APPROVED:

ADAMS COUNTY

(SEAL)

By _____

ATTEST:

Title _____

Date _____

APPROVED:

AGREEMENT REGARDING FUNDING OF
MAJOR DRAINAGEWAY PLANNING
AND FLOOD HAZARD AREA DELINEATION
FOR LITTLE DRY CREEK

Agreement No. 13-12.06

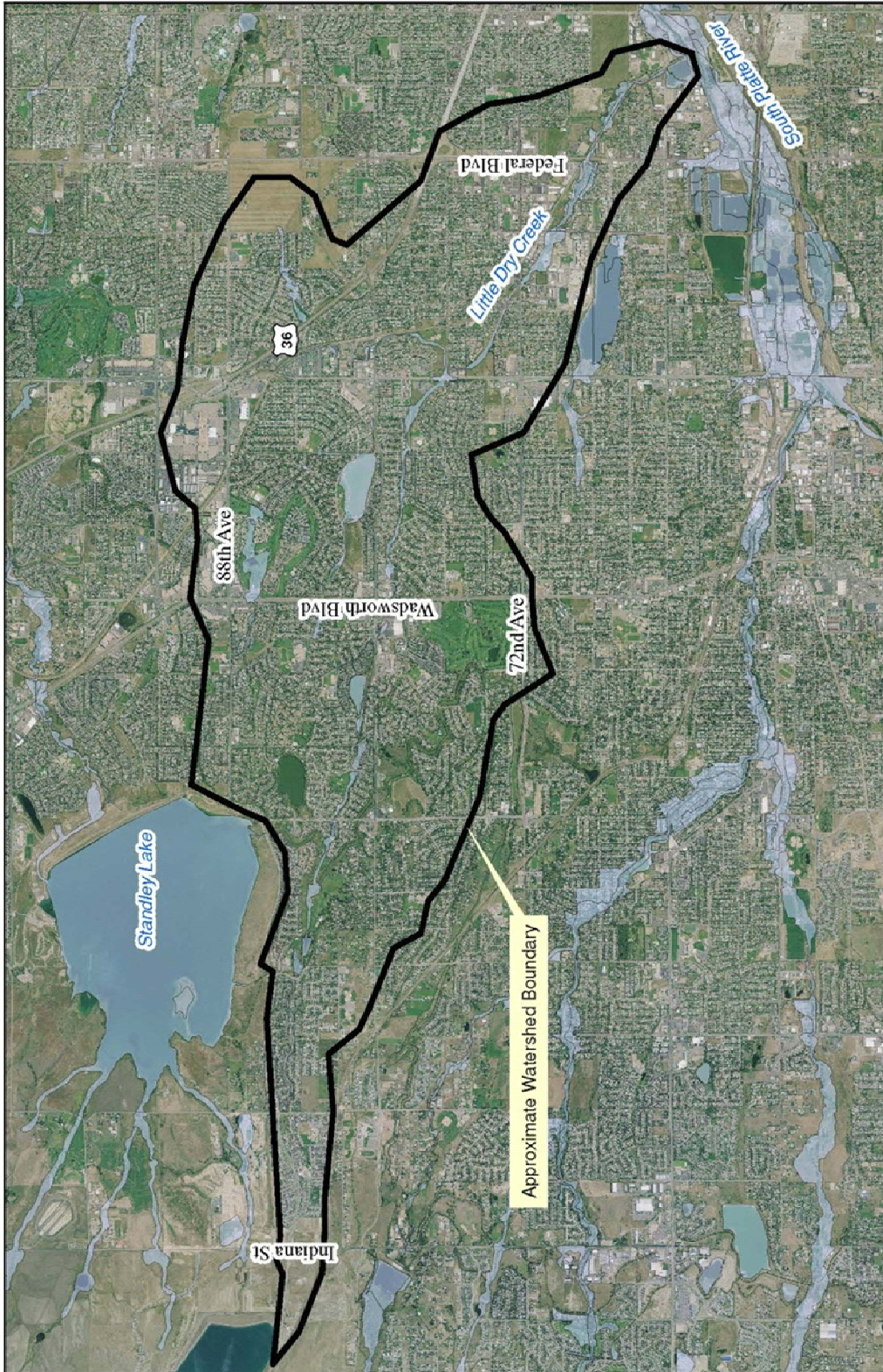
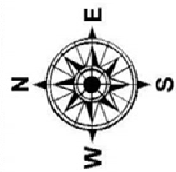


EXHIBIT A
LITTLE DRY CREEK
Major Drainageway Plan & FHAD
Approximate Study Limits
December 2013





Agenda Memorandum

City Council Meeting
March 24, 2014



SUBJECT: Councillor’s Bill No. 6 re 2013 4th Quarter Budget Supplemental Appropriation

Prepared By: Karen Barlow, Accountant

Recommended City Council Action

Pass Councillor’s Bill No. 6 on first reading, providing for a supplemental appropriation of funds to the 2013 budget of the General, Water, Fleet Maintenance, General Capital Outlay Replacement (GCORF), Sales and Use Tax, Parks Open Space and Trails, General Capital Improvement (GCIF), and Community Development Block Grant (CDBG) Funds.

Summary Statement

- At the end of each quarter, Staff prepares an ordinance to appropriate unanticipated revenues received during the quarter. Preparing quarterly supplemental appropriation requests is done to simplify administrative procedures and reduce paper work.
- General Fund amendments:
 - \$479,743 Permit and Conference Center Fees
 - \$134,375 Reimbursements
 - \$85,785 Program Revenue
 - \$51,174 Grant Proceeds
 - \$752 Miscellaneous
- Water Fund amendments:
 - \$2,690 Interest Earnings
- Fleet Maintenance Fund amendments:
 - \$46,647 Carryover
 - \$2,538 Sale of Assets
- General Capital Outlay Replacement Fund amendments:
 - \$32,200 Transfers
- Sales and Use Tax Fund amendments:
 - \$4,249,935 Sales & Use Taxes
- Parks, Open Space, and Trails Fund amendments:
 - \$276,000 Grant Proceeds
 - \$8,776 Rent
- General Capital Improvement Fund amendments:
 - \$415,002 Sale of Assets
 - \$391,879 Accommodations Taxes
 - \$12,399 Transfers
- Community Development Block Grant Fund amendments:
 - \$15,780 Rent
 - \$172 Interest Earnings

Expenditure Required: \$6,205,847

Source of Funds: The funding sources for these budgetary adjustments include permit & conference center fees, reimbursements, grants, program revenue, miscellaneous, interest earnings, carryover, sales & use taxes, rent, accommodations taxes, sale of assets, and transfers.

Policy Issue

Does City Council support amending the appropriations for the 2013 budget of the General, Water, Fleet Maintenance, General Capital Outlay Replacement, Sales and Use Tax, Parks Open Space and Trails, General Capital Improvement, and Community Development Block Grant Funds as outlined?

Alternative

The alternative would be not to amend the 2013 budget appropriations for the General, Water, Fleet Maintenance, General Capital Outlay Replacement, Sales and Use Tax, Parks Open Space and Trails, General Capital Improvement, and Community Development Block Grant Funds and to utilize these funds for other purposes. Staff does not recommend this alternative as the various departments have already incurred expenses and covered them with their current budget or planned projects in anticipation of appropriation of these additional funds.

Background Information

The attached Councillor's Bill is a routine action addressing the need to adjust revenue and expenditure appropriations as a result of activities or events that were not anticipated during the normal budget process.

The Parks, Recreation, and Libraries Department received \$953 from dance competition participants. The fees are being appropriated to Contract Services Youth Activities.

The Parks, Recreation, and Libraries Department was reimbursed \$3,623 for auto accidents that resulted in tree damage. The funds are being requested for appropriation to the Tree Mitigation Program CIP account to be used for tree replacement.

General Services received \$752 from the State of Colorado for the City's drop-off recycling program. These funds are being appropriated to the department's Solid Waste Collection Customer Service account.

The Community Development Department received \$6,951 from applicants to pay for Ken Fellman's fees for legal services related to the review of telecommunication site lease applications. These funds are being appropriated to the department's Professional Services account.

