



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. Financial Report for December 2009
 - B. Quarterly Insurance Claim Report: October – December 2009
 - C. Deicing Salt Purchase
 - D. Disposable Medical Supplies Purchase
 - E. Hybrid Vehicles Purchase from State Bid
 - F. 2010 Water Treatment Chemicals Purchase
 - G. Police Department Patrol Vehicles Purchase
 - H. Library Materials Budget Expenditures
 - I. Table Mountain Animal Center Annual Assessment
 - J. Sports Officiating Services Contract
 - K. 75th Avenue Waterline Construction Contract
 - L. 2010 Concrete Replacement Project Contract
 - M. Spring 2010 Adams County Open Space Grant Applications
 - N. General Capital Improvement Fund Transfer to the WEDA Fund for WURP Expenses
 - O. Second Reading of Councillor's Bill No. 1 re Amendments to the W.M.C. re Uses by Special Permit
 - P. Second Reading of Councillor's Bill No. 2 re Appropriation to 80th Avenue/Federal Boulevard Project Account
 - Q. Second Reading of Councillor's Bill No. 3 re Cost Recovery for the 112th Avenue – Federal to Huron Project

9. Appointments and Resignations

- A. 2010 Appointments to the Rocky Flats Stewardship Council

10. Public Hearings and Other New Business

- A. Resolution No. 4 re HOME Funding for Panorama Pointe Senior Housing Project
- B. Councillor's Bill No. 4 re Proposed Economic Development Assistance Agreement with Scottrade, Inc.
- C. Councillor's Bill No. 5 re Savory Farms and Hawn-Hewit Open Space Acquisition Grants Supplemental Appropriation

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
- B. Executive Sessions
 - 1. Consultation with the City Attorney concerning potential litigation pursuant to WMC 1-11-7(C)(3) and (8) and CRS 24-6-402(4)(b) and (e)
 - 2. Discuss strategy and progress on potential sale, acquisition, trade or exchange of certain water rights and the City’s position relative thereto, pursuant to WMC 1-11-3(C)(2) and (C)(7), and CRS 24-6-402(4)(a) and (4)(e)

13. Adjournment

WESTMINSTER ECONOMIC DEVELOPMENT AUTHORITY (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 11, 2010 AT 7:00 P.M.

PLEDGE OF ALLEGIANCE

Members of Boy Scout Troop # 484 presented the colors and led the Mayor, Council, staff and audience in the Pledge of Allegiance.

ROLL CALL

Mayor Nancy McNally, Mayor Pro Tem Chris Dittman, and Councillors Bob Briggs, Mark Kaiser, Mary Lindsey, Scott Major, and Faith Winter were present at roll call. J. Brent McFall, City Manager, Jane Greenfield, Assistant 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 21, 2009, as distributed. The motion passed unanimously.

CITY MANAGER'S REPORT

Mr. McFall announced that City Hall would close Monday, January 18, in observance of Martin Luther King Day and there would be no City Council study session held that day.

Immediately following the City Council meeting, the Council would conduct a post-meeting to be briefed on the South Westminster Transit-Oriented Development area land plan and street design. The public was welcome to attend.

CITY COUNCIL COMMENTS

Mayor McNally presented the National League of Cities Silver Certificate for Leadership to Councillor Lindsey. The certificate had been presented during a luncheon in November and a colleague on the Broomfield City Council had accepted the award on Councillor Lindsey's behalf and recently had given it to the Mayor for local presentation.

EMPLOYEE LENGTH OF SERVICE PRESENTATIONS

Mayor McNally presented certificates, pins, and stipends to Brian Nash, Doug Sgambelluri, Keith Smith, and Dan Strietelmeier in appreciation of 25 years of service to the City. Councillor Winter presented certificates and pins for 30 years of service to Tim Burandt, Rand Farnsworth, Matt Lutkus, Tony Noce, and Sandy Schwab. Mayor Pro Tem Dittman presented a certificate and pin to Bill Work for 35 years of service to the City. All were congratulated and thanked for their contributions to the organization's successes.

CONSENT AGENDA

The following items were submitted for Council's consideration on the consent agenda: designation of 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; authority for the City Manager to sign a contract for legal services with Ferry, Joseph, & Pearce, P.A., to serve as local special legal counsel in Delaware to assist with the defense of the City's claim for sales and use tax in connection with the Muzak Holdings, LLC bankruptcy litigation; based on the report of the City Manager, find that the public interest would be best served by awarding a one-year contract with four one-year renewals for Municipal Court security services to The Wackenhut Corporation; authority for the City Manager to execute a contract amendment with Black & Veatch Corporation in the amount of \$158,152 for the 30% design of the expansion of the Reclaimed Water Treatment Facility and authorize a 10% contingency in the amount of \$15,815, for a total project budget of \$173,967; find that the US General Services Administration pricing

met City Charter bidding requirements and authorize staff to proceed with 2010 calendar year purchases of replacement phone systems for College Hill and Irving Street Libraries, Court, Semper Water Treatment Plant, Countryside and Westview Recreation Centers, as well as license changes for City Hall through Axess Communications in an amount not to exceed \$166,000; authority for the City Manager to execute two contracts for the sale of property at 9180 Grove Street and at 4460 Shaw Boulevard to Habitat for Humanity of Metro Denver, Inc. for \$15,000 and \$25,000 respectively; final passage of Councillor's Bill No. 43 on second reading appropriating \$100,000 to the 68th Avenue and Utica Street project to advance the project's design costs; final passage of Councillor's Bill No. 44 on second reading amending Chapter 23 of Title I, repealing Chapters 6 and 7 of Title II, and amending Chapter 2 of Title II of the Westminster Municipal Code concerning the Transportation Commission, the Board of Adjustment and Appeals, and the Planning Commission; and final passage of Councillor's Bill No. 46 on second reading amending provisions of the Westminster Municipal Code creating a lien upon the real property for unpaid sewer charges and making modifications to current Code provisions on liens for unpaid water charges.

No requests were made to remove any items from the consent agenda for discussion purposes or separate vote. It was moved by Councillor Major and seconded by Mayor Pro Tem Dittman to approve the consent agenda as presented. The motion carried unanimously.

RESOLUTION NO. 1 REAPPOINTING MEMBERS TO BOARDS AND COMMISSIONS

Councillor Briggs moved, seconded by Mayor Pro Tem Dittman, to adopt Resolution No. 1 reappointing members whose terms expired December 31, 2009 to two-year terms and appointing alternate members to regular membership, where applicable, on the Board of Building Code Appeals, the Election Commission, the Environmental Advisory Board, the Historic Landmark Board, the Human Services Board, the Open Space Advisory Board, the Parks, Recreation and Libraries Advisory Board, the Personnel Board, the Planning Commission, and the Special Permit and License Board. At roll call the motion passed unanimously.

PUBLIC HEARING CONCERNING MODIFICATION OF LAND USES AND SPECIAL USE PERMITS

At 7:29 p.m., the Mayor opened a public hearing to consider proposed amendments to the Westminster Municipal Code relative to land uses by Special Use Permit and various conforming changes to procedures, definitions, use categories, special regulations and enforcement. Staff was present to answer any questions of Council or the audience. Council members had no questions, and no one in the audience wished to speak on the matter. At 7:30 p.m. the hearing was closed.

COUNCILLOR'S BILL NO. 1 MODIFYING LAND USES AND SPECIAL USE PERMITS

Mayor Pro Tem Dittman moved to pass Councillor's Bill No. 1 on first reading to make revisions to the Westminster Municipal Code regarding uses by Special Permit and various conforming changes to procedures, definitions, use categories, special regulations and enforcement. The motion was seconded by Councillor Kaiser and passed unanimously at roll call.

COUNCILLOR'S BILL NO. 2 APPROPRIATING FUNDS TO 80TH AVE/FEDERAL BLVD PROJECT

Upon a motion by Councillor Major, seconded by Mayor Pro Tem Dittman, the Council voted unanimously on roll call vote to pass Councillor's Bill No. 2 on first reading authorizing a \$137,723 supplemental appropriation of 2008 Adams County Transportation Tax carryover funds into the capital project account for the 80th Avenue/Federal Boulevard project.

COUNCILLOR'S BILL NO. 3 RE COST RECOVERY FOR 112TH AVENUE IMPROVEMENT PROJECT

It was moved by Councillor Kaiser and seconded by Councillor Major to pass Councillor's Bill No. 3 on first reading to establish recovery payment owed the City for costs incurred in constructing improvements for the 112th Avenue, Federal Boulevard to Huron Street Project. The motion carried unanimously at roll call.

RESOLUTION NO. 2 FOR SPRING 2010 ADAMS COUNTY OPEN SPACE GRANT APPLICATION

Councillor Briggs moved to adopt Resolution No. 2 authorizing the Department of Parks, Recreation and Libraries to pursue a grant with Adams County Open Space during the spring 2010 grant cycle for the development of the Little Dry Creek Dog Park located at 69th Place and Lowell Boulevard. The motion was seconded by Councillor Major and passed unanimously at roll call.

RESOLUTION NO. 3 FOR 2010 JEFFERSON COUNTY JOINT VENTURE GRANT APPLICATION

It was moved by Councillor Lindsey, seconded by Mayor Pro Tem Dittman, to adopt Resolution No. 3 authorizing the Department of Parks, Recreation and Libraries to pursue a Jefferson County Joint Venture Grant in the amount of \$110,000 for the Armed Forces Tribute Garden shade structures. The motion carried unanimously at roll call.

ADJOURNMENT

There being no further business to come before the Council, it was moved by Councillor Kaiser, seconded by Major, to adjourn. The motion passed unanimously, and the meeting adjourned at 7:34 p.m.

ATTEST:

City Clerk

Mayor



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
January 25, 2010



SUBJECT: Financial Report for December 2009
Prepared By: Tammy Hitchens, Finance Director

Recommended City Council Action

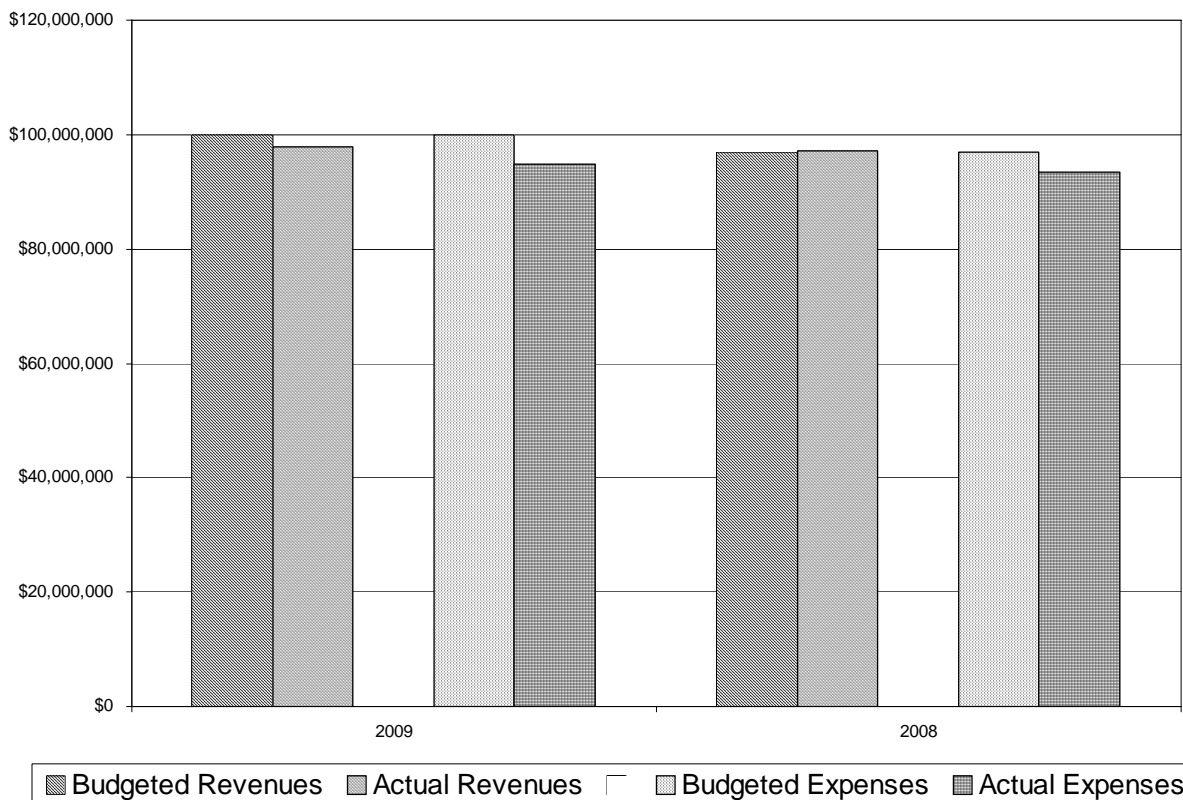
Accept the Financial Report for December as presented.

Summary Statement

City Council is requested to review and accept the attached monthly financial statement. The Shopping Center Report is also attached. The budget numbers that are presented reflect the City’s adopted budget. This statement reflects December month end figures. There are several modifications based on year end accruals, both revenue and expense that will be made and will be part of the December year end figures that will be presented to Council in June, after the audit is complete. Some of the more significant accruals include revenue earned in 2009 but not received until 2010, in particular intergovernmental revenue, and all expenses incurred in 2009 but paid in 2010. Revenues also include carryover where applicable.

The General Fund revenues and Carryover exceed expenditures by \$3,003,783. The following graph represents Budget vs. Actual for 2008 – 2009.

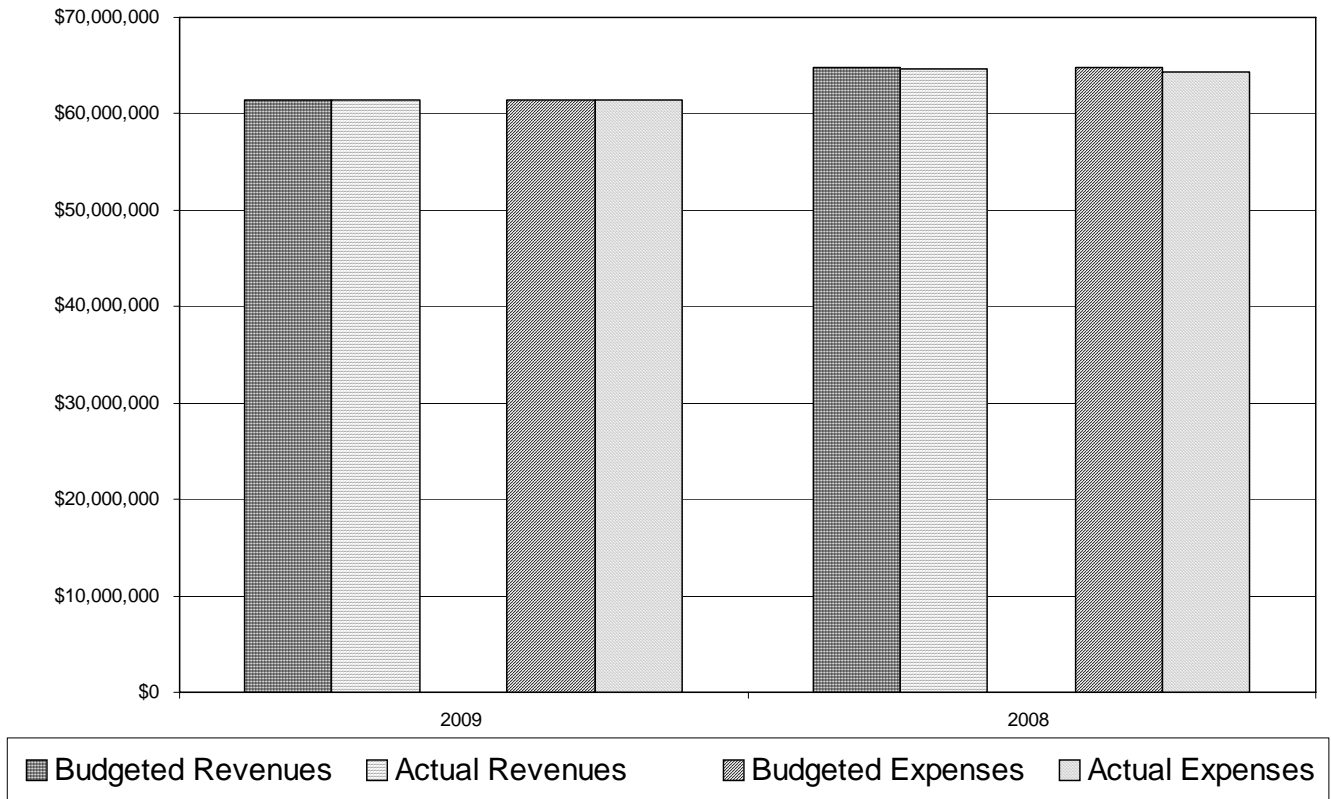
**General Fund
Budget vs Actual**



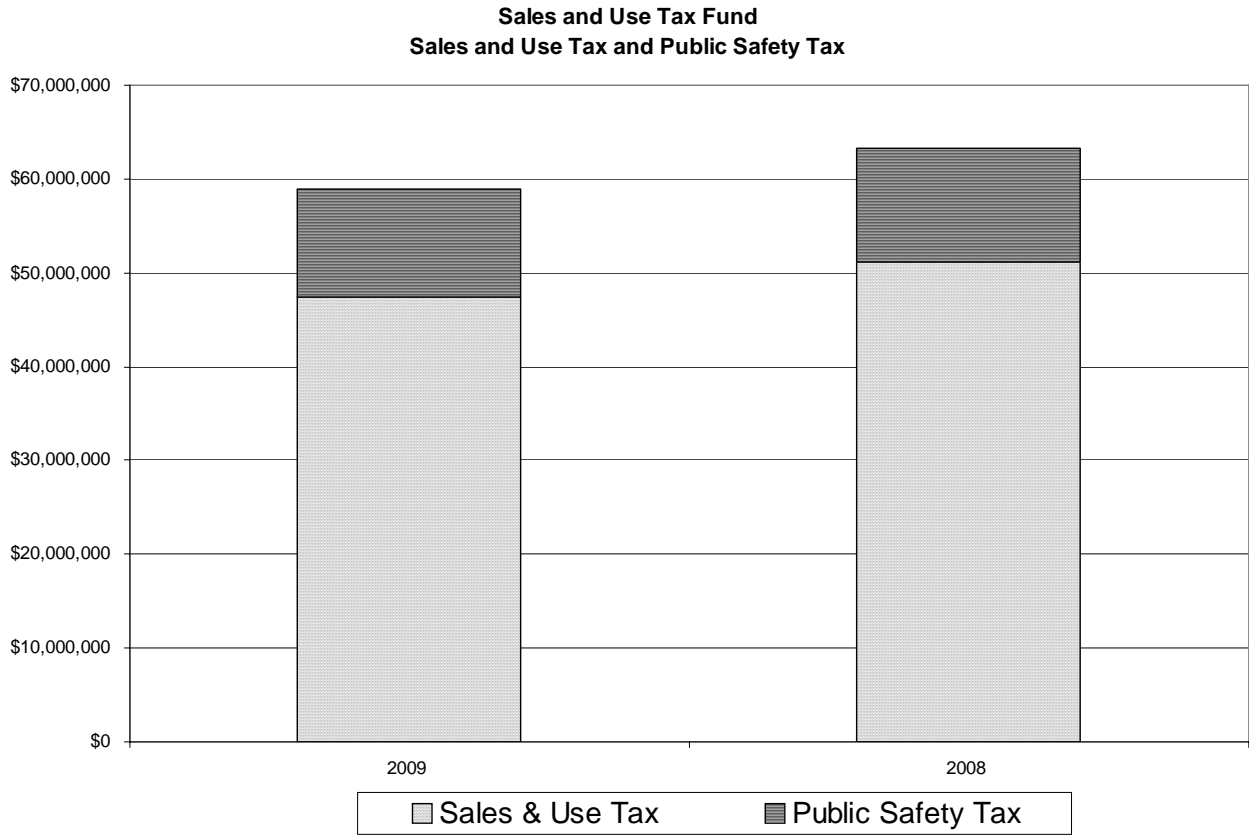
The Sales and Use Tax Fund revenues and Carryover are less than expenditures by \$130,479.

- On a year-to-date cash basis, sales and use tax returns are down 5.5% from 2008.
- On a year-to-date basis, across the top 25 shopping centers, total sales and use tax receipts are down 1.0 % from the prior year. This includes Urban Renewal Area money that is not available for General Fund use. Without Urban Renewal money, total sales and use tax receipts are down 4.3%.
- The top 50 Sales Tax payers, who represent about 62% of all collections, were down 1.65% after adjusting for Urban Renewal Area money that is not available for General Fund use.
- The Westminster Mall is down 28.0% on a year-to-date basis.
- Building Use Tax is down 52.9% year-to-date from 2008.

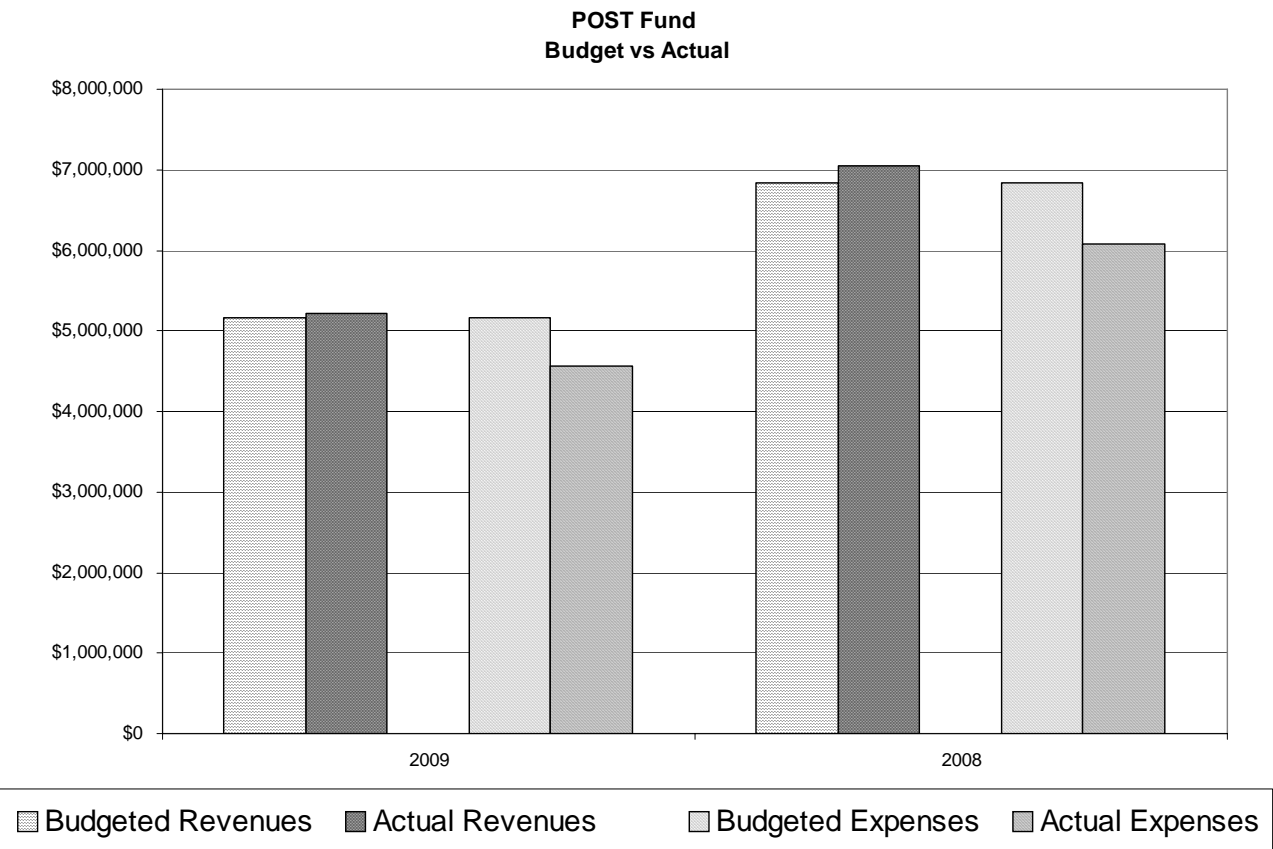
**Sales & Use Tax Fund
Budget vs Actual**



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

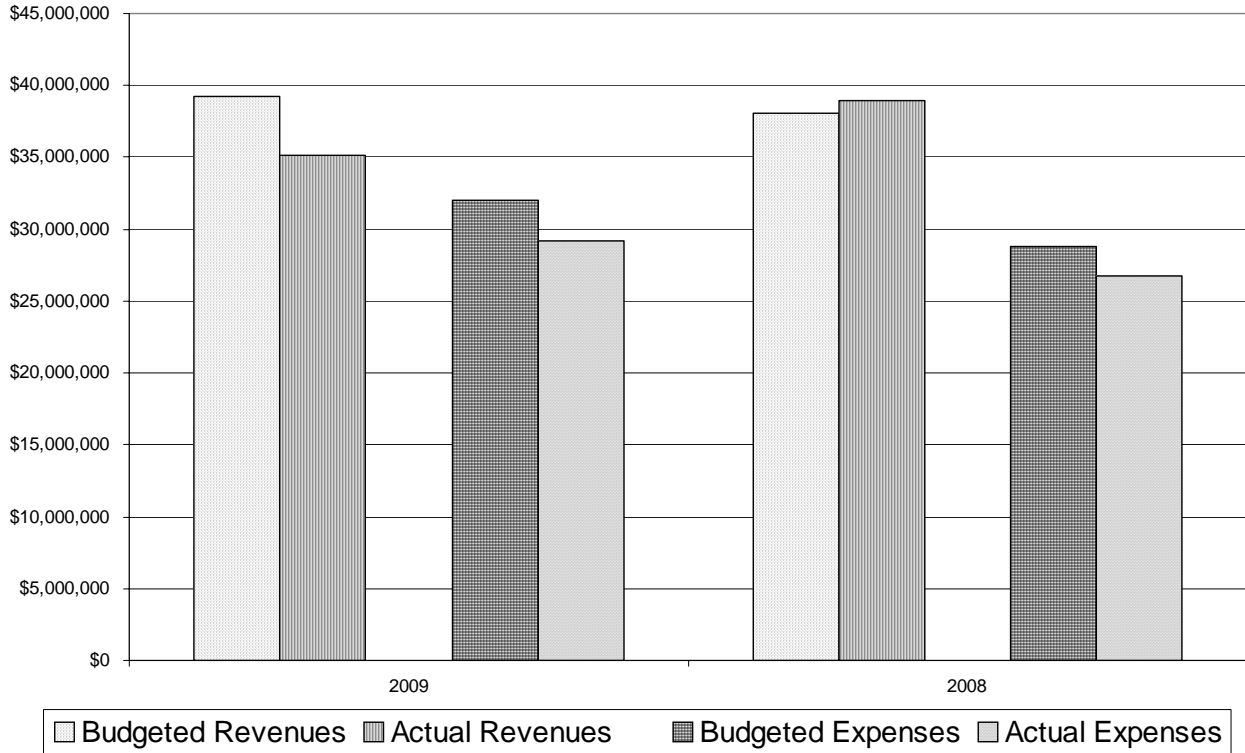


The Parks Open Space and Trails Fund revenues exceed expenditures by \$647,758.



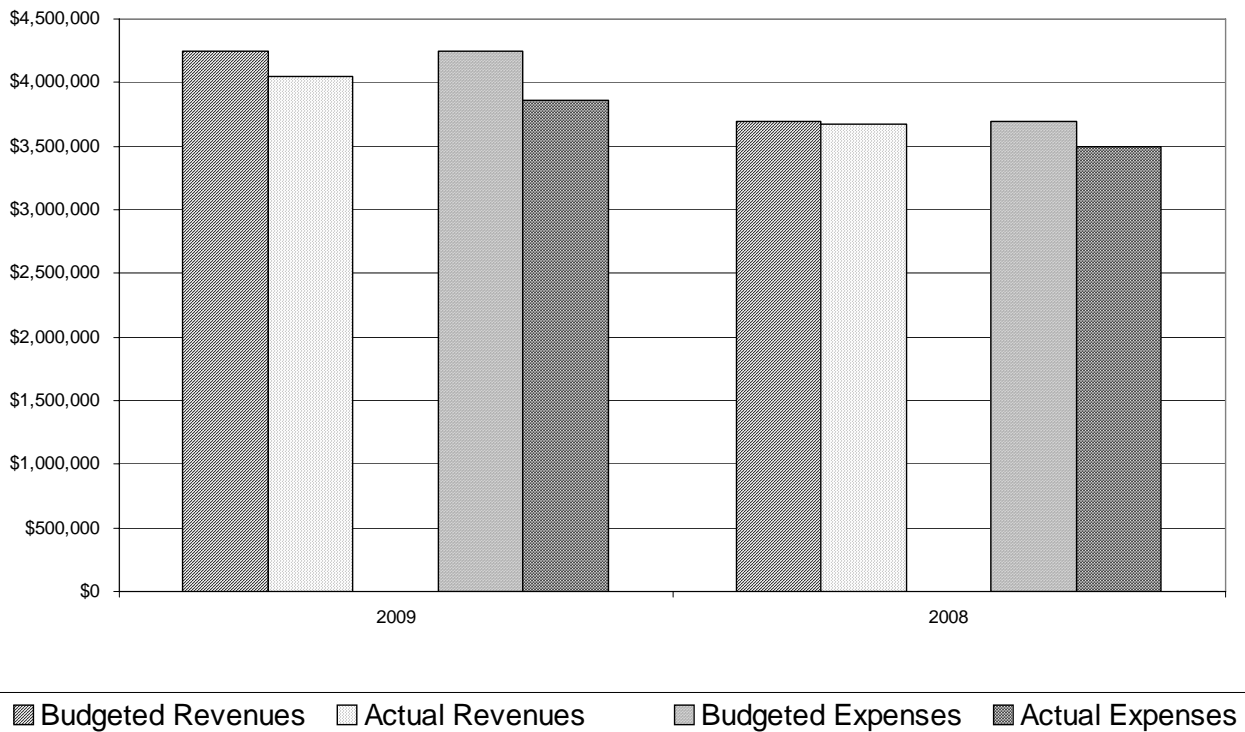
The combined Water & Wastewater Fund revenues and Carryover exceed expenses by \$25,687,799. \$31,743,665 is budgeted for capital projects and reserves.

**Combined Water and Wastewater Funds
Operating Budget vs Actual**



The combined Golf Course Fund revenues exceed expenses by \$182,774.

**Golf Course Enterprise
Budget vs Actual**



Policy Issue

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

Alternative

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

Background Information

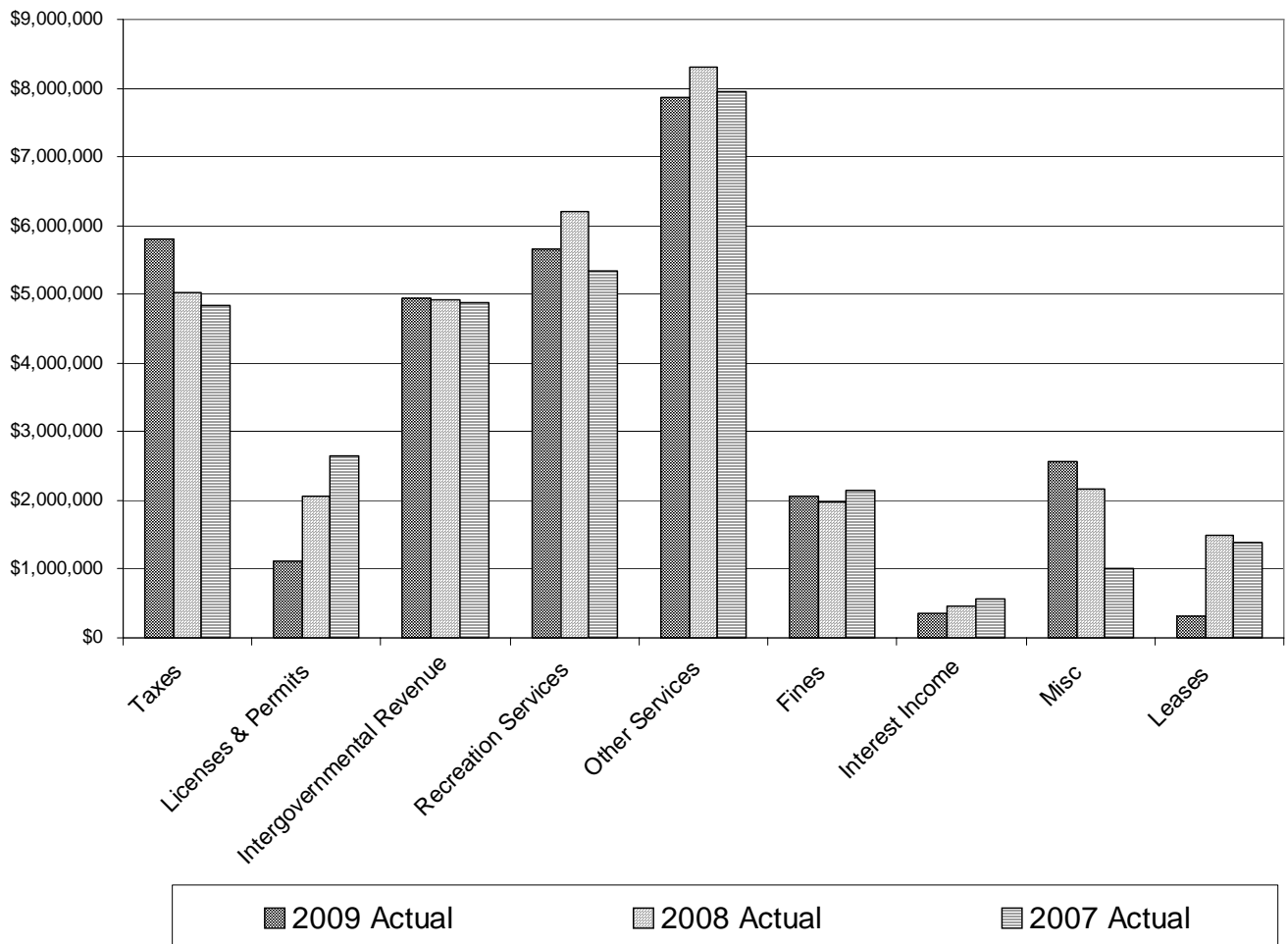
This section includes a discussion of highlights of each fund presented.

