



WESTMINSTER
COLORADO

December 9, 2002
7:00 P.M.

CITY COUNCIL AGENDA

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

Members of the audience are invited to speak at the Council meeting. Citizen Communication (item 5) and Citizen Presentations (item 12) are reserved for comments on items not contained on the printed agenda.

1. Pledge of Allegiance
2. Roll Call
3. Consideration of Minutes of Preceding Meetings
4. Presentations
 - A. Proclamation re Shop Westminster Week
 - B. CPRA Columbine Award Presentation
5. Citizen Communication (5 minutes or less)
6. Report of City Officials
 - A. City Manager's Report
7. City Council Comments

The "Consent Agenda" is a group of routine matters to be acted on with a single motion and vote. The Mayor will ask if any citizen wishes to have an item discussed. Citizens then may request that the subject item be removed from the Consent Agenda for discussion separately.

8. Consent Agenda
 - A. Federal Boulevard/US-36 Bridge—Amendment of Intergovernmental Agreement
 - B. Promenade Terrace Reservation and Rental Policy
 - C. Park Shelter Reservation Fees 2003
 - D. Legal Services Agreement with Carlson Hammond & Paddock
 - E. Asphalt Materials Bid
 - F. Design of Reclaimed Waterline Extensions
 - G. CB No. 63 re CLUP Amendment 7247-7261 Meade (Dittman-Kauffman)
 - H. CB No. 64 re rezoning of 7247-7261 Meade St (Dittman-Kauffman)
 - I. CB No. 65 re CLUP Amendment 7383-7394 Lowell Blvd (Atchison-Dittman)
 - J. CB No. 66 re rezoning of 7383-7394 Lowell Blvd (Atchison-Dittman)
 - K. CB No. 67 re CLUP Amendment 7490 Lowell Blvd (Dixon-McNally)
 - L. CB No. 68 re rezoning of 7490 Lowell Blvd (Dixon-McNally)
9. Appointments and Resignations
10. Public Hearings and Other New Business
 - A. Annexation and Preliminary Development Agreement w/Westfield Development re Mandalay Gardens
 - B. Continued Public Hearing re Mandalay Gardens
 - C. Resolution No. 54 re Findings Mandalay Gardens
 - D. Councillor's Bill No. 69 re Annexation of Mandalay Gardens
 - E. Councillor's Bill No. 70 re Zoning of Mandalay Gardens
 - F. Resolution No. 55 re Service Commitment Allocations for 2003
 - G. Councillor's Bill No. 71 re Premier Members Federal Credit Union Business Assistance Package
 - H. Councillor's Bill No. 72 re Open Space Supplemental Appropriation
 - I. Councillor's Bill No. 73 re Sale of Bonds For Construction of 136th Avenue Interchange at I-25
11. Old Business and Passage of Ordinances on Second Reading
12. Citizen Presentations (longer than 5 minutes) and Miscellaneous Business
 - 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.

CITY OF WESTMINSTER, COLORADO
MINUTES OF THE CITY COUNCIL MEETING
HELD ON MONDAY, DECEMBER 9, 2002 AT 7:00 P.M.

PLEDGE OF ALLEGIANCE

Mayor Pro-Tem Atchison led Council, Staff and the audience in the Pledge of Allegiance.

ROLL CALL

Mayor Moss, Mayor Pro-Tem Atchison, Councillors Dittman, Dixon, Hicks, Kauffman, and McNally were present at roll call. Brent McFall, City Manager; Martin McCullough, City Attorney; and Michele Kelley, City Clerk, were also present. Absent none. Mayor Moss delegated Mayor Pro-Tem Atchison to preside over the meeting because the Mayor lost his voice.

CONSIDERATION OF MINUTES

Councillor Dittman moved, seconded by Dixon to approve the minutes of the meeting of November 25, 2002 with no corrections or additions. The motion carried unanimously.

PRESENTATIONS

Mayor Pro-Tem Atchison and Natalie Wilkins, Public Information Specialist, proclaimed December 9-14, 2002 as "Shop Westminster Week."

Melissa Chew, Colorado Parks and Recreation Association, presented Mayor Pro-Tem Atchison and Julie Meenan-Eck, Landscape Architect, with the Columbine Award for design of the Promenade Terrace.

CITY MANAGER COMMENTS

J. Brent McFall, City Manager, announced that over the Thanksgiving weekend the Police and Fire Departments moved into the new Public Safety Center; located at 9110 Yates Street. The Annual Christmas Lighting Ceremony was Sunday, December 8th. Two thirds of the City's revenue is from sales tax and revenues are down 10% for this year, and we are asking all residents to "Shop Westminster".

CITY COUNCIL COMMENTS

Councillor Dittman complimented City Staff of the Christmas decorations. Councillor Kauffman commented on the announcement that Ball Corporation will be moving another of their divisions into Westminster. Councillor Dixon thanked Economic Development for the businesses moving into Westminster and commented on the great job staff did on the Christmas decorations. She asked that residents remind their neighbors that City sales tax pays for Police and Fire services. Councillor McNally commented on the Shop Westminster campaign and the number of Westminster businesses offering discounts. She commented on the great Christmas decorations, and that she attended the National League of Cities meeting last week.

CONSENT AGENDA

The following items were considered as part of the Consent Agenda: Federal Boulevard/US 36 Bridge Amendment of Intergovernmental Agreement; Promenade Terrace Reservation and Rental Policy as amended; Park Shelter Reservation Fees; Legal Services Agreement with Carlson Hammond & Paddock for \$220,000; Asphalt Materials Bid with LaFarge North America for \$287,500; Design of Reclaimed Waterline Extensions with Martin/Martin Consulting Engineers for \$156,777; CB NO. 63 re CLUP Amendment 7247-7261 Meade St; CB No. 64 re Rezoning of 7247-7261 Meade St; CB No. 65 re CLUP Amendment for 7383-7395 Lowell Blvd; CB No. 66 re Rezoning of 7383-7395 Lowell Blvd; CB NO. 67 re CLUP Amendment re 7490 Lowell Blvd; and CB NO. 68 re Rezoning 7490 Lowell Blvd.

The Mayor Pro Tem asked if there was any member of Council or anyone from the audience who would like to have any of the consent agenda items removed for discussion purposes or separate vote. Mayor Pro-Tem Atchison requested the Federal Boulevard/US 36 Bridge Amendment of Intergovernmental Agreement be removed from the consent agenda. Councillor Dixon requested the Promenade Terrace Reservation and Rental Policy be removed from the consent agenda.

Councillor Kauffman moved, seconded by Dittman to adopt the remaining consent agenda items as presented. The motion carried unanimously.

FEDERAL BLVD/US 36 BRIDGE AMENDMENT OF INTERGOVERNMENTAL AGREEMENT

Councillor Kauffman moved, seconded by Dixon to authorize the City Manger to execute a change order to the Intergovernmental Agreement with the Colorado Department of Transportation due to increased cost of the pedestrian fencing at the Federal Boulevard bridge over US-36; authorize the expenditure of an additional \$110,360 to cover the cost of this necessary change.

Mayor Pro-Tem Atchison moved, seconded by Hicks to TABLE the Federal Boulevard/US 36 Bridge Amendment of Intergovernmental Agreement at this time. The motion carried unanimously.

PROMENADE TERRACE RESERVATION AND RENTAL POLICY

Councillor Dixon moved, seconded by Dittman to implement the Promenade Terrace Reservation and Rental Policy. Bill Christopher, 4459 W 111th Ave, addressed Council.

Councillor Dixon moved, seconded by Hicks to amend the policy to charge \$150 per hour for residents and \$300 per hour for non-residents. The amendment failed with dissenting votes from Atchison, Dittman, Kauffman, McNally and Moss.

Councillor Dittman moved, seconded by Hicks to amend the policy to charge \$300 per hour for non-residents. The amendment carried unanimously.

The original motion as amended, carried with a dissenting vote from Dixon.

PUBLIC HEARING RE MANDALAY GARDENS

At 7:40 P.M. the public hearing was opened for the Mandalay Gardens annexation and Zoning. Mayor Pro-Tem Atchison requested a motion to continue the public hearing to December 16 2002. Mayor Moss moved, seconded by Dixon to continue the public hearing to December 16, 2002. The motion carried unanimously. The public hearing was declared continued at 7:42 P.M.

RESOLUTION NO. 55 RE SERVICE COMMITMENT ALLOCATIONS FOR 2003

Councillor Dittman moved, seconded by Dixon to adopt Resolution No. 55 allocating Service Commitments for the year 2003 to the various categories of the Growth Management Program. Bill Christopher, 4459 W 111th Ave, and Chris Vincent, AV Development, 8496 Lone Tree Circle, addressed Council.

Councillor Hicks moved, seconded by Dixon to TABLE this item until January 13, 2003. The motion and second were withdrawn.

Upon roll call vote of the main motion, the motion carried unanimously.

COUNCILLOR'S BILL NO. 72 RE OPEN SPACE SUPPLEMENTAL APPROPRIATION

Councillor Dixon moved, seconded by McNally to pass Councillor's Bill No. 72 on first reading authorizing the supplemental appropriation of \$275,500 from grants and donations into the 2002 Open Space Fund. Upon roll call vote, the motion carried unanimously.

ORDINANCE NO. 2997 RE SALE OF BONDS FOR CONSTRUCTION OF 136TH AT I-25

Councillor Dixon moved, seconded by Hicks to pass Councillor's Bill No. 73 as an emergency ordinance approving the sale of \$15.09 millions Sales Tax Revenue Bonds for the construction of the 136th Avenue Interchange at I-25, and direct the Mayor, Finance Director and City Clerk to sign necessary documents on behalf of the City. Upon roll call vote, the motion carried with Councillor McNally abstaining.

ADJOURNMENT:

The meeting was adjourned at 8:30 P.M.

ATTEST:

City Clerk

Mayor



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
December 9, 2002



SUBJECT: Proclamation re Shop Westminster Week

Prepared By: Natalie Wilkins, Public Information Specialist

Recommended City Council Action:

Proclaim the week of December 9-14, 2002 as “Shop Westminster Week” in the City of Westminster.

Summary Statement:

- The City of Westminster is supporting local businesses through a Shop Westminster campaign, designed to provide residents with information on the role local sales tax plays in supporting City services, such as police, fire, parks, open space, streets and libraries.
- Nearly 70 percent of the City’s general fund, which pays for these services, is funded through local sales tax. Additionally, the City is interested in promoting the success of local businesses to ensure that the City maintains a balanced and healthy local economy. Therefore, the City is encouraging residents to choose to shop at local stores whenever possible.
- More than 80 Westminster businesses have signed up to participate in a special “Shop Westminster Week” from December 9-14 by offering a special discount or promotion to shoppers.

Expenditure Required: \$ 0

Source of Funds: N/A

Policy Issues

Does City Council wish to recognize the important relationship between local sales tax and City services and encourage residents to shop at Westminster businesses by promoting December 9-14 as Shop Westminster Week?

Alternatives

City Council could decide not to proclaim the week of December 9 as Shop Westminster Week.

Background Information

The Public Information Office is coordinating a Shop Westminster campaign with shared funding from the City's Economic Development division. This is a public relations campaign designed to educate our residents about the role local sales tax plays in providing City services; support our local businesses; disseminate information on Westminster's boundaries to assist shoppers in choosing local stores; and to give City employees a role in helping improve the City's revenue picture.

The campaign message is being delivered with the "Shop Westminster" logo designed on a stop sign. This image is designed to be concise and eye catching. It is being used in numerous promotional materials and will help residents identify Westminster businesses. The campaign launched in August at the Westminster Faire and will continue throughout the year, with a special push during the holiday shopping months of November and December.

The campaign elements include:

- Promotional materials located in local businesses and distributed to shoppers (window stickers, receipt stuffers, point-of-purchase signs, etc.)
- Direct outreach to residents at City events (shopping notepads at Westminster Faire, etc.)
- Targeted advertising, such as on Westminster bus kiosks
- Media relations including publicity events such as a "Shop Westminster Day"
- Web promotions
- Use of City communication mediums such as Channel 8, City Edition and Tuesday Tidbits, Weekly Edition and COW Talk

Respectfully submitted,

J. Brent McFall
City Manager

Attachment

Whereas, Nearly 70 percent of Westminster's services are funded by local sales tax; and

Whereas, Local sales tax pays for police and fire protection, open space, parks, libraries, recreation centers, street maintenance and many other critical City services; and

Whereas, Westminster has one of the lowest city sales tax rates in the north metro area; and

Whereas, Shopping at local businesses ensures a healthy local economy with a wide variety of retail choices for shoppers; and

Whereas, The City of Westminster wants to support and ensure the success of its local businesses.

Now, therefore, I, Ed Moss, Mayor of the City of Westminster, on behalf of the entire City Council and Staff do hereby declare the week of December 9-14, 2002 as

Shop Westminster Week

in the City of Westminster and encourage residents to support their local businesses during this week and throughout the year.

Signed this 9th day of December, 2002.

Ed Moss, Mayor



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
December 9, 2002

SUBJECT: CPRA Columbine Award Presentation

Prepared By: Karen Layfield, Management Assistant

Recommended City Council Action

Mayor Moss and Julie Meenan-Eck, Landscape Architect, accept the Columbine Award on behalf of the City from Melissa Chew, Colorado Parks and Recreation Association, Awards Chair.

Summary Statement:

- The Colorado Parks and Recreation Association (CPRA) Columbine Award for Park and Recreation Design of the Promenade Terrace was presented to the City of Westminster at the CPRA Fall Conference.
- The award recognizes new park or recreation facilities that demonstrate high standards of planning, design, operation, maintenance, and aesthetics.

Expenditure Required: \$ 0

Source of Funds: N/A

SUBJECT: CPRA Columbine Award Presentation

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Policy Issue

There are no policy issues associated with the acceptance of this award.

Background Information

Annually, CPRA recognizes projects that have positively impacted Parks and Recreation and the community. The Promenade Terrace project was selected based upon a narrative description of the completed project, slides of the completed project, and background of the project including scope, planning and design philosophy, community involvement, and the relationship to the master plan. The Promenade Terrace was also judged by the relationship of the facility to its surroundings, the utilization of sound design principles, and practices to protect natural areas and the environment. One Columbine Award for park design is given annually to entities in Colorado that compete for this honor.

Respectfully submitted,

J. Brent McFall
City Manager



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
December 09, 2002



SUBJECT: Federal Boulevard/US-36 Bridge—Amendment of Intergovernmental Agreement

Prepared By: Stephen C. Baumann

Recommended City Council Action

Authorize the City Manger to execute a change order to the Intergovernmental Agreement with the Colorado Department of Transportation due to increased cost of the pedestrian fencing at the Federal Boulevard bridge over US-36; authorize the expenditure of an additional \$110,360 to cover the cost of this necessary change.

Summary Statement

- In 1999, City Council approved an Intergovernmental Agreement (IGA) with the Colorado Department of Transportation (CDOT) allowing the City to participate in the State's Federal Boulevard/US-36 interchange reconstruction project. The City's portion of the cost was for limited landscaping upgrades and significant enhancements to the new Federal Boulevard bridge that carry out themes developed for other bridges in the City's portion of the US-36 corridor. A total of \$757,500 has been approved for the City's participation in the project to date.
- The subcontractor responsible for the fabrication and installation of the pedestrian fencing on the bridge, a cost that was entirely the City's, has ceased operations after fabricating only a portion of the fence. No fencing has been installed. The subcontractor was included in the project under Disadvantaged Business Enterprise specifications and CDOT is required to bid the completion of the fence work. In addition to the bid amount of \$67,270, completion of the fabrication and installation of the pedestrian fencing will cost \$110,360, including CDOT's administration and construction observation costs, allowed under the IGA with the City.
- Staff is recommending the cost of the change be approved for reasons discussed more fully in this report. Two capital projects that involve work on US-36 or have enhancement components similar to those called for at Federal Boulevard/US-36 have surplus funds which could be used to cover this cost. Under this recommendation, approximately \$42,800 would come from the balance of funds in the Turnpike Drive Relocation project and would be combined with \$67,560 from a surplus in the Westminster Boulevard Extension project budget.

Expenditure Required: \$110,560

Source of Funds: Capital project funds

Policy Issues

Given the unforeseen events and the significant increased cost, should the City maintain its commitment to architectural enhancements to the Federal Boulevard Bridge over US-36?

Alternative

Under the most desirable alternative, the City might be able to negotiate with CDOT to pay for the pedestrian fence materials along with CDOT's costs to date (including some portion of the general contractor's costs in dealing with the subcontractor's default), and contract with another fabricator/installer for completion of the work. On paper, the City avoids the cost of CDOT administering the completion of the work. Because this would necessitate preparation of a unique bid package and would have to include construction costs that are already built into CDOT's contract with their general contractor, this approach would almost certainly cost even more than having CDOT finish the work. For these reasons, this alternative is not recommended.

Background Information

In September of 1999, City Council approved an Intergovernmental Agreement (IGA) with the Colorado Department of Transportation (CDOT) and participation in the costs of the Federal Boulevard/US-36 Interchange Reconstruction. The City's costs were for specific items within the project that would enhance the aesthetic character in conformance with a theme that has been developed for the US-36 corridor. They included certain landscape infrastructure that will be used in a future landscaping and gateway project, stone cladding for the bridge substructure and a decorative steel pedestrian fence on the bridge along Federal Boulevard. A total of \$757,000 was approved to cover these costs in Council's original approval in 1999 and in a subsequent change done in May 2002.

The subcontractor for the pedestrian fence work was Security First Welding Inc., working as a Disadvantaged Business Enterprise (DBE) contractor to the general contractor, Asphalt Specialties Inc (ASCI). DBE contracting is an important aspect of CDOT's contracts and DBE contractors are to be given much leeway and assistance by the general contractor under CDOT's specifications. In this case ASCI purchased all material for the fence, delivered it to Security First Welding and then provided labor to help with fabrication. Approximately 80% of the fence was fabricated and none has been painted or installed. Security First Welding ceased operations in summer 2002, and ASCI took possession of the materials for the job.

Normally, upon the default of a subcontractor, the completion of the fence work would be a performance obligation of the general contractor, subject to whatever claims the general contractor might make to justify additional compensation. However, CDOT's specifications are designed to give DBE contractors every chance to succeed and thus do not penalize the general contractor when/if their subcontractor fails. Under the rules for DBE contracting, CDOT is required to bid the completion of the fence work. In this case, it is very likely that Security First Welding underbid the fence work, possibly because the job was bid in metric units (meters of fencing instead of feet). Their bid price of \$310 per meter is approximately one-third the bid price for similar fencing installed as part of the 92nd Ave and Westminster Boulevard bridges. As a result, Security Welding could not reasonably finish the job, even with the general contractor's assistance. CDOT has little recourse but to remove them from the list of Disadvantaged Business Enterprise contractors. Proposals received by CDOT for completion of the pedestrian fencing priced that work at \$110,360 and \$113,215 including CDOT's administration costs.

The language in the IGA makes the City responsible for the costs of the pedestrian fence according to the contract awarded to ASCI by CDOT at the inception of the job, and in conformance with CDOT's specifications, including those covering the circumstance of default by a DBE subcontractor. One alternative to the CDOT mandated approach was explored. Assuming that the decorative fence is a desirable element of the completion of the bridge, the City could request that they be able to take receipt of the materials and complete the job itself. CDOT and ASCI would be entitled to their costs to date (an estimated \$95,000). While this might eliminate CDOT's administration costs on having ASCI complete the work, it brings with it the City's own administration costs and other costs associated with the City developing a unique bid package, contracting for the work directly, including mobilization and construction traffic control on top of the fabrication and installation itself. In CDOT's approach, mobilization and traffic control to complete the work are being absorbed within CDOT's original contract with ASCI. Completion of the project would almost certainly be more expensive and delayed, possibly by four to six months as the details are worked out. This alternative is not recommended.

Staff is recommending that Council approve the change order to the City's IGA with CDOT to pay an additional \$110,360 to complete the fabrication and installation of the pedestrian fencing on the Federal Boulevard bridge over US-36. Two projects that are essentially complete have surplus funds that could be applied toward this necessary work. One is the Turnpike Drive Relocation project with a balance of \$42,800. This project was created as a result of the Federal Blvd/US-36 project and made it possible for the City to retain Turnpike Drive near 76th Ave. A surplus also exists in the Westminster Boulevard Extension project sufficient to cover the remaining \$67,560 of the \$110,360 increased cost of the fence work. The City's participation in the Federal Boulevard/US-36 Interchange Reconstruction will then be a maximum of \$867,860.

Respectfully submitted,

J. Brent McFall
City Manager



**WESTMINSTER
COLORADO**

Agenda Memorandum

City Council Meeting
December 9, 2002



SUBJECT: Promenade Terrace Reservation and Rental Policy

Prepared By: Greg McSwain, Recreation Programs Manager
Rich Dahl, Parks Services Manager

Recommended City Council Action

City Council's approval is requested for the implementation of the attached rental policy for the reservation and use of the Promenade Terrace.

Summary Statement

- The attached rental policy for the use of the Promenade Terrace reflects the changes and modifications requested by Council at the November 18, 2002, Study Session.
- Given the quality and uniqueness of the topography, location and amenities at this site, Staff anticipates that the demand for use of this site for special events and occasions will be great and that it justifies the need for a separate reservation policy and rental fee structure.
- As per City Council's direction, Westminster residents and Westin Westminster customers would be charged \$200 per hour for the rental of the Promenade Terrace. For nonresidents, the rate would be \$250 per hour.
- Reservations and a deposit will be accepted one year in advance of the reservation date for Westminster residents and Westin customers. Reservations for non-residents will be accepted nine months in advance. It is estimated that \$25,000 - \$30,000 in revenues will be brought in once the facility established itself.
- City of Westminster activities and programs would be able to reserve the site more than one year in advance.
- Use of alcohol by groups or parties renting the site can be permitted with an approved City of Westminster alcohol permit and proof that renters have contracted with the Westminster Police Department for off-duty police coverage. An exception will be that the Westminster Westin will provide its own security staff to supervise any rentals by Westin customers that include alcohol and will take full responsibility for any liability arising from alcohol-related incidents resulting from Westin rentals at the Promenade Terrace.
- A total of \$18,000 for the maintenance and clean up of the site have been allocated in the 2003 Parks Services operating budget.

Expenditure Required: \$0

Source of Funds: N/A

Policy Issue

Does City Council wish to institute a reservation and rental policy in 2002 for future use of the Promenade Terrace by outside groups?

Alternative

- Take no action at this time and allow groups to reserve the Promenade Terrace using the established policies and fees already in place for City park pavilions. Given the quality and special nature of this site, as well as the maintenance and cleaning issues that rentals present, Staff does not recommend this alternative.

Background Information

The Promenade Terrace was a \$1.3 million project that was the result of master planning that began in 1999. The site, which consists of 1.5 acres, is the first phase of a 16.5-acre master plan. The Promenade Terrace is located adjacent to the Westminster Promenade along the west side of Big Dry Creek and provides a strong pedestrian connection across the Big Dry Creek that ties into the City Park's trail system. The project was successful in creating a natural attraction that highlight's the area's topography, views, mature trees, grand staircase, water features and pedestrian connections. The terraced areas of the site surround a natural amphitheater and stage. The amphitheater is a relatively small area that will hold less than 500 people, but is a very attractive location for wedding ceremonies, family gatherings, small concerts, and other special events. The project was completed in July, and the site was officially dedicated at the 2002 Westminster Faire on August 3, 2002. If this policy is approved by City Council, Staff will develop a procedure for closing off access to the site by the general public for any private rentals.

This policy was reviewed and discussed at the November 18, 2002, Study Session and the revised draft of the reservation and rental policy for the Promenade Terrace is attached for your consideration.

Respectfully submitted,

J. Brent McFall
City Manager

Attachment

**CITY OF WESTMINSTER
WESTMINSTER PROMENADE TERRACE
RENTAL POLICIES AND PROCEDURES**

RESERVATIONS:

All reservations will be made through the City of Westminster Parks, Recreation and Libraries Department, 4800 West 92nd Avenue, (303) 430-2400, Extension 2192. Reservations are taken from 8:00 a.m. to 4:30 p.m., Monday through Friday.

Reservations for Westminster residents, recognized Westminster-based non-profit groups, and the Westin Westminster will be accepted one year in advance. Reservations are done on a year-to-date basis. If the desired date falls on a weekend, reservations will be taken on the Friday before. Requests for special reservations in advance of one year shall be made to the Manager of Recreation Programs or the Manager of Park Services.

All other reservations will be accepted nine months in advance.

Reservations are for the Promenade Terrace stage area, lawn area and the reflection pool. Reservations do not include the public walkways associated with the Promenade Terrace or any other areas of the Westminster Promenade, the Westminster Westin or parking lots.

No reservation permit shall be issued except on satisfactory assurance that the use of the facility will be under the direct supervision of an adult 21 years or older.

The area must be entirely vacated by the contracted ending time of the rental. This includes all guests, caterers, equipment, etc. Late charges will be assessed at the appropriate hourly rate.

All rentals must be completed and area cleaned and vacated by sunset.

CITY PROGRAMS

City of Westminster-sponsored activities and programs may reserve the facility more than a year in advance.

CONDUCT

Individuals making the reservation are responsible for the conduct of their group and adherence to rental policies and procedures. The damage deposit may be withheld if damages and/or repairs to the park are needed.

CLEAN UP

The person or group reserving the Promenade Terrace is responsible for the general clean up of the Promenade Terrace by the expiration of their rental permit. A clean up fee will be withheld from the damage deposit for excessive trash.

CAPACITY

The maximum number of people the Promenade Terrace can accommodate is 500.

RENTAL FEES

Westminster residents/Westminster non-profits/Westin Westminster customers * :
\$200/hour

All Others:
\$250/hour

* The Westin Westminster agrees to not charge their customers more than the resident fee (as established by the Westminster City Council) for the rental of the Promenade Terrace. Note that it is understood that the Westin Westminster will charge for other services rendered by them that may be needed by their customer to support the rental, i.e., catering, beverages, equipment.

DEPOSITS AND REFUNDS

A \$300 deposit must be paid in full at the time of the reservation. This will serve as the reservation and damage deposit. The reservation deposit is non-refundable if the reservation is cancelled three (3) months or less prior to the event. If the reservation is cancelled more than three (3) months and less than six (6) months prior to the event, \$100 will be refunded. If the reservation is cancelled more than six (6) months prior to the event, \$200 will be refunded. No other refunds will be given.

