



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 (Section 7) and Citizen Presentations (Section 12) are reserved for comments on any issues or items pertaining to City business except those for which a formal public hearing is scheduled under Section 10 when the Mayor will call for public testimony. Please limit comments to no more than 5 minutes duration except when addressing the City Council during Section 12 of the agenda.

1. Pledge of Allegiance
2. Roll Call
3. Consideration of Minutes of Preceding Meetings
4. Report of City Officials
 - A. City Manager's Report
5. City Council Comments
6. Presentations
7. Citizen Communication (5 minutes or less)

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

8. Consent Agenda
 - A. 2007 City Council Assignments
 - B. City Centre Park Design and Construction Contract
 - C. Expenditure Approval for Fire Department Personal Protective Equipment
 - D. IGA with the Mandalay Town Center General Improvement District for Administrative Services
 - E. IGA Amendment with the Urban Drainage and Flood Control District for Quail Creek Improvements
 - F. Second Reading Councillor's Bill No. 63 re 2007 3rd Quarter Budget Supplemental Appropriation

9. Appointments and Resignations

10. Public Hearings and Other New Business

- A. Public Hearing re Savory Farm Estates 8.13 acre site East of Federal Boulevard and 109th Avenue
- B. Councillor's Bill No. 64 re CLUP Amendment re Savory Farm Estates
- C. Preliminary and Official Development Plan re Savory Farm Estates
- D. Resolution No. 46 re Service Commitment Award Extension re Savory Farm Estates Planned Unit Development
- E. Resolution No. 47 re Service Commitment Allocations for 2008
- F. Councillor's Bill No. 65 re Economic Development Agreement with the 75th & Sheridan Holding LLC
- G. Resolution No. 48 re Amendment No. 1 re CDOT Cost Sharing Contract for W. 80th Ave. & Federal Intersection
- H. Resolution No. 49 re 2008 Jefferson County Joint Venture Grant Application for Heritage Golf Course Restrooms
- I. Resolution No. 50 re Westminster Sports Center Fees

11. Old Business and Passage of Ordinances on Second Reading

12. Citizen Presentations (longer than 5 minutes), Miscellaneous Business, and Executive Session

- A. City Council

13. Adjournment

WESTMINSTER ECONOMIC DEVELOPMENT AUTHORITY MEETING (separate agenda)

MANDALAY TOWN CENTER GENERAL IMPROVEMENT DISTRICT MEETING (separate agenda)

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 10, 2007 AT 7:04 P.M.

PLEDGE OF ALLEGIANCE

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

ROLL CALL

Mayor McNally, Mayor Pro Tem Dittman and Councillors Briggs, Kaiser, Major, and Winter were present at roll call. Councillor Lindsey was absent at roll call and joined the meeting in progress, as noted in the Savory Farm Estates public hearing. J. Brent McFall, City Manager, Martin McCullough, City Attorney, and Linda Yeager, City Clerk, also were present.

CONSIDERATION OF MINUTES

Councillor Kaiser moved, seconded by Major, to approve the minutes of the regular meeting of November 26, 2007, as corrected to include the name of the person that had seconded the motion to adopt Resolution No. 45. The motion passed unanimously.

CITY MANAGER'S REPORT

Mr. McFall announced that the final regular City Council meeting of 2007 would be conducted on December 17 at 7:00 p.m. The Council had rescheduled the meeting because the fourth Monday of the month fell on December 24, Christmas Eve.

Mr. McFall reported that Council would convene meetings of the Westminster Economic Development Authority and the Mandalay Town Center General Improvement District at the conclusion of this meeting. The City Council was the Board of Directors of each entity.

CITY COUNCIL COMMENTS

Councillor Major reported that the Christmas Lighting Ceremony had been a huge success with families and friends joining together in the holiday spirit. He thanked staff and the businesses that had generously donated refreshments for those who attended. Video of the event was being broadcast on Channel 8 programming.

Councillor Briggs reported that Council had spent the day together on December 8 to learn about each other and how to work together as a team. Additionally, he had attended the 80th Annual Transportation Conference to learn about proposals for the upcoming year.

Mayor McNally reported that she and Councillor Lindsey had attended a ceremony to light the Menorah in the courtyard of City Hall. She appreciated the diversity of the community and was pleased to have been invited to participate in the ceremony. In conclusion, the Mayor acknowledged this was the last Council meeting that Rachel Ceccarelli, *Westminster Window* reporter, would attend, as she had accepted employment elsewhere. She thanked Ms. Ceccarelli for her unbiased coverage of City government.

CONSENT AGENDA

The following items were submitted for Council's consideration on the consent agenda: approval of revised assignments of City Council members to internal committees of the City organization and numerous external organizations in which the City was involved; authority for the City Manager to execute a \$197,062 contract with Architerra Group for design services for the master plan and construction documents related to the City Centre Park project and authorize a \$19,700 contingency; authority for the Fire Department to purchase personal protective equipment from American Safety Associates of Colorado in an amount not to exceed \$70,000; authority for the Mayor to execute an Intergovernmental Service Agreement with the City of Westminster Mandalay Town Center General Improvement District in

substantially the same form distributed in the agenda packet regarding the provision of administrative services by the City and the payment of a service fee by the District; authority for the City Manager to sign a second amendment to the Intergovernmental Agreement (IGA) with the Urban Drainage and Flood Control District for the design and construction of drainage improvements for Quail Creek west of Huron Street and authorize payment of \$1,350,000 to the District as called for in the IGA; and passage of Councillor's Bill No. 63 on second reading to provide supplementary appropriations to the 2007 budget of the General, General Capital Improvement, Storm Drainage, and Golf Course Funds.

Mayor McNally asked if any Councillor wished to remove an item from the consent agenda for individual consideration. There was no reply.

It was moved by Councillor Major and seconded by Dittman to approve the consent agenda as presented. The motion passed unanimously.

PUBLIC HEARING RE SAVORY FARM ESTATES CLUP, PDP/ODP, AND SERVICE COMMITMENT

At 7:11 p.m., the Mayor opened a public hearing to consider a Comprehensive Land Use Plan (CLUP) amendment, Preliminary and Official Development Plans (PDP/ODP), and extension of service commitment award for the Savory Farm Estates Planned Unit Development (PUD). Dave Shinneman, Planning Manager, entered into the record the agenda memorandum and associated documentation, as well as the published notice of public hearing, photographic evidence that the property had been posted, and notifications had been mailed to property owners within 300 feet of the parcel under consideration. The 8.13-acre site was located east of Federal Boulevard at approximately the alignment of 109th Avenue. The CLUP amendment would change the maximum residential density from 2.5 to 3.5 dwelling units per acre, and the PDP and ODP proposed 24 single-family residential units. A public land dedication of .69 acres at the southern edge of the site would abut existing City-owned open space. Private open space totaling 1.31 acres in Tracts A, B and C would be dedicated and maintained by the Homeowners Association. Existing service commitments awarded for this project would expire one year from the ODP approval unless an extension was granted, and the owner was requesting a two-year extension through December 31, 2009.

Terry Ten Eyck, the property owner, testified that the statements made by Mr. Shinneman were correct. The neighborhood meeting for this project had been fruitful with many suggestions offered by residents of the Savory Farm Subdivision being accepted and incorporated within the development plan. Mr. Ten Eyck advised that homeowners associations of Savory Farm Estates and Savory Farm Subdivision would be combined, which would be of benefit to property owners in both subdivisions. Remaining contaminants from the operation of the Savory Mushroom Farm during the 1930s and 1940s would be the subject of a Voluntary Cleanup Plan approved by the Colorado Department of Health. Mr. Ten Eyck responded to questions from Council.

Clerk's Note: Councillor Lindsey joined the meeting and took her seat on the dais. The time was 7:32 p.m. She abstained from voting on motions associated with this public hearing since she had not been present to hear the matter.

No one wished to testify concerning this project. Mr. Shinneman concluded by advising Council that the Planning Commission had considered the proposal on November 27 and had voted unanimously to recommend approval. The Mayor closed the hearing at 7:35p.m.

COUNCILLOR'S BILL NO. 64 RE SAVORY FARM ESTATES CLUP AMENDMENT

It was moved by Mayor Pro Tem Dittman and seconded by Councillor Major to pass Councillor's Bill No. 64 on first reading to amend the Comprehensive Land Use Plan by changing the designation from R-2.5 Residential to R-3.5 Residential for the 8.13-acre site east of Federal Boulevard at the approximate alignment of 109th Avenue. The Mayor Pro Tem stated that his motion was based on finding that the proposed amendment would be in the public good; that there was justification for the proposed change and the Plan was in need of revision as proposed; that the amendment was in conformance with the overall purpose and intent and the goals and policies of the Plan;

that the proposed amendment was compatible with existing and planned surrounding land uses; and that the proposed amendment would not result in excessive detrimental impacts to the City's existing or planned infrastructure systems. At roll call, the motion passed on a 6:1 vote with Councillor Lindsey abstaining.

APPROVAL OF SAVORY FARM ESTATES PDP/ODP

It was moved by Mayor Pro Tem Dittman, seconded by Councillor Major, to approve the Savory Farm Estates Preliminary Development Plan and Official Development Plan based on finding that the criteria set forth in Sections 11-5-14 and 11-5-15 of the Westminster Municipal Code had been met. The motion passed by a 6:1 margin with Councillor Lindsey abstaining.

RESOLUTION NO. 46 RE SAVORY FARM ESTATES PUD SERVICE COMMITMENT EXTENSION

Mayor Pro Tem Dittman moved to adopt Resolution No. 46 extending the existing Category B-1 Service Commitment award to the Savory Farm Estates single-family detached residential project based on a finding that the project satisfied criteria in Section 11-3-2(a)2 of the City's Growth Management Program in the Westminster Municipal Code. Councillor Major seconded the motion, and on roll call vote, the motion passed by a 6:1 margin with Councillor Lindsey abstaining.

RESOLUTION NO. 47 RE 2008 SERVICE COMMITMENT ALLOCATIONS

Upon a motion by Councillor Major, seconded by Councillor Kaiser, the Council voted unanimously on roll call vote to adopt Resolution No. 47 allocating Service Commitments for the year 2008 to the various categories of the Growth Management Program including Service Commitments for residential competitions for new single-family detached, single-family attached, multi-family, senior housing, and traditional mixed use neighborhood developments.

COUNCILLOR'S BILL NO. 65 RE 75TH & SHERIDAN HOLDING LLC EDA

Councillor Major moved to pass Councillor's Bill No. 65 on first reading authorizing the City Manager to execute and implement an Economic Development Agreement with the 75th & Sheridan Holding LLC. The motion was seconded by Councillor Briggs and passed unanimously on roll call vote.

RESOLUTION NO. 48 RE AMENDMENT TO CDOT COST-SHARING CONTRACT FOR 80TH/FEDERAL

It was moved by Councillor Kaiser and seconded by Mayor Pro Tem Dittman to adopt Resolution No. 48 authorizing the City Manager to execute Contract Amendment No. 1 with the Colorado Department of Transportation for intersection improvements at 80th Avenue and Federal Boulevard, and authorize the expenditure of \$860,000 representing the balance of the City's and Adams County's share of the project costs. At roll call, the motion passed unanimously.

RESOLUTION NO. 49 RE 2008 JEFFERSON COUNTY JOINT VENTURE GRANT APPLICATION

It was moved by Mayor Pro Tem Dittman, seconded by Kaiser, to adopt Resolution No. 49 authorizing the Department of Parks, Recreation, and Libraries to apply for a second Jefferson County Joint Venture Grant for the 2008 funding cycle in the amount of \$250,000 for the construction of two restroom facilities at The Heritage Golf Course at Westmoor. The motion passed unanimously on roll call vote.

RESOLUTION NO. 50 RE WESTMINSTER SPORTS CENTER FEES

It was moved by Councillor Kaiser, seconded by Dittman, to adopt Resolution No. 50 authorizing the City Staff to set rental and admission fees for the Westminster Sports Center as set forth in the fee schedule attached to the resolution. The motion carried with all Council members voting yes at roll call.

ADJOURNMENT

There was no further business to come before the City Council, and the Mayor adjourned the meeting at 7:45 p.m.

ATTEST:

Mayor

City Clerk



Agenda Item 8 A

WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
December 10, 2007



SUBJECT: Revised City Council Assignments

Prepared By: Mary Joy Barajas, Executive Secretary

Recommended City Council Action

Approve the attached Revised Council Assignments list as discussed at the November 26th Post City Council briefing.

Summary Statement

- Council approval is requested pertaining to Council assignments for the remainder of 2007 and 2008 to fill vacancies left by Councillor's Tim Kauffman and Jo Ann Price and the related changes that have occurred with various organizations.
- These assignments pertain to internal committees of the City organization as well as numerous external organizations in which the City has an involvement.

Expenditure Required: \$ 0

Source of Funds: N/A

Policy Issue

No policy issue was identified.

Alternative

Council could choose not to make assignments at this time to committees that Councillor's Tim Kauffman and Jo Ann Price previously served on. This alternative is not recommended, as the City should have representation for organizations such as Adams County Economic Development and various City boards and commissions.

Background Information

The City of Westminster is involved in a number of organizations that are external to the city government. These include a wide range of both standing committees as well as groups that are formed to address current issues. They range from regional air quality and transportation issues to representation on the Denver Regional Council of Governments (DRCOG) and the Urban Drainage and Flood Control District (UDFCD). City Council and Staff are active participants on a number of committees related to regional issues such as the U.S. 36 Environmental Impact Study (EIS).

Also, there are 13 City Boards and Commissions to which a City Council liaison is assigned. The purpose of such Council assignments is to assure open and time sensitive communications between City Council and the respective Board or Commission. These particular assignments are to be handled on an "on-call" basis. The Chairperson of each respective Board or Commission shall be responsible to contact the Council representative when he or she is needed to be at the respective meeting. Otherwise, the Council representative is not required to be in attendance at the Board/Commission meeting.

City Council reviewed the City Council assignments at their November 26th Post City Council briefing and provided Staff with direction on changes to the Council assignments. These changes are reflected on the attached City Council Assignment list for Council's official action.

Respectfully submitted,

J. Brent McFall
City Manager

Attachment

CITY COUNCIL ASSIGNMENTS
December 2007

<u>Organization</u>	<u>Meeting Time/Date/Place</u>	<u>Council/Staff Representatives</u>
ADCOG Dinner	Qrtly 4 th Wednesday in Jan, April, July and August.	All
Adams County Economic Development	4th Thursday, 11:30 a.m.-1:30 p.m. 12050 Pecos St, Suite 200.	Chris Dittman/Susan Grafton
ADCO Mayors Executive Committee	3rd Friday, 7:30 a.m., location varies per municipality.	Nancy McNally/Brent McFall
Broomfield-Westminster Open Space Foundation	Varies. Scheduled as needed.	Nancy McNally/Mary Lindsey/Bob Briggs/Heather Cronenberg
CML Policy Committee	Three times a year at CML offices (2/28 9:30am-3pm – final meeting in May)	Chris Dittman/Mary Lindsey
CML Tax Policy Committee	Varies	Steve Smithers
DRCOG Board	3 rd Wednesday, 6:30-8:30 p.m., 1290 Broadway, Ste. 1700, 1 st Floor	Nancy McNally/ Barbara Opie
Administrative Comm. Meeting	5:30 – 6:30 (Rt. Before DRCOG Bd. Mtg.)	
DRCOG Metro Visions Committee	1 st Wednesday, 4-6 p.m., 1290 Broadway, Ste. 1700, 1 st Floor	Nancy McNally
DRCOG Regional Transportation Committee	2 nd Tuesday, 8 a.m. briefing; 8:30-10:00a mtg. @ 1290 Broadway, Ste. 1700, Executive Director's Office	Nancy McNally
DRCOG – Officers Lunch	1 st Thursday, 12 Noon, Location varies	Nancy McNally
Jefferson County Transportation Advisory & Advocacy Group (JEFFTAAG)	2nd Wednesday, 7-8:30am at Jeffco Admin Courts Bldg – Lookout Mountain Room, 100 Jefferson Cty Pkwy, Golden	Chris Dittman /Bob Briggs/Dave Downing
Jeffco Economic Council	3 rd Friday, 7:30 – 9:30 a.m., Jeffco Admin. Building	Chris Dittman /Susan Grafton