General Fund

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

The following chart represents the trend in actual revenues from 2007 – 2009 year-to-date.

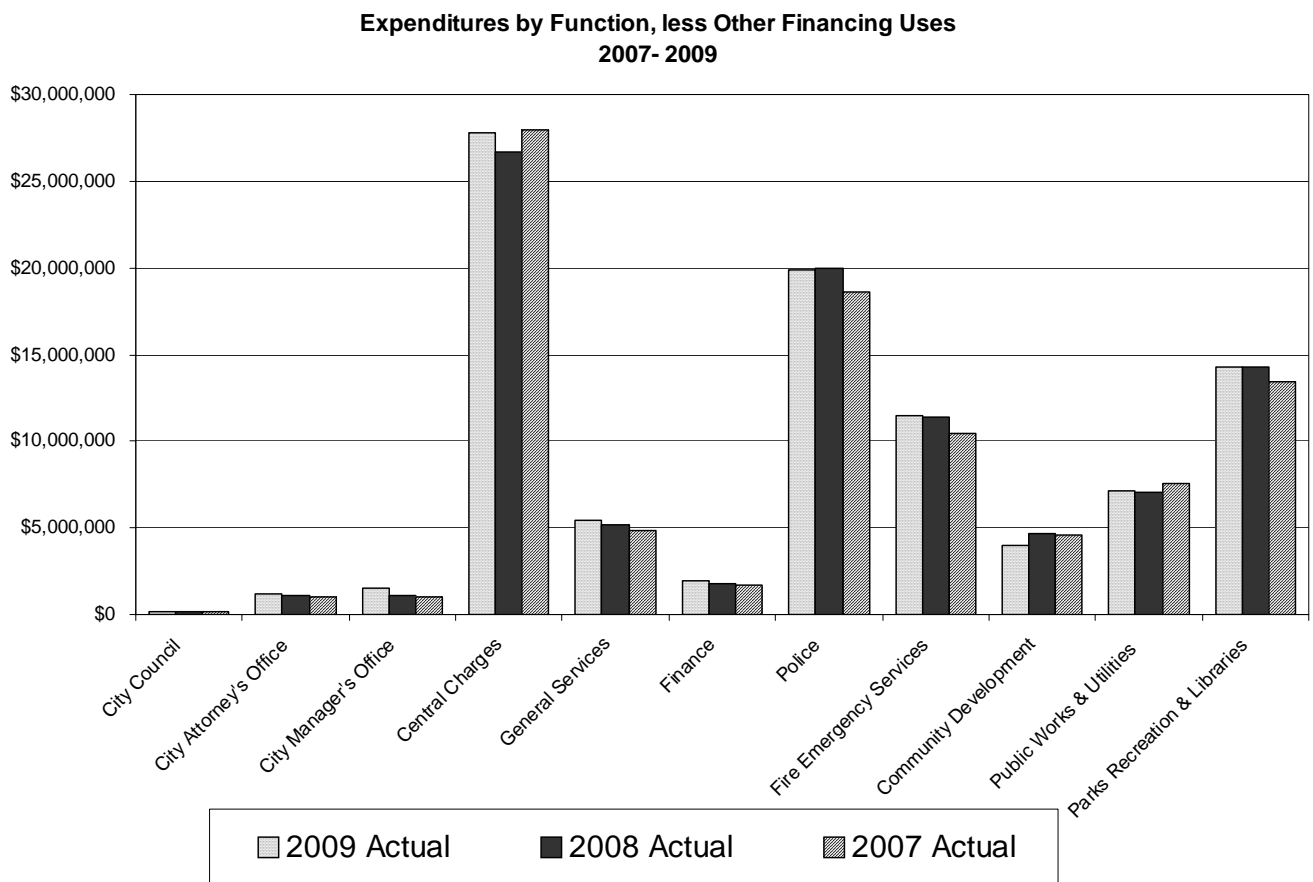
**General Fund Revenues without Transfers, Carryover, and Other Financing Sources
2007 - 2009**



Significant variances in General Fund revenue categories are explained as follows:

- Increase in Taxes reflects Accommodations Tax previously recorded in the General Capital Improvement Fund, now recorded in the General Fund.
- Decrease in License and Permit revenue reflects commercial and residential building permit activity.
- Decrease in Recreation Services revenue is largely due to construction activity at the City Park Recreation Center.
- Decrease in Other Services revenue reflects in large part Xcel franchise, EMS fees and street cut fees.
- Increase in Miscellaneous revenue reflects reimbursements received from Thornton relating to the 144th Avenue bridge construction IGA.
- Decrease in Lease revenue is due mostly to the Conference Center and Pavillion leases, which were terminated in 2008.

The following chart identifies where the City is focusing its resources. The chart shows year-to-date spending for 2007 –2009.



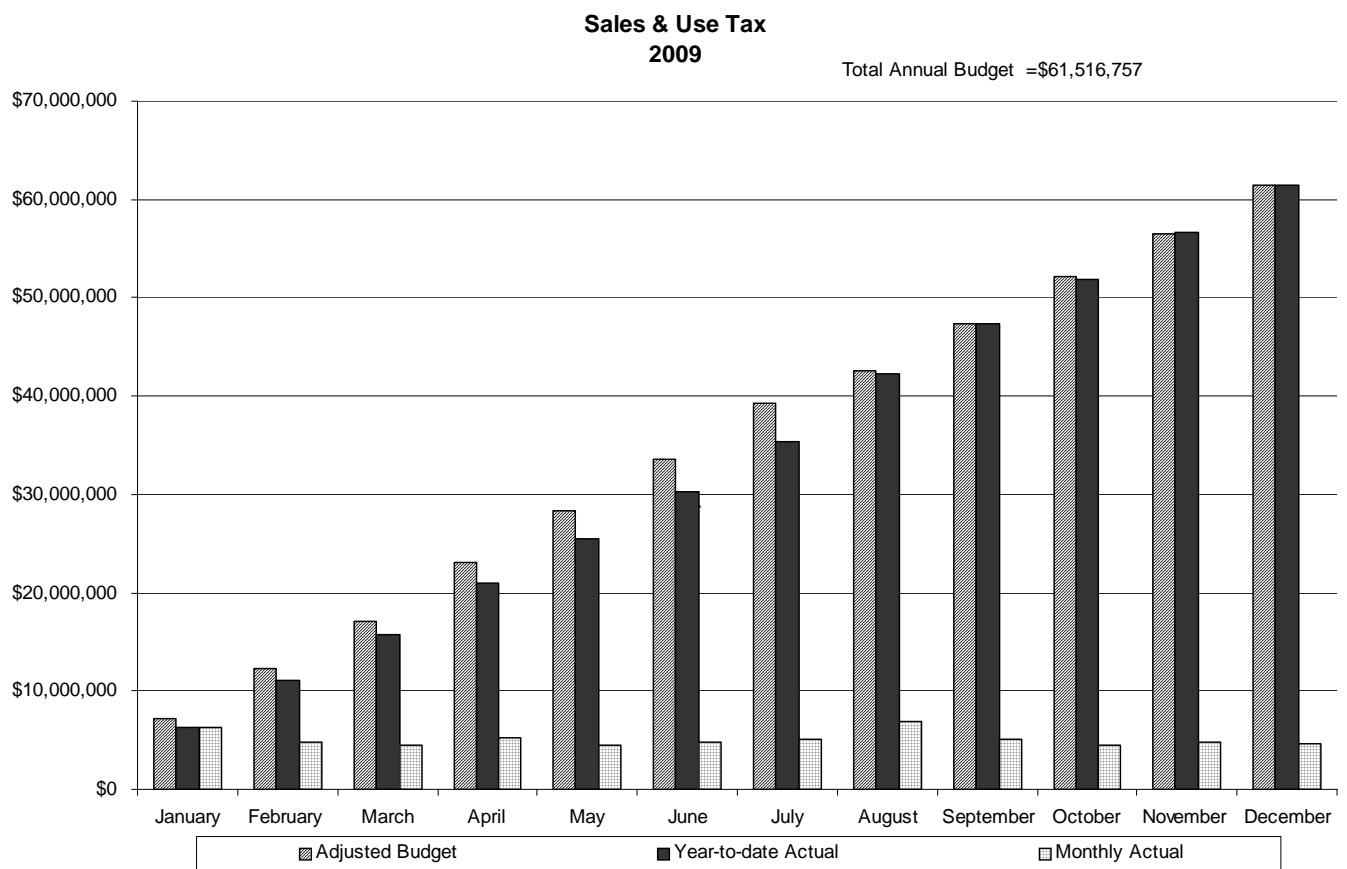
Significant variances in General Fund departmental expenditure categories are explained as follows:

- The increase in Central Charges is primarily due to the transfer made to establish the General Fund Stabilization Reserve and a decrease in the Carryover transfer to the General Capital Improvement Fund.

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

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

This chart indicates how the City’s Sales and Use Tax revenues are being collected on a monthly basis. An appropriation of Carryover in the amount of \$2,357,889 is included in this depiction. This chart does not include Open Space Sales & Use Tax.

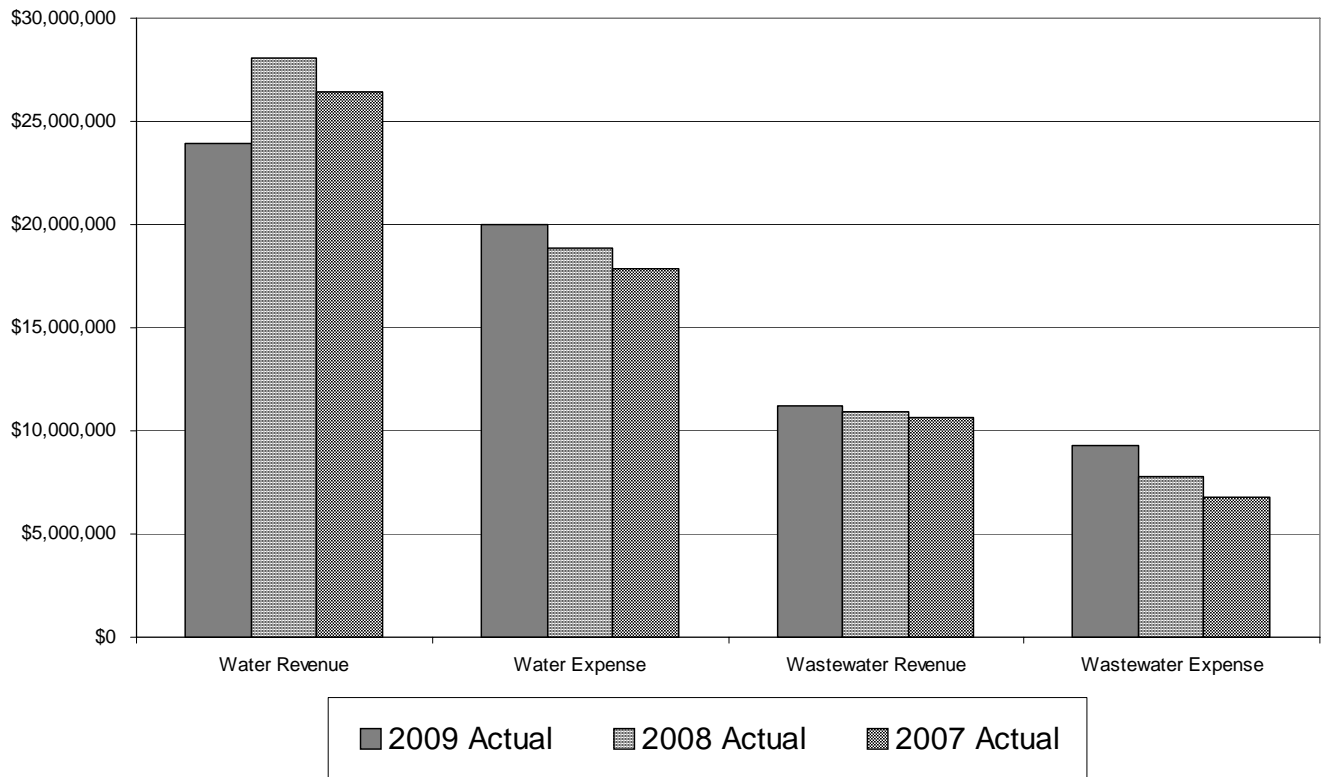


Water, Wastewater and Storm Water Drainage Funds (The Utility Enterprise)

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

These graphs represent the revenue and expense information for the Water and Wastewater funds.

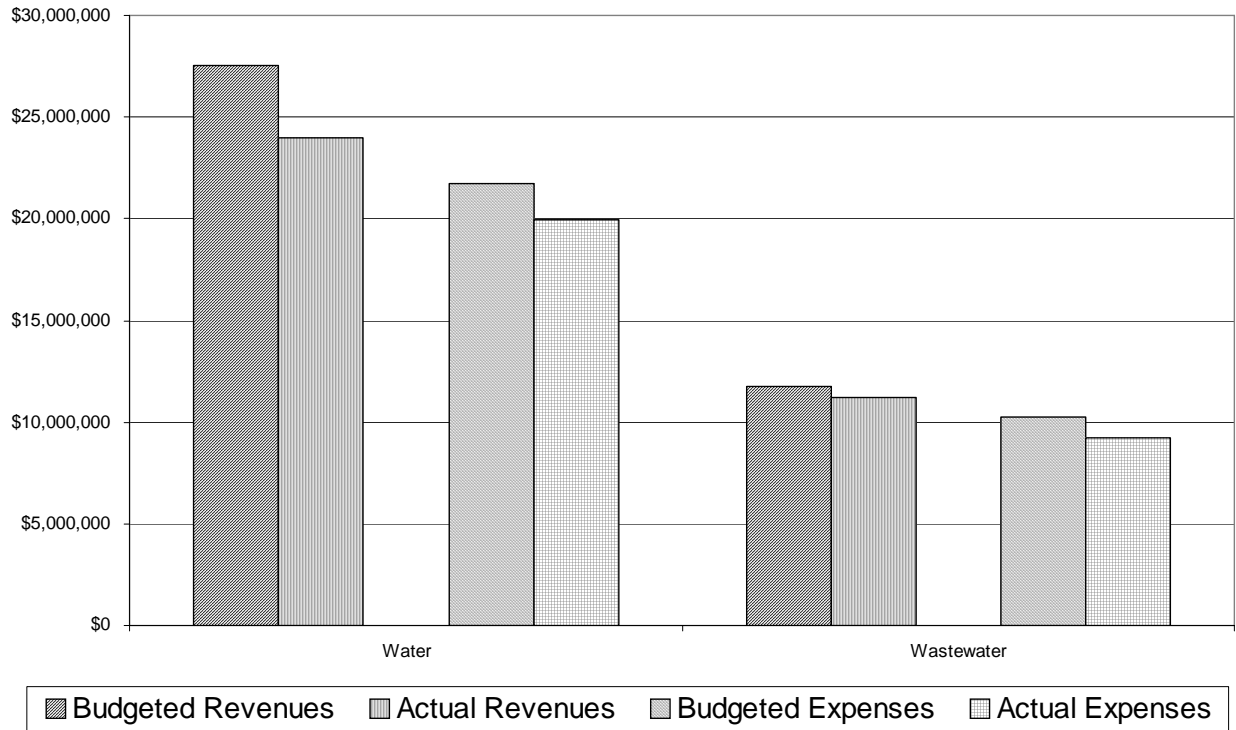
**Water and Wastewater Funds
Operating Revenue and Expenses 2007-2009**



Fluctuation in Water Fund revenue between years reflects the effect of weather variations on seasonal demand. The Water Fund expenditure increase in 2009 is the effect of costs related to employee benefits, energy payments, contract services charges and Zebra Mussel control efforts.

Expenses in the Wastewater Fund reflect a \$1.9M payment to Metro Wastewater Reclamation District to bring a portion of the previously contracted wastewater treatment in-house as approved by Council in March.

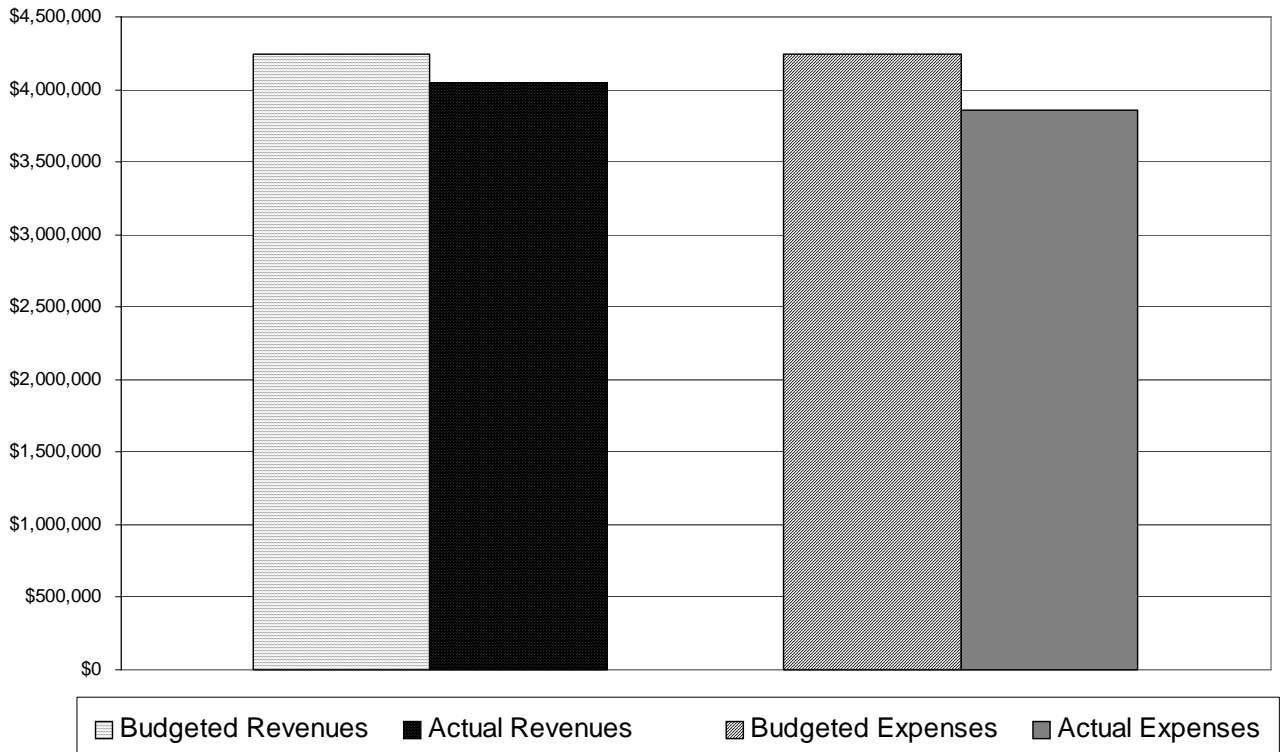
**Water and Wastewater Funds
2009 Operating Budget vs Actual**



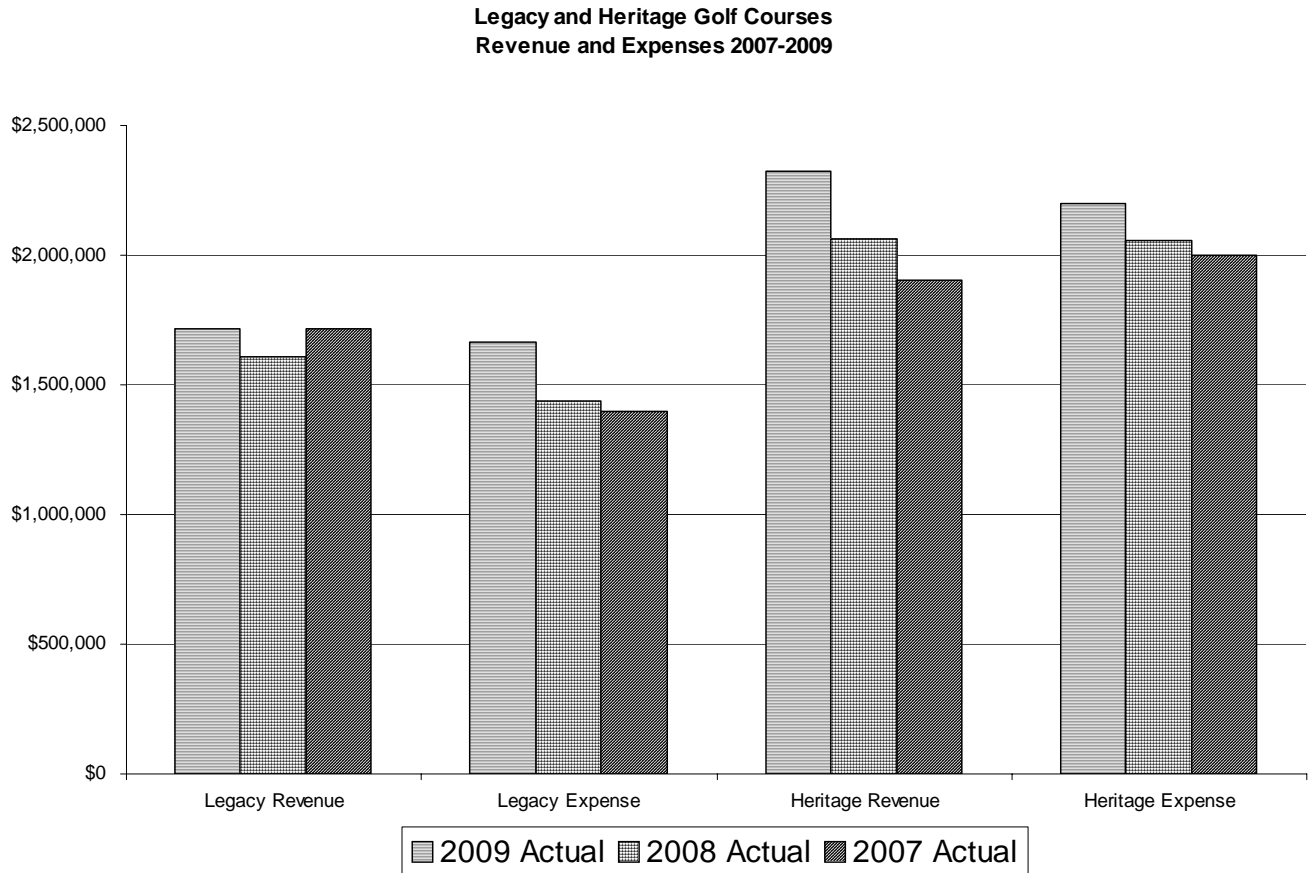
Golf Course Enterprise (Legacy and Heritage Golf Courses)

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

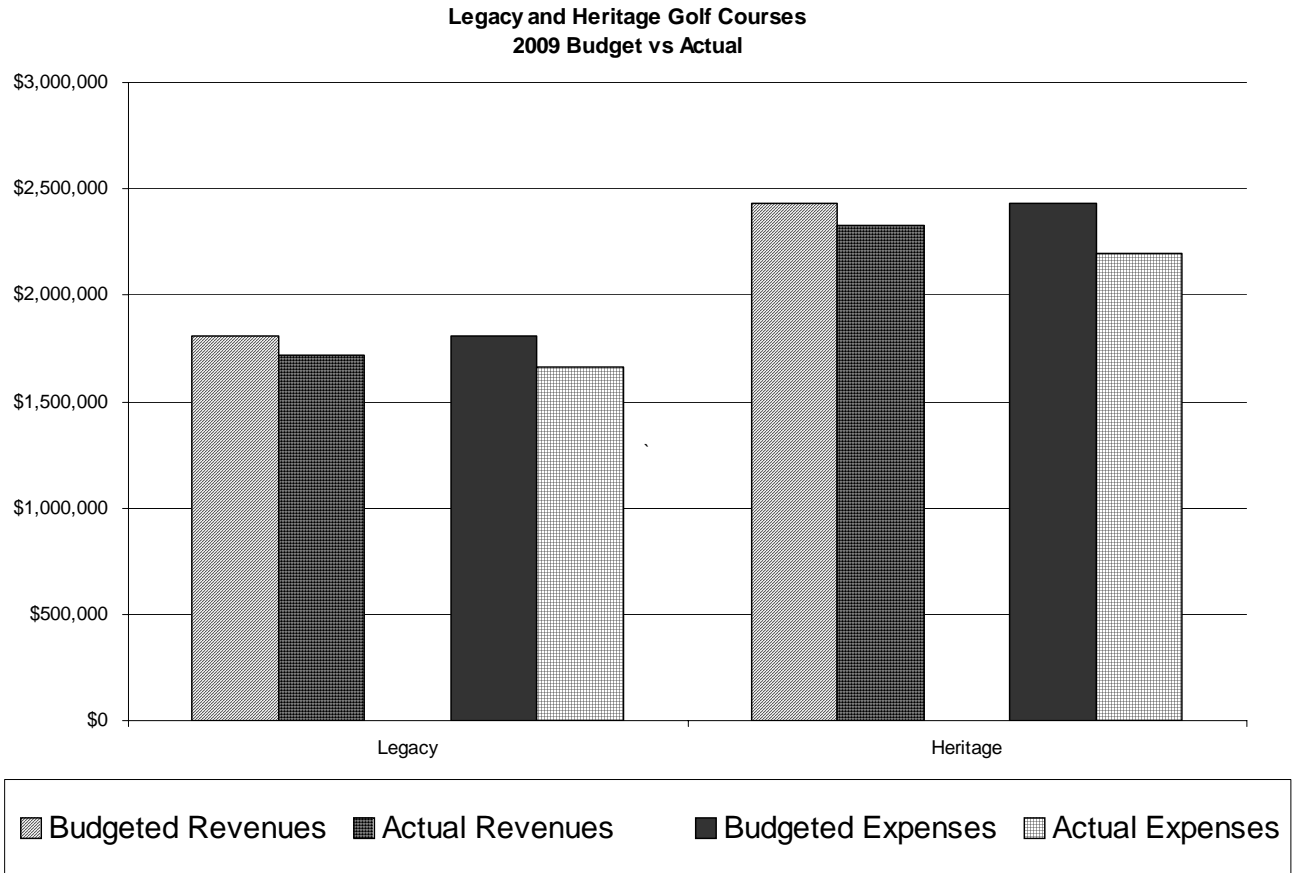
**Combined Golf Courses
2009 Budget vs Actual**



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



Allocation of \$192,312 in Carryover from Legacy to Heritage, a transfer that Heritage receives to help pay outstanding bonds and lease financing of a new golf cart fleet impacts this revenue representation. Elimination of these items would indicate a decrease in operating revenues from 2008 of \$249,051 at Legacy and \$189,624 at Heritage.



Respectfully submitted,

J. Brent McFall
City Manager

Attachments

**City of Westminster
Financial Report
For Twelve Months Ending December 31, 2009**

Description General Fund	Budget	Notes	Actual	(Under) Over Budget	% Budget
Revenues and Carryover					
Taxes	6,089,541		5,801,717	(287,824)	95.3%
Licenses & Permits	1,597,600		1,117,876	(479,724)	70.0%
Intergovernmental Revenue	5,221,427		4,945,097	(276,330)	94.7%
Charges for Services					
Recreation Services	5,910,792		5,650,699	(260,093)	95.6%
Other Services	9,256,084		7,868,301	(1,387,783)	85.0%
Fines	2,211,050		2,056,100	(154,950)	93.0%
Interest Income	515,000		351,050	(163,950)	68.2%
Misc	1,785,006	(1)	2,560,572	775,566	143.4%
Leases	295,925		317,983	22,058	107.5%
Interfund Transfers	59,601,420	(2)	59,629,431	28,011	100.0%
Other Financing Sources	584,990		562,530	(22,460)	96.2%
Sub-total Revenues	<u>93,068,835</u>		<u>90,861,356</u>	<u>(2,207,479)</u>	97.6%
Carryover	6,951,071		6,951,071	0	100.0%
Revenues and Carryover	<u>100,019,906</u>		<u>97,812,427</u>	<u>(2,207,479)</u>	97.8%
Expenditures					
City Council	183,819		161,728	(22,091)	88.0%
City Attorney's Office	1,170,579		1,162,720	(7,859)	99.3%
City Manager's Office	1,669,730		1,491,325	(178,405)	89.3%
Central Charges	28,666,349		27,819,480	(846,869)	97.0%
General Services	5,844,397		5,402,800	(441,597)	92.4%
Finance	1,975,712		1,921,384	(54,328)	97.3%
Police	21,348,663		19,858,143	(1,490,520)	93.0%
Fire Emergency Services	11,781,312		11,485,581	(295,731)	97.5%
Community Development	4,351,650		4,026,741	(324,909)	92.5%
Public Works & Utilities	7,523,153		7,180,382	(342,771)	95.4%
Parks, Recreation & Libraries	15,504,542		14,298,360	(1,206,182)	92.2%
Total Expenditures	<u>100,019,906</u>		<u>94,808,644</u>	<u>(5,211,262)</u>	94.8%
Revenues and Carryover					
Over(Under) Expenditures	<u>0</u>		<u>3,003,783</u>	<u>3,003,783</u>	

(1) The Miscellaneous revenue variance reflects the receipt of a prior year Thornton revenue sharing agreement r

(2) The Interfund Transfers variance reflects an unbudgeted payment from the 144th Avenue GID

**City of Westminster
Financial Report
For Twelve Months Ending December 31, 2009**

Description	Budget	Notes	Actual	(Under) Over Budget	% Budget
Sales and Use Tax Fund					
Revenues and Carryover					
Sales Tax					
Sales Tax Returns	41,057,421		38,917,450	(2,139,971)	94.8%
Sales Tx Audit Revenues	697,800		605,350	(92,450)	86.8%
S-T Rev. STX	<u>41,755,221</u>		<u>39,522,800</u>	<u>(2,232,421)</u>	94.7%
Use Tax					
Use Tax Returns	4,784,874		6,397,883	1,613,009	133.7%
Use Tax Audit Revenues	777,018		1,492,745	715,727	192.1%
S-T Rev. UTX	<u>5,561,892</u>		<u>7,890,628</u>	<u>2,328,736</u>	141.9%
Total STX and UTX	<u><u>47,317,113</u></u>		<u><u>47,413,428</u></u>	<u><u>96,315</u></u>	100.2%
Public Safety Tax					
PST Tax Returns	11,482,915		11,099,901	(383,014)	96.7%
PST Audit Revenues	128,840		419,460	290,620	325.6%
Total Rev. PST	<u>11,611,755</u>		<u>11,519,361</u>	<u>(92,394)</u>	99.2%
Total Interest Income	230,000		95,600	(134,400)	41.6%
Carryover	<u>2,357,889</u>		<u>2,357,889</u>	<u>0</u>	100.0%
Total Revenues and Carryover	<u><u>61,516,757</u></u>		<u><u>61,386,278</u></u>	<u><u>(130,479)</u></u>	99.8%
Expenditures					
Central Charges	<u>61,516,757</u>		<u>61,516,757</u>	<u>0</u>	100.0%
Revenues and Carryover Over(Under) Expenditures	<u><u>0</u></u>		<u><u>(130,479)</u></u>	<u><u>(130,479)</u></u>	

**City of Westminster
Financial Report
For Twelve Months Ending December 31, 2009**

Description POST Fund	Budget	Notes	Actual	(Under) Over Budget	% Budget
Revenues					
Sales & Use Tax	4,718,386		4,798,458	80,072	101.7%
Intergovernmental Revenue	540,000		0	0	N/A
Interest Income	31,000		59,437	28,437	191.7%
Sale of Assets	142,996		143,313	317	100.2%
Miscellaneous	88,832		31,892	(56,940)	35.9%
Interfund Transfers	180,000		180,000	0	100.0%
Total Revenues	<u>5,701,214</u>		<u>5,213,100</u>	<u>51,886</u>	101.0%
Expenditures					
Central Charges	5,360,985		4,319,201	(501,784)	89.6%
Park Services	340,229		246,141	(94,088)	72.3%
	<u>5,701,214</u>		<u>4,565,342</u>	<u>(595,872)</u>	88.5%
Over(Under) Expenditures	<u>0</u>		<u>647,758</u>	<u>647,758</u>	

