

SPECIAL CITY COUNCIL MEETING

MONDAY, APRIL 6, 1998 AT 6:30 P.M.

1. Pledge of Allegiance
2. Roll Call
3. Purpose of Special Meeting:
 - A. Councillor's Bill No. 5E re \$4 million Reclaimed Water Loan
4. Adjournment

April 1, 1998

To All Members of City Council

A special meeting of the City Council has been set for Monday, April 6, 1998 at 6:30 P.M. for the following purposes:

Councillor's Bill No. 5E re Water and Wastewater Utility Enterprises, Subordinate Water and Wastewater Revenue Bonds

Sincerely,

Michele Kelley, CMC
City Clerk

March 30, 1998

Michele Kelley, City Clerk
City of Westminster
4800 West 92nd Avenue
Westminster, CO 80030

Dear Michele:

Please call a special meeting of the City Council for Monday, April 6, 1998 at 6:30 P.M. for the following purposes:

Councillor's Bill No. 5E re Water and Wastewater Utility Enterprises, Subordinate Water and Wastewater Revenue Bonds

Sincerely,

Nancy M. Heil
Mayor

Date: April 6, 1998

Subject: Councillor's Bill No. E re Subordinate Water and Wastewater Revenue Bonds

Prepared by: Mary Ann Parrot, Finance Director

Introduction

City Council is requested to adopt the attached Councillor's Bill as an emergency ordinance authorizing the issuance of approximately \$4,085,697 in Water and Wastewater Enterprise: Subordinate Water and Wastewater Revenue Bonds, 1998 Series B, to finance the expansion of the Westminster Reclaimed Water System initial phase. The Bonds will be issued through the Colorado Water Resources and Power Development Authority in a pooled financing for \$44 million with Eagle River, Buena Vista, Trinidad and Evans. All participants will have their own respective debt service schedules and will share in the costs of issuance of said bonds.

Summary

The Westminster Reclaimed Water System will provide from 1100 acre feet (first phase) to 3,000+ acre feet (ultimate) of reclaimed water from the City's Big Dry Creek Water Reclamation Facility for irrigation of golf courses, business parks, City parks, and greenbelts.

This issue will supplement and expand the original issue of \$13,200,000 from May, 1997, in which the initial phase of the Reclaimed Water Supply System was funded. Design drawings and costing are complete, with an estimated cost of \$21,000,000. Of this amount, \$17,200,000 will be debt-financed; the incremental \$4,000,000, approved by City Council in December, 1997, was sold on March 25, 1998 at a net interest cost to the City of 3.98%.

The Colorado Water Resources and Power Development Authority, a political subdivision of the State of Colorado operates the Water Pollution Control Revolving Fund created within the Authority under Senate Bill 50 in 1988. The Authority has approved the credit of the City of Westminster and this project for participation in the Colorado Water Resources and Power Development Authority Water Pollution Control Revolving Fund, 1998 Series B issue dated April 1, 1998. Through this program, the City of Westminster issues bonded debt to the Authority in the form of a loan, shares in the issuance costs with other participating projects, and potentially receives a rebate of 20% of the annual interest payments. With these savings, the effective interest rate of this loan is reduced to 3.98%, an amount significantly below current market levels of 4.96%.

Staff Recommendation

Adopt Councillor's Bill No. E as an emergency ordinance allowing the issuance of approximately \$4,085,697 in Water and Wastewater Enterprise: Subordinate Water and Wastewater Revenue Bonds to the Colorado Water Resources and Power Development Authority and authorize the Mayor, City Clerk and Finance Director to sign necessary documents on behalf of the Water and Wastewater Enterprise.

Background Information

Since the 1980's, the Public Works and Utilities Department has been planning for and structuring a reclaimed water system as an integral part of the future water supply of the City of Westminster. The Reclaimed Water System will provide a supply of irrigation water that is cost effective, environmentally sensitive, and completely safe. The System will consist of three main components, the advanced wastewater treatment facility, the pipeline system, and a storage tank. At the present time, the City of Westminster is irrigating parks and golf courses with either ditch water or potable water at a cost of approximately \$9,000 to \$14,000 per acre foot per year. The proposed Reclaimed Water System will supply irrigation water at a cost of approximately \$6,000 per acre foot per year after payment of all expenses and debt service. By reclaiming 3,000 acre feet of water, the City frees up the existing supply and/or avoids the necessity of purchasing an additional supply. This project will treat secondary wastewater effluent, and pump (via pipeline) back into the City to irrigate. The secondary effluent will be filtered and disinfected prior to pumping to the sites to be irrigated. The reclaimed water quality will meet all criteria for reclaimed water that have been established by the Colorado Department of Public Health and Environment.

In late 1995, the Colorado Water Resources and Power Development Authority contacted Staff with information on their Authority and the Water Pollution Control Revolving Fund. The revolving fund was mandated by the Federal Clean Water Act. The fund is administered by a nine member Board of Directors representing the eight major drainage basins within the State, appointed by the Governor and confirmed by the Senate. By use of grant funds, the Authority is able to offer loans at below market interest rate for approved projects.

On March 25, 1998, the Authority took their 1998 Series B bonds to market in anticipation of the loan to the City of Westminster and was able to sell these bonds at a True Interest Cost of 4.96%. Grant funds believed to be the equivalent of 20% of the interest cost to the City of Westminster will be deposited into a special Matching Account. The revenue this account generates should allow for the 20% interest refund creating an effective interest cost to the City of Westminster of 3.98%, a savings of approximately 0.98% on the issue. The total principal, interest, issuance cost and servicing fees less anticipated project account earnings and matching account revenue should calculate to a total dollar payback of approximately \$5,840,000.

