



AUGUST 23, 2004  
7:00 P.M.

## CITY COUNCIL AGENDA

**NOTICE TO READERS:** City Council meeting packets are prepared several days prior to the meetings. Timely action and short discussion on agenda items is reflective of Council's prior review of each issue with time, thought and analysis given.

Members of the audience are invited to speak at the Council meeting. Citizen Communication (item 8) and Citizen Presentations (item 13) are reserved for comments on items not contained on the printed agenda.

1. Pledge of Allegiance
2. Roll Call
3. Consideration of Minutes of Preceding Meetings
4. Item Removed – Error on Agenda
5. Report of City Officials
  - A. City Manager's Report
6. City Council Comments
7. Presentations
  - A. Proclamation re Employee Appreciation Week
8. 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 citizen wishes to have an item discussed. Citizens then may request that the subject item be removed from the Consent Agenda for discussion separately.

9. Consent Agenda
  - A. July 2004 Financial Report
  - B. Award of Design Contract 75th -78th - Stuart Street Watermain Project
  - C. Peoplesoft EnterpriseOne Project Developer
  - D. Custodial Services Contract One-Year Extension
  - E. Hidden Lake Gateway Contract Award
  - F. CB 56 re Supplemental Budget Appropriation re Staffing for Landscape Regulations (Dixon-Dittman)
10. Appointments and Resignations
11. Public Hearings and Other New Business
  - A. Resolution No. 51 re Carry Forward Balance of 2004 Private Activity Bond Allocation
  - B. Councillor's Bill No. 58 re Allowing Tastings in Liquor Establishments
  - C. Councillor's Bill No. 59 re appropriating \$135,000 Community Reach Center remodel
  - D. Contract approval re remodel for Community Reach Center
  - E. Westin Hotel Refinancing Agreements
  - F. Transfer of Property to Forest City
12. Old Business and Passage of Ordinances on Second Reading
  - A. CB 57 re Proposed Water and Sewer Rates (Price-Dixon)
13. Citizen Presentations (longer than 5 minutes) and Miscellaneous Business
  - A. City Council
  - B. Executive Session
    1. Economic Development Matter
14. Adjournment

CITY OF WESTMINSTER, COLORADO  
MINUTES OF THE CITY COUNCIL MEETING  
HELD ON MONDAY, AUGUST 23, 2004 AT 7:00 P.M.

PLEDGE OF ALLEGIANCE

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

ROLL CALL

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

CONSIDERATION OF MINUTES

Councillor Dittman moved, seconded Dixon by to approve the minutes of the meeting of August 9, 2004 with no corrections or additions. The motion carried unanimously.

CITY MANAGER COMMENTS

Brent McFall, City Manager, commented on the week of September 6<sup>th</sup> being Employee Appreciation Week and the Employee breakfast scheduled for September 8 at City Park Recreation Center. There will be a Special City Council Meeting on August 30 at 7:00 p.m. There will not be a Study Session on September 6<sup>th</sup> due to the Labor Day holiday, and the Westminster Faire and Holy Cow Stampede is being held at City Park on Saturday, August 28<sup>th</sup>.

CITY COUNCIL COMMENTS

Councillor Dixon commented on the Request For Proposals that is being created to hire an independent source to validate the cleanup at Rocky Flats.

Councillor Price commented on the Westminster Historical Society Tea that will be held on September 11<sup>th</sup> at West View Recreation Center.

Mayor McNally commented on the Volunteer BBQ held on Wednesday, August 18, and the Public Safety Recognition dinner that will be held at the Doubletree Hotel on September 11<sup>th</sup>.

PROCLAMATION RE EMPLOYEE APPRECIATION WEEK

Mayor McNally proclaimed September 6-10, 2004 as City of Westminster Employee Appreciation Week in recognition of the contributions of City employees to the overall success of the City organization and the quality of life of Westminster citizens. Brian Poggenklass, Laura Rector, Judy Warhola, Debbie Mitchell, Kathleen Hix, Lili Cox, Eric Birk and Carol Gifford, all members of the Employee Recognition and Action Team were present to accept the proclamation.

CITIZEN COMMUNICATION

Vern Befort, 8160 Auburn Lane, addressed Council on the noise problems emanating during the late evening hours from the Masonic Lodge at 81<sup>st</sup> Avenue and Bradburn Boulevard.

CONSENT AGENDA

The following items were considered as part of the consent agenda: Financial Report for July 2004; Award of Design Contract 75<sup>th</sup>-78<sup>th</sup> – Stuart Street Watermain Project; Peoplesoft EnterpriseOne Project Developer; Custodial Services Contract One-Year Extension; Hidden Lake Gateway Contract Award; and CB No. 56 re Supplemental Budget Appropriation re Staffing to Implement the Revised Landscape Regulations.

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

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

RESOLUTION NO. 51 RE CARRY FORWARD BALANCE OF 2004 PRIVATE ACTIVITY BOND

Councillor Price moved, seconded by Dittman to adopt Resolution No. 51 approving the carry forward of the City of Westminster's 2004 Private Activity Bond (PAB) allocation in the amount of \$4,160,440 for the qualified purposes set forth in the resolution, and authorize the Mayor to execute the documents necessary to preserve this allocation. Upon roll call vote, the motion carried unanimously.

COUNCILLOR'S BILL NO. 58 RE ALLOWING TASTINGS IN LIQUOR ESTABLISHMENTS

Councillor Dittman moved, seconded by Hicks to pass Councillor's Bill No. 58 on first reading amending the City Code to allow tastings to be conducted within retail liquor stores and liquor licensed drugstores. Upon roll call vote, the motion carried unanimously.

COUNCILLOR'S BILL NO. 59 RE APPROPRIATING \$135,000 COMMUNITY REACH CENTER

Councillor Davia moved, seconded by Dittman to pass Councillor's Bill No. 59 on first reading to appropriate \$135,000 into the General Capital Improvement. Rick Doucet addressed Council. Upon roll call vote, the motion carried unanimously.

CONTRACT APPROVAL RE REMODEL FOR COMMUNITY REACH CENTER

Councillor Davia moved, seconded by Dittman to authorize the City Manager to execute a contract with Adams Mendel Allison Construction Inc. for \$209,498 for the remodel of the former 76<sup>th</sup> Avenue Library building for the Community Reach Center, including the previously budgeted contribution from the City of \$74,498 toward the recorded project. The motion carried unanimously.

WESTIN HOTEL REFINANCING AGREEMENTS

Councillor Hicks moved, seconded by Dittman to authorize the City Manager to enter into Agreements on terms of the Westin Hotel Refinancing with Inland Pacific Corporation (IPC) in substantially the same form as the attached agreements with such non-monetary modifications that may be approved by the City Manager and City Attorney. The motion carried unanimously.

TRANSFER OF PROPERTY TO FOREST CITY

Councillor Kauffman moved, seconded by Dixon to authorize the City Manager to convey to Westminster 144<sup>th</sup> Avenue LLC two, 1 acre, parcels of property for the purpose of creating a General Improvement District and a Metropolitan Special District for the financing of certain improvements related to the North I-25 retail project and to execute all necessary documents in connection therewith. The motion carried unanimously.

COUNCILLOR'S BILL NO. 57 RE PROPOSED WATER AND SEWER RATES

Councillor Dittman moved, seconded by Dixon to pass Councillor's Bill No. 57 on second reading implementing water and sewer rate adjustments. The motion carried with dissenting votes from Hicks and Kauffman.

EXECUTIVE SESSION

Mayor McNally stated there would be an executive session to discuss an economic development matter.

ADJOURNMENT:

The meeting was adjourned at 7:29 P.M.

ATTEST:

---

City Clerk

---

Mayor



**WESTMINSTER**  
**COLORADO**

**Agenda Memorandum**

City Council Meeting  
August 23, 2004

**SUBJECT:** Proclamation - Employee Appreciation Week

**Prepared By:** Kathleen Hix, Organizational Support Services Manager

**Recommended City Council Action**

Proclaim September 6 - 10, 2004 as City of Westminster Employee Appreciation Week in recognition of the contributions of City employees to the overall success of the City organization and the quality of life of Westminster citizens.

**Summary Statement**

- The City Council is being requested to proclaim September 6-10, 2004 as City Employee Appreciation Week.
- For many years, the City of Westminster and its citizens have benefited from the hard work and commitment of City employees.
- The purpose of the proposed proclamation is to recognize approximately 955 full and part-time individuals who comprise the City of Westminster's workforce.
- The proclamation will designate September 6-10, 2004 as City of Westminster Employee Appreciation Week.
- On September 8, the fifteenth annual employee appreciation breakfast will be prepared by the City Manager, Assistant City Manager, City Attorney, Presiding Municipal Court Judge, and City Department Heads.
- Members of the City's Employee Advisory Committee, and members of the Employee Recognition and Action Team, which represent employees from all City departments, have been invited to attend Monday evening's meeting to accept the proclamation on behalf of all City employees.

**Expenditure Required:** \$0

**Source of Funds:** N/A

**Policy Issues**

There are no policy issues identified.

**Alternatives**

There are no alternatives identified.

**Background Information**

The ability of the City of Westminster organization to provide quality municipal services is in no small part due to the commitment, dedication, talent, expertise, and knowledge of the City's employee workforce. Currently there are approximately 955 full-time and part-time employees working in Information Technology, Police, Fire, Public Works and Utilities, Finance, General Services, Parks, Recreation and Libraries, and Community Development Departments, and the City Attorney's and City Manager's Offices. Overall, there are roughly 1,900 employees, including seasonal and non-benefited employees, on the City's payroll. In no small part due to the efforts of these individuals, Westminster is in the forefront of providing high quality facilities and services to its residents. Very positive citizen feedback in annual surveys and the many national and regional awards that the City has received attest to the caliber of the City's workforce.

The attached Proclamation summarizes the contributions of City employees and recognizes their efforts by proclaiming September 6-10, 2004 as City of Westminster Employee Appreciation Week.

One of the highlights of the week will be the Employee Appreciation Breakfast at City Park Recreation Center. It will mark the fifteenth year in a row that the City Manager, Assistant City Manager, City Attorney, Presiding Municipal Court Judge, and Department Heads have arrived at 5 A.M. to prepare a full breakfast with pancakes, hash browns, eggs, fruit, ham and orange juice for employees at the start of their workday. Employees will stop by anytime between 6:00 a.m. and 9:00 a.m. to partake in the breakfast and comradery prior to the start of their normal workday.

In addition, the Employee Recognition Action Team has created an electronic thank you note and a traditional paper thank you note that will be available to send to City employees that week. These special thank you notes help employees to remember to thank their coworkers for their teamwork and inspiration throughout the year.

Some of the members of the City's Employee Advisory Committee and the Employee Recognition Action Team will be present Monday evening to accept this proclamation from the City Council on behalf of all City employees.

Respectfully submitted,

J. Brent McFall  
City Manager

Attachment

WHEREAS, the very high City service ratings from Westminster citizens in each of the past citizen surveys and again in the 2004 survey attest to the high quality of services provided by Westminster employees; and

WHEREAS, Westminster employees are in large part responsible for the City's national and regional reputation for quality, progressive municipal government; and

WHEREAS, the 955 full-time and part-time employees and over 1,900 total employees have contributed significantly to the quality of life of Westminster citizens; and

WHEREAS, these employees that are employed in Information Technology, Police, Fire, Public Works and Utilities, Parks, Recreation, and Libraries, Finance, General Services, and Community Development Departments, and the City Manager's and City Attorney's Offices are unquestionably the City's most valuable resource; and

WHEREAS, on September 8, 2004 the City Manager, Assistant City Manager, City Attorney, and all City Department Heads will be preparing an Employee Appreciation Breakfast in recognition of all City employees at City Park Recreation Center,

WHEREAS, the week of September 6, 2004, will include several activities designed to express appreciation to City Employees.

NOW THEREFORE, I, Nancy McNally, Mayor of the City of Westminster, on behalf of the entire City Council and Staff, do hereby proclaim September 6-10, 2004 as

City of Westminster Employee Appreciation Week.

Signed this 23rd day of August 2004.

---

Nancy McNally, Mayor



## WESTMINSTER COLORADO

### Agenda Memorandum

City Council Meeting  
August 23, 2004



**SUBJECT:** Financial Report for July 2004

**Prepared By:** Mary Ann Parrot, Finance Director

### Recommended City Council Action

Accept the Financial Report for July 2004 as presented.

### Summary Statement

City Council is requested to review and accept the attached monthly financial statement and monthly revenue report. The Shopping Center Report is also attached to this monthly financial report.

- Across all shopping centers, total sales & use tax receipts are down 3% over the one-month period of July 2004. Adjusted for timing differences of a return from a major retailer, the figure is up 4% for the month of July. In June the adjusted figure was up 0.7%.
- The Westminster Mall is down 7% for July, compared to July of last year. Last month this figure was down 9%. Year-to-date the Mall is down 5%; last month this figure was the same - down 5%.
- Public Safety Tax receipts for the month of July were \$874,529; last month this figure was \$853,032.

Key features of the monthly financial report for July are as follows:

- At the end of July, seven months of the year have passed, or 58.3% of the calendar year.
- The Sales and Use Tax Fund revenues are currently \$1,759,697 over pro-rated budget for the year. The July figures reflect the sales in June, tax receipts received in July. This is due, in part, to receipt of PST taxes, but is also due to excess revenues as Business Assistance Packages are retired, as well as a general upturn in the economy.
- Without the new PST, Sales Tax Returns (returns only, adjusted for early and late returns) are up for July 2004 compared to July 2003 by 5.9%, an increase of \$202,110 over July 2003. Retired business assistance packages accounted for \$30,561 of this increase.
- Looking at year-to-date figures without the PST, analysis shows the following:
  - For the seven months ending in July, Sales Tax Returns (only) are 5.5% ahead of 2003 year-to-date, or an increase of \$1,249,143. These figures are adjusted for early and late returns. For the seven months ending in July, the fund is 3.4% ahead of 2003 year-to-date. Last month this figure was 3.2%.
- For the month of July, the entire fund is 5.0% ahead of July 2003. Last month this figure was 2.0%. The reasons for this difference are as follows:
  - Sales Tax Returns (only) are up \$202,110 for July compared to June's increase of \$114,846.
  - Use taxes are down \$53 from July 2003. Last month use taxes showed an increase of \$34,311 over June 2003. Use tax flows are volatile and reflect purchases of large-ticket items.
- The General Fund revenue is currently 101% of pro-rated budget for seven months.



## **Policy Issues**

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.

## **Alternatives**

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

## **Background Information**

This section is broken down into a discussion of highlights of each fund presented.

For revenues, a positive indicator is a pro-rated budget percentage at or above 100%. For expenditures, a positive indicator is a pro-rated budget percentage that is below 100%. If a fund is on schedule for the year regarding revenues and/or expenditures, the percentage will be 100% of pro-rated budget figures.

### General Fund

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

At the end of July, the General Fund is in the following position regarding both revenues and expenditures:

- Revenues are over pro-rated budget by \$689,495, (101% of pro-rated budget). This is due to excess revenues on a pro-rated basis in Property Taxes, Licenses and Permits, Fines, Other Services, and Miscellaneous (passport revenues year-to-date are \$43,890).
- Expenditures are under budget by \$6.53 million (87% of pro-rated budget), due to under-spending in several departments. Spending does not occur evenly throughout the year in many departments, particularly with regard to insurances in Central Charges and spending on contract services in several other departments. Public Safety Tax expenditures to date are largely reflected in the Police and Fire Department operating budgets, which are 87% and 82% of pro-rated budgets, respectively. Orders have been placed for the seventh engine and fourth ambulance in the Fire Department. It is anticipated that all of the Public Safety hiring's and major equipment purchases will be complete by mid-2005.

### Sales and Use Tax Funds (Sales & Use Tax Fund and Open Space Sales & Use Tax Fund)

These funds are the repositories for the 3.85% City Sales & Use Tax for the City. The Sales & Use Tax Fund provides monies for the General Fund, the Capital Project Fund and the Debt Service Fund. The Open Space Sales & Use Tax Fund revenues are pledged to meet debt service on the POST bonds, buy open space, and make park improvements on a pay-as-you-go basis. The Public Safety Tax was approved by the voters in the November 2003 election, and is a 0.6% sales and use tax to be used to fund public safety-related expenses. At the end of July, the position of these funds is as follows:

- Sales & Use Tax Fund revenues are over pro-rated budget by \$1,759,697 (105.5% of pro-rated budget). These numbers include \$874,529 of PST receipts and \$30,561 in income due to retired business assistance packages.
- Sales & Use Tax Fund expenditures are even with pro-rated budget because of the transfers to the General Fund, Debt Service Fund and General Capital Improvement Fund.

- Open Space Sales & Use Tax Fund revenues are over pro-rated budget by \$2,874,301 (213% of pro-rated budget). The increase is the result of the sale of land to the Academy of Charter School, which was not anticipated in the original budget.
- Open Space Sales & Use Tax Fund expenditures are over pro-rated budget by \$241,069 (109% of pro-rated budget) due to land purchases of \$877,103 finalized in March. These variances will occur throughout the year, as land purchases are unevenly distributed throughout the year.

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

This fund reflects the operating results of the City's water, waste water and storm water systems. It is important to note that net operating revenues are used to fund capital projects. At the end of July, the enterprise is in a positive position.

- Combined Water & Wastewater revenues are under pro-rated budget by \$698,271 (97% of budget):
  - Water revenues slightly over pro-rated budget by \$40,605 (100.3% of pro-rated budget) due primarily to the tap fee income. Water revenues from rates and charges are under pro-rated budget by \$1,153,924 (90% of pro-rated budget).
  - Wastewater revenues under pro-rated budget by \$738,875 (89% of pro-rated budget), due in part to revenues for monthly rates and charges being lower during this quarter than historical averages and due in part to the reversal of the unrealized gain in interest income.
  - Storm water Drainage revenues slightly over pro-rated budget by \$6,321 (101% of pro-rated budget).
- Combined Water & Wastewater expenses are under budget by \$4,013,609 (76% of budget):
  - Water expenses under pro-rated budget by \$2,889,835 (77% of budget) due to lower contracted service costs early in the year.
  - Wastewater expenses under pro-rated budget by \$1,123,774 (76% of budget) for the same reason – lower contracted service costs.
  - Storm Drainage expenses under pro-rated budget by \$62,072 (55% of budget).