**City of Westminster
Financial Report
For Twelve Months Ending December 31, 2009**

Description	Budget	Notes	Actual	(Under) Over Budget	% Budget
Water and Wastewater Fund-Combined					
Operating Revenues					
License & Permits	75,000		95,040	20,040	126.7%
Intergovernmental Revenue	21,965		15,738	(6,227)	71.7%
Rates and Charges	38,724,370		34,844,361	(3,880,009)	90.0%
Miscellaneous	452,532		181,598	(270,934)	40.1%
Total Operating Revenues	<u>39,273,867</u>		<u>35,136,737</u>	<u>(4,137,130)</u>	89.5%
Operating Expenses					
Central Charges	6,013,371		5,993,860	(19,511)	99.7%
Finance	671,815		643,135	(28,680)	95.7%
Public Works & Utilities	22,368,798		19,907,200	(2,461,598)	89.0%
Parks, Recreation & Libraries	157,226		99,920	(57,306)	63.6%
Information Technology	2,808,228		2,590,896	(217,332)	92.3%
Total Operating Expenses	<u>32,019,438</u>		<u>29,235,011</u>	<u>(2,784,427)</u>	91.3%
Operating Income (Loss)	<u>7,254,429</u>		<u>5,901,726</u>	<u>(1,352,703)</u>	
Other Revenue and Expenses					
Tap Fees	7,020,000		2,150,283	(4,869,717)	30.6%
Interest Income	1,600,000		1,168,654	(431,346)	73.0%
Interfund Transfers	21,785,020		21,785,020	0	100.0%
Sale of Assets	0		12,740	12,740	N/A
Carryover	4,895,770		4,895,770	0	100.0%
Debt Service	(6,303,419)		(5,718,259)	585,160	90.7%
Reserve Transfer	(4,508,135)		(4,508,135)	0	100.0%
Total Other Revenue (Expenses)	<u>24,489,236</u>		<u>19,786,073</u>	<u>(4,703,163)</u>	80.8%
	<u>31,743,665</u>		<u>25,687,799</u>	<u>(6,055,866)</u>	

**City of Westminster
Financial Report
For Twelve Months Ending December 31, 2009**

Description	Budget	Notes	Actual	(Under) Over Budget	%
Water Fund					
Operating Revenues					
License & Permits	75,000		95,040	20,040	126.7%
Intergovernmental Revenue	21,965		15,738	(6,227)	71.7%
Rates and Charges	27,006,370		23,664,942	(3,341,428)	87.6%
Miscellaneous	442,532		177,060	(265,472)	40.0%
Total Operating Revenues	<u>27,545,867</u>		<u>23,952,780</u>	<u>(3,593,087)</u>	87.0%
Operating Expenses					
Central Charges	4,268,956		4,270,994	2,038	100.0%
Finance	671,815		643,135	(28,680)	95.7%
Public Works & Utilities	13,856,961		12,370,991	(1,485,970)	89.3%
Parks, Recreation & Libraries	157,226		99,920	(57,306)	63.6%
Information Technology	2,808,228		2,590,896	(217,332)	92.3%
Total Operating Expenses	<u>21,763,186</u>		<u>19,975,936</u>	<u>(1,787,250)</u>	91.8%
Operating Income (Loss)	<u>5,782,681</u>		<u>3,976,844</u>	<u>(1,805,837)</u>	
Other Revenue and Expenses					
Tap Fees	5,739,000		1,732,093	(4,006,907)	30.2%
Interest Income	900,000		892,703	(7,297)	99.2%
Interfund Transfers	18,249,272		18,249,272	0	100.0%
Sale of Assets	0		12,740	12,740	N/A
Carryover	4,158,733		4,158,733	0	100.0%
Debt Service	(4,798,025)		(4,212,865)	585,160	87.8%
Reserve Transfer	(3,777,996)		(3,777,996)	0	100.0%
Total Other Revenues (Expenses)	<u>20,470,984</u>		<u>17,054,680</u>	<u>(3,416,304)</u>	83.3%
Increase (Decrease) in Net Assets	<u>26,253,665</u>		<u>21,031,524</u>	<u>(5,222,141)</u>	

**City of Westminster
Financial Report
For Twelve Months Ending December 31, 2009**

Description	Budget	Notes	Actual	(Under) Over Budget	% Budget
Wastewater Fund					
Operating Revenues					
Rates and Charges	11,718,000		11,179,419	(538,581)	95.4%
Miscellaneous	10,000		4,538	(5,462)	45.4%
Total Operating Revenues	<u>11,728,000</u>		<u>11,183,957</u>	<u>(544,043)</u>	95.4%
Operating Expenses					
Central Charges	1,744,415		1,722,866	(21,549)	98.8%
Public Works & Utilities	8,511,837		7,536,209	(975,628)	88.5%
Total Operating Expenses	<u>10,256,252</u>		<u>9,259,075</u>	<u>(997,177)</u>	90.3%
Operating Income (Loss)	<u>1,471,748</u>		<u>1,924,882</u>	453,134	
Other Revenue and Expenses					
Tap Fees	1,281,000		418,190	(862,810)	32.6%
Interest Income	700,000		275,951	(424,049)	39.4%
Interfund Transfers	3,535,748		3,535,748	0	100.0%
Carryover	737,037		737,037	0	100.0%
Debt Service	(1,505,394)		(1,505,394)	0	100.0%
Reserve Transfer	(730,139)		(730,139)	0	100.0%
Total Other Revenues (Expenses)	<u>4,018,252</u>		<u>2,731,393</u>	<u>(1,286,859)</u>	68.0%
Increase (Decrease) in Net Assets	<u><u>5,490,000</u></u>		<u><u>4,656,275</u></u>	<u><u>(833,725)</u></u>	

**City of Westminster
Financial Report
For Twelve Months Ending December 31, 2009**

Description	Budget	Notes	Actual	(Under) Over Budget	% Budget
Storm Drainage Fund					
Revenues and Carryover					
Charges for Services	1,900,000		1,998,127	98,127	105.2%
Interest Income	0		81,384	81,384	N/A
Miscellaneous	0		4,508	4,508	N/A
Sub-total Storm Drainage Revenues	<u>1,900,000</u>		<u>2,084,019</u>	<u>184,019</u>	109.7%
Carryover	298,413		298,413	0	100.0%
Total Revenues and Carryover	<u>2,198,413</u>		<u>2,382,432</u>	<u>184,019</u>	108.4%
Expenses					
General Services	92,000		83,193	(8,807)	90.4%
Community Development	140,000		109,558	(30,442)	78.3%
Park Services	200,000		127,682	(72,318)	63.8%
Public Works & Utilities	396,000		303,240	(92,760)	76.6%
Total Expenses	<u>828,000</u>		<u>623,673</u>	<u>(204,327)</u>	75.3%
Increase (Decrease) in Net Assets	<u>1,370,413</u>		<u>1,758,759</u>	<u>388,346</u>	

**City of Westminster
Financial Report
For Twelve Months Ending December 31, 2009**

Description	Budget	Notes	Actual	(Under) Over Budget	% Budget
Golf Courses Combined					
Revenues and Carryover					
Carryover	0		0	0	N/A
Charges for Services	2,968,142		2,698,921	(269,221)	90.9%
Interest Income	0		23,198	23,198	N/A
Interfund Transfers	835,272	(1)	881,330	46,058	105.5%
Other Financing Sources	439,745		439,745	0	100.0%
Total Revenues and Carryover	<u>4,243,159</u>		<u>4,043,194</u>	<u>(199,965)</u>	95.3%
Operating Expenses					
Central Charges	197,920		210,484	12,564	106.3%
Recreation Facilities	3,545,674		3,150,371	(395,303)	88.9%
Total Operating Expenses	<u>3,743,594</u>		<u>3,360,855</u>	<u>(382,739)</u>	89.8%
Operating Income (Loss)	499,565		682,339	182,774	136.6%
Other Expense					
Debt Service	499,565		499,565	0	100.0%
Increase (Decrease) in Net Assets	<u>0</u>		<u>182,774</u>	<u>182,774</u>	0.0%

(1) The Interfund Transfers variance reflects an unbudgeted payment from the General Capital Improvement Fund

**City of Westminster
Financial Report
For Twelve Months Ending December 31, 2009**

Description	Budget	Notes	Actual	(Under) Over Budget	% Budget
Legacy Ridge Fund					
Revenues and Carryover					
Carryover	(192,312)		(192,312)	0	100.0%
Charges for Services	1,564,013		1,448,347	(115,666)	92.6%
Interest Income	0		23,198	23,198	N/A
Interfund Transfers	218,000		218,000	0	100.0%
Other Financing Sources	219,873		219,873	0	100.0%
Total Revenues and Carryover	<u>1,809,574</u>		<u>1,717,106</u>	<u>(92,468)</u>	94.9%
Operating Expenses					
Central Charges	98,780		112,053	13,273	113.4%
Recreation Facilities	1,710,794		1,550,883	(159,911)	90.7%
Total Operating Expenses	<u>1,809,574</u>		<u>1,662,936</u>	<u>(146,638)</u>	91.9%
Increase (Decrease) in Net Assets	<u>0</u>		<u>54,170</u>	<u>54,170</u>	0.0%

**City of Westminster
Financial Report
For Twelve Months Ending December 31, 2009**

Description	Budget	Notes	Actual	(Under) Over Budget	% Budget
Heritage at Westmoor Fund					
Revenues and Carryover					
Carryover	192,312		192,312	0	100.0%
Charges for Services	1,404,129		1,250,574	(153,555)	89.1%
Interfund Transfers	617,272	(1)	663,330	46,058	107.5%
Other Financing Sources	219,872		219,872	0	100.0%
Total Revenues and Carryover	<u>2,433,585</u>		<u>2,326,088</u>	<u>(107,497)</u>	95.6%
Operating Expenses					
Central Charges	99,140		98,431	(709)	99.3%
Recreation Facilities	1,834,880		1,599,488	(235,392)	87.2%
Total Operating Expenses	<u>1,934,020</u>		<u>1,697,919</u>	<u>(236,101)</u>	87.8%
Operating Income	499,565		628,169	128,604	125.7%
Other Expense					
Debt Service	<u>499,565</u>		<u>499,565</u>	0	100.0%
Increase (Decrease) in Net Assets	<u>0</u>		<u>128,604</u>	<u>128,604</u>	N/A

(1) The Interfund Transfers variance reflects an unbudgeted payment from the General Capital Improvement Fund

CITY OF WESTMINSTER
 GENERAL RECEIPTS BY CENTER
 MONTH and YEAR-TO-DATE DECEMBER 2009

Center Location Major Tenant	/----- Current Month -----/			/----- Last Year -----/			/--- %Change ---/		
	General Sales	General Use	Total	General Sales	General Use	Total	Sales	Use	Total
WESTFIELD SHOPPING CENTER NW CORNER 92ND & SHER WALMART 92ND	391,818	1,120	392,938	379,422	2,827	382,249	3	-60	3
THE ORCHARD 144TH & I-25 JC PENNEY/MACY'S	332,314	5,596	337,910	304,017	10,991	315,008	9	-49	7
INTERCHANGE BUSINESS CENTER SW CORNER 136TH & I-25 WALMART 136TH	245,839	582	246,421	254,976	689	255,665	-4	-16	-4
SHOPS AT WALNUT CREEK 104TH & REED TARGET	215,249	2,072	217,321	196,312	1,701	198,013	10	22	10
NORTHWEST PLAZA SW CORNER 92 & HARLAN COSTCO	193,327	1,625	194,953	181,937	300	182,237	6	442	7
SHOENBERG CENTER SW CORNER 72ND & SHERIDAN WALMART 72ND	191,160	359	191,519	183,838	615	184,453	4	-42	4
WESTMINSTER MALL 88TH & SHERIDAN 3 DEPARTMENT STORES	189,207	881	190,087	284,119	1,625	285,745	-33	-46	-33
BROOKHILL I & II N SIDE 88TH OTIS TO WADS HOME DEPOT	174,144	708	174,853	173,015	5,288	178,302	1	-87	-2
SHERIDAN CROSSING SE CORNER 120TH & SHER KOHL'S	173,101	567	173,668	174,897	1,007	175,903	-1	-44	-1
PROMENADE SOUTH/NORTH S/N SIDES OF CHURCH RANCH BLVD SHANE/AMC	104,539	13,573	118,112	106,838	23,204	130,042	-2	-42	-9
ROCKY MOUNTAIN PLAZA SW CORNER 88TH & SHER GUITAR STORE	110,478	4,470	114,948	59,440	145	59,585	86	2993	93
CITY CENTER MARKETPLACE NE CORNER 92ND & SHERIDAN BARNES & NOBLE	101,835	725	102,560	174,628	1,391	176,019	-42	-48	-42
VILLAGE AT THE MALL S SIDE 88TH DEPEW-HARLAN TOYS 'R US	99,808	390	100,198	126,616	633	127,249	-21	-38	-21
NORTH PARK PLAZA SW CORNER 104TH & FEDERAL KING SOOPERS	97,504	546	98,050	99,762	220	99,982	-2	148	-2
STANDLEY SHORES CENTER SW CORNER 100TH & WADS KING SOOPERS	64,986	143	65,129	65,426	0	65,426	-1	*****	0

CITY OF WESTMINSTER
 GENERAL RECEIPTS BY CENTER
 MONTH and YEAR-TO-DATE DECEMBER 2009

Center Location Major Tenant	Current Month			Last Year			%Change		
	General Sales	General Use	Total	General Sales	General Use	Total	Sales	Use	Total
WESTMINSTER CROSSING 136TH & I-25 LOWE'S	52,167	18	52,185	57,457	38	57,494	-9	-51	-9
STANDLEY LAKE MARKETPLACE NE CORNER 99TH & WADSWORTH SAFEWAY	45,270	118	45,388	53,842	5,170	59,012	-16	-98	-23
WESTMINSTER PLAZA FEDERAL-IRVING 72ND-74TH SAFEWAY	44,754	243	44,997	48,841	261	49,102	-8	-7	-8
VILLAGE AT PARK CENTRE NW CORNER 120TH & HURON CB & POTTS	36,653	105	36,757	40,612	176	40,788	-10	-41	-10
LUCENT/KAISER CORRIDOR 112-120 HURON - FEDERAL LUCENT TECHNOLOGY	3,762	30,192	33,954	3,332	36,977	40,309	13	-18	-16
WILLOW RUN 128TH & ZUNI SAFEWAY	33,319	176	33,496	47,169	369	47,538	-29	-52	-30
RANCHO PLAZA SE CORNER 72ND & FEDERAL RANCHO LIBORIO	32,942	0	32,942	26	0	26	27335	*****	27335
MISSION COMMONS W SIDE WADSWORTH 88-90TH BIG 5 SPORTS	22,363	215	22,577	24,406	88	24,494	-8	143	-8
ELWAY/DOUGLAS CORRIDOR NE CORNER 104TH & FED ELWAY MOTORS	21,681	243	21,924	5,377	36	5,414	303	568	305
NORTHVIEW 92ND AVE YATES TO SHERIDAN SALTGRASS	21,190	113	21,302	20,276	102	20,379	5	10	5
	<u>2,999,409</u>	<u>64,780</u>	<u>3,064,188</u>	<u>3,066,581</u>	<u>93,853</u>	<u>3,160,434</u>	<u>-2</u>	<u>-31</u>	<u>-3</u>

CITY OF WESTMINSTER
 GENERAL RECEIPTS BY CENTER
 MONTH and YEAR-TO-DATE DECEMBER 2009

Center Location Major Tenant	/----- YTD 2009 -----/	General Sales	General Use	Total	/----- YTD 2008 -----/	General Sales	General Use	Total Sales	%Change	---/ Use Total
WESTFIELD SHOPPING CENTER NW CORNER 92ND & SHER WALMART 92ND	4,239,769	55,259	4,295,028	4,616,262	28,585	4,644,847	-8	93	-8	
THE ORCHARD 144TH & I-25 JC PENNEY/MACY'S	3,528,125	162,695	3,690,820	2,646,821	321,641	2,968,463	33	-49	24	
INTERCHANGE BUSINESS CENTER SW CORNER 136TH & I-25 WALMART 136TH	2,788,639	19,739	2,808,378	2,637,544	84,439	2,721,984	6	-77	3	
SHOPS AT WALNUT CREEK 104TH & REED TARGET	2,526,552	49,527	2,576,079	2,522,552	18,715	2,541,267	0	165	1	
NORTHWEST PLAZA SW CORNER 92 & HARLAN COSTCO	2,421,881	13,599	2,435,480	2,441,443	25,905	2,467,348	-1	-48	-1	
WESTMINSTER MALL 88TH & SHERIDAN 3 DEPARTMENT STORES	2,407,757	15,485	2,423,243	3,302,541	60,161	3,362,702	-27	-74	-28	
SHOENBERG CENTER SW CORNER 72ND & SHERIDAN WALMART 72ND	2,160,739	8,038	2,168,777	1,188,584	6,983	1,195,567	82	15	81	
BROOKHILL I & II N SIDE 88TH OTIS TO WADS HOME DEPOT	2,047,588	19,285	2,066,873	2,212,091	40,562	2,252,653	-7	-52	-8	
CITY CENTER MARKETPLACE NE CORNER 92ND & SHERIDAN BARNES & NOBLE	1,871,008	15,391	1,886,399	2,412,575	27,900	2,440,474	-22	-45	-23	
SHERIDAN CROSSING SE CORNER 120TH & SHER KOHL'S	1,857,375	21,316	1,878,691	1,522,933	44,660	1,567,593	22	-52	20	
PROMENADE SOUTH/NORTH S/N SIDES OF CHURCH RANCH BLVD SHANE/AMC	1,361,185	177,725	1,538,910	1,521,388	286,981	1,808,368	-11	-38	-15	
NORTH PARK PLAZA SW CORNER 104TH & FEDERAL KING SOOPERS	1,260,619	7,624	1,268,243	1,308,207	6,909	1,315,117	-4	10	-4	
VILLAGE AT THE MALL S SIDE 88TH DEPEW-HARLAN TOYS 'R US	1,021,216	4,675	1,025,890	1,213,288	6,313	1,219,601	-16	-26	-16	
STANDLEY SHORES CENTER SW CORNER 100TH & WADS KING SOOPERS	852,267	3,270	855,537	846,675	8,292	854,967	1	-61	0	
WESTMINSTER CROSSING 136TH & I-25 LOWE'S	765,532	6,111	771,643	760,204	2,672	762,876	1	129	1	

CITY OF WESTMINSTER
 GENERAL RECEIPTS BY CENTER
 MONTH and YEAR-TO-DATE DECEMBER 2009

Center Location Major Tenant	/----- YTD 2009 -----/			/----- YTD 2008 -----/			/--- %Change ---/		
	General Sales	General Use	Total	General Sales	General Use	Total	Sales	Use	Total
ROCKY MOUNTAIN PLAZA SW CORNER 88TH & SHER GUITAR STORE	752,278	8,008	760,286	724,330	4,360	728,690	4	84	4
WESTMINSTER PLAZA FEDERAL-IRVING 72ND-74TH SAFEWAY	588,263	5,503	593,766	664,043	29,037	693,080	-11	-81	-14
STANDLEY LAKE MARKETPLACE NE CORNER 99TH & WADSWORTH SAFEWAY	555,664	9,321	564,985	642,100	11,905	654,005	-13	-22	-14
WILLOW RUN 128TH & ZUNI SAFEWAY	500,537	3,278	503,815	597,461	3,890	601,351	-16	-16	-16
VILLAGE AT PARK CENTRE NW CORNER 120TH & HURON CB & POTTS	484,124	2,803	486,927	508,452	11,091	519,543	-5	-75	-6
RANCHO PLAZA SE CORNER 72ND & FEDERAL RANCHO LIBORIO	347,732	24,750	372,482	661	0	661	52488	*****	56231
ELWAY/DOUGLAS CORRIDOR NE CORNER 104TH & FED ELWAY MOTORS	298,099	6,035	304,135	322,999	5,992	328,991	-8	1	-8
NORTHVIEW 92ND AVE YATES TO SHERIDAN SALTGRASS	283,978	48,735	332,713	299,408	23,627	323,035	-5	106	3
MISSION COMMONS W SIDE WADSWORTH 88-90TH BIG 5 SPORTS	280,128	1,604	281,732	263,459	2,990	266,448	6	-46	6
BOULEVARD SHOPS 94TH & WADSWORTH CORRIDOR AMERICAN FURNITURE WAREHOUSE	261,774	2,383	264,157	274,085	1,454	275,539	-4	64	-4
	<u>35,462,830</u>	<u>692,158</u>	<u>36,154,989</u>	<u>35,450,103</u>	<u>1,065,065</u>	<u>36,515,169</u>	0	-35	-1



Agenda Item 8 B

WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
January 25, 2010



SUBJECT: Quarterly Insurance Claim Report: October - December 2009

Prepared By: Martee Erichson, Risk Management Officer

Recommended City Council Action

Accept the Fourth Quarter 2009 Insurance Claims Report.

Summary Statement

- The attached report provides detailed information on each claim including the City's claim number, date of loss, claimant's name and address, a summary of the claim, and the claim's status. Since all claims represent a potential liability to the City, Risk Management Staff works closely with the City Attorney's Office on litigated claims to make sure that the interests of both the City and the citizen are addressed in each instance. The listing of the claims in this report is provided in accordance with Westminster Municipal Code 1-30-3.
- In accordance with Code provisions, the Risk Management Officer, acting as the City Manager's designee, has the authority to settle claims of less than \$30,000. However, under the City's contract with the Colorado Intergovernmental Risk Sharing Agency (CIRSA), CIRSA acts as the City's claims adjustor and settlement of claims proceed with the concurrence of both CIRSA and the Risk Management Officer. The City retains the authority to reject any settlement recommended by CIRSA, but does so at the risk of waiving its insurance coverage for such claims.

Expenditure Required: \$ 0

Source of Funds: N/A

Policy Issue

None identified

Alternative

None identified

Background Information

Information on the status of each claim received during the 4th quarter of 2009 is provided on the attached spreadsheet. All Incident Report forms are signed and reviewed by appropriate supervisors, Safety Committee representatives and department heads. Follow up action, including discipline if necessary, is taken on incidents where City employees are at fault.

For the fourth quarter of 2009, Staff has noted the following summary information:

- Five of the seven claims reported in the fourth quarter of 2009 are closed at this time.
- Total claims for the quarter and year-to-date breakdown by department as follows:

	4th Qtr 2009			YTD
Department	Total Claims	Open	Closed	Total
CD	1	0	1	8
Fire	1	0	1	1
Police	1	0	1	16
PR&L	0	0	0	15
PWU - Streets	2	1	1	7
PWU - Utilities	2	1	1	20
TOTAL	7	2	5	67

The Risk Management program addresses Council’s Strategic Plan goals of Financially Sustainable City Government and Safe and Secure Community by working to mitigate the cost of claims to the City and maintaining a loss control program to keep our City streets and facilities safe for the general public.

Respectfully submitted,

J. Brent McFall
City Manager

Attachment

**Quarterly Insurance Report
October - December 2009**

Claim Number	Loss Date	Dept.	Claimant	Address	Claim Description	Payment	Status	Notes
2009-327	10/18/2009	FD	Jack Leger	2563 W 108th Pl., Westminster CO 80234	Driver of Fire Engine 1 hit a parked vehicle belonging to the claimant.	\$7,129.41	Closed	
2009-349	10/20/2009	CD	Susan Roome	8863 W 86th Ave., Arvada CO 80005	Claimant had her new roof inspected and alleges the City inspector scratched her new gutters during the inspection.	\$25.00	Closed	
2009-333	10/28/2009	PWU - Util	Bob Chappel	185 1st St., Firestone CO 80520	Employee driving City truck and plowing snow in the Semper parking lot, slid on ice into claimant's vehicle as claimant was exiting the parking lot.	\$2,090.12	Closed	
2009-343	10/28/2009	PWU - Streets	William Ortiz	9465 Lowell Blvd., Westminster CO 80031	Claimant alleges his parked vehicle was damaged when an employee driving a City snowplow, plowed snow and ice into the vehicle.	\$0.00	Open	CIRSA Investigating.
2009-335	10/30/2009	PWU - Streets	Ramona Fingersh	9709 Otis Dr., Westminster CO 80021	Claimant alleges injury when she slipped on snow/ice and fell while walking her son to school on an Open Space trail.	\$0.00	Closed	Claim denied based on Colorado Governmental Immunity Act and investigation found no evidence of negligence on the part of the City.
2009-393	11/7/2009	PD	Andrew Carson	6122 W 113th Ave., Westminster CO 80020	Claimant alleges City's negligence in the death of his dog. The claimant's dog mauled another dog and was put into a 10-day quarantine at Table Mountain Animal Shelter. The dog allegedly lost 10 pounds in quarantine and later died of pneumonia.	\$0.00	Closed	Claim denied due to no negligence on the part of the City.
CLAIM SUBMITTED RECENTLY WITH OCCURRENCE DATE PRIOR TO 4th QUARTER 2009:								
2009-025	1/23/2009	PWU - Util	Adams Co School District / Mountain View HS	12500 Huron St., Westminster CO 80234	A contractor installing electric lines hit a water main while directional boring, flooding the nearby high school track. A City employee allegedly did not properly mark the water line.	\$0.00	Open	CIRSA negotiating damage amount.
Total						\$9,244.53		



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
January 25, 2010



SUBJECT: Deicing Salt Purchase

Prepared By: Pat Sexton, Street Maintenance Supervisor
Ray Porter, Street Operations Manager

Recommended City Council Action

Authorize the purchase of rock salt from the two low quote vendors Independent Salt Company and Envirotech Services, Inc. in an amount not to exceed \$324,000.

Summary Statement

- Deicing salt is purchased as a deicing product to ensure safer travel for the motoring public.
- 2010 bids for salt were obtained through the Multiple Assembly of Procurement Officials (MAPO). Independent Salt Company has agreed to extend the MAPO contract through July 15, 2010 for \$61.74 per ton.
- The 2010 State of Colorado low bid for deicing salt, (ice slicer) with Envirotech Services, Inc has been quoted at \$89.95 per ton.
- Staff estimates that 4,334 tons of deicing salt will be utilized during 2010.
Envirotech Services, Inc. – 2,000 tons
Independent Salt Company – 2,334 tons
- The \$324,000 authorization requested will allow for the purchase of 4,334 tons of deicing salt. If the City experiences significant snow and ice conditions and these materials are used up, Staff will need to request additional spending authority.
- Splitting this purchase between the two vendors has proven to expand available resources and the two products are mixed 50/50 to decrease the overall price per ton (\$75.85).
- Adequate funds are budgeted and available for these purchases.

Expenditure Required: \$324,000

Source of Funds: General Fund – Public Works and Utilities Street Operations Budget

Policy Issue

Should City Council authorize the purchase of deicing salt from the two available vendors, Independent Salt Company and Envirotech Services, Inc., in an amount not to exceed \$324,000?

Alternatives

One alternative is to not purchase deicing materials, which is not recommended as keeping the streets safe for the motoring public during the winter months is of the highest priority.

A second alternative is to re-bid the salt purchase. This alternative is not recommended since Staff believes the unit cost of salt and the vendors will remain the same. Locking into one vendor increases the chance for non-delivery and running out of the product.

Background Information

The City has successfully purchased salt through the MAPO bid and CDOT bid in past years with no problems. These expenditures are within the approved 2010 Public Works and Utilities Street Operations Division budgeted amount for these items. Deicing salt costs increased 11% over the 2009, primarily due to increased transportation costs.

Once the entire 2010 budgeted \$324,000 allotment for deicing salt is depleted, (depending on the severity of the remaining winter season) additional funding in 2010 may be required. At this writing, Westminster's stockpile is at 80% capacity. Staff will make a recommendation to City Council if such a situation should arise.

This purchase helps achieve City Council's strategic plan goal of a "Safe and Secure" community by meeting the objective of safe citizen travel throughout the City.

Respectfully submitted,

J. Brent McFall
City Manager



**WESTMINSTER
COLORADO**

Agenda Memorandum

City Council Meeting
January 25, 2010



SUBJECT: Disposable Medical Supplies Purchase

Prepared By: Richard Spahn, Emergency Medical Services Coordinator

Recommended City Council Action

Based on the recommendation of the City Manager, find that the public interest will be best served by a negotiated contract with a single vendor, BoundTree Medical, for the purchase of disposable medical supplies, and authorize the Fire Department to purchase, as needed, disposable medical supplies from BoundTree Medical during calendar years 2010 and 2011, subject to 2011 Budget appropriations, in an amount not to exceed \$108,000 per year.

Summary Statement

- Operation of the City's ambulance program requires purchases of disposable medical supplies for use in patient treatment. Disposable medical supplies are items routinely used such as bandages, intravenous supplies, immobilization equipment and oxygen delivery devices.
- Based on a competitive bidding process Council previously awarded a contract to Boundtree on March 9, 2009. In accordance with City purchasing policies, commodities may be purchased from the same vendor for up to a three year period before rebidding.
- As indicated in the attached letter, BoundTree Medical has agreed to honor the 2009 pricing for disposable medical supplies unless there is a manufacture increase during calendar years 2010 and 2011. Increases in pricing from a manufacturer will be documented and passed on to the City. Changes in pricing will not take effect until approval is received in writing from Fire Department Staff.
- Medical supply purchases are made frequently throughout the year and the department anticipates spending more than \$50,000 with this vendor. The Westminster Municipal Code requires that all purchases over \$50,000 be brought to City Council for formal consideration.

Expenditure Required: Not to exceed \$108,000

Source of Funds: General Fund - Fire Department Operating Budget

Policy Issue

Should the City continue to purchase disposable medical supplies from BoundTree Medical, accepting their proposal of honoring the 2009 pricing for up to a two-year period ending December 2011?

Alternative

Re-bid disposable medical supplies: This is not recommended based on the products, quality, costs, and working relationship with this vendor. It is Staff's recommendation to continue utilizing this vendor for the purchase of disposable medical supplies through 2011.

Background Information

The Fire Department has purchased disposable medical supplies from BoundTree Medical since July 2003. BoundTree has continually demonstrated exceptional customer service. Regional representatives are based locally and are readily accessible in times of need.

BoundTree offers an electronic tracking system that facilitates the ordering and inventory process minimizing Fire Department staff hours required to perform this task manually. Based on the past experience working with BoundTree Medical, Fire Department Staff is recommending the continued use of BoundTree Medical for the purchase of the bulk of disposable medical supplies.

Respectfully submitted,

J Brent McFall
City Manager

Attachment - BoundTree Agreement Letter

December 7, 2009

City of Westminster, Fire Administration
9110 Yates Street
Westminster, CO 80031

To Whom It May Concern:

In reference to your proposed pricing, we agree to keep the current pricing firm unless there is a manufacturer increase. Any increases in pricing from a manufacturer will be documented and passed onto you with the same percentage increase. We will not make changes in your pricing until approval is received in writing from you. This agreement shall be effective to January 1, 2012.

Please contact me via phone (800-533-0523 ext 5233) or email (bmoore@boundtree.com) if you need additional information. You can also contact your Account Manager, Bobby Lewis, via phone (970-381-7465) or email (blewis@boundtree.com).

We look forward to our continued business relationship!

Sincerely,

Bethany Moore
Manager, Bids/Contracts



Agenda Item 8 E

WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
January 25, 2010



SUBJECT: Hybrid Vehicles Purchase from State Bid

Prepared By: Jeffery H. Bowman, Fleet Manager

Recommended City Council Action

Based on the results of the Colorado State Bid, award the bid for four Toyota Prius hybrids totaling \$89,048 to Go Toyota.

Summary Statement

- City Council action is requested to award four light duty vehicle purchases based on the State of Colorado bid for light duty vehicles. Three vehicles will be for the Police Department, including Investigations and Neighborhood Services, and one vehicle will be for Community Development, Building Inspections.
- The City saves considerable dollars by purchasing vehicles through the State Bid whenever possible.
- All vehicles recommended for purchase have been previously authorized by City Council in the 2010 Budget.

Expenditure Required: \$89,048

Source of Funds: General Capital Outlay Replacement Fund

Policy Issue

Should the City approve the use of the Colorado State Bid for purchase of the vehicles outlined in this agenda memorandum?

Alternatives

1. Reject the Colorado State Bid and instruct City Staff to re-bid vehicles. This is not recommended because the State Bid reflects the purchasing power of all the political subdivisions in the State.
2. Do not purchase some or all of the proposed replacement vehicles in 2010. This is not recommended because all of these vehicles have a maintenance history that makes it impractical to keep them in regular service, based on Fleet Maintenance recommendations.

Background Information

As part of the 2010 Budget, City Council approved the purchase of these four light duty vehicles. The light duty vehicles to be replaced are outlined in the graph below. The maintenance costs do not include accident repairs or fuel costs. These vehicles are used to inspect building sites, transport employees and to collect improperly posted signage around the City. These vehicles have reached a point where it is no longer economically reasonable to maintain them in service. Information regarding each vehicle being replaced and the replacement recommendation is as follows:

DEPARTMENT	OLD UNIT #	YEAR	OLD MAKE/MODEL	MILES	MAINTENANCE COSTS (LTD)	NEW MAKE/MODEL	PRICE	AWARD
Community Development	2402	1999	Chevrolet S-10	114,042	\$9,194	Toyota Prius Hybrid	\$22,394	Go Toyota
Police Neighborhood Services	2142	2000	Chevrolet Malibu	94,249	\$13,427	Toyota Prius Hybrid	\$22,218	Go Toyota
Police Neighborhood Services	2143	1996	Chevrolet Corsica	90,290	\$16,429	Toyota Prius Hybrid	\$22,218	Go Toyota
Police ITS Investigations	8582	1996	Chevrolet Lumina	84,210	\$12,439	Toyota Prius Hybrid	\$22,218	Go Toyota

The City buys Toyota Prius Hybrid cars whenever the hybrid vehicle makes operational sense. The Toyota Prius may be the most recognized gas/electric hybrid vehicle available today. Purchasing four additional Prius cars will bring the total number to nine in the City Fleet. Visibility of City owned hybrid cars provides an opportunity for citizens to easily recognize the City of Westminster’s commitment to fuel conservation.

The total cost of these purchases is within the amount that City Council previously approved for these six vehicles. This project meets Council’s Strategic Plan goals of Safe and Secure Community, Financially Sustainable City Government and Beautiful City by maintaining a cost effective, dependable fleet of vehicles.