The Water and Wastewater Utility Enterprise will insure its portion of the bonds through AMBAC Indemnity Corporation. With the insured issue, the authority will hold a subordinate lien on revenues of the Enterprise; subordinate to the currently outstanding Water and Wastewater Enterprise Revenue Bonds, Series 1994, as well as future issues meeting stipulated coverage requirements.

Respectfully submitted,

William M. Christopher
City Manager

Attachments

BY AUTHORITY

ORDINANCE NO.
SERIES OF 1998

COUNCILLOR'S ENTERPRISE BILL NO. 5E
INTRODUCED BY COUNCILLORS

A BILL

FOR AN EMERGENCY ORDINANCE AUTHORIZING THE ISSUANCE OF CITY OF WESTMINSTER, COLORADO, WATER AND WASTEWATER UTILITY ENTERPRISE, SUBORDINATE WATER AND WASTEWATER REVENUE BOND, SERIES 1998, DATED APRIL 1, 1998, IN THE PRINCIPAL AMOUNT OF \$4,085,697.

THE CITY OF WESTMINSTER, COLORADO, WATER AND WASTEWATER UTILITY ENTERPRISE ORDAINS:

Section 1. Definitions and Construction.

1 Definitions. In this Ordinance the following terms have the following respective meanings unless the context hereof clearly requires otherwise:

1 Additional Parity Bonds: any Parity Securities issued after the issuance of the Bond.

2 Additional Superior Bonds: any Superior Securities issued after the issuance of the Bond.

3 Average Annual Debt Service Requirements: the aggregate of all Debt Service Requirements (excluding any redemption premiums) due on the Bond or any other Securities payable from the Pledged Revenues for all Fiscal Years beginning with the Fiscal Year in which Debt Service Requirements of the Bond or such Securities are first payable after the computation date and ending with the Fiscal Year in which the last of the Debt Service Requirements are payable, divided by the whole number of such years.

4 Bond Insurance Policy: the municipal bond insurance policy issued by the Bond Insurer insuring the payment when due of the principal of and interest on the Bond as provided therein.

5 Bond Insurer: AMBAC Assurance Corporation, a Wisconsin-domiciled stock insurance company, or its successors.

6 Bond: the City of Westminster, Colorado, Water and Wastewater Utility Enterprise, Subordinate Water and Wastewater Revenue Bond, Series 1998, dated April 1, 1998, in the principal amount of \$4,085,697.

7 Charter: the home rule Charter of the City as amended.

8 City: the City of Westminster, Colorado.

9 Combined Average Annual Debt Service Requirements: the sum of the Average Annual Debt Service Requirements for all issues of Securities or portions thereof for which the computation is being made.

10 Combined Maximum Annual Debt Service Requirements: the Maximum Annual Debt Service Requirements for all issues of Securities or portions thereof for which the computation is being made, treated as a single issue.

11 Commercial Bank: a state or national bank or trust company in good standing located in or incorporated under the laws of any state of the United States of America which is subject to examination by federal or state authorities, which is a member of the Federal Deposit Insurance Corporation and of the Federal Reserve System and which has capital and surplus of \$75,000,000 or more or which is otherwise acceptable to the Bond Insurer.

12 Commitment: the Commitment for Municipal Bond Insurance No. 16335, dated March 18, 1998, from the Bond Insurer.

13 Construction Fund: the offsetting revenue and expense accounts within the Water and Wastewater Utility Fund designated by the City as the "1997 Bond Projects" and "1998 Bond Projects," created and referred to in Section 5A hereof.

14 Consulting Engineer: an independent consulting engineer or engineering firm or corporation having skill, knowledge and experience in analyzing the operations of municipal water and wastewater systems.

15 Cost of the Project: all or any part of the cost of acquisition, construction or installation of all or any part of the Project, including, without limitation, all or any property, rights, easements, privileges, agreements, and franchises deemed necessary or useful and convenient therefor or in connection therewith, interest or discount on the Bond, costs of issuance of the Bond, engineering and inspection costs, legal expenses, costs of financial, professional, and other estimates and advice, contingencies, any administrative, operating, and other expenses prior to and during such acquisition, construction and installation, and all such other expenses as may be necessary or incident to the acquisition, construction and installation and financing of the Project or any part thereof and the placing of the same in operation, provision of reserves for operation, maintenance, or replacement expenses or for payment or security of principal or interest on the Bond, and also reimbursements to the Enterprise or the City of any moneys theretofore expended or to the federal government of any moneys theretofore expended for or in connection with the Project.

16 Council: the governing body of the Enterprise.

17 Debt Service Requirements: the principal of, interest on, and any premium due in connection with the redemption of the Bond or any other Securities payable from the Pledged Revenues.

18 Enterprise: the City of Westminster, Colorado, Water and Wastewater Utility Enterprise.

19 Enterprise Ordinance: Ordinance No. 2264, Series of 1994, of the City, authorizing the Enterprise to have and exercise certain powers in furtherance of its purposes.

20 Event of Default: one of the events described in Section 10A hereof.

21 Federal Securities: bills, certificates of indebtedness, notes, or bonds which are direct obligations of the United States of America or, if the Bond Insurer agrees in writing, are obligations the principal and interest of which are unconditionally guaranteed by the United States of America.

22 Fiscal Year: the twelve (12) months commencing on the first day of January of any calendar year and ending on the last day of December of such calendar year or such other twelve-month period as may from time to time be designated by the Council as the Fiscal Year of the Enterprise.

23 Income: all income from rates, fees, tolls, and charges and tap fees, or any combination thereof, but not special assessments, for the services furnished by, or the direct or indirect connection with, or the use of, or any commodity from the System, including, without limiting the generality of the foregoing, minimum charges, charges for the availability of service, disconnection fees, reconnection fees, and reasonable penalties for any delinquencies, and all income or other gain, if any, from any investment of Pledged Revenues and of the proceeds of securities payable from Pledged Revenues (except income or other gain from any investment of moneys held in an escrow fund for the defeasance of Securities payable from the Pledged Revenues or any other similar fund) to the extent not required to be rebated to the federal government.

