



## 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
  - A. Employee Service Awards
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 June 2012
  - B. Quarterly Insurance Claims Report – April through June 2012
  - C. Lachat Flow Injection Analyzer Purchase
  - D. Negotiation Command Post Trailer Purchase
  - E. Semper Water Treatment Facility Administration Building Roof Replacement
  - F. 78<sup>th</sup> Avenue & Stuart Place Water and Sewer Line Replacement Engineering and Construction Contracts
  - G. 2012 Assistance to Firefighter Grant Application
  - H. Fall 2012 Adams County Open Space Grant Applications
  - I. Second Reading of Councillor's Bill No. 18 re CLUP Amendment to Open Space re Little Dry Creek Property
  - J. Second Reading of Councillor's Bill No. 19 re Annexation of the Little Dry Creek Property
  - K. Second Reading of Councillor's Bill No. 20 re Zoning for the Little Dry Creek Property
  - L. Second Reading of Councillor's Bill No. 23 re FY2011 Carryover Appropriation into FY2012
  - M. Second Reading of Councillor's Bill No. 24 re Amend Various Sections of Titles I through IV of the W.M.C.

### 9. Appointments and Resignations

- A. Resolution No. 19 re Appointments to Fill Vacancies on Boards and Commissions

### 10. Public Hearings and Other New Business

- A. Public Meeting on the 2013 and 2014 City Budget
- B. Resolution No. 20 re Fee Interests and Easement Acquisition re 87<sup>th</sup> Ave. and Wadsworth Lift Station Replacement
- C. Resolution No. 21 re Refunding Documents for the 2009 Bonds Issued for the Mandalay Gardens URA
- D. Resolution No. 22 re Residential Competition Service Commitment Awards
- E. Councillor's Bill No. 25 re Annual Updates to Title II, Title VIII and Title XI of the Westminster Municipal Code
- F. Councillor's Bill No. 26 re Update to Title XI of the Westminster Municipal Code re Accessory Buildings
- G. Councillor's Bill No. 27 re Appropriation for Hyland Village Subdivision Performance Bond Cash Settlement
- H. 98<sup>th</sup> Avenue Design and Construction Services Contract

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

### 12. Miscellaneous Business and Executive Session

- A. City Council

### 13. Adjournment

**GENERAL PUBLIC HEARING PROCEDURES ON LAND USE MATTERS**

- A.** The meeting shall be chaired by the Mayor or designated alternate. The hearing shall be conducted to provide for a reasonable opportunity for all interested parties to express themselves, as long as the testimony or evidence being given is reasonably related to the purpose of the public hearing. The Chair has the authority to limit debate to a reasonable length of time to be equal for both positions.
- B.** Any person wishing to speak other than the applicant will be required to fill out a “Request to Speak or Request to have Name Entered into the Record” form indicating whether they wish to comment during the public hearing or would like to have their name recorded as having an opinion on the public hearing issue. Any person speaking may be questioned by a member of Council or by appropriate members of City Staff.
- C.** The Chair shall rule upon all disputed matters of procedure, unless, on motion duly made, the Chair is overruled by a majority vote of Councillors present.
- D.** The ordinary rules of evidence shall not apply, and Council may receive petitions, exhibits and other relevant documents without formal identification or introduction.
- E.** When the number of persons wishing to speak threatens to unduly prolong the hearing, the Council may establish a time limit upon each speaker.
- F.** City Staff enters a copy of public notice as published in newspaper; all application documents for the proposed project and a copy of any other written documents that are an appropriate part of the public hearing record;
- G.** The property owner or representative(s) present slides and describe the nature of the request (maximum of 10 minutes);
- H.** Staff presents any additional clarification necessary and states the Planning Commission recommendation;
- I.** All testimony is received from the audience, in support, in opposition or asking questions. All questions will be directed through the Chair who will then direct the appropriate person to respond.
- J.** Final comments/rebuttal received from property owner;
- K.** Final comments from City Staff and Staff recommendation.
- L.** Public hearing is closed.
- M.** If final action is not to be taken on the same evening as the public hearing, the Chair will advise the audience when the matter will be considered. Councillors not present at the public hearing will be allowed to vote on the matter only if they listen to the tape recording of the public hearing prior to voting.



# WESTMINSTER Strategic Plan

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, JULY 9, 2012, AT 7:00 P.M.

PLEDGE OF ALLEGIANCE

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

ROLL CALL

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

CONSIDERATION OF MINUTES

Councillor Kaiser moved, seconded by Councillor Atchison, to approve the minutes of the regular meeting of June 25, 2012, as presented. The motion carried unanimously.

CITY MANAGER'S REPORT

Mr. Smithers reported that following tonight's Council meeting, the Council would hold conduct an executive session in the Council Board Room to discuss and provide direction on the proposed acquisition of property for the City's 87th and Wadsworth lift station, pursuant to Sections 1-11-3 (C)(2), (7) and (8), Westminster Municipal Code, and Sections 24-6-402 (4)(a), (b) and (e), Colorado Revised Statutes.

CITY COUNCIL COMMENTS

Mayor Pro Tem Winter invited the public to attend We're All Ears, an informal opportunity to speak with City Council on any topic of community concern. The event was being held at 6 p.m. on July 12 at City Park and would be followed by the first of this year's Summer Concert Series at 7 p.m. Performing would be Face, an all-vocal rock band.

CITIZEN COMMUNICATIONS

Marolyn Thomas, 7730 James Way, asked why there was so much time between the dates of water meter readings and utility billings. Drastic changes in consumption due to underground water leaks were generally found through water billing, and when it took weeks for billing to occur, significant amounts of water were wasted. Mayor McNally thanked Ms. Thomas for bringing this concern to the City's attention and advised that staff would follow-up with her.

CONSENT AGENDA

The following items were submitted for Council's consideration on the consent agenda: authorize the City Manager to enter into a 2012 water lease for Hyland Hills Park and Recreation District in a total amount not to exceed 200 acre-feet; authorize the City Manager to execute a change order with Asphalt Specialties Company, Inc., in the amount of \$160,000 for additional pavement resurfacing and utility trench patching, to be completed in 2012; based on the City Manager's recommendation, find that public interest would best be served by authorizing the City Manager to execute a \$85,501 contract for engineering design services with Burns and McDonnell Engineering Company, Inc. for the Pressure Zone 12 Improvements Project and authorize a 10% contingency of \$8,550 for a total project budget of \$94,051; authorize the City Manager to execute a Purchase and Sale Agreement, in substantially the same form as attached in the agenda packet, with Urban Pacific Multi-Housing, LLC and Pacific West Communities, Inc. and to take all actions necessary to close this land sale; final passage on second reading of Councillor's Bill No. 21 amending 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; and final passage on second reading of Councillor's Bill No. 22 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

Councillors removed no items from the Consent Agenda for individual consideration. It was moved by Councillor Major and seconded by Councillor Kaiser to approve the Consent Agenda as presented. The motion carried with all Council members voting affirmatively

COUNCILLOR’S BILL NO. 23 APPROPRIATING FY2011 CARRYOVER INTO FY2012 BUDGET

It was moved by Councillor Briggs and seconded by Councillor Kaiser to pass Councillor's Bill No. 23 on first reading, appropriating FY2011 carryover funds into the FY2012 budgets of the General, General Fund Stabilization Reserve, General Capital Improvement, Utility, Utility Reserve, Storm Drainage, Fleet, General Capital Outlay Replacement, POST and Conservation Trust Funds. At roll call, the motion passed unanimously.

COUNCILLOR’S BILL NO. 24 AMENDING VARIOUS SECTIONS IN TITLES 1 – IV, W.M.C.

Councillor Briggs moved to pass on first reading Councillor’s Bill No. 24 amending various sections of Titles I through IV of the Westminster Municipal Code. 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 Kaiser and seconded by Councillor Atchison to adjourn. The motion carried and the meeting adjourned at 7:06 p.m.

ATTEST: \_\_\_\_\_, Mayor

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



## Agenda Item 6 A

### Agenda Memorandum

City Council Meeting  
July 23, 2012



**SUBJECT:** Presentation of Employee Service Awards

**Prepared By:** Dee Martin, Workforce Planning & Compensation Manager

### Recommended City Council Action

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

### Summary Statement

- In keeping with the City's policy of recognition for employees who complete increments of five years of employment with the City, and City Council recognition of employees with 20 years or more of service, the presentation of City service pins and certificates of appreciation has been scheduled for Monday night's Council meeting.
- In the fourth grouping of 2012, employees with 20, 25, 30, and 35 years of service will be celebrated tonight.
  - Presentation of 20-year certificates and pins - Councillor Mark Kaiser
  - Presentation of 25-year certificates, pins and checks - Mayor Nancy McNally
  - Presentation of 30-year certificate and pin - Councillor Mary Lindsey
  - Presentation of 35-year certificate and pin - Councillor Scott Major

**Expenditure Required:** \$ 7,500

**Source of Funds:** General Fund

**Policy Issue**

None identified

**Alternative**

None identified

**Background Information**

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

Tommy Berdahl	Utilities Technician	Public Works & Utilities
Debbie Sinicki	Police Records Technician	Police

The following 25-year employees will be presented with a check, certificate and service pin:

Karen Layfield	Management Assistant	Parks, Recreation & Libraries
Sharon McDowd	Custodian	General Services
Jim Wollack	Senior Police Officer	Police

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

Ron Lamb	Firefighter II	Fire
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The following 35-year employee will be presented with a certificate and service pin:

Lonnie Coxsey	Plant Operator IV	Public Works & Utilities
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On July 25, 2012, the City Manager will host an employee awards luncheon. During that time, 5 employees will receive their 15-year service pin, 7 employees will receive their 10-year service pin, and 7 employees will receive their 5-year service pin. Recognition will also be given to those celebrating their 20<sup>th</sup>, 25<sup>th</sup>, 30<sup>th</sup>, and 35<sup>th</sup> anniversaries. This is the fourth luncheon in 2012 to recognize and honor City employees for their service to the public.

The aggregate City service represented among this group of employees for the fourth luncheon is 360 years of City service. The City can certainly be proud of the tenure of each of these individuals and of their continued dedication to City employment in serving Westminster citizens.

The recognition of employee's years of service addresses Council's Strategic Plan goal of Financially Sustainable City Government Providing Exceptional Services as part of the overall recognition program developed to encourage and recognize employee commitment to the organization. Recognition efforts have long been recognized as an important management practice in organizations striving to develop loyalty, ownership and effectiveness in their most valuable resource – employees.

Respectfully submitted,

J. Brent McFall  
City Manager



Agenda Memorandum

City Council Meeting  
July 23, 2012



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

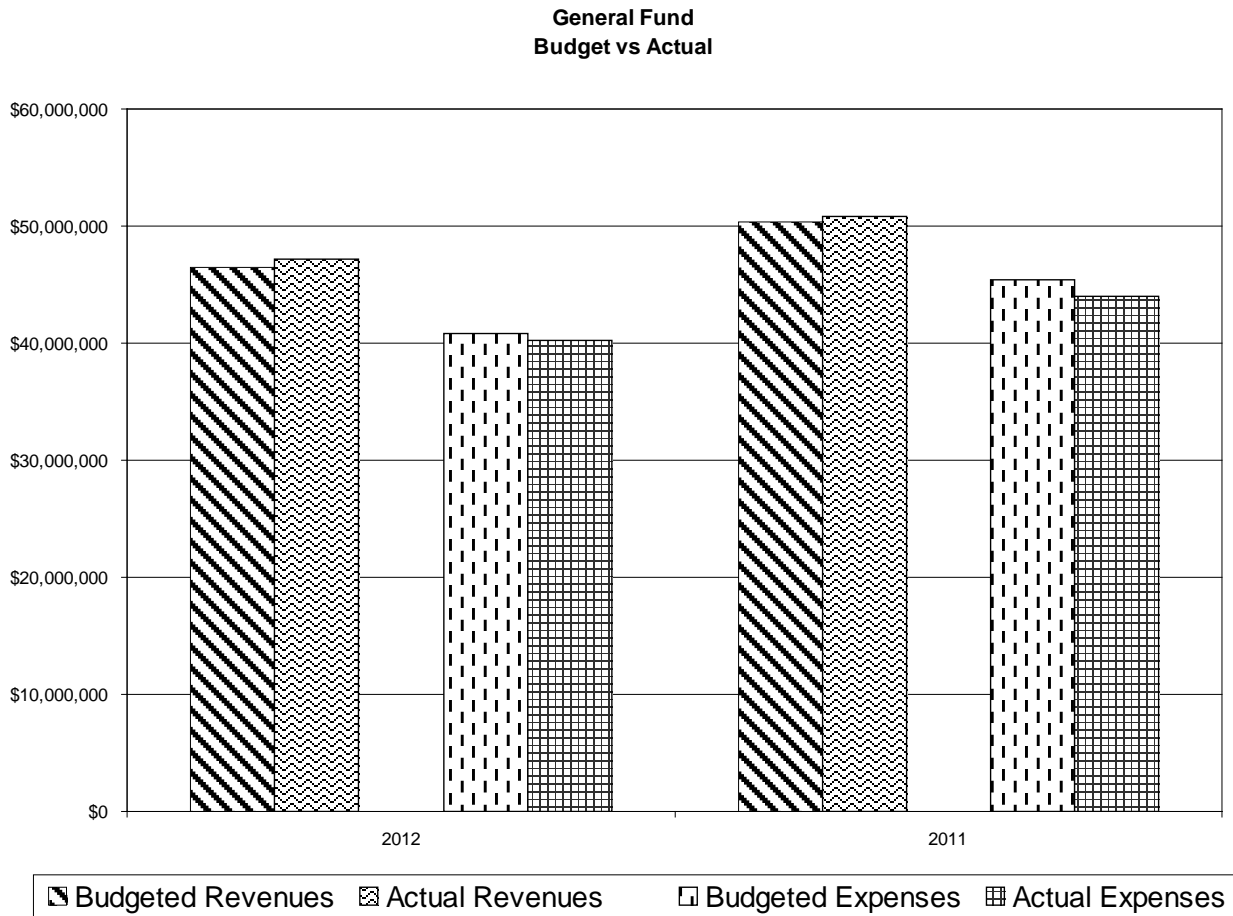
**Recommended City Council Action**

Accept the Financial Report for June 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 \$6,953,710. The following graph represents Budget vs. Actual for 2011-2012.



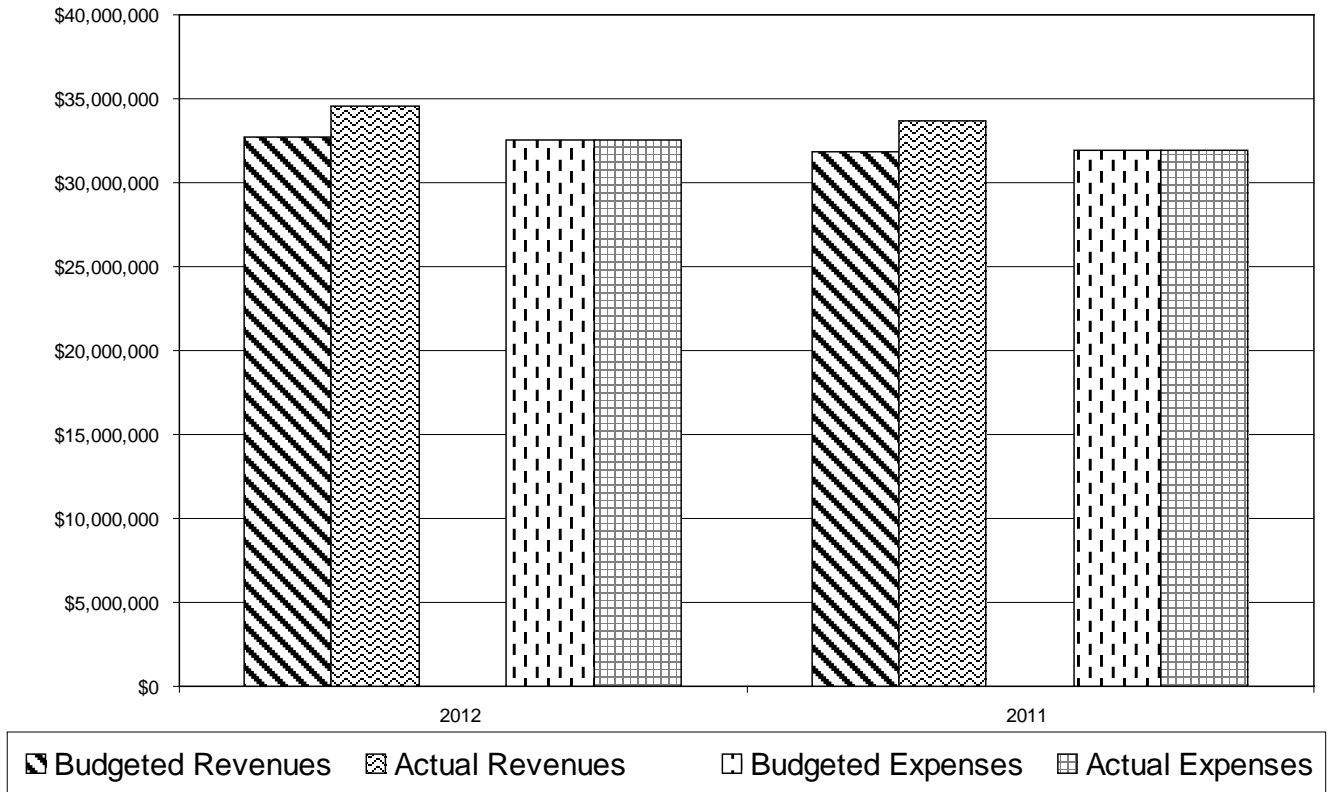
- Budgeted and actual revenues and expenses for 2011 were higher due to a \$4 million transfer to WEDA for WURP.



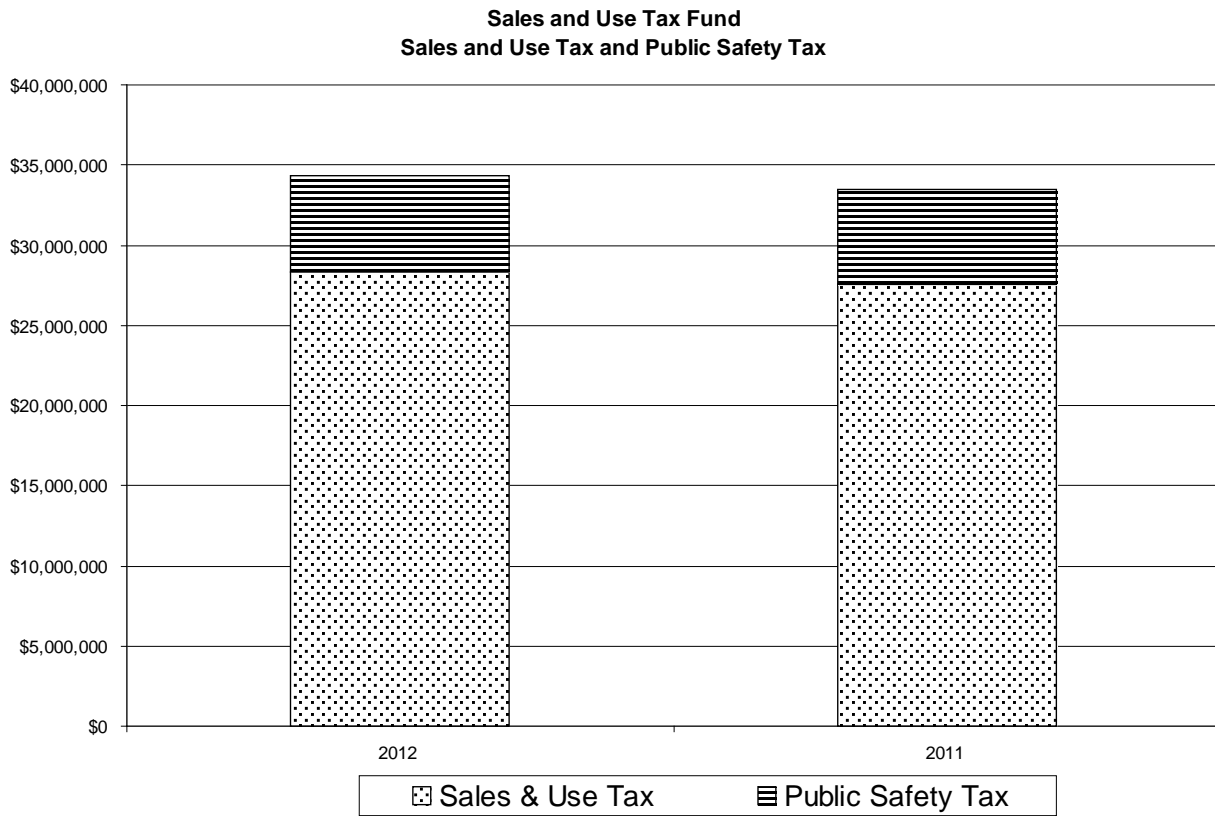
The Sales and Use Tax Fund revenues exceed expenditures by \$2,030,381. On a year-to-date cash basis, total sales and use tax is up 2.6% from 2011. Key components are listed below:

- On a year-to-date basis, across the top 25 shopping centers, total sales and use tax receipts are up 2.0% from the prior year.
- Sales tax receipts from the top 50 Sales Taxpayers, representing about 62.3% of all collections, are up 2.1% for the month.
- Urban renewal areas make up 41.0% 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 14.4% on a year-to-date basis.

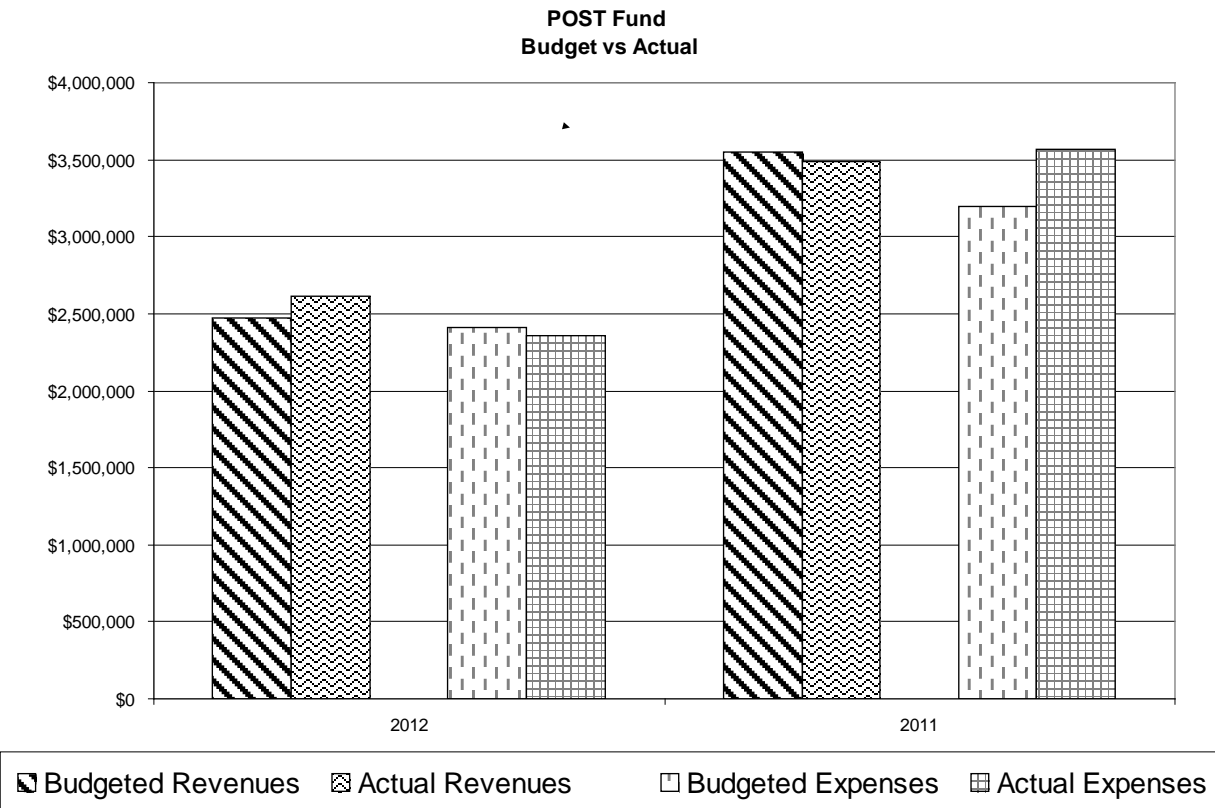
**Sales & Use Tax Fund  
Budget vs Actual**



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



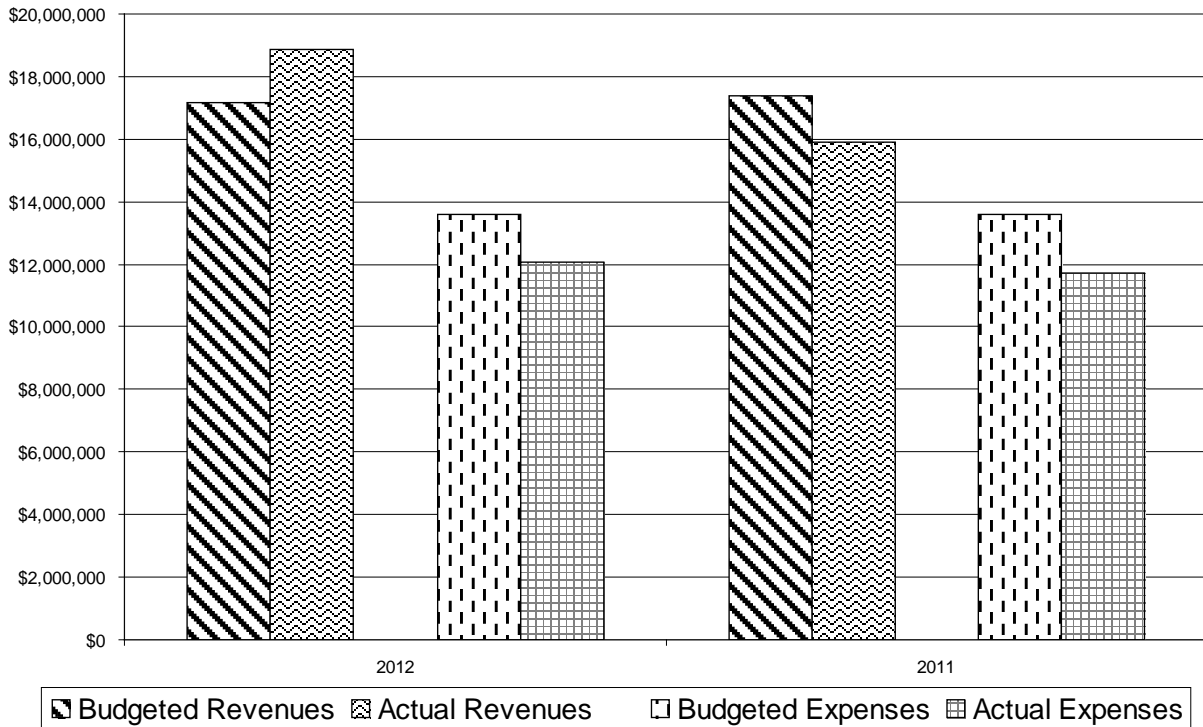
The Parks Open Space and Trails Fund revenues exceed expenditures by \$253,593.



2011 revenues and expenses reflect significant grant activity.

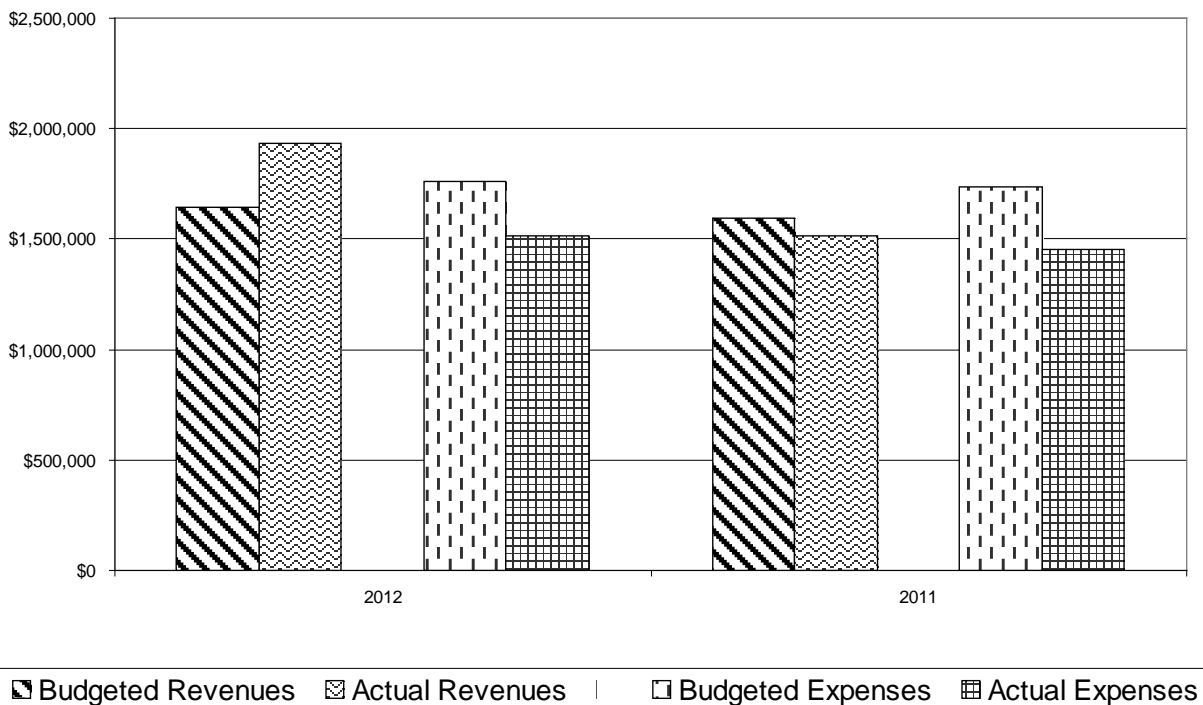
The combined Water & Wastewater Fund revenues exceed expenses by \$8,392,145. Operating revenues exceed operating expenses by \$6,812,313. \$14,899,896 is budgeted for capital projects and reserves.

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



The combined Golf Course Fund revenues exceed expenditures by \$419,582.

**Golf Course Enterprise  
Operating Budget vs Actual**



On a combined basis, golf course revenues are up by approximately \$289,000 over prorated budget. This is attributable to increased play and primarily 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**

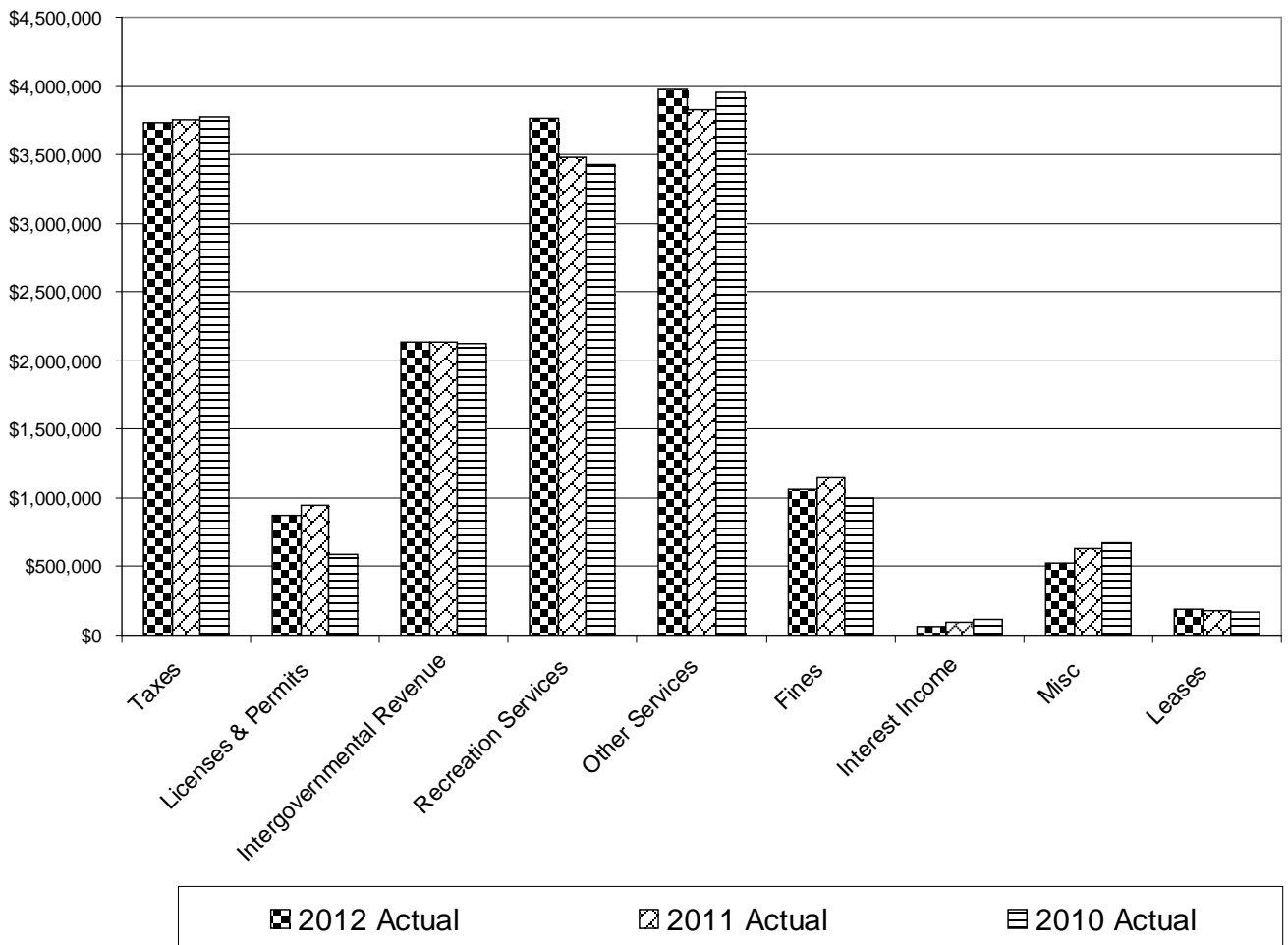
This section includes a discussion of highlights of each fund presented.

**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.

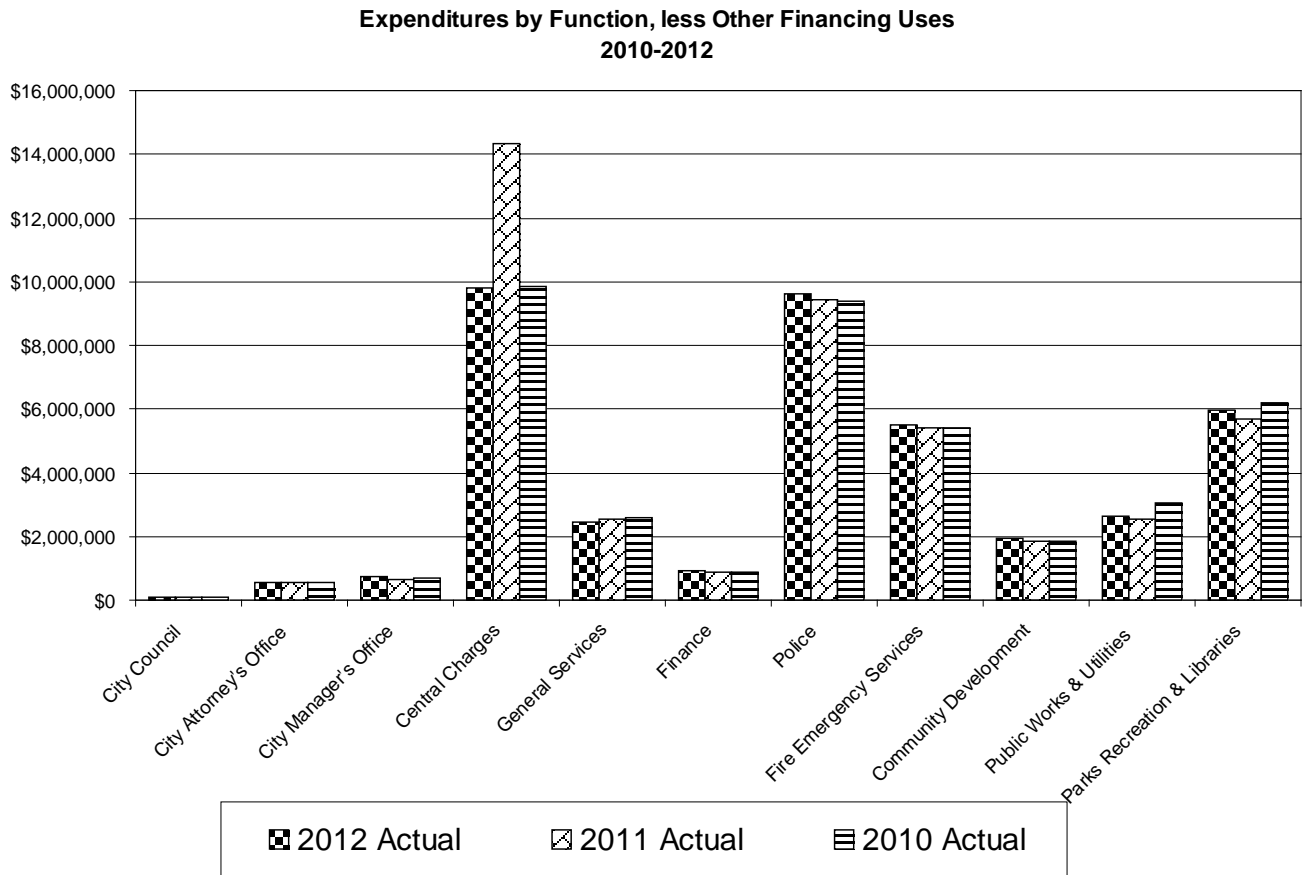
**General Fund Revenues without Transfers, Carryover, and Other Financing Sources  
2010-2012**



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.

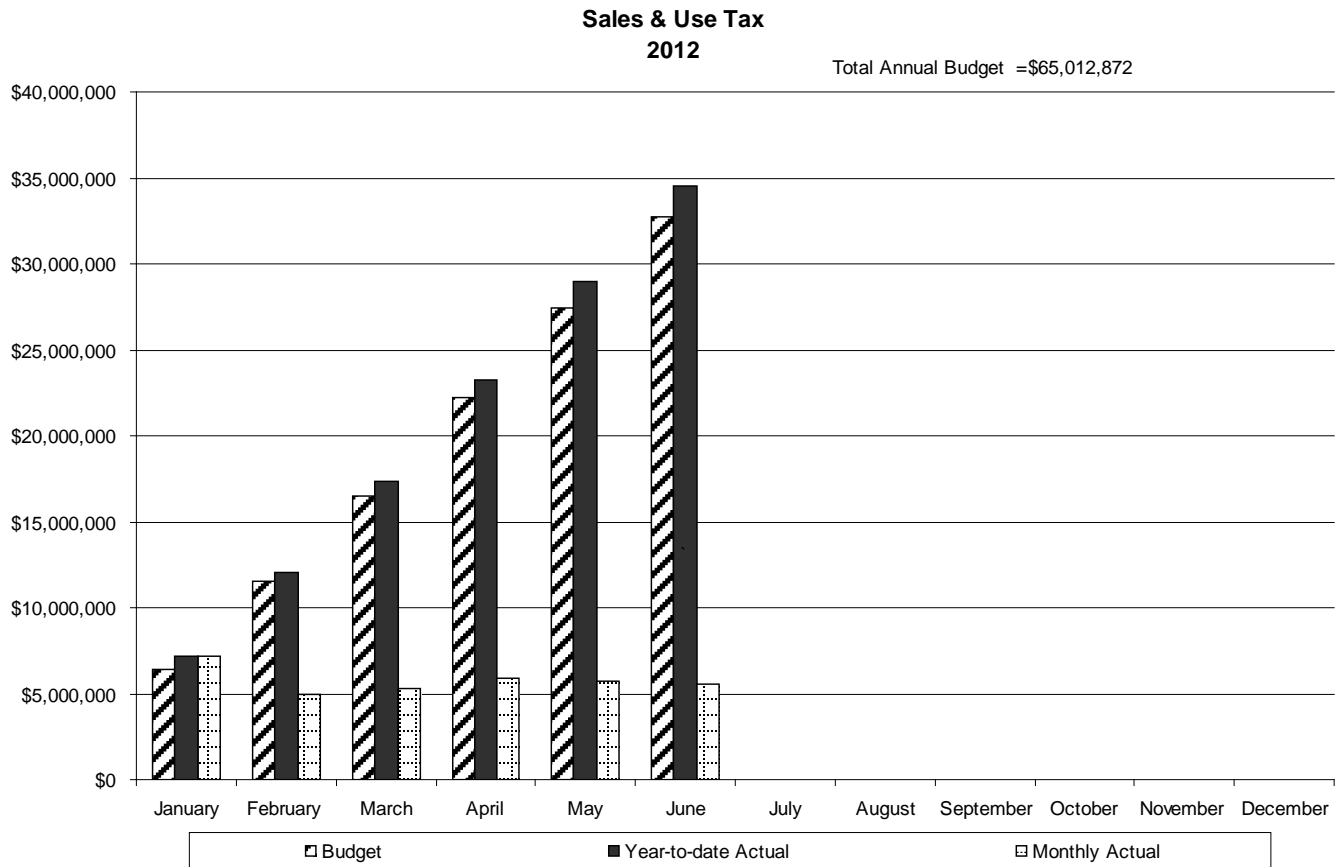


- The large increase in Central Charges in 2011 was due to a transfer to WEDA of \$4 million for WURP as well as a larger transfer budgeted for the General Capital Improvement Fund in 2011 when compared to 2012.

**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.

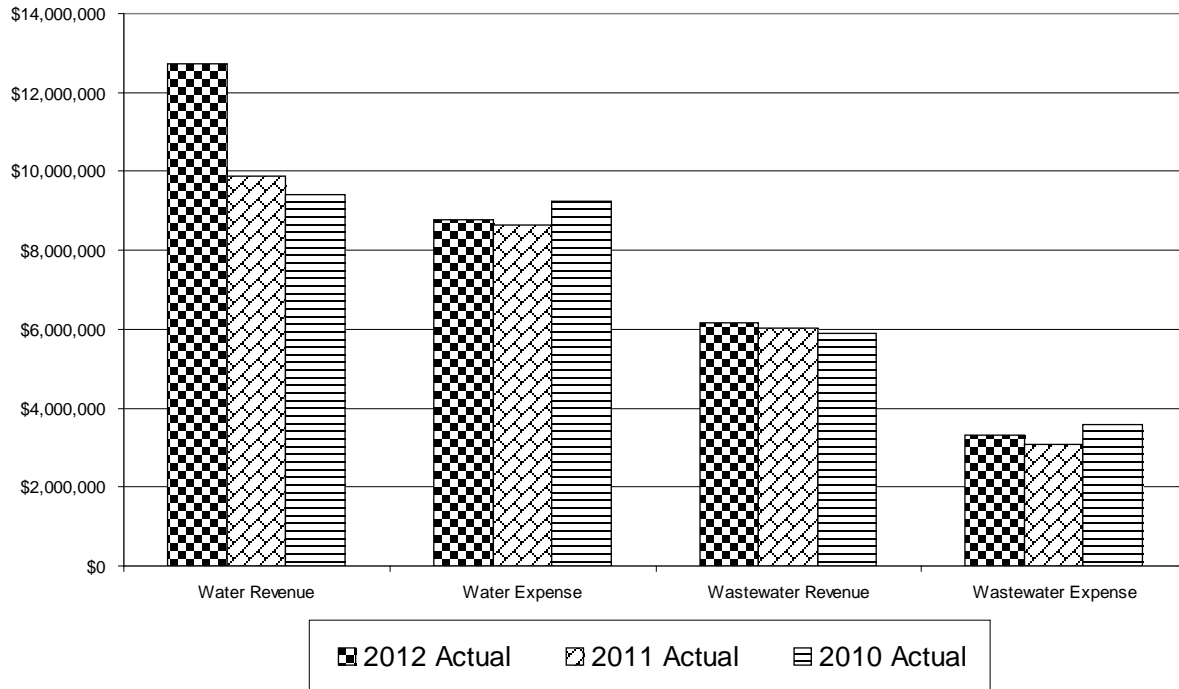


**Water, Wastewater and Storm Water Drainage Funds (The Utility Enterprise)**

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.