Respectfully submitted,

J. Brent McFall
City Manager



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
January 25, 2010



SUBJECT: 2010 Water Treatment Chemicals Purchase

Prepared By: Joe Lachermeier, Purchasing Officer
Tom Settle, Water Treatment Superintendent
Tim Woodard, Wastewater Treatment Superintendent

Recommended City Council Action

Award the bids for the purchase of Ferric Chloride to PVS Technologies in an amount not to exceed \$319,000, the purchase of 12.5% Sodium Hypochlorite to DPC Industries in an amount not to exceed \$154,500, and the purchase of Polymer to Polydyne Inc. in an amount not to exceed \$52,820. Based on the report and recommendation of the City Manager, determine that the public interest will be best served by awarding Lime to Mississippi Lime Company in an amount not to exceed \$85,760, and 25% of the annual usage of Sodium Hypochlorite to Treatment Technologies in an amount not to exceed \$40,500.

Summary Statement

- Adequate funds for the purchase of water treatment chemicals were included in the approved 2010 Utilities Operations Division Budget.
- Four chemicals will be purchased in large quantities in 2010. They are Ferric Chloride, Lime, Sodium Hypochlorite and Polymer.
- In January 2009, the Multiple Assembly of Procurement Officials (MAPO) issued a bid for water treatment chemicals. Pricing was updated in December 2009. This bid is being recommended for the purchase of Ferric Chloride and Sodium Hypochlorite (12.5 % solution).
- Polymer was bid competitively in September of 2009 through the commodity bidding process for the City of Westminster.
- Lime is being awarded as a negotiated sole-source purchase from Mississippi Lime.
- Sodium Hypochlorite (10% solution) is being awarded as a negotiated sole-source purchase from Treatment Technologies.
- Adequate funds have been budgeted and are available for these purchases.

Expenditure Required: Not to exceed \$652,580

Source of Funds: Utility Fund – Utilities Operations Division Budget

Policy Issue

Should the City accept the MAPO bids for water treatment chemicals?

Alternative

Reject the MAPO bids and re-bid the chemicals. This is not recommended as the bids received through MAPO are valid bids that the City would most likely not to be able to improve upon.

Background Information

As part of the 2010 Budget, City Council approved the purchase of treatment chemicals for the City’s water and wastewater treatment facilities. Information regarding each chemical and its approximate annual usage and bid price follows:

CHEMICAL	APPROXIMATE QUANTITY	PRICE	EXTENDED PRICE	VENDOR
Ferric Chloride	500 Tons	\$638.00 Ton	\$319,000	PVS Technologies
Lime	400 Tons	\$214.40 Ton	\$85,760	Mississippi Lime
12% Sodium Hypochlorite	150,000 Gallons	\$1.03 Gallon	\$154,500	DPC Industries
10% Sodium Hypochlorite	45,000 Gallons	\$0.90 Gallon	\$40,500	Treatment Technologies
Polymer	19 Tons	\$2,780 Ton	\$52,820	Polydyne Inc.
		Total	\$652,580	

Ferric Chloride is used for coagulation/clarification in the treatment process at the Semper Water Treatment Facility. Lime is used for control of the pH and alkalinity of the water to minimize corrosion of distribution system pipes and home plumbing. Polymer is used for dewatering biosolids at the Big Dry Creek Wastewater Facility prior to digestion and land application and as a coagulation aid in the Reclaimed Water Treatment Facility. Sodium Hypochlorite is used for disinfection in all of the treatment facilities. A 12.5% solution of Sodium Hypochlorite is used at the Semper Plant.

Staff recommends purchasing the supply of the 10% solution Sodium Hypochlorite for the Northwest Water Treatment Facility (NWTF) and the Reclaimed Water Treatment Facility (RWTF) from Treatment Technologies to ensure an alternative supplier. The reason to ensure an alternative supplier is that chemical shortages have occurred the past couple of years, and it is easier to get supplies of critical chemicals if the City is an existing customer. There are only two manufacturers of Sodium Hypochlorite in the Rocky Mountain Region. The usage numbers for all the chemicals are approximate since this is for the whole year, and factors such as weather and water demand are unpredictable. The approximate usage figures are based on last year’s actual usage.

Forty-eight chemicals were put out on the MAPO bid. Ten water chemical vendors responded to the bid notification. They were Dimmit Sulfur Products LTD; DPC Industries, Inc.; General Chemical; Industrial Chemical Corp.; Peak Polymer Performance, Inc.; Polydyne Inc.; Prominent Systems Inc.; PVS Technologies, Inc; SNR Enterprises; and Thatcher Company.

There was only a single bid for Lime in the original MAPO bid. The vendor was contacted to ascertain the source of the chemical and confirm quality specifications. The Lime to be supplied under the bid will contain an unacceptable level of sand-type inert material that provides no benefit in the treatment process and will foul the chemical feed equipment. The City sought additional bids for material meeting the quality specifications. Mississippi Lime provided the sole bid meeting the material requirements.

Proposal for the purchase of polymer compounds were received by the City in August 2009 for a three-year purchase. Four bids were received, with the successful bidder being Polydyne, Inc. supplying Clarifloc CE-1404.

The low bids for the four primary chemicals, Ferric Chloride to PVS Technologies in the annual approximate amount of \$319,000, Lime to Mississippi Lime Company in the annual approximate amount of \$85,760, 12.5% Sodium Hypochlorite to DPC Industries in the annual approximate amount of \$154,500, Polymer to Polydyne in the annual approximate amount of \$52,820 and an alternative source for Sodium Hypochlorite to Treatment Technologies in the annual approximate amount of \$40,500 meets all specifications and requirements set by the City. The annual estimated cost of the chemicals is within the amount previously approved by City Council for this expense.

These purchases meet Council's Strategic Plan goals of Safe and Secure Community, Financially Sustainable City Government and Beautiful City by keeping the City's water supply clean and safe and improving the service level of the treatment plants at the best possible price.

Respectfully submitted,

J. Brent McFall
City Manager



Agenda Item 8 G

WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
January 25, 2010



SUBJECT: Police Department Patrol Vehicles Purchase

Prepared By: Jeffery H. Bowman, Fleet Manager

Recommended City Council Action

Award the bid for twelve Police Department patrol vehicles to Spradley Barr Ford, in the amount of \$275,472.72.

Summary Statement

- City Council action is requested to award the bid for twelve Police patrol cars, based on the City of Westminster's solicitation to eight Denver area dealerships for patrol vehicles.
- Of the five dealerships that responded to the request for bids, Spradley Barr Ford submitted the lowest price. Their bid meets all of the specifications in the City's bid request.
- City Council previously approved \$302,400 in the 2010 General Capital Outlay Replacement Fund (GCORF) budget to purchase these vehicles.

Expenditure Required: \$275,472.72

Source of Funds: General Capital Outlay Replacement Fund

Policy Issue

Should the City proceed with the purchase of twelve Police Department patrol vehicles?

Alternatives

1. Reject the City's recent solicitation to eight area dealerships and instruct City Staff to re-bid vehicles to additional state dealerships. This is not recommended because the recent City bid reflects a competitive bid process that provided eight dealerships the opportunity to compete fairly to provide the twelve patrol cars.
2. Purchase the Ford Crown Victoria off of the Colorado State Bid. This is not recommended, because the State Bid was written to meet general specifications for multiple jurisdictions and does not meet the vehicle standard that Westminster currently uses. There are five options included as a minimum specification on the State Bid that Westminster does not require. These differences prompted the City to conduct a separate bid.
3. Do not purchase some or all of the proposed replacement vehicles in 2010. This is not recommended because all of these vehicles will have a maintenance history that makes it impractical to keep them in regular service, based on Fleet Maintenance recommendations.

Background Information

As part of the 2010 Budget, City Council funded the purchase twelve patrol vehicles. The patrol units will be replaced on a "to be determined" basis, based on the condition and maintenance history of each of the vehicles currently in operation. Replaced units are sent to auction; none are kept in the fleet in other capacities. There are currently fifty marked patrol units in the fleet.

The State of Colorado sends out a request for bids for vehicles every year to car dealers in Colorado. This bid request was sent out in September of 2009 and received responses from Colorado vendors. After carefully reviewing the bid specifications, it was determined that the bid was too broad in scope in that it included items that were not necessary, yet excluded some items that City Staff have determined should be standard. Some items included on the State Bid that the Westminster Police Department does not require are two engine block heaters, carpeting, cruise control, individual key sets, trunk packs and large diameter wheel covers. After this was considered, it was determined that a bid that was specific to Westminster's needs should be solicited.

Westminster Police Department and Fleet Division recommend buying Ford Crown Victoria Interceptor patrol cars, even though the City of Westminster's light duty fleet is primarily General Motors. Ford is the only manufacturer who builds a body-on-frame, rear wheel drive, V8 car, specifically designed for heavy duty applications. Currently, General Motors only builds a front wheel drive, V-6 in a patrol car platform.

Staff recommends purchasing twelve Ford Crown Victoria marked units on the Westminster bid at the price of \$23,077.56 each for eleven black and white cars and \$21,619.56 for the twelfth, solid back car. The State bid price of \$23,428 per car, results in \$351 savings per Police patrol car over the Colorado State Bid award. A summary of the bid results is as follows:

Vendor Name	Spradley Barr Ford	Sill-Terrhar Ford	Lakewood Fordland	Phil Long Ford	Go Courtesy Ford	Burt Ford	O'Meara Ford	Brighton Ford
1ea.) Street Price:	\$21,619.56	\$21,769.00	\$21,876.00	\$22,000.00	\$24,522.00	No-Bid	No-Bid	No-Bid
11ea.) Patrol Price:	\$23,077.56	\$23,156.00	\$23,320.00	\$23,200.00	\$25,916.42	No-Bid	No-Bid	No-Bid
Discount	Incl.	Incl.	Incl.	Listed as \$5,300	Incl.	No-Bid	No-Bid	No-Bid
Total Price (12 cars)	\$275,472.72	\$276,485.00	\$278,396.00	\$277,200.00	\$309,598.00	No-Bid	No-Bid	No-Bid
Warranty	3/36K & 5/60K	3/36K & 5/60K	3/36 5/60	3/36 5/60	3/36 5/60	No-Bid	No-Bid	No-Bid
Delivery Time	60-90 Days March-April	April & June	12- 14 weeks	3/31/2010	5/15/2010	No-Bid	No-Bid	No-Bid
Extras	Delayed Warranty Start							

The present condition and maintenance history of the vehicles to be replaced would make it impractical to continue to operate them in regular service based on Fleet Maintenance replacement criteria, which are based on a combination of vehicle age, maintenance costs, utilization, cost per mile to operate, and depreciation.

This recommended purchase meets Council’s Strategic Plan goals of Financially Sustainable City Government and Safe and Secure Community by keeping a highly dependable fleet of Police vehicles on the street and obtaining the best possible price for these vehicles.

Respectfully submitted,

J. Brent McFall
City Manager



Agenda Item 8 H

WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
January 25, 2010



SUBJECT: Library Materials Budget Expenditures

Prepared By: Kate Skarbek, 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 for the purchase of library books in an amount not to exceed \$150,000 in 2010.

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. In most instances, however, Baker and Taylor offers the lowest prices.
- Funds were previously appropriated in the 2010 Budget and are available in the General Fund for the purchases.

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 2010?

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 Baker and Taylor (B&T) constitute 45% of the library materials budget expenditures. This vendor consistently provides the City with good customer service and low prices. 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 pricewise. 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, recently introduced an interactive website that is becoming easier to use so throughout the year library staff will monitor whether B&T's website continues to have advantages over Ingram's.

Each year the Library compares pricing and services among the large library vendors of B&T, Ingram, Amazon.com and Midwest Tapes. Services reviewed are the 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 up to 40%.

This purchase request supports the City's Strategic Plan Goal of "Financially Sustainable City Government Provide Exceptional Services."

Respectfully submitted,

J. Brent McFall
City Manager



Agenda Item 8 I

WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
January 25, 2010



SUBJECT: Table Mountain Animal Center Annual Assessment

Prepared By: Mike Cressman, Deputy Chief of Police
Kim Barron, Neighborhood and Support Services Commander

Recommended City Council Action

Authorize payment of \$83,991.28 to Table Mountain Animal Center for the City's 2010 assessment for animal shelter services.

Summary Statement

- On November 25, 1996, City Council authorized the City Manager to enter into an Intergovernmental Agreement (IGA) for the provision of all animal sheltering functions for the City of Westminster to be located at Table Mountain Animal Center (TMAC). Westminster is party to this agreement with Jefferson County, Lakewood, Wheat Ridge, Arvada, Golden, Morrison, Mountain View and Edgewater. The Agreement covers Westminster residents who live in Adams County as well as Jefferson County.
- Annual contributions to the operating costs of TMAC are shared by these nine entities and are determined by an assessment based on population. The intergovernmental agreement restricts these assessments paid to TMAC to no more than 50% of the annual operating costs. The remaining amount is to be obtained through fundraising efforts.
- The amount requested is within the funds authorized by City Council for this item in the 2010 budget.

Expenditure Required: \$83,991.28

Source of Funds: 2010 General Fund – Police Department Operating Budget

Policy Issue

Should City Council authorize the expenditure of \$83,991.28 for Westminster's 2010 assessment of operating costs for Table Mountain Animal Center?

Alternative

The City could examine alternatives to obtaining animal sheltering services from Table Mountain Animal Center. Staff has examined alternatives for this service in the past and has not found a more cost effective option. Staff will continue to seek alternatives that will provide improved service for our customers.

Background Information

In November 1996, City Council directed the City Manager to enter into an agreement with Table Mountain Animal Center for the provision of all animal sheltering functions, effective January 1, 1997. This intergovernmental agreement set out the method for calculating each participating agencies assessment for TMAC operating expenses. An annual operating budget is established by the TMAC Manager and approved by a Board of Directors made up of representatives of each of the nine participating agencies. Each of those participating entities' contribution to that operating budget is determined by population. No more than 50% of TMAC's annual operating budget is funded through these assessments. The remaining amount comes through fundraising efforts by the Table Mountain Animal Center Foundation.

The Table Mountain assessment for 2010 represents a 6.8% increase over 2009. This increase is due primarily to market salary adjustments and medical insurance costs. Funds have been budgeted in the Police Department's 2010 General Fund Operating Budget for this expense.

Construction of a new shelter is underway and is slated for completion in July 2010. The new shelter, located at the Jefferson County Fairgrounds, will be replacing the existing shelter at 4105 Youngfield Service Road, which is being replaced due to its age and condition. Jefferson County is overseeing the construction phase. In addition to the operating expenses, as determined by the annual assessment, funding for the new facility is generated from mandatory dog licensing for all Jefferson County agencies participating in the TMAC IGA, as well as charitable donations and contributions made through the TMAC foundation.

Respectfully submitted,

J. Brent McFall
City Manager



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
January 25, 2010



SUBJECT: Sports Officiating Services Contract

Prepared By: Peggy Boccard, Recreation Services Manager
Viola I. Duran, Recreation Specialist

Recommended City Council Action

Authorize the City Manager to execute a contract with Professional and Recreational Officials of Sports, Inc. for officiating and related services in an amount not to exceed \$85,000 annually.

Summary Statement

- The City's Purchasing Officer issued formal bids through Demand Star for sports officiating services on November 17, 2009. In addition, three vendors were mailed hard copies of the bid packet. Those vendors were Professional and Recreational Officials of Sports, Inc. (P.R.O.S Inc.), Metro Sports, and Aurora Sports Officials. P.R.O.S. Inc., was the only vendor to submit a bid.
- The proposed agreement between the City of Westminster and P.R.O.S. Inc., includes the terms and conditions for P.R.O.S. to provide officiating services for senior and adult programs that are provided by the City.
- The 2010 Recreation Programs Division operating budget contains the necessary funds to contract these professional officiating services. The services to be provided by P.R.O.S., Inc. amount to approximately \$85,000 per year for adult and senior sports and is based on a per game charge. This amount is dependent upon the number of teams that participate in each of our sports programs during the year.
- Revenues for these sports totaled \$238,000 in 2009, and revenues of \$230,000 are projected in 2010.
- Funds are appropriated within the Recreation Programs Division Operating Budget. No additional funding is requested.

Expenditure Required: Not to exceed \$85,000 annually

Source of Funds: General Fund – Recreation Programs Division Operating Budget

Policy Issue

Should the City accept a bid from P.R.O.S. Inc. and enter into a contract for officiating services for the City's recreational leagues?

Alternative

Council could choose to not award the officiating services contract to P.R.O.S. Inc. and ask Staff to re-bid the officiating services in hopes of receiving a lower bid. Staff does not recommend this as the bid received meets all of the City's criteria as well as the officiating needs of the leagues.

Background Information

The Recreation Services Division offers ongoing athletic programs for the senior and adults in the Westminster community. Basketball and softball programs provide recreational team sports opportunities for over 7,200 participants each year. The Recreation Services Division has had a working relationship with P.R.O.S., Inc. for the past 20 years. P.R.O.S. Inc. is the only association in the north metro area that provides officiating services for local municipalities.

P.R.O.S., Inc. is responsible for training, certifying, and scheduling the officials for the following municipalities or recreation districts: Adams County YMCA, Apex, the Cities of Broomfield, Commerce City, Edgewater, Lafayette, Northglenn, Thornton, the Hyland Hills Park and Recreation District and the Town of Superior. P.R.O.S., Inc.'s current charges for services are \$23.75 per game per official for basketball, \$26.75 per game per official for softball, and \$22.75 per game per official for volleyball. An additional fee is charged for a one-game schedule of \$10. Charges are paid on an as-used basis.

This contract supports the City's Strategic Plan Goal of "Financially Sustainable City Government Providing Exceptional Services."

Respectfully submitted,

J. Brent McFall
City Manager



Agenda Item 8 K

WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
January 25, 2010



SUBJECT: 75th Avenue Waterline Construction Contract

Prepared By: Dan Strietelmeier, P.E., Senior Engineer
Andy Walsh, P.E. Senior Engineer

Recommended City Council Action

Authorize the City Manager to execute a contract with Brannan Construction Company in the amount of \$215,570 for construction services related to the 75th Avenue Waterline and authorize a ten percent construction contingency in the amount of \$21,557 for a total construction budget of \$237,127.

Summary Statement

- The Utility System Infrastructure Master Plan identified the need for several improvements to the potable water distribution system to improve pressure, flow and reliability within the system.
- The 75th Avenue Waterline project will include the construction of a new replacement pipeline to improve long term reliability within the City's water distribution system.
- The new waterline will replace an old 6 inch diameter waterline with a 16 inch diameter waterline that will extend along 75th Avenue from Stuart Street to Winona Court (see attached map).
- S.A. Miro and Associates completed the design of this new waterline in 2009.
- The City requested construction bids on September 11, 2009 and received nine bids on October 2, 2009. Brannan Construction Company presented the lowest responsible bid in the amount of \$215,570. This is considerably below the engineer's estimate of \$294,286, continuing to reflect very competitive construction market conditions.
- An easement was acquired for the waterline through the private property at 75th Avenue and Stuart Street in exchange for making improvements to their parking area. A license is in the process of being obtained from the Burlington Northern Sante Fe Railroad for boring of the waterline under railroad right-of-way.
- The construction will occur near Harris Park Elementary School, and after being informed about the project by City Staff the School District requested to have the project begin in May after the semester ends. The project will be completed before the school year begins again in August.
- Adequate funding is available in the 2010 CIP for this project.

Expenditure Required: \$237,127

Source of Funds Utility Fund Capital Improvement Program
- Pressure Zone Enhancements

Policy Issue

Should City Council award the contract for waterline construction to Brannan Construction Company?

Alternatives

The City could choose from the following alternatives:

1. Award the contract to another bidder. This would unnecessarily increase the project costs since the low bidder is responsible and qualified to perform this work.
2. Delay and re-bid the project as currently designed; however, qualified bids were received through a competitive process, and the low bid is well under the engineer's estimate.

Staff does not recommend either of these alternatives.

Background Information

The 2006 Utility System Infrastructure Master Plan recommended improvements to the City's potable water distribution system. Areas of the distribution system have bottlenecks in the waterline network that affect flow and pressure. Future improvements to this area of the City include the addition of a separate pressure zone (zone 13), and the 75th Avenue Waterline will help transmit water across this pressure zone. The southern portion of Westminster's distribution system also contains old pipelines varying in age from new to over 50 years. Westminster's distribution system also contains metallic pipe material (Ductile Iron, Cast Iron and Steel) that are among the older pipes, and their average age is estimated to be in the 25-30 year range. The existing 75th Avenue waterline is an old Ductile Iron pipe and due to the pipe diameter of 6 inches, it has created one of the bottleneck areas in the distribution system. The older metallic pipes have also experienced a relatively high rate of failure (water breaks) that are expected to continue or increase over the long term unless preventive action is taken.

The 75th Avenue Waterline project will replace the old pipe with approximately 600 feet of 16 inch diameter PVC pipe. The project will also include new water service connections for customers along 75th Avenue including the Harris Park Elementary School. The new waterline will be placed in a sleeve and bored under the railroad right-of-way for easier maintenance and replacement in the future. The contractor will be resurfacing the 75th Avenue pavement along the pipeline route to match pavement improvements completed up to the project area last year.

The waterline alignment required easement acquisition as a utility easement currently does not exist. The property owner agreed to grant the easement in exchange for paving the residential parking area on his property.

Bids were solicited on September 11, 2009, and the City received nine qualified bids on October 2, 2009. The bids were evaluated with experience in pipe jacking and boring considered a must. Based on these evaluations, it was determined that Brannan Construction Company provided the most comprehensive and responsive bid that addressed all of the project requirements.

The following is a summary of the bids received:

Contractor	Bid Amount (1)
Brannan Construction	\$215,570
R & D Pipeline	\$248,900
Diamond Excavating Inc.	\$254,118
Northern Colorado Constructors	\$262,000
New Design Construction	\$272,200
BT Construction Inc.	\$275,183
Duran Excavating	\$294,500
E-Z Excavating	\$363,000
Scott Contracting	\$371,799

(1) The bid amounts include allowances for pavement replacement, fill material, utility relocation, and the boring work.

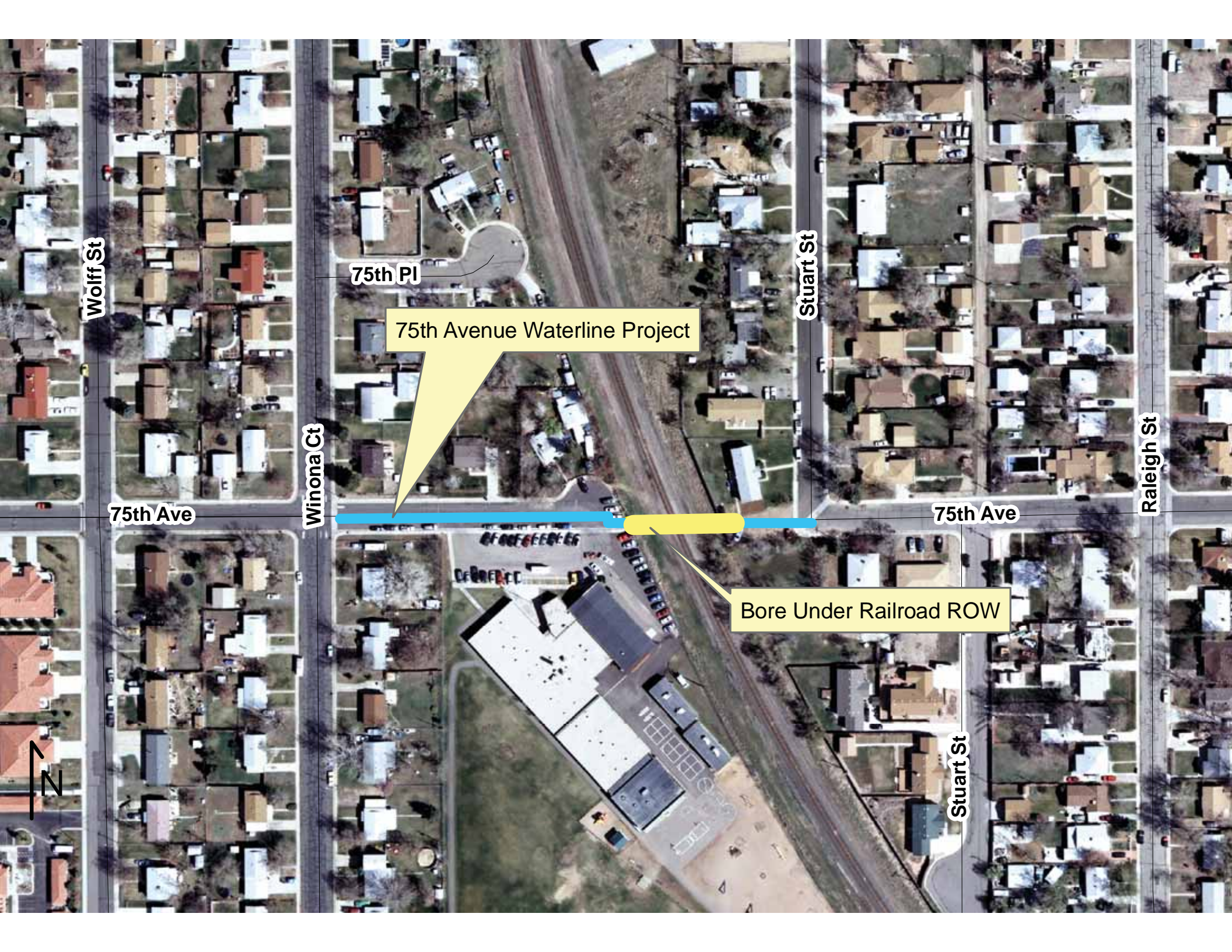
Brannan Companies will serve as the general contractor and S. A. Miro and Associates will provide construction management services under an existing contract. Construction will be initiated in May 2010; however, Brannan Companies would like to be under contract early this year to begin purchasing materials in order to hold costs down.

This project helps achieve the City Council’s Strategic Plan Goal “Financially Sustainable City Government” by contributing to the objective of a well-maintained City infrastructure and facilities. The project also will help maintain a “Beautiful City” by supplying and distributing water for irrigation of Parks, Open Spaces and common areas, and maintain a “Safe and Secure Community” by providing redundancy and adequate fire flows in the water distribution system.

Respectfully submitted,

J. Brent McFall
City Manager

Attachment - Map



Wolf St

Winona Ct

Stuart St

Raleigh St

75th Pl

75th Avenue Waterline Project

75th Ave

75th Ave

Bore Under Railroad ROW

Stuart St





**WESTMINSTER
COLORADO**

Agenda Memorandum

City Council Meeting
January 25, 2010



SUBJECT: 2010 Concrete Replacement Project Contract

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

Recommended City Council Action

Authorize the City Manager to execute a contract for 2010 with options for two additional one-year renewals (2011 and 2012) for Concrete Replacement to the low bidder, Keene Concrete, Inc., in the amount of \$1,396,908 and authorize a contingency of \$106,165 for a total project budget of \$1,503,073.

Summary Statement

- City Council approved adequate funds for this expense in the 2010 Department of Public Works and Utilities, Street Operations Division, Utilities Field Operations Division, General Fund CIP, Public Safety Center Fire Apparatus Parking Pad Concrete Replacement and Community Enhancement Program budgets.
- As proposed, annual contract renewals for 2011 and 2012 will require agreement by both parties and any price adjustments will be based on Consumer Price Index for All Urban Consumers.
- Concrete replacement of 40,000 linear feet of deteriorated curbs, gutters, sidewalks, crosspans and curb ramps will be done on 245 streets earmarked for reconstruction, resurfacing or sealcoating scheduled for 2010 and the Public Safety Center Fire Apparatus Parking Pad.
- Also included in the bid is a Utilities Field Operations expenditure of \$55,159 for curb, gutter and sidewalk replacement required during water main replacement and repair on an as needed basis throughout the year, and a General Fund CIP – Community Enhancement Program expenditure for replacement of two failing brick paver crosswalks located on Promenade South Drive, adjacent to the Westin Hotel.
- Formal bids were solicited from eleven contractors with four responding.
- The low bidder meets all of the City bid requirements.

Expenditure Required: \$1,503,073

Source of Funds: General Fund

- Street Operations Division Operating Budget - \$1,403,572
- Utilities Field Operations Budget - \$55,159

General Capital Improvement Fund

- Community Enhancement Program - \$6,342
- Public Safety Center Fire Apparatus Parking Pad Concrete Replacement - \$38,000

Policy Issue

Should this bid be awarded to the low bidder, Keene Concrete, Inc., for the replacement of concrete curbs, gutters and sidewalks as specified in the contract documents for this project and authorize negotiations for 2011 and 2012 concrete replacement work?

Alternative

The City could chose to not replace concrete on streets earmarked for reconstruction, resurfacing or sealcoating, in which case:

1. Available dollars for asphalt work could increase by \$1,403,572
2. The asphalt improvements would not realize full life expectancy, due to accelerated deterioration where damaged gutters are left
3. Concrete replacement requested by citizens would increase

Staff does not recommend this alternative due to the negative impacts it may have on the City’s overall street program.

Background Information

City Council approved funds in the 2010 Street Operations Division budget to replace 40,000 linear feet of deteriorated curbs, gutters, sidewalks, crosspans, and curb ramps at 245 locations earmarked for street reconstruction, resurfacing or sealcoating.

Included in the 2010 project is replacement of the deteriorated concrete fire apparatus parking pad located in the parking lot east of the Public Safety Center building and replacement of two failing brick paver crosswalks located on Promenade South Drive, adjacent to the Westin Hotel. The crumbling paver crosswalks have become a constant maintenance problem and cause tripping hazards.

Westminster also included concrete replacement bid quantities for Adams Country School District #50 at various school sites. The School District portion of this bid is not reflected in the \$1,503,073 City award and will be administered by the school district.

The contract sum for renewal periods 2010 and 2011 shall be negotiated and agreed to by both parties. Any adjustment shall not exceed the annual percent of change of the Denver-Boulder-Greeley Consumer Price Index for all Urban Consumers. Staff will examine concrete pricing in 2011 and 2012, and if prices have dropped to any substantial degree in either of these years the contract will be rebid.

The following sealed bids were received:

1. Keene Concrete, Inc.	\$1,396,908
2. Thoutt Bros. Concrete Co.	\$1,423,051
3. Concrete Works of Colorado Inc.	\$1,654,695
4. Concrete Express Inc.	\$1,566,499
 City Staff estimate	 \$1,632,146

City Staff’s estimated cost included an increase of 5% over 2009 pricing, Keene’s actual bid price decreased by 11%. The favorable bid can be attributed to the state of the economy, a desirable multi-year contract, and a substantial increase in the quantity of the work bid in 2010 totaling 40,000 linear feet compared to 26,000 linear feet average the past three years.

SUBJECT:

2010 Concrete Replacement Project Contract

Page 3

This contract helps achieve City Council's Strategic Plan Goals of "Financially Sustainable City Government, Safe and Secure Community and Vibrant Neighborhoods and Commercial Area" 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,

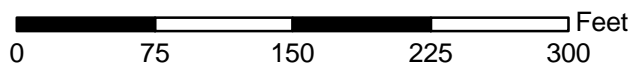
J. Brent McFall
City Manager

Attachments - Maps

Crosswalk Replacements
Westin Hotel - 10600 Promenade South Drive



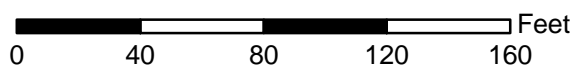
City of Westminster



Fire Apparatus Pad
Public Safety Center - 9110 Yates Street



City of Westminster





WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
January 25, 2010



SUBJECT: Spring 2010 Adams County Open Space Grant Applications

Prepared By: Heather Cronenberg, Open Space Coordinator

Recommended City Council Action:

Authorize the Department of Community Development to pursue two grants with Adams County Open Space during the 2010 spring cycle for the acquisition of Lot 11 at Park Centre located at 122nd Avenue and Park Centre Drive for open space, and for the implementation of the master plan for Metzger Farm located at the northwest corner of 120th Avenue and Federal Parkway.

Summary Statement

- Staff wishes to pursue the acquisition of Lot 11 at Park Centre for open space along with implementation of the master plan for Metzger Farm (see vicinity map). Separate agenda memos will be brought to Council to seek approval for the acquisition and review and approval of the Metzger Farm master plan.
- Staff recommends requesting up to \$983,388 for a grant to match open space bond funds to assist with the acquisition of the 14.5-acre Park Centre property, located at 122nd Avenue and Park Centre Drive. Staff is currently negotiating a purchase price based on a buyer’s appraisal, which is contingent upon the approval of Council and award of an Adams County grant.
- Staff recommends requesting up to \$389,835 for a grant to match open space bond funds to assist with the implementation of the master plan at Metzger Farm located at the corner of 120th Avenue and Lowell Boulevard. Staff is currently finalizing the Metzger Farm master plan and received cost estimates of \$779,670 to complete the improvements per the plan. Construction of the improvements is contingent upon approval of the master plan by Council.
- The Open Space Advisory Board considers the acquisition of the Park Centre property and the implementation of the master plan at Metzger Farm as top priorities.

Expenditure Required: Matching funds in the amount of \$983,388 for the Lot 11 Park Centre acquisition if the City is successful in receiving 100% of the grant funds requested. This represents a 50% local match.

Matching funds in the amount of \$194,918 for the implementation of the master plan at Metzger Farm if the City is successful in receiving 100% of the grant funds requested. The City and County of Broomfield will supply the remaining \$194,918 match as partners in this project. This represents a total 50% local match.

Source of Funds: Open Space Bond Funds

Policy Issue

Should the City attempt to seek assistance with the acquisition of this property and the implementation of the master plan by pursuing grant monies from the Adams County Open Space Grant Program?

Alternative

Council could choose not to pursue additional funding for this acquisition and implementation of the master plan and use Open Space Bond Funds for the entire purchase and construction amounts. However, Staff recommends attempting to secure additional funding through this grant opportunity to allow for open space acquisition and construction assistance.