24 Independent Auditor: any certified public accountant, or any firm of such accountants, duly licensed to practice and practicing as such under the laws of the State, appointed and paid by the Enterprise or the City, who (a) is, in fact, independent and not under the domination of the City or the Enterprise, (b) does not have any substantial interest, direct or indirect, in any of the affairs of the Enterprise or the City, and (c) is not connected with the Enterprise or the City as a member, officer or employee, but who may be regularly retained to make annual or similar audits of any books or records of the Enterprise or the City.

- 25 Insurance Trustee: United States Trust Company of New York, New York, New York, or its successors.
- 26 Interest Payment Date: a date designated by ordinance for the payment of interest on the Bond or any other Securities.
- 27 Loan Agreement: the Loan Agreement, dated as of April 1, 1998, between the Purchaser and the Enterprise.
- 28 Maturity Date: a date designated by ordinance for the payment of principal on the Bond or any other Securities.
- 29 Maximum Annual Debt Service Requirements: the maximum aggregate Debt Service Requirements (excluding any redemption premiums) due on the Bond or any other Securities payable from the Pledged Revenues in any Fiscal Year beginning with the Fiscal Year in which Debt Service Requirements of the Bond or such Securities are first payable after the computation date and ending with the Fiscal Year in which the last of the Debt Service Requirements are payable.
- 30 Operation and Maintenance Expenses: such reasonable and necessary current expenses of the City, paid or accrued, of operating, maintaining and repairing the System as may be determined by the City, including, except as limited by contract or otherwise limited by law, without limiting the generality of the foregoing:

- 1 Engineering, auditing, legal and other overhead expenses directly related and reasonably allocable to the administration, operation and maintenance of the System;
- 2 Fidelity bond and insurance premiums appertaining to public officials or the System;
- 3 The reasonable charges of any paying agent, registrar, transfer agent, depository or escrow bank appertaining to any Securities payable from the Pledged Revenues;
- 4 Annual payments to pension, retirement, health and hospitalization funds appertaining to the System;
- 5 Any taxes, assessments, franchise fees or other charges or payments in lieu of the foregoing;
- 6 Ordinary and current rentals of equipment or other property;
- 7 Contractual services, professional services, salaries, administrative expenses, and costs of labor appertaining to the System, the cost of water purchased for delivery through the System, and the cost of materials and supplies used for current operation of the System;
- 8 The costs incurred in the billing and collection of all or any part of the Pledged Revenues;
- 9 Any costs of utility services furnished to the System by the City or otherwise.

"Operation and Maintenance Expenses" does not include:

- (a) Any allowance for depreciation;
- (b) Any costs of reconstruction, improvement, extension, or betterment;
- (c) Any accumulation of reserves for capital replacements;
- (d) Any reserves for operation, maintenance, or repair of the System;
- (e) Any allowance for the redemption of any bonds or other Securities payable from the Pledged Revenues or the payment of any interest thereon;
- (f) Any liabilities incurred in the acquisition of any Water Facilities or Wastewater Facilities;

(g) Any other ground of legal liability not based on contract.

31 Operation and Maintenance Fund: the expense accounts within the Water and Wastewater Utility Fund used by the City for the payment of Operation and Maintenance Expenses referred to in Section 5C hereof.

32 Ordinance: this Ordinance No. 1, Series of 1998, of the Enterprise.

33 Outstanding: as of any particular date, the Bond or any other Securities payable from the Pledged Revenues which have been authorized, executed and delivered except the following:

1 Any Bond or other such Security cancelled by the Enterprise, by the Paying Agent or otherwise on behalf of the Enterprise on or before such date, except any Bond described in the last paragraph of Section 9 hereof;

2 Any Bond or other such Security held by or on behalf of the Enterprise or the City;

3 Any Bond or other such Security for the payment or the redemption of which moneys or Federal Securities sufficient (including the known minimum yield available for such purpose from Federal Securities in which such amount wholly or in part may be initially invested) to pay all of the Debt Service Requirements of such Bond or other such Security to the Maturity Date or specified Redemption Date thereof shall have theretofore been deposited in escrow or in trust with a Trust Bank for that purpose; and

4 Any lost, destroyed, or wrongfully taken Bond or other such Security in lieu of or in substitution for which another Bond or other Security shall have been executed and delivered.

35 Parity Bonds Principal and Interest Fund: the special accounts within the Water and Wastewater Utility Fund designated by the City as the "1997 Revenue Bond Debt Service Account" and the "1998 Revenue Bond Debt Service Account" and other similar accounts hereafter established for Additional Parity Bonds or other Parity Securities created and referred to in Section 5F hereof.

36 Parity Securities: the Prior Parity Bond and any

37 Paying Agent: the Treasurer of the Enterprise, or her successors.

38 Permitted Investments: any obligations permitted by the ordinances of the City and, to the extent applicable, the laws of the State listed on Exhibit D to the Bond Insurer's Standard Package for AMBAC-Insured Transactions as attached to the Commitment.

39 Person: any individual, firm, partnership, corporation, company, association, joint stock association or body politic or any trustee, receiver, assignee or similar representative thereof.

40 Pledged Revenues: all Income remaining after the deduction of Operation and Maintenance Expenses.

41 Prior Parity Bond: the City of Westminster, Colorado, Water and Wastewater Utility Enterprise, Subordinate Water and Wastewater Revenue Bond, Series 1997, dated May 1, 1997, in the principal amount of \$13,246,525.

42 Prior Superior Bonds: the City of Westminster, Colorado, Water and Wastewater Utility Enterprise, Water and Wastewater Revenue Bonds, Series 1994, dated October 15, 1997, in the aggregate principal amount of \$20,000,00

43 Project: those Water Facilities or Wastewater Facilities for the acquisition, construction and installation of which the Bond is issued.

