



CITY COUNCIL AGENDA

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

Citizen Communication is limited to five minutes; however, the Mayor may limit comments to a lesser amount of time depending on the number of individuals who wish to speak.

1. **Pledge of Allegiance**
2. **Roll Call**
3. **Consideration of Minutes of Preceding Meetings** (June 22, 2015)
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. Cumulative Purchases Over \$75,000 with S Corporation for Laserfiche Upgrades and Maintenance
 - B. 2015 West View Boiler Room Replacement
 - C. City Park Recreation Center Pool Filter Replacement
 - D. Increase Biosolids Composting Contracts
 - E. Second Reading of Councillor's Bill No. 29 Authorizing Elevate CO LLC Lease at Ice Centre
9. **Appointments and Resignations**
10. **Public Hearings and Other New Business**
 - A. Councillor's Bill No. 32 Vacating the Plat for Westminster Center Subdivision, Filing No. 1
 - B. Councillor's Bill No. 33 Appropriating RTD Funding
 - C. Westminster Station Parking Structure Guaranteed Maximum Price Contract Award
 - D. Councillor's Bill No. 34 Amending Title VI, Chapter 7, W.M.C. re Animals
 - E. Councillor's Bill No. 35 to Lease 7225 Bradburn Boulevard to the SWAG
11. **Old Business and Passage of Ordinances on Second Reading**
 - A. Special Legal Counsel Services for Drafting of Collective Bargaining Ordinance (Tabled 10-27-14)
 - B. Councillor's Bill No. 18 Updating the Comprehensive Plan (Tabled 04-13-15)
12. **Miscellaneous Business and Executive Session**
 - A. City Council
 - B. Executive Session - Discuss strategy and progress on negotiations related to economic development matters for the Westminster Downtown, disclosure of which would seriously jeopardize the City's ability to secure the development; discuss strategy and progress on the possible sale, acquisition, trade or exchange of property rights, including future leases; and provide instruction to the City's negotiators on the same as authorized by Sections 1-11-3(C)(2), (4), and (7), W.M.C., and Sections 24-6-402 (4)(a) and (e), C.R.S. (*verbal*)
13. **Adjournment**

NOTE: Persons needing an accommodation must notify the City Clerk no later than noon on the Thursday prior to the scheduled Council meeting to allow adequate time to make arrangements. You can call [303-658-2161](tel:303-658-2161)/TTY 711 or [State Relay](mailto:lyeager@cityofwestminster.us) or write to lyeager@cityofwestminster.us to make a reasonable accommodation request.

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.



2014 CITY OF WESTMINSTER STRATEGIC PLAN



VISIONARY LEADERSHIP & EFFECTIVE GOVERNANCE

The City of Westminster has articulated a clear vision for the future of the community. The vision

is implemented through collaborative and transparent decision making.

- Secure a replacement for our retiring City Manager that has the combination of experience, knowledge, style and values that are consistent with City Council vision and organizational values; ensure a smooth transition.



VIBRANT & INCLUSIVE NEIGHBORHOODS

Westminster provides housing options for a diverse demographic citizenry, in unique settings

with community identity, ownership and sense of place, with easy access to amenities, shopping and employment.

- Complete St. Anthony North Hospital (84th Avenue) impact analysis
- Create an Arts District



COMPREHENSIVE COMMUNITY ENGAGEMENT

Westminster is represented by inclusive cultural, business, nonprofit and geographic participation.

Members of the community are involved in activities; they are empowered to address community needs and important community issues.

- Create an Inclusiveness Commission



BEAUTIFUL, DESIRABLE, ENVIRONMENTALLY RESPONSIBLE CITY

Westminster thoughtfully creates special places and settings. The city is an active steward, protecting and enhancing natural resources and environmental assets. The city promotes and fosters healthy communities.

- Develop and implement Open Space Master Plan
- Identify and implement alternative energy options for city facilities
- Achieve “Solar City” designation to benefit both our environment and economy



PROACTIVE REGIONAL COLLABORATION

Westminster is proactively engaged with our partners to advance the common interests of the region.

- Collaborate with counties, school districts and neighboring cities



DYNAMIC, DIVERSE ECONOMY

Westminster is a local government that fosters social, economic, and environmental vitality and cultivates and strengthens a wide array of economic opportunities.

- Construct Westminster Station and develop TOD area
- Identify and pursue FasTracks next step
- Continue North I-25 development
- Proceed with Phase I of the Westminster Center Reinvestment Project
- Advance business attraction strategy
- Encourage the development of chef-owned and/or operated restaurants
- Grow small businesses through incubation



EXCELLENCE IN CITY SERVICES

Westminster leads the region in a culture of innovation that exceeds expectations in all city services – the city is known for “the Westy Way.”

- Analyze Fire/EMS alternative service delivery
- Provide improved collaboration and communication between City Council and employees at all levels of the organization
- Improve planning and permit process to be business friendly and achieve city goals



EASE OF MOBILITY

Westminster pursues multi-modal transportation options to ensure the community is convenient, accessible and connected by local and regional

transportation options through planning, collaboration, advocacy and execution. Transportation objectives include walkability, bike friendly, drivability and mass transit options.

- Enhance trail connectivity

VISION: *Westminster is an enduring community – a unique sense of place and identity; we have a choice of desirable neighborhoods that are beautiful and sustainable by design. Westminster residents enjoy convenient choices for an active, healthy lifestyle, are safe and secure, and have ease of mobility within our City and convenient connection to the metro area. Westminster is a respectful, diverse community in which*

residents are engaged. Westminster City Government provides exceptional city services, and has a strong tax base through a sustainable local economy.

MISSION: *Our job is to deliver exceptional value and quality of life through S-P-I-R-I-T (Service, Pride, Integrity, Responsibility, Innovation, Teamwork)*

CITY OF WESTMINSTER, COLORADO
MINUTES OF THE CITY COUNCIL MEETING
HELD ON MONDAY, JUNE 22, 2015, AT 7:00 P.M.

PLEDGE OF ALLEGIANCE

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

ROLL CALL

Mayor Herb Atchison, Mayor Pro Tem Bob Briggs and Councillors Bruce Baker, Maria De Cambra, Alberto Garcia, Emma Pinter, and Anita Seitz were present at roll call. Also present were City Manager Donald M. Tripp, City Attorney David R. Frankel, and City Clerk Linda Yeager.

CONSIDERATION OF MINUTES

Councillor Briggs moved, seconded by Councillor Baker, to approve the minutes of the regular meeting of June 8, 2015, as presented. The motion carried unanimously.

CITY MANAGER'S REPORT

Mr. Tripp welcomed employees from the Finance and the Parks, Recreation and Libraries Departments all of whom were in attendance to be recognized by City Council. Following this meeting, the City Council would review the Strategic Plan with Staff. The public was welcome to attend. In conclusion, Mr. Tripp thanked Council members for their dedicated service to the community.

COUNCIL REPORTS

Mayor Pro Tem Briggs and Councillors De Cambra and Garcia reported having attended the Colorado Municipal League (CML) Annual Conference in Breckenridge during the week of June 15. Mayor Pro Tem Briggs enjoyed topics ranging from the Governor's proposed Statewide Water Plan to a recent lawsuit pertaining to employee-employer rights when medical marijuana was used by an employee to manage pain. The conference provided opportunity to meet not only other elected officials, but also municipal employees from throughout the state. Additionally, Councillor Garcia had been elected to serve on the CML Executive Board. He looked forward to this opportunity and thanked Deputy City Manager Steve Smithers for encouraging him to seek the position and the City Council for supporting his endeavor.

Councillor Seitz reported having toured gardens at various locations throughout the City over the weekend and recognized the Whortons and the Carpenters whose beautiful gardens at their homes had been part of the tour. Earlier today, she had the opportunity to attend a meeting with representatives of other agencies and schools interested in working collaboratively to eliminate the achievement gap in public education experienced by students so children could be successful. Next, Yak and Yeti, a local restaurant with Nepalese cuisine, had been named one of four top restaurants in the United States. Finally, she welcomed the opportunity to participate in several Council actions regarding Downtown Westminster that were scheduled during this meeting. That action would constitute a huge step toward with the community's vision by authorizing the start of infrastructure construction. Everyone had been waiting and this would change the momentum for redevelopment of the site.

Councillor Baker acknowledged the City's monthly free mulch program, in which he and an enormously long line of others had participated on Saturday. The woman greeting people had been friendly, happy and nice to everyone; and the man running the front-end loader was competent and skilled, dropping mulch in the bed of trucks without a problem. The program benefited many and was appreciated. Secondly, Councillor Baker relayed his regret about failing to persuade his colleagues to change the course of action on Downtown Westminister or the urgency of proceeding with the current plan. Sharing insights from Council's discussions, he detailed the reasons for his opposing stance. Vital information about costs, future land sales, return on investment, advantages to the block

layout, and financial realities in a worse-case scenario had not been provided; but no amount of information would dissuade him if tax increment financing was used for fund the development. The project failed to satisfy the spirit and intent of the legislative declaration for urban renewal in the Colorado Revised Statutes; the former mall had not been a slum and blighted area that constituted a serious and growing menace injurious to the public health, safety, morals and welfare of residents. Five Council members were new and relied on Staff where there was a depth of experience with successful urban renewal projects and a passion for the new downtown vision to come to life. There might have been too much reliance on Staff. He urged Council to abide by both the letter of the law and the spirit and intent of the law.

Councillor Pinter appreciated Councillor Baker's impassioned speech and disagreed with his opposition to the Downtown Westminster plan. Having lived across the street from the former mall when it was nearly vacant, it had been a blighted property according to the basic definition of the word: ugly, neglected, rundown condition of an urban area. As the mall waned, the lack of vibrancy spread to other areas surrounding it. Council took corrective action to ensure an opportunity for future growth. The decision to proceed with block by block development had spurred sound interest in ten parcels from nine parties in a matter of weeks. The market would dictate what was best for those blocks and moving forward with construction of roadways, street ways, sewer, water, and other basic infrastructure would inspire growth. The success of this project would uplift the rest of the City and provide the resources to turn attention to other areas needing support and rejuvenation. There was no problem with redevelopment as currently planned and she was proud to stand with other Councils, the Staff, and the community in moving forward.

Mayor Atchison reported that over 14 years of Staff and Council time had been devoted to formalize redevelopment and revitalization of the former mall property. Nothing about the project had been taken lightly. There was constant review and there was nothing unrealistic about the direction proposed. The same information had been given to all members of Council; interpretation of that information was individual. Council had tried to make the smartest, most well-informed decisions possible. There was some level of risk anytime an investment was made. The emergency ordinances on the agenda of this meeting were submitted upon recommendation of financial advisors that the federal government was looking very strongly at an interest rate hike with the potential of increasing the financing of this project by \$2.6 million. The Mayor respected Councillor Baker's opinion and believed it was not an opinion shared by the majority of Council.

PROCLAMATION

Councillor Garcia read the Mayor's proclamation declaring July to be Parks, Recreation and Libraries Month. He presented the proclamation to a cross-section of employees from every division within the Department, as well as two members of the Parks, Recreation, Libraries and Open Space Advisory Board. Activities planned throughout the month were described and residents were urged to participate.

PRESENTATION OF CERTIFICATE OF ACHIEVEMENT FOR EXCELLENCE IN FINANCIAL REPORTING

Mayor Atchison was pleased to present the 31st consecutive Government Finance Officers Association Certificate of Achievement for Excellence in Financial Reporting to members of the Comprehensive Annual Financial Report Team, who proudly accepted the award.

CITIZEN COMMUNICATION

Larry Dean Valente, 7250 Meade Street, was concerned about the treatment the Downtown Westminster site was receiving with City-constructed infrastructure, which was commonly constructed by the developer at the time structures were built. If Certificates of Participation (COPs) were going to be used to construct the infrastructure, a portion of the funding should be used to pay for needed improvements throughout the City, such as the intersection of 80th and Lowell Boulevard; the lighting of street signs throughout the community so people could find their destinations when traveling at night; and maintenance of vacant City-owned property on Lowell between 72nd and 73rd Avenues. There were many needs in the City that could be fixed from the proceeds of the issuance of COPs.

Amanda Stevens, 7001 West Kentucky Avenue in Lakewood and a Jefferson County native, introduced herself as a candidate for the Jefferson County School Board. She was interested in enhancing collaboration to improve educational opportunities for students and wanted students, rather than partisan politics, to be the focus of decisions made by the Board.

Mark Clark, 3317 West 113th Avenue and President of the Adams 12 Five Star School District, reported that 2,500 students had recently graduated from the District's high schools; over \$10 million in scholarships was awarded; successful negotiations had led to settlement of the teachers' contract for the next academic year; and all employee groups would receive a 2% salary increase. He thanked Councillor Seitz for inviting the District's participation in discussions earlier today about the achievement gap in local schools. Eliminating the achievement gap was a worthy endeavor. In the past five years, Adams 12 had closed that gap with Hispanics and Caucasians excelling at nearly equal rates; increased graduation rates; and the majority of the district's high schools having wait lists for admission.

Bill Christopher, 3780 West 101st Avenue, echoed Mr. Clark's comments concerning the discussion about the achievement gap in local schools. Mr. Tripp and Councillor Seitz were to be commended for facilitating the meeting that hopefully would bring tangible solutions for the community and its diverse population. Additionally, Mr. Christopher spoke about the blighted condition of the Westminster Mall when the City had moved forward to acquire property for redevelopment of the site and agreed that the owner of the mall had been difficult to inspire when it came to investing in his property. He urged caution as the Council approached redevelopment as the developer of Downtown Westminster, acknowledging that the former mall site was a high priority, but one where the City should not overreact. The investment of taxpayer funds in the project was significant, and reputable developers seeking to partner with the City needed to invest their money and talents to successfully advance the community's vision.

CONSENT AGENDA

The following items were submitted on the consent agenda for Council's consideration: accept the Financial Report for May as presented; accept the 2014 Comprehensive Annual Financial Report; authorize the City Manager to sign a contract for legal services in an amount not to exceed \$10,000 with Kissinger & Fellman, P.C., for participation, along with other affected metro area cities, before the Public Utilities Commission in connection with Public Service Company of Colorado's (Xcel Energy) LED tariff filing; based upon the recommendation of the City Manager, find that the public interest would be best served by a negotiated contract with Martin/Martin, Inc. for surveying services at the Downtown Westminster site, authorize the City Manager to execute a contract in the amount of \$52,500 for this surveying work, and authorize an additional \$25,000 as a contingency; authorize the City Manager to award the bid and execute a contract with the lowest and most qualified bidder, Hammerlund Construction, Inc., in the amount of \$10,415,000 for the construction of the Downtown Westminster Phase 1 Street and Utility Project and authorize a construction contingency of \$3,085,000; based on the recommendation of the City Manager, the City Council determined that the public interest would be best served by a negotiated contract with Engineered Fluid, Inc. for a temporary pump station for the Downtown Westminster Project and authorize the City Manager to execute a contract with Engineered Fluid, Inc. as a sole source supplier of the temporary pump station in the amount of \$552,442; authorize the City Manager to execute a contract for master planning the eastern and southern parks in Downtown Westminster with DTJ Design, Inc. in the amount of \$104,300 with a 10% contingency of \$10,430, for a total design project authorized expenditure not to exceed \$114,730; based on the report of the City Manager the City Council found that the public interest would be best served by accepting the bid for master planning the central park in Downtown Westminster from Sasaki Associates, Inc. and authorize the City Manager to execute a contract for master planning the central park with Sasaki Associates, Inc. in the amount of \$143,000 with a 10% contingency of \$14,300, for a total design project authorized expenditure not to exceed \$157,300; based on the report of the City Manager, City Council found that the public interest would be best served by accepting the bid for master planning the central square in Downtown Westminster from Wenk Associates, Inc. and authorize the City Manager to execute a contract for master planning of the central square in Downtown Westminster with Wenk Associates, Inc. in the amount of \$68,530 with a 10% contingency of \$6,853, for a total design project authorized expenditure not to exceed \$75,383; authorize the City Manager to execute a contract with the low bidder, Levi Contractor's, Inc., in the amount of \$269,340 for construction of the Distribution System Water Quality Compliance Stations Project and authorize a contingency of \$50,000, for a total authorized expenditure of \$319,340; and based on the recommendation of the City

Manager, Council found that the public interest would best be served by executing a sole source contract in the amount of \$1,300,000 with Pall Corporation for the replacement of membrane modules at the Northwest Water Treatment Facility, plus a contingency amount of \$130,000, for a total authorized expenditure of \$1,430,000.

Councillor Garcia moved to approve the consent agenda excluding Agenda Items 8 D, E, F, G, H, and I. Councillor Baker seconded the motion and it carried unanimously.

DOWNTOWN WESTMINSTER SURVEYING CONTRACT

It was moved by Councillor Seitz, seconded by Mayor Pro Tem Briggs, based upon the recommendation of the City Manager, to find that the public interest would be best served by a negotiated contract with Martin/Martin, Inc. for surveying services at the Downtown Westminster site, to authorize the City Manager to execute a contract in the amount of \$52,500 for this surveying work, and to authorize an additional \$25,000 as a contingency. The motion passed by a 6:1 vote with Councillor Baker dissenting.

DOWNTOWN WESTMINSTER STREET AND UTILITY PROJECT PHASE I CONSTRUCTION CONTRACT

Councillor Pinter moved, seconded by Councillor Seitz, to authorize the City Manager to award the bid and execute a contract with the lowest and most qualified bidder, Hammerlund Construction, Inc., in the amount of \$10,415,000 for the construction of the Downtown Westminster Phase 1 Street and Utility Project and authorize a construction contingency of \$3,085,000. The motion carried on a 6:1 vote with Councillor Baker voting no.

DOWNTOWN WESTMINSTER TEMPORARY PUMP STATION CONTRACT AWARD

It was moved by Councillor Seitz, seconded by Mayor Pro Tem Briggs, based on the recommendation of the City Manager, to determine that the public interest would be best served by a negotiated contract with Engineered Fluid, Inc. for a temporary pump station for the Downtown Westminster Project and authorize the City Manager to execute a contract with Engineered Fluid, Inc. as a sole source supplier of the temporary pump station in the amount of \$552,442. By a 6:1 margin with Councillor Baker dissenting the motion passed.

DOWNTOWN WESTMINSTER EAST AND SOUTH PARKS MASTER PLAN DESIGN CONTRACT

Councillor Garcia moved to authorize the City Manager to execute a contract for master planning the eastern and southern parks in Downtown Westminster with DTJ Design, Inc. in the amount of \$104,300 with a 10% contingency of \$10,430, for a total design project authorized expenditure not to exceed \$114,730. Mayor Pro Tem Briggs seconded the motion, and it carried on a 6:1 vote with Councillor Baker voting no.

DOWNTOWN WESTMINSTER CENTRAL PARK MASTER PLAN DESIGN CONTRACT

It was moved by Councillor Pinter and seconded by Councillor De Cambra, based on the report of the City Manager, to find that the public interest would be best served by accepting the bid for master planning the central park in Downtown Westminster from Sasaki Associates, Inc. and to authorize the City Manager to execute a contract for master planning the central park with Sasaki Associates, Inc. in the amount of \$143,000 with a 10% contingency of \$14,300, for a total design project authorized expenditure not to exceed \$157,300. The motion passed by a 6:1 margin with Councillor Baker voting no.

DOWNTOWN WESTMINSTER CENTRAL SQUARE MASTER PLAN DESIGN CONTRACT

Based on the report of the City Manager, it was moved by Councillor Garcia, seconded by Councillor Briggs, to find that the public interest would be best served by accepting the bid for master planning the central square in Downtown Westminster from Wenk Associates, Inc. and authorize the City Manager to execute a contract for master planning of the central square in Downtown Westminster with Wenk Associates, Inc. in the amount of \$68,530 with a 10% contingency of \$6,853, for a total design project authorized expenditure not to exceed \$75,383. The motion passed by a 6:1 margin with Councillor Baker dissenting.

COUNCILLOR'S BILL NO. 29 AUTHORIZING ELEVATE COLORADO LLC LEASE AT ICE CENTRE

Councillor Seitz moved, seconded by Mayor Pro Tem Briggs, to pass on first reading Councillor's Bill No. 29 authorizing the City Manager to sign an agreement between the City of Westminster, Hyland Hills Park and Recreation District (through its Recreational Facilities enterprise) and Elevate Colorado LLC for the lease of approximately 3,600 square feet of space in the Ice Centre at the Promenade. At roll call, the motion carried unanimously.

COUNCILLOR'S BILL NO. 30 TO ISSUE COPS FOR DOWNTOWN WESTMINSTER PROJECT

Mayor Pro Tem Briggs moved, seconded by Councillor De Cambra, to pass Councillor's Bill No. 30 as an emergency ordinance authorizing the 2015 Certificates of Participation for the construction of public infrastructure improvements in Downtown Westminster, in a par amount not to exceed \$40,000,000 and approving the associated financing documents in substantially the same form as attached.

Following several questions from Councillor Baker and comments from the Mayor and City Councillors, Councillor's Bill No. 30 passed on roll call vote by a 6:1 margin with Councillor Baker voting no.

COUNCILLOR'S BILL NO. 31 AUTHORIZING APPROPRIATION OF COPS TO GENERAL CIP FUND

It was moved by Mayor Pro Tem Briggs and seconded by Councillor Pinter to pass Councillor's Bill No. 31 as an emergency ordinance appropriating \$40,000,000 in the General Capital Improvement Fund for the 2015 Certificates of Participation proceeds. At roll call, the motion passed by a 6:1 margin with Councillor Baker dissenting.