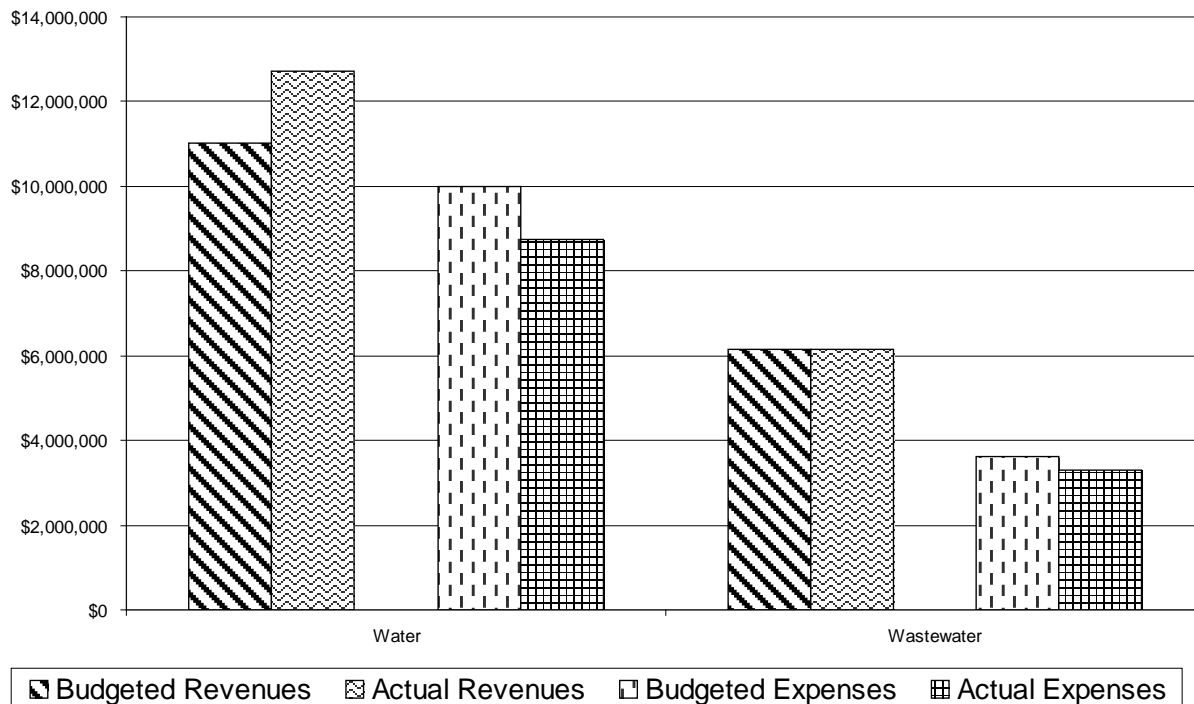
These graphs represent segment information for the Water and Wastewater funds.

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



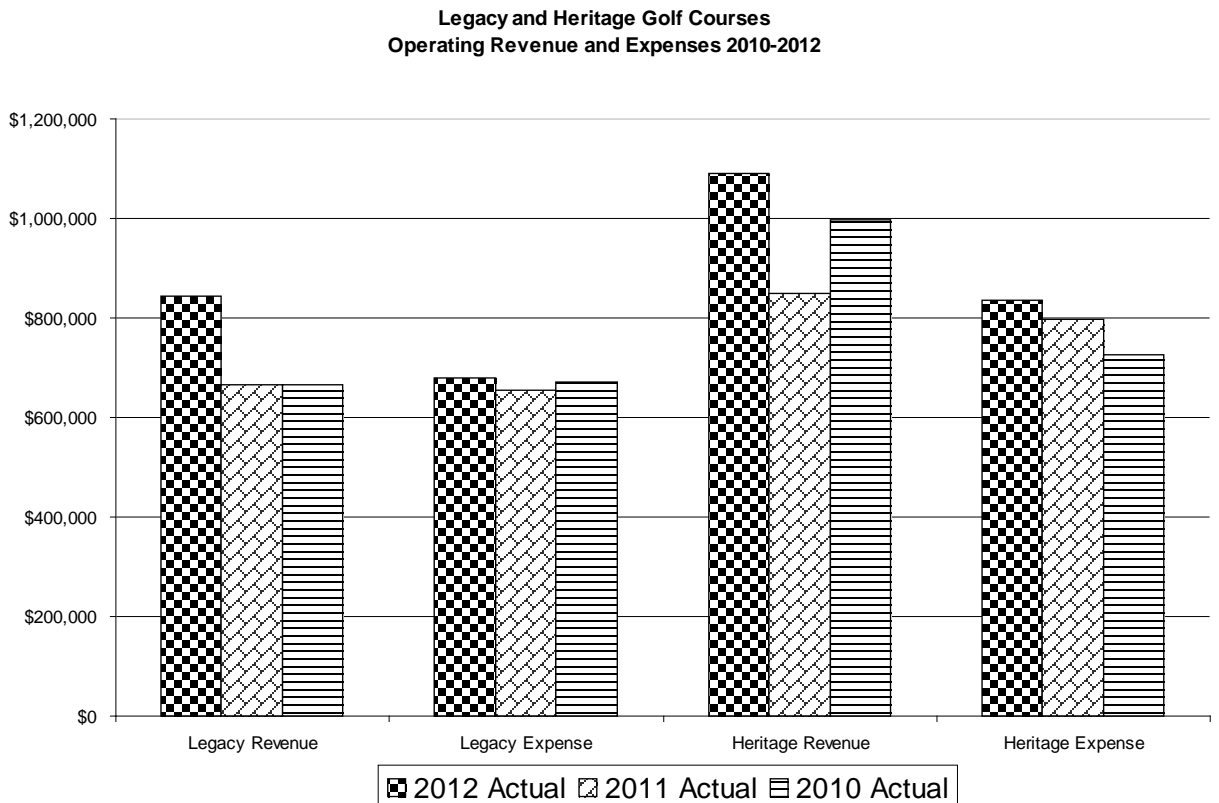
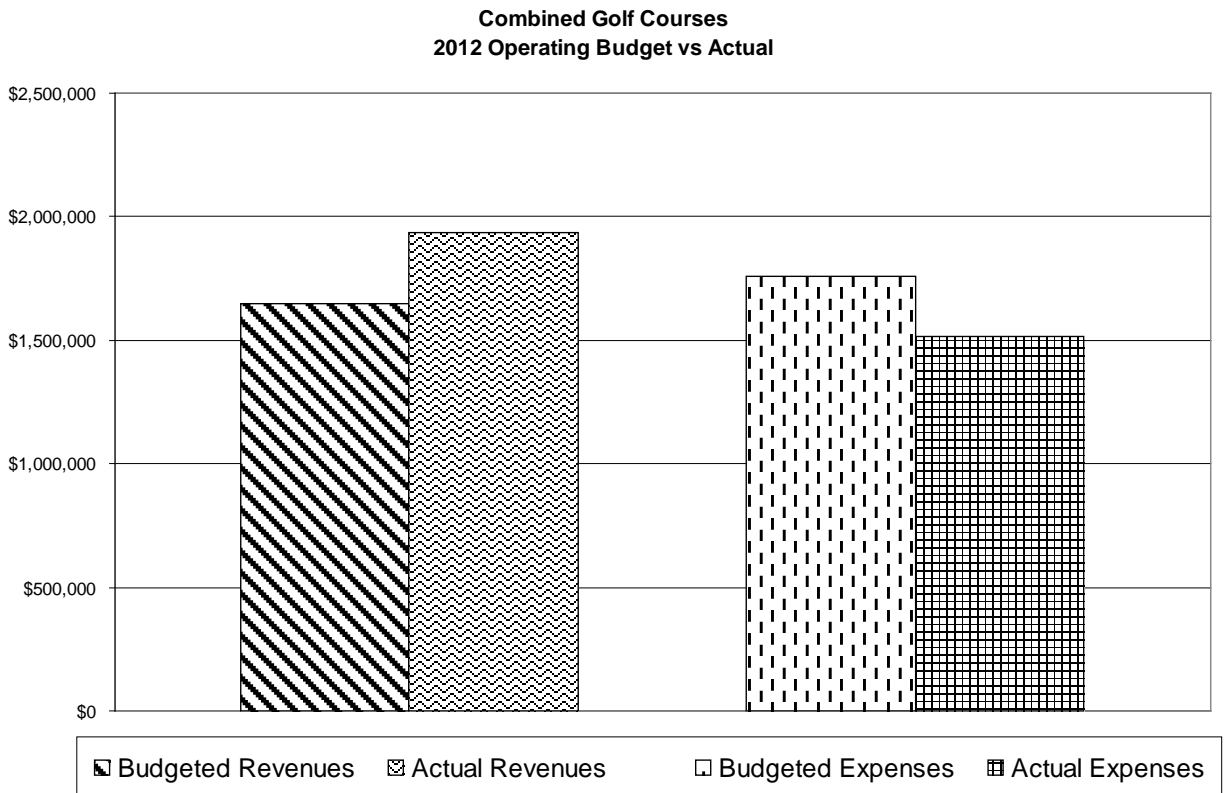
The water revenue variance is due to the effect of climatic variations on water consumption and 2012 changes to billing rates.

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



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

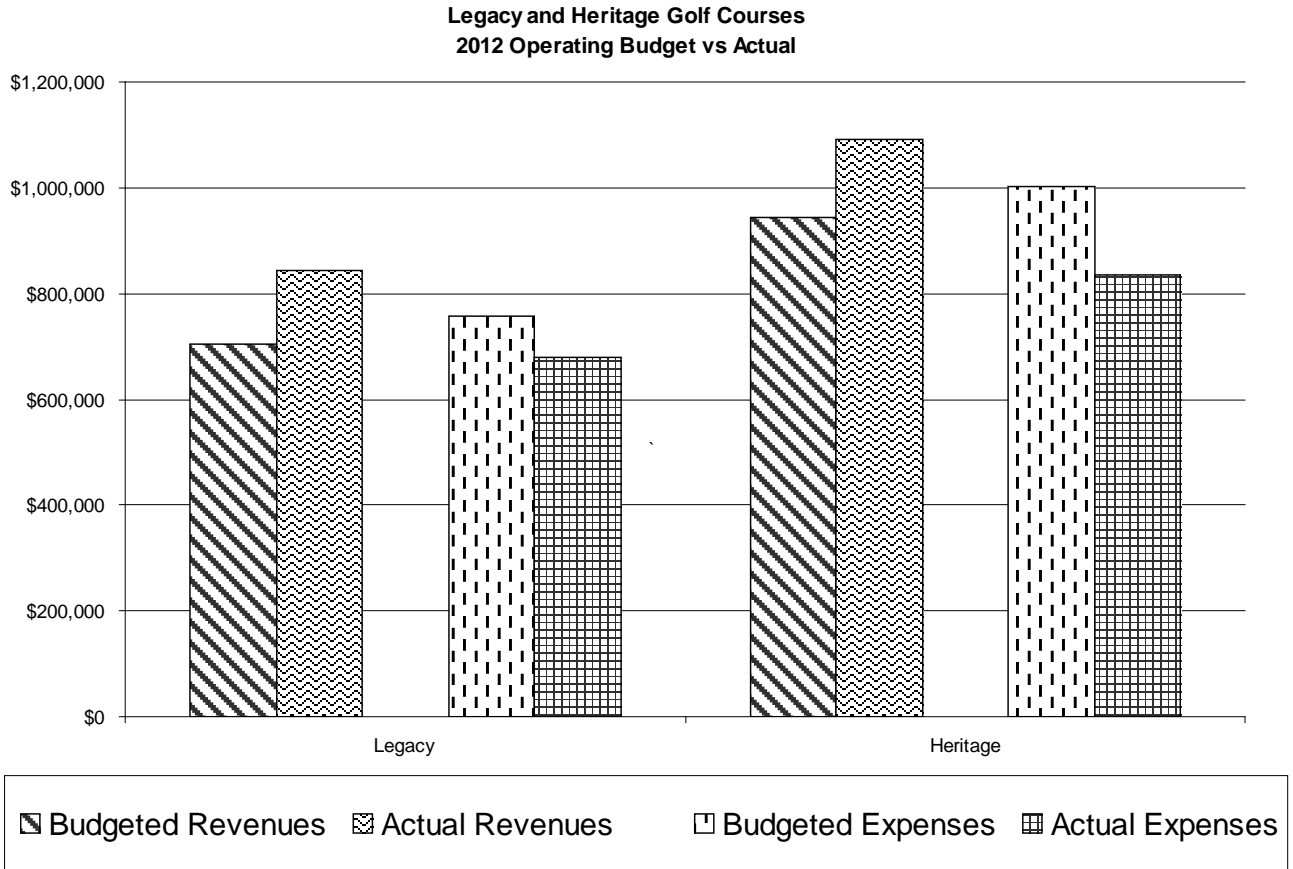
This enterprise reflects the operations of the City's two municipal golf courses.



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,

J. Brent McFall  
City Manager

Attachments

- Statements
- Shopping Center Report

**City of Westminster  
Financial Report  
For Six Months Ending June 30, 2012**

Description General Fund	Budget	Pro-rated for Seasonal Flows	Notes	Actual	(Under) Over Budget	%
<b>Revenues</b>						
Taxes	5,575,590	3,647,123		3,737,611	90,488	102.5%
Licenses & Permits	1,415,000	674,951		875,380	200,429	129.7%
Intergovernmental Revenue	5,042,991	1,915,120		2,136,850	221,730	111.6%
Charges for Services						
Recreation Services	6,418,338	3,296,233		3,764,918	468,685	114.2%
Other Services	9,530,695	4,129,088		3,975,950	(153,138)	96.3%
Fines	2,110,000	1,050,437		1,057,390	6,953	100.7%
Interest Income	180,000	68,453		59,285	(9,168)	86.6%
Miscellaneous	1,733,733	615,305		530,792	(84,513)	86.3%
Leases	386,208	184,155		184,155	0	100.0%
Interfund Transfers	61,684,647	30,842,324		30,842,324	0	100.0%
<b>Total Revenues</b>	<b>94,077,202</b>	<b>46,423,189</b>		<b>47,164,655</b>	<b>741,466</b>	<b>101.6%</b>
<b>Expenditures</b>						
City Council	240,119	127,376		97,461	(29,915)	76.5%
City Attorney's Office	1,197,764	553,454		544,407	(9,047)	98.4%
City Manager's Office	1,492,443	694,043		723,229	29,186	104.2%
Central Charges	25,031,200	9,884,527		9,781,956	(102,571)	99.0%
General Services	5,825,352	2,721,420		2,433,764	(287,656)	89.4%
Finance	1,994,706	929,386		933,086	3,700	100.4%
Police	20,381,168	9,600,399		9,632,204	31,805	100.3%
Fire Emergency Services	11,777,934	5,487,507		5,506,248	18,741	100.3%
Community Development	4,125,271	1,907,834		1,935,690	27,856	101.5%
Public Works & Utilities	7,767,031	2,695,776		2,655,951	(39,825)	98.5%
Parks, Recreation & Libraries	14,244,214	6,253,216		5,966,949	(286,267)	95.4%
<b>Total Expenditures</b>	<b>94,077,202</b>	<b>40,854,938</b>		<b>40,210,945</b>	<b>(643,993)</b>	<b>98.4%</b>
Revenues Over(Under)						
Expenditures	0	5,568,251		6,953,710	1,385,459	

**City of Westminster  
Financial Report  
For Six Months Ending June 30, 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	22,916,469		23,773,013	856,544	103.7%
Sales Tx Audit Revenues	719,000	359,500		278,315	(81,185)	77.4%
S-T Rev. STX	<u>45,388,579</u>	<u>23,275,969</u>		<u>24,051,328</u>	<u>775,359</u>	103.3%
Use Tax						
Use Tax Returns	7,193,750	3,254,271		3,952,676	698,405	121.5%
Use Tax Audit Revenues	785,000	392,500		282,940	(109,560)	72.1%
S-T Rev. UTX	<u>7,978,750</u>	<u>3,646,771</u>		<u>4,235,616</u>	<u>588,845</u>	116.1%
Total STX and UTX	<u>53,367,329</u>	<u>26,922,740</u>		<u>28,286,944</u>	<u>1,364,204</u>	105.1%
Public Safety Tax						
PST Tax Returns	10,985,043	5,491,277		5,970,153	478,876	108.7%
PST Audit Revenues	308,500	154,250		112,208	(42,042)	72.7%
Total Rev. PST	<u>11,293,543</u>	<u>5,645,527</u>		<u>6,082,361</u>	<u>436,834</u>	107.7%
Interest Income	95,000	47,500		39,012	(8,488)	82.1%
Interfund Transfers	257,000	128,500		128,500	0	100.0%
Total Revenues and Carryover	<u>65,012,872</u>	<u>32,744,267</u>		<u>34,536,817</u>	<u>1,792,550</u>	105.5%
<b>Expenditures</b>						
Central Charges	<u>65,012,872</u>	<u>32,506,436</u>		<u>32,506,436</u>	0	100.0%
Revenues Over(Under) Expenditures	<u>0</u>	<u>237,831</u>		<u>2,030,381</u>	<u>1,792,550</u>	

**City of Westminster  
Financial Report  
For Six Months Ending June 30, 2012**

<b>Description</b>	<b>Budget</b>	<b>Pro-rated for Seasonal Flows</b>	<b>Notes</b>	<b>Actual</b>	<b>(Under) Over Budget</b>	<b>% Budget</b>
<b>POST Fund</b>						
<b>Revenues</b>						
Sales & Use Tax	4,814,510	2,422,465		2,533,666	111,201	104.6%
Intergovernmental Revenue	81,229	0		0	0	
Interest Income	3,400	1,700		12,047	10,347	708.6%
Miscellaneous	85,030	42,515		54,404	11,889	128.0%
Interfund Transfers	19,000	9,500		9,500	0	100.0%
<b>Total Revenues</b>	<u>5,003,169</u>	<u>2,476,180</u>		<u>2,609,617</u>	<u>133,437</u>	<u>105.4%</u>
<b>Expenditures</b>						
Central Charges	4,725,329	2,299,473		2,272,838	(26,635)	98.8%
Park Services	277,840	107,182		83,186	(23,996)	77.6%
	<u>5,003,169</u>	<u>2,406,655</u>		<u>2,356,024</u>	<u>(50,631)</u>	<u>97.9%</u>
Revenues Over(Under)						
Expenditures	<u>0</u>	<u>69,525</u>		<u>253,593</u>	<u>184,068</u>	

**City of Westminster  
Financial Report  
For Six Months Ending June 30, 2012**

Description	Budget	Pro-rated for Seasonal Flows	Notes	Actual	(Under) Over Budget	% Budget
<b>Water and Wastewater Funds - Combined</b>						
<b>Operating Revenues</b>						
License & Permits	75,000	37,500		51,000	13,500	136.0%
Intergovernmental Revenue	0	0		258,630	258,630	
Rates and Charges	43,153,638	16,892,081		18,345,541	1,453,460	108.6%
Miscellaneous	474,896	237,448		224,784	(12,664)	94.7%
Total Operating Revenues	<u>43,703,534</u>	<u>17,167,029</u>		<u>18,879,955</u>	<u>1,712,926</u>	110.0%
<b>Operating Expenses</b>						
Central Charges	5,875,355	2,937,678		2,911,323	(26,355)	99.1%
Finance	669,344	323,293		318,207	(5,086)	98.4%
Public Works & Utilities	20,349,992	8,956,071		7,581,856	(1,374,215)	84.7%
Parks, Recreation & Libraries	132,272	43,253		42,808	(445)	99.0%
Information Technology	2,778,352	1,344,722		1,213,448	(131,274)	90.2%
Total Operating Expenses	<u>29,805,315</u>	<u>13,605,017</u>		<u>12,067,642</u>	<u>(1,537,375)</u>	88.7%
Operating Income (Loss)	<u>13,898,219</u>	<u>3,562,012</u>		<u>6,812,313</u>	<u>3,250,301</u>	
<b>Other Revenue and Expenses</b>						
Tap Fees	3,700,000	2,000,300		2,440,338	440,038	122.0%
Interest Income	553,600	276,800		160,985	(115,815)	58.2%
Interfund Transfers	3,967,501	1,983,751		1,983,751	0	100.0%
Sale of Assets	0	0		64,028	64,028	
Debt Service	(7,219,424)	(3,069,270)		(3,069,270)	0	100.0%
Total Other Revenue (Expenses)	<u>1,001,677</u>	<u>1,191,581</u>		<u>1,579,832</u>	<u>388,251</u>	
Increase (Decrease) in Net Assets	<u>14,899,896</u>	<u>4,753,593</u>		<u>8,392,145</u>	<u>3,638,552</u>	

**City of Westminster  
Financial Report  
For Six Months Ending June 30, 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	37,500		51,000	13,500	136.0%
Intergovernmental Revenue	0	0		258,630	258,630	
Rates and Charges	30,892,138	10,761,331		12,203,428	1,442,097	113.4%
Miscellaneous	464,896	232,448		219,187	(13,261)	94.3%
<b>Total Operating Revenues</b>	<b>31,432,034</b>	<b>11,031,279</b>		<b>12,732,245</b>	<b>1,700,966</b>	<b>115.4%</b>
<b>Operating Expenses</b>						
Central Charges	4,152,445	2,076,223		2,053,258	(22,965)	98.9%
Finance	669,344	323,293		318,207	(5,086)	98.4%
Public Works & Utilities	14,246,761	6,211,508		5,132,731	(1,078,777)	82.6%
PR&L Standley Lake	132,272	43,253		42,808	(445)	99.0%
Information Technology	2,778,352	1,344,722		1,213,448	(131,274)	90.2%
<b>Total Operating Expenses</b>	<b>21,979,174</b>	<b>9,998,999</b>		<b>8,760,452</b>	<b>(1,238,547)</b>	<b>87.6%</b>
<b>Operating Income (Loss)</b>	<b>9,452,860</b>	<b>1,032,280</b>		<b>3,971,793</b>	<b>2,939,513</b>	
<b>Other Revenue and Expenses</b>						
Tap Fees	3,000,000	1,615,200		1,821,021	205,821	112.7%
Interest Income	365,600	182,800		112,395	(70,405)	61.5%
Interfund Transfers	2,984,511	1,492,256		1,492,256	0	100.0%
Sale of Assets	0	0		64,028	64,028	
Debt Service	(5,715,075)	(2,483,506)		(2,483,506)	0	100.0%
<b>Total Other Revenues (Expenses)</b>	<b>635,036</b>	<b>806,750</b>		<b>1,006,194</b>	<b>199,444</b>	
<b>Increase (Decrease) in Net Assets</b>	<b>10,087,896</b>	<b>1,839,030</b>		<b>4,977,987</b>	<b>3,138,957</b>	

**City of Westminster  
Financial Report  
For Six Months Ending June 30, 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	6,130,750		6,142,113	11,363	100.2%
Miscellaneous	10,000	5,000		5,597	597	111.9%
<b>Total Operating Revenues</b>	<u>12,271,500</u>	<u>6,135,750</u>		<u>6,147,710</u>	<u>11,960</u>	<u>100.2%</u>
<b>Operating Expenses</b>						
Central Charges	1,722,910	861,455		858,065	(3,390)	99.6%
Public Works & Utilities	6,103,231	2,744,563		2,449,125	(295,438)	89.2%
<b>Total Operating Expenses</b>	<u>7,826,141</u>	<u>3,606,018</u>		<u>3,307,190</u>	<u>(298,828)</u>	<u>91.7%</u>
<b>Operating Income (Loss)</b>	<u>4,445,359</u>	<u>2,529,732</u>		<u>2,840,520</u>	<u>310,788</u>	
<b>Other Revenue and Expenses</b>						
Tap Fees	700,000	385,100		619,317	234,217	160.8%
Interest Income	188,000	94,000		48,590	(45,410)	51.7%
Interfund Transfers	982,990	491,495		491,495	0	100.0%
Debt Service	(1,504,349)	(585,764)		(585,764)	0	100.0%
<b>Total Other Revenues (Expenses)</b>	<u>366,641</u>	<u>384,831</u>		<u>573,638</u>	<u>188,807</u>	
<b>Increase (Decrease) in Net Assets</b>	<u>4,812,000</u>	<u>2,914,563</u>		<u>3,414,158</u>	<u>499,595</u>	

**City of Westminster  
Financial Report  
For Six Months Ending June 30, 2012**

Description	Budget	Pro-rated for Seasonal Flows	Notes	Actual	(Under) Over Budget	% Budget
<b>Storm Drainage Fund</b>						
<b>Revenues</b>						
Charges for Services	2,050,000	1,025,000		994,798	(30,202)	97.1%
Interest Income	82,000	41,000		23,417	(17,583)	57.1%
Miscellaneous	0	0		27	27	
Total Revenues	<u>2,132,000</u>	<u>1,066,000</u>		<u>1,018,242</u>	<u>(47,758)</u>	95.5%
<b>Expenses</b>						
General Services	86,200	29,394		28,229	(1,165)	96.0%
Community Development	169,090	81,332		76,414	(4,918)	94.0%
PR&L Park Services	200,000	47,600		46,277	(1,323)	97.2%
Public Works & Utilities	322,710	104,558		54,158	(50,400)	51.8%
Total Expenses	<u>778,000</u>	<u>262,884</u>		<u>205,078</u>	<u>(57,806)</u>	78.0%
Increase (Decrease) in Net Assets	<u>1,354,000</u>	<u>803,116</u>		<u>813,164</u>	<u>10,048</u>	



**City of Westminster  
Financial Report  
For Six Months Ending June 30, 2012**

<b>Description</b>	<b>Budget</b>	<b>Pro-rated for Seasonal Flows</b>	<b>Notes</b>	<b>Actual</b>	<b>(Under) Over Budget</b>	<b>% Budget</b>
<b>Golf Course Funds - Combined</b>						
<b>Revenues</b>						
Charges for Services	2,745,022	1,270,728		1,557,435	286,707	122.6%
Interest Income	0	0		2,092	2,092	
Interfund Transfers	751,143	375,571		375,571	0	100.0%
<b>Total Revenues</b>	<u>3,496,165</u>	<u>1,646,299</u>		<u>1,935,098</u>	<u>288,799</u>	<u>117.5%</u>
<b>Expenses</b>						
Central Charges	208,427	104,422		90,412	(14,010)	86.6%
Recreation Facilities	3,287,738	1,656,966		1,425,104	(231,862)	86.0%
<b>Total Expenses</b>	<u>3,496,165</u>	<u>1,761,388</u>		<u>1,515,516</u>	<u>(245,872)</u>	<u>86.0%</u>
<b>Increase (Decrease) in Net Assets</b>	<u>0</u>	<u>(115,089)</u>		<u>419,582</u>	<u>534,671</u>	

**City of Westminster  
Financial Report  
For Six Months Ending June 30, 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	661,100		798,822	137,722	120.8%
Interest Income	0	0		2,092	2,092	
Interfund Transfers	85,000	42,500		42,500	0	100.0%
<b>Total Revenues</b>	<b>1,541,167</b>	<b>703,600</b>		<b>843,414</b>	<b>139,814</b>	<b>119.9%</b>
<b>Expenses</b>						
Central Charges	109,383	54,801		46,511	(8,290)	84.9%
Recreation Facilities	1,431,784	703,006		632,393	(70,613)	90.0%
<b>Total Expenses</b>	<b>1,541,167</b>	<b>757,807</b>		<b>678,904</b>	<b>(78,903)</b>	<b>89.6%</b>
<b>Increase (Decrease) in Net Assets</b>	<b>0</b>	<b>(54,207)</b>		<b>164,510</b>	<b>218,717</b>	

**City of Westminster  
Financial Report  
For Six Months Ending June 30, 2012**

<b>Description</b>	<b>Budget</b>	<b>Pro-rated for Seasonal Flows</b>	<b>Notes</b>	<b>Actual</b>	<b>(Under) Over Budget</b>	<b>% Budget</b>
<b>Heritage at Westmoor Fund</b>						
<b>Revenues</b>						
Charges for Services	1,288,855	609,628		758,613	148,985	124.4%
Interfund Transfers	666,143	333,071		333,071	0	100.0%
<b>Total Revenues</b>	<u>1,954,998</u>	<u>942,699</u>		<u>1,091,684</u>	<u>148,985</u>	115.8%
<b>Expenses</b>						
Central Charges	99,044	49,621		43,901	(5,720)	88.5%
Recreation Facilities	1,855,954	953,960		792,711	(161,249)	83.1%
<b>Total Expenses</b>	<u>1,954,998</u>	<u>1,003,581</u>		<u>836,612</u>	<u>(166,969)</u>	83.4%
 Increase (Decrease) in Net Assets	 <u>0</u>	 <u>(60,882)</u>		 <u>255,072</u>	 <u>315,954</u>	

CITY OF WESTMINSTER  
 GENERAL RECEIPTS BY CENTER - SUMMARY (CC)  
 MONTH OF JUNE 2012

Center Location Major Tenant	Current Month			Last Year			%Change		
	General Sales	General Use	Total	General Sales	General Use	Total	Sales	Use	Total
THE ORCHARD 144TH & I-25 JC PENNEY/MACY'S	370,860	15,099	385,959	332,741	19,970	352,711	11	-24	9
WESTFIELD SHOPPING CENTER NW CORNER 92ND & SHER WALMART 92ND	325,371	906	326,277	308,162	1,838	309,999	6	-51	5
SHOPS AT WALNUT CREEK 104TH & REED TARGET	220,996	1,290	222,286	210,314	2,173	212,487	5	-41	5
NORTHWEST PLAZA SW CORNER 92 & HARLAN COSTCO	209,320	423	209,743	385,518	5,259	390,777	-46	-92	-46
BROOKHILL I & II N SIDE 88TH OTIS TO WADS HOME DEPOT	199,962	1,037	200,998	190,907	1,048	191,955	5	-1	5
SHOENBERG CENTER SW CORNER 72ND & SHERIDAN WALMART 72ND	192,020	379	192,400	190,744	690	191,434	1	-45	1
INTERCHANGE BUSINESS CENTER SW CORNER 136TH & I-25 WALMART 136TH	166,041	665	166,706	158,668	700	159,368	5	-5	5
SHERIDAN CROSSING SE CORNER 120TH & SHER KOHL'S	164,701	565	165,266	151,651	4,105	155,756	9	-86	6
PROMENADE SOUTH/NORTH S/N SIDES OF CHURCH RANCH BLVD SHANE/AMC	133,309	26,551	159,860	120,303	30,921	151,224	11	-14	6
CITY CENTER MARKETPLACE NE CORNER 92ND & SHERIDAN BARNES & NOBLE	112,654	392	113,046	119,145	205	119,350	-5	91	-5
NORTH PARK PLAZA SW CORNER 104TH & FEDERAL KING SOOPERS	112,242	123	112,365	101,544	2,901	104,445	11	-96	8
WESTMINSTER MALL 88TH & SHERIDAN 2 DEPARTMENT STORES	91,147	949	92,096	117,665	1,115	118,780	-23	-15	-22
LUCENT/KAISER CORRIDOR 112-120 HURON - FEDERAL LUCENT TECHNOLOGY	14,198	74,051	88,249	8,297	62,132	70,429	71	19	25
WESTMINSTER CROSSING 136TH & I-25 LOWE'S	80,717	128	80,845	79,635	653	80,288	1	-80	1
VILLAGE AT THE MALL S SIDE 88TH DEPEW-HARLAN TOYS 'R US	77,020	247	77,267	77,926	194	78,120	-1	27	-1

CITY OF WESTMINSTER  
 GENERAL RECEIPTS BY CENTER - SUMMARY (CC)  
 MONTH OF JUNE 2012

Center Location Major Tenant	Current Month			Last Year			%Change		
	General Sales	General Use	Total	General Sales	General Use	Total	Sales	Use	Total
STANDLEY SHORES CENTER SW CORNER 100TH & WADS KING SOOPERS	76,123	204	76,328	77,195	542	77,738	-1	-62	-2
ROCKY MOUNTAIN PLAZA SW CORNER 88TH & SHER GUITAR STORE	60,577	204	60,781	63,373	158	63,531	-4	29	-4
BOULEVARD SHOPS 94TH & WADSWORTH CORRIDOR AMERICAN FURNITURE WAREHOUSE	53,727	226	53,953	49,662	66	49,728	8	243	9
VILLAGE AT PARK CENTRE NW CORNER 120TH & HURON CB & POTTS	44,419	9,215	53,634	40,461	644	41,105	10	1331	30
WESTMINSTER PLAZA FEDERAL-IRVING 72ND-74TH SAFEWAY	53,095	311	53,406	50,616	655	51,270	5	-53	4
STANDLEY LAKE MARKETPLACE NE CORNER 99TH & WADSWORTH SAFEWAY	42,732	5,592	48,323	45,931	158	46,089	-7	3428	5
WILLOW RUN 128TH & ZUNI SAFEWAY	34,744	212	34,955	32,057	182	32,239	8	16	8
BROOKHILL IV E SIDE WADS 90TH-92ND MURDOCH'S	29,979	28	30,007	30,590	72	30,662	-2	-61	-2
ELWAY/DOUGLAS CORRIDOR NE CORNER 104TH & FED ELWAY MOTORS	28,173	467	28,640	26,758	332	27,091	5	41	6
NORTHVIEW 92ND AVE YATES TO SHERIDAN SALTGRASS	26,705	757	27,462	26,262	274	26,535	2	177	3
	2,920,832	140,021	3,060,854	2,996,123	136,988	3,133,112	-3	2	-2

CITY OF WESTMINSTER  
GENERAL RECEIPTS BY CENTER  
JUNE 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	2,391,939	89,169	2,481,107	2,198,496	108,377	2,306,873	9	-18	8
WESTFIELD SHOPPING CENTER NW CORNER 92ND & SHER WALMART 92ND	2,107,874	16,813	2,124,687	2,037,758	9,282	2,047,040	3	81	4
NORTHWEST PLAZA SW CORNER 92 & HARLAN COSTCO	1,447,883	3,707	1,451,590	1,381,107	8,959	1,390,066	5	-59	4
SHOPS AT WALNUT CREEK 104TH & REED TARGET	1,418,724	11,600	1,430,324	1,369,264	25,452	1,394,716	4	-54	3
SHOENBERG CENTER SW CORNER 72ND & SHERIDAN WALMART 72ND	1,178,650	2,804	1,181,455	1,150,965	3,361	1,154,326	2	-17	2
BROOKHILL I & II N SIDE 88TH OTIS TO WADS HOME DEPOT	1,139,701	10,979	1,150,680	1,056,520	7,703	1,064,224	8	43	8
SHERIDAN CROSSING SE CORNER 120TH & SHER KOHL'S	1,010,296	10,502	1,020,798	954,190	7,876	962,066	6	33	6
INTERCHANGE BUSINESS CENTER SW CORNER 136TH & I-25 WALMART 136TH	982,038	3,332	985,370	970,756	3,410	974,166	1	-2	1
PROMENADE SOUTH/NORTH S/N SIDES OF CHURCH RANCH BLVD SHANE/AMC	774,928	106,612	881,540	732,248	169,897	902,145	6	-37	-2
NORTH PARK PLAZA SW CORNER 104TH & FEDERAL KING SOOPERS	746,671	4,556	751,226	682,093	35,521	717,614	9	-87	5
CITY CENTER MARKETPLACE NE CORNER 92ND & SHERIDAN BARNES & NOBLE	736,009	5,114	741,123	761,856	5,355	767,211	-3	-5	-3
WESTMINSTER MALL 88TH & SHERIDAN 2 DEPARTMENT STORES	569,143	13,097	582,240	794,844	19,201	814,045	-28	-32	-28
STANDLEY SHORES CENTER SW CORNER 100TH & WADS KING SOOPERS	502,086	1,486	503,572	521,953	6,432	528,385	-4	-77	-5
VILLAGE AT THE MALL S SIDE 88TH DEPEW-HARLAN TOYS 'R US	465,697	5,394	471,090	486,312	2,221	488,533	-4	143	-4
WESTMINSTER CROSSING 136TH & I-25 LOWE'S	377,842	4,343	382,185	360,625	2,052	362,678	5	112	5

CITY OF WESTMINSTER  
 GENERAL RECEIPTS BY CENTER  
 JUNE 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
ROCKY MOUNTAIN PLAZA SW CORNER 88TH & SHER GUITAR STORE	371,390	1,191	372,581	387,098	1,191	388,289	-4	0	-4
WESTMINSTER PLAZA FEDERAL-IRVING 72ND-74TH SAFEWAY	322,332	5,894	328,226	311,753	2,094	313,847	3	181	5
STANDLEY LAKE MARKETPLACE NE CORNER 99TH & WADSWORTH SAFEWAY	262,352	6,386	268,738	276,519	1,132	277,650	-5	464	-3
VILLAGE AT PARK CENTRE NW CORNER 120TH & HURON CB & POTTS	255,205	11,946	267,151	241,367	5,016	246,383	6	138	8
WILLOW RUN 128TH & ZUNI SAFEWAY	200,960	2,308	203,268	191,729	1,870	193,598	5	23	5
ELWAY/DOUGLAS CORRIDOR NE CORNER 104TH & FED ELWAY MOTORS	174,099	3,720	177,819	162,405	2,884	165,289	7	29	8
BROOKHILL IV E SIDE WADS 90TH-92ND MURDOCH'S	168,988	694	169,682	158,883	12,001	170,884	6	-94	-1
BOULEVARD SHOPS 94TH & WADSWORTH CORRIDOR AMERICAN FURNITURE WAREHOUSE	167,726	1,287	169,013	150,263	2,337	152,600	12	-45	11
STANDLEY PLAZA SW CORNER 88TH & WADS WALGREENS	149,561	7,021	156,582	143,357	2,923	146,280	4	140	7
NORTHVIEW 92ND AVE YATES TO SHERIDAN SALTGRASS	145,948	3,427	149,376	149,600	962	150,562	-2	256	-1
	18,068,044	333,381	18,401,425	17,631,960	447,509	18,079,469	2	-26	2



## Agenda Item 8 B

### Agenda Memorandum

City Council Meeting  
July 23, 2012



**SUBJECT:** Quarterly Insurance Claims Report – April through June 2012

**Prepared By:** Martee Erichson, Risk Manager

### Recommended City Council Action

Accept the Second Quarter 2012 Insurance Claims Report.

### Summary Statement

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

**Expenditure Required:** \$0

**Source of Funds:** N/A



**Policy Issue**

None identified

**Alternative**

None identified

**Background Information**

Information on the status of each claim received during the 2nd quarter of 2012 is provided on the attached spreadsheet. All Incident Report forms are signed and reviewed by appropriate supervisors, Safety Committee representatives and department heads. Follow-up action, including discipline if necessary, is taken on incidents where City employees are at fault.

For the second quarter of 2012, Staff has noted the following summary information:

- Twelve of the 18 claims reported in the second quarter of 2012 are closed at this time.
- Total claims for the quarter and year-to-date are broken down by department as follows:

Department	2nd Qtr 2012			YTD
	Total Claims	Open	Closed	Total
City Attorney's Office (CAO)	0	0	0	1
Community Development (CD)	0	0	0	1
Fire	1	0	1	2
Police (PD)	7	5	2	10
Parks, Recreation and Libraries (PRL)	3	0	3	7
Public Works and Utilities (PWU) – Street Maintenance	2	0	2	5
Public Works and Utilities (PWU) – Utility Operations	5	1	4	14
Public Works and Utilities (PWU) – Utilities Planning & Engineering	0	0	0	1
<b>TOTAL</b>	<b>18</b>	<b>6</b>	<b>12</b>	<b>41</b>

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

Respectfully submitted,

J. Brent McFall  
City Manager

**Quarterly Insurance Report  
April - June 2012**

Claim Number	Loss Date	Dept.	Claimant	Address	Claim Description	Payment	Status	Notes
2012-145	5/10/2012	Fire	Mai Choua Vang	8803 Circle Dr #1, Westminster CO 80031	Employee was parking a City fire engine when he backed into the claimant's parked vehicle.	\$ 1,415.02	Closed	
2012-157	5/19/2012	PRL	Nikola Normandy c/o Karen Normandy	P O Box 350143, Westminster CO 80035	Claimant alleges the force of the water on the pool slide at City Park Recreation Center caused him to injure his mouth on the side of the slide.	\$ -	Closed	Claim denied based on Colorado Governmental Immunity Act and investigation found no evidence of negligence on the part of the City.
2012-199	5/23/2012	PWU - Streets	Katja Walton c/o Progressive Insurance	1313 Otis St., Lakewood CO 80214	Claimant's automobile insurance carrier alleges the claimant's accident with another vehicle was caused by street construction work at the site of the accident.	\$ -	Closed	Claim denied based on Colorado Governmental Immunity Act and investigation found no evidence of negligence on the part of the City.
2012-184	5/23/2012	PWU - Streets	Lender Processing Services c/o Sedgwick	10385 Westmoor Drive, Ste. 100, Westminster CO 80021	Employee of Lender Processing Services (LPS), Roberta Oliver, alleges she tripped over uneven sidewalk that is owned by the City while she was at work. Claims Administrator for LPS filed a subrogation claim against the City for Workers' Compensation benefits paid on behalf of the employee.	\$ -	Closed	Investigation determined the sidewalk maintenance is the responsibility of the office buildings' management company. LPS withdrew their claim against the City.
2012-172	6/1/2012	PD	Rafael Hall	13460 Fillmore Ct., Thornton CO 80241	Claimant was going through the secured parking lot gate at the Public Safety Center when the gate malfunctioned and damaged his personal vehicle.	\$ -	Open	CIRSA investigating.

Claim Number	Loss Date	Dept.	Claimant	Address	Claim Description	Payment	Status	Notes
2012-181	6/6/2012	PWU - Util	Iris & Jose Mata	3605 94th Ave., Westminster CO 80031	Claimants allege damage to their home when work being performed on the sewer main in front of their house caused sewage to back up into their basement.	\$ -	Closed	Contractor doing work on the main at the time of the incident took responsibility and responded to claim.
2012-186	6/12/2012	PD	Stacy Craven	3510 Endicott Dr., Boulder CO 80305	Employee was backing out of a parking spot in a private parking lot and backed into the claimant who was driving down the parking row.	\$ -	Open	CIRSA investigating.
2012-189	6/13/2012	PRL	Tammy Perry	11397 Kendall St., Westminster CO 80020	Parks employee was edging a sidewalk with a weed eater when a rock flew up and damaged the claimant's vehicle window.	\$ 185.00	Closed	Claim denied based on Colorado Governmental Immunity Act; however, claimant was paid under the City's "good neighbor" settlement program.
2012-191	6/13/2012	PWU - Util	Luke Weismann	3350 W 94th Ave., Westminster CO 80031	Claimant alleges he was injured when he fell into a meter pit because the lid was not secured after a Utility employee had been out to turn his water back on.	\$ -	Closed	Claim denied based on Colorado Governmental Immunity Act and investigation found no evidence of negligence on the part of the City.
2012-190	6/14/2012	PWU - Util	Lisa Sanchez	2760 Roosevelt Ave., Thornton CO 80229	Water main break at 72nd and Newton caused damage to claimant's vehicle.	\$940.63	Closed	Claim denied based on Colorado Governmental Immunity Act; however, claimant was paid under the City's "good neighbor" settlement program.

Claim Number	Loss Date	Dept.	Claimant	Address	Claim Description	Payment	Status	Notes
2012-190	6/14/2012	PWU - Util	Danny McKercher	5930 W 72nd Dr., Westminster CO 80003	Water main break at 72nd and Newton caused damage to claimant's vehicle.	\$2,500.00	Closed	Claim denied based on Colorado Governmental Immunity Act; however, claimant was paid under the City's "good neighbor" settlement program.
2012-207	6/26/2012	PD	Joy & Robert Watson	9506 Otis St., Westminster CO 80021	Claimant's vehicle was damaged during a Westminster SWAT call out when a SWAT team member fired his gun and a stray bullet entered the unoccupied, parked vehicle.	\$ 2,769.96	Closed	Claim denied based on Colorado Governmental Immunity Act; however, claimant was paid under the City's "good neighbor" settlement program.
<b>CLAIMS SUBMITTED RECENTLY WITH OCCURRENCE DATE PRIOR TO 2nd QUARTER 2012:</b>								
2010-376	8/18/2010	PD	Trenton "TJ" Lane c/o Dusti Lane	9837 65th Ave., Arvada CO 80004	Mother of the claimant, a minor, is alleging his civil rights were violated when he was arrested by Westminster Police officers.	\$ -	Open	CIRSA investigating.
2011-407	4/1/2011	PD	Richard Stewart	Sterling Correctional Facility, PO Box 6000, Sterling CO 80751	Claimant alleges he suffered damages when his vehicle was seized and impounded by Westminster Police in violation of his constitutional rights.	\$ -	Open	CIRSA investigating.
2011-406	4/21/2011	PD	Eric Recor	8030 Grove St., Westminster CO 80030	Claimant alleges excessive force and unlawful seizure when he was arrested by the Westminster Police.	\$ -	Open	CIRSA investigating.

