

AGENDA

WESTMINSTER ECONOMIC DEVELOPMENT AUTHORITY SPECIAL MEETING

MONDAY, March 26, 2012

AT 7:00 P.M.

- 1. Roll Call**
- 2. Minutes of Previous Meeting** (March 19, 2012)
- 3. Purpose of Special WEDA Meeting is to**
 - A. Adopt Resolution No. 140 re First Amendment to the Loan Agreement between WEDA and Compass Mortgage Loan
- 4. Adjournment**

CITY OF WESTMINSTER, COLORADO
MINUTES OF THE WESTMINSTER ECONOMIC DEVELOPMENT AUTHORITY
MONDAY, MARCH 19, 2012, AT 7:22 P.M.

ROLL CALL

Present at roll call were Chairperson McNally, Vice Chairperson Winter and Board Members Atchison, Briggs, Kaiser, Lindsey, and Major. Also present were J. Brent McFall, Executive Director, Martin McCullough, Attorney, and Linda Yeager, Secretary.

APPROVAL OF MINUTES

Board Member Briggs moved, seconded by Board Member Major, to approve the minutes of the meeting of February 27, 2012, as written. The motion carried unanimously.

PUBLIC HEARING ON 2011 AND 2012 BUDGET AMENDMENTS

At 7:23 p.m. the Chairperson opened a public hearing to consider amendments to the 2011 and 2012 Budgets. The Executive Director explained that no formal presentation was planned, but staff was present to answer any questions from the Board.

Board Members had no questions. The Chairperson opened the hearing for public comment. There was none. The hearing was closed at 7:23 p.m.

RESOLUTION NO. 138 AMENDING THE 2011 BUDGET

It was moved by Board Member Briggs and seconded by Board Member Major to adopt Resolution No. 138 authorizing a supplemental appropriation to the 2011 Westminster Economic Development Authority budget. At roll call, the motion carried with all members of the Authority voting affirmatively.

RESOLUTION NO. 139 AMENDING THE 2012 BUDGET

Board Member Briggs moved to adopt Resolution No. 139 authorizing a supplemental appropriation to the 2012 Westminster Economic Development Authority budget. Board Member Lindsey seconded the motion, and it carried unanimously on roll call vote.

ADJOURNMENT

There was no further business for the Authority's consideration, and it was moved by Atchison, seconded by Major, to adjourn. The motion passed and the meeting adjourned at 7:25 p.m.

Chairperson

ATTEST:

Secretary

WEDA Agenda Item 3 A

Agenda Memorandum

Westminster Economic Development Authority Meeting
March 26, 2012



SUBJECT: Resolution No. 140 re First Amendment to the Loan Agreement between the Westminster Economic Development Authority and Compass Mortgage Loan

Prepared By: Robert Smith, Treasury Manager
Robert Byerhof, Senior Financial Analyst
Karen Creager, Special Districts Accountant

Recommended Board Action

Adopt Resolution No. 140 approving the First Amendment to the Loan Agreement between the Westminster Economic Development Authority and Compass Mortgage Corporation dated May 8, 2009 and authorizing the Executive Director to execute the Amendment.

Summary Statement

- On May 8, 2009, the Westminster Economic Development Authority (WEDA) entered into a loan agreement with Compass Mortgage Corporation (Lender) to refinance a debt issue that had been secured by a letter of credit from DEPFA Bank plc. The 2005 Revenue Bonds (North Huron Project) were refinanced by the Lender as a result of a downgrade in credit rating of DEPFA Bank plc.
- The amendment to the loan agreement is deemed necessary to release certain property tax increment collections as a pledged revenue towards the loan. These pledged revenues related to certain property tax levying districts located within the North Huron Urban Renewal Area (URA), and were not previously excluded. Currently, incremental property tax collections of the 144th Avenue Metropolitan District, the 136th Avenue General Improvement District, and the Orchard Park Place Metropolitan District are excluded from loan revenue pledge; however, the Orchard Park Place General Improvement District (GID) is not.
- The amendment to the loan agreement permits the incremental property tax revenues of the Orchard Park Place General Improvement District and any subsequent district established in the URA to be excluded as a pledged revenue source.
- Exclusion of the mill levy increment from the revenue pledge permits a district to utilize these revenues to pay for certain obligations of the district.

Expenditure Required: \$0

Source of Funds: N/A

Policy Issue

Should the Board approve amending the Loan Agreement with Compass Mortgage Corporation (Lender) to exclude incremental property tax collections of improvement districts as a pledged revenue source on WEDA's loan with the Lender within the North Huron URA?