Golf Course Enterprise (Legacy and Heritage Golf Courses)

This enterprise reflects the operations of the City's two municipal golf courses. The enterprise as a whole is in net negative position on a pro-rated basis, with net income currently \$366,785 under pro-rated budget for the year. Seasonal fluctuations will impact this enterprise due to the nature of the golf business. In addition, City Council will be considering measures in the 2005 budget to allow the golf courses to work out of the current negative position over the coming years.

- Legacy – Revenues are under pro-rated budget by \$270,239 (81% of pro-rated budget).
- Legacy – Operating expenses are under pro-rated budget by \$69,106 (93% of pro-rated budget).
- Heritage – Revenues are under pro-rated budget by \$295,503 (77% of pro-rated budget).
- Heritage – Operating expenses are under pro-rated budget by \$129,851 (89% of pro-rated budget).

Staff will attend the August 23rd City Council Meeting to address any questions.

Respectfully submitted,

J. Brent McFall  
City Manager

Attachments

**City of Westminster  
Financial Report  
For the Seven Months Ending July 31, 2004**

Description General Fund	Budget	Pro-rated for Seasonal Flows	Notes	Actual	(Under) Over Budget Pro-Rated	% Pro-Rated Budget
<b>Revenues</b>						
Taxes	4,402,309	4,038,588	(1)	4,165,849	127,261	103%
Licenses & Permits	1,725,000	1,085,000	(2)	1,419,420	334,420	131%
Intergovernmental Revenue	5,060,801	2,799,546	(3)	2,760,464	(39,082)	99%
Charges for Services						
Recreation Services	5,139,500	3,175,675	(4)	2,896,151	(279,524)	91%
Other Services	5,453,500	2,847,635	(4)	3,253,325	405,690	114%
Fines	1,876,500	1,069,605	(5)	1,124,089	54,484	105%
Interest Income	400,000	233,333		78,232	(155,101)	34%
Misc	292,866	170,839	(6)	378,044	207,206	221%
Leases	775,000	387,500	(7)	387,500	0	100%
Refunds	(75,000)	(43,750)	(8)	(3,775)	39,975	9%
Interfund Transfers	53,297,898	31,090,441	(9)	31,084,607	(5,833)	100%
Other Financing Sources	1,429,973	1,429,973	(12)	1,429,973	0	100%
Sub-total Revenues	<u>79,778,347</u>	<u>48,284,384</u>		<u>48,973,879</u>	<u>689,495</u>	<u>101%</u>
Carryover	6,631,645	0	(10)	0	0	
Revenues	<u>86,409,992</u>	<u>48,284,384</u>		<u>48,973,879</u>	<u>689,495</u>	<u>101%</u>
<b>Expenditures</b>						
City Council	188,260	109,818		110,260	442	100%
City Attorney's Office	902,887	526,684		463,809	(62,875)	88%
City Manager's Office	1,035,082	603,798		539,384	(64,414)	89%
Central Charges	26,891,778	15,686,871		13,842,283	(1,844,588)	88%
General Services	4,843,706	2,825,495		2,441,111	(384,384)	86%
Finance	1,563,473	912,026		832,051	(79,974)	91%
Police	17,576,387	10,252,892		8,952,350	(1,300,542)	87%
Fire Emergency Services	9,484,289	5,532,502		4,560,462	(972,040)	82%
Community Development	4,391,945	2,561,968		2,343,995	(217,973)	91%
Public Works & Utilities	6,909,037	4,030,272		3,086,521	(943,750)	77%
Parks Recreation & Libraries	12,623,148	7,363,503		6,703,278	(660,225)	91%
Total Expenditures	<u>86,409,992</u>	<u>50,405,829</u>	(11)	<u>43,875,505</u>	<u>(6,530,324)</u>	<u>87%</u>
Revenue Over(Under) Expend	<u>0</u>	<u>(2,121,445)</u>		<u>5,098,374</u>	<u>7,219,819</u>	

(1) Property Taxes at 95%-99% in July; Admissions Taxes average 61%  
Qwest at 52% by this time of year.

(2) Licenses 56%, Comm'l Permits 60%, Res'l Permits 66%.

(3) Cig Tax 41%, HUTF 48%, AutoOwnr 50%, Veh Regis 46%,  
Road & Bridge(Adco) 96%, Road & Bridge(Jeffco) 90%.

(4) Recreation 65% (except Ice Ctr-qtrly), PubSvc 55%, COMCAST 42%, CAM & EMS billings 51%, all others 51%.

(5) Fines historically at 57%

(6) Miscellaneous, General Reimbursements, Contributions, and Westminster Faire Receipts. Generally 7/12

(7) Timing delays of lease payments can occur; billed 1st Qtr, received 2nd Qtr - recorded  
during 1st Qtr with no delay.

(8) Refund payments generally apply to recreation charges in general.

(9) Transfers from Sales Tax Fund, Sheridan Crossing GID, Water, and Waste Water.

(10) Carryover from Year 2003 is always budgeted for the next year; included here to render  
correct balanced budget perspective.

Carryover (Actual) represents use of prior year fund balance, as budgeted.

(11) Expenditures are based on even 7/12 per month or 8.33% per month.

(12) Lease proceeds

**City of Westminster  
Financial Report  
For the Seven Months Ending July 31, 2004**

Description	Budget	Pro-rated for Seasonal Flows	Notes	Actual	(Under) Over Budget Pro-rated	% Pro-Rated Budget
<b>Sales and Use Tax Fund</b>						
<b>Revenues</b>						
Sales Tax						
Sales Tax Returns	38,439,143	22,912,784	(1)	24,014,356	1,101,571	105%
Sales Tx Audit Revenues	545,000	344,135		345,165	1,030	100%
S-T Rev. STX	<u>38,984,143</u>	<u>23,256,919</u>		<u>24,359,520</u>	<u>1,102,601</u>	105%
Use Tax						
Use Tax Returns	8,900,000	4,621,800	(1)	4,664,677	42,877	101%
Use Tax Audit Revenues	500,000	307,500		158,427	(149,073)	52%
S-T Rev. UTX	<u>9,400,000</u>	<u>4,929,300</u>		<u>4,823,104</u>	<u>(106,196)</u>	98%
Total STX and UTX	<u>48,384,143</u>	<u>28,186,219</u>		<u>29,182,624</u>	<u>996,405</u>	104%
Public Safety Tax						
PST Tax Returns	8,433,000	3,957,878	(3)	4,717,051	759,173	119%
PST Audit Returns	0	0		27341	27341	
Total Rev. PST	<u>8,433,000</u>	<u>3,957,878</u>		<u>4,744,391</u>	<u>786,513</u>	120%
Total Interest Income	<u>50,000</u>	<u>29,167</u>		<u>5,945</u>	<u>(23,221)</u>	20%
Carryover	<u>0</u>		(2)			
Total Revenues	<u>56,867,143</u>	<u>32,173,264</u>		<u>33,932,960</u>	<u>1,759,697</u>	105%
<b>Expenditures</b>						
Central Charges	<u>56,867,143</u>	<u>33,172,500</u>	(4)	<u>33,172,500</u>	<u>(0)</u>	100%
Revenues Over(Under) Expenses	<u>0</u>	<u>(999,236)</u>		<u>760,459</u>	<u>1,759,697</u>	

- (1) At end of July, historical averages are as follows: Returns 59.6%, Audit 63.1%,  
Use Tax Returns 59.5%, Building Use Tax 57.1%, Auto Use Tax 46.6%, Use Tax Audit 61.5%.
- (2) Carryover from prior year is always budgeted for the next year; included here to render correct  
balanced budget perspective.  
Carryover (Actual) represents use of prior year fund balance, as budgeted.
- (3) Public Safety Sales Tax returns 46.4% Use tax returns 45.4%, Bldg tax returns 57.1%, Auto returns 46.6%.
- (4) Expenditures are fund transfers to General Fund, GCIP, and Debt Service.

**City of Westminster  
Financial Report  
For the Seven Months Ending July 31, 2004**

Description	Budget	Pro-rated for Seasonal Flows	Notes	Actual	(Under) Over Budget Pro-rated	% Pro-Rated Budget
<b>Open Space Fund</b>						
<b>Revenues</b>						
Sales & Use Tax	4,280,828	2,480,016	(1)	2,506,793	26,776	101%
Intergovernmental Revenue	0	0		0	0	
Interest Income	25,000	14,583	(2)	4,354	(10,229)	30%
Sale of Assets	0	0		2,852,453	2,852,453	
Miscellaneous	42,000	42,000		47,300	5,300	113%
Sub-total Revenues	<u>4,347,828</u>	<u>2,536,600</u>		<u>5,410,900</u>	<u>2,874,301</u>	<u>213%</u>
Carryover	330,000	0	(3)	0	0	
Total Revenues	<u>4,677,828</u>	<u>2,536,600</u>		<u>5,410,900</u>	<u>2,874,301</u>	<u>213%</u>
<b>Expenditures</b>						
Central Charges	<u>4,677,828</u>	<u>2,728,733</u>		<u>2,969,802</u>	<u>241,069</u>	<u>109%</u>
Revenues Over(Under) Expend	<u>0</u>	<u>(192,133)</u>		<u>2,441,098</u>	<u>2,633,232</u>	

(1) Open Space Sales Taxes 59.2%; Open Space Use Tax 52.3%.

(2) These numbers reflect the reversal of the unrealized gain recorded for FYE 2003, as required by the Governmental Accounting Standards Board.

(3) Carryover from prior year is budgeted for the next year; included here to render correct balanced budget perspective.

Carryover (Actual) represents use of prior year fund balance, as budgeted.

**City of Westminster  
Financial Report  
For the Seven Months Ending July 31, 2004**

Description	Budget	Pro-rated for Seasonal Flows	Notes	Actual	(Under) Over Budget Pro-rated	% Pro-Rated Budget
<b>Water and Wastewater Fund-Combined</b>						
<b>Revenues</b>						
License & Permits	70,000	40,833		55,530	14,697	136%
Intergovernmental Revenue	25,000	14,583		0	(14,583)	0%
Charges for Services						
Rates and Charges	30,715,275	16,443,356	(1)	14,784,942	(1,658,414)	90%
Tap Fees	6,050,000	3,478,650	(1)	5,023,522	1,544,872	144%
Interest Income	1,590,000	893,820	(2)	312,859	(580,961)	35%
Miscellaneous	410,000	239,168	(3)	235,286	(3,882)	98%
Interfund Transfers	515,000	515,000		515,000	0	100%
Sub-total Water/Wastewater Revenues	<u>39,375,275</u>	<u>21,625,410</u>		<u>20,927,139</u>	<u>(698,271)</u>	<u>97%</u>
Carryover	8,096,647	-	(4)	-		
Total Revenues	<u>47,471,922</u>	<u>21,625,410</u>		<u>20,927,139</u>	<u>(698,271)</u>	<u>97%</u>
<b>Expenditures</b>						
Central Charges	11,730,593	4,966,807	(5)	4,350,339	(616,468)	88%
Finance	545,285	318,083		278,310	(39,773)	87%
Public Works & Utilities	17,660,654	10,302,048		7,179,633	(3,122,415)	70%
Information Technology	2,364,699	1,379,408		1,144,455	(234,953)	83%
Total Operating Expenses	<u>32,301,231</u>	<u>16,966,346</u>		<u>12,952,737</u>	<u>(4,013,609)</u>	<u>76%</u>
Revenues Over(Under) Expenses	<u>15,170,691</u>	<u>4,659,064</u>		<u>7,974,402</u>	<u>3,315,338</u>	

- (1) (a) Water: Res Sales 51.3%, Commr Sales 50.5%, Wholesale Sales 52.6%, Meter Svc Fees 57.7%, Reclaimed Charges projected at 7/12, until more data is available, Res Taps 54.9%, Commr Taps 63.2%.  
(b) Wastewater: Res'l Sales 57.7%, Comm'l Sales 57.8%, Res'l Taps 56.9%, Comm'l Taps 72.2%.
- (2) Interest Income historically is at 55% for water and 57.8% for wastewater at this time of year; current variance is due to reversal of FYE unrealized gain from 2003, required per the Governmental Accounting Standards Board.
- (3) Includes Misc Income only.
- (4) Carryover from prior year is budgeted for the next year; included here to render correct balanced budget perspective. Carryover (Actual) represents use of prior year retained earnings, as budgeted.
- (5) Debt Service is due June 1 (Interest only) and Dec 1 (Prin + Int) and has been pro-rated in the Budget Pro-Rated column.

**City of Westminster  
Financial Report  
For the Seven Months Ending July 31, 2004**

Description	Budget	Pro-rated for Seasonal Flows	Notes	Actual	(Under) Over Budget Pro-Rated	% Pro-Rated Budget
<b>Water Fund</b>						
<b>Revenues</b>						
License & Permits	70,000	40,833		55,530	14,697	136%
Intergovernmental Revenue	25,000	14,583		0	(14,583)	0%
Charges for Services						
Rates and Charges	21,295,676	11,003,962	(1)	9,850,038	(1,153,924)	90%
Tap Fees	4,275,000	2,411,300	(1)	3,933,087	1,521,787	163%
Interest Income	900,000	495,000	(2)	167,918	(327,082)	34%
Miscellaneous	400,000	233,333	(3)	233,043	(290)	100%
Interfund Transfers	465,000	465,000		465,000	0	100%
Sub-total Water Revenues	<u>27,430,676</u>	<u>14,664,011</u>		<u>14,704,616</u>	<u>40,605</u>	<u>100%</u>
Carryover	2,556,114	-	(4)	-	-	
Total Revenues	<u>29,986,790</u>	<u>14,664,011</u>		<u>14,704,616</u>	<u>40,605</u>	<u>100%</u>
<b>Expenses</b>						
Central Charges	9,639,309	3,907,327	(5)	3,443,677	(463,650)	88%
Finance	545,285	318,083		278,310	(39,773)	87%
Public Works & Utilities	11,534,497	6,728,457		4,576,998	(2,151,459)	68%
Information Technology	2,364,699	1,379,408		1,144,455	(234,953)	83%
Total Operating Expenses	<u>24,083,790</u>	<u>12,333,275</u>		<u>9,443,440</u>	<u>(2,889,835)</u>	<u>77%</u>
Revenues Over(Under) Expenses	<u>5,903,000</u>	<u>2,330,736</u>		<u>5,261,176</u>	<u>2,930,440</u>	

- (1) Res Sales 51.3%, Commr Sales 50.5%, Wholesale Sales 52.6%, Meter Svc Fees 57.7%, Reclaimed Charges projected at 7/12, until more data is available, Res Taps 54.9%, Commr Taps 63.2%.
- (2) Interest Income historically at 55% at this time of year; this variance is due in part to reversal of FYE unrealized gain from 2003, required per the Governmental Accounting Standards Board.
- (3) Includes Misc Income only.
- (4) Carryover from prior year is included to present total budget perspective; Carryover (Actual) represents use of prior year retained earnings, as budgeted.
- (5) Debt Service is due June 1 (Interest only) and Dec 1 (Prin + Int) and has been pro-rated.

**City of Westminster  
Financial Report  
For the Seven Months Ending July 31, 2004**

Description	Budget	Pro-rated for Seasonal Flows	Notes	Actual	(Under) Over Budget Pro-rated	% Pro-Rated Budget
<b>Wastewater Fund</b>						
<b>Revenues</b>						
Charges for Services						
Rates and Charges	9,419,599	5,439,394	(1)	4,934,904	(504,490)	91%
Tap Fees	1,775,000	1,067,350	(1)	1,090,435	23,085	102%
Interest Income	690,000	398,820	(2)	144,940	(253,880)	36%
Miscellaneous	10,000	5,833		2,243	(3,590)	38%
Interfund Transfers	50,000	50,000		50,000	0	100%
Sub-total Water Revenues	<u>11,944,599</u>	<u>6,961,397</u>		<u>6,222,522</u>	<u>(738,875)</u>	<u>89%</u>
Carryover	5,540,533	-	(3)	-	-	
Total Revenues	<u>17,485,132</u>	<u>6,961,397</u>		<u>6,222,522</u>	<u>(738,875)</u>	<u>89%</u>
<b>Expenditures</b>						
Central Charges	2,091,284	1,059,480	(4)	906,663	(152,817)	86%
Public Works & Utilities	6,126,157	3,573,592		2,602,635	(970,957)	73%
Total Operating Expenses	<u>8,217,441</u>	<u>4,633,072</u>		<u>3,509,298</u>	<u>(1,123,774)</u>	<u>76%</u>
Revenues Over(Under) Expenses	<u>9,267,691</u>	<u>2,328,325</u>		<u>2,713,224</u>	<u>384,899</u>	

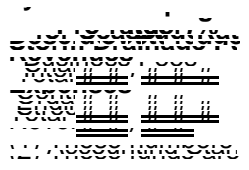
(1) Res'l Sales 57.7%, Comm'l Sales 57.8%, Res'l Taps 56.9%, Comm'l Taps 72.2%.

(2) Interest Income historically at 57.8% at this time of year; this variance is due in part to reversal of FYE unrealized gain from 2003, required per the Governmental Accounting Standards Board.

(3) Carryover from prior year is budgeted for the next year; included here to render correct balanced budget perspective. Carryover (Actual) represents use of prior year retained earnings, as budgeted.

(4) Debt Service is due June 1 (Interest only) and Dec 1 (Prin + Int) and has been pro-rated in the Budget-Pro-rated column.