44 Purchaser: Colorado Water Resources and Power Development Authority, or its successors.

45 Redemption Date: the date fixed for the redemption prior to maturity of the Bond or any other Securities payable from the Pledged Revenues in any notice of prior redemption given by or on behalf of the Enterprise.

- 46 Registrar: the Treasurer of the Enterprise, or her successors.
- 47 Regular Record Date: the fifteenth day of the calendar month next preceding an Interest Payment Date for the Bond.
- 48 Security or Securities: any bond issued by the Enterprise or any other evidence of the advancement of money to the Enterprise or the City.
- 49 Special Record Date: the date fixed by the Paying Agent for the determination of ownership of the Bond for the purpose of paying interest not paid when due or interest accruing after maturity.
- 50 State: the State of
- 51 Subordinate Bonds or Subordinate Securities: bonds or Securities payable from the Pledged Revenues having a lien thereon subordinate or junior to the lien thereon of the Bond.
- 52 Superior Bonds or Superior Securities: the Prior Superior Bonds and any other bonds or Securities payable from the Pledged Revenues having a lien thereon superior or senior to the lien thereon of the Bond.
- 53 Superior Bonds Principal and Interest Fund: the special accounts within the Water and Wastewater Utility Fund designated by the City as the "1994 Revenue Bond Debt Service Account" and other similar accounts hereafter established for Additional Superior Bonds or other Superior Securities referred to in Section 5D hereof.
- 54 Superior Bonds Reserve Fund: the special accounts within the Water and Wastewater Utility Fund designated by the City as the "1994 Revenue Bond Reserve Account" and other similar accounts hereafter established for Additional Superior Bonds or other Superior Securities referred to in Section 5E hereof.
- 55 Superior Bonds Reserve Fund Requirement: the least of ten percent (10%) of the proceeds, one hundred twenty five percent (125%) of the Combined Average Annual Debt Service Requirements or one hundred percent (100%) of the Combined Maximum Annual Debt Service Requirements of the Prior Superior Bonds, any Additional Superior Bonds or other Superior Securities to which the Superior Bonds Reserve Fund is pledged, whether in cash or as otherwise provided in Section 5E hereof.
- 56 System: the Water Facilities and the Wastewater Facilities of the City owned and operated by the City as a single utility system.
- 57 Transfer Agent: the Treasurer of the Enterprise, or her successors.
- 58 Trust Bank: a Commercial Bank which is authorized to exercise and is exercising trust powers.
- 59 Wastewater Facilities: any one or more of the various devices used in the collection, treatment, or disposition of sewage and industrial wastes of a liquid nature, including, without limitation, all inlets; collection, drainage, or disposal lines; intercepting sewers; wastewater disposal plants; outfall sewers; sewage lagoons; all pumping, power, and other equipment and appurtenances; all extensions, improvements, remodeling, additions and alterations thereof; any and all rights or interests for such wastewater facilities; and all other necessary, incidental, or appurtenant properties, facilities, equipment, and costs relating to the foregoing.
- 60 Water and Wastewater Utility Fund: the self balancing group of accounts heretofore created by the City as an enterprise fund to record all financial activity of the Enterprise referred to in Section 5B hereof.
- 61 Water Facilities: water rights, raw water and any one or more works and improvements used in and as a part of the collection, treatment, or distribution of water for the beneficial uses and purposes for which the water has been or may be appropriated, including, but not limited to, uses for domestic, municipal, irrigation, power, and industrial purposes and including construction, operation, and maintenance of a system of raw and clear water and distribution storage reservoirs, deep and shallow wells, pumping, ventilating, and gauging stations, inlets, tunnels, flumes, conduits, canals, collection, transmission, and distribution lines, infiltration galleries, hydrants, meters, filtration and treatment plants and works,

power plants, all pumping, power, and other equipment and appurtenances, all extensions, improvements, remodeling, additions, and alterations thereof, and any and all rights or interests in such works and improvements, and all other necessary, incidental, or appurtenant properties, facilities, equipment and costs relating to the foregoing.

3 Construction. This Ordinance, except where the context by clear implication herein otherwise requires, shall be construed as follows:

1 Words in the singular include the plural, and words in the plural include the singular.

2 Words in the masculine gender include the feminine and the neuter, and when the sense so indicates words of the neuter gender refer to any gender.

3 Articles, sections, subsections, paragraphs and subparagraphs mentioned by number, letter, or otherwise, correspond to the respective articles, sections, subsections, paragraphs and subparagraphs of this Ordinance so numbered or otherwise so designated.

4 The titles and headlines applied to articles, sections and subsections of this Ordinance are inserted only as a matter of convenience and ease in reference and in no way define or limit the scope or intent of any provisions of this Ordinance.

5 Notwithstanding any other provision of this Ordinance, in determining whether the rights of the Owner of the Bond will be adversely affected by any action taken pursuant to the terms and provisions of this Ordinance, the Enterprise or its agents shall consider the effect on the Owner of the Bond as if there were no Bond Insurance Policy.

Section 2. Recitals.

4 Enterprise. The City has heretofore established the Enterprise and by the Enterprise Ordinance authorized the Enterprise to have and exercise certain powers in furtherance of its purposes.

6 Authority. Pursuant to art. X, ' 20 and art. XX, '

7 Prior Superior and Parity Bonds. The Enterprise has previously issued the Prior Superior Bonds secured by a lien upon the Pledged Revenues senior or superior to the lien thereon. The Enterprise has previously issued the Prior Parity Bond secured by a lien upon the Pledged Revenues on a parity with the Bond. Other Securities previously issued by the City payable from the revenues of the System contain no specific pledge of such revenues and no restrictions on future pledges of such revenues.

Section 3. The Bond.

