



CITY COUNCIL AGENDA

NOTICE TO READERS: City Council meeting packets are prepared several days prior to the meetings. Timely action and short discussion on agenda items is reflective of Council's prior review of each issue with time, thought and analysis given. Many items have been previously discussed at a Council Study Session.

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

1. **Pledge of Allegiance**
2. **Roll Call**
3. **Consideration of Minutes of Preceding Meetings**
4. **Report of City Officials**
 - A. City Manager's Report
5. **City Council Comments**
6. **Presentations**
 - A. 2013 Business Legacy Awards
 - B. Fire Prevention Month Proclamation
 - C. American Cancer Society Recognition of Mayor McNally
7. **Citizen Communication (5 minutes or less)**

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

8. **Consent Agenda**
 - A. Financial Report for August 2013
 - B. Engineering Services Contract for McKay Drainageway
 - C. Fleet Maintenance Cumulative Purchases of Over \$50,000
 - D. 2014 Property and Liability Insurance Renewal
9. **Appointments and Resignations**
 - A. Resolution No. 22 Appointing Members to the 2013-2014 Youth Advisory Panel
10. **Public Hearings and Other New Business**
 - A. Resolution No. 23 Supporting Adams County School District 50 Mill Levy Override
 - B. Councillor's Bill No. 38 re Pacific Companies & Urban Pacific Multi- Housing LLC Contract Amendment
11. **Old Business and Passage of Ordinances on Second Reading**
12. **Miscellaneous Business and Executive Session**
 - A. City Council
13. **Adjournment**

GENERAL PUBLIC HEARING PROCEDURES ON LAND USE MATTERS

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



WESTMINSTER
Strategic Plan
2013-2018
Goals and Objectives

STRONG, BALANCED LOCAL ECONOMY

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



SAFE AND HEALTHY COMMUNITY

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



FINANCIALLY SUSTAINABLE CITY GOVERNMENT PROVIDING EXCEPTIONAL SERVICES

- Invest in well-maintained and sustainable city infrastructure and facilities
- Secure and develop long-term water supply
- Focus on core city services and service levels as a mature city with adequate resources
- Maintain sufficient reserves: general fund, utilities funds and self insurance
- Maintain a value driven organization through talent acquisition, retention, development and management
- Prepare for next generation of leaders; managers and employees.
- Maintain and enhance employee morale and confidence in City Council and management
- Invest in tools, training and technology to increase organization productivity and efficiency



VIBRANT NEIGHBORHOODS IN ONE LIVABLE COMMUNITY

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



BEAUTIFUL AND ENVIRONMENTALLY SENSITIVE CITY

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



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

CITY OF WESTMINSTER, COLORADO
MINUTES OF THE CITY COUNCIL MEETING
HELD ON MONDAY, SEPTEMBER 9, 2013, AT 7:00 P.M.

PLEDGE OF ALLEGIANCE

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

ROLL CALL

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

CONSIDERATION OF MINUTES

Councillor Kaiser moved, seconded by Councillor Major, to approve the minutes of the regular meeting of August 26, 2013, as presented. The motion carried unanimously.

CITY MANAGER'S REPORT

Mr. McFall noted that if members of the audience wished to comment on the adopted 2014 City Budget, they were welcome to do so when the Mayor opened the podium for public comment on that agenda item. Others wanting to address Council on another other subject would be welcome to speak when the Mayor called for Citizen Communication.

Following this meeting, the City Council would conduct a post-meeting to hear a presentation on the reclaimed water system planning update. At the conclusion of that presentation, the Council would meet in executive session pursuant to Section 1-11-3(C)(8), W.M.C., and to Section 24-6-402(4)(b), CRS, to receive legal advice from the City Attorney concerning the City's sex offender ordinance.

PROCLAMATIONS

Mayor McNally proclaimed September 17 through 23 to be Constitution Week in recognition of the two hundred twenty-sixth anniversary of the drafting of the Constitution of the United States of America. Councillor Major presented the proclamation to Barbara Adair and other members of the Daughters of the American Revolution.

CONSENT AGENDA

The following items were submitted for Council's consideration on the consent agenda: authorize payment of \$263,113, plus a 10% construction contingency in the amount of \$26,311 for a total construction budget of \$289,424, to the Regional Transportation District for the cost of betterments associated with the relocation of sanitary sewers in the area of the Westminster commuter rail station; authorize the City Manager to execute a \$3,900,920 contract with the low bidder, B T Construction, Inc., for construction of the Pressure Zone 4 Water System Improvements, authorize a 10% construction contingency of \$390,092 for a total construction budget of \$4,291,012, authorize execution of a \$538,740 contract amendment with HDR Engineering, Inc. to provide construction phase engineering services for the Pressure Zone 4 Water System Improvements project, and authorize a 10% contingency in the amount of \$53,874 for a total construction phase engineering services budget of \$592,614; authorize the City Manager to execute a \$341,699 contract with Black & Veatch Corporation to provide engineering design services for the Big Dry Creek Wastewater Treatment Facility 2013 Repairs Project, and authorize a 10% contingency in the amount of \$34,170 for a total design budget of \$375,869; final passage on second reading of Councillor's Bill No. 31 amending Section 9-8-3 of the Westminster Municipal Code concerning the implementation dates of the Infrastructure Fee increase; final passage on second reading of Councillor's Bill No. 32 amending Title XV, Chapter 1 of the Westminster Municipal Code concerning Purchasing Procedures; final passage on second reading of Councillor's Bill No. 33, providing for a supplemental appropriation of funds to the 2013 budget of the General, Legacy Ridge, Heritage at Westmoor, Sales and Use Tax, Parks Open Space and Trails, and General Capital

Improvement Funds; final passage on second reading of Councillor's Bill No. 34 appropriating \$225,000 received from the Adams County Open Space Grant Program for the Bushnell open space acquisition grant; final passage on second reading of Councillor's Bill No. 35 appropriating \$607,899 received from the Adams County Open Space Grant Program for the Big Dry Creek Buffer open space acquisition grant; and final passage on second reading of Councillor's Bill No. 36 appropriating money received from the Colorado Department of Transportation into the General Capital Improvement Fund.

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

PUBLIC MEETING ON THE ADOPTED 2014 CITY BUDGET

At 7:13 p.m., Mayor McNally opened a public meeting to review the adopted 2014 Budget, suggested amendments to same, and to obtain public comment. Mr. McFall provided background information about projected revenues and sources of revenues by fund, projected expenditures by fund, and Capital Improvement projects by fund. For the 21st consecutive year, the City's mill levy on property would remain at 3.65 mills, the lowest in the metro region; its sales tax rate, 3.85% in the upper middle using the same comparison. Three potential service adjustments were described. Those descriptions were on WestyConnect and had been discussed at a July 8, 2013, public meeting in an attempt to gain public input. City Council would conduct a Budget Review on September 16 to deliberate on final funding decisions about staffing levels, programs, services, and capital projects. Any proposed changes from that meeting would be incorporated into the proposed amended budget and provided to Council for final consideration at the October 14 Council meeting.

Mayor McNally opened the floor for public comment. Ben Beaty, 4500 West 110th Circle, requested that consideration be given to placing trash receptacles and dog waste dispensers on the Big Dry Creek Trail from City Park to Stratford Lake. The majority of trash in this area blew onto the open space from vehicles traveling on 104th Avenue or Sheridan Boulevard, yet it would be helpful to have receptacles for both purposes provided for the public using the trail.

No others wished to speak and the public meeting was closed at 7:21 p.m.

CONTINUED HEARING ON APPEAL OF DENIED SIGN CODE VARIANCE

At 7:21 p.m., Mayor McNally reopened a continued public hearing from June 24 to consider an appeal of a Planning Commission decision to deny a sign variance at the Village at Standley Lake. She entered into the record a copy of email from Mr. Carl Worthington, a consultant to Arbor Family Medical, wherein Mr. Worthington withdrew his client's appeal. Mayor McNally closed the public hearing at 7:22 p.m. No action of City Council was needed.

RESOLUTION NO. 21 – 2013 PRIVATE ACTIVITY BOND ALLOCATION & ASSIGNMENT TO CHFA

It was moved by Councillor Lindsey and seconded by Councillor Kaiser, to adopt Resolution No. 21 authorizing the assignment of \$5,122,923 of the City's private activity bond allocation for 2013 to the Colorado Housing and Finance Authority for the qualified purposes set forth in the resolution and to authorize the Mayor to execute the necessary documents. At roll call, the motion passed unanimously.

COUNCILLOR'S BILL NO. 37 APPROPRIATING FUNDS FROM CDOT FOR 112TH AVE/FRCC SIGNAL

Councillor Atchison moved, seconded by Councillor Lindsey, to pass Councillor's Bill No. 37 on second reading appropriating additional grant monies to be received from the Colorado Department of Transportation and the local match reimbursement from Front Range Community College for the design and construction of a new traffic signal on 112th Avenue. The motion passes unanimously at roll call.

ADJOURNMENT

With no further business to come before the City Council, it was moved by Councillor Kaiser, seconded by Councillor Major to adjourn. The meeting adjourned at 7:24 p.m.

ATTEST:

City Clerk

Mayor



Agenda Memorandum

City Council Meeting
September 23, 2013



SUBJECT: Presentation of the 2013 Business Legacy Awards

Prepared By: Ryan Johnson, Economic Development Specialist

Recommended City Council Action

City Council will present Business Legacy Awards to seven Westminster businesses celebrating 35, 40, 50, 55 and 60 years of being in business in Westminster.

Summary Statement

- For the past several years, the City has celebrated and recognized local businesses for their role as essential components to the economic strength, wellbeing, and high quality of life of Westminster. This presentation is the third of three quarterly events held to recognize nearly 60 businesses ranging from 25 years of being in business up to 60 years of being in business.
- The entire recognition event includes the following:
 - Recognition Reception pre-meeting to get acquainted with award recipients
 - Presentation of Awards by Mayor McNally and City Council during the Council meeting
 - Group photos with businesses, Mayor Nancy McNally and City Council
- The Recognition Reception is hosted in part by Heavenly Cakes, located at 7305 Lowell Boulevard.
- Profiles for the companies being recognized have been included as an attachment.
- A staging map has been attached that identifies where City Council will stand during the presentation.

Expenditure Required: \$725 for the 3rd quarter event

Source of Funds: General Fund - Economic Development Division Operating Budget

Policy Issue

Should City Council take time to thank City of Westminster businesses for their investment in Westminster?

Alternatives

1. One alternative could be to stop providing awards to businesses. This alternative is not preferred because the business community appreciates this recognition and these businesses receive a great amount of exposure by being recognized. Additionally, recognition helps the City communicate to the business community the desire to retain a diverse and high quality business community.
2. A second alternative would be to provide awards to more businesses. This alternative is not preferred because City Staff currently participates in other awards and recognition programs throughout the region that recognize Westminster businesses for other contributions to the community.
3. Another alternative could be to provide awards in another setting. This alternative is not preferred as the current setting provides more interaction with the business owners and the City Council.

Background Information

The City of Westminster has a long tradition of recognizing businesses that have been in business for 25 years or more in five year increments. Local businesses provide employment, shopping, entertainment and recreational opportunities for all citizens. The roughly 3,000 Westminster businesses contribute to the City's operating funds through revenue generated from sales and use tax, accommodations and admissions tax, as well as property tax collections. Businesses also enrich the quality of life in Westminster by supporting community organizations with financial and in-kind contributions. The high caliber mix of retail, service, and corporate office establishments found in Westminster is virtually unparalleled in northwest metro Denver.

This quarter, the City is recognizing the following businesses celebrating their 35th through 60th anniversary of doing business in Westminster:

35 Year Award Recipients – Businesses started in 1978

- Hodgson Enterprises Inc.
- Klein Plumbing
- U-Haul Center North Federal

40 Year Award Recipient – Business started in 1973

- Camp's Rocky Mountain Cut Stone

50 Year Award Recipient – Business started in 1963

- The Greg Mastriona Golf Courses at Hyland Hills

55 Year Award Recipient – Business started in 1958

- Bea & Herb's Old Town Auto Care, LLC

60 Year Award Recipient – Business started in 1953

- Valente's Deli, Bakery & Italian Market

The Business Legacy Awards meet the City Council's Strategic Plan goal of "Building a Strong, Balanced Local Economy."

There are three attachments to this memo:

- 1.) "Business Legacy Awards – Order of Events" outlines the awards program for Monday night.
- 2.) Staging Map - Shows where the City Council and Mayor will stand during the awards presentation.
- 3.) "Business Legacy Awards, Business Anniversary Profiles" document has also been included and has profiles for all of the businesses being recognized on September 23rd.

Respectfully submitted,

J. Brent McFall
City Manager

Attachments – Order of Events
Staging Map for awards presentation
Business Legacy Awards, Business Anniversary Profiles

Business Legacy Awards Order of Events

Monday September 23, 2013

Below is an outline of events for the upcoming Business Legacy Awards reception and presentation on September 23, 2013. Please note that Economic Development Staff as well as others will be in attendance and can serve as an information resource and make introductions. The Mayor and City Council are invited to attend the reception as early as practicable after the conclusion of the dinner.

Our primary message during the event is "Thank you for doing business in Westminster."

6:00-7:00 p.m.

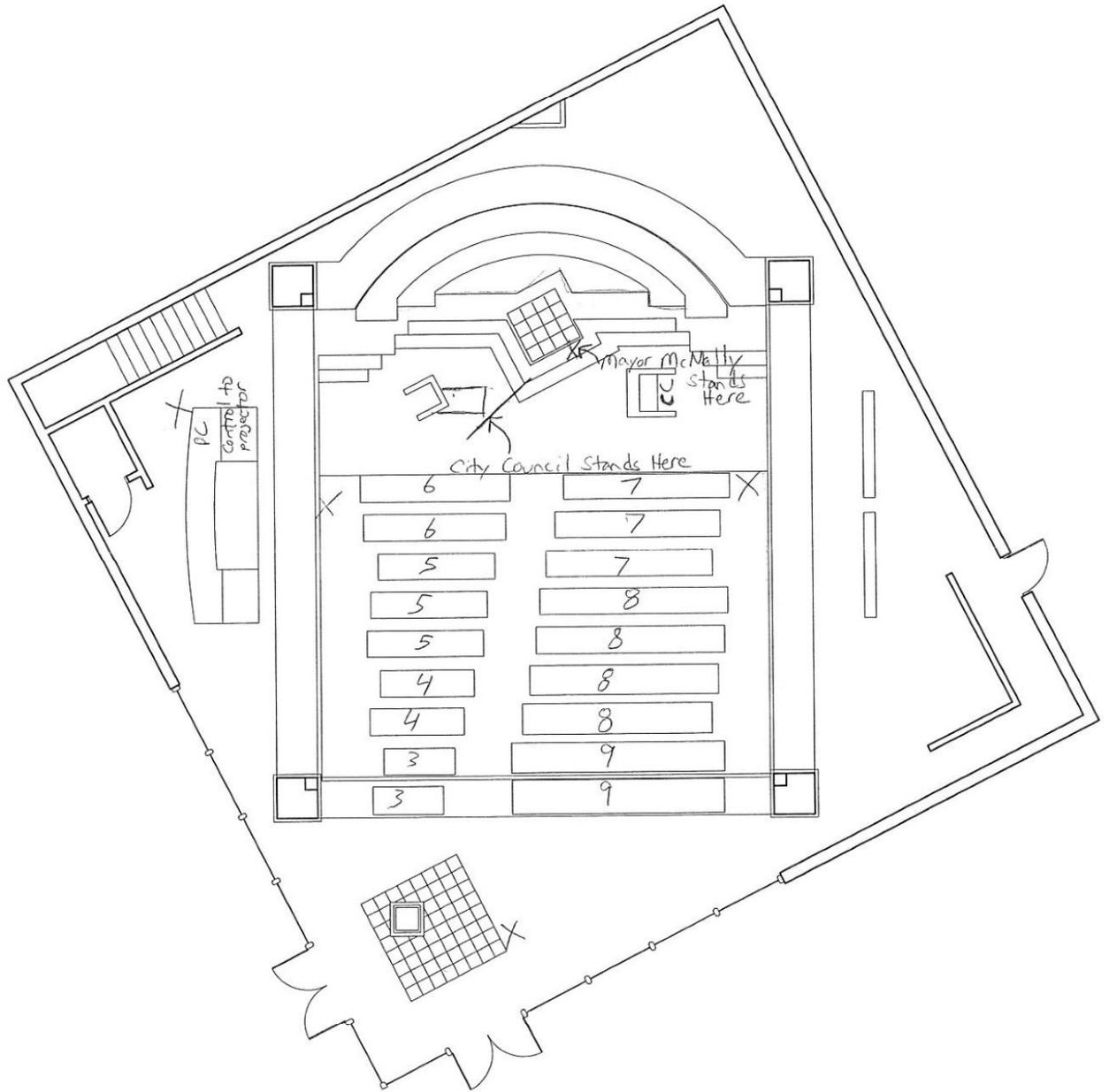
- Reception to be held for those businesses being honored
- Reception will be held in the upper atrium area outside the City Council Board Room
- City Council and Staff are invited to attend during this time to mingle with those people who are here to be recognized
- Coffee and tea as well as deserts will be provided during this reception

6:50-7:00 p.m.

- Those people who are accepting an award will find their assigned seats in the City Council Chambers

7:00 p.m. – City Council Meeting Starts

- Economic Development Staff will introduce the presentation. While this is occurring, the City Council is invited to come down and stand on the steps (as shown on the attached staging map)
- As each business is called up, they will shake the hands of City Council and the Mayor will present the business representative with the award (similar to how this was handled at the Business Appreciation Event)
- At this time, the business representative will take a photo with the Mayor and then stand off to the side and wait until all seven businesses have taken individual photos.
- After all of the seven businesses have taken their individual photo with the Mayor, the group will combine on the steps for a group photo.
- After the photograph has been taken, the group of businesses will find their seats



Business Legacy Awards Profiles

35 Year Anniversaries

Hodgson Enterprises, Inc.

Home Based Business

Hodgson Enterprises, Inc. is a seller and installer of all sizes of uninterruptable power supplies (UPS) to power and protect the computer systems of the smallest of businesses to large corporations. Founded in May 1976 by Cathy and Darryl Hodgson, the company moved to Westminster in 1978 and is owned by Cathy Hodgson. The reasons for Hodgson Enterprise's 35 years of business success are:

- A long history of providing work to a network of subcontractors.
- Representation of the best company for uninterrupted power supplies in the world, which has the best reputation and backs up everything sold by Hodgson.
- Endurance, patience and being responsible business owners.
- A strong, reliable business partnership.
- Diversification into other businesses when the economy has changed.
- Keeping up with the times and the growing industries of the U.S. and the world.
- Adapting to the retirement industry by meeting the needs of all the professions served by it, like financial advisers, government agencies and others.

Klein Plumbing

Home Based Business

Klein Plumbing provides the full range of plumbing installation and repair services for residences, custom homes and commercial buildings. Norm Klein is the founder and owner of the company, which was licensed in Westminster in 1978. The reasons for Klein Plumbing's 35 years of business success are:

- Performing such quality service that garners so much word-of-mouth promotion that additional advertising has not been needed for 33 years.
- Integrity.
- Low overhead leading to great pricing for customers.
- The kind of excellent personal service you can only get from a well-established, small company.
- A great supply network, providing materials quickly so customers can benefit from faster project completion.
- A consistent focus of respecting and taking care of customers.
- Dedication to showing up to appointments on time, completing jobs at the planned time and price, and following up to ensure satisfaction.

“Norm is a wonderful gentleman to work with. He's a great guy who would do anything for anybody, which goes a long way with contractor and customer loyalty. What he says he's going to do, gets done and I don't have any issues. His prices are fair and the work performance is quality.”

– Darrin Muilenburg, Mule Construction

U-Haul Center North Federal

8001 Federal Blvd.

www.uhaul.com

U-Haul Center North Federal is a rental center for moving trucks, trailers and tow equipment, as well as for many services and products related to moving. Tim Gillespie is the general manager of the business, which was established in August 1978. The reasons for U-Haul Center North Federal's 35 years of business success are:

- A great location near many residential areas in Westminster
- A well-known reputation with many repeat customers who make referrals to their friends and neighbors.
- A position as a top dog in its market, ranking 65th in profit out of a total of 15,000 U-Haul stores in the nation.
- Great customer service starting with always answering its very busy phones – a simple but important key to getting and retaining business in this industry.
- A consistent history of awards for “preferred phone service: and “teleselling”
- Employee loyalty and experience in a staff that is like a family.

“The guys at the U-Haul at 80th and Federal are awesome. They go above and beyond to help make any move as easy as possible. I have used this location for many years and will go to no other.”

– Fred S., customer of U-Haul Center North Federal

40 Year Anniversary

Camp's Rocky Mountain Cut Stone

3700 W. 69th Pl., Westminster

www.camp-stone.com

Selling stone has been hard work for Mike Lockwood, but the family business has provided a good foundation for his life, he explained.

Lockwood is the third owner of Camp's Rocky Mountain Cut Stone. Mike Camp, his grandfather, bought the seven-acre property in south Westminster in 1953. As part of his first business, Camp's Korner, he built rental apartments. Using stone to construct the apartments inspired him to go into the stone cutting and selling business.

“He liked building things. He had some talent for cutting the stone and liked to use a lot of it,” said Lockwood. “To the best of my knowledge, he never finished the 6th grade and didn't know how to read or write. He just knew how to work hard and make money.”

Grandma Camp did most of the office work. The couple lived above the office, which had a sign outside that read, “Sound Horn for Service.” The company supplied mostly Colorado stone including moss rock and the “stones of choice back then” – red and buff flagstone.

All the stone was cut by hand and chisel, remembered Mike, who started work in the stone yards at a young age. He was seven when his grandpa taught him to drive the forklift and delivery trucks in the open field. Later, he helped load and unload stone and go on deliveries.

“Grandpa used to come get me after school. Most all my life has been spent in this one block in Westminster, working for him or Bill,” said Lockwood, who was in junior high when Camp retired and sold the business to Bill Borton in 1973. After Mike got to high school, he worked every afternoon and on weekends for Borton.

Over the years, machinery took the place of hand cutting and shaping, and the stone selection grew with varieties from across the United States, Canada and Mexico. Lockwood took over the operations in 2000, experiencing his best times from 2005 to 2007, when the construction industry was booming. “Back then, we were running with 13 employees and sometimes a day crew and a night crew to handle the overload of work,” he said.

The last four years have been the hardest due to the poor economy and slow construction activity, as well as competition from a glut of stone suppliers. Camp’s Cut Stone has kept going due to its dedicated clientele, built up over several decades. “We try to treat customers the way we would want to be treated. We try and put out a good quality product and work with our customers to get them happy,” he explained.

Though business appears to be starting to improve, Lockwood admitted he might have retired and sold the place if not for his son, Austin. “He’s the whole reason I do it,” the proud father commented. “I enjoy teaching him the same things my grandfather taught me. I enjoy getting up and building a future or at least a good start for my son.”

50 Year Anniversary

The Greg Mastriona Golf Courses at Hyland Hills

9650 Sheridan Blvd.
www.golfhylandhills.com

Greg Mastriona was in high school in 1963 when the golf course that would someday bear his name was opened. At the time, he wondered, “Why did Dick Ferguson build that golf course out on that dirt road?”

Sheridan Boulevard was not paved in 1962, when the voters in District 50 Metropolitan Recreation District, later renamed Hyland Hills Park & Recreation District, passed a \$300,000 bond to develop the course, which was built in conjunction with a federal open space grant. Ferguson, the district’s first executive director, is recognized as responsible for the golf course’s early development.

“Dick was always a great thinker, a charismatic guy. He helped me a lot in my career. I worked for him when I was young, and he could see a lot of things that other people couldn’t see,” recalled Mastriona, who worked his way up from part-time jobs in the baseball and recreation programs to a full-time job as golf course assistant superintendent in 1969, and eventually served as the district’s executive director for more than four decades.

“The whole community was behind our course because they knew it would provide that activity for our residents and eventually we’d have a lot of other people visiting, too. They knew how it would help bring in other business and economic growth,” explained Mastriona.

The construction was supervised by Hyland Hills Park Superintendent Henry Wallaste and Denver architect Henry Hughes, a 1992 Colorado Golf Hall of Fame Inductee who designed many other well-known golf courses in Colorado and surrounding states. The courses opened with a Par 3 and then an 18-hole course, with a small concession stand selling hot dogs, snacks, drinks and golf balls.

In the 1960s and 1970s, it was typical to have golfers waiting in the parking lot at two in the morning to get a tee time. "You couldn't even get on this course sometimes."

Times have changed, and it seems like a golf course has sprung up every few miles. Hyland Hills has added to and improved the courses over the years, including its first major expansion developed in cooperation with the City of Westminster in 1985, which coincided with an intergovernmental agreement that shared city and district facilities among the residents in both jurisdictions.

The original concessions stand was replaced by a large restaurant/banquet facility and pro shop, which was renovated in 2012. At its grand re-opening, the Hyland Hills Board of Directors honored the retiring executive director by adding his name to The Greg Mastriona Golf Courses at Hyland Hills.

"I think it's a golf course you can play every day. Being in the beauty of the surroundings is a great experience," he concluded. "It's the atmosphere that you're in – from the first impression when you arrive to the flowers and trees to the great look down the fairway. It's a refuge for recreation with a local legacy."

55 Year Anniversary

Bea & Herb's Old Town Auto Care LLC

3791 W. 72nd Avenue

Herb and Bea Waltemeyer were a young couple from Iowa with two young children when they visited friends in Westminster. They had come before but this time Bea was convinced they should move. Herb, who worked at Phillips 66 stations in his home state, searched for a station while Bea looked for a house. By Labor Day weekend 1958 they had opened a Phillips 66 station on 72nd Avenue.

Bea, who worked as a bank teller in Iowa, got a job right away at a bank just a couple blocks to the east. She also did the bookkeeping for the auto care business throughout her life.

The station started out with four gas pumps and full service including checking the air in the tires, washing the car windows, checking the oil and filling up the tank. Herb also offered auto repairs and towing services. A four-bay car wash was added in 1979.

"My parents both worked hard and long hours. Sometimes my dad wouldn't get home until 8 or 9 o'clock, and he'd open up at 7 in the morning," the Waltemeyer's daughter Jody explained. "The phone would ring at midnight and he would go out to tow for the state patrol or AAA."

Jody described her parents as committed to helping people. They let neighbors make purchases on credit. Herb helped kids with flat bike tires by taking them to Woolco to get a new tire and putting it on. He let a homeless man sleep in cars in the parking lot, or inside the station when it was really cold out.

The Waltemeyer's youngest son Adam, currently an airplane mechanic, worked at the station between 1980 and 2004. When he left to start a Snap-on tools business, the Waltemeyer's elder son Scott was working as a hydrologist for the U.S. Geological Survey in New Mexico, so that year, his son Justin came up to work at the station.