Background Information

The Department of Community Development has been successful in applying for and receiving grants from a variety of sources in the past. In recent years, the City has received grant money from the Adams County Open Space program for park and trail development projects as well as open space acquisitions. The City has developed a strong partnership with Adams County in its successful use of these grant funds. Some of the recent Adams County open space acquisition grants include: one grant in the amount of \$550,000 for the Savory Farms acquisition in the Fall of 2009, one grant in the amount of \$1,085,000 for the Hawn-Hewit acquisition in the Fall of 2009, one grant in the amount of \$540,000 for the DePalma open space acquisition in the Spring of 2009, two grants for a total amount of \$950,000 for the Doulos Ministries open space acquisition in the Fall of 2007 and the spring of 2008; one grant in 2006 for a total amount of \$775,000 for the Tanglewood Creek open space acquisition; and three grants in 2003 and 2004 for the Metzger Farm Open Space Acquisition totaling \$1,502,500.

The Open Space Advisory Board recently added Lot 11 in Park Centre to the wish list as a priority one acquisition. The property is zoned Business Park in the Comprehensive Land Use Plan (CLUP). Acquisition of this property will expand upon the existing Big Dry Creek open space corridor, provide additional upland wildlife habitat, increase recreational opportunities, and preserve the stunning mountain view from the hilltop. An existing concrete trail crosses the property. This property is currently being marketed for sale within the larger Park Centre development for \$1,966,776. Staff is currently negotiating a purchase price based on a buyer's appraisal, which will be contingent upon the approval of Council and award of an Adams County grant. Staff expects the final purchase price will be lower than the sales price listed above. Staff would like to request up to \$983,388 from Adams County which represents a 50% request.

Staff from Broomfield and Westminster have been working on the master plan for Metzger Farm since the beginning of 2007. A final draft will be brought to the City's Open Space Advisory Board at the end of January and to the Broomfield-Westminster Open Space Foundation at the end of February. Staff expects to bring the draft plan to Council for review in a study session in early March. Because of the timeframe needed to approve the plan, the members of the Foundation encouraged staff to apply for a grant to provide matching funds for the implementation of the master plan during the spring, 2010 Adams County grant cycle so that construction of the improvements can start in the summer of 2010.

The draft master plan provides a total cost estimate of \$779,670 to construct the improvements on the Farm. The improvements include the following: gravel parking lot and trailhead, irrigation reuse line, trail to Big Dry Creek, trail from Lowell Boulevard to the lower pond, site amenities including benches and trash receptacles, first level building stabilization, site and interpretive signage, trail to Crofton Park, trail and overlook at Caulkins ditch, trail to Federal Boulevard underpass, fishing dock and overlook, north pasture fencing, picnic area, perimeter fencing at farmstead, and a north loop trail.

SUBJECT: Spring 2010 Adams County Open Space Grant Applications

Page 3

These grant requests support the City's Strategic Plan Goals of "Financially Sustainable City Government" and "Beautiful City" by increasing revenues that support defined City projects and by providing the City with increased open space.

Respectfully submitted,

J. Brent McFall
City Manager

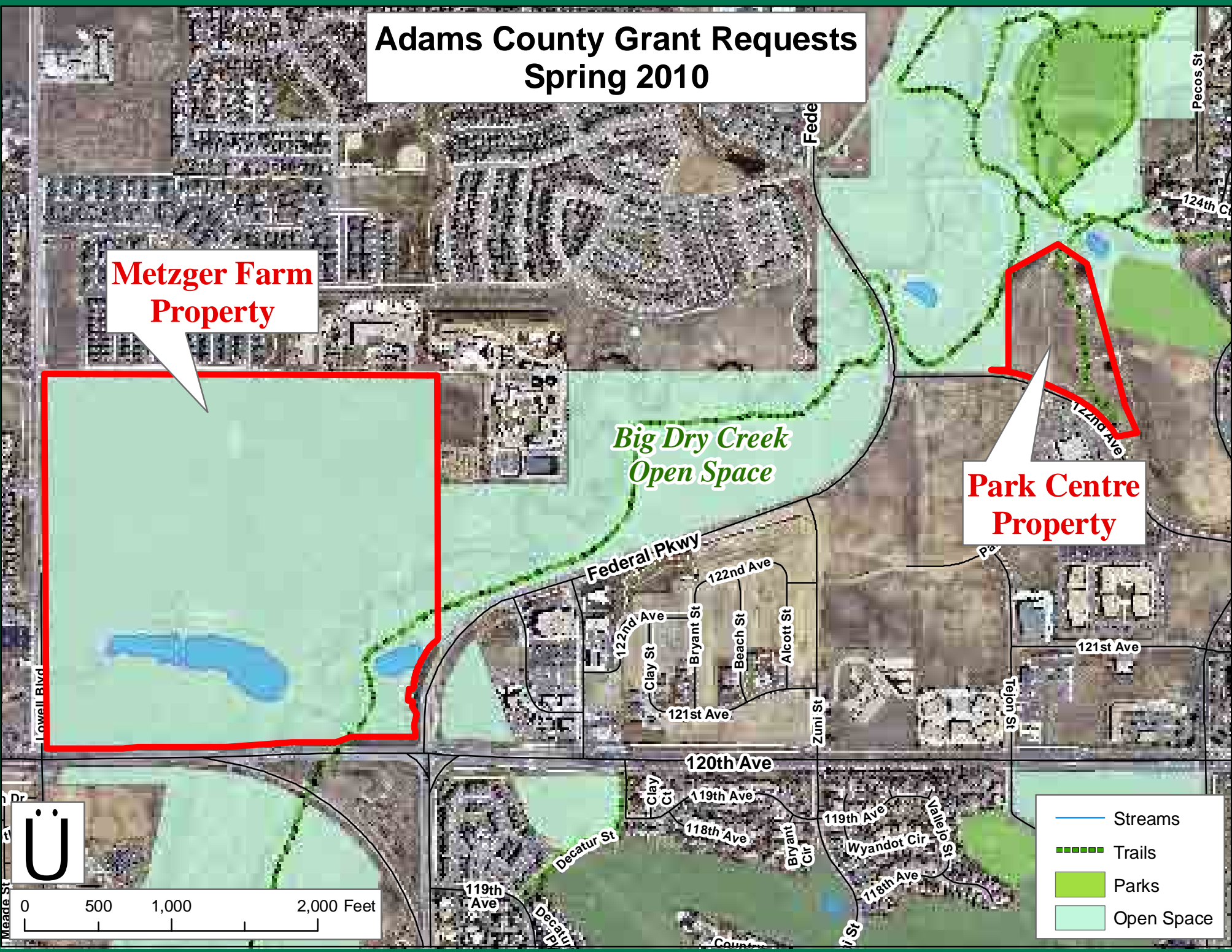
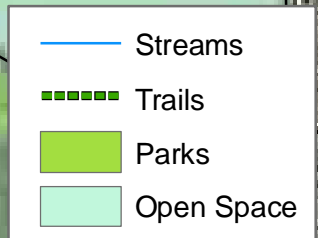
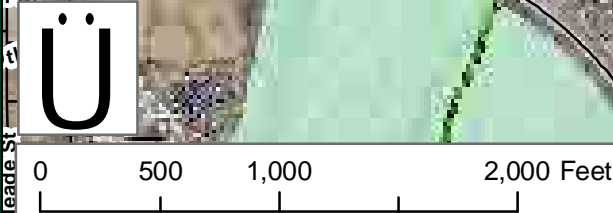
Attachment - Vicinity Map

Adams County Grant Requests Spring 2010

**Metzger Farm
Property**

**Park Centre
Property**

*Big Dry Creek
Open Space*





**WESTMINSTER
COLORADO**

Agenda Memorandum

City Council Meeting
January 25, 2010



SUBJECT: General Capital Improvement Fund Transfer to the Westminster Economic Development Authority Fund for Westminster Center Urban Reinvestment Project Expenses

Prepared By: Tammy Hitchens, Finance Director

Recommended Action

Authorize the transfer of \$7,629,154 to the Westminster Economic Development Authority (WEDA) fund from the General Capital Improvement Fund (GCIF) for the City’s participation in the Westminster Center Urban Reinvestment Plan (WURP) project.

Summary Statement

- The redevelopment of the Westminster Mall site is the City Council’s top strategic plan priority, as outlined in the City’s 5-year Strategic Plan.
- The WURP Urban Renewal Area (URA) plan was approved by City Council on April 13, 2009.
- Over the past several years, the City has accumulated funds in the City’s GCIF to participate in the redevelopment of the Westminster Mall site.
- Although the tax-increment financing “clock” has not started, WEDA is actively working on property assemblage and other aspects of the area’s redevelopment. Because no financing has occurred and no revenue is being generated by this URA, the URA is currently in need of funding for its redevelopment activities.
- Staff recommends transferring the budget in the project of \$7,848,398 and all expenses incurred from January 1, 2009 to present from the City’s GCIF to WEDA. Moving the budget and the expenses will provide for a better tracking for accounting purposes. This transfer will occur in two pieces - \$371,176 as a proposed 2009 budget amendment and \$7,629,154 with the attached resolution. While the City is reserving its right to be reimbursed for costs associated with the WURP project, this transfer will not be classified as a loan.
- This action does not change the total appropriations in the GCIF. Instead it authorizes a reduction of \$7,629,154 to the City Center Redevelopment project appropriations and increases the transfers to WEDA expenditure account.

Expenditure Required: \$7,629,154

Source of Funds: General Capital Improvement Fund
- City Center Redevelopment Capital Project

Policy Issue

Does Council approve the GCIF transferring \$7,629,154 from the City Center Reinvestment capital project to the WEDA fund to fund expenses for the WURP project?

Alternative

Council could choose not to authorize the transfer to WEDA for redevelopment activities. Staff does not support this option, because having expenses in two different funds for one project creates administrative difficulties and does not account for expenses on this project as clearly.

Background Information

The redevelopment of the Westminster Mall site is the City Council’s top strategic plan priority, as outlined in the City’s 5-year Strategic Plan. An urban renewal area designation that provides the ability to exercise the powers allowed for under urban renewal law was approved by City Council on April 13, 2009. A plan for the new urban renewal area, Westminster Center Urban Reinvestment Plan Area (WURP) was also approved by City Council. Adoption of an urban renewal plan allows WEDA to work with the existing owners and businesses and potential developers to better define the vision for the area and to develop an action plan for financing and property assemblage that can make redevelopment a reality. WEDA will also be able to identify those public infrastructure investments that will be needed to allow redevelopment to proceed.

Although the tax-increment financing “clock” has not started, WEDA is actively working on property assemblage and other aspects of the area’s redevelopment. On December 14, 2009, Council authorized the transfer of \$825,000 from the City’s GCIF City Center Redevelopment project to transfer to WEDA to fund redevelopment activities that WEDA has in process. After additional consideration, Staff has determined that it would be prudent to transfer the entire budget in the City Center Redevelopment project to WEDA to keep all expenses related to WURP in one fund. Doing so eliminates the potential for future accounting adjustments. Additionally, Staff is proposing transferring all expenses from January 1, 2009 through present to the WEDA WURP project. A residual amount of \$151,932 for budget and corresponding expenses would remain in the project for previously closed out expenses incurred prior to 2009. An amendment for \$371,176 for the 2009 budget will be presented to Council for consideration as part of the City’s 4th quarter housekeeping supplemental appropriation. Included in this action is the budget amount remaining after allowing for the 2009 amendment.

With Council’s authorization of the transfer, Staff will commence the process of transferring funds to WEDA for redevelopment activities. Because both the GCIF and the WEDA fund are considered governmental funds for financial reporting purposes, the payment will be classified as a transfer. While the City is reserving its right to be reimbursed for the costs associated with the WURP project, the transfer will not be classified as a loan.

The approval of the transfer does not change the total appropriations in the GCIF; however, the following expenditures accounts will be amended:

EXPENSES

Description	Account Number	Current Budget	Amendment	Revised Budget
City Center Reinvestment	80675005040.80400.8888	\$8,000,330	\$(7,629,154)	\$371,176
Transfer to WEDA	75010900.79800.0680	\$0	<u>\$7,629,154</u>	\$7,629,154
Total changes to Expenses			<u>\$0</u>	

Respectfully submitted,

J. Brent McFall
City Manager



Agenda Item 8 O

WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
January 25, 2010



SUBJECT: Second Reading of Councillor's Bill No. 1 re Proposed Amendments to the Westminster Municipal Code Regarding Uses by Special Permit and Other Land Use Regulations

Prepared By: Terri Hamilton, Planner III

Recommended City Council Action

Pass Councillor's Bill No. 1 on second reading making revisions to the Westminster Municipal Code regarding Uses by Special Permit and various conforming changes to procedures, definitions, use categories, special regulations and enforcement.

Summary Statement

- On May 11, 2009 City Council imposed a 180-day moratorium on the submittal and processing of applications for Special Use Permits (SUP) to allow for the review and development by City staff of possible amendments to the City's special use permit process and criteria.
- Due to the volume of changes considered, and the need to meet with various board and commissions prior to bringing ordinance changes forward, City Council extended the moratorium by 90 days, through February 6, 2010.
- Proposed Westminster Municipal Code (Code) revisions will bring consistency between local, state and federal requirements regarding residential group facilities and will eliminate ambiguity between the special use process and the Planned Unit Development (PUD) zoning process.
- Proposed Code revisions primarily relate to policy and procedures relevant to the SUP process and criteria; however, a number of ancillary Code revisions that are "housekeeping" in nature are also required to ensure the policy changes can be implemented (i.e. definition changes, etc.).
- Councillor's Bill No. 1 was approved on first reading by City Council on January 11, 2010.

Expenditure Required: \$ 0

Source of Funds: N/A

Respectfully submitted,

J. Brent McFall
City Manager

Attachment - Ordinance

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. 1

SERIES OF 2010

INTRODUCED BY COUNCILLORS
Dittman - Kaiser

**A BILL
FOR AN ORDINANCE AMENDING TITLES II, V AND XI OF THE WESTMINSTER
MUNICIPAL CODE CONCERNING SPECIAL USE PERMITS**

THE CITY OF WESTMINSTER ORDAINS:

Section 1. Section 2-2-2, W.M.C., is hereby AMENDED BY THE ADDITION OF NEW SUBSECTION (G) to read as follows:

2-2-2: POWERS AND DUTIES: The powers and duties of the Planning Commission shall include, but not be limited to, the following:

(G) The review and determination of all special use permit applications.

Section 2. Section 2-2-4, W.M.C., subsection (B), is hereby AMENDED as follows:

2-2-4: RULES AND REGULATIONS:

(B) The Commission shall make and adopt its own bylaws, subject to the approval of the City Council, which shall include, but not be limited to, the following procedures:

- (1) The election of officers and establishment of the duties of such officers.
- (2) The scheduling and conduct of regular and special meetings and public hearings.
- (3) The submittal of applications and petitions for annexations, development plan approvals, amendments to development plans, zonings and rezonings, variances, special use permits and any matter within the jurisdiction of the Planning Commission.
- (4) The exercise of any of the duties of the Planning Commission set forth in this Code.

Section 3. Section 2-5-2, subsection (B), W.M.C., is hereby AMENDED as follows:

2-5-2: POWERS AND DUTIES:

(B) The Special Permit and License Board shall conduct public hearings, approve or deny applications for licenses, renew or deny renewal of licenses, and cancel, suspend or revoke the following licenses. All decisions of the Board on these licenses are final, subject only to appeal to a court of competent jurisdiction.

- ~~(1):~~ Massage pParlor ~~L~~icenses, pursuant to Chapter 15 of Title V of this Code;
- ~~(2):~~ Escort sService ~~L~~icenses, pursuant to Chapter 19 of Title V of this Code;
- ~~3. Special Use Permits, pursuant to Section 8, Chapter 4 of Title XI of this Code.~~
- ~~(34):~~ Amusement center licenses, pursuant to Chapter 9 of Title V of this Code; and
- ~~(45):~~ Dance hall and cabaret licenses, pursuant to Chapter 16 of Title V of this Code.
- ~~(56):~~ Business licenses, including contractor registrations under review for denial, revocation, or suspension shall be reviewed in a public meeting conducted by the Special Permit and License Board.

Section 4. Chapter 20 of Title V, W.M.C., "FAMILY CARE HOMES, CHILD CARE CENTERS, AND RESIDENTIAL CARE FACILITIES," is hereby DELETED IN ITS ENTIRETY.

Section 5. Sections 11-1-1, 11-1-3, 11-1-4, and 11-1-6, W.M.C., are hereby AMENDED as follows:

11-1-1: PURPOSE: (2534) This Title is enacted to preserve and promote the public health, safety, and welfare of the inhabitants of the City of Westminster and of the public generally and to encourage and facilitate the orderly growth and expansion of the City. This Title combines the provisions more commonly found in separate zoning, subdivision, growth management, building, floodplain, and numerous other ordinances into a single land use and development code that will cover all phases of development from annexation through certificate of occupancy. The intent of the unified approach is to:

(A) Address the changes in the way land development occurs. Current land development practices blur the traditional distinctions between zoning, plan approval, and subdivision and, typically, contain a variety of residential and non-residential uses in a single development plan.

(B) Include all types and stages of development under one title ordinance and provide ~~only one set of regulations and standards with which for the convenience of those using the development process need to become familiar.~~

(C) Avoid overlapping, conflicting, or inconsistent code provisions ~~that frequently occur as a result of numerous individual ordinances.~~

11-1-3: VIOLATIONS: (2534 2797)

(A) It shall be unlawful for any person ~~or entity~~ to:

(1) ~~Use, occupy, or sell any land or building, or authorize or permit the use, occupancy, or sale of any land or building under the person's control except in conformance~~ ~~accordance~~ with all applicable provisions of this Title.

(2) ~~Use, occupy, or sell any land or building or authorize or permit the use, occupancy, or sale of any land or buildings except in conformance with all applicable provisions of this Title, as well as all applicable requirements~~ ~~development plans and/or~~ restrictions including, but not limited to:

(a) any zoning district requirements and restrictions, including PUD (Planned Unit Development) zones ~~restrictions,~~

(b) the contents of any Preliminary Development Plan (PDP), Official Development Plan (ODP), or Final Plat,

(c) the contents of any approved engineering construction drawings, building construction drawings, and any all public and private improvement drawings,

(d) the terms, conditions and covenants of any and annexation agreements, public and/or private improvements agreement, development agreement, or any agreement entered into pursuant to the provisions of this Title,

(e) the contents of any approved drainage, traffic, or and utility studies, and

(f) the terms and conditions of any approved ~~able~~ ~~duly granted~~ variances or exceptions.

(3) ~~Construct, reconstruct or alter any building or structure or authorize the construction, reconstruction or alteration of any building or structure under the person's control except in conformance~~ ~~accordance~~ with all applicable provisions of this Title and with, ~~as well as all applicable requirements~~ ~~development plans and/or~~ restrictions including, but not limited to:

(a) any zoning district requirements and restrictions, including PUD (Planned Unit Development) zones ~~restrictions,~~

(b) the contents of any Preliminary Development Plan (PDP), Official Development Plan (ODP), or Final Plat,

(c) the contents of any approved engineering construction drawings, building construction drawings, and any all public and private improvement drawings,

~~(d) the terms, conditions and covenants of any and annexation agreements, public and/or private improvements agreement, development agreement, or any agreement entered into pursuant to the provisions of this Title;~~

~~(e) the contents of any approved drainage, traffic, or and utility studies; and~~

~~(f) the terms and conditions of any approved ~~lieable~~ duly granted variances or exceptions.~~

(4) Utilize any yard or other open space provided about any building for the purpose of complying with provisions of this Title to provide a yard or other open space for any other building. No yard or other open space on one lot shall be considered as providing a yard or open space for a building on any other lot.

(5) Construct, reconstruct, alter, or change the use of any building or other structure, including signage, within the City without obtaining a building permit from the Building Official or his authorized representative. No permit shall be issued unless the plans of and for the proposed construction, reconstruction, alteration, demolition, or use fully conform to the zoning regulations then in effect. No business license shall be issued by the City Clerk without being furnished a written notice from the Planning Manager and Building Official that the use of the premises proposed is in conformance with the requirements of the provisions of this Title.

~~6 To establish or maintain or permit to be established or maintained, any household not in compliance with the definition of "household" established in section 11 2 9. Any member of the household may be found to be in violation of this section, including but not limited to, a person required to register as a sex offender.~~

~~7. It shall be an affirmative defense to a violation of this action that the defendant's only violation which required registration as a sex offender was a conviction or plea of guilty to a charge which consisted only of public indecency as defined in section 6 4 1 (a) 6, W.M.C.~~

(B) For purposes of this section, the "use" or "occupancy" of a building or land relates to anything and everything that is done to, on, or in that building or land.

11-1-4: INTERPRETATION: (2534) The provisions of this Title shall be held to be minimum requirements adopted for the promotion of the public health, safety, and welfare. Whenever the requirements of this Title are at variance with any other provision of this Code, any other duly adopted City ordinance, or any duly promulgated rule or regulation of the City, the more restrictive, or that imposing the higher standards, shall govern. Any action or approval authorized in this Title to be taken or granted by the City Manager, may be taken or granted by the City Manager's designated representative.

11-1-6: LAND USE AND DEVELOPMENT REVIEW FEE SCHEDULE: (2598 3031 3152)

(A) An applicant for any of the following land use or development reviews shall pay in advance the corresponding fee or fees:

(1) (A) Review Fees:

PDP or amendment – Concept Review	\$350 (x) sq. rt. of acres (\$350 min.)
PDP or amendment – Technical Review	\$350 (x) sq. rt. of acres (\$350 min.)
ODP or amendment – Concept Review	\$400 (x) sq. rt. of acres (\$400 min.)
ODP or amendment – Technical Review	\$400 (x) sq. rt. of acres (\$400 min.)
Combined PDP/ODP (including amendments)	
Concept Review	\$550 (x) sq. rt. of acres (\$550 min.)
Technical Review	\$550 (x) sq. rt. of acres (\$550 min.)
Rezoning	\$500
Annexation	\$300
Comprehensive Land Use Plan Amendments	\$500
Minor Administrative Amendment	\$250
Public Hearing	\$350
ODP Waiver	\$250

Special Use Permit	\$450
Temporary Use Permit	\$100
Board of Adjustment and Appeals	\$250
Conditional Use	\$250
Construction Drawing Reviews	\$750 + \$75 (x) sq. rt. of acres (\$1125 max)
<u>(Construction Drawing Reviews include, but are not limited to, Final Plats, Address Plats, Construction Drawings, and Public Improvements Agreements)</u>	
Minor Replat (Lot Line Adjustment)	\$300
Vacations (R.O.W. and Easements)	\$300
Land Disturbance Permits	\$250
R.O.W./Street Cut Permit	\$-50
Development Sign Posting Fee	\$-50
<u>(2)(B) Other Service Fees:</u>	
Zoning Verification Letter	\$50
Affidavit of Correction	\$100
Recording Fees <u>for plats and plans</u>	\$50 + \$20/Page
Flood Plain Information (non-residential only)	\$20
<u>(3)(C) Document Fees:</u>	
Plan submittal document	\$20
Comprehensive Land Use Plan	\$25
Northeast Comprehensive Development Plan	\$5
Copies of plans on file	\$5/Page

(B) Applications requiring additional or modified submittals will be considered abandoned if the required submittal or re-submittal is not made within 180 days of the last submittal and a new application and payment of a new fee will be required.

~~Construction Drawing Reviews include, but are not limited to, Final Plats, Address Plats, Construction Drawings, and Public Improvements Agreements (PIA)~~

Section 5. Chapter 2 of Title XI, W.M.C., is hereby REPEALED AND REENACTED as follows:

CHAPTER 2

DEFINITIONS

11-2-1: DEFINITIONS:

(A) The following words, terms and phrases, when used in this Chapter, shall have the following meanings unless the context clearly indicates otherwise:

(1) “**ACCESSORY BUILDING**” shall mean any non-habitable building, structure, or portion thereof located on the same principal lot as a habitable structure that is clearly incidental to the principal structure, such as a garage or a storage shed.

(2) “**AMBULANCE SERVICE**” shall mean a privately-owned facility for the dispatch, storage, and maintenance of emergency medical care vehicles.

(3) “**ANTIQUUE**” shall mean an article of glass, china, furniture, musical instrument, or similar furnishing or decoration that has been used by one or more persons and which has greater value than when it was originally created and sold and has significance as a result of age, design, quality, historical association, or affiliation with a well-known person.

(4) **“ANTIQUÉ SHOP”** shall mean a shop or store that devotes more than 75 percent of its retail floor area to the sale of antiques.

(5) **“APPEAL”** shall mean a request for a review of the interpretation of any provisions of this ordinance, or a request for review of the identification of any floodplain or floodway as indicated in any Official Flood Study.

(6) **“APPLICANT”** shall mean a person, partnership, company, corporation, public agency, or the assigns of such entities that request permission to engage in land development activity.

(7) **“ARCHITECTURAL PROJECTION”** shall mean any projection that is not intended for occupancy and that extends beyond the face of an exterior wall of a building, including roof overhangs, mansards, unenclosed exterior balconies, marquees, bay windows, immovable awnings, canopies, pilasters, fascias, and the like, but not including signs.

(8) **“ASSISTED LIVING RESIDENCE”** shall mean a state licensed residential facility that provides impaired adults with room and board, personal services, protective oversight and supervision, and social care due to impaired capacity, but not to the extent that regular 24-hour medical or nursing care is required and subject to the limitations in Section 25-27-102, C.R.S., as amended.

(9) **“ATTACHED SENIOR HOUSING UNIT”** shall mean an attached residential dwelling unit within a housing project restricted to persons 60 years of age or over, or as may otherwise be determined by Council.

(10) **“AWNING”** shall mean a roof-like cover that projects from the wall of a building as an architectural detail or for the purpose of shielding an area, doorway, or window from the elements.

(11) **“BASE FLOOD (100-YEAR FLOOD)”** shall mean the flood having a 1 percent probability of being equaled or exceeded in any given year.

(12) **“BASE FLOOD ELEVATION (BFE)”** shall mean the water surface elevation of the base flood (100-year flood) as indicated in the official flood studies.

(13) **“BILLBOARD”** shall mean a sign and its structure, advertising an establishment, merchandise, service, or entertainment that is not sold, produced, manufactured or furnished on the property, where the said sign is located.

(14) **“BODY PIERCING/TATTOO PARLOR”** shall mean an establishment that engages in the non-medical act of penetrating the skin other than the ears, to make, generally permanent in nature, a hole, mark, or scar. The term “body piercing/tattoo” shall apply to body illustrations but exclude permanent cosmetics such as lip liner, eyeliner, or eyebrow enhancement.

(15) **“BUILDING CODE”** shall mean the latest edition of the Building Code as amended and adopted by the City Council of the City of Westminster.

(16) **“BUILDING OFFICIAL”** shall mean the officer or other person charged with the administration and enforcement of the Building Code and Sign Code or the Building Official's duly authorized representative.

(17) **“BUILDING SERVICE EQUIPMENT”** shall mean the plumbing, mechanical, and electrical equipment, including piping, wiring, fixtures, and other accessories that provide sanitation, lighting, heating, ventilation, cooling, refrigeration, fire protection, and facilities essential for the habitable occupancy of a mobile home, building, or structure.

(18) **“CANOPY”** shall mean a structure of rigid or non-rigid material on a framework sheltering an area or forming a sheltered walk to the entrance of building.

(19) **“CITY ENGINEER”** shall mean and include any engineer, or firm of engineers, or corporation engaged in the practice of engineering, which may be under contract with the City with respect to local public improvements contracted for or installed pursuant to this Chapter.

(20) **“CEMETERY”** shall mean land used or intended to be used for the burial of the dead and dedicated for cemetery purposes including columbariums, crematoriums, mausoleums, and funeral establishments, when operated in conjunction with and within the boundary of such cemetery.

(21) **“CHURCH”** shall mean a building or structure or group of buildings or structures that are primarily intended for the conducting of organized religious services and accessory uses normally associated therewith.

(22) **“CONDITIONAL USE”** shall mean a use that may be an appropriate use in a specific zoning district because it is subject to certain conditions prescribed in this Title.

(23) **“CONSIGNMENT”** shall mean the placing of used merchandise, by the owner of such goods, in the bailment of another, while retaining ownership until the goods are sold. Consignment of goods differs from donation of goods in that, with consignment, the owner of the goods retains ownership until he or she receives payment for them, and the goods have generally not lost a significant amount of value due to their original quality and limited wear.

(24) **“CONSIGNMENT STORE”** shall mean a shop or store that devotes more than 75 percent of its retail sales floor area to the sale of consignment items.

(25) **“CONSTRUCT”** shall mean “constructed,” “construction,” or words of similar import and shall be deemed to include “acquire,” “acquired,” “acquisition,” or similar import in districts created to acquire improvements already constructed.

(26) **“CORRECTION HOME”** shall mean a state licensed facility housing residents for purposes of rehabilitation, special care, supervision, or treatment for social, behavioral, or disciplinary problems. A “Correction Home” includes adult or juvenile “halfway houses”, community corrections facilities and law offender division facilities.

(27) **“CUT”** shall mean an act by which soil or rock is cut into, dug, quarried, uncovered, removed, displaced, or relocated.

(28) **“DAY CARE FACILITY”** shall mean a state licensed facility maintained for the care of five or more persons not related to the owner, operator or manager thereof, providing care, supervision, or education for less than 24 hours. The term includes facilities commonly known as “Child Care Center”, “Day Care Center”, “Adult Day Care Facility”, “Day Nursery”, “Preschool”, “Kindergarten”, and “Summer Camp”, except that “Kindergarten” does not include a kindergarten maintained in connection with a public or private elementary school.

(29) **“DETENTION POND”** shall mean a pond constructed for the temporary storage of runoff waters where the opening for release is of a relatively fixed capacity and not manually operated.

(30) **“DEVELOPED FLOW”** shall mean the amount of rainfall runoff generated by a parcel of land that has been developed to its ultimate use with no retention or detention facilities by which the runoff volume or flow rate is altered.

(31) **“DEVELOPER”** shall mean any person, persons, company, partnership, or corporation who subdivides, constructs, or provides any type of improvements or in any way engages in the development of land.

(32) **“DEVELOPMENT”** shall mean any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavating, or drilling operations.

(33) **“DISCOUNT STORE”** shall mean a retail establishment that sells new merchandise at discounted prices.

(34) **“DIVERSION CHANNEL”** shall mean a channel with a supporting ridge on the lower side constructed across the slope.

(35) **“DOMESTIC VIOLENCE SHELTER HOME”** shall mean a residential facility providing special care for victims of domestic violence.

(36) **“DUPLEX”** shall mean a building designed as a single free-standing structure, containing two separate living units, each of which is designed to be occupied as a separate residence for one family or household. Each living unit has direct access to the outside.

(37) **“DWELLING UNIT”** shall mean a single residential unit providing complete independent living facilities for one or more persons including permanent provisions for sleeping, eating, cooking, and sanitation.

(38) **“DWELLING UNIT, MULTI-FAMILY”** shall mean a dwelling unit contained in a structure also containing other dwelling units in which each unit is attached to another at one or more party walls and at either the floor or the ceiling. For purposes of Chapter 3 of this Title, no dwelling units shall be classified as multi-family if they contain more than two bedrooms. A dwelling unit otherwise meeting this definition but containing more than two bedrooms shall be considered a single-family attached dwelling unit for purposes of said Chapter only. A structure could contain both multi-family dwelling units and single-family attached dwelling units as defined herein.

(39) **“DWELLING UNIT, RESIDENTIAL”** shall mean a building or part of a building including cooking, bath, toilet and general living facilities and spaces and designed and intended for occupancy as a primary residence by one family or by a group living essentially as a family. The term "dwelling unit" is synonymous with "residential" and also includes such uses as dormitories and nursing homes but not hospitals, hotels, and motels.

(40) **“DWELLING UNIT, SINGLE-FAMILY ATTACHED”** shall mean a dwelling unit contained in its own structure from ground to roof, which structure shares one or more party walls with one or more similar units. Includes duplex dwellings.

(41) **“DWELLING UNIT, SINGLE-FAMILY DETACHED”** shall mean a single dwelling unit contained in a free-standing structure that has no party walls with other structures.

(42) **“ENCROACHMENT LINES”** shall mean lines that establish the floodway by the "equal conveyance reduction method" that differentiate those areas of the floodplain that must be preserved for the conveyance of flood flows and those areas of the floodplain that can be used for purposes other than flood flow conveyance.

(43) **“EQUAL CONVEYANCE REDUCTION METHOD”** shall mean the procedure for determining the "encroachment lines." This method establishes encroachment lines by reducing equal proportions of flood conveyance from both sides of a floodplain until the water surface elevation of the 100-year floodplain is increased by 1 foot.

(44) **“EROSION”** shall mean the wearing away of land surface by detachment and transportation of soil or rock material through the action of moving water, wind, ice, or gravity.

(45) **“EROSION CONTROL PLAN”** shall mean the plan required as an application for a land disturbance permit. Such document illustrates grading plans and includes necessary land treatment measures, including construction schedules of treatment installations that will minimize soil erosion and sedimentation.

(46) **“EXISTING CONSTRUCTION”** shall mean, for the purposes of determining flood insurance rates, structures for which the "start of construction" commenced before the effective date of this Ordinance. "Existing construction" may also be referred to as "existing structures."

(47) **“EXISTING RESIDENTIAL SUBDIVISIONS”** shall mean a platted and duly recorded residential subdivision or a residential subdivision for which an application for final plat was submitted by July 1, 1994, in accordance with Ordinance No. 2223. Any other subdivision shall be deemed to be a new residential subdivision within the meaning of this Chapter.

(48) **“FAMILY”** shall mean a head of household plus, if applicable, any individuals related to the head of household by blood, marriage, adoption, or guardianship, including foster children placed by a state institution or a licensed child placement agency.