Organization	Meeting Time/Date/Place	Council/Staff Representatives
JEFFCO Mayor/Commissioner/Manager Breakfast	7:15.-8:45 a.m. @ Jeffco Admin Bldg. – Lookout Mtn Rm. on specific Weds - Feb 6, May 7, Aug 6, & Nov 5.	Nancy and all Council invited/Brent McFall
Jeffco Youth Alcohol Intervention Program Board	2 nd Thursday of every Quarter; 11:30 to 1:30 p.m. ; Jeffco Admin Bldg., Buffalo Bill Room.	Faith Winter
Metro Mayors Caucus	1/12, 2/13, 4/9, 6/11, 8/13 and 10/18 at Denver Metro Chamber of Commerce from 8:30 – 11:30 Except 1/12 meeting runs from 8:00 am to 4:00 pm and will take place at the Colorado History Museum	Nancy McNally
North Metro Arts Alliance	Tentatively every 1 st Thursday, 4:00 p.m. depending on Conference Rm. availability	Chris Dittman
Rocky Flats Stewardship Council	1 st Monday, 8:30 – 11:30 a.m., Jeffco Airport. No meeting Jan - meet Feb 4 instead.	Bob Briggs/Ron Hellbusch
Volunteer Firefighter Pension Board	As needed, will send notices.	Nancy McNally/Gary Doane & Gary Buschy
Urban Drainage and Flood Control District	3 rd Thursday of each month, except for Jan @ UDFCD offices. 12:30 lunch; 1:15pm meeting, Annual Meeting Feb 2	Nancy McNally
US 36 Transportation Management Organization (TMO)	2 nd Tuesday, 7:30-9:00 a.m. at the NITA Bldg 363 Centennial Pkwy	Bob Briggs/Scott Major/Dave Downing/Matt Lutkus
U.S. 36 Mayors/Commissioners Coalition	1 st Thursday each month 7:30-9am; location – odd months Broomfield, event months Superior	Nancy McNally/Matt Lutkuss /Dave Downing
Westminster Historical Society	3 rd Saturday, 10:00 – 11:30 am at the Bowles House.	Mary Lindsey/Nancy McNally

City Boards/Commission/Panel	<u>Meeting Time/Date/Place</u>	
Board of Adjustment Staff Liaison – Dave Falconieri/Terrilyn Willette	3 rd Tuesday of the month @ 7:00 p.m. in Council Chambers	Scott Major/Faith Winter
Board of Building Code Appeals Staff Liaison – Dave Horras	Meets on an as needed basis, typically Wednesday evening.	Mark Kaiser
Election Commission – Staff Liaison – Linda Yeager	As needed basis in the GS Conf Rm.	Faith Winter
Environmental Advisory Board Staff Liaison – Carey Rangel	Last Thursday of every month @ 6:30 p.m. Council Board Room	Faith Winter/Mary Lindsey
Historic Landmark Board Staff Liaison – Vicky Bunsen	2 nd Wednesday of every month @ 7pm Council Board Room	Mary Lindsey/Bob Briggs
Human Services Board Staff Liaison – James Mabry	Two to seven times a year. (Location: TBD)	Mark Kaiser
Open Space Advisory Board Staff Liaison – Heather Cronenberg	4 th Wednesday of every month @ 5:00 p.m. in the Main Level Conference Room	Bob Briggs/Scott Major
Planning Commission Staff Liaison – Betty Losasso	2 nd & 4 th Tuesday of each month @ 7:00 p.m. in Council Chambers	Chris Dittman/Bob Briggs
Parks, Recreation & Library Advisory Board Staff Liaison – Sue Andre	2nd Thursday of every other month (except December) 6:00 p.m, location varies.	Scott Major/Mary Lindsey
Personnel Board Staff Liaison – Debbie Mitchell	Meets 1 time per year for legal updates and training of Board’s choice and as needed for personnel hearings.	Mary Lindsey/Faith Winter
Special Permit & License Board Staff Liaison – Linda Yeager	1 st and 3 rd Wednesdays of each month (dependent upon applications) 7:00 p.m., Council Chambers	Mark Kaiser

Board/Commission/Panel	Meeting Time/Date/Place	Council Representative
Transportation Commission Staff Liaison – Dave Downing/Frances Velasquez	3rd Wednesday of every odd month @ 7:00 p.m. in CD Conf Rm. C	Bob Briggs/Mary Lindsey
Youth Advisory Panel Staff Liaison – Cindy McDonald	1 st Monday of each month @ 5:30 p.m. in the Main Lvl Conference Room	Faith Winter/Scott Major



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
December 10, 2007



SUBJECT: City Centre Park Design and Construction Contract Award

Prepared By: Richard Dahl, Parks Services Manager

Recommended City Council Action

Authorize the City Manager to execute a contract with Architerra Group in the amount of \$197,062 for design services for the master plan and construction documents related to the City Centre Park project and authorize a contingency in the amount of \$19,700, for a total budget of \$216,762.

Summary Statement:

- City Centre Park (official name to be determined at a later date) is currently an undeveloped City park located directly north of City Hall across on 92nd Avenue (see attached location map).
- In October 2007, Staff solicited proposals from local design professionals to refine the existing park master plan and produce construction documents for the project. Staff received four eligible proposals from reputable firms.
- Staff interviewed all four firms in November of 2007 and selected Architerra Group based on their design approach, design team and overall fees.
- Architerra Group has successfully completed like projects locally and nationwide.
- Architerra Group's fee is consistent for projects of this type based on the construction budget of \$1.8 million.
- The design services will be funded with 2008 Capital Improvement Program funds for City Centre Park from the Parks, Open Space, and Trails (POST) Revenue Bonds.

Expenditure Required: \$216,762

Source of Funds: Parks, Open Space, and Trails Bonds

Policy Issue

Should the City proceed with the City Centre Park project by contracting with Architerra Group for professional design services?

Alternatives

1. City Council could choose to award the design project to a firm other than Architerra Group. Staff does not recommend this alternative, as the proposals received were from highly qualified consultants and were competitive. Furthermore, Architerra Group demonstrated its ability through past projects and understands the City’s requirements of the design process and budget constraints.
2. City Council could direct Staff to repeat the design consultant procurement process in hopes to find a better qualified firm or to potentially lower the fee. Staff does not recommend this option as the procurement process was competitive and it brought forth the highest-qualified design firms in the region.

Background Information

City Centre Park is a nine-acre park located across the street from City Hall. In 1994, a master plan for City Centre Park was designed and completed by EDAW utilizing public and Staff input. Since that time, budget constraints and ongoing maintenance costs have caused Staff to re-evaluate the original master plan and scale it back to include more realistic components. As such, a conceptual master plan was produced by the City’s Design Development Staff to determine what elements might be possible within a realistic budget.

In October 2007, Staff solicited proposals from local, reputable and experienced design firms to refine the Master Plan, provide cost estimates and construction documents. The City received four highly-qualified proposals and interviewed each firm in November 2007. Following the presentations, the interview team selected Architerra Group. Architerra Group demonstrated its aptitude in this field with previous completed projects in the area of public parks and water features. It was evident that Architerra Group considered the project’s scope and budget when assembling their team and services for the City. The consultant’s most recently completed project is the award-winning Confluence Park located in Denver. Architerra Group’s design fee is within an acceptable range of the expected construction budget.

The following list represents the firms that submitted proposals and the respective fees:

EDAW	Declined to bid
DHM Design	\$316,565
Wenk	\$266,251
DSW	\$206,073
Architerra Group *	\$197,062

* An art component of \$33,800 is included in the Architerra Group overall fee.

It is Staff’s intent to use the final City Centre Park Master Plan to apply for an Adams County Grant in February of 2008.

The City Centre Park project supports the City’s Strategic Plan goals of “Financially Sustainable City Government,” “Vibrant Neighborhoods and Commercial Areas” and “Beautiful City.”

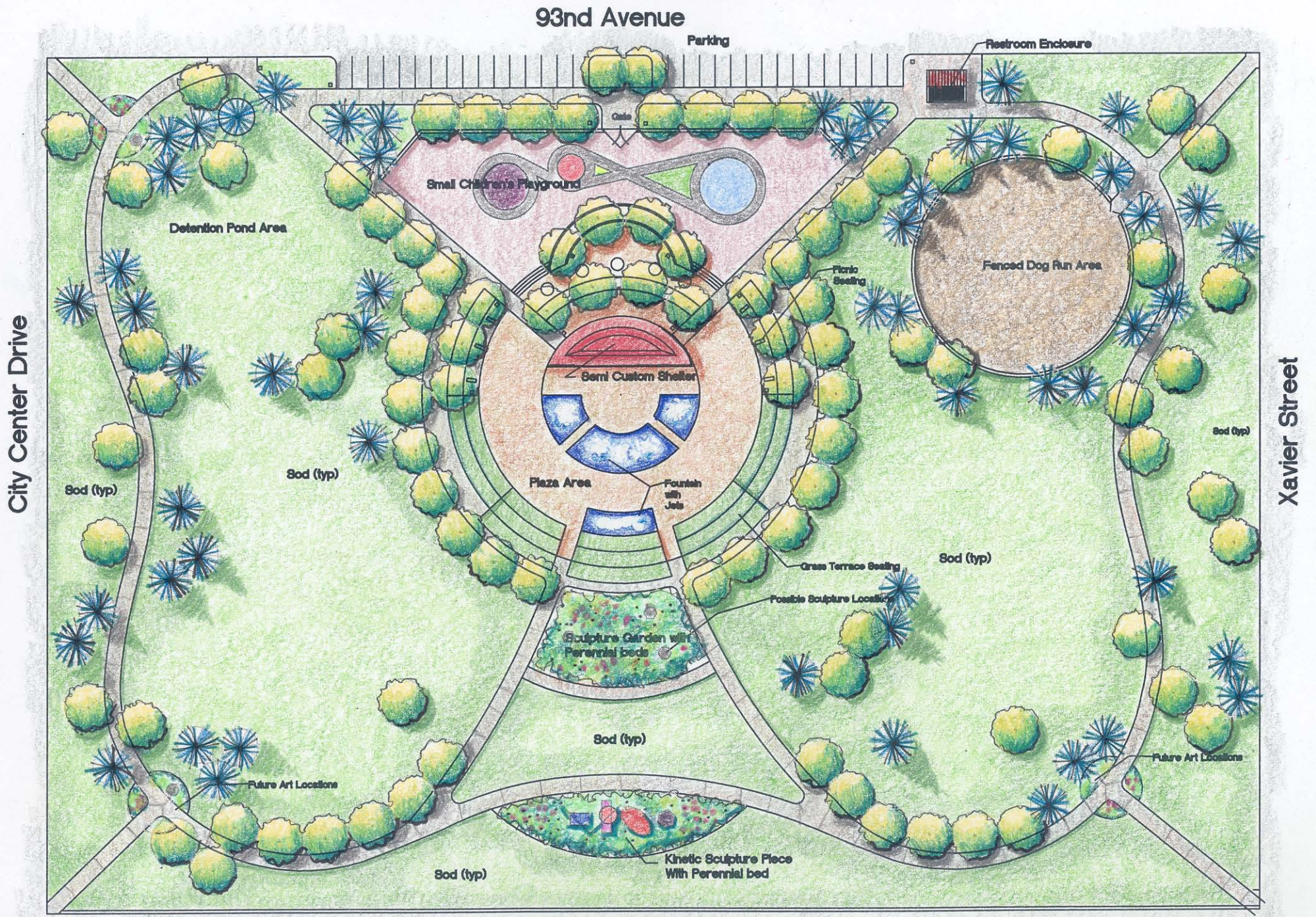
Respectfully submitted,

J. Brent McFall, City Manager
Attachments

City Center Park



N
▲
Not to Scale



City Centre Park

Conceptual Master Plan



Agenda Item 8 C

WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
December 10, 2007



SUBJECT: Expenditure Approval for Fire Department Personal Protective Equipment

Prepared By: Derik Minard, Fire Captain
Bill Work, Deputy Chief of Operations

Recommended City Council Action

Authorize the Fire Department to purchase personal protective equipment from American Safety Associates of Colorado in an amount not to exceed \$70,000.

Summary Statement

- Earlier this year, the Westminster Fire Department and the City's Purchasing Agent received three bids for personal protective equipment specifically fire fighting bunker gear. Bunker gear is the protective equipment worn by firefighters to fight fires and for carrying out the other hazardous duties of their jobs. It was determined that American Safety Associates of Colorado could provide this bunker gear at the lowest cost to the City.
- In early 2007 it was determined that 29 sets of bunker gear were needed to replace worn out gear and to outfit six new employees at a cost of approximately \$46,000.
- It has become apparent that an additional \$19,000 to \$24,000 in purchases is necessary to replace structural firefighting boots, gloves, helmets and other safety related items. This will increase the total year's purchases from this vendor to over \$50,000, which requires authorization by City Council.
- American Safety Associates is the low bid vendor and is providing excellent customer service to the Fire Department. A total of \$65,000 to \$70,000 is required to purchase all of the necessary protective equipment needed for the Fire Department in 2007 from this vendor.
- Funds for these purchases were specifically allocated in the Fire Department's approved 2007 operating budget.

Expenditure Required: Not to exceed \$70,000

Source of Funds: 2007 Fire Department Operating Budget

Policy Issue

Should the Westminster Fire Department continue to purchase necessary personal protective equipment primarily from a single vendor?

Alternatives

1. Split the purchase of additional protective equipment with other vendors, reducing expenditures for one vendor. This alternative is not recommended because research has determined the unit costs would increase due to separate, smaller orders. Most of the other vendors are out-of-state. Experience has shown that the out-of-state vendors cannot provide local representatives trained in performing the necessary sizing and fit testing of bunker gear. Out-of-state vendors also cannot respond as quickly to problems or delivery of product. American Safety Associates of Colorado has a track record of providing the most competitive pricing.
2. Purchase the additional protective equipment in 2008. This alternative is not recommended since the fire department has the budget approved funds available to purchase this equipment in 2007. The unused funds would need to be carried over to 2008 as a supplemental appropriation, in order to address all the expected personal protective needs in the coming year.

Background Information

Predicting the actual wear and failure rates for various protective clothing items is often difficult. A single incident can accelerate the need to replace this protective clothing. Experience in 2007 has now caused the Fire Department to exceed the original estimates for expenditures with a single vendor. The Fire Department is fortunate to have a local vendor that not only provides very competitive pricing, but also provides great customer service in terms of turn-around time, response to problems, and stocks a variety of protective equipment items that makes up the firefighter ensemble. American Safety and Associates of Colorado offers items such as fire helmets, structural boots, suspenders and gloves at a lower cost than other vendors.

American Safety Associates of Colorado is a locally owned company which has been providing exceptional customer service to the Westminster Fire Department. To purchase Quest bunker gear, (the gear of choice based on lengthy research) from another vendor would require out-of-state purchases. Fitting bunker gear requires a person who is skilled in measuring men and woman to ensure proper fit. American Safety Associates performs this service and follows through until all gear fits appropriately.

Respectfully submitted,

J. Brent McFall
City Manager



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
December 10, 2007



SUBJECT: Intergovernmental Agreement with the Mandalay Town Center
General Improvement District for Administrative Services

Prepared By: Karen Creager, Special Districts Accountant

Recommended City Council Action

Authorize the Mayor to execute the attached Intergovernmental Service Agreement (IGSA) with the City of Westminster Mandalay Town Center General Improvement District (GID) (the “District”) in substantially the same form as attached regarding the provision of administrative services by the City and the payment of a service fee by the District.

Summary Statement

- The District was created on September 8, 2003, for the purpose of assisting in the construction of public improvements for the Mandalay Town Center Urban Renewal Project (now known as the Shops at Walnut Creek). On November 4, 2003, voters in the District agreed to a property tax mill levy not to exceed 35 mills to assist the Westminster Economic Development Authority (“WEDA”) with the repayment of WEDA’s Series 2003 bonds that were issued to pay for the improvements. These bonds were refunded in 2006 and are now WEDA Series 2006 bonds.
- The District has no administrative staff of its own. The IGSA sets forth the City’s agreement to provide such services in exchange for a \$10,000 annual fee.
- The IGSA is retroactive to January 1, 2005, to reflect the fact that the City has been providing these services since that time.

Expenditure Required: \$0

Source of Funds: N/A

Policy Issue

Should the City approve the attached IGSA with the District to provide administrative services?

Alternative

An alternative would be to not authorize the attached IGSA between the District and the City. This is not recommended as the City provides crucial administrative services to the GID and would not be reimbursed for those services.

Background Information

The District was organized by City Council on September 8, 2003. Pursuant to the creation ordinance, the Westminster City Council is the Board of Directors of the District. The principal purpose for creating the District is to finance the acquisition, construction, installation, operation and maintenance of public improvements within the District.

On November 4, 2003, the property owners in the District approved two significant ballot resolutions. These resolutions authorized the District 1) to assess property taxes at a levy of 35 mills to pay the annual expenses of the District and 2) to collect, keep, and spend all revenues it receives as a voter approved revenue change under Article X, Section 20 of the Colorado Constitution (TABOR).

As the District does not have its own professional staff, the City provides various necessary administrative services. These services include but are not limited to, legal (provided no conflict of interest exists between the City and the District), accounting, management and clerical. The District benefits by having the City provide these services as the services would be more costly if the District were to outsource them.

The attached IGSA outlines the services that the City will provide and the fee the District will pay to the City. The fee is to be set annually through the budget process and is labeled "Administration" in the District's budget. The current fee is set at \$10,000 and is due on or before August 1 each year. Services were provided to the District beginning in 2005; however, no IGSA was in place allowing for the payment of the fee. Therefore, the attached IGSA is retroactive to January 1, 2005 to allow for the payment of the fees for 2005 and 2006. When the IGSA is approved, the fee for 2007 will also be paid. Adequate funds are available in the District to cover this expense.