Balance of fees due for entire rental must be paid in full 30 days prior to rental date.

Reservation/damage deposit will be refunded within 30 days after the rental date provided that the renter has met all obligations of the rental agreement.

Any damage caused by renter to turf and planted areas, irrigation systems, electrical systems, or pathways will result in monies being withheld from damage deposits. The renter will be invoiced for any damages that exceed the \$300 damage deposit.

ALCOHOL

Alcohol permit may be obtained subject to the approval of the Director of Parks, Recreation and Libraries or his designee.

Permits shall be for beer and/or wine only.

No glass bottles allowed (including champagne, wine or beer bottles).

Alcohol permits will not be issued for those events honoring guests under 21 years of age.

All participants at an event with an alcohol permit must be at least 21 years of age or accompanied by a parent or guardian.

There is a four- (4) hour limit on alcohol permits.

If alcohol is being served, it is required that an off-duty Westminster Police officer be present at the site. It will be the responsibility of the renter to contract and schedule with the City of Westminster for an off-duty officer to be present at any rental involving alcohol. Current charge for a police officer is \$40 per hour and is subject to change. Note that the Westminster Westin will provide their security staff to monitor any alcohol use by their customers at the Promenade Terrace and will not be required to contract with the City for police coverage. The Hotel agrees to hold the City harmless from any liability resulting from any alcohol-related incident involving a Westin Hotel rental group.

Alcohol cannot be sold unless a special license is obtained from the City's Special Permits and License Board. These special licenses are only available to non-profit organizations.

TENTS

Tents greater than 200 square feet must have approval of the Parks, Recreation and Libraries Department and the Fire Department for placement and safety. The City of Westminster reserves the right to designate tent vendors that may be contracted out by renters for use at the Promenade Terrace. Charges will be assessed for damage to underground irrigation systems or electrical components caused by the erection of any tents.

AMPLIFIED SOUND

Use of amplified music or live bands is prohibited without written consent of the Director of Parks, Recreation and Libraries.

CATERERS

No cooking is allowed.

Only State-licensed caterers may be contracted to bring in and serve food that was prepared off site. The City of Westminster reserves the right to designate caterers.

It will be the responsibility of the renter to insure that all trash is properly collected and stored.

EQUIPMENT

The Westminster Parks, Recreation and Libraries Department will furnish no tables, chairs or other equipment.

All equipment brought in by the renter must be hand carried onto the Promenade Terrace from the approved parking areas or approved access paths. Cars and trucks are prohibited on the Promenade Terrace grounds.

All equipment must be removed from the Promenade Terrace by the contracted ending time or late charges will be assessed at the appropriate hourly rate.

SIGNS

Under no circumstances are signs or decorations to be nailed, pinned, taped, stapled, etc., to any fixture, tree or park sign. Copy of permit will be mailed to renters for their reference and a designated sign to post permit will be established at the park.

RICE, CONFETTI, ETC.

No rice, confetti, birdseed, etc., shall be used at events at the Promenade Terrace without prior approval from the Manager of Recreation Programs or the Manager of Park Services. Use of such items will be considered littering and subject to a clean up fee.

FLORAL ARRANGEMENTS

Any flower arrangements, garlands, etc., must be removed at the conclusion of the event. Any items left over may be considered litter and subject to a clean up fee being deducted from deposit.

PARKING SPACES

No reservation of parking space is allowed for Promenade Terrace rentals – only the actual Promenade Terrace can be reserved.

ACCESSIBILITY

The Promenade Terrace is fully accessible.



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
December 9, 2002



SUBJECT: Park Shelter Reservation Fees 2003

Prepared By: Richard Dahl, Park Services Manager

Recommended City Council Action:

Authorize an increase the park shelter reservation fee by 25% for 2003 to offset administration and maintenance costs associated with the operation of this program and provide direction on the percentage of increase to be recommended.

Summary Statement

- In 1997, the City began charging for picnic shelter permits. Fees have not changed since that time.
- In 2002, the Department of Parks, Recreation and Libraries issued 506 resident and 32 non-resident picnic shelter permits (538 total), serving 30,000 participants.
- There are seven picnic shelters available in the park system for use through the permit reservation system.
- Alcohol permits (3.2 beer) are available, at additional cost, subject to approval by the Director of Parks, Recreation and Libraries. There were a total of 123 alcohol permits issued in 2002.
- Revenues from permit sales for 2002 totaled \$16,160 (Resident Fees - \$11,165; Non-Resident Fees - \$1,850; Alcohol Permits - \$3,150).
- Total costs to maintain the picnic shelter reservation program in 2002 were \$41,860.
- Staff recommends an increase of 25% for resident use, non-resident use and alcohol permit fees to more fully cover the costs of maintaining these shelters.

Expenditure Required: \$ 0

Source of Funds: N/A

Policy Issue

Is it advisable in the current economic climate to increase fees for park programs such as the picnic shelter reservation system?

Alternative

Do not increase the picnic shelter reservation fees at this time. Staff does not recommend this option as the cost of providing service continues to escalate each year and the City is not being adequately reimbursed for the costs of granting private use for City property.

Background Information

Previous City Councils have chosen not to attempt to recover full maintenance costs involved in permitting out of the City’s picnic shelters. During 2002, the Department of Parks, Recreation and Libraries will spend \$41,860 on shelter maintenance. These costs include trash removal, cleaning, fixture repair, portable toilets and administrative costs. Although some of these costs would occur regardless of the shelter permit system, Staff estimates approximately 50 percent, or \$20,930, of the costs are a direct result of permit reservations.

Staff has collected the following cost comparisons for picnic shelter rental in comparable cities in the area.

Agency	Resident	Non Resident	Alcohol Permit
Arvada	\$60 for 5 hours	\$80 for 5 hours	\$15
Northglenn	\$25 - \$100 for 4 hours	\$35 - \$150 for 4 hours	No alcohol
Thornton	\$20 - \$80 for 4 hours	\$40 - \$100 for 4 hours	\$0
Broomfield	\$56 - \$144 for 4 hours	\$88- \$288 for 4 hours	\$10
Boulder	\$50 for 4 hours	\$65 for 4 hours	\$25
Fort Collins	\$35 - \$100	\$35 - \$100	No alcohol
Westminster*	\$15 – ½ Pavilion – 6 hours	\$25 – ½ Pavilion – 6 hours	\$25
	\$25 – Whole Pavilion – 6 hours	\$50 – Whole Pavilion – 6 hours	
	\$30 – ½ Pavilion – 12 hours	\$50 – ½ Pavilion – 12 hours	
	\$50 – Whole Pavilion – 12 hours	\$100 – Whole Pavilion – 12 hours	

*In 2002, the City collected \$16,160 in permit fees.

The reasons for the permit fee variation for all cities (except Westminster) is because the other cities based their fees on the number of participants for the permit and on a 4-hour block of time. Westminster’s fees are not based on attendance, but on a 6 or 12-hour block of time and on the size of the shelter (Westminster reserves both full and half pavilions).

Staff previously presented the following three percentage recommendations and revenue projections for Council’s review.

1. 25% Permit Fee Increase (Recommended by City Staff)

Resident	\$20 – \$60
Non-resident	\$30 - \$120
Alcohol permit	\$30
<u>Estimated revenue collected</u>	<u>\$19,470</u>

2. 50% Permit Fee Increase

Resident	\$22 - \$75
Non-resident	\$37 – 150
Alcohol permit	\$37
<u>Estimated revenue colleted</u>	<u>\$25,900</u>

3. 100% Permit Fee Increase

Resident	\$30 - \$100
Non-resident	\$50 - \$200
Alcohol permit	\$50
<u>Estimated revenue collected</u>	<u>\$32,300</u>

Staff is recommending an increase of 25% to bring park shelter reservation fees closer to covering the direct costs of permit reservations.

Respectfully submitted,

J. Brent McFall
City Manager



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
December 9, 2002



SUBJECT: Legal Services Agreement with Carlson Hammond & Paddock

Prepared By: Michael Happe, Senior Water Resources Engineer

Recommended City Council Action:

Authorize the City Manager to execute a fee agreement with Carlson Hammond & Paddock (CHP) for special water counsel services, not to exceed \$220,000 for this expenditure in the 2003 Water Fund operating budget and \$228,000 in the 2004 Water Fund Operating Budget.

Summary Statement:

- The Attorneys at CHP have effectively and successfully represented the City of Westminster in water matters since 1977 and have developed a very thorough knowledge of Westminster water supply and water quality issues.
- CHP average billing rate to the City of Westminster is lower than the average for water rights attorneys representing large Colorado water users based on a survey of major Colorado water users.
- Over this time CHP has become an integral part of the Public Works and Utilities Water Resources and Treatment team that is charged with developing and protecting Westminster's water supply.
- Westminster's water supply is an extremely valuable asset that requires constant protection from water quality and water quantity degradation.
- Colorado's water rights system requires judicial action for many water matters, thus the City needs expert legal counsel specializing in water rights and water quality.
- Increasing development pressure requires vigilance in numerous water quality forums in the State in order to protect the water quality of Standley Lake and its tributary basins.
- CHP is extremely qualified and competent in water rights and water quality issues.

Expenditure Required: Not to Exceed \$ 220,000 in 2003 and \$228,000 in 2004

Source of Funds: 2003 and 2004 Water Resources and Treatment Division operating budget

Policy Issues

Whether to retain Carlson Hammond & Paddock as special water counsel services on behalf of the City in connection with water matters for 2003 and 2004.

Alternatives

Do not retain special water counsel, or seek new special water counsel to handle water matters for the City. The City could hire additional full time attorneys to handle the City's water rights and water quality matters, however this would reduce the amount of flexibility the City currently has with adjusting to meet changing work load requirements and would increase the City's long term commitment to full time employees. The City could alternatively seek out new special water council, but given the good work, long-term relationship and low costs of the representation from Carlson Hammond & Paddock, this alternative does not appear attractive.

Background Information

The City of Westminster has a long history of representation on water matters from the principal members of the Carlson Hammond & Paddock firm. In 1977, the City retained Holland and Hart to handle water matters for the City. John Carlson, Charlie Elliot and Mary Hammond were the principal attorneys working on Westminster issues for Holland and Hart. In 1985, John Carlson, Charlie Elliot and Mary Hammond left Holland and Hart to start their own firm. The City chose to stay with Carlson, Elliot and Hammond as the City's special water counsel instead of staying with Holland and Hart. Charlie Elliot passed away in 1985 and John Carlson passed away in 1992. Now Mary Hammond and Lee Johnson are the principal attorneys representing the City on water matters. Mary Hammond and Lee Johnson have been working on Westminster water matters for 25 years and 14 years respectively.

The Carlson firm, or variations of it over the years, have played integral parts in a number of very noteworthy historical events involving the Westminster water supply. Here are a few examples:

1. The Four-Way Agreement between Westminster, Thornton, Northglenn and the Farmers Reservoir and Irrigation Company in 1978 that sets forth the partnership in sharing Standley Lake for water storage.
2. Successful litigation with the City of Golden in 1985, that prevented Golden from taking Westminster's clean water headed to Standley Lake and replacing it with treated effluent.
3. A comprehensive settlement with Golden and Coors over several water quality and quantity agreements that assured that Standley Lake would be permanently protected from Coors and Golden treated sewage discharges along with the settlement of a number of other water disputes among Coors, Golden, Thornton and Westminster. This 1988 agreement became known as the "Cosmic Agreement" due to its size, scope and importance.
4. The successful completion through water court of the change of use of over \$200,000,000 worth of water rights from agricultural uses to municipal uses within the City of Westminster.
5. The protection of Standley Lake from contamination from the Rocky Flats Nuclear Weapons plant through the development of the Standley Lake Protection Project, including Woman Creek Reservoir.
6. Successful litigation with the City of Golden that upheld the State Engineer's order for Golden to cease and desist the illegal diversions of Clear Creek water upstream of the Farmers' High Line Canal.

CHP has developed a very thorough knowledge of Westminster's water supply and water quality issues, and is a key player in helping develop and protect Westminster's raw water supply. The fees charged by CHP to the City are very favorable when compared with other major water suppliers in Colorado. Carlson Hammond & Paddock is proposing to increase the rate charged for its services for all partners and associates from \$132.50 per hour to \$140 per hour for 2003 and to \$145 per hour for 2004. This increase is relatively small and based on the 2002 survey of water attorney rates charged to major water suppliers in Colorado, Carlson Hammond & Paddock's rates are still substantially below the average.

Water Counsel Fees			
<u>Entity</u>	<u>SA Hourly Rate</u>	<u>Entity</u>	<u>SA Hourly Rate</u>
Westminster	\$140-\$145/hr	Fort Collins	\$175-210/hr
Arapahoe County	\$175/hr	Glenwood Springs	In house
Arvada	\$160-180/hr	Greeley	\$170/hr
Aurora	\$150-160/hr	Littleton	\$155-185/hr
Brighton	\$155-185/hr	Longmont	\$225/hr
Broomfield	\$150-160	Loveland	\$180-220/hr
Boulder	\$165-200/hr	Metro Wastewater Reclamation District	\$175-180/hr
Cherry Creek Valley Water and Sanitation District.	\$165/hr	Northern Colorado Water Conservancy District	\$135-170/hr
Denver Water Board	In house	Northglenn	\$155-185/hr
East Cherry Creek Valley Water and Sanitation District	\$125-275/hr	South Adams County Water and Sanitation District	\$200/hr
Englewood	\$230/hr	Southeastern Colorado Water Conservancy District	\$180/hr

Based on all the factors detailed in this memorandum, Staff did not feel it was in the best interest of the City to seek bids on the City's legal services related to water rights and water quality and that the City should retain Carlson Hammond and Paddock for 2003 and 2004.

Respectfully submitted,

J. Brent McFall
City Manager



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
December 9, 2002

SUBJECT: Asphalt Materials Bid

Prepared By: Sam LaConte, Street Operations Manager
Carl F. Pickett, Purchasing Specialist

Recommended City Council Action

Award the bid to Lafarge North America for purchase of asphalt materials at the unit prices indicated on the bid tabulation on an as-needed basis up to a maximum of \$287,500, and charge the expense to the appropriate 2003 Street Operations Division account.

Summary Statement

- City Council approved the 2003 Street Operations Budget, which includes \$300,000 in funds to purchase asphalt material.
- Material being purchased is used for all types of street maintenance repairs including pothole patching, surface replacement, and the In-house Rehabilitation Program.
- Adams County School District 50 also participated in the bid for their anticipated asphalt materials purchases of 200 tons.
- Formal sealed bids were solicited from five asphalt vendors in accordance with the City Charter, with Lafarge North America being the low bidder.
- An estimated 12,000 tons of various grades of asphalt material will be purchased on an as-needed basis throughout 2003.
- Credit for 5,000 tons of recyclable asphalt will be issued to City of Westminster throughout the year.

Expenditure Required: \$ 287,500

Source of Funds: Street Operations Division 2003 Budget Account

Policy Issue

Should the City accept the lowest bid for asphalt from the five suppliers solicited?

Alternative

An alternative for 2003 asphalt purchasing would be to award the bid to the lowest bidder without calculating the City’s hauling costs. Awarding the bid to Asphalt Specialties would mean a 20-ton decrease in the amount of asphalt purchased for \$287,500 due to the \$4,506.11 increase in hauling costs.

Background Information

The results of the bidding were as follows:

Company	Cost/Ton	Estimated Tons of Asphalt	Total Asphalt Cost	Recycled Asphalt Credit	Estimated Soft \$ Cost of City Hauling	Total w/hauling
Lafarge North America	\$ 24.38	12,000	\$ 292,560	(\$5,000)	\$4,506	\$ 292,066
Asphalt Specialties	\$ 24.38	12,000	\$ 292,560	(\$7,500)	\$9,012	\$ 294,072
Aggregate Industries	\$ 24.97	12,000	\$ 299,640	(\$5,000)	\$7,701	\$ 302,341
Brannan Sand & Gravel	\$ 25.50	12,000	\$ 306,000	(\$5,000)	\$8,193	\$ 309,193
Asphalt Paving	\$ 26.75	12,000	\$ 321,000	(n/a)	\$12,289	\$ 333,289

After tabulating the cost of asphalt per ton, credit per ton hauled in for recycling, and the hauling costs of City trucks, LaFarge North America is the apparent low bidder. Round trip to LaFarge is 11 miles compared to 22 miles to Asphalt Specialties, resulting in a \$4,506 savings. The plant is fully automated and the mix design meets City specifications. Street Operations Division Staff has inspected the facility and does not anticipate any problems with the quality of materials or the service that Lafarge North America can provide.

The 2003 asphalt materials bid reflects a 1% decrease over the 2002 prices, and a 3% decrease over 2001 prices. The reasons given for the decrease are due to early competitive bidding and the economic slowdown.

Respectfully submitted,

J. Brent McFall
City Manager

Attachment

ASPHALT BIDS

	LaFarge	Asphalt Specialties	Aggregate Ind	Brannan	Asphalt Paving
"s"	\$ 24.00	\$ 23.75	\$ 25.50	\$ 25.50	\$ 26.75
"sx"	\$ 24.75	\$ 25.00	\$ 24.43	\$ 25.50	\$ 26.75
Average	\$ 24.38	\$ 24.38	\$ 24.97	\$ 25.50	\$ 26.75
Recycle	\$ 1.00	\$ 1.50	\$ 1.00	\$ 1.00	\$ -
Miles	11	22	18.8	20	30

"s" = 1/2" material
"sx" = 3/4" material



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
December 9, 2002



Subject: Design of Reclaimed Waterline Extensions

Prepared by: Diane M. Phillips, Capital Improvement Projects Coordinator
Kipp Scott, Water Quality Administrator

Recommended City Council Action

Authorize the City Manager to execute a contract with Martin/Martin Consulting Engineers for a sum of \$156,777 for the design of three reclaimed waterline extensions. This includes a 15% contingency and construction inspection services.

Summary Statement

- In order to fully utilize the reclaimed water treatment system to its full capacity, waterlines need to be extended to applicable reclaimed customer locations.
- Three extensions will be designed in this project including: Sheridan and 116th east and north to 120th Avenue, Federal north from 112th Avenue to 114th, and at Pecos west to Federal and east to Huron along 121st (maps attached).
- Proposals were received on November 4. A total of five engineering firms proposed on this project.
- The lowest responsible proposal was received from Martin/Martin Consulting Engineers.
- Martin/Martin has performed work for the City of Westminster previously. They provided construction documents and construction engineering services for the Westminster Boulevard Water Transmission Improvement Project.
- Funds for this project are available in the Utility Fund Capital Improvement Budget.
- City Council is requested to authorize the City Manager to enter into an agreement with Martin/Martin to provide design and construction services of three reclaimed waterline extensions.

Expenditure Required: \$156,777

Source of Funds: Utility Fund Capital Improvement Budget

Policy Issue

Should the City design extensions of reclaimed water lines?

Alternative

The City could choose not to design and extend reclaimed water lines to these areas; however, it will be difficult to fully utilize the reclaimed treatment capacity without these extensions.

Background Information

In order to fully utilize the capacity in the Reclaimed Water Treatment Plant (currently 6 million gallons per day (MGD)) reclaimed waterlines will need to be extended to potential customers.

Three projects have been selected for design which include:

- Sheridan east from 116th Avenue and north to 120th Avenue. This extension will allow reclaimed water use for irrigation in the Bradburn Subdivision, and along the 120th Avenue right-of-way (approximately 28 acres). Additionally, it will be utilized in the future by Westfield Park when this 20-acre park is developed.
- Federal north from 112th Avenue. This extension will provide reclaimed water to the Ranch Reserve Homeowners Association and Stratford Lakes Park (approximately 12 acres currently).
- Pecos west and east along 121st Street. These extensions will provide reclaimed water to current business property in the Park Center Commercial Center and to property that is currently under development including the DeVry project (approximately 40 acres currently plus 33 acres in the future).

These three projects were selected for design based on 1) The irrigated property currently available that could cost effectively be served, and 2) to be proactive in installing extensions prior to development and paving of streets. The irrigated acreage to be served by these three extensions will be approximately 80 acres in 2003 with future additions to include up to 60 acres. This equates to approximately 240 acre-feet per year currently plus an additional 180 acre-feet per year in the future for reclaimed water.

The Reclaimed Water Master Plan, when complete in early 2003, will lay out a road map for future reclaimed waterline extensions and full utilization of the Reclaimed Water Treatment Facility.

Beginning design of these extensions now will allow construction of the lines in the winter of 2003 and allow the listed developments to be utilizing reclaimed water during the 2003 irrigation season, conserving valuable potable water.

The engineering firms that proposed on this project included:

Firm	Bid Amount
Martin/Martin Consulting Engineers	\$136,328
S.A. Miro	\$155,980
Merrick & Co.	\$215,810
Sear Brown	\$219,845
J.R. Environmental	\$278,687

Martin/Martin Consulting Engineers provided the lowest responsible bid and has completed several successful projects for the City.

Respectfully submitted,

J. Brent McFall
City Manager

Attachment



**WESTMINSTER
COLORADO**

Agenda Memorandum

City Council Meeting
December 9, 2002



SUBJECT: Second Reading of Councillor’s Bill No. 63 for an Amendment to the Westminster Comprehensive Land Use Plan and Councillor’s Bill No. 64 for the Rezoning of 7247-7261 Meade Street

Prepared By: Max Ruppeck, Senior Project Manager

Recommended City Council Action

1. Pass Councillor’s Bill No. 63 approving an amendment to the Westminster Comprehensive Land Use Plan to change the land use designation at 7247-7261 Meade Street from “Single-Family Detached-Medium Density” and “Retail/Commercial” to “Multi-Family Residential.”
2. Pass Councillor’s Bill No. 64 rezoning the subject parcel from B-1 to Planned Unit Development (PUD).

Summary Statement

City Council is requested to approve the application of Community Builders to:

- Amend the land use designation on a portion of the site on Meade Street, one half block south of 73rd Avenue from “Single-Family Residential-Medium Density” and “Retail/Commercial” to “Multi-Family Residential.”
- Rezone the subject parcel from B-1 to Planned Unit Development (PUD).
- These Councillor’s Bills were passed on first reading on November 25, 2002.

Expenditure Required: \$ 0

Source of Funds: N/A

Respectfully submitted,

J. Brent McFall
City Manager

Attachments

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **63**

SERIES 2002

INTRODUCED BY COUNCILLORS

A BILL

FOR AN ORDINANCE AMENDING THE WESTMINSTER COMPREHENSIVE LAND USE PLAN

WHEREAS, the owner of the property described below has requested an amendment to the City's Comprehensive Plan to change the designated land use for said property from "Single-Family Detached-Medium Density" and "Retail/Commercial," to "Multi-Family Residential;" and

WHEREAS, the Planning Commission has reviewed the proposed amendment and has recommended approval to the City Council; and

WHEREAS, pursuant to W.M.C. 11-4-16, a public hearing was held by City Council concerning the proposed amendment that the requested amendment; and

NOW THEREFORE, the City Council hereby finds that the requested amendment will be in the public good and in compliance with the overall intent of the Comprehensive Land Use Plan.

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The City Council authorizes City Staff to make the necessary changes to the maps and text of the Westminster Comprehensive Land Use Plan, to alter the designation of a portion of the following property from "Retail/Commercial" and "Single Family Detached – Medium Density" to "Multi-Family Residential" specifically described as:

Lots 7 to 17, inclusive, Mahin's Subdivision of the east half of Block 42, Harris Park, County of Adams, State of Colorado, AKA 7247-7261 Meade Street, Westminster, Colorado.

Section 2. Severability: If any section, paragraph, clause, word or any other part of this Ordinance shall for any reason be held to be invalid or unenforceable by a court of competent jurisdiction, such part deemed unenforceable shall not affect any of the remaining provisions.

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

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

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 25th day of November, 2002.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 9th day of December, 2002.

ATTEST:

Mayor

City Clerk

BY AUTHORITY

ORDINANCE NO.
SERIES OF 2002

COUNCILLOR'S BILL NO. **64**
INTRODUCED BY COUNCILLORS

A BILL

FOR AN ORDINANCE AMENDING THE ZONING LAW AND CHANGING THE ZONING CLASSIFICATION OF CERTAIN DESCRIBED PROPERTY IN A PARCEL OF LAND LOCATED IN SECTION 31, TOWNSHIP 2 SOUTH, RANGE 68 WEST, 6TH P.M., COUNTY OF ADAMS , STATE OF COLORADO.

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The City Council finds:

- a. That an application for the zoning of the property described below from City of Westminster B-1 to City of Westminster PUD zoning has been submitted to the City for its approval pursuant to Westminster Municipal Code Section 11-5-2.
- b. That Council has completed a public hearing on the requested zoning pursuant to the provisions of Chapter 5 of Title XI of the Westminster Municipal Code.
- c. That based on the evidence produced at the public hearing, the City Council finds that the proposed zoning complies with all requirements of City Code, including, but not limited to, the provisions of Westminster Municipal Code, Section 11-5-3.
- d. That the proposed zoning is compatible with existing zoning and land uses of adjacent properties in the general vicinity of the property proposed for zoning.
- e. That the proposed zoning is consistent with all applicable general plans and policies concerning land use and development relative to the property proposed for zoning.

Section 2. The Zoning District Map of the City is hereby amended by reclassification of the property described herein from City of Westminster B-1 to City of Westminster PUD. A parcel of land located in Section 31, Township 2 South, Range 68 West, 6th P.M., County of Adams, State of Colorado, more particularly described as follows:

Lots 7 to 17, inclusive, Mahin's Subdivision of the east half of Block 42, Harris Park, County of Adams, State of Colorado. AKA 7247-7261 Meade Street, Westminster, Colorado.

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

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

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 25th day of November, 2002.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 9th day of December, 2002.

ATTEST:

Mayor

City Clerk



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
December 9, 2002



SUBJECT: Second Reading of Councillor's Bill No. 65 for an Amendment to the Westminster Comprehensive Land Use Plan and Councillor's Bill No. 66 for the Rezoning of 7383-7395 Lowell Boulevard

Prepared By: Max Ruppeck, Senior Project Manager

Recommended City Council Action

1. Pass Councillor's Bill No. 65 approving an amendment to the Westminster Comprehensive Land Use Plan to change the land use designation at 7383-7395 Lowell Boulevard from "Single-Family Detached-Medium Density" and "Office" to "Multi-Family Residential."
2. Pass Councillor's Bill No. 66 rezoning the subject parcel from T-1 to Planned Unit Development (PUD).