2ND READING OF COUNCILLOR'S BILL NO. 27 – MID-YEAR STAFFING INCREASE APPROPRIATION

It was moved by Councillor Seitz, seconded by Councillor Garcia, for final passage on second reading of Councillor's Bill No. 27 authorizing a supplemental appropriation of 2014 General Fund Carryover money to fund the mid-year staffing adjustment. At roll call, the motion passed on a 6:1 vote with Councillor Baker voting no.

2ND READING OF COUNCILLOR'S BILL NO. 28 TO MODIFY CHAPTER 24 OF TITLE I, W.M.C.

Councillor Pinter moved, seconded by Councillor Baker, for final passage on second reading of Councillor's Bill No. 28, as amended, modifying the Westminster Municipal Code, Chapter 24 of Title 1, concerning Personnel Management. At roll call, the motion passed unanimously.

ADJOURNMENT

There was no further business to come before the City Council, and, hearing no objections, the Mayor adjourned the meeting at 8:45 p.m.

ATTEST:

City Clerk

Mayor



Agenda Item 8 A

Agenda Memorandum

City Council Meeting
July 13, 2015



SUBJECT: 2015 Cumulative Purchases Over \$5,000 with S Corporation for Laserfiche Upgrades and Maintenance

Prepared By: Linda Yeager, City Clerk
Traves McCabe, Information/Records Administrator

Recommended City Council Action

Based on report and the recommendation of the City Manager, determine that the public interest will be best served and authorize the City Clerk’s Office cumulative purchases with S Corporation, Inc. for Laserfiche software, professional services, and annual maintenance not to exceed the authorized expenditure level of \$98,916, for calendar year 2015 services.

Summary Statement

- The Westminster Municipal Code requires that all purchases over \$75,000 be brought to City Council for approval. Staff has taken a conservative approach in interpreting this requirement to include transactions where the cumulative total purchases of similar commodities or services from one vendor in a calendar year exceed \$75,000.
- In 2005, the City acquired Laserfiche software and individual departments began imaging public records to reduce records storage space needed for office space. At that time Laserfiche had a shared software model and users throughout the organization could access the program using the same license.
- Laserfiche launched RIO, a major update of its product with many enhancements, in 2012. One of RIO’s enhanced features included the ability to manipulate already imaged files providing the opportunity to implement uniform standards across departments increasing efficient accessibility and retrieval of documents. Managers were eager to have a system that provided easy retrieval of all records on a given subject for daily operational purposes and decision making.
- RIO was not marketed as a shared software model, but rather required purchase of individual licenses of varying costs for ranges of capabilities based on the users’ needs.
- A plan was developed and funded through the “Laserfiche Upgrades/Additional Licenses” capital improvement project (CIP) to acquire licenses, purchase program add-ons to build an integrated system of electronic databases and workflow applications that automate many of the City’s business processes, and to obtain professional consulting services from S Corporation. Annual maintenance of the software is funded through operational accounts in the City Clerk’s Office. The total amount of planned purchases and cumulative maintenance in 2015 is \$98,916. Annually throughout the life of the Laserfiche Upgrades/Additional Licenses CIP, cumulative purchases from S Corporation for software and maintenance will exceed \$75,000.
- This is a sole source contract with S Corporation, who is the City’s current Colorado provider for Laserfiche services.
- Adequate funds have been budgeted and are available for this expense.

Expenditure Required: \$98,916
Source of Funds: General Capital Improvement Fund – Laserfiche Upgrades/Additional Licenses Project - \$46,720
General Fund – City Clerk’s Office Operating Budget - \$52,196

Policy Issue

Should Council authorize this cumulative purchase over \$75,000 to continue the design, development and implementation of the Laserfiche Electronic Content Management system to better manage the City's public records and automate business processes?

Alternative

City Council could decide not to approve the requested cumulative purchase. Staff does not recommend this alternative, as it would delay a project that will automate processes Citywide and enhance the delivery of services to internal and external customers by integrating imaged documents and electronic databases. Further, it would interrupt a productive relationship between Staff and S Corporation, Inc., which is necessary to ensure ongoing support of implemented software.

Background Information

With the purchase of Laserfiche RIO in late 2012, the City's focus was redirected from creating a records repository to designing an electronic content management system that uses a comprehensive resource of tools to automate a variety of business processes ranging in complexity. The new RIO system allows easy retrieval of records from multiple data sources for internal operational uses, establishes reliable security levels, manages the retention and disposition of documents, and ultimately will provide web access to the City's public records.

The 2015 budget included CIP funding of \$59,000, which will be expended on 51 additional full-user licenses, as well as RIO Quick Fields Core, Forms, Records Management add-ons to support growth of the overall project, and professional services to assist with program development.

Successful completion of the Laserfiche Upgrades Project and approval of cumulative purchases from S Corporation that exceed \$75,000 annually support the City Council's Strategic Plan Goal of "Excellence in City Services" by providing the tools to enhance Staff's ability to efficiently deliver exceptional services to internal and external customers.

Respectfully submitted,

Donald M. Tripp
City Manager



Agenda Memorandum

City Council Meeting
July 13, 2015



SUBJECT: 2015 West View Boiler Room Replacement

Prepared By: Tom Ochtera, Energy and Facilities Projects Coordinator
Mark Ruse, Facilities CIP and Operations Manager

Recommended City Council Action

Authorize the City Manager to award the bid and execute a contract with the lowest and most qualified bidder, Synergy Mechanical, Inc., in the amount of \$180,400 for construction of the 2015 West View Boiler System Replacement; authorize a construction contingency of 10% or \$18,040; and authorize Project Management Services from NV5, Inc. in the amount of \$10,695 bringing the total authorized expenditure for this project to \$209,135.

Summary Statement

- The West View Recreation Center boiler room was built in 2000 and has never had a significant upgrade. All of the equipment, including the domestic hot water tank, heating boiler and domestic hot water boiler and all of the associated pumps are at the end of their expected life and need to be replaced.
- City Staff competitively bid the design phase of the boiler replacement that was awarded to Beaudin Ganze Consulting Engineers.
- The construction contract was also competitively bid and Synergy Mechanical was the lowest and most qualified bidder for this project.
- Project management will be provided by NV5, a firm specializing in Project Management Services.
- Adequate funds have been budgeted and are available for this expense.

Expenditure Required: \$209,135

Source of Funds: General Capital Improvement Fund - West View Boiler Replacement Project - \$125,000
General Capital Improvement Fund - Recreation Facilities Major Maintenance - \$84,135

Policy Issue

Should the City replace the boiler room equipment in West View Recreation Center?

Alternative

City Council could choose not to authorize the replacement of the boiler room equipment and place the project on hold. This is not recommended because the equipment, especially the domestic hot water tank, is at the end of its useful life. If the domestic hot water system fails, there will be no hot water for showering or for the day care program at that facility.

Background Information

The West View Recreation Center was completed in 2000. In this facility, hot water is used for both domestic use (showering, hand washing, etc.) and for heating the building. Currently there are two separate boilers and a hot water storage tank to serve those needs. During the design process for this project, City Staff and the design engineers identified an opportunity to add redundancy to both hot water systems by combining the two separate systems with a heat exchanger. This allows for any or all three boilers to provide hot water for both the domestic hot water and building heating water. In addition, the plan allowed for three high efficiency boilers to provide all of the heating and hot water needs. The refined design allows for one or two of the boilers to fail or to be taken offline without losing all of the heating capabilities at the facility.

Prior to bidding for the boiler system replacement, a lifecycle cost analysis was completed as a portion of the system design. The lifecycle cost analysis takes all of the first costs, operating costs, and energy cost estimates into consideration when determining which system design will deliver the best value for the City. A replacement boiler system that replicates the existing design was projected to cost \$207,401. The proposed design was anticipated to cost slightly more at \$211,575 (net difference of \$4,174). The additional cost of installing the high-efficiency boilers in relation to the reduced energy cost (estimated at \$1,266/year) has a simple payback of 3.3 years. After simple payback is achieved, the proposed system will save an additional \$33,802 (2015 dollars) in avoided energy cost over its remaining service life of 26.7 years. Therefore, the proposed design will achieve significant avoided energy costs over its useful service life while providing enhanced reliability and serviceability.

On May 19, 2015 a Request for Proposals (RFP) was released to five qualified contractors. Of those, only three appeared at the pre-bid walk through resulting in three acceptable bids. The bid tab is below:

Company	Complete bid
SYNERGY Mechanical	\$180,400
Legacy Mechanical	\$238,292
RK Mechanical	\$204,783

Staff is confident Synergy Mechanical can perform the work within the given timeframe and deliver a quality product based on past experience. Synergy Mechanical rebuilt the boiler system at City Park Recreation Center in 2006 and replaced three boilers at Swim and Fitness Center, two in 2012 and one in 2013. The boiler systems at each facility continue to work as constructed with no significant mechanical failures.

The work will require the shutdown of both the heating water and domestic hot water systems at the West View Recreation Center. Pending Council approval, Staff has identified an extended schedule of facility shutdown to coincide with the annual facility shutdown to allow for the work to be completed with the least disruption to the programming schedule.

If approved, construction is scheduled to begin in August of 2015 with completion in a two week period. The project will be managed by NV5, an outside firm that specializes in project management services. In order to better manage the multitude of Capital Improvement Projects within City facilities, the Building Operations Division has contracted project management services. Released as a competitive RFP in January of 2015, this contract was awarded to two project management firms (NV5 Inc. and SBSA, Inc.) based on the expected quantity and types of projects expected in the near term. The awarding of project management services for a variety of projects allows City Staff to better focus on the scoping and contracting tasks while not sacrificing quality assurance on the job-sites. By awarding the on-site owner's representation to outside contractors, Staff time is freed up for the critical tasks of procurement, legal contracting, and financial accounting, while still achieving a high number of projects, successfully completed. They will facilitate the project to ensure it will meet Westminster's quality expectations and the aggressive construction schedule.

The 2015 West View Boiler Room Replacement helps achieve City Council's Strategic Plan Goals of "Beautiful, Desirable, Environmentally Responsible City" and "Excellence in City Services" by contributing to the objectives of a well-maintained City infrastructure and facilities and providing conditioned hot water with reduced risk of system failures.

Respectfully submitted,

Donald M. Tripp
City Manager



Agenda Item 8 C

Agenda Memorandum

City Council Meeting
July 13, 2015



SUBJECT: City Park Recreation Center Pool Filter Replacement

Prepared By: Becky Eades, Landscape Architect II

Recommended City Council Action

Authorize the City Manager to execute a contract for installation of replacement filters on the recreation pool at City Park with Crystal Clear Pools and Spas, Inc. in the amount of \$159,478 with a 10% contingency of \$15,948, for a total authorized expenditure not to exceed \$175,426.

Summary Statement

- Staff is moving forward with the replacement of the existing horizontal filters on the City Park recreation pool with larger, vertical filters as anticipated in separate confidential memorandums submitted to City Council on February 10, 2014, and January 26, 2015.
- The increase in filter size and surface area will improve water clarity and reduce frequency of filter backwashes.
- As stated in the January 26, 2015, confidential memorandum to Council, the replacement filters were ordered in early 2015 and are currently on site.
- A Request for Proposal for filter installation was sent to five qualifying contractors on January 27, 2015.
- Bids for installation of the filters were due on February 19, 2015, and one bid was received.
- The work is scheduled to take place during the annual facility shutdown, August 24 – September 13, 2015.

Expenditure Required: \$175,426

Source of Funds: General Capital Improvement Fund – Recreation Facilities Buildings, Operations and Maintenance Account

Policy Issue

Should the City proceed with replacement of the recreation pool filters at City Park?

Alternative

Council could direct Staff not to proceed with installation of the larger filters. Staff does not recommend this option because the increased surface area provided by the new filters will reduce backwash frequency; therefore, requiring less staff tie and reducing water used by the facility. Additionally, reducing backwash frequency will allow the filters to strain out smaller particle size and reduce turbidity in the water and increase clarity. The filters are on site and were purchased at a reduced price as part of a warranty negotiation.

Background Information

On January 1, 2008, City Council approved a contract with Sink Combs Dethlefs (Architect) for design services for the City Park Aquatics Renovation. On December 8, 2008, City Council approved a contract with Adolfson & Peterson Construction (Contractor) for construction manager/general contractor services for the renovation. A Notice to Proceed was issued on April 21, 2009, and the pool re-opened in late February of 2010.

During the first summer of operation, Staff identified concerns with both backwash frequency and the clarity/turbidity of water in the recreation pool. While always safe for swimmers, and operating fully within state standards, the function of these systems did not meet the City's expectations. Staff has worked diligently with the project architect and general contractor to address and resolve these concerns. Over time both issues have shown improvement, and Staff feels that with the replacement of the filters both the issues have shown improvement, and Staff feels that with the replacement of the filters both the backwash frequency and water clarity will meet City expectations.

The Request for Proposal was sent to five qualified contractors and one bid was received. Staff contacted the firms that did not submit a bid and was told that the contractors were already overbooked and would not be able to complete the work during the pre-determined pool shutdown, or were otherwise not interested in the project. It is necessary for the work to be completed during this time frame because several other projects are also scheduled to take place at the same time, including replacement of windows above the pools and retiling the hot tub area. This shutdown will already be one week longer than usual and any further closures would inconvenience guests and interfere with previously scheduled swim lessons.

Replacement of the filters supports the City's Strategic Plan Goal of Excellence in City Services. The "Westy Way" has historically provided swimming pool water quality far above the standards, and this action will aid in achieving that goal.

Respectfully submitted,

Donald M. Tripp
City Manager



Agenda Item 8 D

Agenda Memorandum

City Council Meeting
July 13, 2015



SUBJECT: Increase to the 2015 Biosolids Composting Contracts

Prepared By: Tim Woodard, Wastewater Treatment Superintendent
Stephen Gay, Utilities Operations Manager

Recommended City Council Action

Authorize the City Manager to increase the existing biosolids composting contracts from \$75,000, for both the A-1 Organics Composting Facility and the Renewable Fiber Composting Facility, for the composting of biosolids during inclement weather and wet field conditions in 2015, with one-year renewal in 2016, to a total authorized amount to be spent between the two vendors not to exceed \$200,000 in 2015, and not to exceed \$200,000 in 2016, plus any unit price cost adjustments based on Consumer Price Index for All Urban Consumers, subject to annual appropriation.

Summary Statement

- During the wastewater treatment process, organic solids called biosolids are separated, treated and transported to the City’s Strasburg Natural Resource Farm for soil conditioning. During wet weather or when the farm fields are wet, the City contracts with composting facilities for biosolids disposal.
- Council authorized biosolids disposal contracts with A-1 Organics and Renewable Fiber in May 2014 for an amount not to exceed \$75,000 per vendor, to be renewed in 2015 and 2016. These vendors are the only biosolids composting facilities available along the Front Range that can be utilized for biosolids disposal.
- Due to the extreme wet weather year-to-date, Staff has been unable to apply biosolids to the City’s farm fields and has used these vendors’ services heavily.
- A-1 Organics has had continued difficulty providing access to their facility, and has also had difficulty providing the composting materials required for the composting process. As a result, Staff has relied more heavily upon Renewable Fiber for biosolids disposal.
- The City has already spent \$28,710 with A-1 Organics and \$41,793 with Renewable Fiber for a total of \$70,503 for combined composting services in 2015. In 2014, the total composting costs for biosolids disposal were \$106,000. Anticipating that further inclement weather in 2015 may be possible and to provide the flexibility to use both facilities whenever possible, Staff is seeking authority to continue using both facilities for an amount not-to-exceed \$200,000 to be spent between the two vendors in 2015 and again in 2016.
- The existing budget for this item is \$75,000. This increase in funding of up to \$125,000 will be absorbed within the Utilities operating budgets.

Expenditure Required: \$125,000

Source of Funds: Utility Fund – Wastewater Fund Operating Budgets

Policy Issue

Should City Council authorize the increase of the biosolids composting contracts with A-1 Organics (A-1) and Renewable Fiber (Renewable) from \$75,000 per vendor to a not-to-exceed amount of \$200,000 to be used for either vendor as needed for biosolids composting services during 2015?

Alternative

City Council could choose not to increase the contracts with A-1 and Renewable. Staff does not recommend this alternative. Based on the extreme wet weather year-to-date, and in anticipation of more wet weather this summer, Staff believes that the \$75,000 limit will be exceeded for at least one, if not both of the vendors by the end of 2015. Authorizing an increased not-to-exceed amount of \$200,000 provides Staff the flexibility to dispose of the City's biosolids with either vendor during 2015.

Background Information

During the wastewater treatment process, organic solids called biosolids are separated, treated and transported to the City's Strasburg Natural Resource Farm and other private farms for soil conditioning. Currently, the Big Dry Creek Treatment Facility transports and applies approximately 20 tractor trailer loads of thickened biosolids per week to the City's farm fields. When Staff cannot apply biosolids to the fields due to wet weather, the biosolids are sent to a composting facility for disposal.

The City currently has contracts with A-1 and Renewable for composting, and these two vendors are the only biosolids composting facilities available along the Front Range. Council originally authorized contracts with A-1 and Renewable in 2014 for an amount not to exceed \$75,000 per vendor, and the contract was authorized for renewal in 2015 and 2016.

Due to the extremely wet weather this spring, Staff has been unable to apply biosolids to the farm fields and has used the A-1 and Renewable composting facilities more than anticipated. In addition, because A-1 has had difficulty providing access to their facility and has also had difficulty providing the materials necessary to the composting process, Staff has relied more heavily upon Renewable for disposal. Because of the reliance upon Renewable's services, Staff is concerned that the approved \$75,000 amount for this vendor will be exceeded before the end of 2015.

The City has already spent a total of \$70,503 this year for composting services between the two vendors (\$28,710 with A-1 and \$41,793 with Renewable). During May, composting services were used 14 days for a total of \$18,828, and in June, services were used 13 days for a total of \$17,719. For context, the total composting costs for biosolids disposal in 2014 were \$106,000. Anticipating that this year's wet weather may continue and because the biosolids composting must occur during every month of the year, Staff is requesting an increase to the existing contracts with A-1 and Renewable in 2015 from the \$75,000 per vendor to a not-to-exceed amount of \$200,000 to be spent between the two vendors in 2015. This amount would allow for continued disposal at either of the two facilities throughout 2015, depending on the accessibility to either facility. Staff is requesting a change to the 2015 and 2016 contracts, to include any unit price cost adjustments based on Consumer Price Index for All Urban Consumers, subject to annual appropriation.

Adjusting contracts with the City's biosolids composting vendors helps achieve City Council's Strategic Plan goals of "Excellence in City Services" by contributing to the objectives of well-maintained City infrastructure and facilities.

Respectfully submitted,

Donald M. Tripp
City Manager



Agenda Item 8 E

Agenda Memorandum

City Council Meeting
July 13, 2015



SUBJECT: Second Reading of Councillor's Bill 29 re: Elevate Colorado LLC Lease at the Ice Centre

Prepared By: Chris Johnson, City Park Superintendent

Recommended City Council Action

Pass Councillor's Bill No. 29 on second reading authorizing the City Manager to sign a lease agreement between the City of Westminster, Hyland Hills Park and Recreation District (through its Recreational Facilities enterprise) and Elevate Colorado LLC for the lease of approximately 3,600 square feet of space in the Ice Centre at the Promenade.

Summary Statement

- On January 14, 2013, City Council passed Councillor's Bill No. 50 authorizing the City Manager to sign a one-year lease with Citylife Church for the use of approximately 1,375 square feet of space in the Ice Centre at the Promenade.
- This lease agreement has expired, Citylife Church has been on monthly terms since its expiration, and has chosen not to renew a lease.
- The new lease duration is for five years at a rate of \$58.33 per square foot for a total \$210,000 for the term of the lease. There will also be a \$5,000 security deposit for any potential damages to the facility. Elevate Colorado LLC will be renting 3600 square feet.
- Elevate Colorado LLC is a company that provides Physical Therapy and Sports Performance and Fitness Training.
- This Councillor's Bill was passed on first reading on June 22, 2015.

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

Respectfully submitted,

Donald M. Tripp
City Manager

Attachment: Councillor's Bill

BY AUTHORITY

ORDINANCE NO. **3787**

COUNCILLOR'S BILL NO. **29**

SERIES OF 2015

INTRODUCED BY COUNCILLORS
Seitz - Briggs

**A BILL
FOR AN ORDINANCE APPROVING A LEASE AGREEMENT BETWEEN THE CITY,
HYLAND HILLS PARK AND RECREATION DISTRICT, AND ELEVATE COLORADO LLC
FOR THE LEASE OF A PORTION OF THE ICE CENTRE AT THE WESTMINSTER
PROMENADE**

WHEREAS, City Council previously authorized an intergovernmental agreement between the City and the Hyland Hills Park and Recreation District for the purpose of constructing and operating an Ice Centre at the Westminster Promenade; and

WHEREAS, the City and Hyland Hills have selected Elevate Colorado LLC as one of the tenants at the Ice Centre's retail/office space; and

WHEREAS, the final form of the lease agreement has been agreed to by the parties.

THE CITY OF WESTMINSTER ORDAINS:

Section 1: Pursuant to City Charter Section 13.4, the Lease Agreement between the City, Hyland Hills Park and Recreation District, acting by and through its Recreational Facilities Enterprise, and Elevate Colorado LLC for the lease of a portion of the Ice Centre at the Westminster Promenade, attached hereto as Exhibit A, for a Physical Therapy and Sports Performance/Physical Fitness Business is hereby approved.

