



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 (item 5) and Citizen Presentations (item 12) are reserved for comments on items not contained on the printed agenda.

1. Pledge of Allegiance
2. Roll Call
3. Consideration of Minutes of Preceding Meetings
4. Presentations
5. Citizen Communication (5 minutes or less)
6. Report of City Officials
 - A. City Manager's Report
7. City Council Comments

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 citizen wishes to have an item discussed. Citizens then may request that the subject item be removed from the Consent Agenda for discussion separately.

8. Consent Agenda
 - A. Mandalay Town Center – 30-Inch and 24-Inch Waterlines
 - B. Ambulance Purchases
 - C. Faversham Park Improvement Construction Bid Award
 - D. Westfield Village Park Consultant Contract
 - E. BFI Contract for Annual Large Item Cleanup Program
 - F. Municipal Service Center Gasoline Recovery System Project Management Contract Amendment 2
 - G. Intergovernmental Agreement with City of Englewood on Equipment Sharing
 - H. Construction Contract re Pierce Street Waterline
 - I. Construction Contract re Street Improvements 7200 Block Meade Street
 - J. Huron Street Design, 128th to 140th Avenue
 - K. CB No. 8 re the Proposed Vested Rights Agreement for Mandalay Town Center

9. Appointments and Resignations

10. Public Hearings and Other New Business

- A. Public Hearing re Annexation & Zoning Bull Canal/United Power Properties south of 136th & I-25
- B. Resolution No. 16 findings of fact re Bull Canal and United Power Properties
- C. Councillor's Bill No. 9 re annexing Bull Canal property and the United Power property to the City
- D. Councillor's Bill No. 10 amending the CLUP to include the Bull Canal and United Power properties
- E. Councillor's Bill No. 11 re Zoning the Bull Canal and United Power Properties
- F. Councillor's Bill No. 12 re Scottrade Business Assistance Package
- G. Councillor's Bill No. 13 re Amended Business Assistance Package 88th and Pierce Business Center
- H. Resolution No. 17 re Compliance Hearing for the Asbury Acres Property Annexation
- I. Councillor's Bill No. 14 re Composition of City Library Board
- J. Sale of City Property to the Academy of Charter Schools at W. 120th and Lowell Boulevard
- K. Councillor's Bill No. 15 re 2003 Community Emergency Response Team Grant
- L. Councillor's Bill No. 16 re Rental Leases for the Strasburg Natural Resource Farm
- M. Resolution No. 18 re Authorizing Land Acquisition for Mandalay Gardens Urban Renewal Project
- N. Open Space Acquisition Lower Church Lake on Wadsworth Boulevard

11. Old Business and Passage of Ordinances on Second Reading

12. Citizen Presentations (longer than 5 minutes) and Miscellaneous Business

- A. City Council
- B. Executive Session
 1. Business Assistance Packages
 2. Economic Development matter

13. Adjournment

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, MARCH 15, 2004 AT 7:00 P.M.

PLEDGE OF ALLEGIANCE

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

ROLL CALL

Mayor Moss, Mayor Pro-Tem McNally, Councillors Dittman, Dixon, Hicks, Kauffman and Price were present at roll call. J. Brent McFall, City Manager; Sharon Widener, Assistant City Attorney; and Michele Kelley, City Clerk, were also present. Absent none.

CONSIDERATION OF MINUTES

Councillor Dittman moved, seconded by McNally to approve the minutes of the meeting of February 23, 2004 with no additions or corrections. The motion carried unanimously.

CITY COUNCIL COMMENTS

Mayor Moss gave a slide presentation on the Metro Mayors Caucus trip to Israel that he took several weeks ago.

CONSENT AGENDA

The following items were considered as part of the consent agenda: Mandalay Town Center – 30-Inch and 24-Inch Waterlines with Westminster Development Company for \$1,566,000; Ambulance Purchases with EDM Equipment for \$202,476; Faversham Park Improvement Construction Bid Award with AJI Construction for \$293,609; Westfield Village Park Consultant Contract with DHM Design for \$106,986; Contract with BFI for the City's Annual Large Item Cleanup Program for \$103,500; MSC Gasoline Recovery System Project Management Contract Amendment with CH2M Hill for \$71,500; IGA with City of Englewood on Equipment Sharing; Award for Construction of Pierce Street Waterline with Wycon Construction for \$275,238; Construction Contract re Street Improvements to 7200 Block Meade Street with Goodland Construction Company for \$326,570; Huron Street Design, 128th to 140th Avenue with Felsburg, Holt and Ullevig for \$123,890; CB 8 re Vested Rights Agreement for Mandalay Town Center.

The Mayor asked if there was any member of Council or anyone from the audience who would like to have any of the consent agenda items removed for discussion purposes or separate vote. There was no request.

Councillor Dixon moved, seconded by Dittman to adopt the consent agenda items as presented. The motion carried unanimously.

PUBLIC HEARING BULL CANAL AND UNITED POWER PROPERTIES ANNEXATION

At 7:22 p.m. the public hearing was opened on the Annexation of the Bull Canal and United Power Properties located at 136th & I-25. Dave Falconieri, Planner III, addressed Council and entered the following information into the record: a copy of the Agenda Memorandum and other related items. No others spoke either in favor or in opposition. The public hearing was declared closed at 7:25 p.m.

RESOLUTION NO. 16 RE FINDINGS ON BULL CANAL/UNITED POWER PROPERTIES

Councillor Dittman moved, seconded by Kauffman to adopt Resolution No. 16 making certain findings as required by Section 31-12-116 C.R.S. Upon roll call vote, the motion carried unanimously.

COUNCILLOR'S BILL NO. 9 RE ANNEXATION OF BULL CANAL/UNITED POWER PROPERTIES

Councillor Dittman moved, seconded by Hicks to pass Councillor's Bill No. 9 on first reading annexing the unincorporated portion of the Bull Canal property and the United Power property to the City. Upon roll call vote, the motion carried unanimously.

COUNCILLOR'S BILL NO. 10 RE CLUP AMENDMENT FOR BULL CANAL/UNITED POWER PROP

Councillor Dittman moved, seconded by Hicks to pass Councillor's Bill No. 10 on first reading amending the Comprehensive Land Use Plan to include the Bull Canal and United Power properties, and to assign a land use designation of District Center. Upon roll call vote, the motion carried unanimously.

COUNCILLOR'S BILL NO. 11 RE ZONING ON BULL CANAL/UNITED POWER PROPERTIES

Councillor Dittman moved, seconded by Hicks to pass Councillor's Bill No. 11 on first reading zoning the Bull Canal and United Power properties Planned Unit Development (PUD). Upon roll call vote, the motion carried unanimously.

COUNCILLOR'S BILL NO. 12 RE SCOTTRADE INC. BUSINESS ASSISTANCE PACKAGE

Councillor Kauffman moved, seconded by McNally to pass Councillor's Bill No. 12 on first reading, authorizing the City Manager to execute a Business Assistance Package (BAP) with Scottrade, Inc. (Scottrade) in the amount of \$31,800. The BAP includes \$6,300 in permit fee rebates, \$10,500 in construction use tax rebates, and \$15,000 in equipment use tax rebates. Greg Lembree, President of Computer Research Inc., addressed Council. Upon roll call vote, the motion carried unanimously.

COUNCILLOR'S BILL NO. 13 RE AMENDMENT TO 88TH AND PIERCE BUSINESS ASSIST PKG

Councillor Dixon moved, seconded by McNally to pass Councillor's Bill No. 13 on first reading authorizing the City Manager to execute a business assistance package (BAP) amendment between the City of Westminster and 88th and Pierce Business Center LLLP (88th and Pierce Business Center). The amendment would modify the start date of the agreement to coincide with date of the issuance of the Certificate of Occupancy for JoAnn Stores Inc. Upon roll call vote, the motion carried unanimously.

RESOLUTION NO. 17 COMPLIANCE HEARING FOR ASBURY ACRES PROPERTY ANNEXATION

Councillor Dixon moved, seconded by Dittman to adopt Resolution No. 17 accepting the annexation petition submitted by Jeff Collins as owner of Asbury Homes, Inc., and make the findings required by State Statute on the sufficiency of the petition, and setting the date of April 26, 2004, for the annexation hearing. Upon roll call vote, the motion carried unanimously.

COUNCILLOR'S BILL NO. 14 RE COMPOSITION OF CITY LIBRARY BOARD

Councillor Dittman moved, seconded by Dixon to pass Councillor's Bill No. 14 on first reading, changing the member composition of the Library Board. Upon roll call vote, the motion carried unanimously.

SALE OF CITY PROPERTY TO ACADEMY OF CHARTER SCHOOLS

Councillor Kauffman moved, seconded by Price to authorize the City Manager to execute an agreement for the sale of approximately 22 acres to the Academy of Charter Schools, to execute closing documents for the transaction and authorize the proceeds of the sale to be deposited in the Open Space Fund/Open Space Land Purchases Account with the City retaining the right of first refusal. Councillor Dizion requested that that contract include a first right of refusal for the City. The motion carried unanimously.

COUNCILLOR'S BILL NO. 15 RE 2003 COMMUNITY EMERGENCY RESPONSE TEAM GRANT

Councillor Dixon moved, seconded by Price to pass Councillor's Bill No. 15 on first reading authorizing a supplemental appropriation in the amount of \$11,000.00 allowing the City to receive a Community Emergency Response Team (CERT) Grant provided through the Colorado Office of Emergency Management. Upon roll call vote, the motion carried unanimously.

COUNCILLOR'S BILL NO. 16 RENTAL LEASES FOR STRASBURG NATURAL RESOURCE FARM

Councillor Hicks moved, seconded by Dixon to pass Councillor's Bill No. 16 on first reading authorizing the City Manager to sign rental lease agreements with three tenants at the City's Strasburg Natural Resource Farm. Upon roll call vote, the motion carried unanimously.

RESOLUTION NO. 18 RE LAND ACQUISITION FOR MANDALAY GARDENS URBAN RENEWAL

Councillor Dittman moved, seconded by Hicks to adopt Resolution No.18 authorizing acquisition of land as part of the Mandalay Town Center Project, using the power of eminent domain if necessary. Upon roll call vote, the motion carried unanimously.

ACQUISITION OF PROPERTY FOR OPEN SPACE AT LOWER CHURCH LAKE

Mayor Pro-Tem McNally moved, seconded by Price to authorize the City Manager to execute a Purchase and Sale Agreement and all necessary closing documents for the acquisition of the Walker property located on the east side of Wadsworth Boulevard and south of Lower Church Lake as open space and authorize the City Manager to expend \$550,000 of City Open Space Funds for the purchase of the property and the improvements located on the property. The motion carried unanimously.

EXECUTIVE SESSION

Mayor Moss stated there would be an executive session to discuss a business assistance package, an economic development matter, and a litigation matter.

ADJOURNMENT:

The meeting was adjourned at 7:41 P.M.

ATTEST:

City Clerk

Mayor



**WESTMINSTER
COLORADO**

Agenda Memorandum

City Council Meeting
March 15, 2004



SUBJECT: Mandalay Town Center – 30-Inch and 24-Inch Waterlines

Prepared by: David W. Loseman, Senior Projects Engineer

Recommended City Council Action:

Authorize payments to Westminster Development Company, LLC., the developer of the Mandalay Town Center Project, for the installation of 30” and 24” water transmission mains through the Mandalay Town Center Project.

Summary Statement:

- The City of Westminster and RED Development Company (a.k.a. Westminster Development Company, LLC) executed a redevelopment agreement for the Mandalay Town Center Project on June 23, 2003 encompassing approximately 65 acres.
- The redevelopment agreement allows for RED to contract all aspects of the construction of the project and for WEDA to reimburse RED for a portion of the construction costs and management of the project in accordance with the pro forma attached to the redevelopment agreement.
- RED has contracted the installation of a portion of the 30” and 24” waterlines as part of a larger construction contract for the first phase of the project, which is the site work for the Target Store. The transmission mains which are the subject of this agenda memorandum run through the Mandalay Town Center Project and not only serve the project but also provide necessary upgrades to the City’s water transmission system in the area. The funds for a portion of this upgrade to the City’s system were partially budgeted from the Utility fund in 2003/2004. Additional Utility Funds beyond those budgeted, as well as funds from 2003 General Fund carryover are recommended since the remaining upgrades run directly through the Mandalay Town Center project and it would be a disruption to the center’s operation to install these waterlines at a later date. This disruption could affect project sales tax generation since some shoppers might go elsewhere to avoid the inconvenience.
- RED Development Company is beginning construction of the second phase of the Mandalay Town Center project including the majority of the waterlines in question. RED Development Company is committed to build the Mandalay Town Center project under the City’s preliminary and official development plan process. These plans show the 30” and 24” waterlines, which are a benefit to the Mandalay Town Center project but also the City’s overall transmission system as well.
- The exact cost of this waterline project is still being finalized; however, the total cost will not exceed \$1,566,000

Expenditure Required: \$1,566,000

Source of Funds: Utility Fund – Water Capital Improvement Project Account and
2003 General Fund carryover

Policy Issues

Should City Council authorize the expenditure of additional funds for this system upgrade?

Alternative

Do not authorize the expenditure of additional utility funds for this system upgrade This is not recommended for the following reasons:

- The existing 24” waterline runs directly through several of the buildings planned for the Mandalay Town Center Project. If this line is not relocated it will impact the center’s ability to develop and meet the goals of the project pro forma.
- Other than the relocation of the existing 24”waterline, the system was planned for an upgrade in the near future. However, installing these upgraded waterlines now will create less disruption to the center in the future. A major waterline construction project being installed after the center is open would likely adversely impact sales tax revenue from the center if shoppers went elsewhere to avoid the inconvenience.
- Installing these waterlines as part of the overall Mandalay Development saves money due to the “economy of scale” of this waterline construction being included as part a larger construction project.

Background Information

The Mandalay Town Center Redevelopment project has been underway for more than a year. The project is at a critical stage of construction. This final funding element is crucial to maintaining a schedule anticipated to allow for a Super Target Store to open in November of 2004 and the remainder of the project soon thereafter. Actions to date include:

- On December 16, 2002 the City and WEDA approved and annexation and Preliminary Development Agreement with Westfield Development, Inc.
- On December 23, 2002 the City Council approved the annexation of the Mandalay Gardens area to Westminster.
- On March 17, 2003 the City Council approved an Urban Renewal Plan for Mandalay Gardens under the Colorado Urban Renewal law.
- On March 24, 2003 the City Council approved an IGA with WEDA to advance funds to purchase the Sup-Cal property in compliance with the terms of the purchase and sale agreement with Super Properties LLC.
- On April 14, 2003 the WEDA Board of Directors approved the selection of CDC-RED as the preferred developer for Mandalay Gardens.
- On April 14, 2003 the WEDA Board of Directors also approved the advanced funding of up to \$1.0M to reimburse Westfield Development Corporation for work on the project on behalf of WEDA in compliance with the annexation and preliminary development agreement.
- On June 2, 2003 City Council approved an IGA with WEDA to advance funds of \$750,000 to purchase the Mortensen parcel within the Mandalay Gardens area.

- On June 2, 2003 the WEDA Board of Directors approved an IGA with the City of Westminster agreeing to repay the City \$750,000 in funds advanced to WEDA for the purchase of the Mortenson property.
- On June 9, 2003 the City of Westminster entered into an IGA with WEDA to advance funds in the amount of \$11.5 M through the use of short-term cash from the General Capital Improvement Fund for the purchase of 20 parcels of land to further the Mandalay Gardens Town Center project.
- On June 9, 2003 WEDA approved an IGA with the City of Westminster to repay the advanced funds of \$11.5 M for the purchase of 20 parcels of land to further the Mandalay Gardens Town Center project.
- On June 23, 2003 Council authorized the mayor to execute an IGA with WEDA to advance \$11,500,000 for the purchase of 20 parcels of land to further the Mandalay Town Center Project.
- On June 23, 2003 Council authorized the mayor to execute a redevelopment agreement with RED Development Company.

The construction of the first phase (the Target store and associated site improvements) has been underway for several months. These improvements include the widening of Church Ranch Boulevard, the Target parking area, Reed Street, and all utilities including the 30” waterline along the south boundary of the Target Store. This particular section of the 30” waterline is critical to keep the Target Store on schedule and was required by Target to be installed and operating by mid-March for fire protection during the construction of the Target Store.. The remaining waterlines run through the Town Center portion of the project or phase 2. Pending Council approval, the work on this section of waterline will commence within the next month. Staff has reviewed the pricing proposed by RED’s contractor, AMES Construction, and is satisfied that their fee is well within costs expected for this type of project.