The Police Department received \$2,128 from the Department of Justice. This is a partial reimbursement for seven ballistic vests. The funds are being appropriated to the department's Uniform and Equipment account.

The Police Department received \$3,521 from the Jefferson County Emergency Communications Authority Board (E911). This was reimbursement for conference costs of the Association of Public Safety Communications Officers (APCO) and costs from a job posting for the APCO Communications Supervisor. The reimbursement is being appropriated to the department's Career Development account.

The Police Department received \$8,826 from the North Metro Task Force as reimbursement for overtime incurred by the department's Task Force members working on Federal High Intensity Drug Tracking Area (HIDTA) cases. The reimbursement from the Task Force was for overtime incurred from July through December 2013, and the reimbursement is being appropriated to the department's Overtime account.

The Police Department received \$6,872 from the State of Colorado Department of Transportation for their participation in the 2013 High Visibility Impaired Driving Enforcement (HVIDE) campaign. The grant reimburses overtime incurred by enforcement officers while working the Fall Festival campaign. The funds are being appropriated to the department's Overtime account.

The Police Department received \$11,422 from the US Department of Justice Edward Byrne Memorial Justice Assistance Grant (JAG). This is for a computer server and other equipment purchased for the Graffiti Program. The funds are being appropriated to the department's Supplies account.

The Police Department received \$24,552 from the US Department of Justice Edward Byrne Memorial Justice Assistance Grant (JAG). This is partial funding for the Police Department's agency contribution to North Metro Task Force for their operations budget. The funds are being appropriated to the department's Contract Services account.

The Police Department received \$1,000 from Target Corporation for the Public Safety Grant. This was for equipment for the K9 Unit, including maneuver harnesses and first aid kits. The funds are being appropriated to the department's Uniform and Equipment account.

The Police Department provides businesses located in the City of Westminster contractual police security for their businesses and special events. This police security is considered extra duty and the revenue received from this service reimburses the police department for the hours worked by the officers. In order to cover the extra duty overtime expense incurred year to date, the amount of \$84,832 is being appropriated to the department's Extra Duty Overtime account.

The Fire Department received \$420 from the Mile-High Regional Emergency Medical & Trauma Advisory Council. The funds are being appropriated to the department's Professional Services account.

The Fire Department received \$92,360 from the State of Colorado Forest Service on behalf of the Wildland Team. These funds were received as reimbursement for fire personnel overtime and expenses incurred during the Wildland Team deployment to the Black Forest Fire, the R2 2013 Staging/Preposition Grand Junction Fire, and the West Fork Complex Fire during June and July 2013. \$62,890 of these funds are being appropriated to the Salaries Overtime, Supplies, and Equipment expense accounts. \$29,470 of these funds are being appropriated as a transfer to the GCORF. This transfer from the General Fund in the amount of \$29,470 is being appropriated to the Wildland Truck Replacement account in the GCORF, which will assist with future apparatus replacement.

The Fire Department received \$4,780 from the West Metro Fire Protection District on behalf of the Colorado Urban Search and Rescue Task Force One. This reimbursement is for overtime incurred by the Fire Department personnel while working the Cache Rehab, 2013 Vigilant Guard FSE Cache Rehab, the annual Task Force meeting, assisting with the Vigilant Guard exercise, Hazmat Shipper course, Hazmat Cache, and Cache Manager Work. The funds are being appropriated to the Salaries Overtime account.

The Fire Department received \$19,094 from the State of Colorado on behalf of the Dive Team. This reimbursement is for expenses incurred by the Fire Department personnel while deployed to the BLX Flood and the Larimer Flood in September 2013. \$16,364 of these funds are being appropriated to the Salaries Overtime and Supplies expense accounts. \$2,730 of these funds are being appropriated as a transfer to the GCORF. This transfer from the General Fund in the amount of \$2,730 is being appropriated to the Wildland Truck Replacement CIP in the GCORF, which will assist with future apparatus replacement.

The Water Fund received interest payments throughout 2013 in the amount of \$2,690 on the Water 2010 Bond Issue. Issuance restrictions require the interest earnings to be appropriated for use on the respective projects or debt service. The funds are requested for appropriation for debt service in the Interest Payments account.

Staff is recommending that \$49,185 be appropriated to the Parts account in the Fleet Maintenance Fund. The \$49,185 consists of \$46,647 in carryover from the Fleet Maintenance Fund balance and \$2,538 in auction proceeds. This appropriation will cover year-end inventory expenditures. These expenditures resulted from obsolesced items that were sent to auction, which caused a reduction in inventory and an increase in expenditures for parts.

As an important element of economic development, the City sometimes utilizes Economic Development Agreements (EDAs) and Intergovernmental Agreements (IGAs) to attract and retain high quality development to provide employment opportunities and increased revenue for City service provisions. A portion of the new revenue generated from the development projects is utilized to fund these agreements.

When payments related to these agreements are issued, they are recorded as a reduction to the appropriate revenue account, thereby reflecting only the net new revenue received on the City’s monthly financial statements. However, the Government Accounting Standards Board (GASB) requires the new revenues to be fully recorded as received, and the applicable rebate of revenues to be recorded as an expense in the Comprehensive Annual Financial Report. This year-end housekeeping appropriation makes the appropriate changes to the City’s budget to reflect this requirement as follows: \$4,249,935 in the Sales and Use Tax Fund to record the IGA with the City of Thornton for the North I-25 corridor and various other EDAs involving sales and use taxes; \$391,879 in the GCIF to record various EDAs involving the Accommodations Tax; and \$479,743 in the General Fund to record various EDAs involving building permit and conference center fees; for a total increase of \$5,121,557 to City revenues and expenses.

The Community Development Department received \$276,000 from Adams County Open Space program to assist with the purchase of property located at the southeast corner of 75th Avenue and Sheridan Boulevard. The closing on this property occurred on December 18, 2013, shortly after the Adams County Commissioners awarded the grant. Due to the timing of the grant award, staff is taking this appropriation to Council on the quarterly supplemental. The funds are being appropriated to the Land Purchases account.

The Parks, Recreation, and Libraries Department received \$415,002 as payment of a Shared Use Fee from the Utility Fund. This is for permanent and temporary use of easement at the Standley Lake Park for the Pressure Zone 4 Interconnect Pipeline. The funds are being appropriated to the Capital Projects Reserve in the GCIF.

Community Development staff is requesting that \$8,776 be appropriated to the Bonnie Stewart CIP for rent funds that were collected for residential property which is located on open space property. The grant provided by Jefferson County specifies that any net revenue from rental of the two residences on this property shall be spent for future improvements to this property. The rental period shall not exceed two years, and 24% of the net income shall be paid to Jefferson County. This appropriation to the CIP will allow the funds to be spent in accordance with the grant agreement.

CDBG contains \$172 in restricted funds from current-year interest earnings on Section 108 loan funds. CDBG also contains \$15,780 in restricted funds from current-year rent revenue received from the properties that were purchased for the Lowell Redevelopment project. The City’s agreement with HUD restricts the use of these funds. Staff recommends that this amount of \$15,952 be appropriated to the CIP for the Lowell Redevelopment Project.

