

AGENDA

**WESTMINSTER ECONOMIC DEVELOPMENT AUTHORITY
SPECIAL MEETING**

MONDAY, MARCH 10, 2014

AT 7:00 P.M.

1. Roll Call

2. Minutes of Previous Meeting (February 24, 2014)

3. Public Hearings and New Business

A. WEDA/City ICA for Reimbursement of Certain South Sheridan URA Costs

B. Public Hearing to Consider 2013 Budget Amendment

C. Resolution No. 153 Authorizing Supplemental Appropriation to 2013 Budget

4. Adjournment

CITY OF WESTMINSTER, COLORADO
MINUTES OF THE WESTMINSTER ECONOMIC DEVELOPMENT AUTHORITY
MONDAY, FEBRUARY 24, 2014, AT 7:51 P.M.

ROLL CALL

Present at roll call were Chairperson Herb Atchison, Vice Chairperson Faith Winter and Board Members Bruce Baker, Bob Briggs, Alberto Garcia, Emma Pinter, and Anita Seitz. Also present were J. Brent McFall, Executive Director, Martin McCullough, Attorney, and Linda Yeager, Secretary.

APPROVAL OF MINUTES

Vice Chairperson Winter moved, seconded by Board Member Pinter, to approve the minutes of the meeting of January 27, 2014, as written. The motion carried unanimously.

PUBLIC HEARING TO AUTHORIZE 2013 BUDGET AMENDMENT

At 7:52 p.m., the Chairperson opened a public hearing to consider an amendment to the 2013 budget. Mr. McFall reported that staff was present to answer any questions that Council or the public might have. Chairperson Atchison asked if there were any questions from Council or if any member of the public wished to comment. No one responded, and the Chairperson closed the hearing at 7:53 p.m.

RESOLUTION NO. 152 AUTHORIZING 4TH QUARTER 2013 SUPPLEMENTAL APPROPRIATION

It was moved by Board Member Briggs, seconded by Vice Chairperson Winter, to adopted Resolution No. 152 authorizing a supplemental appropriation to the 2013 Westminster Economic Development Authority budget. The motion passed unanimously on roll call vote.

DOWNTOWN WESTMINSTER GRADING DESIGN CONTRACT

It was moved by Board Member Pinter, seconded by Board Member Garcia, to find, based upon the recommendation of the Executive Director, that the public interest would be best served by a negotiated contract with Martin/Martin, Inc. for the design of site grading at the Downtown Westminster project and to award the grading design contract to Martin/Martin, Inc., authorize the Executive Director to execute a contract in the amount of \$119,390 for this work and authorize an additional \$25,000 as a design contingency. The motion carried unanimously.

DOWNTOWN WESTMINSTER URBAN PLANNING SERVICES CONTRACT AMENDMENT

Upon a motion by Vice Chairperson Winter, seconded by Board Member Briggs, the Authority voted unanimously to find, based on the recommendation of the Executive Director, that the public interest was best served by entering into a negotiated contract amendment, if needed and in a form approved by the City Attorney's Office, with Project for Public Spaces (PPS) for urban planning services, and authorize the Executive Director to execute a contract amendment with PPS in an amount not to exceed \$20,000 for Phase 2 services, including concept and schematic planning and design services for public spaces related to the development of Downtown Westminster.

ADJOURNMENT

There was no further business for the Authority's consideration, Chairperson Atchison adjourned the meeting at 7:56 p.m.

ATTEST:

Chairperson

Secretary

WEDA Agenda Item 3 A - C

Agenda Memorandum

Westminster Economic Development Authority Meeting
March 10, 2014



SUBJECT: Westminster Economic Development Authority/City of Westminster Intergovernmental Cooperation Agreement Regarding the Reimbursement of Public Improvement and Maintenance Expenses in the South Sheridan Urban Renewal Area and Public Hearing and Resolution No. 153 re: Westminster Economic Development Authority Supplemental Appropriation to 2014 budget

Prepared By: Tammy Hitchens, Finance Director
Robert Byerhof, Treasury Manager
Karen Creager, Accountant

Recommended Board Action

1. Authorize the Executive Director to sign an Intergovernmental Cooperation Agreement (ICA) between the City of Westminster (City) and the Westminster Economic Development Authority (WEDA) in substantially the same form as attached providing payment to the City from WEDA for reimbursement of costs associated with a redevelopment agreement benefitting the URA and City incurred costs related to maintenance of improvements in the South Sheridan Urban Renewal Area (URA).
2. Hold a Public Hearing on the budget amendment for WEDA.
3. Adopt Resolution No. 153 authorizing a supplemental appropriation to the 2014 WEDA budget.