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

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

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 22nd day of June, 2015.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 13th day of July, 2015.

ATTEST:

Mayor

City Clerk

APPROVED AS TO LEGAL FORM:

City Attorney

LEASE

This Lease, made and entered into this ___ day of _____, 2015 by and between HYLAND HILLS PARK AND RECREATION DISTRICT and THE CITY OF WESTMINSTER, hereinafter collectively referred to as "Landlord" and ELEVATE COLORADO LLC, a Colorado corporation, hereinafter referred to as "Tenant".

1. LEASED PREMISES:

Upon the terms, conditions, covenants, limitations and agreements, and at the rental and for the terms as hereinafter set forth, Landlord hereunto leases unto Tenant and Tenant hereby leases from Landlord the Leasehold Premises ("Premises") at Landlord's Ice Centre, 10710 Westminster Blvd., Jefferson County, Colorado, as more fully described in Exhibits A attached hereto.

2. TERM:

The term of this Lease and the right of Tenant to take possession and occupy the Premises, pursuant to this Lease, shall commence at 12:01 a.m. on the 1st day of July, 2015 and, unless sooner terminated or later extended, as provided herein, shall expire at 12:01 a.m. on the 1st day of July, 2020.

3. USE OF PREMISES:

3.1 Tenant shall occupy, use and operate the Exhibit A Leasehold Premises as a Physical Therapy and Sports Performance/Physical Fitness business.

3.2 Tenant shall not:

a. Permit any unlawful practice to be carried on or committed on the Leasehold Premises;

b. Make any use or allow the Leasehold Premises or any part thereof to be used in any manner or for any purpose that might invalidate or increase the rate of insurance on any policy maintained by Landlord, for any purposes other than those hereinabove specified, nor for any purpose that shall constitute a public or private nuisance, shall be in violation of any governmental laws, ordinances or regulations, shall be contrary to any restrictive covenants, agreements or limitations of record, or shall render the premises, or any part thereof, uninsurable with standard insurance at ordinary rates.

c. Keep or permit to be kept or used on the Leasehold Premises any flammable fluids, toxic materials, or substances of any nature reasonably deemed dangerous by the Landlord or the Landlord's insurance carriers without obtaining prior written consent of the Landlord, except for small quantities of cleaning products incidental to their permitted uses described in this Agreement;

d. Use the Leasehold Premises for any purpose which creates a nuisance or injures the reputation of the Leasehold Premises or the Landlord;

e. Deface or injure the Leasehold Premises, or commit or suffer any waste in or about the Leasehold Premises:

f. Permit any odors to emanate from the Leasehold Premises in violation of any local, state or federal law or regulation;

g. Use any portion of the Leasehold Premises for storage or other purposes except as is necessary and required with its use specified in this Agreement.

h. Keep or permit to be kept or used on the Leasehold Premises any pets except for guide animals pursuant to the provisions of the federal Americans With Disabilities Act and/or corresponding state statute or local ordinance.

4. RENT AND SECURITY DEPOSIT:

4.1 Tenant shall pay to Landlord, as minimum rent for the term of this Lease, the sum of Two Hundred Ten Thousand Dollars (\$210,000.00), together with any additional rents as may hereinafter be reserved. Said rental, exclusive of any additional rents, shall be payable in monthly payments as follows: commencing November 1, 2015, Tenant shall pay to Landlord the sum of Four Thousand Five Hundred Twenty Five Dollars and Eighty Five Cents (\$4525.85), payable in advance, and on that same day of the month for every month through the month of June, 2016. Commencing on July 1, 2016, Tenant shall pay to Landlord the monthly sum of Three Thousand Six Hundred Twenty Dollars and Sixty Eight Cents (\$3620.68), payable in advance, and on that same day of the month for every month of the rental term thereafter.

Every such payment referenced above shall be payable at the office of Landlord, 8801 Pecos Street, Denver, Colorado 80260, without notice or demand whatsoever.

4.2 Any other sums of money or charges to be paid by the Tenant, pursuant to the provisions of this Lease, shall be designated as "additional rent". A failure to pay additional rent shall be treated in all events as the failure to pay rent.

4.3 If the payment of any rent or any other monies payable under the terms of this Lease shall not be paid when due, and Tenant shall not have paid such arrears within three business days of Landlord providing Tenant with notice thereof, Tenant agrees that additional rent, in the amount of five (5) percent of the arrearage amount, shall be immediately due and payable from Tenant to Landlord.

4.4 Tenant shall pay to Landlord, upon execution of this Agreement, the sum of \$5,000.00 as a security deposit, the receipt of which by Landlord is acknowledged. Said security deposit will be returned, together with interest thereon, minus any amounts retained and applied to damages (ordinary wear and tear excepted), caused by Tenant, or rent owing to Landlord from Tenant, upon completion of all necessary repairs to the Premises or within ninety (90) days of termination of the this Lease, whichever comes earlier.

5. OCCUPANCY OF THE PREMISES:

Occupancy of all or a part of the Premises by Tenant shall be deemed an acceptance of the same in good and suitable condition by said Tenant.

6. PARKING:

Tenant understands that existing adjacent parking lots are available for patrons of the Premises and that no parking spaces shall be reserved for Tenant's employees, customers or others.

7. UTILITIES:

Tenant shall pay all charges for electricity consumption per sub meter located in the Ice Centre together with \$400 per month for that portion of the Common Area Maintenance fee charged to the Ice Centre for exterior upkeep and snow removal assigned to Tenant. The \$400 shall be payable, in advance, on the 1st day of each month of the Lease term, commencing September 1, 2015. Landlord will pay for water, sewer, gas, trash, and the Common Area Maintenance fee charged to the entire Ice Centre facility.

8. MAINTENANCE AND REPAIRS:

8.1 Tenant shall keep and maintain the Premises in good condition and repair at the sole expense of Tenant and, at the expiration of this Lease, Tenant shall surrender and deliver up the said Premises in as good order, condition and repair, loss by inevitable accident or Act of God excepted, as said Premises were accepted by Tenant at the commencement of this Lease, excepting therefrom normal wear and tear. Tenant shall not make any modifications to Premises without Landlord's written approval and Tenant shall be liable for any damage caused to such connections and system due to

Tenant's occupancy of the Premises. Tenant shall pay for fifty percent (50%) of all water, sewer, and HVAC repair costs associated with the leased premises.

8.2 Tenant shall keep the Premises clean and in the sanitary condition required by the ordinances and health and police regulations of the City of Westminster, County of Jefferson and State of Colorado. Tenant shall neither permit nor suffer any disorderly conduct, noise or nuisance whatsoever about the Premises.

8.3 If Tenant shall fail or refuse to complete or perform any maintenance, repairs or upkeep required pursuant to the terms of this paragraph 8 within fifteen (15) days after request by Landlord so to do, Landlord may cause such maintenance, repairs or upkeep to be made or done and may thereafter charge the reasonable cost thereof to Tenant and the same shall be and constitute additional rent due hereunder.

9. LIENS AND CLAIMS AGAINST LANDLORD:

9.1 Tenant shall pay, when due, for all work performed on or for the benefit of, or materials furnished to, the Premises by any person at Tenant's request. In this regard, Tenant shall indemnify and hold harmless and defend Landlord from any and all liability and expense resulting from any lien, claim of lien, or claim against Landlord arising from such work or labor. Tenant shall have the right to contest the validity of such lien, claim of lien, or claim.

9.2 Tenant shall not contract for the performance of any such labor or the acquisition of or delivery of any such materials, or the installation of any such improvements unless Tenant shall first obtain Landlord's written approval thereof.

10. INSURANCE:

10.1 Tenant shall procure and continuously maintain at its own expense the minimum insurance coverages listed below, with forms and insurers acceptable to Landlord. In the case of any claims-made policy, the necessary retroactive dates and extended reporting periods shall be procured to maintain such continuous coverage.

a. Commercial General Liability Insurance with combined single limit of \$3,000,000 per occurrence. This policy must include Contractor Liability; Products Liability; Broad Form Property Damage including, but not limited to, coverage for any damage to any Landlord personal or real property due to fire or water related to Tenant's operations pursuant to this Agreement; and Personal Injury;

b. Owned, hired, and non-owned automobile liability coverage with \$600,000 limit;

- c. Statutory workers' compensation on all employees;
- d. All risk insurance for full insurable replacement value of Landlord-owned equipment and personal property.

10.2 The required insurance policies shall be endorsed to include the City of Westminster and Hyland Hills Park and Recreation District as additional insured as their interests may appear under this Agreement. Every policy required above shall be primary insurance, and any insurance carried by the City of Westminster and/or Hyland Hills Park and Recreation District, their respective elected officials, officers, employees, or others working on their behalf, or carried by or provided through any self-insurance pool of the City or Hyland Hills, shall be excess and not contributory insurance to that provided by Tenant. Each party to this Agreement agrees to waive subrogation on respective property insurance.

10.3 The Certificate of Insurance provided to Landlord shall be completed by Tenant's insurance agent as evidence that policies providing the required coverages, conditions, and minimum limits are in full force and effect, and shall be reviewed and approved by Landlord prior to the commencement of the Agreement. The certificate shall identify this Agreement and shall provide the coverages afforded under the policies shall not be canceled, terminated or materially changed until at least thirty (30) days prior written notice has been given to the Landlord. Certificates of insurance shall be marked to identify this Agreement and shall be sent to:

Executive Director
Hyland Hills Park and Recreation District
1800 W. 89th Ave
Denver, Colorado 80260

An updated certificate of insurance shall be delivered by Tenant to Landlord on January 1st of each year that lease is in effect.

A certified copy of any policy shall be provided to the Landlord upon its request.

10.4 The parties hereto understand and agree that the City of Westminster and Hyland Hills Park and Recreation District are relying on, and do not waive or intend to waive by any provision of this Agreement, the monetary limitations or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, § 24-10-101, *et. seq.*, C.R.S, as from time to time amended, or otherwise available to them and their elected officials, officers, or employees.

10.5 Tenant covenants that it will neither permit nor suffer the Premises or the walls or floors thereof to be endangered by overloading, nor said Premises to be

used for any purpose which would render the insurance void or the insurance risk more hazardous.

10.6 Tenant will indemnify, defend and hold Landlord, its officers, directors and agents harmless from any and all claims by third parties (including without limitation, all costs, actions, proceedings, liabilities, judgments, expenses, damages and reasonable attorneys' fees) which arise out of or in connection with: (a) the Tenant's breach of this agreement or any representation or warranty made by the Tenant herein; (b) any act or omission to act of the Tenant or its employees, officers or agents; (c) any act or omission to act of any vendor, promoter, or subtenant of the Premises or other contractor of Tenant in the Premises; or, (d) any personal injury or property damage occurring at or about the Premises, except to the extent that the injury of damage is caused by the negligence or actions or omissions of Landlord.

11. DAMAGE BY FIRE OR OTHER CASUALTY:

11.1 Unless as set forth in subparagraph 11.2, below, this Lease and all agreements, covenants, terms and conditions contained herein shall remain in full force and effect notwithstanding damage to or destruction of any of the furniture, fixtures, inventory or equipment maintained upon the Premises and, regardless of the nature or extent of the damage and Tenant shall not be entitled to any reduction in or abatement of the rental hereinabove reserved, nor shall Tenant be entitled to any reduction, abatement, or postponement of any of the monthly rental installments hereinabove reserved for or on account of such damage or destruction.

11.2 However, in the event that such damage or destruction was not caused by any act of Tenant, its officers, employees, agents, invitees or licensees or by any action of any person(s) (excluding Landlord=s officers, employees or agents) directly related to the conduct of Tenant=s business operations upon the Premises, then in that event, Landlord shall inform Tenant, within thirty (30) days of the date of destruction or damage, of Landlord=s intent to remedy such damage or destruction by replacement or renovation of the damaged property (except for such damage covered under the policies of insurance more fully described in paragraph 10, above). If Landlord does not replace or renovate the non-covered damage or destruction or if the Premises cannot be reasonably restored to the condition existing at the time of the damage or destruction, either within ninety (90) days of such damage or destruction, Tenant may, at Tenant=s option terminate this Lease without further obligation on Tenant=s part and Tenant shall vacate the Premises within twenty (20) days of such decision to terminate or Tenant may elect to continue the Lease and shall cooperate fully with Landlord in restoring/repairing the damage or destruction. If the Premises are untenantable, Tenant shall receive an apportionment of the rent until the Premises are tenantable.

12. ASSIGNMENT AND SUBLETTING:

12.1 Tenant may not assign, in whole or in part, this Lease or any interest therein, nor may Tenant sublet all or any part of the Premises without the prior written consent of Landlord being first had and obtained. Any assignment or sublease in violation of the provisions of this paragraph shall be null, void and of no effect whatsoever, regardless of the fact that Landlord may have received other sums of money or services from the proposed assignee or subTenant. Any sum so received shall be deemed to have been received from Tenant.

12.2 No attempted assignment or attempted subletting of all or any part of the Premises shall relieve Tenant from any of its obligations under the provisions of this Lease, including the payment of rent and any notice required to be given by the provisions of this Lease shall be deemed to be properly given to all putative assignees and putative subTenants when given to Tenant as herein provided.

12.3 Tenant may not grant any easement or license to any person or entity not a party hereto for any reason whatsoever without the express written consent of Landlord.

13. SURRENDER OF LEASEHOLD PREMISES:

Upon the expiration or other termination of this Lease or any extension thereof, Tenant shall quit and surrender the Premises to Landlord in as good order, condition and repair, loss by inevitable accident or Act of God excepted, as when said premises were accepted by Tenant at the commencement of this Lease, normal wear and tear excepted. Tenant's obligation to observe or perform the provisions of this paragraph shall survive the expiration or termination of this Lease.

14. HOLDING OVER:

If, after the expiration or other termination hereof, Tenant shall remain in possession without a written agreement therefore, such holding over shall be deemed to be upon a month-to-month tenancy under the same terms, conditions and provision contained herein.

15. EXTENSION OF LEASE:

If, at the end of the lease term set forth in paragraph 2, above, or the end of any extension provided pursuant to this section, Tenant shall not be in default of any of the provisions of this Lease, this Lease shall be automatically extended for an additional twelve (12) month term on the same terms and conditions set forth herein. Provided, however, that if either party hereto shall give written notice to the other party, no later than

thirty (30) days prior to the expiration of the current term of this Lease, of its desire not to extend the term of the Lease, this paragraph shall be null and void and of no effect.

16. DEFAULTS BY TENANT AND REMEDIES:

16.1 Subject to the other provisions of this paragraph, each of the following shall constitute a default by Tenant and a breach of this Lease:

a. If the rent, additional rent, or any part thereof, as herein reserved, shall be unpaid when due.

b. If Tenant does not comply with any provision of this Lease.

c. If Tenant should violate or fail to comply with any of the statutes, ordinances, rules, orders, regulation or requirements, as the same exist or may hereinafter be established, of the government of the United States of America, the State of Colorado, County of Jefferson and the City of Westminster, or of any bureau, department or subdivision thereof.

d. If the Premises should be abandoned or vacated. Abandonment or vacation shall include the attempted removal of equipment, furniture and/or fixtures such as to degrade the ability of Tenant to carry on its business upon the Premises or cessation of a substantial portion of Tenant's normal business dealings at the Premises.

e. If Tenant should attempt to sell, assign, sublet or mortgage all or any part of either the Premises or the leasehold interest herein created without the prior written consent of Landlord having been first had and obtained.

f. If by operation of law this Lease should be transferred to, or pass to, or devolve upon, any person or entity other than Tenant.

g. If Tenant should be adjudicated as bankrupt or insolvent and such proceeding should not be vacated within thirty (30) days.

h. If Tenant should file a petition in bankruptcy or make a general assignment for the benefit of creditors.

i. If Tenant should file a petition or answer seeking reorganization or readjustment under Federal bankruptcy laws.

j. If a Receiver or Trustee should be appointed with respect to all or substantially all property of Tenant in any suit or proceeding against Tenant or in any bankruptcy proceeding.

k. If any execution or attachment shall be issued against Tenant, or any of Tenant's property, whereby someone other than Tenant shall take or occupy the Premises.

16.2 Upon the occurrence of any of the events of default set forth above, then, and at any time thereafter, Landlord may, at Landlords' sole option and in addition to all other rights available to Landlord at law or equity or contained in this Lease, either:

a. Give Tenant written notice of Landlord's intention to terminate this Lease on the date of such notice or on any later date specified herein, upon which date Tenant's right to use, occupancy and possession of the Premises shall cease and this Lease shall thereupon be terminated; or

b. Re-enter and take possession of the Premises or any part thereof and repossess the same as Landlord's former estate.

c. Should Landlord take such possession pursuant to the terms of this agreement, legal proceedings or pursuant to any notice provided by law or this Lease, Landlord may: (1) terminate this Lease at any time; or (2) from time to time without terminating this Lease, relet the Premises or any part thereof for such term or terms and at such rental or rentals and upon such other terms and conditions as Landlord may deem advisable, with the right to make alterations and repairs to the Premises but reserving to Landlord the right at any time to elect to terminate this Lease as paragraph 16.2 (a) provides.

16.3 Unless Landlord shall have exercised its right to re-enter and take possession of the Premises pursuant to 16.2(b), in the event Landlord shall elect to terminate this Lease, Landlord shall give Tenant twenty (20) days written notice of the existence and nature of such default and of Landlord's election so to terminate. If such default exists at the expiration of such twenty (20) day period, and Landlord shall not have waived the same by written instrument, this Lease, and the term hereof, together with any and all right, title and interest in the Premises as herein granted to Tenant, shall terminate on the date fixed in said notice with the same force and effect (except as to the continuance of Tenant's liability) as if the date fixed by notice were the expiration of the term originally granted herein.

16.4 In the event Landlord shall elect to retake the Premises without terminating this Lease, Landlord shall give Tenant twenty (20) days written notice of the existence and nature of any such default and of Landlord's election to retake under the terms hereof. If such default exists at the expiration of said twenty (20) day period, and Landlord shall not have waived the same by written instrument, Landlord may, without terminating this Lease, retake possession of the Premises.

16.5 In the event that Landlord does not elect to terminate this Lease as permitted in paragraph 16.2 (a), but on the contrary elects to take possession as provided in paragraph 16.2 (b), then such possession of the Premises by Landlord shall not relieve Tenant of its liability and obligation under this Lease, all of which shall survive such repossession. In the event of such repossession, Tenant shall pay the fixed rent and all additional rent as herein provided up to the time of termination of this Lease (which Landlord can declare at any time), and thereafter Tenant, until the end of what would have been the term of this Lease in the absence of such repossession, and whether or not the Premises shall have been relet, shall be liable to Landlord for, and shall pay to Landlord as liquidated current damages:

a. The minimum rent and additional rent as herein provided which would be payable hereunder if such possession had not occurred, less the net proceeds, if any, of any reletting of the Premises, after deducting all of Landlord's expenses in connection with such reletting, including, but without limitation all repossession costs, legal expenses and attorneys' fees and expenses of preparation for such reletting.

Tenant shall pay such current damages to Landlord on the days on which the fixed rent would have been payable hereunder if Landlord had not repossessed, and Landlord shall be entitled to receive the same from Tenant on each such day.

b. If Tenant breaches or defaults any term of this Lease and abandons or vacates the Premises before the end of the term hereof, or if Tenant's right to possession is terminated by Landlord because of a breach or default of this Lease, Landlord may recover from Tenant a judgment from a court of law having appropriate jurisdiction, in addition to any other damages provided for at law, in equity, in this Lease, or otherwise, a sum equal to the unpaid lost rent for the balance of the rental term, or any exercised extension thereto, minus the amount of such rental loss for the same period the Tenant proves could be reasonably avoided.

16.6 Tenant shall, at the expiration of the twenty (20) days notice periods set forth above and Tenant has not cured any default, immediately quit and surrender to Landlord the entire Premises, and Landlord may enter into or repossess the Premises either by force, summary proceedings, or otherwise. Tenant further agrees that, in the event of repossession by Landlord, Landlord may, without notice to Tenant, sell such of Tenant's inventory, furniture, fixtures or equipment as then remain upon the Premises in such manner and for such amount as Landlord may deem advisable. Thereafter, Landlord shall remit the proceeds of such sale, after deduction for the costs of the sale and any monies owed to Landlord by Tenant pursuant to the term of this Lease, to Tenant.

16.7 In the event of any default by Tenant pursuant to subparagraph 16.1d, above, or if Tenant violates the provisions of Section 17, below, and notwithstanding any other provision herein, Landlord shall have the right at Landlord's sole option and without

any necessity of notice (and without restricting or surrendering any of Landlord=s other rights hereunder), and Tenant hereby agrees and consents thereto, to immediately take possession of the Premises and all equipment, inventory, contents, furniture and fixtures therein, of whatever kind or ownership, and to, within a reasonable time and in a reasonable manner, cause the same to be sold and the proceeds thereof applied to any monies owned to Landlord by Tenant pursuant to this Lease.

17. TENANT'S BUSINESS OPERATIONS:

During the term of this Lease, and as the same may be extended or renewed, Tenant shall continuously conduct and carry on Tenant's business activities in the entire Premises.

18. IMPROVEMENTS TO LEASEHOLD PREMISES:

18.1 All Premises improvements that constitute fixtures, however denominated, existing at the time of execution of this Lease shall be and remain the property of Landlord and may not be removed by Tenant at any time, from the Premises, without the express written consent of Landlord.