Justin took over managing the business after Herb passed away in December 2006. When Bea passed away in May 2011, Scott had just retired and came up to help his son Justin but they closed the business that September.

The closure was just temporary while Jody began renovations on the building, car wash and property. As the personal representative for her mother's estate, which owns the business, Jody has supervised cleaning up the repair shop and giving it a fresh coat of red and white paint, in the traditional Phillips 66 color scheme. The building has a new tenant doing auto repairs, and the car wash is up and running.

Jody, who is a retired Adams County School District 50 P.E. teacher, said her goal was to make her parents' business match the historic character and transportation hub origins of south Westminster, and to honor the institution for the service and reliability that Herb's was. "We wanted to leave that corner looking better for the city, but also for me, it was about my parents' legacy," she concluded.

60 Year Anniversary

Valente's Deli Bakery & Italian Market

7250 Meade St.

www.valentesdeli.com

Over 60 years, Valente's Deli Bakery & Italian Market has grown with the Westminster community. Three generations of the Valente family have forged special relationships with neighbors, whom have been either their employees, loyal customers or both.

Former employees often return to reminisce about their days in the market and update the Valente's on their lives. Today's employees and customers are just like family, sharing their special times as well as the sad ones and connecting through Italian comfort food.

The original business was started, just up the street on 73rd Avenue, by Fred Valente. A former grocer and milk delivery man, he had cattle ranches in south Westminster since 1945. Then in 1953, he traded some cattle for a building where he opened the Rodeo Market. It became the city's first supermarket when the population was just 600.

The market was stocked with a full inventory of groceries, not just Italian cuisine. Fresh cut meats were Valente's specialty, including his signature Italian sausage. His motto was: buy it cheap, pile it high and watch it fly.

His son Larry began working at 12 years old, earning 50 cents an hour. He stocked, bagged, carried groceries out, and sorted pop bottles. Though his parents, Fred and Irene, wanted him to go to college and become a doctor, he preferred a career around family, food and community and never left the business.

The market's heyday was in the 1970s, just after the business acquired and moved to a larger building at 72nd and Meade and purchased the retail center around it. In 1972, with Fred's passing, Larry assumed management supported by his sisters and children who all worked at the store. In the late '70s when some of the large grocery chains went on strike, customers were lined up outside the Rodeo Market to get in even before the doors opened.

Fred's grandson, Dino, went to work at the store at the age of 14. The market thrived for several more years, but with the rough economy of the late 1980s, the family made the tearful decision to close the storefront. They soon opened a small Italian deli and bakery in the adjacent building.

Over the years, the new store tripled in size while inventory grew from a couple thousand dollars to six digits, said Dino, who is back at work as the manager. He graduated from law school and has been working as a part-time lawyer alongside his market duties, explaining that lawyering is just not as fun as selling food.

His mother, Elaine Valente, worked at the market for a short while. She was more focused on raising the family and community service through many political roles including Adams County's first female commissioner. Though she passed away six years ago, she is memorialized everyday by the market's "La Cucina Valente," where her recipes are kept alive through the sales of homemade sauce, lasagna and soups. Of course, Fred's signature sausage is still made fresh daily and hand-stuffed, too.



Agenda Item 6 B

Agenda Memorandum

City Council Meeting
September 23, 2013



SUBJECT: Proclamation re Fire Prevention Month

Prepared By: Sherrie L. Leeka, Public Education Officer
Bob Hose, Fire Marshal

Recommended City Council Action

Councillor Atchison to present the proclamation designating October as Fire Prevention Month.

Summary Statement

- Annually, the President of the United States proclaims a week in October as Fire Prevention Week. This designation always occurs during the week that includes October 9th, the anniversary of the Great Chicago Fire.
- The National Fire Protection Association (NFPA) designates the theme for National Fire Prevention Week every year. The theme for 2013 is "Prevent Kitchen Fires."
- In order to provide a safe and secure community, the City of Westminster extends the celebration of Fire Prevention Week for the entire month of October. The Westminster Fire Department promotes the campaign with fire safety presentations at schools throughout the community, a fire safety coloring contest for third grade children in the City, and a number of community events with local businesses regarding public safety.
- Tours and programs will also be held at the City's fire stations. Throughout the month, several thousand citizens are expected to take advantage of these special programs. Westminster citizens will be encouraged to participate in the NFPA Fire Prevention theme, "Prevent Kitchen Fires."
- Public Education Officer Sherrie Leeka and Fire Marshal Bob Hose will be present to accept the Proclamation on behalf of the Fire Department.

Expenditure Required: \$0

Source of Funds: N/A

Policy Issue

Does City Council wish to designate the month of October as Fire Prevention Month and use the theme of “Prevent Kitchen Fires?”

Alternative

City Council could decide not to proclaim October 2013 as Fire Prevention Month in Westminster nor use the national theme as proposed. Staff does not recommend this as designating the entire month as Fire Prevention Month allows for greater emphasis on the importance of fire prevention and planning. Additionally, tying into the national theme provides greater visibility and continuity in educating the public.

Background Information

Fire Service professionals throughout the United States will celebrate Fire Prevention Week October 6-12, 2013. Fire Prevention Week was established to commemorate the Great Chicago Fire, the tragic October 9, 1871 conflagration that killed more than 250 people. In 1920, President Woodrow Wilson issued the first National Fire Prevention Day proclamation, and since 1922, Fire Prevention Week has been observed on the Sunday through Saturday period in which October 9th falls.

During Fire Prevention Month, the Westminster Fire Department will promote the theme “Prevent Kitchen Fires” throughout the community. This theme focuses on preventing kitchen fires and integrating fire safety behaviors into your daily activities. We can each do more by:

- Maintaining working smoke alarms in our homes and changing the batteries twice a year when we change our clocks to accommodate daylight savings time, “spring forward and fall back;”
- Make a home escape plan with two ways out and practice it twice a year with your family;
- Stay in the kitchen when frying, grilling or broiling food;
- Make sure the heating system is cleaned once a year;
- Never leave candles unattended; and
- Make sure to have a carbon monoxide alarm near each sleeping area.

The Westminster Fire Department wants to bring a sense of safety and empowerment to our community and the best way to start is to have people ask themselves a simple question: What can I do to prevent a kitchen fire?

This information is shared with the community through:

- Educational programs in local schools;
- A 3rd grade coloring contest;
- Safety demonstrations at Super Target on September 22nd and Home Depot on October 5th;
- Fire Station 4’s Open House on October 19th;
- A booth at the City Halloween event at City Park Recreation Center on October 26th; and
- Fire station tours.

SUBJECT: Proclamation re Fire Prevention Month

Page 3

This proclamation and the public education efforts of the Westminster Fire Department support the City of Westminster strategic plan under the guiding principle of a safe and secure community. The means to achieve this principle is by having citizens perceive that they are safe and taking personal responsibility for community safety.

Respectfully submitted,

J. Brent McFall
City Manager

Attachment: Proclamation

WHEREAS, in 2012 the United States had 2,855 civilian fire fatalities, 16,500 civilian injuries, and over 12.4 billion dollars in property loss due to structure fires; and,

WHEREAS, in 2012 the City of Westminster Fire Department responded to 9,267 emergency alarms, including 77 structure fires, and the City had over \$600,000 in building and content loss due to structure fires; and,

WHEREAS, in 2012 the City of Westminster Fire Department responded to 31 cooking and kitchen fires; and,

WHEREAS, Fire Prevention should be of concern to every Westminster citizen; and,

WHEREAS, the City of Westminster believes that a "Safe and Secure Community" depends on joint commitment and effort involving all citizens as well as firefighters; and,

WHEREAS, the Westminster Fire Department has established a public education program that works to educate citizens on the hazards of fire and life safety; and,

WHEREAS, the national 2013 Fire Prevention Week theme, "Prevent Kitchen Fires," effectively serves to remind us all of the simple actions we can take to stay safe from fire during Fire Prevention Month and year-round.

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

FIRE PREVENTION MONTH

in the City of Westminster, and urge all citizens to heed the important safety messages of Fire Prevention Month 2013 and to support the many public safety activities and efforts of the City of Westminster's Fire Department.

Signed this 23rd day of September, 2013.

Nancy McNally, Mayor



Agenda Item 6 C

Agenda Memorandum

City Council Meeting
September 23, 2013



SUBJECT: Presentation to Mayor McNally re Support of the American Cancer Society's Relay for Life and Cancer Prevention Study 3

Prepared By: Sherri Rickard, Accountant

Recommended City Council Action

Jamie Mager will be present to recognize Mayor McNally for her support throughout her tenure as Mayor of the Relay for Life as well as the City's support of the Cancer Prevention Study 3.

Summary Statement

- Jamie Mager, District Executive Director for the Great West Division of the American Cancer Society, will be in attendance to present a small token of appreciation to the Mayor in recognition of her support and attendance at numerous Relay for Life events throughout her tenure as Mayor.
- Jamie Mager will also briefly discuss the success and City support for the Cancer Prevention Study 3 and will present a small plaque to the City.

Expenditure Required: \$ 0

Source of Funds: N/A

Policy Issue

None identified

Alternative

None Identified

Background Information

Throughout her tenure, Mayor McNally has participated in several Relay for Life events by being on hand to recognize cancer survivors in the community and to support the American Cancer Society's signature event. As this is Mayor McNally's final term, the American Cancer Society would like to recognize her support.

The American Cancer Society would also like to recognize the City for their support of the Cancer Prevention Study 3 (CPS-3). The American Cancer Society's Epidemiology Research Program is inviting men and women between the ages of 30 and 65 years who have no personal history of cancer to join this historic research study. The ultimate goal is to enroll at least 300,000 adults from various racial and ethnic backgrounds from across the US. CPS-3 is a grassroots effort where local communities from across the country can support cancer research not just through fundraising efforts, but also by participating actively in this historic research study. The City of Westminster will be one of the communities supporting this Study and a small plaque will be presented by the American Cancer Society.

This recognition supports the strategic objectives of Vibrant Neighborhoods in One Livable Community and Safe and Healthy Community. It does so by representing strong community events, active civic engagement and support for a healthier community.

Respectfully submitted,

J. Brent McFall
City Manager



Agenda Memorandum

City Council Meeting
September 23, 2013



SUBJECT: Financial Report for August, 2013

Prepared By: Tammy Hitchens, Finance Director

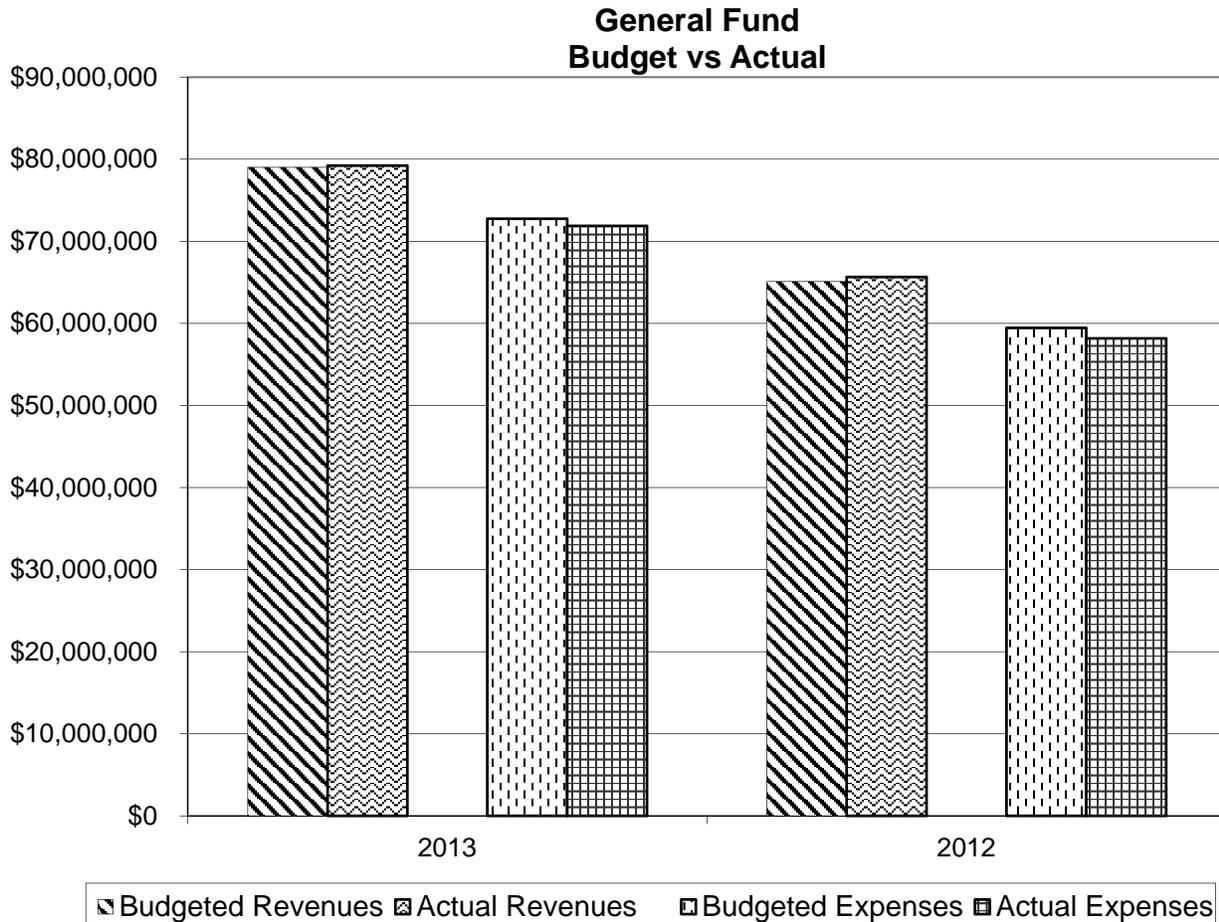
Recommended City Council Action

Accept the Financial Report for August as presented.

Summary Statement

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

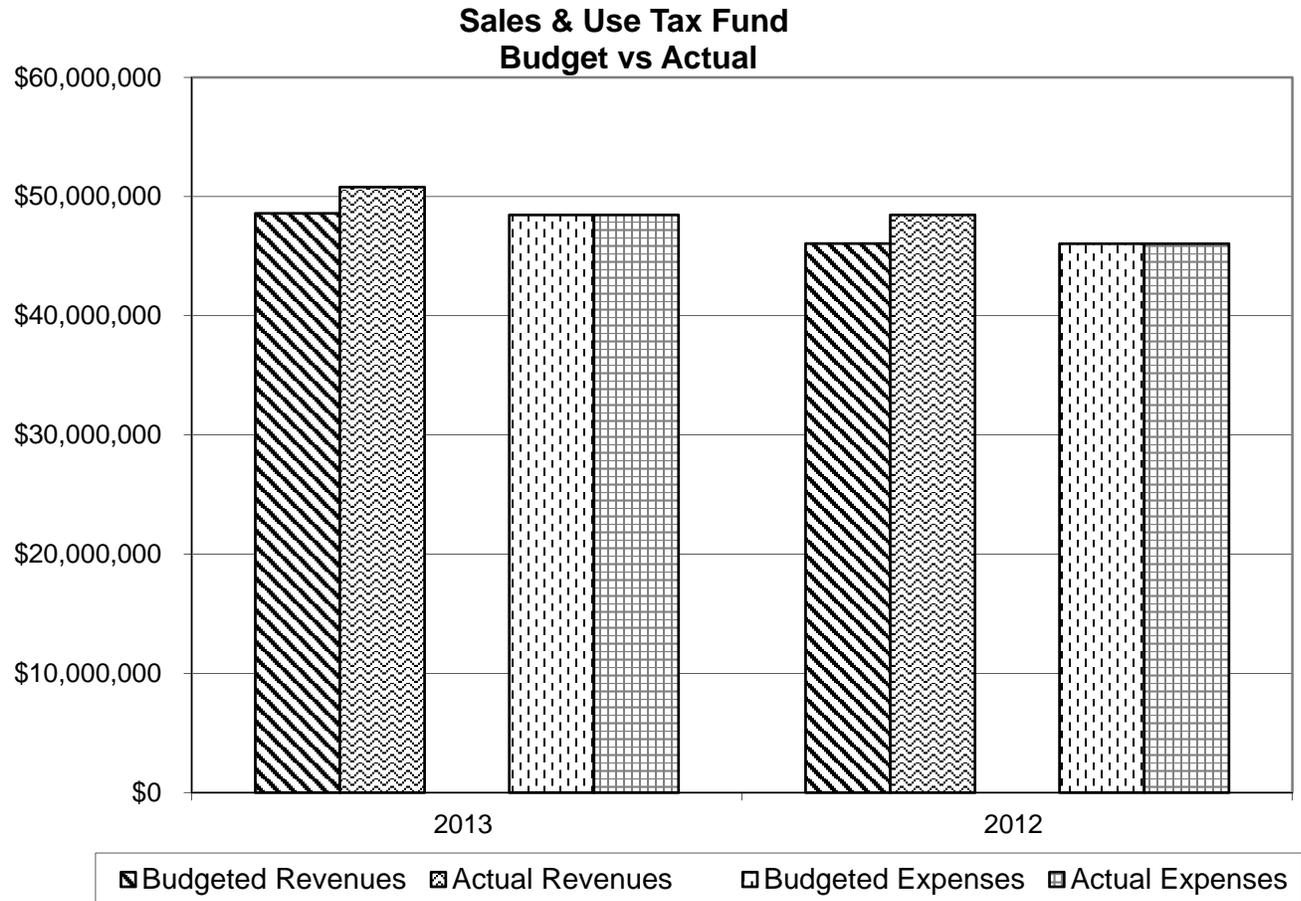
The General Fund revenues and carryover exceed expenditures by \$7,352,623. The following graph represents Budget vs. Actual for 2012-2013.



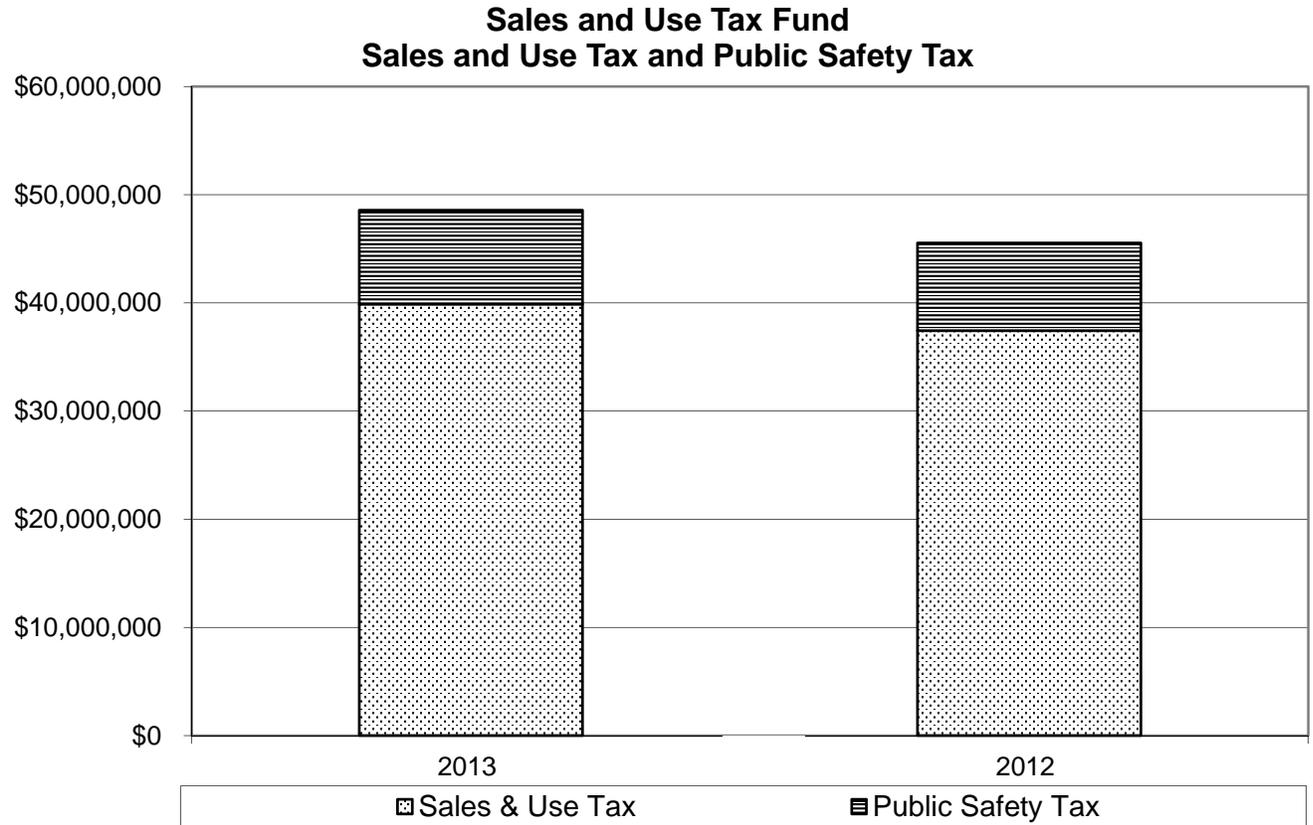
The revenue and expense variance between years reflects the refinancing of the 2005 Certificates of Participation.

The Sales and Use Tax Fund revenues and carryover exceed expenditures by \$2,340,582. On a year-to-date cash basis, total sales and use tax is up 6.6% from 2012. Key components are listed below:

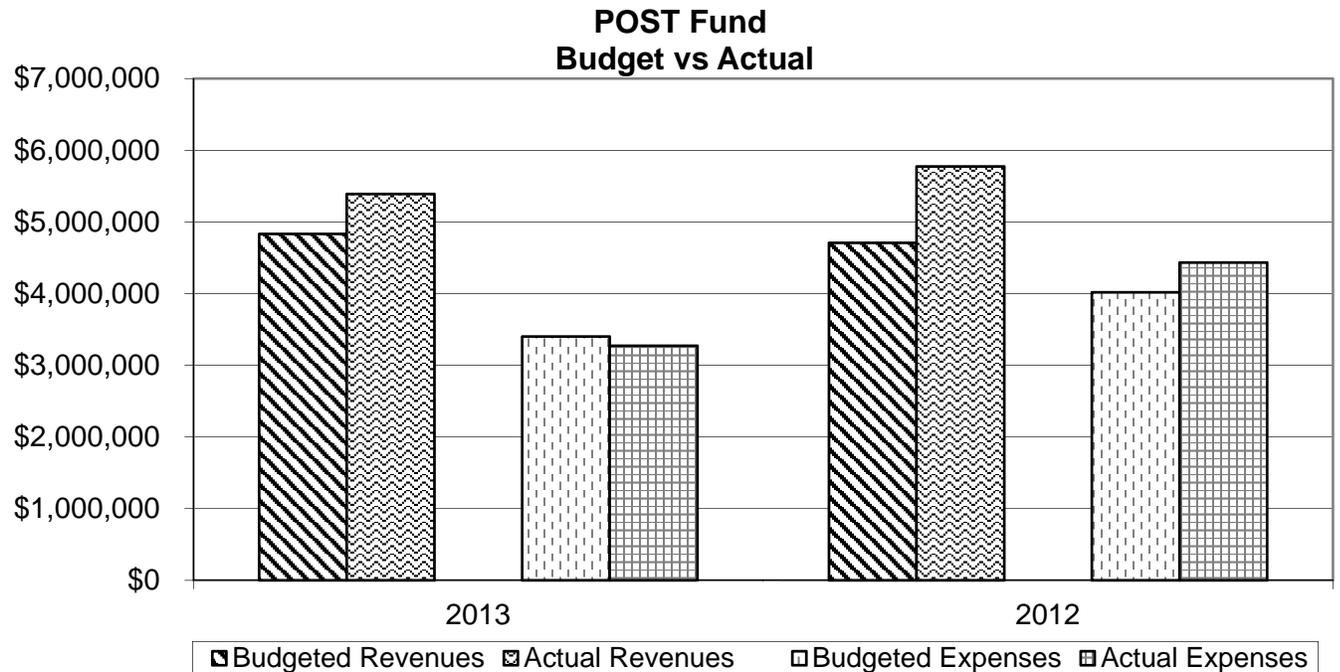
- On a year-to-date basis, across the top 25 shopping centers, total sales and use tax receipts are up 2.0% from the prior year.
- Sales tax receipts from the top 50 Sales Taxpayers, representing about 61.8% of all collections, are up 10.8% for the month when compared to 2012.
- Urban renewal areas make up 40.5% of gross sales tax collections. After urban renewal area and economic development assistance adjustments, 85.9% of this money is being retained for General Fund use.



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



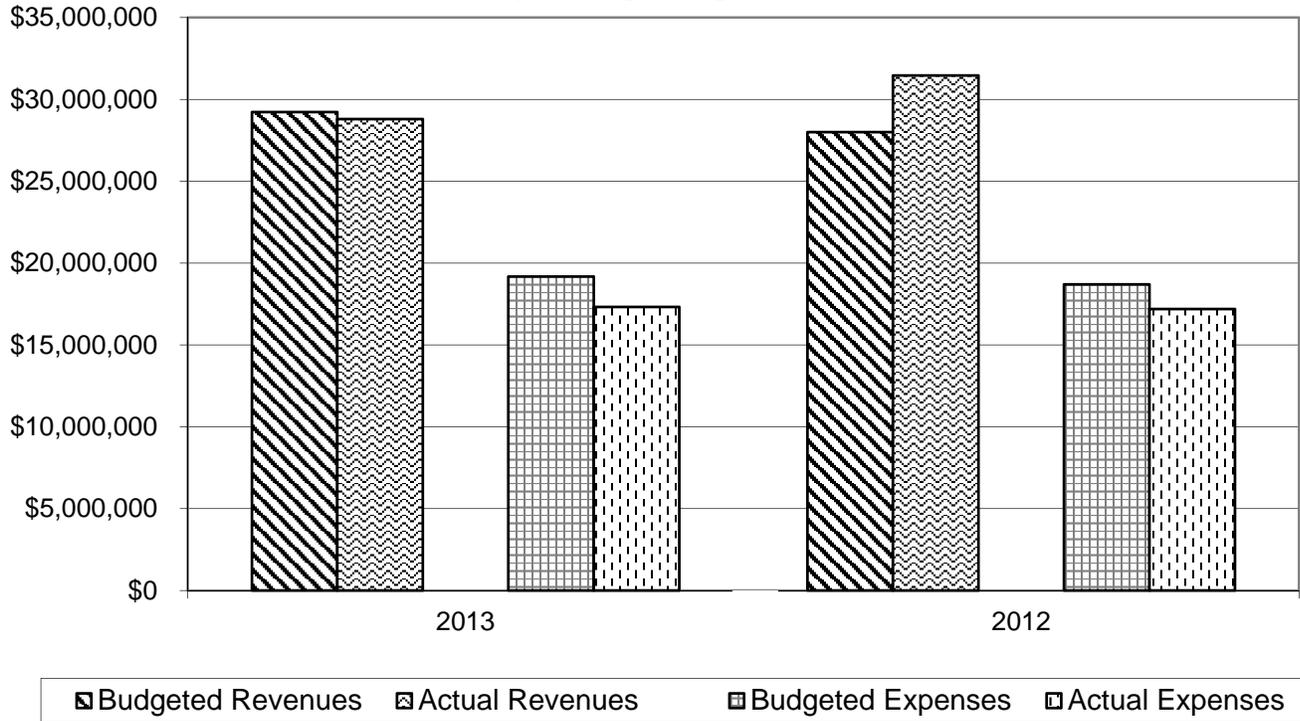
The Parks Open Space and Trails Fund revenues and carryover exceed expenditures by \$2,118,305.