8 Authorization. The Bond, payable as to all Debt Service Requirements solely out of Pledged Revenues, is hereby authorized to be issued, the proceeds of the Bond to be used solely to pay the Cost of the Project.

10 Bond Details.

1 Generally. The Bond shall be issuable in fully registered form and shall initially be registered in the name of the Purchaser. The Bond shall be issued so that a single Bond evidences the obligation of the Enterprise to pay all principal and interest due as set forth herein.

The Bond shall mature, bear interest and be subject to redemption as provided in the Loan Agreement.

The Debt Service Requirements of the Bond shall be payable in lawful money of the United States of America to the Purchaser by the Paying Agent. The principal and the final installment of interest shall be payable to the Purchaser upon presentation and surrender thereof at maturity or upon prior redemption, by check or draft mailed to the Purchaser at the address appearing on the registration books of the Enterprise maintained by the Registrar or by wire transfer to such bank or other depository as the Purchaser shall designate in writing to the Paying Agent. Except as hereinbefore and

hereinafter provided, the interest shall be payable to the Purchaser determined as of the close of business on the Regular Record Date, irrespective of any transfer of ownership of the Bond subsequent to the Regular Record Date and prior to such Interest Payment Date, by check or draft or wire transfer directed to the Purchaser as aforesaid. Any interest not paid when due and any interest accruing after maturity shall be payable to the Purchaser determined as of the close of business on the Special Record Date, to the Purchaser determined as of the close of business on the day preceding such mailing at the address appearing on the registration books of the Enterprise. Any premium shall be payable to the Purchaser upon presentation and surrender thereof upon prior redemption, by check or draft or wire transfer directed to the Purchaser as aforesaid. If the date for making or giving any payment, determination or notice described herein is a Saturday, Sunday, legal holiday or any other day on which the office of the Paying Agent or Registrar is authorized or required by law to remain closed, such payment, determination or notice shall be made or given on the next succeeding day which is not a Saturday, Sunday, legal holiday or other day on which the office of the Paying Agent or Registrar is authorized or required by law to remain closed.

2 Payments Under the Bond Insurance Policy. At least one (1) day prior to each Interest Payment Date the Paying Agent shall determine whether there are sufficient funds on deposit with the Paying Agent to pay the principal of or interest on the Bond on such Interest Payment Date. If the Paying Agent determines that there are insufficient funds on deposit with the Paying Agent, the Paying Agent shall so notify the Bond Insurer. Such notice shall specify the amount of the anticipated deficiency and whether the Bond will be deficient as to principal or interest, or both. If the Paying Agent has not so notified the Bond Insurer at least one (1) day prior to an Interest Payment Date, the Bond Insurer shall make payments of principal or interest due on the Bond on or before the first day next following the date on which the Bond Insurer shall have received notice of nonpayment from the Paying Agent.

The Paying Agent shall, after giving notice to the Bond Insurer as provided above, make available to the Bond Insurer and, at the Bond Insurer's direction, to the Insurance Trustee, the registration books of the Enterprise maintained by the Registrar and all records relating to the funds and accounts maintained under this Ordinance.

The Paying Agent shall provide the Bond Insurer and the Insurance Trustee with a list showing the Owner of the Bond entitled to receive principal or interest payments from the Bond Insurer under the terms of the Bond Insurance Policy and shall make arrangements with the Insurance Trustee to mail checks or drafts to the Purchaser or other Owner of the Bond.

The Paying Agent shall, at the time it provides notice to the Bond Insurer as provided above, notify the Purchaser that it is entitled to receive the payment of principal or interest on the Bond from the Bond Insurer, that the Bond Insurer will remit to them all or a part of the interest payments next coming due upon proof of entitlement to interest payments and delivery to the Insurance Trustee, in form satisfactory to the Insurance Trustee, of an appropriate assignment of the Purchaser's right to payment, that should an Owner be entitled to receive full payment of principal from the Bond Insurer, it must surrender the Bond (along with an appropriate instrument of assignment in form satisfactory to the Insurance Trustee to permit ownership of the Bond to be registered in the name of the Bond Insurer) for payment to the Insurance Trustee and not the Paying Agent and that should the Purchaser be entitled to receive partial payment of principal from the Bond Insurer, it must surrender the Bond for payment thereon first to the Paying Agent, which shall note on the Bond the portion of the principal paid by the Paying Agent and then, along with an appropriate instrument of assignment in form satisfactory to the Insurance Trustee, to the Insurance Trustee, which will then pay the unpaid portion of principal.

In the event that the Paying Agent has notice that any payment of principal of or interest on the Bond which has become due for payment and which is made to the Purchaser by or on behalf of the Enterprise has been deemed a preferential transfer and theretofore recovered from the Purchaser pursuant to the United States Bankruptcy Code by a trustee in bankruptcy in accordance with the final, nonappealable order of a court having competent jurisdiction, the Paying Agent shall, at the time the Bond Insurer is notified as provided above, notify the Purchaser that in the event that its payment is so recovered, the Purchaser will be entitled to payment from the Bond Insurer to the extent of such recovery if sufficient funds are not otherwise available, and the Paying Agent shall furnish to the Bond Insurer its records evidencing the payments of principal of and interest on the Bond which have been made by the Paying Agent and subsequently recovered from the Purchaser and the dates on which such payments were made.

In addition to those rights granted the Bond Insurer under this Ordinance, the Bond Insurer shall, to the extent it makes payment of principal of or interest on the Bond, become subrogated to the rights of the recipients of such payments in accordance with the terms of the Bond Insurance Policy, and to evidence such subrogation, in the case of subrogation

as to claims for past due interest, the Paying Agent shall note the Bond Insurer's right as subrogee on the registration books of the Enterprise maintained by the Registrar upon receipt from the Bond Insurer of proof of the payment of interest thereon to the Purchaser, and, in the case of subrogation as to claims for past due principal, the Paying Agent shall note the Bond Insurer's right as subrogee on the registration books of the Enterprise maintained by Registrar upon surrender of the Bond by the Purchaser together with proof of the payment of principal thereof.