**City of Westminster  
Financial Report  
For the Seven Months Ending July 31, 2004**

Description	Budget	Pro-rated for Seasonal Flows	Notes	Actual	(Under) Over Budget Pro-rated	% Pro-Rated Budget
<b>Golf Courses Combined</b>						
<b>Revenues</b>						
Charges for Services	3,934,702	2,301,086	(1)	1,741,541	(559,545)	76%
Interest Income	0	0		(6,197)	(6,197)	
Other Financing Sources	399,642	399,642	(1), (5)	399,642	0	0%
<b>Total Revenues</b>	<b>4,334,344</b>	<b>2,700,728</b>		<b>2,134,986</b>	<b>(565,742)</b>	<b>79%</b>
<b>Expenses</b>						
Central Charges	191,441	108,968	(2)	93,682	(15,286)	86%
Other Financing Use	399,642	399,642	(2), (5)	399,642	0	100%
Recreation Facilities	2,752,379	1,718,910	(2)	1,535,239	(183,671)	89%
<b>Total Expenses</b>	<b>3,343,462</b>	<b>2,227,520</b>		<b>2,028,563</b>	<b>(198,957)</b>	<b>91%</b>
Operating Income (Loss)	990,882	473,208		106,423	(366,785)	
Debt Service Expense	990,882	449,085	(3),(4)	449,085	0	100%
<b>Revenues Over(Under) Expenditur</b>	<b>0</b>	<b>24,123</b>		<b>(342,662)</b>	<b>(366,785)</b>	

(1) Revenues pro-rated based on a 6 yr history of revenues per month. Based on this history, Charges for Services are projected at 61.7% for Legacy and 55.4% for Heritage and "Other Financing Source" is

(2) Expenses are pro-rated per month based on a 4 yr history, excluding year-end entries.

Based on this history, "Central Charges" is projected at 57.8% for Legacy and 56.1% for Heritage, "Recreation Facilities" is projected at 60.5% for Legacy and 64.3% for Heritage and "Other Financing

(3) Legacy's scheduled debt service payments due in Year 2004 are \$493,729. For Legacy, 1/12 of the debt service is transferred to the Debt Service fund each month. This transfer is reflected in the budget figures above.

Heritage's debt service is \$497,153 for the year. For Heritage, the debt service is payable in June and December and will be reflected in the pro-rated budget at that time. This presentation should give the reader a clearer picture of the results of operations.

(4) Because the 1997A Sales and Use Tax Revenue Bonds are not a legal liability of the Golf Course Fund, Long Term Debt Account Group. However, Legacy is making monthly transfers to the Debt Service Fund as noted above to assist in the payment of principal and interest. In order for the reader to get a clear a clear picture of golf course operation without the Debt Service Fund transfers, the report will show Operating Income (without the budgeted debt service) and Revenues Over (Under) Expenditures (with debt service as budgeted).

(5) Other Financing Source and Other Financing Use resulted from the appropriation and recording of the lease for the new golf carts.

**City of Westminster  
Financial Report  
For the Seven Months Ending July 31, 2004**

Description	Budget	Pro-rated for Seasonal Flows	Notes	Actual	(Under) Over Budget Pro-rated	% Pro-Rated Budget
<b>Legacy Ridge Fund</b>						
<b>Revenues</b>						
Charges for Services	1,924,776	1,187,587	(1)	919,897	(267,690)	77%
Interest Income	0	0		(2,549)	(2,549)	0%
Other Financing Sources	199,821	199,821	(1), (5)	199,821	0	0%
Total Revenues	<u>2,124,597</u>	<u>1,387,408</u>		<u>1,117,169</u>	<u>(270,239)</u>	<u>81%</u>
<b>Expenses</b>						
Central Charges	92,376	53,393	(2)	47,424	(5,969)	89%
Other Financing Use	199,821	199,821	(2), (5)	199,821	0	100%
Recreation Facilities	1,338,671	809,896	(2)	746,759	(63,137)	92%
Sub-Total Expenses	<u>1,630,868</u>	<u>1,063,110</u>		<u>994,004</u>	<u>(69,106)</u>	<u>93%</u>
Operating Income(Loss)	493,729	324,297		123,165	(201,133)	
Debt Svc STX Bonds Expense	<u>493,729</u>	<u>288,009</u>	(3)(4)	<u>288,009</u>	<u>0</u>	<u>100%</u>
Revenues Over(Under) Expenditures	<u>0</u>	<u>36,289</u>		<u>(164,844)</u>	<u>(201,133)</u>	

(1) Revenues pro-rated based on a 6 yr history of revenues per month. Based on this history, "Charges for Services" is projected at 61.7% and "Other Financing Source" is projected at 100% for July.

(2) Expenses are pro-rated per month based on a 4 yr history, excluding year-end entries. Based on this history, "Central Charges" is projected at 57.8%, "Recreation Facilities" is projected at 60.5% and "Other Financing Use" is projected at 100% for July.

(3) Legacy's debt service for the year is \$493,729. 1/12 of the total debt service is transferred to the Debt Service Fund each month.

(4) Because the 1997A Sales and Use Tax Revenue Bonds are not a legal liability of the Golf Course Fund, Long Term Debt Account Group. However, Legacy is making monthly transfers to the Debt Service Fund picture of golf course operation without the Debt Service Fund transfers, the report will show Operating Income a clear picture of golf course operation without the Debt Service Fund transfers, the report will show Operating Income (without the budgeted debt service) and Revenues Over (Under) Expenditures (with debt service as budgeted).

(5) Other Financing Source and Other Financing Use resulted from the appropriation and recording of the lease for the new golf carts.

**City of Westminster  
Financial Report  
For the Seven Months Ending July 31, 2004**

Description	Budget	Pro-rated for Seasonal Flows	Notes	Actual	(Under) Over Budget Pro-rated	% Pro-Rated Budget
<b>Heritage at Westmoor Fund</b>						
<b>Revenues</b>						
Charges for Services	2,009,926	1,113,499	(1)	821,644	(291,855)	74%
Interest Income	0	0		(3,648)	(3,648)	
Other Financing Sources	199,821	199,821	(1), (4)	199,821	0	0%
<b>Total Revenues</b>	<b>2,209,747</b>	<b>1,313,320</b>		<b>1,017,817</b>	<b>(295,503)</b>	<b>77%</b>
<b>Expenses</b>						
Central Charges	99,065	55,575	(2)	46,258	(9,317)	83%
Other Financing Use	199,821	199,821	(2), (4)	199,821	0	100%
Recreation Facilities	1,413,708	909,014	(2)	788,480	(120,534)	87%
<b>Sub-Total Expenses</b>	<b>1,712,594</b>	<b>1,164,410</b>		<b>1,034,559</b>	<b>(129,851)</b>	<b>89%</b>
Operating Income	497,153	148,910		(16,742)	(165,652)	
Debt Service Expense	497,153	161,076	(3)	161,076	0	0%
<b>Revenues Over(Under) Expenses</b>	<b>0</b>	<b>(12,166)</b>		<b>(177,818)</b>	<b>(165,652)</b>	

- (1) Revenues pro-rated based on a 6 yr history of revenues per month. Based on this history, "Charges for Services" is projected at 55.4% and "Other Financing Source" is projected at 100% for July.
- (2) Expenses are pro-rated per month based on a 4 yr history, excluding year-end entries. Based on this history, "Central Charges" is projected at 56.1%, "Recreation Facilities" is projected at 64.3% and "Other Financing Use" is projected at 100% for July.
- (3) Heritage's debt service is \$497,153 for the year. For Heritage, the debt service is payable in June and December and will be reflected in the pro-rated budget at that time. This presentation should give the reader a clearer picture of the results of operations.
- (4) Other Financing Source and Other Financing Use resulted from the appropriation and recording of the lease for the new golf carts.



**WESTMINSTER**  
**COLORADO**

**Agenda Memorandum**

City Council Meeting  
August 23, 2004



**SUBJECT:** Award of Design Contract 75th -78th - Stuart Street Watermain Project

**Prepared By:** Richard A. Clark, P.E., Utilities Operations Manager

**Recommended City Council Action**

Authorize the City Manager to execute a contract with S.A. Miro, Inc. in the amount of \$90,400 to provide design and construction inspection service for the design of the 75th -78th - Stuart Street Watermain Project; and authorize a 15% contingency of \$13,560.

**Summary Statement**

- The England Water Treatment Plant is no longer in service. Treated water from the Semper Water Treatment Facility and Northwest Water Treatment Facility is needed to serve the south part of the City for peak supply and fire flow. The proposed England transmission waterline (under design) will provide that supply. This 75th -78th - Stuart Street Watermain Project commences at the end of the England project at 78<sup>th</sup> Avenue and distributes water to the southern portion of the City.
- The 75th -78th - Stuart Street Watermain Project was budgeted in the 2002 CIP as two projects, with a budget totaling \$1,455,000. This amount is still adequate to fund the project.
- Request for Proposals were sent to six engineering firms for the new design of the waterline and three submitted.
- S.A. Miro, Inc. submitted the lowest cost proposal and it is recommended that the City contract with them to provide design and construction inspection service for this waterline.

**Expenditure Required:** \$103,960

**Source of Funds:** Utility Fund Capital Improvement Funds

**Policy Issue**

Should the City award a contract to S.A. Miro, Inc. to provide design and construction inspection services for the England Waterline in the amount of \$103,960.

**Alternative**

The City could delay the design and construction of this line, but high demand and fire flow supply could be compromised. In addition, future construction costs will likely increase.

**Background Information**

The 75th -78th - Stuart Street Watermain Project will be a 16-inch treated waterline of approximately 1.5 miles in length that will provide transmission supply to the south part of the City where high demand and fire flow supply is needed. An alignment has been chosen in and along City streets using existing street rights-of-way and new easements. The only construction that will be coordinated with BNSF Railroad is two bored crossings under their rights-of-way at 75<sup>th</sup> and 78<sup>th</sup> Avenues. Existing watermain in those alignments will be removed or abandoned in place in accordance with BNSF requirements.

The budget for construction of the 75th -78th - Stuart Street Watermain is \$1,455,000. Requests for Proposals were sent to six engineering firms for the design and construction inspection of this line. Three firms submitted proposals and their costs are listed below. The adjusted costs are to equalize all proposals for a 12-week duration on the construction inspection work. Various timelines were proposed and the City has selected middle ground of 12 weeks for comparisons. Approximate weekly costs from the individual proposals were used to adjust the proposals.

	<u>Proposed</u>	<u>Adjusted</u>
S.A. Miro, Inc.	\$ 84,000	\$ 90,400
Boyle Engineering Corporation	\$119,595	\$119,595
Burns and McDonnell Engineering	\$203,767	\$187,767

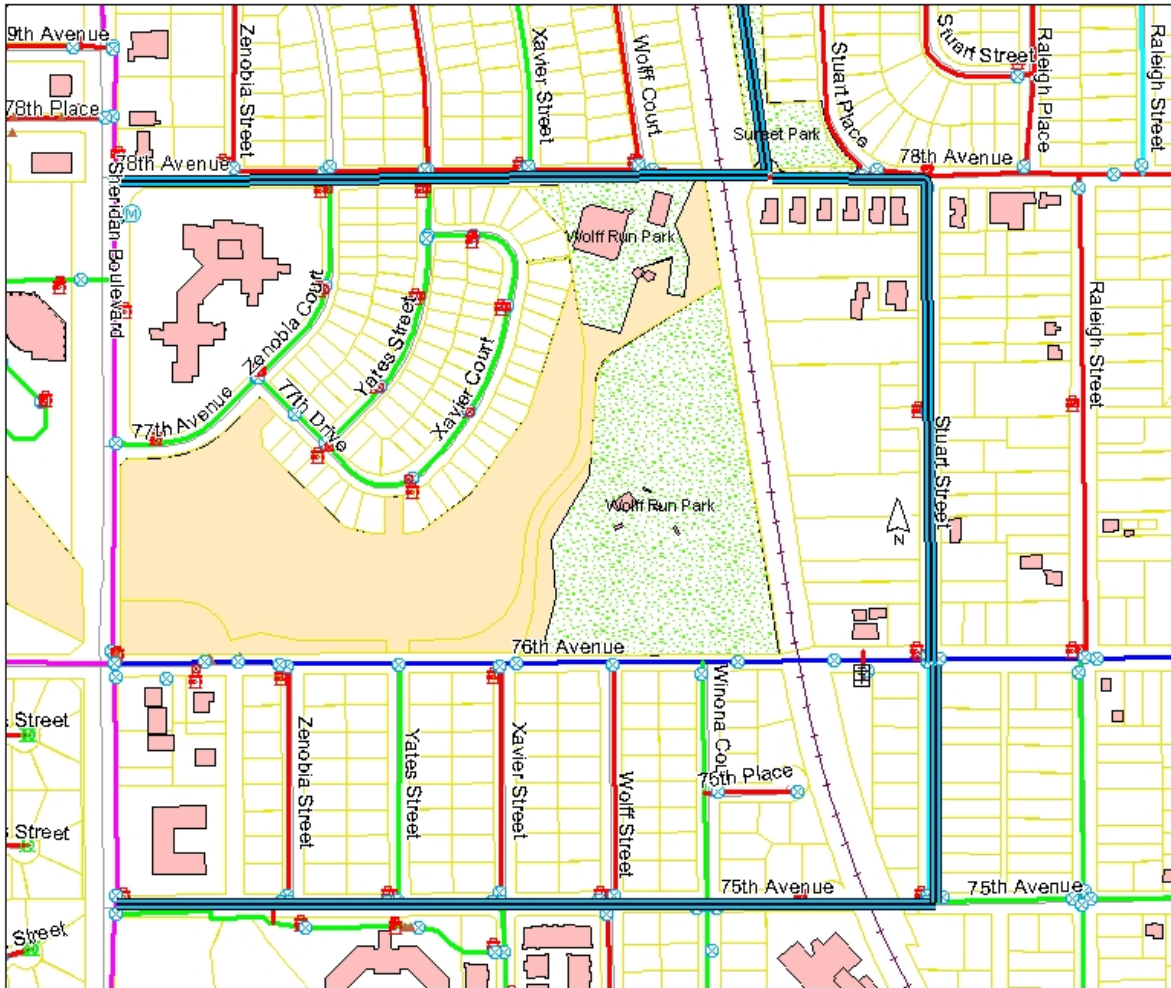
S.A. Miro, Inc. had the lowest cost. They are a qualified and capable firm and have completed previous successful projects for the City.

A contingency amount equal to 15% of the project bid is being requested for this project due to the complexities of the existing utilities in the area as well as the BNSF Railroad right-of-way casing bores.


Respectfully submitted,

J. Brent McFall  
City Manager

Attachment



**Legend**

 Proposed Watermains

**Citywl**

**SIZE**

 0 - 4

 6

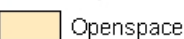
 8

 10

 12

 13 - 64

 cityr arc

 Openspace

 Parks





**WESTMINSTER**  
**COLORADO**

**Agenda Memorandum**

City Council Meeting  
August 23, 2004



**SUBJECT:** Peoplesoft EnterpriseOne Project Developer

**Prepared By:** Debbie Mitchell, Human Resources Manager  
Tammy Hitchens, Accounting Manager

**Recommended City Council Action**

Authorize the City Manager to execute a contract with Advanced Technology Solutions in an amount not to exceed \$100,000, for the purpose of completion of the Electronic Timesheet, modifications to the Employee Self Service and Manager Self Service modules, workflow and report development and the creation of the Fire and Police Pension Association (FPPA) Export File for the new Fire Pension Plan.

**Summary Statement**

- City Council action is requested to authorize the City Manager to execute a contract with Advanced Technology Solutions for the completion of the Electronic Timesheet, workflow implementation, Employee Self Service and Manager Self Service modifications, report development and the creation of the Fire and Police Pension Association (FPPA) Export File for the new Fire Pension Plan.
- The City currently employs one in house developer dedicated to the on going maintenance of the EnterpriseOne, formerly JD Edwards OneWorld software, however it was found necessary to bring in an additional resource to complete the implementation of self service applications, including the creation of the Electronic Timesheet.
- In working with Advanced Technology Solutions towards the self-service implementation goals, unexpected additional programming needs have arisen such as the creation of the FPPA Export File for the new Fire Pension Plan. This coupled with the complexity of the Electronic Timesheet has increased the amount of time and money required by Advanced Technology Solutions to complete the projects.

Completion of the Phase II development implementation will be paid out of the Financial Management System Capital Project Account. Creation of the FPPA Export File will be paid out of the Fire Pension Account.

**Expenditure Required:** \$100,000

<b>Source of Funds:</b>	\$ 4,250	Fire Pension Fund
	\$ 95,750	Financial Management System Capital Project Account



**Policy Issues**

Should the City use outside development support to complete the Financial Management System implementation?

**Alternatives**

Use City IT Development Staff to complete the project for the Financial Management System. This alternative is not recommended because limited staff availability would significantly delay the completion of the project.

**Background Information**

City Council approved the selection of Peoplesoft EnterpriseOne, formerly JD Edwards OneWorld software, on February 28, 2000 to replace the existing Financial and HR/Payroll systems. These integrated systems are also known as Enterprise Resource Planning (ERP) systems. Staff successfully completed the implementation of the fully integrated financial and human resources/payroll system in August of 2001. We are currently in the second phase of implementation that includes additional electronic file transfers for Benefits, reports, workflow, Training, Workers' Compensation, Employee Self Service, Manager Self Service and the creation of the Electronic Timesheet. Staff has been working with Advanced Technology Solutions to reach the goal of implementing these modules. Due to complexity of the Electronic Timesheet and the additional programming needs to complete special projects such as the FPPA Export file for the new Fire Pension Plan, we are anticipating \$100,000 in programming needs.

Staff recommends that completion of this project be supplemented with outside developer efforts. Three bids were obtained with Advanced Technology Solutions being the lowest bidder at \$85 per hour. Peoplesoft bid \$210 per hour and AMX, Intl. bid \$185 per hour. Advanced Technology Solutions is recommended to complete the project. They are not only the low bidder but are familiar with the City's system due to prior work on the City's behalf.

Respectfully submitted,

J. Brent McFall  
City Manager



**WESTMINSTER**  
**COLORADO**

**Agenda Memorandum**

City Council Meeting  
August 23, 2004

**SUBJECT:** Custodial Services Contract One-Year Extension

**Prepared By:** Jerry Cinkosky, Facilities Manager

**Recommended City Council Action**

Based on the report and recommendation of the City Manager, determine that the public interest will be best served by waiving the competitive bidding process and awarding this contract to KG Clean, Inc. Authorize the City Manager to execute an additional one-year custodial services contract with KG Clean, Inc. to provide custodial services at several City of Westminster facilities.

**Summary Statement**

City Council action is requested to authorize a one-year extension to the existing custodial services contract for KG Clean, Inc. In exchange for the additional one-year contract, the company has agreed to continue the 2003/2004 3% reduced contract price with no reduction in services. This would take effect September 1, 2004 and extend through September 1, 2005.