18.2 Tenant shall make no improvements to the Premises without the prior written consent of Landlord and only upon such terms and conditions as set forth by Landlord. All such improvements, however denominated, shall be and remain the property of Landlord and may not be removed by Tenant at any time, from the Premises, without the express written consent of Landlord, except for those improvements which can be removed by Tenant without damage to the Premises.

19. SIGNAGE:

Tenant may cause to be installed one or more signs in such design(s) and location(s) as shall be approved by Landlord and in conformance with the City of Westminster Municipal Code. Such sign(s) shall be and remain the property of Tenant and Tenant shall be solely responsible for the purchase, installation, operation and maintenance of the sign(s) and all associated costs. Tenant shall maintain all signs or advertisements approved by Landlord in good and attractive condition. Landlord shall assist with the electrical hook-up of said sign(s). Upon the termination of the Lease, unless otherwise agreed to by Landlord, Tenant shall cause such sign(s) and any associated improvements to be immediately removed from the premises and repair any resulting damage to the Premises all at Tenant's expense.

20. RELATIONSHIP OF PARTIES:

Landlord and Tenant are not nor shall they become, by virtue of this Lease, anything other than Landlord and Tenant. Landlord and Tenant are not joint venturers, partners, or agents of one another nor is either party employed by the other.

21. NOTICES:

All notices, requests, consents and other communications hereunder shall be in writing and shall be deemed to have been sufficiently given or served if deposited in the United State mails, registered or certified, postage prepaid, and addressed as indicated below:

Landlord:

Executive Director
Hyland Hills Park and Recreation District
8801 Pecos Street
Denver, Colorado 80221

Tenant:

22. ENTIRE AGREEMENT:

This Lease, with all exhibits and schedules annexed hereto, contains the entire agreement between Landlord and Tenant and any executory agreement hereafter made between Landlord and Tenant shall be ineffective to change, waive, release, discharge, terminate, or effect an abandonment of, this Lease, in whole or in part, unless such executory agreement is in writing and signed by both Landlord and Tenant.

23. SEVERABILITY:

If any provision, sentence, phrase, or word of this Lease, or application thereof to any person or circumstance, shall be held invalid, the remainder of this Lease, or the application of such provision, sentence, phrase or work to persons or circumstances other than those as to which it is held invalid shall not be affected thereby.

24. BINDING EFFECT:

Except as is otherwise provided herein, this Lease shall be binding upon and inure to the benefit of the heirs, administrators, devisees, personal representatives, successors and assigns of Landlord and Tenant.

25. WAIVER:

No assent, express or implied, to any breach of any one or more of the covenants and agreements hereof shall be deemed or taken to be a waiver of any other or succeeding breach.

26. SURVIVAL CLAUSE:

All unperformed agreements, covenants and conditions herein contained shall survive the execution, expiration or termination hereof and shall not be merged therewith.

27. PARAGRAPH HEADINGS:

The paragraph headings contained herein are for convenience only and shall in no way change, alter, modify or affect any of the provisions or conditions herein contained.

28. ACKNOWLEDGMENT OF EXAMINATION:

The parties hereto acknowledge that they have carefully read and thoroughly understand the terms and conditions of this Lease. It contains the entire agreement and understanding under which they have entered into this Lease and the results and understandings of all of their negotiations have been merged in this Lease. Tenant and Landlord accept the terms and conditions hereof in all respects and agree to be bound thereby. Each of the parties hereto acknowledge that they have either had benefit of legal counsel in the negotiation and preparation hereof, or, in the alternative, they recognize the need for such counsel but have elected not to seek the same.

29. PERMITS AND LICENSES

Tenant shall procure, supply, and post, at its own expense, in places to be designated by Landlord, all permits and licenses necessary for the operation of the Leasehold Premises and shall pay, at its own expense, all taxes assessed or levied against its business and merchandise.

30. ACCESS AND INSPECTION.

Landlord, its designated agents, employees, servants, and any other person

authorized by Landlord may enter the Leasehold Premises, at any reasonable time and upon reasonable written notice, for the purpose of inspecting the same. Any entry onto or inspection of the Leasehold Premises by Landlord pursuant to this section shall not constitute interference with the operations of Tenant and no abatement of any payments due under this Agreement shall be allowed; provided, however, the scope, timing and length of the inspection is reasonable.

31. OTHER PAYMENT OBLIGATION.

Tenant shall promptly pay all taxes and fees of whatever nature, applicable to the use, occupancy and operation of the Leasehold Premises, and shall maintain all licenses, municipal, state or federal, required for the conduct of business and shall not permit any of said taxes or fees to become delinquent. Tenant shall furnish to Landlord, upon request, duplicate receipts or other satisfactory evidence showing the prompt payment of the social security, unemployment compensation and all taxes and fees above referenced. Tenant shall pay promptly when due all bills, debts and obligations, including but not limited to its portion of charges for water, sewer, light and electricity as set out in Section 7 herein, as well as all charges for telephone service, refuse collection, and all other costs and expenses related to the operation of the Leasehold Premises and shall not permit the same to become delinquent and suffer any lien, mortgage, judgment, execution, or adjudication in bankruptcy which will in any way impair the rights of Landlord under this Agreement. All such costs and expenses of Tenant are to be borne by Tenant.

32. RELATIONSHIP TO TRUSTEE.

32.1 The parties hereto acknowledge that pursuant to that certain 1998 Ground Lease Agreement ("Lease") and that certain 1998 Lease Purchase and Sublease Agreement ("Sublease"), both by and between the City of Westminster and the City of Westminster Building Authority, the City has leased to the City of Westminster Building Authority the Ice Centre building and the improvements located therein and said Building Authority has subleased to the City said building and improvements.

32.2 The parties hereto further acknowledge that the City of Westminster Building Authority has assigned certain of its rights pursuant to the documents described in subparagraph 32.1 and that certain 1998 Mortgage and Indenture of Trust ("Indenture") to the U. S. Bank National Association d/b/a Colorado National Bank, as Trustee.

32.3 The parties hereto further acknowledge that, pursuant to paragraph 13.2 of the above-referenced Sublease:

(a) This Lease Agreement is subordinate to the Lease, Sublease and Indenture as identified in 32.1 and 32.2;

(b) If a Termination Event occurs (as defined in said Sublease), Tenant shall pay to the Trustee all rents payable under this Lease Agreement and this Lease Agreement will be assigned to the Trustee;

(c) So long as Tenant is in compliance with the terms of this Lease Agreement the Trustee shall not disturb Tenant's use of the Premises.

32.4 Landlord warrants that nothing in this Lease Agreement violates any terms of the Ground Lease or any associated document, law, or regulation.

33. ATTORNEYS FEES:

If any dispute shall arise between the parties hereto regarding the interpretation of this lease or any provision thereof or the application of any provision, which dispute results in the filing of any suit or legal proceeding, the party adjudged by the judge or legal officer presiding over such proceedings to be the prevailing party shall be awarded its reasonable attorneys' fees and costs from the non-prevailing party.

LANDLORD:

HYLAND HILLS PARK AND RECREATION DISTRICT

Yvonne Fischbach, Executive Director

Date: _____

Approved as to legal form: _____
Richard Fuller, Administrative Counsel

CITY OF WESTMINSTER

_____ Date: _____

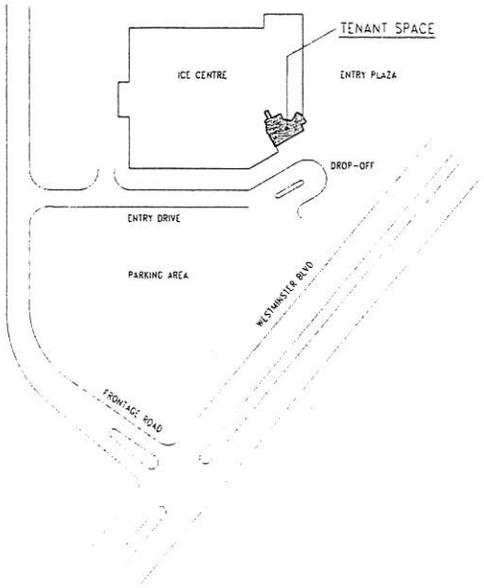
Approved as to legal form: _____
City Attorney

TENANT:

ELEVATE COLORADO LLC

Date: _____

DRAFT



1 LOCATION PLAN
 A1.0 NO SCALE

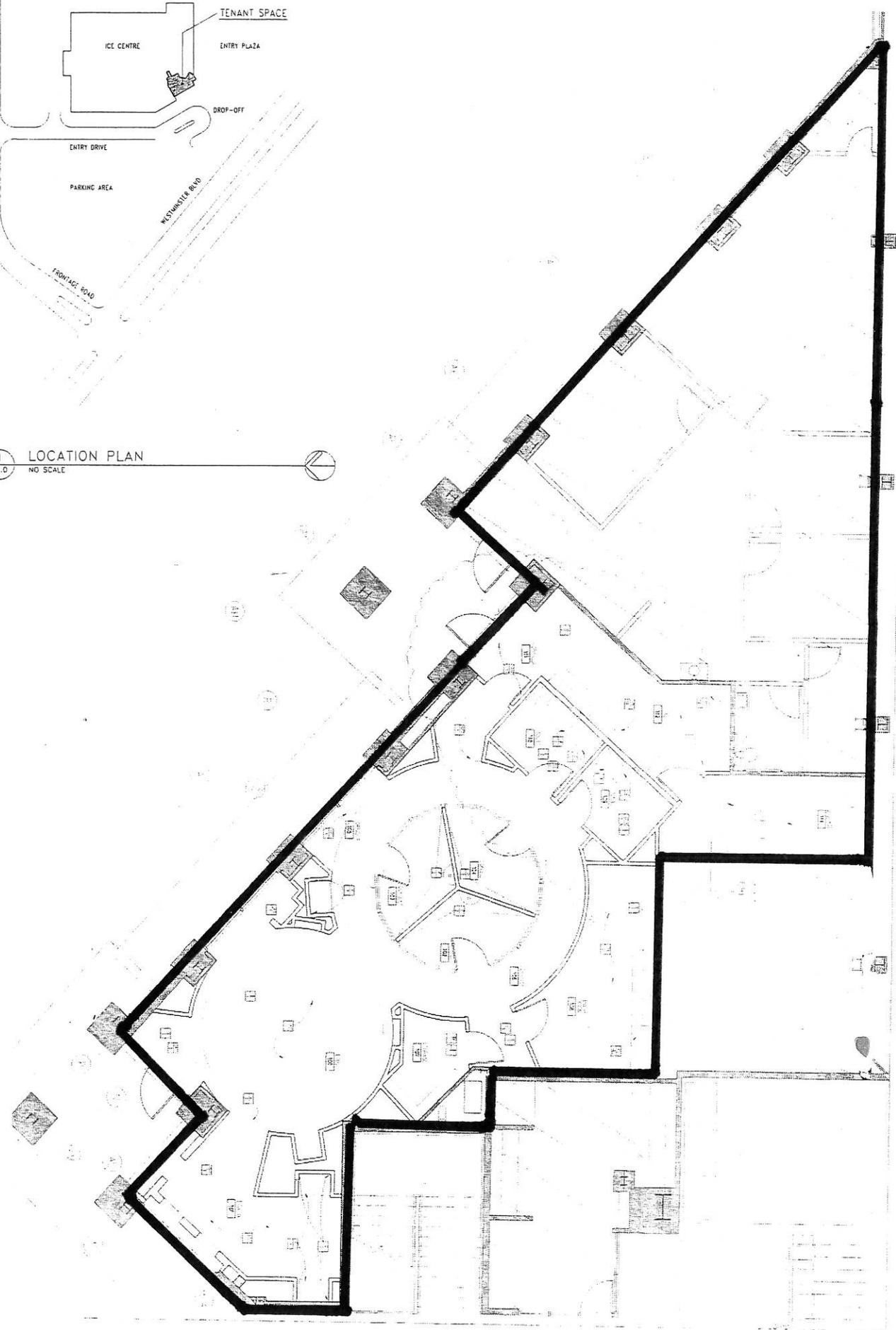


Exhibit A



Agenda Item 10 A

Agenda Memorandum

City Council Meeting
July 13, 2015



SUBJECT: Councillor's Bill No. 32 Vacating the Final Plat for Westminster Center Subdivision, Filing No. 1

Prepared By: David W. Loseman, Assistant City Engineer

Recommended Board Action

Pass Councillor's Bill No. 32 on first reading vacating the entire final plat for Westminster Center Subdivision, Filing No. 1 and any streets dedicated by this plat.

Summary Statement

- The Westminster Center Urban Reinvestment Project (WURP), formerly the home of the Westminster Mall, is bounded by Sheridan Boulevard, 88th Avenue, Harlan Street and 92nd Avenue and is in the early stages of being redeveloped.
- In January of 2015, a final plat was approved for the Downtown Westminster property entitled, "Westminster Center Subdivision, Filing No. 1." This plat was prepared in response to a developer's request to quickly convey certain portions of the property at that time.
- Since April of this year, the City has taken a different approach to the development of this project, and the current intent is to work with multiple developers on a block-by-block basis to build the project. This decision required some modifications to the earlier plan and also requires a new final plat for the entire property. A simple replat of the property in this case would not be feasible since the street rights-of-way dedicated by the earlier final plat have to be vacated by ordinance to comply with Colorado Revised Statutes.
- All utilities located within the street rights-of-way shown on this plat are either no longer in use or will be relocated when the new roads for the project are constructed.
- A copy of the plat to be vacated is included as Exhibit A.

Expenditure Required: \$0

Source of Funds: N/A

Policy Issue

Should the City vacate the plat for Westminster Center Subdivision, Filing No. 1 and the streets dedicated by this plat, which by State statute must be vacated by an ordinance of the City Council?

Alternative

The alternative is to not vacate this plat. This alternative is not recommended because the subject plat and street rights-of-way do not align with all of the street layouts shown on the more recent plan.

Background Information

The Westminster Downtown Focus Area was identified in the 2013 Comprehensive Plan, and the planning process for the Downtown Westminster Specific Plan ("Specific Plan") began in July 2013. On November 24, 2014, City Council approved on second reading the Specific Plan for the 108 acre site.

The Downtown Westminster Specific Plan provides the regulatory framework for implementing City Council's vision of a new downtown for the City of Westminster. Over the summer of 2013, City Council authorized staff to enter into a contract with Torti Gallas and Partners to develop the specific plan for the site which was followed by the preparation of a final plat entitled, "Westminster Center Subdivision, Filing No. 1." Since then and more specifically in May 2015, the plan was revised to better accommodate a block-by-block development of the project. This revision and modified approach to the project requires that the current plat be vacated and a new one prepared that matches the new plan layout.

Council action on this item meets elements of two goals in the City's Strategic Plan: *Dynamic, Diverse Economy* and *Vibrant and Inclusive Neighborhoods*.

Respectfully submitted,

Donald M. Tripp
City Manager

Attachments - Ordinance
Final Plat

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **32**

SERIES OF 2015

INTRODUCED BY COUNCILLORS

A BILL

FOR AN ORDINANCE VACATING ALL STREET RIGHTS-OF-WAY DEDICATED ON THE PLAT FOR WESTMINSTER CENTER SUBDIVISION, FILING NO. 1

WHEREAS, the Westminster Economic Development Authority, the owner of property bounded by 92nd Avenue, Sheridan Boulevard, 88th Avenue and Harlan Street, and specifically described as the Westminster Center Reinvestment Project, has requested the City vacate all street rights-of-way dedicated on the final plat for Westminster Center Subdivision, Filing No. 1; and

WHEREAS, the City Council finds that all requirements for roadway vacation contained in the Westminster Municipal Code and applicable state statutes have been met.

NOW, THEREFORE, THE CITY OF WESTMINSTER ORDAINS:

Section 1. City Council determines that no present or future public access need exists for the areas proposed for vacation.

Section 2. The street rights-of-way for Westminster City Center Subdivision, Filing No. 1 as recorded under Reception No. 2015002087 in the records of the Clerk and Recorder for Jefferson County, Colorado as described in Exhibit A, attached hereto and incorporated herein by this reference, are hereby vacated, pursuant to Section 43-2-303(3), C.R.S.

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

Section 4. 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 13th day of July, 2015.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 27th day of July, 2015.

Mayor

ATTEST:

City Clerk

APPROVED AS TO LEGAL FORM:

City Attorney's Office

FINAL PLAT

WESTMINSTER CENTER SUBDIVISION, FILING NO. 1

A PARCEL OF LAND LOCATED IN THE SOUTH HALF OF SECTION 24, TOWNSHIP 2 SOUTH, RANGE 69 WEST OF THE SIXTH PRINCIPAL MERIDIAN, CITY OF WESTMINSTER, COUNTY OF JEFFERSON STATE OF COLORADO

SHEET 01 OF 03

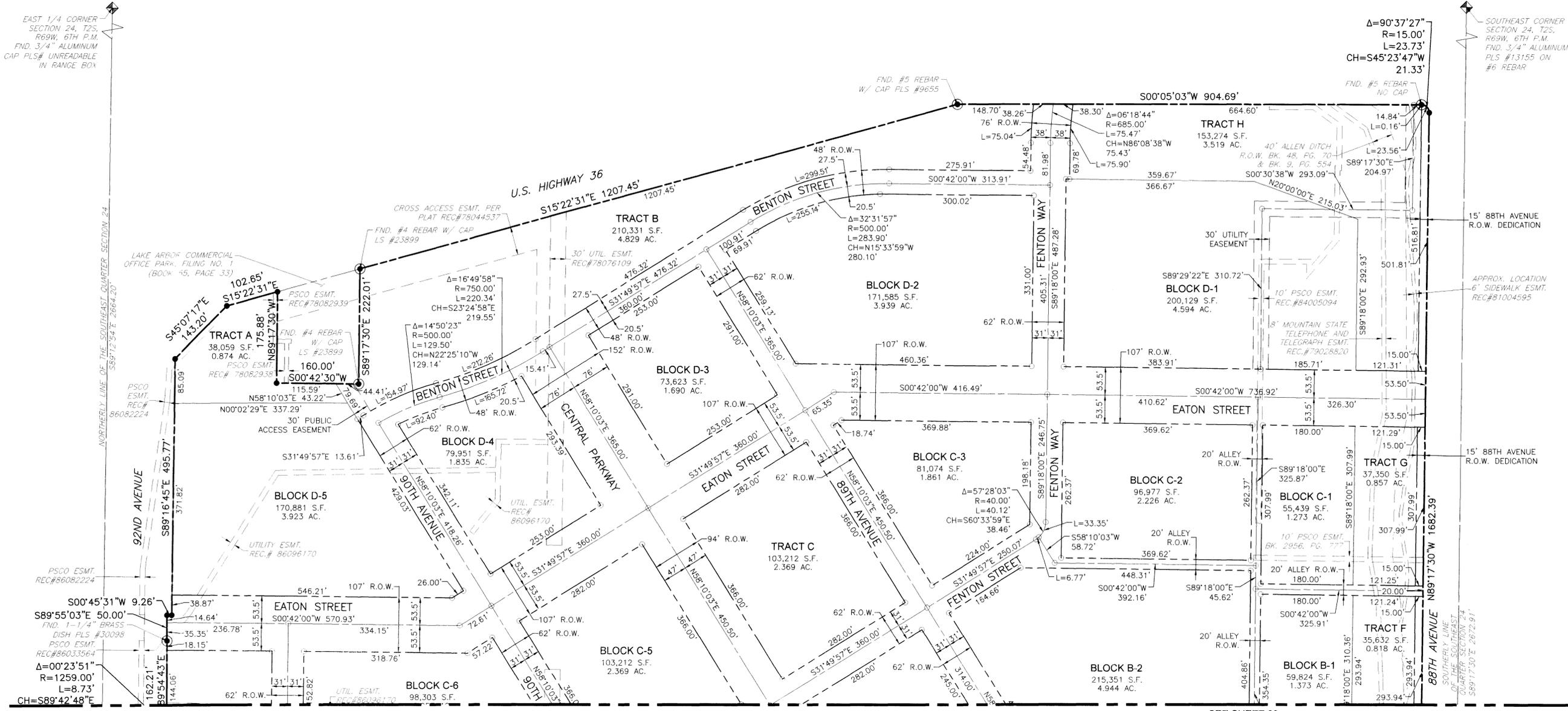


FINAL PLAT

WESTMINSTER CENTER SUBDIVISION, FILING NO. 1

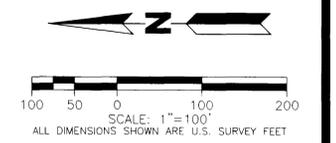
A PARCEL OF LAND LOCATED IN THE SOUTH HALF OF SECTION 24, TOWNSHIP 2 SOUTH,
RANGE 69 WEST OF THE SIXTH PRINCIPAL MERIDIAN,
CITY OF WESTMINSTER, COUNTY OF JEFFERSON
STATE OF COLORADO

SHEET 02 OF 03



Location: G:\latter\13.0463-Downtown Westminister\PLANS\PLAT\02-03-PLAN.dwg
 Drawn By: SH
 Job Number: Sheet Number:
 Project Manager:
 Surveyed By:

LEGEND	
EXISTING	PROPOSED
	PROPERTY LINE
	RIGHT-OF-WAY LINE
	BLOCK LINE
	SECTION LINE
	EASEMENT
	POINT OF CURVATURE/INTERSECTION
	SECTION CORNER
	DRIVE
	DRIVE



DECEMBER 17, 2014
 NOVEMBER 20, 2014
MARTIN/MARTIN
 CONSULTING ENGINEERS
 12499 WEST COLFAX AVENUE, LAKEWOOD, COLORADO 80015
 MAIN 303.431.6100 MARTINMARTIN.COM