3 Net Effective Interest Rate. The net effective interest rate of the Bond is 3.98% per annum.

4 Execution and Authentication. The Bond shall be executed by and on behalf of the Enterprise with the manual signature of the President of the Enterprise, shall be attested with the manual signature of the Secretary of the Enterprise, shall be countersigned with the manual signature of the Treasurer of the Enterprise. Should any officer whose manual signature appears on the Bond cease to be such officer before delivery of the Bond to the Purchaser, such manual signature shall nevertheless be valid and sufficient for all purposes.

5 Registration and Transfer. Upon their execution and prior to their delivery, the Bond shall be registered for the purpose of payment of principal and interest by the Registrar. The Bond shall be registered in the name of the Purchaser. To the extent that a typewritten Bond, rather than a printed Bond, is to be delivered, such modifications to the form of Bond as may be necessary or desirable in such case are hereby authorized and approved. There shall be no substantive change to the terms and conditions set forth in the form of Bond, except as otherwise authorized by this Ordinance or any amendment thereto.

The Bond shall be transferable only upon the registration books of the Enterprise by the Transfer Agent at the request of the Purchaser or its duly authorized attorney in fact or legal representative. The Registrar or Transfer Agent shall accept the Bond for registration or transfer only if the Owner is to be an individual, a corporation, a partnership, or a trust. The Bond may be transferred upon surrender thereof together with a written instrument of transfer duly executed by the Owner or his, her or its duly authorized attorney in fact or legal representative with guaranty of signature satisfactory to the Transfer Agent, containing written instructions as to the details of the transfer, along with the social security number or federal employer identification number of the transferee and, if the transferee is a trust, the names and social security numbers of the settlors and the beneficiaries of the trust. The Transfer Agent shall not be required to transfer ownership of the Bond during the fifteen (15) days prior to the first mailing of any notice of redemption or to transfer ownership of the Bond on or after the date of such mailing upon the Bond to the extent of the sum or sums so paid, and the Enterprise shall not be affected by any notice to the contrary. Upon the occurrence of an Event of Default which would require payment by the Bond Insurer under the Bond Insurance Policy, the Bond Insurer and its designated agents shall be afforded access to the registration books of the Enterprise.

6 Resignation or Removal of Agents. If, after giving prior written notice to the Bond Insurer, the Paying Agent, Registrar or Transfer Agent shall resign as such, or if the Enterprises or the Bond Insurer shall reasonably determine that the Paying Agent, Registrar or Transfer Agent has breached or become incapable of fulfilling its duties hereunder, the Enterprises may, upon notice to the Purchaser at the address last shown on the registration books of the Enterprises, accept the resignation of the Paying Agent, Registrar or Transfer Agent or remove the Paying Agent, Registrar or Transfer Agent and appoint a successor paying agent, registrar or transfer agent. Every such successor paying agent, registrar or transfer agent shall be a Trust Bank approved in writing by the Bond Insurer. It shall not be required that the same institution serve as paying agent, registrar and transfer agent representative with guaranty of signature satisfactory to the Transfer Agent, containing written instructions as to the details of the transfer, along with the social security number or federal employer identification number of the transferee and, if the transferee is a trust, the names and social security numbers of the settlors and the beneficiaries of the trust. The Transfer Agent shall not be required to transfer ownership of the Bond during the fifteen (15) days prior to the first mailing of any notice of redemption or to transfer ownership of the Bond on or after the date of such mailing. Transfers shall be made without charge, except that the Transfer Agent may require payment of a sum sufficient to defray any tax or other governmental charge that may hereafter be imposed in connection with any transfer of the Bond. No transfer of the Bond shall be effective until entered on the registration books of the Enterprise. In the case of every transfer, the Registrar shall authenticate and the Transfer Agent shall deliver to the new Owner a new Bond of the same aggregate principal amount, maturing in the same year, and bearing interest at the same per annum interest rate as the Bond surrendered. Such Bond shall be dated as of its date of execution. A new Bond delivered upon any transfer shall be a valid obligation of the Enterprise, evidencing the same obligation as the Bond surrendered, shall be secured by this Ordinance, and shall be entitled to all of the security and benefits hereof to the same extent as the Bond surrendered. The Enterprise may deem and treat the Person in whose name the Bond is last registered

upon the books of the Enterprise as the absolute Owner thereof for the purpose of receiving payment of the principal of, interest on, and any premium due in connection with the redemption of such Bond and for all other purpose, and all such payments so made to such Person or upon his, hereafter its order shall be valid and effective to satisfy and discharge the liability of the Enterprise upon the Bond to the extent of the sum or sums so paid, and the Enterprise shall not be affected by any notice to the contrary. Upon the occurrence of an Event of Default which would require payment by the Bond Insurer under the Bond Insurance Policy, the Bond Insurer and its designated agents shall be afforded access to the registration books of the Enterprise.

6 Resignation or Removal of Agents. If, after giving prior written notice to the Bond Insurer, the Paying Agent, Registrar or Transfer Agent shall resign as such, or if the Enterprise or the Bond Insurer shall reasonably determine that the Paying Agent, Registrar or Transfer Agent has breached or become incapable of fulfilling its duties hereunder, the Enterprise may, upon notice mailed to the Purchaser at the address last shown on the registration books of the Enterprise, accept the resignation of the Paying Agent, Registrar or Transfer Agent or remove the Paying Agent, Registrar or Transfer Agent and appoint a successor paying agent, registrar or transfer agent. Every such successor paying agent, registrar or transfer agent shall be a Trust Bank approved in writing by the Bond Insurer. It shall not be required that the same institution serve as paying agent, registrar and transfer agent hereunder, but the Enterprise shall have the right to have the same institution serve as paying agent, registrar and transfer agent hereunder. Any such resignation or removal shall become effective only on the appointment of a successor acceptable to the Bond Insurer and acceptance by the successor of its duties hereunder.