Claim Number	Loss Date	Dept.	Claimant	Address	Claim Description	Payment	Status	Notes
2011-285	9/12/2011	PD	Roxanna Chavez	2114 Squires St., Longmont CO 80501	Employee was moving into a deceleration lane to exit the highway and did not see the claimant' vehicle already in the deceleration lane. Claimant was not able to avoid the employee's City vehicle and hit the rear of the vehicle with her vehicle.	\$ 3,640.39	Closed	
2011-408	12/27/2011	PWU - Util	Flavio Arellano	c/o Irwin & Boesen PC, 4100 E Mississippi Ave Ste 1900, Denver CO 80246	Claimant alleges he was injured at the City's wastewater treatment plant during renovations, when he slipped on ice while working as a sub-contractor.	\$ -	Open	CIRSA investigating.
2012-094	3/10/2012	PRL	Hadley Gentry c/o Danielle Gentry	12856 Vine St., Thornton CO 80241	The claimant, a minor, sustained lacerations when she fell while watching a Recreation Program sponsored dance recital at Mountain Range High School. The school referred the claimant to the City due to an indemnification agreement signed by City staff.	\$ -	Closed	Claim denied based on Colorado Governmental Immunity Act and investigation found no evidence of negligence on the part of the City.
					<b>TOTAL</b>	<b>\$ 11,451.00</b>		



**Agenda Memorandum**

City Council Meeting  
July 23, 2012



**SUBJECT:** Lachat Flow Injection Analyzer Purchase

**Prepared By:** Dave Meyer, Water Quality Specialist  
Mary Fabisiak, Water Quality Administrator

**Recommended City Council Action**

Based on the recommendation of the City Manager, find that the public interest would best be served by authorizing a sole source purchase of a Lachat Flow Injection Analyzer from Lachat Instruments – Hach Co. in the amount of \$65,728.

**Summary Statement**

- This laboratory instrument will replace a Lachat 8000 analyzer purchased in 1999 that is no longer fully supported by the manufacturer.
- The instrument is used by the Big Dry Creek Water Quality Laboratory for required pollutant analysis; process control, and other water quality monitoring of wastewater, reclaimed water and water in Big Dry Creek.
- Purchase of an instrument from Lachat Instruments - Hach Co. will allow the use of existing analysis methods and equipment modules needed for the analysis of specific compounds.
- This specific piece of equipment is not available from any other manufacturer.
- The 2012 budget includes \$60,000 for the purchase of this equipment. The additional required funding is available from savings in the 2012 operations budget.

**Expenditure Required:** \$65,728

**Source of Funds:** Utilities Fund Wastewater Operating Budget

**Policy Issue**

Should the City purchase a new Lachat Flow Injection Analyzer?

**Alternatives**

1. City Council could choose to not purchase the Lachat analyzer and use contract lab services for the analyses currently performed in-house. In the past, contract lab services for these analyses have proven unsatisfactory due to delayed and inconsistent sample results. Staff does not recommend this alternative.
2. City Council could choose to delay the purchase of the Lachat analyzer. Staff does not recommend this alternative because the existing equipment is 13 years old and no longer fully supported by the manufacturer, the equipment is used for critical process control and permit compliance analyses, and funds have been allocated for the purchase in the 2012 budget.
3. City Council could direct Staff to purchase an analyzer from a different manufacturer. Changing manufacturers would require the purchase of two separate instruments for flow injection analysis and ion chromatography, the use of outdated technology, and the development of different analysis methods. Staff does not recommend this alternative.

**Background Information**

The Water Quality Laboratory at the Big Dry Creek Wastewater Treatment Facility performs analyses of wastewater, reclaimed water and in-stream water to support facility operations process control, demonstrate compliance with discharge permit requirements, and provide data for water quality planning purposes. The Lachat Flow Injection Analyzer is currently used for the analysis of 12 pollutants that are regulated or which are of other importance to wastewater and reclaimed water quality.

Analyzers of other manufacturers use older technology, require longer analysis times, and do not produce the low detection limits required for the City's water quality purposes. Different analyzers are also not compatible with existing equipment needed for the required analyses and would require large amounts of staff time to learn new analysis methods, equipment maintenance, and repair techniques.

Based on all the factors detailed in this memorandum, Staff believes it is in the best interest of the City to negotiate a sole source purchase with Lachat Instruments - Hach Co. for the purchase of a new analyzer. Staff believes that the cost is reasonable and is confident this instrument will fulfill the needs of the Laboratory and Facility. \$60,000 was allocated for this equipment in the 2012 operating budget. The additional \$5,728 is available from savings from the purchase of other lab equipment and from savings due to a delay by the State of some monitoring requirements.

The purchase of the Lachat analyzer helps achieve the City Councils Strategic Plan Goals of "Financially Sustainable City Government Providing Exceptional Services" and "Beautiful and Environmentally Sensitive City" by providing tools and technology to increase organization productivity and efficiency and supporting compliance with environmental regulations and other water quality objectives.

Respectfully submitted,

J. Brent McFall  
City Manager



# Agenda Item 8 D

## Agenda Memorandum

City Council Meeting  
July 23, 2012



**SUBJECT:** Negotiation Command Post Trailer Purchase

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

### Recommended City Council Action

Award the bid for one Police Department Negotiation Command Post Trailer to Lynch Diversified Vehicles, Inc., in the amount of \$82,455.

### Summary Statement

- City Council action is requested to award the bid for one Police Department negotiation command post trailer to Lynch Diversified Vehicles, Inc., (LDV) based on the City of Westminster’s solicitation to eight specialized vehicle builders nationwide.
- Of the two specialized vehicle builders that responded to the request for bids, the City of Westminster continued dialogue with both, resulting in three revisions to narrow the scope and cost. After six months, LDV submitted the lowest price. Their bid meets the specifications in the City’s bid request.
- City Council previously approved \$60,000 in the 2011 General Capital Outlay Replacement Fund (GCORF) public safety tax budget to purchase a replacement cab and chassis. In addition, City Council appropriated \$30,000 in the 2011 Police Department operating budget to outfit the vehicle, potentially with a “breadbox” van and associated up fitting the interior (e.g., electrical, lighting, phone apparatus, etc.); these funds were moved to GCORF with the third quarter 2011 supplemental appropriation approved in December 2011.
- A vehicle was purchased in 2011 to tow the negotiation command post trailer in the amount of \$24,280 from the GCORF-PST account, which leaves \$65,720 remaining in the GCORF-PST account for the acquisition of the trailer.
- The E911 Authority has agreed to cover the costs associated with upsizing the generator needed (from 8 kW to 12 kW) and associated power supply upgrades needed within the trailer for dispatching purposes. They will reimburse the City \$10,173 for these costs. The Police Department has identified \$6,562 in their 2012 operating budget to help close the funding gap for the replacement of this unit.

**Expenditure Required:** \$82,455

<b>Source of Funds:</b>	\$65,720	PST General Capital Outlay Replacement Fund
	\$ 6,562	2012 Police Operating Budget
	\$10,173	E 911 Authority Board Account



**Policy Issue**

Should the City proceed with the purchase of one Police Department negotiation command post trailer?

**Alternatives**

1. Reject the City’s recent solicitation to eight specialized vehicle builders nationwide and instruct City Staff to re-bid the negotiation command post trailer to additional specialized vehicle builders. This is not recommended because the recent City bid reflects a competitive bid process that provided eight builders the opportunity to compete fairly to provide the negotiation command post trailer.
2. Do not purchase the proposed replacement negotiation command post trailer in 2012. This is not recommended because the original negotiator van is a retired narcotics investigation vehicle that has reached the end of its useful life and does not meet the needs of the department. In addition, the old van has a maintenance history that makes it impractical to keep it in regular service.

**Background Information**

As part of the 2011 Budget, City Council funded the purchase of one Police Department negotiation command post. Initial efforts were to source a new, or used “breadbox,” Grumman type van body truck at 19,500 gross vehicle weight (GVW), but this option was found to be too expensive. It was determined that a stand-alone trailer, with a dedicated tow vehicle, would provide the most value. Lengthy research resulted in the late 2011 solicitation. The \$65,720 from the 2011 GCORF-PST appropriation remain available for this purchase. The original trailer solicitations were far above budgeted dollars, so a total of three addendums were sent to the two competing builders in an effort to refine the trailer requirements and costs. In 2011, the dedicated tow vehicle was purchased for \$24,280 from the GCORF-PST account. Since the cost of the custom trailer unit cost more than the \$65,720 remaining, Staff worked with the E911 Authority. They agreed to cover the costs associated with upsizing the generator (from 8 kW to 12 kW) and for associated power supply upgrades needed for dispatching; the E911 Authority will reimburse the City \$10,173 for these costs, which will be handled through a supplemental appropriation later this year. To close the remaining funding gap, the Police Department has identified \$6,562 in their 2012 operating budget for the replacement of this unit to cover the total cost of the stand-alone trailer.

A summary of the bids and the final cost follows:

<b>Vendor Name</b>	<b>Advanced Containment System; Texas</b>	<b>Brown Industries; Kansas</b>	<b>LDV Inc; Wisconsin</b>	<b>Mobile Concepts; PA</b>	<b>Shook Mobile Technology; Texas</b>	<b>Spectrum Wireless; Texas</b>	<b>TPD Inc Trailer; California</b>
<b>Warranty</b>		1 Yr. Limited	<b>1 Yr Limited</b>				
<b>Model &amp; Year</b>		917XB24 2012 Trailer	<b>T26HNTMCC22022112-10 2012 Trailer</b>				
<b>Delivery Time</b>		120–150 Days	<b>180 Days</b>				
<b>Final Bid Price</b>	N/A	\$157,996	<b>\$82,455</b>	N/A	N/A	N/A	N/A

Unit 8252 is nearly 25 years old and 1988 van parts are no longer readily available at Chevrolet dealerships. The approved replacement vehicle identified in the table below has reached a point where it is no longer economically reasonable to maintain in service. Please note, the life-to-date vehicle maintenance costs in the table do not include accident repairs or fuel cost.

<b>PST General Capital Outlay Replacement Fund</b>					
<b>CITY DEPARTMENT</b>	<b>REPLACEMENT VEHICLE</b>	<b>LIFE-TO-DATE VEHICLE MAINTENANCE COST</b>	<b>NEW VEHICLE MAKE/MODEL</b>	<b>NEW VEHICLE PRICE</b>	<b>BIDDER AWARDED</b>
Police Department	8582 1988 Chevrolet cargo van	\$10,877	2012 LDV 22' Comm. Trailer	\$82,455	LDV

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

Respectfully submitted,

J. Brent McFall  
City Manager



# Agenda Item 8 E

## Agenda Memorandum

City Council Meeting  
July 23, 2012



**SUBJECT:** Semper Water Treatment Facility Administration Building Roof Replacement

**Prepared By:** Mike Wong, Senior Engineer, Utilities Planning and Engineering  
Steve Grooters, Senior Projects Engineer, Utilities Planning and Engineering

### Recommended City Council Action

Authorize the City Manager to execute a contract with the low bidder, Colorado Moisture Control, Inc., in the amount of \$429,834 for roof replacement at the Semper Water Treatment Administration Building; authorize a 10% contingency of \$42,983 bringing the total project budget to \$472,817; and authorize the transfer of \$65,317 from project savings in the completed Federal Boulevard Water Line Capital Improvement Account, respectively, to the Semper Water Treatment Facility Administration Building Roof Replacement Capital Improvement Account.

### Summary Statement

- The Semper Water Treatment Facility Administration building houses the majority of the space at the Semper Water Treatment Facility, including the water quality testing laboratory and offices for laboratory and water system operations staff (see attached location map).
- The existing roof is showing signs of major deterioration and leaks have developed over the past few of years. A detailed inspection of the roof has confirmed that the 25,000 square foot roof has reached the end of its useful life and is in need of replacement.
- Design of the roof replacement was completed by a roofing management firm, The Garland Company, and bids were solicited from eight reputable local roofing companies.
- Colorado Moisture Control, Inc. (CMC) presented the lowest of the six bids received and City Council is requested to approve a contract with CMC for replacement of the roof.
- Construction is scheduled between September and November 2012.
- Capital funding of \$400,000 was allocated for this project in the October 24, 2011 presentation to City Council. Bids came in higher than anticipated due primarily to rising oil and raw material prices. Additional funds are available in the completed Federal Boulevard Water Line Replacement project account through project cost savings. This is sufficient to fund the work without reducing project scope.
- An additional feature of the project involves replacing the roof over the main office spaces and other higher energy usage areas with an upgraded EnergyStar rated roof. Additional costs of \$7,500 associated with this upgrade will be funded through the City’s Utilities Water Facility and Infrastructure Stewardship Fund.

**Expenditure Required:** \$472,817

**Source of Funds:** Utility Fund - Semper WTF Roof Replacement account  
Utility Fund - Federal Boulevard Water Line Replacement account  
Utility Fund - Water Facility and Infrastructure Stewardship Fund account

**Policy Issues**

1. Should City Council award a contract to Colorado Moisture Control, Inc. for the replacement of the Administration Building roof at the Semper Water Treatment Facility?
2. Should City Council authorize the transfer of monies to fund the project?

**Alternatives**

City Council could choose the following alternatives:

1. Reject all bids and rebid the project. Staff does not recommend this alternative. The City received bids from six qualified roofing companies, and it is unlikely that new bids would be lower or that the City would receive additional qualified bids. The low bid is close to the Garland Company's estimate for roof replacement further validating that the bids are competitive.
2. Choose not to authorize the transfer of funds to finance this project. Staff does not recommend this alternative. Without transferring the Water Facility and Infrastructure Stewardship account funds and the Federal Boulevard Water Line Replacement project capital project savings into the roofing project account, there would be insufficient funds to complete the roof replacement project. This project fits the goals of the Stewardship capital account, and project savings are available in the Federal Boulevard Water Line Replacement project account. This is the highest priority use of these funds.

**Background Information**

The City's Semper Water Treatment Facility is located at 8900 Pierce Street. The Administration Building contains water treatment basins, staff offices and a laboratory used by water quality staff to perform water testing required by the Colorado Department of Public Health and Environment and the U.S. Environmental Protection Agency. The building roof is 26-years old and has reached the end of its useful life. Replacement of the 25,000 square foot roof was scheduled and budgeted as part of the 2012 capital improvement plan.

An additional feature of the project involves replacing approximately 3,900 square feet of roof over the main office spaces and other higher energy usage areas with an upgraded EnergyStar rated roof. Additional costs associated with the upgrade will be funded through the City's Utilities Stewardship Fund. The expected annual savings for the upgrade roof is \$500. That is a 15-year payback of the \$7,500 on a 30-year roof. In addition, this upgrade will provide more stable indoor air temperatures increasing comfort to building occupants.

As has been done with successful roof replacement projects throughout the City, Staff worked with The Garland Company to prepare a bid package and issue a request for bids to eight qualified and reputable roof installation companies. On June 11, 2012, bids were received from six roofing contractors listed as follows:

<u>Contractors</u>	<u>Bid Amount</u>
Colorado Moisture Control	\$429,834
Roofmaster Roofing Co.	\$462,022
B&M Roofing of Colorado	\$505,385
Alpine Roofing Company	\$519,325
D&D Roofing, Inc.	\$642,359
Front Range Roofing System	\$724,000
The Garland Company's Estimate	\$420,000

After a thorough review of the bids received, Colorado Moisture Control's bid was determined to be valid and the bid amount reasonable for the scope of the work. They are the lowest bid; and the company has a history of successfully completing several roofing projects in the area, including City of Westminster projects. Staff is recommending award of the construction contract to Colorado Moisture Control at this time.

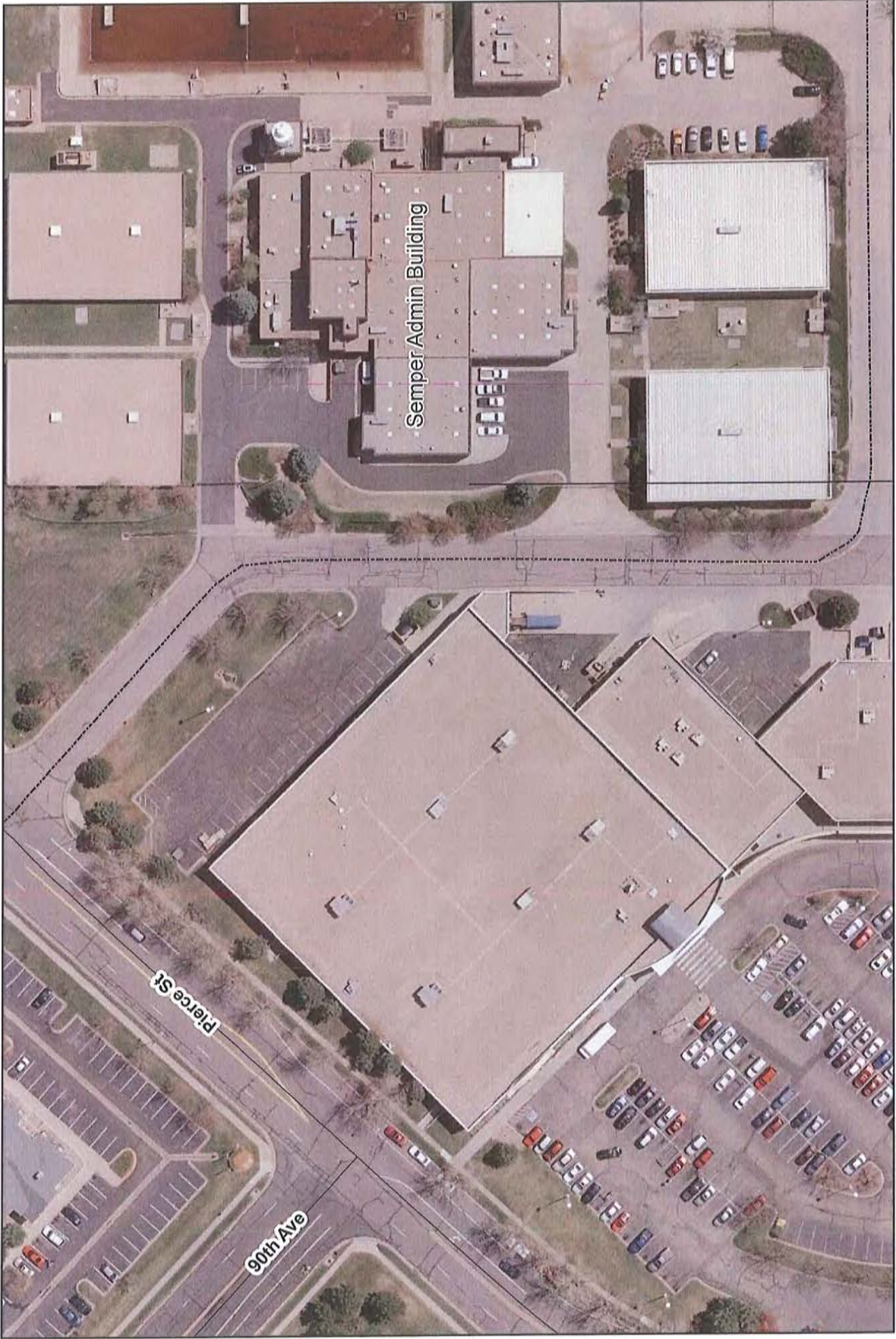
In the 2011-2012 Capital Improvement Program, a budget of \$400,000 was adopted for the Semper Administration Building Roof Replacement. The recent rise in petroleum-based roofing material costs has resulted in a higher bid price by about seven percent. The total project costs including a 10% contingency is now \$472,817. \$7,500 is available in the City's Water Facility and Infrastructure Stewardship Fund for costs associated with the EnergyStar roof section upgrades. The Infrastructure Stewardship Fund was established to provide a source of funding for innovative energy saving capital project elements. The additional funds of \$65,317 required to complete the full scope of the project are available as project savings in the completed Federal Boulevard Water Line Replacement project account. Because funds are available and because this remains a priority project for the Utility, Staff is requesting a transfer of \$72,817 to complete the project.

The Semper Administration Building Roof Replacement project helps achieve the City Council's Strategic Plan Goals of "Financially Sustainable City Government Providing Exceptional Services" and "Vibrant Neighborhoods In One Livable Community" by contributing to the objectives of well-maintained City facilities and providing Staff a safe working environment.

Respectfully submitted,

J. Brent McFall  
City Manager

Attachment - Location Map



Semper Admin Building

Pierce St

90th Ave

# Semper Admin Building Roof Replacement





Agenda Memorandum

City Council Meeting  
July 23, 2012



**SUBJECT:** 78<sup>th</sup> Avenue & Stuart Place Water and Sewer Line Replacement Engineering and Construction Contracts

**Prepared By:** Mike Wong, Senior Engineer  
Kent Brugler, Senior Engineer  
Steve Grooters, Senior Projects Engineer

**Recommended City Council Action**

Authorize the City Manager to enter into a contract with the low bidder Brannan Construction Company for replacing water and sewer lines in 78<sup>th</sup> Avenue and Stuart Place in the amount of \$977,467 with a 7.5% construction contingency in the amount of \$73,400, for a total construction budget of \$1,050,867.00; and approve a contract amendment in the amount of \$106,808 for construction management services with J&T Consulting, Inc.

**Summary Statement**

- This project consists of replacing 2,815 feet of 8-inch water main and 2,250 feet of 8-inch sewer main in 78<sup>th</sup> Avenue from Bradburn Boulevard to Stuart Place and in Stuart Place from 80<sup>th</sup> Avenue to 78<sup>th</sup> Avenue. The attached map shows the project location and pipeline information.
- The existing water mains and sewer lines are old and have been prone to breaks, leaks and corrosion.
- Replacing the pipes is necessary to reduce the risk of main breaks, service interruptions and the resulting street excavation/repair activities.
- Construction is scheduled to be completed by December 31, 2012.
- Of the four bids received by the City, Brannan Construction Company presented the lowest qualified bid in the amount of \$977,467.
- The City contracted with J&T Consulting, Inc., to provide design services for the project. Based on their successful performance to date, Staff negotiated a contract amendment for \$106,808 to include construction phase engineering services. Approval of this amendment is requested.
- This project will be the third of three projects to be completed in this area of the City, including the 80<sup>th</sup> Avenue Bridge Replacement, the 80<sup>th</sup> Avenue and Turnpike Drive Waterline Replacement and this water and sewer line replacement project.
- Capital funding for open cut projects, including this project, was approved on October 24, 2011.

**Expenditure Required:** \$1,157,675

**Source of Funds:** Utility Fund Capital Improvement  
– 78<sup>th</sup> and Stuart Water and Sewer Line Accounts

**Policy Issues**

1. Should the City execute a contract with the low bidder Brannan Construction Company for the replacement of water and sewer lines?
2. Should the City authorize a contract amendment for J&T Consulting, Inc., to perform construction management services?

**Alternatives**

1. The City could choose to replace these water and sewer lines at a later date. However, due to the poor pipe conditions and the corresponding risk of a disruption in water and sewer service, Staff recommends their replacement at this time.
2. The City could choose to award the contract to another bidder. This alternative is not recommended since it would result in a higher cost and Brannan is capable and qualified to perform the work.
3. Council could choose to request proposals for the construction phase engineering services task. This is not recommended as Staff believes that J&T Consulting, Inc. provides the best value for this project. Their project team is intimately familiar with the improvements needed, having successfully completed the design and bidding phases of the project. Their knowledge will streamline key project tasks and provide the best value to the City.

**Background Information**

Existing water and sewer lines serving the residential area along 78<sup>th</sup> Avenue west of Bradburn Boulevard and along Stuart Place from 78<sup>th</sup> Avenue north to 80<sup>th</sup> Avenue were installed in 1953 and have required increasing maintenance and repairs over the last several years. The old cast iron water lines have experienced several main breaks and their condition continues to deteriorate. New waterlines will reduce maintenance costs and improve flows and pressures in the area. In addition to replacing existing water mains, the project includes new pipeline connections to the existing local waterlines located at each adjacent street intersection. Fire hydrants, service connections and connections to fire lines are also included along the route to enhance emergency services to City customers.

As with the water mains, the existing sewer lines are old and have required a high amount of maintenance over the last several years. They have defects including cracked pipes, offset joints, sags and several reaches are undersized. Overall, replacing these sewer lines is necessary to reduce the risk of blockages and service interruptions and to improve operational access. Several deteriorated manholes will also be replaced.

After the completion of the pipeline replacement work, the pavement on Stuart Place and 78<sup>th</sup> Avenue will be completely reconstructed from curb to curb, thus eliminating patching of the street and providing a new, uniform pavement surface. No street cut impact fees will be assessed as a result.

The City sent a Request for Bids to seven qualified contractors on June 7, 2012 and received four bids on June 28, 2012. The following is a summary of the bids received:

<u>Contractor Name</u>	<u>Bid Amount</u>
Brannan Construction Company	\$ 977,467
BT Construction	\$ 995,615
ESCO	\$1,070,259
Northern Colorado Contractors	\$1,151,058
Engineer’s Opinion of Probable Cost	\$1,363,515



A review of the bids received indicated that Brannan Construction Company's (Brannan) low bid was valid and the dollar amount reasonable for the scope of the work. Brannan has successfully completed other water and sewer line replacement projects for the City, most recently the 80<sup>th</sup> Avenue and Turnpike Drive Waterline Replacement project, and is qualified to complete this project. Overall, the bid range was tight and below the Engineer's estimated project cost, indicating that the City received the best possible price at this time. In addition, this water and sewer line replacement project remains a priority project due to the age and condition of the pipelines, break history and maintenance requirements. For these reasons, Staff recommends authorizing a contract for \$977,467 with Brannan for the construction of the project. In addition, a 7.5 percent contingency in the amount of \$73,400 is requested for a total construction budget of \$1,050,867. Since the project scope includes the complete reconstruction of the roadway, which means less risk related to unplanned pavement replacement, Staff believes the 7.5% contingency is adequate for this project; and it permits the overall project budget to remain within the currently appropriated budget. Construction will commence following award of the contract with completion anticipated by December 31, 2012.

The design contract for \$74,280 with J&T Consulting, Inc. (J&T) was executed on February 28, 2012. Staff recommends continuing work with the J&T team for construction phase services because their performance has been successful, their cost of services is competitive, and they have unique knowledge of the heavy utility congestion and complexity of the waterlines in the area. Staff negotiated a scope of work and competitive fee with J&T for construction management services and recommends that City Council approve a contract amendment in the amount of \$106,808 for a total contract amount of \$181,088. Overall, the cost for engineering services on this project will be approximately 18.5% of construction costs.

As part of the 2011 Utility Fund Capital Improvement Program Funding Modifications, capital funding was identified and approved for this project by City Council on October 24, 2011, and placed in the Open Cut Waterline and Sewerline Replacement Project accounts. Capital accounts for the water and sewer projects were created in 2012, and funds were transferred from the Open Cut Water Line and Sewer Line accounts into these new project accounts to better track the cost and scope of work of this project.

A summary of the project budget, including miscellaneous costs and shared use fees, are listed below:

<u>Project Component</u>	<u>Amount</u>
Brannan contract with contingency	\$1,050,867
J&T Consulting, Inc amended Engineering contract total	\$ 181,088
Street Cut Impact Fees	\$ 0
Open Space Shared Use Fees	\$ 8,000
Miscellaneous Costs	\$ 10,000
<b>Total Project Cost</b>	<b>\$1,249,955</b>
 <u>Funding Source</u>	 <u>Amount</u>
Utility Fund Capital Improvements - 78 <sup>th</sup> & Stuart Place Water Line Replacement account and 78 <sup>th</sup> and Stuart Sewer Line Replacement account	\$1,250,000

Over the past three years, three City projects have been implemented in this area near US-36 and 80<sup>th</sup> Avenue. Due to impacts on traffic flow and the interconnection of utilities in this area, these projects needed to occur sequentially rather than concurrently. It is important to note that this project represents the final phase of utility improvement projects planned for this area.

The 78<sup>th</sup> Avenue and Stuart Place Water and Sewer Line Replacement Project helps achieve the City Council's Strategic Plan Goals of "Financially Sustainable City Government Providing Exceptional Services" and "Vibrant Neighborhoods In One Livable Community" by contributing to the objectives of well-maintained City infrastructure and facilities and maintaining neighborhood infrastructure.

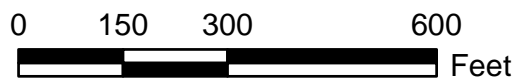
Respectfully submitted,

J. Brent McFall  
City Manager

Attachment - Project Map



# 78th & Stuart Water/Sewer Line Replacement





**Agenda Memorandum**

City Council Meeting  
July 23, 2012



**SUBJECT:** 2012 Assistance to Firefighter Grant Application

**Prepared By:** Lee Birk, Chief of Police  
Doug Hall, Fire Chief  
Russ Bowers, Communications Administrator

**Recommended City Council Action**

Ratify the Fire Department pursuing the 2012 Assistance to Firefighter Grant in the amount of \$180,754 in partnership with Police Department for the purpose of replacing, enhancing and modernizing Fire personnel portable and mobile radios.

**Summary Statement**

- In 2012, the radio system the City shares with the City of Arvada will be 20 years old and is the same proprietary radio protocol and system designed and implemented in 1992. This Radio system serves both emergency and non-emergency radio users in both cities, to include Police, Fire, EMS, Public Works and Utilities, Community Development, and Parks, Recreation and Libraries. The current radio system and equipment is reaching end of life status and will not be replaceable because of technology enhancements and the unavailability of replacement parts.
- In 2011, a five year Capital Improvement Project (CIP) was established to replace the aging radio system with a new technology P25 Digital Interoperable Simulcast Radio System. This project will update the radio technology and will allow for enhanced safety for the community, interoperability with surrounding agencies, as well as reliable and dependable service and communications. The cost of such a replacement makes the pursuit of grants an attractive option to assist in the required CIP funding.
- The Fire and Police Department joined efforts to apply for 2012 Assistance to Firefighter Grant (AFG). On June 11, 2012, the DHS Federal Emergency Management Agency (FEMA) posted the 2012 AFG documents. The grant funding for 2012 will require 20% matching funds for the purchase of 54 portable and 22 mobile radios for Fire personnel.
- The grant submittal deadline was July 6, 2012. Due to the short turnaround time, the grant application was submitted before City Council could be briefed on this issue.
- With authorization from City Council, staff will continue to pursue this grant opportunity. Should City Council direct staff to withdraw the application, this can be accomplished.

**Expenditure Required:** \$36,150 (required match)

**Source of Funds:** General Capital Improvement Program Fund – Citywide Radio Replacement Project

## **Policy Issue**

Should the City of Westminster Fire Department, in conjunction with the Police Department, continue with their submission of the application for the 2012 AFG to fund the replacement and upgrade of the Fire Department's portable and mobile radios?

## **Alternative**

Direct Staff to withdraw the submission of the 2012 AFG. This option is not recommended because that would require the continued servicing of aging and obsolete portable and mobile radios and will not alleviate the City's need to ultimately provide funding for the replacement of the radios.

## **Background Information**

In 2011, the Police Department established a Capital Improvement Project to replace the entire current aging radio system with a new P25 system. The replacement of the current system would entail new and improved technology to encompass improved interoperability (P25 Digital Interoperable Simulcast Radio System Technology) and a simulcast transmission system. These enhancements represent state of the art and best practice radio technology to ensure that multiple radio users with diverse radio systems and equipment can effectively communicate with each other. This project will update the radio technology and will allow for enhanced safety for the community, interoperability with surrounding agencies as well as reliable and dependable service and communications. The estimated CIP total project cost is \$2,172,500.

On March 26, 2012, City Council authorized the Police Department to proceed with a grant application with the Department of Homeland Security (DHS) Regional Grant offered through the Urban Area Security Initiative (UASI) program to fund the replacement of 200 portable radios for Police personnel. In April of 2012, the Police Department was notified that grant was initially approved by the grant review committee; however, final approval will not be received until it is officially approved by the applicable State and Federal entities.

The Fire and Police Department joined efforts to apply for 2012 Assistance to Firefighter Grant (AFG). On June 11, 2012, the DHS, FEMA posted the 2012 AFG documents. The grant submittal deadline was July 6, 2012. Due to the short turnaround time, the grant application was submitted before City Council could be briefed on this issue.

Since 2001, AFG has helped firefighters and other first responders to obtain critically needed equipment, training, and other resources to protect the public and emergency personnel from fire and related hazards. The AFG grant program focuses on firefighter health and safety as well as the safety of the public the firefighters serve. The primary goal is to meet the firefighting emergency response needs of fire departments and non-affiliated emergency medical service organizations.

The AFG grant process is highly competitive and it is important that the City apply for consideration at this time in order to secure the possibility of receiving grant funding in the near future. It is important to note that the anticipated replacement of the current system would entail new and improved technology to encompass improved interoperability and a simulcast transmission system (P25 Simulcast Radio System Technology). These enhancements represent state of the art and best practice radio technology to ensure that multiple radio users with diverse radio systems and equipment can effectively communicate with each other.

By applying for the AFG grant program, it will allow for the purchase of 54 portable (\$123,444) and 22 mobile radios (\$57,310) for Fire personnel. AFG grant funding for 2012 requires matching funds of 20%, which is \$36,150. Funds are available from the Citywide Radio System Capitol Improvement Project to meet matching requirements.

**SUBJECT:** 2012 Assistance to Firefighter Grant Application

Page 3

The portable and mobile radios will have P25 Simulcast Radio System Technology (P25 SRST) also known as P25 that provides improved interoperability and ensures that Fire can effectively communicate with multiple radio users with diverse radio systems.

This Grant is requesting portable and mobile radios for Fire Personnel at an estimated cost of \$180,754, which would reduce the eventual total replacement costs accordingly.

Action on this item supports City Council's Strategic Plan goals of Safe and Secure Community and Financially Sustainable City Government Providing Exceptional Services.

Respectfully submitted,

J. Brent McFall  
City Manager



Agenda Memorandum

City Council Meeting  
July 23, 2012



**SUBJECT:** Fall 2012 Adams County Open Space Grant Applications

**Prepared By:** John Burke, Senior Engineer  
Heather Cronenberg, Open Space Coordinator

**Recommended City Council Action**

Authorize the Department of Community Development to pursue two grants from the Adams County Open Space grant program during the 2012 fall cycle for the acquisition of the Bushnell property located at 12620 Zuni Street for open space and for the development of a portion of the Little Dry Creek Park Project located between Federal and Lowell Boulevards.

**Summary Statement**

- The Department of Community Development wishes to pursue a grant from the Adams County Open Space grant program for funding assistance with the acquisition of the 2.83-acre Bushnell property from Jim Bushnell, which is adjacent to the Big Dry Creek open space area east of Federal Parkway and south of 128<sup>th</sup> Avenue. An appraisal, commissioned by the City in 2011, values the property at \$452,921 or \$3.67 per square foot. Adams County requires the appraisal to be dated within one year of the grant request so staff is in the process of having the appraisal updated. Staff is currently negotiating a purchase price based on the appraisal that will be contingent upon the approval of Council and award of an Adams County grant. Staff recommends requesting up to \$226,461 for the acquisition which represents a 50% request of the current appraised value.
- The Department of Community Development would also like to pursue a second grant from the Adams County Open Space grant program for assistance with the construction of Little Dry Creek Park and Open Space located between Lowell and Federal Boulevards. The City was successful in obtaining \$1,538,670 during the spring 2012 Open Space grant cycle and would like to request up to an additional \$1,500,000 during the fall 2012 grant cycle. This second grant request will assist in completing the first phase of construction that is currently estimated at \$9,600,000. The first phase of the project will relocate and stabilize Little Dry Creek, relocate existing utilities, and construct a fishing pond with accessible piers.

**Expenditure Required:** Matching funds in the amount of \$1,726,461

**Source of Funds:** Open Space Bond Funds  
Parks, Open Space, and Trails Funds  
Stormwater Utility Fund  
Adams County General Fund  
Urban Drainage and Flood Control District

**Policy Issue**

Should the City attempt to seek assistance with the acquisition of the Bushnell parcel and funds to construct improvements at Little Dry Creek from the Adams County Open Space Grant Program?

**Alternative**

Council could choose not to pursue funding for one or both of these grant requests. This is not recommended because the City does not have the funds to purchase the Bushnell parcel and construct all of the first phase of Little Dry Creek improvements without funding assistance from the Adams County Open Space program.

**Background Information**

The City has been successful in applying for and receiving grants from a variety of sources in the past. In recent years, the City has received grant money from the Adams County Open Space program for park and trail development projects as well as open space acquisitions. The City has developed a strong partnership with Adams County in its successful use of these grant funds. Since 2003, the City has been awarded more than \$5.6 million for open space acquisitions from Adams County.

The Department of Community Development wishes to pursue a grant from the Adams County Open Space grant program for funding assistance with the acquisition of the 2.83 acre Jim Bushnell property which is adjacent to the Big Dry Creek Open Space area east of Federal Parkway and south of 128<sup>th</sup> Avenue. Requesting assistance with the acquisition of the Bushnell parcel will allow the City to purchase this property and to further protect the area around Big Dry Creek. Since the City already owns the old canal area to the north of this property, acquiring this property will allow the City to protect land up to the old canal area as a buffer to Big Dry Creek.

The City has been in discussions off and on for years with the landowner who is now interested in putting the property on the market for sale. The City commissioned an appraisal in 2011 which valued the property using the income method at \$452,921. The City is currently having the appraisal updated and will negotiate a purchase price based on the appraisal (which staff anticipates will not be significantly higher than the 2011 appraisal) that is contingent upon Council approval. The purchase will also be contingent upon receipt of a grant from Adams County. Staff recommends requesting up to \$226,461 from Adams County which will require a 50% match from the City. Acquisition of this property will expand upon the existing Big Dry Creek open space corridor, provide additional upland wildlife habitat and increase recreational opportunities. The Open Space Advisory Board considers the acquisition of the Bushnell property a top priority.

The City would also like to request assistance with the construction of the 35-acre Little Dry Creek Drainage, Park and Open Space project between Lowell and Federal Boulevards. This park will create a unique outdoor recreation opportunity in an economically challenged area that does not have access to regional park amenities. The proposed RTD FasTracks "Westminster Station" will be located at the center of this site which will draw visitors from around the metro area to this location. The main focus of the project is relocating Little Dry Creek from the existing highly eroded and inaccessible banks and replace it with a natural open channel with moderate slopes, boulder drop structures and riparian areas.

The Little Dry Creek project is currently divided into three general planning areas. The western third of the site is the "recreation district" where the playground, xeriscape and amphitheater are proposed to be located. The middle third is the "transit district" as it has direct access to the commuter rail station. The lower third is the "open space district" that will include the fishing pond, open space, wetland plantings and other amenities.



The open space area near Federal Boulevard is proposed to have a fishing pond as its main attraction, with a fishing pier and a handicapped accessible trail surrounding the pond. This along with the creek relocation and stabilization is considered part of the Phase I improvements of the project that the City would like to request assistance from the Adams County Open Space grant program. The Adams County Open Space Board awarded \$1,538,670 during the spring 2012 grant application process. Staff would like to request up to an additional \$1,500,000 from Adams County for additional improvements for the first phase of the project. The City's \$1,500,000 matching funds would come from expenditures that are already planned for in this section of the Little Dry Creek Open Space/Park. This collaborative project is being funded by the City of Westminster, Adams County and the Urban Drainage and Flood Control District. Construction of Phase I of the project is scheduled to begin construction in the winter of 2012, with completion by 2015.

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

Respectfully submitted,

J. Brent McFall  
City Manager

Attachments

- Site Map - Bushnell parcel
- Site Map - Little Dry Creek Park and Open Space – Master Plan
- Site Map - Little Dry Creek Park and Open Space – Phase One Improvements

# City of Westminster Bushnell Property Open Space Acquisition

Zuni St






128th Ave

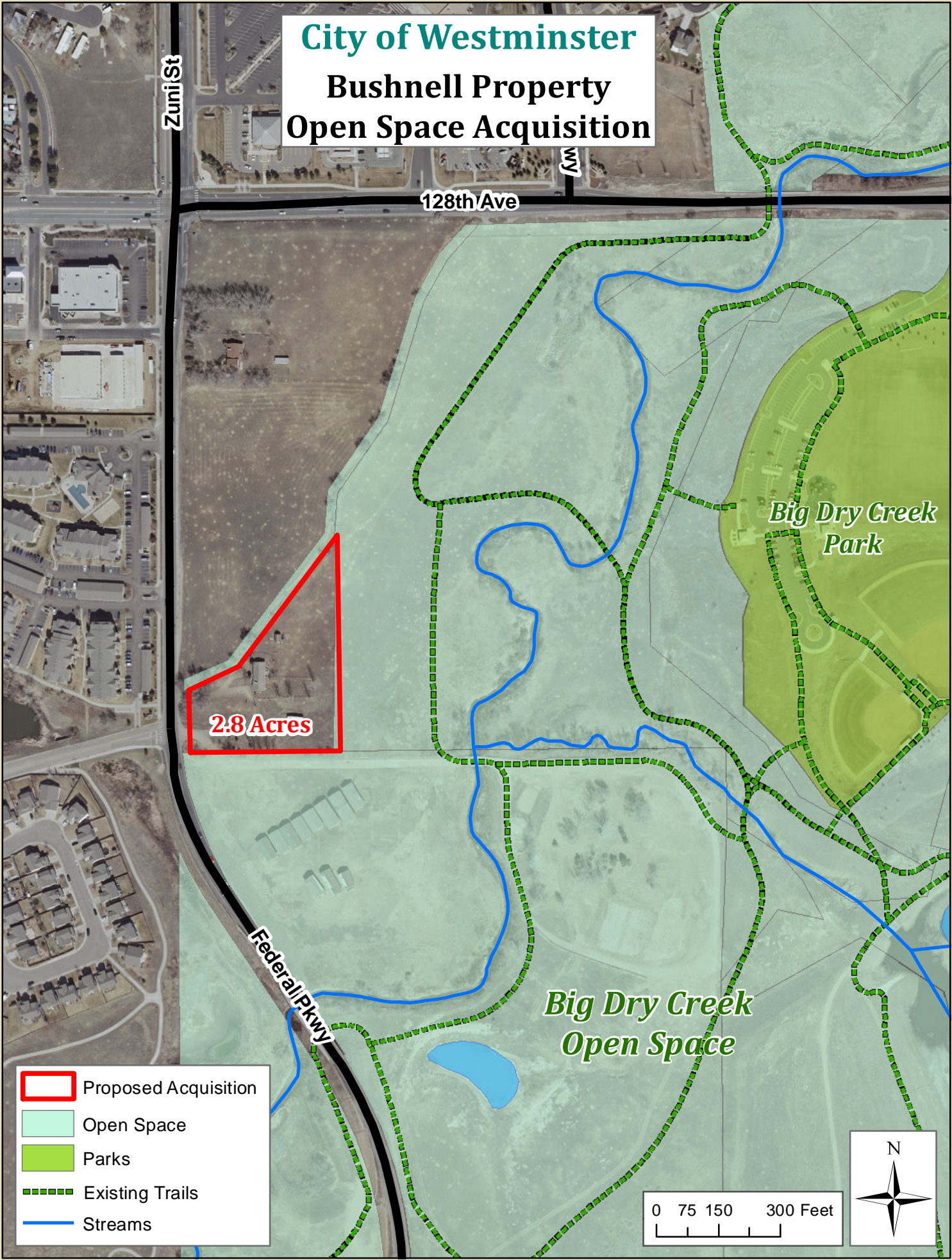
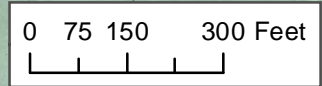
W

2.8 Acres

*Big Dry Creek Park*

*Big Dry Creek Open Space*

-  Proposed Acquisition
-  Open Space
-  Parks
-  Existing Trails
-  Streams





# Master Plan

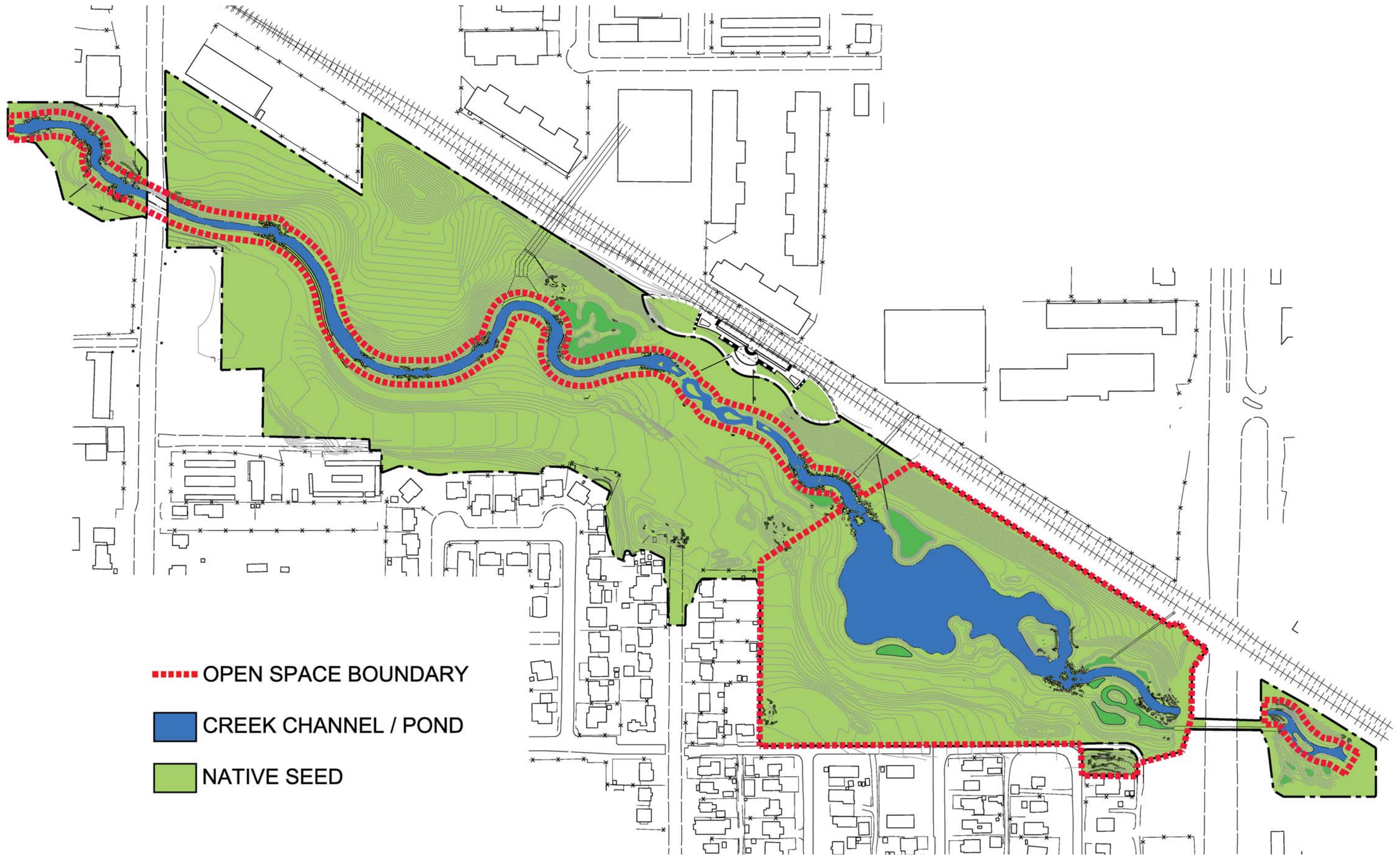
## Little Dry Creek Park

Westminster, Colorado

JANUARY 9, 2012



Planning & Landscape Architecture



# Phase One Improvements

Little Dry Creek Park

Westminster, Colorado

JANUARY 9, 2012



Planning & Landscape Architecture



# Agenda Item 8 I-K

## Agenda Memorandum

City Council Meeting  
July 23, 2012



**SUBJECT:** Second Reading of Councillor’s Bill No. 18, 19, and 20 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. Pass Councillor’s Bill No. 18 on second 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.
2. Pass Councillor’s Bill No. 19 on second reading annexing the Little Dry Creek property into the City.
3. Pass Councillor’s Bill No. 20 on second 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 commuter rail station for Westminster slated to open in 2016.
- These Councillor’s Bills were approved on first reading by City Council on June 25, 2012.