Staff and other members of the project teams will attend the March 15 City Council meeting to answer questions.

Respectfully submitted,

J. Brent McFall
City Manager

Attachment



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
March 15, 2004



SUBJECT: Ambulance Purchases

Prepared by: Bill Work, Deputy Fire Chief
Ron McCuiston, Battalion Chief

Recommended City Council Action:

Based on a recommendation from the City Manager, City Council finds that the public interest would best be served by waiving bidding requirements and authorizing the purchase with EDM Equipment in an amount not to exceed \$202,476 for two Road Rescue ambulances. This contract includes the trade-in of a 1999 Road Rescue ambulance.

Summary Statement:

- City Council allocated \$105,000 in the 2004 General Capital Outlay Replacement Fund (GCORF) budget for the purchase of an ambulance provided by the successful passage of the Public Safety sales tax in November 2003. The new ambulance will be used as an additional front line service unit giving the Fire Department a fourth staffed ambulance that will be utilized to help meet service demands and reduce response times.
- City Council approved in 2002, the allocation of \$108,000 in funds into the 2004 GCORF budget for the replacement of a 1999 Ford F450 Road Rescue ambulance.
- The City purchased a Road Rescue ambulance from EDM Equipment in 2003. EDM lowered their 2003 bid price and is offering a \$45,000 trade-in allowance for a 1999 Ford F450 Road Rescue Ambulance. Staff has reviewed this opportunity, assured compliance with the City's purchasing requirements, and believes that it is in the City's best interest to accept the EDM bid and outstanding trade-in allowance.
- The funds budgeted in GCORF for the purchase of two ambulances, \$213,000. Total expense for the two ambulances and equipment less trade in allowance is \$195,898.
- In addition, total of \$6,578 is budgeted in a Fire Department operating account for a mobile data terminal purchase.
- The Fire Department currently has four Road Rescue ambulances in their fleet. They have proven to be very reliable and perform very well. The Road Rescue ambulance is known for its safety features, durability and trade-in value. Having similar makes and models in the City's ambulance fleet benefits the fleet maintenance program.
- Delivery of the two ambulances is expected in the third quarter.

Expenditure Required: \$202, 476

Source of Funds: \$195,898 from the GCORF account
\$6,578 from the Fire Department operating account

Policy Issues

- 1) Does City Council want to proceed with purchase of the new ambulance and add an ambulance to the Fire Department major apparatus replacement schedule?
- 2) Does City Council want to accept the revised EDM bid price from 2003 and the \$45,000 trade-in allowance in lieu of going through another formal bid process?

Alternatives

- 1) City Council could direct staff to initiate a new bid process for the purchase of these two ambulances. This is not recommended, as it would delay putting the fourth ambulance in service by sixty to ninety days. The recommendation to purchase these two ambulances from EDM Equipment is based upon an anticipated cost savings to the City. EMD was the low bidder in 2003 by over \$16,000. EMD has lowered their 2003 purchase price for two 2004 models.
- 2) City Council could direct staff to delay the purchase of either/both ambulances. Staff believes it is important to get this equipment on board in 2004 in order to meet the intent of the voters in approving the six tenths of one cent sales and use tax increase for public safety. Additionally, one of these units is designated to replace a 1999 ambulance that is approaching over 100,000 miles of service.

Background Information

Successful passage of the ballot question that provided an increase in the City’s sales and use tax for public safety funding included a commitment to purchase an additional ambulance. This new ambulance will give the Fire Department the capability to staff four ambulances on a full-time basis, once the additional public safety tax staffing is on board. This new ambulance is slated to be located at Fire Station Two. Current ambulances are located at Stations One, Three, and Four. This increased capability will improve the Fire Department’s ability to respond to the increase in emergency calls and the need for emergency medical transport, along with helping to reduce overall response times.

Ambulances are heavily utilized in a frequent and strenuous manner that impacts on their “life expectancy.” The projected life expectancy of an ambulance is five years, with three years of frontline service and two years as a reserve unit. Both of these ambulances have around 100,000 miles on them. Fleet Maintenance is still determining which of the two is to be replaced with the decision being made at time of delivery of the second ambulance. EDM has agreed to accept either one as the trade-in.

EDM’s bid price in 2003 for the basic ambulance without the associated equipment was \$98,720. The bid price in 2004 for the basic ambulance is \$96,950.

There is additional associated equipment that is included as part of the total bid from EDM. This equipment includes:

New Fourth Ambulance		Replacement Ambulance	
Radio and computer equipment	\$7,650	Remove and reinstall radio and computer	\$735
SCBA (air packs)	\$12,120	SCBA (air packs)	\$12,120
Basic ambulance	\$96,950	Defibrillator/heart monitor	\$20,951
		Basic ambulance	\$96,950
		Trade-in value	-(45,000)
Total cost	\$116,720	Total cost	\$85,756

Of the total cost of \$202,476, \$195,898 will be paid out of the GCORF account. The remaining \$6,758 for the mobile data terminal will come out of a Fire Department operating account. Other required equipment, such as medical supplies and installation costs to put these two ambulances in-service will come from funds allocated in the various Fire Department operating accounts at the time of delivery.

Respectfully submitted,

J. Brent McFall
City Manager



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Agenda Memorandum

City Council Meeting
March 15, 2004



SUBJECT: Faversham Park Improvement Construction Bid Award

Prepared By: Brad Chronowski, Landscape Architect II

Recommended City Council Action

Authorize the City Manager to execute a contract with AJI Construction in the amount of \$274,609 for renovation construction work at Faversham Park, and authorize a \$19,223 contingency amount for a total amount of \$293,832, and charge the expense to the Park Renovation Capital Improvement Project Account designated for Faversham Park.

Summary Statement

- The Department of Parks, Recreation and Libraries hired Design Concepts, Landscape Architecture Consultants, to prepare construction drawings for this work.
- A public meeting was conducted in conjunction with the COG program to showcase the designed improvements and solicit input from the public.
- The Department of Parks, Recreation and Libraries acquired two grants for this project totaling \$156,000. Including the original budget allocation for Faversham Park of \$200,000, a total of \$356,000 is allocated to this project.
- The scheduled improvements will be completed during the summer months of 2004.
- Reference checks were made of the low bidder, AJI Construction, and Staff has determined that they are qualified to do this work.
- The base bids received are as follows:

AJI Construction	\$274,609
Goodland Construction	\$288,110
ECI	\$300,669
T2 Construction	\$306,844
ACC Constructors	\$340,723

Expenditure Required: \$293,832

Source of Funds: General Capital Improvement Fund

Policy Issue

Should the City continue with renovations at Faversham Park?

Alternatives

1. City Council could choose to not authorize the construction bid for Faversham Park. Staff does not recommend this option, as the grant money would be forfeited if the improvements were not completed.
2. City Council could require that Staff re-bid the construction of the designed improvements. Staff does not recommend this action, as the bids received are bona-fide and competitive.

Background Information

Faversham Park, located at Ingalls and 73rd Avenue, is approximately 18 acres in size. In 2002, the core area of the park was renovated by installing a small picnic shelter and replacing the existing playground equipment. Concurrently, the Parks, Recreation and Libraries Department applied for and received two grants to assist in realizing the second phase improvements scheduled for the park. As a result of receiving these grants, the renovation budget was increased by \$156,000. The existing Capital Improvement Project funds appropriated to Faversham Park were used as matching funds for the grants.

Staff reviewed, evaluated and modified the original master plan as necessary. A design consultant, Design Concepts, was retained for final master plan modifications and construction documents. The updated master plan was then presented to the public for their input and the plan was finalized and taken out to bid.

The scheduled improvements are as follows: Expanded parking lot, additional inner-park trails, additional landscaping, irrigation system enhancements, large picnic shelter, fishing pier and boardwalk, pond dredging, pond aeration and site furniture. Upon completion, this park will include a picnic shelter that may be reserved, thereby enhancing the service level at Faversham Park.

Respectfully submitted,

J. Brent McFall
City Manager

Attachment



**WESTMINSTER
COLORADO**

Agenda Memorandum

City Council Meeting
March 15, 2004



SUBJECT: Westfield Village Park Consultant Contract

Prepared By: Julie M. Meenan Eck, Landscape Architect

Recommended City Council Action

Authorize the City Manager to sign a contract with the second low bidder, DHM Design, in the amount of \$97,260, for design services for a 25-acre sports park, and authorize a 10% contingency in the amount of \$9,726 for a total amount of \$106,986.

Summary Statement

- City Council action is requested to award the bid for the design of a 25-acre sports park located at 115th and Wolff Street terminus, east of Life Fellowship Church.
- Westfield Village is a joint project with Hyland Hills Park and Recreation District and includes \$900,000 from the District's bond and \$1.4 million from the City, committed as part of an IGA agreement.
- Westfield Village Park is a community park that will include soccer fields, little league fields, trails, parking lot, and a neighborhood element.
- Formal Bids were solicited from five design consultant firms.
- Terry Barnhart and Rick Fuller, from Hyland Hills, and City Staff reviewed the proposals and determined that DHM Design was the most qualified and most thorough proposal; listing every task they will perform in detail with the associated costs.
- The low bidder, Terrasan, did not show within their proposal that they have the experience in sports complexes considered necessary by Staff, and lacked previous experience with a construction project cost of this magnitude.
- The second lowest bidder, DHM Design, meets all of the City's and the District's bid requirements and has successfully completed several similar projects in the recent past, both in type of project and cost of project.
- DHM Design was the design company for Christopher Fields, the Phase III City Park project, the Westminster Promenade, and was the design consultant for Cotton Creek Park.

Expenditure Required: \$106,986 for Design and Consulting Fees for Westfield Village Park

Source of Funds: Parks, Recreation and Libraries 2004 Capital Improvement Program and Hyland Hills Park and Recreation District Bond

Policy Issue

Should the bid be awarded to the second lowest bidder, DHM Design, for the design services of Westfield Village Park?

Alternatives

1. Council could choose to go with the low bidder, Terrasan, who has completed several successful projects for the City in the past. However, Terrasan did not demonstrate to Staff and the District that they have worked on sports complexes of this magnitude in the past.
2. Council could choose to not award the contract, and could not proceed with this project. However, it should be noted that City Council committed to funding this project in an IGA signed with Hyland Hills resulting from the Districts successful park bond issue.

Background Information

The City of Westminster owns a 25-acre park site east of Life Fellowship Church, and will jointly schedule recreation programs with Hyland Hills Park and Recreation District. It is surrounded by an established Westfield Village neighborhood to the south, a newer neighborhood, Weatherstone, to the north, and College Hill Open Space to the east.

Professional landscape architectural services were requested for design development, construction documents and construction administration for this 25-acre sports park. The park may contain such features as shelters, play area, court games, four soccer fields, one softball field, one little league field, trails and a self contained parking lot. Formal Bids were solicited from five firms and were received as follows:

Terrasan	\$ 89,500
DHM Design	\$ 97,260
Winston	\$136,585
Wenk	\$143,390
Architerra	\$146,250

Bids were evaluated by Staff from the City and the Hyland Hills District and awarded points based on design approach, understanding scope, previous experience, and professional fees. All of those who reviewed the bids chose DHM Design as the best designer for this project.

The sports park will serve as a community park with athletic fields, as well as serving the surrounding neighborhoods, and as such, will be warm and inviting, while accommodating a diverse array of users and uses. Hyland Hills Park and Recreation District will schedule the use of the little league fields and the City will run its 330 soccer teams out of City Park and the Westfield Village Park. Currently, the soccer program is run utilizing multipurpose fields throughout the City. The total final estimated budget for the park, including all consultant fees, construction fees and tap fees is \$2.3 million.

The intent for the designer of this project is to produce at least two refined master site plans that illustrate how the desired uses can share the site successfully and a final plan that will be chosen by the City, the District, and public input, including a cost estimate of the final plan. Upon completion of final design/design development, construction documents, specifications and a final cost estimate will be required. Formal bidding and construction administration will finish out the contract.

The construction on the park is anticipated to be completed in the fall of 2005.

Respectfully submitted,

J. Brent McFall, City Manager

Attachment



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
March 15, 2004



SUBJECT: Contract with BFI For The City's Annual Large Item Cleanup Program

Prepared By: Sam LaConte, Street Operations Manager
Ron Hellbusch, Director Public Works and Utilities

Recommended City Council Action

Based on a recommendation from the City Manager, City Council finds that the public interest would best be served by waiving bidding requirements and authorizing the City Manager to sign a two-year contract with Browning Ferris Industries (BFI) to perform the 2004 and 2005 Annual Large Item Cleanup Program, pursuant to Council adopting the 2005 funds, and charge the \$103,500 contract fee to the Street Operations Budget (\$76,750) and the Utilities Operations Budget (\$26,750).

Summary Statement

- After researching outsourced trash pickup cost comparisons of other cities in the North Metro Area, Staff determined that waiving the formal bidding process and recommending a negotiated two-year contract with BFI is in the City of Westminster's best interest.
- Funds have been approved in the Street Operations and Utilities Operations Divisions operating budgets for the annual cleanup program.
- Appropriate funds will be requested in the Street Operations and Utilities Operations Divisions operating budgets for the annual cleanup program for 2005.
- The negotiated price with a two-year provision is deemed to be lower than the formal bidding prices.
- BFI completed the 2003 program within two consecutive Saturdays in a very efficient and acceptable manner, providing good customer service.
- The 2004 cost of \$103,500 is 9% higher than the 2003 costs and the 2005 cost will be based on the Denver/Boulder Consumer Price Index which was 1.1% for 2003.

Expenditure Required: \$103,500

Source of Funds: Street Operations and Utilities Field Operations Divisions Budgets

Policy Issue

Should the City waive the formal bidding process and enter into a two-year contract with Browning Ferris Industries (BFI) to perform the 2004 and 2005 Annual Large Item Cleanup Program.

Alternative

Conduct a formal bidding process for the City's 2004 Annual Large Item Cleanup Program. BFI, a larger, well equipped and staffed firm assures a quality program; while smaller companies may not be sufficiently equipped to conduct a thorough and acceptable clean up program of this magnitude.

Background Information

The 2003 Large Item Cleanup Program was outsourced to the private sector as a pilot program. In the past, the program was accomplished over ten working days utilizing Street Operations and Utilities Field Operations Divisions crews using City equipment. BFI was the low bidder in 2003 and accomplished this feat in just two consecutive Saturdays. The major reason for outsourcing was the "lost opportunity" of time spent in lieu of both Street and Utilities Divisions performing regular routine tasks, such as waterline replacement, patching, cracksealing, traffic control sign maintenance and other customer service requests. The cost to contract with BFI in 2003 was \$95,000.

Staff met several times with BFI to critique last year's program and make some minor changes in order to keep the costs down and improve the program. As a framework in negotiations for 2004, both parties agreed to change to a three Saturday pickup due to the growing volume of waste, and to limit the weight of items, to what two workers can safely lift. BFI agreed to a 2004 cost of \$103,500 with the 2005 cost to be increased based on the Denver/Boulder Consumer Price Index. This, incidentally, is similar to how the City manages the annual street sweeping contract services. At the onset of negotiations, BFI proposed a \$113,000 fee for 2004, which through staff negotiations, was reduced to \$103,500.

Respectfully submitted,

J. Brent McFall
City Manager



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
March 15, 2004



SUBJECT: Municipal Service Center Gasoline Recovery System Project Management Contract Amendment 2

Prepared By: Richard A. Clark, Utilities Operations Manager
Robert L. Booze, Utilities Services Supervisor

Recommended City Council Action

Authorize the City Manager to execute an amendment to the existing contract with CH2M HILL (CH2M) in an amount not to exceed \$71,500 and authorize the expenditure from the Utility Fund Capital Improvement Budget, MSC Gasoline Recovery System.

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Summary Statement

• The purpose of the amended contract is for CH2M to continue to provide project management services for the design, construction, management and inspection, and operations and maintenance for the improvements to the Gasoline Recovery System (GRS) at the Municipal Service Center (MSC).

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• Authorize \$71,500 for continued project management work time and effort required to complete the project and the addition of one year of additional management support.

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Expenditure Required: \$71,500

Source of Funds: Utilities Capital Improvement Project Budget

Policy Issue

Should the City amend the existing CH2M contract for the project management services for the Gasoline Recovery Project at the Municipal Service Center for a period of one year?