7 Replacement of Bond. If the Bond shall have been lost, destroyed or wrongfully taken, the Enterprise shall provide for the replacement thereof upon the Purchaser's furnishing to the Enterprise: (a) proof of ownership, (b) proof of loss, destruction or theft, (c) a surety bond in the amount of all principal and interest remaining unpaid on the Bond, and (d) payment of the cost of preparing and issuing the new Bond.

8 Recitals in Bond. Each Bond shall recite in substance that the Bond is a special and limited obligation of the Enterprise payable solely out of and secured by an irrevocable pledge of and second lien (but not necessarily exclusive second lien) upon the Pledged Revenues, that the Bond does not constitute a debt or an indebtedness of the City within the meaning of any constitutional, Charter or statutory provision or limitation, that the Bond is not payable in whole or in part from the proceeds of general property taxes or any other funds of the City except the Pledged Revenues, and that the full faith and credit of the City is not pledged for the payment of the principal of or interest on the Bond.

9 Form of Bond. The Bond shall be in substantially the form set forth in the Loan Agreement with the following legend attached thereto:

BOND LEGEND

Municipal Bond Insurance Policy No. 13895 (the "Policy") with respect to payments due for principal of and interest on this Bond has been issued by AMBAC Indemnity Corporation ("AMBAC Indemnity"). The Policy has been delivered to United States Trust Company of New York, New York, New York, as the insurance trustee (the "Insurance Trustee") under the Policy and will be held by the Insurance Trustee or any successor insurance trustee. The Policy is on file and available for inspection at the principal office of the Insurance Trustee, and a copy thereof may be secured from AMBAC Indemnity or the Insurance Trustee. All payments required to be made under the Policy will be made in accordance with the provisions thereof. The owner of this Bond acknowledges and consents to the subrogation rights of AMBAC Indemnity as more fully set forth in the Policy.

Special Obligations. All of the Debt Service Requirements of the Bond shall be payable solely out of the Pledged Revenues. The Purchaser may not look to the general fund or any other fund of the City for the payment of the Debt Service Requirements thereof, except the special funds pledged therefor. The Bond shall not constitute a debt or indebtedness of the City within the meaning of any constitutional, Charter or statutory provision or limitation, and the

Bond shall not be considered or held to be general obligations of the City but shall constitute special and limited obligations of the Enterprise. The Bond is not payable in whole or in part from the proceeds of general property taxes or any other funds of the City except the Pledged Revenues, and the full faith and credit of the City is not pledged for payment of the Bond.

Section 4. Sale of Bond.

12 Purchaser's Proposal. The Purchaser has offered to purchase the Bond at a price equal to \$_____ plus accrued interest thereon from the date thereof to the delivery date thereof, and the Treasurer of the Enterprise has recommended that said offer be accepted by the Council.

13

14 Award of Contract. The contract for the purchase of the Bond is hereby awarded to the Purchaser at the price specified in the Purchaser's offer and upon the terms set forth in this Ordinance.

15 Delivery. After the Bond has been duly executed, authenticated and registered as provided herein, the Treasurer of the Enterprise Bshall cause the Bond to be delivered to the Purchaser upon receipt of the agreed purchase price.

Section 5. Disposition of Bond Proceeds and Income; Funds Adopted or Created by Ordinance; Security for Bond. The proceeds of the Bond and the Income shall be deposited by the Enterprise in the funds described in this Section 5, to be accounted for in the manner and priority set forth in this Section 5.

Neither the Purchaser nor any subsequent Owner of any Bond shall be in any manner responsible for the application or disposal by the Enterprise or the City or by any of their officers, agents and employees of the moneys derived from the sale of the Bond or of any other moneys designated in this Section 5.

The Pledged Revenues and all moneys and securities paid or to be paid to or held or to be held in any fund hereunder are hereby pledged to secure the payment of the Debt Service Requirements of the Bond and any other Securities payable therefrom, subject to the provisions hereof relating to the Excess Investment Earnings Fund. This pledge shall be valid and binding from and after the date of the first delivery of the Bond, and the moneys, as received and hereby pledged, shall immediately be subject to the lien of this pledge without any physical delivery thereof, any filing, or further act. The lien of this pledge and the obligation to perform the contractual provisions hereby made shall have priority over any or all other obligations and liabilities of the Enterprise or the City (except as herein otherwise expressly provided), and the lien of this pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the Enterprise or the City (except as herein otherwise expressly provided), irrespective of whether such parties have notice thereof.

B16 Construction Fund. There is hereby created the Construction Fund, into which the Enterprise shall deposit, upon requisition from the Purchaser, the proceeds of the Bond after making the deposit required by Section 5F of this Ordinance.

17

The proceeds of the Bond so deposited in the Construction Fund, except as herein otherwise expressly provided, shall be used and paid out from time to time solely for the purpose of paying the Cost of the Project and are pledged therefor. Any such proceeds remaining in the Construction Fund after completion of the Project shall be deposited in the Parity Bonds Principal and Interest Fund and used for the purposes of the Parity Bonds Principal and Interest Fund or shall be used to the extent feasible to call and redeem the Bond in advance of its Maturity Date. The City shall transftransfer any proceeds of the Bond deposited in the Construction Fund, without further order, to the Parity Bonds Principal and Interest Fund, and the Enterprise shall use the same to pay the Debt Service Requirements of the Bond as the same become due whenever and to the extent moneys in the Parity Bonds Principal and Interest Fund or moneys otherwise available therefor are insufficient for that purpose, unless such proceeds shall be needed to pay obligations accrued and to accrue under any contracts then existing and pertaining to the Project. Any moneys so used shall be restored to the Construction Fund from the first Pledged Revenues thereafter received and not needed to pay the Debt Service Requirements of the Bond.