SEE SHEET 03

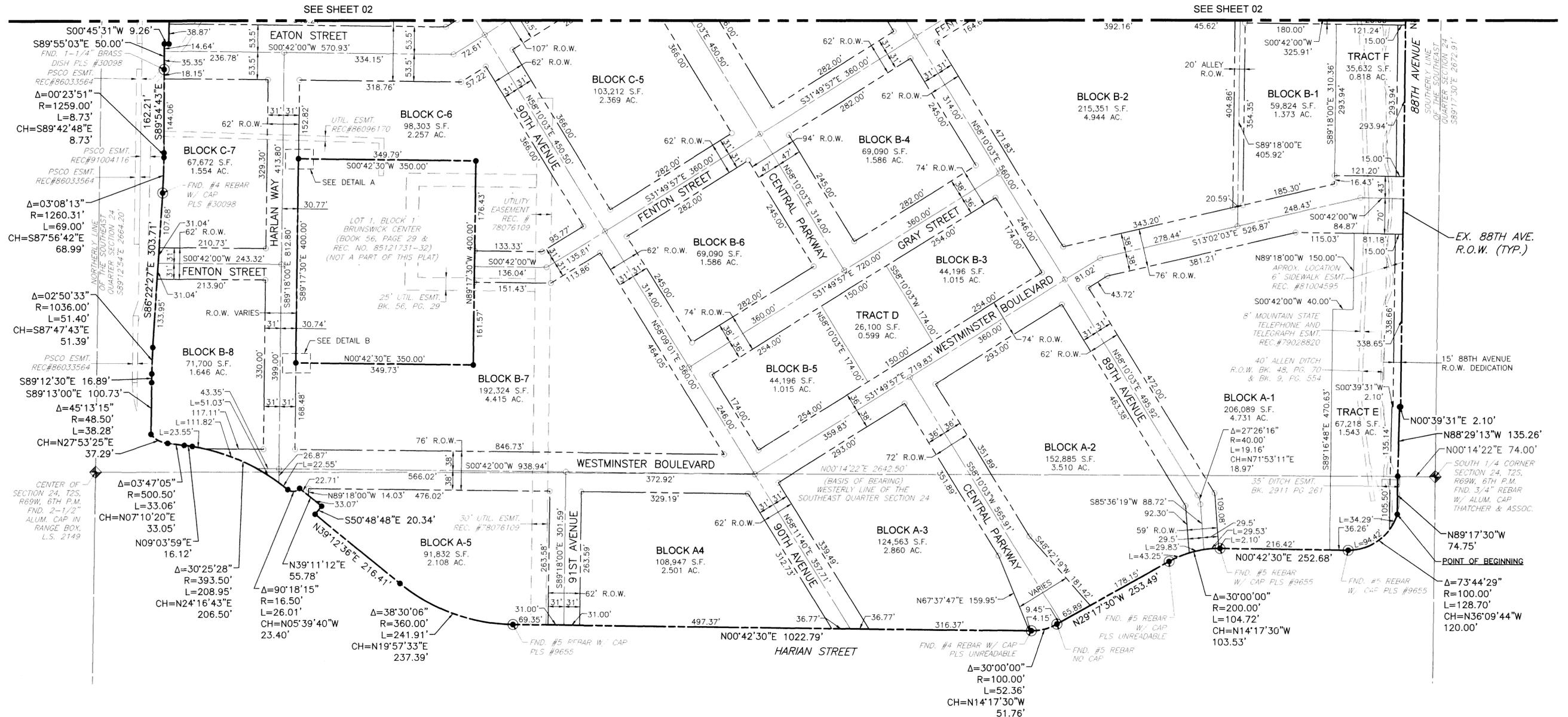
SEE SHEET 03

FINAL PLAT

WESTMINSTER CENTER SUBDIVISION, FILING NO. 1

A PARCEL OF LAND LOCATED IN THE SOUTH HALF OF SECTION 24, TOWNSHIP 2 SOUTH,
RANGE 69 WEST OF THE SIXTH PRINCIPAL MERIDIAN,
CITY OF WESTMINSTER, COUNTY OF JEFFERSON
STATE OF COLORADO

SHEET 03 OF 03



SEE SHEET 02

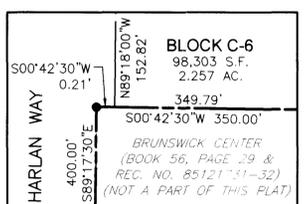
SEE SHEET 02

EX. 88TH AVE. R.O.W. (TYP.)

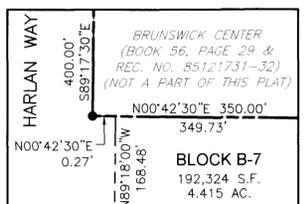
Location: C:\Users\13.0463-Downtown\Westminster\PLANS\PLAT\02-03-PLAN.dwg
 Drawn By: Job Number: Sheet Number:

Project Manager:
 Surveyed By:

Plot Date:

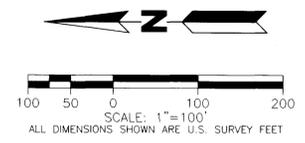


DETAIL A
SCALE: 1"=1'



DETAIL B
SCALE: 1"=1'

LEGEND	
EXISTING	PROPOSED
	PROPERTY LINE
	RIGHT-OF-WAY LINE
	BLOCK LINE
	SECTION LINE
	EASEMENT
	POINT OF CURVATURE/INTERSECTION
	SET #4 REBAR W/ CAP PLS #23899 (UNLESS OTHERWISE SPECIFIED)
	SECTION CORNER
	DRIVE



DECEMBER 17, 2014
 NOVEMBER 20, 2014
MARTIN/MARTIN
 CONSULTING ENGINEERS
 12499 WEST COLFAX AVENUE, LAKEWOOD, COLORADO 80215
 MAIN 303.431.6100 MARTINMARTIN.COM



Agenda Memorandum

City Council Meeting
July 13, 2015



SUBJECT: Councillor's Bill No. 33 Appropriating Funds from the Regional Transportation District and Westminster Station Parking Structure Guaranteed Maximum Price Contract Award

Prepared By: John Burke, Senior Projects Engineer

Recommended City Council Actions

1. Pass Councillor's Bill No. 33 on first reading appropriating a total of \$4,055,525 to the Westminster Station Garage/Grove Street project from the Regional Transportation District per the Intergovernmental Agreement between the City and the District executed June 2012.
2. Authorize the Guaranteed Maximum Price contract, contingent upon approval of Councillor's Bill No. 33 on second reading, with The Beck Group to construct the Westminster Station parking structure, Grove Street, bus transfer facility and associated infrastructure in the amount of \$11,620,791. This guaranteed maximum price amount includes the design contact sum previously approved by City Council in June 2014.

Summary Statement

The City and the Regional Transportation District (RTD) entered into an intergovernmental agreement (IGA) pertaining to the Northwest Rail Electrified Segment - Westminster Station in June 2012. The IGA allows the City to implement an alternative approach to RTD's originally proposed base plan for the design and construction of commuter rail and bus access, parking and pedestrian areas that will support the Westminster Station. Per the IGA, the City is required to provide 350 parking spaces within the proposed parking structure for RTD patron use by the opening day of the station in mid-2016. The Beck Group was awarded the design/build contract at the June 23, 2014, City Council meeting and initiated the design phase of the project.

This addendum to that original competitively bid project will lock in the guaranteed maximum price (GMP) for the construction of the parking structure, Grove Street and the permanent bus transfer facility. Additionally, per the design/build process, The Beck Group competitively bid out major subcontract items such as the asphalt, structural concrete, electrical, earthwork, elevator, plumbing and utilities to verify that the City is getting the best market value for these construction items.

Council action is also requested to appropriate funds to be reimbursed by RTD per the Intergovernmental Agreement between the City and RTD for this project.

The City Attorney's Office has reviewed the contract addendum as to legal form.

Expenditure Required: \$11,620,791 (\$1,327,341 of this amount was previously authorized on June 23, 2014)

Source of Funds: General Capital Improvement Fund—Westminster Station Garage/Grove Street Project

Policy Issues

- Should City Council approve receipt and appropriation of funds from RTD for the Westminster Station Parking Structure project?
- Should the City enter into the GMP contract with The Beck Group to construct the Westminster Station parking structure?

Alternatives

1. City Council could choose not to appropriate the funds from the RTD for this project, however, Staff does not recommend this option as these funds are needed to complete this work. These funds also represent RTD's share of expenses they would have paid to install their original plan with two large surface parking lots in the area.
2. City Council could choose not to authorize this GMP contract with The Beck Group. However, the City has an IGA with the RTD to provide this parking structure and could be subjected to delay-claims up to \$8,965 per day if the City does not deliver the parking structure by mid-2016. As such, Staff recommends authorizing this GMP contract with The Beck Group.

Background Information

The original design/build contract was awarded to The Beck Group on June 23, 2014, through a competitively bid process. Since that time, The Beck Group has been diligently working on the final design and has recently submitted for a building plan review and associated permit from the City. Staff has facilitated various working sessions with The Beck Group and RTD over the past twelve months and is finally at a point where the structure has been optimally located in consideration of pedestrian connectivity, RTD bus routes, passenger loading areas, future development and overall traffic flow in and out of the parking structure. The team has also had discussions on parking management, security, storage, future expansion capability and, most importantly, the development of the GMP for the structure.

One of the early decisions for this project was to relocate RTD's bus transfer facility adjacent to the parking structure to better accommodate bus and rail patrons in the parking structure; the original City design had the bus transfer station along Westminster Station Drive. Due to this relocation, it also became necessary to build a portion of Grove Street on the east side of the structure. For ease of construction phasing and interface, Staff determined it would be in the best interest of the entire Westminster Station project area to have The Beck Group take the lead on the design and construction of both the bus transfer facility and Grove Street. The cost for these elements is included in the GMP provided by The Beck Group.

The parking structure is a three-bay, four-level structure with 574 parking stalls inside the garage and 54 surface parking stalls on the east side of the structure near the bus transfer facility for a total of 628 parking stalls. Per the GMP, the cost for the 574 stalls within the structure is \$16,700 per stall. Per the IGA with RTD, the City is required to provide up to 925 parking stalls for RTD patrons once they reach 85% utilization of their stalls consistently for a period of six months. As such, the parking structure is designed to expand both vertically up to six levels and horizontally over the surface parking area to provide around 1,200 total stalls within the parking structure at a future date if needed.

Though the structure is relatively straight forward, the design includes an indoor bike parking area in the lower level, electric vehicle charging stations and a "plug-n-play" façade that can be removed and relocated with future expansion. Additionally, since the parking will be utilized by various user groups such as RTD, retail, commercial, residential and the general public, Staff plans to implement a license plate recognition system and smart pay applications to help the City manage the usage of the structure in concert with RTD's requirements.

Through the design/build process, major construction items were competitively bid to verify that the City is getting the best market value for this project. One item in particular, the structural concrete, was bid in December of 2014 in order to lock in the price for summer construction. This bid was locked in at \$4.8 million dollars. Council may recall from other discussions that the price of concrete increased around 21% in January of 2015, which would have resulted in an increase of \$1,008,000. Due to the nature of the design/build contracting method, The Beck Group was able to secure favorable pricing from the subcontractor, which in turn correlated to favorable construction costs for the City. This is just one example of the value a design/build contracting method can have for the City on this type of project.

The remaining subcontractor bids have been reviewed for completeness and the company’s ability to perform the work. As such, The Beck Group is now in a position to lock in the GMP contract for this work.

Lastly, per the IGA with RTD, Staff is requesting the appropriation of funds as detailed in the attached Councillor’s Bill No. 33 pursuant to RTD’s share of costs associated with this project. The appropriation will amend the General Capital Improvement Fund revenue and expense accounts as follows:

REVENUES

Description	Account Number	Current Budget	Amendment	Revised Budget
Contributions	7500.43100.0000	\$0	<u>\$4,055,525</u>	\$4,055,525
Total Change to Revenues			<u>\$4,055,525</u>	

EXPENSES

Description	Account Number	Current Budget	Amendment	Revised Budget
Westy Station Garage/ Grove St	81475030072.80400.8888	\$149,044	\$4,055,525	\$4,204,569
Total Change to Expenses			<u>\$4,055,525</u>	

The project to accommodate commuter rail transit within the City of Westminster and prepare for the eventual implementation of transit-oriented development in the vicinity of the station meets the City Council goals of *Dynamic, Diverse Economy* and *Ease of Mobility*.

Respectfully submitted,

Donald M. Tripp
City Manager

Attachments - Councillor’s Bill
Vicinity map

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **33**

SERIES OF 2015

INTRODUCED BY COUNCILLORS

A BILL

FOR AN ORDINANCE AMENDING THE 2015 BUDGET OF THE GENERAL CAPITAL IMPROVEMENT FUND AND AUTHORIZING A SUPPLEMENTAL APPROPRIATION FROM THE 2015 ESTIMATED REVENUES IN THE FUNDS

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The 2015 appropriation for the General Capital Improvement Fund initially appropriated by Ordinance No. 3737 is hereby increased by \$4,055,525. This appropriation is due to payments which will be received by the City of Westminster from the Regional Transportation District as the result of an Intergovernmental Agreement regarding the Westminster FasTracks Rail Station project.

Section 2. The \$4,055,525 increase shall be allocated to City Revenue and Expense accounts as described in the City Council Agenda Item #10 B-C, dated July 13, 2015, (a copy of which may be obtained from the City Clerk) increasing City fund budgets as follows:

General Capital Improvement Fund	<u>\$4,055,525</u>
Total	<u>\$4,055,525</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 13th day of July, 2015.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 27th day of July, 2015.

ATTEST:

Mayor

City Clerk



Vicinity Map

72nd Ave

Lowell Blvd

Federal Blvd

71st Ave

Hooker St

Parking Structure Location

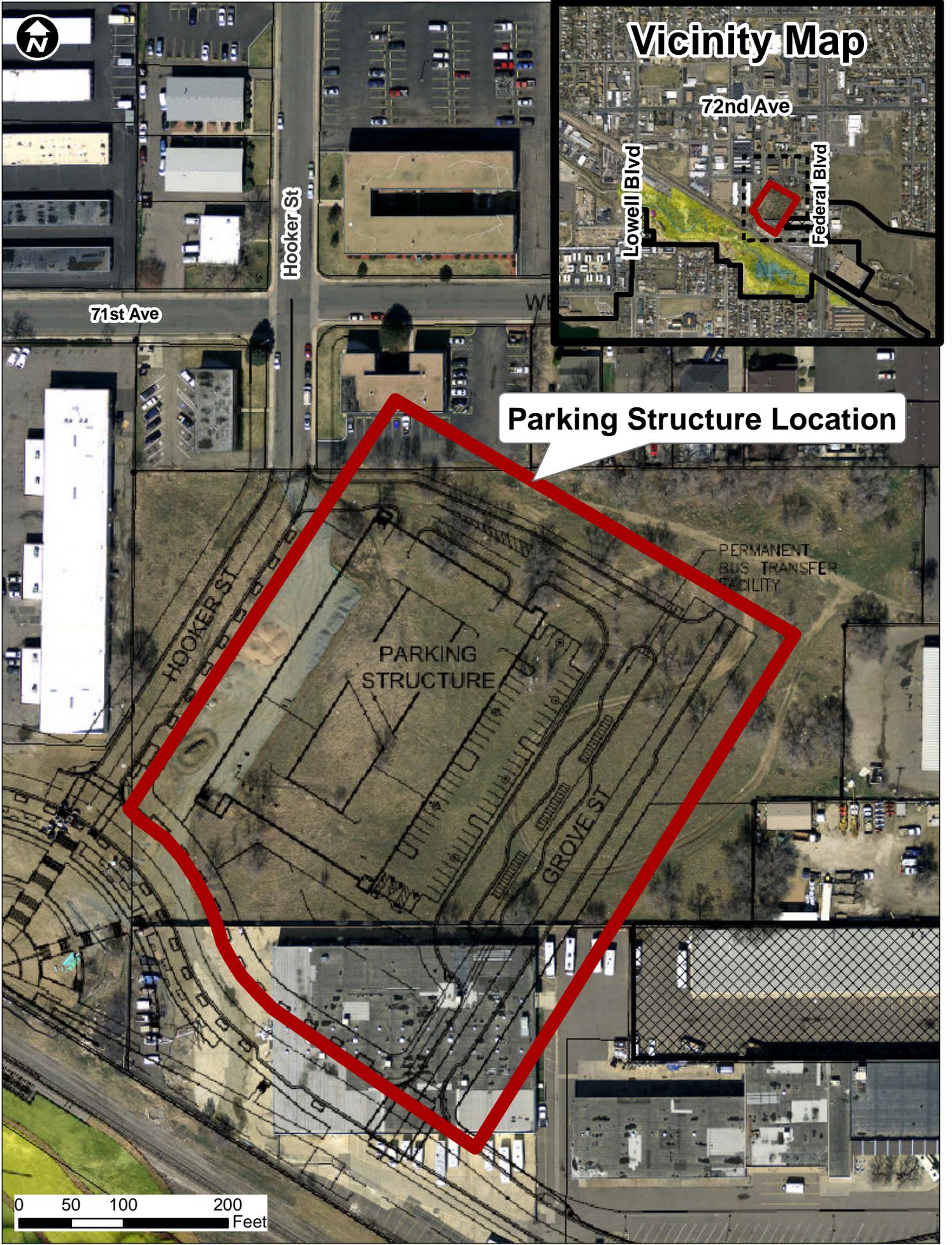
PARKING
STRUCTURE

PERMANENT
BUS TRANSFER
FACILITY

HOOKER ST

GROVE ST

0 50 100 200
Feet





Agenda Item 10 D

Agenda Memorandum

City Council Meeting
July 13, 2015



SUBJECT: Councillor's Bill No. 34 Amending Title VI, Chapter 7, W.M.C., re Animals

Prepared By: Hilary Graham, Deputy City Attorney
Kim Barron, Neighborhood and Support Services Commander
Kelli Jelen, Animal Management Supervisor

Recommended City Council Action

Pass Councillor's Bill No. 34 amending Title VI, Chapter 7, of the Westminster Municipal Code, regarding Animals.

Summary Statement

- At the June 8, 2015, City Council post meeting, Police Department Staff reviewed with Council the Police Department's proposed amendments to the City's existing animal code, Title VI, Chapter 7. At that meeting, City Council directed Staff to draft an Ordinance for first reading to enact the proposed changes.
- The amendments to Title VI, Chapter 7, Animals, provides the City with carefully researched changes that will aid the community in maintaining compliance with the Code, and allows Animal Management Officers to enforce local ordinances that are clearer and more consistent with State laws.
- The attached ordinance reflects the amendments Staff is recommending.

Expenditure Required: \$0

Source of Funds: N/A

Policy Issue

Should City Council support the proposed ordinance revisions to Westminster Municipal Code (W.M.C.), Title VI, Chapter 7?

Alternatives

1. Direct Staff to draft an ordinance to enact some, but not all, of the proposed changes. The City Council may wish to adopt the currently proposed revisions with one or more changes.
2. Take no further action and leave the W.M.C., Title VI, Chapter 7, as is. This alternative requires no action by the City and results in no additional expenditure of funds. This alternative is not recommended as some of the proposed changes are necessary in order to maintain compliance with State laws.

Background Information

Over the past few years, changes in state statutes and regulations pertaining to animal welfare and management have been made. It has been over eight years since any housekeeping measures have been taken to keep the City's animal-related ordinance in concert with state statutes. This disparity can create confusion for citizens who realize there is a discrepancy between a statute and an ordinance. Animal management staff, the municipal court administrator, and the lead City prosecutor have reviewed Title VI, Chapter 7, in its entirety and are in support of the changes proposed herein.

As part of the review, it was noted there were several words used in the ordinance that were not defined. Definitions have been added for key words that impact the intent of the ordinance. Clarification wording has been added to areas that have proven to be problematic for compliance, enforcement and prosecution purposes. Definitions that were formerly a part of the elements of an ordinance have been relocated to the "Definitions" section to provide consistency in formatting within the Title. Areas that were identified as being redundant have been removed to provide simplification and ease of reading.

Proposed substantive changes are as follows:

- The minimum age to obtain a rabies vaccination has historically been six (6) months based on protocols established by the National Association of State Public Health Veterinarians (NASPHV). The minimum age has been modified by NAHPHV to four (4) months, and this change has been adopted by state law. Changes are proposed to adopt the four (4) month requirement within the City to be consistent with NASPHV and state law.
- Not all veterinarians who administer rabies vaccinations supply rabies tags. Changes are proposed to eliminate the requirement for dogs to display a valid rabies tag. Dogs that reside in the City will continue to be required to wear their dog license, which serves as proof of a current rabies vaccination.
- "Reporting Animal Bites" under W.M.C., Section 6-7-3, is proposed to be reworded to reference the Colorado Department of Health requirements for rabies and quarantine protocols. The updated wording would eliminate the need to make ordinance revisions any time the Colorado Department of Health makes changes to the protocol.
- Several changes are proposed for W.M.C. Section 6-7-4, Dog Licensing:
 - Since the inception of the dog licensing program through the Foothills Animal Shelter and Jefferson County, there has been confusion for Westminster residents whose homes are located in Adams County. With the proposed changes, residences located within the Adams County portion of Westminster would be specifically named and required to obtain a license.