Alternative

Bid the project management services to other outside technical services. This alternative is not preferred due to the continuity that CH2M provides to this project. Another alternative is to perform the technical review and inspection in-house. This latter option is not recommended, as the City Staff are not as technically capable to perform this work as an outside technical firm.

Background Information

In July 1999, Staff contracted with CH2M to be the technical manager of the project, assisting City staff, due to CH2M's expertise in the area of remedial technology, and the fact that CH2M was not interested in the design, construction, or operation of the gasoline recovery system.

CH2M has had two previous contracts during the tenure of the project. Their original contract in July 1999 was for \$170,000, and the first amendment to the contract was awarded in March 2002, for \$102,000.

Along with routine technical assistance and monitoring the efficiency of the system, CH2M has also performed numerous other duties. They worked to:

- Prepare the air permits (AEPN)
- Assisted the City with discussions with the State and originate a well permit for the existing interceptor trench sump well and eventual issuance of a well permit by the office of the State Engineer. This work also necessitated an action by Water Court to issue a decree for the extracted water.
- Provide part-time field observation for the final stage of construction.
- Construction administration including preparing billing review, contractor clarification requests, responding to change orders, preparing change order memoranda and recommendations, preparing nonconformance reports, and origination of a Certificate of Substantial Completion.
- Operations oversight including review and approval of contractors operations and maintenance manual, numerous site visits during project equipment startup, on site visits during the years of operation, review of required quarterly Discharge and Monitoring Reports during operations of the system, site visits during the final two years of facility monitoring, coordination of project demolition, and submittal of 22 extraction well abandonment permits.
- Oversaw system startup and first year operations.
- Provided technical assistance and took the lead when the system's effluent quality would not pass the required Whole Toxicity Testing (WET). CH2M enlisted the assistance of an expert from their Dallas office to provide opinions of possible contaminants. The outcome was receiving the approval from the State to use a different species of minnows for the WET testing. This also took considerable additional effort by CH2M to accomplish.

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A second amendment to the project management services contract with CH2M is now required to continue management oversight of the project. The previous amendment awarded to CH2M did not consider the time needed for weekly conference calls and review of quarterly discharge and monitoring reports. Additionally, increased hours are required to manipulate the operations data and to provide closer oversight of the operations. Data manipulation is critical to understand how the system is performing so adjustments can be made to the operations to maximize efficiency and help reduce the overall length of time the system must be operated and thus reduce the total costs of project completion. CH2M will perform this work under the same terms and conditions as the existing contract.

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Respectfully submitted,

J. Brent McFall
City Manager



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
March 15, 2004



SUBJECT: Intergovernmental Agreement with City of Englewood on Equipment Sharing

Prepared By: Sam LaConte, Street Operations Manager

Recommended City Council Action

Authorize the City Manager to sign an Intergovernmental Agreement between the cities of Englewood and Westminster for equipment and manpower sharing.

Summary Statement

- Englewood and Westminster have a mutually beneficial program to share high cost equipment and manpower to accomplish street maintenance activities at minimal costs to their residents.
- This program has been taking place for the last twelve years on an informal agreement. The reason for this formal agreement is to protect both cities in the event an accident or personal injury would occur during the time each city is working in the other city.
- Englewood owns and operates an asphalt milling machine and Westminster owns and operates a traffic pavement marking machine. Both cities will spend approximately three days each year performing these activities in each city.

Expenditure Required: No funds are exchanged, all costs are soft dollars by sharing equipment and manpower only.

Source of Funds: N/A

Policy Issue

Should the City of Westminster continue to share equipment and manpower in a mutually beneficial manner for residents by entering into an Intergovernmental Agreement with the City of Englewood.

Alternative

Do not enter into an Intergovernmental Agreement with the City of Englewood, which would result in each city purchasing the high cost equipment or contracting for these activities to the private sector at an additional cost.

Background Information

For at least the past twelve years Englewood and Westminster have been exchanging equipment and manpower to accomplish tasks that require specialized, expensive equipment through the present verbal agreement. Englewood owns and operates an asphalt milling machine that is brought into the City of Westminster to accomplish street milling work in conjunction with the City's In-house Rehabilitation Program. Westminster owns and operates a traffic line pavement marking machine and paints some of Englewood's isolated and high wear traffic areas.

This informal working agreement was recognized in 1993 by the DRCOG, "Local Government Innovations Award" in the category of "Cooperative Service Delivery" and has been a "win/win" cost-saving program for both cities since its inception.

This formal agreement is being executed in lieu of the present informal verbal agreement to assure that each city working in the other city is covered in all aspects of legality.

Respectfully submitted,

J. Brent McFall
City Manager

Attachment

INTERGOVERNMENTAL AGREEMENT

THIS INTERGOVERNMENTAL AGREEMENT, dated this _____ day of _____, 2004, is made and entered into by and between the **CITY OF ENGLEWOOD**, a municipal corporation (“Englewood”), and the **CITY OF WESTMINSTER**, a municipal corporation (“Westminster”).

WHEREAS, pursuant to C.R.S. § 29-1-203, C.R.S., as amended, governmental entities may cooperate or contract with one another to provide any function, service or facility lawfully authorized to each, and

WHEREAS, each City owns machinery and employs operators for the purpose of maintaining its streets, and

WHEREAS, Englewood wishes to loan its milling machine to Westminster and Westminster wishes to loan its striping machine to Englewood.

NOW THEREFORE, the Cities agree to exchange the use of the machines according to the terms of this Agreement:

1. Each City shall loan its machinery to the other City upon request of its Street Operations Manager or other official designated by the City, for a period not to exceed five (5) days per calendar year.
2. The machinery loaned by each City shall be operated by employees of the lending City at all times.
3. The employees shall remain under the supervision and control of the lending City even when working in the other City, and the lending City shall remain solely responsible for the employees’ pay, benefits, and discipline.
4. The lending City shall be responsible for any insurance of its machinery and its transportation, and shall be responsible for repair and maintenance of its machinery.
5. Each City shall be responsible for its own property and liability insurance.
6. Transportation to and from one City to the other will be arranged between the Street Operation Managers of the two Cities, with the lending City to have final control if there is any conflict.
7. This Agreement shall commence with the calendar year of 2004 and shall remain in effect until either City notifies the other of its desire to terminate the Agreement upon thirty (30) days written notice.

IN WITNESS WHEREOF, the Cities here have executed this Agreement to be effective as of the date first above written.

CITY OF WESTMINSTER

J. Brent McFall, City Manager

ATTEST:

Michele Kelley, City Clerk

APPROVED AS TO FORM:

Sharon Widener, Assistant City Attorney

CITY OF ENGLEWOOD

Douglas Garrett, Mayor

ATTEST:

Loucrisha A. Ellis, City Clerk



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
March 15, 2004



SUBJECT: Award for Construction of Pierce Street Waterline

Prepared by: Diane M. Phillips, Capital Improvements Coordinator

Recommended City Council Action

Authorize the City Manager to execute a contract with Wycon Construction in the amount of \$239,238 along with a project contingency of 15% in the amount of \$36,000 for the construction of the Pierce Street water line.

Summary Statement

- Installation of approximately 1,900 feet of 12-inch waterline is needed in Pierce Street north of the Semper Water Treatment Facility to provide higher water pressure and additional fire flow to the area.
- Martin/Martin Consulting Engineers was retained to design this waterline.
- Competitive bids were received from 11 construction firms for the Pierce Street waterline project and Wycon Construction was the lowest responsive bidder.
- The City has successfully used Wycon Construction on other projects.
- Funds were budgeted and are available for this project expense.
- The budgeted amount available for the project is \$479,803.

Expenditure Required: \$275,238

Source of Funds: Utility Fund Capital Improvement Project Budget

Policy Issue

Should the City contract with Wycon Construction to build the Pierce Street waterline?

Alternative

The City could delay the construction of this line, however, the cost would likely increase and peak fire flow and water pressure could be compromised. The City could re-bid the project, but Staff does not expect the bid proposals to significantly change.

Background Information

The Treated Water Master Plan recommends that the water pressure Zone 4 be expanded to provide higher-pressure water service to the surrounding area. As a first step to completing the recommended changes to Zone 4, a 12-inch waterline will be constructed in Pierce Street from the Semper Water Treatment Facility running north for approximately 1,900 feet. This new line will allow the area to the north and west to be served with higher water pressure and will provide additional peak fire flow supply.

The project will also disconnect the local distribution mains from the 36-inch pre-stressed concrete cylinder pipe (PCCP) in Pierce Street. This line has been inspected and appears to be in good condition, but removing direct customer connections will ensure that a pipe failure will not leave customers without service for an extended period of time. The funding for this project was originally intended for replacing this pipe, but this project is less costly and adds the benefit of allowing a future change to a higher pressure portion of the water system.

The City received 11 bids from contractors for the construction of the Pierce Street waterline. The engineering estimate was \$343,000.

Wycon Construction	\$239,238
Eagle One Construction	\$276,077
Tierdael Construction	\$297,450
Trainor Construction	\$314,178
Scott Contracting	\$314,835
Defalco-Lee Construction	\$322,295
Concrete Works of Colorado	\$326,784
BT Construction	\$328,521
New Design Construction	\$372,182
XKE Contractors	\$376,807
Parker Excavating	\$510,877

Wycon Construction has completed other successful projects for the City.

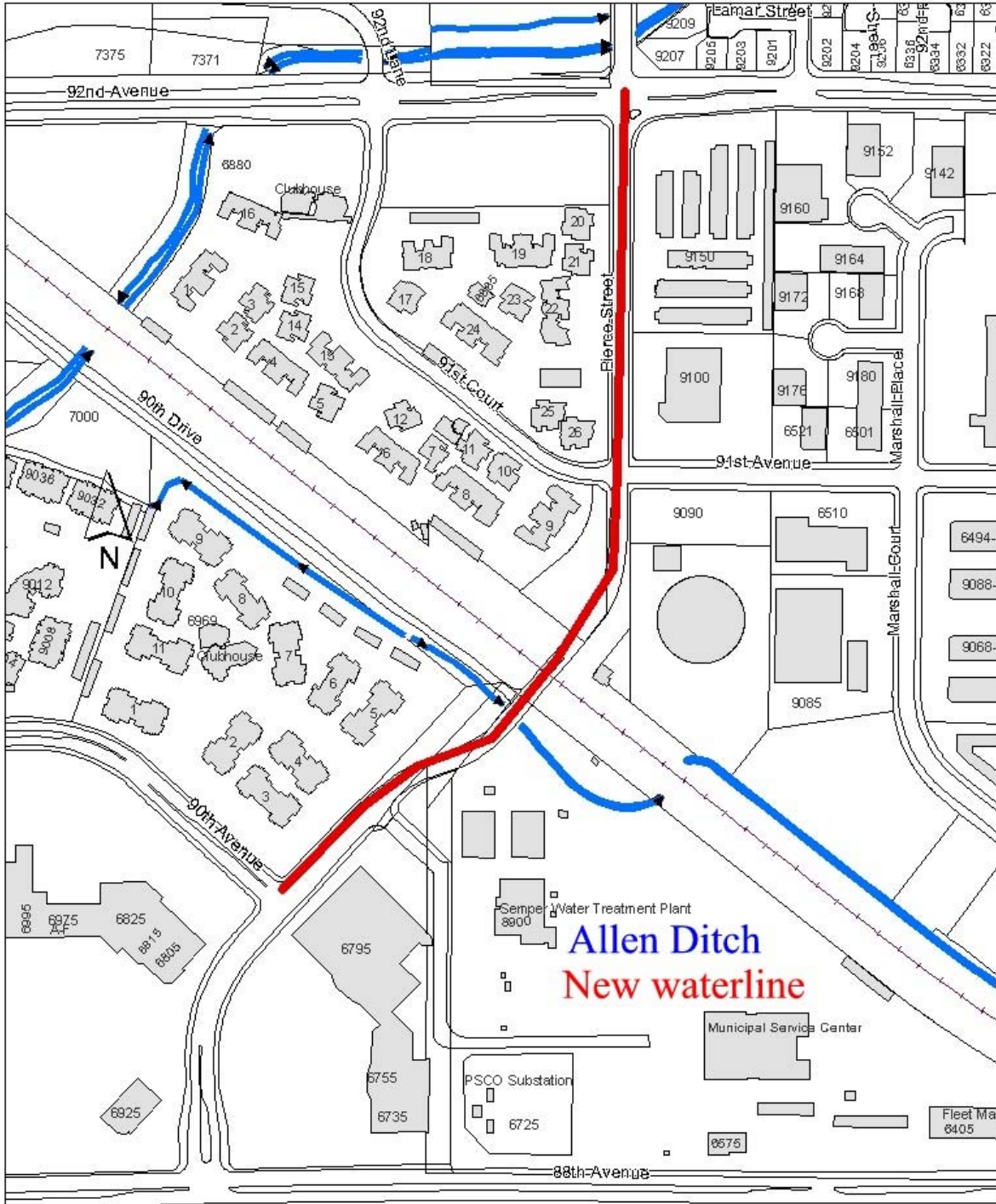
A contingency amount equal to 15 percent of the project bid is being requested for this project due to the complexities of the existing utilities in the area, the length of the casing bore and potential complications with the BNSF Railroad.

Respectfully submitted,

J. Brent McFall
City Manager

Attachment

Pierce Street Watermain





WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
March 15, 2004



SUBJECT: Construction Contract Related to Street Improvements -- 7200 Block of Meade Street

Prepared By: Tony Chacon, South Westminster Revitalization Coordinator

Recommended City Council Action:

Based upon the report and recommendation of the City Manager, City Council finds that the public interest will be best served by waiving the normal bidding requirements and awarding the contract to Goodland Construction Company. Authorize the City Manager to sign the contract, and charge the expense in the amount of \$296,882 to the City's Community Development Block Grant fund. In addition, authorize a contingency in the amount of \$29,688, for a total project budget of \$326,570.

Summary Statement

- Street improvements to 73rd Avenue, intersecting with the 7200 block of Meade Street, were substantially completed in the early Fall 2003. In conjunction with the 73rd Avenue project, the contractor, Goodland Construction, made improvements to the Meade Street intersection that would eventually tie to the street improvements planned for the 7200 block of Meade Street in early 2004.
- The City Council authorized Community Development Block Grant (CDBG) funding in 2003 and 2004 for the Meade Street improvements project. The City's engineering consultant estimated the cost of the improvements at \$341,827 based upon completed construction plans.
- Goodland Construction, the contractor responsible for the 73rd Avenue project, was asked to provide a bid related to the planned Meade Street improvements since the 73rd Avenue contract is still in effect and the Project is relatively small. Accordingly, Goodland Construction submitted a bid of \$296,882, which is \$44,945 or 13% less than the City established estimate. The City's engineering consultant has reviewed the bid and determined it to be complete and acceptable.
- The U.S. Department of Housing and Urban Development (HUD) regulations pertaining to CDBG expenditures, and City procurement policy permit bidding procedures to be waived under certain circumstances, including the physical interconnection of projects to existing CDBG funded improvements (e.g. 73rd Avenue reconstruction) and concurrence by City Council that the public interest will be best served by a negotiated contract to a single vendor or contractor.
- Staff believes that the public interest would best be served by awarding the contract to Goodland Construction based upon the following reasons:
 - Contractor has extensive familiarity with the area given their work on the 73rd Avenue project;
 - Contractor can use Davis-Bacon wage rates from 2003 applicable to the 73rd Avenue project;
 - The contractor submitted a bid submittal substantially less than the City's own cost estimate;
 - The contractor has an established working relationship with the area's businesses and residents;
 - The City can avoid a costly Federal bidding process relative to small size of project.

Expenditure Required: \$326,570 including 10% contingency

Source of Funds: 2003/2004 CDBG funds

Policy Issues

Should the City approve a contract to Goodland Construction without having selected the contractor through the formal bidding process?

Alternatives

Do not approve the contract with Goodland Construction and direct Staff to proceed with a formal bidding process in compliance with both City and Federal procurement and bidding guidelines. Staff does not recommend proceeding with this alternative since the bid processing costs and new Davis Bacon wage rate requirements could increase the cost of the project for all bidders including Goodland Construction. Further, given Federal compliance requirements imposed upon the selected contractor relative to the small size of the project, Staff would not anticipate a significant number of bids to be submitted.