These appropriations will amend General Fund revenue and expense accounts as follows:

REVENUES

Description	Account Number	Current Budget	Amendment	Revised Budget
Bldg Permit Com ADCO	1000.40185.0010	\$350,000	\$388,041	\$738,041
Bldg Permit Com JEFFCO	1000.40185.0020	350,000	5,471	355,471
Federal Grants	1000.40610.0000	46,609	42,882	89,491
State Grants	1000.40620.0000	103,065	6,872	109,937
Other County Grants	1000.40640.0000	3,500	420	3,920
Other Grants	1000.40650.0057	2,000	1,000	3,000
Youth Activities	1000.41030.0529	0	953	953
Gen Fee Conf Ctr-EDA/IGA	1000.41310.0075	0	86,231	86,231
Off Duty Police Services	1000.41340.0000	150,000	84,832	234,832
Cell Tower App Review Fee	1000.41455.0000	1,591	6,951	8,542
General	1000.43060.0000	285,484	1,385	286,869
Reimbursements	1000.43080.0000	159,996	<u>126,791</u>	286,787
Total Change to Revenues			<u>\$751,829</u>	

EXPENSES

Description	Account Number	Current Budget	Amendment	Revised Budget
Contract Svcs-EDA/IGA	10010900.67800.0075	\$0	\$479,743	\$479,743

Transfers Capital Replacement	10010900.79800.0450	19,191	32,200	51,391
Transfers GCIF	10010900.79800.0750	1,503,624	3,623	1,507,247
Solid Waste Collect Cust Serv	10012390.67300.0702	63,172	752	63,924
Salaries OT-Investigation Section	10020300.60400.0344	225,651	8,826	234,477
Career Dev-Comm Sect	10020300.61800.0345	11,098	3,521	14,619
Contract Svcs-Inv Section	10020300.67800.0344	99,553	24,552	124,105
Supplies-Neigh Svcs	10020300.70200.0342	25,602	11,422	37,024
Salaries OT-Extra Duty	10020500.60400.0005	150,000	84,832	234,832
Salaries OT-Traffic	10020500.60400.0348	112,030	6,872	118,902
Unif&Equip Allow-Patrol Adm Se	10020500.61000.0000	97,930	2,128	100,058
Unif&Equip Allow-Patrol Section	10020500.61000.0349	47,960	1,000	48,960
Salaries Overtime	10025260.60400.0000	177,744	50,896	228,640
Salaries Overtime-EMS	10025260.60400.0546	71,750	30,457	102,207
Prof Serv EMS	10025260.65100.0546	14,305	420	14,725
Supplies	10025260.70200.0000	25,621	2,266	27,887
Other Equipment	10025260.76000.0000	55,595	415	56,010
Prof Services	10030360.65100.0000	28,543	6,951	35,494
Contract Services Youth Activities	10050760.67800.0529	45,370	953	46,323
Total Change to Expenses			<u>\$751,829</u>	

These appropriations will amend Water Fund revenue and expense accounts as follows:

REVENUES

Description	Account Number	Current Budget	Amendment	Revised Budget
Interest Earnings Water 2010	2000.42520.1201	\$0	<u>\$2,690</u>	\$2,690
Total Change to Revenues			<u>\$2,690</u>	

EXPENSES

Description	Account Number	Current Budget	Amendment	Revised Budget
Interest Payments	20010900.78400.0000	\$1,995,620	<u>\$2,690</u>	\$1,998,310
Total Change to Expenses			<u>\$2,690</u>	

These appropriations will amend Fleet Maintenance Fund revenue and expense accounts as follows:

REVENUES

Description	Account Number	Current Budget	Amendment	Revised Budget
Carryover	3000.40020.0000	\$0	\$46,647	\$46,647
Sale of Assets	3000.43040.0000	0	<u>2,538</u>	2,538
Total Change to Revenues			<u>\$49,185</u>	

EXPENSES

Description	Account Number	Current Budget	Amendment	Revised Budget
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Parts	30012460.73600.0000	\$311,070	<u>\$49,185</u>	\$360,255
Total Change to Expenses			<u>\$49,185</u>	

These appropriations will amend General Capital Outlay Replacement Fund revenue and expense accounts as follows:

REVENUES

Description	Account Number	Current Budget	Amendment	Revised Budget
TRF General Fund	4500.45000.0100	\$19,191	<u>\$32,200</u>	\$51,391
Total Change to Revenues			<u>\$32,200</u>	

EXPENSES

Description	Account Number	Current Budget	Amendment	Revised Budget
Wildland Truck Replacement	81145010911.80400.8888	\$119,887	<u>\$32,200</u>	\$152,087
Total Change to Expenses			<u>\$32,200</u>	

These appropriations will amend Sales and Use Tax Fund revenue and expense accounts as follows:

REVENUES

Description	Account Number	Current Budget	Amendment	Revised Budget
ST Returns-EDA/IGA	5300.40070.0075	\$0	\$3,293,027	\$3,293,027
UT Returns-EDA/IGA	5300.40095.0075	0	68,713	68,713
UT Building-EDA/IGA	5300.40100.0075	0	<u>888,195</u>	888,195
Total Change to Revenues			<u>\$4,249,935</u>	

EXPENSES

Description	Account Number	Current Budget	Amendment	Revised Budget
Contract Svcs-EDA/IGA	53010900.67800.0075	\$0	\$4,249,935	\$4,249,935
Total Change to Expenses			<u>\$4,249,935</u>	

These appropriations will amend Parks, Open Space, and Trails Fund revenue and expense accounts as follows:

REVENUES

Description	Account Number	Current Budget	Amendment	Revised Budget
Adams County Grants	5400.40640.0010	\$832,899	\$276,000	\$1,108,899
Gen Misc Rentals	5400.43060.0540	13,380	<u>8,776</u>	22,156
Total Change to Revenues			<u>\$284,776</u>	

EXPENSES

Description	Account Number	Current Budget	Amendment	Revised Budget
Land Purchases	54010900.76600.0000	\$1,674,038	\$276,000	\$1,950,038
Transfers GCIF	54010900.79800.0750	834,679	<u>8,776</u>	843,455
Total Change to Expenses			<u>\$284,776</u>	

These appropriations will amend General Capital Improvement Fund revenue and expense accounts as follows:

REVENUES

Description	Account Number	Current Budget	Amendment	Revised Budget
TRF General Fund	7500.45000.0100	\$0	\$3,623	\$3,623
TRF - Open Space	7500.45000.0540	2,100	8,776	10,876
Accom Tax-EDA/IGA	7501.40055.0075	0	391,879	391,879
General	7501.43060.0000	83,592	<u>415,002</u>	498,594
Total Change to Revenues			<u>\$819,280</u>	

EXPENSES

Description	Account Number	Current Budget	Amendment	Revised Budget
Contract Svcs-EDA/IGA	75010900.67800.0075	\$0	\$391,879	\$391,879
Capital Projects Reserve	80175050186.80400.8888	0	415,002	415,002
Tree Mitigation Program	80575050425.80400.8888	56,121	3,623	59,744
Bonnie Stewart CIP	81275030001.80400.8888	2,810	<u>8,776</u>	11,586
Total Change to Expenses			<u>\$819,280</u>	

These appropriations will amend Community Development Block Grant Fund revenue and expense accounts as follows:

REVENUES

Description	Account Number	Current Budget	Amendment	Revised Budget
Rentals	7600.40900.0000	\$0	\$15,780	\$15,780
Interest-HUD 108	7600.42535.0558	0	<u>172</u>	172
Total Change to Revenues			<u>\$15,952</u>	

EXPENSES

Description	Account Number	Current Budget	Amendment	Revised Budget
Lowell Redvl HUD Section 108	81276030998.80400.8888	\$377,465	<u>\$15,952</u>	\$393,417
Total Change to Expenses			<u>\$15,952</u>	

These adjustments will bring the City’s accounting records up-to-date to reflect the various detailed transactions.

The proposed action supports the City Council’s strategic goals of Strong, Balanced Local Economy, Safe and Healthy Community, Financially Sustainable City Government Providing Exceptional Services, Vibrant Neighborhoods in One Livable Community and Beautiful and Environmentally Sensitive City.

Respectfully submitted,

J. Brent McFall
 City Manager
 Attachment – Ordinance

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **6**

SERIES OF 2014

INTRODUCED BY COUNCILLORS

A BILL

FOR AN ORDINANCE AMENDING THE 2013 BUDGETS OF THE GENERAL, WATER, FLEET MAINTENANCE, GENERAL CAPITAL OUTLAY REPLACEMENT, SALES AND USE TAX, PARKS OPEN SPACE AND TRAILS, GENERAL CAPITAL IMPROVEMENT, AND COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS AND AUTHORIZING A SUPPLEMENTAL APPROPRIATION FROM THE 2013 ESTIMATED REVENUES IN THE FUNDS

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The 2013 appropriation for the General, Water, Fleet Maintenance, General Capital Outlay Replacement, Sales and Use Tax, Parks Open Space and Trails, General Capital Improvement, and Community Development Block Grant Funds initially appropriated by Ordinance No. 3655 is hereby increased in aggregate by \$6,205,847. This appropriation is due to the receipt of funds from permit & conference center fees, reimbursements, grants, program revenue, miscellaneous, interest earnings, carryover, sales & use taxes, rent, accommodations taxes, sale of assets, and transfers.

