



CITY COUNCIL AGENDA

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.

Members of the audience are invited to speak at the Council meeting. Citizen Communication (Section 7) and Citizen Presentations (Section 12) are 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 except when addressing the City Council during Section 12 of the agenda.

1. Pledge of Allegiance
2. Roll Call
3. Consideration of Minutes of Preceding Meetings
4. Report of City Officials
 - A. City Manager's Report
5. City Council Comments
6. Presentations
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. Designation of Official Places to Post Public Notices
 - B. Colorado Municipal League Annual Dues Authorization
 - C. 2008 Crackseal Project Contract
 - D. Armed Forces Tribute Garden Pedestrian Bridge Contract Award
 - E. Library Materials Budget Expenditures
 - F. 2008 Dell Server and Computer Replacement Purchases
 - G. Purchase of Pumps and Motors for the Raw/Reclaimed Water Interconnect Pump Station
 - H. IGA re Adams County Juvenile Assessment Center (The Link)
 - I. IGA re Property Acquisition at 6851 Irving Street Referred to as the "Heitman" Property
 - J. Second Reading Councillor's Bill No. 64 re CLUP Amendment for the Savory Farm Estates Project
 - K. Second Reading Councillor's Bill No. 65 re EDA with the 75th & Sheridan Holding LLC
9. Appointments and Resignations
 - A. Rocky Flats Stewardship Council Appointments
10. Public Hearings and Other New Business
 - A. Resolution No. 1 re the Compliance Hearing for the Fonay Property Annexation
 - B. Councillor's Bill No. 1 re Westminster Sports Center Lease Agreement
 - C. Councillor's Bill No. 2 re Appropriating CIP Funds for MSC Facility Renovation Project Account
 - D. Construction Contract for Municipal Service Center Facility Renovation
11. Old Business and Passage of Ordinances on Second Reading
12. Citizen Presentations (longer than 5 minutes), Miscellaneous Business, and Executive Session
 - A. City Council
13. Adjournment

WESTMINSTER HOUSING AUTHORITY MEETING (separate agenda)

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.

CITY OF WESTMINSTER, COLORADO
MINUTES OF THE CITY COUNCIL MEETING
HELD ON MONDAY, JANUARY 14, 2008 AT 7:00 P.M.

PLEDGE OF ALLEGIANCE

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

ROLL CALL

Mayor McNally, Mayor Pro Tem Dittman and Councillors Briggs, Kaiser, Lindsey, Major, and Winter were present at roll call. J. Brent McFall, City Manager, Martin McCullough, City Attorney, and Linda Yeager, City Clerk, also were present.

CONSIDERATION OF MINUTES

Councillor Major moved, seconded by Kaiser, to approve the minutes of the regular meeting of December 17, 2007, as presented. The motion passed unanimously.

CITY MANAGER'S REPORT

Mr. McFall announced that City Hall would be closed on January 21 in observance of Martin Luther King, Jr. Day and City Council would not conduct a study session that week.

Mr. McFall reported that Council would convene a meeting of the Westminster Housing Authority. Following adjournment of that meeting, City Council would convene a post-meeting in the Board Room, to which the public was welcome to attend.

CITY COUNCIL COMMENTS

Councillor Winter reported having attended her first Youth Advisory Panel meeting. Student appointees to the Panel were from high schools throughout the community and were forward-thinking, bright individuals with creative ideas. Upcoming events the group would sponsor included a movie night and a food and clothing collection to help others.

Councillor Briggs reported having attended the Rocky Mountain Rail Authority meeting. Election of officers would occur in March, and he would be a candidate for Chair. Additionally, he had attended a Colorado Municipal League workshop, and he reminded his colleagues that the organizational meeting to prepare a historical document about the City would be held on April 26 at Union High School.

Councillor Lindsey voiced excitement about the forthcoming construction of a pedestrian bridge to the Armed Forces Tribute Garden. The bridge would be in place for dedication of the facility, which would occur on May 17, Armed Forces Day.

Mayor McNally reported having been one of 30 Metro Mayors who met all day on January 12 to discuss common issues. Joining the Mayors were Governor Ritter and several federal officials. Discussions focused on transportation, healthcare reform, bonds for first-time home buyers, fuel co-ops, homeless initiatives, the economy, energy efficiency, water conservation, and the metro-wide impact of the City of Denver's hosting of the Democratic National Convention this August. It was a full day and worthwhile attending.

CONSENT AGENDA

The following items were submitted for Council's consideration on the consent agenda: designation of the bulletin board in the City Hall lobby and the City of Westminster website as the locations for posting public notices of official meetings of the City Council, the Westminster Housing Authority, the Westminster Economic Development Authority, Special and General Improvement Districts and Boards and Commissions pursuant to §24-6-402 (2)(c) C.R.S. of the Colorado Open Meetings Act; authorization to pay \$57,514 for the City's 2008 Colorado Municipal League dues; based on recommendation of the City Manager, determine that the public

Interest would best be served by awarding a negotiated contract to Coatings, Inc. for the 2008 Crackseal Project, in an amount not to exceed \$180,000; based on the City Manager's recommendation, determine that the public interest would be best served by entering into a \$205,000 contract with Goodland Construction to purchase and install a pedestrian bridge connecting the main parking lot directly to the Armed Forces Tribute Garden at City Park and authorize a \$20,000 contingency fund for the project; based on the City Manager's recommendation, determine that the public interest would be best served by awarding a contract to Baker and Taylor for the purchase of library books in an amount not to exceed \$150,000 in 2008; find that the Western States Contracting Alliance pricing meets City Charter bidding requirements and authorization for Staff to proceed with 2008 calendar year purchases for desktop PCs, laptop PCs, storage hardware, computer servers, printers and software through Dell Computer Corporation in an amount not to exceed \$348,200; based on the City Manager's recommendation, find that the public interest would be best served by accepting the bid from Denver Industrial Pump for the purchase of pumps and motors, and to provide field services for use in the Raw/Reclaimed Water Interconnect Pump Station, and authorize the City Manager to execute a purchase order in the amount of \$88,820; authorization for the Mayor to sign an Intergovernmental Agreement with the Adams County Juvenile Assessment Center (The Link) allowing the City to renew the existing agreement with Adams County jurisdictions to participate in The Link; authorization for the Mayor to sign an Intergovernmental Agreement, in substantially the same form as distributed with the agenda packet, with the Urban Drainage and Flood Control District accepting \$200,000 in acquisition reimbursement funds for the Heitman Property; final passage of Councillor's Bill No. 64 amending the Comprehensive Land Use Plan by changing the designation from R-2.5 Residential to R-3.5 Residential for the 8.13-acre site east of Federal Boulevard at approximately the 109th Avenue alignment for the Savory Farm Estates Project based on finding that all applicable provisions of the Westminster Municipal Code were met; and final passage of Councillor's Bill No. 65 authorizing the City Manager to execute and implement an Economic Development Agreement with the 75th and Sheridan Holding LLC.

Mayor Pro Tem Dittman requested that Item 8C be pulled from the consent agenda and considered individually. No others wished to remove an item from the consent agenda.

It was moved by Mayor Pro Tem Dittman, seconded by Councillor Briggs, to approve the consent agenda excluding Item 8C. The motion passed with all Council members voting yes.

2008 CRACKSEAL PROJECT CONTRACT AWARDED

It was moved by Mayor Pro Tem Dittman, seconded by Councillor Lindsey, to determine, based on the City Manager's recommendation, that the public interest would best be served by awarding a negotiated contract to Coatings, Inc. for the 2008 Crackseal Project, in an amount not to exceed \$180,000.

Councillor Kaiser announced that he had a conflict of interest and would abstain from voting.

The Mayor called for the vote, and the motion passed by a 6:1 margin with Councillor Kaiser abstaining.

APPOINTMENT TO ROCKY FLATS STEWARDSHIP COUNCIL

Councillor Major moved to appoint City Councillor Bob Briggs as the City's representative to the Rock Flats Stewardship Council Board of Directors and to re-appoint Special Projects Coordinator Ron Hellbusch as the alternate representative. Mayor Pro Tem Dittman seconded the motion, and it carried unanimously.

RESOLUTION NO. 1 RE FONAY PROPERTY ANNEXATION COMPLIANCE HEARING

Mayor Pro Tem Dittman moved, seconded by Councillor Kaiser, to adopt Resolution No. 1 accepting the annexation petition submitted by the Fonay Family Partnership, Ltd., the Milton Fonay Trust, and the Virginia Fonay Trust, the owners; making the findings required by State Statute on the sufficiency of the petition; and setting February 25, 2008, as the date of the annexation hearing. On roll call vote, the motion passed unanimously.

COUNCILLOR'S BILL NO. 1 RE WESTMINSTER SPORTS CENTER LEASE AGREEMENT

It was moved by Councillor Major, seconded by Councillor Winter, to pass on first reading Councillor's Bill No. 1 ratifying a lease agreement with Westminster AFC, Inc., for office space at the Westminster Sports Center, a City-owned indoor soccer facility located at 6051 West 95th Avenue. The motion passed unanimously on roll call vote

COUNCILLOR'S BILL NO. 2 RE APPROPRIATION FOR MSC FACILITY RENOVATION

Upon a motion by Councillor Briggs, seconded by Councillor Major, the Council voted unanimously on roll call vote to pass on first reading Councillor's Bill No. 2 transferring \$3,738,993 from the Utility Capital Project Reserve Fund to the Municipal Service Center Facility Renovation project account.

CONTRACTS AWARDED FOR MSC FACILITY RENOVATION PROJECT

It was moved by Councillor Briggs and seconded by Councillor Major to find, based on the City Manager's recommendation, that the public interest would be best served by a negotiated contract with JHL Constructors, Inc.; to award the contract to JHL Constructors, Inc., to authorize the City Manager to execute the Construction Manager/General Contractor contract with JHL Constructors, Inc., with a guaranteed-maximum price of \$8,467,678; to authorize a \$608,010 contingency; and to authorize the City Manager to execute a change order with Fisher Associates, the City's architect, in the amount of \$50,000 for construction testing services. The motion passed with all Council members voting favorably.

ADJOURNMENT

There was no further business to come before the City Council, and the Mayor adjourned the meeting at 7:18 p.m.

ATTEST:

Mayor

City Clerk

Summary of Proceedings

Summary of proceedings of the City of Westminster City Council meeting of Monday, January 14, 2008. Mayor McNally, Mayor Pro Tem Dittman, and Councillors Briggs, Kaiser, Lindsey, Major, and Winter were present at roll call.

The minutes of the regular meeting of December 17, 2007, were approved as presented.

Council approved the following: designation of official places to post public notices; Colorado Municipal League annual dues authorization; 2008 Crackseal Project contract; Armed Forces Tribute Garden Pedestrian Bridge contract award; Library materials budget expenditures; 2008 Dell server and computer replacement purchases; purchase of pumps and motors for the Raw/Reclaimed Water Interconnect Pump Station; IGA re Adams County Juvenile Assessment Center (The Link); IGA re Property Acquisition at 6851 Irving Street referred to as the "Heitman" property; construction contract for Municipal Service Center facility renovation; final passage of Councillor's Bill No. 64 re CLUP Amendment for the Savory Farm Estates Project; and final passage of Councillor's Bill No. 65 re EDA with the 75th & Sheridan Holding LLC.

Council appointed Bob Briggs the City's representative to the Rocky Flats Stewardship Council Board of Directors and re-appointed Ron Hellbusch the alternate representative.

Council adopted Resolution No. 1 re the compliance hearing for the Fonay property annexation.

The following Councillors' Bills were adopted on first reading:

A BILL FOR AN ORDINANCE RATIFYING A RENTAL LEASE AGREEMENT AT THE CITY'S WESTMINSTER SPORTS CENTER. Purpose: To ratify lease with Westminster AFC, Inc. for office space at Sports Center.

A BILL FOR AN ORDINANCE AMENDING THE 2008 BUDGETS OF THE WATER AND UTILITY RESERVE FUNDS AND AUTHORIZING A SUPPLEMENTAL APPROPRIATION FROM THE 2008 ESTIMATED REVENUES IN THE FUNDS. Purpose: Transferring funding from the Utility Capital Project Reserve Fund to the Municipal Service Center Facility Renovation project account.

The meeting adjourned at 7:16 p.m.

By order of the Westminster City Council
Linda Yeager, MMC, City Clerk

Published in the Westminster Window on January 24, 2008

A BILL FOR AN ORDINANCE AMENDING THE WESTMINSTER COMPREHENSIVE LAND USE PLAN

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The City Council finds:

a. That an application for an amendment to the Westminster Comprehensive Land Use Plan has been submitted to the City for its approval pursuant to W.M.C. §11-4-16(D), by the owner(s) of the properties described in attached Exhibit A, incorporated herein by reference, requesting a change in the land use designations from "R-2.5" to "R-3.5" for the 8.133 acre Savory Farms Estates PDP/ODP on the east side of Federal Boulevard at approximately 109th Avenue.

b. That such application has been referred to the Planning Commission, which body held a public hearing thereon on November 27, 2007, after notice complying with W.M.C. §11-4-16(B) and has recommended approval of the requested amendments.

c. That 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. That 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. That 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 Land Use Plan, particularly compatibility with existing and surrounding residential land uses.

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 Land Use Plan to change the designation of the property more particularly described on attached Exhibit A to "R-3.5", as depicted on the map attached as Exhibit B.

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 10th of December, 2007. PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 14th day of January, 2008.

Exhibit A
Legal Description
109th & Federal Blvd.

Description for the Ten Eyck Parcel:

A tract of land located in the Northeast Quarter of Section 8, Township 2 South, Range 68 West of the 6th Principal Meridian, City of Westminster, County of Adams, State of Colorado, being more particularly described as follows:

Considering the West line of the Northeast Quarter of said Section 8 as bearing, South 00°28'38" East, from an aluminum cap in a range box at the North Quarter corner of said Section 8 to an aluminum cap in a range box at the Southwest corner of said Northeast Quarter and with all bearings contained herein relative thereto:

Commencing at the North Quarter corner of said Section 8; thence along the West line of said Northeast Quarter, South 00°28'38" East, 1320.80 feet; thence, North 89°04'40" East, 50.00 feet to a point on the East Right-of-Way line of North Federal Boulevard and on the South line of Federal Square P.U.D., said point being the POINT OF BEGINNING; thence, continuing along said South line, North 89°04'40" East, 449.95 feet to the Northwest corner of Parcel 1 of the City of Westminster Golf Course and Open Space Areas; thence, along the West line of said Parcel 1, South 00°55'20" East, 754.94 feet; thence, South 39°13'24" West, 70.82 feet to a point on the North line of Parcel 3 of the City of Westminster Golf Course and Open Space Areas; thence, along said North line, North 80°46'36" West, 416.52 feet to a point on the East Right-of-Way line of North Federal Boulevard; thence, along said East line, North 06°11'16" West, 100.50 feet; thence, North 00°28'38" West, 300.00 feet; thence, North 05°15'32" East, 100.05 feet; thence, North 00°28'38" West, 236.18 feet to the Point of Beginning.

The above described tract contains 8.133 acres more or less and is subject to all easements, rights-of-ways and restrictions now on record of existing.

For tax purposes this property is known by the following Adams County Property Identification Number 171908100018 and Schedule Number R0033614. This property is also known as 10900 North Federal Boulevard, Westminster, Colorado 80030.

A BILL FOR AN ORDINANCE AUTHORIZING AN ECONOMIC DEVELOPMENT AGREEMENT WITH THE 75TH & SHERIDAN HOLDING L.L.C. FOR THE DEVELOPMENT OF THE SHERIDAN LANDMARK PROJECT

WHEREAS, the successful attraction of new investment to the City of Westminster provides employment opportunities and increased revenue for citizen services and is therefore an important public purpose; and

WHEREAS, it is important for the City of Westminster to attract new investment to the South Sheridan Urban Renewal District specifically in order to generate additional revenue from increasing property tax increments in the District for use in funding public improvements; and

WHEREAS, the 75th & Sheridan Holding L.L.C. plans to develop a vacant 1.8 acre site into four professional office buildings, including the Adams County Animal Hospital; and

WHEREAS, a proposed Economic Development Agreement between the City and the 75th & Sheridan Holding L.L.C. is attached hereto as Exhibit "A" and incorporated herein by this reference.

NOW, THEREFORE, pursuant to the terms of the Constitution of the State of Colorado, the Charter and ordinances of the City of Westminster, and Resolution No. 53, Series of 1988:

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The City Manager of the City of Westminster is hereby authorized to enter into an Economic Development Agreement with the 75th & Sheridan Holding L.L.C. in substantially the same form as the one attached as Exhibit "A," and upon execution of the Agreement to fund and implement said Agreement.

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

Section 3. 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 10th day of December, 2007. PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 14th day of January, 2008.

EXHIBIT A

**ECONOMIC DEVELOPMENT AGREEMENT
WITH THE 75TH & SHERIDAN HOLDING L.L.C.
FOR DEVELOPMENT OF THE SHERIDAN LANDMARK PROJECT**

THIS AGREEMENT is made and entered into this _____ day of _____, 2008, between the CITY OF WESTMINSTER (the "City"), and the 75TH & SHERIDAN HOLDING L.L.C.

WHEREAS, the City wishes to provide certain assistance to the 75th & Sheridan Holding L.L.C. to encourage the development of professional office space in South Westminster; and

WHEREAS, City Council finds the execution of this Agreement will serve to provide benefit and advance the public interest and welfare of the City and its citizens by facilitating this economic development project within the City.

In consideration of the mutual promises set forth below the City and the 75th & Sheridan Holding L.L.C. agree as follows:

1. Building Permit Fee Rebates. The City shall rebate to the 75th & Sheridan Holding L.L.C. 50% of the building related permit fees for the Sheridan Landmark project required under W.M.C. Section 11-10-3 (E), excluding water and sewer tap fees. The rebate is estimated to be \$11,914.

2. Use Tax Rebate- Construction. The City shall rebate to the 75th & Sheridan Holding L.L.C. 50% of the building use tax on the construction materials (excluding the City's .25% open space tax and .6% public safety tax), resulting from the original construction of the Sheridan Landmark project required under W.M.C. sections 4-2-9 and 4-2-3. The rebate is estimated to be \$22,500.

3. Payment of Rebates. The Building Permit Fee rebates and Building Use Tax rebate will be paid by check upon issuance of a certificate of occupancy for each building. The payment shall

be made 20 days after the end of the quarter in which the issuance of the certificate of occupancy occurs.

4. Entire Agreement. This instrument shall constitute the entire agreement between the City and the 75th & Sheridan Holding L.L.C concerning the Sheridan Landmark project and supersedes any prior agreements between the parties and their agents or representatives, all of which are merged into and revoked by this agreement with respect to its subject matter.

5. Termination. This Economic Development Agreement shall terminate and become void and of no force or effect upon the City December 31, 2012 or should the 75th & Sheridan Holding L.L.C. or the Sheridan Landmark project fail to comply with any City code and/or approval process.

6. Subordination. The City's obligations pursuant to this agreement are subordinate to the City's obligations for the repayment of any current or future bonded indebtedness and are contingent upon the existence of a surplus in sales and use tax revenues in excess of the sales and use tax revenues necessary to meet such existing or future bond indebtedness. The City shall meet its obligations under this agreement only after the City has satisfied all other obligations with respect to the use of sales tax revenues for bond repayment purposes. For the purposes of this Agreement, the terms "bonded indebtedness," "bonds," and similar terms describing the possible forms of indebtedness include all forms of indebtedness that may be incurred by the City, including, but not limited to, general obligation bonds, revenue bonds, revenue anticipation notes, tax increment notes, tax increment bonds, and all other forms of contractual indebtedness of whatsoever nature that is in any way secured or collateralized by sales and use tax revenues of the City.

7. Annual Appropriation. Nothing in this agreement shall be deemed or construed as creating a multiple fiscal year obligation on the part of the City within the meaning of Colorado Constitution Article X, Section 20, and the City's obligations hereunder are expressly conditional upon annual appropriation by the City Council.



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
January 14, 2008



SUBJECT: Designation of Official Places to Post Public Notices

Prepared By: Linda Yeager, City Clerk

Recommended City Council Action

Designate the bulletin board in the lobby of City Hall and the City of Westminster website as the locations for posting public notices of official meetings of the City Council, the Westminster Housing Authority, the Westminster Economic Development Authority, Special and General Improvement Districts, and Boards and Commissions pursuant to §24-6-402 (2)(c) C.R.S. of the Colorado Open Meetings Act.

Summary Statement

- The referenced section of the Colorado Open Meetings Act provides that the places where notices of official public meetings will be posted shall be designated annually by the governing body at its first regular meeting of each calendar year.
- City Staff posts all notices of City Council meetings and study sessions, all WEDA meetings, and all WHA meetings on the bulletin board across from the cashiers' counter in the lobby of City Hall. Identical notifications are posted on the City's website.

Expenditure Required: \$0

Source of Funds: N/A

Policy Issue

Does City Council concur with the designation of the bulletin board and City of Westminster website as the location for posting public notices for official meetings?

Alternative

Identify other locations for posting public notices. This is not recommended as the City Hall bulletin board and City website serve the purpose of providing public notice.

Background Information

The Open Meetings Act, more commonly called the Colorado Sunshine Act, provides that the public place or places for posting public notice of meetings shall be designated annually at the local governing body's first regular meeting of each calendar year. Historically, notices have been posted in paper format on the City Hall lobby bulletin board and electronically on the City's website. This process appears to work well as a means of providing public notice of upcoming agenda items, and the Staff recommends the continuing designation of these locations.

Respectfully submitted,

J. Brent McFall
City Manager



Agenda Item 8 B

WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
January 14, 2008



SUBJECT: Colorado Municipal League Annual Dues Authorization

Prepared By: Barbara Opie, Budget & Special Projects Manager

Recommended City Council Action

Authorize payment of \$57,514 for the City's 2008 Colorado Municipal League dues.

Summary Statement

- City Council is requested to authorize the payment of \$57,514 for the City's 2008 membership and dues to the Colorado Municipal League (CML). Funds for this membership have been appropriated in the Central Charges portion of the 2008 City Budget.
- CML provides services to 265 cities and towns throughout the state. The annual membership dues to CML include subscriptions to the bimonthly magazine, *Colorado Municipalities*, and the biweekly CML Newsletter for community officials. Other League services include municipal information services, municipal conferences and workshops, legislative and legal services, administrative agency services, sample ordinances, research and publications. CML is the main voice of municipalities at the State Legislature and has been important to cities and towns in advocating and protecting municipal interests.
- The City of Westminster's 2008 dues, which are based on a formula that factors population, assessed valuation, and sales tax collections, total \$57,514, an increase of \$1,087 (or 1.9%) over the 2007 dues. Adequate funds have been included in the 2008 budget that was previously approved and adopted by City Council in October 2006. Since these annual membership dues exceed \$50,000, City Council authorization is required, per Section 15-1-2 of the Municipal Code.

Expenditure Required: \$57,514

Source of Funds: General Fund - Central Charges Budget

Policy Issue

Does City Council wish to continue the City's membership in the Colorado Municipal League?

Alternative

Discontinue City membership with the CML, reallocate the funds budgeted for the City membership with CML and utilize the funds for other City priorities. This is not recommended by Staff as CML provides important services, as outlined in this memorandum, that assist the City in many ways.

Background Information

The City of Westminster actively participates in CML meetings and workshops, and extensively utilizes the various services offered by the League. CML advocates on behalf of municipalities throughout the State, distributes numerous publications that provide information on timely topics and trends, hosts workshops and meetings on important municipal issues, and performs research as requested by member jurisdictions.