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

Respectfully Submitted,

J. Brent McFall, City Manager  
Attachments – Ordinances and Exhibits

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **18**

SERIES OF 2012

INTRODUCED BY COUNCILLORS

**Major - Lindsey**

**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:

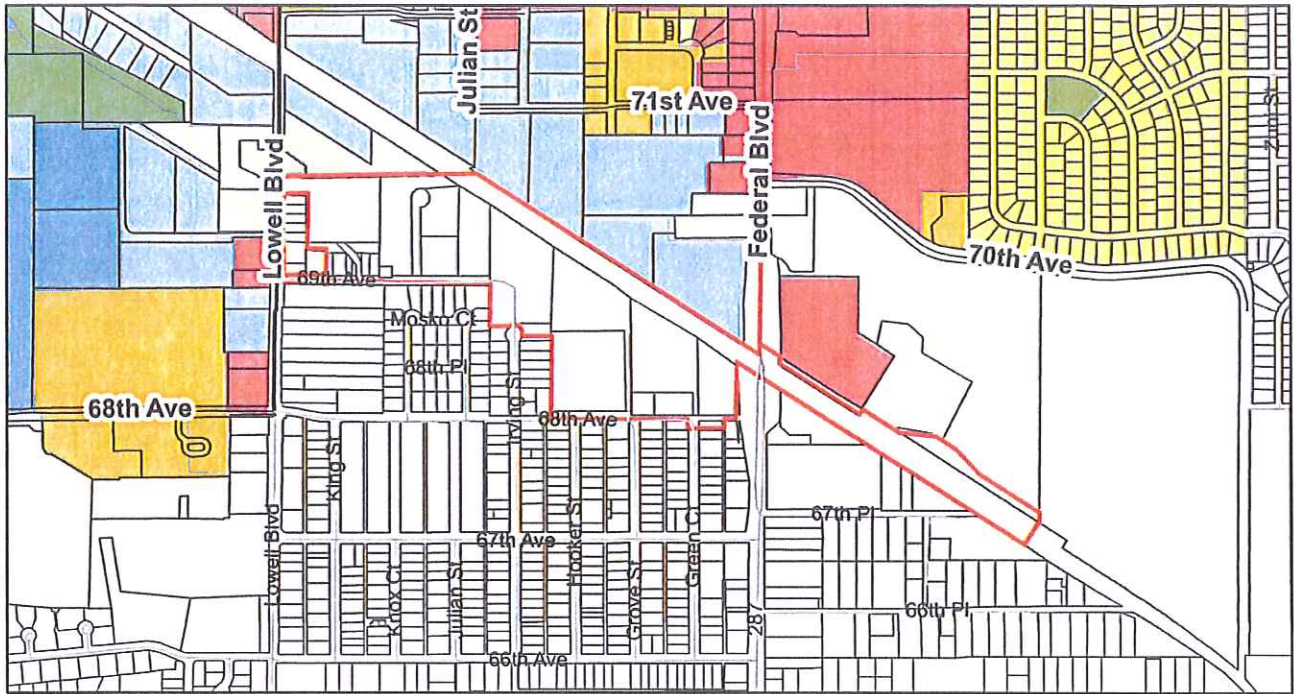
1. THENCE S 00°47'33" W A DISTANCE OF 39.92 FEET;
2. THENCE S 57°36'54" E A DISTANCE OF 511.45 FEET;
3. THENCE N 32°23'06" E A DISTANCE OF 34.00 FEET TO A POINT ON THE NORTHERLY RIGHT OF WAY LINE OF THE BURLINGTON NORTHERN RAILROAD; THENCE S 57°36'54" E, ALONG SAID NORTHERLY RIGHT OF WAY LINE, A DISTANCE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

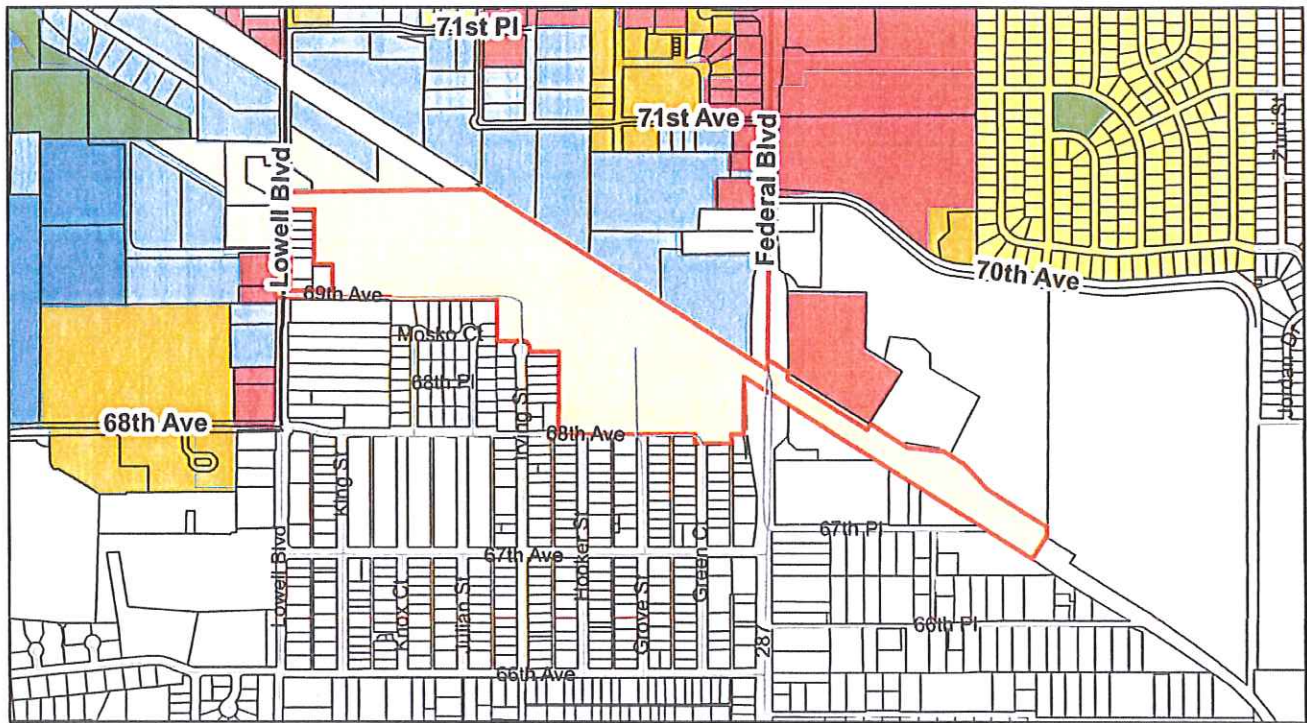
EXCEPTING THEREFROM:

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.

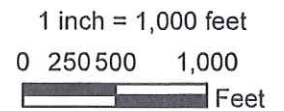


Proposed CLUP Designation (City-Owned Open Space)



**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



BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **19**

SERIES OF 2012

INTRODUCED BY COUNCILLORS

**Major - Lindsey**

**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).

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:  
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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;  
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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.

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  
**Major - Lindsey**

**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.

\_\_\_\_\_  
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).

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BOOK 4996 PAGE 59;  
RECEPTION NUMBERS 2008000000229 AND 2008000000231, LESS RECEPTION NUMBER 2011000082324;  
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BOOK 4852 PAGE 403;  
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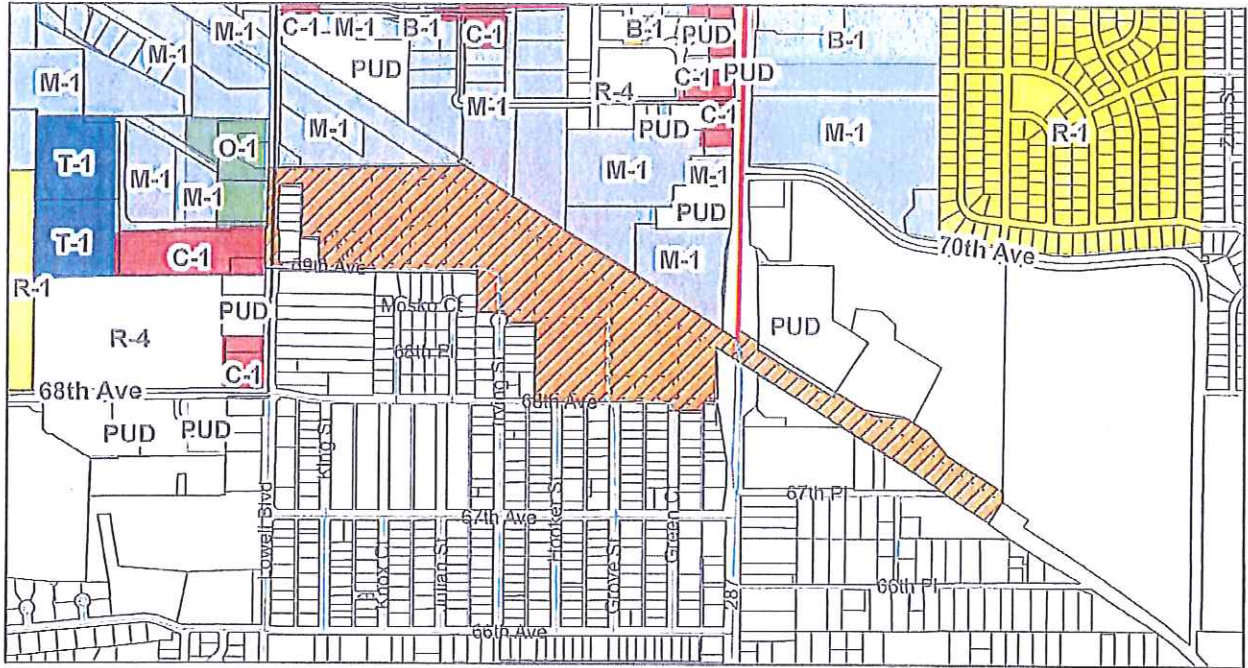
EXCEPTING THEREFROM:

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;  
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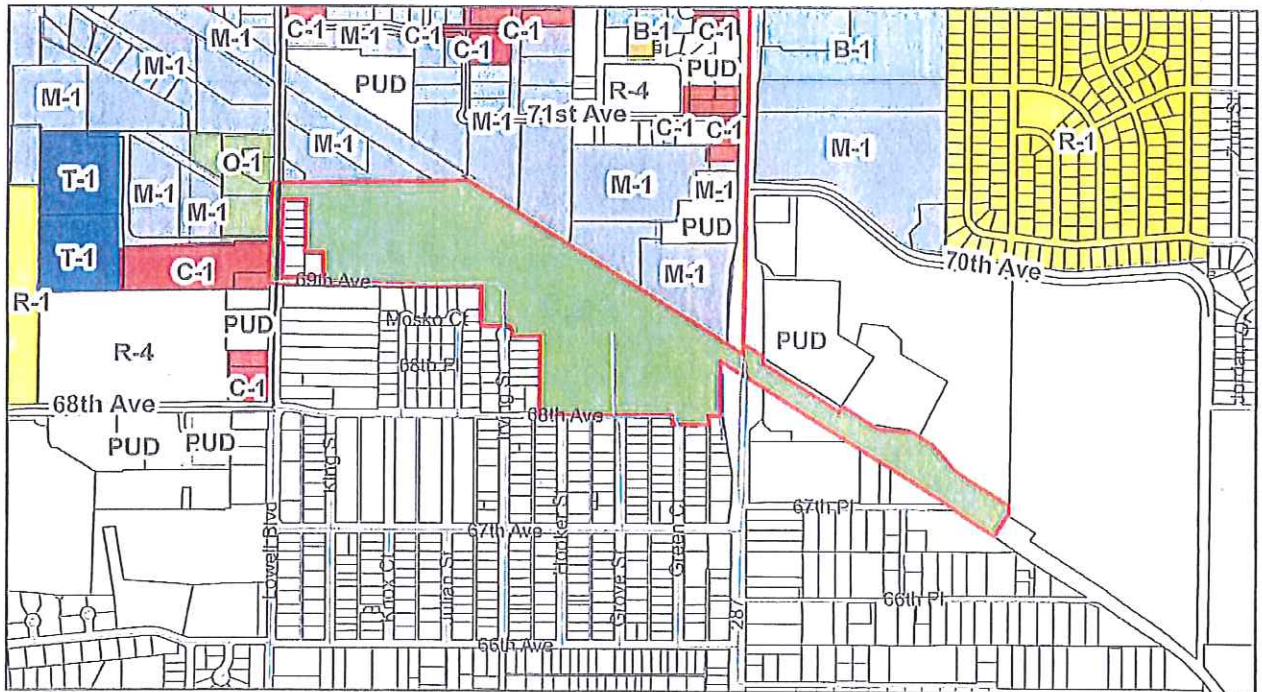
TOTAL ANNEXATION CONTAINING IN TOTAL 44.197 ACRES MORE OR LESS.

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



# Agenda Item 8 L

## Agenda Memorandum

City Council Meeting  
July 23, 2102



**SUBJECT:** Second Reading of Councillor’s Bill No. 23 re FY2011 Carryover Appropriation into FY2012

**Prepared By:** Barbara Opie, Assistant City Manager

### Recommended City Council Action

Pass Councillor’s Bill No. 23 on second reading, appropriating FY2011 carryover funds into the FY2012 budgets of the General, General Fund Stabilization Reserve, General Capital Improvement, Utility, Utility Reserve, Storm Drainage, Fleet, General Capital Outlay Replacement, POST and Conservation Trust Funds.

### Summary Statement

- The City Council annually reviews and appropriates carryover funds from the previous year’s budget into the current year budget for the following:
  - those items and services included in the previous year’s budget but not received or provided until the current year’s budget;
  - new items and services not included in the previous year’s budget or funds that were identified as available for these new priorities in late 2011, but the items or services were not received or provided until the current year’s budget; and
  - existing or new capital projects and key operating priorities for which funds are needed and carryover funds are available.
- Total funding of \$12,109,495 to be appropriated for the items listed in the July 9, 2012 agenda memorandum comes from unrestricted revenues and unexpended 2011 funds in the various amounts identified. The attached ordinance reflects a total increase of \$16,676,508; this amount differs from the \$12,109,495 noted in Expenditure Required due to the accounting of transfers required to properly reflect the transactions on the City’s books.
- The carryover appropriation takes place annually once the audit is completed for the prior year and carryover amounts are finalized.
- This Councillor’s Bill was passed on first reading on July 9, 2012.

**Expenditure Required:** \$12,109,495

**Source of Funds:** FY2011 Carryover from the General, Utility, Storm Drainage, Sales & Use Tax, Golf Course, General Capital Improvement, General Capital Outlay Replacement, POST and Conservation Funds

Respectfully submitted,

J. Brent McFall  
City Manager

Attachment – Ordinance

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **23**

SERIES OF 2012

INTRODUCED BY COUNCILLORS

**Briggs - Kaiser**

**A BILL**

**FOR AN ORDINANCE INCREASING THE 2012 BUDGET OF THE GENERAL, WATER, WASTEWATER, LEGACY RIDGE, STORM DRAINAGE, FLEET, GENERAL CAPITAL OUTLAY REPLACEMENT, SALES & USE TAX, PARKS OPEN SPACE & TRAILS, CONSERVATION TRUST, AND GENERAL CAPITAL IMPROVEMENT AND AUTHORIZING A SUPPLEMENTAL APPROPRIATION FROM THE 2012 ESTIMATED REVENUES IN THESE FUNDS.**

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The 2012 appropriation for the General, Water, Wastewater, Legacy Ridge, Storm Drainage, Fleet, General Capital Outlay Replacement, Sales & Use Tax, Parks Open Space & Trails, Conservation Trust, and General Capital Improvement Funds, initially appropriated by Ordinance No. 3550 is hereby increased by \$16,676,508. This appropriation is due to the appropriation of 2011 carryover.

Section 2. The \$16,676,508 increase in the General, Water, Wastewater, Legacy Ridge, Storm Drainage, Fleet, General Capital Outlay Replacement, Sales & Use Tax, Parks Open Space & Trails, Conservation Trust, and General Capital Improvement funds shall be allocated to City revenue and expense accounts as described in the City Council Agenda Item #10 A dated July 9, 2012 (a copy of which may be obtained from the City Clerk) amending City fund budgets as follows:

General Fund	\$1,926,631
Water Fund	3,746,765
Wastewater Fund	844,390
Legacy Ridge Fund	380,000
Storm Drainage Fund	418,574
Fleet Fund	14,000
General Capital Outlay Replacement Fund	296,432
Sales & Use Tax Fund	2,693,412
Parks, Open Space & Trails Fund	1,400,000
Conservation Trust Fund	120,247
General Capital Improvement Fund	4,836,057
Total	<u>\$16,676,508</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 9<sup>th</sup> day of July, 2012.

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

ATTEST:

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

\_\_\_\_\_  
Mayor



Agenda Memorandum

City Council Meeting  
July 23, 2012



**SUBJECT:** Second Reading of Councillor’s Bill No. 24 Amending Various Sections of Titles I through IV, W.M.C.

**Prepared By:** Linda Yeager, City Clerk  
Marty McCullough, City Attorney

**Recommended City Council Action**

Pass Councillor’s Bill No. 24 on second reading amending various sections of Titles I through IV of the Westminster Municipal Code to remove obsolete and incorrect language or provisions.

**Summary Statement**

- The Westminster Municipal Code (“W.M.C.” or “Code”) is a codification of general ordinances of the City and serves as a major resource to Staff and citizens both in print and electronically.
- Although Staff attempts to keep the Code current by regularly seeking Council approval of necessary amendments, Council has requested Staff review and update the Code on a regular basis to maintain accuracy and ensure it is as free of errors as possible. In general, state, federal and city codes benefit from regular housekeeping measures such as those being proposed at this time for Westminster.
- While these amendments are primarily housekeeping in nature, they are beyond the scope of authority granted to the City Clerk in Section 1-1-5, W.M.C., to correct errors of punctuation, capitalization, formatting, grammar and spelling, and internal references. Staff believes these amendments will improve the overall quality of the Code.
- This Councillor’s Bill was passed on first reading July 9, 2012.

**Expenditure Required:** \$0

**Source of Funds:** N/A

Respectfully submitted,

J. Brent McFall  
City Manager

Attachment – Ordinance

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **24**

SERIES OF 2012

INTRODUCED BY COUNCILLORS  
**Briggs - Major**

**A BILL**

**FOR AN ORDINANCE AMENDING SECTIONS 1-1-1, 1-16-2, 1-16-3, 2-1-1, 3-1-11, 3-4-3, 4-1-36, 4-7-2, 4-7-3 OF THE WESTMINSTER MUNICIPAL CODE AS HOUSEKEEPING MEASURES THROUGH JUNE 2012**

THE CITY OF WESTMINSTER ORDAINS:

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

**1-1-1: MUNICIPAL CODE OF THE CITY OF WESTMINSTER:** ~~(1699)~~ This compilation, revision and codification of the General Ordinances of the City of Westminster is hereby declared to be and shall hereafter constitute the Official Code of General Ordinances of the City of Westminster.

Said Code shall be known and may be cited as the "Westminster Municipal Code"; or "W.M.C.," and a copy or copies of such Code in printed form shall be received without further proof as the ordinances of permanent and general effect of the City of Westminster; in all courts and administrative tribunals of this State. ~~(A1699)~~

Any ordinance amending this Code shall set forth in full no less than the sub-subsection (i.e., (1), (2), etc.) or sections of the Code being amended, ~~and this shall constitute a sufficient compliance with any statutory requirements that no ordinance or any section thereof shall be revised or amended unless the new ordinance sets forth the revised ordinance or amended section in full.~~

Section 2. Section 1-16-2, subsection (A), W.M.C., is hereby AMENDED to read as follows:

**1-16-2: DUTIES:** ~~(1592 Charter)~~

(A) The City Attorney shall act as legal advisor to, and be attorney and counsel for, the Council and shall be responsible solely to the City Council. He shall advise any officer or department head of the City in matters relating to his official duties when so requested and shall ~~file with the City Clerk~~ maintain a copy of all written opinions given by him. ~~(1592)~~

Section 3. Section 1-16-3, subsection (B), W.M.C., is hereby AMENDED to read as follows:

**1-16-3: EMPLOYEES IN THE OFFICE OF THE CITY ATTORNEY:** ~~(1592 1747 2922)~~

(B) All ~~unclassified~~ employees in the Office of the City Attorney shall be responsible to the City Attorney. ~~(1592)~~

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

**2-1-1: APPOINTMENT OF MEMBERS; TERMS:** (2068 2402 3102 3272 3372)

(F) MEMBER EMERITUS:

~~(1) Whereas, certain members of City Boards and Commissions have provided long-term, dedicated service to the community and its residents; and~~



~~(2) Whereas, the City would like to honor these members for their long term service and commitment to high standards of service, to acknowledge the expertise of these members, and to provide an opportunity to draw upon such members' expertise after the member's retirement from a Board or Commission.~~

~~(3) Now therefore, t~~The City Council hereby creates the office of member emeritus of the various Boards and Commissions.

~~(4)~~ City Council shall designate a member of a Board or Commission a member emeritus at such times and for such service as Council deems appropriate.

~~(5)~~ A member emeritus is welcome to continue attendance at a Board or Commission meeting, and the Chair~~person~~ and members of the Board or Commission may request the opinion or information of the member emeritus during the portion of the Board or Commission meeting ~~during which~~ when members of the public customarily speak. The member emeritus will not be a voting member, or an alternate member, of the Board or Commission.

Section 5. Section 3-1-11, subsection (D), W.M.C., is hereby DELETED in its entirety as follows:

**3-1-11: CODE ENFORCEMENT PERSONNEL:** (2249 3192)

~~(D) The transfer of the position of Code Enforcement personnel from the Department of Community Development to the Police Department shall not affect any action or court proceeding taken or begun by the Code Enforcement personnel prior to the effective date of this ordinance.~~

Section 6. Section 3-4-3, subsection (C), W.M.C., is hereby AMENDED to read as follows:

**3-4-3: DUTIES AND RESPONSIBILITIES OF THE DIRECTOR:** (1096 1696 1747)

(C) The Director of Community Development shall be chief administrator of the Department of Community Development and shall have supervisory responsibility for the activities of ~~the Engineering Division, Planning Division, Building Division and Program Division.~~ (1096 1696 1747) all divisions within the Department.

Section 7. Section 4-1-36, subsection (F), W.M.C., is hereby AMENDED to read as follows:

**4-1-36: STATUTE OF LIMITATIONS:** (2032 3371 3544) Unless the limitation period has been extended as provided in this Section, the statute of limitations for provisions contained in this Title shall be as follows:

~~(F) Performance of an audit does not constitute a statute of limitations or preclude additional audits of the same period within the parameters of this Section. To the extent the periods described in this Section have not expired or been extended, the Finance Director may issue assessments and refund taxes paid, notwithstanding any previous audit, investigation, assessment, or refund pertaining to the same.~~

Section 8. Section 4-2-3, subsections (A) and (B), W.M.C., are hereby AMENDED to read as follows:

**4-2-3: RATE; IMPOSITION AND COLLECTION; DISTRIBUTION:** (2032 2379 2476 3071 3371)

(A) ~~Sales Tax~~SALES TAX: There is hereby levied a tax or excise upon all sales of tangible personal property and services specified in Section 4-2-5, W.M.C.

~~(1) — For sales transacted on or after January 1, 2004, but prior to January 1, 2033, the rate levied shall be three and eighty-five hundredths percent (3.85%). Unless otherwise lawfully provided, the three and eighty-five hundredths percent (3.85%) tax rate shall be reduced to three and six-tenths percent (3.6%) on January 1, 2033.~~

~~(2) — For sales transacted on or after January 1, 1986 but prior to January 1, 2004, the rate levied shall be three and one-quarter percent (3.25%).~~

~~(3) — For sales transacted prior to January 1, 1986, the rate levied shall be three percent (3%).~~

(B) ~~Use Tax~~USE TAX: There is hereby levied a tax or excise upon the privilege of using, storing, distributing, or otherwise consuming in the City any article or tangible personal property or taxable services purchased, leased or rented from sources inside or outside the City, on which the City sales tax has not been paid.

~~(1) — For sales transacted on or after January 1, 2004, but prior to January 1, 2033, the rate levied shall be three and eighty-five hundredths percent (3.85%). Unless otherwise lawfully provided, the three and eighty-five hundredths percent (3.85%) tax rate shall be reduced to three and six-tenths percent (3.6%) on January 1, 2033.~~

~~(2) — For sales transacted on or after January 1, 1986 but prior to January 1, 2004, the rate levied shall be three and one-quarter percent (3.25%).~~

~~(3) — For sales transacted prior to January 1, 1986, the rate levied shall be three percent (3%).~~

Section 9. Section 4-4-2, subsection (A), W.M.C., is hereby AMENDED to read as follows:

**4-4-2: TAX ON ACCOMMODATIONS; COLLECTION:** (2032 3544)

(A) ~~TAX ON ACCOMMODATIONS~~Sax on Accommodations:

~~(1) — There is hereby levied a tax or excise of five percent (5%) on the purchase price paid by any person or charged by any vendor on the lease, rental or other transaction of furnishing rooms or accommodations to any person who for a consideration uses, possesses, or has the right to use or possess, any room or rooms or other accommodations. This paragraph (1) of Subsection (A) of this Section shall apply to transactions consummated on or after January 3, 1986, and prior to January 1, 1991.~~

~~(2) — For transactions consummated on or after January 1, 1991 at 12:01 A.M., there is hereby levied a tax or excise of seven percent (7%) on the purchase price paid by any person or charged by any vendor on the lease, rental or other transaction of furnishing rooms or accommodations to any person who for a consideration uses, possesses, or has the right to use or possess, any room or rooms or other accommodations.~~

Section 10. Section 4-7-2, W.M.C., is hereby AMENDED to read as follows:

**4-7-2: LEVY OF TAX:** (1145)

~~(A) — There is hereby levied on and against each telephone utility company operating within the City of Westminster, (hereinafter called the "City") a tax on the occupation and business of maintaining a telephone exchange and lines connected therewith in the City of Westminster and of supplying local exchange telephone service to the inhabitants of the City. The amount of the tax levied hereby shall be:~~

~~(1) For the portion of 1979 remaining after the date on which the tax begins to accrue as provided in Section 3, \$.38 per month per telephone account for which local exchange telephone service is provided within the corporate limits of the City of Westminster on said date; and~~

~~(2) For each subsequent calendar year, thirty-eight cents (\$.38) per month per telephone account for which local exchange telephone service is provided within the corporate limits of the City of Westminster on the anniversary of the date on which the tax begins to accrue as provided in Section 24-7-3, W.M.C.~~

Section 11. Section 4-7-3, W.M.C., is hereby AMENDED to read as follows:

**4-7-3: TIME PAYMENT OF TAX:** ~~(1145) The tax levied by this Chapter shall begin to accrue on the first day of October, 1979, and shall be due and payable in twelve (12) equal monthly installments for the remaining portion of 1979, and in twelve equal monthly installments for years subsequent to 1979, each installment to be paid on the last business day of each calendar month. (1145)~~

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

Section 13. The title and purpose of this ordinance shall be published prior to its consideration on second reading. The full text of this ordinance shall be published within ten (10) days after its enactment after second reading.

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 9th day of July, 2012.

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

\_\_\_\_\_  
Mayor

ATTEST:

APPROVED AS TO LEGAL FORM:

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

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



## Agenda Item 9 A

### Agenda Memorandum

City Council Meeting  
July 23, 2012



**SUBJECT:** Resolution No. 19 re Appointments to Fill Vacancies on Boards and Commissions

**Prepared By:** Linda Yeager, City Clerk

### Recommended City Council Action

Adopt Resolution No. 19 making appointments to fill vacancies on the Environmental Advisory Board and the Planning Commission.

### Summary Statement

- The Westminster Municipal Code establishes the membership composition of each City Board and Commission and, in some instances, sets forth expertise requirements for membership where professional experience is valuable to the Board's role.
- In recent months, City Council received resignations from four appointees who were serving on the Environmental Advisory Board and the Planning Commission. To fill these vacancies, a mid-year recruitment was conducted and interested applicants were interviewed by City Council.
- If adopted, the attached resolution officially appoints the alternates currently serving on the Environmental Advisory Board and the Planning Commission as regular members and four qualified citizens of Westminster to fill vacancies within those groups so both can continue to function with full representation.

**Expenditure Required:** \$0

**Source of Funds:** N/A

**Policy Issue**

Does City Council wish to fill vacancies on the Environmental Advisory Board and the Planning Commission so a full complement of qualified members can fulfill established duties?

**Alternative**

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

**Background Information**

Resignations from four members on Boards and Commissions were received in recent months. Each one had to resign as they were leaving Westminster due to changes in employment circumstances and were no longer eligible to serve.

<b>Board</b>	<b>Resigned Member Name</b>
Environmental Advisory Board	Denise Dillinger
Environmental Advisory Board	Steve Breitzka
Environmental Advisory Board	William Lange
Planning Commission	Timothy McClung

The alternate to the Environmental Advisory Board and the first alternate to the Planning Commission will be appointed to complete the unexpired terms of Denise Dillinger and Timothy McClung. For the remaining vacancies, Staff conducted a mid-year recruitment in May to identify Westminster citizens interested in volunteering to serve on a Board or Commission. City Council conducted interviews of the applicant pool on July 2 and 9. The attached resolution makes appointments to fill the remaining vacancies that resulted from the resignations of Steve Breitzka and William Lange and to appoint new alternates to both groups.

By appointing Westminster residents to these Boards and Commissions as outlined in the attached resolution, citizens are engaged in their community and are actively supporting City Council's Strategic Plan Goals of a Financially Sustainable City Government Providing Exceptional Services; a Strong, Balanced Local Economy; a Safe and Secure Community; Vibrant Neighborhoods in One Livable Community; and a Beautiful and Environmentally Sensitive City. Residents are able to help their fellow residents by spearheading educational awareness of ways to preserve the environment and reviewing potential development throughout the community to ensure compatibility and sustainability of the quality of life citizens appreciate and enjoy.

Respectfully submitted,

J. Brent McFall  
City Manager

Attachment - Resolution

RESOLUTION

RESOLUTION NO. **19**

INTRODUCED BY COUNCILLORS

SERIES OF 2012

---

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

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

WHEREAS, due to employment obligations necessitating that they leave Westminster, City Council has received the resignations of Steve Breitzka, Denise Dillinger, and William Lange from the Environmental Advisory Board and of Timothy McClung from the Planning Commission; and

WHEREAS, City Council conducted interviews of citizens who responded to the mid-year 2012 Boards' and Commissions' recruitment and has selected individuals to fill existing vacancies.

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

<b>BOARD/COMMISSION</b>	<b>NAMES OF APPOINTEES</b>	<b>TERM OF OFFICE</b>
Environmental Advisory Board	Ron Gallegos, Mark Moreno, and Melanie Stone (regular members)	December 31, 2012
	Ellen Buckley (alternate member)	December 31, 2013
Planning Commission	Lawrence Dunn (regular member)	December 31, 2012
	David Carpenter (1 <sup>st</sup> alternate member) and Tracey Welch (2 <sup>nd</sup> alternate member)	December 31, 2013

PASSED AND ADOPTED this 23rd day of July, 2012.

ATTEST:

\_\_\_\_\_  
Mayor

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

APPROVED AS TO LEGAL FORM:

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



## Agenda Item 10 A

### Agenda Memorandum

City Council Meeting  
July 23, 2012



**SUBJECT:** Public Meeting on the 2013 and 2014 City Budget

**Prepared By:** Barbara Opie, Assistant City Manager

### Recommended City Council Action

Hold a public meeting on the 2013 and 2014 City Budget and receive citizen comments.

### Summary Statement

- City Staff is currently preparing budget information for both 2013 and 2014, and this meeting is intended to focus on both 2013 and 2014 citizen requests, comments and suggestions. The public meeting is an informal opportunity for the public to provide input to the City Council on the City Budget.
- City Council officially adopted the City's fifth two-year budget with the 2011/2012 Budget in October 2010; a mid-year review and amendment process occurred in October 2011 for the 2012 Budget. Departments prepare their proposed 2013 and 2014 Budgets through the summer, working to reflect the current economic conditions and community needs. The Departments' efforts culminate in the distribution of the Proposed Budget to City Council at the end of August.
- This is the second public meeting on the proposed budget. A final public hearing is scheduled for September 10 so that citizens will have one more opportunity to comment and provide feedback on the 2013 and 2014 City Budget. City Council must adopt the budget by the October 22 City Council meeting, in accordance with the City Charter.

**Expenditure Required:** \$0

**Source of Funds:** N/A

## **Policy Issue**

Listen to citizen requests, comments and suggestions as they pertain to the 2013 and 2014 budget.

## **Alternative**

Council could choose to not conduct a public meeting at this time. This is not recommended as providing citizens an opportunity for input early on in the budget process plays an important role in assuring that the budget reflects community needs.

## **Background Information**

In May, City Council reviewed Staff's level of service analysis related to several core services for the City of Westminster. This work was done in concert with the City Council Strategic Plan Goals identified below:

- Financially Sustainable City Government Providing Exceptional Services
- Strong, Balanced Local Economy
- Safe and Secure Community
- Vibrant Neighborhoods in One Livable Community
- Beautiful and Environmentally Sensitive City

The direction provided by City Council assists City Staff as they develop the 2013 and 2014 City Budget. Other considerations that go into developing a comprehensive budget are department priorities that strive to achieve Council goals identified in the Strategic Plan, maintain existing service levels and citizen or neighborhood input.

At the June 11 public meeting on the budget, Staff provided a brief presentation providing an early overview of the City's financial condition and shared three programmatic areas where changes are under consideration. Research continues and recommendations are being developed by Staff for consideration by City Council in August/September. Information is available on the City's web site for feedback.

The public is encouraged to provide feedback tonight and through the various means to provide input throughout the year, including the following:

- Conversations with the Mayor and City Council at Mayor and Council outreach events (such as We're All Ears, Mayor/Council desserts and/or breakfasts, etc.);
- Telephone calls with the Mayor, City Council or the City Manager's Office (303-658-2006);
- Traditional mail communications (c/o City Manager's Office, 4800 W. 92<sup>nd</sup> Avenue, Westminster, CO 80031);
- E-mail communications with the Mayor, City Council or the City Manager's Office (c/o [westycmo@cityofwestminster.us](mailto:westycmo@cityofwestminster.us)); or
- City Web page and Facebook communication.

A Proposed Budget will be submitted to City Council at the end of August for review. After reviewing the Proposed Budget for several weeks, City Council is scheduled to conduct a Budget Retreat at the regularly scheduled Study Session on Monday, September 17. City Council will deliberate on final funding decisions on staffing levels, programs, services, and capital projects at this Budget Retreat.

In November of 2000, Westminster voters approved a City Charter amendment that allows the City Council to adopt a formal two-year budget. City Council officially adopted the City's first two-year budget with the 2003/2004 Budget. The Proposed 2013/2014 Budget will represent the sixth iteration of biennial budgeting in the City of Westminster.



**SUBJECT:** Public Meeting on the 2013 and 2014 City Budget

Page 3

Two public meetings and one formal public hearing will be held on the Proposed 2013 and 2014 City Budget to solicit citizen input. The public meetings are scheduled for June 11 and July 23 and a public hearing is scheduled for September 10.

Monday's public meeting was advertised in the *Westminster Window*, *Westsider* and *Weekly Edition*; on Facebook and on cable Channel 8 and the City's website.

City Council's action on this item addresses all five Strategic Planning Goals.

Respectfully submitted,

J. Brent McFall  
City Manager



Agenda Memorandum

City Council Meeting  
July 23, 2012



**SUBJECT:** Resolution No. 20 re Fee Interests and Easement Acquisition for the 87<sup>th</sup> Avenue and Wadsworth Boulevard Lift Station Replacement Project

**Prepared by:** Dan Strietelmeier, Senior Engineer  
Steve Grooters, Senior Projects Engineer

**Recommended City Council Action**

Adopt Resolution No. 20 authorizing City Staff to proceed with the acquisition of fee interests and easements necessary for the 87<sup>th</sup> Avenue and Wadsworth Boulevard Lift Station Replacement Project, including the use of eminent domain, if necessary; and authorize all reasonable costs associated with acquiring the properties.

**Summary**

- A Utility System Infrastructure Master Planning effort performed in 2006 evaluated the condition and performance of each of the City’s sanitary sewer lift stations.
- As a result of this evaluation, the 87<sup>th</sup> Avenue and Wadsworth Boulevard sanitary sewer lift station equipment and structures have been determined to be in poor condition and have reached the end of their useful life.
- Project objectives for replacing this lift station include: 1) Relocating the lift station away from traffic, 2) Adding a redundant discharge pipeline for reliability, 3) Adding buried overflow storage tanks to reduce the potential for spills, and 4) Relocating the lift station out of the storm water drainage way prone to flooding conditions.
- Final design of the lift station replacement is nearly complete and was performed by Carollo Engineers, Inc. under a contract approved by City Council on March 21, 2011. The design process included a site alternatives analysis during which a preferred site was selected.
- The preferred site meets all of the project objectives and is located on the west side of Wadsworth Boulevard at approximately 87<sup>th</sup> Avenue in the parking lot for the Standley Lake Shops retail center.
- There are two private parcels affected by the improvements: one owned by 88<sup>th</sup> and Wadsworth LLC and one by True Morehead Company. From these parcels, it is necessary to acquire one fee simple parcel, four permanent easements and two temporary easements to construct the project.
- This item was discussed with City Council at the July 9<sup>th</sup> post meeting and Council concurred with the staff recommendation to bring this forward for official action. Staff is following up on Council’s request to minimize the impact of the construction, to the extent possible, on the businesses in the area.
- Funds are available and were authorized by City Council for this project.

**Expenditure Required:** Reasonable Expenditures To Be Determined

**Source of Funds:** 87<sup>th</sup> Avenue and Wadsworth Boulevard Lift Station Replacement Capital Improvement Project

## **Policy Issue**

Should the City proceed with fee interests and easement acquisitions for the 87<sup>th</sup> Avenue and Wadsworth Boulevard Lift Station Replacement project?

## **Alternative**

City Council could decide to not proceed with these acquisitions. This is not recommended since it would result in delaying the lift station replacement and could result in increased maintenance and repair expenses, sanitary sewer service interruptions and the risk of spills and environmental violations.

## **Background Information**

Utility system master planning performed in 2006 evaluated the condition and performance of the City's sanitary sewer collection system, including the lift stations and provided recommendations for improvements. One of the recommended improvements was to replace the existing 87<sup>th</sup> Avenue and Wadsworth Boulevard lift station. Problems with the existing lift station include: 1) the age and condition of the existing equipment and structures; 2) the undersized lift station wet well storage volume; 3) the existing lift station site is located on the east side of Wadsworth Boulevard in a storm water channel that is prone to flooding; and 4) the existing station is very close to the street, creating a risk of damage from traffic accidents.

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

- Proximity to existing sanitary sewer pipelines and infrastructure
- Aesthetic impacts to the residential neighborhood
- Relative separation from commercial businesses
- Ease of access for construction and maintenance
- Ability to remain outside of Colorado Department Of Transportation (CDOT) Right Of Way

The new lift station design plans include buried overflow tanks that will reduce the risk of sanitary sewer overflows in the event of lift station failures. In addition to the new lift station, a new discharge pipeline is planned to be installed along Wadsworth Boulevard. The discharge pipeline used by the existing lift station on east side of Wadsworth Boulevard will continue to be used as a redundant pipeline by the new lift station, but the existing lift station itself will be decommissioned and the site restored.

Acquisition of private property will be required for the new lift station. However, to limit impacts to City customers and to the lift station neighbors, the station has been designed to limit above-ground, visible components and most components will be below the ground surface. An architectural screening wall will be used around the few components that need to remain above-ground (i.e., emergency generator and electrical components). The new pipeline along the west side of Wadsworth Boulevard will be located in the CDOT right of way where no acquisition of private property will be necessary.

Possession of the necessary fee interests and easements is a prerequisite to permitting the project with the State and for awarding the construction contract. To help streamline the project schedule, the acquisition effort will attempt a negotiated settlement for purchase of the fee interest and easement or voluntary agreement for possession of the property necessary for construction by late 2012. This will allow construction of the project to begin in early 2013 with completion anticipated for the fall of 2013.

The attached resolution authorizes Staff to proceed with activities and expenditures necessary to secure legal possession and acquire fee interests and easements for the 87<sup>th</sup> Avenue and Wadsworth Boulevard Lift Station Replacement Project.

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

Respectfully submitted,

J. Brent McFall  
City Manager

Attachment - Resolution with Exhibit A

RESOLUTION

RESOLUTION NO. **20**

INTRODUCED BY COUNCILLORS

SERIES OF 2012

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**A RESOLUTION TO ACQUIRE FEE INTERESTS AND  
EASEMENTS FOR THE 87<sup>TH</sup> AVENUE AND WADSWORTH BOULEVARD  
LIFT STATION REPLACEMENT PROJECT**

WHEREAS, the Westminster City Council has determined that it is necessary to the public health, safety and welfare to acquire certain parcels of land for the public purpose of constructing the 87<sup>th</sup> Avenue and Wadsworth Boulevard Lift Station (the "Project") ; and

WHEREAS, property appraisals prepared by a professional appraisal company experienced in performing appraisals, will be used to determine the fair market value of the property rights being acquired in each of the parcels; and

WHEREAS, the City of Westminster (the "City") will make a good faith offer to purchase each of the subject parcels; and

WHEREAS, the City is a governmental entity of the State of Colorado with the legal authority and power of eminent domain and the City Attorney has advised that the City may exercise its right of eminent domain should normal negotiations fail; and

WHEREAS, if the property cannot be obtained voluntarily the City is authorized to commence condemnation proceedings to acquire the property interests identified below and to prosecute the proceedings to their conclusion; and

WHEREAS, City Council finds that if acquisition by condemnation of any parcel described in this resolution is commenced, immediate possession by the City may be necessary for the public health, safety and welfare in order to keep the Project on the desired schedule.