Summary Statement

- South Sheridan is one of seven Urban Renewal Area's (URA's) under the WEDA umbrella. The South Sheridan Urban Renewal Plan (Plan) was created on March 29, 2004 to facilitate the redevelopment of property within its boundaries.
- The Plan was undertaken for the public purpose to reduce traffic congestion and enhance mobility in the area, renovate or redevelop the deteriorated and/or outdated retail, manufacturing and office buildings, enhance the aesthetic appearance of the area, reduce the retail vacancy rate in the area, improve property values in the area, secure and improve additional public parks, open space and trail connections and improve the tax base of the City.
- The City contributed to the purpose of the Plan by participating in a Redevelopment Agreement between the City and Village Homes of Colorado, Inc. (Village Homes). The Redevelopment Agreement provided for incentive reimbursements with an amount not to exceed \$606,500. Village Homes sold the project and the Redevelopment Agreement was ultimately assigned to Arcadia Holdings at Shoenberg Farms, LLC.
- The terms of the Redevelopment Agreement have been fulfilled and the City has paid incentive reimbursements totaling \$606,500.
- WEDA contributed to the purpose of the Plan by issuing tax-exempt tax increment bonds in June, 2007 to fund construction of improvements in the URA.
- Redevelopment within the URA will continue to bear the City additional costs that may be chargeable to WEDA.
- Sales tax and property tax incremental revenues generated within the URA may be used to pay for public improvements and associated contractual obligations that benefit the URA, as well as, reimbursing the City for maintenance costs incurred.

- WEDA's reimbursement of costs incurred by the City will provide funding for other City public improvements.
- The ICA details City and WEDA obligations regarding the covenants set forth for the reimbursement of costs from WEDA's South Sheridan URA to the City related to the Redevelopment Agreement and for the maintenance of improvements in the URA.
- Appropriation of carryover is necessary to have sufficient funds available in the 2014 budget to reimburse the City.
- A public hearing is required pursuant to Section 29-1-108 of the Colorado Revised Statutes.

Expenditure Required: \$606,500 plus amounts billed in the future by the City

Source of Funds: Existing Excess and Future Sales Tax and Property Tax Incremental Revenues

Policy Issues

1. Should the Board approve an Intergovernmental Cooperation Agreement (ICA) with the City to reimburse the City for costs incurred from a Redevelopment Agreement within the South Sheridan URA and maintenance costs associated within the URA, provided all other superior covenants and superior obligations have been met?
2. Should the WEDA Board appropriate funds as set forth in the attached Resolution?

Alternatives

1. Do not authorize the execution of the proposed ICA between the City and WEDA. This alternative is not recommended. The Redevelopment Agreement fostered redevelopment efforts within the South Sheridan URA, which helped to generate sales tax and property tax incremental revenues. Additionally, reimbursement of costs borne by the City for maintenance of public improvements located within the URA are expenses that are a proper and legal use of URA tax increment revenues and interest earnings.
2. The Board could decide not to appropriate the requested carryover funds. This is not recommended as repayment to the City in accordance with the ICA cannot be made unless funds have been made available in the current year budget.

Background Information

Pursuant to Article XIV of the Colorado Constitution, and Part 2 of Article 1 of Title 29, C.R.S., the City and WEDA are authorized to cooperate and contract with one another to provide any function, service, or facility lawfully authorized to each governmental entity. Accordingly, WEDA desires to enter into an ICA with the City to reimburse costs incurred by the City relative to the Agreement and maintenance of the improvements.