Respectfully submitted,

J. Brent McFall
City Manager

Attachment

INTERGOVERNMENTAL SERVICE AGREEMENT

THIS INTERGOVERNMENTAL SERVICE AGREEMENT (the "Agreement") is made and entered into this _____ day of _____, 2007, (the "Effective Date") by and between THE CITY OF WESTMINSTER, COLORADO, a Colorado home-rule municipality, and the CITY OF WESTMINSTER MANDALAY TOWN CENTER GENERAL IMPROVEMENT DISTRICT (the "Parties.")

RECITALS

WHEREAS, the City of Westminster, Colorado (the "City") is a Colorado home-rule municipality created, established, existing, and acting under the provisions of Article XX of the Constitution of the State of Colorado and the City Charter; and

WHEREAS, the City of Westminster Mandalay Town Center General Improvement District (the "District") is a quasi-municipal corporation and political subdivision of the State of Colorado, established, existing, and acting pursuant to the provisions of Part 6, Article 25, Title 31, Colorado Revised Statutes (the "Act"); and

WHEREAS, Section 18(2)(a) of Article XIV of the Constitution of the State of Colorado provides that nothing in the Constitution shall be construed to prohibit the State or any of its political subdivisions from cooperating or contracting with one another or with the government of the United States to provide any function, service or facility lawfully authorized to each of the cooperating or contracting units, including the sharing of costs, the imposition of taxes, or the incurring of debt; and

WHEREAS, Part 2 of Article 1 of Title 29 of the Colorado Revised Statutes, as amended, authorizes and enables governments of the State of Colorado to enter into cooperative agreements or contracts; and

WHEREAS, the Constitution and the laws of the State of Colorado permit and encourage local government entities to cooperate with each other to make the most efficient and effective use of their powers and responsibilities; and

WHEREAS, the District is within the boundaries of the Westminster Economic Development Authority's Mandalay Gardens Urban Renewal Area (URA), and

WHEREAS, the District was created to assist in the repayment of the cost of constructing public improvements for the mutual benefit of the District and the Westminster Economic Development Authority in connection with the development of the Shops at Walnut Creek area within the boundaries of both entities.

WHEREAS, the District does not have its own professional staff and is in need of administrative services, including but not limited to legal, accounting, management, financial, clerical and similar services; and

WHEREAS, the City is willing to provide such services in exchange for the consideration set forth in this Agreement; and

WHEREAS, the electors of the District have previously authorized the District to levy a mill levy not to exceed 35 mills for annual expenses of the District; and

WHEREAS, pursuant to C.R.S. § 32-25-611, the District has the power to enter into contracts and agreements affecting the affairs of the District.

NOW, THEREFORE, in consideration of the mutual undertakings herein contained, and other good and valuable consideration, the Parties covenant and agree as follows:

ARTICLE I

TERM OF AGREEMENT

SECTION 1. Effective Date of the Agreement; Duration of Agreement Term. The Initial Term of this Agreement shall be the 1st of January, 2005 through December 31, 2007. Thereafter, this Agreement shall automatically renew for additional one-year periods commencing on each January 1 following the Initial Term, provided, however, that either party may terminate this Agreement upon at least thirty (30) days advance notice to the other, in which case this Agreement shall be deemed terminated as of the last day of the month next following the month in which said notice is given, or such other date to which the Parties may agree.

ARTICLE II

SERVICES

SECTION 2.1 City Services. The City agrees to provide to the District administrative services reasonably required to operate the District to fulfill the purposes for which it was created. Such services shall include, but are not be limited to, legal (provided no conflict of interest exists between the City and the District), accounting, management, financial, and clerical services (the "Services"). Said Services shall be provided by City staff on an as-needed basis as may be required by the applicable laws and regulations pertaining to the operations of a General Improvement District.

SECTION 2.2 Compensation. As compensation for the Services, the District shall pay the City the lump sum annual fee labeled "Administration" as specified in the Annual Budget as adopted by the District. This Administration fee shall be due on or before August 1 of the year in which the Services are provided. However, the fee of \$10,000 per year for 2005, 2006, and 2007 shall be paid by December 31, 2007. In the event of any termination of this Agreement prior to the August 1 payment date, the District shall pay the City a pro-rated fee based on the length of time the Services were actually provided without payment. In the event of termination, however, there shall be no refund of any previously paid fees to the City.

ARTICLE III

MISCELLANEOUS PROVISIONS

SECTION 3.1 Remedies. A breach by either party to this Agreement shall entitle the non-breaching party to any and all remedies at law or in equity. In any action brought to enforce this Agreement, the prevailing party shall be entitled to recover from the other its reasonable attorneys fees and costs. Before bringing any such action, however, the Parties agree to attempt in good faith a mediated resolution of their dispute using a mutually acceptable professional and independent mediator.

SECTION 3.2 Amendments. This Agreement may be amended at any time by mutual written agreement of the Parties.

SECTION 3.3 Severability. In the event any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such determination shall not affect, impair or invalidate the remaining provisions hereof, the intention being that the various provisions hereof are severable.

SECTION 3.4 TABOR. Nothing in this Agreement shall be deemed or construed as creating a multiple fiscal year obligation within the meaning of Colorado Constitution Article X, Section 20, commonly known as "TABOR." The obligations of the Parties hereto shall be subject to appropriation of the necessary funds to meet said obligations on an annual basis by the Parties.

IN WITNESS WHEREOF, the Parties hereto have caused their names and seals to be affixed as of the date and year noted above.

CITY OF WESTMINSTER, COLORADO

By: _____
Mayor, City of Westminster

(SEAL)

ATTEST:

City Clerk

**CITY OF WESTMINSTER MANDALAY TOWN
CENTER GENERAL IMPROVEMENT DISTRICT**

By: _____
Executive Director, Mandalay Town Center
General Improvement District

(SEAL)

ATTEST:

Secretary



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
December 10, 2007



SUBJECT: Amendment of the Intergovernmental Agreement with Urban Drainage and Flood Control District for Quail Creek Improvements

Prepared By: Stephen C. Baumann, Assistant City Engineer

Recommended City Council Action

Authorize the City Manager to sign a second Amendment to the Intergovernmental Agreement with the Urban Drainage and Flood Control District (UDFCD) for the design and construction of drainage improvements for Quail Creek west of Huron Street and authorize payment of \$1,350,000 to the District as called for in the IGA.

Summary Statement

- The City and UDFCD entered into an Intergovernmental Agreement (IGA) in June of 2006 for the purposes of improving the capacity and condition of existing Quail Creek between Huron Street and Pecos Street. Under the IGA and an Amendment approved in June of 2007, the District will manage contracts for design and construction using funding from both participants. To date, the City and the District have committed a total of \$700,000 to the project. The proposed Second Amendment of the IGA will add to those funds so construction can begin in 2008. The City will contribute an additional \$1,350,000 and the District will add \$550,000, bringing the total project budget to \$2.6 million.
- The proposed Quail Creek improvements will rebuild the existing channel between Osage Street and Huron Street to reduce the extent of the floodplain on approximately 30 residential properties in Quail Crossing and on a portion of a 9 acre commercial property located at the southwest corner of Huron Street and 136th Avenue, thus allowing development to proceed.

Expenditure Required: \$1,350,000

Source of Funds: Utility Fund - Storm Water Capital Improvement Account

Policy Issue

Should the City amend the IGA with the Urban Drainage and Flood Control District to continue with its commitment to the Quail Creek improvement project upstream in Quail Crossing?

Alternative

Council could choose not to execute the proposed Amendment. However, proposed modifications to Quail Creek have been of high importance to the neighborhood, in terms of improving the condition and operation of the channel, reducing the extent of floodplain and improving Quail Crossing Park. In addition, UDFCD continues their support of the City's priorities by contributing over 30% of the cost of the project. If Council chooses not to approve this IGA, these funds are unlikely to be available in the future.

Background Information

Quail Creek was first channelized in the 1980's with the development of the first Quail Crossing Subdivision. The last ten years have seen ongoing and increasing concerns from the neighborhood focused on the overgrowth of vegetation and the pooling of water in the existing channel. Constraints in the form of inadequate fall from Osage Street east under Huron Street and inadequate culvert sizes at street crossings have made for poor operation over the years. In addition, mapping of the jurisdictional floodplain by the Federal Emergency Management Agency (FEMA) shows that approximately 30 properties in Quail Crossing Subdivision are still affected by the Quail Creek floodplain. This floodplain also affects the recently-approved Quail Crossing Commercial Subdivision located at the southwest corner of Huron Street and 136th Avenue.

The issues downstream of Huron Street have been addressed in various projects. The last piece of the necessary improvements is to rebuild the Quail Creek channel between Huron Street and Osage Street. The preliminary plans for improvements west of Huron Street call for restoration of the park-like channel banks with new trees, replacement of street crossings where doing so will increase flow capacity, and the construction of an extension of the Quail Creek trail west from its present terminus at Huron Street. Access to Quail Crossing Park will also be incorporated into the improvements.

The City approached the Urban Drainage and Flood Control District for assistance with funding the project and in 2006, City Council authorized an Intergovernmental Agreement (IGA) to jointly pursue the improvements. Under the IGA, the District will manage the project, administering contracts for design and construction using funding from both parties and a contribution from the commercial development referenced above. To date, and including an amendment to the IGA approved by City Council in June 2007, the City and the District have contributed \$450,000 and \$250,000 respectively for a total of \$700,000. The project is now in final design.

Both parties have budgeted additional funds to meet the overall project budget of \$2.6 million and start this six month construction project in Spring 2008. The District has pledged an additional \$550,000 and the City will add \$1.35 million comprised of: \$250,000 in the 2008 Stormwater System Improvements budget; \$600,000 transferred from the Shaw Heights Drainage project; \$300,000 in Carryover funds from 2006; and an appropriation of \$200,000 received from the developer of the Quail Crossing Shopping Center. It is requested that City Council concur in this assemblage of funding and authorize the City Manager to sign a second amendment of the IGA allowing the City's share to be deposited with the District and the Quail Crossing Improvements Project to proceed.

Respectfully submitted,

J. Brent McFall
City Manager

Attachment - Amendment to Intergovernmental Agreement for Quail Creek Improvements

AMENDMENT TO
AGREEMENT REGARDING
DESIGN AND CONSTRUCTION
OF DRAINAGE AND FLOOD CONTROL IMPROVEMENTS FOR
QUAIL CREEK IMPROVEMENTS, HURON STREET TO PECOS STREET,
CITY OF WESTMINSTER

Agreement No. 06-04.02B

THIS AGREEMENT, made this _____ day of _____, 20__, by and between URBAN DRAINAGE AND FLOOD CONTROL DISTRICT (hereinafter called "DISTRICT") and CITY OF WESTMINSTER (hereinafter called "CITY") and collectively known as "PARTIES";

WITNESSETH:

WHEREAS, PARTIES have entered into "Agreement Regarding Design and Construction of Drainage and Flood Control Improvements for Quail Creek Improvements, Huron Street to Pecos Street, City of Westminster" (Agreement No. 06-04.02) dated June 5, 2006, as amended; and

WHEREAS, PARTIES now desire to construct improvements; and

WHEREAS, PARTIES desire to increase the level of funding by \$1,900,000; and

WHEREAS, DISTRICT's Board of Directors has authorized additional DISTRICT financial participation for PROJECT (Resolution No. 64 Series of 2007); and

WHEREAS, the City Council of CITY and the Board of Directors of DISTRICT have authorized, by appropriation or resolution, all of PROJECT costs of the respective PARTIES.

NOW, THEREFORE, in consideration of the mutual promises contained herein, PARTIES hereto agree as follows:

1. Paragraph 4. PROJECT COSTS AND ALLOCATION OF COSTS is deleted and replaced as follows:

4. PROJECT COSTS AND ALLOCATION OF COSTS

- A. PARTIES agree that for the purposes of this Agreement PROJECT costs shall consist of and are limited to the following:

1. Final design services;
 2. Construction of improvements;
 3. Contingencies mutually agreeable to PARTIES.

- B. It is understood that PROJECT costs as defined above are not to exceed \$2,600,000 without amendment to this Agreement.

PROJECT costs for the various elements of the effort are estimated as follows:

<u>ITEM</u>	<u>AMOUNT</u>
1. Final Design	\$ 180,000
2. Construction	2,190,000
3. Contingency	230,000
Grand Total	\$2,600,000

This breakdown of costs is for estimating purposes only. Costs may vary between the various elements of the effort without amendment to this Agreement provided the total expenditures do not exceed the maximum contribution by all PARTIES plus accrued interest.

- C. Based on total PROJECT costs, the maximum percent and dollar contribution by each party shall be:

	<u>Percentage Share</u>	<u>Maximum Contribution</u>	<u>Previously Contributed</u>
DISTRICT	30.7%	\$ 800,000	\$250,000
CITY	69.3%	1,800,000	450,000
TOTAL	100%	\$2,600,000	\$700,000

2. Paragraph 5. MANAGEMENT OF FINANCES is deleted and replaced as follows:

5. MANAGEMENT OF FINANCES

As set forth in DISTRICT policy (Resolution No. 11, Series of 1973 and Resolution No. 49, Series of 1977), the cost sharing shall be after subtracting state, federal, or other sources of funding from third parties. However, monies CITY may receive from federal funds, the Federal Revenue Sharing Program, the Federal Community Development Program, or such similar discretionary programs as approved by DISTRICT's Board of Directors may be considered as and applied toward CITY's share of improvement costs.

Payment of each party's full share (CITY - \$1,800,000; DISTRICT - \$800,000) shall be made to DISTRICT subsequent to execution of this Agreement and within 30 days of request for payment by DISTRICT. The payments by PARTIES shall be held by DISTRICT in a special fund to pay for increments of PROJECT as authorized by PARTIES, and as defined herein. DISTRICT shall provide a periodic accounting of PROJECT funds as well as a periodic notification to CITY of any unpaid obligations. Any interest earned by the monies contributed by PARTIES shall be accrued to the special fund established by DISTRICT for PROJECT and such interest shall be used only for PROJECT upon approval by the contracting officers (Paragraph 13).

Within one year of completion of PROJECT if there are monies including interest earned remaining which are not committed, obligated, or disbursed, each party shall receive a share of such monies, which shares shall be computed as were the original shares.

3. All other terms and conditions of Agreement No. 06-04.02 shall remain in full force and effect.

WHEREFORE, PARTIES hereto have caused this instrument to be executed by properly authorized signatories as of the date and year first above written.

URBAN DRAINAGE AND
FLOOD CONTROL DISTRICT

(SEAL)

ATTEST:

By _____

Title Executive Director

Date _____

CITY OF WESTMINSTER

(SEAL)

ATTEST:

By _____

Title _____

Date _____

APPROVED AS TO FORM:

MR Mr Collopy
City Attorney



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
December 10, 2007



SUBJECT: Second Reading of Councillor’s Bill No. 63 re 2007 3rd Quarter Budget Supplemental Appropriation

Prepared By: Gary Newcomb, Accountant

Recommended City Council Action

Pass Councillor’s Bill No. 63 on second reading providing for supplementary appropriations to the 2007 budget of the General, General Capital Improvement, Storm Drainage, and Golf Course Funds.

Summary Statement

- City Council action is requested to adopt the attached Councillor’s Bill on Second reading authorizing a supplemental appropriation to the 2007 budget of the General, General Capital Improvement, Storm Drainage, and Golf Course Funds.
 - General Fund amendments total: \$179,186
 - General Capital Improvement Fund amendments total: (\$112,907)
 - Storm Drainage Fund amendments total: \$200,000
 - Golf Course Fund amendments total: \$3,450
- This Councillor’s Bill was passed on first reading November 26, 2007.

Expenditure Required: \$269,729

Source of Funds: The funding sources for these expenditures include interest earnings, sponsorship fees, grants, reimbursements, program revenues, participation funds, recycling proceeds and funds transfer.

Respectfully submitted,

J. Brent McFall
City Manager
Attachment

BY AUTHORITY

ORDINANCE NO. **3393**

COUNCILLOR'S BILL NO. **63**

SERIES OF 2007

INTRODUCED BY COUNCILLORS
Major - Kaiser

A BILL

FOR AN ORDINANCE AMENDING THE 2007 BUDGETS OF THE GENERAL, GENERAL CAPITAL IMPROVEMENT, STORM DRAINAGE AND GOLF COURSE FUNDS AND AUTHORIZING A SUPPLEMENTAL APPROPRIATION FROM THE 2007 ESTIMATED REVENUES IN THE FUNDS

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The 2007 appropriation for the General, General Capital Improvement, Storm Drainage, and Golf Course Funds, initially appropriated by Ordinance No. 3316 are hereby increased in aggregate by \$239,729. This appropriation is due to the receipt of interest earnings, sponsorship fees, grants, reimbursements, program revenues, participation funds, and recycling proceeds.