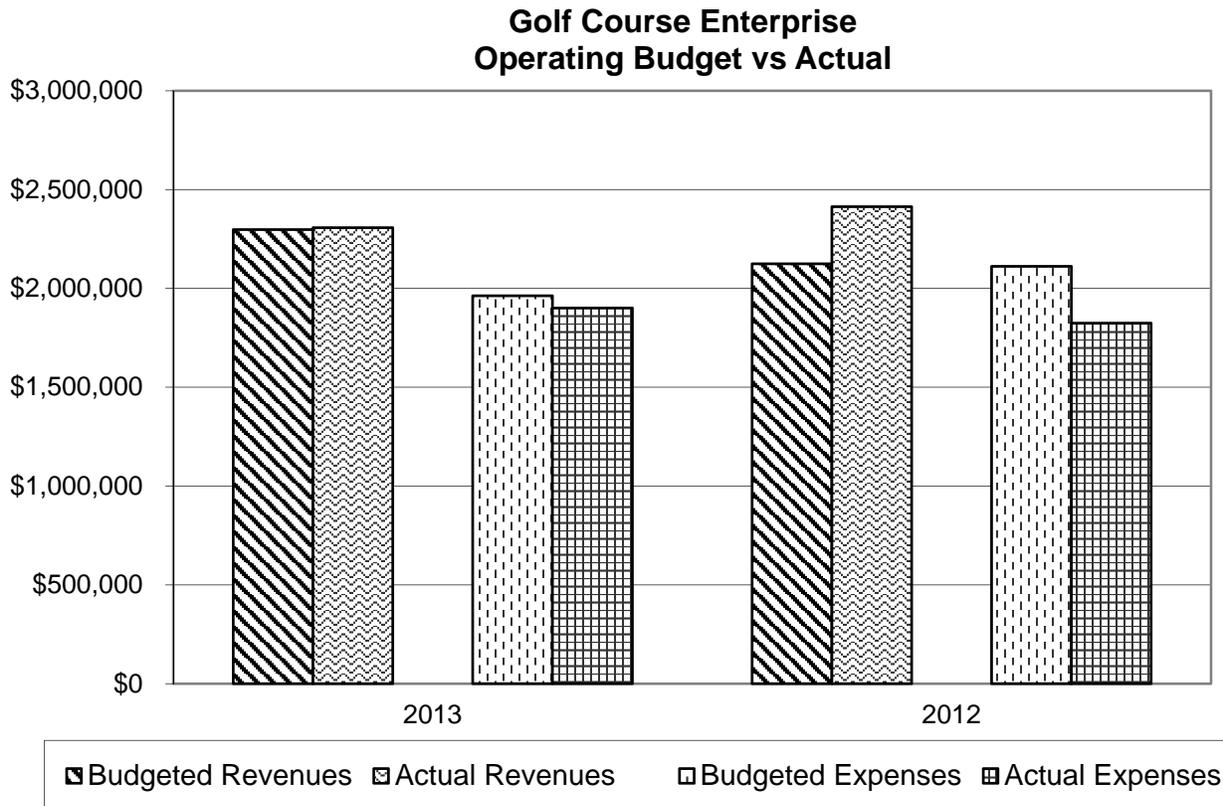
Intergovernmental reimbursements appropriated in prior years are reflected in the budget to actual revenue variances for 2012 and 2013.

The combined Water & Wastewater Fund revenues and carryover exceed expenditures by \$15,736,479. Operating revenues exceed operating expenditures by \$11,483,974. \$17,725,961 is budgeted for capital projects and reserves. Water revenues were significantly higher in 2012 because it was a dry year.

Combined Water and Wastewater Funds Operating Budget vs Actual



The combined Golf Course Fund revenues and carryover exceed expenditures by \$878,829. Operating revenues exceed operating expenditures by \$406,709.



At this time in 2012, green fees, cart rental, and driving range fees were higher. The snowy Spring decreased the number of rounds played in 2013.

As part of Carryover, \$450,000 was moved from Legacy Ridge to Heritage. The money was not appropriated in the Heritage fund as it is meant to transfer cash from Legacy to Heritage.

Policy Issue

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

Alternative

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

Background Information

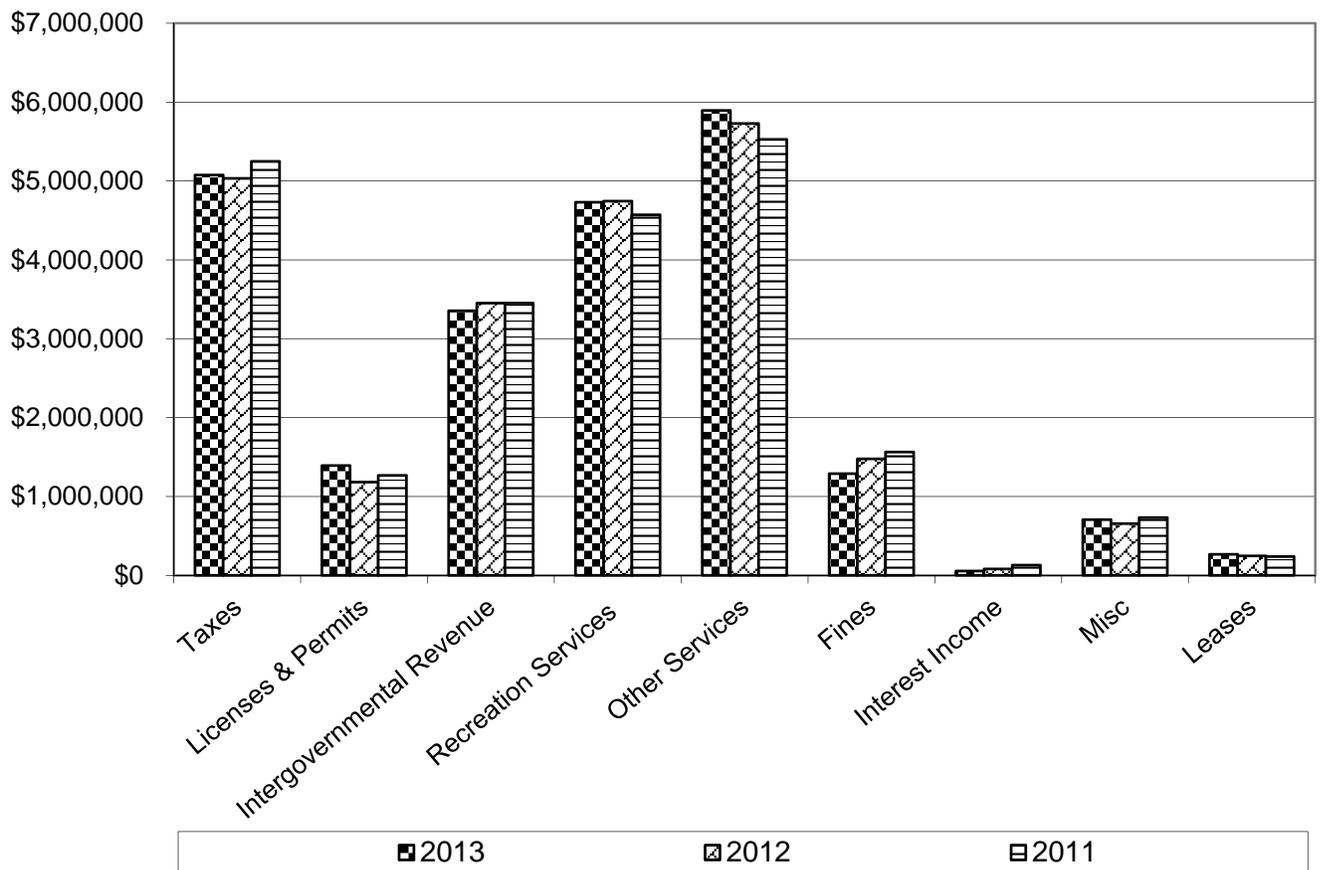
This section includes a discussion of highlights of each fund presented.

General Fund

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

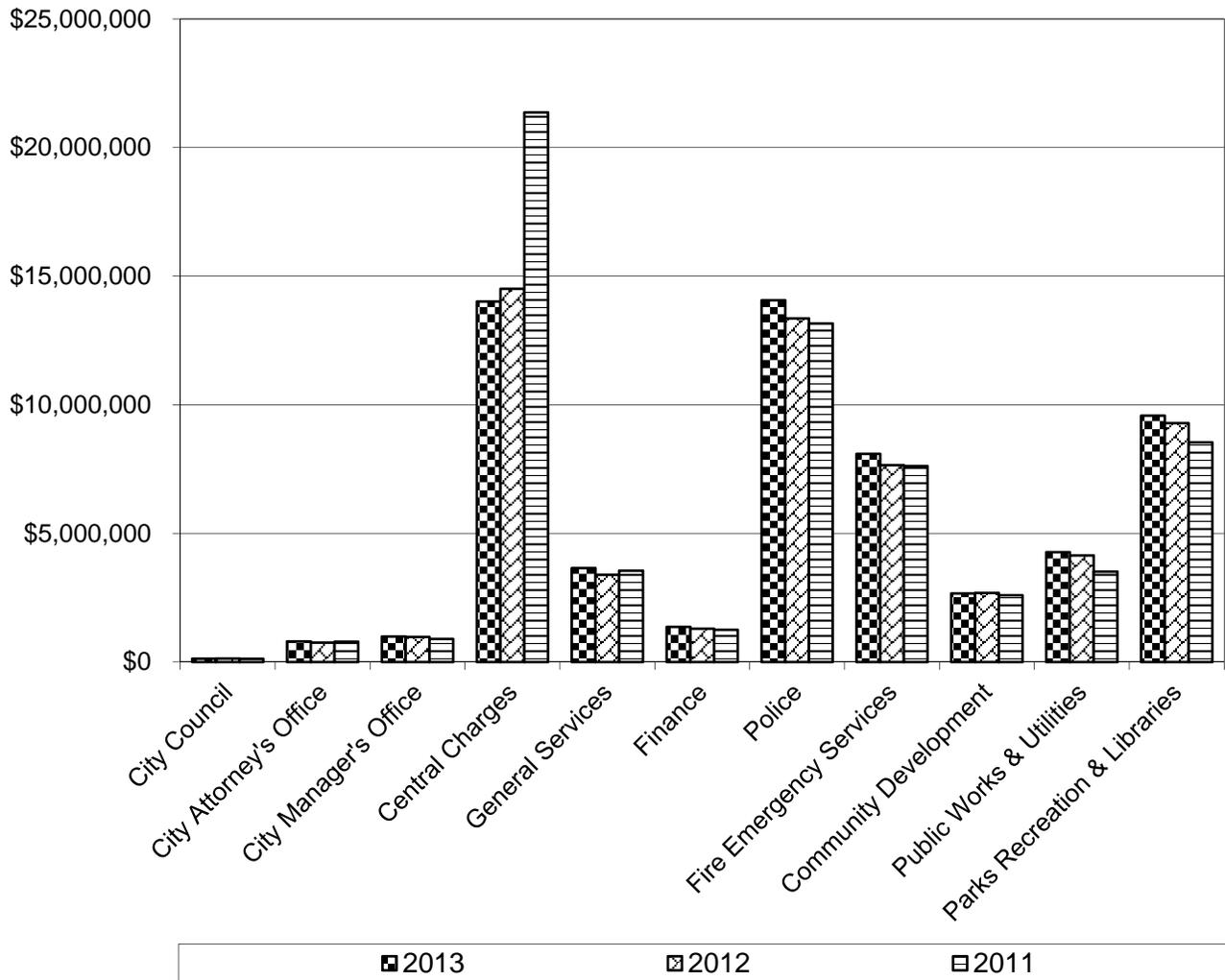
The following chart represents the trend in actual revenues from 2011-2013 year-to-date.

**General Fund Revenues without Transfers, Carryover, and Other Financing Sources
2011-2013**



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

**General Fund Expenditures by Function, less Other Financing Uses
2011-2013**



Central Charges expenditures is higher in 2011 primarily due to a transfer to WEDA of \$5.1 million.

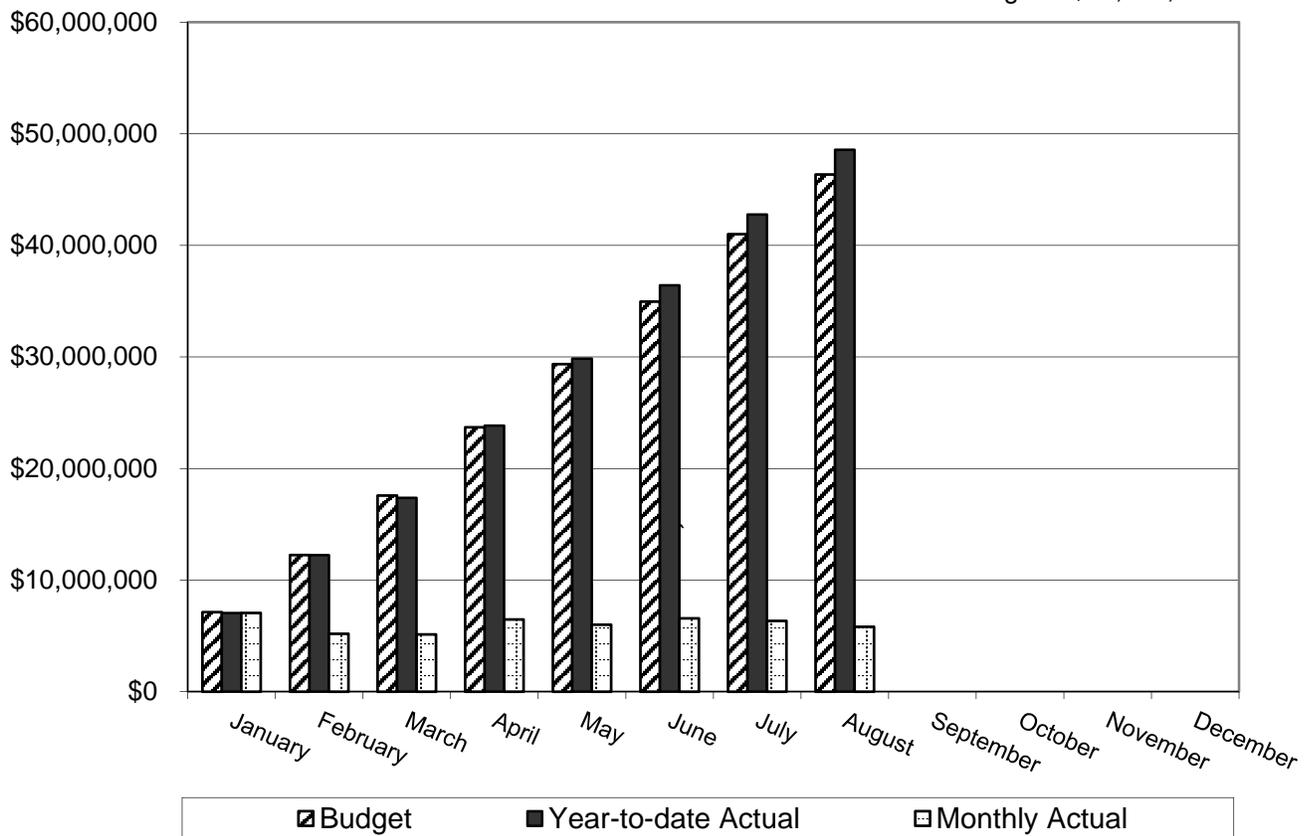
Sales and Use Tax Funds (Sales & Use Tax Fund and Parks, Open Space and Trails Sales & Use Tax Fund)

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

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

**Sales & Use Tax - excluding Interest, Transfers and Carryover
2013**

Budget = \$69,320,135

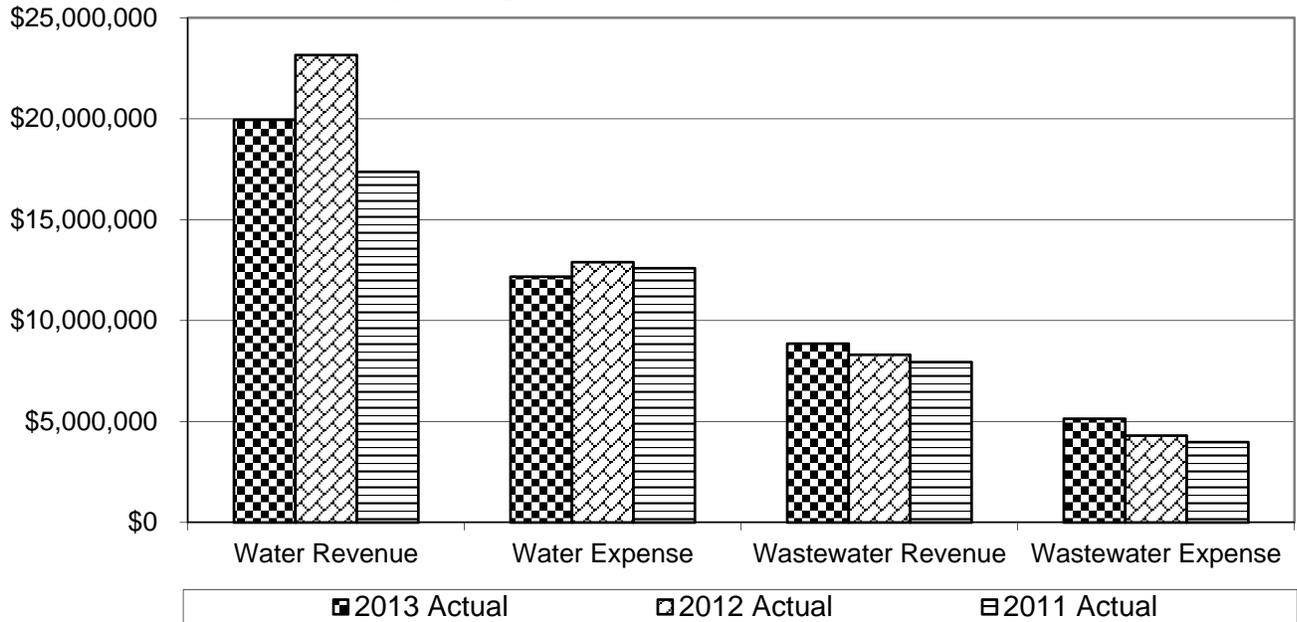


Water, Wastewater and Storm Water Drainage Funds (The Utility Enterprise)

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

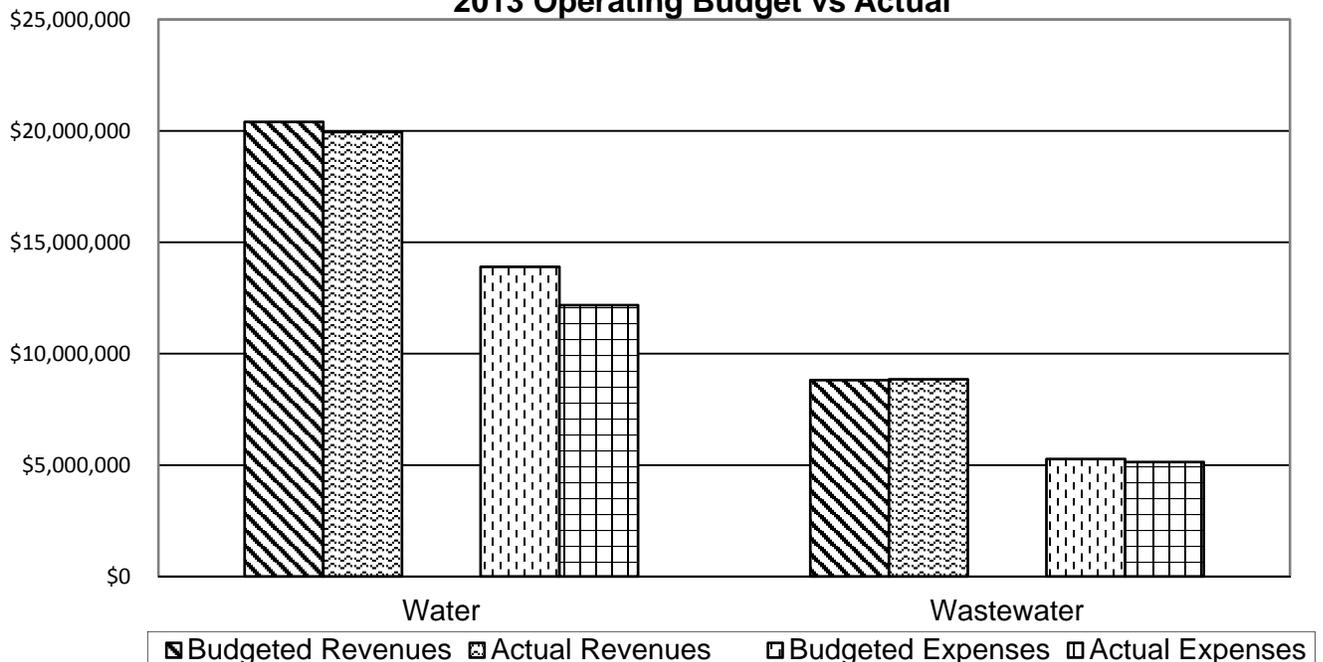
These graphs represent segment information for the Water and Wastewater funds.

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



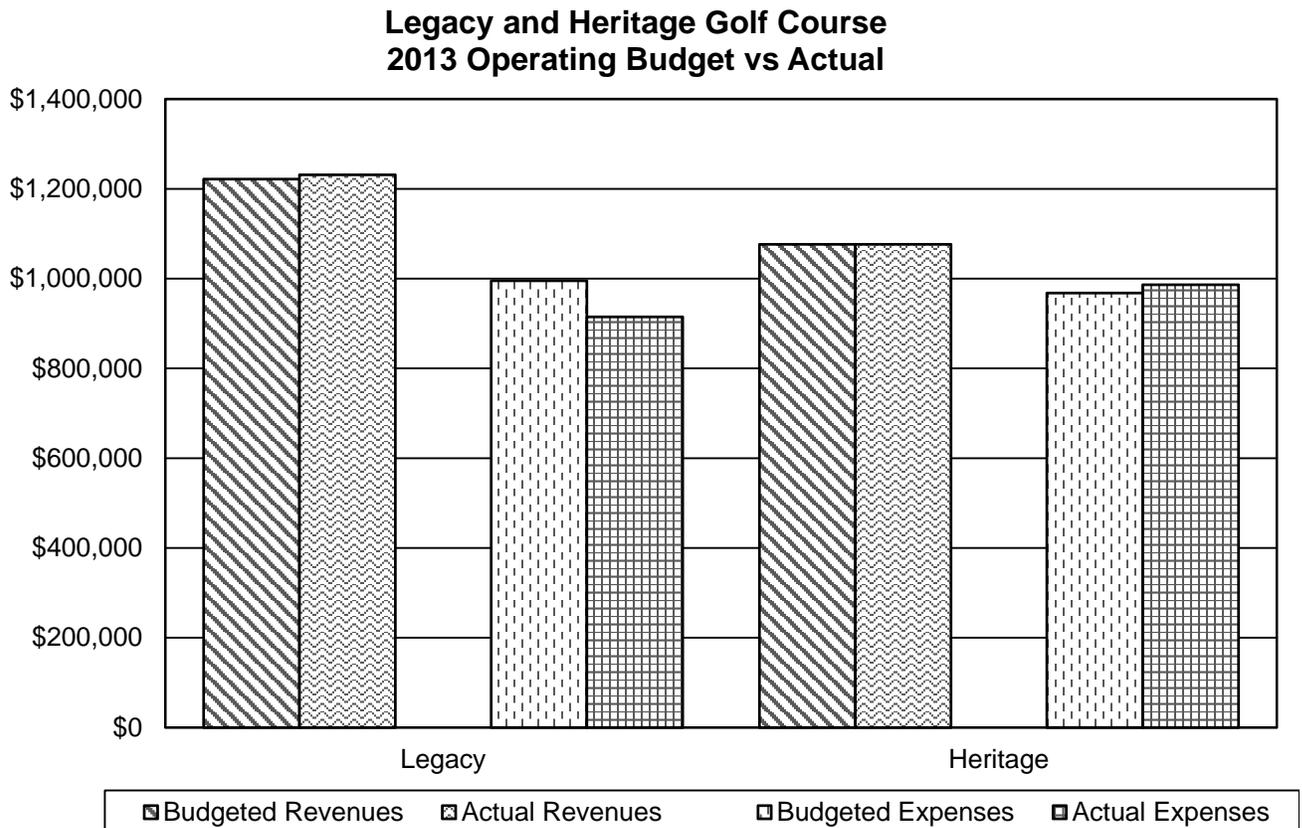
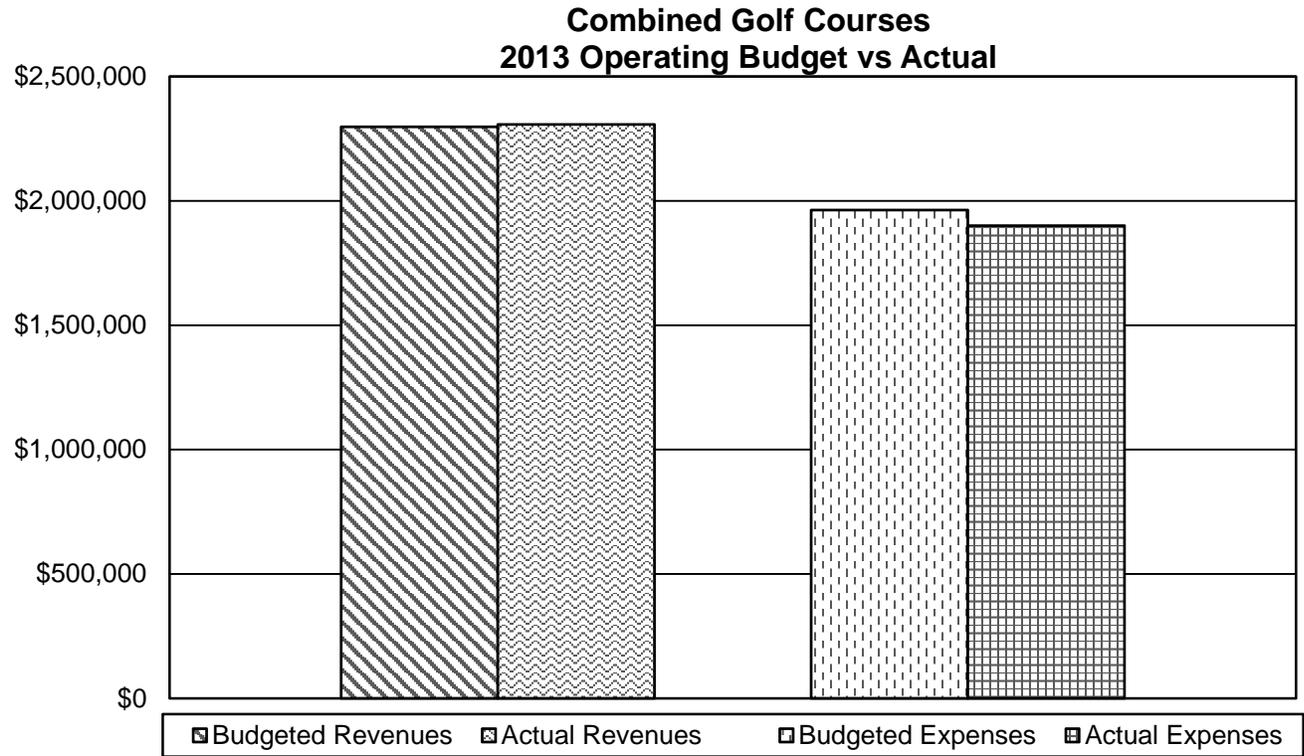
The Water Fund revenue variance is due to the effect of climatic variations on water consumption as well as changes in billing rates. 2013 Wastewater revenues are up due to changes in billing rates. 2013 Wastewater expenses exceed prior years due to capital purchases for field operations.