**Expenditure Required:** \$268,636

**Source of Funds:** 2004/2005 General Fund - General Services Operating Budgets

**Policy Issue**

Should the City negotiate a custodial services contract for an additional one-year period of time as a means of reducing operational cost instead of soliciting additional competitive bids?

**Alternative**

Continue with existing custodial service contracts through September 1, 2004, with no reduction in costs and no contract extensions, which would result in having to rebid custodial services contracts. Staff believes that it is unlikely other cleaning companies could provide the same level of service at a lower price than KG Clean, Inc. based on historical data from previous custodial contract bidding processes.

**Background Information**

In July 1997, City Council awarded a custodial service contract to KG Clean, Inc. who was the low bid company competing with 12 other custodial firms. In 2000, Staff rebid custodial service contracts. KG Clean, Inc. was successful in retaining this contract by reducing their costs by 3%, again resulting in the low bid and by providing excellent customer service from 2000 to 2003. In 2003 staff requested and received council authorization to extend the custodial services contract with KG Clean, Inc. for an additional year through September 1, 2004.

Staff has used two custodial firms in the performance of custodial services in City facilities over the past several years. Staff has used two custodial firms in the event one of the companies is unable to perform its contractual responsibilities. Bids have been evaluated based on pricing and geographic locations within the City. KG Clean, Inc. presently provides custodial services at City Park Recreation Center, City Park Fitness Center, City Hall, Westminster Public Safety Center, Westview Recreation Center, Countryside Recreation Center, Swim & Fitness Recreation Center, and Kings Mill Pool. The annual cost of this service contract is \$268,636. Carnation Building Services provides custodial services at the following locations: Municipal Court, Municipal Services Center Administration and Fleet Maintenance for the annual contract amount of \$32,998. Since the contract with Carnation is below the \$50,000 threshold for City Manager approval, Council action is not required for the approval of this contract.

As City Council is aware, City Staff has been reducing City expenditures as a result of continued tight budget revenues. As part of these efforts, Staff contacted KG Clean, Inc. and Carnation Building Services in 2002 in an attempt to reduce costs associated with custodial services. Both firms were willing to work with the City by cutting 3% from their annual contract amount with no reduction in custodial services. In exchange for this reduction, KG Clean, Inc. and Carnation Building Services have requested an additional year be added to the existing custodial contract. They have offered to continue the 3% cost reduction for September 1, 2004 through September 1, 2005. Both Companies have been willing to reduce contract amounts based on the revenue they receive from the City for custodial services being vital to their own business and the stability of cash flow for the additional year.

This cost reduction amounts to approximately \$3016 for the remainder of 2004 and \$9,329 for the year 2005, (which represents January 1 through September 1, 2005). The continuation of this multi-year contract is contingent upon sufficient funds being budgeted in each year. If City Council chooses not to appropriate funds for the purposes of this contract beyond the original or fiscal year, this contract will terminate.

Staff believes it would not be beneficial at this time for the City to rebid custodial services and, therefore, a recommendation is made for an amendment to the existing contract for one additional year of custodial services, at the reduced contract cost.

Respectfully submitted,

J. Brent McFall  
City Manager



**WESTMINSTER**  
**COLORADO**  
**Agenda Memorandum**

City Council Meeting  
August 23, 2004



**SUBJECT:** Hidden Lake Gateway Contract Award

**Prepared By:** Kathy Piper, Landscape Architect II

**Recommended City Council Action**

Authorize the City Manager to execute a contract with Arrow J Landscape and Design, Inc. in the amount of \$91,862 for construction of the Hidden Lake Gateway at 69<sup>th</sup> Avenue and Sheridan Boulevard and authorize a \$9,100 contingency amount. All expenses are to be charged to the appropriate 2004 Community Enhancement Project Account in the General Capital Improvement Fund.

**Summary Statement**

- The City's Parks and Open Space Task Force (POST) has identified the Hidden Lake Open Space site as a location to place a signature City of Westminster gateway sign.
- All landscaping will use drought-tolerant plant materials and irrigation technology that will use City water effectively.
- Bids were solicited from three reputable companies that have constructed other gateways throughout the City. All three firms submitted bids. The low bid for this project is Arrow J Landscape, Inc.
- Arrow J Landscape Inc. has successfully completed both new construction and renovation landscape projects for the City in the past, most recently both phases of Amherst Park.
- Construction will begin in the fall and be completed by the end of 2004.

**Expenditure Required:** \$ 100,962

**Source of Funds:** 2004 Community Enhancement Capital Improvement Project Account

**Policy Issue**

Should the City continue to define its entries with large signature monument signs that require capital investment and on-going maintenance costs?

**Alternative**

City Council could choose not to authorize the Hidden Lake Gateway bid and leave this entrance to Westminster in its current condition until a later date. Staff, however, recommends pursuing the construction of the Hidden Lake Gateway as part of the existing Community Enhancement Master Plan. The Gateway would continue the goal of better establishing identity for the City of Westminster.

**Background Information**

The City of Westminster has continued to implement the gateway recommendations within the Community Enhancement Master Plan over the past ten years. The majority of gateway construction has occurred north of 92<sup>nd</sup> Avenue and has been located adjacent to neighboring city boundaries. The newest gateway was completed at 128<sup>th</sup> Avenue and Zuni Street in 2002.

Currently, the Community Enhancement Fund has funds dedicated for gateway construction.

A competitive bid was sent out to three construction companies for the gateway construction and bids were received as follows:

Arrow J. Landscape Inc.	\$91,862
T2 Construction	\$102,244
Rock and Company	\$101,000

The bid from Arrow is a good bid, and the City has contracted with Arrow for projects previously that were completed very successfully.

Respectfully submitted,

J. Brent McFall  
City Manager



**WESTMINSTER**  
**COLORADO**

**Agenda Memorandum**

City Council Meeting  
August 23, 2004



**SUBJECT:** Second Reading of Councillor's Bill No. 56 re Supplemental Budget Appropriation re Staffing to Implement the Revised Landscape Regulations

**Prepared By:** Shannon Sweeney, Planning Coordinator  
Mike Happe, Water Resources and Treatment Manager

**Recommended City Council Action**

- Pass Councillor's Bill No. 56 on second reading appropriating \$20,300 in the General Fund as a result of a transfer from the Utility Fund to fund the new Landscape Architect II position.

**Summary Statement**

- This request was approved on first reading by City Council on August 9, 2004.
- On June 28, 2004, City Council adopted revised Landscape Regulations and Staff indicated at that time that formal authorization of additional staffing to implement the revisions would be brought to City Council prior to the September 1, 2004 effective date of the regulations.
- As reviewed with City Council in the May 17, 2004 Staff Report, two additional full-time employee positions (Landscape Architect II and Official Development Plan Inspector) are needed to implement the additional level of landscape and irrigation plan review and field inspections necessary with the approved regulations. The regulations require expertise regarding review of landscape design, irrigation design, plant materials, and require additional field inspections and written agreements in order to implement numerous, detailed water conservation measures.
- These two positions would be part of the City's development review and construction plan review processes including field inspections and review of the use of non-potable water where possible in the landscape. The Official Development Plan Inspector would be within the Water Resources and Treatment Division in the Public Works and Utilities Department and the Landscape Architect II would be within the Planning Division in the Department of Community Development.
- The total estimated cost in 2004 to fund the Landscape Architect II salary, office equipment, and computer software is \$20,300. The ODP Inspector position will be funded separately in 2004 through a revision to the Water Resources and Treatment Division budget totaling \$18,740.

**Expenditure Required:** \$20,300  
**Source of Funds:** Utility Fund

Respectfully submitted,

J. Brent McFall  
City Manager

Attachment

BY AUTHORITY

ORDINANCE NO. **3144**

COUNCILLOR'S BILL NO. **56**

SERIES OF 2004

INTRODUCED BY COUNCILLORS

**Dixon - Dittman**

A BILL

FOR AN ORDINANCE AMENDING THE 2004 BUDGET OF THE GENERAL FUND AND AUTHORIZING A SUPPLEMENTAL APPROPRIATION FROM THE 2004 ESTIMATED REVENUES IN THE FUND.

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The 2004 appropriation for the General Fund initially appropriated by Ordinance No. 2977 in the amount of \$71,828,317 is hereby increased by \$20,300 which, when added to the fund balance as of the City Council action on August 9, 2004 will equal \$86,415,292. The actual amount in the General Fund on the date this ordinance becomes effective may vary from the amount set forth in this section due to intervening City Council actions. The appropriation is due to a transfer from the Utility Fund to fund a Landscape Architect II position in the Planning Division.

Section 2. The \$20,300 increase in the General Fund shall be allocated to City Revenue and Expense accounts, which shall be amended as follows:

REVENUES

Description	Account Number	Current Budget	Amendment	Revised Budget
Transfer – Utility Fund	1000.45000.0200	\$1,344,856	<u>\$20,300</u>	\$1,365,156
Total Change to Revenues			<u>\$20,300</u>	

EXPENSES

Description	Account Number	Current Budget	Amendment	Revised Budget
Salaries	10030360.60200.0000	\$826,479	\$14,360	\$840,839
Office Equip	10030360.75200.0000	200	5,600	5,800
Comp Hard/Software	10030360.75400.0000	0	<u>340</u>	340
Total Change to Expenses			<u>\$20,300</u>	

Section 3. The 2004 appropriation for the Utility Fund does not change with the City Council action on August 9, 2004. However, the expenditure accounts amended are shown here for informational purposes.

EXPENSES

Description	Account Number	2004 Adopted	Amendment	2004 Revised
Lease Pymts to Other	20035490.67700.0000	\$2,940,889	\$(39,040)	\$2,901,849
Transfer to General Fund	20010900.79800.0000	1,344,856	20,300	1,365,156
Salaries	20035480.60400.0000	508,989	11,900	520,889
Office Equipment	20035480.75200.0000	0	5,600	5,600
Comp Hard/Software	20035480.75400.0000	915	<u>1,240</u>	2,155
Total Change to Expenses			<u>\$0</u>	

Section 4. – 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 5. This ordinance shall take effect upon its passage after the second reading.

Section 6. This ordinance shall be published in full within ten days after its enactment.

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED AND PUBLISHED this 9th day of August, 2004.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 23rd day of August, 2004.

ATTEST:

\_\_\_\_\_  
Mayor

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





**WESTMINSTER**  
**COLORADO**

**Agenda Memorandum**

City Council Meeting  
August 23, 2004



**SUBJECT:** Resolution No. 51 re Carry Forward Balance of 2004 Private Activity Bond Allocation

**Prepared By:** Tony Chacon, Senior Projects Coordinator

**Recommended City Council Action**

Adopt Resolution No. 51 approving the carry forward of the City of Westminster's 2004 Private Activity Bond (PAB) allocation in the amount of \$4,160,440 for the qualified purposes set forth in the resolution, and authorize the Mayor to execute the documents necessary to preserve this allocation.

**Summary Statement**

- The City's 2004 PAB allocation is \$4,160,440. The allocation is issued by the State of Colorado pursuant to federal legislation, and is required for municipalities wanting to issue bonds for certain "private activities" such as residential mortgage programs, construction of affordable rental housing, and certain redevelopment projects within the urban renewal area.
- The City's 2004 PAB allocation has not been assigned to any project, nor has the City received any proposals to utilize the funds to date. However, Staff anticipates that these bonds may be needed for south Westminster redevelopment projects in the near future. If the City's PAB allocation is not carried forward by September 15, 2004, it will revert to the State pool. To maintain flexibility and not lose the allocation, the City may keep the allocation by passing a resolution stating that the allocation will be used for a qualified carry forward purpose.
- Qualified carry forward purposes include:
  - Qualified single-family mortgage revenue bonds, and mortgage credit certificates;
  - Qualified redevelopment bonds;
  - Qualified residential rental multifamily housing bonds.
- The attached Resolution has been reviewed and approved by the City Attorney's Office and is ready for City Council's formal action. This Resolution will formally carry forward \$4,160,440 of the City's 2004 PAB allocation. Staff will then proceed to identify for Council the specific project(s) for private activity bond financing prior to February 15, 2005, as required by state law. If a specific designation of the use of the City's PAB allocation is not made by February 15<sup>th</sup> 2005, the City and the State will lose this allocation.

**Expenditure Required:** \$0

**Source of Funds:** N/A

## **Policy Issues**

Whether to carry forward the City's 2004 Private Activity Bond allocation or allow the \$4,160,440 allocation to revert back to the State pool.

## **Alternatives**

Take no action, and allow the City's allocation to revert to the State pool. This option is not recommended; as it would limit the options that City Council would have for use of the PAB allocation relative to redevelopment in Westminster. The action to carry forward the allocation is routinely used and is acceptable to the State of Colorado, acting as the administrative agent for the Federal government.

## **Background Information**

When cities intend to issue tax-exempt bonds to finance certain eligible "private activities" as allowed by the Internal Revenue Code, they can do so only to the extent they have received a PAB allocation from the Federal government. Each year, the City of Westminster receives an allocation of private activity bonds to use towards bond financing of certain eligible "private activities" as defined by federal law. The issuance of low-interest, tax-exempt bonds can save developers and the City from the higher costs of commercial financing that can provide a significant savings to the project. Such bonds can also be used to provide subsidies for certain qualified homebuyers. The PAB financing further allows cities to sponsor community development and redevelopment activities that they deem important.

Previous allocations of the PAB have been directed by City Council towards revitalization and redevelopment activities within the south Westminster area, including the redevelopment of the Westminster Plaza shopping center. Since completion of the Plaza, the City has accumulated several years worth of PAB to possibly be used in conjunction with pending projects including the Northgate redevelopment, the implementation of transit-related development in south Westminster, a workforce housing project at 71<sup>st</sup> Avenue and Hooker Street (McDermott Properties project), and 73<sup>rd</sup> Avenue/Lowell Boulevard redevelopment. Staff proposes that the 2004 allocation would also be assigned to WEDA projects further increasing the bonding capacity for the forthcoming redevelopment projects.

If the PAB allocation is not specifically designated to a specific project by September 15, 2004 federal law allows the allocation to be carried forward and preserved through February 15<sup>th</sup> of the following year. By February 15, 2005 a specific assignment of the allocation must be made or the City and the State will lose the PAB allocation. To maintain flexibility and to consider competitive projects, it is proposed that the City act on the carry forward provision.

This action is consistent with City Council actions in past years and is considered routine by the State of Colorado, the administrative agent for the PAB program.

Respectfully submitted,

J. Brent McFall  
City Manager

Attachment

## RESOLUTION

RESOLUTION NO. **51**

INTRODUCED BY COUNCILORS

SERIES OF 2004

---

A RESOLUTION EXPRESSING THE INTENT OF THE CITY OF WESTMINSTER TO ISSUE OR CAUSE BONDS TO BE ISSUED IN AN APPROXIMATE AGGREGATE PRINCIPAL AMOUNT OF \$4,160,440 FOR QUALIFIED MORTGAGE BONDS, ONE OR MORE QUALIFIED RESIDENTIAL RENTAL PROJECTS, OR ONE OR MORE QUALIFIED REDEVELOPMENT PROJECTS; AND AUTHORIZING THE OFFICERS, EMPLOYEES AND AGENTS OF THE CITY TO PROCEED AND CONTINUE WITH STEPS PRELIMINARY TO THE ISSUANCE OF SUCH BONDS.

WHEREAS, the City of Westminster (the "City"), is a municipal corporation duly organized and existing as a home-rule municipality under Article XX of the State Constitution (the "Constitution") and laws of the State of Colorado; and

WHEREAS, the members of the City Council of the City (the "Council") have been duly elected and qualified; and

WHEREAS, pursuant to the Private Activity Bond Ceiling Allocation Act, Title 24, Article 32, Part 17, of Colorado Revised Statutes (the "Allocation Act"), the City has been allocated private activity bond "volume cap" for 2004, the amount of which is \$4,160,440; and

WHEREAS, the City intends and proposes to authorize, issue, sell and deliver, bonds in an approximate aggregate principal amount of \$4,160,440, in one or more series, for (1) qualified redevelopment purposes as described in Section 144(c) of the Internal Revenue Code of 1986, as amended (the "Code") OR (2) qualified mortgage bonds as described in section 143 of the code, or (3) qualified residential rental projects as described in Section 142(d) of the Code, together with the costs of funding any reserve funds for the bonds (the "Bonds"), the costs of securing the Bonds and costs incidental to the authorization, issuance and sale of the Bonds (collectively, the "Project").

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WESTMINSTER, IN THE COUNTIES OF ADAMS AND JEFFERSON, STATE OF COLORADO:

Section 1. All action not inconsistent with the provisions of this resolution heretofore taken by the City Council, and the officers, employees and agents of the City, directed toward the Project, and the issuance and sale of the Bonds therefore, is hereby ratified, approved and confirmed.

Section 2. The City intends to issue, or cause to be issued by another qualified issuer, the Bonds in the approximate aggregate principal amount of \$4,160,440 to pay the cost of the Project, upon terms acceptable to the City as set forth in a bond ordinance or resolution to be hereafter adopted and to take all further action which is necessary or desirable in connection therewith.

Section 3. The officers, employees and agents of the City shall take all action necessary or reasonably required to carry out, give effect to and consummate the transactions contemplated hereby and shall take all action necessary or desirable to finance the Project and to otherwise carry out the transactions contemplated by this resolution, including without limiting the generality of the foregoing, the following:

- (i) Carrying forward the City's unused private activity bond volume cap allocation for 2004 pursuant to Section 146(f) of the Code;
- (ii) Notifying the Colorado Department of Local Affairs prior to September 15, 2004 of the City's desire to treat its initial 2004 allocation of private activity bond volume cap as an allocation to the Project;

- (iii) Obtaining, if necessary, an additional share of the allocation for 2004 allotted to the State of Colorado pursuant to Section 146 of the Internal Revenue Code of 1986, as amended (the "Code");
- (iv) Assigning, if necessary, the City's 2004 allocation of private activity bond volume cap to another qualified issuer.

Section 4. The cost of financing the Project will be paid out of the proceeds of the Bonds or other available moneys of the City.

Section 5. The officers and employees of the City are hereby authorized and directed to take all action necessary or appropriate to effectuate the provisions of this resolution.

Section 6. If any section, paragraph, clause or provision of this resolution or the question shall for any reason be held 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 or the question.