NOW, THEREFORE, the Westminster City Council resolves that:

1. The property interests sought to be acquired for the Project include fee interests, permanent easements and temporary construction easements as more fully described in the legal descriptions attached as Exhibit A ("Property"); and

2. The acquisition of the Property serves the public purpose of improvements to the sanitary sewer collection system; and

3. The City Manager or his designee is hereby authorized to establish minimum just compensation for acquisition of the Property necessary to build the Project; and

4. The City Manager or his designee is authorized to proceed with negotiations to acquire the necessary Property on the basis of the appraised value, or such higher value as is considered just and necessary to facilitate the acquisition and avoid the necessity of condemnation.

5. The City Manager or his designee is hereby authorized to acquire such Property consistent with applicable law, including the execution of all documents necessary to complete these purchases.

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

of the overall Project. In the event that acquisition by condemnation is commenced, the City Attorney is further authorized to request a grant of immediate possession of the Property.

7. The City Manager or his designee shall be further authorized to incur reasonable costs associated with acquiring the Properties; including, without limitations, contractual services, the cost of title examination, title insurance, appraisal fee payments mandated by statute, normal closing costs, filings fees and charges and all other related or incidental costs or expenses customarily associated with the acquisition or condemnation of property. The cost shall be charged to the Utility Capital Improvement Fund.

8. The Senior Engineer managing the project is hereby authorized to call for amendment of the legal descriptions of the Property to be acquired and the nature of the interests to be acquired, including the commencement date and duration of any temporary easement, if necessary in the course of the Project.

PASSED AND ADOPTED this 23rd day of July, 2012.

ATTEST:

\_\_\_\_\_  
Mayor

APPROVED AS TO LEGAL FORM:

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

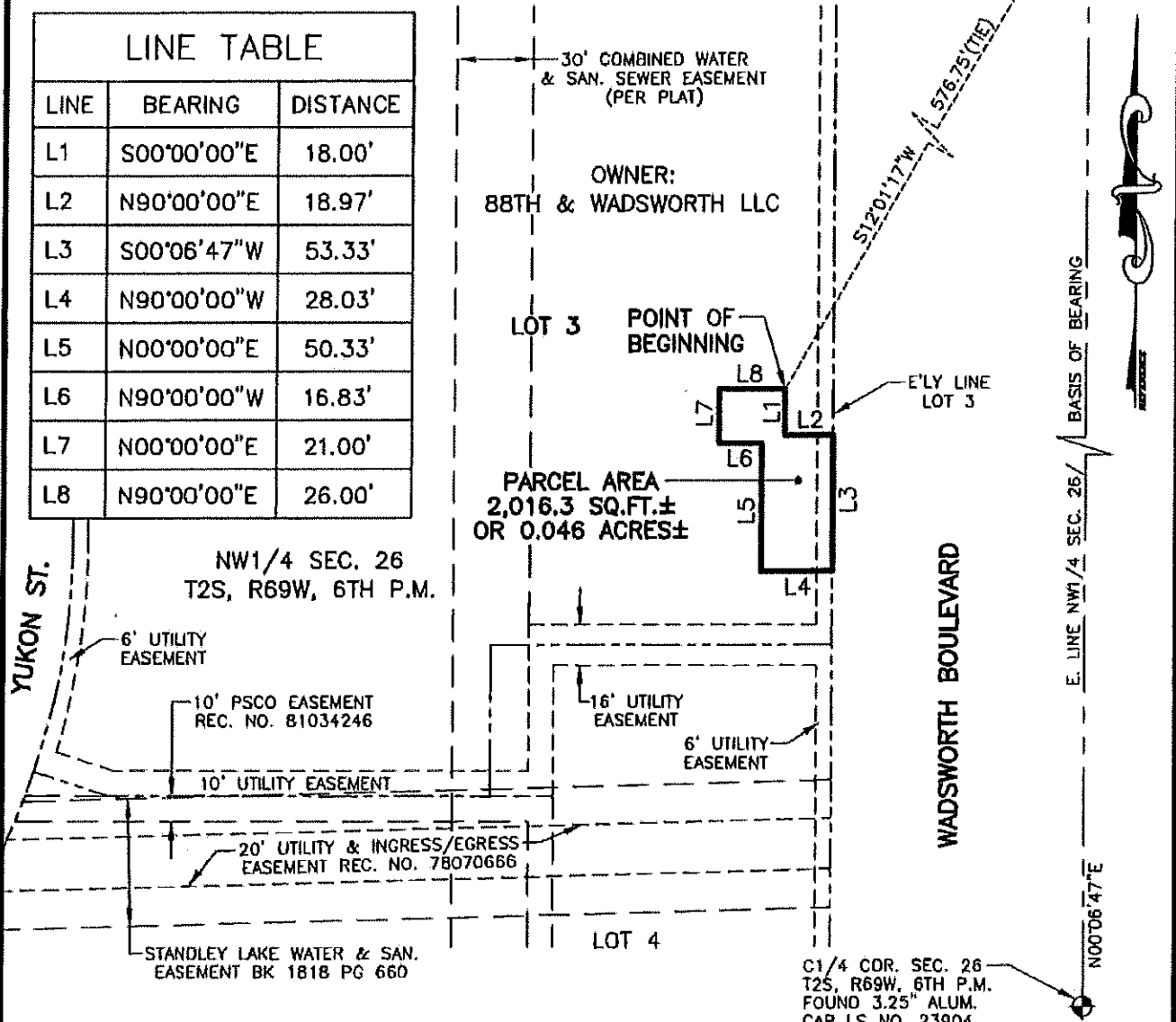
\_\_\_\_\_  
City Attorney

Exhibit A

STANDLEY LAKE SHOPS SUBDIVISION  
 FILED IN THE JEFFERSON COUNTY  
 CLERK AND RECORDER'S OFFICE  
 RECEPTION NO. 78055647

N1/4 COR. SEC. 26  
 T2S, R69W, 6TH P.M.  
 ESTABLISHED PER FOUND TIES  
 ON MONUMENT RECORD W/ A  
 FIELD DATE OF 9/20/94

LINE TABLE		
LINE	BEARING	DISTANCE
L1	S00°00'00"E	18.00'
L2	N90°00'00"E	18.97'
L3	S00°06'47"W	53.33'
L4	N90°00'00"W	28.03'
L5	N00°00'00"E	50.33'
L6	N90°00'00"W	16.83'
L7	N00°00'00"E	21.00'
L8	N90°00'00"E	26.00'



- 1.) PARCEL OWNERSHIP IS BASED ON THE RECORDS OF THE COUNTY ASSESSOR.
- 2.) ACCORDING TO COLORADO LAW, YOU MUST COMMENCE ANY LEGAL ACTION BASED UPON ANY DEFECT IN THIS SURVEY WITHIN THREE 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 YEARS AFTER THE DATE OF THE CERTIFICATION SHOWN HEREON.
- 3.) THIS IS NOT A BOUNDARY SURVEY. THE PURPOSE OF THIS EXHIBIT IS TO SHOW THE LOCATION OF THE PARCEL(S).
- 4.) THIS EXHIBIT SHALL BE CONSIDERED NULL AND VOID IF IT DOES NOT BEAR THE ORIGINAL SIGNATURE AND SEAL OF THE PROFESSIONAL LAND SURVEYOR OR IF ALTERED IN ANY WAY.

**Precision Survey & Mapping, Inc.**  
 professional land surveying consultants  
 1780 S. DeSoto St., Suite 165, Denver, CO 80222  
 Tel:(303) 753-9799 Fax:(303) 753-4044

DRN. BY: J.L.  
 CHKD. BY: C.F.J.  
 DATE: 2/14/12  
 SCALE: 1" = 60'

FILE: R9323-B7TH.dwg  
 SHEET: 1 OF 2  
 JOB #: R9323

EXHIBIT "A"

A PARCEL OF LAND LOCATED IN THE NORTHWEST QUARTER OF SECTION 26, TOWNSHIP 2 SOUTH, RANGE 69 WEST OF THE SIXTH PRINCIPAL MERIDIAN, COUNTY OF JEFFERSON, STATE OF COLORADO, ALSO BEING A PORTION OF LOT 3, STANDLEY LAKE SHOPS SUBDIVISION, FILED IN THE JEFFERSON COUNTY CLERK AND RECORDER'S OFFICE AT RECEPTION NO. 78055647, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

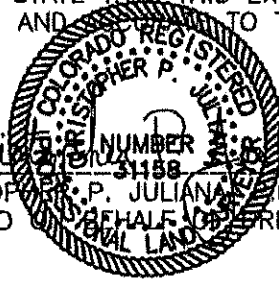
BASIS OF BEARING OF THIS DESCRIPTION IS ALONG THE EAST LINE OF SAID NORTHWEST QUARTER OF SECTION 26, ASSUMED TO BEAR N00°06'47"E A DISTANCE OF 2666.73 FEET, FROM A 3.25" ALUMINUM CAP LS NO. 23904 FOUND AT THE CENTER QUARTER CORNER OF SAID SECTION 26, TO THE NORTH QUARTER CORNER OF SAID SECTION 26 ESTABLISH PER FOUND TIES ON MONUMENT RECORD WITH A FIELD DATE OF 9/20/94;


BEGINNING AT A POINT WHICH BEARS S12°01'17"W A DISTANCE OF 576.75 FEET FROM SAID NORTH QUARTER CORNER OF SECTION 26;

THENCE S00°00'00"E A DISTANCE OF 18.00 FEET; THENCE N90°00'00"E A DISTANCE OF 18.97 FEET TO THE EASTERLY LINE OF SAID LOT 3; THENCE S00°06'47"W ALONG SAID EASTERLY LINE OF LOT 3, A DISTANCE OF 53.33 FEET; THENCE N90°00'00"W A DISTANCE OF 28.03 FEET; THENCE N00°00'00"E A DISTANCE OF 50.33 FEET; THENCE N90°00'00"W A DISTANCE OF 16.83 FEET; THENCE N00°00'00"E A DISTANCE OF 21.00 FEET; THENCE N90°00'00"E A DISTANCE OF 26.00 FEET TO THE POINT OF BEGINNING; WHEN SAID CENTER QUARTER CORNER OF SECTION 26 BEARS S03°07'36"E A DISTANCE OF 2105.76 FEET;

SAID PARCEL CONTAINS 2,016.3 SQUARE FEET OR 0.046 ACRES OF LAND, MORE OR LESS.

I, THE UNDERSIGNED, A REGISTERED LAND SURVEYOR IN THE STATE OF COLORADO, DO HEREBY STATE THAT THIS EXHIBIT WAS PREPARED BY ME OR UNDER MY SUPERVISION AND IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.

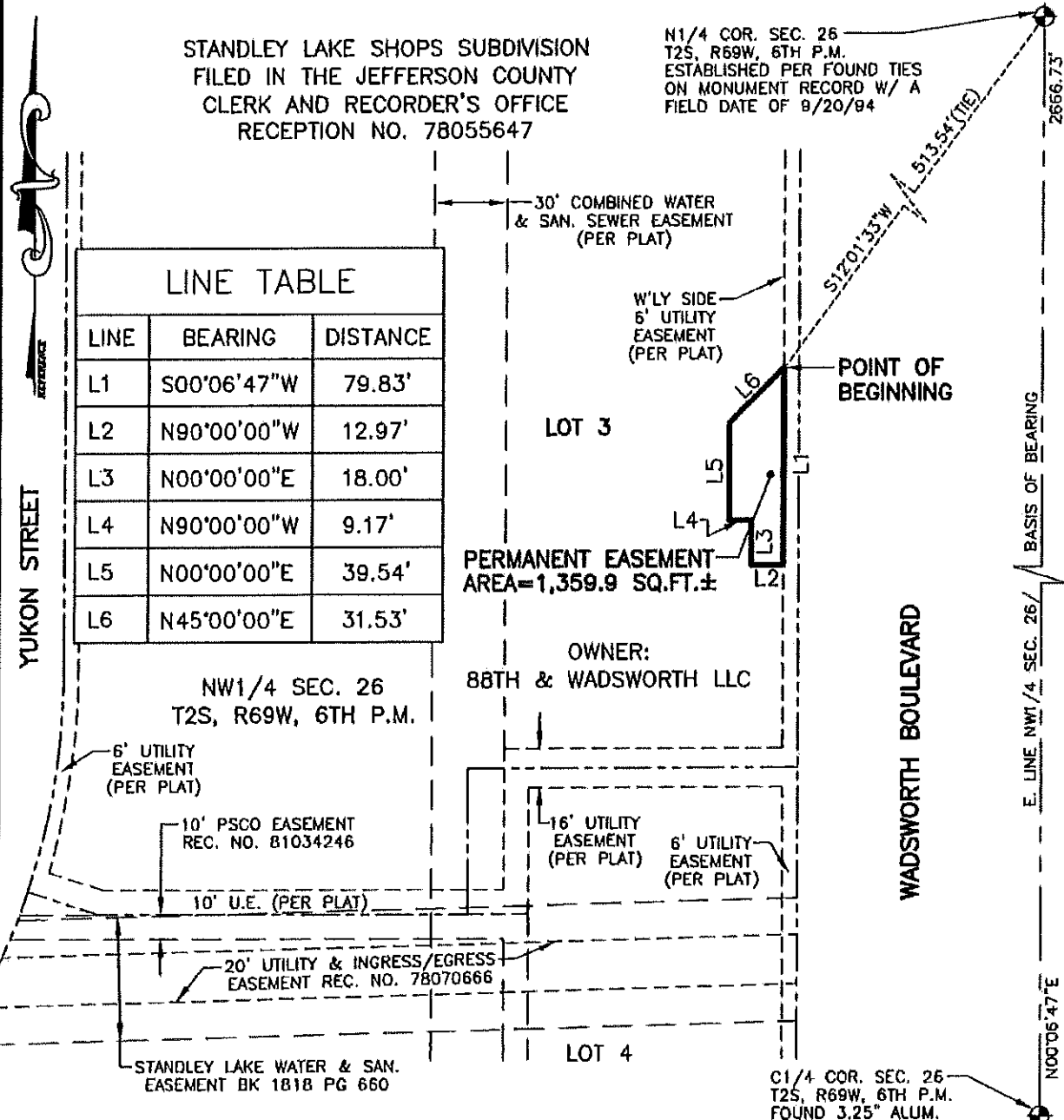
  
*Christopher P. Julian* 2/14/12  
CHRISTOPHER P. JULIAN, L.S. 31158 DATE  
FOR AND ON BEHALF OF PRECISION SURVEY & MAPPING, INC.

 <b>Precision Survey &amp; Mapping, Inc.</b> <small>professional land surveying consultants</small> 1760 S. Belaire St., Suite 163, Denver, CO 80222 Tel:(303) 753-9799 Fax:(303) 753-4014	DRN. BY: <u>J.L.</u>	FILE: <u>R9323-87TH.dwg</u>	<b>LEGAL DESCRIPTION</b>
	CHKD. BY: <u>C.P.J.</u>	SHEET: <u>2 OF 2</u>	
	DATE: <u>2/14/12</u>	JOB #: <u>R9323</u>	
	SCALE: <u>1" = 60'</u>		



STANDLEY LAKE SHOPS SUBDIVISION  
 FILED IN THE JEFFERSON COUNTY  
 CLERK AND RECORDER'S OFFICE  
 RECEPTION NO. 78055647

N1/4 COR. SEC. 26  
 T2S, R69W, 6TH P.M.  
 ESTABLISHED PER FOUND TIES  
 ON MONUMENT RECORD W/ A  
 FIELD DATE OF 9/20/94



LINE TABLE		
LINE	BEARING	DISTANCE
L1	S00°06'47"W	79.83'
L2	N90°00'00"W	12.97'
L3	N00°00'00"E	18.00'
L4	N90°00'00"W	9.17'
L5	N00°00'00"E	39.54'
L6	N45°00'00"E	31.53'

PERMANENT EASEMENT  
 AREA=1,359.9 SQ.FT.±

OWNER:  
 88TH & WADSWORTH LLC

- 1.) PARCEL OWNERSHIP IS BASED ON THE RECORDS OF THE COUNTY ASSESSOR.
- 2.) ACCORDING TO COLORADO LAW, YOU MUST COMMENCE ANY LEGAL ACTION BASED UPON ANY DEFECT IN THIS SURVEY WITHIN THREE 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 YEARS AFTER THE DATE OF THE CERTIFICATION SHOWN HEREON.
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DRN. BY: J.L.  
 CHKD. BY: C.P.J.  
 DATE: 3/8/12  
 SCALE: 1" = 60'

FILE: R9323-87TH.dwg  
 SHEET: 1 OF 2  
 JOB #: R9323

**PERMANENT  
 EASEMENT NO. 1**

A PERMANENT EASEMENT LOCATED IN THE NORTHWEST QUARTER OF SECTION 26, TOWNSHIP 2 SOUTH, RANGE 69 WEST OF THE SIXTH PRINCIPAL MERIDIAN, COUNTY OF JEFFERSON, STATE OF COLORADO, ALSO BEING A PORTION OF LOT 3, STANDLEY LAKE SHOPS SUBDIVISION, FILED IN THE JEFFERSON COUNTY CLERK AND RECORDER'S OFFICE AT RECEPTION NO. 78055647, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

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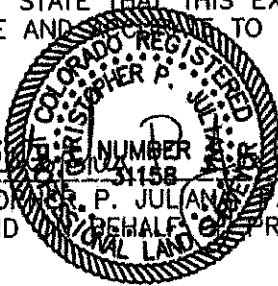
BEGINNING AT A POINT ON THE WESTERLY SIDE OF A 6' UTILITY EASEMENT PER SAID PLAT, SAID POINT BEARS  $S12^{\circ}01'33''W$  A DISTANCE OF 513.54 FEET FROM SAID NORTH QUARTER CORNER OF SECTION 26;

THENCE  $S00^{\circ}06'47''W$  ALONG SAID WESTERLY SIDE, A DISTANCE OF 79.83 FEET; THENCE  $N90^{\circ}00'00''W$  A DISTANCE OF 12.97 FEET; THENCE  $N00^{\circ}00'00''E$  A DISTANCE OF 18.00 FEET; THENCE  $N90^{\circ}00'00''W$  A DISTANCE OF 9.17 FEET; THENCE  $N00^{\circ}00'00''E$  A DISTANCE OF 39.54 FEET; THENCE  $N45^{\circ}00'00''E$  A DISTANCE OF 31.53 FEET TO SAID WESTERLY SIDE AND THE POINT OF BEGINNING; WHENCE SAID CENTER QUARTER CORNER OF SECTION 26 BEARS  $S02^{\circ}41'28''E$  A DISTANCE OF 2166.84 FEET;

SAID PARCEL CONTAINS 1,359.9 SQUARE FEET OF LAND, MORE OR LESS.

I, THE UNDERSIGNED, A REGISTERED LAND SURVEYOR IN THE STATE OF COLORADO, DO HEREBY STATE THAT THIS EXHIBIT WAS PREPARED BY ME OR UNDER MY SUPERVISION AND IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.

*Christopher P. Julian*  
 CHRISTOPHER P. JULIAN, L.S. 31158 DATE 3/8/12  
 FOR AND ON BEHALF OF PRECISION SURVEY & MAPPING, INC.



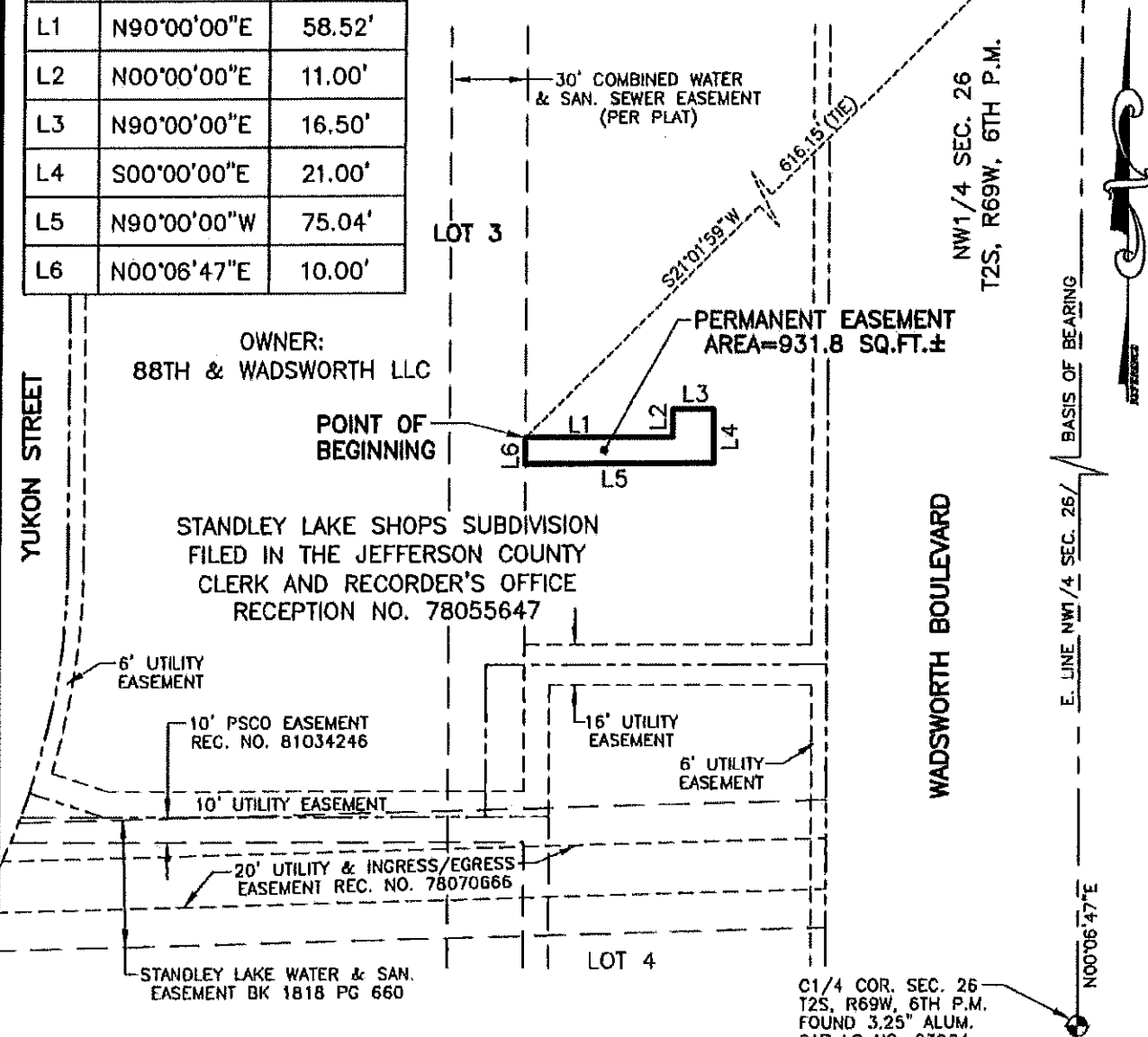
**Precision Survey & Mapping, Inc.**  
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 1760 S. Beloit St., Suite 165, Denver, CO 80222  
 Tel: (303) 753-0789 Fax: (303) 753-1044

DRN. BY: <u>J.L.</u>	FILE: <u>R9323-87TH.dwg</u>
CHKD. BY: <u>C.P.J.</u>	SHEET: <u>2 OF 2</u>
DATE: <u>3/8/12</u>	JOB #: <u>R9323</u>
SCALE: <u>1" = 60'</u>	


**PERMANENT  
EASEMENT NO. 1**

LINE TABLE		
LINE	BEARING	DISTANCE
L1	N90°00'00"E	58.52'
L2	N00°00'00"E	11.00'
L3	N90°00'00"E	16.50'
L4	S00°00'00"E	21.00'
L5	N90°00'00"W	75.04'
L6	N00°06'47"E	10.00'

N1/4 COR. SEC. 26  
T2S, R69W, 6TH P.M.  
ESTABLISHED PER FOUND TIES  
ON MONUMENT RECORD W/ A  
FIELD DATE OF 9/20/94



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Tel:(303) 753-9799 Fax:(303) 753-4044

DRN. BY: J.L.  
CHKD. BY: C.P.J.  
DATE: 2/24/12  
SCALE: 1" = 60'

FILE: R9323-87TH.dwg  
SHEET: 1 OF 2  
JOB #: R9323

**PERMANENT  
EASEMENT NO. 2**

A PERMANENT EASEMENT LOCATED IN THE NORTHWEST QUARTER OF SECTION 26, TOWNSHIP 2 SOUTH, RANGE 69 WEST OF THE SIXTH PRINCIPAL MERIDIAN, COUNTY OF JEFFERSON, STATE OF COLORADO, ALSO BEING A PORTION OF LOT 3, STANDLEY LAKE SHOPS SUBDIVISION, FILED IN THE JEFFERSON COUNTY CLERK AND RECORDER'S OFFICE AT RECEPTION NO. 78055647, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

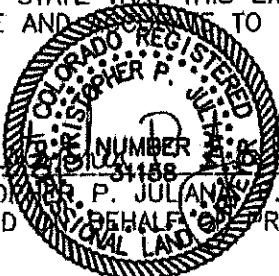
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BEGINNING AT A POINT ON THE EASTERLY SIDE OF A 30 FOOT COMBINED WATER AND SANITARY SEWER EASEMENT PER SAID PLAT, SAID POINT BEARS S21°01'59"W A DISTANCE OF 616.15 FEET FROM SAID NORTH QUARTER CORNER OF SECTION 26;

THENCE N90°00'00"E A DISTANCE OF 58.52 FEET; THENCE N00°00'00"E A DISTANCE OF 11.00 FEET; THENCE N90°00'00"E A DISTANCE OF 16.50 FEET; THENCE S00°00'00"E A DISTANCE OF 21.00 FEET; THENCE N90°00'00"W A DISTANCE OF 75.04 FEET TO SAID EASTERLY SIDE OF A 30 FOOT COMBINED WATER AND SANITARY SEWER EASEMENT; THENCE N00°06'47"E ALONG SAID EASTERLY SIDE, A DISTANCE OF 10.00 FEET TO THE POINT OF BEGINNING; WHENCE SAID CENTER QUARTER CORNER OF SECTION 26 BEARS S05°53'34"E A DISTANCE OF 2102.73 FEET;

SAID PARCEL CONTAINS 931.8 SQUARE FEET OF LAND, MORE OR LESS.

I, THE UNDERSIGNED, A REGISTERED LAND SURVEYOR IN THE STATE OF COLORADO, DO HEREBY STATE THAT THIS EXHIBIT WAS PREPARED BY ME OR UNDER MY SUPERVISION AND IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.

  
*Christopher P. Julian* 2/24/12  
CHRISTOPHER P. JULIAN, L.S. 31158 DATE  
FOR AND BEHALF OF PRECISION SURVEY & MAPPING, INC.



Precision Survey & Mapping, Inc.

professional land surveying consultants  
1780 S. Belaire St., Suite 165, Denver, CO 80222  
Tel: (303) 753-9799 Fax: (303) 753-4044

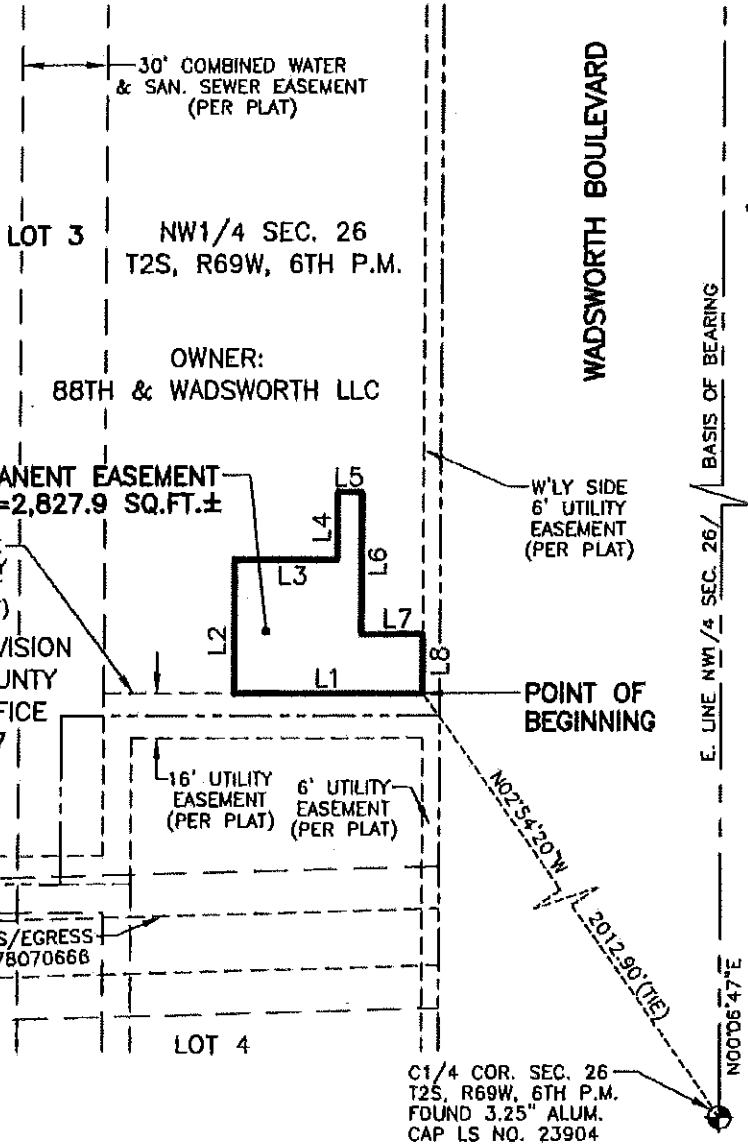
DRN. BY: J.L.  
CHKD. BY: C.P.J.  
DATE: 2/24/12  
SCALE: 1" = 60'

FILE: R9323-B7TH.dwg  
SHEET: 2 OF 2  
JOB #: R9323

PERMANENT  
EASEMENT NO. 2

LINE TABLE		
LINE	BEARING	DISTANCE
L1	N89°53'13"W	67.57'
L2	N00°00'00"E	47.34'
L3	N90°00'00"E	36.92'
L4	N00°00'00"E	23.84'
L5	N90°00'00"E	8.67'
L6	S00°00'00"E	50.33'
L7	N90°00'00"E	22.03'
L8	S00°06'47"W	20.98'

N1/4 COR. SEC. 26  
T2S, R69W, 6TH P.M.  
ESTABLISHED PER FOUND TIES  
ON MONUMENT RECORD W/ A  
FIELD DATE OF 9/20/94



YUKON ST.

WADSWORTH BOULEVARD

STANDLEY LAKE SHOPS SUBDIVISION  
FILED IN THE JEFFERSON COUNTY  
CLERK AND RECORDER'S OFFICE  
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- 1.) PARCEL OWNERSHIP IS BASED ON THE RECORDS OF THE COUNTY ASSESSOR.
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DRN. BY: J.L. FILE: R9323-87TH.dwg  
 CHKD. BY: C.P.J. SHEET: 1 OF 2  
 DATE: 3/8/12 JOB #: R9323  
 SCALE: 1" = 60'

**PERMANENT  
EASEMENT NO. 3**

A PERMANENT EASEMENT LOCATED IN THE NORTHWEST QUARTER OF SECTION 26, TOWNSHIP 2 SOUTH, RANGE 69 WEST OF THE SIXTH PRINCIPAL MERIDIAN, COUNTY OF JEFFERSON, STATE OF COLORADO, ALSO BEING A PORTION OF LOT 3, STANDLEY LAKE SHOPS SUBDIVISION, FILED IN THE JEFFERSON COUNTY CLERK AND RECORDER'S OFFICE AT RECEPTION NO. 78055647, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

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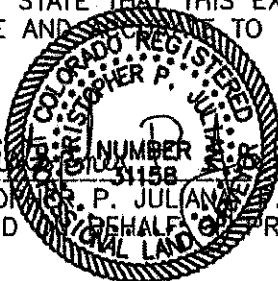
BEGINNING AT THE INTERSECTION POINT OF THE NORTHERLY SIDE OF A 16' UTILITY EASEMENT WITH THE WESTERLY SIDE OF A 6' UTILITY EASEMENT PER SAID PLAT, SAID POINT BEARS N02°54'20"W A DISTANCE OF 2012.90 FEET FROM SAID CENTER QUARTER CORNER OF SECTION 26;

THENCE N89°53'13"W ALONG SAID NORTHERLY SIDE, A DISTANCE OF 67.57 FEET; THENCE N00°00'00"E A DISTANCE OF 47.34 FEET; THENCE N90°00'00"E A DISTANCE OF 36.92 FEET; THENCE N00°00'00"E A DISTANCE OF 23.84 FEET; THENCE N90°00'00"E A DISTANCE OF 8.67 FEET; THENCE S00°00'00"E A DISTANCE OF 50.33 FEET; THENCE N90°00'00"E A DISTANCE OF 22.03 FEET TO SAID WESTERLY SIDE OF A 6' UTILITY EASEMENT; THENCE S00°06'47"W ALONG SAID WESTERLY SIDE, A DISTANCE OF 20.98 FEET AND THE POINT OF BEGINNING; WHENCE SAID NORTH QUARTER CORNER OF SECTION 26 BEARS N09°17'02"E A DISTANCE OF 665.12 FEET;

SAID PARCEL CONTAINS 2,827.9 SQUARE FEET OF LAND, MORE OR LESS.

I, THE UNDERSIGNED, A REGISTERED LAND SURVEYOR IN THE STATE OF COLORADO, DO HEREBY STATE THAT THIS EXHIBIT WAS PREPARED BY ME OR UNDER MY SUPERVISION AND IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.

*Christopher P. Juliana* 3/8/12  
 CHRISTOPHER P. JULIANA, L.S. 31158 DATE  
 FOR AND ON BEHALF OF PRECISION SURVEY & MAPPING, INC.



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DRN. BY: J.L.  
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 DATE: 3/8/12  
 SCALE: 1" = 60'

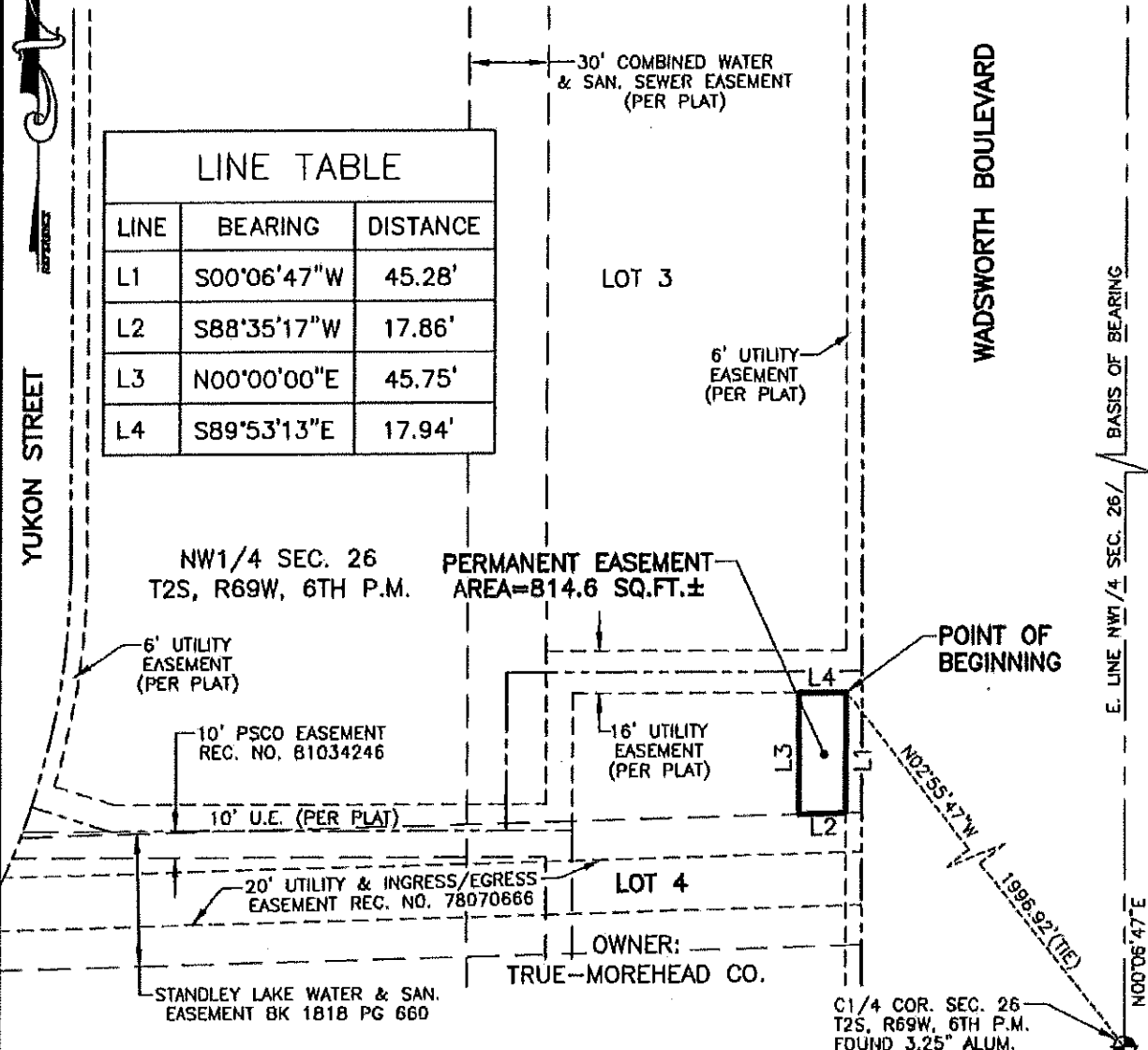
FILE: R9323-87M.dwg  
 SHEET: 2 OF 2  
 JOB #: R9323

**PERMANENT  
 EASEMENT NO. 3**

STANDLEY LAKE SHOPS SUBDIVISION  
 FILED IN THE JEFFERSON COUNTY  
 CLERK AND RECORDER'S OFFICE  
 RECEPTION NO. 78055647

N1/4 COR. SEC. 26  
 T2S, R69W, 6TH P.M.  
 ESTABLISHED PER FOUND TIES  
 ON MONUMENT RECORD W/ A  
 FIELD DATE OF 9/20/94

LINE TABLE		
LINE	BEARING	DISTANCE
L1	S00°06'47"W	45.28'
L2	S88°35'17"W	17.86'
L3	N00°00'00"E	45.75'
L4	S89°53'13"E	17.94'



- 1.) PARCEL OWNERSHIP IS BASED ON THE RECORDS OF THE COUNTY ASSESSOR.
- 2.) ACCORDING TO COLORADO LAW, YOU MUST COMMENCE ANY LEGAL ACTION BASED UPON ANY DEFECT IN THIS SURVEY WITHIN THREE 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 YEARS AFTER THE DATE OF THE CERTIFICATION SHOWN HEREON.
- 3.) THE ONLY PURPOSE OF THIS EXHIBIT IS TO SHOW THE LOCATION OF THE EASEMENT(S).
- 4.) THIS EXHIBIT SHALL BE CONSIDERED NULL AND VOID IF IT DOES NOT BEAR THE ORIGINAL SIGNATURE AND SEAL OF THE PROFESSIONAL LAND SURVEYOR OR IF ALTERED IN ANY WAY.

**Precision Survey & Mapping, Inc.**  
 professional land surveying consulting  
 1780 S. Belaire St., Suite 185, Denver, CO 80222  
 Tel:(303) 753-9799 Fax:(303) 753-4044

DRN. BY: J.L.  
 CHKD. BY: C.P.J.  
 DATE: 3/8/12  
 SCALE: 1" = 60'

FILE: R9323-87TH.dwg  
 SHEET: 1 OF 2  
 JOB #: R9323

**PERMANENT  
 EASEMENT NO. 4**

A PERMANENT EASEMENT LOCATED IN THE NORTHWEST QUARTER OF SECTION 26, TOWNSHIP 2 SOUTH, RANGE 69 WEST OF THE SIXTH PRINCIPAL MERIDIAN, COUNTY OF JEFFERSON, STATE OF COLORADO, ALSO BEING A PORTION OF LOT 4, STANDLEY LAKE SHOPS SUBDIVISION, FILED IN THE JEFFERSON COUNTY CLERK AND RECORDER'S OFFICE AT RECEPTION NO. 78055647, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:


BASIS OF BEARING OF THIS DESCRIPTION IS ALONG THE EAST LINE OF SAID NORTHWEST QUARTER OF SECTION 26, ASSUMED TO BEAR N00°06'47"E A DISTANCE OF 2666.73 FEET, FROM A 3.25" ALUMINUM CAP LS NO. 23904 FOUND AT THE CENTER QUARTER CORNER OF SAID SECTION 26, TO THE NORTH QUARTER CORNER OF SAID SECTION 26 ESTABLISH PER FOUND TIES ON MONUMENT RECORD WITH A FIELD DATE OF 9/20/94;

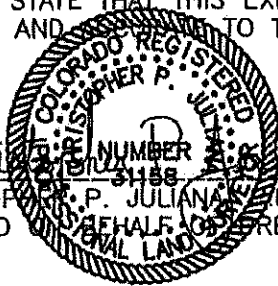
BEGINNING AT AT THE INTERSECTION POINT OF THE SOUTHERLY SIDE OF A 16' UTILITY EASEMENT WITH THE WESTERLY SIDE OF A 6' UTILITY EASEMENT PER SAID PLAT, SAID POINT BEARS N02°55'47"W A DISTANCE OF 1996.92 FEET FROM SAID CENTER QUARTER CORNER OF SECTION 26;


THENCE S00°06'47"W ALONG SAID WESTERLY SIDE, A DISTANCE OF 45.28 FEET TO THE NORTHERLY SIDE OF A STANDLEY LAKE WATER AND SANITATION DISTRICT EASEMENT DESCRIBED IN BOOK 1818, PAGE 660, FILED IN SAID CLERK AND RECORDER'S OFFICE; THENCE S88°35'17"W ALONG SAID NORTHERLY SIDE, A DISTANCE OF 17.86 FEET; THENCE N00°00'00"E A DISTANCE OF 45.75 FEET TO SAID SOUTHERLY SIDE OF A 16' UTILITY EASEMENT; THENCE S89°53'13"E ALONG SAID SOUTHERLY SIDE, A DISTANCE OF 17.94 FEET TO THE POINT OF BEGINNING; WHENCE SAID NORTH QUARTER CORNER OF SECTION 26 BEARS N09°04'09"E A DISTANCE OF 680.92 FEET;

SAID PARCEL CONTAINS 814.6 SQUARE FEET OF LAND, MORE OR LESS.

I, THE UNDERSIGNED, A REGISTERED LAND SURVEYOR IN THE STATE OF COLORADO, DO HEREBY STATE THAT THIS EXHIBIT WAS PREPARED BY ME OR UNDER MY SUPERVISION AND IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.

  
CHRISTOPHER P. JULIANA, L.S. 31158      3/8/12  
FOR AND ON BEHALF OF PRECISION SURVEY & MAPPING, INC.      DATE



 Precision Survey & Mapping, Inc.  
professional land surveying consultants  
1780 S. Colfax St., Suite 145, Denver, CO 80222  
Tel:(303) 753-9799 Fax:(303) 753-4044

DRN. BY: J.L.  
CHKD. BY: C.P.J.  
DATE: 3/8/12  
SCALE: 1" = 60'

FILE: R9323-87TH.dwg  
SHEET: 2 OF 2  
JOB #: R9323

PERMANENT  
EASEMENT NO. 4



STANDLEY LAKE SHOPS SUBDIVISION  
 FILED IN THE JEFFERSON COUNTY  
 CLERK AND RECORDER'S OFFICE  
 RECEPTION NO. 78055647

N1/4 COR. SEC. 26  
 T2S, R69W, 6TH P.M.  
 ESTABLISHED PER FOUND TIES  
 ON MONUMENT RECORD W/ A  
 FIELD DATE OF 9/20/94

NW1/4 SEC. 26  
 T2S, R69W, 6TH P.M.