Alternative

The alternative would be to not approve the amendment to the Loan Agreement. This alternative is not recommended. The intent of pledged revenues to repay the loan did not include the incremental property tax collections from improvement districts within the URA. These collections were intended to be utilized for other district obligations.

Background Information

In 2009, WEDA refinanced three outstanding Variable Rate Revenue Bonds that had been secured by letters of credit from DEPFA Bank plc after the Bank's credit rating fell to below investment grade. The WEDA 2005 Revenue Bonds (North Huron Project) were refinanced by a \$62,375,000 loan from Compass Mortgage.

Interpretation of the Loan Agreement with Compass Mortgage resulted in the need to amend the pledged revenue sources to exclude incremental property tax collections within the Orchard Park Place GID in a similar fashion to the other existing mill levy taxing improvement districts located within the URA. The amendment to the Loan Agreement will also exclude any future improvement district's incremental property tax revenues as a pledged revenue.

The amendment does not in any way impact the credit related provisions of the loan agreement with Compass Mortgage Corporation. Staff has received the consent of the Lender for this amendment.

This recommended action supports the strategic objectives of a Financially Sustainable City Government Providing Exceptional Services, a Strong, Balanced Local Economy and Vibrant Neighborhoods in One Livable Community. It does so by assuring that the City receives payment, when appropriate, for the services it provides to WEDA that undertakes redevelopment of neighborhoods and commercial areas.

Respectfully submitted,

J. Brent McFall
Executive Director

Attachments – Amended Loan and Resolution

AMENDMENT NO. 1 TO LOAN AGREEMENT

by and between

WESTMINSTER ECONOMIC DEVELOPMENT AUTHORITY
as Borrower

and

COMPASS MORTGAGE CORPORATION
as Lender

Dated as of March 26, 2012

LOAN AGREEMENT

THIS AMENDMENT NO. 1 TO LOAN AGREEMENT (this “Amendment No. 1”) is made and entered into as of March 26, 2012, by and between **WESTMINSTER ECONOMIC DEVELOPMENT AUTHORITY** (the “Borrower”), a public body corporate and politic duly existing under the laws of the State of Colorado, and **COMPASS MORTGAGE CORPORATION**, an Alabama corporation, in its capacity as lender (the “Lender”). All capitalized terms used and not otherwise defined herein shall have the respective meanings assigned in Article I of the Loan Agreement (defined below).

RECITALS

WHEREAS, the Borrower is a public body corporate and politic and has been duly created, organized, established and authorized by the City of Westminster, Colorado (the “City”) to transact business and exercise its powers as an urban renewal authority, all under and pursuant to the Colorado Urban Renewal Law, constituting part 1 of article 25 of title 31, Colorado Revised Statutes (the “Act”); and

WHEREAS, pursuant to the Act, the Borrower has the power and authority to borrow money and to apply for and accept loans to accomplish the purposes set forth in the Act, and to give such security as may be required; and

WHEREAS, the Borrower and the Lender have previously entered into a Loan Agreement dated as of May 8, 2009 (the “Original Loan Agreement”); and

WHEREAS, the Original Loan Agreement may be amended only in accordance with the terms of Section 9.08 of the Original Loan Agreement, by an instrument in writing; and

WHEREAS, the Lender is willing to enter into this Amendment No. 1 pursuant to the terms and conditions contained herein; and

WHEREAS, the Note remains in full force and effect.

NOW THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the parties hereto agree as follows.

ARTICLE I

AMENDMENTS

Section 1.01. Additions to Article I of the Original Loan Agreement. Article I of the Original Loan Agreement is hereby amended to add the following definition:

“*Excluded Mill Levies*” means, collectively, (i) any mill levy imposed by the 144th Avenue Metropolitan District, the 136th Avenue General Improvement District and/or Orchard Park Place General Improvement District, (ii) any mill levy imposed by any special district formed after July 1, 2006, pursuant to Title 32, Article 1, Colorado Revised Statutes, which mill

levy is in addition to, and not a replacement for, property taxes levied by taxing entities in existence as of July 1, 2006, and (iii) any mill levy imposed by any other improvement district formed pursuant to Part 6 of Title 31, Article 25, Colorado Revised Statutes (excluding the 144th Avenue General Improvement District), which mill levy is in addition to, and not a replacement for, property taxes levied by taxing entities in existence as of the date of the Original Loan Agreement (other than a replacement for property taxes levied by entities described in clause (i) or (ii) hereof).

