



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. Many items have been previously discussed at a Council Study Session.

Members of the audience are invited to speak at the Council meeting. Citizen Communication (Section 7) is reserved for comments on any issues or items pertaining to City business except those for which a formal public hearing is scheduled under Section 10 when the Mayor will call for public testimony. Please limit comments to no more than 5 minutes duration.

1. Pledge of Allegiance
2. Roll Call
3. Consideration of Minutes of Preceding Meetings
4. Report of City Officials
 - A. City Manager's Report
5. City Council Comments
6. Presentations
 - A. Employee Service Awards
 - B. Police Week Proclamation
 - C. Community Pride Day Proclamation
7. Citizen Communication (5 minutes or less)

The "Consent Agenda" is a group of routine matters to be acted on with a single motion and vote. The Mayor will ask if any Council member wishes to remove an item for separate discussion. Items removed from the consent agenda will be considered immediately following adoption of the amended Consent Agenda.

8. Consent Agenda
 - A. Financial Report for March 2013
 - B. Change Date of Second City Council Meeting in May
 - C. Quarterly Insurance Claims Report – January through March 2013
 - D. 2013 Library Materials Purchases Over \$50,000
 - E. Short-Term Leases of Water Rights to Irrigators
 - F. 5-Year Water Lease Agreement with Hyland Hills
 - G. Tandem Axle Tractor and Tandem Dump Trucks with Snow Removal Equipment Purchase
 - H. 72nd Avenue/Raleigh Street Bridge Replacement – Design Engineering Contract Amendment
 - I. 87th Avenue and Wadsworth Boulevard Lift Station Replacement Project Construction and Engineering Contracts
 - J. Little Dry Creek Regional Detention Pond – Fourth Amended IGA with UDFCD and Adams County
 - K. Tanglewood Creek Channel and Pond Improvements – Third Amendment to the IGA with UDFCD
9. Appointments and Resignations
 - A. Resolution No. 15 re Appointments to Fill Vacancies on Boards and Commissions
10. Public Hearings and Other New Business
 - A. Appeal Requirements re Planning Commission Decision on Sign Code Variance re Village at Standley Lake ODP
 - B. Public Hearing re Appeal of a Planning Commission Denial for a Sign Variance re Village at Standley Lake ODP
 - C. Sign Code Variance to Allow a Monument Sign for the 16th Amendment to the Village at Standley Lake ODP
 - D. Resolution No. 16 re Hyland Village Service Commitment Extension
 - E. Councillor's Bill No. 15 re Shoenberg Farm Milk House Rehabilitation Grant Supplemental Appropriation
 - F. Councillor's Bill No. 16 re Proposed Economic Development Agreement with Air Comm Corporation
 - G. Councillor's Bill No. 17 re Site Agreement Extension for the Use of Fire Station #6 Cell Tower
11. Old Business and Passage of Ordinances on Second Reading
12. Miscellaneous Business and Executive Session
 - A. City Council
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.



WESTMINSTER
Strategic Plan
2012-2017
Goals and Objectives

STRONG, BALANCED LOCAL ECONOMY

- Maintain/expand healthy retail base, increasing sales tax receipts
- Attract new targeted businesses, focusing on primary employers and higher paying jobs
- Develop business-oriented mixed use development in accordance with Comprehensive Land Use Plan
- Retain and expand current businesses
- Develop multi-modal transportation system that provides access to shopping and employment centers
- Develop a reputation as a great place for small and/or local businesses
- Revitalize Westminster Center Urban Reinvestment Area



FINANCIALLY SUSTAINABLE CITY GOVERNMENT PROVIDING EXCEPTIONAL SERVICES

- Invest in well-maintained and sustainable city infrastructure and facilities
- Secure and develop long-term water supply
- Focus on core city services and service levels as a mature city with adequate resources
- Maintain sufficient reserves: general fund, utilities funds and self insurance
- Maintain a value driven organization through talent acquisition, retention, development and management
- Institutionalize the core services process in budgeting and decision making
- Maintain and enhance employee morale and confidence in City Council and management
- Invest in tools, training and technology to increase organization productivity and efficiency



SAFE AND SECURE COMMUNITY

- Citizens are safe anywhere in the City
- Public safety departments: well equipped and authorized staffing levels staffed with quality personnel
- Timely response to emergency calls
- Citizens taking responsibility for their own safety and well being
- Manage disaster mitigation, preparedness, response and recovery
- Maintain safe buildings and homes
- Protect residents, homes, and buildings from flooding through an effective stormwater management program



VIBRANT NEIGHBORHOODS IN ONE LIVABLE COMMUNITY

- Develop transit oriented development around commuter rail stations
- Maintain and improve neighborhood infrastructure and housing
- Preserve and restore historic assets
- Have HOAs and residents taking responsibility for neighborhood private infrastructure
- Develop Westminster as a cultural arts community
- Have a range of quality homes for all stages of life (type, price) throughout the City
- Have strong community events and active civic engagement



BEAUTIFUL AND ENVIRONMENTALLY SENSITIVE CITY

- Have energy efficient, environmentally sensitive city operations
- Reduce energy consumption citywide
- Increase and maintain greenspace (parks, open space, etc.) consistent with defined goals
- Preserve vistas and view corridors
- A convenient recycling program for residents and businesses with a high level of participation



Mission statement: We deliver exceptional value and quality of life through SPIRIT.

CITY OF WESTMINSTER, COLORADO
MINUTES OF THE CITY COUNCIL MEETING
HELD ON MONDAY, APRIL 8, 2013, AT 7:00 P.M.

PLEDGE OF ALLEGIANCE

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

ROLL CALL

Mayor Nancy McNally, Mayor Pro Tem Faith Winter, and Councillors Herb Atchison, Bob Briggs, Mark Kaiser, Mary Lindsey, and Scott Major were present at roll call. J. Brent McFall, City Manager, Martin McCullough, City Attorney, and Linda Yeager, City Clerk, were also present.

CONSIDERATION OF MINUTES

Councillor Kaiser moved, seconded by Councillor Briggs, to approve the minutes of the regular meeting of March 25, 2013, as presented. The motion carried unanimously.

CITY MANAGER'S REPORT

Mr. McFall invited citizens to volunteer and participate in Community Pride Day on May 11. The annual event to give City Parks, open spaces, trails and rights-of-way a Spring Cleaning was accomplished by teams of volunteers assigned to various locations throughout the community who picked-up and bagged trash in the morning and came to the City Hall plaza for a complementary lunchtime barbecue. Interested parties were asked to contact Patti Wright, the Open Space Volunteer Coordinator, for team and location assignments.

Following this meeting, the Westminster Economic Development Authority Board of Directors would convene in executive session to discuss strategy and progress on the potential sale of certain WEDA-owned real property and the Authority's position thereto, as authorized by Section 24-6-402 (4)(a), CRS.

COUNCIL REPORTS

Councillor Briggs announced three locations within the City for the upcoming 9 Health Fair and urged citizens to visit the locations to get their medical testing accomplished at reasonable cost.

PRESENTATIONS

Mayor Pro Tem Winter presented the Arbor Day/Earth Day proclamation to Rachel Harlow-Schalk, Senior Projects Officer and the staff liaison to the Environmental Advisory Board, and to John Kasza, City Forester. Both events would be celebrated on April 20, 2013, and Ms. Harlow-Schalk and Mr. Kasza announced the activities that would be held to observe the occasions. Keith Wood of the Colorado State Forest Service presented the City's 28th consecutive Tree City USA Award to Mr. Kasza and provided some interesting data about the environmental impact of the City's tree canopy.

CONSENT AGENDA

The following items were submitted for Council's consideration on the consent agenda: based on results of the State of Colorado light-duty vehicle bid, ratify the purchase of seven Chevrolet light-duty vehicles for \$201,120 from Dellenbach Chevrolet, the purchase of one Chevrolet and one GMC light-duty vehicle for \$61,188 from John Elway Chevrolet-GMC, and the purchase of two Toyota hybrid light-duty vehicles for \$50,732 from Go Toyota, for a total amount of \$313,040; based on the report and recommendation of the City Manager, determine that the public interest would be served by waiving the City's Formal Bid Process and awarding a negotiated sole source contract with Sand Construction of Colorado, LLC for the construction of the new metal pump house structure at City Park in the amount of \$94,543 with a 10% contingency amount of \$9,400 for a total project cost of \$103,943; authorize the City Manager to execute a \$100,656 contract with Kelly Electrical Inc. for the electrical conversion of the Westminster Promenade

light towers to Light Emitting Diodes (LED) and authorize a 10% contingency in the amount of \$10,065 for a total expenditure not to exceed \$110,721; based on the City Manager's recommendation, determine that the public interest would best be served by awarding a contract to Cutler Repaving Inc., the sole source contractor for a Hot-In-Place Recycling and Repaving Project, authorize the City Manager to execute the \$453,609 contract for 2013 with options for two additional one-year renewals (2014 and 2015), and authorize a 5% contingency of \$22,680 for a total project budget of \$476,289; upon the City Manager's recommendation, find that the public interest would best be served by authorizing a negotiated purchase from the sole source provider, National Meter & Automation, Inc., for new water meter replacement transponders, chambers and disc assembly purchases in the amount of \$109,014 and cumulative purchases from National Meter & Automation, Inc. in an amount not to exceed \$129,014 for calendar year 2013; authorize the City Manager to execute a \$543,415 contract for the 2013 Asphalt Pavement Rehabilitation Project with the low bidder, Asphalt Specialties Company, Inc., and authorize a 9% contingency of \$48,907 for a total project budget of \$592,322; authorize the City Manager to execute a \$175,254 contract with the low bidder, RoadSafe Traffic Systems, Inc., for 2013 Citywide Lane Line Striping and Pavement Markings with options for two additional one-year renewals (2014 and 2015) and authorize a contingency of \$10,000 for a total project budget of \$185,254; based on the City Manager's recommendation, determine that the public interest would be best served by awarding contracts and approving 2013 expenditures to Precinct Police Products not to exceed \$95,000 and Frontier Radio Communications not to exceed \$200,000; final passage on second reading of Councillor's Bill No. 11 authorizing the City Manager to execute and implement an Economic Development Agreement with MSI, LLC; final passage on second reading of Councillor's Bill No. 12 authorizing the City Manager to execute and implement the Economic Development Agreement with The Bedrin Organization for Colorado Casual Furniture; final passage on second reading of Councillor's Bill No. 13 authorizing a supplemental appropriation in the amount of \$125,000 reflecting the City's receipt of a Jefferson County Open Space Grant and Jefferson County Schools for Jessica Ridgeway Memorial Park; and final passage on second reading of Councillor's Bill No. 14 providing for a supplemental appropriation of funds to the 2012 budget of the General, Water, Legacy Ridge, Heritage at Westmoor, Fleet Maintenance, General Capital Outlay Replacement, Sales & Use Tax, Parks Open Space & Trails, General Capital Improvement, and Community Development Block Grant Funds.

It was moved by Councillor Kaiser, seconded by Councillor Major, to approve the consent agenda as presented. The motion carried with all Council members voting favorably.

RESOLUTION NO. 14 AUTHORIZING IGA WITH CDOT FOR TRAFFIC SIGNAL MAINTENANCE

Councillor Briggs moved, seconded by Councillor Lindsey, to adopt Resolution No. 14 authorizing the City Manager to execute an Intergovernmental Agreement with the Colorado Department of Transportation regarding traffic signal maintenance for a five-year period. The motion carried unanimously at roll call.

ADJOURNMENT

With no further business to come before the City Council, it was moved by Councillor Atchison, seconded by Councillor Major, to adjourn. The motion passed and the Mayor adjourned the meeting at 7:13 p.m.

ATTEST:

Mayor

City Clerk



Agenda Memorandum

City Council Meeting
April 22, 2013



SUBJECT: Presentation of Employee Service Awards

Prepared By: Debbie Mitchell, General Service Director
Dee Martin, Workforce Planning & Compensation Manager

Recommended City Council Action

Present service pins and certificates of appreciation to employees celebrating 20 or more years of service with the City and in five year increments thereafter.

Summary Statement

- In keeping with the City's policy of recognition for employees who complete increments of five years of employment with the City, and City Council recognition of employees with 20 years or more of service, the presentation of City service pins and certificates of appreciation has been scheduled for Monday night's Council meeting.
- In the third grouping of 2013, employees with 20, 25, 30 and 35 years of service will be celebrated tonight.
 - Presentation of 20-year certificate and pin - Councillor Scott Major
 - Presentation of 25-year certificates, pins and checks - Mayor Nancy McNally
 - Presentation of 30-year certificate and pin - Mayor Pro Tem Faith Winter
 - Presentation of 35-year certificates and pins - Councillor Herb Atchison

Expenditure Required: \$5,000

Source of Funds: \$2,500 - General Fund - Community Development
\$2,500 - General Fund – Police Department

Policy Issue

None identified

Alternative

None identified

Background Information

The following 20-year employee will be presented with a certificate and service pin:

Jean Ward	Library Specialist/Library Associates	Parks, Recreation & Libraries
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The following 25-year employees will be presented with a check, certificate and service pin:

Greg Olson	Transportation Systems Coordinator	Community Development
Phil Paquet	Police Sergeant - Patrol	Police Department

The following 30-year employee will be presented with a certificate and service pin:

Deane Sigler	Equipment Operator I	Public Works & Utilities
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The following 35-year employees will be presented with a certificate and a service pin:

Karen Sexton	Secretary	Police Department
Mike Schafer	Fire Plans Examiner/Inspector	Fire Department

On April 24, 2013, the City Manager will host an employee awards luncheon. During this time, eight (8) employees will receive their 15-year service pin, three (3) employees will receive their 10-year service pin, and seven (7) employees will receive their 5-year service pin. Recognition will also be given to those celebrating their 20th, 25th, 30th and 35th anniversaries. This is the third luncheon in 2013 to recognize and honor City employees for their service to the public.

The aggregate City service represented among this group of employees for the third luncheon is 355 years of City service. The City can certainly be proud of the tenure of each of these individuals and of their continued dedication to City employment in serving Westminster citizens.

The recognition of employee's years of service addresses all five of Council's Strategic Plan goals. Recognition efforts have long been recognized as an important management practice in organizations striving to develop loyalty, ownership and effectiveness in their most valuable resource – employees.

Respectfully submitted,

J. Brent McFall
City Manager



Agenda Memorandum

City Council Meeting
April 22, 2013



SUBJECT: Proclamation re Police Week

Prepared By: Lee Birk, Chief of Police
Cheri Spottke, Public Information Officer

Recommended City Council Action

Mayor McNally to present a proclamation designating May 15, 2012 as Peace Officers Memorial Day and May 12-18, 2013 as Police Week.

Summary Statement

- The President of the United States proclaims May 15 of each year as Peace Officers Memorial Day and the week in which it falls as Police Week.
- In 1994, President William J. Clinton signed into public law a joint resolution of the 103rd Congress directing that the flag of the United States be flown at half-staff on all government buildings on May 15.
- Police Week recognizes the service and sacrifice of United States law enforcement and pays special recognition to those law enforcement officers who have lost their lives in the line of duty for the safety and protection of others.
- A public memorial service will be held in front of the Westminster Public Safety Center on Thursday, May 9, 2013 beginning at noon to honor fallen officers and will include the Westminster Police Department Honor Guard and a bagpiper playing “Amazing Grace.”
- Chief Lee Birk will be present to accept the Proclamation on behalf of the Police Department.

Expenditure Required: \$0

Source of Funds: N/A

Policy Issue

None identified

Alternative

None identified

Background Information

Law Enforcement officers throughout the United States will observe Peace Officers Memorial Day on May 15, 2013 and Police Week during May 12-18, 2013. On October 1, 1961, Congress asked the President to designate May 15 to honor law enforcement officers. President John F. Kennedy signed the bill into law on October 1, 1962. President Kennedy designated the calendar week during which May 15 occurs as Police Week in recognition of the service given by men and women who, day and night, stand guard in our midst to protect us through enforcement of our laws. It was not until May 15, 1982 that the first National Peace Officers Memorial Day Service was held. In 1991, President George H. W. Bush dedicated the Law Enforcement Officers Memorial, which commemorates the service and ultimate sacrifice of America's law enforcement officers.

According to a Proclamation by President George W. Bush in 2002, "Peace Officers Memorial Day and Police Week pay tribute to the local, state, and federal law enforcement officers who serve and protect us with courage and dedication. These observances also remind us of the ongoing need to be vigilant against all forms of crime, especially to acts of extreme violence and terrorism."

Respectfully submitted,

J. Brent McFall
City Manager

Attachment - Proclamation

WHEREAS, in 2012, across the United States, 120 law enforcement officers lost their lives in the line of duty; and,

WHEREAS, more than 19,900 federal, state, and local law enforcement officers have died in the line of duty and their names are engraved on the National Law Enforcement Officers Memorial in Washington D.C.; and,

WHEREAS, we pay homage to the heroes who have fallen in the line of duty and pray for the families and friends left behind; and,

WHEREAS, the Westminster Police Department has 183 authorized commissioned police officers,

WHEREAS, Westminster police officers responded to 114,857 police service events in 2012,

WHEREAS, with valor and devotion, our law enforcement officers stand watch on the front lines and help make our communities safer and more secure; and,

WHEREAS, fulfilling their duties with courage and commitment, law enforcement officers work tirelessly and put themselves in harm's way, exemplifying the good and decent character of America.

NOW, THEREFORE, I, Nancy McNally, Mayor of the City of Westminster, Colorado, on behalf of the entire City Council and Staff, do hereby proclaim May 15, 2013 as

PEACE OFFICERS MEMORIAL DAY

and May 12-18, 2012 as

POLICE WEEK

in the City of Westminster, and urge all citizens to thank the men and women who have answered the call to serve in law enforcement for their commitment to justice and to their communities.

Signed this 22nd day of April 2013.

Nancy McNally, Mayor



Agenda Memorandum

City Council Meeting
April 22, 2013



SUBJECT: Proclamation re Community Pride Day

Prepared By: Richard Dahl, Park Services Manager
Patti Wright, Open Space Volunteer Coordinator

Recommended City Council Action

Councillor Major is requested to present a proclamation to Open Space Volunteer Coordinator Patti Wright proclaiming May 11, 2013, as Community Pride Day in the City of Westminster.

Summary Statement

- For several years, the City of Westminster and Hyland Hills Park and Recreation District have partnered for Community Pride Day, the largest annual volunteer trash cleanup in Westminster.
- Community Pride Day activities will include litter pickup in rights-of-way, greenbelts, trails, parks, and open space sites throughout the City and District. This cleanup program fosters residents' commitment to a cleaner community and attracts volunteers from scout troops, homeowners associations, schools, civic organizations, businesses, families, and church groups.
- The event will conclude at Westminster City Hall with a barbeque sponsored by the City of Westminster, Hyland Hills Park and Recreation District, and the Westminster Rotary Club, with assistance from the Westminster Youth Advisory Panel. Food, entertainment, music, door prizes, and fire engine rides are featured at the barbeque.

Expenditure Required: \$3,000

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

Policy Issue

None identified

Alternative

None identified

Background Information

Community Pride Day was established over 20 years ago in recognition of the Keep America Beautiful anti-litter campaign. This popular volunteer cleanup event has grown from a few hundred volunteers to over 1,600 volunteers last year.

On May 11, 2013, volunteers will begin cleaning up along designated routes at approximately 8 a.m. After completion of their cleanup, volunteers meet at Westminster City Hall to celebrate their hard work with food, entertainment, and prizes. The barbecue's entertainment includes music and games provided by Bryce Jackman. Hotdogs and hamburgers will be prepared at City Hall, courtesy of the Westminster Rotary Club chefs, along with soda pop, chips, and dessert. Partnership with the Westminster Rotary Club and donations by area merchants are instrumental in providing a quality event for the volunteers.

Mayor Nancy McNally is requested to read the Community Pride Day proclamation and recognize sponsors. During the barbecue, the Westminster Fire Department will offer antique fire engine rides. The Westminster Youth Advisory Panel is also volunteering at the barbecue to help make it a success.

Respectfully submitted,

J. Brent McFall
City Manager

Attachment - Proclamation

WHEREAS, Keep America Beautiful, a national nonprofit organization, strives to empower individuals to take greater responsibility for enhancing their community environments, and therefore sponsors the Great American Cleanup; and

WHEREAS, The City of Westminster and Hyland Hills Park and Recreation District have joined together to mobilize citizens to take action in their communities and to support the nation's largest volunteer beautification and improvement project; and

WHEREAS, The goal of Community Pride Day is to bring together youth, government, businesses, families, neighborhoods, and community leaders to help clean up the City and Hyland Hills Park and Recreation District and share pride in our community; and

WHEREAS, Westminster and Hyland Hills Park and Recreation District have organized a cleanup program with sponsors and donations from the community; and

WHEREAS, The caring citizen-volunteers of our communities are ready and willing to do their part to engage in cleanup activities and demonstrate their civic pride and individual responsibility.

NOW, THEREFORE, I, Nancy McNally, Mayor of the City of Westminster, Colorado, on behalf of the entire City Council and Staff, do hereby proclaim May 11, 2013,

COMMUNITY PRIDE DAY

in the City of Westminster and call upon all citizens and civic organizations to recognize and support the efforts of the volunteers and citizens who take pride in keeping Westminster and Hyland Hills Park and Recreation District clean places to live.

Signed this 22nd day of April, 2013.

Nancy McNally, Mayor



Agenda Memorandum

City Council Meeting
April 29, 2013



SUBJECT: Financial Report for March 2013

Prepared By: Tammy Hitchens, Finance Director

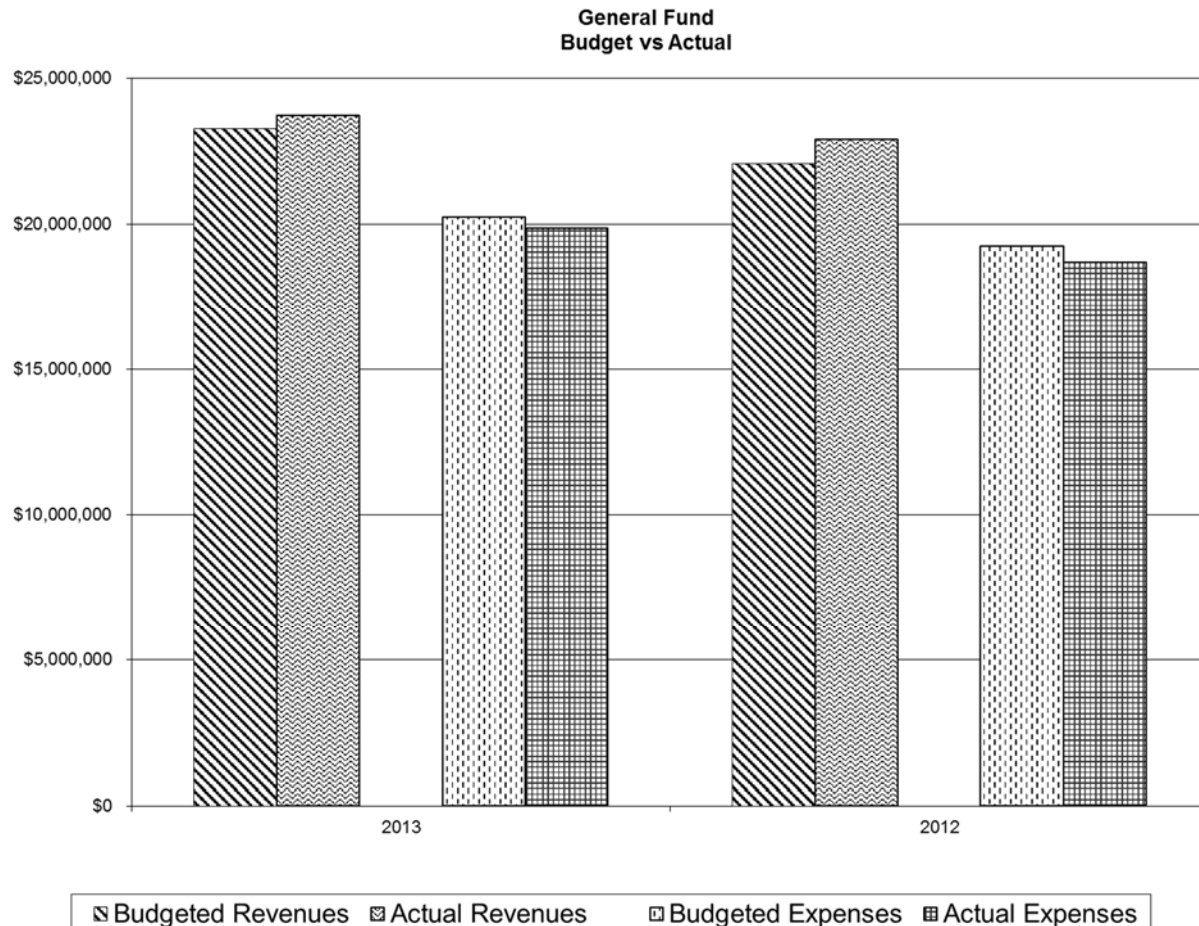
Recommended City Council Action

Accept the Financial Report for March as presented.

Summary Statement

City Council is requested to review and accept the attached monthly financial statement. The Shopping Center Report is also attached. Unless otherwise indicated, "budget" refers to the pro-rated budget. The budget numbers that are presented reflect the City's amended adopted budget. Both revenues and expense are pro-rated based on 10-year historical averages.

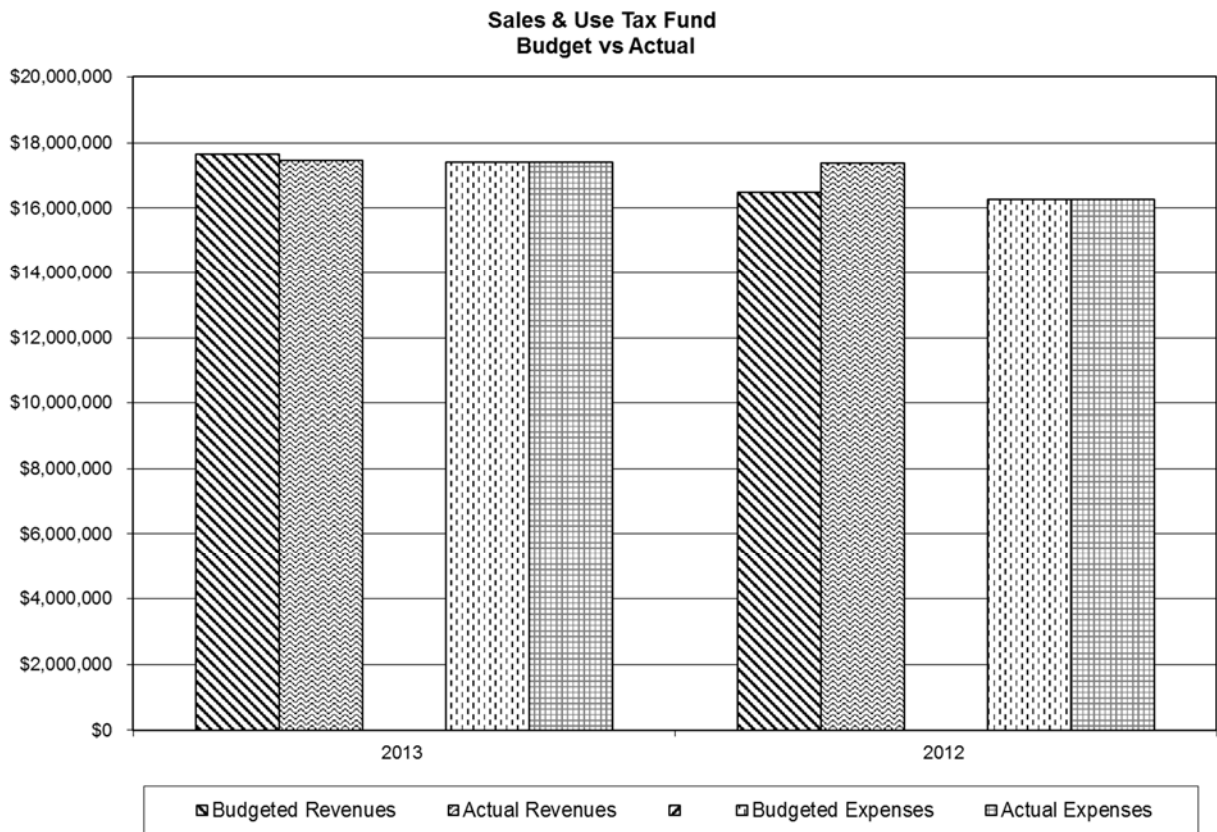
The General Fund revenues exceed expenditures by \$3,857,336. The following graph represents Budget vs. Actual for 2012-2013.



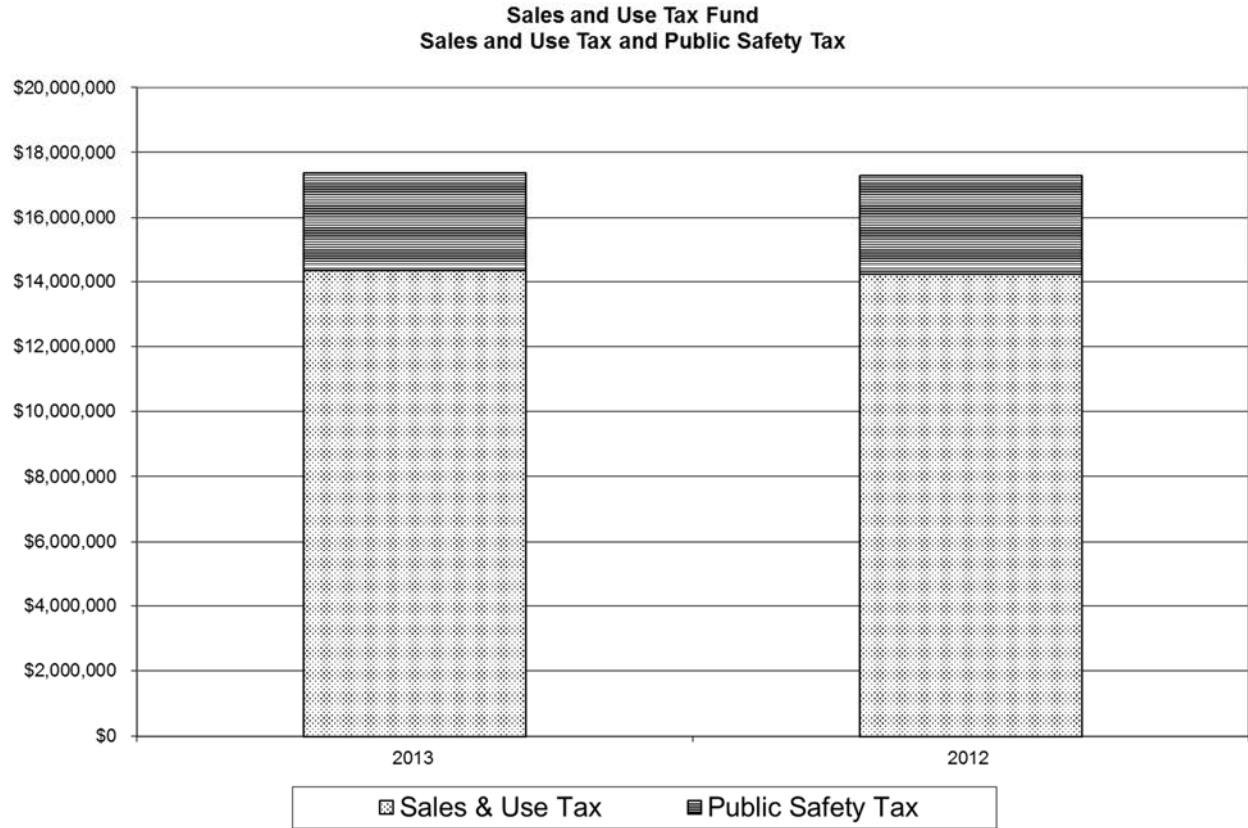
Miscellaneous revenue is reflected at 228.5% of prorated budget. This is due to timing differences in the reimbursements from Thornton, Pepsi sponsorship revenue and Purchasing Card rebate revenue.

The Sales and Use Tax Fund revenues exceed expenditures by \$43,899. On a year-to-date cash basis, total sales and use tax is up 0.7% from 2012. Key components are listed below:

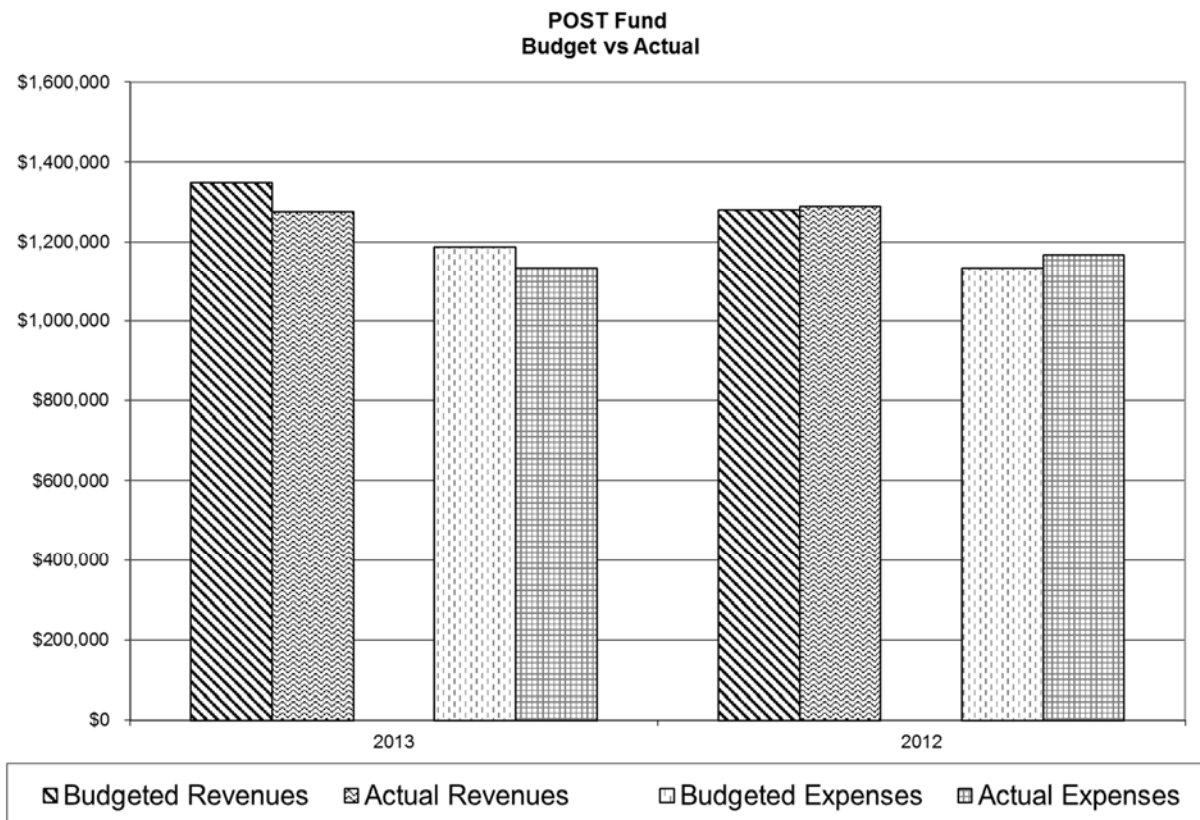
- On a year-to-date basis, across the top 25 shopping centers, total sales and use tax receipts are up 3.0% from the prior year.
- Sales tax receipts from the top 50 Sales Taxpayers, representing about 63.0% of all collections, are up 1.9% for the month.
- Urban renewal areas make up 40.7% of gross sales tax collections. After urban renewal area and economic development assistance adjustments, 84.2% of this money is being retained for General Fund use.