Section 7. All acts, orders and resolutions, and parts thereof, inconsistent with this resolution be, and the same hereby are, repealed to the extent only of such inconsistency. This repealer shall not be construed to revive any act, order or resolution, or part thereof, heretofore repealed.

Section 8. This resolution shall be in full force and effect upon its passage and approval.

PASSED AND ADOPTED this 23<sup>rd</sup> day of August, 2004.

---

Mayor

(SEAL)

Attest:

---

City Clerk

STATE OF COLORADO )  
 )  
COUNTIES OF ADAMS ) SS.  
AND JEFFERSON )  
 )  
CITY OF WESTMINSTER )

I, Michele Kelley, the City Clerk of the City of Westminster, Colorado do hereby certify:

1. The foregoing pages are a true and correct copy of a resolution (the "Resolution") passed and adopted by the City Council (the "Council") of the City at a meeting of the Council held on September 8, 2004.

2. The Resolution was duly moved and seconded and the Resolution was adopted at the meeting of September 8, 2004, by an affirmative vote of a majority of the members of the Council as follows:

Those Voting Aye:

Those Voting Nay:

Those Absent:

Those Abstaining:

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, sealed with the City seal, attested by the 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 September \_\_\_\_, 2004 in the form attached hereto as Exhibit A was posted at the City Hall, Westminster, Colorado, not less than 24 hours prior to the meeting in accordance with law.

WITNESS my hand and the seal of said City affixed this of September \_\_\_\_, 2004.

---

City Clerk

(SEAL)



**WESTMINSTER**  
**COLORADO**

**Agenda Memorandum**

City Council Meeting  
August 23, 2004



**SUBJECT:** Councillor's Bill No. 58 re Allowing Tastings in Liquor Establishments

**Prepared By:** Michele Kelley, City Clerk and Sharon Widener, Assistant City Attorney

**Recommended City Council Action**

Pass Councillor's Bill No. 58 on first reading amending the City Code to allow tastings to be conducted within retail liquor stores and liquor licensed drugstores.

**Summary Statement**

The State legislature passed and the Governor signed HB 04-1021 that allows a municipality to enact an ordinance to allow retail liquor store and liquor licensed drug store premises to have "tastings," effective July 1, 2004.

- The Special Permit and License Board met on June 16<sup>th</sup>, and again on July 7<sup>th</sup>, to discuss this issue and listen to a liquor store owner requesting enactment of an ordinance to allow tastings, and reviewed information from other jurisdictions that have adopted a "tastings" ordinance.
- The Special Permit and License Board voted to recommend to City Council to draft an ordinance allowing tastings within Westminster retail liquor store and liquor licensed drug stores.
- Donna McMillan, Vice Chair of the Special Permit and License Board and member Frank Jaime discussed this item with City Council at the August 4<sup>th</sup> Study Session.
- Council directed Staff to draft an ordinance for City Council consideration.

**Expenditure Required:** \$0

**Source of Funds:** N/A

**Policy Issue**

Should Council enact an ordinance to allow retail liquor stores and liquor licensed drug stores to have tastings?

**Alternative**

Council could decide not to enact an ordinance allowing tastings. This alternative is not recommended because other adjacent cities and counties have already enacted ordinances to allow tastings, and the retail liquor stores within Westminster claim they need this to be able to be competitive in this arena.

**Background Information**

The ordinance as drafted will allow retail liquor stores and liquor licensed drug stores to apply for a tasting permit that will run concurrently with their liquor license. There will be a \$50 annual fee for the permit. If the liquor establishment has had any liquor violations within the past 3 years of applying for the tasting permit, the Special Permit and License Board will determine if the permit will be issued. If no violations have occurred within the past 3 years, the permit can be issued administratively.

Currently there are 30 retail liquor store licenses, and no liquor licensed drug store licenses. It is anticipated that only a few of these licensees will apply for the tasting permit.

The major concern of the liquor licensed establishments is that Broomfield and Thornton have enacted an ordinance, and the Westminster businesses do not feel that they are able to compete with these other businesses unless they also have the option to conduct tastings.

The Police Department will be reporting to the Special Permit and License Board any problems that may occur during tastings. The Special Permit and License Board would then make recommendations to City Council on any amendments that may be required to the ordinance.

Respectfully submitted,

J. Brent McFall  
City Manager

Attachment

BY AUTHORITY

ORDINANCE NO.  
SERIES OF 2004

COUNCILLOR'S BILL NO. **58**  
INTRODUCED BY COUNCILLORS

---

A BILL  
FOR AN ORDINANCE ALLOWING TASTINGS OF MALT, VINOUS, OR SPIRITOUS LIQUORS  
AND AUTHORIZING AN APPLICATION AND FEES

THE CITY OF WESTMINSTER ORDAINS:

Section 1. Title V, Chapter 14, W.M.C., is hereby amended BY THE ADDITION OF A NEW SECTION to read as follows:

**5-14-15: LIQUOR TASTINGS:**

(A) AUTHORIZATION. LICENSED RETAIL LIQUOR STORES AND LIQUOR LICENSED DRUGSTORES ARE HEREBY AUTHORIZED TO CONDUCT TASTINGS IN COMPLIANCE WITH SECTION 12-47-301, C.R.S., AS "TASTINGS" AS DEFINED THEREIN.

(B) APPLICATION; FEE. AN APPLICANT FOR A TASTING PERMIT MUST COMPLETE AN APPLICATION ON A FORM TO BE PROVIDED BY THE CITY CLERK AND ACCOMPANY THE APPLICATION WITH A FIFTY DOLLAR (\$50.00) FEE.

(C) VIOLATION. IT SHALL BE UNLAWFUL FOR ANY PERSON TO CONDUCT A TASTING WITHOUT A TASTING PERMIT ISSUED BY THE CITY OR TO CONDUCT SUCH TASTING IN ANY MANNER NOT IN COMPLIANCE WITH THE RULES AND REGULATIONS IN SECTION 12-47-301, C.R.S. OR THIS SECTION. FAILURE TO COMPLY WITH SAID SECTIONS SHALL BE CONSIDERED A VIOLATION OF THE COLORADO BEER AND LIQUOR CODES AND MAY BE SANCTIONED AS ANY OTHER VIOLATION OF THE CODES.

(D) TERM; RENEWAL. TASTING PERMITS SHALL BE VALID FOR ONE (1) YEAR AND SHALL BE ISSUED CONCURRENT WITH THE RENEWAL OF THE RETAIL LIQUOR STORE LICENSE. RENEWAL SHALL BE ADMINISTRATIVELY ACCOMPLISHED BY THE CITY CLERK, PROVIDED THAT A RENEWAL FEE OF FIFTY DOLLARS (\$50.00) IS PAID AND THE PERMITEE HAS NO VIOLATIONS OF SECTION 12-47-301, C.R.S., IN WHICH CASE THE RENEWAL APPLICATION SHALL BE CONSIDERED BY THE SPECIAL PERMIT AND LICENSE BOARD.

(E) THE PERMITEE SHALL PROVIDE THE CITY CLERK WITH A SCHEDULE OF DATES AND TIMES THE TASTINGS WILL BE CONDUCTED. SUCH NOTICE SHALL BE AT LEAST SEVENTY-TWO (72) HOURS PRIOR TO THE TASTING.

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 23<sup>RD</sup> day of August, 2004.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 13<sup>th</sup> day of September, 2004.

ATTEST:

---

City Clerk

---

Mayor





**WESTMINSTER**  
**COLORADO**

**Agenda Memorandum**

City Council Meeting  
August 23, 2004



**SUBJECT:** Community Reach Center formerly 76<sup>th</sup> Avenue Library Remodel Project

**Prepared By:** Jerry Cinkosky, Facilities Manager  
Janice Kraft, Neighborhood Services Administrator

**Recommended City Council Action**

- Pass Councillor's Bill No. 59 on first reading to appropriate \$135,000 into the General Capital Improvement Fund from the Community Reach Center contribution toward the 76th Ave. remodel project.
- Authorize the City Manager to execute a contract with Adams Mendel Allison Construction Inc. for \$209,498 for the remodel of the former 76<sup>th</sup> Avenue Library building for the Community Reach Center, including the previously budgeted contribution from the City of \$74,498 toward the recorded project.

**Summary Statement**

- On May 24, 2004, City Council authorized a lease between the City and Community Reach Center for use of the former 76<sup>th</sup> Avenue Library as its Westminster Clinic.
- The City has budgeted funds for a portion of the remodel costs of this building in the amount of \$90,000 and an additional amount of \$15,000 for the cost of replacing the building roof. \$90,000 has been allocated for this expense in the General Capital Improvement Project fund and \$15,000 through a 2003 budget carryover in General Services Department.
- Community Reach Center funds of \$135,000 have been approved to be used for construction costs.
- Inside Out Design is the architectural firm hired to complete the construction drawings.
- A CM/GC is selected through a competitive process evaluating qualifications, experience, resources and the firm's fees and costs. The actual cost of the construction work is determined through a hard bid process by the CM/GC to ensure that the City is getting the lowest possible cost for the project and that work performed for the City is competitively bid.

**Expenditure Required:** \$209,498

**Source of Funds:** \$135,000 funded by the Community Reach Center supplemental appropriation contribution  
\$74,498 General Capital Improvement Fund

## **Policy Issue**

Should City Council approve the construction method known as Construction Manager/General Contractor for the remodel of the former 76<sup>th</sup> Avenue Library building?

Should the City contract with Adams Mendel Allison Construction Inc. as the CM/GC and authorize the expenditures indicated for the project?

## **Alternatives**

- Do not approve the construction method of CM/GC. Staff does not recommend this option as CM/GC offers many benefits to the City, especially when remodeling a building, while still providing a competitive selection and bid process.
- Do not approve the contract with AMA, directing staff to go out to bid again. Staff does not recommend this alternative as AMA was selected in the best interest of the City on this project based on their recent experience with complicated renovation projects and the fact that their fee proposal was the lowest.
- Do not approve the contract with AMA, delaying the start of the project to some future date. Staff does not recommend this alternative as the lease agreement between the City and Community Reach Center for use of the 76<sup>th</sup> Avenue Library has already been authorized by City Council and executed.

## **Background Information**

Community Reach Center has operated its Westminster office out of the City-owned former residence known as the Walker Building for 30 years. The Walker Building is adjacent to the City's Swim and Fitness Center at 3200 West 76<sup>th</sup> Avenue. This partnership with Community Reach Center has allowed mental health services to be provided to Westminster residents in a facility located within our community. The City has also contributed to the Center each year through its Human Services funding. For 2004, this contribution is \$24,000.

In the late 1990's it was determined that the Walker residence needed significant work to correct deficiencies and problems created by years of deterioration and to improve accessibility to disabled persons. It was determined at that time a remodel project would be budgeted at approximately \$181,300 with the Mental Health Center Foundation paying for \$50,000 of the project and the balance funded with 1999 City budget carryover dollars.

Subsequent to this decision, City Council authorized the construction of the Irving Street Library as a replacement for the 76<sup>th</sup> Avenue Library. Mental Health Center staff was approached with the idea of reducing the scope of the Walker Building project to make just the required repairs and then converting the old library building to new offices for their operation. This approach was enthusiastically approved by the Mental Health Center Board as they believed the old library building would provide a much more desirable facility for its clinical offices and space to expand its services.

The remodel project cost for the Walker Building was then reduced by approximately half, leaving \$90,000 available for the City's share of the library building renovation. The remodel work on the Walker Building was completed in 2000.

Community Reach developed a floor plan to convert the open spaces of the former 76<sup>th</sup> Avenue Library into office spaces and meeting rooms. Inside Out Design was retained as the architectural firm to take that floor layout plan through to completion of construction drawings.

Staff is recommending, and Community Reach concurs, that the process used for this remodel project should be a Construction Manager/General Contractor approach. CM/GC is the process whereby the general contractor is selected during completion of the design, rather than having completed design and then selecting the contractor. The advantage to this approach is that a contractor becomes familiar with the building, the goals and objectives of the project, the schedule, and budgetary constraints as final electrical, HVAC, and general construction design is progressing.

The role of the CM/GC is to provide input into the design development and construction drawings as it relates to alternative methods for construction and value engineering. The contractor is familiar with current materials shortages, long lead items needed for the project that may impact the project schedule, alternative finishes or fixtures that may reduce the project cost without negatively impacting the project goal, and requirements for construction that may require heavy labor costs. The CM/GC shares their construction experience with similar projects, lessons learned, building code and fire code impacts, and contributes to the creation of better quality, more thorough and complete construction drawings.

Several times during the design process the CM/GC will update the owner and the architect and engineers about the project budget, making estimates of the final construction costs. They will also estimate the cost of any changes proposed to the design so the owner can determine the financial impact before making a decision.

Under a traditional bid process, a firm's qualifications and experience are not the basis for selection; it is totally based on cost. A Construction Manager/General Contractor is selected through a competitive process also, but the firm can be evaluated first, based on their experience and qualifications and then included in a bid process where their fees are the final basis for selection. Once the CM/GC is selected, the actual cost for the construction work and materials are hard bid through the subcontractors.

In April Staff released a request for qualifications and fee proposal for a Construction Manager/General Contractor (CM/GC). Six firms were included: Adams Mendel Allison Construction (AMA), FCI Constructors, High Desert Construction, Pinkard Construction, Sand Construction and Saunders Construction.

These firms, with the exception of High Desert and Pinkard, were chosen based on recent successful completion of construction projects for the City. Staff from Community Reach Center requested High Desert Construction be included because that firm had recently completed a construction project for them. Pinkard Construction was given the opportunity to respond because they had provided construction cost estimating services to the City, free of charge, early in the project.

FCI Constructors withdrew due to other projects currently scheduled and Sand Construction withdrew because they would not be able to meet the City's bonding requirements.

City Staff and staff from Community Reach Center reviewed the remaining submittals. High Desert Construction was eliminated from further consideration upon review of their response. It was believed that they lacked the breadth of experience and resources needed. They had been in business as a firm for only two years and during that time completed only one project similar in scope.

A panel consisting of City Staff, Community Reach Center staff, and the architect interviewed the remaining three firms: AMA, Pinkard and Saunders. All three firms presented similar qualifications, project management philosophy, project team structure and budget and schedule controls. The project teams proposed by all three firms appeared to be a good fit for this project. It was determined that any of these three firms had the qualifications and experience to handle the project.

The final selection of the CM/GC was based on fees proposed for general conditions, bonds, overhead and profit, general liability insurance, and builders risk insurance:

**AMA - \$39,566**

**Saunders - \$44,242**

**Pinkard - \$50,815**

In addition to being the lowest fee proposal, AMA agreed that any cost savings under the guaranteed maximum price, up to 5% of the contract value, would be shared between the City and AMA, 60% and 40% respectively. Any savings greater than 5% of the contract value would go to the City 100%.

The guaranteed maximum price (GMP), the direct cost of the work, a fixed amount determined through a bid process, is \$209,498. City Staff is seeking Council's authorization to expend \$209,498 towards the GMP, which includes Community Reach Center funds, and to authorize the City Manager to execute a contract with AMA for CM/GC services.

Community Reach Center Board members unanimously approved on first reading the allocation of \$135,000 for their portion of these construction costs. The attached Councillor's Bill appropriates the funds into the appropriate General Fund CIP account. The Community Reach Center Board will be considering this action on second reading on August 26, 2004. If the cost of this project exceeds the estimate, Community Reach Center is responsible for additional project costs.

Construction is anticipated to begin in September 2004 and be completed by the end of November 2004.

Adams Mendel Allison will hard bid all major components of this remodel project ensuring that the City will achieve the lowest possible costs for construction services. Community Reach Center hopes to have an open house ceremony when this project completes sometime towards the later part of 2004.

Respectfully submitted,

J. Brent McFall  
City Manager

Attachment

BY AUTHORITY

ORDINANCE NO. **3148**

COUNCILLOR'S BILL NO. **59**

SERIES OF 2004

INTRODUCED BY COUNCILLORS

**Davia - Dittman**

A BILL

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

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The 2004 appropriation for the General Capital Improvement Fund, initially appropriated by Ordinance No. 2977 in the amount of \$9,036,000 is hereby increased by \$135,000 which, when added to the fund balance as of the City Council action on August 23, 2004 will equal \$17,606,997. The actual amount in the General Capital Improvement Fund on the date this ordinance becomes effective may vary from the amount set forth in this section due to intervening City Council actions. The appropriation is due to the receipt of a contribution from Community Reach Center.

Section 2. The \$135,000 increase in the General Capital Improvement Fund shall be allocated to City Revenue and Expense accounts, which shall be amended as follows:

Description	Account Number	Current Budget	Increase (Decrease)	Final Budget
<b>Revenue</b>				
Contributions	7500.43100.0000	\$5,140	<u>\$135,000</u>	\$140,140
Total change to revenues			<u>\$135,000</u>	
Description	Account Number	Current Budget	Increase (Decrease)	Final Budget
<b>Expenses</b>				
Walker Bldg Remodel	80175012022.80400.8888	\$181,000	<u>\$135,000</u>	\$316,000
Total change to expenses			<u>\$135,000</u>	

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

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

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

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

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 13th day of September, 2004.

ATTEST:

\_\_\_\_\_  
Mayor

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



**WESTMINSTER**  
**COLORADO**

**Agenda Memorandum**

City Council Meeting  
August 23, 2004



**SUBJECT:** Westin Hotel Refinancing Agreements

**Prepared By:** Steve Smithers, Assistant City Manager

**Recommended City Council Action**

Authorize the City Manager to enter into Agreements on terms of the Westin Hotel Refinancing with Inland Pacific Corporation (IPC) in substantially the same form as the attached agreements with such non-monetary modifications that may be approved by the City Manager and City Attorney.

**Summary Statement**

- The City entered into a Joint Development Agreement and a subsequent Lease Agreement in 1998 with Inland Pacific Corporation for the construction, occupancy, use and operations, and financial considerations for the Westminster Conference Center.
- The original financing for the hotel was for a three-year period and expired last year. IPC has been in negotiations since that time to locate new long term financing, which has been complicated by the declines suffered due to September 11 and the economic downturn that has been experienced over the last three years.
- The hotel has operated on a profitable basis since it's opening in 2000, and has made all scheduled lease payments for the Conference Center to the City and all loan payments for the Hotel to the bank.
- IPC has located new financing for the hotel through two lenders; however, one of the requirements of this financing is the restating of the understanding of how certain portions of the lease agreements on the conference center and Pavilion, the development agreement with IPC and several other more minor documents, will work under certain future circumstances.
- Staff has reached agreement with IPC and the lenders on the terms of the Agreements that will allow the refinancing to move forward. The agreements are being done to satisfy the lender's requirements for future events where IPC might default on the loans or where other significant events would occur that would affect the financial viability of the hotel, and therefore place the loans at risk.
- Staff anticipates that if these new terms are approved, IPC will finalize the new financing for the hotel in the next 30 days. This action will create greater security for the Westin Hotel and for the Promenade Complex as a whole.