Section 1.02. Amendments to Article I of the Original Loan Agreement. The following definitions set forth in the Original Loan Agreement are hereby amended and restated in their entirety as follows:

“Projected Pledged Property Tax Revenues” means, for any particular Fiscal Year, the amount of Pledged Property Tax Revenues projected to be generated in such Fiscal Year (net of the then current Property Tax Base Amount) based upon the most recent Final Assessed Valuation of the Urban Renewal Project Area, the most recent certified Property Tax Base Amount, and the most recent ad valorem property tax mill levies certified by all taxing jurisdictions within the Urban Renewal Project Area (but excluding ad valorem property taxes produced by Excluded Mill Levies).

“Pledged Property Tax Revenues” means, for each Fiscal Year, that portion of the ad valorem property taxes produced by the levies at the rates fixed each year by or for the governing bodies of the various taxing jurisdictions within or overlapping the Urban Renewal Project Area (but excluding ad valorem property taxes produced by Excluded Mill Levies) upon that portion of the valuation for assessment of all taxable property within the Urban Renewal Project Area which is in excess of the Property Tax Base Amount; provided, however, that such amount shall be reduced by any lawful collection fee charged by the County.

Section 1.03. Amendment to Schedule A to Annual Debt Service Coverage Certificates. Schedule A of the Annual Debt Service Coverage Certificate set forth in Exhibit D to the Original Loan Agreement is hereby amended to: (a) add another line item titled “Current Property Tax Base Amount for 144th Avenue GID” after the line item titled “144th Avenue GID Assessed Value;” and (b) add at the end of the line item titled “Projected Property Taxes--144th Avenue GID” the following: “(Net of Property Tax Base Amount)”. The resulting amended and restated Schedule A is set forth on Exhibit A to this Amendment No. 1.

ARTICLE II

MISCELLANEOUS

Section 2.01. Affirmation of Representations, Warranties and Covenants made in the Original Loan Agreement. The Borrower hereby affirms and remakes the representations, warranties and covenants made in the Original Loan Agreement.

Section 2.02 No Default or Event of Default Under Original Loan Agreement. The Borrower hereby represents and warrants to the Lender that, as of the date hereof, no Default or

Event of Default under the Original Loan Agreement has occurred and is continuing and no Default or Event of Default will exist immediately after giving effect to this Amendment No. 1.

Section 2.03 Expenses. The Borrower agrees to pay all of the reasonable costs and expenses incurred in connection with the preparation, execution and delivery of this Amendment No. 1 and any other documents or instruments which may be delivered in connection herewith, including without limitation, the reasonable fees and expenses of Kutak Rock LLP, counsel to the Lender.

Section 2.04 Ratification. Except as modified herein, all terms and provisions of the Original Loan Agreement are hereby ratified and affirmed.

Section 2.05 Severability. If any section, paragraph, clause, or provision of this Amendment No. 1 shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Amendment No. 1, the intent being that the same are severable.

Section 2.06 Execution in Counterparts. This Amendment No. 1 may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 2.07 Captions. The captions or headings herein are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Amendment No. 1 or the Original Loan Agreement.

Section 2.08 Amendment of Original Loan Agreement; Integration. As of the Amendment Effective Date (defined herein), all references contained in any of the Financing Documents (as defined in the Original Loan Agreement) to the Loan Agreement shall mean the Original Loan Agreement as amended by this Amendment No. 1 and the Original Loan Agreement and this Amendment No.1 are hereby integrated as if the terms of this Amendment were originally set forth in the Original Agreement.

Section 2.09 Amendment Effective Date. This Amendment No. 1 shall become effective as of January 1, 2012 (the "Amendment Effective Date") upon satisfaction of each of the following conditions:

(a) Receipt by the Lender of an executed original of this Amendment No. 1 and proceedings of the Borrower authorizing execution of the same; and

(b) Payment by the Borrower of all costs and expenses incurred in connection with this Amendment No. 1.

[The remainder of this page intentionally left blank]

IN WITNESS WHEREOF, the undersigned have executed this Amendment No. 1 as of the date set forth above.

