



## 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 Meeting
4. Report of City Officials
  - A. City Manager's Report
5. City Council Comments
6. Presentations
7. Citizen Communication (5 minutes or less)

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

8. Consent Agenda
  - A. Financial Report for May 2012
  - B. Ambulance Billing Services
  - C. GIS Data Conversion Contract
  - D. Utility Operations Division Truck Purchase
  - E. Delinquent Ambulance Account Collection Services
  - F. Vintage Apartments Water Meter Improvement Project
  - G. 2012 Bridge Rail and Fence Repainting Project Contract
  - H. Minor Home Repair Program Contract Amendment with Brothers Redevelopment, Inc.
  - I. Second Reading of Councillor's Bill No. 17 re Appropriation of Sheridan Blvd Fiber Optic Federal Grant Funds

### 9. Appointments and Resignations

### 10. Public Hearings and Other New Business

- A. Public Hearing re CLUP Amendment, Annexation and Zoning for the Little Dry Creek Property
- B. Councillor's Bill No. 18 re CLUP Amendment to City-Owned Open Space re Little Dry Creek Property
- C. Resolution No. 17 re Annexation Finding re Little Dry Creek Property
- D. Councillor's Bill No. 19 re Annexation of the Little Dry Creek Property
- E. Councillor's Bill No. 20 re Zoning for the Little Dry Creek Property
- F. Public Hearing re Ordinance Amending Section 16-5-36 of the W.M.C. re United Power Electric Franchise
- G. Councillor's Bill No. 21 re Amend Section 16-5-36 of the W.M.C. re United Power Electric Franchise
- H. Resolution No. 18 re IGA for HOME Investment Partnerships Program Consortium with Adams County
- I. Councillor's Bill No. 22 re Concession Agreement with Top One, Inc.

### 11. Old Business and Passage of Ordinances on Second Reading

- A. Second Reading of Councillor' Bill No. 16 re Amend WMC Title IV Concerning Qualified Hospital Organizations

### 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

2011-2016  
Goals and Objectives

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### 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



### 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



### 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, JUNE 11, 2012, AT 7:00 P.M.

PLEDGE OF ALLEGIANCE

Presenting the colors and leading the Council, Staff and audience in the Pledge of Allegiance were members of Girl Scout Troop 2569.

ROLL CALL

Mayor Nancy McNally, Mayor Pro Tem Faith Winter, and Councillors Herb Atchison, Bob Briggs, Mark Kaiser, and Scott Major were present at roll call. Councillor Mary Lindsey was absent and excused. 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 Major, to approve the minutes of the regular meeting of May 21, 2012, as presented. The motion carried unanimously.

CITY MANAGER'S REPORT

Mr. McFall announced that plans were underway for the community celebration of Independence Day on July 4 at City Park. The event would culminate with the traditional fireworks display. Mr. McFall encouraged everyone to educate themselves about legal fireworks in Colorado, as they were the only fireworks permitted in Westminster. Given the extremely dry conditions, he asked residents to use only legal fireworks and to light them only from July 3 – 5, as permitted by the Westminster Municipal Code. Wildfires had become weekly occurrences in the mountains and canyons west of the City, and significant fires of the same kind could occur within the City. With good judgment and special care, everyone would enjoy the holiday celebration.

Tonight's agenda provided the first opportunity to garner suggestions and input from the public on the 2013 and 2014 City Budgets. Members of the audience wanting to address Council about the budget could do so under Agenda Item 10A.

Following tonight's Council meeting, the Westminster Economic Development Authority Board of Directors would hold a meeting.

CITY COUNCIL COMMENTS

Mayor Pro Tem Winter invited the public to enjoy an evening of food, music and activities at the Summer Celebration being held on Thursday, June 14, at the Irving Street Library.

Councillor Briggs noted that several people who had helped organize the Jazz Festival in South Westminster on Saturday, June 9, were in the audience. The only thing they could have improved for the event was the hot weather, which was out of their control. Those things in their control had produced a fun-filled day with lots of participation, and he thanked them for their hard work.

EMPLOYEE SERVICE AWARD PRESENTATIONS

Mayor McNally thanked the employees being recognized for their years of dedicated service to the community and presented stipends, certificates and pins for 25-years of service to City employees Patricia Casner, David Maikranz, Tye Mangnall, and Teresa Sullivan. Councillor Briggs presented certificates and pins to Pamela Cox and Stephen McDonald for 30 years of service to the City. Councillor Atchison presented certificates and pins for 35 years of service to Michael Spellman, Michael Cressman, and Michael Kampf, all of the Police Department. Mayor Pro Tem Winter presented David Cantu with a certificate and service pin to recognize 40 years of service to the City.

### PROCLAMATION

Mayor Pro Tem Winter read a proclamation to recognize Mariel Cambe, Kaitlyn Long, and Hope Williams, members of the Youth Advisory Panel who were graduating from high school. Ms. Cambe and Ms. Long were present and accepted certificates of appreciation from the Mayor Pro Tem.

### CITIZEN COMMUNICATION

Jim Cloud, 9970 Winona Street, thanked Council for supporting the Westminster Public Safety Recognition Foundation's efforts to commission a piece of art to be installed in front of the Public Safety Building in tribute to public safety officers. He thanked Councillor Atchison for having submitted a grant application to Adams County Open Space before being elected to City Council. The grant had been awarded and secured additional funding in the amount of \$55,000 to complete funding of the project. Mr. Cloud urged Council to continue supporting the Foundation by approving a short-term loan that would be reimbursed within a year from the aforementioned grant proceeds. A contractor had been hired and work was expected to start on June 25 with unveiling and dedication on August 6.

### CONSENT AGENDA

The following items were submitted for Council's consideration on the consent agenda: accept the 2011 Comprehensive Annual Financial Report; authorize the City Manager to execute a renewal of the current Slurry Seal project contract with A-1 Chipseal Company for the 2012 calendar year in the amount of \$873,693 and authorize a contingency of \$20,000 for a total project budget of \$893,693; authorize the City Manager to execute a contract with Frontier Mechanical, Inc., and Synergy Mechanical, Inc., each for mechanical equipment technical services on an "as needed" basis for all facilities operated by the Building Operations and Maintenance Division and authorize the City Manager to execute supplemental, project specific contracts with Frontier Mechanical, Inc. and Synergy Mechanical, Inc. over the next two years, subject to annual appropriation, with a "not to exceed" limit of \$75,000 per contractor per twelve-month period with no specific supplemental project to exceed \$50,000; authorize the City Manager to execute a contract with the low bidder, American West Construction, LLC, in the amount of \$89,125 for the Borrow Pit Reservoir (Loon Lake) Construction Project and authorize a construction contingency in the amount of \$10,000; based on the City Manager's recommendation, find the public interest would best be served by authorizing the City Manager to execute a sole source professional services agreement with Hydros Consulting, Inc. for an update to the Standley Lake Water Quality Model for a cost not to exceed \$70,282 with \$31,627 being Westminster's share of the total cost; authorize the City Manager to execute a contract with the low bidder, Renner Sports Surfaces, in the amount of \$209,309.00 for the removal and replacement of four existing tennis courts, landscape restoration, and construction of minor concrete sidewalk enhancements at Countryside Park, authorize a 10% contingency in the amount of \$20,930.90, acknowledging that staff would purchase player benches for the tennis courts in an amount not to exceed \$2,000 with a separate vendor, bringing the total project cost to \$232,239.90; authorize the City Manager to execute a \$59,849 contract with YesCo, Inc. to retrofit light poles and illuminated pedestrian bollards in parking lots at City Hall and the Public Safety Center for greater energy efficiency, lighting quality and control, and authorize a project contingency of \$5,151 (8.6%) for a total project budget of \$65,000; authorize the City Manager to execute a short-term loan in the amount of \$35,000 to the Westminster Public Safety Recognition Foundation to complete the installation of the art tribute at the Public Safety Center, such loan to be repaid from previously approved grant proceeds within one year of execution of the short-term loan; final passage of Councillor's Bill No. 10 on second reading to appropriate funds received from the United States Department of Housing and Urban Development, Community Development Block Grant program in the amount of \$523,309; final passage of Councillor's Bill No. 12 on second reading to provide for a supplemental appropriation of funds to the 2012 budget of the General, Water, and General Capital Improvement Funds; final passage of Councillor's Bill No. 13 on second reading to expand the time for making a jury demand in Municipal Court from 20 to 21 days, by adopting recent changes to Rule 223 of the Colorado Municipal Court Rules of Procedure concerning jury

demands in municipal courts; and final passage of Councillor's Bill No. 14 on second reading to authorize the City Manager to execute and implement the 2012 Supplemental Business Assistance Agreement for Synchroness, Inc.

Councillor Major moved to approve all items on the consent agenda except Item 8H concerning a short-term loan to the Westminster Public Safety Recognition Foundation. Councillor Atchison seconded the motion and it passed unanimously.

#### SHORT-TERM LOAN TO WPSRF FOR PUBLIC SAFETY ART PROJECT

It was moved by Councillor Major and seconded by Councillor Briggs to authorize the City Manager to execute a short-term loan in the amount of \$35,000 to the Westminster Public Safety Recognition Foundation to complete the installation of the art tribute at the Public Safety Center, such loan to be repaid from previously approved grant proceeds within one year of execution of the short-term loan. The motion passed by a 5:1 margin with Councillor Atchison voting no, not in opposition to the project, but rather in opposition to the City financing the short-term loan. The balance of Council disagreed with his position.

#### PUBLIC MEETING ON THE 2013 AND 2014 CITY BUDGET

At 7:40 p.m., the Mayor opened a public meeting on the 2013 and 2014 City Budget to receive citizen comments. Mr. McFall provided a brief overview of the City's financial condition and its sources of revenue. After review and update of Core Services, Staff was currently preparing the proposed budget for 2013 and 2014, focusing on Council's strategic plan, goals and objectives. While no decisions had been made, open space, storm water utility rates, and community recycling had been identified as areas that needed to be addressed in the budget. A second public meeting would be held on July 23 and a public hearing would be scheduled on September 10, providing two more opportunities for citizens to comment and provide feedback. Based on City Charter, the Council had to adopt the budget by October 22.

Debbie Teter and Richard Chamberlain, members of the South Westminster Arts Group (SWAG) Board of Directors, requested that \$45,000 be budgeted for SWAG programming and personnel costs so that the winner of the Dorothy Mullen Outstanding Arts and Humanities Award could sustain operations and grow. SWAG had worked hard to achieve non-profit status only to learn that it had to hold that status for at least three years before it qualified to apply for Cultural Arts grants. Additionally, grant funding required a local match and proof of the community's financial support of the programs offered. Support of SWAG satisfied Council's strategic goal of Vibrant Neighborhoods in One Livable Community by preserving and restoring historic assets, developing Westminster as a cultural arts community, and providing strong community events and active civic engagement. They urged Council's support of the requested funding.

No others wished to speak and the public meeting on the budget was closed at 7:40 p.m. Mr. McFall announced the various ways that the public could provide input to City Council on this subject.

#### RESOLUTION NO. 14 UPDATING CITY COUNCIL'S RULES & REGULATIONS RELATED TO TRAVEL

It was moved by Councillor Atchison and seconded by Mayor Pro Tem Winter to adopt Resolution No. 14 updating the City Council's Rules and Regulations related to travel. At roll call the motion passed by a 5:1 margin with Councillor Briggs voting no, stating that he supported most of the amendments but opposed those relating to lodging.

#### COUNCILLOR'S BILL NO. 15 RE IGA WITH RTD FOR WESTMINSTER FASTRACKS STATION

Upon a motion by Councillor Major, seconded by Mayor McNally, the Council voted unanimously on roll call vote to pass Councillor's Bill No. 15 as an emergency ordinance, authorizing the City Manager to execute a revised Intergovernmental Agreement with the Regional Transportation District regarding the construction of the

Westminster FasTracks Rail Station in substantially the same form as the agreement distributed in the agenda packet. This action reflected agreement to years of negotiations, planning, meetings and debate.

COUNCILLOR’S BILL NO. 16 AMENDING TITLE IV, W.M.C., RE TAXATION

Councillor Briggs moved to pass Councillor’s Bill No. 16 on first reading to amend Title IV of the Westminster Municipal Code concerning qualified hospital organizations. Councillor Kaiser seconded the motion, and at roll call, the motion carried by a 5:1 margin with Mayor Pro Tem Winter casting the no vote.

RESOLUTION NO. 15 AUTHORIZING IGA WITH CDOT FOR BRIDGE ENHANCEMENTS ON US 36

It was moved by Councillor Major and seconded by Mayor Pro Tem Winter to adopt Resolution No. 15 authorizing the City Manager to execute an Intergovernmental Agreement with the Colorado Department of Transportation pertaining to bridge enhancements associated with the US 36 Managed Lanes Project. At roll call, the motion carried unanimously.

RESOLUTION NO. 16 AUTHORIZING IGA WITH CDOT FOR BIKEWAY MAINTENANCE ON US 36

Mayor Pro Tem Winter moved, seconded by Councilor Kaiser, to adopt Resolution No. 16 authorizing the City Manager to execute an Intergovernmental Agreement with the Colorado Department of Transportation pertaining to bikeway maintenance associated with the US 36 Managed Lanes Project. The motion passed unanimously on roll call vote.

IGA WITH CDOT FOR FIBER OPTIC UPGRADES FEDERAL GRANT

Councillor Atchison moved to authorize the City Manager to execute an Intergovernmental Agreement between the City of Westminster and the Colorado Department of Transportation pertaining to a federal grant to the City for fiber optic upgrades. The motion was seconded by Councillor Major and passed unanimously.

PURCHASE OF TRAFFIC SIGNAL CONTROLLERS

It was moved by Councillor Atchison, seconded by Councillor Major, to authorize the purchase of traffic signal controllers from the sole bidder, Econolite Control Products, in the amount of \$52,000. The motion carried unanimously.

COUNCILLOR’S BILL NO. 17 APPROPRIATING GRANT FUNDING FROM CDOT

Councillor Atchison moved to pass Councillor’s Bill No. 17 on first reading to appropriate monies to be received from Colorado Department of Transportation for expenses associated with the two previous Council actions. Councillor Major seconded the motion, and it carried unanimously on roll call vote.

ADJOURNMENT

There being no further business to come before the City Council, it was moved by Councillor Atchison and seconded by Councillor Kaiser to adjourn. The vote was unanimous and the meeting adjourned at 8:16 p.m.

ATTEST:

\_\_\_\_\_, Mayor

\_\_\_\_\_, City Clerk



Agenda Memorandum

City Council Meeting  
June 25, 2012

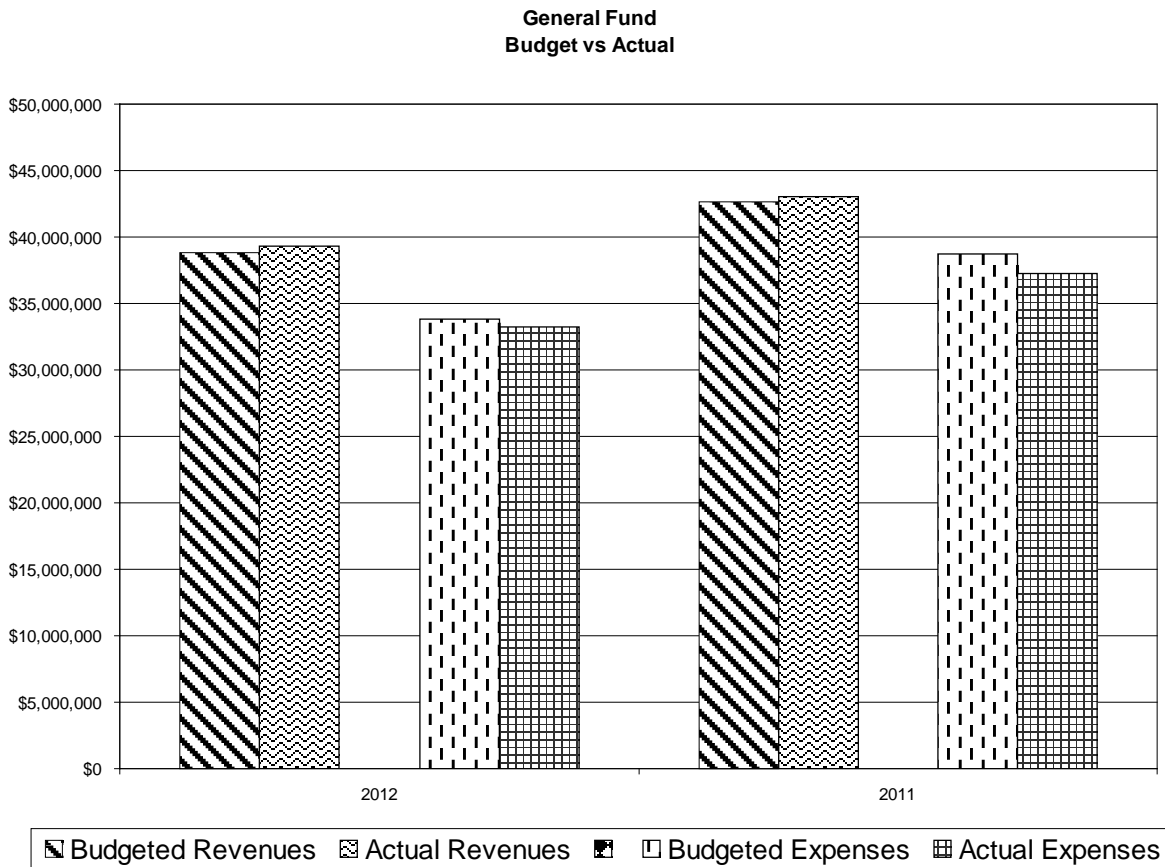


**SUBJECT:** Financial Report for May 2012  
**Prepared By:** Tammy Hitchens, Finance Director

**Recommended City Council Action**  
Accept the Financial Report for May 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 \$6,103,689. The following graph represents Budget vs. Actual for 2011-2012.



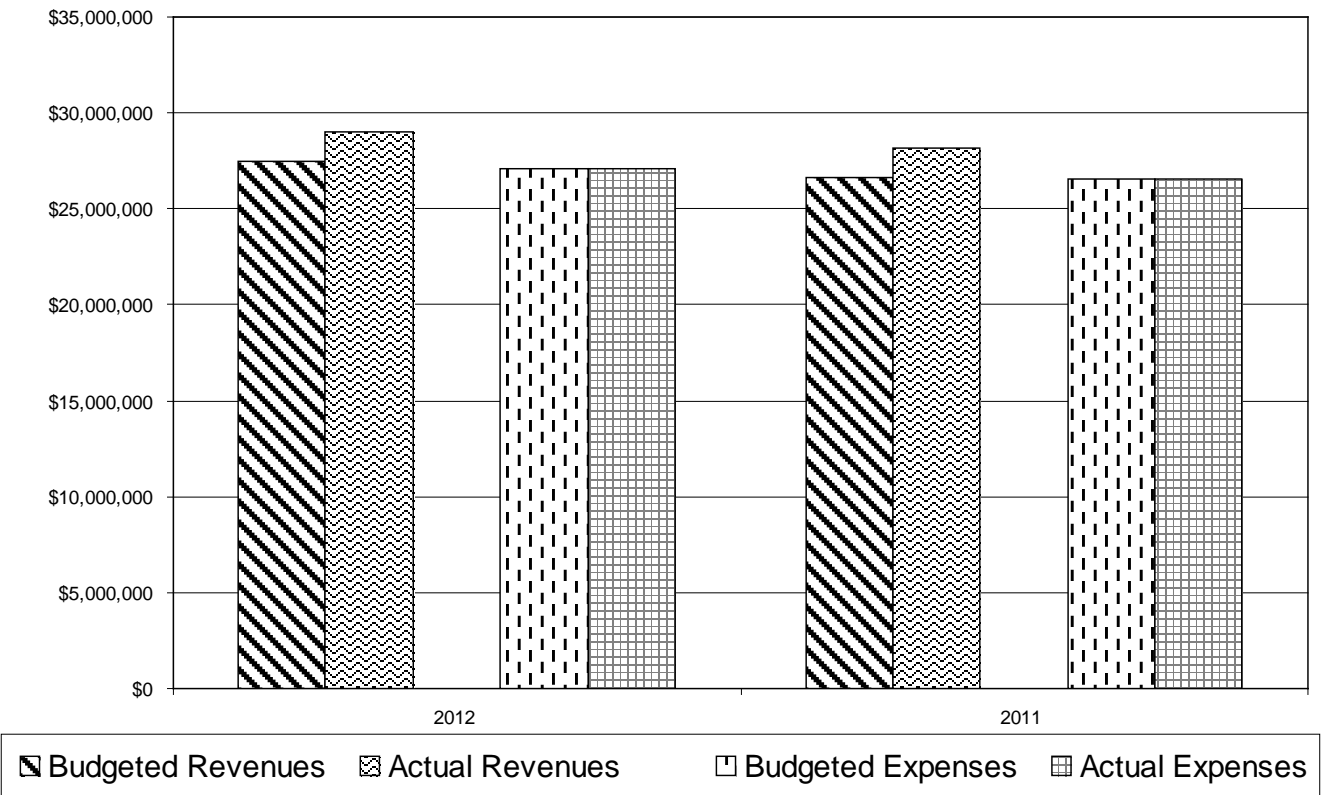
- Budgeted and actual revenues and expenses for 2011 were higher due to a \$4 million transfer to WEDA for WURP.



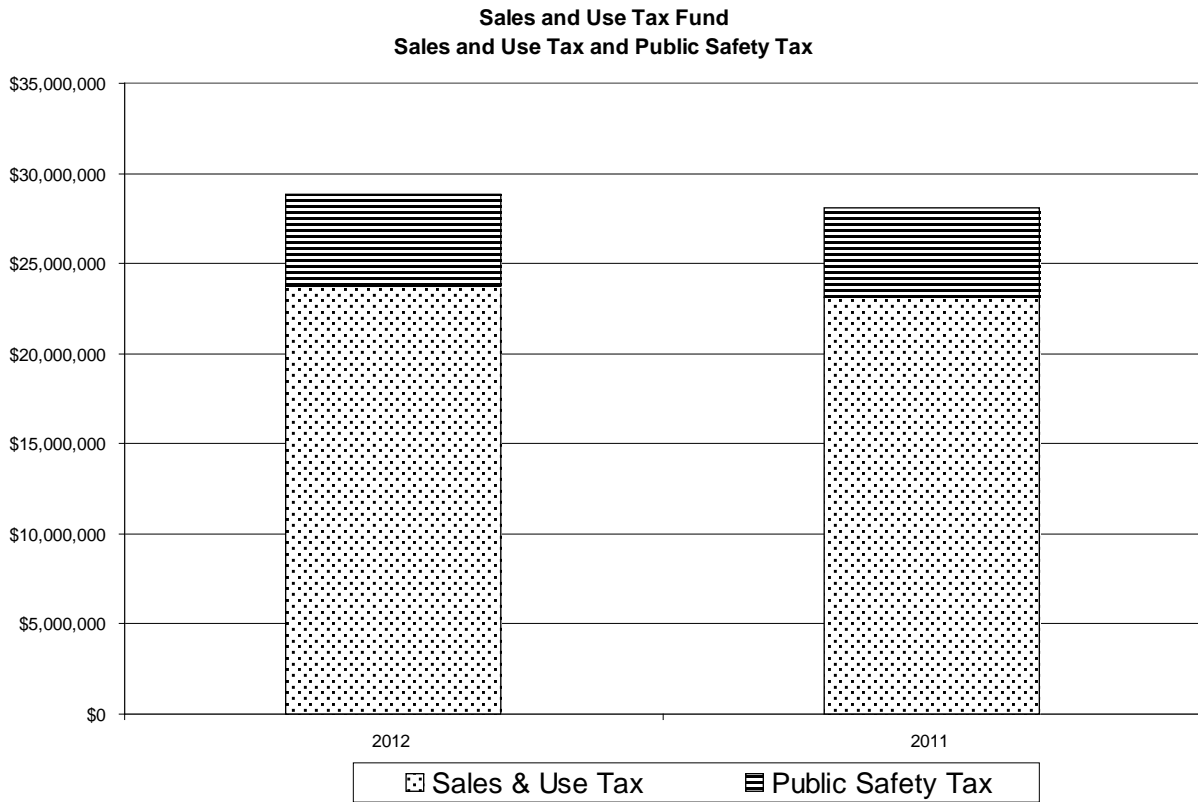
The Sales and Use Tax Fund revenues exceed expenditures by \$1,906,997. On a year-to-date cash basis, total sales and use tax is up 2.7% from 2011. Key components are listed below:

- 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 57.6% of all collections, are up 0.8% for the month.
- Urban renewal areas make up 40.9% of gross sales tax collections. After urban renewal area and economic development assistance adjustments, 83.0% of this money is being retained for General Fund use.
- Auto Use tax is up 12.3% on a year-to-date basis.

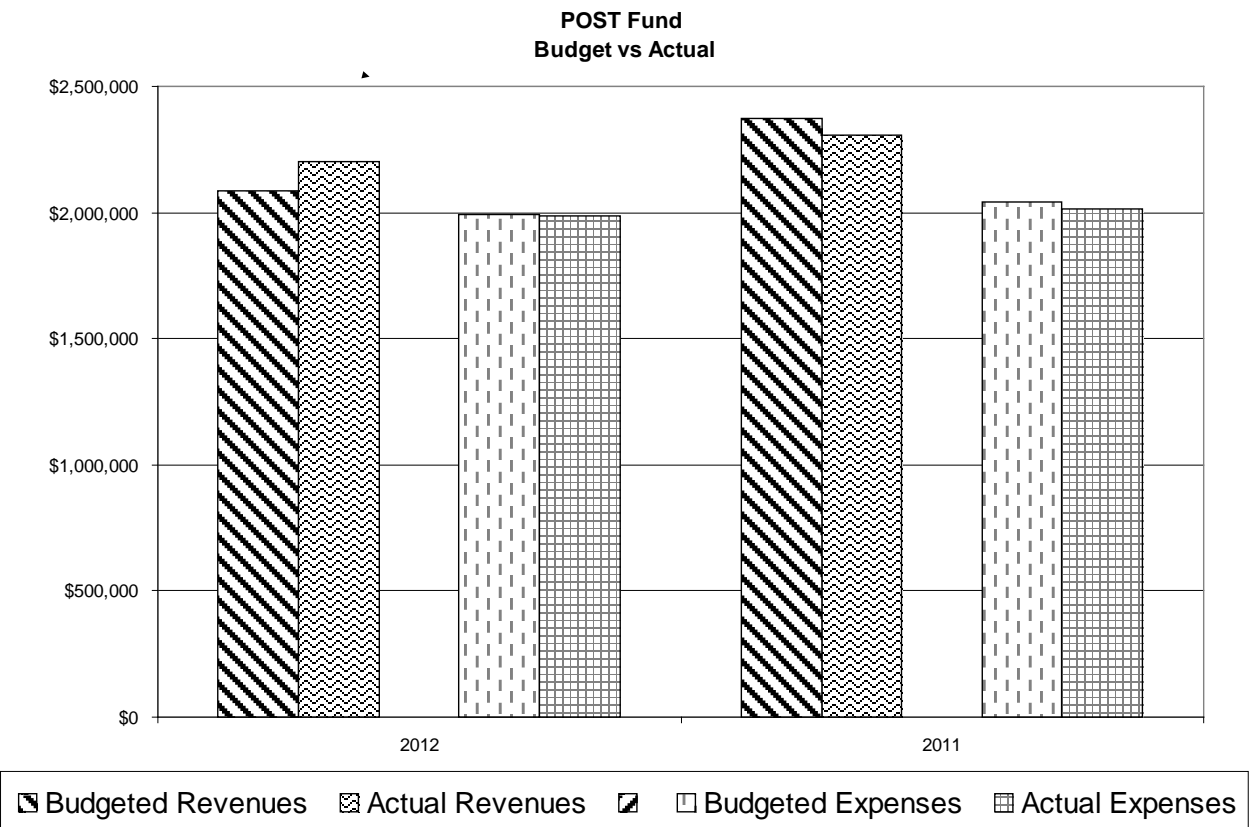
**Sales & Use Tax Fund  
Budget vs Actual**



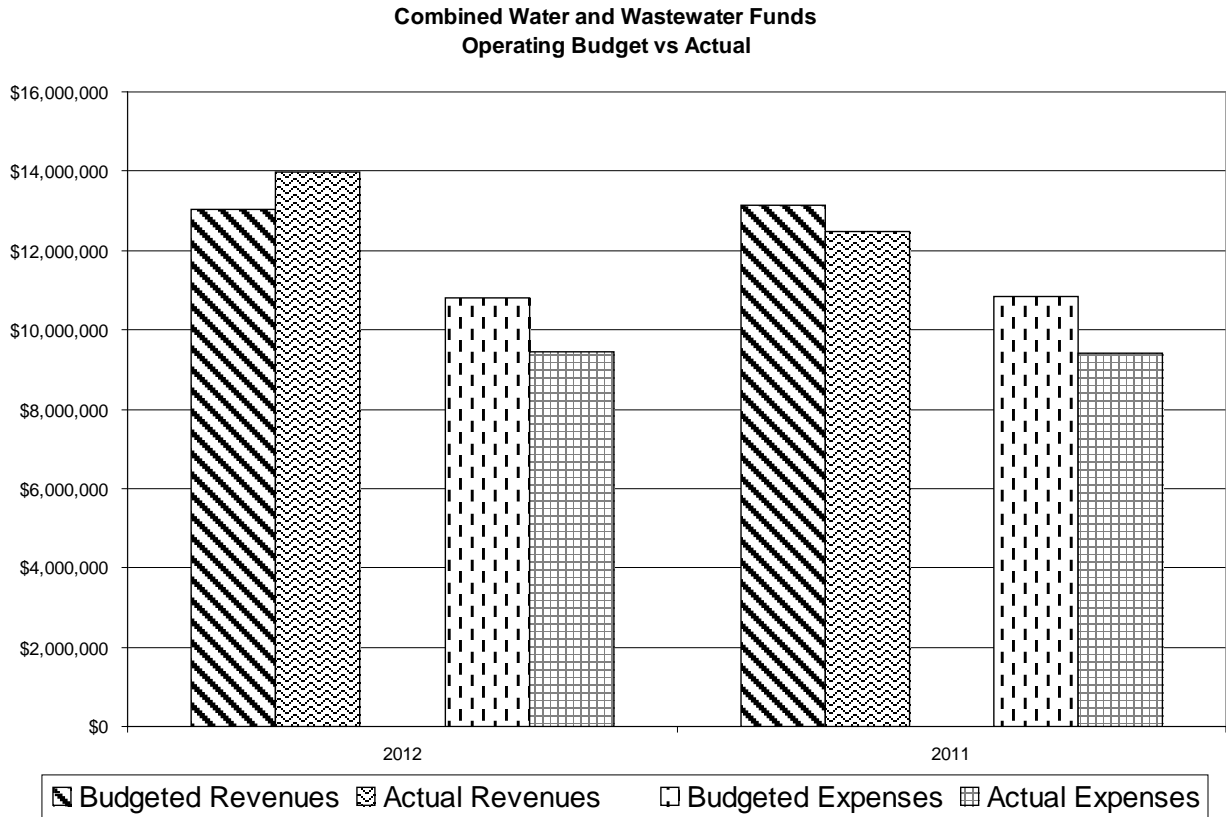
The graph below reflects the contribution of the Public Safety Tax to the overall Sales and Use Tax revenue.



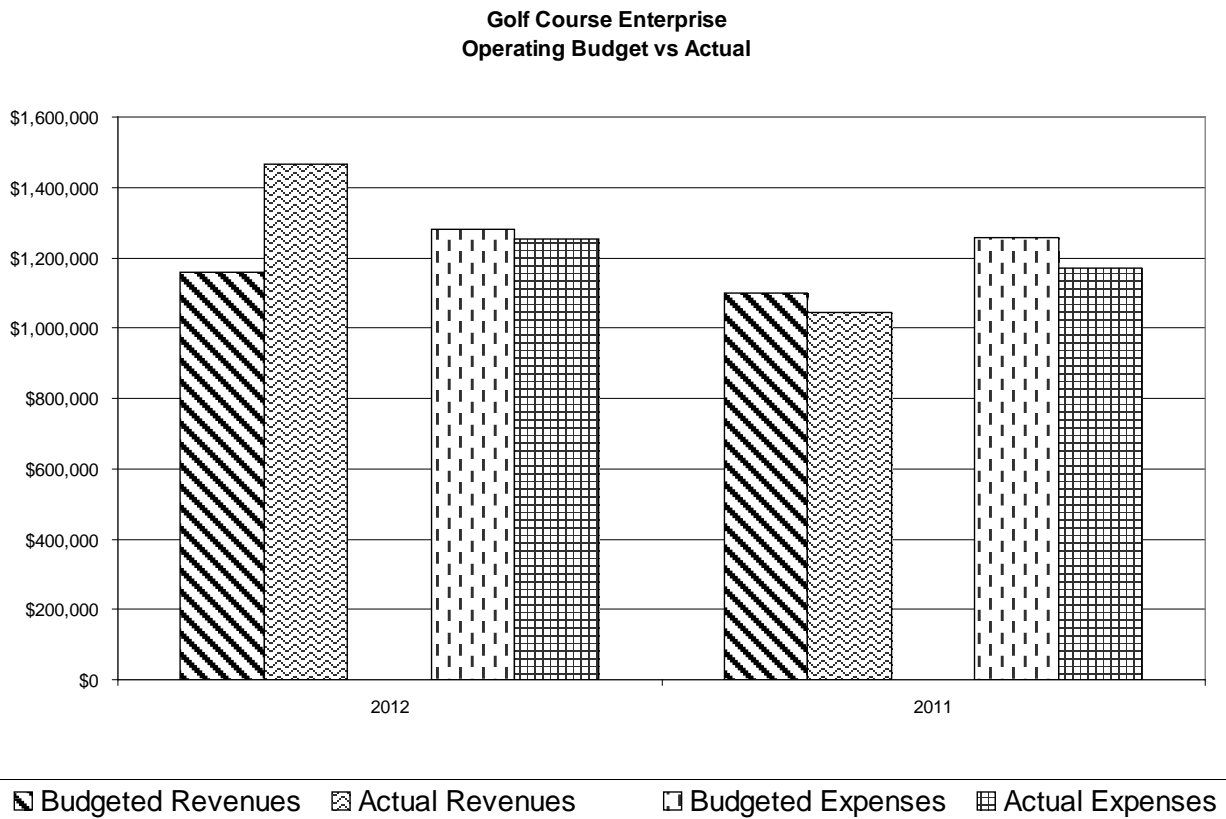
The Parks Open Space and Trails Fund revenues exceed expenditures by \$213,804.



The combined Water & Wastewater Fund revenues exceed expenses by \$8,362,137 Operating revenues exceed operating expenses by \$4,517,281. \$14,860,000 is budgeted for capital projects and reserves.



The combined Golf Course Fund revenues exceed expenditures by \$211,944.



On a combined basis, the golf courses are up by approximately \$307,000 over prorated budget. This is attributable to increased play and corporate memberships.

**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**

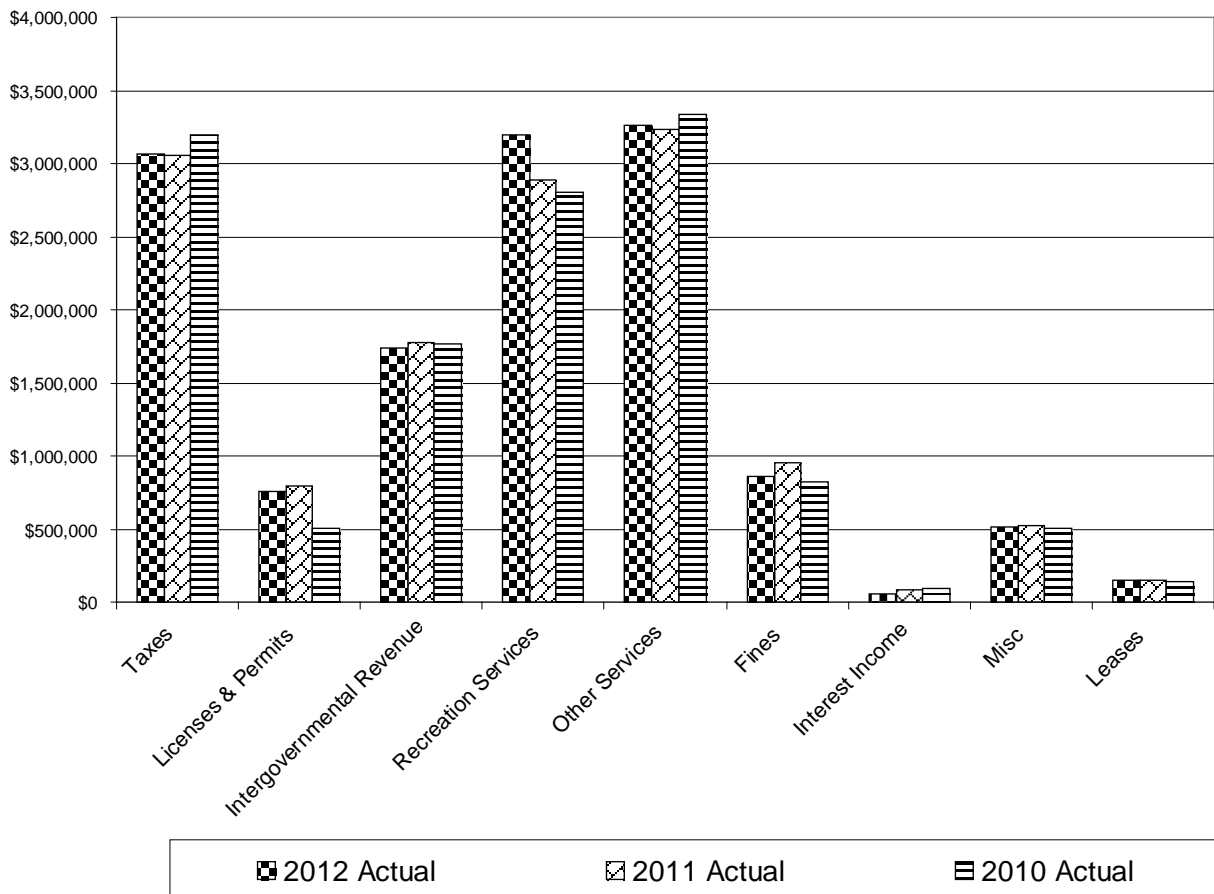
This section includes a discussion of highlights of each fund presented.

**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 2010-2012 year-to-date.

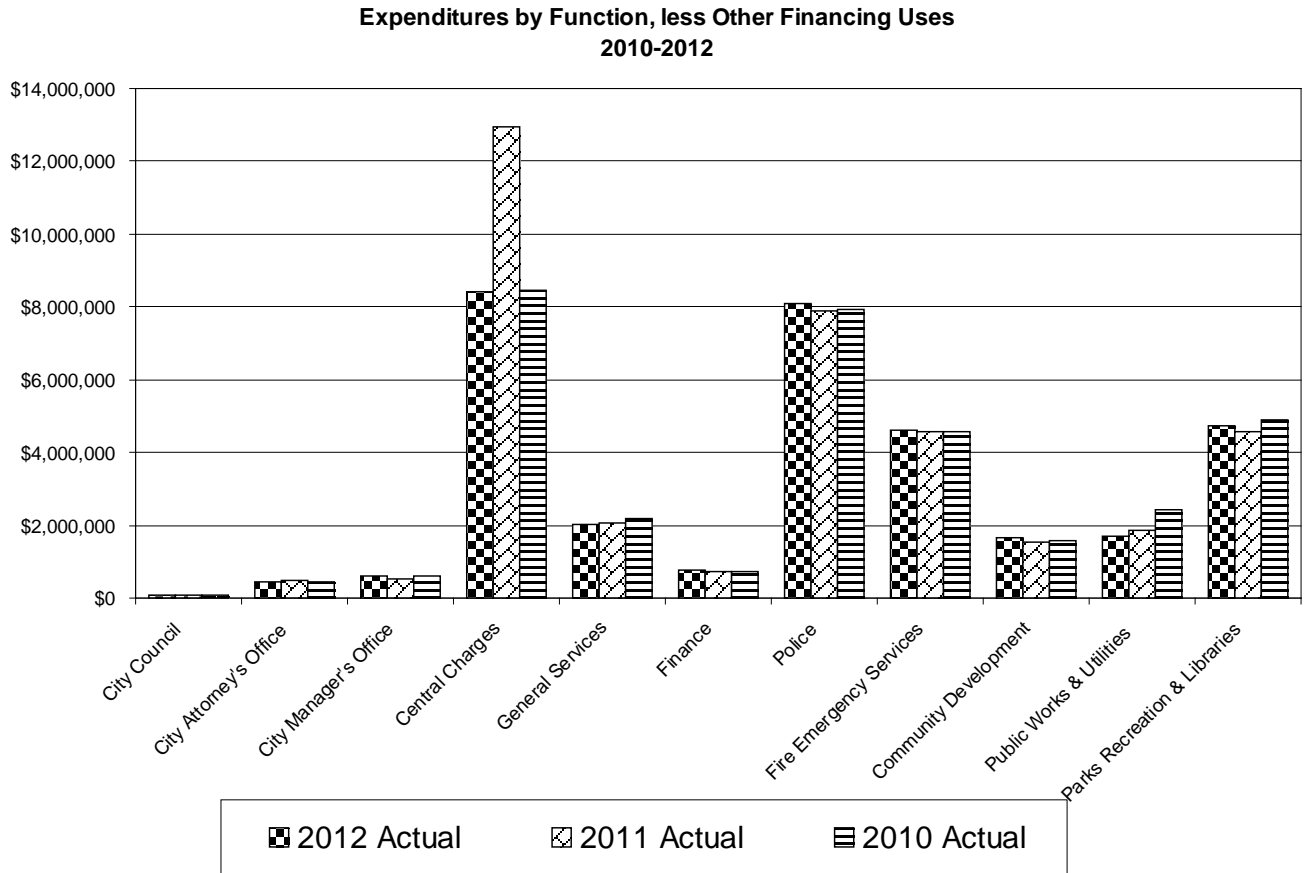
**General Fund Revenues without Transfers, Carryover, and Other Financing Sources  
2010-2012**



Significant differences between years in General Fund revenue categories are explained as follows:

- Recreation Services revenue increased from fees for passes, admissions, fitness and recreation programs.

The following chart identifies where the City is focusing its resources. The chart shows year-to-date spending for 2010-2012.

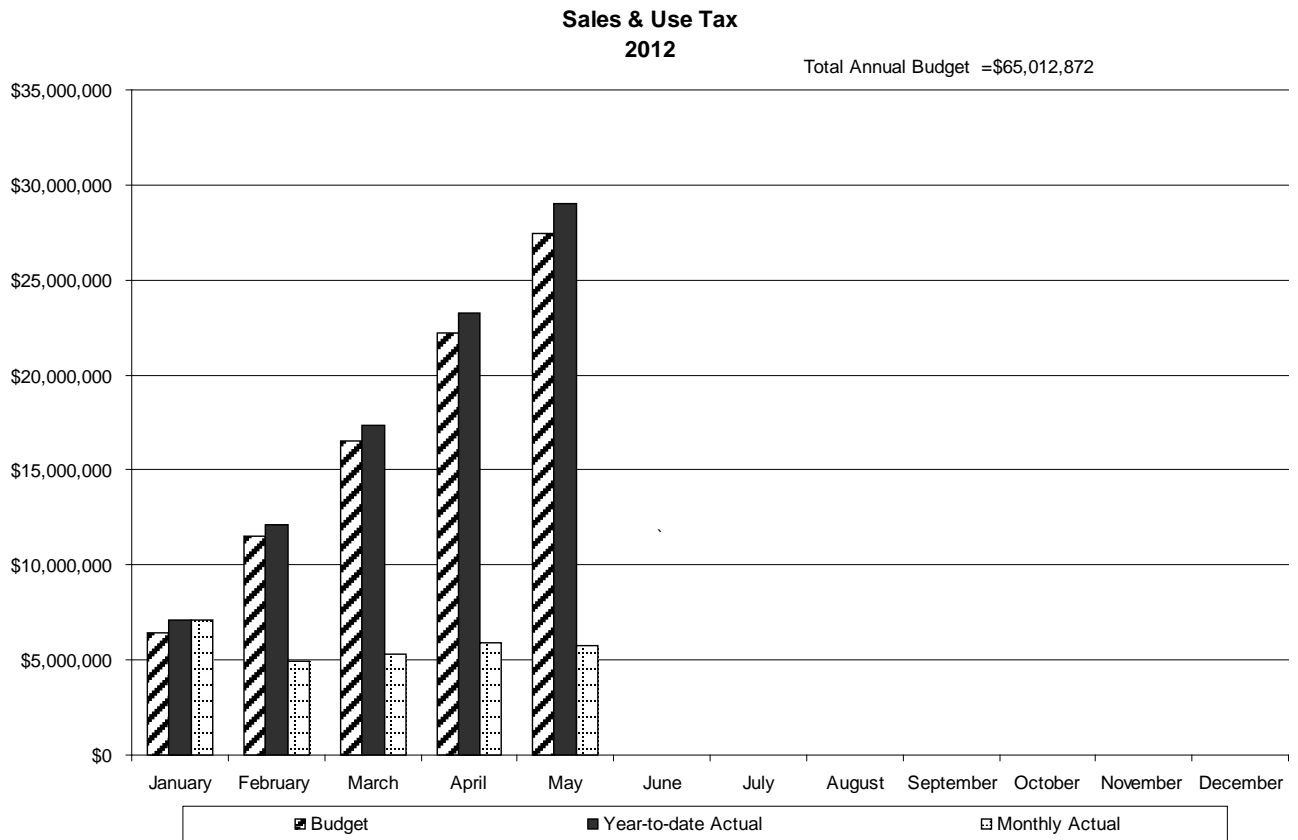


- The large increase in Central Charges in 2011 was caused by the WEDA transfer of \$4 million for WURP as well as a larger transfer budgeted for GCIF in 2011 when compared to 2012.