**Expenditure Required:** \$0

**Source of Funds:** N/A

**Policy Issues**

Should the City enter into agreements with IPC to allow the refinancing of the Westin Hotel to move forward?

**Alternatives**

The City could choose to not enter into these agreements. This would most likely result in IPC's inability to close on new financing for the Westin Hotel. The current note holder, Deutsche Bank, has indicated that if IPC is unable to pay off the current note they will proceed with measures necessary to close out the note. Staff is comfortable that these agreements do not affect in any substantive way the financial and other obligations that IPC has with the City under the current lease and other agreements.

**Background Information**

Staff was contacted by Tim O'Byrne, President of IPC and owner of the Westin Westminster Hotel, last year to notify the City of potential issues with refinancing of the Hotel. The original financing was done through Deutsche Bank for a three-year period and it was anticipated that the bank would extend this financing on a longer-term basis at the end of this period. Because of the events surrounding September 11, 2001 and the declines experienced in the economy, hotels across the country have experienced lower occupancy rates and declining revenues. These factors led Deutsche Bank to make the decision to not extend the financing on the Westminster Westin Hotel, even though the Westin has never missed a payment to Deutsche Bank.

IPC has been able to negotiate a series of forbearance agreements with Deutsche Bank to allow time to either sell the hotel or find new financing. Tim O'Byrne has made it clear that he sees the Westin Westminster Hotel as a tremendous asset to IPC's portfolio and that they will do everything they can to continue ownership of the hotel. Staff has worked with IPC to locate new financing and after several failed attempts, two lenders have been identified that are very interested in providing longer term financing (seven years) for the Westin. The two lenders are CIBC World Markets Corporation and Ashford Hospitality Trust.

City Council approved the extension of the Business Assistance Rebate for the Westminster Conference Center at the August 9, 2004 City Council meeting contingent on the City arriving at acceptable language in agreements necessary to establish IPC's and the City's obligations in relationship to the new lenders. The attached agreements meet the requirements of the lenders without substantively changing the financial and other obligations of IPC to the City that were established in the original leases and development agreement. The agreements focus mainly on the security (conference center and pavilion leases) for the financing and how this security is treated in the event of a default by IPC or a material change that affects the security. The new lenders are looking for many of the same protections that the current lender on the hotel (Deutsche Bank) received.

The financing package that IPC is working to finalize in the coming weeks will provide seven year financing under terms that will assist the Westin in stabilizing its financial situation. Staff will continue to work with IPC to assure that the City's investments in the Conference Center and Pavilion remain secure.

Staff will be present Monday evening to answer any further questions from City Council on this item.

Respectfully submitted,

J. Brent McFall  
City Manager

Attachment

BLACKLINE COPY  
(COMPARES VERSION 1 VS. 2)

Draft 8/13/04

**ESTOPPEL AND RECOGNITION AGREEMENT**  
**AS TO**  
**CONFERENCE CENTER LEASE, PAVILION LEASE AND DEVELOPMENT AGREEMENT**  
**FOR THE WESTIN WESTMINSTER HOTEL**

WHEREAS, The CITY OF WESTMINSTER, a Colorado home-rule municipality (hereinafter the "City"), has heretofore leased to INLAND PACIFIC COLORADO, L.L.C., a Colorado limited liability company (hereinafter "IPC"), the conference center (the "Conference Center"), as more fully described on Exhibit A attached hereto (hereinafter the "Conference Center Premises") pursuant to a Lease Agreement between the City and IPC, as more particularly described on Exhibit B (as same may have been amended, modified, substituted or extended, hereinafter the "Conference Center Lease"; capitalized terms used herein without definition shall have the respective meanings attributed thereto in the Conference Center Lease); and

WHEREAS, the City and IPC are also parties to that certain Agreement between the City of Westminster and Inland Pacific Colorado for the Cooperative Development and Construction of the Westminster Promenade East Hotel, Conference Center and Commercial Buildings, as more particularly described on Exhibit C (as same may have been amended, modified, substituted or extended, hereinafter the "Development Agreement"); and

WHEREAS, the City and IPC are also parties to a Lease Agreement, as more particularly described on Exhibit D (as same may have been amended, modified, substituted or extended, hereinafter the "Pavilion Lease"), pursuant to which the City has leased to IPC that certain [banquet hall, meeting and catering facility](#) located on the land more fully described on Exhibit E attached hereto (hereinafter, the "Pavilion Premises"); and

WHEREAS, IPC is the owner in fee simple absolute of the rest of that property commonly known as the Westin Westminster Hotel (the "Hotel"); and

WHEREAS, IPC is desirous of obtaining from CIBC Inc., a Delaware corporation, having an office at 622 Third Avenue, Attn: Real Estate Finance Group, New York, New York 10017 (hereinafter "Mortgage Lender") a Mortgage Loan (hereinafter the "Mortgage Loan") to be secured by a first-priority deed of trust (the "Leasehold Mortgage") encumbering, among other things, IPC's interests in the Conference Center Premises and the Pavilion Premises (the Conference Center Premises and the Pavilion Premises being referred to collectively as the "Leased Premises") and IPC's interests under the Conference Center Lease and the Pavilion Lease (the Conference Center Lease and the Pavilion Lease being referred to collectively as the "Leases") and an assignment of certain rights of IPC under the Development Agreement, as well as all of IPC's other interests in the Hotel; and

WHEREAS, [IPC Mezzanine LLC](#) (hereinafter, "Newco") is the owner of ninety-nine and one-half percent (99.5%) of the equity interests in IPC and one hundred percent (100%) of Newco's equity interests in [Manager LLC](#), the sole manager of IPC ("IPC Manager"); and

WHEREAS, in connection with the financing of the Hotel, Newco is desirous of obtaining from Ashford Hospitality Finance LP, a Delaware limited partnership, or an affiliate thereof, having an office at c/o Ashford Hospitality Trust, Inc., 14185 Dallas Parkway, Suite 1100, Dallas, Texas 75254 (hereinafter "Mezzanine Lender"; the Mortgage Lender and Mezzanine Lender being referred to collectively as the "Lenders") a loan (hereinafter the "Mezzanine Loan"; the Mortgage Loan and the Mezzanine Loan being referred to collectively as the "Loans"), to be secured by a security interest in Newco's ownership interests in IPC and IPC Manager (the instrument or instruments granting such



security interest and evidencing and securing such Mezzanine Loan being referred to collectively as the "Mezzanine Pledge"); and

WHEREAS, Mortgage Lender is unwilling to make the Mortgage Loan unless (a) the City reaffirms to Mortgage Lender that the provisions of the Leases respecting leasehold mortgages are restated and confirmed for Mortgage Lender's benefit and (b) certain additional agreements are made with Mortgage Lender with respect to Mortgage Lender's rights as the holder of the Leasehold Mortgage, all as more fully set forth in this Estoppel and Agreement; and

WHEREAS, Mezzanine Lender is unwilling to make the Mezzanine Loan unless (a) certain agreements are made with Mezzanine Lender with respect to the Leases and the Development Agreement, and (b) the City grants Mezzanine Lender certain protective rights as the holder of the Mezzanine Pledge, all as more fully set forth in this Estoppel and Agreement; and

WHEREAS, the financial viability of the Hotel (including, without limitation, the Conference Center and the Pavilion) is of benefit and importance to the City, and the City is willing to make certain agreements for the benefit of the Lenders;

NOW, THEREFORE, in consideration of the foregoing and of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, City and IPC each hereby certifies to and agrees with the Lenders as follows:

1. Estoppel Provisions. The City hereby certifies to the Lenders as follows:

(a) The City is the owner of the fee simple estate in the Conference Center Premises and is the landlord under the Conference Center Lease.

(b) IPC is the owner of the leasehold estate in the Conference Center Premises and is the tenant under the Conference Center Lease.

(c) The Conference Center Lease is in full force and effect in accordance with its terms and has not been further assigned, supplemented, modified or otherwise amended except as set forth in Exhibit B attached hereto. IPC has not requested the consent of the City to any sublease of any portion of the Conference Center Premises.

(d) The Fixed Rent currently payable by IPC under the Conference Center Lease is \$200,000.00 per quarter as of July 1, 2004, and increases as set forth in Exhibit B to the Conference Center Lease. Fixed Rent under the Conference Center Lease has been paid for the period through the calendar quarter ending on June 30, 2004, and no Fixed Rent due with respect to any prior calendar period has been deferred and not paid in full (together with all interest upon deferral thereof) as of the date hereof.

(e) The initial term of the Conference Center Lease shall expire on \_\_\_\_\_.

(f) Each of the obligations on IPC's part to be performed to date under the Conference Center Lease or under any other agreement described in Exhibit B attached hereto has been performed. Each of the obligations on the City's part to be performed to date under the Conference Center Lease (including, without limitation, the payment of taxes and maintaining of insurance) has been performed.

(g) The City is the owner of the fee simple estate in the Pavilion Premises and is the landlord under the Pavilion Lease.

(h) IPC is the owner of the leasehold estate in the Pavilion Premises and is the tenant under the Pavilion Lease.

(i) The Pavilion Lease is in full force and effect in accordance with its terms and has not been further assigned, supplemented, modified or otherwise amended except as set forth in Exhibit D attached hereto. IPC has not requested the consent of the City to any sublease of any portion of the Pavilion Premises.

(j) The Fixed Rent payable by IPC under the Pavilion Lease is \$43,750.00 per quarter until the expiration of the initial term of the Pavilion Lease. Fixed Rent under the Pavilion Lease has been paid for the period through the calendar quarter ending on June 30, 2004.

(k) The initial term of the Pavilion Lease shall expire on \_\_\_\_\_.

(l) Each of the obligations on IPC's part to be performed to date under the Pavilion Lease or under any other agreement described in Exhibit G attached hereto has been performed. Each of the obligations on the City's part to be performed to date under the Pavilion Lease (including, without limitation, the payment of taxes and maintaining of insurance) has been performed.

(m) The Development Agreement is in full force and effect in accordance with its terms (except that certain terms of the Development Agreement that pertain to the Conference Center Lease contemplated thereby were modified by the City and IPC in the Conference Center Lease). IPC is the owner and holder of all rights under the Development Agreement relating to the Hotel and the Conference Center (as such terms are defined in the Development Agreement). The assignment by IPC of certain rights under the Development Agreement (as referenced in the instrument identified as #2 of Exhibit C attached hereto) pertained solely to the Phase Two Buildings (as defined in the Development Agreement), and does not give any other party any rights originally granted to IPC under the Development Agreement with respect to the Hotel or the Conference Center.

(n) Without limiting the provisions of the previous paragraph, as of the date hereof (i) IPC is entitled to receive the Business Assistance Rebate (as defined in the Development Agreement) in accordance with the terms of the Development Agreement until the earlier to occur of the payment of the full amount of the Business Assistance Rebate in accordance with the Development Agreement or [March 1, 2025], whichever comes first; (ii) Exhibit [C-1](#) hereto sets forth a true, correct and complete list of all Business Assistance Rebate payments made to date; and (iii) any successor to IPC as lessee of the Conference Center Premises would be entitled to succeed to IPC's right to receive the Business Assistance Rebate to the extent payable under the terms of the Development Agreement

(o) Each of the obligations on IPC's part to be performed to date under the Development Agreement or under any other agreement described in Exhibit C attached hereto have been performed.

(p) To the best of City's knowledge, IPC has no offsets, counterclaims, defenses, deductions or credits whatsoever with respect to the Conference Center Lease, the Pavilion Lease or the Development Agreement.

(q) The City has no knowledge of any other Leasehold Mortgage under the Conference Center Lease (other than the Leasehold Mortgage for the benefit of [German American Capital Corporation](#) which, IPC has informed the City, is to be satisfied simultaneously with the closing of the Mortgage Loan) or the Pavilion Lease.

(r) Except for the Conference Center Lease, the Pavilion Lease and the Development Agreement, there are no other agreements concerning the Conference Center Premises, [the Pavilion Premises and/or the Hotel](#), whether oral or written between the City and IPC or any affiliate of IPC.

(s) The City has not assigned, conveyed, transferred, sold, encumbered or mortgaged its interest in the Conference Center Lease, the Conference Center Premises, the Pavilion Lease and or the Pavilion Premises and there are currently no mortgages, deeds of trust or other security interests encumbering the City's fee interest in the Conference Center Premises or the Pavilion Premises and no third party has an option or preferential right to purchase all or any part of the Conference Center Premises or the Pavilion Premises.

(t) The City has not received written notice of any pending eminent domain proceedings or other governmental actions or any judicial actions of any kind against the City's interest in the Conference Center Premises or the Pavilion Premises.

2. Recognition as Leasehold Mortgagee The City hereby recognizes Mortgage Lender as a "Leasehold Mortgagee" as defined in Section 29.21 of the Conference Center Lease, for all purposes under the Conference Center Lease, and agrees that any successor holder of the Leasehold Mortgage shall be a Leasehold Mortgagee. The City hereby agrees that for all purposes under the Conference Center Lease (a) Newco shall have the right to pledge its ownership interests in IPC and IPC Manager pursuant to the Mezzanine Pledge, and (b) subject to the terms and provisions of Section 16 below, Mezzanine Lender shall be entitled to all of the rights of a "Leasehold Mortgagee" as defined in Section 29.21 of the Conference Center Lease, for all purposes under the Conference Center Lease, and agrees that any successor holder of the Mezzanine Pledge shall also be entitled to such rights.

3. Termination Protections – Conference Center Lease. The City hereby confirms that pursuant to Section 29.21(ii) of the Conference Center Lease, no termination of the Conference Center Lease on account of an Event of Default shall be permitted without affording to the Lenders the rights of a Leasehold Mortgagee as set forth in Section 29.21(v) of the Conference Center Lease; provided, however, that Mezzanine Lender's rights pursuant to this Section 3 shall be subject to the terms and provisions of Section 16 below. Furthermore, the City hereby acknowledges that, upon the occurrence of certain casualty or condemnation events, IPC has agreed that it will not exercise any right it has under the Conference Center Lease to terminate the Conference Center Lease without, in each case, the prior written consent of the Lenders, and that any such action taken without the Lenders' consent shall not be binding on IPC or the Lenders.

4. Termination Protections – Pavilion Lease. Notwithstanding that the Pavilion Lease does not contain provisions for the benefit of a leasehold mortgagee comparable to those set forth in the Conference Center Lease, the City hereby agrees with the Lenders that (a) IPC shall have the right to mortgage and encumber its interests under the Pavilion Lease, (b) Newco shall have the right to pledge its ownership interests in IPC and IPC Manager pursuant to the Mezzanine Pledge, and (c) all provisions of Section 29.21 of the Conference Center Lease, and all provisions of this Estoppel and Recognition Agreement with respect to the rights of a Leasehold Mortgagee under the Conference Center Lease, shall be deemed to apply for the benefit of any Leasehold Mortgagee holding a leasehold mortgage on IPC's interests under the Pavilion Lease, each as if the Pavilion Lease was amended to include therein the provisions of Section 29.21 of the Convention Center Lease and the additional rights set forth in this Estoppel and Recognition Agreement). Mezzanine Lender shall have the same rights as Mortgage Lender pursuant to clause (c) of the preceding sentence, subject, however, to the provisions of Section 16 below.

5. Priority of Fee Mortgages; Non-Disturbance Agreement. The City hereby covenants and agrees with IPC and the Lenders that, notwithstanding anything to the contrary set forth in Section 20 of the Conference Center Lease, the Lease, (together with the lien of the Leasehold Mortgage) shall be subject and subordinate to any subsequent Mortgage (as such term is defined in the Conference Center Lease) encumbering the fee interest in any portion of the Premises only if the holder of such Mortgage agrees in writing, by written instrument satisfactory to the holder of the Leasehold Mortgage in its reasonable discretion that the holder of such Mortgage encumbering the fee interest in the Premises will (a) recognize and take subject to the rights of a Leasehold Mortgagee under the Leases including, without limitation, all rights of a Leasehold Mortgagee to cure ongoing "Events of Default" under the Leases, and (b) agree not to disturb the rights of the tenants under the Leases so long as no Event of Default has occurred and be continuing, and (c) in the event of any foreclosure sale under such Mortgage, the Leases shall continue in full force and effect so long as no "Event of Default" shall have occurred and be continuing on the date of filing a foreclosure proceeding (as provided in Section 20 of the Leases), it being agreed that nothing in this clause (b) or (c) shall limit the rights of a Leasehold Mortgagee to exercise its cure rights as aforesaid.

6. Leasehold Mortgagee's Right to Take Possession and Cure. The City hereby covenants and agrees that, in the case of any default by IPC under either or both of the Leases that is not cured by IPC within the applicable period therefor but which can only be cured by a Lender by acquiring possession of the Premises and/or ownership of IPC (any such default being referred to as a "Possession-Related Default"), Mortgage Lender or, subject to Section 16 below, Mezzanine Lender (each, "Curing Lender") shall have the right, but not the obligation, to cure such Possession-Related Default and, notwithstanding anything to the contrary set forth in Section 29.21(v) of the Conference Center Lease, in

the event that any Possession-Related Default cannot, with reasonable diligence, be cured within 30 days, the City hereby agrees that Curing Lender shall be afforded such longer period as may be required to complete such cure including, without limitation, such time as may be required for such Curing Lender to acquire possession of the Premises or ownership of IPC, as applicable, provided that (a) within ten (10) days after notice of a Possession-Related Default being given to Curing Lender by the City, Curing Lender causes all past-due payments of Rent under the related Lease to be paid (and thereafter timely pays all Rent due under the related Lease) and (b) within 30 days after notice of such Possession-Related Default being given to Curing Lender by the City, Curing Lender notifies the City of Curing Lender's intention to cure such Possession-Related Default and Curing Lender promptly commences and diligently pursues such cure to completion (which shall include, without limitation, Curing Lender exercising its rights under the Leasehold Mortgage or the Mezzanine Pledge, as applicable, to commence appropriate legal action in a court of competent jurisdiction to obtain appointment of a receiver and to pay any bond).