Background Information

In 2002, the City selected Goodland Construction to proceed with the reconstruction of 73rd Avenue between Bradburn Boulevard and Lowell Boulevard. As the 73rd Avenue project was proceeding, the City entered into an agreement with a developer, Community Builders, Inc., to develop townhomes along Lowell Boulevard and Meade Street. In conjunction with this agreement, the City agreed to make improvements to Meade Street to support the project. In anticipation of these improvements, the City proceeded to make improvements at the intersection of Meade Street and 73rd Avenue that would eventually tie into proposed Meade Street improvements. In late 2003, the 73rd Avenue reconstruction, including the Meade Street tie-in was substantially completed.

In 2003 and 2004, the City Council approved a total of \$421,050 in CDBG funding for the Meade Street improvement project, and Staff retained the services of an engineering consultant, Entranco, Inc., to prepare plans and cost estimates for improving the roadway. Approximately \$60,000 of the funding was to be used in conjunction with the decorative street lighting to be installed under separate agreement with Xcel Energy. The balance of improvements, per the completed plans, were estimated to cost \$341,827 not including contingency. The plans provide for the installation of decorative street lighting, landscaping treatments along the street-edge, new curb, gutter and widened sidewalks, decorative pavement treatment, new full-depth asphalt paving, and handicap ramps, between 72nd Avenue and 73rd Avenue, all of which is complimentary to the 73rd Avenue improvements.

Following completion of the Meade Street plans, Staff proceeded to evaluate the most cost effective means of proceeding with the improvements. Based upon consultation with HUD officials, City staff ascertained that the Meade Street improvements could be completed with CDBG funds without formally re-bidding the project in accordance with federal guidelines, if the project was determined to be a contractual amendment to an existing CDBG project that had a physical interconnection to such project. Since the project directly ties into the 73rd Avenue reconstruction project, and since the existing construction contract is still in effect with a contractor that was duly selected through a formal and legitimate bidding process, the City may award a contract amendment to the same contractor, in this case Goodland Construction. In this scenario, the contractor would be allowed to continue to use the lower Davis Bacon wage scale used in conjunction with the 73rd Avenue project. By proceeding with this option, the City could see cost savings relative to reduced bidding requirements and documentation and wage requirements.

The City, if it so chooses, may also proceed to formally re-bid the project as a new CDBG project independent of the 73rd Avenue construction contract. In this event, the bidding process must be done in accordance with federal procurement and bidding requirements in effect at the time the contract is let out to bid and awarded. This includes the bids taking into consideration the Davis Bacon wage scale in effect at the time of contract signature. This differential could be significant given the 73rd Avenue project wage scale was set in 2002 at the time the contract was awarded.

The City's bidding procedures also give the City Council latitude to "waive" formal bidding or comparative price quotation requirements by majority vote. Such a waiver may be granted only if the City Council determines, upon recommendation of the City Manager, that the public interest will be best served by a negotiated contract with a single vendor or contractor, taking into consideration the following factors:

1. The bidder's skill, ability, and capacity to perform the personal services or to furnish the materials, equipment or supplies is required;
2. Whether the bidder can perform the services or furnish the materials, equipment or supplies promptly, or within the time period specified, without delay or interference;
3. The bidder's character, integrity, reputation, judgment, experience and efficiency;
4. The quality of the bidder's performance of previous purchase agreements;
5. The bidder's previous and current compliance with statutes, ordinances and rules relating to the purchase;
6. The sufficiency of the bidder's financial resources necessary for the performance of the purchase agreement;
7. The bidder's ability to provide future maintenance or service; and,
8. The number and nature of any conditions attached to the bid.

Staff believes that Goodland Construction meets all of the factors for being awarded the contract. Goodland was by far the lowest bidder on the 73rd Avenue Reconstruction project and the most qualified. The company is very familiar with the south Westminster area and associated issues having also been the City's selected contractor on several construction projects including Bishop's Square ballfield, Community Senior Center parking lot, Terrace Park improvements and traffic calming improvements on Bradburn Boulevard. The quality and efficiency of work related to 73rd Avenue was exceptional given the many intervening issues that arose throughout the project. Goodland Construction worked in a highly cooperative manner with City staff to resolve issues as they arose. Goodland also has the capacity and ability to comply with the plethora of federal guidelines and reporting requirements and are in good standing with the City and HUD relative to those requirements.

Given these abilities and potential cost savings, City staff requested a bid submittal from Goodland Construction for the Meade Street improvements premised upon the completed plans. Goodland Construction submitted a firm bid of \$296,882, which is \$44,945 less than the estimate provided to the City by the engineering consultant. The engineering consultant did review the bid and determined that it is complete and reasonable. Based on Goodland's credentials and potential project cost savings, Staff believes it in the public interest to award the contract to Goodland as proposed.

Accordingly, Staff recommends that Council authorize the City Manager to execute a contract with Goodland Construction, Inc. to provide the construction services for the Meade Street Improvement Project. With Council approval of the contract, work on Meade Street is expected to proceed in April 2004.

Respectfully submitted,

J. Brent McFall
City Manager



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
March 15, 2004



SUBJECT: Huron Street Design, 128th to 140th Avenue

Prepared By: Stephen C. Baumann, Assistant City Engineer

Recommended City Council Action:

Authorize the City Manager to sign an addendum to the agreement with Felsburg, Holt and Ullevig for additional design work in the Huron Street improvements project from 128th to 140th Avenue and authorize an additional \$123,890 for those services.

Summary Statement:

- A contract for final design of the improvements to Huron Street from 128th Avenue to 140th Avenue was approved by City Council in February of 2003. With two subsequent addendums the contract amount is currently \$630,705.
- Design has progressed and the plans should be ready for bid in the next two months such that construction can begin in June of 2004. Over the past several months, the project team has identified additional design work the City desires be done beyond that defined in the original scope of services. Among these items are the design of the first reach of the reclaimed water system in Huron Street north from the Water Reclamation Facility so that it can be constructed with the Huron Street improvements; plans for a siphon structure to replace the existing sanitary sewer crossing of Big Dry Creek so that the siphon can go into service when the Wastewater Treatment Plant expansion is completed in late 2005; the design of 132nd Avenue east of Huron Street to enhance public access to the Wastewater Treatment Plant once its expansion is complete; a reconciliation of survey datum to match surrounding projects, and several minor modifications in design of elements of the project

Expenditure Required: \$123,890

Source of Funds: General Capital Improvement Account for the Huron Street Project and the Utility Fund Capital Improvement Project Funds

Policy Issue

Should the City contract for additional engineering services for design of necessary utility facilities and the extension of 132nd Avenue in conjunction with the Huron Street reconstruction?

Alternative

City Council could decide not to amend FHU's contract to handle these additional design items. However, this would essentially bring progress on the project to a halt because the items are critical to the completion of the plans. The primary items of this contract amendment involve expansion of the reclaimed water system, a sewer main that must be relocated and an access to the Wastewater Treatment Plant that fits the expansion plan now being designed by the Public Works Department. For these reasons, this alternative is not recommended.

Background Information

In February 2003, City Council authorized a contract with Felsburg, Holt and Ullevig, Inc. (FHU) for final design of Huron Street between 128th Avenue and 136th Avenue. An amendment expanded that project design to extend north to 140th Avenue and a later amendment made it possible to design a water main relocation in Huron Street that will allow the street improvements project to begin construction in June of 2004. The contract amount is now \$630,705

Over the past several months, FHU has had to adjust the scope of the design effort on several different fronts. They are having to develop plans for facilities that were not anticipated in the original assignment. One such circumstance is a desire to get the first part of the reclaimed water system north of the Water Reclamation Facility installed in Huron Street. This system expansion will result in the reclaimed water main being installed north to approximately 132nd Avenue, a first step in providing service to the area between Huron Street and I-25. This extension will also make it possible to use reclaimed water to irrigate the planned landscaped medians being built south of 136th Avenue with the Huron Street improvements.

Another of the utility modifications is the design of a siphon structure for sanitary sewer to replace the existing crossing over Big Dry Creek. FHU's original contract included design of a simple, gravity system that would be placed in the proposed Big Dry Creek bridge or left in place. This and several other options were determined to be unworkable. A siphon crossing will be designed and included for construction with the roadway project and go into service in the fall of 2005, when the Wastewater Treatment Plant Expansion project will have modified the receiving facilities. These two items, requested by the City, will increase the design contract compensation to FHU by \$66,500.

Related to the Wastewater Treatment Plant Expansion is another effort for FHU to prepare plans for 132nd Avenue east from Huron Street, crossing the Bull Canal on a new box culvert to provide access to the expanded plant in the future. This access was determined to be the most compatible with the proposed plant site layout, particularly for creating an improved and relocated dumpsite for use by recreational vehicles. The access from Huron Street to the relocated facility via a new 132nd Avenue greatly enhances security at the plant site once expanded. Council earlier authorized this approach and appropriated \$200,000 for its design and construction. Staff has negotiated a design fee of \$32,500 for the surveying, engineering and permitting processes associated with this additional effort.

Finally, there have been several smaller components of the design assignment that have expanded beyond what could have been anticipated in the original contract. First, it will be necessary to revise the project datum from the coordinate system that was originally set up due to information used in the 136th Ave Interchange project so that it will match other projects in the north Huron corridor. The datum change will also make the project datum compatible with floodplain mapping for Big Dry Creek and Quail Creek.

The cost to do so will be \$13,540. A second item of added work involves field survey and potholing to expose and map existing utilities in order to minimize conflicts and design solutions before the contractor is faced with them in the field. This activity has significantly exceeded what had been envisioned during preliminary design. Delays during construction that stem from such conflicts can paralyze progress and drive construction costs up. The project team decided that the additional effort (at a cost of \$8,750) needed to determine conflicts in advance was small compared to the costs of delays later. A third increase to the project scope coincides with the undergrounding of facilities by Xcel and Comcast (now underway) and necessitated the survey/staking of proposed right-of-way and improvements of the Huron Street design so that these new facilities can be placed to not interfere with the roadway construction that will begin in the summer of 2004. This work will cost \$2,600 and is necessary now but outside the original scope of work.

A summary of the added design cost is as follows:

Reclaimed water line design	\$ 32,600
Sanitary siphon design	\$ 33,900
132 nd Avenue design	\$ 32,500
Datum modification	\$ 13,540
Survey/pothole utilities	\$ 8,750
Survey for undergrounding	\$ 2,600
TOTAL	\$123,890

With the proposed amendments, the new contract total for design of the Huron Street, 128th to 140th Avenue improvements will be \$754,595. Funds for this contract modification exist in the project contingency and/or appropriated amounts in the Huron Street Capital Project Account or the Utility Capital Improvement Account dependent on the category of expenditure.

Respectfully submitted,

J. Brent McFall
City Manager



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
March 15, 2004



SUBJECT: Second Reading of Councillor's Bill No. 8 re the Proposed Vested Rights Agreement for Mandalay Town Center

Prepared By: David Falconieri, Planner III

Recommended City Council Action

Pass Councillor's Bill No. 8 on second reading approving the Vested Rights Agreement for Mandalay Town Center.

Summary Statement:

- The developer, RED Development, has asked that a revised vesting rights statement be added to the Preliminary Development Plan that would give them a total of five years vested rights instead of the State mandated 3 years. The applicant is also requesting the approval of a Vested Rights Agreement that clarifies the proposed terms of the vesting proposal.
- This Councillor's Bill was passed on first reading on February 23, 2004.

Expenditure Required: \$ 0

Source of Funds: N/A

Respectfully submitted,

J. Brent McFall
City Manager

Attachment

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **8**

SERIES OF 2004

INTRODUCED BY COUNCILLORS

A BILL

FOR AN ORDINANCE APPROVING A VESTED RIGHTS DEVELOPMENT AGREEMENT FOR THE MANDALAY TOWN CENTER REDEVELOPMENT PROJECT WITH WESTMINSTER DEVELOPMENT COMPANY, LLC

WHEREAS, the City of Westminster and Westminster Development Company, LLC, have entered into a Vested Rights Development Agreement for the Mandalay Town Center Redevelopment Project; and

WHEREAS, such agreements are authorized by Westminster Municipal Code section 11-5-18.

NOW, THEREFORE, THE CITY OF WESTMINSTER ORDAINS:

Section 1. The Vested Rights Development Agreement for the Mandalay Town Center Redevelopment Project attached hereto as Exhibit "A" is hereby approved and the City Manager is authorized to execute it in substantially the same form as attached.

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

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

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 23rd day of February, 2004.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 15th day of March, 2004.

Mayor

ATTEST:

City Clerk



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
March 15, 2004



SUBJECT: Public Hearing and Action on the Annexation, Comprehensive Land Use Plan Amendment and Zoning of the Bull Canal and United Power Properties

Prepared By: David Falconieri, Planner III

Recommended City Council Action:

1. Hold a public hearing.
2. Adopt Resolution No. 16 making certain findings as required by Section 31-12-116 C.R.S.
3. Pass Councillor's Bill No. 9 on first reading annexing the unincorporated portion of the Bull Canal property and the United Power property to the City.
4. Pass Councillor's Bill No. 10 on first reading amending the Comprehensive Land Use Plan to include the Bull Canal and United Power properties, and to assign a land use designation of District Center.
5. Pass Councillor's Bill No. 11 on first reading zoning the Bull Canal and United Power properties Planned Unit Development (PUD).

Summary Statement:

- The unincorporated portion of the Bull Canal is that portion that is south of 136th Avenue and east of Huron Street. (Please refer to the attached vicinity map.) The parcel contains 6.1 acres. The canal was relocated as a part of the Quail Creek realignment associated with the 136th Avenue/I-25 project. The old canal right-of-way will be conveyed by the Farmers' Reservoir and Irrigation Company (FRICO) to the adjacent property owners.
- The United Power property is located at the southwest corner of I-25 and 136th Avenue. This is a one-acre property that was purchased by the City to provide land for the construction of the new 136th Avenue/I-25 interchange. The electrical facilities that were on the property have all been relocated.
- Both properties are entirely surrounded enclaves within the City.

Expenditure Required: \$ 0

Source of Funds: N/A

Planning Commission Recommendation

The Planning Commission reviewed this proposal on February 24, 2004, and voted unanimously (7-0) to recommend the City Council approve as submitted the Annexation, Comprehensive Land Use Plan Amendment, and Zoning of the Bull Canal.

No one spoke in favor of or in opposition to this proposal.

Policy Issue

Should the City annex the two enclaves at this time?

Alternative

Make a finding that the properties should not be annexed at this time, and take no further action. If this action is taken, the properties will remain unincorporated enclaves that could create problems for the future development of the surrounding Mowry/Steele property.

Background Information

Applicant/Property Owner: The Bull Canal right-of-way is owned by FRICO, and the United Power parcel has been purchased by the City.

Surrounding Land Use and Comprehensive Land Use Plan Designations: Both properties are surrounded by land that is currently designated as Business Park in the CLUP. However, these properties are proposed to be amended to District Center with the Comprehensive Land Use Plan Update project. All of the land surrounding these properties is vacant at this time. Staff is recommending the District Center designation, for consistency with the surrounding area designations proposed in the Comprehensive Land Use Plan update.

Site Plan Information: The Bull Canal property is likely to be included in the development of the Mowry/Steele property development when that property is developed. The United Power parcel will be utilized for the construction of the new 136th Avenue interchange.

Traffic and Transportation: Other than the 136th Avenue interchange, no new facilities are planned at this time.

Service Commitment Category: No Service Commitments are needed at this time.

Referral Agency Responses: None received.

Public Comments: None received.

Respectfully submitted,

J. Brent McFall
City Manager

Attachments

RESOLUTION

RESOLUTION NO. **16**

INTRODUCED BY COUNCILLORS

SERIES OF 2004

A RESOLUTION PURSUANT TO SECTION 31-12-110, C.R.S., SETTING FORTH THE FINDINGS OF FACT AND CONCLUSION OF CITY COUNCIL WITH REGARD TO THE PROPOSED ANNEXATION OF CONTIGUOUS UNINCORPORATED TERRITORY IN SECTION 27, TOWNSHIP 1 SOUTH, RANGE 68 WEST OF THE SIXTH PRINCIPAL MERIDIAN, COUNTY OF ADAMS, STATE OF COLORADO.

WHEREAS, pursuant to the laws of the State of Colorado, there are certain unincorporated properties which have been completely surrounded by the City for not less than three years; and

WHEREAS, City Council has held a hearing concerning the proposed annexation as required by sections 31-12-108 and -109, C.R.S.; and

WHEREAS, having completed the required hearing, the City Council wishes to set forth its findings of fact and conclusion regarding the proposed annexation.