**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.

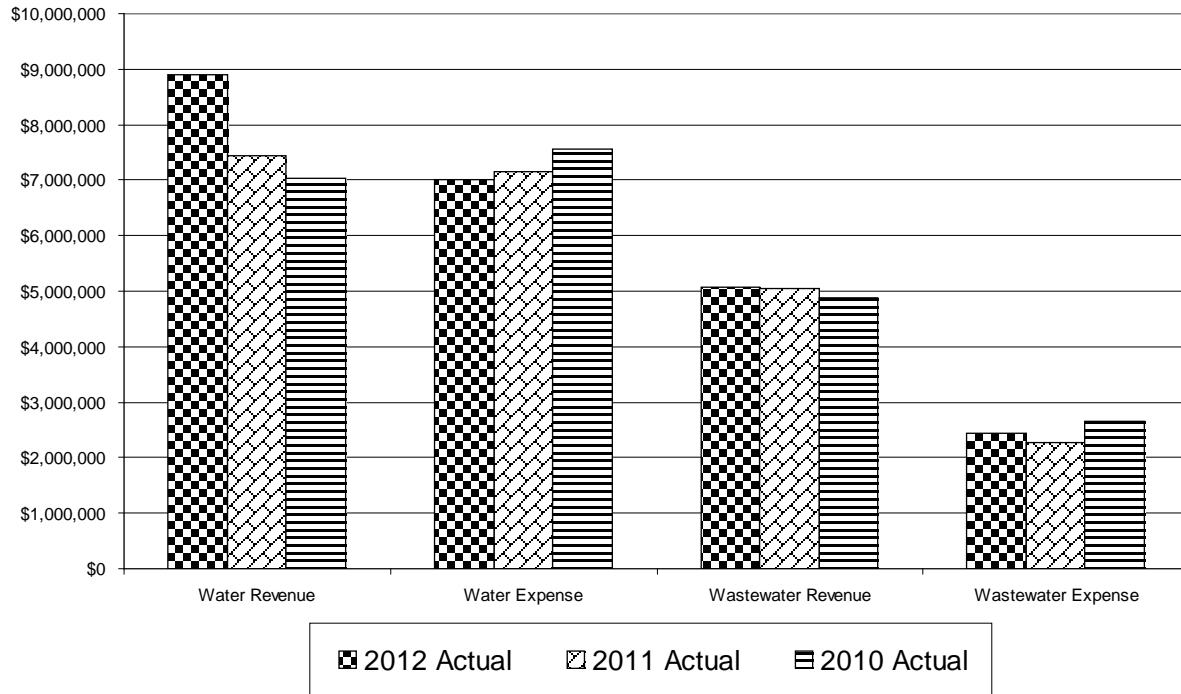


**Water, Wastewater and Storm Water Drainage Funds (The Utility Enterprise)**

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.

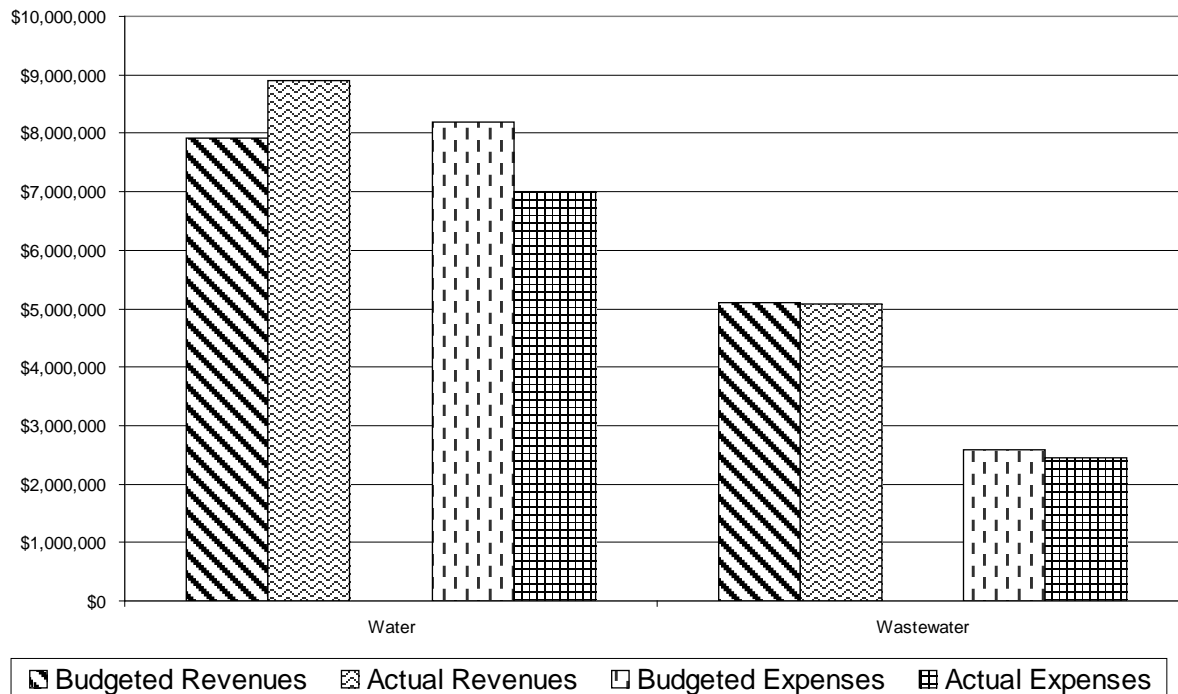
These graphs represent segment information for the Water and Wastewater funds.

**Water and Wastewater Funds  
Operating Revenue and Expenses 2010-2012**



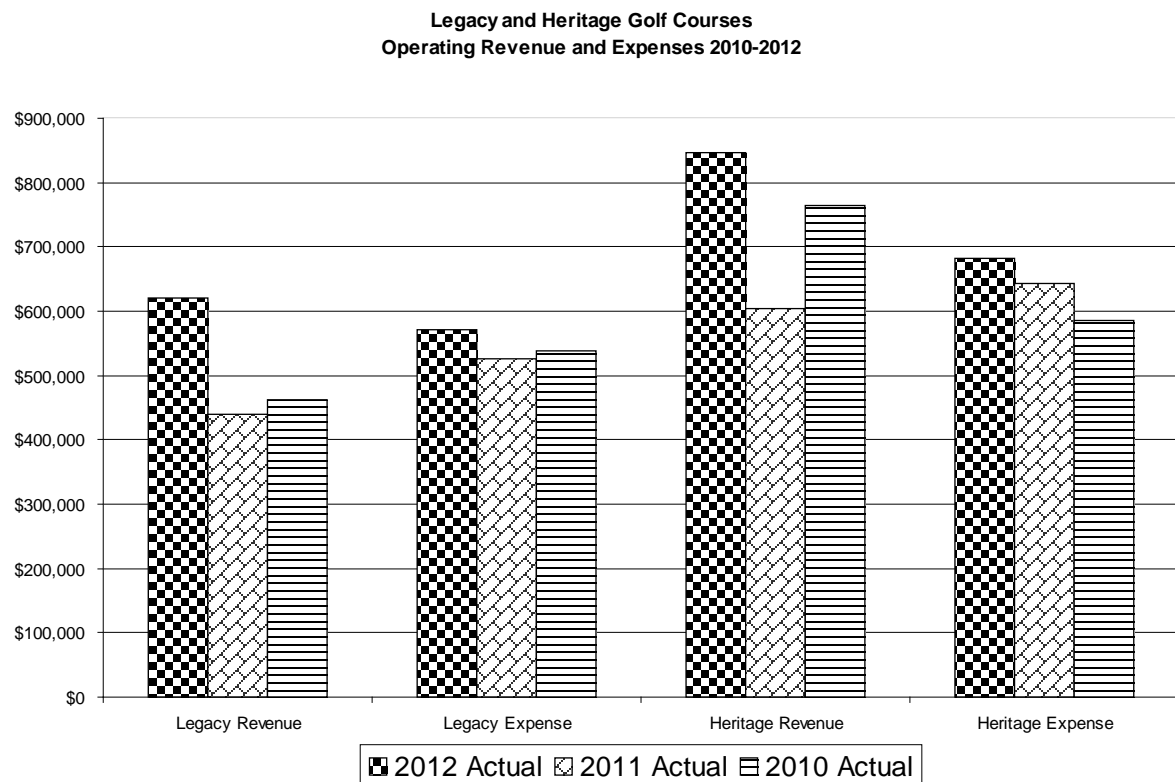
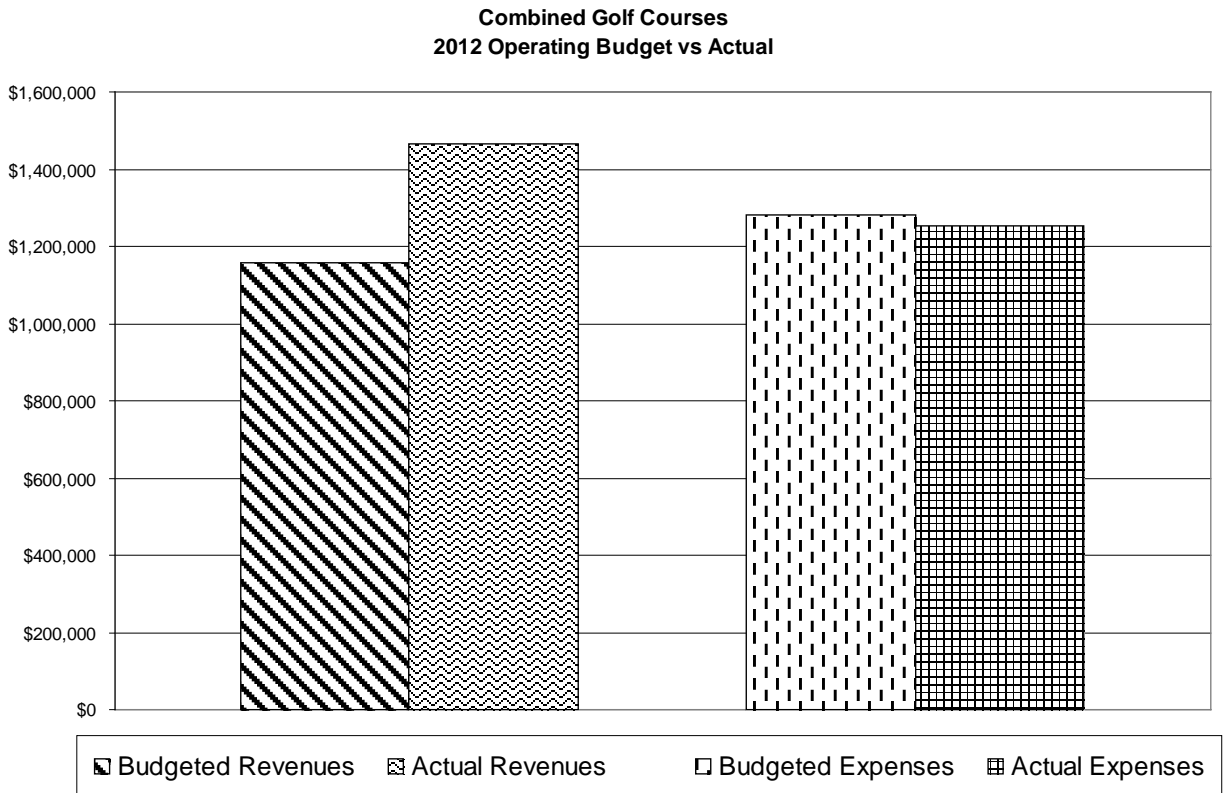
The water revenue variance is due to the effect of climatic variations on water consumption and 2012 changes to billing rates.

**Water and Wastewater Funds  
2012 Operating Budget vs Actual**



**Golf Course Enterprise (Legacy and Heritage Golf Courses)**

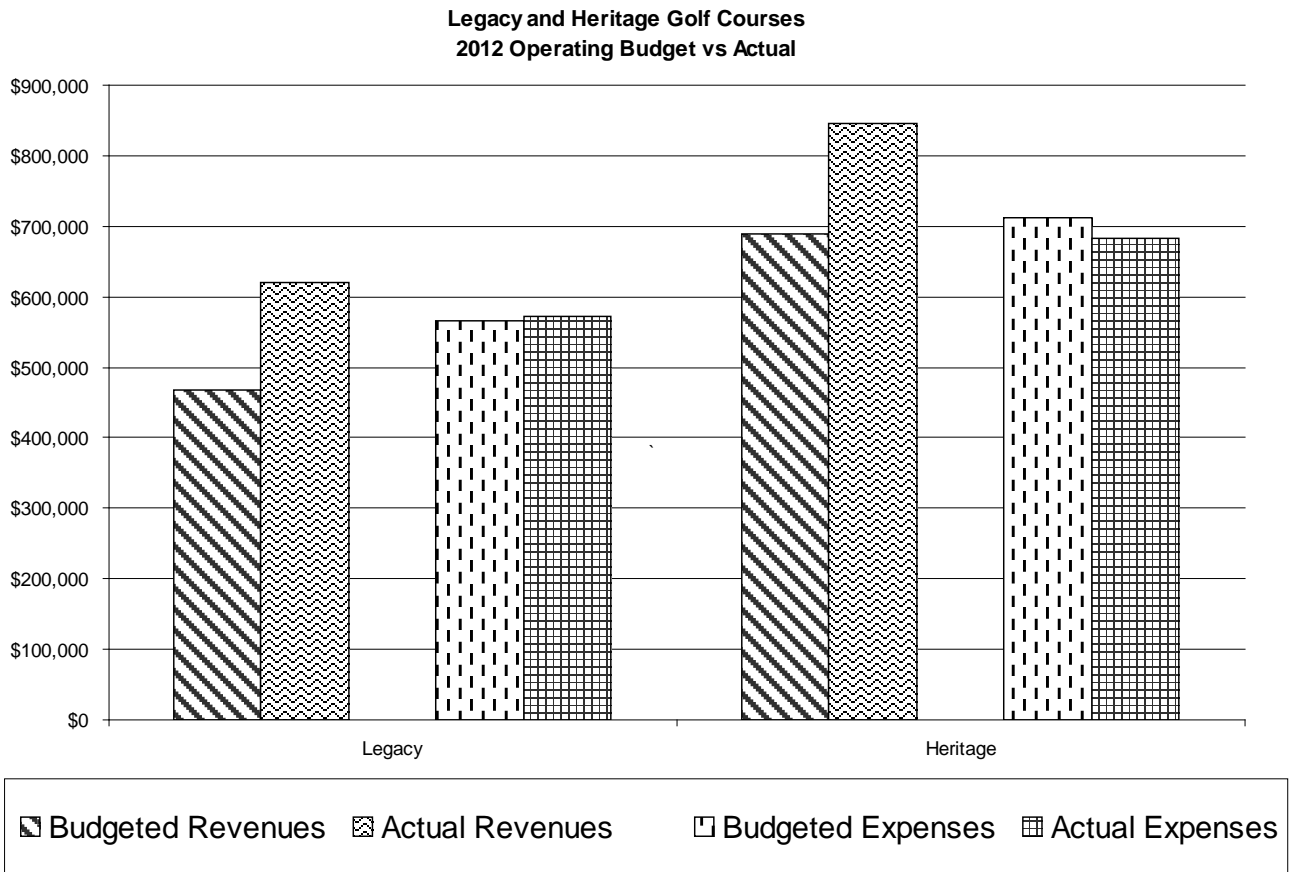
This enterprise reflects the operations of the City’s two municipal golf courses.



Charges for services including driving range and green fees at both courses account for the increase in revenues. Transfers from other funds to the golf courses also increased, after being decreased in 2011. The transfer decreased in 2011 as a result of savings from refunding of the bonds. Purchases of merchandise for resale account for the increase in expenditures at the Heritage at Westmoor golf course.



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



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,

Stephen P. Smithers  
Acting City Manager

Attachments

- Financial Statements
- Shopping Center Report

**City of Westminster  
Financial Report  
For Five Months Ending May 31, 2012**

Description General Fund	Budget	Pro-rated for Seasonal Flows	Notes	Actual	(Under) Over Budget	% Budget
<b>Revenues</b>						
Taxes	5,575,590	3,091,728		3,065,556	(26,172)	99.2%
Licenses & Permits	1,415,000	560,709		758,935	198,226	135.4%
Intergovernmental Revenue	5,041,200	1,565,384		1,735,846	170,462	110.9%
Charges for Services						
Recreation Services	6,418,338	2,753,336		3,192,243	438,907	115.9%
Other Services	9,530,020	3,522,626		3,257,857	(264,769)	92.5%
Fines	2,110,000	864,163		859,128	(5,035)	99.4%
Interest Income	180,000	49,685		52,928	3,243	106.5%
Miscellaneous	1,733,562	539,627		512,802	(26,825)	95.0%
Leases	386,208	153,463		153,463	0	100.0%
Interfund Transfers	61,684,647	25,701,936		25,701,936	0	100.0%
<b>Total Revenues</b>	<u>94,074,565</u>	<u>38,802,657</u>		<u>39,290,694</u>	<u>488,037</u>	<u>101.3%</u>
<b>Expenditures</b>						
City Council	240,119	103,648		85,484	(18,164)	82.5%
City Attorney's Office	1,197,089	460,506		461,219	713	100.2%
City Manager's Office	1,492,443	581,669		616,699	35,030	106.0%
Central Charges	25,031,200	8,469,223		8,422,987	(46,236)	99.5%
General Services	5,825,352	2,270,006		2,038,931	(231,075)	89.8%
Finance	1,994,706	769,678		776,992	7,314	101.0%
Police	20,379,206	8,037,820		8,083,623	45,803	100.6%
Fire Emergency Services	11,777,934	4,591,327		4,610,786	19,459	100.4%
Community Development	4,125,271	1,596,132		1,641,476	45,344	102.8%
Public Works & Utilities	7,767,031	1,931,718		1,717,149	(214,569)	88.9%
Parks, Recreation & Libraries	14,244,214	5,031,335		4,731,659	(299,676)	94.0%
<b>Total Expenditures</b>	<u>94,074,565</u>	<u>33,843,062</u>		<u>33,187,005</u>	<u>(656,057)</u>	<u>98.1%</u>
<b>Revenues Over(Under) Expenditures</b>	<u>0</u>	<u>4,959,595</u>		<u>6,103,689</u>	<u>1,144,094</u>	

**City of Westminster  
Financial Report  
For Five Months Ending May 31, 2012**

Description	Budget	Pro-rated for Seasonal Flows	Notes	Actual	(Under) Over Budget	% Budget
<b>Sales and Use Tax Fund</b>						
<b>Revenues</b>						
Sales Tax						
Sales Tax Returns	44,669,579	19,208,894		20,016,894	808,000	104.2%
Sales Tx Audit Revenues	719,000	299,823		247,232	(52,591)	82.5%
S-T Rev. STX	<u>45,388,579</u>	<u>19,508,717</u>		<u>20,264,126</u>	<u>755,409</u>	103.9%
Use Tax						
Use Tax Returns	7,193,750	2,678,183		3,240,438	562,255	121.0%
Use Tax Audit Revenues	785,000	327,345		239,907	(87,438)	73.3%
S-T Rev. UTX	<u>7,978,750</u>	<u>3,005,528</u>		<u>3,480,345</u>	<u>474,817</u>	115.8%
Total STX and UTX	<u>53,367,329</u>	<u>22,514,245</u>		<u>23,744,471</u>	<u>1,230,226</u>	105.5%
Public Safety Tax						
PST Tax Returns	10,985,043	4,662,777		5,014,044	351,267	107.5%
PST Audit Revenues	308,500	128,645		97,390	(31,255)	75.7%
Total Rev. PST	<u>11,293,543</u>	<u>4,791,422</u>		<u>5,111,434</u>	<u>320,012</u>	106.7%
Interest Income	95,000	39,583		32,706	(6,877)	82.6%
Interfund Transfers	257,000	107,083		107,083	0	100.0%
Total Revenues and Carryover	<u>65,012,872</u>	<u>27,452,333</u>		<u>28,995,694</u>	<u>1,543,361</u>	105.6%
<b>Expenditures</b>						
Central Charges	<u>65,012,872</u>	<u>27,088,697</u>		<u>27,088,697</u>	0	100.0%
Revenues Over(Under) Expenditures	<u>0</u>	<u>363,636</u>		<u>1,906,997</u>	<u>1,543,361</u>	

**City of Westminster  
Financial Report  
For Five Months Ending May 31, 2012**

Description POST Fund	Budget	Pro-rated for Seasonal Flows	Notes	Actual	(Under) Over Budget	% Budget
<b>Revenues</b>						
Sales & Use Tax	4,814,510	2,039,327		2,129,218	89,891	104.4%
Intergovernmental Revenue	81,229	0		0	0	
Interest Income	3,400	1,417		10,234	8,817	722.2%
Miscellaneous	85,030	35,429		53,464	18,035	150.9%
Interfund Transfers	19,000	7,917		7,917	0	100.0%
<b>Total Revenues</b>	<u>5,003,169</u>	<u>2,084,090</u>		<u>2,200,833</u>	<u>116,743</u>	<u>105.6%</u>
<b>Expenditures</b>						
Central Charges	4,725,329	1,911,245		1,923,285	12,040	100.6%
Park Services	277,840	83,218		63,744	(19,474)	76.6%
	<u>5,003,169</u>	<u>1,994,463</u>		<u>1,987,029</u>	<u>(7,434)</u>	<u>99.6%</u>
Revenues Over(Under) Expenditures	<u>0</u>	<u>89,627</u>		<u>213,804</u>	<u>124,177</u>	

**City of Westminster  
Financial Report  
For Five Months Ending May 31, 2012**

Description	Budget	Pro-rated for Seasonal Flows	Notes	Actual	(Under) Over Budget	%
Water and Wastewater Funds - Combined						Budget
<b>Operating Revenues</b>						
License & Permits	75,000	31,250		42,480	11,230	135.9%
Intergovernmental Revenue	0	0		258,630	258,630	
Rates and Charges	43,153,638	12,813,293		13,444,572	631,279	104.9%
Miscellaneous	435,000	181,250		223,896	42,646	123.5%
<b>Total Operating Revenues</b>	<b>43,663,638</b>	<b>13,025,793</b>		<b>13,969,578</b>	<b>943,785</b>	<b>107.2%</b>
<b>Operating Expenses</b>						
Central Charges	5,875,355	2,448,064		2,430,063	(18,001)	99.3%
Finance	669,344	267,738		223,759	(43,979)	83.6%
Public Works & Utilities	20,349,992	6,931,359		5,749,931	(1,181,428)	83.0%
Parks, Recreation & Libraries	132,272	32,671		26,611	(6,060)	81.5%
Information Technology	2,778,352	1,119,676		1,021,933	(97,743)	91.3%
<b>Total Operating Expenses</b>	<b>29,805,315</b>	<b>10,799,508</b>		<b>9,452,297</b>	<b>(1,347,211)</b>	<b>87.5%</b>
<b>Operating Income (Loss)</b>	<b>13,858,323</b>	<b>2,226,285</b>		<b>4,517,281</b>	<b>2,290,996</b>	
<b>Other Revenue and Expenses</b>						
Tap Fees	3,700,000	1,593,100		2,032,583	439,483	127.6%
Interest Income	553,600	230,666		128,470	(102,196)	55.7%
Interfund Transfers	3,967,501	1,653,125		1,653,125	0	100.0%
Sale of Assets	0	0		30,678	30,678	
Debt Service	(7,219,424)	0		0	0	
<b>Total Other Revenue (Expenses)</b>	<b>1,001,677</b>	<b>3,476,891</b>		<b>3,844,856</b>	<b>367,965</b>	
<b>Increase (Decrease) in Net Assets</b>	<b>14,860,000</b>	<b>5,703,176</b>		<b>8,362,137</b>	<b>2,658,961</b>	

**City of Westminster  
Financial Report  
For Five Months Ending May 31, 2012**

Description	Budget	Pro-rated for Seasonal Flows	Notes	Actual	(Under) Over Budget	% Budget
<b>Water Fund</b>						
<b>Operating Revenues</b>						
License & Permits	75,000	31,250		42,480	11,230	135.9%
Intergovernmental Revenue	0	0	(1)	258,630	258,630	
Rates and Charges	30,892,138	7,704,335		8,379,019	674,684	108.8%
Miscellaneous	425,000	177,083		219,586	42,503	124.0%
<b>Total Operating Revenues</b>	<b>31,392,138</b>	<b>7,912,668</b>		<b>8,899,715</b>	<b>987,047</b>	<b>112.5%</b>
<b>Operating Expenses</b>						
Central Charges	4,152,445	1,730,185		1,714,174	(16,011)	99.1%
Finance	669,344	267,738		223,759	(43,979)	83.6%
Public Works & Utilities	14,246,761	5,053,105		4,014,507	(1,038,598)	79.4%
PR&L Standley Lake	132,272	32,671		26,611	(6,060)	81.5%
Information Technology	2,778,352	1,119,676		1,021,933	(97,743)	91.3%
<b>Total Operating Expenses</b>	<b>21,979,174</b>	<b>8,203,375</b>		<b>7,000,984</b>	<b>(1,202,391)</b>	<b>85.3%</b>
<b>Operating Income (Loss)</b>	<b>9,412,964</b>	<b>(290,707)</b>		<b>1,898,731</b>	<b>2,189,438</b>	
<b>Other Revenue and Expenses</b>						
Tap Fees	3,000,000	1,274,100		1,508,805	234,705	118.4%
Interest Income	365,600	152,333		88,804	(63,529)	58.3%
Interfund Transfers	2,984,511	1,243,546		1,243,546	0	100.0%
Sale of Assets	0	0		30,678	30,678	
Debt Service	(5,715,075)	0		0	0	
<b>Total Other Revenues (Expenses)</b>	<b>635,036</b>	<b>2,669,979</b>		<b>2,871,833</b>	<b>201,854</b>	
<b>Increase (Decrease) in Net Assets</b>	<b>10,048,000</b>	<b>2,379,272</b>		<b>4,770,564</b>	<b>2,391,292</b>	

**City of Westminster  
Financial Report  
For Five Months Ending May 31, 2012**

Description	Budget	Pro-rated for Seasonal Flows	Notes	Actual	(Under) Over Budget	% Budget
<b>Wastewater Fund</b>						
<b>Operating Revenues</b>						
Rates and Charges	12,261,500	5,108,958		5,065,553	(43,405)	99.2%
Miscellaneous	10,000	4,167		4,310	143	103.4%
Total Operating Revenues	<u>12,271,500</u>	<u>5,113,125</u>		<u>5,069,863</u>	<u>(43,262)</u>	99.2%
<b>Operating Expenses</b>						
Central Charges	1,722,910	717,879		715,889	(1,990)	99.7%
Public Works & Utilities	6,103,231	1,878,254		1,735,424	(142,830)	92.4%
Total Operating Expenses	<u>7,826,141</u>	<u>2,596,133</u>		<u>2,451,313</u>	<u>(144,820)</u>	94.4%
Operating Income (Loss)	<u>4,445,359</u>	<u>2,516,992</u>		<u>2,618,550</u>	<u>101,558</u>	
<b>Other Revenue and Expenses</b>						
Tap Fees	700,000	319,000		523,778	204,778	164.2%
Interest Income	188,000	78,333		39,666	(38,667)	50.6%
Interfund Transfers	982,990	409,579		409,579	0	100.0%
Debt Service	(1,504,349)	0		0	0	
Total Other Revenues (Expenses)	<u>366,641</u>	<u>806,912</u>		<u>973,023</u>	<u>166,111</u>	
Increase (Decrease) in Net Assets	<u>4,812,000</u>	<u>3,323,904</u>		<u>3,591,573</u>	<u>267,669</u>	

**City of Westminster  
Financial Report  
For Five Months Ending May 31, 2012**

Description	Budget	Pro-rated for Seasonal Flows	Notes	Actual	(Under) Over Budget	%
Storm Drainage Fund						Budget
<b>Revenues</b>						
Charges for Services	2,050,000	854,167		828,987	(25,180)	97.1%
Interest Income	82,000	34,167		19,565	(14,602)	57.3%
Miscellaneous	0	0		27	27	
<b>Total Revenues</b>	<u>2,132,000</u>	<u>888,334</u>		<u>848,579</u>	<u>(39,755)</u>	95.5%
<b>Expenses</b>						
General Services	86,200	22,067		22,087	20	100.1%
Community Development	169,090	67,636		63,752	(3,884)	94.3%
PR&L Park Services	200,000	33,200		33,180	(20)	99.9%
Public Works & Utilities	322,710	65,510		53,963	(11,547)	82.4%
<b>Total Expenses</b>	<u>778,000</u>	<u>188,413</u>		<u>172,982</u>	<u>(15,431)</u>	91.8%
<b>Increase (Decrease) in Net Assets</b>	<u>1,354,000</u>	<u>699,921</u>		<u>675,597</u>	<u>(24,324)</u>	



**City of Westminster  
Financial Report  
For Five Months Ending May 31, 2012**

Description	Budget	Pro-rated for Seasonal Flows	Notes	Actual	(Under) Over Budget	% Budget
<b>Golf Course Funds - Combined</b>						
<b>Revenues</b>						
Charges for Services	2,745,022	844,916		1,151,971	307,055	136.3%
Interest Income	0	0		1,552	1,552	
Interfund Transfers	751,143	312,977		312,977	0	100.0%
<b>Total Revenues</b>	<u>3,496,165</u>	<u>1,157,893</u>		<u>1,466,500</u>	<u>308,607</u>	126.7%
<b>Expenses</b>						
Central Charges	208,427	86,924		75,716	(11,208)	87.1%
Recreation Facilities	3,287,738	1,193,024		1,178,840	(14,184)	98.8%
<b>Total Expenses</b>	<u>3,496,165</u>	<u>1,279,948</u>		<u>1,254,556</u>	<u>(25,392)</u>	98.0%
<b>Increase (Decrease) in Net Assets</b>	<u>0</u>	<u>(122,055)</u>		<u>211,944</u>	<u>333,999</u>	

**City of Westminster  
Financial Report  
For Five Months Ending May 31, 2012**

Description	Budget	Pro-rated for Seasonal Flows	Notes	Actual	(Under) Over Budget	% Budget
<b>Legacy Ridge Fund</b>						
<b>Revenues</b>						
Charges for Services	1,456,167	432,482		583,205	150,723	134.9%
Interest Income	0	0		1,552	1,552	
Interfund Transfers	85,000	35,417		35,417	0	100.0%
<b>Total Revenues</b>	<u>1,541,167</u>	<u>467,899</u>		<u>620,174</u>	<u>152,275</u>	132.5%
<b>Expenses</b>						
Central Charges	109,383	45,722		39,393	(6,329)	86.2%
Recreation Facilities	1,431,784	521,169		532,408	11,239	102.2%
<b>Total Expenses</b>	<u>1,541,167</u>	<u>566,891</u>		<u>571,801</u>	<u>4,910</u>	100.9%
<b>Increase (Decrease) in Net Assets</b>	<u>0</u>	<u>(98,992)</u>		<u>48,373</u>	<u>147,365</u>	

**City of Westminster  
Financial Report  
For Five Months Ending May 31, 2012**

Description	Budget	Pro-rated for Seasonal Flows	Notes	Actual	(Under) Over Budget	% Budget
<b>Heritage at Westmoor Fund</b>						
<b>Revenues</b>						
Charges for Services	1,288,855	412,434		568,766	156,332	137.9%
Interfund Transfers	666,143	277,560		277,560	0	100.0%
<b>Total Revenues</b>	<b>1,954,998</b>	<b>689,994</b>		<b>846,326</b>	<b>156,332</b>	<b>122.7%</b>
<b>Expenses</b>						
Central Charges	99,044	41,202		36,323	(4,879)	88.2%
Recreation Facilities	1,855,954	671,855		646,432	(25,423)	96.2%
<b>Total Expenses</b>	<b>1,954,998</b>	<b>713,057</b>		<b>682,755</b>	<b>(30,302)</b>	<b>95.8%</b>
<b>Increase (Decrease) in Net Assets</b>	<b>0</b>	<b>(23,063)</b>		<b>163,571</b>	<b>186,634</b>	

CITY OF WESTMINSTER  
GENERAL RECEIPTS BY CENTER  
MONTH OF MAY 2012

Center Location Major Tenant	Current Month			Last Year			%Change			
	General Sales	General Use	Total	General Sales	General Use	Total	Sales	Use	Total	
NORTHWEST PLAZA SW CORNER 92 & HARLAN COSTCO	389,504	1,111	390,615	187,689	302	187,990	108	268	108	
THE ORCHARD 144TH & I-25 JC PENNEY/MACY'S	338,547	8,652	347,199	324,099	12,098	336,198	4	-28	3	
WESTFIELD SHOPPING CENTER NW CORNER 92ND & SHER WALMART 92ND	309,968	4,909	314,877	300,698	1,049	301,747	3	368	4	
BROOKHILL I & II N SIDE 88TH OTIS TO WADS HOME DEPOT	240,252	1,524	241,777	196,643	1,766	198,408	22	-14	22	
SHOPS AT WALNUT CREEK 104TH & REED TARGET	214,414	1,935	216,349	208,548	5,102	213,649	3	-62	1	
SHOENBERG CENTER SW CORNER 72ND & SHERIDAN WALMART 72ND	191,262	361	191,623	188,019	403	188,423	2	-11	2	
SHERIDAN CROSSING SE CORNER 120TH & SHER KOHL'S	160,815	351	161,166	146,345	537	146,882	10	-35	10	
INTERCHANGE BUSINESS CENTER SW CORNER 136TH & I-25 WALMART 136TH	158,134	325	158,459	154,226	519	154,745	3	-37	2	
PROMENADE SOUTH/NORTH S/N SIDES OF CHURCH RANCH BLVD SHANE/AMC	110,564	13,379	123,944	116,463	21,104	137,567	-5	-37	-10	
CITY CENTER MARKETPLACE NE CORNER 92ND & SHERIDAN BARNES & NOBLE	111,299	831	112,129	116,839	519	117,358	-5	60	-4	
NORTH PARK PLAZA SW CORNER 104TH & FEDERAL KING SOOPERS	108,355	444	108,798	112,511	4,482	116,994	-4	-90	-7	
WESTMINSTER MALL 88TH & SHERIDAN 2 DEPARTMENT STORES	87,083	752	87,834	105,020	1,067	106,087	-17	-30	-17	
VILLAGE AT THE MALL S SIDE 88TH DEPEW-HARLAN TOYS 'R US	78,188	218	78,406	77,884	446	78,330	0	-51	0	
WESTMINSTER CROSSING 136TH & I-25 LOWE'S	77,492	197	77,689	66,811	109	66,919	16	82	16	
STANDLEY SHORES CENTER SW CORNER 100TH & WADS KING SOOPERS	74,095	55	74,150	77,676	946	78,622	-5	-94	-6	

CITY OF WESTMINSTER  
GENERAL RECEIPTS BY CENTER  
MONTH OF MAY 2012

Center Location Major Tenant	Current Month			Last Year			%Change		
	General Sales	General Use	Total	General Sales	General Use	Total	Sales	Use	Total
LUCENT/KAISER CORRIDOR 112-120 HURON - FEDERAL LUCENT TECHNOLOGY	13,218	53,393	66,612	13,129	36,188	49,317	1	48	35
WESTMINSTER PLAZA FEDERAL-IRVING 72ND-74TH SAFEWAY	60,275	241	60,516	52,270	432	52,703	15	-44	15
ROCKY MOUNTAIN PLAZA SW CORNER 88TH & SHER GUITAR STORE	59,308	341	59,650	61,765	319	62,084	-4	7	-4
STANDLEY LAKE MARKETPLACE NE CORNER 99TH & WADSWORTH SAFEWAY	42,630	227	42,857	45,969	144	46,113	-7	57	-7
VILLAGE AT PARK CENTRE NW CORNER 120TH & HURON CB & POTTS	41,407	254	41,661	43,748	1,284	45,032	-5	-80	-7
87TH & TURNPIKE DR 87TH & TURNPIKE DR LA QUINTA	1,035	39,547	40,582	1,012	84	1,097	2	46757	3600
ELWAY/DOUGLAS CORRIDOR NE CORNER 104TH & FED ELWAY MOTORS	34,783	502	35,286	31,237	308	31,545	11	63	12
WILLOW RUN 128TH & ZUNI SAFEWAY	34,930	300	35,230	32,158	196	32,354	9	53	9
BROOKHILL IV E SIDE WADS 90TH-92ND MURDOCH'S	34,057	55	34,112	31,169	87	31,256	9	-37	9
BOULEVARD SHOPS 94TH & WADSWORTH CORRIDOR AMERICAN FURNITURE WAREHOUSE	30,886	546	31,432	24,080	1,333	25,413	28	-59	24
	3,002,501	130,450	3,132,951	2,716,006	90,825	2,806,831	11	44	12

CITY OF WESTMINSTER  
 GENERAL RECEIPTS BY CENTER  
 MAY 2012 YEAR-TO-DATE

Center Location Major Tenant	YTD 2012			YTD 2011			%Change		
	General Sales	General Use	Total	General Sales	General Use	Total	Sales	Use	Total
THE ORCHARD 144TH & I-25 JC PENNEY/MACY'S	2,021,079	74,070	2,095,149	1,865,755	88,407	1,954,162	8	-16	7
WESTFIELD SHOPPING CENTER NW CORNER 92ND & SHER WALMART 92ND	1,782,503	15,907	1,798,410	1,729,597	7,444	1,737,041	3	114	4
NORTHWEST PLAZA SW CORNER 92 & HARLAN COSTCO	1,238,564	3,284	1,241,847	995,590	3,699	999,289	24	-11	24
SHOPS AT WALNUT CREEK 104TH & REED TARGET	1,197,729	10,310	1,208,039	1,158,949	23,280	1,182,229	3	-56	2
SHOENBERG CENTER SW CORNER 72ND & SHERIDAN WALMART 72ND	986,630	2,425	989,055	960,220	2,671	962,891	3	-9	3
BROOKHILL I & II N SIDE 88TH OTIS TO WADS HOME DEPOT	941,700	10,124	951,824	865,614	6,655	872,269	9	52	9
SHERIDAN CROSSING SE CORNER 120TH & SHER KOHL'S	843,812	9,937	853,749	802,539	3,770	806,310	5	164	6
INTERCHANGE BUSINESS CENTER SW CORNER 136TH & I-25 WALMART 136TH	815,997	2,667	818,664	812,088	2,710	814,798	0	-2	0
PROMENADE SOUTH/NORTH S/N SIDES OF CHURCH RANCH BLVD SHANE/AMC	641,618	80,061	721,680	611,945	138,976	750,921	5	-42	-4
NORTH PARK PLAZA SW CORNER 104TH & FEDERAL KING SOOPERS	632,467	4,251	636,719	580,549	32,620	613,168	9	-87	4
CITY CENTER MARKETPLACE NE CORNER 92ND & SHERIDAN BARNES & NOBLE	623,355	4,722	628,077	642,711	5,150	647,861	-3	-8	-3
WESTMINSTER MALL 88TH & SHERIDAN 2 DEPARTMENT STORES	477,995	12,148	490,143	677,179	18,086	695,265	-29	-33	-30
STANDLEY SHORES CENTER SW CORNER 100TH & WADS KING SOOPERS	425,963	1,281	427,244	444,757	5,890	450,648	-4	-78	-5
VILLAGE AT THE MALL S SIDE 88TH DEPEW-HARLAN TOYS 'R US	388,676	5,147	393,823	408,386	2,027	410,413	-5	154	-4
ROCKY MOUNTAIN PLAZA SW CORNER 88TH & SHER GUITAR STORE	310,813	987	311,800	323,725	1,033	324,758	-4	-4	-4

CITY OF WESTMINSTER  
 GENERAL RECEIPTS BY CENTER  
 MAY 2012 YEAR-TO-DATE

Center Location Major Tenant	YTD 2012			YTD 2011			%Change		
	General Sales	General Use	Total	General Sales	General Use	Total	Sales	Use	Total
WESTMINSTER CROSSING 136TH & I-25 LOWE'S	297,124	4,215	301,340	280,990	1,399	282,389	6	201	7
WESTMINSTER PLAZA FEDERAL-IRVING 72ND-74TH SAFEWAY	269,237	5,583	274,820	261,137	1,440	262,577	3	288	5
STANDLEY LAKE MARKETPLACE NE CORNER 99TH & WADSWORTH SAFEWAY	219,620	795	220,415	230,588	973	231,561	-5	-18	-5
VILLAGE AT PARK CENTRE NW CORNER 120TH & HURON CB & POTTS	210,786	2,723	213,509	200,906	4,372	205,278	5	-38	4
WILLOW RUN 128TH & ZUNI SAFEWAY	166,216	2,096	168,313	159,672	1,688	161,360	4	24	4
ELWAY/DOUGLAS CORRIDOR NE CORNER 104TH & FED ELWAY MOTORS	145,926	3,253	149,179	135,647	2,551	138,198	8	27	8
BROOKHILL IV E SIDE WADS 90TH-92ND MURDOCH'S	139,009	666	139,675	128,293	11,929	140,222	8	-94	0
STANDLEY PLAZA SW CORNER 88TH & WADS WALGREENS	124,314	6,938	131,251	119,907	2,836	122,743	4	145	7
NORTHVIEW 92ND AVE YATES TO SHERIDAN SALTGRASS	119,244	2,670	121,914	123,338	688	124,027	-3	288	-2
MEADOW POINTE NE CRN 92ND & OLD WADS CARRABAS	116,306	254	116,559	108,474	400	108,875	7	-37	7
	15,136,686	266,512	15,403,198	14,628,557	370,695	14,999,252	3	-28	3



**Agenda Memorandum**

City Council Meeting  
June 25, 2012



**SUBJECT:** Ambulance Billing Services

**Prepared By:** Richard Spahn, EMS Coordinator

**Recommended City Council Action**

Based on the recommendation of the City Manager, City Council finds that the public interest will be best served by a negotiated contract with a single vendor, Wittman Enterprises, LLC for the billing and collection service accounts associated with the delivery of emergency medical and/or ambulance services. Authorize the City Manager to execute the contract at 4.9% of collections. The term of this contract shall be for three, one year terms, commencing July 10, 2012 and ending July 9, 2015. This Agreement shall automatically renew for two additional one year renewals, unless either party terminates this Agreement.

**Summary Statement**

- Ambulance transport billing is very specialized and requires knowledge of insurance industry procedures/guidelines, and state and federal insurance regulations.
- Formal proposals were requested from vendors in accordance with City policy and under the direction of the City Purchasing Officer. Proposals were submitted by seven consultants. Based on a competitive bidding process Wittman Enterprises was selected for their professionalism, technological capabilities, ability to meet all specification requirements, and at a competitive price.
- Staff conducted a phone survey with eleven metro area fire departments of fees paid for ambulance billing services. The average ambulance billing fee in the metro area is 6.84%. Wittman Enterprises has submitted a proposed 4.9% fee schedule. The City had been paying 5% of all revenue collected to the previous vendor. In 2011, revenue collected for ambulance services was \$2,100,345. Approximately \$105,017 was paid to the billing company.
- Staff is projecting that over \$2,000,000 will be collected in 2012 from ambulance revenue, and estimates fees paid to Wittman Enterprises over \$100,000. An exact amount is unknown until the end of the year. Funds have been allocated in the Fire Department Budget for this expense.

**Expenditure Required:** Approximately \$115,000

**Source of Funds:** 2012 General Fund - Fire Department Operating Budget



**Policy Issue**

Should the City engage in a contract for the billing and collection service accounts associated with the City's delivery of emergency medical and/or ambulance services with Wittman Enterprises?

**Alternatives**

1. Council could decide not to contract with Wittman Enterprises for the billing and collection service accounts associated with the City's delivery of emergency medical and/or ambulance services and require Staff to undergo the bid process again. Staff does not recommend this. Wittman Enterprises proposal and bid were satisfactory in meeting the City's specifications for the billing and collection service accounts associated with the City's delivery of emergency medical and/or ambulance services as outlined in the request for proposal. Recommendations from Wittman Enterprises current clientele indicated that they can meet all the specification requirements and do so at a very competitive price. Additionally, the vendor has agreed to maintain the 4.9% collections fee through the potential five-year period.
2. Direct Staff to perform ambulance billing in-house. Staff does not recommend this alternative due to the need to hire additional FTE's and the complexity of medical billing. Staff believes that outsourcing this service is the most cost effective approach.