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

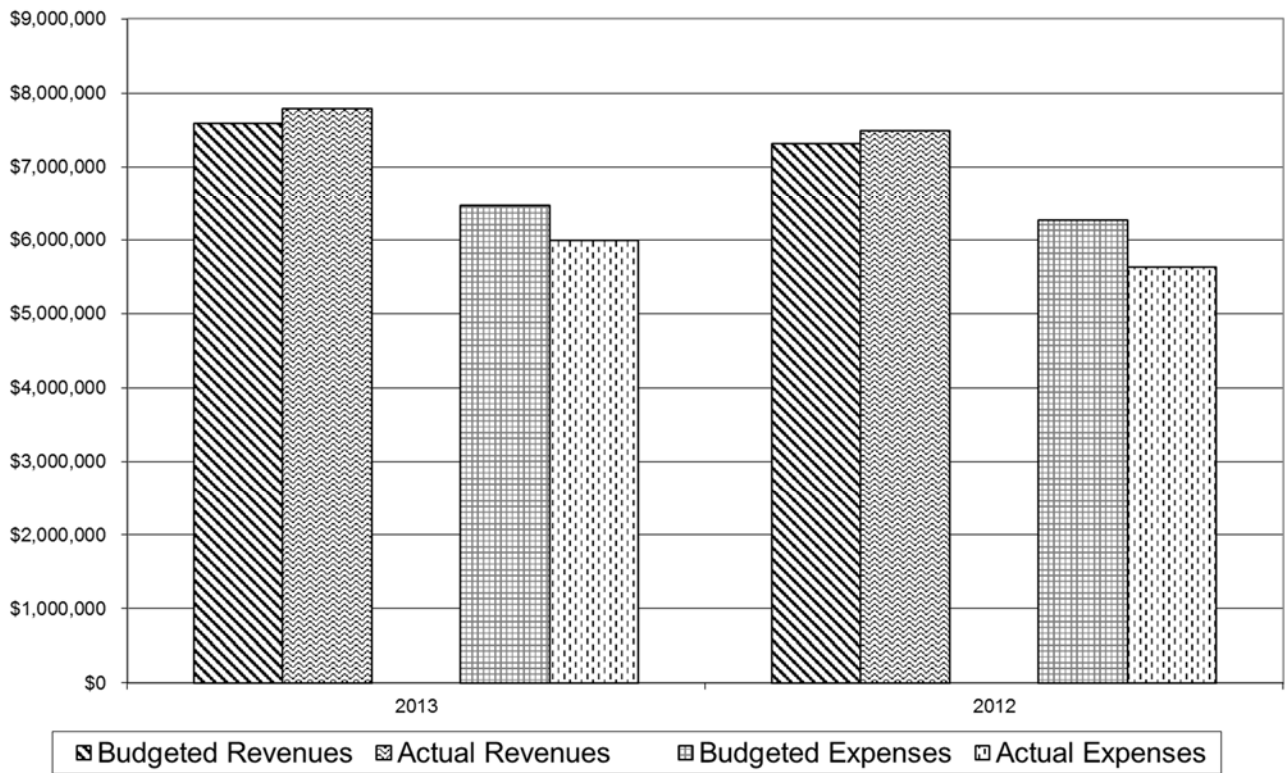


The Parks Open Space and Trails Fund revenues exceed expenditures by \$142,715.



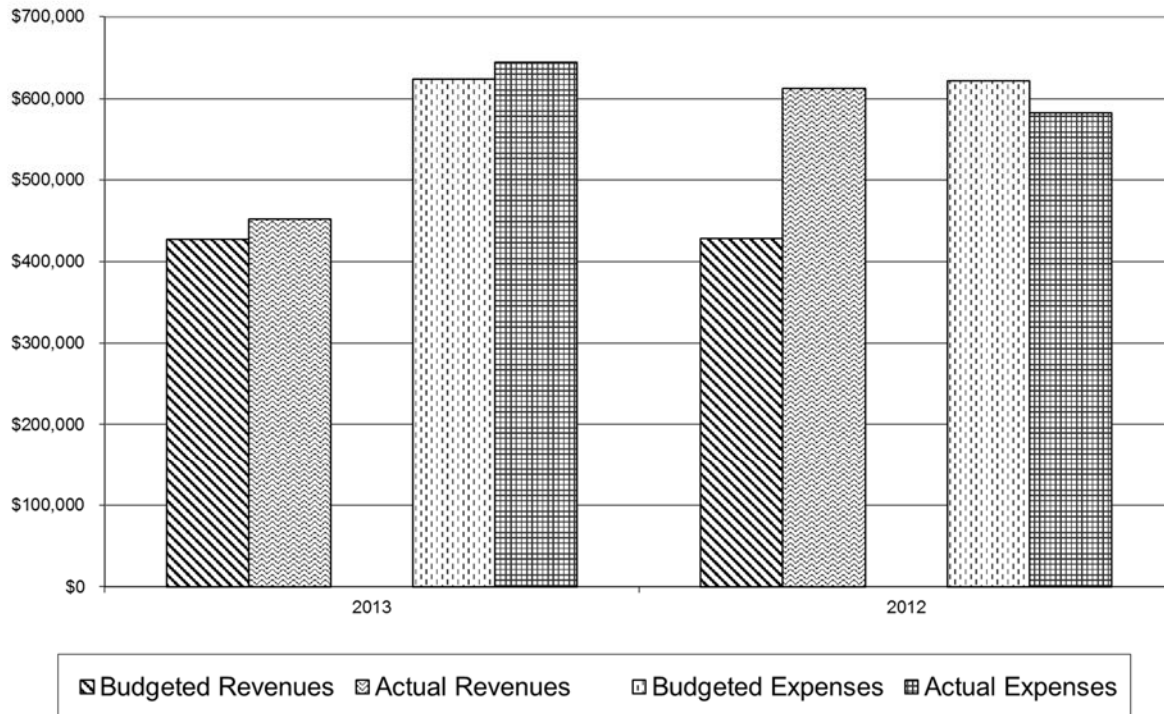
The combined Water & Wastewater Fund revenues exceed expenditures by \$2,805,861. Operating revenues exceed operating expenditures by \$1,798,916. \$14,984,540 is budgeted for capital projects and reserves.

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



The combined Golf Course Fund expenditures exceed revenues by \$193,086.

**Golf Course Enterprise
Operating Budget vs Actual**



In 2012, green fees, cart rental, driving range, Countrydale property tax and transfers were higher than 2013.

Policy Issue

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

Alternative

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

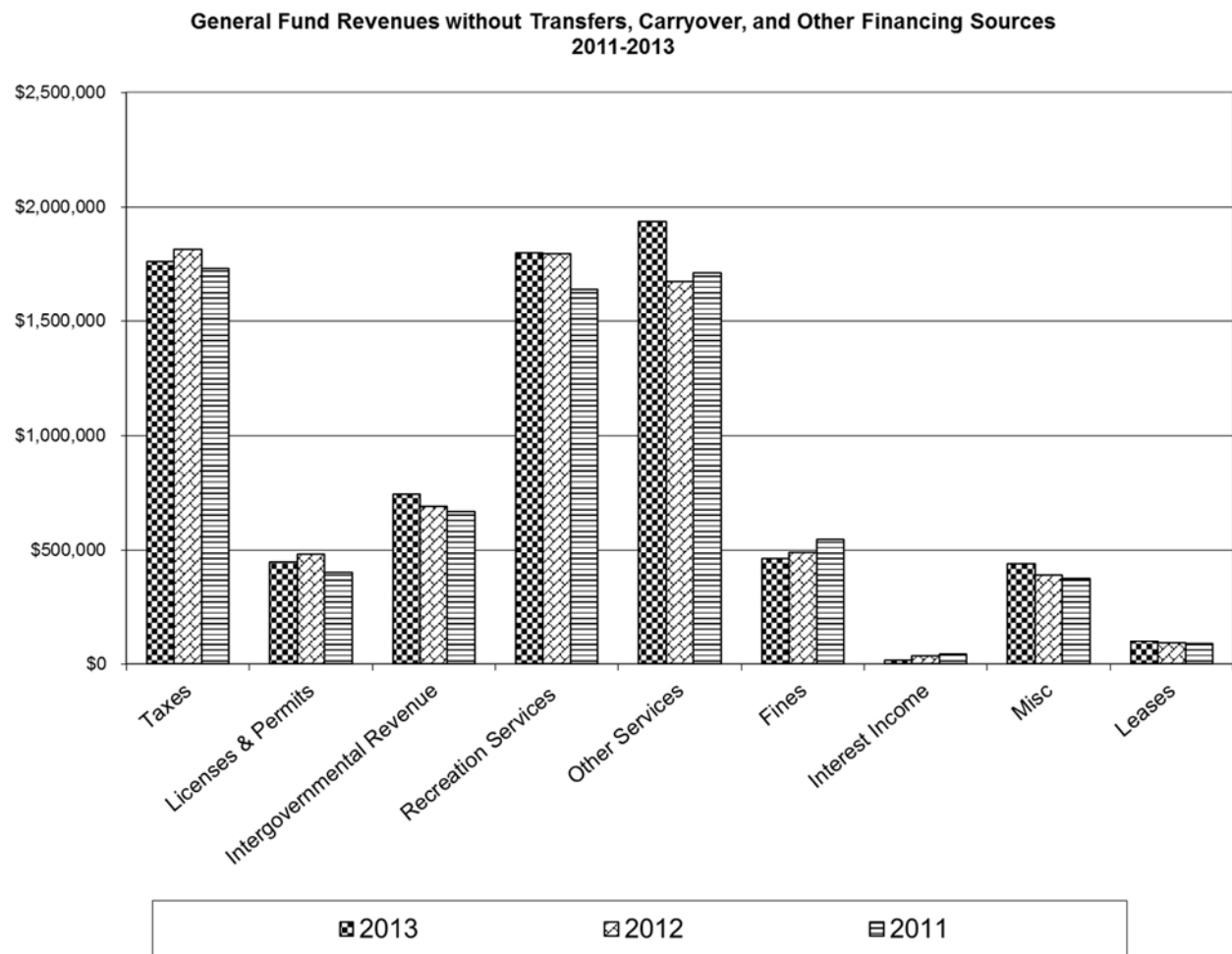
Background Information

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

General Fund

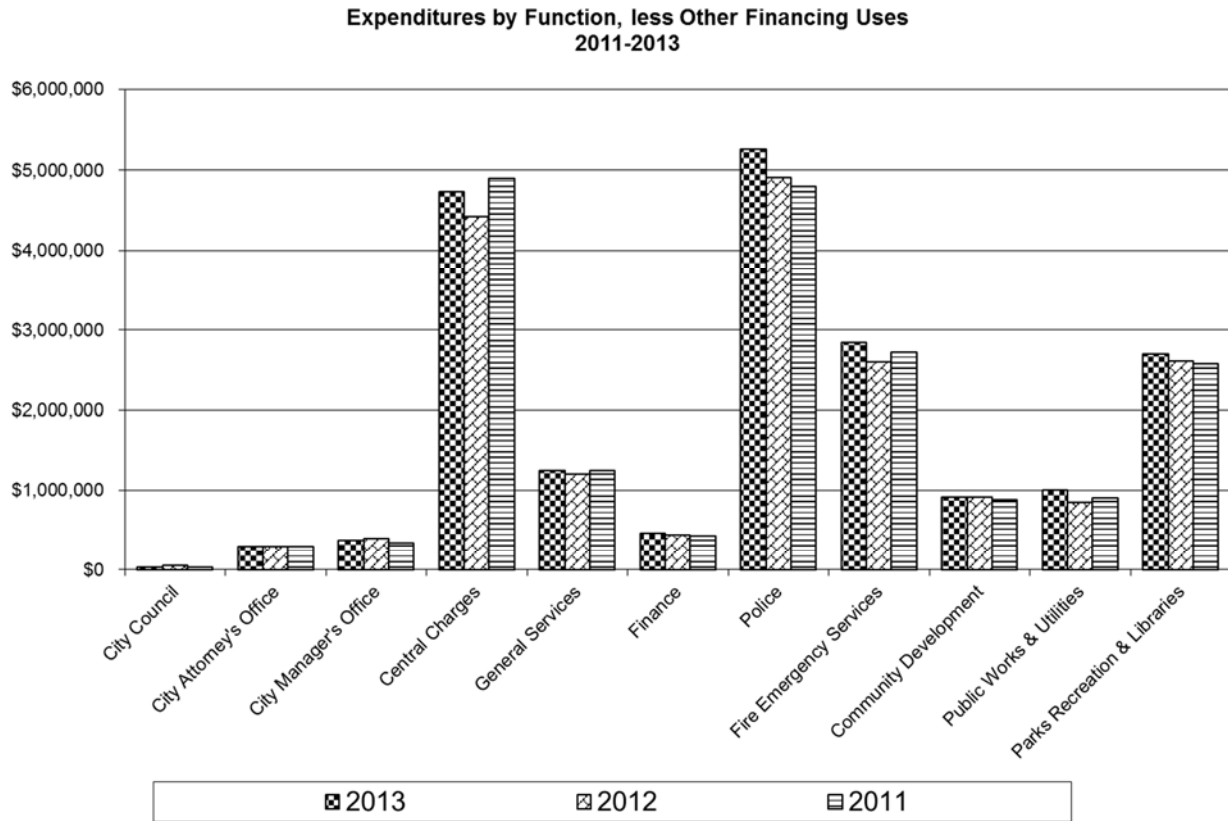
This fund reflects the result of the City’s operating departments: Police, Fire, Public Works (Streets, etc.), Parks Recreation and Libraries, Community Development, and the internal service functions: City Manager, City Attorney, Finance, and General Services.

The following chart represents the trend in actual revenues from 2011-2013 year-to-date.



The Other Service revenue variance between years is primarily attributable to Franchise and Emergency Medical Service Fees.

The following chart identifies where the City is focusing its resources. The chart shows year-to-date spending for 2011-2013.

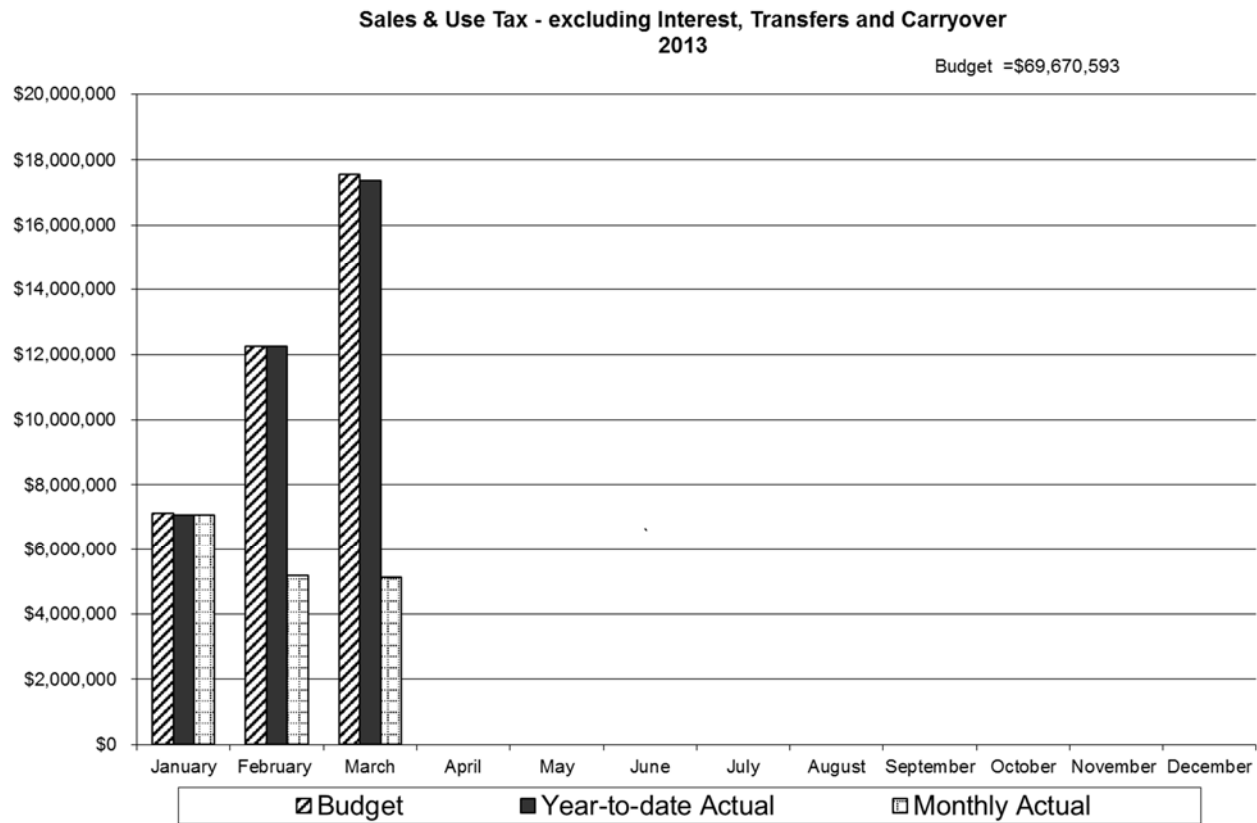


The Central Charges expenditure variance is attributable to a timing difference in the posting of benefit charges for January payrolls and lease payments due to refundings during the last quarter of 2012. Police and Fire expenditure variances between years are primarily due to an increase in contract services and equipment replacement fees.

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

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

This chart indicates how the City’s Sales and Use Tax revenues are being collected on a monthly basis. This chart does not include Parks, Open Space, and Trails Sales & Use Tax.

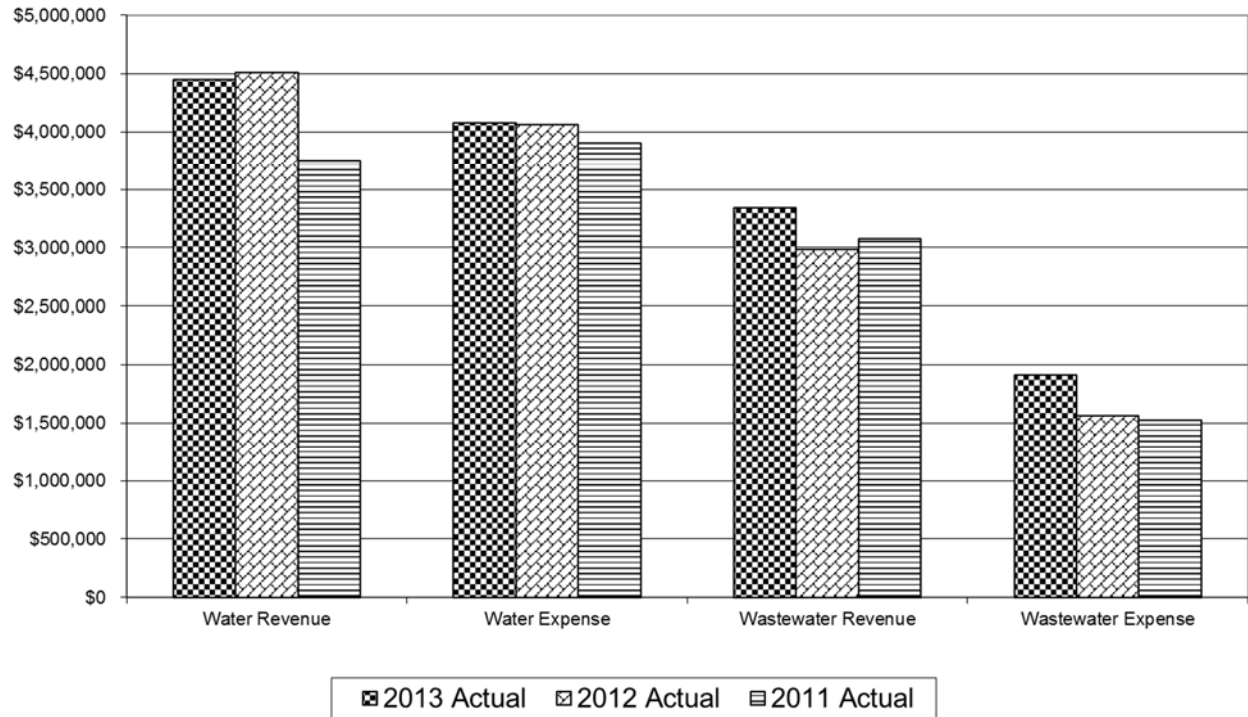


Water, Wastewater and Storm Water Drainage Funds (The Utility Enterprise)

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

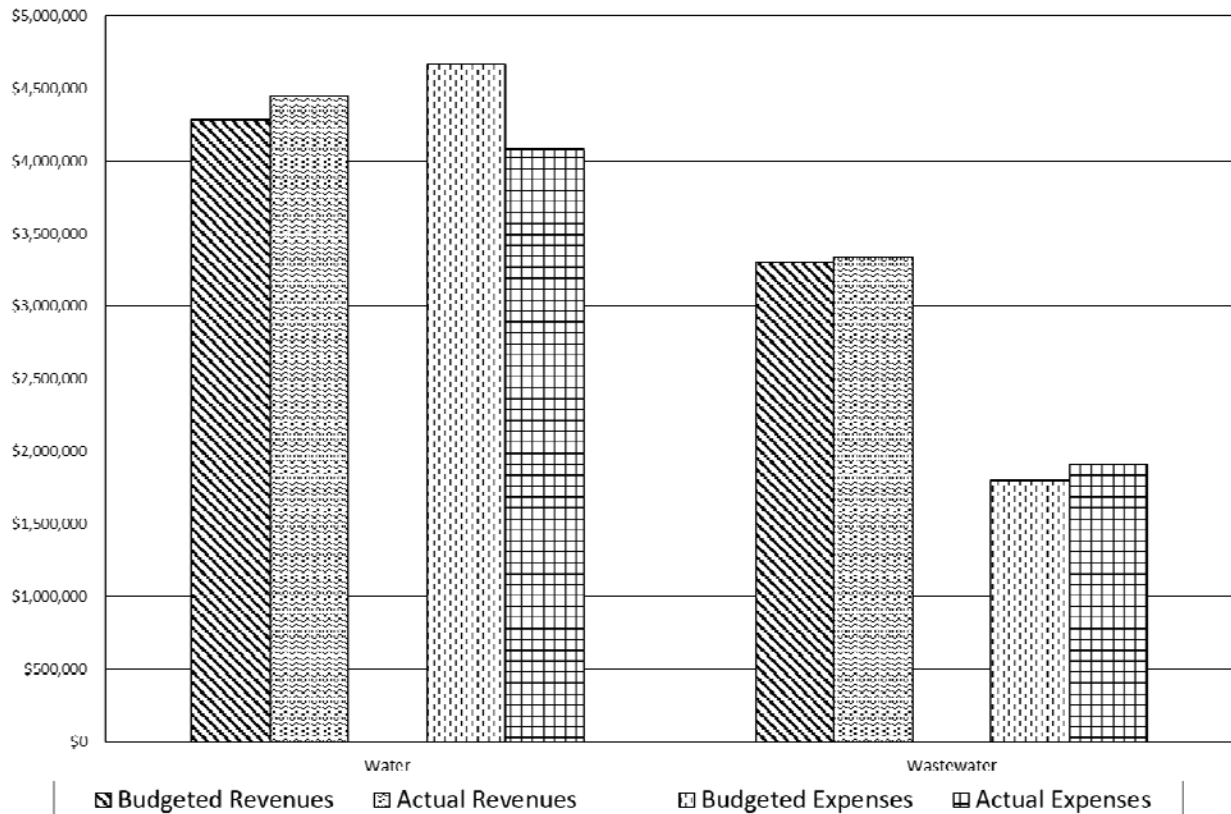
These graphs represent segment information for the Water and Wastewater funds.

**Water and Wastewater Funds
Operating Revenue and Expenses 2011-2013**



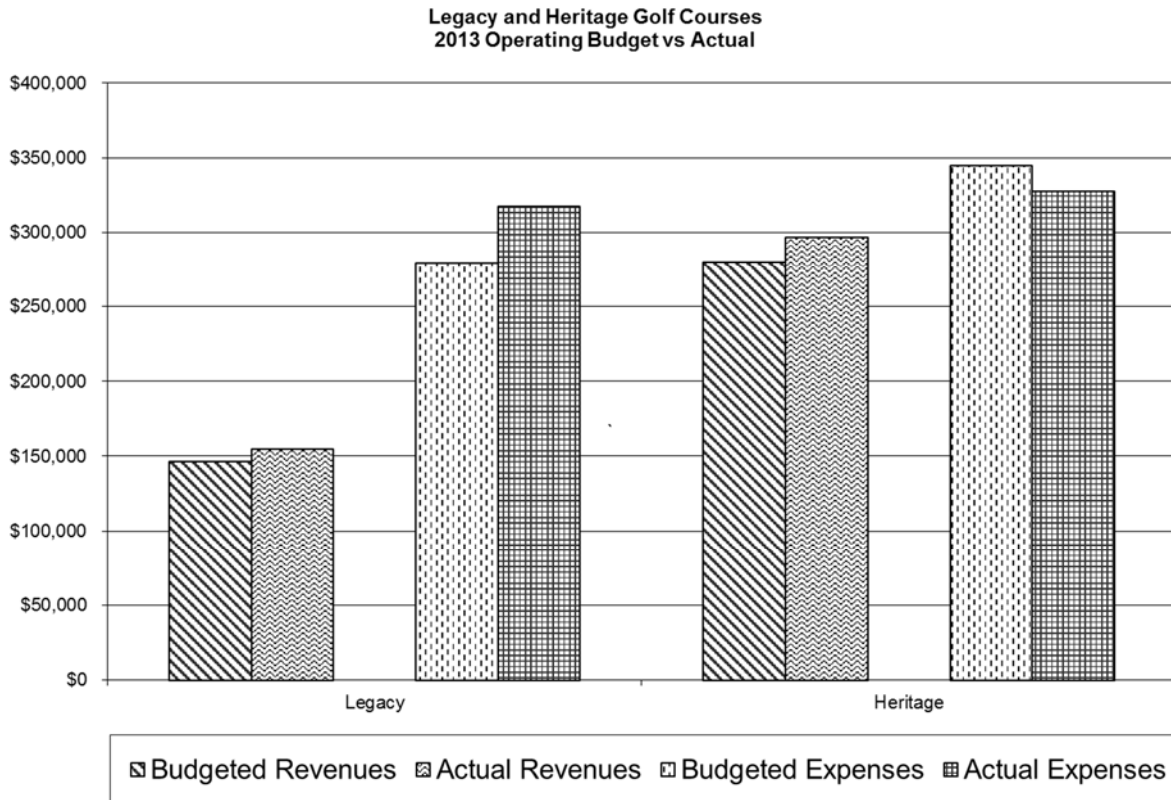
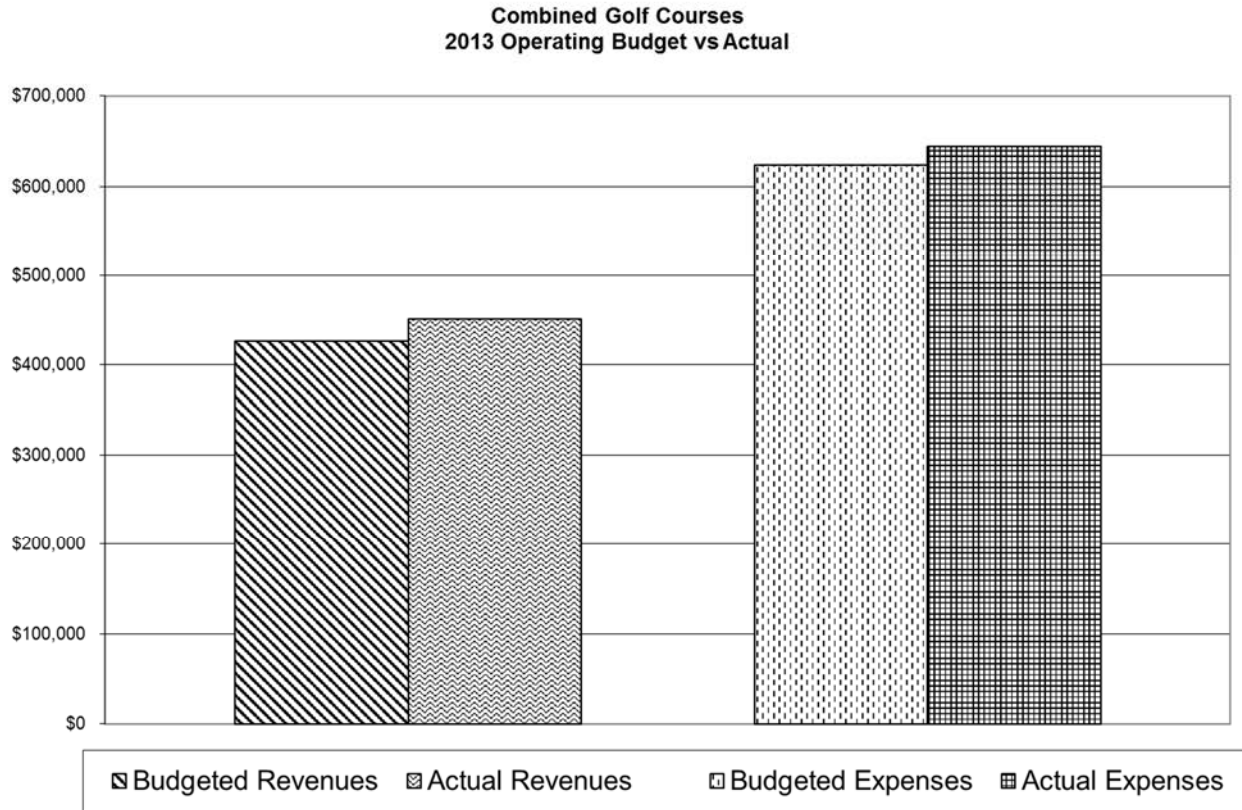
The Water Fund revenue variance is due to the effect of climatic variations on water consumption as well as changes in billing rates and billing cycles.

**Water and Wastewater Funds
2013 Operating Budget vs Actual**



Golf Course Enterprise (Legacy and Heritage Golf Courses)

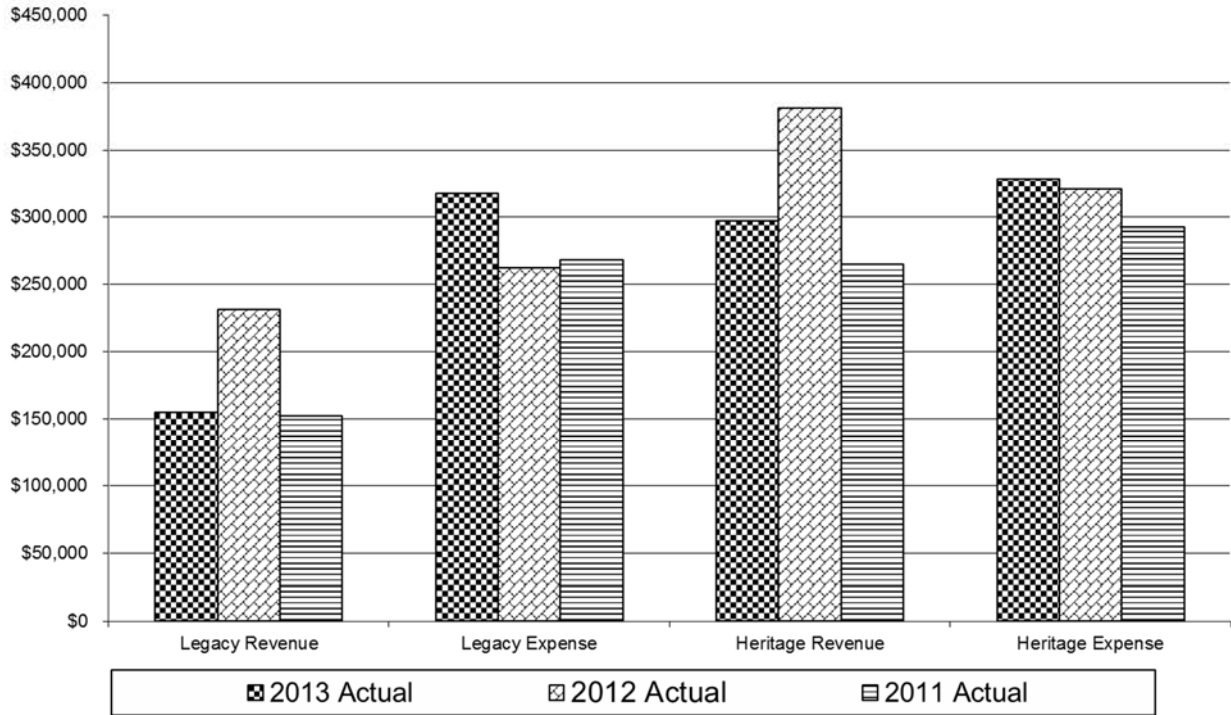
This enterprise reflects the operations of the City’s two municipal golf courses.



The budget to actual expenditure variance in Legacy reflects differences in the timing of lease payments in 2013 compared to the 10-year prorated budget trend.

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

Legacy and Heritage Golf Courses
Operating Revenue and Expenses 2011-2013



The 2012 revenue variance at both courses is due primarily to charges for services, including driving range and green fees. Transfer revenue decreased in 2011 as a result of savings from refunding of the Heritage at Westmoor revenue bonds.

A timing difference in debt service payments resulting from the 2007 golf course equipment lease refinancing is seen in the Legacy Ridge 2013 expenditure variance. Early payoff of the 2009 golf course equipment lease also contributes to Legacy and Heritage expenditure variances.

This financial report supports City Council’s Strategic Plan Goal of Financially Sustainable City Government Providing Exceptional Services by communicating timely information on the results of City operations and to assist with critical decision making.