This ICA accomplishes several things:

- Recognizes that City Council created the South Sheridan Urban Renewal Area to encourage and support the redevelopment of property within its boundaries.
- Recognizes that the City and WEDA have both incurred costs to foster public improvements and to enhance redevelopment within the URA.
- Recognizes that the City entered into a Redevelopment Agreement on April 25, 2005 with Village Homes of Colorado, Inc., which was ultimately assigned in June, 2010 to Arcadia Holdings at Shoenberg Farms, LLC. The Agreement provides for reimbursement up to a total of \$606,500 in costs associated with redevelopment within the URA.
- Recognizes that the City has paid the total incentive amount of \$606,500.
- Recognizes that WEDA issued tax-exempt tax increment financing in June, 2007 to fund construction of improvements in the URA.
- Recognizes that the City will incur maintenance costs associated with improvements located within the URA.
- Recognizes that reimbursement of City incurred costs will be subordinate to any current or future bonded indebtedness (Superior Obligations), including but not limited to tax increment notes, tax increment bonds, economic development agreements, and all other forms of contractual indebtedness or obligation of whatsoever nature that is any way secured, collateralized, or backed by revenues of WEDA.
- As necessary, the City and WEDA shall negotiate in good faith the amount due from WEDA under this Agreement, based on the costs incurred or expected to be incurred by the City, and the funds available to WEDA after first meeting all Superior Obligations of WEDA.
- As a result of incremental sales tax and property tax collected to-date being above the amount previously needed for obligations and debt reserves, funds are currently available in WEDA's fund balance to pay amounts previously incurred by the City. Staff recommends approving the attached ICA to facilitate the reimbursement of City costs incurred in accordance with the Redevelopment Agreement.

The amendments listed in the attached resolution will bring WEDA's accounting records up-to-date to reflect use of carryover to fund the ICA payment to the City.

This recommended action supports the strategic objectives of a Strong, Balanced Local Economy, a Financially Sustainable City Government Providing Exceptional Services, and Vibrant Neighborhoods in One Livable Community. It does so by establishing an ICA for reimbursement of costs incurred by the City, which will then make funds available for other public improvement projects in the City and makes the appropriate funds available in the current year budget to fund the ICA payment.

Respectfully submitted,

J. Brent McFall
Executive Director

Attachments - Intergovernmental Cooperation Agreement
Resolution

**INTERGOVERNMENTAL COOPERATION AGREEMENT BETWEEN
THE WESTMINSTER ECONOMIC DEVELOPMENT AUTHORITY AND THE CITY OF
WESTMINSTER REGARDING MAINTENANCE AND PUBLIC IMPROVEMENTS IN THE
SOUTH SHERIDAN URBAN RENEWAL AREA**

This Intergovernmental Cooperation Agreement (the “Agreement”), dated as of _____ 2014, is made and entered into between the WESTMINSTER ECONOMIC DEVELOPMENT AUTHORITY (“WEDA”), a Colorado urban renewal authority, and the CITY OF WESTMINSTER (“City”), a Colorado home-rule municipality (collectively “Parties”)

WHEREAS, the City is a Colorado home rule municipality with all the powers and authority granted pursuant to Article XX of the Colorado Constitution and its City Charter; and

WHEREAS, WEDA is a Colorado urban renewal authority, with all the powers and authority granted pursuant to Title 31, Article 25, Part 1, Colorado Revised Statutes (“C.R.S.”) (the “Urban Renewal Law”); and

WHEREAS, pursuant to Article XIV of the Colorado Constitution, and Title 29, Article 1, Part 2, C.R.S., the City and WEDA are authorized to cooperate and contract with one another to provide any function, service or facility lawfully authorized to each governmental entity; and

WHEREAS, the City has heretofore approved the Westminster Economic Development Authority South Sheridan Urban Renewal Plan (“Plan”) on March 29, 2004 and the urban renewal project described therein (“Urban Renewal Project”); and

WHEREAS, the Urban Renewal Project has been undertaken for the public purpose of enhancing employment opportunities, eliminating existing conditions of blight, and improving the tax base of the City; and

WHEREAS, pursuant to Section 31-25-105, C.R.S., WEDA has the authority to undertake urban renewal projects and to make and execute any and all contracts that it may deem necessary or convenient to the exercise of its powers; to arrange for the furnishing or repair by any public body of services, privileges, works, streets, roads, public utilities, or educational or other facilities, for or in connection with an urban renewal project; and to make such appropriations and expenditures of its funds as it deems necessary to carry out the purposes of the Colorado Urban Renewal Law; and

WHEREAS, pursuant to Section 31-25-112, C.R.S., the City is specifically authorized to do all things necessary to aid and cooperate with WEDA in connection with the planning or undertaking of any urban renewal plans, projects, programs, works, operations or activities of WEDA, to enter into agreements with WEDA respecting such actions to be taken by the City, and appropriating funds and making such expenditures of its funds to aid and cooperate with WEDA in undertaking the Urban Renewal Project and carrying out the Plan; and