CML represents more than 99 percent of the municipal population in the state and was founded in 1923. 265 cities and towns are members of CML (out of 271 total cities and towns in the state) and pay dues on an annual basis. CML's formula for arriving at a municipality's dues payment is based on a per capita charge using Department of Local Affairs population estimates, a fraction of the assessed valuation figures from the State Division of Property Taxation, and a fraction of state sales tax collections for the previous calendar year.

As in previous years, the annual CML dues are included in the City Budget. City Council action is required because the expense is over \$50,000 in accordance with Section 15-1-2 of the Municipal Code. The dues for 2007 were \$56,427.

Respectfully submitted,

J. Brent McFall
City Manager



**WESTMINSTER
COLORADO**

Agenda Memorandum

City Council Meeting
January 14, 2008



SUBJECT: 2008 Crackseal Project Contract

Prepared By: Dave Cantu, Contract Maintenance Supervisor
Ray Porter, Street Operations Division Manager

Recommended City Council Action

Based on the recommendation of the City Manager, determine that the public interest would best be served by awarding a negotiated contract to Coatings, Inc. for the 2008 Crackseal Project, in an amount not to exceed \$180,000.

Summary Statement

- City Council approved funds for this expense in the 2008 Department of Public Works and Utilities, Street Operations Division budget.
- Coatings, Inc. was the low bidder in accordance with City bidding requirements for the 2007 Crackseal Project and was awarded the bid.
- Coatings, Inc. approached city staff with a proposal for continuance and renewal of the 2007 contract for calendar year 2008 at the same pricing as 2007.
- Coatings, Inc. met all of the City bid requirements in 2007 and has successfully performed this process for the City of Westminster in 2007 and in the Denver Metro area the past six years.
- Crackseal quantities vary by street, however, based on previous year's yields an estimated 90 lane miles will receive crackseal preventative maintenance treatment on streets earmarked for roadway surface improvements in 2009 (see attached list and map).
- Contracting this work a year in advance of planned street resurfacing allows the material to fully cure and will reduce asphalt preparations work for the Street Division maintenance crews.
- Adequate funds were budgeted in 2008 for this expense.

Expenditure Required: \$180,000

Source of Funds: General Fund – Street Operations Division

Policy Issue

Should the City award a negotiated contract to Coatings, Inc. for the 2008 Crackseal Project?

Alternatives

1. City Council could require staff to solicit formal bids for the 2008 Crackseal Project. This is not recommended given the fact that Coatings, Inc. was the low bidder in 2007 and has agreed to hold 2007 pricing for calendar year 2008. Given recent increases in petroleum related product prices, it is highly unlikely that the City would realize more favorable pricing by going to bid.
2. Discontinue the practice of cracksealing streets prior to resurfacing. Moisture would be allowed to penetrate the pavement's subgrade and reduce the life expectancy of the resurfacing projects by 50 percent. Staff does not recommend elimination of cracksealing prior to resurfacing applications.

Background Information

Coatings, Inc. met all of the City bid requirements in 2007 and has successfully completed this process for the City of Westminster and other cities in the Denver metro area for the past six years at a high level of quality workmanship.

The 2008 Crackseal Project represents an estimated 90 lane miles of asphalt pavement preventative maintenance. This contractual cracksealing accomplished on streets earmarked for 2009 improvements allows Street Division maintenance crews to concentrate their pavement preservation efforts on roadways where improvements will not be scheduled for several years.

City Staff has researched projected 2008 pricing for cracksealing in the Denver Metro area and found pricing forecasts ranging from a zero to ten percent increase. The negotiated 2008 crackseal application price of \$0.96 per pound is a decrease of 9% below 2006 pricing.

This contract helps achieve the City Council's strategic plan goals of "Financially Sustainable City Government, Safe and Secure Community, and Vibrant Neighborhoods and Commercial Areas" by meeting the following objectives:

- Well-maintained City infrastructure and facilities.
- Safe citizen travel throughout the City.
- Maintain and improve neighborhood infrastructure and housing.

Respectfully submitted,

J. Brent McFall
City Manager

Attachments

2009 Street Rehabilitation Listing

LOCATION	FROM:	TO:
101st Avenue	Wadsworth Parkway	East End
103rd Avenue	Church Ranch Way	Wadsworth Boulevard
104th Avenue	Wadsworth Parkway	Dover Street
104th Avenue	Wadsworth Parkway	Johnson Street
104th Circle	Bryant Street	Bryant Street
104th Court	Dale Circle	South End
104th Lane	Dale Circle	South End
104th Place	Dale Circle	West End
104th Place	Garrison Street	Garland Way
105th Court	Bryant Way	South End
105th Drive	Decatur Street	105th Place
105th Drive	Decatur Street	Federal Boulevard
105th Place	City Limits	Bryant Street
105th Place	Hoyt Street	106th Avenue
105th Way	Jellison Way	105th Place
106th Avenue	Johnson Street	Oak Street
106th Avenue	Johnson Street	105th Place
106th Circle	Decatur Street	Decatur Street
106th Place	106th Circle	East End
107th Drive	Johnson Street	106th Avenue
108th Circle	108th Avenue	108th Avenue
108th Place	Balsam Street	West End
109th Avenue	Balsam Street	Zephyr Street
109th Place	Yukon Street	Zephyr Street
110th Avenue	Wadsworth Boulevard	Zephyr Street
110th Drive	Yarrow Street	Zephyr Street
110th Place	Yarrow Street	West End
112th Avenue	Federal Boulevard	Railroad Crossing
113th Avenue	Ranch Place	Pecos Street
114th Circle	Quivas Way	East End
115th Circle	Quivas Way	West End
115th Circle	Quivas Way	Quivas Way
116th Avenue	Pecos Street	Country Club Loop
116th Circle	Shoshone Way	East End
118th Avenue	Zuni Street	East End
118th Avenue	119th Avenue	East End
119th Avenue	Zuni Street	Vallejo Street
119th Avenue	Zuni Street	Decatur Street
129th Drive	Harmony Park Drive	130th Court
130th Court	Quivas Way	East End
130th Drive	Pecos Street	Vallejo Court
130th Place	Quivas Way	129th Drive

131st Drive	131st Lane	North End
131st Lane	Harmony Parkway	131st Drive
136th Avenue	Zuni Street	I-25
69th Avenue	Yates Street	East End
69th Avenue	Sheridan Boulevard	Yates Street
69th Court	Yates Street	East End
69th Drive	69th Avenue	Wyman Way
69th Loop	69th Avenue	69th Avenue
69th Place	69th Loop	East End
70th Avenue	Utica Street	Sheridan Boulevard
70th Court	Yates Street	West End
70th Place	Xavier Street	Zenobia Street
71st Avenue	Depew Street	Fenton Circle
71st Circle	Eaton Street	5785 71st Circle
71st Circle	Eaton Street	5609 71st Circle
71st Court	Yates Street	West End
71st Place	Xavier Street	Zenobia Street
71st Place	Fenton Street	5636 71st Place
72nd Drive	Depew Street	73rd Avenue
72nd Drive	73rd Avenue	Otis Street
73rd Avenue	Depew Street	Kendall Street
73rd Avenue	Kendall Street	Otis Street
73rd Place	Kendall Street	Otis Street
74th Avenue	Federal Boulevard	Irving Street
74th Avenue	Otis Court	Kendall Street
88th Avenue	Wadsworth Parkway	East of Sheridan Boulevard
91st Avenue	Pierce Street	Harlan Street
92nd Pace	Lamar Street	Ingalls Street
92nd Pace	6328	6340 Cul-de-sac
92nd Pace	6314	6326 Cul-de-sac
92nd Pace	6300	6312 Cul-de-sac
92nd Pace	6214	6226 Cul-de-sac
92nd Pace	6200	6212 Cul-de-sac
92nd Pace	6100	6118 Cul-de-sac
92nd Pace	6101	6119 Cul-de-sac
92nd Pace	6201	6217 Cul-de-sac
92nd Pace	6301	6309 Cul-de-sac
92nd Pace	6311	6319 Cul-de-sac
92nd Pace	6321	6333 Cul-de-sac
92nd Place	Grove Street	Irving Street
93rd Avenue	Green Court	Irving Street
94th Avenue	Lowell Boulevard	Federal Boulevard
94th Place	Pierce Street	Otis Street
95th Avenue	Federal Boulevard	Lowell Boulevard
95th Place	Pierce Street	Otis Street
95th Place	Otis Street	96th Avenue

95th Place	6656	6640 Cul-de-sac
95th Place	6636	6620 Cul-de-sac
95th Place	6616	6600 Cul-de-sac
95th Place	6536	6520 Cul-de-sac
95th Place	6516	6500 Cul-de-sac
96th Avenue	6502	6518 Cul-de-sac
96th Avenue	6522	6538 Cul-de-sac
96th Avenue	6602	6618 Cul-de-sac
96th Avenue	6622	6638 Cul-de-sac
96th Avenue	6642	6658 Cul-de-sac
96th Avenue	Otis Street	95th Place
Allison Court	109th Avenue	North End
Ammons Street	109th Avenue	North End
Balsam Street	Zephyr Street	108th Place
Bradburn Boulevard	76th Avenue	71st Place
Bryant Circle	119th Avenue	South End
Bryant Street	104th Avenue	105th Drive
Bryant Way	Bryant Street	105th Place
Canosa Court	105th Place	North End
Canosa Court	105th Drive	South End
Canosa Way	105th Drive	105th Drive
Church Ranch Way	Church Ranch Boulevard	Westcliff Parkway
City Center Drive	92nd Avenue	Sheridan Boulevard
Clay Court	106th Circle	East End
Clay Court	119th Avenue	East End
Country Club Court	Country Club Loop	West End
Country Club Drive	Country Club Loop	Country Club Loop
Country Club Lane	Country Club Loop	South End
Country Club Loop	116th Avenue	116th Avenue
Countryside Drive	Oak Street	Simms Street
Dale Court	106th Circle	South End
Decatur Street	Eliot Street	Bruchez Parkway
Decatur Street	119th Avenue	North End
Depew Street	72nd Avenue	South of 71st Avenue
Depew Street	72nd Avenue	73rd Avenue
Eaton Circle	72nd Drive	72nd Drive
Eaton Court	Eaton Street	East End
Eaton Street	72nd Avenue	71st Avenue
Eliot Street	104th Avenue	Decatur Street
Fenton Circle	71st Avenue	Fenton Street
Fenton Circle	71st Avenue	East End
Fenton Court	Fenton Street	West End
Fenton Street	71st Place	71st Circle
Garland Way	104th Place	Holland Street
Garrison Street	106th Avenue	104th Avenue
Green Court	93rd Avenue	Kassler Place

Green Court	Federal Boulevard	96th Avenue
Grove Street	92nd Avenue	93rd Avenue
Harlan Street	88th Avenue	92nd Avenue
Harmony Park Drive	1915 Harmony Parkway Drive	Harmony Parkway
Harmony Park Drive	Harmony Parkway	Umatilla Court
Harmony Parkway	Zuni Street	128th Avenue
Hazel Court	92nd Avenue	Hazel Place
Hazel Place	Hazel Court	Grove Street
Holland Street	104th Avenue	105th Place
Hooker Street	92nd Avenue	Hazel Place
Hooker Street	96th Avenue	93rd Avenue
Independence Drive	88th Avenue	Wadsworth Parkway
Independence Street	104th Avenue	105th Place
Ingalls Court	73rd Avenue	South End
Ingalls Street	73rd Avenue	72nd Avenue
Ingalls Street	92nd Avenue	95th Avenue
Ingalls Street	9200	9216 Cul-de-sac
Ingalls Street	9218	9234 Cul-de-sac
Ingalls Street	9236	9254 Cul-de-sac
Ingalls Street	9300	9318 Cul-de-sac
Ingalls Street	9301	9309 Cul-de-sac
Ingalls Street	9311	9319 Cul-de-sac
Ingalls Street	9320	9334 Cul-de-sac
Ingalls Street	9336	9348 Cul-de-sac
Ingalls Street	9321	9327 Cul-de-sac
Ingalls Street	9350	9362 Cul-de-sac
Ingalls Street	9400	9416 Cul-de-sac
Ingalls Street	9401	9409 Cul-de-sac
Ingalls Street	9411	9419 Cul-de-sac
Ingalls Street	9418	9432 Cul-de-sac
Iris Way	105th Way	Indpedence Street
Irving Street	80th Avenue	92nd Avenue
Irving Street	92nd Avenue	94th Avenue
Irving Street	Mowry Place	94th Avenue
Irving Street	82nd Avenue	84th Avenue
Jay Street	73rd Avenue	Kendall Street
Jellison Circle	107th Drive	North End
Jellison Way	Independence Street	105th Way
Johnson Street	104th Avenue	108th Avenue
Julian Way	92nd Avenue	Knox Court
Kassler Place	Green Court	Hooker Street
Kassler Place	95th Avenue	Lowell Boulevard
Kellogg Place	Mowry Place	Lowell Boulevard
Kendall Street	73rd Avenue	City Limits
King Way	92nd Avenue	Lowell Boulevard
King Way	Lowell Boulevard	96th Avenue

Knox Court	92nd Avenue	94th Avenue
Lamar Court	72nd Drive	South End
Lamar Street	92nd Avenue	92nd Place
Lamar Street	9201	9215 Cul-de-sac
Lamar Street	9217	9225 Cul-de-sac
Lamar Street	9200	9210 Cul-de-sac
Lamar Street	9212	9216 Cul-de-sac
Lowell Boulevard	68th Avenue	71st Place
Marshall Court	91st Avenue	South End
Marshall Court	72nd Drive	South End
Marshall Place	91st Avenue	North End
Marshall Street	74th Avenue	City Limits
Mowry Place	Green Court	Hooker Street
Mowry Place	Lowell Boulevard	95th Avenue
Otis Court	Otis Street	74th Avenue
Otis Street	95th Place	94th Place
Otis Street	94th Place	South End
Otis Street	9400	9410 Cul-de-sac
Otis Street	9440	9450 Cul-de-sac+C227
Otis Street	95th Place	96th Avenue
Otis Street	72nd Avenue	73rd Avenue
Quivas Loop	113th Avenue	113th Avenue
Quivas Way	Ranch Place	116th Avenue
Quivas Way	116th Avenue	Shoshone Way
Quivas Way	130th Court	130th Drive
Ranch Drive	112th Avenue	North West End
Ranch Place	Raritan Street	113th Avenue
Raritan Street	112th Avenue	113th Avenue
Shoshone Way	Quivas Way	North End
Tejon Court	131st Lane	North End
Tejon Street	120th Avenue	South End
Umatilla Court	Vallejo Court	131st Way
Vallejo Circle	Vallejo Court	130th Drive
Vallejo Circle	130th Drive	Vallejo Court
Vallejo Court	130th Drive	Vallejo Circle
Vallejo Street	118th Avenue	119th Avenue
Wolff Street	70th Avenue	69th Drive
Wolff Street	6995	6957 Cul-de-sac
Wyandot Circle	Vallejo Street	11948 Vallejo Street
Wyandot Court	Harmony Parkway Drive	North End
Wyandot Street	112th Avenue	Ranch Drive
Wyman Way	69th Drive	69th Avenue
Xavier Street	70th Place	71st Place
Xavier Way	Xavier Street	71st Place
Yarrow Street	110th Avenue	110th Drive
Yates Court	70th Place	North End

Yates Street
Yates Street
Yukon street
Zenobia Place
Zenobia Street
Zephyr Court
Zephyr Street
Zuni Street
Zuni Street

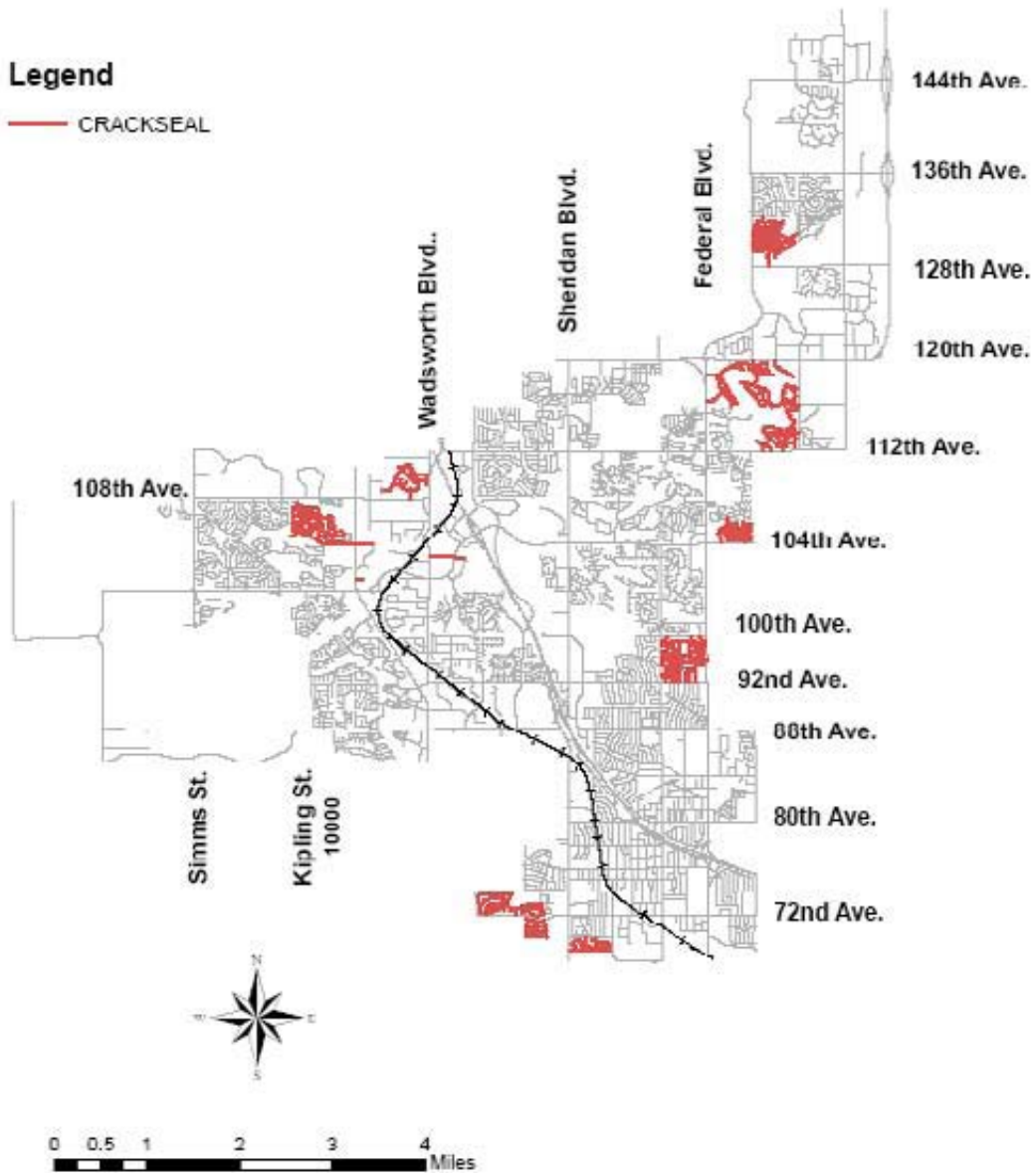
72nd Avenue
69th Avenue
110th Avenue
70th Place
71st Place
108th Avenue
109th Avenue
120th Avenue
Country Club Loop

70th Avenue
70th Avenue
South End
North End
70th Place
10921 Zephyr Court
11142 Zephyr Street
North End
120th Avenue

2008 Crackseal Improvements

Legend

— CRACKSEAL





WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
January 14, 2008



SUBJECT: Armed Forces Tribute Garden Pedestrian Bridge Contract Award

Prepared By: Richard Dahl, Park Services Manager
Becky Eades, Landscape Architect II

Recommended City Council Action

Based on the recommendation of the City Manager, determine that the public interest will be best served by entering into a contract with Goodland Construction in the amount of \$205,000 to purchase and install a pedestrian bridge connecting the main parking lot directly to the Armed Forces Tribute Garden at City Park and authorize a contingency fund of \$20,000, for a total budget of \$225,000.

Summary Statement

- On October 8, 2007, Councillor's Bill No. 55 was adopted by City Council amending the 2008 adopted budget to include a budget of \$225,000 for the addition of a pedestrian bridge to connect the existing parking lot at City Park directly into the plaza area of the Armed Forces Tribute Garden (AFTG) (see attached plan).
- Following the City's purchasing ordinance, a price was negotiated with Goodland Construction, Inc. because the "public interest is best served by a negotiated contract with a single vendor or contractor." Goodland Construction, Inc. was awarded the construction contract for the overall AFTG on June 25, 2007, based on a competitive bid and is on site actively constructing the project. To bring another contractor into the middle of this complicated construction process would not only cost more as additional mobilization fees would be charged, coordination in such a small area would be extremely difficult. As the contractor responsible for the AFTG, Goodland Construction, Inc. has a vested interest in securing the best possible outcome of both projects.
- The AFTG Pedestrian Bridge contract includes the purchase of a 150-ft-long pedestrian bridge, footer design, installation of the footers and the bridge, construction of the concrete walk connecting the parking area to the bridge and associated earthwork and reclamation of the disturbed areas.
- Competitive bids were received for the bridge portion of the contract.

Expenditure Required: \$225,000

Source of Funds: General Capital Improvements Fund

Policy Issue

Should the City proceed with the pedestrian bridge for the Armed Forces Tribute Garden?

Alternatives

1. City Council could choose not to move forward with this portion of the project at this time. Staff does not recommend this, however, as it will be easier from a constructability standpoint, and more cost effective, to install the bridge while the remainder of the project is still under construction.
2. City Council could choose not to install a bridge crossing and cancel the project. Staff does not recommend this alternative due to the need to provide a more direct pedestrian access to the Tribute Garden, especially for people with disabilities and other wheelchair-bound visitors.

Background Information

Construction of Phase One of the AFTG began in July of 2007. Phase One elements include the following: Central fountain, brick paving, elaborate landscaping, flag display wall (including uprights and lettering), lighting (fountain, sculpture, flag pole and site), universal access into the site, granite columns (showcase for future sculptures), accessible parking spaces, site furniture and underground utility work. The dramatic center sculpture, *Grieving Friends*, will be placed atop the fountain to create a scene of sacrifice and respect toward our military. The pedestrian bridge is included in the Master Plan for the AFTG, but was not included with Phase One due to budget constraints. By moving forward with the contract for the bridge at this time, Staff anticipates having the bridge installed prior to the dedication of the AFTG on May 17, 2008.

Competitive bids were received for the bridge portion of the AFTG Pedestrian Bridge Contract. Goodland Construction, Inc. will purchase the bridge from Contech Bridge Solutions, Inc., which has supplied numerous pedestrian bridges within the City. The bids for the bridge portion of the contract were as follows:

Vendor	Price
Contech Bridge Solutions, Inc.	\$122,280
Big R Manufacturing LLC	\$128,300
Excel Bridge Manufacturing Co.	\$134,800

This project meets City Council’s Strategic Plan goal of Beautiful City by adding an additional feature to improve the pedestrian access into the Armed Forces Tribute Garden, therefore enhancing the overall experience of the Garden.