(49) **“FAMILY CARE HOME”** shall mean a state licensed facility in the residence of the provider that provides less than 24 hour care, training, education, or supervision for two to four children who are not related by blood, marriage, or adoption to the care provider.

(50) **“FAST FOOD RESTAURANT”** shall mean any establishment whose principal business is the sale of foods, frozen desserts, or beverages to the customer in a ready-to-consume state for consumption either within the restaurant building or for carry-out with consumption off the premises, and whose design or principal method of operation includes one or both of the following characteristics:

(1) Foods, frozen desserts, or beverages are usually served in paper, plastic, edible, or other disposable containers.

(2) Facilities for on-premises consumption of the food are insufficient for the volume of food sold in the establishment.

(51) **“FINAL PLAT”** shall mean the map or plan of record of a subdivision and any accompanying material, as described in this Code or in rules and regulations promulgated hereto.

(52) **“FLOOD OR FLOODING”** shall mean a general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland waters or the unusual and rapid accumulation of runoff of surface waters from any source.

(53) **“FLOOD HAZARD AREA”** shall mean the area that will be inundated during the occurrence of the 100-year flood (base flood).

(54) **“FLOOD INSURANCE RATE MAP (FIRM)”** shall mean the map on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the community for the purpose of insurance rating only.

(55) **“FLOOD INSURANCE STUDY (FIS)”** shall mean the report provided by the Federal Emergency Management Agency that includes flood profiles, the flood boundary, floodway map, and the water surface elevation of the base flood for the purpose of insurance rating only.

(56) **“FLOODPLAIN”** shall mean the area that will be inundated during the occurrence of a storm of a given magnitude or frequency.

(57) **“FLOODPLAIN DEVELOPMENT PERMIT”** shall mean the permit required under Section 11-9-13, W.M.C..

(58) **“FLOODPLAIN MANAGEMENT”** shall mean a program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works, and floodplain management regulations.

(59) **“FLOODPLAIN VARIANCE”** shall mean a grant of relief by the City from the terms of the floodplain ordinance.

(60) **“FLOODPROOFING”** shall mean any combination of structural and non-structural additions, changes, or adjustments to proposed or existing structures that reduce or substantially eliminate the potential for flood damage to real estate or improved real property, public or private facilities, structures and their contents.

(61) **“FLOOD PROFILE”** shall mean a graph or longitudinal profile showing the relationship of the water surface elevation of a flood event to the ground surface along a stream or river.

(62) **“FLOOD PROTECTION ELEVATION”** shall mean an elevation one foot above the water surface elevation or flood profile of the 100-year flood under existing channel and floodplain conditions. This elevation is applicable to development within the "flood storage area."

(63) **“FLOOD STORAGE AREA”** shall mean those portions of the floodplain that may serve as a temporary storage area for floodwaters from the 100-year flood that are outside the floodway area.

(64) **“FLOOD STUDY”** shall mean an engineering study utilizing hydrologic and hydraulic analyses to identify storm runoff characteristics including flow rates and the extent of inundation for a specified storm recurrence interval.

(65) **“FLOODWAY”** shall mean the channel of a river, stream, or other water course and the adjacent land area that must be reserved in order to discharge the 100-year flood without cumulatively increasing the water surface elevation of the 100-year flood more than 1 foot assuming an equal degree of conveyance reduction from both sides of a floodplain for a significant reach of channel. The floodway is located within the floodplain.

(66) **“FOOD SERVICE”** shall mean both full service and fast food restaurants with or without liquor service, as well as specialty stores such as doughnut shops and ice cream parlors.

(67) **“FRONTAGE, BUILDING”** shall mean the horizontal, linear dimension of that side of a building that abuts a street, a parking area, a mall, or other circulation area that is open to the general public; and having either a main window display of the enterprise or a public entrance to the building. In industrial districts a building side with an entrance open to employees shall also qualify as a building frontage. Where more than one use occupies a building, each use having a public entrance or main window display for its exclusive use shall be considered to have its own building frontage, which shall be the front width of the portion of the building occupied by that use.

(68) **“FRONTAGE, LOT”** shall mean that side of a lot abutting on a street or way ordinarily regarded as the front of the lot.

(69) **“FRONTAGE, STREET”** shall mean the linear frontage(s) of a lot or parcel abutting on a private or public street that provides principal access to, or visibility of, the premises.

(70) **“GRADING”** shall mean the practice of changing the ground level or slope.

(71) **“GROSS FLOOR AREA”** shall mean the sum of the gross horizontal areas of the several floors of a building measured from the exterior faces of the exterior walls or from the centerline of walls separating two (2) buildings, excluding the following areas: attic areas with head room of less than seven (7) feet; unenclosed building exterior walks, stairs, or fire escapes; elevator structures on the roof;

areas devoted exclusively to air conditioning, ventilating, and other building machinery and equipment; and parking structures and enclosed pedestrian walks of over thirty (30) feet in width and one hundred (100) feet in length.

(72) **“GROUP CARE FACILITY”** shall mean a state licensed residential facility providing accommodations, personal services or special care for individuals of any age, not related to the owner or operator thereof, and who seek or require a protective living environment, but who do not require 24-hour medical or nursing services. Group Care Facilities shall include, but are not limited to, Group Homes of more than eight (8) persons, Residential Child Care Facilities, Specialized Group Facilities, and Youth Shelter Facilities.

(73) **“GROUP HOME FOR DEVELOPMENTALLY DISABLED PERSONS”** shall mean a group living situation accommodating, and for the exclusive use of, at least four but no more than eight persons, licensed by the state as a community residential home, where services and supports are provided to persons with developmental disabilities. For the purposes of this definition, “developmental disability” means a disability that constitutes a substantial disability to the affected individual and that is attributable to mental retardation or related conditions which include cerebral palsy, epilepsy, autism, or other neurological conditions when those conditions result in impairment of general intellectual functioning or adaptive behavior similar to that of a person with mental retardation.

(74) **“GROUP HOME FOR PERSONS WITH MENTAL ILLNESS”** shall mean a group living situation, licensed by the state, providing for the care and treatment and for the exclusive use of not more than eight persons with mental illness, which shall not include persons who have committed a violent offense.

(75) **“GROUP HOME FOR THE AGED”** shall mean a group living situation for the exclusive use of not more than eight persons sixty years of age or older. Group homes for the aged do not include nursing facilities or institutions providing life care.

(76) **“HOME OCCUPATION”** shall mean any activity carried out for gain by a resident and conducted as a customary, incidental, and accessory use in the resident's dwelling unit.

(77) **“HOTEL, FULL SERVICE”** shall mean any establishment that provides temporary lodging for compensation, generally providing between 100-600 guest rooms and may include suites providing larger living space separate from the bedroom. Hotels in this category shall have large internal lobbies sufficient to handle check-in and checkout functions associated with conference traffic. This type of facility shall provide conference, meeting or banquet rooms. Access to rooms shall be through internal corridors. The facility may provide retail space for newsstands, gift shops, and business service centers. Food and beverage outlets, including formal restaurants offering various styles of food across a range of prices will be available. The establishment shall provide daily housekeeping, room, maid, linen, telephone and other similar services. Hotels of this type shall provide a swimming pool and a fully equipped fitness center and may provide whirlpools, sauna and steam rooms. A hotel of any type shall at all times operate only as a hotel and in no event shall it be converted to a multiple unit dwelling or any other form of permanent residence. A guest shall at all times be prohibited from using a hotel room or suite as a primary permanent residence.

(78) **“HOTEL, EXTENDED STAY”** shall mean any establishment that provides temporary lodging for compensation, providing larger rooms (greater than 400 square feet) with a living space separate from the bedroom. Extended Stay Hotels shall provide seventy-five (75) percent of all suites with Pullman kitchens (sink, built-in cook top or stove, microwave oven and refrigerator). Ninety (90) percent of all rooms within this category shall be available to guests staying ninety (90) days or less. Hotels in this category shall have a main office providing check-in, checkout and customer service functions at all hours. Housekeeping/maid service shall be provided. Ingress and egress to units shall be either internal or through a secured internal courtyard. This type of facility shall provide hospitality lounge and/or meeting rooms and may provide limited retail space for newsstands, gift shops, and business service center. Extended Stay Hotels are encouraged to provide a formal restaurant or cafe and a

fully equipped fitness center for use by guests, on-site or through co-op. A hotel of any type shall at all times operate only as a hotel and in no event shall it be converted to a multiple unit dwelling or any other form of permanent residence. A guest shall at all times be prohibited from using a hotel room or suite as a primary permanent residence.

(79) **“HOTEL, MID-TIER”** shall mean any establishment that provides temporary lodging for compensation, generally providing between 80-500 guest rooms and may include suites. Ingress and egress shall be through an internal lobby with an office providing check-in, checkout and related services at all hours. Access to rooms shall be through an internal corridor. This type of facility may provide limited retail space for gift shops or other similar uses. A formal restaurant or cafe is encouraged. Separate meeting rooms should be provided for conferences or banquets. Mid-Tier hotels shall provide, on-site, a swimming pool and are encouraged to provide whirlpool, sauna, steam room and a fully equipped fitness center. A hotel of any type shall at all times operate only as a hotel and in no event shall it be converted to a multiple unit dwelling or any other form of permanent residence. A guest shall at all times be prohibited from using a hotel room or suite as a primary permanent residence.

(80) **“HOTEL, LIMITED SERVICE”** shall mean any establishment that provides temporary lodging, for compensation, generally providing between 50-125 rooms at rates below the prevailing rates of full-service facilities in the same area. Hotels in this category shall have a main office providing check-in, checkout and customer service functions at all hours. Ingress and egress to rooms can be either internal or external (internal will be encouraged). Hotels in this category are encouraged to provide on-site or through co-op, a fully equipped fitness center for use by guests. The establishment shall provide daily housekeeping, room, maid, linen, telephone and other similar services. A hotel of any type shall at all times operate only as a hotel and in no event shall it be converted to a multiple unit dwelling or any other form of permanent residence. A guest shall at all times be prohibited from using a hotel room or suite as a primary permanent residence.

(81) **“HOSPITAL”** shall mean an institution, licensed by the State Department of Health, providing primary health services and medical or surgical care to persons, primarily inpatients, suffering from illness, disease, injury, deformity, and other abnormal physical or mental conditions, and including as an integral part of the institution, related facilities such as laboratories, outpatient facilities, training facilities, or ambulance service.

(82) **“ILLUMINATION, DIRECT”** shall mean lighting by means of an unshielded light source, including neon tubing, that is effectively visible as a part of the sign where light travels directly from the source to the viewer's eye.

(83) **“ILLUMINATION, INDIRECT”** shall mean lighting by means of a light source that is directed at a reflecting surface in such a way as to illuminate the sign from the front, or a light source that is primarily designed to illuminate the entire building facade upon which a sign is displayed. Indirect illumination does not include lighting that is primarily used for purposes other than sign illumination such as parking lot lights or lights inside a building that may silhouette a window sign but that are primarily installed to serve as inside illumination.

(84) **“ILLUMINATION, INTERNAL”** shall mean lighting by means of a light source that is within a sign having a translucent background, silhouetting opaque letters or designs, or that is within letters or designs that are themselves made of a translucent material.

(85) **“INDOOR ENTERTAINMENT”** shall mean an establishment where entertainment, either passive or active, is provided on a temporary or permanent basis for the pleasure of the patrons and is contained entirely within a closed building. Entertainment establishments include but are not limited to movie theatres, comedy clubs, laser tag, bowling, billiards, live performances, karaoke, dance, and similar activities.

(86) **“INSTITUTIONAL CARE FACILITY”** shall mean a state-licensed facility housing residents for purposes of rehabilitation, special care, supervision, treatment for behavioral or disciplinary

problems or alcohol or substance abuse. Institutional Care Facilities include Secure Residential Treatment Centers, Correction Homes, Home Detention Facilities, and Halfway Houses.

(87) **“INTEREST RATE”** shall mean that interest rate on recoverable costs that is officially established by the City Council from time to time.

(88) **“LAND DISTURBANCE”** shall mean an activity involving the clearing, grading, transporting, filling, or other activity that causes land to be exposed to erosion.

(89) **“LIGHT SOURCE”** shall mean neon, fluorescent or similar tube lighting, the incandescent bulb, including the light producing elements therein, and any reflecting surface that, by reason of its construction and/or placement, becomes, in effect, the light source.

(90) **“LOT”** shall mean a tract, plot, or portion of a subdivision or other parcel of land in single ownership and not divided by a public street.

(91) **“LOT LINE, FRONT”** shall mean the lot line on the frontage side of the lot.

(92) **“LOT, REVERSE CORNER”** shall mean a corner lot having as its side lot line a continuation of the front lot line of the adjacent lots.

(93) **“LOWEST FLOOR”** shall mean the lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure that is usable solely for parking of vehicles, building access, or storage in an area other than a basement area is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of any portion of this Ordinance.

(94) **“MAINTENANCE, SIGN”** shall mean the replacing, repairing or repainting of a portion of a sign structure, periodic changing of bulletin board panels or the renewing of copy that has become no longer usable through ordinary wear and tear, weather or accident. The replacing or repairing of a sign or sign structure that has been damaged to an extent exceeding fifty percent (50%) of the replacement cost, as determined by the Building Official, shall be considered as "maintenance" only when said sign conforms to all of the applicable provisions of this Code and when the damage has been caused by an act of God or violent accident.

(95) **“MANAGEMENT”** shall mean the owner or person responsible for operating and managing the mobile home park or an agent, employee, or representative authorized to act on said management's behalf in connection with matters relating to tenancy and the overall operation and maintenance of the mobile home park.

(96) **“MANUFACTURED HOME”** shall mean a structure, transportable in one or more sections, that is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes, the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days. For insurance purposes, the term "manufactured home" does not include park trailers, travel trailers, and other similar vehicles.

(97) **“MANUFACTURED HOME PARK OR MANUFACTURED HOME SUBDIVISION”** shall mean a parcel, or contiguous parcels, of land divided into two or more manufactured home lots for rent or sale.

(98) **“MARQUEE”** shall mean any hood, canopy, awning, or permanent roof-like construction that is supported wholly or in part by a building and projects from a wall of a building.

(99) **“MOBILE HOME”** shall mean any dwelling unit built on a permanent, wheeled chassis exceeding either 8 feet in width or 32 feet in length and designed for long-term residential occupancy in a

temporary or permanent location that is capable of being towed over public streets or highways as a unit or in sections and duly licensable as such.

(100) **“MOBILE HOME PARK”** shall mean a parcel of land under single ownership that has been planned and approved for the placement of a mobile home, occupied for dwelling purposes, and for transient and non-transient uses.

(101) **“MOBILE HOME SPACE”** shall mean a plot of land within a mobile home park designed and intended to accommodate one mobile home.

(102) **“NATIONAL FLOOD INSURANCE PROGRAM (NFIP)”** shall mean a federal regulatory program created by Congress through the National Flood Insurance Act of 1968 (P.L. 90-449). This program was established within the Federal Insurance Administration (FIA) for the purpose of providing federally subsidized flood insurance for those property owners located within communities participating in the NFIP.

(103) **“NEW CONSTRUCTION”** shall mean, for the purpose of determining flood insurance rates, structures for which the "start of construction" commenced on or after September 30, 1988, and includes any subsequent improvements to such structures.

(104) **“NURSING HOME/FACILITY”** shall mean a state licensed facility that meets the state nursing home standards and is maintained primarily for the care and treatment of inpatients under the direction of a physician and have the availability of a licensed nurse on a 24-hour basis. For the purposes of the use categories in Section 11-4-4, W.M.C., nursing home shall include convalescent homes, rest homes, and assisted living residences, even though such uses do not provide 24-hour nursing or physician services.

(105) **“OFFICIAL FLOOD STUDIES”** shall mean flood studies adopted by official action of the City Council.

(106) **“ONE-HUNDRED YEAR FLOOD (BASE FLOOD)”** shall mean the flood having a 1 percent probability of being equaled or exceeded in any given year.

(107) **“ONE-HUNDRED YEAR FLOODPLAIN”** shall mean the area of land that will be inundated during the occurrence of 100-year flood (base flood).

(108) **“ONE-HUNDRED YEAR FLOOD ELEVATION”** shall mean the water surface elevation of the 100-year flood (base flood) as indicated in the Official Flood Studies.

(109) **“OWNER”** shall mean a natural person or persons, a company, a corporation, a partnership or other legal entity recorded as such on the real property records of the Adams or Jefferson County Clerk and Recorder, including a duly authorized agent or attorney, a purchaser, devisee, fiduciary or living person having a vested or contingent interest in the property in question.

(110) **“PAWN SHOP”** shall mean any business that loans money on deposit of personal property or deals in the purchase or possession of personal property on condition of selling the same back again to the pledger or depositor, or loans or advances money on personal property by taking chattel mortgage security thereon, and takes or receives such personal property and issues a lien upon such personal property.

(111) **“PARTICIPATION COSTS”** shall mean that portion of the construction cost of public improvements for which the City is responsible.

(112) **“PROFESSIONAL ENGINEER”** shall mean an engineer that is registered to practice engineering in the State of Colorado.

(113) **“PUBLIC ENTRANCE”** shall mean an entrance to a building or premises that is customarily used or intended for use by the general public. Fire exits, special employee entrances and loading dock entrances not generally used by the public and the like are not considered public entrances.

(114) **“PUBLIC IMPROVEMENT”** shall mean any street, curb, gutter, sidewalk, drainage ditch, drainageway, utility line, pedestrian way, or other facility for public use or owned by the City.

(115) **“RECOVERABLE COSTS”** shall mean that portion of the construction cost for which the City determines the owners or developers of other properties served by the improvements are responsible. Recoverable costs may include that portion of the costs of construction financed by developers through special assessment obligations or any other form of financial support that exceeds the amount of benefits the financing developers will realize from the improvements so financed.

(116) **“RECREATIONAL VEHICLE”** shall mean a vehicle that is (1) built on a single chassis; (2) 400 square feet or less when measured at the largest horizontal projections; (3) designed to be self-propelled or permanently towable by a light duty truck; and (4) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

(117) **“RETAIL ESTABLISHMENT”** shall mean a shop or store that, as its primary business, sells new merchandise to the public.

(118) **“ROOF”** shall mean the cover of any building, including the eaves and similar projections.

(119) **“ROOFLINE”** shall mean the highest point on any building where an exterior wall encloses usable floor space. The term "roofline" includes the top of any parapet wall, providing said parapet wall extends around the entire perimeter of the building at the same elevation. However, the top of a parapet wall extending along one or more building elevations or a portion of one or more building elevations may, as determined by the City Manager, be considered to be the roofline in those instances where the parapet wall improves the architectural appearance of a building or shields rooftop mechanical equipment.

(120) **“SATELLITE EARTH STATION OR SATELLITE DISH”** shall mean a dish-shaped antenna and associated electronics designed to receive television broadcasts relayed by microwave signals from earth orbiting communication satellites.

(121) **“SCHOOL, PRIMARY/SECONDARY”** shall mean a public, private, or parochial educational facility offering instruction at the elementary, junior, and/or senior high school levels in the branches of learning and study required to be taught in the public schools of Colorado.

(122) **“SEDIMENT”** shall mean rock, sand, gravel, silt, soil, or other material that is transported by, suspended in, or deposited by water or air or is accumulated in beds by other natural agencies.

(123) **“SEDIMENT BASIN”** shall mean a barrier or dam built at a suitable location to retain rock, sand, gravel, soil, or other material deposited by action of water, wind, ice, gravity, or other agents of erosion.

(124) **“SEDIMENTATION”** shall mean the process of subsidence and deposition of suspended matter carried by water or other liquids.

(125) **“SERIOUS HAZARD”** shall mean a man-made or natural phenomenon that is so adverse to past, current, or foreseeable development of land as to constitute a significant hazard to public health and safety or to property. The term may include, but is not limited to, natural hazards such as ground subsidence, radioactivity, landslides, floodplains and unstable slopes, and man-made hazards such as radioactivity and airport operations.

(126) **“SERVICE BUILDING”** shall mean any building or structure within a mobile home park that is used in common by the tenants of the mobile home park for such purposes as assembly, storage, recreation, laundry, car washing, office needs, or similar uses.

(127) **“SERVICE COMMITMENT”** shall mean that the measure of City service required is determined by the average service provided to one single-family detached dwelling unit.

(128) **“SHALLOW FLOODING AREAS”** shall mean areas within the 100-year floodplain where the base flood depths range from 1 foot to 3 feet, a clearly defined channel does not exist, the path of flooding is unpredictable and indeterminate, and velocity flow may be evident. On the flood insurance rate maps (FIRM) this area is designated as A0 or AH zones.

(129) **“SHOPPING CENTER; BUSINESS CENTER; AND OFFICE, INDUSTRIAL, OR TECHNICAL PARKS/CENTERS”** shall mean a group of two or more professional, office, commercial, industrial, or combination thereof establishments that are planned, developed, owned, or managed as a unit and related in location, size, and type, and provide on-site parking in definite relationship to the types and sizes of establishments. Free-standing or attached buildings that function as a part of a shopping center, though they may be under separate ownership, shall be deemed to be a part of the shopping center.

(130) **“SILT TRAP”** shall mean a constructed permanent facility for the collection of water-carried soils.

(131) **“SPECIAL FLOOD HAZARD AREAS”** shall mean the areas of land that will be inundated during the occurrence of the 100-year flood (base flood).

(132) **“SPECIAL USE”** shall mean a type of use that, because of special characteristics or circumstances, may be appropriately placed in a particular zone district on a case-by-case basis subject to conditions necessary to make the use compatible with other uses permitted in the district or an adjoining district.

(133) **“START OF CONSTRUCTION”** includes substantial improvements and shall mean the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement, or other improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction of a structure on a site, such as the pouring of slabs or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

(134) **“STREET”** shall mean roads, avenues, boulevards, expressways, highways, parkways, and bridges.

(135) **“STREET IMPROVEMENTS”** shall mean any one or more of the following: surfacing, extending, widening, lengthening, altering, reconstruction, or other improvements to roadways; construction of curbs, gutters, or sidewalks; construction of bridges, overpasses, or underpasses; the necessary grading therefor; street lighting; landscaping of adjoining parkways by the planting of trees and shrubs; and storm drainage facilities incidental thereto.

(136) **“STRUCTURE”** shall mean a walled and roofed building, storage tank, manufactured home or anything constructed or erected with a fixed location on the ground above grade but not

including poles, lines, cables, or other transmission or distribution facilities of public utilities that is principally above ground.

(137) **“SUBDIVISION”** shall mean the division, whether by deed, metes and bounds description, lease, map, plat, deed, or other instrument, of any tract of land, lot, or parcel into two or more lots, parcels, plats, sites, or other divisions of land for the purpose, whether immediate or future, of sale, transfer of ownership, or to offer for sale or development, including subdivision. Lots, plots, block and other subdivisions may be designated in accordance with any recorded plat thereof, and unplatted lands by any definite description.

(138) **“SUBSTANCE ABUSE REHABILITATION HOME”** shall mean a residential facility for rehabilitation, special care, supervision, or treatment for alcohol, narcotic, or substance abuse. The home must be licensed by the State or the appropriate agency thereof.

(139) **“SUBSTANTIAL DAMAGE”** shall mean damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred.

(140) **“SUBSTANTIAL IMPROVEMENT”** shall mean any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either:

- (a) Before the improvement or repair is started; or
- (b) If the structure has been damaged and is being restored, before the damage occurred. For the purpose of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

The term does not, however, include either:

- (a) Any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications that are solely necessary to assure safe living conditions; or
- (b) Any alteration of structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

(141) **“TATTOO/BODY PIERCING PARLOR”** shall mean the same as the term “body piercing/tattoo parlor” previously defined.

(142) **“THRIFT STORE”** shall mean a shop or store that devotes more than 75 percent of their retail sales floor area to the activity of selling used clothing or merchandise. This does not include antique shops or consignment stores, or used motor vehicle parts sales.

(143) **“UNRESTRAINED SLOPE”** shall mean unstable earthen slope with high potential for movement or erosion.

(144) **“USED MERCHANDISE”** shall mean goods and products that were once new but have been used by one or more persons.

(145) **“VARIANCE”** shall mean a departure from the provisions of the zoning ordinance, but not including the actual use or structure.

(146) **“WATER SURFACE ELEVATION”** shall mean the height in relation to mean sea level, reached by floods of various magnitudes and frequencies in floodplains.

(147) **“WETLANDS”** shall mean those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands

generally include swamps, marshes, bogs, and similar areas. Wetlands shall also include any lands that are defined as wetlands under any federal or state law.

(B) When used in this Section, the phrase "used for" includes "arranged for," "designed for," "intended for," "maintained for," and "occupied for".

Section 6. The index for Chapter 4 of Title XI, W.M.C., is hereby AMENDED to read as follows:

CHAPTER 4

ZONING

11-4-1: ESTABLISHMENT OF DISTRICTS

11-4-2: ZONING MAP

11-4-3: ZONING AMENDMENTS

11-4-4: ~~ALLOWED~~PERMITTED USES

11-4-5: DENSITY SCHEDULE

11-4-6: SPECIAL REGULATIONS

11-4-7: PUD -- PLANNED UNIT DEVELOPMENT DISTRICT

11-4-8: USES BY SPECIAL PERMIT

11-4-9: ~~APPLICATIONS FOR SPECIAL USE PERMITS~~CONDITIONAL USES

11-4-10: HOME OCCUPATIONS

11-4-11: ANTENNAS, TOWERS AND TELECOMMUNICATION FACILITIES

11-4-12: SATELLITE EARTH STATIONS

11-4-13: ADULT BUSINESSES

11-4-14: LAND USE REGULATIONS OF OIL & GAS OPERATIONS

11-4-15: NON-CONFORMING USES AND STRUCTURES

11-4-16: ADOPTION, IMPLEMENTATION AND COMPLIANCE WITH CITY'S COMPREHENSIVE LAND USE PLAN

Section 7. Sections 11-4-1 and 11-4-2, W.M.C., are hereby AMENDED to read as follows :

11-4-1: ESTABLISHMENT OF DISTRICTS. (2534) The City hereby establishes the following defined zoning districts:

RE ONE-FAMILY RESIDENTIAL DISTRICT. A residential district for large-lot single-family homes detached dwelling units.

R1 ONE-FAMILY RESIDENTIAL DISTRICT. A residential district for medium-lot single-family homes detached dwelling units.

RA ONE-FAMILY RESIDENTIAL DISTRICT. A residential district for single-family ~~homes~~ detached dwelling units.

R2 TWO-FAMILY RESIDENTIAL DISTRICT. A residential district allowing a mix of single-family detached dwelling units and duplex ~~homes~~.

R3 MULTIPLE-FAMILY RESIDENTIAL DISTRICT. A residential district allowing a mix of single-family, duplex, and low-density multi-family dwelling units.

R4 MULTIPLE-FAMILY RESIDENTIAL DISTRICT. A residential district allowing a mix of single-family, duplex, and low- and medium-density multi-family dwelling units.

R5 MOBILE HOME DISTRICT. A residential district specifically tailored for mobile home parks.

T1 TRANSITIONAL DISTRICT. A mixed-use district allowing both office and residential uses.

B1 BUSINESS DISTRICT. A restricted retail and office district where no outside storage of goods and merchandise is allowed.

C1 COMMERCIAL DISTRICT. A retail and office district where outside storage of merchandise is permitted.

C2 HEAVY COMMERCIAL DISTRICT. A commercial district where more intensive activities and uses not compatible with residential and other business uses are allowed.

M1 INDUSTRIAL DISTRICT. A manufacturing and office district.

O1 OPEN DISTRICT. An agricultural and open district for providing an area of the City devoted to the production of agricultural crops and livestock, as well as preserving and protecting agricultural and non-urbanized areas until urbanization is warranted and the appropriate change in district classification is made.

PUD PLANNED UNIT DEVELOPMENT DISTRICT. A district where a maximum amount of flexibility is allowed in order to create a unified, innovative approach to mixed use design.

11-4-2: ZONING MAP: (2534) A record of the boundaries and zoning classification of all districts established pursuant to this Chapter shall be maintained by the Planning Manager, which record is by reference hereby made a part of this Title.

In the event uncertainty shall be deemed to exist concerning the boundary of any district shown on the zoning district map and the uncertainty cannot be resolved by reference to the applicable zoning ordinance, district boundaries shall be presumed to be located on section lines, or lot lines, on the centerlines of highways, streets, alleys, railroad rights-of-way, and channelized waterways such as streams, or on other logical boundaries as lines to be determined by the Planning Manager.

Section 8. Section 11-4-4, W.M.C., is hereby REPEALED AND REENACTED to read as follows:

11-4-4: ALLOWED USES: (2534 2896 2975 3295) This Section lists the uses allowed in specific zoning districts. The table of uses that follows lists the allowed uses within each corresponding district, excluding the Planned Unit Development District, PUD. Uses allowed pursuant to this Section do not apply to that area included in the South Westminster Urban Renewal Plan, Phase I (Sub-areas A-I), and the uses allowed in that area shall be governed by the Plan. The listing of a use as being allowed in any particular district shall be deemed to be an exclusion of such use from any other district unless the use is specifically allowed in such other district. Uses are allowed only insofar as they are not prohibited or in conflict with other provisions of this Title or the City's Comprehensive Plan. In the event of any conflict or inconsistency between this Section and the City's Comprehensive Plan, the Comprehensive Plan shall control.

The categories of allowed uses are as follows:

PERMITTED USES, indicated as 'P' in the following table, are allowed as of right.

CONDITIONAL USES, indicated as "C" in the following table, are allowed upon a determination that they meet the conditions specified in Section 11-4-9, W.M.C.

SPECIAL USES, indicated as 'S' in the following table, may be allowed if they receive a Special Use Permit under Section 11-4-8, W.M.C.