LENDER

COMPASS MORTGAGE CORPORATION, an
Alabama corporation

By _____
Matthew J. Chorske, Vice President

BORROWER

WESTMINSTER ECONOMIC DEVELOPMENT
AUTHORITY

By _____
Chair/Vice Chairperson

[SEAL]

Attest:

By _____
Secretary

[Signature Page to Amendment No. 1 to Loan Agreement]

EXHIBIT A TO AMENDMENT NO. 1
SCHEDULE A TO ANNUAL DEBT SERVICE COVERAGE CERTIFICATE

ESTIMATED DEBT REQUIREMENTS	Amount	line
Principal		
Interest		
Borrower Termination Payment (if any then due)		
Total		(A)
Target Revenues (line A multiplied by 1.40)		(B)
PROJECTED AVAILABLE DEBT SERVICE REVENUES		
Projected Pledged Property Tax Revenues		
Urban Renewal Project Area Assessed Value		
Certified Tax Levies--Entities Covering Entire Urban Renewal Project Area		
Current Property Tax Base Amount		
Projected Property Taxes--Entities Covering Entire Urban Renewal Project Area (Net of Property Tax Base Amount)		(C)
144 th Avenue GID Assessed Value		
Current Property Tax Base Amount for 144 th Avenue GID		
Certified Tax Levy--144 th Avenue GID		
Projected Property Taxes--144 th Avenue GID (Net of Property Tax Base Amount)		(D)
Estimated County Collection Costs		(E)
Total (C plus D minus E)		(F)
Available Supplemental Reserve Moneys		
Amount in Revenue Fund		
Amount in Supplemental Reserve Fund and Loan Payment Fund		
Total		(G)
50% of Maximum Annual Debt Service Requirements		(H)
Available Supplemental Reserve Moneys (G less H)		(I)
Annual Maintenance Expenses (no more than \$250,000)		(J)
Reserve Fund Replenishment		
Reserve Requirement		(K)
Amount in Reserve Fund		(L)
Replenishment Due (K minus L)		(M)
Supplemental Reserve Fund Replenishment		
50% of Maximum Annual Debt Service Requirements		(N)
Amount in Supplemental Reserve Fund and Loan Payment Fund		(O)
Replenishment Due (N minus O; if O is greater than N, enter \$O)		(P)
Projected Available Debt Service Revenues (excluding sales tax) (F plus I, minus J, minus M, minus P)		(Q)
Sales Tax Base Amount		(R)
Sales Tax Revenues Required (B minus Q plus R)		(S)
Actual Taxable Sales		(T)
Resulting Sales Tax Percentage (S divided by T, multiplied by 100)		(U)
Minimum Pledged Sales Tax Rate (U rounded up to nearest 0.10%)		

ACKNOWLEDGEMENT AND CONSENT

The undersigned representative of Banco Bilbao Vizcaya Argentaria S.A (“BBVA”), in its capacity as Party A under the International Swap Dealers Association, Inc. Master Agreement dated as of May 8, 2009, between the Westminster Economic Development Authority and BBVA (as supplemented by the Schedule and accompanying confirmation of pricing related thereto), hereby acknowledges and consents to the foregoing Amendment No. 1 to Loan Agreement.

Date: _____

BANCO BILBAO VIZCAYA ARGENTARIA S.A

By: _____

Name: _____

Title: _____

WESTMINSTER ECONOMIC DEVELOPMENT AUTHORITY

RESOLUTION NO. **140**

INTRODUCED BY BOARD MEMBERS

SERIES OF 2012

RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE WESTMINSTER ECONOMIC DEVELOPMENT AUTHORITY AUTHORIZING, APPROVING AND DIRECTING THE EXECUTION AND DELIVERY OF A FIRST AMENDMENT TO 2009 LOAN AGREEMENT DATED AS OF MAY 8, 2009, WITH COMPASS MORTGAGE CORPORATION (NORTH HURON URBAN RENEWAL PROJECT) AND AFFIRMING OTHER ACTIONS TAKEN BY THE AUTHORITY IN CONNECTION THEREWITH.

WHEREAS, the Westminster Economic Development Authority (the "Authority") is a public body corporate and politic, and has been duly created, organized, established and authorized by the City of Westminster, Colorado (the "City") to transact business and exercise its powers as an urban renewal authority, all under and pursuant to the Colorado Urban Renewal Law, constituting Part 1 of Article 25 of Title 31, Colorado Revised Statutes, as amended (the "Act"); and

WHEREAS, pursuant to Section 31-25-105 of the Act, the Authority has the power to borrow money and to apply for and accept advances, loans, grants and contributions from any source for any of the purposes of the Act and to give such security as may be required; and

WHEREAS, the Authority has previously issued its Tax Increment Adjustable Rate Revenue Bonds (North Huron Urban Renewal Project) Series 2005 in the original aggregate principal amount of \$68,300,000 (the "Series 2005 Bonds"); and

WHEREAS, the Authority entered into a Loan Agreement dated as of May 8, 2009 (the "Loan Agreement") with Compass Mortgage Corporation ("Compass") to obtain a loan (the "Loan") in order to finance the costs of refunding the Series 2005 Bonds (the "Refunding Project"); and