Section 2. The \$6,205,847 increase shall be allocated to City Revenue and Expense accounts as described in the City Council Agenda Item 10 G dated March 24, 2014 (a copy of which may be obtained from the City Clerk) amending City fund budgets as follows:

General Fund	\$751,829
Water Fund	2,690
Fleet Maintenance Fund	49,185
General Capital Outlay Replacement Fund	32,200
Sales and Use Tax Fund	4,249,935
Parks, Open Space and Trails Fund	284,776
General Capital Improvement Fund	819,280
Community Development Block Grant Fund	<u>15,952</u>
Total	<u>\$6,205,847</u>

Section 3 – Severability. The provisions of this Ordinance shall be considered as severable. If any section, paragraph, clause, word, or any other part of this Ordinance shall for any reason be held to be invalid or unenforceable by a court of competent jurisdiction, such part shall be deemed as severed from this ordinance. The invalidity or unenforceability of such section, paragraph, clause, or provision shall not affect the construction or enforceability of any of the remaining provisions, unless it is determined by a court of competent jurisdiction that a contrary result is necessary in order for this Ordinance to have any meaning whatsoever.

Section 4. This ordinance shall take effect upon its passage after the second reading.

Section 5. This ordinance shall be published in full within ten days after its enactment.

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 24th day of March, 2014.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 14th day of April, 2014.

ATTEST:

Mayor

City Clerk



Agenda Item 10 H

Agenda Memorandum

City Council Meeting
March 24, 2014

SUBJECT: Councillor's Bill No. 7 re Employee Political Activity

Prepared By: Marty McCullough, City Attorney
Debbie Mitchell, Director of General Services

Recommended City Council Action

Pass Councillor's Bill No. 7 authorizing City Council to add Section 4 to Title 1, Chapter 24, of the Westminster Municipal Code concerning Employee Political Activity.

Summary Statement

- City Council requested that Staff consider possible modifications to the current employee political activity guidelines presently contained in the employee Personnel Policies and Rules. Staff was also directed to collect employee input through the Employee Advisory Committee (EAC) and anonymous opinion boxes in order to gauge employee sentiment and about the current policy.
- Staff was directed to finalize an ordinance proposal presented to City Council at a recent Study Session. The ordinance proposal is intended to clarify the rights and limits of City employees to participate in City Council campaigns. The City Manager will modify the Personnel Policies and Rules to reflect these changes upon Council's adoption of the proposed ordinance.

Expenditure Required: \$0

Source of Funds: N/A

Policy Issue

Consider modifying the current policy related to employee political participation in City of Westminster elections through the adoption of an ordinance clarifying and expanding employees' rights to participate.

Alternatives

City Council could select other options considered with regard to rules for employee political participation in Westminster elections including:

- Creation of an ordinance provision replicating the existing Personnel Policies and Rules section regarding Employee Political Activity.
- Draft a ballot issue to either repeal or modify current Charter language.
- Modify the proposed ordinance language presented in this report.

Background Information

The City Charter establishes provisions for a Civil Service System, including the restriction of active employee involvement in the municipal politics of the City. Specifically, the City Charter, Chapter VI, Civil Service System Section 6.1 Personnel Board states:

The Council shall provide by ordinance for a civil service system under the merit principle of personnel management. Said ordinance may be supplemented by rules and regulations based on said ordinance. The civil service system shall provide at least the following:

- (i) For the restriction of active participation in the municipal politics of the City of Westminster, it being the stated policy, however, not to deny to employees and officials covered by the civil service system the rights of such persons to engage in their normal rights and responsibilities as citizens.

The City Municipal Code defines the authority of the City Manager to establish personnel policies and rules in Title I Administrative, Chapter 24 Personnel Management Program, Section 2 General Principles and Implementation:

1-24-2 (C) Administrative Regulations: The City Manager shall have the authority to establish such policies and rules deemed necessary for the efficient and orderly administration of the personnel management system. Such authority may be delegated to Department Heads, Division Managers and supervisors as deemed appropriate by the City Manager. The City Manager will provide City Council with a quarterly report if any substantive changes are made to administrative personnel policies in the previous quarter. All such policies and rules must be in writing and be consistent and compatible with this Chapter and the Charter, and, at a minimum, include the following:

- (3) **Employee political activity.** Active participation by employees in the municipal politics of the City of Westminster shall be restricted. It shall be the policy of the City, however, not to deny to employees and officials the rights to engage in their normal rights and responsibilities as citizens.

Concerned that the current limitations on employee political activity were unduly restrictive, City Council directed staff to develop options for modifying the current restrictions. These current regulations are attached. See Attachment B.

The City Attorney's Office developed two options to modify the existing regulations in ordinance format. Both Options represent less restrictive regulations compared to the current regulations. Both options assume that the proposed restrictions would be enforced as administrative regulations, rather than code violations. One option offered the Council a "minimalist" approach to the issue through the adoption of an ordinance that employs the same language as is contained in the Charter in regard to the restriction of employee political activity. The advantage of that option is its simplicity. Its chief disadvantage is also its simplicity, in that it does not provide employees any specific direction of what conduct is and is not acceptable.

The second option presented for Council consideration maintains the articulation of permissible and prohibited activities by employees, but the lists have been modified in an attempt to fulfill Council's desire for a set of less restrictive regulations, while still fulfilling the spirit and intent of the Charter. In attempting to come up with the proposed modifications, the challenge was to try to distinguish between existing regulations that could be considered to be unduly restrictive, while still preserving the Charter's requirement of restricting employees from actively participating in City politics. The resulting proposed changes were developed by focusing on activities that could be objectively viewed as active participation, versus those that could be fairly viewed as "passive" or indirect participation. In addition, the criteria attempt to limit the prohibited activities to those with a fairly objective "cause and effect" relationship between the activity and a City Council candidates election prospects. For example, the proposed regulations make permissible merely attending a candidate's rally, but make impermissible the handing out of campaign materials. Similarly, by way of further example, having a bumper sticker or yard sign is in the permissible column, while soliciting funds or votes for a City Council candidate is not. A closer call is wearing a campaign button. But in the spirit of liberalizing current regulations, this was put in the "permissible" column, on the theory that doing so is no different than informing a friend or neighbor as to who you support, which has historically been considered as not being sufficiently "active" participation in a City Council election, and therefore, permissible. In addition, the proposed regulations would now provide, and clarify, that they do not extend to an employee's spouse or family member.

Two other options presented included translating the current Personnel Policies and Rules into ordinance form or to direct staff to create a ballot issue to either repeal or modify the existing Charter provision concerning employee political activity.

Staff was also directed to collect input from employees through the EAC representatives in each department and anonymous submittal box option with regard to their opinions related to the current policy. Staff gave EAC members five questions regarding the topic. Staff provided Council a report of the feedback received and a listing of specific comments.

City Council reviewed the alternatives with staff at the February 24, 2014 study session and directed staff to make minor modifications to the proposed option that creates an ordinance that maintains the articulation of permissible and prohibited activities by employees, but modifies the lists in an attempt

to fulfill Council's desire for a set of less restrictive regulations, while still fulfilling the spirit and intent of the Charter. The City Manager will administratively modify the Personnel Policies and Rules to reflect the ordinance when adopted. The attached proposed ordinance would be added as Section 4 of chapter 24 of Title 1 of the Westminster Municipal Code.

Respectfully submitted,

J. Brent McFall
City Manager

Attachments:

Attachment A – Councillor's Bill No. 7 re: Employee Political Activity

Attachment B – Personnel Policies and Rules section relating to Political Activity

BY AUTHORITY

ORDINANCE NO.
SERIES OF 2014

COUNCILLOR'S BILL NO. **7**
INTRODUCED BY COUNCILLORS

A BILL

**FOR AN ORDINANCE ADDING SECTION 4 TO TITLE 1, CHAPTER 24, OF THE
WESTMINSTER MUNICIPAL CODE CONCERNING EMPLOYEE POLITICAL ACTIVITY**

THE CITY OF WESTMINSTER ORDAINS:

Section 1: Title 1, Chapter 24, W.M.C., is hereby AMENDED by the addition of the following new section:

1-24-4: POLITICAL ACTIVITY:

(A) **EMPLOYEE POLITICAL ACTIVITY:** City employees are hereby restricted from actively participating in the municipal politics of the City, but shall not be otherwise restricted from engaging in their normal rights and responsibilities as citizens.