Respectfully submitted,

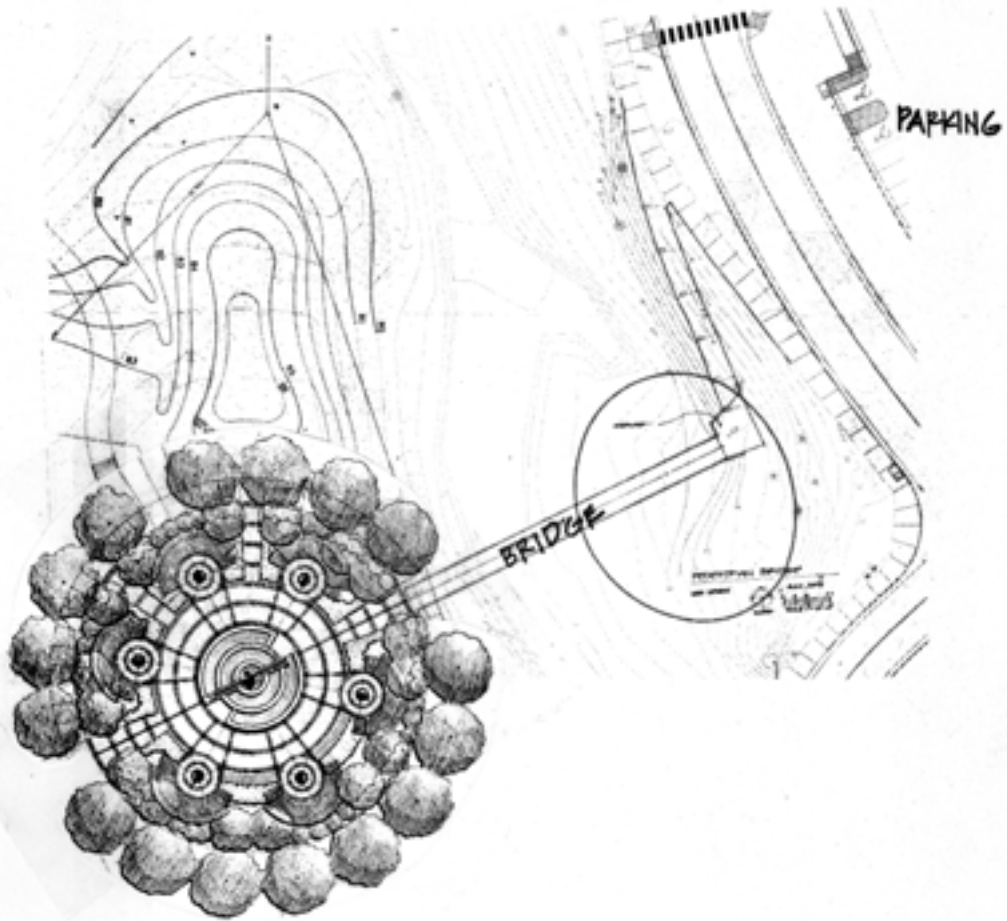
J. Brent McFall
 City Manager

Attachments

Location Map



AFTG Master Plan (core area with pedestrian bridge)





WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
January 14, 2008



SUBJECT: Library Materials Budget Expenditures

Prepared By: Kate Skarbek, Interim Library Services Manager

Recommended City Council Action

Based on the recommendation of the City Manager, determine that the public interest will be best served by awarding a contract to Baker and Taylor (B&T) for the purchase of library books in an amount not to exceed \$150,000 in 2008.

Summary Statement

- The Westminster Municipal Code requires all purchases over \$50,000 be authorized by City Council. 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 exceed \$50,000.
- This is a negotiated contract with Baker & Taylor; formal bidding was not used. However, Staff continues to compare prices with other vendors and where lower prices can be obtained, another vendor will be used.
- Funds were previously appropriated in the 2008 Budget and are available in the General Fund for the purchases.
- The City's purchasing agent has reviewed this request and concurs with Staff's recommendation.

Expenditure Required: \$150,000

Source of Funds: General Fund - Parks, Recreation and Libraries Operating Budget

Policy Issue

Should Council waive formal bidding requirements and approve the purchase of library materials that total over \$50,000 in 2008?

Alternative

Do not approve the purchase as recommended and request that Staff go out to bid on this purchase. This alternative is not recommended for the reasons outlined in the background section of this Agenda Memorandum.

Background Information

Library materials purchases from B&T constitute 45% of the library materials budget expenditures. This vendor consistently provides the City with good customer service. Their procedures coordinate well with the City's procedures, so using them improves Staff efficiency. The discounts that B&T offers the City are very competitive. In instances where Staff receives a better discount from a different vendor, materials are ordered from the other vendor. The City receives the majority of its standing orders from B&T because they are the most competitive. In addition, B&T maintains an interactive website that Staff can use to manage the City's library orders. Ingram, another large library vendor that specializes in public and school libraries, does not offer an interactive website.

Each year the Library compares pricing and services among the large library vendors of B&T, Ingram, Amazon and Midwest Tapes. Services reviewed are ease of online ordering, technological coordination with our database and shipment practices that include invoicing and turn-around time. Pricing considerations are noted for overall discount prices. B&T continues to offer the most competitive services, in terms of format and discounts, which can be as much as 40%. Staff is requesting authorization for purchases to be made in 2008 up to a maximum of \$150,000.

Respectfully submitted,

J. Brent McFall
City Manager



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
January 14, 2008



SUBJECT: 2008 Dell Server and Computer Replacement Purchases

Prepared By: David Puntteney, Information Technology Director
Scott Rope, Information Systems Manager

Recommended City Council Action

Find that the Western States Contracting Alliance (WSCA) pricing meets City Charter bidding requirements and authorize Staff to proceed with 2008 calendar year purchases of desktop PCs, laptop PCs, storage hardware, computer servers, printers and software through Dell Computer Corporation in an amount not to exceed \$348,200.

Summary Statement

- The City uses 56 computer servers to support software applications and provide services for all departments.
- Servers, desktop computers, and laptop computers are replaced on a four-year replacement schedule in order to provide a high level of reliability, availability and performance.
- Maintenance contracts for computer servers more than four years old are expensive.
- City Council authorized adequate funds in the 2008 Utility Fund, Information Technology Department operating budget, to purchase replacement servers and software.
- City Council authorized adequate funds in the appropriate 2008 Utility Fund and General Fund department's operating budgets for the purchase of departmental PCs.
- The City purchases hardware through Dell Computer below the Western States Contracting Alliance (WSCA) contract prices, therefore meeting the City Charter bidding requirements. The prices under this joint purchasing contract are well below what the City could achieve purchasing on its own.
- The City is scheduled to replace 253 PCs and 1 laptop that will reach four years of age in 2008.
- The City is scheduled to replace eight servers in 2008.
- Technology purchases and services including software maintenance, disk storage, monitors, RAM, and related supplies are also purchased through Dell at or below the Western States Contracting Alliance (WSCA) contract prices, and are included in the total projected 2008 amount.
- Decommissioned desktop and laptop computers are donated to the 7:10 Rotary Club for the Computers for Kids program.
- Decommissioned computer servers are frequently relocated to the City's computer disaster recovery facility to serve as short-term recovery computers in the event of a disaster at the primary computer facility located at City Hall.

Expenditure Required: \$348,200

Source of Funds: General and Utility Fund Departmental Operating Accounts and Utility Fund, Information Technology Department Operating Budget

Policy Issue

Should the City continue to replace aged computer servers, desktop computers, laptop computers and peripheral equipment and software to ensure high availability, performance and capacity to support software applications and users?

Alternative

Forgo the 2008 replacement of computer hardware, software and servers. This alternative is not recommended for the following reasons:

- Continued maintenance on older servers is expensive. The City purchases new servers that include a four-year maintenance agreement.
- Application software upgrades frequently require more processing speed and memory. Attempting to upgrade older servers to meet the demands of new applications is many times impossible, and not cost effective, especially when combined with the cost of maintaining older computer technology.
- The expected performance and reliability of servers more than four years old is unacceptable for the City's critical applications.
- Older desktop and laptop computers lack the processing power needed to adequately support newer applications.

Background Information

The City uses 998 personal computers throughout all departments, representing an investment of approximately \$1.76 million. These computers provide access to essential software and services needed for City operations.

In 2001, the City established a PC replacement schedule of three years or four years, depending on the type of applications and performance requirements on each PC. In 2005, with the improved reliability and speed of new computers, Information Technology eliminated the three year replacement schedule, and moved all computers to a four year replacement cycle. In 2008, 253 PCs and 1 laptop are scheduled for replacement.

In 2006, the Information Technology Department conducted a comprehensive study of "virtualization" technology to determine how such technology could improve computer server availability and reliability while reducing the total number of servers required. Virtualization is the process of configuring an individual server to function as multiple virtual servers, thereby allowing multiple applications to be run on the same server. The study concluded that virtualization would result in a long term cost benefit to the City by reducing the required number of servers. In 2007, Staff began the virtualization project, and has successfully eliminated 26 servers, reducing the total number of servers from 82 to 56. Without virtualization, the City would be replacing fifteen servers in 2008. Instead, only eight servers require replacement in 2008. Over the next 18 months, Information Technology will complete the virtualization project to eliminate another 25-30 servers. Following completion of the virtualization infrastructure build in 2008, the City will be realizing an average annual net savings of \$40,000 in server replacement costs.

The City's servers support applications such as Computer Aided Dispatch, Public Safety Records Management, Enterprise Resource Management, Court, Geographic Information Systems, Internet, Intranet, Utility Maintenance Management, Utility Billing, Office tools and many others. These servers are critical to departments to provide internal and external customer service and to conduct critical City operations. The City has established a four-year replacement for computer servers. Decommissioned servers are frequently relocated to the City's computer disaster recovery facility to provide short term, more limited use in the event of a disaster at City Hall that would restrict access to or availability of production servers. New servers include a four-year maintenance agreement, so the City does not incur additional hardware maintenance expense during the full production life of the servers.

The City has standardized on Dell computer systems, which have some of the highest customer satisfaction and quality ratings in the industry. The City is very pleased with the overall performance of Dell equipment and the support provided to the City.

Respectfully submitted,

J. Brent McFall
City Manager



**WESTMINSTER
COLORADO**

Agenda Memorandum

City Council Meeting
January 14, 2008



SUBJECT: Purchase of Pumps and Motors for the Raw/Reclaimed Water Interconnect Pump Station

Prepared By: Dan Strietelmeier, P.E., Senior Engineer
Abel Moreno, Capital Projects and Budget Manager

Recommended City Council Action

Based on the recommendation of the City Manager, find that the public interest would best be served by accepting the bid from Denver Industrial Pump for the purchase of pumps and motors, and to provide field services for use in the Raw/Reclaimed Water Interconnect Pump Station, and authorize the City Manager to execute a purchase order in the amount of \$88,820.

Summary Statement

- The design phase of the Raw/Reclaimed Water Interconnect project has recently been completed under a contract with Stantec Consulting (Stantec) approved by City Council on July 23, 2007. The project consists of a new pipeline between the Northwest Water Treatment Facility and the existing Reclaimed system pipeline in 108th Avenue, construction of a six million gallons per day pump station at the Northwest Water Treatment Facility and connecting new customers to the Reclaimed system in the area. The new pump station will pump raw water from the existing 36-inch pipeline that supplies Standley Lake water to the Northwest Water Treatment Facility.
- The new pumps and motors that were specified by Stantec for this project have a long lead-time justifying the need to pre-procure the pumps and motors prior to awarding a construction contract.
- Formal bids were solicited from four vendors for the pump equipment with two responding. Stantec evaluated the two bids and recommended awarding the purchase to the higher bidder, Denver Industrial Pump. Staff concurs with this recommendation, to go with the higher bidder, because their proposed pumps more clearly meet the needs of this project.
- The pre-procurement will allow the fabrication of the pumps to begin so the pumps can be delivered to the Northwest Water Treatment Facility for installation by the construction contractor within the project schedule. The lead-time for the pumps has delivery occurring in July.
- The construction bids for the project will be advertised in January with a construction contract presented to City Council in February. Project completion is anticipated for this summer (2008).
- The authorized Utility Fund Capital Improvement Project budget for the Reclaimed/Raw Water Interconnect is \$4,000,000, a portion of which is encumbered by Stantec's existing contract. Stantec's estimated construction cost for the project is \$2.7 Million.

Expenditure Required: \$88,820

Source of Funds: Utility Fund Capital Improvements – Raw/Reclaimed Water Interconnect Project

Policy Issue

Should the City pre-purchase pumps and motors for the Raw/Reclaimed Water Interconnect Project?

Alternatives

- 1) Reject the recommendation made by Stantec and award the pump equipment bid to the other bidder. Staff does not recommend this due to the exceptions to the specifications contained in the other bid.
- 2) Decline the pump equipment purchase and instruct the construction contractor to include the purchase of the pumps and motors in their contract. Staff does not recommend this alternative because this will delay completion of the Interconnect project, which could lead to inadequate water supply for the Reclaimed Water System.

Background Information

The Reclaimed Water Master Plan, completed in 2006, recommended supplementing the Reclaimed Water system supply of Big Dry Creek Wastewater Treatment Facility effluent, with raw water from the Standley Lake pipelines for peak demand reduction. Stantec determined that capacity is available in the 36 inch Northwest Water Treatment Facility pipeline for both the Reclaimed and potable supply needed to meet build out demands. An alternative analysis was performed and the recommended alternative of using existing Northwest raw water pipeline capacity, building a six million gallons per day pump station at Northwest and constructing the interconnect pipeline to the Reclaimed system in 108th Avenue ranked well above all other alternatives, and was the lowest cost alternative.

As part of the design phase, Stantec developed specifications for the new interconnect pumps and motors, which were reviewed by City staff. The specifications were part of an invitation to bid package that was distributed to four vendors who provide acceptable pump equipment. The equipment includes two 3.2 million gallons per day vertical turbine pumps each with variable frequency drive motor and five days of field services provided by the vendor during installation. The equipment bids are summarized in the table below with five days of field services included in the total cost.

<u>Vendor</u>	<u>Pump Manufacturer</u>	<u>Total Cost</u>
Quanda	Goulds	\$84,884
Denver Industrial Pump	American Marsh	\$88,820
Lee Matthews	LayneVertiline	No Bid
Monroe Companies	Simlfo	No Bid

For the most part each pump meets the majority of the requirements within the specifications, though Quanda has more exceptions to the specification than Denver Industrial Pumps. Quanda's exceptions to the specifications include a less robust type of epoxy lining within the pump and piping, and a less reliable type of screen on the intake side of the pump. The pump specification item that is most significant is the pump curves that were submitted. The pump curve provided by Denver Industrial Pump is steeper than the curve submitted by Quanda. A steeper pump curve will allow the variable frequency drive motors to operate over a wider range and make for more stable operation. Stantec's recommendation of awarding the bid to Denver Industrial Pump is based on insignificance in cost and schedule difference, the number of exceptions to the specifications, and the pump curves provided. The pump station and pipeline work should be nearing completion at the time of anticipated delivery of the pumps, which works well with the overall project schedule. The construction contractor will unload the pumps and motors, and perform the actual installation.

The timely completion of the Raw/Reclaimed Water Interconnect Project will assist the City in meeting the goal of a “Financially Sustainable City Government” by promoting good stewardship with the use of reclaimed water and also will help maintain a “Beautiful City” using this water for irrigation of Parks, golf courses, and common areas. The Interconnect project will be needed for full development of the Reclaimed water system providing the City with additional water supply yield by freeing up demand from the potable water system.

Respectfully submitted,

J. Brent McFall
City Manager



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
January 14, 2008



SUBJECT: Adams County Juvenile Assessment Center (The Link)
Intergovernmental Agreement

Prepared By: Lee Birk, Chief of Police
Tim Carlson, Deputy Police Chief

Recommended City Council Action

Authorize the Mayor to sign an Intergovernmental Agreement with the Adams County Juvenile Assessment Center (The Link) allowing the City to renew the existing agreement with Adams County jurisdictions to participate in The Link.

Summary Statement

- Since 1999, The Link has provided a centralized location for the coordinated provision of intervention programs and services for juveniles and their families who are referred to the program by law enforcement participants including: Adams County Sheriff's Office, Brighton, Commerce City, Northglenn, Thornton and Westminster.
- The renewed Intergovernmental Agreement (IGA) provides funding for The Link and will thereby ensure that The Link will be able to continue providing the necessary services to juveniles and their parents.
- The City Attorney has reviewed and signed off on the IGA.
- Adequate funds were authorized in the 2008 Police Department General Fund Operational Budget for this expense.

Expenditure Required: \$46,740

Source of Funds: 2008 General Fund Police Department Operating Budget

Policy Issue

Should the City enter into an agreement with other jurisdictions in Adams County and commit budgeted Police Department funding to The Link?

Alternatives

1. Do not participate in The Link operation. A lot of time and well thought out effort has been put into The Link program, and Staff believes it is the best manner in which to provide these critical services.
2. Direct Staff to look at alternative means of dealing with juvenile issues, perhaps on a contractual basis. Staff is not aware of other resources/providers that will handle this needed service in a consistent and responsive manner.
3. Direct Staff to deal with juvenile issues in-house. Delivering these services in-house would require either the allocation of additional resources or the reallocation of existing resources. In either case, the price tag would be significantly greater than the \$46,740 annual fee under the IGA.

Background Information

The Link Intergovernmental Agreement has been in effective since 1999. One primary benefit of the Link is to provide a drop off point for juveniles that are not eligible for continued custody by the police department. The vast majority of juveniles taken into custody by police officers are not held in custody or detention. Most of the juveniles are arrested for minor criminal offenses or “status” offenses such as being a runaway. Unlike an adult who can be released from custody on their own recognizance, juveniles can only be released to a responsible adult. The Link provides a non-custodial place for police officers to take these juveniles who have been released from custody. Staff at The Link utilizes their time, energy, and expertise in contacting parents, guardians, or Social Service agencies to take custody of the juvenile. This process saves many hours of unnecessary work by police officers trying to make these arrangements. The officer is out the door in a matter of minutes.

In addition to this service, The Link provides the contacts and resources for parents and guardians to assist them in intervening in the poor behavior leading to the arrest. The Link also provides services to the juveniles by doing assessments when the juvenile is dropped off and arranging follow up intervention for them and their families while still at the facility. The goal is to intervene in order to reduce the likelihood (particularly for low level offenders) of repeated criminal behavior. The Link also provides quick and timely pre-screening for juveniles for placement in juvenile detention who have committed violent felony offenses.

There is a strong consensus among the Adams County participating agencies that The Link is a valuable program and should continue operating, including the continuance of financial support. Numerous meetings have been held with all of the Adams County participating agencies’ to determine what kind of stable, predictable funding would be arranged for the future. Grant funding has historically been a significant funding source, but over time grant funding options have been depleted and applications for future grant funds may no longer possible. However, some grant funding has been procured for 2008 keeping each participating agency’s funding at the same level as 2007.

Each agency’s share of funding is based on that agency’s usage of The Link. The participating agencies for 2008 are the Adams County Sheriff’s Office, Brighton, Commerce City, Northglenn, Thornton and Westminster. Future funding will be based on a similar formula for subsequent years. The formula takes into account only the Adams County portion of Westminster. Westminster Jefferson County juveniles have access to the Jefferson County Juvenile Assessment Center (JAC).

Respectfully submitted,

J. Brent McFall, City Manager
Attachment

**INTERGOVERNMENTAL AGREEMENT
FOR THE PROVISION AND FUNDING OF
JUVENILE ASSESSMENT SERVICES
BY THE LINK**

THIS INTERGOVERNMENTAL AGREEMENT (hereafter "IGA") is made and entered into by and between the City of Thornton, a Colorado municipal corporation ("Thornton"), the City of Brighton, a Colorado municipal corporation ("Brighton"), the City of Commerce City, a Colorado municipal corporation ("Commerce City"), the City of Northglenn, a Colorado municipal corporation ("Northglenn"), the City of Westminster, a Colorado municipal corporation ("Westminster"), Adams County, a political subdivision of the state of Colorado represented by and through the Adams County Sheriff's Office ("Sheriff"), and The Link, A Community Assessment and Resource Center and Colorado non-profit corporation ("The Link"). The municipal corporations and the Sheriff identified herein will be referred to as "Participating Jurisdictions" and collectively as "Parties" and each individually as "Party."

WITNESSETH:

WHEREAS, Part 2 of Article I of Title 29, C.R.S., permits and encourages governments to make the most efficient and effective use of their powers and responsibilities by cooperating and contracting with one another to provide any function, service, or facility lawfully authorized by each of the contracting governments; and

WHEREAS, The Link has operated and initially served Adams County and the cities located within Adams County since its inception in October 1999, and seeks an intergovernmental agreement between itself and the identified Participating Jurisdictions it serves to establish joint funding obligations to enable The Link to continue to provide service to its Participating Jurisdictions; and

WHEREAS, the Parties collectively desire to enter into this IGA to provide funding for The Link and thereby ensure that The Link can continue to provide its services to juveniles and their parents.

NOW, THEREFORE, in consideration of the mutual covenants, agreements and promises contained herein, the receipt and sufficiency of which are hereby confessed, it is understood and agreed as follows:

I. GENERAL PROVISIONS

- A. The Link is committed to maintaining a centralized location for the provision of assessment, mediation and intervention services for juveniles and their families who are referred to The Link from the Participating Jurisdictions; and, agrees to provide the services, as identified herein, for the Parties that are represented in this IGA.

- B. The Link shall currently continue and maintain its operation at 690 W. 84th Avenue, Thornton, Colorado 80260, and will provide services to the Parties from this location. Nothing herein intends to restrict The Link from moving to another location within Adams County for practical and economical purposes. The Link will operate pursuant to the direction of a Board of Directors ("Board") as established by The Link's by-laws and management will be by an administrative director.
- C. The Participating Jurisdictions hereby agree to allocate and commit funds for the 2008 operating year to be provided to The Link in accordance with the terms of this IGA.
- D. The Participating Jurisdictions may also, throughout the term of this IGA, agree, without restriction or limitation, to provide in kind contributions to The Link to assist The Link in providing services to and for the benefit of all member participants that are a Party to this IGA.

II. SERVICES PROVIDED

- A. General Service. The Parties hereto agree that The Link shall have authority over the operation of its programs and facilities which are provided for the use and benefit of the Parties to this IGA and their constituents. The Parties hereby agree that funding of The Link, by the Parties hereto, for such services shall be as provided in this IGA.
- B. Specific Services. The Link shall be authorized to provide the services identified below to children who are between the ages of 8 years of age and 17 years of age ("Juvenile"). The principle purposes and powers of The Link are to:
 - 1. Provide a centralized location for the assessment of youth and referral to community resources and other intervention programs and services for Juveniles and their families who are referred to The Link by the Participating Jurisdictions.
 - 2. Conduct complete assessments of the needs of Juveniles and their families which may include, but is not limited to, screening for violence potential and self-destructive tendencies, abuse, neglect and future criminal behavior, risk and treatment need factors.
 - 3. Make prompt referrals of Juveniles and their families to appropriate community services and agencies based on needs assessment and any and all other pertinent information.
 - 4. Provide crisis and mediation intervention for Juveniles and their families referred by the Participating Jurisdictions and the

Juvenile's family. The Link shall utilize a case management process to evaluate the progress of the intervention. Case management shall include developing case plans addressing issues identified in the assessment, and supervising the accomplishment of the case plan, and preparing applicable presentencing and status reports for municipal courts. The Link agrees to provide up to a maximum of eleven (11) case management services per month for juveniles on probation or as a part of sentencing through the municipal court to the Parties. Each Participating Jurisdiction's use of this service shall be based on the Participating Jurisdictions proportional use of The Link's services as outlined in Exhibit A. The Director of The Link shall have authority to modify the maximum number of case management services per month as appropriate to the circumstances.