7. Transfer of Leasehold After Foreclosure or Deed-in-Lieu under the Leasehold Mortgage. The City hereby agrees that, in the event that the holder of the Leasehold Mortgage shall acquire the interests of IPC under either or both of the Leases (whether by foreclosure or by deed in lieu thereof or otherwise), the Leasehold Mortgagee or its designee shall have the right to assign such interests without the consent of City provided that (a) such interests are assigned to the purchaser or transferee of the Hotel, (b) such purchaser or transferee assumes the obligations under the Conference Center Lease and the Pavilion Lease, including, without limitation, the obligations under Section 7.1 of each Lease to operate the related Premises, and (c) such purchaser or transferee agrees in writing delivered to the City to continue to operate the Hotel as a four star, first class facility.

8. Foreclosure of the Mezzanine Pledge; Transfer of Leasehold After Foreclosure or Deed-in-Lieu under the Mezzanine Pledge. Subject to the provisions of section 16, the City hereby agrees that for all purposes of the Conference Center Lease and Pavilion Lease, in the "Event of a Default" under the Mezzanine Pledge, that the holder of the Mezzanine Pledge shall have the right to acquire the ownership interests of Newco in IPC and/or IPC Manager (whether by foreclosure or by deed in lieu thereof or otherwise). Furthermore, the City hereby agrees that, in the event that the holder of the Mezzanine Pledge shall acquire the ownership interests of Newco in IPC and/or IPC Manager (whether by foreclosure or by deed in lieu thereof or otherwise), Mezzanine Lender or its designee shall have the right to transfer such ownership interests or assign IPC's interests under the Leases without the consent of City provided that (a) such interests are transferred or assigned to the purchaser or transferee of the Hotel, (b) such purchaser or transferee assumes the obligations under the Conference Center Lease and the Pavilion Lease, including, without limitation, the obligations under Section 7.1 of each Lease to operate the related Premises, and (c) such purchaser or transferee agrees in writing delivered to the City to continue to operate the Hotel as a four star, first class facility. Any acquisition of the Premises, or either of them, pursuant to the rights granted to the holder of the Mezzanine Pledge pursuant to this Section 8 shall serve to terminate the right of Mezzanine Lender to exercise the rights of a "Leasehold Mortgagee" with respect to such Premises, (except that Mezzanine Lender or any successor transferee shall be entitled to retain the right to exercise the rights of a "Leasehold Mortgagee" to the extent they apply after foreclosure or a deed-in-lieu of foreclosure (including, but not limited to, the terms and provisions of Section 29.21(vi) of the Conference Center Lease)) but shall not impair the status of the Mortgage Loan and Mortgage Lender as a Leasehold Mortgage and Leasehold Mortgagee, respectively.

9. Expansion Requires Hotel Approval. The City hereby acknowledges that IPC has agreed with the Lenders that, without the prior consent of the Lenders, IPC will not consent to any expansion by the City of the Conference Center pursuant to Section 7.3 of the Conference Center Lease.

10. =

11. Rights on Major Casualty. Section 16.2 of the Conference Center Lease sets forth certain casualty events upon the occurrence of which the City would have the right to terminate the Conference Center Lease (each of which is hereinafter referred to as a "Major Casualty"). Notwithstanding the provisions of Section 16.2 of the Conference Center Lease, IPC and the City hereby agree that, provided there is no default under the Conference Center Lease that is continuing beyond the cure periods available to both Mortgage Lender and IPC, if the insurance proceeds or other sources of

funds available in connection with such Major Casualty are sufficient to restore the Conference Center Premises to a condition substantially similar to their condition prior to such Major Casualty, or to an economically viable conference center complex (with "economically viable" being determined taking into account the size of the Hotel as well) and so long as Lenders have made available for restoration of the Hotel all insurance proceeds and other sources of funds available for such purpose in connection with any such Major Casualty that also results in damage to the Hotel, then: (a) the City will make all such proceeds available for restoration of the Conference Center Premises and (b) the City will not terminate the Conference Center Lease.

12. Rights on Major Condemnation. The City acknowledges and agrees that the City shall have no right, title or interest in or to the proceeds of any insurance policy that IPC may purchase (whether for IPC's own account or for the benefit of the Lenders) that pays any benefit to IPC or the Lenders upon any taking of the Premises or Hotel or any portion thereof.

13. Mortgage Lender's Right to Participate. The City hereby acknowledges that IPC is granting to the Lenders the right to participate in any settlement regarding insurance or condemnation proceeds or awards, and to approve or reject any re-building plan and allocation of costs upon a Major Casualty; provided, however, that the rights of Mezzanine Lender pursuant to this Section 13 shall be subject to Section 16 below.

14. Rights of Mortgage Lender during Mortgage Loan Default. IPC hereby requests, and the City hereby agrees, that upon notice to the City from the Mortgage Lender that an "Event of Default" is continuing under the Leasehold Mortgage, Mortgage Lender shall have the right to exercise any and all rights of IPC as tenant under the Leases so long as such Event of Default remains uncured, subject to the provisions of Section 16 below.

15. Rights of Mezzanine Lender during Mezzanine Loan Default. IPC hereby requests, and the City hereby agrees, that upon notice to the City from Mezzanine Lender that an "Event of Default" has occurred and is continuing under the Mezzanine Pledge, Mezzanine Lender shall have the right to exercise any and all rights of IPC as tenant under the Leases so long as such Event of Default remain uncured, subject to the provisions of Section 16 below.

16. Subordinate Rights. All rights granted hereunder by the City to Mezzanine Lender are granted with the express understanding and acknowledgment by the City that the Mezzanine Loan, and all rights of the Mezzanine Lender, are subject and subordinate to the Mortgage Loan and the rights of the Mortgage Lender as more fully set forth in an intercreditor agreement between them (to which the City is not a party and by which the City is not bound). Without limitation, the right of Mezzanine Lender (or any successor holder of the Mezzanine Pledge) to exercise rights of a "Leasehold Mortgagee" or otherwise with respect to the Leases shall be subordinate in priority to the right of Mortgage Lender to exercise the same rights. In furtherance thereof, the City will deal solely with the Mortgage Lender to (a) accept cure tendered by Mortgage Lender for a default by IPC under either or both of the Leases under sections 2, 3 and 6; (b) recognize an assignment by Mortgage Lender of the Lease under Section 7; or accept tenant's performance by Mortgage Lender under section 14 until such time as the Mortgage Lender provides the City with written notice signed by both Mortgage Lender and Mezzanine Lender that Mortgage Lender elects to waive its prior rights under (a), (b) and (c) above and that Mezzanine Lender elects to exercise such rights under section 2, 3, 6, 8 or 15, in which case, the City thereafter will deal solely with Mezzanine Lender. Any change in such arrangements shall again be evidenced by a written notice signed by both Lenders delivered to the City, provided that in the case of cure of default, the full and complete cure of any default by IPC continues without diligently and without interruption of any kind. The City specifically does not agree to extend any cure rights as now set out in the Lease. In addition, once the Mortgage Lender exercises its right to assign the Lease under section 7, then the right of Mezzanine Lender to assign the Lease pursuant to section 8 shall terminate, effective the date of the Mortgage Lender's assignment.

17. Estoppel by IPC. IPC hereby certifies to City and the Lenders that, to the best of IPC's knowledge, each representation contained in Section 1 of this Estoppel and Agreement is true and correct as of the date hereof.

This Estoppel and Agreement and the representations and agreements made herein are given with the understanding that this Estoppel and [Recognition](#) Agreement constitutes a material inducement for each of the Lenders in making the Loans, and that each of the Lenders shall rely hereon in doing so. This Estoppel and [Recognition](#) Agreement and the representations and agreements made herein shall inure to the benefit of each Lender, and its respective successors and assigns, and shall be binding on City and IPC, and each of their respective heirs, legal representatives, successors and assigns.

This Estoppel and [Recognition](#) Agreement may be executed in any number of counterparts, each of which shall be effective only upon delivery and thereafter shall be deemed an original, and all of which shall be taken to be one and the same instrument, for the same effect as if all parties hereto had signed the same signature page. Any signature page of this Estoppel and [Recognition](#) Agreement may be detached from any counterpart of this Estoppel and Agreement without impairing the legal effect of any signatures thereon and may be attached to another counterpart of this Estoppel and Agreement identical in form hereto but having attached to it one or more additional signature pages.

Executed this \_\_\_\_ day of August, 2004.

CITY:

[INSERT SIGNATURE BLOCK]

IPC:

[INSERT SIGNATURE BLOCK]

**EXHIBIT A**

Legal Description of the Conference Center Premises



## **EXHIBIT B**

### Description of the Conference Center Lease

1. Lease Agreement between the City of Westminster and Inland Pacific Colorado, L.L.C., dated as of September 21, 1998.
2. **[NEED INFO FOR MEMORANDUM OF LEASE -- if not already of record, one must be recorded]**
3. [Commencement Date Agreement?]

## **EXHIBIT C**

### Description of the Development Agreement

1. Agreement between the City of Westminster and Inland Pacific Colorado for the Cooperative Development and Construction of the Westminster Promenade East Hotel, Conference Center and Commercial Buildings, dated as of April 28, 1997.
2. Assignment of Certain Terms of Business Assistance Agreement by Inland Pacific Colorado, L.L.C., as assignor, Westminster Promenade Development Co., L.L.C., as assignee, and the City of Westminster, dated as of August 3, 1998.
3. **[DOCUMENT THAT MODIFIES THE B.A.R. ARRANGEMENTS]** dated as of August \_\_\_\_, 2004.

**EXHIBIT C-1**

Reconciliation of Business Assistance Rebate Payments

[INSERT LIST OF DATES AND AMOUNTS OF PAYMENTS MADE TO DATE]

## **EXHIBIT D**

### Description of the Pavilion Lease

1. Lease Agreement between the City of Westminster and Inland Pacific Colorado, L.L.C., dated as of [DATE].
2. **[NEED INFO FOR MEMORANDUM OF LEASE -- if not already of record, one must be recorded]**
3. [Commencement Date Agreement?]

**EXHIBIT E**

Legal Description of the Pavilion Premises

Document comparison done by DeltaView on Friday, August 13, 2004 11:23:23 AM




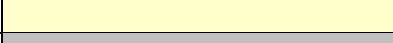

<b><u>Input:</u></b>	
<u>Document 1</u>	<u>pdocs://la/124135/1</u>
<u>Document 2</u>	<u>pdocs://la/124135/2</u>
<u>Rendering set</u>	<u>Standard</u>

<b><u>Legend:</u></b>	
<u>Insertion</u>	
<u>Deletion</u>	
<u>Moved from</u>	
<u>Moved to</u>	
<u>Style change</u>	
<u>Format change</u>	
<u>Moved deletion</u>	
<u>Inserted cell</u>	
<u>Deleted cell</u>	
<u>Moved cell</u>	
<u>Split/Merged cell</u>	
<u>Padding cell</u>	

<b><u>Statistics:</u></b>	
	<u>Count</u>
<u>Insertions</u>	<u>17</u>
<u>Deletions</u>	<u>11</u>
<u>Moved from</u>	<u>1</u>
<u>Moved to</u>	<u>1</u>
<u>Style change</u>	<u>0</u>
<u>Format changed</u>	<u>0</u>
<u>Total changes</u>	<u>30</u>

Document comparison done by DeltaView on Tuesday, August 17, 2004 12:08:26

Input:	
Document 1	iManageDeskSite://PDX-MTIER2/PortInd1/2175933/1
Document 2	iManageDeskSite://PDX-MTIER2/PortInd1/2175933/2
Rendering set	standard

Legend:	
<a href="#">Insertion</a>	
<del>Deletion</del>	
<del>Moved from</del>	
<a href="#">Moved to</a>	
Format change	
<del>Moved deletion</del>	
Inserted cell	
Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

Statistics:	
	Count
Insertions	113
Deletions	57
Moved from	0
Moved to	0
Format changed	0
Total changes	170

F:\Westminster\Westin\WestinEstoppelRecogAgr081704rev.doc



**WESTMINSTER**  
**COLORADO**

**Agenda Memorandum**

City Council Meeting  
August 23, 2004



**SUBJECT:** Transfer of Property to Forest City

**Prepared By:** Susan Grafton, Economic Development Manager

**Recommended City Council Action**

Authorize the City Manager to convey to Westminster 144<sup>th</sup> Avenue LLC two, 1 acre, parcels of property for the purpose of creating a General Improvement District and a Metropolitan Special District for the financing of certain improvements related to the North I-25 retail project and to execute all necessary documents in connection therewith.

**Summary Statement**

- The City of Westminster has been working with WEDA and Forest City to develop a regional retail center at 144<sup>th</sup> & I-25.
- Part of the development plan calls for the creation of a General Improvement District and a Metropolitan Special District.
- In order to form these districts, small parcels of land in the proposed districts needs to be transferred to Westminster 144<sup>th</sup> Avenue LLC in a timely manner so that elections can be held this November.

**Expenditure Required:** \$ 0

**Source of Funds:** N/A



**Policy Issues**

Should Council convey the two parcels at this time to facilitate the formation of a Metro Special District and General Improvement District?

**Alternatives**

Not convey the property at this time. This will result in a major delay of the project

**Background Information**

To facilitate the North I-25 retail project and to initiate the establishment of a Metro Special District and a General Improvement District, it is necessary to convey two parcels of land to Forest City immediately. These parcels are part of the larger parcel, which will be acquired by Forest City by year end.

Respectfully submitted,

J. Brent McFall  
City Manager



**WESTMINSTER**  
**COLORADO**

**Agenda Memorandum**

City Council Meeting  
August 23, 2004



**SUBJECT:** Second Reading of Councillor's Bill No. 57 re Proposed Water and Sewer Rates Adjustment

**Prepared By:** Bob Krugmire, Water Resources Engineer  
Stu Feinglas, Water Resources Analyst  
Mike Happe, Water Resources and Treatment Manager

**Recommended City Council Action**

Adopt Councillor's Bill No. 57 on second Reading implementing water and sewer rate adjustments.

**Summary Statement**

- City Council action is requested to pass the attached Councillors Bill on second reading
- This Councillor's Bill was passed on first reading on August 9, 2004.
- The recommended revenue increase is necessary to meet cash flow requirements for increased operating costs, pay-as-you-go capital improvement projects and the continuing debt service for the Reclaimed Water System, Big Dry Creek Wastewater Treatment Facility, and the Northwest Water Treatment Facility, as well as budget impacts to the City of Westminster from the street cut impact fees.
- Staff, utilizing water billing records and the long-range financial planning model, has analyzed water rates and usage patterns and is recommending changes to water and sewer rates in order to meet these revenue requirements.
- These rates would be effective January 1, 2005 and barring unexpected costs or significant revenue reductions due to a continued drought, no additional increase would be recommended for calendar years 2005 and 2006.

**Expenditure Required:** \$0

**Source of Funds:** N/A

Respectfully submitted,

J. Brent McFall  
City Manager

Attachment

BY AUTHORITY

ORDINANCE NO. **3145**

COUNCILLOR'S BILL NO. **57**

SERIES OF 2004

INTRODUCED BY COUNCILLORS

**Price - Dixon**

A BILL

FOR AN ORDINANCE AMENDING THE WESTMINSTER MUNICIPAL CODE CONCERNING THE CITY'S WATER RATE SCHEDULE AND SANITARY SEWERAGE SERVICE AND USER CHARGES

THE CITY OF WESTMINSTER ORDAINS:

WHEREAS, the City of Westminster operates a water and wastewater enterprise utility; and

WHEREAS, the City Charter requires that the utility be self-supporting; and

WHEREAS, the last water rate increase and the last rate increase for sewer user charges took effect October, 2002; and

WHEREAS, costs to operate the Water and Wastewater Utility have increased; and

WHEREAS, since the Utility is operated as an enterprise exempt from the TABOR amendment, the City Council may set rates to adequately fund the operation of the enterprise; and

WHEREAS, the City wishes to minimize the need for large increases in the future; and

WHEREAS, water rates have been designed so as to encourage conservation.

NOW, THEREFORE, be it ordained by the City Council of the City of Westminster as follows:

Section 1. Section 8-7-7, W.M.C., is hereby AMENDED to read as follows:

**8-7-7: WATER RATE SCHEDULE:**

(A) Except for fire hydrant use for municipal purposes and water used by the Water Department, all water delivered from the City water system shall be metered, including water used by the City or departments thereof, and the charge therefore shall be as hereinafter set forth.

(B) RESIDENTIAL: Three (3) dwelling units or less served by one meter primarily used for residential occupancy shall be charged a ~~four dollar and seventy cent (\$4.70)~~ FIVE DOLLAR AND FORTY-FIVE CENT (\$5.45) per month meter service charge plus:

<b>Block Rate</b>	<b>Consumption Range</b>
\$1.95 per 1,000 gallons	First 4,000 gallons
<del>\$2.95</del> \$3.22 per 1,000 gallons	5,000 to 20,000 gallons
<del>\$4.25</del> \$4.75 per 1,000 gallons	21,000 gallons and over

per unit. Unit consumption shall be determined by dividing the number of units using one meter.

(C) RESIDENTIAL IRRIGATION, TOWNHOME/CONDOMINIUM (CONSISTING OF FOUR UNITS OR MORE), PUBLIC/QUASI-PUBLIC USERS: Shall be charged a monthly meter service charge based on the meter size as listed in Schedule A plus: ~~\$3.65~~ \$4.00 per 1,000 gallons.

Non-irrigation accounts for multiple residential units consisting of four (4) units or more that are not individually metered and that are classified as town homes or condominiums and can demonstrate that they are eighty percent (80%) owner occupied on a complex wide basis shall be charged a monthly meter service charge based on the meter size as listed in Schedule A plus: ~~three dollars (\$3.00)~~ THREE DOLLARS AND THIRTY CENTS (\$3.30) per thousand (1,000) gallons for all water delivered through the meter. The Director of Finance is authorized to prescribe and accept such forms of documentation as the Director may deem sufficient to demonstrate an applicant's eligibility for the rate described in this paragraph. For purposes of this section, a town home or condominium is a residential unit physically attached to another residential unit and separately owned.