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

1. The City Council finds:

- a. Not less than 1/6 of the perimeter of the area proposed to be annexed is contiguous with the City of Westminster;
- b. A community of interest exists between the area proposed to be annexed and the City;
- c. The area is urban or will be urbanized in the near future; and
- d. The area is integrated with or is capable of being integrated with the City.

2. The City Council further finds:

- a. With respect to the boundaries of the territory proposed to be annexed, no land held in identical ownership, whether consisting of one tract or parcel of real estate or two or more contiguous tracts or parcels of real estate, has been divided into separate parts or parcels without the written consent of the landowners thereof, except to the extent such tracts or parcels are separated by dedicated street, road, or other public way; and
- b. With regard to the boundaries of the area proposed to be annexed, no land held in identical ownership, whether consisting of one tract or parcel of real estate or two or more contiguous tracts or parcels of real estate, comprising twenty (20) acres or more (which, together with the buildings and improvements situated thereon has a valuation for assessment in excess of \$200,000 for ad valorem tax purposes for the previous year), has been included in the area being proposed for annexation without the written consent of the owners thereof, except to the extent such tract of land is situated entirely within the outer boundaries of the City immediately prior to the annexation of said property.

3. The City Council further finds:

a. That no annexation proceedings concerning the property proposed to be annexed by the City has been commenced by another municipality;

b. That the annexation will not result in the attachment of area from a school district;

c. That the annexation will not result in the extension of the City's boundary more than three (3) miles in any direction;

d. That the City of Westminster has in place a plan for the area proposed to be annexed; and

e. That in establishing the boundaries of the area to be annexed, the entire width of any street or alley is included within the area annexed.

4. The City Council further finds that an election is not required and no additional terms or conditions are to be imposed upon the area to be annexed.

5. The City Council concludes that the City may proceed to annex the area proposed to be annexed by ordinance pursuant to section 31-12-111, C.R.S.

PASSED AND ADOPTED this 15th day of March, 2004.

ATTEST:

Mayor

City Clerk

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **9**

SERIES OF 2004

INTRODUCED BY COUNCILLORS

A BILL

FOR AN ORDINANCE APPROVING AND ACCOMPLISHING THE ANNEXATION OF CONTIGUOUS UNINCORPORATED TERRITORY IN A PARCEL OF LAND LOCATED IN SECTION 27, TOWNSHIP 1 SOUTH, RANGE 68 WEST, 6TH P.M., COUNTY OF ADAMS, STATE OF COLORADO.

WHEREAS, pursuant to the laws of the State of Colorado, the hereinafter-described contiguous, unincorporated territory situate, lying and being in the County of Adams, State of Colorado, are enclaves entirely surrounded, by the city for a period of not less than three years; and

WHEREAS, City Council has held the required annexation hearing in conformance with all statutory requirements; and

WHEREAS, City Council has heretofore adopted Resolution No. making certain findings of fact and conclusions regarding the proposed annexation as required by Section 31-12-110, C.R.S., and now finds that the property proposed for annexation described herein may be annexed by ordinance at this time; and

WHEREAS, the Council of the City of Westminster has satisfied itself concerning the conformance of the proposed annexation to the annexation policy of the City of Westminster.

NOW, THEREFORE, the City of Westminster ordains:

Section 1. That the annexation is hereby accomplished by and to the City of Westminster, State of Colorado, of the following described contiguous unincorporated territory situate, lying and being in the County of Adams, State of Colorado, to wit:

Parcel 1

Commencing at the north quarter corner of said section 27 from whence the northwest corner of said section bears N89'58'56"W, 2624.59 feet as shown on the City of Westminster GIS survey plats and on which all bearings hereon are based thence along the north line of said section N89'58'56"W, 199.56 feet; thence at right angles to said line S00'01'04"W, 30.00 feet to the true point of beginning a point at the intersection of the west line of US Highway I-25 and the south line of west 136th Avenue a point on the west line of the annexation to the City of Westminster recorded at reception number 621803 of the records of the Adams County Clerk and Recorder.

Thence along said west line S00'52'40"E, 208.70 feet to a point on the lines of the annexation to said city recorded at reception number B626335 of said records; thence along said lines N89'58'56"W, 208.70 feet; thence continuing along said lines N00'52'40"W, 208.70 feet to a point on the south line of West 136th Avenue on the south line of the annexation to said city recorded at reception number B621803 of said records; thence along said south line S89'58'56"E, 208.70 feet to the true point of beginning.

Contains 43556 square feet or 0.9999 acres more or less.

Parcel 2

Commencing at the north quarter corner of said section 27 from whence the northwest corner of said section bears N89°58'56"W, 2624.59 feet as shown on the City of Westminster GIS survey plats and on which all bearings hereon are based; thence along the north line of said section N89°58'56"W, 1956.20 feet; thence at right angles to said line S00°01'04"W, 30.00 feet to the true point of beginning a point on the south line of West 136th Avenue a point on the northerly line of the annexation to the City of Westminster recorded at reception number 626335 of the records of the Adams County Clerk and Recorder;

Thence along the lines of said annexation and the following 6 courses 1) S26°00'03"E, 808.92 feet; 2) N87°41'04"E, 160.50 feet; 3) N67°29'48"E, 520.10 feet; 4) N80°13'44"E, 190.46 feet; 5) S58°38'48"E, 567.35 feet to a point of curve right; 6) along said curve with a central angle of 33°00'11", a radius of 269.45 feet and an arc length of 155.21 feet, long chord bears S42°08'43"E, 153.07 feet to a point on the west line of US Highway I-25 on the west line of the annexation to said city recorded at reception number 621803 of said records; thence along said west line S00°52'40"E, 225.75 feet to a point on the easterly line of the annexation to said city recorded at reception number B626334 of said records to a point on a non-tangent curve right; thence along said line along said curve with a central angle of 02°28'40", a radius of 269.45 feet and an arc length of 11.65 feet, long chord bears S25°07'36"W, 11.65 feet; thence continuing along said line S26°21'56"W, 176.78 feet to a point on the north line of the annexation to said city recorded at reception number 959691 of said records; thence along said line N89°58'46"W, 106.01 feet to a point on the lines of the annexation to said city recorded at reception number B626334 of said records; thence along the lines of said annexation and the following 7 courses 1) N26°21'56"E, 223.82 feet to a point of curve left; 2) along said curve with a central angle of 85°00'44", a radius of 174.45 feet and an arc length of 258.84 feet, long chord bears N16°08'26"W, 235.74 feet; 3) N58°38'48"W, 531.71 feet; 4) S80°13'44"W, 144.22 feet; 5) S67°29'48"W, 526.41 feet; 6) S87°41'04"W, 239.48 feet; 7) N26°00'03"W, 917.36 feet to a point on the south line of West 136th Avenue a point on the south line of the annexation to said city recorded at reception number B621803 of said records; thence along said south line S89°58'56"E, 105.71 feet to the true point of beginning.

Containing 265358 square feet or 6.0918 acres more or less.

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

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

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 15th day of March, 2004.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 29th day of March, 2004.

ATTEST:

Mayor

City Clerk

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **10**

SERIES OF 2004

INTRODUCED BY COUNCILLORS

A BILL

FOR AN ORDINANCE AMENDING THE WESTMINSTER COMPREHENSIVE LAND USE PLAN

WHEREAS, the City maintains a Comprehensive Land Use Plan which regulates land uses within the City; and

WHEREAS, the City Council has annexed new properties to the City specifically described below; and

WHEREAS, an amendment of the Plan is necessary to provide a land use designation for the annexed property and to keep the Plan up to date; and

WHEREAS, the Planning Commission has reviewed the proposed amendment and has recommended approval to the City Council.

NOW THEREFORE, the City Council hereby finds that the required procedures for amending the Comprehensive Land Use Plan as delineated in the Westminster Municipal Code have been satisfied.

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The City Council authorizes City Staff to make the necessary changes to the maps and text of the Westminster Comprehensive Land Use Plan which are necessary to alter the designation of the Bull Canal annexation property, legally described as follows:

Parcel 1

Commencing at the north quarter corner of said section 27 from whence the northwest corner of said section bears N89'58'56"W, 2624.59 feet as shown on the City of Westminster GIS survey plats and on which all bearings hereon are based thence along the north line of said section N89'58'56"W, 199.56 feet; thence at right angles to said line S00'01'04"W, 30.00 feet to the true point of beginning a point at the intersection of the west line of US Highway I-25 and the south line of west 136th Avenue a point on the west line of the annexation to the City of Westminster recorded at reception number 621803 of the records of the Adams County Clerk and Recorder.

Thence along said west line S00'52'40"E, 208.70 feet to a point on the lines of the annexation to said city recorded at reception number B626335 of said records; thence along said lines N89'58'56"W, 208.70 feet; thence continuing along said lines N00'52'40"W, 208.70 feet to a point on the south line of West 136th Avenue on the south line of the annexation to said city recorded at reception number B621803 of said records; thence along said south line S89'58'56"E, 208.70 feet to the true point of beginning.

Contains 43556 square feet or 0.9999 acres more or less.

Parcel 2

Commencing at the north quarter corner of said section 27 from whence the northwest corner of said section bears N89'58'56"W, 2624.59 feet as shown on the City of Westminster GIS survey plats and on which all bearings hereon are based; thence along the north line of said section N89'58'56"W, 1956.20 feet; thence at right angles to said line S00'01'04"W, 30.00 feet to the true point of beginning a point on the south line of West 136th Avenue a point on the northerly line of

the annexation to the City of Westminster recorded at reception number 626335 of the records of the Adams County Clerk and Recorder;

Thence along the lines of said annexation and the following 6 courses 1) S26°00'03"E, 808.92 feet; 2) N87°41'04"E, 160.50 feet; 3) N67°29'48"E, 520.10 feet; 4) N80°13'44"E, 190.46 feet; 5) S58°38'48"E, 567.35 feet to a point of curve right; 6) along said curve with a central angle of 33°00'11", a radius of 269.45 feet and an arc length of 155.21 feet, long chord bears S42°08'43"E, 153.07 feet to a point on the west line of US Highway I-25 on the west line of the annexation to said city recorded at reception number 621803 of said records; thence along said west line S00°52'40"E, 225.75 feet to a point on the easterly line of the annexation to said city recorded at reception number B626334 of said records to a point on a non-tangent curve right; thence along said line along said curve with a central angle of 02°28'40", a radius of 269.45 feet and an arc length of 11.65 feet, long chord bears S25°07'36"W, 11.65 feet; thence continuing along said line S26°21'56"W, 176.78 feet to a point on the north line of the annexation to said city recorded at reception number 959691 of said records; thence along said line N89°58'46"W, 106.01 feet to a point on the lines of the annexation to said city recorded at reception number B626334 of said records; thence along the lines of said annexation and the following 7 courses 1) N26°21'56"E, 223.82 feet to a point of curve left; 2) along said curve with a central angle of 85°00'44", a radius of 174.45 feet and an arc length of 258.84 feet, long chord bears N16°08'26"W, 235.74 feet; 3) N58°38'48"W, 531.71 feet; 4) S80°13'44"W, 144.22 feet; 5) S67°29'48"W, 526.41 feet; 6) S87°41'04"W, 239.48 feet; 7) N26°00'03"W, 917.36 feet to a point on the south line of West 136th Avenue a point on the south line of the annexation to said city recorded at reception number B621803 of said records; thence along said south line S89°58'56"E, 105.71 feet to the true point of beginning.

Containing 265358 square feet or 6.0918 acres more or less.

The properties described above shall be changed from Unincorporated Adams County, to District Center, as shown on the attached "Exhibit A".

Section 2. Severability: If any section, paragraph, clause, word or any other part of this Ordinance shall for any reason be held to be invalid or unenforceable by a court of competent jurisdiction, such part deemed unenforceable shall not affect any of the remaining provisions.

Section 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.

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 15th of March, 2004.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 29th day of March, 2004.

ATTEST:

Mayor

City Clerk

BY AUTHORITY

ORDINANCE NO.

COUNCILOR'S BILL NO. **11**

SERIES OF 2004

INTRODUCED BY COUNCILLORS

A BILL

FOR AN ORDINANCE AMENDING THE ZONING LAW AND ESTABLISHING THE ZONING CLASSIFICATION OF CERTAIN DESCRIBED PROPERTY IN A PARCEL OF LAND LOCATED IN SECTION 27, TOWNSHIP 1 SOUTH, RANGE 68 WEST, 6TH P.M., COUNTY OF ADAMS, STATE OF COLORADO.

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The City Council finds:

a. That an application for the zoning of the property described below from Adams County A-2 to City of Westminster Planned Unit Development (PUD) zoning has been submitted to the City for its approval pursuant to Westminster Municipal Code Section 11-5-1.

b. That Council has completed a public hearing on the requested zoning pursuant to the provisions of Chapter 5 of Title XI of the Westminster Municipal Code.

c. That based on the evidence produced at the public hearing, the City Council finds that the proposed zoning complies with all requirements of City Code, including, but not limited to, the provisions of Westminster Municipal Code Section 11-5-3.

d. That the proposed zoning is compatible with existing zoning and land uses of adjacent properties in the general vicinity of the property proposed for zoning.

e. That the proposed zoning is consistent with all applicable general plans and policies concerning land use and development relative to the property proposed for zoning.

Section 2. The Zoning District Map of the City is hereby amended by reclassification of the property described herein from Adams County A-2 to City of Westminster PUD. A parcel of land located in Section 27, Township 1 South, Range 68 West, 6th P.M., County of Adams, State of Colorado, more particularly described as follows:

Parcel 1

Commencing at the north quarter corner of said section 27 from whence the northwest corner of said section bears N89'58'56"W, 2624.59 feet as shown on the City of Westminster GIS survey plats and on which all bearings hereon are based thence along the north line of said section N89'58'56"W, 199.56 feet; thence at right angles to said line S00'01'04"W, 30.00 feet to the true point of beginning a point at the intersection of the west line of US Highway I-25 and the south line of west 136th Avenue a point on the west line of the annexation to the City of Westminster recorded at reception number 621803 of the records of the Adams County Clerk and Recorder.

Thence along said west line S00'52'40"E, 208.70 feet to a point on the lines of the annexation to said city recorded at reception number B626335 of said records; thence along said lines N89'58'56"W, 208.70 feet; thence continuing along said lines N00'52'40"W, 208.70 feet to a point on the south line of West 136th Avenue on the south line of the annexation to said city recorded at reception number B621803 of said records; thence along said south line S89'58'56"E, 208.70 feet to the true point of beginning.

Contains 43556 square feet or 0.9999 acres more or less.

Parcel 2

Commencing at the north quarter corner of said section 27 from whence the northwest corner of said section bears N89°58'56"W, 2624.59 feet as shown on the City of Westminster GIS survey plats and on which all bearings hereon are based; thence along the north line of said section N89°58'56"W, 1956.20 feet; thence at right angles to said line S00°01'04"W, 30.00 feet to the true point of beginning a point on the south line of West 136th Avenue a point on the northerly line of the annexation to the City of Westminster recorded at reception number 626335 of the records of the Adams County Clerk and Recorder;

Thence along the lines of said annexation and the following 6 courses 1) S26°00'03"E, 808.92 feet; 2) N87°41'04"E, 160.50 feet; 3) N67°29'48"E, 520.10 feet; 4) N80°13'44"E, 190.46 feet; 5) S58°38'48"E, 567.35 feet to a point of curve right; 6) along said curve with a central angle of 33°00'11", a radius of 269.45 feet and an arc length of 155.21 feet, long chord bears S42°08'43"E, 153.07 feet to a point on the west line of US Highway I-25 on the west line of the annexation to said city recorded at reception number 621803 of said records; thence along said west line S00°52'40"E, 225.75 feet to a point on the easterly line of the annexation to said city recorded at reception number B626334 of said records to a point on a non-tangent curve right; thence along said line along said curve with a central angle of 02°28'40", a radius of 269.45 feet and an arc length of 11.65 feet, long chord bears S25°07'36"W, 11.65 feet; thence continuing along said line S26°21'56"W, 176.78 feet to a point on the north line of the annexation to said city recorded at reception number 959691 of said records; thence along said line N89°58'46"W, 106.01 feet to a point on the lines of the annexation to said city recorded at reception number B626334 of said records; thence along the lines of said annexation and the following 7 courses 1) N26°21'56"E, 223.82 feet to a point of curve left; 2) along said curve with a central angle of 85°00'44", a radius of 174.45 feet and an arc length of 258.84 feet, long chord bears N16°08'26"W, 235.74 feet; 3) N58°38'48"W, 531.71 feet; 4) S80°13'44"W, 144.22 feet; 5) S67°29'48"W, 526.41 feet; 6) S87°41'04"W, 239.48 feet; 7) N26°00'03"W, 917.36 feet to a point on the south line of West 136th Avenue a point on the south line of the annexation to said city recorded at reception number B621803 of said records; thence along said south line S89°58'56"E, 105.71 feet to the true point of beginning.