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



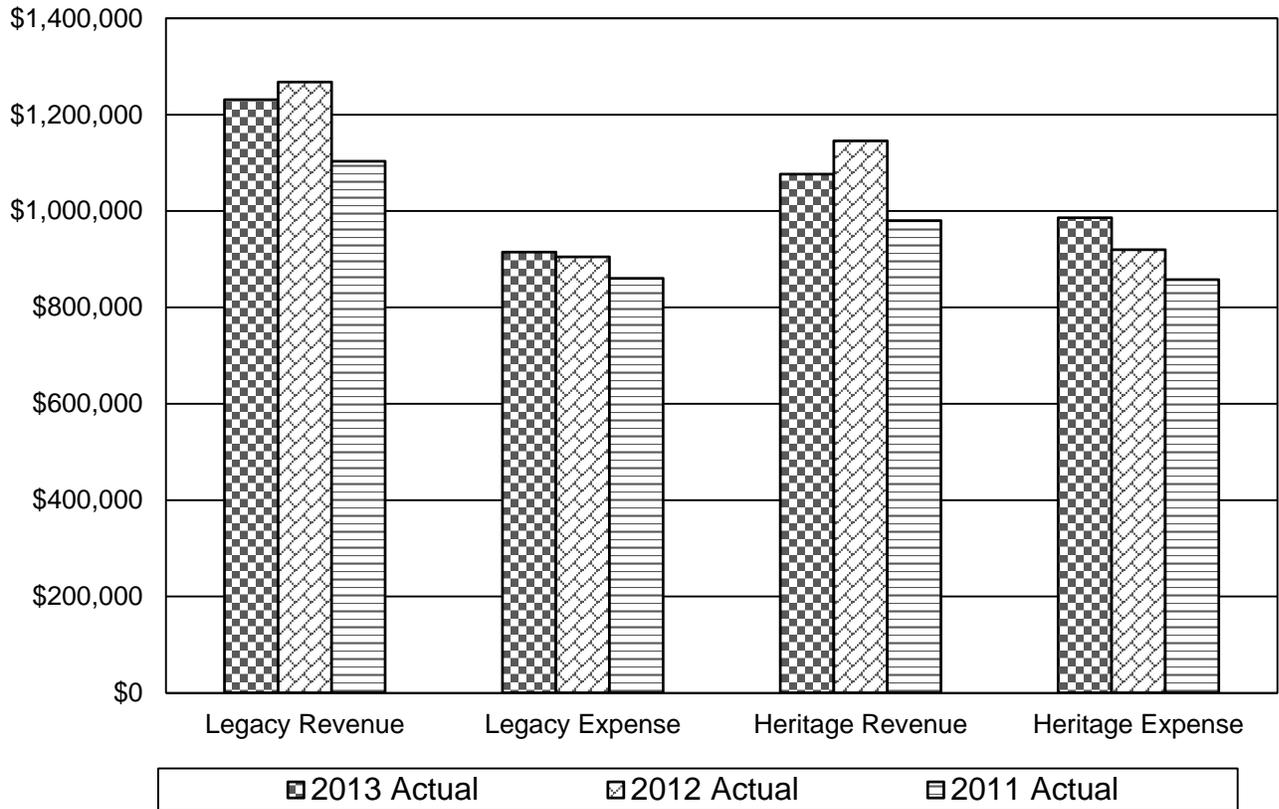
Golf Course Enterprise (Legacy and Heritage Golf Courses)

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



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

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



Revenue variances are due primarily to charges for services including driving range and greens fees.

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

Respectfully submitted,

J. Brent McFall, City Manager

Attachments

- Financial Statements
- Shopping Center Report

**City of Westminster
Financial Report
For Five Months Ending May 31, 2013**

Description General Fund	Budget	Pro-rated for Seasonal Flows	Notes	Actual	(Under) Over Budget	% Budget
Revenues						
Taxes	5,729,500	3,153,372		2,944,666	(208,706)	93.4%
Licenses & Permits	1,619,750	647,691		991,972	344,281	153.2%
Intergovernmental Revenue	5,030,446	1,568,355		1,778,693	210,338	113.4%
Charges for Services						
Recreation Services	6,710,438	2,945,757		3,125,175	179,418	106.1%
Other Services	9,878,856	3,465,470		3,652,959	187,489	105.4%
Fines	2,260,000	935,309		799,756	(135,553)	85.5%
Interest Income	125,000	41,975		30,219	(11,756)	72.0%
Miscellaneous	1,655,506	495,579	(1)	580,531	84,952	117.1%
Leases	401,779	166,363		166,363	0	100.0%
Interfund Transfers	64,049,819	26,687,425		26,687,425	0	100.0%
Total Revenues	97,461,094	40,107,296		40,757,759	650,463	101.6%
Expenditures						
City Council	254,094	99,426		67,778	(31,648)	68.2%
City Attorney's Office	1,256,450	481,691		478,259	(3,432)	99.3%
City Manager's Office	1,567,013	599,383		602,490	3,107	100.5%
Central Charges	25,508,631	8,514,706		8,559,553	44,847	100.5%
General Services	5,994,825	2,293,654		2,154,566	(139,088)	93.9%
Finance	2,110,661	799,486		829,643	30,157	103.8%
Police	21,330,429	8,314,408		8,572,725	258,317	103.1%
Fire Emergency Services	12,525,053	4,828,125		4,741,828	(86,297)	98.2%
Community Development	4,202,436	1,619,592		1,603,619	(15,973)	99.0%
Public Works & Utilities	8,039,149	1,837,868		1,836,950	(918)	100.0%
Parks, Recreation & Libraries	14,672,353	5,104,850		4,812,952	(291,898)	94.3%
Total Expenditures	97,461,094	34,493,189		34,260,363	(232,826)	99.3%
Revenues Over(Under)						
Expenditures	0	5,614,107		6,497,396	883,289	

(1) Miscellaneous revenue includes a substantial purchasing card rebate and the annual Pepsi sponsorship fee.

**City of Westminster
Financial Report
For Five Months Ending May 31, 2013**

Description	Budget	Pro-rated for Seasonal Flows	Notes	Actual	(Under) Over Budget	% Budget
Sales and Use Tax Fund						
Revenues						
Sales Tax						
Sales Tax Returns	47,601,952	20,565,168		20,820,958	255,790	101.2%
Sales Tx Audit Revenues	724,000	301,908		251,487	(50,421)	83.3%
S-T Rev. STX	<u>48,325,952</u>	<u>20,867,076</u>		<u>21,072,445</u>	<u>205,369</u>	101.0%
Use Tax						
Use Tax Returns	8,017,000	3,008,031		2,953,380	(54,651)	98.2%
Use Tax Audit Revenues	785,000	327,345		613,060	285,715	187.3%
S-T Rev. UTX	<u>8,802,000</u>	<u>3,335,376</u>		<u>3,566,440</u>	<u>231,064</u>	106.9%
Total STX and UTX	<u><u>57,127,952</u></u>	<u><u>24,202,452</u></u>		<u><u>24,638,885</u></u>	<u><u>436,433</u></u>	101.8%
Public Safety Tax						
PST Tax Returns	11,883,683	5,017,642		5,036,157	18,515	100.4%
PST Audit Revenues	308,500	128,645		172,843	44,198	134.4%
Total Rev. PST	<u>12,192,183</u>	<u>5,146,287</u>		<u>5,209,000</u>	<u>62,713</u>	101.2%
Interest Income	85,000	35,417		26,844	(8,573)	75.8%
Interfund Transfers	265,458	110,608		110,608	0	100.0%
Total Revenues	<u><u>69,670,593</u></u>	<u><u>29,494,764</u></u>		<u><u>29,985,337</u></u>	<u><u>490,573</u></u>	101.7%
Expenditures						
Central Charges	<u>69,670,593</u>	<u>29,029,414</u>		<u>29,029,414</u>	<u>0</u>	100.0%
Revenues Over(Under) Expenditures	<u><u>0</u></u>	<u><u>465,350</u></u>		<u><u>955,923</u></u>	<u><u>490,573</u></u>	

**City of Westminster
Financial Report
For Five Months Ending May 31, 2013**

Description	Budget	Pro-rated for Seasonal Flows	Notes	Actual	(Under) Over Budget	% Budget
POST Fund						
Revenues						
Sales & Use Tax	5,085,325	2,141,602		2,169,866	28,264	101.3%
Interest Income	10,000	4,167		6,902	2,735	165.6%
Miscellaneous	85,030	35,429		7,600	(27,829)	21.5%
Interfund Transfers	19,542	8,143		8,143	0	100.0%
Total Revenues	<u>5,199,897</u>	<u>2,189,341</u>		<u>2,192,511</u>	<u>3,170</u>	<u>100.1%</u>
Expenditures						
Central Charges	4,869,081	1,908,829		1,872,707	(36,122)	98.1%
Park Services	330,816	98,262		84,394	(13,868)	85.9%
	<u>5,199,897</u>	<u>2,007,091</u>		<u>1,957,101</u>	<u>(49,990)</u>	<u>97.5%</u>
Revenues Over(Under)						
Expenditures	<u>0</u>	<u>182,250</u>		<u>235,410</u>	<u>53,160</u>	

**City of Westminster
Financial Report
For Five Months Ending May 31, 2013**

Description	Budget	Pro-rated for Seasonal Flows	Notes	Actual	(Under) Over Budget	% Budget
Water and Wastewater Funds - Combined						
Operating Revenues						
License & Permits	75,000	31,250		41,750	10,500	133.6%
Intergovernmental Revenue	0	0		36,435	36,435	
Rates and Charges	45,315,766	13,316,292		12,740,098	(576,194)	95.7%
Miscellaneous	435,000	181,250		162,136	(19,114)	89.5%
Total Operating Revenues	<u>45,825,766</u>	<u>13,528,792</u>		<u>12,980,419</u>	<u>(548,373)</u>	95.9%
Operating Expenses						
Central Charges	6,032,672	2,513,613		2,437,876	(75,737)	97.0%
Finance	646,064	257,133		213,350	(43,783)	83.0%
Public Works & Utilities	21,378,120	7,229,272		6,221,566	(1,007,706)	86.1%
Parks, Recreation & Libraries	152,415	39,475		32,042	(7,433)	81.2%
Information Technology	2,868,928	1,159,047		1,040,302	(118,745)	89.8%
Total Operating Expenses	<u>31,078,199</u>	<u>11,198,540</u>		<u>9,945,136</u>	<u>(1,253,404)</u>	88.8%
Operating Income (Loss)	<u>14,747,567</u>	<u>2,330,252</u>		<u>3,035,283</u>	<u>705,031</u>	
Other Revenue and Expenses						
Tap Fees	4,560,000	1,854,855	(1)	468,937	(1,385,918)	25.3%
Interest Income	365,000	152,084		139,559	(12,525)	91.8%
Interfund Transfers	2,533,172	1,055,488		1,055,488	0	100.0%
Sale of Assets	0	0		22,558	22,558	
Debt Service	(7,221,199)	(3,044,687)		(3,044,687)	0	100.0%
Total Other Revenue (Expenses)	<u>236,973</u>	<u>17,740</u>		<u>(1,358,145)</u>	<u>(1,375,885)</u>	
Increase (Decrease) in Net Assets	<u>14,984,540</u>	<u>2,347,992</u>		<u>1,677,138</u>	<u>(670,854)</u>	

(1) The % budget variance reflects fluctuation in anticipated construction activity based on a 10 year average.

**City of Westminster
Financial Report
For Five Months Ending May 31, 2013**

Description	Budget	Pro-rated for Seasonal Flows	Notes	Actual	(Under) Over Budget	% Budget
Water Fund						
Operating Revenues						
License & Permits	75,000	31,250		41,750	10,500	133.6%
Intergovernmental Revenue	0	0		36,435	36,435	
Rates and Charges	32,100,766	7,810,042		7,191,754	(618,288)	92.1%
Miscellaneous	425,000	177,083		157,536	(19,547)	89.0%
Total Operating Revenues	<u>32,600,766</u>	<u>8,018,375</u>		<u>7,427,475</u>	<u>(590,900)</u>	92.6%
Operating Expenses						
Central Charges	4,253,473	1,772,280		1,700,511	(71,769)	96.0%
Finance	646,064	257,133		213,350	(43,783)	83.0%
Public Works & Utilities	14,419,655	4,995,354		4,072,870	(922,484)	81.5%
PR&L Standley Lake	152,415	39,475		32,042	(7,433)	81.2%
Information Technology	2,868,928	1,159,047		1,040,302	(118,745)	89.8%
Total Operating Expenses	<u>22,340,535</u>	<u>8,223,289</u>		<u>7,059,075</u>	<u>(1,164,214)</u>	85.8%
Operating Income (Loss)	<u>10,260,231</u>	<u>(204,914)</u>		<u>368,400</u>	<u>573,314</u>	
Other Revenue and Expenses						
Tap Fees	3,500,000	1,417,500	(1)	389,816	(1,027,684)	27.5%
Interest Income	250,000	104,167		97,458	(6,709)	93.6%
Interfund Transfers	2,097,065	873,777		873,777	0	100.0%
Sale of Assets	0	0		22,558	22,558	
Debt Service	(5,714,756)	(2,466,178)		(2,466,178)	0	100.0%
Total Other Revenues (Expenses)	<u>132,309</u>	<u>(70,734)</u>		<u>(1,082,569)</u>	<u>(1,011,835)</u>	
Increase (Decrease) in Net Assets	<u>10,392,540</u>	<u>(275,648)</u>		<u>(714,169)</u>	<u>(438,521)</u>	

(1) The % budget variance reflects fluctuation in anticipated construction activity based on a 10 year average.

**City of Westminster
Financial Report
For Five Months Ending May 31, 2013**

Description	Budget	Pro-rated for Seasonal Flows	Notes	Actual	(Under) Over Budget	% Budget
Wastewater Fund						
Operating Revenues						
Rates and Charges	13,215,000	5,506,250		5,548,344	42,094	100.8%
Miscellaneous	10,000	4,167		4,600	433	110.4%
Total Operating Revenues	<u>13,225,000</u>	<u>5,510,417</u>		<u>5,552,944</u>	<u>42,527</u>	100.8%
Operating Expenses						
Central Charges	1,779,199	741,333		737,365	(3,968)	99.5%
Public Works & Utilities	6,958,465	2,233,918		2,148,696	(85,222)	96.2%
Total Operating Expenses	<u>8,737,664</u>	<u>2,975,251</u>		<u>2,886,061</u>	<u>(89,190)</u>	97.0%
Operating Income (Loss)	<u>4,487,336</u>	<u>2,535,166</u>		<u>2,666,883</u>	<u>131,717</u>	
Other Revenue and Expenses						
Tap Fees	1,060,000	437,355	(1)	79,121	(358,234)	18.1%
Interest Income	115,000	47,917		42,101	(5,816)	87.9%
Interfund Transfers	436,107	181,711		181,711	0	100.0%
Debt Service	(1,506,443)	(578,509)		(578,509)	0	100.0%
Total Other Revenues (Expenses)	<u>104,664</u>	<u>88,474</u>		<u>(275,576)</u>	<u>(364,050)</u>	
Increase (Decrease) in Net Assets	<u>4,592,000</u>	<u>2,623,640</u>		<u>2,391,307</u>	<u>(232,333)</u>	

(1) The % budget variance reflects fluctuation in anticipated construction activity based on a 10 year average.

**City of Westminster
Financial Report
For Five Months Ending May 31, 2013**

Description	Budget	Pro-rated for Seasonal Flows	Notes	Actual	(Under) Over Budget	% Budget
Storm Drainage Fund						
Revenues						
Charges for Services	2,082,000	867,500		838,873	(28,627)	96.7%
Interest Income	50,000	20,833		15,417	(5,416)	74.0%
Miscellaneous	0	0		15	15	
Total Revenues	<u>2,132,000</u>	<u>888,333</u>		<u>854,305</u>	<u>(34,028)</u>	96.2%
Expenses						
General Services	86,200	20,516		16,257	(4,259)	79.2%
Community Development	174,090	69,114		65,334	(3,780)	94.5%
PR&L Park Services	200,000	33,000		16,595	(16,405)	50.3%
Public Works & Utilities	322,710	62,283		35,030	(27,253)	56.2%
Total Expenses	<u>783,000</u>	<u>184,913</u>		<u>133,216</u>	<u>(51,697)</u>	72.0%
 Increase (Decrease) in Net Assets	 <u>1,349,000</u>	 <u>703,420</u>		 <u>721,089</u>	 <u>17,669</u>	

**City of Westminster
Financial Report
For Five Months Ending May 31, 2013**

Description	Budget	Pro-rated for Seasonal Flows	Notes	Actual	(Under) Over Budget	% Budget
Golf Course Funds - Combined						
Operating Revenues						
Charges for Services	2,967,608	943,911		950,722	6,811	100.7%
Interest Income	0	0		1,282	1,282	
Interfund Transfers	582,143	242,560		242,560	0	100.0%
Total Revenues	<u>3,549,751</u>	<u>1,186,471</u>		<u>1,194,564</u>	<u>8,093</u>	100.7%
Operating Expenses						
Central Charges	217,435	90,908		72,507	(18,401)	79.8%
Recreation Facilities	3,816,599	1,679,068		1,645,779	(33,289)	98.0%
Total Expenses	<u>4,034,034</u>	<u>1,769,976</u>		<u>1,718,286</u>	<u>(51,690)</u>	97.1%
Operating Income (Loss)	(484,283)	(583,505)		(523,722)	59,783	89.8%
Other Revenues and Expenses						
Other Financing Sources	<u>484,283</u>	<u>484,283</u>		<u>484,283</u>	<u>0</u>	100.0%
Increase (Decrease) in Net Assets	<u>0</u>	<u>(99,222)</u>		<u>(39,439)</u>	<u>59,783</u>	39.7%

**City of Westminster
Financial Report
For Five Months Ending May 31, 2013**

Description	Budget	Pro-rated for Seasonal Flows	Notes	Actual	(Under) Over Budget	% Budget
Legacy Ridge Fund						
Operating Revenues						
Charges for Services	1,582,258	482,589		478,952	(3,637)	99.2%
Interest Income	0	0		1,902	1,902	
Interfund Transfers	10,372	4,322		4,322	0	100.0%
Total Revenues	<u>1,592,630</u>	<u>486,911</u>		<u>485,176</u>	<u>(1,735)</u>	99.6%
Operating Expenses						
Central Charges	113,659	47,737		35,605	(12,132)	74.6%
Recreation Facilities	1,721,113	786,403		748,576	(37,827)	95.2%
Total Expenses	<u>1,834,772</u>	<u>834,140</u>		<u>784,181</u>	<u>(49,959)</u>	94.0%
Operating Income (Loss)	(242,142)	(347,229)		(299,005)	48,224	86.1%
Other Revenue/Expense						
Other Financing Sources	<u>242,142</u>	<u>242,142</u>		<u>240,539</u>	<u>(1,603)</u>	99.3%
Increase (Decrease) in Net Assets	<u>0</u>	<u>(105,087)</u>		<u>(58,466)</u>	<u>48,224</u>	99.3%

**City of Westminster
Financial Report
For Five Months Ending May 31, 2013**

Description	Budget	Pro-rated for Seasonal Flows	Notes	Actual	(Under) Over Budget	% Budget
Heritage at Westmoor Fund						
Operating Revenues						
Charges for Services	1,385,350	461,322		471,770	10,448	102.3%
Interest Income	0	0		(620)	(620)	
Interfund Transfers	571,771	238,238		238,238	0	100.0%
Total Revenues	<u>1,957,121</u>	<u>699,560</u>		<u>709,388</u>	<u>9,828</u>	101.4%
Operating Expenses						
Central Charges	103,776	43,171		36,902	(6,269)	85.5%
Recreation Facilities	2,095,486	892,665		897,203	4,538	100.5%
Total Expenses	<u>2,199,262</u>	<u>935,836</u>		<u>934,105</u>	<u>(1,731)</u>	99.8%
Operating Income	(242,141)	(236,276)		(224,717)	11,559	95.1%
Other Revenues and Expenses						
Other Financing Sources	<u>242,141</u>	<u>242,141</u>		<u>243,744</u>	<u>1,603</u>	100.7%
Increase (Decrease) in Net Assets	<u>0</u>	<u>5,865</u>		<u>19,027</u>	<u>13,162</u>	

CITY OF WESTMINSTER
 GENERAL RECEIPTS BY CENTER
 MONTH OF AUGUST 2013

Center Location Major Tenant	/----- Current Month -----/			/----- Last Year -----/			/--- %Change ---/		
	General Sales	General Use	Total	General Sales	General Use	Total	Sales	Use	Total
NORTHWEST PLAZA SW CORNER 92 & HARLAN COSTCO	416,761	672	417,433	201,797	269	202,066	107	150	107
THE ORCHARD 144TH & I-25 JC PENNEY/MACY'S	393,137	16,855	409,992	346,104	13,587	359,691	14	24	14
WESTFIELD SHOPPING CENTER NW CORNER 92ND & SHER WALMART 92ND	314,894	1,150	316,044	318,302	1,032	319,335	-1	11	-1
SHOPS AT WALNUT CREEK 104TH & REED TARGET	227,913	2,127	230,041	219,410	1,232	220,641	4	73	4
BROOKHILL I & II N SIDE 88TH OTIS TO WADS HOME DEPOT	227,803	1,574	229,376	205,710	1,539	207,249	11	2	11
PROMENADE SOUTH/NORTH S/N SIDES OF CHURCH RANCH BLVD SHANE/AMC	140,092	29,147	169,240	129,212	22,842	152,054	8	28	11
SHOENBERG CENTER SW CORNER 72ND & SHERIDAN WALMART 72ND	167,881	289	168,170	192,124	333	192,457	-13	-13	-13
INTERCHANGE BUSINESS CENTER SW CORNER 136TH & I-25 WALMART 136TH	165,914	398	166,312	166,984	423	167,407	-1	-6	-1
SHERIDAN CROSSING SE CORNER 120TH & SHER KOHL'S	152,950	940	153,890	152,316	2,131	154,448	0	-56	0
NORTH PARK PLAZA SW CORNER 104TH & FEDERAL KING SOOPERS	121,316	396	121,712	113,967	635	114,602	6	-38	6
CITY CENTER MARKETPLACE NE CORNER 92ND & SHERIDAN BARNES & NOBLE	100,593	1,179	101,772	108,747	224	108,971	-8	427	-7
STANDLEY SHORES CENTER SW CORNER 100TH & WADS KING SOOPERS	80,800	236	81,037	76,225	114	76,339	6	107	6
VILLAGE AT THE MALL S SIDE 88TH DEPEW-HARLAN TOYS 'R US	72,519	304	72,823	69,378	187	69,565	5	62	5
WESTMINSTER CROSSING 136TH & I-25 LOWE'S	66,513	346	66,859	57,642	131	57,773	15	165	16
ROCKY MOUNTAIN PLAZA SW CORNER 88TH & SHER GUITAR STORE	59,415	1,350	60,765	59,636	212	59,848	0	537	2

CITY OF WESTMINSTER
GENERAL RECEIPTS BY CENTER
MONTH OF AUGUST 2013

Center Location Major Tenant	Current Month			Last Year			%Change		
	General Sales	General Use	Total	General Sales	General Use	Total	Sales	Use	Total
WESTMINSTER PLAZA FEDERAL-IRVING 72ND-74TH SAFEWAY	55,034	469	55,503	54,174	317	54,490	2	48	2
VILLAGE AT PARK CENTRE NW CORNER 120TH & HURON CB & POTTS	44,730	607	45,337	45,472	5,544	51,015	-2	-89	-11
STANDLEY LAKE MARKETPLACE NE CORNER 99TH & WADSWORTH SAFEWAY	41,735	295	42,029	42,622	294	42,917	-2	0	-2
WESTMINSTER MALL 88TH & SHERIDAN JC PENNEY	39,471	620	40,091	50,681	2,848	53,529	-22	-78	-25
LUCENT/KAISER CORRIDOR 112-120 HURON - FEDERAL LUCENT TECHNOLOGY	8,022	29,557	37,579	9,019	37,488	46,507	-11	-21	-19
BOULEVARD SHOPS 94TH & WADSWORTH CORRIDOR AMERICAN FURNITURE WAREHOUSE	33,064	179	33,243	26,228	296	26,523	26	-39	25
BROOKHILL IV E SIDE WADS 90TH-92ND MURDOCH'S	32,508	59	32,567	28,304	23	28,327	15	164	15
WILLOW RUN 128TH & ZUNI SAFEWAY	32,108	197	32,306	33,083	169	33,252	-3	17	-3
NORTHVIEW 92ND AVE YATES TO SHERIDAN SALTGRASS	29,594	171	29,766	28,251	360	28,611	5	-52	4
STANDLEY PLAZA SW CORNER 88TH & WADS WALGREENS	25,119	1,493	26,612	24,373	236	24,609	3	533	8
	<u>3,049,887</u>	<u>90,612</u>	<u>3,140,498</u>	<u>2,759,761</u>	<u>92,465</u>	<u>2,852,226</u>	<u>11</u>	<u>-2</u>	<u>10</u>