Respectfully submitted,

J. Brent McFall, City Manager

Attachments

- Financial Statements
- Shopping Center Report

**City of Westminster
Financial Report
For Three Months Ending March 31, 2013**

Description	Budget	Pro-rated for Seasonal Flows	Notes	Actual	(Under) Over Budget	%
General Fund						
Revenues						
Taxes	5,729,500	1,631,678		1,765,099	133,421	108.2%
Licenses & Permits	1,619,750	377,553		448,698	71,145	118.8%
Intergovernmental Revenue	5,030,446	588,323		745,458	157,135	126.7%
Charges for Services						
Recreation Services	6,710,438	1,651,119		1,801,092	149,973	109.1%
Other Services	9,878,856	2,166,553		1,938,424	(228,129)	89.5%
Fines	2,260,000	546,394		463,287	(83,107)	84.8%
Interest Income	125,000	14,127		16,543	2,416	117.1%
Miscellaneous	1,655,506	193,895		443,078	249,183	228.5%
Leases	401,779	100,918		100,918	0	100.0%
Interfund Transfers	64,049,819	16,012,455		16,012,455	0	100.0%
Total Revenues	97,461,094	23,283,015		23,735,052	452,037	101.9%
Expenditures						
City Council	254,094	60,557		34,472	(26,085)	56.9%
City Attorney's Office	1,256,450	284,360		295,731	11,371	104.0%
City Manager's Office	1,567,013	365,975		372,492	6,517	101.8%
Central Charges	25,508,631	4,654,713		4,735,971	81,258	101.7%
General Services	5,994,825	1,373,918		1,248,837	(125,081)	90.9%
Finance	2,110,661	475,893		459,744	(16,149)	96.6%
Police	21,330,429	5,071,763		5,261,939	190,176	103.7%
Fire Emergency Services	12,525,053	2,885,638		2,838,518	(47,120)	98.4%
Community Development	4,202,436	956,305		919,889	(36,416)	96.2%
Public Works & Utilities	8,039,149	1,190,091		1,010,114	(179,977)	84.9%
Parks, Recreation & Libraries	14,672,353	2,928,308		2,700,009	(228,299)	92.2%
Total Expenditures	97,461,094	20,247,521		19,877,716	(369,805)	98.2%
Revenues Over(Under)						
Expenditures	0	3,035,494		3,857,336	821,842	

**City of Westminster
Financial Report
For Three Months Ending March 31, 2013**

Description	Budget	Pro-rated for Seasonal Flows	Notes	Actual	(Under) Over Budget	% Budget
Sales and Use Tax Fund						
Revenues						
Sales Tax						
Sales Tax Returns	47,601,952	12,281,904		12,507,196	225,292	101.8%
Sales Tx Audit Revenues	724,000	181,000		202,842	21,842	112.1%
S-T Rev. STX	<u>48,325,952</u>	<u>12,462,904</u>		<u>12,710,038</u>	<u>247,134</u>	102.0%
Use Tax						
Use Tax Returns	8,017,000	1,662,744		1,499,315	(163,429)	90.2%
Use Tax Audit Revenues	785,000	196,250		134,216	(62,034)	68.4%
S-T Rev. UTX	<u>8,802,000</u>	<u>1,858,994</u>		<u>1,633,531</u>	<u>(225,463)</u>	87.9%
Total STX and UTX	<u>57,127,952</u>	<u>14,321,898</u>		<u>14,343,569</u>	<u>21,671</u>	100.2%
Public Safety Tax						
PST Tax Returns	11,883,683	3,172,563		2,967,061	(205,502)	93.5%
PST Audit Revenues	308,500	77,125		67,386	(9,739)	87.4%
Total Rev. PST	<u>12,192,183</u>	<u>3,249,688</u>		<u>3,034,447</u>	<u>(215,241)</u>	93.4%
Interest Income	85,000	21,250		17,166	(4,084)	80.8%
Interfund Transfers	265,458	66,365		66,365	0	100.0%
Total Revenues	<u>69,670,593</u>	<u>17,659,201</u>		<u>17,461,547</u>	<u>(197,654)</u>	98.9%
Expenditures						
Central Charges	<u>69,670,593</u>	<u>17,417,648</u>		<u>17,417,648</u>	0	100.0%
Revenues Over(Under) Expenditures	<u>0</u>	<u>241,553</u>		<u>43,899</u>	<u>(197,654)</u>	

**City of Westminster
Financial Report
For Three Months Ending March 31, 2013**

Description POST Fund	Budget	Pro-rated for Seasonal Flows	Notes	Actual	(Under) Over Budget	% Budget
Revenues						
Sales & Use Tax	5,085,325	1,320,132		1,264,029	(56,103)	95.8%
Interest Income	10,000	2,500		4,107	1,607	164.3%
Miscellaneous	85,030	21,258		3,920	(17,338)	18.4%
Interfund Transfers	19,542	4,885		4,886	1	100.0%
Total Revenues	<u>5,199,897</u>	<u>1,348,775</u>		<u>1,276,942</u>	<u>(71,833)</u>	<u>94.7%</u>
Expenditures						
Central Charges	4,869,081	1,132,531		1,096,740	(35,791)	96.8%
Park Services	330,816	54,859		37,487	(17,372)	68.3%
	<u>5,199,897</u>	<u>1,187,390</u>		<u>1,134,227</u>	<u>(53,163)</u>	<u>95.5%</u>
Revenues Over(Under)						
Expenditures	<u>0</u>	<u>161,385</u>		<u>142,715</u>	<u>(18,670)</u>	

**City of Westminster
Financial Report
For Three Months Ending March 31, 2013**

Description	Budget	Pro-rated for Seasonal Flows	Notes	Actual	(Under) Over Budget	% Budget
Water and Wastewater Funds - Combined						
Operating Revenues						
License & Permits	75,000	18,750		22,080	3,330	117.8%
Rates and Charges	45,315,766	7,464,328		7,634,864	170,536	102.3%
Miscellaneous	435,000	108,750		135,590	26,840	124.7%
Total Operating Revenues	<u>45,825,766</u>	<u>7,591,828</u>		<u>7,792,534</u>	<u>200,706</u>	102.6%
Operating Expenses						
Central Charges	6,032,672	1,508,168		1,470,156	(38,012)	97.5%
Finance	646,064	155,055		139,460	(15,595)	89.9%
Public Works & Utilities	21,378,120	4,098,098		3,766,611	(331,487)	91.9%
Parks, Recreation & Libraries	152,415	9,694		9,733	39	100.4%
Information Technology	2,868,928	694,281		607,658	(86,623)	87.5%
Total Operating Expenses	<u>31,078,199</u>	<u>6,465,296</u>		<u>5,993,618</u>	<u>(471,678)</u>	92.7%
Operating Income (Loss)	<u>14,747,567</u>	<u>1,126,532</u>		<u>1,798,916</u>	<u>672,384</u>	
Other Revenue and Expenses						
Tap Fees	4,560,000	1,247,025		276,603	(970,422)	22.2%
Interest Income	365,000	91,250		84,787	(6,463)	92.9%
Interfund Transfers	2,533,172	633,293		633,293	0	100.0%
Sale of Assets	0	0		12,262	12,262	
Debt Service	(7,221,199)	0		0	0	
Total Other Revenue (Expenses)	<u>236,973</u>	<u>1,971,568</u>		<u>1,006,945</u>	<u>(964,623)</u>	
Increase (Decrease) in Net Assets	<u>14,984,540</u>	<u>3,098,100</u>		<u>2,805,861</u>	<u>(292,239)</u>	

**City of Westminster
Financial Report
For Three Months Ending March 31, 2013**

Description	Budget	Pro-rated for Seasonal Flows	Notes	Actual	(Under) Over Budget	% Budget
Water Fund						
Operating Revenues						
License & Permits	75,000	18,750		22,080	3,330	117.8%
Rates and Charges	32,100,766	4,160,578		4,297,640	137,062	103.3%
Miscellaneous	425,000	106,250		134,165	27,915	126.3%
Total Operating Revenues	<u>32,600,766</u>	<u>4,285,578</u>		<u>4,453,885</u>	<u>168,307</u>	103.9%
Operating Expenses						
Central Charges	4,253,473	1,063,368		1,025,416	(37,952)	96.4%
Finance	646,064	155,055		139,460	(15,595)	89.9%
Public Works & Utilities	14,419,655	2,741,509		2,295,739	(445,770)	83.7%
PR&L Standley Lake	152,415	9,694		9,733	39	100.4%
Information Technology	2,868,928	694,281		607,658	(86,623)	87.5%
Total Operating Expenses	<u>22,340,535</u>	<u>4,663,907</u>		<u>4,078,006</u>	<u>(585,901)</u>	87.4%
Operating Income (Loss)	<u>10,260,231</u>	<u>(378,329)</u>		<u>375,879</u>	<u>754,208</u>	
Other Revenue and Expenses						
Tap Fees	3,500,000	938,500		249,631	(688,869)	26.6%
Interest Income	250,000	62,500		60,098	(2,402)	96.2%
Interfund Transfers	2,097,065	524,266		524,266	0	100.0%
Sale of Assets	0	0		12,262	12,262	
Debt Service	(5,714,756)	0		0	0	
Total Other Revenues (Expenses)	<u>132,309</u>	<u>1,525,266</u>		<u>846,257</u>	<u>(679,009)</u>	
Increase (Decrease) in Net Assets	<u>10,392,540</u>	<u>1,146,937</u>		<u>1,222,136</u>	<u>75,199</u>	

**City of Westminster
Financial Report
For Three Months Ending March 31, 2013**

Description	Budget	Pro-rated for Seasonal Flows	Notes	Actual	(Under) Over Budget	% Budget
Wastewater Fund						
Operating Revenues						
Rates and Charges	13,215,000	3,303,750		3,337,224	33,474	101.0%
Miscellaneous	10,000	2,500		1,425	(1,075)	57.0%
Total Operating Revenues	<u>13,225,000</u>	<u>3,306,250</u>		<u>3,338,649</u>	<u>32,399</u>	101.0%
Operating Expenses						
Central Charges	1,779,199	444,800		444,740	(60)	100.0%
Public Works & Utilities	6,958,465	1,356,589		1,470,872	114,283	108.4%
Total Operating Expenses	<u>8,737,664</u>	<u>1,801,389</u>		<u>1,915,612</u>	<u>114,223</u>	106.3%
Operating Income (Loss)	<u>4,487,336</u>	<u>1,504,861</u>		<u>1,423,037</u>	<u>(81,824)</u>	
Other Revenue and Expenses						
Tap Fees	1,060,000	308,525		26,972	(281,553)	8.7%
Interest Income	115,000	28,750		24,689	(4,061)	85.9%
Interfund Transfers	436,107	109,027		109,027	0	100.0%
Debt Service	(1,506,443)	0		0	0	
Total Other Revenues (Expenses)	<u>104,664</u>	<u>446,302</u>		<u>160,688</u>	<u>(285,614)</u>	
Increase (Decrease) in Net Assets	<u>4,592,000</u>	<u>1,951,163</u>		<u>1,583,725</u>	<u>(367,438)</u>	

**City of Westminster
Financial Report
For Three Months Ending March 31, 2013**

Description	Budget	Pro-rated for Seasonal Flows	Notes	Actual	(Under) Over Budget	% Budget
Storm Drainage Fund						
Revenues						
Charges for Services	2,082,000	520,500		503,181	(17,319)	96.7%
Interest Income	50,000	12,500		10,793	(1,707)	86.3%
Miscellaneous	0	0		14	14	
Total Revenues	<u>2,132,000</u>	<u>533,000</u>		<u>513,988</u>	<u>(19,012)</u>	96.4%
Expenses						
General Services	86,200	9,223		5,483	(3,740)	59.4%
Community Development	174,090	41,085		38,946	(2,139)	94.8%
PR&L Park Services	200,000	17,600		6,700	(10,900)	38.1%
Public Works & Utilities	322,710	20,331		15,522	(4,809)	76.3%
Total Expenses	<u>783,000</u>	<u>88,239</u>		<u>66,651</u>	<u>(21,588)</u>	75.5%
Increase (Decrease) in Net Assets	<u>1,349,000</u>	<u>444,761</u>		<u>447,337</u>	<u>2,576</u>	

**City of Westminster
Financial Report
For Three Months Ending March 31, 2013**

Description	Budget	Pro-rated for Seasonal Flows	Notes	Actual	(Under) Over Budget	% Budget
Golf Course Funds - Combined						
Operating Revenues						
Charges for Services	2,967,608	281,135		305,099	23,964	108.5%
Interest Income	0	0		895	895	
Interfund Transfers	582,143	145,536		145,536	0	100.0%
Total Revenues	<u>3,549,751</u>	<u>426,671</u>		<u>451,530</u>	<u>24,859</u>	<u>105.8%</u>
Operating Expenses						
Central Charges	217,435	55,372		44,133	(11,239)	79.7%
Recreation Facilities	3,816,599	568,721		600,483	31,762	105.6%
Total Expenses	<u>4,034,034</u>	<u>624,093</u>		<u>644,616</u>	<u>20,523</u>	<u>103.3%</u>
Operating Income (Loss)	(484,283)	(197,422)		(193,086)	4,336	97.8%
Other Revenues and Expenses						
Other Financing Sources	484,283	0		0	0	
Increase (Decrease) in Net Assets	<u>0</u>	<u>(197,422)</u>		<u>(193,086)</u>	<u>4,336</u>	<u>97.8%</u>

**City of Westminster
Financial Report
For Three Months Ending March 31, 2013**

Description	Budget	Pro-rated for Seasonal Flows	Notes	Actual	(Under) Over Budget	% Budget
Legacy Ridge Fund						
Operating Revenues						
Charges for Services	1,582,258	143,985		151,282	7,297	105.1%
Interest Income	0	0		895	895	
Interfund Transfers	10,372	2,593		2,593	0	100.0%
Total Revenues	<u>1,592,630</u>	<u>146,578</u>		<u>154,770</u>	<u>8,192</u>	<u>105.6%</u>
Operating Expenses						
Central Charges	113,659	29,324		21,278	(8,046)	72.6%
Recreation Facilities	1,721,113	249,946		295,894	45,948	118.4%
Total Expenses	<u>1,834,772</u>	<u>279,270</u>		<u>317,172</u>	<u>37,902</u>	<u>113.6%</u>
Operating Income (Loss)	(242,142)	(132,692)		(162,402)	(29,710)	122.4%
Other Revenue/Expense						
Other Financing Sources	242,142	0		0	0	
Increase (Decrease) in Net Assets	<u>0</u>	<u>(132,692)</u>		<u>(162,402)</u>	<u>(29,710)</u>	

**City of Westminster
Financial Report
For Three Months Ending March 31, 2013**

Description	Budget	Pro-rated for Seasonal Flows	Notes	Actual	(Under) Over Budget	% Budget
Heritage at Westmoor Fund						
Operating Revenues						
Charges for Services	1,385,350	137,150		153,817	16,667	112.2%
Interfund Transfers	571,771	142,943		142,943	0	100.0%
Total Revenues	<u>1,957,121</u>	<u>280,093</u>		<u>296,760</u>	<u>16,667</u>	<u>106.0%</u>
Operating Expenses						
Central Charges	103,776	26,048		22,855	(3,193)	87.7%
Recreation Facilities	2,095,486	318,775		304,589	(14,186)	95.5%
Total Expenses	<u>2,199,262</u>	<u>344,823</u>		<u>327,444</u>	<u>(17,379)</u>	<u>95.0%</u>
Operating Income	(242,141)	(64,730)		(30,684)	34,046	47.4%
Other Revenues and Expenses						
Other Financing Sources	242,141	0		0	0	
Increase (Decrease) in Net Assets	<u>0</u>	<u>(64,730)</u>		<u>(30,684)</u>	<u>34,046</u>	

CITY OF WESTMINSTER
GENERAL RECEIPTS BY CENTER
MONTH OF MARCH 2013

Center Location Major Tenant	Current Month			Last Year			%Change		
	General Sales	General Use	Total	General Sales	General Use	Total	Sales	Use	Total
THE ORCHARD 144TH & I-25 JC PENNEY/MACY'S	321,100	9,030	330,131	334,286	13,361	347,647	-4	-32	-5
WESTFIELD SHOPPING CENTER NW CORNER 92ND & SHER WALMART 92ND	311,865	1,068	312,933	337,831	7,360	345,191	-8	-85	-9
BROOKHILL I & II N SIDE 88TH OTIS TO WADS HOME DEPOT	280,888	1,376	282,264	154,258	5,065	159,323	82	-73	77
NORTHWEST PLAZA SW CORNER 92 & HARLAN COSTCO	214,156	1,170	215,326	197,049	627	197,675	9	87	9
SHOPS AT WALNUT CREEK 104TH & REED TARGET	207,404	6,634	214,039	211,904	3,265	215,168	-2	103	-1
SHOENBERG CENTER SW CORNER 72ND & SHERIDAN WALMART 72ND	153,331	580	153,911	188,845	344	189,189	-19	69	-19
INTERCHANGE BUSINESS CENTER SW CORNER 136TH & I-25 WALMART 136TH	144,990	945	145,935	150,100	582	150,682	-3	62	-3
SHERIDAN CROSSING SE CORNER 120TH & SHER KOHL'S	138,337	550	138,887	143,934	5,768	149,702	-4	-90	-7
PROMENADE SOUTH/NORTH S/N SIDES OF CHURCH RANCH BLVD SHANE/AMC	117,827	10,114	127,941	126,321	14,724	141,045	-7	-31	-9
NORTH PARK PLAZA SW CORNER 104TH & FEDERAL KING SOOPERS	114,093	1,414	115,506	110,594	623	111,217	3	127	4
CITY CENTER MARKETPLACE NE CORNER 92ND & SHERIDAN BARNES & NOBLE	97,337	5,645	102,983	109,893	637	110,529	-11	787	-7
STANDLEY SHORES CENTER SW CORNER 100TH & WADS KING SOOPERS	77,241	347	77,588	74,805	294	75,099	3	18	3
ROCKY MOUNTAIN PLAZA SW CORNER 88TH & SHER GUITAR STORE	56,489	245	56,734	58,642	102	58,745	-4	139	-3
WESTMINSTER PLAZA FEDERAL-IRVING 72ND-74TH SAFEWAY	54,885	506	55,391	57,838	3,492	61,330	-5	-86	-10
VILLAGE AT THE MALL S SIDE 88TH DEPEW-HARLAN TOYS 'R US	52,793	100	52,892	51,565	471	52,036	2	-79	2

CITY OF WESTMINSTER
GENERAL RECEIPTS BY CENTER
MONTH OF MARCH 2013

Center Location Major Tenant	Current Month			Last Year			%Change		
	General Sales	General Use	Total	General Sales	General Use	Total	Sales	Use	Total
VILLAGE AT PARK CENTRE NW CORNER 120TH & HURON CB & POTTS	45,780	3,894	49,674	40,422	220	40,642	13	1669	22
LUCENT/KAISER CORRIDOR 112-120 HURON - FEDERAL LUCENT TECHNOLOGY	11,468	32,500	43,968	21,635	34,513	56,148	-47	-6	-22
WESTMINSTER CROSSING 136TH & I-25 LOWE'S	42,930	669	43,598	40,763	343	41,105	5	95	6
STANDLEY LAKE MARKETPLACE NE CORNER 99TH & WADSWORTH SAFEWAY	42,906	103	43,009	42,933	138	43,071	0	-25	0
WILLOW RUN 128TH & ZUNI SAFEWAY	24,864	231	25,095	32,108	168	32,276	-23	37	-22
NORTHVIEW 92ND AVE YATES TO SHERIDAN SALTGRASS	24,612	156	24,769	24,088	116	24,205	2	34	2
MEADOW POINTE NE CRN 92ND & OLD WADS CARRABAS	23,358	11	23,369	22,253	40	22,293	5	-73	5
STANDLEY PLAZA SW CORNER 88TH & WADS WALGREENS	22,791	118	22,909	23,939	3,277	27,216	-5	-96	-16
MISSION COMMONS W SIDE WADSWORTH 88-90TH BIG 5 SPORTS	22,578	292	22,870	20,214	29	20,243	12	904	13
BROOKHILL IV E SIDE WADS 90TH-92ND MURDOCH'S	21,232	193	21,425	20,093	42	20,135	6	363	6
	2,625,254	77,890	2,703,145	2,596,313	95,599	2,691,912	1	-19	0

CITY OF WESTMINSTER
GENERAL RECEIPTS BY CENTER
MARCH 2013 YEAR-TO-DATE

Center Location Major Tenant	YTD 2013			YTD 2012			%Change		
	General Sales	General Use	Total	General Sales	General Use	Total	Sales	Use	Total
THE ORCHARD 144TH & I-25 JC PENNEY/MACY'S	1,387,052	46,131	1,433,183	1,240,728	52,358	1,293,087	12	-12	11
WESTFIELD SHOPPING CENTER NW CORNER 92ND & SHER WALMART 92ND	1,087,180	3,600	1,090,781	1,128,423	9,652	1,138,075	-4	-63	-4
SHOPS AT WALNUT CREEK 104TH & REED TARGET	803,680	10,471	814,152	718,749	5,676	724,425	12	84	12
NORTHWEST PLAZA SW CORNER 92 & HARLAN COSTCO	688,129	2,371	690,500	647,120	1,454	648,574	6	63	6
BROOKHILL I & II N SIDE 88TH OTIS TO WADS HOME DEPOT	609,342	5,444	614,786	538,102	7,373	545,475	13	-26	13
SHOENBERG CENTER SW CORNER 72ND & SHERIDAN WALMART 72ND	559,061	3,759	562,820	602,062	1,647	603,709	-7	128	-7
SHERIDAN CROSSING SE CORNER 120TH & SHER KOHL'S	542,479	3,201	545,680	502,917	8,767	511,684	8	-63	7
INTERCHANGE BUSINESS CENTER SW CORNER 136TH & I-25 WALMART 136TH	509,395	1,828	511,223	499,988	1,706	501,694	2	7	2
NORTH PARK PLAZA SW CORNER 104TH & FEDERAL KING SOOPERS	463,203	3,325	466,528	415,918	3,002	418,919	11	11	11
PROMENADE SOUTH/NORTH S/N SIDES OF CHURCH RANCH BLVD SHANE/AMC	433,935	47,683	481,618	399,303	46,722	446,025	9	2	8
CITY CENTER MARKETPLACE NE CORNER 92ND & SHERIDAN BARNES & NOBLE	373,919	11,194	385,113	384,872	3,052	387,923	-3	267	-1
STANDLEY SHORES CENTER SW CORNER 100TH & WADS KING SOOPERS	305,098	909	306,007	279,176	1,097	280,272	9	-17	9
VILLAGE AT THE MALL S SIDE 88TH DEPEW-HARLAN TOYS 'R US	224,940	702	225,641	231,089	3,805	234,894	-3	-82	-4
ROCKY MOUNTAIN PLAZA SW CORNER 88TH & SHER GUITAR STORE	186,721	662	187,383	184,073	501	184,573	1	32	2
WESTMINSTER PLAZA FEDERAL-IRVING 72ND-74TH SAFEWAY	162,971	1,935	164,906	162,106	5,056	167,162	1	-62	-1

CITY OF WESTMINSTER
GENERAL RECEIPTS BY CENTER
MARCH 2013 YEAR-TO-DATE

Center Location Major Tenant	YTD 2013			YTD 2012			%Change		
	General Sales	General Use	Total	General Sales	General Use	Total	Sales	Use	Total
WESTMINSTER CROSSING 136TH & I-25 LOWE'S	143,784	866	144,650	143,035	3,109	146,143	1	-72	-1
VILLAGE AT PARK CENTRE NW CORNER 120TH & HURON CB & POTTS	140,720	6,236	146,955	124,018	1,478	125,496	13	322	17
WESTMINSTER MALL 88TH & SHERIDAN JC PENNEY	134,886	2,241	137,127	255,346	8,044	263,390	-47	-72	-48
STANDLEY LAKE MARKETPLACE NE CORNER 99TH & WADSWORTH SAFEWAY	133,997	584	134,582	133,847	445	134,292	0	31	0
WILLOW RUN 128TH & ZUNI SAFEWAY	89,123	573	89,696	98,939	1,501	100,440	-10	-62	-11
BROOKHILL IV E SIDE WADS 90TH-92ND MURDOCH'S	77,795	4,109	81,904	81,124	362	81,486	-4	1035	1
STANDLEY PLAZA SW CORNER 88TH & WADS WALGREENS	75,063	1,233	76,296	71,266	6,004	77,271	5	-79	-1
ELWAY/DOUGLAS CORRIDOR NE CORNER 104TH & FED ELWAY MOTORS	73,249	1,998	75,247	73,695	2,087	75,782	-1	-4	-1
MEADOW POINTE NE CRN 92ND & OLD WADS CARRABAS	71,640	73	71,713	73,495	161	73,656	-3	-55	-3
NORTHVIEW 92ND AVE YATES TO SHERIDAN SALTGRASS	70,732	1,560	72,292	67,853	2,119	69,972	4	-26	3
	9,348,093	162,688	9,510,781	9,057,243	177,177	9,234,420	3	-8	3



Agenda Item 8 B

Agenda Memorandum

City Council Meeting
April 22, 2013

SUBJECT: Change Date of Second City Council Meeting in May

Prepared By: Linda Yeager, City Clerk

Recommended City Council Action

Change the date of the second regularly scheduled City Council meeting in May from May 27 to May 20.

Summary Statement

- This year, Memorial Day falls on the fourth Monday in May, the same date that City Council's second regular monthly meeting is scheduled. As City Hall will be closed in observance of Memorial Day on May 27, Staff recommends the meeting normally held on the fourth Monday be rescheduled to May 20, 2013, the third Monday of the month.
- If approved, City Council will conduct a study session on May 6 and regular meetings on May 13 and 20, 2013.

Expenditure Required: \$0

Source of Funds: N/A

SUBJECT: Date Change for Second City Council Meeting in May

Page 2

Policy Issue

None identified

Alternative

Council could decide to move the meeting date to an alternate day of the week.

Background Information

Occasionally, conflicts arise with dates of regularly scheduled Council meetings and the dates of holidays, important civic events, and/or conferences that the City Council traditionally attends, and the Council's schedule of meetings is changed to accommodate the occurrence. This year the second regularly scheduled meeting in May falls on Memorial Day and City Hall will be closed in observance of the national holiday. To comply with Section 7.1 of the City Charter, which requires that Council hold at least two regular meetings monthly and to avoid any conflict with the observance of Memorial Day, Staff suggests that the May 27 meeting be rescheduled and held on May 20.

The public is aware that regular Council meetings and study sessions are held on Mondays, thus it makes sense to reschedule meetings to a different Monday of the month when conflicts arise.

Respectfully submitted,

J. Brent McFall
City Manager



Agenda Memorandum

City Council Meeting
April 22, 2013



SUBJECT: Quarterly Insurance Claims Report – January through March 2013

Prepared By: Martee Erichson, Risk Manager

Recommended City Council Action

Accept the First Quarter 2013 Insurance Claims Report.

Summary Statement

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

Expenditure Required: \$0

Source of Funds: N/A

Policy Issue

None identified

Alternative

None identified

Background Information

Information on the status of each claim received during the 1st quarter of 2013 is provided on the attached spreadsheet. All Incident Report forms are signed and reviewed by appropriate supervisors, Safety Committee representatives and department heads. Follow-up action, including discipline if necessary, is taken on incidents where City employees are at fault.

For the first quarter of 2013, Staff has noted the following summary information:

- Three of the six claims reported in the first quarter of 2013 are closed at this time.
- Total claims for the quarter and year-to-date are broken down by department as follows:

	1st Qtr 2013			YTD
Department	Total Claims	Open	Closed	Total
General Services (GS) - Building Operations & Maintenance	1	1	0	1
Police (PD)	3	1	2	3
Public Works and Utilities (PWU) - Street Maintenance	1	1	0	1
Public Works and Utilities (PWU) - Utilities Planning & Engineering	1	0	1	1
TOTAL	6	3	3	6

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

Respectfully submitted,

J. Brent McFall
City Manager

Attachment – Quarterly Insurance Report

**Quarterly Insurance Report
January - March 2013**

Claim Number	Loss Date	Dept.	Claimant	Address	Claim Description	Payment	Status	Notes
2013-005	1/8/2013	PWU - Util Planning	Pat Sherwood	7320 Orchard Ct., Westminster CO 80030	Claimant suffered damages due to a sewer backup. It was later discovered her private sewer line had not been reconnected to the City's main line after a new main was installed.	\$ -	Closed	Claim denied based on the fact the investigation found no evidence of negligence on the part of the City. Claimant was referred to contractor who installed the main.
2013-011	1/22/2013	GS - BOM	Amos Medina	221 Drake St., Denver CO 80221	Employee driving a City vehicle rear ended a claimant's vehicle.	\$ 125.54	Open	CIRSA investigating
2013-061	3/3/2013	PD	Cindy Edgley(driver) Dorothy McCarter(owner)	6375 Brooks Dr., Arvada CO 80004	Claimant alleges damage to her vehicle when she hit a damaged light pole that was sticking out in the street.	\$ -	Closed	Claim denied based on Colorado Governmental Immunity Act and investigation found no evidence of negligence on the part of the City.
2013-068	3/7/2013	PD	Erik Sober	11598 Chase Way, Westminster CO 80020	Claimant's front door was kicked in by a police officer attempting to evacuate people due to a fire in a neighbor's home.	\$ -	Closed	Claimant fixed the door himself for \$12 and chose not to pursue his claim against the City.
2013-086	3/22/2013	PWU - Streets	Townhome at the Ranch HOA, c/o Rich Vincent, 4 Seasons Management Group	9351 Grant St #110, Thornton CO 80229	HOA is claiming damages to a fence caused by snow plow operations.	\$ -	Open	CIRSA investigating
CLAIMS SUBMITTED RECENTLY WITH OCCURRENCE DATE PRIOR TO 1ST QUARTER 2013:								
2012-393	12/1/2012	PD	John Vidmar	6992 W 39th Ave., Wheat Ridge CO 80033	Police Officer received a Prisoner Complaint and Prisoner's Motion and Affidavit for Leave to Proceed filed with the U.S. District Court alleging use of excessive force.	\$ -	Open	CIRSA investigating
TOTAL						\$ 125.54		



Agenda Item 8 D

Agenda Memorandum

City Council Meeting
April 22, 2013



SUBJECT: 2013 Library Materials Purchases Over \$50,000

Prepared By: Kate Skarbek, Library Services Manager

Recommended City Council Action

Based on the recommendation of the City Manager, determine that the public interest will be best served by awarding contracts to Baker and Taylor not to exceed \$260,500; Gale Cengage not to exceed \$60,000; and Midwest Tapes not to exceed \$60,000; for a grand total not to exceed \$380,500 for the purchase of library books and electronic resources.

Summary Statement

- The Westminster Municipal Code requires all purchases over \$50,000 be authorized by City Council. Staff has taken a conservative approach in interpreting this requirement to include transactions where the cumulative total purchases of similar commodities or services from one vendor in a calendar year exceed \$50,000.
- As with past practices, these are negotiated contracts with Baker & Taylor, Gale Cengage, and Midwest Tapes; formal bidding was not used. However, these contracts are consistent with the City's book and electronic media purchases over several years, and Staff will continue to compare prices with other vendors and where lower prices can be obtained, another vendor will be used. In most instances, however, Baker and Taylor, Gale Cengage and Midwest Tapes have consistently offered the lowest prices on the items ordered when compared to other suppliers.
- Adequate funds were previously appropriated in the 2013 Budget and are available in the General Fund for these purchases.

Expenditure Required: \$380,500

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

Policy Issue

Should City Council waive formal bidding requirements and approve the purchase of library materials and electronic resources that total over \$50,000 from three vendors in 2013?

Alternative

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

Background Information

In 2012, library materials purchased from Baker and Taylor (B&T) totaled \$138,865 or 48.6% of the library materials budget expenditures. Baker and Taylor consistently provides the City with good customer service and low prices. Their procedures coordinate well with the City's procedures, so using them improves Staff efficiency. The discounts that B&T offers the City are very competitive pricewise. In instances where Staff receives a better discount from a different vendor, materials are ordered from the other vendor. The City receives the majority of its standing orders from B&T because they are the most competitive. In addition, B&T maintains an interactive website that Staff can use to manage the City's library orders.

Toward the end of 2012, Baker and Taylor bought out another vendor staff regularly order from, Book Wholesale Inc. (BWI). Based on this, orders from Baker and Taylor can be expected to increase in 2013.

In 2012, the Westminster Public Library purchased \$33,501.02 of materials from Gale Cengage including databases from the electronic resources budget and print materials from the library materials budget. If Gale Cengage continues to make ebooks from extremely popular publishers like Dorling-Kindersey (DK) Publishing available, purchases for 2013 may exceed \$50,000. For these databases and titles, Gale Cengage is a single source vendor. The library does subscribe to other database vendors including Ebsco as well.

Each year the Library compares pricing and services among the large library vendors of B&T, Ingram, Amazon.com and Midwest Tapes and others. Service considerations are the ease of online ordering, technological coordination with our database and shipment practices that include invoicing and turn-around time. Pricing considerations are noted for overall discount prices. B&T continues to offer the most competitive services, in terms of format and discounts, which can be up to 45%.

Unlike Baker & Taylor, Midwest Tape specializes in selling only audiovisual materials and supplies to public libraries. Consequently, they excel in this area, offering lower prices and good service on audiovisual material. Midwest therefore receives the bulk of Westminster library's audiovisual orders. Midwest provides electronic records to include in the online catalog as well as a single-disc replacement service should only one disc in a multivolume set become inoperable. Midwest also does not charge shipping costs so the item costs are kept to a bare minimum. Staff has found Midwest's services to be timely, accurate, and efficient. In 2012, Westminster purchases from Midwest totaled \$39,934.48. Given how close this amount is to the \$50,000 threshold, Staff is requesting Council's approval to possibly exceed \$50,000 in purchases with Midwest Tapes in 2013 should patron demand require increasing the library's DVD, music CD, and audiobook collections at a higher rate than in the past.

Other vendors regularly used throughout 2012 included:

Print: ABDO Publishing, Alibris, Amazon, Brodart, BWI (bought by B&T), Davidson Titles, Gale Cengage, Ingrams, Permabound, Scholastic Library Publishing, World Book, plus many other infrequently used vendors for special publications.

Audio/Visual: Alliance Entertainment, Amazon, Brilliance Audio, Findaway, MicroMarketing, Recorded Books, Random House, plus many others for special purchases.

Electronic Materials: Abdo, Ancestry.com, BYKI/Transparent Language, Ebsco, Gale Cengage, OverDrive, World Book, plus several others.

None of these vendors are anticipated to exceed \$50,000 in expenses.

These purchase requests support the City's Strategic Plan Goal of "Financially Sustainable City Government Providing Exceptional Services."

Respectfully submitted,

J. Brent McFall
City Manager



Agenda Memorandum

City Council Meeting
April 22, 2013



SUBJECT: Short-Term Leases of Water Rights to Irrigators

Prepared By: Josh Nims, Water Resources Engineering Coordinator

Recommended City Council Action

Authorize the City Manager to enter into 2013 irrigation season leases to agricultural users of certain water rights in a total amount not to exceed 500 acre-feet.