**Background Information**

In 1999, the resignation of the FTE responsible for ambulance billing led staff to conduct an analysis that determined outsourcing ambulance billing would be more cost effective and efficient for the City. Staff conducted a bid process in July of 1999. City Council approved a contract with Healthcare Professional Billing to perform ambulance billing services for a one year trial period. At the completion of that trial period in July of 2000, City Council authorized the City Manger to enter into a long-term contract with Healthcare Professional Billing.

During the spring of 2012 formal proposals were requested from vendors in accordance with City policy and under the direction of the City Purchasing Officer. Seven proposals were received from local and out-of-state billing agencies. Staff members from the Finance, Fire and IT department evaluated these proposals, coming up with a short-list which included EMS Billing Solutions, Fidelis, and Wittman Enterprises. These vendors were asked to provide a presentation to Staff. After several days of collaboration, Staff believes Wittman Enterprises to be best suited in meeting the needs of the City.

Wittman Enterprises has been providing revenue recovery to the EMS industry for 20 years. They have a workforce of 118 employees. Although they are not a local billing agency (Sacramento CA), staff believes they are more than able to meet our needs as a result of the technological capabilities between the City and Wittman Enterprises. Wittman Enterprises is well respected by their current clientele. During the RFP evaluation process Wittman demonstrated a high level of commitment, confidence, integrity, and professionalism.

City Council action on this item addresses two Strategic Plan Goals: Financially Sustainable City Government Providing Exceptional Services and Safe and Secure Community.

Respectfully submitted,

Stephen P. Smithers  
Acting City Manager



Agenda Memorandum

City Council Meeting  
June 25, 2012



**SUBJECT:** GIS Data Conversion Contract

**Prepared By:** Dave Murray, GIS Coordinator  
Steve Baumann, Assistant City Engineer

**Recommended City Council Action**

Authorize the City Manager to execute a contract with AMEC Environmental & Infrastructure, Inc. for digital data conversion services in the amount of \$130,328.

**Summary Statement**

- The City's Geographic Information Systems (GIS) program serves employees and citizens with data and applications that are critical to the City's operations. There are over 200 layers in the GIS database, including a layer of building footprints that presently covers only the commercial and multi-family properties. There is a need to complete this dataset by also mapping single family building footprints, building heights and other impervious areas, along with quantifying the extent of irrigated areas in the City. Data from the last of these activities will be used to gauge water use patterns as the City manages that important resource.
- To address this need, the City requested proposals in 2011 from companies that specialize in digital data collection and conversion services. From the four firms that responded, two proposals were evaluated in detail, and the scope of work was tailored further to meet the needs of several Departments. The recommended contractor, AMEC Environmental and Infrastructure, Inc., has extensive experience in the many aspects of data capture and remote sensing technology.

**Expenditure Required:** \$130,327

**Source of Funds:** \$95,327 GIS Capital Projects Fund – 2012  
\$35,000 Utilities Professional Services Fund – 2013

**Policy Issue**

Should the City contract for data collection and conversion services that will complete the GIS dataset for building footprints, building heights, impervious surfaces and irrigated areas?

**Alternatives**

1. Set aside or abandon the goal of completing the referenced dataset. This is not recommended due to the need by many City Departments for this information to conduct analysis and operations planning.
2. Perform the data collection and conversion with in-house resources. This approach is not recommended since it will take away from the services that the GIS Staff provide. Contractors in this industry have specialized software that makes this type of data conversion efficient. Also, it is not recommended to hire part-time staff to conduct this task due to time and resource limitations.

**Background Information**

The City's GIS provides data and services for the citizens and multiple City Departments with a goal to make sure that data is not only timely but also complete. Among the over 200 layers of data in the GIS database are measures of the building footprints and impervious areas on all commercial and multi-family properties. This data is used to compute stormwater utility fees. For reasons described below, it has been a long term objective to also measure and utilize similar area measurements on single-family properties.

When considering conducting a digital data inventory of all single-family buildings, it is most efficient to capture as much information at one time for every parcel. In this way, the contractor's set up time can be leveraged to produce the largest amount of usable data. In addition to building footprints, measurements of driveway, sidewalk and patio areas will complete the dataset.

Contractors that are skilled in the area of digital data capture have a number of automated tools available to them. Included in these are methods for determining building rooftop elevation and heights relative to the ground. There have been a number of requests for this information from the Planning Division for line of sight and visual analysis. This information also provides the basis for further studies on building characteristics.

Additional uses for all of these GIS datasets include:

- Police Department and Fire Department personnel will be able to more accurately deploy to a scene if they know where the building and surface features are located in advance of arriving. Currently, the computer aided dispatch (CAD) system does not show the location of the single family detached buildings on the dispatch display screens. Having a better understanding of the situation will help with response effectiveness. In addition, this GIS data will be useful in reconstructing crime scene events.
- Parks Division personnel will find the information useful when laying out watering and planting plans.
- The City's planners and other staff will be able to make better assessments of lot coverage and setback encroachments.
- GIS staff will be able to conduct approximate line-of-sight studies using the building heights and terrain datasets.

A request for proposals that described these data collection needs was issued in July, 2011. Four vendors responded, and two were short listed based on their qualifications and experience. The two vendors were:

No.	Vendor	Proposed Cost
1.	AMEC Environmental and Infrastructure, Inc.	\$ 89,734.31
2.	Bohannon – Huston, Inc.	\$128,220.00

The proposals clearly favored AMEC in terms of technical capabilities, previous experience, references and cost. During the review period, Staff in the Public Works and Utilities Department expressed a desire to participate in the project by having the vendor also measure irrigated areas in the City. This would be done by using advanced remote sensing imagery and software. Water use for irrigated areas is the largest single water use in the City. Accurate measurement of coverage areas will allow for reliable water use projections of build-out conditions within the Comprehensive Water Supply Plan. Further use of the data will be made by the City’s reclaimed water system personnel in targeting potential customers and projecting demands.

Westminster will also use the information on irrigated areas generated by the contractor to establish irrigation water budgets. This GIS data will allow the City to calculate a landscape water budget for each parcel. The water budget will provide an estimation of expected water usage requirements at a site based on the irrigated area and landscape water needs. Comparison on actual consumption versus water budget estimates will be provided to customers for their use in managing their water use.

While the original request for proposals did not include the irrigated areas study, City Staff and AMEC discussed what additional amount of work would be necessary for this and other minor refinements of the scope of work. AMEC has both experience and technical ability to complete all of these tasks as the preferred vendor. The details of the final scope of work were negotiated with AMEC and are shown here:

<u>No.</u>	<u>GIS Data Conversion Task</u>	<u>Cost</u>
1.	Residential Building Footprints	\$ 33,555.27
2.	Residential Driveways	\$ 19,238.58
3.	Building Rooftop Elevations	\$ 12,780.00
4.	Residential Patios and Walks	\$ 19,238.58
5.	Vegetation and Tree Canopy Production	\$ 17,470.00
6.	Irrigation-Level Classification	\$ 15,045.00
7.	Multispectral Imagery Acquisition	\$ 8,000.00
8.	Contingency	<u>\$ 5,000.00</u>
	<b>Total</b>	<b>\$130,327.43</b>

Staff is recommending that a contract with AMEC Environmental and Infrastructure, Inc. be approved at their proposed fee of \$130,327.43

As a part of the project plan, a methodology for updating this data will be developed based upon the current GIS management processes. Currently, the GIS Section is responsible for commercial and multi-family development updates to building footprints and parking areas through the storm water utility. This GIS maintenance process will be updated to include any new single family detached developments. In addition, the new building heights will be captured from the development plans and the Pictometry data sets that the Police Department and Fire Department have purchased. The irrigated areas will be updated as needed for analysis of water use.

City Council action on this item addresses the Strategic Planning Goals of “Financially Sustainable City Government Providing Exceptional Services,” “Safe and Secure Community” and “Beautiful and Environmentally Sensitive City” by investing in data that can be used to increase organizational productivity and understanding of the built and natural environment.

Respectfully submitted,

Stephen P. Smithers  
Acting City Manager



**Agenda Memorandum**

City Council Meeting  
June 25, 2012



**SUBJECT:** Utility Operations Division Truck Purchase

**Prepared By:** Jeffery Bowman, Fleet Manager

**Recommended City Council Action**

Award the bid to replace one cab with chassis truck in the Utilities Division to Sill-TerHar Motors, Inc., in the amount of \$39,526; authorize the purchase of a Ford F550 based on the 2012 State of Colorado bid and the truck body, air compressor and shelving to O.J. Watson Co., Inc., in the amount of \$41,929 based on the 2012 State of Colorado, Colorado Department of Transportation Class 6 bid. Additionally, based on the recommendation of the City Manager, find that the public interest would best be served by accepting the sole source proposal from O.J. Watson Co., Inc., in the amount of \$14,571 to purchase and install a Stellar model 5521-2H hydraulic crane.

**Summary Statement**

- This action is being requested to replace a 1996 crane truck in the Utilities Division and a 1996 Ford 350 truck with a single more fully equipped vehicle.
- This is a key vehicle that will be used to repair fire hydrants and other critical utility system components.
- The City saves considerable dollars by purchasing vehicles through bids completed by the State of Colorado or Colorado Department of Transportation when possible.
- City Council previously approved adequate funds for this vehicle purchase and outfitting in the 2012 Utility Operations Division operating budget.

**Expenditure Required** \$96,026

**Source of Funds** Utilities Fund - Utility Operations Division Operating Budget

**Policy Issues**

1. Should City Council proceed with the replacement of one cab with chassis truck for the Utility Operations Division using the 2012 bids from the State of Colorado and the Colorado Department of Transportation.?
2. Should City Council decide that the public interest is best served by approving the sole source proposal of O.J. Watson Co, Inc., to purchase and install a Stellar model 521-2H hydraulic crane?

**Alternatives**

1. Do not replace the current crane truck in the Utility Operations Division. This is not recommended because the vehicle being replaced has a maintenance history that makes it impractical to keep it in regular service.
2. Reject the State of Colorado and Colorado Department of Transportation awarded bids to replace the Utility Operations Division crane truck. This alternative is not recommended because the bids reflect a lowered price based on the purchasing power of many political subdivisions in Colorado and the City would have to solicit bids, possibly delaying delivery beyond year-end.
3. Determine the public’s best interest is not best served by sole sourcing the purchase and installation of a Stellar model 5521-2H hydraulic crane through O.J. Watson Co., Inc. This alternative is not recommended because the City has made an investment in standardizing the outfitting through O.J. Watson Co., Inc., due to the myriad of safety and use requirements for these vehicles.

**Background Information**

As part of the Utility Operations Division’s 2012 operating budget, City Council approved the replacement of unit 9396, a 1996 Ford F350 truck, used to repair fire hydrants. This vehicle has reached a point where it is no longer economically reasonable to maintain it in service. Additionally, unit 9395, a second Ford F350 used for large meter replacements, was identified in the Fleet Optimization Study for elimination. The one cab with chassis truck recommended by Staff for purchase will be appropriately outfitted to complete the work that these two vehicles completed. While the table below includes the life-to-date vehicle maintenance costs for both vehicles, it does not include accident repairs or fuel cost for them.

<b>Unit Number</b>	<b>Purchase Year</b>	<b>Replacement Make/Model</b>	<b>Hours</b>	<b>Life-to-Date Vehicle Maintenance Cost</b>	<b>New Vehicle Make/Model</b>	<b>Price</b>	<b>Company</b>
9396	1996	Ford F350	5750 (Hrs)	\$24,993	2012 Ford F550 and Stellar body and crane, with air compressor	\$96,026	Sill-TerHar Motors for the cab/chassis and build by O.J. Watson, Co., Inc.
9395	1996	Ford F350	2902	\$15,994	----	----	----

Two State of Colorado bids, including one from the Colorado Department of Transportation, will be used to replace the vehicle in part—Sill-TerHar Motors, Inc., for the purchase of an F550 and O.J. Watson Co., Inc., to outfit the vehicle with a truck body, air compressor and shelving. To appropriately complete the vehicle replacement, a crane must be installed on the vehicle. Staff recommends Council find the public interest is best served by having O.J. Watson Co., Inc., as a sole source, purchase and install the crane. It is critical that this vehicle crane installation follow the standardized system established by Staff with O.J. Watson Co., Inc., to handle the day-to-day construction needs of the Division; often times safety sensitive. Standardizing 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.

The purchase of the crane truck and appropriate outfitting of the vehicle 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,

Stephen P. Smithers  
Acting City Manager





**Agenda Memorandum**

City Council Meeting  
June 25, 2012



**SUBJECT:** Delinquent Ambulance Account Collection Services

**Prepared By:** Richard Spahn, EMS Coordinator

**Recommended City Council Action**

Based on the recommendation of the City Manager, the City Council finds that the public interest will be best served by a negotiated contract with a single vendor, BC Services, Inc. for collection services for delinquent accounts associated with the delivery of emergency medical and/or ambulance services. Authorize the City Manager to execute the contract in an amount established and agreed upon in the Agreement. The term of this contract shall be for three (3), one (1) year terms, commencing July 10, 2012 and ending July 9, 2015. This Agreement shall automatically renew for two (2) additional one (1) year renewals, unless either party terminates this Agreement.

**Summary Statement**

- Formal proposals were requested from vendors in accordance with City policy and under the direction of the City Purchasing Officer. Proposals were submitted by five companies. Based on a competitive bidding process BC Services was selected for their locality (Longmont, CO), electronic capabilities, ability for staff to view patient accounts, availability of reports, account ownership (team approach), available training opportunities, competitive pricing, and customer service history.
- Delinquent ambulance bill collection services are very specialized and require knowledge of insurance industry procedures/guidelines, and state and federal insurance regulations.
- Based on the estimated amount of revenue collected from the ambulance delinquent accounts the City Attorney's Office recommended that the Fire Department enter into a direct agreement with a collection agency independent of City's current ambulance billing services. BC Services has filled this role for the past four years.
- Revenue collections by BC Services, after fees were \$88,902.60 during 2011. No expenditure is required by the City as the source of revenue for BC Services is generated by successful collections.

**Expenditure Required:** \$0

**Source of Funds:** N/A

**Policy Issue**

Should the City enter into an agreement with BC Service in 2012 with the option to renew on an annual basis for up to five years?

**Alternatives**

1. Council could decide not to contract with BC Service for the billing and collection service accounts associated with the City's delivery of emergency medical and/or ambulance services and require Staff to undergo the bid process again. Staff does not recommend this. BC Services proposal and bid were satisfactory in meeting the City's specifications for the delinquent accounts associated with the delivery of emergency medical and/or ambulance services as outlined in the request for proposal. Additionally, the vendor has agreed to maintain the 22% collections fee rate through the potential five-year period.
2. Direct Staff to perform ambulance collections in-house. Staff does not recommend this alternative due to the need to hire additional FTE's and the complexity of the collection process.

**Background Information**

Council approved the City Manager to enter into a series of one year agreements with the current ambulance billing company for ambulance billing services in 1999. A third party collections agency was utilized in conjunction with an informal agreement with the current ambulance billing company. The City Attorneys Office recommended that the City enter into a direct agreement with a collection agency independent of the current ambulance billing company and therefore, in 2008, the City entered into an agreement with BC Services.

BC Services provide on site attorney and notary staff which will minimize inconveniences to the Fire Department and streamline notification of subpoenas and court documents. BC Services agrees to send monthly reports to Fire Administration on revenues collected. They maintain a strong reputation with metro-area hospitals and ambulance transport agencies.

The Fire Department has utilized BC Services for ambulance collections for several years and has been satisfied with the services rendered. The City's rate of return for delinquent accounts is 12%, which falls in line with other Denver Metro agencies. Staff intends to continue to monitor the market for delinquent ambulance bill collection services.

City Council action on this item addresses two Strategic Plan Goals: Financially Sustainable City Government Providing Exceptional Services and Safe and Secure Community.

Respectfully submitted,

Stephen P. Smithers  
Acting City Manager



**Agenda Memorandum**

City Council Meeting  
June 25, 2012



**SUBJECT:** Vintage Apartments Water Meter Improvement Project

**Prepared By:** Phil Jones, Utilities Operations Manager  
Robert L. Booze, Distribution & Collection Superintendent

**Recommended City Council Action**

Authorize the City Manager to execute a contract with the low bidder Brannan Construction Company in the amount of \$107,356 to complete a water distribution improvement project, and authorize a 10% contingency of \$10,735, for a total project budget of \$118,091.

**Summary Statement**

- This project includes the complete reconstruction of seven meter vaults, replacing the old meters and setters, as well as the separation of the existing private fire lines from the City maintained water service lines at fourteen buildings within the Vintage Apartments complex. The contractor will be responsible to remove asphalt, excavate, repair, backfill and replace asphalt and landscaping on each excavation.
- Formal bids were issued and a bid opening took place on May 23, 2012. Four contractors bid on this project. The lowest responsible bid was submitted by Brannan Construction Company. This contractor has been utilized by the City in the past and has provided satisfactory work.
- Adequate funds are budgeted for this expenditure in the Water Meter Transponder Replacement capital improvement project account.

**Expenditure Required:** \$118,091

**Source of Funds:** Utility Fund - Water Meter Transponder Replacement Project

**Policy Issue**

Should the City utilize Capital Improvements Project funds to complete the needed Water Distribution Meter Improvement Project using an outside contractor as specified in the contract documents?

**Alternative**

Delay the Vintage Apartments Water Meter Improvement Project. This is not recommended as these water meters are obsolete and the consumption and registration is not accurate. The connection points from the private fire lines to the public water service lines are continuing to break. Due to the nature of the private and public connections in close proximity, there can be confusion as to who is responsible to make the repairs. These repairs are being made to the public connections.

**Background Information**

The metering equipment installed for the first seven buildings of the Vintage Apartments development are obsolete. Staff has a difficult time finding replacement parts for these meters. Over the last several years, the private fire lines at these fourteen buildings have slowly deteriorated to the point where they now leak. When the leaks occur, the City must isolate the main line, which puts several different buildings out of water. City crews have excavated the repair only to find that the problem was with a leaking private fire line. Per City specification, the private fire lines should have their own tap and shut off valve connecting to the City water main. This project will accomplish both updating the meters and proper connection of the fire lines. The contractor will commence work in late July or early August, and will complete this project by October 5, 2012.

The Vintage Apartments Water Meter Improvement Project was advertised and bids were accepted until May 23, 2012. The project bid opening took place on Wednesday, May 23, 2012. Four companies bid on the project, with Brannan Construction Company submitting the lowest bid. The City has utilized the services of Brannan Construction Company in the past and has been satisfied with the quality of their work.

The results of the submitted bids are as follows:

<b>Brannon Construction Company</b>	<b>\$107,356</b>
Quick's Hoe and Landscape Service	\$121,894
EZ Excavating	\$136,645
Levi Contractors	\$161,540

This project helps achieve the City Council's Strategic Plan Goals of, "Financially Sustainable City Government," and "Safe and Secure Community," by sustaining well-maintained City infrastructure and facilities, ensuring our citizens are safe anywhere in the City.

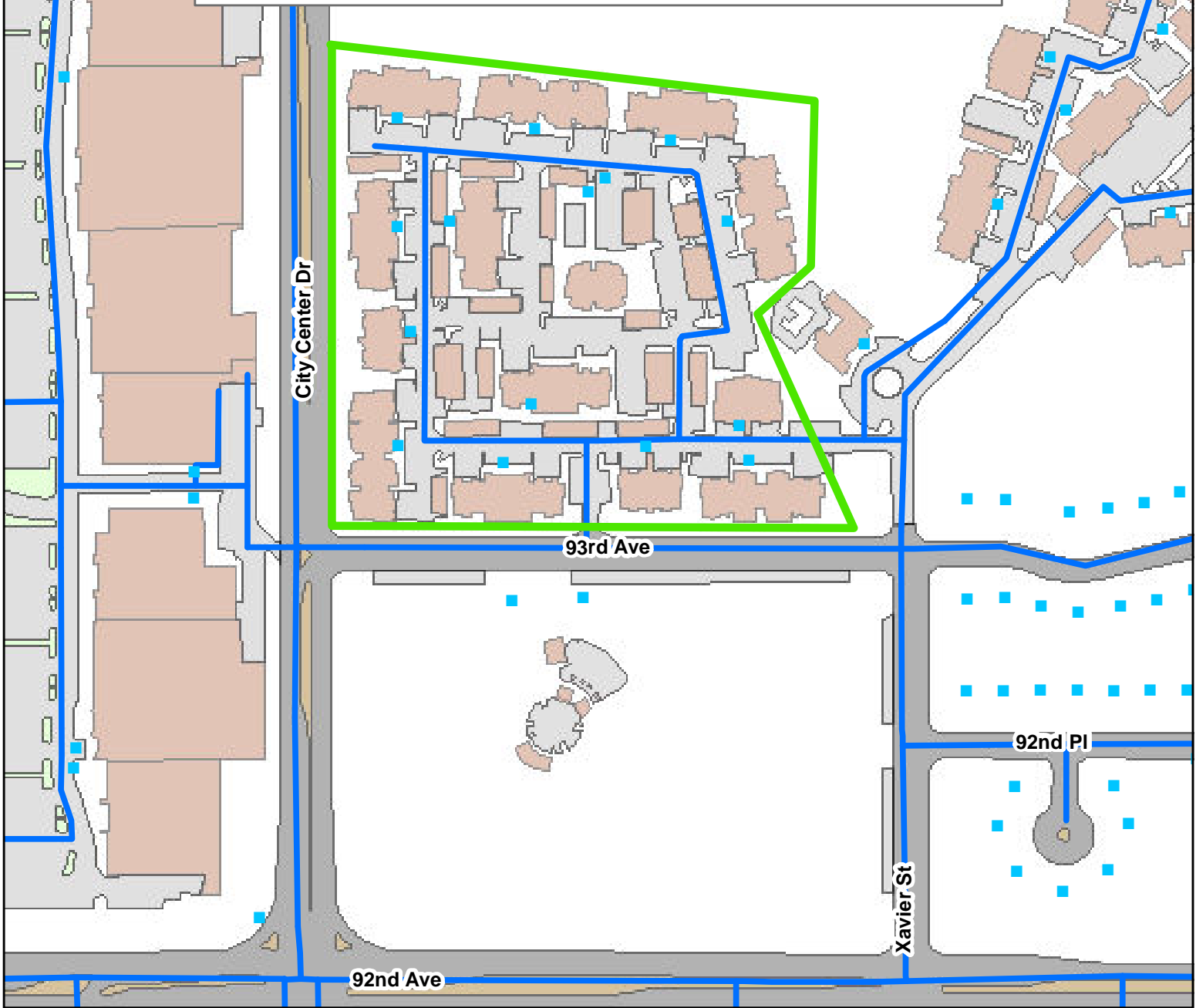
Respectfully submitted,

Stephen P. Smithers  
Acting City Manager




Attachment - Location Listing Map

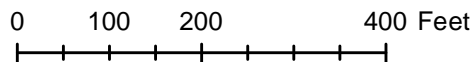


**WESTMINSTER**  
**2012 WATER DISTRIBUTION SYSTEM IMPROVEMENTS**  
**THE VINTAGE APARTMENTS WATER METER REPAIR**  
**W-12-04**



**Legend**

-  Project Area
-  Water Meters
-  Water Lines





**Agenda Memorandum**

City Council Meeting  
June 25, 2012



**SUBJECT:** 2012 Bridge Rail and Fence Repainting Project Contract

**Prepared By:** Kurt Muehlemeyer, Pavement Management Coordinator  
Dave Cantu, Street Operations Manager

**Recommended City Council Action**

Based upon the recommendation of the City Manager the City Council finds that the public interest would best be served by accepting the sole bid from Quality Linings and Painting, Inc. Authorize the City Manager to execute a contract for the 2012 Bridge Rail and Fence Repainting Project with the sole bidder, Quality Linings and Painting Inc. in the amount of \$198,985 and authorize a contingency of \$5,000 for a total project budget of \$203,985.

**Summary Statement**

- Council approved adequate funds for this expense in the 2012 Department of Public Works and Utilities, Street Operations Division capital improvement budget.
- Formal bids were solicited in accordance with city bidding requirements for the Bridge Rail and Fence Repainting Project. Requests for proposals were advertised on the City's website on the Current Bids Page through Demandstar.
- The 2012 Bridge Rail and Fence Repainting Project consist of cleaning, preparing and repainting of the railings, fence panels, arches and all frame work appurtenances on the West 92<sup>nd</sup> Avenue bridge over U.S. 36
- The sole bidder, Quality Linings and Painting Inc. meets all of the City bid requirements and has successfully performed this process in the City of Westminster, as well as the Denver Metro area.

**Expenditure Required:** \$203,985

**Source of Funds:** General Capital Improvement Fund  
– Bridge/Pedestrian Railing Repainting and Lighting Repair

**Policy Issue**

Should this bid for 2012 Bridge Rail and Fence Repainting Project be awarded to the sole bidder, Quality Linings and Painting Inc.?

**Alternatives**

One alternative is to not repaint this bridge. Staff does not recommend this alternative because delaying this maintenance now will cause the bridge appurtenances to deteriorate further and will increase the cost to repaint later and may jeopardize the structural integrity of the bridge.

A second alternative is to repaint this bridge in-house. Staff does not recommend this alternative. City crews do not currently possess the safety equipment and specialized tools to safely clean, prepare and repaint the bridge.

**Background Information**

In 2007, Staff was directed to develop a plan to repaint railings and fences along bridges, drainage ways and right of way walkways throughout the City. Twelve bridge locations were identified over state highways, (US 36 and I-25), and Burlington Northern Santa Fe (BNSF) railroad overpasses throughout the City which require a contractor with specialized equipment to accomplish repainting as well as Colorado Department of Transportation (CDOT) involvement for lane closures as needed. The railings, fence panels and framework weld surfaces on the West 92<sup>nd</sup> Avenue bridge over U.S. 36 are showing localized corrosion and requires extensive cleaning and surface preparation prior to a new application of paint.

Formal bids were solicited in accordance with city bidding requirements for the Bridge Rail and Fence Repainting Project. Requests for proposals were advertised on the City's website on the Current Bids Page through Demandstar. Five vendors purchased the bid packet; however, Quality Linings and Painting Inc. was the only vendor to submit a bid. Quality Linings and Painting Inc. successfully completed a smaller scale project in the City last year and meets all of the City's bid requirements. Quality Linings and Painting Inc.'s bid is 11% lower than staff's estimate of \$225,000.

This contract helps achieve the City Council's Strategic Plan Goals of "Financially Sustainable City Government, Safe and Secure Community, and Vibrant Neighborhoods and Commercial Areas" by meeting the following objectives; Well maintained city infrastructure and facilities, Safe citizen travel throughout the city, Maintain and improve neighborhood infrastructure and housing.

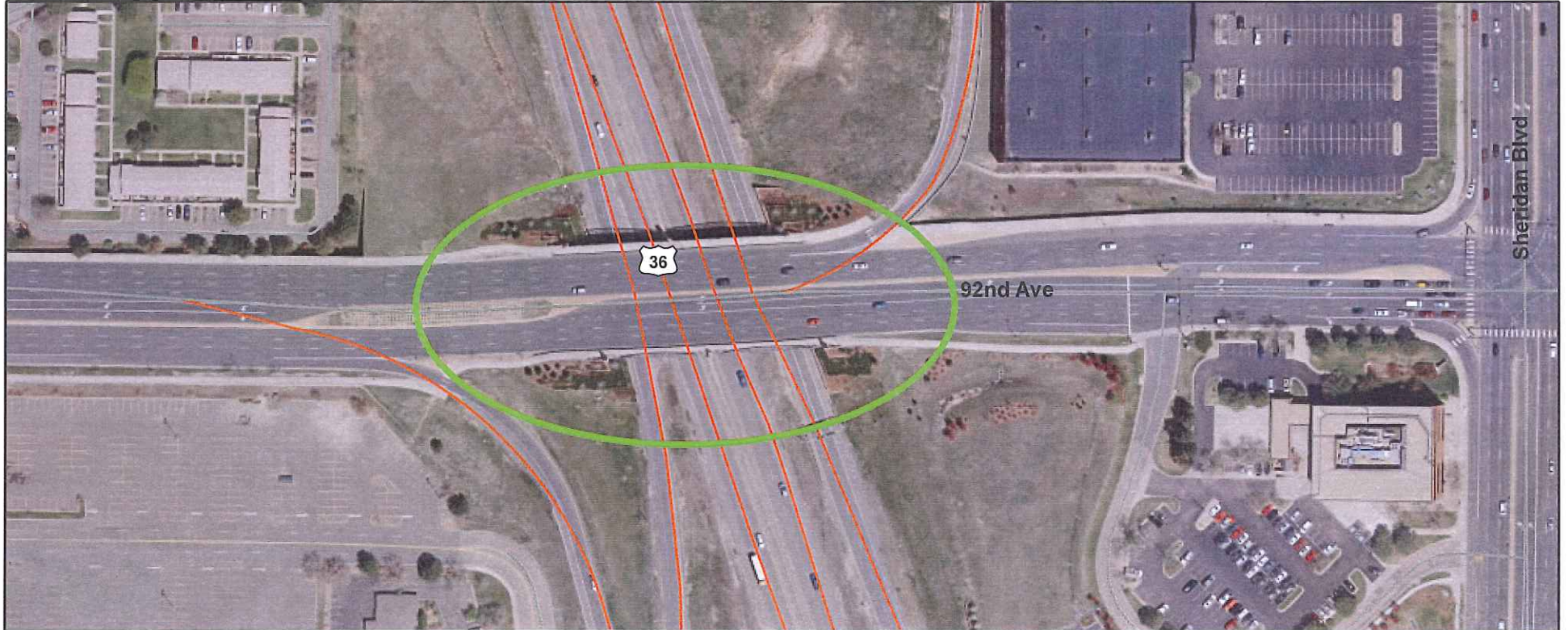
Respectfully submitted,

Stephen P. Smithers  
Acting City Manager

Attachment - Location Map



# 92nd Avenue Bridge Over US 36 Bridge Rail and Fence Repainting Project







## Agenda Item 8 H

### Agenda Memorandum

City Council Meeting  
June 25, 2012



**SUBJECT:** Minor Home Repair Program Contract Amendment with Brothers Redevelopment, Inc.

**Prepared By:** Signy Mikita, Community Development Program Planner

### Recommended City Council Action

Authorize the City Manager to enter into a contract amendment, in substantially the same form as attached, with Brothers Redevelopment Inc. to continue administering the Minor Home Repair Program.

### Summary Statement

- The City Council authorized budgeting \$50,000 in Community Development Block Grant (CDBG) funds in both 2010 and 2011, totaling \$100,000 for the purpose of creating a Minor Home Repair program for income eligible households.
- Per CDBG regulations, program participation is limited to households earning low to moderate incomes, which equates to 80% or less of the Area Median Income (AMI) as defined by the U.S. Department of Housing and Urban Development (HUD).
- In 2011 the City, having limited staff capacity to administer the program, issued a Request for Qualifications (RFQ) from entities with the capacity to administer the program on behalf of the City. Brothers Redevelopment Inc. (BRI) was selected to administer the program and entered into a contract with the City on April 11, 2011 for an initial amount of \$50,000. BRI was issued a Notice to Proceed on June 1, 2011.
- To date, BRI has completed improvements to eight homes with another six currently in progress. Half of the original \$50,000 in funding from 2010 has been expended, leaving approximately \$25,000. Additional funding is requested to ensure continuance of the program without disruption.
- The amendment to the contract reaffirms the intent of the program as providing for minor home repairs, clarifies general maintenance activities as ineligible costs, adds the City as a location to submit applications and perform initial eligibility approvals, and revises provisions pertaining to BRI's reporting requirements.
- Staff estimates that an additional 15 to 20 homes can be served with the 2011 \$50,000 CDBG allocation to the program.
- Staff recommends that the City amend the contract with BRI authorizing the organization to continue serving as the program administrator and providing an additional \$50,000 in funding from 2011 CDBG proceeds.

**Expenditure Required:** \$50,000

**Source of Funds:** 2011 CDBG

**Policy Issue**

Should the City amend the contract with BRI in order to continue administering the City program and expend City CDBG funds towards housing rehabilitation?

**Alternative**

The City could choose to administer the program directly with its current Staff. Staff recommends Council not pursue this alternative because the City's staffing capacity and rehabilitation expertise is very limited, which could compromise the success of the program and put the City in poor standing with HUD.

**Background Information**

The City receives an allocation of federal CDBG dollars on an annual basis to fund projects or programs that benefit low to moderate income populations. The City receives about \$500,000 annually of which about \$400,000 is available for projects and programs. The remaining portion of the allocation is used to cover administrative costs. The City also receives about \$200,000 in federal HOME dollars through Adams County (ADCO) of which about \$180,000 is made available for housing related endeavors serving low to moderate income populations. Housing rehabilitation is an eligible activity for use of both the CDBG and HOME funds.

In the past, the City only funded major housing rehabilitation using its HOME allocation. ADCO administered the rehabilitation program on behalf of the City. While the HOME dollars have helped fund rehabilitation, HUD's regulatory requirements effectively hampered the City's ability to provide a source of funds that could quickly be expended in a cost effective manner to meet eligible residents' minor home repair needs. Given a high level of inquiry from Westminster residents regarding funding for minor home repair, City Council assigned \$50,000 of CDBG funds in both 2010 and 2011 for the purposes of funding minor home repair program.

The City, having limited capacity to administer the program, issued a Request for Qualifications (RFQ) from entities with the capacity to administer the program on behalf of the City. The City selected Brothers Redevelopment, Inc. (BRI) to administer the program. BRI is a well known and respected 501(C) 3 non-profit organization which is committed to affordable and livable housing and community revitalization and stewardship. BRI operates a housing rehabilitation program of its own along with contractual relationships with the Cities of Thornton, Sheridan, and Northglenn, as well as Adams County and Jefferson County. BRI has extensive experience administering federal funds (including CDBG) through its rehabilitation program and also has in-house rehabilitation personnel that do most of the work. In instances requiring special expertise (i.e. electrical, plumbing, etc.), BRI has a stable of pre-qualified specialists under contract.

The City entered into a contract with BRI on April 11, 2011 for an initial amount of \$50,000 which included the following provisions:

- BRI would be responsible for identifying, qualifying, and making improvements to owner occupied homes where households meet HUD imposed eligibility requirements. All households earning 80% or less of the Area Median Income (AMI) would be eligible to apply for a grant not to exceed \$5,000 in City CDBG funds. BRI may supplement any City grant with other resources should the cost exceed \$5,000. BRI may request authorization from the City to exceed the \$5,000 limit in extremely severe cases where there is an impending threat to the health of the household.
- BRI would be paid an administrative fee based on actual time spent on each eligible project and would operate in accordance with the Scope of Work and federal requirements in the contract. The administrative fee should not exceed \$1,000 per the contract, but it was estimated that the average administrative cost would be in the range of \$500. Labor costs involved in the actual rehabilitation work would be covered within the \$5,000 grant limit.

- BRI would be responsible for taking inquiries and processing applications from prospective grantees. This includes gathering of all required documentation to determine eligibility, to ensure HUD regulatory compliance, and to confer and coordinate with City staff regarding final authorization to proceed with work. BRI staff would also conduct an on-site visit to establish the scope of improvements, monitor progress of the improvements, and verify and accept the completion of work.

The City issued BRI a Notice to Proceed on June 1, 2011. The City and BRI collaboratively marketed the new program over the summer and fall of 2011 using the following methods: several articles in the City's weekly electronic newsletter; two articles in the City's printed "City Edition" newspaper; brochures at the MAC, libraries, and other City facilities; press releases picked up by local newspapers; and networking with other home repair providers such as Volunteers of America (VOA) and the Senior Hub. The City will continue to explore marketing options as needed.

Since its start, over 60 homeowners have contacted the City to find out more about the program. The program has received 19 applications of which 14 have been granted final work order approval by the City, with two applications pending. Of the three applications that were not approved, one applicant withdrew to sell the home, one applicant's request significantly exceeded the grant amount, and one applicant's furnace was in working order. Of the 14 approved applications, eight have been completed while the remaining six are underway. A total of \$24,606 has been spent of the original \$50,000, leaving a remaining balance of \$25,394. The cost per completed home has averaged approximately \$3,000. Repairs have included hot water heater replacement, furnace replacement, installation of grab bars, plumbing and electrical repairs, as well as repairs to gutters, doors, and windows.

The annual goal of the program is to complete nine to ten homes per 12 month period. With eight homes completed and six underway, BRI will meet and possibly exceed this goal within the next month, as several of the open projects are close to completion. Staff has received several thank you letters and the client feedback has been generally positive. Timing of repairs has been a concern, particularly when immediate repairs are needed. In one instance, BRI faced a lack of subcontractors interested in bidding on a project. Staff has since recommended that BRI to expand its list of pre-qualified subcontractors to include eligible Westminster-based businesses. BRI is currently pursuing this recommendation.

Staff is following trends in requests and is recognizing the need to clarify and refine what the program can and cannot provide. There have been numerous requests for emergency maintenance items, such as fixing clogged drains, removing tree limbs after a storm, and relighting furnace pilot lights. These service type requests are not eligible under the program. Having to respond to such requests would put a substantial burden on BRI's staffing capabilities, thereby affecting their ability to respond to the more significant rehabilitation requests. Further, many of these maintenance related requests require immediate (same day) response which cannot be done given HUD's regulatory framework. HUD prefers CDBG funds directed to rehabilitation be used towards long-term improvement to the property rather than responding to maintenance and service related activities. BRI, however, will continue to assess and respond to "maintenance" type inquiries which could be a result of a larger issue, such as an unlit pilot light being an indicator of a need to repair or replace a furnace, which, then, would be eligible for program funding. City and BRI staff will also provide referral assistance to those in need of such non-eligible services through organizations such as the Senior Hub.

Overall, the program has met its goals and is meeting an identified need. BRI is currently operating off of \$50,000 in 2010 CDBG funds. In 2011, City Council also authorized the set aside of another \$50,000 from the City's 2011 CDBG allocation to be used in conjunction with the program at such time the funds were needed. Given over half of the 2010 allocation has been expended, Staff is requesting City Council renew the contract with BRI and increase the funding by \$50,000 using the allocation from the 2011 CDBG program year.

**SUBJECT:**

Minor Home Repair Program Contract Amendment with BRI

Page 4

The proposed amendments to the program and agreement with BRI are in accordance with the City's Strategic Plan Goal of ensuring a "Safe and Secure Community" whereby financially challenged residents will continue to be provided a means of accessing resources to make essential repairs to their homes thereby protecting the health and safety of the household. The program further promotes the goal of "Vibrant Neighborhoods and Commercial Areas" by maintaining the livability and structural integrity of residential properties and minimizing the potential for abandonment which can become a blighting factor on the neighborhood.

Respectfully submitted,

Stephen P. Smithers  
Acting City Manager

Attachment - Proposed Amendment to the Contract

**FIRST AMENDMENT TO THE  
AGREEMENT TO FURNISH PROFESSIONAL AND CONSULTING SERVICES TO THE  
CITY OF WESTMINSTER FOR  
THE WESTMINSTER EMERGENCY AND MINOR HOME REPAIR PROGRAM  
DATED APRIL 11, 2011**

The City of Westminster (hereinafter referred to as "City") and Brothers Redevelopment, Inc. (hereinafter referred to as "Consultant") agree to amend the Agreement described above as follows:

1. All references in the Agreement to the Minor and Emergency Home Repair Program, including the Agreement's title, shall be changed to the Minor Home Repair Program. All other references to "emergency repairs," except where noted below, shall be removed.
2. IV. CONSULTANT'S FEE. (p. 2). Fifty Thousand and 00/100 Dollars (\$50,000.00) shall be added to the original consultant's fee of Fifty Thousand and 00/100 Dollars (\$50,000.00), totaling One Hundred Thousand and 00/100 Dollars (\$100,000.00) for the City's maximum liability.
3. V. COMMENCEMENT & COMPLETION OF SERVICES. (p. 2). The first bullet point of "Emergency Repairs – To be completed within 14 days of receiving notice to proceed from City" shall be deleted.
4. EXHIBIT "A" SCOPE OF WORK. Eligibility of Improvements. (p. 9). Under "Activities excluded from the program include, but are not limited to, the following," two items shall be added:
  - Maintenance items (such as annual furnace checks)
  - Emergency items that must be fixed immediately (such as clogged drains, relighting pilot lights, and fallen tree limbs)
5. EXHIBIT "A" SCOPE OF WORK. Process and Responsibilities. (p. 12). Add the City as a Responsible Entity for two tasks: 1) "Receive applications for assistance and screen homeowners for income eligibility" and 2) "Program Qualification- 1<sup>st</sup> Approval. Initially approve applications in accordance with program requirements."
6. EXHIBIT "A" SCOPE OF WORK. Reporting Requirements. (p. 13). The two bulleted items shall be revised as follows:
  - Monthly invoices shall be due the 15<sup>th</sup> of every month for projects completed in the previous month. Invoices shall include a list of work performed and a signed homeowner's acceptance form to confirm work completion.
  - End of the year reports for the program year running from March 1st to February 28th shall be submitted by March 15<sup>th</sup>.
7. All other terms and conditions of this Agreement shall remain in effect.

This Amendment is dated the 25th day of June, 2012.

**BROTHERS REDEVELOPMENT, INC.**

**CITY OF WESTMINSTER**

By: \_\_\_\_\_

By: \_\_\_\_\_

Printed Name: Mary Ann Shing

Printed Name: J. Brent McFall

Title: President

Title: City Manager

Address:

Address:

2250 Eaton Street  
Garden Level, Suite B  
Denver, Colorado 80214

4800 W. 92<sup>nd</sup> Avenue  
Westminster, Colorado 80031

Attest: \_\_\_\_\_

Attest: \_\_\_\_\_

Title: \_\_\_\_\_

City Clerk

(Corporate Seal,  
if applicable)

(Seal)

Approved as to legal form and content:

\_\_\_\_\_  
City Attorney



## Agenda Item 8 I

### Agenda Memorandum

City Council Meeting  
June 25, 2012



**SUBJECT:** Second Reading of Councillor's Bill No. 17 re Supplemental Appropriation of Sheridan Boulevard Fiber Optic Federal Grant Funds

**Prepared By:** Greg Olson, Transportation Systems Coordinator

### Recommended City Council Action

Pass Councillor's Bill No. 17 on second reading appropriating monies to be received from the Colorado Department of Transportation for the Sheridan Boulevard Fiber Optic Federal grant.

### Summary Statement

- The City was recently awarded a federal grant that provides 100% funding of a project to upgrade the existing fiber optic system on Sheridan Boulevard to provide additional Ethernet communications.
- City Council action is requested to adopt the attached Councillor's Bill on second reading authorizing a supplemental appropriation to the 2012 budget of the General Capital Improvement Fund.
- This Councillor's Bill was passed on first reading June 11, 2012.

**Expenditure Required:** \$73,120

**Source of Funds:** Federal Highway Administration Grant

Respectfully submitted,

Stephen P. Smithers  
Acting City Manager

Attachment - Ordinance

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **17**

SERIES OF 2012

INTRODUCED BY COUNCILLORS  
**Atchison - Major**

**A BILL**

**FOR AN ORDINANCE AMENDING THE 2012 BUDGET OF THE GENERAL CAPITAL  
IMPROVEMENT FUND AND AUTHORIZING A SUPPLEMENTAL APPROPRIATION FROM  
THE 2012 ESTIMATED REVENUES IN THE FUNDS**

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The 2012 appropriation for the General Capital Improvement Fund initially appropriated by Ordinance No. 3550 is hereby increased by \$73,120. This appropriation is due to the receipt of funds from the Colorado Department of Transportation.

Section 2. The \$73,120 increase shall be allocated to City Revenue and Expense accounts as described in the City Council Agenda Item # 10 G-I, dated June 11, 2012 (a copy of which may be obtained from the City Clerk) increasing City fund budgets as follows:

General Capital Improvement Fund	\$73,120
Total	<u>\$73,120</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 11<sup>th</sup> day of June, 2012.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED  
this 25<sup>th</sup> day of June, 2012.

ATTEST:

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk





## Agenda Item 10 A-E

### Agenda Memorandum

City Council Meeting  
June 25, 2012



**SUBJECT:** Councillor's Bills Nos. 18, 19, 20 and Resolution No. 17 re the Comprehensive Land Use Plan Amendment, Annexation, and Zoning for the Little Dry Creek Property

**Prepared By:** Jana Easley, Principal Planner

### Recommended City Council Action

1. Hold a public hearing.
2. Pass Councillor's Bill No. 18 on first reading amending the Comprehensive Land Use Plan for the Little Dry Creek property designating the property as City-Owned Open Space. This recommendation is based on a finding that the proposed amendment will be in the public good and that:
  - a) There is justification for the proposed change and the Plan is in need of revision as proposed; and
  - b) The amendment is in conformance with the overall purpose and intent and the goals and policies of the Plan; and
  - c) The proposed amendment is compatible with existing and planned surrounding land uses; and
  - d) The proposed amendment would not result in excessive detrimental impacts to the City's existing or planned infrastructure systems.
3. Pass Resolution No. 17 setting forth the findings of fact and conclusion regarding the proposed annexation.
4. Pass Councillor's Bill No. 19 on first reading annexing the Little Dry Creek property into the City.
5. Pass Councillor's Bill No. 20 on first reading establishing zoning of Open (O-1) for the Little Dry Creek property.