Containing 265358 square feet or 6.0918 acres more or less.

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.

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 15th day of March, 2004.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 29th day of March, 2004.

ATTEST:

Mayor

City Clerk



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
March 15, 2004



SUBJECT: Councillor's Bill No. 12 re Scottrade, Inc. Business Assistance Package

Prepared By: Becky Johnson, Economic Development Program Coordinator

Recommended City Council Action

Pass Councillor's Bill No. 12 on first reading, authorizing the City Manager to execute a Business Assistance Package (BAP) with Scottrade, Inc. (Scottrade) in the amount of \$31,800. The BAP includes \$6,300 in permit fee rebates, \$10,500 in construction use tax rebates, and \$15,000 in equipment use tax rebates.

Summary Statement

- City Council action is requested to pass the attached Councillor's Bill that authorizes the execution of the attached business assistance agreement with Scottrade.
- Computer Research Inc. and Scottrade are affiliated companies in a financial services and software business considering locating to the four story office building in Church Ranch Corporate Center.
- Scottrade and Computer Research Inc (CRI) will employ 50 people at move-in.
- Assistance is based upon occupying existing space that has been vacant for over three years.
- The rebate under the BAP will be paid to Scottrade, but will be calculated based on building permits fees and use taxes attributable to from both Scottrade and CRI.

Expenditure Required: \$31,800 (Permit Fees and Use Tax Rebates)

Source of Funds: The business assistance package with Scottrade will be funded through the rebate of permit fees, construction use tax, and equipment use tax directly generated from the relocation of Scottrade and CRI's relocation to Church Ranch Corporate Center.

Policy Issue

Does Council desire to provide assistance to Scottrade to promote the filling of existing space in the City?

Alternatives

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 quality companies and filling existing vacant space would not be supported.

Provide Less: Another alternative is to provide less assistance than what is recommended. The recommended assistance package is considered modest.

Provide More: A third alternative would be to provide a greater amount of assistance than recommended. As noted, Staff has recommended an assistance package that is 12% of the total 5-year projected revenue. There is room for additional funding. However, it is staff's opinion that additional assistance is not needed.

Background Information

Scottrade and CRI are affiliated companies owned by Rodger Riney. These companies are considering relocating the financial services software company from downtown Denver to the four-story office building at Church Ranch Corporate Center. CRI provides both a financial services software product and service to banks and brokerage companies throughout the country. Scottrade, an investment brokerage firm out of St. Louis, Missouri will house a 5,000 square foot back up data center on site.

These companies will lease approximately 29,000 square feet on the third floor of the four story office building in Church Ranch Corporate Center. These companies would employ 50 people at move-in with an estimated average salary of \$60,000 per year. In five years the companies anticipate growth to 105 employees with an average payroll of \$6.5 million.

The building Scottrade and CRI are considering, currently has an 84% vacancy rate due to a change in market conditions throughout the metro area. These companies will be the second tenants in the four-story building, reducing the vacancy rate to 68% of the entire building. These companies anticipate a move-in date of late fall 2004.

It is anticipated that Scottrade and CRI will generate over \$273,600 of new revenue directly to the City in the first five years of operation. This is based on \$1.4 million in tenant finish and new equipment purchases of \$1 million at move-in.

Therefore, based on a 5-year projection of direct and indirect City tax and fee revenue, staff recommends the following business assistance package:

Proposed Assistance	Approximate <u>Value</u>
<u>Building Permit-Fee Rebate</u> 50% of building related fees attributable to Scottrade and CRI (excluding water & sewer tap fees) will be rebated ($\$12,600 \times 50\% = \$6,300$)	\$6,300
<u>Building Use Tax Rebate</u> 50% of the General Use Tax attributable to Scottrade and CRI (excludes the City's .25% Open Space Tax and .6% Public Safety Tax) on construction materials for this project will be rebated ($\$1.4$ million $\times 50\% = \$700,000 \times 3\% =$ $\$21,000 \times 50\% = \$10,500$)	\$10,500
<u>Use Tax on Furniture and Fixtures Rebate</u> For the period 3 months prior and the 3 months after Scottrade and CRI obtain a Certificate of Occupancy for the new Westminster facility, the City will rebate 50% of the General Use Tax attributable to Scottrade and CRI (excludes the City's .25% Open Space Tax and .6% Public Safety Tax) collected on the furnishing and equipment purchased to furnish the new facility ($\$1$ million new equipment \times $3\% = \$30,000$ Use Tax $\times 50\% = \$15,000$)	\$15,000
Total Proposed Assistance Package Not To Exceed	\$31,800

This assistance package is based upon the City's goals to attract quality companies, add primary jobs, and fill existing vacant space. The attraction of the Scottrade and CRI supports these efforts in Westminster.

Respectfully submitted,

J. Brent McFall
City Manager

Attachments

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

THIS AGREEMENT is made and entered into this _____ day of _____, 2004, between the CITY OF WESTMINSTER (the "City"), and SCOTTRADE, INC. (Scottrade).

WHEREAS, the City wishes to provide certain assistance to Scottrade to aid in the relocation to vacant space in the City; and

WHEREAS, Scottrade and it's affiliate Computer Research Inc. (CRI) plan to occupy 29,000 square feet of existing space on the third floor of the four story office building at Church Ranch Corporate Center, thus providing additional primary job creation within the City; and

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

In consideration of the mutual promises set forth below, the City and Scottrade agrees as follows:

1. Building Permit Fee Rebates. The City shall rebate to Scottrade 50% of the building related permit fees, required under W.M.C. Section 11-10-3 (E), excluding water and sewer tap fees, collected from Scottrade and CRI in connect with the finish and occupancy of 29,000 square feet of the four story office building at Church Ranch Corporate Center, with a projected move-in date of November 1, 2004. The permit fee rebate shall not exceed \$6,300.

2. Use Tax Rebate- Construction. The City shall rebate to Scottrade 50% of the Building Use Tax on the construction materials, collected from Scottrade and CRI in connection with the tenant finish of the 29,000 square foot facility in Church Ranch Corporate Center in Westminster, required under W.M.C. sections 4-2-9 and 4-2-3, to Scottrade. The rebate shall not exceed \$10,500.

3. Use Tax Rebate- Furniture and Fixtures. For purchases of items for Scottrade and CRI for the new offices made during 3 months prior and the 3 months after Scottrade and CRI obtain the Certificate of Occupancy, the City shall rebate 50% of the General Use Tax remitted to the City of Westminster by Scottrade and CRI on the use tax return for the new offices. The total rebate pursuant to this paragraph shall not exceed \$15,000 (the "Rebate"). Such Rebate shall be payable exclusively from those revenues actually collected by the City from Scottrade and CRI and attributable to the imposition against Scottrade and CRI, of the City's 3.0% general use tax (excludes the City's .25% Open Space Tax and .6% Public Safety Tax).

4. Payments of Rebates. Rebates will be paid to Scottrade by the City in quarterly installments from revenue actually collected and received by the City from Scottrade and CRI. Payments of each quarterly installment shall be made within 20 days of the calendar quarter end and will be submitted electronically.

5. Entire Agreement. This instrument 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 Assistance Agreement shall terminate and become void and of no force or effect upon the City if Scottrade and Computer Research Inc. have not moved into Church Ranch Office Building by March 31, 2005 or should Scottrade or CRI not comply with the City regulations or code.

7. Business Termination. In the event Scottrade or Computer Research Inc. ceases business operations within the City within three (3) years after the new operations commence, then Scottrade shall pay to the City the total amount of fees and taxes that were due and payable by Scottrade and CRI to the City but were rebated by the City, as well as reimburse the City for any funds provided 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 a good faith the services of a mutually acceptable, qualified, and experience mediator, or panel of mediators for the purpose of resolving such dispute. The venue for any lawsuit concerning this agreement shall be in the District Court for Jefferson County, Colorado.

**SCOTTRADE (d.b.a. COMPUTER RESEARCH INC.
AND SCOTTRADE**

CITY OF WESTMINSTER

Jeffrey Polsgrove
Chief Information Officer

J. Brent McFall
City Manager

ATTEST:

ATTEST:

Title Michele Kelley
City Clerk

Adopted by Ordinance No.

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **12**

SERIES OF 2004

INTRODUCED BY COUNCILLORS

A BILL

FOR AN ORDINANCE AUTHORIZING AN ASSISTANCE AGREEMENT WITH SCOTTRADE, INC. TO AID IN THEIR RELOCATION OF SCOTTRADE AND THEIR AFFILIATE, COMPUTER RESEARCH INC. TO CHURCH RANCH CORPORATE CENTER IN WESTMINSTER

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 and their affiliate Computer Research Inc. plan to occupy 29,000 square feet in the four story office building at Church Ranch Corporate Center, off of US 36 and Church Ranch Boulevard in Westminster, and

WHEREAS, a proposed Assistance 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 Assistance 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 15th day of March 2004.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 29th day of March 2004.

ATTEST:

Mayor

City Clerk



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
March 15, 2004



Subject: Councillor's Bill No. 13 re Amendment to the Business Assistance Package with 88th and Pierce Business Center LLLP

Prepared By: Becky Johnson, Economic Development Program Coordinator

Recommended City Council Action

Pass Councillor's Bill No. 13 on first reading authorizing the City Manager to execute a business assistance package (BAP) amendment between the City of Westminster and 88th and Pierce Business Center LLLP (88th and Pierce Business Center). The amendment would modify the start date of the agreement to coincide with date of the issuance of the Certificate of Occupancy for JoAnn Stores Inc.

Summary Statement

- On October 13, 2003, Council adopted Councillor's Bill No. 52, authorizing the execution of a business assistance package (BAP) between 88th and Pierce Business Center LLLP and the City of Westminster.
- The BAP is funded by sales tax rebates only and is time sensitive, expiring three years from the date of execution. Since sales rebates from the opening of JoAnn Stores, Inc. fund this BAP, 88th and Pierce Business Center LLLP has requested that the BAP be amended to coincide with the issuance of the Certificate of Occupancy from JoAnn Stores, Inc.

Expenditure Required: \$270,000 – authorized previously by City Council

Source of Funds: Sales and Use Tax Fund

Subject: CB re 88th and Pierce Business Center Business Assistance Package Amendment Page 2

Policy Issue

Does Council desire to amend the existing BAP with 88th and Pierce Business Center LLLP to allow for the start date of the agreement to coincide with the issuance of the certificate of occupancy for JoAnn Stores, Inc?

Alternatives

Do Nothing: One alternative is to not approve the amendment to the business assistance package. This would result in eight to ten months of lost revenue to 88th and Pierce Business Center LLLP, as JoAnn Stores Inc. will not be open until late spring 2005, thus no sales tax could be collected or rebated during that lost time period.

Provide Less: Another alternative is to provide less assistance than what is recommended. This would violate the original terms of the agreement.

Provide More: A third alternative would be to provide a greater amount of time. It is staff's opinion that additional time is not needed.

Background Information

Following the adoption of Councillor's Bill 52, the Etkin Johnson Development group, identified as 88th and Pierce Business Center LLLP, the owner of Brookhill Phase III, requested that the City amend the BAP, to commence the rebate period on the date of issues Certificate of Occupancy JoAnn Stores for JoAnn Stores.

Therefore, staff recommends that the first paragraph be amended to read:

1. Sales Tax Rebate

The City shall rebate to 88th and Pierce Business Center LLLP, 50% of the sales tax collected from JoAnn Store, Inc. Such rebate shall be payable exclusively from sales tax revenues collected by the City from JoAnn Store, Inc. and attributable to the imposition of the City's 3.0% general sales tax (excludes the City's .25% Open Space Tax). The rebate shall be paid by the City in quarterly installments and shall not exceed a total of \$270,000 or three years from the ~~date of this agreement~~ **date of issuance of the Certificate of Occupancy for JoAnn Store, Inc.** The payment of each quarterly installment shall be made within 20 days following the close of each calendar quarter. Payments will be submitted electronically to 88th and Pierce Business Center designated financial institution.

The attached agreement is modified to reflect the above change.

Respectfully submitted,

J. Brent McFall
City Manager

Attachments

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **13**

SERIES OF 2004

INTRODUCED BY COUNCILLORS

A BILL

FOR AN ORDINANCE AUTHORIZING AN AMENDMENT TO THE BUSINESS ASSISTANCE PACKAGE BETWEEN 88th AND PIERCE BUSINESS CENTER LLLP (88th and Pierce Business Center) AND THE CITY OF WESTMINSTER TO MODIFY THE START DATE OF THE TIME PERIOD OF THE AGREEMENT TO COINCIDE WITH THE ISSUANCE OF THE CERTIFICATE OF OCCUPANCY FOR JOANN STORES, INC.

WHEREAS, this amendment would modify the start date of the time period of the agreement to coincide with the Certificate of Occupancy for JoAnn Stores Inc.

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 Amendment to the Business Assistance Agreement with 88th and Pierce Business Center LLLP 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 15th day of March 2004.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 29th day of March 2004.

ATTEST:

Mayor

City Clerk

AMENDMENT TO BUSINESS ASSISTANCE AGREEMENT WITH 88th AND PIERCE BUSINESS CENTER LLLP FOR THE ATTRACTION OF JOANN STORES, INC. AND THE FAÇADE AND SIGNAGE IMPROVEMENTS AT BROOKHILL TOWNE CENTER III IN THE CITY OF WESTMINSTER

THIS AMENDED AGREEMENT is made and entered into this _____ day of _____, 2004, between the CITY OF WESTMINSTER (the "City"), and 88th and Pierce Business Center LLLP (88th and Pierce Business Center)

WHEREAS, this amendment would modify the start date of the time period of the agreement to coincide with the certificate of occupancy for JoAnn Stores Inc.

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

In consideration of the mutual promises set forth below, the City and 88th and Pierce Business Center LLLP agrees as follows:

1. Sales Tax Rebate

The City shall rebate to 88th and Pierce Business Center LLLP, 50% of the sales tax collected from JoAnn Store, Inc. Such rebate shall be payable exclusively from sales tax revenues collected by the City from JoAnn Store Inc. and attributable to the imposition of the City's 3.0% general sales tax (excludes the City's .25% Open Space Tax). The rebate shall be paid by the City in quarterly installments and shall not exceed a total of \$270,000 or three years from the date of issuance of the CERTIFICATE OF OCCUPANCY FOR JOANN STORE, INC. The payment of each quarterly installment shall be made within 20 days following the close of each calendar quarter. Payments will be submitted electronically to 88th and Pierce Business Center designated financial institution.

All remaining terms of the existing BAP, adopted as Councillor Bill 52 on October 13, 2003, remain the same.

88TH AND PIERCE BUSINESS CENTER LLLP

CITY OF WESTMINSTER

By _____
Bruce Etkin, President

J. Brent McFall
City Manager

ATTEST:

ATTEST:

Title

Michelle Kelley
City Clerk



WESTMINSTER
COLORADO
Agenda Memorandum

City Council Meeting
March 15, 2004



SUBJECT: Resolution No. 17 re Compliance Hearing for the Asbury Acres Property Annexation

Prepared By: David Falconieri, Planner III

Recommended City Council Action

Adopt Resolution No. 17 accepting the annexation petition submitted by Jeff Collins as owner of Asbury Homes, Inc., and make the findings required by State Statute on the sufficiency of the petition, and setting the date of April 26, 2004, for the annexation hearing.

Summary Statement

- The proposed Asbury Acres property is located at the southeast corner of Wadsworth Boulevard and 94th Avenue, and consists of a total of 2.75 acres. (See attached map.)
- The annexation of the property will permit the City to acquire the necessary right-of-way for the future expansion of Wadsworth Boulevard at no cost.
- The proposed Preliminary Development Plan contemplates a six lot, single-family detached residential subdivision that would be in conformance with the requirements of the Northeast Comprehensive Development Plan that governs this site.

Expenditure Required: \$ 0

Source of Funds: N/A

Policy Issues

Whether to annex the Asbury Acres property at this time. The Northeast Comprehensive Development Plan IGA contains a section in which the City agrees that properties subject to the agreement should be annexed when property owners are amenable.