(B) **PROHIBITED POLITICAL ACTIVITY:**

(1) An employee shall not:

- (a) Use any City resource in support of or in opposition to any issue or candidate;
- (b) Distribute or display political stickers, buttons or similar materials while in City uniform, during working hours or at City facilities;
- (c) Actively campaign for or against any issue or candidate during working hours or at City facilities;
- (d) Actively campaign for or against any issue or candidate while wearing a uniform that identifies the employee as a City employee;
- (e) Serve as an officer of any organization which has the primary purpose of promoting the candidacy of any person for City office;
- (f) Directly solicit, receive, collect, handle, disburse, contribute, or account for assessments, contributions, or other funds in support of the candidacy of any person for City office;
- (g) Actively participate in a fund-raising activity of a candidate for City office;
- (h) Actively organize or manage the political campaign of a candidate for City office;
- (i) Solicit votes in support of or in opposition to a candidate for City office;
- (j) Drive voters to the polls on behalf of a candidate for City office;
- (k) Endorse or oppose a candidate for City office in a political advertisement, broadcast, campaign literature, or similar material; or
- (l) Address a convention, caucus, rally, or similar gathering in support of or in opposition to a candidate for City office

(m) The foregoing restrictions shall not be construed as (1) limiting the political activity of a spouse or any family member of an employee; (2) including an employee's unintentional or unwitting participation in City Council campaign materials or election activities or (3) "friending," "following" or similar interactions with City Council and Mayoral candidates through social media sites such as Facebook, Twitter and LinkedIn, to the extent such interactions do not include any activity otherwise prohibited by this ordinance.

(2) All employees are free to engage in political activity to the widest extent consistent with the restrictions imposed by law and this section, so long as any such activity is done in the

employee's capacity as a private citizen and not in the capacity of a City employee. Subject to the limitations of subsection one (1) of this section, each employee retains the right to:

- (a) Register and vote in any election;
- (b) Display a political yard sign, picture, sticker, badge, or button;
- (c) Participate in the nonpartisan activities of a civic, community, social, labor, or professional organization;
- (d) Be a member of a political party or other political organization and participate in its activities to the extent consistent with this ordinance;
- (e) Attend a political convention, rally, fund-raising function, or other political gathering, including those of candidates for City Office;
- (f) Sign a political petition as an individual, other than a petition for the nomination or recall of a City Councillor or the Mayor;
- (g) Expend personal funds, make contributions in kind, and use personal time to urge electors to vote in favor of or against any issue or candidate before the electorate, except any candidate for City office;
- (h) Seek election to City office, provided that the employee resigns or takes formally authorized unpaid leave from City employment prior to any campaign activities being undertaken on his or her behalf or filing a nomination petition;
- (i) Run for nomination or election as a candidate in any election not involving City government;
- (j) Be politically active in connection with a charter or constitutional amendment, referendum, approval of a municipal ordinance or any other question or issue of a similar character; and
- (k) Otherwise participate fully in public affairs, except as prohibited by law, in a manner which does not materially compromise the public's confidence in the neutrality, efficiency, or integrity of the employee or the City government.

(C) SUPERVISORS: No supervisor shall in any way coerce an employee to campaign for or against any candidate or issue, nor retaliate, intimidate or discriminate against any employee for any political activity permitted by this ordinance.

(D) SOLICITATION: It shall be unlawful for a candidate for the office of City Councillor or Mayor to solicit knowingly, directly or indirectly, a City employee to contribute money or campaign for or against any candidate for the office of City Councillor or Mayor. This provision shall not prohibit coincidental contacts with City employees through mass mailings or distribution of literature.

Section 2. This ordinance shall take effect upon its passage after second reading.

Section 3. The title and purpose of this ordinance shall be published prior to its consideration on second reading. The full text of this ordinance shall be published within ten (10) days after its enactment after second reading.

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 24th day of March, 2014.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 14th day of April, 2014.

ATTEST:

City Clerk

Mayor

APPROVED AS TO LEGAL FORM:

City Attorney's Office

(F) Political Activity:

1. An employee shall not:
 - (a) Use any City facility or resource or the authority of any City office in support of any issue or candidate;
 - (b) Campaign for any issue or candidate in any manner calculated to exert the influence of City employment;
 - (c) Distribute political stickers, buttons or similar materials during working hours or at City facilities;
 - (d) Campaign for any issue or candidate during working hours or at City facilities;
 - (e) Campaign for any issue or candidate while wearing a uniform that identifies the employee as a City employee;
 - (f) Serve as an officer of any organization which has the primary purpose of promoting the candidacy of any person for City office;
 - (g) Organize a political organization or political club which has the main purpose of promoting the candidacy of any person for City office;
 - (h) Directly or indirectly solicit, receive, collect, handle, disburse, contribute, or account for assessments, contributions, or other funds in support of the candidacy of any person for City office;
 - (i) Organize, sell tickets to, promote, or actively participate in a fund-raising activity of a candidate for City office;
 - (j) Manage the political campaign of a candidate for City office;
 - (k) Become a candidate for, or campaign for an elective City office, unless the employee is on formally authorized unpaid leave from City employment;
 - (l) Solicit votes in support of or in opposition to a candidate for City office;
 - (m) Drive voters to the polls on behalf of a candidate for City office;
 - (n) Endorse or oppose a candidate for City office in a political advertisement, broadcast, campaign literature, or similar material; or,
 - (o) Address a convention, caucus, rally, or similar gathering in support of or in opposition to a candidate for City office.
2. All employees are free to engage in political activity to the widest extent consistent with the restrictions imposed by law and this subsection, so long as any such activity is done in the employee's capacity as a private citizen and not in the capacity of a City employee. Subject to the limitations of subsection one (1) of this section, each employee retains the right to:

- (a) Register and vote in any election;
 - (b) Display a political picture, sticker, badge, or button;
 - (c) Participate in the nonpartisan activities of a civic, community, social, labor, or professional organization;
 - (d) Be a member of a political party or other political organization and participate in its activities to the extent consistent with law;
 - (e) Attend a political convention, rally, fund-raising function, or other political gathering;
 - (f) Sign a political petition as an individual;
 - (g) Expend personal funds, make contributions in kind, and use personal time to urge electors to vote in favor of or against any issue or candidate before the electorate, except any candidate for City office;
 - (h) Seek election to City office, provided that the employee resigns or takes formally authorized unpaid leave from City employment prior to any campaign activities being undertaken on his or her behalf or filing a nomination petition;
 - (i) Run for nomination or election as a candidate in any election not involving City government;
 - (j) Be politically active in connection with a charter or constitutional amendment, referendum, approval of a municipal ordinance or any other question or issue of a similar character;
 - (k) Participate, at the direction of the City Council, in any political activity in which the City is authorized by state law to participate, subject to the instructions of the City Council, provided, however, an employee may choose not to participate; or,
 - (l) Otherwise participate fully in public affairs, except as prohibited by law, in a manner which does not materially compromise his/her efficiency or integrity as an employee or the neutrality, efficiency, or integrity of City government.
3. No supervisor shall in any way coerce an employee to campaign for or against any candidate or issue.
4. It shall be unlawful for a candidate for the office of City Councillor or Mayor to solicit knowingly, directly or indirectly, a City employee to contribute money or campaign for or against any candidate for the office of City Councillor or Mayor. This provision shall not prohibit coincidental contacts with City employees through mass mailings or distribution of literature.