Summary Statement

- During the last several years, the City has purchased a number of agricultural water rights for future growth that are not currently needed for City water supply.
- These water rights will be changed from agricultural use to municipal use through the water court process and then incorporated into the City's supply concurrent with increase of the City's demands.
- In the interim, leasing these unchanged rights to irrigators assures that the water rights are beneficially used, which helps maximize the future yield of the water rights in change proceedings.
- Leasing these unchanged water rights will have no impact on the City's available water supply for this summer.
- Staff is accordingly requesting authorization to lease the City's unchanged water rights to irrigators for the 2013 irrigation season.
- Such leases will be subject to the provisions of the City Charter. The City will benefit financially from reimbursement for the leased water.

Expenditure Required: \$0

Source of Funds: N/A

Policy Issue

Should the City lease unchanged water rights (ditch company shares and contract rights) for reimbursement of the assessments paid, plus \$5 per share?

Alternative

City Council could decline to lease the City's unchanged water rights this year. This alternative is not recommended. By leasing these rights in 2013, the City will maintain beneficial use of the unchanged water rights until they can be changed in water court for municipal use.

Background Information

The City purchases agricultural water rights, in advance of actual need for the water, for incorporation into the City's municipal water supply system. To incorporate these rights into the City's system for municipal use, the City must go through a water court case to change the decreed use of the water rights to municipal purposes. Until such time as the rights have been changed, they may only be used for agricultural irrigation. Continued use for the purpose legally decreed maintains the "historical use" of the water rights, which determines the future yield of the water rights in a change case. It is therefore in the City's best interest to lease all as-of-yet unchanged rights to agricultural irrigators. The unchanged rights will be changed to municipal uses through the water court process as the water demand of the City grows toward build-out.

The City has recently purchased several agricultural water rights that have yet to be changed. Some of these rights are subject to long-term leaseback agreements with the sellers, previously approved by Council, as a mutual benefit to the former shareholders and to the City. However, several more recently purchased rights are not currently under lease agreements. These consist of Church Ditch Water Authority inches, Farmers' High Line Canal and Reservoir Company, Farmers Reservoir and Irrigation Company, Fulton Irrigation Ditch Company and Manhart Ditch Company shares. Staff wishes to lease all of these remaining unchanged water rights for the 2013 irrigation season.

Short-term leases of these unchanged water rights will be subject to the following conditions:

- The term will be for the 2013 irrigation season.
- The lease rates on unchanged rights will equal the assessments payable on the rights, plus \$5 per "inch" or share to cover the costs of operation and to reimburse the utility an additional amount.
- The City will be able to limit deliveries to prevent a water shortage within the City, as per City Charter Section 14.3.
- The total volume leased will not exceed 500 acre-feet.

Although water supply conditions have been below average, the City's water storage in Standley Lake is within average ranges; and due to the seniority of the City's water rights on Clear Creek, even a moderately dry year can be sufficient to fill the City's account in Standley Lake. Because other Front Range area water suppliers hold different water rights portfolios and storage facilities and are subject to different water demands from the City, other cities may face a different water supply outlook for this year. Experience has shown that for the City the difference between a very wet and a very dry year may come down to just a few major storms. Therefore, Staff continues to monitor the weather forecasts, snowpack and streamflow conditions closely in order to manage its raw water operations efficiently through the year.

SUBJECT: Short-Term Leases of Water Rights to Irrigators

Page 3

Water leasing programs are created and offered to support Council's goal of a Financially Sustainable City Government Providing Exceptional Services by securing and developing a long-term water supply.

Respectfully submitted,

J. Brent McFall
City Manager



Agenda Memorandum

City Council Meeting
April 22, 2013



SUBJECT: 5-Year Water Lease Agreement with Hyland Hills

Prepared By: Josh Nims, Water Resources Engineering Coordinator

Recommended City Council Action

Authorize the City Manager to enter into a 5-year water lease for Hyland Hills Park and Recreation District in a total annual amount not to exceed 200 acre-feet per year.

Summary Statement

- The City of Westminster and Hyland Hills Park and Recreation District have a long-standing working relationship that enhances the recreation opportunities for their respective residents.
- One specific item on which the City and Hyland Hills have cooperated in the past is water delivery to The Greg Mastriona Golf Courses at Hyland Hills.
- Under the terms of the proposed lease agreement, the City would deliver up to 200 acre-feet of water per year through 2017 to Hyland Hills for irrigation of their golf courses.
- This lease of water is predicated on Westminster’s current excess capacity in its supply as the City has not yet grown into its full buildout demand.
- The term of the proposed lease is for the 2013 irrigation season and would be automatically extended on an annual basis thereafter until December 31, 2017.
- Water would be delivered to The Greg Mastriona Golf Courses at Hyland Hills via the Farmers’ High Line Canal.
- The lease rate for 2013 is \$540 per acre-foot, which is the raw water rate charged to the City’s parks. In subsequent years, the lease rate will increase by the same percentage that in-City irrigation rates increase.
- The Hyland Hills Board of Directors approved the water lease agreement at their March 19, 2013 meeting.
- This lease will be subject to the provisions of the City Charter. The City will benefit financially from reimbursement for the leased water.
- During the term of the lease, the City and Hyland Hills agree to negotiate in good faith to attempt to reach a mutually agreeable and beneficial perpetual water supply agreement.

Expenditure Required: \$0

Source of Funds: N/A

Policy Issue

Should the City lease up to 200 acre-feet of water to Hyland Hills in 2013 for \$540 per acre-foot and for subsequent years until December 31, 2017 at the then current in-City irrigation rate?

Alternative

City Council could decline to lease water to Hyland Hills. This alternative is not recommended. By leasing this water, the City will help Hyland Hills maintain their golf courses through a dry summer, foster the City's relationship with Hyland Hills and provide a desirable recreation opportunity for our citizens.

Background Information

The City of Westminster and Hyland Hills Park and Recreation District have a history of working together to create and maintain premier recreation facilities for their respective citizens. This partnership has included intergovernmental agreements, cost-sharing for facilities and—to the extent practical—water delivery arrangements. The City values this partnership and the benefits that the residents receive by being given access to Hyland Hills' facilities.

Due to below average water supply conditions, Hyland Hills has requested a 5-year water lease agreement with the City for irrigation of The Greg Mastriona Golf Courses at Hyland Hills. With a desire to work with Hyland Hills for the benefit of both parties' residents, Staff confirmed the ability of the City to lease up to 200 acre-feet of water during this 5-year lease.

This 5-year water lease will be subject to the following conditions:

- The term will be for the 2013 irrigation season and will be automatically extended on an annual basis thereafter until December 31, 2017.
- The lease rate for the 2013 irrigation season will be \$540 per acre-foot to cover the costs of operation. If this lease is automatically renewed, the lease rate in subsequent years will increase by the same percentage that in-City irrigation rates increase.
- The water will be delivered to Hyland Hills by the Farmers' High Line Canal.
- The City will be able to limit deliveries to prevent a water shortage within the City, as per City Charter Section 14.3.
- The total volume leased will not exceed 200 acre-feet per year.

Although water supply conditions have been below average this past winter and spring, the City's water storage in Standley Lake is within typical ranges for this time of year. Due to the seniority of Westminster's water rights on Clear Creek, the City continues to receive water even during a below-average runoff; and the City has excess water available for future growth. In addition, during the term of the lease, the City and Hyland Hills agree to negotiate in good faith to attempt to reach a mutually agreeable and beneficial perpetual water supply agreement. For these reasons, the City is able to lease water to Hyland Hills. The agreement is automatically renewed until 2017, unless previously terminated by either party upon 30 days written notice. At the March 19, 2013 Hyland Hills Board of Directors meeting, the Board approved the water lease agreement and it has been signed by their Executive Director.

SUBJECT: 5-Year Water Lease Agreement with Hyland Hills

Page 3

Water leasing programs are created and offered to support Council's goal of a "Financially Sustainable City Government Providing Exceptional Services" by securing and developing a long-term water supply. This particular lease also supports Council's goals of a "Beautiful and Environmentally Sensitive City" by maintaining greenspace and by supporting community events.

Respectfully submitted,

J. Brent McFall
City Manager

Attachment - Hyland Hills Water Lease Agreement

COPY

Water Lease Agreement

This Water Lease Agreement (“Water Lease Agreement”) is entered into this 19th day of March, 2013 by and between the City of Westminster, a Colorado Home Rule Municipality (“Westminster”) and Hyland Hills Park and Recreation District, (“Lessee”), an irrigator of lands under the Farmers’ High Line Canal, whose address is 8801 N. Pecos St., Federal Heights, Colorado 80260. Westminster and Lessee are also hereinafter referred to as the “parties” or separately as a “party”.

1. Recitals.

1.1 Westminster owns and operates a municipal water supply system and owns various waters that are or will be diverted and stored in conjunction with that system. Westminster has determined that some of its water rights are in excess of its current needs and hence desires to lease certain water delivered via the Farmers’ High Line Canal to Lessee for irrigation on Lessee’s lands on the terms and conditions expressed herein.

1.2 Lessee owns and operates The Greg Mastriona Golf Courses at Hyland Hills, located at 9650 Sheridan Avenue, Westminster, Colorado. Lessee desires to lease from Westminster certain water delivered via the Farmers’ High Line Canal for irrigation of The Greg Mastriona Golf Courses at Hyland Hills during the irrigation season pursuant to the terms and conditions set forth herein.

1.3 Pursuant to Section 14.3 of the Westminster City Charter, the City is authorized to lease water subject to subsections (a) and (b) of said Section 14.3. In the judgment of the City, the terms of this Water Lease, and the payments generated thereby, satisfy the requirements of Section 14.3 (a) and (b) of the Westminster City Charter.

2. Water Lease. Westminster hereby leases to Lessee certain of Westminster’s water subject to the following terms and conditions:

2.1 Term of Lease. The term of this Water Lease Agreement shall be from the date of mutual execution until December 31, 2013. This Water Lease Agreement will be automatically extended on an annual basis thereafter until December 31, 2017, unless previously terminated by either party upon 30 days written notice. Notwithstanding the automatic extensions contemplated above, this Water Lease Agreement will expire by its own terms on December 31, 2017. Water deliveries under this Water Lease Agreement shall only be made during the April 1st through October 31st time period of each year, and only during those times when one or both of the following

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31st time period of each year, and only during those times when one or both of the following conditions exist: a) the Farmers' High Line Canal is delivering water to shareholders, as determined by the Farmers' High Line Canal and Reservoir Company, b) Westminster's Reclaimed Water Facility is in production.

2.2 Amount of Water Leased. Westminster agrees to make available up to a total of 200 acre feet annually for Lessee during the term of this Water Lease Agreement.

2.3 Delivery. The leased water shall be made available by Westminster in the Farmers' High Line Canal at or above its crossing of City Center Drive ("point of delivery"). Lessee shall take possession of the leased water at the point of delivery.

Subject to the overall annual delivery limit of 200 acre feet, Lessee will provide notice to Westminster of the desired amount of water for delivery in the coming month at least three (3) days before the beginning of deliveries for that month. The Lessee and Westminster will work together in good faith to coordinate mutually agreeable monthly delivery amounts consistent with an overall annual delivery of up to 200 acre feet. Best efforts will be used by both parties to maintain a constant flow rate for deliveries during the month and the maximum flow rate of deliveries shall not exceed 1.0 cfs, unless mutually agreed by both parties. Notwithstanding the notice provision set forth above, the parties may mutually agree to revisions to the monthly delivery schedule and rate of flow.

2.4 Source and Quality of Water. The parties acknowledge that the water delivered pursuant to this Water Lease Agreement will be from any source owned by Westminster and legally available to it. Westminster makes no representation or warranty as to the quality of the water leased hereunder.

2.5 Use of Water. Lessee's use of this water shall be solely for irrigation of the Greg Mastriona Golf Courses at Hyland Hills.

2.6 Lease Payment. Lessee shall pay to Westminster for the delivered water the rate charged to in-City irrigation accounts. In 2013, this rate is five hundred forty dollars (\$540.00) per acre foot. If this lease is automatically renewed as provided for in paragraph 2.1, above, the lease rate in subsequent years will increase by the same percentage that in-City irrigation rates increase. In consideration for the water delivered hereunder, Lessee agrees to pay the total for any year's leased water on or before October 31 of that year. Any late payment shall accrue interest at the rate of ten percent (10%) per annum, simple interest. Payment shall be by cash, cashier's check or check, made out to the City of Westminster, and hand-delivered or mailed to:

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City of Westminster
Department of Public Works & Utilities
Att'n: Paula Johnson
4800 West 92nd Avenue
Westminster, Colorado 80031

In the event the Lease payments are not received by November 30 of the year in which the water was delivered, Westminster shall be entitled to recover its costs, including attorney's fees, if necessary to recover said Lease payments due.

3. Other.

3.1 In accordance with the requirements of Section 14.3 (a) of the Westminster City Charter, Westminster's obligations to deliver water under this Water Lease Agreement may be curtailed in order to prevent a shortage of water to the users of domestic water within the City limits. If, in Westminster's sole discretion, Westminster adopts mandatory citywide water use restrictions as a result of drought conditions, dam failure, or any other catastrophic circumstance limiting Westminster's ability to satisfy the domestic water supply needs of its citizens, Westminster may curtail daily deliveries to Lessee under this lease by an amount consistent with said mandatory citywide water use restrictions. Once any such mandatory citywide water use restrictions expire or are otherwise lifted, Westminster shall immediately thereafter resume full daily deliveries under this Water Lease Agreement.

3.2 No party to this Agreement shall be liable or responsible for any delay or failure to perform under this Agreement due to conditions or events of irresistible force. Irresistible force shall mean any delay or failure of a party to perform its obligations under this agreement caused by events beyond that party's reasonable control, including, without limitation, acts of God, terrorism, explosion, floods, vandalism, earthquakes and tornadoes.

3.3 Lessee shall indemnify and hold Westminster harmless from any and all claims, causes of action and damages which directly or indirectly arise or result from: (1) the conveyance, transport or running of the leased water through any ditch, pipeline, or similar conveyance structure and their appurtenances from and including the point of delivery to the place or irrigation on Lessee's lands, and (2) Lessee's application of the leased water on and to Lessee's lands. However, nothing herein shall be construed to limit or waive the rights and immunities granted to either Party in accordance with the Colorado Governmental Immunity Act, C.R.S. § 24-10-101. et. seq.

COPY

3.4 This Agreement and the rights and obligations recited in it shall be binding upon and inure to the benefit of the Lessee and the City and their heirs, successors and assigns. Lessee may not assign its rights or duties recited in this Agreement without the prior written consent of Westminster. Such consent may be withheld at Westminster's sole discretion.

3.5 The water delivered pursuant to this Water Lease Agreement is provided strictly on a lease basis. Lessee shall not have any right of ownership of the water delivered hereunder.

3.6 This Water Lease Agreement represents the entire agreement of the parties hereto and supersedes all prior negotiations, representations, or agreements, either written or oral with respect to the leasing of water contemplated herein.

3.7 This lease may only be amended in writing by the mutual agreement of the undersigned parties, or their successors and assigns.

3.8 All notices required to be given or made under this Water Lease Agreement shall be in writing and sent by United States mail or hand delivery to the following addresses:

To Westminster: City of Westminster
 Director of Public Works and Utilities
 4800 West 92nd Avenue
 Westminster, Colorado 80031
 Facsimile: (303) 706-3927

To Lessee: Hyland Hills Park and Recreation District
 Executive Director
 1800 West 89th Avenue
 Federal Heights, Colorado 80260

All notices will be deemed effective one (1) day after hand delivery, or if mailed, upon receipt. Either party, by written notice, may change the address to which future notices, billings, or payments shall be sent.

For purposes of this Water Lease Agreement, the parties' respective contact persons for coordination of deliveries and daily operations shall be Josh Nims for Westminster and Kreg Renzelman for Lessee, or their respective surrogates.

COPY

3.9 During the term of this Water Lease Agreement, including any automatic renewals, Westminster and Lessee agree to negotiate in good faith in an attempt to reach a mutually agreeable and beneficial perpetual water supply agreement between the Parties, subject to any limitations in the Westminster City Charter.

3.10 Each of the persons executing this lease on behalf of the parties hereto, covenants and warrants that he or she is fully authorized to execute this lease on behalf of the party he or she represents.

3.11 This agreement may be executed in duplicate original counterparts.

LESSEE



ATTEST:

CITY OF WESTMINSTER

City Clerk

J. Brent McFall
City Manager
City of Westminster

APPROVED AS TO LEGAL FORM:

By 
City Attorney's Office



Agenda Memorandum

City Council Meeting
April 22, 2013



SUBJECT: Tandem Axle Tractor and Tandem Dump Trucks with Snow Removal Equipment Purchase

Prepared By: Jeffery Bowman, Fleet Manager

Recommended City Council Action

Award the bid to replace one tandem axle tractor truck in the Utilities Division based on the 2012 - 2013 Colorado Department of Transportation (CDOT) bid award to Transwest Trucks in the amount of \$126,654. Award the bid to replace three tandem axle cab/chassis trucks in the Street and Utilities Divisions based on the 2013 Weld County bid award for three Freightliner 114-SD plow trucks to Transwest Trucks in the amount of \$307,778. In addition, based on the recommendation of the City Manager, find that the public interest would best be served by accepting the sole source proposal in the amount of \$315,874 from O.J. Watson Co., Inc., for the purchase and installation of the City's specifications for outfitting of the tandem axle cab/chassis trucks with a dump body and snow removal equipment.

Summary Statement

- Staff recommends awarding the 2013 Weld County bid award for three Freightliner 114-SD plow trucks to Transwest Trucks in the amount of \$307,778 and in accordance with the bid, Transwest Trucks agrees to deliver and accept payment of \$101,500 for one of the three trucks after January 1, 2014, when budget funds are available.
- Staff recommends awarding the bid for a Freightliner Coronado SD to Transwest Trucks based on 2013 Colorado Department of Transportation (CDOT) bid award in the amount of \$126,654 and in accordance with the bid, Transwest Trucks agrees to deliver and accept payment for the truck after January 1, 2014, when budget funds are available.
- City Council is requested to find that the public interest would be best served by approving the sole source standardized outfitting of three tandem trucks through O.J. Watson Co., Inc., at \$315,874, and in accordance with the bid, O. J. Watson agrees to deliver and accept payment of \$105,608 for one truck outfitting after January 1, 2014, when budget funds are available.
- City Council previously approved adequate funds for these vehicle purchases and outfitting in the 2013 and 2014 General Capital Outlay Replacement Fund (GCORF) and Utilities Division operating budgets.
- The City saves considerable dollars by purchasing vehicles through bids completed by CDOT and municipalities when possible.
- Ordering two of the 2014 trucks this year, guarantees 2013 pricing, will assure delivery time of the trucks in the first quarter of 2014, and assists with streamlining/standardizing large fleet equipment.

Expenditure Required \$750,306

Source of Funds	\$209,436	2013 GCORF
	\$207,108	2013 Utilities Division Operating Budget – Utility Fund
	\$333,762	2014 Utilities Division Operating Budget – Utility Fund

Policy Issue

Should the City proceed with the 2013 purchase of two tandem axle cab/chassis trucks with the standardization of the snow removal equipment and the 2014 purchase of one additional tandem axle cab/chassis truck with snow removal equipment and one tandem axle tractor truck to be ordered in 2013 and delivered and paid for in 2014?

Alternatives

1. Reject the Weld County bid award for two 2013 Freightliner 114-SD tandem axle cab/chassis trucks to replace the 2013 Street and Utilities Divisions' trucks. This alternative is not recommended because among five vendors Weld County solicited for their 2013 bid, the cost proposed by Transwest Trucks was the lowest submitted. Additionally, the City would have to solicit bids, possibly delaying delivery beyond the year-end snow removal season.
2. City Council could determine that the public's best interest is not best served by sole sourcing the standardized outfitting of the purchased tandem axle cab/chassis trucks through O.J. Watson Co., Inc. This alternative is not recommended. The City has made a considerable investment in standardizing the outfitting of tandem trucks through O.J. Watson Co., Inc., due to the myriad of safety and use requirements for these vehicles. Another company would not have this expertise and no other company in Colorado can offer the parts necessary to meet the City's standardized outfitting. Therefore, the City would have to negotiate a new standard with another company requiring solicitation for bids, ultimately delaying the vehicle delivery beyond the year-end snow removal season.
3. Reject the Weld County bid award for one Freightliner 114-SD tandem axle cab/chassis truck to replace the 2014 Utilities Division tandem axle cab/chassis truck and in accordance with the bid, Transwest Trucks agrees to deliver and accept payment for the truck after January 1, 2014, when budget funds are available. This alternative is not recommended because among five vendors Weld County solicited for their 2013 bid, the cost proposed by Transwest Trucks was the lowest submitted. Additionally, the City would have to solicit bids, delaying delivery and not allowing the City to take advantage of 2013 pricing for 2014.
4. Reject the bid award for a Freightliner Coronado SD tandem axle tractor truck to Transwest Trucks based on the 2013 Colorado Department of Transportation (CDOT) bid award and in accordance with the bid, Transwest Trucks agrees to deliver and accept payment for the truck after January 1, 2014, when budget funds are available. This alternative is not recommended because among the vendors CDOT solicited for their 2013 bid, the cost proposed by Transwest Trucks was the lowest submitted. The City would have to solicit bids, delaying delivery and not allowing the City to take advantage of 2013 pricing for 2014. In addition, the unit proposed for purchase is identical to the one budgeted for replacement in 2013 and approved for purchase at the February 11, 2013, City Council Meeting; ordering the replacement unit budgeted for 2014 now in 2013 allows for additional standardization in the Fleet.

Background Information

As part of the Street and Utilities Division's 2013 operating budget, City Council approved the replacement of unit #6232 and #9785. Unit #6232 is currently a single axle dump truck used for snow removal and hauling materials for paving. Assigned to a primary snow route, the small bed size is inefficient, as repeated trips to the salt shed are required to do the same job as a tandem dump. As

approved in the Adopted 2013 Budget, unit #6232 will be up-sized from a single axle truck to a tandem truck. Unit #9785 is a tandem truck used for snow removal and hauling materials for water construction projects and has high hours and maintenance costs. As part of the Utilities Division’s 2014 operating budget, City Council approved the replacement of unit #9788, a tandem truck also used for snow removal and hauling materials and water construction projects. As part of the Utilities Division’s 2014 operating budget, City Council also approved the replacement of unit #9724, a tandem axle tractor truck used to transport bio-solids between the Big Dry Creek Wastewater Treatment Facility and Strasburg farm. The value of ordering two 2014 trucks with the 2013 pricing is twofold – it allows the City to purchase less expensive 2014 replacement trucks at 2013 prices and ensures timely receipt of one tandem plow truck that can be used during the 2014 winter/spring snow season. In addition, both 2014 vehicles will have identical matching 2013 units, making maintenance easier within the Fleet Division and operation easier within the Street and Utilities Divisions due to acquiring identical units. The 2014 tandem axle tractor truck proposed for purchase with this action is identical to the 2013 replacement tractor truck approved for purchase at the February 11, 2013, City Council Meeting.

The two units scheduled for replacement in 2013 are budgeted for a total of \$455,000 (unit #9785 at \$230,000 and unit #6232 at \$225,000). The two units scheduled for replacement in 2014 are budgeted for a total of \$370,000 (unit #9788 at \$230,000 and unit #9724 at \$140,000). The grand total of \$825,000 is budgeted over the two years for these four units. By acquiring them now through the Weld County and CDOT bids as proposed for a total of \$750,306, the City will save \$74,694 over the two year period (\$38,456 in 2013 and \$36,238 in 2014).

Specific age, life to date cost information and purchasing information on the trucks being replaced can be found in the following chart:

Unit Number	Purchase Year	Replacement Make/Model	Miles/Hours	Life-to-Date Vehicle Maintenance Cost	New Vehicle Make/Model	Price	Company
6232	2000	International Single Axle Dump, Plow, Spreader	145,068 4396 (Hrs.)	\$69,087	Freightliner 114-SD w/ Dump, Plow, Salter, Mag	\$209,436	Transwest Trucks and O.J. Watson
9785	2004	International Tandem Axle Dump, Plow, Spreader	209,616 6352 (Hrs.)	\$108,247	Freightliner 114-SD w/ Dump, Plow, Salter, Mag	\$207,108	Transwest Trucks and O.J. Watson
9788	2006	International Tandem Axle Dump, Plow, Spreader	185,130 5610 (Hrs.)	\$85,164	Freightliner 114-SD w/ Dump, Plow, Salter, Mag	\$207,108	Transwest Trucks and O.J. Watson
9724	2001	Freightliner Tractor	265,419 8043 (Hrs.)	\$71,930	Freightliner Coronado Tractor	\$126,654	Transwest Trucks

Formal bids were not conducted for the purchase and installation of the dump bodies and snow removal equipment to outfit the tandem trucks due to an established standardized install in place with O.J. Watson Co., Inc. It is critical that tandem outfitting be standardized not only to handle the day-to-day construction needs of the Street and Utilities Divisions, but also because these trucks are essential emergency equipment for snow and ice control operations. Standardization decreases the probability of operator error and accidents, facilitates replacements and repairs, and provides overall flexibility for assigning and training operators resulting in decreased downtime and a higher level of service on the road. O.J. Watson Co., Inc., is the only franchised dealer in Colorado that makes available truck products and dump bodies that meet the City’s standardized tandem outfitting specifications.

SUBJECT: Tandem Axle Tractor and Tandem Dump Trucks Purchase

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The purchase of the tandem dump and tractor trucks, and appropriate outfitting of the vehicles support City Council's Strategic Plan goals of a Financially Sustainable City Government Providing Exceptional Services and a Safe and Secure Community by ensuring emergency and non-emergency fleet vehicles are dependable, maintained cost effectively, and purchased at the lowest price available.

Respectfully submitted,

J. Brent McFall
City Manager



Agenda Memorandum

City Council Meeting
April 22, 2013



SUBJECT: 72nd Avenue/Raleigh Street Bridge Replacement
Design Engineering Contract Amendment

Prepared By: Stephen Baumann, Assistant City Engineer
Steve Grooters, Senior Projects Engineer
Mike Wong, Senior Engineer

Recommended City Council Action

Authorize the City Manager to execute an amendment to the engineering services contract with Jacobs Engineering Group, Inc in the amount of \$101,589 for additional services in the preparation of bid and contract documents for the 72nd Avenue/Raleigh Street Bridge Replacement project.

Summary Statement

- The project to replace the substandard structure carrying 72nd Avenue over Little Dry Creek at 72nd Avenue and Raleigh Street is well through final design engineering under a \$347,613 contract with the Jacobs Engineering Group approved in April 2012. The project includes utility system improvements and replacements in an extended project area around the intersection. In its entirety, the project is expected to cost over \$5.7 million including \$1.8 million of federal funding for the bridge replacement.
- The project is complex, since it is situated at a busy intersection with utility facilities that are among the oldest such systems installed in the City. Recently Jacobs requested a contract amendment to increase their fees and cover a portion of the costs they have and will absorb in evaluating and solving a host of issues that were either outside their original scope of work or necessitated effort beyond the original expectations.
- City staff has negotiated an amount of \$84,388 for the extra work. This is down from the nearly \$120,000 that Jacobs identified in their amendment request. In addition, the City is specifically requesting extra services that are associated with a water line installation along 72nd Way and an extension of the sanitary sewer system improvements in 72nd Avenue. Those two items add \$17,201 and bring the proposed contract amendment to \$101,589. Jacobs has committed to completing the design assignment without further contract adjustments.

Expenditure Required: \$101,589

Source of Funds: General Capital Improvement fund (GCIF)
– Bradburn Realignment AdCo Road Tax - \$29,232
Utility Fund - 72nd Avenue/Bradburn Water Account - \$27,161
Utility Fund - 72nd Avenue/Bradburn Wastewater Account - \$45,196

Policy Issue

Should the City agree to the changes to the scope of design engineering services and costs for the 72nd Avenue/Raleigh Street project as has been negotiated with the Jacobs Engineering Group?

Alternative

The alternative is to not approve the amendment and seek further concessions from Jacobs on their compensation request. City staff has gone over Jacobs’ request in detail and has acknowledged the legitimacy of certain of the situations where overruns were experienced. Jacobs has reduced the level of compensation they originally requested, accepting responsibility for inadequate scoping of the project or inefficiencies on their part. City staff believes the contract amendment as proposed is a fair settlement of the requested extra compensation and will smooth the way for completion of the design engineering part of the project.

Background Information

In April 2012, the City and Jacobs Engineering Group, Inc (Jacobs) entered into a negotiated contract for design engineering services associated with the replacement of the bridge carrying 72nd Avenue over Little Dry Creek at Raleigh Street. The scope of work, developed by the Departments of Community Development and Public Works and Utilities, was to prepare construction drawings and specifications necessary to bid and construct a new bridge and to replace water and sanitary sewer facilities in the general area due to their age or capacity problems. The project is complex by virtue of the bridge being located at a busy intersection and in an area where utility systems are extensive and older than most anywhere in the City. A map showing the extent of the project is attached.

Funding for the project comes from several sources including federal funds that can only be used for the bridge replacement, funding from the General Capital Improvement Project Fund (GCIF) and funding from water and wastewater accounts in the Utility Fund. Council’s award of the contract to Jacobs was at a price of \$347,613, responsibility for which was apportioned among the GCIF and the two accounts in the Utility Fund in general alignment with the components of the scope of work, whether related to the structure replacement or the utility system improvements. A contingency of \$34,761 from the three funding sources was also approved. A breakdown of the budget associated with the original contract for final design is shown here.

Expenditure	GCIF	Utility Fund		Total
		Water	Wastewater	
Final design engineering/bidding services (Jacobs)	\$278,251	\$17,340	\$52,022	\$347,613
Title commitments and appraisals	\$ 35,000	\$ 5,000	\$15,000	\$ 55,000
Design contingencies	\$ 27,825	\$ 1,734	\$ 5,202	\$ 34,761
Totals	\$341,076	\$24,074	\$72,224	\$437,374

In early 2013, as the engineering design work was progressing, Jacobs representatives (Jacobs) alerted the City that they were experiencing overruns in their effort in several areas of the design assignment. While not a formal claim, Jacobs presented the details of time and effort they felt was beyond their scope of work in response to the City’s direction. Jacobs initially identified a total of approximately \$120,000 in extra costs, but in extensive discussions with City staff, acknowledged that some share of the extra costs were theirs to absorb. Inadequate attention to the scope of work of the project and inefficiencies by Jacobs were evident in some cases. City staff had Jacobs give context to the request by asking them to also look ahead in the project and commit to completing the assignment without further amendments. Those discussions resulted in the following categories of extra work, with descriptions and the proposed additional costs, negotiated from Jacobs’ original position.

1. Additional Coordination, Design and Plan Production

City Staff requested extensive analysis of the possible alignments of new water and sewer utilities in the project area, including the large diameter interceptor sewer that serves the southern one-third of the City. As the project design progressed, it became apparent that there were so many existing utilities in the project area that design plans were almost impossible to read. This could have had a very negative effect on the bids and the construction itself. The project team decided to separate bridge, water and sewer plans to achieve necessary clarity. The additional effort for coordinating and producing more project drawings and work through several other categories of analysis was negotiated to be \$58,420.

2. Additional Analysis of Construction Phasing, Preparation of Schedules, Cost Estimates and Exhibits

Jacobs' initial scope of services for construction phasing was to look at three options for construction traffic control for the project: 1). Complete closure of the intersection of 72nd Avenue and Raleigh Street. 2). Constructing the project while maintaining at least 2 lanes of traffic on 72nd Avenue at Raleigh Street at all times 3). Variations on the use of short term full closures of the intersection. The sequencing and phasing possibilities were much more complicated than originally anticipated given the existing and new structures and the existing and relocated utilities. This led to the need to perform additional iterations of analyses, prepare more exhibits, undertake additional costing exercises and coordinate meetings to work through the task. The cost for these efforts was negotiated to be \$12,468.

3. Additional Field Locates, Surveying, Logging and Incorporating Data in Final Design Plans

Replacing the bridge requires the relocation of several major utilities in the heavily congested area. The project team recognized the need to spend additional effort during design detailing to avoid potential bridge, roadway, and utility conflicts. The cost for these additional services was negotiated at \$13,680.

4. Land and Easement Acquisition Services in 72nd Way

During the course of design it was determined that 72nd Way, paralleling the Burlington Northern Santa Fe Railroad (BNSF) between Bradburn Boulevard and Osceola Street is not City-owned right-of-way and may carry restrictions by BNSF for the installation of desired water system improvements. Additional title search and survey will be necessary to determine property acquisition needs for installation of a new 8-inch water main there. This work was not included in the original scope of work at all but will be necessary for the project. The cost for title search and assistance to evaluate the right-of-way situation was negotiated to be \$12,119.

5. Expanded Sewer Replacement to Improve Service to 4195 W. 72nd Avenue

During design it was determined that sanitary sewer services to three properties located north of 72nd Ave between Stuart Street and Tennyson Street are inadequate. Analyzing this situation and designing for replacement facilities was not a part of Jacobs' original scope of work. City staff requested that Jacobs expand the design to incorporate improvements to these sewer services and assist the City with acquisition of required easements. The cost for these additional services was negotiated to be \$4,902.

Because the project is being undertaken jointly by the Department of Community Development and the Department of Public Works and Utilities, an apportionment of responsibility for the extra costs between the two departments was worked out and is shown in the following table.

Work Category (above)	Total cost	Community Development Share (GCIF)	Public Works/UtilitiesShare (Utility Fund)
1	\$58,420	\$17,526	\$40,894
2	\$12,468	\$6,234	\$6,234
3	\$13,680	\$5,472	\$8,208
4	\$12,119	\$0.0	\$12,119
5	\$4,902	\$0.0	\$4902
TOTALS	\$101,589	\$29,232	\$72,357

In reviewing the scope of work and fees of the original Jacobs contract now that more refined construction cost estimates for water and wastewater work are available, there is some evidence that Jacobs was being unrealistic in their original design fees. In the original contract, their fees as a percentage of the expected construction cost were five percent for water system facilities and nine percent for wastewater. The proposed contract amendment brings those ratios to 10% for water systems and 16% for wastewater. The latter ratios are more in line with city staff’s experience on past projects and given the complexity of the project utility work, is reasonable. Jacobs has absorbed an appropriate share of their actual costs and has committed to completing the contract without further requests. City staff is recommending the contract amendment be approved.

As the first table above shows, contingencies were approved with the award of the original contract to Jacobs in April 2012. None of these funds have been utilized to-date and will be applied to the contract amendment if approved. In the table below, previously approved contingency amounts are compared to the respective proposed amendment amounts in the three project accounts to show the actual additional funds needed. The additional funds being requested are present in the overall project budget and require no additional appropriations.