Section 2. The \$239,729 increase shall be allocated to City Revenue and Expense accounts as described in the City Council Agenda Item #10F dated November 26, 2007 (a copy of which may be obtained from the City Clerk) increasing City fund budgets as follows:

General Fund	\$179,186
General Capital Improvement Fund	(112,907)
Strom Drainage Fund	200,000
Golf Course Fund	<u>3,450</u>
Total	<u>\$269,729</u>

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

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

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

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 26TH day of November, 2007.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 10th day of December, 2007.

ATTEST:

Mayor

City Clerk



WESTMINSTER
C O L O R A D O

Agenda Memorandum

City Council Meeting
December 10, 2007



SUBJECT: Public Hearing and Action on Councillor’s Bill No. 64 re Comprehensive Land Use Plan Amendment, Preliminary and Official Development Plan, and Resolution No. 46 re Service Commitment Award Extension for the Savory Farm Estates Planned Unit Development

Prepared By: Patrick Caldwell, Planner II

Recommended City Council Action

1. Hold a public hearing.
2. Pass Councillor’s Bill No. 64 on first reading amending the Comprehensive Land Use Plan changing the designation from R-2.5 Residential to R-3.5 Residential for the 8.13 acre site east of Federal Boulevard at approximately the 109th Avenue alignment as shown on the attached map. This recommendation is based on a finding that the proposed amendment will be in the public good and that:
 - a) There is justification for the proposed change and the Plan is in need of revision as proposed; and
 - b) The amendment is in conformance with the overall purpose and intent and the goals and policies of the Plan; and
 - c) The proposed amendment is compatible with existing and planned surrounding land uses; and
 - d) The proposed amendment would not result in excessive detrimental impacts to the City’s existing or planned infrastructure systems.
3. Approve the Savory Farm Estates Preliminary Development Plan and Official Development Plan. This recommendation is based on a finding that the criteria set forth in Sections 11-5-14 and 11-5-15 of the Westminster Municipal Code have been met.
4. Adopt Resolution No. 46 extending the existing Category B-1 Service Commitment award to the Savory Farm Estates single family detached residential project. This is based on a finding that the Savory Farm Estates project satisfies the criteria in Section 11-3-2(A) 2 of the City’s Growth Management Program in the Westminster Municipal Code.

Summary Statement

- The 8.133 acre site is east of Federal Boulevard at approximately the alignment of 109th Avenue.
- The proposed Comprehensive Land Use Plan (CLUP) amendment will change the maximum residential density from 2.5 to 3.5 dwellings per acre. The Preliminary Development Plan and Official Development Plan (PDP/ODP) proposes 24 single family residential units that is approximately 2.95 du/acre.
- A public land dedication of .69 acres at the southern edge of the site will join existing City owned open space that is adjacent at the south and east of the site. Private open space in Tracts A, B and C total 1.31 acres or 16% of the site. These tracts will be dedicated to and maintained by the Homeowners Association of the existing Savory Farm Subdivision located directly to the north.
- The site was a part of the Great Western Mushroom Farm (Savery Farms) and some environmental cleanup is required. Foundations of several buildings are located on the site. A Voluntary Cleanup Plan for the site has been approved by the Colorado Department of Health and Environment.
- The existing Service Commitments award for this project will expire one year from ODP approval unless an extension is granted. The project owner is requesting a two year extension through December 31, 2009. The attached Resolution would grant this extension request.

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

Planning Commission Recommendation

The Planning Commission reviewed this proposal on November 27, 2007, and voted unanimously (7-0) to recommend that the City Council approve the following:

- 1) A CLUP amendment from R-2.5 Residential to R-3.5 Residential; and
- 2) The Savory Farm Estates Preliminary Development Plan and Official Development Plan, as submitted.

Policy Issues

1. Should the City Council approve a Comprehensive Land Use Plan amendment for the Savory Farm Estates Preliminary Development Plan and Official Development Plan site changing the designation from R-2.5 Residential to R-3.5 Residential?
2. Should the City Council approve the Savory Farm Estates Preliminary Development Plan and Official Development Plan?
3. Should the City Council adopt the attached Resolution extending the Service Commitment award through December 31, 2009?

Alternatives

1. Deny the Comprehensive Land Use Plan amendment for the Savory Farm Estates Preliminary Development Plan and Official Development Plan site changing the designation from R-2.5 Residential to R-3.5 Residential. This alternative would not allow this project to move forward as currently proposed.
2. Deny the Savory Farm Estates Preliminary Development Plan and Official Development Plan. This alternative is not supported by City Staff because Staff believes that the proposed PDP/ODP is in compliance with the provisions of the City Code regarding approval of PDP/ODPs.
3. Deny the two year extension of 24 service commitments through December 31, 2009. This alternative is not recommended because Staff believes that the extension request satisfies the criteria listed in Section 11-3-2(A) 2 of the City's Growth Management Program in the Westminster Municipal Code.

Background Information

Nature of Requests

The property is currently vacant. The owner wishes to develop the site with 24 single family detached residential units. The current CLUP designation will allow a maximum of 20 dwellings and the CLUP amendment would allow up to 28 dwelling units on the site.

This project received a Service Commitment (SC) award for 28 single-family detached units in the 2004 residential competition. The ODP reduces the unit count and the number of SCs needed to 24. The original award resolution stipulated that the project must receive a first building permit within one year of ODP approval. Because the project owner does not have a builder for the project yet and cannot meet the one-year deadline, he is requesting a two-year deadline through December 31, 2009.

Location

The site is located on the east side of Federal Boulevard at approximately the 109th Avenue alignment. (Please see attached vicinity map). To the north is the existing Savory Farm Single Family Subdivision. To the east is City owned open space and to the south is the Legacy Ridge Golf Course and a strip of City open space and the Farmers' High Line Canal Trail.

Comprehensive Land Use Plan Amendment

The Westminster Municipal Code requires the owner of the property requesting an amendment to the Comprehensive Land Use Plan (CLUP) to prove the amendment is in the public good and is in overall compliance with the purpose and intent of the CLUP. Further, the CLUP provides four criteria to be used when considering a CLUP amendment. Staff has reviewed these criteria and has provided the following comments on each.

1. The proposed amendment must, “Demonstrate that there is justification for the proposed change, and that the Plan is in need of revision as proposed.” The land use densities of residential projects in the vicinity of this site allow a range between 2.5 and 18 dwellings per acre. Staff believes the proposed change from 2.5 to 3.5 is consistent with the variety of densities nearby. The PDP/ODP proposes 24 single family units and Staff believes this is compatible with the adjacent Savory Farm Subdivision.
2. The proposed amendment must, “Be in conformance with the overall purpose, intent, goals, and policies of the Plan.” Applicable goals are stated in Section III of the Community Goals and Policies section of the Plan. They include:
 - Goal A1 – “Growth will occur in a manner that balances the pace of development with the City’s ability to provide quality services and capital improvements.”
 - Goal B4 – “Develop well-designed, walkable neighborhoods.”
 - Policy B4b – “Pedestrian-oriented neighborhoods that incorporate creative residential design, places to walk and bike, and connections to neighborhood parks and other civic facilities will be promoted and advocated by the City.”
 - Goal H1 – “Provide new parks and upgrade existing parks, recreational, and cultural facilities based on the needs of the community.”
 - Policy H1b – “Promote the development of “walk-to” parks within local neighborhood areas. Encourage private neighborhood parks in new developments.”
 - Goal H2 – “Preserve the unique visual character of Westminster.”
 - Policy 2b – “New residential development should assist in the provision of land for parks, open space or community facilities necessary for that development.”
 - Policy J2b – “Continue to develop enhanced landscape improvements along arterial streets.”

Based upon these goals and policies, staff believes that this proposed amendment to be in conformance with the overall purpose, intent, goals, and policies of the Plan.

3. The proposal must, “Be compatible with existing and surrounding land uses.” City owned open space is adjacent at the south and east edge of the site. At the south edge of the site a 60 foot wide parcel, adjacent to the City’s open space and shown as Tract D on the PDP/ODP, will be dedicated to the City and will function as a seamless part of the existing City open space. The Farmers’ High Line Canal Trail is located in this area. At the north side of the site is the existing private park area of the adjacent Savory Farm Subdivision. A 50-foot wide parcel, shown as Tract B on the PDP/ODP, will become private open space. The fence between the private park area and the new Tract B will be removed and shifted to the south so that the existing and new Savory Farm Estates private park tracts can function as one larger private park area. A four foot berm with an eight-foot high brick wall atop the berm is proposed on the east side of the site that will screen the residential use from the adjacent Federal Boulevard.
4. The proposal must, “Not result in detrimental impacts to the City’s existing or planned infrastructure or provide measures to mitigate such impacts to the satisfaction of the City.” While the development will have impacts, all have been mitigated to the satisfaction of City Staff as shown on the proposed ODP. Additional right of way along Federal Boulevard has been provided to allow for widening Federal Boulevard to three through northbound lanes plus a deceleration lane at the entrance to the development. The developer will construct a deceleration lane along Federal Boulevard.

Public Notification

Westminster Municipal Code 11-5-13 requires the following three public notification procedures:

- **Published Notice:** Notice of public hearings scheduled before City Council shall be published and posted at least four days prior to City Council public hearings. Notice was published in the Westminster Window on November 29, 2007.
- **Property Posting:** Notice of public hearings shall be posted on the property with one sign in a location reasonably visible to vehicular and pedestrian traffic passing adjacent to the site. Signs were posted on the property on November 29, 2007.
- **Written Notice:** At least 10 days prior to the date of the public hearing, the applicant shall mail individual notices by first-class mail to property owners and homeowner’s associations registered with the City within 300 feet of the subject property. The applicant has provided the Planning Manager with a certification that the required notices were mailed on November 15, 2007.

Applicant/Property Owner

Thomas W. Ten Eyck, Jr.
12460 1st Street
P.O. Box 247
Eastlake, Colorado 80614

Surrounding Land Use and Comprehensive Land Use Plan Designation

Development Name	Zoning	CLUP Designation	Use
North; Savory Farms	PUD	R-2.5 Residential	Single Family Detached Residential
West; Legacy Ridge	PUD	Golf Course and R-2.5 Residential	Single Family Detached Residential and Legacy Ridge Golf Course
East; City owned open space	O-1	City owned open space	Open Space
South; City owned open space	O-1	City owned open space	Open Space and Legacy Ridge Golf Course

Site Plan Information

The following site plan information provides a few examples of how the proposals comply with the City’s land development regulations and guidelines; and the criteria contained in Sections 11-5-14 and 11-5-15 of the Westminster Municipal Code (attached).

- **Traffic and Transportation:** The major arterial, Federal Boulevard forms the eastern border of the site. A restricted right in and right out to Federal Boulevard is the only vehicular access to the 24 lots proposed for this site. The Colorado Department of Transportation does not support a traffic signal or a full turn access into Savory Farms Estates. A deceleration lane will be constructed for north bound traffic on Federal Boulevard for this site.
- **Site Design:** As noted earlier there will be a 50 ft. wide tract at the south side of the site to be dedicated to the City that is contiguous with existing City owned land. A 50 ft. wide by 450 ft. long tract on the northside will be preserved for private recreational use by Savory Farms Subdivision and Savory Farm Estates. A 20 ft. easement for improved access to the restored Savory Mushroom Farm water tower will be dedicated on the plat. The PDP/ODP states that an interpretive sign for the Savory Mushroom Farm water tower may be installed in the easement. At the southwest corner of the

site is a private recreational area, designated as Tract A. Tract A is .66 acre in size. A pedestrian trail through this tract connects to the adjacent City owned open space and the Farmers' High Line Canal Trail. The lots are laid out on either side of a loop road, Eliot Circle. Where Eliot Circle parallels Federal Boulevard it functions as a frontage road and is single loaded. In other words, the homes will face west toward Federal Boulevard. Seven parking spaces are provided adjacent to Tract A. These spaces are available for visitors to the subdivision and provide parking for the central mailboxes. Eliot Circle will have a 5 ft. wide concrete sidewalk detached 6 ft. from the curb. All lots are located a minimum of 100 feet from the edge of the right of way of Federal Boulevard.

- Landscape Design: Street trees will be planted on both sides of Eliot Circle in the subdivision and along the berm and masonry wall that is adjacent to Federal Boulevard. Two specimen cottonwood trees in Tract A in the southwest corner of the site will be preserved. Retaining walls will be installed at the perimeter of the tree canopy to protect the tree roots from grading changes needed for the site. Trees, turf and shrubs will be installed in Tract A so that it will eventually blend with the existing landscape in the adjacent Savory Farms private recreation area. Tract D, to be dedicated to the City for open space, will not be disturbed and the existing native grasses will remain.
- Public Land Dedication/School Land Dedication: For this site .86 acres are required for public land dedication. Tract D at .69 acres, plus .023 acres credit for an access easement to the restored historic Savory Farms water tower will total .713 acres. The balance of .147 acres will be a cash-in-lieu of land payment of \$32,440 and will be paid to the City of Westminster at the time of the final plat. The payment is based on a fair market value of this land at \$5.00 per square foot.

For school land dedication a cash-in-lieu payment will be collected by the City at the time of issuance of the utility permit for each dwelling unit. At this time the cash-in-lieu payment for single family detached dwelling units is \$876.

- Parks/Trails/Open Space: Private park areas are included in this ODP. Tract B is .59 acres at the north side of the site and is designed to blend with the existing Savory Farms Subdivision private park. A 20 ft. by 20 ft. picnic shelter will be installed in Tract B. Tract A is .66 acres and is located in the southwest corner of the site. A sodded .33 acre play area and benches in Tract A are amenities in the subdivision. The design provides a good transition from the groomed private park in Tract A to the natural grasslands in the City owned open space. In two locations at the south part of the site private trail connections have been made to the Farmers' High Line Canal Trail in the adjacent City owned open space. At the north side of the site an 8 ft. wide concrete sidewalk will connect to the existing cul de sac of West 110th Court in the Savory Farms Subdivision. At the south side of the site a 60 ft. wide parcel shown as Tract D and totaling .69 acres will be dedicated to the City for public land dedication requirements. The native grasses in Tract D will remain undisturbed and will blend with the adjacent City owned open space.
- Architecture/Building Materials: For residential ODP's the City usually requires elevations of the residential units. For this PDP/ODP the City is willing to defer elevations until the time of building permit review because the builder has not yet been selected. The elevations will need to satisfy all of the design criteria set forth in the PDP/ODP. The City may require an amendment to the PDP/ODP for approval of the building elevations. On all sides of the buildings, 30% or greater masonry will be required. The home designs will satisfy the City's anti-monotony criteria that require a minimum of four distinctly different home models within each streetscape. Roof slopes shall be at a minimum pitch of 5:12 with a minimum of 1 foot overhang. Usable front porches with a minimum 6 ft. unobstructed depth are required on 50% of the units built. Windows will project a minimum of 2 ft. from the front façade on at least 75% of the units within each streetscape.
- Signage: A 2.5 ft. by 6 ft. wall mounted subdivision identification sign will be incorporated into the 8 ft. tall masonry wall at the entry to the subdivision at Federal Boulevard. The sign will not be lighted. The sign complies with the City's sign code.

- Lighting: Specialty lighting fixtures will be installed on Eliot Circle and in the private park areas. The fixture style complies with City and Xcel lighting standards and is specified in the PDP/ODP.
- Service Commitment Category
Service commitments were awarded for this site in April 2004. A total of 28 service commitments were made available for single family detached dwellings in the B-1 category. Per City Council Resolution 23 of 2004 “The project must proceed with the development review process and receive ODP approval by December 31, 2007, or the entire Service Commitment award for the project shall expire or the applicant can ask for an extension.” The owner/applicant has requested a two year extension of the service commitment allocation through December 31, 2009. Westminster Municipal Code Section 11-3-2(A) 2 allows City Council to extend the Service Commitment award for an active residential development if a building permit has not been issued during two successive calendar years following initial building permit issuance, based upon the following findings:
 - The need for the extension is the result of some unusual and unforeseeable circumstance beyond the reasonable control of the developer; and
 - The extension is needed to avoid undue or inequitable hardship that would otherwise result if the extension were not granted, and
 - There is no reason to believe that the developer will not be able to proceed with the development of the project within the extended time period.

City Staff believes these findings are applicable to the project because the builder that had the property under contract with the property owner for three years recently chose not to renew the option on the sales contract. The property owner desires additional time to find a new builder and for the builder to have adequate time for City review of proposed residential building plans. City Staff believes that the property owner will be able to proceed with the development within the extended time period.