WHEREAS, pursuant to the Plan, WEDA is collecting incremental tax revenues to accomplish the purposes of the Plan; and

WHEREAS, WEDA issued tax increment adjustable rate revenue bonds in June, 2007 to fund the construction of improvements in the South Sheridan URA including improvements to Sheridan Boulevard and a masonry wall on 72nd Avenue (collectively referred to as “Improvements” in this Agreement); and

WHEREAS, the Parties have previously entered into a Redevelopment Agreement with Village Homes of Colorado, Inc., pursuant to which the City and WEDA agreed to provide an incentive to the Developer in the amount of \$606,500 (“Developer Incentive”). The Developer Incentive was to be paid in installments after certain improvements were constructed or certain real property was acquired as described in the Redevelopment Agreement, and

WHEREAS, such Redevelopment Agreement was ultimately assigned by Village Homes of Colorado, Inc. to Arcadia Holdings at Shoenberg Farms, LLC, a Colorado limited liability company (collectively, Village Homes of Colorado, Inc. and Arcadia Holdings at Shoenberg Farms, LLC are hereafter referred to as “the Developer”); and

WHEREAS, the City has paid the full Developer Incentive amount of \$606,500 as provided in the Redevelopment Agreement; and

WHEREAS, the Redevelopment Agreement and the Improvements help to fulfill the purpose of the Plan; and

WHEREAS, the respective governing bodies of the City and WEDA hereby find and declare that the maintenance of improvements in the URA will further the urban renewal goals and objectives of WEDA; and

WHEREAS, pursuant to the Plan, WEDA has collected and currently collects sales tax and property tax incremental revenues (the “TIF Revenue”), which revenue is deposited by WEDA in a special fund to be utilized pursuant to Section 31-25-107(9)(a)(II), Colorado Revised Statutes; and

WHEREAS, WEDA has determined that it is in the best interest of WEDA and the City that WEDA reimburse the City from its TIF Revenue for the amount paid of \$606,500 pursuant to the Redevelopment Agreement and also reimburse the City for maintenance costs incurred in the South Sheridan URA; and

WHEREAS, the Parties desire to enter into this intergovernmental cooperation agreement for the purpose of providing for the repayment to the City the Developer Incentive and for maintenance costs; and

NOW THEREFORE, in consideration of the foregoing recitals, and the following terms and conditions, the Parties hereby agree as follows:

1. **Reimbursement by WEDA to the City.** WEDA hereby agrees to reimburse the City from its TIF Revenue any amounts previously paid by the City to the Developer as the Developer Incentive, provided that such reimbursement shall not exceed \$606,500.

2. **Maintenance of Improvements.** The City has agreed to maintain said Improvements in accordance with the same standards of maintenance as the City follows for other improvements within the City. WEDA agrees to reimburse the City a portion of the City’s costs related to the current and future maintenance of said Improvements, as set forth in paragraph 3B below. WEDA’s obligations under this paragraph 2 shall be paid from incremental revenues and interest available to WEDA after first satisfying WEDA’s Superior Obligations, as herein defined below.

3. **Conditions to WEDA’s Payment Obligations.** The obligations assumed by WEDA pursuant to Sections 1 and 2 of this Agreement are subject to the following conditions:

A. WEDA’s obligations pursuant to this Agreement are subordinate to WEDA’s obligations for repayment of any current or future bonded indebtedness (the “Superior Obligations”). The term “bonded indebtedness” includes all form of indebtedness of WEDA, including but not limited to tax increment notes, tax increment bonds, economic development agreements, and all other forms of contractual indebtedness or obligation of whatsoever nature that is any way secured, collateralized, or backed by revenues of WEDA.

B. The City and WEDA shall negotiate in good faith to determine the amount due from WEDA under this Agreement, based on costs incurred or expected to be incurred by the City, and the revenues available to WEDA after first meeting all Superior Obligations of WEDA. The City and WEDA agree that the obligations of WEDA under this Agreement shall be deemed subordinated to all other

obligations of WEDA, past or future, except to the extent that any future obligation incurred by WEDA is expressly made subordinate to WEDA's obligation under this Agreement, provided, however, it is WEDA's intent to apply any revenues not needed to meet its Superior Obligations to funding its cost sharing obligations under this Agreement.