5. Coordinate and centralize the information collected by The Link for the Participating Jurisdictions involved with the Juveniles and their families.
6. Provide rapid dissemination of assessment information to municipal courts, and the Participating Jurisdictions in accordance with all laws concerning confidentiality.
7. Provide multi-tiered service approach through provision of 24 hour detention and screening services for delinquent youth placed into the juvenile detention center or intervention for applicable alternatives to detention pursuant to Senate Bill 94 and the grant monies awarded The Link pursuant to that legislation.
8. Apply for and receive grants and other sources of funding and provide all services related to Juveniles which are authorized by the terms of any such grant or funding awards.
9. Provide ongoing intake protocol training, assessment and using The Link services for Participating Jurisdictions and intervention screening for the 17th Judicial District pursuant to the requirements of Senate Bill 94 and the grant monies awarded The Link pursuant to that legislation.
10. Provide immediate social and mental health service referrals to Juveniles through community service providers and private providers who offer such services.
11. Provide prescreening of youth for county and municipal offenses, misdemeanor and traffic warrants within the 17th Judicial District. In addition, The Link shall provide: Personal Recognizance bonding

for municipal charges; screening of youth into Level 4 Electronic Home Monitoring pursuant to the annual renewal of the Senate Bill 94 grant award; and screening of youth into the Juvenile Detention Center if charges are detainable.

12. Have any additional authority and power necessary to accomplish the foregoing programs and objectives.
- C. Contracts. The Parties hereto further acknowledge and agree that The Link shall have the responsibility and authority as reasonable and necessary to carry out the powers set forth in this IGA. Such authority shall include, but not be limited to, the authority to contract and lease property, purchase all necessary supplies, equipment, materials, and services, including professional services, and further to hire and discharge employees of The Link, as deemed necessary to operate The Link.
 - D. Fees. Fees, if any are to be charged for services, shall be established by The Link and shall be uniform and reasonable. Nothing herein is intended to limit the ability of The Link to charge fees for recoupment of expenses, as deemed appropriate.
 - E. Usage by other Entities. The Link Board by formal Board action may permit other entities to make use of The Link services, or to permit juveniles residing outside the 17th Judicial District, to be referred to The Link. The formal Board action shall include the charge to other entities to make use of The Link services and the terms of payment for such services.

III. APPROPRIATION AND PAYMENT BY PARTIES OF THE ANNUAL ASSESSMENT

- A. Appropriation and Funding Obligations. The Parties agree to commit and have the monies appropriated to pay the Annual Assessment as requested and set forth in Exhibit A by the first day of January of the year during which said funds are to be expended by The Link. The Parties agree to pay said amounts to The Link by January 31 of the year during which said monies are to be expended by The Link, with the exception of Brighton. Brighton shall make three payments to The Link to fulfill its obligation as delineated in Exhibit A. Each payment of \$13,848.88 shall be due in full to The Link on January 1, April 1 and July 1, 2008. All payments to The Link pursuant to this IGA are, however, subject to annual appropriation by the Parties hereto in the manner required by statute. It is the intention of the Parties that no multiple-year fiscal debt or other obligation shall be created by this IGA.

- B. Calculation of the Annual Assessment. The Parties agree that the portion of the budget to be assessed to each of the Participating Jurisdictions ("Annual Assessment") shall be based upon that jurisdiction's proportional share of the current six-year average historical juvenile transports from the jurisdiction as compared to the total for all of the Participating Jurisdictions. Provided however, the 2008 Annual Assessment shall be for the same amount as the 2007 Annual Assessment, which is reflected in Exhibit A under the Assessment Amount column. While the actual costs have risen, those actual costs will not be assessed but are reflected for comparison purposes in Exhibit A under the Actual Cost column.

Should any such jurisdiction be partially within and partially without the territorial limits of the 17th Judicial District, such Party's Juvenile transport data within the 17th Judicial District shall be computed with the pro-rata share of the Annual Assessment. Such jurisdiction shall only refer juveniles within the boundaries of the 17th Judicial District to the Link.

- C. Contributions of New Parties. In the event that any municipal jurisdiction or county enforcement agency, other than the Participating Jurisdictions, wishes to use The Link services and provide funding for such services, after January 1st of each year, such entity may be included in this IGA by amendment as a Participating Jurisdiction. The new Participating Jurisdiction's assessment for this first year shall be determined based upon that jurisdiction's proportional share of the historical juvenile arrests and/or transport data available as applicable from that jurisdiction as compared to the revised total for all of the Participating Jurisdictions times the Annual Assessment as adjusted for the number of months of service. The monies as determined by said formula will be appropriated and paid thirty (30) days subsequent to execution by all the Parties, as provided herein. For subsequent years, a new jurisdiction's Annual Assessment shall be based on the formula provided herein for Participating Jurisdictions.

IV. BUDGET

- A. Budget Process. Each year, The Link shall prepare a preliminary budget and submit said budget to The Link's Board of Director's ("Board") for approval. The budget shall contain detailed estimates of the operating expenses for the subsequent year. The budget shall identify the dollar amount of all revenue sources including the portion of revenue to be assessed to the Participating Jurisdictions ("Annual Assessment"). The preliminary budget shall be approved by The Link's Board on or before May 1st of each year. The approved preliminary budget shall be submitted to each of the governing bodies of the Parties hereto as soon as thereafter as possible.

1. The Parties may provide comments or concerns on its Annual Assessment to The Link's Board on or before July 1st of each year. The Link's Board may adjust the budget based on the comments of the Parties.
 2. The final budget shall then be approved by The Link's Board and certified by the secretary and treasurer of The Link's Board. A final budget shall be submitted to each of the governing bodies of the Parties no later than August 1st of each year that this IGA is in effect.
- B. Contributions to the Budget. The Parties hereto agree to contribute to the budget based upon the formula set forth in Exhibit A for each term of this IGA.

V. FUNDS AND OPERATIONS

- A. Designation of Funds. The Link agrees that the funds paid to The Link by the Parties hereto, and any monies generated by The Link itself shall be placed into a designated fund, and any expenses incurred by reason of operation of The Link shall be paid from said fund.
- B. Choice of Depository. All monies belonging to The Link or designated for use by The Link shall be deposited in the name and to the credit of The Link with such depositories as The Link shall from time to time designate, in compliance with all applicable laws.
- C. Disbursement of Funds. No disbursements of funds as provided by this IGA shall be made from the funds of The Link except by check, or credit card under the name of The Link.
- D. Fiscal Responsibility. The Link shall not borrow money nor shall it approve any claims or incur any obligations for expenditures unless there is sufficient unencumbered cash in the appropriate fund, credited to The Link with which to pay the same.
- E. Operating and Capital Reserves. The Board of Directors of The Link shall have the authority to set aside unexpended revenues generated by the operation of The Link for purposes of providing operating and capital reserves. The Board of Directors shall also have the authority to establish a capital improvement fund to provide for the operation of the Link..
- F. Insurance. The Link's Board shall obtain and maintain adequate liability and property insurance coverage to protect against any claims and liabilities which may arise due to the activities conducted by The Link or The Link's Board in an amount not less than the monetary limitations of

liability provided by the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, et. seq., as the same may be amended from time to time.

- G. Use of Funds. Nothing herein is intended to restrict or prohibit The Link from using the budget funds for any purpose as authorized by any grant funds or in connection with the services provided by The Link.

VI. RECORDS AND REPORTS

- A. Record Keeping. The Link shall maintain accounts of its funds, properties, and business transactions, in accordance with applicable law.
- B. Annual Audit. The Link shall cause to be conducted an annual audit within 90 days after the end of the fiscal year. Such audit shall be conducted by an independent certified public accountant, registered accountants licensed to practice in the State of Colorado. The Link shall tender a copy of said audit to the respective Parties hereto upon request of any Party.
- C. Annual Report. Beginning in 2008 and thereafter, by March 1st of each year, The Link shall prepare and present to the respective Participating Jurisdictions, a comprehensive annual report of The Link's activities and finances during the preceding year.
- D. Reports Required by Law, Regulations or Contract. The Link shall also prepare and present such reports as may be required by law, regulation, or contract to any authorized federal, state and/or local officials to whom such report is required to be made in the course and operation of The Link.
- E. Reports Requested by the Parties. The Link may, where practical, render to the Parties hereto, at reasonable requests, such reports and accountings as the Parties hereto may from time to time request.

VII. DEFAULT IN PERFORMANCE

- A. Default by The Link. If, for whatever reason, The Link ceases its operation at anytime during the calendar year, with or without notice to the Participating Jurisdictions, such cessation of services shall constitute a material breach of this IGA and will relieve the Participating Jurisdictions of their funding obligation for any pro rata share of funding submitted for the end of the IGA term. Upon notification from The Link to the Participating Jurisdictions of such cessation of services, The Link agrees to reimburse to the Participating Jurisdictions their pro rata share to the extent that such funds are available. Upon such notice, the terms and conditions this IGA automatically terminates and relieves the Participating Jurisdictions of any and all obligations contained herein. The same shall

apply to Brighton if any one of its three payments is not paid in full on the due date.

- B. Default by Participating Jurisdiction. In the event that any Participating Jurisdiction fails or refuses to provide the agreed upon funding pursuant to Exhibit A for any calendar year, after January 31st of such calendar year, such failure to pay shall constitute a material breach of this IGA. The Link shall notify the Participating Jurisdiction of such breach and if such breach is not cured within 30 days of such notification, the failure to cure shall constitute a material default in terms of this IGA and said Participating Jurisdiction shall be deemed excluded as a Participating Jurisdiction from the scope of this IGA and The Link shall be free to refuse the provision of services for any juvenile from that Participating Jurisdiction's geographical area.

VIII. TERM, RENEWAL AND TERMINATION OF AGREEMENT

- A. Term and Renewal of Agreement. The IGA shall be in full force and effect for a period of one calendar year commencing on January 1, 2008, and ending on December 31, 2008, and the Parties to this IGA shall have an option to renew this IGA for an additional one year, at the end of each such term, upon written notification to The Link of intent to renew, dated 90 days prior to the end of the current term.
- B. Termination by Written Notice. This IGA or any Party's participation in this IGA, may be terminated effective by written notice from the Party or Parties to The Link dated at least 90 days prior to January 1st of any given year. Any Party terminating its participation pursuant to this provision shall not be entitled to any reimbursement of its annual operating cost contributions previously paid to The Link.
- C. Termination of Party/Loss of Funds. Upon termination of a Party whether by default in performance or by written notice, the remaining Parties may continue to participate in this IGA. The Link's Board, upon such termination of Party or Parties, shall act to adjust the budget or Annual Assessment or hours of operation to accommodate the loss in funds unless the remaining Parties negotiate an amendment to the IGA setting forth revised percentages of participation or the Parties agree to terminate the IGA.
- D. Powers of The Link upon Termination by a Majority. Upon termination by mutual agreement of a majority of the Parties to this IGA, the powers granted to The Link under this IGA shall continue to the extent necessary to make an effective disposition of the property, equipment, and assets under this IGA.

IX. AMENDMENT

This IGA may be amended at anytime in writing by agreement of the Parties to this IGA subject to approval of the various governing bodies of the Parties.

X. SEVERABILITY

If any article, section, paragraph, sentence, clause or phrase of this IGA is held to be unconstitutional or invalid for any reason, such holding shall not affect the validity, enforceability or constitutionality of the remaining provisions of this IGA.

XI. COUNTERPART

This IGA may be signed in counterparts, and each counterpart shall be deemed an original, and all counterparts taken as a whole shall constitute one and the same instrument. The IGA shall not be effective until the last date executed by all Parties.

XII. NO THIRD PARTY BENEFICIARIES

Nothing contained herein shall give rise to any rights or allow any claim by any third party. It is the express intention of the Parties that any third party receiving benefits from this IGA shall be deemed an incidental beneficiary only.

XIII. SUPERSEDES

This IGA supersedes and replaces all prior agreements and all amendments,

XIV. NON-DISCRIMINATORY POLICY

The Link shall make its services, facilities, and programs available to all persons regardless of race, color, age, creed, national origin, sex, or disability.

XV. NO GENERAL OBLIGATION INDEBTEDNESS

As this IGA will extend beyond the current fiscal year, the Parties understand and intend that the obligation of the Parties to pay the Annual Assessment hereunder constitutes a current expense of the Parties payable exclusively from the Parties' funds and appropriated each fiscal year, and shall not in any way be construed to be a multi-fiscal year debt or other financial obligation within the meaning of Article X, Section 20, of the Colorado Constitution, a general obligation indebtedness of the Parties within the meaning of any provision of Article XI, of the Colorado Constitution, or any other constitutional or statutory indebtedness. None of the Parties has pledged the full faith and credit of the state, or the Parties to the payment of the charges hereunder, and this IGA shall not directly or contingently obligate the Parties to apply money from, or levy or pledge any form of taxation to, the payment of the annual operating costs.

XVI. LITIGATION

Each Party hereto shall be responsible for any suits, demands, costs or actions at law resulting from its own acts or omissions.

XVII. WAIVER

A waiver by any Party of a breach of any term or provision of this IGA shall not operate or be construed as a waiver of any subsequent breach by either Party.

XVIII. PARAGRAPH CAPTIONS

The captions of the paragraphs are set forth only for the convenience and reference of the Cities and are not intended in any way to define, limit or describe the scope or intent of this IGA.

XIX. GOVERNMENTAL IMMUNITY

The Cities acknowledge that each Party, their officers and employees, are relying on, and do not waive or intend to waive, by any provision of this IGA, the monetary limitations or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, C.R.S. 24-10-101 et seq., as it is from time to time amended, or otherwise available to the Cities, their officers, or employees.

IN WITNESS WHEREOF, the Parties hereto have executed this IGA to become effective upon final execution by all Parties.

CITY OF WESTMINSTER


By: Nancy McNally
Title: Mayor

Date

ATTEST:

By: Linda Yeager
Title: City Clerk

APPROVED AS TO FORM:



By: Marty McCullough
Title: City Attorney

CITY OF THORNTON

Jack Ethredge, City Manager Date

ATTEST:

Nancy A. Vincent, City Clerk

APPROVED AS TO FORM:

Margaret Emerich, City Attorney

CITY OF BRIGHTON

By: Jan Pawlowski
Title: Mayor

Date

ATTEST:

By: Gayle Martinez
Title: City Clerk

APPROVED AS TO FORM:

By: Margaret Brubaker
Title: City Attorney

CITY OF COMMERCE CITY

By: Paul Natale
Title: Mayor

Date

ATTEST:

By: Laura J. Bock
Title: City Clerk

APPROVED AS TO FORM:

By: Robert R. Gehler
Title: City Attorney

CITY OF NORTHGLENN

By: Kathleen M. Novak Date
Title: Mayor

ATTEST:

By: Diana L. Lentz
Title: City Clerk

APPROVED AS TO FORM:

By: Corey Y. Hoffman
Title: City Attorney

EXHIBIT A

2008 Annual Assessment

Agency	Total Number of Juvenile Arrests 2000-2006	Six-Year Average	Pro-rata Share	Actual Cost	Assessment Amount
ACSO	946	157	20%	\$109,835	\$103,867
Brighton	358	60	8%	43,932*	41,547
Commerce City	462	77	10%	54,915	51,933
Northglenn	456	76	10%	54,915	51,933
Thornton	1,660	277	37%	203,188	192,153
Westminster	423	70	9%	49,424	46,740
Link			6% (Fed. Heights share)		60,985
Total	4,560		100%	\$549,158	\$519,333

* Brighton shall pay \$13,848.88 on January 1, April 1 and July 1, 2008.



**WESTMINSTER
COLORADO**

Agenda Memorandum

City Council Meeting
January 14, 2008



SUBJECT: Intergovernmental Agreement re Acquisition of Property Located at 6851 Irving Street Referred to as the “Heitman” Property

Prepared By: Tony Chacon, South Westminster Revitalization Coordinator

Recommended City Council Action

Authorize the Mayor to sign an Intergovernmental Agreement with the Urban Drainage and Flood Control District (UDFCD), in substantially the same form as attached accepting \$200,000 in acquisition reimbursement funds for the Heitman Property.

Summary Statement

- On October 1, 2007, the City Council authorized staff to proceed with efforts to acquire the 4.2 acre parcel of land adjacent to Little Dry Creek just east of Lowell Boulevard, referred to as the “Heitman” property, in anticipation of developing a park/open space network along Little Dry Creek in conjunction with anticipated redevelopment activity around a proposed commuter rail station proposed for the immediate area (Attachment B).
- The Heitman 4.2 acre parcel is one of two remaining large, privately-held properties within the floodplain of Little Dry Creek between Lowell Boulevard and Federal Boulevard that is required to implement the Little Dry Creek Park Master Plan presented to City Council on April 2, 2007.
- An appraisal prepared for the City by Rocky Mountain Valuation Specialists estimated the land value of the property at between \$450,000 and \$510,000.
- The City negotiated a purchase price of \$530,000 along with an additional consideration of \$30,000 to cover costs related to relocation of business operations.
- The City closed on the acquisition of the Heitman property on December 28, 2006.
- The Urban Drainage and Flood Control District is offering to reimburse the City \$200,000 for the acquisition subject to acceptance of an intergovernmental agreement (IGA).

Expenditure Required: \$563,755

Source of Funds:	General Fund - South Westminster Revitalization Account	\$163,755
	Westminster Open Space Fund	\$200,000
	Urban Drainage & Flood Control District	\$200,000

Policy Issue

Should the City enter into an intergovernmental agreement with the UDFCD accepting funds as reimbursement for acquisition of property within the established floodplain, and in doing so restrict future development of such land in the floodplain without the consent of the UDFCD?

Alternative

The Council may choose not to accept funds from the UDFCD. Staff recommends that Council not choose this alternative as the funds will assist in minimizing the acquisition cost to the City thereby preserving funds for other south Westminster revitalization endeavors.

Background Information

Improving the southern gateways into the City of Westminster is a priority strategy within the South Westminster Strategic Revitalization Plan, approved by City Council in 2000. Upon entering Westminster from the south along Lowell Boulevard, residents and visitors are exposed to a view of unappealing, blighted conditions. A similar experience applies to persons either biking or walking the Little Dry Creek trail through this same section. The view along the railroad for future commuter rail users would be similarly unappealing. A significant number of the properties along these corridors are currently located within unincorporated Adams County, and are home to such uses as storage yards, auto salvage yards, and other low-grade industrial uses. Many of these properties are also in the floodplain of the Little Dry Creek.

In conjunction with the South Westminster revitalization effort and the Brownfields initiative, Staff at the direction of City Council proceeded with acquisition of several properties including the Heitman property (Attachment A), along the Little Dry Creek, immediately adjacent to the site of the proposed commuter rail station. This property has structures and material lying within the 100-year floodplain that contributes to flooding conditions in the area by inhibiting storm water flows and contributing to debris within the creek.

Staff has successfully negotiated a purchase price of \$530,000 and the City paid associated closing costs and commissions of \$33,755 for a total closing cost of \$563,755. The Heitman's are also eligible to receive reimbursement of \$30,000 for business relocation at such time that all buildings and debris are removed from the property. Funding for the purchase was to come from three (3) sources: the Westminster Open Space fund (\$200,000); the South Westminster Capital Improvement Program (CIP) account (\$163,755); and the UDFCD (\$200,000). Upon entering into an intergovernmental agreement with the UDFCD and closing on the acquisition, the UDFCD proposed to reimburse the City its contribution of \$200,000. The UDFCD agreed to contribute \$200,000 given the property's location along Little Dry Creek. Per Council directive and upon receiving an IGA from the UDFCD relative to committing to a \$200,000 contribution, the City proceeded to close on the acquisition of the property on December 28, 2007. Now that the city owns the property, the UDFCD will reimburse the City \$200,000 upon approval of the IGA.

The acquisition of the Heitman property is a critical step in being able to implement the Little Dry Creek Park Master Plan which was presented to the City Council on April 2, 2007. The plan was prepared to better accommodate storm drainage in conjunction with the development of a community park that could serve the adjacent transit development area. With the Heitman acquisition approximately 85% of the floodplain between Federal Boulevard and Lowell Boulevard is now in ownership of the City and Adams County collectively. By accepting the UDFCD funds, the City would be required to get the District's consent for park improvements within the floodplain.

SUBJECT: IGA re Acquisition of the "Heitman" Property

Page 3

The South Westminster Revitalization capital project account was used to front the UDFCD's pledge of \$200,000 at closing with the UDFCD reimbursing the City for the expenditure thereafter. Staff will include these UDFCD funds in the next quarterly supplemental appropriations request to replenish funding for other revitalization endeavors in the southern portion of the City.