Alternatives

Make a finding that there is no community of interest with the Asbury Acres property and take no further action. If this course is taken, the property in question will be developed in unincorporated Jefferson County., which Staff does not recommend.

Background

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

1. An allegation that the annexation is desirable and necessary.
2. An allegation that the requirements of Section 31-12-104 and 31-12-105 C.R.S have been met. (These sections are to be reviewed by the Council at the formal public hearing.)
3. Signatures and mailing addresses of at least 50% of the landowners of the land to be annexed. (In this case, Asbury Homes, Inc., represented by Jeff Collins, signer of the petition, owns 100% of the property.)
4. The legal description of the land to be annexed.
5. The date of each signature.
6. An attached map showing the boundaries of the area.

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

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

Respectfully submitted,

J. Brent McFall
City Manager

Attachments

RESOLUTION

RESOLUTION NO. **17**

INTRODUCED BY COUNCILLORS

SERIES OF 2004

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

WHEREAS, the City Council has been advised by the City Attorney and the City Manager that the petition and accompanying map are in substantial compliance with Sections 31-12-101, et.seq., Colorado Revised Statutes, as amended;

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

1. City Council finds the said petition and annexation map to be in substantial compliance with all state statutory requirements, including C.R.S. Section 31-12-107 (1).
2. City Council hereby establishes April 26, 2004, 7:00 PM at the Westminster City Council Chambers, 4800 West 92nd Avenue, for the annexation hearing required by C.R.S. Section 31-12-108 (1).
3. City Council hereby orders the City Clerk to give notice of the annexation hearing in accordance with C.R.S. Section 31-12-108 (2).

Passed and adopted this 15th day of March, 2004.

ATTEST:

Mayor

City Clerk



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
March 15, 2004



SUBJECT: Councillor's Bill No. 14 re Composition of City Library Board

Prepared By: Sharon Widener, Assistant City Attorney

Recommended City Council Action

Pass Councillor's Bill No. 14 on first reading, changing the member composition of the Library Board.

Summary Statement

City Council recently made appointments and re-appointments to the personnel of the City's Boards and Commissions. After reviewing the composition of the Boards and Commissions, Council directed staff to prepare an ordinance changing the number of members of the Library Board, to increase the number of members from seven to eight.

Expenditure Required: \$ 0

Source of Funds: Not applicable.

Policy Issue:

Whether the number of members of the Library Board should be increased from seven to eight.

Alternatives:

1. Do not change the number of members, leaving it at seven.
2. Increase or decrease the current seven members to another number.

Background Information

City Council is authorized by Section 4.17 of the City Charter to establish various boards and commissions, and to fix board and commission jurisdiction and procedures by ordinance. The same Charter section establishes the terms of office for the members.

In Title 2 of the Westminster Municipal Code, Council has established several boards and commissions, including the Library Board. Chapter 4 of Title 2 of the Code describes the meetings of the Library Board, the powers and duties of the Board, and the number of members and alternate members for the Board.

In order to change the number of members on the Library Board, the proposed ordinance changes W.M.C. § 2-4-1. Section 2-1-1 establishes the expiration of the terms of the various members, to insure that not all members of a board would leave office at the same time. The proposed ordinance determines the expiration of terms of office for an eight-member board such as the Library Board would become under this proposal change.

Respectfully submitted,

J. Brent McFall
City Manager

Attachment(s)

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **14**

SERIES OF 2004

INTRODUCED BY COUNCILLORS

A BILL

FOR AN ORDINANCE AMENDING THE WESTMINSTER MUNICIPAL CODE CONCERNING THE LIBRARY BOARD

THE CITY OF WESTMINSTER ORDAINS:

Section 1. Section 2-1-1(E), W.M.C., is hereby amended BY THE ADDITION OF A NEW SUBSECTION 3 to read as follows:

2-1-1: APPOINTMENT OF MEMBERS; TERMS:

(E) Terms shall be staggered as follows:

1. For five (5) member Boards or Commissions, three (3) members shall have terms that expire on even-numbered years and two (2) members shall have terms that expire on odd-numbered years.
2. For seven (7) member Boards or Commissions, four (4) members shall have terms that expire on even-numbered years and three (3) members shall have terms that expire on odd-numbered years.
3. FOR EIGHT (8) MEMBER BOARDS OR COMMISSIONS, FOUR (4) MEMBERS SHALL HAVE TERMS THAT EXPIRE ON EVEN-NUMBERED YEARS AND FOUR (4) MEMBERS SHALL HAVE TERMS THAT EXPIRE ON ODD-NUMBERED YEARS.
- ~~3.~~ 4. Alternates shall have terms that expire on odd-numbered years.

This section shall not apply to the Election Commission.

Section 2. Section 2-4-1, W.M.C., is hereby AMENDED to read as follows:

2-4-1: CREATION: There is hereby created a Library Board, hereinafter referred to as "THE BOARD," consisting of ~~seven (7)~~-EIGHT (8) regular members and one (1) alternate member.

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.

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 15th day of March, 2004.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 29th day of March, 2004.

Mayor

ATTEST:

City Clerk



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
March 15, 2004



SUBJECT: Sale of City Property to the Academy of Charter Schools at W. 120th and Lowell Blvd

Prepared By: Lynn Wodell, Open Space Coordinator

Recommended City Council Action

Authorize the City Manager to execute an agreement for the sale of approximately 22 acres to the Academy of Charter Schools, to execute closing documents for the transaction and authorize the proceeds of the sale to be deposited in the Open Space Fund/Open Space Land Purchases Account.

Summary Statement:

- In December 1998, the City acquired approximately 54 acres of land south of 120th Avenue and Lowell Boulevard at a purchase price of \$2,200,000 or an average of \$40,740 per acre. The purpose of the acquisition was to preserve an addition to the Big Dry Creek Open Space and Trail Corridor and to acquire additional lands to be resold for future development and/or a school site. Open Space funds were used to finance this acquisition and it was intended that the Open Space Fund would be reimbursed from the sale of portions of this property in the future.
- The current proposal is to realign Lowell Boulevard from 120th Avenue to 118th Avenue and; sell approximately 22 acres east of Lowell Boulevard and south of 118th Avenue to the Academy of Charter Schools for a charter school.

Expenditure Required: \$0

Source of Funds: N/A

SUBJECT: Sale of City Property to the Academy of Charter Schools at W. 120th and Lowell Blvd Page 2

Policy Issue:

Should the City approve the realignment of Lowell Boulevard and approve the sale of the property to the Academy of Charter Schools?

Alternatives

Authorize the realignment, but not the sale of the property. This is not recommended as the sale of the property has been planned for some time and these funds, will enable the City to purchase other higher priority open space parcels.

Background Information

On December 14, 1998, City Council authorized the City Manager to purchase approximately 54 acres of land along Big Dry Creek south of 120th Avenue at Lowell Boulevard for open space and other purposes. The Agenda Memorandum from December 14, 1998, (see attached memo) states that open space monies were to be used to finance this acquisition and it was intended that the Open Space Fund would be reimbursed from the sale of a portion(s) of this property in the future. The City acquired additional land beyond what was desired for open space to attract an Adams School District #12 (District #12) middle school to the site. The Agenda Memo also pointed out that acquiring a larger property to preserve key open space, then selling a portion(s) later and reimbursing the Open Space Fund, is allowed by the City's Open Space Ordinance.

The 54 acres of land were acquired two weeks later on December 30, 1998 at a cost of \$2,200,000, or an average of \$40,740 per acre. This per acre cost was a blended average of approximately \$80,000 per acre for the 12 acres near 120th Avenue and an average of \$30,000 per acre for the remaining 42 acres.

The original alignment of Lowell Boulevard from 120th Avenue to 118th Avenue on the drawing attached to the original Agenda Memorandum was a wide sweeping arc. Since the acquisition in 1998, Department of Community Development planners and engineers have had an opportunity to evaluate this alignment and have come to the conclusion that it would be better for the City and the development of the abutting land, if Lowell Boulevard and 118th Avenue met in more of a traditional "T" or "L" intersection. This design would slow down traffic and enhance pedestrian safety for Bradburn, which is primarily a pedestrian oriented development (see attached site plan).

This new alignment changes the amount of property on both sides of the proposed street. It increases the amount of City owned property to the north and west of realigned Lowell Boulevard and reduces the amount of City owned property to the south and east. It also increases the amount of property required for the street right of way.

The developers of the apartment area of Bradburn (Urban Real Estate Partners) have the 8-acre remainder of the property retained by the Foster family under contract for an expansion of Bradburn. They have offered to buy the City's property north and west of the proposed realigned street and have agreed to use most of the property as a park to be privately owned and maintained, but open to the public. The details of this proposed sale will be presented to Council at a future date.

From 1998 to 2002, staff assumed that District 12 would purchase approximately 20 to 25 acres of the property for a new middle school. The proposed purchase price was \$42,200 per acre, which was the original average acquisition cost per acre, which resulted in a potential purchase price of \$844,000 or more. District 12 has since decided not to buy the property or build a middle school on the site leaving the City with approximately 20 to 25 acres of surplus property.

In 2003, the City staff was approached by the Academy of Charter Schools to determine the feasibility of the Academy purchasing approximately 20 acres of the City's property for their new school building. Representatives from the City, Bradburn and the Academy have been meeting regularly over the last six months to discuss planning, design, street, park and open space issues.

The negotiated purchase price of the property proposed for a conveyance to the Academy is \$2.75 per square foot, which equates to \$119,790 per acre. This is the amount concluded in a recent appraisal of the property. The current proposed sale of approximately 22 acres is a total purchase price of approximately \$2,635,380, which would be deposited into the Open Space Fund Land Purchases Account to be used for high priority open space acquisitions such as the Metzger Farm, Tanglewood Creek (between 128th and 124th east of Huron), and/or others in the City. The exact square foot will be determined by a survey conducted prior to closing.

Staff recommends approval of the following:

1. New alignment for Lowell Boulevard and 118th Avenue.
2. Sale of land to the Academy of Charter Schools including the area east and south of the new alignment.

These recommendations are based on the following:

1. The new alignment for Lowell Boulevard and W. 118 Avenue is preferred to reduce the speed and the volume of traffic going in and out of the pedestrian friendly Bradburn.
2. The sale of the area to the north and west is a good transition from the urban edge of Bradburn to the east and includes a private park that will be open to the public.
3. The sale of the school site is the use that was envisioned for the property when it was acquired using Open Space funds in 1998.
4. School District 12 supports the construction of a charter school at this site.
5. The sale to the Academy of approximately 22 acres, at \$2.75 per square foot, will increase the Open Space 2004 revenues by approximately \$2.6 million.
6. The sale of the property was unanimously supported by the City's Open Space Advisory Board and will enable the City to acquire critical open spaces elsewhere such as the Metzger Farm and/or Tanglewood Creek.
7. The developers of Bradburn, who are working with the Academy to ensure that it is compatible with the neighborhood, support locating the Academy in this location.
8. The school building will be attractive and enhance Bradburn and the surrounding area. Because the City is involved as the seller, the City has leverage to assist with the development meeting the City's planning guidelines, inspection needs and desires of the City.
9. This school will give parents seeking a charter school experience another choice since the existing charter schools serving Westminster parents such as Crown Point Academy and Jefferson Academy have waiting lists.

Respectfully submitted,

J. Brent McFall
City Manager

Attachments



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
March 15, 2004



SUBJECT: Councillor's Bill No. 15 re 2003 Community Emergency Response Team Grant

Prepared By: Mike Reddy, Emergency Management Coordinator

Recommended City Council Action:

Pass Councillor's Bill No. 15 on first reading authorizing a supplemental appropriation in the amount of \$11,000.00 allowing the City to receive a Community Emergency Response Team (CERT) Grant provided through the Colorado Office of Emergency Management.

Summary Statement

- In December 2003, staff submitted a proposal for CERT funding (Attached).
- The State recently notified staff of funds availability.
- Funds are provided with no local government match requirement.
- Funds will be used to
 - Purchase an incident / volunteer data emergency management software system.
 - Provide all hazard training and education information to citizens, schools and businesses.

Expenditure Required: \$11,000 in grant funds

Source of Funds: Federal Emergency Management Agency

Policy Issue:

Should the City of Westminster accept this state grant to purchase emergency management software and develop a citizen outreach program regarding best practices in preparing for, responding to and recovering from emergencies and disasters?

Alternatives

The City of Westminster could choose not to accept this grant; however, the City would lose the opportunity to purchase software and promote emergency preparedness.

Background Information

The City of Westminster participated in the 2003 Jefferson County CERT grant application process. This effort standardized training material for all jurisdictions and non-profits within Jefferson County as developed by a consultant. The training material is now ready for use and distribution to participating communities. Through the City's Volunteer Program, a Citizen's Emergency Education and Outreach initiative will now be available. The Fire Department will tap into the City's existing volunteer pool of approximately 1000 citizens to provide Train the Trainer courses on a quarterly basis. Our goal will be to prepare 80 Citizen Trainers who, in turn, will be responsible for providing training to groups in their neighborhoods, service organizations, church groups and schools. Staff intends to continue to provide training and education for as long as community interest continues. Funds will be used to develop a volunteer data base for the City, purchase training resources and for instructor fees to provide "train-the-trainer" instruction.

Respectfully submitted,

J. Brent McFall
City Manager

Attachment

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **15**

SERIES OF 2004

INTRODUCED BY COUNCILLORS

A BILL

FOR AN ORDINANCE INCREASING THE 2004 BUDGETS OF THE GENERAL FUND AND AUTHORIZING A SUPPLEMENTAL APPROPRIATION FROM THE 2004 ESTIMATED REVENUES IN THESE FUNDS.

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The 2004 appropriation for the General Fund, initially appropriated by Ordinance No. 2977 in the amount of \$71,828,317 is hereby increased by \$11,000 which, when added to the fund balance as of the City Council action on March 15, 2004 will equal \$81,142,718. The actual amount in the General Fund on the date this ordinance becomes effective may vary from the amount set forth in this section due to intervening City Council actions. This increase is due to the receipt of a grant from the Federal Emergency Management Agency.

Section 2. The \$11,000 increase in the General Fund shall be allocated to City Revenue and Expense accounts, which shall be amended as follows:

Description	Account Number	Current Budget	Increase (Decrease)	Final Budget
Revenue				
Federal Grants	1000.40610.0000	\$0	<u>\$11,000</u>	\$11,000
Total change to revenues			<u>\$11,000</u>	
Description	Account Number	Current Budget	Increase (Decrease)	Final Budget
Expenses				
Comp Soft/Hard	10025260.75400.0000	\$25,816	\$3,600	\$29,416
Train & Ref Mtrls	10025260.71400.0000	11,527	5,000	16,527
Contract Svcs	10025260.67800.0000	10,056	<u>2,400</u>	12,456
Total change to expenses			<u>\$11,000</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 AND PUBLISHED this 15th day of March, 2004. PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 29th day of March, 2004.

ATTEST:

Mayor

City Clerk



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
March 15, 2004



SUBJECT: Councillor's Bill No. 16 re Rental Leases for the Strasburg Natural Resource Farm

Prepared By: David Cross, Water Quality Specialist

Recommended City Council Action

Pass Councillor's Bill No. 16 on first reading authorizing the City Manager to sign rental lease agreements with three tenants at the City's Strasburg Natural Resource Farm.

Summary Statement

- The City of Westminster owns approximately 3,000 acres of farmland used for biosolids application.
- The land and improvements are leased to tenants generating an average total income of \$50,000 per year for the City.
- Lease agreements are used to define the responsibilities of each party, to protect the interests of the City, and to insure the long-term usefulness of the land for biosolids application.
- Leasing of property owned by the City must be ratified by ordinance under section 13.4 of the City's Charter.

Expenditure Required: \$0

Source of Funds: N/A

Policy Issues

Should the City of Westminster enter into lease agreements with tenants at the City's Strasburg Natural Resource Farm?

Alternatives

The City could choose to lease the farmland and improvements to other tenants or not to lease any of the three rental houses or other improvements on the property. The farmland must be cultivated to provide a nitrogen demand that can be met through application of biosolids.

Background Information

Westminster purchased farmland north of Strasburg, Colorado, in 1997 and added to it in 2001 for the purpose of biosolids application. Biosolids is the highly treated byproduct of the wastewater treatment process and is an excellent source of nitrogen, organic matter and trace nutrients for crop production. Its use as a fertilizer is governed by federal, state and county regulations to ensure the safety of the public and the environment.