RESIDENTIAL USES:	RE	R1	RA	R2	R3	R4	R5	T1	B1	C1	C2	M1	O1
Single Family Detached Dwelling Units	P	P	P	P	P	P		P					P
Duplexes				P	P	P		P					
Single Family Attached Dwelling Units					P	P		P					
Multi-Family Dwelling Units					P	P		P					
Boarding & Rooming Houses						P		P	P				
Nursing Home/Facilities					P	P		P					
Mobile Home Parks							P						
Group Homes	C	C	C	C	C	C		C					
Group Care Facility					S	S		S	S	S			
Institutional Care Facility										S	S	S	
Domestic Violence Home					C	C		C					
GENERAL USES:	RE	R1	RA	R2	R3	R4	R5	T1	B1	C1	C2	M1	O1
Public Utilities	P	P	P	P	P	P	P	P	P	P	P	P	P
Temporary Construction & Real Estate Buildings	P	P	P	P	P	P	P	P	P	P	P	P	P
All Uses Owned & Operated by the City	P	P	P	P	P	P	P	P	P	P	P	P	P
Radio and Television Towers and Microwave Transmission	P	P	P	P	P	P	P	P	P	P	P	P	P
Public Schools	P	P	P	P	P	P	P	P	P	P	P	P	P
OFFICE AND SIMILAR USES:	RE	R1	RA	R2	R3	R4	R5	T1	B1	C1	C2	M1	O1
Ambulance Service										S	S	S	
Accounting, Bookkeeping								P	P	P	P	P	
Addressing/Mailing Service								P	P	P	P	P	
Administrative Office								P	P	P	P	P	
Adoption Agency								P	P	P	P	P	
Advertising Office								P	P	P	P	P	
Aerobics, Ballet, Dance, Exercise Instruction, and Classes								P	P	P	P	P	
Appraisal Service								P	P	P	P	P	
Architecture, Landscape Architecture, Planning, Design Office								P	P	P	P	P	
Bank & Financial Institution								P	P	P	P	P	
Counseling/Consulting Service								P	P	P	P	P	
Credit/Collection Agency								P	P	P	P	P	
Data Processing Service								P	P	P	P	P	

Detective Agency									P	P	P	P	P	
Employment Agency									P	P	P	P	P	
Engineering & Technical Office									P	P	P	P	P	
Entertainment Services Office									P	P	P	P	P	
Fraternal & Service Club									P	P	P	P	P	
Insurance Office, Sales, & Adjustors									P	P	P	P	P	
Legal Service									P	P	P	P	P	
Medical/Dental/Veterinary Office and Clinic									P	P	P	P	P	
Military Recruiting									P	P	P	P	P	
News Office									P	P	P	P	P	
Real Estate Office									P	P	P	P	P	
Radio/TV/Recording Studio									P	P	P	P	P	
Research & Testing Laboratory									P	P	P	P	P	
Training Service									P	P	P	P	P	
BUSINESS AND COMMERCIAL USES:	RE	R1	RA	R2	R3	R4	R5	T1	B1	C1	C2	M1	O1	
Antique Shop										P	P			
Apparel & Accessory Store										P	P	P		
Artist's Studios/Art Galleries										P	P	P		
Arts & Crafts/Drafting Supply										P	P	P		
Assembly Halls, Event Centers, & Churches includes private functions such as weddings, receptions, conferences, and meetings										P	P	P		
Audio/Visual Sales, Service & Parts Store											P	P	P	
Automobile Accessory Store										P	P	P		
Automobile, Boat, Camper & Recreational Vehicle Showrooms for the purposes of lease only, without parts, service, outdoor storage, or operational demonstrations										P	P	P	P	
Automotive & Heavy Equipment Rental												P	P	
Automotive Wash Facility											P	P	P	
Automotive Rental Office 1)limited to 1.5 vehicles per											P	P	P	

100 square feet of lease space With a maximum of 20 vehicles 2) Vehicles must be in good condition (mechanically & exterior) 3) no car wash, maintenance or repair facilities 4) limited to 1 office per shopping center														
Bakeries								P	P	P				
Bar/Nightclub/Tavern								P	P	P				
Barber & Beauty Shop								P	P	P				
Beauty Supply Sales								P	P	P				
Bed & Bath Shop								P	P	P				
Bingo Establishment/Social Gaming Outlet										P				
Book/Magazine/News Dealer, Excluding Dealers Selling Goods Not Available To All Ages								P	P	P				
Bulk Fuel Sales										P	P			
Camera & Photographic Supply								P	P	P				
Carpet & Rug Store								P	P	P				
China & Glassware								P	P	P				
Cleaning/Laundry/Tailor/Fur Storage								P	P	P				
Computer Hardware, Software, and Accessories								P	P	P				
Consignment Shop									P	P				
Costume Sales & Rental								P	P	P				
Custom Crafts/Ceramics/Stained Glass								P	P	P				
Day Care Facility								P	P	P				
Department/Variety/Catalog Store								P	P	P				
Draperies & Window Coverings								P	P	P				
Drug Store								P	P	P				
Fabric Store								P	P	P				
Fast Food Restaurant/Snacks								P	P	P				
Florist & Plant Shop								P	P	P				
Food Store								P	P	P				
Funeral Home/Mortuary									P	P				
Furniture/Appliance Store								P	P	P				

Furniture/Equipment Rental for Home Use Only									P	P	P		
Gasoline Station/Convenience Store									P	P	P	P	
General Automobile Repair											P	P	
General Repair Shop											P	P	
Gifts/Novelties/Souvenirs, Excluding Dealers Selling Goods Not Available to All Ages									P	P	P		
Greenhouse											P	P	P
Hardware									P	P	P		
Home Furnishing/Home Improvement Centers									P	P	P		
Hotel/Motel/Resort										P	P		
Indoor Entertainment Establishments including Amusement Centers, Bowling, Billiards, Movie Theaters, & Similar Uses									P	P	P		
Jewelry/Watch & Clock/Watch & Clock Repair Store									P	P	P		
Kitchen, Cookware Store									P	P	P		
Lawn & Garden Store									P	P	P		
Leather Goods & Luggage Store									P	P	P		
Liquor Store									P	P	P		
Massage Therapist									P	P	P		
Medical Equipment									P	P	P		
Motor Vehicle, Recreational Vehicle, & Commercial Equipment Dealer, including Automobile, Aircraft, Boats, Campers, Mobile Homes, Trucks, Trailers, Heavy Equipment, Construction Equipment & Farm Implements -- New or Used												P	P
Music, Records, Tapes, Video Sales & Rental									P	P	P		
Office Furnishings & Supply/Typewriter Sales & Service									P	P	P		
Optical Store									P	P	P		

Outdoor Entertainment Establishment												P		
Packaging & Postal Substation									P	P	P			
Paint & Wallpaper Store									P	P	P			
Pawn Shop											P			
Pet Store/Pet Grooming									P	P	P			
Photography/Processing Studio									P	P	P			
Print Shop									P	P	P			
Private Schools									P	P	P			
Restaurants									P	P	P			
Saddle & Tack Store									P	P	P			
Shoe Sales/Repair									P	P	P			
Sporting Goods									P	P	P			
Stationery & Card Shop									P	P	P			
Tanning Salon									P	P	P			
Tattoo Parlor/Body Piercing Parlor										S	S	S		
Toy/Hobby Store									P	P	P			
Travel Agency									P	P	P			
TV & Electronic Appliance Repair									P	P	P			
Thrift Store (under 5,000 sf gross floor area)									P	P	P			
Thrift Store (5,000 sf or greater gross floor area)									S	S	S			
Used Motor Vehicle Parts Sales													P	
Variety Store									P	P	P			
Wholesale & Commercial Heating, Plumbing, Electrical, Lumber, & Building Equipment & Material												P	P	
INDUSTRIAL USES:	RE	R1	RA	R2	R3	R4	R5	T1	B1	C1	C2	M1	O1	
Auto Body Repair and Paint Shops, Auto Auction													P	
Builders Supply Yards, Sale of Lumber & Construction Products													P	
Commercial Printing Establishment													P	
Frozen Food Lockers, Ice, & Cold Storage Plants													P	
Furniture Refinishing													P	
General Contractor Storage													P	

Machine & Woodworking Shop													P	
Printing and Publishing													P	
Professional, Scientific, & Control Instrument Manufacturing													P	
Recycling Operations													P	
Retail Sales in Conjunction with Warehousing and Wholesale Business													P	
Sales of Agricultural, Equipment, Heavy Machinery													P	
Secondary Product Manufacturing, Processing, Fabrication, and Assembly													P	
Warehousing, Mini Warehousing, Storage, & Freight													P	
Wholesale Business With Stock													P	
OPEN AND AGRICULTURAL USES:	RE	R1	RA	R2	R3	R4	R5	T1	B1	C1	C2	M1	O1	
Crop Production, Dairy Farming, Pasture & Raising of Livestock but Excluding Feedlots														P
Gravel, Mineral, Sand Extraction Upon Permit Granted Pursuant to this Code														P
Nurseries								P					P	P
Private Country Clubs	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Public or Private Golf Courses	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Riding Stables & Academies														P
Water Reservoirs														P

Section 9. Section 11-4-6, W.M.C., subsections (A) and (B) are hereby AMENDED, AND NEW SUBSECTION (Q) IS ADDED to read as follows:

11-4-6: SPECIAL REGULATIONS: (2534 2841 2975) The following additional regulations apply to zoning districts as indicated below:-

(A) SINGLE-FAMILY DETACHED ONE-FAMILY DWELLINGS UNITS are also permitted in the R2, R3, R4, and T1 Districts in accordance with the RA "Density Schedule" provisions. Duplexes ~~TWO-FAMILY DWELLINGS~~ are also permitted in the R3, R4, and T1 Districts in accordance with the R2 "Density Schedule" provisions. MULTIPLE-FAMILY DWELLINGS UNITS are also permitted in the T1 District in accordance with the R3 "Density Schedule" provisions. In the B1

District, a caretaker's quarters is allowed on or above the main floor if said use is clearly ancillary to the primary business or commercial use.

(B) **OCCUPANCY OF DWELLING UNITS.** Subject to the provisions of Chapter 12 of Title XI, "Rental Property Maintenance Code," W.M.C., no persons except the following persons shall occupy a dwelling unit:

- (1) Members of a family, together with bona fide domestic employees of such family; or
- (2) Up to four unrelated persons; or
- (3) Two persons and any of either of their children by blood, marriage, adoption, or guardianship, including foster children placed by a state institution or licensed child placement agency; or
- (4) Up to eight residents of a group home for the aged; or
- (5) Up to eight residents, plus staff, of a group home for persons with mental illness; or
- (6) Up to eight residents, plus staff, of a group home for developmentally disabled persons,

provided, further, that, except as otherwise provided by law, no more than one individual who is required to register as a sex offender under the provisions of the Colorado Sex Offender Registration Act shall occupy a dwelling unit.

~~CITY EXEMPTION FROM COMPLIANCE.~~ All uses, structures, and facilities owned or operated by the City for the purpose of providing municipal services are exempt from complying with all zoning regulations and are exempt from all Preliminary Development Plan, Official Development Plan, and platting procedures contained in this Code.

(Q) CITY EXEMPTION FROM COMPLIANCE. All property, uses, structures, and facilities owned or operated by the City for the purpose of providing municipal services are exempt from complying with all zoning regulations and are exempt from all Preliminary Development Plan, Official Development Plan, and platting procedures contained in this Code.

Section 10. Section 11-4-7, W.M.C., is hereby AMENDED to read as follows:

11-4-7: PUD – PLANNED UNIT DEVELOPMENT DISTRICT:

(A) **AUTHORIZATION.** The provisions of this Title concerning Planned Unit Developments (PUD's) districts are enacted pursuant to the home rule provisions of Article XX of the Colorado Constitution and the authority and powers contained in Chapters 2 and 4 of the City Charter.

(B) **GENERAL PROVISIONS.** The PUD District is intended to provide the means and the guidelines through which tracts of land are developed through an overall development plan ~~which~~ that integrates the land uses and site considerations for the land as a unit, rather than the traditional standard treatment of land uses in other so-called Euclidian districts in this Code. It is intended to reflect maximum design freedom to make the best use of topography and land features and to permit the developer an opportunity to more fully utilize the physical characteristics of the site through the reduction of lot sizes and the absence of setback and bulk restrictions; to provide for diversification and flexibility in housing types, housing prices, and overall design; to encourage innovative development of smaller parcels of land that have been passed over; to encourage mixed-use developments, including uses such as residential, office, and commercial; and to encourage higher quality development than possible under traditional standard zoning regulations. Through the Planned Unit Development zoning process, it is the intent that property will be developed with a unified design providing continuity between the various elements. However, the PUD zoning process is not intended as a device to circumvent general development regulations, standards, and good planning practice.

(C) **PERMITTED USES.**

(1) The following uses are allowed in a PUD district:

(a) ~~All~~ These uses listed as permitted in the O1 District.

~~2. Any use allowed in any other district within the City may be permitted if said use is listed as permitted in a Preliminary Development Plan and Official Development Plan approved in accordance with this Code.~~

~~(b)3. Public utilities.~~

~~(c)4. Temporary, on-site construction and real estate sales.~~

~~(d)5. All uses, structures, and facilities owned or operated by the City.~~

(2) Any other use may be allowed in a PUD district if said use is listed as an allowed or permitted use in a Preliminary Development Plan and/or an Official Development Plan that has been approved in accordance with this Title. Once a Preliminary Development Plan and/or an Official Development has been approved for a particular PUD district, only the listed uses are allowed and the uses allowed under paragraph (1) above are no longer allowed, unless listed.

~~6. All proposed uses must conform with the City's Comprehensive Plan.~~

~~7. Land uses listed as allowed or permitted on a Preliminary Development Plan shall be subject to further review, adjustment or modification, including elimination of particular uses, as part of the City's review and approval of an Official Development Plan for the property, the site specific information provided as part of the Official Development Plan, including but not limited to architectural and aesthetic considerations, traffic, drainage, utility demands, heights, bulk, setbacks, common space and landscaping. Final land uses within a Planned Unit Development district shall be those listed as shown on the Official Development Plan for the property.~~

(3) All proposed uses in a PUD district must conform with the City's Comprehensive Plan.

(D) **PERMITTED DENSITY.** Permitted density and dimensional requirements shall be as included in a Preliminary Development Plan and/or Official Development Plan approved in accordance with this Code.

Section 11. Sections 11-4-8 and 11-4-9, W.M.C., are hereby REPEALED AND REENACTED to read as follows:

11-4-8: USES BY SPECIAL PERMIT:

(A) It shall be unlawful for any person to establish, maintain, operate or conduct a use listed in subsection (B) below without having first obtained approval of a Special Use Permit pursuant to this Section, unless such use is specifically listed as an allowed use in the Official Development Plan of a property located within a PUD district. A permit for a special use may be granted by the Planning Commission after a public hearing meeting the notice requirements of Section 11-5-13, W.M.C. The applicant shall have the burden of establishing that the proposed use shall be for the public good and in the public interest.

(B) The following special uses may be granted according to the provisions of this Section:

- (1) Ambulance Service
- (2) Group Care Facility
- (3) Institutional Care Facility
- (4) Tattoo or Body Piercing Parlor
- (5) Thrift Stores 5,000 sq. ft. or greater.

(C) **Application Requirements:** All applications for special use permits must include the following information:

- (1) A completed application form provided by the City.
- (2) The required fees for review and public hearing.
- (3) Written description of the proposed use in sufficient detail to allow review and analysis of the operation and its potential impact on the existing neighborhood.
- (4) Legal description and address of the site.

(5) Detailed site plan showing location of existing and proposed buildings and other structures, parking areas and number of available parking spaces for the special use, ingress and egress, outside trash and storage areas, and type of screening, fencing, and landscaping.

(6) Vicinity map showing immediately adjacent property, structures, existing land use, existing zoning and Comprehensive Land Use classification(s), streets, sidewalks, and curb cuts.

(7) Existing floor plan and elevation of buildings or proposed construction or modifications as may be applicable.

(8) Map and list of property owners within three hundred (300) feet of the subject property based upon records of the County Assessor as of a date within fifteen (15) days of filing the application. The list and map shall meet the requirements in Paragraph 11-5-13(A)(7), W.M.C..

(9) In the case of a Group Care Facility or Institutional Care Facility, a map to scale indicating the locations of any other Group Care Facility or Institutional Care Facility within seven hundred fifty (750) feet of the subject property, measured at the property line.

(10) In the case of a Tattoo or Body Piercing Parlor, a map to scale indicating the location of any other Tattoo or Body Piercing Parlor within one thousand (1,000) feet. Measurement shall occur as prescribed in Section 11-4-13, W.M.C..

(11) In the case of an Ambulance Service, a map to scale indicating a minimum distance of five hundred (500) feet from the boundary of any residential district or the property line of a lot devoted to a residential use regardless of the zoning designation, measured from the property line.

(12) In the case of a Thrift Store, a map to scale indicating the location of any other Thrift Store within one thousand (1,000) feet. Measurement shall occur as prescribed in Section 11-4-13, W.M.C..

(13) In the case of an Institutional Care Facility, the applicant shall also submit written plans for: security measures to prevent unplanned and unsafe activities on the part of residents; screening measures to prevent the placement of residents with a history of or high risk for violence or abuse of children; the ratio of supervisors to residents; programs for counseling or rehabilitation; the hours per day or week when counseling or rehabilitation programs will be administered; the education, training and other qualifications of all staff members; provisions for recreation including the areas of the building and site to be used for recreation.

(14) In the case of an Institutional Care Facility or Group Care Facility, a copy of the approved state license or the application form for such state license showing the use requested.

(15) In addition, reasonable additional information, including but not limited to a traffic study prepared by a professional traffic consultant, may be required by the City Manager or designee if required to evaluate the application.

(D) Application Process:

(1) The applications for Special Use Permits, together with the required fees, shall be submitted to the Planning Manager.

(2) The application shall be reviewed by the Planning Manager or designee, who, after review and such additional investigation as the manager may deem necessary, shall schedule a public hearing before the Planning Commission.

(3) Notice of public hearing shall meet the notice requirements in Section 11-5-13, W.M.C..

(E) Planning Commission Review: Within thirty (30) days of its public hearing on the application, or within such other time as the City and the applicant mutually agree, the Planning Commission will either grant the application, with or without modifications and conditions, or deny it. The Commission will review the application giving due consideration to the criteria listed in this Section in making their decision. The decision will set forth the Commission's written findings stating in what respects the application meets or fails to meet the criteria set forth herein. When granting or denying a Special Use Permit, the Planning Commission may also impose conditions on the granting of a permit, including but not limited to:

- (1) Requiring buffers or screening between the new activity and adjacent uses;
- (2) Placing limitations on the hours of operation of the use; and
- (3) Making changes in design or layout.

(F) Special Use Permit Criteria: When considering any application for a special use permit, the Planning Commission shall consider each of the criteria listed below, insofar as each is relevant to the proposed use:

- (1) Impact on the character of the neighborhood.
- (2) Compatibility of the proposed use with existing and planned uses on adjacent properties.
- (3) Activities or uses on the site that generate potential adverse impacts or nuisance effects such as visual impacts, noise, vibrations, light intensity, odors, loitering, or level of police activity.
- (4) Amount or degree of outdoor activity.
- (5) Hours of operation and deliveries.
- (6) Location and intensity of storage, loading, and delivery areas.
- (7) Adequacy of parking and vehicular access and circulation.
- (8) Traffic volume generated by the proposed use.
- (9) Pedestrian safety.

(G) Standards of Review: After consideration of the foregoing criteria, the Commission will grant the special use permit if it determines:

- (1) That the proposed use will be reasonably compatible with the surrounding neighborhood;
- (2) That the proposed use will not be in conflict with the policies of the Comprehensive Plan; and
- (3) That the proposed use will meet the following distance limitations:
 - (a) The location of any other Group Care Facility or Institutional Care Facility within seven hundred fifty (750) feet of a Group Care Facility shall preclude the approval of the special use permit.
 - (b) The location of any other Group Care Facility or Institutional Care Facility within seven hundred fifty (750) feet of an Institutional Care Facility shall preclude the approval of the special use permit.
 - (c) The location of any other Tattoo or Body Piercing Parlor within one thousand (1,000) feet of another such use shall preclude the approval of the special use permit.
 - (d) The location of any other Thrift Store within one thousand (1,000) feet of another such use shall preclude approval of the special use permit.
 - (e) The location of an ambulance service within five hundred (500) feet of the boundary of any residential district or the property line of a lot devoted to a residential use regardless of the zoning designation will preclude the approval of the special use permit.
- (4) In the case of an Ambulance Service, that the primary vehicular access from the subject property is direct to a four or more lane street and that no outside storage of ambulances occurs.

(H) Appeal to City Council: An applicant or the City Manager may appeal to the City Council any final decision of the Planning Commission regarding a special use permit. An appeal shall be taken by filing a written notice of appeal of the decision of the Planning Commission with the City Manager within ten (10) days after the date of such decision. Such notice of appeal shall include the following:

- (1) The action of the Planning Commission that is the subject of the appeal.
- (2) The date of such action.
- (3) The name, address, telephone number of the appellant.
- (4) A statement setting forth the basis of the appellant's appeal.

Upon the receipt of a timely notice of appeal, the City Manager shall schedule a date for a public hearing before the City Council as expeditiously as possible. The City Manager shall provide the appellant at least ten (10) days' written notice of the date, time and place of the hearing. The City Manager shall also issue the published and posted notices provided for by Section 11-5-13, W.M.C., in advance of the City Council hearing. At its public hearing, if City Council determines all the requirements have been met for perfecting an appeal of the Planning Commission decision pursuant to this Section, the City Council shall conduct a de novo hearing on the merits.

(I) Council Call-up: Upon the vote of at least four members of Council, any decision of the Planning Commission on a special use permit may be reviewed de novo by Council, if such vote occurs within

fourteen (14) days of the Planning Commission decision. Notice and scheduling of such hearing shall proceed in the same manner as for an appeal by an applicant or the City Manager, except that the notice shall also state that the hearing is being held upon the request of Council pursuant to this Section.

(J) Transfer: A special use permit shall not be transferred to another person, business, or location.

(K) Termination:

(1) A special use permit shall terminate automatically whenever the permitted use is inactive for a period of one (1) year or more.

(2) The Planning Commission may terminate any special use permit for cause if, after notice and hearing as provided above, it determines that the conditions of approval under which the permit was initially approved are no longer being met.

(L) State Licensing: In the event a proposed use requires a special use permit, no approval for a business license or a building permit shall be issued until the Special Use has been approved by the City and the appropriate State license has been issued, and evidence thereof has been provided to the Planning Manager.

11-4-9: CONDITIONAL USES:

(A) It shall be unlawful for any person to establish, maintain, operate or conduct a use listed in subsection (B) below without having first met the conditions for approval established by the City.

(B) The following Conditional Uses are permitted if they meet the conditions for the particular use:

- (1) Group Home for the Developmentally Disabled
 - (a) Receive and maintain state license as a Community Residential Home, and
 - (b) Maintain adequate off-street parking for employees
- (2) Group Home for the Mentally Ill
 - (a) Receive and maintain state license as a Group Home for the Mentally Ill,
 - (b) Maintain adequate off-street parking for employees, and
 - (c) Be located no nearer than 750 feet from another such group home
- (3) Group Home for the Aged
 - (a) Be located no nearer than 750 feet from another such group home, and
 - (b) Residents do not require life care or nursing facilities as defined by state statute.
 - (c) Maintain adequate off-street parking for residents.
- (4) Domestic Violence Shelter
 - (a) Maintain adequate off-street parking for employees
- (5) Thrift Store less than 5,000 square feet in gross floor area
 - (a) No outdoor storage of materials
 - (b) No outdoor donation bins
 - (c) No outdoor display of merchandise

(C) Application Requirements: Applicants for Conditional Uses shall include the following information:

- (1) A completed application form provided by the City.
- (2) The required fee for review.
- (3) Written description of the proposed use.
- (4) Legal description and address of the site.
- (5) The zone district and Comprehensive Land Use designation of the subject property.

(D) Application Process:

- (1) An application for a Conditional Use shall be submitted to the Planning Manager.

(2) The application shall be reviewed by the Planning Manager or designee to determine that the conditions required by Subsection (B) above have been met. Review of a Conditional Use to insure compliance with the conditions established by this Section shall be obtained prior to establishing any of the uses listed above. If the review determines that one or more of the conditions required to establish a Conditional Use have not been met, the City will notify the applicant in writing describing the condition or conditions that have not been satisfied.

(3) In the event a proposed use is allowed as a Conditional Use, no approval for a business license or building permit shall be issued until the Conditional Use has been reviewed by the City to insure that the conditions established in this Section have been met.

(E) Transfer: A Conditional Use shall not be transferred to another person, business, or location.

(F) Termination:

(1) A Conditional Use shall terminate whenever the permitted use is inactive for a period of one (1) year or more.

(2) A Conditional Use shall automatically terminate if the conditions of approval are no longer being met.

Section 12. This ordinance shall take effect upon its passage after second reading.

Section 13. 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 11th day of January, 2010.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 25th day of January, 2010.

Mayor

ATTEST:

APPROVED AS TO LEGAL FORM:

City Clerk

City Attorney's Office



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
January 25, 2010



SUBJECT: Second Reading of Councillor's Bill No. 2 re Appropriation to 80th Avenue/Federal Boulevard Project Account

Prepared By: Stephen Baumann, Assistant City Engineer

Recommended City Council Action

Pass Councillor's Bill No. 2 on second reading authorizing a supplemental appropriation of \$137,723 from 2008 Adams County Transportation Tax carryover funds into the capital project account for the 80th Avenue/Federal Boulevard project account.

Summary Statement

- In the years 2002-2007, the City developed a funding plan for the reconstruction of 80th Avenue and Federal Boulevard to solve intersection capacity and operational problems. Intergovernmental Agreements between the City and Adams County and the City and the Colorado Department of Transportation (CDOT) resulted in a pool of \$1,539,000 in local agency funds to secure \$2,497,000 in federal funding, along with \$453,000 in backup funding from the State for a total project budget of \$4,489,000. CDOT also administered the project and performed design engineering, right-of-way acquisition, and managed construction contracts.
- Construction was completed in 2007 at an overall project cost of \$4,605,587, 2.6% over budget. The State has now apportioned expenses in a final accounting that shows an additional \$137,723 is due from the City for cost overruns in several categories, particularly costs not eligible for federal participation. Under the terms of the agreement with CDOT, the local agency is responsible for all costs that exceed the project budget.
- Staff has reviewed the project accounting provided by CDOT and recommends that \$137,723 be appropriated from 2008 Adams County Transportation Tax Carryover Funds to the 80th Avenue/Federal Boulevard project account so the contract with CDOT can be closed out.
- This Councillor's Bill was passed on first reading on January 11, 2010.

Expenditure Required: \$137,723

Source of Funds: 2008 Adams County Transportation Tax Carryover Funds

Respectfully submitted,

J. Brent McFall
City Manager

Attachment - Ordinance

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **2**

SERIES OF 2010

INTRODUCED BY COUNCILLORS
Major - Dittman

A BILL

**FOR AN ORDINANCE AMENDING THE 2009 BUDGETS OF THE GENERAL CAPITAL
IMPROVEMENT FUND AND AUTHORIZING A SUPPLEMENTAL APPROPRIATION FROM
THE 2009 ESTIMATED REVENUES IN THE FUND**

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The 2009 appropriation for the General Capital Improvement Fund, initially appropriated by Ordinance No. 3432 are hereby increased by \$137,723. This appropriation is due to the appropriation of 2008 Adams Country Transportation Tax carryover.

Section 2. The \$137,723 increase shall be allocated to City Revenue and Expense accounts as described in the City Council Agenda Item 10 C dated January 11, 2010 (a copy of which may be obtained from the City Clerk) increasing City fund budgets as follows:

General Capital Improvement Fund	<u>\$137,723</u>
Total	<u>\$137,723</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 11th day of January, 2010.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 25th day of January, 2010.

ATTEST:

Mayor

City Clerk



WESTMINSTER
COLORADO

Agenda Item 8 Q

Agenda Memorandum

City Council Meeting
January 25, 2010



SUBJECT: Second Reading of Councillor’s Bill No. 3 re Cost Recovery for the 112th Avenue, Federal Boulevard to Huron Street Project

Prepared By: David W. Loseman, Senior Projects Engineer

Recommended City Council Action:

Pass Councillors Bill No. 3 on second reading establishing recovery payments owed to the City for costs incurred in constructing improvements to 112th Avenue, Federal Boulevard to Huron Street.

Summary Statement

- The improvements to the 112th Avenue between Federal Boulevard and Huron Street were completed in 2009 at an overall cost of approximately \$1,365,293. Westminster Municipal Code allows the City’s recovery of portions of those costs from the developers of adjoining unplatted benefited properties.
- Costs of the project were categorized and evaluated according to guidelines in the Municipal Code to determine the level of assessment of those costs to properties that benefit from them. Generally, improvements that would normally be installed by the adjacent developer as a condition of development were included. The total cost was then apportioned among the City and the properties on either side of 112th Avenue. The recovery specifically impacts the property at the northwest corner of 112th Avenue and Huron Street owned by Kaiser Permanente (the “Kaiser property”) and the property immediately west of the Townhomes at the Ranch Subdivision owned by the Rothe Family Trust (the “Rothe property”). Both of these properties are shown on attached Exhibit B.
- The attached Councillor’s Bill lists the qualifying costs and establishes the cost recovery mechanism for assessing those costs totaling \$212,044.71 to the Kaiser Property and \$29,736.81 to the Rothe property, each plus interest as established by City Council at the beginning of each year.
- City Council action is requested to pass the attached Councillors Bill on second reading establishing recovery payments owed to the City for costs incurred in constructing improvements to 112th Avenue, Federal Boulevard to Huron Street.
- This Councillor’s Bill was passed on first reading on January 11, 2010.

Expenditure Required: \$ 0

Source of Funds: N/A

Respectfully submitted,

J. Brent McFall
City Manager
Attachment - Ordinance

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **3**

SERIES OF 2010

INTRODUCED BY COUNCILLORS

Kaiser - Major

A BILL

FOR AN ORDINANCE ESTABLISHING COST RECOVERIES FOR CITY-CONSTRUCTED PROJECT: 112TH AVENUE, FEDERAL BOULEVARD TO HURON STREET PROJECT

WHEREAS, Westminster Municipal Code § 11-6-7(B)(1) provides that the City shall have the authority to allocate and recover the costs of construction of public improvements or facilities from property owners based on the benefit of such improvement, facility, or service to said owners; and

WHEREAS, Westminster Municipal Code § 11-6-7(B)(3) provides that the City Council shall provide by ordinance for the recovery of appropriate costs for public improvements, facilities, or services constructed by the City, and that said ordinance shall establish the nature and extent of the recoveries due to the City, and that such ordinance may include provisions for simple interest payable to the City; and

WHEREAS, Westminster Municipal Code § 11-6-7(E)(2)(a) provides that any ordinance establishing cost recovery obligations for City-constructed improvements shall include a list of properties to be charged with cost recovery for said improvements, that said ordinance shall be recorded in the real estate records of the counties in which the properties to be charged with cost recoveries are located and, if available, shall include a final statement of construction costs for the improvements subject to recovery or, otherwise, an estimate of construction costs for the improvements to be constructed until a final statement of construction costs for the improvements may be determined and recorded following the completion of the improvements; and

WHEREAS, the City completed the installation of roadway, utility and landscape improvements along the general alignment of 112th Avenue between Federal Boulevard and Huron Street; and

WHEREAS, the City, through this ordinance, now wishes to establish a cost assessment recoverable from benefiting properties.

NOW, THEREFORE, THE CITY OF WESTMINSTER ORDAINS:

Section 1. The nature and extent of the recoverable costs owed to the City pursuant to this ordinance includes costs associated with the design, right-of-way acquisition, construction engineering, street lights and construction of improvements to 112th Avenue between Federal Boulevard and Huron Street listed and summarized in Exhibit A, attached hereto and incorporated herein by this reference, and those costs (the "Recoverable Costs") will be assessed at \$212,044.71 plus interest as established by City Council each year for the property located at the northwest corner of 112th Avenue and Huron Street and \$29,736.81 plus interest as established by City Council each year for the property west of and adjacent to the Townhomes at the Ranch Subdivision.

Section 2. The properties (the "Assessed Properties") described in Exhibit B, attached hereto and incorporated herein by this reference, is hereby assessed the Recoverable Cost noted in Exhibit A. The Recoverable Costs shall be due and payable in accordance with the provisions of W.M.C. § 11-6-7, as the same may be amended.

Section 3. This ordinance shall take effect upon its passage after second reading.

Section 4. 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.

Section 5. The City Clerk shall cause a copy of this ordinance to be recorded in the real estate records of Adams County immediately following its enactment after second reading.

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 11th day of January, 2010.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 25th day of January, 2010.

Mayor

ATTEST:

APPROVED AS TO LEGAL FORM:

City Clerk

City Attorney's Office



Agenda Item 9 A

WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
January 25, 2010



SUBJECT: 2010 Appointments to the Rocky Flats Stewardship Council

Prepared By: Ron Hellbusch, Special Projects Coordinator

Recommended City Council Action

Reappoint City Councillor Bob Briggs as the City's representative to the Rocky Flats Stewardship Council (RFSC) and Special Projects Coordinator Ron Hellbusch as alternate representative to the RFSC.

Summary Statement

- The Intergovernmental Agreement establishing the Rocky Flats Stewardship Council was entered into on February 13, 2006.
- The Intergovernmental Agreement requires that each participating local government appoint or reappoint a representative and alternate representative annually.
- Lack of a unanimous triennial determination by the Parties and annual appointments to the board of directors will result in the dissolution of the Stewardship Council.
- Council previously appointed City Councillor Bob Briggs as the City's representative to the Rocky Flats Stewardship Council Board of Directors and appointed Special Projects Coordinator Ron Hellbusch as the alternate representative at the January 12, 2009 City Council meeting,

Expenditure Required: \$0

Source of Funds: N/A

Policy Issue

Should the City continue to participate in and support the Rocky Flats Stewardship Council by authorizing reappointments to the board of directors for the year 2010?

Alternative

Determine that it is not in the best interest of the City of Westminster to support the continuation of the Rocky Flats Stewardship Council for an additional three years. This alternative is not recommended as lack of a unanimous approval would result in the dissolution of the RFSC. The City would lose an opportunity to continue to work with the other local governments that are contiguous to Rocky Flats in order to "speak with one voice" to the Department of Energy, State and Federal Governments, and elected delegations on issues related to the long-term stewardship issues of Rocky Flats. In addition, continued long term water quality monitoring and management by the RFSC is vital to the City of Westminster and other Standley Lake Cities.

Background Information

The Rocky Flats Stewardship Council is made up of elected officials and staff representing nine local governments that are contiguous to the Rocky Flats National Wildlife Refuge and the retained lands held by the Department of Energy, three community organizations and one individual. The nine local governments include 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, plus the League of Woman Voters, Rocky Flats Cold War Museum, Rocky Flats Homesteaders and an individual Karen Imbierowicz (Superior).

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

The RFSC was formed in February 2006 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 environmental oversight, communication and advocacy between the DOE and nearby communities on any issues involving the retained DOE lands. Membership in the RFSC by the City continues to be based on continued focus on site water quality monitoring and maintenance and related environmental issues and federal funding support for the RFSC. The RFSC meeting schedule has been reduced to five times per year, since site cleanup has been accomplished.

This action helps achieve the City Council's Strategic Plan Goal of a Safe and Secure Community by overseeing the City's interests and ensuring a safe, long-term water quality monitoring of Rocky Flats. This action also supports City Council's Strategic Plan Goal of a Beautiful and Environmentally Sensitive City by providing oversight of the post-closure management of the Rocky Flats Environmental Technology Site as it transitions to a national wildlife reserve.

Respectfully submitted,

J. Brent McFall
City Manager



**WESTMINSTER
COLORADO**

Agenda Memorandum

Westminster City Council
January 25, 2010



SUBJECT: Resolution No. 4 re HOME Funding for Panorama Pointe Senior Housing Project

Prepared By: Tony Chacon, Senior Projects Coordinator

Recommended City Council Action

Adopt Resolution 4 allocating \$400,000 of the City’s Federal HOME funds towards construction of the Panorama Pointe Senior Apartments.

Summary Statement

- The U.S. Department of Housing and Urban Development (HUD) provides approximately \$220,000 of HOME funds annually to the City of Westminster through Adams County (ADCO) to be used to support affordable housing efforts.
- Per a consortium agreement between the City and ADCO, the City’s HOME funds have regularly been equally split between homebuyer down-payment assistance and homeowner housing rehabilitation for qualified low to moderate income households.
- The City of Westminster has a balance of \$716,976 as of January 1, 2010 in the HOME fund. The City is also expected to receive another \$200,000 in mid-2010, increasing the balance of funds.
- A significant portion of the City’s HOME balance needs to be spent so as to keep within HUD’s requirement that the funds need to be spent within three years of receipt.
- The City can modify its agreement with ADCO to redirect funds to other eligible HOME activities benefiting low to moderate income households, including construction of new housing.
- M.E.M Westminster Property, owned by Lee Mendel, is requesting City Council consideration to allocate \$400,000 of the City’s HOME balance towards construction of an affordable 72-unit independent senior apartment complex at the Panorama Pointe senior housing project (south side of 84th Avenue between Zuni Street and Federal Boulevard).
- Panorama Pointe, under the direction of Lee Mendel and in partnership with the Westminster Housing Authority, was created in the early 1990’s as a senior housing project providing a range of living choices including independent rental cottages and apartments, assisted living, and nursing care. The proposed project provides the independent apartment component complementing the already completed cottages and nursing care.
- Occupancy of the units will be restricted to residents over the age of 55 and earning 40-50 percent or less of Area Median Income (AMI) for Adams County.
- M.E.M. Westminster property has received an allocation of affordable housing tax credits from the State and is requesting the \$400,000 HOME allocation to close a continuing funding gap.
- This proposal was presented to the City Council at a study session on June 15, 2009 at which time Staff was authorized to prepare documents for formal consideration.