Respectfully submitted,

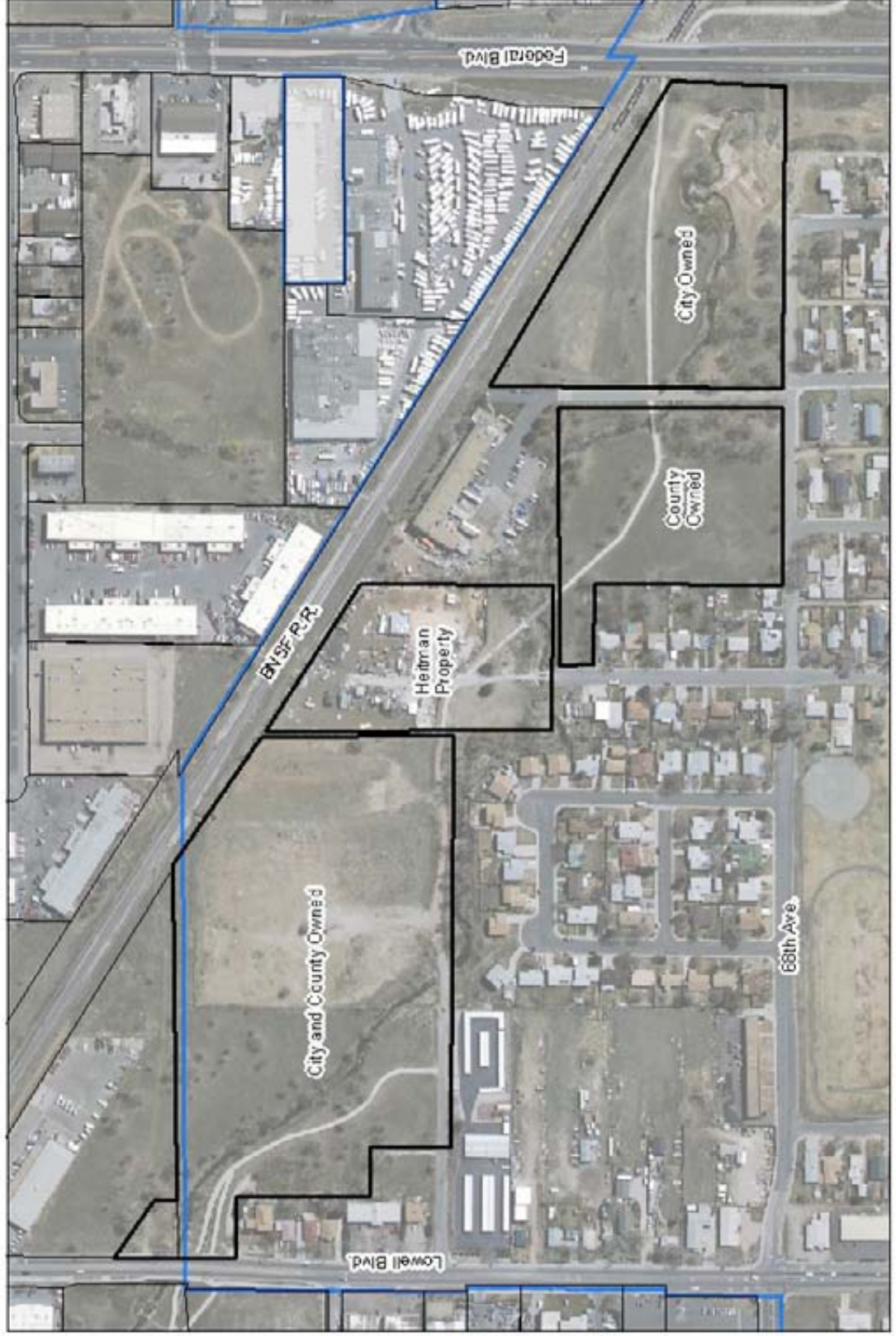
J. Brent McFall
City Manager

Attachments:

Intergovernmental Agreement
Vicinity and Property Map

Attachment B

Vicinity and Property Map



AGREEMENT REGARDING
ACQUISITION OF HEITMAN PROPERTY ON LITTLE DRY CREEK
IN CITY OF WESTMINSTER

Agreement No. 07-12.03

THIS AGREEMENT, made this _____ day of _____, 2007, by and between URBAN DRAINAGE AND FLOOD CONTROL DISTRICT (hereinafter called "DISTRICT") and CITY OF WESTMINSTER (hereinafter called "CITY") and collectively known as "PARTIES";

WITNESSETH:

WHEREAS, DISTRICT, in a policy statement previously adopted (Resolution No. 14, Series of 1970 and Resolution No. 11, Series of 1973) expressed an intent to assist public bodies which have heretofore enacted floodplain regulation measures; and

WHEREAS, CITY has enacted floodplain regulations; and

WHEREAS, PARTIES have cooperated in the preparation of a drainage master plan entitled "Major Drainageway Planning, Little Dry Creek (ADCO)" by Merrick and Company dated April, 1979", which identified drainageway improvements along Little Dry Creek in the vicinity of the Heitman Property (Exhibit A); and

WHEREAS, PARTIES now desire to proceed with property acquisition, specifically at the Heitman Property, for future drainage and flood control improvements for Little Dry Creek from Federal Boulevard to Lowell Boulevard (hereinafter called "PROJECT"); and

WHEREAS, the estimated total cost for acquisition of PROJECT is \$598,000; and

WHEREAS, CITY has requested DISTRICT funding assistance for PROJECT; and

WHEREAS, DISTRICT has adopted a Preservation Fund Budget for floodplain preservation for calendar year 2008 subsequent to public hearing (Resolution No. 72, Series of 2007) from which \$200,000 has been allocated for the acquisition of PROJECT; and

WHEREAS, DISTRICT Board of Directors has authorized DISTRICT financial participation for PROJECT (Resolution No. 99, Series of 2007); and

WHEREAS, the City Council of CITY and the Board of Directors of DISTRICT have authorized, by appropriation or resolution, all of PROJECT costs of the respective PARTIES.

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

1. SCOPE OF THIS AGREEMENT

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

2. 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 DISTRICT and the property therein.

3. PROJECT COSTS AND ALLOCATION OF COSTS

A. PARTIES agree that for the purposes of this Agreement PROJECT costs shall consist of and be limited to the following:

1. Acquisition costs;
2. Contingencies mutually agreeable to PARTIES.

B. It is understood that PROJECT costs as defined above are estimated not to exceed \$598,000. Project costs for the various elements of the effort are estimated as follows:

<u>ITEM</u>	<u>AMOUNT</u>
1. Acquisition	\$530,000
2. Appraisal costs, title work, demolition, and/or relocation, etc	68,000
Grand Total	\$598,000

This breakdown of costs is for estimating purposes only. Costs may vary between the various elements of the effort without amendment to this Agreement provided the total expenditures do not exceed the maximum contribution by all PARTIES plus accrued interest.

C. DISTRICT shall contribute \$200,000 toward PROJECT costs and CITY shall contribute the remainder of PROJECT costs. Based on total PROJECT costs, the maximum cost to each party shall be:

	<u>Participation</u>
DISTRICT share	\$200,000
CITY share	\$398,000
TOTAL	\$598,000

4. MANAGEMENT OF FINANCES

As set forth in DISTRICT policy (Resolution No. 11, Series of 1973 and Resolution No. 49, Series of 1977), the cost sharing shall be after subtracting state, federal, or other sources of funding from third parties. However, monies CITY may receive from federal funds, the Federal Revenue Sharing Program, the Federal Community Development Program, or such similar discretionary programs as approved by DISTRICT's Board of Directors may be considered as and applied toward CITY's share of improvement costs.

Within 30 days of presentation by CITY of a billing attributed to PROJECT, DISTRICT shall remit to CITY 50% of that portion of the billing to CITY, up to a maximum amount of \$200,000 plus interest accumulated on DISTRICT's share of funds.

5. RIGHT-OF-WAY

CITY, with DISTRICT assistance, shall be responsible for acquiring, subject to approval of DISTRICT, such land or interests in land needed to implement PROJECT as defined herein. The cost to be shared by PARTIES for right-of-way acquisition may include relocation costs of existing occupants. Appraisal costs will also be considered a PROJECT cost. Right-of-way acquisition shall be in accordance with DISTRICT policy attached hereto as Exhibit B. Within Exhibit B,

references to purchasing agency will be references to CITY. In reference to Paragraph 1.D and 2.D of Exhibit B, the Purchasing Agency shall pay the reasonable costs of the property owners appraisal only when the Purchasing Agency's appraisal is \$5,000 or greater.

- A. Coordination of Right-of-Way Acquisition. Cost sharing by PARTIES will be based on supporting documentation such as formal appraisals, reasonable relocation cost settlements, legal description of the property, and other information deemed appropriate to the acquisition. Furthermore, cost sharing by DISTRICT will be only for the property or portions thereof, approved by PARTIES to be needed for drainage and flood control improvements. CITY shall purchase the right-of-way only after receiving prior approval of DISTRICT.
- B. Payment for Right-of-Way Acquisition. Following purchase or receipt of executed memorandum of agreement between CITY and property owner for the needed right-of-way that commits the property owner to sell property to CITY at a price certain and on a date certain, CITY shall so advise DISTRICT and request payment as provided above. DISTRICT will make payment within 30 days of receipt of request accompanied by the information set forth above.
- C. Ownership of Property and Limitation of Use. CITY shall own the property either in fee or non-revocable easement and shall be responsible for same. It is specifically understood that the floodplain right-of-way is being used for drainage and flood control purposes. The property shall not be used for any purpose that will diminish or preclude its use for drainage and flood control purposes. CITY may not dispose of or change the use of the floodplain property without approval of DISTRICT. If, in the future, CITY disposes of any portion of or all of the floodplain property acquired pursuant to this Agreement or changes the use of any portion or all of the floodplain property acquired pursuant to this Agreement, and CITY has not obtained the written approval of DISTRICT prior to such action, CITY shall take any and all action necessary to reverse said unauthorized activity and return the floodplain property acquired pursuant to this Agreement, to the ownership and condition they were in immediately prior to the unauthorized activity at CITY's sole expense. In the event CITY breaches the terms and provisions of this Paragraph 5.C and does not voluntarily cure as set forth above, DISTRICT shall have the right to pursue a claim against CITY for specific performance of this portion of the Agreement. DISTRICT may subsequent to the recording by CITY of any document transferring title or another interest to property acquired pursuant to this Agreement to CITY, record a memorandum of this Agreement (Exhibit C), specifically a verbatim transcript of Paragraph 5.C. Ownership of Property and Limitation of Use except for this sub-paragraph which shall not be contained in the memorandum. The memorandum shall reference by legal description the property being acquired by CITY and shall be recorded in the records of the Clerk and Recorder of Adams County immediately following the recording of the document

transferring title or another interest to CITY. CITY authorizes the recording of that memorandum and acknowledges that the same is meant to encumber the property with its restrictions.

6. FLOODPLAIN REGULATION

CITY agrees to regulate and control the floodplain of Little Dry Creek within CITY in the manner prescribed by the National Flood Insurance Program and prescribed regulations thereto as a minimum.

PARTIES understand and agree, however, that CITY cannot obligate itself by contract to exercise its police powers. If CITY fails to regulate the floodplain of Little Dry Creek within CITY in the manner prescribed by the National Flood Insurance Program and prescribed regulations thereto as a minimum, DISTRICT may exercise its power to do so and CITY shall cooperate fully.

7. TERM OF AGREEMENT

The term of this Agreement shall commence upon final execution by all PARTIES and shall terminate two years after the final payment is made to the property owner pursuant to Paragraph 4 herein, except for Paragraph 6. FLOODPLAIN REGULATION and Paragraph 5.C. Ownership of Property and Limitation of Use.

8. 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.

9. CONTRACTING OFFICERS AND NOTICES

- A. The contracting officer for CITY shall be the City Manager, 4800 West 92nd Avenue, Westminster, Colorado, 80031.
- B. The contracting officer for DISTRICT shall be the Executive Director, 2480 West 26th Avenue, Suite 156B, Denver, Colorado, 80211.
- C. Any notices, demands or other communications required or permitted to be given by any provision of this Agreement shall be given in writing, delivered personally or sent by registered mail, postage prepaid and return receipt requested, addressed to PARTIES at the addresses set forth above or at such other address as either party may hereafter or from time to time designate by written notice to the other party given when personally delivered or mailed, and shall be considered received in the earlier of either the day on which such notice is actually received by the party to whom it is addressed or the third day after such notice is mailed.
- D. 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 the property acquisition undertaken pursuant to this Agreement. Each representative shall coordinate the property acquisition issues between PARTIES. Said representatives will have the authority for all approvals, authorizations, notices or concurrences required under this Agreement or any amendments or addenda to this Agreement.

10. AMENDMENTS

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

11. 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.

12. APPLICABLE LAWS

This Agreement shall be governed by and construed in accordance with the laws of the State of Colorado. Venue for any and all legal actions regarding the transaction covered herein shall lie in District Court in and for the CITY of Denver, State of Colorado.

13. 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.

14. 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.

15. 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.

16. TERMINATION OF AGREEMENT

This Agreement may be terminated upon thirty (30) day's written notice by any of PARTIES, but only if there are no contingent, outstanding contracts. If there are contingent, outstanding contracts, this Agreement may only be terminated upon mutual agreement of all PARTIES and only 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 and subject to the maximum amount of each party's contribution as set forth herein.

17. EMPLOYMENT STATUS

This Agreement shall not change the employment status of any employees of PARTIES. No party shall have the right to control or direct the activities of any employees of another related to this Agreement.

18. PUBLIC RELATIONS

It shall be at CITY'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 the proposed facilities and what impact

it may have on them. In any event DISTRICT shall have no responsibility for a public relations program, but shall assist CITY as needed and appropriate.

19. 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 because of race, color, ancestry, creed, religion, national origin, gender, age, military status, sexual orientation, marital status, or physical or mental disability and further agree to insert the foregoing provision in all subcontracts hereunder.

20. APPROPRIATIONS

Notwithstanding any other term, condition, or provision herein, each and every obligation of CITY 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 CITY and/or DISTRICT.

21. 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 PARTIES receiving services or benefits under this Agreement shall be deemed to be an incidental beneficiary only.

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

URBAN DRAINAGE AND
FLOOD CONTROL DISTRICT

(SEAL)

By _____

ATTEST:

Title Executive Director

Date _____

CITY OF WESTMINSTER

(SEAL)

By _____

ATTEST:

Title _____

Date _____

APPROVED AS TO FORM:

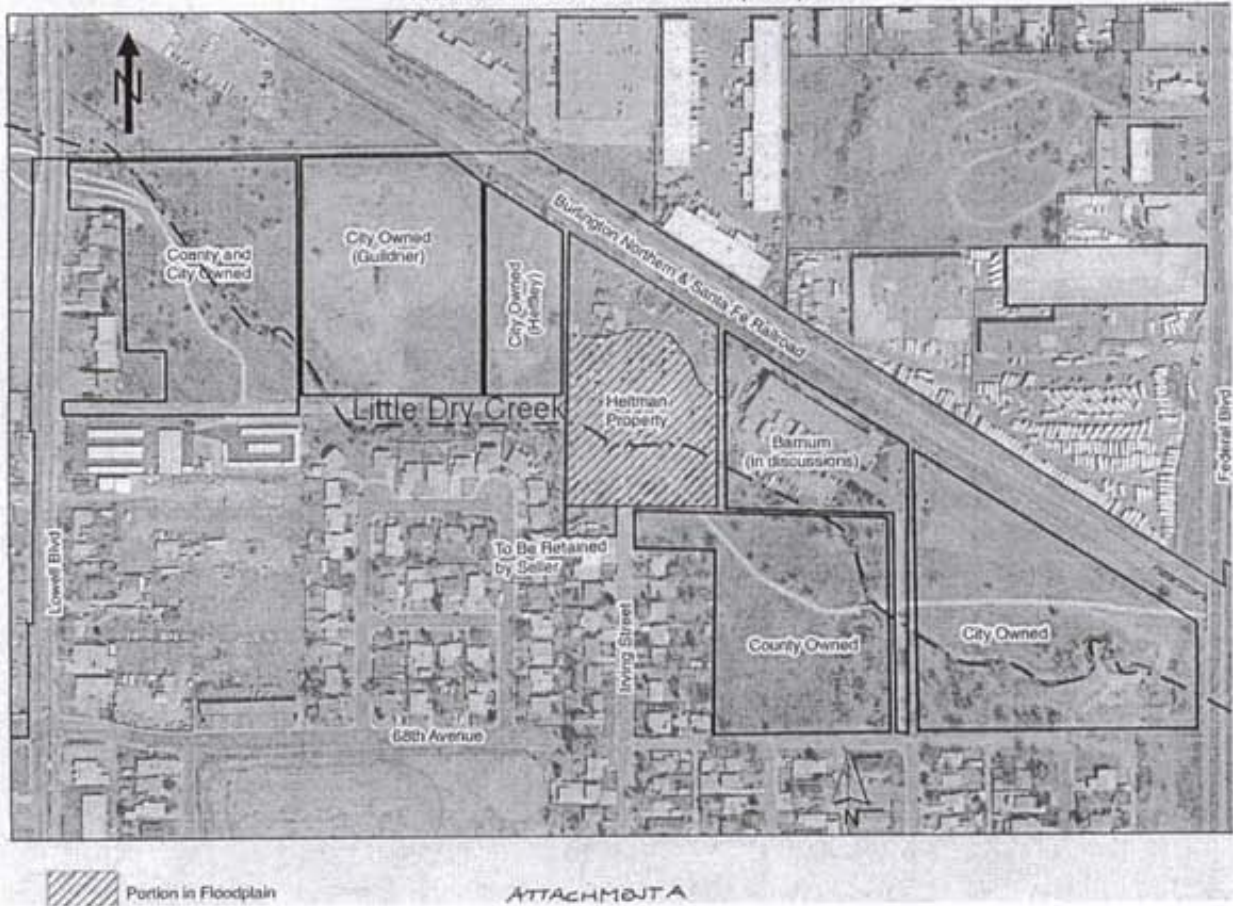
City Attorney

AGREEMENT REGARDING
ACQUISITION OF HEITMAN PROPERTY ON LITTLE DRY CREEK
IN CITY OF WESTMINSTER

Agreement No. 07-12.03

Exhibit A

Heitman Parcel and Ownership Map





WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
January 14, 2008



SUBJECT: Second Reading of Councillor's Bill No. 64 re Comprehensive Land Use Plan Amendment for the Savory Farm Estates Project

Prepared By: Patrick Caldwell, Planner II

Recommended City Council Action

Pass Councillor's Bill No. 64 on second reading amending the Comprehensive Land Use Plan changing the designation from R-2.5 Residential to R-3.5 Residential for the 8.13 acre site east of Federal Boulevard at approximately the 109th Avenue alignment as shown on the attached map. This recommendation is based on a finding that the proposed amendment will be in the public good and that:

- a) There is justification for the proposed change and the Plan is in need of revision as proposed; and
- b) The amendment is in conformance with the overall purpose and intent and the goals and policies of the Plan; and
- c) The proposed amendment is compatible with existing and planned surrounding land uses; and
- d) The proposed amendment would not result in excessive detrimental impacts to the City's existing or planned infrastructure systems.

Summary Statement

- The 8.133 acre site is east of Federal Boulevard at approximately the alignment of 109th Avenue.
- The proposed Comprehensive Land Use Plan (CLUP) amendment will change the maximum residential density from 2.5 to 3.5 dwellings per acre. The approved Preliminary Development Plan and Official Development Plan (PDP/ODP) includes 24 single family residential units. That is a gross density of 2.95 du/acre.
- Councillor's Bill No. 64 was approved on first reading by City Council on December 10, 2007.

Expenditure Required: \$ 0

Source of Funds: N/A

Respectfully submitted,

J. Brent McFall
City Manager

Attachments

- Comprehensive Land Use Plan Ordinance
- Exhibit A (Legal Description)
- Exhibit B (Comprehensive Land Use Plan Map)

BY AUTHORITY

ORDINANCE NO. **3394**

COUNCILLOR'S BILL NO. **64**

SERIES OF 2007

INTRODUCED BY COUNCILLORS
Dittman - Major

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

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The City Council finds:

a. That an application for an amendment to the Westminster Comprehensive Land Use Plan has been submitted to the City for its approval pursuant to W.M.C. §11-4-16(D), by the owner(s) of the properties described in attached Exhibit A, incorporated herein by reference, requesting a change in the land use designations from "R-2.5" to "R-3.5" for the 8.133 acre Savory Farms Estates PDP/ODP on the east side of Federal Boulevard at approximately 109th Avenue.

b. That such application has been referred to the Planning Commission, which body held a public hearing thereon on November 27, 2007, after notice complying with W.M.C. §11-4-16(B) and has recommended approval of the requested amendments.

c. That 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. That 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. That 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 Land Use Plan, particularly compatibility with existing and surrounding residential land uses.

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 Land Use Plan to change the designation of the property more particularly described on attached Exhibit A to "R-3.5", as depicted on the map attached as Exhibit B.

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 10th of December, 2007.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 14th day of January, 2008.

ATTEST:

Mayor

APPROVED AS TO LEGAL FORM:

City Clerk

City Attorney's Office

Exhibit A
Legal Description
109th & Federal Blvd.

Description for the Ten Eyck Parcel:

A tract of land located in the Northeast Quarter of Section 8, Township 2 South, Range 68 West of the 6th Principal Meridian, City of Westminster, County of Adams, State of Colorado, being more particularly described as follows:

Considering the West line of the Northeast Quarter of said Section 8 as bearing, South 00°28'38" East, from an aluminum cap in a range box at the North Quarter corner of said Section 8 to an aluminum cap in a range box at the Southwest corner of said Northeast Quarter and with all bearings contained herein relative thereto:

Commencing at the North Quarter corner of said Section 8; thence along the West line of said Northeast Quarter, South 00°28'38" East, 1320.80 feet; thence, North 89°04'40" East, 50.00 feet to a point on the East Right-of-Way line of North Federal Boulevard and on the South line of Federal Square P.U.D., said point being the POINT OF BEGINNING; thence, continuing along said South line, North 89°04'40" East, 449.95 feet to the Northwest corner of Parcel 1 of the City of Westminster Golf Course and Open Space Areas; thence, along the West line of said Parcel 1, South 00°55'20" East, 754.94 feet; thence, South 39°13'24" West, 70.82 feet to a point on the North line of Parcel 3 of the City of Westminster Golf Course and Open Space Areas; thence, along said North line, North 80°46'36" West, 416.52 feet to a point on the East Right-of-Way line of North Federal Boulevard; thence, along said East line, North 06°11'16" West, 100.50 feet; thence, North 00°28'38" West, 300.00 feet; thence, North 05°15'32" East, 100.05 feet; thence, North 00°28'38" West, 236.18 feet to the Point of Beginning.

The above described tract contains 8.133 acres more or less and is subject to all easements, rights-of-ways and restrictions now on record of existing.

For tax purposes this property is known by the following Adams County Property Identification Number 171908100018 and Schedule Number R0033614. This property is also known as 10900 North Federal Boulevard, Westminster, Colorado 80030.

Savory Farm Existing CLUP Designation: R 2.5



Proposed CLUP Designation: R 3.5





WESTMINSTER
C O L O R A D O

Agenda Item 8 K

Agenda Memorandum

City Council Meeting
January 14, 2008



SUBJECT: Second Reading of Councillor's Bill No. 65 re Economic Development Agreement with the 75th & Sheridan Holding L.L.C.

Prepared By: John Hall, Economic Development Specialist

Recommended City Council Action

Pass Councillor's Bill No. 65 on second reading authorizing the City Manager to execute and implement an Economic Development Agreement with the 75th & Sheridan Holding L.L.C.

Summary Statement

- This Councillor's Bill was passed on first reading on December 10th 2007.
- City Council approval of this item will assist with the development of the Sheridan Landmark professional office project that will include the Adams County Animal Hospital. The Sheridan Landmark project is to be located at the southeast corner of 75th Avenue and Sheridan Boulevard.
- The \$34,414 EDA will be funded with rebates of portions of the building permit fees and building use taxes associated with project development.
- This Economic Development Agreement will assist in stimulating investment in South Westminster and facilitate the improvement of a portion of Sheridan Boulevard, which are part of City Council's strategic plan objectives.
- 75th and Sheridan Holding L.L.C. will receive rebates on the building permit fees and building use taxes only if the project is actually constructed.

Expenditure Required: Approximately \$34,414 (Rebates)

Source of Funds: The EDA with the 75th & Sheridan Holding L.L.C. will be funded with rebates of a portion of the building permit fees and building use taxes associated with project construction and development.

Respectfully submitted,

J. Brent McFall
City Manager

Attachments

BY AUTHORITY

ORDINANCE NO. **3395**

COUNCILLOR'S BILL NO. **65**

SERIES OF 2007

INTRODUCED BY COUNCILLORS
Major - Briggs

**A BILL
FOR AN ORDINANCE AUTHORIZING AN ECONOMIC DEVELOPMENT AGREEMENT
WITH THE 75TH & SHERIDAN HOLDING L.L.C.
FOR THE DEVELOPMENT OF THE SHERIDAN LANDMARK PROJECT**

WHEREAS, the successful attraction of new investment to the City of Westminster provides employment opportunities and increased revenue for citizen services and is therefore an important public purpose; and

WHEREAS, it is important for the City of Westminster to attract new investment to the South Sheridan Urban Renewal District specifically in order to generate additional revenue from increasing property tax increments in the District for use in funding public improvements; and

WHEREAS, the 75th & Sheridan Holding L.L.C. plans to develop a vacant 1.8 acre site into four professional office buildings, including the Adams County Animal Hospital; and

WHEREAS, a proposed Economic Development Agreement between the City and the 75th & Sheridan Holding L.L.C. is attached hereto as Exhibit "A" and incorporated herein by this reference.

NOW, THEREFORE, pursuant to the terms of the Constitution of the State of Colorado, the Charter and ordinances of the City of Westminster, and Resolution No. 53, Series of 1988:

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The City Manager of the City of Westminster is hereby authorized to enter into an Economic Development Agreement with the 75th & Sheridan Holding L.L.C. in substantially the same form as the one attached as Exhibit "A," and upon execution of the Agreement to fund and implement said Agreement.