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

Center Location Major Tenant	/----- YTD 2013 -----/ General Sales	/----- YTD 2013 -----/ General Use	/----- YTD 2013 -----/ Total	/----- YTD 2012 -----/ General Sales	/----- YTD 2012 -----/ General Use	/----- YTD 2012 -----/ Total	--- %Change --- Sales	--- %Change --- Use	--- %Change --- Total
THE ORCHARD 144TH & I-25 JC PENNEY/MACY'S	3,508,329	125,473	3,633,802	3,160,464	117,419	3,277,883	11	7	11
WESTFIELD SHOPPING CENTER NW CORNER 92ND & SHER WALMART 92ND	2,689,492	23,117	2,712,609	2,773,646	18,813	2,792,459	-3	23	-3
SHOPS AT WALNUT CREEK 104TH & REED TARGET	2,034,529	27,253	2,061,782	1,905,390	14,438	1,919,827	7	89	7
NORTHWEST PLAZA SW CORNER 92 & HARLAN COSTCO	1,967,662	4,762	1,972,424	1,851,667	4,499	1,856,166	6	6	6
BROOKHILL I & II N SIDE 88TH OTIS TO WADS HOME DEPOT	1,712,081	13,045	1,725,127	1,547,605	13,698	1,561,303	11	-5	10
SHOENBERG CENTER SW CORNER 72ND & SHERIDAN WALMART 72ND	1,400,305	5,584	1,405,889	1,567,229	4,129	1,571,358	-11	35	-11
SHERIDAN CROSSING SE CORNER 120TH & SHER KOHL'S	1,385,205	6,657	1,391,862	1,345,512	14,173	1,359,685	3	-53	2
INTERCHANGE BUSINESS CENTER SW CORNER 136TH & I-25 WALMART 136TH	1,335,179	13,388	1,348,567	1,318,589	4,680	1,323,269	1	186	2
PROMENADE SOUTH/NORTH S/N SIDES OF CHURCH RANCH BLVD SHANE/AMC	1,112,428	161,311	1,273,738	1,034,565	148,974	1,183,539	8	8	8
NORTH PARK PLAZA SW CORNER 104TH & FEDERAL KING SOOPERS	1,052,942	10,418	1,063,360	976,154	6,704	982,858	8	55	8
CITY CENTER MARKETPLACE NE CORNER 92ND & SHERIDAN BARNES & NOBLE	875,044	13,337	888,380	972,016	6,556	978,572	-10	103	-9
STANDLEY SHORES CENTER SW CORNER 100TH & WADS KING SOOPERS	704,617	3,534	708,151	654,989	1,723	656,713	8	105	8
VILLAGE AT THE MALL S SIDE 88TH DEPEW-HARLAN TOYS 'R US	623,096	2,959	626,055	622,081	5,887	627,968	0	-50	0
WESTMINSTER CROSSING 136TH & I-25 LOWE'S	543,903	26,385	570,288	523,938	5,233	529,171	4	404	8
ROCKY MOUNTAIN PLAZA SW CORNER 88TH & SHER GUITAR STORE	503,103	5,063	508,165	491,642	1,770	493,412	2	186	3

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

Center Location Major Tenant	YTD 2013 General Sales	YTD 2013 General Use	Total	YTD 2012 General Sales	YTD 2012 General Use	Total	Sales	%Change	Use	Total
GUIAR STORE WESTMINSTER PLAZA FEDERAL-IRVING 72ND-74TH	435,676	5,334	441,010	428,457	6,731	435,188	2	-21	1	
SAFEWAY WESTMINSTER MALL 88TH & SHERIDAN	383,368	5,825	389,193	669,161	16,238	685,399	-43	-64	-43	
JC PENNEY VILLAGE AT PARK CENTRE NW CORNER 120TH & HURON CB & POTTS	369,221	17,028	386,249	345,395	20,290	365,686	7	-16	6	
STANDLEY LAKE MARKETPLACE NE CORNER 99TH & WADSWORTH SAFEWAY	348,803	1,609	350,413	348,720	6,853	355,573	0	-77	-1	
WILLOW RUN 128TH & ZUNI SAFEWAY	256,975	2,052	259,027	267,475	2,680	270,154	-4	-23	-4	
BOULEVARD SHOPS 94TH & WADSWORTH CORRIDOR AMERICAN FURNITURE WAREHOUSE	250,408	3,930	254,338	228,232	2,088	230,320	10	88	10	
BROOKHILL IV E SIDE WADS 90TH-92ND MURDOCH'S	243,435	5,544	248,978	226,088	864	226,953	8	541	10	
NORTHVIEW 92ND AVE YATES TO SHERIDAN SALTGRASS	215,994	20,588	236,582	202,090	4,358	206,448	7	372	15	
STANDLEY PLAZA SW CORNER 88TH & WADS WALGREENS	203,961	5,325	209,286	199,536	8,086	207,622	2	-34	1	
ELWAY/DOUGLAS CORRIDOR NE CORNER 104TH & FED ELWAY MOTORS	196,496	6,877	203,374	241,991	5,027	247,018	-19	37	-18	
	24,352,249	516,400	24,868,648	23,902,635	441,910	24,344,545	2	17	2	



Agenda Memorandum

City Council Meeting
September 23, 2013



SUBJECT: Engineering Services Contract for McKay Drainageway

Prepared By: Stephen Baumann, Assistant City Engineer

Recommended City Council Action

Authorize the City Manager to execute a contract with Merrick and Company in the amount of \$193,394 to provide engineering design services for the McKay Drainageway improvements to be located between I-25 and Huron Street; and authorize a design contingency of \$19,000 for a total project cost of \$212,394.

Summary Statement

The McKay Drainageway project refers to a planned system of drainage conveyance facilities located in the general area between 136th Avenue and 144th Avenue from Zuni Street on the west to Big Dry Creek at Washington Street in the City of Thornton on the east. The only remaining unimproved portion of the drainageway lies between I-25 and Huron Street (see Project Map) where a wide, shallow floodplain still exists. This floodplain is a significant constraint to the development of one of the larger remaining vacant sites in the City.

The preliminary design of the drainage improvements necessary to reduce the width of this floodplain was pursued during the past decade until 2009 when private development interest in the sites waned. In the past year, that interest has increased, and the City recently received a commitment from the property owners that the right-of-way needed for the drainage improvements will be dedicated so that the City's project can proceed.

Proposals for the final design and preparation of construction documents for the McKay Drainageway were received from two engineering firms, WHPacific, Inc. and Merrick and Company. Both firms have extensive familiarity with the project and are qualified for the assignment. Their fee proposals for the scope of design are essentially equivalent at \$189,631 and \$193,394 respectively. Staff is recommending that the contract for final design be awarded to Merrick and Company due to their slightly stronger team and lower hourly billing rates.

Expenditure Required: \$212,394

Source of Funds: General Capital Improvement Fund - McKay Lake Outfall Drainage Project

Policy Issue

Should the contract for final design of the McKay Drainageway improvements be awarded to Merrick and Company though at a slightly higher cost than that of the other proposing firm?

Alternative

The alternative is to award the contract to WHPacific, Inc. at a total proposed fee that is \$3763 less than that of Merrick and Company. Although this approach can be justified based on that small difference, it is not recommended by City staff for a couple of reasons. First, the Merrick proposal is based on billing rates for the several categories of engineers that will be assigned to the project that are uniformly lower than those of WHPacific. As a result, Merrick can devote several hundred more hours to the project for essentially the same price. The project will require significant coordination with other projects and entities in the area, and for that circumstance alone, having the extra time available is of great value. In addition, though WHPacific had significant involvement in this project's development prior to 2009, their project manager for the McKay project is now with Merrick and Company and will lead Merrick's final design effort. Those years of involvement by the project manager are a valuable resource in completing the design of the project.

Background Information

The planning and construction of the improvements needed to reduce the floodplain of the McKay Lake Drainageway have been underway for more than fifteen years. The McKay basin contains approximately 1800 acres and extends from its confluence with Big Dry Creek at 140th Avenue and Washington Street in Thornton upstream to the southern portions of Broomfield. Completed projects include the rehabilitation of the dam at the McKay Lake open space, a channel through the Huntington Trails Subdivision and most recently, a culvert under I-25 and channelization from there to Big Dry Creek. With the completion of that most recent project in 2010, only the portion of the basin between I-25 and Huron Street (see Project Map) remains unimproved, and those properties still have a wide, shallow floodplain that constrains development on the properties of the North Huron Planned Unit Development (PUD) between 136th Avenue and 144th Avenue.

The preliminary design of the McKay Drainageway was being coordinated with the North Huron PUD developers up until 2009 when economic factors dampened their interest. Recently, that interest has increased and development proposals that call for modifications to the preliminary plan for the drainageway have been received. The owners of the PUD properties have recently agreed to dedicate the necessary right-of-way for the drainage improvements there. The Foster family, owners of the southern portion of undeveloped property in the PUD, have already provided a deed for the improvements on their property.

Because the contract for final design is a continuation of the planning and analysis efforts of previous years, familiarity with the project is a significant qualification. Proposals for final design engineering services were requested from two firms: WHPacific, Inc., the firm responsible for preliminary design in the period before 2009; and Merrick and Company. Merrick has familiarity with the project due to the fact that two of the project managers with WHPacific at the time of the preliminary design work are now employed by Merrick and Company. The proposals reflected this set of circumstances and had many similarities, including proposed fees. WHPacific's fee for the work of final design, including the preparation of contract documents and bidding services is proposed to be \$189,631. Merrick's fee for the same scope of work is proposed at \$193,394. Both firms have the resources and expertise needed. In terms of value, though, Merrick's proposal has an edge.

The services proposed by Merrick are compiled using lower billing rates than those of WHPacific for the same technical expertise, resulting in over 200 more hours that can be devoted to the project by Merrick.

This is important not because of any complexity of the project, but more due to the amount of coordination that will be needed. There will be several other projects occurring in the area including the Orchard Parkway construction, development plans for adjacent properties, the relocation of an Encana gas facility and permitting needed from the Farmers Reservoir and Irrigation Company and the State Engineer. The Merrick project manager has laid groundwork for this coordination in this work prior to 2009, and this is reflected in the time allotted to the various engineering services. Fortunately, Merrick's lower billing rates allow a higher level of attention to this element of the design effort

Staff is recommending the award of the contract for final engineering of the McKay Drainageway improvements be made to Merrick and Company at their proposed fee amount of \$193,394. A contingency of \$19,000 is also recommended since final design will be proceeding in conjunction with the evolving development plan for Orchard Lakes and to be prepared for minor adjustments to the scope of work, if warranted. The total authorization request, therefore, is \$212,394.

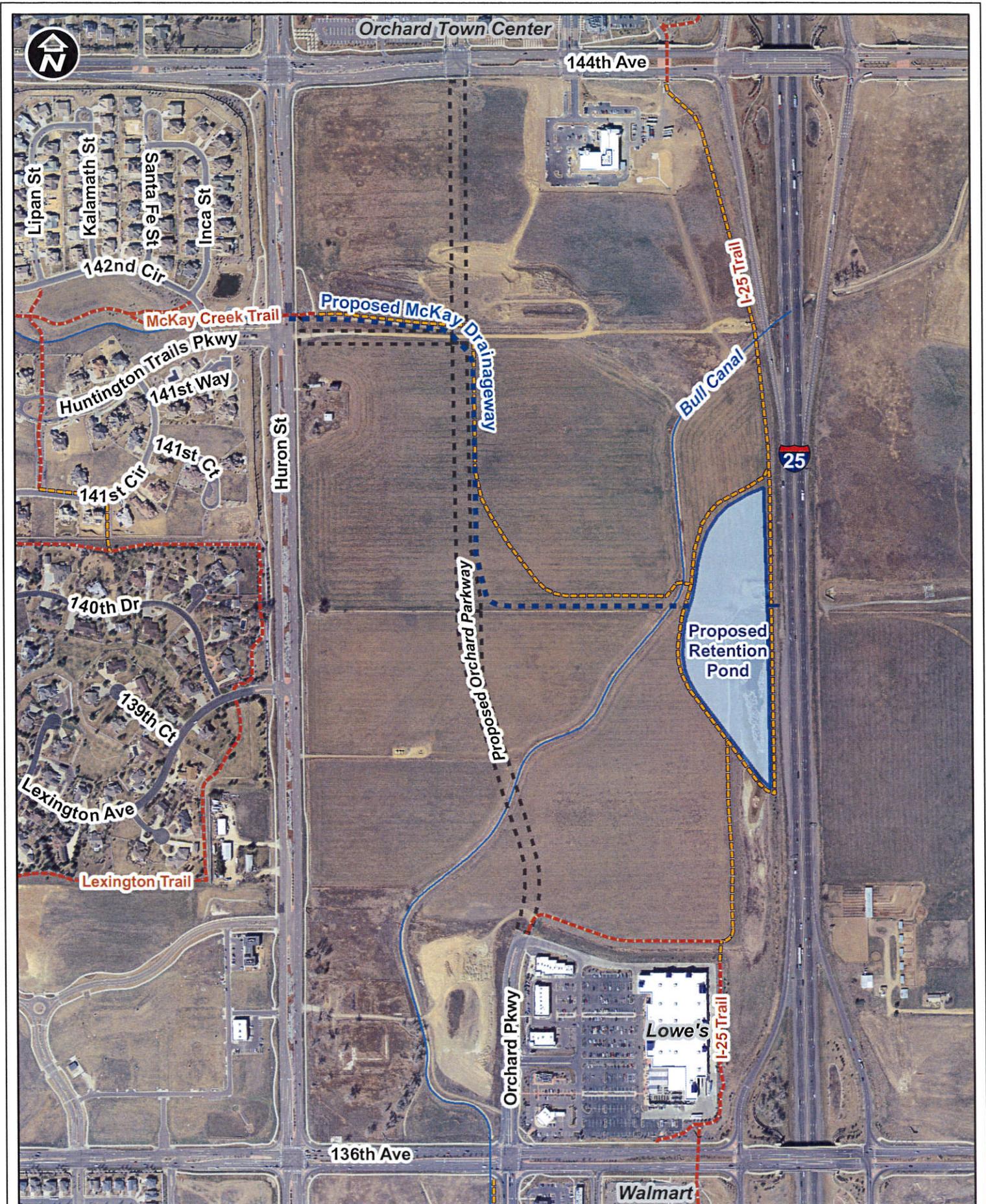
This proposed phase of the McKay Drainageway project will consist of the construction of a trapezoidal shaped, concrete channel contained within a 120-foot wide right-of-way that will convey storm flows from the future intersection of 142nd Avenue and Huron Street to a three acre retention pond located adjacent to I-25 at the 140th Avenue alignment. Culvert crossings of the future intersection of Orchard Parkway and 142nd Avenue as well as the Bull Canal will be included in the scope of work. An adjacent, 10-foot wide concrete trail will provide a connection from the McKay Creek Trail, located west of Huron Street, to the I-25 Trail at about the 141st Avenue alignment. The retention pond will be encircled by a "soft" trail, and a spray water feature will be placed in the pond to maintain good water quality.

Award of this contract is in line with several of City Council's strategic objectives including a Financially Sustainable City Government Providing Exceptional Services by investing in well-maintained and sustainable City infrastructure. The McKay Drainageway improvement project will also contribute to a Strong, Balanced Local Economy by increasing the land available for mixed-use development in accordance with the City's Comprehensive Land Use Plan.

Respectfully submitted,

J. Brent McFall
City Manager

Attachment: Project Map



- Existing Trails
- Proposed Trails

Project Map

0 250 500 1,000 Feet



Agenda Item 8 C

Agenda Memorandum

City Council Meeting
September 23, 2013



SUBJECT: Fleet Maintenance Cumulative Purchases of Over \$50,000

Prepared By: Jeffery Bowman, Fleet Manager

Recommended City Council Action

Determine that the public interest will be best served and approve Fleet Maintenance cumulative purchases in 2013 with Barbee's Freeway Ford INC for remanufacturing services not to exceed \$110,000 through year end.

Summary Statement

- The Westminster Municipal Code requires that all purchases over \$50,000 be brought to City Council for approval. Staff has taken a conservative approach in interpreting this requirement to include transactions where the cumulative total purchases of similar commodities or services from one vendor in a calendar year exceeds \$50,000.
- The Fleet Maintenance Division uses Barbee's Freeway Ford INC to remanufacture City of Westminster Ford Crown Victoria patrol cars. Total aggregate purchases from Barbee's Freeway Ford INC will likely exceed \$50,000 during 2013, as five rebuilds are scheduled to replace worn out patrol cars. Staff is asking for approval of purchases not to exceed \$110,000 for five patrol car remanufactures.

Expenditure Required: \$110,000

Source of Funds: 2013 General Capital Outlay Replacement Fund – Public Safety

Policy Issue

Should Council approve the cumulative purchase of remanufacture services from Barbee's Freeway Ford INC that total over \$50,000 in 2013?

Alternative

Do not approve the expenditures as recommended. While it could be argued that each transaction represents a separate purchase, City Staff believes that a more prudent approach is to treat the smaller transactions as cumulative larger purchases with the vendors that are subject to Council approval.

Background Information

The Westminster Municipal Code requires that all purchases over \$50,000 be brought to City Council for approval. Staff has taken a conservative approach in interpreting this requirement to include transactions where the cumulative total purchases of similar commodities or services from one vendor in a calendar year exceeds \$50,000. Fleet Maintenance has identified one vendor where the total cumulative purchases or expenses will exceed \$50,000 for the year 2013 and thus require Council authorization. Staff is seeking approval for this expenditure for the calendar year 2013. Funds are available in the GCORF-PST account.

Fleet Maintenance uses one vendor to provide the unique service of remanufacturing Ford Crown Victoria patrol cars. Beginning with the test phase of police car remanufacturing in 2012, two vendors were used to provide the remanufacturing service; Longmont Ford and Freeway Ford. When comparing side by side work that includes; body and paint, interior, mechanical, decal, emergency lighting and communication regarding the remanufactured patrol cars from both facilities, Barbee's Freeway Ford INC is the provider that best meets the requirements to extend the life of Westminster's Ford Crown Victoria patrol cars for an additional 100,000 miles.

To date, Fleet Maintenance has identified Barbee's Freeway Ford INC as a vendor that will produce over \$50,000 in orders during 2013, as current remanufacture work is nearing \$40,000. Staff anticipates that it will be working with Barbee's Freeway Ford INC to remanufacture five cars during the remainder of the year that will not exceed \$110,000.

This approach helps achieve the City Council's Strategic Plan Goals of "Safe and Secure Community" and "Financially Sustainable City Government Providing Exceptional Services" by meeting the following objectives: maintaining well equipped Police Departments and spending tax dollars in a responsible manner.

Respectfully submitted,

J. Brent McFall
City Manager



Agenda Memorandum

City Council Meeting
September 23, 2013



SUBJECT: 2014 Property and Liability Insurance Renewal

Prepared By: Martee Erichson, Risk Manager

Recommended City Council Action

Authorize the City Manager to enter into an agreement with the Colorado Intergovernmental Risk Sharing Agency for the purchase of high deductible stop loss insurance, and for claims management and other administrative services, in the amount of \$491,245 along with a 10% contingency amount (\$49,125) in the event the final quote comes in higher.

Summary Statement

- City Council action is requested to authorize the annual expenditure for the 2014 contribution to the Colorado Intergovernmental Risk Sharing Agency (CIRSA) for property and liability insurance coverage and related services.
- The City annually purchases insurance to cover assets (buildings, vehicles, and equipment) and to protect itself from liability exposure resulting from claims brought against the City and its employees. This insurance is purchased through CIRSA. The preliminary quote from CIRSA for 2014 for property and liability coverage is \$491,245, which represents a contribution of \$504,294 minus a Loss Control Standards Audit credit of \$6,537 and a Member Equity Account Adjustment of \$6,512.
- The final cost of coverage in 2013, before credits, was \$485,304. The preliminary quote for next year of \$504,294 represents an increase in contribution of \$18,990 or 3.9%. The increase is due to several factors affecting the CIRSA insurance pool as a whole including an increase in the average cost of claims, inflation on the costs of construction and a need to maintain actuarial levels on pool reserves. CIRSA actuaries also factored in the recent legislative increases to the limits to the Colorado Governmental Immunity Act in their loss projections for the pool. In addition, it is anticipated that the insured value of city property and insured exposures will increase by almost 2% from 2013.
- As has been past practice, City Council is being asked to authorize this preliminary quote from CIRSA and continuation in the pool so that CIRSA can determine final contributions based on membership response in time for the start of the 2014 policy period.
- Funds for the requested increase are available and proposed in the recommended 2013-2014 Property and Liability Fund budget and in Fund reserves.

Expenditure Required: Not to exceed \$540,370

Source of Funds: Property and Liability Self Insurance Fund

Policy Issue

Should the City continue to use a municipal insurance pool for placement of its property and liability coverage?

Alternative

City Council could reject Staff's recommendations to utilize CIRSA for this insurance coverage and direct Staff to seek proposals on the open insurance market. Staff does not recommend this action at this time due to the continued benefits of membership in CIRSA, including cost savings as a result of there being no agent commissions, no income taxes and no issue with shareholder profit margin effecting the total cost of coverage. In addition, there have been no significant changes to the commercial insurance market that would outweigh these benefits of membership in CIRSA.

Background Information

The City of Westminster has been a member of the Colorado Intergovernmental Risk Sharing Agency (CIRSA) since its inception in 1982. Since that time, this governmental risk sharing pool has grown from its original 18 cities to 253 members in 2013. CIRSA provides property and liability coverage that is tailored to meet municipal exposures. On January 1, 1988, the City implemented a high deductible program, electing to pay the first \$100,000 of each property claim and the first \$150,000 of each liability claim. This self insured retention was increased to \$200,000 per line of coverage in 2004 and to \$250,000 in 2007 to save on contribution costs. A reserve fund insures that funds are available to cover expenses under the deductible level in the event of a catastrophic year or a year in which multiple, large claims occur that fall within the deductible. The City's audited Property and Liability Fund balance at the end of 2012 was \$3,673,444.

The City has continued to purchase its excess property and liability coverage from CIRSA for several reasons:

- CIRSA has provided competitive quotes for its insurance;
- CIRSA was established as a member-owned non-profit organization by municipalities specifically to provide insurance that meets the unique needs of Colorado cities and towns; and
- Unlike all brokers and private insurance companies, CIRSA does not charge commissions, pay income tax or have to worry about shareholder profit margins.

The services provided by CIRSA include all claims handling, loss control, administrative services and the following excess coverage:

- Property coverage in excess of \$250,000 to \$500,500,000 (limits shared with all pool members)
- \$1,000,000 per occurrence/aggregate business interruption coverage
- Public Officials Liability coverage from \$250,000 to \$5,000,000 per occurrence and \$10,000,000 aggregate
- Police Professional Liability insurance from \$250,000 to \$5,000,000 per occurrence/aggregate
- Motor vehicle physical damage from \$250,000 to \$1,000,000 per occurrence
- Motor vehicle liability coverage from \$250,000 to \$1,500,000 per claim/occurrence
- General Liability Insurance coverage from \$250,000 to \$5,000,000 per claim/occurrence

Currently, through on-going employee safety training and other loss control practices initiated by the individual departments and the Risk Management Staff, the efforts of the Citywide Safety Committee and the City's effective working relationship with CIRSA claims adjusting staff, Staff continues to improve on the success of the loss control program.

The City's loss control activities include, but are not limited to:

- Safety inspections of facilities
- Annual Defensive Driving, Risk Management 101, Risk Management for Supervisors and various Risk Management sponsored safety training classes
- Citywide Safety Committee review and analysis of all Workers' Compensation injuries and automobile accidents involving City vehicles
- Quarterly review of loss reports with the Department Head team
- Various other department-specific safety trainings such as the annual snowplow rodeo and training sponsored by the Public Works and Utilities Department
- Safety SPIRIT Awards incentive program

In addition, CIRSA recognizes the financial hardships many of its members are going through and has therefore, once again approved the use of a portion of each member's Equity Account to buy down the contribution for 2014, although the amount of credit has decreased from last year. CIRSA Member Equity Accounts consist of what remains of a member's annual contribution to CIRSA after payment of claims and expenses each year and include interest earned. These funds are held by CIRSA to cover catastrophic claims and/or increases in each member's insured exposures that each member may not be able to fund in any given year. Acceptable Equity Account levels for each member are determined through an actuarial study. Westminster has been approved to use \$6,512 of the City's Member Equity Account toward the 2014 contribution to CIRSA.

The quote for the 2014 property and liability insurance contribution is preliminary at this time. CIRSA members are being asked to approve the preliminary contribution and continuation of membership so that CIRSA can calculate final contribution quotes based on all members responses. It is anticipated that final contribution quotes will be distributed in December. To avoid having to return to City Council in the event the final contributions come in higher than this preliminary quote, Staff's recommended action includes a 10% contingency factor of \$49,125 with the total final contribution not to exceed \$540,370. Adequate funds are proposed in the 2013-2014 Property and Liability Self Insurance Fund budget if the expense is at or less than the preliminary quote of \$491,245 for the City's contribution to the CIRSA pooled insurance. Additional funds are available in the Property and Liability Fund reserves if the final quote exceeds the preliminary estimate. In addition, City Council authorized \$500,000 of 2012 carryover money be transferred into the Property and Liability Fund due to the passage Senate Bill 13-023, which significantly increases the damages cap under Colorado Governmental Immunity Act.

The Risk Management program addresses Council's Strategic Plan goal of Financially Sustainable City Government Providing Exceptional Services by working to minimize the cost of insurance to the City by maintaining a comprehensive loss control program and monitoring the insurance marketplace to ensure the most cost effective placement of insurance coverage.

Respectfully submitted,

J. Brent McFall
City Manager



Agenda Item 9 A

Agenda Memorandum

City Council Meeting
September 23, 2013



SUBJECT: Resolution No. 22 Appointing 2013-2014 Youth Advisory Panel Members

Prepared By: Cindy McDonald, Staff Liaison
Melissa Collison, Staff Liaison

Recommended City Council Action

Adopt Resolution No. 22 appointing fourteen incoming Youth Advisory Panel (YAP) members for the 2013/2014 term.

- Hilary Lutkus, Chairperson - Fairview High School
- Christian Femrite, Vice Chairperson - Legacy High School
- Christine Shih, Secretary - Fairview High School
- Will Schmidt, Treasurer - Jefferson Academy
- Ian Severance, Public Information Officer - Jefferson Academy
- Ryan Blay - Jefferson Academy
- Andrew Cannata - Standley Lake High School
- Mikayla Martin - Faith Academy
- Adam Salas - Standley Lake High School
- Andrew Salas - Standley Lake High School
- Madelaine Schmidt – Jefferson Academy
- Ty Schnurr – Standley Lake High School
- Joleena Strange - Academy of Charter School
- Heidi Wendt - Jefferson Academy

Summary Statement

- The 2013/2014 Youth Advisory Panel incoming are representing six different area High Schools. They are enthusiastic, energetic and eager to represent the City with true leadership skills.
- City Council action is requested to recognize fourteen incoming Youth Advisory Panel Members selected for 2013/2014 Youth Advisory Panel (YAP) term.