### Summary Statement

- The Little Dry Creek property consists of 44.197 acres and is located along and south of the Burlington Northern Santa Fe (BNSF) rail line, between Lowell Boulevard and Federal Boulevard, and north and adjacent to the BNSF rail line between Federal Boulevard and Clay Street.
- The property is owned by Westminster Housing Authority (6.76 acres), City of Westminster (24.56) and includes a portion of BNSF Railroad right-of-way, Federal Boulevard right-of-way owned by the Colorado Department of Transportation and Lowell Boulevard, 68<sup>th</sup> Avenue and 69<sup>th</sup> Avenue right-of-way within unincorporated Adams County.
- Pursuant to an Intergovernmental Agreement (IGA) dated June 16, 2010, between the City of Westminster and Adams County, six parcels that were previously owned by Adams County for regional detention purposes are required to be annexed by the City.
- Pursuant to an agreement with the Regional Transportation District (RTD), the area shall be annexed into the City for accommodation of a regional drainage and stormwater detention/retention facility that will benefit Westminster Station, the first Northwest Commuter Rail station for Westminster slated to open in 2016.

**Expenditure Required:** \$0

**Source of Funds:** N/A

### **Policy Issues**

1. Should the City amend the Comprehensive Land Use Plan (CLUP) to include the Little Dry Creek property as City-Owned Open Space?
2. Should the City annex the Little Dry Creek property and zone to O-1?

### **Alternatives**

1. Deny the Comprehensive Land Use Plan amendment or assign a different designation. This alternative is not recommended because the City-Owned Open Space designation is specifically meant for public open space and parks.
2. Make a finding that there is no community of interest with the Little Dry Creek property and take no further action. This alternative is not recommended because the property is owned primarily by the City of Westminster and the Westminster Housing Authority in anticipation of creating a regional park and drainage facility.
3. Deny the rezoning of the Little Dry Creek property from Adams County I-2, R-2 and Planned Unit Development (PUD) to City of Westminster O-1, or designate an alternative zoning category. O-1 zoning is recommended because the future use of the property will include a regional park open space and stormwater detention facility.

### **Background Information**

#### Location

The site is located along and south of the Burlington Northern Santa Fe (BNSF) rail line, between Lowell Boulevard and Federal Boulevard, and along and north of the BNSF rail line between Federal Boulevard and Clay Street. (Please see attached vicinity map.)

#### Comprehensive Land Use Plan Amendment

In conjunction with the petition to annex and request to establish City zoning, the City has prepared a CLUP amendment request. The amendment must be in the public good and in overall compliance with the purpose and intent of the CLUP. Further, the CLUP provides four criteria to be used when considering a CLUP amendment. Staff has reviewed these criteria and has provided the following comments on each.

1. *The proposed amendment must, “Demonstrate that there is justification for the proposed change, and that the Plan is in need of revision as proposed.”* The amendment would expand the CLUP to a portion of land that does not currently have any CLUP designation, since the site is not currently in the City.
2. *The proposed amendment must, “Be in conformance with the overall purpose, intent, goals, and policies of the Plan.”* Applicable goals are stated in Section III of the Community Goals and Policies section of the Plan. They include:
  - Goal A1 – *Growth will occur in a manner that balances the pace of development with the City’s ability to provide quality services and capital improvements.* With the future construction of the Westminster Station, drainage improvements are needed, which this land will accommodate.
  - Goal B3 – *Enhance the older neighborhoods in South Westminster.* The future regional park and open space will be an enhancement that both the City and county residents, as well as commuters, can enjoy.
  - Goal H1 – *Provide new and upgrade existing parks, recreational, and cultural facilities based on the needs of the community.* The future use of the area would be a regional park and open space.

- Goal H4 – *Enhance the City’s open space system to preserve and protect natural areas, vistas and view corridors, and to complete the open space and trail system.* The future use as a regional park open space and stormwater detention facility will preserve and protect existing natural areas and further broaden the ecological habitat for birds and other species. The trail system is planned to be expanded by approximately half a mile from Lowell Boulevard to east of Federal Boulevard.
- 3. *The proposal must, “Be compatible with existing and surrounding land uses.”* The subject site is bordered on the north by the rail line, and future Westminster Station and transit-oriented development area, and on the south by single-family homes. To the east and west are more homes and businesses. A regional park and open space will be very compatible with existing and future surrounding uses.
- 4. *The proposal must, “Not result in detrimental impacts to the City’s existing or planned infrastructure or provide measures to mitigate such impacts to the satisfaction of the City.”* One purpose for this land is to accommodate regional stormwater runoff. The proposal will improve the City’s stormwater system and eliminate flooding of existing residences to the south. The area is currently served by Crestview Water & Sanitation District and Northgate Water District and will continue to be served by the same.

Annexation

The petition to annex is a requirement of the Intergovernmental Agreement between Adams County and the City that was entered into on June 16, 2010. The annexation, if accepted, will meet one requirement of the IGA. It will also meet the requirement of RTD that the area be annexed into the City for accommodation of a regional stormwater drainage and detention facility that will benefit Westminster Station.

Pursuant to §31-12-110, C.R.S., the City Council shall set forth its findings of fact and its conclusion based on the following:

1. *Whether or not the requirements of the applicable provisions of Section 30 of Article II of the State Constitution and Sections 31-12-104 and 31-12-105, C.R.S., have been met; and*
2. *Whether or not an election is required under Section 30(1)(a) of Article II of the State Constitution and Section 31-12-107(2), C.R.S.*

Section 30 of Article II concerns the right to vote or petition for annexation. This annexation request is by petition, and an election is not required. Other than railroad right-of-way and other public rights-of-way, the City of Westminster and the Westminster Housing Authority own all of the land within the annexation boundaries, and the petition was signed on behalf of both entities.

Establishment of Zoning

Pursuant to Section 11-5-2 of the Westminster Municipal Code, all properties greater than two acres in size shall be zoned Planned Unit Development (PUD) or Open (O-1). The request is to zone the property O-1.

Pursuant to Section 11-5-3, Standards for Approval of Zonings and Rezoning, the following criteria shall be considered in the approval of any application for zoning to a zoning district other than a Planned Unit Development.

- 1) *The proposed zoning or rezoning is in conformance with the City’s Comprehensive Plan and all City policies, standards and sound planning principles and practice.* The proposed zoning is in conformance with the City’s Comprehensive Land Use Plan, all City policies and standards, and sound planning principles and practice. The zoning of this area to O-1 would be consistent with the future use of the area.
- 2) *There is either existing capacity in the City’s street, drainage and utility systems to accommodate the proposed zoning or rezoning, or arrangements have been made to provide such capacity in a manner and timeframe acceptable to City Council.* The site will be developed as a regional stormwater detention/retention facility that will improve the drainage in and around the area.

Impact Report

Pursuant to State statute, an Impact Report shall be sent to the Board of County Commissioners at least 20 days prior to the City Council public hearing. An Impact Report was sent to the Adams County Board of Commissioners on May 23, 2012.

Public Notification

- State statute requires that notice for the annexation be published for four consecutive weeks, with the first publication at least 30 days prior to the date of the City Council public hearing. The City Council public hearing is scheduled for June 25, 2012. Notice has or will be published in the Westminster Window on May 24, May 31, June 7, and June 14, 2012.
- Special Districts Notice: Pursuant to State statute, at least 25 days prior to the City Council public hearing, relevant special districts shall be notified in writing of the proposed annexation. All nine special districts were sent written notice on May 23, 2012.

Westminster Municipal Code Section 11-5-13 requires the following three public notification procedures for rezoning and amendment to the CLUP.

- Published Notice: Notice of public hearings scheduled before Planning Commission shall be published and posted at least 10 days prior to such hearing and at least 4 days prior to City Council public hearings. Notice has or will be published in the Westminster Window on May 24, May 31, June 7 and June 14, 2012.
- Property Posting: Notice of public hearings shall be posted on the property with one sign in a location reasonably visible to vehicular and pedestrian traffic passing adjacent to the site. Four signs were posted (two along Federal Boulevard, one along Lowell Boulevard, and one along 69th Avenue) on the property on June 18, 2012.
- Written Notice: At least 10 days prior to the date of the public hearing, the applicant shall mail individual notices by first-class mail to property owners and homeowners' associations registered with the City within 300 feet of the subject property. The required notices were mailed on May 24, 2012.

Petitioners/Property Owners

Westminster Housing Authority  
4800 W. 92nd Avenue  
Westminster, Colorado 80031

City of Westminster  
4800 W. 92nd Avenue  
Westminster, Colorado 80031

CLUP Applicant

City of Westminster  
4800 W. 92<sup>nd</sup> Avenue  
Westminster, Colorado 80031

Surrounding Land Use and Comprehensive Land Use Plan Designation\*\*\*

<b>Development Name</b>	<b>Zoning</b>	<b>CLUP Designation</b>	<b>Use</b>
North: Various/Westminster Station TOD Area	M-1, PUD	Public/Quasi-Public	Industrial/Commercial
East: Various/Adams County	C-5, R-2 (Adams County)	Public/Quasi-Public	Residential/Commercial
West: Various	O-1, M-1, C-1, PUD	Public/Quasi-Public	Open Space/Industrial/Commercial/Residential
South: Various	R-2 (Adams County)	N/A	Residential/Commercial

Site Plan Information

No site plan is provided. The City is currently finalizing the plan for the regional stormwater detention plans.

Service Commitment Category

Not applicable.

Referral Agency and Special Districts Responses

Xcel Energy requested that it be notified once the annexation is complete. Staff received no other responses from referral agencies or special districts.

Neighborhood Meeting(s) and Public Comments

A neighborhood meeting was not held. One email (attached) and one phone call, each asking if their property was a part of the annexation, were received. Both property owners were informed that their properties are not included in the annexation.

Planning Commission Recommendation

The Planning Commission held a public hearing and considered this item at its June 12, 2012, meeting. Five persons from the public were in attendance and one spoke in favor of the request.

The Planning Commission voted unanimously (6-0) to recommend approval of the CLUP Amendment to City-Owned Open Space, the Annexation, and the Establishment of O-1 Zoning.

Council Goals

The request for annexation, CLUP amendment, and zoning supports Council's goals of *Safe and Secure Community; Vibrant Neighborhoods in One Livable Community; and Beautiful and Environmentally Sensitive City.*

Respectfully Submitted,

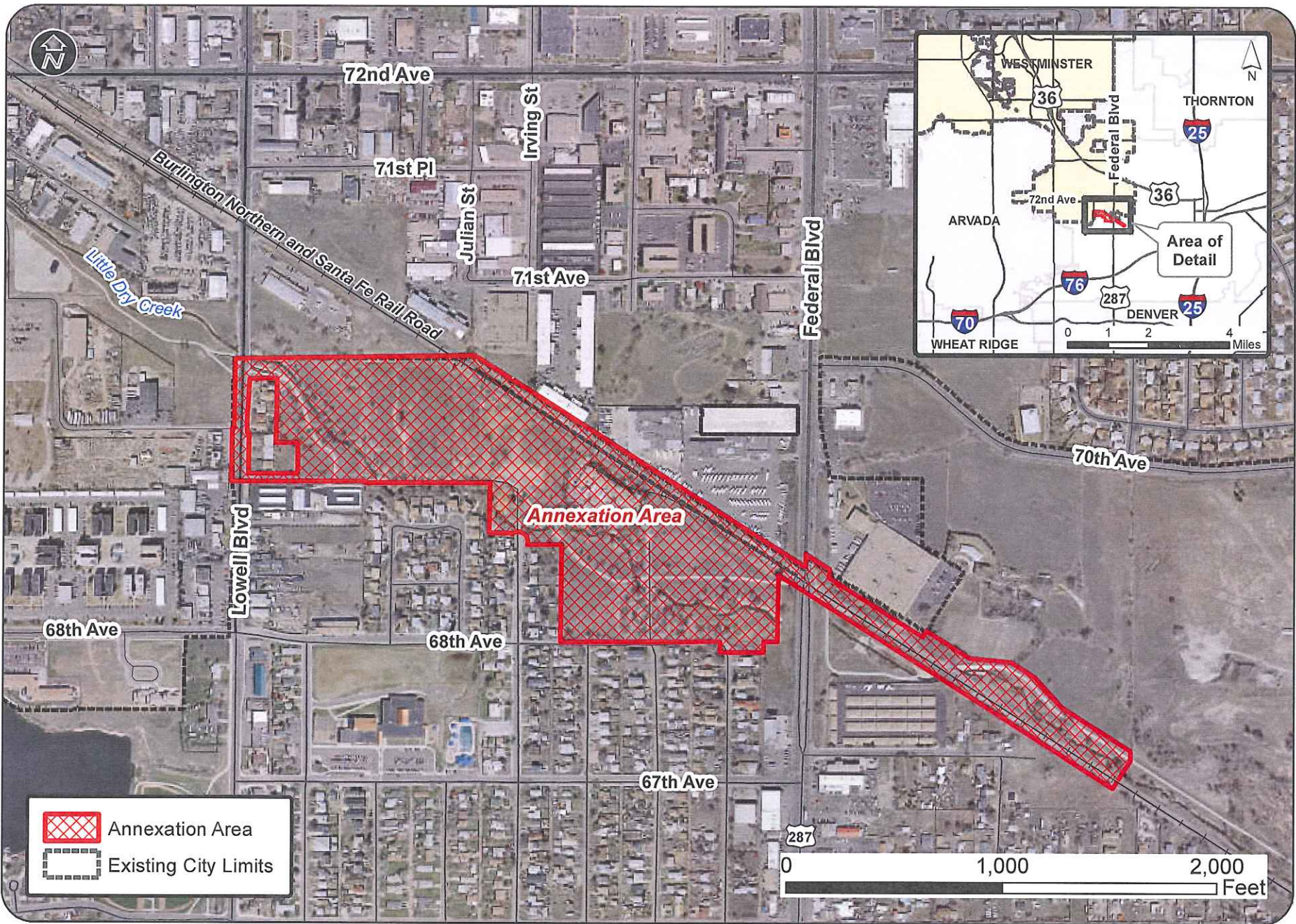
Stephen P. Smithers  
Acting City Manager

Attachments

- A - Vicinity Map
- B - CLUP Change Map
- C - Zoning Change Map
- D - Criteria and Standards for Land Use Application
- E - Petition
- F - Annexation Map
- G - Email from Property Owner
- Ordinance - CLUP Amendment
- Resolution - Annexation Findings
- Ordinance - Annexation
- Ordinance - Zoning



# Little Dry Creek Annexation





RESOLUTION

RESOLUTION NO. **17**

INTRODUCED BY COUNCILLORS

SERIES OF 2012

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**A RESOLUTION PURSUANT TO SECTION 31-12-110, C.R.S., SETTING FORTH THE FINDINGS OF FACT AND CONCLUSION OF CITY COUNCIL WITH REGARD TO THE PROPOSED ANNEXATION OF CONTIGUOUS UNINCORPORATED LAND IN WEST HALF OF SECTION 5, T. 3 S., R. 68 W., 6TH P.M., COUNTY OF ADAMS, STATE OF COLORADO, ALSO KNOWN AS THE LITTLE DRY CREEK PROPERTY**

WHEREAS, pursuant to the laws of the State of Colorado, there has been filed with the City Clerk a petition (the "Petition") for the annexation of the property described in Exhibit A, attached hereto and incorporated herein by reference; and

WHEREAS, City Council has previously adopted Resolution No. 12 finding the Petition to be in substantial compliance with the provisions of Subsection 31-12-107(1), C.R.S., and;

WHEREAS, notice to all required parties has been given pursuant to Section 31-12-108, C.R.S.; and

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

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

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

1. The City Council finds:
  - a. The requirements of section 30 of article II of the Colorado Constitution have been met;
  - b. Not less than 1/6 of the perimeter of the area proposed to be annexed is contiguous with the City of Westminster;
  - c. A community of interest exists between the area proposed to be annexed and the City;
  - d. The area is urban or will be urbanized in the near future; and
  - e. The area is integrated with or is capable of being integrated with the City.
2. The City Council further finds:
  - a. With respect to the boundaries of the territory proposed to be annexed, no land held in identical ownership, whether consisting of one tract or parcel of real estate or two or more contiguous tracts or parcels of real estate, has been divided into separate parts or parcels without the written consent of the landowners thereof, except to the extent such tracts or parcels are separated by dedicated street, road, or other public way; and
  - b. With regard to the boundaries of the area proposed to be annexed, no land held in identical ownership, whether consisting of one tract or parcel of real estate or two or more contiguous tracts or parcels of real estate, comprising twenty (20) acres or more (which, together with the buildings and improvements situated thereon has a valuation for assessment in excess of \$200,000 for ad valorem tax purposes for the previous year), has been included in the area being proposed for annexation without the

written consent of the owners thereof, except to the extent such tract of land is situated entirely within the outer boundaries of the City immediately prior to the annexation of said property.

3. The City Council further finds:

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

b. That the annexation will not result in the detachment of this area from its current school district;

c. That the annexation will not result in the extension of the City's boundaries more than three (3) miles in any direction within the last 365 days of the effective date of this Resolution;

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

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

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

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

PASSED AND ADOPTED this 25th day of June, 2012.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

APPROVED AS TO LEGAL FORM:

\_\_\_\_\_  
City Attorney's Office



DESCRIPTION OF LAND TO BE ANNEXED

A PORTION OF SECTION 5 AND A PORTION OF THE SOUTH HALF OF THE NORTHEAST QUARTER OF SECTION 6; ALL IN TOWNSHIP 3 SOUTH, RANGE 68 WEST OF THE SIXTH PRINCIPAL MERIDIAN, BEING A PORTION OF THE BURLINGTON NORTHERN RAILROAD RIGHT OF WAY AND THE FOLLOWING PARCELS CONVEYED TO THE CITY OF WESTMINSTER AND THE WESTMINSTER HOUSING AUTHORITY:

NOTE:

1. THE BASIS OF BEARINGS IS THE SOUTH LINE OF THE NORTHWEST QUARTER OF SECTION 5, T3S, R68W 6TH P.M. AS MONUMENTED WITH AN ALUMINUM CAP PLS 16406 IN A MONUMENT BOX ON THE WEST AND AN ALUMINUM CAP PLS 26288 ON THE EAST WITH A BEARING OF N 89°47'54" E A DISTANCE OF 2635.75 FEET (CITY OF WESTMINSTER DATUM).

CITY OF WESTMINSTER PARCELS:

RECEPTION NUMBER 2011000067850;  
BOOK 4996 PAGE 59;  
RECEPTION NUMBERS 200800000229 AND 200800000231, LESS RECEPTION NUMBER 2011000082324;  
RECEPTION NUMBER 2010000065696;  
BOOK 4852 PAGE 403;  
RECEPTION NUMBER 2010000031068;  
BOOK 4866 PAGE 156;  
BOOK 5088 PAGE 621 AND CORRECTED IN BOOK 5158 PAGE 820;

WESTMINSTER HOUSING AUTHORITY PARCELS:

RECEPTION NUMBER 20050422000421310  
RECEPTION NUMBER 200411160011162080;

COMMENCING AT THE CENTER QUARTER CORNER OF SECTION 5, AN ALUMINUM CAP PLS 26288; THENCE S 89°47'54" W, ALONG THE SOUTHERLY LINE OF THE NORTHWEST QUARTER OF SAID SECTION 5, A DISTANCE OF 125.00 FEET TO THE WESTERLY RIGHT OF WAY LINE OF FEDERAL BOULEVARD, A.K.A. US HIGHWAY 287, AS DESCRIBED IN BOOK 749 AT PAGE 342, AND THE POINT OF BEGINNING: THENCE S 00°47'33" W, ALONG SAID WESTERLY RIGHT OF WAY LINE, A DISTANCE OF 30.00 FEET TO A POINT ON THE NORTHERLY LINE OF LOT 48, BLOCK 8 COLLEGE CREST SUBDIVISION, BEING THE SOUTHERLY RIGHT OF WAY LINE OF WEST 68TH AVENUE;  
THENCE S 89°47'54" W, ALONG SAID NORTHERLY LINE OF LOT 48, BLOCK 8, A DISTANCE OF 64.36 FEET TO THE NORTHWEST CORNER OF SAID LOT 48, BLOCK 8; THENCE S 00°04'54" E, ALONG THE WESTERLY LINE OF SAID LOT 48, BLOCK 8, A DISTANCE OF 50.04 FEET TO A POINT OF INTERSECTION WITH SAID WESTERLY LINE AND THE SOUTHERLY LINE OF OF THAT PARCEL DESCRIBED AT RECEPTION NUMBER 2011000067850 PARCEL A, EXTENDED EASTERLY;  
THENCE S 89°47'57" W, ALONG SAID SOUTHERLY LINE AND SAID SOUTHERLY LINE EXTENDED WESTERLY, A DISTANCE OF 200.87 FEET TO A POINT ON THE EASTERLY LINE OF BLOCK 7 COLLEGE CREST SUBDIVISION, BEING THE WESTERLY RIGHT OF WAY LINE OF GREEN STREET;

THENCE N 00°04'35" W, ALONG SAID EASTERLY LINE, A DISTANCE OF 50.03 FEET TO THE NORTHEAST CORNER OF LOT 48, BLOCK 7 COLLEGE CREST SUBDIVISION; THENCE S 89°47'54" W, ALONG THE NORTHERLY LINE OF SAID BLOCK 7, BLOCK 6 AND A PORTION OF BLOCK 5 COLLEGE CREST SUBDIVISION, A DISTANCE OF 745.33 FEET TO THE INTERSECTION OF SAID NORTHERLY LINE OF BLOCK 5 WITH THE EASTERLY LINE OF THE AMENDED PLAT DOOSE SUBDIVISION, RECORDED AT FILE 10 MAP 7, EXTENDED SOUTHERLY;

THENCE N 00°38'42" E, ALONG SAID EASTERLY LINE, A DISTANCE OF 451.11 FEET TO THE SOUTHEAST CORNER OF THAT PARCEL DESCRIBED AT RECEPTION NUMBER 2011000067850 PARCEL D;

THENCE S 89°47'54" W, ALONG THE SOUTHERLY LINE OF SAID PARCEL D, A DISTANCE OF 160.33 FEET TO A POINT OF NON TANGENT CURVATURE ON THE TEMPORARY TURN AROUND AS SHOWN ON AMENDED PLAT DOOSE SUBDIVISION;

THENCE ALONG A CURVE TO THE LEFT, ALONG SAID TEMPORARY TURN AROUND, A DISTANCE OF 118.38 FEET TO A POINT OF NON TANGENCY ON THE EASTERLY LINE OF THAT PARCEL DESCRIBED AT 2011000082324, SAID CURVE HAVING A RADIUS OF 45.00 FEET, A DELTA ANGLE OF 150°43'28" AND A CHORD DISTANCE OF 87.08 FEET WHICH BEARS N 54°44'12" W;

THENCE N 00°38'42" E, ALONG SAID EASTERLY LINE, A DISTANCE OF 4.47 FEET TO THE NORTHEAST CORNER OF SAID PARCEL DESCRIBED AT 2011000082324;

THENCE S 89°47'54" W, ALONG THE NORTHERLY LINE OF SAID PARCEL DESCRIBED AT 2011000082324, A DISTANCE OF 104.12 FEET TO THE EASTERLY LINE OF RESUBDIVISION OF LINDIE HEIGHTS SUBDIVISION, RECORDED IN PLAT BOOK 5 PAGE 31 (FILE 10 MAP 77);

THENCE N 00°38'42" E, ALONG SAID EASTERLY LINE AND THE EASTERLY LINE OF NASH SUBDIVISION, RECORDED AT FILE 17 MAP 341, A DISTANCE OF 233.06 FEET TO THE NORTHEAST CORNER OF SAID NASH SUBDIVISION;

THENCE S 89°53'23" W, ALONG THE NORTHERLY LINE OF SAID NASH SUBDIVISION, A DISTANCE OF 581.98 FEET TO A POINT ON THE EASTERLY LINE OF THAT PARCEL DESCRIBED IN BOOK 3009 AT PAGE 159;

THENCE N 00°38'42" E, ALONG SAID EASTERLY LINE, A DISTANCE OF 8.40 FEET THE NORTHEAST CORNER OF SAID PARCEL DESCRIBED IN BOOK 3009 AT PAGE 159;

THENCE S 89°47'54" W, ALONG THE NORTHERLY LINE OF SAID PARCEL DESCRIBED IN BOOK 3009 AT PAGE 159 AND SAID NORTHERLY LINE EXTENDED WESTERLY, A DISTANCE OF 582.00 FEET TO A POINT ON THE WEST LINE OF SECTION 5;

THENCE N 89°21'18" W A DISTANCE OF 40.00 FEET TO THE WESTERLY RIGHT OF WAY LINE OF LOWELL BOULEVARD BEING A POINT ON THE CITY OF WESTMINSTER CORPORATE LIMITS, ORDINANCE 596 A70-4;

THENCE N 00°38'42" E, ALONG SAID ORDINANCE 596 A70-4, A DISTANCE OF 242.76 FEET TO A POINT ON THE CITY OF WESTMINSTER CORPORATE LIMITS, ORDINANCE 550 A68-1;

THENCE ALONG SAID ORDINANCE 550 A68-1, THE FOLLOWING FOUR (4) COURSES:

1. THENCE S 89°21'18" E A DISTANCE OF 10.00 FEET;
2. THENCE N 00°38'42" E A DISTANCE OF 326.16 FEET;
3. THENCE S 89°54'05" E A DISTANCE OF 30.00 FEET TO A POINT ON THE EAST LINE OF SECTION 6;
4. THENCE N 89°05'58" E A DISTANCE OF 1084.14 FEET;

THENCE S 57°36'54" E, CONTINUING ALONG SAID ORDINANCE 550 A68-1, ALONG ORDINANCE 710 A72-10 AND ALONG ORDINANCE 1873 A88-4, A DISTANCE OF 1825.55 FEET;

THENCE CONTINUING ALONG ORDINANCE 1873 A88-4, THE FOLLOWING TWO (2) COURSES:

1. THENCE N 00°47'33" E A DISTANCE OF 58.70 FEET;
2. THENCE S 57°36'54" E A DISTANCE OF 129.14 FEET TO THE NORTHWEST CORNER OF THAT PARCEL DESCRIBED AT RECEPTION NUMBER 200607000687800; THENCE ALONG SAID RECEPTION NUMBER 200607000687800, THE FOLLOWING THREE (3) COURSES:

1. THENCE S 00°47'33" W A DISTANCE OF 39.92 FEET;
2. THENCE S 57°36'54" E A DISTANCE OF 511.45 FEET;
3. THENCE N 32°23'06" E A DISTANCE OF 34.00 FEET TO A POINT ON THE NORTHERLY RIGHT OF WAY LINE OF THE BURLINGTON NORTHERN RAILROAD; THENCE S 57°36'54" E, ALONG SAID NORTHERLY RIGHT OF WAY LINE, A DISTANCE OF 237.75 FEET TO THE NORTHWESTERLY CORNER OF PARCEL 14 AS DESCRIBED IN BOOK 5088 AT PAGE 621 AND CORRECTED IN BOOK 5158 AT PAGE 820;

THENCE ALONG SAID PARCEL 14, THE FOLLOWING FIVE (5) COURSES:

1. THENCE S 84°16'12" E A DISTANCE OF 196.66 FEET;
2. THENCE S 57°36'54" E A DISTANCE OF 130.95 FEET;
3. THENCE S 42°19'48" E A DISTANCE OF 182.93 FEET;
4. THENCE S 57°36'54" E A DISTANCE OF 382.30 FEET;
5. THENCE S 00°31'06" W A DISTANCE OF 47.10 FEET TO A POINT ON THE NORTHERLY RIGHT OF WAY LINE OF THE BURLINGTON NORTHERN RAILROAD; THENCE S 32°23'06" W A DISTANCE OF 150.00 FEET TO A POINT ON THE SOUTHERLY RIGHT OF WAY LINE OF THE BURLINGTON NORTHERN RAILROAD; THENCE N 57°36'54" W ALONG SAID SOUTHERLY RIGHT OF WAY LINE, A DISTANCE OF 1844.06 FEET TO THE WESTERLY RIGHT OF WAY LINE OF FEDERAL BOULEVARD, A.K.A. US HIGHWAY 287, PROJECT NO. F004-1(20) AS DESCRIBED IN BOOK 749 AT PAGE 342; THENCE S 00°47'33" W, ALONG SAID WESTERLY LINE, A DISTANCE OF 279.27 FEET TO THE POINT OF BEGINNING.

CONTAINING 45.839 ACRES MORE OR LESS.

EXCEPTING THEREFROM:

LOTS 1-9 NORTH MOUNTAIN VIEW SUBDIVISION, FILE 9 MAP 126, LESS THAT PORTION OF LOWELL BOULEVARD RIGHT OF WAY, RECEPTION NUMBERS C0747799 AND C0810426; CONTAINING 1.642 ACRES MORE OR LESS.

TOTAL ANNEXATION CONTAINING IN TOTAL 44.197 ACRES MORE OR LESS.

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **19**

SERIES OF 2012

INTRODUCED BY COUNCILLORS

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**A BILL  
FOR AN ORDINANCE ANNEXING A PARCEL OF LAND IN THE WEST HALF OF SECTION  
5, T. 3 S., R. 68 W., 6TH P.M., COUNTY OF ADAMS, STATE OF COLORADO,  
KNOWN AS THE LITTLE DRY CREEK PROPERTY**

WHEREAS, pursuant to the laws of the State of Colorado, there was presented to the City Council of the City of Westminster a petition for annexation to the City of Westminster of the hereinafter-described contiguous, unincorporated area being in the County of Adams, State of Colorado; and

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

- WHEREAS, City Council has heretofore adopted Resolution No. 12, Series of 2012 making certain findings of fact and conclusions regarding the proposed annexation, as required by Section 31-12-110, C.R.S., and now finds that the property proposed for annexation under the Annexation Petition may be annexed by ordinance at this time; and

WHEREAS, the Council of the City of Westminster has satisfied itself concerning that the proposed annexation conforms with the Comprehensive Land Use Plan of the City of Westminster; and

NOW, THEREFORE, THE CITY OF WESTMINSTER ORDAINS:

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

A PORTION OF SECTION 5 AND A PORTION OF THE SOUTH HALF OF THE NORTHEAST QUARTER OF SECTION 6; ALL IN TOWNSHIP 3 SOUTH, RANGE 68 WEST OF THE SIXTH PRINCIPAL MERIDIAN, BEING A PORTION OF THE BURLINGTON NORTHERN RAILROAD RIGHT OF WAY AND THE FOLLOWING PARCELS CONVEYED TO THE CITY OF WESTMINSTER AND THE WESTMINSTER HOUSING AUTHORITY:

NOTE:

1. THE BASIS OF BEARINGS IS THE SOUTH LINE OF THE NORTHWEST QUARTER OF SECTION 5, T3S, R68W 6TH P.M. AS MONUMENTED WITH AN ALUMINUM CAP PLS 16406 IN A MONUMENT BOX ON THE WEST AND AN ALUMINUM CAP PLS 26288 ON THE EAST WITH A BEARING OF N 89°47'54" E A DISTANCE OF 2635.75 FEET (CITY OF WESTMINSTER DATUM).

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THENCE ALONG A CURVE TO THE LEFT, ALONG SAID TEMPORARY TURN AROUND, A DISTANCE OF 118.38 FEET TO A POINT OF NON TANGENCY ON THE EASTERLY LINE OF THAT PARCEL DESCRIBED AT 2011000082324, SAID CURVE HAVING A RADIUS OF 45.00 FEET, A DELTA ANGLE OF 150°43'28" AND A CHORD DISTANCE OF 87.08 FEET WHICH BEARS N 54°44'12" W;

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4. THENCE N 89°05'58" E A DISTANCE OF 1084.14 FEET;  
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2. THENCE S 57°36'54" E A DISTANCE OF 511.45 FEET;  
3. THENCE N 32°23'06" E A DISTANCE OF 34.00 FEET TO A POINT ON THE NORTHERLY RIGHT OF WAY LINE OF THE BURLINGTON NORTHERN RAILROAD;  
THENCE S 57°36'54" E, ALONG SAID NORTHERLY RIGHT OF WAY LINE, A DISTANCE OF 237.75 FEET TO THE NORTHWESTERLY CORNER OF PARCEL 14 AS DESCRIBED IN BOOK 5088 AT PAGE 621 AND CORRECTED IN BOOK 5158 AT PAGE 820;  
THENCE ALONG SAID PARCEL 14, THE FOLLOWING FIVE (5) COURSES:  
1. THENCE S 84°16'12" E A DISTANCE OF 196.66 FEET;  
2. THENCE S 57°36'54" E A DISTANCE OF 130.95 FEET;  
3. THENCE S 42°19'48" E A DISTANCE OF 182.93 FEET;  
4. THENCE S 57°36'54" E A DISTANCE OF 382.30 FEET;  
5. THENCE S 00°31'06" W A DISTANCE OF 47.10 FEET TO A POINT ON THE NORTHERLY RIGHT OF WAY LINE OF THE BURLINGTON NORTHERN RAILROAD;  
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THENCE N 57°36'54" W ALONG SAID SOUTHERLY RIGHT OF WAY LINE, A DISTANCE OF 1844.06 FEET TO THE WESTERLY RIGHT OF WAY LINE OF FEDERAL BOULEVARD, A.K.A. US HIGHWAY 287, PROJECT NO. F004-1(20) AS DESCRIBED IN BOOK 749 AT PAGE 342;  
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LOTS 1-9 NORTH MOUNTAIN VIEW SUBDIVISION, FILE 9 MAP 126, LESS THAT PORTION OF LOWELL BOULEVARD RIGHT OF WAY, RECEPTION NUMBERS C0747799 AND C0810426; CONTAINING 1.642 ACRES MORE OR LESS.

TOTAL ANNEXATION CONTAINING IN TOTAL 44.197 ACRES MORE OR LESS.

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

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

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 25<sup>th</sup> day of June, 2012.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 23<sup>rd</sup> day of July, 2012.

\_\_\_\_\_  
Mayor

ATTEST:

APPROVED AS TO LEGAL FORM:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
City Attorney's Office

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **20**

SERIES OF 2012

INTRODUCED BY COUNCILLORS

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**A BILL  
FOR AN ORDINANCE AMENDING THE ZONING OF THE AREA KNOWN AS  
THE LITTLE DRY CREEK ANNEXATION, CONTAINING 44.197 ACRES,  
LOCATED IN ADAMS COUNTY, COLORADO FROM I-2, R-2 AND  
PUD (ADAMS COUNTY) TO O-1**

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The City Council finds:

a. That a rezoning of the property generally located along and south of the Burlington Northern Santa Fe rail line, between Lowell Boulevard and Federal Boulevard and between Federal Boulevard and Clay Street, as described in attached Exhibit A, incorporated herein by reference, from the Adams County I-2 (Industrial-2), R-2 (Residential-2) and PUD (Planned Unit Development) zones to an O-1 (Open) zone is desirable because:

1. The current zoning is inconsistent with one or more of the goals or objectives of the City's Comprehensive Land Use Plan.

b. That the notice requirements of W.M.C. §11-5-13 have been met.

c. That such rezoning has been referred to the Planning Commission, which body held a public hearing thereon on May 29, 2012, and has recommended approval of the requested amendment.

d. That Council has completed a public hearing on the requested zoning pursuant to the provisions of Chapter 5 of Title XI of the Westminster Municipal Code and has considered the criteria in W.M.C. §11-5-3.

e. That based on the evidence produced at the public hearing, a rezoning to the proposed O-1 zoning complies with all requirements of Westminster Municipal Code, including, but not limited to, the provisions of W.M.C. §11-4-3, requiring compliance with the Comprehensive Land Use Plan, and the criteria of W.M.C. §11-5-3.

Section 2. The Zoning District Map of the City is hereby amended by reclassification of the property, described in Exhibit A, attached hereto and incorporated herein by reference, from the Adams County I-2, R-2 and PUD zoning districts to the O-1 zoning district, as depicted on Exhibit B, attached hereto.

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

Section 4. The title and purpose of this ordinance shall be published prior to its consideration on second reading. The full text of this ordinance shall be published within ten (10) days after its enactment after second reading.

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 25<sup>th</sup> day of June, 2012.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 23<sup>rd</sup> day of July, 2012.

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Mayor

ATTEST:

APPROVED AS TO LEGAL FORM:

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City Clerk

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City Attorney's Office



## DESCRIPTION OF LAND TO BE ANNEXED

A PORTION OF SECTION 5 AND A PORTION OF THE SOUTH HALF OF THE NORTHEAST QUARTER OF SECTION 6; ALL IN TOWNSHIP 3 SOUTH, RANGE 68 WEST OF THE SIXTH PRINCIPAL MERIDIAN, BEING A PORTION OF THE BURLINGTON NORTHERN RAILROAD RIGHT OF WAY AND THE FOLLOWING PARCELS CONVEYED TO THE CITY OF WESTMINSTER AND THE WESTMINSTER HOUSING AUTHORITY:

## NOTE:

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COMMENCING AT THE CENTER QUARTER CORNER OF SECTION 5, AN ALUMINUM CAP PLS 26288; THENCE S 89°47'54" W, ALONG THE SOUTHERLY LINE OF THE NORTHWEST QUARTER OF SAID SECTION 5, A DISTANCE OF 125.00 FEET TO THE WESTERLY RIGHT OF WAY LINE OF FEDERAL BOULEVARD, A.K.A. US HIGHWAY 287, AS DESCRIBED IN BOOK 749 AT PAGE 342, AND THE POINT OF BEGINNING; THENCE S 00°47'33" W, ALONG SAID WESTERLY RIGHT OF WAY LINE, A DISTANCE OF 30.00 FEET TO A POINT ON THE NORTHERLY LINE OF LOT 48, BLOCK 8 COLLEGE CREST SUBDIVISION, BEING THE SOUTHERLY RIGHT OF WAY LINE OF WEST 68TH AVENUE;  
THENCE S 89°47'54" W, ALONG SAID NORTHERLY LINE OF LOT 48, BLOCK 8, A DISTANCE OF 64.36 FEET TO THE NORTHWEST CORNER OF SAID LOT 48, BLOCK 8; THENCE S 00°04'54" E, ALONG THE WESTERLY LINE OF SAID LOT 48, BLOCK 8, A DISTANCE OF 50.04 FEET TO A POINT OF INTERSECTION WITH SAID WESTERLY LINE AND THE SOUTHERLY LINE OF OF THAT PARCEL DESCRIBED AT RECEPTION NUMBER 2011000067850 PARCEL A, EXTENDED EASTERLY;  
THENCE S 89°47'57" W, ALONG SAID SOUTHERLY LINE AND SAID SOUTHERLY LINE EXTENDED WESTERLY, A DISTANCE OF 200.87 FEET TO A POINT ON THE EASTERLY LINE OF BLOCK 7 COLLEGE CREST SUBDIVISION, BEING THE WESTERLY RIGHT OF WAY LINE OF GREEN STREET;

THENCE N 00°04'35" W, ALONG SAID EASTERLY LINE, A DISTANCE OF 50.03 FEET TO THE NORTHEAST CORNER OF LOT 48, BLOCK 7 COLLEGE CREST SUBDIVISION; THENCE S 89°47'54" W, ALONG THE NORTHERLY LINE OF SAID BLOCK 7, BLOCK 6 AND A PORTION OF BLOCK 5 COLLEGE CREST SUBDIVISION, A DISTANCE OF 745.33 FEET TO THE INTERSECTION OF SAID NORTHERLY LINE OF BLOCK 5 WITH THE EASTERLY LINE OF THE AMENDED PLAT DOOSE SUBDIVISION, RECORDED AT FILE 10 MAP 7, EXTENDED SOUTHERLY;

THENCE N 00°38'42" E, ALONG SAID EASTERLY LINE, A DISTANCE OF 451.11 FEET TO THE SOUTHEAST CORNER OF THAT PARCEL DESCRIBED AT RECEPTION NUMBER 2011000067850 PARCEL D;

THENCE S 89°47'54" W, ALONG THE SOUTHERLY LINE OF SAID PARCEL D, A DISTANCE OF 160.33 FEET TO A POINT OF NON TANGENT CURVATURE ON THE TEMPORARY TURN AROUND AS SHOWN ON AMENDED PLAT DOOSE SUBDIVISION;

THENCE ALONG A CURVE TO THE LEFT, ALONG SAID TEMPORARY TURN AROUND, A DISTANCE OF 118.38 FEET TO A POINT OF NON TANGENCY ON THE EASTERLY LINE OF THAT PARCEL DESCRIBED AT 2011000082324, SAID CURVE HAVING A RADIUS OF 45.00 FEET, A DELTA ANGLE OF 150°43'28" AND A CHORD DISTANCE OF 87.08 FEET WHICH BEARS N 54°44'12" W;

THENCE N 00°38'42" E, ALONG SAID EASTERLY LINE, A DISTANCE OF 4.47 FEET TO THE NORTHEAST CORNER OF SAID PARCEL DESCRIBED AT 2011000082324;

THENCE S 89°47'54" W, ALONG THE NORTHERLY LINE OF SAID PARCEL DESCRIBED AT 2011000082324, A DISTANCE OF 104.12 FEET TO THE EASTERLY LINE OF RESUBDIVISION OF LINDIE HEIGHTS SUBDIVISION, RECORDED IN PLAT BOOK 5 PAGE 31 (FILE 10 MAP 77);

THENCE N 00°38'42" E, ALONG SAID EASTERLY LINE AND THE EASTERLY LINE OF NASH SUBDIVISION, RECORDED AT FILE 17 MAP 341, A DISTANCE OF 233.06 FEET TO THE NORTHEAST CORNER OF SAID NASH SUBDIVISION;

THENCE S 89°53'23" W, ALONG THE NORTHERLY LINE OF SAID NASH SUBDIVISION, A DISTANCE OF 581.98 FEET TO A POINT ON THE EASTERLY LINE OF THAT PARCEL DESCRIBED IN BOOK 3009 AT PAGE 159;

THENCE N 00°38'42" E, ALONG SAID EASTERLY LINE, A DISTANCE OF 8.40 FEET THE NORTHEAST CORNER OF SAID PARCEL DESCRIBED IN BOOK 3009 AT PAGE 159;

THENCE S 89°47'54" W, ALONG THE NORTHERLY LINE OF SAID PARCEL DESCRIBED IN BOOK 3009 AT PAGE 159 AND SAID NORTHERLY LINE EXTENDED WESTERLY, A DISTANCE OF 582.00 FEET TO A POINT ON THE WEST LINE OF SECTION 5;

THENCE N 89°21'18" W A DISTANCE OF 40.00 FEET TO THE WESTERLY RIGHT OF WAY LINE OF LOWELL BOULEVARD BEING A POINT ON THE CITY OF WESTMINSTER CORPORATE LIMITS, ORDINANCE 596 A70-4;

THENCE N 00°38'42" E, ALONG SAID ORDINANCE 596 A70-4, A DISTANCE OF 242.76 FEET TO A POINT ON THE CITY OF WESTMINSTER CORPORATE LIMITS, ORDINANCE 550 A68-1;

THENCE ALONG SAID ORDINANCE 550 A68-1, THE FOLLOWING FOUR (4) COURSES:

1. THENCE S 89°21'18" E A DISTANCE OF 10.00 FEET;
2. THENCE N 00°38'42" E A DISTANCE OF 326.16 FEET;
3. THENCE S 89°54'05" E A DISTANCE OF 30.00 FEET TO A POINT ON THE EAST LINE OF SECTION 6;
4. THENCE N 89°05'58" E A DISTANCE OF 1084.14 FEET;

THENCE S 57°36'54" E, CONTINUING ALONG SAID ORDINANCE 550 A68-1, ALONG ORDINANCE 710 A72-10 AND ALONG ORDINANCE 1873 A88-4, A DISTANCE OF 1825.55 FEET;

THENCE CONTINUING ALONG ORDINANCE 1873 A88-4, THE FOLLOWING TWO (2) COURSES:

1. THENCE N 00°47'33" E A DISTANCE OF 58.70 FEET;
2. THENCE S 57°36'54" E A DISTANCE OF 129.14 FEET TO THE NORTHWEST CORNER OF THAT PARCEL DESCRIBED AT RECEPTION NUMBER 200607000687800; THENCE ALONG SAID RECEPTION NUMBER 200607000687800, THE FOLLOWING THREE (3) COURSES:

1. THENCE S 00°47'33" W A DISTANCE OF 39.92 FEET;
2. THENCE S 57°36'54" E A DISTANCE OF 511.45 FEET;
3. THENCE N 32°23'06" E A DISTANCE OF 34.00 FEET TO A POINT ON THE NORTHERLY RIGHT OF WAY LINE OF THE BURLINGTON NORTHERN RAILROAD; THENCE S 57°36'54" E, ALONG SAID NORTHERLY RIGHT OF WAY LINE, A DISTANCE OF 237.75 FEET TO THE NORTHWESTERLY CORNER OF PARCEL 14 AS DESCRIBED IN BOOK 5088 AT PAGE 621 AND CORRECTED IN BOOK 5158 AT PAGE 820; THENCE ALONG SAID PARCEL 14, THE FOLLOWING FIVE (5) COURSES:

1. THENCE S 84°16'12" E A DISTANCE OF 196.66 FEET;
2. THENCE S 57°36'54" E A DISTANCE OF 130.95 FEET;
3. THENCE S 42°19'48" E A DISTANCE OF 182.93 FEET;
4. THENCE S 57°36'54" E A DISTANCE OF 382.30 FEET;
5. THENCE S 00°31'06" W A DISTANCE OF 47.10 FEET TO A POINT ON THE NORTHERLY RIGHT OF WAY LINE OF THE BURLINGTON NORTHERN RAILROAD; THENCE S 32°23'06" W A DISTANCE OF 150.00 FEET TO A POINT ON THE SOUTHERLY RIGHT OF WAY LINE OF THE BURLINGTON NORTHERN RAILROAD; THENCE N 57°36'54" W ALONG SAID SOUTHERLY RIGHT OF WAY LINE, A DISTANCE OF 1844.06 FEET TO THE WESTERLY RIGHT OF WAY LINE OF FEDERAL BOULEVARD, A.K.A. US HIGHWAY 287, PROJECT NO. F004-1(20) AS DESCRIBED IN BOOK 749 AT PAGE 342; THENCE S 00°47'33" W, ALONG SAID WESTERLY LINE, A DISTANCE OF 279.27 FEET TO THE POINT OF BEGINNING.  
CONTAINING 45.839 ACRES MORE OR LESS.