Item	GCIP	UTILITY FUND	
		Water	Wastewater
Amendment amount	29,232	27,161	45,196
Original contingency	27,825	1,734	5,202
Amount to approve	1,407	25,427	39,994

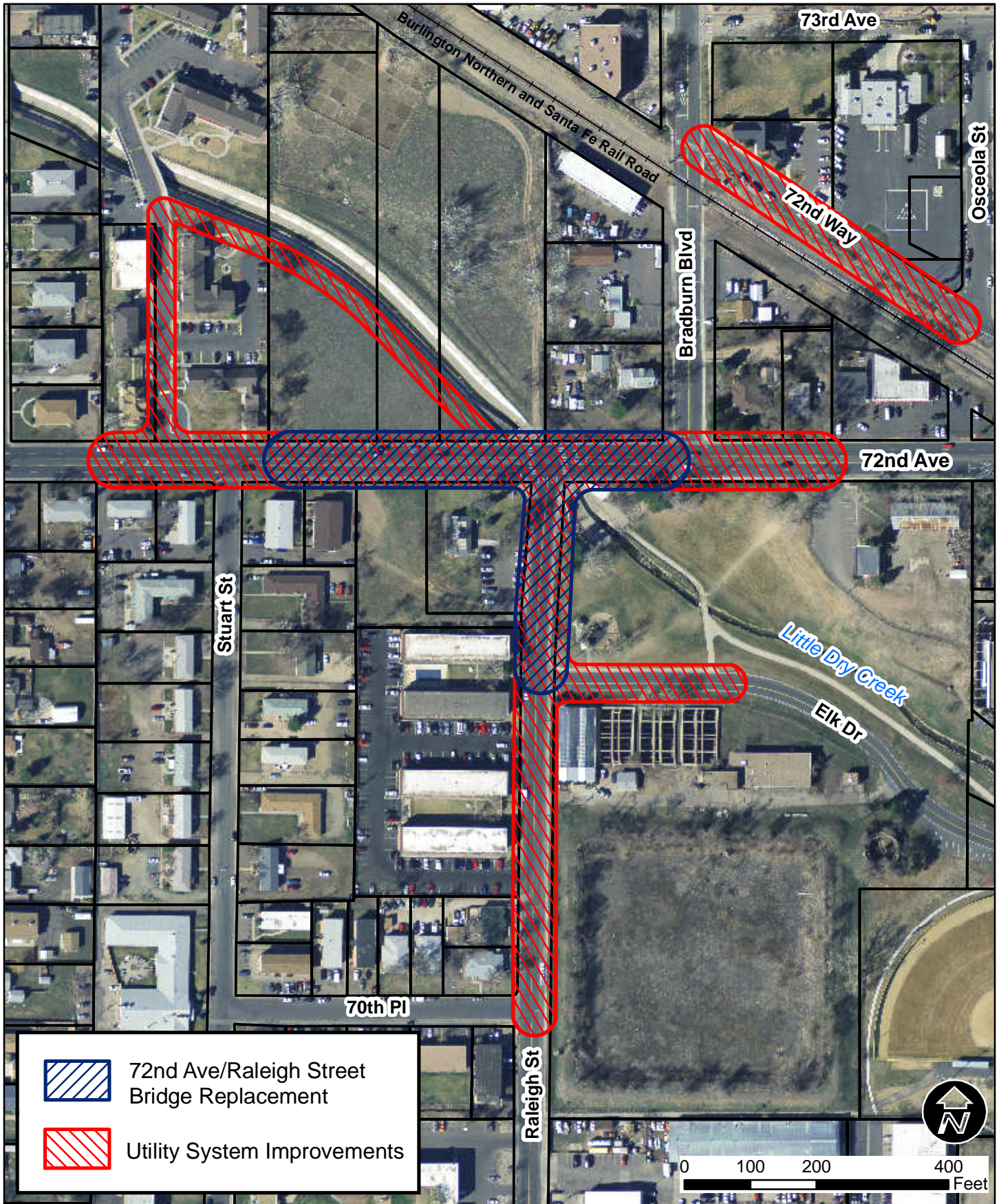
Approval of the amendment to the Jacobs’ contract to complete final design of the 72nd Avenue/Raleigh Street Bridge Replacement supports City Council’s goals for “Financially Sustainable Government Providing Exceptional Services” by investing in well-maintained and sustainable infrastructure and facilities. The project also maintains and improves neighborhood infrastructure, supporting the goal of “Vibrant Neighborhoods in One Livable Community.”

Respectfully submitted,

J. Brent McFall
City Manager

Attachment - Project Area Map

72nd Avenue/Raleigh Street -Project Area-





Agenda Memorandum

City Council Meeting
April 22, 2013



SUBJECT: 87th Avenue and Wadsworth Boulevard Lift Station Replacement Project
Construction and Engineering Contracts

Prepared by: Dan Strietelmeier, Senior Engineer
Stephen Grooters, Senior Projects Engineer

Recommended City Council Action

1. Authorize the City Manager to execute a contract with the low bidder RN Civil Construction for the 87th Avenue and Wadsworth Boulevard Lift Station Replacement Project in the amount of \$3,252,000 with a 10% percent construction contingency in the amount of \$325,200, for a construction budget of \$3,577,200.
2. Execute a contract amendment for construction management services with Carollo Engineers, Inc. for \$464,576.
3. Authorize the transfer of \$561,288 from the Open Cut Sewer Capital Improvement account into the 87th Avenue and Wadsworth Boulevard Lift Station Replacement Project account.

Summary

- Based on the results of the 2006 Utility System Infrastructure Master Plan, the 87th Avenue and Wadsworth Boulevard sanitary sewer lift station and structures were scheduled for replacement.
- Design for the new lift station is now complete and accomplishes four main objectives including: 1) Relocating the lift station away from traffic, 2) Adding a redundant discharge pipeline for reliability, 3) Adding a buried overflow storage tank to reduce the risk of spills, and 4) Relocating the lift station out of the storm water drainage way prone to flooding conditions.
- There are two private land parcels affected by the project. Both owners agreed to grant possession and use of the easements and fee parcel areas needed to begin construction of the project.
- The construction contract includes several work restrictions negotiated with the property owners to minimize the impact of the construction on the businesses in the area.
- Of the three bids received by the City, RN Civil Construction presented the lowest qualified bid in the amount of \$3,252,000.
- City Council awarded Carollo Engineers, Inc. a contract for engineering design services. Based on their successful performance to date, Staff negotiated a competitive contract amendment for \$464,576 to include construction phase engineering services. Approval of this amendment is requested.
- Council approved funding for this project in the Utility Fund; however, based on the actual bids received, additional funds are required to complete this project. Savings from completed projects are available in the Open Cut Sewer Capital Improvement Project account to fully fund this project without the need to reduce project scope. Staff is requesting this transfer as this project and its scope remain the highest priority use for the funds.

Expenditure Required: \$4,041,776

Source of Funds: Utility Fund Capital Improvement Program
 - 87th Avenue and Wadsworth Boulevard Lift Station
 Replacement Capital Improvement Project (\$3,577,200)
 Utility Fund Capital Improvement Program
 - Open Cut Sewer Project Account (\$561,288)

Policy Issues

1. Should the City execute a construction contract with the low bidder RN Civil Construction for the lift station replacement project?
2. Should the City authorize a contract amendment for Carollo Engineers, Inc. to perform construction management services?
3. Should City Council authorize the movement of Open Cut Sewer Project savings to complete the full scope of this project?

Alternatives

1. The City could choose to replace the existing lift station at a later date. However, the existing station has reached the end of its useful life and needs to be replaced to maintain sanitary sewer service to City customers. Staff recommends the improvements be made at this time.
2. Council could choose to request proposals for the construction services task. This is not recommended as Staff believes that Carollo Engineers, Inc. provides the best value for this project. In addition, they were originally selected through a competitive process for design services that anticipated construction services. Their project team is intimately familiar with the improvements needed, having successfully completed the design and bidding phases of the project. Their knowledge will streamline key project tasks and provide the best value to the City.
3. City Council could choose not to authorize the movement of Open Cut Sewer Project savings to finance construction of this project. However, without moving capital budget funds into this project account, there are insufficient funds in the project account to complete the full scope of this project. The project scope could be reduced but this is not recommended because the full project scope is necessary to meet the project goals of improving the reliability of the sewer system. Project savings are available in the Open Cut Sewer capital improvement account and this project is the highest priority use of these funds.

Background Information

Utility system master planning performed in 2006 evaluated the condition and performance of the City's sanitary sewer collection system and lift stations and provided recommendations for improvements. One of the recommended improvements was to replace the existing 87th Avenue and Wadsworth Boulevard lift station. There were four main drivers for this replacement including: 1) the age and condition of the existing equipment and structures, 2) improving emergency storage volume, 3) relocating the station out of the storm water channel that is prone to flooding, and 4) moving the existing station away from the street to improve safety for operations crews and reduce the risk of damage from traffic accidents.

Design of the new lift station was initiated in 2011 and included an analysis of several alternative sites, including rebuilding on the existing site. The recommended site for the new lift station is on the west side of Wadsworth Boulevard near the Standley Lake Shops retail center. Construction on this site has a lower estimated project cost than the original site, meets all of the objectives for the project including resolving the concerns listed previously and meets several additional factors including:

- Being in close proximity to existing sanitary sewer pipelines and infrastructure to help limit costs and the extent of construction.
- Minimizing aesthetic impacts to the residential neighborhood.
- Maximizing the relative separation from commercial businesses.
- Maintaining safe, easy access for construction and maintenance.
- Providing the ability for above ground structures to remain outside of Colorado Department Of Transportation (CDOT) Right Of Way.

Beyond the benefits of an improved site location, the new lift station will have improved safety, reliability and aesthetic features including a buried emergency overflow tank to reduce the risk of sanitary sewer overflows in the event of lift station failures and a new discharge pipeline along Wadsworth Boulevard. The discharge pipeline used by the existing lift station on the east side of Wadsworth Boulevard will continue to be used as a redundant pipeline by the new lift station, but the existing lift station itself will be decommissioned and the site restored. To limit impacts to City customers, lift station neighbors, and the adjacent shopping center, the new station was designed to limit above-ground, visible components and most components will be below the ground surface. An architectural screening wall is planned around the few components that need to remain above-ground (i.e., emergency generator and electrical components).

In addition to limiting aesthetic impacts, City staff worked closely with the property owners to minimize impacts to the shopping center during and after lift station construction. For example, the construction contract includes work restrictions to limit the number of parking spaces that will be unavailable during construction, restricting the times when the shopping center entrances can be disrupted, required off-site storage of soils and construction materials and minimally-sized temporary construction and permanent easements. As a result of these efforts, agreements were executed authorizing the City to have possession and use of the land and begin construction concurrent with finalizing land acquisition fees/claims. Because replacement of the existing station is time-sensitive, Staff recommends this approach.

The City sent a Request for Bids to ten qualified contractors on February 12, 2013 and received three bids on March 7, 2013. The following is a summary of the qualified bids received:

<u>Contractor Name</u>	<u>Bid Amount</u>
RN Civil Construction	\$3,252,000
Glacier Construction	\$3,472,000
Aslan Construction	\$3,963,055
Engineers Opinion of Probable Cost	\$3,170,000

A review of the bids received indicated that RN Civil Construction's bid was valid and the dollar amount reasonable for the scope of the work. RN Civil Construction has successfully completed other lift station projects along the Front Range and is qualified to complete this project. The bid range between the two lowest bidders was tight and close to the engineer's estimate indicating the City received the best possible price at this time. Construction will commence following award of the contract with substantial completion anticipated by December 31, 2013.

The design contract with Carollo Engineers, Inc. was approved by City Council on March 21, 2011. Carollo Engineers, Inc. was selected through a competitive cost proposal process that anticipated continuing with construction services. Staff recommends continuing work with the Carollo team for construction services because their performance has been successful, cost of services is competitive and they have successfully provided construction services for the City on other utility system capital improvement projects. For those reasons, Staff negotiated a scope of work and competitive fee with Carollo Engineers, Inc. and recommends that City Council approve a contract amendment for construction management services in the amount of \$464,576. This represents approximately 13% of the construction costs and is slightly higher than the typical range (i.e., 10-12%). However, these costs are justified given several complicating factors associated with this project including:

1. The project construction is very complex and requires special inspections for drilled piers, horizontal drilling underneath Wadsworth Boulevard, electrical components, communications system and construction in heavily congested utility corridors.
2. The project involves coordination with multiple stakeholders including two property owners, the Colorado Department of Public Health and Environment and CDOT.
3. There are tight work restrictions included in the construction contract to comply with agreements for possession and use of the land. These restrictions may require more than one inspector to be on-site during periods of the project.
4. The engineering effort includes development of a formal operations and maintenance manual for the lift station, force mains and the appurtenances.

Funding for the 87th and Wadsworth Lift Station Replacement Project has previously been approved by Council. However, bids are higher than what was originally anticipated for this project due to:

1. The discovery of swelling clay soils at the site and the resulting need for special construction features (i.e., construction on drilled piers) that added approximately \$500,000 to the construction cost estimate.
2. The tight work restrictions negotiated as part of the agreement for possession and use of the land.
3. Heavy utility congestion in the corridor for the new pipeline along and under Wadsworth Boulevard that will require special pipeline installation techniques.
4. Receiving only three bids out of ten requested provided a general indication of a tightening bidding climate.

Based on the bids received, Staff is requesting an additional \$561,288 to allow the full scope of the project to proceed. Funds are available in the Open Cut Sewer project and this project is the highest priority use of the funds. Staff wishes to note that the available funds in the Open Cut Sewer account are from several years' worth of projects completed during the economic downturn and resulting extremely competitive bid climate. Staff will continue to negotiate with 88th and Wadsworth LLC through the land acquisition process and will return to City Council as appropriate when the land acquisition settlement amount is finalized.

A summary of the total project budget is listed below:

<u>Project Component</u>	<u>Amount</u>
Existing Site Interim Improvements	\$6,837
Carollo Amended Engineering Contract With Contingency	\$785,041
Land, Easements, Appraisals	\$187,210
Miscellaneous Costs	\$5,000
RN Civil Contract with Contingency	\$3,577,200
Total Project Cost	\$4,561,288
<u>Funding Sources</u>	
87 th and Wadsworth Lift Station Replacement Account	\$4,000,000
Open Cut Sewer Account	\$561,288
Total Funding	\$4,561,288

The 87th Avenue and Wadsworth Boulevard Lift Station Replacement Project helps achieve the City Council's Strategic Plan Goals of "Financially Sustainable City Government Providing Exceptional Services" and "Vibrant Neighborhoods In One Livable Community" by contributing to the objectives of well-maintained City infrastructure and facilities. With the new lift station in place, residents will receive more reliable sewer services with reduced risk of system failures.

Respectfully submitted,

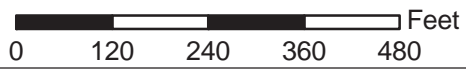
J. Brent McFall
City Manager

Attachment - Map

87th and Wadsworth Lift Station Replacement Project



City of Westminster





Agenda Memorandum

City Council Meeting
April 22, 2013



SUBJECT: Little Dry Creek Regional Detention Pond - Fourth Amended Intergovernmental Agreement with the Urban Drainage and Flood Control District and Adams County

Prepared By: John Burke, P.E., CFM, Senior Engineer
Andy Walsh, P.E., Senior Engineer

Recommended City Council Action

1. Authorize the City Manager to sign the fourth amended intergovernmental agreement with the Urban Drainage and Flood Control District and Adams County to provide additional funding in the amount of \$600,000 for the Little Dry Creek Regional Detention Pond and related channel improvements.
2. Authorize payment to the Urban Drainage and Flood Control District from Public Works and Utilities Capital Improvement Fund to reconcile payments previously made to the Urban Drainage and Flood Control District from the Stormwater Utility Fund for the sanitary sewer tunneling work through the Federal Boulevard embankment.

Summary Statement

- This is the fourth amendment to the intergovernmental agreement (IGA) with the Urban Drainage and Flood Control District (UDFCD) for the Little Dry Creek drainage project, which was originally approved by City Council on February 9, 2009. This amendment is necessary to accrue sufficient funding to complete the tunneling project through the Federal Boulevard embankment.
- The first phase of construction work began in February 2013 with the boring of three pipes through the Federal Boulevard embankment near Little Dry Creek. The first pipe bored was for the City’s proposed 36-inch diameter sanitary sewer. The second boring will be for the Crestview Water & Sanitation District’s 10-inch sanitary sewer line, and the third will be the 108-inch diameter storm drainage culvert.
- This amended IGA will add \$600,000 from the City of Westminster into the UDFCD project budget in order to complete the proposed construction. Community Development has worked with Public Works and Utilities to apportion this amount between department funding accounts and funds were adopted as part of the 2013 Budget to cover these costs.
- The IGA contains provisions for amending the document to allocate additional funding in future budget years. Significant future funding is anticipated from the City’s Storm Water Utility and the UDFCD that will allow this project to be fully funded within the next two years.

Expenditure Required: \$600,000 (City’s share)

Source of Funds: Stormwater Utility Fund Capital Improvements
 – Little Dry Creek Drainage Project (\$42,072)
 Utility Fund Capital Improvements
 – South Westminster TOD Utilities Project (\$557,928)

Policy Issues

1. Should the City amend the Intergovernmental Agreement with the Urban Drainage and Flood Control District and Adams County for the design and construction of drainage and flood control improvements for Little Dry Creek from Lowell Boulevard to Federal Boulevard?
2. Should the City authorize payment from Public Works and Utilities to the Urban Drainage and Flood Control District to contribute to the costs for the tunneling work performed for the Little Dry Creek Drainage Improvements and Park project?

Alternatives

1. Council could choose not to authorize this amended intergovernmental agreement at this time. Staff does not recommend this alternative because the matching funds from the UDFCD will help complete this project in a cost effective manner. If Council chooses not to approve this amended IGA, it would take longer to complete the project without UDFCD funds, thus delaying the drainage improvements necessary to accommodate the construction of the proposed transit-oriented development in the vicinity of Westminster Station.
2. Council could choose not to authorize payment from Public Works and Utilities to UDFCD to reconcile the funds previously paid by the Stormwater Utility Fund. Staff does not recommend this alternative as it would stall the project until such time as additional funds become available.

Background Information

Construction of the Little Dry Creek regional detention pond upstream of Federal Boulevard will lower the floodplain by four feet, eliminating existing flooding of the proposed commuter rail track serving Westminster Station. The regional detention facility will facilitate the redevelopment of the future Transit Oriented Development and provide a regional park and open space area to serve residents and commuter rail users alike. The first phase of this project, now underway, involves boring three separate utility tunnels through Federal Boulevard.

The original IGA for this project was authorized by City Council on February 9, 2009. At that time, the UDFCD contributed \$100,000, Adams County contributed \$150,000 and the City contributed \$150,000 to the project budget. The first amendment to the IGA authorized by Council on October 25, 2010, added \$600,000 in funding from UDFCD and \$500,000 from the City. The second amended IGA authorized by Council on December 10, 2012 added \$275,000 from UDFCD and \$275,000 from the City. The third amended IGA authorized by Council on January 28, 2013 added \$300,000 from UDFCD and \$1,700,000 from the City. The proposed action on this fourth amendment to the IGA will add an additional \$600,000 from the City increasing the total funding for the project to \$4,650,000.

The timing of this fourth amendment is critical since the UDFCD needs to complete the tunneling work through the Federal Boulevard embankment.

Community Development and Public Works and Utilities (PW&U) Departments have been working collaboratively throughout this multifaceted project. Specifically, PW&U delayed the replacement of the existing 24" clay sanitary sewer until the drainage project was ready to extend the sanitary sewer downstream of Federal Boulevard. Through this collaboration, the City has been able to cost effectively coordinate the design and construction effort through joint permitting and minimizing temporary throw away work.

Since timing was of the essence, the Stormwater Utility funded the first phase of the tunneling project while a detailed cost sharing analysis could be performed to identify actual costs, and allocation by fund, associated with the City’s 36-inch sanitary sewer installation. Council authorized the third IGA amendment with UDFCD on January 28th and the UDFCD awarded the tunneling contract on February 1st. With actual costs for the City’s sanitary sewer tunneling work identified at \$1,690,691, staff found that 33% or \$557,928 of that cost would be funded by PW&U as betterment to the existing system. These betterment funds were anticipated and were adopted as part of the 2013 Budget for this purpose. Therefore, no new funds are requested.

This multi-faceted project will help advance the City of Westminster’s Strategic Plan Goal of a Safe and Secure Community by protecting people, homes and buildings from flooding through an effective stormwater management program. Additionally this project will assist in the development of a multi-modal transportation system and developing a transit oriented development around the Westminster Station.

This project will dramatically change and revitalize this area once the regional open space and active recreational uses as identified in the Little Dry Creek Park Master Plan are implemented. This also assists the City’s Strategic Plan Goal of creating a Beautiful and Environmentally Sensitive City by increasing green space consistent with defined goals.

The current amount of funding that is being administered through UDFCD is as follows:

	Previously Contributed	Additional Contribution	Current Total	Percentage Share
DISTRICT	\$1,275,000	\$0	\$1,275,000	27.4%
COUNTY	\$150,000	\$0	\$150,000	3.2%
CITY	\$2,625,000	\$600,000	\$3,225,000	69.4%
TOTAL	\$4,050,000	\$600,000	\$4,650,000	100.0%

Westminster’s share of the funding for this project (\$600,000) is available from the Little Dry Creek Regional Detention Project (\$42,072) and the South Westminster TOD Utilities Project (\$557,928).

Respectfully submitted,

J. Brent McFall
City Manager

Attachments

- Fourth Amendment to IGA
- Project Vicinity Map

FOURTH AMENDMENT TO
AGREEMENT REGARDING
FINAL DESIGN, RIGHT-OF-WAY ACQUISITION AND CONSTRUCTION
OF DRAINAGE AND FLOOD CONTROL IMPROVEMENTS FOR
LITTE DRY CREEK FROM LOWELL BOULEVARD TO FEDERAL BOULEVARD

Agreement No. 08-09.09D

THIS AGREEMENT, made this _____ day of _____, 2013, by and between URBAN DRAINAGE AND FLOOD CONTROL DISTRICT (hereinafter called "DISTRICT"), CITY OF WESTMINSTER (hereinafter called "CITY") and ADAMS COUNTY (hereinafter called "COUNTY") and collectively known as "PARTIES";

WITNESSETH:

WHEREAS, PARTIES have entered into "Agreement Regarding Final Design, Right-of-Way Acquisition and Construction of Drainage and Flood Control Improvements for Little Dry Creek from Lowell Boulevard to Federal Boulevard" (Agreement No. 08-09.09) dated August 19, 2009, as amended, and

WHEREAS, PARTIES now desire to continue to fund final design, right-of-way acquisition and construction; and

WHEREAS, PARTIES desire to increase the level of funding by \$600,000; and

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

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

1. Paragraph 4. PROJECT COSTS AND ALLOCATION OF COSTS is deleted and replaced as follows:

4. PROJECT COSTS AND ALLOCATION OF COSTS

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

1. Final design services;
2. Delineation, description and acquisition of required rights-of-way/ easements;
3. Construction of improvements;
4. Contingencies mutually agreeable to PARTIES.

B. It is understood that PROJECT costs as defined above are not to exceed \$4,650,000 without amendment to this Agreement.

PROJECT costs for the various elements of the effort are estimated as follows:

<u>ITEM</u>	<u>AS AMENDED</u>	<u>PREVIOUSLY AMENDED</u>
1. Final Design	\$ 1,050,000	\$ 950,000
2. Right-of-way	200,000	200,000
3. Construction	3,300,000	2,800,000
4. Contingency	100,000	100,000
Grand Total	\$4,650,000	\$4,050,000

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

- C. Based on total PROJECT costs, the maximum percent and dollar contribution by each party shall be:

	<u>Percentage Share</u>	<u>Previously Contributed</u>	<u>Additional Contribution</u>	<u>Maximum Contribution</u>
DISTRICT	27.4%	\$1,275,000	\$ -0-	\$1,275,000
COUNTY	3.2%	\$ 150,000	\$ -0-	\$ 150,000
CITY	69.4%	\$2,625,000	\$600,000	\$3,225,000
TOTAL	100.0%	\$4,050,000	\$600,000	\$4,650,000

3. Paragraph 5. MANAGEMENT OF FINANCES is deleted and replaced as follows:

5. MANAGEMENT OF FINANCES

As set forth in DISTRICT policy (Resolution No. 11, Series of 1973, Resolution No. 49, Series of 1977, and Resolution No. 37, Series of 2009), the funding of a local body's one-half share may come from its own revenue sources or from funds received from state, federal or other sources of funding without limitation and without prior Board approval.

Payment of each party's full share (CITY - \$3,225,000; COUNTY - \$150,000; DISTRICT - \$1,275,000) shall be made to DISTRICT subsequent to execution of this Agreement and within 30 days of request for payment by DISTRICT. The payments by PARTIES shall be held by DISTRICT in a special interest bearing account to pay for increments of PROJECT as authorized by PARTIES, and as defined herein. DISTRICT shall provide a periodic accounting of PROJECT funds as well as a periodic notification to CITY and COUNTY of any unpaid obligations. Any interest earned by the monies contributed by PARTIES shall be accrued to the special fund established by DISTRICT for PROJECT and such interest shall be used only for PROJECT upon approval by the contracting officers (Paragraph 13).

Within one year of completion of PROJECT if there are monies including interest earned remaining which are not committed, obligated, or disbursed, each party shall receive a share of such monies, which shares shall be computed as were the original shares.

5. All other terms and conditions of Agreement No. 08-09.09 shall remain in full force and effect.
WHEREFORE, PARTIES hereto have caused this instrument to be executed by properly authorized signatories as of the date and year first above written.

URBAN DRAINAGE AND
FLOOD CONTROL DISTRICT

(SEAL)

By _____

ATTEST:

Title Executive Director

Date _____

ADAMS COUNTY

(SEAL)

By _____

ATTEST:

Title _____

Date _____

APPROVED AS TO FORM:

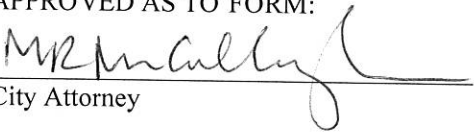
County Attorney

CITY OF WESTMINSTER

(SEAL)

ATTEST:

APPROVED AS TO FORM:



City Attorney

By _____

Title _____

Date _____

Little Dry Creek Regional Drainage Project Vicinity Map

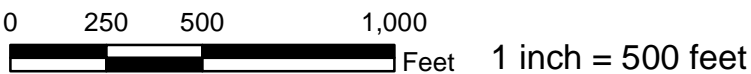


72nd Avenue

Lowell Blvd.

Federal Blvd.

Tunneling location





Agenda Memorandum

City Council Meeting
April 22, 2013



SUBJECT: Tanglewood Creek Channel and Pond Improvements - Third Amendment to the Intergovernmental Agreement with the Urban Drainage and Flood Control District

Prepared By: John Burke, P.E., CFM, Senior Engineer

Recommended City Council Action

Authorize the City Manager to sign the third amendment to the intergovernmental agreement with the Urban Drainage and Flood Control District for the Tanglewood Creek Channel and Pond Improvements.

Summary Statement

- The Tanglewood Creek and pond improvements project is located just north of the intersection of 121st Avenue and Delaware Street. The spillway on the downstream face of this regional detention pond is failing, and the channel leading in and out of the pond is in need of repair. Additionally, there is currently inadequate maintenance access to the pond, so an eight-foot wide trail will be constructed around the pond.
- The City requested Urban Drainage and Flood Control District (UDFCD) maintenance funding in 2008 for the repair of the spillway and restoration of the channel leading into the pond. There is currently \$595,000 in the project account; however, the current estimated design and construction costs for the project are \$925,000. UDFCD will be requesting authorization from their Board to add another \$330,000 into the project budget. City Council action on the proposed IGA Amendment is required prior to UDFCD Board action. The UDFCD is not requesting any additional funds from the City to complete the project.
- The proposed third amendment of the intergovernmental agreement (IGA) will bring additional funding from 2013 UDFCD maintenance funds to complete the project. The original intergovernmental agreement (IGA) was signed on December 22nd, 2010, the first amendment was signed on November 17th, 2011 and the second amendment was signed November 20, 2012.

Expenditure Required: \$0 (City's share)

Source of Funds: N/A

Policy Issue

Should the City amend the Intergovernmental Agreement with the Urban Drainage and Flood Control District (UDFCD) for the design and construction of drainage improvements for Tanglewood Creek and Pond?

Alternative

Council could choose not to authorize this intergovernmental agreement at this time. Staff does not recommend this alternative because the funds from the UDFCD will complete this project in a timely and cost effective manner.

Background Information

A portion of Tanglewood Creek and the associated regional detention pond (a/k/a Front Range Village Pond or Timberlake Pond) is owned by the City through a previous agreement with the adjacent properties - Cottonwood Villa Condominiums and Timberlake Townhomes. Under that agreement, the two homeowners associations (HOA's) are to perform routine maintenance around the perimeter of the pond. The Timberlake Townhome HOA contacted City staff in 2008 to request the City perform repair work at the pond spillway and channel that had suffered from ongoing erosion among other problems. Since this work would not qualify as routine maintenance, staff requested and was successful in securing major maintenance funding from the Urban Drainage and Flood Control District (UDFCD) in late 2009.

UDFCD contracted with one of their on-call engineering firms and started preliminary design efforts in 2009. Over the course of this design effort, various alternatives for cost savings and environmental permitting issues were evaluated. The current engineering design for the repairs has had to balance project costs with safety considerations, flood control needs, environmental-related components of the project and specific requests from the Timberlake Townhome HOA.

The project will install a new outlet structure and 12-foot by 3-foot box culvert to convey the 100-year flows to the open channel located on the Canyon Chase apartment complex property to the north. This will allow the City to remove the existing concrete spillway. A series of 3-foot boulders will also be used to line the perimeter of the pond to help with grading and vegetation stabilization. Additionally, to make the pond safe and more easily maintained, an 8-foot wide trail will be constructed around the pond and connected to 121st Avenue on the south and connected to an ADA accessible connection north into the apartment complex. This trail will also be part of the future Tanglewood Creek trail system.

There is currently \$595,000 available for this project. However, the estimated design and construction costs are \$925,000. This proposed third amended IGA will encumber the \$330,000 of UDFCD maintenance funds available to complete the project.

Funding summary:

	<u>Previously Contributed</u>	<u>Additional Contribution</u>	<u>Total Contribution</u>	<u>Percentage Share</u>
UDFCD	\$420,000	\$330,000	\$750,000	81.00%
CITY	\$175,000	\$ -0-	\$175,000	19.00%
TOTAL	\$595,000	\$330,000	\$925,000	100.00%

SUBJECT: Third Amended IGA re Tanglewood Creek and Pond

Page 3

This project supports the Council's Strategic Plan Goals of creating a Safe and Secure Community by protecting people, homes and buildings from flooding through an effective stormwater management program and Creating a Beautiful and Environmentally Sensitive City by improving the physical appearance of the lake.

Respectfully submitted,

J. Brent McFall
City Manager

Attachments

- Third Amendment to IGA
- Project Area Map

AMENDMENT TO
 AGREEMENT REGARDING
 FINAL DESIGN, RIGHT-OF-WAY ACQUISITION AND CONSTRUCTION
 OF DRAINAGE AND FLOOD CONTROL IMPROVEMENTS FOR
 TANGLEWOOD CREEK CHANNEL AND POND IMPROVEMENTS

Agreement No. 10-10.14C

THIS AGREEMENT, made this _____ day of _____, 2013, by and between URBAN DRAINAGE AND FLOOD CONTROL DISTRICT (hereinafter called "DISTRICT") and CITY OF WESTMINSTER (hereinafter called "CITY") and collectively known as "PARTIES";

WITNESSETH:

WHEREAS, PARTIES have entered into "Agreement Regarding Final Design, Right-of-Way Acquisition and Construction of Drainage and Flood Control Improvements for Tanglewood Creek Channel and Pond Improvements" (Agreement No. 10-10.14) dated December 22, 2010, as amended; and

WHEREAS, PARTIES now desire to construct drainage and flood control improvements; and

WHEREAS, PARTIES desire to increase the level of funding by \$330,000; and

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

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

1. Paragraph 4. PROJECT COSTS AND ALLOCATION OF COSTS is deleted and replaced as follows:

4. PROJECT COSTS AND ALLOCATION OF COSTS

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

1. Final design services;
2. Delineation, description and acquisition of required rights-of-way/ easements;
3. Construction of improvements;
4. Contingencies mutually agreeable to PARTIES.

- B. It is understood that PROJECT costs as defined above are not to exceed \$595,000 without amendment to this Agreement.

PROJECT costs for the various elements of the effort are estimated as follows:

<u>ITEM</u>	<u>AS AMENDED</u>	<u>PREVIOUSLY AMENDED</u>
1. Final Design	\$ 130,000	\$ 30,000
2. Right-of-way	-0-	-0-
3. Construction	750,000	550,000
4. Contingency	45,000	15,000
Grand Total	\$925,000	\$595,000

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

- C. Based on total PROJECT costs, the maximum percent and dollar contribution by each party shall be:

	<u>Percentage Share</u>	<u>Previously Contributed</u>	<u>Additional Contribution</u>	<u>Maximum Contribution</u>
DISTRICT	81.00%	\$420,000	\$330,000	\$750,000
CITY	19.00%	\$175,000	\$ -0-	\$175,000
TOTAL	100.00%	\$595,000	\$330,000	\$925,000

2. Paragraph 5. MANAGEMENT OF FINANCES is deleted and replaced as follows:

5. MANAGEMENT OF FINANCES

As set forth in DISTRICT policy (Resolution No. 11, Series of 1973, Resolution No. 49, Series of 1977, and Resolution No. 37, Series of 2009), the funding of a local body's share may come from its own revenue sources or from funds received from state, federal or other sources of funding without limitation and without prior Board approval.

Payment of each party's full share (CITY - \$175,000; DISTRICT - \$750,000) shall be made to DISTRICT subsequent to execution of this Agreement and within 30 days of request for payment by DISTRICT. The payments by PARTIES shall be held by DISTRICT in a special fund to pay for increments of PROJECT as authorized by PARTIES, and as defined herein. DISTRICT shall provide a periodic accounting of PROJECT funds as well as a periodic notification to CITY of any unpaid obligations. Any interest earned by the monies contributed by PARTIES shall be accrued to the special fund established by DISTRICT for PROJECT and such interest shall be used only for PROJECT upon approval by the contracting officers (Paragraph 13).

Within one year of completion of PROJECT if there are monies including interest earned remaining which are not committed, obligated, or disbursed, each party shall receive a share of such monies, which shares shall be computed as were the original shares.

3. All other terms and conditions of Agreement No. 10-10.14 shall remain in full force and effect.

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

URBAN DRAINAGE AND
FLOOD CONTROL DISTRICT

(SEAL)

ATTEST:

By _____

Title Executive Director

Date _____

CITY OF WESTMINSTER

(SEAL)

ATTEST:

By _____

Title _____

Date _____

APPROVED AS TO FORM:

MR M. Cully
City Attorney

Tanglewood Creek & Pond



200 0 200 Feet



1 inch = 200 feet



Agenda Item 9 A

Agenda Memorandum

City Council Meeting
April 22, 2013



SUBJECT: Resolution No. 15 re Appointments to Fill Vacancies on Boards and Commissions

Prepared By: Linda Yeager, City Clerk

Recommended City Council Action

Adopt Resolution No. 15 to make appointments to fill vacancies on the Board of Building Code Appeals, Election Commission, Environmental Advisory Board, Historic Landmark Board, Open Space Advisory Board and Special Permit and License Board.