30' COMBINED WATER  
 & SAN. SEWER EASEMENT  
 (PER PLAT)

LOT 3

OWNER:  
 88TH &  
 WADSWORTH LLC

PARCEL "A"  
 AREA=1,035.8 SQ.FT.±

POINT "A"  
 500'06'47"W  
 10.00'(TIE)

PARCEL "A"  
 POINT OF  
 BEGINNING

PARCEL "B"  
 POINT OF  
 BEGINNING

PARCEL "B"  
 AREA=3,312.4 SQ.FT.±

6' UTILITY  
 EASEMENT  
 (PER PLAT)

10' PSCO EASEMENT  
 REC. NO. 81034246

10' U.E. (PER PLAT)

20' UTILITY & INGRESS/EGRESS  
 EASEMENT REC. NO. 78070666

STANDLEY LAKE WATER & SAN.  
 EASEMENT BK 1818 PG 660

LOT 4

C1/4 COR. SEC. 26  
 T2S, R69W, 6TH P.M.  
 FOUND 3.25" ALUM.  
 CAP LS NO. 23904



YUKON STREET

WADSWORTH BOULEVARD

BASIS OF BEARING

E. LINE NWT/4 SEC. 26/  
 N00°06'47"E

2666.73'

- 1.) PARCEL OWNERSHIP IS BASED ON THE RECORDS OF THE COUNTY ASSESSOR.
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Precision Survey & Mapping, Inc.

PROFESSIONAL LAND SURVEYING CONSULTANTS  
 1780 S. Belaire St., Suite 165, Denver, CO 80222  
 Tel:(303) 753-9799 Fax(303) 753-4044

DRN. BY: J.L.

CHKD. BY: C.P.J.

DATE: 3/8/12

SCALE: 1" = 60'

FILE: R9323-87TH.dwg

SHEET: 1 OF 3

JOB #: R9323

TEMPORARY  
 EASEMENT NO. 1

TEMPORARY EASEMENT NO. 1  
LINE TABLES

PARCEL "A"

LINE TABLE		
LINE	BEARING	DISTANCE
L1	S00°00'00"W	6.00'
L2	N90°00'00"W	33.33'
L3	S00°00'00"E	11.00'
L4	N90°00'00"W	58.52'
L5	N00°06'47"E	5.00'
L6	N90°00'00"E	13.22'
L7	N00°11'51"E	12.00'
L8	N90°00'00"E	78.58'

PARCEL "B"

LINE TABLE		
LINE	BEARING	DISTANCE
L9	N90°00'00"E	83.20'
L10	S00°00'00"E	23.84'
L11	N90°00'00"W	36.92'
L12	S00°00'00"E	47.34'
L13	N89°53'13"W	33.25'
L14	N00°02'08"W	66.11'
L15	N90°00'00"W	13.00'
L16	N00°06'47"E	5.00'



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Professional Land Surveying Consultants  
 1789 S. Belleire St., Suite 185, Denver, CO 80222  
 Tel: (303) 753-9789 Fax: (303) 753-4044

DRN. BY: J.L.  
 CHKD. BY: C.P.J.  
 DATE: 3/8/12  
 SCALE: 1" = 60'

FILE: R9323-87TH.dwg  
 SHEET: 2 OF 3  
 JOB #: R9323

**TEMPORARY  
EASEMENT NO. 1**

TWO TEMPORARY CONSTRUCTION EASEMENTS LOCATED IN THE NORTHWEST QUARTER OF SECTION 26, TOWNSHIP 2 SOUTH, RANGE 69 WEST OF THE SIXTH PRINCIPAL MERIDIAN, COUNTY OF JEFFERSON, STATE OF COLORADO, ALSO BEING A PORTION OF LOT 3, STANDLEY LAKE SHOPS SUBDIVISION, FILED IN THE JEFFERSON COUNTY CLERK AND RECORDER'S OFFICE AT RECEPTION NO. 78055647, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BASIS OF BEARING OF THIS DESCRIPTION IS ALONG THE EAST LINE OF SAID NORTHWEST QUARTER OF SECTION 26, ASSUMED TO BEAR N00°06'47"E A DISTANCE OF 2666.73 FEET, FROM A 3.25" ALUMINUM CAP LS NO. 23904 FOUND AT THE CENTER QUARTER CORNER OF SAID SECTION 26, TO THE NORTH QUARTER CORNER OF SAID SECTION 26 ESTABLISH PER FOUND TIES ON MONUMENT RECORD WITH A FIELD DATE OF 9/20/94;

**PARCEL "A":**

BEGINNING AT A POINT WHICH BEARS S13°02'35"W A DISTANCE OF 572.88 FEET FROM SAID NORTH QUARTER CORNER OF SECTION 26;

THENCE S00°00'00"W A DISTANCE OF 6.00 FEET; THENCE N90°00'00"W A DISTANCE OF 33.33 FEET; THENCE S00°00'00"E A DISTANCE OF 11.00 FEET; THENCE N90°00'00"W A DISTANCE OF 58.52 FEET TO POINT "A" AND TO THE EASTERLY SIDE OF A 30 FOOT COMBINED WATER AND SANITARY SEWER EASEMENT PER SAID PLAT; THENCE N00°06'47"E ALONG SAID EASTERLY SIDE, A DISTANCE OF 5.00 FEET; THENCE N90°00'00"E A DISTANCE OF 13.22 FEET; THENCE N00°11'51"E A DISTANCE OF 12.00 FEET; THENCE N90°00'00"E A DISTANCE OF 78.58 FEET TO THE POINT OF BEGINNING; WHENCE SAID CENTER QUARTER CORNER OF SECTION 26 BEARS S03°21'58"E A DISTANCE OF 2112.27 FEET;

SAID PARCEL CONTAINS 1,035.8 SQUARE FEET OF LAND, MORE OR LESS.

**PARCEL "B":**

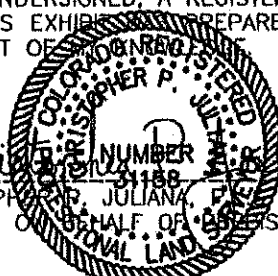
BEGINNING AT A POINT ON SAID EASTERLY SIDE OF A 30 FOOT COMBINED WATER AND SANITARY SEWER EASEMENT, SAID POINT BEARS S00°06'47"W ALONG SAID EASTERLY SIDE, A DISTANCE OF 10.00 FEET FROM SAID POINT "A";

THENCE N90°00'00"E A DISTANCE OF 83.20 FEET; THENCE S00°00'00"E A DISTANCE OF 23.84 FEET; THENCE N90°00'00"W A DISTANCE OF 36.92 FEET; THENCE S00°00'00"E A DISTANCE OF 47.34 FEET TO THE NORTHERLY SIDE OF A 16' UTILITY EASEMENT PER SAID PLAT; THENCE N89°53'13"W ALONG SAID NORTHERLY SIDE, A DISTANCE OF 33.25 FEET; THENCE N00°02'08"W A DISTANCE OF 66.11 FEET; THENCE N90°00'00"W A DISTANCE OF 13.00 FEET TO SAID EASTERLY SIDE OF A 30 FOOT COMBINED WATER AND SANITARY SEWER EASEMENT; THENCE N00°06'47"E ALONG SAID EASTERLY SIDE, A DISTANCE OF 5.00 FEET TO THE POINT OF BEGINNING; WHENCE SAID CENTER QUARTER CORNER OF SECTION 26 BEARS S05°55'17"E A DISTANCE OF 2092.79 FEET;

SAID PARCEL CONTAINS 3,312.4 SQUARE FEET OF LAND, MORE OR LESS.

I, THE UNDERSIGNED, A REGISTERED LAND SURVEYOR IN THE STATE OF COLORADO, DO HEREBY STATE THAT THIS EXHIBIT WAS PREPARED BY ME OR UNDER MY SUPERVISION AND IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE.

*Christoph P. Juliana* 3/8/12  
 CHRISTOPHER P. JULIANA, P.S. 31158 DATE  
 FOR AND ON BEHALF OF PRECISION SURVEY & MAPPING, INC.



**Precision Survey & Mapping, Inc.**  
 professional land surveying consultants  
 1760 S. Belaire St., Suite 165, Denver, CO 80222  
 Tel: (303) 753-9799 Fax: (303) 753-1044

DRN. BY: J.L.  
 CHKD. BY: C.P.J.  
 DATE: 3/8/12  
 SCALE: 1" = 60'

FILE: R0323-B7TH.dwg  
 SHEET: 3 OF 3  
 JOB #: R0323

**TEMPORARY  
 EASEMENT NO. 1**

STANDLEY LAKE SHOPS SUBDIVISION  
 FILED IN THE JEFFERSON COUNTY  
 CLERK AND RECORDER'S OFFICE  
 RECEPTION NO. 78055647

N1/4 COR. SEC. 26  
 T2S, R69W, 6TH P.M.  
 ESTABLISHED PER FOUND TIES  
 ON MONUMENT RECORD W/ A  
 FIELD DATE OF 9/20/94

LINE TABLE		
LINE	BEARING	DISTANCE
L1	S00°00'00"E	45.75'
L2	S88°35'17"W	21.17'
L3	N00°00'00"W	36.51'
L4	N90°00'00"W	61.65'
L5	N00°06'07"W	9.93'
L6	S89°53'13"E	82.84'

YUKON STREET

WADSWORTH BOULEVARD

LOT 3

NW1/4 SEC. 26  
 T2S, R69W, 6TH P.M.

TEMPORARY EASEMENT  
 AREA=1,583.1 SQ.FT.±

6' UTILITY  
 EASEMENT  
 (PER PLAT)

16' UTILITY  
 EASEMENT  
 (PER PLAT)

POINT OF  
 BEGINNING

10' PSCO EASEMENT  
 REC. NO. 81034246

10' U.E. (PER PLAT)

20' UTILITY & INGRESS/EGRESS  
 EASEMENT REC. NO. 78070666

LOT 4

OWNER:  
 TRUE-MOREHEAD CO.

STANDLEY LAKE WATER & SAN.  
 EASEMENT BK 1818 PG 660

C1/4 COR. SEC. 26  
 T2S, R69W, 6TH P.M.  
 FOUND 3.25" ALUM.  
 CAP LS NO. 23904

2666.73'

BASIS OF BEARING

E. LINE NW1/4 SEC. 26/

N00°06'47"E

- 1.) PARCEL OWNERSHIP IS BASED ON THE RECORDS OF THE COUNTY ASSESSOR.
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 Tel:(303) 753-9799 Fax:(303) 753-4044

DRN. BY: J.L.

CHKD. BY: C.P.J.

DATE: 3/8/12

SCALE: 1" = 60'

FILE: R9323-B7TH.dwg

SHEET: 1 OF 2

JOB #: R9323

TEMPORARY  
 EASEMENT NO. 2

A TEMPORARY CONSTRUCTION EASEMENT LOCATED IN THE NORTHWEST QUARTER OF SECTION 26, TOWNSHIP 2 SOUTH, RANGE 69 WEST OF THE SIXTH PRINCIPAL MERIDIAN, COUNTY OF JEFFERSON, STATE OF COLORADO, ALSO BEING A PORTION OF LOT 4, STANDLEY LAKE SHOPS SUBDIVISION, FILED IN THE JEFFERSON COUNTY CLERK AND RECORDER'S OFFICE AT RECEPTION NO. 78055647, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

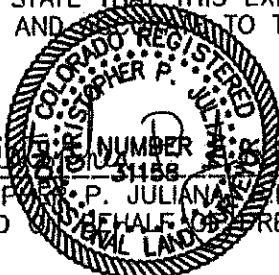
BASIS OF BEARING OF THIS DESCRIPTION IS ALONG THE EAST LINE OF SAID NORTHWEST QUARTER OF SECTION 26, ASSUMED TO BEAR  $N00^{\circ}06'47''E$  A DISTANCE OF 2666.73 FEET, FROM A 3.25" ALUMINUM CAP LS NO. 23904 FOUND AT THE CENTER QUARTER CORNER OF SAID SECTION 26, TO THE NORTH QUARTER CORNER OF SAID SECTION 26 ESTABLISH PER FOUND TIES ON MONUMENT RECORD WITH A FIELD DATE OF 9/20/94;

BEGINNING AT A POINT ON THE SOUTHERLY SIDE OF A 16' UTILITY EASEMENT PER SAID PLAT, SAID POINT BEARS  $N03^{\circ}26'37''W$  A DISTANCE OF 1997.95 FEET FROM SAID CENTER QUARTER CORNER OF SECTION 26;

THENCE  $S00^{\circ}00'00''E$  A DISTANCE OF 45.75 FEET TO THE NORTHERLY SIDE OF A STANDLEY LAKE WATER AND SANITATION DISTRICT EASEMENT DESCRIBED IN BOOK 1818, PAGE 660, FILED IN SAID CLERK AND RECORDER'S OFFICE; THENCE  $S88^{\circ}35'17''W$  ALONG SAID NORTHERLY SIDE, A DISTANCE OF 21.17 FEET; THENCE  $N00^{\circ}00'00''W$  A DISTANCE OF 36.51 FEET; THENCE  $N90^{\circ}00'00''W$  A DISTANCE OF 61.65 FEET; THENCE  $N00^{\circ}06'07''W$  A DISTANCE OF 9.93 FEET TO SAID SOUTHERLY SIDE OF A 16' UTILITY EASEMENT; THENCE  $S89^{\circ}53'13''E$  ALONG SAID SOUTHERLY SIDE, A DISTANCE OF 82.84 FEET TO THE POINT OF BEGINNING; WHENCE SAID NORTH QUARTER CORNER OF SECTION 26 BEARS  $N10^{\circ}33'15''E$  A DISTANCE OF 683.95 FEET;

SAID PARCEL CONTAINS 1,583.1 SQUARE FEET OF LAND, MORE OR LESS.

I, THE UNDERSIGNED, A REGISTERED LAND SURVEYOR IN THE STATE OF COLORADO, DO HEREBY STATE THAT THIS EXHIBIT WAS PREPARED BY ME OR UNDER MY SUPERVISION AND IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.

  
*Christopher P. Juliana*  
CHRISTOPHER P. JULIANA, L.S. 31158      3/8/12  
DATE  
FOR AND BEHALF OF PRECISION SURVEY & MAPPING, INC.



Precision Survey & Mapping, Inc.

professional land surveying consultants  
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Tel:(303) 753-9799 Fax:(303) 753-1044

DRN. BY: J.L.

CHKD. BY: C.P.J.

DATE: 3/8/12

SCALE: 1" = 60'

FILE: R9323-67TH.dwg

SHEET: 2 OF 2

JOB #: R9323

TEMPORARY  
EASEMENT NO. 2



Agenda Item 10 C

Agenda Memorandum

City Council Meeting  
July 23, 2012



**SUBJECT:** Resolution No. 21 re Refunding Documents for the 2009 Bonds Issued for the Mandalay Gardens Urban Renewal Area

**Prepared By:** Tammy Hitchens, Finance Director  
Robert Smith, Treasury Manager  
Robert Byerhof, Senior Financial Analyst

**Recommended City Council Action:**

Adopt Resolution No. 21 approving documents related to the WEDA Series 2012 Revenue Refunding Bonds to refund the WEDA Series 2009 Bonds, to which the City is a party, including the Replenishment Resolution and the City Cooperation Agreement with WEDA.

**Summary**

Replenishment Resolution: Adoption by the City Council of the Replenishment Resolution is required to complete the part of the bonding structure known as the "moral obligation."

- The basis of the resolution is such that if, at any time, the balance in the WEDA Bond Reserve Fund falls below the required minimum amount estimated to be \$2,336,550 the City Manager will request that Council budget, appropriate, and transfer to the Trustee bank funds necessary to replenish the reserve to the minimum amount. Because the Replenishment Resolution is subject to annual appropriation, it does not constitute a multi-year fiscal obligation, and therefore does not subject the City to TABOR requirements.
- This resolution will assist the Authority in obtaining credit enhancement for its bonds, thus serving to minimize interest costs and improve the marketability of the bonds. Because of the expected revenues WEDA will realize from tax increment, Staff does not anticipate the need for the City to actually transfer funds at any time.

Cooperation Agreement: In addition, City Council action is requested to approve a Cooperation Agreement between the City and the Authority, which provides for the repayment to the City of funds advanced to and on behalf of the Authority from tax increment, if such revenue is available after other debts are paid. This would permit recovery by the City of any amounts paid by the City to replenish the Reserve Fund held by the bank in connection with the Authority's bonds and is a routine WEDA-City action when WEDA is issuing bonds.

**Expenditure Required:** \$ 0

**Source of Funds:** N/A

### **Policy Issues**

1. Does the City desire to provide its non-binding moral obligation pledge to replenish the reserve fund on the WEDA bonds in the event it is drawn down to meet debt service requirements?
2. Does the City desire to participate in the WEDA Cooperation Agreement?

### **Alternatives**

1. Decline or delay approval of the Replenishment Resolution. This is not recommended. Although non-binding, this would not be viewed favorably by holders of the bonds and could result in higher financing costs or the failure of the refinancing.
2. Decline or delay approval of the Cooperation Agreement. This is not recommended. The Cooperation Agreement spells out the terms of WEDA's repayment in the event that the Replenishment Resolution is triggered.

### **Background Information**

On August 24, 2009, Council approved a Replenishment Resolution and Cooperation Agreement associated with the 2009 Revenue Bonds. As a means to enhance the marketability of bonds issued by WEDA, approval of these actions is standard. Otherwise known as a "Moral Obligation," the approval of such agreements is recognized by the rating agencies as a credit enhancement. In the event that WEDA has insufficient funds to cover debt service, the Trustee bank would use funds in the Reserve Fund to make debt service payments. In general, the Replenishment Resolution of the Moral Obligation stipulates that the City Manager would be obligated to request that City Council budget, appropriate and transfer to the Trustee bank the funds necessary to replenish the monies in the Reserve Fund to the minimum required under the Indenture. Council is not obligated to approve this funding. Staff does not anticipate such an event will occur as sufficient revenues are being generated in the Mandalay Gardens URA to not only cover debt service but permit excess sales tax revenues to flow to the General Fund. In 2011, the URA generated slightly over \$2.7 million in sales tax revenues that were retained by the City.

The 2009 bonds are recommended to be refunded due to the expiration of the Direct Pay Letter of Credit (DPLOC) facility with U.S. Bank. The refunding proposed for WEDA board approval will secure long-term financing at a blended fixed rate of approximately 3.75% through its term ending in 2028 without extending the amortization period. In addition, the refunding continues the "floating sales tax" pledge, which benefits the City when excess sales tax dollars are generated after meeting certain debt covenants under the terms of the Indenture.

For the proposed WEDA Series 2012 Tax Increment Revenue Refunding Bonds Series 2012, the Replenishment Resolution of the City states that if the balance in the WEDA Reserve Fund, maintained at the Bank per the indenture, falls below the required Reserve Requirement, currently estimated to be \$2,336,550, the City Manager will request that Council budget, appropriate, and transfer to U.S. Bank, as the Trustee, the funds necessary to replenish these reserves. The Cooperation Agreement states in part that WEDA agrees to repay the City for any such payment the City makes to replenish the Reserve Fund to the Reserve Requirement amount.

Because the City's credit rating is AA+/AA+, the word of the City has merit and can and should be used to reduce the costs and improve the credit worthiness of the Authority's (WEDA) borrowings. It is expected that having the City's moral obligation for these bonds might increase the credit rating one or two notches above what WEDA would be able to obtain for this project on its own merits, which will reduce WEDA overall borrowing costs.

Staff does not anticipate the need to ever trigger the City's moral obligation, as defined in the Reimbursement Resolution, to replenish the Reserve Fund at any time. The forecasts for the property tax and sales tax increment revenues for the commercial development within the Mandalay Gardens URA exceed the anticipated annual debt service requirements.

A benefit of the refunding is the ability of the City to retain excess sales and use tax increment revenues similar to the terms of the existing Indenture. The ability for the City to retain potential excess sales tax increment revenues is particularly important during the current economic climate.

This recommended action supports the strategic objectives of a Financially Sustainable City Government Providing Exceptional Services, a Strong, Balanced Local Economy and Vibrant Neighborhoods in One Livable Community. It does so by controlling the financing costs for debt issued by WEDA and providing more certainty for the sales tax revenues generated in the Urban Renewal Area that the City will be able to retain.

Staff and the Underwriters will be available at the City Council meeting on July 23, 2012 to answer City Councillor questions.

Respectfully submitted,

J. Brent McFall  
City Manager

Attachments

- 2012 Replenishment Resolution
- 2012 Cooperation Agreement



RESOLUTION

RESOLUTION NO. **21**

INTRODUCED BY COUNCILLORS

SERIES OF 2012

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**A RESOLUTION CONCERNING THE WESTMINSTER ECONOMIC DEVELOPMENT AUTHORITY AND ITS TAX INCREMENT REVENUE REFUNDING BONDS, SERIES 2012; AUTHORIZING AND DIRECTING ACTIONS BY THE CITY MANAGER WITH RESPECT TO THE PREPARATION OF REQUESTS TO THE CITY COUNCIL FOR APPROPRIATION OF FUNDS FOR THE REPLENISHMENT OF CERTAIN FUNDS PERTAINING THERETO; AUTHORIZING THE 2012 COOPERATION AGREEMENT; AND APPROVING AND RATIFYING OTHER ACTIONS TAKEN BY THE CITY IN CONNECTION THEREWITH.**

WHEREAS, the City Council (the "City Council") of the City of Westminster, Colorado (the "City"), by Resolution No. 40, adopted September 14, 1987, created the Westminster Economic Development Authority of the City ("Authority"); and

WHEREAS, pursuant to Resolution No. 9, adopted on March 17, 2003, the City approved the Mandalay Gardens Urban Renewal Plan (the "Plan") pursuant to the Colorado Urban Renewal Law; and

WHEREAS, pursuant to an Indenture of Trust (the "Indenture"), the Authority is issuing its Tax Increment Revenue Refunding Bonds, Series 2012, in the original aggregate principal amount of not to exceed \$30,500,000 (the "2012 Bonds") for the purpose of refunding bonds previously issued by the Authority (the "Refunding Project"); and

WHEREAS, the Authority has previously issued its Taxable Tax Increment Adjustable Rate Revenue Bonds (Mandalay Gardens Urban Renewal Project) Series 2003 (the "2003 Bonds"), in the original aggregate principal amount of \$38,525,000 for the purpose of financing the acquisition, construction and equipping of the certain improvements within the Urban Renewal Area that were authorized by the Plan, which 2003 Bonds were refunded by the issuance of its Tax Increment Adjustable Rate Revenue Refunding Bonds (Mandalay Gardens Urban Renewal Project), Series 2006 (the "2006 Bonds"), which 2006 Bonds were refunded by the issuance of its Tax Increment Adjustable Rate Revenue Refunding Bonds (Mandalay Gardens Urban Renewal Project), Series 2009 (the "2009 Bonds", together with the 2003 Bonds and 2006 Bonds, the "Prior Bonds"); and

WHEREAS, contemporaneously with the original issuance of the Series 2009 Bonds, the City and the Authority executed and delivered a 2009 Cooperation Agreement dated as of September 15, 2009, as amended March 28, 2011 (the "2009 Cooperation Agreement") pursuant to which the City agreed, subject to conditions specified in the 2009 Cooperation Agreement, to loan funds to the Authority for the purposes described in the 2009 Cooperation Agreement; and

WHEREAS, in connection with the issuance of the 2012 Bonds, it is necessary that the City and the Authority execute and deliver a 2012 Cooperation Agreement (the "2012 Cooperation Agreement"), which agreement shall supersede and replace the 2009 Cooperation Agreement; and

WHEREAS, there will be created under the Indenture a reserve fund (the "Bond Reserve Fund") that will be funded initially in the amount of the Bond Reserve Requirement (as defined in the Indenture) and is required to be maintained at such amount to be used as a reserve against deficiencies in the payment of principal of or interest on the 2012 Bonds and any obligations secured on a parity with the 2012 Bonds and for certain other payments; and

WHEREAS, the Indenture contemplates that if, at any time, the Bond Reserve Fund is not funded at the Bond Reserve Requirement, the Trustee shall notify the City Manager of any deficiency and the City Manager shall request that the City Council advance sufficient funds pursuant to the 2012 Cooperation Agreement to restore the Bond Reserve Fund to the Bond Reserve Requirement immediately thereafter; and

WHEREAS, the City Council wishes to make a non-binding statement of its present intent with respect to the appropriation of funds for the replenishment of the Bond Reserve Fund, and to authorize and direct the City Manager to take certain actions for the purpose of causing requests for such appropriations to be presented to the City Council for consideration; and

WHEREAS, the form of the 2012 Cooperation Agreement is on file with the City Clerk.

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

Section 1. Appropriations to Replenish Bond Reserve Fund. The City Manager shall, upon notice from the Trustee that the Bond Reserve Fund is not funded at the Bond Reserve Requirement, prepare and submit to the City Council a request for an appropriation of a sufficient amount to replenish the Bond Reserve Fund to the Bond Reserve Requirement. It is the present intention and expectation of the City Council to appropriate such funds as requested, within the limits of available funds and revenues, but this declaration of intent shall not be binding upon the City Council or any future City Council in any future fiscal year. The City Council may determine in its sole discretion, but shall never be required, to make the appropriations so requested. All sums appropriated by the City Council for such purpose shall be deposited by or on behalf of the Authority in the Bond Reserve Fund. Nothing provided in this Section 1 shall create or constitute a debt, liability or multiple fiscal year financial obligation of the City.

Section 2. Repayment of Amounts Appropriated. In the event that the City Council appropriates funds as contemplated by Section 1 hereof, any amounts actually advanced shall be treated as an obligation under the 2012 Cooperation Agreement and shall be repaid by the Authority, with interest thereon, but shall be payable from and secured solely by the Pledged Revenues of the Authority, as provided in the 2012 Cooperation Agreement, on a basis expressly subordinate and junior to that of the 2012 Bonds and any obligations secured under the Indenture.

Section 3. Limitation to 2012 Bonds and Other Obligations Originally Secured by Indenture. Unless otherwise expressly provided by a subsequent resolution of the City Council, the provisions of this Resolution shall apply only to the Bond Reserve Fund originally established in connection with the 2012 Bonds and any obligations secured on a parity with the 2012 Bonds, and shall not apply to any other additional obligations issued under the Indenture.

Section 4. Approval and Authorization of the 2012 Cooperation Agreement. The form of the 2012 Cooperation Agreement is hereby approved. The City shall enter into and perform its obligations under the 2012 Cooperation Agreement, in the form of such document as is on file with the City Clerk, with only such changes therein as are not inconsistent herewith. Any of the Mayor, Mayor Pro Tem or the City Manager are hereby authorized and directed to execute the 2012 Cooperation Agreement on behalf of the City, and the City Clerk is hereby authorized to attest to the 2012 Cooperation Agreement.

Section 5. Reporting to City Council. At least once a year, the City Manager shall cause the following information to be provided to City Council:

1. A description of the outstanding bonds and other indebtedness of the Authority, including the outstanding principal amount, maturity schedule and interest rates;

2. The fund balances held by a trustee or the Authority and pledged as security for such bonds or other indebtedness;

3. The amount by which the revenues pledged to pay such bonds or other indebtedness exceed the debt service which came due in the period since the last report; and

4. Whether the City Council has expressed its intention to consider appropriations to pay debt service on such bonds or other indebtedness or to make deposits to funds or accounts which secure such bonds or other indebtedness and whether the City Council has made any such appropriations in the period since the last report.

Section 6. Ratification. All action not inconsistent with the provisions of this Resolution heretofore taken by the City Council and the officers of the City directed toward effecting the purposes set forth herein are, and the same is hereby ratified, approved and confirmed.

Section 7. General Repealer. All prior resolutions, or parts thereof, inconsistent herewith are hereby repealed to the extent of such inconsistency.

Section 8. Effectiveness. This Resolution shall take effect immediately upon its passage.

PASSED AND ADOPTED this July 23, 2012.

CITY OF WESTMINSTER, COLORADO

\_\_\_\_\_  
Mayor

ATTEST:

APPROVED AS TO LEGAL FORM:

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

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

STATE OF COLORADO )  
 ) SS.  
CITY OF WESTMINSTER )

I, Linda Yeager, the City Clerk of the City of Westminster, Colorado, do hereby certify that:

1. The foregoing pages are a true and correct copy of a resolution (the "Resolution") passed and adopted by the City Council (the "Council") at a regular meeting held on July 23, 2012.

2. The Resolution was duly moved and seconded and the Resolution was adopted at the meeting of July 23, 2012, by an affirmative vote of a majority of the members of the Council as follows:

Name	"Yes"	"No"	Absent	Abstain
Nancy McNally				
Faith Winter				
Herb Atchison				
Bob Briggs				
Mark L. Kaiser				
Mary Lindsey				
Scott Major				

3. The members of the Council were present at such meetings and voted on the passage of such Resolution as set forth above.

4. The Resolution was approved and authenticated by the signature of the Mayor of the City, sealed with the City seal, attested by the City Clerk and recorded in the minutes of the Council.

5. There are no bylaws, rules or regulations of the Council which might prohibit the adoption of said Resolution.

6. Notice of the meeting of July 23, 2012, in the form attached hereto as Exhibit A, was posted at the Westminster City Hall, 4800 West 92nd Avenue, in the City, not less than twenty-four (24) hours prior to the meeting in accordance with law.

WITNESS my hand and the seal of the City affixed July 23, 2012.

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

(SEAL)

Exhibit A  
(Form of Notice of Meeting)

## **2012 COOPERATION AGREEMENT**

### **BETWEEN THE CITY OF WESTMINSTER AND THE WESTMINSTER ECONOMIC DEVELOPMENT AUTHORITY**

THIS 2012 COOPERATION AGREEMENT (this "Agreement"), dated as of August 15, 2012, is made and entered into between the CITY OF WESTMINSTER, COLORADO (the "City") and the WESTMINSTER ECONOMIC DEVELOPMENT AUTHORITY (the "Authority").

WHEREAS, the City is a Colorado home rule municipality with all the powers and authority granted pursuant to Article XX of the Colorado Constitution and its City Charter; and

WHEREAS, the Authority is a Colorado Urban Renewal Authority, with all the powers and authority granted to it pursuant to Title 31, Article 25, Part 1, Colorado Revised Statutes ("C.R.S.") (the "Urban Renewal Law"); and

WHEREAS, pursuant to Article XIV of the Colorado Constitution, and Title 29, Article 1, Part 2, C.R.S., the City and the Authority are authorized to cooperate and contract with one another to provide any function, service or facility lawfully authorized to each governmental entity; and

WHEREAS, the City has heretofore approved the Westminster Economic Development Authority Mandalay Gardens Urban Renewal Plan, as amended on August 24, 2009 (as amended, the "Plan") and the urban renewal project described therein (the "Project"); and

WHEREAS, the Project has been undertaken for the public purpose of enhancing employment opportunities, eliminating existing conditions of blight, and improving the tax base of the City; and

WHEREAS, pursuant to section 31-25-112, C.R.S., the City is specifically authorized to do all things necessary to aid and cooperate with the Authority in connection with the planning or undertaking of any urban renewal plans, projects, programs, works, operations, or activities of the Authority, to enter into agreements with the Authority respecting such actions to be taken by the City, and appropriating funds and making such expenditures of its funds to aid and cooperate with the Authority in undertaking the Project and carrying out the Plan; and

WHEREAS, the Authority has previously issued its Tax Increment Adjustable Rate Revenue Refunding Bonds (Mandalay Gardens Urban Renewal Project) Series 2009 (the "2009 Bonds"); and

WHEREAS, in connection with the 2009 Bonds, City and the Authority have previously entered into a cooperation agreement dated as of September 15, 2009 (the "2009 Agreement"), which agreement was amended by the First Amendment to 2009 Cooperation Agreement dated as of March 28, 2011 (the "2009 Cooperation Agreements"); and

WHEREAS, the Authority has determined that it is in the best interest of the Authority, the City and its residents to refund the 2009 Bonds with the issuance of its Tax Increment Revenue Refunding Bonds, Series 2012; and

WHEREAS, the City Council of the City (the "Council") has adopted its Resolution \_\_\_\_\_ declaring its nonbinding intent and expectation that it will appropriate any funds requested, within the limits of available funds and revenues, in a sufficient amount to replenish the Reserve Fund to the Bond Reserve Requirement (the "Replenishment Resolution") as defined in the Indenture of Trust dated as of August 15, 2012 (the "Indenture"), between the Authority and U.S. Bank National Association, as trustee (the "Trustee");

NOW, THEREFORE, in consideration of the mutual promises set forth below, the City and the Authority agree as follows:

1. **LOAN.** (a) If the Council appropriates funds pursuant to the Replenishment Resolution; such funds shall be a loan from the City to the Authority to be repaid as provided herein.

(b) The Authority acknowledges that the City Manager, City staff and the City Attorney have provided and will continue to provide substantial administrative and legal services to the Authority in connection with the Plan and the Project. The Authority shall pay to the City, upon the request of and at the discretion of the City, the City's actual costs for services rendered to the Authority in connection with the Plan and the Project. The City shall provide written evidence of such costs to the Authority from time to time. To the extent that this annual debt is incurred, this obligation is hereby designated a loan from the City to the Authority to be repaid as provided herein.

(c) Any other amounts advanced or loaned to the Authority by the City or payments made or debts incurred by the City on behalf of the Authority relating to the Plan or the Project may be designated a loan from the City to the Authority to be repaid as provided herein.

2. **PAYMENT.** (a) When Pledged Revenues (as defined in the Indenture) are available pursuant to the Section 3.03(b)(vi) of the Indenture, the Authority shall repay the City for all amounts due hereunder to the extent that such moneys are available.

(b) The Authority agrees to pay the City interest in the amount of 5% on the principal balance of any amounts designated as a loan hereunder.

3. **FURTHER COOPERATION.** (a) The City shall continue to make available such employees of the City as may be necessary and appropriate to assist the

Authority in carrying out any authorized duty or activity of the Authority pursuant to the Urban Renewal Law, the Plan, or any other lawfully authorized duty or activity of the Authority.

(b) The City agrees to assist the Authority and the Trustee by pursuing all lawful procedures and remedies available to it to collect and transfer to the Authority on a timely basis all Pledged Revenues for deposit into the Revenue Fund. To the extent lawfully possible, the City will take no action that would have the effect of reducing tax collections that constitute Pledged Revenues for the Project.

4. **SUBORDINATION.** The Authority's obligations pursuant to this Agreement are subordinate to the Authority's obligations for the repayment of any current or future bonded indebtedness. For purposes of this Agreement, the term "bonded indebtedness," "bonds," and similar terms describing the possible forms of indebtedness include all forms of indebtedness that may be incurred by the Authority, including, but not limited to, general obligation bonds, revenue bonds, revenue anticipation notes, tax increment notes, tax increment bonds, and all other forms of contractual indebtedness of whatsoever nature that is in any way secured or collateralized by revenues of the Authority.

5. **ALLOCATION OF SALES TAX REVENUE.** The City currently imposes a municipal sales tax at a rate of 3.85%, pertaining to, including without limitation, the sale, lease, rental, purchase or consumption of tangible personal property and taxable services. Pursuant to the terms of the Plan, the City and the Authority may provide for the method by which sales tax increments shall be allocated and paid to the Authority. The City and the Authority hereby agree that the revenues derived from the City sales tax at a rate as specified in the Sales Tax Rate Certificate, attached as Exhibit D to the Indenture, shall be allocated to the Authority. Pursuant to Section 31-25-107, C.R.S., the balance of the City's sales tax revenues shall be retained by the City.

6. **GENERAL PROVISIONS.** (a) **Dispute Resolution.** If a dispute arises between the parties relating to this Agreement, the parties agree to submit the dispute to mediation prior to filing litigation.

(b) **Separate Entities.** Nothing in this Agreement shall be interpreted in any manner as constituting the City or its officials, representatives, consultants, or employees as the agents of the Authority, nor as constituting the Authority or its officials, representatives, consultants, or employees as agents of the City. Each entity shall remain a separate legal entity pursuant to applicable law. Neither party shall be deemed hereby to have assumed the debts, obligations, or liabilities of the other.

(c) **Third Parties.** Neither the City nor the Authority shall be obligated or liable under the terms of this Agreement to any person or entity not a party hereto.

(d) **Modifications.** No modification or change of any provision in this Agreement shall be made, or construed to have been made, unless such modification is mutually agreed to in writing by both parties and incorporated as a written amendment to this



Agreement. Memoranda of understanding and correspondence shall not be construed as amendments to the Agreement.

(e) Entire Agreement. This Agreement shall represent the entire agreement between the parties with respect to the subject matter hereof and shall supersede all prior negotiations, representations, or agreements, either written or oral, between the parties relating to the subject matter of this Agreement and shall be independent of and have no effect upon any other contracts.

(f) Severability. If any provision of this Agreement is held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired.

(g) Assignment. Except for pledge under the Indenture, this Agreement shall not be assigned, in whole or in part, by either party without the written consent of the other.

(h) Waiver. No waiver of a breach of any provision of this Agreement by either party shall constitute a waiver of any other breach or of such provision. Failure of either party to enforce at any time, or from time to time, any provision of this Agreement shall not be construed as a waiver thereof. The remedies reserved in this Agreement shall be cumulative and additional to any other remedies in law or in equity.

(i) The Prior Cooperation Agreements. This Agreement supersedes and replaces any and all prior cooperation agreements. Any amounts owing to the City by the Authority pursuant to such prior cooperation agreements shall be payable under the terms and conditions described in this Agreement and shall be payable on a subordinate basis to the payment of the Bonds or Additional Bonds (as such terms are defined in the Indenture).

IN WITNESS HEREOF, the parties have caused this Agreement to be executed by their duly authorized officers on the date above.

WESTMINSTER ECONOMIC  
DEVELOPMENT AUTHORITY

CITY OF WESTMINSTER

BY \_\_\_\_\_  
Executive Director

BY \_\_\_\_\_  
City Manager

ATTEST:

ATTEST:

\_\_\_\_\_  
Secretary

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

APPROVED AS TO LEGAL FORM

APPROVED AS TO LEGAL FORM

BY Mark Gulliford  
Authority Attorney

BY Mark Gulliford  
City Attorney



**Agenda Memorandum**

City Council Meeting  
July 23, 2012



**SUBJECT:** Resolution No. 22 re Residential Competition Service Commitment Awards

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

**Recommended City Council Action**

Adopt Resolution No. 22 awarding Category B-4 Service Commitments to the Bradburn West and the Axis Traditional Mixed Use Neighborhood Development projects.

**Summary Statement**

- The City received two Traditional Mixed Use Neighborhood Development (TMUND) applications for the mid-year 2012 competition.
- Staff has reviewed the project applications and recommends awarding Service Commitments (SC) to both of the projects for the following reasons:
  - The Bradburn West project had an average overall impression score of 8.9 out of 10 points from the design jury. This would be a supplement to the award given last year for Bradburn West based on additional land being available for a compact townhouse product.
  - The Axis project, with an overall average impression score of 6.8 from the design jury, was awarded service commitments in 2005 under the TMUND category, which have expired. The current application is very similar to the one previously awarded and staff believes this type of residential product would still be a good addition to the area.

Please see the attached map for the locations and the background section for a summary of the submittals.

- The attached resolutions would award a total of 243.2 SCs in 2012 and 2013, enough for 476 units at 0.5 SC per unit for multi-family and 0.7 SC per unit for single-family attached. Bradburn West anticipates starting construction in 2012; Axis anticipates starting in 2013. These resolutions relate to the City's Growth Management Program and are based on the findings established in §11-3-1 of the Westminster Municipal Code.
- The attached resolutions are contingent upon ultimate City approval of any necessary documents and do not commit the City to approve any document or project as a result of these awards.

**Expenditure Required:** \$0

**Source of Funds:** N/A

**Policy Issue**

As a result of the 2012 mid-year residential/TMUND competition, should the City award Service Commitments, as proposed, to both projects?

**Alternatives**

Council has the option of not awarding Service Commitments to either of the projects. In this event, the property owner/developer could make a request during next year’s residential competition. The most significant outcome of this alternative would be that the project could be delayed, which could result in discontinued interest in the site by the developer.

**Background Information**

As part of the City’s Growth Management Program, the intent of these SC competitions is for a limited number of new residential projects to proceed to the City’s development review process. Any project awarded SCs must process any required documents, including Comprehensive Land Use Plan (CLUP) amendments, if necessary. It is not necessary for applicants to process their CLUP amendments prior to the awards. The SC awards do not obligate the City to approve any required plan or document as a result of the award. If a project does not receive approval of any required documents, the SCs are returned to the water supply figures.

Council authorized a second 2012 competition, for TMUND projects only, in April 2012. The total number of SCs available for this competition is 300.

The Axis project competed in 2005 and was awarded service commitments, and a supplemental award was approved in 2008. This project was proposed for a site north of the Westminster Promenade and the Splitz building. The SCs expired, and, in 2011, a new application was received under the Multi-Family category, which was denied. The current application is similar to the TMUND application that was awarded in 2005 in terms of the type of product, density, layout and architecture. The previous project was a combination of for-sale and rental units. The current proposal is for all rental units.

The Bradburn West project was awarded 42 SCs in 2011. With the increased demand for new residential units, the developer anticipates building up to 26 additional units on the site for which it needs service commitments. These are proposed to be for-sale townhomes.

As indicated in the table below, the projects that are recommended for award are requesting SCs beginning in the year 2012.

<u>Project</u>	<u>Location</u>	<u>2012</u>	<u>2013</u>	<u>2014</u>	<u>Total</u>
Bradburn West	118th Pl. and Vrain St.	18.2	0	0	18.2
Axis	108th Ave. and Westminster Blvd.	0	225	0	<u>225</u>
					<b>243.2</b>

Additional information about all of the submittals is detailed below:

**Traditional Mixed Use Neighborhood Development Competition**

**Bradburn West** – This project proposes 26 additional townhouse units, to supplement the previously awarded Bradburn West project that received 42 service commitments for 60 townhouse units in 2011, to be built on a 5.35-acre site at the northeast corner of W. 118th Pl. and Vrain St. If this project is awarded, the Bradburn West 5.35-acre site would have a total of 86 townhouse units (60 plus an additional 26).

The property was annexed into the City in 1970 as part of the North Areas to Broomfield Annexation. The site is zoned PUD. A Preliminary Development Plan (PDP) and Official Development Plan (ODP) would have to be approved in order to begin building units. Both the PDP and ODP are currently under review. 18.2 SCs are being requested (0.7 per unit).

The proposed townhomes, including the 60 awarded service commitments last year plus the additional 26 requested, would have an approximate density of 16 du/ac.

The Design Jury reviewed the proposal and had the following comments:

- Buildings and green space could be better oriented
- The proposed architecture is attractive and will fit well into Bradburn
- Master planning of the parcel to the north is necessary to allow this to move forward
- The project is currently too far from goods and services (indicating a need for the north parcel to develop to create commercial uses within a short walk)

The CLUP designation is currently Retail Commercial. However, after the previous SC award, the applicant applied for a CLUP amendment to TMUND, which is currently under review. If this project receives an award for SCs, the CLUP amendment, PDP and ODP would be formally brought to Planning Commission and City Council for consideration. The applicant is aware that the SC award would be contingent on City Council approval of the amended PDP and ODP, and there is no guarantee that the City will approve its request.

A summary of the judges' comment on the project, based on the six criteria for TMUND projects, is listed below along with the average score given to the project.

Summary

Average score: 127

- Compact, Walkable Development: Bradburn is a compact, walkable community. As this and the parcel to the north develop, better connections will be made throughout this west area of Bradburn and to other parts of Bradburn.
- Mixed Use "Village" Center: Bradburn Village is the neighborhood's commercial center. Currently, the west side of Bradburn lacks the Main Street amenities, since it has not yet developed.
- Pedestrian Oriented District: Bradburn is very pedestrian-oriented. Good pedestrian connections will be needed to integrate this area with the rest of Bradburn.
- Interconnected Street/Blocks: The development of Main Street to the west, with sidewalks and tree lawns, will be crucial to integrate this project with the rest of Bradburn. Existing roadways in Bradburn are well-connected.
- Narrow Streets: With the exception of the Main Street connection to the west, all roadways in Bradburn are built. Alley-loaded garages are proposed for this development.
- Variety of Parks: The proposal includes a small park area. It may be desirable to orient buildings to face onto the park. These kinds of details will be worked out through the development review process if the applicant is awarded SCs.

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**Axis** – This project proposes 450 apartment-style units to be built on a 15.9-acre site at the northwest corner of W. 108th Ave. and Westminster Blvd. The site is located south of Circle Point and west of the Promenade (AMC Theater, FatCats, Ice Center). The property was annexed into the City in 1973 as part of the Haselwood Annexation. The site is zoned PUD. A Comprehensive Land Use Plan (CLUP) amendment, Preliminary Development Plan (PDP), and Official Development Plan (ODP) would have to be approved in order to begin building units. 225 SCs are being requested (0.5 per unit).

The proposal has a density of 30 du/ac in 3-story buildings.

The Design Jury reviewed the proposal and had the following comments:

- A compact, walkable development
- Usable green space should be increased
- More tuck-under parking would benefit this project
- The project will benefit from nearby shopping and entertainment and future transit

The CLUP designation is Business Park. This designation would have to be amended to District Center. If this project receives an award for SCs, the CLUP amendment, PDP and ODP would be brought to Planning Commission and City Council for consideration. The applicant is aware that the SC award would be contingent on City Council approval of the amended PDP and ODP, and there is no guarantee that the City will approve their request. In addition, Public Land Dedication will be required for this site.