Agenda Item 10 I - K

Agenda Memorandum

City Council Meeting

March 24, 2014



SUBJECT: Award Contracts for Golf Course Maintenance Equipment, Councillor’s Bill No. 8 re Lease/Purchase of Golf Course Maintenance Equipment Package, Authorize Addition of Lease/Purchase Agreement to Master Lease

Prepared By: Peggy Bocard, Recreation Services Manager
Lance Johnson, Recreation Facilities/Golf Superintendent

Recommended City Council Action

1. Accepting the National Intergovernmental Purchasing Alliance (IPA) negotiated contract bid for Golf Course Maintenance Equipment (GCME) from LL Johnson Distributing for Toro GCME and award the separate contracted bids with Potestio Brothers Equipment Inc. (John Deere turf utility vehicles), C&M Golf & Grounds Equipment (Cushman light duty utility vehicles) and Kubota Tractor Corporation dba: B&G Equipment, Inc. (Kubota 71 HP tractor); and authorize the City Manager to execute a lease/purchase agreement to fund the purchase of the City’s GCME for both Legacy Ridge and the Heritage Golf Courses.
2. Pass Councillor’s Bill No. 8 on first reading to appropriate an amount not to exceed \$1,101,069 in the Golf Course Fund, for the lease proceeds for GCME.
3. Authorize the City Manager to add to the existing master lease, a lease/purchase agreement in the amount not to exceed \$1,101,069.

Summary Statement

Approval of the lease/purchase will fund the lease/purchase and financing costs of the new GCME package; replace an aging fleet of equipment that requires increased labor and parts purchases; provide essential equipment to maintain the standards demanded in a competitive golf market; continue standardization of equipment at golf courses to reduce maintenance costs and inventory; provide maximized revenue through decreased course preparation time; and provide four new pieces of equipment not included in the original package that will meet the demand of increased participation and impacts of weather at each golf course.

Over a six-year lease/purchase period the total lease/purchase/financing cost is estimated to be \$1,170,141. Current budgeted lease payments funds of \$188,000 will be increased by approximately \$7,000 available in the Golf Course Fund to adequately cover the estimated lease payment not to exceed a total of \$195,000 and are subject to annual appropriation in subsequent years. The interest rate is determined on the date of commitment defined in the master lease agreement approved by City Council in 2001 and is projected to be between 2.5% to 3.0%.

Expenditure Required: \$1,101,069

Source of Funds: Equipment Acquisition-Proceeds from KeyBank Master Lease in the Golf Course Fund

Annual Lease payments-Heritage Golf Course at Westmoor and Legacy Ridge Golf Course Operating Accounts

Policy Issue

Does City Council wish to follow Staff's recommendation and award a contract to LL Johnson Distributing using the National IPA solicited bid and other bids negotiated with Potestio Brothers Equipment, Inc., C&M Golf & Grounds Equipment and Kubota Tractor Corporation dba: B&G Equipment, Inc. using budgeted lease payment funds to replace the existing GCME?

Alternatives

1. Take no action. This option is not recommended, however, as this approach would jeopardize Staff's ability to maintain both golf courses to the expected high standards. Such action could adversely affect overall golf course conditions which could reduce revenue and also increase costs associated with labor hours and parts inventory to keep equipment running efficiently. Parts purchases increased approximately 27% from 2012 to 2013 due to the increased age of the equipment.
2. Finance the equipment package with cash. This option is not recommended as cash funding of this purchase would require use of funds that the golf course does not currently have budgeted. The master lease/purchase program stretches out the annual cost of funding the equipment package over many years, at a very favorable lease rate. By using the master lease concept, the cash flow needed can be scheduled and budgeted with certainty over the life of the lease.
3. Do not approve the purchase of Toro golf course maintenance equipment using the National IPA award. Staff doesn't recommend this option. The National IPA has already vetted vendors through the bid process in order to establish the top ranked vendor as Toro, Inc.

Background Information

The City's two golf courses, Legacy Ridge and The Heritage at Westmoor, were opened for play in 1994 and 1999, respectively. Both courses were established to generate economic development and are recognized as championship quality, providing exceptional customer-friendly services and golf facilities. The City's two courses have always provided full golf amenities such as 18-hole championship-quality design, along with exceptional golf course conditions, driving ranges/practice facilities and restaurant operations.

Legacy Ridge Golf Course, as designed by Arthur Hills Golf Course Design in 1993 and the Heritage at Westmoor Golf Course as designed by Hurdzan/Fry Golf Course Design in 1998, use existing land grades, man-made forms and environmental areas to create golf courses that are both challenging and interesting for golfers of all skill levels. Both golf courses are committed to the environment and sustainable resource management. Legacy Ridge Golf Course is a member of the Audubon Cooperative Sanctuary Program since 1994. Legacy Ridge also won the National Environmental Steward Award in 1995. The Heritage Golf Course became the 40th golf course world-wide to be certified in the Audubon International Signature Sanctuary Program in 2002. To maintain two championship golf courses at consistent levels with such designs and environmental practices, equipment that is specifically designed for golf course operations is required.

The current equipment was acquired on a lease/purchase agreement in consecutive years, Heritage in 2006 and Legacy Ridge in 2007. The Heritage equipment lease/purchase was paid in full at the end of the second quarter of 2013. Legacy Ridge's equipment lease/purchase was paid off in the first quarter of 2014 after being refinanced in 2012. All equipment has been used extensively throughout the seven years of each lease, including nearly 290 days of play per year on average. Labor hours and parts costs continue

to increase each year in order to maintain the current equipment, highlighting the importance of acquiring a new equipment package. Various pieces of equipment from the previous packages will be kept within the fleet based on overall condition and total hours used. This fiscally responsible approach allows Staff to purchase the necessary equipment to continue producing high quality course conditions while meeting the need to stay within prescribed current budgeted lease payments amounts.

Previous equipment lease/purchase packages were done on a seven year cycle starting with the first initial purchase of maintenance equipment during the construction phase of Legacy Ridge in 1993. Subsequent packages for Legacy Ridge were purchased in 2000 and 2007. The original equipment package for Heritage was purchased in 1999, with a subsequent package purchased in 2006. The original seven year cycle at Legacy Ridge was chosen based on the budgeted lease/purchase amount that year and the current interest rates. This practice of matching the budgeted lease/purchase amount with current interest rates has coincidentally worked out to be a seven year term for all five previous purchases. The seven year terms used in all the previous purchases have met all the necessary requirement for budgeting purposes, but part purchases and labor costs for repairs increase dramatically in years six and seven. Equipment repair parts purchases increased 27% in 2013 over 2012. Staff is recommending this package be financed over a six year term to meet the budgeted amounts in operating accounts while helping reduce maintenance and labor costs as the lease expires. Another factor in moving to a six year lease is the reluctance of lending institutions to offer a seven year lease rate or when doing so, coupling the seven year term with a higher interest rate that does not conform to budgeted annual payments. Staff also has committed to the purchasing the golf course maintenance equipment in one package. All previous packages were purchased separately, in different years, requiring separate solicitations, contracts, council agenda and approvals. Staff intended to do two separate purchasing packages this year, but determined that by using the National IPA pricing, taking advantage of currently low interest rates and avoiding the mandatory purchase of Tier-4 emissions after November of 2014 that the City would realize a significant cost savings by purchasing equipment for both courses concurrently. Numerous pieces of the City's existing golf course maintenance equipment are being accepted as trade-in by all the contracted vendors with an approximate value of \$87,070. The City also benefits through the use of the negotiated National IPA contract with Toro to receive \$36,000 in rebates based on the amount of our total purchase. The trade in values and the rebate will be applied to the total purchase price and reduce the total financed amount.

Golf course equipment is very job specific and reliability and available options varies from vendor to vendor. Golf course staff did extensive testing of various pieces of equipment from numerous vendors. This equipment package will require the purchase of 48 new pieces of equipment that are replacing other pieces like-for-like and four pieces of equipment that will be new additions to the fleet. The new pieces will consist of (1) ProCore 648 Walk-behind Greens Aerifier, (1) ProCore SR72 Deep Tine Aerifier, (1) ProCore 1298 Large Area Aerifier, (1) Kubota 71HP Tractor.