Summary Statement

City Council is requested to approve the application of Community Builders to:

- Amend the land use designation for a 0.72-acre site located on the west side of Lowell Boulevard at approximately 74th Avenue from "Single-Family Detached-Medium Density" and "Office" to "Multi-Family Residential."
- Rezone the subject parcel from T-1 to Planned Unit Development (PUD).
- These Councillor's Bills were passed on first reading on November 25, 2002.

Expenditure Required: \$ 0

Source of Funds: N/A

Respectfully submitted,

J. Brent McFall
City Manager

Attachments

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **65**

SERIES 2002

INTRODUCED BY COUNCILLORS

A BILL

FOR AN ORDINANCE AMENDING THE WESTMINSTER COMPREHENSIVE LAND USE PLAN

WHEREAS, the owner of the property described below has requested an amendment to the City's Comprehensive Plan to change the designated land use for said property from "Single-Family Detached-Medium Density" and "Office" to "Multi-Family Residential;" and

WHEREAS, the Planning Commission has reviewed the proposed amendment and has recommended approval to the City Council; and

WHEREAS, pursuant to W.M.C. 11-4-16, a public hearing was held by City Council concerning the proposed amendment; and

NOW THEREFORE, the City Council hereby finds that the requested amendment will be in the public good and in compliance with the overall intent of the Comprehensive Land Use Plan.

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The City Council authorizes City Staff to make the necessary changes to the maps and text of the Westminster Comprehensive Land Use Plan, to alter the designation of the following property from "Single-Family Detached – Medium Density" and "Office" to "Multi-Family Residential":

Parcel 1:

Lots 2, Dr. Platt Subdivision Filing No. 1, County of Adams, State of Colorado. AKA 7395 Lowell Boulevard, Westminster, Colorado.

Parcel 2:

Lots 22 to 27, inclusive, Block 1 Wilson's Subdivision, County of Adams, State of Colorado. AKA 7383 Lowell Boulevard, Westminster, Colorado.

Section 2. Severability: If any section, paragraph, clause, word or any other part of this Ordinance shall for any reason be held to be invalid or unenforceable by a court of competent jurisdiction, such part deemed unenforceable shall not affect any of the remaining provisions.

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

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

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 25th day of November, 2002.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 9th day of December, 2002.

ATTEST:

Mayor

City Clerk

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **66**

SERIES OF 2002

INTRODUCED BY COUNCILLORS

A BILL

FOR AN ORDINANCE AMENDING THE ZONING LAW AND CHANGING THE ZONING CLASSIFICATION OF CERTAIN DESCRIBED PROPERTY IN A PARCEL OF LAND LOCATED IN SECTION 31, TOWNSHIP 2 SOUTH, RANGE 68 WEST, 6TH P.M., COUNTY OF ADAMS, STATE OF COLORADO.

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The City Council finds:

- a. That an application for the zoning of the property described below from City of Westminster T-1 to City of Westminster PUD zoning has been submitted to the City for its approval pursuant to Westminster Municipal Code Section 11-5-2.
- b. That Council has completed a public hearing on the requested zoning pursuant to the provisions of Chapter 5 of Title XI of the Westminster Municipal Code.
- c. That based on the evidence produced at the public hearing, the City Council finds that the proposed zoning complies with all requirements of City Code, including, but not limited to, the provisions of Westminster Municipal Code, Section 11-5-3.
- d. That the proposed zoning is compatible with existing zoning and land uses of adjacent properties in the general vicinity of the property proposed for zoning.
- e. That the proposed zoning is consistent with all applicable general plans and policies concerning land use and development relative to the property proposed for zoning.

Section 2. The Zoning District Map of the City is hereby amended by reclassification of the property described herein from City of Westminster T-1 to City of Westminster PUD. A parcel of land located in Section 31, Township 2 South, Range 68 West, 6th P.M., County of Adams, State of Colorado, more particularly described as follows:

Parcel 1: Lots 2, Dr. Platt Subdivision Filing No. 1, County of Adams, State of Colorado. AKA 7395 Lowell Boulevard, Westminster, Colorado.

Parcel 2: Lots 22 to 27, inclusive, Block 1 Wilson's Subdivision, County of Adams, State of Colorado. AKA 7383 Lowell Boulevard, Westminster, Colorado.

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

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

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 25th day of November, 2002. PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 9th day of December, 2002.

ATTEST:

City Clerk: _____

Mayor



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
December 9, 2002



SUBJECT: Second Reading of Councillor's Bill No. 67 for an Amendment to the Westminster Comprehensive Land Use Plan and Councillor's Bill No. 68 for the Rezoning of 7490 Lowell Boulevard

Prepared By: Max Ruppeck, Senior Project Manager

Recommended City Council Action

1. Pass Councillor's Bill No. 67 approving an amendment to the Westminster Comprehensive Land Use Plan to change the land use designation at 7490 Lowell Boulevard from "Public/Quasi Public" to "Multi-Family Residential."
2. Pass Councillor's Bill No. 68 rezoning the subject parcel from R-4 to Planned Unit Development (PUD).

Summary Statement

City Council is requested to approve the application of Community Builders to:

- Amend the land use designation for a 1.47-acre site located at the southeast corner of Lowell Boulevard and 75th Avenue from "Public/Quasi Public" to "Multi-Family Residential."
- Rezone the subject parcel from R-4 to Planned Unit Development (PUD).
- These Councillor's Bills were passed on first reading on November 25, 2002.

Expenditure Required: \$ 0

Source of Funds: N/A

Respectfully submitted,

J. Brent McFall
City Manager

Attachment

BY AUTHORITY

ORDINANCE NO. **2995**

COUNCILLOR'S BILL NO. **67**

SERIES 2002

INTRODUCED BY COUNCILLORS

Dixon-McNally

A BILL

FOR AN ORDINANCE AMENDING THE WESTMINSTER COMPREHENSIVE LAND USE PLAN

WHEREAS, the owner of the property described below has requested an amendment to the City's Comprehensive Plan to change the designated land use for said property from "Public Quasi-Public" to "Multi-Family Residential;" and

WHEREAS, the Planning Commission has reviewed the proposed amendment and has recommended approval to the City Council; and

WHEREAS, pursuant to W.M.C. 11-4-16, a public hearing was held by City Council concerning the proposed amendment; and

NOW THEREFORE, the City Council hereby finds that the requested amendment will be in the public good and in compliance with the overall intent of the Comprehensive Land Use Plan.

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The City Council authorizes City Staff to make the necessary changes to the maps and text of the Westminster Comprehensive Land Use Plan, to alter the designation of the following property from "Public/Quasi-Public" to "Multi-Family Residential":

Part of the NW ¼ Section 32. T2S, R68W of the 6th PM AKA 7490 Lowell Boulevard; Westminster, Colorado. Beginning at a point from which the SW corner of the NW ¼ SW ¼ of said Section bears S 00808'09"E 360.49 feet and S89851'51"W 30.00 feet, thence along the following six (6) courses:

1)N00808'09"W 293.34 feet along the east right-of-way of Lowell Blvd., 2)Thence N89851'51"E 234.00 feet; 3)Thence S00808'09"E 118.00 feet; 4)Thence S89851'51"W 24.22 feet; 5)Thence S00808'09"E 175.34 feet; 6)Thence S89851'51"W 209.78 feet to the point of beginning. Said parcel contains approximately 64,395 square feet, or 1.48 acres. The bearings are based upon the west line of said section bearing N00808'09"W.

Section 2. Severability: If any section, paragraph, clause, word or any other part of this Ordinance shall for any reason be held to be invalid or unenforceable by a court of competent jurisdiction, such part deemed unenforceable shall not affect any of the remaining provisions.

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

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

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 25th day of November, 2002. PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 9th day of December, 2002.

ATTEST:

City Clerk: _____

Mayor

BY AUTHORITY

ORDINANCE NO. **2996**

COUNCILLOR'S BILL NO. **68**

SERIES 2002

INTRODUCED BY COUNCILLORS
Dixon-McNally

A BILL

FOR AN ORDINANCE AMENDING THE ZONING LAW AND CHANGING THE ZONING CLASSIFICATION OF CERTAIN DESCRIBED PROPERTY IN A PARCEL OF LAND LOCATED IN SECTION 32, TOWNSHIP 2 SOUTH, RANGE 68 WEST, 6TH P.M., COUNTY OF ADAMS , STATE OF COLORADO.

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The City Council finds:

- a. That an application for the zoning of the property described below from City of Westminister R-4 to City of Westminister PUD zoning has been submitted to the City for its approval pursuant to Westminister Municipal Code Section 11-5-2.
- b. That Council has completed a public hearing on the requested zoning pursuant to the provisions of Chapter 5 of Title XI of the Westminister Municipal Code.
- c. That based on the evidence produced at the public hearing, the City Council finds that the proposed zoning complies with all requirements of City Code, including, but not limited to, the provisions of Westminister Municipal Code, Section 11-5-3.
- d. That the proposed zoning is compatible with existing zoning and land uses of adjacent properties in the general vicinity of the property proposed for zoning.
- e. That the proposed zoning is consistent with all applicable general plans and policies concerning land use and development relative to the property proposed for zoning.

Section 2. The Zoning District Map of the City is hereby amended by reclassification of the property described herein from City of Westminister R-4 to City of Westminister PUD. A parcel of land located in Section 32, Township 2 South, Range 68 West, 6th P.M., County of Adams, State of Colorado, more particularly described as follows:

Part of the NW ¼ Section 32. T2S, R68W of the 6th PM AKA 7490 Lowell Boulevard; Westminister, Colorado. Beginning at a point from which the SW corner of the NW ¼ SW ¼ of said Section bears S 00808'09"E 360.49 feet and S89851'51"W 30.00 feet, thence along the following six (6) courses:

1)N00808'09"W 293.34 feet along the east right-of-way of Lowell Blvd., 2)Thence N89851'51"E 234.00 feet; 3)Thence S00808'09"E 118.00 feet; 4)Thence S89851'51"W 24.22 feet; 5)Thence S00808'09"E 175.34 feet; 6)Thence S89851'51"W 209.78 feet to the point of beginning. Said parcel contains approximately 64,395 square feet, or 1.48 acres. The bearings are based upon the west line of said section bearing N00808'09"W.

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

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

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 25th day of November, 2002. PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 9th day of December, 2002.

ATTEST:

City Clerk

Mayor



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
December 9, 2002



SUBJECT: Public Hearing and Action on the Mandalay Gardens Annexation and Zoning

Prepared By: David Falconieri, Planner III

Recommended City Council Action

Open the public hearing for the Mandalay Gardens annexation and zoning and continue it until December 16, 2002.

Summary Statement:

- The Mandalay Gardens Annexation petition was found to be in compliance with State Statutes by the City Council on October 14, 2002.
- On November 25th, the City Council continued the hearing until December 9th at the request of the applicant, Westfield Development, in order to allow them time to negotiate with some of the landowners.
- Staff is now requesting that the hearing be continued for an additional week until December 16, 2002. This continuance is being requested in order to allow staff to work out the details of the annexation. The applicant has agreed to this additional continuance.

Expenditure Required: \$ 0

Source of Funds: NA

Sincerely,

J. Brent McFall
City Manager

Agenda Memorandum

City Council Meeting
December 9, 2002



SUBJECT: Public Hearing and Action on Mandalay Gardens Subdivision

Prepared By: David Falconieri, Planner III

Recommended City Council Action

1. Authorize and direct the City Manager to sign a Annexation and Preliminary Development agreement with Westfield Development regarding the Mandalay Gardens Subdivision in substantially the same form as attached.
2. Open the Continued public hearing on the proposed annexation and zoning of the Mandalay Gardens Subdivision.
3. Adopt Resolution No. 54 making certain findings of fact as required by Section 31-12-110 C.R.S. regarding the annexation of the Mandalay Gardens area.
4. Pass Councilor's Bill No. 69 on first reading annexing of the Mandalay Gardens subdivision to the City of Westminster.
5. Pass Councillor's Bill No. 70 on first reading zoning the Mandalay Gardens subdivision Planned Unit Development (PUD), making the finding that the standards enumerated under Section 11-5-3 of the City Code have been met.

Summary Statement

- The proposed Mandalay Gardens annexation consists of 69.65 acres, located roughly west of US 36, north of Walnut Creek, and southeast of the Burlington Northern Santa Fe Railroad tracks.
- The petition for annexation was originally signed by 11 property owners who together own 51.4 percent of the entire area to be annexed. There are 21 property owners in the annexation area. One of the property owners, Sup-Cal, recently indicated it may request permission to withdraw from the annexation petition. Westfield has identified a sufficient number of property owners owning sufficient acreage to replace Sup-Cal's potential withdrawal.
- City Staff has been working with Westfield Development Co. and with Downing Thorpe James (DTJ), Inc. to create an overall development plan for the area that will include a large retailer, a multi-modal transit station, and a town center development and may include a hotel, restaurant and retail uses.
- A preliminary development agreement is proposed in which the relationship between the City and Westfield Development is clarified, and how the Preferred Developer for this proposed urban renewal project will be selected. Westfield intends to compete for the Preferred Developer position. It includes payments to Westfield in the event certain milestones accomplishing are achieved in terms of the annexation and securing the major retail anchor for this project, but such payments are required only in the event that Westfield is not selected as the Preferred Developer. That agreement is discussed below.
- At this time, Staff is recommending that the site be zoned Planned Unit Development (PUD). The Preliminary Development Plan (PDP) will be submitted for Planning Commission and City Council approval at a later date.

Expenditure Required: \$0

Source of Funds: N/A

Planning Commission Recommendation

This request was heard by the Planning Commission on November 12, 2002. The Commission members voted unanimously to recommend to the City Council that the annexation of the Mandalay Gardens area be approved and that the property be zoned Planned Unit Development (PUD) in the City. No individuals spoke in favor or opposition to the proposal.

Policy Issues

1. Whether the City should enter into an agreement with Westfield Development concerning their preliminary assistance in connection with the annexation and development of this property.
2. Whether the proposed PUD zoning is consistent with the goals and policies of the City.

Alternative

Make a finding that it is not in the best interests of the City to annex and rezone the Mandalay Gardens area at this time and take no further action. If this action is taken the Mandalay Gardens area property owners may pursue independent sale of their properties and the current development proposal would be in jeopardy.

Background Information

Applicant/Property Owner

The annexation petition has been signed by at least 50 percent of the property owners who own at least 50 percent of the property to be annexed. The City has the duty to establish zoning for the property after it is annexed. Staff is proposing the property be zoned P.U.D. Preliminary and Official Development plans will be submitted in the future. See Appendix A for a list of all 21 of the property owners and Appendix for a map of their respective ownerships. See Appendix C for a copy of the Annexation Petition and the Supplement thereto which include the signatures of the additional property owners secured to meet the 50% acreage –50% owners requirement of the Annexation Act in the event of Sup-Cal’s withdrawal.

Surrounding Land Use and Comprehensive Land Use Plan Designations

Northeast: US 36 and the Westminster Promenade, designated District Center in the Comprehensive Land Use Plan (CLUP).

Northwest: Unincorporated Jefferson County, designated Northeast Comprehensive Development Plan in the CLUP.

South: Church Ranch Corporate Center, designated Business Park in the CLUP.

Site Plan Information

Currently the area is characterized by low-density rural residential uses with some related agricultural uses. The entire parcel is located within the Jefferson County Airport Critical Zone in which new residential uses are prohibited. It was anticipated in the Northeast Comprehensive Development plan that the area would ultimately be assembled into a single redevelopment area with no residential uses.

When the Preliminary Development Plan is submitted, it is anticipated that the area will contain one or two “big box” retailers and a “town center” with pedestrian related retail and amenities similar to the Westminster Promenade. There will also be an RTD multi-modal transit hub located in the northern portion of the property that will eventually access a commuter rail station and a bus transit station along US 36. Office, restaurant and hotel uses will also be permitted in the town center area, and recreational access to Lower Church Lake will be a possibility.

Traffic and Transportation

Access to the site is proposed to be provided in several areas. There will be two access points off of Church Ranch Boulevard, one of which will act as a connection of Reed Street through to the Promenade via an underpass under US 36. The plan will call for a straightening of Wadsworth Boulevard under the railroad tracks. When that is reconstructed, access to the site can be provided from Wadsworth Boulevard along the railroad tracks, and a second underpass connecting to the Promenade area. This will allow good access to the park-n-ride facility that would be located at the northernmost corner of the project.

Preliminary Development Agreement

An agreement has been submitted for City Council approval in which Westfield Development and the City agree on a concept for how the property will be developed and on how the Preferred Developer will be selected for this proposed urban renewal project. If Westfield is not selected as the developer, the City will make certain payments to Westfield to reimburse them for the work that was already done on the project, including securing the signatures necessary for annexation and for bringing certain retailers into the project.

Service Commitment Category

All Service Commitments would be awarded out of Category C; the number will be determined at the time of Official Development Plan (ODP) approval.

Referral Agency Responses

The Regional Transportation District (RTD) responded by requesting to be involved in the design phase of the project to assure proper access to and design of the transit station.

The Jefferson County Airport Authority and the Colorado Department of Transportation (CDOT) responded by objecting to the development on the grounds that residential development should not be permitted in the Airport Critical Zone. Since no residential has been proposed, this would not be a valid objection.

Public Comments

When the Preliminary Development Plan is submitted, plans will be made for a neighborhood meeting to gather public input.

Respectfully submitted,

J. Brent McFall
City Manager

Attachments

RESOLUTION

RESOLUTION NO. **54**

INTRODUCED BY COUNCILLORS

SERIES OF 2002

A RESOLUTION PURSUANT TO SECTION 31-12-110, C.R.S., SETTING FORTH THE FINDINGS OF FACT AND CONCLUSION OF CITY COUNCIL WITH REGARD TO THE PROPOSED ANNEXATION OF CONTIGUOUS UNINCORPORATED TERRITORY IN SECTIONS 11,12,13 and 14, TOWNSHIP 2 SOUTH, RANGE 69 WEST OF THE SIXTH PRINCIPAL MERIDIAN, COUNTY OF JEFFERSON, STATE OF COLORADO.

WHEREAS, pursuant to the laws of the State of Colorado, there has been filed with the City Clerk a petition (the "Petition") for the annexation of the property described in said Petition; and

WHEREAS, City Council has previously adopted Resolution No. 48 finding the Petition to be in substantial compliance with the provisions of section 31-12-107(1), C.R.S., and;

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

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

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

1. The City Council finds:
 - a. Not less than 1/6 of the perimeter of the area proposed to be annexed is contiguous with the City of Westminster;
 - b. A community of interest exists between the area proposed to be annexed and the City;
 - c. The area is urban or will be urbanized in the near future; and
 - d. The area is integrated with or is capable of being integrated with the City.

2. The City Council further finds:
 - a. With respect to the boundaries of the territory proposed to be annexed, no land held in identical ownership, whether consisting of one tract or parcel of real estate or two or more contiguous tracts or parcels of real estate, has been divided into separate parts or parcels without the written consent of the landowners thereof, except to the extent such tracts or parcels are separated by dedicated street, road, or other public way; and
 - b. With regard to the boundaries of the area proposed to be annexed, no land held in identical ownership, whether consisting of one tract or parcel of real estate or two or more contiguous tracts or parcels of real estate, comprising twenty (20) acres or more (which, together with the buildings and improvements situated thereon has a valuation for assessment in excess of \$200,000 for ad valorem tax purposes for the previous year), has been included in the area being proposed for annexation without the written consent of the owners thereof, except to the extent such tract of land is situated entirely within the outer boundaries of the City immediately prior to the annexation of said property.

3. The City Council further finds:

- a. That no annexation proceedings concerning the property proposed to be annexed by the City has been commenced by another municipality;
 - b. That the annexation will not result in the attachment of area from a school district;
 - c. That the annexation will not result in the extension of the City's boundary more than three (3) miles in any direction;
 - d. That the City of Westminster has in place a plan for the area proposed to be annexed; and
 - e. That in establishing the boundaries of the area to be annexed, the entire width of any street or alley is included within the area annexed.
4. The City Council further finds that an election is not required and no additional terms or conditions are to be imposed upon the area to be annexed.

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

PASSED AND ADOPTED this 9th day of December, 2002.

ATTEST:

Mayor

City Clerk

BY AUTHORITY

ORDINANCE NO.

COUNCILOR'S BILL NO. **69**

SERIES OF 2002

INTRODUCED BY COUNCILLORS

A BILL

FOR AN ORDINANCE APPROVING AND ACCOMPLISHING THE ANNEXATION OF CONTIGUOUS UNINCORPORATED TERRITORY IN A PARCEL OF LAND LOCATED IN SECTIONS 11, 12, 13 and 14, TOWNSHIP 2 SOUTH, RANGE 69 WEST, 6TH P.M., COUNTY OF JEFFERSON, STATE OF COLORADO.

WHEREAS, pursuant to the laws of the State of Colorado, there was presented to and filed with the Council of the City of Westminster a written petition for annexation to and by the City of Westminster of the hereinafter-described contiguous, unincorporated territory situate, lying and being in the County of Jefferson, State of Colorado; and

WHEREAS, City Council has been advised by the City Attorney and the City Manager that the petition and accompanying maps are in substantial compliance with Section 31-12-101, et.seq., Colorado Revised Statutes, as amended; and

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

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

WHEREAS, the Council of the City of Westminster has satisfied itself concerning the conformance of the proposed annexation to the annexation policy of the City of Westminster.

NOW, THEREFORE, the City of Westminster ordains:

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

A parcel of land being a portion of the southeast quarter of Section 11, the southwest quarter of Section 12, the northwest quarter of Section 13 and the northeast quarter of Section 14, all in Township 2 South, Range 69 West of the Sixth Principal Meridian, in the County of Jefferson, State of Colorado, more particularly described as follows:

Commencing at the southeast corner of said southeast quarter of Section 11, whence the south quarter corner of said Section 11 bears south 88°52'45" West 2714.08 feet, and all bearings are made as a reference hereon;

Thence along the easterly line of the southeast quarter of said Section 11, north 00°18'05" east 111.23 feet to the northeasterly boundary of the U. S. Highway 36/Church Ranch Boulevard annexation to the City of Westminster, per plat recorded at Reception No. F1027164, in the office of the County Clerk and Recorder of said County and the true point of beginning;

Thence along the northeasterly and northwesterly boundaries of said U.S. Highway 36/Church Ranch Boulevard annexation the following 4 courses:

- 1) North 47°59'33" West 351.72 feet;
- 2) North 29°55'53" West 111.50 feet;
- 3) South 60°04'08" West 124.37 feet to the beginning of a tangent curve concave southeasterly having a radius of 1725.00 feet;
- 4) Thence southwesterly along said curve through a central angle of 09°54'06" an arc length of 298.11 feet to the easterly boundary of Church Ranch Homeplace annexation to the City of Westminster, per plat recorded at Reception No. 88080480, in said office of the County Clerk and Recorder;

Thence along the easterly and northerly boundaries of said Church Ranch Homeplace annexation the following 10 courses:

- 1) Non-tangent to said last described curve, north 01°19'41" West 202.45 feet;
- 2) South 88°49'17" West 234.20 feet;
- 3) South 01°25'14" East 426.16 feet;
- 4) South 88°52'45" West 460.12 feet;
- 5) South 01°13'15" East 123.20 feet;
- 6) South 88°52'45" West 178.54 feet;
- 7) North 01°13'15" West 123.20 feet;
- 8) South 88°52'45" West 499.90 feet;
- 9) South 01°07'14" East 144.00 feet;
- 10) North 77°48'50" West 625.64 feet to the easterly right-of-way of West 105th Avenue, shown as Wadsworth Avenue on map of Mandalay Gardens per plat recorded in said office of the County Recorder, also being the easterly boundary of Woods third annexation to the City of Westminster, per plat recorded at Reception No. F1167083, in said office of the County Clerk and Recorder;

Thence along the easterly and southeasterly right-of-way of said west 105th Avenue, also being the easterly and southeasterly boundaries of said Woods third annexation, the following 2 courses:

- 1) North 15°16'12" East 187.26 feet;
- 2) North 40°35'24" East 601.22 feet to the southerly right-of-line of said 105th Avenue, shown as Haney Drive on said map of Mandalay Gardens, also being the southerly boundary of Woods second annexation to the City of Westminster per plat recorded at Reception No. F1167082, in said office of the County Clerk and Recorder;

Thence along said southerly right-of-way and said southerly boundary of Woods second annexation, south 88°59'25" East 537.29 feet to the southerly prolongation of the easterly line of west one-half Tract 51, said map of Mandalay Gardens, said easterly line also being the easterly boundary of said Woods second annexation and the easterly boundary of Woods first annexation to the City of Westminster, per plat recorded at Reception No. F1167081, in said office of the County Clerk and Recorder;

Thence along said easterly line and said easterly boundaries, North 00°08'28" East 678.18 feet to the northerly line of said west one-half Tract 51, also being the northerly boundary of said Woods first annexation to the City of Westminster;

Thence along said northerly line and said northerly boundary, South 89°58'35" West 37.00 feet to the southeasterly right-of-way of the Colorado and Southern Railway Company (now known as the Burlington Northern Santa Fe Railway), also being the northwesterly boundaries of said Woods first annexation, said Woods second annexation and said Woods third annexation;

Thence along said southeasterly right-of-way and said northwesterly boundaries, South 40°35'24" West 1456.22 feet to the northwesterly right-of-way of said 105th Avenue, also being the northwesterly boundary of said Woods third annexation;

Thence along said northwesterly right-of-way and said northwesterly boundary, South 15°16'12" West 218.39 feet to the southerly line of said southeast quarter of Section 11;

Thence along said southerly line, South 88°52'45" West 7.26 feet to the south quarter corner of said Section 11;

Thence along the westerly line of said southeast quarter of Section 11, North 01°46'15" East 299.87 feet to the northwesterly right-of-way of said Colorado and Southern Railway Company;

Thence along said northwesterly right-of-way the following 2 courses:

- 1) North 40°35'24" East 1760.93 to the beginning of a tangent curve concave northwesterly having a radius of 2148.38 feet;
- 2) Northeasterly along said curve through a central angle of 23°06'11" and arc length of 866.28 feet to the southwesterly boundary of annexation map to the City of Westminster, per plat recorded at Reception No. 900050018, in said office of the County Clerk and Recorder;

Thence along said southwesterly boundary the following 3 courses:

- 1) Non-tangent to said last described curve, South 29°55'52" East 473.69 feet;
- 2) North 89°54'08" East 28.82 feet;
- 3) South 29°55'52" East 2457.99 feet to the northeasterly boundary of former Hawn Property annexation, per plat recorded at Reception No. F1444643, in said office of the County Clerk and Recorder;

Thence along said northeasterly boundary the following 2 courses:

- 1) North 41°47'59" West 272.86 feet;
- 2) North 59°13'00" West 124.47 feet to the most easterly corner of said U.S. Highway 36/Church Ranch Boulevard annexation;

Thence along the northeasterly boundary of said U.S. Highway 36/Church Ranch Boulevard annexation, North 51°35'14" West 78.23 feet to the true point of beginning.