(D) COMMERCIAL: Commercial users shall be charged a monthly meter service charge based on meter size as listed in Schedule A plus: ~~three dollars and sixty five cents (\$3.65)~~ FOUR DOLLARS (\$4.00) per 1,000 gallons for the number of gallons used per monthly billing up to the breakpoint for the meter size listed in Schedule A. ~~Four dollars and fifty cents (\$4.50)~~ FOUR DOLLARS AND EIGHTY-FIVE CENTS (\$4.85) per 1,000 gallons for all consumption exceeding the breakpoint on a monthly basis for the applicable meter size as listed in Schedule A.

SCHEDULE A				
Meter Size Code	Meter Size	Number of Service Commitments	Monthly Meter Service Charge	Breakpoint For Second Tier Based On Meter Size (Gallons)
1	5/8" X 3/4"	1	<del>\$4.70</del> \$5.45	20,000
2	3/4" x 3/4"	1.5	<del>\$7.50</del> \$8.63	30,000
3	1"	2.5	<del>\$10.00</del> \$11.88	50,000
5	1-1/2"	5	<del>\$15.00</del> \$18.75	100,000
6	2"	8	<del>\$20.00</del> \$26.00	160,000
7	2" x 5/8"	8	<del>\$20.00</del> \$26.00	160,000
8	3"	17.5	<del>\$40.00</del> \$53.13	350,000
9	3" x 3/4"	17.5	<del>\$40.00</del> \$53.13	350,000
10	4"	30	<del>\$40.00</del> \$62.50	600,000
11	4" x 1"	30	<del>\$40.00</del> \$62.50	600,000
12	6"	62.5	<del>\$50.00</del> \$96.88	1,250,000
13	6" x 1-1/2"	62.5	<del>\$50.00</del> \$96.88	1,250,000
14	6" x 3"	62.5	<del>\$50.00</del> \$96.88	1,250,000
15	8"	90	<del>\$90.00</del> \$157.50	1,800,000
18	10"	145	<del>\$110.00</del> \$218.75	2,900,000
20	10" x 12" x 6"	215	<del>\$110.00</del> \$271.25	4,300,000

(E) CONTINUANCE OF CUSTOMER CHARGES: Monthly customer charges shall be assessed in all cases including where no water is consumed until such time as City personnel are specifically requested to discontinue water service at the meter.

(F) ~~Rebate~~ REBATE: Effective January 1, 2001, a seventy-five dollar (\$75) rebate shall be given once annually to low-income residential users who submit an application on a form prescribed by the Finance Director.

1. For purposes of this paragraph, "low income" shall be the current Federal poverty level, plus ten percent (10%).

2. The Director of Finance is authorized to prescribe and accept such forms of eligibility as the Director may deem sufficient to demonstrate an applicant's eligibility for the rebate provided for in this section.

3. Such rebate will be paid in the form of a credit applied to the water account of the eligible residential user.

Section 2: Section 8-8-5, subsection (D), is hereby AMENDED to read as follows:

**8-8-5: SERVICE AND USER CHARGES:**

(D) The rates for user charges hereinafter set forth are based generally upon the quantity and quality of sewage collected and they are subject to change periodically as circumstances require. The minimum monthly rate for use of the City of Westminster sanitary sewerage system by residential, including multiple unit residential, and public users shall be a sum equal to ~~two dollars and eighty four cents (\$2.84)~~ THREE DOLLARS AND TEN CENTS (\$3.10) per thousand (1,000) gallons multiplied by the average monthly water consumption per user billed during the months of January through March. The minimum monthly rate for use of the City of Westminster's Sanitary Sewage System by multiple units and commercial users shall be a sum equal to ~~three dollars and seventeen cents (\$3.17)~~ THREE DOLLARS AND FORTY-SIX CENTS (\$3.46) per thousand (1,000) gallons multiplied by the average monthly water consumption per user billed during the months of January through March. The minimum monthly sewer charge for commercial users may be appealed to the Utility Billing Division for user charges resulting from the average monthly water billed during the period of January through March and may be adjusted if the water billed during the months of July through September is less. Commercial users shall be allowed to install a separate meter to record out of house use which consumption will not be assessed a sewer use charge. The meter readings actually taken prior to and closest to the specified time frame shall be used for purposes of accomplishing the required calculation. However, City Council may by Resolution adjust the period of time to be used to calculate said user charges when, in the opinion of the Council, climate conditions and water consumption patterns warrant such an adjustment. The monthly charge shall apply to an account that is billed for more than fifteen (15) days service. Any new occupant of a residential unit shall be charged fifteen dollars and fifty cents (\$15.50) sewer charge until an experience rate has been established.

Residential users who appeal the initial sewer charge rate can have the rate adjusted to actual usage of the first four (4) months of occupancy. Any new multi-unit or commercial account shall be charged a rate based on water consumption of similar accounts in the Westminster or the Denver Metro area. Any account not receiving Westminster water will be based on actual consumption, if available or consumption of similar accounts.

Section 3. This ordinance shall be effective for any water charges billed after January 1, 2005.

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 9<sup>th</sup> day of August, 2004.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 23rd day of August, 2004.

\_\_\_\_\_  
Mayor

ATTEST:

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

## Summary of Proceedings

Summary of proceedings of the regular City of Westminster City Council meeting of Monday, August 23, 2004. . Mayor McNally, Councillors Davia, Dittman, Dixon, Hicks, Kauffman, and Price were present at roll call. Absent none.

The minutes of the August 9, 2004 meeting were approved.

Council proclaimed the week of September 6-10 as Employee Appreciation Week.

Council approved the following: Financial Report for July 2004; Award of Design Contract 75<sup>th</sup>-78<sup>th</sup> – Stuart Street Watermain Project with S.A. Miro, Inc. for \$103,960; Peoplesoft EnterpriseOne Project Developer with Advanced Technology Solutions for \$100,000; Custodial Services Contract One-Year Extension with KG Clean, Inc. for \$268,636; Hidden Lake Gateway Contract Award with Arrow J Landscape and Design, Inc. for \$100,962; Contract with Adams Mendel Allison Construction Inc. for \$209,498 for the remodel of Community Reach Center; Westin Hotel Refinancing Agreements; Transfer of property to Westminster 144<sup>th</sup> Avenue LLC.

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

**A BILL FOR AN ORDINANCE ALLOWING TASTINGS OF MALT, VINOUS, OR SPIRITOUS LIQUORS AND AUTHORIZING AN APPLICATION AND FEES** purpose: to allow tastings in retail liquor stores and liquor licensed drugstores

**A BILL FOR AN ORDINANCE INCREASING THE 2004 BUDGETS OF THE GENERAL CAPITAL IMPROVEMENT FUND AND AUTHORIZING A SUPPLEMENTAL APPROPRIATION FROM THE 2004 ESTIMATED REVENUES IN THE FUND** purpose: appropriating \$135,000 for remodel of Community Reach Center

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

**A BILL FOR AN ORDINANCE AMENDING THE 2004 BUDGET OF THE GENERAL FUND AND AUTHORIZING A SUPPLEMENTAL APPROPRIATION FROM THE 2004 ESTIMATED REVENUES IN THE FUND**

**A BILL FOR AN ORDINANCE AMENDING THE WESTMINSTER MUNICIPAL CODE CONCERNING THE CITY'S WATER RATE SCHEDULE AND SANITARY SEWERAGE SERVICE AND USER CHARGES**

The following Resolutions were adopted:

Resolution No. 51 re Carry Forward Balance Of 2004 Private Activity Bond Allocation

At 7:29 p.m. the meeting was adjourned

By order of the Westminster City Council

Michele Kelley, CMC, City Clerk

Published in the Westminster Window on September 3, 2004

A BILL

FOR AN ORDINANCE AMENDING THE 2004 BUDGET OF THE GENERAL FUND AND AUTHORIZING A SUPPLEMENTAL APPROPRIATION FROM THE 2004 ESTIMATED REVENUES IN THE FUND.

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The 2004 appropriation for the General Fund initially appropriated by Ordinance No. 2977 in the amount of \$71,828,317 is hereby increased by \$20,300 which, when added to the fund balance as of the City Council action on August 9, 2004 will equal \$86,415,292. The actual amount in the General Fund on the date this ordinance becomes effective may vary from the amount set forth in this section due to intervening City Council actions. The appropriation is due to a transfer from the Utility Fund to fund a Landscape Architect II position in the Planning Division.

Section 2. The \$20,300 increase in the General Fund shall be allocated to City Revenue and Expense accounts, which shall be amended as follows:

REVENUES

Description	Account Number	Current Budget	Amendment	Revised Budget
Transfer – Utility Fund	1000.45000.0200	\$1,344,856	<u>\$20,300</u>	\$1,365,156
Total Change to Revenues			<u>\$20,300</u>	

EXPENSES

Description	Account Number	Current Budget	Amendment	Revised Budget
Salaries	10030360.60200.0000	\$826,479	\$14,360	\$840,839
Office Equip	10030360.75200.0000	200	5,600	5,800
Comp Hard/Software	10030360.75400.0000	0	<u>340</u>	340
Total Change to Expenses			<u>\$20,300</u>	

Section 3. The 2004 appropriation for the Utility Fund does not change with the City Council action on August 9, 2004. However, the expenditure accounts amended are shown here for informational purposes.

EXPENSES

Description	Account Number	2004 Adopted	Amendment	2004 Revised
Lease Pymts to Other	20035490.67700.0000	\$2,940,889	\$(39,040)	\$2,901,849
Transfer to General Fund	20010900.79800.0000	1,344,856	20,300	1,365,156
Salaries	20035480.60400.0000	508,989	11,900	520,889
Office Equipment	20035480.75200.0000	0	5,600	5,600
Comp Hard/Software	20035480.75400.0000	915	<u>1,240</u>	2,155
Total Change to Expenses			<u>\$0</u>	

Section 4. – 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 5. This ordinance shall take effect upon its passage after the second reading.

Section 6. This ordinance shall be published in full within ten days after its enactment.

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED AND PUBLISHED this 9th day of August, 2004. PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 23rd day of August, 2004.



SERIES OF 2004

INTRODUCED BY COUNCILLORS

**Price Dixon**

A BILL

FOR AN ORDINANCE AMENDING THE WESTMINSTER MUNICIPAL CODE CONCERNING THE CITY'S WATER RATE SCHEDULE AND SANITARY SEWERAGE SERVICE AND USER CHARGES

THE CITY OF WESTMINSTER ORDAINS:

WHEREAS, the City of Westminster operates a water and wastewater enterprise utility; and

WHEREAS, the City Charter requires that the utility be self-supporting; and

WHEREAS, the last water rate increase and the last rate increase for sewer user charges took effect October, 2002; and

WHEREAS, costs to operate the Water and Wastewater Utility have increased; and

WHEREAS, since the Utility is operated as an enterprise exempt from the TABOR amendment, the City Council may set rates to adequately fund the operation of the enterprise; and

WHEREAS, the City wishes to minimize the need for large increases in the future; and

WHEREAS, water rates have been designed so as to encourage conservation.

NOW, THEREFORE, be it ordained by the City Council of the City of Westminster as follows:

Section 1. Section 8-7-7, W.M.C., is hereby AMENDED to read as follows:

**8-7-7: WATER RATE SCHEDULE:**

(A) Except for fire hydrant use for municipal purposes and water used by the Water Department, all water delivered from the City water system shall be metered, including water used by the City or departments thereof, and the charge therefore shall be as hereinafter set forth.

(B) RESIDENTIAL: Three (3) dwelling units or less served by one meter primarily used for residential occupancy shall be charged a ~~four dollar and seventy cent (\$4.70)~~ FIVE DOLLAR AND FORTY-FIVE CENT (\$5.45) per month meter service charge plus:

Block Rate	Consumption Range
\$1.95 per 1,000 gallons	First 4,000 gallons
<del>\$2.95</del> \$3.22 per 1,000 gallons	5,000 to 20,000 gallons
<del>\$4.25</del> \$4.75 per 1,000 gallons	21,000 gallons and over

per unit. Unit consumption shall be determined by dividing the number of units using one meter.

(C) RESIDENTIAL IRRIGATION, TOWNHOME/CONDOMINIUM (CONSISTING OF FOUR UNITS OR MORE), PUBLIC/QUASI-PUBLIC USERS: Shall be charged a monthly meter service charge based on the meter size as listed in Schedule A plus: ~~\$3.65~~ \$4.00 per 1,000 gallons.

Non-irrigation accounts for multiple residential units consisting of four (4) units or more that are not individually metered and that are classified as town homes or condominiums and can demonstrate that they are eighty percent (80%) owner occupied on a complex wide basis shall be charged a monthly meter service charge based on the meter size as listed in Schedule A plus: ~~three dollars (\$3.00)~~ THREE DOLLARS AND THIRTY CENTS (\$3.30) per thousand (1,000) gallons for all water delivered through

the meter. The Director of Finance is authorized to prescribe and accept such forms of documentation as the Director may deem sufficient to demonstrate an applicant's eligibility for the rate described in this paragraph. For purposes of this section, a town home or condominium is a residential unit physically attached to another residential unit and separately owned.

(D) COMMERCIAL: Commercial users shall be charged a monthly meter service charge based on meter size as listed in Schedule A plus: ~~three dollars and sixty five cents (\$3.65)~~ FOUR DOLLARS (\$4.00) per 1,000 gallons for the number of gallons used per monthly billing up to the breakpoint for the meter size listed in Schedule A. ~~Four dollars and fifty cents (\$4.50)~~ FOUR DOLLARS AND EIGHTY-FIVE CENTS (\$4.85) per 1,000 gallons for all consumption exceeding the breakpoint on a monthly basis for the applicable meter size as listed in Schedule A.

<b>SCHEDULE A</b>				
<b>Meter Size Code</b>	<b>Meter Size</b>	<b>Number of Service Commitments</b>	<b>Monthly Meter Service Charge</b>	<b>Breakpoint For Second Tier Based On Meter Size (Gallons)</b>
1	5/8" X 3/4"	1	<del>\$4.70</del> \$5.45	20,000
2	3/4" x 3/4"	1.5	<del>\$7.50</del> \$8.63	30,000
3	1"	2.5	<del>\$10.00</del> \$11.88	50,000
5	1-1/2"	5	<del>\$15.00</del> \$18.75	100,000
6	2"	8	<del>\$20.00</del> \$26.00	160,000
7	2" x 5/8"	8	<del>\$20.00</del> \$26.00	160,000
8	3"	17.5	<del>\$40.00</del> \$53.13	350,000
9	3" x 3/4"	17.5	<del>\$40.00</del> \$53.13	350,000
10	4"	30	<del>\$40.00</del> \$62.50	600,000
11	4" x 1"	30	<del>\$40.00</del> \$62.50	600,000
12	6"	62.5	<del>\$50.00</del> \$96.88	1,250,000
13	6" x 1-1/2"	62.5	<del>\$50.00</del> \$96.88	1,250,000
14	6" x 3"	62.5	<del>\$50.00</del> \$96.88	1,250,000
15	8"	90	<del>\$90.00</del> \$157.50	1,800,000
18	10"	145	<del>\$110.00</del> \$218.75	2,900,000
20	10" x 12" x 6"	215	<del>\$110.00</del> \$271.25	4,300,000

(E) CONTINUANCE OF CUSTOMER CHARGES: Monthly customer charges shall be assessed in all cases including where no water is consumed until such time as City personnel are specifically requested to discontinue water service at the meter.

(F) ~~Rebate~~ REBATE: Effective January 1, 2001, a seventy-five dollar (\$75) rebate shall be given once annually to low-income residential users who submit an application on a form prescribed by the Finance Director.

1. For purposes of this paragraph, "low income" shall be the current Federal poverty level, plus ten percent (10%).

2. The Director of Finance is authorized to prescribe and accept such forms of eligibility as the Director may deem sufficient to demonstrate an applicant's eligibility for the rebate provided for in this section.

3. Such rebate will be paid in the form of a credit applied to the water account of the eligible residential user.

Section 2: Section 8-8-5, subsection (D), is hereby AMENDED to read as follows:

**8-8-5: SERVICE AND USER CHARGES:**

(D) The rates for user charges hereinafter set forth are based generally upon the quantity and quality of sewage collected and they are subject to change periodically as circumstances require. The minimum monthly rate for use of the City of Westminster sanitary sewerage system by residential, including multiple unit residential, and public users shall be a sum equal to ~~two dollars and eighty four cents (\$2.84)~~ THREE DOLLARS AND TEN CENTS (\$3.10) per thousand (1,000) gallons multiplied by the average monthly water consumption per user billed during the months of January through March. The minimum monthly rate for use of the City of Westminster's Sanitary Sewage System by multiple units and commercial users shall be a sum equal to ~~three dollars and seventeen cents (\$3.17)~~ THREE DOLLARS AND FORTY-SIX CENTS (\$3.46) per thousand (1,000) gallons multiplied by the average monthly water consumption per user billed during the months of January through March. The minimum monthly sewer charge for commercial users may be appealed to the Utility Billing Division for user charges resulting from the average monthly water billed during the period of January through March and may be adjusted if the water billed during the months of July through September is less. Commercial users shall be allowed to install a separate meter to record out of house use which consumption will not be assessed a sewer use charge. The meter readings actually taken prior to and closest to the specified time frame shall be used for purposes of accomplishing the required calculation. However, City Council may by Resolution adjust the period of time to be used to calculate said user charges when, in the opinion of the Council, climate conditions and water consumption patterns warrant such an adjustment. The monthly charge shall apply to an account that is billed for more than fifteen (15) days service. Any new occupant of a residential unit shall be charged fifteen dollars and fifty cents (\$15.50) sewer charge until an experience rate has been established.

Residential users who appeal the initial sewer charge rate can have the rate adjusted to actual usage of the first four (4) months of occupancy. Any new multi-unit or commercial account shall be charged a rate based on water consumption of similar accounts in the Westminster or the Denver Metro area. Any account not receiving Westminster water will be based on actual consumption, if available or consumption of similar accounts.

Section 3. This ordinance shall be effective for any water charges billed after January 1, 2005.

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 9<sup>th</sup> day of August, 2004. PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 23<sup>rd</sup> day of August, 2004.