Paid rounds have increased 16.3% since a low of 51,825 in 2008 to 61,899 in 2013, and with that increase, along with the use of reclaimed water, it has become essential for staff to do periodic spot aerification of surface drainage areas on greens along with deep tine aerification during regularly schedules greens aerification using both the ProCore 648 and the SR72. Both of these aerifiers also help reduce potential black layer issues and compaction due to reclaimed water use and increased foot traffic. Increased participation will also increase cart traffic, which in turn increases soil compaction and turf wear. A larger aerifier designed to be operated in both fairways and roughs such as the ProCore 1298, will be important to help relieve compaction, overseed worn turf and improve water and air exchange in the soil profile for continued healthy turf. The current aerifiers are designed for use on greens and are not heavy duty enough to sustain regular use in our heavy clay soils. The Kubota 71 HP tractor meets the required horsepower specifications needed to operate the ProCore 1298 and the SR 72. We currently do not have a tractor in the fleet with the required horsepower to run the new aerifiers. All three new aerifiers and the new tractor would be equally shared between both golf courses and will be budgeted as such.

It was determined that soliciting a single source vendor bid would be more beneficial to the City than the traditional bid process for a number of reasons. A single source vendor bid allows staff to standardize the fleet from lease to lease keeping parts inventories consistent between both courses and keeping costs lower through bulk purchasing programs. It also allows staff to select the best piece of equipment with the available options needed at the lowest possible price. Selecting a single source vendor gives staff the flexibility to acquire equipment with the necessary options. Such options would include: single point height adjustment, maximum horsepower for high altitude work, sealed bearing design for lower maintenance, cutting unit down pressure kits for consistent height of cut, powered rear roller brushes for more consistent height of cut, hydraulic fluid leak detector systems to prevent turf damage, three wheel drive units for specific areas of the golf course and many standard safety options not available with other units.

Staff is recommending the purchase of new GCME for The Heritage Golf Course at Westmoor and Legacy Ridge Golf Courses in 2014 using the National Intergovernmental Purchasing Alliance (IPA) pricing agreement. National IPA is a cooperative purchasing organization dedicated to serving City/Local Government, County Government, State Government, Public and Private Educational Institutions and Systems, Special Districts, Government-Education Healthcare Entities and Nonprofits. This is an optional use program with no fee to participate.

All agreements offered through National IPA have been awarded via a thorough Request for Proposal (RFP) competitive solicitation by a public agency (Principal Procurement Agency, PPA). The contracting process is the foundation of National IPA and sets them apart from other cooperatives. In order for even the most restrictive agencies nationwide to realize the best value offered by cooperative procurement, National IPA ensures that industry best practices, processes and procedures are applied.

1. The Principal Procurement Agency (PPA) prepares a competitive solicitation, incorporating language to make the agreement accessible nationally to agencies in states that allow intergovernmental (i.e.: "piggyback") contract usage.
2. The PPA issues the solicitation and any required amendments and notifications, and conducts pre-proposal conferences/meetings.
3. Interested suppliers respond to the solicitation.
4. The PPA evaluates the responses, negotiates the final terms and conditions and ultimately awards the master agreement.
5. All documentation is posted on the National IPA website and made available to the public.

The City of Tucson, AZ Department of Procurement issued RFP #120535 on May 4, 2012 to establish a national cooperative contract for grounds keeping, golf and sports field maintenance equipment. Notice of the solicitation was sent to potential offerors as well as publicly advertised. On June 12, 2012 proposals were received from the following offerors: Jacobsen Textron Company, R&R Products and The Toro Company.

The proposals were evaluated by an evaluation committee. Using the evaluation criteria established in the RFP, the committee elected to enter into interview and equipment demonstrations with the top two ranked firms, Jacobsen Textron Company and The Toro Company. At the conclusion of the interviews and demonstrations, the evaluation committee individually scored and ranked the short-listed firms. As a result, the committee recommended entering into exclusive negotiations with the intent to award to the top ranked firm, The Toro Company.

The City of Tucson, AZ, National IPA and The Toro Company successfully negotiated a contract and the City of Tucson executed the agreement with a contract effective date of November 27, 2012.

Contract includes: Grounds keeping, golf and sports field maintenance equipment. Term: Initial one year agreement from November 27, 2012 through November 26, 2013, with option to renew for four (4) additional one year periods through November 26, 2017. Pricing/Discount: Discount off Toro MSRP for Commercial, Landscape Contract Equipment and Compact Utility Equipment. Serviced and supported by local Toro distributors/dealers.

Value Added Services: Used equipment, financing options, Smart Value Program, volume incentive program

The City of Westminster received an exclusive proposal from LL Johnson Distributing/Toro, Inc. using the before mentioned National IPA award and includes fleet replacement of new equipment, trade in values of current fleet and other monetary considerations.

OTHER MONETARY CONSIDERATIONS

- Locally based Service Department, Service Technicians
- LL Johnson Distributing will provide free, on-site training for golf course personnel from field service technicians on the necessary routine maintenance procedures for all new equipment
- Free attendance to LL Johnson Service School
- Potential to purchase demo equipment with less than 150 hours and full warranties
- Potential use of Omni Card to obtain rebates through Visa back to the City
- Negotiate the access to Toro's Fleet Management System (MyTurf)

The proposed action supports City Council's goals of "Strong, Balanced Local Economy," Vibrant Neighborhoods in One Livable Community" and "Beautiful and Environmentally Sensitive City" by providing efficient, well-maintained and sustainable City infrastructure and facilities.

Respectfully submitted,

J. Brent McFall
City Manager

Attachments: Councillor's Bill No. 8
Lease/Purchase Golf Course Equipment Package
Impact to Golf Course Revenue and Expenditure Accounts

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **8**

SERIES OF 2014

INTRODUCED BY COUNCILLORS

**A BILL
FOR AN ORDINANCE AMENDING THE 2014 BUDGET OF THE LEGACY RIDGE AND
HERITAGE AT WESTMOOR FUNDS AND AUTHORIZING A SUPPLEMENTAL
APPROPRIATION FROM THE 2014 ESTIMATED REVENUES IN THE FUND.**

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The 2014 appropriation for the Legacy Ridge and Heritage at Westmoor Funds initially appropriated by Ordinance No. 3655 is hereby increased in aggregate by \$1,101,069. This appropriation is due to an increase in the master lease for these funds.

Section 2. The \$1,101,069 increase shall be allocated to City Revenue and Expense accounts as described in the City Council Agenda Item 10 I-K dated March 24, 2014 (a copy of which may be obtained from the City Clerk) amending City fund budgets as follows:

Legacy Ridge Fund	\$540,431
Heritage at Westmoor Fund	<u>560,638</u>
Total	<u>\$1,101,069</u>

Section 3 – Severability. The provisions of this Ordinance shall be considered as severable. If any section, paragraph, clause, word, or any other part of this Ordinance shall for any reason be held to be invalid or unenforceable by a court of competent jurisdiction, such part shall be deemed as severed from this ordinance. The invalidity or unenforceability of such section, paragraph, clause, or provision shall not affect the construction or enforceability of any of the remaining provisions, unless it is determined by a court of competent jurisdiction that a contrary result is necessary in order for this Ordinance to have any meaning whatsoever.

Section 4. This ordinance shall take effect upon its passage after the second reading.

Section 5. This ordinance shall be published in full within ten days after its enactment.

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 24th day of March, 2014.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 14th day of April, 2014.