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

Section 3. 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 10th day of December, 2007.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 14th day of January, 2008.

ATTEST:

City Clerk

Mayor

APPROVED AS TO LEGAL FORM:

City Attorney's Office

EXHIBIT A

ECONOMIC DEVELOPMENT AGREEMENT WITH THE 75TH & SHERIDAN HOLDING L.L.C. FOR DEVELOPMENT OF THE SHERIDAN LANDMARK PROJECT

THIS AGREEMENT is made and entered into this _____ day of _____, 2008, between the CITY OF WESTMINSTER (the "City"), and the 75TH & SHERIDAN HOLDING L.L.C.

WHEREAS, the City wishes to provide certain assistance to the 75th & Sheridan Holding L.L.C. to encourage the development of professional office space in South Westminster; and

WHEREAS, City Council finds the execution of this Agreement will serve to provide benefit and advance the public interest and welfare of the City and its citizens by facilitating this economic development project within the City.

In consideration of the mutual promises set forth below the City and the 75th & Sheridan Holding L.L.C. agree as follows:

1. Building Permit Fee Rebates. The City shall rebate to the 75th & Sheridan Holding L.L.C. 50% of the building related permit fees for the Sheridan Landmark project required under W.M.C. Section 11-10-3 (E), excluding water and sewer tap fees. The rebate is estimated to be \$11,914.

2. Use Tax Rebate- Construction. The City shall rebate to the 75th & Sheridan Holding L.L.C. 50% of the building use tax on the construction materials (excluding the City's .25% open space tax and .6% public safety tax), resulting from the original construction of the Sheridan Landmark project required under W.M.C. sections 4-2-9 and 4-2-3. The rebate is estimated to be \$22,500.

3. Payment of Rebates. The Building Permit Fee rebates and Building Use Tax rebate will be paid by check upon issuance of a certificate of occupancy for each building. The payment shall be made 20 days after the end of the quarter in which the issuance of the certificate of occupancy occurs.

4. Entire Agreement. This instrument shall constitute the entire agreement between the City and the 75th & Sheridan Holding L.L.C concerning the Sheridan Landmark project and supersedes any prior agreements between the parties and their agents or representatives, all of which are merged into and revoked by this agreement with respect to its subject matter.

5. Termination. This Economic Development Agreement shall terminate and become void and of no force or effect upon the City December 31, 2012 or should the 75th & Sheridan Holding L.L.C. or the Sheridan Landmark project fail to comply with any City code and/or approval process.

6. Subordination. The City's obligations pursuant to this agreement are subordinate to the City's obligations for the repayment of any current or future bonded indebtedness and are contingent upon the existence of a surplus in sales and use tax revenues in excess of the sales and use tax revenues necessary to meet such existing or future bond indebtedness. The City shall meet its obligations under this agreement only after the City has satisfied all other obligations with respect to the use of sales tax revenues for bond repayment purposes. For the purposes of this Agreement, the terms "bonded indebtedness," "bonds," and similar terms describing the possible forms of indebtedness include all forms of indebtedness that may be incurred by the City, including, but not limited to, general obligation bonds, revenue bonds, revenue anticipation notes, tax increment notes, tax increment bonds, and all other forms of contractual indebtedness of whatsoever nature that is in any way secured or collateralized by sales and use tax revenues of the City.

7. Annual Appropriation. Nothing in this agreement shall be deemed or construed as creating a multiple fiscal year obligation on the part of the City within the meaning of Colorado Constitution Article X, Section 20, and the City's obligations hereunder are expressly conditional upon annual appropriation by the City Council.

8. Governing Law: Venue. This agreement shall be governed and construed in accordance with the laws of the State of Colorado. This agreement shall be subject to, and construed in strict accordance with, the Westminster City Charter and the Westminster Municipal Code. In the event of a dispute concerning any provision of this agreement, the parties agree that prior to commencing any litigation, they shall first engage in a good faith the services of a mutually acceptable, qualified, and experience mediator, or panel of mediators for the purpose of resolving such dispute. The venue for any lawsuit concerning this agreement shall be in the District Court for Adams County, Colorado.

75TH & SHERIDAN HOLDING L.L.C.

CITY OF WESTMINSTER

Dr. Andrew Berman,
Managing Member

J. Brent McFall
City Manager

ATTEST:

ATTEST:

Linda Yeager
City Clerk

Adopted by Ordinance No.



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
January 14, 2008



SUBJECT: Rocky Flats Stewardship Council Appointments

Prepared By: Ron Hellbusch, Special Projects Coordinator

Recommended City Council Action

Appoint City Councillor Bob Briggs as the City's representative to the Rocky Flats Stewardship Council Board of Directors and re-appoint Special Projects Coordinator Ron Hellbusch as the alternate representative.

Summary Statement

- The by-laws of the Rocky Flats Stewardship Council (RFSC) require that all designated representatives be appointed by City Council to serve on the RFSC board of directors.
- The appointments will be effective February 1, 2008. These appointments will expire on January 31, 2009.
- City Councillor Bob Briggs and Special Projects Coordinator Ron Hellbusch are being recommended to represent the City on the RFSC due to their personal interest and past experience and knowledge and desired involvement in the post-closure cleanup, state and federal government regulatory closure process, the establishment and development of the new Rocky Flats National Wildlife Refuge and the oversight and monitoring of the new wildlife refuge and retained Department of Energy property.
- The board of directors of the RFSC consists of seven members, each with one vote and each serve in accordance with the Intergovernmental Agreement (IGA) established among the seven members. Alternates may serve in lieu of Directors in the event of absences, resignation or removal of directors.
- Upon appointment action by City Council, Staff will draft a letter to the RFSC designating elected and Staff representatives for the City.

Expenditure Required: \$0

Source of Funds: N/A

Policy Issue

Should the City of Westminster continue to be an active member of the RFSC and in turn, formally appoint a City Councillor and an alternate to the Board of Directors of the RFSC per the terms of the IGA?

Alternative

City Council can choose to not be an active participant and member of the RFSC, or the City Council can choose to appoint other City Councillors or Staff members as the City's Director and alternate on the RFSC Board of Directors.

Background Information

The RFSC is made up of elected officials and staff representing the seven local governments that are contiguous to the Rocky Flats National Wildlife Refuge and the retained lands held by the Department of Energy. The seven local governments are the cities of Westminster, Arvada, Golden/Northglenn (alternating years), Boulder, Boulder County, Jefferson County, the City and County of Broomfield and the Town of Superior.

The former Rocky Flats Environmental Technology Site (cold war weapons facility) has been "certified" by the Environmental Protection Agency (EPA) as officially cleaned up, closed as a DOE facility and meeting all federal and state environmental cleanup and long term monitoring requirements.

The original Rocky Flats site established in 1951 consisted of approximately 6,000 acres. Currently the DOE retained lands, which are fenced and closed to public access, total about 1,000 acres. The new national wildlife refuge, established by Congress consists of about 5,000 acres. The retained lands (DOE) and the national wildlife refuge (USFWS) are totally separate lands with different missions and long-term plans and purposes, and are managed under different federal agency jurisdictions.

The national wildlife refuge Congressional legislation was strongly supported by the cities of Westminster, Northglenn and Thornton as well as the City and County of Broomfield, since federal designation would provide a permanent land use that would assure no further water quality impacts to the Standley Lake cities and City and County of Broomfield water supplies.

The purpose of the RFSC now is to provide communication and coordination among the seven members and the Department of Energy (DOE); to provide oversight of the ongoing ground and surface water and air monitoring programs that are long term obligations of the DOE; to provide communications with the public and to serve as an advocate for the surrounding communities with state and federal agencies regarding DOE regulatory closure issues, obligations and site monitoring programs and commitments.

The RFSC was formed to meet the mandates of Congressional legislation that requires that all former DOE facilities once closed must have a Local Stakeholders Organization (LSO) to provide communication and advocacy between the DOE and nearby communities on any issues involving the retained DOE lands. The RFSC meets at least quarterly and more often if issues require attention and action. The RFSC representative and alternate will keep City Council updated on DOE retained site activities.

In addition staff will keep City Council updated and informed of activities related to the progress of the new Rocky Flats National Wildlife Refuge and related US Fish & Wildlife Service activities and issues.

Respectfully submitted,

J. Brent McFall
City Manager



Agenda Item 10 A

WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
January 14, 2008



SUBJECT: Resolution No. 1 re the Compliance Hearing for the Fonay Property Annexation

Prepared By: Max Ruppeck, Senior Projects Manager

Recommended City Council Action

Adopt Resolution No. 1 accepting the annexation petition submitted by the Fonay Family Partnership, Ltd., the Milton Fonay Trust, and the Virginia M. Fonay Trust; owners; and make the findings required by State Statute on the sufficiency of the petition. This resolution sets the date of February 25, 2008, for the annexation hearing.

Summary Statement

- The Fonay property is located at the southeast corner of 142nd Avenue and North Huron Street and consists of approximately 72.5 acres.
- The applicant wishes to annex and acquire approval of a Preliminary Development Plan for a mixed use development consisting of retail commercial, office, medical office, hospitality, and mixed use residential uses.
- The property is subject to the requirements of the City's Comprehensive Land Use Plan (CLUP) that permits general retail, office and mixed use developments. Staff will recommend a CLUP designation of District Center and a zoning designation of Planned Unit Development (PUD) be placed on the property.

Expenditure Required: \$ 0

Source of Funds: N/A

Policy Issue

Should the City accept the annexation petition and set the date for the annexation hearing for the Fonay property at this time?

Alternative

Make a finding that there is no community of interest with the Fonay property and take no further action. If this course is taken, the property in question will remain unincorporated, and the owners could proceed with their proposed development in Adams County.

Background Information

Upon receiving a petition for annexation, the City Council is required by State Statute to make a finding of whether or not said petition is in compliance with Section 31-12-107 (1) C.R.S. In order for the petition to be found in compliance, Council must find that the petition contains the following information:

1. Is signed by the landowners of more than 50% of the area, excluding streets and alleys.
2. Contains an allegation that the annexation is desirable and necessary.
3. Contains an allegation that the requirements of Section 31-12-104 and 31-12-105 C.R.S. have been met. (These sections are to be reviewed by the Council at the formal public hearing.)
4. Contains mailing addresses of the signers and the date each signed. (In this case, Fonay Family Limited Partnership, Ltd., the Milton W. Fonay Trust, and the Virginia M. Fonay Trust, signers of the petition, own 100% of the property.)
5. Contains the legal description of the land to be annexed.
6. Contains the affidavit of the circulator stating that each signature is the signature of the person whose name it purports to be.
7. Is accompanied by a map showing the boundaries of the area, the location of each ownership, including the lots and blocks if platted, and the contiguous boundaries of any abutting municipalities.

Planning Staff has reviewed the petition and has determined that it complies with the above requirements.

If the City Council finds that the petition is in substantial compliance with these requirements, a resolution must be approved that establishes a hearing date (February 25, 2008) at which time the Council will review the merits of the proposed annexation.

Respectfully submitted,

J. Brent McFall
City Manager

Attachments

- Petition
- Compliance Resolution
- Vicinity Map
- Exhibit A (Legal Description)

RESOLUTION

RESOLUTION NO. **1**

INTRODUCED BY COUNCILLORS

SERIES OF 2008

FONAY PROPERTY ANNEXATION

WHEREAS, there has been filed with the City Clerk of the City of Westminster, a petition, copies of which are attached as Exhibit A and incorporated herein by reference, for the annexation of certain territory therein-described to the City;

WHEREAS, the City Council has been presented evidence by the City Staff that the petition submitted by Fonay Family Limited Partnership, Ltd., the Milton W. Fonay Trust, and the Virginia M. Fonay Trust, and accompanying map are in substantial compliance with Sections 31-12-107 (1), Colorado Revised Statutes, as amended;

NOW, THEREFORE, be it resolved that by City Council of the City of Westminster that:

1. City Council finds the said petition and annexation map to be in substantial compliance with the requirements of Section 31-12-107 (1) C.R.S.,
2. City Council hereby establishes February 25, 2008, 7 p.m. at the Westminster City Council Chambers, 4800 West 92nd Avenue, for the annexation hearing required by Subsection 31-12-108 (1), C.R.S.,
3. City Council hereby orders the City Clerk to give notice of the annexation hearing in accordance with Subsection 31-12-108 (2), C.R.S.

PASSED AND ADOPTED this 14th day of January, 2008.

ATTEST:

Mayor

City Clerk

APPROVED AS TO FORM:

City Attorney's Office

Annexation Description
Exhibit A

A parcel of land located in the south one-half of the northwest quarter of Section 22, Township 1 South, Range 68 West of the 6th P.M., County of Adams, State of Colorado, being more particularly described as follows:

Commencing at the west quarter corner of said Section 22; thence South 89°57'18" East, along the south line of the south one-half of the northwest quarter of said Section 22, a distance of 30.00 feet to the west line of North Huron Street right of way as described in Reception no. 20050620000646750 said point and being the point of beginning;

Thence North 00°42'47" West, along the west line of North Huron Street right of way described in Reception No. 20050620000646750 and Reception No. 20041025001072230, a distance of 1322.47 feet to the north line of the south one-half of the northwest quarter of said Section 22;

Thence South 89°56'14" East, along the north line of the south one-half of the northwest quarter of said Section 22, a distance of 2391.55 feet to the west line of a right of way described in Book 473, page 187;

Thence South 00°45'07" East, along said west right of way line, along a line parallel with and 200.02 feet west of the east line of said south one-half of the northwest quarter of said Section 22, a distance of 1321.75 feet to the south line of the south one-half of the northwest quarter of said Section 22;

Thence North 89°57'18" West, along the south line of the south one-half of the northwest quarter of said Section 22, a distance of 2392.44 feet to the point of beginning;

Said annexation parcel contains 72.594 acres, more or less, subject to all easements and encumbrances of record.

**ORCHARD LAKES
ANNEXATION PETITION**

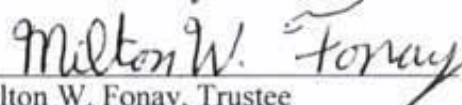
The Fonay Family Limited Partnership, Ltd., The Milton W. Fonay Trust and The Virginia M. Fonay Trust submit this Annexation Petition and Annexation Map in accordance with §§ 31-12-101, et seq., of the Colorado Revised Statutes (the "Municipal Annexation Act of 1965) and the Westminster City Code, Art. 11, Chapter 5, and state as follows:

1. It is desirable and necessary that the area shown on the attached annexation map be annexed into the City of Westminster.
2. The requirements of Sections 31-12-104 and 31-12-105 C.R.S. 1973, as amended, exist or have been met.
3. The signers of this petition comprise the landowners of more than fifty percent of the territory included in the area proposed to be annexed, exclusive of streets and alleys.
4. The undersigned hereby request the City of Westminster to approve the annexation of the area proposed to be annexed.
5. Signatures of landowners:

Fonay Family Limited Partnership, Ltd.

BY: 
Gary Fonay, General Partner

The Milton W. Fonay Trust

BY: 
Milton W. Fonay, Trustee

The Virginia M. Fonay Trust

BY: _____
Rhonda Swain, Trustee

6. Mailing address of signers:

Fonay Family Limited Partnership, Ltd.
306 Jemez
Hobbs, New Mexico 88240

The Milton W. Fonay Trust
306 Jemez
Hobbs, New Mexico 88240

The Virginia M. Fonay Trust
143 South Great Road
Lincoln, MA 01773

7. Legal description of land owned by signer:

See Exhibit "A" attached hereto and incorporated herein by this reference.

8. Date of signing:

Fonay Family Limited Partnership, Ltd.

Signed by Gary Fonay, as General Partner, on 12/7/07.

The Milton W. Fonay Trust

Signed by Milton W. Fonay, as Trustee, on 12/7/07.

The Virginia M. Fonay Trust

Signed by Rhonda Swain, as Trustee, on _____.

9. Signature of landowner's purchaser, Orchard Lakes, LLC, 11854 Bradburn Blvd. Westminster, CO 80031, under Purchase and Sale Agreement dated October 6, 2005, as amended, and Affidavit of purchaser as Petition Circulator that each signature herein is the signature of the person whose name it purports to be:

Orchard Lakes, LLC

By: Frederick G. Cooke, Manager

10. Four copies of the Annexation Map are attached and accompany this Petition.

11. This Annexation Petition is expressly conditioned upon City approval of a Preliminary Development Plan (PDP) for the Annexed Property that is acceptable to the City, the landowner and the landowner's purchaser in accordance with the applicable sections of the City Code, and the Petition may be withdrawn if a mutually acceptable PDP is not approved.

NOTARY VERIFICATION OF SIGNERS:

1. Gary Fonay, General Partner, FONAY FAMILY LIMITED PARTNERSHIP, LTD.

STATE OF New Mexico
COUNTY OF Lea) ss.

The foregoing Petition of Annexation was executed and sworn to under oath before me this ~~7th~~ day of December 2007, by Gary Fonay as General Partner of Fonay Family Limited Partnership, Ltd. Witness my hand and official seal the date and year first above written.

Anita Davenport
Notary Public

112 Walker Hbbs, nm 88240
Address
May 10, 2009
My commission expires:

SEAL

2. Milton W. Fonay, Trustee, MILTON W. FONAY TRUST

STATE OF New Mexico
COUNTY OF Lea) ss.

The foregoing Petition of Annexation was executed and sworn to under oath before me this ~~7th~~ day of December 2007, by Milton W. Fonay as Trustee of Milton W. Fonay Trust. Witness my hand and official seal the date and year first above written.

Anita Davenport
Notary Public

112 Walker Hbbs, nm 88240
Address
May 10, 2009
My commission expires:

SEAL

2. Rhonda Swain, Trustee, VIRGINIA M. FONAY TRUST

STATE OF _____)
)
COUNTY OF _____) ss.

The foregoing Petition of Annexation was executed and sworn to under oath before me this ___ day of _____, 2007, by Rhonda Swain, Trustee of Virginia M. Fonay Trust. Witness my hand and official seal the date and year first above written.

Notary Public

Address

SEAL

My commission expires

3. Frederick G. Cooke, Manager Orchard Lakes, LLC:

STATE OF COLORADO)
)
COUNTY OF Adams) ss.

The foregoing Petition of Annexation was executed and sworn to under oath before me this 14th day of December, 2007, by Frederick G. Cooke as Manager of Orchard Lakes, LLC. Witness my hand and official seal the date and year first above written.

[Signature]
Notary Public

My Commission Expires 9/26/2011
5130 W. 120th Ave.
Westminster, CO 80020

Address

My commission expires:



SEAL

**ORCHARD LAKES
ANNEXATION PETITION**

The Fonay Family Limited Partnership, Ltd., The Milton W. Fonay Trust and The Virginia M. Fonay Trust submit this Annexation Petition and Annexation Map in accordance with §§ 31-12-101, et seq., of the Colorado Revised Statutes (the "Municipal Annexation Act of 1965) and the Westminster City Code, Art. 11, Chapter 5, and state as follows:

1. It is desirable and necessary that the area shown on the attached annexation map be annexed into the City of Westminster.
2. The requirements of Sections 31-12-104 and 31-12-105 C.R.S. 1973, as amended, exist or have been met.
3. The signers of this petition comprise the landowners of more than fifty percent of the territory included in the area proposed to be annexed, exclusive of streets and alleys.
4. The undersigned hereby request the City of Westminster to approve the annexation of the area proposed to be annexed.
5. Signatures of landowners:

Fonay Family Limited Partnership, Ltd.

BY: _____
Gary Fonay, General Partner

The Milton W. Fonay Trust

BY: _____
Milton W. Fonay, Trustee

The Virginia M. Fonay Trust

BY: Rhonda Swain, trustee
Rhonda Swain, Trustee

6. Mailing address of signers:

Fonay Family Limited Partnership, Ltd.
306 Jemez
Hobbs, New Mexico 88240

The Milton W. Fonay Trust
306 Jemez
Hobbs, New Mexico 88240

The Virginia M. Fonay Trust
143 South Great Road
Lincoln, MA 01773

7. Legal description of land owned by signer:

See Exhibit "A" attached hereto and incorporated herein by this reference.

8. Date of signing:

Fonay Family Limited Partnership, Ltd.

Signed by Gary Fonay, as General Partner, on _____.

The Milton W. Fonay Trust

Signed by Milton W. Fonay, as Trustee, on _____.

The Virginia M. Fonay Trust

Signed by Rhonda Swain, as Trustee, on December 7, 2007

9. Signature of landowner's purchaser, Orchard Lakes, LLC, 11854 Bradburn Blvd. Westminster, CO 80031, under Purchase and Sale Agreement dated October 6, 2005, as amended, and Affidavit of purchaser as Petition Circulator that each signature herein is the signature of the person whose name it purports to be:

Orchard Lakes, LLC

By: Frederick G. Cooke, Manager

10. Four copies of the Annexation Map are attached and accompany this Petition.

11. This Annexation Petition is expressly conditioned upon City approval of a Preliminary Development Plan (PDP) for the Annexed Property that is acceptable to the City, the landowner and the landowner's purchaser in accordance with the applicable sections of the City Code, and the Petition may be withdrawn if a mutually acceptable PDP is not approved.

2. Rhonda Swain, Trustee, VIRGINIA M. FONAY TRUST

STATE OF Massachusetts)
)
COUNTY OF Middlesex) ss.

The foregoing Petition of Annexation was executed and sworn to under oath before me this 7 day of December, 2007, by Rhonda Swain, Trustee of Virginia M. Fonay Trust. Witness my hand and official seal the date and year first above written.

Mary Colt Navins
Notary Public

152 Lincoln Rd, Lincoln Ma 01773
Address

March 13, 2009
My commission expires



3. Frederick G. Cooke, Manager Orchard Lakes, LLC:

STATE OF COLORADO)
)
COUNTY OF _____) ss.

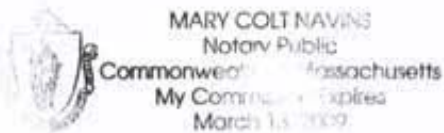
The foregoing Petition of Annexation was executed and sworn to under oath before me this ___ day of _____, 2007, by Frederick G. Cooke as Manager of Orchard Lakes, LLC. Witness my hand and official seal the date and year first above written.

Notary Public

SEAL

Address

My commission expires:



Vicinity Map - Fonay Annexation





Agenda Item 10 B

WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
January 14, 2008



SUBJECT: Councillor's Bill No. 1 re Westminster Sports Center Lease Agreement

Prepared By: Peggy Boccard, Recreation Services Manager

Recommended City Council Action

Pass Councillor's Bill No. 1 on first reading ratifying a lease agreement with Westminster AFC, Inc., for office space at the Westminster Sports Center, a City-owned indoor soccer facility located at 6051 W. 95th Avenue.

Summary Statement

- The Westminster AFC, Inc. office will be located in the old concessions room within the facility. Vending machines, located in another area of the facility, will be used to provide concessions.
- City Staff has been allowing the Westminster AFC to occupy the space for a period of time without a formal lease agreement. The reason for this is that over the years the club has assisted City Staff with clinics and has helped develop youth players as a voluntary arm of the City's Youth Soccer Program. The club also helped sign up teams for play at the Westminster Sports Center and without its assistance, the City would not have been able to successfully fill its leagues and meet revenue projections for its first indoor session. Therefore, Staff allowed the club to temporarily occupy the space. Staff recognizes that proper protocol requires City Council approval for leasing space at City facilities and therefore, requests Council approval of the lease.
- The lease agreement is for a thirteen-month period, with an option to renew, at a monthly rental rate of \$200 (120 sq ft at \$20 per square foot equaling \$2,400 annually). Staff has recently surveyed the surrounding market and this rate is very competitive with other comparable office space of this type in the area.
- Leasing of property owned by the City must be ratified by ordinance under Section 13.4 of the City's Charter.