C. The City will bill WEDA at least annually for WEDA's share of the maintenance costs. The City will bill WEDA no later than May 31, 2014 for costs associated with the Developer Incentive paid by the City. WEDA will pay amounts billed no more than 30 days from the date of the invoice.

D. It is the intent of the parties that WEDA's obligations pursuant to this Agreement shall be deemed and construed as an indebtedness of WEDA with the meaning of 31-25-107(9)(a)(II), C.R.S.

3. **Cooperation.** The Parties covenant with each other that in any action or challenge of the Urban Renewal Plan or this Agreement, regarding the legality, validity or enforceability of any provision thereof, the Parties will work cooperatively and in good faith to defend and uphold each and every such provision.

4. **Term.** Unless sooner terminated by mutual consent of the Parties, this Agreement shall remain in full force and effect until the tax allocation provisions of the Urban Renewal Plan and the Act terminate.

5. **General Provisions.**

A. **Governing Body.** This Agreement shall be governed by, and construed in accordance, with the laws of the state of Colorado.

B. **Amendments and Waivers.** No amendment or waiver of any provision of this Agreement, nor consent to any departure herefrom, in any event shall be effective unless the same shall be in writing and signed by the Parties hereto, and then such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given.

C. **Conflicts.** To the extent any term or provision of this Agreement conflicts with any other term or condition of any previous agreement between the City and WEDA, this Agreement shall control.

D. **Headings.** Paragraph headings in this Agreement are included herein for convenience of reference only and shall not constitute a part of this Agreement for any other purpose.

E. **Severability.** If any covenant, term, condition, or provision under this Agreement shall, for any reason, be held to be invalid or unenforceable, the invalidity or unenforceability of such covenant, term, condition, or provision shall not affect any other provision contained herein, the intention being that such provisions are severable.

F. **Third Parties.** The City and WEDA expressly disclaim any intent to create any third-party beneficiary rights or benefits pursuant to this Agreement. Neither the City nor WEDA shall be obligated or liable under the terms of this Agreement to any person or entity not a party hereto.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be duly executed and delivered by their respective officers thereunto and duly authorized as of the date first above written.

**WESTMINSTER ECONOMIC
DEVELOPMENT AUTHORITY**

CITY OF WESTMINSTER

By: _____
J. Brent McFall
Executive Director

By: _____
J. Brent McFall
City Manager

ATTEST:

Secretary for WEDA

Approved as to Form:

Martin R. McCullough
Attorney for WEDA

ATTEST:

Linda Yeager, City Clerk

Approved as to Form:

Martin R. McCullough
City Attorney

WESTMINSTER ECONOMIC DEVELOPMENT AUTHORITY

RESOLUTION NO. **153**

INTRODUCED BY BOARD MEMBERS

SERIES OF 2014

**2014 WESTMINSTER ECONOMIC DEVELOPMENT AUTHORITY
BUDGET SUPPLEMENTAL APPROPRIATION**

WHEREAS, the Westminster Economic Development Authority (WEDA) initially adopted the 2014 budget on October 8, 2012 and

WHEREAS, proper notice for this amendment was published on March 6, 2014, pursuant to the requirements of Section 29-1-106 Colorado Revised Statutes; and

WHEREAS, a public hearing for this amendment was held on March 10, 2014, pursuant to the requirements of Section 29-1-108 Colorado Revised Statutes; and

WHEREAS, as necessary a resolution to make adjustments to the budget is presented to the Board; and

WHEREAS, there are adjustments to be made to the 2014 budget; and

WHEREAS, the revenue adjustments consist of an increase of \$606,500; and

WHEREAS, the expense adjustments consist of an increase of \$606,500.

NOW, THEREFORE, BE IT RESOLVED by the Board of the Westminster Economic Development Authority:

Section 1. The \$606,500 increase shall be allocated to WEDA Revenue and Expenditure accounts as described below:

REVENUES

Description	Account Number	Current Budget	Amendment	Revised Budget
Carryover	6800.40020.0190	\$74,675	\$606,500	\$681,175
Total Change to Revenues			\$606,500	

EXPENDITURES

Description	Account Number	Current Budget	Amendment	Revised Budget
Contractual Services	68010900.67800.0190	\$0	\$606,500	\$606,500
Total Change to Expenses			\$606,500	

Section 2. The resolution shall be in full force and effect upon its passage and approval.

PASSED AND ADOPTED 10th day of March, 2014.

ATTEST:

Chairperson

Secretary