Expenditure Required: \$ 0

Source of Funds: N/A

Policy Issue

None identified

Alternative

None identified.

Background Information

On September 13, 1999, City Council adopted Resolution No. 68 creating the Westminster Youth Advisory Panel. On October 25, 1999, the City Council appointed the first Youth Advisory Panel. Since 1999, the panel has worked with Staff on a variety of issues. The term of each Panel is one year, with reappointment possible up to four terms.

Since 1999, the Youth Advisory Panel has been very active in the community. In addition to attending scheduled monthly formal meetings, the panel each year takes part in regular community service projects. These diverse events have touched the community in many unique ways. They included helping at the Holy C.O.W. Stampede (a Parks, Recreation and Libraries race to raise proceeds for youth programs), providing volunteer help for the Westminster Christmas Lighting Ceremony, and participating at Westminster Pride Day. As active participants in the community, the YAP has fulfilled a goal of reaching out to the Westminster community in order to make a difference in the places where members attend school and live. They have also worked with Broomfield Lutheran Church to make and serve sandwiches to the homeless on the streets of downtown Denver. The Panel will continue this very diverse and ambitious community services goal for the 2013/2014 school year. Project highlights volunteering at Have-a-Heart and assisting at the annual Father Daughter Ball presented by Westminster Parks, Recreation and Libraries Department.

The 2013-2014 Youth Advisory Panel incoming are representing six area High Schools. They are enthusiastic, energetic and eager to represent the City with true leadership skills.

The Youth Advisory Panel supports the City's strategic goals of a "Financially Sustainable City Government Providing Exceptional Services."

Respectfully submitted,

J. Brent McFall
City Manager

Attachment - Resolution

RESOLUTION

RESOLUTION NO. **22**

INTRODUCED BY COUNCILLORS

SERIES OF 2013

**A RESOLUTION FOR
CITY OF WESTMINSTER YOUTH ADVISORY PANEL APPOINTMENTS**

WHEREAS, the City Council of the City of Westminster believes that our youth should share with their community leaders the responsibility in addressing their needs, desires, challenges and issues, and molding their own futures; and

WHEREAS, the City values its youth and desires to advance and promote their special needs and interests and therefore created the Westminster Youth Advisory Panel on September 13, 1999; and

WHEREAS, currently the Panel has fourteen members to be appointed for the 2013-2014 school year; and

WHEREAS, it is important to have this City Panel working with its fullest possible complement of authorized appointees to carry out the business of the City of Westminster.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WESTMINSTER: that the following individuals are hereby appointed to serve on the Youth Advisory Panel, representing the following schools:

Hilary Lutkus	Fairview High School
Christian Femrite	Legacy High School
Christine Shih	Fairview High School
Will Schmidt	Jefferson Academy
Ian Severance	Jefferson Academy
Ryan Blay	Jefferson Academy
Andrew Cannata	Standley Lake High School
Mikayla Martin	Faith Academy
Adam Salas	Standley Lake High School
Andrew Salas	Standley Lake High School
Madelaine Schmidt	Jefferson Academy
Ty Schnurr	Standley Lake High School
Joleena Strange	Academy of Charter School
Heidi Wendt	Jefferson Academy

PASSED AND ADOPTED this 23rd day of September, 2013.

Mayor

ATTEST:

APPROVED AS TO LEGAL FORM:

Deputy City Clerk

City Attorney



Agenda Memorandum

City Council Meeting
September 23, 2013



SUBJECT: Resolution No. 23 in Support of Adams County School District 50 Mill Levy Override

Prepared By: Ben Goldstein, Management Analyst

Recommended City Council Action

Adopt Resolution No. 23 supporting the Adams County School District 50 mill levy override.

Summary Statement

At the August 19 Study Session meeting, City Council was asked to provide support of a \$5.25 million mill levy override proposed by the Adams County School District 50 Board of Education for the November 5, 2013 ballot. Based on feedback from City Council, Staff has prepared the attached resolution in support of the ballot measure to increase the mill levy for Adams County School District 50 for Council's consideration.

Expenditure Required: \$0

Source of Funds: N/A

Policy Issue

Does City Council want to officially support the proposed mill levy increase that is projected to generate an additional \$5.25 million for Adams County School District 50?

Alternative

Council has the option of not supporting the proposed mill levy increase.

Background Information

This will be the first mill levy override put before Adams County School District 50 voters since 2002 and, if approved, will help to make up for a significant reduction in funding from the State of Colorado. According to the School District, four years ago, District 50 received about \$7,500 per student per year from the School Finance Act, but that number has now dropped to about \$6,900 per student. In total, District 50 has lost about \$16 million in funding.

To make up the difference and maintain educational programming over the past several years, the District 50 Board of Education dipped into its fund balance. According to the District 50 Fiscal Oversight Committee, that fund balance is now at a point that it can no longer be used to fund the yearly budget shortfall.

The District is seeking an increase of ten mills, which would cost taxpayers \$16.58 per month on a home valued at \$250,000, or slightly less than \$200 a year. The ballot language focuses on four key objectives:

- Providing students with the instruction and basic skills necessary for success in college and the workplace, such as in science, technology, engineering and math;
- Keeping highly qualified teachers and staff in the classroom;
- Providing each child access to comprehensive education with programs such as art, music, physical education and targeted reading support; and
- Providing funds to implement necessary improvements to the health and well-being of students, including safety and security enhancements, along with improvements to heating and cooling systems.

Supporting Adams County School District 50's mill levy override meets Council's Strategic Plan Goals of "Vibrant Neighborhoods in One Livable Community" by supporting education within the community.

Respectfully submitted,

J. Brent McFall
City Manager

Attachment
Resolution

RESOLUTION

RESOLUTION NO. **23**

INTRODUCED BY COUNCILLORS

SERIES OF 2013

**A RESOLUTION
IN SUPPORT OF ADAMS COUNTY
SCHOOL DISTRICT 50'S MILL LEVY INCREASE**

WHEREAS, on August 19 City Council was asked to provide support of a proposed \$5.25 million mill levy override that Adams County School District 50 Board of Education unanimously voted to place on the November 5, 2013 ballot; and

WHEREAS, the approved ballot language focuses on four key objectives that are integral to a strong education system, which remains a key factor in the City of Westminster's status of being a great place to live:

- Providing students with the instruction and basic skills necessary for success in college and the workplace, such as in science, technology, engineering and math;
- Keeping highly qualified teachers and staff in the classroom;
- Providing each child access to comprehensive education with programs such as art, music, physical education and targeted reading support; and
- Providing funds to implement necessary improvements to the health and well-being of students, including safety and security enhancements, along with improvements to heating and cooling systems.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WESTMINSTER that the City formally supports the proposed mill levy increase of 10 mills by the Adams County School District 50 in an effort to raise an additional \$5.25 million to help further their educational objectives and mission and encourages residents to vote for the mill levy override in support of public education.

PASSED AND ADOPTED this 23th day of September, 2013.

Mayor

ATTEST:

APPROVED AS TO LEGAL FORM:

Deputy City Clerk

City Attorney



Agenda Memorandum

City Council Meeting
September 23, 2013



SUBJECT: Councillor's Bill No. 38 re The Pacific Companies and Urban Pacific Multi-Housing LLC Contract Amendment to Buy and Sell Real Estate

Prepared By: Susan F. Grafton, Economic Development Director

Recommended City Council Action

Pass Councillor's Bill No. 38 on first reading authorizing the City Manager to execute an amendment to the Contract to Buy and Sell Real Estate, in substantially the same form as attached, with Urban Pacific Multi-Housing, LLC and Pacific West Communities, Inc.; and to take all actions necessary to close this land sale.

Summary Statement

- The City owns approximately 15.8 acres between The Promenade and Circle Point.
- The Contract to Buy and Sell Real Estate with Urban Pacific Multi-Housing, LLC and Pacific West Communities was approved by City Council on July 9, 2012.
- The current sale price is approximately \$4,469,000 (\$6.50/sf). Net proceeds from the land sale, taking into account all closing costs, brokers fee and NBC Metropolitan District exclusion, will be approximately \$3,738,550.
- The project was delayed until the developers and city staff could reach agreement on the project layout and parking elements.
- The amendment provides for a new closing date of March 15, 2014, places a cap on the Public Land Dedication fee and specifically outlines how costs will be shared concerning the NBC Metropolitan Districts.
- The developers propose building no less than 450 multi-family units on the property, which is in line with the City's vision for this area.

Expenditure Required: Approximately \$730,000

Source of Funds: Proceeds from Land Sale

Policy Issue

Should the City sell the property as proposed?

Alternatives

1. Request a higher price: The \$6.50 per square foot is considered at or above market, plus there are issues relative to the property that negatively impact the value. These include a small existing wetland, City's desire for higher density development, and the existence of a Metropolitan District on the north half of the property.
2. Shorten the closing period. The closing date is set to occur after receiving Official Development Plan approval, which is customary.
3. Do Not Approve Amendments. The amendments allow the developers to pursue a higher density project.

Background Information

In July 2012, City Council authorized the City Manager to execute a Contract to Buy and Sell Real Estate with Urban Pacific Multi-Housing and Pacific West Communities for the 15 acres between The Promenade and Circle Point Corporate Center. The purchase price was established at \$4,469,931, subject to the broker fee, wetland mitigation and other closing costs. Closing was expected around January 15, 2013.

There were three contingencies to the contract:

1. Reach Resolution on the NBC Metropolitan District that affects the northern half of the property.
2. Reach approval on the Official Development Plan (ODP) that provides high density multi-family product and structured parking.
3. Obtain the necessary water taps for the project.

Of the three contingencies, only the receipt of water tap commitments was accomplished in time for original closing date. Since January, the NBC Metro District has finally begun working with the Buyer and Seller to remove the 15-acre parcel from the district. Also, city staff and developers have reached agreement on a project concept plan with parking structures as part of the residential development. The project is now in the ODP review process and the timeline is being requested to be reset for a new closing date of March 15, 2014.

The contract amendments proposed include:

1. Closing date deadline extensions. The original agreement provided for three thirty (30) day extensions at \$25,000 each. The amendment provides for only two extensions but at \$100,000 each that will not be refundable.
2. Requirement of structured parking. Originally the contract language provided that the developers would "potentially include podium type construction to accommodate parking and increased densities." The Amendment clarifies that parking within the structures (along with surface lots) will be provided.
3. Public Land Dedication Fee. As part of the discussion to require parking within the structures, the Buyer requested a cost off-set to accomplish this goal. A cap on the public land dedication fee at \$5/sf instead of the required \$6.50/sf (a savings of approximately \$900,000 for the developer) was a workable alternative. As currently proposed the Buyer will still be providing an on-site pool, park amenities and trail connections as required by City design guidelines; as well as approximately \$2.4 million in Public Land Dedication Fees.

4. NBC Metropolitan District. It has been determined that removal of the Axis property from the Metro district is in the best interest of the project. Only the North half of the 15-acre parcel is in the district. Research indicates the district does not have adequate resources at this time to compensate the developer for road improvements as contemplated in the District's financial plan. Conversations with the District indicate a willingness to exclude the Axis property from the district. This action will then allow the Buyers to establish a Metropolitan District for the entire 15-acre parcel to finance infrastructure improvements for the Axis project. Because the NBC Metropolitan District was considered an encumbrance on the property it has been agreed that the Buyer and Seller will share the cost of the exclusion equally up to a total maximum of \$1,000,000 (\$500,000 each).

The Buyer/Developer is set to move forward in anticipation of a second quarter 2014 ground breaking. Staff is prepared to move forward within the anticipated time frame, and sees the project as a generator of activity for both The Promenade and The Shops at Walnut Creek. Though a complete approval of the Axis ODP is still necessary, the project is moving forward positively for a March 2015 closing.

The approval of this amendment is consistent with City Council Strategic Goal of creating Vibrant Neighborhoods in One Livable Community.

Respectfully submitted,

J. Brent McFall
City Manager

Attachment – Ordinance
Amendment to Contract to Buy and Sell Real Estate

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **38**

SERIES OF 2013

INTRODUCED BY COUNCILLORS

A BILL

FOR AN ORDINANCE AUTHORIZING AN AMENDMENT TO THE CONTRACT
BETWEEN THE CITY OF WESTMINSTER AND THE PACIFIC COMPANIES AND
URBAN PACIFIC MULTI-HOUSING, LLC TO BUY AND SELL REAL ESTATE

WHEREAS, the City of Westminster (Seller) and The Pacific Companies and Urban Pacific Multi-Housing, LLC (together referred to as Buyers) are parties to a Contract to Buy and Sell Real Estate dated July 10, 2012; and

WHEREAS, it is necessary to amend the Contract to Buy and Sell Real Estate to provide for a new closing date, to clarify actions concerning the NBC Metropolitan District, to cap the Public Land Dedication Fee for this project and to establish the requirement for parking structure; and,

WHEREAS, a proposed Amendment to Contract to Buy and Sell Real Estate between the City and the Buyers is attached hereto as Exhibit "A" and incorporated herein by this reference.

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The City Manager of the City of Westminster is hereby authorized to enter into an Amendment of the Contract to Buy and Sell Real Estate in substantially the same form as attached as Exhibit "A," and upon execution of the Amendment to fund and implement said Amendment.

Section 2. This ordinance shall take effect upon its passage after second reading. The title and purpose of this ordinance shall be published prior to its consideration on second reading. The full text of this ordinance shall be published within ten (10) days after its enactment after second reading.

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 23rd day of September, 2013.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 14th day of October, 2013.

ATTEST:

City Clerk

Mayor

APPROVED AS TO LEGAL FORM:

City Attorney's Office

**AMENDMENT TO CONTRACT TO BUY
AND SELL REAL ESTATE (“FIRST AMENDMENT”)**

This First Amendment to Contract to Buy and Sell Real Estate is made and entered into as of the
23rd day of September, 2013.

The undersigned Buyer and Seller are parties to that certain Contract to Buy and Sell Real Estate, dated July 10, 2012, attached hereto as Exhibit A (“Contract”).

The Parties hereby agree that the Contract is hereby amended as follows:

1. Section 2.c. is amended to read as follows:

Item No.	Reference	Event	Date or Deadline
1	§ 30a	Earnest Money Deadline	10 days from Effective Date- PROVIDED
2	§ 5a	Loan Application Deadline	N/A
3	§ 5b	Loan Conditions Deadline	N/A
4	§ 5c	Buyer’s Credit Information Deadline	N/A
5	§ 5c	Disapproval of Buyer’s Credit Information Deadline	N/A
6	§ 5d	Existing Loan Documents Deadline	N/A
7	§ 5d	Existing Loan Documents Objection Deadline	N/A
8	§ 5d	Loan Transfer Approval Deadline	N/A
9	§ 6a(2)	Appraisal Deadline	N/A
10	§ 7a	Title Deadline	30 days from Effective Date-DONE
11	§ 8a	Title Objection Deadline	45 days from Effective Date-NO OBJECTION
12	§ 7c	Survey Deadline	30 days from Effective Date- PROVIDED
13	§ 8c(2)	Survey Objection Deadline	45 days from Effective Date-NO OBJECTION
14	§ 7b	Document Request Deadline	30 days from Effective Date- PROVIDED
15	§ 7d(5)	CIC Documents Objection Deadline	N/A
16	§ 8b	Off-Record Matters Deadline	30 days from Effective Date- PROVIDED
17	§ 8b	Off-Record Matters Objection Deadline	60 days from Effective Date-NO OBJECTION
18	§ 8f	Right of First Refusal Deadline	N/A
19	§ 10a	Seller’s Property Disclosure Deadline	N/A
20	§ 10b	Inspection Objection Deadline	90 days from Effective Date- LETTER FROM BUYER RECEIVED
21	§ 10c	Resolution Deadline	120 days from Effective Date- RESOLUTION ACHIEVED
22	§ 10d	Property Insurance Objection Deadline	N/A
23	§ 25e	Approval Deadline	March 15, 2014
24	§ 12	Closing Date Deadline	March 15, 2014
25	§ 17	Possession Date	Closing Date
26	§ 17	Possession Time	5 p.m. Closing Date
27	§ 30	Acceptance Deadline Date	N/A
28	§ 30	Acceptance Deadline Time	N/A

2. Paragraph 30.b is hereby amended to read as follows:

Seller agrees to extend the Closing Date Deadline with two (2) thirty-day extensions upon payment by Buyer of a payment of \$100,000 for each exercised extension. The first extension is non-refundable but applicable to the sales price. The second extension is non-refundable and non-applicable to the sales price. Any such Extension Payments shall be immediately released to the Seller

3. Paragraph 30.c is hereby amended to read as follows:

Buyer agrees to aggressively proceed with the Official Development Plan approval process to encompass at least 150 multi-family units as part of Phase I of the proposed project. The project will provide no less than 100 under-building or podium parking spaces.

Further, Buyer agrees to turn around all resubmittals, requests for information and additional approval components within 30 days of request, City response or project timeline. As noted in Paragraph 25e, Seller agrees to not unduly delay its review of Buyer's applications and submittals.

4. Paragraph 30.e is hereby amended to read as follows:

- e. Buyer intends to develop an urban style, high quality finish, market rate multi-family project of 450 units (the number of units is subject to final ODP approval, but shall be no less than 450 units).

5. Paragraph 30 is hereby amended to include the addition of new subparagraphs 30.g and 30.h as follows:

- g. Seller agrees that Buyer's Public Land Dedication fee for Buyer's intended development shall not exceed \$5.00/sf.

- h. Should Seller & Buyer agree to pursue exclusion from the NBC Metropolitan District, Seller shall receive from Buyer at closing an amount equal to 50% of Seller's actual cost to exclude the Property from the NBC Metropolitan District, including, but not limited to, the City's consultant and legal costs in an amount not to exceed \$500,000. Buyer acknowledges and agrees that Seller may elect to not pursue exclusion of the Property if the cost to exclude exceeds \$1,000,000, including consultant and legal costs, and such election shall not be grounds for terminating this contract.

6. Buyer agrees the Contract has not been previously terminated and has remained and is in full force and effect as of the date of this Amendment. All terms and conditions of the Contract remain unchanged except as specifically modified by this Amendment.

Date: _____

Buyer: The Pacific Companies

By: _____

Address: 430 E. State St., Ste. 100, Eagle, ID 83616
Phone No.: (208) 461-0022
Fax No.: (208) 461-3267
Email Address: calebr@tpchousing.com

Date: _____

Buyer: Urban Pacific Multi-Housing, LLC

By: _____

Address: 5318 E. 2nd St., Ste. 644, Long Beach, CA 90803
Phone No.: (562) 552-1777
Fax No.: N/A (email to: choppin@urbanpacific.com)
Email Address: choppin@urbanpacific.com

Date: _____

By: _____
Seller

Address: _____
Phone No.: _____
Fax No.: _____
Email Address: _____

Date: _____

By: _____
Seller: City of Westminster

Address: 4800 W. 92nd Avenue, Westminster, CO 80031
Phone No.: 303-658-2400
Fax No.: 303-706-3920
Email Address: _____

THIS FORM HAS IMPORTANT LEGAL CONSEQUENCES AND THE PARTIES SHOULD CONSULT LEGAL AND TAX OR OTHER COUNSEL BEFORE SIGNING.

**CONTRACT TO BUY AND SELL REAL ESTATE
(ALL TYPES OF PROPERTIES – CAO REVISED JANUARY 2008)**

Effective Date: July 10, 2012
Purchase Price: \$4,469,931

1. AGREEMENT. Buyer agrees to buy, and Seller agrees to sell, the Property defined below on the terms and conditions set forth in this contract (Contract).

2. DEFINED TERMS.

a. Buyer. Buyer, Urban Pacific Multi-Housing, LLC and The Pacific Companies, will take title to the real property described below as Joint Tenants Tenants In Common Other Limited Liability Company.

Seller. Seller is City of Westminster, a Colorado home-rule municipality

b. Property. The Property is the following legally described real estate in the County of Jefferson, Colorado: See Exhibit "A" attached hereto and incorporated herein by this reference, together with the interests, easements, rights, benefits, improvements and attached fixtures appurtenant thereto, and all interest of Seller in vacated streets and alleys adjacent thereto, except as herein excluded.

c. Dates and Deadlines.

Item No.	Reference	Event	Date or Deadline
1	§ 30a	Earnest Money Deadline	10 days from Effective Date
2	§ 5a	Loan Application Deadline	N/A
3	§ 5b	Loan Conditions Deadline	N/A
4	§ 5c	Buyer's Credit Information Deadline	N/A
5	§ 5c	Disapproval of Buyer's Credit Information Deadline	N/A
6	§ 5d	Existing Loan Documents Deadline	N/A
7	§ 5d	Existing Loan Documents Objection Deadline	N/A
8	§ 5d	Loan Transfer Approval Deadline	N/A
9	§ 6a(2)	Appraisal Deadline	N/A
10	§ 7a	Title Deadline	30 days from Effective Date
11	§ 8a	Title Objection Deadline	45 days from Effective Date
12	§ 7c	Survey Deadline	30 days from Effective Date
13	§ 8c(2)	Survey Objection Deadline	45 days from Effective Date
14	§ 7b	Document Request Deadline	30 days from Effective Date
15	§ 7d(5)	CIC Documents Objection Deadline	N/A
16	§ 8b	Off-Record Matters Deadline	30 days from Effective Date
17	§ 8b	Off-Record Matters Objection Deadline	60 days from Effective Date
18	§ 8f	Right of First Refusal Deadline	N/A
19	§ 10a	Seller's Property Disclosure Deadline	N/A
20	§ 10b	Inspection Objection Deadline	90 days from Effective Date
21	§ 10c	Resolution Deadline	120 days from Effective Date
22	§ 10d	Property Insurance Objection Deadline	N/A
23	§ 25e	Approval Deadline	180 days from Effective Date
24	§ 12	Closing Date Deadline	180 days from Effective Date
25	§ 17	Possession Date	Closing Date
26	§ 17	Possession Time	5 p.m. Closing Date
27	§ 30	Acceptance Deadline Date	N/A
28	§ 30	Acceptance Deadline Time	N/A

d. Attachments. The following are a part of this Contract: Exhibit "A" (Legal Description); [other, if any: _____].

Initial

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e. **Applicability of Terms.** A check or similar mark in a box means that such provision is applicable. The abbreviation "N/A" or the word "Deleted" means not applicable when inserted on any line in **Dates and Deadlines** (§ 2c), and it means that the corresponding provision of the Contract to which reference is made is deleted. The abbreviation "MEC" (mutual execution of this contract) means the latest date upon which both parties have signed this Contract.

3. INCLUSIONS AND EXCLUSIONS.

a. **Inclusions.** The Purchase Price includes the following items (Inclusions):

(1) ~~Fixtures.~~ If attached to the Property on the date of this Contract, ~~lighting, heating, plumbing, ventilating, and air conditioning fixtures, TV antennas, inside telephone wiring and connecting blocks/jacks, plants, mirrors, floor coverings, intercom systems, built-in kitchen appliances, sprinkler systems and controls, built-in vacuum systems (including accessories), garage door openers including _____ remote controls; and _____~~

(2) ~~Personal Property.~~ The following are included if on the Property whether attached or not on the date of this Contract: ~~storm windows, storm doors, window and porch shades, awnings, blinds, screens, window coverings, curtain rods, drapery rods, fireplace inserts, fireplace screens, fireplace grates, heating stoves, storage sheds, and all keys.~~ If checked, the following are included: ~~Water Softeners~~ ~~Smoke/Fire Detectors~~ ~~Security Systems~~ ~~Satellite Systems (including satellite dishes)~~

(3) **Other Inclusions.** The Property is vacant land. The Purchase price shall include any fixtures or other appurtenances located at or on the Property as of the date hereof _____

The Personal Property to be conveyed at Closing shall be conveyed, by Seller, free and clear of all taxes (except personal property taxes for the year of Closing), liens and encumbrances, except None. Conveyance shall be by bill of sale or other applicable legal instrument.

(4) ~~Trade Fixtures.~~ With respect to trade fixtures, Seller and Buyer agree as follows:

~~The Trade Fixtures to be conveyed at Closing shall be conveyed, by Seller, free and clear of all taxes (except personal property taxes for the year of Closing), liens and encumbrances, except none.~~ Conveyance shall be by bill of sale or other applicable legal instrument.

(5) ~~Parking and Storage Facilities.~~ ~~Use Only~~ ~~Ownership~~ of the following parking facilities: N/A; and ~~Use Only~~ ~~Ownership~~ the following storage facilities: _____

(6) **Water Rights.** The following legally described water rights: all rights tributary to the Property. Any water rights shall be conveyed by N/A deed or other applicable legal instrument. The Well Permit # is N/A.

(7) **Growing Crops.** With respect to growing crops, Seller and Buyer agree as follows: N/A.

b. **Exclusions.** The following items are excluded: N/A.

4. PURCHASE PRICE AND TERMS. The Purchase Price set forth below shall be payable in U.S. Dollars by Buyer as follows:

Item No.	Reference	Item	Amount	Amount
1	§ 4	Purchase Price	\$ 4,469,931	
2	§ 4a	Earnest Money Installments		\$ 100,000
3	§ 4d(1)	New First Loan		-0-
4	§ 4d(2)	New Second Loan		-0-
5	§ 4c	Assumption Balance		-0-
6	§ 4f	Seller or Private Financing		-0-
7				
8				
9	§ 4b	Cash at Closing		4,369,931
10		TOTAL	\$ 4,469,931	\$ 4,469,931

Note: If there is an inconsistency between the Purchase Price on the first page and this § 4, the amount in § 4 shall control.

a. **Earnest Money.** The Earnest Money set forth in this section, in the form of Good Funds is part payment of the Purchase Price and shall be payable to and held by Fidelity National Title Company (Earnest Money Holder), in its trust account, on behalf of both Seller and Buyer. Earnest Money Holder shall deposit the Earnest Money in an interest bearing account in a FDIC-insured institution. All interest earned shall become part of the Earnest Money.

73 b. Cash at Closing. All amounts paid by Buyer at Closing including cash at Closing, plus Buyer's closing costs,
74 shall be in funds which comply with all applicable Colorado laws, which include cash, electronic transfer funds, certified
75 check, savings and loan teller's check and cashier's check (Good Funds).

76 c. Down Payment Assistance; Seller Paid Costs. Seller, at Closing, shall credit \$ N/A to Buyer to assist with
77 Buyer's down payment. Seller shall also, at Closing, credit to Buyer the amount of \$ N/A to assist with Buyer's closing
78 costs, not to exceed the amount due from Buyer for such costs. These amounts are in addition to any sum Seller has agreed
79 to pay or credit Buyer elsewhere in this Contract.