- The dog licensing program was formerly referred to as the “Jefferson County Dog Licensing Program.” The Foothills Animal Shelter Board of Directors renamed the program to “Countywide Dog License Program,” in part to address the confusion noted above. Changes are proposed within the Code to reflect this change.
 - Wording is proposed to define the threshold for residency that triggers the dog licensing requirement.
 - Wording is proposed to allow for a medical exemption from vaccinations under the direction of a veterinarian, thereby still allowing the owner to obtain a dog license.
 - The Countywide Dog License Program requires proof of a current rabies vaccination in order to obtain a dog license. The age for when a dog license must be obtained is proposed to be changed to four (4) months to coincide with the age requirement for rabies vaccinations.
 - Clarification wording is proposed regarding assistance and service animals to coincide with state and federal statutes.
-
- New wording is proposed for W.M.C. Section 6-7-5, Animals Running a Large, to help clarify the ordinance as well as give the municipal court discretion due to age or health when deciding if an animal should be required to be spayed or neutered.
 - Wording under W.M.C. Section 6-7-7, Disturbance; Public Nuisance, is proposed to be moved to the “Definitions” section to define “Potentially Dangerous Animal.” Another portion of this section is proposed to be moved to be moved to W.M.C. Section 6-7-5, Animals Running at Large, where it is more appropriate.
 - Colorado State Statute delineates the amount of time an animal must be held prior to being given a disposition. A proposed change is to incorporate the time as set forth under C.R.S. Section 35-80-106.3, which will eliminate the need to change W.M.C. Section 6-7-9(B) each time there is a change in the statute.
 - There have been repeated instances noted over the past several years when Animal Management Officers have had difficulty explaining the meaning of W.M.C. Section 6-7-12(A), Restrictions on Sale and Possession of Animals. Due to the current wording, determining the allowable number of animals is often difficult, and citizens have misinterpreted it when making decisions on obtaining multiple pets. Effective enforcement and prosecution has been jeopardized on occasion given the ambiguity of the section. Proposed revisions would clarify the current pet limit.
 - Animals that are underage, of poor health, or un-weaned from their mother are sometimes solicited for sale either on the internet or in public areas, such as parks and parking lots. In order to prevent these practices, amendments to W.M.C. Section 6—12, Restrictions on Sale and Possession of Animals, are proposed. Current state statute prohibits the sale of dogs and cats that are younger than eight (8) weeks of age. The proposed amendments will adopt the state standard and also assist Animal Management Officers in identifying unregistered breeders who are selling animals for profit.
 - Wording regarding the required acceptable care and treatment of animals is proposed to address cruelty, poisoning, neglect, abandonment, confinement, and fighting animals as prohibited activities. Wording is also proposed to restrict the feeding of wild animals to assist in limiting behavior that attracts dangerous or bothersome wildlife on or near private property.
 - Guard dogs have gained popularity in more than just commercial environments. The Code as currently written is not broad enough to address guard dogs in a residential setting. The proposed changes would require posting of signs on any premises where a potentially dangerous dog may reside. This notice is especially important to alert first responders.

SUBJECT: Councillor's Bill Amending title VI, Chapter 7, W.M.C., Animals

Page 4

Enacting the proposed amendments would further the City Council's Strategic Plan Goal of Excellence in City Services through City Ordinances that enhance public safety.

Respectfully submitted,

Donald M. Tripp
City Manager

Attachment: Councillor's Bill

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO.

SERIES OF 20__

INTRODUCED BY COUNCILLORS

A BILL FOR AN ORDINANCE AMENDING TITLE VI, CHAPTER 7, OF THE WESTMINSTER
MUNICIPAL CODE CONCERNING ANIMALS

THE CITY OF WESTMINSTER ORDAINS:

Section 1. Section 6-7-1 W.M.C., is hereby AMENDED to read as follows:

6-7-1: DEFINITIONS: (1463 1890 1973 2066 2576 3062 3288) The following words, terms and phrases, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Abandon" shall mean leaving of an animal for more than 24 hours by its owner or custodian without making effective provisions for its proper care. This shall include, but is not limited to, depositing or dropping off an animal on public property or on property other than that of the owner or custodian without prior permission of the property owner.

"Animal" shall mean any living dumb creature, domestic or wild-organism in the kingdom animalia, other than a human being.

"Animal Management Officer" shall mean an employee or agent of the City authorized by the Chief of Police to enforce the provisions of this Chapter.

"Animal Shelter" shall mean any premise designated by the City for the purpose of boarding or the caring of any animal impounded under the provisions of this Chapter or any other ordinance of the City or law of the State the animal shelter designated by contract for care and shelter of abandoned or neglected animals or animals impounded by the City, and authorized by this Chapter to provide other services for animals on behalf of the City. The designated shelter is, until changed by the City or the shelter, the Foothills Animal Shelter, formerly known as Table Mountain Animal Center.

"Cat" shall mean a domestic cat (felis catus) ~~of either sex, including one neutered~~ regardless of gender that can be vaccinated against rabies.

"Common Area" shall mean and include areas such as but not limited to the yards, grounds, garden areas, play areas, clubhouses, swimming pools, walkways, common garage areas, entryways, hallways, and driveways of condominiums, townhouses, apartment complexes, motels, hotels and mobile home parks.

"Countywide Licensing Administrator" shall mean the entity to which authority to issue dog licenses for all dogs within the City, regardless of County of residence, and to collect fees for said licenses has been delegated by the parties to the Animal Shelter/Dog Licensing/Funding Intergovernmental Agreement, dated August 15, 2012, as may be amended from time to time.

"Dog" shall mean a domestic dog (~~canis domesticus-canis lupus familiaris~~) ~~of either sex, including one neutered~~ regardless of gender that can be vaccinated against rabies.

"Dog License" shall mean current indication that the dog has been registered with the Countywide Licensing Administrator within the previous 365 days.

"Domestic Animal" shall mean domesticated or household dogs, cats, rabbits, guinea pigs, hamsters, rats, mice, ferrets, birds, reptiles, amphibians, and invertebrates, commonly found in a pet store and intended

Formatted: Font color: Auto

to live and breed in a tame condition. It shall also include pot-bellied pigs, except livestock and exotic endangered and prohibited animals.

“Endangered Species” shall mean any species of animal, bird or reptile that is currently listed as endangered by the United States Department of Interior or the Colorado Department of Natural Resources.

“Exotic Animals” shall mean a rare or unusual animal or pet kept within human households and not commonly thought of as a pet ~~arachnids, crocodylians over one foot (1’) in length and other reptiles that are not prohibited animals that are not commonly kept or harbored as a household pet.~~

“Feral” shall mean an animal that has escaped from domestication and returned, partly or wholly, to a wild state.

“Guard Dogs” shall mean any dog disciplined through special training to protect ~~placed within an enclosed area for the protection of~~ persons or property by attacking or threatening to attack any person found within the enclosed area patrolled by such dog.

“Harboring” shall mean the act of keeping and caring for an animal or of providing a premises to which the animal returns for food, shelter or care.

“Humane Trap” shall mean a box-type trap that does not cause bodily harm to the animal intended to be captured or to any other animal or person coming in contact with such trap.

“Kennel” shall mean premises where more than five (5) non-livestock animals, excluding offspring not exceeding four (4) months of age belonging to one (1) of the adult animals, are kept for any purpose, including boarding, foster care or training. The term “kennel” does not include pet shop.

“Livestock” shall mean any animal commonly kept or harbored, as a source of food, hides, income through agricultural sale, as a pack animal or draft animal or for use as transportation. Livestock includes, but is not limited to, horses, mules, sheep, goats, cattle, swine, chickens, ducks, geese, pigeons, turkeys, pea fowl, guinea hens, and bees. In the event of uncertainty concerning whether a particular animal is a species of livestock, the presumption shall be that such animal is a species of livestock until the owner of such animal proves by a preponderance of the evidence to the satisfaction of the Municipal Court that the animal is not a species of livestock.

“Owner” shall mean any person who has right of property in an animal or harbors an animal or allows an animal to remain about his premises for a period of seventy-two (72) hours or longer; claims responsibility for an animal; or is declared by court decree to be the responsible party for an animal or the authorized agent of any such person. The parent or guardian of any minor claiming ownership of an animal shall be deemed to be the owner of the animal for purposes of this Chapter.

“Person” shall mean any natural person, corporation, partnership, association, or other entity.

“Pet Shop” shall mean an establishment engaged in the business of breeding, buying or selling animals, other than livestock, in commercial, wholesale or retail trade.

“Potbellied Pig” shall mean a pig registered with a bona fine potbellied pig registry and weighing less than ninety-five (95) pounds.

“Potentially Dangerous Animal” shall mean any animal that may reasonably be assumed to pose a threat to public safety as demonstrated by any of the following behaviors:

- (1) Causing an injury to a person or domestic animal that is less severe than a serious injury;
- (2) Without provocation, chasing or menacing a person or domestic animal in an aggressive manner; or

(3) ~~Actings~~ in a highly aggressive manner ~~within a fenced yard/enclosure and appears to a reasonable person able to jump over or escape while encroaching onto public or private property, from a vehicle, or from the owner's yard through, on or over a fence.~~

"Prohibited Animal" shall mean any animal that is ordinarily found in an unconfined state and is usually not kept as a household pet, including, but not limited to, lions, tigers, cheetahs, panthers, leopards, cougars, mountain lions, ocelots, any wild members of the genus felis, lynx, bobcats, foxes, minks, skunks, raccoons, bears, nonhuman primates, wolves and coyotes; poisonous or venomous snakes and lizards; lethal toads and arachnids (spiders, scorpions, and tarantulas), crocodilians and nonpoisonous snakes over six feet (6') in length. "Prohibited animal" shall not include domestic ferrets (mustelia furo), ~~livestock~~, rabbits, dogs, cats, and small rodents. Alleged domestication of any prohibited animal shall not affect its status under this definition. In the event of uncertainty whether a particular animal is a prohibited animal, it shall be presumed prohibited until proven not prohibited by a preponderance of the evidence to the satisfaction of the Municipal Court.

"Proper Enclosure" shall mean secure confinement indoors or secure confinement in a locked pen, fenced yard, or structure measuring at least six feet (6') in width, twelve feet (12') in length, and six feet (6') in height, capped with secure sides and constructed at the bottom so as to prevent escape by digging, which provides proper protection from the elements for the animal, is suitable to prevent the entry of young children, and is designed to prevent the animal from escaping while on the owner's property. The proper enclosure must comply with all zoning and building ordinances/regulations of the City, be kept in a clean and sanitary condition, and be approved by ~~the an A~~ Animal m ~~Management e~~ Officer, and such approval shall not be unreasonably withheld.

"Rabies Vaccination" shall mean inoculation of a domestic animal with an anti-rabies vaccine approved by the Colorado Department of Health and administered by a licensed veterinarian. The vaccination shall be valid for the period of time specified in writing by the veterinarian for the specific vaccine used.

"Responsible Person" shall mean a person at least eighteen (18) years old who is familiar with the animal, and has the size, strength, and experience to be able to keep the animal under complete control at all times.

"Running at Large" shall mean an animal off the premises of the owner and not under the physical control of the owner.

"Serious Injury" shall mean death or any physical injury that results in severe bruising, muscle tears, or skin lacerations requiring professional medical treatment or requires corrective or cosmetic surgery.

"Shelter" shall mean a moisture-proof structure made of durable material that allows retention of body heat and is of suitable size to accommodate the animal.

"Stray Animal" shall mean any animal for which there is no identifiable owner.

"Vicious Animal" shall mean any animal that:

- (1) Causes a serious injury or death to a person or domestic animal; or
- (2) Has a previous potentially dangerous animal conviction and continues to engage in behavior that poses a threat to public safety as described in this Chapter's definition of potentially dangerous animal; or
- (3) Has engaged in or been trained for animal fighting as described and prohibited in Section 18-9-204, C.R.S.; or
- (4) Has a demonstrated history of behavior that would cause a reasonable person to believe that the animal may inflict serious injury or death upon any person or domestic animal.

“Wild Animal” shall mean all wildlife, including but not limited to, raptors, furbearers, all game animals, and all other species of animals, which exist in their natural, unconfined state and are usually not domesticated.

Section 2. Section 6-7-2, subsections (A) and (B), W.M.C., are hereby AMENDED to read as follows:

(A) VACCINATIONS: It shall be unlawful for any owner of a dog or cat ~~six-four (64)~~ four (64) months of age or older to fail to have such animal vaccinated against rabies. All dogs and cats shall be vaccinated at ~~six~~ four (64) months of age and revaccinated thereafter at the expiration of the validity of the vaccine used, as shown on the written document prepared by a licensed veterinarian. The vaccination shall be valid for the period shown on the document. Any person moving into the City from a location outside the City shall comply with this Section within thirty (30) days after having moved into the City by having the animal vaccinated or showing proof of current, valid vaccination. If the dog or cat has inflicted a bite on any person or another animal within the last ten (10) days, the owner of said ~~dog-animal~~ shall report such fact to a veterinarian, and no rabies vaccine shall be administered until after ~~a ten (10) day-the required~~ or quarantine observation period.

(B) PROOF OF VACCINATION: It shall be unlawful for any person who owns a vaccinated animal to fail or refuse to exhibit his copy of the certificate of vaccination upon demand to any person charged with the enforcement of this Chapter. A current rabies tag, if provided by the veterinarian administering the vaccine, shall be attached to a collar, harness or other device and shall be worn by the vaccinated dog or cat at all times. The requirement for a dog to display a current rabies tag shall not apply to a dog that is displaying a current dog license tag affixed to a collar, harness or other device worn on the dog in compliance with Section 6-7-4, W.M.C.

Section 3. Section 6-7-3, subsection (D), W.M.C., is hereby AMENDED to read as follows:

(D) CONFINEMENT OF ANIMALS: Any ~~dog or cat-animal capable of transmitting or carrying the rabies virus~~ that has bitten a person shall immediately be confined to be observed for symptoms of rabies unless the animal is submitted to a laboratory for analysis. An Animal Management Officer shall determine the length of time that said animal must remain in confinement based upon the guidelines and requirements of the Colorado Department of Health. may either be observed for a period of ten (10) days from the date of the bite, or analyzed for rabies virus by a laboratory. Ferrets, potbellied pigs, wolf hybrids, wolves and other wildlife that have bitten a person must be observed for a period of not less than thirty (30) days, or tested for rabies if required by Colorado Division of Wildlife or Department of Health regulations.—The procedure and place of observation or analysis shall be designated by the investigating officer or responsible agency. If the animal is not confined on the owner's premises, confinement shall be by impoundment in the City Animal Shelter, a pet shop with a Class B license, or at any veterinary hospital of the owner's choice within the City of Westminster. Such confinement shall be at the expense of the owner. Stray animals whose owners cannot be located shall be confined as designated by the City. The owner of any animal that has been reported to have inflicted a bite on any person shall on demand produce said animal for impoundment, as prescribed in this Section or for laboratory analysis. Refusal to produce said animal constitutes a violation of this Section, and each day of such refusal shall constitute a separate and continuing violation.

Section 4. Section 6-7-4, subsection (A), W.M.C., is hereby AMENDED to read as follows:

(A) DOG LICENSE REQUIRED:

(1) It shall be unlawful for any owner of any dog being kept in the City of Westminster, including both Adams and Jefferson Counties, over the age of ~~six-four (64)~~ months, or within thirty (30) days of acquisition of said dog, whichever occurs last, to fail to obtain a License for such animal as required by this Section. Any dog present in the City that has been kept or harbored in the City for 30 days or more within the prior 365-day period shall have a current Dog License.

Formatted: Font: 11 pt, Not All caps

Formatted: Font: 11 pt

Formatted: Font: 11 pt

Formatted: Font: 11 pt

(2) The ~~Jefferson County Animal Control Division~~ Countywide Licensing Administrator will administer the City of Westminster's Ddog Licenscing program ~~(the "dog license")~~ and distribute the Ddog License tags. Application for a Ddog License shall be made to the ~~Jefferson County Animal Control Division~~ Countywide Licensing Administrator or to such agents as designated by the ~~County of Jefferson~~ Administrator. Dog Licenses and tags shall be issued, renewed, replaced and expired in accordance with ~~Jefferson County's the Countywide Administrator's~~ requirements, including, but not limited to, proof of current rabies vaccination and reduced Ddog liense-License fee if the dog is spayed or neutered.

(3) A dog owner may request an exemption to these Dog License provisions if, for medical reasons the dog cannot be vaccinated. In this event, a dog owner must submit an affidavit from a licensed veterinarian stating the reasons why the dog is unable to be vaccinated.

(4) It shall be unlawful for a dog owner to fail to renew a Ddog L license once every three hundred sixty-five (365) days.

(5) The Ddog L license fee, including the fee for replacement L licenses, shall be in amounts as set by the Jefferson County Board of Commissioners Countywide Licensing Administrator.

(6) It shall be unlawful for an owner of an assistance or service dog to fail to obtain a Ddog L license as required by this Section. An individual-person with a disability who owns a service dog is exempt from anythe annual licenscing fees that might otherwise apply in connection with owning an assistance dog as set forth in Section 24-34-803, C.R.S.

(7) Any dog owner or any entity exempt from Jefferson County's the Countywide Licensing Administrator's dog-Dog L licenscing requirements shall be exempt from the provisions of this Section.

Section 5. Section 6-7-5, subsection (A), W.M.C., is hereby AMENDED to read as follows:

(A) ANIMALS RUNNING AT LARGE PROHIBITED:

(1) It shall be unlawful for any owner of an animal to fail to restrain the animal by physical means from running at large. Running at large includes unattended animals chained or tied in public places or in common areas. In addition to being a violation of this Section, an animal running at large is declared to be a public nuisance that may be abated pursuant to the provisions specified in Chapter 4 of Title VIII of this Code. This subsection (A)(1) shall not apply to dogs running off-leash at an off-leash dog site as established in Section 13-1-3(Z), W.M.C.

(2) ~~Neutering/spaying required.~~ Subject to the discretion of the Municipal Court, it shall may be unlawful for any owner of an animal running at large to allow the animal to remain in a non-neutered or unspayed condition.

(3) It shall be the burden of the owner to prove that the animal is neutered or spayed by the production of a veterinarian's opinion or other documentary evidence.

Section 6. The Title of Section 6-7-7, W.M.C., is hereby AMENDED to read as follows and subsection (C) is hereby DELETED:

6-7-7: DISTURBANCE; PUBLIC NUISANCE: (1463 1635 1973 2576 3288)

(A) It shall be unlawful for any owner of any animal to allow the animal to disturb any person by barking, howling, yelping, or other audible sound. In addition to being a violation of this Section, the same is hereby declared to be a public nuisance that may be abated pursuant to the provisions specified in Chapter 4 of Title VIII of this Code.

(B) (1) No person shall be charged with violating this Section unless a written warning was given to the owner or person in custody of the animal by an Animal Management Officer or police officer within

Formatted: All caps
Formatted: List Paragraph, Left, Right: 0", No bullets or numbering

Formatted: Indent: First line: 0"
Formatted: Not Highlight
Formatted: Indent: Left: 0", First line: 0.38", Right: 0", Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 0.5" + Tab after: 0.75" + Indent at: 0.75", Tab stops: 0.75", Left

twelve (12) months preceding the first date alleged as a date of violation in the complaint. A warning is given under this subsection if it is personally given to the owner or person in custody of the animal, or it is posted upon the property of the owner or person in custody or mailed first-class to such person. Such records are prima facie evidence that such warnings were given.

(2) No summons shall be issued and no person shall be convicted at trial for violating this Section unless two (2) or more witnesses from different households testify to the loud and persistent or loud and habitual nature of the noise, or unless there is other evidence corroborating the testimony of a single witness. An Animal Management Officer or a police officer who can corroborate the elements in this Section may issue summons and testify as the second witness.

Formatted: Right: 0", Tab stops: 0.75", Left + Not at 0.6"

~~(C) It shall be unlawful for any owner to fail to exercise proper control of the animal to prevent it from becoming a public nuisance. In addition to public nuisance declared in other provisions of this Code, the following shall be deemed a public nuisance:~~

Formatted: Right: 0"

~~(1) An animal harassing passersby by encroaching on public or private property, including snarling or growling while leaning on, over or through fences or walls.~~

~~(2) Unattended animals chained or tied in public places, or in private property open to the public, or in the common ground of condominiums, townhomes, apartment complexes and mobile home parks.~~

Section 7. Section 6-7-9, subsections (B) and (D), W.M.C., are hereby AMENDED to read as follows:

(B) DISPOSITION OF IMPOUNDED ANIMALS: As soon as practicable after impoundment, a bona fide effort shall be made to give notice of impoundment to the owner. Any impounded animal shall be released to the owner upon payment of the impoundment fee, boarding fee, veterinary care charges, and any other costs associated with impoundment. If such animal is not redeemed within ~~five (5) days~~ the time period contained within C.R.S. § 35-80-106.3, it shall be considered abandoned and may be euthanized or placed for adoption at the discretion of the Animal Shelter. The failure of the owner to redeem an animal shall release the City and the Animal Shelter, and their officers, employees, and agents, from any and all liability for the animal's subsequent euthanization or adoption.

~~(D) SALE: Animals impounded and kept for five (5) days in a pet store with a Class B license that have not been claimed by an owner shall be deemed abandoned and may, at the discretion of the pet shop, be retained on the sixth (6th) day of impoundment and sold in lieu of reimbursement for all applicable boarding costs and veterinary fees.~~

~~(E) FAILURE TO PRODUCE ANIMAL:~~ The owner of any animal subject to impoundment under paragraph (A) of this Section shall, on demand of ~~the-an~~ Animal Management Officer, or other person who may be so authorized by this Chapter, produce the animal for impoundment as prescribed in this Section. It shall be unlawful for the owner of any such animal to fail or refuse to produce the animal on demand.