- Environmental Cleanup
The 8.13 acre parcel was part of a larger farming operation. In the 1930's and 1940's Charles Savery and his brother ran the Great Western Mushroom Farm here. Fires in the late 1940's destroyed the business. The parcel contains concrete footings from the buildings, a cistern, the boiler building footings, a subsurface flue for steam transmission and an underground fuel oil tank at the west side of the site. Most of the wood and metal waste from the site has been removed. Reports prepared by environmental consultants in 1994 and 1997 indicate that the surface soil on the site is contaminated with the pesticides DDT, DDE and DDD. These contaminants biodegrade over a period of time. Most of the soil on the site away from the foundations has a concentration for these contaminants below established regulatory cleanup thresholds of .58 miligram/kilogram. The Colorado Department of Public Health and Environment (CDPH&E) has approved and will supervise a Voluntary Cleanup Plan for the site. The focus of the cleanup will be removing 12 inches of soil from below and around the old foundations. During the cleanup dust will be monitored and suppressed if needed. Storm water runoff will also be monitored during the cleanup. The cistern will be filled in and the fuel oil tank will be removed. Once the site has been cleaned up to the standards identified in the Voluntary Cleanup Plan, the CDPH&E will issue a letter of “No Action Determination.” No home construction can commence nor can land be dedicated until this letter is received by the City.
- Referral Agency Responses
A copy of the proposed plans was sent to the following agencies:
 - Xcel Energy; Concerns regarding utility easements for each lot have been addressed on the ODP.
 - Comcast; No response was received.
 - Qwest; No response was received.
 - Savory Farms Subdivision Homeowners Association; See information below under the heading of Neighborhood Meeting.

- City Parks Recreation and Libraries Department; The City Parks Recreation and Libraries Department coordinated the public land dedication location, trail connections, preservation of specimen trees, maintenance arrangements and fence locations for this plan.
- City Open Space Division; License agreements for utility work on City land, location of public land dedication, maintenance arrangements and fence locations were negotiated to the satisfaction of the City's Open Space Division.
- City Public Works and Utilities Department (Utilities and Reclaimed Water Sections); Reclaimed water will be used in the private parks. Utility connections for sanitary and storm sewer and looped water lines were reviewed and are satisfactory to the City Public Works and Utilities Department.
- City Environmental Officer; See information above under the heading of Environmental Cleanup.
- City Fire Department; All issues have been addressed.
- City Engineering Division; Issues regarding drainage, curb and gutter locations, looping of water lines, easements through adjacent City owned open space and through the adjacent Savory Farms Subdivision, access to Federal Boulevard, dedication of right of way on Federal Boulevard and design of deceleration lane on Federal Boulevard have been addressed to the satisfaction of the Engineering Division.
- City Landscape Plans review; Preservation of specimen trees, landscape and layout of the private park areas, landscape on the Federal Boulevard frontage, berm and landscape adjacent to the 8 ft. masonry wall along Federal Boulevard, quantity and quality of the street trees on Eliot Circle and landscape within the private park areas are acceptable to the landscape plans reviewer.

- Neighborhood Meetings and Public Comments
Neighborhood meetings were held in January and April of 2006. Neighbors in the existing adjacent Savory Farms Subdivision requested a wider buffer to the proposed Savory Farm Estates. The proposed buffer area was subsequently widened to 50 feet and is shown as Tract B. Tract B will be maintained by the existing Savory Farms Subdivision HOA. The existing fence along the south edge of the Savory Farms private park will be shifted to the south so that Tract B can be incorporated into the existing private park. Density was of concern and the number of lots has been reduced by 2 lots to 24 total. A 20 ft. by 20 ft. picnic shelter in Tract B has been shifted to a location acceptable to the HOA. Perimeter fencing in the proposed Savory Farm Estates is now shown as consistent with the fencing in Savory Farms Subdivision. Other items discussed have been resolved to the satisfaction of the neighbors.

Respectfully submitted,

J. Brent McFall
City Manager

Attachments

- Vicinity Map
- Comprehensive Land Use Plan Map
- Comprehensive Land Use Ordinance
 - Exhibit A (Legal Description for 109th & Federal Blvd.)
 - Exhibit B (Comprehensive Land Use Plan Map for CLUP Ordinance)
- Resolution for Extension of Service Commitments
- Criteria and Standards for Land Use Applications

BY AUTHORITY

ORDINANCE NO.
SERIES OF 2007

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

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

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The City Council finds:

a. That an application for an amendment to the Westminster Comprehensive Land Use Plan has been submitted to the City for its approval pursuant to W.M.C. §11-4-16(D), by the owner(s) of the properties described in attached Exhibit A, incorporated herein by reference, requesting a change in the land use designations from "R-2.5" to "R-3.5" for the 8.133 acre Savory Farms Estates PDP/ODP on the east side of Federal Boulevard at approximately 109th Avenue.

b. That such application has been referred to the Planning Commission, which body held a public hearing thereon on November 27, 2007, after notice complying with W.M.C. §11-4-16(B) and has recommended approval of the requested amendments.

c. That notice of the public hearing before Council has been provided in compliance with W.M.C. § 11-4-16(B) and the City Clerk has certified that the required notices to property owners were sent pursuant to W.M.C. §11-4-16(D).

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

e. That the owners have met their burden of proving that the requested amendment will further the public good and will be in compliance with the overall purpose and intent of the Comprehensive Land Use Plan, particularly compatibility with existing and surrounding residential land uses.

Section 2. The City Council approves the requested amendments and authorizes City Staff to make the necessary changes to the map and text of the Westminster Comprehensive Land Use Plan to change the designation of the property more particularly described on attached Exhibit A to "R-3.5", as depicted on the map attached as Exhibit B.

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

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

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

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 10th of December, 2007.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 14th day of January, 2008.

ATTEST:

Mayor

APPROVED AS TO LEGAL FORM:

City Clerk

City Attorney's Office

Exhibit A
Legal Description
109th & Federal Blvd.

Description for the Ten Eyck Parcel:

A tract of land located in the Northeast Quarter of Section 8, Township 2 South, Range 68 West of the 6th Principal Meridian, City of Westminster, County of Adams, State of Colorado, being more particularly described as follows:

Considering the West line of the Northeast Quarter of said Section 8 as bearing, South 00°28'38" East, from an aluminum cap in a range box at the North Quarter corner of said Section 8 to an aluminum cap in a range box at the Southwest corner of said Northeast Quarter and with all bearings contained herein relative thereto:

Commencing at the North Quarter corner of said Section 8; thence along the West line of said Northeast Quarter, South 00°28'38" East, 1320.80 feet; thence, North 89°04'40" East, 50.00 feet to a point on the East Right-of-Way line of North Federal Boulevard and on the South line of Federal Square P.U.D., said point being the POINT OF BEGINNING; thence, continuing along said South line, North 89°04'40" East, 449.95 feet to the Northwest corner of Parcel 1 of the City of Westminster Golf Course and Open Space Areas; thence, along the West line of said Parcel 1, South 00°55'20" East, 754.94 feet; thence, South 39°13'24" West, 70.82 feet to a point on the North line of Parcel 3 of the City of Westminster Golf Course and Open Space Areas; thence, along said North line, North 80°46'36" West, 416.52 feet to a point on the East Right-of-Way line of North Federal Boulevard; thence, along said East line, North 06°11'16" West, 100.50 feet; thence, North 00°28'38" West, 300.00 feet; thence, North 05°15'32" East, 100.05 feet; thence, North 00°28'38" West, 236.18 feet to the Point of Beginning.

The above described tract contains 8.133 acres more or less and is subject to all easements, rights-of-ways and restrictions now on record of existing.

For tax purposes this property is known by the following Adams County Property Identification Number 171908100018 and Schedule Number R0033614. This property is also known as 10900 North Federal Boulevard, Westminster, Colorado 80030.

RESOLUTION

RESOLUTION NO. 46

INTRODUCED BY COUNCILLORS

SERIES OF 2007

CATEGORY B-1 SERVICE COMMITMENT AWARD EXTENSION FOR THE SAVORY FARM ESTATES PLANNED UNIT DEVELOPMENT

WHEREAS, the City of Westminster has adopted by Ordinance No. 2848 a Growth Management Program for the period 2000 through 2010; and

WHEREAS, within Ordinance No. 2848 there is a provision that Service Commitments for residential projects shall be awarded to Category B-1 (New Single-Family Detached); and

WHEREAS, Category B-1 is the category that is appropriate for the Savory Farm Estates Planned Unit Development; and

WHEREAS, Resolution No. 23, Series 2004 establishes that 28 Service Commitments awarded to the Savory Farm Estates residential project shall expire unless at least one building permit is issued for the project within one year of Official Development Plan approval; and

WHEREAS, the Savory Farm Estates residential project has obtained Preliminary and Official Development Plan approval; and

WHEREAS, the project owner does not anticipate receiving a first building permit by the end of the one-year deadline and is requesting a Service Commitment extension extending the first building permit deadline to December 31, 2009; and

WHEREAS, Westminster Municipal Code Section 11-3-2 (A) 2 establishes criteria for City Council to consider when reviewing requests for Service Commitment Award extensions for residential projects that previously received Service Commitment Awards; and

WHEREAS, the Service Commitment award extension for the Savory Farm Estates residential project is the result of an unusual and unforeseeable circumstance reasonable beyond the control of the developer, is needed to avoid undue hardship that would otherwise result if the extension were not granted, and there is not reason to believe that the developer will not be able to proceed with the development of the project within the extended time period; and

WHEREAS, the Savory Farms Estates Preliminary and Official Development Plan contains 24 single family detached residential lots, and that is four fewer than the 28 Service Commitments awarded in Resolution No. 23, series 2004.

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

1. A Category B-1 Service Commitment award is hereby extended to the Savory Farm Estates project, east of Federal Boulevard at approximately 109th Avenue, as follows:

Table 1

	2004	2005	2006	2007	2008	Total
Original	2	16	10	n/a	n/a	28
Proposed	-	-	-	-	24	24

2. The Service Commitment award to the project listed above is conditional and subject to the following:

- a) For each project, the applicant must complete and submit proposed development plans to the City for the required development review processes. All minimum requirements and all incentive items indicated by the applicant shall be included as part of the proposed development and listed on the Official Development Plan for the project.
- b) Service Commitments for the project listed above, if approved by the City, may only be used within the project specified above.
- c) This Service Commitment award shall be subject to all of the provisions specified in the Growth Management Program within Chapter 3 of Title XI of the Westminster Municipal Code.

- d) Each Service Commitment award is conditional upon City approval of the project listed above and does not guarantee City approval of any project, proposed density, and proposed number of units.
- e) The City of Westminster shall not be required to approve any Comprehensive Land Use Plan amendment, Preliminary Development Plan or amendment, Official Development Plan or amendment, or rezoning action necessary for development of the property involved in this extension of service commitment award, nor shall any other binding effect be interpreted or construed to occur by the City as part of the extension of Service Commitment award.
- f) Any and all projects that do not receive City approval are not entitled to the Service Commitment awards, and the Service Commitments shall be returned to the water supply figures.
- g) The Growth Management Program does not permit City Staff to review any new residential development plans until Service Commitments have been awarded to the project. During the competition process the City Staff does not conduct any formal or technical reviews of any sketch plans submitted by applicants. It should be expected that significant changes to any such plans will be required once the City's development review process begins for any project.
- h) The Category B-1 Service Commitment award shall be valid for a period of two years as specified on this Resolution provided the applicant proceeds with the development review process and the project is approved by the City. Future year awards are effective as of January 1 of the specified year and cannot be drawn prior to that date. If fewer Service Commitments are needed for a project in any given year, the unused amount in that year will be carried over to the following year(s) provided the Service Commitments have not expired.
- i) In order to demonstrate continued progress on a project, the following deadline and expiration provision applies:
 - a. The project must be issued at least one building permit by December 31, 2009, or the entire Service Commitment award for the project shall expire.
 - b. Following the issuance of the first building permit for the project, all remaining Service Commitments for a project shall expire if no building permit is issued for the project during any consecutive 12-month period.
- j) If Service Commitments are allowed to expire, or if the applicant chooses not to pursue the development, the Service Commitment award shall be returned to the water supply figures. The award recipient shall lose all entitlement to the Service Commitment award under those conditions.
- k) This award resolution shall supersede all previous Service Commitment award resolutions for the specified project location.

3. The Category B-1 Service Commitments award shall be reviewed and updated each year. If it is shown that additional or fewer Service Commitments are needed in the year specified, the City reserves the right to make the necessary modifications.

PASSED and ADOPTED this 10th day of December 2007.

ATTEST:

Mayor

City Clerk

Criteria and Standards for Land Use Applications

Comprehensive Land Use Plan Amendments

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

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

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

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

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

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

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

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

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

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

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

City Initiated Rezoning

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

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

Official Development Plan (ODP) Application

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

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

1. The plan is in conformance with all City Codes, ordinances, and policies.
2. The plan is in conformance with an approved Preliminary Development Plan or the provisions of the applicable zoning district if other than Planned Unit Development (PUD).
3. The plan exhibits the application of sound, creative, innovative, or efficient planning and design principles.
4. For Planned Unit Developments, any exceptions from standard code requirements or limitations are warranted by virtue of design or special amenities incorporated in the development proposal and are clearly identified on the Official Development Plan.

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

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

Savory Farm Vicintiy Map



Savory Farm Existing CLUP Designation: R 2.5



Proposed CLUP Designation: R 3.5



Savory Farm Existing CLUP Designation: R 2.5



Proposed CLUP Designation: R 3.5





WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
December 10, 2007



SUBJECT: Resolution No. 47 re Service Commitment Allocations for 2008

Prepared By: Shannon Sweeney, Planning Coordinator

Recommended City Council Action

Adopt Resolution No. 47 allocating Service Commitments for the year 2008 to the various categories of the Growth Management Program including Service Commitments for residential competitions for new single-family detached, single-family attached, multi-family, senior housing, and traditional mixed use neighborhood developments.

Summary Statement

- Each year at this time, City Council allocates Service Commitments (SCs) to the various Growth Management Program categories to serve new development in the upcoming year. (One SC is the unit of measure for required City services for one single-family detached unit).
- The SC Allocation table in the Background section details the recommended allocations in each category.
- The total SC allocation for 2008 from the potable water supply is 1,782 SCs. The allocation includes 80 SCs to be awarded on a competitive basis in 2008 to new residential projects. Staff is recommending competitions in all five categories (single-family detached, single-family attached, multi-family, senior housing, and traditional mixed use neighborhood development). If there are no applications submitted in one or more of the competition categories, or if fewer SCs are needed as a result of the competitions, those remaining SCs are returned to the City's water supply figures.
- Because the City promotes use of the reclaimed water system whenever possible to reduce use of potable water for irrigation purposes, the City's allocation for the non-potable (reclaimed) water supply each year is equivalent to the supply figure for the system (1,958 SCs).
- The City currently has approximately 11,790 SCs available for new development purposes in the water supply. City water supplies and treatment capacity are more than adequate to meet the recommended SC allocations for 2008. Any remaining, unused SCs at the end of each year are returned to the water supply figures.

Expenditure Required: \$0

Source of Funds: N/A

Policy Issues

1. Should the City allocate Service Commitments to the various Growth Management Program categories as detailed in this report?
2. Should the City conduct competitions next year in each of the new residential categories as outlined in this report?

Alternatives

1. Do not adopt the attached resolution allocating Service Commitments to the various Growth Management Program categories for use in 2008. These allocations are necessary on an annual basis to serve the needs of new development in the upcoming year. Because these allocations must be in place for any new development to proceed in 2008, this option would cause delays for new development (including City projects).
2. Do not authorize new residential competitions next year. This option is not recommended as the residential competition process is the mechanism the City uses to allow a small number of new residential projects to proceed to the City's development review process. In addition, the Service Commitments (SCs) set aside for the competition process constitute less than 4.5 percent of the total allocation for 2008.

Background Information

Annual Allocations

The City's Growth Management Program within the Westminster Municipal Code was established in 1978 to aid the City in balancing growth with the City's ability to provide and expand services including water, water treatment, sewer, police, fire, parks and recreation, etc. At the end of each year, City Staff complete projections of new development in the upcoming year and develop recommendations for City Council regarding Service Commitment (the units of measure for required City services) allocations as required by the Growth Management Program. These Service Commitment (SC) allocations are set aside on an annual basis from the overall SC supply figures to serve the demand in the following year for all of the various residential and non-residential categories designated within the Growth Management Program. City Council formally establishes these annual allocations by adoption of a resolution. Service Commitments that are allocated but are not issued to new development during the year are returned to the water supply figures for use in future years.

With the exception of the new residential competition categories (Category B) and the reclaimed water category (Category R), these SC allocation recommendations have been based on estimated demand for new development. "Active" residential (Categories A and L) refers to projects that are under construction, have previous binding agreements for SCs with the City (such as Legacy Ridge), meet build-out and infill development criteria, are approved projects awarded in previous competitions, or are new South Westminster residential projects (see Background section "Residential Competitions" below for additional information). Category C (Non-Residential) sets aside SCs for new commercial, office, and industrial projects. The City has water agreements in place for Federal Heights, the Standley Lake Water and Sanitation District, and Shaw Heights, and a small number of SCs are allocated in Category D (Outside City Contracts) to accommodate contract requirements in those areas. Category F (Public and Contingency) reserves SCs for new City projects and facilities such as park development, libraries, fire stations, etc.