A summary of the judges' comment on the project, based on the six criteria for TMUND projects, is listed below along with the average score given to the project.

Summary

Average score: 84

- **Compact, Walkable Development:** The commercial areas (Circle Point, Walnut Creek and Promenade) around the site are walkable. The proposed layout appears to be fairly walkable and compact, and would provide connections around and through the project to Circle Point and Promenade.
- **Mixed Use "Village" Center:** The apartments would be part of a larger mixed use center that provides office, retail and entertainment abutting this development. The residential component would benefit the nearby commercial.
- **Pedestrian Oriented District:** The proposed project provides east-west connections to nearby commercial areas in a grid-like pattern. Green space with sidewalks is incorporated through the center of the development. The walks to the Promenade or Circle Point would take less than 5 minutes.
- **Interconnected Street/Blocks:** The proposed street layout is incorporated well into the existing street network.
- **Narrow Streets:** Internal streets would be classified as local, with two lanes and on-street parking, detached sidewalks and tree lawn.
- **Variety of Parks:** The proposal shows one small park area south of a community building and pool. The plan also shows a green area between buildings with a sidewalk that provides connectivity, but not usable green space. More usable green space should be added; this can be worked out through the development review process if the applicant is awarded SCs.

Notification letters were emailed on July 5, 2012, to the applicants indicating staff's recommendation for the City Council meeting. Because detailed site development plans are not reviewed as part of this competition process, and significant changes typically occur during the development review process, the sketch plans submitted for these competitions are not reviewed with City Council as part of these competitions. The developers have been informed that presentations will not be scheduled for the City Council meeting on July 23, since the developers would tend to focus on site plans not yet reviewed with the City. The developers were also notified that, while it is not required for them to attend the City Council meeting, they are welcome.

The Service Commitment competition meets Council's Strategic Plan Goals of "Vibrant Neighborhoods and Livable Communities" and "Beautiful and Environmentally Sensitive City."

Respectfully submitted,

J. Brent McFall, City Manager

Attachments

- A - Vicinity Map
- B - Resolution



## 2012 Mid-Year Service Commitment Competition Location of Projects



RESOLUTION

RESOLUTION NO. **22**

INTRODUCED BY COUNCILLORS

SERIES OF 2012

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**A RESOLUTION CONCERNING  
CATEGORY B-4 (NEW TRADITIONAL MIXED USE NEIGHBORHOOD DEVELOPMENT)  
COMPETITION AND SERVICE COMMITMENT AWARDS**

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

WHEREAS, the goals of the Growth Management Program include balancing growth with the City's ability to provide water and sewer services, preserving the quality of life for the existing Westminster residents, and providing a balance of housing types; and

WHEREAS, within the Growth Management Program there is a provision that Service Commitments for residential projects shall be awarded in Category B-4 (new Traditional Mixed-Use Neighborhood Development) on a competitive basis through criteria adopted periodically by resolution of the City Council and that each development shall be ranked within each standard by the degree to which it meets and exceeds the said criteria; and

WHEREAS, the City's ability to absorb and serve new multi-family development is limited, and the City of Westminster has previously adopted Resolution No. 30, Series of 2006, specifying the various standards for new Traditional Mixed-Use Neighborhood Development projects based upon their relative impact on the health, safety and welfare interests of the community, and has announced to the development community procedures for weighing and ranking projects prior to receiving the competition applications; and

WHEREAS, the City of Westminster has previously allocated 300 Service Commitments for the mid-year 2012 competition for use in servicing new residential developments based on the criteria set forth in Section 11-3-1 of the Westminster Municipal Code; and

WHEREAS, two applications were received for the Traditional Mixed-Use Neighborhood Development competition for 476 total units; and

WHEREAS, the total number of service commitments requested is 243.2 (based on 0.5 service commitments per multi-family unit and 0.7 service commitments per single-family attached unit) to be used in 2012 or 2013 for the total build-out of the 476 units.

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

1. Category B-4 Service Commitment awards are hereby made to the specific projects listed below as follows:

<u>Project</u>	<u>Location</u>	<u>2012</u>	<u>2013</u>	<u>2014</u>	<u>Total</u>
Bradburn West	118th Pl. and Tennyson St.	18.2	0	0	18.2
Axis	108th Ave. and Westminster Blvd.	0	225	0	<u>225</u>
					<b>243.2</b>



2. These Service Commitment awards to the projects listed above are conditional and subject to the following:
  - a. The applicant must successfully amend the Comprehensive Land Use Plan.
  - b. The applicant must complete and submit a Preliminary Development Plan for the required development review processes.
  - c. The applicant must complete and submit proposed development plans in the form of an Official Development Plan to the City for the required development review processes. All minimum requirements and all incentive items indicated by the applicant as specified within the competition shall be included as part of the proposed development and listed on the Official Development Plan for the project.
  - d. Service Commitment awards for the project listed above, if approved by the City, may only be used within the project specified above.
  - e. These Service Commitment awards shall be subject to all of the provisions specified in the Growth Management Program within Chapter 3 of Title XI of the Westminster Municipal Code.
  - f. Each Service Commitment award is conditional upon City approval of the project listed above and does not guarantee City approval of any project, proposed density or proposed number of units.
  - g. The City of Westminster shall not be required to approve any Annexation, Establishment of Zoning, Preliminary Development Plan or amendment, Official Development Plan or amendment necessary for development of property involved in this Category B-4 award, nor shall any other binding effect be interpreted or construed to occur in the City as a part of the Category B-4 award.
  - h. Any and all projects that do not receive City approval are not entitled to the Service Commitment awards, and the Service Commitments shall be returned to the water supply figures.
  - i. The Growth Management Program does not permit City Staff to review any new residential development plans until Service Commitments have been awarded to the project. During the competition process the City Staff does not conduct any formal or technical reviews of any sketch plans submitted by applicants. It should be expected that significant changes to any such plans will be required once the City's development review process begins for any project.
  - j. Awards to be drawn in 2012 are effective as of the date of this Resolution. Future year awards are effective as of January 1 of the specified year and cannot be drawn prior to that date. If fewer Service Commitments are needed for a project in any given year, the unused amount in that year will be carried over to the following year(s) provided the Service Commitments have not expired.
  - k. In order to demonstrate continued progress on a project, the following deadlines and expiration provisions apply:
    - 1) Approval for any required Comprehensive Land Use Plan amendment must occur by no later than December 31, 2013.
    - 2) Approval for any required Preliminary Development Plan amendment must occur by no later than December 31, 2014.
    - 3) Approval of any required Official Development Plan must occur by no later than December 31, 2014, or the entire Service Commitment award for the project shall expire.
    - 4) The project must be issued at least one building permit for vertical improvements within three (3) years of Official Development Plan approval (by December 31, 2017), or the entire Service Commitment award for the project shall expire.
    - 5) Following the issuance of the first building permit for the project, all remaining Service Commitments for a project shall expire if no new building permit is issued for vertical improvements for the project during any consecutive twelve (12) month period and the project is not deemed an "Active" development.

1. If Service Commitments are allowed to expire, or if the applicant chooses not to pursue the development, the Service Commitment award shall be returned to the Service Commitment supply figures. The award recipient shall lose all entitlement to the Service Commitment award under this condition.
  - m. This award resolution shall supersede all previous Service Commitment award resolutions for the specified project locations.
3. The Category B-4 Service Commitment awards shall be reviewed and updated each year. If it is shown that additional or fewer Service Commitments are needed in the year specified, the City reserves the right to make the necessary modifications.

PASSED AND ADOPTED this 23rd day of July, 2012.

\_\_\_\_\_  
Mayor

ATTEST:

APPROVED AS TO LEGAL FORM:

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

By: \_\_\_\_\_  
City Attorney's Office



## Agenda Item 10 E

### Agenda Memorandum

City Council Meeting  
July 23, 2012



**SUBJECT:** Councillor's Bill No. 25 re Annual Updates to Title II, Title VIII and Title XI of the Westminster Municipal Code

**Prepared By:** Walter Patrick, Planner II

### Recommended City Council Action

Pass Councillor's Bill No. 25 on first reading making revisions to sections of Title II, Title VIII and Title XI of the Westminster Municipal Code.

### Summary Statement

- Each year staff proposes updates to the Westminster Municipal Code to remain current with development trends and 'stay ahead of the curve' with regard to zoning regulations and requirements.
- A detailed list of items is outlined in the background section of this agenda memorandum.

**Expenditure Required:** \$ 0

**Source of Funds:** N/A

**Policy Issue**

Should the City revise sections of Title II, VIII and Title XI of the Westminster Municipal Code?

**Alternative**

Do not support the proposed Code changes for 2012. This action is not recommended as staff would like to remain current with development trends and continually improve the City's land development regulations to reflect the City's vision for future development.

**Background Information**

Staff is proposing a number of Zoning Code amendments this year; some that are "housekeeping" in nature and some that are more substantive. Each of the proposed amendments is listed below, with an explanation of the current Code (if any) and the rationale for the proposed change. Unless noted below, the proposed amendments were discussed in a Council study session on June 4, 2012.

**Summary of Proposed Revisions for the Year 2012**

**City Exemption from Compliance**

Many of the recent and upcoming open space land acquisitions require subdivision of larger lots in order to preserve unused portions of properties. The current land development code requires the preparation of a final plat or Preliminary Development Plan (PDP) in order to subdivide a property to facilitate these acquisitions. Additionally, prior to approval of a final plat, an Official Development Plan (ODP) or ODP waiver must be approved for the subject property. ODP waivers cannot be used for these situations because they may only be granted for the purpose of approving minor site improvements, or for the purpose of combining non-conforming lots.

Creating or amending an ODP for the purposes of acquiring a portion of undeveloped property is time consuming and costly. It also forces landowners to make decisions on future land use plans for their remaining property that they may not be in a position to make. Therefore, staff proposes amending the "City Exemption from Compliance" section of the Code to include an exemption from compliance for City land acquisitions. By amending this section of Code, the City could subdivide and acquire property using a legal description or plat that is common practice in other communities. City land acquisitions for open space, parks, rights-of-way or other public purposes could be completed in a more time and cost efficient manner.

**Variance Requests for Individual Lots in Planned Unit Development (PUD) Zoned Areas**

Currently, variance requests for changes including setbacks, building height, accessory building regulations, and fences, for single family detached lots in PUD zoned areas, are handled through the ODP Amendment process. An ODP Amendment requires review of 17 different criteria when considering a variance request. However, variance requests for straight zoned (non PUD) properties must satisfy 6 requirements as listed in the Variance Procedures and Standards section of the City Code. Staff proposes requiring variance requests for single family lots in PUD zoned areas to meet the same 6 findings as required for straight zoned single family residential lots.

The 17 criteria considered for PUD variance requests are very open ended and generally apply to more substantial changes to an overall ODP rather than a single lot. The 6 criteria considered for straight zoned properties, however, are specifically written to consider changes on individual parcels and require the applicant to prove a hardship. The hardship requirement is not currently required for PUD zoned properties. The proposal to use the 6 variance criteria as listed in the Variance Procedures and Standards section of the City Code, for all single family lots regardless of zoning designation, will allow staff to be consistent in the review of all single family variance requests.

**Building Permit Fees in Urban Renewal Areas**

Current Code allows a 20% reduction in the fees charged for building permits issued within the urban renewal area of the City. This reduced fee allowance should be removed from the City Code. Historically, this reduction has not been applied, as other incentives, such as a refund of certain fees,

**SUBJECT:** Councillor's Bill re Updates to Title II, VIII and Title XI of the W.M.C. Page 3

have been utilized. Also, current economic development practices do not include across the board fee reductions and this provision is outdated in its approach.

#### **Clarify Build-Out Development in Growth Management Definitions**

The City's growth management program allows service commitments for build-out developments to be included as part of the Active Residential Development category provided the development can meet the 4 requirements listed in the build-out definition. One of these requirements states that the project shall be 'located on land within a PUD which is at least 50% developed.' Staff proposes clarifying that '50% developed' could refer to either actual completed housing units or to 50% of the infrastructure (water lines, sewer lines, streets, etc...), which is consistent with how staff has interpreted the '50% developed' provision in practice.

#### **Maximum Height of Buildings**

In the Special Regulations section of the Zoning Code, the maximum height of buildings is listed as being determined by Section 409 of the Uniform Building Code (UBC). This section is unclear if the 'height of buildings' is referencing the maximum height a building can be built or the method of measuring the maximum height of buildings. Further, the Building Division no longer uses the UBC but currently references the International Building Code. This section should be revised to clarify that the 'maximum height of buildings' is actually referring to how to measure the height of a building as determined by the currently adopted building code.

#### **Antennas, Towers and Telecommunications Facilities**

This section of Code is proposed to be amended to acknowledge new federal legislation that requires the City to approve requests to modify existing wireless towers or existing base stations by co-location of new transmission equipment, removal of transmission equipment, or replacement of transmission equipment when the modification will not substantially change the physical dimensions of the tower or base station. Several new updates and definitions are proposed that will bring the Code into compliance with the federal law while maintaining as much local control as possible. The updates include adding the term 'Base Station' to the Telecommunications Facility definition, adding a new Code subsection regarding the review and approval process, and new definitions for 'substantially change' and 'eligible facilities request.'

#### **Sign Variances**

This item was not discussed at a previous study session meeting but is clean up item that staff needs to address. The section of code regarding sign variances currently lists the Board of Adjustments as the authorized group to hear sign variance requests. As the Board of Adjustments has been dissolved, sign variances are actually heard by the Planning Commission. Staff proposes clarifying this discrepancy.

Staff considers the updates to the land development code to be important for achieving the City Councils Strategic Plan goals of "Promoting Vibrant Neighborhoods in One Liveable City" by maintaining and improving neighborhood infrastructure and housing; and "Safe and Secure Community" by helping to maintain safe buildings and homes.

Respectfully submitted,

J. Brent McFall  
City Manager

Attachment - Ordinance

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **25**

SERIES OF 2012

INTRODUCED BY COUNCILLORS

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**A BILL  
FOR AN ORDINANCE AMENDING SECTIONS 2-2-2, 2-2-8, 8-6-12, 11-1-3, 11-3-2, 11-4-6, 11-4-11, 11-5-4, 11-5-10, 11-5-16, 11-6-4, 11-9-3 AND 11-11-8 OF THE WESTMINSTER MUNICIPAL CODE CONCERNING ANNUAL LAND USE REGULATION CODE UPDATES**

THE CITY OF WESTMINSTER ORDAINS:

Section 1. Section 2-2-2, subsection (F), W.M.C., is hereby AMENDED and a new subsection (H) is ADDED as follows:

**2-2-2: POWERS AND DUTIES:** (319 1741 1970 2068 3495 3497 3599) The powers and duties of the Planning Commission shall include, but not be limited to, the following:

(F) The review and determination of appeals from the Planning Manager's interpretation of the Zoning Map and the Zoning District boundary lines thereon, under Section 11-4-2, W.M.C.

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

(H) -The review of a request from one individual lot owner in a detached single family housing development for a variance from an ODP requirement affecting said lot, as provided in Section 11-5-10 (A)(1), W.M.C.

Section 2. Section 2-2-8, W.M.C., is hereby AMENDED as follows:

**2-2-8: VARIANCE PROCEDURE AND STANDARDS:** (3495)

(A) In addition to any procedural hearing requirements the Commission may adopt by rule, the Commission shall conduct hearings and make decisions in accordance with the following requirements:

(1) The public, the applicant and the Planning Commission shall be given notice, as provided in Section 11-5-13, W.M.C., of all variance hearings and, except as provided by subsection 2-1-6(A), W.M.C., all hearings shall be open to the public.

(2) The Commission shall render written decisions, accompanied by findings of fact and conclusions based thereon. Conclusions based on any provision of this Chapter, Code, or any City rules or regulations shall contain a reference to such provision, rule or regulation and shall also contain the reason the conclusion is deemed appropriate in light of the facts found.

(3) All witnesses shall be sworn or shall affirm their testimony in the manner required in courts of record.

(4) The Commission shall decide on any matter within thirty-five (35) days after date of hearing thereon. Decision in favor of any applicant shall be approval of the matter requested and shall be an order to the Chief Building Inspector to carry out such action, subject to any conditions imposed by the Commission.

(B) The Commission may grant a variance if it finds that all of the following requirements are satisfied, where applicable:

(1) That the strict application of the provisions of Title XI of this Code would result in practical difficulties or unnecessary hardship that is inconsistent with the general purpose and intent of this Code.

(2) That there are unique physical circumstances or conditions, such as irregularity, narrowness or shallowness of the lot, or exceptional topographical or other physical conditions peculiar to the affected property.

(3) That these unusual circumstances or conditions do not exist throughout the neighborhood or district in which the property is located.

(4) That because of such physical circumstances or conditions, the property cannot be reasonably developed in conformity with the provisions of this Code.

(5) That the special conditions and circumstances do not result from the present or prior actions of the applicant.

(6) That the variance, if granted, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property.

Any application not meeting such criteria shall be denied. In approving an application meeting the above criteria, the Commission may attach such reasonable conditions and safeguards as it may deem necessary to implement the purpose of ~~this~~ Title XI or the various adopted codes.

(C) Decisions of the Commission are final subject only to an appeal to district court.

Section 3. Section 8-6-12, W.M.C. is hereby AMENDED as follows:

**8-6-12: ADOPTION OF STATE PROVISIONS:** The provisions of Colorado Revised Statutes ~~of 1973~~, as amended, Sections 25-7-115 through 25-7-118 inclusive are hereby adopted and incorporated herein by reference thereto as though herein set out in full, so far as applicable. ~~Wherever therein a hearing or other board action is called for, such hearing or action shall be held or taken by or before the Board of Adjustment.~~ (1051 1999)

Section 4. Section 11-1-3, W.M.C., is hereby AMENDED as follows:

**11-1-3: VIOLATIONS:** (2534 2797 3491 3497)

(A) Unless otherwise permitted by this Code, it# shall be unlawful for any person to:

Section 5. Section 11-3-2, subsection (D), W.M.C., is hereby AMENDED as follows:

**11-3-2: DEFINITIONS:** (2534 2571 2651 2714 2735 2975 3091 3561) For the purpose of this article, certain terms and words are hereby defined as follows:

(D) “Build-Out Development”:- shall mean Aa proposed residential development which does not meet the active residential definition but does meet all of the following:

(1) There is an existing, City-approved Official Development Plan and plat for the site; and

(2) The proposed land use and density comply with the Comprehensive Land Use Plan; and



(3) The project is located on land where at least 50% of the housing units within the Official Development Plan have received a certificate of occupancy or at least 50% of the required public improvements, as determined by the City Engineer, have been accepted as complete~~Planned Unit Development which is at least 50% developed~~; and

(4) Existing public improvements (water lines, sewer lines, streets, etc.) are adjacent to the site; and

(5) The undeveloped site for the proposed development does not exceed ten (10) acres; and

(6) The project will meet or exceed all of the City's minimum design standards and guidelines; and

(7) The project will offer incentive items detailed within the City's competition guidelines and will, at a minimum, meet the lowest score of the project(s) awarded service commitments for the most recent residential competition for that project type. The project may offer different incentive items than those chosen by the comparable project, but the total of incentive points offered must meet or exceed the score of the comparable project.

An Official Development Plan (ODP) amendment (bringing the project into compliance with City Design Guidelines) and plat must be submitted for review and are subject to City Manager approval. If the project is unable to meet all of the minimum and incentive design requirements and all other ODP requirements, the project will be subject to Planning Commission review and approval or denial.

Section 6. Section 11-4-6, subsections (L) and (R), W.M.C., are hereby AMENDED as follows:

**11-4-6: SPECIAL REGULATIONS:** (2534 2841 2975 3497 3531 3599) The following additional regulations apply as indicated below.

(L) MEASUREMENT OF THE MAXIMUM HEIGHT OF BUILDINGS: Shall be as ~~determined pursuant to~~defined the currently adopted building code of the City in Section 409 of the Uniform Building Code as adopted by this Title.

(R) CITY EXEMPTION FROM COMPLIANCE: All property, uses, structures, and facilities owned or operated by the City for the purpose of providing municipal services are exempt from complying with all zoning regulations and are exempt from all Preliminary Development Plan, Official Development Plan, and platting procedures contained in this Code. In addition, the acquisition of land, wherever located, by the City for open space, park, rights-of-way, or other public purposes is exempt from complying with all zoning regulations and all Preliminary Development Plan and Official Development Plan requirements contained in this Code.

Section 7. Section 11-4-11, subsections (C) and (D), W.M.C., are hereby AMENDED as follows:

**11-4-11: ANTENNAS, TOWERS AND TELECOMMUNICATION FACILITIES:** (2534 3135 3555 3586)

(C) DEFINITIONS:

“Alternative Tower Structure” means~~shall mean~~ man-made trees, clock towers, bell steeples, light poles, buildings, and similar alternative design mounting structures that are compatible with the natural setting and surrounding structures, and camouflages or conceals the presence of antennas or towers. This term also includes any antenna or antenna array attached to the alternative tower structure.

“Antenna” means shall mean any exterior transmitting or receiving device mounted on a tower, building, or structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunication signals or other communication signals.

“Co-Location” means shall mean the placement of antennas or other telecommunications facilities by two or more telecommunications providers in the same location or on the same tower or alternative tower structure.

“Eligible Facilities Request” means shall mean a request for modification of an existing wireless tower or existing base station that involves co-location of new transmission equipment, removal of transmission equipment, or replacement of transmission equipment.

“Landowner” means shall mean a natural person or persons, partnership, company, corporation or other legal entity recorded, in the records of the Adams or Jefferson County Clerk and Recorder, as the owner of the real property upon which the telecommunications facility is located or proposed to be located. For the purposes of a telecommunications facility located on a building or other existing structure that is owned by a different legal entity than the owner of the real property, both the real property owner and the owner of the building or structure will be considered to be landowners.

“Screen Wall” means shall mean an opaque structure, typically located on top of, but integrated with the design of, a building that conceals mechanical, telecommunications or other equipment from view from the surrounding rights-of-ways and properties.

“Substantially Change” means shall mean any of the following, and refers to a single change, or a series of changes over time (whether made by the same or different entities) viewed against the initial approval for the tower or base station that individually or cumulatively produces:

1. any increase in the height of any component;
2. more than a 10% increase in the width or depth of any equipment, pad, or component;
3. a change in the color of any visible component or equipment that causes it to appear larger or more visible;
4. -a change in the physical dimension of a camouflaged wireless facility, where the changes would be inconsistent with the design of the camouflaged wireless facility, or make the wireless towers more visible;
5. a change in the physical dimensions that requires work that would intrude upon the public right of way, or any environmentally sensitive area;
6. an increase in radio frequency emissions that causes the site to exceed federal radio frequency emissions standards; or
7. a change in the mounting of new or replacement transmission equipment that will involve installing new equipment cabinet(s) not permitted under the initial approval and that will not fit within the existing enclosure for the wireless tower or base station or that will require installation of a new cabinet or enclosure.

“Telecommunications Facilities Or Facility” means shall mean the base station, plant, equipment, and personal property, including but not limited to, cables, wires, conduits, ducts, pedestals, antenna, towers, alternative tower structures, electronics and other appurtenances used to transmit, receive, distribute, provide, or offer telecommunication services.

“Telecommunications Provider” means shall mean a person, partnership, company, or corporation that constitutes the business entity who owns or will own, once constructed, the telecommunications facilities that are proposed for review and approval under this Section.

“Telecommunications Support Facilities” means shall mean support building structures, and equipment cabinets containing electrical and mechanical equipment and devices used for the reception of

or transmission of voice, data, image, graphic and video programming information between or among points by wire, cable, fiber optics, laser, microwave, radio, satellite, or similar facilities.

“Tower” means shall mean any structure designed and constructed primarily for the purpose of supporting one or more antennas, including self-supporting lattice towers, guy towers, and monopole towers. The term includes radio and television transmission towers, microwave towers, common carrier towers, cellular telephone towers, and other similar structures. This term also includes any antenna or antenna array attached to the tower structure.

(D) REVIEW AND APPROVAL PROCESS:

(1) Except as provided in ~~S~~subsection (J) below, a use of land for a telecommunication facility must be approved in an Official Development Plan (ODP), amended ODP, or ODP waiver, including facilities located on public rights of way. If the applicable ODP does not include a height limitation for the principal structure, an ODP amendment or waiver to specify the permitted height for the facility shall be required.

(2) A telecommunication facility must receive a building permit, and be in compliance with the building code adopted by the City.

(3) An application may be approved by the City Manager or his designee(s) with the exception of telecommunication facilities proposed to be located above-ground on public rights-of-way, which must be approved at a public hearing before the Planning Commission pursuant to the procedures set forth in Title 11, Chapter 5.

(4) Consistent with federal law, the City will review and approve an application for an eligible facilities request when the application does not seek to substantially change the physical dimensions of the existing tower or the existing base station.

Section 8. Section 11-5-4, subsection (C), W.M.C., is hereby AMENDED as follows:

**11-5-4: PRELIMINARY DEVELOPMENT PLAN (PDP) REQUIREMENT: (2534)**

(C) Except as provided herein, it# shall be unlawful for the owner, or the agent of the owner, of any unplatted or unsubdivided land located within the City to transfer, sell, agree to sell, or negotiate to sell any portion less than the whole of all contiguous land under or substantially under the same ownership prior to the approval by the City and the recording in the Office of the County Clerk and Recorder of a Preliminary Development Plan or a final plat for all contiguous land under the same or substantially the same ownership. This provision shall not apply to an owner or the agent of the owner transferring or selling land to the City pursuant to Section 11-4-6(R), W.M.C.. A Preliminary Development Plan may be used as the basis for a subdivision and subsequent sale or transfer of land under this paragraph, provided that said Preliminary Development Plan contains legally defined and described boundaries of the parcels being created by the subdivision.

Section 9. Section 11-5-10 subsection (A), W.M.C., is hereby AMENDED as follows:

**11-5-10: FORMAT AND APPROVAL PROCESS FOR AMENDMENTS TO OFFICIAL DEVELOPMENT PLANS (ODP'S): (2534 3599)**

(A) APPLICATION PROCEDURES FOR ODP AMENDMENTS:

(1) Applicants shall consult with the City prior to submitting an application for approval of an ODP amendment to discuss the project concept and to gather information regarding City policies, codes, standards and procedures. Applicants may propose an amendment to an ODP for all or only a

portion of the entire land area within the previously approved ODP, except that an amendment to a residential ODP for an individual single family lot within a detached single family housing development, which does not add a new use or change the density, shall proceed under the variance process set forth in Section 2-2-8, W.M.C.

(2) Following the initial discussion, an applicant may submit a concept plan and shall submit an application for review in a format specified in the Community Development Department's guidelines for submittal, a copy of which is available in the Planning Division offices.

(3) Following the concept plan review, if any, the applicant shall submit a formal application for approval and prepare a detailed submittal for technical review of the proposed plans in the format specified in the Community Development Department's guidelines for submittal, a copy of which is available in the Planning Division offices. Comments shall be prepared and returned to the applicant.

Additional submittals may be required at the option of the City. Staff review and feedback concerning a concept plan shall not be construed as a type of approval or pre-approval of any aspect of the submittal.

(4) Following the concept plan review, if any, and prior to commencing any technical review of a proposed ODP amendment, the applicant shall complete the neighborhood notification process described in the Community Development Department's guidelines for neighborhood notification, a copy of which is available in the Planning Division offices. The City Manager or the Manager's designee may waive this requirement for neighborhood notification if the Manager determines, based upon the project's likely and foreseeable impacts on the surrounding neighborhood, that no neighborhood notification is required.

(5) Prior to any review of a proposed ODP amendment, the applicant shall provide:

(a) Either the written consent of the owner(s) of the property in the area proposed for ODP amendment or evidence otherwise satisfactory to the Planning Manager of the applicant's authority to represent the owner(s) of such property;

(b) Evidence of ownership and encumbrances satisfactory to the City and such other information as may be reasonably required to evaluate the proposed development;

(c) A non-refundable application fee, as specified in the Planning and Engineering Development Review Fee Schedule set forth in Section 11-1-6, shall be paid at the time of application for any proposed ODP amendment. In addition, all recording fees shall also be paid for all plans and plats that have been approved by the City prior to their recording.

(6) City may initiate an application for an ODP amendment without the consent of the property owner or owners for any redevelopment project within an Urban Renewal Area; provided, however, the approval of any such application shall be conditional and not effective until such time as all property covered by the ODP has been acquired by the Westminster Economic Development Authority or its designated redeveloper for the project. In such event, the above application procedures of this ~~S~~subsection (A) shall not be applicable.

(7) An amendment to an ODP may be initiated by:

(a) The owner of the area covered by the proposed amendment, except as provided in Ssubsection (A)(1) above; or

(b) The City when the City Council determines:

(i) That approved land uses for the Planned Unit Development are no longer appropriate due to changed conditions in the vicinity, revisions to the City's Comprehensive Plan, any incompatibilities between an existing land use and surrounding zoning or development, or Council finds that the ODP no longer meets the requirements of Section 11-5-15;

(ii) That public facilities are inadequate or do not meet current standards; or

(iii) That natural hazards or other environmental problems exist which threaten the public health, safety or welfare.

(8) The City Manager may, in his or her sole discretion, on a case-by-case basis, waive any of the normal submittal requirements for amendments to ODP's within his or her administrative approval authority that the City Manager deems to be minor in substance and scope and reduce the fee for such minor amendments.

Section 10. Section 11-5-16 is AMENDED by the ADDITION of the following subsection (B):

**11-5-16: STANDARDS FOR APPROVAL OF FINAL PLATS: (2534)**

(B) The City Manager may approve a Final Plat prepared solely for the subdivision of land to accomplish the acquisition of land by the City for open space, parks, rights-of-way, or other public purposes, upon a finding that such platting is the most efficient method of creating separate ownership parcels.

Section 11. Section 11-6-4, subsection (A), W.M.C., is hereby AMENDED as follows:

**11-6-4: —PUBLIC AND PRIVATE IMPROVEMENT AGREEMENTS AND SURETY REQUIREMENTS: (2534)**

(A) Except as provided in Section 11-5-16 (B), W.M.C., bBefore the City Manager shall approve a final plat or, in the event that a final plat is not required, prior to issuing a building permit, the developer shall have submitted the following agreements and surety for the construction of public and private improvements for the development:

Section 12. Section 11-9-3, subsection (E), W.M.C., is hereby AMENDED as follows:

**11-9-3: PERMITS AND FEES: (3327 3541)**

(E) FEES AND TAXES:;

(1) General. A permit shall not be valid until the prescribed fees have been paid. Fees shall be assessed in accordance with the provisions of this ~~S~~ubsection.

- (a) Building use tax shall be paid in accordance with this Code.
- (b) Park development fees shall be paid in accordance with this Code.
- (c) Water and sanitary sewer tap fees shall be paid in accordance with this Code.
- (d) School Land Dedication fees shall be paid in accordance with this Code.

(2) Permit Fees. A fee for each building permit shall be paid to the City of Westminster as specified in the "Building Permit Fee Schedule" as adopted by Resolution of the City Council; except that, the City, the Counties of Adams and Jefferson, the State of Colorado, the United States Government, and all agencies and departments thereof, shall be exempt from payment of building permit fees for the construction or repair of buildings or structures owned wholly by such agencies and departments and devoted to governmental use. ~~Fees shall be reduced by twenty percent (20%) for building permits issued for work within the boundaries of the urban renewal area of the city.~~

EXCEPTION: The Building Official shall indefinitely waive the permit fees and use tax for the conversion of existing non-conforming solid fuel burning devices to gas, electric, EPA certified phase II, Colorado Phase III, or devices meeting the emission standard for solid fuel burning devices established under the State statutes and/or regulations

promulgated by the Colorado Department of Public Health and Environment, as demonstrated by a test by an EPA accredited laboratory. This exemption shall be in effect for those devices purchased or installed on or after September 1, 1993.

Section 13. Section 11-11-8, W.M.C., is hereby AMENDED as follows:

**11-11-8: VARIANCES (2862)**

(A) **SIGNS IN PLANNED UNIT DEVELOPMENTS:** All signs proposed for or within a planned unit development may apply for modifications to the requirements of this sign code by making application to the planning commission using the procedures specified in Section 11-5-8 or 11-5-10 of this Code. Such variances may be granted administratively if the provisions of this Code are not exceeded by more than 20%. Such variances shall consider items 1 through 5 under ~~sub~~Section (B)b, below.

(B) **SIGNS NOT IN PLANNED UNIT DEVELOPMENTS:** All signs within any zone district other than planned unit development may apply for modifications to the requirements of this sign code by making application to the ~~planning commission~~~~board of adjustments~~ using the procedures specified in Section ~~2-6-42-8~~ of this Code. In considering a request for a variance to the sign code, the ~~planning commission~~~~board of adjustment~~ and appeals shall determine that:

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

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

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

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

(5) The ~~planning commission~~~~board of adjustment~~ may not grant any application for a type of sign that would not otherwise be permitted under this Code.

Section 14. 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 23rd day of July, 2012.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 13th day of August, 2012.

ATTEST:

\_\_\_\_\_  
Mayor

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City Clerk

APPROVED AS TO LEGAL FORM:

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City Attorney's Office



**Agenda Memorandum**

City Council Meeting  
July 23, 2012



**SUBJECT:** Councillor's Bill No. 26 re Update to Title XI of the Westminster Municipal Code Regarding Accessory Buildings

**Prepared By:** Walter Patrick, Planner II

**Recommended City Council Action**

Pass Councillor's Bill No. 26 on first reading making revisions to Title XI of the Westminster Municipal Code regarding accessory buildings.

**Summary Statement**

- Each year staff proposes updates to the Westminster Municipal Code to remain current with development trends and "stay ahead of the curve" with regard to zoning regulations and requirements.
- One item on this year's list pertains to changes for Accessory Building regulations.
- Proposed changes to this section of code are outlined in the background section of this agenda memorandum.

**Expenditure Required:** \$ 0

**Source of Funds:** N/A



## **Policy Issue**

Should the City revise Title XI of the Westminster Municipal Code regarding Accessory Buildings?

## **Alternative**

Do not support the proposed Accessory Building code changes. This action is not recommended as staff would like to remain current with development trends and continually improve the City's land development regulations.

## **Background Information**

Staff has proposed a number of Zoning Code amendments this year; some that are "housekeeping" in nature and some that are more substantive. Staff discussed each of the items with the City Council during a Council study session on June 4, 2012. During this meeting there was much discussion on the proposed accessory building code changes. City Council gave direction in this meeting that the number of accessory buildings permitted in straight-zoned areas should be revised to allow 3 accessory buildings per lot provided one of the buildings is a detached garage, and discussed that the number of accessory buildings permitted in a PUD-zoned area shall remain at 1 unless the Official Development Plan states otherwise. Staff was further directed to pull the proposed accessory building code changes from the greater list and prepare a separate ordinance for this item. (Other Code changes are being considered this evening in a different agenda item.) A full description of the proposed code change and a revised accessory building definition is listed below.

### **Recommended Accessory Building Regulation Changes**

- Allow straight-zoned areas to have up to 3 accessory buildings per lot provided one of the buildings is a detached garage.
- Keep all other regulations in place, including size requirements. Currently, accessory buildings are limited to 5% of the building lot area or 600 square feet, whichever is greater, up to a maximum of 2000 square feet.
- No change is proposed for PUD zoned areas. The long standing City policy for PUD zoned areas which are silent on their ODP's with regard to accessory buildings has been to allow 1 accessory building, with the same size requirements as a "straight zoned" area. Staff proposes keeping this policy in place. Some PUD's further restrict or prohibit accessory buildings altogether. No change is proposed for these PUD zoned districts. It should also be noted that HOA covenants may further limit or restrict accessory buildings in some subdivisions.

Staff also proposes a revised Accessory Building definition.

### **Accessory Building**

ACCESSORY BUILDING shall mean any detached building, structure, or portion thereof that is not habitable, is located on the same principal lot as a habitable structure, and is clearly incidental to the principal structure, such as but not limited to a garage, storage shed, gazebo, pergola, dog run, or similar structure. An accessory building shall not mean an outdoor fireplace, fire-pit, cooking grill, trellis, arbor, or similar structure not intended for use as a shade or storage structure. An accessory building shall not mean play equipment or a small structure that is less than five feet in height such as a fountain, playhouse, dollhouse, or doghouse.

**SUBJECT:** Councillor's Bill re Update to Title XI of the W.M.C. re Accessory Buildings Page 3

Staff considers the updates to the land development code to be important for achieving the City Council's Strategic Plan goals of "Promoting Vibrant Neighborhoods in One Liveable City" by maintaining and improving neighborhood infrastructure and housing; and "Safe and Secure Community" by helping to maintain safe buildings and homes.

Respectfully submitted,

J. Brent McFall  
City Manager

Attachment - Ordinance

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **26**

SERIES OF 2012

INTRODUCED BY COUNCILLORS

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**A BILL  
FOR AN ORDINANCE AMENDING TITLE XI, CHAPTERS 2 AND 4, OF THE  
WESTMINSTER MUNICIPAL CODE TO AMEND THE DEFINITION AND  
REGULATION OF ACCESSORY BUILDINGS**

THE CITY OF WESTMINSTER ORDAINS:

Section 1. In Section 11-2-1(A), W.M.C., the definition of "Accessory Building" is hereby AMENDED to read as follows:

ACCESSORY BUILDING shall mean any ~~non-habitable detached~~ building, structure, or portion thereof ~~that is not habitable, is~~ located on the same principal lot as a habitable structure, ~~and that~~ is clearly incidental to the principal structure, such as ~~but not limited to~~ a garage, ~~or a~~ storage shed, ~~gazebo, pergola, dog run, or similar structure. An accessory building shall not include a fence, play equipment, outdoor fireplace, fire-pit, cooking grill, trellis, arbor, or similar structure not intended for use as a shade or storage structure. An accessory building also shall not include a miniature structure that is less than five (5) feet in height such as a fountain, play house, doll house, or dog house.~~

Section 2. Section 11-4-6(N), W.M.C., is hereby AMENDED as follows:

(N) ACCESSORY BUILDINGS.

(1) Permitted Zone Districts: An accessory building is permitted in all residential zone districts or residential planned unit developments in accordance with the requirements of this Code unless restricted on an approved official development plan. Accessory buildings in nonresidential zone districts shall require an ODP waiver or ODP amendment meeting the requirements of this Code.

(2) Number permitted: ~~Unless stated otherwise on an official development plan, in residential PUD districts, one (1) accessory building will be permitted per building lot. In non PUD residential zoning districts, one detached garage that is used to meet the off-street parking requirements of Section 11-7-4, WMC, shall be permitted in addition to one-two (12) accessory buildings, provided that said off-street parking requirements are not currently being met by an existing attached garage.~~

(3) Architectural character: Accessory buildings must maintain the character of the surrounding neighborhood and architecturally resemble and be constructed of like or similar materials of that used on the exterior of the existing principal building on the property. Pre-fabricated or corrugated metal, plastic, vinyl, canvas or similar material buildings are prohibited.

(4) Size: For all residential zone districts and residential PUD districts, the total of any detached garage and accessory buildings shall be limited to 5% of the building lot area or 600 square feet, whichever is greater, unless a different size is provided for in the PUD district. In no case shall the ~~combined square footage of all~~ accessory buildings be ~~larger more~~ than 2000 square

feet per building lot. For all nonresidential PUD zone districts, size will be determined in the ODP or ODP amendment. Maximum height of an accessory building shall be limited to fifteen (15) feet, except in O-1 zone districts where maximum height shall be limited to thirty-five (35) feet.

(5) Setbacks: This Subsection (N) provides the setbacks for accessory buildings, except that the setbacks for accessory buildings in PUD zone districts shall be as specified on an approved official development plan. If setbacks are not specified in the ODP, then the setbacks shall follow the requirements of this Subsection. The O-1 district is considered a nonresidential zone district for the purpose of this Subsection.

(a) Accessory buildings one hundred twenty (120) square feet or less: the front setback shall be the same as required for the principal building. The side and rear setbacks shall be a minimum of three (3) feet from the property line but may not encroach into any easements. The side or rear setback adjacent to a public road shall be fifteen (15) feet.

(b) Accessory buildings greater than one hundred twenty (120) square feet: the front setback shall be the same as required for the principal building. The side and rear setbacks shall be a minimum of five (5) feet from the property line but may not encroach into any easements. The side or rear setback adjacent to a public road shall be fifteen (15) feet.

(c) Accessory buildings in the O-1 zone district: the front setback shall be one hundred (100) feet. The side and rear setbacks shall be thirty (30) feet.

(d) Architectural features such as cornices, canopies, eaves, awnings or similar architectural roofline features may not encroach into the required side or rear setback for any accessory building.

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 23rd day of July, 2012.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 13 day of August, 2012.

\_\_\_\_\_  
Mayor

ATTEST:

APPROVED AS TO LEGAL FORM:

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

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



**Agenda Memorandum**

City Council Meeting  
July 23, 2012



**SUBJECT:** Councillor's Bill No. 27 re Supplemental Appropriation for Hyland Village Subdivision Performance Bond Cash Settlement and 98<sup>th</sup> Avenue Design and Construction Services Contract

**Prepared By:** Dave Downing, City Engineer

**Recommended City Council Action**

1. Pass Councillor's Bill No. 27 on first reading to accomplish the supplemental appropriation of the \$1,957,000 cash settlement from the bonding company for McStain Enterprises, Inc. pertaining to uncompleted public and private improvements at Hyland Village Subdivision.; and
2. Make a finding that the public interest will best be served by authorizing the City Manager to enter into a sole source contract with NV5, Inc. in the amount of \$73,277 for engineering services for 98<sup>th</sup> Avenue between Ames Street and Westminster Boulevard contingent upon the passage of Councillor's Bill No. 27 on second reading.

**Summary Statement**

- In 2007, the City and McStain Enterprises, Inc. executed four separate Public and Private Improvements Agreements establishing the developer's obligation to the City to install certain infrastructure and enhancements necessary for the development of Hyland Village Subdivision, located on the west side of Sheridan Boulevard between approximately 94<sup>th</sup> Avenue and 98<sup>th</sup> Avenue. The construction of those improvements was guaranteed by various performance bonds issued by Bond Safeguard Insurance Company (Bond Safeguard).
- In 2009, McStain filed for bankruptcy, and City staff began negotiating with Bond Safeguard for the resolution of outstanding improvements. Those negotiations concluded earlier this summer with the bonding company's issuance of a \$1.957 million cash settlement to the City.
- City Council action is requested to appropriate the \$1.957 million cash settlement into a newly created Capital Improvement Project that will allow staff to begin to contract for the installation of certain uncompleted improvements at Hyland Village.
- Further Council action is requested to authorize the City Manager to execute a contract in the amount of \$73,277 with NV5, Inc., the engineering company that previously prepared public improvement construction plans for McStain, for the completion of the design and the provision of construction engineering services for 98<sup>th</sup> Avenue adjacent to the subdivision.

**Expenditure Required:** \$73,277

**Source of Funds:** General Capital Improvement Fund  
- Hyland Village Public/Private Improvements Project

**Policy Issue**

Should the City contract with NV5, Inc. for design and construction services associated with the completion of 98<sup>th</sup> Avenue adjacent to the Hyland Village Subdivision?

**Alternatives**

1. The City Council could choose to forego the construction of 98<sup>th</sup> Avenue between Ames Street and Westminster Boulevard at this time. This alternative is not recommended due to the potential benefit that a roadway connection between Sheridan Boulevard and Westminster Boulevard could provide to motorists during the construction of the US 36 Managed Lanes Project over the next 2-1/2 years.
2. Council could elect to direct City staff to conduct a competitive consultant selection process rather than hire NV5, Inc. on a “sole source” basis. NV5, Inc. is the engineering firm that was previously retained by McStain to prepare all public improvement construction plans needed for the Hyland Village project, including the plans for the construction of 98<sup>th</sup> Avenue, and, thus, this company still holds certain ownership rights of those drawings. Despite that significant advantage that this company would have over any other engineering firm that might compete for this contract from the City, NV5 has issued a very competitive price proposal to staff to do the requested work. City staff recommends that Council waive the City’s normal bidding requirements in this case and directs staff to contract with NV5 to proceed with preparations for the construction of 98<sup>th</sup> Avenue.

**Background Information**

Over the past two years, City staff has participated in prolonged negotiations with Bond Safeguard Insurance Company for the settlement of the Performance Bonds that this company issued on behalf of McStain Enterprises, Inc. to ensure the installation of certain public and private improvements at Hyland Village Subdivision. When McStain filed for bankruptcy in 2009, much of the infrastructure and enhancements required of the developer had not yet been provided. These negotiations were successfully concluded earlier this summer with the payment of a \$1,957,000 cash settlement from the bonding company to the City.