Section 8. Section 6-7-10, subsection (B), W.M.C., is hereby AMENDED as follows:

Formatted: Font: 11 pt

(B) LICENSES: ISSUANCE; RENEWAL: Kennel licenses shall expire on the thirty-first (31st) day of December each year. No kennel license shall be issued until an inspection certificate has been issued by ~~the-an~~ Animal Management Officer or designee. The license issued shall specify the maximum number of animals permitted. It shall be unlawful for the licensee to keep any number of animals in excess of the maximum specified on the license. All applicants for a kennel license within the City, if required to be licensed by the Colorado Department of Health or the Colorado Department of Agriculture, must have a valid license issued by said Department to qualify for licensing by the City. The possession of a State license, however, shall not in itself assure that a City license will be granted to anyone. Standards and regulations affecting kennels may be adopted by the City that are more restrictive than applicable State standards.

Formatted: Font: 11 pt

Formatted: Font: 11 pt

Section 9. Section 6-7-12, subsections (A), (D), (E) and (F), W.M.C., are hereby AMENDED and a new subsection (G) is ADDED to read as follows:

6-7-12: RESTRICTIONS ON SALE AND POSSESSION OF ANIMALS: (1463 1890 1973 2066 3062 3288)

(A) ANIMALS IN RESIDENTIAL DISTRICTS:

(1) It shall be unlawful for anyone to knowingly possess, harbor, keep, maintain, or permit on any property within the City zoned for residential use more than ten (10) domestic animals, of which no more than three (3) shall be a combination of dogs or cats over the age of four (4) months.

- ~~(a) A combination of more than three (3) dogs or cats;~~
- ~~(b) More than one (1) potbellied pig;~~
- ~~(c) More than three (3) rabbits;~~
- ~~(d) More than five (5) exotic animals or a combination of more than five (5) domestic and exotic animals; or~~
- ~~(e) More than ten (10) domestic animals.~~

(2) In addition to being a violation of this Section, the same is hereby declared to be a public nuisance that may be abated pursuant to the provisions specified in Chapter 4 of Title VIII of this Code.

If the keeping of animals under this subsection (A) is in conflict with any provision of this Chapter concerning exotic, endangered, or prohibited animals, or any state or federal statute or regulation, such other provision, statute or regulation shall control. This subsection (A) shall not include fish.

(D) FEDERAL AND STATE STATUTES AND REGULATIONS: It shall be unlawful for any person to import, offer for sale, sell, keep, possess or willfully maintain, harbor or permit in the City any animal in violation of any state or federal statute or regulation.

(E) EXCEPTIONS: The prohibitions in subsections (B) and (C) of this Section shall not apply to any of the following:

- (1) A bona fide publicly or privately owned zoological park.
- (2) A bona fide research institution using animals for scientific research.
- (3) A circus duly authorized to do business in the City.
- (4) A veterinary hospital operated by a veterinarian currently licensed by the State of Colorado.

(5) Wildlife rehabilitators, falconers, or scientific collection permit holders who are currently licensed by ~~the Colorado~~ Division Parks and of Wildlife.

(F) POTBELLIED PIGS: It shall be unlawful for any person to possess, harbor, keep, maintain or permit at his dwelling within the City any potbellied pig or any pig purporting to be a potbellied pig, unless the owner complies with the requirements of this Section. It shall be unlawful for any owner to fail to comply with these requirements.

(1) The pig must be registered through a bona fide potbellied pig registry.

(2) The owner of any potbellied pig four (4) months of age or older shall procure a license obtain a permit issued by the City of Westminster for the pig. Upon proof of registration through a bona fide potbellied pig registering and proof of neutering, the City shall issue a permit, dated and numbered receipt and corresponding tag. ~~In the event of loss or destruction of the original license tag, the owner shall obtain another tag from the City. Pig licenses are not transferable. It shall be unlawful for any person to use or attempt to use a tag for any pig other than the pig for which the tag was originally issued.~~

Formatted: Right: 0", Tab stops: 1", List tab

Formatted: Indent: Left: 0.75", Right: 0"

(3) ~~The license~~An identification tag with the owner's name and phone number shall be attached to a harness and worn by the pig at all times.

(4) A potbellied pig shall be neutered prior to four (4) months of age.

(5) A potbellied pig shall not exceed ninety-five (95) pounds in weight.

(6) No more than one (1) potbellied pig shall be permitted on any residential property.

(7) A potbellied pig kept on residential property shall be kept as a pet for personal enjoyment, and not kept or raised for breeding, sale, or human consumption.

(G) PUBLIC SALE OF ANIMALS: It shall be unlawful for any person to knowingly sell an animal follows:

Formatted: Font: 11 pt, All caps

(1) From a public highway, street, park or any public property adjacent to a public highway, street or park; or

(2) From any commercial private property without the express written consent of the owner or lessee of the property; or

(3) That is weak, sick, or un-weaned; or

(4) That is a cat or dog fewer than eight (8) weeks of age.

Section 10. Section 6-7-13, subsections (A), (B), (C), (E), (F) and (H), W.M.C., are hereby AMENDED and a new subsection (I) is ADDED to read as follows:

Formatted: Font: 11 pt

Formatted: Font: 11 pt

Formatted: Font: 11 pt

6-7-13: CARE AND TREATMENT: (1463 1973 2576)

(A) CRUELTY TO ANIMALS: It shall be unlawful for any person knowingly, recklessly or with criminal negligence to overload, overwork, torture, torment, deprive of necessary sustenance, unnecessarily or cruelly beat, needlessly mutilate, needlessly kill, carry or confine in or upon any vehicle in a cruel or reckless manner, or allow to be housed in a manner that results in chronic or repeated serious physical harm or to otherwise mistreat or neglect any animal, or, having the charge or custody of any animal, fail to provide it with proper food, drink or protection from the weather, or to abandon it. Neglect of an animal resulting in the death of the animal shall constitute cruelty. Ownership of the animal or the commission of such acts on private property shall not be a defense to prosecution for violation of this Section.

(B) POISONING: It shall be unlawful for any person to knowingly poison any domestic animal or livestock, or to knowingly distribute poison or toxicants on public or private property in any manner whatsoever that causes the poisoning of any domestic animal or livestock. This provision shall not apply to the extermination of undesirable pests as defined in Articles 7, 10, and 43 of Title 35, C.R.S.

Formatted: Font color: Auto

(C) NEGLECT OF ANIMALS: It shall be unlawful for the owner or any person entrusted with the care of any animal to deprive or fail to provide such animal of adequate and wholesome food, ~~and~~ water, or protection from the elements, weather as shall be consistent with the keeping of the species, breed, and type of animal involved; to fail to provide the animal with proper protection from extremes in temperatures; to fail to provide the animal with an opportunity for exercise; to fail to provide the animal with adequate veterinary care; or to otherwise neglect the animal in such a manner as to endanger its health or cause it to suffer or die.

Formatted: Pattern: Clear

Formatted: Font color: Auto

(D) SANITATION: It shall be unlawful for the owner of any animal to fail to maintain the premises upon which animals are kept in a clean and sanitary condition, which premises shall be subject to inspection at all reasonable hours by City representatives.

(E) ABANDONING ANIMALS: It shall be unlawful for any person to knowingly abandon an animal by leaving the animal with intent not to return within a reasonable time. Abandonment includes, but is not limited to, the dumping of an animal from a moving or stationary motor vehicle. This Section shall not apply to voluntary relinquishments to the Animal Shelter, an Animal Management Officer or to a licensed veterinarian.

(F) CONFINEMENT OF ANIMALS: Every person who keeps an animal confined in an enclosed area shall provide it with an adequate exercise area as well as adequate shelter, food, and water. If the animal is restricted by a leash, rope, chain or cable, it shall be affixed in such manner that it will prevent the animal from becoming entangled or injured, and permit access to adequate shelter, food and water.

(G) DISPLAY OR SALE OF DYED OR IMMATURE ANIMALS: It shall be unlawful for any person to possess, display, sell, barter or give away, dyed, colored or in any way artificially treated baby chicks, ducklings, fowl, rabbits or any other animal as pets, playthings, novelties, gifts or for any other purpose.

(H) FIGHTING ANIMALS: It shall be unlawful for any person to cause, sponsor, instigate, allow or encourage any animal to fight with another of its own species or with another of a different species. It shall be unlawful for any person to train, breed or keep any animal for the purpose of fighting. It shall be unlawful for any person to maintain a place where animals are permitted to fight for exhibition, wager or sport.

(I) FEEDING OF WILD ANIMALS: It shall be unlawful to knowingly place or provide food for any wild animal. This prohibition shall not apply to squirrels or birds.

Section 11. Section 6-7-14, subsection (D), W.M.C., is hereby AMENDED to read as follows:

(D) It shall be unlawful for any person to set or cause to be set any steel-jaw leg hold trap, snare, or any trap other than a humane trap for the purpose of capturing an animal, whether wild or domestic, excepting a licensed or recognized business that has been given permission by ~~the~~ Colorado ~~Division Parks and~~ Wildlife, the Colorado Department of Health, or the animal management officer to trap problem wildlife. Any trapping authorized under this Chapter must be in compliance with the Colorado Constitution and Statutes.

Section 12. Section 6-7-17, subsection (D), W.M.C., is hereby AMENDED to read as follows:

6-7-17: PENALTIES: (3288 3345)

(A) The following provisions of this Chapter are hereby deemed criminal violations of this Code. Any person who violates any of the provisions of this Chapter listed in this subsection (A) shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine or by confinement in jail, or by both such fine and imprisonment as specified in Section 1-8-1, W.M.C., subject to any recommended minimum fines:

Section 6-7-3	Animal Bites
Sections 6-7-8(B) and (C)	Vicious Animals and Potentially Dangerous Animals
Section 6-7-9(D)(E)	Failure to Produce Animal
Section 6-7-10(E)	Care of Animals
Section 6-7-11(D)	Care of Animals
<u>Section 6-7-12(G)</u>	<u>Sale of Animals</u>
Section 6-7-13(A)-(I)	Care and Treatment
Section 6-7-16	Interference

(B) The Animal Management Officer, or the City Attorney or his designee, may recommend that one (1) or more special sanctions or conditions be levied against any owner convicted of a violation pursuant to Section 6-7-8(B) or 6-7-8(C), W.M.C. This recommendation may be presented to the Municipal Judge as a proposed condition of sentencing upon conviction and may be in lieu of or in addition to the

Formatted: All caps

Formatted: Indent: Left: 0", First line: 0", Right: 0", Numbered + Level: 1 + Numbering Style: I, II, III, ... + Start at: 1 + Alignment: Left + Aligned at: 0" + Indent at: 0.5", Tab stops: 0.38", Left + 0.75", Left

Formatted: Indent: Left: 0.75", Right: 0"

Formatted: Font: 11 pt

Formatted: Font: 11 pt

Formatted: Font: 11 pt

Formatted: Right: 0"

requirements and penalties specified in this Chapter. Proof that a recommended sanction or condition has been previously satisfied or would not serve its intended purpose may be presented to the Municipal Judge for consideration in sentencing.

(C) If the Animal Management Officer, or the City Attorney or his designee, recommends destruction of the animal in an expeditious and humane manner, or permanent removal of the animal from the City, the Municipal Judge shall conduct a judicial hearing to determine the disposition of the animal. At such judicial hearing, the Municipal Judge may take into consideration the severity of the incident, the prior history of the owner and/or animal, and the recommendation of the animal management officer, City Attorney, or an animal behavior professional. The provisions of this paragraph shall not in any way limit the power of the Municipal Judge, on his own motion, to impose special sanctions as he deems appropriate.

(D) The failure or refusal to produce an animal pursuant to Section 6-7-9(~~DE~~), W.M.C., shall subject the owner to immediate arrest, should probable cause exist to believe that the owner is harboring or keeping the animal and refuses to produce it upon such demand. Upon arrest, the owner shall be held to appear before the Municipal Judge, who may order the immediate production of the animal. Each day of such willful refusal to produce the animal shall constitute a separate violation and offense.

(E) All violations of this Chapter not listed in subsection (A), above, are hereby deemed civil infractions of this Code and, upon conviction thereof, may be punished by a recommended fine.

(F) RECOMMENDED MINIMUM FINES: Recommended minimum fines upon conviction may be imposed as listed below:

(1) First Offense – recommended fine of not less than seventy-five dollars (\$75). Second and subsequent offenses – recommended fine of not less than one hundred dollars (\$100):

- 6-7-2(B) Refusal to Provide Proof of Vaccination
- 6-7-2(C) Harboring Unvaccinated Dogs and Cats
- 6-7-2(D) Non-Transferability - Vaccination Certificates or Tags
- 6-7-3(A) Duty to Report Animal Bite
- 6-7-3(C) Failing to Report Suspected Rabies
- 6-7-3(D) Refusal to Produce Animal
- 6-7-3(E) Removal of Animals from Confinement
- 6-7-4(B) Failure to Display Dog License Tag
- 6-7-5(B) Failure to Confine
- 6-7-6(A) Removal of Animal Excrement
- 6-7-6(B) Damage to Property
- 6-7-7(A) Disturbance
- 6-7-7(C) Failure to Exercise Control
- 6-7-10(E) Failure to Care for Animals
- 6-7-11(D) Failure to Care for Animals
- 6-7-12(F) Potbellied Pig Requirements
- ~~6-17-13(D) Sanitation~~
- ~~6-7-13(F) Confinement of Animals~~

(2) First Offense – recommended fine of not less than one hundred dollars (\$100). Second and subsequent offenses – recommended fine of not less than one hundred fifty dollars (\$150):

- 6-7-2(A) Failure to Have Dog or Cat Inoculated
- 6-7-4(A) Failure to Have Dog Licensed
- 6-7-4(C) Transfer of Dog License Tag
- 6-7-9(~~ED~~) Failure to Produce Animal
- 6-7-10(A) Unlicensed Kennel
- 6-7-11(A) Unlicensed Pet Shop
- 6-7-12(A) Animals in Residential Districts Limited

- 6-7-12(B) Livestock Limited
- 6-7-12(C) Prohibited, Endangered and Exotic Animals
- 6-7-12(D) Federal or State Prohibited Animals
- 6-7-12(G) Sale of Animals
- 6-7-13(A) Cruelty to Animals
- 6-7-13(B) Poisoning Animals
- 6-7-13(C) Neglect of Animals
- 6-7-13(E) Abandoning Animals
- 6-7-13(G) Displaying or Sale of Dyed or Immature Animals
- 6-7-13(H) Fighting Animals
- 6-7-13(I) Feeding of Wild Animals
- 6-7-16 Interference

(3) Reduced fine for neuter or spay:

6-7-5(A) Animals Running at Large: First Offense – A recommended fine of not less than two hundred seventy-five dollars (\$275), except that if the animal has been neutered or spayed, the fine may be reduced to seventy-five dollars (\$75). Second and subsequent offenses – recommended fine of not less than three hundred dollars (\$300), except that if the animal has been neutered or spayed, the fine may be reduced to one hundred dollars (\$100).

6-7-8(B) Requirements for Possession of a Potentially Dangerous Animal: First Offense – A recommended fine of not more than three hundred dollars (\$300), except that if the animal has already been neutered or spayed, the fine may be reduced to one hundred dollars (\$100).

6-7-8(C) Requirements for Possession of a Vicious Animal: First Offense – recommended fine of not less than three hundred dollars (\$300), except that if the animal has already been neutered or spayed, the fine may be reduced to two hundred dollars (\$200).

(4) Any other section hereof not specifically listed above:

First Offense – recommended fine of not less than fifty dollars (\$50).

Second and subsequent offenses – recommended fine of not less than seventy-five dollars (\$75).

Section 13. Section 6-7-18, W.M.C., is hereby AMENDED to read as follows:

6-7-18: GUARD DOGS: (3288) It shall be unlawful to place or maintain ~~any a guard~~ dog in any area for the protection of persons or property unless the following conditions are met:

(1) ~~The dog is physically confined to a specific enclosed area at a commercial establishment, and is under complete and absolute control that is adequately built or constructed to ensure that the dog will not escape; or~~

(2) The dog is under the complete and absolute control of the handler at all times; and

(3) Warning signs are conspicuously posted indicating the presence of the guard dog and such signs will include a current telephone number where some person responsible for controlling the guard dog can be reached at all times; and

(4) The dog has a current Dog License.

Section 14. This ordinance shall take effect upon its passage after second reading. The title and purpose of this ordinance shall be published prior to its consideration on second reading. The full text of this ordinance shall be published within ten (10) days after its enactment after second reading.

Formatted: Font: 11 pt

Formatted: Font: 11 pt

Formatted: Justified

Formatted: Font: 11 pt

Formatted: Font: 11 pt

Formatted: Font: 11 pt

Formatted: Justified, Indent: Left: 0", First line: 0.38", Tab stops: 0.75", Left

Formatted: Left, Indent: Left: 0", First line: 0.38", Right: 0", Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 0.5" + Indent at: 0.75", Tab stops: Not at 0.3" + 2.4" + 5.81"

Formatted: Font: 12 pt

Formatted: Font: 11 pt

Formatted: Font: 11 pt

Formatted: Font: 11 pt

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED
PUBLISHED this 13th day of July, 2015.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED
this day of July, 2015.

ATTEST:

City Clerk

Mayor

APPROVED AS TO LEGAL FORM:

City Attorney's Office

Formatted: Font: 11 pt

Formatted: Font: 11 pt



Agenda Memorandum

City Council Meeting
July 13, 2015



SUBJECT: Councillor's Bill No. 35 to Lease 7225 Bradburn Blvd. to the South Westminster Arts Group

Prepared By: John Carpenter, Community Development Director

Recommended City Council Action

Pass Councillor's Bill No.35 on first reading authorizing the execution of a lease agreement in substantially the same form as attached for property located at 7225 Bradburn Boulevard.

Summary Statement

- Over the last several years, the Westminster Housing Authority (WHA) has leased the South Westminster Arts Group (SWAG) two properties in support of community arts programming. The Rodeo Market building at 3915 W. 73rd Avenue has been run by SWAG as a community center and gallery, and a building at 7287 Lowell Boulevard has been used as a theater.
- The City purchased the property at 7225 Bradburn Boulevard (formerly known as Johnny's Carpet) in August, 2011 using CDBG funds. Johnny's Carpet was relocated from the property and relocation costs were paid. The property is slated for eventual demolition to accommodate the planned Bradburn Boulevard realignment project. This project would realign Bradburn Blvd. from its current location to the west to intersect with 72nd Avenue at Raleigh Street. In the interim the building has been vacant and subject to vandalism on several occasions.
- SWAG is proposing to assume operations within the 7225 Bradburn Boulevard property by entering into a lease with the City to utilize the building on a month-to-month basis. Upon approval of a lease, SWAG would sublet the premises to individual artists to use as studio space for artists.
- The proposed lease by SWAG would also fall under the existing Cooperation Agreement with the City of Westminster and the WHA approved on January 21, 2015, as attached, to facilitate the development of arts and cultural programs and activities.
- SWAG would assume all costs in operation of the building including insurance, utilities and minor repairs and maintenance and would maintain exterior landscape of the building, keeping it free of weeds and debris, while providing a presence on the site and deterrent for vandals.
- SWAG understands that they will need to vacate the building when the Bradburn Boulevard project moves forward.

Expenditure Required: \$0

Source of Funds: N/A

Policy Issue

Should the City of Westminster enter into a Lease Agreements with SWAG for the 7225 Bradburn Boulevard property?

Alternatives

1. Do not approve the Lease. Staff recommends against this alternative as the future success of SWAG in its endeavors to promote and conduct arts and cultural activities and programs will continue to require cooperation and coordination with the City.
2. Approve the Agreements with modifications. While this may be a practical alternative, Staff believes the Agreement as proposed provides a judicious level of support to facilitate implementation of SWAG's programs and activities while maintaining the City's ability to address the road realignment in the future.

Background Information

The City of Westminster initiated the South Westminster revitalization efforts in 1997 with the redevelopment of the Westminster Plaza Shopping Center. The South Westminster Strategic Revitalization Plan was thereafter prepared and approved by City Council on January 22, 2001. Significant revitalization success has been made with implementation of the plan having led to the construction of 72 new townhouses and a 12,000 square foot commercial building, several street enhancement projects, and park and library improvements.

As another implementation effort, the City saw an opportunity in pursuing and developing arts and cultural programming as a means of attracting new residents and businesses, while also providing activities and events for the existing neighborhood population. In pursuit of this goal, an effort was made to increase the non-profit capacity in the South Westminster neighborhood to support the City promoting the arts and creating business incubator opportunities. The result of this effort was the creation of the South Westminster Arts Group (SWAG), which works with local Westminster artists to create and sustain a community-based arts network. SWAG was formed in 2007.

Concurrent with the creation of SWAG, the WHA made two properties it owns, the Vehicle Service Center (VSC) building at 7287 Lowell Boulevard and the Rodeo Market property at 3915 West 73rd Avenue, available for creating a 50-seat community theater and community arts and cultural center. Accordingly, the VSC was converted into the theater and the interior of the Rodeo Market building was remodeled and its historic exterior front façade restored to accommodate a gallery and class space. Upon completion of the improvements, SWAG opened and operated the gallery and conducted classes in the space. SWAG has been operating out of the Rodeo Market building for the past 5 years. SWAG remains instrumental in operating the community arts center and finding theater companies to provide performances. SWAG's endeavors have also helped attract artists and art galleries that have opened nearby, which participate in an organized monthly art walk and other arts related programs throughout the year. SWAG plans and hosts the annual Fall Orchard Festival and participates in the Spring Jazz Festival, both of which have continued to grow in vendor and attendee participation. SWAG also coordinates and sponsors the sculpture exhibit in the park adjacent to the Rodeo Market.