80 d. New Loan. N/A

81 (1) New First Loan. Buyer shall obtain a new loan set forth in this section as follows:

82 Conventional FHA VA Other _____

83 This loan will be secured by a _____ (1st, 2nd, etc.) deed of trust.

84 The loan may be increased to add the cost of mortgage insurance, VA funding fee and other items for a total loan
85 amount, not in excess of \$ _____, which shall be amortized over a period of _____ Years Months at
86 approximately \$ _____ per _____ including principal and interest not to exceed _____%
87 per annum, plus, if required by Buyer's lender, a deposit of _____ of the estimated annual real estate taxes,
88 property insurance premium, and mortgage insurance premium. If the loan is an adjustable interest rate or graduated
89 payment loan, the payments and interest rate initially shall not exceed the figures set forth above.

90 Loan discount points, if any, shall be paid to lender at Closing and shall not exceed _____% of the total loan amount.
91 Notwithstanding the loan's interest rate, the first _____ loan discount points shall be paid by _____,
92 and the balance, if any, shall be paid by _____.

93 Buyer shall timely pay Buyer's loan costs and a loan origination fee not to exceed _____% of the loan amount. If
94 the loan is an FHA/VA insured or guaranteed loan, Seller shall pay closing costs and fees, not to exceed \$ _____,
95 that Buyer is not allowed by law to pay for tax service and _____.

96 (2) New Second Loan. Buyer shall obtain a new loan set forth in this section as follows:

97 This loan will be secured by a _____ (2nd, etc.) deed of trust.

98 The total loan amount, not in excess of \$ _____, shall be amortized over a period of _____

99 Years Months at approximately \$ _____ per _____ including principal and
100 interest not to exceed _____% per annum. If the loan is an adjustable interest rate or graduated payment loan, the
101 payments and interest rate initially shall not exceed the figures set forth above.

102 Loan discount points, if any, shall be paid to lender at Closing and shall not exceed _____% of the total loan amount.
103 Notwithstanding the loan's interest rate, the first _____ loan discount points shall be paid by _____,
104 _____, and the balance, if any, shall be paid by _____.

105 Buyer shall timely pay Buyer's loan costs and a loan origination fee not to exceed _____% of the loan amount.

106 e. Assumption. N/A Buyer agrees to assume and pay an existing loan in the approximate amount of the
107 Assumption Balance set forth in this section, presently payable at \$ _____ per _____ including principal and
108 interest presently at _____% per annum, and also including escrow for the following as indicated: Real Estate Taxes
109 Property Insurance Premium Mortgage Insurance Premium and _____.

110 Buyer agrees to pay a loan transfer fee not to exceed \$ _____. At the time of assumption, the new interest
111 rate shall not exceed _____% per annum and the new payment shall not exceed \$ _____ per _____ principal
112 and interest, plus escrow, if any. If the actual principal balance of the existing loan at Closing is less than the Assumption
113 Balance, which causes the amount of cash required from Buyer at Closing to be increased by more than \$ _____,
114 then Buyer May Terminate this Contract effective upon receipt by Seller of Buyer's written notice of termination or
115 _____.

116 Seller Shall Shall Not be released from liability on said loan. If applicable, compliance with the
117 requirements for release from liability shall be evidenced by delivery at Closing of an appropriate letter of commitment
118 from lender. Cost payable for release of liability shall be paid by _____ in an amount not to
119 exceed \$ _____.

120 f. Seller or Private Financing. N/A Buyer agrees to execute a promissory note payable to: _____

121 _____, as Joint Tenants Tenants in Common

122 Other _____, on the note form as indicated:

123 (Default Rate) NTD 81-10-06 Other _____ secured by a _____

124 (1st, 2nd, etc.) deed of trust encumbering the Property, using the form as indicated: Strict Due On Sale (TD 72-10-06)

125 Creditworthy (TD 73-10-06) Assumable Not Due On Sale (TD 74-10-06)

126 Other _____

127 The promissory note shall be amortized on the basis of _____ Years Months, payable at \$ _____

128 per _____ including principal and interest at the rate of _____% per annum. Payments shall commence
129 _____ and shall be due on the _____ day of each succeeding _____.

130 If not sooner paid, the balance of principal and accrued interest shall be due and payable _____ after Closing.
131 Payments Shall Shall Not be increased by _____ of estimated annual real estate taxes, and Shall Shall
132 Not be increased by _____ of estimated annual property insurance premium. The loan shall also contain the following
133 terms: (1) if any payment is not received within _____ calendar days after its due date, a late charge of _____% of
134 such payment shall be due, (2) interest on lender disbursements under the deed of trust shall be _____% per annum,
135 (3) default interest rate shall be _____% per annum, (4) Buyer may prepay without a penalty except _____
136 _____, and (5) Buyer Shall Shall Not execute and deliver, at
137 Closing, a Security Agreement and UCC-1 Financing Statement granting the holder of the promissory note a _____ (1st,
138 2nd, etc.) lien on the personal property included in this sale.
139 _____ Buyer Shall Shall Not provide a mortgagee's title insurance policy, at Buyer's expense.

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141 **5. FINANCING CONDITIONS AND OBLIGATIONS. N/A**

142 **a. Loan Application.** If Buyer is to pay all or part of the Purchase Price by obtaining a new loan, or if an
143 existing loan is not to be released at Closing, Buyer, if required by such lender, shall make a verifiable application by **Loan**
144 **Application Deadline** (§ 2e). Buyer shall cooperate with Seller and lender to obtain loan approval, **DILIGENTLY AND**
145 **TIMELY PURSUE SAME IN GOOD FAITH**, execute all documents and furnish all information and documents
146 required by lender, and, subject to subsections 4d(1) and (2) and § 4e, timely pay the costs of obtaining such loan or
147 lender's consent. Buyer agrees to satisfy the reasonable requirements of lender, and shall not withdraw the loan or
148 assumption application, nor intentionally cause any change in circumstances that would prejudice lender's approval of the
149 loan application or funding of the loan. Buyer may obtain different financing provided Seller incurs no additional delay,
150 cost or expense, and provided Buyer is approved for such substitute loan.

151 **b. Loan Conditions.** If Buyer is to pay all or part of the Purchase Price by obtaining a new loan as specified in
152 § 4b, this Contract is conditional upon Buyer's approval of the availability, terms, conditions and cost for the new loan.
153 This condition is for the benefit of Buyer and shall be deemed waived unless Seller receives from Buyer, no later than **Loan**
154 **Conditions Deadline** (§ 2e), written notice of Buyer's election to terminate this Contract as such loan was not satisfactory
155 to Buyer, Buyer shall not have the right to terminate under this § 5b based on the terms or conditions of any loan that is the
156 same as set forth in § 4. If Buyer so notifies Seller, this Contract shall terminate. **IF SELLER DOES NOT RECEIVE**
157 **WRITTEN NOTICE TO TERMINATE AND BUYER DOES NOT CLOSE, BUYER SHALL BE IN DEFAULT.**

158 **c. Credit Information and Buyer's New Senior Loan.** If Buyer is to pay all or part of the Purchase Price by
159 executing a promissory note in favor of Seller, or if an existing loan is not to be released at Closing, this Contract is
160 conditional (for the benefit of Seller) upon Seller's approval of Buyer's financial ability and creditworthiness, which
161 approval shall be at Seller's sole and absolute discretion. In such case: (1) Buyer shall supply to Seller by **Buyer's Credit**
162 **Information Deadline** (§ 2e), at Buyer's expense, information and documents (including a current credit report)
163 concerning Buyer's financial, employment and credit condition; (2) Buyer consents that Seller may verify Buyer's financial
164 ability and creditworthiness; (3) any such information and documents received by Seller shall be held by Seller in
165 confidence, and not released to others except to protect Seller's interest in this transaction; (4) in the event Buyer is to
166 execute a promissory note secured by a deed of trust in favor of Seller, this Contract, for the benefit of Seller, is conditional
167 upon Seller's approval of the terms and conditions of any new loan to be obtained by Buyer if the deed of trust to Seller is
168 to be subordinate to Buyer's new loan (**Buyer's New Senior Loan**); Seller shall not have the right to terminate under this
169 § 5c for any loan when all such specific terms and provisions (e.g., interest rate, principal, payments, prepayment penalties,
170 due date, etc.) are met as set forth in § 4 or elsewhere in this Contract; and (5) if Seller does not deliver written notice of
171 Seller's disapproval of Buyer's financial ability and creditworthiness or of **Buyer's New Senior Loan** to Buyer by
172 **Disapproval of Buyer's Credit Information Deadline** (§ 2e), then Seller waives the conditions set forth in this section. If
173 Seller does deliver written notice of disapproval to Buyer on or before said date, this Contract shall terminate.

174 **d. Existing Loan Review.** If an existing loan is not to be released at Closing, Seller shall deliver copies of the
175 loan documents (including note, deed of trust, and any modifications) to Buyer by **Existing Loan Documents Deadline** (§
176 2e). For the benefit of Buyer, this Contract is conditional upon Buyer's review and approval of the provisions of such loan
177 documents. If written notice of objection to such loan documents, signed by Buyer, is not received by Seller by **Existing**
178 **Loan Documents Objection Deadline** (§ 2e), Buyer accepts the terms and conditions of the documents. If the lender's
179 approval of a transfer of the Property is required, this Contract is conditional upon Buyer's obtaining such approval without
180 change in the terms of such loan, except as set forth in § 4e. If lender's approval is not obtained by **Loan Transfer**
181 **Approval Deadline** (§ 2e), this Contract shall terminate on such date. If Seller is to be released from liability under such
182 existing loan and Buyer does not obtain such compliance as set forth in § 4e, this Contract may be terminated at Seller's
183 option.

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185 **6. APPRAISAL PROVISIONS.**

186 **a. Appraisal Condition.**

187 (1) **Not Applicable.** This § 6a. shall not apply.

CONTRACT TO BUY AND SELL REAL ESTATE (ALL TYPES OF PROPERTIES)

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Initial

188 (2) **Conventional.** Buyer shall have the sole option and election to terminate this Contract if the Purchase
189 Price exceeds the Property's valuation determined by an appraiser engaged by _____.
190 This Contract shall terminate by Buyer delivering to Seller written notice of termination and either a copy of such appraisal
191 or written notice from lender that confirms the Property's valuation is less than the Purchase Price, received on or before
192 **Appraisal Deadline** (§ 2c). If Seller does not receive such written notice of termination on or before **Appraisal Deadline**
193 (§ 2c), Buyer waives any right to terminate under this subsection.

194 (3) **FHA.** It is expressly agreed that, notwithstanding any other provisions of this Contract, the Purchaser
195 (Buyer) shall not be obligated to complete the purchase of the Property described herein or to incur any penalty by
196 forfeiture of Earnest Money deposits or otherwise unless the Purchaser (Buyer) has been given in accordance with
197 HUD/FHA or VA requirements a written statement issued by the Federal Housing Commissioner, Department of Veterans
198 Affairs, or a Direct Endorsement lender setting forth the appraised value of the Property of not less than
199 \$_____. The Purchaser (Buyer) shall have the privilege and option of proceeding with the consummation of
200 the Contract without regard to the amount of the appraised valuation. The appraised valuation is arrived at to determine the
201 maximum mortgage the Department of Housing and Urban Development will insure. HUD does not warrant the value nor
202 the condition of the Property. The Purchaser (Buyer) should satisfy himself/herself that the price and condition of the
203 Property are acceptable.

204 (4) **VA.** It is expressly that, notwithstanding any other provisions of this Contract, the purchaser (Buyer)
205 shall not incur any penalty by forfeiture of Earnest Money or otherwise or be obligated to complete the purchase of the
206 Property described herein, if the Contract Purchase Price or cost exceeds the reasonable value of the Property established by
207 the Department of Veterans Affairs. The purchaser (Buyer) shall, however, have the privilege and option of proceeding
208 with the consummation of this Contract without regard to the amount of the reasonable value established by the Department
209 of Veterans Affairs.

210 b. **Cost of Appraisal.** Cost of any appraisal to be obtained after the date of this Contract shall be timely paid by
211 Buyer Seller.

212
213 **7. EVIDENCE OF TITLE.**

214 a. **Evidence of Title.** On or before **Title Deadline** (§ 2c), Seller shall cause to be furnished to Buyer, at Seller's
215 expense, a current commitment for owner's title insurance policy (Title Commitment) in an amount equal to the Purchase
216 Price, or if this box is checked, **An Abstract** of title certified to a current date. At Seller's expense, Seller shall cause
217 the title insurance policy to be issued and delivered to Buyer as soon as practicable at or after Closing. If a title insurance
218 commitment is furnished, it **Shall** **Shall Not** commit to delete or insure over the standard exceptions which relate to:

- 219 (1) parties in possession,
220 (2) unrecorded easements,
221 (3) survey matters,
222 (4) any unrecorded mechanic's liens,
223 (5) gap period (effective date of commitment to date deed is recorded), and
224 (6) unpaid taxes, assessments and unredeemed tax sales prior to the year of Closing.

225 Any additional premium expense to obtain this additional coverage shall be paid by Buyer Seller.

226 b. **Copies of Exceptions.** On or before **Title Deadline** (§ 2c), Seller, at Seller's expense, shall furnish to Buyer
227 and N/A, (1) a copy of any plats, declarations, covenants, conditions and restrictions burdening the Property, and (2) if a
228 title insurance commitment is required to be furnished, and if this box is checked **Copies of any Other Documents** (or,
229 if illegible, summaries of such documents) listed in the schedule of exceptions (Exceptions). Even if the box is not
230 checked, Seller shall have the obligation to furnish these documents pursuant to this subsection if requested by Buyer any
231 time on or before **Document Request Deadline** (§ 2c). This requirement shall pertain only to documents as shown of
232 record in the office of the clerk and recorder where the Property is located. The abstract or title insurance commitment,
233 together with any copies or summaries of such documents furnished pursuant to this section, constitute the title documents
234 (Title Documents).

235 c. **Survey.** On or before **Survey Deadline** (§ 2c), Seller Buyer shall cause Buyer (and the issuer of the
236 Title Commitment or the provider of the opinion of title if an abstract) to receive a current **Improvement Survey Plat**
237 **Improvement Location Certificate** Survey shall meet ALTA/ASCM standards (the description checked is known
238 as Survey). An amount not to exceed \$_____ for Survey shall be paid by Buyer Seller. If the cost exceeds
239 this amount, Buyer Seller shall pay the excess on or before Closing unless Buyer delivers to Seller before Survey
240 is ordered, Buyer's written notice allowing the exception for survey matters.

241 d. **Common Interest Community Documents.**

- 242 (1) **Not Applicable.** This § 7d. shall not apply.
243 (2) **Common Interest Community Disclosure.** THE PROPERTY IS LOCATED WITHIN A COMMON
244 INTEREST COMMUNITY AND IS SUBJECT TO THE DECLARATION FOR SUCH COMMUNITY. THE OWNER
245 OF THE PROPERTY WILL BE REQUIRED TO BE A MEMBER OF THE OWNER'S ASSOCIATION FOR THE

246 COMMUNITY AND WILL BE SUBJECT TO THE BYLAWS AND RULES AND REGULATIONS OF THE
247 ASSOCIATION. THE DECLARATION, BYLAWS, AND RULES AND REGULATIONS WILL IMPOSE FINANCIAL
248 OBLIGATIONS UPON THE OWNER OF THE PROPERTY, INCLUDING AN OBLIGATION TO PAY
249 ASSESSMENTS OF THE ASSOCIATION. IF THE OWNER DOES NOT PAY THESE ASSESSMENTS, THE
250 ASSOCIATION COULD PLACE A LIEN ON THE PROPERTY AND POSSIBLY SELL IT TO PAY THE DEBT. THE
251 DECLARATION, BYLAWS, AND RULES AND REGULATIONS OF THE COMMUNITY MAY PROHIBIT THE
252 OWNER FROM MAKING CHANGES TO THE PROPERTY WITHOUT AN ARCHITECTURAL REVIEW BY THE
253 ASSOCIATION (OR A COMMITTEE OF THE ASSOCIATION) AND THE APPROVAL OF THE ASSOCIATION.
254 PURCHASERS OF PROPERTY WITHIN THE COMMON INTEREST COMMUNITY SHOULD INVESTIGATE THE
255 FINANCIAL OBLIGATIONS OF MEMBERS OF THE ASSOCIATION. PURCHASERS SHOULD CAREFULLY
256 READ THE DECLARATION FOR THE COMMUNITY AND THE BYLAWS AND RULES AND REGULATIONS OF
257 THE ASSOCIATION.

258 (3) **Not Conditional on Review.** Buyer acknowledges that Buyer has received a copy of the owners'
259 association (Association) declarations, bylaws, rules and regulations, party wall agreements, minutes of most recent annual
260 owners' meeting and minutes of any directors' meetings during the 6-month period immediately preceding Title Deadline,
261 if any (Governing Documents), most recent financial documents consisting of (a) annual balance sheet, (b) annual income
262 and expenditures statement, and (c) annual budget (Financial Documents), if any (collectively CIC Documents). Buyer has
263 reviewed them, agrees to accept the benefits, obligations and restrictions that they impose upon the Property and its owners
264 and waives any right to terminate this Contract due to such documents, notwithstanding the provisions of § 8e.

265 (4) **CIC Documents to Buyer.**

266 (a) **Seller to Provide CIC Documents.** Seller shall cause the CIC Documents to be provided to
267 Buyer, at Seller's expense, on or before **Title Deadline** (§ 2c).

268 (b) **Seller Authorizes Association.** Seller authorizes the Association to provide the CIC Documents
269 to Buyer, at Seller's expense.

270 (c) **Seller's Obligation.** Seller's obligation to provide the CIC Documents shall be fulfilled upon
271 Buyer's receipt of the CIC Documents, regardless of who provides such documents.

272 (5) **Conditional on Buyer's Review.** If the box in either subsection 7d(4)(a) or subsection 7d(4)(b) is
273 checked, the provisions of this subsection 7d(5) shall apply. Written notice of any unsatisfactory provision in any of the
274 CIC Documents, in Buyer's subjective discretion, signed by Buyer, or on behalf of Buyer, and delivered to Seller on or
275 before **CIC Documents Objection Deadline** (§ 2c), shall terminate this Contract.

276 Should Buyer receive the CIC Documents after **Title Deadline** (§ 2c), Buyer shall have the right, at Buyer's
277 option, to terminate this Contract by written notice delivered to Seller on or before ten calendar days after Buyer's receipt of
278 the CIC Documents. If Buyer does not receive the CIC Documents, or if such written notice to terminate would otherwise
279 be required to be delivered after the Closing Date, Buyer's written notice to terminate shall be received by Seller on or
280 before three calendar days prior to **Closing Date** (§ 2c). If Seller does not receive written notice from Buyer within such
281 time, Buyer accepts the provisions of the CIC Documents, and Buyer's right to terminate this Contract pursuant to this
282 subsection is waived, notwithstanding the provisions of § 8e.

283 NOTE: If no box in this § 7d is checked, the provisions of subsection 7d(4)(a) shall apply.

284

285 8. TITLE AND SURVEY REVIEW.

286 a. **Title Review.** Buyer shall have the right to inspect the Title Documents. Written notice by Buyer of
287 unmerchantability of title, form or content of Title Commitment or of any other unsatisfactory title condition shown by the
288 Title Documents, notwithstanding § 13, shall be signed by or on behalf of Buyer and delivered to Seller on or before **Title**
289 **Objection Deadline** (§ 2c), or within five calendar days after receipt by Buyer of any change to the Title Documents or
290 endorsement to the Title Commitment together with a copy of the document adding any new Exception to title. If Seller
291 does not receive Buyer's notice by the date specified above, Buyer accepts the condition of title as disclosed by the Title
292 Documents as satisfactory.

293 b. **Matters Not Shown by the Public Records.** Seller shall deliver to Buyer, on or before **Off-Record Matters**
294 **Deadline** (§ 2c) true copies of all leases and surveys in Seller's possession pertaining to the Property and shall disclose to
295 Buyer all easements, liens (including, without limitation, governmental improvements approved, but not yet installed) or
296 other title matters (including, without limitation, rights of first refusal, and options) not shown by the public records of
297 which Seller has actual knowledge. Buyer shall have the right to inspect the Property to investigate if any third party has
298 any right in the Property not shown by the public records (such as an unrecorded easement, unrecorded lease, or boundary
299 line discrepancy). Written notice of any unsatisfactory condition disclosed by Seller or revealed by such inspection,
300 notwithstanding § 13, shall be signed by or on behalf of Buyer and delivered to Seller on or before **Off-Record Matters**
301 **Objection Deadline** (§ 2c). If Seller does not receive Buyer's notice by said date, Buyer accepts title subject to such rights,
302 if any, of third parties of which Buyer has actual knowledge.

303 c. **Survey Review.**

304 (1) **Not Applicable.** This § 8c shall not apply.

305 (2) **Conditional on Survey.** If the box in this subsection 8c(2) is checked, Buyer shall have the right to
306 inspect the Survey. If written notice by or on behalf of Buyer of any unsatisfactory condition shown by the Survey,
307 notwithstanding § 8b or § 13, is received by Seller on or before **Survey Objection Deadline** (§ 2c) then such objection
308 shall be deemed an unsatisfactory title condition. If Seller does not receive Buyer's notice by **Survey Objection Deadline**
309 (§ 2c), Buyer accepts the Survey as satisfactory.

310 d. **Special Taxing Districts.** SPECIAL TAXING DISTRICTS MAY BE SUBJECT TO GENERAL
311 OBLIGATION INDEBTEDNESS THAT IS PAID BY REVENUES PRODUCED FROM ANNUAL TAX LEVIES
312 ON THE TAXABLE PROPERTY WITHIN SUCH DISTRICTS. PROPERTY OWNERS IN SUCH DISTRICTS
313 MAY BE PLACED AT RISK FOR INCREASED MILL LEVIES AND EXCESSIVE TAX BURDENS TO
314 SUPPORT THE SERVICING OF SUCH DEBT WHERE CIRCUMSTANCES ARISE RESULTING IN THE
315 INABILITY OF SUCH A DISTRICT TO DISCHARGE SUCH INDEBTEDNESS WITHOUT SUCH AN
316 INCREASE IN MILL LEVIES. BUYER SHOULD INVESTIGATE THE DEBT FINANCING REQUIREMENTS
317 OF THE AUTHORIZED GENERAL OBLIGATION INDEBTEDNESS OF SUCH DISTRICTS, EXISTING MILL
318 LEVIES OF SUCH DISTRICT SERVICING SUCH INDEBTEDNESS, AND THE POTENTIAL FOR AN
319 INCREASE IN SUCH MILL LEVIES.

320 In the event the Property is located within a special taxing district and Buyer desires to terminate this Contract as a
321 result, if written notice, by or on behalf of Buyer, is received by Seller on or before **Approval Deadline** (§ 2c), this
322 Contract shall terminate. If Seller does not receive Buyer's notice by such date, Buyer accepts the effect of the Property's
323 inclusion in such special taxing district and waives the right to terminate for that reason.

324 e. **Right to Object, Cure.** Buyer's right to object shall include, but not be limited to, those matters listed in § 13.
325 If Seller receives notice of unmerchantability of title or any other unsatisfactory title condition or commitment terms as
326 provided in §§ 8a, b, c and d above, Seller shall use reasonable efforts to correct said items and bear any nominal expense to
327 correct the same prior to Closing. If such unsatisfactory title condition is not corrected to Buyer's satisfaction on or before
328 Closing, this Contract shall terminate and the Earnest Money shall be returned to Buyer; provided, however, Buyer may, by
329 written notice received by Seller on or before Closing, waive objection to such items.

330 f. **Right of First Refusal or Approval.** Seller warrants there are no rights of first refusal on the Property or any
331 rights to approve this Contract held by others.

332 g. **Title Advisory.** The Title Documents affect the title, ownership and use of the Property and should be
333 reviewed carefully. Additionally, other matters not reflected in the Title Documents may affect the title, ownership and use
334 of the Property, including without limitation boundary lines and encroachments, area, zoning, unrecorded easements and
335 claims of easements, leases and other unrecorded agreements, and various laws and governmental regulations concerning
336 land use, development and environmental matters. **The surface estate may be owned separately from the underlying**
337 **mineral estate, and transfer of the surface estate does not necessarily include transfer of the mineral rights or water**
338 **rights. Third parties may hold interests in oil, gas, other minerals, geothermal energy or water on or under the**
339 **Property, which interests may give them rights to enter and use the Property.** Such matters may be excluded from or
340 not covered by the title insurance policy. Buyer is advised to timely consult legal counsel with respect to all such matters as
341 there are strict time limits provided in this Contract (e.g., **Title Objection Deadline** [§ 2c] and **Off-Record Matters**
342 **Objection Deadline** [§ 2c]).

343
344 ~~9. **LEAD-BASED PAINT.** Unless exempt, if the improvements on the Property include one or more residential~~
345 ~~dwellings for which a building permit was issued prior to January 1, 1978, this Contract shall be void unless a completed~~
346 ~~Lead-Based Paint Disclosure (Sales) form is signed by Seller and the required real estate licensees, which must occur prior~~
347 ~~to the parties signing this Contract. Buyer acknowledges timely receipt of a completed Lead-Based Paint Disclosure (Sales)~~
348 ~~form signed by Seller and the real estate licensees.~~

349
350 **10. PROPERTY DISCLOSURE, INSPECTION, INSURABILITY AND BUYER DISCLOSURE.**

351 a. **Seller's Property Disclosure Deadline.** On or before Seller's **Property Disclosure Deadline** [§ 2c], Seller
352 agrees to deliver to Buyer the most current version of the Seller's Property Disclosure form completed by Seller to the best
353 of Seller's actual knowledge, current as of the date of this Contract.

354 b. **Inspection Objection Deadline.** Buyer shall have the right to have inspections of the physical condition of
355 the Property and Inclusions, at Buyer's expense. If the physical condition of the Property or Inclusions is unsatisfactory in
356 Buyer's subjective discretion, Buyer shall, on or before **Inspection Objection Deadline** (§ 2c):

357 (1) notify Seller in writing that this Contract is terminated, or
358 (2) deliver to Seller a written description of any unsatisfactory physical condition which Buyer requires
359 Seller to correct (Notice to Correct).

360 If written notice is not received by Seller on or before **Inspection Objection Deadline** (§ 2c), the physical condition
361 of the Property and Inclusions shall be deemed to be satisfactory to Buyer.

362 c. **Resolution Deadline.** If a Notice to Correct is received by Seller and if Buyer and Seller have not agreed in
363 writing to a settlement thereof on or before **Resolution Deadline** (§ 2c), this Contract shall terminate one calendar day
364 following **Resolution Deadline** (§ 2c), unless before such termination Seller receives Buyer's written withdrawal of the
365 Notice to Correct.

366 d. **Insurability.** Intentionally omitted.

367 e. **Damage, Liens and Indemnity.** Buyer is responsible for payment for all inspections, tests, surveys,
368 engineering reports, or any other work performed at Buyer's request and shall pay for any damage which occurs to the
369 Property and Inclusions as a result of such activities. Buyer shall not permit claims or liens of any kind against the Property
370 for inspections, tests, surveys, engineering reports, or any other work performed on the Property at Buyer's request. Buyer
371 agrees to indemnify, protect and hold Seller harmless from and against any liability, damage, cost or expense incurred by
372 Seller in connection with any such inspection, claim, or lien. This indemnity includes Seller's right to recover all costs and
373 expenses incurred by Seller to enforce this subsection, including Seller's reasonable attorney and legal fees. The provisions
374 of this subsection shall survive the termination of this Contract.