Expenditure Required: \$400,000

Source of Funds: HOME fund administered by Adams County

Policy Issue

Should the City redirect a portion of its existing HOME fund balance to provide funding for construction of a privately-owned affordable senior housing project, which would result in a reduction in the availability of funds for first-time homebuyer and housing rehabilitation assistance in Westminster's HOME program?

Alternative

The City could choose not to fund the project, which could result in the project not being built and the developer losing the State tax credits. By not funding the project and maintaining a high HOME balance, the City could become out of compliance with HUD spending requirements. Staff does not recommend this alternative as the proposed project provides much needed housing for low income seniors.

Background Information

In 1993, the Westminster Housing Authority (WHA) purchased 17.5 acres of land from the Resolution Trust Corporation (RTC) on the south side of 84th Avenue between Zuni Street and Federal Boulevard, commonly known as the Panorama Pointe property. In 1994, the Wheaton Franciscan Sisters purchased about 2.5 acres upon which 60 low-income senior apartments were constructed. Proceeds from the sale to the Wheaton Franciscan Sisters were reinvested by the WHA into public streets, and water and sewer lines serving the Panorama Pointe project. In 2000, the remaining 15 acres was sold to Mendel-Allison for the purpose of developing additional affordable senior housing including independent living rental cottages and apartments, and assisted living/nursing facility(s). In conjunction with the development agreement with Mendel-Allison, \$1,344,500 in Community Development Block Grant (CDBG) funds were contributed by the City and another \$528,264 in proceeds from the sale of the land from the WHA were used to construct the supporting Panorama Pointe Senior Center. Mendel Allison has completed the rental cottage component of the development and the construction of a community center to serve the Panorama Pointe residents.

Completion of the independent living apartments and assisted living/nursing facility has languished over many years due to limited funding resources and the marketability of the product at this particular location. However, Lee Mendel, president of M.E.M. Westminster Property and a partner in the original development team, has continued to work diligently over this lengthy period of time to complete the project. His efforts have finally resulted in securing private and public financing for the project. After several years and attempts, M.E.M received an allocation of Low-Income Housing Tax Credits from the Colorado Housing Finance Authority (CHFA) for the Panorama Pointe Senior Apartments providing 72 units of senior independent living units. Key Bank has agreed to buy the tax credits from M.E.M. providing \$890,357 of equity towards construction. With the consent of CHFA and Key Bank, M.E.M. has also agreed to defer \$650,000 (approximately 50%) of its developer fee to meet the full funding needs of the project. Even with the infusion of the tax credit funds, financing for the project is still short \$400,000. As a result, M.E.M. is requesting consideration from the City to provide an allocation, in the form of a grant, in the amount of \$400,000 in HOME funds to close the funding gap.

Panorama Pointe was planned and has been built as an affordable senior housing community. The proposed project would provide more affordable housing options for seniors. As a condition of receiving the tax credits, M.E.M has agreed with CHFA to make all of the living units affordable to households earning no more than 50% of AMI. Of the 72 units, 33 will be made available to households at 40% or less of AMI, with the balance (39 units) being rented up to the 50% level. The rentals will further be restricted to tenants over the age of 55. Through the use of the CHFA issued tax credits, the property must remain within the affordable allowances for a period of 40 years. The proposed use of HOME funds would further ensure the rental units are preserved for low income residents.

The City receives an annual allocation of federal HOME funds that are distributed to and administered by Adams County. In the past, these funds have been applied primarily to first-time homebuyer down payment assistance and homeowner residential rehabilitation. The City's balance in these accounts has remained high over the years as few eligible households have taken advantage of the program. A substantial reason for lack of participation is a result of the higher regulatory requirements attached to the HOME funds. For example, to obtain a rehabilitation loan for the purpose of replacing a roof, the applicant may also have to remediate lead paint, replace the furnace, and repair the foundation concurrently thereby driving up the cost beyond the applicant's financial capability. On the home buying side, down payment assistance using HOME funds can only be granted to lower income eligible households, whereby the income limitations prevent many grant applicants from securing a mortgage loan. These impediments among others have made it hard for Adams County to disburse the funds for the original intended purposes. This situation has potential consequences relative to the City maintaining its HUD imposed rate-of-expenditure, whereby HUD requires HOME funds to be spent within three years of receipt. A substantial portion of the City's present balance must be spent soon to maintain compliance with HUD's requirement.

The City has a current HOME fund balance of \$716,976 as of January 1, 2010, which is currently allocated to homebuyer down payment assistance and housing rehabilitation. The City has the ability to reallocate these dedicated funds to other eligible HOME programs and/or projects. The rehabilitation account has \$308,890 and the homebuyer account has a balance of \$408,086 for a total balance of \$716,976. Should the City grant the requested \$400,000 HOME grant towards the construction of the Panorama Pointe Senior Apartments, the City would retain a balance of \$316,976 for first time homebuyers and housing rehabilitation. The City is also due to receive its 2010 allocation in about June providing another \$200,000 that can be applied towards the housing rehabilitation and homebuyer assistance programs. The HOME funds would not be provided to M.E.M. until the completion phase of the project that would be in the later part of 2010, which is within the required HUD timeframe for spending HOME funds.

The proposed allocation of HOME funds to the Panorama Pointe Senior Apartment project addresses the City Council's Strategic Plan goal of Vibrant Neighborhoods and Commercial Areas maintaining and improving neighborhood infrastructure and housing. The project will broaden the range of housing choices and affordability for seniors, giving long time residents of Westminster the opportunity to remain in and contribute to the community.

Respectfully submitted,

J. Brent McFall
City Manager

Attachment - Resolution

RESOLUTION

RESOLUTION NO. 4

INTRODUCED BY COUNCILLORS

SERIES OF 2010

**A RESOLUTION
ALLOCATING HOME FUNDS TOWARDS CONSTRUCTION
OF THE PANORAMA POINTE SENIOR APARTMENTS**

WHEREAS, the City of Westminster receives an annual allocation of HOME funds from the U.S. Department of Housing and Urban Development (HUD); and

WHEREAS, such funds must be applied towards assisting low to moderate income families in obtaining and maintaining residences in safe and habitable housing; and

WHEREAS, all of the Panorama Pointe Senior Apartment units must be leased to income eligible households earning no more than 40 % to 50% of the Area Median Income (AMI) for Adams County; and

WHEREAS, the Panorama Pointe Senior Apartment project has secured an allocation of Affordable Housing Tax Credits from the Colorado Housing Finance Authority (CHFA) to assist in constructing the project; and

WHEREAS, the Developer has secured additional private financing to be used in conjunction with the tax credits; and

WHEREAS, the Developer requires an additional \$400,000 in funding to close the remaining financial gap; and

WHEREAS, the City has a sufficient balance of HOME funds that may be applied towards the project.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WESTMINSTER that the Adams County Department of Community Development is hereby authorized to assign \$400,000 in HOME funds dedicated to the City of Westminster towards the Panorama Pointe Senior Apartment project.

PASSED AND ADOPTED this 25th day of January, 2010.

Mayor

ATTEST:

APPROVED AS TO LEGAL FORM:

City Clerk

City Attorney



Agenda Item 10 B

WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
January 25, 2010



SUBJECT: Councillor's Bill No. 4 re Proposed Economic Development Assistance Agreement with Scottrade, Inc.

Prepared By: John L. Hall, Business Development Officer

Recommended City Council Action

Pass Councillor's Bill No. 4 on first reading authorizing the City Manager to execute and implement an Economic Development Agreement for Scottrade, Inc.

Summary Statement

- Scottrade, Inc. (Scottrade) is a family-owned business headquartered in St. Louis, Missouri, that provides online stock brokerage services.
- The company is purchasing a 200,000 square foot building in the Westmoor Technology Park located northeast of 108th Avenue and Simms Street (10955 Westmoor Drive).
- Scottrade intends to locate an operations center at the Westmoor location, including 100 employees at move-in, and increasing to 385 employees within five years. Salaries will average approximately \$52,000 per year.
- The proposed assistance is based on the City's desire to fill existing office space and to attract basic employers to Westminster. The Economic Development Agreement (EDA) totals \$196,215, which includes \$65,715 in permit fee rebates, \$77,400 in construction use tax rebates and \$53,100 in equipment use tax rebates.
- Should Scottrade relocate outside of Westminster within 5 years of approval of this EDA, the assistance would have to be paid back to the City by the company.
- Scottrade also considered sites in St. Louis and Phoenix.

Expenditure Required: Approximately \$196,215 (Rebates)

Source of Funds: The EDA with Scottrade will be funded through revenue received from permit fees, construction use tax, and use tax on furniture, fixtures, and equipment.

Policy Issue

Should the City provide assistance to Scottrade based on the attraction of primary jobs to the City?

Alternatives

1. Do Nothing: One alternative to offering the business assistance package is to offer nothing to this company. Though the City may not lose the project if assistance is not provided, the result would be that the City’s value of attracting businesses and retaining primary jobs would not be supported.
2. Provide Less: Another alternative is to provide less assistance than what is recommended. The recommended assistance package is consistent with other assistance packages provided to businesses.
3. Provide More: A third alternative would be to provide a greater amount of assistance than recommended. There is financial capacity for additional funding. However, it is Staff’s opinion that additional assistance is not needed, as it is consistent with other business assistance packages.

Background Information

Scottrade is one of the largest online brokerages in the US, offering low-cost trading in stock, bonds, options, and mutual funds, with transactions handled in real time. Scottrade has over 2,000 employees and 400 branch offices across the United States. Scottrade provides both online and in-person services, and was named as one of the 100 Best Companies to Work for in America by FORTUNE magazine in 2008.

The acquisition of a 200,000 square foot building in Westminster will allow the company to relocate and expand operations currently in Westminster and other US locations. The move will result in \$8.6 million in lease hold improvements and the acquisition of \$2.95 million in new equipment and furnishings over five years. Scottrade will initially relocate 100 employees, and add 35 in Westminster, and expects to add 250 more over the next five years. Salaries will average \$52,500, resulting in a projected annual payroll over \$22 million by 2014.

Proposed Assistance

Staff recommends the following assistance to be paid over a five-year period as tenant finishes and equipment installations occur:

	Approximate Value
<u>Building Permit Fee Rebate</u> Over a period of five years, 60% of the building related fees (excluding water and sewer tap fees) will be rebated (\$109,525 x 60% = \$65,715)	\$65,715
<u>Construction Use Tax Rebate</u> Over a period of five years, 60% of the Use Tax (excludes the City’s .25% Open Space Tax and .6% Public Safety Tax) on construction materials for this project will be rebated (Estimated Use Tax \$129,000 x 60% = \$77,400)	\$77,400
<u>Use Tax on Furniture and Fixtures Rebate</u> For the period 3 months prior to Scottrade obtaining the Certificate of Occupancy, and over the five year period thereafter, the City will rebate 60% of the Use Tax (excludes the City’s .25% Open Space Tax and .6% Public Safety Tax) collected on the furnishings and equipment purchased for Scottrade. Westminster facility (\$2,950,000 x 3% = \$88,500 Use Tax x 60% = \$53,100)	\$53,100
Total Proposed Assistance Package	\$196,215

SUBJECT: Councillor's Bill re EDA with Scottrade, Inc.

Page 3

This assistance package is based upon the City's goals to add primary jobs, fill existing space and supports the Strategic Plan goal of a Balanced, Sustainable Local Economy. Scottrade is an exciting and growing business. Staff believes that this is the type of company the City desires for the community.

Respectfully submitted,

J. Brent McFall
City Manager

Attachments

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **4**

SERIES OF 2010

INTRODUCED BY COUNCILLORS

**A BILL
FOR AN ORDINANCE AUTHORIZING AN ECONOMIC DEVELOPMENT AGREEMENT
WITH SCOTTRADE, INC.**

WHEREAS, the successful attraction and retention of high quality development 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 remain competitive with other local governments in creating assistance for high quality development to locate in the City; and

WHEREAS, Scottrade, Inc. (Scottrade) plans to purchase and occupy 200,000 square feet in Westmoor Technology Park in Westminster; and

WHEREAS, a proposed Economic Development Agreement between the City and Scottrade 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 Scottrade 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 25th day of January, 2010.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 8th day of February, 2010.

ATTEST:

Mayor

City Clerk

APPROVED AS TO LEGAL FORM:

City Attorney's Office

Exhibit "A"

**ECONOMIC DEVELOPMENT AGREEMENT FOR
SCOTTRADE, INC. IN THE CITY OF WESTMINSTER**

THIS ECONOMIC DEVELOPMENT AGREEMENT is made and entered into this _____ day of _____, 2010, between the CITY OF WESTMINSTER (the "City"), and the SCOTTRADE, Inc., an Arizona corporation ("Scottrade").

WHEREAS, the City wishes to provide assistance to Scottrade to aid in the relocation and expansion of this company in the City; and

WHEREAS, Scottrade plans to purchase, and furnish and occupy 200,000 square feet of office space in Westmoor Technology Park, thus providing primary job growth within the City; and

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

In consideration of the mutual promises set forth below, the City and Scottrade agree to the following:

1. Building Permit Fee Rebates. Over a period of five years from the execution date of this agreement the City shall rebate to Scottrade 60% of the building permit fees, that are otherwise required under W.M.C. Section 11-10-3 (E). This rebate excludes water and sewer tap fees. The permit fee rebate will be approximately \$65,715.

2. Use Tax Rebate- Construction. Over a period of five years from the execution date of this agreement the City shall rebate to Scottrade 60% of the Building Use Tax (excludes the City's .25% Open Space Tax and .6% Public Safety Tax) on the construction materials, collected from Scottrade that are otherwise required under W.M.C. Sections 4-2-9 and 4-2-3. The rebate will be approximately \$77,400.

3. Use Tax Rebate- Furniture and Fixtures. The City will rebate 60% of the City's Use Tax (excludes the City's .25% Open Space Tax and .6% Public Safety Tax) collected on the furnishings and equipment purchased during the period three months prior to the date Scottrade obtains a final Certificate of Occupancy for their new facility and for the subsequent five year period of time. This rebate will be approximately \$53,100.

4. Payments of Rebates. The rebates to Scottrade by the City shall be paid in quarterly installments from revenue actually collected and received by the City in connection with the move by Scottrade into the new facility. Payments of each quarterly installment shall be paid to Scottrade by the City within twenty (20) days following the end of each calendar quarter. All payments by the City shall be made electronically to Scottrade's designated financial institution or other account.

5. Entire Agreement. This Agreement shall constitute the entire agreement between the City and Scottrade 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.

6. Termination. This Agreement shall terminate and become void and of no force or effect upon the City if Scottrade has not moved into the Westmoor offices by January 1, 2011 or should Scottrade not comply with the City regulations or code following written notice of non-compliance from the City.

7. Business Termination. In the event Scottrade ceases business operations within the City at any time prior to January 31, 2015, then Scottrade shall pay to the City the total amount of fees and taxes that were paid by or for Scottrade to the City and were subsequently rebated by the City to Scottrade pursuant to this Agreement.

8. 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.

9. 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.

10. 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 good faith the services of a mutually acceptable, qualified, and experienced 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 Jefferson County, Colorado.

SCOTTRADE, INC.

CITY OF WESTMINSTER

By: _____
Print Name: _____
Its: _____

By: _____
J. Brent McFall
City Manager

ATTEST:

Linda Yeager
City Clerk

APPROVED AS TO LEGAL FORM:

City Attorney's Office

Adopted by Ordinance No.



Agenda Item 10 C

WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
January 25, 2010



SUBJECT: Councillor's Bill No. 5 re Savory Farms and Hawn-Hewit Open Space Acquisition Grants Supplemental Appropriation

Prepared By: Heather Cronenberg, Open Space Coordinator

Recommended City Council Action

Pass Councillor's Bill No. 5 on first reading appropriating funds received from Adams County in the amounts of \$550,000 and \$1,085,000 for the Savory Farms and Hawn-Hewit acquisitions for open space.

Summary Statement

- City Council previously approved the acquisition of the 8.1-acre Savory Farms property located at 10900 Federal Boulevard for \$1,100,000. Council also authorized the Department of Community Development to pursue a grant in the amount of \$550,000 with Adams County Open Space for the acquisition of the Savory Farms parcel. Adams County recently forwarded the formal grant award documents to the City of Westminster for a grant in the amount of \$550,000 towards the acquisition of the Savory Farms parcel.
- City Council previously authorized the Department of Community Development to pursue a grant in the amount of \$1,085,000 with Adams County Open Space for the acquisition of the Hawn-Hewit parcel at the northeast corner of 104th Avenue and Sheridan Boulevard. Adams County recently forwarded the formal grant award documents to the City of Westminster for a grant in the amount of \$1,085,000 towards the acquisition of the Hawn-Hewit parcel. A separate agenda memo will be brought to Council to seek approval for the acquisition of this property for open space.
- City Council action is needed to appropriate these grant funds.
- In order to complete these acquisitions, the City is required to contribute a cash match of up to \$550,000 for the Savory Farms acquisition and up to \$1,085,000 for the Hawn-Hewit acquisition, which will come from the City's Parks, Open Space and Trails bond funds.

Expenditure Required: \$1,635,000 (\$550,000 for Savory Farms and \$1,085,000 for Hawn-Hewit)

Source of Funds: Parks, Open Space and Trails Bond Funds- Land Purchases

Policy Issue

Should the Adams County grants be appropriated to the Parks, Open Space and Trails Bond Funds Land Purchases account to help pay for the acquisition of the Savory Farms and Hawn-Hewit properties for open space?

Alternative

The alternative would be to decline the Adams County Open Space grant money. Staff does not recommend this alternative as the grants were awarded to the City to assist with the acquisition of the Savory Farm and Hawn-Hewit properties.

Background Information

City Council previously approved the acquisition of the 8.01-acre Savory Farms property located at 10900 Federal Boulevard for \$1,100,000. Council also authorized the Department of Community Development to pursue a grant in the amount of \$550,000 with Adams County Open Space to assist with the acquisition of the Savory Farms parcel. The acquisition was contingent upon receipt of grant funds from Adams County. The City acquired the property on January 21, 2009. Adams County recently forwarded the formal grant award documents to the City of Westminster for a grant in the amount of \$550,000 towards the acquisition of the Savory Farms parcel.

City Council previously authorized the Department of Community Development to pursue a grant in the amount of \$1,085,000 with Adams County Open Space for the acquisition of the Hawn-Hewit parcel at 104th and Sheridan. Adams County recently forwarded the formal grant award documents to the City of Westminster for a grant in the amount of \$1,085,000 towards the acquisition of the Hawn-Hewit parcel. A separate agenda memo will be brought to Council to seek approval for the acquisition of this property for open space.

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

REVENUES

Description	Account Number	Current Budget	Amendment	Revised Budget
Adams County Grant	5400.40640.0010	\$0	<u>\$550,000</u>	\$550,000
Adams County Grant	5400.40640.0010	\$0	<u>\$1,085,000</u>	\$1,085,000
Total Change to Revenues			<u>\$1,635,000</u>	

EXPENSES

Description	Account Number	Current Budget	Amendment	Revised Budget
Land Purchase	54010900.76600.0000	\$57,754	<u>\$550,000</u>	\$607,754
Land Purchase	54010900.76600.0000	\$57,754	<u>\$1,085,000</u>	\$1,142,754
Total Change to Expenses			<u>\$1,635,000</u>	

Respectfully submitted,

J. Brent McFall
City Manager

Attachment

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **5**

SERIES OF 2010

INTRODUCED BY COUNCILLORS

A BILL

FOR AN ORDINANCE AMENDING THE 2010 BUDGET OF THE PARKS, OPEN SPACE AND TRAILS FUND AND AUTHORIZING A SUPPLEMENTAL APPROPRIATION FROM THE 2010 ESTIMATED REVENUES IN THE FUNDS

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The 2010 appropriation for the Parks, Open Space and Trails Fund initially appropriated by Ordinance No. 3432 is hereby increased by \$1,635,000. This appropriation is due to the receipt of Adams County grant funds.

Section 2. The \$1,635,000 increase shall be allocated to City Revenue and Expense accounts as described in the City Council Agenda Item #__, dated January 25, 2010 (a copy of which may be obtained from the City Clerk) increasing City fund budgets as follows:

Parks, Open Space and Trails Fund	<u>\$1,635,000</u>
Total	<u>\$1,635,000</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 25th day of January, 2010.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 8th day of February, 2010.

ATTEST:

Mayor

City Clerk

**WESTMINSTER ECONOMIC DEVELOPMENT AUTHORITY
WESTMINSTER CITY HALL, 4800 W. 92ND AVENUE
MONDAY, January 25, 2010
7:00 P.M.**

- 1. Roll Call**
- 2. Minutes of Previous Meeting** (December 21, 2009)
- 3. New Business**
 - A. Public Hearing re 2010 WEDA Budget Amendment
 - B. Resolution No. 118 re 2010 WEDA Supplemental Appropriation
 - C. Ratification of Westminster Center Urban Reinvestment Project Expenses
 - D. Resolution No. 119 re Acquisition of Lot 13, Block 1, Westminster Mall 2nd Amended Plat, County of Jefferson, State of Colorado
- 4. Adjournment**

CITY OF WESTMINSTER, COLORADO
MINUTES OF THE WESTMINSTER ECONOMIC DEVELOPMENT AUTHORITY
MONDAY, DECEMBER 21, 2009 AT 7:30 P.M.

ROLL CALL

Present at roll call were Chairperson McNally, Vice Chairperson Dittman and Board Members Briggs, Kaiser, Lindsey, Major, and Winter. Also present were J. Brent McFall, Executive Director, Martin McCullough, Attorney for the Authority, and Carla Koeltzow, Acting Secretary.

CONSIDERATION OF MINUTES

Councillor Briggs moved, seconded by Major, to approve the minutes of the meeting of December 14, 2009 with no additions or corrections. The motion carried unanimously.

FIRST AMENDMENT TO THE IGA WITH MANDALAY TOWN CENTER GID

Upon a motion by Vice Chairperson Dittman, seconded by Major, the Board voted unanimously to authorize the Executive Director to execute the First Amendment to the Intergovernmental Agreement dated December 10, 2007 between the Westminster Economic Development Authority and the City of Westminster Mandalay Town Center GID regarding the remittance of certain District revenues to WEDA to assist in the repayment of the WEDA debt relating to improvements in the District.

THE ORCHARD TOWN CENTER THIRD LETTER AGREEMENT RE SERVICE COMMITMENTS

Upon a motion by Board Member Major, seconded by Kaiser, the Board voted unanimously to authorize the Executive Director to execute the Third Letter Amendment extending the existing residential Service Commitments as assigned in the Final Development Agreement Section 7.6 dated December 30, 2004 between the City of Westminster, the Westminster Economic Development Authority and Forest City Commercial Group, Inc.

ADJOURNMENT

There being no other business to be considered, the meeting adjourned at 7:34 p.m.

ATTEST:

Acting Secretary

Chairperson

Agenda Item 3 A-C

Agenda Memorandum

Westminster Economic Development Authority Meeting
January 25, 2010



SUBJECT: Public Hearing and Resolution No 118 re 2010 Westminster Economic Development Authority Supplemental Appropriation and Ratifying Westminster Center Urban Reinvestment Project Expenses

Prepared By: Tammy Hitchens, Finance Director

Recommended Board Action

1. Hold a Public Hearing for a budget amendment for the Westminster Economic Development Authority.
2. Approve Resolution No. 118 authorizing the supplemental appropriation of \$7,629,154 to the Westminster Economic Development Authority.
3. Ratify expenses previously authorized by City Council for the Westminster Center Urban Reinvestment Plan (WURP) project and charged to the City's General Capital Improvement Fund.

Summary Statement

- The redevelopment of the Westminster Mall site is the City Council's top strategic plan priority, as outlined in the City's 5-year Strategic Plan.
- The WURP Urban Renewal Area (URA) plan was approved by City Council on April 13, 2009.
- Over the past several years, the City has accumulated funds in the City's GCIF to participate in the redevelopment of the Westminster Mall site.
- Although the tax-increment financing "clock" has not started, the Westminster Economic Development Authority (WEDA) is actively working on property assemblage and other aspects of the area's redevelopment. Because no financing has occurred and no revenue is being generated by this URA, the URA is currently in need of funding for its redevelopment activities.
- Previously, expenses were incurred and charged to the Westminster Center Reinvestment Project in the City's General Capital Improvement Fund. Staff recommends transferring the budget in the project of \$7,848,398 and all expenses incurred from January 1, 2009 to present from the City's GCIF to WEDA. Moving the budget and the expenses will provide for a better tracking for accounting purposes. This proposed transfer will occur in two pieces - \$371,176 as a 2009 budget amendment and \$7,629,154 with the attached resolution amending the 2010 budget. While the City is reserving its right to be reimbursed for costs associated with the WURP project, this transfer will not be classified as a loan.
- Since the expenses were originally charged to a City project, the Board is requested to ratify all expenses and contract incurred from January 1, 2009 through January 25, 2010. Future contracts and expenses will be presented to the Board for approval.

Expenditure Required: \$7,629,154

Source of Funds: Transfer from the General Capital Improvement Fund

Policy Issue

Does the Board approve amending the 2010 budget for WEDA to ratify previous expenses and appropriate \$7,629,154 to the Westminster Center Urban Reinvestment Project?

Alternative

Council could choose not to amend the 2010 WEDA budget. Staff does not support this option, because having expenses in two different funds for one project creates administrative and accounting difficulties.

Background Information

The redevelopment of the Westminster Mall site is the City Council’s top strategic plan priority, as outlined in the City’s 5-year Strategic Plan. An urban renewal area designation that provides the ability to exercise the powers allowed for under urban renewal law was approved by City Council on April 13, 2009. A plan for the new urban renewal area, Westminster Center Urban Reinvestment Plan Area (WURP) was also approved by City Council. Adoption of an urban renewal plan allows WEDA to work with the existing owners and businesses and potential developers to better define the vision for the area and to develop an action plan for financing and property assemblage that can make redevelopment a reality. WEDA will also be able to identify those public infrastructure investments that will be needed to allow redevelopment to proceed.

Although the tax-increment financing “clock” has not started, WEDA is actively working on property assemblage and other aspects of the area’s redevelopment. On December 14, 2009, Council authorized the transfer of \$825,000 from the City’s GCIF City Center Redevelopment project to transfer to WEDA to fund redevelopment activities that WEDA has in process. After additional consideration, Staff has determined that for it would be prudent to transfer the entire budget in the City Center Redevelopment project to WEDA to keep all expenses related to WURP in one fund. Additionally, Staff will transfer all expenses from January 1, 2009 through present to the WEDA WURP project. A proposed amendment for \$371,176 for the 2009 budget will be presented to the Board as part of WEDA’s 4th quarter housekeeping supplemental appropriation. Included in this 2010 action is the budget amount remaining after allowing for the 2009 amendment.

Prior to this WEDA meeting, Westminster City Council was presented with an agenda item request to approve transferring \$7,629,154 from the City’s General Capital Improvement Fund to WEDA as the City’s participation in the WURP project. Assuming that Council approved that agenda item, the transfer of \$7,629,154 to WEDA from the GCIF should be appropriated to capital project in Westminster Center Urban Reinvestment Plan Area. While the City is reserving its right to be reimbursed for costs associated with the WURP project, this transfer will not be classified as a loan.

The adjustments will amend Revenue and Expenditure accounts as follows:

REVENUES

Description	Account Number	Current Budget	Amendment	Revised Budget
Transfers in GCIF	6800.45000.0750	\$0	<u>\$7,629,154</u>	\$7,629,154
Total changes to Expenses			<u>\$7,629,154</u>	

EXPENSES

Description	Account Number	Current Budget	Amendment	Revised Budget
WURP City Participation	80968005952.80400.8888	\$825,000	<u>\$7,629,154</u>	\$8,454,154
Total changes to Expenses			<u>\$7,629,154</u>	

Respectfully submitted,

J. Brent McFall
Executive Director

Attachment - Resolution

WESTMINSTER ECONOMIC DEVELOPMENT AUTHORITY

RESOLUTION NO. **118**

INTRODUCED BY COMMISSIONERS

SERIES OF 2010

2010 WEDA BUDGET SUPPLEMENTAL APPROPRIATION

WHEREAS, the Westminster Economic Development Authority (WEDA) established the 2010 budget on October 13, 2008 and

WHEREAS, proper notice for this amendment was published on January 21, 2010, pursuant to the requirements of Section 29-1-106 Colorado Revised Statutes; and

WHEREAS, a public hearing for this amendment was held on January 25, 2010, pursuant to the requirements of Section 29-1-108 Colorado Revised Statutes; and

WHEREAS, as necessary Staff prepares a resolution to make adjustments to the budget; and

WHEREAS, there are adjustments to be made to the 2010 budget; and

WHEREAS, the revenue adjustments consist of increases of: \$7,629,154 transfers in; and

WHEREAS, the expense adjustments consist of: \$7,629,154 for capital projects.

NOW, THEREFORE, BE IT RESOLVED by the Board of the Westminster Economic Development Authority: The \$7,629,154 increase shall be allocated to WEDA Revenue and Expenditure accounts as described in the WEDA Agenda Item 3 A-C, January 25, 2010 (a copy of which may be obtained from the City Clerk).

PASSED AND ADOPTED 25th day of January, 2010.

ATTEST:

Chairperson

Secretary

WEDA Agenda Item 3 D

Agenda Memorandum

Westminster Economic Development Authority Meeting
January 25, 2010



SUBJECT: Resolution No. 119 re Acquisition of Lot 13, Block 1, Westminster Mall 2nd Amended Plat, County of Jefferson, State of Colorado

Prepared By: Susan Grafton, Economic Development Manager

Recommended Board Action

Adopt Resolution No. 119 authorizing the Executive Director and the Authority's legal counsel to take all necessary legal measures to acquire Lot 13, Block 1, Westminster Mall 2nd Amended Plat, County of Jefferson, State of Colorado, including proceeding with condemnation if necessary.

Summary Statement

- The property is located on the west side of the Westminster Urban Reinvestment Project (WURP) site.
- The owner has agreed to sell the property for \$700,000, which is a very favorable price for an approximately 8.43 acre parcel with improvements.
- Closing on this acquisition is planned for January 27, 2010, subject to Board authorization of the purchase.
- Adequate funds are available to make this acquisition.

Expenditure Required: \$700,000, plus closing costs (approximately \$23,000)

Source of Funds: 2010 WEDA Budget

Policy Issue

Should WEDA proceed with the purchase of the above referenced parcel?

Alternatives

1. Delay purchase to a later date. The owners are motivated to sell before the end of their fiscal year which is January 31, 2010. Delaying purchase could result in an increase in price.
2. Require that the future developer acquire the property. The future developer will most likely not be ready for property acquisition for 6 to 12 months. Such delay could allow for increase in price.

Background Information

The acquisition of the above referenced parcel by WEDA further asserts WEDA's intention to redevelop the WURP site. The current owners of the property desire to sell the property prior to the close of their fiscal year, which is January 31, 2010. The price of the 8.43 acre parcel has been negotiated to a set price of \$700,000. In addition to the purchase price, WEDA will also cover a portion of the closing costs. To cover the cost of acquisition, the City has transferred funds from the General Capital Improvement Fund City Center Redevelopment project account into the WEDA WURP account. Adequate funds are available to cover this expense.

Respectfully submitted,

J. Brent McFall
Executive Director

WESTMINSTER ECONOMIC DEVELOPMENT AUTHORITY

RESOLUTION NO. **118**

INTRODUCED BY COMMISSIONERS

SERIES OF 2010

**ACQUISITION OF PROPERTY FOR THE
WESTMINSTER CENTER URBAN REINVESTMENT PROJECT**

WHEREAS, the Westminster Economic Development Authority (“WEDA”) has determined that it is necessary to acquire land for the Westminster Center Urban Reinvestment Project; and

WHEREAS, WEDA will make an earnest good faith offer of purchase for the subject land; and

WHEREAS, a public purpose exists to acquire the property in order to carry out the proposed redevelopment project.

NOW, THEREFORE, the Board of Commissioners of the Westminster Economic Development Authority resolves that:

1. The Executive Director is hereby authorized to establish the minimum just compensation to be offered to acquire the property.

2. The Executive Director is authorized to cause and shall cause good faith negotiations to be initiated to acquire the parcels and interests identified below on the basis of the appraised value, or such amount as may seem just and reasonable to facilitate such acquisition without the necessity of condemnation.

Legal Description

LOT 13, BLOCK 1, WESTMINSTER MALL 2ND AMENDED PLAT, COUNTY OF JEFFERSON, STATE OF COLORADO.

3. The Attorney of the Authority is authorized to take all necessary legal measures to acquire the properties in question, including proceeding with condemnation of the property in question against the owner or owners and any other persons or entities claiming an interest therein or thereto, and to take such other or further action as may be reasonably necessary for or incidental to the filing and diligent prosecution of any litigation or proceeding required to obtain the properties should normal negotiations fail or exceed the time constraints of the overall project.

4. The Executive Director shall be further authorized to incur reasonable costs associated with acquiring the properties in question, including, without limitation, the cost of title examination, title insurance, appraisal fee payments mandated by statute, normal closing costs, filing fees and charges, and all other related or incidental costs or expenses customarily associated with the acquisition or condemnation of property.

5. The Executive Director is hereby authorized to amend the legal descriptions of the parcels to be acquired, and the nature of the interests to be acquired, as necessary.

PASSED AND ADOPTED this 25th day of January, 2010.

Chairperson

ATTEST:

APPROVED AS TO LEGAL FORM:

Secretary

Attorney for Authority