While City Council and staff have not yet discussed the manner in which all of the settlement funds might be spent, it is staff’s recommendation that a portion of the money be used to complete the construction of 98<sup>th</sup> Avenue between approximately Ames Street and Westminster Boulevard. This street forms the northern boundary of Hyland Village, and its construction was one of the many bonded obligations of the developer. Staff would like to move quickly to construct 98<sup>th</sup> Avenue because it is anticipated that it would serve as a convenient alternative route between Sheridan Boulevard and Westminster Boulevard during the upcoming US 36 Managed Lanes Project construction.

Before the construction of 98<sup>th</sup> Avenue can commence, the design plans that were previously prepared by McStain’s engineering consultant, NV5, Inc., must be slightly modified and consolidated into a bid package. Since NV5 has retained certain ownership rights of these drawings, staff approached that firm to solicit a proposal to complete the design and bid packaging. The 98<sup>th</sup> Avenue construction represents a new, unanticipated and significant Capital Improvement Project, so staff also asked NV5 to propose on the provision of full construction engineering services including construction observation and the processing of monthly pay draws and change orders. NV5’s fee proposal of \$73,277 for all of these services is very competitive, and it is very doubtful that any other firm could match this price since all other engineering consultants would have to start from scratch on the design of the roadway. For these reasons, staff recommends that City Council waives the usual bidding requirements and directs the City Manager to execute a contract with NV5 so that the work on this roadway can commence quickly.

It is anticipated that the consultant will commence with the design work immediately upon the passage of the attached Councillor’s Bill on second reading on August 13, 2012. The construction project should be ready to be bid by early fall of this year, and it is expected that the installation of 98<sup>th</sup> Avenue will be completed within about ten weeks.

City Council approval of the attached Councillor’s Bill is necessary to appropriate the proceeds of the negotiated settlement with Bond Safeguard Insurance Company pertaining to the Performance Bonds that this company issued for uncompleted public and private improvement obligations of McStain Enterprises, Inc. at Hyland Village Subdivision. This appropriation will amend the General Capital Improvement Fund revenue and expense accounts as follows:

Description	Account Number	Current Budget	Amendment	Revised Budget
Cash in lieu-Fut Cap Proj	7500.40210.0751	\$70,076	<u>\$1,957,000</u>	\$2,027,076
Total Change to Revenues			<u>\$1,957,000</u>	

Description	Account Number	Current Budget	Amendment	Revised Budget
Hyland Village Pub/Private Imp	81275030992.80400.8888	\$0	<u>\$1,957,000</u>	\$1,957,000
Total Change to Expenses			<u>\$1,957,000</u>	

These proposed actions fulfill the City Council’s goals of “Financially Sustainable City Government Providing Exceptional Services” and “Vibrant Neighborhoods and Livable Communities” through the provision of necessary public and private improvements at one of the City’s residential neighborhoods with the use of a private funding source.

Respectfully submitted,

J. Brent McFall  
City Manager

Attachment – Ordinance

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **27**

SERIES OF 2012

INTRODUCED BY COUNCILLORS

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**A BILL**

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

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The 2012 appropriation of the General Capital Improvement Fund initially appropriated by Ordinance No. 3550 is hereby increased by \$1,957,000. This appropriation is due to the receipt of funds from Bond Safeguard Insurance Company

Section 2. The \$1,957,000 increase in the General Capital improvement fund shall be allocated to City revenue and expense accounts as described in the City Council Agenda Item No. 10 G dated July 23, 2012 (a copy of which may be obtained from the City Clerk) amending City fund budgets as follows:

General Capital Improvement Fund	<u>\$1,957,000</u>
Total	<u>\$1,957,000</u>

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

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

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

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 23<sup>rd</sup> day of July, 2012.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 13<sup>th</sup> day of August, 2012.

ATTEST:

\_\_\_\_\_  
Mayor

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



# **AGENDA**

## **WESTMINSTER ECONOMIC DEVELOPMENT AUTHORITY SPECIAL MEETING**

**MONDAY, July 23, 2012**

**AT 7:00 P.M.**

- 1. Roll Call**
- 2. Minutes of Previous Meeting** (June 11, 2012)
- 3. Purpose of Special WEDA Meeting is to**
  - A. Adopt Resolution No. 142 re Approval of WEDA Tax Increment Revenue Refunding Bonds for Mandalay Gardens Urban Renewal Project, Series 2012 Bond Issue
  - B. Adopt Resolution No. 143 re Title Clearing Condemnation of Easements and Similar Interests in the Former Westminster Mall Property
- 4. Adjournment**

CITY OF WESTMINSTER, COLORADO  
MINUTES OF THE WESTMINSTER ECONOMIC DEVELOPMENT AUTHORITY  
MONDAY, JUNE 11, 2012, AT 8:16 P.M.

ROLL CALL

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

APPROVAL OF MINUTES

Board Member Briggs moved, seconded by Board Member Major, to approve the minutes of the meeting of April 23, 2012, as written. The motion carried unanimously.

SPECIAL COUNSEL AGREEMENTS FOR MANDALAY GARDENS BOND ISSUE REFINANCE

It was moved by Board Member Kaiser and seconded by Board Member Atchison to authorize the Executive Director to execute special counsel agreements in a form acceptable to the City Attorney for bond counsel and disclosure counsel services for the proposed refinancing of the 2009 Mandalay Gardens Tax Increment Bond issue as follows: (1) with Sherman and Howard for bond counsel services in the amount of \$35,000; and (2) with Kutak Rock for disclosure counsel services in the amount of \$28,500. The motion carried unanimously.

SPECIAL COUNSEL AGREEMENT FOR NORTH HURON URBAN RENEWAL REFINANCING

Board Member Kaiser moved, seconded by Board Member Atchison, to authorize the Executive Director to execute a special counsel agreement, in a form acceptable to the City Attorney, with Sherman and Howard in the amount of \$30,000 for bond counsel services for the proposed refinancing of the Compass Mortgage Loan for the North Huron Urban Renewal Project. The motion carried unanimously.

RESOLUTION NO. 141 APPROVING NEW INTEREST RATE – VECTRA BANK LOAN

Upon a motion by Board Member Atchison, seconded by Board Member Major, the Authority voted unanimously on roll call vote to adopt Resolution No. 141 approving a new interest rate under terms of the First Amendment of the Loan Agreement with Vectra Bank for the South Sheridan Urban Renewal Area and to authorize the officers of the Westminster Economic Development Authority to take all actions necessary to execute documents to effectuate this interest rate.

ADJOURNMENT

There was no further business for the Authority's consideration, and it was moved by Atchison, seconded by Major, to adjourn. The motion passed and the meeting adjourned at 8:20 p.m.

ATTEST:

\_\_\_\_\_  
Chairperson

\_\_\_\_\_  
Secretary

# WEDA Agenda Item 3 A

## Agenda Memorandum

Westminster Economic Development Authority Meeting  
July 23, 2012



**SUBJECT:** Resolution No. 142 re Approval for up to \$30.500 million in Westminster Economic Development Authority Tax Increment Revenue Refunding Bonds, (Mandalay Gardens Urban Renewal Project), Series 2012 Bond Issue

**Prepared By:** Tammy Hitchens, Finance Director  
Robert Smith, Treasury Manager  
Robert Byerhof, Senior Financial Analyst

### Recommended Board Action

Adopt Resolution No. 142 approving the issuance of up to \$30.500 million in Westminster Economic Development Authority Tax Increment Revenue Refunding Bonds, (Mandalay Gardens Urban Renewal Project), Series 2012 as well as approving bond documents including but not limited to the Bond Indenture of Trust, Bond Purchase Agreement, Reimbursement Agreement; Cooperation Agreement with the City; and Final Official Statement.

### Summary Statement

- By approving the attached resolution, WEDA approves the bond refunding and the following contract documents necessary to complete the transaction:
  - a) Bond Indenture of Trust dated August 15, 2012 between the Authority and the Trustee Bank, US Bank National Association.
  - b) Bond Purchase Agreement dated July 24, 2012 between the Authority and the Original Purchasers of the Bonds, Stifel Nicolaus & Company, Inc. and Piper Jaffray, Inc.
  - c) Reimbursement Agreement dated July 23, 2012 between the Authority and the City.
  - d) Cooperation Agreement dated July 23, 2012 between the Authority and the City.
  - e) Final Official Statement dated August 15, 2012 for distribution to the purchasers of the bonds.

Copies of all of these agreements are on file with the City Clerk's Office.

- In 2006, the Mandalay Gardens URA (URA) issued \$38,455,000 in tax-exempt tax increment revenue bonds with an underlying Letter of Credit (LOC) agreement with DEPFA Bank. The bonds converted to Bank Bonds in the fall of 2008 due to a credit downgrade of the Bank, which subsequently led investors to tender bonds back to the Bank. The WEDA Board and the Council were apprised of this situation that impacted all of Westminster Economic Development Authority's (WEDA) bonds.
- In 2009, WEDA issued \$35,830,000 in tax-exempt adjustable rate tax increment revenue refunding bonds with an underlying Letter of Credit (LOC) issued by US Bank. The LOC agreement expires on September 15, 2012, which necessitated the need to analyze various refinancing options.
- After thorough analysis of several refinancing options, Staff along with its financing team recommend that the existing 2009 Series revenue bonds be refunded by issuing fixed rate bonds.

**Expenditure Required:** Up to \$30.500 million

**Source of Funds:** WEDA Tax Increment Revenue Bonds

**Policy Issue**

Should WEDA refund the Mandalay Gardens URA 2009 Tax Increment Revenue Bonds?

**Alternatives**

Decline or delay approval of the resolution concerning refunding of the 2006 WEDA bonds - This is not recommended. On September 15, 2012 the current LOC expires and the current bonds become due. Of the solutions investigated, the proposed action provides a financially prudent long-term fixed rate solution without extending the term of the original bonds issued in 2003. In addition, the refunding continues to provide for a floating sales tax pledge under the terms of the Indenture, which permits excess sales tax revenues not needed for WEDA debt service to be available for the General Fund.

**Background Information**

In 2003, the Mandalay Gardens URA issued \$38,525,000 of taxable tax increment revenue bonds with an underlying LOC agreement with HSF Nordbank to guarantee debt service payment to bond holders. In 2006, the bonds were refunded into tax-exempt bonds and the LOC bank was changed to DEPFA Bank. In the fall of 2008 DEPFA Bank's credit ratings were downgraded, which resulted in investors tendering bonds back to the bank and subsequently resulted in these bonds being converted into Bank Bonds. The terms of the Bank Bonds eliminated the ability to release excess sales tax increment revenue due to an accelerated repayment of the principal, equal quarterly payments over a ten year period per the agreement. On January 12, 2009 a Staff Report was presented to the WEDA Board and the Council regarding the Bank Bond issue.

The recommendation to refund the 2006 Series WEDA Bonds in 2009 and obtain a new direct pay LOC with US Bank was deemed beneficial to both WEDA and the City. The refunding resulted in WEDA benefitting with a financing solution eliminating the Bank Bonds and entering into a variable rate bond issue similar to the terms of the original bonds but with the added benefit of creating a floating sales tax pledge that allows for the release of excess sales tax increment revenues above that needed for debt. Prior to this, any excess sales tax revenues were kept within the URA and used solely for costs incurred with the URA.

The original Series 2003, 2006, and 2009 bonds were issued in a variable rate mode for several reasons. One primary reason was the ability to obtain low interest rates on the short-end of the interest rate curve versus borrowing at the then current long-term rate. The bonds were issued in a weekly reset mode, which has served WEDA very well in comparison to the estimated fixed rates at the time of issuance. Since the 2009 bonds were issued, WEDA has saved over \$2.5 million in interest rate expenses. Since the original 2003 bonds were issued, the total estimated savings above the assumed fixed rate, inclusive of all variable rate fees for the letter of credit and the weekly remarketing of the bonds, and even including the higher interest rate paid on the Bank Bonds, is over \$3.75 million.

Since the LOC agreement with US Bank expires on September 15, 2012, Staff investigated several refinancing options including extending the existing LOC agreement, entering into a LOC agreement with a new provider, converting the bonds to a fixed rate under the existing indenture, and completing a refunding with a new bond issue. This analysis was done against a backdrop of bank regulatory changes in the US and abroad that might adversely impact banks willingness to issue letters of credit and, if they would, at what price. Further current conditions in the credit markets were considered. While WEDA currently benefits from borrowing at historically low short-term rates of about 0.25% staff believes that rates will eventually increase. Since 1995 the average adjustable rate has been about 2.33% and the range has been between a low of 0.06% (January 1, 2012) and a high of 7.93% (September 24, 2009).

Meanwhile current long-term borrowing rates for municipal debt are at historically low levels of about 3.75% for 20-year debt. After careful analysis of all of the relevant factors Staff recommends that the Board approve the attached Resolution by which the Authority will issue new bonds to refund the existing variable rate bonds into fixed rate bonds maturing in 2028, the end of the 25 year TIF period.

Despite the overall financial success of the variable interest rate bonds, WEDA has an opportunity to not only retain the interest cost savings already earned but secure a historically low interest rate with a projected blended rate to be approximately 3.75%. In doing so, the refunding will provide WEDA with known debt expenses until the final maturity in December 2028. Staff and the finance team believe that given the level of outstanding debt in the URA, there is potentially greater risk to continue the variable rate bond solution versus securing a fixed rate solution. While current short-term rates are at a historic low point, there is high probability that interest rates will only increase over time through final maturity in 2028. In addition, as experienced in 2008, there is a risk that the LOC market will collapse due to systematic issues unrelated to WEDA's credit, resulting in higher costs to secure letters of credit. If Banks are unable or unwilling to issue such credit enhancements, the variable rate bonds once again become Bank Bonds forcing WEDA into a temporary solution that is financially undesirable.

This recommended action supports the strategic objectives of a Financially Sustainable City Government Providing Exceptional Services, a Strong, Balanced Local Economy and Vibrant Neighborhoods in one livable community. It does so by controlling the financing costs for debt issued by WEDA and providing more certainty for the sales tax revenues generated in the Urban Renewal Area that the City will be able to retain.

Staff and Underwriters will be available at the WEDA meeting on July 23, 2012 to answer WEDA Commissioners' questions.

Respectfully submitted,

J. Brent McFall  
Executive Director

Attachments

- Bond Resolution
- 2012 Cooperation Agreement

WESTMINSTER ECONOMIC DEVELOPMENT AUTHORITY

RESOLUTION NO. **142**

INTRODUCED BY BOARD MEMBERS

SERIES OF 2012

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**RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE WESTMINSTER ECONOMIC DEVELOPMENT AUTHORITY AUTHORIZING, APPROVING AND DIRECTING THE ISSUANCE, SALE AND DELIVERY BY THE AUTHORITY OF TAX INCREMENT REVENUE REFUNDING BONDS (MANDALAY GARDENS URBAN RENEWAL PROJECT) SERIES 2012, IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF NOT TO EXCEED \$30,500,00 FOR THE PURPOSE OF REFUNDING OUTSTANDING BONDS.**

WHEREAS, the Westminster Economic Development Authority (the "Authority") is a public body corporate and politic, and has been duly created, organized, established and authorized by the City of Westminster, Colorado (the "City") to transact business and exercise its powers as an urban renewal authority, all under and pursuant to the Colorado Urban Renewal Law, constituting part 1 of article 25 of title 31, Colorado Revised Statutes, as amended (the "Act"); and

WHEREAS, pursuant to Section 31-25-105 of the Act, the Authority has the power to borrow money and to apply for and accept advances, loans, grants and contributions from any source for any of the purposes of the Act and to give such security as may be required; and

WHEREAS, pursuant to Section 31-25-109 of the Act, the Authority has the power to issue refunding or other bonds (defined by the Act to mean any bonds, notes, interim certificates or receipts, temporary bonds, certificates of indebtedness, debentures or other obligations) from time to time in its discretion for the payment, retirement, renewal or extension of any bonds previously issued by it under the Act; and

WHEREAS, the Authority is authorized to issue bonds without an election; and

WHEREAS, an urban renewal plan, known as the "Mandalay Gardens Urban Renewal Plan" (the "Urban Renewal Plan"), was duly and regularly approved by the City Council of the City for an urban renewal project under the Act (the "Project"); and

WHEREAS, all applicable requirements of the Act and other provisions of law for and precedent to the adoption and approval by the City of the Urban Renewal Plan have been duly complied with; and

WHEREAS, the Authority has previously issued its Tax Increment Adjustable Rate Revenue Refunding Bonds (Mandalay Gardens Urban Renewal Project) Series 2009 (the "Series 2009 Bonds") for the purpose of refinancing bonds which financed the acquisition, construction and equipping of the Project; and

WHEREAS, the Authority has determined that it is in the best interests of the Authority and the citizens and taxpayers of the City that, for the purpose of refunding the Series 2009 Bonds and paying a the costs of the issuing such bonds, the Authority issue its Tax Increment Revenue Refunding Bonds (Mandalay Gardens Urban Renewal Project) Series 2012 (the "Series 2012 Bonds") in the aggregate principal amount of not to exceed \$[par] (the "Refunding Project"); and

WHEREAS, the Series 2012 Bonds will be issued under and pursuant to the Indenture of Trust (the "Indenture") between the Authority and U.S. Bank National Association, Denver, Colorado, as trustee (the "Trustee"); and

WHEREAS, the Series 2012 Bonds shall be sold and delivered by the Authority to Stifel, Nicolaus & Company, Incorporated and Piper Jaffray Inc. (the “Original Purchasers”), in order to provide funds to refund the Series 2009 Bonds, to fund certain funds and accounts in connection therewith and to pay certain incidental costs incurred in connection with the issuance of the Series 2012 Bonds; and

WHEREAS, there are on file with the Secretary of the Board of Commissioners of the Authority (the “Board”): (a) the proposed form of the Indenture; (b) the proposed form of the Bond Purchase Agreement (the “Bond Purchase Agreement”) between the Authority and the Original Purchasers; (c) the proposed form of the 2012 Cooperation Agreement between the Authority and the City (the “Cooperation Agreement”); (d) the proposed form of the Preliminary Official Statement (the “Preliminary Official Statement”) prepared for distribution to the Purchasers of the Series 2012 Bonds; and (e) the proposed form of a Continuing Disclosure Certificate (the “Continuing Disclosure Certificate”).

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE WESTMINSTER ECONOMIC DEVELOPMENT AUTHORITY, COLORADO, THAT:

Section 1. All actions (not inconsistent with the provisions of this resolution) heretofore taken by the Board and the officers of the Authority directed toward the Urban Renewal Project, the refunding of the Series 2009 Bonds and the issuance and sale of the Series 2012 Bonds hereby are ratified, approved and confirmed.

Section 2. To provide funds to finance the costs of the Refunding Project, to fund certain funds and accounts in connection therewith and to pay certain incidental costs incurred in connection with the issuance of the Series 2012 Bonds, there are hereby authorized and created an issue of revenue bonds of the Authority designated as its “Tax Increment Revenue Refunding Bonds (Mandalay Gardens Urban Renewal Project) Series 2012” in the aggregate original principal amount of not to exceed \$30,500,000, in accordance with the provisions of the Indenture. The Series 2012 Bonds shall be dated, shall bear interest and shall mature as provided in the Indenture. the Authority specifically elects to apply the provisions of Title 11, Article 57, Part 2, C.R.S. (the “Supplemental Act”) to the Series 2012 Bonds. The Series 2012 Bonds shall be sold by the Authority to the Original Purchasers in a negotiated private sale at the purchase price set forth in the Bond Purchase Agreement.

Section 3. The forms, terms and provisions of the Indenture, the Bond Purchase Agreement, the Continuing Disclosure Certificate, and the Cooperation Agreement (collectively, the “Documents”) hereby are authorized and approved, and the Authority shall enter into the Documents in the respective forms as are on file with the Secretary of the Board, but with such changes therein as shall be consistent with this Resolution and as the Chairperson of the Board or the Executive Director of the Authority shall approve, the execution thereof being deemed conclusive approval of any such changes. The Chairperson of the Board, the Vice Chairperson of the Board or the Executive Director are hereby authorized and directed to execute and deliver the Documents, for and on behalf of the Authority. The Secretary of the Board is hereby authorized and directed to affix the seal of the Authority to, and to attest those Documents requiring the attestation of the Secretary.

Section 4. A final Official Statement, in substantially the form of the Preliminary Official Statement on file with the Secretary, is in all respects approved and authorized. The Chairperson of the Board is hereby authorized and directed, for and on behalf of the Authority, to execute and deliver the final Official Statement in substantially the form and with substantially the same content as the Preliminary Official Statement on file with the Secretary, with such changes as may be approved by the Executive Director. The distribution of the Preliminary Official Statement and the final Official Statement to all interested persons in connection with the sale of the Series 2012 Bonds is hereby ratified, approved and authorized.

Section 5. The form, terms and provisions of the Series 2012 Bonds, in the form contained in the Indenture, hereby are approved, with such changes therein as are approved by the Chairperson of the Board; and the manual or facsimile signature of the Chairperson of the Board is hereby authorized and directed to be placed on the Series 2012 Bonds, the seal of the Authority, or a facsimile thereof, is hereby authorized and directed to be affixed to the Series 2012 Bonds, and the Secretary of the Board is hereby authorized and directed to attest the Series 2012 Bonds, in accordance with the Indenture.

Section 6. The officers of the Authority shall take all action which they deem necessary or reasonably required in conformity with the Act to issue the Series 2012 Bonds, including the paying of incidental issuance expenses, which are hereby authorized to be paid, and the Authority Representative (as defined in the Indenture) is authorized and directed to execute all requisitions to pay issuance expenses, and for carrying out, giving effect to and consummating the transactions contemplated by this Resolution, the Documents and the Official Statement, including, without limitation, the execution and delivery of any necessary or appropriate closing documents to be delivered in connection with the issuance, sale and delivery of the Series 2012 Bonds.

Section 7. Pursuant to Section 11-57-205, C.R.S., the Board hereby delegates to the Chairperson of the Board or the Executive Director of the Authority the authority to accept and sign the Bond Purchase Agreement and the Sale Certificate, and the authority to make determinations in relation to the Series 2012 Bonds, subject to the following parameters and restrictions:

(a) the aggregate principal amount of the Series 2012 Bonds shall not exceed \$30,500,000;

(b) the Series 2012 Bonds shall mature no later than December 1, 2028,

(c) the purchase price of the Series 2012 Bonds shall not be less than 99% of the original principal amount on the Series 2012 Bonds;

(d) the Series 2012 Bonds shall be subject to optional redemption no later than December 1, 2022; and

(e) the net effective interest rate of the Series 2012 Bonds shall not exceed 4.25%.

Section 8. The Series 2012 Bonds, together with interest payable thereon, are special obligations of the Authority payable solely as provided in the Indenture. The principal of, premium, if any, and interest on the Series 2012 Bonds shall not constitute an indebtedness of the City or the State of Colorado or any political subdivision thereof, and neither the City, the State of Colorado nor any political subdivision thereof shall be liable thereon, nor in any event shall the principal of, premium, if any, and interest on the Series 2012 Bonds be payable out of funds or properties other than the Trust Estate, as such term is defined in the Indenture. Neither the Commissioners of the Authority nor any persons executing the Series 2012 Bonds shall be liable personally on the Series 2012 Bonds.

Section 9. After the Series 2012 Bonds are issued, this Resolution shall be and remain irrevocable, and may not be amended except in accordance with the Indenture, until the Series 2012 Bonds and the interest thereon shall have been fully paid, canceled and discharged in accordance with the Indenture.

Section 10. If any section, paragraph, clause or provision of this Resolution shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Resolution.



Section 11. All bylaws, orders and resolutions, or parts thereof, inconsistent herewith are hereby repealed to the extent only of such inconsistency. This repealer shall not be construed as reviving any bylaw, order or resolution or part thereof.

Section 12. This Resolution shall be in full force and effect immediately upon its passage and approval.

PASSED, ADOPTED AND APPROVED this July 23, 2012.

WESTMINSTER ECONOMIC DEVELOPMENT AUTHORITY

(SEAL)

\_\_\_\_\_  
Chairperson

ATTEST:

\_\_\_\_\_  
Secretary

APPROVED AS TO LEGAL FORM:

\_\_\_\_\_  
Attorney for the Westminster Economic Development Authority

STATE OF COLORADO )  
 ) SS.  
 WESTMINSTER ECONOMIC )  
 DEVELOPMENT AUTHORITY )

I, Linda Yeager, Secretary of the Westminster Economic Development Authority (the “Authority”), do hereby certify that:

1. The foregoing pages are a true and correct copy of a resolution (the “Resolution”) passed and adopted by the Board of Commissioners of the Authority (the “Board”) at a regular meeting held on July 23, 2012.

2. The Resolution was duly moved and seconded and the Resolution was adopted at the meeting of July 23, 2012, by an affirmative vote of a majority of the members of the Board as follows:

Name	“Yes”	“No”	Absent	Abstain
Nancy McNally				
Faith Winter				
Herb Atchison				
Bob Briggs				
Mark L. Kaiser				
Mary Lindsey				
Scott Major				

3. The members of the Board were present at such meetings and voted on the passage of such Resolution as set forth above.

4. The Resolution was approved and authenticated by the signature of the Chairperson of the Board, sealed with the Authority seal, attested by the Secretary of the Board and recorded in the minutes of the Board.

5. There are no bylaws, rules or regulations of the Board which might prohibit the adoption of said Resolution.

6. Notice of the meeting of July 23, 2012, in the form attached hereto as Exhibit A was posted in at the Westminster City Hall, 4800 W. 92nd Street, in the City of Westminster, not less than twenty-four hours prior to the meeting in accordance with law.

WITNESS my hand and the seal of said Authority affixed this July 23, 2012.

(SEAL)

\_\_\_\_\_  
 Secretary

EXHIBIT A

(Form of Notice of Meeting)

## 2012 COOPERATION AGREEMENT

### BETWEEN THE CITY OF WESTMINSTER AND THE WESTMINSTER ECONOMIC DEVELOPMENT AUTHORITY

THIS 2012 COOPERATION AGREEMENT (this "Agreement"), dated as of August 15, 2012, is made and entered into between the CITY OF WESTMINSTER, COLORADO (the "City") and the WESTMINSTER ECONOMIC DEVELOPMENT AUTHORITY (the "Authority").

WHEREAS, the City is a Colorado home rule municipality with all the powers and authority granted pursuant to Article XX of the Colorado Constitution and its City Charter; and

WHEREAS, the Authority is a Colorado Urban Renewal Authority, with all the powers and authority granted to it pursuant to Title 31, Article 25, Part 1, Colorado Revised Statutes ("C.R.S.") (the "Urban Renewal Law"); and

WHEREAS, pursuant to Article XIV of the Colorado Constitution, and Title 29, Article 1, Part 2, C.R.S., the City and the Authority are authorized to cooperate and contract with one another to provide any function, service or facility lawfully authorized to each governmental entity; and

WHEREAS, the City has heretofore approved the Westminster Economic Development Authority Mandalay Gardens Urban Renewal Plan, as amended on August 24, 2009 (as amended, the "Plan") and the urban renewal project described therein (the "Project"); and

WHEREAS, the Project has been undertaken for the public purpose of enhancing employment opportunities, eliminating existing conditions of blight, and improving the tax base of the City; and

WHEREAS, pursuant to section 31-25-112, C.R.S., the City is specifically authorized to do all things necessary to aid and cooperate with the Authority in connection with the planning or undertaking of any urban renewal plans, projects, programs, works, operations, or activities of the Authority, to enter into agreements with the Authority respecting such actions to be taken by the City, and appropriating funds and making such expenditures of its funds to aid and cooperate with the Authority in undertaking the Project and carrying out the Plan; and

WHEREAS, the Authority has previously issued its Tax Increment Adjustable Rate Revenue Refunding Bonds (Mandalay Gardens Urban Renewal Project) Series 2009 (the "2009 Bonds"); and

WHEREAS, in connection with the 2009 Bonds, City and the Authority have previously entered into a cooperation agreement dated as of September 15, 2009 (the "2009 Agreement"), which agreement was amended by the First Amendment to 2009 Cooperation Agreement dated as of March 28, 2011 (the "2009 Cooperation Agreements"); and

WHEREAS, the Authority has determined that it is in the best interest of the Authority, the City and its residents to refund the 2009 Bonds with the issuance of its Tax Increment Revenue Refunding Bonds, Series 2012; and

WHEREAS, the City Council of the City (the "Council") has adopted its Resolution \_\_\_\_\_ declaring its nonbinding intent and expectation that it will appropriate any funds requested, within the limits of available funds and revenues, in a sufficient amount to replenish the Reserve Fund to the Bond Reserve Requirement (the "Replenishment Resolution") as defined in the Indenture of Trust dated as of August 15, 2012 (the "Indenture"), between the Authority and U.S. Bank National Association, as trustee (the "Trustee");

NOW, THEREFORE, in consideration of the mutual promises set forth below, the City and the Authority agree as follows:

1. **LOAN.** (a) If the Council appropriates funds pursuant to the Replenishment Resolution, such funds shall be a loan from the City to the Authority to be repaid as provided herein.

(b) The Authority acknowledges that the City Manager, City staff and the City Attorney have provided and will continue to provide substantial administrative and legal services to the Authority in connection with the Plan and the Project. The Authority shall pay to the City, upon the request of and at the discretion of the City, the City's actual costs for services rendered to the Authority in connection with the Plan and the Project. The City shall provide written evidence of such costs to the Authority from time to time. To the extent that this annual debt is incurred, this obligation is hereby designated a loan from the City to the Authority to be repaid as provided herein.

(c) Any other amounts advanced or loaned to the Authority by the City or payments made or debts incurred by the City on behalf of the Authority relating to the Plan or the Project may be designated a loan from the City to the Authority to be repaid as provided herein.

2. **PAYMENT.** (a) When Pledged Revenues (as defined in the Indenture) are available pursuant to the Section 3.03(b)(vi) of the Indenture, the Authority shall repay the City for all amounts due hereunder to the extent that such moneys are available.

(b) The Authority agrees to pay the City interest in the amount of 5% on the principal balance of any amounts designated as a loan hereunder.

3. **FURTHER COOPERATION.** (a) The City shall continue to make available such employees of the City as may be necessary and appropriate to assist the

Authority in carrying out any authorized duty or activity of the Authority pursuant to the Urban Renewal Law, the Plan, or any other lawfully authorized duty or activity of the Authority.

(b) The City agrees to assist the Authority and the Trustee by pursuing all lawful procedures and remedies available to it to collect and transfer to the Authority on a timely basis all Pledged Revenues for deposit into the Revenue Fund. To the extent lawfully possible, the City will take no action that would have the effect of reducing tax collections that constitute Pledged Revenues for the Project.

4. **SUBORDINATION.** The Authority's obligations pursuant to this Agreement are subordinate to the Authority's obligations for the repayment of any current or future bonded indebtedness. For purposes of this Agreement, the term "bonded indebtedness," "bonds," and similar terms describing the possible forms of indebtedness include all forms of indebtedness that may be incurred by the Authority, including, but not limited to, general obligation bonds, revenue bonds, revenue anticipation notes, tax increment notes, tax increment bonds, and all other forms of contractual indebtedness of whatsoever nature that is in any way secured or collateralized by revenues of the Authority.

5. **ALLOCATION OF SALES TAX REVENUE.** The City currently imposes a municipal sales tax at a rate of 3.85%, pertaining to, including without limitation, the sale, lease, rental, purchase or consumption of tangible personal property and taxable services. Pursuant to the terms of the Plan, the City and the Authority may provide for the method by which sales tax increments shall be allocated and paid to the Authority. The City and the Authority hereby agree that the revenues derived from the City sales tax at a rate as specified in the Sales Tax Rate Certificate, attached as Exhibit D to the Indenture, shall be allocated to the Authority. Pursuant to Section 31-25-107, C.R.S., the balance of the City's sales tax revenues shall be retained by the City.

6. **GENERAL PROVISIONS.** (a) **Dispute Resolution.** If a dispute arises between the parties relating to this Agreement, the parties agree to submit the dispute to mediation prior to filing litigation.

(b) **Separate Entities.** Nothing in this Agreement shall be interpreted in any manner as constituting the City or its officials, representatives, consultants, or employees as the agents of the Authority, nor as constituting the Authority or its officials, representatives, consultants, or employees as agents of the City. Each entity shall remain a separate legal entity pursuant to applicable law. Neither party shall be deemed hereby to have assumed the debts, obligations, or liabilities of the other.

(c) **Third Parties.** Neither the City nor the Authority shall be obligated or liable under the terms of this Agreement to any person or entity not a party hereto.

(d) **Modifications.** No modification or change of any provision in this Agreement shall be made, or construed to have been made, unless such modification is mutually agreed to in writing by both parties and incorporated as a written amendment to this

Agreement. Memoranda of understanding and correspondence shall not be construed as amendments to the Agreement.

(e) Entire Agreement. This Agreement shall represent the entire agreement between the parties with respect to the subject matter hereof and shall supersede all prior negotiations, representations, or agreements, either written or oral, between the parties relating to the subject matter of this Agreement and shall be independent of and have no effect upon any other contracts.

(f) Severability. If any provision of this Agreement is held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired.

(g) Assignment. Except for pledge under the Indenture, this Agreement shall not be assigned, in whole or in part, by either party without the written consent of the other.

(h) Waiver. No waiver of a breach of any provision of this Agreement by either party shall constitute a waiver of any other breach or of such provision. Failure of either party to enforce at any time, or from time to time, any provision of this Agreement shall not be construed as a waiver thereof. The remedies reserved in this Agreement shall be cumulative and additional to any other remedies in law or in equity.

(i) The Prior Cooperation Agreements. This Agreement supersedes and replaces any and all prior cooperation agreements. Any amounts owing to the City by the Authority pursuant to such prior cooperation agreements shall be payable under the terms and conditions described in this Agreement and shall be payable on a subordinate basis to the payment of the Bonds or Additional Bonds (as such terms are defined in the Indenture).

IN WITNESS HEREOF, the parties have caused this Agreement to be executed by their duly authorized officers on the date above.

WESTMINSTER ECONOMIC  
DEVELOPMENT AUTHORITY

CITY OF WESTMINSTER

BY \_\_\_\_\_  
Executive Director

BY \_\_\_\_\_  
City Manager

ATTEST:

ATTEST:

\_\_\_\_\_  
Secretary

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

APPROVED AS TO LEGAL FORM

APPROVED AS TO LEGAL FORM

BY Mark Gully  
Authority Attorney

BY Mark Gully  
City Attorney



# WEDA Agenda Item 3 B

## Agenda Memorandum

Westminster Economic Development Authority Meeting  
July 23, 2012



**SUBJECT:** Resolution No. 143 re Title Clearing Condemnation of Easements and Similar Interests in the Former Westminster Mall Property

**Prepared By:** Marty McCullough, City Attorney  
Susan Grafton, Economic Development Manager

### Recommended Board Action

Adopt Resolution No. 143 authorizing the Executive Director and Authority Counsel to initiate and file title clearing condemnation action for the Westminster Center Urban Reinvestment Project; to enter such stipulations and court orders as necessary to accomplish the purposes of the condemnation; and to incur reasonable costs associated with acquiring the subject property.

### Summary Statement

- WEDA has now acquired approximately 96% of the Westminster Center Urban Reinvestment Project (WURP) site.
- It is important to clear WEDA's title to the property of any old easements, agreements, and similar encumbrances against the property to facilitate the future development of the property.
- Condemnation of easements and other possible real estate interests is needed to clear such encumbrances from WEDA's title of the property.
- New easements will be created as part of the redevelopment process.

**Expenditure Required:** \$10,000 plus cost to acquire interests.

**Source of Funds:** WURP CIP Account

**Policy Issue**

Should WEDA proceed with condemnation of easements, and similar interests in the former Westminster Mall site?

**Alternative**

Convey property without title clearing. This alternative will inhibit the ability of the developer to market and develop the property and finance the project. Doing the condemnation now will expedite the development process.

**Background Information**

As conversations move forward with the developer, discussions will begin to focus on the transfer of ownerships of the WURP site. It will be critical to be able to convey property without encumbrances of old easements, real estate agreements and other such interests. WEDA's authorization will simplify the clearing of title by condemning out all such property interests that are known and potentially unknown. The proposed condemnation will exclude the current interests owned by JCPenneys, US Bank, Olive Garden, Brunswick and McMurtrey. These interests will be addressed at a future date as part of the redevelopment planning process.

The process for this "clean up condemnation" is generally as follows:

1. WEDA authorizes condemnation
2. File condemnation
3. Serve known parties with notice of condemnation (Excel Energy, Century Link, Allen Ditch Company)
4. Advise JCPenneys, US Bank, Olive Garden, Brunswick and McMurtrey of pleadings even though they are not affected.
5. Serve by publication all unknown parties.
6. Negotiate terms with Xcel, Century Link and Allen Ditch concerning relocation of utilities.
7. Obtain a Rule and Order from the court granting WEDA fee title to the property free and clear of all encumbrances.

Staff is continuing communication with the property interests on the site. It is expected that the process will take through the middle of December, 2012 to complete.

Respectfully submitted,

J. Brent McFall  
Executive Director

Attachment - Resolution

WESTMINSTER ECONOMIC DEVELOPMENT AUTHORITY

RESOLUTION NO. **143**

INTRODUCED BY BOARD MEMBERS

SERIES OF 2012

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**A RESOLUTION FOR  
ACQUISITION OF PROPERTY INTERESTS FOR THE  
WESTMINSTER CENTER URBAN REINVESTMENT PROJECT**

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

WHEREAS, WEDA has purchased the fee interest in the property identified on Exhibit A attached hereto (“Subject Property”); and

WHEREAS, certain easements and recorded and unrecorded interests remain which encumber the Subject Property; and

WHEREAS, it is necessary to acquire these remaining interests in order to gain unencumbered title to the Subject Property for conveyance of the Subject Property to a development entity; and

WHEREAS, rights of existing tenants and owners of adjacent parcels will be respected and will be exempted from the condemnation; and

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

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

1. The Authority Counsel is authorized to initiate a condemnation action, pursuant to C.R.S. § 31-25-105, to acquire such remaining interests as necessary to clear title to the Subject Property while respecting the rights of remaining tenants and adjacent landowners.
2. The Authority Counsel, at the direction of the Executive Director, is authorized to enter such stipulations and court orders as necessary to accomplish the purposes of the condemnation.
3. The Executive Director shall be further authorized to incur reasonable costs associated with acquiring the Subject Property, including, without limitation, the cost of title examination, title insurance, court costs and all other related or incidental costs or expenses customarily associated with the acquisition of property.

PASSED AND ADOPTED this 23rd day of July, 2012.

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Chairperson

ATTEST:

APPROVED AS TO LEGAL FORM:

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Secretary

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Attorney for Authority

# EXHIBIT A

## **WESTMINSTER URBAN REINVESTMENT PROJECT CLEANUP CONDEMNATION LEGAL DESCRIPTION**

Five parcels of land being a part of the South One-Half of Section 24, Township 2 South, Range 69 West of the Sixth Principal Meridian, City of Westminster, County of Jefferson, State of Colorado, more particularly described as follows:

### **Parcel No. 1 – (former Trail Dust Steak House Property)**

Lots 2 and 3, Block 1, Lake Arbor Commercial Office Park Filing No. 1 as recorded in Book No. 55 at Page 33 under Reception No. 78044537 in the records of the Clerk and Recorder of Jefferson County, Colorado.

### **Parcel No. 2 – (former Macy's Property)**

Lot 13, Block 1, Westminster Mall 2<sup>nd</sup> Amended Plat as recorded in Book 87 at Pages 31 through 40 under Reception No. 86016236 in the records of the Clerk and Recorder of Jefferson County, Colorado.

### **Parcel No. 3 – (former Mervyn's Property)**

Lot 8, Block 1, Westminster Mall 2<sup>nd</sup> Amended Plat as recorded in Book 87 at Pages 31 through 40 under Reception No. 86016236,

Except that portion conveyed to the City of Westminster by Deed recorded August 9, 2000 under Reception No. F1097396 all as recorded in the records of the Clerk and Recorder of Jefferson County, Colorado.

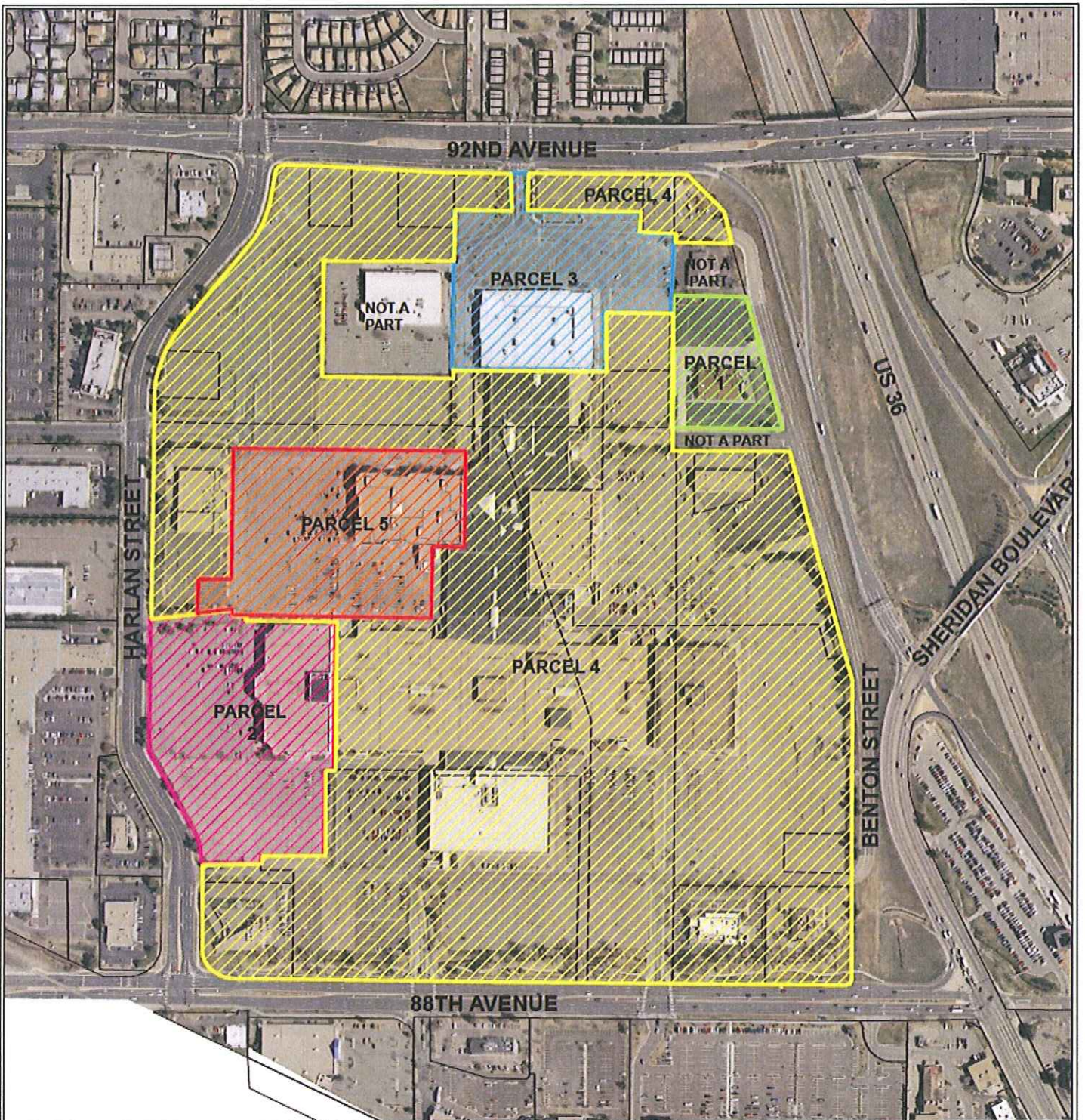
### **Parcel No. 4 – (former Westminster Mall Property)**

Lots 1 through 7, inclusive, 9, 10, 12 and 14 through 19, inclusive, Block 1, Westminster Mall 2<sup>nd</sup> Amended Plat as recorded in Book 87 at Pages 31 through 40 under Reception No. 86016236,

Except that portion conveyed to the City of Westminster by Deed recorded June 21, 1989 under Reception No. 89053018 and except that portion conveyed to the City of Westminster by Deed recorded March 6, 1999 under Reception No. F0832987 all as recorded in the records of the Clerk and Recorder of Jefferson County, Colorado.

### **Parcel No. 5 (former Sears Property)**

Lot 11, Block 1, Westminster Mall 2<sup>nd</sup> Amended Plat as recorded in Book 87 at Pages 31 through 40 under Reception No. 86016236 in the records of the Clerk and Recorder of Jefferson County, Colorado.



WESTMINSTER URBAN REINVESTMENT PROJECT  
 CLEANUP CONDEMNATION MAP