In support of SWAG's endeavors, the WHA has leased the Rodeo Market facility to SWAG since 2008 to serve as an art gallery and community center. The WHA has also made the VSC facility available to SWAG to serve as a community theater. Beginning in 2013, the WHA also began providing SWAG with an annual grant of between \$8,000 and \$10,000 to assist the organization pay for its water, gas and electrical utilities. The City in more recent years has increased its in-kind support towards SWAG providing assistance in planning for and staging the Orchard Festival, coordinating the marketing and

promotion of activities a variety of activities and events, and responding to grounds and facility maintenance needs. In accordance with this increased level of WHA and City support, a cooperation agreement was approved by Council on January 26, 2015, which provided a formal framework for future cooperation. Under this same agreement, Staff is proposing that the City consider lease of a third property for arts related use by SWAG.

The City of Westminster purchased the property at 7225 Bradburn Boulevard, formerly known as Johnny's Carpet, in August, 2011. The property was purchased with CDBG funds and relocation benefits were paid to Johnny's Carpet. The buildings, consisting of a small office and 3 garage bays, are slated for demolition to accommodate the Bradburn Blvd. realignment project, which has been delay due to other project funding priorities. It is unknown when funds will allow for construction to proceed. The property has remained vacant since the tenant was relocated and has been subject to vandalism on several occasions.

The SWAG Board recently approached city staff about leasing these buildings for use as artist studio space. Allowing for use of the building by SWAG would provide a presence and activity on the site, which would deter further vandalism. The City would agree to lease the premises at 7225 Bradburn Boulevard to SWAG at \$0 cost, on a month-to-month basis for the purpose of using the space as individual artist studios, which SWAG would sublet to local artists for a nominal fee to cover operating expenses and provide additional programming income to SWAG. This purpose is in line with SWAG's mission and goals of attracting arts-related activities and businesses into the South Westminster community.

The approval of the proposed lease to SWAG meets the City's Strategic Plan Goal of creating "*Vibrant and Inclusive Neighborhoods.*"

Respectfully submitted,

Donald M. Tripp
City Manager

Attachments: 2015 SWAG Cooperation Agreement
Councillor's Bill
Lease Agreement

ATTACHMENT "A"

A COOPERATION AGREEMENT

Between the

CITY OF WESTMINSTER, THE WESTMINSTER HOUSING AUTHORITY

And the

SOUTH WESTMINSTER ARTS GROUP

This Agreement is made and entered into this 13th day of January, 2015, by and between the CITY OF WESTMINSTER ("City"), the WESTMINSTER HOUSING AUTHORITY ("WHA") and the South Westminster Arts Group ("SWAG").

WHEREAS, the City believes that arts and cultural programming and activities can be a viable and valuable component of facilitating South Westminster revitalization; and

WHEREAS, the City, has supported the creation of SWAG to promote the arts and culture as a means of facilitating revitalization of the South Westminster community and has a vested interest in the continued success of SWAG; and

WHEREAS, SWAG has been successful in promoting and attracting arts-related activities and businesses into the South Westminster community; and

WHEREAS, the Westminster Housing Authority owns properties at 7287 Lowell Boulevard, 3630 W. 73rd Avenue, and 3915 W. 73rd Avenue, that can serve to support arts and culture-related programming; and

WHEREAS, the City, WHA and SWAG desire to continue working in partnership to further promote the arts as a means of facilitating revitalization of the South Westminster community.

NOW, THEREFORE, in consideration of the above premises and the covenants, promises, and agreements set forth below, and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties agree as follows:

A. GOVERNANCE AND OPERATION.

1. SWAG shall invite a City representative to serve on the SWAG board, and the City shall appoint a City staff person to sit and participate as a board member.

2. The City and SWAG shall work collectively to amend the SWAG bylaws to restructure the SWAG board so as to strengthen its capacity and effectiveness for the purpose of fulfilling its basic mission of promoting the arts and culture as a means of facilitating revitalization of the South Westminster community.
3. SWAG shall prepare and adopt a five year Strategic Action Plan for the years 2016 through 2020 by October 31, 2015.

B. FINANCE AND REPORTING.

1. SWAG shall prepare and submit a 2015 budget to the City by March 30, 2015.
2. As and when board meetings occur, SWAG shall provide the City with a copy of the Board meeting minutes within 15 days after SWAG Board approval or acceptance;
3. SWAG shall prepare and submit an annual report to the City by October 31 of each year detailing the following, at a minimum:
 - a. Board member information including names, roles, and operational responsibilities;
 - b. Membership and volunteer numbers and information pertaining to total volunteer hours served by members, functions served, and residency;
 - c. Existing year budget and adopted upcoming year budget;
 - d. Grant pursuit details including the number of grant applications submitted and to what funding agencies, amount of request and what the grant would fund (i.e. operational expenses, specific projects), and the results of said applications;
 - e. Profit and loss statement for a period beginning November 1 of prior budget year through October 31st of active budget year with detailed explanation of income and expenses;
 - f. Performance assessment and accomplishments relative to the SWAG Strategic Action Plan;
 - g. A detailed synopsis of classes, events and programs offered during the year along with attendance and revenue/cost details;
 - h. Community outreach and organizational collaboration;
 - i. General information on persons or groups participating in SWAG sponsored activities and events, such as participation numbers, participants domicile, age cohorts, and ethnicity, through the distribution of voluntary information cards, so as to assist in identifying recruitment and marketing needs to increase participation and diversity.
4. SWAG shall diligently pursue funding from the Denver-metro Scientific and Cultural Facilities District, by preparing and filing a copy of the application in a timely manner

relative to an eligibility determination and/or funding. The City shall support SWAG in its pursuit of such funding by providing staff assistance, as determined necessary and reasonable by the City, and based upon staff availability.

C. FACILITIES AND OPERATIONS.

1. The Westminster Housing Authority (WHA) shall lease the premises at 3915 W. 73rd Avenue, hereby referred to as the Rodeo Market Community Arts Center, to SWAG, on the following general conditions, which shall be more fully set forth in the Lease document:
 - a. The premises shall be leased to SWAG for a period not to exceed one year ending December 31, 2015, for the use of arts and cultural-related activities and programming.
 - b. SWAG shall pay a nominal lease rate of \$10.00 per year;
 - c. WHA shall contribute \$8,000.00 as a grant to SWAG that shall be used to assist SWAG in paying for the cost of water, gas and electric utilities for the duration of the lease. Such contribution shall be disbursed in four (4) equal quarterly payments with first payment to be processed by the WHA with thirty (30 days) of execution of this Agreement, and thereafter on March 30, June 30, and September 30 of the year 2015.
 - d. SWAG shall make utility payments in timely manner and remain in good standing with all utility providers. At the end of each quarter, SWAG shall provide the WHA with evidence of utility payments for the preceding quarterly period. Disbursement of remaining grant funds, beginning March 30, 2015, shall not be provide to SWAG until such documentation showing payments has been provided.
 - e. Failure of SWAG to abide by this Agreement may result in immediate termination of such lease.
2. The City shall make the property at 7287 Lowell Boulevard available to SWAG for use as a community theater on a negotiated basis and under a separate lease agreement with prospective users.
3. SWAG shall conduct or host classes and programming in the Rodeo Market Community Arts Center as it pertains to the total mission of the organization.
4. SWAG shall be able to utilize the adjacent park area on an as needed basis in consultation with and subject to terms and conditions established by the Department of Parks, Recreation and Libraries.

5. SWAG shall plan for, coordinate and run the annual Orchard Festival on the grounds of the Rodeo Market Community Arts Center and in the general vicinity of 73rd Avenue and Osceola Street in the fall, as follows:
 - a. SWAG and the City shall coordinate and agree on an appropriate date for the festival.
 - b. SWAG shall apply for and obtain all required permits from the City and other regulating agencies;
 - c. The City shall waive any permit related fees required by the City;
 - d. The City shall coordinate with SWAG in providing logistical and equipment related support.

6. SWAG shall plan for, recruit artist submissions, and arrange for installation of art sculptures in the park area immediately east and north of the Rodeo Market Community Arts Center.

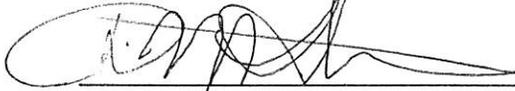
IN WITNESS WHEREOF, the undersigned have executed this Agreement as of the date first above written.

CITY OF WESTMINSTER



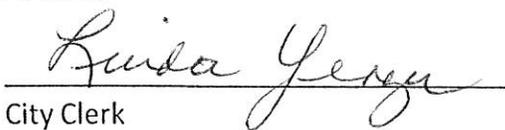
 Donald M. Tripp
 City Manager

SOUTH WESTMINSTER ARTS GROUP



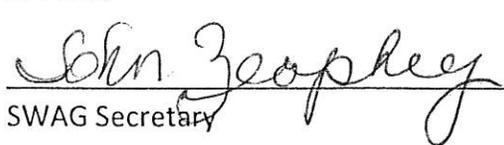
 Debbie Teter
 Board Chair

ATTEST:



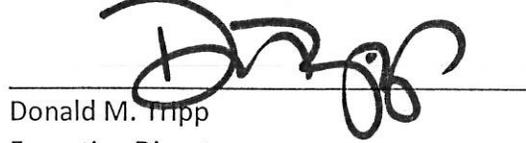
 Linda Yager
 City Clerk

ATTEST:



 John Zepf
 SWAG Secretary

WESTMINSTER HOUSING AUTHORITY



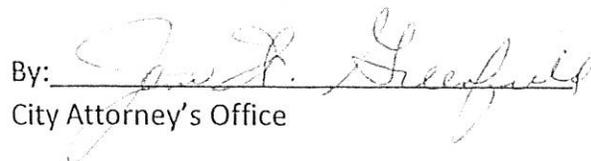
 Donald M. Tripp
 Executive Director

ATTEST:



 Linda Yager
 Secretary to the Authority

APPROVED AS TO FORM:

By: 

 Janet K. Greenfield
 City Attorney's Office

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **35**

SERIES OF 2015

INTRODUCED BY COUNCILLORS

**A BILL
FOR AN ORDINANCE APPROVING A LEASE AGREEMENT FOR LEASE OF THE
PROPERTY LOCATED AT 7225 BRADBURN BOULEVARD, WESTMINSTER, CO 80030**

WHEREAS, the City of Westminster owns the property located at 7225 Bradburn Boulevard, Westminster, CO 80030; and

WHEREAS, the City intends to lease the property to the South Westminster Arts Group (SWAG) on a month-to-month basis, for the purpose of making the premises available for use by SWAG as temporary space for artists for studio space; and

WHEREAS, SWAG has been screened and determined to be a suitable tenant for the property; and

WHEREAS, the final form of the lease agreement has been agreed to by the parties; and

WHEREAS, the City Charter requires such lease be approved by ordinance.

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The Lease Agreement between SWAG and the City for the property located at 7225 Bradburn Boulevard, Westminster, CO 80030, in substantially the same form as attached as Exhibit A to this Ordinance, is approved.

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

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 13th day of July, 2015.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 27th day of July, 2015.

ATTEST:

Mayor

APPROVED AS TO LEGAL FORM:

City Clerk

City Attorney's Office

EXHIBIT A

LEASE AGREEMENT

This **Lease** is made between the **CITY OF WESTMINSTER**, a Colorado public housing authority (hereinafter called “Lessor” or “City”), and **SOUTH WESTMINSTER ARTS GROUP**, a Colorado nonprofit corporation (hereinafter called “Lessee” or “SWAG”).

Lessor hereby agrees to lease to Lessee, and Lessee hereby agrees to lease from Lessor, the Premises described in Paragraph 1 below, subject to the terms, conditions, and agreements set forth herein below:

1. Premises. The Premises consist of the building and property located at 7225 Bradburn Boulevard, Westminster, CO, and as depicted in Exhibit 1 attached hereto and incorporated herein by reference.

2. Term and Rent. Lessor demises the above Premises to the Lessee on a month-to-month basis beginning July 1, 2015, or sooner as provided herein (hereinafter, the “Term”), and terminating without cause within 30 days of provision of written notice of termination of lease by Lessor, at (\$0) cost to Lessee. Upon termination of lease, Lessee will not be entitled to any relocation benefits or any compensation of any sort to cover expenses associated with vacating premises.

3. Use. Lessee shall make the Premises available for, temporary use to artists or groups for the purpose of creating art or supporting activities and functions. The Premises shall not be used for other purposes unless approved in writing by the Lessor. SWAG will maintain records of all third-party rentals of the property and the City, through its staff, shall retain the right to inspect such records at any time.

4. Utilities, Care and Maintenance of Premises.

a. Lessee’s responsibilities: Lessee acknowledges and accepts the Premises in their “as-is” condition. Lessee shall, at its own expense and at all times during the Term of this Lease, maintain the Premises in good and safe condition, and shall surrender the same, at termination hereof, in the same condition as received, normal wear and tear excepted. In addition, Lessee shall be responsible for:

- paying the cost of utilities as defined in paragraph 8, below.
- the routine care and maintenance of the interior of the building on the Premises of a housekeeping nature, including custodial and janitorial services, normal and reasonable cleaning, and the replacement of all consumable or expendable items such as light bulbs, cleaning, bathroom and office supplies and all items brought into the building by the Lessee.
- keeping the exterior of that portion of the Premises constituting the lot at 7225 Bradburn Boulevard clean and free of weeds.
- assuring that no parking or obstruction, of the area marked “No parking in this area” on Exhibit 1, hereto, be allowed in order to maintain access to the community garden adjoining the Premises.

b. Lessor’s responsibilities: The Lessor shall be responsible for all general repairs relative to the building on the Premises, including roofing, plumbing, mechanical and electrical equipment, that individually do not exceed \$500.00 in cost. The Lessor shall not be obligated to make substantive repair to any of said components should the cost for repair or replacement of any one component exceed \$500.00. Should the cost exceed \$500.00, repairs shall only be made upon approval of the City Manager. The Lessor reserves the right to terminate the Lease immediately should the repair and replacement allowances as

provided for above be exceeded, or upon a determination by the City of Westminster that the premises constitute a clear and present danger to the public health, safety and welfare.

5. Alterations. Lessee shall not make any interior or exterior alterations, additions, or improvements to the building on the Premises without first obtaining the prior written consent of City staff. Any such alterations, additions, or improvements approved by the City regardless of the party installing the same, become fixtures appurtenant to the Premises.

6. Ordinances and Statutes. Lessee shall comply with all statutes, ordinances and requirements of all municipal, state and federal authorities now in force, or which may hereafter be in force, pertaining to the Premises, occasioned by or affecting the use thereof by Lessee.

7. Assignment, Subletting, and unauthorized Use. Lessee shall not assign this Lease, nor sublet or allow utilization of any portion of the Premises without the prior written consent of the Lessor, which shall be granted or refused in Lessor's sole discretion. Any such assignment, subletting or impermissible utilization without Lessor's consent shall be void and, at the option of the Lessor, grounds for Lessor's immediate termination of this Lease. Notwithstanding the foregoing, Lessor acknowledges that the parties anticipate that Lessee will license portions of the Premises to individuals for private artist studio use on a short term basis. The City will provide Lessee with a standard license form for such use.

8. Utilities. The Lessee shall provide and pay for utility charges as they become due, including those for heat, electricity, water and sewer for the duration of the lease. All applications and connections for other services desired by Lessee for the Premises shall be made in the name of Lessee only, and Lessee shall be solely liable for such charges as they become due, including those for cable, Internet, alarm and telephone services.

9. Entry and Inspection. Lessee shall permit Lessor or Lessor's agents or staff to enter upon the Premises at reasonable times and upon reasonable notice, for the purpose of inspecting the same, and will permit Lessor at any time within sixty (60) days prior to the expiration of this Lease, to place upon the Premises any usual "To Let" or "For Lease" signs, and permit persons desiring to lease the same to inspect the Premises thereafter.

10. Possession. If Lessor is unable to deliver possession of the Premises at the commencement hereof, Lessor shall not be liable for any damage caused thereby.

11. Indemnification of Lessor. Lessor shall not be liable for any damage or injury to any person or property occurring on the Premises during the Term of this Lease. Lessee agrees to indemnify and save and hold Lessor harmless from any claims for such damage or injury, no matter how caused, except to the extent such damage or injury was the direct and proximate result of Lessor's negligent act or omission, provided, however, that nothing herein shall be deemed or construed as a waiver by Lessor of any of the protections or limitations against liability to which Lessor may be entitled under the Colorado Governmental Immunity Act. Lessee may satisfy its obligations pursuant to this paragraph by assuming the defense of and liability, if any, for any such claim brought against the Lessor, and retaining for such defense qualified legal counsel reasonably acceptable to the City.

12. Insurance.

a. Lessee, at its expense, shall maintain comprehensive commercial liability insurance, including coverage for bodily injury and property damage, insuring Lessee and naming Lessor as an additional insured with minimum coverage as follows: \$1,000,000 per occurrence. The insurance shall include coverage for contractual liability. Additional insurance shall be obtained in the event any aggregate limitations result in per occurrence coverage of less than \$1,000,000.

b. Prior to taking possession of the Premises pursuant to this Lease, Lessee shall provide Lessor with a Certificate of Insurance showing Lessor as additional named insured. The Certificate shall provide for a ten-day written notice to Lessor in the event of cancellation or material change of coverage. To the maximum extent permitted by insurance policies that may be owned by Lessor or Lessee, Lessee and Lessor, for the benefit of each other, waive any and all rights of subrogation that might otherwise exist.

13. Eminent Domain. If the Premises or any part thereof or any estate therein, or any other part of the building materially affecting Lessee's use of the Premises, shall be taken by eminent domain, this Lease shall terminate on the date when title vests in the condemnor pursuant to such taking.

14. Destruction of Premises. In the event that the Premises or any part of the building thereon is damaged or destroyed by any cause to an extent that renders the Premises unsafe or unusable for Lessee's purposes, either Lessee or Lessor may terminate this Lease forthwith. In no event shall the Lessor have any obligation to repair or replace the Premises in the event of any such damage or destruction and Lessee's sole and exclusive remedy in the event of such damage to or destruction of the Premises or the building in which it is located is the termination of this Lease.

15. Lessor's Remedies on Default. If Lessee defaults in the performance of any of the covenants or conditions hereof, Lessor may give Lessee notice of such default and if Lessee does not cure any such default within ten (10) days, after the giving of such notice (or if such other default is of such nature that it cannot be completely cured within such period, if Lessee does not commence such curing within such ten (10) days and thereafter proceed with reasonable diligence and in good faith to cure such default), then Lessor may terminate this Lease on not less than twenty (20) days' notice to Lessee. On the date specified in such notice, the Term of this Lease shall terminate, and Lessee shall then quit and surrender the Premises to Lessor, without extinguishing Lessee's liability. If this Lease shall have been so terminated by Lessor, Lessor may at any time thereafter resume possession of the Premises by any lawful means and remove Lessee or other occupants and their effects. No failure to enforce any term or condition of default herein shall be deemed a waiver as to any future enforcement.

16. Taxes. Lessee shall be solely responsible for the payment of any property or other taxes that may arise as a result of Lessee's use of the Premises. The Lessee covenants and warrants to Lessor that Lessee is exempt from all federal, state and local taxes and further, that Lessee shall take no action to cause the loss of its exemption from said taxes. Lessee further covenants and agrees with the Lessor that in the event Lessee shall lose its exemption from taxes for any reason, Lessee shall timely pay all and any taxes accruing as a result thereof. Lessee further covenants and agrees to indemnify and hold Lessor harmless against any claims or judgments for unpaid taxes resulting from Lessee's use of the Premises.

17. Attorneys' Fees. In case suit should be brought for recovery of the Premises, or for any sum due hereunder, or because of any act which may arise out of the possession of the Premises, by either party, the prevailing party shall be entitled to all costs incurred in connection with such action, including reasonable attorneys' fees. For any controversy or claim arising out of or relating to this Lease, or the breach thereof, the parties agree to attempt to mediate any such disputes in good faith prior to filing any action against the other.

18. Waiver. No failure of Lessor to enforce any term hereof shall be deemed to be a waiver.

19. Heirs, Assigns, Successors. This Lease is binding upon and shall inure to the benefit of the heirs, assigns and successors in interest to the parties.

20. Subordination. This Lease is and shall be subordinated to all existing and future liens and encumbrances against the Premises.

22. Entire Agreement. This Lease constitutes the entire agreement between the parties concerning the Premises and may be modified only by a written amendment signed by both parties.

23. Survival. Paragraphs 8, 11, and 16 through 20 inclusive shall survive any termination of this Lease by either Lessee or Lessor.

Signed as of this ____ day of _____, 2015.

CITY OF WESTMINSTER

SOUTH WESTMINSTER ARTS GROUP

By: _____
City Manager

By: _____
Debbie Teter, Chair

Attest: _____
City Clerk

Attest: _____

APPROVED AS TO LEGAL FORM:

By: _____
Office of the City Attorney

EXHIBIT 1

Leasable Premises – 7225 Bradburn Boulevard

Exhibit 1



Location Map – 7225 Bradburn Boulevard

Community Garden Access
No parking at any time in this area
by tenants or visitors.