375 f. **Buyer Disclosure.** Buyer represents that Buyer Does Does Not need to sell and close a property to
376 complete this transaction.

377 **Note:** Any property sale contingency should appear in **Additional Provisions** (§ 25).

378
379 **11. METHAMPHETAMINE LABORATORY DISCLOSURE.** The parties acknowledge that Seller is required to
380 disclose whether Seller knows that the Property was previously used as a methamphetamine laboratory. No disclosure is
381 required if the Property was remediated in accordance with state standards and other requirements are fulfilled pursuant to §
382 25-18.5-102, C.R.S. Buyer further acknowledges that Buyer has the right to engage a certified hygienist or industrial
383 hygienist to test whether the Property has ever been used as a methamphetamine laboratory. In the event that the Property
384 has been used as a methamphetamine laboratory, Buyer may deliver written notice to Seller, on or before Closing, to
385 terminate this Contract.

386
387 **12. CLOSING.** Delivery of deed from Seller to Buyer shall be at closing (Closing). Subject to the provisions of § 25e
388 the Closing shall occur on or before the **Closing Date Deadline** (§ 2c). The hour and place of Closing shall be by mutual
389 agreement as designated by _____ Buyer _____ Seller.

390
391 **13. TRANSFER OF TITLE.** Subject to tender or payment at Closing as required herein and compliance by Buyer with
392 the other terms and provisions hereof, Seller shall execute and deliver a good and sufficient special warranty deed to Buyer,
393 at Closing, conveying the Property free and clear of all taxes except the general taxes for the year of Closing. Except as
394 provided herein, title shall be conveyed free and clear of all liens, including any governmental liens for special
395 improvements installed as of the date of Buyer's signature hereon, whether assessed or not. Title shall be conveyed subject
396 to:

397 a. those specific Exceptions described by reference to recorded documents as reflected in the Title Documents
398 accepted by Buyer in accordance with § 8a (Title Review),

399 b. distribution utility easements (including cable TV),

400 c. those specifically described rights of third parties not shown by the public records of which Buyer has actual
401 knowledge and which were accepted by Buyer in accordance with § 8b (Matters Not Shown by the Public Records) and §
402 8c (Survey Review),

403 d. inclusion of the Property within any special taxing district,

404 e. the benefits and burdens of any recorded declaration and party wall agreements, if any, and

405 f. other. None.

406
407 **14. PAYMENT OF ENCUMBRANCES.** Any encumbrance required to be paid shall be paid at or before Closing from
408 the proceeds of this transaction or from any other source.

409
410 **15. CLOSING COSTS, DOCUMENTS AND SERVICES.**

411 a. **Good Funds.** Buyer and Seller shall pay, in Good Funds, their respective Closing costs and all other items
412 required to be paid at Closing, except as otherwise provided herein.

413 b. **Closing Documents.** Buyer and Seller shall sign and complete all customary or reasonably required
414 documents at or before Closing.

415 c. **Closing Services Fee.** Fees for real estate Closing services shall be paid at Closing by Buyer Seller
416 One-Half by Buyer and One-Half by Seller.

417 d. **Status Letter and Transfer Fees.** Any fees incident to the issuance of Association's statement of
418 assessments (Status Letter) shall be paid by Buyer Seller One-Half by Buyer and One-Half by Seller. Any

419 fees incident to the transfer from Seller to Buyer assessed by the Association (Association's Transfer Fee) shall be paid by
420 Buyer Seller One-Half by Buyer and One-Half by Seller. N/A.
421 e. Local Transfer Tax. The local transfer tax of _____% of the Purchase Price shall be paid at Closing by
422 Buyer Seller One-Half by Buyer and One-Half by Seller. N/A.
423 f. Sales and Use Tax. Any sales and use tax that may accrue because of this transaction shall be paid when due
424 by Buyer Seller One-Half by Buyer and One-Half by Seller. N/A
425

426 16. PRORATIONS. The following shall be prorated to Closing Date (§ 2c), except as otherwise provided:
427 a. Taxes. Personal property taxes, if any, and general real estate taxes for the year of Closing, based on
428 Taxes for the Calendar Year Immediately Preceding Closing Most Recent Mill Levy and Most Recent Assessed
429 Valuation Other _____.
430 b. Rents. Rents based on Rents Actually Received Accrued. Security deposits held by Seller shall be
431 credited to Buyer. Seller shall assign all leases to Buyer and Buyer shall assume such leases. N/A
432 c. Association Assessments. Current regular Association assessments and Association dues (Association
433 Assessments) paid in advance shall be credited to Seller at Closing. Cash reserves held out of the regular Association
434 Assessments for deferred maintenance by the Association shall not be credited to Seller except as may be otherwise
435 provided by the Governing Documents. Any special assessment by the Association for improvements that have been
436 installed as of the date of Buyer's signature hereon shall be the obligation of Seller. Any other special assessment assessed
437 prior to Closing Date (§ 2c) by the Association shall be the obligation of Buyer Seller. Seller represents that the
438 amount of the Association Assessments is currently payable at \$_____ per _____ and that there are no unpaid
439 regular or special assessments against the Property except the current regular assessments and except _____
440 _____. Such assessments are subject to change as
441 provided in the Governing Documents. Seller agrees to promptly request the Association to deliver to Buyer before Closing
442 Date (§ 2c) a current Status Letter. N/A.
443 d. Other Prorations. None.
444 e. Final Settlement. Unless otherwise agreed in writing, these prorations shall be final.
445

446 17. POSSESSION. Possession of the Property shall be delivered to Buyer on Possession Date at Possession Time (§
447 2c), subject to the following leases or tenancies:
448
449 If Seller, after Closing, fails to deliver possession as specified, Seller shall be subject to eviction and shall be
450 additionally liable to Buyer for payment of \$100 per day (or any part of a day) from the Possession Date and Possession
451 Time (§ 2c) until possession is delivered.
452 Buyer Does Does Not represent that Buyer will occupy the Property as Buyer's principal residence.
453

454 18. ASSIGNABILITY. This Contract Shall Shall Not be assignable by Buyer without Seller's prior written
455 consent. Except as so restricted, this Contract shall inure to the benefit of and be binding upon the heirs, personal
456 representatives, successors and assigns of the parties.
457

458 19. INSURANCE; CONDITION OF, DAMAGE TO PROPERTY AND INCLUSIONS. Except as otherwise
459 provided in this Contract, the Property, Inclusions or both shall be delivered in the condition existing as of the date of this
460 Contract, ordinary wear and tear excepted.
461 a. Casualty Insurance. In the event the Property or Inclusions shall be damaged by fire or other casualty prior
462 to Closing, in an amount of not more than ten percent of the total Purchase Price, Seller shall be obligated to repair the same
463 before Closing Date (§ 2c). In the event such damage is not repaired within said time or if the damages exceed such sum,
464 this Contract may be terminated at the option of Buyer by delivering to Seller written notice of termination on or before
465 Closing. Should Buyer elect to carry out this Contract despite such damage, at Closing, Buyer shall be entitled to a credit
466 for all insurance proceeds that were received by Seller (but not the Association, if any) resulting from such damage to the
467 Property and Inclusions, plus the amount of any deductible provided for in such insurance policy. Such credit shall not
468 exceed the Purchase Price. In the event Seller has not received such insurance proceeds prior to Closing, then Seller shall
469 assign such proceeds, at Closing, plus credit Buyer the amount of any deductible provided for in such insurance policy, but
470 not to exceed the total Purchase Price.
471 b. Damage, Inclusions and Services. Should any Inclusion or service (including systems and components of
472 the Property, e.g. heating, plumbing, etc.) fail or be damaged between the date of this Contract and Closing or possession,
473 whichever shall be earlier, then Seller shall be liable for the repair or replacement of such Inclusion or service with a unit of
474 similar size, age and quality, or an equivalent credit, but only to the extent that the maintenance or replacement of such
475 Inclusion, service or fixture is not the responsibility of the Association, if any, less any insurance proceeds received by
476 Buyer covering such repair or replacement. Seller and Buyer are aware of the existence of pre-owned home warranty
CONTRACT TO BUY AND SELL REAL ESTATE (ALL TYPES OF PROPERTIES)

477 programs that may be purchased and may cover the repair or replacement of such Inclusions. The risk of loss for damage to
478 growing crops by fire or other casualty shall be borne by the party entitled to the growing crops as provided in subsection
479 3a(7) and such party shall be entitled to such insurance proceeds or benefits for the growing crops.

480 c. **Walk-Through and Verification of Condition.** Buyer, upon reasonable notice, shall have the right to walk
481 through the Property prior to Closing to verify that the physical condition of the Property and Inclusions complies with this
482 Contract.

483
484 **20. RECOMMENDATION OF LEGAL AND TAX COUNSEL.** By signing this document, Buyer and Seller
485 acknowledge that the respective broker has advised that this document has important legal consequences and has
486 recommended the examination of title and consultation with legal and tax or other counsel before signing this Contract.
487

488 **21. TIME OF ESSENCE, DEFAULT AND REMEDIES.** Time is of the essence hereof. If any note or check received
489 as Earnest Money hereunder or any other payment due hereunder is not paid, honored or tendered when due, or if any
490 obligation hereunder is not performed or waived as herein provided, there shall be the following remedies:

491 a. **If Buyer is in Default:**

492 (1) **Specific Performance.** Seller may elect to treat this Contract as canceled, in which case all Earnest
493 Money (whether or not paid by Buyer) shall be forfeited by Buyer, paid to Seller and retained by Seller; and Seller may
494 recover such damages as may be proper; or Seller may elect to treat this Contract as being in full force and effect and Seller
495 shall have the right to specific performance or damages, or both.

496 (2) **Liquidated Damages.** All Earnest Money (whether or not paid by Buyer) shall be forfeited by Buyer,
497 paid to Seller, and retained by Seller. Both parties shall thereafter be released from all obligations hereunder. It is agreed
498 that the Earnest Money specified in § 4 is LIQUIDATED DAMAGES, and not a penalty, which amount the parties agree is
499 fair and reasonable and (except as provided in §§ 10c, 19, 21c, 22, 23), said forfeiture shall be SELLER'S SOLE AND
500 ONLY REMEDY for Buyer's failure to perform the obligations of this Contract. Seller expressly waives the remedies of
501 specific performance and additional damages.

502 b. **If Seller is in Default:** Buyer may elect to treat this Contract as canceled, in which case all Earnest Money
503 received hereunder shall be returned to Buyer, or Buyer may elect to treat this Contract as being in full force and effect and
504 Buyer shall have the right to specific performance but not damages.

505 c. **Cost and Expenses.** In the event of any arbitration or litigation relating to this Contract, the arbitrator or
506 court shall award to the prevailing party all reasonable costs and expenses, including attorney and legal fees.
507

508 **22. MEDIATION.** If a dispute arises relating to this Contract, prior to or after Closing, and is not resolved, the parties
509 shall first proceed in good faith to submit the matter to mediation. Mediation is a process in which the parties meet with an
510 impartial person who helps to resolve the dispute informally and confidentially. Mediators cannot impose binding decisions.
511 The parties to the dispute must agree before any settlement is binding. The parties will jointly appoint an acceptable
512 mediator and will share equally in the cost of such mediation. The mediation, unless otherwise agreed, shall terminate in the
513 event the entire dispute is not resolved within 30 calendar days of the date written notice requesting mediation is delivered
514 by one party to the other at the party's last known address. This section shall not alter any date in this Contract, unless
515 otherwise agreed.
516

517 **23. EARNEST MONEY DISPUTE.** Except as otherwise provided herein, Earnest Money Holder shall release the
518 Earnest Money as directed by written mutual instructions, signed by both Buyer and Seller. In the event of any controversy
519 regarding the Earnest Money (notwithstanding any termination of this Contract), Earnest Money Holder shall not be
520 required to take any action. Earnest Money Holder, at its option and sole discretion, may (a) await any proceeding, (b)
521 interplead all parties and deposit Earnest Money into a court of competent jurisdiction and shall recover court costs and
522 reasonable attorney and legal fees, or (c) deliver written notice to Buyer and Seller that unless Earnest Money Holder
523 receives a copy of the Summons and Complaint or Claim (between Buyer and Seller), containing the case number of the
524 lawsuit (Lawsuit) within 120 calendar days of Earnest Money Holder's written notice is delivered to the parties, Earnest
525 Money Holder shall be authorized to return the Earnest Money to Buyer. In the event Earnest Money Holder does receive a
526 copy of the Lawsuit, and has not interpleaded the monies at the time of any Order, Earnest Money Holder shall disburse the
527 Earnest Money pursuant to the Order of the Court. The parties reaffirm the obligation of Mediation (§ 22).
528

529 **24. TERMINATION.** In the event this Contract is terminated, all Earnest Money received hereunder shall be returned
530 and the parties shall be relieved of all obligations hereunder, subject to §§ 10e, 22 and 23.
531

532 **25. ADDITIONAL PROVISIONS.** (The following additional provisions have not been approved by the Colorado Real
533 Estate Commission.)

534 **a. Broker Commissions.** Other than William Jenkins of the Laramie Company, Buyer warrants to Seller that it
535 has not dealt with any real estate brokers in connection with this transaction and shall not be liable for the payment of any
536 brokerage commission. Seller shall indemnify and hold Buyer harmless from any brokerage or other commissions that may
537 be payable in connection with this or any other transfer of the Property or any part thereof, unless such claims arise through
538 the Buyer.
539

540 **b. Representations And Warranties.** Seller represents and warrants to Buyer both as of the date hereof and as
541 of the date of Closing that:

542 (1) Seller is not a "foreign Person" but is a "United States person" as such terms are defined in Section 1445 and
543 7701 of the Internal Revenue Code of 1986 as amended.

544 (2) As of the date of Closing there shall be no parties in possession of any portion of the Property, except Seller.

545 (3) No work shall have been performed or shall be in progress by Seller, and no materials shall have been
546 furnished to the Property or any portion thereof in connection with such work that might give rise to mechanic's liens
547 against the Property or any portion thereof. At Closing, there will be no unpaid bills or claims in connection with any such
548 work on the Property.

549 (4) No portion of the Property is subject to an earnest money contract, right of first refusal or similar contractual
550 right.

551 (5) To the best of Seller's actual knowledge, there is no suit, action, legal or other proceeding pending, or to
552 Seller's best knowledge, threatened which affects the Property.

553 (6) Seller has received no notice from any governmental authority of zoning, building, fire, water, use, health,
554 environmental or other statutory or regulatory violation issued in respect of the Property which has not been heretofore
555 corrected.

556 (7) No action in condemnation, eminent domain or public taking proceedings are now pending or contemplated
557 against the Property;

558 (8) No ordinance or hearing is now before any local governmental body which either contemplates or authorizes
559 any public improvements or special tax levies, the cost of which may be assessed against the Property;

560 (9) The Property is in compliance with all City of Westminster subdivision and platting regulations and with
561 applicable rules, regulations, ordinances, and requirements of the City;

562 (10) (i) To the best of Seller's actual knowledge, the Property does not contain asbestos or underground
563 storage tanks and has not been used for the purpose of receiving, handling, using, storing, treatment, transporting owned or
564 disposing of (A) any hazardous material as defined in any applicable federal, state, county or local statutes, laws,
565 regulations, rules, ordinances, codes, standards, orders, licenses and permits of any governmental authorities relating to
566 environmental matters (being hereinafter collectively referred to as the "Environmental Laws"), (B) other toxic, dangerous
567 or hazardous chemicals, materials, substances, pollutants and wastes, or any chemical, material or substance, exposure to
568 which is prohibited, limited or regulated by any federal, state, county, regional or local authority or (C) petroleum products
569 (all the foregoing being hereinafter collectively referred to as "Hazardous Materials");

570 (ii) To the best of Seller's actual knowledge, there are no existing or pending remedial actions or
571 other work, repairs, construction or capital expenditures with respect to the Property in connection with the Environmental
572 Laws, nor has Seller received any notice of the same;

573 (iii) To the best of Seller's actual knowledge, no Hazardous Materials have been or will be released
574 into the environment, or have been or will be deposited, spilled, discharged, placed or disposed of at, on or adjacent to the
575 Property, nor has the Property been used at any time by any person as a landfill or a disposal site for Hazardous Materials
576 or for garbage, waste or refuse of any kind; and

577 (iv) To the best of Seller's actual knowledge, no notices of any violation of any of the matters
578 referred to in the foregoing subsections relating to the Property or its use have been received by Seller and there are no
579 writs, injunctions, decrees, orders or judgments outstanding, no lawsuits, claims, proceedings or investigations pending or
580 threatened, relating to the ownership, use, maintenance or operation of the Property, nor, is there any basis for any such
581 lawsuit, claim, proceeding or investigation being instituted or filed.
582

583 The representations and warranties set forth in this Section 25(b) shall be continuing and shall be true and correct
584 on and as of the Closing Date with the same force and effect as if made at that time. Seller shall not be responsible for any
585 liabilities assumed by the title company under the title policy to be issued to Buyer, nor shall Seller be liable for any
586 indirect or consequential damages in the event of a breach of any of the foregoing representations and warranties. In the
587 event of such breach by Seller, Seller's liability shall be limited to the actual cost of remedying the breach.
588

589 **c. Time of Performance.** If any date for performance falls on a Saturday, Sunday or legal holiday, then the date
590 for performance shall be extended to the next day which is not a Saturday, Sunday or holiday.
591

592 d. **Authorization.** Buyer and Seller represent to each other that all necessary steps have been taken to authorize
593 this Contract and that each has the requisite authority to enter into and perform this Contract in accordance with its terms.
594

595 e. **Development Approvals.** This paragraph 25e. shall _____ shall not apply. Seller shall have until the
596 **Approval Deadline (§ 2c)** to (i) Approve Buyer's application for Water Tap Service Commitments sufficient to build at
597 least 450 multi-family units on the Property, which Buyer has submitted; (ii) Approve an Official Development Plan
598 ("ODP") for Buyer's intended development and use of the Property (collectively, the "Approvals") provided, however,
599 Seller agrees to not unduly delay its review of Buyer's applications and requests for Approvals, and provided further that
600 Seller shall not be required to perform acts or expend funds that are not in conformance with the laws, rules, or regulations
601 of the City of Westminster, Colorado; and (iii) Enter into a written agreement with the NBC Metropolitan District,
602 satisfactory to Buyer, addressing the respective obligations of the Buyer, Seller and District concerning the public
603 improvements related to Buyer's intended development ("Special District Agreement"). Should Buyer not obtain such
604 Service Commitments or Approvals or Special District Agreement prior to the **Approval Deadline**, Buyer may terminate
605 this Contract by notifying Seller prior to the **Approval Deadline**. In the event Buyer terminates prior to or on the
606 **Approval Deadline**, the Earnest Money shall be returned to Buyer. Provided that all other terms and conditions of this
607 Contract have been satisfied by the Seller, and subject to the provisions of § 30b below, Buyer agrees to close this
608 agreement within 30 days following the Seller's satisfaction of the provisions of this § 25e.
609

610 f. **Tax Deferred Exchange.** This paragraph 25f. _____ shall shall not apply. Following the Closing of
611 this Contract, Seller agrees to cooperate with any tax deferred exchange (whether a 1031 or 1033) that Buyer desires to
612 complete with respect to this transaction, provided there is no expense to Seller.
613

614 **26. ENTIRE AGREEMENT, MODIFICATION, SURVIVAL.** This agreement constitutes the entire Contract
615 between the parties relating to the subject hereof, and any prior agreements pertaining thereto, whether oral or written, have
616 been merged and integrated into this Contract. No subsequent modification of any of the terms of this Contract shall be
617 valid, binding upon the parties, or enforceable unless made in writing and signed by the parties. Any obligation in this
618 Contract that, by its terms, is intended to be performed after termination or Closing shall survive the same.
619

620 **27. FACSIMILE.** Signatures may _____ may not be evidenced by facsimile. Documents with original signatures
621 shall be provided to the other party at Closing, or earlier upon request of any party.
622

623 **28. FORECLOSURE DISCLOSURE AND PROTECTION.** Seller acknowledges that, to Seller's current actual
624 knowledge, the Property IS IS NOT in foreclosure. In the event this transaction is subject to the provisions of the
625 Colorado Foreclosure Protection Act (the Act) (i.e., generally the Act requires that the Property is residential, in foreclosure,
626 and Buyer does not reside in it for at least 1 year), a different contract that complies with the provisions of the Act is
627 required, and this Contract shall be void and of no effect unless the Foreclosure Property Addendum is executed by all
628 parties concurrent with the signing of this Contract. The parties are further advised to consult with their own attorney.
629

630 **29. NOTICE, DELIVERY, AND CHOICE OF LAW.**

631 a. **Physical Delivery.** Except for the notice requesting mediation described in § 22, delivered after Closing, and
632 except as provided in § 28b below, all notices must be in writing. Any notice to Buyer shall be effective when received by
633 Buyer or by Selling Brokerage Firm, and any notice to Seller shall be effective when physically received by Seller or
634 Listing Brokerage Firm.

635 b. **Electronic Delivery.** As an alternative to physical delivery, any signed document and written notice may be
636 delivered in electronic form by the following indicated methods only: Facsimile E-mail No Electronic
637 **Delivery.** Documents with original signatures shall be provided upon request of any party.

638 c. **Choice of Law.** This Contract and all disputes arising hereunder shall be governed by and construed in
639 accordance with the laws of the State of Colorado that would be applicable to Colorado residents who sign a contract in this
640 state for property located in Colorado.
641

642 **30. SPECIAL CONDITIONS.**

643
644 a. Buyer shall deliver the **Earnest Money** to the Title Company in one (1) installment as follows: (i) \$100,000
645 within ten (10) days of mutual execution of this Contract. Buyer's Earnest Money deposit shall be refundable to the Buyer,
646 except in the event of a breach of this Contract by Buyer.
647

648 b. Seller agrees to extend the Closing Date Deadline with three (3) thirty (30) day extensions upon payment by
649 Buyer of a payment of Twenty Five Thousand Dollars (\$25,000) for each exercised extension ("Extension Payments").

650 The first two extensions are non-refundable but applicable to the sales price. The Third extension is non-refundable and
651 non-applicable to the sales price. Any such Extension Payments shall be immediately released to the Seller.

652
653 c. Buyer agrees to aggressively proceed with the Official Development Plan approval process to encompass at
654 least 150 multi-family units as part of a Phase I of the proposed project. Further concerted efforts will commence with
655 future development plans to potentially include podium type construction to accommodate parking and increased densities.
656 Seller understands that the developer is not committing to podium parking on any portion of the property

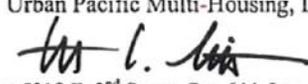
657
658 d. Buyer agrees that it shall make all commercially reasonable best efforts to begin construction of Phase I of the
659 project within 12 months of Seller's final ODP approval.

660
661 e. Buyer intends to develop an urban style, high quality finish, urban style, market rate multi-family project of
662 450 units (the number of units is subject to final ODP approval, but shall be no less than 450 units).

663
664 f. At closing, the Buyer shall receive from the City the lesser of \$42,000 or one-half the cost of wetlands
665 mitigation related to the Buyer's proposed development, to be determined in good faith by agreement of the Buyer and
666 Seller at least fifteen (15) days prior to closing.

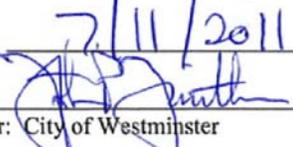
667
668 31. COUNTERPARTS. A copy of this document may be executed by each party, separately, and when each party has
669 executed a copy thereof, such copies taken together shall be deemed to be a full and complete contract between the parties.

670
671
672 Date: 7/5/12
673
674 Buyer: The Pacific Companies
675 
676
677 Address: 430 E. State Street, Ste. 100, Eagle, ID 83616
678 Phone No.: (208) 461-0022
679 Fax No.: (208) 461-3267
680 Email Address: calebr@tpchousing.com

Date: July 5, 2012
Buyer: Urban Pacific Multi-Housing, LLC

Address: 5318 E. 2nd Street, Ste. 644, Long Beach, CA 90803
Phone No.: (562) 552-1777
Fax No.: N/A (email to: choppin@urbanpacific.com)
Email Address: choppin@urbanpacific.com

681
682 ~~[NOTE: If this offer is being countered or rejected, do not sign this document. Refer to § 31]~~

683
684 Date: _____
685
686
687 Seller _____
688
689 Address: _____
690
691 Phone No.: _____
692 Fax No.: _____
693 Email Address: _____

Date: 7/11/2011

Seller: City of Westminster
Address: 4800 W. 92nd Avenue, Westminster, CO 80031
Phone No.: 303-658-2400
Fax No.: 303-706-3920
Email Address: _____

694
695 **COUNTER; REJECTION.** This offer is Countered Rejected.
696 Initials only of party (Buyer or Seller) who countered or rejected offer _____
697 **END OF CONTRACT**

Note: Closing Instructions and Earnest Money Receipt should be signed on or before Title Deadline (§ 2e).

698
699
700 **SELLING BROKER'S ACKNOWLEDGMENTS AND COMPENSATION DISCLOSURE.**
701 (To be completed by Selling Broker)

702
703 Selling Broker Does Does Not acknowledge delivery of Earnest Money deposit specified in § 4 and, while not a
704 party to the Contract, agrees to cooperate upon request with any mediation concluded under § 22.

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Selling Broker is working with Buyer as a Buyer's Agent Transaction-Broker in this transaction. This is a Change of Status.

Seller IS IS NOT a customer working with Selling Broker as a Buyer's Agent.

Selling Brokerage Firm's compensation or commission is to be paid by Listing Brokerage Firm Buyer Other Seller_____

Selling Brokerage Firm's Name: The Laramie Company, LLC-

Date: _____ Broker _____

Address: 730 17th Street, Suite 840, Denver, CO 80202
Phone No.: 303-573-5007 Fax No.: 303 573 5002
Email Address: Bill@Laramiecompany.com

LISTING BROKER'S ACKNOWLEDGMENTS AND COMPENSATION DISCLOSURE.
(To be completed by Listing Broker)

Listing Broker Does Does Not acknowledge receipt of Earnest Money deposit specified in § 4 and, while not a party to the Contract, agrees to cooperate upon request with any mediation concluded under § 22.

Listing Broker is working with the Seller as a Seller's Agent Transaction-Broker in this transaction. This is a Change of Status.

Buyer IS IS NOT a customer working with Listing Broker as a Seller's Agent.

Listing Brokerage Firm's compensation or commission is to be paid by Seller Buyer Other _____

Listing Brokerage Firm's Name: _____

Date: _____ Broker _____

Address: _____
Phone No.: _____ Fax No.: _____
Email Address: _____