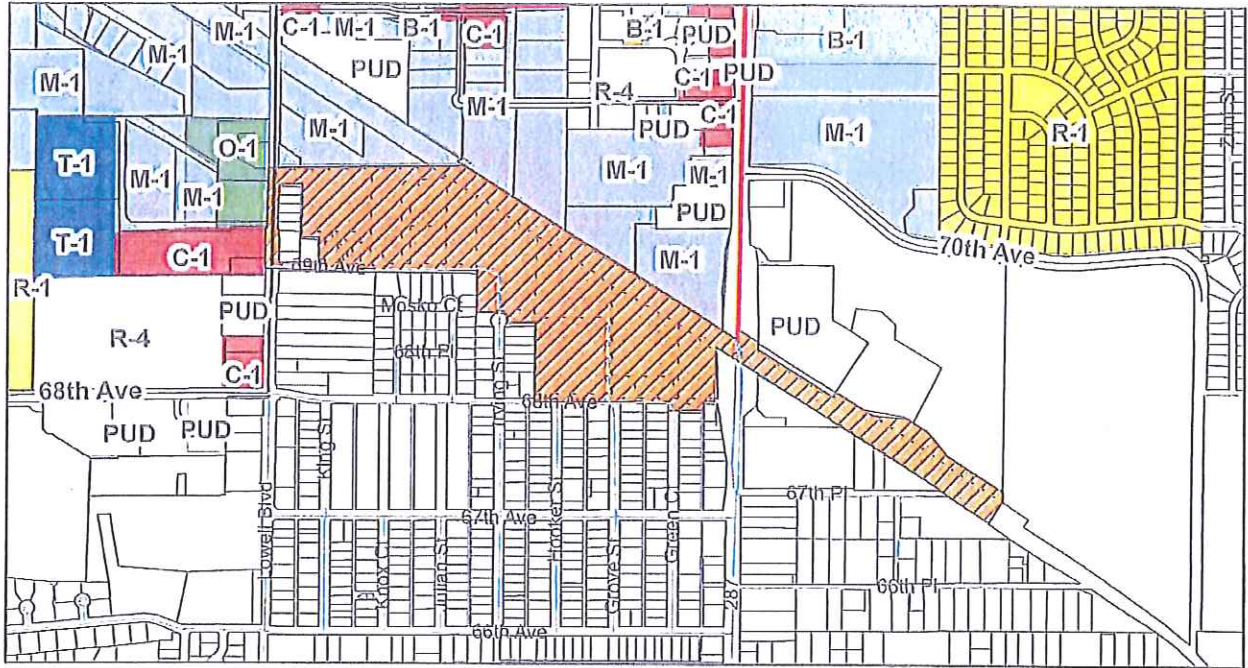
EXCEPTING THEREFROM:

LOTS 1-9 NORTH MOUNTAIN VIEW SUBDIVISION, FILE 9 MAP I26, LESS THAT PORTION OF LOWELL BOULEVARD RIGHT OF WAY, RECEPTION NUMBERS C0747799 AND C0810426;  
CONTAINING 1.642 ACRES MORE OR LESS.

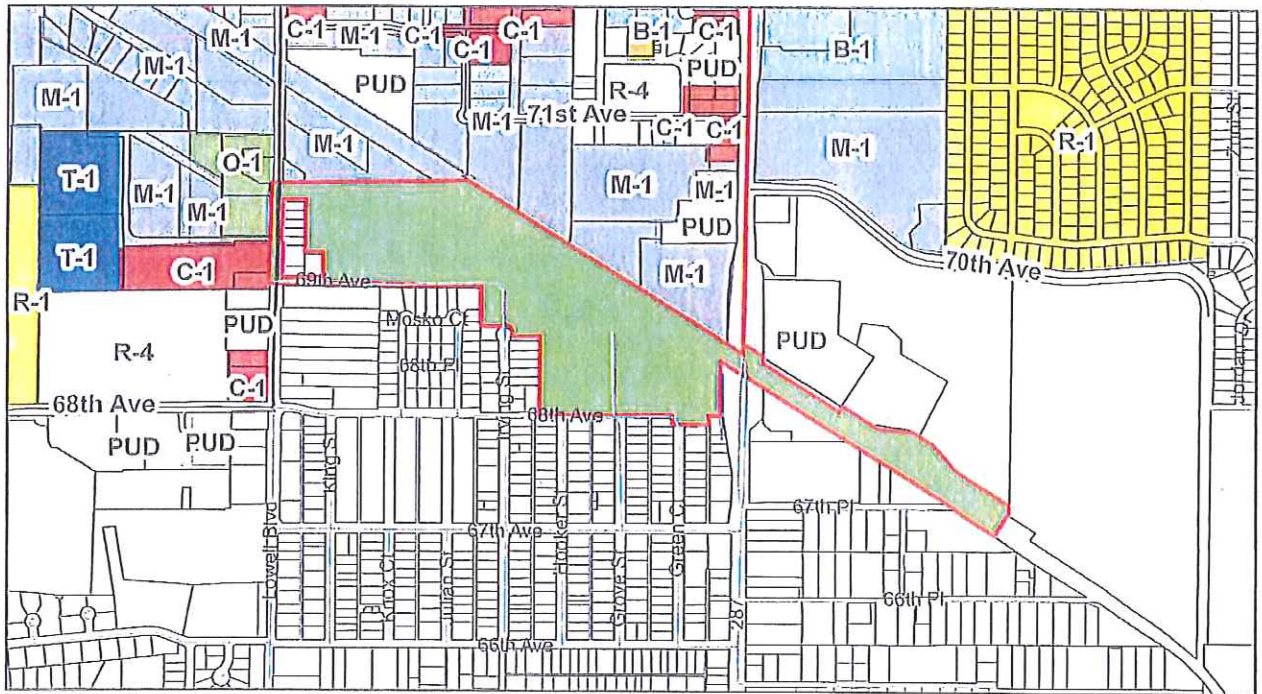
TOTAL ANNEXATION CONTAINING IN TOTAL 44.197 ACRES MORE OR LESS.

Little Dry Creek Annexation Area  
 Current Zoning Designation  
 Adams County (I-2, R-2, PUD)

EXHIBIT B



Proposed Zoning Designation  
 City O-1



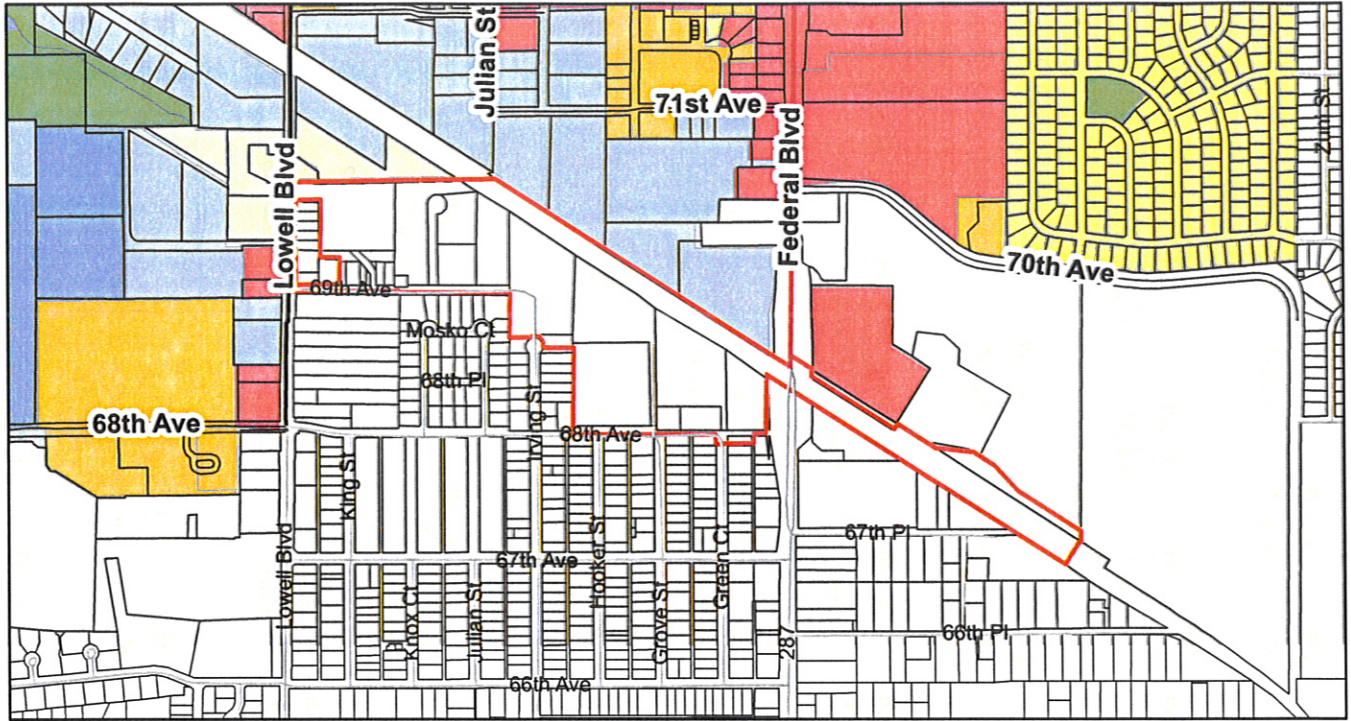
Legend

- |  |                        |  |     |
|--|------------------------|--|-----|
|  | Adams County Parcels   |  | R-1 |
|  | LDC_Annexation_May2012 |  | R-2 |
|  | B-1                    |  | R-4 |
|  | C-1                    |  | R-5 |
|  | M-1                    |  | R-A |
|  | O-1                    |  | R-E |
|  | PUD                    |  | T-1 |
|  | R-3                    |  |     |

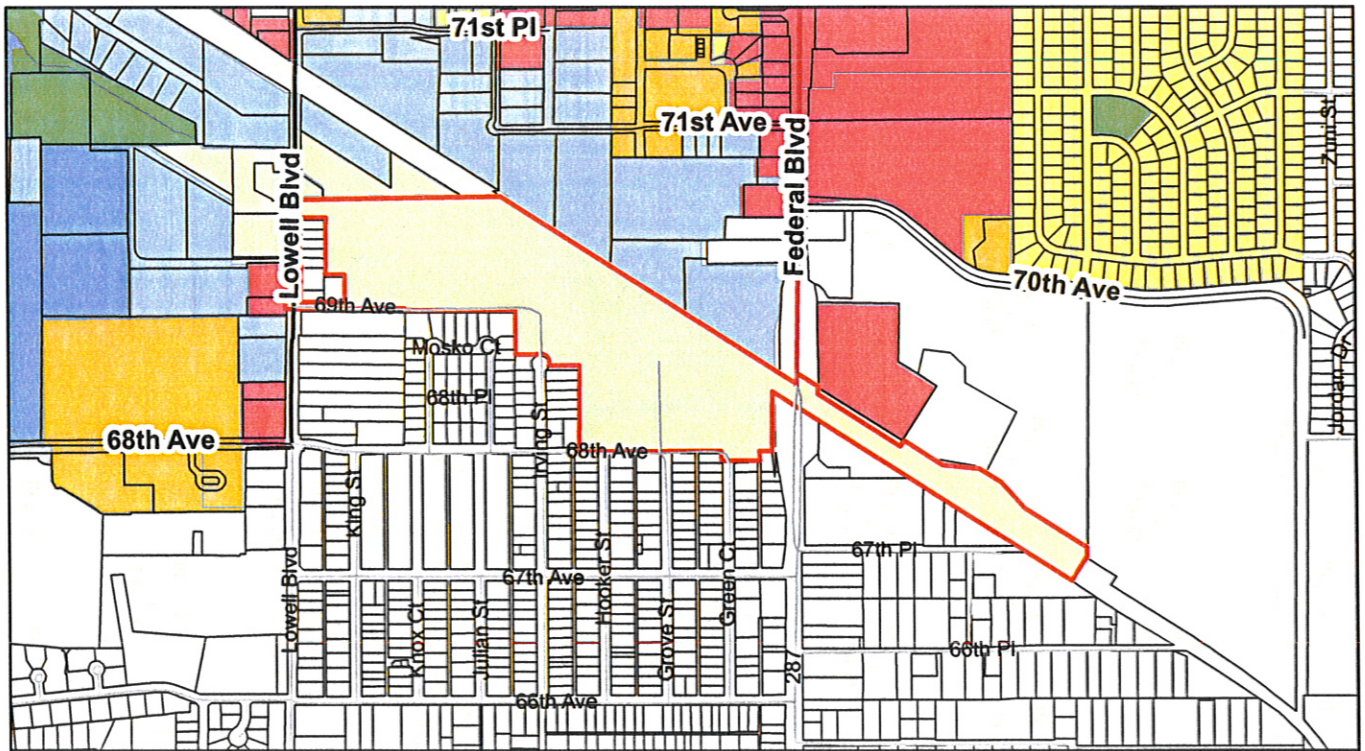


1 inch = 1,000 feet  
 0 250 500 1,000  
 Feet





Proposed CLUP Designation (City-Owned Open Space)



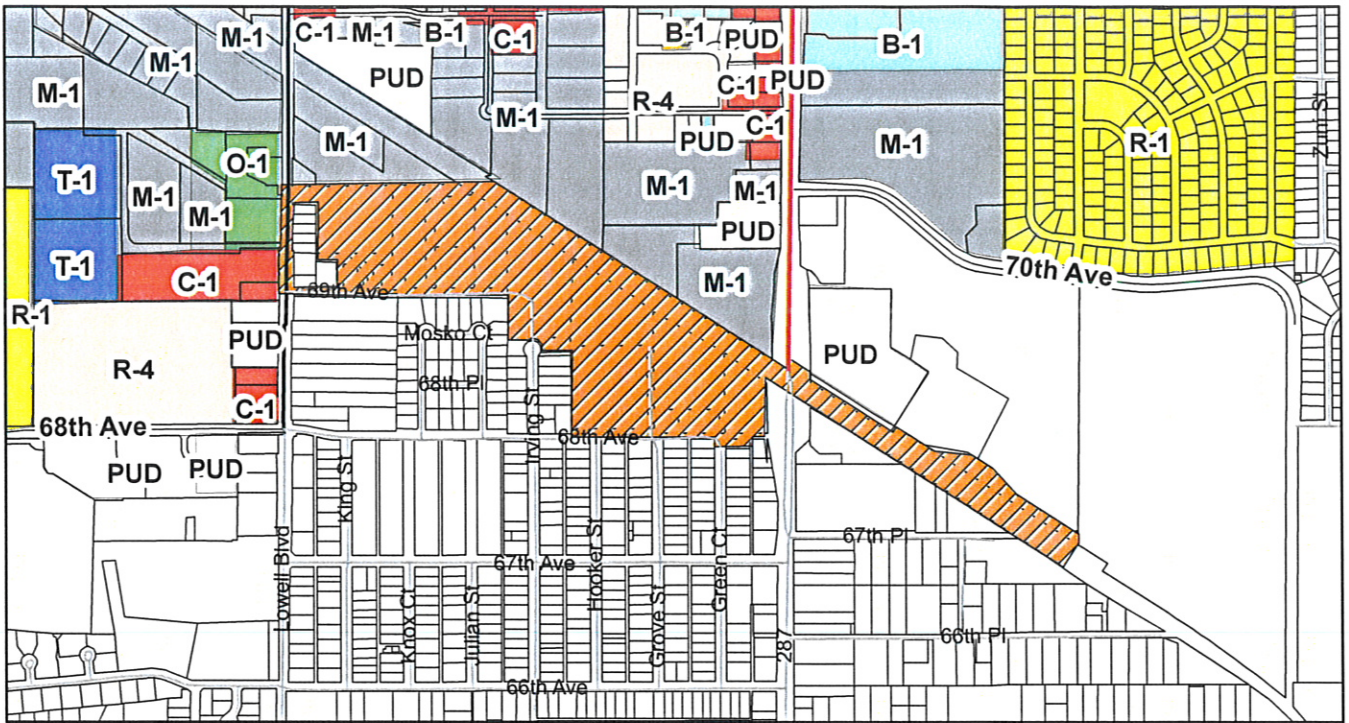
**Legend**

Adams County Parcels	R-8	Traditional Mixed Use
LDC Annexation May 2012	R-18	City Owned Open Space
<b>CompPlan_Layer</b>	Retail Commercial	Public Parks
<b>CP_DESIG</b>	Office	Private Parks/Open Space
R-1	Industrial	Golf Courses
R-2.5	Business Park	Public/Quasi Public
R-3.5	Office/Residential	N.E. Comprehensive Land Use Plan
R-5	District Center	Major Creek Corridor Non Public

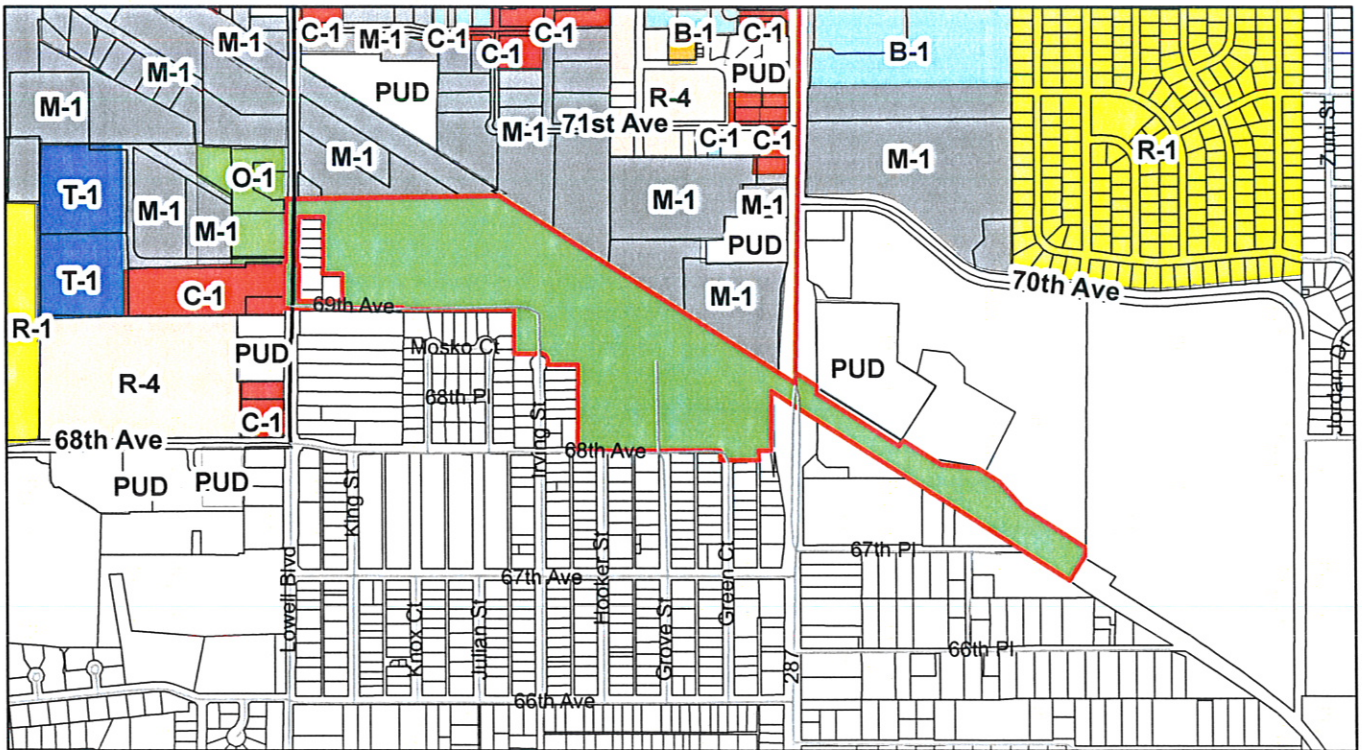


1 inch = 1,000 feet  
0 250 500 1,000  
 Feet





















Proposed Zoning Designation  
 City O-1



Legend

- |   |                        |   |     |
|---|------------------------|---|-----|
|  | Adams County Parcels   |  | R-1 |
|  | LDC_Annexation_May2012 |  | R-2 |
|  | B-1                    |  | R-4 |
|  | C-1                    |  | R-5 |
|  | M-1                    |  | R-A |
|  | O-1                    |  | R-E |
|  | PUD                    |  | T-1 |
|  | R-3                    |   |     |



1 inch = 1,000 feet  
 0 250 500 1,000  
 Feet

## **Criteria and Standards for Land Use Applications**

### *Comprehensive Land Use Plan Amendments*

- The owner/applicant has “the burden of proving that the requested amendment is in the public good and in compliance with the overall purpose and intent of the Comprehensive Land Use Plan...” (WMC 11-4-16(D.4)).
- Demonstrate that there is justification for the proposed change and that the Plan is in need of revision as proposed;
- Be in conformance with the overall purpose, intent, and policies of the Plan;
- Be compatible with the existing and surrounding land uses; and
- Not result in excessive detrimental impacts to the City’s existing or planned infrastructure systems, or the applicant must provide measures to mitigate such impacts to the satisfaction of the City (Page VI-5 of the CLUP).

### *Approval of Planned Unit Development (PUD), Preliminary Development Plan (PDP) and Amendments to Preliminary Development Plans (PDP)*

11-5-14: STANDARDS FOR APPROVAL OF PLANNED UNIT DEVELOPMENTS, PRELIMINARY DEVELOPMENT PLANS AND AMENDMENTS TO PRELIMINARY DEVELOPMENT PLANS: (2534)

(A) In reviewing an application for approval of a Planned Unit Development and its associated Preliminary Development Plan or an amended Preliminary Development Plan, the following criteria shall be considered:

1. The Planned Unit Development (PUD) zoning and the proposed land uses therein are in conformance with the City's Comprehensive Plan and all City Codes, ordinances, and policies.
2. The PUD exhibits the application of sound, creative, innovative, and efficient planning principles.
3. Any exceptions from standard code requirements or limitations are warranted by virtue of design or special amenities incorporated in the development proposal and are clearly identified on the Preliminary Development Plan.
4. The PUD is compatible and harmonious with existing public and private development in the surrounding area.
5. The PUD provides for the protection of the development from potentially adverse surrounding influences and for the protection of the surrounding areas from potentially adverse influence from within the development.
6. The PUD has no significant adverse impacts upon existing or future land uses nor upon the future development of the immediate area.
7. Streets, driveways, access points, and turning movements are designed in a manner that promotes safe, convenient, and free traffic flow on streets without interruptions and in a manner that creates minimum hazards for vehicles and pedestrian traffic.
8. The City may require rights-of-way adjacent to existing or proposed arterial or collector streets, any easements for public utilities and any other public lands to be dedicated to the City as a condition to approving the PDP. Nothing herein shall preclude further public land dedications as a condition to ODP or plat approvals by the City.

9. Existing and proposed utility systems and storm drainage facilities are adequate to serve the development and are in conformance with overall master plans.
10. Performance standards are included that insure reasonable expectations of future Official Development Plans being able to meet the Standards for Approval of an Official Development Plan contained in section 11-5-15.
11. The applicant is not in default or does not have any outstanding obligations to the City.

(B) Failure to meet any of the above-listed standards may be grounds for denial of an application for Planned Unit Development zoning, a Preliminary Development Plan or an amendment to a Preliminary Development Plan.

***Zoning or Rezoning to a Zoning District Other Than a Planned Unit Development (PUD)***

11-5-3: STANDARDS FOR APPROVAL OF ZONINGS AND REZONINGS: (2534)

(A) The following criteria shall be considered in the approval of any application for zoning or rezoning to a zoning district other than a Planned Unit Development:

1. The proposed zoning or rezoning is in conformance with the City's Comprehensive Plan and all City policies, standards and sound planning principles and practice.
2. There is either existing capacity in the City's street, drainage and utility systems to accommodate the proposed zoning or rezoning, or arrangements have been made to provide such capacity in a manner and timeframe acceptable to City Council.

***City Initiated Rezoning***

(B) The City may initiate a rezoning of any property in the City without the consent of the property owner, including property annexed or being annexed to the City, when City Council determines, as part of the final rezoning ordinance, any of the following:

1. The current zoning is inconsistent with one or more of the goals or objectives of the City's Comprehensive Land Use Plan.
2. The current zoning is incompatible with one or more of the surrounding land uses, either existing or approved.
3. The surrounding development is or may be adversely impacted by the current zoning.
4. The City's water, sewer or other services are or would be significantly and negatively impacted by the current zoning and the property is not currently being served by the City.

***Official Development Plan (ODP) Application***

11-5-15: STANDARDS FOR APPROVAL OF OFFICIAL DEVELOPMENT PLANS AND AMENDMENTS TO OFFICIAL DEVELOPMENT PLANS: (2534)

(A) In reviewing an application for the approval of an Official Development Plan or amended Official Development Plan the following criteria shall be considered:

1. The plan is in conformance with all City Codes, ordinances, and policies.



2. The plan is in conformance with an approved Preliminary Development Plan or the provisions of the applicable zoning district if other than Planned Unit Development (PUD).
3. The plan exhibits the application of sound, creative, innovative, or efficient planning and design principles.
4. For Planned Unit Developments, any exceptions from standard code requirements or limitations are warranted by virtue of design or special amenities incorporated in the development proposal and are clearly identified on the Official Development Plan.
5. The plan is compatible and harmonious with existing public and private development in the surrounding area.
6. The plan provides for the protection of the development from potentially adverse surrounding influences and for the protection of the surrounding areas from potentially adverse influence from within the development.
7. The plan has no significant adverse impacts on future land uses and future development of the immediate area.
8. The plan provides for the safe, convenient, and harmonious grouping of structures, uses, and facilities and for the appropriate relation of space to intended use and structural features.
9. Building height, bulk, setbacks, lot size, and lot coverages are in accordance with sound design principles and practice.
10. The architectural design of all structures is internally and externally compatible in terms of shape, color, texture, forms, and materials.
11. Fences, walls, and vegetative screening are provided where needed and as appropriate to screen undesirable views, lighting, noise, or other environmental effects attributable to the development.
12. Landscaping is in conformance with City Code requirements and City policies and is adequate and appropriate.
13. Existing and proposed streets are suitable and adequate to carry the traffic within the development and its surrounding vicinity.
14. Streets, parking areas, driveways, access points, and turning movements are designed in a manner promotes safe, convenient, promotes free traffic flow on streets without interruptions and in a manner that creates minimum hazards for vehicles and or pedestrian traffic.
15. Pedestrian movement is designed in a manner that forms a logical, safe, and convenient system between all structures and off-site destinations likely to attract substantial pedestrian traffic.
16. Existing and proposed utility systems and storm drainage facilities are adequate to serve the development and are in conformance with the Preliminary Development Plans and utility master plans.
17. The applicant is not in default or does not have any outstanding obligations to the City.

(B) Failure to meet any of the above-listed standards may be grounds for denial of an Official Development Plan or an amendment to an Official Development Plan.



WESTMINSTER

Date Received	4/18/12
File No.	ANX 12-001

## Community Development Department Annexation Petition

The undersigned hereby petition the City Council of the City of Westminster to annex the territory described herein and shown on the map, filed herewith, designated "Little Dry Creek Annexation."

In support of this petition, the Petitioner(s) allege(s) that:

1. It is desirable and necessary that the above-described territory be annexed to the City of Westminster.
2. The requirements of Section 30 of Article II of the State Constitution and Sections 31-12-104 and 31-12-105 of the Colorado Revised Statutes exist or have been met in that:
  - a. Not less than one-sixth (1/6) of the perimeter of the area proposed to be annexed is contiguous with the City of Westminster;
  - b. A community of interest exists between the territory proposed to be annexed and the City of Westminster;
  - c. The territory sought to be annexed is urban or will be urbanized in the near future; and
  - d. The territory sought to be annexed is integrated or is capable of being integrated with the City of Westminster.
  - e. In establishing the boundaries of the territory proposed to be annexed, no land held in identical ownership, whether consisting of one tract or parcel of real estate or two or more contiguous tracts or parcels of real estate, shall be divided into separate parts or parcels of real estate without the written consent of the land owner or land owners thereof unless such tracts or parcels are separated by a dedicated street, road, or other public way.
  - f. In establishing the boundaries of any area proposed to be annexed, no land held in identical ownership, whether consisting of one tract or parcel of real estate or two or more contiguous tracts or parcels of real estate comprising twenty (20) acres or more which, together with the buildings and improvements situated thereon have an assessed valuation in excess of \$200,000 for ad valorem tax purposes for the year next preceding the annexation, shall be included within the territory proposed to be annexed without the written consent of the land owners, unless such tract of land is situated entirely within the outer boundaries of the annexing municipality as they exist at the time of annexation. In the application of this paragraph, contiguity shall not be affected by a dedicated street, road or other public way.
  - g. The territory proposed to be annexed does not include any area included in another annexation proceeding involving a city other than the City of Westminster and is not presently a part of any incorporated city, city and county, or town.
  - h. The territory proposed to be annexed will not result in the detachment of the territory from any school district; or a resolution of the board of directors of the school district to which such area will be attached approving the proposed annexation is attached hereto; and
  - i. The proposed annexation would not have the effect of extending the boundary of the Westminster city limits by more than three (3) miles in any direction in any one year.

3. The signer(s) of this petition comprise(s) the landowners of more than fifty percent (50%) of the landowners in the area and own more than fifty percent (50%) of the area proposed to be annexed, excluding public streets and alleys and any land owned by the annexing municipality.

4. Accompanying this petition are the original and ten (10) copies\* of an annexation map containing the following information: [\*Four copies required by State statute, but the City needs 10 sets for the review]

a. A written legal description of the boundaries of the area proposed to be annexed.

b. A map showing the boundary of the area proposed to be annexed.

c. Within the annexation boundary map, a showing of the location of each ownership tract in unplatted land and, if part or all of the area is platted, the boundaries and the plat numbers of plots or of lots and blocks.

d. Next to the boundary of the area proposed to be annexed, a drawing of the contiguous boundary of the annexing municipality and the contiguous boundary of any other municipality abutting the area proposed to be annexed.

e. A surveyor's certificate prepared by a registered land surveyor that attests to the preparation of the map and certifies at least one-sixth (1/6) contiguity to the City of Westminster.

f. An approval block for the City of Westminster in form and substance as provided in the City's most current Plan Submittal Guidelines.

Signature of Petitioner

X [Signature] \*\*  
Name S. Brett McF. II  
Title Executive Director  
Company Westminster Housing \*\*\*  
Mailing address of signer Authority

Signature of Petitioner

X \_\_\_\_\_ \*\*  
Name \_\_\_\_\_  
Title \_\_\_\_\_  
Company \_\_\_\_\_ \*\*\*  
Mailing address of signer \_\_\_\_\_

Date of Signing April 18, 2012

Date of Signing \_\_\_\_\_

Subscribed and sworn to before me this 18th  
day of April, 2012.  
Witness my hand and Official Seal.  
My Commission expires January 27, 2013  
Mary Joy Barajas  
Notary Public

Subscribed and sworn to before me this \_\_\_  
day of \_\_\_\_\_, 20\_\_\_.  
Witness my hand and Official Seal.  
My Commission expires \_\_\_\_\_  
\_\_\_\_\_  
Notary Public

\*\* A signature is not valid if dated more than 180 days prior to filing the Petition with the City Clerk.  
\*\*\* If legal entity, provide proof of authorization to sign

**Attachments:**

- Exhibit A - Affidavit of Circular (required)
- Exhibit B - Written legal description(s) of the land owned by each Petitioner (required)
- Exhibit C - Fire District Withdrawal Petition (if applicable)

# ANNEXATION MAP

## LITTLE DRY CREEK ANNEXATION TO THE CITY OF WESTMINSTER

PORTIONS OF SECTIONS 5 AND 6, TOWNSHIP 3 SOUTH,  
RANGE 68 WEST OF THE SIXTH PRINCIPAL MERIDIAN  
COUNTY OF ADAMS, STATE OF COLORADO

**DESCRIPTION OF LAND TO BE ANNEXED**

A PORTION OF SECTION 5 AND A PORTION OF THE SOUTH HALF OF THE NORTHEAST QUARTER OF SECTION 6; ALL IN TOWNSHIP 3 SOUTH, RANGE 68 WEST OF THE SIXTH PRINCIPAL MERIDIAN, BEING A PORTION OF THE BURLINGTON NORTHERN RAILROAD RIGHT OF WAY AND THE FOLLOWING PARCELS CONVEYED TO THE CITY OF WESTMINSTER AND THE WESTMINSTER HOUSING AUTHORITY:

**NOTE:**

1. THE BASIS OF BEARINGS IS THE SOUTH LINE OF THE NORTHWEST QUARTER OF SECTION 5, T3S, R68W 6TH P.M. AS MONUMENTED WITH AN ALUMINUM CAP PLS 16406 IN A MONUMENT BOX ON THE WEST AND AN ALUMINUM CAP PLS 26288 ON THE EAST WITH A BEARING OF N 89°47'54" E A DISTANCE OF 2635.75 FEET (CITY OF WESTMINSTER DATUM).

**CITY OF WESTMINSTER PARCELS:**  
 RECEPTION NUMBER 2011000067850;  
 BOOK 4996 PAGE 59;  
 RECEPTION NUMBERS 2008000000229 AND 2008000000231, LESS RECEPTION NUMBER 2011000082324;  
 RECEPTION NUMBER 2010000065696;  
 BOOK 4852 PAGE 403;  
 RECEPTION NUMBER 2010000031068;  
 BOOK 4866 PAGE 156;  
 BOOK 5088 PAGE 621 AND CORRECTED IN BOOK 5158 PAGE 820;

**WESTMINSTER HOUSING AUTHORITY PARCELS:**  
 RECEPTION NUMBER 20050422000421310  
 RECEPTION NUMBER 200411160011162080;

COMMENCING AT THE CENTER QUARTER CORNER OF SECTION 5, AN ALUMINUM CAP PLS 26288; THENCE S 89°47'54" W, ALONG THE SOUTHERLY LINE OF THE NORTHWEST QUARTER OF SAID SECTION 5, A DISTANCE OF 125.00 FEET TO THE WESTERLY RIGHT OF WAY LINE OF FEDERAL BOULEVARD, A.K.A. US HIGHWAY 287, AS DESCRIBED IN BOOK 749 AT PAGE 342, AND THE POINT OF BEGINNING:

THENCE S 00°47'33" W, ALONG SAID WESTERLY RIGHT OF WAY LINE, A DISTANCE OF 30.00 FEET TO A POINT ON THE NORTHERLY LINE OF LOT 48, BLOCK 8 COLLEGE CREST SUBDIVISION, BEING THE SOUTHERLY RIGHT OF WAY LINE OF WEST 68TH AVENUE;

THENCE S 89°47'54" W, ALONG SAID NORTHERLY LINE OF LOT 48, BLOCK 8, A DISTANCE OF 64.36 FEET TO THE NORTHWEST CORNER OF SAID LOT 48, BLOCK 8;

THENCE S 00°04'54" E, ALONG THE WESTERLY LINE OF SAID LOT 48, BLOCK 8, A DISTANCE OF 50.04 FEET TO A POINT OF INTERSECTION WITH SAID WESTERLY LINE AND THE SOUTHERLY LINE OF OF THAT PARCEL DESCRIBED AT RECEPTION NUMBER 2011000067850 PARCEL A, EXTENDED EASTERLY;

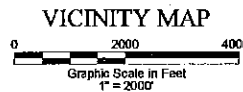
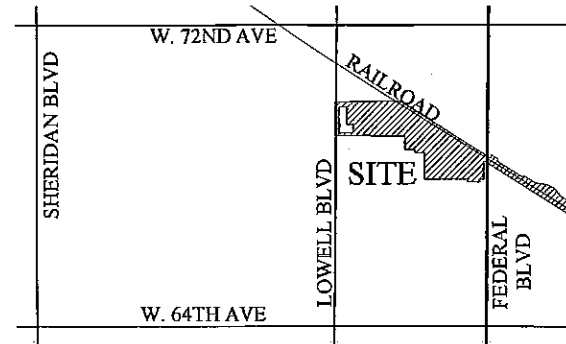
THENCE S 89°47'57" W, ALONG SAID SOUTHERLY LINE AND SAID SOUTHERLY LINE EXTENDED WESTERLY, A DISTANCE OF 200.87 FEET TO A POINT ON THE EASTERLY LINE OF BLOCK 7 COLLEGE CREST SUBDIVISION, BEING THE WESTERLY RIGHT OF WAY LINE OF GREEN STREET;

THENCE N 00°04'35" W, ALONG SAID EASTERLY LINE, A DISTANCE OF 50.03 FEET TO THE NORTHEAST CORNER OF LOT 48, BLOCK 7 COLLEGE CREST SUBDIVISION;

THENCE S 89°47'54" W, ALONG THE NORTHERLY LINE OF SAID BLOCK 7, BLOCK 6 AND A PORTION OF BLOCK 5 COLLEGE CREST SUBDIVISION, A DISTANCE OF 745.33 FEET TO THE INTERSECTION OF SAID NORTHERLY LINE OF BLOCK 5 WITH THE EASTERLY LINE OF THE AMENDED PLAT DOOSE SUBDIVISION, RECORDED AT FILE 10 MAP 7, EXTENDED SOUTHERLY;

THENCE N 00°38'42" E, ALONG SAID EASTERLY LINE, A DISTANCE OF 451.11 FEET TO THE SOUTHEAST CORNER OF THAT PARCEL DESCRIBED AT RECEPTION NUMBER 2011000067850 PARCEL D;

(CONTINUED ON SHEET 2 OF 6)



**CITY OF WESTMINSTER**

I, J. BRENT MCFALL, CITY MANAGER OF THE CITY OF WESTMINSTER, PROPERTY OWNER, DO SO APPROVE THIS ANNEXATION FOR REVIEW AND APPROVAL BY THE CITY OF WESTMINSTER THIS \_\_\_ DAY OF \_\_\_\_\_ 20\_\_.

CITY MANAGER

**WESTMINSTER HOUSING AUTHORITY**

I, J. BRENT MCFALL, EXECUTIVE DIRECTOR OF THE WESTMINSTER HOUSING AUTHORITY, PROPERTY OWNER, DO SO APPROVE THIS ANNEXATION FOR REVIEW AND APPROVAL BY THE CITY OF WESTMINSTER THIS \_\_\_ DAY OF \_\_\_\_\_ 20\_\_.

EXECUTIVE DIRECTOR

**CITY ACCEPTANCE**

ACCEPTED BY THE CITY COUNCIL OF THE CITY OF WESTMINSTER THIS \_\_\_ DAY OF \_\_\_\_\_ 20\_\_.

MAYOR

ATTEST: CITY CLERK (SEAL)

**CLERK AND RECORDER'S CERTIFICATION**

RECEPTION NUMBER \_\_\_\_\_  
 ACCEPTED FOR FILING IN THE OFFICE OF THE COUNTY CLERK AND RECORDER OF ADAMS COUNTY AT BRIGHTON, COLORADO ON THIS \_\_\_ DAY OF \_\_\_\_\_ 20\_\_ O'CLOCK \_\_M.

ADAMS COUNTY CLERK AND RECORDER

BY: DEPUTY (SEAL)

**SURVEYOR'S CERTIFICATION**

I, EJ GRABOWSKI, CERTIFY THAT THIS MAP IS A TRUE AND ACCURATE REPRESENTATION OF THE AREA TO BE ANNEXED TO THE CITY OF WESTMINSTER.

THE LAND DESCRIBED HEREON IS CONTIGUOUS TO THE CITY OF WESTMINSTER AND MEETS THE REQUIREMENTS SET FORTH IN COLORADO REVISED STATUTES 1973, 31-12-104-(1)(A) THAT ONE-SIXTH OR MORE OF THE PERIMETER TO BE ANNEXED IS CONTIGUOUS WITH THE ANNEXING MUNICIPALITY.

**CONTIGUOUS STATEMENT**

TOTAL PERIMETER OF AREA CONSIDERED FOR ANNEXATION	11,167.32	100%
ONE-SIXTH OF TOTAL PERIMETER OF AREA	1,861.22	16.67%
PERIMETER OF THE AREA CONTIGUOUS WITH EXISTING CITY LIMITS	3,706.44	33.19%



EJ GRABOWSKI  
 PLS 22097

Revision	
Date of Survey	03/07/2012
Control File	10007
Job Number	11007.1

SHEET 1 OF 6

**LAND SURVEYING AND MAPPING**  
**LAFAYETTE - WINTER PARK**  
 Ph 303 668 0379 Fx 303 665 6320

## ANNEXATION MAP

LITTLE DRY CREEK ANNEXATION  
TO THE CITY OF WESTMINSTERPORTIONS OF SECTIONS 5 AND 6, TOWNSHIP 3 SOUTH,  
RANGE 68 WEST OF THE SIXTH PRINCIPAL MERIDIAN  
COUNTY OF ADAMS, STATE OF COLORADO

## DESCRIPTION OF LAND TO BE ANNEXED

(CONTINUED FROM SHEET 1 OF 6)

THENCE S 89°47'54" W, ALONG THE SOUTHERLY LINE OF SAID PARCEL D, A DISTANCE OF 160.33 FEET TO A POINT OF NON TANGENT CURVATURE ON THE TEMPORARY TURN AROUND AS SHOWN ON AMENDED PLAT DOOSE SUBDIVISION;

THENCE ALONG A CURVE TO THE LEFT, ALONG SAID TEMPORARY TURN AROUND, A DISTANCE OF 118.38 FEET TO A POINT OF NON TANGENCY ON THE EASTERLY LINE OF THAT PARCEL DESCRIBED AT 2011000082324, SAID CURVE HAVING A RADIUS OF 45.00 FEET, A DELTA ANGLE OF 150°43'28" AND A CHORD DISTANCE OF 87.08 FEET WHICH BEARS N 54°44'12" W;

THENCE N 00°38'42" E, ALONG SAID EASTERLY LINE, A DISTANCE OF 4.47 FEET TO THE NORTHEAST CORNER OF SAID PARCEL DESCRIBED AT 2011000082324;

THENCE S 89°47'54" W, ALONG THE NORTHERLY LINE OF SAID PARCEL DESCRIBED AT 2011000082324, A DISTANCE OF 104.12 FEET TO THE EASTERLY LINE OF RESUBDIVISION OF LINDIE HEIGHTS SUBDIVISION, RECORDED IN PLAT BOOK 5 PAGE 31 (FILE 10 MAP 77);

THENCE N 00°38'42" E, ALONG SAID EASTERLY LINE AND THE EASTERLY LINE OF NASH SUBDIVISION, RECORDED AT FILE 17 MAP 341, A DISTANCE OF 233.06 FEET TO THE NORTHEAST CORNER OF SAID NASH SUBDIVISION;

THENCE S 89°53'23" W, ALONG THE NORTHERLY LINE OF SAID NASH SUBDIVISION, A DISTANCE OF 581.98 FEET TO A POINT ON THE EASTERLY LINE OF THAT PARCEL DESCRIBED IN BOOK 3009 AT PAGE 159;

THENCE N 00°38'42" E, ALONG SAID EASTERLY LINE, A DISTANCE OF 8.40 FEET THE NORTHEAST CORNER OF SAID PARCEL DESCRIBED IN BOOK 3009 AT PAGE 159;

THENCE S 89°47'54" W, ALONG THE NORTHERLY LINE OF SAID PARCEL DESCRIBED IN BOOK 3009 AT PAGE 159 AND SAID NORTHERLY LINE EXTENDED WESTERLY, A DISTANCE OF 582.00 FEET TO A POINT ON THE WEST LINE OF SECTION 5;

THENCE N 89°21'18" W A DISTANCE OF 40.00 FEET TO THE WESTERLY RIGHT OF WAY LINE OF LOWELL BOULEVARD BEING A POINT ON THE CITY OF WESTMINSTER CORPORATE LIMITS, ORDINANCE 596 A70-4;

THENCE N 00°38'42" E, ALONG SAID ORDINANCE 596 A70-4, A DISTANCE OF 242.76 FEET TO A POINT ON THE CITY OF WESTMINSTER CORPORATE LIMITS, ORDINANCE 550 A68-1;

THENCE ALONG SAID ORDINANCE 550 A68-1, THE FOLLOWING FOUR (4) COURSES:

1. THENCE S 89°21'18" E A DISTANCE OF 10.00 FEET;
2. THENCE N 00°38'42" E A DISTANCE OF 326.16 FEET;
3. THENCE S 89°54'05" E A DISTANCE OF 30.00 FEET TO A POINT ON THE EAST LINE OF SECTION 6;
4. THENCE N 89°05'58" E A DISTANCE OF 1084.14 FEET;

THENCE S 57°36'54" E, CONTINUING ALONG SAID ORDINANCE 550 A68-1, ALONG ORDINANCE 710 A72-10 AND ALONG ORDINANCE 1873 A88-4, A DISTANCE OF 1825.55 FEET;

THENCE CONTINUING ALONG ORDINANCE 1873 A88-4, THE FOLLOWING TWO (2) COURSES:

1. THENCE N 00°47'33" E A DISTANCE OF 58.70 FEET;
2. THENCE S 57°36'54" E A DISTANCE OF 129.14 FEET TO THE NORTHWEST CORNER OF THAT PARCEL DESCRIBED AT RECEPTION NUMBER 200607000687800;

THENCE ALONG SAID RECEPTION NUMBER 200607000687800, THE FOLLOWING THREE (3) COURSES:

1. THENCE S 00°47'33" W A DISTANCE OF 39.92 FEET;
2. THENCE S 57°36'54" E A DISTANCE OF 511.45 FEET;
3. THENCE N 32°23'06" E A DISTANCE OF 34.00 FEET TO A POINT ON THE NORTHERLY RIGHT OF WAY LINE OF THE BURLINGTON NORTHERN RAILROAD;

(CONTINUED)

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USER: JTV DATE: May 22, 2012 10:17am  
XREFS: IMAGES:

## DESCRIPTION OF LAND TO BE ANNEXED

CONTINUED

THENCE S 57°36'54" E, ALONG SAID NORTHERLY RIGHT OF WAY LINE, A DISTANCE OF 237.75 FEET TO THE NORTHWESTERLY CORNER OF PARCEL 14 AS DESCRIBED IN BOOK 5088 AT PAGE 621 AND CORRECTED IN BOOK 5158 AT PAGE 820;

THENCE ALONG SAID PARCEL 14, THE FOLLOWING FIVE (5) COURSES:

1. THENCE S 84°16'12" E A DISTANCE OF 196.66 FEET;
2. THENCE S 57°36'54" E A DISTANCE OF 130.95 FEET;
3. THENCE S 42°19'48" E A DISTANCE OF 182.93 FEET;
4. THENCE S 57°36'54" E A DISTANCE OF 382.30 FEET;
5. THENCE S 00°31'06" W A DISTANCE OF 47.10 FEET TO A POINT ON THE NORTHERLY RIGHT OF WAY LINE OF THE BURLINGTON NORTHERN RAILROAD;

THENCE S 32°23'06" W A DISTANCE OF 150.00 FEET TO A POINT ON THE SOUTHERLY RIGHT OF WAY LINE OF THE BURLINGTON NORTHERN RAILROAD;

THENCE N 57°36'54" W ALONG SAID SOUTHERLY RIGHT OF WAY LINE, A DISTANCE OF 1844.06 FEET TO THE WESTERLY RIGHT OF WAY LINE OF FEDERAL BOULEVARD, A.K.A. US HIGHWAY 287, PROJECT NO. F004-1(20) AS DESCRIBED IN BOOK 749 AT PAGE 342;

THENCE S 00°47'33" W, ALONG SAID WESTERLY LINE, A DISTANCE OF 279.27 FEET TO THE POINT OF BEGINNING.