ATTEST:

Mayor

City Clerk

**LEASE/PURCHASE GOLF COURSE EQUIPMENT PACKAGE MARCH 24, 2014
AGENDA MEMO ATTACHMENT**

Attachment A

HERITAGE AT WESTMOOR EQUIPMENT PACKAGE 2014 NATIONAL IPA PRICING

LL Johnson Distributing		LIST		
		Price Each	Quantity	Total Price
TORO 1000	Walking Greens Mower	\$6,851.10	4	\$27,404.40
	LED Light Kit	\$444.96	4	\$1,779.84
	14 Blade Reels	\$297.47	4	\$1,189.88
	Groomer Drive	\$1,320.80	4	\$5,283.20
	21 Groomer Spring Steel	\$398.04	4	\$1,592.16
				\$37,249.48
TORO 3150-Q	Riding Greens Mower	\$20,766.79	2	\$41,533.58
	14 Blade Reels	\$2,033.20	6	\$12,199.20
	Narrow Wiehle Rollers Set	\$831.27	2	\$1,662.54
	Groomer Drive	\$1,267.62	6	\$7,605.72
	Groomer Reel	\$373.01	6	\$2,238.06
	Pull Link Kit Set	\$491.10	2	\$982.20
	TruSurface Vibratory Rollers	\$9,145.00	1	
				\$66,221.30
TORO 3150-Q	Riding Tee/Approach Mower	\$20,766.79	2	\$41,533.58
	11 Blades	\$1,921.37	6	\$11,528.22
	Narrow Wiehle Rollers Set	\$831.27	2	\$1,662.54
	Groomer Drive	\$1,267.62	6	\$7,605.72
	Groomer Reel	\$373.01	6	\$2,238.06
	Pull Link Kit Set	\$491.10	2	\$982.20
	3-Wheel Drive	\$2,325.67	2	\$4,651.34
				\$70,201.66
TORO 5410-D	Fairway Mowers 100" Cut	\$31,803.16	2	\$63,606.32
	8 Blade Cutting Units	\$2,276.40	10	\$22,764.00
	Powered Rear Roller Brush	\$446.52	10	\$4,465.20
				\$90,835.52
TORO 3550-D	App/FWy Mower 82" Cut	\$26,587.22	1	\$26,587.22
	18" 8 Blade Reels	\$2,540.72	3	\$7,622.16
	22" 8 Blade Reels	\$2,540.72	2	\$5,081.44
	Rear Roller Rotating Brush	\$2,970.82	1	\$2,970.82
				\$42,261.64
TORO 4500-D	Rough Mower 109" Cut	\$54,895.62	1	\$54,895.62
				\$54,895.62
TORO 1750	MultiPro Sprayer 175 Gallon	\$27,257.39	1	\$27,257.39
	Clean Load Eductor	\$1,960.47	1	\$1,960.47
	Foam Marking Kit	\$1,610.14	1	\$1,610.14
				\$30,828.00
TORO 3040	Sand Pro Bunker Rake	\$13,127.43	1	\$13,127.43
	Tooth Rake	\$1,103.40	1	\$1,103.40
				\$14,230.83

TORO Pro Force	Debris Blower	\$6,677.50	1	\$6,677.50	
					\$6,677.50
TORO HDX-D 4WD	Utility Vehicle 4x4	\$25,130.35	1	\$25,130.35	
	Highflow hydraulic kit	\$1,340.35	1	\$1,340.35	
					\$26,470.70
TORO ProCore 1298	Large Area Aerator	\$30,732.54	1	\$30,732.54	
	Asseccories	\$1,670	1	\$1,670.36	
					\$32,402.90
	TOTAL TORO PRODUCTS				\$472,275.15
	TOTAL OTHER LL JOHNSON				\$9,145.00
	TOTAL LL JOHNSON				\$481,420.15
Potestio Brothers					
JD Gator TS	11 HP Gas 2wd	\$5,614	1	\$5,613.75	
JD Gator 625i	Irrigation Gas	\$13,972	1	\$13,972.37	
Boss Snow Plow	Snow plow for Gator 825	\$3,032	1	\$3,031.95	
					\$22,618.07
C&M Golf & Grounds					
Cushman 1000	Electric 48V Utility	\$6,971.00	7	\$48,797.00	
					\$48,797.00
BG Equipment					
Kubota Tractor	M7060HDC12	\$36,655.00	1	\$36,655.00	
Kubota Loader Att.	LA1154	\$4,926.00	1	\$4,926.00	
					\$41,581.00
	TOTAL THGC EQUIPMENT				\$594,416.22
	THGC TORO SERVICE FEE 4%			\$472,275.15	\$18,891.01
	TOTAL PACKAGE				\$613,307.23
	LESS THGC TRADES LLJ				\$30,050.00
	LESS THGC TRADES C&M				\$4,620.00
	LESS THGC REBATE				\$18,000.00
	THGC TOTAL				\$560,637.23

LEGACY RIDGE EQUIPMENT PACKAGE 2014 NATIONAL IPA PRICING

LL Johnson Distributing		LIST		
		Price Each	Quantity	Total Price
TORO 1000	Walking Greens Mower	\$6,851.10	4	\$27,404.40
	Transport Tires	\$157.18	0	\$0.00
	LED Light Kit	\$444.96	4	\$1,779.84
	14 Blade Reels	\$297.47	4	\$1,189.88
	Groomer Drive	\$1,320.80	4	\$5,283.20
	21 Groomer Spring Steel	\$398.04	4	\$1,592.16
				\$37,249.48
TORO 3150-Q	Riding Greens Mower	\$20,766.79	2	\$41,533.58
	Pull Link Kit Set	\$491.10	2	\$982.20
	TruSurface Vibratory Rollers	\$9,145.00	1	\$9,145.00
				\$9,145
TORO 3150-Q	Riding Greens Mower	\$20,766.79	1	\$20,766.79
	11 Blade Reels	\$1,921.37	3	\$5,764.11
	Narrow Wiehle Rollers Set	\$831.27	1	\$831.27
	Groomer Drive	\$1,267.62	3	\$3,802.86
	Groomer Reel	\$373.01	3	\$1,119.03
	3 WD Kit	\$2,325.67	1	\$2,325.67
				\$77,125.51
TORO 3150-Q	Riding Tee/Approach Mower	\$20,767	2	\$41,533.58
	3-Wheel Drive	\$2,326	2	\$4,651.34
				\$46,184.92
TORO 5410-D	Fairway Mowers 100" Cut	\$31,803	3	\$95,409.48
	8 Blade Cutting Units	\$2,276	15	\$34,146.00
	Powered Rear Roller Brush	\$447	15	\$6,697.80
				\$136,253.28
TORO 4500-D	Rough Mower 109" Cut	\$54,896	2	\$109,791.24
				\$109,791.24
TORO 1750	MultiPro Sprayer 175 Gallon	\$27,257.39	1	\$27,257.39
	Clean Load Eductor	\$1,960.47	1	\$1,960.47
	Foam Marking Kit	\$1,610.14	1	\$1,610.14
	Ultra Sonic Boom Level Unit	\$2,741.69	1	\$2,741.69
				\$33,569.69
TORO 3040	Sand Pro Bunker Rake	\$13,127	1	\$13,127.43
	Tooth Rake	\$1,103	1	\$1,103.40
				\$14,230.83
TORO Pro Force	Debris Blower	\$6,678	1	\$6,677.50
				\$6,677.50
TORO ProCore 648	Walking Greens Aerator	\$23,384	1	\$23,384.49
				\$23,384.49

TORO ProCore SR72	Deep Tine Aerator	\$23,293.43	1	\$23,293.43	
					\$23,293.43
Express Dual 4000DX	Reel Grinder	\$43,798.00	1	\$43,798.00	\$43,798.00
AngleMaster 4000	Bedknife Grinder	\$18,590.00	1	\$18,590.00	\$18,590.00
	TOTAL TORO PRODUCTS			\$507,760.37	
	TOTAL OTHER LL JOHNSON				\$71,533.00
	TOTAL LL JOHNSON			\$579,293.37	
Potestio Brothers					
JD Gator TS	11 HP Gas 2wd	\$5,613.75	2	\$11,227.50	
					\$11,227.50
	TOTAL LRGC EQUIPMENT			\$590,520.87	
	LRGC TORO SERVICE FEE 4%			\$507,760.37	\$20,310.41
	TOTAL PACKAGE				\$610,831.28
	LESS LRGC TRADES LLJ				\$52,400.00
	LESS LRGC REBATE				\$18,000.00
	LRGC TOTAL				\$540,431.28

Attachment B

These appropriations will amend Legacy Ridge and Heritage at Westmoor Funds revenue and expense accounts as follows:

REVENUE

Description	Account Number	Current Budget	Amendment	Revised Budget
Lease Proceeds	2200.46005.0000	\$0	\$540,431	\$540,431
Lease Proceeds	2300.46005.0000	0	<u>560,638</u>	560,638
Total Change to Revenue			<u>\$1,101,069</u>	

EXPENSE

Description	Account Number	Current Budget	Amendment	Revised Budget
Other Equipment – Legacy Ridge Golf Course	22050720.76000.0000	\$3,000	\$540,431	\$543,431
Other Equipment – Heritage Golf Course	23050720.76000.0000	\$3,080	<u>560,638</u>	563,718
Total Change to Expense			<u>\$1,101,069</u>	