The total allocation from the potable water supply as detailed below is 1,782 SCs and is based on projected development activity of active projects under construction, those in the City’s development review process, and submittals expected in the near future. This allocation is slightly higher than the 2007 allocation of 1,608 and is due to a projected increase in the number of SCs required by new non-residential projects next year, such as Lifetime Fitness at the Orchard and a new medical complex for the North I-25 area. According to figures provided by the City’s Water Resources Staff in the Department of Public Works and Utilities, there are approximately 11,790 SCs in the water supply, which is more than adequate to accommodate the recommended allocations for 2008.

2008 SERVICE COMMITMENT ALLOCATIONS

<u>CATEGORY</u>	<u>DESCRIPTION</u>	<u>PROPOSED ALLOCATIONS</u>
<u>Potable</u>		
A and L	All Active and Legacy Ridge Residential	492.5
B	New Residential (for competition process)	80
C	Non-Residential	1045
D	Outside City Contracts	25
E	Senior Housing	95.9
F	Public and Contingency	<u>44</u>
	Total - Potable	1782
 <u>Non-Potable</u>		
R	Reclaimed (The reclaimed allocation each year is equal to the reclaimed SC supply)	1958

Residential Competitions

The number of new residential subdivisions is managed through the competition process. “Active” residential projects are awarded on a first-come, first-served basis (up to any limits placed on the original competitive awards). New residential projects must compete for available SCs through a competition process. The City’s Growth Management Program does allow some exceptions to the competitive process, such as new residential projects in South Westminster (south of 80th Avenue) in order to promote development and redevelopment in this older area of the City, Legacy Ridge due to a previous binding agreement with the City, and those projects that meet “build-out” and “infill” definitions in the Westminster Municipal Code. Successful projects in the competition process are then allowed to proceed to the City’s development review process. Service Commitments for single-family detached projects are calculated at one SC per unit, 0.7/unit for single-family attached, 0.5/unit for multi-family and 0.35/unit for senior housing. This equates to the relative amounts of water used annually by each of these types of dwelling units.

The intent of the SC competitions is for a limited number of new residential projects to proceed to the City’s development review process. Each of the five competitions (Single-Family Detached, Single-Family Attached, Multi-Family, Senior Housing, and Traditional Mixed Use Neighborhood Development) is based on the City’s adopted residential design guidelines for that category. With the exception of the Traditional Mixed Use Neighborhood Development competition (judged by a jury), projects receive points by providing “incentive” items the applicants choose. These incentive items are listed and detailed in the guidelines.

The total potable water allocation includes a pool of 80 SCs to be awarded on a competitive basis in 2008 to new residential projects. In past years, a specific number of SCs were set aside for each competition with a limit of one new project in each category. With the slower housing market, and the uncertainty of what types of projects will be submitted, Staff has established a pool of SCs for all of the competitions. This will allow the City maximum flexibility to award to more than one project in any category, if so desired, as a result of the competitions.

The competitions typically begin in January each year, and SCs are awarded to individual projects by City Council resolution in March or April. The awards to individual projects through the competition process include SCs needed in subsequent years to build out each of the winning projects. As a result, it is not necessary for the winning projects to re-compete in multiple years in order to complete the same project. If there are no applications submitted in any of the competition categories, or fewer SCs are needed as a result of the competitions, those remaining SCs are returned to the City's water supply figures.

While the City is never certain in advance what projects will be submitted for the competitions, Staff has been contacted by developers interested in the competition process next year for seven different sites at this point. Because SCs are awarded to new residential projects on a competitive basis and many developers do not want their possible competitors to know their plans in advance, Staff has not included a specific list of the potential sites for competition submittals.

Respectfully submitted,

J. Brent McFall
City Manager

Attachment

- 2008 Service Commitment Allocation Resolution

RESOLUTION

RESOLUTION NO. **47**

INTRODUCED BY COUNCILLORS

SERIES OF 2007

ALLOCATING SERVICE COMMITMENTS FOR THE YEAR 2008 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 varies due to density and intensity of the particular use; and

WHEREAS, City Council has previously determined that the Comprehensive Land Use Plan 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, 2008 through December 31, 2008, the City can make available 492.5 Service Commitments ("SCs") to Categories A (A-1, A-2, and A-3) and L (L-1, L-2, and L-3), 80 SCs to Categories B (for residential competition purposes), 1045 SCs to Category C, 25 SCs to Category D, 95.9 SCs to Category E, 44 SCs to Category F, and 1,958 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.

PASSED AND ADOPTED this 10th day of December, 2007.

ATTEST:

City Clerk

Mayor



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
December 10, 2007



SUBJECT: Councillor's Bill No. 65 re Economic Development Agreement with the 75th & Sheridan Holding L.L.C.

Prepared By: John Hall, Economic Development Specialist

Recommended City Council Action

Pass Councillor's Bill No. 65 on first reading authorizing the City Manager to execute and implement an Economic Development Agreement with the 75th & Sheridan Holding L.L.C.

Summary Statement

- City Council action is requested to pass the attached Councillor's Bill that authorizes the execution of the Economic Development Agreement (EDA) with the 75th & Sheridan Holding L.L.C. to assist with the development of the Sheridan Landmark professional office project that will include the Adams County Animal Hospital. The Sheridan Landmark project is to be located at the southeast corner of 75th Avenue and Sheridan Boulevard.
- The \$34,414 EDA will be funded with rebates of portions of the building permit fees and building use taxes associated with project development.
- This Economic Development Agreement will assist in stimulating investment in South Westminster and facilitate the improvement of a portion of Sheridan Boulevard; which are part of City Council's strategic plan objectives.
- The EDA rebate will terminate upon completion of the project.
- 75th and Sheridan Holding L.L.C. will receive rebates on the building permit fees and building use taxes if the project is actually constructed.

Expenditure Required: Approximately \$34,414 (Rebates)

Source of Funds: The EDA with the 75th & Sheridan Holding L.L.C. will be funded with rebates of a portion of the building permit fees and building use taxes associated with project construction and development.

Policy Issue

Does Council desire to provide assistance to the 75th & Sheridan Holding L.L.C. to aid in the development of the Sheridan Landmark project?

Alternatives

Do Nothing: One alternative to offering the above economic assistance is to offer nothing to this development project. However, the City may lose the development if assistance is not provided. This would also result in the loss of new investment in South Westminster and the potential WEDA property tax increment.

Provide Less: Another alternative is to provide less assistance than what is recommended. The recommended assistance package is what staff believes is required to facilitate the contemplated investment in South Westminster.

Provide More: A third alternative would be to provide a greater amount of assistance than recommended. Additional funding is not necessary at this time.

Background Information

Staff has been working with Dr. Andrew Berman, developer of the Sheridan Landmark project and owner of the Adams County Animal Hospital, regarding strategies for development of a 1.8 acre parcel at the southeast corner of 75th Avenue and Sheridan Boulevard. Dr. Berman has decided to build his new veterinary clinic while also allowing for the development of three other small offices on his property.

During the planning process, it was determined that an unusually large amount of land related to the widening of Sheridan Boulevard would be needed. Specifically, Sheridan Boulevard improvements impacting the site will include a right-hand turn lane from Sheridan northbound onto 75th Avenue eastbound, and a Sheridan Boulevard northbound through-lane associated with road widening. Because of the existing single-family home development (Wood Creek) on the other side, west of Sheridan Boulevard, it is necessary to get all the additional right-of-way from the east side of the roadway. As a result, the centerline of Sheridan Boulevard will need to shift to the east in this area. Dr. Berman has worked with City staff to accommodate the right-of-way needed. The purpose of this economic assistance package is to partially compensate him for the Sheridan Boulevard right-of-way.

Additionally, staff is enthused to see new investment in South Westminster, where the City continues to encourage new development and redevelopment. The Sheridan Landmark project will further enhance the southern Sheridan Boulevard area with its new development as well as new office users. The project is also being built in the South Sheridan Urban Renewal District and will provide significant property tax increment for this district, nearly \$450,000 in property tax increment in the first 5 years of operation. Therefore, to aid in the development of the Sheridan Landmark project, Staff is recommending the following business assistance package:

Proposed Assistance	Approximate Value
<u>Building Permit-Fee Rebate</u> 50% of the building related permit fees for the development of the Sheridan Landmark project (excluding water & sewer tap fees) will be rebated (\$23,828 x 50% = \$11,914)	\$11,914
<u>Building Use Tax Rebate</u> 50% of the General Use Tax (excluding the City's .25% Open Space Tax and .6% Public Safety Tax) on construction materials will be rebated (\$45,000 x 50%= \$22,500)	\$22,500
Total Proposed Assistance Package	\$34,414

As Council will note, the assistance being proposed comes only from the building permit fees and building use taxes associated with construction of the Sheridan Landmark project; while the project will continue to generate a property tax increment over time. There rebates will be paid from dollars generated by the development of the four office buildings in the Sheridan Landmark development.

This assistance package is based upon the City's goal to facilitate the improvement of Sheridan Boulevard and the objective of stimulating investment in South Westminster. Staff believes that this investment in the development of the Sheridan Landmark project will aid in offering new office opportunities in South Westminster, as well as encouraging new investment in this area.

Respectfully submitted,

J. Brent McFall
City Manager

Attachments

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **65**

SERIES OF 2007

INTRODUCED BY COUNCILLORS

**A BILL
FOR AN ORDINANCE AUTHORIZING AN ECONOMIC DEVELOPMENT AGREEMENT
WITH THE 75TH & SHERIDAN HOLDING L.L.C.
FOR THE DEVELOPMENT OF THE SHERIDAN LANDMARK PROJECT**

WHEREAS, the successful attraction of new investment 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 new investment to the South Sheridan Urban Renewal District specifically in order to generate additional revenue from increasing property tax increments in the District for use in funding public improvements; and

WHEREAS, the 75th & Sheridan Holding L.L.C plans to develop a vacant 1.8 acre site into four professional office buildings, including the Adams County Animal Hospital; and

WHEREAS, a proposed Economic Development Agreement between the City and the 75th & Sheridan Holding L.L.C 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 Economic Development Agreement with the 75th & Sheridan Holding L.L.C 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 10th day of December, 2007.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 14th day of January, 2008.

ATTEST:

City Clerk

Mayor

APPROVED AS TO LEGAL FORM:

City Attorney's Office

EXHIBIT A

ECONOMIC DEVELOPMENT AGREEMENT WITH THE 75TH & SHERIDAN HOLDING L.L.C. FOR DEVELOPMENT OF THE SHERIDAN LANDMARK PROJECT

THIS AGREEMENT is made and entered into this _____ day of _____, 2007, between the CITY OF WESTMINSTER (the "City"), and the 75TH & SHERIDAN HOLDING L.L.C.

WHEREAS, the City wishes to provide certain assistance to the 75th & Sheridan Holding L.L.C to encourage the development of professional office space in South Westminster; 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 facilitating this economic development project within the City.

In consideration of the mutual promises set forth below the City and the 75th & Sheridan Holding L.L.C agree as follows:

1. Building Permit Fee Rebates. The City shall rebate to the 75th & Sheridan Holding L.L.C 50% of the building related permit fees for the Sheridan Landmark project required under W.M.C. Section 11-10-3 (E), excluding water and sewer tap fees. The rebate is estimated to be \$11,914.

2. Use Tax Rebate- Construction. The City shall rebate to the 75th & Sheridan Holding L.L.C 50% of the building use tax on the construction materials (excluding the City's .25% open space tax and .6% public safety tax), resulting from the original construction of the Sheridan Landmark project required under W.M.C. sections 4-2-9 and 4-2-3. The rebate is estimated to be \$22,500.

3. Payment of Rebates. The Building Permit Fee rebates and Building Use Tax rebate will be paid by check upon issuance of a certificate of occupancy for each building. The payment shall be made 20 days after the end of the quarter in which the issuance of the certificate of occupancy occurs.

3. Entire Agreement. This instrument shall constitute the entire agreement between the City and the 75th & Sheridan Holding L.L.C concerning the Sheridan Landmark project 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.

4. Termination. This Economic Development Agreement shall terminate and become void and of no force or effect upon the City December 31, 2012 or should the 75th & Sheridan Holding L.L.C or the Sheridan Landmark project fail to comply with any City code and/or approval process.

5. 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.

6. 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 Constitution Article X, Section 20, and the City's obligations hereunder are expressly conditional upon annual appropriation by the City Council.

7. 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 Adams County, Colorado.

75TH & SHERIDAN HOLDING L.L.C.

CITY OF WESTMINSTER

Dr. Andrew Berman,
Managing Member

J. Brent McFall
City Manager

ATTEST:

ATTEST:

Adopted by Ordinance No.

Linda Yeager
City Clerk



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
December 10, 2007



SUBJECT: Resolution No. 48 re Amendment No. 1 to the Contract with the Colorado Department of Transportation for cost sharing for the West 80th Avenue and Federal Boulevard Intersection Project

Prepared By: Stephen C. Baumann, Assistant City Engineer

Recommended City Council Action

Adopt Resolution No. 48 authorizing the City Manager to execute Contract Amendment No. 1 with the Colorado Department of Transportation for the intersection improvements at 80th Avenue and Federal Boulevard; authorize the expenditure of \$860,000 representing the balance of the City's and Adams County's share of costs of the project.

Summary Statement

- In November 2004, City Council approved a contract between the City and the Colorado Department of Transportation (CDOT) for the design and construction of improvements to the intersection of 80th Avenue and Federal Boulevard. That contract covered CDOT's administration of combined local, State and federal funds totaling \$3,629,000 in budget years 2004-2006.
- The proposed amendment updates the contract to include additional funding of \$860,000, budgeted in 2007 by the City and Adams County, the local sponsors of the project. That brings the total project funding from all sources to \$4,489,000.
- Construction of this project is now underway and is expected to be completed in March/April of 2008.

Expenditure Required: \$860,000 (\$700,000 City share)

Source of Funds: General Capital Improvement Fund – 80th Avenue and Federal Boulevard Intersection Project

Policy Issue

Should the City continue with the effort to improve the intersection of 80th Avenue and Federal Boulevard and amend the contract with the Colorado Department of Highways so the project can continue?

Alternative

At this point there is no reasonable alternative to the recommended action. When the City contracted with CDOT in 2004, it made a commitment to the project and recognized that additional funds would need to be budgeted in future years. The budget commitments have been met and this Contract Amendment is the follow-up needed to get the project accounting in order.

Background Information

In November 2004, City Council passed a resolution and approved a contract with the Colorado Department of Transportation (CDOT) for a project to improve the intersection of 80th Avenue and Federal Boulevard. The intersection is routinely congested during rush hours because of limited vehicle storage space in the turn lanes. The proposed improvements include the widening of Federal Boulevard to provide for northbound double left-turn lanes, a southbound right-turn lane, continuous sidewalks, improved street lighting and a masonry wall along residences located west of Federal Boulevard.

Under the terms of the original contract, CDOT would manage the project from start to finish and Westminster and Adams County, as local sponsors, would participate in the anticipated costs over the funding period 2004-2006. At the time (2004), the total project cost was estimated to be \$3,629,000. Nearly \$2.5 million in federal funds were to be combined with state and local funds to meet the cost. As the design progressed, it became apparent that costs for right-of-way and construction were going to be higher than originally anticipated. The City and Adams County were able to budget an additional combined total of \$860,000 (\$700,000 is the City share) in 2007 to keep the project moving. A summary of the cost shares for the project is shown in the table below.

Fiscal Year	Federal	State	City of Westminster	Adams County	Total	Activities
2004	\$ 259,000	\$ 35,000	\$ 34,750	\$ 17,250	\$ 346,000	Design
2005	\$ 450,000	\$180,000	\$180,000	\$ 90,000	\$ 900,000	ROW & Utility Relocation
2006	\$1,788,000	\$238,000	\$237,815	\$119,185	\$2,383,000	Construction
2007	-0-	-0-	\$700,000	\$160,000	\$860,000	Construction
Totals	\$2,497,000	\$453,000	\$1,152,565	\$386,435	\$4,489,000	

In what is primarily a housekeeping measure, a contract amendment is needed to revise the total project cost to \$4,489,000, accounting for the additional \$860,000 in 2007 funding from the local sponsors. CDOT has prepared Contract Amendment No. 1 for this purpose. A Council Resolution is also required for the Contract Amendment and is attached as well. In addition, to fully clarify the accounting for the project, Staff recommends that Council approve the expenditure of the local sponsor funding that was not covered in Council's action in 2004.