Summary Statement

- The Westminster Municipal Code establishes the membership composition of each City Board and Commission and, in some instances, sets forth expertise requirements for membership where professional experience is valuable to the Board's role.
- In December of 2012, resignations were received from five regular members serving on the Board of Building Code Appeals, Environmental Advisory Board, Historic Landmark Board, and Open Space Advisory Board. Subsequently, resignations were received from a member of the Election Commission and a regular member of the Special Permit and License Board. To fill these vacancies, alternate members were appointed where appropriate.
- Citizens interested in serving on these boards were interviewed by Council in March.
- If adopted, the attached resolution officially appoints eight qualified citizens of Westminster to fill vacancies on the previously mentioned Boards and Commissions so the groups can continue to function with full representation.

Expenditure Required: \$0

Source of Funds: N/A

Policy Issue

Does City Council wish to fill vacancies on the Board of Building Code Appeals, Election Commission, Environmental Advisory Board, Historic Landmark Board, Open Space Advisory Board and Special Permit and License Board so a full complement of qualified members can fulfill established duties?

Alternative

Do not fill the vacancies at this time. This is not recommended as City Council invested the time into completing interviews and identifying qualified citizens to fill the vacancies. In addition, having these Boards and Commissions with full membership permits them to continue their efforts as outlined in the Westminster Municipal Code.

Background Information

Resignations from seven members on Boards and Commissions were received at or shortly after the time of their term expiration on December 31, 2011.

Board	Resigned Member Name
Board of Building Code Appeals	James Black
Election Commission	A.J. Elserougi
Environmental Advisory Board	Michelle Christiansen
Environmental Advisory Board	Rhea Staniszewski
Historic Landmark Preservation Board	Patti Kinnear
Open Space Advisory Board	Randal Whorton
Special Permits and License Board	John Velasquez

As a result of many of the member vacancies being filled by the appointment of alternate members who were serving on the Board or Commission, their appointments to regular membership created additional vacancies. For the remaining vacancies, Staff conducted a recruitment during January 2013 for Westminster citizens interested in potentially serving on a Board or Commission. City Council conducted interviews with the applicant pool on March 4, 18 and 25. The attached resolution makes appointments to fill the existing vacancies that resulted from the resignation of A.J. Elserougi on the Election Commission; the resignation of Michelle Christiansen on the Environmental Advisory Board; and the resignation of John Velasquez on the Special Permit and License Board. Additionally, the resolution appoints qualified individuals to fill alternate memberships on the Board of Building Code Appeals, the Environmental Advisory Board, the Historic Landmark Board, the Open Space Advisory Board, and the Special Permit and License Board.

By appointing residents to these Boards and Commissions as outlined in the attached resolution, citizens are engaged in their community and are actively supporting City Council's Strategic Plan Goals of a Strong, Balanced Local Economy; a Financially Sustainable City Government Providing Exceptional Services; a Safe and Secure Community, Vibrant Neighborhoods in One Livable Community and a Beautiful and Environmentally Sensitive City. Residents are able to help their fellow residents during elections, expand green spaces, retain and expand current businesses, develop a reputation that Westminster is a great place for small and/or local businesses, and preserve historic assets for future generations.

Respectfully submitted,

J. Brent McFall
City Manager

Attachment - Resolution

RESOLUTION

RESOLUTION NO. **15**

INTRODUCED BY COUNCILLORS

SERIES OF 2013

**A RESOLUTION FOR THE CITY OF WESTMINSTER
BOARD AND COMMISSION NEW APPOINTMENTS**

WHEREAS, it is important to have each City Board or Commission working with its full complement of authorized members to carry out the business of the City of Westminster with citizen representation; and

WHEREAS, every member of the City's Boards and Commissions whose term expired on December 31, 2012 was contacted and some tendered their resignations, as they could no longer continue to serve; and

WHEREAS, City Council conducted interviews of citizens who responded to the 2013 Boards and Commissions' recruitment and, from the pool of eligible citizens, has selected individuals to fill existing vacancies.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WESTMINSTER that the following individuals are hereby appointed to the Westminster Board or Commission identified below with terms of office to expire on the dates reflected.

<u>BOARD/COMMISSION</u>	<u>NAMES OF APPOINTEES</u>	<u>TERM OF OFFICE</u>
Board of Building Code Appeals	Dan Orecchio (2 nd alternate)	December 31, 2013
Election Commission	Shannon Bird (regular member)	December 31, 2013
Environmental Advisory Board	A. J. Elserougi (regular member) Edwin Cook (alternate member)	December 31, 2014 December 31, 2013
Historic Landmark Board	Barbara Cox (alternate member)	December 31, 2013
Open Space Advisory Board	Jonathan Herrmann (alternate member)	December 31, 2013
Special Permit and License Board	Jennifer Shannon (regular member) Mark Whitney (alternate member)	December 31, 2014 December 31, 2013

PASSED AND ADOPTED this 22nd day of April, 2013.

ATTEST:

Mayor

City Clerk

APPROVED AS TO LEGAL FORM:

City Attorney



Agenda Memorandum

City Council Public Hearing
April 22, 2013



SUBJECT: Public Hearing and Action on an Appeal of a Planning Commission Denial for a Sign Variance for the 16th Amendment to the Village at Standley Lake Official Development Plan, Crown Point Filing No. 4, 1st Replat

Prepared By: Patrick Caldwell, Planner III

Recommended City Council Action

- 1. Determine that the requirements have been met for perfecting an appeal of the Planning Commission decision.
2. Hold a de novo public hearing.
3. Determine that the requirements of Westminster Municipal Code (WMC) Section 11-11-8(A) have not been met and deny the appeal of a Planning Commission Denial for a sign variance for the 16th Amendment to the Village at Standley Lake Official Development Plan, Crown Point Filing No. 4, 1st Replat.

Summary Statement

- Variances to the City's Sign Code in Planned Unit Development (PUD) zone districts are reviewed by making application to the Planning Commission per the Westminster Municipal Code (WMC) §11-11-8(A).
• At a public hearing held on March 12, 2013, the Planning Commission voted unanimously (7-0) to deny a variance to the City's Sign Code to allow a monument sign for the 16th Amendment to the Village at Standley Lake Official Development Plan (ODP), Crown Point Filing No. 4, 1st Replat.
• Pursuant to Section 11-5-13(B), WMC, Mr. Jon Harbour filed a timely Notice of Appeal on March 21, 2013.
• Notice of the public hearing for the appeal was correctly posted at the property; notice was correctly published in the Westminster Window; and notice was mailed in a timely manner to properties within 300 feet.
• The site of the sign variance request is on Lot 4 at the southwest corner of Wadsworth Parkway at approximately 101st Avenue in the Village at Standley Lake retail center.
• The construction phase of the medical office/retail building on this site is nearing completion.
• The Preliminary Development Plan (PDP) addresses the locations, and the number of monument signs (2), and the number of sign spaces per each monument sign (4) for the commercial part of the PDP.
• The Official Development Plan (ODP) for the commercial part of the PDP shows the locations of the 2 monument signs as well as other signage for the church parcel. Each monument sign may have up to six tenant IDs.
• The request is to add one monument sign on Lot 4 for the exclusive use of Lot 4. No other lots in the Village at Standley Lake PDP have a monument sign for their exclusive use.

Expenditure Required: \$0
Source of Funds: N/A

Planning Commission Decision

The sign variance request for a monument sign on Lot 4 in a PUD zone district was considered by the Planning Commission on March 12, 2013. The site is on the 16th Amendment to the Village at Standley Lake ODP, Crown Point Filing No. 4, and 1st Replat. No members of the public spoke in favor or against the proposal. An adjacent property owner sent a letter stating that if this was approved he would want his own sign also. The Planning Commission voted unanimously (7-0) to deny the variance request for a monument sign on Lot 4. This was based on a finding that the criteria for a sign variance set forth in Section 11-11-8(A) of the Westminster Municipal Code had not been met.

Policy Issue

This is a quasi-judicial matter. No new policy issues are presented.

Alternative

Determine that the requirements of Section 11-11-8(A), W.M.C., have been met and grant the appeal of a Planning Commission Denial for a sign variance for the 16th Amendment to the Village at Standley Lake Official Development Plan, Crown Point Filing No. 4, 1st Replat.

Background Information

Nature of Request

The applicant, Arbor Colony West, LLC, is proposing a monument sign on Lot 4 and has applied for a variance to the City Sign Code to allow the monument sign.

Site Name

There is some confusion with the name of this property. The PDP is the zoning document for this PUD zone, and is titled as Crown Point. The ODP is the site plan, and for the commercial part of the PDP is titled as Village at Standley Lake. Lot 4 is within the Village at Standley Lake ODP. The church use part of the PDP is titled as the Christ Community Covenant Church ODP.

Location

Lot 4 is on the southwest corner of Wadsworth Parkway at the signalized intersection of 101st Avenue. The spine road that borders the north side of Lot 4 is a private drive referenced as "Main Street." The "Main Street" intersects with Wadsworth Parkway at 101st Avenue and wraps to the south to intersect with 100th Avenue. The address of Lot 4 is 10081 Wadsworth Parkway. The vicinity map is Attachment A.

Public Notification

Westminster Municipal Code §11-5-13 requires the following three public notification procedures:

- **Published Notice:** Notice of public hearings scheduled for the City Council shall be published at least four (4) days prior to such hearings. Notice was published in the Westminster Window on April 11, 2013.
- **Property Posting:** Notice of public hearings shall be posted on the property at least four (4) days prior to such hearings. At least one sign shall be posted in a location reasonably visible to vehicular and pedestrian traffic passing adjacent to the site. One sign was posted on the property on April 11, 2013.
- **Written Notice:** At least ten (10) days prior to the date of the public hearing, individual notices shall be mailed by first-class mail to property owners and homeowners' associations registered with the

- City within 300 feet of the subject property. The Planning Manager has certified that the required notices were mailed on April 11, 2013.

Applicant

Arbor Colony West, LLC
 10835 Dover Street, Suite 1100
 Westminster, Colorado 80021

Surrounding Land Use and Comprehensive Land Use Plan Designation

Development Name	Zoning	CLUP Designation	Use
North: Village at Standley Lake	PUD	District Center	Commercial/Retail
West: Village at Standley Lake	PUD	District Center	Commercial/Retail
East: Standley Lake Marketplace	PUD	District Center	Commercial/Retail
South: Village at Standley Lake	PUD	District Center	Commercial/Retail

Site Plan Information

The attached site plan information shows the proposed location of the sign proposed for variance highlighted in yellow, and the location of the existing tenant and development monument signs highlighted and labeled in pink. This is Attachment B.

- Traffic and Transportation: Traffic on Wadsworth Parkway and on 101st Avenue is not anticipated to be affected by the proposed new monument sign on Lot 4.
- Site Design: Primary access to the Lot 4 site is from the private “Main Street” that is aligned on an east to west axis with 101st Avenue. There is a full movement traffic signal at this intersection of “Main Street”/101st Avenue with Wadsworth Parkway. The new medical building on Lot 4 faces south, so the rear (north) of the building faces the private “Main Street.” The proposed monument sign would be at the east edge of the Lot 4 site along Wadsworth Parkway. There are existing monument signs with unused tenant identification panels at the intersections of the private “Main Street” at Wadsworth Parkway and at 100th Avenue. A site plan of Lot 4 is attached as Attachment B.
- Landscape Design: The approved ODP landscaping for the site on Lot 4 will not be revised to accommodate the proposed monument sign.
- Public Land Dedication/School Land Dedication: Not applicable.
- Architecture/Building Materials: The existing buildings are to remain as they currently exist. The applicant has a proposed sign design for the new monument sign on Lot 4, and the sign design is similar to materials and style of the new medical building on Lot 4. This sign design is attached as Attachment C. The proposed sign is shown in front of the medical building in Attachment D.
- Signage:
 Development Identification Monument style signs (see Attachment E for location and elevation/design approved as part of the ODP include:
 - There are development identification monument style signs at the private “Main Street” intersections with Wadsworth Parkway, and at 100th Avenue.
 - These development identification monument style signs identify the major land uses at the overall Crown Point PDP, and were approved with the PDP.

- For the commercial use, the development identification monument signs state “Village at Standley Lake.”
- For the church use, the monument signs will state “Christ Community Covenant Church” at the time that the church is constructed.

Monument Signs for Tenants (see Attachment E for location and elevation of these signs.):

- There is an existing monument sign for commercial tenants in the Village at Standley Lake ODP located just north of Lot 4 in the median of the private “Main Street.”
- An identical style monument sign for tenants is in the median at the private “Main Street” intersection with 100th Avenue at the south edge of the Village at Standley Lake ODP.
- Both monument signs for tenants were approved on the ODP.
- Both monument signs for tenants are allowed 4 tenant spaces per face. There are 4 faces, so there could potentially be 16 different tenants on these signs.
- At this time there are vacant tenant spaces on each face.

Municipal Code Criteria: Section 11-11-8 (A): Variances (see Attachment F)

(A) SIGNS IN PLANNED UNIT DEVELOPMENTS: All signs proposed for, or within a Planned Unit Development may apply for modifications to the requirements of this sign code by making application to the Planning Commission using the procedures specified in Section 11-5-8 or 11-5-10, WMC. Such variances may be granted administratively, if the provisions of this Code are not exceeded by more than twenty percent (20%). Such variance shall consider sub-subsections (1) through (5) under subsection (B), below.

(1) There are special circumstances or conditions such as the existence of buildings, topography, vegetation, sign structures, or other matters on adjacent lots or within the adjacent public right of way which would substantially restrict the effectiveness of the sign in question provided; however, that such special circumstances or conditions must be peculiar to the particular business or enterprise to which the applicant desires to draw attention and do not apply generally to all businesses or enterprises.

Staff Comment: No special circumstances exist here. Harm or difficulty that may be the product of any special circumstances or conditions are speculative.

- a. The medical building first floor does not have any exclusively first floor tenants at this time, and no signage exists on the medical building first floor at this time, so it is speculative to state that the signage may be inadequate;
- b. The east side of the building faces Wadsworth Parkway, and the north and south faces of the building are very visible from Wadsworth Parkway. The ODP for this Lot 4 designates a sign area for tenant signage for the first floor tenants. The designated sign areas per the approved ODP are shown on Attachment G. There is no evidence offered to show that the designated tenant signage area is inadequate.
- c. The east side of the medical building is located only 74 feet from the Wadsworth Parkway right-of-way. This is much closer than the retail buildings in this Crown Point PDP to the north that are setback 97 feet (Starbucks) and 90 feet (Carpet Exchange) from the right-of-way line. Both of these buildings are fully tenanted at this time. Neither of these lots have an exclusive monument sign. See Attachment H.
- d. There are vacant tenant spaces on the faces of the two existing monument signs at the arterial streets of Wadsworth Parkway and West 100th Avenue. The appellant has not provided information about why they cannot use these vacant sign areas on the faces of the existing monument signs.
- e. The existing monument sign at the north side of this lot is constructed on the common property line of Lot 5, and thus the existing monument sign with the vacant spaces is partially on this Lot 4. There has been no information provided with this sign variance

application to explain any circumstances that prevent the appellant from installing signage on the currently vacant spaces on the existing monument signs that are partially on their lot. Easement documents for the north monument sign or documents of sign ownership have not been provided to the City as evidence to demonstrate inability for the first floor medical building tenants to locate on these existing tenant monument signs;

- f. At the time that this PDP was approved the City's sign code limited the number of tenants per monument sign to four tenants. The City's sign code has been revised and now allows six tenant spaces per face. The appellant has provided no evidence of working with the existing entity that owns the existing monument signs and utilizing the option to increase the number of tenant spaces on the sign face from four to six in lieu of adding a monument sign on Lot 4 for the exclusive use of Lot 4.

(2) The variance, if authorized, will weaken neither the general purpose of the sign code nor the zoning regulations prescribed for the zoning district in which the sign is located.

Staff Comment: The general purpose of the sign code is to coordinate the signage throughout the City and to balance the cluttering visual impacts of too much signage. The code limits monument signage number per site, the height, the setbacks, the area of the sign face, and the quantity of signs per face. Building signage is similarly regulated to avoid visual clutter, and to balance the signage impacts in the zone district. In this P.U.D. zone the signage was stated in the Crown Point PDP, approved at the same time as the master ODP's for both the church and the commercial parts of the site. Allowing an individual monument sign on an individual lot, such as is proposed here, effectively weakens both the general purpose of the sign code, and the zoning regulations for signage that were stated in the Crown Point PDP, the Village at Standley Lake Commercial ODP, and in the Christ Community Covenant Church ODP. In those documents the monument signage was approved at the major driveway accesses to benefit all lots equally.

(3) The variance, if authorized, will not alter the essential character of the zoning district in which the sign is located.

Staff Comment: The proposed signage will alter the character of this PUD zone district. The Crown Point PDP, the Village at Standley Lake Commercial ODP, and the Christ Community Covenant Church ODP have a coordinated and balanced monument signage system that places the monument signs at the two main access locations to the overall site. There are seven total lots in this PUD zone district and the approved monument signs are located at two entrances to benefit all lots equally. The monument signs are located on common lot lines, not on individual lots. Allowing one monument sign on one individual lot is a substantial change to the character of the site. There is no unusual circumstance to warrant this variance. If the variance is granted, many other developers may want a similar sign on their individual lot and that undermines the City Council's intent for the adopted Sign Code.

(4) The variance, if authorized, will not substantially or permanently injure the appropriate use of adjacent conforming property.

Staff Comment: The proposed monument sign will not injure the adjacent commercial uses. It emits no odors, fumes, harmful lights or other items that would be harmful to adjacent conforming properties.

(5) The Planning Commission may not grant any application for a type of sign that would not otherwise be permitted under this Code.

Staff Comment: A monument sign is allowed by the City Code.

This proposed variance does not support the City Council's goal of "Beautiful and Environmentally Sensitive City."

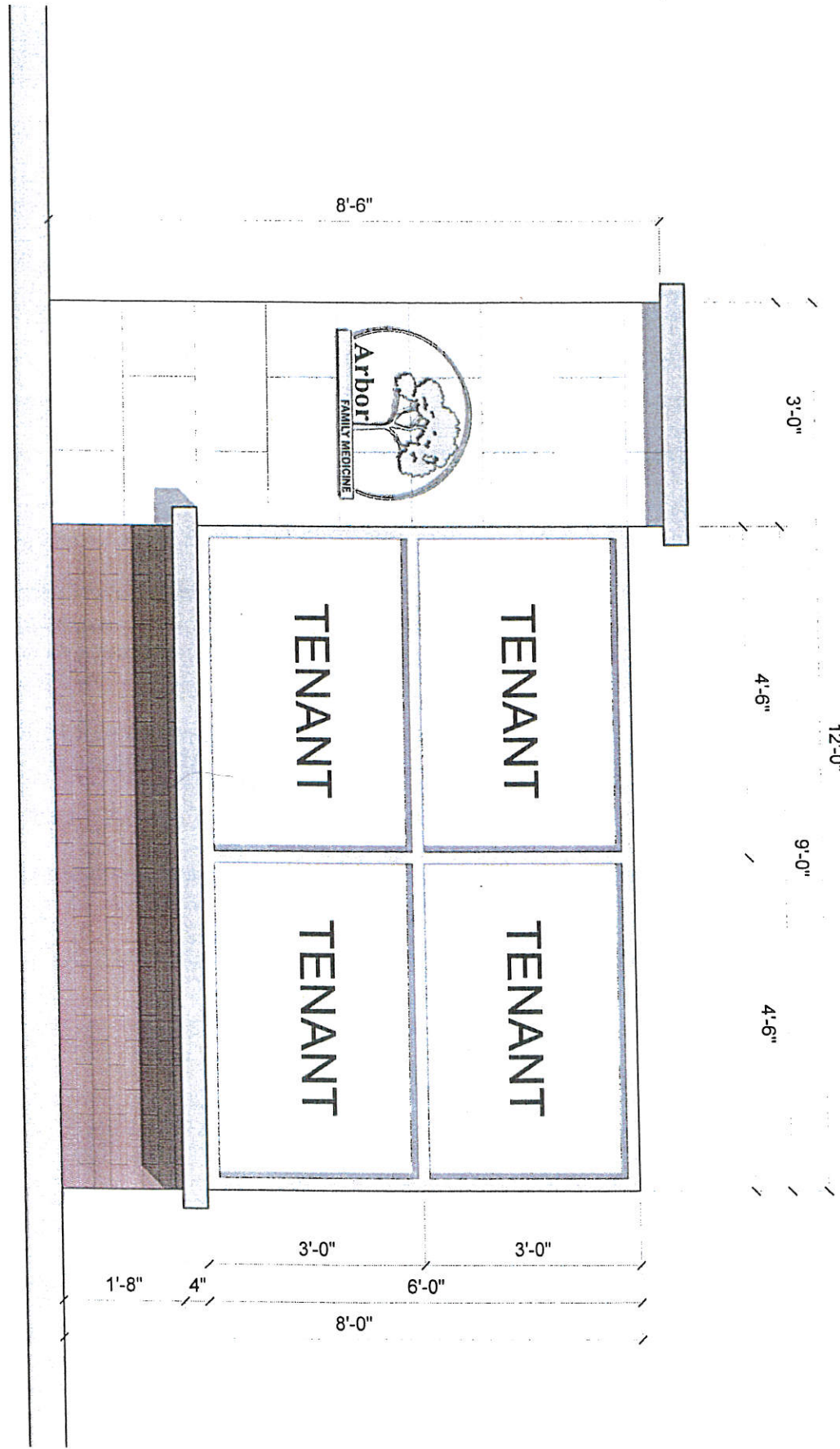
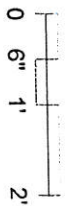
Respectfully submitted,

J. Brent McFall
City Manager

Attachments

- Attachment A – Vicinity Map
- Attachment B – Site Plan
- Attachment C – Proposed Sign Design
- Attachment D – Proposed Sign with Medical Building in Background
- Attachment E – Monument Sign Elevations and Location per Approved Master ODP
- Attachment F – Criteria and Standards for Applications for Sign Code Variance
- Attachment G – Building Elevations
- Attachment H – Setbacks of Buildings
- Attachment I – Applicant's Request for Variance
- Attachment J – Carpet Exchange Letter

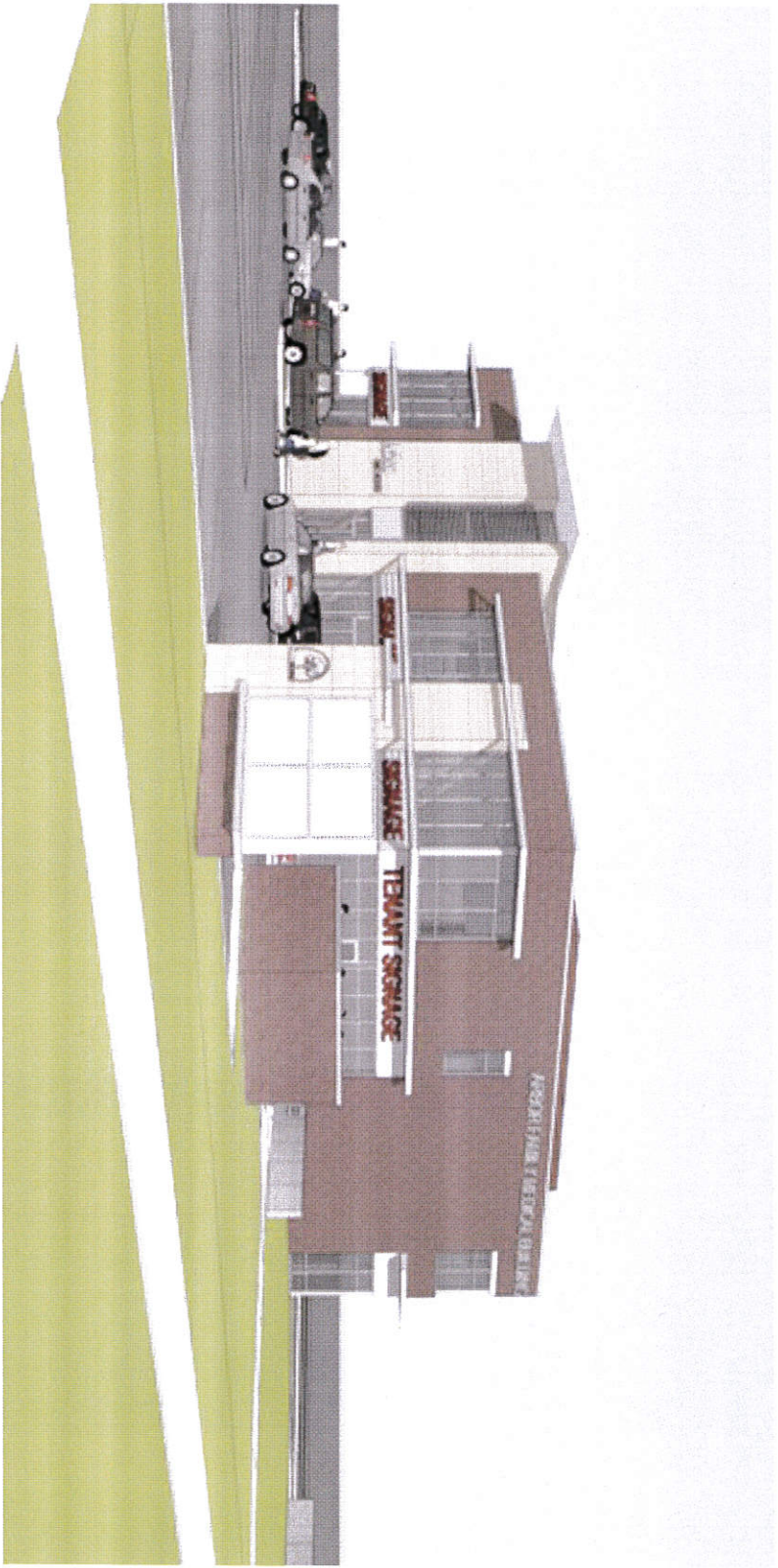
MONUMENT SIGN

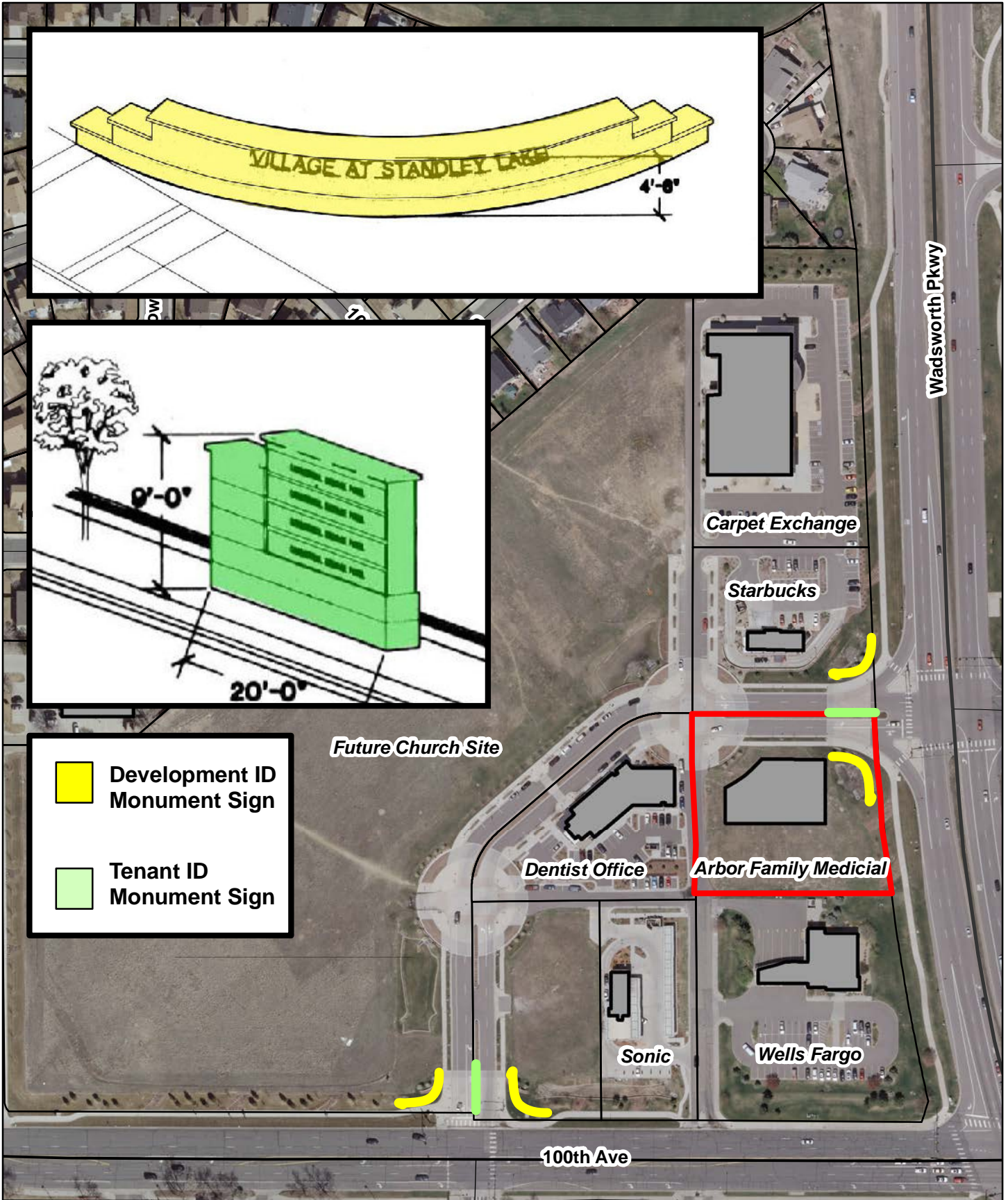


Pappas architecture design llc PROJECT: 11601
 PHASE:
 DATE: 27 NOVEMBER 2012

5455 East Evans Place
 Denver, Colorado 80222
 P. 303 733 0877 F. 303 733 3477

ARBOR FAMILY MEDICAL BUILDING
 MONUMENT SIGN
 10081 WADSWORTH PARKWAY
 WESTMINSTER, COLORADO 80021

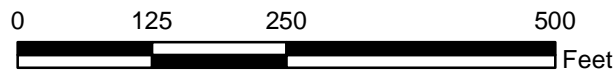




Crown Point - Existing Monument Signs



DWG/04-03-2013



11-11-8: VARIANCES: (2862)

(A) Signs in Planned Unit Developments: All signs proposed for or within a Planned Unit Development may apply for modifications to the requirements of this sign code by making application to the Planning Commission using the procedures specified in Section 11-5-8 or 11-5-10, W.M.C. Such variances may be granted administratively, if the provisions of this Code are not exceeded by more than twenty percent (20%). Such variances shall consider items 1 through 5 under subsection (B), below.

(B) Signs not in planned unit developments: All signs within any zone district other than Planned Unit Development may apply for modifications to the requirements of this sign code by making application to the Planning Commission using the procedures specified in Section 2-2-8, W.M.C. In considering a request for a variance to the sign code, the Planning Commission shall determine that:

(1) There are special circumstances or conditions, such as the existence of buildings, topography, vegetation, sign structures, or other matters on adjacent lots or within the adjacent public right-of-way that would substantially restrict the effectiveness of the sign in question; provided, however, that such special circumstances or conditions must be peculiar to the particular business or enterprise to which the applicant desires to draw attention and do not apply generally to all businesses or enterprises.

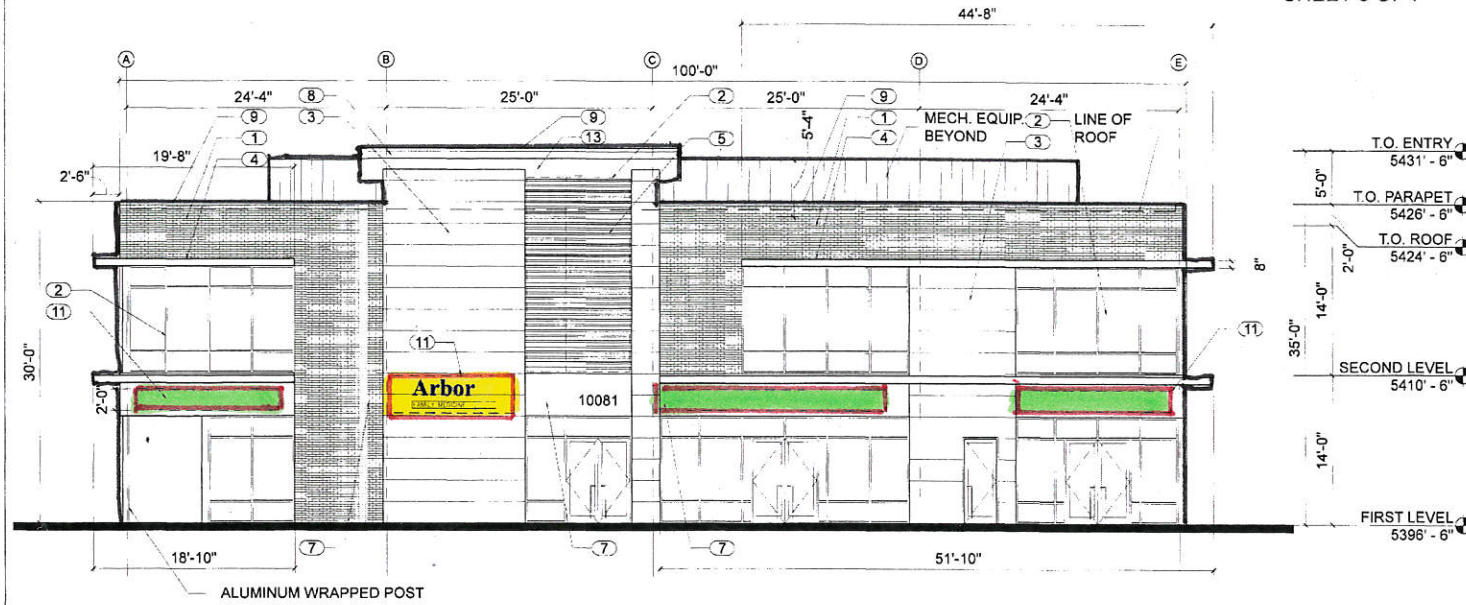
(2) The variance, if authorized, will weaken neither the general purpose of the sign code nor the zoning regulations prescribed for the zoning district in which the sign is located.

(3) The variance, if authorized, will not alter the essential character of the zoning district in which the sign is located.

(4) The variance, if authorized, will not substantially or permanently injure the appropriate use of adjacent conforming property.