Containing 69.645 acres (3,033,715 Sq. Ft.), more or less.

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

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

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 9th day of December, 2002.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 23rd day of December, 2002.

ATTEST:

Mayor

City Clerk

BY AUTHORITY

ORDINANCE NO.

COUNCILOR'S BILL NO. **70**

SERIES OF 2002

INTRODUCED BY COUNCILLORS

A BILL

FOR AN ORDINANCE ESTABLISHING THE ZONING CLASSIFICATION OF CERTAIN DESCRIBED PROPERTY IN A PARCEL OF LAND LOCATED IN SECTIONS 11, 12, 13 and 14, TOWNSHIP 2 SOUTH, RANGE 69 WEST, 6TH P.M., COUNTY OF JEFFERSON, STATE OF COLORADO.

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The City Council finds:

- a. That City Staff is recommending that the property described below be rezoned to City of Westminister Planned Unit Development (PUD) in accordance with the State Annexation Act.
- b. That Council has completed a public hearing on the requested zoning pursuant to the provisions of Chapter 5 of Title XI of the Westminister Municipal Code.
- c. That based on the evidence produced at the public hearing, the City Council finds that the proposed zoning complies with all requirements of City Code, including, but not limited to, the provisions of Westminister Municipal Code Section 11-5-3.
- d. That the proposed zoning is compatible with existing zoning and land uses of adjacent properties in the general vicinity of the property proposed for zoning.
- e. That the proposed zoning is consistent with all applicable general plans and policies concerning land use and development relative to the property proposed for zoning.

Section 2. The Zoning District Map of the City is hereby amended to designate the property described herein as Planned Unit Development (PUD). The subject property is located in Sections 11, 12, 13 and 14, Township 2 South, Range 69 West, 6th P.M., County of Jefferson, State of Colorado, more particularly described as follows:

A parcel of land being a portion of the southeast quarter of Section 11, the southwest quarter of Section 12, the northwest quarter of Section 13 and the northeast quarter of Section 14, all in Township 2 South, Range 69 West of the Sixth Principal Meridian, in the County of Jefferson, State of Colorado, more particularly described as follows:

Commencing at the southeast corner of said southeast quarter of Section 11, whence the south quarter corner of said Section 11 bears south 88°52'45" West 2714.08 feet, and all bearings are made as a reference hereon;

Thence along the easterly line of the southeast quarter of said Section 11, north 00°18'05" east 111.23 feet to the northeasterly boundary of the U. S. Highway 36/Church Ranch Boulevard annexation to the City of Westminister, per plat recorded at Reception No. F1027164, in the office of the County Clerk and Recorder of said County and the true point of beginning;

Thence along the northeasterly and northwesterly boundaries of said U.S. Highway 36/Church Ranch Boulevard annexation the following 4 courses:

- 1) North 47°59'33" West 351.72 feet;
- 2) North 29°55'53" West 111.50 feet;

- 3) South 60°04'08" West 124.37 feet to the beginning of a tangent curve concave southeasterly having a radius of 1725.00 feet;
- 4) Thence southwesterly along said curve through a central angle of 09°54'06" an arc length of 298.11 feet to the easterly boundary of Church Ranch Homeplace annexation to the City of Westminster, per plat recorded at Reception No. 88080480, in said office of the County Clerk and Recorder;

Thence along the easterly and northerly boundaries of said Church Ranch Homeplace annexation the following 10 courses:

- 1) Non-tangent to said last described curve, north 01°19'41" West 202.45 feet;
- 2) South 88°49'17" West 234.20 feet;
- 3) South 01°25'14" East 426.16 feet;
- 4) South 88°52'45" West 460.12 feet;
- 5) South 01°13'15" East 123.20 feet;
- 6) South 88°52'45" West 178.54 feet;
- 7) North 01°13'15" West 123.20 feet;
- 8) South 88°52'45" West 499.90 feet;
- 9) South 01°07'14" East 144.00 feet;
- 10) North 77°48'50" West 625.64 feet to the easterly right-of-way of West 105th Avenue, shown as Wadsworth Avenue on map of Mandalay Gardens per plat recorded in said office of the County Recorder, also being the easterly boundary of Woods third annexation to the City of Westminster, per plat recorded at Reception No. F1167083, in said office of the County Clerk and Recorder;

Thence along the easterly and southeasterly right-of-way of said west 105th Avenue, also being the easterly and southeasterly boundaries of said Woods third annexation, the following 2 courses:

- 1) North 15°16'12" East 187.26 feet;
- 2) North 40°35'24" East 601.22 feet to the southerly right-of-line of said 105th Avenue, shown as Haney Drive on said map of Mandalay Gardens, also being the southerly boundary of Woods second annexation to the City of Westminster per plat recorded at Reception No. F1167082, in said office of the County Clerk and Recorder;

Thence along said southerly right-of-way and said southerly boundary of Woods second annexation, south 88°59'25" East 537.29 feet to the southerly prolongation of the easterly line of west one-half Tract 51, said map of Mandalay Gardens, said easterly line also being the easterly boundary of said Woods second annexation and the easterly boundary of Woods first annexation to the City of Westminster, per plat recorded at Reception No. F1167081, in said office of the County Clerk and Recorder;

Thence along said easterly line and said easterly boundaries, North 00°08'28" East 678.18 feet to the northerly line of said west one-half Tract 51, also being the northerly boundary of said Woods first annexation to the City of Westminster;

Thence along said northerly line and said northerly boundary, South 89°58'35" West 37.00 feet to the southeasterly right-of-way of the Colorado and Southern Railway Company (now known as the Burlington Northern Santa Fe Railway), also being the northwesterly boundaries of said Woods first annexation, said Woods second annexation and said Woods third annexation;

Thence along said southeasterly right-of-way and said northwesterly boundaries, South 40°35'24" West 1456.22 feet to the northwesterly right-of-way of said 105th Avenue, also being the northwesterly boundary of said Woods third annexation;

Thence along said northwesterly right-of-way and said northwesterly boundary, South 15°16'12" West 218.39 feet to the southerly line of said southeast quarter of Section 11;

Thence along said southerly line, South 88°52'45" West 7.26 feet to the south quarter corner of said Section 11;

Thence along the westerly line of said southeast quarter of Section 11, North 01°46'15" East 299.87 feet to the northwesterly right-of-way of said Colorado and Southern Railway Company;

Thence along said northwesterly right-of-way the following 2 courses:

- 1) North 40°35'24" East 1760.93 to the beginning of a tangent curve concave northwesterly having a radius of 2148.38 feet;
- 2) Northeasterly along said curve through a central angle of 23°06'11" and arc length of 866.28 feet to the southwesterly boundary of annexation map to the City of Westminster, per plat recorded at Reception No. 900050018, in said office of the County Clerk and Recorder;

Thence along said southwesterly boundary the following 3 courses:

- 1) Non-tangent to said last described curve, South 29°55'52" East 473.69 feet;
- 2) North 89°54'08" East 28.82 feet;
- 3) South 29°55'52" East 2457.99 feet to the northeasterly boundary of former Hawn Property annexation, per plat recorded at Reception No. F1444643, in said office of the County Clerk and Recorder;

Thence along said northeasterly boundary the following 2 courses:

- 1) North 41°47'59" West 272.86 feet;
- 2) North 59°13'00" West 124.47 feet to the most easterly corner of said U.S. Highway 36/Church Ranch Boulevard annexation;

Thence along the northeasterly boundary of said U.S. Highway 36/Church Ranch Boulevard annexation, North 51°35'14" West 78.23 feet to the true point of beginning.

Containing 69.645 acres (3,033,715 Sq. Ft.), more or less.

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

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

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 9th day of December, 2002.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 23rd day of December, 2002.

ATTEST:

Mayor

City Clerk

Appendix A

Mandalay Gardens List of Owners

1. 10573 Reed (Gieseke)
2. 10583 Reed (Bryan)
3. 7209 105th (Anderson)
4. 10563 Reed (Lawson)
5. 7025 105th (Bell)
6. 7045 105th (Shurtleff)
7. 7171 105th (Cisneros)
8. 7151 105th (Swanson)
9. 7181 105th (Dougherty)
10. 7205 105th (Chartier)
11. 7235 105th (Hammerlund)
12. 10500 Reed (Confluence Properties)
13. 10540 Reed (Pfannenstiel)
14. 10560 Reed (Mortensen)
15. 10650 Reed (Sup-Cal and Suppa Properties)
16. 7230 and 7150 W. 105th (Weigel)
17. 7430 W. 105th (Kickbush)
18. 7450 W. 105th (Metee)
19. 7040 W. 105th (Johnson)
20. 7000 W. 105th (Brundage)
21. Vacant Parcel (Chamberlain)



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
December 9, 2002



SUBJECT: Resolution No. 55 re Service Commitment Allocations for 2003

Prepared By: Shannon Sweeney, Planning Coordinator

Recommended City Council Action:

Adopt Resolution No. 55 allocating Service Commitments for the year 2003 to the various categories of the Growth Management Program.

Summary Statement:

- In the November 25, 2002 City Council Staff Report, City Staff outlined recommendations for 2003 regarding the City's Growth Management Program. Based on City Council direction, Staff has prepared the necessary Growth Management Program resolution (attached) for City Council consideration.
- The attached resolution allocates Service Commitments in the year 2003 to the various Growth Management Program categories as detailed in the November 25, 2002 Staff Report and as shown in the Background section of this agenda memorandum.
- Due to the extreme drought situation this year and the need to enact mandatory watering restrictions in the City, Staff explored options to reduce the Service Commitment allocations next year without imposing restrictions or limitations on the projects that the City has made prior commitments to (previously approved projects, projects under construction, projects in the development review process, etc.).
- The allocation recommendations reflect a 25% reduction of the 2002 allocation from the potable (treated) water supply. This has been achieved by recommending no Service Commitment allocations to any of the new residential competition categories (Categories B-1, B-2, B-3 and B-4) and by limiting the number of Service Commitments in Category D (Outside City Contracts).

Expenditure Required: \$ 0

Source of Funds: N/A

Policy Issue

Should the City allocate Service Commitments to the various Growth Management categories as detailed on the attached resolution?

Alternative

Do not adopt the attached resolution allocating Service Commitments for the year 2003 to the various categories of the Growth Management Program. Because the current Service Commitment allocations approved by City Council last year at this time will expire on December 31, 2002, if Council were to choose this option, no Service Commitments would be available for active development (such as projects already under construction, Parks projects, reclaimed water projects, South Westminster projects, etc.) in 2003.

Background Information

In the November 25, 2002 Staff Report to City Council, City Staff reviewed the recommendations for Service Commitment allocations for 2003 as follows:

<u>CATEGORY</u>	<u>DESCRIPTION</u>	2003 - PROPOSED <u>ALLOCATIONS</u>
	<u>Potable Water Supply</u>	
A and L	All Active and Legacy Ridge Residential	756
B-1	New Single-Family Detached	0
B-2	New Single-Family Attached	0
B-3	New Multi-Family	0
B-4	New Traditional Mixed Use (Residential)	0
C	Non-Residential	526
D	Outside City Contracts	35
E	Senior Housing (active projects only)	98
F	Public and Contingency	<u>76</u>
	Total Potable Water Supply	1491
	<u>Non-Potable</u>	
R	Reclaimed	<u>1072</u>
	Total Non-Potable	1072

Since the City implemented mandatory watering restrictions earlier this year, many residents have contacted the City expressing their frustration that they must follow mandatory watering restrictions while new development is allowed to continue. Because of the time involved for developers to design projects and process plans, most of the projects currently under construction were approved long before the drought became an issue this year, and enacting construction delays or restrictions on these types of projects previously and currently allowed to proceed through the City's review process would have significant negative financial effects on the developers of these projects.

All active residential projects (Categories A and L) including South Westminster, infill, and build-out developments would be accommodated with the allocations as recommended. Any Service Commitments allocated to any of the categories that are not awarded during the year are returned to the water supply figures for use in future years.

In the table above, no Service Commitments for new residential projects are shown, so no new residential competitions would be planned or conducted. Because these limitations are recommended for new development inside the City limits, Staff also explored the possibility of restricting new development the City serves outside the City's boundaries (Category D development). The City Attorney's Office reviewed the provisions of each of the three water service agreements for Federal Heights, Shaw Heights, and the Standley Lake Water and Sanitation District. Per the terms of the agreements, the City Attorney's Office determined that the City is not able to restrict new taps for Federal Heights, and the Standley Lake contract requires that area receive 0.19 of the total allocation to Category D.

However, the Shaw Heights agreement does allow the City to restrict new taps for that area. Therefore, Staff recommends that no additional water taps be issued to Shaw Heights in 2003 in order to reduce the number of outgoing Service Commitments as much as possible and to be consistent with the recommendations for no new Category B allocations within Westminster. There are plans to develop a 108-unit residential project at 88th Avenue and Lowell Boulevard in Shaw Heights next year. Allocating new Service Commitments to this project would significantly increase the number of Service Commitments that would be necessary for Category D next year. The total allocation for Category D (in the table above) of 35 Service Commitments reflects 30 Service Commitments for anticipated development in Federal Heights and five Service Commitments to accommodate the minimum necessary for the Standley Lake Water and Sanitation District. No Service Commitments would be allocated for new development in Shaw Heights.

In July 2003, when it will be more evident what the drought and water situation will be next year, Staff will plan to review the new residential competition process again with City Council. Should the drought not be an issue next summer and if the City would be able to accommodate additional new development, City Council could then authorize new residential competitions if desired. A supplemental Service Commitment allocation could be completed at that time to initiate the competitive process, and the specific competition categories could be chosen. In addition, the Outside City Contracts allocation could be reviewed.

According to figures supplied by the City's Water Resources Staff, in the Department of Public Works and Utilities, there were approximately 10,250 Service Commitments available in the treated water supply at the beginning of 2002. With the 590 Service Commitments awarded in 2002 as of November 1, this leaves approximately 9,660 treated water Service Commitments for 2003 and beyond. This estimate of Service Commitments is for a water supply sufficient to provide full water service during a drought as severe as the one in the 1950's. If, in the future, the City decides to change its planning assumptions to address more severe droughts, the number of Service Commitments available may decrease. Please keep in mind, that even though the supply would accommodate this number of new Service Commitments, the City would be unable to serve this development at this point from an infrastructure standpoint. Distribution system improvements would be necessary to serve that many more customers.

Respectfully submitted,

J. Brent McFall
City Manager

Attachment

RESOLUTION

RESOLUTION NO. **55**

INTRODUCED BY COUNCILLORS

SERIES OF 2002

ALLOCATING SERVICE COMMITMENTS FOR THE YEAR 2003 PURSUANT TO THE CITY'S GROWTH MANAGEMENT PROGRAM AS SET FORTH IN CHAPTER 3, TITLE XI OF THE WESTMINSTER MUNICIPAL CODE

WHEREAS, the City of Westminster has adopted by Ordinance a Growth Management Program through 2010; and

WHEREAS, the City's Growth Management Program as set forth in Chapter 3, Title XI of the Westminster City Code calls for the periodic determination of the availability of Service Commitments and allocation of such Service Commitments among various categories of potential users; and

WHEREAS, the City Council of the City of Westminster has, with the aid of detailed factual reports and expert opinions from its Staff and consultants, examined the raw water supply, the sewage treatment capacity, the water treatment capacity, and other factors affecting the availability of Service Commitments; and

WHEREAS, the City Council of the City of Westminster has previously determined, in connection with its adoption of Chapter 3 of Title XI of the Westminster Municipal Code, that the City's ability to award Service Commitments is restricted; and

WHEREAS, the demand of different land uses on the City's ability to provide utilities and other services vary due to density and intensity of the particular use; and

WHEREAS, City Council has previously determined that the Comprehensive Land Use Plan adopted in 1997 shall assist the City in making future decisions concerning the desired mix of land uses at build-out of the City; and

WHEREAS, it is the intent of City Council to recognize the many factors influencing demand for new water and sewer service, while remaining cognizant of the large capital investments in land and public improvements made by developers with projects that are already started, and recognizing the efficiencies inherent in encouraging the completion of existing development projects that can use existing public capital facilities before approving new ones.

NOW, THEREFORE, be it resolved that the City Council of Westminster, in accordance with Sections 11-3-4 and 11-3-5 of the Official Code of the City of Westminster, the City Council hereby determines that:

1. Based on all of the information available to the City Council on this date, for the period beginning January 1, 2003 through December 31, 2003, the City can make available 756 Service Commitments ("SCs") to Categories A (A-1, A-2, and A-3) and L (L-1, L-2, and L-3), 526 SCs to Category C, 35 SCs to Category D, 98 SCs to Category E, 76 SCs to Category F, and 1,072 SCs to Category R without adverse effect on existing water users and without in any way endangering the health, safety, and welfare of the citizens of Westminster and of other persons dependent upon the operation of a safe and efficient public water and sanitation system by the City.
2. This Resolution supersedes and replaces all previous allocation Resolutions by City Council.

3. No Service Commitments will be allocated for New Single-Family Detached (Category B-1), New Single-Family Attached (Category B-2), New Multi-Family (Category B-3), and Traditional Mixed Use Neighborhood Developments (Category B-4) at this time.

Passed and adopted this 9th day of December, 2002.

ATTEST:

Mayor

City Clerk



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
December 9, 2002



SUBJECT: Councillor's Bill No. 71 re Premier Members Federal Credit Union Business Assistance Package

Prepared By: Becky Johnson, Economic Development Program Coordinator

Recommended City Council Action

Pass Councillor's Bill No. 71 on first reading authorizing the City Manager to execute the business assistance agreement in the amount of \$9,190, which includes \$1,850 in permit fee rebates, \$2,840 in construction use tax rebates and \$4,500 in equipment use tax at move-in, with Premier Members Federal Credit Union.

Summary Statement

- City Council action is requested to pass the attached Councilors Bill which authorizes the execution of the attached business assistance agreement with Premier Federal Credit Union.
- This assistance package is based upon the City's goal to attract quality companies to vacant space within the community.

Expenditure Required: \$ 0

Source of Funds: The business assistance package to Premier Members Federal Credit Union will be funded through permit fees, construction use tax, and equipment use tax directly generated from tenant finish and occupancy in CirclePoint Corporate Center.

Policy Issue

Does Council desire to provide assistance to Premier Members Federal Credit Union to promote the company's relocation to CirclePoint Corporate Center?

Alternative

Do Nothing: One alternative to offering the recommended business assistance package is to offer nothing to this company. Though the City may lose the project if assistance is not provided, the result would be that the City's value of attracting quality companies and filling existing vacant space would not be supported.

Provide Less: Another alternative is to provide less assistance than what is recommended. The recommended assistance package is considered very modest.

Provide More: A third alternative would be to provide a greater amount of assistance than recommended. Staff is recommending an assistance package that is 12% of the total 5-year projected revenue. There is room for additional funding. However, it is staff's opinion that additional assistance is not needed.

Background Information

Premier Members Federal Credit Union is looking to relocate their corporate headquarters from 5495 Arapahoe Avenue in Boulder to the US 36 corridor. Premier Members Federal Credit Union was established in 1966 and is a financial services provider to over 28,000 members. The purpose of the relocation is to be central to their customer base. Sites considered in Westminster included Church Ranch Corporate Center and CirclePoint Corporate Center.

Based upon City Council's desire to attract quality companies in Westminster to fill existing vacant space, staff is proposing a business assistance package to this company. The average wage paid by this company is \$47,000 per year. With employment at approximately 45 employees, resulting annual payroll of approximately is \$3.4 million in salary and benefits. Premier Members Federal Credit Union has projected employment to grow to 70 employees by 2008.

It is anticipated that Premier Members Federal Credit Union will generate over \$72,129 of new revenue directly to the City in the first five years of operation. This is based on \$630,000 in tenant finish and new equipment purchases of \$500,000 at move-in. Based on a 5-year projection of direct and indirect City tax and fee revenue, Staff recommends the following business assistance package:

Proposed Assistance	Approximate Value
<u>Building Permit-Fee Rebate</u> 30% of the building related fees (excluding water & sewer tap fees) will be rebated (\$6,144 x 30% = \$1,843) not to exceed \$1,850	\$1,850
<u>Building Use Tax Rebate</u> 30% of the General Use Tax (excludes the City's .25% Open Space Tax) on construction materials for this project will be rebated (\$630,000 x 50% = \$315,000 x 3% = \$9,450 x 30% = \$2,835) not to exceed \$2,840	\$2,840

Use Tax on Furniture and Fixtures Rebate \$4,500

For the period 3 months prior and the 3 months after Premier Federal Credit Union obtains the Certificate of Occupancy for the new Westminster facility, the City will rebate 30% of the General Use Tax (excludes the City's .25% Open Space Tax) collected on the furnishing and equipment purchased to furnish the new facility (\$500,000 new equipment x 3% Use Tax x 30% = \$4,500) not to exceed \$4,500

Total Proposed Assistance Package Not To Exceed \$9,190

As Council will note, the assistance being proposed is 12% (\$9,190 total assistance divided by \$72,129 Projected Revenue = 12%) of the total direct general use tax and fee revenue projected from the project in the first 5 years of operation. The City will be made whole on this investment at the time of the Certificate of Occupancy.

Respectfully submitted,

J. Brent McFall
City Manager

Attachments

**ASSISTANCE AGREEMENT FOR
PREMIER MEMBERS FEDERAL CREDIT UNION
IN THE CITY OF WESTMINSTER**

THIS AGREEMENT is made and entered into this _____ day of _____, 2002, between the CITY OF WESTMINSTER (the "City"), and Premier Members Federal Credit Union.

WHEREAS, the City wishes to provide certain assistance to Premier Members Federal Credit Union to aid in relocating to 18,000 square feet of existing space in CirclePoint Corporate Center in Westminster; and

WHEREAS, Premier Members Federal Credit Union plans to provide additional primary job creation within the City; and

WHEREAS, City Council finds the execution of this Agreement will serve to provide benefit and advance the public interest and welfare of the City and its citizens by securing the location of this economic development project within the City.

In consideration of the mutual promises set forth below, the City and Premier Members Federal Credit Union agree as follows:

1. Building Permit Fee Rebates. The City shall rebate 30% of the building related permit fees, required under W.M.C. Section 11-10-3 (E), excluding water and sewer tap fees, to Premier Members Federal Credit Union which will result in tenant finish of 18,000 square feet in CirclePoint Corporate Center, expected to be completed by June 30, 2003. The permit fee rebate shall not exceed \$1,850.

2. Use Tax Rebate- Construction. The City shall rebate 30% of the Building Use Tax on the construction materials, which are to be used in tenant finish of 18,000 square feet of space, required under W.M.C. sections 4-2-9 and 4-2-3, to Premier Members Federal Credit Union. The rebate shall not exceed \$2,840.

3. Use Tax Rebate- Furniture and Fixtures. For purchases of items for the Westminster facility made during 3 months prior and 3 months after the issuance of the Certificate of Occupancy for Premier Members Federal Credit Union, the City shall rebate 30% of the General Use Tax remitted to the City of Westminster on its use tax return. The total rebate pursuant to this paragraph shall not exceed \$4,500 (the "Rebate"). Such Rebate shall be payable exclusively from those revenues actually collected by the City from the new Premier Members Federal Credit Union facility and attributable to the imposition against Premier Members Federal Credit Union facility, of the City's 3.0% general use tax (excludes the City's .25% Open Space Tax).

4. Payments of Rebates. The rebates shall be paid by the City in quarterly installments from revenue actually collected and received by the City. The payment of each quarterly installments shall be made within 20 days following the close the each calendar quarter.

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

6. Termination. This Assistance Agreement shall terminate and become void and of no force or effect upon the City if Premier Members Federal Credit Union has not moved into its new building by June 30, 2003; or, should Premier Members Federal Credit Union fail to comply with any City code.

7. Business Termination. In the event Premier Members Federal Credit Union ceases business operations within the City within three (3) years after the new operations commence, then in such event Premier Members Federal Credit Union shall pay to the City the total amount of fees and taxes which were due and payable by Premier Members Federal Credit Union to the City but were rebated by the City, as

well as reimburse the City for any funds provided to Premier Members Federal Credit Union pursuant to this Agreement.

8. Subordination. The City's obligations pursuant to this Agreement are subordinate to the City's obligations for the repayment of any current or future bonded indebtedness and are contingent upon the existence of a surplus in sales and use tax revenues in excess of the sales and use tax revenues necessary to meet such existing or future bond indebtedness. The City shall meet its obligations under this Agreement only after the City has satisfied all other obligations with respect to the use of sales tax revenues for bond repayment purposes. For the purposes of this Agreement, the terms "bonded indebtedness," "bonds," and similar terms describing the possible forms of indebtedness include all forms of indebtedness that may be incurred by the City, including, but not limited to, general obligation bonds, revenue bonds, revenue anticipation notes, tax increment notes, tax increment bonds, and all other forms of contractual indebtedness of whatsoever nature that is in any way secured or collateralized by sales and use tax revenues of the City.

9. Annual Appropriation. Nothing in this Agreement shall be deemed or construed as creating a multiple fiscal year obligation on the part of the City within the meaning of Colorado Construction Article X, Section 20, and the City's obligations hereunder are expressly conditional upon annual appropriation by the City Council.

10. Governing Law: Venue. This Agreement shall be governed and construed in accordance with the laws of the State of Colorado. This Agreement shall be subject to, and construed in strict accordance with, the Westminster City Charter and the Westminster Municipal Code. In the event of a dispute concerning any provision of this agreement, the parties agree that prior to commencing any litigation, they shall first engage in a good faith the services of a mutually acceptable, qualified, and experience mediator, or panel of mediators for the purpose of resolving such dispute. The venue for any lawsuit concerning this agreement shall be in the District Court for Jefferson County, Colorado.