Expenditure Required: \$ 0

Source of Funds: N/A

Policy Issue

Should the City of Westminster ratify a lease agreement with the tenants at the Westminster Sports Center?

Alternatives

1. The City could choose to lease the office to other tenants. Staff does not recommend this as the proposed lessee, Westminster AFC, Inc., is a local, youth-oriented nonprofit soccer group that provides a service to the City's residents.
2. The City could choose to not lease the office and leave the office vacant. Staff does not recommend this because the City would not benefit by the income of \$2,400 per year, which will be realized as a result of entering into this lease agreement.

Background Information

The City of Westminster acquired a 33,000-square-foot metal building from the builder of the Trend Homes Subdivision in 1993. After renovating the building in November of 1994, Staff recommended City Council sign a seven-year lease agreement with AMAYA Soccer and Sports Inc. requiring them to pay \$4,000 per month to the City for the purpose of operating an indoor soccer arena. The lease was renewed in 2001 with AMAYA Soccer and Sports Inc. d/b/a as Colorado Soccer at \$5,000 per month for an additional seven years, expiring in November, 2008. The City exercised its option to terminate the lease early in March of 2007 due to unsatisfactory customer service, and began managing the facility with City Staff. The first order of business was a substantial remodeling of the facility from April to November 2007, including the installation of two top-of-the-line indoor soccer dashboard systems. Indoor soccer league play began in the last week of November 2007.

The Westminster AFC, Inc., a competitive youth soccer club in Westminster, has negotiated with the City to lease office space in the Westminster Sports Center. This group has a very positive relationship with the City and provides a number of services to the City's recreational soccer leagues. Their presence in the facility will provide both revenue to the City and convenient services to residents.

This project meets City Council's Strategic Plan Goal of "Financially Sustainable City Government" by providing the City with additional revenues.

Respectively submitted,

J. Brent McFall
City Manager

Attachment

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **1**

SERIES OF 2008

INTRODUCED BY COUNCILLORS

**A BILL
FOR AN ORDINANCE RATIFYING A RENTAL LEASE AGREEMENT AT THE CITY'S
WESTMINSTER SPORTS CENTER**

WHEREAS, the City owns the Westminster Sports Center, located at 6051 W. 95th Avenue; and

WHEREAS, it is in the City's interest to maximize the income generated from such operation by collecting rental income from the office space located in the Westminster Sports Center.

NOW, THEREFORE, THE CITY OF WESTMINSTER ORDAINS:

Section 1. The lease agreement with the following parties as summarized below, and attached hereto as Exhibit A, is hereby ratified :

Westminster AFC, Inc. for office space located in the Westminster Sports Center at 6051 W. 95th Avenue, Jefferson County, Colorado at a rental rate of \$200 per month.

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 14th day of January, 2008.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 28th day of January, 2008.

ATTEST:

Mayor

City Clerk

APPROVED AS TO LEGAL FORM:

City Attorney's Office

EXHIBIT A

LEASE AGREEMENT

THIS LEASE AGREEMENT is made this _____ day of _____, 2007, between the CITY OF WESTMINSTER, a Colorado home rule municipality (the "Lessor"), and Westminster AFC, Inc. whose registered address is 825 Logan Street, Denver, Colorado 80203 (the "Lessee").

In consideration of the payment of the rent and the keeping and performance of the mutual promises set forth below, the Lessor hereby agrees to lease to the Lessee the premises as shown on Exhibit "A" attached hereto and incorporated herein, consisting of approximately 120 square feet marked "Westminster AFC" (the "Premises"). The Premises are within the building known as the Westminster Sports Center located at 6051 W. 95th Avenue, Westminster, Colorado (the "Facility").

This Agreement is expressly contingent upon the approval of the City of Westminster's City Council of all the terms set forth herein. In the event this Agreement is not approved in its entirety by City Council, neither Party shall be bound to the terms of this Agreement.

B. TERM OF LEASE

1. Lessor leases to Lessee the described Premises, for a term of Thirteen (13) months, December 1, 2007 - December 31, 2008. In the event the Lessor is not able to deliver possession of the premises on December 1, 2007, Lessee shall only be liable for a pro rata share of the rental payment set forth below.

2. At the end of said Term, the Lease may be renewed by Lessee for a further period of One (1) year and such renewal shall be upon all of the same terms and conditions applicable during the initial term, except for the lease rate which shall be mutually agreed upon. After the first renewal term, a further renewal term may be negotiated by the Parties.

C. RENTAL PAYMENTS

1. Lessee shall pay rent to Lessor at the rate of \$200.00 dollars per month for Thirteen (13) months.

2. Payments shall be due on the first day of each month and payable in advance, at the City Hall of the Lessor at 4800 West 92nd Avenue, Westminster, Colorado, 80031, in monthly installments, and continuing thereafter in monthly installments for the entire term of Thirteen (13) months. Payments not received by the tenth of the month shall be subject to a late fee, until such payment is received, equal to 1.25% of the amount unpaid per month. The late fee may be abated in whole or in part by the City Manager for good cause.

The first payment shall be prorated to reflect the date that Lessee begins occupancy.

3. If Lessee vacates the Premises for any reason before the end of the Term and ceases to pay rent to Lessor as provided in this Lease, Lessor may, at its option and without notice, and using such force as may be necessary, enter said Premises, remove any equipment, fixtures, personalty and effects of Lessee therefrom, and re-let the same, or any part thereof, as it may see fit, for the account of Lessee, without thereby avoiding or terminating this Lease, and for the purpose of such re-letting, Lessor is authorized to make any repairs, changes, alterations or additions in or to said premises, as may, in the opinion of Lessor, be necessary or desirable for the purpose of such re-letting, and if a sufficient sum shall not be realized from such re-letting each month to equal the quarterly

installments agreed to be paid by Lessee under the provisions of this Lease, then Lessee agrees to pay such deficiency each quarter. However, Lessor shall have no obligation to re-let the Premises. Lessee shall remain obligated to continue Lease payments for the full Fourteen (14) month Term. Lessor may, at its option, terminate the Lease upon terms negotiated and agreed to by both Parties. Notwithstanding any provision of this Lease to the contrary, in the event that Lessor elects to use the Premises for its own purposes, such as, but without limitation, expansion of the public recreation facilities, then Lessee's liability under this Lease shall end.

D. OBLIGATIONS OF LESSEE

In consideration of the lease of the Premises, the Lessee covenants and agrees as follows:

1. To use the Premises for the operation and management of a youth soccer club or other soccer/sports purposes, if such other soccer/sports purposes have been approved by the City Manager, which approval shall not be unreasonably withheld.
2. To pay the rent for said Premises as provided above.
3. To use the Premises for no purpose prohibited by the laws of the United States or the State of Colorado, or the ordinances of the City of Westminster;
4. To allow the Lessor at any reasonable hour of the day to enter into and go through the Premises. Except in cases of emergency, Lessor will provide notice of entry, such notice to be reasonable under the circumstances. Lessor shall not interfere with the operations of Lessee during such entry. Notwithstanding this paragraph, Lessor shall have no duty to inspect the premises or make repairs except as provided herein.
5. Not to permit the Premises, or the walls or floors thereof, to be endangered by overloading, or the Premises to be used for any purpose that would render the insurance thereon void or the insurance risk more hazardous. Lessee shall take all such action as may be necessary to prevent the Premises from ever being occupied in excess of City and State limits of occupancy.
6. Not to make any alterations to, or modifications in or upon the Premises, including the installation or removal of attached fixtures, without first obtaining the Lessor's written consent, which will not be unreasonably withheld and which shall include provisions for removal of the alterations or modifications if desired by Lessor. No such alterations or modifications shall be made, except pursuant to plans submitted by Lessee to the City Manager or his designee. All such alterations or modifications shall be done in conformance with all applicable laws, codes, regulations, and rules of the City and the State of Colorado. All such alterations or modifications shall be done at the Lessee's expense. All such expenses shall be the sole financial responsibility of the Lessee.
7. To exercise reasonable care in the supervision of its employees, officers, directors, and staff coaches at all times when they are in or upon the Premises.
8. To reimburse Lessor for any expense incurred by it in repairing any damage to the Premises caused by Lessee, its directors, officers, employees or agents, or any person in their care, or present with their permission, unless Lessee makes the repairs, to the reasonable satisfaction of Lessor.
9. To indemnify, defend, and hold harmless the Lessor from and against any claim for personal injury or property damage resulting from any negligent act or omission of Lessee

or its employees or agents, to carry liability insurance covering bodily injury and property damage in the minimum amount of \$1,000,000 per occurrence, and to make Lessor an additional insured under its policy of liability insurance, and to provide the Lessor with a certificate of insurance as evidence of coverage prior to Lessee's occupancy of the Premises.

10. To sublet no part of the Premises, nor assign this lease or any interest therein without Lessor's specific written consent, and the use is compatible with other uses of the Facility. Lessor's consent to sublet or assign shall not be unreasonably withheld.
11. Not to permit any disorderly conduct or nuisance whatever about the Premises, the building in which they are located, or on the building grounds, having a tendency to annoy, disturb or interfere with other occupants of the building.
12. At the expiration or termination of this Lease, to surrender and deliver up the Premises in as good order and condition as when the same were entered upon, loss by fire or other casualty, inevitable accident and ordinary wear excepted.
13. To furnish and equip the space it occupies on the Premises. Lessee may remove fixtures it has installed if removal can be done so that floors, walls, or structures are in substantially the same condition as at the beginning of Lease, fire or other casualty, inevitable accident and ordinary wear excepted.
14. If Lessee desires such signage, to pay for and place signage on the Facility building designating it as the "Westminster AFC, Inc." with approval of the City of sign design and quality.
15. To repair and maintain standard items such as paint and tile surfaces, window glass, lighting fixtures and plumbing fixtures, which are not the responsibility of Lessor as provided below.
16. Notwithstanding any provision in this Lease Agreement to the contrary, to perform all repairs of an emergency nature necessary to protect the Premises from undue and avoidable injury or damage.
17. To arrange and pay for all telephone installation and internet connections Lessee deems necessary for its use and the service charges therefore.
18. Lessee accepts the Premises "as is" and acknowledges that Lessor shall have no obligation for maintenance or repair of the Premises except as described in Paragraph E.

E. OBLIGATIONS OF LESSOR

In consideration of the receipt of rent and the covenants of Lessee, the Lessor covenants and agrees as follows:

1. To provide free parking for the use of Lessee on the site.
2. To provide or cause to be provided, all normal utility services for the Premises, including water (including adequate hot water), sanitary sewer, electric and gas; but not including telephone or television. Lessor will also provide adequate heating and ventilation systems for the Premises, as well as smoke alarms and fire sprinklers to the extent required by the International Building Code. The Lessor will pay all charges for gas, electricity, insurance, taxes and water used on the premises, except as otherwise herein provided.

3. To provide trash removal, snow removal, grounds maintenance, and exterior building maintenance.
4. To provide maintenance and repair for structural systems, heating and ventilation systems, water supply lines, waste water lines and electrical and gas systems.
5. Lessee may quietly hold and enjoy the premises without any interruption by the Lessor or any person claiming under the Lessor.

F. MISCELLANEOUS TERMS

1. Lessor shall have no responsibility or liability for any loss or damage to any personal property of the Lessee or any fixtures installed by the Lessee.
2. Lessee shall store no flammable, toxic, dangerous, hazardous or obnoxious materials anywhere in the Premises.
3.
 - (a) If the Premises becomes so damaged by fire, flood, act of God or any other casualty so as to render the Premises untenable, the Lessee may terminate this Lease without further obligation, unless the repairs for damage are started within ninety (90) days, in which case the Lease will continue under the existing terms and conditions.
 - (b) The rent payable under this Lease shall abate following any damage to the Premises, to the extent all or part of the Premises is rendered untenable, until such damage has been repaired by Lessor.
 - (c) Within thirty (30) days after the occurrence of the damage, Lessor shall give written notice to Lessee of Lessor's best estimate of the time that will be required to repair the damage (without the payment of overtime or any premium). Lessor may also notify Lessee of the availability of other portions of the Facility or other temporary premises, if any. Notwithstanding the offer of alternate premises, if the estimated time to repair is more than ten (10) months, and Lessee rejects alternate premises, Lessee may terminate this Lease without further obligation. If Lessee does not so terminate, this Lease will continue under the existing terms and conditions, subject to paragraph (b) above.
 - (d) Notwithstanding the above paragraphs, if the Premises are damaged more than fifty percent (50%) of its full insurable value, as reasonably determined by Lessor, Lessor may terminate this Lease. Lessor shall give Lessee written notice of termination or Lessor's decision to continue the Lease within thirty (30) days of the occurrence of the damage. If Lessor chooses to continue the Lease, Lessee may terminate the Lease by giving notice to Lessor in writing within thirty (30) days of Lessor's notice to continue.
4. If the Premises are left vacant and Lessee ceases to pay rent to Lessor, the Lessor may, at its option, either retake possession of the Premises, terminating the Lease and Lessor's and Lessee's obligations thereunder, or it may re-rent the Premises, subject to the provisions of paragraph C.3 above.
5. If the Lessee becomes insolvent, or is declared bankrupt, the Lessor may terminate this Lease forthwith, and all rights of the Lessee hereunder shall thereupon terminate, subject to the provisions of paragraph C.3 above.

6. At the expiration of the term of this Lease, whether by passage of time or by act of the Lessor as provided in this Lease Agreement, the Lessee shall surrender and deliver up the Premises peaceably to the Lessor, and if the Lessee shall remain in possession after termination of this Lease, the Lessee shall be deemed guilty of a forcible detainer of the Premises under the statute, and shall be subject to eviction and removal in accordance with state law.
7. If default shall be made in any of the covenants or agreements contained in this Lease Agreement to be kept by Lessee, Lessor shall provide written notice to Lessee of the default. Lessee shall have thirty (30) days after the notice to cure the default. If Lessee fails to cure the default within said thirty days, Lessor may, but need not, declare the term ended and repossess the Premises in accordance with state law. If the nature of the default is such that it cannot be cured with reasonable diligence within thirty (30) days, then Lessee shall not be in default if it commences to cure such default within thirty (30) days and thereafter diligently prosecutes such cure.
8. No any failure to act regarding nor any assent, express or implied, to any breach of any one or more of the covenants or agreements contained in this Lease Agreement shall be deemed or taken to be a waiver of any succeeding or other breach.
9. Nothing herein contained, either in the method of computing rent or otherwise, shall create between the parties hereto, or be relied upon by others as creating any relationship of partnership, association, joint venture, or otherwise. The sole relationship of the parties hereto shall be that of Landlord and Tenant.
10. If either Party shall institute any action or proceeding against the other relating to the provisions of this Lease, or any default thereunder, the unsuccessful party in such action or proceeding agrees to reimburse the successful party its reasonable attorney fees.
11. This Lease shall be binding upon and inure to the benefit of the parties hereto, their respective successors, assigns, administrators, legal representatives and executors.
12. There are no oral agreements or representations between the parties hereto affecting this Lease, and this Lease supersedes and cancels any and all previous negotiations, arrangements, agreements or representations and understandings, if any, between the parties hereto with respect to the subject matter hereof.
13. If any provision of this Lease shall be determined to be void by any court of competent jurisdiction, then such determination shall not affect any other provision of this Lease and all such other provisions shall remain in full force and effect.
14. Except as otherwise provided in this Lease, any prevention, delay or stoppage due to strike, lockouts, labor disputes, acts of God, inability to obtain labor or materials or reasonable substitutes therefore, governmental restrictions, regulations or controls, enemy or hostile governmental action, civil commotion, fire or other casualty, and other causes beyond the reasonable control of the party obligated to perform, shall excuse the performance by such party for a period equal to any such prevention, delay or stoppage.
15. The following persons are hereby designated by the parties as the persons responsible for the implementation of this Lease. Should Notices need to be sent or problems arise concerning this Lease the parties agree to contact:

For the Lessee: Jeff Rubel
825 Logan St
Denver, CO 80203 (c) 303-941-8791

For the Lessor: _____

16. Lessee agrees to execute any and all documents subordinating this Lease as requested by Lessor.

17. This lease shall bind the Lessor and the Lessee and their respective assigns, administrators, legal representatives and executors.

IN WITNESS WHEREOF, the said parties have hereunto set their hands and seals this _____ day of _____, 20____.

LESSEE - Westminster AFC, Inc.

By: Jeffrey C Rubel
Printed Name: Jeffrey C Rubel
Title: President

Attest: [Signature]
Secretary

(Corporate Seal,
if applicable)

LESSOR: CITY OF WESTMINSTER

By: _____
Printed Name: _____
Title: _____

Attest: _____
City Clerk

(Seal)

Approved as to legal form:

City Attorney



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
January 14, 2008



SUBJECT: Councillor’s Bill No. 2 re Appropriating CIP Funds and Construction Contract for Municipal Service Center Facility Renovation

Prepared By: Michael C. Wong, P.E., Senior Engineer
Abel Moreno, Capital Projects and Budget Manager

Recommended City Council Action

1. Pass Councillor’s Bill No. 2 on first reading transferring \$3,738,993 from the Utility Capital Project Reserve Fund to the Municipal Service Center Facility Renovation project account.
2. Based on the recommendation of the City Manager, the City Council finds that the public interest will be best served by a negotiated contract with JHL Constructors, Inc. Award the contract to JHL Constructors, Inc., authorize the City Manager to execute the Construction Manager/General Contractor contract with JHL Constructors Inc. with a guaranteed-maximum-price in the amount of \$8,467,678, authorize a \$608,010 contingency, and authorize the City Manager to execute a change order with Fisher Associates, the City’s architect, in the amount of \$50,000 for construction testing services.

Summary Statement

- The Municipal Service Center (MSC) renovation has been in the planning stages for a number of years. The City’s consulting architect, Fisher Associates, was hired in December 2005 and JHL Constructors, Inc., the City’s contractor, was hired as the City’s Construction Manager/General Contractor (CM/GC) in June 2007.
- The renovation of the MSC will include significant improvements to the Administration and Operations Buildings, a new 20 bay heated vehicle storage building, a new sand/salt storage and PVC pipe material storage facility, and general site improvements.
- At its January 8, 2007 post City Council Meeting, City Council agreed in concept with the transfer of \$3,738,993 to the Municipal Service Center (MSC) Facility Renovation project account from the Utility Capital Project Reserve Fund and \$2,536,000 from the General Fund for its portion of the project that occurred as part of the 2006 carryover that was authorized in July 2007.
- City Council is being requested to approve a Construction Manager/General Contractor contract with JHL Constructors Inc. with a guaranteed-maximum-price (GMP) for the construction of the MSC Renovation project contingent on City Council passing on 2nd Reading of Councillor’s Bill No. 2 on January 28, 2008. Staff is confident that JHL’s GMP is competitive because JHL received at least three competitive bids from subcontractors for each construction item.
- The total project budget for the MSC Renovation project is \$11,204,463.

Expenditure Required: \$9,125,688 (Construction Cost)

Source of Funds:	General Fund 2006 Carryover	\$2,536,000
	Utility Fund – MSC Renovation	\$4,929,470
	Utility Fund – Capital Project Reserves	<u>\$3,738,993</u>
	Total:	\$11,204,463

Policy Issues

Should City Council approve the transfer of \$3,738,993 from the Utility Capital Project Reserve Fund?

Should the City execute a guaranteed maximum price contract with JHL Constructors in the amount of \$8,467,678 for the MSC Renovation and issue a change order to Fisher Associates for specialty testing?

Alternatives

The City could choose from the following alternatives:

1. Reject JHL's proposed CM/GC contract and rebid the project. This alternative is unnecessary as each item in the CM/GC's contract was selected from at least three competitive bids.
2. Reject Staff recommendation to execute a contract with JHL Constructors and choose not to renovate the Municipal Service Center. Delaying the construction of the MSC Facility Renovation could increase the future costs by inflation and increase the risk of an unsafe working environment, insufficient storage space for City equipments, vehicles, and Utilities/Street Operations maintenance material.
3. Reduce the scope of work thus lowering the contract cost. The demand of services provided by Public Works and Utilities Department and Building Operations and Maintenance Division has exceeded the current capacity of the facility. The MSC is in need of the recommended renovation for Staff's current needs as well as to meet the City's future growth.

Staff does not recommend any of these alternatives.

Background Information

Building History and Usage

The Municipal Service Center (MSC) was initially constructed in the mid 1970s and was last renovated in 1984. The MSC provides administrative office space for approximately 100 staff. It is also used for storage of City owned vehicles, snow plows, maintenance materials, and is the City's primary fueling station for the City's fleet. Over the years, demand for municipal services has out grown the MSC site in its current layout and condition.

Presently there are three divisions working out of the 7-acre MSC site including Utilities Operations, Streets Operations, and Fleet Maintenance. During a master plan study, Staff and the consulting architect recommended that the Building Operations and Maintenance division (BO&M) should be relocated to the MSC to serve as the City's centralized warehouse and to provide all City building operations and maintenance functions.

The proposed renovation project has been anticipated for a number of years. With the relocation of the staff from Parks, Recreation and Libraries Department from the existing MSC Operations Building to their new facility in 2006, it became possible to provide adequate office and storage spaces for Utilities Operations, Streets Operations, BO&M, and Fleet Maintenance staff and vehicle/equipment to meet the City's needs at the MSC site.

Consultant Selection

During the initial architect selection process, Staff developed a Request for Qualifications (RFQ) to prequalify architectural firms specialized in building renovation. Staff submitted the RFQ to 26 local architectural firms and received seven responses. After a thorough review of the statements of qualifications, Staff short listed four firms to receive the Request for Proposal (RFP) for architectural services including the space study, design- and construction-phase of the renovation project.

The criteria Staff used in determining the most qualified architect was based on the consultant's project understanding, project team, previous experience in municipal mixed use facilities, ability to achieve the project schedule and proposed costs. Fisher Associates was selected as the most qualified architect for the renovation project.

City Council approved the Fisher Associates' contract on December 19, 2005 in the amount of \$103,757. The original contract agreement scope of work included a space study, architectural design and construction-phase services of the Operations Building, minor modifications to the Administration Building and two existing heated vehicles storage buildings. The contract amount was increased to \$166,652 on July 10, 2006 to include a comprehensive master plan study for the entire MSC site.

The master plan study provided the following recommendations:

1. Renovate the Operations Building as the main administrative building and the existing Administration as an annex building.
2. Add a new 20-bay heated vehicle storage building for tandem trucks and large equipment.
3. Redesign the maintenance material storage yard to include a new salt storage building and a storage area for all plastic pipe material.
4. Relocate the Building Operations and Maintenance Division to the Municipal Service Center.
5. Revise layout at the MSC site to improve traffic circulation and public safety.
6. Add a weld shop to the Fleet Maintenance Building and a car wash to the existing Heated Vehicle Storage Building No.3.
7. Redesign the site drainage controls and general landscaping.

The recommendations in the master plan study formed the basis of the final design. As a result of the recommendations of the master plan, City Council authorized a new contract with Fisher Associates for the final design of the master plan improvements at its April 23, 2007 City Council meeting in the amount of \$721,696.