The farmland purchased by the City has been under cultivation for well over 50 years and includes a mix of irrigated, dryland and pasture fields, three rental houses and various other structures. The total rental income from the five leases that the City has on this site will generate an average of \$50,000 per year, with a portion being tied to the 1/3 share of dryland wheat received as rent for that portion of the land.

The three leases being brought to Council for renewal at this time include the dryland wheat farmer, who has over 20 years experience successfully farming this land, the son of the irrigated farmer who rents a house, and new tenants who will rent a second house. These three leases will produce an average income of \$30,000 per year.

Respectfully submitted,

J. Brent McFall
City Manager

Attachment

BY AUTHORITY

ORDINANCE NO.
SERIES OF 2004

COUNCILLOR'S BILL NO. **16**
INTRODUCED BY COUNCILLORS

A BILL
FOR AN ORDINANCE TO CONVEY LEASE AGREEMENTS FOR CITY-OWNED PROPERTY
KNOWN AS THE STRASBURG NATURAL RESOURCE FARM

WHEREAS, the City owns a property in central Adams County for the purpose of applying biosolids; and

WHEREAS, it is in the City's interest to maximize the income generated from such operation by collecting rental income from use of the land and improvements,

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The City Manager is hereby authorized to execute leases with the following parties as summarized below:

Mr. Bruce Vetter	1700 acres dry farmland	1/3 of grain produced
Mr. Matthew Sweeny	8551 Headlight Road, Strasburg	\$4800/year
Mr. Thomas Linnebur and Mrs. Janet Linnebur	57101 East 88 th Avenue, Strasburg	\$10,200/year

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

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

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED
PUBLISHED THIS 15th DAY OF MARCH, 2004.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED THIS
29th DAY OF MARCH, 2004.

ATTEST:

Mayor

City Clerk



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
March 15, 2004



SUBJECT: Resolution No. 18 re Authorizing Land Acquisition for Mandalay Gardens Urban Renewal Project

Prepared By: David W. Loseman, Senior Projects Engineer

Recommended City Council Action

Approve Resolution No.18 authorizing acquisition of land as part of the Mandalay Town Center Project, using the power of eminent domain if necessary.

Summary Statement

- In order to complete the assemblage of land for the Mandalay Town Center Project, City Council approval of a resolution authorizing land acquisition, through the power of eminent domain, if necessary, is required.
- The final parcel to be purchased is located south of Church Ranch Boulevard on the east side of Walnut Creek. The purchase of part of this property is necessary for the right-of-way for the relocation of Reed Street. The power of eminent domain will be used to secure this right-of-way, if necessary. The purchase of the remaining property is necessary to allow the relocation of the existing BP service station on the north side of Church Ranch Boulevard to the south side of Church Ranch Boulevard. This relocation is needed for the redevelopment of the Mandalay Town Center Project since the service station at the current location does not conform to the plan for this project.
- City Council is requested to authorize the expenditure of the necessary funds for this acquisition, which will be reimbursed to the City at a later date by WEDA and the developer of the Mandalay Town Center Project. This approach is necessary until the property in question can be included in the Urban Renewal Area, which will allow the expenditure of the WEDA bond funds.

Expenditure Required: \$670,000

Source of Funds: City General Capital Improvement Reserve Funds with future reimbursements from WEDA Bonds and Developer contributions.

Policy Issues

If negotiations fail to secure title to all of the right-of-way necessary for Reed Street, should the power of eminent domain be used to obtain title to the necessary parcel?

Should the City front the costs for the acquisition of this right-of-way and the land necessary for the BP relocation for later reimbursement by WEDA and the project developer?

Alternatives

The alternative to the recommended action is to not authorize acquisition of the land, or not authorize use of the power of eminent domain. These alternatives are not recommended, since the right-of-way for Reed Street is necessary for the new Reed Street and Church Ranch Boulevard Intersection as part of the Mandalay Town Center Project as well as a connection to the existing RTD Park-n-Ride on the south side of Church Ranch Boulevard. In addition, the assemblage of this last parcel of land is necessary to carry out the purposes of the Mandalay Gardens Urban Renewal and the relocation of the BP service station.

Background Information

The Mandalay Gardens Urban Renewal Area was established by the Westminster City Council on March 17, 2003. On April 14, 2003, WEDA selected a development team, CDC Real Estate Company and RED Development, to negotiate a development agreement with WEDA for this project area. The original Urban Renewal Area did not include the parcel on the south side of Church Ranch Boulevard that is necessary for the relocation of the BP service station and the redevelopment of the Mandalay Town Center Project. Future action will be requested for an amendment to the Urban Renewal Area, which will adjust this boundary.

Staff believes that it is very likely that final agreements will be negotiated with the owner of this last parcel (Chamberlain) and transactions will be closed in a reasonable period of time. It is necessary for the City to front the cost of purchasing the right-of-way for Reed Street until this area is included in the Urban Renewal Plan since bond funds cannot be used for this purchase until this is done. It is also desirable for the City to purchase the necessary parcel for the BP relocation as part of this same transaction with the property owner. It is possible that the property negotiations for the acquisition will fail; therefore, it may be necessary to use the power of eminent domain to secure the Reed Street right-of-way.

Respectfully submitted,

J. Brent McFall
City Manager

Attachments

RESOLUTION

RESOLUTION NO. **18**

INTRODUCED BY COUNCILLORS

SERIES OF 2004

WHEREAS, the City of Westminster Council has determined that it is necessary to the public health, safety and welfare to acquire the land described in Exhibit A to accommodate the Mandalay Town Center redevelopment project; and

WHEREAS, The City will make an earnest good faith offer of purchase for the subject parcel; and

WHEREAS, a public purpose exists to acquire the property in order to carry out the Mandalay Gardens urban renewal plan; and

WHEREAS, legal counsel for the City has advised that the City may exercise its right of eminent domain should normal negotiations fail; and

WHEREAS, The City finds that if the power of eminent domain must be exercised in order to gain control of any parcel, immediate vesting of title to the property by the City will be necessary for the public health, safety and welfare due to the project schedule and deadlines.

NOW, THEREFORE, the City Council of the City of Westminster resolves that:

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

2. City Staff is authorized to cause and shall cause negotiations to be initiated to acquire the parcel and interests identified in Exhibit A 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, and the City Manager is hereby authorized to acquire such parcels consistent with applicable law, including the execution of all documents necessary to complete these purchases.

3. The City Attorney of the City of Westminster 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. In the event that acquisition by condemnation is commenced, the City Attorney is further authorized to request immediate vesting of title to the properties.

The City Manager 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. The costs shall be charged to the General Capital Improvement Reserve Fund; and

5. The City Manager is hereby authorized to amend the legal descriptions of the parcels to be acquired, and the nature of the interests to be acquired.

PASSED AND ADOPTED this 15th day of March 2004.

Mayor

ATTEST:

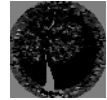
City Clerk



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
March 15, 2004



SUBJECT: Acquisition of Approximately Four Acres of Property for Open Space at the South End of Lower Church Lake on Wadsworth Boulevard

Prepared By: Lynn Wodell, Open Space Coordinator

Recommended City Council Action

Authorize the City Manager to execute a Purchase and Sale Agreement and all necessary closing documents for the acquisition of the Walker property located on the east side of Wadsworth Boulevard and south of Lower Church Lake as open space and authorize the City Manager to expend \$550,000 of City Open Space Funds for the purchase of the property and the improvements located on the property.

Summary Statement

- Staff has negotiated the purchase of the approximately 4 acres including a single family home located on the south shore of Lower Church Lake on Wadsworth Boulevard for a purchase price of \$550,000. (See attached map.) In addition, the family will be given 45 days after closing to move and vacate the premises.
- The acquisition of this property will allow the City to preserve the lake shoreline, potentially build a trailhead at this location and to build a trail around the lake when an agreement is reached with the Mandalay Irrigation Co. (City of Thornton) who owns the lake.

Expenditure Required: \$550,000

Source of Funds: Open Space Land Purchases Account

Policy Issue:

Should the City's Open Space Funds be used for this acquisition?

Alternatives

1. Approve the acquisition at this time. Staff recommends the acquisition of this property. Although the property is small it is in a strategic location for the future public uses of Lower Church Lake.
2. Not acquire the property at this time. This alternative is not recommended because we have been able to negotiate the purchase prior to it being put on the real estate market.

Background Information

In December 2002, Jefferson County Open Space on behalf of the City acquired the 30 acres on the north side of Lower Church Lake between Wadsworth Boulevard and U.S. Highway 36 at approximately 108th Avenue. Since then, the City has been approached by the representative of the Walker Family to discern the City's interest in acquiring the approximately 4 acres on the south side of the lake for open space. The asking price established for the property was \$660,000, and the City countered with an offer of \$550,000. However, the landowners rejected the offer and decided that they were not interested in moving at that time. In February, staff was contacted again by the landowners, who decided they were ready to sell and willing to accept the City's offer. The purchase price is \$550,000 for the approximately four acres plus improvements including the single family home with attached garage, a second garage, and a barn.

This property was viewed on the City Council and Open Space Advisory Board Tour last year. In the recent evaluation of all the acquisition objectives of the Open Space Program, the Open Space Advisory Board retained this property as a Priority No. 2. There are 17 Priority No. One's, 15 Priority No. Two's and 36 Priority No. Three's. In the written information provided at the time of the tour, it was stated that this is a high priority due to its importance "to preserve the view to the Lake, provide a buffer from development and serve as possible trailhead parking for users of a planned trail around the Lake." Lower Church Lake itself is owned by the Mandalay Ditch Company with is owned by the City of Thornton. The City will continue to pursue an agreement with Mandalay Ditch Company/Thornton to place a trail around the lake.

Benefits of the purchase include:

- 1) This parcel is needed to construct a trail around the lake since there is inadequate land next to the lake abutting this property
- 2) Provides a buffer to the lake's wildlife habitat which attracts a lot of bird life including white pelicans
- 3) Increases open space frontage along Wadsworth Boulevard
- 4) Preserves views to and from the lake from Wadsworth Boulevard
- 5) Preserves many large trees on the site

Respectfully submitted,

J. Brent McFall
City Manager

Attachments: Map
Real Estate Contract

Summary of Proceedings

Summary of proceedings of the regular City of Westminster City Council meeting of Monday, March 15, 2004. Present at roll call were Mayor Moss, Mayor Pro-Tem McNally, Councillors Dittman, Dixon, Hicks, Kauffman, and Price were present at roll call. Absent none.

The minutes of the February 23, 2004 meeting were approved.

Council approved the following: Mandalay Town Center – 30-Inch and 24-Inch Waterlines with Westminster Development Company for \$1,566,000; Ambulance Purchases with EDM Equipment for \$202,476; Faversham Park Improvement Construction Bid Award with AJI Construction for \$293,609; Westfield Village Park Consultant Contract with DHM Design for \$106,986; Contract with BFI for the City's Annual Large Item Cleanup Program for \$103,500; MSC Gasoline Recovery System Project Management Contract Amendment with CH2M Hill for \$71,500; IGA with City of Englewood on Equipment Sharing; Award for Construction of Pierce Street Waterline with Wycon Construction for \$275,238; Construction Contract re Street Improvements to 7200 Block Meade Street with Goodland Construction Company for \$326,570; Huron Street Design, 128th to 140th Avenue with Felsburg, Holt and Ullevig for \$123,890; Authorized City Manager to execute an agreement for sale of City Property to the Academy of Charter Schools at West 120th and Lowell Blvd; Acquisition of approximately 4 acres of property for Open Space at the South End of Lower Church Lake on Wadsworth Blvd.

At 7:22 p.m. the public hearing was opened on the Annexation, CLUP Amendment and Zoning of the Bull Canal and United Power Properties at 136th Avenue at Huron and I-25.

The following Councillor's Bills were passed on first reading:

A BILL FOR AN ORDINANCE APPROVING AND ACCOMPLISHING THE ANNEXATION OF CONTIGUOUS UNINCORPORATED TERRITORY IN A PARCEL OF LAND LOCATED IN SECTION 27, TOWNSHIP 1 SOUTH, RANGE 68 WEST, 6TH P.M., COUNTY OF ADAMS, STATE OF COLORADO purpose: Annexation of Bull Canal and United Power Properties

A BILL FOR AN ORDINANCE AMENDING THE WESTMINSTER COMPREHENSIVE LAND USE PLAN purpose: CLUP Amendment for Bull Canal and United Power Properties

A BILL FOR AN ORDINANCE AMENDING THE ZONING LAW AND ESTABLISHING THE ZONING CLASSIFICATION OF CERTAIN DESCRIBED PROPERTY IN A PARCEL OF LAND LOCATED IN SECTION 27, TOWNSHIP 1 SOUTH, RANGE 68 WEST, 6TH P.M., COUNTY OF ADAMS, STATE OF COLORADO purpose: Zoning of Bull Canal and United Power Properties

A BILL FOR AN ORDINANCE AUTHORIZING AN ASSISTANCE AGREEMENT WITH SCOTTRADE, INC. TO AID IN THEIR RELOCATION OF SCOTTRADE AND THEIR AFFILIATE, COMPUTER RESEARCH INC. TO CHURCH RANCH CORPORATE CENTER IN WESTMINSTER purpose: Business Assistance Package for Scottrade Inc.

A BILL FOR AN ORDINANCE AUTHORIZING AN AMENDMENT TO THE BUSINESS ASSISTANCE PACKAGE BETWEEN 88th AND PIERCE BUSINESS CENTER LLLP (88th and Pierce Business Center) AND THE CITY OF WESTMINSTER TO MODIFY THE START DATE OF THE TIME PERIOD OF THE AGREEMENT TO COINCIDE WITH THE ISSUANCE OF THE CERTIFICATE OF OCCUPANCY FOR JOANN STORES, INC. purpose: Amendment to Business Assistance Package for 88th and Pierce Business Center

A BILL FOR AN ORDINANCE AMENDING THE WESTMINSTER MUNICIPAL CODE CONCERNING THE LIBRARY BOARD purpose: amending code for composition of City Library Board

A BILL FOR AN ORDINANCE INCREASING THE 2004 BUDGETS OF THE GENERAL FUND AND AUTHORIZING A SUPPLEMENTAL APPROPRIATION FROM THE 2004 ESTIMATED REVENUES IN THESE FUNDS purpose: Community Emergency Response Team Grant

A BILL FOR AN ORDINANCE TO CONVEY LEASE AGREEMENTS FOR CITY-OWNED PROPERTY KNOWN AS THE STRASBURG NATURAL RESOURCE FARM purpose: rental lease agreements for Strasburg Natural Resource Farm

The following Councillor's Bill was passed on second reading:

A BILL FOR AN ORDINANCE APPROVING A VESTED RIGHTS DEVELOPMENT AGREEMENT FOR THE MANDALAY TOWN CENTER REDEVELOPMENT PROJECT WITH WESTMINSTER DEVELOPMENT COMPANY, LLC

The following Resolutions were adopted:

Resolution No. 16 re Findings on Bull Canal and United Power Properties

Resolution No. 17 re Compliance Hearing for Asbury Acres Property Annexation

Resolution No. 18 re Authorizing Land Acquisition for Mandalay Gardens Urban Renewal Project

At 7:41 p.m. the meeting was adjourned

By order of the Westminster City Council

Michele Kelley, CMC, City Clerk

Published in the Westminster Window on March 26, 2004

BY AUTHORITY

ORDINANCE NO. 3096

COUNCILLOR'S BILL NO. 8

SERIES OF 2004

INTRODUCED BY COUNCILLORS
Dittman-Dixion

A BILL
FOR AN ORDINANCE APPROVING A VESTED RIGHTS DEVELOPMENT AGREEMENT FOR
THE MANDALAY TOWN CENTER REDEVELOPMENT PROJECT WITH WESTMINSTER
DEVELOPMENT COMPANY, LLC

WHEREAS, the City of Westminster and Westminster Development Company, LLC, have entered into a Vested Rights Development Agreement for the Mandalay Town Center Redevelopment Project; and

WHEREAS, such agreements are authorized by Westminster Municipal Code section 11-5-18.

NOW, THEREFORE, THE CITY OF WESTMINSTER ORDAINS:

Section 1. The Vested Rights Development Agreement for the Mandalay Town Center Redevelopment Project attached hereto as Exhibit "A" is hereby approved and the City Manager is authorized to execute it in substantially the same form as attached.

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

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

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE
ORDERED PUBLISHED this 23rd day of February, 2004. PASSED, ENACTED ON SECOND
READING, AND FULL TEXT ORDERED PUBLISHED this 15th day of March, 2004.