PREMIER MEMBERS FEDERAL CREDIT UNION

CITY OF WESTMINSTER

President

J. Brent McFall
City Manager

ATTEST:

ATTEST:

Title Michele Kelley
City Clerk

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **71**

SERIES OF 2002

INTRODUCED BY COUNCILLORS

A BILL

FOR AN ORDINANCE AUTHORIZING AN ASSISTANCE AGREEMENT
WITH PREMIER MEMBERS FEDERAL CREDIT UNION FOR THE OCCUPANCY OF EXISTING
SPACE AT CIRCLEPOINT CORPORATE CENTER IN WESTMINSTER

WHEREAS, the successful attraction and retention of high quality development to the City of Westminster provides employment opportunities and increased revenue for citizen services and is therefore an important public purpose; and

WHEREAS, it is important for the City of Westminster to attract quality jobs and remain competitive with other local governments in creating assistance for occupancy of existing space in the City; and

WHEREAS, Premier Members Federal Credit Union plans to lease 18,000 square feet of existing office space at CirclePoint Corporate Center in Westminster, and

WHEREAS, a proposed Assistance Agreement between the City and Premier Members Federal Credit Union is attached hereto as Exhibit "A" and incorporated herein by this reference.

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

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The City Manager of the City of Westminster is hereby authorized to enter into an Assistance Agreement with Premier Members Federal Credit Union in substantially the same form as the one attached as Exhibit "A", and upon execution of the Agreement to fund and implement said Agreement.

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

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

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 9th day of December 2002.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 23rd day of December 2002.

ATTEST:

Mayor

City Clerk



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
December 9, 2002



SUBJECT: Councillor's Bill No. 72 re Open Space Supplemental Appropriation

Prepared By: Lynn Wodell, Open Space Coordinator

Recommended City Council Action:

Pass Councillor's Bill No. 72 on first reading authorizing the supplemental appropriation of \$275,500 from grants and donations into the 2002 Open Space Fund.

Summary Statement:

- During 2002, the City received a grant of \$75,000 from Urban Drainage and Flood Control District for the acquisition of the 5- acre Guildner property along Little Dry Creek east of Lowell Boulevard.
- The City has also received a grant of \$200,000 from the Adams County Open Space Program for the acquisition of the 8.61-acre Trust for Public Land purchase on the west end of Hidden Lake just east of Sheridan Boulevard.
- The City has also received a donation of \$500 from Westminster Alliance to Conserve Home and Habitat (W.A.T.C.H)

Expenditure Required: \$ 0

Source of Funds: Grants and donation from various sources.

Policy Issues

Does City Council wish to accept the grants and donation described above and place the proceeds into the Open Space Fund Land Purchases Account for 2002?

Alternative

City Council could choose not to accept the grants and donation and could choose not to add the proceeds to the Open Space Fund. These funds are needed to pay for land acquisition agreements that the City has entered into for Hidden Lake and the Guildner properties, therefore, Staff does not recommend this alternative.

Background Information

City Council has previously authorized Staff to apply for grants from the Urban Drainage and Flood Control District and the Adams County Open Space Program. The grants of \$75,000 and \$200,000, respectively, are significant additions to the Open Space Fund. The 5-acre Guildner/Little Dry Creek and the 8.61-acre Trust for Public Land/Hidden Lake properties have been purchased using City open space funds. The grant funds can be used to supplement the Open Space Land Purchases Account, reimburse the Land Purchases Account for portions of the purchases prices of these acquisitions, and be available for future City Council approved open space acquisitions. The City appreciates the partnership with Urban Drainage and Flood Control District and Adams County.

In addition, the City appreciates the \$500 received from the Westminster Alliance to Conserve Home and Habitat (W.A.T.C.H). These contributions can also be used to supplement the open space land purchases account in 2002.

Respectfully submitted,

J. Brent McFall
City Manager

Attachment

BY AUTHORITY

ORDINANCE NO.

COUNCILOR'S BILL NO. **72**

SERIES OF 2002

INTRODUCED BY COUNCILLORS

A BILL

FOR AN ORDINANCE INCREASING THE 20 02 BUDGETS OF THE OPEN SPACE FUND AND AUTHORIZING A SUPPLEMENTAL APPROPRIATION FROM THE 2002 ESTIMATED REVENUES IN THE FUND.

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The 2002 appropriation for the Open Space Fund initially appropriated by Ordinance No. 2913 in the amount of \$4,761,666 is hereby increased by \$275,500 which, when added to the fund balance as of the City Council action on December 9, 2002 will equal \$7,997,286. The actual amount in the Open Space Fund on the date this ordinance becomes effective may vary from the amount set forth in this section due to intervening City Council actions. This increase is due to the appropriation of a grant from Urban Drainage and Flood Control District, a grant from Adams County Open Space Program and a donation from Westminster Alliance to Conserve Home and Habitat.

Section 2. The \$275,500 increase in the Open Space Fund shall be allocated to City Revenue and Expense accounts, which shall be amended as follows:

Description	Current Budget	Increase	Final Budget
REVENUES			
Miscellaneous Revenue			
5400.43060.0000	\$0	\$500	\$500
District Misc			
5400.40510.0000	0	<u>275,000</u>	275,000
Total Change to Revenues		<u>\$275,500</u>	
EXPENSES			
Land Purchases			
54010900.76600.0000	\$3,566,690	<u>\$275,500</u>	\$3,842,190
Total Change to Expenditures		<u>\$275,500</u>	

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

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

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

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED AND PUBLISHED this 9th day of December, 2002.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 23rd day of December, 2002.

ATTEST:

Mayor

City Clerk



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
December 9, 2002



SUBJECT: Councillor’s Bill No. 73 re Sale of \$15.09 mm Sales Tax Revenue Bonds For Construction of 136th Avenue Interchange at I-25

Prepared By: Mary Ann Parrot, Finance Director

Recommended City Council Action

Adopt Councillor’s Bill No. 73 as an emergency ordinance, approving the sale of \$15.09 million Sales Tax Revenue Bonds for the construction of the 136th Avenue Interchange at I-25, and direct the Mayor, Finance Director and City Clerk to sign necessary documents on behalf of the City.

Summary Statement

City Council reviewed the feasibility of the I-25 Interchange project on Monday, November 25 and directed Staff to prepare the attached ordinance. The bonds were sold on December 4, at a net interest cost of 4.68%, to produce proceeds of \$15.547 million.

- The majority of the proceeds (\$13.687 million) will be used to finance the construction of the interchange and associated road improvements of 136th Avenue, which does not currently exist. The proceeds will also be used to reimburse the City for \$2.6 million advanced to the project by City Council approval of a Reimbursement Resolution on June 25, 2001, to commence early drainage improvements and construction necessary for the interchange. The balance of the proceeds (\$1.86 million) will be used to pay capitalized interest on the bonds through March 31, 2005 and to pay costs of issuance. The capitalized interest is necessary to pay debt service until adequate development occurs in this area, thus generating property and sales taxes and other fees used to meet debt service requirements on the bonds.
- The pledge of revenues for this bond issue is the City’s general sales and use tax. If adequate tax revenues from the surrounding interchange area are not available in the early years of the bond issue, due to slower development, the City has pledged the revenues in the Sales and Use Tax Fund to make the debt service payments.
- The feasibility study for this project estimates that additional revenues of \$1.814 million will be needed from the Sales and Use Tax Fund from 2005-2009, at which time the project cash flows will be adequate to service the debt and will begin to exceed debt service.
- Total excess tax revenues from this project, over the 20-year term of the bonds and net of debt service, are estimated to be approximately \$23.4 million.
- This bond issue has received an underlying rating of AA from Fitch and Standard and Poors. The bond issue is insured by AMBAC.

Expenditure Required: \$15,547,320

Source of Funds: Bond Proceeds

Policy Issues

Does Council wish to pledge the City's Sales and Use Tax Revenues to construct an interchange at I-25 and 136th Avenue?

Alternatives

1. Do not issue the bonds. This is not recommended, primarily because the intergovernmental agreement with the City of Thornton, which City Council has adopted, includes the commitment to fund this project jointly. In addition, Thornton is also going to the market in December with financing for the project.
2. Pay for the interchange with cash. This is not recommended. The City currently does not have the cash flow to devote to this project without seriously retarding other needed capital improvements. The comprehensive capital project planning the City has done includes deciding on the mix of cash-funded and debt-financed projects. This plan would be negatively impacted if the City decided to revise the financing for this project at this time. In addition, the revenues from this area are estimated to meet debt service requirements in a relatively short period of time.

Background Information

On October 11, 1999, Council approved an Intergovernmental Agreement with the City of Thornton for the environmental assessment and design for the proposed 136th Avenue and I-25 interchange. Over the past several years, the City has taken several formal steps towards the construction of a new interchange at 136th Avenue and I-25. Those steps have included the following:

- The joint completion of an engineering feasibility study with the Cities of Thornton and Broomfield, which was subsequently approved by the Colorado Transportation Commission.
- The execution of Intergovernmental Agreements for the environmental assessment and design of the interchange, the preparation of a planning study along the I-25 corridor and the relocation of the United Power substation, which is currently located just south of 136th Avenue on the west side of I-25.
- The formation of a General Improvement District to provide a means to finance the proposed interchange and associated improvements and the establishment of a reimbursement resolution that allows the City to be reimbursed from the bond proceeds for the project costs expended prior to the issuance of bonds.
- The execution of a professional services agreement for the preparation of plans and specifications for the relocation of Quail Creek and the Bull Canal in advance of the 136th Avenue interchange construction.

Additionally, in the November 2000 general election, the voters approved a no-tax increase sales tax bond ballot issue to fund the 136th Avenue interchange project and the 112th Avenue widening project.

To date, \$530,000 has been budgeted in the General Capital Improvement Program for the 136th Avenue Interchange project and funds have been expended from that account for the following:

- engineering feasibility study,
- financial feasibility study,
- environmental assessment,
- preliminary design and final design of the interchange and associated improvements,
- preparation of separate plans and specifications for the Quail Creek/Bull Canal relocation,
- architectural design of the proposed 136th Avenue bridge over I-25 and,
- acquisition of the United Power substation site.

In addition, Council approved a reimbursement resolution on June 25, 2001 and an emergency supplemental appropriation of \$2.6 million on December 17, 2001 to provide advance funding for improvements preliminary to the interchange construction:

- right of way acquisition,
- relocation of Quail Creek/Bull Canal,
- relocation of United Power electric substation,
- land lease to stockpile dirt for the interchange construction,
- completion of environmental assessments and engineering designs.

In October 2002, consultants hired to evaluate the economic feasibility of the project revised their November 2001 study based on the preliminary master plan with updated information on the assumed acreage to be developed, the land use mix between office, retail and residential properties, and a new schedule for anticipated build out of the project. The major changes in the current assumptions versus those used in the November 2001 financial feasibility study are as follows:

- The number of acres to be developed is reduced from 180 acres to 130 acres
- The mix of land use is now 45% office, 55% retail, compared to 60% office, 40% retail and in the 2001 feasibility study. The revisions correspond to the land uses proposed in the preliminary master plan design.
- The period for office property absorption was delayed 1 year due to the decrease in demand for office space in the I-25 corridor, and the northern metropolitan area generally.

The City's share of the construction costs for the interchange and associated improvements is projected to be \$15.09 million. To fund this cost it is necessary to issue Sales Tax Revenue Bonds.

Using total revenues of \$46.1 million and subtracting total debt service over the life of the bonds, the City can expect to realize \$23.4 million in new excess revenues from this project.

Respectfully submitted,

J. Brent McFall
City Manager

Attachment

BY AUTHORITY

ORDINANCE NO. 2997

COUNCILLOR'S BILL NO. 73

SERIES OF 2002

INTRODUCED BY COUNCILLORS
Dixon-Hicks

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A BILL FOR AN ORDINANCE AUTHORIZING THE ISSUANCE OF SALES AND USE TAX REVENUE BONDS, SERIES 2002, OF THE CITY OF WESTMINSTER, COLORADO, PROVIDING OTHER DETAILS IN CONNECTION THEREWITH; AND DECLARING AN EMERGENCY.

THE CITY OF WESTMINSTER ORDAINS:

Section 1. Definitions. As used herein, unless the context clearly indicates otherwise, the following terms shall have the respective meanings set forth below:

Beneficial Owner: any Person for which a Participant acquires an interest in the Bonds.

Bond Fund: offsetting revenue and expense accounts within the General Debt Service Fund of the City, designated as the "2002 Sales and Use Tax Revenue Bonds" created by the provisions of this Ordinance.

Bond Insurance Policy: the financial guaranty insurance policy issued by the Bond Insurer guaranteeing the payment when due of the principal of and interest on the Bonds.

Bond Insurer: Ambac Assurance Corporation, a Wisconsin-domiciled stock insurance company, or any successors thereto.

Bond Purchase Agreement: the agreement between the City and the Underwriter, concerning the purchase of the Bonds by the Underwriter.

Bonds: the Sales and Use Tax Revenue Bonds, Series 2002, dated December 1, 2002, as authorized by this Ordinance.

Cede: Cede & Co., the nominee of DTC as record owner of the Bonds, or any successor nominee of DTC with respect to the Bonds.

Charter: the home rule charter of the City adopted in accordance with Article XX of the Colorado Constitution.

City: the City of Westminster, Adams and Jefferson Counties, Colorado.

Code: the Internal Revenue Code 1986, as in effect on the date of delivery of the Bonds.

Combined Average Annual Principal and Interest Requirements: with regard to any two or more particular issues of bonds or other obligations, the aggregate of all future payments of principal of and interest on all of said issues (excluding redemption premiums) to become due from the date of computation to the date of maturity of the latest maturing obligation of any of said issues, divided by the number of years between said dates; provided that if any particular issue has a single principal payment date and is issued as interim notes or securities in anticipation of permanent financing, such principal amount shall be excluded from this computation; provided further that such computation shall assume the redemption and payment of bonds or other obligations subject to mandatory redemption, but shall be made without regard to optional redemption.

Continuing Disclosure Certificate: the undertaking executed by officers of the City simultaneous with the delivery of the Bonds which enables the Underwriter to comply with Rule 15c2-12 promulgated by the Securities and Exchange Commission.

Council: the City Council of the City of Westminster, Colorado.

C.R.S.: the Colorado Revised Statutes, as amended and supplemented as of the date hereof.

Depository: any securities depository as the City may provide and appoint, in accordance with the guidelines of the Securities and Exchange Commission, which shall act as securities depository for the Bonds.

DTC: the Depository Trust Company, New York, New York, and its successors and assigns.

Election: the general election held within the City on November 7, 2000, authorizing the issuance of the Bonds.

Event of Default: any one or more of the events set forth in Section 22 of this Ordinance.

Federal Securities: direct obligations of the United States of America and securities fully and unconditionally guaranteed as to the timely payment of principal and interest by the United States of America, provided, that the full faith and credit of the United States of America must be pledged to any such direct obligation or guarantee.

General Debt Service Fund: the "General Debt Service Fund" heretofore established as a governmental fund of the City.

Insurance Trustee: The Bank of New York, New York, New York, or its successors under the Bond Insurance Policy.

Letter of Representations: the letter of representations from the City to DTC to induce DTC to accept the Bonds as eligible for deposit at DTC.

Maturity-Rate: all Bonds coming due on the same maturity date and bearing the same rate of interest.

Maximum Annual Combined Debt Service Requirement: the maximum amount of all required payments of principal and interest on the 1996 Bonds, the 1997 Bonds, the 2001 Bonds, any Parity Lien Bonds, and any Parity Lien Bonds proposed to be issued which will become due in any Fiscal Year; provided that if any particular issue has a single principal payment date and is issued as interim notes or securities in anticipation of permanent financing, such principal amount shall be excluded from this computation; provided further that such computation shall assume the redemption and payment of bonds or other obligations subject to mandatory redemption, but shall be made without regard to optional redemption.

1992 Bonds: the City's Sales and Use Tax Revenue Bonds, Series 1992A, dated October 15, 1992.

1996 Bonds: the City's Sales and Use Tax Revenue Refunding Bonds, Series 1996, dated May 1, 1996.

1997 Bonds: the City's Sales and Use Tax Revenue Refunding and Improvement Bonds, Series 1997A, dated March 1, 1997.

2001 Bonds: the City's Sales and Use Tax Revenue Refunding and Improvement Bonds, Series 2001, dated September 1, 2001.

Ordinance: this Ordinance which authorizes the issuance of the Bonds.

Owners: the Beneficial Owners and the Registered Owners; provided however, that for purposes of Sections 23 and 24 hereof, to the extent provided in any ordinance authorizing the 1996 Bonds, the 1997 Bonds, the 2001 Bonds, any Parity Lien Bonds, any bond insurer which is not in default in its obligations under its bond insurance policy insuring payment of the any Parity Lien Bonds shall be deemed the Owner thereof.

Parity Lien Bonds: one or more series of additional bonds, notes, interim securities, or other obligations issued by the City in accordance with the provisions hereof, having a lien on the Pledged Revenue which is on a parity with the lien of the Bonds.

Participant: any broker-dealer, bank, or other financial institution from time to time for which DTC or other Depository holds the Bonds.

Paying Agent: The Bank of Cherry Creek, a branch of Western National Bank, in Denver, Colorado or its successor, which shall perform the function of paying agent as set forth in this Ordinance.

Paying Agent Agreement: the Registrar and Paying Agent Agreement dated as of December 1, 2002, between the City and the Registrar and Paying Agent.

Permitted Investments: any investment or deposit permitted for the City under the laws of the State and listed on Schedule I to this Ordinance or otherwise approved by the Bond Insurer.

Person: any natural person, firm, partnership, association, corporation, trust, public body, or other entity.

Pledged Revenue: so long as the rate of the Sales and Use Tax is three and one quarter percent (3.25%), the revenue derived from the Sales and Use Tax, after deducting (i) 7.69% thereof for deposit to the City's Open Space Fund, and (ii) all costs of administering and collecting the Sales and Use Tax; and so long as the rate of the Sales and Use Tax is three percent (3%), the revenue derived from the Sales and Use Tax, after deducting all costs of administering and collecting the Sales and Use Tax.

Preliminary Official Statement: the Preliminary Official Statement prepared in connection with the issuance of the Bonds.

Project: the street improvements described in the question set forth in Section 2 of the Ordinance and approved by a majority of the City's registered electors voting thereon at the Election.

Purchaser: Stifel, Nicolaus & Company, Incorporated Hanifen Imhoff Division, Denver, Colorado, the original purchaser of the Bonds.

Question: the question approved by the registered electors of the City at the Election as provided in Section 2 of the Ordinance.

Record Date: the fifteenth (15th) day of the calendar month next preceding each interest payment date of the Bonds.

Registered Owner: the registered owner of any Bond, as shown by the registration books maintained by the Registrar on behalf of the City.

Registrar: The Bank of Cherry Creek, a branch of Western National Bank, in Denver, Colorado or its successor, which shall perform the registration and transfer functions of bond registrar as set forth in this Ordinance.

Required Reserve: the amount of the Reserve Fund required by Section 19(e) hereof.

Reserve Fund: offsetting revenue and expense accounts within the General Debt Service Fund of the City, designated as the "Sales and Use Tax Revenue Bonds Reserve," created by the provisions of Section 19(e) of this Ordinance.

Sales and Use Tax: the sales and use tax of the City, as imposed by Title IV in effect as of the date hereof. The term "Sales and Use Tax" does not include any increases in the rate of sale and use taxes from the present rate of 3.25%, nor does it include any other excise taxes which may now or hereafter be imposed by the City, whether contained in Title IV or any other Chapter or ordinance of the City.

Sales and Use Tax Fund: the "Sales and Use Tax Special Revenue Fund" heretofore established as a governmental fund of the City.

Special Record Date: a special date fixed to determine the names and addresses of registered owners of Bonds for purposes of paying interest on a special interest payment date for the payment of defaulted interest.

Subordinate Lien Bonds: one or more series of additional bonds, notes, interim securities, or other obligations issued by the City in accordance with the provisions hereof, having a lien on the Pledged Revenue which is subordinate or junior to the lien of the Bonds.

Supplemental Act: the Supplemental Public Securities Act, constituting Title 11, Article 57, Part 2, C.R.S.

Term Bonds : The Bonds that are payable on or before their specified maturity dates from sinking fund payments established for that purpose and calculated to retire such Bonds on or before their specified maturity dates.

Title IV: Chapters 1 and 2 of Title IV of the Municipal Code of the City governing the imposition, collection, distribution, and enforcement of the Sales and Use Tax, and any successor or other ordinance pertaining to the Sales and Use Tax.

Underwriter: Stifel, Nicolaus & Company, Incorporated Hanifen Imhoff Division, Denver, Colorado, the original purchaser of the Bonds, or its successor.

Section 2. Recitals.

A. This Ordinance shall be known as and may be cited by the short title "2002 Sales and Use Tax Bond Ordinance."

B. The City is a duly organized and existing home rule municipality of the State of Colorado, created and operating pursuant to Article XX of the Colorado Constitution and the Charter.

C. Pursuant to Section 10.2 of the Charter and Title IV of the City's Municipal Code, the City has heretofore imposed and is collecting a sales and use tax upon the sale or use of tangible personal property and certain services.

D. Pursuant to said Title IV, for transactions consummated or contracts entered into on or after January 1, 1986, but prior to January 1, 2017, the rate of the sales and use tax shall be three and one-quarter percent (3.25%), and for transactions consummated or contracts entered into prior to January 1, 1986, or on or after January 1, 2017, the rate of the sales and use tax shall be three percent (3%).

E. Pursuant to said Title IV, seven and sixty-nine hundredths percent (7.69%) of all sales and use taxes collected at the rate of three and one quarter percent (3.25%) shall be distributed to the City's Open Space Fund.

F. Pursuant to Chapter XI of the Charter, the Council has the power to issue, without the vote of the qualified electors of the City, revenue bonds for any public purpose payable in whole or in part from the available proceeds of sales and use taxes which may be imposed pursuant to Chapter X of the Charter.

G. Pursuant to Chapter XI of the Charter, the City has heretofore issued its 1992 Bonds, currently outstanding in the aggregate principal amount of \$1,085,000, payable solely from certain sales and use tax and other excise tax revenues to be derived by the City, which will be paid in full on December 1, 2002.

H. Pursuant to Chapter XI of the Charter, the City has heretofore duly authorized, sold, issued, and delivered to the purchasers thereof its 1996 Bonds, 1997 Bonds and 2001 Bonds payable solely from certain sales and use tax and other excise tax revenues to be derived by the City.

I. Article X, Section 20 of the Colorado Constitution requires voter approval in advance for the creation of any multiple-fiscal year direct or indirect debt or other financial obligation except for refunding at a lower rate of interest.

J. At the Election, the registered electors of the City approved the following Question:

**ISSUE 2C: QUALITY OF LIFE "C" - NO TAX INCREASE
STREET IMPROVEMENTS AND INTERCHANGE**

SHALL CITY OF WESTMINSTER DEBT BE INCREASED \$19,270,000 WITH A REPAYMENT COST OF \$38,825,625 (OVER AN ESTIMATED 20-YEAR REPAYMENT PERIOD) WITHOUT ANY NEW TAXES OR TAX RATE INCREASES, BY THE ISSUANCE OF SALES AND USE TAX REVENUE BONDS FOR THE DESIGN AND CONSTRUCTION OF AN INTERCHANGE AT INTERSTATE 25 AND 136TH AVENUE, THE WIDENING AND IMPROVEMENT OF 112TH AVENUE FROM SHERIDAN AVENUE TO STUART STREET, AND ALL NECESSARY, INCIDENTAL, AND APPURTENANT FACILITIES, EQUIPMENT, LAND, PROPERTY RIGHTS AND COSTS; THE SPECIFIC TERMS OF SUCH DEBT TO BE DETERMINED BY THE CITY COUNCIL AS NECESSARY AND PRUDENT WHICH MAY INCLUDE A PROVISION FOR EARLY REPAYMENT WITH OR WITHOUT A PREMIUM; AND MAY THE PROCEEDS FROM SUCH DEBT AND ANY INVESTMENT INCOME BE COLLECTED AND SPENT WITHOUT LIMITATION OR CONDITION AS A VOTER

APPROVED REVENUE CHANGE UNDER SECTION 20 OF
ARTICLE X OF THE COLORADO CONSTITUTION OR ANY
OTHER LAW?

K. The City has previously issued its 2001 Bonds in the aggregate principal amount of \$13,275,000, \$4,180,000 of which was issued pursuant to the Question.

L. Pursuant to the Election, the City has remaining authorization to issue \$15,090,000 in additional debt to complete the Project.

M. The maximum annual repayment cost for the bonds approved in the Question set forth in the notice mailed to electors was \$1,939,375.

N. The Council has determined that it is necessary to finance the costs of the Project as authorized in the Question.

O. The Council has determined that it is in the best interests of the City, and the inhabitants thereof, that the Bonds be issued for the purpose of financing the Project as described in the Question.

P. The Bonds shall have an irrevocable and first lien, but not necessarily an exclusive such lien, on certain sales and use tax revenues of the City, as set forth herein.

Q. The City has received a proposal in the form of a Bond Purchase Agreement from Stifel, Nicolaus & Company, Incorporated Hanifen Imhoff Division, Denver, Colorado, concerning the purchase of the Bonds.

R. The Council has determined that the Bonds shall be sold to Stifel, Nicolaus & Company, Incorporated Hanifen Imhoff Division in accordance with their proposal, and that such sale is to the best advantage of the City.

S. It is necessary to provide for the form of the Bonds, the Bond details, the payment of the Bonds, and other provisions relating to the authorization, issuance, and sale of the Bonds.

T. No member of the Council has any conflict of interest or is interested in any pecuniary manner in the issuance of the Bonds.

Section 3. Authorization. In accordance with the Constitution of the State of Colorado; the Charter; and all other laws of the State of Colorado thereunto enabling, and pursuant to the provisions of this Ordinance, the City hereby authorizes, for the purpose of paying the costs of the Project, the issuance of its "Sales and Use Tax Revenue Bonds, Series 2002," in the aggregate principal amount of \$15,090,000. The Council finds and determines that the principal amount, total repayment cost and maximum annual repayment cost of the portion of the Bonds issued to finance the Project does not exceed the amounts permitted under Article X, Section 20 of the Colorado Constitution. Section 11-57-204 of the Supplemental Act provides that a public entity, including the City, may elect in an act of issuance to apply all or any of the provisions of the Supplemental Act to the Bonds. The Council hereby elects to apply all of the Supplemental Act to the Bonds. The Bonds are issued under the authority of the Acts and shall

so recite as provided in Section 9 hereof. Pursuant to Section 11-57-210, C.R.S., such recital conclusively imparts full compliance with all the provisions of said sections, and the Bonds issued containing such recital shall be incontestable for any cause whatsoever after their delivery for value.