Respectfully submitted,

J. Brent McFall
City Manager

Attachments - Resolution
- Contract Amendment #1

RESOLUTION

RESOLUTION NO. **48**

INTRODUCED BY COUNCILLORS

SERIES OF 2007

**A RESOLUTION APPROVING AN AMENDMENT TO THE CONTRACT
BETWEEN THE CITY OF WESTMINSTER AND THE COLORADO DEPARTMENT OF
TRANSPORTATION FOR THE DESIGN, RIGHT-OF-WAY ACQUISITION AND
CONSTRUCTION OF THE IMPROVEMENTS TO THE INTERSECTION OF 80TH AVENUE
AND FEDERAL BOULEVARD**

WHEREAS, Section 18(2)(a) of Article XIV of the Colorado Constitution, as well as Section 29-1-201, et seq., and 29-20-205 of the Colorado Revised Statutes, authorize and encourage governments to cooperate by contracting with one another for their mutual benefit; and

WHEREAS, the Contract, dated December 1, 2004, identifies the federal, state and local funding levels for the design, right-of-way acquisition and construction of improvements to the 80th Avenue and Federal Boulevard intersection; and

WHEREAS, the parties to the Contract desire to amend the funding levels to account for additional funding from the local sponsors of the project.

NOW, THEREFORE, the Westminster City Council resolves:

1. That the Contract between the City of Westminster and the Colorado Department of Transportation dated December 1, 2004, pertaining to improvements to the 80th Avenue and Federal Boulevard intersection, be amended as described in Contract Amendment No. 1, a copy of which is attached hereto and incorporated herein by this reference, and that said Amendment is hereby approved.
2. That the City Manager is hereby authorized to execute and the City Clerk to attest the attached Contract Amendment No. 1.

PASSED AND ADOPTED this 10th day of December, 2007.

ATTEST:

Mayor

City Clerk

APPROVED AS TO LEGAL FORM

City Attorney

CONTRACT AMENDMENT #1

THIS AMENDMENT, is made this _____ day of _____, 20____, by and between the State of Colorado for the use and benefit of the Colorado Department of Transportation, hereinafter referred to as the "State", and the CITY OF WESTMINSTER, 4800 West 92nd Avenue, Westminster, Colorado, 80031, CDOT Vendor #: 2000053, hereinafter referred to as the "Contractor" or the "Local Agency".

FACTUAL RECITALS

1. Authority exists in the law and funds have been budgeted, appropriated and otherwise made available and a sufficient unencumbered balance thereof remains available for this Project as set forth below; and,
2. Required approval, clearance, and coordination has been accomplished from and with appropriate agencies; and,
3. The Parties entered into the contract dated December 1, 2004, routing number 04 HA6 00011, known hereafter as "the Basic Contract"; and,
4. The Basic Contract is an intergovernmental agreement between the State and the Contractor consisting of design to widen Federal Boulevard (SH 287) to provide northbound double left turn lanes, a southbound right turn lane and continuous pedestrian facilities (sidewalk) at the intersection of Federal Boulevard (SH 287) and 80th Avenue, in Westminster, Colorado; and,
5. The Basic Contract is still in effect and provides for changes to its terms and conditions by written supplement or contract amendment; and,
6. The Parties also now desire to amend the Basic Contract to add \$856,384.00 of construction funds to the project by revising Recital 1 and Exhibit C, adding language for the Single Audit Act Amendment and updating the Special Provisions; and,
7. The Parties enter into this Amendment pursuant to the provisions of Colorado Revised Statutes, Sections 24-30-1401 et seq., Section 43-1-106, and Section 43-1-110, as amended.

NOW THEREFORE, it is hereby agreed that:

Consideration for this Amendment consists of the payments that shall be made pursuant to this Amendment and the promises and agreements herein set forth.

1. This Amendment is supplemental to the Basic Contract, which is, by this reference, incorporated herein and made a part hereof, and all terms, conditions, and provisions thereof, unless specifically modified herein, are to apply to this Amendment as though they were expressly rewritten, incorporated, and included herein.

2. The Basic Contract is and shall be modified, altered, and changed in the following respects only:

a. Recital Number 1 shall be amended to read as follows:

Authority exists in the law and funds have been budgeted, appropriated and otherwise made available and a sufficient uncommitted balance thereof remains available for payment of project and Local Agency costs in Fund Number 400, Appropriation Code 010, Organization Number 9991, Program 2000, Functions 3020 and 3200, GL Acct. <<<>>>, WBS Elements 14417.10.30 and 14417.20.10, (Contract Encumbrance Amount: D-Phase \$0.00; C-Phase \$0.00; Total Encumbrance Amount \$0.00). This amendment increases the original contract encumbrance amount of \$0.00 by \$0.00 to a new encumbrance amount of \$0.00.

b. Exhibit C to the Basic Contract shall be removed and replaced in its entirety by Exhibit C-1, which is attached hereto and incorporated herein by this reference. All references in the Basic Contract to Exhibit C shall be removed and replaced by Exhibit C-1, as appropriate.

c. Section 28 shall now be as follows:

Section 28. Single Audit Act Amendment

All state and local government and non-profit organization Sub-Grantees receiving more than \$500,000 from all funding sources, that are defined as federal financial assistance for Single Audit Act Amendment purposes, shall comply with the audit requirements of OMB Circular A-133 (Audits of States, Local Governments and Non-Profit Organizations) see also, 49 CFR 18.20 through 18.26. The Single Audit Act Amendment requirements that apply to Sub-Grantees receiving federal funds are as follows:

- a) If the Sub-Grantee expends less than \$500,000 in Federal funds (all federal sources, not just Highway funds) in its fiscal year then this requirement does not apply.
- b) If the Sub-Grantee expends more than \$500,000 in Federal funds, but only received federal Highway funds (Catalog of Federal Domestic Assistance, CFDA 20.205) then a program specific audit shall be performed. This audit will examine the "financial" procedures and processes for this program area.
- b) If the Sub-Grantee expends more than \$500,000 in Federal funds, and the Federal funds are from multiple sources (FTA, HUD, NPS, etc.) then the Single Audit Act applies, which is an audit on the entire organization/entity.
- c) Single Audit can only be conducted by an independent CPA, not by an auditor on staff.
An audit is an allowable direct or indirect cost.

d. The Special Provisions to the Basic Contract shall be removed and replaced in its entirety by the following:

SPECIAL PROVISIONS

The Special Provisions apply to all contracts except where noted in *italics*.

- 1. **CONTROLLER'S APPROVAL. CRS 24-30-202 (1).** This contract shall not be deemed valid until it has been approved by the Colorado State Controller or designee.
- 2. **FUND AVAILABILITY. CRS 24-30-202(5.5).** Financial obligations of the State payable after the current fiscal year are contingent upon

funds for that purpose being appropriated, budgeted, and otherwise made available.

3. **INDEMNIFICATION.** Contractor shall indemnify, save, and hold harmless the State, its employees and agents, against any and all claims, damages, liability and court awards including costs, expenses, and attorney fees and related costs, incurred as a result of any act or omission by Contractor, or its employees, agents, subcontractors, or assignees pursuant to the terms of this contract.

[Applicable Only to Intergovernmental Contracts] No term or condition of this contract shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protection, or other provisions, of the Colorado Governmental Immunity Act, CRS 24-10-101 et seq., or the Federal Tort Claims Act, 28 U.S.C. 2671 et seq., as applicable, as now or hereafter amended.

4. **INDEPENDENT CONTRACTOR. 4 CCR 801-2.** Contractor shall perform its duties hereunder as an independent contractor and not as an employee. Neither contractor nor any agent or employee of contractor shall be or shall be deemed to be an agent or employee of the state. Contractor shall pay when due all required employment taxes and income taxes and local head taxes on any monies paid by the state pursuant to this contract. Contractor acknowledges that contractor and its employees are not entitled to unemployment insurance benefits unless contractor or a third party provides such coverage and that the state does not pay for or otherwise provide such coverage. Contractor shall have no authorization, express or implied, to bind the state to any agreement, liability or understanding, except as expressly set forth herein. Contractor shall provide and keep in force workers' compensation (and provide proof of such insurance when requested by the state) and unemployment compensation insurance in the amounts required by law and shall be solely responsible for its acts and those of its employees and agents.

5. **NON-DISCRIMINATION.** Contractor agrees to comply with the letter and the spirit of all applicable State and federal laws respecting discrimination and unfair employment practices.

6. **CHOICE OF LAW.** The laws of the State of Colorado, and rules and regulations issued pursuant thereto, shall be applied in the interpretation, execution, and enforcement of this contract. Any provision of this contract, whether or not incorporated herein by reference, which provides for arbitration by any extra-judicial body or person or which is otherwise in conflict with said laws, rules, and regulations shall be considered null and void. Nothing contained in any provision incorporated herein by reference which purports to negate this or any other special provision in whole or in part shall be valid or enforceable or available in any action at law, whether by way of complaint, defense, or otherwise. Any provision rendered null and void by the operation of this provision will not invalidate the remainder of this contract, to the extent that this contract is capable of execution. At all times during the performance of this contract, Contractor shall strictly adhere to all applicable federal and State laws, rules, and regulations that have been or may hereafter be established.

7. **[Not Applicable to Intergovernmental Contracts] VENDOR OFFSET. CRS 24-30-202 (1) and 24-30-202.4.** The State Controller may withhold payment of certain debts owed to State agencies under the vendor offset intercept system for: (a) unpaid child support debt or child support arrearages; (b) unpaid balances of tax, accrued interest, or other charges specified in Article 21, Title 39, CRS; (c) unpaid loans due to the Student Loan Division of the Department of Higher Education; (d) amounts required to be paid to the Unemployment Compensation Fund; and (e) other unpaid debts owing to the State or its agencies, as a result of final agency determination or reduced to judgment, as certified by the State Controller.

8. **SOFTWARE PIRACY PROHIBITION. Governor's Executive Order D 002 00.** No State or other public funds payable under this contract shall be used for the acquisition, operation, or maintenance of computer software in violation of federal copyright laws or applicable licensing restrictions. Contractor hereby certifies that, for the term of this contract and any extensions, Contractor has in place appropriate systems and controls to prevent such improper use of public funds. If the State determines that Contractor is in violation of this paragraph, the State may exercise any remedy available at law or equity or under this contract, including, without limitation, immediate termination of this contract and any remedy consistent with federal copyright laws or applicable licensing restrictions.

9. **EMPLOYEE FINANCIAL INTEREST. CRS 24-18-201 and 24-50-507.** The signatories aver that to their knowledge, no employee of the State has any personal or beneficial interest whatsoever in the service or property described in this contract.

10. **[Not Applicable to Intergovernmental Contracts]. ILLEGAL ALIENS - PUBLIC CONTRACTS FOR SERVICES AND RESTRICTIONS ON PUBLIC BENEFITS. CRS 8-17.5-101 and 24-76.5-101.** Contractor certifies that it shall comply with the provisions of CRS 8-17.5-101 et seq. Contractor shall not knowingly employ or contract with an illegal alien to perform work under this contract or enter into a contract with a subcontractor that fails to certify to Contractor that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this contract. Contractor represents, warrants, and agrees that it (i) has verified that it does not employ any illegal aliens, through participation in the Basic Pilot Employment Verification Program administered by the Social Security Administration and Department of Homeland Security, and (ii) otherwise shall comply with the requirements of CRS 8-17.5-102(2)(b). Contractor shall comply with all reasonable requests made in the course of an investigation under CRS 8-17.5-102 by the Colorado Department of Labor and Employment. Failure to comply with any requirement of this provision or CRS 8-17.5-101 et seq., shall be cause for termination for breach and Contractor shall be liable for actual and consequential damages.

Contractor, if a natural person eighteen (18) years of age or older, hereby swears or affirms under penalty of perjury that he or she (i) is a citizen or otherwise lawfully present in the United States pursuant to federal law, (ii) shall comply with the provisions of CRS 24-76.5-101 et seq., and (iii) shall produce one form of identification required by CRS 24-76.5-103 prior to the effective date of this contract.

Revised October 25, 2006

Effective Date of Special Provisions: August 7, 2006

THE PARTIES HERETO HAVE EXECUTED THIS CONTRACT

CONTRACTOR:

**STATE OF COLORADO:
BILL RITTER, JR., GOVERNOR**

City of Westminster
Legal Name of Contracting Entity

By _____
For Executive Director
Department of Transportation

2000053
CDOT Vendor Number

**LEGAL REVIEW:
JOHN W. SUTHERS, ATTORNEY GENERAL**

Signature of Authorized Officer

By _____

Print Name & Title of Authorized Officer

CORPORATIONS:
(A corporate attestation is required.)

Attest (Seal) By _____
(Corporate Secretary or Equivalent, or Town/City/County Clerk) (Place Corporate Seal here, if available.)

ALL CONTRACTS MUST BE APPROVED BY THE STATE CONTROLLER

CRS 24-30-202 requires that the State Controller approve all state contracts. This contract is not valid until the State Controller, or such assistant as he may delegate, has signed it. The contractor is not authorized to begin performance until the contract is signed and dated below. If performance begins prior to the date below, the State of Colorado may not be obligated to pay for the goods and/or services provided.

**STATE CONTROLLER:
LESLIE M. SHENEFELT**

By _____

Date _____

A. The Local Agency has estimated the total cost the Work to be \$4,489,000.00 which is to be funded as follows:

1 BUDGETED FUNDS		
a. Federal Funds (STP Metro @ 82.79%)		\$2,497,000.00
b. Local Agency Matching Funds (STP Metro @ 17.21%)		\$519,065.00
c. Local Agency Overmatch (Includes Local Agency Matching for CDOT - Incurred Non-Participating Costs of \$159,935.00) (Including Non-Participating Indirects)		\$1,019,935.00
d. State Contribution (RPP Funds)		\$453,000.00
TOTAL BUDGETED FUNDS		\$4,489,000.00
2 ESTIMATED CDOT-INCURRED COSTS		
a. Federal Share (82.79% of Participating Costs)		\$2,497,000.00
b. Local Share:		
Participating Costs (17.21% of Participating Costs)	\$519,065.00	
Non-Participating Costs (Including Non-Participating Indirects)	<u>\$1,019,935.00</u>	
Local Agency Share		\$1,539,000.00
c. State Commitment of Limiting CDOT Charges		
Estimated Participating Costs (Direct and Indirect)	\$706,220.00	
Estimated Non-Participating Indirect Costs	<u>\$16,040.00</u>	
22% of Estimated Payments to Construction Contractor	\$722,260.00	
<small>(This amount is based on 22% of the estimated construction payments Of \$3,283,000.00)</small>		
d. State Contribution (RPP Funds)		\$453,000.00
TOTAL ESTIMATED CDOT-INCURRED COSTS		\$4,489,000.00
3 ESTIMATED PAYMENT TO LOCAL AGENCY		
a. Federal Funds Budgeted (1a)		\$2,497,000.00
b. Less Estimated Federal Share of CDOT-Incurred Costs (2a)		\$2,497,000.00
TOTAL ESTIMATED PAYMENT TO LOCAL AGENCY		\$0.00
FOR CDOT ENCUMBRANCE PURPOSES		
Total Encumbrance Amount (\$0.00 divided by 82.79%)		\$0.00

Less ROW Acquisition 3111 and/or ROW Relocation 3109				\$0.00
Net to be encumbered as follows:				\$0.00
WBS Element 14417.10.30	Design	3020		\$0.00
WBS Element 14417.20.10	Const	3200		\$0.00

- B. The matching ratio for the federal participating funds for this project is 82.79% federal-aid funds (CFDA #20 2050) to 17.21% Local Agency funds, it being understood that such ratio applies only to the \$3,016,065.00 (\$2,497,000.00 Federal Funds and \$519,065.00 Local Agency Matching Funds) that is eligible for federal participation, it being further understood that all non-participating costs are borne by the Local Agency at 100%. If the total participating cost of performance of the Work exceeds \$3,016,065.00, and additional federal funds are made available for the project, the Local Agency shall pay 17.21% of all such costs eligible for federal participation and 100% of all non-participating costs; if additional federal funds are not made available, the local agency shall pay all such excess costs. If the total participating cost of performance of the Work is less than \$3,016,065.00, then the amounts of Local Agency and federal-aid funds will be decreased in accordance with the funding ratio described herein. The performance of the Work shall be at no cost to the State.
- C. The maximum amount payable to the Local Agency under this contract shall be \$0.00 (For CDOT accounting purposes, the federal funds of \$0.00 and local matching funds of \$0.00 will be encumbered for a total encumbrance of \$0.00), unless such amount is increased by an appropriate written modification to this contract executed before any increased cost is incurred. It is understood and agreed by the parties hereto that the total cost of the Work stated hereinbefore is the best estimate available, based on the design data as approved at the time of execution of this contract, and that such cost is subject to revisions (in accord with the procedure in the previous sentence) agreeable to the parties prior to bid and award.
- D. The parties hereto agree that this contract is contingent upon all funds designated for the project herein being made available from federal and/or state and/or Local Agency sources, as applicable. Should these sources, either federal or Local Agency, fail to provide necessary funds as agreed upon herein, the contract may be terminated by either party, provided that any party terminating its interest and obligations herein shall not be relieved of any obligations which existed prior to the effective date of such termination or which may occur as a result of such termination.