CONTAINING 45.839 ACRES MORE OR LESS.

EXCEPTING THEREFROM:

LOTS 1-9 NORTH MOUNTAIN VIEW SUBDIVISION, FILE 9 MAP 126, LESS THAT PORTION OF LOWELL BOULEVARD RIGHT OF WAY, RECEPTION NUMBERS C0747799 AND C0810426;

CONTAINING 1.642 ACRES MORE OR LESS.

TOTAL ANNEXATION CONTAINING IN TOTAL 44.197 ACRES MORE OR LESS.

## NOTE

ACCORDING TO COLORADO LAW YOU MUST COMMENCE ANY LEGAL ACTION BASED ON ANY DEFECT IN THIS SURVEY WITHIN THREE (3) YEARS AFTER YOU FIRST DISCOVER SUCH DEFECT. IN NO EVENT MAY ANY ACTION BASED UPON ANY DEFECT IN THIS SURVEY BE COMMENCED MORE THAN TEN (10) YEARS FROM THE DATE OF THE CERTIFICATION SHOWN HEREON.

ANY PERSON WHO KNOWINGLY REMOVES, ALTERS OR DEFACES ANY PUBLIC LAND SURVEY MONUMENT, LAND BOUNDARY MONUMENT, OR ACCESSORY COMMITS A CLASS TWO (2) MISDEMEANOR PURSUANT TO STATE STATUTE § 18-4-508, C.R.S.

SHEET 2 OF 6

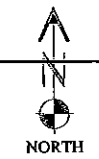
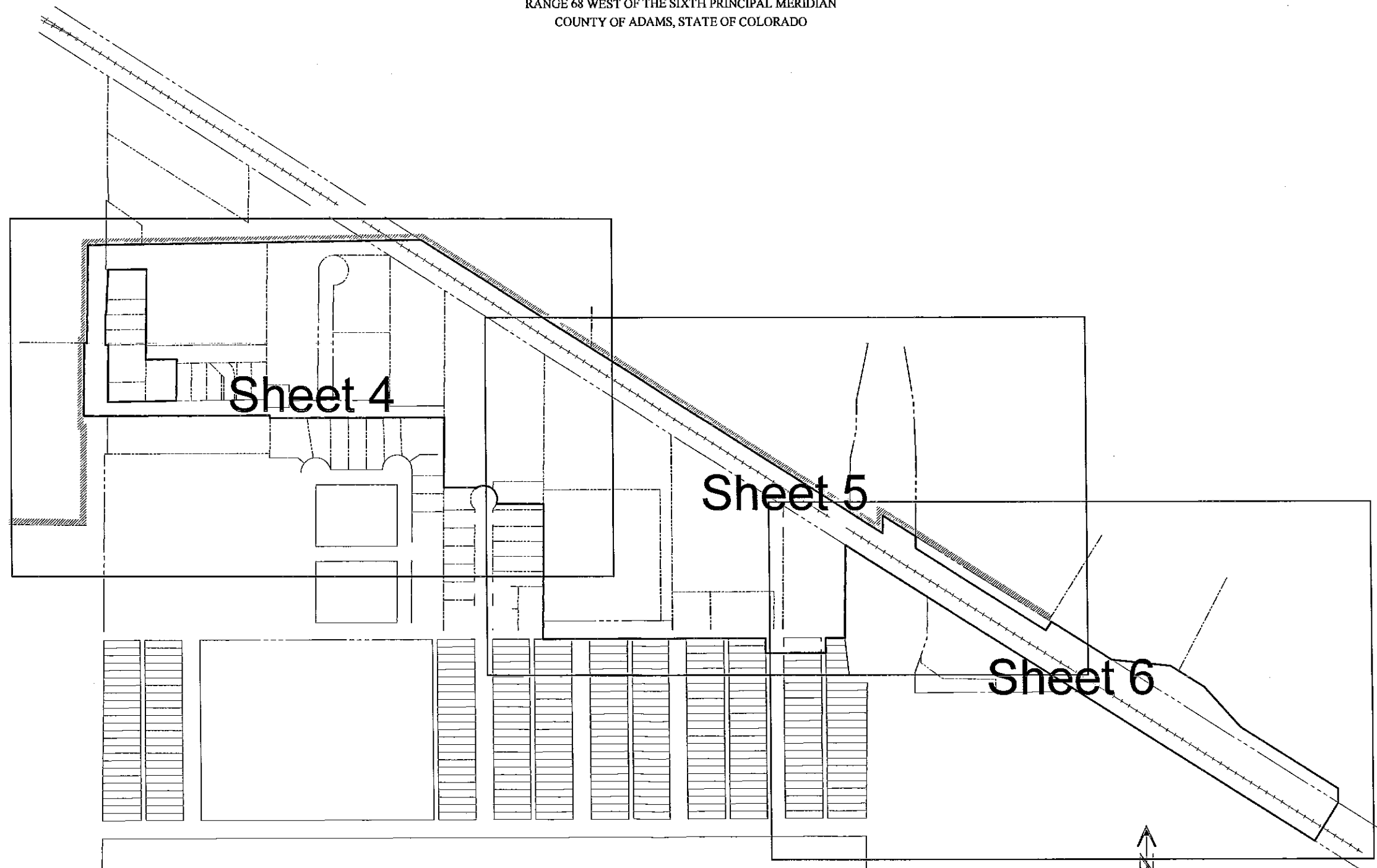


Revision	
Date of Survey	03/07/2012
Control File	10007
Job Number	11007.1

LAND SURVEYING AND MAPPING  
LAFAYETTE - WINTER PARK  
Ph 303 668 0379 Fx 303 665 6320



**ANNEXATION MAP**  
**LITTLE DRY CREEK ANNEXATION**  
**TO THE CITY OF WESTMINSTER**  
PORTIONS OF SECTIONS 5 AND 6, TOWNSHIP 3 SOUTH,  
RANGE 68 WEST OF THE SIXTH PRINCIPAL MERIDIAN  
COUNTY OF ADAMS, STATE OF COLORADO



SHEET 3 OF 6

LAND SURVEYING AND MAPPING  
LAFAYETTE - WINTER PARK  
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Revision	
Date of Survey	03/07/2012
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USER: JTV DATE: May 22, 2012 10:05am  
XREFS: IMAGES:

# ANNEXATION MAP

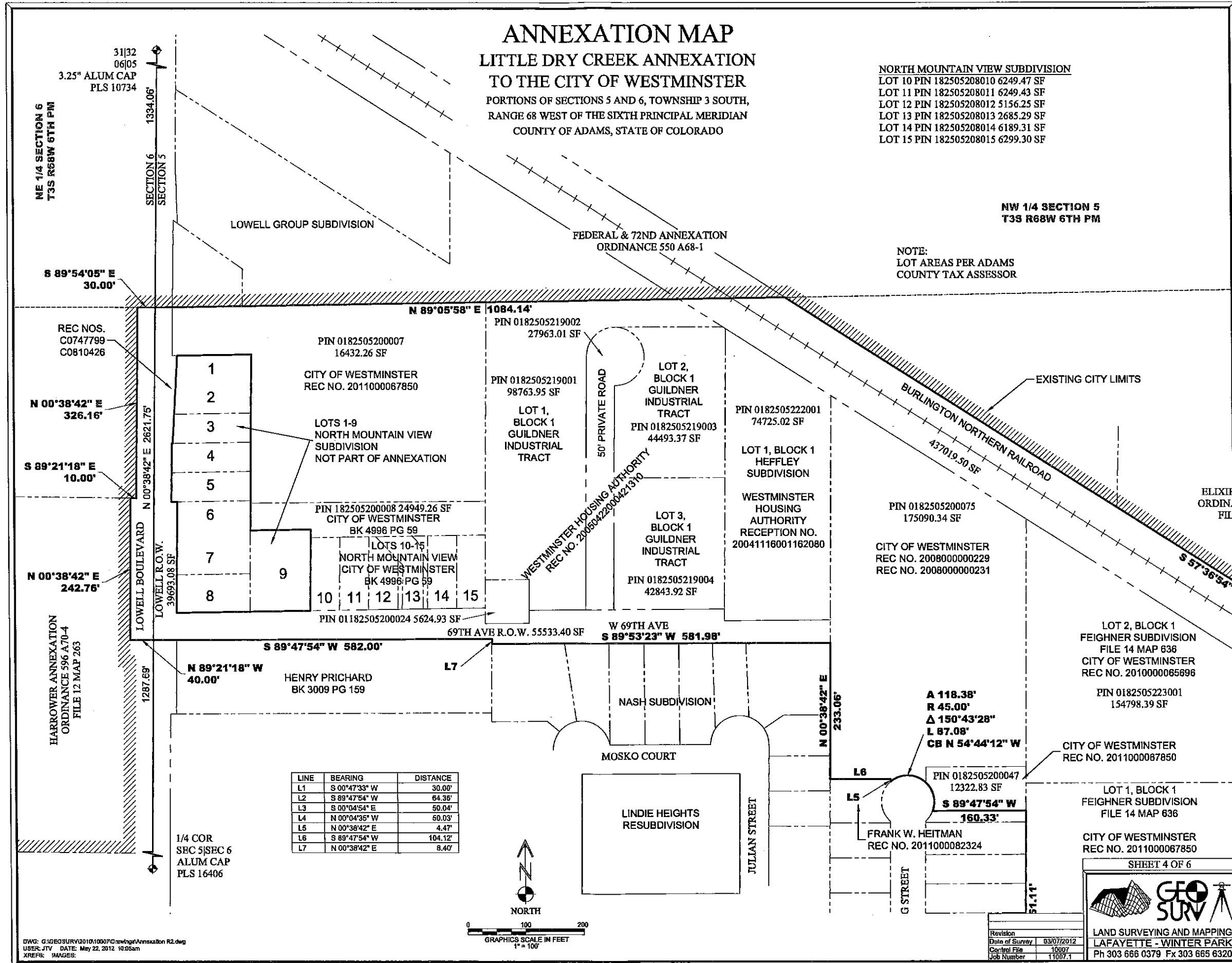
## LITTLE DRY CREEK ANNEXATION TO THE CITY OF WESTMINSTER

PORTIONS OF SECTIONS 5 AND 6, TOWNSHIP 3 SOUTH,  
RANGE 68 WEST OF THE SIXTH PRINCIPAL MERIDIAN  
COUNTY OF ADAMS, STATE OF COLORADO

**NORTH MOUNTAIN VIEW SUBDIVISION**  
 LOT 10 PIN 182505208010 6249.47 SF  
 LOT 11 PIN 182505208011 6249.43 SF  
 LOT 12 PIN 182505208012 5156.25 SF  
 LOT 13 PIN 182505208013 2685.29 SF  
 LOT 14 PIN 182505208014 6189.31 SF  
 LOT 15 PIN 182505208015 6299.30 SF

**NW 1/4 SECTION 5  
T3S R68W 6TH PM**

NOTE:  
LOT AREAS PER ADAMS  
COUNTY TAX ASSESSOR



31|32  
06|05  
3.25" ALUM CAP  
PLS 10734

NE 1/4 SECTION 6  
T3S R68W 6TH PM

SECTION 6  
SECTION 5

S 89°54'05" E  
30.00'

REC NOS.  
C0747799  
C0810426

N 00°38'42" E  
326.16'

S 89°21'18" E  
10.00'

N 00°38'42" E  
242.76'

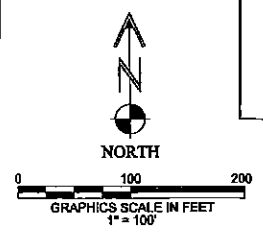
HARROWER ANNEXATION  
ORDINANCE 596 A70-4  
FILE 12 MAP 263

LOWELL BOULEVARD  
LOWELL R.O.W.  
39693.08 SF

1287.69'

1/4 COR  
SEC 5|SEC 6  
ALUM CAP  
PLS 16406

LINE	BEARING	DISTANCE
L1	S 00°47'33" W	30.00'
L2	S 89°47'54" W	64.36'
L3	S 00°04'54" E	50.04'
L4	N 00°04'36" W	50.03'
L5	N 00°38'42" E	4.47'
L6	S 89°47'54" W	104.12'
L7	N 00°38'42" E	8.40'



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Revision	
Date of Survey	03/07/2012
Control File	10007
Job Number	11007.1

SHEET 4 OF 6

**LAND SURVEYING AND MAPPING**  
**LAFAYETTE - WINTER PARK**  
 Ph 303 666 0379 Fx 303 665 6320

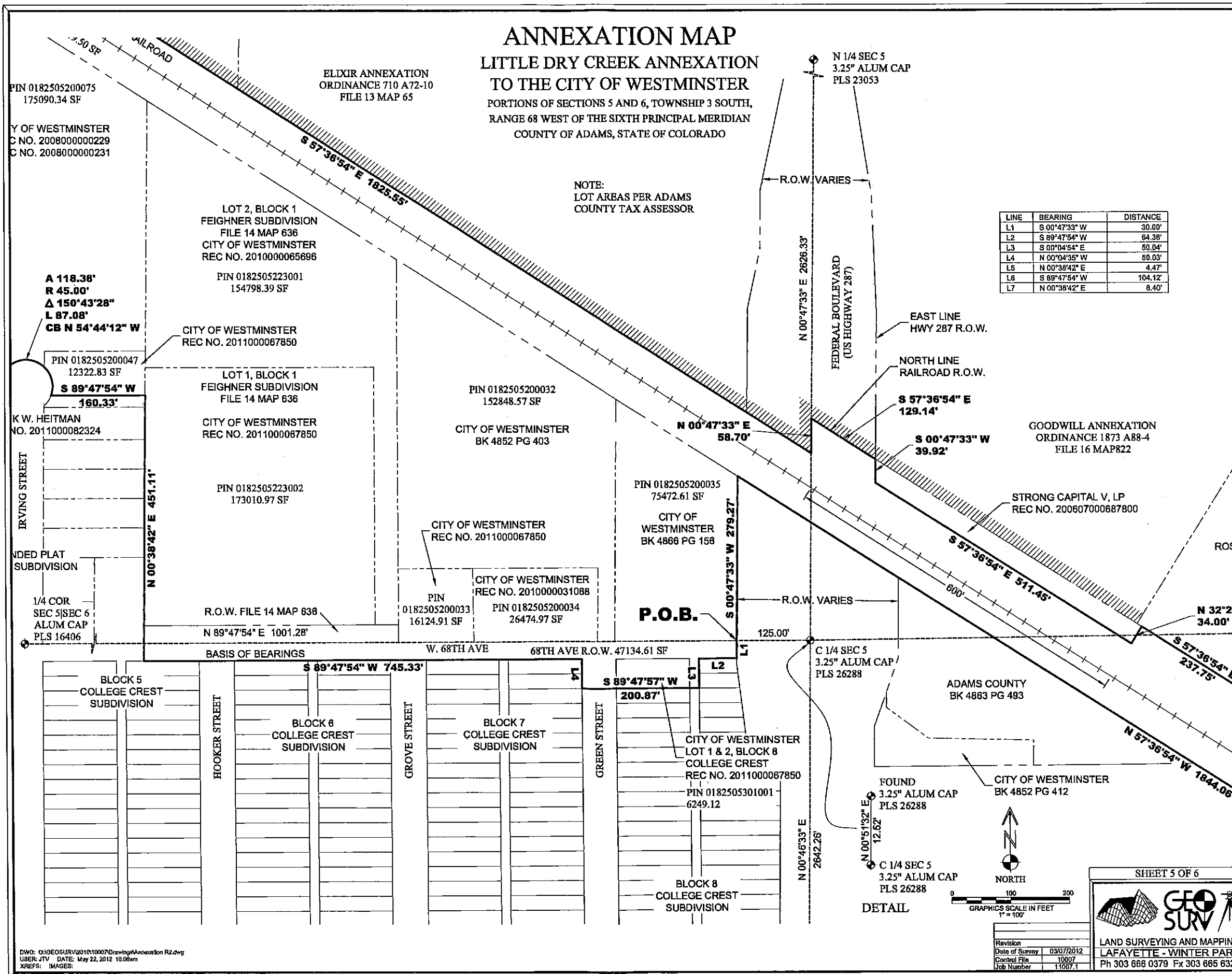
# ANNEXATION MAP

## LITTLE DRY CREEK ANNEXATION TO THE CITY OF WESTMINSTER

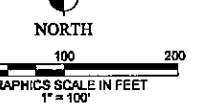
PORTIONS OF SECTIONS 5 AND 6, TOWNSHIP 3 SOUTH,  
RANGE 68 WEST OF THE SIXTH PRINCIPAL MERIDIAN  
COUNTY OF ADAMS, STATE OF COLORADO

NOTE:  
LOT AREAS PER ADAMS  
COUNTY TAX ASSESSOR

LINE	BEARING	DISTANCE
L1	S 00°47'33" W	30.00'
L2	S 89°47'54" W	64.38'
L3	S 00°04'54" E	50.04'
L4	N 00°04'35" W	50.03'
L5	N 00°38'42" E	4.47'
L6	S 89°47'54" W	104.12'
L7	N 00°38'42" E	8.40'



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 USER: JTV DATE: May 22, 2012 10:00am  
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SHEET 5 OF 6

LAND SURVEYING AND MAPPING  
 LAFAYETTE - WINTER PARK  
 Ph 303 666 0379 Fx 303 665 6320

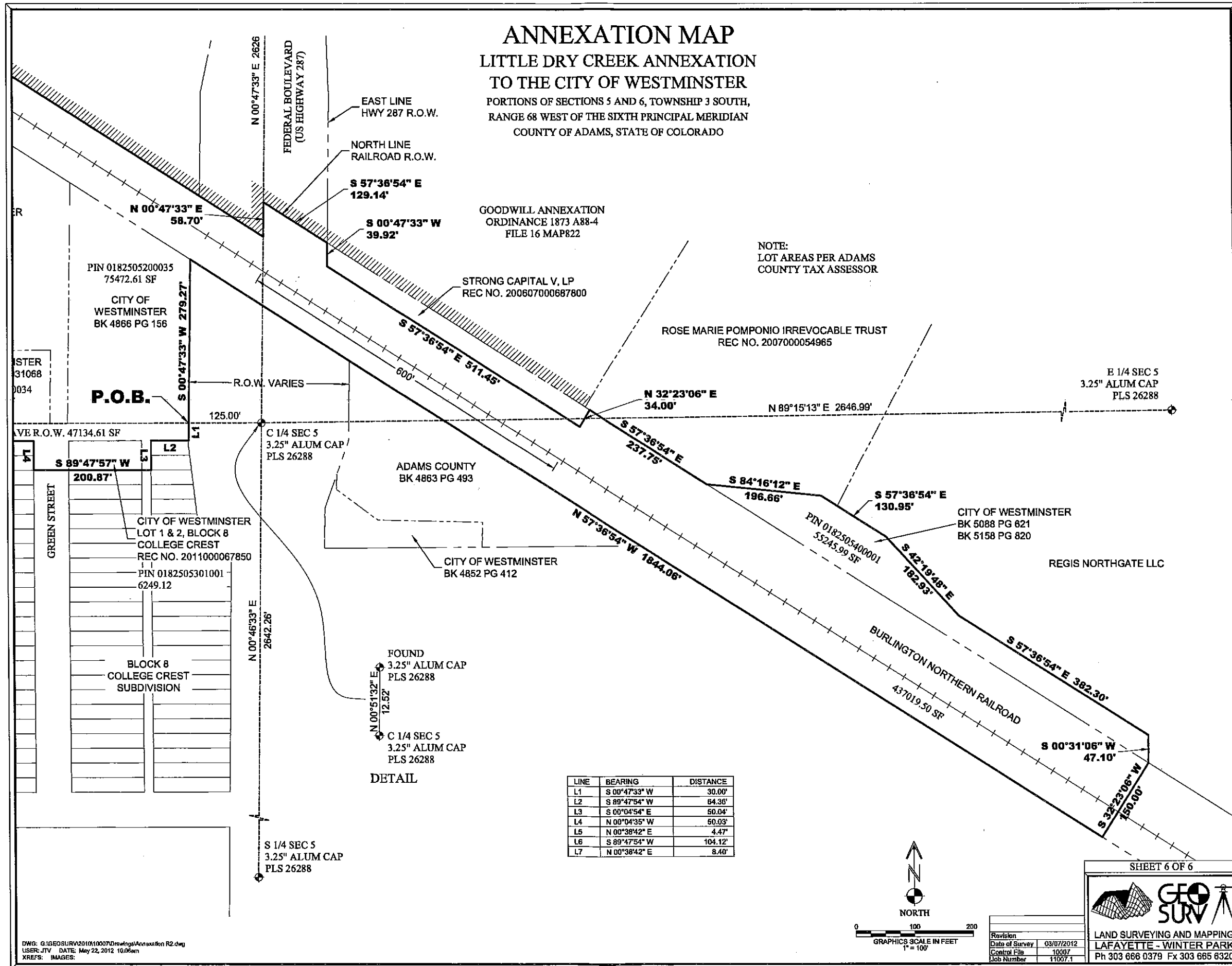
Revision	
Date of Survey	03/07/2012
Control File	10007
Job Number	11007.1



# ANNEXATION MAP

## LITTLE DRY CREEK ANNEXATION TO THE CITY OF WESTMINSTER

PORTIONS OF SECTIONS 5 AND 6, TOWNSHIP 3 SOUTH,  
RANGE 68 WEST OF THE SIXTH PRINCIPAL MERIDIAN  
COUNTY OF ADAMS, STATE OF COLORADO



NOTE:  
LOT AREAS PER ADAMS  
COUNTY TAX ASSESSOR

PIN 0182505200035  
75472.61 SF  
CITY OF  
WESTMINSTER  
BK 4866 PG 156

GOODWILL ANNEXATION  
ORDINANCE 1873 A88-4  
FILE 16 MAP822

STRONG CAPITAL V, LP  
REC NO. 200607000687800

ROSE MARIE POMPONIO IRREVOCABLE TRUST  
REC NO. 2007000054965

E 1/4 SEC 5  
3.25" ALUM CAP  
PLS 26288

WESTMINSTER  
31068  
0034

**P.O.B.**

R.O.W. VARIES  
125.00'

C 1/4 SEC 5  
3.25" ALUM CAP  
PLS 26288

ADAMS COUNTY  
BK 4863 PG 493

VE R.O.W. 47134.61 SF

S 89°47'57" W  
200.87'

L2

CITY OF WESTMINSTER  
LOT 1 & 2, BLOCK 8  
COLLEGE CREST  
REC NO. 2011000067850  
PIN 0182505301001  
6249.12

BLOCK 8  
COLLEGE CREST  
SUBDIVISION

FOUND  
3.25" ALUM CAP  
PLS 26288

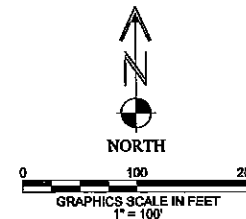
C 1/4 SEC 5  
3.25" ALUM CAP  
PLS 26288

DETAIL

N 00°46'33" E  
2642.26'

S 1/4 SEC 5  
3.25" ALUM CAP  
PLS 26288

LINE	BEARING	DISTANCE
L1	S 00°47'33" W	30.00'
L2	S 89°47'54" W	64.38'
L3	S 00°04'54" E	50.04'
L4	N 00°04'35" W	50.03'
L5	N 00°38'42" E	4.47'
L6	S 89°47'54" W	104.12'
L7	N 00°38'42" E	8.40'



SHEET 6 OF 6

LAND SURVEYING AND MAPPING  
LAFAYETTE - WINTER PARK  
Ph 303 666 0379 Fx 303 665 6320

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USER: JTV DATE: May 22, 2012 10:06am  
XREFS: IMAGES:

**Easley, Jana**

---

**From:** Easley, Jana  
**Sent:** Monday, June 04, 2012 7:15 AM  
**To:** 'Kristy Budeselich'  
**Subject:** RE: Westy Potential Junk: Fwd: Little Dry Creek Annexation

Kristy,

The annexation would run the length of the railroad to a parcel on the north side of the track that the City owns; however, your property would not be included in the annexation.

If you have further questions, please let me know.

Jana

Jana Easley, AICP, Principal Planner  
 4800 W. 92nd Ave.  
 Westminster, CO 80031  
 (303) 658-2100  
[jeasley@cityofwestminster.us](mailto:jeasley@cityofwestminster.us)

City Hall is open Monday through Thursday 7:00 am to 6:00 pm and closed on Fridays.



WESTMINSTER

---

**From:** Kristy Budeselich [<mailto:kristy.budeselich@gerbercollision.com>]  
**Sent:** Friday, June 01, 2012 10:58 AM  
**To:** Easley, Jana  
**Subject:** Westy Potential Junk: Fwd: Little Dry Creek Annexation

Hello,

I was wondering if you could provide further information regarding the email I sent earlier this week.

Thank you,  
 Kristy

----- Forwarded message -----

**From:** **Kristy Budeselich** <[kristy.budeselich@gerbercollision.com](mailto:kristy.budeselich@gerbercollision.com)>  
**Date:** Tue, May 29, 2012 at 8:04 AM  
**Subject:** Little Dry Creek Annexation  
**To:** [jeasley@cityofwestminster.us](mailto:jeasley@cityofwestminster.us)

Hello,

I received notice over the weekend regarding the CLUP. I reside at 2843 West 67th Place and I back up to the railroad line. It is difficult to determine the potential effect this will have on my home based off the map. Please advise, if possible how much of my property may be annexed. I would like to make some improvements to my

home, however; with the potential of losing value I don't want to waste money if the annexation will devalue my home.

Please advise at your earliest convenience,

Thank you,  
Kristy Budeselich  
2843 West 67th Place  
Denver CO 80221

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **18**

SERIES OF 2012

INTRODUCED BY COUNCILLORS

---

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

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The City Council finds:

a. That the City has initiated an amendment to the Westminster Comprehensive Land Use Plan, pursuant to W.M.C. §11-4-16(D), for the property described in attached Exhibit A, incorporated herein by reference, requesting a change in the land use designations from Unincorporated Adams County to "City-Owned Open Space" for the 44.197-acre property located along and south of the Burlington Northern Santa Fe rail line, between Lowell Boulevard and Federal Boulevard and between Federal Boulevard and Clay Street.

b. That such amendment has been referred to the Planning Commission, which body held a public hearing thereon on May 29, 2012, after notice complying with W.M.C. §11-4-16(B) and has recommended approval of the requested amendment.

c. That notice of the public hearing before Council has been provided in compliance with W.M.C. §11-4-16(B).

d. That Council, having considered the recommendations of the Planning Commission, has completed a public hearing and has accepted and considered oral and written testimony on the requested amendments.

e. That the requested amendment will further the public good and will be in compliance with the overall purpose and intent of the Comprehensive Land Use Plan, particularly the goal that encourages the enhancement of the City's open space system to preserve and protect natural areas, vistas, and view corridors, and to complete the open space and trail system.

Section 2. The City Council approves the requested amendments and authorizes City Staff to make the necessary changes to the map and text of the Westminster Comprehensive Land Use Plan to change the designation of the property more particularly described on attached Exhibit A, to "City-Owned Open Space", as depicted on the map attached as Exhibit B.

Section 3. Severability: If any section, paragraph, clause, word or any other part of this Ordinance shall for any reason be held to be invalid or unenforceable by a court of competent jurisdiction, such part deemed unenforceable shall not affect any of the remaining provisions.

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

Section 5. The title and purpose of this ordinance shall be published prior to its consideration on second reading. The full text of this ordinance shall be published within ten (10) days after its enactment after second reading.

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 25<sup>th</sup> day of June, 2012.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 23<sup>rd</sup> day of July, 2012.

---

Mayor

ATTEST:

APPROVED AS TO LEGAL FORM:

---

City Clerk

---

City Attorney's Office

## DESCRIPTION OF LAND TO BE ANNEXED

A PORTION OF SECTION 5 AND A PORTION OF THE SOUTH HALF OF THE NORTHEAST QUARTER OF SECTION 6; ALL IN TOWNSHIP 3 SOUTH, RANGE 68 WEST OF THE SIXTH PRINCIPAL MERIDIAN, BEING A PORTION OF THE BURLINGTON NORTHERN RAILROAD RIGHT OF WAY AND THE FOLLOWING PARCELS CONVEYED TO THE CITY OF WESTMINSTER AND THE WESTMINSTER HOUSING AUTHORITY:

## NOTE:

1. THE BASIS OF BEARINGS IS THE SOUTH LINE OF THE NORTHWEST QUARTER OF SECTION 5, T3S, R68W 6TH P.M. AS MONUMENTED WITH AN ALUMINUM CAP PLS 16406 IN A MONUMENT BOX ON THE WEST AND AN ALUMINUM CAP PLS 26288 ON THE EAST WITH A BEARING OF N 89°47'54" E A DISTANCE OF 2635.75 FEET (CITY OF WESTMINSTER DATUM).

## CITY OF WESTMINSTER PARCELS:

RECEPTION NUMBER 2011000067850;

BOOK 4996 PAGE 59;

RECEPTION NUMBERS 2008000000229 AND 2008000000231, LESS RECEPTION NUMBER 2011000082324;

RECEPTION NUMBER 2010000065696;

BOOK 4852 PAGE 403;

RECEPTION NUMBER 2010000031068;

BOOK 4866 PAGE 156;

BOOK 5088 PAGE 621 AND CORRECTED IN BOOK 5158 PAGE 820;

## WESTMINSTER HOUSING AUTHORITY PARCELS:

RECEPTION NUMBER 20050422000421310

RECEPTION NUMBER 200411160011162080;

COMMENCING AT THE CENTER QUARTER CORNER OF SECTION 5, AN ALUMINUM CAP PLS 26288; THENCE S 89°47'54" W, ALONG THE SOUTHERLY LINE OF THE NORTHWEST QUARTER OF SAID SECTION 5, A DISTANCE OF 125.00 FEET TO THE WESTERLY RIGHT OF WAY LINE OF FEDERAL BOULEVARD, A.K.A. US HIGHWAY 287, AS DESCRIBED IN BOOK 749 AT PAGE 342, AND THE POINT OF BEGINNING: THENCE S 00°47'33" W, ALONG SAID WESTERLY RIGHT OF WAY LINE, A DISTANCE OF 30.00 FEET TO A POINT ON THE NORTHERLY LINE OF LOT 48, BLOCK 8 COLLEGE CREST SUBDIVISION, BEING THE SOUTHERLY RIGHT OF WAY LINE OF WEST 68TH AVENUE; THENCE S 89°47'54" W, ALONG SAID NORTHERLY LINE OF LOT 48, BLOCK 8, A DISTANCE OF 64.36 FEET TO THE NORTHWEST CORNER OF SAID LOT 48, BLOCK 8; THENCE S 00°04'54" E, ALONG THE WESTERLY LINE OF SAID LOT 48, BLOCK 8, A DISTANCE OF 50.04 FEET TO A POINT OF INTERSECTION WITH SAID WESTERLY LINE AND THE SOUTHERLY LINE OF OF THAT PARCEL DESCRIBED AT RECEPTION NUMBER 2011000067850 PARCEL A, EXTENDED EASTERLY; THENCE S 89°47'57" W, ALONG SAID SOUTHERLY LINE AND SAID SOUTHERLY LINE EXTENDED WESTERLY, A DISTANCE OF 200.87 FEET TO A POINT ON THE EASTERLY LINE OF BLOCK 7 COLLEGE CREST SUBDIVISION, BEING THE WESTERLY RIGHT OF WAY LINE OF GREEN STREET;

THENCE N 00°04'35" W, ALONG SAID EASTERLY LINE, A DISTANCE OF 50.03 FEET TO THE NORTHEAST CORNER OF LOT 48, BLOCK 7 COLLEGE CREST SUBDIVISION;  
THENCE S 89°47'54" W, ALONG THE NORTHERLY LINE OF SAID BLOCK 7, BLOCK 6 AND A PORTION OF BLOCK 5 COLLEGE CREST SUBDIVISION, A DISTANCE OF 745.33 FEET TO THE INTERSECTION OF SAID NORTHERLY LINE OF BLOCK 5 WITH THE EASTERLY LINE OF THE AMENDED PLAT DOOSE SUBDIVISION, RECORDED AT FILE 10 MAP 7, EXTENDED SOUTHERLY;  
THENCE N 00°38'42" E, ALONG SAID EASTERLY LINE, A DISTANCE OF 451.11 FEET TO THE SOUTHEAST CORNER OF THAT PARCEL DESCRIBED AT RECEPTION NUMBER 2011000067850 PARCEL D;  
THENCE S 89°47'54" W, ALONG THE SOUTHERLY LINE OF SAID PARCEL D, A DISTANCE OF 160.33 FEET TO A POINT OF NON TANGENT CURVATURE ON THE TEMPORARY TURN AROUND AS SHOWN ON AMENDED PLAT DOOSE SUBDIVISION;  
THENCE ALONG A CURVE TO THE LEFT, ALONG SAID TEMPORARY TURN AROUND, A DISTANCE OF 118.38 FEET TO A POINT OF NON TANGENCY ON THE EASTERLY LINE OF THAT PARCEL DESCRIBED AT 2011000082324, SAID CURVE HAVING A RADIUS OF 45.00 FEET, A DELTA ANGLE OF 150°43'28" AND A CHORD DISTANCE OF 87.08 FEET WHICH BEARS N 54°44'12" W;  
THENCE N 00°38'42" E, ALONG SAID EASTERLY LINE, A DISTANCE OF 4.47 FEET TO THE NORTHEAST CORNER OF SAID PARCEL DESCRIBED AT 2011000082324;  
THENCE S 89°47'54" W, ALONG THE NORTHERLY LINE OF SAID PARCEL DESCRIBED AT 2011000082324, A DISTANCE OF 104.12 FEET TO THE EASTERLY LINE OF RESUBDIVISION OF LINDIE HEIGHTS SUBDIVISION, RECORDED IN PLAT BOOK 5 PAGE 31 (FILE 10 MAP 77);  
THENCE N 00°38'42" E, ALONG SAID EASTERLY LINE AND THE EASTERLY LINE OF NASH SUBDIVISION, RECORDED AT FILE 17 MAP 341, A DISTANCE OF 233.06 FEET TO THE NORTHEAST CORNER OF SAID NASH SUBDIVISION;  
THENCE S 89°53'23" W, ALONG THE NORTHERLY LINE OF SAID NASH SUBDIVISION, A DISTANCE OF 581.98 FEET TO A POINT ON THE EASTERLY LINE OF THAT PARCEL DESCRIBED IN BOOK 3009 AT PAGE 159;  
THENCE N 00°38'42" E, ALONG SAID EASTERLY LINE, A DISTANCE OF 8.40 FEET THE NORTHEAST CORNER OF SAID PARCEL DESCRIBED IN BOOK 3009 AT PAGE 159;  
THENCE S 89°47'54" W, ALONG THE NORTHERLY LINE OF SAID PARCEL DESCRIBED IN BOOK 3009 AT PAGE 159 AND SAID NORTHERLY LINE EXTENDED WESTERLY, A DISTANCE OF 582.00 FEET TO A POINT ON THE WEST LINE OF SECTION 5;  
THENCE N 89°21'18" W A DISTANCE OF 40.00 FEET TO THE WESTERLY RIGHT OF WAY LINE OF LOWELL BOULEVARD BEING A POINT ON THE CITY OF WESTMINSTER CORPORATE LIMITS, ORDINANCE 596 A70-4;  
THENCE N 00°38'42" E, ALONG SAID ORDINANCE 596 A70-4, A DISTANCE OF 242.76 FEET TO A POINT ON THE CITY OF WESTMINSTER CORPORATE LIMITS, ORDINANCE 550 A68-1;  
THENCE ALONG SAID ORDINANCE 550 A68-1, THE FOLLOWING FOUR (4) COURSES:  
1. THENCE S 89°21'18" E A DISTANCE OF 10.00 FEET;  
2. THENCE N 00°38'42" E A DISTANCE OF 326.16 FEET;  
3. THENCE S 89°54'05" E A DISTANCE OF 30.00 FEET TO A POINT ON THE EAST LINE OF SECTION 6;  
4. THENCE N 89°05'58" E A DISTANCE OF 1084.14 FEET;  
THENCE S 57°36'54" E, CONTINUING ALONG SAID ORDINANCE 550 A68-1, ALONG ORDINANCE 710 A72-10 AND ALONG ORDINANCE 1873 A88-4, A DISTANCE OF 1825.55 FEET;

THENCE CONTINUING ALONG ORDINANCE 1873 A88-4, THE FOLLOWING TWO (2) COURSES:

1. THENCE N 00°47'33" E A DISTANCE OF 58.70 FEET;
2. THENCE S 57°36'54" E A DISTANCE OF 129.14 FEET TO THE NORTHWEST CORNER OF THAT PARCEL DESCRIBED AT RECEPTION NUMBER 200607000687800; THENCE ALONG SAID RECEPTION NUMBER 200607000687800, THE FOLLOWING THREE (3) COURSES:

1. THENCE S 00°47'33" W A DISTANCE OF 39.92 FEET;
2. THENCE S 57°36'54" E A DISTANCE OF 511.45 FEET;
3. THENCE N 32°23'06" E A DISTANCE OF 34.00 FEET TO A POINT ON THE NORTHERLY RIGHT OF WAY LINE OF THE BURLINGTON NORTHERN RAILROAD; THENCE S 57°36'54" E, ALONG SAID NORTHERLY RIGHT OF WAY LINE, A DISTANCE OF 237.75 FEET TO THE NORTHWESTERLY CORNER OF PARCEL 14 AS DESCRIBED IN BOOK 5088 AT PAGE 621 AND CORRECTED IN BOOK 5158 AT PAGE 820; THENCE ALONG SAID PARCEL 14, THE FOLLOWING FIVE (5) COURSES:

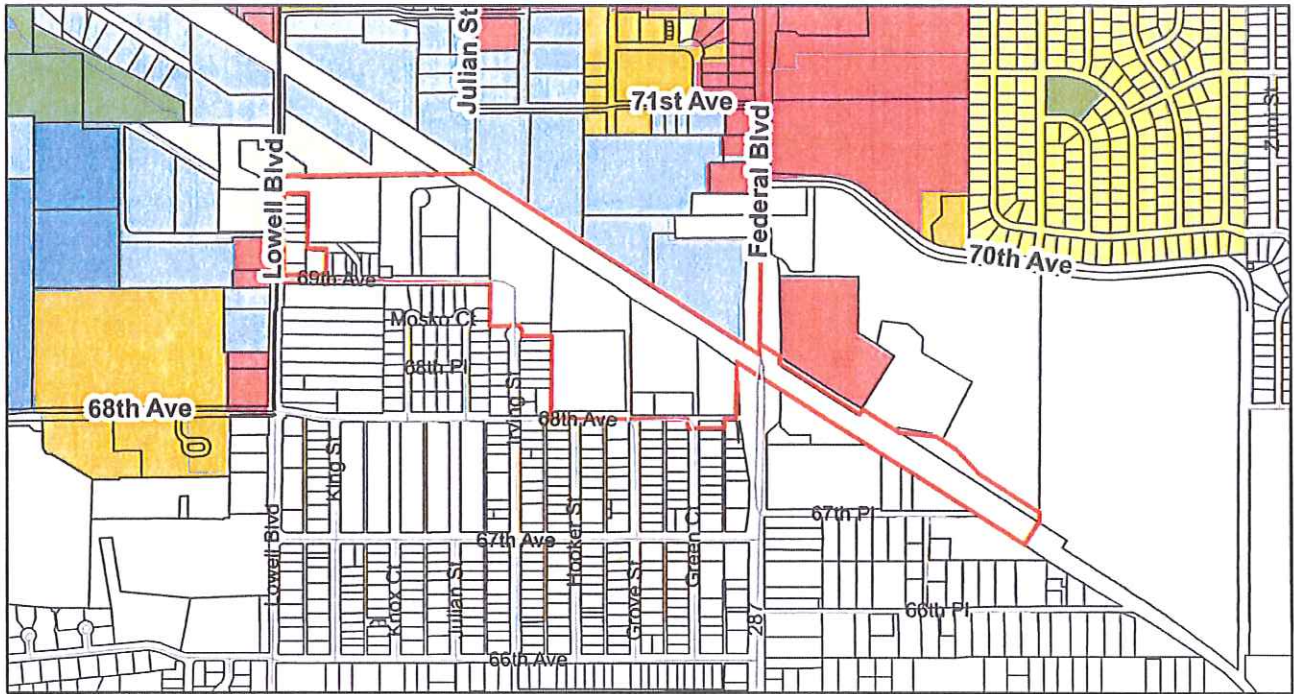
1. THENCE S 84°16'12" E A DISTANCE OF 196.66 FEET;
2. THENCE S 57°36'54" E A DISTANCE OF 130.95 FEET;
3. THENCE S 42°19'48" E A DISTANCE OF 182.93 FEET;
4. THENCE S 57°36'54" E A DISTANCE OF 382.30 FEET;
5. THENCE S 00°31'06" W A DISTANCE OF 47.10 FEET TO A POINT ON THE NORTHERLY RIGHT OF WAY LINE OF THE BURLINGTON NORTHERN RAILROAD; THENCE S 32°23'06" W A DISTANCE OF 150.00 FEET TO A POINT ON THE SOUTHERLY RIGHT OF WAY LINE OF THE BURLINGTON NORTHERN RAILROAD; THENCE N 57°36'54" W ALONG SAID SOUTHERLY RIGHT OF WAY LINE, A DISTANCE OF 1844.06 FEET TO THE WESTERLY RIGHT OF WAY LINE OF FEDERAL BOULEVARD, A.K.A. US HIGHWAY 287, PROJECT NO. F004-1(20) AS DESCRIBED IN BOOK 749 AT PAGE 342; THENCE S 00°47'33" W, ALONG SAID WESTERLY LINE, A DISTANCE OF 279.27 FEET TO THE POINT OF BEGINNING.  
CONTAINING 45.839 ACRES MORE OR LESS.