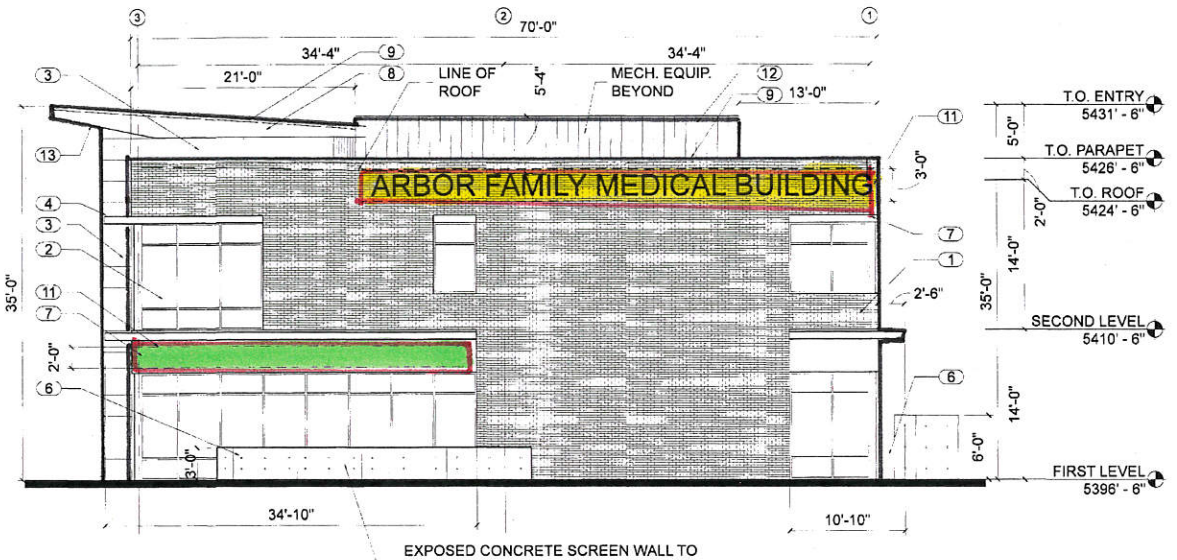
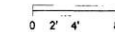
(5) The Planning Commission may not grant any application for a type of sign that would not otherwise be permitted under this Code.

16TH AMENDMENT TO THE VILLAGE AT STANDLEY LAKE
 OFFICIAL DEVELOPMENT PLAN,
 CROWN POINT FILING NO. 4, 1ST REPLAT,
 A PLANNED UNIT DEVELOPMENT,
 IN THE CITY OF WESTMINSTER,
 COUNTY OF JEFFERSON, STATE OF COLORADO
 SHEET 5 OF 7



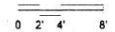
SOUTH ELEVATION

1/8" = 1'-0"



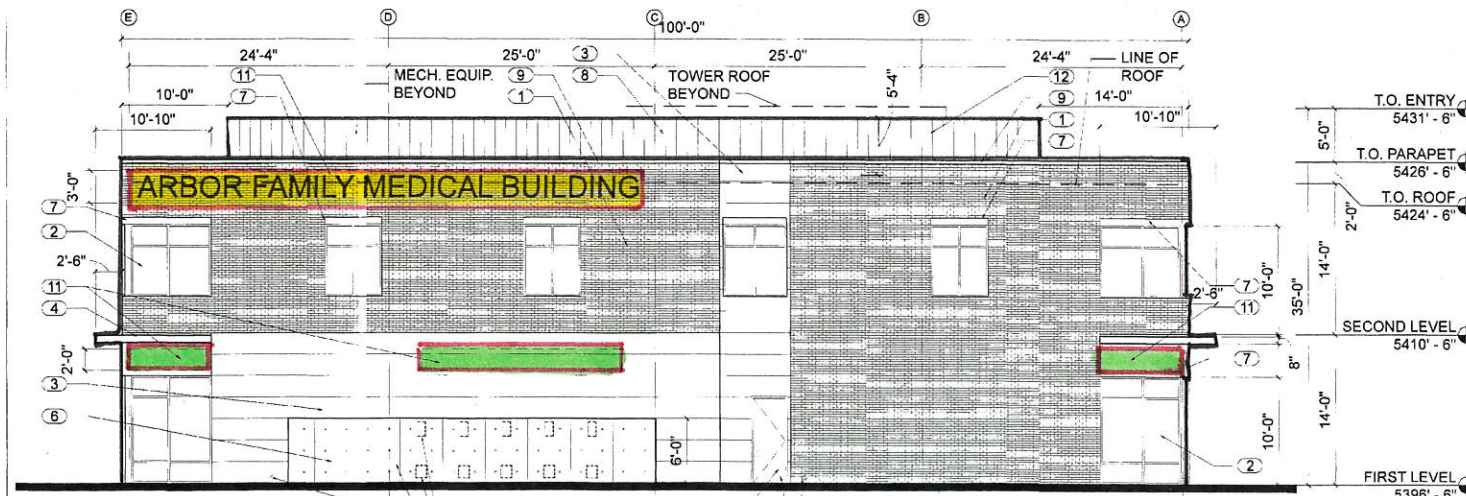
EAST ELEVATION

1/8" = 1'-0"



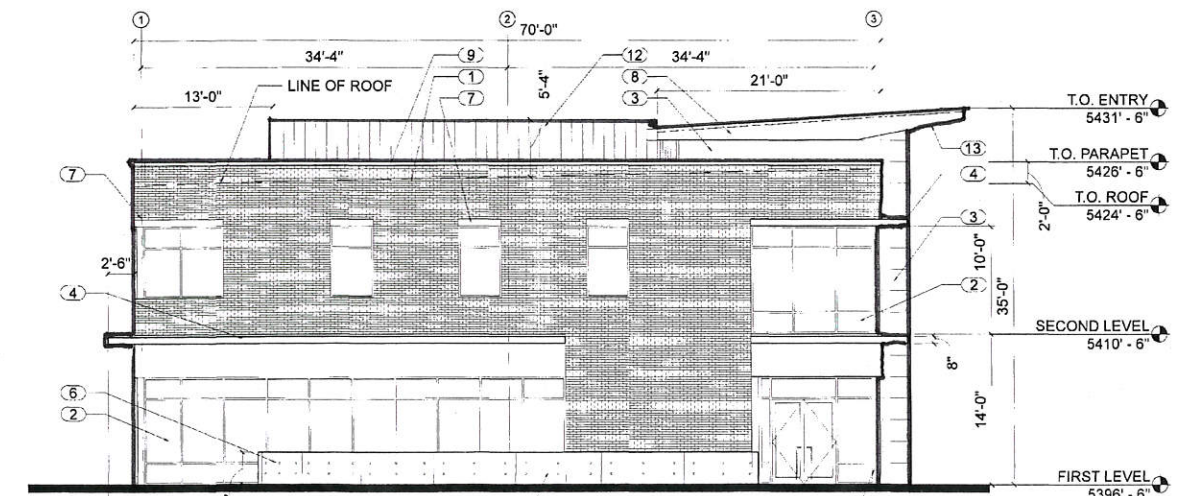
MATERIAL	COLOR
1 STANDARD BRICK	BALLPARK RED
2 ANODIZED ALUMINUM STOREFRONT	CLEAR ALUMINUM
3 CUT SANDSTONE	BUFF
4 ANODIZED ALUMINUM SUNSHADE	CLEAR ALUMINUM
5 ALUMINUM LOUVERS	CLEAR ALUMINUM
6 EXPOSED CONCRETE WALL (SIMILAR TO EXISTING)	GREY
7 ALUMINUM PANEL	CLEAR ALUMINUM
8 ALUMINUM FASCIA/SOFFIT	CLEAR ALUMINUM
9 GALVANIZED METAL PARAPET CAP	CLEAR ALUMINUM
10 METAL DOOR	PAINT TO MATCH SANDSTONE
11 ALLOWABLE SIGNAGE AREA	
12 PAINTED FLUSH METAL SCREEN WALL	PAINT TO MATCH BRICK
13 PAINTED HARDBOARD SOFFIT	WHITE

NOTE: THE SIGN BAND SHOWN IS WHERE WALL SIGNAGE FOR FIRST FLOOR TENANTS MAY BE INSTALLED. THE TOTAL SIGNAGE MAY NOT EXCEED 300 SQUARE FEET PER TENANT. THE WIDTH OF THE SIGNAGE MAY NOT EXCEED 75% OF THE TENANT'S BUILDING FRONTAGE.



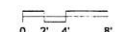
NORTH ELEVATION

1/8" = 1'-0"



WEST ELEVATION

1/8" = 1'-0"



INTERNAL ROOF DRAIN SPOUT. CONNECT TO UNDERGROUND DRAIN PIPE TO DETENTION POND.
 ELEC. METER BEYOND GAS METER BEYOND
 EXPOSED CONCRETE SCREEN WALL TO MATCH EXISTING LOW CONCRETE WALL IN CROWN POINT DEVELOPMENT
 INTERNAL ROOF DRAIN SPOUT. CONNECT TO UNDERGROUND DRAIN PIPE TO DETENTION POND.
 FLUSH METAL DOOR - PAINT TO MATCH CUT SANDSTONE

ARBOR FAMILY MEDICAL BUILDING
 THE VILLAGE AT STANDLEY LAKE
 10081 WADSWORTH PARKWAY
 WESTMINSTER, COLORADO 80021

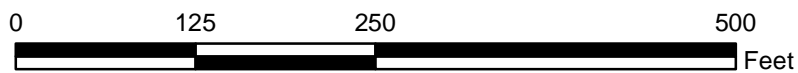
JANUARY 16, 2012

PROJECT: 1001

Pappas architecture design, LLC
 10001 Pecos Street, Suite 100
 P.O. Box 100, Westminster, CO 80021
 P: 303.733.9477 F: 303.733.9477
 www.pappasarch.com



Crown Point - Setbacks



Request for Variance Submittal

Arbor Colony West, LLC
Arbor Family Medicine Building
The Village at Standley Lake
Lot 4, First Replat, Crown Point, Filing #4
10081 Wadsworth Parkway
Westminster, CO 80021

Mr. Donald Anderson & The City of Westminster
Planning Commission:

Arbor Family Medicine (DBA Arbor Colony West, LLC "Arbor") is a general and family medical practice currently located at 108th and Wadsworth Parkway and has been doing business in the City of Westminster for many years. This commitment to the City will continue with the March completion of their new flagship building located at 10081 Wadsworth Parkway. The building is comprised of two stories and approximately 12,944 square feet, of which Arbor will be occupying the 2nd level and leasing out space on the main level to businesses aimed at serving this busy and vibrant part of Westminster. Like many of the businesses located along Wadsworth, it is imperative that patrons be given ample time to identify and locate the proper ingress for each location. At present, there is very limited exposure along Wadsworth Parkway for the building, making it difficult for the public to properly locate these future lower level businesses. For various reasons further outlined below, we feel this situation presents an unnecessary and undue hardship on Arbor Family Medicine. As a result, Arbor Family Medicine is seeking an amendment to the Official Development Plan (ODP) as well as a variance from the City Planning Commission to allow for the placement of a monument sign along Wadsworth Parkway (Site Plan SP1). It is important to note that the placement of this sign will meet all applicable codes and design standards, and no variance to these codes and standards is currently being sought by Arbor. Additionally, the owners of Arbor Family Medicine understand that this sign is a reflection of their business within the community and have taken steps to design a sign that is very tastefully done and goes well with architecture of the building as well as the surrounding area (Monument Sign).

Planning Commission Variance Requirements:

- 1) Special circumstances and conditions:** The location of the drainage basin that serves the adjacent properties and the corresponding drainage and access easements (Site Plan SP1) created site constraints that necessitated the building be both oriented in the far northwest corner of the lot and have the front of the building oriented to face south, as opposed to directly along Wadsworth to the east. For

these two reasons this creates a situation where proper identification of lower level tenants is severely limited from Wadsworth Parkway.

- 2) The variance, if authorized, will weaken neither the general purpose of the sign code nor the zoning regulations prescribed for the zoning district in which the sign is located.** (See Answer Three below)

- 3) The variance, if authorized, will not alter the essential character of the zoning district in which the sign is located.** The site constraints explained above are very unique to Lot 4 of the Village at Standley Lake. Most, if not all of the similar surrounding commercial properties are able to face directly along Wadsworth Parkway so that businesses can be properly identified. Additionally, the majority of surrounding properties do not have constraints which also severely limit the location of a structure within their respective lots, beyond what is the standard requirement of the zoning district. Therefore, it is the opinion of Arbor that this request for variance is based on very unique circumstances that are not easily duplicated within the zoning district and would neither serve to weaken the zoning regulations or alter the character of the zoning district.

- 4) The variance, if authorized, will not substantially or permanently injure the appropriate use of adjacent conforming property.** Located near 101st and Wadsworth Parkway, this busy commercial area of the City generally consists of buildings that face directly along Wadsworth with the addition of monument signage in order for the proper identification of businesses within. Therefore, should a variance be granted, the addition of a monument sign will neither alter or impair the neighborhood or injure the adjacent property, but will instead be a useful addition to the City and zoning district by allowing for the effective identification of businesses within the building.

- 5) The Planning Commission may not grant any application for a type of sign that would not otherwise be permitted under this Code.** Should a variance be granted by the Planning Commission the implementation of a monument sign, both located and designed as shown, would in fact conform to the provisions of the Zoning Ordinance and Code.

Additional considerations as to why the lack of a monument sign for the Arbor Family Medicine Building represents an undue hardship and also why this monument sign will be a useful addition to the City of Westminster:

- Lack of Existing Monument Signage - There is currently no monument signage available along Wadsworth Parkway for lot 4 of the Village at Standley Lake. There does exist a monument sign at 101st and Wadsworth however Arbor has no rights or association with this sign, and it is currently used for Christ Community Covenant Church, Sonic Burgers and Starbucks Coffee.
- Public Identification - North and Southbound traffic along this area of Wadsworth Parkway often exceeds speeds of 50mph and as a result, people have a very limited window to locate the building and safely navigate traffic without some identification along Wadsworth Parkway. Should a variance be granted, placement of a monument sign would allow for both northbound and southbound traffic to have ample time in identifying the businesses in the building, and for them to safely slow down and navigate the signalized intersection at 101st and Wadsworth.
- Site Constraints - As outlined and described above, the location of the drainage basin and various associated easements called for the building orientation so that only the side of the building (eastern elevation) faces Wadsworth Parkway. As a result, only the eastern tenant space has any direct signage along this main thoroughfare and even this exposure is severely limited due to the location of the drainage basin and associated set backs. The remaining lower level center and western tenants will have no identification along Wadsworth, making it extremely difficult if not impossible for drivers to identify these businesses. We feel that the combined effect of these site constraints represent an undue hardship to Arbor Family Medicine.
- The Building is an Amenity to the Neighborhood - This area of the Wadsworth Parkway corridor acts essentially as a gateway to the City of Westminster from neighboring Broomfield to the North, and will also serve the many local residents of Standley Lake and other surrounding neighborhoods. Arbor Family Medicine took great pride in the design and construction of this building. A tremendous amount of large, open-air patio space was created on both the east and west elevations and great care was given to ensure that there would be ample parking. As such, we feel the building represents a significant benchmark for future development and is currently attracting interest from various restaurants and other gathering places that are highly desirable to the surrounding communities. Therefore, it would be very useful to the City for the businesses on the lower level space to be easily identifiable from Wadsworth Parkway.

ADDITIONAL COMMENTS AND PHOTO ILLUSTRATIONS WILL BE GIVEN AT
THE PRESENTATION HEARING

BRADLEY DEVITT HAAS & WATKINS, P.C.

GOLDEN LAWYERS



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Golden, Colorado 80401
(303) 384-9228 Fax (303) 384-9231

Jon T. Bradley
Jerald J. Devitt
Andrew D. Haas
Steven W. Watkins

Of Counsel
David A. Strom
Leslie M. German

March 7, 2013

Patrick Caldwell
Planner, III
4800 W 92nd Avenue
Westminster, Colorado 80031



Re: *101st and Wadsworth Parkway*

Dear Mr. Caldwell:

As we discussed on March 6, 2013, this office represents Carpet Exchange. Thank you for taking the time to discuss this matter with me on March 6, 2013. Although the correspondence from the property owner was dated February 28, 2013, it was not received by the appropriate representative of my client and forwarded to me until Wednesday, March 6, 2013.

As you recall, my client had expressed a desire for a monument sign at the time the Carpet Exchange parcel was developed. At that time, my client was advised, in no uncertain terms, that staff would not recommend a monument sign. Based on the staff recommendation, my client did not go forward with the application. However, if any monument signs are to be permitted, my client feels that, because of its history as a solid, taxpaying business in the Westminster community, coupled with its previous request, that it should be permitted to develop a monument sign prior to the current applicant.

I understand that staff is going to recommend against the application. Please convey to the Planning Department that my client believes that it has a prior right to develop a monument sign, if one were to be permitted.

Thank you for your courtesies and attention to this matter.

Very truly yours,

BRADLEY DEVITT HAAS
& WATKINS, P.C.


Jon T. Bradley

JTB/sg

cc: Carpet Exchange

OFFICES IN GOLDEN AND MONTROSE

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(970) 249-4488 Fax (970) 249-2246

E-mail: info@goldenlawyers.com
Website: www.goldenlawyers.com



Agenda Memorandum

City Council Meeting
April 22, 2013



SUBJECT: Resolution No. 16 re Hyland Village Service Commitment Extension

Prepared By: Terri Hamilton, Planner III

Recommended City Council Action

Adopt Resolution No. 16 extending the Category A-4 Service Commitment Award to the Hyland Village Traditional Mixed Use Neighborhood Development project based on a finding that the Hyland Village project meets the Westminster Municipal Code Section 11-3-2(A)2 criteria of the City's Growth Management Program.

Summary Statement

- Hyland Village is a partially developed 71-acre Traditional Mixed Use Neighborhood Development located on the southwest corner of Sheridan Boulevard and 98th Avenue. The project was approved in January of 2007 for 426 dwelling units. Two six-plex townhome buildings and four single family buildings have been constructed. A significant amount of infrastructure is also in place. The last building permit issued for a new dwelling unit was June 27, 2008.
- In 2009 and again in 2011, two year extensions to the Service Commitment Award for this development were approved. The 2011 extension will expire May 23, 2013. Attached are requests from the property owners of vacant land within Hyland Village requesting a third extension of the Service Commitments originally awarded in 2004 for this development.
- The City's Growth Management Program allows City Council to extend the Service Commitment time frame based upon specific criteria. City staff believes the criteria are applicable in this situation. (Please see the Background section for the specific extension criteria.)

Expenditure Required: \$ 0

Source of Funds: N/A

Policy Issue

Should City Council approve an extension of Service Commitments necessary to build out this partially constructed development?

Alternative

Do not adopt the attached Resolution extending the award of Service Commitments for this project. This alternative is not recommended by City staff because many of the roads and infrastructure have already been installed for this development to move forward. There are circumstances where it might make sense to allow the Service Commitments to expire, particularly in situations where no “actual” development has occurred. Allowing Service Commitments to expire effectively forces a property owner to “re-compete” for Service Commitments and meet current guidelines.

Background Information

Hyland Village was originally awarded Service Commitments in 2004. A Preliminary Development Plan (PDP) and Official Development Plan (ODP) for the property were approved in 2007. McStain Neighborhoods received approval of an Amended Official Development Plan for a total of 42 dwelling units in 2007. McStain Neighborhoods completed a significant amount of infrastructure and improvements for this development including several residential buildings (16 dwelling units). Two extensions of Service Commitments have been previously requested and awarded (2009 and 2011). The 2011 extension is due to expire May 23, 2013. Challenging national and state economic conditions have persisted and have negatively affected the development potential of the project. McStain Neighborhoods is no longer the master developer and has relinquished the majority of their holdings to a realty company “West-Hy Holdings LLC” (Provident). The undeveloped portion of the development has six property owner holdings, not including parcels that have been dedicated to the City as public land dedication or dwelling units sold. A map attached to this agenda memo indicates ownership parcels at this time.

City Code allows an extension of Service Commitments if specifically approved by the City Council based on a finding that:

- (a) The need for the extension is the result of some unusual and unforeseeable circumstance beyond the reasonable control of the developer; and
- (b) The extension is needed to avoid undue or inequitable hardship that would otherwise result if the extension were not granted; and
- (c) There is no reason to believe that the developer will not be able to proceed with the development of the project within the extended time period.

Should the Service Commitment award expire for the project, City Code requires competition for a new Service Commitment award. Any residential developer within Hyland Village would not be able to proceed with development until new Service Commitments are awarded. The extension of the Service Commitment award for this project will provide additional time for developers to proceed with development of Hyland Village.

Although Hyland Village has an approved Official Development Plan and plat, and has completed substantial public improvements, it does not meet the Growth Management definition of build-out development. Hyland Village does not meet the threshold of being 50% developed with less than 10 acres undeveloped. As the project does not meet the thresholds for a build-out development, it is facing loss of its status of an active residential development because there has not been issuance of a building permit for a new dwelling unit within a 2-year period of their previous Service Commitment extension. Therefore, the third Service Commitment extension has been requested.

City staff has been meeting with a home builder who is interested in building within this subdivision. Although no formal submittal for amendments to the Preliminary and Official Development Plan have been submitted for this builder to date, it is the understanding of City staff that amended plans are “in the works” and will be submitted in the very near future.

Providing an extension of the Service Commitment Award supports the City Council’s Strategic Plan Goal of providing Vibrant Neighborhoods in one Livable Community.

Respectfully submitted,

J. Brent McFall
City Manager

Attachments

- Attachment 1 - Resolution (Category A-4 Service Commitment Award Extension)
- Attachment 2 - Ownership Map
- Attachment 3 – Grant Kuhn re Pappageorge/Hintz - Letter re SC Extension
- Attachment 4 - Markel Homes Construction Company - Letter re SC Extension
- Attachment 5 - McStain - Letter re SC Extension
- Attachment 6 - Provident Realty Advisors re West-Hy Holdings - Letter re SC Extension
- Attachment 7 – Minnick - Letter re SC Extension
- Attachment 8 – Hoyt - Letter re SC Extension

RESOLUTION

RESOLUTION NO. **16**

INTRODUCED BY COUNCILLORS

SERIES OF 2013

**A RESOLUTION APPROVING A CATEGORY A-4 SERVICE COMMITMENT AWARD
EXTENSION FOR THE HYLAND VILLAGE PLANNED UNIT DEVELOPMENT
("PROJECT")**

WHEREAS, the City of Westminster has adopted by Ordinance No. 3561 a Growth Management Program ("GMP") for the period 2011 through 2020; and

WHEREAS, the Project is a Category A-4 Traditional Mixed Use Neighborhood Project with the meaning of the GMP; and

WHEREAS, Resolution No. 25, Series 2004 ("Resolution 25") awarded the project 483 Service commitments the GMP for the year 2004; and

WHEREAS, Resolution No. 34, Series 2009 ("Resolution 34") awarded the Project 470.6 Service Commitments under the GMP for the year 2009; and

WHEREAS, Resolution No. 19, Series 2011 ("Resolution 19") awarded the Project 470.6 Service Commitments under the GMP for the year 2011; and

WHEREAS, pursuant to Resolution 19 said Service Commitments expire if no building permit is issued for the Project during any consecutive 24-month period, unless the Service Commitment Award is extended by City Council; and

WHEREAS, the Project obtained Preliminary and Official Development Plan approval, but, as of May 23, 2013 24 consecutive months will have passed since the approval of Resolution 19; and

WHEREAS, Westminster Municipal Code Section 11-3-2 establishes the criteria for the extension of Service Commitment Awards for active residential projects that previously received Service Commitment Awards; and

WHEREAS, the proposed extension for the Project is the result of an unusual and unforeseeable circumstance beyond the reasonable control of the developer, is needed to avoid undue hardship that would otherwise result if the extension were not granted, and there is no reason to believe that the developer will not be able to proceed with the development of the Project within the extended time period.

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

1. The 2011 Category A-4 Service Commitment award for the Hyland Village Project at the southwest corner of Sheridan Boulevard and 98th Avenue, which is scheduled to expire on May 23, 2013, is hereby extended as follows:

Table 1

	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	Total
Original Award	0	20	102	125	125	0	Not Applicable (NA)	NA	NA	NA	483
Used	0	0	0	0	0	12.4	0	0	0	0	12.4
2009 Award	-	-	-	-	-	235.0	235.6	-	-	-	470.6
2011 Award	-	-	-	-	-	-	-	470.6	-	-	470.6
2013 Award	-	-	-	-	-	-	-	-	-	470.6	470.6

2. The Service Commitment award to the Project is conditional and subject to the following:

- a) Service Commitments for the Project, if approved by the City, may only be used within the Project.
- b) This extended Service Commitment award shall be subject to all of the provisions specified in the Growth Management Program within Chapter 3 of Title XI of the Westminster Municipal Code.
- c) This extended Service Commitment award is conditional upon any further City approvals that may be required for the Project, and no such approvals are guaranteed by this extension. The City shall not be required to approve any Comprehensive Land Use Plan amendment, Preliminary Development Plan or amendment, Official Development Plan or amendment, or rezoning action necessary for development of the Project.
- d) The allocation of Service Commitments shown above in Table 1 for the year 2013 is effective as of the date of this Resolution (April 22, 2013). Future year awards are effective as of January 1 of the specified year and cannot be drawn prior to that date. If fewer Service Commitments are needed for the Project in any given year, the unused amount in that year will be carried over to the following year(s), provided the Service Commitments have not expired.
- e) In order to demonstrate continued progress on the Project, the following deadline and expiration provision applies:
All unused Service Commitments for the Project shall expire if no building permit for a new dwelling unit is issued for the Project during any 24 consecutive months, after the effective date of this Resolution.
- f) If any of the Service Commitments are allowed to expire, or if the applicant chooses not to pursue the development, any unused Service Commitments shall be returned to the water supply figures. The award recipient shall lose all entitlement to such Service Commitments under those conditions.
- g) This award resolution shall supersede all previous Service Commitment award resolutions for the Project.

3. This Category A-4 Service Commitments award shall be reviewed and updated each year. If it is shown that additional or fewer Service Commitments are needed in the year specified, the City reserves the right to make the necessary modifications.

PASSED and ADOPTED this 22nd day of April, 2013.

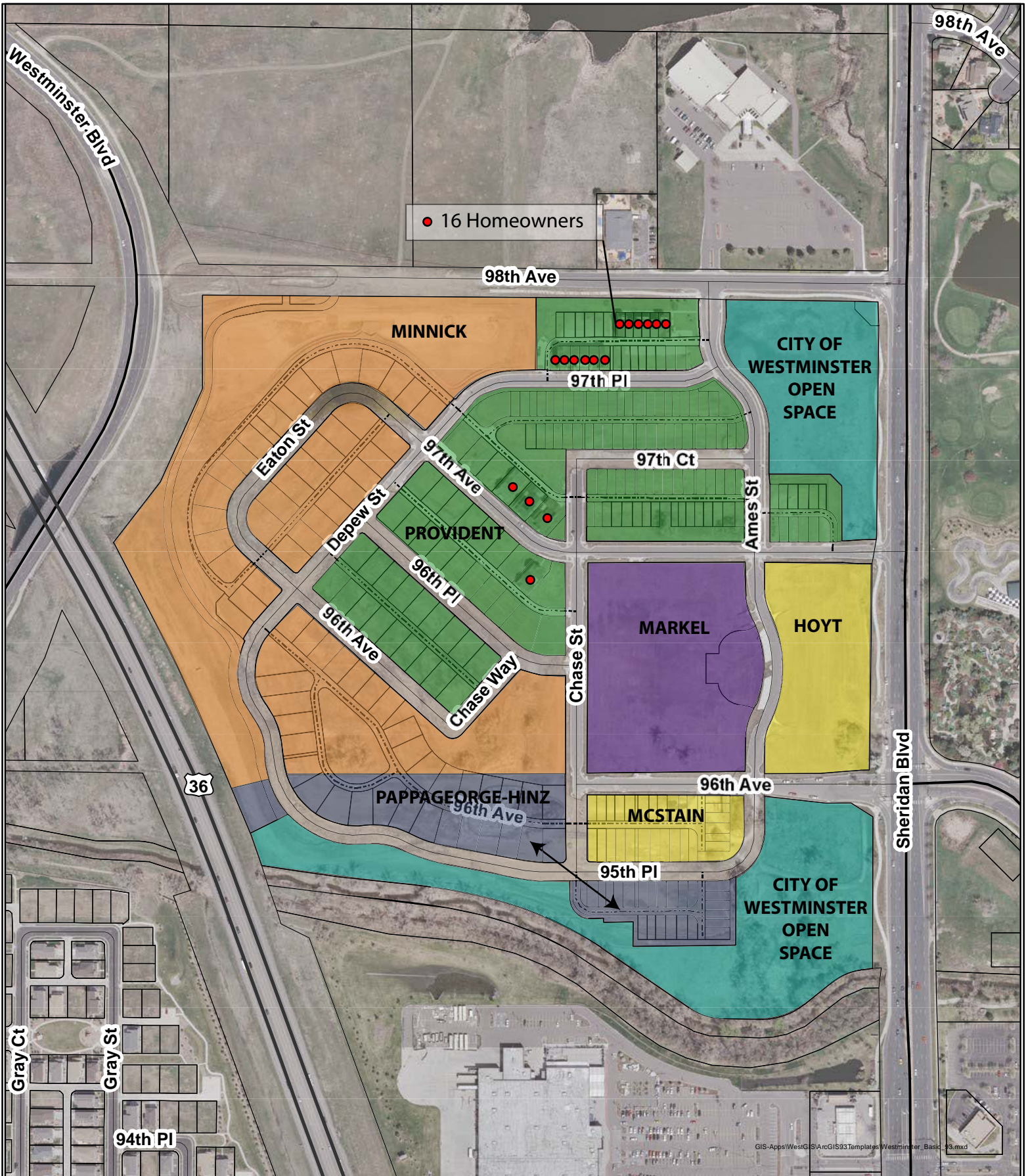
Mayor

ATTEST:

APPROVED AS TO LEGAL FORM:

City Clerk

City Attorney



City of Westminister



GRANT | KUHN LLC

STACIA D. KUHN
ATTORNEY AT LAW

March 25, 2013

Via U.S. Mail and Electronic Mail

Ms. Teresa L. Hamilton
Department of Community Development
City of Westminster
4800 West 92nd Avenue
Westminster, CO 80031

Re: Hyland Village Subdivision Service Commitment Extension Request

Dear Ms. Hamilton,

This firm serves as legal counsel for Louis Pappageorge, Larry Hintz and Georgiana Hintz, who are owners of a portion of the land underlying the Hyland Village Subdivision project, a project for which the City of Westminster has awarded a total of 483 A-4 service commitments ("Service Commitments") pursuant to Resolution No. 25 dated April 12, 2004, previously extended by the Westminster City Council pursuant to Resolution No. 34 on June 22, 2009 and Resolution No. 19 dated May 23, 2011. These Service Commitments are scheduled to expire on May 23, 2013. As everyone is aware the current economic downturn has severely hindered the progress of the Hyland Village build out. The site has been inactive during the recession and the various McStain Enterprises bankruptcy filings and associated legal matters have further stalled the project. On behalf of the Pappageorge/Hintz owners, this letter shall serve as a formal request for an extension of the Service Commitments for an additional two (2) years through May, 2015.

We appreciate the City of Westminster's consideration of this request. It is our hope that this extension will allow some additional time for the economy to recover so the project can once again be fortified with interest that will reinvigorate the development progress of Hyland Village.

Respectfully,

GRANT | KUHN LLC

By: 

LB:sdk

CC: Louis Pappageorge
Larry and Georgiana Hintz

ONE UNION SQUARE
143 UNION BOULEVARD
SUITE 550
LAKEWOOD, CO 80228

T 303.988.8849
F 303.985.4241
skuhn@grantkuhnllc.com
www.grantkuhnllc.com



Markel Homes Construction Company
5723 Arapahoe Avenue, #2B
Boulder CO 80305
303-449-8689 (office)
303-444-2798 (fax)

22 March 2013

Terri Hamilton
Department of Community Development
City of Westminster
4800 West 92nd Avenue
Westminster, CO 80031

RE: HYLAND VILLAGE – SERVICE COMMITMENT EXTENSION

Dear Terri:

We request an extension of the service commitment for the Hyland Village subdivision. Last year was devoted to the approval of an ODP and PDP amendment on our property. A service commitment must be in place to secure lenders, builders and maintain the marketability of the property.

If you have any questions or need additional information, please contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael Markel".

Michael Markel

Owner – “Parcel B”

Hyland Village Subdivision: Lot 1 Block 9, Tract SS



March 22, 2013

Ms. Terri Hamilton
Department of Community Development
City of Westminster
4800 West 92nd Avenue
Westminster, Colorado 80031

Re: Hyland Village Service Commitment Extension Request

Dear Ms. Hamilton,

Four hundred eighty three (483) "A-4" Service Commitment awards were issued to the Hyland Village Project as part of Ordinance No. 2848, a growth Management Ordinance through the City of Westminster. The Service Commitments were extended by the Westminster City Council with Resolution 19 on May 23, 2011 for a two (2) year period.

McStain Assets 1, LLC, Thomas R. Hoyt, Caroline J. Hoyt, and Rebecca Roser hereby support the extension of the Service Commitments to allow for the planned, future re-start of the Hyland Village neighborhood.

Sincerely,

A handwritten signature in black ink, appearing to read "David Ware", written over a horizontal line.

David Ware
President of MC3 Holdings, LLC
As Manager of McStain Assets 1, LLC and on behalf of Thomas R. Hoyt, Caroline J. Hoyt,
and Rebecca Roser

cc. Matt Mildren, Stacia Kuhn, Kyle Kreischer, Michael Markel, Davis Reinhart, Tom Hoyt,
Caroline Hoyt, Rebecca Roser



PROVIDENT REALTY ADVISORS

975 One Lincoln Centre, 5400 LBJ Freeway, Dallas, TX 75240
Telephone 972-385-4100
Fax 972-239-8373
www.providentrealty.net

March 25, 2013

Ms. Terri Hamilton
Department of Community Development
City of Westminster
4800 West 92nd Avenue
Westminster, Colorado 80031

Re: Hyland Village Service Commitment Extension Request

Dear Ms. Hamilton,

West-Hy Holdings, LLC is the owner of 39 single-family lots and 102 townhome lots within the Hyland Village project. Four hundred eighty three "A-4" Service Commitment awards were issued to the Hyland Village Project as part of Ordinance No. 2848, a growth Management Ordinance through the City of Westminster. The service commitments were extended for two years by the Westminster City Council with Resolution 19 on May 23, 2011. That extension is set to expire in May, 2013.

West-Hy Holdings is in the process of developing the property and intends to have home construction start later this year. West-Hy Holdings, LLC hereby requests the Service Commitments for the Development be extended for an additional two years through June of 2015. This would to allow the development on our lots to progress in a timely manner.