E. CDOT shall limit its administrative costs for the life of the project to an Administrative Costs Ceiling ("ACC"), which shall be calculated from the Negotiated Administrative Costs Multiplier ("NACM") and the Project's Total Construction Contractor Payments ("TCCP") according to the following formula: $ACC = (NACM) \times (TCCP)$. The NACM shall not change during the life of the contract. The Parties have arrived at 22% as the NACM for this Contract. The engineer's initial estimate for the TCCP, \$3,283,000.00, derives from the engineer's initial estimate of the Project Costs less the Design Costs (i.e., \$3,629,000.00 - \$346,000.00 = \$3,283,000.00). Therefore, on the basis of the currently estimated TCCP, the currently estimated ACC is \$722,260.00 (i.e., 22% x \$3,283,000.00). CDOT shall be responsible for any of its administrative costs that exceed the ACC, as it may have been seasonably recalculated according to Paragraph "F," below.

F. The ACC shall be seasonably recalculated, according to the formula in Paragraph "E," above, either adjusted upward or adjusted downward, based upon the occurrence of any of the following:

1. Adjusted upward, if, through CDOT's construction bid process, the resulting construction contract is awarded at an amount higher than the currently estimated TCCP;
2. Adjusted downward, if, through CDOT's construction bid process, the resulting construction contract is awarded at an amount lower than the currently estimated TCCP;
3. Adjusted upward, if, as a result of currently unforeseen circumstances that may arise during construction, CDOT must pay the Construction Contractor an amount in excess of the original construction contract amount;
4. Adjusted downward, if, as a result of currently unforeseen circumstances that may arise during construction, CDOT is able to pay the Construction Contractor an amount less than the original construction contract amount;

Whenever one of the events above occurs, CDOT shall recalculate the ACC accordingly and shall notify the Local Agency of the modified ACC, together with a brief explanation of the reasons why the modification had to be made;

G. The administrative costs by CDOT shall consist of costs associated with each of the

following

services:

1. design services
 2. ROW services (other than ROW acquisition/relocation/appraisal services)
 3. environmental services
 4. utility services
 5. construction management and oversight services
- H. CDOT shall bill the Local Agency for both direct and indirect CDOT costs throughout the Project, mindful of the ACC, as it may have been seasonably adjusted according to Paragraph "F," above. CDOT shall, in the final accounting, expect payment from the Local Agency in the amount of the ACC, as it may have been seasonably adjusted according to Paragraph "F," above. CDOT will provide to the Local Agency a Project-completion audit statement subsequent to CDOT's final payment to the Construction Contractor.



Agenda Item 10 H

WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
December 10, 2007



SUBJECT: Resolution No. 49 re 2008 Jefferson County Joint Venture Grant Application

Prepared By: Ken Watson, Regional Parks and Golf Manager

Recommended City Council Action

Adopt Resolution No. 49 authorizing the Department of Parks, Recreation, and Libraries to apply for a second Jefferson County Joint Venture Grant for the 2008 funding cycle in the amount of \$250,000 for the construction of two restroom facilities at The Heritage Golf Course at Westmoor.

Summary Statement

- The Department of Parks, Recreation and Libraries wishes to pursue a second grant from the Jefferson County Joint Venture Grant Program for reimbursement of costs associated with the construction of two restroom facilities at The Heritage at Westmoor Golf Course, a City-owned golf course located at 10555 Westmoor Drive. The Jefferson County grant program allows each applicant to submit up to two joint venture grant applications per grant cycle.
- Staff recommends requesting a \$250,000 grant, which would be a 50-50 match of the total project cost of \$500,000. Funding for this project is coming from the voter-approved Parks and Open Space Bond issue passed by voters in 2006.
- The Department of Parks, Recreation and Libraries currently uses porta-john enclosures for restrooms at The Heritage Golf Course. The new facilities would replace those enclosures and greatly enhance the experience of golfers at this City-owned golf course.

Expenditure Required: \$0

Source of Funds: N/A

Policy Issue

Should the City pursue additional grant monies from the Jefferson County Joint Venture Grant Program for the construction of two restroom facilities at The Heritage Golf Course at Westmoor?

Alternative

Council could choose not to pursue a Jefferson County Joint Venture Grant; however, Staff believes this project is a good candidate for funding and is an opportunity to add quality restroom facilities to a championship-quality golf course.

Background Information

The Heritage Golf Course at Westmoor, located at 10555 Westmoor Drive, opened for play in 1999. Approximately 30,000 rounds of golf are played each year and the Heritage has hosted dozens of Colorado Golf Association and corporate tournaments. The Heritage Golf Course is known as a quality, municipal course with championship-quality playing conditions.

Since the golf course opened in 1999, porta-johns (portable san-o-lets) have been used at two locations on the course, near hole #5 and hole #15. Enclosures were added to the portable units, but these systems detract from the overall quality of the golf course. Staff has received many complaints from guests regarding the lack of adequate restroom facilities on the Heritage Golf Course.

In January 2008, funds will become available from the Parks, Open Space and Trails Revenue Bond to construct some restroom facilities at one or possibly both City-owned golf courses, The Heritage and Legacy Ridge. However, the \$500,000 earmarked for golf course restrooms will not allow for four quality restrooms to be constructed. Parks, Recreation and Libraries Staff have researched prebuilt restroom facilities. Staff estimates that the total cost of the restrooms, including providing sewer, water, and electricity to the restrooms, is \$150,000 to \$250,000 each, or a total of \$600,000 to \$1 million, for four restrooms to be built at both courses. The Heritage, in particular, will present challenges because of the lack of easily-accessible water and sewer locations on hole #15 where one of the facilities is to be located. The buildings will also offer shelter for golfers during unexpected weather changes.

If the City is successful with this grant request, it would assist with the City's goal of adding two quality restrooms at each golf course. The permanent restrooms would be constructed near the same locations as the current port-johns.

This project meets City Council's Strategic Plan Goals of "Beautiful City" and also assists with revenue recovery goals for the golf courses to be a "Financially Sustainable City Government" by providing quality restrooms for golfers to use and upgrade the overall experience at The Heritage Golf Course.

Respectfully submitted,

J. Brent McFall
City Manager

Attachments

RESOLUTION

RESOLUTION NO. **49**

INTRODUCED BY COUNCILLORS

SERIES OF 2007

**GRANT REQUESTS FOR THE 2008 JEFFERSON COUNTY
JOINT VENTURE GRANT PROGRAM**

WHEREAS, Jefferson County has established a local government grant application process to assist municipalities and special districts within the County with the development of recreation capital improvements; and

WHEREAS, The City of Westminster owns and operates The Heritage Golf Course at Westmoor, and;

WHEREAS, the City of Westminster wants to improve and add permanent restrooms at The Heritage Golf Course, and;

NOW, THEREFORE, the Westminster City Council hereby resolves that City of Westminster Staff submit a grant application to the Jefferson County Joint Venture Grant program for 2008, requesting funding in the amount of \$250,000 for the construction of two on-course restroom facilities at The Heritage Golf Course at Westmoor.

PASSED AND ADOPTED this 10th day of December 2007.

ATTEST

Mayor

City Clerk

Location Map- Heritage Golf Course Restrooms





Agenda Item 10 I

WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
December 10, 2007



SUBJECT: Resolution No. 50 re Westminster Sports Center Fees

Prepared By: Peggy Boccard, Recreation Services Manager

Recommended City Council Action

Adopt Resolution No. 50 authorizing City Staff to set rental and admission fees for the Westminster Sports Center per the attached fee schedule.

Summary Statement

- Staff is recommending the establishment of fees for the Westminster Sports Center, a City-owned indoor soccer facility. As this facility was formerly leased and operated by a private entity, fees had not been previously established by the City.
- Staff has projected a net revenue stream for this facility to meet or exceed the previous lease payments of \$60,000 per year from the former operator.
- Recreation Staff has reviewed usage statistics, budgets, and fee survey information to determine recommended fees and has developed a fee schedule that is aligned with fees collected at the City's other recreation centers. Please refer to Chart A for fee comparisons.
- Staff has received requests from the community to provide athletic field/court rentals at the Westminster Sports Center. Providing these additional rental opportunities better meets community needs along with creating a positive revenue stream.
- To best serve the Westminster community, recommended rental fees are divided into three groups; Westminster youth sports organizations, Westminster residents and non-profit groups, and non resident rental for youth and adult groups. Please see Chart B for fees.
- If approved, the Westminster Sports Center fees would go into effect immediately.

Expenditure Required: \$0

Source of Funds: N/A

Policy Issue

Should City Council accept Staff's recommended fees for the Westminster Sports Center?

Alternatives

1. City Council could direct Staff to find an alternative source of funding rather than establishing rental or admission fees. Staff does not recommend this, however, as revenues from this facility and other recreation programs are projected to offset expenses and provide a net surplus for the City's Recreation Facilities Division.
2. City Council could reject the recommended fees. Staff recommends against this option as these fees would provide additional options for the community to use the City's facilities. These fees would also allow for better use of the facilities during off-peak times.

Background Information

The Westminster Sports Center, located at 6051 W. 95th Avenue, is a City-owned indoor soccer facility that was formerly leased and operated by a private entity, Colorado Soccer LLC. The City of Westminster acquired this 33,000-square-foot metal building from The Trend Company, a residential developer, in the late 1970s.

The City, utilizing a grant from Jefferson County Open Space, renovated the old Trend Homes building in 1993 for conversion to an indoor soccer/sports center. In November of 1994, Staff recommended City Council sign a seven-year lease agreement with AMAYA Soccer and Sports Inc. d.b.a. Colorado Soccer requiring them to pay \$4,000 per month to the City for the purpose of operating an indoor soccer arena. AMAYA Soccer and Sports also provided the interior improvements to the building that included the installation of dasher boards, synthetic turf, scoreboards, lighting and other fixtures and equipment. The lease was renewed in 2001 with AMAYA Soccer and Sports Inc. d.b.a. Colorado Soccer at \$5,000 per month for an additional seven years, expiring in November 2008.

In February 2007, City Council gave City Staff the approval to take over the operations of the Westminster Sports Center due to unsatisfactory customer feedback and lack of focus given to Westminster teams. The operator also fell behind in their monthly lease payments. The City exercised its option to terminate the lease early in March of 2007. The City has since renovated the entire facility with new synthetic turf, sports court, dasher boards, restroom renovation and other interior improvements. City Staff will be operating leagues for both youth and adults starting in late 2007. The league fees will be the primary source of revenue; however, the ability to rent the fields and community room (Chart B) will also help offset expenses.

City Council previously approved fees for outdoor athletic fields and room rentals at the various recreation facilities and those fees, along with a comparison of surrounding community's fees, have provided the template for the proposed Westminster Sports Center fees. Requests from the community, along with the assessment of current facility and field use, indicate the need to offer additional usage/rental options. Creating an opportunity for the community to reserve field and facility space will better meet the community needs, along with creating a positive revenue stream.

Chart A (attached) indicates a fee structure aligned with what Council had previously approved for the City's other recreation centers and is consistent with surrounding communities. Survey data from other parks and recreation agencies supports these proposed fees. The drop-in fees are subject to limited field use based on league schedules.

SUBJECT: Resolution re Westminster Sports Center Fees

Page 3

This project meets City Council's Strategic Plan Goal of "Financially Sustainable City Government" by providing the City with additional revenues while providing affordable facilities for users of all ages.

Respectfully submitted,

J. Brent McFall
City Manager

Attachments

RESOLUTION

RESOLUTION NO. **50**

INTRODUCED BY COUNCILLORS

SERIES 2007

**RESOLUTION ESTABLISHING NEW FEES FOR THE CITY'S INDOOR SOCCER FACILITY,
THE WESTMINSTER SPORTS CENTER**

WHEREAS, it is the intent of the City Council to set fees to provide a fair recovery percentage and reduce the subsidy level at the recreation facilities; and

WHEREAS, it is the intent of the City Council to adjust fees and policies to provide marketable, competitive admission and season fees that are slightly below "comparable" recreation facility rates; and

WHEREAS, the Westminster Sports Center requires a fee schedule for operation;

NOW, THEREFORE, be it resolved by the City Council of the City of Westminster, Colorado that the fees at the Westminster Sports Center be set as per the attachment.

PASSED AND ADOPTED this 10th day of December 2007.

ATTEST:

City Clerk

Mayor

APPROVED AS TO LEGAL FORM

City Attorney

Recommended Westminster Sports Center Fees for 2008

Chart A

Drop-in admissions

	<i>Sports Center (open times only)</i>	<i>City Park</i>	<i>West View Swim & Fit</i>	<i>Countryside Kings Mill</i>	<i>MAC</i>
	2008 Approved Rates				
Adult Resident	\$ 3.00	\$ 4.00	\$ 3.50	\$ 3.25	\$ 2.25
Adult Non-Resident	\$ 4.00	\$ 5.75	\$ 5.25	\$ 5.00	\$ 3.50
Youth Resident	\$ 2.00	\$ 3.25	\$ 2.50	\$ 2.25	-
Youth Non-Resident	\$ 3.00	\$ 4.75	\$ 3.50	\$ 3.25	-
Child Resident	\$ -	\$ 2.75	\$ 2.25	\$ 2.00	-
Child Non-Resident	\$ -	\$ 3.75	\$ 3.25	\$ 3.00	-
Senior Resident	\$ 2.00	\$ 2.75	\$ 2.25	\$ 2.00	\$ 2.25
Senior - Non-Resident	\$ 3.00	\$ 4.25	\$ 3.75	\$ 3.50	\$ 3.50

Chart B

Rental Fees

	<i>Westminster Youth Sports Organizations (per hour)</i>	<i>Westminster Residents & Non-Profit Groups (per hour)</i>	<i>Non-Residents (Youth and Adult) (per hour)</i>
Westminster Sports Center Classroom	\$ 15	\$ 25	\$ 35
Westminster Sports Center Large Field	\$ 75	\$ 90	\$ 120
Westminster Sports Center Small Field	\$ 35	\$ 40	\$ 50

Summary of Proceedings

Summary of proceedings of the City of Westminster City Council meeting of Monday, December 10, 2007. Mayor McNally, Mayor Pro Tem Dittman, and Councillors Briggs, Kaiser, Major, and Winter were present at roll call. Councillor Lindsey joined the meeting in progress.

The minutes of the regular meeting of November 26, 2007, were approved as corrected.

Council approved the following: 2007 City Council assignments; City Centre Park design and construction contract; expenditure approval for Fire Department personal protective equipment; IGA with the Mandalay Town Center GID for administrative services; IGA amendment with the Urban Drainage and Flood Control District for Quail Creek improvements; approval of the Savory Farm Estates PDP and ODP; and final passage of Councillor's Bill No. 63 re 2007 3rd Quarter budget supplemental appropriation.

Council conducted a public hearing to consider the Savory Farms Estates CLUP amendment, PDP and ODP, and Service Commitment Award extension.

Council adopted the following Resolutions: Resolution No. 46 re service commitment award extension for Savory Farm Estates PUD; Resolution No. 47 re 2008 service commitment allocations; Resolution No. 48 re amendment #1 to CDOT cost-sharing contract for 80th/Federal Intersection; Resolution No. 49 re Jefferson County Joint Venture grant application for Heritage Golf Course restrooms; and Resolution No. 50 establishing Westminster Sports Center fees.

The following Councillors' Bills were passed on first reading:

A BILL FOR AN ORDINANCE AMENDING THE WESTMINSTER COMPREHENSIVE LAND USE PLAN. Purpose: To change the land use designation of 8.13 acres at 109th and Federal from R-2.5 Residential to R-3.5 Residential for Savory Farm Estates.

A BILL FOR AN ORDINANCE AUTHORIZING AN ECONOMIC DEVELOPMENT AGREEMENT WITH THE 75TH & SHERIDAN HOLDING LLC. Purpose: To authorize an economic development agreement with the 75th & Sheridan Holding LLC.

The meeting adjourned at 7:45 p.m.

By order of the Westminster City Council

Linda Yeager, MMC, City Clerk

Published in the Westminster Window on December 20, 2007

A BILL
FOR AN ORDINANCE AMENDING THE 2007 BUDGETS OF THE GENERAL, GENERAL CAPITAL IMPROVEMENT, STORM DRAINAGE AND GOLF COURSE FUNDS AND AUTHORIZING A SUPPLEMENTAL APPROPRIATION FROM THE 2007 ESTIMATED REVENUES IN THE FUNDS

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The 2007 appropriation for the General, General Capital Improvement, Storm Drainage, and Golf Course Funds, initially appropriated by Ordinance No. 3316 are hereby increased in aggregate by \$239,729. This appropriation is due to the receipt of interest earnings, sponsorship fees, grants, reimbursements, program revenues, participation funds, and recycling proceeds.

Section 2. The \$239,729 increase shall be allocated to City Revenue and Expense accounts as described in the City Council Agenda Item #10F dated November 26, 2007 (a copy of which may be obtained from the City Clerk) increasing City fund budgets as follows:

General Fund	\$179,186
General Capital Improvement Fund	(112,907)
Strom Drainage Fund	200,000
Golf Course Fund	<u>3,450</u>
Total	<u>\$269,729</u>

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

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

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

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 26TH day of November, 2007. PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 10th day of December, 2007.