Section 4. Special Obligations. All of the Bonds, together with the interest thereon and any premium due in connection therewith, and any payments due to the Bond Insurer under the Bond Insurance Policy shall be payable only out of the Bond Fund, into which the City covenants to deposit the Pledged Revenue in amounts sufficient to pay promptly, when due, the principal of, premium, if any, and interest on the Bonds. The Bonds shall constitute an irrevocable and first lien upon the Pledged Revenue to the extent provided herein, but not necessarily an exclusive such lien, and the Pledged Revenue is hereby pledged to the payment of the Bonds as provided herein. Neither the Bond Insurer nor Owners may not look to any general or other revenue of the City, including without limitation the proceeds of ad valorem taxes, for the payment of the principal of, premium, if any, and interest on the Bonds, or any payments due to the Bond Insurer under the Bond Insurance Policy. The Bonds and any payments under the Bond Insurance Policy shall not constitute a debt or an indebtedness of the City within the meaning of any constitutional, Charter, or statutory provision or limitation; nor shall they be considered or held to be general obligations of the City.

Section 5. Bond Details. The Bonds shall be issued only as fully registered Bonds, without coupons, in the denomination of \$5,000 each or any integral multiple thereof. Unless the City shall otherwise direct, the registered Bonds of each series shall be numbered separately from 1 upward, with the number of each Bond preceded by "R-" and such other series designation as the Registrar deems necessary.

The Bonds shall be dated as of December 1, 2002, and shall bear interest from their date until maturity, payable semiannually on each June 1 and December 1, commencing on June 1, 2003, except that any Bond which is reissued upon transfer, exchange or other replacement shall bear interest from the most recent interest payment date to which interest has been paid or duly provided for, or if no interest has been paid, from the date of the Bonds. The Bonds shall bear interest at the rates designated below (based on a 360-day year consisting of twelve 30-day months) and shall mature on the dates and in the amounts set forth below:

<u>Maturity</u> <u>(December 1)</u>	<u>Principal</u> <u>Amount</u>	<u>Interest</u> <u>Rate</u>
2005	\$ 595,000	2.25%
2006	610,000	3.00
2007	630,000	3.00
2008	650,000	3.25
2009	670,000	3.40
2010	690,000	3.75
2011	715,000	4.00
2012	745,000	4.00
2013	775,000	5.00
2015	1,670,000	5.00
2017	1,835,000	5.00
2018	1,000,000	5.25
2019	1,040,000	5.25
2020	1,095,000	5.25
2021	1,155,000	5.25
2022	1,215,000	5.25

Section 6. Payment of Bonds; Paying Agent and Registrar. The principal of and premium, if any, on each Bond is payable in lawful money of the United States of America to the Registered Owner of such Bond upon maturity and presentation of the Bond, at the principal office of the Paying Agent. If any Bond shall not be paid upon such presentation and surrender at or after maturity, it shall continue to draw interest at the interest rate borne by said Bond until the principal thereof is paid in full. Payment of interest on any Bond shall be made to the Registered Owner thereof by check or draft mailed by the Paying Agent, on or before each interest payment date, to the Registered Owner thereof at his or her address as it last appears on the registration records kept by the Registrar on the Record Date; but any such interest not so timely paid shall cease to be payable to the person who is the Registered Owner thereof at the close of business on the Record Date and shall be payable to the person who is the Registered Owner thereof at the close of business on a Special Record Date for the payment of such defaulted interest. Such Special Record Date shall be fixed by the Registrar whenever moneys become available for payment of the defaulted interest, and notice of the Special Record Date shall be given to the Registered Owners of the Bonds not less than ten days prior to the Special Record Date by first-class mail to each such Registered Owner as shown on the Registrar's registration records on a date selected by the Registrar, stating the date of the Special Record Date and the date fixed for the payment of such defaulted interest. The Paying Agent may make payments of interest on any Bond by such alternative means as may be mutually agreed to between the registered owner of such Bond and the Paying Agent; provided, however, that the City shall not be required to make funds available to the Paying Agent prior to the payment dates stated in this Ordinance. All such payments shall be made in lawful money of the United States of America without deduction for the services of the Paying Agent or Registrar.

If the date for making any payment or performing any action hereunder shall be a legal holiday or a day on which the principal office of the Paying Agent or Registrar is authorized or required by law to remain closed, such payment may be made or act performed on the next succeeding day which is not a legal holiday or a day on which the principal office of the Paying Agent or Registrar is authorized or required by law to remain closed.

The principal of, premium, if any, and interest on the Bonds shall be paid in accordance with the terms of the Letter of Representations.

Section 7. Book-Entry System. The Bonds shall be initially issued in the form of a single, certificated, fully registered Bond for each Maturity-Rate. Upon initial issuance, the ownership of each such Bond shall be registered in the registration books kept by the Registrar in the name of Cede.

With respect to Bonds registered in the name of Cede or held by a Depository, the City, the Registrar, and the Paying Agent shall have no responsibility or obligation to any Participant or Beneficial Owner including, without limitation, any responsibility or obligation with respect to: (i) the accuracy of the records of the Depository or any Participant concerning any ownership interest in the Bonds; (ii) the delivery to any Participant, Beneficial Owner, or Person other than the Registered Owner, of any notice concerning the Bonds, including notice of redemption; (iii) the payment to any Participant, Beneficial Owner, or Person other than the Registered Owner, of the principal of, premium if any, and interest on the Bonds. The City, the Registrar, and the Paying Agent may treat the Registered Owner of a Bond as the absolute owner of such Bond for the purpose of payment of the principal of, premium if any, and interest with respect to such Bond, for purposes of giving notices of redemption and other matters with respect to such Bond, and for all other purposes whatsoever. The Paying Agent shall pay all principal of, premium if any, and interest on the Bonds only to or upon the order of the Registered Owners, or their respective attorneys duly authorized in writing, and all such payments shall be valid and effective to fully satisfy and discharge the City's obligations with respect to the payment of the same. No Person, other than a Registered Owner, shall receive a certificated Bond evidencing the obligations of the City pursuant to this Ordinance.

DTC may determine to discontinue providing its service as Depository with respect to the Bonds at any time by giving notice to the City and discharging its responsibilities with respect thereto under applicable law. Additionally, the City Finance Director may terminate the services of DTC if she determines, in her sole and absolute discretion, that DTC is unable to discharge its responsibilities with respect to the Bonds or that continuation of the system of book entry transfers through DTC is not in the best interests of the Beneficial Owners or the City. Such termination shall be effected by written notice of the same from the City to DTC and to the Registrar and Paying Agent. Upon the termination of the services of DTC, a substitute Depository which is willing and able to undertake the system of book-entry transfers upon reasonable and customary terms may be engaged by the City or, if the City Finance Director determines in her sole and absolute discretion that it is in the best interests of the Beneficial Owners or the City that the Beneficial Owners be able to obtain certificated Bonds, the Bonds shall no longer be restricted to being registered in the name of Cede or other nominee of a Depository but shall be registered in whatever name or names the Beneficial Owners shall designate at that time, and fully registered Bond certificates shall be delivered to the Beneficial Owners.

Section 8. Prior Redemption.

(a) Optional Prior Redemption. The Bonds maturing on or before December 1, 2012 are not subject to redemption prior to maturity. The Bonds maturing on and after December 1, 2013 shall be subject to redemption prior to their respective maturities, at the option of the City, in whole, or in part, in integral multiples of \$5,000, from such Maturity-Rate as are selected by the City, and if less than all of the Bonds of a Maturity-Rate are to be redeemed, by lot within a Maturity-Rate (giving proportionate weight to Bonds in denominations larger than \$5,000), in such manner as the Registrar may determine, on December 1, 2012, or on any date thereafter, at a redemption price equal to the principal amount or portion thereof so redeemed and accrued interest thereon to the redemption date.

The Registrar shall not be required to give notice of any such optional redemption unless it has received written instructions from the City in regard thereto, at least sixty days prior to such redemption date.

(b) Mandatory Redemption. The Term Bonds maturing on December 1, 2015 and December 1, 2017 are subject to mandatory sinking fund redemption, in part, by lot in such manner as the Registrar shall determine (giving proportionate weight to Term Bonds in denominations larger than \$5,000), at a price equal to the principal amount of each Term Bond or portion thereof so redeemed and accrued interest to the redemption date, without redemption premium.

As and for a sinking fund for the redemption of the Term Bonds maturing December 1, 2015, the City will deposit in the Bond Fund \$815,000 on or before December 1, 2014. The remaining \$855,000 of the Bonds maturing on December 1, 2015 shall be paid upon presentation and surrender at maturity unless redeemed pursuant to optional redemption prior to maturity.

As and for a sinking fund for the redemption of the Term Bonds maturing December 1, 2017, the City will deposit in the Bond Fund \$895,000 on or before December 1, 2016. The remaining \$940,000 of the Bonds maturing on December 1, 2017 shall be paid upon presentation and surrender at maturity unless redeemed pursuant to optional redemption prior to maturity.

On or before forty-five (45) days prior to each sinking fund installment date, the Registrar shall, without any notice or instruction from the City, proceed to call the Term Bonds (or any Term Bond or Term Bonds issued to replace such Term Bonds) for redemption from the sinking fund on the next December 1, and give notice of such call without other instruction or notice from the City.

At its option, to be exercised on or before the sixtieth (60th) day next preceding each such sinking fund redemption date, the City may (a) deliver to the Registrar for cancellation Term Bonds subject to mandatory sinking fund redemption on such date in an aggregate principal amount desired or (b) receive a credit in respect of its sinking fund redemption obligation for any Term Bonds of the same maturity subject to mandatory sinking fund redemption on such date, which prior to said date have been redeemed (otherwise than through

the operation of the sinking fund) and canceled by the Registrar and not theretofore applied as a credit against any sinking fund redemption obligation. Each Term Bond so delivered or previously redeemed will be credited by the Registrar at the principal amount thereof on the obligation of the City on such sinking fund redemption date and the principal amount of Term Bonds to be redeemed by operation of such sinking fund on such date will be accordingly reduced. The City will on or before the sixtieth day next preceding each sinking fund redemption date furnish the Registrar with its certificate indicating whether or not and to what extent the provisions of (a) and (b) of the preceding sentence are to be availed with respect to such sinking fund payment. Failure of the City to deliver such certificate shall not affect the Registrar's duty to give notice of sinking fund redemption as provided in this paragraph.

(c) Notice. Notice of redemption shall be given by the Registrar in the name of the City by sending a copy of such official notice by first-class, postage prepaid mail, not more than sixty nor less than thirty days prior to the redemption date to the Bond Insurer and each Registered Owner at his address as it last appears on the registration books kept by the Registrar; but neither failure to give such notice nor any defect therein shall affect the redemption of any Bond. Such notice shall identify the Bonds to be so redeemed (if less than all are to be redeemed) and the redemption date, and shall further state that on such redemption date there will become due and payable upon each Bond so to be redeemed, at the Paying Agent, the principal amount thereof, any redemption premium, and accrued interest to the redemption date and that from and after such date interest will cease to accrue. Prior to any redemption date, the City shall deposit with the Paying Agent an amount of money sufficient to pay the redemption price of all the Bonds or portions of Bonds which are to be redeemed on that date. Notice of redemption having been given as aforesaid, the Bonds or portions of Bonds so to be redeemed shall, on the redemption date, become due and payable at the redemption price therein specified, and from and after such date (unless the City shall default in the payment of the redemption price) such Bonds or portions of Bonds shall cease to bear interest. Upon surrender of such Bonds for redemption in accordance with said notice, such Bonds shall be paid by the Paying Agent at the redemption price. Installments of interest due on or prior to the redemption date shall be payable as herein provided for payment of interest. All Bonds which have been redeemed shall be promptly canceled by the Paying Agent and such canceled Bonds shall be delivered by the Paying Agent or Registrar to the City if requested by the City, and shall not be reissued.

(d) Partial Redemption. In the case of Bonds of a denomination larger than \$5,000, a portion of such Bond (\$5,000 or any integral multiple thereof) may be redeemed, in which case the Registrar shall, without charge to the owner of such Bond, authenticate and issue a replacement Bond or Bonds for the unredeemed portion thereof of the same maturity in the amount of the unpaid principal.

(e) Conditional Call Provision. Notwithstanding the provisions of this section, any notice of optional redemption may contain a statement that the redemption is conditioned upon the receipt by the Paying Agent of funds on or before the date fixed for redemption sufficient to pay the redemption price of the Bonds so called for redemption, and that if such funds are not available, such redemption shall be canceled by written notice to the owners of the Bonds called for redemption in the same manner as the original redemption notice was mailed.

Section 9. Form and Execution of Bonds. The Bonds shall be signed with the facsimile or manual signature of the Mayor of the City, sealed with a facsimile or manual impression of the seal of the City, countersigned by the facsimile or manual signature of the City's Finance Director, and attested by the facsimile or manual signature of the City Clerk. Should any officer whose facsimile or manual signature appears on the Bonds cease to be such officer before delivery of the Bonds to the Underwriter, such facsimile or manual signature shall nevertheless be valid and sufficient for all purposes.

The Bonds may contain a reproduction of the opinion of nationally recognized municipal bond counsel as to the Bonds and a certification of such opinion by the City Clerk.

No Bond shall be valid or obligatory for any purpose unless the certificate of authentication, substantially in the form hereinafter provided, has been duly manually executed by the Registrar. The Registrar's certificate of authentication shall be deemed to have been duly executed by it if manually signed by an authorized representative of the Registrar, but it shall not be necessary that the same representative sign the certificate of authentication on all of the Bonds issued hereunder. By authenticating any of the Bonds initially delivered pursuant to this Ordinance, the Registrar shall be deemed to have assented to the provisions of this Ordinance.

The Bonds shall be in substantially the following form:

[Form of Bond]

Unless this certificate is presented by an authorized representative of The Depository Trust Company, a New York corporation ("DTC"), to the City or its agent for registration of transfer, exchange, or payment, and any certificate issued is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL inasmuch as the registered Owner hereof, Cede & Co., has an interest herein.

No. R-_____

\$_____

UNITED STATES OF AMERICA
STATE OF COLORADO
COUNTIES OF ADAMS AND JEFFERSON
CITY OF WESTMINSTER
SALES AND USE TAX REVENUE BOND, SERIES 2002

<u>INTEREST RATE</u>	<u>MATURITY DATE</u>	<u>DATED DATE</u>	<u>CUSIP</u>
	December 1, 20__	December 1, 2002	

REGISTERED OWNER: CEDE & COMPANY

PRINCIPAL AMOUNT:

DOLLARS

The City of Westminster, in the Counties of Adams and Jefferson and the State of Colorado, for value received, hereby promises to pay from the special fund hereafter designated, but not otherwise, to the registered owner named above, or registered assigns, on the maturity date specified above or on the date of prior redemption, the principal amount specified above. This bond will bear interest from the most recent interest payment date to which interest has been paid or provided for, or, if no interest has been paid, from the date of this bond. This bond is one of an authorized series issued pursuant to an ordinance of the City Council of the City adopted on December 9, 2002 (the "Bond Ordinance"). This bond bears interest, matures, is payable, is subject to redemption and is transferable as provided in the Bond Ordinance. To the extent not defined herein, terms used in this bond shall have the same meanings as set forth in the Bond Ordinance.

This Bond is one of a series aggregating fifteen million ninety thousand dollars (\$15,090,000) par value, all of like date, tenor, and effect except as to number, principal amount, interest rate, and date of maturity, issued by the City Council of the City of Westminster, in the Counties of Adams and Jefferson and the State of Colorado, for the purpose of paying the costs of certain street improvements in the City, in accordance with the Constitution of the State of Colorado, the Charter of the City, Title 11, Article 57, Part 2, C.R.S. and all other laws of the State of Colorado thereunto enabling, and pursuant to the Bond Ordinance duly adopted prior to

the issuance of this Bond. Pursuant to Section 11-57-210, C.R.S., this recital conclusively imparts full compliance with all of the provisions and limitations of said sections and this bond shall be incontestable for any cause whatsoever after its delivery for value.

The principal of, premium, if any, and interest on this Bond are payable only out of a special fund of the City created in full conformity with law and designated as the "2002 Sales and Use Tax Revenue Bonds" (the "Bond Fund"), into which the City covenants and agrees to credit, from certain sales and use tax proceeds defined hereafter as the "Pledged Revenue," and other legally available revenues, amounts sufficient to pay the principal of, premium, if any, and interest on the Bonds when the same become due and payable, all as is more particularly set forth in the authorizing Bond Ordinance. The Pledged Revenue consists only of the revenue derived from the City's existing 3.25% sales and use tax, after deducting 7.69% thereof for deposit to other accounts of the City and after deducting all costs of administering and collecting the sales and use tax; or to the extent the sales and use tax rate is reduced to 3% (as is presently provided by City ordinances), the Pledged Revenue will consist only of the revenue derived from the City's 3% sales and use tax, after deducting all costs of administering and collecting the sales and use tax. In the authorizing Bond Ordinance the City has covenanted that it will not amend or repeal the ordinance imposing the sales and use tax in any way which would materially adversely affect the amount of Pledged Revenue which would be otherwise available for credit to the Bond Fund. The Bonds of this issue constitute an irrevocable and first lien upon the Pledged Revenue to the extent provided in the Bond Ordinance, but not necessarily an exclusive such lien. Subject to expressed conditions, obligations in addition to the Bonds of this issue may be issued and made payable from the Pledged Revenue having a lien thereon subordinate and junior to the lien of the Bonds of this issue or, subject to additional expressed conditions, having a lien on the Pledged Revenue on a parity with the lien of the Bonds of this issue, in accordance with the provisions of said Bond Ordinance.

THIS BOND DOES NOT CONSTITUTE A DEBT OR INDEBTEDNESS OF THE CITY WITHIN THE MEANING OF ANY CONSTITUTIONAL, CHARTER, OR STATUTORY PROVISION OR LIMITATION, AND SHALL NOT BE CONSIDERED OR HELD TO BE A GENERAL OBLIGATION OF THE CITY.

It is hereby recited, certified, and warranted that all the requirements of law have been complied with fully by the proper officers of the City in the issuance of this Bond; that it is issued pursuant to and in strict conformity with the constitution and laws of the State, with the Charter of the City, and with the Bond Ordinance; and that this Bond does not contravene any constitutional, statutory, or Charter limitation.

This Bond shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the authorizing Bond Ordinance until the certificate of authentication hereon shall have been signed by the Registrar.

IN TESTIMONY WHEREOF, the City Council of the City of Westminster, Colorado, has caused this Bond to be signed by the manual or facsimile signature of the Mayor, sealed with a facsimile of the seal of the City, countersigned with the manual or facsimile signature of the Finance Director, and attested by the manual or facsimile signature of the City Clerk, all as of the December 1, 2002.

CITY OF WESTMINSTER, COLORADO

(S E A L)

(Manual or Facsimile Signature)
Mayor

ATTESTED:

COUNTERSIGNED:

By: (Manual or Facsimile Signature)
City Clerk

By: (Manual or Facsimile Signature)
Finance Director

[End Form of Bond]

[Form of Registrar's Certificate of Authentication]

CERTIFICATE OF AUTHENTICATION

This Bond is one of the Bonds of the issue described in the within mentioned Bond Ordinance.

Date of Registration and Authentication: _____

THE BANK OF CHERRY CREEK, A
BRANCH OF WESTERN NATIONAL
BANK,
in Denver, Colorado, as Registrar

By: _____
Authorized Officer or Employee

[End Form of Registrar's Certificate of Authentication]

[Form of Transfer]

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned sells, assigns, and transfers unto

Social Security or Federal Employer
Identification Number of Assignee:

(Name and Address of Assignee)

the within Bond and does hereby irrevocably constitute and appoint attorney, to transfer said
Bond on the books kept for registration thereof with full power of substitution in the premises.

Dated: _____

Signature of Registered Owner:

NOTICE: The signature to this assignment
must correspond with the name of the registered
owner as it appears upon the face of the within
Bond in every particular, without alteration or
enlargement or any change whatever.

Signature guaranteed:

(Bank, Trust Company, or Firm)

[End Form of Transfer]

STATEMENT OF INSURANCE

Financial Guaranty Insurance Policy No. 20301BE (the "Policy") with respect to payments due for principal of and interest on this Bond has been issued by Ambac Assurance Corporation ("Ambac Assurance"). The Policy has been delivered to The Bank of New York, New York, New York, as the Insurance Trustee under said Policy and will be held by such Insurance Trustee or any successor insurance trustee. The Policy is on file and available for inspection at the principal office of the Insurance Trustee and a copy thereof may be secured from Ambac Assurance or the Insurance Trustee. All payments required to be made under the Policy shall be made in accordance with the provisions thereof. The Registered Owner of this Bond acknowledges and consents to the subrogation rights of Ambac Assurance as more fully set forth in the Policy.

Section 10. Authentication. No Bond shall be valid or obligatory for any purpose or be entitled to any security or benefit under this Ordinance unless and until a certificate of authentication on such Bond substantially in the form hereinabove set forth shall have been duly executed by the Registrar, and such executed certificate of the Registrar upon any such Bond shall be conclusive evidence that such Bond has been authenticated and delivered under this Ordinance. The Registrar's certificate of authentication on any Bond shall be deemed to have been executed by it if signed by an authorized officer or signatory of the Registrar, but it shall not be necessary that the same officer or signatory sign the certificate of authentication on all of the Bonds issued hereunder.

Section 11. Delivery of Bonds. Upon the adoption of this Ordinance, the City shall execute the Bonds and deliver them to the Registrar, and the Registrar shall authenticate the Bonds and deliver them to the Underwriter, as directed by the City, and in accordance with the Bond Purchase Agreement and the Letter of Representations.

Section 12. Registration, Transfer and Exchange of Bonds.

(a) Records for the registration and transfer of the Bonds shall be kept by the Registrar. Upon the surrender for transfer of any Bond at the Registrar, with a written instrument of transfer satisfactory to the Registrar duly executed by the registered owner or his duly authorized attorney, the Registrar shall enter such transfer in the registration records and shall authenticate and deliver in the name of the transferee or transferees a new Bond or Bonds of a like aggregate principal amount and of the same maturity, bearing a number or numbers not previously assigned. Bonds may be exchanged at the Registrar for an equal aggregate principal amount of Bonds of the same maturity of other authorized denominations. The Registrar shall authenticate and deliver a Bond or Bonds which the registered owner making the exchange is entitled to receive, bearing a number or numbers not previously assigned. The Registrar may impose reasonable charges in connection with exchanges or transfers of Bonds which charges (as well as any tax or other governmental charge required to be paid with respect to such transfer) shall be paid by the registered owner requesting such exchange or transfer.

(b) The Registrar shall not be required (1) to transfer or exchange all or a portion of any Bond subject to prior redemption during the period beginning at the opening of business fifteen days preceding the mailing of notice calling any Bonds for prior redemption as herein provided and ending at the close of business on the day of such mailing or (2) to transfer or exchange all or a portion of a Bond after the mailing of notice calling such Bond or portion thereof for prior redemption except for the unredeemed portion of Bonds redeemed in part.

(c) Except as herein provided with respect to Record Dates and Special Record Dates for the payment of interest, the person in whose name any Bond shall be registered on the registration records kept by the Registrar shall be deemed and regarded as the absolute owner thereof for the purpose of making payment thereof and for all other purposes; and payment of either principal or interest on any Bond shall be made only to upon the written order of the registered owner thereof or his legal representative, but such registration may be changed in the manner and subject to the conditions and limitations provided herein. All such payments shall be valid and effectual to discharge the liability upon such Bond to the extent of the sum or sums so paid.

(d) The officers of the City are authorized to deliver to the Registrar fully executed but unauthenticated Bonds in such quantities as may be convenient to be held in the custody of the Registrar pending use as herein provided.

(e) Whenever any Bond shall be surrendered to the Paying Agent upon payment thereof, or to the Registrar for transfer, exchange or replacement as provided herein, such Bond shall be promptly canceled by the Paying Agent or Registrar, and counterparts of a certificate of such cancellation shall be furnished by the Paying Agent or Registrar to the City.

Section 13. Destruction of Bonds. Whenever any outstanding Bond shall be delivered to the Registrar for cancellation pursuant to this Ordinance, and upon payment of the principal amount and interest represented thereby, or whenever any outstanding Bond shall be delivered to the Registrar for transfer pursuant to the provisions hereof, such Bond shall be canceled and destroyed by the Registrar and counterparts of a certificate of destruction evidencing such destruction shall be furnished by the Registrar to the City. In the event a Bond is registered in the name of a Depository, cancellation may consist of the notation thereof on the registration books of the Registrar. The Registrar shall notify the Depository of all Bonds, or portions thereof, canceled in accordance with this Section.

Section 14. Lost Bonds. Any Bond that is lost, stolen, destroyed, or mutilated may be replaced or paid by the Registrar in accordance with and subject to the limitations of applicable law. The applicant for any such replacement Bond shall post such security, pay such costs, and present such proof of ownership and loss as may be required by applicable law, or in the absence of specific requirements, as may be required by the Registrar.

Section 15. Disposition and Investment of Bond Proceeds. The Bonds shall be issued and sold for the purposes of paying the costs of the Project. Accrued interest on the Bonds shall be deposited to the Bond Fund. All other Bond proceeds shall be deposited to such fund or account as the Finance Director determines and applied to pay the costs of the Project. Neither the Underwriter nor any subsequent owners of the Bonds shall be responsible for the application or disposal by the City or any of its officers of the funds derived from the sale thereof.

Section 16. Creation of Fund and Accounts. There are hereby created and established the following funds and accounts which shall be established as book accounts and maintained in accordance with this Ordinance:

- (a) the Bond Fund; and
- (b) the Reserve Fund pursuant to Section 19(e).

In accordance with generally accepted accounting principles, for the purpose of accounting for the moneys provided for in this Ordinance the City Finance Director may create offsetting revenue and expense accounts not inconsistent with the provisions hereof, all as may be determined by the City Finance Director.