Sincerely,

Matt Mildren
Provident Realty on behalf of West-Hy Holdings, LLC

cc. Stacia Kuhn, Kyle Kreischer, Michael Markel, Davis Reinhart, David Ware

March 26, 2013

Ms. Terri Hamilton
Department of Community Development
City of Westminster
4800 West 92nd Avenue
Westminster, Colorado 80031


Re: Hyland Village Subdivision Service Commitment Extension Request

Dear Ms. Hamilton,

I am an owner of a portion of the land underlying the Hyland Village Subdivision project, a project for which the City of Westminster awarded a total of 483 "A-4" Service Commitments, pursuant to Resolution No. 25 dated April 12, 2004, previously extended by the Westminster City Council pursuant to Resolution No. 34 on June 22, 2009 and Resolution No. 19 on May 23, 2011. That extension is set to expire on May 23, 2013. This letter shall serve as a formal request for an extension of the Service Commitments for an additional (2) two years through May of 2015.

I appreciate the City of Westminster's consideration of this request. It is my hope that this extension of time will allow for the planned development progress of the Hyland Village neighborhood.

Respectfully,



Kay Minnick

Tom and Caroline Hoyt
76 Cherryvale Road
Boulder, CO 80303

March 22, 2013

Ms. Terri Hamilton
Department of Community Development
City of Westminster
4800 West 92nd Ave.
Westminster, CO 80032

Re: Hyland Village Commercial Service Commitment Request through June 2015

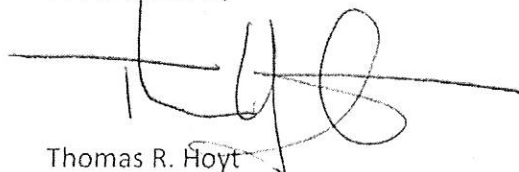
Dear Terri,

Caroline and I, and our partner, Rebecca Roser hereby request a service extension for the 3 (or less) Hyland Village neighborhood center parcel (Lot 1 block 10) which we own at the northeast corner of Sheridan Boulevard and 96th Avenue.

The service commitments were extended until the end of June 2013 and we are requesting a two year extension while we attempt to find a buyer who can conform to the Hyland Village development requirements. The property is being actively marketed, however, the still poor economic conditions we are facing nationally has made it difficult to find an appropriate end user.

We are optimistic that a two year service extension will give the economy sufficient time to make the site economically viable. To that end we are formally requesting a further extension to the end of June 2015.

Yours Sincerely

A handwritten signature in black ink, appearing to read 'THOYT', with a long horizontal line extending to the left and a large loop on the right.

Thomas R. Hoyt

On behalf of myself, Caroline J. Hoyt and Rebecca Roser



Agenda Memorandum

City Council Meeting
April 22, 2013



SUBJECT: Councillor's Bill No. 15 re Shoenberg Farm Milk House Rehabilitation Grant
Supplemental Appropriation

Prepared By: Tony Chacon, Senior Projects Coordinator

Recommended City Council Action

Pass Councillor's Bill No. 15 on first reading appropriating funds granted by the State Historical Fund in the amount of \$169,704 for the City's rehabilitation of the Shoenberg Farm Milk House.

Summary Statement

- The State Historical Fund has awarded the City of Westminster a grant in the amount of \$169,704 for the rehabilitation of the Shoenberg Farm Milk House focusing on the structural stabilization of the foundation and repair to the exterior brick walls. The property is located at 5202 West 73rd Avenue.
- The City Council approved an agreement with the State Historical Fund accepting the grant proceeds on March 25, 2013.
- In order to complete this project, the City is required to contribute a cash match of up to \$73,000 which was budgeted in 2013.

Expenditure Required: \$169,704

Source of Funds: State Historical Fund Grant

Policy Issue

Should the State Historical Fund grant be appropriated to the General Capital Improvement Fund to pay for the rehabilitation of the Shoenberg Farm Milk House?

Alternative

The alternative would be to not amend the 2013 General Capital Improvement Fund budget and decline the State Historical Fund grant money. Staff does not recommend this alternative as no other funding is available to complete the rehabilitation of the Shoenberg Farm Milk House.

Background Information

The contract with the State Historical Fund (SHF), approved by City Council on March 25, 2013, provides a grant of \$169,704 for the rehabilitation of the Shoenberg Farm Milk House, and requires a City cash match of up to \$73,000. The funds will permit the structural stabilization of the foundation and repair to the exterior brick walls, which are in a severely deteriorated condition. The repairs will enhance the structural integrity of the building.

These appropriations will amend the General Capital Improvement Fund revenue and expense accounts as follows:

REVENUES

Description	Account Number	Current Budget	Amendment	Revised Budget
State Grants	7500.40620.0000	\$0	<u>\$169,704</u>	\$169,704
Total Change to Revenues			<u>\$169,704</u>	

EXPENSES

Description	Account Number	Current Budget	Amendment	Revised Budget
Shoenberg Milk and Ice House	81375030056.80400.8888	\$0	<u>\$169,704</u>	\$169,704
Total Change to Expenses			<u>\$169,704</u>	

This grant supports the City Council’s goal of a Financially Sustainable City Government Providing Exceptional Services by providing revenues to support defined city services and service levels as a mature city and the goal of supporting Vibrant Neighborhoods in One Livable Community by preserving and restoring historic assets.

Respectfully submitted,

J. Brent McFall
City Manager

Attachment - Ordinance

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **15**

SERIES OF 2013

INTRODUCED BY COUNCILLORS

A BILL

FOR AN ORDINANCE AMENDING THE 2013 BUDGET OF THE GENERAL CAPITAL IMPROVEMENT FUND AND AUTHORIZING A SUPPLEMENTAL APPROPRIATION FROM THE 2013 ESTIMATED REVENUES IN THE FUNDS

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The 2013 appropriation for the General Capital Improvement Fund, initially appropriated by Ordinance No. 3655 is hereby increased by \$169,704. This appropriation is due to the receipt of state grant funds.

Section 2. The \$169,704 increase in the General Capital Improvement Fund shall be allocated to City Revenue and Expense accounts as described in the City Council Agenda Item 10 E, dated April 22, 2013 (a copy of which may be obtained from the City Clerk) increasing City fund budgets as follows:

General Capital Improvement Fund	<u>\$169,704</u>
Total	<u>\$169,704</u>

Section 3 – Severability. The provisions of this Ordinance shall be considered as severable. If any section, paragraph, clause, word, or any other part of this Ordinance shall for any reason be held to be invalid or unenforceable by a court of competent jurisdiction, such part shall be deemed as severed from this ordinance. The invalidity or unenforceability of such section, paragraph, clause, or provision shall not affect the construction or enforceability of any of the remaining provisions, unless it is determined by a court of competent jurisdiction that a contrary result is necessary in order for this Ordinance to have any meaning whatsoever.

Section 4. This ordinance shall take effect upon its passage after the second reading.

Section 5. This ordinance shall be published in full within ten days after its enactment.

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 22nd day of April, 2013.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 13th day of May, 2013.

ATTEST:

Mayor

City Clerk



Agenda Memorandum

City Council Meeting
April 22, 2013



SUBJECT: Councillor's Bill No. 16 re Proposed Economic Development Agreement with Air Comm Corporation

Prepared By: Chris Gray, Economic Development Officer

Recommended City Council Action

Pass Councillor's Bill No. 16 on first reading authorizing the City Manager to execute and implement an Economic Development Agreement with Air Comm Corporation.

Summary Statement

- Air Comm designs and manufactures environmental control systems for aircraft and is an industry leader in specialized heating and air conditioning systems for helicopters.
- Air Comm purchased the 52,000 square foot office/manufacturing building at 1575 W. 124th Avenue for its headquarters and manufacturing facility. The building is currently partially unoccupied. The company favors the Westminster location over those in Louisville and at the Boulder Airport.
- Air Comm employs 93 people at an average wage of \$54,200 per year and plans to significantly increase staff over the next three years.
- Assistance is based on the City's desire to attract new employers and to keep an existing office/manufacturing building in service.
- The proposed Economic Development Agreement (EDA) is not to exceed \$38,000, which is estimated at \$4,628 in permit fee rebates, \$6,000 in construction use tax rebates and \$27,750 in use tax rebates on equipment, furnishings and fixtures.
- Should Air Comm decide to move out of Westminster within 5 years of the approval of this EDA, the assistance would have to be reimbursed to the City by the company.

Expenditure Required: Not to exceed \$38,000 (Rebates)

Source of Funds: The EDA with Air Comm will be funded through revenue received from permit fees, construction use tax, and use tax on equipment, furniture and fixture purchases for the Air Comm project.

Policy Issues

Should the City provide assistance to Air Comm based upon the City's objectives to attract primary employers and to fill existing vacant space?

Alternatives

Do Nothing: One alternative to offering the above business assistance package is to offer nothing to this company. Though the City may lose the project if assistance is not provided, the result would be that the City's values 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 represents .7% of the company's total investment in tenant improvements, equipment, furniture and fixtures and is considered modest.

Provide More: A third alternative would be to provide a greater amount of assistance than recommended. Staff has recommended an assistance package that is 31% 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

Air Comm Corporation develops and manufactures environmental control systems for helicopters and is an industry leader in specialized heating and air conditioning systems. The company generates revenues of over \$20 million per year. Founded in 1987, Air Comm is currently located at the Boulder Municipal Airport.

Air Comm is a family-owned business and was recently acquired by the sons of the founder who remain active with the company. The new executives have aggressive growth plans that require the company to expand its facilities. There is not enough space at the Boulder airport to accommodate the company's growth plans. As a result, Air Comm looked for facility options near Boulder and chose to purchase the Melco manufacturing and office facility in Park Centre in Westminster. Melco has downsized in recent years and it is anticipated that the company will continue operating in the building.

Attracting Air Comm to Westminster will bring \$2.85 million of assets to the City immediately and another \$2.5 million over the next five years. Plus, the company will bring 93 new jobs to the City initially with plans for up to a 50% increase in jobs over the next three years. The company anticipates a \$9.0 million annual payroll by the end of 2015.

It is estimated that the company will generate \$122,899 in new revenues for the City over the next five years.

	Approximate <u>Value</u>
<u>Building Permit-Fee Rebate</u>	\$4,628
50% of the building related fees (excluding water & sewer tap fees) will be rebated (\$9,257 x 50% = \$4,628)	
<u>Construction Use Tax Rebate</u>	\$6,000
50% of the General Use Tax (excludes the City's .6% public safety tax and .25% open space tax) on construction materials for this project will be rebated (\$800,000 construction valuation x 50% x 3% use tax x 50% = \$6,000)	

Use Tax on Furniture and Fixtures Rebate \$27,750

For the period 3 months prior and the 36 months after Air Comm obtains the Certificate of Occupancy for the new Westminster facility, the City will rebate 50% of the General Use Tax (excludes the City's .6% public safety tax and .25% open space tax) collected on the furnishings and equipment purchased to outfit the new facility (\$1,850,000 new equipment x 3% use tax x 50% = \$27,750)

Total Proposed Assistance Package Not To Exceed \$38,000

As Council will note, the numbers above are estimated to total \$38,378, based on current cost estimates. Staff recommends capping the rebate at \$38,000 as a fair and close approximation of the cost estimates. The assistance being proposed is only 31% (\$38,000 total assistance divided by \$122,899 of projected revenue = 31%) of the total direct general use tax and fee revenue projected from the project in the first 5 years of operation. The City will be made whole on this investment at the time of the Certificate of Occupancy.

Conclusion

The assistance package is based on the City's objective to attract new primary employers and higher paying jobs. Air Comm Corporation is a good addition to the City in that it is a stable manufacturing firm in a high growth industry with average annual salaries of \$54,000 per year. Furthermore, the company is purchasing a building. The proposed assistance package supports an effort to attract Air Comm to the City and meets the City's strategic plan goal: "Strong Balanced Local Economy."

Respectfully submitted,

J. Brent McFall
City Manager

Attachments

- Ordinance
- Exhibit A - Agreement

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **16**

SERIES OF 2013

INTRODUCED BY COUNCILLORS

**A BILL
FOR AN ORDINANCE AUTHORIZING THE ECONOMIC DEVELOPMENT
AGREEMENT WITH AIR COMM CORPORATION**

WHEREAS, the successful attraction and retention of expanding primary businesses in 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 businesses to expand or relocate in the City; and

WHEREAS, Air Comm Corporation plans to purchase and occupy the building at 1575 W. 124th Avenue in Westminster; and

WHEREAS, a proposed Economic Development Agreement between the City and Air Comm Corporation is attached hereto as Exhibit "A" and incorporated herein by this reference.

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

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The City Manager of the City of Westminster is hereby authorized to enter into an Economic Development Agreement with Air Comm Corporation 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 22nd day of April, 2013.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 13th day of May, 2013.

Mayor

ATTEST:

APPROVED AS TO LEGAL FORM:

City Clerk

City Attorney's Office

Exhibit "A"
ECONOMIC DEVELOPMENT AGREEMENT
FOR
AIR COMM CORPORATION

THIS ECONOMIC DEVELOPMENT AGREEMENT is made and entered into this ____ day of May, 2013, between the CITY OF WESTMINSTER (the "City") and AIR COMM CORPORATION, a Colorado Corporation (the "Company").

WHEREAS, the City wishes to provide assistance to aid in the relocation of the Company to the City; and

WHEREAS, the Company plans to purchase and occupy the 52,000 square foot building at 1575 W. 124th Avenue, thus providing primary job growth within the City; and

WHEREAS, City Council finds the execution of this Economic Development Agreement will 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 the Company agree to the following:

1. Building Permit Fee Rebates. The City shall rebate to the Company 50% of the building permit fees that are otherwise required under W.M.C. Section 11-10-3 (E) for the remodeling and improvements in the building at 1575 W. 124th Avenue. This rebate excludes water and sewer tap fees. The permit fee rebate will be approximately \$4,628.

2. Use Tax Rebate--Construction. The City shall rebate to the Company 50% of the Building Use Tax (excludes the City's .25% Open Space Tax and .6% Public Safety Tax) on construction materials collected from the remodeling and improvements in the building at 1575 W. 124th Avenue that are otherwise required under W.M.C. Sections 4-2-9 and 4-2-3. The use tax rebate will be approximately \$6,000.

3. Sales and Use Tax Rebate--Furniture and Fixtures. For the period of 3 months prior and 36 months after the Company obtains a Certificate of Occupancy for its facility at 1575 W. 124th Avenue, the City will rebate 50% of the Westminster General Sales and Use Tax (excludes the City's .25% Open Space Tax and .6% Public Safety Tax) collected from the Company on the purchased equipment and furnishings. Rebates will be based on the documentation prescribed by the City and provided by the Company which illustrates purchases or delivery of any such furnishings, fixtures, or equipment that occurred within the City of Westminster and that taxes were paid to and collected by the City. The rebate will be approximately \$27,000.

4. Payments of Rebates. The total rebate is not to exceed \$38,000. The rebates to the Company by the City shall be paid in quarterly installments from revenue actually collected and received by the City in connection with the move by the Company into the new facility. Payments of each quarterly installment shall be paid to the Company by the City within thirty (30) days following the end of each calendar quarter. All payments by the City shall be made electronically to the Company's designated financial institution or other account.

5. Entire Agreement. This Agreement shall constitute the entire agreement between the City and the Company and supersedes any prior agreements between the parties and their agents or representatives, all of which are merged into and revoked by this Agreement with respect to its subject matter.

6. Termination. This Agreement shall terminate and become void and of no force or effect upon the City if the Company has not moved into the building at 1575 W. 124th Avenue by December 31, 2013 or should the Company not comply with the City regulations or code.

7. Business Termination. In the event the Company ceases business operations within the City at any time prior to December 31, 2018, then the Company shall pay to the City the total amount of fees and taxes that were paid by or for the Company to the City and were subsequently rebated by the City to the Company 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 Adams County, Colorado.

AIR COMM CORPORATION

CITY OF WESTMINSTER

Richard F. Steiner
Executive Vice President

J. Brent McFall
City Manager

ATTEST:

ATTEST:

Linda Yeager
City Clerk

APPROVED AS TO LEGAL FORM:

City Attorney's Office

Adopted by Ordinance No.



Agenda Memorandum

City Council Meeting
April 22, 2013



SUBJECT: Councillor's Bill No. 17 re Emergency Ordinance to Extend a Site Agreement between the City and New Cingular Wireless PCS, LLC, for Use of the Fire Station #6 Cell Tower at 999 West 124th Avenue

Prepared By: Doug Hall, Fire Chief
Jane Greenfield, Assistant City Attorney II

Recommended City Council Action

Pass Councillor's Bill No. 17 as an emergency ordinance to approve an extension to the Site Agreement between the City and New Cingular Wireless PCS, LLC, for the continued use of the Fire Station #6 cell tower at 999 West 124th Avenue.

Summary Statement

- Approval of the existing Site Agreement by emergency ordinance allows New Cingular Wireless PCS (formerly AT&T Wireless) to continue use of the 100-foot monopole located at Fire Station #6, until August 30, 2013. The agreement also provides for two one month extensions if necessary.
- Approval provides sufficient time for the City and New Cingular Wireless PCS to finalize a long-term Agreement for the shared use of the tower. The equipment necessary for the City's recently approved citywide radio system would be installed on the monopole.
- The fees and use conditions specified in the current site agreement shall remain in effect until a long-term agreement is approved by City Council.
- City Council approval of the emergency ordinance to extend the existing Site Agreement is being sought to comply with Charter Section 13.4 and W.M.C. § 11-4-11(J).

Expenditure Required: \$ 0

Source of Funds: N/A

Policy Issue

Should the City Council approve the emergency ordinance to allow continued operation of the monopole at Fire Station #6 until August 30, 2013?

Alternative

Do not approve the emergency ordinance. Without approval, the telecom provider will be compelled to cease operation and remove equipment from the site. The City would likely need to pursue the purchase and installation of a similar monopole in order to provide essential radio system signal coverage.

Approval of the Site Agreement is recommended because it will facilitate the installation of the citywide communications system equipment, ensuring minimal interruption in the essential coverage of the citywide radio system. The City would not be required to pursue acquisition of a similar monopole tower, and possibly, go through the process of appropriately locating the tower.

Background Information

The initial agreement allowing construction of the existing 100-foot monopole and use of Fire Station #6 for private telecom purposes dates back to April 1, 1991. The current agreement expires on April 30, 2013, and stipulates that the tower and associated equipment be dismantled and removed.

On January 14, 2013, City Council approved the purchase and installation of infrastructure of a citywide radio system. The radio system provides emergency and non-emergency communication service to the Police and Fire Departments, and is utilized by other City Departments.

The existing 100-foot monopole tower is strategically located to accommodate the installation of the radio system equipment and subsequently ensure essential radio signal coverage is provided in the northern portions of the City.

If the existing 100-foot monopole were removed, the City would be required to pursue the acquisition of a similar monopole, and possibly a new location, in order to meet coverage requirements for the new radio system.

Through negotiations by the City's Special Counsel for telecom issues, Ken Fellman, a long-term shared-use agreement will be pursued. Staff anticipates this long-term agreement will be submitted for City Council approval prior to August 30, 2013.

Approval of the emergency ordinance will further the following strategic plan goals: (1) a safe and secure community by allowing the private telecom provider ample time to find and negotiate use of new sites for replacement service, meaning there should be no interruption in current cell service; (2) a financially sustainable City government by providing reasonable market compensation to the City for the use of its property.

Respectfully submitted,

J. Brent McFall
City Manager

Attachment – Ordinance

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **17**

SERIES OF 2013

INTRODUCED BY COUNCILLORS

**A BILL
FOR AN EMERGENCY ORDINANCE APPROVING A SECOND AMENDMENT
TO A SITE AGREEMENT BETWEEN THE CITY OF WESTMINSTER AND
NEW CINGULAR WIRELESS PCS, LLC, FOR USE OF THE FIRE STATION #6
CELL TOWER AT 999 WEST 124TH AVENUE**

THE CITY OF WESTMINSTER ORDAINS:

WHEREAS, City Council previously authorized a site agreement between the City and New Cingular Wireless PCS, LLC, for the purpose of construction and operation of a monopole tower, wireless communications antennas and an equipment structure at 999 West 124th Avenue (a/k/a COU 1253 Cozy Corner ATT); and

WHEREAS, by a separate Site Agreement the City and New Cingular Wireless PCS, LLC, agreed to extend the site lease agreement from May 1, 2011, through October 31, 2012; and

WHEREAS, the City and New Cingular Wireless PCS, LLC, subsequently entered into a First Amendment to Site Agreement extending the agreement for an addition six (6) month period, expiring April 30, 2013; and

WHEREAS, the City and New Cingular Wireless PCS, LLC, have agreed to extend the site lease agreement for an additional period of four (4) months, with the possibility of two (2) one month extensions, to allow for a long-term site agreement to be negotiated; and

WHEREAS, a further extension of the existing site agreement extension is in the best interest of the City because the City's police and fire communications needs will be served if a long-term site agreement is negotiated between the parties; and

WHEREAS, the final form of the Second Amendment to Site Agreement has been agreed to by the parties.

THE CITY OF WESTMINSTER ORDAINS:

Section 1: Pursuant to City Charter Section 13.4 and Sec. 11-4-11(J), W.M.C., a 4-month extension, with the possibility of two (2) additional one month extensions, to the Site Agreement between the City and New Cingular Wireless PCS, LLC, for the lease of a portion of the Fire Station #6 cell tower at 999 West 124th Avenue for operation of a monopole tower and wireless communications antennas, attached hereto as Attachment 1, is hereby approved.

Section 2. Emergency. Because the prior extension is set to expire on April 30, 2013, an emergency is declared to exist, and this ordinance is declared to be necessary for the immediate preservation of the public peace, health and safety. Wherefore, this ordinance shall be in full force and effect upon adoption of this ordinance, by an affirmative vote of six of the members of the Council if six or seven members of the Council are present at the meeting at which this ordinance is presented, or by an affirmative vote of four of the members of the Council if four or five members of the Council are present at the meeting at which this ordinance is enacted.

Section 3. This ordinance shall be published in full within ten days after its enactment.

INTRODUCED, READ IN FULL, AND PASSED AND ADOPTED AS AN EMERGENCY ORDINANCE this 22nd day of April, 2013.

Mayor

ATTEST:

APPROVED AS TO LEGAL FORM:

City Clerk

City Attorney's Office

Attachment 1

SECOND AMENDMENT TO SITE AGREEMENT

THIS SECOND AMENDMENT TO SITE AGREEMENT ("Second Amendment") is entered into as of this ___ day of April, 2013, by and between the City of Westminster ("City") and New Cingular Wireless PCS, LLC, a Delaware limited liability company, with its principal office located at 12555 Cingular Way, Suite 1300, Alpharetta, GA 30004 ("Company").

RECITALS

A. City is the owner of land and facilities located at 999 West 124th Avenue in the City of Westminster, Adams County, State of Colorado (the "Property"). A 50 by 40 foot parcel (the "Site") within the Property has been previously leased to the Company for construction and operation of a monopole tower, wireless communications antennas and an equipment structure (the "Facilities"). The Company has one subtenant at the Site, which has located an antenna on the Company's monopole and maintains equipment within the Company's equipment structure.

B. Company is a wireless communications provider, and permitted or licensed by the applicable federal or state governmental authority to operate in all or some areas of the City of Westminster.

C. Company and the City entered into a Site Lease Agreement dated December 17, 1990 (the "Site Lease Agreement"). Prior to the expiration of the Site Lease Agreement which granted the Company use of the Site for its Facilities, the City advised the Company that it was not willing to enter into a long term agreement to maintain the Facilities on the Property after the expiration of the Site Lease Agreement.

D. Company and the City entered into a short term Site Agreement dated May 1, 2011 (the "Site Agreement") while the Company sought longer term alternatives for its operations, and the City permitted the continued use by the Company of the Site pursuant to the terms of Site Agreement. The Site Agreement expired on October 31, 2012.

E. The Company was unable to locate an alternative site for its operations prior to October 31, 2012 and requested an additional six (6) month extension of time which the City approved. On September 24, 2012 the Company and the City entered into a First Amendment to Site Agreement (the "First Amendment") permitting the continued use by the Company of the Site pursuant to the terms of Site Agreement. The First Amendment expires on April 30, 2013.

F. The City has since determined it is in the City's best interest to enter into a long term agreement with the Company to maintain the Facilities on the Property because the City's police and fire communications needs will be served if a long-term site agreement is negotiated between the parties. This decision has rendered the Company's need to relocate moot. Company and the City are negotiating a long-term site agreement; however, the negotiations will not be completed by the First Amendment expiration date of April 30, 2013.

G. The City agrees to extend the Site Agreement an additional four (4) months, with the possibility of two (2) one month extensions, up to and including October 31, 2013, to allow for a long-term site agreement to be negotiated.

H. City and the Company believe that the interests of the public will be served by permitting the use of the Site and Facilities in accordance with the terms and conditions of the Site Agreement, the First Amendment and this Second Amendment.

TERMS

In consideration of the mutual covenants, obligations, terms and conditions recited below, the parties agree as follows:

1. City agrees to extend the Site Agreement and First Amendment an additional four (4) months, with the possibility of two (2) one month extensions, up to and including October 31, 2013, to allow for a long-term site agreement to be negotiated, and will permit the continued use by the Company of the Site pursuant to the terms of the Site Agreement, the First Amendment and this Second Amendment.

2. Amendments to Site Agreement.

a. Section 2 of the Site Agreement shall be amended to read as follows:

“2. Term and Renewal. The term of this Agreement shall commence on May 1, 2011 (the “Commencement Date”) and end on August 31, 2013; and may be extended for up to two (2) additional months, resulting in an extended term that shall be no later than October 31, 2013.”

b. Section 19(d) of the Site Agreement shall be amended to read as follows:

“19(d) In consideration for the City extending the term of the Site Agreement until August 31, 2013, with the possibility of a further extension not to exceed beyond October 31, 2013, the City requires a surety in the form of a performance bond [or a letter of credit] in an amount sufficient to cover the removal of the Company Facilities from the Site pursuant to subparagraphs (a) and (b) above. The Company has provided the City with a bid for the removal of the Company Facilities in the amount of approximately \$85,000.00. The Company shall deliver the performance bond [or letter of credit] to the City Engineer in an amount no less than \$85,000.00, which shall cover the costs, if necessary to remove the Company Facilities which consist of a monopole tower, wireless communications antennas and an equipment structure, and restore the premises.”

3. Application of the Existing Site Agreement. The parties acknowledge and agree that all of the terms and conditions of the existing Site Agreement and the First Amendment shall continue to apply until the expiration of this Second Amendment.

4. No Other Modifications. Except as expressly modified by the terms and conditions contained in this Second Amendment, the terms and conditions of the Site Agreement and First Amendment are hereby reaffirmed by the parties hereto without any additional modification.

IN WITNESS WHEREOF, each of the parties has caused this Second Amendment to be duly executed on its behalf as of the day and year first above written.

CITY:
CITY OF WESTMINSTER, COLORADO

By: _____
J. Brent McFall, City Manager

COMPANY:
NEW CINGULAR WIRELESS PCS, LLC, a
Delaware limited liability company

By: AT&T Mobility Corporation
Its: Manager

By: _____
Its: _____

AGENDA

WESTMINSTER ECONOMIC DEVELOPMENT AUTHORITY SPECIAL MEETING

MONDAY, April 22, 2013

AT 7:00 P.M.

- 1. Roll Call**
- 2. Minutes of Previous Meeting** (March 25, 2013)
- 3. Purpose of Special WEDA Meeting is to consider**
 - A. Public Hearing regarding a WEDA Budget Amendment
 - B. Resolution No. 149 authorizing a Supplemental Appropriation to the 2013 WEDA Budget
- 4. Old Business**
 - A. TABLED Sale of the Holly Park Parcel to High Pointe Holdings LLC
- 5. Adjournment**

CITY OF WESTMINSTER, COLORADO
MINUTES OF THE WESTMINSTER ECONOMIC DEVELOPMENT AUTHORITY
MONDAY, MARCH 25, 2012, AT 7:19 P.M.

ROLL CALL

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

APPROVAL OF MINUTES

Board Member Briggs moved, seconded by Major, to approve the minutes of the meeting of February 25, 2013, as written. The motion carried unanimously.

SALE OF HOLLY PARK PARCEL TO HIGH POINTE HOLDING LLC

It was moved by Board Member Atchison, seconded by Kaiser, to table consideration of this item. The motion passed unanimously.

ADJOURNMENT

There was no further business for the Authority's consideration, and it was moved by Atchison, seconded by Kaiser, to adjourn. The motion passed and the meeting adjourned at 7:20 p.m.

Chairperson

ATTEST:

Secretary

WEDA Agenda Item 3 A&B

Agenda Memorandum

Westminster Economic Development Authority Meeting
April 22, 2013



SUBJECT: Public Hearing and Resolution No. 149 re Westminster Economic Development Authority 1st Qtr 2013 Supplemental Appropriation

Prepared By: Karen Creager, Special Districts Accountant

Recommended Board Action

1. Hold a Public Hearing on the budget amendment for the Westminster Economic Development Authority.
2. Adopt Resolution No. 149 authorizing a supplemental appropriation to the 2013 Westminster Economic Development Authority budget.

Summary Statement

- When necessary, City Staff prepares a resolution to appropriate unanticipated revenues and adjust the budget side of transactions that occur during the year. Typically supplemental appropriations are prepared on a quarterly basis for Westminster Economic Development Authority (WEDA) to simplify administrative procedures and reduce paper work.
- This is the first quarter supplemental appropriation for WEDA for 2013.
- 2013 Amendments:
 - WURP URA
 - \$363,128 Carryover
 - \$128,394 Rental income
 - \$5,043 Interest
 - South Sheridan URA
 - \$8 Carryover
 - \$3 Interest
 - North Huron URA
 - \$7,500 Carryover
 - Holly Park URA
 - \$37,200 Carryover
- A public hearing is required pursuant to Section 29-1-108 of the Colorado Revised Statutes.

Expenditure Required: \$541,276

Source of Funds: Rents, interest and carryover funds

Policy Issue

Should the WEDA Board appropriate funds as set forth in the attached Resolution?

Alternative

The Board could decide not to appropriate funds. This is not recommended as the revenue recorded in each of the specific URA's is needed to further the purpose of the URA including debt repayment, maintaining land currently held for resale and infrastructure improvements.

Background Information

Westminster Center Urban Reinvestment Plan Area (WURP)

On May 10, 2011 WEDA purchased the Mall and assumed responsibility for its operations. Although only a few tenants at the Mall site continue to operate during the redevelopment, there are some ongoing operating costs including salaries, utilities, maintenance and repair. Funding is needed to cover these costs. Only a portion of the total rental income and interest income received in prior years has been appropriated. Therefore, Staff is requesting that unappropriated rents and interest, or carryover from prior years of \$315,769 and \$47,359, and first quarter 2013 rents and interest of \$128,394 and \$5,043, respectively, be appropriated to the WURP project to cover 2013 expenses.

South Sheridan URA

Capital projects in this URA have been completed. Interest earnings appropriated to the projects in prior years remains unspent. Staff has determined that the best use of these funds is to appropriate them for debt service. Administratively, a budget revision would be required to move the remaining CIP funds to the operating budget. This would not change the total appropriations in the fund. Additionally, a small amount of interest of \$8 not previously appropriated and first quarter 2013 interest of \$3 is requested to be appropriated to the operating budget. Cumulatively, \$63,792 would be available for debt service payments in 2013.

Holly Park URA

Interest earned on project funds in prior years has not been appropriated to the project as the original funding (City interfund loan) has been sufficient to cover maintenance costs. With renewed interest in the development of the parcel, Staff is requesting that interest earnings from prior years, or carryover, in the amount of \$37,200 be appropriated to cover any operating expenses of the URA in 2013.

North Huron URA

When the loan for North Huron was refinanced, additional project funds of \$6.5M for Orchard Parkway were included as part of the refinancing. The flow of funds for Orchard Parkway provides that the City's General Capital Improvement Fund pay the cost of construction and that WEDA reimburse those costs. The additional project funds were intentionally left unappropriated in 2012 and preserved to be appropriated as needed for reimbursement to the City. Staff has developed a schedule for the cost reimbursement on a quarterly basis. In order to provide the necessary budget to cover the 1st quarter 2013 reimbursement, Staff is requesting appropriation of prior year revenues, or carryover, of \$7,500.

The amendments listed in the attached resolution will bring WEDA's accounting records up-to-date to reflect the various detailed transactions.

The action requested in this agenda memorandum relates to Council's Strategic Plan goals of "Financially Sustainable City Government Providing Exceptional Services" and "Balanced, Sustainable Local Economy." These goals are met by ensuring a balanced budget where revenues are appropriated to expenditure accounts so the funds can be utilized as intended. In this case, the funds are intended to assist with maintenance costs and debt service.

Respectfully submitted,

J. Brent McFall, Executive Director
Attachment – Resolution

WESTMINSTER ECONOMIC DEVELOPMENT AUTHORITY

RESOLUTION NO. **149**

INTRODUCED BY BOARD MEMBERS

SERIES OF 2013

**2013 WESTMINSTER ECONOMIC DEVELOPMENT AUTHORITY
BUDGET SUPPLEMENTAL APPROPRIATION**

WHEREAS, the Westminster Economic Development Authority (WEDA) initially adopted the 2013 budget on October 8, 2012 and

WHEREAS, proper notice for this amendment was published on April 18, 2013, pursuant to the requirements of Section 29-1-106 Colorado Revised Statutes; and

WHEREAS, a public hearing for this amendment was held on April 22, 2013, pursuant to the requirements of Section 29-1-108 Colorado Revised Statutes; and

WHEREAS, as necessary a resolution to make adjustments to the budget is presented to the Board; and

WHEREAS, there are adjustments to be made to the 2013 budget; and

WHEREAS, the revenue adjustments consist of an increase of \$541,276; and

WHEREAS, the expense adjustments consist of an increase of \$541,276.

NOW, THEREFORE, BE IT RESOLVED by the Board of the Westminster Economic Development Authority:

Section 1. The \$541,276 increase shall be allocated to WEDA Revenue and Expenditure accounts as described below:

REVENUES

Description	Account Number	Current Budget	Amendment	Revised Budget
Carryover	6800.40020.0191	\$0	\$363,128	\$363,128
Carryover	6800.40020.0190	194,684	8	194,692
Carryover	6800.40020.0183	442,189	7,500	449,689
Carryover	6800.40020.0187	0	37,200	37,200
Rents	6800.40900.0191	0	128,394	128,394
Interest	6800.42510.0191	0	5,043	5,043
Interest	6800.42520.0190	0	<u>3</u>	3
Total Change to Revenues			<u>\$541,276</u>	

EXPENDITURES

Description	Account Number	Current Budget	Amendment	Revised Budget
WURP Participation	68010900.67800.0190	\$2,881,963	\$496,565	\$3,378,528
Interest	68010900.78400.0190	202,413	63,792	266,205
Street Improvements	80768030794.80400.8888	63,781	(63,781)	0
Orchard Parkway	81268030997.80400.8888	160,700	7,500	168,200
Contractual Services	68010900.67800.0187	0	<u>37,200</u>	37,200
Total Change to Expenses			<u>\$541,276</u>	

Section 2. The resolution shall be in full force and effect upon its passage and approval.

PASSED AND ADOPTED 22nd day of April, 2013.

ATTEST:

Chairperson

Secretary