18 Water and Wastewater Utility Fund. Except as otherwise provided herein, the entire Income, upon receipt thereofB051

Date: January 12, 1997

Subject: Reclaimed Water Project Supplemental Loan Funding Authorization

Prepared by: Tom Settle, Water Quality Coordinator

Introduction:

City Council action is requested to direct Staff to seek additional funding to complete the first phase of the Reclaimed Water Project.

Summary

The Reclaimed Water Project has now reached the 50% design stage of the treatment facility. Design of the distribution piping system is also well underway. The design process results in more in-depth investigations as to detail and cost of the components of the system. This has resulted in the identification of several key areas that were not fully investigated in the preliminary design study which have added significantly to the projected costs of the project.

The initial 6 million gallon per day (MGD) phase cost estimate has increased to approximately \$9.2 million. This is approximately \$2.2 million higher than the pre-design estimate. Design has yielded additional costs requirements for electrical systems, building structure, landscaping and site work. The final 4 MGD phase for the facility has an estimated construction cost of \$4.5 million, up from \$3.5 million identified in the pre-design study.

Pipeline design work has resulted in a new cost projection of \$11.2 million. This price includes all elements of the pipeline that have previously been constructed in concert with new road projects. The estimate for work yet to be completed is \$10.2 million.

The Reclaimed Water System is being financed partially by \$2.5 million in Utility Fund Capital Improvement Project funds. The remainder of the initial estimated funding requirement was in the form of bonds issued through the Colorado Water Resource and Power Development Authority (CWRPDA) and its Water Pollution Control Revolving Fund (SRF) program. These bonds can currently provide up to \$13 million to the project.

Additional funding needed to complete the first phase of the treatment facility and the entire distribution system is estimated to be \$4 million. These funds can be applied for through CWRPDA in identical fashion to the previously approved funds. This will entail an updated application to the Authority and issuance of additional bonds

Staff Recommendation

Direct Staff to seek the additional \$4 million in State Water Pollution Control Revolving Loan Funds necessary to finance the Reclaimed Water Project up to, but not to exceed a grand total of \$17 million in Revolving Loan Funds.

Alternatives

Direct Staff to identify funding through existing Capital Improvement Project funds. This alternative would impact the timing of other Utility Fund Capital Improvement Projects, delaying other growth-related projects.

Direct Staff not to proceed further with Reclaimed Water Project and seek other potential water sources. This alternative will have an equivalent or higher cost than the revised Reclaimed Water Project and would not be eligible for the SRF funds.

Background Information

The proposed Westminster Reclaimed Water System is estimated to have the following capital costs:

<u>System Component</u>	<u>Estimated Capital Cost (1997\$)</u>
1. Reclaimed Water Plant	
First 6 mgd phase	\$ 9,600,000
Second 4 mgd phase	\$ 4,500,000
2. 110,000 gallon standpipe	\$ 300,000
3. 95,000 lineal feet of pipe	\$11,600,000
4. Replacement water	\$1,200,000
Total Estimated Capital Cost for 3,000 acre feet	
<u>\$27,200,000</u>	

The Reclaimed Water System is being financed by previously issued bonds with water and sewer rates and fees set to pay off those bonds. The decision on tap fees and rates related to the Reclaimed Water System will be the subject of a future City Council action.

The cost per acre foot for the 6 MGD system is approximately \$12,500. The cost per acre foot at this stage is high, due to the staging of the project. All of the piping systems must be installed in the initial phase. When the system achieves its full capacity of 10 MGD, the cost per acre foot will drop to approximately \$10,500.

The bond market is currently very favorable for issuance of additional bonds for this project. Market rates are currently slightly lower than at the time of the initial offering. Costs for this issue are anticipated to be slightly less due to the preparation work established for the previous issue and the City's favorable financial ratings.

The results of the preliminary design show that the proposed reclaimed water system can provide water at a competitive cost per acre foot and should be considered as a key environmentally sensitive and feasible water supply alternative.

Respectfully submitted,

William M. Christopher

City Manager

CITY OF WESTMINSTER, COLORADO
SPECIAL CITY COUNCIL MEETING
MONDAY, APRIL 6, 1998 AT 6:30 P.M.

PLEDGE OF ALLEGIANCE:

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

ROLL CALL:

Present at roll call were Mayor Heil, Mayor Pro Tem Merkel and Councillors Allen, Atchison, Dixon, Scott and Smith. Also present were William Christopher, City Manager; Martin McCullough, City Attorney; and Michele Kelley, City Clerk. Absent none.

PURPOSE OF SPECIAL MEETING:

The Mayor stated that the purpose of the special City Council meeting was to consider Councillor's Enterprise Bill No 5E regarding Water and Wastewater Utility Enterprises Subordinate Water and Wastewater Revenue Bonds.

COUCILLOR'S ENTERPRISE BILL NO. 5E:

A motion was made by Merkel and seconded by Dixon to adopt Councillor's Enterprise Bill No. 5E as an emergency ordinance allowing the issuance of approximately \$4,085,697 in Water and Wastewater Enterprise: Subordinate Water and Wastewater Revenue Bonds to the Colorado Water Resources and Power Development Authority and authorize the Mayor, City Clerk and Finance Director to sign necessary documents on behalf of the Water and Wastewater Enterprise.

Loring Harkness, Bond Counsel for the Water and Wastewater Enterprise Fund stated for the record that this ordinance also allows the President, Secretary and Treasurer of the Water and Wastewater Fund to sign the necessary documents.

Upon roll call vote the motion carried unanimously.

ADJOURNMENT:

The meeting was adjourned at 6:55 P.M.

ATTEST:

Mayor

City Clerk