Section 17. Payment of Principal and Interest; Attachment of Lien. The City shall credit to the Sales and Use Tax Fund all revenue derived from the Sales and Use Tax

immediately upon receipt. Thereafter, the City shall apply the Pledged Revenue in the following order of priority:

FIRST: To the credit of the Bond Fund the amounts required by Section 18 hereof, and to the credit of any other fund or account established for the 1996 Bonds, the 1997 Bonds and the 2001 Bonds or hereafter established for the payment of the principal of, premium if any, and interest on Parity Lien Bonds, in the amounts required by the ordinance or other enactment authorizing issuance of the 1996 Bonds, the 1997 Bonds, the 2001 Bonds and the Parity Lien Bonds.

SECOND: To the credit of any sinking fund, reserve fund, or similar fund or account established in connection with the 1996 Bonds, the 1997 Bonds, the 2001 Bonds, the Bonds or any Parity Lien Bonds, in the amounts required by this Ordinance or the ordinance or other enactment authorizing issuance of the 1996 Bonds, the 1997 Bonds, the 2001 Bonds and the Parity Lien Bonds.

THIRD: To the credit of any other fund or account hereafter established for the payment of the principal of, premium if any, and interest on Subordinate Lien Bonds, including any sinking fund, reserve fund, or similar fund or account established therefor, in the amounts required by the ordinance or other enactment authorizing issuance of the Subordinate Lien Bonds.

FOURTH: To the credit of any other fund as may be designated by the City, to be used for any lawful purpose, any Pledged Revenue remaining after the payments and accumulations set forth in Section 17 FIRST through THIRD hereof.

The lien of the Bonds on the Pledged Revenue shall attach immediately upon receipt of any Sales and Use Tax proceeds, shall remain in effect so long as such Pledged Revenue is credited to the Sales and Use Tax Fund or the Bond Fund or the Reserve Fund, and shall be extinguished with respect to any Pledged Revenue not required to be credited to the Bond Fund pursuant to Section 18 hereof or the Reserve Fund pursuant to Section 19(e) hereof and which is transferred to other funds of the City for other purposes.

Section 18. Bond Fund. Upon delivery of the Bonds, the City shall credit to the Bond Fund the accrued interest, if any, paid by the Underwriter as part of the purchase price of the Bonds. Thereafter, the City shall credit to the Bond Fund from the Pledged Revenue, or other legally available moneys, substantially equal monthly installments of the total principal to become due and interest to accrue on the Bonds on the next principal payment date and interest payment date, respectively. Notwithstanding the foregoing, the City shall credit to the Bond Fund from the Pledged Revenue an amount which, when combined with other legally available moneys credited thereto, will be sufficient to pay when due the principal of and interest on the Bonds.

Moneys credited to the Bond Fund may be invested or deposited in accordance with the Charter. The investment of moneys in the Bond Fund shall, however, be subject to the tax covenants and provisions of Section 19(f) hereof. Except to the extent otherwise required by Section 19(f) hereof, any investment income earned on amounts credited to the Bond Fund shall

be credited to the Bond Fund, and for purposes of making the deposits required by this Section, any investment income so credited to the Bond Fund shall be deemed the credit of Pledged Revenue to the Bond Fund.

Section 19. Additional Covenants of the City. The City hereby irrevocably covenants and agrees with each and every Registered Owner and Beneficial Owner, that so long as any of said Bonds remain outstanding:

(a) It will not amend or repeal Title IV in any way that would materially adversely affect the amount of Pledged Revenue which would be otherwise available for credit to the Bond Fund. Nothing shall prevent the City from amending said Title IV in order to increase the rate of tax above that currently imposed by said Title IV, or to make certain changes in the administration, collection, or enforcement of such Sales or Use Tax, provided that such changes do not materially adversely affect the amount of Pledged Revenue which would be otherwise available for credit to the Bond Fund.

(b) It will administer, enforce, and collect, or cause to be administered, enforced, and collected, the Sales and Use Tax authorized by Title IV, and shall take such reasonable, necessary action to collect delinquent payments in accordance with law.

(c) It will keep or cause to be kept such books and records showing the proceeds of the Sales and Use Tax, in which complete entries shall be made in accordance with generally accepted accounting principles, as applicable to governments, and any Owner shall have the right at all reasonable times to inspect the records and accounts relating to the collection and receipts of such Sales and Use Tax. The City will permit the Bond Insurer to discuss the affairs, finances and accounts of the City or any information the Bond Insurer may reasonably request regarding the security for the Bonds with appropriate officers of the City. The City will permit the Bond Insurer to have access to and to make copies of all books and records relating to the Bonds at any reasonable time.

(d) It will, at least once a year, cause an audit of the records relating to the collection and receipts of the Sales and Use Tax revenues. Such audit may be made part of and included within the general audit of the City, and made at the same time as such audit. While the Bond Insurance Policy is in effect, the Bond Insurer shall receive, as soon as practicable after the filing thereof, a copy of the City's annual audited financial statements and annual budget.

(e) In the event the City does not receive Pledged Revenue in any fiscal year in an amount at least equal to 200% of the Combined Average Annual Principal and Interest Requirements for the 1996 Bonds, the 1997 Bonds, the 2001 Bonds, the Bonds and any Parity Lien Bonds, the City shall establish and maintain a reserve fund solely for the 1996 Bonds, the 1997 Bonds, the 2001 Bonds, the Bonds and Parity Lien Bonds (the "Reserve Fund"), in an amount equal to 10% of the outstanding aggregate principal amount of the 1996 Bonds, the 1997 Bonds, the 2001 Bonds, the Bonds and Parity Lien Bonds (the "Required Reserve"). The City shall accumulate the Required Reserve in the Reserve Fund by twelve equal monthly deposits. The City shall make the initial deposit into the Reserve Fund of Pledged Revenue, within 90 days after the end of the fiscal year in which such deficiency occurs. Such Reserve Fund shall not be released after it has been established. Draws on the Reserve Fund must be

replenished within one year. Investments purchased with funds on deposit in the Reserve Fund shall have an average aggregate weighted term to maturity not greater than five years.

(f) It will not take any action or omit to take any action with respect to the Bonds, the proceeds of the Bonds, any other funds of the City or the facilities financed or refinanced with the proceeds of the Bonds if such action or omission (i) would cause the interest on the Bonds to lose its exclusion from gross income for federal income tax purposes under Section 103 of the Internal Revenue Code of 1986, as in effect on the date of delivery of the Bonds (the "Code"), (ii) would cause the interest on the Bonds to lose its exclusion from gross income for federal income tax purposes under Section 55(b)(2) of the Code, except to the extent such interest is required to be included in the adjusted current earnings adjustment applicable to corporations under Section 56 of the Code in calculating corporate alternative minimum taxable income, or (iii) would cause interest on the Bonds to lose the exclusion from Colorado taxable income or Colorado alternative minimum taxable income under present Colorado law. The foregoing covenants shall remain in full force and effect notwithstanding the payment in full or defeasance of the Bonds until the date on which all obligations of the City in fulfilling the above covenants under the Code and State law have been met.

(g) It will comply with the provisions of the Continuing Disclosure Certificate to be executed by City officers and delivered in connection with the delivery of the Bonds.

(h) It will provide such additional information as the Bond Insurer may reasonably request from time to time.

(i) The Bond Insurer shall have the right to direct an accounting at the City's expense, and the City's failure to comply with such direction within thirty (30) days after receipt of written notice of the direction from the Bond Insurer shall be deemed an Event of Default hereunder; provided, however, that if compliance cannot occur within such period, then such period will be extended so long as compliance is begun within such period and diligently pursued, but only if such extension would not materially adversely affect the interests of any Owner of the Bonds.

Section 20. Additional Bonds.

(a) No additional bonds, notes, interim securities, or other obligations shall be issued payable from the Pledged Revenue and having a lien thereon which is superior to the lien of the Bonds.

(b) The City may issue Parity Lien Bonds if:

(i) No Event of Default has occurred and is continuing.

(ii) The City is then current in the accumulation of all amounts required to be then accumulated in the Bond Fund as required by this Ordinance.

(iii) The Pledged Revenue for the twelve (12) month period immediately preceding the date of issuance of such Parity Lien Bonds is sufficient to pay an

amount representing not less than 200% of the Maximum Annual Combined Debt Service Requirement.

(c) A written certificate signed by the City Finance Director that the requirements of Section 20(b) hereof are met shall conclusively determine the right of the City to authorize, issue, sell, and deliver Parity Lien Bonds.

(d) So long as no Event of Default shall have occurred and be continuing, nothing herein shall prevent the City from issuing Subordinate Lien Bonds.

Section 21. Delegated Powers. The officers of the City be, and hereby are, authorized and directed to take all action necessary or appropriate to effectuate the provisions of this Ordinance, including, without limiting the generality of the foregoing: the printing of the Bonds; the procuring of bond insurance, if in the best interests of the City; entering into and executing appropriate agreements with the Registrar and Paying Agent as to its services hereunder; entering into and executing appropriate agreements with The Depository Trust Company as to its services hereunder; the printing, distribution and execution of the Official Statement for the Bonds in substantially the form of the Preliminary Official Statement now before the Council, but with such amendments, additions and deletions as are in accordance with facts and not inconsistent herewith; and the execution of such certificates as may be required by the Purchaser, including, but not necessarily limited to, the absence and existence of factors affecting the exclusion of interest on the Bonds from gross income for federal income tax purposes.

The form, terms and provisions of the Registrar Agreement and the Continuing Disclosure Certificate are hereby approved, and the City shall enter into and perform its obligations under the Registrar Agreement and the Continuing Disclosure Certificate in the forms of such documents presented to the Council at this meeting, with only such changes therein as are required by the circumstances and are not inconsistent herewith; and the Mayor and the City Clerk are hereby authorized and directed to execute and deliver such documents as required hereby.

Section 22. Events of Default. It is an Event of Default if:

(a) Payment of the principal of or premium due on any Bond is not made by the City when due at maturity or upon prior redemption;

(b) Payment of the interest on any Bond is not made by the City when due; or

(c) The City defaults in the punctual performance of its covenants hereunder for sixty (60) days after written notice shall have been given by the Owners of not less than 25% of the outstanding principal amount of the Bonds.

Section 23. Remedies. Upon the happening of any Event of Default, any Owner, or a trustee therefor, may protect and enforce the rights of such Owner by proper legal or equitable remedy deemed most effectual including mandamus, specific performance of any covenants, the appointment of a receiver (the consent to such appointment being hereby granted),

injunctive relief, or requiring the Council to act as if it were the trust of an express trust, or any combination of such remedies. All proceedings shall be maintained for the benefit of the Owners; provided however, that any action brought pursuant to an Event of Default under Section 22(c) hereof may be brought only upon the written consent of the Owner or Owners of not less than 25% of the outstanding principal amount of the Bonds. All proceedings shall be maintained for the equal benefit and protection of all Owners. The failure of any Owner to proceed does not relieve the City or any person of any liability for failure to perform any duty hereunder. The foregoing right are in addition to any other right which may exist under applicable law, and the exercise of any right by any Owner shall not be deemed a waiver of any other right. If any remedial action is discontinued, the Owners shall be restored to their positions prior to taking such action.

Section 24. Amendment. After any of the Bonds have been issued, this Ordinance shall constitute a contract between the City and the Owners of the Bonds and shall be and remain irrevocable until the Bonds and the interest thereon have been fully paid, satisfied and discharged.

(a) The City may, without the consent of, or notice to the Owners of the Bonds, but with the prior written consent of the Bond Insurer, so long as the Bond Insurer is not in default of its payment obligations under the Bond Insurance Policy, adopt such ordinances supplemental hereto (which supplemental amendments shall thereafter form a part hereof) for any one or more or all of the following purposes:

(i) to cure any ambiguity, or to cure, correct or supplement any defect or omission or inconsistent provision contained in this Ordinance, or to make any provisions with respect to matters arising under this Ordinance or for any other purpose if such provisions are necessary or desirable and do not materially adversely affect the interests of the Owners of the Bonds;

(ii) to subject to the lien of this Ordinance additional revenues, properties or collateral;

(iii) to grant or confer upon the Registrar for the benefit of the Owners of the Bonds any additional rights, remedies, powers, or authority that may lawfully be granted to or conferred upon the Owners of the Bonds;

(iv) to qualify this Ordinance under the Trust Indenture Act of 1939; or

(b) Exclusive of the amendatory ordinances permitted by paragraph A of this Section, this Ordinance may be amended or supplemented by ordinance adopted by the Council in accordance with the law, without receipt by the City of any additional consideration but with the prior written consent of the Owners of at least 66% in aggregate principal amount of the Bonds Outstanding at the time of the adoption of such amendatory or supplemental ordinance.

(c) Written consent of the Owners of all of the Bonds adversely affected thereby is required for any Ordinance that shall have the effect of permitting:

(i) An extension of the maturity of any of the Bonds authorized by this Ordinance; or

(ii) A reduction in the principal amount of any of the Bonds, the rate of interest thereon, or the prior redemption premium thereon; or

(iii) The creation of a lien upon or pledge of the Pledged Revenues ranking prior to the lien or pledge created by this Ordinance; or

(iv) A reduction of the principal amount of the Bonds required for consent to such amendatory or supplemental ordinance; or

(v) The establishment of priorities as between outstanding 1996 Bonds, 1997 Bonds, 2001 Bonds and the Bonds or the establishment of priorities as between Bonds issued and outstanding under the provisions of this Ordinance; or

(vi) The modification of or otherwise affecting the rights of the Owners of less than all of the Bonds then outstanding.

Copies of any waiver, modification or amendment to this Ordinance shall be delivered to any entity then maintaining a rating on the Bonds at least 15 days prior to its execution or adoption.

Section 25. Payments Under the Bond Insurance Policy.

As long as the Bond Insurance Policy shall be in full force and effect, the City and the Paying Agent agree to comply with the following provisions:

(a) At least one (1) day prior to all interest payment dates the Paying Agent will determine whether there will be sufficient funds in the Bond Fund and the Reserve Fund to pay the principal of or interest on the Bonds on such interest payment date. If the Paying Agent determines that there will be insufficient funds in the Bond Fund and the Reserve Fund, the Paying Agent shall so notify the Bond Insurer. Such notice shall specify the amount of the anticipated deficiency, the Bonds to which such deficiency is applicable and whether such Bonds will be deficient as to principal or interest, or both. If the Paying Agent has not so notified the Bond Insurer at least one (1) day prior to an interest payment date, the Bond Insurer will make payments of principal or interest due on the Bonds on or before the first day next following the date on which the Bond Insurer shall have received notice of nonpayment from the Paying Agent.

(b) The Paying Agent shall, after giving notice to the Bond Insurer as provided in (a) above, make available to the Bond Insurer and, at the Bond Insurer's direction, to the Insurance Trustee, the registration books maintained by the Registrar, and all records relating to the funds and accounts maintained under this Ordinance.

(c) The Paying Agent shall provide the Bond Insurer and the Insurance Trustee with a list of Owners of Bonds entitled to receive principal or interest payments from the Bond Insurer under the terms of the Bond Insurance Policy, and shall make arrangements with the Insurance Trustee (i) to mail checks or drafts to the Owners entitled to receive full or partial

interest payments from the Bond Insurer and (ii) to pay principal upon Bonds surrendered to the Insurance Trustee by the Owners entitled to receive full or partial principal payments from the Bond Insurer.

(d) The Paying Agent shall, at the time it provides notice to the Bond Insurer pursuant to (a) above, notify Owners entitled to receive the payment of principal or interest thereon from the Bond Insurer (i) as to the fact of such entitlement, (ii) that the Bond Insurer will remit to them all or a part of the interest payments next coming due upon proof of Owner entitlement to interest payments and delivery to the Insurance Trustee, in form satisfactory to the Insurance Trustee, of an appropriate assignment of the Owner's right to payment, (iii) that should they be entitled to receive full payment of principal from the Bond Insurer, they must surrender their Bonds (along with an appropriate instrument of assignment in form satisfactory to the Insurance Trustee to permit ownership of such Bonds to be registered in the name of the Bond Insurer) for payment to the Insurance Trustee, and not the Paying Agent, and (iv) that should they be entitled to receive partial payment of principal from the Bond Insurer, they must surrender their Bonds for payment thereon first to the Paying Agent, who shall note on such Bonds the portion of the principal paid by the Paying Agent, and then, along with an appropriate instrument of assignment in form satisfactory to the Insurance Trustee, to the Insurance Trustee, which will then pay the unpaid portion of principal.

(e) In the event that the Paying Agent has notice that any payment of principal of or interest on a Bond which has become Due for Payment (as defined in the Bond Insurance Policy) and which is made to an Owner by or on behalf of the City has been deemed a preferential transfer and theretofore recovered from its Owner pursuant to the United States Bankruptcy Code by a trustee in bankruptcy in accordance with the final, nonappealable order of a court having competent jurisdiction, the Paying Agent shall, at the time the Bond Insurer is notified pursuant to (a) above, notify all Owners that in the event that any Owner's payment is so recovered, such Owner will be entitled to payment from the Bond Insurer to the extent of such recovery if sufficient funds are not otherwise available, and the Paying Agent shall furnish to the Bond Insurer its records evidencing the payments of principal of and interest on the Bonds which have been made by the Paying Agent, and subsequently recovered from Owners and the dates on which such payments were made.

(f) In addition to those rights granted the Bond Insurer under this Ordinance, the Bond Insurer shall, to the extent it makes payment of principal of or interest on Bonds, become subrogated to the rights of the recipients of such payments in accordance with the terms of the Bond Insurance Policy, and to evidence such subrogation (i) in the case of subrogation as to claims for past due interest, the Paying Agent shall note the Bond Insurer's rights as subrogee on the registration books of the City maintained by the Registrar, upon receipt from the Bond Insurer of proof of the payment of interest thereon to the Owners of the Bonds, and (ii) in the case of subrogation as to claims for past due principal, the Paying Agent shall note the Bond Insurer's rights as subrogee on the registration books of the City maintained by the Registrar upon surrender of the Bonds by the Owners thereof together with proof of the payment of principal thereof.

Section 26. Notices to and Reports to Bond Insurer. The Paying Agent and Registrar shall give the Bond Insurer copies of any notice to be given by it to the Owners of Bonds, including, without limitation, notice of any redemption of or defeasance of Bonds, and

notices required pursuant to the Continuing Disclosure Certificate. The City shall give to the Bond Insurer any certificate delivered by the City pursuant to this Ordinance relating to the security for the Bonds. Notwithstanding any other provision of this Ordinance, the Paying Agent shall promptly notify the Bond Insurer if at any time there are insufficient moneys to make any payments of principal and/or interest as required hereunder and promptly upon the occurrence of any other Event of Default hereunder. The Paying Agent shall also notify the Bond Insurer of the City's failure to provide the Paying Agent with any notice, certificate or other item required to be given to the Paying Agent hereunder.

Section 27. Additional Provisions Concerning Bond Insurer.

(a) Notwithstanding any other provision of this Ordinance, the Bond Insurer shall be deemed to be the sole Owner of all Bonds insured by the Bond Insurer: (i) at all times for the purpose of the execution and delivery of any supplemental resolution or any amendment, supplement, change or modification of the Ordinance, removal of the Paying Agent or selection and appointment of a successor paying agent, and the initiation or approval by Owners of any action which under this Ordinance requires the approval or consent of or can be initiated by the Owners of any stated proportion or percentage in aggregate principal amount of the Bonds at the time Outstanding; and (ii) following an Event of Default hereunder, for all other purposes. Notwithstanding the foregoing, the Bond Insurer's consent shall be required in addition to, but not in lieu of, the consent of the Owners for the execution and delivery of any supplemental resolutions for which the consent of 100% of the Owners is required pursuant to Section 24 hereof.

(b) Any provisions of this Ordinance expressly recognizing or granting rights in or to the Bond Insurer may not be amended in any manner which affects the rights of the Bond Insurer hereunder without the prior written consent of the Bond Insurer.

(c) To the extent permitted by law, any reorganization or liquidation plan with respect to the City must be acceptable to the Bond Insurer. In the event of any reorganization or liquidation of the City, the Bond Insurer shall have the right to vote on behalf of all Owners of Bonds absent a default by the Bond Insurer under the Bond Insurance Policy.

(d) Anything in this Ordinance to the contrary notwithstanding, so long as the Bond Insurer is not in default in its payment obligations under the Bond Insurance Policy, upon the occurrence and continuance of an Event of Default hereunder, the Bond Insurer shall be entitled to control and direct the enforcement of all rights and remedies granted to the Owners of Bonds or the Paying Agent for the benefit of the Owners of the Bonds under this Ordinance.

(e) Notwithstanding any other provision of this Ordinance, in determining whether the rights of the Owners of Bonds will be adversely affected by any action taken pursuant to the terms and provisions of this Ordinance, the Paying Agent shall consider the effect on the Owners of Bonds as if there were no Bond Insurance Policy.

Section 28. Rights of the Bond Insurer Suspended Upon Default Under Bond Insurance Policy. Notwithstanding any other provision hereof, any rights granted to or conferred upon the Bond Insurer hereunder shall be in effect only so long as the Bond Insurer is not in

default in its payment obligation under the Bond Insurance Policy, and upon any such default by the Bond Insurer, its rights hereunder shall be suspended (except to the extent of subrogation for any payments under the Bond Insurance Policy theretofore made by the Bond Insurer); provided, however, that such rights shall be reinstated when the Bond Insurer has cured such default under the Bond Insurance Policy.

Section 29. Bond Insurer As Third Party Beneficiary. To the extent that this Ordinance confers upon or gives or grants to the Bond Insurer any right, remedy, or claim under or by reason of this Ordinance, the Bond Insurer is hereby explicitly recognized as being a third-party beneficiary hereunder and may enforce any such right, remedy or claim conferred, given or granted hereunder.

Section 30. Parties Interested Herein. Nothing in this Ordinance expressed or implied is intended or shall be construed to confer upon, or to give or grant to, any Person, other than the City, the Bond Insurer, the Paying Agent, and the Owners of the Bonds, any right, remedy or claim under or by reason of this Ordinance or any covenant, condition or stipulation hereof, and all covenants, stipulations, promises and agreements in this Ordinance contained by and on behalf of the City shall be for the sole and exclusive benefit of the City, the Bond Insurer, the Paying Agent, and the Owners of the Bonds.

Section 31. Successor Registrar or Paying Agent. The Bank of Cherry Creek, a branch of Western National Bank, in Denver, Colorado is hereby appointed as Registrar and Paying Agent. If the Registrar or Paying Agent initially appointed hereunder shall resign, or if the City shall determine to remove the Registrar or Paying Agent, the City may, upon notice mailed to the Bond Insurer and each Registered Owner of Bonds at the address last shown on the registration records, appoint a successor Registrar or Paying Agent. No resignation or removal of the Registrar or Paying Agent may take effect until a successor, acceptable to the Bond Insurer, is appointed by the City and has accepted such appointment. Every such successor Paying Agent shall be either the City or a bank or trust company having a shareholders' equity (e.g., capital stock, surplus and undivided profits), however denominated, not less than \$10,000,000. The Registrar and Paying Agent may be removed at any time at the request of the Bond Insurer for any breach of trust set forth herein.

Section 32. Defeasance. When all principal, premium, if any, and interest in connection with a Bond have been duly paid, the pledge and lien and all obligations hereunder shall thereby be discharged and said Bond shall no longer be deemed to be outstanding within the meaning of this Ordinance. There shall be deemed to be such due payment of a Bond when the City has placed in escrow and in trust with a commercial bank located within or without the State of Colorado, and exercising trust powers, an amount sufficient (including the known minimum yield from Federal Securities in which such amount may be initially invested) to meet all requirements of principal, premium, if any, and interest with respect to said Bond as the same become due at final maturity or upon designated prior redemption dates. The Federal Securities shall become due at or prior to the respective times at which the proceeds thereof shall be needed, in accordance with a schedule established and agreed upon between the City and such bank at the time of the creation of the escrow, or the Federal Securities shall be subject to redemption at the option of the holder thereof to assure such availability as so needed to meet such schedule.

In the event that there is a defeasance of only part of the Bonds, the Paying Agent shall, if requested by the City, institute a system to preserve the identity of the individual Bonds or portions thereof so defeased, regardless of changes in Bond numbers attributable to transfers and exchanges of Bonds and the Paying Agent shall be entitled to reasonable compensation and reimbursement of expenses from the City in connection with such system.

Notwithstanding anything herein to the contrary, in the event that the principal and or interest due on the Bonds shall be paid by the Bond Insurer pursuant to the Bond Insurance Policy, the Bonds shall remain outstanding for all purposes, not be defeased or otherwise satisfied and not considered paid by the City, and the assignment and pledge of the Pledged Revenues and all covenants, agreements and other obligations of the City to the Owners shall continue to exist and shall run to the benefit of the Bond Insurer, and the Bond Insurer shall be subrogated to the rights of such Owners.

Section 33. Authorization to Execute Collateral Documents. The officers of the City and the members of the Council are hereby authorized and directed to take any and all other actions necessary or appropriate to effectuate the provisions of this Ordinance, including but not limited to the execution of the Letter of Representations, the Bond Purchase Agreement, the Paying Agent Agreement, the Continuing Disclosure Certificate and such certificates and affidavits as may be reasonably required by the Underwriter. The execution of any instrument by the aforementioned officers or members of the Council shall be conclusive evidence of the approval by the City of such instrument in accordance with the terms hereof and thereof.

Section 34. Costs and Expenses. All costs and expenses incurred in connection with the issuance and payment of the Bonds, including without limitation the Underwriter's discount and all expenses related to issuing the Bonds, shall be paid either from the proceeds of the Bonds or from legally available moneys of the City, or from a combination thereof, and such moneys are hereby appropriated for that purpose.

Section 35. Ratification and Approval of Prior Actions. All actions heretofore taken by the officers of the City and members of the Council, not inconsistent with the provisions of this Ordinance, relating to the authorization, sale, issuance, and delivery of the Bonds, and the qualification of the Bonds for book-entry with DTC, are hereby ratified, approved, and confirmed.

Section 36. Approval of the Bond Purchase Agreement. The Council does hereby accept and approve the Bond Purchase Agreement as submitted by the Underwriter, and the Bonds shall be sold to the Underwriter upon the terms, conditions, and provisions as set forth in the Bond Purchase Agreement.

Section 37. Approval of Official Statement. The Council hereby approves the Preliminary Official Statement, in the form presented at this meeting. The Council hereby authorizes and directs the Finance Director to approve on behalf of the City a final Official Statement containing any updated information regarding items described in the Preliminary Official Statement which become known to the City prior to the date of delivery of the Bonds. Copies of said Preliminary Official Statement and final Official Statement are hereby authorized to be distributed by the Underwriter to all interested persons in connection with the sale of the Bonds. The Preliminary Official Statement is hereby deemed to be final as of its date within the

meaning of Rule 15c2-12(b)(I) of the U.S. Securities and Exchange Commission. The execution of a final Official Statement by an officer of the City shall be conclusively deemed to evidence the approval of the form and contents thereof by the City.