Contractor Selection

In June 2007, Staff developed a Request for Proposal to retain a Construction Manager/General Contractor (CM/GC) to assist Staff on the Renovation Project. The CM/GC would assist the City and architect in finalizing the design, review of constructability, project cost estimate, value engineering, and provide a guaranteed-maximum-price for the construction project. The RFP informed prospective contractors that the City set aside a \$35,000 allowance for the design review and the guaranteed-maximum-price for construction was estimated to be \$8.5 million. Contractor firms were expected to identify their project approach to reviewing the design and constructability of the facility, construction sequencing and scheduling, while also indicating their overhead and profit markup to be applied during the construction phase.

Staff sent Request for Proposals to seven local construction firms specialized in this type of work and received four responses. Staff interviewed all four firms for their qualifications and experience, and JHL Constructors Inc. was selected as the most qualified CM/GC. JHL Constructors was the contractor for the City's Westview Recreation Center, and the City Staff is familiar and confident with the firm.

The construction portion of the project was broken down into two phases with the first phase being the design review and the second phase being construction. City staff was looking for a CM/GC that could successfully complete both phases of work. In the first phase, the CM/GC was compensated \$35,000 for reviewing and estimating the design plans, reviewing constructability of the project, value engineering and developing a final guaranteed maximum price for the project. The construction phase and the GMP were negotiated based on the contractor's overhead and profit markup of 4.25% and their experience in the construction industry. Staff deemed that JHL Constructors was the most qualified and responsive proposer to renovate the City's Municipal Service Center based on their proposed management team, approach, references, and commitment to the project schedule.

Project Costs and Schedule

City Council has authorized \$11,204,463 for the total project budget. The following is a breakdown of the estimated project costs:

Architectural/Consultants Fees	\$ 900,000
Construction Contract	8,467,678
Owner’s Representation Service	150,000
Office Furniture/Furnishing	430,000
Data Communication/Phone	150,000
Security System	150,000
Material Testing	50,000
Roof Replacement (Completed 8/06)	207,775
Relocation Expenses (Completed 10/07)	25,000
Miscellaneous Expenses	66,000
Construction Contingency (7.18%)	<u>608,010</u>
Total	\$11,204,463

Staff will be bringing back to City Council at a future date additional items that are not part of the CM/GC contract with JHL Constructors, such as telephone equipment, office furniture, window coverings, security enhancements, etc. These items will be managed by City Staff since they will require other outside contracting support and there is no need to pay the 4.25% overhead and profit markup to the contractor on these items.

Staff recommends that the design-phase of the MSC Renovation be closed out and a construction-phase project be initiated. The construction schedule is anticipated as following:

GMP Notice of Award	January 29, 2008
Mobilization	February 5, 2008
Renovate Operations/Admin. Buildings	February – August 2008
Heated Vehicle/Salt Storage Buildings	May – August 2008
Substantial Completion	September 2008
Final completion	Nov/December 2008

At its January 8, 2007 post City Council Meeting, City Council agreed in concept with the transfer of \$3,738,993 to the Municipal Service Center (MSC) Facility Renovation project account from the Utility Capital Project Reserve Fund. This appropriation will amend Utility Fund revenue and expense accounts as follows:

REVENUES

<u>Description</u>	<u>Account Number</u>	<u>Current Budget</u>	<u>Amendment</u>	<u>Revised Budget</u>
TRF Utility Reserve	2000.45000.0205	\$5,148,777	\$3,738,993	\$8,887,770
Total Change to Revenues			<u>\$3,738,993</u>	

EXPENSES

<u>Description</u>	<u>Account Number</u>	<u>Current Budget</u>	<u>Amendment</u>	<u>Revised Budget</u>
Municipal Service Center Renovation	80120035105.80400.8888	\$6,421,350	\$3,738,993	\$10,160,343
Total Change to Expenses			<u>\$3,738,993</u>	

This appropriation will amend Utility Reserve Fund revenue and expense accounts as follows:

REVENUES

<u>Description</u>	<u>Account Number</u>	<u>Current Budget</u>	<u>Amendment</u>	<u>Revised Budget</u>
Carryover	2050.40020.0000	\$4,621,076	\$3,738,993	\$8,360,069
Total Change to Revenues			<u>\$3,738,993</u>	

EXPENSES

<u>Description</u>	<u>Account Number</u>	<u>Current Budget</u>	<u>Amendment</u>	<u>Revised Budget</u>
Transfers to Water	20510900.79800.0200	\$5,148,777	\$3,738,993	\$8,887,770
Total Change to Expenses			<u>\$3,738,993</u>	

The MSC Facility Renovation project helps achieve the City Council’s Strategic Plan Goals of “Safe and Secure Community” by improving security to the City’s primary staging area for Fleet Maintenance, Streets, and Utilities Operations functions; “Financially Sustainable City Government” by contributing to the objective of well-maintained City Infrastructure and Facilities; and “Beautiful City” for enhancing the MSC site.

Respectfully submitted,

J. Brent McFall
City Manager

Attachments

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **2**

SERIES OF 2008

INTRODUCED BY COUNCILLORS

**A BILL
FOR AN ORDINANCE AMENDING THE 2008 BUDGETS OF THE WATER AND UTILITY
RESERVE FUNDS AND AUTHORIZING A SUPPLEMENTAL APPROPRIATION FROM THE
2008 ESTIMATED REVENUES IN THE FUNDS**

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The 2008 appropriation for the General Fund initially appropriated by Ordinance No. 3316 is hereby increased by \$7,477,986. This appropriation is due to the transfer of reserve funds.

Section 2. The \$7,477,986 increase shall be allocated to City Revenue and Expense accounts as described in the City Council Agenda Item 10C, dated January 14, 2008 (a copy of which may be obtained from the City Clerk) increasing City fund budgets as follows:

Water Fund	\$3,738,993
Utility Reserve Fund	<u>\$3,738,993</u>
Total	<u>\$7,477,986</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 14th day of January, 2008.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 28th day of January, 2008

ATTEST:

Mayor

City Clerk

WESTMINSTER HOUSING AUTHORITY
WESTMINSTER CITY HALL, 4800 W. 92ND AVENUE
MONDAY, January 14, 2008
7:00 P.M.

1. Roll Call
2. Minutes of Previous Meeting (October 8, 2007)
3. New Business
 - A. Resolution No. 30 re South Westminster Arts Group Lease of Former Commercial Property at 7287 Lowell Boulevard
4. Adjournment

CITY OF WESTMINSTER, COLORADO
MINUTES OF THE WESTMINSTER HOUSING AUTHORITY
MONDAY, JANUARY 14, 2008 AT 7:16 P.M.

ROLL CALL:

Present at roll call were Housing Authority Chairperson McNally, Vice Chairperson Dittman and Authority members Briggs, Kaiser, Lindsey, Major, and Winter. Also present were J. Brent McFall, Executive Director, Martin McCullough, Attorney for the Authority, and Linda Yeager, Secretary.

MINUTES OF PRECEEDING MEETING:

Member Briggs moved, seconded by Major, to accept the minutes of the meeting of October 8, 2007 as written and distributed. The motion carried unanimously.

RESOLUTION NO. 30 RE LEASE OF FORMER COMMERCIAL PROPERTY AT 7287 LOWELL

Upon a motion by Member Major, seconded by Dittman, the Authority voted unanimously on roll call vote to adopt Resolution No. 30 authorizing the Chairperson to execute a one-year lease for the South Westminster Arts Group to occupy former commercial property located at 7287 Lowell Boulevard.

ADJOURNMENT:

There being no further business to conduct, meeting was adjourned at 7:18 p.m.

Chairperson

ATTEST:

Secretary

WHA Agenda Item 3 A

Agenda Memorandum

Westminster Housing Authority Meeting
January 14, 2008



SUBJECT: Resolution No. 30 re South Westminster Arts Group Lease of Former Commercial Property at 7287 Lowell Boulevard

Prepared By: Vicky Bunsen, Community Development Programs Coordinator

Recommended Board Action

Adopt Resolution No. 30 authorizing the Chairperson to execute a one-year lease for the South Westminster Arts Group to occupy former commercial property located at 7287 Lowell Boulevard.

Summary Statement

- The Board of Commissioners is requested to approve a lease between the Authority and the South Westminster Arts Group (SWAG) for the former commercial building located at 7287 Lowell Boulevard. SWAG will use the space to facilitate cultural activities such as community theatre, art shows, meetings and activities which support the growth of non-profit cultural activity. The lease amount is proposed to be \$1.00 per year.
- The estimated expense for the City will be approximately \$3,000 for utilities plus minor maintenance of the building.
- The City will not be required to do any capital upgrades to the building for this use to occur.
- The lease agreement would be for one year, with three-month extensions thereafter until the lease is terminated.
- The property is being held by the Westminster Housing Authority (WHA) for future redevelopment. The building is expected to be demolished in about one year.

Expenditure Required: \$3,000

Source of Funds: General Capital Improvement Fund - South Westminster Project

Policy Issue

Should the Westminster Housing Authority lease the vacant former commercial building at 7287 Lowell Boulevard to the non-profit South Westminster Arts Group (SWAG) for \$1.00 per year and provide water, sewer, heat, electrical utilities and minor maintenance to the leased premises?

Alternatives

1. Do not lease the premises to SWAG. This alternative is not recommended because a good opportunity to support cultural activity in the south Westminster revitalization area would be missed.
2. Lease the premises to SWAG with different financial terms. This alternative is not recommended because SWAG is attempting to establish a higher level of cultural activity using only existing resources. SWAG has no established revenue source at this time.

Background Information:

In an effort to increase non-profit arts-related activity in the City, staff has worked to create arts business incubator opportunities by identifying potential spaces in which arts activities could be conducted on a temporary or permanent basis. City staff has also worked with local artists to incorporate the South Westminster Arts Group (SWAG), a community-based arts network. The mission of SWAG includes:

- Establishing a network of artists, arts supporters and art supportive businesses for communication, advocacy, and identification of needs, and progress toward solutions for the creative community.
- Promote and foster a population of creative workers by encouraging them to reside or work in the historic, established South Westminster neighborhood, in order to better meet mutual goals.
- Focusing on diversity, tolerance and inclusiveness in order to strengthen the arts community and help it serve the needs of its supporters and audience, and provides an influential voice for all facets of the community.
- Maintain a commitment to public service through education, outreach, public artistic endeavors and other means of connecting with the larger community.
- Showcase the strength and diversity of the Arts community.

Both local artists and experienced community theatre organizers have indicated an interest in working with SWAG to establish community theatre and artist shows in the historic West 73rd Avenue neighborhood.

The Westminster Housing Authority acquired 7287 Lowell Boulevard in 2005 to hold for future redevelopment. It was an auto repair business for many years and has been cleaned up for a temporary re-use. It is zoned C-1, which zone permits the theatre and gallery uses proposed by SWAG. Occupancy of the building would not only support the arts efforts, but would also discourage vandalism of an otherwise vacant building. The City has been paying for utilities for the building and will continue to do so in order to keep it in good repair. Occupancy of the building is expected to increase the utility cost from \$2,000 to \$3,000 per year.

Plans are in development review for a retail and residential development on the west side of Lowell south of 73rd Avenue. The proposed developer of this block, Community Builders, has continued to invest in the neighborhood, having completed 50 townhomes on Lowell Boulevard and Meade Street, as well as the new two-story office/retail building on the northwest corner of West 73rd Avenue and Lowell Boulevard. Redevelopment of the block south of 73rd Avenue is contingent on several factors, including successful property assemblage and improvement of the housing market so that the proposed condominiums can be sold. Given the status of these contingencies, it is believed that 7287 Lowell will be vacant for at least one more year before it is slated for demolition. The proposed lease provides for termination upon three months notice after one year.

Given the opportunity to use this large vacant space for neighborhood arts activities and as a possible arts business incubator, SWAG requested use of the building for community theatre and other neighborhood and arts uses. SWAG proposes to be responsible for scheduling the space and to provide interface between neighborhood users and the Housing Authority and City of Westminster. While the local artists will be responsible for organizing the various activities, all participants who use the buildings will be registered as City volunteers. This provides several benefits, including use of a well-organized volunteer management system, the opportunity to conduct background checks on those who are using the building, and data tracking so that the hours of volunteer effort can be used to document future grant applications to fund SWAG and the other participating arts organizations.

The proposed lease is similar to that used by the City and the Westminster Historical Society for the two facilities occupied by WHS, but also includes notice that the building is slated for demolition in about one year. No obligation is created to relocate any activities to other facilities when demolition occurs. Any expenditures for minor repairs are within the discretion of the Authority and the City. There is no obligation or expectation to complete major repairs for any reason.

The building has been included in the WHA's insurance coverage with CIRSA since its acquisition. This proposed lease and activity do not increase the insurance costs. The City has been paying minimal utility costs for the building, which does not include telecommunications services, and would continue to do so.

It is proposed that SWAG's lease payment be \$1.00 per year. As a start-up non-profit organization, SWAG has no sources of revenue and hopes to use this collaborative use of local resources in order to generate arts activities, volunteerism, and programs that will lead to successful grant applications and revenue generation in the future. It is essentially a proposal to "bootstrap" local arts activities into being, so that a basis can be established for generating revenue and programming in the future.

The annual cost for utilities and minor repairs will be absorbed in the South Westminster account in the General Capital Improvement Fund.

Respectfully submitted,

J. Brent McFall
City Manager

Attachments



**New office/retail building by
Community Builders, owner:
Colorado Rural Housing
Development Corp.**

**7287 Lowell Blvd,
Proposed to be leased
to SWAG**

**Adams
School
District No.
50**

RESOLUTION

RESOLUTION NO. 30

INTRODUCED BY COMMISSIONERS

SERIES OF 2008

**A RESOLUTION
APPROVING A LEASE BETWEEN THE WESTMINSTER HOUSING AUTHORITY AND THE
SOUTH WESTMINSTER ARTS GROUP FOR PREMISES LOCATED AT 7287 LOWELL
BOULEVARD**

WHEREAS, the Westminster Housing Authority owns premises located at 7287 Lowell Boulevard (the Premises); and

WHEREAS, the South Westminster Arts Group is a non-profit organization dedicated to promoting community arts activities; and

WHEREAS, the South Westminster Arts Group proposes to use the Premises to promote community arts activities, including theatre, art shows, meetings and activities that support the growth of non-profit cultural activity; and

WHEREAS, the attached Lease Agreement has been proposed to allow the South Westminster Arts Group to lease the premises for a limited period of time,

NOW, THEREFORE, be it resolved by the Board of Commissioners of the Westminster Housing Authority that:

1. The attached Lease Agreement is approved.
2. The Chairperson is hereby authorized to execute and the Authority Clerk to attest the attached Lease Agreement.

PASSED AND ADOPTED this 14th day of January, 2008.

Nancy McNally, Chairperson

ATTEST:

Secretary

LEASE AGREEMENT

This **Lease** is made between the **WESTMINSTER HOUSING AUTHORITY**, a Colorado public housing authority (hereinafter called "Lessor" or "City"), and **SOUTH WESTMINSTER ARTS GROUP**, a Colorado nonprofit corporation (hereinafter called "Lessee").

Lessor hereby agrees to lease to Lessee, and Lessee hereby agrees to lease from Lessor, the Premises described in Paragraph 1 below, subject to the terms, conditions, and agreements set forth hereinbelow:

1. Premises. The Premises consist of the building and parking area located at 7287 Lowell Boulevard.

2. Term and Rent. Lessor demises the above Premises for a term of one year, commencing 12:00 p.m. on January 15, 2008, terminating 12:00 p.m. on January 15, 2009, or sooner as provided herein (hereinafter, the "Term"), for a nominal rent payment for the Term in the sum of One Dollar (\$1.00), and for other good and valuable consideration described below. The term shall automatically renew for three-month terms thereafter, unless terminated by either party without cause upon three month's prior written notice which notice may be given at any time.

3. Use. Lessee shall use and occupy the Premises for activities and functions specifically related to the purpose and mission of the South Westminster Arts Group. The Premises shall be used for no other purpose unless approved in writing by the Lessor.

4. Care and Maintenance of Premises.

a. Lessee's responsibilities: Lessee acknowledges and accepts the Premises in their as-is condition. Lessee shall, at its own expense and at all times during the Term of this Lease, maintain the Premises in good and safe condition, and shall surrender the same, at termination hereof, in as good condition as received, normal wear and tear excepted. Lessee shall be responsible for the routine care and maintenance of the interior of the Premises of a housekeeping nature including custodial and janitorial services, normal and reasonable cleaning and the replacement of all consumable or expendable items such as light bulbs, cleaning, bathroom and office supplies and all items brought into the Premises by the Lessee.

b. Lessor's responsibilities: The Lessor shall be responsible only for minor maintenance and repair, the scheduling and expense of which shall be within the sole discretion of the Lessor. The Lessee has been informed that the Premises are expected to be demolished at the end of the Term and the Lessee will be required to vacate the premise. The Lessor has no responsibility for finding replacement premises nor for Lessee's relocation expenses.

5. Alterations. Lessee shall not, without first obtaining the written consent of Lessor, make any alterations, additions, or improvements, in, to or about the Premises.

6. Ordinances and Statutes. Lessee shall comply with all statutes, ordinances and requirements of all municipal, state and federal authorities now in force, or which may hereafter be in force, pertaining to the Premises, occasioned by or affecting the use thereof by Lessee.

7. Assignment and Subletting. Lessee shall not assign this Lease or sublet any portion of the Premises without prior written consent of the Lessor, which shall be granted or refused in Lessor's sole discretion. Any such assignment or subletting without Lessor's consent shall be void and, at the option of the Lessor, grounds for Lessor's forthwith termination of this Lease.

8. Utilities. The Lessor shall provide and pay for utility charges as they become due, including those for heat, electricity, water and sewer. If such charges become excessive, the Lessor may take steps to control the costs, including restricting use of the utilities and asking the Lessee to help pay the costs. All applications and connections for other services desired by Lessee for the Premises shall be made in

the name of Lessee only, and Lessee shall be solely liable for such charges as they become due, including those for cable, Internet, alarm and telephone services.

9. Entry and Inspection. Lessee shall permit Lessor or Lessor's agents to enter upon the Premises at reasonable times and upon reasonable notice, for the purpose of inspecting the same, and will permit Lessor at any time within sixty (60) days prior to the expiration of this Lease, to place upon the Premises any usual "To Let" or "For Lease" signs, and permit persons desiring to lease the same to inspect the Premises thereafter.

10. Possession. If Lessor is unable to deliver possession of the Premises at the commencement hereof, Lessor shall not be liable for any damage caused thereby.

11. Indemnification of Lessor. Lessor shall not be liable for any damage or injury to any person or property occurring on the Premises during the Term of this Lease. Lessee agrees to indemnify and save and hold Lessor harmless from any claims for such damage or injury, no matter how caused, except to the extent such damage or injury was the direct and proximate result of Lessor's negligent act or omission, provided, however, that nothing herein shall be deemed or construed as a waiver by Lessor of any of the protections or limitations against liability to which Lessor may be entitled under the Colorado Governmental Immunity Act. Lessee may satisfy its obligations pursuant to this paragraph by assuming the defense of and liability, if any, for any such claim brought against the Lessor, and retaining for such defense qualified legal counsel reasonably acceptable to the City.

12. Insurance.

a. Lessee, at its expense, shall maintain comprehensive commercial liability insurance, including coverage for bodily injury and property damage, insuring Lessee and naming Lessor as an additional insured with minimum coverage as follows: \$1,000,000 per occurrence. The insurance shall include coverage for contractual liability. Additional insurance shall be obtained in the event any aggregate limitations result in per occurrence coverage of less than \$1,000,000.

b. Prior to taking possession of the Premises pursuant to this Lease, Lessee shall provide Lessor with a Certificate of Insurance showing Lessor as additional insured. The Certificate shall provide for a ten-day written notice to Lessor in the event of cancellation or material change of coverage. To the maximum extent permitted by insurance policies that may be owned by Lessor or Lessee, Lessee and Lessor, for the benefit of each other, waive any and all rights of subrogation that might otherwise exist.

13. Eminent Domain. If the Premises or any part thereof or any estate therein, or any other part of the building materially affecting Lessee's use of the Premises, shall be taken by eminent domain, this Lease shall terminate on the date when title vests pursuant to such taking.

14. Destruction of Premises. In the event that the Premises or any part of the building in which the Premises may be situated is damaged or destroyed by any cause to an extent that renders the Premises unsafe or unusable for Lessee's purposes, either Lessee or Lessor may terminate this Lease forthwith. In no event shall the Lessor have any obligation to repair or replace the Premises in the event of any such damage or destruction and Lessee's sole and exclusive remedy in the event of such damage to or destruction of the Premises or the building in which it is located is the termination of this Lease.

15. Lessor's Remedies on Default. If Lessee defaults in the performance of any of the covenants or conditions hereof, Lessor may give Lessee notice of such default and if Lessee does not cure any such default within ten (10) days, after the giving of such notice (or if such other default is of such nature that it cannot be completely cured within such period, if Lessee does not commence such curing within such ten (10) days and thereafter proceed with reasonable diligence and in good faith to cure such default), then Lessor may terminate this Lease on not less than twenty (20) days' notice to Lessee. On the date specified in such notice, the Term of this Lease shall terminate, and Lessee shall then quit and surrender the Premises to Lessor, without extinguishing Lessee's liability. If this Lease shall have been so terminated by Lessor, Lessor may at any time thereafter resume possession of the Premises by any lawful means and remove Lessee or other occupants and their effects. No failure to enforce any Term shall be deemed a waiver.

16. Taxes. Lessee shall be solely responsible for the payment of any property or other taxes that may arise as a result of Lessee's use of the Premises. The Lessee covenants and warrants to Lessor that Lessee is exempt from all federal, state and local taxes and further, that Lessee shall take no action to cause the loss of its exemption from said taxes. Lessee further covenants and agrees with the Lessor that in the event Lessee shall lose its exemption from taxes for any reason, Lessee shall timely pay all and any taxes accruing as a result thereof. Lessee further covenants and agrees to indemnify and hold Lessor harmless against any claims or judgments for unpaid taxes resulting from Lessee's use of the Premises.

17. Attorneys' Fees. In case suit should be brought for recovery of the Premises, or for any sum due hereunder, or because of any act which may arise out of the possession of the Premises, by either party, the prevailing party shall be entitled to all costs incurred in connection with such action, including reasonable attorneys' fees. For any controversy or claim arising out of or relating to this Lease, or the breach thereof, the parties agree to attempt to mediate any such disputes in good faith prior to filing any action against the other.

18. Waiver. No failure of Lessor to enforce any Term hereof shall be deemed to be a waiver.

19. Heirs, Assigns, Successors. This Lease is binding upon and shall inure to the benefit of the heirs, assigns and successors in interest to the parties.

20. Subordination. This Lease is and shall be subordinated to all existing and future liens and encumbrances against the property.

21. Entire Agreement. This Lease constitutes the entire agreement between the parties concerning the Premises and may be modified only by a written amendment signed by both parties.

22. Survival. Paragraphs 8, 11, and 15 through 20 inclusive shall survive any termination of this Lease by either Lessee or Lessor.

Signed as of this ___ day of _____, 2008.

WESTMINSTER HOUSING AUTHORITY

SOUTH WESTMINSTER ARTS GROUP

By: _____
Nancy McNally, Chairperson

By: _____
Jerry Vigil, Chair

Attest: _____
Authority Clerk

Attest: _____