EXCEPTING THEREFROM:

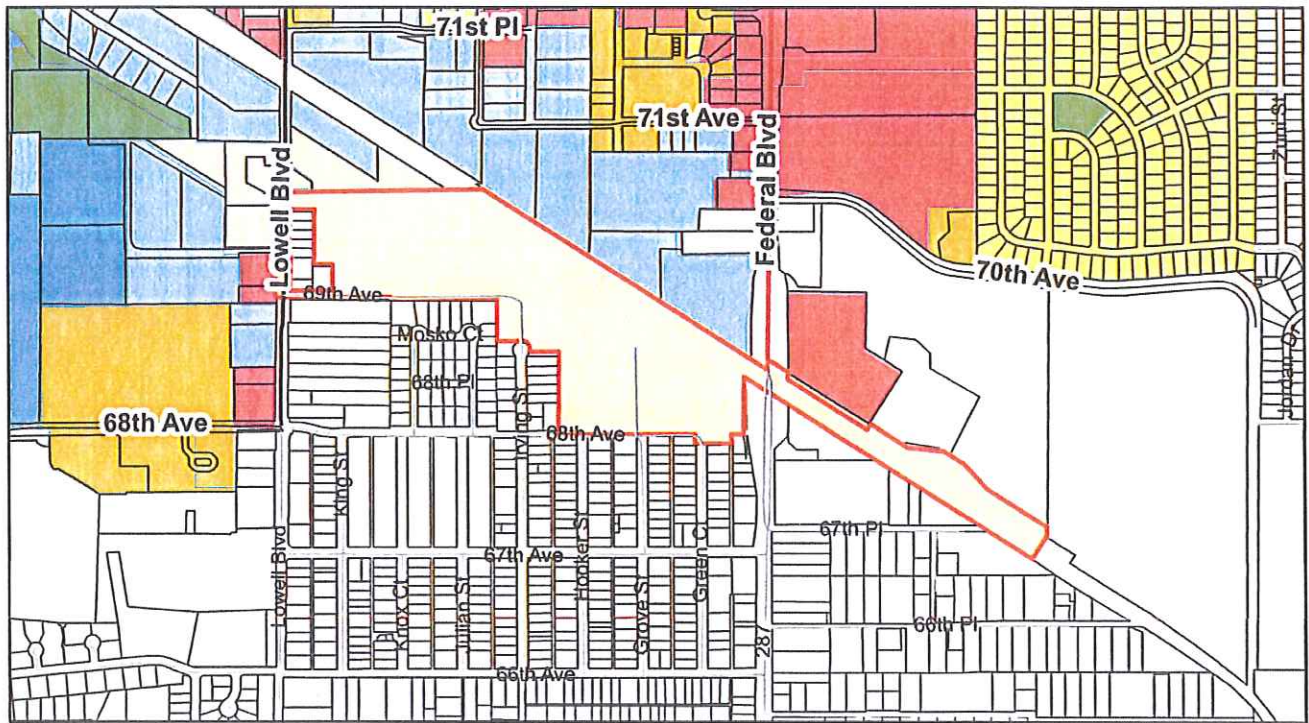
LOTS 1-9 NORTH MOUNTAIN VIEW SUBDIVISION, FILE 9 MAP 126, LESS THAT PORTION OF LOWELL BOULEVARD RIGHT OF WAY, RECEPTION NUMBERS C0747799 AND C0810426;  
CONTAINING 1.642 ACRES MORE OR LESS.

TOTAL ANNEXATION CONTAINING IN TOTAL 44.197 ACRES MORE OR LESS.



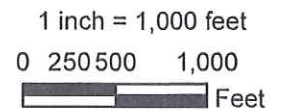


Proposed CLUP Designation (City-Owned Open Space)



**Legend**

Adams County Parcels	R-8	Traditional Mixed Use
LDC_Annexation_May2012	R-18	City Owned Open Space
<b>CompPlan_Layer</b>	Retail Commercial	Public Parks
<b>CP_DESIG</b>	Office	Private Parks/Open Space
R-1	Industrial	Golf Courses
R-2.5	Business Park	Public/Quasi Public
R-3.5	Office/Residential	N.E. Comprehensive Land Use Plan
R-5	District Center	Major Creek Corridor Non Public







**Agenda Memorandum**

City Council Meeting  
June 25, 2012



**SUBJECT:** Public Hearing and Councillor's Bill No. 21 re Ordinance Amending §16-5-36, W.M.C. re United Power Electric Franchise

**Prepared By:** Ben Goldstein, Management Analyst  
Jane W. Greenfield, Assistant City Attorney

**Recommended City Council Action**

1. Hold a public hearing.
2. Pass Councillor's Bill No. 21 on first reading amending the Westminster Municipal Code Section 16-5-36 of the United Power Electric Franchise to allow the undergrounding fund monies to be used for other mutually agreeable capital projects within the franchise area.

**Summary Statement**

- The City has had a franchise for electric power with United Power, Inc., to serve a small portion of the City in the extreme northeast quadrant since 1993. The current franchise has been in effect since 2006, and it expires on December 31, 2026.
- The United Power 1 ½% undergrounding fund contains approximately \$30,000, but the City does not foresee any undergrounding needs in the franchise area since the development of that area has occurred subsequent to the City's code requirement mandating undergrounding of utility lines.
- The franchise language appears to limit the use of the undergrounding fund to conversion of overhead facilities and, as no conversions are needed or anticipated, the City staff and United Power desire to broaden the use of those funds for other capital projects within the franchise area.
- The City's Charter requires that any amendment to the franchise, which is also incorporated in the Westminster Municipal Code, must be adopted by ordinance of Council after a public hearing.

**Expenditure Required:** \$0

**Source of Funds:** N/A

**Policy Issue**

Should City Council amend the current franchise with United Power, Inc., to permit the undergrounding fund to be utilized for capital projects other than the undergrounding of power lines with the mutual consent of the City and United Power?

**Alternative**

Do not adopt the ordinance. This alternative is not recommended, as the current franchise with United Power provides for the company retaining 1 ½% of its electric revenues from City customers for use by the City in undergrounding projects. As these funds belong to the Company, there would be no benefits to the City if the monies cannot be used for a different utility related purpose and the City would lose an opportunity to put those monies to another beneficial use.

**Background Information**

The City currently has an electric franchise with United Power for a small area in the northeast corner of the City. The United Power undergrounding fund contains approximately \$30,000, but no undergrounding needs exist in their franchise area since all new development is required to be served by underground lines pursuant to the City's Code. United Power proposes to use those funds to replace the current 17 streetlights in the Quail Hill and Silver Oaks neighborhoods with LED streetlights. Under the current City Code, the City does not have the clear authority to divert these funds from undergrounding to another project, therefore, Staff is proposing a Code change to allow for this.

In an effort to reduce the City's energy consumption and a portion of the nearly \$2.5 million being spent on energy and maintenance for street lighting, Staff initiated work on a street lighting study. Through the study, the City is working to establish lighting standards for new and existing street lighting.

As a part of the street lighting study currently underway with the City's vendor Clanton and Associates, the City intends to analyze different lighting types, including LED's. Staff determined that there were no LED lighting installations near Westminster that would meet the intended sample guidelines and proposed a possible installation site within the City. One of these proposed sites was in the United Power services area of the City, which is a small portion in the far Northeast portion of the City, including the Quail Hill and Silver Oaks neighborhoods.

Conversations with United Power were extremely positive and resulted in them proposing the use of the underground fund to help cover the costs of the new LED lights, as the lines in this area are new and were initially installed underground. As a further example of the very positive partnership the City has with United Power, they offered to create a new lower LED street light rate for the City, resulting in immediate savings to the City. United Power would also like to use this installation as a test site for future LED installations throughout their services area, thus providing additional incentive for them to support the proposed project.

Under the current franchise, United Power sets aside 1.5% of their electric revenues from the franchise area in a reserve for undergrounding projects that the City requests. Because the development in this area is relatively new and the City has had a mandatory undergrounding requirement for utility lines in our code for a number of years, all of the electric lines in this area are currently underground and any future lines would also be undergrounded, without the necessity of using the undergrounding fund dollars.

The undergrounding fund dollars are not City funds and those dollars would stay in United Power's possession unless and until used for an undergrounding project or the expiration of the franchise, at which time the company could use the funds for whatever it desired. Staff feels it would be reasonable to amend

the language in the franchise agreement to permit the dollars in the undergrounding fund to be used for capital projects other than undergrounding, with the mutual consent of the City and the company.

The City has already received a letter from United Power's CEO requesting the change as proposed in this ordinance and consenting to its passage.

The installation of LED lighting in the United Power service area within the City of Westminster will help achieve several of City Council Strategic Plan Goals, including: Financially Sound City Government Providing Exceptional Services; Vibrant Neighborhoods in One Livable Community; and Beautiful and Environmentally Sensitive City.

Respectfully submitted,

Stephen P. Smithers  
Acting City Manager

Attachments

- Ordinance
- Letter from United Power

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **21**

SERIES OF 2012

INTRODUCED BY COUNCILLORS

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**A BILL  
FOR AN ORDINANCE AMENDING SUBSECTION 16-5-36(H), W.M.C., CONCERNING THE  
USE OF THE UNITED POWER UNDERGROUNDING FUND**

WHEREAS, the City has received an application from its franchisee, United Power, Inc. to amend a portion of its existing franchise to permit the undergrounding fund monies to be utilized for mutually agreed to utility projects in addition to undergrounding projects; and

WHEREAS, the City has determined it is in the best interests of the citizens of Westminster to amend the existing franchise with United Power, Inc.;

NOW, THEREFORE,

THE CITY OF WESTMINSTER ORDAINS:

Section 1. Section 16-5-36, W.M.C., is hereby AMENDED as follows:

**16-5-36: OVERHEAD CONVERSION AT EXPENSE OF COMPANY:**

(A) As and when requested by the City, the Company shall spend one and one-half percent (1½ %) of the preceding calendar year's electric revenues derived from customers located within the City to move the Company's electric distribution lines located on public streets and public easements underground, provided that the undergrounding shall extend for a minimum distance of one block or 750 feet.

(B) Any unexpended portion of the one and one-half percent (1½ %) of electric revenue shall be carried over to succeeding years and, in addition, upon request by the City, the Company shall anticipate amounts to be available for up to three years in advance. Any amounts advanced shall be credited against amounts to be expended in succeeding years until such advance is eliminated.

(C) The City and the Company shall consult and plan together regarding projects to be undertaken pursuant to this section. The Company shall provide nonbinding "ball park" cost estimates for planning purposes at no cost to the City. The final decision as to which projects are selected rests with the City, subject to the provisions of this section. The specific scheduling of projects rests with the Company, which shall make every reasonable effort to complete such projects within the time requested by the City.

(D) If the PUC authorizes a system-wide program or programs of undergrounding electric distribution facilities, the Company will allocate to the program of undergrounding in the City such amount as is authorized by the PUC, but in no case less than one and one-half percent (1½ %) of annual electric revenues derived from customers located within the City.

(E) In no event shall any overhead conversion expense be charged against the one and one-half percent (1½ %) fund herein provided for unless the project to be so funded has been approved by the City to be funded pursuant to this section.

(F) No relocation expenses which the Company is required to expend pursuant to Section 16-5-13 shall be charged to this allocation.

(G) In addition to the provisions of this section, the City may require additional facilities to be moved underground at the City's expense.

(H) The establishment of this undergrounding program creates no vested right in the City to the undergrounding monies. Further, if such monies are not expended pursuant to the conditions hereof, the undergrounding monies are not convertible to cash or available for any other purposes, except that the City and the Company may agree to utilize said monies for other utility-related capital projects within the franchise area.

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

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

INTRODUCED, PASSED ON FIRST READING, AND ORDERED PUBLISHED this 25th day of June, 2012.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 9th day of July, 2012.

\_\_\_\_\_  
Mayor

ATTEST:

APPROVED AS TO LEGAL FORM:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
City Attorney's Office

CERTIFICATION OF CITY CLERK

I, Linda Yeager, City Clerk, hereby certify and attest that this ordinance was published in the Westminster Window, a weekly newspaper of general circulation in the City, on \_\_\_\_\_, 2012 and on \_\_\_\_\_, 2012.

\_\_\_\_\_

City Clerk



Your Touchstone Energy® Partner



June 6, 2012

J. Brent McFall, City Manager  
City of Westminster  
4800 W. 92<sup>nd</sup> Avenue  
Westminster, CO 80031



**RE: Amendment to Franchise Agreement**

Dear Mr. McFall:

We have been working cooperatively with your staff to develop a pilot demonstration project involving the installation of LED technology on those streetlights located in Westminster within our franchise area. We have been advised by the City Attorney's Office that the attached amendment to our franchise agreement, currently located in the City's Code, will be proposed to the City Council for adoption by ordinance sometime in the near future. This amendment will enable us to allocate those funds currently in the undergrounding fund, provided for in the franchise agreement, to be utilized for this exciting energy reducing experiment.

Please consider this letter our request for and consent to this amendment.

Sincerely,

A handwritten signature in cursive script that reads "Ronald D. Asche".

Ronald D. Asche  
CEO

cc: Jane Greenfield, Ass't. City Attorney  
Troy Whitmore, Director of External Affairs  
Dean Hubbuck, Director of Engineering & Rates

Proposed franchise amendment:

**16-5-36: OVERHEAD CONVERSION AT EXPENSE OF COMPANY: (2107 3322)**

(A) As and when requested by the City, the Company shall spend one and one-half percent (1½ %) of the preceding calendar year's electric revenues derived from customers located within the City to move the Company's electric distribution lines located on public streets and public easements underground, provided that the undergrounding shall extend for a minimum distance of one block or 750 feet.

(B) Any unexpended portion of the one and one-half percent (1½ %) of electric revenue shall be carried over to succeeding years and, in addition, upon request by the City, the Company shall anticipate amounts to be available for up to three years in advance. Any amounts advanced shall be credited against amounts to be expended in succeeding years until such advance is eliminated.

(C) The City and the Company shall consult and plan together regarding projects to be undertaken pursuant to this Section. The Company shall provide nonbinding "ball park" cost estimates for planning purposes at no cost to the City. The final decision as to which projects are selected rests with the City, subject to the provisions of this Section. The specific scheduling of projects rests with the Company, which shall make every reasonable effort to complete such projects within the time requested by the City.

(D) If the PUC authorizes a system-wide program or programs of undergrounding electric distribution facilities, the Company will allocate to the program of undergrounding in the City such amount as is authorized by the PUC, but in no case less than one and one-half percent (1½ %) of annual electric revenues derived from customers located within the City.

(E) In no event shall any overhead conversion expense be charged against the one and one-half percent (1½ %) fund herein provided for unless the project to be so funded has been approved by the City to be funded pursuant to this Section.

(F) No relocation expenses which the Company is required to expend pursuant to Section 16-5-13 shall be charged to this allocation.

(G) In addition to the provisions of this Section, the City may require additional facilities to be moved underground at the City's expense.

(H) The establishment of this undergrounding program creates no vested right in the City to the undergrounding monies. Further, if such monies are not expended pursuant to the conditions hereof, the undergrounding monies are not convertible to cash or available for any other purposes, except that the City and the Company may agree to utilize said monies for other utility-related capital projects within the franchise area.





## Agenda Item 10 H

### Agenda Memorandum

City Council Meeting  
June 25, 2012



**SUBJECT:** Resolution No. 18 re Intergovernmental Agreement Renewal for HOME Investment Partnerships Program Consortium with Adams County

**Prepared By:** Signy Mikita, Community Development Program Planner

### Recommended City Council Action

Adopt Resolution No. 18 authorizing the Mayor to sign an Intergovernmental Agreement in substantially the same form as the attached agreement with Adams County renewing the City's participation in the HOME Investment Partnerships Program Consortium with Adams County for three years.

### Summary Statement

- The City has been a Participating Jurisdiction in the HOME Investment Partnerships Program (HOME) Consortium with Adams County since June 25, 2001.
- As a jurisdiction participating in the consortium, the City of Westminster has received approximately \$200,000 annually in HOME funding from the United States Department of Housing and Urban Development (HUD) that has been applied towards the Adams County administered Housing Rehabilitation Program and City-based affordable housing development projects for low to moderate income Westminster residents.
- Per HUD regulations, the City is not eligible to receive a direct allocation of federal HOME Program funding because the City's housing stock does not meet the required threshold for funding. The Intergovernmental Agreement (IGA) between the City and Adams County will allow the City to continue to access approximately \$200,000 in federal HOME program funds from the United States Department of Housing and Urban Development (HUD) for eligible affordable housing related programs and projects.
- The IGA will be in effect for a period of three years from March 1, 2013 through February 28, 2016.

**Expenditure Required:** \$200,000 (estimated)

**Source of Funds:** HOME Funds

## **Policy Issue**

Should City Council continue to access approximately \$200,000 in HOME program funding by entering into an IGA with Adams County?

## **Alternative**

The City could choose not to enter into the IGA. Staff does not recommend this alternative because this would result in the City not receiving a direct appropriation of HOME funds on an annual basis.

## **Background Information**

The City of Westminster is eligible to receive an allocation of federal HOME funds through a consortium partnership with Adams County. The City is not eligible to receive a direct allocation of federal HOME Program funding per HUD regulation, because the City's housing stock does not meet the required threshold for funding. The HUD formula for determining allocations uses the following factors:

- Number of vacancy-adjusted rental units where the household head is at or below poverty level;
- Number of occupied rental units with overcrowding, incomplete kitchen facilities, incomplete plumbing facilities or high rent costs;
- Number of rental units built before 1950 occupied by poverty level families;
- Number of families at or below the poverty level; and
- Population of the jurisdiction.

The renewal of the IGA between the City and Adams County will allow the City to continue to directly access approximately \$200,000 in federal HOME program funds from HUD to fund eligible affordable housing projects and programs. The City has previously applied these funds towards a housing rehabilitation program administered by the County, first time homebuyer assistance, and equity investments into affordable housing development projects. The renewed IGA will be in effect for a period of three years from March 1, 2013 – February 28, 2016. The City originally entered into an IGA with Adams County on June 25, 2001.

HUD has designated Adams County as a Participating Jurisdiction for the allocation of HOME program funding. A Participating Jurisdiction is a unit or units of local government that develop a geographic consortium for the purposes of receiving federal HOME program funds. The HOME Program was enacted through the HOME Investment Partnership Act at Title II of the Cranston-Gonzales National Affordable Housing Act of 1992. In general, under the HOME program, HUD allocates funds by formula among eligible State and local governments to strengthen public-private partnerships and to expand the supply of decent, safe, sanitary, and affordable housing for low to moderate income families, as defined by HUD. HOME funds may be used to carry out community housing strategies through acquisition, rehabilitation, new construction, and other eligible HOME housing activities.

The current Adams County Participating Jurisdiction is comprised of the cities of Bennett, Brighton, Federal Heights, Northglenn, Thornton, Westminster, and unincorporated Adams County. Under the agreement the City would receive approximately \$200,000 in HOME program funding of which about \$180,000 would be available for projects and programs serving the interests of the City. Adams County would retain 10%, or approximately \$20,000, of the \$200,000 for program administration expenses.

The Adams County Office of Community Development would continue to administer the HOME funds as authorized by the City.

Approval of the IGA supports the following Strategic Plan Goal of being a “Financially Sustainable City Government Providing Exceptional Services” by maintaining and sustaining city infrastructure and facilities, which includes housing through securing non-City financial resources in support of such endeavors. The IGA would also assist in meeting the goal of maintaining “Vibrant Neighborhoods in One Livable Community by maintaining and improving neighborhood infrastructure and housing, and providing a range of quality homes for all stages of life throughout the City. The affordable housing related programs and projects will further contribute towards the continued reinvestment in the South Westminster area, as well as other areas throughout the City.

Respectfully submitted,

Stephen P. Smithers  
Acting City Manager

Attachments

- Resolution
- IGA for HOME Consortium with Adams County

RESOLUTION

RESOLUTION NO. **18**

INTRODUCED BY COUNCILLORS

SERIES OF 2012

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**A RESOLUTION AUTHORIZING THE RENEWAL OF THE INTERGOVERNMENTAL AGREEMENT REGARDING THE HOME INVESTMENT PARTNERSHIPS PROGRAM CONSORTIUM WITH ADAMS COUNTY**

WHEREAS, the City of Westminster (City) and Adams County (County) entered into an Intergovernmental Agreement (IGA) regarding the HOME Investment Partnerships Program (HOME) Consortium dated June 25, 2001; and,

WHEREAS, the City and the County desire to renew the amended Intergovernmental Agreement (IGA) for a three year period from March 1, 2013 through February 28, 2016.

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

Authorize the Mayor to sign the renewal of the Intergovernmental Agreement (IGA) for the HOME Investment Partnerships Program (HOME) Consortium with Adams County for a three year period from March 1, 2013 through February 28, 2016.

PASSED AND ADOPTED this 25th day of June, 2012.

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Mayor

ATTEST:

APPROVED AS TO LEGAL FORM:

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City Clerk

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City Attorney

**INTERGOVERNMENTAL AGREEMENT  
HOME INVESTMENT PARTNERSHIPS PROGRAM (HOME)  
CONSORTIUM - CITY OF WESTMINSTER**

THIS INTERGOVERNMENTAL AGREEMENT (HEREAFTER, "Agreement") is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2012, between the BOARD OF COUNTY COMMISSIONERS, COUNTY OF ADAMS (HEREAFTER "COUNTY"), a political subdivision of the STATE of COLORADO, located at 4430 South Adams County Parkway, Brighton, Colorado, 80601-8205, and the CITY of WESTMINSTER (HEREAFTER "CITY"), located at 4800 West 92nd Avenue, Westminster, Colorado, 80031. The COUNTY and the CITY may be referred to collectively as "Parties," and individually as "Party."

**RECITALS**

**WHEREAS**, the United States Government, through the National Affordable Housing Act of 1990 (the "ACT"), has established the HOME Investment Partnerships Act Program ("HOME"), administered through the U. S. Department of Housing and Urban Development ("HUD") and has designated Adams County as a Participating Jurisdiction ("PJ") to administer such Federal funds, subject to certain conditions, for the purpose of expansion and rehabilitation of the supply of decent, safe, sanitary, and permanent affordable housing and to strengthen partnerships among all levels of government and the private sector; and

**WHEREAS**, Subpart C 92.101 Consortia of the ACT provides that a consortium of geographically contiguous units of general local government can be considered to be a unit of general local government for the purposes of receiving an allocation and participation in the HOME Program, and a determination has been made by HUD that the CITY and COUNTY are geographically contiguous and are eligible to participate in the HOME Program; and

**WHEREAS**, HUD rules and regulations governing HOME funds, as published in 24 CFR, Volume I, Subtitle A, Part 92 ("HOME Regulations"), provide that a county is eligible to receive HOME Investment Partnerships Act Program funds as a "Participating Jurisdiction", as defined therein, and must submit to HUD an annual request for funding in the form of an Annual Action Plan ("AAP"). The cities and units of local government within a county may be included in the Participating Jurisdiction by intergovernmental or cooperative agreement and may thereby be included in the Participating Jurisdiction's HOME Program; and

**WHEREAS**, the CITY and COUNTY recognize the need to address the community issues of homelessness, deteriorating housing stock, increase the supply of permanent affordable housing for lower-income households, and affordable and supportive housing for persons and families residing or wishing to reside in the CITY and have determined that it will be mutually beneficial and in the public interest to enter into an Intergovernmental Agreement regarding participation in the HOME Program; and

**WHEREAS**, the CITY desires to enter into an Intergovernmental Agreement with the COUNTY to participate in a Consortium for the purpose of implementing the HOME Program, as authorized by Title II of the ACT to enhance cooperation between jurisdictions and to maximize the use of resources available by local governments to affect the housing-related problems of lower-income persons; and

**WHEREAS**, the COUNTY has elected to administer such Federal funds for its HOME Consortium through the Adams County Community Development Division; and

**WHEREAS**, the CITY and COUNTY are authorized to enter into cooperative agreements pursuant to the Colorado Constitution, Article XIV, § 18, and § 29-1-203, CRS.; and

**WHEREAS**, the CITY will remain its own Entitlement for the direct receipt and administration of Community Development Block Grant ("CDBG") funds from HUD.

**NOW THEREFORE**, in consideration of the premises and the cooperative actions contemplated hereunder, the CITY and COUNTY agree as follows:

#### **I. RESPONSIBILITIES OF THE PARTIES**

**A. CITY and COUNTY Cooperation.** The CITY and COUNTY will cooperate in the preparation of HOME projects and activities to be conducted and/or performed within the CITY during the Federal Program Years in this Agreement in effect.

If an Advisory Committee or similar group is organized to provide direction and oversight to HOME projects and/or activities, the COUNTY will advise the CITY of the formation thereof, and the CITY will appoint one (01) individual to serve on the committee or group.

**B. Administrative Control.** The COUNTY is designated as the "Lead Entity" and will act in the representative capacity for all member units of general local government for the purposes of HOME. As the Lead Entity, the COUNTY may add new members to the Consortium. The CITY agrees that the COUNTY shall have the ultimate supervisory and administrative control of the HOME Program. The COUNTY shall be responsible for expenditures of HOME funds allocated for each project or activity and for the performance of projects and activities in compliance with all applicable Federal laws and requirements related to HOME or the implementation of the Adams County Annual Action Plan or Five-Year Consolidated Plan with an AAP component, when required, during the period covered by this Agreement.

**C. Program Year/Term of Agreement.** The parties agree that beginning with Program Year ("PY") 2013, the HOME Consortium PY start date shall be March 01, 2013 and the PY end date will be February 28, 2014. Both the CITY and COUNTY agree that the duration of this Agreement shall cover funding for HOME PYs 2013, 2014, and 2015, beginning on March 01, 2013 and ending on February 28, 2016. No Consortium member may withdraw from the Agreement while the Agreement is in effect. The Agreement remains in effect until the expenditures of HOME PYs 2013, 2014, and 2015 funds for

eligible activities and all HOME funds are closed out in HUD's Integrated Disbursement and Information System ("IDIS"), pursuant to 24 CFR 92.507.

**D. IGA.** This Agreement shall be automatically renewed for additional three (3)-year terms. The COUNTY shall provide written notice to the CITY of its right to decline participation for any additional three (03)-year term, pursuant to applicable HUD regulations and the HOME Consortium Calendar. The CITY will respond to the COUNTY of its intent to participate or intent to decline participation in the HOME Consortium. Any changes to this Agreement shall be made pursuant to HUD's most current HOME Consortia Qualification Notice and shall be made by written amendment to this Agreement, which shall be mutually agreed upon and executed by all parties of the Consortium.

**E. Distribution of Funds.** The COUNTY will retain up to ten percent (10%) of the total HOME annual allocation for program administration, construction management, loan origination, processing, closing, and servicing expenses, as well as other expenses related to program operations, in accordance with HUD regulations.

Parties agree that the allocation of HOME funds earmarked for the CITY shall be determined by the most current Census data, American Community Survey ("ACS") data, and the HUD formula applied to HOME allocation determinations. The COUNTY will provide the CITY with written notification of methodology used to determine the annual CITY allocation.

The COUNTY will notify the CITY of its Total Gross HOME allocation within 30 days of the annual HUD Allocation publication. The notification shall identify the breakdown of Administration set-aside for the COUNTY, the CITY's net allocation of HOME funds, how the allocation formula was used to determine the CITY's allocation, and shall include a statement verifying that such allocation shall not be modified or withdrawn without notice to the CITY, as provided herein.

**F. Sub-Recipient Agreements.** Parties agree that the CITY shall determine how the CITY's allocation will be used on an annual basis and this will be authorized through the passing of a City Council Resolution.

The COUNTY shall enter into Sub-Recipient Agreements for all HOME-funded projects and activities approved by and on behalf of the CITY. These Agreements will be executed on an annual basis, providing that HOME-eligible projects are developed and authorized through City Council Resolution. The COUNTY shall take all actions appropriate and required to comply with the applicable provisions of grant agreements administered on behalf of the CITY. In the event The CITY and COUNTY enter into Sub-Recipient Agreements for the administration of CITY HOME-funded projects, both PARTIES shall take all actions appropriate and required to comply with the applicable provisions of grant agreements.

**G. Draw-Down Reimbursement.** Should the CITY pursue a project that would require reimbursement of HOME funds, the CITY will request said funds from the COUNTY and include all necessary documentation for justification, in accordance with HUD regulations and applicable OMB Circulars. If the COUNTY fails to provide reimbursement within sixty (60) days for an eligible project, the

COUNTY must provide written notice of incomplete or insufficient documentation or ineligibility related to the reimbursement request. Upon resubmittal of the request providing documentation in accordance with HUD regulations, the COUNTY will be responsible for reimbursement within thirty (30) days of the date the CITY has provided documentation to cure any deficiency in its reimbursement request.

**H. Program Income.** Should any CITY HOME projects generate Program Income ("PI"), the parties agree that the income shall go towards CITY HOME-funded projects and/or be used specifically for CITY residents through other approved HOME-funded projects, unless such projects or activities are unavailable and HUD commitment and/or expenditure deadlines are threatened. The CITY agrees and understands that ten percent (10%) of all PI received from CITY HOME projects and activities shall be retained by the COUNTY for program administration costs. The PI will be calculated in accordance with 24 CFR, including 92.207 and 92.504.

**I. Designated Project Representatives.** Parties agree that the following designated representatives for the purposes of administering this Agreement are:

CITY of Westminster  
Community Development Department  
Division Manager of Record  
4800 West 92nd Avenue  
Westminster, Colorado 80031  
303.538.7600  
[tchacon@cityofwestminster.us](mailto:tchacon@cityofwestminster.us)

And

Adams COUNTY  
Community Development Division  
Division Administrator of Record  
4430 South Adams County Parkway  
Suite C1900  
Brighton, Colorado 80601-8205  
720.523.6204  
[jpickett@adcogov.org](mailto:jpickett@adcogov.org)

Either party may change its Designated Representative through written notice to the other party, as provided in Paragraph J. Notices, below.

**J. Notices.** The parties agree that any notices permitted or required by this Agreement shall be deemed delivered when personally delivered or upon deposit in the United States Postal Service, fully pre-paid, certified, return receipt requested, and addressed to the Designated Representative identified in Paragraph I or via electronic mail (email) when delivery verification is provided through email delivery notification methods. Either party may change its address by notice issued in accordance with this paragraph.



**K. Conflict of Interest.** In accordance with 24 CFR, Volume 3, Subtitle B, Chapter V, Part 570, no employee official, agent, or consultant of the CITY or COUNTY shall exercise any function or responsibility in which a conflict of interest, real or apparent, would arise.

## **II. RESPONSIBILITIES OF THE COUNTY**

**A. Administrative Oversight.** The COUNTY, as a designated Urban County and Participating Jurisdiction, is ultimately responsible for the administrative oversight and supervision of all HOME funds allocated to the CITY hereunder. As such, the COUNTY is responsible for ensuring that all HOME funds allocated to the CITY are expended in accordance with the AAP, all award letters, Project Agreements, and all ordinances, resolutions, as well as all Federal, State, and Local regulations, and laws pertaining to this Agreement.

The COUNTY is responsible to provide no less than forty-five (45) days notice to the CITY of any deadlines that would require CITY Council action.

**B. Legal Liability and Responsibilities.** Parties recognize and understand that the COUNTY is the governmental entity required to execute all Agreements received from HUD pursuant to the COUNTY's request for HOME funds. The COUNTY shall thereby become and shall be held by HUD to be legally liable and has full responsibility for the execution of the HOME Program. The COUNTY shall be responsible for its AAP and Five-Year Consolidated Plan with an AAP component, when required, and for meeting the requirements of other applicable laws, overall administration and performance of the HOME Program including the HOME projects and activities to be conducted by or through the CITY. The COUNTY assumes overall responsibility for ensuring the Consortium's HOME Program is carried out in compliance with the requirements of HOME, including requirements concerning a Consolidated Plan, as set forth in HUD regulations CFR Parts 91 and 92, and the requirements of 24 CFR, 92.350 (a) (5).

**C. Eligibility Review and Compliance Monitoring.** The COUNTY's supervisory, programmatic, and administrative obligations to the CITY shall be limited to the performance of the administrative and programmatic tasks necessary to ensure HOME fund availability to the CITY. The COUNTY shall also be responsible to provide monitoring and technical assistance to all projects funded through HOME to ensure compliance with applicable regulations, requirements, and laws associated with the HOME Program.

The COUNTY shall be responsible for determining eligibility and confirming the compliance of the CITY's HOME projects and activities with all applicable Federal laws, regulations, and requirements, as well as all Local and State regulations and laws necessary to ensure compliance with HOME. The COUNTY will provide the CITY written verification of the COUNTY's determination of project eligibility to the CITY before the project sub-recipient agreement is authorized. The COUNTY is also responsible for ensuring compliance with Federal requirements, including all associated regulations, rules, guidelines, and circulars promulgated by the Federal departments, agencies, and commissions related to the HOME Program; including, but not limited to Davis-Bacon Act, Contract Work Hours and Safety Standards Act, Title VI of the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968, the Housing and Urban

Development Act of 1968, the Housing and Community Development Act of 1974, the Fair Housing Act, Uniform Federal Accessibility Standards (UF AS), Americans with Disabilities Act, and the Residential Lead-Based Paint Hazard Reduction Act of 1992, as amended, and any associated regulations and rules.

**D. Action Plan/Consolidated Plan Submissions.** The parties further understand that the COUNTY shall be responsible for the development and submission of its own AAP, Consolidated Annual Performance Evaluation Report ("CAPER"), and Five-Year Consolidated Plan as the lead in the HOME Consortium. Before the COUNTY submits any of said documents to HUD, the COUNTY shall provide written notification to the CITY of the required thirty (30)-day public comment period, as provided in the COUNTY's Citizen Participation Plan, and will provide the CITY with the opportunity to provide feedback on all applicable draft plans.

**E. Reporting Requirements.** The COUNTY shall provide the CITY with semi-annual and year-end HOME activity reports for any HOME-funded CITY projects and activities and CITY PI-funded projects and activities, as well as additional reasonable reports requested by the CITY with a thirty (30) day written request to the COUNTY.

The COUNTY will file all necessary and required reports and other information associated with the implementation and administration of the HOME Program, as necessary to comply with applicable Federal laws and regulations, as required by HUD. The COUNTY shall be responsible for confirming the compliance of CITY projects and activities with applicable Federal laws and regulations. The COUNTY shall further be responsible for maintaining proper documentation of the COUNTY's administrative expenses, for determining all necessary reports and information are filed with HUD and other applicable Federal agencies in a timely manner to ensure compliance.

### **III. RESPONSIBILITIES OF THE CITY**

**A. Action Plan/Consolidated Plan Submissions.** The CITY, as an Entitlement Community, prepares its own separate Consolidated Plan, AAP, and CAPER for the Community Development Block Grant ("CDBG") Program, but shall include information on CITY projects funded through HOME. The CITY shall provide the COUNTY access to said plans within the applicable thirty (30)-day public comment period.

The CITY shall be responsible to provide the COUNTY with information required and necessary for the development and submission of the COUNTY's Five-Year Consolidated Plan, AAP, and CAPER and the CITY shall provide required and necessary information to the COUNTY for the preparation of reports and plans, as necessary.

**B. Sub-Recipient Agreements.** The CITY shall satisfy all applicable responsibilities associated with HOME-funded projects and activities, per the Sub-Recipient Agreement terms and conditions.

#### IV. MUTUAL RESPONSIBILITIES

**A. Public Notifications and Marketing.** The CITY shall follow its Citizen Participation Plan for the public notification process and, if necessary, shall hold a public hearing each year on proposed CITY HOME-funded projects and activities. The COUNTY shall adhere to HUD requirements regarding public notification and public hearing processes necessary to receive HOME funds. The CITY and COUNTY shall provide each other with access to applicable Citizen Participation Plans and any subsequent updates to said Plans.

The CITY and COUNTY shall be responsible for sharing in the marketing of HOME-funded projects and activities to CITY residents.

**B. Fair Housing.** Parties hereto collectively and individually agree to affirmatively further fair housing, in accordance with all Federal rules, regulations, and requirements. Each party shall be responsible for compliance with HUD Fair Housing regulations, and for individual preparation and submission to HUD the Analysis of Impediments to Fair Housing (AI). Each party shall also be responsible for performance measures established in respective AI plans. The parties agree that the COUNTY is prohibited from funding activities in or in support of a city that does not affirmatively further fair housing within said city or that impedes the COUNTY's actions to comply with its Fair Housing Certification. The CITY acknowledges and affirms that non-compliance by the CITY may constitute non-compliance by the COUNTY, which may provide cause for funding restrictions, sanctions, recaptures, or remedial actions by HUD.

**C. Indemnification.** The parties agree that, to the extent possible, the COUNTY and the CITY shall indemnify and hold the other, its officers, agents, and employees harmless from and against any and all claims, actions, liabilities, costs, including attorney fees, and other costs of defense, arising out of or in any way related to any act or failure to act by each other and each other's officers, agents, and employees, and contractors, in connection with this Agreement.

**D. Venue.** The laws of the State of Colorado shall govern as to the interpretation, validity and effect of this Agreement. The Parties agree that jurisdiction and venue for any disputes arising under this Agreement shall be with the District Court of Adams County, Colorado.

**E. Modification.** This Agreement contains the entire understanding of the parties and neither it, nor the rights and obligations hereunder, may be changed, modified, or waived, except by instrument in writing signed by all parties.

IN WITNESS WHEREOF, the parties have caused their names to be affixed hereto and in agreement thereof, this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

**CITY OF WESTMINSTER,**  
A Colorado Municipal Corporation

\_\_\_\_\_  
Nancy McNally, Mayor  
4800 West 92nd Avenue  
Westminster, Colorado 80031

**ATTEST:**

\_\_\_\_\_  
City Clerk

**APPROVED AS TO FORM:**

\_\_\_\_\_  
City Attorney

**COUNTY OF ADAMS, STATE OF COLORADO**  
**BOARD OF COUNTY COMMISSIONERS**

\_\_\_\_\_  
W.R. "Skip" Fischer, Chairman

**ATTEST:**  
KAREN LONG, CLERK & RECORDER

\_\_\_\_\_  
Deputy Clerk

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Adams County Attorney's Office



Agenda Memorandum

City Council Meeting  
June 25, 2012



**SUBJECT:** Councillor’s Bill No. 22 re Concession Agreement with Top One, Inc.

**Prepared By:** Ken Watson, Acting Director of Parks, Recreation and Libraries

**Recommended City Council Action**

Pass Councillor’s Bill No. 22 on first reading approving a concession agreement between the City of Westminster, Hyland Hills Park and Recreation District and Top One, Inc., d/b/a Benders Bar and Grill to operate a restaurant in the Ice Centre at the Promenade.

**Summary Statement**

- In May 2012, Hyland Hills Park and Recreation District staff were notified by the owner of Benders Bar and Grill that they would be trying to finalize an agreement for the sale of their business.
- Top One, Inc. was successful with negotiating a buyout of the existing Benders Bar and Grill equipment and the restaurant operation.
- After careful review of the qualifications of Top One, Hyland Hills and City of Westminster staff are recommending to move forward with a lease for the new restaurant operator.
- Highlights of the concession agreement include the same basic points as the prior lease with Benders Bar and Grill:
  - a. An initial lease term of five years with two five-year options to renew. After five years, the lease rate will be renegotiated.
  - b. A starting lease rate of \$10 per square foot, which equals \$5,000 per month.
  - c. If during the first year of the lease agreement, the tenant’s total gross revenues exceed \$1 million, the tenant shall pay to the landlord an additional two percent of such total gross revenues. Each succeeding year, the \$1 million total gross revenue number shall be increased by \$50,000 for purposes of computing the additional rent payment.
  - d. The tenant shall pay utility expenses and also pay to the landlord 10% of the Ice Centre’s total expense for common area maintenance and insurance, to be paid monthly.

**Expenditure Required:** \$0

**Source of Funds:** N/A

**Policy Issue**

Does City Council wish to move forward with awarding a lease to a new restaurant operator at the Ice Centre at the Promenade?

**Alternative**

City Council could choose to not approve this lease and request Staff evaluate other uses of the space. This is not recommended since the restaurant has been utilized by hockey teams, families who participate in figure skating, youth hockey, numerous tournaments and other area visitors to the Westminster Promenade, the Westminster Westin Hotel, etc.

**Background Information**

In 1998, Jackson's All-American Grill began restaurant operations in lease space in the Ice Centre. For several years the restaurant operated successfully. However, due to a weakening economy and declining sales, Jackson's was forced to go out of business.

On September 15, 2008, Staff provided City Council with a staff report updating the situation with Jackson's and plans to solicit proposals for a new concession operator. Two proposals were received from qualified operators. Benders Bar & Grill was selected and has operated the restaurant at the Ice Centre at the Promenade for the past four years.

Over the past four years, and as the economy struggled, so did Benders Bar and Grill with the original lease approaching its term, the owner notified Hyland Hills Park and Recreation District Staff that they were looking for buyers of their operations. Hyland Hills staff met with the interested buyers and began negotiations on the lease. Hyland Hills and City of Westminster staff realizes the difficulty of operating a restaurant business during the current economic state and are pleased that a qualified buyer is interested in purchasing Benders' operation. This will provide a food and beverage operation to the Ice Centre's hockey players, figure skaters, public skaters, Westminster Westin conference and hotel attendees, family or friends that visit the Ice Centre or the Westminster Promenade.

The new operation will offer moderately-priced food and drink. The new owners will actively promote the restaurant. The lease terms are generally the same as the current lease agreement and staff believes these terms are in the City's best interest. Staff recommends City Council's approval of the lease agreement.

This action promotes the City Council goals of "Vibrant Neighborhoods in One Livable Community" and "Financially Sustainable City Government Providing Exceptional Services."

Respectfully submitted,

Stephen P. Smithers  
Acting City Manager

Attachments – Ordinance with Exhibit A Lease Agreement

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **22**

SERIES OF 2012

INTRODUCED BY COUNCILLORS

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**A BILL  
FOR AN ORDINANCE APPROVING A LEASE AGREEMENT FOR CONCESSION  
OPERATION AT THE ICE CENTRE**

WHEREAS, the City and Hyland Hills Park and Recreation District (the "District") co-own the Ice Centre at 10710 Westminster Boulevard; and

WHEREAS, it is in the City's and the District's interest to maximize the income generated from such operation by collecting rental income from the concession operation space located in the Ice Centre.

NOW, THEREFORE, THE CITY OF WESTMINSTER ORDAINS:

Section 1. Pursuant to City Charter Section 13.4, the Lease Agreement attached hereto as Exhibit A is hereby approved and ratified.

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

Section 3. The title and purpose of this ordinance shall be published prior to its consideration on second reading. The lease agreement attached hereto as Exhibit A shall be executed by the lessee prior to consideration of this ordinance on second reading. The full text of this ordinance shall be published within ten (10) days after its enactment after second reading.

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 25<sup>th</sup> day of June, 2012.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 9<sup>th</sup> day of July, 2012.

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Mayor

ATTEST:

APPROVED AS TO LEGAL FORM:

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City Clerk

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City Attorney's Office

EXHIBIT A  
LEASE

This Lease, made and entered into this \_\_\_\_ day of July, 2012, by and between HYLAND HILLS PARK AND RECREATION DISTRICT and the CITY OF WESTMINSTER, hereinafter collectively referred to as "Landlord" and TOP ONE, INC., d/b/a Benders Bar and Grill, a Colorado corporation, hereinafter referred to as "Tenant".

1. LEASED PREMISES:

Upon the terms, conditions, covenants, limitations and agreements, and at the rental and for the terms as hereinafter set forth, Landlord hereunto leases unto Tenant and Tenant hereby leases from Landlord the Leasehold Premises ("Premises"), containing approximately 6,000 square feet of floor area, at Landlord's ("Ice Centre"), 10710 Westminster Blvd., Jefferson County, Colorado, as more fully described in Exhibit A attached hereto.

2. TERM:

The term of this Lease and the right of Tenant to take possession and occupy the Premises, pursuant to this Lease, shall commence at 12:01 a.m. on the \_\_\_\_ day of \_\_\_\_\_, 2012, and, unless sooner terminated or later extended, as provided herein, shall expire at 12:00 a.m. on the 31st day of \_\_\_\_\_, 2017.

3. USE OF PREMISES:

3.1 Tenant shall occupy, use and operate the Leasehold Premises as a top quality Concession operation for the sale and service of food and beverages, including alcoholic beverages, to the general public and patrons of the Premises at such prices and under such standards of operation as will assure prompt, courteous, and convenient services to the general public and patrons. The Concessionaire shall comply with all guidelines and standards that are contained in Exhibit B, attached hereto and incorporated herein. Tenant acknowledges that Landlord has an existing contract with Pepsi Cola Metropolitan Bottling, Inc. ("Pepsi") dated February 22, 1999 (the "Pepsi Contract"), paragraph 2 of which limits the type of beverage products that may be sold at any of Landlord's facilities, including the Premises and Tenant agrees to the limitations set forth therein.