WHEREAS, pursuant to a Cooperation Agreement dated as of May 1, 2009 (the "2009 Cooperation Agreement") between the City and the Authority, the City has agreed, subject to conditions specified in the 2009 Cooperation Agreement, to loan funds to the Authority for the Refunding Project and deposit to certain funds in accordance with the Loan Agreement; and

WHEREAS, the City and the Authority approved the First Amendment to the Cooperation Agreement on March 28, 2011 to provide City discretion as to whether and when the Authority shall be responsible for the repayment of costs and services rendered by the City in support of the Authority; and

WHEREAS, the City and the Authority have determined that it is in the best interest of the inhabitants and taxpayers thereof to amend the 2009 Loan Agreement to provide for the exclusion of certain mill levies, meaning, collectively, (i) any mill levy imposed by the 144th Avenue Metropolitan District, the 136th Avenue General Improvement District and/or Orchard Park Place General Improvement District, (ii) any mill levy imposed by any special district formed after July 1, 2006, pursuant to Title 32, Article 1, Colorado Revised Statutes, which mill levy is in addition to, and not a replacement for, property taxes levied by taxing entities in existence as of July 1, 2006, and (iii) any mill levy imposed by any other improvement district formed pursuant to Part 6 of Title 31, Article 25, Colorado Revised Statutes (excluding the 144th Avenue General Improvement District), which mill levy is in addition to, and not a replacement for, property taxes levied by taxing entities in existence as of the date of the Original Loan Agreement (other than a replacement for property taxes levied by entities described in clause (i) or (ii) hereof); and

WHEREAS, pursuant to the Loan Agreement, the 2009 Loan Agreement may be amended with the prior written consent of Compass and Banco Bilbao Vizcaya Argentaria S.A. (“BBVA”), the Swap Provider as defined in the Loan Agreement; and

WHEREAS, the City and the Authority have obtained such prior written consent.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE WESTMINSTER ECONOMIC DEVELOPMENT AUTHORITY, COLORADO:

Section 1. Approval and Authorization of the First Amendment. The form of the First Amendment to the 2009 Loan Agreement is attached hereto as “Exhibit A” and incorporated herein by this reference (“First Amendment”). The form of the First Amendment is hereby approved and the Executive Director is hereby authorized and directed to execute the First Amendment in substantially the same form as attached hereto. Except as amended by the First Amendment, the 2009 Loan Agreement shall remain unchanged in all other respects and shall remain in full force and effect.

Section 2. General Repealer. All prior resolutions, or parts thereof, inconsistent herewith are hereby repealed to the extent of such inconsistency.

Section 3. Effectiveness. This Resolution shall take effect immediately upon its passage.

PASSED, ADOPTED AND APPROVED this March 26, 2012.

(SEAL)

Chair/Vice Chairperson

Secretary

APPROVED AS TO LEGAL FORM:

Attorney for the Authority

STATE OF COLORADO)
) SS.
 WESTMINSTER ECONOMIC)
 DEVELOPMENT AUTHORITY)

I, the Secretary of the Westminster Economic Development Authority (the “Authority”), do hereby certify that:

1. The foregoing pages are a true and correct copy of a resolution (the “Resolution”) passed and adopted by the Board of Commissioners of the Authority (the “Board”) at a meeting held on March 26, 2012.

2. The Resolution was duly moved and seconded and the Resolution was adopted at the meeting of March 26, 2012, by an affirmative vote of a majority of the members of the Board as follows:

Name	“Yes”	“No”	Absent	Abstain
Nancy McNally				
Faith Winter				
Herb Atchison				
Bob Briggs				
Mark L. Kaiser				
Mary Lindsey				
Scott Major				

3. The members of the Board were present at such meetings and voted on the passage of such Resolution as set forth above.

4. The Resolution was approved and authenticated by the signature of the Chair or Vice Chairperson of the Board, sealed with the Authority seal, attested by the Secretary of the Board and recorded in the minutes of the Board.

5. There are no bylaws, rules or regulations of the Board which might prohibit the adoption of said Resolution.

6. Notice of the meeting of March 26, 2012, in the form attached hereto as Exhibit A, was posted in at the Westminster City Hall, 4800 W. 92nd Avenue, in the City of Westminster, not less than twenty-four hours prior to the meeting in accordance with law.

WITNESS my hand and the seal of said Authority affixed March 26, 2012.

(SEAL)

 Secretary

EXHIBIT A

(Form of Notice of Meeting)