Section 38. No Recourse against Officers and Agents. Pursuant to Section 11-57-209 of the Supplemental Act, if a member of the Council, or any officer or agent of the City acts in good faith, no civil recourse shall be available against such member, officer, or agent for payment of the principal or interest on the Bonds. Such recourse shall not be available either directly or indirectly through the Council or the City, or otherwise, whether by virtue of any constitution, statute, rule of law, enforcement of penalty, or otherwise. By the acceptance of the Bonds and as a part of the consideration of their sale or purchase, any person purchasing or selling such Bond specifically waives any such recourse.

Section 39. Ordinance Irrepealable. After any of the Bonds have been issued, this Ordinance shall constitute an irrevocable contract between the City and the Owners, and shall be and remain irrepealable until the Bonds and the interest accruing thereon shall have been fully paid, satisfied, and discharged as herein provided.

Section 40. Severability. If any section, paragraph, clause, or provision of this Ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause, or provision shall not affect any of the remaining provisions of this Ordinance, the intent being that the same are severable.

Section 41. Repealer. All orders, ordinances, resolutions, bylaws, and regulations of the City, or parts thereof, inconsistent with this Ordinance are hereby repealed to the extent only of such inconsistency.

Section 42. Declaration of Emergency. In order to complete the issuance and sale of the Bonds while favorable market conditions exist to effect the Project, it is hereby declared that an emergency exists and that this ordinance is necessary for the immediate preservation of the public peace, health, safety and financial well-being of the City. This Ordinance is hereby declared, pursuant to Section 8.14 of the Charter, exempt from referendum.

Section 43. Effective Date, Recording and Authentication. This Ordinance shall be in full force and effect immediately upon enactment following final passage. This Ordinance shall be recorded in the City Book of Ordinances kept for that purpose, and shall be authenticated by the signatures of the Mayor and City Clerk, and published in accordance with law.

INTRODUCED, PASSED AND ADOPTED AS AN EMERGENCY ORDINANCE on December 9, 2002.

(S E A L)

Mayor

ATTESTED:

City Clerk

SCHEDULE I

PERMITTED INVESTMENT GUIDELINES

"Permitted Investments" means any of the following, but only to the extent that such investments are lawful investments for the City under then applicable laws of the State:

(a) The following obligations may be used as Permitted Investments for all purposes, including defeasance investments in refunding escrow accounts:

(i) Cash (insured at all times by the Federal Deposit Insurance Corporation);

(ii) Obligations of, or obligations guaranteed as to principal and interest by, the United States of America (the "U.S.") or any agency or instrumentality thereof, when such obligations are backed by the full faith and credit of the U.S. Government, including:

(1) U.S. treasury obligations,

(2) All direct or fully guaranteed obligations,

(3) Farmers Home Administration,

(4) General Services Administration,

(5) Guaranteed Title XI financing,

(6) Government National Mortgage Association (GNMA), and

(7) State and Local Government Series

(iii) Obligations of Government - Sponsored Agencies that are not backed by the full faith and credit of the U.S. Government, including:

(1) Federal Home Loan Mortgage Corp. (FHLMC) Debt obligations,

(2) Farm Credit System (formerly: Federal Land Banks, Federal Intermediate Credit Banks, and Banks for Cooperatives),

(3) Federal Home Loan Banks (FHL Banks),

(4) Federal National Mortgage Association (FNMA) Debt obligations,

- (5) Financing Corp. (FICO) Debt obligations,
- (6) Resolution Funding Corp. (REFCORP) Debt obligations, and
- (7) U.S. Agency for International Development (U.S.A.I.D.) Guaranteed notes.

Any security used for defeasance must provide for the timely payment of principal and interest and cannot be callable or prepayable prior to maturity or earlier redemption of the rated debt (excluding securities that do not have a fixed par value and/or whose terms do not promise a fixed dollar amount at maturity or call date). U.S.A.I.D. securities must mature at least four business days before the appropriate payment date.

(b) The Bond Insurer will allow the following Obligations to be used as Permitted Investments for all purposes other than defeasance investments in refunding escrow accounts:

(i) Obligations of any of the following federal agencies which obligations represent the full faith and credit of the U.S. Government, including:

- (1) Export-Import Bank,
- (2) Rural Economic Community Development Administration,
- (3) U.S. Maritime Administration,
- (4) Small Business Administration,
- (5) U.S. Department of Housing & Urban Development (PHAs),
- (6) Federal Housing Administration, and
- (7) Federal Financing Bank.

(ii) Direct obligations of any of the following federal agencies which obligations are not fully guaranteed by the full faith and credit of the U.S. Government, including:

- (1) Senior debt obligations issued by the Federal National Mortgage Association (FNMA) or Federal Home Loan Mortgage Corporation (FHLMC),
- (2) Obligations of the Resolution Funding Corporation (REFCORP),

(3) Senior debt obligations of the Federal Home Loan Bank System, and

(4) Senior debt obligations of other Government Sponsored Agencies approved by the Bond Insurer;

(iii) U.S. dollar denominated deposit accounts, federal funds and bankers' acceptances with domestic commercial banks which have a rating on their short term certificates of deposit on the date of purchase of "P-1" by Moody's Investors Service ("Moody's") and "A-1" or "A-1+" by Standard & Poor's, a Division of The McGraw-Hill Companies, Inc. ("S&P"), and maturing not more than 360 calendar days after the date of purchase. (Ratings on holding companies are not considered as the rating of the bank);

(iv) Commercial paper which is rated at the time of purchase in the single highest classification, "P- 1" by Moody's and "A-1+" by S&P and which matures not more than 270 calendar days after the date of purchase;

(v) Investments in a money market fund rated "AAAm" or "AAAm-G" or better by S&P;

(vi) Pre-refunded Municipal Obligations defined as follows: any bonds or other obligations of any state of the U.S. or of any agency, instrumentality or local governmental unit of any such state which are not callable at the option of the obligor prior to maturity or as to which irrevocable instructions have been given by the obligor to call on the date specified in the notice; and

(1) which are rated, based on an irrevocable escrow account or fund (the "escrow"), in the highest rating category of Moody's or S&P or any successors thereto; or

(2) which (i) are fully secured as to principal and interest and redemption premium, if any, by an escrow consisting only of cash or obligations described in paragraph A(2) above, which escrow may be applied only to the payment of such principal of and interest and redemption premium, if any, on such bonds or other obligations on the maturity date or dates thereof or the specified redemption date or dates pursuant to such irrevocable instructions, as appropriate, and which (ii) escrow is sufficient, as verified by a nationally recognized independent certified public accountant, to pay principal of and interest and redemption premium, if any, on the bonds or other obligations described in this paragraph on the maturity date or dates specified in the irrevocable instructions referred to above, as appropriate. Pre-refunded Municipal Obligations meeting the requirements of subsection (b) hereof may be used as Permitted Investments for annual appropriation lease transactions;

(vii) Municipal obligations rated "Aaa/AAA" or general obligations of States with a rating of "A2/A" or higher by both Moody's and S&P;

(viii) Investment agreements approved in writing by the Bond Insurer (supported by appropriate opinions of counsel); and

(ix) Other forms of investments (including repurchase agreements) approved in writing by the Bond Insurer.

(c) The value of the above investments shall be determined as follows:

(i) For the purpose of determining the amount in any fund, all Permitted Investments credited to such fund shall be valued at fair market value. The Insurance Trustee shall determine the fair market value based on accepted industry standards and from accepted industry providers. Accepted industry providers shall include but are not limited to pricing services provided by Financial Times Interactive Data Corporation, Merrill Lynch, Salomon Smith Barney, Bear Stearns, or Lehman Brothers;

(ii) As to certificates of deposit and bankers' acceptances: the face amount thereof, plus accrued interest thereon; and

(iii) As to any investment not specified above: the value thereof established by prior agreement among the City, the Insurance Trustee, and the Bond Insurer.

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

I, Michele Kelley, the duly appointed, qualified and acting City Clerk of the City of Westminster, Colorado (the "City") do hereby certify:

1. That the foregoing pages are a true, correct, and complete copy of an ordinance adopted by the City Council (the "Council") of the City at a regular meeting of the Council held at the City Hall on December 9, 2002.

2. The Ordinance has been signed by the Mayor, sealed with the corporate seal of the City, attested by me as City Clerk, and duly recorded in the books of the City; and that the same remains of record in the book of records of the City.

3. The passage of the Ordinance as an emergency was duly moved and seconded and the Ordinance was approved by vote of a 6 of 7 of the members of the Council as follows:

Those Voting Yes: Mayor Ed Moss
 Mayor Pro Tem Herb Atchison
 Councillor Chris Dittman
 Councillor Sam Dixion
 Councillor Butch Hicks
 Councillor Tim Kauffman

Those Voting No: None

Those Abstaining: Councillor Nancy McNally

Those Absent: None

4. That notice of the meeting of December 9, 2002, in the form, attached hereto as Exhibit A, was duly given to the Council members and was posted in a designated public place within the boundaries of the City no less than twenty-four hours prior to the meeting as required by law.

5. That the ordinance was published in full after adoption in Westminster Window, a newspaper of general circulation within the City on December 19, 2002. The affidavit of publication is attached hereto as Exhibit B.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of
said City this _____ day of December, 2002.

(SEAL)

City Clerk

EXHIBIT A

(Attach Notice of December 9, 2002 Meeting)

EXHIBIT B

(Attach Affidavit of Publication)

Summary of Proceedings

Summary of proceedings of the regular City of Westminster City Council meeting of Monday, December 9, 2002. Present at roll call were Mayor Moss, Mayor Pro-Tem Atchison, Councillors Dittman, Dixon, Hicks, Kauffman, and McNally. Absent none.

The minutes of the November 25, 2002 meeting were approved.

Mayor Pro-Tem proclaimed December 9-14 as Shop Westminster Week and accepted Columbine Award from the Colorado Parks and Recreation Association.

Council approved the following: Promenade Terrace Reservation and Rental Policy as amended; Park Shelter Reservation Fees; Legal Services Agreement with Carlson Hammond & Paddock for \$220,000; Asphalt Materials Bid with LaFarge North America for \$287,500; Design of Reclaimed Waterline Extensions with Martin/Martin Consulting Engineers for \$156,777; CB NO. 63 re CLUP Amendment 7247-7261 Meade St; CB No. 64 re Rezoning of 7247-7261 Meade St; CB No. 65 re CLUP Amendment for 7383-7395 Lowell Blvd; CB No. 66 re Rezoning of 7383-7395 Lowell Blvd; CB NO. 67 re CLUP Amendment re 7490 Lowell Blvd; CB NO. 68 re Rezoning 7490 Lowell Blvd.

Council TABLED the Federal Boulevard/US-36 Bridge Amendment of Intergovernmental Agreement. Council continued the Mandalay Gardens Public Hearing, Annexation, and Zoning to December 16, 2002.

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

A BILL FOR AN ORDINANCE AUTHORIZING AN ASSISTANCE AGREEMENT WITH PREMIER MEMBERS FEDERAL CREDIT UNION FOR THE OCCUPANCY OF EXISTING SPACE AT CIRCLEPOINT CORPORATE CENTER IN WESTMINSTER purpose: Business assistance package for Premier Members credit union to move into the City.

A BILL FOR AN ORDINANCE INCREASING THE 2002 BUDGETS OF THE OPEN SPACE FUND AND AUTHORIZING A SUPPLEMENTAL APPROPRIATION FROM THE 2002 ESTIMATES REVENUES IN THE FUND purpose: appropriating grant and donations funds

A BILL FOR AN ORDINANCE AUTHORIZING THE ISSUANCE OF SALES AND USE TAX REVENUE BONDS, SERIES, 2002, OF THE CITY OF WESTMINSTER, COLORADO, PROVIDING OTHER DETAILS IN CONNECTION THEREWITH; AND DECLARING AN EMERGENCY purpose: sales of bonds for construction of 136th Ave interchange

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

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

A BILL FOR AN ORDINANCE AMENDING THE ZONING LAW AND CHANGING THE ZONING CLASSIFICATION OF CERTAIN DESCRIBED PROPERTY IN A PARCEL OF LAND LOCATED IN SECTION 31, TOWNSHIP 2 SOUTH, RANGE 68 WEST, 6TH P.M., COUNTY OF ADAMS, STATE OF COLORADO

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

A BILL FOR AN ORDINANCE AMENDING THE ZONING LAW AND CHANGING THE ZONING CLASSIFICATION OF CERTAIN DESCRIBED PROPERTY IN A PARCEL OF LAND LOCATED IN SECTION 31, TOWNSHIP 2 SOUTH, RANGE 68 WEST, 6TH P.M., COUNTY OF ADAMS, STATE OF COLORADO

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

A BILL FOR AN ORDINANCE AMENDING THE ZONING LAW AND CHANGING THE ZONING CLASSIFICATION OF CERTAIN DESCRIBED PROPERTY IN A PARCEL OF LAND LOCATED IN SECTION 32, TOWNSHIP 2 SOUTH, RANGE 68 WEST, 6TH P.M., COUNTY OF ADAMS, STATE OF COLORADO

The following Resolution was adopted: Resolution No. 55 re Service Commitment Allocations for 2003

At 8:30 P.M. the meeting was adjourned

By order of the Westminster City Council
Michele Kelley, CMC, City Clerk

Published in the Westminster Window on December 19, 2002.

BY AUTHORITY

ORDINANCE NO. 2991

COUNCILLOR'S BILL NO. 63

SERIES 2002

INTRODUCED BY COUNCILLORS

Dittman-Kauffman

A BILL

FOR AN ORDINANCE AMENDING THE WESTMINSTER COMPREHENSIVE LAND USE PLAN

WHEREAS, the owner of the property described below has requested an amendment to the City's Comprehensive Plan to change the designated land use for said property from "Single-Family Detached-Medium Density" and "Retail/Commercial," to "Multi-Family Residential;" and

WHEREAS, the Planning Commission has reviewed the proposed amendment and has recommended approval to the City Council; and

WHEREAS, pursuant to W.M.C. 11-4-16, a public hearing was held by City Council concerning the proposed amendment that the requested amendment; and

NOW THEREFORE, the City Council hereby finds that the requested amendment will be in the public good and in compliance with the overall intent of the Comprehensive Land Use Plan.

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The City Council authorizes City Staff to make the necessary changes to the maps and text of the Westminster Comprehensive Land Use Plan, to alter the designation of a portion of the following property from "Retail/Commercial" and "Single Family Detached – Medium Density" to "Multi-Family Residential" specifically described as:

Lots 7 to 17, inclusive, Mahin's Subdivision of the east half of Block 42, Harris Park, County of Adams, State of Colorado, AKA 7247-7261 Meade Street, Westminster, Colorado.

Section 2. Severability: If any section, paragraph, clause, word or any other part of this Ordinance shall for any reason be held to be invalid or unenforceable by a court of competent jurisdiction, such part deemed unenforceable shall not affect any of the remaining provisions.

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

Section 4. The title and purpose of this ordinance shall be published prior to its consideration on second reading. The full text of this ordinance shall be published within ten (10) days after its enactment after second reading. INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 25th day of November, 2002. PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 9th day of December, 2002.

BY AUTHORITY

ORDINANCE NO. 2992

COUNCILLOR'S BILL NO. 64

SERIES 2002

INTRODUCED BY COUNCILLORS

Dittman-Kauffman

A BILL

FOR AN ORDINANCE AMENDING THE ZONING LAW AND CHANGING THE ZONING CLASSIFICATION OF CERTAIN DESCRIBED PROPERTY IN A PARCEL OF LAND LOCATED IN SECTION 31, TOWNSHIP 2 SOUTH, RANGE 68 WEST, 6TH P.M., COUNTY OF ADAMS, STATE OF COLORADO.

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The City Council finds:

- a. That an application for the zoning of the property described below from City of Westminster B-1 to City of Westminster PUD zoning has been submitted to the City for its approval pursuant to Westminster Municipal Code Section 11-5-2.
- b. That Council has completed a public hearing on the requested zoning pursuant to the provisions of Chapter 5 of Title XI of the Westminster Municipal Code.
- c. That based on the evidence produced at the public hearing, the City Council finds that the proposed zoning complies with all requirements of City Code, including, but not limited to, the provisions of Westminster Municipal Code, Section 11-5-3.
- d. That the proposed zoning is compatible with existing zoning and land uses of adjacent properties in the general vicinity of the property proposed for zoning.
- e. That the proposed zoning is consistent with all applicable general plans and policies concerning land use and development relative to the property proposed for zoning.

Section 2. The Zoning District Map of the City is hereby amended by reclassification of the property described herein from City of Westminster B-1 to City of Westminster PUD. A parcel of land located in Section 31, Township 2 South, Range 68 West, 6th P.M., County of Adams, State of Colorado, more particularly described as follows:

Lots 7 to 17, inclusive, Mahin's Subdivision of the east half of Block 42, Harris Park, County of Adams, State of Colorado. AKA 7247-7261 Meade Street, Westminster, Colorado.

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

Section 4. The title and purpose of this ordinance shall be published prior to its consideration on second reading. The full text of this ordinance shall be published within ten (10) days after its enactment after second reading. INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 25th day of November, 2002. PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 9th day of December, 2002.

BY AUTHORITY

ORDINANCE NO. 2993

COUNCILLOR'S BILL NO. 65

SERIES 2002

INTRODUCED BY COUNCILLORS

Atchison-Dittman

A BILL

FOR AN ORDINANCE AMENDING THE WESTMINSTER COMPREHENSIVE LAND USE PLAN

WHEREAS, the owner of the property described below has requested an amendment to the City's Comprehensive Plan to change the designated land use for said property from "Single-Family Detached-Medium Density" and "Office" to "Multi-Family Residential;" and

WHEREAS, the Planning Commission has reviewed the proposed amendment and has recommended approval to the City Council; and

WHEREAS, pursuant to W.M.C. 11-4-16, a public hearing was held by City Council concerning the proposed amendment; and

NOW THEREFORE, the City Council hereby finds that the requested amendment will be in the public good and in compliance with the overall intent of the Comprehensive Land Use Plan.

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The City Council authorizes City Staff to make the necessary changes to the maps and text of the Westminster Comprehensive Land Use Plan, to alter the designation of the following property from "Single-Family Detached – Medium Density" and "Office" to "Multi-Family Residential":

Parcel 1:

Lots 2, Dr. Platt Subdivision Filing No. 1, County of Adams, State of Colorado. AKA 7395 Lowell Boulevard, Westminster, Colorado.

Parcel 2:

Lots 22 to 27, inclusive, Block 1 Wilson's Subdivision, County of Adams, State of Colorado. AKA 7383 Lowell Boulevard, Westminster, Colorado.

Section 2. Severability: If any section, paragraph, clause, word or any other part of this Ordinance shall for any reason be held to be invalid or unenforceable by a court of competent jurisdiction, such part deemed unenforceable shall not affect any of the remaining provisions.

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

Section 4. The title and purpose of this ordinance shall be published prior to its consideration on second reading. The full text of this ordinance shall be published within ten (10) days after its enactment after second reading. INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 25th day of November, 2002. PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 9th day of December, 2002.

ORDINANCE NO. 2994

BY AUTHORITY

COUNCILLOR'S BILL NO. 66

SERIES 2002

INTRODUCED BY COUNCILLORS

Atchison-Dittman

A BILL

FOR AN ORDINANCE AMENDING THE ZONING LAW AND CHANGING THE ZONING CLASSIFICATION OF CERTAIN DESCRIBED PROPERTY IN A PARCEL OF LAND LOCATED IN SECTION 31, TOWNSHIP 2 SOUTH, RANGE 68 WEST, 6TH P.M., COUNTY OF ADAMS , STATE OF COLORADO.

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The City Council finds:

- b. That an application for the zoning of the property described below from City of Westminster T-1 to City of Westminster PUD zoning has been submitted to the City for its approval pursuant to Westminster Municipal Code Section 11-5-2.
- b. That Council has completed a public hearing on the requested zoning pursuant to the provisions of Chapter 5 of Title XI of the Westminster Municipal Code.
- c. That based on the evidence produced at the public hearing, the City Council finds that the proposed zoning complies with all requirements of City Code, including, but not limited to, the provisions of Westminster Municipal Code, Section 11-5-3.
- d. That the proposed zoning is compatible with existing zoning and land uses of adjacent properties in the general vicinity of the property proposed for zoning.
- e. That the proposed zoning is consistent with all applicable general plans and policies concerning land use and development relative to the property proposed for zoning.

Section 2. The Zoning District Map of the City is hereby amended by reclassification of the property described herein from City of Westminster T-1 to City of Westminster PUD. A parcel of land located in Section 31, Township 2 South, Range 68 West, 6th P.M., County of Adams, State of Colorado, more particularly described as follows:

Parcel 1: Lots 2, Dr. Platt Subdivision Filing No. 1, County of Adams, State of Colorado. AKA 7395 Lowell Boulevard, Westminster, Colorado.

Parcel 2: Lots 22 to 27, inclusive, Block 1 Wilson's Subdivision, County of Adams, State of Colorado. AKA 7383 Lowell Boulevard, Westminster, Colorado.

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

Section 4. The title and purpose of this ordinance shall be published prior to its consideration on second reading. The full text of this ordinance shall be published within ten (10) days after its enactment after second reading. INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 25th day of November, 2002. PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 9th day of December, 2002.

BY AUTHORITY

ORDINANCE NO. **2995**

COUNCILLOR'S BILL NO. **67**

SERIES 2002

INTRODUCED BY COUNCILLORS

Dixion-McNally

A BILL

FOR AN ORDINANCE AMENDING THE WESTMINSTER COMPREHENSIVE LAND USE PLAN

WHEREAS, the owner of the property described below has requested an amendment to the City's Comprehensive Plan to change the designated land use for said property from "Public Quasi-Public" to "Multi-Family Residential;" and

WHEREAS, the Planning Commission has reviewed the proposed amendment and has recommended approval to the City Council; and

WHEREAS, pursuant to W.M.C. 11-4-16, a public hearing was held by City Council concerning the proposed amendment; and

NOW THEREFORE, the City Council hereby finds that the requested amendment will be in the public good and in compliance with the overall intent of the Comprehensive Land Use Plan.

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The City Council authorizes City Staff to make the necessary changes to the maps and text of the Westminster Comprehensive Land Use Plan, to alter the designation of the following property from "Public/Quasi-Public" to "Multi-Family Residential":

Part of the NW ¼ Section 32. T2S, R68W of the 6th PM AKA 7490 Lowell Boulevard; Westminster, Colorado. Beginning at a point from which the SW corner of the NW ¼ SW ¼ of said Section bears S 00808'09"E 360.49 feet and S89851'51"W 30.00 feet, thence along the following six (6) courses:

1)N00808'09"W 293.34 feet along the east right-of-way of Lowell Blvd., 2)Thence N89851'51"E 234.00 feet; 3)Thence S00808'09"E 118.00 feet; 4)Thence S89851'51"W 24.22 feet; 5)Thence S00808'09"E 175.34 feet; 6)Thence S89851'51"W 209.78 feet to the point of beginning. Said parcel contains approximately 64,395 square feet, or 1.48 acres. The bearings are based upon the west line of said section bearing N00808'09"W.

Section 2. Severability: If any section, paragraph, clause, word or any other part of this Ordinance shall for any reason be held to be invalid or unenforceable by a court of competent jurisdiction, such part deemed unenforceable shall not affect any of the remaining provisions.

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

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

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 25th day of November, 2002. PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 9th day of December, 2002.

BY AUTHORITY

ORDINANCE NO. 2996

COUNCILLOR'S BILL NO. 68

SERIES 2002

INTRODUCED BY COUNCILLORS

Dixion-McNally

A BILL

FOR AN ORDINANCE AMENDING THE ZONING LAW AND CHANGING THE ZONING CLASSIFICATION OF CERTAIN DESCRIBED PROPERTY IN A PARCEL OF LAND LOCATED IN SECTION 32, TOWNSHIP 2 SOUTH, RANGE 68 WEST, 6TH P.M., COUNTY OF ADAMS, STATE OF COLORADO.

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The City Council finds:

- a. That an application for the zoning of the property described below from City of Westminster R-4 to City of Westminster PUD zoning has been submitted to the City for its approval pursuant to Westminster Municipal Code Section 11-5-2.
- b. That Council has completed a public hearing on the requested zoning pursuant to the provisions of Chapter 5 of Title XI of the Westminster Municipal Code.
- c. That based on the evidence produced at the public hearing, the City Council finds that the proposed zoning complies with all requirements of City Code, including, but not limited to, the provisions of Westminster Municipal Code, Section 11-5-3.
- d. That the proposed zoning is compatible with existing zoning and land uses of adjacent properties in the general vicinity of the property proposed for zoning.
- e. That the proposed zoning is consistent with all applicable general plans and policies concerning land use and development relative to the property proposed for zoning.

Section 2. The Zoning District Map of the City is hereby amended by reclassification of the property described herein from City of Westminster R-4 to City of Westminster PUD. A parcel of land located in Section 32, Township 2 South, Range 68 West, 6th P.M., County of Adams, State of Colorado, more particularly described as follows:

Part of the NW ¼ Section 32. T2S, R68W of the 6th PM AKA 7490 Lowell Boulevard; Westminster, Colorado. Beginning at a point from which the SW corner of the NW ¼ SW ¼ of said Section bears S 00808'09"E 360.49 feet and S89851'51"W 30.00 feet, thence along the following six (6) courses:

1)N00808'09"W 293.34 feet along the east right-of-way of Lowell Blvd., 2)Thence N89851'51"E 234.00 feet; 3)Thence S00808'09"E 118.00 feet; 4)Thence S89851'51"W 24.22 feet; 5)Thence S00808'09"E 175.34 feet; 6)Thence S89851'51"W 209.78 feet to the point of beginning. Said parcel contains approximately 64,395 square feet, or 1.48 acres. The bearings are based upon the west line of said section bearing N00808'09"W.

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

Section 4. The title and purpose of this ordinance shall be published prior to its consideration on second reading. The full text of this ordinance shall be published within ten (10) days after its enactment after second reading. INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 25th day of November, 2002. PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 9th day of December, 2002.