3.2 Tenant shall not:

a. Permit any unlawful practice to be carried on or committed on the Leasehold Premises;

b. Make any use or allow the Leasehold Premises or any part thereof to be used in any manner or for any purpose that might invalidate or increase the rate of insurance on any policy maintained by Landlord, for any purposes other than those hereinabove specified, nor for any purpose that shall constitute a public or private nuisance, shall be in violation of any governmental laws, ordinances or regulations, shall be contrary to any restrictive covenants, agreements or limitations of record, or shall render the premises, or any part thereof, uninsurable with standard insurance at ordinary rates. Notwithstanding the foregoing, Landlord



believes and understands that use of the Leased Premises for the Permitted Use will not invalidate or increase the rate of Landlord's insurance, and is not contrary to any restrictive covenants, agreements or limitations of record.

c. Keep or permit to be kept or used on the Leasehold Premises any flammable fluids, toxic materials, or substances of any nature reasonably deemed dangerous by the Lessor or the Lessor's insurance carriers without obtaining prior written consent of the Lessor, except for small quantities of cleaning and cooking products incidental to the permitted uses described in this Agreement;

d. Use the Leasehold Premises for any purpose which creates a nuisance or injures the reputation of the Leasehold Premises or the Lessor;

e. Commit or suffer any waste in or about the Leasehold Premises;

f. Permit any odors to emanate from the Leasehold Premises in violation of any local, state or federal law or regulation;

g. Use any portion of the Leasehold Premises for storage of other purposes except as is necessary and required with its use specified in this Agreement; or

h. Conduct, or allow to be conducted, gambling on site.

#### 4. RENT AND SECURITY DEPOSIT:

4.1 Tenant shall pay to Landlord, as minimum rent during the term of this Lease, \$5,000 per month, together with any additional rents as may hereinafter be reserved. Said rental, exclusive of any additional rents, shall be payable in advance, commencing on the rental commencement date of \_\_\_\_\_, 2012, and on that same date of the month for every month of the rental term thereafter. Every such payment referenced above shall be payable at the office of Landlord, 1800 West 89th Avenue, Denver, Colorado 80260, without notice or demand whatsoever. Notwithstanding anything contained herein to the contrary, Tenant shall have the right to terminate this Lease in the event Tenant is unable to obtain all licenses and permits necessary for Tenant to operate its business in the Premises, despite using reasonable efforts to obtain the same, within sixty (60) days after the date hereof.

4.2 Tenant shall pay to Landlord, upon execution of this Agreement, the sum of \$10,000.00 as a security deposit. Said security deposit will be returned, minus any amounts retained and applied to damages (ordinary wear and tear excepted), caused by Tenant, or rent owing to Landlord from Tenant, upon completion of all necessary repairs to the Premises or within ninety (90) days of termination of the this Lease, whichever comes earlier.

4.3 If during the first year of this Lease Agreement, Tenant's total gross revenues exceed \$1,000,000.00, Tenant shall pay to Landlord, as additional rent, two percent of such total gross revenues. In each succeeding year of the Lease Agreement, the \$1,000,000.00 total gross revenue number shall be increased by \$50,000.00 for purposes of computing any additional rent payment from Tenant to Landlord. Such additional rent shall be due on the 1<sup>st</sup> day of the second month following completion of the respective rental year. This and any other sums

of money or charges to be paid by the Tenant, pursuant to the provisions of this Lease, shall also be designated as "additional rent". A failure to pay additional rent shall be treated in all events as the failure to pay rent.

4.4 If the payment of any rent, additional rent or any other monies payable under the terms of this Lease shall be more than ten (10) days in arrears, Tenant agrees, upon demand of Landlord, to make a late charge payment of five percent (5%) of the amount in arrears.

4.5 Rent shall be abated by 66.66%, prorated on a daily basis, for each day the Ice Centre at the Promenade is closed in excess of three consecutive days.

4.6 Rent for the first three months of the original term of this Agreement shall be reduced to \$4,000.00.

5. OCCUPANCY OF THE PREMISES:

Occupancy of all or a part of the Premises by Tenant shall be deemed an acceptance of the same in good and suitable condition by said Tenant. Notwithstanding the foregoing, Landlord represents and warrants that to the best of its knowledge, as of the delivery of the Premises to Tenant, the Premises shall be in compliance with all applicable laws, rules and regulations, including, without limitation, the Americans with Disabilities Act.

6. PARKING:

Landlord agrees that Tenant, its employees and customers, shall have the non-exclusive right to use the parking lots adjoining and adjacent to the Ice Centre together with other patrons of the Promenade Center.

7. UTILITIES:

Tenant shall pay all charges for, gas, electrical, water, sewer, telephone, cable and all other utilities serving the Premises and for trash removal for the Premises. In addition, Tenant shall pay to Landlord 10% (currently \$577.50 per month) of the Ice Centre's total expenses for common area maintenance and insurance, payable monthly; provided that common area expenses shall not include utilities, trash removal or any other expenses for which Tenant is billed directly or separately. Total charges will change year to year based on the actual cost of providing the common area maintenance services and snow removal. Notwithstanding anything contained herein to the contrary, Tenant shall not be required to contribute to any costs incurred in connection with snow removal from the parking lots of the Ice Centre.

Landlord, not later than April 1 of each year of term of this Agreement, shall provide Tenant with an itemized statement of the Ice Centre's expenses for common area maintenance and insurance incurred by Landlord during the preceding calendar year. To the extent such accounting reveals that the total of Tenant's monthly payment exceed 10% of such expenses during the preceding calendar year, Landlord shall credit such overpayment against the next due monthly rental payments.

8. MAINTENANCE AND REPAIRS:

8.1 Except as covered by any maintenance agreement entered into by Landlord for Landlord owned equipment and furnishings pursuant to section 8.4, below, Tenant shall keep and maintain the Premises, including all Landlord owned equipment and furnishings and all sewer and water drains and connections which exclusively serve the Premises, in good condition and repair at the sole expense of Tenant and, at the expiration of this Lease as well as restroom fixtures and furnishings, Tenant shall surrender and deliver up the said Premises in as good order, condition and repair, loss by inevitable accident, Act of God and ordinary wear and tear excepted, as said Premises were accepted by Tenant at the commencement of this Lease. Landlord shall transfer and assign to Tenant any and all warranties on said sewer and water connections for the term of this lease.

8.2 Tenant shall keep the Premises, including the restrooms located in the Ice Centre Lobby, clean and in the sanitary condition required by the ordinances and health and police regulations of the City of Westminster, County of Jefferson and State of Colorado. Tenant shall neither permit nor suffer any disorderly conduct, noise or nuisance whatsoever about the Premises.

8.3 If Tenant shall fail or refuse to complete or perform any maintenance, repairs or upkeep required pursuant to the terms of this paragraph 8 within fifteen (15) days after written request by Landlord so to do, Landlord may cause such maintenance, repairs or upkeep to be made or done and may thereafter charge the reasonable cost thereof to Tenant and the same shall be and constitute additional rent due hereunder.

8.4 Tenant shall be responsible for, to the satisfaction of Landlord, all HVAC maintenance.

9. LIENS AND CLAIMS AGAINST LANDLORD:

9.1 Tenant shall pay, when due, for all work performed on or for the benefit of or materials furnished to, the Premises, by any person at Tenant's request. In this regard, Tenant shall indemnify and hold harmless and defend Landlord from any and all liability and expense resulting from any lien, claim of lien, or claim against Landlord arising from such work or labor. Tenant shall have the right to contest the validity of such lien, claim of lien, or claim.

9.2 Tenant shall not contract for the performance of any such labor or the acquisition of or delivery of any such materials in connection with, or the installation of any such improvements, unless Tenant shall first obtain Landlord's written approval thereof which approval shall not be unreasonably withheld, conditioned, or delayed.

10. INSURANCE:

10.1 Tenant shall procure and continuously maintain at its own expense the minimum insurance coverages listed below, with forms and insurers acceptable to Landlord. In the case of any claims-made policy, the necessary retroactive dates and extended reporting periods shall be procured to maintain such continuous coverage.

- a. Commercial General Liability Insurance with combined single limit of \$3,000,000 per occurrence. This policy must include Contractor Liability; Products Liability; Broad Form Property Damage including, but not limited to, coverage for any damage to any Landlord personal or real property due to fire or water related to Tenant's operations pursuant to this Agreement; and Personal Injury;
- b. Owned, hired, and non-owned automobile liability coverage with \$600,000 limit;
- c. Statutory workers' compensation on all employees;
- d. All risk insurance for full insurable replacement value of Landlord-owned equipment and personal property.

10.2 The required insurance policies shall be endorsed to include the City of Westminster and Hyland Hills Park and Recreation District as additional insureds as their interests may appear under this Agreement. Every policy required above shall be primary insurance, and any insurance carried by the City of Westminster and/or Hyland Hills Park and Recreation District, their respective elected officials, officers, employees, or others working on their behalf, or carried by or provided through any self-insurance pool of the City or Hyland Hills, shall be excess and not contributory insurance to that provided by Tenant. Each party to this Agreement agrees to waive subrogation on respective property insurance.

10.3 The Certificate of Insurance provided to Landlord shall be completed by Tenant's insurance agent as evidence that policies providing the required coverages, conditions, and minimum limits are in full force and effect, and shall be reviewed and approved by Landlord prior to the commencement of the Agreement. The certificate shall identify this Agreement and shall provide the coverages afforded under the policies shall not be canceled, terminated or materially changed until at least thirty (30) days prior written notice has been given to the Landlord. Certificates of insurance shall be marked to identify this Agreement and shall be sent to:

Executive Director  
Hyland Hills Park and Recreation District  
1800 W. 89<sup>th</sup> Ave  
Denver, Colorado 80260

A certified copy of any policy shall be provided to the Landlord upon its request.

10.4 The parties hereto understand and agree that the City of Westminster and Hyland Hills Park and Recreation District are relying on, and do not waive or intend to waive by any provision of this Agreement, the monetary limitation (presently \$150,000 per person and \$600,000 per occurrence) or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, § 24-10-101, *et. seq.*, C.R.S., as from time to time amended, or otherwise available to them and their elected officials, officers, or employees.

10.5 Tenant covenants that it will neither permit nor suffer the Premises or the walls or floors thereof to be endangered by overloading, nor said Premises to be used for any purpose which would render the insurance void or the insurance risk more hazardous.

11. DAMAGE BY FIRE OR OTHER CASUALTY:

11.1 Unless as set forth in subparagraph 11.2, below, this Lease and all agreements, covenants, terms and conditions contained herein shall remain in full force and effect notwithstanding damage to or destruction of any of the furniture, fixtures, inventory or equipment maintained upon the Premises and, regardless of the nature or extent of the damage and Tenant shall not be entitled to any reduction in or abatement of the rental hereinabove reserved, nor shall Tenant be entitled to any reduction, abatement, or postponement of any of the monthly rental installments hereinabove reserved for or on account of such damage or destruction.

11.2 However, in the event that such damage or destruction was not caused by any act of Tenant, its officers, employees, or agents, than in that event, Landlord shall inform Tenant, within thirty (30) days of the date of destruction or damage, of Landlord's intent to remedy such damage or destruction by replacement or renovation of the damaged property (except for such damage covered under the policies of insurance more fully described in paragraph 10, above). If Landlord does not replace or renovate the non-covered damage or destruction or if the Premises cannot be reasonably restored to the condition existing at the time of the damage or destruction, either within ninety (90) days of such damage or destruction, Tenant may, at Tenant's option terminate this Lease without further obligation on Tenant's part and Tenant shall vacate the Premises within twenty (20) days of such decision to terminate or Tenant may elect to continue the Lease and shall cooperate fully with Landlord in restoring/repairing the damage or destruction. If Tenant elects to so continue the Lease, and if the Premises are untenable, Tenant shall receive an apportionment of the rent until the Premises are tenable.

12. ASSIGNMENT AND SUBLETTING:

12.1 Tenant may not assign, in whole or in part, this Lease or any interest therein, nor may Tenant sublet all or any part of the Premises without the prior written consent of Landlord being first had and obtained, which consent shall not be unreasonably withheld, conditioned or delayed; provided that the proposed transferee's use of the Premises is, in Landlord's opinion: (a) lawful, (b) consistent with the Permitted Use; (c) consistent with the general character of business carried on by tenants of the Ice Centre; (d) not in conflict with any exclusive rights or covenants not to compete in favor of any other tenant or proposed tenant of the Ice Centre; (e) not going to increase the likelihood of damage or destruction of the Premises or the Ice Centre; (f) not going to increase the rate of wear and tear to the Leased Premises or the Common Areas; (g) not likely to cause an increase in the insurance premiums for insurance policies applicable to the Building; and (h) not going to require new tenant improvements incompatible with the then existing Building systems and components. Any assignment or sublease in violation of the provisions of this paragraph shall be null, void and of no effect whatsoever, regardless of the fact that Landlord may have received other sums of money or

services from the proposed assignee or sublessee. Any sum so received shall be deemed to have been received from Tenant.

12.2 No attempted assignment or attempted subletting of all or any part of the Premises shall relieve Tenant from any of its obligations under the provisions of this Lease, including the payment of rent and any notice required to be given by the provisions of this Lease shall be deemed to be properly given to all putative assignees and putative sublessees when given to Tenant as herein provided.

12.3 Tenant may not grant any easement or license to any person or entity not a party hereto for any reason whatsoever without the express written consent of Landlord.

13. SURRENDER OF LEASEHOLD PREMISES:

Upon the expiration or other termination of this Lease or any extension thereof, Tenant shall quit and surrender the Premises and all Landlord owned equipment and furnishings to Landlord in as good order, condition and repair, loss by inevitable accident, Act of God and ordinary wear and tear excepted, as when said Premises, equipment and furnishings were accepted by Tenant at the commencement of this Lease. Tenant's obligation to observe or perform the provisions of this paragraph shall survive the expiration or termination of this Lease.

14. HOLDING OVER:

If, after the expiration or other termination hereof, Tenant shall remain in possession without a written agreement therefor, such holding over shall be deemed to be upon a month-to-month tenancy under the same terms, conditions and provision contained herein, and for a monthly rental equal to one hundred fifty percent (150%) of the amount of the last monthly installment of rent and additional rent paid pursuant to the terms hereof.

15. RENEWAL.

15.1 If Tenant shall not be in default of any of the terms of the Agreement, Landlord and Tenant shall meet, no later than 6 months prior to the termination of the Lease Term set forth in 2. Term, above, to discuss, in good faith, renewal thereof, for a five (5) year term and any changes required to be made to this Lease regarding this renewal.

15.2 Any renewal shall be subject to the discretion of Landlord and Landlord's determination of satisfactory performance by Tenant of the terms and conditions of this Lease, as well as mutual agreement between the parties regarding, but not limited to, amendment of Section 4 minimum and additional rent amounts to be paid by Tenant to Landlord.

15.3 This Lease may further be renewed for an additional five year renewal term pursuant to the requirements and determinations set forth in subsections 15.1 and 15.2, above.

16. DEFAULTS BY LESSEE AND REMEDIES:

16.1 Subject to the other provisions of this paragraph, each of the following shall constitute a default by Tenant and a breach of this Lease:

a. If the rent, additional rent, or any part thereof, as herein reserved, shall be unpaid when due.

b. If Tenant does not comply with any provision of this Lease which imposes an obligation upon Tenant.

c. If Tenant should violate or fail to comply with any of the statutes, ordinances, rules, orders, regulation or requirements, as the same exist or may hereinafter be established, of the government of the United States of America, the State of Colorado, County of Adams and the City of Westminster, or of any bureau, department or subdivision thereof.

d. If the Premises should be abandoned or vacated. Abandonment or vacation shall include the attempted removal of equipment, furniture and/or fixtures such as to degrade the ability of Tenant to carry on its business upon the Premises or cessation of a substantial portion of Tenant's normal business dealings at the Premises.

e. If Tenant should attempt to sell, assign, sublet or mortgage all or any part of either the Premises or the leasehold interest herein created without the prior written consent of Landlord having been first had and obtained.

f. If by operation of law this Lease should be transferred to, or pass to, or devolve upon, any person or entity other than Tenant.

g. If Tenant should be adjudicated as bankrupt or insolvent and such proceeding should not be vacated within thirty (30) days.

h. If Tenant should file a petition in bankruptcy or make a general assignment for the benefit of creditors.

i. If Tenant should file a petition or answer seeking reorganization or readjustment under Federal bankruptcy laws.

j. If a Receiver or Trustee should be appointed with respect to all or substantially all property of Tenant in any suit or proceeding against Tenant or in any bankruptcy proceeding.

k. If any execution or attachment shall be issued against Tenant, or any of Tenant's property, whereby someone other than Tenant shall take or occupy the Premises.

16.2 Upon the occurrence of any of the events of default set forth above, then, and at any time thereafter, Landlord may, at Landlords' sole option and in addition to all other rights available to Landlord at law or equity or contained in this Lease, either:

a. Give Tenant written notice of Landlord's intention to terminate this Lease on the date of such notice or on any later date specified herein, upon which date Tenant's right to use, occupancy and possession of the Premises shall cease and this Lease shall thereupon be terminated; or

b. Re-enter and take possession of the Premises or any part thereof and repossess the same as Landlord's former estate.

Should Landlord take such possession pursuant to the terms of this agreement, legal proceedings or pursuant to any notice provided by law or this Lease, Landlord may: (1) terminate this Lease at any time; or (2) from time to time without terminating this Lease, relet the Premises or any part thereof for such term or terms and at such rental or rentals and upon such other terms and conditions as Landlord may deem advisable, with the right to make alterations and repairs to the Premises but reserving to Landlord the right at any time to elect to terminate this Lease as paragraph 16.2 (a) provides.

16.3 Unless Landlord shall have exercised its right to re-enter and take possession of the Premises pursuant to 16.2(b), in the event Landlord shall elect to terminate this Lease, Landlord shall give Tenant twenty (20) days written notice of the existence and nature of such default and of Landlord's election so to terminate. If such default exists at the expiration of such twenty (20) day period, and Landlord shall not have waived the same by written instrument, this Lease, and the term hereof, together with any and all right, title and interest in the Premises as herein granted to Tenant, shall terminate on the date fixed in said notice with the same force and effect (except as to the continuance of Tenant's liability) as if the date fixed by notice were the expiration of the term originally granted herein.

16.4 In the event Landlord shall elect to retake the Premises without terminating this Lease, Landlord shall give Tenant twenty (20) days written notice of the existence and nature of any such default and of Landlord's election to retake under the terms hereof. If such default exists at the expiration of said twenty (20) day period, and Landlord shall not have waived the same by written instrument, Landlord may, without terminating this Lease, retake possession of the Premises.

16.5 In the event that Landlord does not elect to terminate this Lease as permitted in paragraph 16.2 (a), but on the contrary elects to take possession as provided in paragraph 16.2 (b), then such possession of the Premises by Landlord shall not relieve Tenant of its liability and obligation under this Lease, all of which shall survive such repossession. In the event of such repossession, Tenant shall pay the fixed rent and all additional rent as herein provided up to the time of termination of this Lease (which Landlord can declare at any time), and thereafter Tenant, until the end of what would have been the term of this Lease in the absence of such repossession, and whether or not the Premises shall have been relet, shall be liable to Landlord for, and shall pay to Landlord as liquidated current damages:

a. The minimum rent and additional rent as herein provided which would be payable hereunder if such possession had not occurred, less the net proceeds, if any, of any reletting of the Premises, after deducting all of Landlord's expenses in connection with such



reletting, including, but without limitation all repossession costs, legal expenses and attorneys' fees and expenses of preparation for such reletting.

Tenant shall pay such current damages to Landlord on the days on which the fixed rent would have been payable hereunder if Landlord had not repossessed, and Landlord shall be entitled to receive the same from Tenant on each such day.

b. If Tenant breaches or defaults any term of this Lease and abandons or vacates the Premises before the end of the term hereof, or if Tenant's right to possession is terminated by Landlord because of a breach or default of this Lease, Landlord may recover from Tenant a judgment from a court of law having appropriate jurisdiction, in addition to any other damages provided for at law, in equity, in this Lease, or otherwise, a sum equal to the unpaid lost rent for the balance of the rental term, or any exercised extension thereto, minus the amount of such rental loss for the same period the Tenant proves could be reasonably avoided.

16.6 Tenant shall, at the expiration of the twenty (20) days notice periods set forth above and Tenant has not cured any default, immediately quit and surrender to Landlord the entire Premises, and Landlord may enter into or repossess the Premises either by force, summary proceedings, or otherwise. Tenant further agrees that, in the event of repossession by Landlord, Landlord may, without notice to Tenant, sell such of Tenant's inventory, furniture, fixtures or equipment as then remain upon the Premises in such manner and for such amount as Landlord may deem advisable. Thereafter, Landlord shall remit the proceeds of such sale, after deduction for the costs of the sale and any monies owed to Landlord by Tenant pursuant to the term of this Lease, to Tenant.

16.7 In the event of any default by Tenant pursuant to subparagraph 16.1d, above, or if Tenant violates the provisions of Section 17, below, and notwithstanding any other provision herein, Landlord shall have the right, at Landlord's sole option and without any necessity of notice (and without restricting or surrendering any of Landlord's other rights hereunder), and Tenant hereby agrees and consents thereto, to immediately take possession of the Premises and all equipment, inventory, contents, furniture and fixtures therein, of whatever kind or ownership, and to, within a reasonable time and in a reasonable manner, cause the same to be sold and the proceeds thereof applied to any monies owed to Landlord by Tenant pursuant to this Lease.

17. LESSEE'S BUSINESS OPERATIONS:

During the term of this Lease, and as the same may be extended or renewed, Tenant shall continuously conduct and carry on Tenant's business activities in the entire Premises.

18. IMPROVEMENTS TO LEASEHOLD PREMISES:

Tenant shall make no improvements to the Premises without the prior written consent of Landlord and only upon such terms and conditions as set forth by Landlord. All such

improvements, however denominated, shall be and remain the property of Landlord unless otherwise agreed to in writing between the parties hereto and may not be removed by Tenant at any time from the Premises, without the express written consent of Landlord.

19. SIGNAGE:

19.1 Tenant may cause to be installed one or more interior and exterior signs, at no additional rent or charge by Landlord to Tenant, in such design(s) and location(s) as shall be approved by Landlord, which approval shall not be unreasonably withheld, conditioned, or delayed. Such sign(s) shall be and remain the property of Tenant and Tenant shall be solely responsible for the purchase, installation, operation and maintenance of the sign(s) and all associated costs. Tenant shall maintain all signs or advertisements approved by Landlord in good and attractive condition. Landlord shall assist with the electrical hook-up of said sign(s). Upon the termination of the Lease, unless otherwise agreed to by Landlord, Tenant shall cause such sign(s) and any associated improvements to be immediately removed from the premises and repair any resulting damage to the Premises, all at Tenant's expense. All of Tenant's signs shall be in compliance with the requirements of the City of Westminster sign code and any other applicable regulations.

19.2 Tenant shall have the right to place one dasher board sign on each ice rink at the Ice Centre at the Promenade, without charge except that Tenant shall pay for the production and installation of each such sign.

20. RELATIONSHIP OF PARTIES:

Landlord and Tenant are not nor shall they become, by virtue of this Lease, anything other than Landlord and Tenant. Landlord and Tenant are not joint venturers, partners, or agents of one another nor is either party employed by the other.

21. NOTICES:

All notices, requests, consents and other communications hereunder shall be in writing and shall be deemed to have been sufficiently given or served if deposited in the United State mails, registered or certified, postage prepaid, and addressed as indicated below:

Landlord:

Executive Director  
Hyland Hills Park and Recreation District  
1800 West 89th Avenue  
Denver, Colorado 80260

Tenant:

22. PERMITS AND LICENSES:

22.1 Tenant shall procure, supply, and post, at its own expense, in places to be designated by the City, all permits and licenses necessary for the operation of the Concession and shall pay, at its own expense, all taxes assessed or levied against its business and merchandise.

22.2 Tenant shall apply for a Hotel and Restaurant Liquor License, with Optional Premises within fifteen (15) business days after the date this Agreement is fully executed and shall maintain such license during the term of this Agreement. The Director will fully cooperate with Tenant in such application. Tenant shall pay all expenses necessary to obtain the liquor license. Nothing contained in this Agreement shall be construed to guarantee that the City of Westminster will approve the issuance of any license. In the event such license is denied, or in the event that such license is issued but later revoked or suspended BY THE LOCAL OR STATE LIQUOR LICENSING AUTHORITIES, such denial, suspension, or revocation may be deemed a material breach and event of default by Tenant, and Landlord may immediately terminate this Agreement. No transfer of the license shall be made without the approval of the City of Westminster and only as part of an assignment of this Agreement. Upon termination, the City of Westminster may designate a transferee of the liquor license. Tenant agrees to take all actions necessary to promptly transfer the existing license to the transferee.

23. ENTIRE AGREEMENT:

This Lease, with all exhibits and schedules annexed hereto, contains the entire agreement between Landlord and Tenant and any executory agreement hereafter made between Landlord and Tenant shall be ineffective to change, waive, release, discharge, terminate, or effect an abandonment of, this Lease, in whole or in part, unless such executory agreement is in writing and signed by both Landlord and Tenant.

24. SEVERABILITY:

If any provision, sentence, phrase, or word of this Lease, or application thereof to any person or circumstance, shall be held invalid, the remainder of this Lease, or the application of such provision, sentence, phrase or work to persons or circumstances other than those as to which it is held invalid shall not be affected thereby.

25. BINDING EFFECT:

Except as is otherwise provided herein, this Lease shall be binding upon and inure to the benefit of the heirs, administrators, devisees, personal representatives, successors and assigns of Landlord and Tenant.

26. WAIVER:

No assent, express or implied, to any breach of any one or more of the covenants and agreements hereof shall be deemed or taken to be a waiver of any other or succeeding breach.

27. SURVIVAL CLAUSE:

All unperformed agreements, covenants and conditions herein contained shall survive the execution, expiration or termination hereof and shall not be merged therewith.

28. PARAGRAPH HEADINGS:

The paragraph headings contained herein are for convenience only and shall in no way change, alter, modify or affect any of the provisions or conditions herein contained.

29. ACKNOWLEDGMENT OF EXAMINATION:

The parties hereto acknowledge that they have carefully read and thoroughly understand the terms and conditions of this Lease. It contains the entire agreement and understanding under which they have entered into this Lease and the results and understandings of all of their negotiations have been merged in this Lease. Tenant and Landlord accept the terms and conditions hereof in all respects and agree to be bound thereby. Each of the parties hereto acknowledge that they have either had benefit of legal counsel in the negotiation and preparation hereof, or, in the alternative, they recognize the need for such counsel but have elected not to seek the same.

30. ACCESS AND INSPECTION:

Landlord, its designated agents, employees, servants, and any other person authorized by Landlord may enter the Leasehold Premises, at any reasonable time and with reasonable written notice, for the purpose of inspecting the same. Any entry onto or inspection of the Leasehold Premises by Landlord pursuant to this section shall not constitute interference with the operations of Tenant and no abatement of any payments due under this Agreement shall be allowed; provided, however, the scope and length of the inspection is reasonable.

31. OTHER PAYMENT OBLIGATION:

Tenant shall promptly pay all taxes and fees of whatever nature, applicable to the operation of the Leasehold Premises, and shall maintain all licenses, municipal, state or federal, required for the conduct of business and shall not permit any of said taxes or fees to become delinquent. Tenant shall pay promptly when due all bills, debts and obligations attributable to the Premises, including but not limited to its portion of charges for water, sewer, light and electricity as set out in Section 7 herein, as well as all charges for telephone service, refuse collection, and all other costs and expenses related to the operation of the Leasehold Premises and shall not permit the same to become delinquent and suffer any lien, mortgage, judgment, execution, or adjudication in bankruptcy which will in any way impair the rights of Lessor under this Agreement. All such costs and expenses of Tenant are to be borne by Tenant.

32. RELATIONSHIP TO TRUSTEE:

32.1 The parties hereto acknowledge that pursuant to that certain Ground Lease Agreement ("Lease"), and that certain Lease Purchase and Sublease Agreement ("Sublease") dated 1998, both by and between the City of Westminster and the City of Westminster Building Authority, the City has leased to the City of Westminster Building Authority the Ice Centre building and the improvements located therein and said Building Authority has subleased to the City said building and improvements.

32.2 The parties hereto further acknowledge that the City of Westminster Building Authority has assigned certain of its rights pursuant to the documents described in subparagraph 32.1 and that certain 1998 Mortgage and Indenture of Trust ("Indenture") to the U. S. Bank National Association d/b/a Colorado National Bank, as Trustee.

32.3 The parties hereto further acknowledge that, pursuant to paragraph 13.2 of the above-referenced Sublease:

a. This Agreement is subordinate to the Lease, Sublease and Indenture;

b. If a Termination Event occurs (as defined in said Sublease), Tenant, provided Tenant's occupancy is not disturbed, shall pay to the Trustee all rents payable under this Agreement and this Agreement will be assigned to the Trustee;

c. So long as Tenant is in compliance with the terms of this Agreement, neither the Trustee, Landlord, nor the Building Authority shall disturb Tenant's use of the Premises.

32.3 Landlord warrants that nothing in this Agreement violates any terms of the Ground Lease or any associated document, law, or regulation and that Landlord is not in default thereof.

33. ATTORNEYS FEES:

If any dispute shall arise between the parties hereto regarding the interpretation of this lease or any provision thereof or the application of any provision, which dispute results in the filing of any suit or legal proceeding, the party adjudged by the judge or legal officer presiding over such proceedings to be the prevailing party shall be awarded its reasonable attorneys fees and costs from the non prevailing party.

34. DEFAULT BY LANDLORD:

34.1 Landlord's failure to perform or observe any material obligation hereunder which remains uncured for a period of thirty (30) days after the Landlord receives notice from Tenant setting forth in reasonable detail the nature and extent of the Default and identifying the applicable Lease provision(s) constitutes a default by Landlord.

34.2 In addition to any other remedies available at law or equity, Tenant may, upon prior written notice to Landlord, pursue any of the following remedies if Landlord's Default remains uncured pursuant to Paragraph 34.1 hereof:

- a. Set off the reasonable cost of remedying the default against any Rent due, or;
- b. Terminate this Lease and immediately surrender the Premises to Landlord.

34.3 In the event the Ice Centre is closed to the public in excess of thirty (30) days, other than during periods of maintenance and repair, which periods shall not exceed one hundred eighty (180) days, Tenant, at its option, may terminate this Lease.

35. CONSENT:

Throughout this Lease, where Landlord's consent is required, such consent shall not be unreasonably withheld or delayed.

36. INDEMNIFICATION.

**Tenant agrees to indemnify and hold harmless Landlord, its boards of directors, council, officers, employees, insurers, and self-insurance pool, from and against all liability, claims, and demands on account of injury, loss, or damage, including without limitation claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any other loss of any kind whatsoever, which arise out of Tenant's operation of the Premises and liquor license, if such injury, loss, or damage is caused in whole or in part by, or is claimed to be caused in whole or in part by, the act, omission, error, professional error, mistake, negligence, or other fault of Tenant, any contractor or subcontractor of Tenant, or any officer, director, shareholder, member, employee, representative, or agent of Tenant, or which arise out of any workers' compensation claim of any employee of Tenant or of any employee of any contractor or subcontractor of Tenant. Tenant agrees to investigate, respond to, and to provide defense for and defend against any such liability, claims or demands at the sole expense of Tenant, and agrees to bear all other costs and expenses related thereto, including court costs and attorney fees, whether or not any such liability, claims, or demands alleged are groundless, false, or fraudulent.**

**LANDLORD:**

HYLAND HILLS PARK AND RECREATION DISTRICT

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Greg Mastriona, Executive Director

Approved as to legal form: \_\_\_\_\_  
Richard Fuller, Administrative Counsel

CITY OF WESTMINSTER

\_\_\_\_\_  
Brent McFall, City Manager

\_\_\_\_\_  
Linda Yeager, City Clerk

Approved as to legal form:           *MR McCallough*            
City Attorney

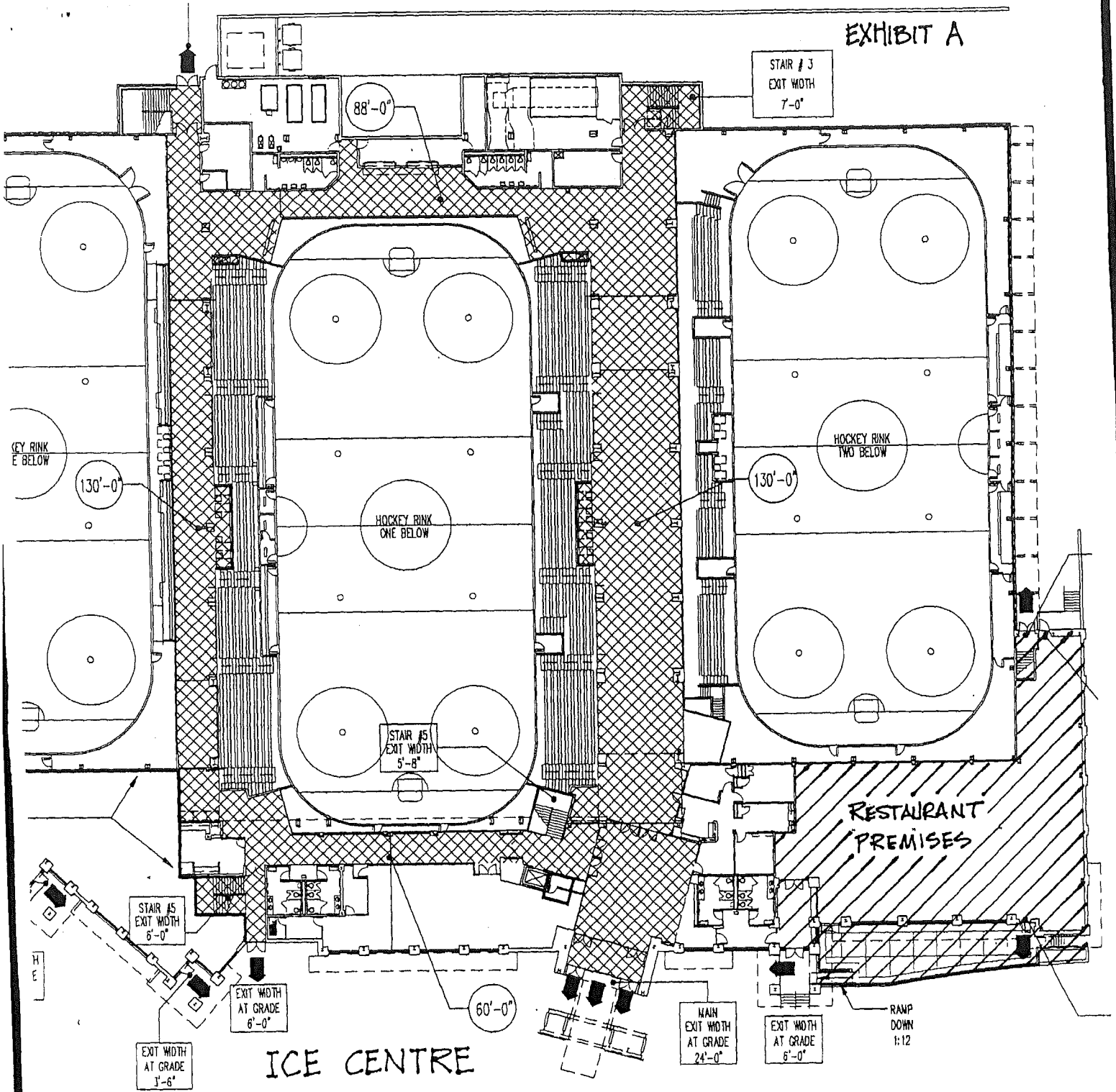
**TENANT:**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Its: \_\_\_\_\_

EXHIBIT A





**EXHIBIT B**  
**GUIDELINES & STANDARDS OF OPERATIONS**

**Cleanliness Standards**

1. Tenant will maintain, at all times, the kitchen, food preparation, dining, and banquet areas, and all equipment, fixtures, paraphernalia, materials, utensils and other items therein, in a clean and sanitary manner. Tenant shall keep the Premises clear of broken glass, litter, debris, and garbage. Tenant shall dispose of any waste water or other waste fluid in the sanitary sewer. In the event waste fluids may not legally be disposed of in the sanitary sewer, Tenant is responsible for disposing of same in an appropriate and lawful manner.
2. The Tenant shall comply with all applicable health and sanitation laws and regulations, including:
  - a. The sanitation code of the U.S. Food Service Industry as published by the National Restaurant Association.
  - b. All state of Colorado acts and regulations governing food service operations.
  - c. All applicable City of Westminster and Jefferson County public health/sanitation regulations.
3. At all times, the Tenant shall permit and facilitate inspection of the food/beverage areas by Landlord and by public health/sanitation/building/fire authorities so authorized.
  - a. The Tenant shall provide a copy of all health department inspections to Landlord on the same day the inspection form was issued. All health department violations are to be corrected within the time period allowed by the health inspector unless approval for a delay is granted by the health department or the Landlord.
  - b. Failure to pass health inspections, unless all failures are corrected within the time period allowed by the Health Department, is a material breach of this Agreement and may result in termination.
4. Tenant shall conduct inspections of the food service facilities once weekly. An inspection checklist shall be prepared and completed by Tenant for each inspection and the checklists shall be made available to Landlord upon request. The inspection report shall include corrective measures taken or to be taken by Tenant. Tenant shall also conduct daily inspections and take immediate corrective measures in all areas of the Premises and Concession Facilities.

5. Landlord may conduct a formal inspection of the food service facilities a minimum of four times per year, or as deemed necessary by Landlord. Tenant shall accompany Landlord's designated representative during the inspection.

6. Failure to comply with this section, after notice from Landlord, shall be an event of default.

#### **Facility and Equipment Maintenance**

1. Tenant shall be responsible for the daily cleanliness, of all equipment and facilities for food and beverage handling. Prior to the first day of business under this Lease, Landlord and Tenant will conduct a walk-through inspection of all equipment and the facilities to note any repair/replacement items.

2. Failure to comply with this section, after notice from the City, shall be an event of default.

#### **Custodial Maintenance**

1. Unless covered by a maintenance agreement pursuant to section 8.4 of the Lease, Tenant will be responsible for custodial maintenance of the dining room, bar, kitchen, patio area, delivery area, cooktop ventilation hood system, grease trap system, restaurant storage area, and restaurant office areas. Window cleaning in the restaurant-dining room and the patio areas is the responsibility of the Tenant.

2. Custodial maintenance shall include, but not be limited to, routine sweeping, vacuuming, dusting, spill clean-up, debris and litter pick-up, laundry of linens and cloths, as well as carpet cleaning, window cover cleaning, interior and exterior window washing, and painting of walls and ceilings. All areas will be kept clean and neat at all times.

3. Tenant shall be responsible for trash removal service and regular service to the grease trap system. Tenant shall not discharge any grease into building drains and must keep all grease in proper containers for disposal. If grease is incorrectly disposed in the drain system, Tenant shall be responsible for cleaning or repairing drains.

4. Failure to comply with this section, after notice from Landlord, shall be an event of default.

#### **Menu**

1. The Tenant shall plan and prepare imaginative menu selection with an adequate variety of products, in consultation with Landlord.

2. Tenant shall adhere strictly to all pure food laws and regulation as adopted by the State of Colorado or the County Health Department. Food shall be prepared in such a way as to be

acceptable to most patrons. Hot food shall be hot and cold food shall be cold. The amount of food served shall be sufficient in relation to price and other services offered. Service shall be prompt, giving attention to the patron's needs and promoting a friendly relationship. The food shall complement the facility and shall reflect the eating preferences of most patrons.

3. Failure to comply with this section, after notice from Landlord, may be grounds for termination.

### **Entertainment**

All costs for amenities such as background music, live entertainment, cable/satellite TV, and bar video games are the responsibility of Tenant.

### **Employee Conduct and Appearance**

1. Tenant shall be responsible for employment and compensation of its own employees. All employees shall provide prompt and courteous service to all customers and the general public. Tenant shall provide qualified supervision, competent management staff, and numbers of employees necessary to maintain good service. Employees shall be clean and maintain appropriate clothing and appearance. Tenant shall at all times enforce strict discipline and good order among employees.

2. Failure to comply with this section, after notice from Landlord, may be grounds for termination.

### **Customer Service**

1. If Landlord receives ongoing customer service complaints, Landlord may require a performance audit, utilizing customer surveys to determine customer satisfaction. Customers will be asked if they are "very satisfied," "satisfied," "dissatisfied," or "very dissatisfied" with the operations of Tenant. A reasonable number of customers shall be surveyed. The acceptable performance standard shall be 75 percent of the surveyed customers rating satisfied or very satisfied. A rating below 75 percent satisfaction may be grounds for termination of this Agreement. If a survey indicates less than 75 percent satisfaction, Tenant may request a second survey by an independent third party, at the sole cost of Tenant. If the second survey indicates customer satisfaction rating of 75 percent or above, Tenant will be deemed to have met the standard of acceptable performance.



## Agenda Item 11 A

### Agenda Memorandum

City Council Meeting  
June 25, 2012



**SUBJECT:** Second Reading of Councillor's Bill No. 16 re Amendments to Title IV of the Westminster Municipal Code Concerning Qualified Hospital Organizations

**Prepared By:** Leslie Annand, Assistant City Attorney  
Josh Pens, Tax Audit Supervisor

### Recommended City Council Action

Pass Councillor's Bill No. 16 on second reading amending Title IV of the Westminster Municipal Code concerning qualified hospital organizations.

### Summary Statement

- A general hospital is a highly desirable amenity for the City and its residents. General hospitals provide critical services and make a strong contribution to the City's economy. The medical industry is considered part of the growth sector.
- Currently, non-profit general hospitals that are exempt from federal and state taxes are not exempt from Westminster taxes because they do not provide services exclusively on a free and voluntary basis. The attached ordinance would add a tax exemption for qualified hospital organizations, and abate any unpaid taxes that may be due from such organizations on the effective date of the ordinance.
- This Councillor's Bill was passed on first reading on June 11, 2012.

**Expenditure Required:** \$0

**Source of Funds:** N/A

Respectfully submitted,

Stephen P. Smithers  
Acting City Manager

Attachment – Ordinance

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **16**

SERIES OF 2012

INTRODUCED BY COUNCILLORS  
**Briggs - Kaiser**

**A BILL**

**FOR AN ORDINANCE AMENDING TITLE IV OF THE WESTMINSTER MUNICIPAL CODE  
CONCERNING QUALIFIED HOSPITAL ORGANIZATIONS**

THE CITY OF WESTMINSTER ORDAINS:

Section 1. Section 4-2-2, W.M.C., is hereby AMENDED by the addition of a new definition added alphabetically to read as follows:

**4-2-2: WORDS AND PHRASES DEFINED:** Unless the context clearly indicates otherwise, the following words and phrases as used in this Chapter shall have the following meaning:

**“Qualified Hospital Organization” means any of the following:**

(1) An organization that is exempt from federal income tax under Section 115 or Section 501(c)(3) of the United States Internal Revenue Code of 1986, as amended, but only if the organization holds a license to operate a "general hospital" for people issued pursuant to Sections 25-3-101 and 25-3-102, Colorado Revised Statutes (2012), as amended, including any successor provisions to those sections, and operates a general hospital in the City;

(2) A corporation or trust that is exempt from federal income tax under Section 501(c)(3) of the United States Internal Revenue Code of 1986, as amended, and that owns or employs personal property or improvements that are used in the operations of one (1) or more organizations described in paragraph (1) of this definition; and either

(a) Directly controls, or is controlled by, one (1) or more organizations described in paragraph (1) of this definition; or

(b) Is controlled by a management organization as defined in paragraph (3) of this definition in common with one (1) or more organizations described in paragraph (1) of this definition; or

(c) Owns a hospital that is licensed to operate as a "general hospital" for people in the City pursuant to Sections 25-3-101 and 25-3-102, Colorado Revised Statutes (2012), as amended, including any successor provisions to those sections, and that is operated by an organization described in paragraph (1) of this definition.

(3) An organization that is exempt from federal income tax under Section 501(c)(3) of the United States Internal Revenue Code of 1986, as amended, and a principal function of which is to manage the property or operations, or both, of one (1) or more organizations described in paragraphs (1) or (2) of this definition; and

(4) A partnership, limited partnership, limited liability limited partnership, limited liability partnership, limited liability company, or joint venture if all of the partners, members, joint venturers or other participants in such partnership, limited partnership, limited liability limited partnership, limited liability partnership, limited liability company or joint venture are organizations described in paragraphs (1), (2) or (3) of this definition.

Section 2. Section 4-2-6, subsection (A), W.M.C., is hereby AMENDED BY THE ADDITION OF A NEW PARAGRAPH (36) to read as follows:

**4-2-6: EXEMPTIONS FROM SALES TAX:**

(A) The tax levied by Section 4-2-3(A) shall not apply to the following:

(36) All sales, except of construction materials used in a project for which a City building permit is required, to qualified hospital organizations when billed to and paid for by the qualified hospital organization.

Section 3. Any sales tax or use tax imposed under Chapter 2, Title IV of the Westminster Municipal Code upon a transaction described in section 2 of this ordinance, which was imposed prior to the effective date of this ordinance, and which has not been previously paid to the City, is hereby abated. Such abatement shall apply only to taxpayers who, as of the effective date of this ordinance, are qualified hospital organizations. For purposes of this abatement, the term “qualified hospital organization” shall have the same meaning as is defined in section 1 of this ordinance.

Section 4. This ordinance shall take effect upon its passage after second reading. The title and purpose of this ordinance shall be published prior to its consideration on second reading. The full text of this ordinance shall be published within ten (10) days after its enactment after second reading.

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 11<sup>th</sup> day of June, 2012.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 25<sup>th</sup> day of June, 2012.

ATTEST:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Mayor

APPROVED AS TO LEGAL FORM:

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City Attorney's Office